

Title: ****Flores v. Drilon (1992) – Appointment of Elective Officials to the SBMA****

Facts:

1. Petitioners, tax-paying employees of the U.S. Facility at Subic Bay and members of the Filipino Civilian Employees Association, filed a petition challenging the constitutionality of Sec. 13(d) of R.A. 7227 (Bases Conversion and Development Act of 1992).
2. Sec. 13(d) mandated that the incumbent mayor of Olongapo City be appointed as the Chairman and Chief Executive Officer of the Subic Bay Metropolitan Authority (SBMA) for the first year of its operations.
3. On April 3, 1992, Executive Secretary, respondent Franklin M. Drilon, appointed respondent Richard J. Gordon, the then-mayor of Olongapo City, to the dual posts.
4. Petitioners contended that the appointment violated constitutional provisions prohibiting elective officials from holding another public office or receiving another public appointment during their tenure. They also argued it infringed upon the President's exclusive appointing power and contravened election laws given its timing near the May 11, 1992 elections.
5. Petitioners sought prohibition, preliminary injunction, and a temporary restraining order to prevent the disbursement of public funds for the office created by the questioned legislative provision.

Procedural Posture:

- The case went directly to the Supreme Court on an original petition, bypassing lower courts, due to its significant constitutional implications.

Issues:

1. Does Sec. 13(d) R.A. 7227 violate Sec. 7, Art. IX-B of the Constitution, prohibiting elective officials from receiving appointments to another government position during their tenure?
2. Does the provision infringe on the President's power of appointment as stipulated in Sec. 16, Art. VII of the Constitution?
3. Was the appointment of Gordon an election offense under Sec. 261(g) of the Omnibus Election Code due to its timing?

Court's Decision:

1. On the ineligibility of elective officials:
 - The Supreme Court found that Sec. 13(d) of R.A. 7227 explicitly contravened Sec. 7, Art. IX-B of the Constitution. The Constitution's prohibition aims to prevent the concentration of multiple public roles in one individual to ensure dedicated and efficient public service. Thus, appointing Mayor Gordon to the SBMA posts was unconstitutional.

2. On infringing the President's power:

- The provision virtually left the President no choice but to appoint Gordon, stripping the essential discretion accorded in appointive powers. This was found to contravene the President's exclusive appointing authority codified in Sec. 16, Art. VII.

3. On election law violations:

- Given the decision on constitutional grounds, the Court deemed additional discussions on the timing of the appointment unique among election offenses unnecessary.

Doctrine:

1. **Sec. 7, Art. IX-B, Constitution**: No elective official remains eligible for a public office appointment during their tenure.
2. **Sec. 16, Art. VII, Constitution**: **Appointment must retain presidential discretion**. Congress cannot limit the President to appointing a particular individual, as it subverts the inherent discretion in the power of appointment.
3. **Incumbent Ineligibility**: Elective officials must resign first to be eligible for another appointment, ensuring no breach of the separation of power doctrine.

Class Notes:

1. **Sec. 7, Art. IX-B**: Prohibits dual holdings of appointive positions by elective officials.
2. **Sec. 16, Art. VII**: Ensures the President's discretion in appointments.
3. **De Facto Officer Doctrine**: Acts performed by officers who occupy positions under unconstitutional provisions are valid insofar as they involve public interest or third parties.
4. **Election Laws**: Appointments close to elections are scrutinized for adherence to the Omnibus Election Code's timelines and restrictions.

Historical Background:

- The case evaluated a statute designed for the transition and conversion of military bases post-Cold War, balancing between local administrative continuity (favoring the local mayor) and constitutional adherence. The opinion underscores rigorous adherence to constitutional mandates irrespective of practical efficiencies in transition governance.