

**NICOLAS ADANTE, PETITIONER, VS. CANDIDO DAGPIN,
RESPONDENT.***G.R. No. L-7784. April 13, 1955*

Ponente: REYES, J.B.L., J.

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On November 28, 1951, respondent Candido Dagpin was appointed by former President Elpidio Quirino Mayor of the newly created municipality of New Piñan, Zamboanga del Norte. He duly qualified, assumed office, and performed the functions thereof until July 23, 1953, when President Quirino, without apparent legal reason, removed him from office and appointed petitioner Nicolas Adante in his stead. Wherefore, respondent Dagpin filed a quo warranto proceeding in this Court (G. R. No. L-6995) questioning the legality of Adante's appointment. During the pendency of the proceedings, President Ramon Magsaysay came into office and appointed respondent Candido Dagpin Municipal Mayor of New Piñan, Zamboanga del Norte, vice petitioner Nicolas Adante. Having thus been returned to his former post, respondent moved in this Court for the dismissal of the quo warranto case filed by him against petitioner Adante upon the ground that the issues therein raised had become academic. Shortly after the dismissal of the case, however, the ousted Mayor Adante in turn filed petition for quo warranto in this Court against respondent Candido Dagpin, President Magsaysay's appointee.

While it is true that under the doctrine laid down by this Court in the cases of *Cometa vs. Andanar*, 50 Off. Gaz., (8) 3594, and *Ocupe vs. Martinez*, L-7591, dated August 16, 1954, an appointive mayor is entitled to hold office until his successor is chosen in the next general election, unless earlier removed for cause, this doctrine can not be invoked in support of the present petition, for it clearly appears on record that petitioner himself has no legal right or title to the position of Mayor of New Piñan, Zamboanga del Norte. It appears that petitioner's appointment in 1953 caused the ouster of respondent Dagpin, the then incumbent, without just cause; hence, his (petitioner's) own appointment as Mayor was illegal and void. A private person who claims to have been deprived of a public office in a complaint for quo warranto must prove that he is entitled and has the right to the position which he alleges the respondent usurped or unlawfully holds; and when it does not appear that petitioner has a valid right or title to the public position allegedly usurped or unlawfully held by the respondent, he has no cause of action and his petition must be dismissed (*Acosta vs. Flor*, 5 Phil., 18, 22-23; also *Lomuntad vs. Cuenco*, 41 Off. Gaz., 894).

It appearing that petitioner Nicolas Adante has no valid title in himself to the position of Mayor of New Pinan, Zamboanga del Norte, his petition for quo warranto must be, as it is hereby, dismissed. Costs against petitioner.

Pablo, Acting C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, and Concepcion, JJ., concur.

Petition dismissed.

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