

**JOVITO O. CLAUDIO, IN HIS CAPACITY AS MAYOR OF PASAY CITY,
AND SEGUNDO C. MASTRILI, PETITIONERS, VS. ABELARDO SUBIDO,
IN HIS CAPACITY AS COMMISSIONER OF CIVIL SERVICE,
RESPONDENTS.**

G.R. No. L-30865. August 31, 1971

Ponente: FERNANDO, J.

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FERNANDO, J.:

The specific question in this suit for mandamus is whether or not respondent Commissioner of Civil Service could render nugatory the choice by the Mayor of Pasay City of the principal petitioner, Segundo C. Mastrili, as the City Legal Officer, unless it could be shown that such appointment was from a list of five next ranking eligible and qualified persons as certified to by respondent official.[1] For reasons to be set forth, we hold that he could not. Accordingly, mandamus lies.

The facts are undisputed. The Municipal Board of Pasay City enacted an ordinance[2] creating the position of the City Legal Officer, in accordance with the Decentralization Act of 1967.[3] By virtue thereof, petitioner Mastrili was, on January 6, 1969, duly appointed to such office by petitioner Jovito O. Claudio, the City Mayor. The very next day, he took his oath of office and began discharging its duties. There is no question as to his being qualified for such a position, having been a law practitioner for over twenty-five years. Nonetheless, respondent Commissioner of Civil Service disapproved such an appointment. The basis for such action was explained by him in his fifth indorsement of July 9, 1969, relying on Section 4 of Republic Act No. 5185 which, insofar as pertinent, reads thus: "In cases of vacancies in the offices of heads and assistant heads of local offices, the governor or mayor shall fill them by appointment from a list of the five next ranking eligible and qualified persons as certified by the Civil Service Commissioner: Provided, That these five persons shall have stated beforehand that they will assume the position, if appointed." [4] There was no question either that petitioner Mastrili was appointed without such prior certification by respondent Commissioner.

Hence this suit for mandamus. This Court, to repeat, is confronted with the issue of whether or not Section 4 of the Decentralization Act could appropriately be invoked by respondent Commissioner. If he could not, as is our holding, then petitioner Mastrili has a clear legal right enforceable by mandamus. We so decide.

1. Such a conclusion finds support both on principle and authority. No legal justification exists for the obstacle thus interposed by respondent Commissioner. Section 4 of Republic Act No. 5185 cannot be relied upon by him. That provision of law clearly does not call for application. The position in question, that of City Legal Officer, is one that requires the utmost confidence on the part of the Mayor. The relationship existing between a lawyer and his client, whether a private individual or a public officer, is one that depends on the highest degree of trust that the latter enters into for the counsel selected. So we have declared in no uncertain terms in *Besa v. Philippine National Bank*. [5]

The choice of whom to appoint then is his, and not that of the respondent. Once exercised, and there being no

dispute about the qualifications of the person appointed, the duty of respondent Commissioner is clear. In the emphatic language of this Court, through the present Chief Justice: "When the appointee is qualified, as petitioner herein admittedly is, then the Commissioner of Civil Service has no choice but to attest to the appointment." [6]

Equally persuasive is this excerpt from *Pineda v. Claudio*, [7] where the contention of respondent Commissioner of Civil Service that the choice as to who should be Chief of Police of Pasay City should come from a list of the five next ranking eligible and qualified persons as certified by him, was likewise rejected, this Court speaking through Justice Castro: "To construe section 23 the way the petitioner urges it should be, would be to unduly interfere with the power and prerogatives of the local executive as reinforced by the Decentralization Act at the same time that it would frustrate the policy of the Police Act 'to achieve and attain a higher degree of efficiency in the organization, administration, and operation of local police agencies' and that of the Civil Service Act 'to attract the best qualified to enter the service.' For it is not enough that an aspirant is qualified and eligible or that he is next in rank or line for promotion, albeit by passive prescription. It is just as necessary in order for public administration to be dynamic and responsive to the needs of the times, that the local executive be allowed the choice of men of his confidence, provided they are qualified and eligible, who in his best estimation are possessed of the requisite reputation, integrity, knowledgeability, energy and judgment. * * *." [8]

2. Another consideration equally decisive lends reinforcement to the conclusion reached by us. This Court, in the interpretation of statutes has adhered, as is but right, to the basic principle that the legislative objective must be fostered. [9] It is in that light that Republic Act No. 5185, intended to assure further decentralization, is to be construed. There is no question, of course, that where any of its provisions specifically covers the situation, it must be enforced with undeviating rigidity. It would be to frustrate its purpose, however, if a condition therein set forth is to be seized upon to nullify the exercise of the appointing prerogative of a city executive entrusted with purely local affairs. Unless the statute then speaks in no uncertain terms, respondent Commissioner, a national official, certainly cannot be held to be vested with the power to ignore, much less overrule, a decision reached by the city or provincial dignitary in whom the competence to appoint resides. So to rule would be to emasculate local autonomy. We should guard against it, as was categorically announced in the excerpt above-noted from *Claudio v. Pineda*. Nor should the approach this Court followed in *Villegas v. Subido*, [10] where the choice of the Mayor of the City of Manila as to who its legal officer should be was sustained by us, be overlooked. The right of petitioner *Mastrili* to the position of the City Legal Officer of Pasay City must be upheld.

WHEREFORE, the writ of mandamus prayed for is granted, and respondent Commissioner of Civil Service, or his successor to such office, is ordered to approve the appointment of petitioner Segundo C. *Mastrili* to the position of City Legal Officer of Pasay City. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Teehankee, Barredo, and Villamor, JJ., concur.

Makasiar, J., did not take part.

[1] Respondent Commissioner relied on Section 4 of Republic Act No. 5185 (1967).

[2] Ordinance No. 882, Series of 1969.

[3] Section 19, Republic Act No. 5185 (1967).

[4] Petition, Annex C.

[5] L-26838, May 29, 1970, 33 SCRA 330.

[6] Villanueva v. Balallo, L-17745, Oct. 31, 1963, 9 SCRA 407, 410.

[7] L-29661, May 13, 1969, 28 SCRA 34.

[8] Ibid, pp. 46-47.

[9] Cf. Ty Sue v. Hord, 12 Phil. 485 (1909); United States v. Toribio, 15 Phil. 85 (1910) Riera v. Palmaroli, 40 Phil. 105 (1919); Commissioner of Customs v. Caltex Phil., Inc., 106 Phil. 829 (1959); Sarcos v. Castillo, L-29755, Jan. 31, 1969, 26 SCRA 853; Automotive Parts & Equipment Co., Inc. v. Lingad, L-26406, Oct. 31, 1969, 30 SCRA 248; Republic Flour Mills, Inc. v. Commissioner of Customs, L-28463, May 31, 1971.

[10] L-29588, December 27, 1968, 26 SCRA 531.

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