

**ROSARIO VALERA, ASSISTED BY HER HUSBAND, JUAN VALERA,
PETITIONERS, VS. MARIANO TUASON, JR., JUSTICE OF THE PEACE
OF LAGAYAN, ABRA, MANUEL TULLAS ET AL., RESPONDENTS AND
APPELLEES...**

G.R. No. L-1276. April 30, 1948

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from a decision of the Court of First Instance of Abra dismissing a petition for certiorari.

It results that a complaint for forcible entry was filed in the justice of the peace court of Lagayan over which Judge Federico Paredes presided. Finding himself disqualified, by reason of relationship to one of the parties, to try the case, Judge Paredes transferred it to the justice of the peace of La Paz, the nearest municipality to Lagayan. The latter justice of the peace, over the objection of the attorney for the defendants, proceeded with the trial, after which he gave judgment for the plaintiff and returned the record of the case with his decision to the justice of the peace of Lagayan. In the meantime, a new justice of the peace had been appointed for Lagayan— Mariano B. Tuason, one of the respondents in the petition for certiorari. After the case was received in the court of the justice of the peace of Lagayan, the defendants moved for a new trial impeaching the jurisdiction of the justice of the peace of La Paz. The new justice of the peace of Lagayan found the challenge well founded, declared the judgment null and void, and ordered the case reset for hearing before him.

The Lagayan justice's ground for unvalidating the decision of the justice of the peace of La Paz is that "the designation of another justice of the peace to hear, try and decide a given case, when the justice having jurisdiction to hear, try and decide the same disqualifies himself, is not in law given to the disqualifying justice but 'to the judge of the district' who 'shall designate the nearest justice of the peace.' (Section 211, Rev. Adm. Code)." He believes that the circular of the Secretary of Justice of January 17, 1940, in pursuance of which the case was transferred, is legally wrong. (The circular states that "when a justice of the peace is merely disqualified to try a certain case, he should transmit, without notifying the district judge, the record thereof to the justice of the peace of the nearest municipality in accordance with section 73 of the Code of Civil Procedure".)

The annulment by the newly-appointed justice of the peace of Lagayan of the proceedings before the justice of the peace of La Paz and the latter's decision was sustained on appeal by Honorable Patricio Ceniza, Judge of the Court of First Instance, but on a different ground. Judge Ceniza does not agree that section 211 of the Revised Administrative Code has repealed section 73 of the Code of Civil Procedure (Act No. 190.) He is of the opinion that it is the new Rules of Court which have abrogated the last-named section.

Section 73 of Act No. 190 as amended provides:

In every case, whether civil or criminal, of disqualification of a justice of the peace upon any ground mentioned in section eight of this Act, the regular justice shall notify the auxilliary, who shall thereupon appear and try the cause, unless he shall be likewise disqualified or otherwise disabled, in which event the cause shall

be transferred to the nearest justice of the peace of the province who is not disqualified.

Section 211 of the Revised Administrative Code provides :

Auxilliary justice—Qualifications and duties.—The auxilliary justice of the peace shall have the same qualifications and be subject to the same restrictions as the regular justice, and shall perform the duties of said office during any vacancy therein or in case of the absence of the regular justice from the municipality, or of his disability or disqualification, or in case of his death or resignation until the appointment and qualification of his successor, or in any cause whose immediate trial the regular justice shall certify to be specially urgent and which he is unable to try by reason of actual engagement in another trial.

In case there is no auxilliary justice of the peace to perform the duties of the regular justice in the cases above mentioned, the judge of the district shall designate the nearest justice of the peace of the province to act as justice of the peace in such municipality, town, or place, in which case the justice of the peace so designated shall have jurisdiction and shall receive the total of his own salary and seventy-five per centum of the salary of the justice of the peace whom he may substitute.

One of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or of two laws so that each shall be effective. In order that one law may operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable with the latter act. (U.S. vs. Palacios, 33 Phil., 208.) Merely because a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the latter, since the new law may be cumulative or a continuation of the old one. (Statutory Construction, Crawford, p. 634.)

The above-quoted provisions can stand together. By a fair and reasonable construction, section 73 of the Code of Civil Procedure, as amended, may be said to apply to disqualifications under section 8 of that Act, and section 211 of the Revised Administrative Code to disqualifications or disabilities not embraced in the Code of Civil Procedure.

From another angle the presumption against repeal is stronger. A special law is not regarded as having been amended or repealed by a general law unless the intent to repeal or alter is manifest. *Generalia specialibus non derogant*. And this is true although the terms of the general act are broad enough to include the matter in the special statute. (Manila Railroad Company vs. Rafferty, 40 Phil., 224.) At any rate, in the event harmony between provisions of this type in the same law or in two laws is impossible, the specific provision controls unless the statute, considered in its entirety, indicates a contrary intention upon the part of the legislature. Granting then that the two laws can not be reconciled, in so far as they are inconsistent with each other, section 73 of the Code of Civil Procedure, being a specific law, should prevail over, or be considered as an exception to, section 211 of the Administrative Code, which is a provision of general character. A general law is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class, while a special act is one which relates to particular persons or things of a class. (Statutory Construction, Crawford, p. 265.)

But the history of the two laws gives positive indication that they were designed to complement each other. This history reveals that the two enactments have different origins, one independent of the other, and have been intended to operate side by side. This intent is apparent from the fact that, in their respective process of evolution, they, at one time, in Act No. 1627, met and were lodged in adjoining sections—7 and 8—each maintaining a separate and independent identity; and while, later, section 7 of Act No. 1627 was amended by section 3 of Act No. 1741, section 8 was given a different direction by being amended by another law, section 1 of Act 1888. We further note that the final section of the Administrative Code expressly repealed section 7 of Act 1627 and the entire Act 1741 but made no reference whatever to section 73 of Act 190, section 8 of Act. 1627, or section 1 of Act 1888. The purpose to keep both laws in force and subsisting can find no clearer proof than this unless it be an

express declaration of intention.

For the reasons stated in the preceding paragraphs, Judge Ceniza's opinion that the Rules of Court have replaced and absorbed section 73 of the Code of Civil Procedure is clearly erroneous. It may be said that there is less reason to hold that this section has been impliedly repealed by the Rules of Court than that it has been abrogated by section 211 of the Revised Administrative Code; for the authority of a judge to try a case is a matter of substantive law, not embraced by the purposes and scope of the Rules of Court, which concern "pleading, practice and procedure in all courts of the Philippines, and the admission to the practice of law therein." (Introductory section of the Rules of Court.)

Wherefore, the appealed decision is reversed with costs against the appellee.

Feria, Pablo, and Bengzon, JJ., concur.

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