

JOSE C. CRISTOBAL, PLAINTIFF-APPELLANT, VS. ALEJANDRO MELCHOR AND FEDERICO ARCALA, DEFENDANTS-APPELLEES.

G.R. No. L-43203. July 29, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Jose C. Cristobal appeals from a decision dated May 18, 1972 of the Court of First Instance of Manila in Civil Case No. 83962 which dismissed his complaint for declaratory relief and reinstatement in the government service.[1]

The incidents which led to this suit are set forth in the decision of the court a quo, thus:

"The plaintiff was formerly employed as a private secretary in the President's Private Office, Malacañan, Manila, having been appointed to that position on July 1, 1961 with a salary of P4,188.00 per annum. He is a third grade civil service eligible. On or about the second week of January, 1962, the then Executive Secretary Amelito R. Mutuc, by means of a letter dated January 1, 1962, informed the plaintiff that his services as private secretary in the President's Private Office were 'terminated effective today'. A similar letter was addressed by Secretary Mutuc to some other employees in the Office of the President. The dismissed employees appealed to the President by means of letters dated January 3, 1962 and January 26, 1962 for a reconsideration of their separation from the service. In a letter dated February 27, 1962, their request for reconsideration was denied by Secretary Mutuc, acting 'by authority of the President'.

"On March 24, 1962, five of the employees who were separated (not including the herein plaintiff) filed a civil action before the Court of First Instance of Manila against Secretary Mutuc and the cash-disbursing officer of the Office of the President praying for reinstatement and the payment of their salaries effective as of January 1, 1962, entitled 'Raul R. Ingles, et als. vs. Amelito R. Mutuc, et als.' Civil Case No. 49965. From a judgment dismissing their complaint, the said employees appealed to the Supreme Court which rendered a decision promulgated on November 29, 1968 reversing the dismissal of their complaint and declaring their removal from office as illegal and contrary to law, and ordering their reinstatement and the payment of their salaries from January 1, 1962 up to the date of their actual reinstatement (G.R. No. L-20390).

"Sometime in May, 1962, when the civil action filed by Raul R. Ingles, et als. was still pending in the Court of First Instance of Manila, the dismissed employees who filed said action were recalled to their positions in the Office of the President, without prejudice to the continuation of their civil action. With respect to the other employees who were not reinstated, efforts were exerted by Secretary Mutuc to look for placements outside of Malacañan so that they may be reemployed. The herein plaintiff was one of those who had not been fortunate enough to be reappointed to any position as befits his qualifications.

"He waited for Secretary Mutuc to make good his assurance that he would be recalled to the service, until Secretary Mutuc was replaced by other executive secretaries who likewise assured the plaintiff of assistance to be reemployed at 'the opportune time'.

"After the decision of the Supreme Court in G.R. No. L-20390 was promulgated on November 29, 1968, the plaintiff addressed a letter to the Office of the President dated January 19, 1969, requesting reinstatement to his

former position and the payment of salary from January 1, 1962 up to the time of actual reinstatement, supposedly in accordance with the decision of the Supreme Court in the aforementioned case. This request was denied repeatedly by the Office of the President in successive letters addressed to the plaintiff dated September 1, 1969, January 19, 1970, April 23, 1970, May 23, 1970 and May 19, 1971, the last of which declared the matter 'definitely closed'." (pp. 151-153, CFI Record)

Having received the letter of May 19, 1971, from the Office of the President, Jose Cristobal filed on August 10, 1971, with the Court of First Instance of Manila a complaint naming then Executive Secretary Alejandro Melchor and Federico Arcala, cash disbursing officer, Office of the President of the Philippines, as defendants, and praying for the following:

- "1. Declaring plaintiff's dismissal as illegal and contrary to law;
- "2. Ordering defendant Executive Secretary Alejandro Melchor to certify the name of plaintiff in the payroll of the Office of the President of the Philippines, to be retroactive as of January 1, 1962, the effective date that the plaintiff was illegally dismissed from the service;
- "3. Ordering defendant Federico Arcala to pay all the emoluments and/or salary to which the plaintiff is entitled effective as of January 1, 1962, the date of his illegal termination from the service; and
- "4. Ordering the defendants to allow plaintiff to continue with the performance of his duties in the Secretary Office Staff, Office of the President of the Philippines.

"Plaintiff prays for such other relief or remedy as this Honorable Court may deem just and equitable under the premises." (pp. 1-3, *ibid.*)

Answering the complaint, the defendants represented by the Office of the Solicitor General alleged that plaintiff Jose Cristobal had no cause of action as he is deemed to have abandoned his office for failure to institute the proper proceedings to assert his right within one year from the date of separation pursuant to Sec. 16, Rule 66 of the Rules of Court, he having come to court only after the lapse of more than nine years, thereby in effect acquiescing to his separation, and therefore he is not entitled to any salary from termination of his employment. (pp. 38-40, *ibid.*)

On October 16, 1971, an amended complaint was submitted to the trial court to include as additional defendants Leticia B. Nonato who was allegedly appointed to the position of Jose Cristobal and Simplicio Nonato, husband of Leticia B. Nonato, and to invoke the additional relief for reinstatement to the position occupied by defendant Leticia B. Nonato. (pp. 55-58, *ibid.*)

The Nonatos were served with summons but did not file an answer to the complaint, hence, on motion of the plaintiff Cristobal, they were declared in default in an order dated January 15, 1972. (p. 94, *ibid.*)

A pre-trial was held after which parties submitted "a partial stipulation of facts" dated February 26, 1976. (pp. 102-104, *ibid.*)

Trial on the merits was held during which plaintiff Cristobal submitted his documentary evidence marked respectively as Exhibits "A" to "P" inclusive all of which were admitted by the trial court. Counsel for the defendants then manifested that no evidence was being presented for the government.

On May 18, 1972, as already adverted to above, the trial court then presided by the Honorable Conrado Vasquez, now Justice of the Court of Appeals, rendered its decision dismissing the complaint reasoning in the following manner:

"Section 16 of Rule 66 of the Rules of Court expressly provides that an action against a public office or

employee may not be filed for the plaintiff's ouster from office unless the same is commenced within one year after the cause of the ouster, or the right of the plaintiff to hold such office or position arose. This period of one year is a condition precedent for the existence of the cause of action for quo warranto (*Bumanlag vs. Fernandez*, G.R. No. L-11482, November 29, 1960). The rationale of this doctrine is that the Government must be immediately informed or advised if any person claims to be entitled to an office or position in the civil service, as against another actually holding it, so that the Government may not be faced with the predicament of having to pay two salaries, one for the person actually holding the office although illegally, and another for one not actually rendering service although entitled to do so (*Madrid vs. Auditor General*, G.R. No. L-12523, May 31, 1960). The fact that the petitioner sought to pursue administrative remedies to secure his reinstatement does not excuse the failure to file the action within the one year period.

"The pendency of administrative remedies does not operate to suspend the period of one year within which a petition for quo warranto should be filed. While it may be desirable that administrative remedies be first resorted to, no one is compelled or bound to do so, and as said remedies neither are pre-requisite to nor bar the institution of quo warranto proceedings, they should not be allowed to suspend the period of one year. Public interest requires that the right to a public office should be determined as speedily as practicable' (3 *Moran*, 1963 Ed., p. 207, citing *Torres vs. Quintos*, G.R. No. L-3304, April 5, 1951)." (pp. 154-155, *ibid.*)

We are now confronted with the following assignment of errors in appellant Cristobal's brief, to wit:

"I

"THE LOWER COURT ERRED IN DECLARING PLAINTIFF-APPELLANT GUILTY OF ABANDONMENT OF ACTION FOR MORE THAN ONE YEAR.

"II

"THE LOWER COURT ERRED IN NOT DECLARING THAT THIS CASE BEING BASED ON ACT OF THE GOVERNMENT THAT HAS BEEN DECLARED BY THE SUPREME COURT AS ILLEGAL AND CONTRARY TO LAW SHOULD BE GOVERNED BY THE SUBSTANTIVE LAW ON PRESCRIPTION OF ACTION." (p. 26, *rollo*)

The primary question to be resolved in this appeal is whether or not appellant Cristobal lost his right to seek judicial relief for not having filed his complaint within the one-year period provided for in Section 16, Rule 66 of the Rules of Court. In short, is the principle of laches or non-compliance with the "Statute of Limitations" applicable against appellant?

The Government holds fast to Section 16, Rule 66 of the Rules of Court and so did the court *a quo* in upholding the dismissal of appellant's complaint which according to both is essentially a quo warranto proceeding.

We agree with defendants-appellees that in this jurisdiction the consistent doctrine followed by this Court is that in actions of quo warranto involving right to an office, the action must be instituted within the period of one year from the time the cause of action arose.[2]

Verily, this Court has stated in *Unabia vs. City Mayor, et al.*, 99 Phil. 253, 257:

"x x x This has been the law in the Island since 1901, the period having been originally fixed in section 216 of the Code of Civil Procedure (Act No. 190). We find this provision to be an expression of policy on the part of the State that persons claiming a right to an office of which they are illegally dispossessed should immediately take steps to recover said office and that if they do not do so within a period of one year, they shall be considered as having lost their right thereto by abandonment. There are weighty reasons of public policy and convenience that demand the adoption of a similar period for persons claiming rights to positions in the civil

service. There must be stability in the service so that public business may not be unduly retarded; delays in the statement of the right to positions in the service must be discouraged. xx xx xx

xxx xxx xxx

"Further, the Government must be immediately informed or advised if any person claims to be entitled to an office or a position in the civil service as against another actually holding it, so that the Government may not be faced with the predicament of having to pay two salaries, one, for the person actually holding the office, although illegally, and another, for one not actually rendering service although entitled to do so. We hold that in view of the policy of the State contained in the law fixing the period of one year within which actions for quo warranto may be instituted, any person claiming right to a position in the civil service should also be required to file his petition for reinstatement with the period of one year, otherwise he is thereby considered as having abandoned his office."

In effect, it is the doctrine of laches which is invoked to defeat Jose Cristobal's suit, for not only did Cristobal fail to file his complaint within one year from the date of separation but, it is claimed, he allowed almost nine years to pass before coming to court by reason of which he is deemed to have acquiesced to his removal.

In *Tijam vs. Sibonghanoy*, this Court stated that in a general sense, laches is failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[3]

However, as will be indicated below, there are certain exceptional circumstances attending which take this case out of the rule enunciated above and lead Us to grant relief to appellant. Thus --

1. There was no acquiescence to or inaction on the part of Jose Cristobal amounting to abandonment of his right to reinstatement in office.

We lay stress on the findings of the trial court based on the un rebutted evidence of plaintiff Cristobal that upon receipt of the letter of January 1, 1962, advising him of his separation from the service, Cristobal, with the other dismissed employees, sought reconsideration in a letter dated January 3, 1962, calling inter alia the attention of then Executive Secretary Amelito Mutuc that he (Cristobal) was a civil service eligible employee with eight years of service in the government and consequently entitled to security of tenure under the Constitution. This was followed by another letter of January 26, 1962.[4]

Reconsideration having been denied, a complaint was filed on March 24, 1962, with the Court of First Instance of Manila entitled "*Raul R. Ingles, et al. vs. Amelito R. Mutuc, et al.*", (Civil Case 49965) which prayed for reinstatement and payment of salaries as of January 1, 1962. The trial court dismissed this complaint but upon appeal to the Supreme Court the judgment was reversed in a Decision promulgated on November 29, 1968, in G.R. L-20390, the Court holding that the removal of the plaintiff-employees was illegal and contrary to law and that they were entitled to be reinstated with payment of their salaries from January 1, 1962 up to the date of their actual reinstatement.[5]

Cristobal was not one of the plaintiffs in the civil case, it is true, but his non-participation is not fatal to his cause of action. During the pendency of the civil case Cristobal continued to press his request for reinstatement together with the other employees who had filed the complaint and was in fact promised reinstatement as will be shown more in detail later.

More importantly, Cristobal could be expected - without necessarily spending time and money by going to court - to rely upon the outcome of the case filed by his co-employees to protect his interests considering the similarity

of his situation to that of the plaintiffs therein and the identical relief being sought. On this point, We find a statement of Justice Louis Brandeis of the United States Supreme Court in *Southern Pacific vs. Bogert*, relevant and persuasive, and We quote:

"The essence of laches is not merely lapse of time. It is essential that there be also acquiescence in the alleged wrong or lack of diligence in seeking a remedy. Here plaintiffs, or others representing them, protested * * * and ever since they have * * * persisted in the diligent pursuit of a remedy * * *. Where the cause of action is of such a nature that a suit to enforce it would be brought on behalf, not only of the plaintiff, but of all persons similarly situated, it is not essential that each such person should intervene in the suit brought in order that he be deemed thereafter free from the laches which bars those who sleep on their rights." (250 U.S. 483, 39 S. Ct. 536, 63 L. Ed. 1099, 1106-1107; Underline supplied. See also *Overfield vs. Pennroad Corporation, et al.*, 42 Fed. Supp. 586, 613)

2. It was an act of the government through its responsible officials more particularly then Executive Secretary Amelito Mutuc and his successors which contributed to the alleged delay in the filing of Cristobal's present complaint for reinstatement.

The evidence of Cristobal establish the following: After the Ingles suit was filed in court, the dismissed employees, Cristobal included, continued to seek reconsideration of their dismissal. It was then that Executive Secretary Mutuc assured the employees that without prejudice to the continuation of the civil action, he would work for their reinstatement. Accordingly, some of the dismissed employees were recalled to their respective positions in the Office of the President among whom were the plaintiffs in the civil case and several others who were not parties therein.[6] Secretary Mutuc even tried to place the others outside of the Malacañang Office. An affidavit of Emiliano Punzal, retired Presidential Records Officer, attests to the fact that Jose C. Cristobal "was among those in the list of separated employees ordered for placement to a position commensurate to his qualification and experience." [7] In the meantime, however, Secretary Mutuc was replaced by other Executive Secretaries to whom Cristobal over and over again presented his request for reinstatement and who gave the same assurance that Cristobal would be recalled and re-employed at "the opportune time". [8]

It was this continued promise of the government officials concerned which led Cristobal to bide his time and wait for the Office of the President to comply with its commitment. Furthermore, he had behind him the decision of the Supreme Court in *Ingles vs. Mutuc* which he believed should be applied in his favor. But when Cristobal, in answer to his various letters, received the letter of May 19, 1971 from the Office of the President denying his reinstatement and declaring the matter "definitely closed" because of his failure to file an action in court within one year from his separation, [9] it was only then that he saw the necessity of seeking redress from the courts.

Surely, it would now be the height of inequity and cutting a deep wound in Our sense of justice, if after Cristobal relied and reposed his faith and trust on the word and promises of the former Executive Secretaries who dealt with him and who preceded the herein respondent Executive Secretary Melchor, We were to hold that he lost his right to seek relief because of lapse of time.

The doctrine of laches is an equitable principle applied to promote but never to defeat justice. [10] Thus, where laches is invoked against a plaintiff by reason of the latter's failure to come to court within the statutory period provided in the law, the doctrine of laches will not be taken against him where the defendant is shown to have promised from time to time to grant the relief sought for. [11] Again, We have jurisprudence that where a defendant or those claiming under him recognized or directly or impliedly acknowledged existence of the right asserted by a plaintiff, such recognition may be invoked as a valid excuse for a plaintiff's delay in seeking to enforce such right. [12] In brief, it is indeed the better rule that courts, under the principle of equity, will not be guided or bound strictly by the statute of limitations or the doctrine of laches when to do so, manifest wrong and

injustice would result.[13]

3. The dismissal of appellant Cristobal was contrary to law on the strength of this Court's Decision in *Ingles vs. Mutuc*.

In *Ingles* the defendants-appellees maintained before this Court that the principal issue in the case was whether or not the plaintiffs-employees were occupying positions primarily confidential in nature and therefore subject to removal at the pleasure of the appointing power, and that this issue was to be resolved in the affirmative. The Court speaking through then Justice, later Chief Justice, Roberto Concepcion, held inter alia that one holding in the government a primarily confidential position is "in the Civil Service" and that "officers or employees in the unclassified" as well as "those in the classified service" are protected by the provision in the organic law that "no officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law" (Section 4, Article XII, 1935 Constitution); that while the incumbent of a primarily confidential position holds office at the pleasure only of the appointing power and such pleasure turns into displeasure, the incumbent is not "removed" or "dismissed" but that his term merely "expires"; that there was no evidence to indicate that the respective positions of the dismissed plaintiffs were "primarily confidential" in nature and on the contrary the compensation attached and the designation given thereto suggest the purely or at least mainly clerical nature of their work; and consequently, considering that the plaintiffs were admittedly civil service eligibles with several years of service in the Government, their removal from office was "illegal and contrary to law".[14]

The Court's Decision in *Ingles vs. Mutuc* constitutes the law of the case now before Us.

Appellant herein, Jose Cristobal, is a civil service eligible with eight (8) years of service in the government. He was holding "Item 9" - "Private Secretary I" - in the Budget for the "President's Private Office" with annual compensation of P4,188.00. No evidence was adduced by the government to show that Cristobal's position was "primarily confidential".[15] On the contrary as stated by this Court in *Ingles vs. Mutuc* the compensation attached to this item and the other items except for one and the designation of the position indicate the purely clerical nature of the functions of the employees dismissed from the service. In fact, none of the letters sent to the herein appellant from the Office of the President ever indicated that he was holding his position at the pleasure of the appointing power or that his services were terminated because his term of office had "expired". The only reason given - and this appears in the letter of September 1, 1969 from the Office of the President - was that he failed to institute the proper proceeding to assert his right, if any, to the position within the period of one year from the date of termination and under settled jurisprudence he is deemed to have abandoned his right to said office or acquiesced in his removal.[16]

To summarize, with the circumstances thus surrounding this particular case, viz: (a) Jose Cristobal consistently pressed for a reconsideration of his separation from the service; (b) he was given assurance that he would be recalled at the opportune time; and (c) that the sudden termination of his employment without cause after eight years of service in the government is contrary to law following the ruling in *Ingles vs. Mutuc* which inures to the benefit of Cristobal who is similarly situated as the plaintiffs in said case and who merely desisted from joining the suit because of the assurance given him that he would be recalled to the service - with all these factors, We repeat, there is justification for not applying existing jurisprudence to his case.

This Court, applying the principle of equity, need not be bound to a rigid application of the law, but rather its action should conform to the conditions or exigencies of a given problem or situation in order to grant a relief that will serve the ends of justice.

To paraphrase then Chief Justice John Edwin Marshall of the United States Supreme Court, let us do complete justice and not do justice by halves.[17] Just as in *Ingles vs. Mutuc* this Court gave justice to plaintiffs, so shall

We do justice to Jose Cristobal.

In granting relief to the herein appellant on the matter of back salaries We note, however, that there is no proof to show that during all these years from January 1, 1962, to the present, appellant at no time worked or was employed at some other office. In fairness to the Government We cannot ignore the probability of Cristobal's having sought employment elsewhere during that period to support himself and his family.

Applying by analogy the rulings of this Court in the matter of fixing back wages to employees who were victims of unfair labor practices of their employers so as to obviate the necessity of a hearing on the point and avoid further delay, and considering the lapse of almost nine years before appellant filed this suit, We resolve, to grant back salaries at the rate last received by him only for a period of five (5) years without qualification and deduction.[18]

IN VIEW OF THE ABOVE CONSIDERATIONS, the decision of the court a quo is set aside. Defendants-appellees or the Public Officials concerned are directed:

1. To reinstate Jose Cristobal, either in the Office of the President or in some other government office, to any position for which he is qualified by reason of his civil service eligibility, subject to present requirements of age and physical fitness; and
2. To pay appellant Cristobal back salaries for a period of FIVE YEARS at the rate of Four Thousand, One Hundred Eighty-eight Pesos (P4,188,00) per annum without qualification and deduction.

So Ordered.

Teehankee, (Chairman), Martin, Fernandez, and Guerrero, JJ., concur.
Makasias, J., reserves his vote.

[1] This appeal originally was with the Court of Appeals, but in a resolution of February 2, 1976, it was certified to this Tribunal as it involved purely a question of law. On March 12, 1976, the appeal was accepted and the case declared submitted for decision on the basis of the briefs filed with the Court of Appeals.

[2] Villegas vs. De la Cruz, 1965, 15 SCRA 720 citing: Unabia v. City Mayor, et al., 99 Phil. 253, 257; Pinullar v. President of the Senate, L-11667, June 30, 1958; Roque v. President of the Senate, L-10949, July 25, 1958; Madrid v. Auditor General, et al., L-13523, May 31, 1960; Mesias v. Jover, L-8543, November 22, 1955; Abella v. Rodriguez, L-10512, November 29, 1957; Eranda v. Del Rosario, L-10552, April 28, 1958; Quingco v. Rodriguez, L-12144, September 17, 1958; Tabora v. City of Cebu, L-11574, October 31, 1958; De la Cerna v. Osmeña, L-12492, May 23, 1959; Argos v. Veloso, 83 Phil. 929; Tumulak v. Egay, 82 Phil. 828; Bumanglag v. Fernandez, et al., L-11482, November 29, 1960; Cui v. Cui, L-18727, August 31, 1964. See also Villaluz vs. Zaldivar, 15 SCRA 710.

[3] April 15, 1968, 23 SCRA 35

[4] pp. 108-109, CFI records

[5] 26 SCRA 171

[6] Exhibits L, M, N, O, pp. 181-185 CFI records

[7] Exhibit J, p. 179, *ibid.*

[8] Exhibit P, p. 186, *ibid.*

[9] pp. 14-13, *ibid*.

[10] *Bunch, et al. vs. United States, et al.*, 1918, 252 Fed. 673, 678

[11] *Backus vs. Backus*, 1919, 175 N.W. 400, 207 Mich. 690. This is an action filed by one against his brother to recover corpo-rate stocks bought by the defendant with plaintiff's money which was filed after five years from the time his cause of action arose. The defense of laches was not up-held by the Supreme Court of Michigan, it appearing that defendant promised from time to time to transfer the stocks to plaintiff.

[12] *Browning vs. Browning, et al.*, 100 S.E. 860, 85 W. Va. 46, (1919)

[13] *Fogg vs. St. Louis, H & K. R. Co. (C.C.)* 17 Fed. 871, American Digest, 1658 to 1896, Century Edition, Vol. 19, p. 462.

[14] *Supra*, pp. 177-178.

[15] p. 3, CFI records. See also *Ingles vs. Mutuc*, *supra* p. 177, where the Court stated that except for "item 2" (one private secretary to the President - P9,000.00) there is nothing in the other items in the budget for "the Office of the President" to indicate that the respective positions are primarily confidential in nature.

[16] p. 14, CFI records.

[17] "The court of equity in all cases delights to do complete justice, and not by halves." Marshall, C.J. - *Knight vs. Knight*, 3 P. Wms. 331, 334; *Corbet vs. Johnson*, 1 Brock. 77, 81 - both cited in *Hefner, et al. vs. Northwestern Mutual Life Insurance Co.*, 123 U.S., 309, 313.

[18] *Mercury Drug Co. Inc., et al. vs. Court of Industrial Relations, et al.*, L-23357, April 30, 1974, per Makasiar, J.

Feati University Club vs. Feati University, L-31503, August 15, 1974, per Teehankee, J.

NASSCO vs. CIR, L-31852 and L-32724, June 28, 1974, per Teehankee, J.

Almira, et al. vs. B.F. Goodrich Phil., Inc., L-34974, July 25, 1974, per Fernando, J.

Insular Life Assurance Co., Ltd. Employees Association vs. Insular Life Assurance Co., Ltd., L-25291, January 30, 1971, per Castro, J.; March 10, 1977 (Resolution on motion for reconsideration of respondents) per Castro, C.J.

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