

SIMEON T. GARCIA, PETITIONER AND APPELLEE, VS. ARTURO B. PASCUAL, MAYOR OF THE MUNICIPALITY OF SAN JOSE, NUEVA ECIJA, EULOGIO STA. MARIA, MUNICIPAL TREASURER OF SAID MUNICIPALIT...*G.R. No. L-16950. December 22, 1961*

Ponente: LABRADOR, J.

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Appeal from a decision of the Court of First Instance of Nueva Ecija, Hon. Felix B. Makasiar, presiding, declaring the appointment of petitioner-appellee, Simeon T. Garcia as clerk of court of the justice of the peace court of San Jose, Nueva Ecija valid, and, ordering the respondents Municipality of San Jose, Nueva Ecija, Arturo B. Pascual and Eulogio Sta. Maria, Mayor and Treasurer, respectively, of said Municipality, to approve the vouchers of petitioner-appellee covering his period of service, as well as to pay petitioner's salary from July 1, 1958 and directing the respondent municipality to provide for the necessary appropriations therefore.

Simeon T. Garcia filed a petition for mandamus on September 11, 1958, which was amended on June 15, 1959. The facts involved in this case may be briefly stated as follows: The acting justice of the peace of the municipality of San Jose, Nueva Ecija appointed petitioner Simeon T. Garcia, a junior typist civil service eligible, as clerk of the justice of the peace court of said municipality on July 1, 1958. This appointment was approved by the Department of Justice. On July 7, 1958, the acting justice of the peace forwarded the appointment, duly approved by the department and the Civil Service Commission, to the municipal treasurer. The petitioner submitted certain vouchers supporting his daily time record, duly approved by the acting justice of the peace, for payment, but the treasurer returned the vouchers with the information that they be first approved by the municipal mayor before payment could be made. The vouchers were submitted to the mayor but the latter did not want to approve them. The reason of the mayor was an opinion of the provincial fiscal, that Rep. Act No. 1551 has repealed Section 75 of Rep. Act No. 296, otherwise known as the judiciary act.

Section 75 of the judiciary act provides that the justices of the peace of first class municipalities may have clerks of court and other necessary employees at the expense of said municipalities, which clerks of court and employees shall be appointed by the respective justices of the peace. On the other hand, Rep. Act No. 1551, which is claimed to have repealed section 75 of Rep. Act No. 296, provides—

"Hereafter, all employees whose salaries are paid out of the general funds of the municipalities shall, subject to the civil service law, be appointed by the municipal mayor upon the recommendation of the corresponding chief of office; Provided, that in case of disagreement between the chief of office concerned and the municipal Mayor, the matter shall be submitted for action to the proper provincial department head whose decision shall be final.* * *."

The judge below ruled that said Rep. Act No. 1551 did not expressly repeal section 75 of the judiciary act and that the two laws, although apparently in conflict with each other, may be reconciled, following the principle of law

that a prior specific statute is not repealed by a subsequent general law. The judge further ruled that there being no specific grant of authority in favor of the mayor to appoint the clerk of court of the justice of the peace, the power to appoint should not be considered lodged in said mayor. Lastly the judge held that the intent of the law in placing the appointment of clerks in the justice of the peace is to prevent the clerk from the importunities and pressure of prejudicial politics.

On this appeal appellants insist that the provisions of Rep. Act No. 1551 repealed the provisions of section 75 of the judiciary act because section 1 of Rep. Act No. 1551 provides that all employees whose salaries are paid by the general funds of the municipality shall be appointed by the mayor upon recommendation of the chief of office, so that, as the clerk of court of the justice of the peace is paid out of the general funds of the municipality, the power to appoint the said clerk should be lodged in the mayor as with all other subordinate officials of the municipality.

We find no merit on the above contention. In the first place, justices of the peace are appointed by the President of the Philippines, in the same manner as judges of superior courts, in pursuance of the separation of powers among the three departments of the government. The independence of the judiciary from the other departments of the government is one of the fundamental principles established by the Constitution. This independence will be greatly hampered if subordinate officials of the courts are subject to appointment by the head of the municipality or province. A cursory reading of the provisions of Rep. Act No. 1551 clearly shows that what it intended to be made subject to appointment by the municipal mayor are the subordinate officials in the municipality, like employees in the executive branch and employees in the municipal council or board. There is no reason why said act, as a general law, may be considered as having repealed the specific provisions of section 75 of Rep. Act No. 296.

"A substantially similar rule prevails in cases where the two conflicting provisions are found in different statutes relating to the same subject. It is an established rule in the construction of statutes that a subsequent act, treating a subject in general terms, and not expressly contradicting the provisions of a prior special statute, is not to be considered as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all. Hence, where there are two acts or provisions, one of which is special and particular, and certainly includes the matter in question, and the other general, which, if standing alone, would include the same matter, and thus conflict with the special act or provision, the special act must be taken as intended to constitute an exception to the general act, as the legislature is not presumed to have intended a conflict. Thus, when the provisions of a general law, applicable to the entire state, are repugnant to the provisions of a previously enacted special law, applicable in a particular locality only, the passage of such general law does not operate to modify or repeal the special law, either wholly or in part, unless such modification or repeal is provided for in express words, or arises by necessary implication." (pp.388-329, Black on Interpretation of Laws.)

Another ground for the legal conclusion arrived at by the court below is that the Secretary of Justice, in an opinion dated June 7, 1957, Opinion No. 122, has already held that section 75 of the judiciary act has not been repealed by Rep. Act No. 1551. The Secretary of Justice is the legal adviser of the government and his opinions override those of provincial fiscals who are his subordinates. His opinions although not law, should be given great weight, which in this case is the correct interpretation of the laws involved.

For the foregoing considerations, the decision appealed from should be , as it is hereby, affirmed with costs against the appellants.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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