

**PANTALEON S. SARMENTA, PETITIONER AND APPELLANT, VS.
MARIO S. GARCIA, CITY MAYOR AND PRIMO FERRER, CITY
TREASURER OF CABANATUAN, RESPONDENTS AND APPELLEES.**

G.R. No. L-17296. July 30, 1966

Ponente: REGALA, J.

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REGALA, J.:

On May 24, 1960, Pantaleon Sarmenta, a resident and then a member of the Municipal Board of Cabanatuan City, filed with the Court of First Instance of Nueva Ecija a special civil action against Mario S. Garcia, then the City Mayor, and Primo Ferrer, then the City Treasurer of Cabanatuan. The petition prayed for a writ of mandamus that would order the defendants to submit to the Municipal Board a detailed budget covering the estimated necessary expenditures for the fiscal year 1960-1961 and for such other relief to which the petitioner may be lawfully entitled.

The respondents filed separate motions to dismiss. In his motion, the City Treasurer begged to be excluded from the proceedings for the reason that, according to the Charter of the City of Cabanatuan, the Treasurer's duty is not to submit a budget to the Municipal Board but only to submit to the Municipal Mayor "certified detailed statement by departments of all receipts and expenditures of the city pertaining to the preceding fiscal year, and to the first seven months of the current fiscal year together with an estimate of the receipts and expenditures for the remainder of the current fiscal year" and "a detailed estimate of the revenues and receipts of the city from all sources for the ensuing fiscal year."

On the other hand, the Mayor's motion to dismiss was on the grounds: that there would be some plain, speedy and adequate remedy other than an action for mandamus; that the petitioner or relator has no clear legal right to the writ prayed for; and that the act sought to be performed is not ministerial but discretionary.

Opposition to these motions having been interposed, the respondents were ordered to file their answer. Upon the joining of the issues, the court rendered a decision dismissing the petition, giving the following reasons therefor: (1) that petitioner did not exhaust all administrative remedies before filing the action because he could have had recourse to the Secretary of Finance who has administrative powers and supervision over appropriation and other financial affairs of provincial and city treasurers; (2) that paragraph 2, Section 1 of Republic Act 2264 provides that if the City Council or Municipal Board shall fail to enact the budget before the beginning of the ensuing fiscal year, the budget for the preceding year shall be deemed re-enacted, which leaves discretion to the City Mayor to rely on the preceding budget if in his judgment it is unnecessary to submit a new budget; and (3) that the new fiscal year had started and the city was already operating on the old budget and, in any case, changes in the budget would be effected by supplemental budget prepared and adopted in the same manner as the annual budget.

Not satisfied, the petitioner has appealed to this Court insisting that his petition is meritorious.

After going over the record, We see no longer any need for Us to pass upon the question raised in the petition, which is whether or not respondents should be required to submit, for the municipal Board of Cabanatuan City to

pass upon, a detailed budget for the fiscal year 1960-1961. It appears that at the time this case was submitted for decision the fiscal year involved was already about to end and that, in the meanwhile, the City of Cabanatuan was not left without any budget but had, in fact, operated on the budget for the preceding fiscal year 1959-1960. A resolution of the issue, therefore, will not give any substantial benefit or advantage to either party. The question has clearly become moot and academic.

Wherefore, the case is hereby ordered dismissed. No costs.

Concepción, C. J., Reyes, J. B. L., Barrera, Dizon, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Case dismissed.

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