

RUBEN TIBURCIO, PETITIONER, VS. HON. WALFRIDO DE LOS ANGELES, JUDGE OF THE CFI OF RIZAL, QUEZON CITY; AND ALFONSO MENDOZA, RESPONDENTS.*G.R. No. L-30287. December 26, 1969*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5f5981556a46/>**FERNANDO, J.:**

The grievance complained of in this special civil action for certiorari and prohibition by petitioner Ruben Tiburcio against respondent Judge Walfrido de los Angeles of the Court of First Instance of Rizal, Branch IV, Quezon City, consists in the issuance of an order of preliminary injunction in a case pending in his sala, restraining petitioner from exercising and assuming "the rights, duties, privileges and prerogatives of the office of the Barrio Captain of Barrio Barangka, Marikina, Rizal * * *" and ordering that the other respondent, Alfonso Mendoza, "be allowed to perform the duties of a hold-over barrio captain" of such barrio. The order is assailed on juris-dictional grounds as petitioner maintains that having been elected on January 14, 1968 barrio captain and duly proclaimed, after which he had taken his oath of office and exercised the powers and privileges attaching thereto, he should have been allowed to continue as such. For petitioner, the fact that there-after the board of election tellers did file a petition for judicial recount of the result of such election with the municipal court of Marikina, Rizal resulting in a decision which failed to determine who were the elected barrio officials and recognizing the right of the barrio officials elected in 1964 to hold-over, certainly did not confer power on respondent Judge, in whose sala such judgment, thereafter appealed, was pending, to issue the order now disputed. For reasons to be specified, we find merit in the plea of petitioner, the above order suffering from a defect juris-dictional in character.

The litigation had its origins in the election for the barrio officials of Barangka, Marikina, Rizal held January 14, 1968. Petitioner apparently came out victor as barrio captain and, as already stated, was duly proclaimed as such by the election tellers. He lost no time in taking his oath of office and assuming the exercise of its powers and privileges. The complicating element as noted above arose from the board of tellers itself filing a petition for the recount of votes with the municipal court of Marikina, the next day alleging its failure to accomplish a true and accurate tally of the votes cast due to the confusion caused by the interference of outsiders, watchers, and sympathizers of the various candidates.[1] Respondent Alfonso Mendoza intervened in this petition.

Another candidate for barrio captain, Nilrogino A. Lim also filed a case for the nullification of such election.[2] In both cases, petitioner moved to dismiss alleging that the election was held in a clean and orderly manner and that he was the duly elected and proclaimed barrio captain, thereafter having taken his oath of office as such. He was not successful in his plea.

After trial, the municipal court on December 10, 1968 rendered a joint decision, which did not determine who actually won as barrio captain but merely required the delivery of the ballot boxes to it so it could recount the votes. In the meanwhile until it could proclaim the winners, petitioner was ordered to refrain from performing his duties as barrio captain and the barrio officials elected in 1964 were recognized as continuing as such in a

hold-over capacity. Such decision was duly appealed to the court of first instance. It was assigned to respondent Judge.

On January 21, 1969, respondent Alfonso Mendoza filed a motion for preliminary injunction, relying on such decision and praying that petitioner be restrained from exercising and from continuing to exercise his powers, privileges, and pre-rogatives as barrio captain until the case is definitely decided. The opposition of petitioner was unavailing. The challenged order, as made mention of, was issued nonetheless on March 3, 1969.

Then came this petition for certiorari and prohibition characterizing the actuation of respondent Judge as a "capricious, whimsical exercise of judgment, tantamount to a grave abuse of discretion." A more objective appraisal would indicate that the challenged order could be traced to the municipal court judgment in the petition for judicial recount, the appealed decision then pending in his sala, to the effect that the canvass of the votes was not completed and that no proclamation of the winning candidates was made. On that basis, respondent Judge felt justified in recognizing the right of respondent Mendoza, the elected barrio captain in 1964, to reassume his position in a hold-over capacity.

Respondent Judge, however, ignored the fact that petitioner could show a statement of a proclamation, made by the chairman and members of the board of election tellers, that petitioner Ruben Tiburcio was elected barrio captain and declared the winner, having obtained the highest number of votes.[3] Re-spondent Alfonso Mendoza, who was favored by the challenged order and would thus be enabled to assume the position of barrio captain by virtue of the hold-over provision, did not disprove the existence of such a certification. The matter is crucial as on the above decisive fact, the controlling legal norm precludes the issuance of the order now assailed, not as a matter of grave abuse of discretion, for discretion there is none, but as a clear case of excess of jurisdiction.

What does the law provide? According to the Revised Barrio Charter Act: "Those who obtain the highest number of votes for the position for which they are candidates shall be declared elected by the election tellers who have been appointed by the provincial governor for the purpose of conducting the election in the newly-created barrio. In case of a tie, the same shall be decided by drawing lots immediately after the counting of votes and the winner shall be declared elected. The officials elected shall assume office immediately by taking oath before any person authorized to administer oaths and shall hold office for four years or until their successors shall have been elected and qualified." [4]

The facts are not susceptible of any misinterpretation. The election was held. The board proclaimed petitioner as having won the position of barrio captain. Under the law, he was required to assume office immediately by taking his oath of office. That he did. There was no occasion then for the hold-over provision to come into play. Respondent Alfonso Mendoza, the duly elected barrio captain in 1964, was devoid of any right under the circumstances.

This is a clear case of a legal provision calling for application, there being no need for any construction or interpretation. The purpose of the statute is beyond doubt. Its terms are equally explicit. Petitioner acted in compliance therewith. What is set forth therein was followed by him. It was beyond the power of the judge therefore to issue the order assailed.

The conclusion reached by him, which would recognize a right to hold-over on the part of respondent Alfonso Mendoza, after petitioner had been declared elected and had in fact assumed office, did not rest on any secure legal foundation. The mere fact that thereafter the chairman and the members of the board of election tellers apparently had a change of heart and sought a judicial recount produced no adverse effect on the right of petitioner to continue acting as such barrio captain, until and unless there is a final court decision to the contrary. To repeat, this is one clear instance where no justification exists for any deviation from what the law

commands.[5]

What renders the issuance of the challenged order even less defensible is its being tantamount to a mandatory preliminary injunction, for petitioner would be deprived of a right that is his according to law and the situation as it existed before the January 14 election would be restored. If our decisions on the matter mean anything at all, this certainly is an instance where the greatest care should have been exercised by respondent Judge lest the disturbance of the status quo would be productive of undesirable consequences.[6]

We are not disposed to view the matter differently. The doctrine against this kind of injunctive relief is so well entrenched that a contrary ruling, especially in view of the explicit language of the Revised Barrio Charter Act, is far from indicated. The circumstances clearly demonstrate, therefore, that respondent Judge, even on the assumption that he did possess discretion on the matter contrary to the clear expression of legislative will, did gravely abuse his authority. Such an assumption however does not find support in the language of the law. The right of petitioner after having been duly proclaimed barrio captain is clear. To be more precise then, the order of respondent Judge was issued in excess of jurisdiction.

Hence, as was announced at the opening of this opinion, the success that must attend the effort of petitioner to rectify matters through this special action for certiorari and prohibition.

WHEREFORE, the writ of certiorari prayed for is granted. The order of respondent Judge of March 3, 1969 and the writ of preliminary injunction issued on March 5, 1969 are hereby nullified and declared to be devoid of any force or effect. The right of petitioner to exercise the powers, privileges and pre-rogatives of the barrio captain of Barrio Barangka, Marikina, Rizal is recognized. Respondent Alfonso Mendoza is ordered to yield such position to petitioner and to cease and desist forthwith from acting or holding himself out as such barrio captain. This decision takes effect immediately. Without pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Teehankee, and Barredo, JJ., concur.

[1] Petition, Annex A, Election Case No. 49, Municipal Court of Marikina.

[2] Election Case No. 50, Municipal Court of Marikina.

[3] Annex B, Petition.

[4] Section 8, Republic Act No. 3590 (1963).

[5] Cf. *People v. Mapa*, 20 SCRA 1164 (1967); *Pacific Oxygen & Acetylene Co. v. Central Bank*, 22 SCRA 917 (1968); *Dequito v. Lopez*, 22 SCRA 1352 (1968); *Padilla v. City of Pasay*, 23 SCRA 1349 (1968); *Garcia v. Vasquez*, 27 SCRA 505 (1969); *La Perla Cigar & Cigarette Factory v. Capapas*, 28 SCRA 1085 (1969); *Mobil Oil Philippines v. Diocares*, G.R. No. L-26371, Sept. 30, 1969; *Luzon Surety Co., Inc. v. Aguirre de Garcia*, G.R. No. L-25659, Oct. 31, 1969; *Eastern Tayabas Bus Co. v. Public Service Commission*, G.R. No. L-29623, Nov. 28, 1969.

[6] Cf. *Manila Electric Railroad and Light Co. v. del Rosario*, 22 Phil. 433 (1912); *Gilchrist v. Cuddy*, 29 Phil. 542 (1915); *Levy Hermanos, Inc. v. Lacson*, 71 Phil. 94 (1940); *De Garcia v. Santos*, 79 Phil. 365 (1947); *Farras v. Fuentecilla*, 95 Phil. 417 (1954); *Coronado v. Tan*, 96 Phil. 729 (1955); *De la Cruz v. Bocar*, 99 Phil. 491 (1956); *Lemi v. Valencia*, 7 SCRA 469 (1963); *Iman Sahim v. Montejo*, 8 SCRA 333 (1963); *Board of Commissioners v. Domingo*, 8 SCRA 661 (1963); *Perez v. Court of Appeals*, 8 SCRA 851 (1963); *Rosca v. Alikpala*, 11 SCRA 494 (1964); *Rubio v. Reyes*, 16 SCRA 168 (1966); *Commissioner of Customs v. Cloribel*, 19 SCRA 234 (1967); *Namarco v. Cloribel*, 23 SCRA 398 (1968); *Navarro v. Lardizabal*, 25 SCRA 370 (1968);

Cadiz v. Secretary of National Defense, 25 SCRA 419 (1968); Nawasa v. Piguing, 25 SCRA 462 (1968); Ysasi v. Fernandez, 26 SCRA 393 (1968); Deluao v. Casteel, 26 SCRA 475 (1968); Subido v. Gopengco, 27 SCRA 455 (1969).

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