

BRAULIO QUIMSON, PLAINTIFF AND APPELLANT, VS. BOMAN OZAETA, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-8321. March 26, 1956*

Ponente: MONTEMAYOR, J.

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This is an appeal from the decision of the Court of First Instance of Quezon City, dismissing plaintiff's complaint for the recovery of accrued salaries, first taken to the Court of Appeals, and later certified to us for the reason that said appeal involved only questions of law. The facts are simple and Clear, and as found by the trial court may be briefly stated as follows:

The Rural Progress Administration (later referred to as Administration) is a public corporation created for the purpose of acquiring landed estates through purchase, expropriation or lease, and later sub-letting or sub-leasing the same to tenants or occupants. The officials and employees of the Administration may be considered as civil service employees embraced in the classified service. Sometime in 1947, one Aurelio R. Pefia, then comptroller of the Administration and performing duties of auditor in representation of the Auditor General recommended to the Board of Directors of the Administration that for purposes of economy municipal treasurers be appointed agent-collectors of the Administration, and this recommendation was adopted by the Board of Director. Thereafter, Faustino Aguilar, then manager of the Administration, prepared the appointment for the post of agent-collector on a parttime basis in favor of plaintiff-appellant Braulio Quimson, with compensation of P720 per annum, the appointment to take effect upon assumption of duty. At the time, Quimson was deputy provincial treasurer and municipal treasurer of Caloocan, Rizal. Defendant-appellee Roman Ozaeta who by reason of his office of Secretary of Justice was. acting as ...Chairman of the Board of Directors, signed the appointment and forwarded the papers to the President through the Secretary of Finance for approval. Without waiting for the said approval Quimson assumed his position on May 6, 1948 and rendered service as agent-collector of the Administration until October 21, 1949, inclusive," when he was informed that Because of the disapproval of his appointment, his services were considered terminated. There were several objections to his, appointment," among them that of the Auditor General on the ground that since Quimson was deputy provincial treasurer and municipal treasurer of Caloocan; his additional compensation as agent-collector would contravene the Constitutional prohibition against double compensation. The Commissioner of Civil Service said that he would offer no objection to the additional compensation of Quimson as agent collector provided it was authorized in a special provision exempting the case from the inhibition against the payment of extra compensation in accordance with section 259. of the Revised Administrative Code. In this connection, it may be stated that this section of the Administrative Code provides that in the absence of special provision, no officer or employee in any branch of. the Government service shall receive additional compensation on account of the discharge of duties pertaining to another or to the performance of public service of whatever nature. Faustino Aguilar as manager of the Administration asked for the reconsideration of the ruling of the Auditor General, alleging that the appointment of the plaintiff was for reasons of economy and efficiency, but the Auditor General denied the request stating that reasons of economy and efficiency are not valid grounds for evading the constitutional prohibition against

additional compensation in the absence of a law specifically authorizing such compensation. So, the services of Quimson as agent-collector of the Administration were terminated. But R. Gonzales Lloret, then manager of the Administration on October 18, 1949, inquired from the auditor of the Administration whether Quimson could be paid for the period of actual service rendered by him from May 10, 1948, and the said auditor gave the opinion that it could not be done for the reason that in his opinion the appointment extended to Quimson was clearly illegal and the Administration may not be obliged to pay him for the services rendered since it was a violation of section 3, Article XII, of the Constitution prohibiting double compensation. At the same time he expressed the opinion that under section 691 of the Revised Administrative Code the appointing official who made the illegal appointment should be made liable, for the payment of salary of the appointee, and consequently, plaintiff should claim his salary for services rendered against said appointing officer. . It is highly possible that this opinion was what induced and prompted Quimson to file the present case against Roman Ozaeta who, as Chairman of the Board, signed his appointment, and the members of the said Board, namely: Faustino Aguilar, Vicente Fragante, Roman Fernandez and Pedro Magsalin. The action was initiated in the Justice of the Peace Court which dismissed the complaint. On appeal to the Court of First Instance of Quezon City, as already stated, the complaint was also dismissed.

For purposes of reference we are reproducing section 691 of the Revised Administrative Code, to wit:

"Sec. 691. Payment of person employed contrary to law.—Liability of chief of office.—No person employed' in the classified service contrary to law or in violation of the civil service rules shall be entitled to receive pay from the Government; but the chief of the bureau or office responsible for such unlawful employment shall be personally liable for the pay that would have accrued had the employment been lawful, and the disbursing officer shall make payment to the employee of such amount from the salary of the officers so liable."

In our opinion, the present appeal can be resolved without much difficulty. Section 691 of the Administrative Code above reproduced refers and applies to unlawful employment and not to unlawful compensation. The appointment or employment of plaintiff-appellant Quimson as agent-collector was not in itself unlawful because there is no incompatibility between said appointment and his employment as deputy provincial treasurer and municipal treasurer. In fact, he was appointed agent-collector by reason of his office, being a municipal treasurer. There is no legal objection to a government official occupying two government offices and performing the functions of both as long as there is no incompatibility. Clerks of court are sometimes appointed or designated, as provincial sheriffs. Municipal Treasurers, like plaintiff are often appointed and designated as deputy provincial treasurer. The Department Secretaries are often designated to act as Chairman or members of Board of Directors of government corporations. The objection or prohibition refers to double compensation and not to double appointments and performance of functions of more than one office.

According to law, under certain circumstances, the President may authorize double compensation in some cases, such as government officials acting as members with compensation in government examining boards like the bar examinations, or department secretaries acting as members of Board of Directors of government corporations, and in such cases the prohibition against double compensation is not observed. This undoubtedly, was the reason why the appointment of Quimson had to be coursed through different offices like the Department of Finance, the Civil Service Commission, and the Office of the Auditor General to the President for approval. If the President approves the double compensation, well and good. The appointee whose appointment may then be regarded as valid from the beginning could receive extra compensation. If it is disapproved, then the appointment will have to be withdrawn or cancelled, unless of course, the appointee was willing to serve without compensation, in which case there could be no valid objection. This is another proof that the appointment of Quimson was not illegal or unlawful. It was only the double compensation that was subject to objection. The trouble was that plaintiff herein assumed office without waiting for the result of the action to be taken upon his appointment and compensation by

the President and the different offices which the appointment had to go through.

Furthermore, Quimson would appear to have assumed office without notifying the official who appointed him, namely, Roman Ozaeta. Plaintiff, therefore, took the risk or hazard of not being paid for any service that he may render in the meantime. His counsel now contends that the appointing official should have known that double compensation was prohibited by law and therefore he should not have appointed Quimson as agent-collector. That is seemingly a plausible stand. But it should be borne in mind that there are exceptions to the prohibition; that the very comptroller of the Administration, representing the Auditor General, recommended the appointment of municipal treasurers, like the plaintiff; as agent-collectors, and so defendant Ozaeta and the other members of the Board of Directors may have believed that the Chief Executive might approve plaintiff's appointment. Besides, it may also be said that Quimson himself; a Deputy Provincial Treasurer and Municipal Treasurer, a financial officer, expected to be tersed in government disbursements and payments of salaries and compensation should have 'also known and undoubtedly he knew about that prohibition against double compensation. He should have known that his appointment had to go over or through several obstacles and hazards, but he took the risk and began serving, as agent-collector before his, appointment was approved. We are afraid that he has no one to blame but himself

Finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs.

Parás, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B, L., and Endencia, JJ., concur.

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