

**ANTONIO J. VILLEGAS AS MAYOR OF THE CITY OF MANILA AND
MANUEL D. LAPID, PETITIONERS-APPELLANTS, VS. ABELARDO
SUBIDO AS CIVIL SERVICE COMMISSIONER, EDUARDO Z.
ROMUALDEZ AS SECRET...**

G.R. No. L-31711. September 30, 1971

Ponente: FERNANDO, J.

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FERNANDO, J.:

Petitioner Antonio J. Villegas, in this appeal from a decision of the lower court dismissing a special civil action for prohibition, quo warranto and mandamus, would lay claim as the Mayor of the City of Manila to the power of appointment of the Assistant City Treasurer to which office the other petitioner, Manuel D. Lapid, was by him named even if under its Charter[1] such a prerogative is expressly vested in the President of the Philippines.[2] He would invoke a provision in the Decentralization Act to the effect that all "other employees, except teachers, paid out of provincial, city or municipal general funds, and other local funds shall, subject to civil service law, rules and regulations, be appointed by the provincial governor, city or municipal mayor upon recommendation of the office head concerned." [3] He is not deterred by the rather general and inexplicit character of such statutory language as he contends for a construction rather generous, if not latitudinarian, in scope purportedly in consonance with the avowed purpose of the Act of enlarging the boundaries of local autonomy. Respondent Abelardo Subido, who was proceeded against as Commissioner of the Civil Service,[4] takes a stand diametrically opposite not only because there is no legal basis for such a claim in the light of what is expressly ordained in the City Charter but also because such an interpretation of the provision relied upon would disregard the well-settled doctrine that implied repeals are not favored. The lower court, in a well-written decision by the Honorable Conrado M. Vasquez, accepted such a view. After a careful study of the matter, we cannot discern any error. We affirm.

The facts as found by the lower court follows: "In a letter dated June 3, 1968, respondent Eduardo Z. Romualdez, Secretary of Finance, authorized respondent Jose R. Gloria of the Office of the City Treasurer of Manila to assume the duties of Assistant City Treasurer effective June 1, 1968, vice Felino Fineza who retired from the government service on May 31, 1968. In Administrative Order No. 40, series of 1968, dated June 17, 1968, petitioner Antonio J. Villegas, Mayor of the City of Manila, directed respondent Gloria 'to desist and refrain from exercising the duties and functions of the Assistant City Treasurer,' on the ground that respondent Romualdez 'is not empowered to make such designation.' On January 1, 1969, Mayor Villegas appointed petitioner Manuel D. Lapid, chief of the cash division of the Office of the City Treasurer of Manila, as Assistant City Treasurer. In a 1st indorsement dated February 14, 1969, respondent Abelardo Subido, Commissioner of Civil Service, disapproved the appointment of Lapid, basing his action on an opinion of the Secretary of Justice dated September 19, 1968 to the effect that the appointment of Assistant Provincial Treasurers is still governed by Section 2088(A) of the Revised Administrative Code, and not by Section 4 of the Decentralization Law, Republic Act No. 5185." [5]

Thereafter, on February 25, 1969, to quote anew from the appealed decision: "Mayor Villegas and Manuel D.

Lapid filed the instant petition for prohibition, quo warranto and mandamus, with application for writ of preliminary injunction, praying that judgment be rendered to declare illegal and void ab initio the authorization given by respondent Romualdez to respondent Gloria to assume the duties of assistant city treasurer of Manila, and that a writ of mandamus be issued to respondent Commissioner of Civil Service Subido commanding him to approve the appointment of petitioner Lapid to the said office in accordance with the Civil Service Rules." [6] It was not until the filing of the petition that respondent Jose R. Gloria was nominated by the President of the Philippines to the position of Assistant City Treasurer of Manila and thereafter duly confirmed. After the case was submitted for judgment on the pleadings and the documentary exhibits stipulated by the parties, the court rendered its decision on August 4, 1969 dismissing the petition. Hence this appeal by way of certiorari.

With this Tribunal, as with the court below, the decisive question is the applicable law. The Charter of the City of Manila, enacted in 1949, in express terms did confer on the President of the Philippines, with the consent of the Commission on Appointments, the power to appoint the Assistant City Treasurer. [7] On the other hand, support for the petition is premised on the expansive interpretation that would be accorded the general provision found in the Decentralization Act of 1967 to the effect that it is a city mayor who has the power to appoint all other employees paid out of city or local funds subject to civil service law, rules and regulations. [8]

It is understandable why the choice for the lower court was not difficult to make. What has been so clearly ordained in the Charter is controlling. It survives in the face of the assertion that the additional power granted local officials to appoint employees paid out of local funds would suffice to transfer such authority to petitioner Mayor. A perusal of the words of the statute, even if far from searching, would not justify such an interpretation. This is all the more evident, considering the fidelity manifested by this Court to the doctrine that looks with less than favor on implied repeals. The decision now on appeal, to repeat, must be affirmed.

1. The inherent weakness of the contention of petitioner Mayor that would seize upon the vesting of the appointing power of all other "employees" except teachers paid out of local funds to justify his choice of petitioner Manuel D. Lapid as Assistant City Treasurer is readily disclosed. The Revised Administrative Code distinguishes one in that category from an "officer" to designate those "whose duties, not being of a clerical or manual nature, may be considered to involve the exercise of discretion in the performance of the functions of government, whether such duties are precisely defined by law or not." [9] Clearly, the Assistant City Treasurer is an officer, not an employee. Then, too, Section 4 of the Decentralization Act relied upon by petitioner City Mayor specifically enumerates the officials and their assistants whom he can appoint, specifically excluding therefrom city treasurers. [10] The expansive interpretation contended for is thus unwarranted.

Nor is the case strengthened for petitioner City Mayor by the invocation of *Pineda v. Claudio*. [11] It is not to be denied that in the opinion of the Court, penned by Justice Castro, undue interference with the power and prerogatives of a local executive is sought to be avoided, considering his primary responsibility for efficient governmental administration. What is not to be ignored though is that such a principle was announced in connection with the appointment of a department head, the chief of police, who necessarily must enjoy the fullest confidence of the local executive, one moreover whose appointment is expressly vested in the city mayor. The principle therein announced does not extend as far as the choice of an assistant city treasurer whose functions do not require that much degree of confidence, not to mention the specific grant of such authority to the President. Equally unavailing then is *Villegas v. Subido*, [12] where this Court, through the then Justice Capistrano, recognized that the choice of who the city legal officer should be rests solely on the city mayor, such an office requiring as it does the highest degree of confidence. It bears repeating that the situation in the case before us is of a different category. The decision appealed from, then, is not to be impugned as a failure to abide by controlling pronouncements of this Tribunal.

2. Much less is reversal of the lower court decision justified on the plea that the aforesaid provision in the Decentralization Act had the effect of repealing what is specifically ordained in the city charter. It has been the constant holding of this Court that repeals by implication are not favored and will not be so declared unless it be manifest that the legislature so intended. Such a doctrine goes as far back as *United States v. Reyes*, a 1908 decision.^[13] It is necessary then before such a repeal is deemed to exist that it be shown that the statutes or statutory provisions deal with the same subject matter and that the latter be inconsistent with the former.^[14] There must be a showing of repugnancy clear and convincing in character. The language used in the latter statute must be such as to render it irreconcilable with what had been formerly enacted. An inconsistency that falls short of that standard does not suffice. What is needed is a manifest indication of the legislative purpose to repeal.^[15]

More specifically, a subsequent statute, general in character as to its terms and application, is not to be construed as repealing a special or specific enactment, unless the legislative purpose to do so is manifest. This is so even if the provisions of the latter are sufficiently comprehensive to include what was set forth in the special act. This principal has likewise been consistently applied in decisions of this Court from *Manila Railroad Co. v. Rafferty*,^[16] decided as far back as 1919. A citation from an opinion of Justice Tuason is illuminating. Thus: "From another angle the presumption against repeal is stronger. A special law is not regarded as having been amended or repealed by a general law unless the intent to repeal or alter is manifest. *Generalia specialibus now derogant*. And this is true although the terms of the general act are broad enough to include the matter in the special statute. x x x At any rate, in the event harmony between provisions of this type in the same law or in two laws is impossible, the specific provision controls unless the statute, considered in its entirety, indicates a contrary intention upon the part of the legislature. x x x A general law is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class, while a special act is one which relates to particular persons or things of a class."^[17]

WHEREFORE, the lower court decision of August 4, 1969 is affirmed. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Barredo, Villamor, and Makasiar, JJ., concur. Dizon and Teehankee, JJ., did not take part.

[1] Republic Act No. 409 (1949).

[2] It is expressly provided in Section 22 of the Charter that the President of the Philippines with the consent of the Commission on Appointments "shall appoint *** the City Treasurer and his Assistant, * * *."

[3] Section 4, Republic Act No. 5185 (1967).

[4] The other respondents named were Cesar Virata, as Acting Secretary of Finance, and Jose R. Gloria, as Assistant City Treasurer of Manila duly appointed by the President.

[5] Decision, Annex A to Brief for Petitioners-Appellants, pp. 23-24.

[6] *Ibid.*, pp. 24-25.

[7] Section 22, Republic Act No. 409.

[8] Section 4, Republic Act No. 5185.

[9] Section 2, Republic Act No. 2711 (1917).

[10] The particular paragraph of Section 4 of the Decentralization Act reads as follows: "The City Assessor, City Agriculturist, City Chief of Police and City Chief of Fire Department and other heads of offices entirely paid out

of city funds and their respective assistants or deputies shall, subject to civil service law, rules and regulations, be appointed by the City Mayors: [Provided, however], That this section shall not apply to Judges, Auditors, Fiscals, City Superintendents of Schools, Supervisors, Principals, City Treasurers, City Health Officers and City Engineers."

[11] L-29661, May 13, 1969, 28 SCRA 34.

[12] L-29588, December 27, 1968, 26 SCRA 531. Cf. Claudio v. Subido, L-30865, August 30, 1971.

[13] 10 Phil. 423. Cf. U.S. v. Academia, 10 Phil. 431 (1908).

[14] Cf. Calderon v. Provincia del Santisimo Rosario, 28 Phil. 164 (1914).

[15] So it has been held in United States v. Palacio, 33 Phil. 208 (1916). Cf. Ynchausti & Co. v. Stanley, 36 Phil. 178 (1917); Garcia Valdez v. Soteraña Tuason, 40 Phil. 943 (1920); Smith, Bell & Co. v. Estate of Maronilla, 41 Phil. 557 (1916); People v. Castro, 43 Phil. 842 (1922); People v. Perfecto, 43 Phil. 887 (1922); Lichauco & Co. v. Apostol, 44 Phil. 138 (1922); Cia General de Tabacos v. Collector of Customs, 46 Phil. 8 (1924); Chin Ah Foo v. Concepcion, 54 Phil. 775 (1930); Smith, Bell & Co. v. Zamboanga, 55 Phil. 466 (1930); Brias de Coya v. Tan Lua 56 Phil. 153 (1931); Manila Electric Co. v. Public Utilities Employees Asso., 79 Phil. 409 (1947); Valera v. Tuason Jr., 80 Phil. 823 (1948); Camacho v. Court of Industrial Relations, 80 Phil. 848 (1948); Salcedo v. Carpio, 89 Phil. 254 (1951); Phil. Railway Co. v. Collector of Internal Revenue, 91 Phil. 35 (1952); Visayan Electric Co. v. David, 92 Phil. 969 (1953); People v. Olarte, 108 Phil. 756 (1960); Quimsing v. Lachica, L-14683, May 30, 1961, 2 SCRA 182; Garcia v. Pascual, L-16950, December 22, 1961, 3 SCRA 655; Iloilo Palay and Corn Planters Association, Inc. v. Feliciano, L-24022, March 3, 1965, 13 SCRA 377; Butuan Sawmill, Inc. v. City of Butuan, et al., L-21516, April 29, 1966, 16 SCRA 755; Gaerlan, Jr. v. Catubig, L-23964, June 1, 1966, 17 SCRA 376; De Joya v. Lantin, L-24037, April 27, 1967, 19 SCRA 893; National Power Corp. v. Arca, L-23309, Oct. 31, 1968, 25 SCRA 931.

[16] 40 Phil. 224. Cf. Valera v. Tuason, 80 Phil. 823 (1948); Phil. Railway Co. v. Collector of Internal Revenue, 91 Phil. 35 (1952); Visayan Electric Co. v. David, 92 Phil. 969 (1953); Butuan Sawmill, Inc. v. Bayview Theatre, 96 Phil. 137 (1954); Garcia v. Pascual, L-16950, Dec. 22, 1961, 3 SCRA 655; Libarnes v. Executive Secretary, L-21505, Oct. 24 1963, 9 SCRA 261; Butuan Sawmill, Inc. v. City of Butuan, L-21516, April 29, 1966, 16 SCRA 755; Gaerlan v. Catubig, L-23964, June 1, 1966, 17 SCRA 376; De Joya v. Lantin, L-24037, April 27, 1967, 19 SCRA 893; Commissioner of Int. Revenue v. Ilagan Electric and Ice Plant, L-23081, Sept. 30, 1969, 29 SCRA 634; Ponce de Leon v. Rehabilitation Finance Corp., L-24571, Dec. 18, 1970, 36 SCRA 289.

[17] Valera v. Tuason, 80 Phil. 823, 827-828 (1948).

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