

SATURNINO LL. VILLEGAS, PETITIONER, VS. VICTORIANO DE LA CRUZ, RESPONDENT.

G. R. No. L-23752. December 31, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for quo warranto seeking the declaration of petitioner as the duly appointed Municipal Judge of Guihulngan, Negros Oriental.

Petitioner was appointed ad interim Justice of the Peace of Guihulngan, Negros Oriental, by President Carlos P. Garcia on December 13, 1961. He took his oath of office on December 29, 1961, and on April 27, 1962 his appointment was confirmed by the Commission on Appointment.

From the time he took his oath of office petitioner immediately entered into the discharge of his official functions, but when the new administration took over in 1962, petitioner was advised by the Department of Justice that his appointment as such justice of the peace was included among those recalled in Administrative Order No. 2 issued by President Macapagal.

Petitioner requested reconsideration contending: that his appointment cannot be considered within the ambit of said administrative order, but his request was denied by the Secretary of Justice, and so on February 21, 1962 Pacifico S. Bulado was appointed in his place by virtue of Administrative Order No. 9. Bulado assumed office on the same date and performed the duties of the office up to September 15, 1964 when respondent took over as Justice of the Peace of Guihulngan, Negros Oriental. However, on May 27, 1962, petitioner wrote to Acting Justice of the Peace Bulado requiring him to turn over to him the office he was holding in view of the confirmation of petitioner's ad interim appointment by the Commission on Appointments, but the request was disregarded by Bulado. And on November 4, 1964, petitioner commenced the present petition for quo warranto.

There is merit in the claim of respondent that the instant action is already barred by the statute of limitations for the reason that more than one year had elapsed since its cause of action arose. Thus, it appears that when petitioner was informed by the Secretary of Justice that his appointment was one of those recalled by President Macapagal in his Administrative Order No. 2 he vacated the same on February 21, 1962, on which date Pacifico S. Bulado was appointed in his place. Since then he ceased to be in office, though he later claimed that his Removal was illegal because it does not fall within the ambit of said administrative order. But the action taken by him was too late for since then more than one year had already elapsed. The following authorities uphold this view.

"* * * in actions of quo warranto involving right to an office, the action must be instituted within the period of one year. This has been the law in the island since 1901, the period having been originally fixed in section 216 of the Code of Civil Procedure (Act No. 190). We find this provision to be an expression of policy on the part of the State that persons claiming a right to an office of which they are illegally dispossessed should immediately take steps to recover said office and that if they do not do so within a period of one year, they

shall be considered as having lost their right thereto by abandonment." (Unabia vs. City Mayor, et al., 99 Phil., 253, 257; Pinullar vs. President of the Senate, 104 Phil. 131; Roque vs. President of the Senate, L-10949, July 25, 1958; Madrid vs. Auditor General, et al., 108 Phil. 578; Mesias vs. Jover, 97 Phil. 899; Abella vs. Rodriguez, November 29, 1957; Eranda vs. Del Rosario, 103 Phil. 489; Quingco vs. Rodriguez, L-12144, September 17, 1958; Tabora vs. City of Cebu, L-11574, October 31, 1958; De la Cerna vs. Osmena, 105 Phil. 774; Argos vs. Velasco, 83 Phil. 929; Tumulak vs. Egay, 82 Phil. 828; Bumanglag vs. Fernandez, et al., 110 Phil. 107; Cui vs. Cui, L-18727, August 31, 1964) The rationale of this doctrine is that —

"* * * the Government must be immediately informed or advised if any person claims to be entitled to an office or a position in the civil service as, against another actually holding it, so that the Government may not be faced with the predicament of having to pay two salaries, one, for the person actually holding the office? although illegally, and another, for one not actually rendering service although entitled to do so." (Unabia vs. City Mayor, et al., supra; Pinullar vs. President of the Senate, supra; Madrid vs. Auditor General, et al., supra; Torres vs. Quintos. 88 Phil. 436)

The claim of petitioner that he never ceased to discharge the duties of Justice of the Peace of Guihulngan, Negros Oriental because he informed the Department of Justice that he was not quitting his position because his opinion was that his case was not covered by Administrative Order No. 2 cannot be sustained in the light of what appears in the record of this case. In effect, when, petitioner was advised by the Department of Justice that his appointment has been recalled he ceased to act on February 21, 1962, and on that same date Pacifico S. Bulado was appointed in his place. As a matter of fact, on May 27, 1962, petitioner wrote to Bulado requesting him to turn over to him the office he was holding in view of the confirmation of his ad interim appointment by the Commission on Appointments, but Bulado denied the request. This letter clearly reveals that Bulado was already then holding the office which he occupied up to September 15, 1964 when respondent took over as the last incumbent of the position. The reason for the rule in limiting the prescriptive period to one year is that it is not proper that the title to a public office be subjected to continued uncertainty for the people's interest requires that such right be determined as speedily as possible (Tumulak vs. Egay, 82 Phil. 828). Wherefore, petition is denied. No costs.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

Petition denied.

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