

**PERFECTO GALLARDO AND FRANCISCO ANDRES, PETITIONERS, VS.
HON. PEDRO TUASON, SECRETARY OF JUSTICE, THE CHIEF
ACCOUNTING OFFICER AND THE JUDICIAL OFFICER OF THE
DEPARTMENT OF JUST...**

G. R. No. L-13207. October 31, 1959

Ponente: PADILLA, J.

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PADILLA, J.:

On 4 September 1956 the President of the Philippines appointed Perfecto Gallardo ad interim Justice of the Peace of Lupao, Nueva Ecija. He took his oath, assumed office and performed his duties as such. On 10 April 1957 the Commission on Appointments confirmed his ad interim appointment (53 Off. Gaz. 2439). On 12 April 1957 the President of the Philippines nominated Francisco Andres for appointment as Justice of the Peace of Quezon, Nueva Ecija. On 24 April 1957 the Commission on Appointments approved his nomination (53 Off. Gaz. 2745).

He also took his oath, assumed office and performed his duties as such. Since their assumption in office, the two Justices of the Peace had been regularly paid their respective monthly salaries until the enactment and effectivity of Republic Act No. 1800, the appropriation law for the fiscal year 1957-1958, which failed to provide for their respective salaries. On 8 August 1957 the Secretary of Justice recommended to the President that in view of the merger of the towns of San Jose and Lupao, and of Santo Domingo and Quezon, Nueva Ecija, into two separate Justice of the Peace court circuits, Gelasio T. Yusi and Ignacio Lustre be retained as Justices of the Peace of the newly created circuits, respectively (Annex A). On 21 August 1957 the President designated Gelasio T. Yusi as Justice of the Peace of San Jose and Lupao, and Ignacio Lustre as Justice of the Peace of Santo Domingo and Quezon (Annexes B and C).

On 4 September 1957 the Undersecretary of Justice transmitted to Gelasio T. Yusi through the Executive Judge of the Court of First Instance of Nueva Ecija, Fourth Judicial District, his designation as Justice of the Peace of San Jose and Lupao and requested the Executive Judge to advise Perfecto Gallardo that he had ceased to hold office as Justice of the Peace of Lupao in view of the elimination of his salary item in Republic Act No. 1800, which took effect on 1 July 1957 (Annex D). On 9 September the Executive Judge advised Perfecto Gallardo and Francisco Andres of the merger of their respective courts with another to form circuit court and of the designation by the President of Messrs. Gelasio T. Yusi and Ignacio Lustre as Justices of the Peace of the circuit courts of San Jose and Lupao, and Santo Domingo and Quezon, Nueva Ecija, and requested them (Gallardo and Andres) to turn over all the papers kept in their respective courts to the two designated Justices of the Peace (Annexes E and F). On 4 October 1957 the Secretary of Justice requested the Executive Judge to direct Messrs. Yusi and Lustre to hold court regularly in their respective territorial circuits; that if Messrs. Gallardo and Andres refuse to vacate their respective offices, Messrs. Yusi and Lustre be authorized to hold court in any other place in the municipal building; that they be reminded to observe office hours regularly within their respective jurisdictions, otherwise their salary would be correspondingly reduced; and that the provincial fiscal be requested not to recognize Messrs. Gallardo and Andres as Justices of the Peace of Lupao and Quezon (Annex J.) On 11 October 1957, in view of the

failure of Ignacio Lustre to discharge the functions of his office due to ill health, the Executive Judge of the Court of First Instance of Nueva Ecija, Fourth Judicial District, designated Joaquin Tabios, Justice of the Peace of Licab, to act in his place (Annex K).

On 6 December 1957 Perfecto Gallardo and Francisco Andres filed in this Court a petition and on 28 March 1958 an amended petition contesting the validity and legality of the designation of the respondents Yusi and Lustre as Justices of the Peace of San Jose and Lupao, and Santo Domingo and Quezon, respectively, and of the provisions of Republic Act No. 1800 eliminating their respective salary items; and praying that the respondent Secretary of Justice be ordered to recognize them as the lawful Justices of the Peace of their respective courts and the Chief Accounting Officer and the Judicial Officer of the Department of Justice to pay their respective salaries beginning 1 July 1957; and for other just and equitable relief.

Article VIII of the Constitution provides: Section 1. The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law.

SEC. 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts, * * *.

SEC. 9. The members of the Supreme Court and all judges of inferior courts shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office. They shall receive such compensation as may be fixed by law, which shall not be diminished during their continuance in office. * * *.

SECTION 70, Republic Act No. 296, provides:

Justices of the peace having the requisite legal qualifications shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office, unless sooner removed in accordance with law or unless his office be lawfully abolished or merged in the jurisdiction of another justice of the peace; Provided, That in case the public interest requires it, a justice of the peace of one municipality may be transferred to another.

Republic Act No. 1150 (the appropriation law for the fiscal year 1954-1955, p. 284 and Republic Act No. 1350 (the appropriation law for the fiscal year 1955-1956, p. 299) provided salary items for one Justice of the Peace for the circuit court of San Jose and Lupao and another for the circuit court of Santo Domingo and Quezon. In the ensuing fiscal year (1956-1957), Congress provided salary items for one Justice of the Peace for each of the four municipalities, thereby establishing a court for each of them (Republic Act No. 1600, p. 355). This was the appropriation law in force when the petitioners were appointed to their respective positions. In the next fiscal year (1957-1958), Congress merged the salary items of the Justices of the Peace of San Jose and Lupao, and Santo Domingo and Quezon, thereby establishing one circuit court for San Jose and Lupao and another for Santo Domingo and Quezon, and eliminating the salary items for the Justices of the Peace of Lupao and Quezon (Republic Act No. 1800, p. 342). In the succeeding fiscal year, 1958-1959 (Republic Act No. 2080, pp. 457-458), and in the present fiscal year, 1959-1960 (Republic Act No. 2300, p. 392), Congress again provided for the salary items of one Justice of the Peace for each of the four municipalities, thereby establishing a court for each of them.

The question submitted to this Court for determination has become moot in view of the provisions of part One, section F, sub-section 4, paragraph VI, sub-paragraph 2, of Republic Act No. 2080, the appropriation act for the fiscal year 1958-1959 (p. 484), which provides:

Justices of the Peace whose position had been created in previous Acts and Who had already been appointed to said positions and whose appointments had been confirmed by the Commission on Appointments but whose items were eliminated in subsequent appropriation Acts and are again restored in this Act shall continue

holding said positions unless otherwise disqualified by law.

A similar provision is found in Republic Act No. 2300, the appropriation act for the fiscal year 1959-1960 (p.413).

The petition is dismissed without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

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