

VICE MAYOR ANTONIO C. JARO, PETITIONER, VS. COUNCILOR ROSARIO P. ISIDERIO, ET AL., RESPONDENTS.

G. R. No. L-24962. November 29, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

In a petition for certiorari filed before this Court on September 8, 1965, petitioner, thru counsel, alleged that he is the duly elected Vice Mayor of the City of Tacloban, while respondent Rosario P. Isiderio is the Chairman of the Liberal Party Chapter in said city and a duly elected city councilor under the Liberal Party; that on September 7, 1965, respondent Isiderio filed a petition for injunction before the Court of First Instance of Leyte praying, for the reasons alleged therein, that said Vice Mayor Jaro be enjoined from assuming the position of city mayor in the event that the incumbent Mayor Artemio E. Mate vacate the same upon the filing of his certificate of candidacy for Congressman for the First District of Leyte, praying at the same time that a writ of preliminary injunction be issued pending the decision of the case on the merits; that, in spite of the fact that respondent Isiderio has not shown any cause of action to warrant his petition because he merely alleged that he was a sure appointee as city mayor in the event that the incumbent mayor will file his certificate of candidacy as abovementioned, respondent court granted the preliminary writ prayed for; that since the incumbent city flayer belongs to the Nacionalista Party while respondent Isiderio is a city councilor belonging to the Liberal Party, the pretense of the latter to succeed the mayor is in violation of Section 21, paragraph b, of the Revised Election Code, this being an additional reason that supports the illegality of the writ issued by respondent court; and that, in view of the urgency of petitioner's predicament as well as the uncompromising stand taken by respondent judge, petitioner did not deem it proper to file a motion for reconsideration as the same would only entail an unnecessary delay, and so he filed instead the present petition for certiorari.

This Court gave due course to the petition requiring respondents to answer the same within 10 days from receipt of copy thereof and, upon petitioner's filing of a bond of P1,000.00, it issued an injunction restraining respondents from carrying out the writ issued by respondent court.

Respondents, answering the petition, averred among other things that availing of the lifting of the preliminary writ issued by respondent court petitioner assumed the Office of Mayor of the City of Tacloban on September 11, 1965, thereby rendering moot and academic the petition for injunction filed by respondent Isiderio before the Court of First Instance of Leyte, whereupon petitioner filed a motion praying for its dismissal on the aforesaid ground N; it has already become moot and academic.

On the strength of the foregoing averments, which are disputed, this Court finds no other alternative than to insider the instant petition also moot and academic and, consequently, it dismisses the same without costs.

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

Petition dismissed.

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