

CRISPIN BONGCAWIL, PETITIONER VS. THE PROVINCIAL BOARD OF LANA DEL NORTE, ET AL., RESPONDENTS.

G.R. No. L-20368. February 28, 1964

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari seeking to set aside the resolution approved by respondents on September 7, 1962 adopting the decision prepared on the same date by former Vice Governor Valerio V. Rovira by virtue of the authority given him to do so in a resolution adopted by the Provincial Board of Lanao del Norte which recommends the dismissal from office of petitioner as Mayor of Maigo, of the same province, as well as to restrain respondents from carrying out the import of said resolution.

The facts, as alleged in the petition, are: On March 7, 1960, one Victorio Dy filed a complaint with the Provincial Board of Lanao Del Norte charging petitioner with the commission of certain irregularities in his capacity as Mayor of Maigo of the same province. Because of the filing of said complaint, petitioner was suspended from office for 30 days by Governor Mohamad Ali Dimaporo. Meanwhile, the complaint was given due course and was set for hearing after petitioner had filed his answer. After the case was submitted for decision, the individual members of the provincial board prepared their respective opinions, two of which for exoneration while the third for conviction. Petitioner received copies of these opinions, which became final for lack of appeal on the part of the complainant. However, on September 7, 1962, after the lapse of almost two years since the filing of the complaint, the provincial board, acting thru its new members, in gross violation of law and with grave abuse of discretion, rendered a new decision on the same complaint which was embodied in a resolution adopted on the same date wherein it made its own the decision prepared by former Vice Governor Valerio V. Rovira which recommended petitioner's dismissal. As a result, the suspension of petitioner was ordered pending the finality of the decision. And considering that the decision rendered by the new provincial board, although headed by the same governor, is null and void for having been rendered in violation of law and with grave abuse of discretion, petitioner has interposed the present petition for certiorari.

On the other hand, the version given by respondents is as follows: When Victorio Dy filed his complaint against petitioner on March 7, 1960 with the Provincial Board of Lanao Del Norte, copy thereof was served on petitioner who was given 48 hours from receipt within which to file his answer. After petitioner had filed his answer, the complaint was set for hearing, at which complainant and petitioner submitted evidence both oral and documentary. Thereafter, the case was submitted to the provincial board for decision. Then the provincial board passed a resolution designating Vice Governor Valerio V. Rovira to draft the decision in the case having in view the evidence submitted and, accordingly, Rovira submitted said draft sometime in August, 1961 for deliberation and study by the provincial board. But before a final decision could be adopted even if the provincial board had begun its study and deliberation on the matter, Vice Governor Rovira and Board Member Bienvenido L. Padilla both launched their candidacies for the office of congressman of the province in the elections held in 1961 thereby vacating their positions in the board in accordance with the Revised Election Code, and to fill their vacancies,

Arsenio A. Quibranza and Sheik Cosain Ali Usman were appointed by the President as Vice Governor and board member, respectively. On September 7, 1962, the provincial board as newly constituted was convened at a special meeting to deliberate on the decision of the case of petitioner as prepared by former Vice Governor Rovira, including the opinion submitted by Member Felixberto Avellanosa, and after a study made on the case, together with the evidence extant on the record, the board unanimously resolved to adopt the decision prepared by former Vice Governor Rovira wherein the latter found petitioner guilty of the charges preferred against him and recommended his dismissal from office.

It further appears that notwithstanding the fact that petitioner received copy of the decision of September 7, 1962, he failed to take any step to appeal to the Office of the President as provided in Section 2190 of the Revised Administrative Code, but instead filed the present petition for certiorari.

There are several reasons why the present petition cannot be sustained one of them being petitioner's failure to appeal from the decision of the Provincial Board of Lanao Del Norte to the Office of the President as provided in Section 2190 of the Revised Administrative Code which shows that he failed to exhaust his administrative remedies as required by law before he may be given the right to interpose the present special civil action.

Another reason is the fact that, as the facts clearly show, the case of petitioner has not been actually acted upon by the provincial board that had actually conducted the examination and received the evidence even if the individual written opinions of its members had been actually prepared and submitted for the reason that by virtue of a resolution unanimously approved by said board action on the case was suspended because two of its members launched their candidacies for the office of congressman of the province in the elections held in 1961 thereby vacating their respective positions, and that only after they were duly substituted when the newly constituted provincial board formally and finally acted upon the case and rendered its decision on September 7, 1962. The contention of petitioner that after the case was submitted for decision to the former provincial board its members had written their individual decisions two of which were for exoneration and the third for conviction and that of said individual decisions he was duly informed and, as a consequence, said decision should be given binding force and effect, cannot be entertained, for the most that can be said is that said decisions were merely drafts prepared by the individual members of the board but that the same had not yet been finally acted upon by the board itself. At least, petitioner has not been able to show any resolution of the former provincial board adopting any of said decisions as its own as is the usual procedure on matters that are acted upon by a deliberative body like the Provincial Board of Lanao del Norte. The truth is that the only formal resolution adopted by the said board in the case of petitioner is that dated September 7, 1962 which, as already stated, reiterates the decision prepared by former Vice Governor Rovira recommending the dismissal of petitioner from his office as Mayor of Maigo, Lanao del Norte. In the circumstances, we have no other alternative than to hold that respondents acted in the proper exercise of their functions as Members of the Provincial Board of Lanao del Norte, and that if petitioner was not satisfied with such decision, his remedy was to appeal to the Office of the President as provided for by law. This he failed to do.

Wherefore, petition is denied. No costs.

Bengzon, C. J., Padilla, Labrador, Concepción, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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