

JUAN PARANPAN, PETITIONER, VS. HON. PERFECTO B. QUERUBIN, HON. JESUS S. RODRIGUEZ, HON. WENCESLAO L. FERNAN, ALL IN THEIR CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF ILO...*G. R. No. L-22102. November 24, 1966*

Ponente: ZALDIVAR. J.

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In the general elections held in November 1959 Dr. Augusto Araneta was elected municipal mayor, Dr. Juan Bretania was elected municipal vice-mayor, Mr. Mariano Araneta was elected municipal councilor with the largest number of votes, Dr. Jugo Belmonte was elected municipal councilor with the second largest number of votes, and herein respondent Teresa Buendia was also elected municipal councilor with the third largest number of votes, in Barotac Nuevo, Iloilo. On September 13, 1963 Municipal Mayor Augusto Araneta filed a certificate of candidacy for the office of member of the provincial board of Iloilo; vice-mayor Juan Bretania filed a certificate of candidacy for the office of municipal mayor of Barotac Nuevo; Councilor Mariano Araneta filed a certificate of candidacy also for the office of municipal mayor of Barotac Nuevo; and Councilor Jugo Belmonte filed a certificate of candidacy for the office of municipal vice-mayor of Barotac Nuevo. The certificates of candidacy filed by these four municipal officials of Barotac Nuevo were in connection with the general elections that would take place on November 11, 1963. These four incumbent municipal officials of Barotac Nuevo, each having filed a certificate of candidacy for an office other than the one he was actually holding, were thereby considered as having permanently resigned from office.

Herein respondent Teresa Buendia, being the municipal councilor that obtained the next largest number of votes after the two incumbent municipal councilors who were considered permanently resigned, as mentioned in the preceding paragraph, claimed the office of municipal mayor of Barotac Nuevo pursuant to the provisions of Section 7 of Republic Act 2264. Accordingly she took her oath of office as municipal mayor at midnight of September 13, 1963. Also on September 13, 1963, then President Diosdado Macapagal designated herein petitioner Juan Paranpan as Acting Mayor of Barotac Nuevo, Iloilo, vice Mayor Augusto Araneta who had filed his certificate of candidacy for the office of member of the Provincial Board.

On September 14, 1963, Buendia filed Civil Case No. 6393 in the Court of First Instance of Iloilo against Paranpan for injunction with a writ of preliminary injunction, alleging that Paranpan was threatening to occupy also the office of Municipal Mayor of Barotac Nuevo without any right whatsoever, and in violation of her right, and prayed, among others, that a writ of preliminary injunction be issued enjoining Paranpan from assuming the office of a Municipal Mayor. On the same day, respondent Judge Perfecto B. Querubin of the Court of First Instance of Iloilo issued ex parte the writ of preliminary injunction prayed for, which writ was duly served on Paranpan. The latter, without having received a copy of the petition, filed an urgent motion, dated September 20, 1963, praying for the dissolution of the writ of preliminary injunction upon the ground that the same had been issued irregularly and without sufficient cause and that whatever rights might have been acquired by Buendia had

lapsed upon his (Paranpan's) appointment by the President. Buendia filed an opposition, and the motion was orally argued. On September 24, 1963 respondent Judge Jesus Rodriguez of the Court of First Instance of Iloilo denied the motion for the dissolution of the writ. On September 27, 1963 Paranpan filed a motion for reconsideration of the order of Judge Rodriguez denying the motion to dissolve the writ, which motion was denied by Judge Wenceslao L. Fernan, also of the Court of First Instance of Iloilo, on October 11, 1963.

On October 31, 1963 Paranpan filed the instant petition for certiorari with preliminary mandatory injunction before this Court, praying that judgment be rendered (1) declaring that respondent Judge Perfecto Querubin had acted with grave abuse of discretion in issuing ex parte the writ of preliminary injunction, (2) declaring that respondent Judge Jesus Rodriguez had acted with grave abuse of discretion in denying the motion for the dissolution of the writ, (3) declaring that respondent Judge Wenceslao Fernan acted with grave abuse of discretion in denying the motion for reconsideration of the order of Judge Jesus Rodriguez denying the motion for the dissolution of the writ of preliminary injunction - all in Civil Case No. 6393 of the Court of First Instance of Iloilo; and (4) that a writ of preliminary mandatory injunction be issued ex parte by this Court dissolving the writ of preliminary injunction issued in the lower court so that the status quo could be maintained pending the decision by this Court of the petition for certiorari. This Court gave the petition due course, but did not issue the writ of preliminary mandatory injunction prayed for.

Respondent Teresa B. Buendia filed before this Court her answer to the petition on December 7, 1963. This case was set for hearing on February 10, 1964, but nobody appeared for the parties. However, upon a motion made by telegram, the respondents were given a period of 20 days within which to submit a memorandum in lieu of oral argument. No memorandum appears in the record of this case.

This Court takes judicial notice that in the general elections of November 11, 1963, a new set of municipal officials had been elected for Barotac Nuevo, Iloilo, that respondent Buendia had ceased to occupy the office of Municipal Mayor of Barotac Nuevo because the person elected Municipal Mayor on November 11, 1963 had assumed office on January 1, 1964, and, therefore, no more vacancy in the office of Municipal Mayor of Barotac Nuevo can be claimed by petitioner Paranpan by virtue of his appointment as Municipal Mayor by the President of the Philippines. This case has become moot and academic. WHEREFORE, the petition for certiorari with preliminary mandatory injunction in the present case is dismissed, without costs.

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

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