

LUIS FLORESCA, PETITIONER, VS. AMPARO QUETULIO, RESPONDENT.*G.R. No. L-2215. November 22, 1948*

Ponente: PARAS, J.

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PARAS, J.:

The petitioner, pre-war justice of the peace of Piddig, Carasi and Nagpapalcan, Ilocos Norte, prays for his reinstatement to said position. It is alleged that he was not reappointed either upon the restoration of the Commonwealth Government or upon the establishment of the Republic of the Philippines, in violation of his constitutional tenure. The respondent, whose ouster is sought by the petitioner, admits her appointment to and actual incumbency of the position held before the war by the petitioner, but asserts her right to stay in view of petitioner's abandonment of said office.

The respondent's contention is correct. It is undisputed that the petitioner, when required by the proper authorities to assume his pre-war post after the liberation, refused to do so and pointed out that the salary of the position could not then sustain his family; that in the meantime the petitioner accepted the position, first, of junior legal assistant and, secondly, of civilian investigator of the Provost Marshal Office in the Gabu U. S. Army Air Base at Laoag, Ilocos Norte; that shortly after the inauguration of the Republic of the Philippines, or on July 27, 1946, the petitioner accepted the position of senior social worker, PRATRA, for Ilocos Norte. Petitioner's refusal to go back to his old post and his subsequent acceptance of other employments, without any pretense on his part that he simultaneously continued to perform the functions of justice of the peace, clearly show deliberate abandonment of the latter office, especially when attention is called to the fact, likewise undisputed, that in the year 1946, the petitioner, in his application submitted to the committee in charge of passing upon applications for government positions in Ilocos Norte, made it clear that he wanted to be appointed to any position other than that of justice of the peace. To now reinstate the petitioner would be to allow a government official to subordinate public interest to personal comfort and convenience.

The petition is therefore denied, with costs, against the petitioner. So ordered.

Moran, C.J., Feria, Pablo, Perfecto, Berngzon, Briones, Tuason, and Montemayor, JJ., concur.

CONCURRING:**PERFECTO, J.:**

Upon the facts in this case, the conclusion is inevitable that petitioner has renounced the position of justice of the peace he is claiming. The constitutional guarantee of judicial tenure of office, as provided for in Section 9 of Article VIII of the Constitution, is not a carte blanche for a judicial officer to freely relinquish his court position and to claim it at any time at his pleasure. A judicial office is not a household furniture which can be relegated to a corner and retrieved at one's convenience. It is not a private property that the occupant, at his discretion, may

lend to others and reoccupy again.

A judicial position may be lost by resignation, renunciation, or abandonment. The constitutional guarantee of judicial tenure is, in such cases, waived.

Because of that waiver, petitioner has lost all title to occupy again the judgeship in controversy and, for such reason, his petition must be dismissed.

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