

EDGARINO L. ESPINA, PETITIONER, VS. THE PROVINCIAL BOARD OF SOUTHERN LEYTE COMPOSED OF HON. SALVACION OPPUS-YNIGUEZ, ISABELO D. KAINDOY, VALERIANO T. TOMOL, SR., SIMEON A.B. MAA...

G.R. Nos. L-33058-9. August 18, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is an original action for Quo Warranto, Certiorari and Prohibition with Preliminary Injunction filed with this Court by petitioner on January 22, 1971 with the following prayer:

"(a)

to issue a writ of preliminary injunction commanding the Provincial Governor to desist from enforcing against petitioner the suspension orders arising from Administrative Cases Nos. 2 and 4 and the respondent Vice Mayor Catalino P. Laraga to desist from discharging the functions of the Office of Mayor of Maasin, Southern Leyte;

(b)

issue a writ of quo warranto excluding respondent Vice Mayor Catalino P. Laraga from the Office of Mayor and declaring your petitioner entitled to said office and be placed in possession thereof;

(c)

declare as null and void, the decision rendered by the respondent Provincial Board in Administrative Cases Nos. 2 and 4 for being rendered with lack or excess of jurisdiction and/or grave abuse of authority or discretion amounting to lack of jurisdiction, and to declare the penalties imposed as having been rendered without or in excess of jurisdiction;

(d)

issue a writ of prohibition to permanently restrain the respondent Provincial Board from further proceeding with the case, and to make the writ of preliminary injunction herein issued permanent." (Rollo, p. 11)

The antecedent facts are as follows:

Petitioner Edgarino L. Espina was the elected Mayor of the Municipality of Maasin, Southern Leyte in 1967 with a term of office to expire on December 31, 1971.

Sometime in January 1969, petitioner was charged by respondent Provincial Board of Southern Leyte with Misconduct in Office in Administrative Cases Nos. 2 and 4 and in another case for Frustrated Murder filed with the Criminal Circuit Court of Southern Leyte and which resulted in his acquittal.

Later Mayor Espina was suspended from office by the Court of First Instance of Southern Leyte as a result of the filing of a criminal case against him for Violation of the Anti-Graft and Corrupt Practices Act. On appeal, the Court of Appeals, however, annulled the suspension order, prompting the Government to elevate the case to the Supreme Court.

On July 14, 1970, the Provincial Board of Southern Leyte found Mayor Espina guilty of misconduct in office in Administrative Cases Nos. 2 and 4 filed against him, and imposed upon him the aggregate penalty of suspension from office for a period of 17 months or up to December 31, 1971, the expiry date of petitioner's term of office. From these adverse decisions, Mayor Espina failed to appeal to the higher administrative authority.

Following petitioner's suspension by the Court of First Instance of Southern Leyte in 1970, then Vice Mayor Catalino Laraga assumed the office of mayor, notwithstanding the aforesaid Court of Appeals decision annulling the order of his suspension. Espina was un-successful in his efforts to reassume his position, in view of the opinion of Acting Provincial Fiscal Concepcion C. Gonzales that Espina's reassumption of office would constitute defiance of the rule of law, considering the pendency of the appeal interposed by the Government to the Supreme Court from the aforesaid order of the Court of Appeals and the adoption by the Provincial Board of Resolution No. 1294, Series of 1970 designating the vice-mayor as the lawful acting mayor of Maasin for the duration of Mayor Espina's suspension.

Hence, this petition.

Considering the lapse of time and the fact that Mayor Espina has been vindicated by his reelection as Mayor of Maasin, Southern Leyte in the November, 1971 local elections, the resolution of the issues raised in this petition has now become moot and academic. Moreover, considering the prayers in the petition, assuming that the same are granted, the same cannot be enforced as the respondents, the parties to be enjoined, are no longer in office. More, so with petitioner since records do not show that in the last local elections held on January 18, 1998, petitioner was elected to public office. (*Crespo vs. Provincial Board of Nueva Ecija, et al.*, G.R. No. 33237, April 15, 1988).

Therefore, "No useful purpose would be served by passing on the merits of the petition. Any ruling in the instant case can hardly be of any practical or useful purpose in the premises. It is a settled rule that a court will not determine moot questions or abstract propositions, nor express an opinion in a case on which no practical relief can be granted." [*Central Azucarera Don Pedro vs. Don Pedro Security Guards Union*, 22 SCRA 1053 (1968); *Bongac vs. Bureau of Labor Relations*, 136 SCRA 225 (1985), *National Union of Garments Textile Cordage and General Workers of the Philippines (GATCORD) vs. Ministry of Labor*, 137 SCRA 341 (1985); *Lomo vs. Mabelin, et al.*, 146 SCRA 473 (1986)].

PREMISES CONSIDERED, this petition is hereby DIS-MISSED for having become moot and academic.

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, and Sarmiento, JJ., concur.

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