

TEODULO E. ABBU, PETITIONER, VS. HON. BERNARDO TEVES, AS JUDGE OF THE COURT OF FIRST INSTANCE OF CAMIGUIN; JULIO A. VIVARES, AS MUNICIPAL MAYOR OF MAMBAJAO, PROVINCE OF CAMIGUIN...

G.R. No. L-33400. January 31, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

In this petition for certiorari filed with this Court on April 12, 1971, an order of respondent Judge of September 23, 1970, was assailed. Respondent Judge saw no merit in a suit for mandamus filed by petitioner against the other respondents to require them to recognize petitioner as a duly elected councilor of Mambajao, thus enabling him to attend sessions of the Municipal Council of Mambajao and to perform his other duties and functions as such official. Such order of dismissal, as set forth in the petition, was premised on the doctrine that in effect, the suit was one for quo warranto, which should have been filed within one year from ouster. Respondent Judge could so rule, as petitioner's inability to attend the council sessions was by virtue of a resolution of expulsion by the Municipal Council of Mambajao, which was approved thereafter by the Provincial Board of Camiguin. Petitioner would justify his being entitled to the remedy of mandamus as, according to him, the Office of the President had declared the aforesaid expulsion illegal and void ab initio. It did appear that right after the resolution of expulsion, respondent Apolonia Cimacio was appointed by the Provincial Governor of Camiguin councilor in lieu of petitioner. It was not until December 7, 1971 that the case was submitted for decision. Thereafter, on December 31 of the same year, the term of office of petitioner as councilor expired. Under the circumstances, the petition has to be dismissed for being moot and academic.

In a 1965 decision, *Gonzaga v. Bico*,^[1] the applicable doctrine was set forth by Justice Zaldivar thus: "We find, however, that the matter to be decided in the present case refers to officers of the barrio assembly of Barrio Lag-asan, Bago, Negros Occidental, who were proclaimed elected on January 14, 1962, as to whether they were legally elected or not. Under Republic Act 2370, otherwise known as Barrio Charter, the term of office of the barrio lieutenant and members of the barrio council is only for a period of two years. It follows, therefore, that the term of office of those that were elected in the barrio elections of January 14, 1964, has already expired. As a matter of fact, another barrio election was held throughout the Philippines on January 12, 1964. We consider, therefore, that the question to be decided in the present case has become academic, so that this case has become moot."^[2] That principle has, since then, been subsequently adhered to.^[3] The latest case in point is *Tiburcio v. Municipal Court of Marikina*.^[4] There is no escaping the conclusion, then, that the petition has indeed become moot and academic.

WHEREFORE, this petition is dismissed. Without pronouncement as to costs.

Makalintal, Ruiz Castro, Barredo, Makasiar, Antonio, and Esguerra, JJ., concurs.

Concepcion, C.J., Zaldivar, and Teehankee, JJ., did not take part.

[1] L-20291, February 27, 1965, 13 SCRA 363.

[2] Ibid., 365.

[3] Tuanda v. Dionaldo, L-20117, July 15, 1966, 17 SCRA 646; Paranpan v. Querubin, L-22102, Nov. 24, 1966, 18 SCRA 787; Lofranco v. Jimenez, Sr., L-27583, Jan. 30, 1968, 22 SCRA 330; Dirampaten v. Alonto, L-25052, March 15, 1968, 22 SCRA 1083; Valencia v. Crisologo, L-25646, Oct. 14, 1968, 25 SCRA 535; Milanes v. de Guzman, L-23967, Nov. 29, 1968, 26 SCRA 163; Descuatan v. Balayon, L-29865, Feb. 28, 1969, 27 SCRA 208; Dumlao v. Hon. Diaz, L-24476, Sept. 30, 1969, 29 SCRA 595; Abesamis v. Judge Reyes, L-23435, Jan. 30, 1970, 31 SCRA 178; Villareal v. Santos, L-28736, Aug. 31, 1970, 34 SCRA 432; Bautista v. Primicias, Jr., L-33583, Feb. 12, 1972, 43 SCRA 234.

[4] L-34374, May 30, 1972, 45 SCRA 269.

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