

ARISTOTLE TUASON, PETITIONER, VS. HON. CALIXTO O. ZALDIVAR, ETC., ET AL., RESPONDENTS.*G.R. No. L-23476. August 31, 1965*

Ponente: CONCEPCION, J.

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This is an original action for certiorari and prohibition to annul an Administrative Order separating petitioner Aristotle Tuason from the service as Municipal Judge of Vigan, Ilocos Sur, and to restrain the Executive Secretary, the Secretary of Justice and the Judicial Superintendent of the Department of Justice from enforcing said administrative order and from interfering with petitioner's alleged right to continue discharging his duties as such Municipal Judge.

Tuason was municipal judge of San Ildefonso, Ilocos Sur, from July 17, 1957 to October 8, 1960, when he assumed the office of Municipal Judge of Vigan, Ilocos Sur, to which he had been appointed ad interim on October 4, 1960. On March 10, 1961, Francisco Ante, the auxiliary Municipal Judge of Vigan, filed with the Commission on Appointments some administrative charges against Tuason. This notwithstanding Tuason's ad interim appointment was confirmed by said Commission on May 5, 1961.

Prior thereto, or on April 26, 1961, Ante had filed with the Department of Justice a complaint reproducing said charges, which were referred for investigation, report and recommendation, to Hon. Angelino C. Salanga, Judge of First Instance of Ilocos Sur. Tuason moved to dismiss these charges on June 20, 1961. Under date of June 11, 1962, Ante filed additional charges, which were likewise, referred to Judge Salanga. On August 8, 1962, Tuason filed a motion to dismiss said additional charges. Both motions to dismiss having been denied by Judge Salanga on September 27, 1962, Tuason filed his answer to the charges against him, on January 21, 1963. After due investigation, Judge Salanga submitted a report dated March 11, 1964, finding Tuason guilty of some of the acts and omissions with which he is charged, and recommending his separation from the service, and that he be "privately advised and requested to resign, to allow his remuneration and retirement benefits * * *, without Prejudice to his reinstatement to the other branches of the government." Under date of August 31, 1964 the President of the Philippines issued Administrative Order No. 108, in effect concurring in the findings made by Judge Salanga. The dispositive part of said Administrative Order reads:

"Respondent's (Tuason's) proven mistakes and indiscretion reflect adversely on his capacity and preparedness for the important office of municipal judge warranting his separation therefrom. Wherefore, Mr. Aristotle A. Tuason is hereby considered resigned and separated as municipal judge of Vigan, Ilocos Sur, without prejudice to reinstatement in another branch of the government service."

Soon, thereafter, or on September 6, 1964, Tuason commenced the present action, to annul said administrative order upon the ground that the causes for removal therein set forth are insufficient to warrant his separation from the service, and that said causes refer to acts performed and/or omissions committed while he held the office of Municipal Judge of San Ildefonso, which had already been passed upon and rejected when his ad interim appointment as Municipal Judge of Vigan was confirmed by the Commission on Appointments on May 5, 1961.

The grounds for which petitioner was separated from the service, are:

1. He imposed upon the accused in a criminal case in San Ildefonso, an indeterminate sentence of 2 months and 1 day to 3 months of *arresto menor*, despite the fact that the Indeterminate Sentence Act is inapplicable when the penalty is less than, one-year imprisonment. Petitioner alleges that his mistake is too insignificant to warrant his separation from the service.
2. He approved, in San Ildefonso, a guardian's bond executed in a form for criminal bail bond. Petitioner says that the proper form was not available in San Ildefonso, although, according to the administrative order complained of, he could have easily obtained said form in Vigan, which is near San Ildefonso.
3. He considered against one accused of slight physical injuries, who had entered a plea of guilty, the aggravating circumstance of abuse of superior strength, which was not alleged in the criminal complaint filed against him, and, consequently, added one (1) day imprisonment to the otherwise proper penalty.
4. He discharged the duties of municipal judge of San Ildefonso, while (he was municipal councilor of Vigan, and collected the emoluments for. both offices.
5. He signed, as municipal councilor of Vigan, a resolution of the latter's council indorsing the candidacy of a given candidate for President of the Philippines in the 1957 presidential elections, at the time when he was discharging the duties of municipal judge of San Ildefonso, Ilocos Sur.
6. When he went on leave on July 16, to 18, 1961, instead of having his auxiliary judge, complainant Ante, notified personally, either in advance or on July 16, 1961 in order that there may be no hiatus in the performance of the functions of the office, Tuason caused a written notice to be mailed on July 17, so that Ante did not receive the notice until July 18, when petitioner was already about to resume his functions.

Although the first, second, third and sixth counts may singly be considered not serious enough to warrant petitioner's separation from the service, the collective effect of said proven counts may be such as to induce reasonably minded men to disagree honestly on the sufficiency thereof to justify the action taken against petitioner herein. Under these circumstances, the administrative order complained of may not be annulled by this Court without encroaching upon the functions of a coordinate and co-equal department, which is supreme within its own sphere (*Barcelon vs. Baker*, 5 Phil. 87; *U.S. vs. Bull*, 16 Phil. 366; *Forbes vs. Chuaco Tiaco & Crossfield*, 16 Phil. 534; *Prov. of Tarlac vs. Gale*, 26 Phil. 338; *Conception vs. Paredes*, 42 Phil. 599; *U.S. vs. Ang Tang Ho*, 43 Phil. 1; *Abueva vs. Wood*, 45 Phil. 612; *Alejandro vs. Quezon*, 46 Phil. 83; *Gov't. of P.I. vs. Springer*, 50 Phil. 259). The necessity of respecting the conclusion reached in said administrative order becomes more apparent when we consider the fourth and sixth counts, involving the discharge by petitioner of the functions of municipal judge of San Ildefonso and municipal councilor of Vigan during the same period of time and the collection by him of the corresponding emoluments for the two positions. Although petitioner claims that there had been no conflict in the time of his actual performance of the duties of said offices and that he later refunded the emoluments received by him as municipal councilor of Vigan during said time, the acts performed by him disclose a deficiency in the prudence, discretion and judgment that a member of the judiciary must exercise in the performance of his functions, if the bench is to command the respect due thereto.

Needless to say, neither the fact that most of the acts or omissions aforementioned took place before Tuason assumed the office of municipal judge of Vigan, nor the circumstance that the Commission on Appointments must have considered such acts or omissions when it confirmed his *ad interim* appointment as such municipal judge of Vigan, detracts from the adverse effect of his previous behaviour upon his fitness to continue in said office and the authority to discipline him therefor.

Wherefore, the writ prayed for is denied and the petition dismissed, with costs against petitioner Aristotle Tuason. It is so ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Regala, Makalintal, and Bengzon, J. P., JJ., concur.

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