

JOSE C. LUCIANO, PETITIONER, VS. JOHNNY WILSON, HON. ISIDRO S. RODRIGUEZ, AS PROVINCIAL GOVERNOR OF RIZAL, HON. HERMINIO C. MARIANO, JUDGE, CFI OF RIZAL, AND PEOPLE OF THE PHILI...

G.R. No. L-31347. August 31, 1970

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The present petition for quo warranto, injunction and prohibition, one of the several cases that this Tribunal has been asked to arbitrate, arising from the filing in court of graft-and-corrupt-practices cases against several municipal officials of Makati, Rizal, has been instituted by Jose C. Luciano, the incumbent Acting mayor of Makati, Rizal, to restrain (1) the enforcement of the order of the Court of First Instance of Rizal in Criminal Case No. 19346, suspending him from office, and (2) the appointment of and take-over by, respondent Johnny Wilson as Acting Municipal Mayor of the said municipality. For purposes of resolving the particular issues involved in this proceeding, the facts of the case may be stated as follows:

As a consequence of our decision in G. R. No. L-30306 (Jose C. Luciano vs. Provincial Governor of Rizal, et al.) promulgated on 20 June 1969, upholding the suspension from office, by the Court of First Instance of Rizal, of elected Mayor Maximo Estrella, Vice-Mayor Teotimo Gealogo, and Councilors Justino Ventura, Pedro Ison, Ignacio Babasa and Bernardo Nonato, among other accused, as a result of their having been found guilty of violation of Republic Act 3019 (Anti-Graft and Corrupt Practices Act), then ranking Councilor Jose C. Luciano entered into the office of and duly Qualified as Acting Mayor of Makati.

The records show, however, that on 30 May 1969, or prior to his assumption of the mayorship, petitioner Luciano, together with Florentino S. Rolls,[1] was himself charged with violation of the Anti-Graft and Corrupt Practices law before the Court of First Instance of Rizal, in an information signed by then Provincial Fiscal Benjamin H. Aquino (Criminal Case No. 19346). To forestall his suspension from public office, Luciano filed with this Court on 3 June 1969 a petition for prohibition[2] to restrain the Provincial Fiscal from filing the information against him; the Court of First Instance of Rizal from accepting and/or giving due course to that information; and to have said information declared null and void. The petition was based on the allegations that the disputed information, although dated 29 May 1969, was actually transmitted to the Court of First Instance of Rizal only on 30 May 1969, the very day when the respondent fiscal took his oath of office as judge of the Rizal Court of First Instance; and that such criminal information was filed without the respondent fiscal having conducted a preliminary investigation and without giving the accused (petitioner) notice and opportunity to be heard. On 5 June 1969, this Court dismissed the petition, but without prejudice to petitioner's filing with the court a quo of an appropriate motion for the conducting of a preliminary investigation and for the suspension in the meantime of the criminal proceedings.

Conformably with the aforesaid resolution, petitioner filed with the lower court a motion to allow the holding of a

preliminary investigation of the case, on the same grounds of lack of preliminary investigation. On 14 June 1969, this motion was denied, the court below pointing out that the information carried a verified certification by the provincial fiscal that he had conducted the required preliminary investigation on the case. Nevertheless, considering that said fiscal had been appointed to the judiciary, the court ventured the opinion that there was nothing wrong in the incumbent provincial fiscal's conducting a reinvestigation or review of the evidence in the hands of the prosecution. Thus, the latter was given 30 days from receipt of the order within which to signify in writing whether or not he deemed it necessary to conduct a reinvestigation of the case.

As the provincial Fiscal B. Jose Castillo, however, manifested that no reinvestigation of the case could be made without any petition to this effect from the accused, Luciano filed on 12 July 1969 a request for the fiscal to conduct a preliminary investigation and/or reinvestigation. Because of these incidents, petitioner's arraignment had to be postponed several times. On 13 September 1969, the Provincial Fiscal granted petitioner's request for reinvestigation, the court being notified thereof. On 15 September 1969, petitioner Luciano was arraigned and entered a plea of not guilty to the charge. Thereupon, the court set the trial of the case for 15 October 1969[3] without prejudice to the outcome of the reinvestigation.

Finally, in a written manifestation dated 15 December 1969, the Provincial Fiscal informed the court that he had conducted a preliminary investigation and/or reinvestigation of the case, with notice to the parties, on 18 October 1969; that on said date, counsel for the petitioner manifested that the evidence previously submitted to State Prosecutor Edilberto Barot, Jr. be considered and upon receipt of the respective memoranda of the Police Commission and the petitioner, the case be deemed submitted for resolution; and that taking into consideration the aforesaid evidence previously adduced together with the memoranda of the parties, he (the fiscal) believed that there existed sufficient evidence to establish prima facie the guilt of the accused. On the same day, 15 December 1969, the court issued an order in Criminal Case No. 19346, suspending the accused Jose C. Luciano from public office pursuant to Section 13 of Republic Act 3019, "[I]t appearing that the information charging the accused is sufficient in form and substance and the validity of said information is apparent". Immediately, the accused filed with the respondent court an urgent motion for reconsideration of said order and for the holding in abeyance of the suspension-directive. It also appears from the record that at 2:45 in the afternoon of that day, 15 December 1969, respondent Johnny Wilson, the Acting Vice-Mayor, took an oath of office as Acting Mayor of Makati before a judge of the Court of First Instance of Rizal. On 16 December 1970, Luciano instituted the present proceeding in this Court, originally against Johnny Wilson (who apparently did not press his intention to occupy the position of Acting Mayor) and the Provincial Governor of Rizal only, which was given due course on the same day. And, acting on petitioner's prayer, we issued a temporary restraining order against respondent Provincial Governor, to prevent him from appointing respondent Wilson as Acting Mayor of Makati, Rizal, and the latter from usurping and intruding into the office of petitioner as Acting Mayor. This Court likewise directed petitioner to include as parties respondent the Judge of the Court of first Instance of Rizal before whom. Criminal Case No. 19346 was pending, and the people of the Philippines. This, the petitioner did; thus, on 19 December 1969, this Court issued another temporary restraining order to include in the prohibition the enforcement by the respondent Judge of his automatic suspension order of 15 December 1969 against the petitioner, and the ordering or causing of the latter's arrest for performing the duties of Acting mayor of Makati.

In ascribing illegality to the 15 December order of suspension in this case, allegedly issued by the respondent Judge in grave abuse of discretion, petitioner invokes two grounds: (a) that he was denied his day in court when the respondent Judge reached the conclusion that the information is valid, without affording him opportunity to be heard; and (b) that the information does not charge an indictable offense under Republic Act 3019, and that no preliminary investigation was conducted in accordance with law.

After the case was submitted and while pending decision by this Court, respondent Johnny Wilson filed, on 30 June 1970, a motion to the effect that, abandoning his previous stand, said respondent was willing to confess judgment in all material points relevant to the issue of holding a hearing to determine the validity of an information filed under the Anti-Graft and Corrupt practices Act, and consequently prayed that: (1) he be allowed to withdraw his answers, memoranda and oral arguments and to confess judgment on all material points contained in the petition; (2) that the counterclaim be dismissed; (3) that the temporary restraining order issued by this Court against respondent Judge Mariano be lifted; and (4) that said judge be ordered to hold a hearing on the validity of the information filed in Criminal Case No. 19346 of the Court of first Instance of Rizal, Branch X (People vs. Jose C. Luciano, et al.). Counsel for other respondents, required to comment, manifested conformity to Wilson's motion.

Considering that the basic stand of petitioner Luciano, assented to by respondent Wilson in his motion, that there should have been a hearing on the validity of the information, appears conformable to the spirit of the law, taking into account the serious and far reaching consequences of a suspension of an elected public official even before his conviction; and considering that public interest demands a speedy determination of the issues involved in this case as well as in the case pending against petitioner in the branch of the Court of First Instance of Rizal presided by respondent Judge Herminio Mariano, this Court is of the opinion that the motion should be granted. In the hearing thus to be held, petitioner's submission that the information charges no indictable offense and that no due preliminary investigation was made by the Provincial Fiscal, can be fully ventilated.

Accordingly, the Court resolves:

- (1) To grant respondent Wilson's motion that the pleadings, counterclaim and memoranda filed by respondents be considered withdrawn;
- (2) To set aside the order of 15 December 1969, issued by respondent Judge Herminio Mariano in Criminal Case No. 19346 of the Court of First Instance of Rizal, suspending petitioner Jose C. Luciano from office;
- (3) To direct said respondent Judge Mariano to forthwith hold a hearing on the validity of the information filed in said Criminal Case No. 19346 and the claimed lack of proper preliminary investigation, and determine such issues as soon as practicable; and
- (4) Should he find in favor of the prosecution, to hear and decide the criminal case on its merits.

The preliminary writs of injunction heretofore issued are dissolved. No costs.

SO ORDERED.

Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.
Concepcion, C.J., and Makasiar, J., took no part.

[1] Luciano's brother-in-law.

[2] G. R. No. L-30544, Jose C. Luciano vs. Provincial Fiscal of Rizal, et al.

[3] The date of hearing had to be moved to 3 December 1969, and again to 26 January 1970, to await the result of the reinvestigation being conducted by the provincial fiscal.

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