

GONZALO SANTOS RIVERA, ET AL., PETITIONERS AND APPELLANTS, VS. ANTONIO J. VILLEGAS, RESPONDENT AND APPELLEE. D E C I S I O N

G. R. No. L-17835. May 31, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from a decision of the Court of First Instance of Manila involving purely questions of law.

The eleven (11) petitioners herein are members of the Municipal Board of the City of Manila. Respondent Antonio J. Villegas was, on the dates material to this case, the Vice-Mayor of said City and presiding officer of the aforementioned Board. It is alleged in paragraphs (6) and (7) of the petition:

- "That on or about March, 1960, during the regular session of the Municipal Board of Manila, in connection with a deliberation of the members of said Board in voting upon a measure then under discussion, the respondent, instead of determining the result of the voting and announcing the same to the members of the Municipal Board, then present (acts of which are purely ministerial on his part), proceeded to address the same members of the Board, giving his opinion on the matter under discussion, and otherwise performing acts properly belonging to the members of the Municipal Board, respondent, among other things, stating:

'The Chair should not be interrupted because like any other member of the Board, he has the right to speak' and

* * * * *

'* * * the Chair holds the view that he has a right to speak as that is one of the freedoms granted us by our Constitution. * * *'

Normal 0 MicrosoftInternetExplorer4 /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in; mso-para-margin-bottom:.0001pt; mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";} * * * * He is not a simple servant of this Body. He is in fact the administrative and legislative head of this Body.'

- "That sometime on March 25, 1960, upon a Resolution submitted by sixteen (16) members of the Municipal Board to request the President of the Philippines to order the Honorable Secretary of Public Works and Communications to suspend, recall or repeal the set of rules and regulations promulgated by virtue of Section 1 of Commonwealth Act 548 and approved on February 9, 1956 and adopted by said Body on same date, the herein respondent caused to be inserted in the body of the approved Resolution, statements and matters, not authorized nor deliberated upon by the members of the Municipal Board who supposedly passed the same."

Petitioners further allege that said acts and utterances of respondent are "without and/or in excess of his powers" as presiding officer of said Board; that despite petitioners' admonitions to the contrary, respondent persists in

performing said acts, thereby unnecessarily delaying and hampering the deliberations of said Board, to the prejudice and damage of the interest and welfare of the people of Manila; and that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law. For these reasons, petitioners prayed that judgment be rendered ordering respondent to desist in actively participating in the discussions of matters before said Board and giving his opinion and remarks thereon, other than to preside over the sessions of the Board, calling it to order, recognizing members desirous of speaking and performing acts incident to these duties.

In his answer, respondent admitted some allegations of the petition, denied other allegations thereof, stated what acts were performed by him and maintained his right to do so. After appropriate proceedings, the lower court rendered judgment for respondent. A reconsideration thereof having been subsequently denied, petitioners appealed directly to this Court.

Owing to the recent demise of the Mayor of Manila and ascent to said office of the Vice-Mayor, respondent herein, the issues herein have thereby become moot. This notwithstanding, the Court deems it best to pass upon said issues in the interest of public policy and welfare.

The facts pertinent to the allegations in paragraph 6 of the petition are set forth in the decision appealed from, from which we quote:

"In a session prior to March 8, 1960, the Municipal Board adopted a Liberal Party-sponsored resolution requesting the City Engineer to prepare estimates for the asphaltting and/or cementing with curbs and gutters all the unasphalted streets of the city. During the session of March 8, Nacionalista councilor Maceda presented a motion for the reconsideration of the approval of the said resolution. Respondent as presiding officer ruled, a point of order raised by Liberal Party councilor Isidro, that the motion for reconsideration was out of order, since, according to respondent, the resolution had already been implemented and the matter was already in the hands of the City Engineer (p. 38, Exh. I or A). Nacionalista councilor Maceda appealed the ruling of respondent to the Board. While respondent was obtaining the decision of the Board on the appeal of Nacionalista councilor Maceda by counting raised hands and after counting 11 votes in favor, Liberal Party councilor Quintos asked for nominal voting. Respondent granted the request for nominal voting relying on section 17 of the Charter and sections 6(e) and G(g) of Rule VII of the Rules of the Board. Nacionalista councilor Remigio in turn raised a point of order, objecting to nominal voting because voting by raised hands had already begun (p. 30, Exh. I or A). Respondent overruled the point of order, because the purpose of nominal voting was to record the names of those in favor, those against and those abstaining (pp. 39-41, Exh. I or A). An appeal from this last ruling was then made by Nacionalista Councilor Maceda and, during the nominal voting, the Nacionalista councilors gave their votes and explained their votes by airing many charges against respondent as presiding officer for allegedly violating the Rules of the Board and favoring the Liberal Party minority (pp. 41-48, Exh. 1 or A). As respondent was about to answer these accusations and innuendos, he was interrupted by Nacionalista Councilor Ocampo who even walked out of the session, followed by the other Nacionalista councilors prompting a recess (pp. 48-49, Exh. 1 or A). When session was resumed, respondent again attempted to answer the charges against him; but he was again rudely interrupted by Nacionalista councilor Maceda who questioned respondent's right to speak, leading to adjournment (pp. 49-51, Exh. A or I). Thus was respondent's right to speak come to be question (Exh. I-A, pp. 36, 51 in Exh. or A; Exh. 2-A, pp. 18-46 in Exh. 2 or B)."

Referring to the question whether respondent had authority to act as he did, the lower court said:

"Respondent has the power to 'preside over the sessions' of the Municipal Board and the position of presiding officer implies direction, control or regulation over the deliberations of the Board (See definition of 'preside' in Webster's New International Dictionary, p. 1956). Section 1-A-1 (e) of Rule I of the Rules of Procedure of the Municipal Board provides that the presiding officer shall assist in expediting business' (Exh. 8, p. 1). And Robert's Rules of Order has this to say on the matter:

'If at any time, the chairman rises to state a point of order, or give information, or otherwise speak, within his privilege, a member speaking must take his seat till the chairman has been heard first. When called to order by the chair, the member must sit down until the question of order is decided.' (Art. VII, Sec. 43, Robert's Rules of Order, 1951 ed. p. 181).

'* * * Wherever the presiding officer decides a question of order, he has the right, without leaving his chair, to state the reasons for his decision * * *' (Art. IV, Sec. 21, id. p. 79).

which are applicable here pursuant to section 1, Rule IX of the Rules of Procedure of the Municipal Board (Exh. 8, p. 11). Such right is demanded by the nature of the position and on the grounds of equity and fairness.

"In view of the foregoing, the right of respondent Presiding Officer to state his reasons for his ruling as happened here is undeniable."

We are fully in accord with this view. The right of a presiding officer to state the reasons for his rulings as such is too obvious to require demonstration.

As regards the allegations in paragraph (7) of the petition, the facts are stated in the appealed decision, in the following language:

"On March 18, 1960, Nacionaiista councilor Gatmaitan submitted a motion co-authored by the 19 other councilors, for the adoption of a resolution requesting the Mayor of Manila to suspend the enforcement of Commonwealth Act No. 548 (Exh. 3). Respondent as presiding officer stated that the Mayor of Manila could not suspend the enforcement of a duly enacted law and that the motion should therefore be modified (Exh. A-4, p. 29 in Exh. A). Liberal Party councilor Isidro likewise submitted a written motion dated March 17, 1960 proposing the adoption of a resolution requesting the Mayor to order the Manila Police Department to hold in abeyance or suspend the enforcement of the traffic rules and regulations allegedly promulgated under Commonwealth Act No. 548 (Exh. 3-A). The Nacionaiista majority floorleader then moved to consolidate the proposal of Nacionaiista councilor Gatmaitan as proposed to be modified by respondent and the proposal of Liberal Party councilor Isidro. This motion was adopted (Exh. 5, p. 34).

"Afterwards, on March 22, 1960, thirteen councilors headed by Liberal Party councilor Isidro submitted a motion, that the Board I adopt a resolution requesting the Honorable Secretary of Public Works & Communications to suspend, recall or repeal certain regulations promulgated by virtue of Sec. I of CA 548 which prohibits animal-drawn vehicles to pass through streets, plazas and bridges in the City of Manila'. There being no objection, this motion was declared by respondent as approved (pp. 34-35, Exh. 5). The resolution referred to reads:

"The undersigned members respectfully move that this Honorable Body adopt a resolution requesting the Honorable Secretary of Public Works and Communications to suspend, recall or repeal the set of rule's and regulations promulgated by virtue of section 1 of Commonwealth Act 548 and approved on February 9, 1956 which prohibits animal-drawn vehicles from passing through twenty-seven (27) streets, plazas and bridges in the City of Manila.

"This resolution is necessary because it practically negates the power of the Municipal Board to regulate the operations of all kinds of vehicles within the city under section 18 (hh) of the Charter of the City of Manila and its power of local autonomy and for the more important reason that rules and regulations promulgated under section 1 of Commonwealth Act 548 closing national roads to any 'or all classes of traffic must be temporary in nature. The subject rules and regulations could not be said to be temporary in view of the fact that it was approved since February 9, 1956 and since that time so many traffic rules and regulations have been approved by the Municipal Board to cope with up-to-date necessities and needs of the riding public, transportation operators and the inhabitants of Manila in general which might altogether render the enforcement of the aforesaid rules and regulations purposeless and untimely.

Very respectfully yours,
s/ Martin B. Isidro

s/ EDUARDO QUINTOS s/ LEONARDO B. FUGOSO
s/ SERGIO H. LOYOLA s/ MARIANO MAGSALIN
s/ HERMINIO ASTORGA s/ PEDRO (PETE) DE JESUS
s/ JOSE SEMBRANO s/ FIDEL SANTIAGO
s/ FRANCISCO GATMAITAN s/ FELICISIMO R. CABIGAO
s/ GONZALO SANTOS RIVERA s/ APOLONIO GENER
(Exh. 3-F)

There being no adopted worded resolution, respondent framed the following resolution based on the records, particularly Exhibit 3-F quoted above:

'Whereas, the set of rules and regulations promulgated by virtue of Section 1 of Commonwealth Act 548 and approved on February 9, 1956 which prohibits animal-drawn vehicles from passing through twenty-seven (27) streets, plazas and bridges in the City of Manila, practically negates the power of the Municipal Board of Manila to regulate the operation of all kinds of vehicles within the city under Section 18 (hh) of the Charter of the City of Manila and its power of local autonomy and for the more important reason that rules and regulations promulgated under Section 1 of Commonwealth Act 548 closing national roads to any or all classes of traffic must be temporary in nature; and

'Whereas, the subject rules and regulations could not be said to be temporary in view of the fact that it was approved since February 9, 1956 and since that time so many traffic rules and regulations have been approved by the Municipal Board to cope with up-to-date necessities and needs of the riding public, transportation operators and the inhabitants of Manila in general which might altogether render the enforcement of the aforesaid rules and regulations! purposeless and untimely: Now, therefore, be it

'Resolved by the Municipal Board of Manila to request, as it hereby respectfully requests, the Honorable Secretary of Public Works and Communications to suspend, recall or repeal the set of rules and regulations promulgated by virtue of section 1 of Commonwealth Act 548 and approved on February 9, 1956 which prohibits animal-drawn vehicles from passing through twenty-seven (27) streets, plazas and bridges in the City of Manila.

'Adopted unanimously by the Municipal Board of Manila at its regular session held on even date, March 22, 1960.' (Exh. 3-E)

"Likewise, on March 25, 1960, respondent declared as approved for lack of any objection a supplementary motion (Exh. C or 6) presented by Liberal Party councilor Martin B. Isidro and 14 other councilors for the Municipal Board to adopt a resolution requesting the President of the Philippines to order the Department of Public Works & Communications to suspend, recall or repeal the ruling regarding the use of streets in Manila (Exh. 7-A, p. 78 in Exh. 7). The body of said motion reads:

'The undersigned members respectfully move that this Honorable Body adopt a resolution requesting the President of the Philippines to order the Honorable Secretary of Public Works and Communications to suspend, recall or repeal the set of rules and regulations promulgated by virtue of Section 1 of Commonwealth Act 548 and approved on February 9, 1956 which prohibits animal-drawn vehicles from passing through

twenty-seven (27) streets, plazas and bridges in the City of Manila.' (Exh. 6).

Respondents drafted and authenticated resolution Exhibit 6-B, which reads:

(Title Omitted)

'RESOLVED by the Municipal Board of Manila to request, as it hereby respectfully requests, His Excellency, the President of the Philippines to please order the Honorable, the Secretary of Public Works and Communications, to suspend, recall or repeal the set of rules and regulations promulgated by virtue of Section 1 of Commonwealth Act No. 548 and approved on February 9, 1956 which prohibits animal-drawn vehicles from passing thru twenty-seven (27) streets, plazas and bridges in the City of Manila, on the ground that the enforcement of said rules and regulations is unnecessary, untimely, illegal, discriminatory, unjust and highly prejudicial to the livelihood of approximately 7,000 families who are dependent upon the calesa trade in Manila.

'Adopted unanimously by the Municipal Board of Manila at its regular session held on March 25, 1960.

Approved.' (Exh. 6-B)"

Obviously, the resolution thus drafted by respondent do not justify the charge made in the aforementioned paragraph (7) of the petition. As correctly stated by His Honor the trial Judge:

"From the above, it is clear that resolution Exhibit 6-B duly interpreted the will of the Municipal Board as can be gleaned from the reasons given by the members as per minutes of March 18, 22, and 25, 1960. The reasons which were incorporated in the corresponding resolution were based mainly on the statements of Councilor Martin B. Isidro during the session of the Board on March 22, 1960 (pp. 28_33, Exh. 5) as well as on the motions Exhibits 6 & 3_F. The right and duty of respondent to frame the questioned resolutions may be gleaned from his duty as presiding officer to authenticate, whenever necessary, all orders, acts, and proceedings of the Board, declaring its wills and obeying its commands (Rule 1, sec. 1_A_1h, Rules of Procedure of the Municipal Board).

'* * * It is his (presiding officer's) duty to declare the will of the body over which he presides, ascertained by rules previously adopted, or, in the absence of such rules, by other methods not repugnant to the due and orderly procedure of a deliberative body' (37 Am. Jur. 672)."

Lastly, petitioners maintain that the Vice-Mayor of the City of Manila, is not a member of its Municipal Board, but merely its presiding officer, like the Vice-President of the United States, who is ex-officio presiding of the Senate of the United States, but not a member thereof, and, hence, devoid of the powers and attributes of the latter, except to vote in case of tie. In this connection, Section 13 of the Revised Charter of Manila, as amended by Republic Act No. 1571, reads, in part:

"The Municipal Board shall be the legislative body of the City and shall consist of the Vice-Mayor as the presiding officer, and five elective members from each representative district who shall hold office for four years. The Vice-Mayor shall have no right to vote except in case of a tie. * * *. The presiding officer shall sign all ordinances, or resolutions and measures directing the payment of money or creating liability enacted or adopted by the board * * *."

The language of this provision is clear and explicit. The Municipal Board of Manila "shall consist of the Vice-Mayor as the presiding officer and five (5) elective members from each" of its representative districts. The Vice-Mayor of Manila forms part, therefore, of said Board, unlike the Vice-President of the United States who is not a constituent element of its Senate—the same being exclusively "composed of two (2) senators from each State * * *"—although he is "President of the Senate" and "shall have no vote, unless" its members "be equally divided" (Article I, Section 2, Constitution of the United States), and unlike the President of the Senate of the Philippines in

relation to our Commission on Appointments, which consists only of "twelve (12) Senators and twelve (12) members of the House of Representatives", and, accordingly, does not include the President of the Senate—except insofar as he is its "Chairman ex-officio" and, as such, may vote "in case of tie", and may call the Commission to meet, while the congress is in session, to discharge such powers and functions as are conferred by the Constitution upon said Commission (Article VI, Sections 12 and 13, Constitution of the Philippines).

The lower court opined that the present case is at parity with that of *Bagasao vs. Tumangan*, 104 Phil., 1033; 55 Off. Gaz. (31) 6018, in which we held that the Vice-Mayor of Cabanatuan City—the charter of which provides that "the Municipal Board shall be the legislative body of the city and shall be composed of the Vice-Mayor, who shall be the presiding officer, and two (2) councilors who shall be elected from each district"—is, not only the presiding officer of said Board, but, also, a member thereof, with the right to vote on any proposed ordinance, resolution or motion even though there is no tie. Finding, in effect, that said provision of the charter of Cabanatuan City is identical to that of the City of Manila, the lower court concluded in this case that "respondent is a member of the Municipal Board, with all the rights and privileges" of the latter" (except as to salary) subject to the limitation that he cannot vote except in case of a tie".

It is our considered view, however, that the Vice-Mayor of Manila is not identically situated as the Vice-Mayor of Cabanatuan City, except insofar as each forms part of the respective municipal board and presides the same. The former is an integral part of the Municipal Board of Manila, but only "as the presiding officer" thereof. Hence, unlike the Vice-Mayor of Cabanatuan City, that of Manila does not have either the status of a regular member of its municipal board, or the powers and attributes of a municipal councilor. In short, the Vice-Mayor of Manila possesses in the Municipal Board of Manila no more than the prerogatives and authority of a "presiding officer" as such, and those specified by law (to vote in case of tie, and to sign all ordinances or resolutions and measures directing the payment of money or creating liability enacted or adopted by the board).

Wherefore, the decision appealed from is modified accordingly, without special pronouncement as to costs. It is so ordered.

Padilla, Bautista Angelo, Reyes, J.B.L., Barrera, Paredes and Dizon, JJ., concur

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