

PAULITA L. ESTEBAN, PETITIONER AND APPELLEE, VS. ANTONIO V. CAVA, ET AL., RESPONDENTS AND APPELLANTS.

G. R. No. L-21361. February 26, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On June 21, 1960, Paulita L. Esteban filed a petition for prohibition with preliminary injunction before the Court of First Instance of Manila seeking to enjoin Antonio V. Cava, together with the city fiscal of Manila and one of his assistants, from taking action on a complaint filed by Cava against her before said city fiscal charging her with falsification of a public document committed in connection with her duties as District Supervisor of Zambales.

It is alleged that on October 1, 1959 Cava filed the aforesaid complaint with the city fiscal of Manila which Was assigned to his assistant Florontino M. Villanueva for action; that the complaint was set for preliminary investigation whom Cava profiled his evidence; that June 1, 1960, Paulita L. Esteban asked for suspension of the investigation on the ground that Cava had already filed on May 5, 1959, a similar complaint against her before the Bureau of Civil Service which was still pending investigation and, hence, the same has the nature of a prejudicial question that has to be decided before the criminal case may be continued; that Esteban's motion was disregarded and Fiscal Villanueva set a date for the continuation of the preliminary investigation; and that when her motion for reconsideration was denied, she instituted the instant petition for prohibition.

On June 29, 1960, the city fiscal filed a motion to dismiss alleging the following grounds; that the authority of the city fiscal to conduct a preliminary investigation of a criminal charge filed before him is authorized by Section 38-B of the Charter of the City of Manila; that the power of the city fiscal to conduct such investigation cannot be restrained or controlled by the court as ruled by the Supreme Court in a long line of decision; that in order that there may be a prejudicial question it should appear that the jurisdiction to try the same case is lodged before another tribunal which situation does not here obtain; and that the motion of Esteban is merely an attempt to delay the prosecution of the charge filed against her.

After Esteban had filed her opposition to the motion to dismiss and the parties had submitted their memoranda, the court a quo denied the motion and ordered respondents to file their answer within 10 days from receipt of a copy of the order. Respondents filed their answer in due course, and after hearing on the merits the court a quo rendered decision granting the petition. The court ordered respondents to withhold action on the complaint filed by Antonio V. Cava against Paulita L. Esteban until after the administrative charge filed by the former against the latter h have been finally disposed of. Respondents interposed present appeal.

In the meantime, or on February 2, 1965, appellants filed herein a written manifestation stating that the administrative case above adverted to has already been finally decided in a manner adverse to the herein appellee, wherefore they pray that the present appeal be decided at the earliest convenience of the Court.

Inasmuch as the petition for prohibition which was originally filed by herein appellee before the court a quo is mainly predicated upon the fact that respondent city fiscal should be prevented from taking action on the criminal

charge filed by Antonio V. Cava against Paulita L. Esteban because of the pendency of the administrative case filed with the Bureau of Civil Service 'which she claims it involves a prejudicial question and, hence the action on the criminal case should be suspended until the administrative case shall have been finally disposed of, we are of the opinion that the instant appeal is now moot and academic it appearing that said administrative case has already been finally terminated. This appeal, therefore, should be dismissed.

WHEREFORE, the instant appeal is hereby dismissed. No costs.

Bengzon, C. J., Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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