

MARIANO CALLEJA, PETITIONER, VS. COURT OF APPEALS, MUNICIPALITY OF IRIGA, JOSE VILLANUEVA AND MARCIANO TINO, RESPONDENTS.

G.R. No. L-22501. July 31, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

Petitioner is one of the nineteen civil service eligible employees of the Municipality of Iriga, who were separated from the service when their positions were abolished by the municipal council for lack of funds. Believing that their removal was without just cause, petitioner, in his behalf and in behalf of the other dismissed employees, filed an action for mandamus before the Court of First Instance of Camarines Sur (Civil Case No. 5077) against the Municipality of Iriga, the Members of the Municipal Council, and the Municipal Treasurer, praying for their reinstatement and payment of their back salaries.

During the trial, respondent municipality and its officials, who were sued in their official capacities, were represented by the Provincial Fiscal of the Pro-vince of Camarines Sur, collaborated by Atty. Silvestre Felix, the Municipal Attorney of the Municipality of Iriga. After a decision was rendered by the lower court ordering the reinstatement of the dismissed employees and the payment of their back salaries, a copy thereof was furnished the Provincial Fiscal, who received it on March 8, 1963. The Provincial Fiscal did not file a notice of appeal from this decision. But on March 23, 1963, the last day for perfecting the appeal, Municipal Atty. Felix, in behalf of the Municipality of Iriga and the other respondents in the case, filed a notice of appeal and an appeal bond. The respondent municipal officials also signed the notice of appeal, with the statement, "With our authority and consent:" over their signatures.

Before the record of the case was forwarded to the Court of Appeals, petitioner filed a motion objecting to the approval of the appeal by the lower court upon the ground that the notice of appeal was not signed by the Provincial Fiscal who is the only official who can legally represent the Municipality of Iriga and its officers, and since in that case the appeal was signed only by Atty. Silvestre Felix, as Municipal Attorney of Iriga, the appeal was not perfected and it should not be given due course. On April 17, 1963, the trial court issued an order overruling petitioner's objection and, finding that the notice of appeal and appeal bond were filed within the reglementary period, gave due course to the appeal. On April 25, 1963, petitioner filed a motion to set aside the order of April 17, 1963, to which motion Municipal Atty. Silvestre Felix filed an objection which was approved by the Provincial Fiscal. After the denial of petitioner's motion, the case was forwarded to the Court of Appeals, where it is docketed as CA-G.R. No. 33081-R, entitled "Mariano Calleja vs. Municipality of Iriga, et al."

On January 1, 1964, petitioner, thru counsel, filed in the Court of Appeals a motion to dismiss the appeal in the above-mentioned case, CA-G.R. No. 33081, reiterating the same grounds that he adduced in objecting to the approval of the appeal in the lower court. This motion was again opposed by Atty. Felix, with the approval of the Provincial Fiscal. On January 29, 1964, the Court of Appeals denied petitioner's motion to dismiss. Petitioner now

comes to this Court in a petition for certiorari, by way of an ap-peal from the order of the Court of Appeals of Jan-uary 29, 1964 denying his motion to dismiss respond-ents' appeal.

The main issue to be resolved in the present case is whether or not Atty. Silvestre Felix, in his capacity as Municipal Attorney for the Municipality of Iriga, who appeared in collaboration with the Pro-vincial Fiscal as counsel for respondent municipality and its officials in Civil Case No. 5077 of the Court of First Instance of Camarines Sur, has the authority, under the law, to sign the notice of appeal in said case, without the accompanying signature or conformity of the Provincial Fiscal. The resolution of this issue will also decide whether or not the Court of Appeals had correctly denied petitioner's motion to dismiss the appeal in case CA-G.R. No. 33081-R.

The Municipal Council of Iriga, Camarines Sur, approved Resolution No. 36, series of 1961, creating the office of Municipal Attorney for the Municipality of Iriga, pursuant to the provisions of Section 3, paragraph 3(a) of Republic Act 2264, entitled "An Act Amending the Laws Governing Local Governments by Increasing their Autonomy and Reorganizing Provincial Governments" which took effect on June 19, 1959. The pertinent provision of this law reads:

"Municipal councils of municipalities and regularly organized municipal dis-tracts shall have authority:

"(a) To create a legal division or office in their respective municipalities to be headed by an attorney-at-law ap-pointed by the mayor with the approval of the council and whose compensation shall be fixed by such council. Such head of office shall be known as the municipal attorney and shall act as legal counsel of the municipality and perform such duties and exercise such powers as may be assigned to him by the council. A member of the council who is an attorney-at-law may be appointed as such municipal attorney without any further compen-sation."

Resolution No. 36, series of 1961, approved by the Municipal Council of Iriga provides, among others, as follows:

"Sec. 2. The Municipal Attorney shall be the chief legal adviser of the munici-pality. He shall have the following duties:

"(a) He shall represent the munici-pality in all cases wherein the municipality, or any officer thereof, in his official capacity, is a party."

It is by virtue of the foregoing provisions of law and the resolution of the Municipal Council of Iriga that Atty. Silvestre Felix, as the duly appointed Municipal Attorney of Iriga, appeared as counsel, and signed the notice of appeal, for the respondent Municipality of Iriga and its officials in Civil Case No. 5079 of the Court of First Instance of Camarines Sur.

Petitioner contends that the only official who can legally represent in court respondent municipality and its officers who are sued in their official capa-cities is the Provincial Fiscal as provided in Sec-tions 1681 and 1683 of the Revised Administrative Code, and that Republic Act 2264 had not repealed or modified said provisions. He also contends that, inasmuch as the Provincial Fiscal is the officer em-powered to appear for the respondents, the resolution of the Municipal Council of Iriga authorizing Muni-cipal Atty. Silvestre Felix to represent the municipality in all cases wherein the municipality, or any officer thereof, in his official capacity, is a party, was ultra vires. Petitioner further contends that grant-ing that said attorney may be allowed to appear in the case, his appearance should be with the consent, con-trol and under the direction of the Provincial Fiscal. It is the stand of petitioner that when the Provincial Fiscal himself did not appeal the decision of the Court of First Instance of Camarines Sur in Civil Case No. 5077, nor did he sign along with Municipal Atty. Felix the notice of appeal in said case, no notice of appeal had been perfected in said case, so that respondents' appeal was not properly brought to the Court of Appeals, and, therefore, that appeal should be dismissed pursuant to the provisions of

Section 1, paragraph (b) of Rule 50 of the Rules of Court.

We find petitioner's stand untenable. While it is true that, as provided in Section 1681 of the Re-vised Administrative Code, "the provincial fiscal shall be the law officer of the province and as such shall therein discharge the duties x x x it shall also be his duty, consistently with other provisions of law, to represent in (the) courts the Government of the Philippines and the officers and branches thereof in all civil actions and special proceedings and generally to act in such province in all matters where-in said Government, or any branch or officers thereof, shall require the service of a lawyer"; and that under Section 1683 of the same Code the "provincial fiscal shall represent the province and any municipality or municipal district thereof in any court,"[1] except in those cases specified therein, or unless disqualified to do so, We believe, nevertheless, that the afore-quoted, provisions of the Administrative Code have been modified by Section 3, paragraph 3(a) of Republic Act 2264, otherwise known as the Local Autonomy Act, which We have hereinbefore quoted.

Thus, Sections 1681 and 1683 of the Revised Ad-ministrative Code provide that the Provincial Fiscal is the law officer, legal adviser, and legal counsel of the province and its subdivisions, which necessarily include the municipalities therein. Likewise, Section 3, paragraph 3(a) of Republic Act 2264 provides that the municipality may create the office of Municipal At-torney who shall act as the legal counsel of the municipality. It is apparent, therefore, that the two laws have one thing in common - that is, that they provide for a legal officer or counsel for the municipality. Harmonizing, then, these seemingly conflicting pro-visions, as We should do pursuant to well accepted rule of statutory construction, the rational inter-pretation that must be arrived at is that both offi-cials, i.e., the Provincial Fiscal and the Municipal Attorney, can act as the legal officer and/or counsel of the municipality. This interpretation is but an implementation of the purpose for which Republic Act 2264 was enacted - that is, to increase the powers of, and give more autonomy to, the local government which, in this particular case, is the municipal government. To sustain the stand of the petitioner in the instant case is to render useless and of no practical effect that provision of Republic Act 2264 which empowers the municipal council to create the office of Muni-cipal Attorney "who shall act as legal counsel of the municipality." The work of a legal counsel necessarily carries with it the duty of appearing in court in be-half of the municipality. The enactment of Republic Act 2264 had the effect of modifying the provisions of Sections 1681, 1682 and 1683 of the Revised Admi-nistrative Code insofar as said sections may be ap-plied to municipalities that have duly appointed Muni-cipal Attorneys.

It is true that Section 1683 of the Revised Ad-ministrative Code specifically provides that the Pro-vincial Fiscal shall represent a municipality in any court, and no similar proviso appears in Section 3, paragraph 3(a) of Republic Act 2264 regarding the representation by the Municipal Attorney of the municipality in court. We believe, however, that there is no necessity for that specific provision in said Sec-tion 3, paragraph 3(a) of Republic Act 2264, because the Municipal Attorney is a municipal officer, and it is understood that his duties must be devoted to the in-terests of the municipality.

The rulings of this Court in the cases of Muni-cipality of Bocaue, et al. v. Manotok, et al., (G.R. No. L-6528, May 25, 1953) and Enriquez v. Jimenez (G.R. No. L-12617, April 29, 1960), which are invoked by petitioner, have no application in the present case because in those two cases what was in issue was the power of the municipality to employ private counsel, instead of availing of the services of the Provincial Fiscal in cases in court where the municipality was a party; and the facts of those cases had taken place before the enactment of Republic Act 2264 (June 19, 1959). In other words, when those cases came up, the municipalities were not yet empowered to create the office of Municipal Attorney.

We declare, therefore, that the Municipal At-torney of a municipality, duly appointed in accord-ance with the provisions of Republic Act 2264, is the legal officer of a municipality, and as such legal officer he may appear in

court as counsel for the municipality or any municipal officer who is a party in a case in his official capacity. We rule, therefore, that in the instant case Municipal Atty. Silvestre Felix had authority under the law to sign the notice of appeal, as counsel for the respondents in Civil Case No. 5077 of the Court of First Instance of Camarines Sur; and the notice of appeal, which he had thus signed - even if he had signed it alone, without being accompanied by the Provincial Fiscal - was valid and had produced the legal effect of bringing the appeal, from the decision in said civil case, properly to the Court of Appeals. The Court of Appeals, therefore, had jurisdiction to entertain that appeal, and it did not commit error when it denied petitioner's motion to dismiss the appeal of respondent Municipality of Iriga and the municipal officials of Iriga in the case, CA-G.R. No. 33081-R, before said court.

WHEREFORE, the order of the Court of Appeals of June 29, 1964, in CA-G.R. No. 33081-R, denying petitioner's petition to dismiss appeal, is affirmed; and the instant petition is dismissed, with costs against the petitioner. Let a copy of this decision be forwarded to the Court of Appeals for its information in connection with CA-G.R. No. 33081-R.

IT IS SO ORDERED.

Reyes, JBL, Makalintal, Bengzon, JP, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, JJ., no part.

[1] Under Section 1682 of the same Code, the provincial fiscal is also the legal adviser of the province and provincial subdivisions.

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