

**MIGUEL P. ARRIETA, PETITIONER, VS. HONORIO BELLOS, AS
DEPUTY GOVERNOR OF NEGROS ORIENTAL, AND SERAFIN L. TEVES,
AS GOVERNOR OF NEGROS ORIENTAL, RESPONDENTS.**

G.R. No. L-17162. October 31, 1964

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Review of the decision of the Court of Appeals approving the dismissal of petitioner's action of quo warranto. Said court found that in April 1952, Miguel P. Arrieta, was appointed by then Governor Pedro A. Bandoquillo of Negros Oriental, as deputy governor of said province. He served as such up to January 3, 1953, when he obtained from Serafin L. Teves, then the newly elected Governor, leave of absence for 103 days. Simultaneously with his leave application, Arrieta asked for permission—which was granted—to transfer to another branch of the government service within the province.

It appears that on January 1, 1956, Teves appointed Honorio Bellos deputy governor of the province vice Miguel Arrieta. On January 11, 1956, eight days after Arrieta had applied for leave, Governor Teves advised him in writing that his leave application was approved on condition that, upon expiration thereof, Arrieta's services would be considered terminated "unless this office can find a position for you, in which case we will advise you".

On February 8, 1956, Arrieta sought the opinion of the Commissioner of Civil Service concerning the conditional acceptance by Governor Teves of his leave application; on March 14 of the same year, he also brought the matter to the attention of then President Magsaysay; again on March 26, same year, he submitted his case to the Secretary of Finance, who, in turn, referred the matter to the Executive Secretary on April 23; and the latter official on May 28, 1956, indorsed it to the Civil Service.

On July 2, 1956, the Civil Service Commissioner opined that "the position of Deputy Governor is not per se a primarily confidential position" which opinion was, on July 9, transmitted to Teves by the Executive Secretary, with the request that Arrieta be reinstated to his former position. On July 12, 1956, Resolution No. 2214 of the Negros Oriental Provincial Board was passed providing that, subject to the President's approval, the positions of deputy governor and special agent in the province should be considered primarily confidential. And on July 14, Petitioner asked respondent Teves to reinstate him forthwith, but on July 16, respondent Teves wired the President requesting reconsideration of the indorsement received by him from the Executive Secretary about petitioner's reinstatement. Then on July 18, 1956, respondent Teves advised petitioner to consider himself as still out of the service pending his appeal to the President.

Finally, on August 27, 1956, acting on the Teves appeal, the Executive Secretary by authority of the President, and pursuant to sec. 671(1) of the Revised Administrative Code, and as recommended by the Commissioner of Civil Service, declared the position of deputy governor of Negros Oriental as primarily confidential.

Despite this official stand, Arrieta commenced the instant proceedings in the Court of First Instance of Negros Oriental seeking reinstatement via this quo warranto petition. After trial in said court, petitioner's action was

dismissed; on appeal to the Court of Appeals, judgment was affirmed with costs.

Hence the petition for review to which we gave due course, upon petitioner's contention that the Court of Appeals erred in ruling: (a) that the position of Deputy Governor is primarily confidential in nature; (b) that petitioner had virtually acquiesced in his separation from office; and (c) that petitioner's cause of action accrued on January 11, 1956, so that the filing of this action on January 13, 1957, was out of time.

On the first question, it appears that the Court of Appeals found from petitioner's own documentary evidence that the duties of deputy governor of Negros Oriental were to be defined by the Provincial Governor; that the Deputy Governor performed only such duties and responsibilities as were delegated or assigned to him from time to time; and that as such delegate, he inspected and supervised local offices under the administrative control of the Governor, and investigated complaints against local officials.

It seems obvious that as the only duties assigned to the Deputy Governor are those inherent in or pertaining to the office of the Provincial Governor which the latter, in the interest of the service may deem proper to delegate, such Deputy Governor must have the confidence of the Provincial Governor. He is actually the eyes and ears of said executive. True, every appointment implies confidence but, is this of an ordinary kind, limited to trust in the Deputy Governor's ability or aptitude? Or does it involve, as held in a case,[1] "primarily close intimacy which insures freedom of intercourse without embarrassment or freedom from misgivings of betrayal of personal trust or confidential matters of state?"

The answer seems clear. More than ordinary confidence and trust is necessary to induce a provincial governor to farm out such duties and functions to a deputy. Any lingering doubt regarding the confidential character of petitioner's position fades in the light of the presidential ruling on August 27, 1956, which classified it as primarily confidential.

Petitioner assails the application of this ruling and affirms that in 1956, when respondent Bellas was appointed to replace him, the position was not primarily confidential. Note that the return indorsement of the Executive Secretary on July 9, 1956, urging respondent Teves to reinstate petitioner was appealed by the latter to the President on July 16, 1956, and, as stated, on August 27, 1956, said Executed Secretary's view was reversed. The later ruling was declaratory of the true nature of the position—primarily confidential—and petitioner may not successfully assail the validity of such ruling.[2] Withal, petitioner cannot escape the conclusion that when he filed the instant petition for quo warranto on January 13, 1957, the position he claimed had already been declared primarily confidential.

His right at most, supposing that the position was not confidential in 1956 when he was replaced, is to recover for salaries; but his claim could be validly defeated, what with his manifested desire to seek a transfer—which implied an admission that he could be (and had been) deprived of his position as a deputy-governor, perhaps because he had worked for the candidacy of the defeated Governor Bandoquillo. Considered from all pertinent angles, the equities of the case do not favor herein petitioner.

In this view of the matter, we find it unnecessary to pass on the timeliness of the action of quo warranto.

Judgment affirmed with costs.

Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

Barrera, J., concur in the result.

[1] De los Santos vs. Mallare, et al., 87 Phil., 289; 48 Off. Gaz., 1787. 1793-94.

[2] Cayabyab vs. Cayabyab, 101 Phil., 681; 54 Off. Gaz., 1800; Mission vs. Del Rosario, 94 Phil. 483; 50 Off. Gaz., 1571; Abella vs. Rodriguez, 95 Phil., 289; 50 Off Gaz., 3039; Uy vs. Del Rosario, 95 Phil., 493; 50 Off. Gaz., 5374; Olegario vs. Lacson, 97 Phil., 75; Quintos vs. Lacson, et al., 97 Phil., 290; 51 Off. Gaz., 3429.

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