

MARIO T. LIZARES, PETITIONER, VS. RUFINO G. HECMANOVA, IN HIS CAPACITY AS EXECUTIVE SECRETARY AND VALERIANO M. GATUSLAO, IN HIS CAPACITY AS PROVINCIAL GOVERNOR OF OCCIDENTAL NEG...

G.R. No. L-22059. May 17, 1966

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

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

Petition for writ of certiorari to review and set aside a decision of Executive Secretary Run"no G. Hechanova suspending for one month Mayor Mario T. Lizares of Talisay, Occidental Negros, on the ground that the decision was illegal and without jurisdiction.

It is of record that on June 1, 1962, petitioner was administratively charged with "corruption and maladministration in the disbursement of public funds" for improving and asphaltting the Talisay-Catabla Road, allegedly a private property. The charge, filed by Manuel Diaz in the office of the then President of the Philippines, was indorsed to the Provincial Governor, who, after answer by the accused mayor, dismissed the complaint. Subsequently, however, and allegedly under pressure from higher Administration officials, the Governor preferred the charge against the mayor, and it was duly investigated by the Provincial Board, ending in the mayors acquittal, and the dismissal of the charges in July-August of 1963. Upon complainant's appeal to the office of the President, respondent Executive Secretary, by authority of the President, rendered decision on October 22, 1963 revoking that of the Provincial Board, and, as stated at the beginning of this opinion, suspended Mayor Lizares for one month. Whereupon, Mayor Lizares resorted to this Court, claiming that under the Constitutional provision that the President may only exercise "general supervision over local governments as may be provided by law" the Chief Executive had no power to revoke his acquittal by the Provincial Board, and that section 2189 to 2191 of the Administrative Code are unconstitutional. We gave the petition due course, and, upon motion of petitioner, issued a writ of preliminary injunction, upon his filing a bond of P500.00. The case was submitted for decision in March of 1964.

It further appears undisputed that Mayor Lizares was reelected for another term from January 1, 1964 to December 31, 1967.

Considering the facts narrated, the expiration of petitioner's term of office during which the acts charged were allegedly committed, and his subsequent reelection, the petition must be dismissed for the reason that the issue has become academic. In Pascual vs. Provincial Board of Nuevn Ecija, (106 Phil., 466) this Court has ruled:

"The weight of authority, however, seems to incline to the rule denying the right to remove from office because of misconduct during a prior term to which we fully subscribe."

'Offenses committed, or acts done, during a previous term are generally held not to furnish cause for removal and this is especially true where the Constitution provides that the penalty in proceedings for removal shall not extend beyond the removal from office, and disqualification from holding office for a term for which the

Officer was elected or appointed (6 C.J.S, p. 248, citing *Rice vs. State*, 161 S. W. 2d, 401; *Montgomery vs. Newell*, 40 S.W. 23rd 418; *People ex rel Bashaw vs. Thompson*, 130 P. 2nd 237; *Board of Com'rs. Kingfisher County vs. Shutler*, 281 P. 222; *State vs. Blake*, 280 P. 388; *In re Fedula*, 147 A. 67; *State vs. Ward*, 43 S. W. 217)'

'The underlying theory is that each term is separate from other terms, and that the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor. (43 Am. Jur. p. 45, citing *Atty. Gen. vs. Kasty*, 184 Ala. 121, 03 Se. 599, 50 L.R.A. (NS) 553. As held in *Comant vs. Bregan* (1887) 6 N.Y.S.R. 332, cited in 17 A.L.R. 63 Sec. 559, 50 (NE) 553)'

'The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, if he had been guilty of any. It is not for the court, by reason of such fault or misconduct, to practically overrule the will of the people.'

Since petitioner, having been duly reelected, is no longer amenable to administrative sanctions for any acts committed during his former tenure, the determination, whether the respondents validly acted in imposing upon him one month's suspension for an act done during his previous term as mayor is now merely of theoretical interest.

Wherefore, this case is dismissed for having become moot. No costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

Case dismissed.

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