

**ANTONIO J. VILLEGAS, IN HIS CAPACITY AS MAYOR OF MANILA,
PETITIONER-APPELLEE, VS. HERMINIO A. ASTORGA, IN HIS
CAPACITY AS VICE-MAYOR AND CONCURRENTLY PRESIDING
OFFICER OF THE MU...**

G.R. No. L-26537. June 29, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a petition for review of the decision of the Court of First Instance of Manila, Branch XX, the Hon. Judge Luis B. Reyes presiding, in Civil Case No. 62539 for Mandamus and Prohibition with Preliminary Injunction and Preliminary Mandatory Injunction, promulgated May 12, 1966. Neither the writ of preliminary injunction nor the writ of preliminary mandatory injunction prayed for by petitioner was granted by the trial court.

Since the petition in the court a quo raised only questions of law, the parties submitted it for decision without going through the trial of the case.

Judgment was rendered by the court in favor of petitioner Villegas, thus:

"Wherefore, the petition for mandamus and prohibition is granted, and judgment is hereby rendered prohibiting the respondent, his agents, attorneys and/or representatives from interfering with the ministerial and mandatory duties of the officers and employees of the Municipal Board, as well as of his office, and commanding said respondents, his agents, attorneys and/or representatives to have the books, records, and papers of the Administrative Division of the Municipal Board and his own office examined and inspected by petitioner's representative or representatives.

Without pronouncement as to costs.

SO ORDERED."[1]

The petition for prohibition and mandamus with preliminary injunction and preliminary mandatory injunction was filed on September 18, 1965, in the CFI of Manila by Antonio J. Villegas, in his capacity as Mayor of the City of Manila, against Herminio A. Astorga, in his capacity as Vice-Mayor and Presiding Officer of the Municipal Board of Manila. As found by the trial court, the undisputed facts are as follows:

"x x x

"6. On August 24, 1965, petitioner addressed to the Assistant Secretary and Administrative Officer of the Municipal Board of Manila Herminio Noriega, a memorandum giving him notice that the Mayor's Special Squad headed by Capt. Alfredo Yson had been directed to inspect all the books, records, and papers of the Administrative Division of the Municipal Board, particularly those pertaining to resolutions and ordinances duly enacted by the Municipal Board but which have not yet been signed by the Vice-Mayor and Presiding Officer of the Municipal Board, and requesting the said official to extend all possible cooperation to the inspection team. x x x .

"7. In his 1st Indorsement dated August 25, 1965, said official transmitted the aforementioned memorandum x x x to respondent Vice-Mayor Herminio A. Astorga. x x x .

"8. Respondent Herminio A. Astorga under his 2nd Indorsement dated August 25, 1965, demanded that the 'Board-approved ordinances and resolutions' mentioned in the memorandum to the Assistant Secretary and Administrative Officer of the Municipal Board dated August 24, 1965 be specified and that due notice be given to him (the Vice-Mayor and Presiding Officer of the Board) as a matter of departmental courtesy, stating that 'with such proper and courteous notice, please rest assured that the undersigned (Vice-Mayor and Presiding Officer of the Board) will allow His Honor, or his duly authorized representative to examine all the records of the Municipal Board x x x.' x x x.

"9. On the same date August 25, 1965, the undersigned petitioner under his 3rd Indorsement dated August 25, 1965, addressed to the Respondent Vice-Mayor and Presiding Officer of the Municipal Board, reiterated his request for the examination and inspection of the books, records and papers of the Administrative Division of the Municipal Board and, in addition, those of the Office of the Vice-Mayor and Presiding Officer, same Body, stating that if 'the only impediment to the inquiry is what you claim to be the supposed lack of inter-departmental courtesy, this Office would like to formally inform or notify you of the proposed inspection and examination of the records, books and papers of the Administrative Division of the Municipal Board, and to request your goodself to give due course to the within memorandum dated August 23, 1965, and to extend your cooperation to the members of the Police Special Team of this Office, who will conduct the inquiry.'

"In the above-mentioned 3rd Indorsement dated August 25, 1965, addressed to the Respondent Vice-Mayor and Presiding Officer of the Municipal Board, the undersigned Petitioner likewise stated that 'in order to make the inquiry a thorough and comprehensive one, please be informed that this Office has likewise decided to include in the examination of records, documents and books, those pertaining to the Office of His Honor, the Vice-Mayor and Presiding Officer.' x x x.

"10. On or about August 26, 1965, the Petitioner also addressed separate memorandum to each of the Secretary of the Municipal Board Manuel Robles, Secretary of the respondent Cesar Pecson, Legal Assistant of the respondent Minerva Castillo- Genovea and Chief of the Records Section of the Municipal Board Ruben M. Adriano, in their respective official capacities, informing them of the projected inspection and examination of records to be conducted by the Mayor's Police Special Team, and requesting them to 'extend all necessary cooperation and courtesies to the members of the inspection team, and that no obstruction of whatever kind and nature be placed on their way in connection with the desired inspection and examination work.' x x x.

"Instead, however, of complying with the memoranda, said officials referred the same to the Respondent Vice-Mayor and Presiding Officer of the Municipal Board, by indorsement 'for his information'. x x x .

"11. Instead of submitting his office and that of the Administrative Division of the Municipal Board to the proposed examination and inspection of books and records, the Respondent Vice-Mayor again refused, and reiterated his request for specification of the documents desired to be examined; and even while he made his request for specification of the documents desired to be inspected, the Respondent Vice-Mayor contended that 'while the undersigned (the Vice-Mayor) does not question the Mayor's power to examine and inspect the books, records, and papers of all city officers, agents and employees of the city, the concession goes far only as to include all officers, agents and employees who belong to the executive department of the city government. x x x .

"12. On September 7, 1965, in a 5th Indorsement addressed to the Respondent Vice-Mayor and Presiding Officer of the Municipal Board, the undersigned Petitioner, for the third time, reiterated his request for inspection and examination of the books and records in the possession of officers and employees of the Municipal Board, informing the Respondent Vice-Mayor and Presiding Officer of the Municipal Board that Section 11(f) of the Revised Charter of Manila makes no distinction as to whether the employees and/or

officials whose records may be subjected to examination and inspection pertain to the executive department or to the Honorable Municipal Board and that, therefore, the examination and inspection may apply to both classes of officials and employees. Moreover, the undersigned Petitioner informed the Respondent Vice-Mayor and Presiding Officer of the Municipal Board that, at the moment, what are desired to be looked into are: (1) the books or ledgers of the Administrative Division of the Municipal Board wherein are entered the dates of the release of resolutions and ordinances approved by the Board during the current calendar year, to Respondent Vice-Mayor and Presiding Officer of the Board, and (2) the book or ledger showing the dates or release of said resolutions and ordinances after the signature of the Respondent Vice-Mayor and Presiding Officer of the Board. The Petitioner likewise informed the Respondent Vice-Mayor and Presiding Officer of the Board that Petitioner is obviously not in a position to specify any particular record or document aside from the mentioned books and ledgers because, precisely, the purpose of the examination and inspection is to determine whether or not individual records or documents are properly being kept and/or recorded, and that, moreover, such specifications of books, records or documents to be examined or inspected is not a requirement or a condition precedent to the authority granted the Petitioner under the Revised Charter of Manila to conduct such examination or inspection of records, documents, etc., as to require such specification or particulars would render the exercise of the inspection or examination nugatory. x x x .

"13. Notwithstanding the above narrated circumstances, Respondent Vice-Mayor and Presiding Officer of the Board has failed and refused and still fails and refuses to allow the undersigned Petitioner to exercise his right and duty to examine and audit the books and records in question. x x x .

"14. The Secretary and the Assistant Secretary and Administrative Officer of the Municipal Board, along with the respondent's Secretary and Legal Assistant, refused and failed to have the books, records and papers in question examined and inspected by the petitioner's representative and instead indorsed to the respondent the aforesaid petitioner's directives and still refuse and fail to comply with said directives because the respondent had instructed them not to comply with those directives and not to allow the petitioner's representative to examine and inspect said books, records and papers x x x .

x x x .[2]

The trial court, citing Section 10 of Republic Act No. 409, as amended by Republic Act No. 4065 ruled that "(t)he fact that by direct provision of the law the Vice-Mayor is the administrative head of the Municipal Board, having direct control and supervision over its officers and employees, including the board's properties, does not insulate him and those under him from certain duties and powers of the Mayor, particularly his duty and power 'to examine and inspect the books, records and papers of all officers, agents and employees of the city whenever occasion arises.' The Office of the Vice-Mayor is not completely independent of that of the Mayor, even under Republic Act No. 4065, since it provides that the Vice-Mayor 'shall give such information and recommend such measures x x x to the Mayor', and that 'he shall perform such other duties as may be assigned to him by the Mayor.'"

The records, however, disclose that the approval of Republic Act 4065 was withdrawn by the President of the Philippines and said law was considered inexistent pursuant to the letter of President Macapagal dated July 31, 1964, marked Annex "A" filed in the Rejoinder of petitioner to respondent's Memorandum dated March 28, 1966 in the original case, Civil Case No. 62539, Court of First Instance of Manila, pp. 176-177, Rollo.

At any rate, the instant case must be considered as moot and academic, the protagonists hereto having lost their respective official positions in the City Government of Manila in which capacities the petition was filed and the answer thereto submitted. Petitioner-appellee Villegas lost in the 1971 mayoralty race to the incumbent City Mayor Ramon D. Bagatsing. On the other hand, respondent-appellant Astorga was twice defeated in the 1967 vice-mayoralty race to the former Vice-Mayor of Manila, Felicisimo Cabigao, and in the 1971 vice-mayoralty

elections to the former Vice-Mayor of Manila, Martin Isidro. Thus, any ruling in the instant case could hardly be of any practical or useful purpose in the premises. There is no showing that the present incumbents have been substituted in place of the original parties nor have the former shown any interest in pursuing the same.

WHEREFORE, IN VIEW OF THE FOREGOING, the Court hereby dismisses the instant case for being moot and academic. No costs.

SO ORDERED.

Barredo , (Chairman), Aquino, Abad Santos, De Castro, and Escolin, JJ.,concur.
Concepcion, Jr., J., on leave.

[1] Original records, pp. 188-189.

[2] Original records, pp. 179-183.

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