

JOSE L. LAXAMANA, PETITIONER, VS. JOSE T. BALTAZAR, RESPONDENT.

G.R. No. L-5955. September 19, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

When in July 1952 the mayor of Sexmoan, Pampanga, was suspended, the vice-mayor Jose T. Baltazar, assumed office as mayor by virtue of section 2195 of the Revised Administrative Code. However, the provincial governor, acting under section 21 (a) of the Revised Election Code (R. A. 180), with the consent of the provincial board appointed Jose L. Laxamana, as mayor of Sexmoan, who immediately took the corresponding official oath.

Result: this quo warranto proceeding, based solely on the petitioner's proposition that the section first mentioned has been repealed by the subsequent provision of the Revised Election Code.

If there was such repeal, this petition should be granted, and Laxamana declared the lawful mayor of Sexmoan. Otherwise it must be denied.[1]

The two statutory provisions read as follows:

"SEC. 2195.—Temporary disability of mayor.—Upon the occasion of the absence, suspension, or other temporary disability of the Mayor, his duties shall be discharged by the Vice-Mayor, or if there be no Vice-Mayor, by the councilor who at the last general election received the highest number of votes."

"SEC. 21 (a). Vacancy in elective provincial, city or municipal office.—Whenever a temporary vacancy in any elective local office occurs, the same shall be filled by appointment by the President if it is a provincial or city office, and by the provincial governor, with the consent of the provincial board, if it is a municipal office." (E. A. 180, the Revised Election Code.)

SEC. 21 (a)—The portion relating to municipal offices was taken from section 2180 of the Revised Administrative Code, which partly provided:

"SEC. 2180. Vacancies in municipal office.—(a) In case of a temporary vacancy in any municipal office, the same shall be filled by appointment by the provincial governor, with the consent of the provincial board.

(b) In case of a permanent vacancy in any municipal office, the same shall be filled by appointment by the provincial board, except in case of a municipal president, in which the permanent vacancy shall be filled by the municipal vice-president" * * *

It will be seen that under this section, when the office of municipal president (now mayor) became permanently vacant the vice-president stepped into the office. The section omitted reference to temporary vacancy of such office because section 2195 governed that contingency. In this regard sections 2180 and 2195 supplemented each other. Paragraph (a) of section 2180 applied to municipal offices in general, other than that of the municipal president.

Under the Revised Administrative Code,—specially the two sections indicated—there was no doubt in Government circles that when the municipal president was suspended from office, the vice-president took his place.

"Temporary vacancy in office of municipal president.—Paragraph (a) of this section (2180) should be construed to cover only municipal offices other than the office of president. Section 2195 of the Administrative Code should be applied in case of the absence, suspension, or other temporary disability of the municipal president. (Op. Atty. Gen., Sept. 21, 1917; Ins. And., Oct. 23, 1927.)" (Araneta, Administrative Code Vol. IV p. 2838)

"Municipal president cannot designate acting president.—There is no provision of law expressly or implied authorizing the municipal president to designate any person to act in his stead during his temporary absence or disability. From the provision of section 2195 of this Code, it is clear that the vice-president or, if there be no vice-president, the councilor who at the last general election received the highest number of votes, should automatically (without any formal designation) discharge the duties of the president." (Op. Ins. Aud., March 2, 1926.) (Araneta, Administrative Code Vol. IV, p. 2839).

Now, it is reasonable to assume that the incorporation of the above section 2180 into the Revised Election Law as section 21 (a) did not have the effect of enlarging its scope,[2] to supersede or repeal section 2195, what with the presumption against implied repeals.[3] "Where a statute has received a contemporaneous and practical interpretation and the statute as interpreted is reenacted, the practical interpretation is accorded greater weight than it ordinarily receives, and is regarded as presumptively the correct interpretation of the law. The rule here is based upon the theory that the legislature is acquainted with the contemporaneous interpretation of a statute, especially when made by an administrative body or executive officers charged with the duty of administering or enforcing the law, and therefore impliedly adopts the interpretation upon re-enactment." (Sutherland Statutory Construction, sec. 5109.)

Indeed, even disregarding their origin, the allegedly conflicting sections, could be interpreted in the light of the principle of statutory construction that when a general and a particular provision are inconsistent the latter is paramount to the former (Sec. 288, Act 190). In other words, section 2195 referring particularly to vacancy in the office of mayor, must prevail over the general terms of section 21 (a) as to vacancies of municipal (local) offices. Otherwise stated, section 2195 may be deemed an exception to or qualification of the latter.[4] "Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible; but if there is any conflict, the latter will prevail, regardless of whether it was passed prior to the general statute." (Sutherland Statutory Construction, sec. 5204.)

In a recent decision,[5] we had occasion to pass on a similar situation—repeal by subsequent general provision of a prior special provision—and we said:

"It is well settled that a special and local statute, providing for a particular case or class of cases, is not repealed by a subsequent statute, general in its terms, provisions and application, unless the intent to repeal or alter is manifest, although the terms of the general act are broad enough to include the cases embraced in the special law. * * * It is a canon of statutory construction that a later statute, general in its terms and not expressly repealing a prior special statute, will ordinarily not affect the special provisions, of such earlier statute." (Steamboat Company vs. Collector, 18 Wall. [U. S.], 478; Cass County vs. Gillett, 100 U. S. 585; Minnesota vs. Hitchcock, 185 U. S. 373, 396.)

"Where there are two statutes, the earlier special and the later general—the terms of the general broad enough to include the matter provided for in the special—the fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, one as a general law of the land, the other as the law of a particular case. (State vs. Stoll, 17 Wall. [U.S.], 425.)"

In fact even after the Revised Election Code was enacted, the Department of the Interior and the office of

Executive Secretary who are charged with the supervision of provincial and municipal governments have "consistently held that in case of the suspension or other temporary disability of the mayor, the vice-mayor shall, by operation of law, assume the office of the mayor, and if the vice-mayor is not available, the said office shall be discharge by the first councilor." (Annex 5 of the answer.)

Needless to say, the contemporaneous construction placed upon the statute by the executive officers charged with its execution deserves great weight in the courts.[6]

Consequently it is our ruling that when the mayor of a municipality is suspended, absent or temporarily unable, his duties should be discharged by the vice-mayor in accordance with sec. 2195 of the Revised Administrative Code.

This quo warranto petition is dismissed with costs. So ordered.

Paras, C. J., Pablo, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

[1] The alleged offer of appointment by the governor which Baltazar rejected is immaterial, because under section 2195 no appointment is needed.

[2] It was even restricted to elective municipal office.

[3] Sutherland, Statutory Construction 3rd Ed. sec. 2014 note 1.

[4] Sutherland, Statutory Construction 3rd Ed. Vol. 1, p. 486.

[5] Philippine Railway Co. vs. Collector of Int. Rev., 91 Phil., 35.

[6] Madrigal vs. Rafferty, 38 Phil., 414; Government vs. Mun. of Binalonan, 32 Phil., 634.

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