

LUCIO C. LIBARNES, PETITIONER VS. THE HON. EXECUTIVE SECRETARY AND/OR HIS ASSISTANTS, MAYOR TOMAS FERRER OF ZAMBOANGA CITY AND MAJOR MIGUEL APOSTOL, RESPONDENTS.*G.R. No. L-21505. October 24, 1963*

Ponente: CONCEPCION, J.

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This is an original petition for quo warranto and injunction, with preliminary injunction and/or mandatory injunction.

Plaintiff Lucio C. Libarnes was, on January 29, 1959 nominated by the President of the Philippines for the office of Chief of Police of Zamboanga City. The nomination having been confirmed by the Commission on Appointments on February 25, 1959, Libarnes assumed the aforementioned office on March 11, 1959, and continued discharging the duties of said office ever since. On May 16, 1963, the new Executive designated defendant Miguel Apostol as Acting Chief of Police of Zamboanga City. On May 18, 1963, Apostol took his oath of office as such acting chief of police before the Speaker of the House of Representatives, in Manila, and soon thereafter, or on May 23, 1963, defendant Tomas Ferrer, as City Mayor of Zamboanga, transmitted to Libarnes a letter of the Acting Assistant Executive Secretary, Office of the President, Malacañan, dated May 16, 1963, informing him (Libarnes) that "under the provisions of Section 34 of the Charter of Zamboanga City, as amended, the President" had terminated his "services as Chief of Police of said City effective immediately and * * * designated Major Miguel Apostol" in his stead and stating that it would "be appreciated if" he (Libarnes) could "turn over the office in question to Major Apostol upon receipt" of said communications. Mayor Ferrer, furthermore, requested Libarnes to turn over his "property responsibility" with the property custodian of the police department. In a memorandum of the same date (May 23, 1963) Mayor Ferrer, likewise, informed all members of the police force of Zamboanga City of the appointment of Apostol and oath taken by him as acting head of said force, and requested them to "take orders from the new Chief of Police." However, Libarnes refused to turn over his office to Apostol—who tried to take possession thereof as well as his (Libarnes') property responsibility, and, soon thereafter, or, on July 5, 1963, he (Libarnes) initiated the present action for the purpose of nullifying the aforementioned designation of Apostol as Acting Chief of Police of Zamboanga City and of restraining him, as well as its mayor, the Executive Secretary and their subordinates, assistants or persons acting under them, or for in their behalf, from molesting Libarnes in the possession of the office in question or in the exercise and enjoyment of the functions and prerogatives thereof. Plaintiff's complaint is anchored upon the theory that, under the provisions of Section 5 of Republic Act No. 2259 and of the Civil Service Law (Republic Act No. 2260), he is entitled to hold said office until removed for cause, which is not claimed to exist in his case, and "after due process", which, he asserts, has been denied him.

Upon the other hand, defendants maintain that the disputed designation of defendant Apostol is perfectly valid because, as Chief of Police of Zamboanga City, plaintiff held said office at the pleasure of the President, pursuant to Section 34 of the Charter of said City, or Commonwealth Act No. 39, reading:

"Appointment and removal of officials and employees—Compensation.—The President shall appoint, with the consent of the Commission on Appointments of the National Assembly, the Judges of the Municipal Court, the city treasurer, the city engineer, the city assessor, the city attorney, the chief of police and the other heads of the city departments as may be created from time to time, and he may remove at pleasure any of the said appointive officials, except the Judges of the Municipal Court, who may be removed only according to law."

and that this provision has not been amended by said Republic Acts Nos. 2259 and 2260.

Defendants' contention cannot be upheld, for said section 34 of Commonwealth Act No. 39 is inconsistent with Section 5 of Republic Act No. 2259, which provides:

"The incumbent appointive City Mayors, Vice-Mayors and Councilors, unless sooner removed or suspended for cause, shall continue in office until their successors shall have been elected in the next general elections for local officials and shall have qualified. Incumbent appointive city secretaries shall, unless sooner removed or suspended for cause, continue in office until an elective city council or municipal board shall have been elected and qualified; thereafter the city secretary shall be elected by majority vote of the elective city council or municipal board. All other city officials now appointed by the President of the Philippines may not be removed from office except for cause"

and Section 9 of said Republic Act No. 2259 expressly repeals "all acts or parts of acts * * * inconsistent with the provisions" thereof.

It is conceded that the Chief of Police of Zamboanga City is a member of our civil service system (Section 5, Republic Act No. 2260). Hence, he cannot be "removed or suspended except for cause, as provided by law and after due process" (Section 33, Republic Act No. 2260). It cannot be denied that the attempt to terminate the services of plaintiff herein, as de jure holder of said office, entailed his removal therefrom, even more than the attempt to transfer the provincial fiscal of Negros Oriental and the City Engineer of Baguio City without their consent was held in *Lacson vs. Romero* (84 Phil., 740; 47 Off. Gaz., 1778) and *De los Santos vs. Mallare* (87 Phil., 289) to constitute an illegal removal from their respective offices.

Defendants argue that the above quoted provision in Section 5 of Republic Act No. 2259 is inapplicable to the case at bar because plaintiff herein has not been removed from office, his term of office having merely expired when the President terminated his services. Suffice it to say, that this attempt to terminate plaintiff's services was predicated upon said Section 34 of Commonwealth Act No. 39, pursuant to which the Executive may "remove at pleasure" the Chief of Police of Zamboanga City, and that this is the reason why Section 5 of Republic Act No. 2259 speaks, also, of removal to indicate that it seeks to withdraw or eliminate precisely such power to "remove at pleasure" under Commonwealth Act No. 39, among other pertinent legislations.

Again, the question whether or not a special law has been repealed or amended by one or more subsequent general laws is dependent mainly upon the intent of Congress in enacting the latter. The discussions on the floor of Congress show beyond doubt that its members intended to amend or repeal all provisions of special laws inconsistent with the provisions of Republic Act No. 2259, except those which are expressly excluded from the operation thereof. In fact, the explanatory note to Senate Bill No. 2, which, upon approval, became Republic Act No. 2259, specifically mentions Zamboanga City, among others that had been considered by the authors of the bill in drafting the same. Similarly, Section 1 of Republic Act No. 2259 makes reference to "all chartered cities in the Philippines", whereas Section 8 excludes from the operation of the Act "the cities of Manila, Cavite, Trece Martires and Tagaytay", and Section 4 contains a proviso exclusively for the City of Baguio, thus showing clearly that all cities not particularly excepted from the provisions of said Act—including, therefore, the City of Zamboanga—are subject thereto.

The case of *Fernandez vs. Ledesma*, L-18878 (March 30, 1963), relied upon by the defendants herein, is not in point, the termination of the services of the officer involved in the *Fernandez* case having taken place on April 28, 1959, or prior to the approval of Republic Act No. 2259, on June 19, 1959, whereas plaintiff herein was advised of the attempt to terminate his services on May 23, 1963, or almost four (4) years after said legislation had become effective.

It is next urged, however, that the provision in Section 5 of Republic Act No. 2259, to the effect that "all other officials now appointed by the President of the Philippines may not be removed from office except for cause" is a rider violative of the constitutional injunction that "no bill which may be enacted into law shall embrace more than one subject which shall be expressed in the title of the bill", that of Republic Act No. 2259, being:

"AN ACT MAKING ELECTIVE THE OFFICES OF MAYOR, VICE-MAYOR AND COUNCILORS IN CHARTERED CITIES, REGULATING THE ELECTION IN SUCH CITIES AND FIXING THE SALARIES AND TENURE OF SUCH OFFICES"

It is claimed that the contents of the aforementioned provision are alien to the subject of this title and that consequently said provision is unconstitutional. This pretense is untenable. As stated in the explanatory note to the aforementioned Senate Bill No. 2, the purpose thereof is to establish "uniformity in the number of city officials in the manner in which they are to be chosen, in the extent of their powers, duties and functions", as well as "equality in the rights and privileges enjoyed by the residents of said cities, particularly the right to choose the officials who should be at the helm of their respective city governments". Obviously, the matter of the conditions under which local officials appointed by the President may be removed from office not only is germane to such purpose, but, also, forms an essential part thereof.

Furthermore, as stated in *Inchong vs. Fernandez*, 101 Phil., 1155 (May 31, 1957):

"One purpose of the constitutional directive that the subject of a bill should be embraced in its title is to apprise the legislators of the purposes, the nature and scope of its provisions, and prevent the enactment into law of matters which have not received the notice, action and study of the legislators or of the public. In the case at bar it cannot be claimed that the legislators have not been apprised of the nature of the law, especially the nationalization and prohibition provisions. The legislators took active interest in the discussion of the law * *

*.."

In the case at bar, the provision in question was, similarly, debated upon on the floor of Congress, whose members were, therefore, actually aware of its existence.

Wherefore, we hold that said provision in Section 5 of Republic Act No. 2259 is constitutional and valid; that as Chief of Police of Zamboanga City, plaintiff Libarnes is entitled to the benefits of the aforementioned provision; and that, pursuant thereto and to Section 32 of Republic Act No. 2260, he no longer holds the office at the pleasure of the Executive, and may be removed therefrom only "for cause as provided by law and after due process", and, accordingly, judgment is hereby rendered declaring that plaintiff Lucio C. Libarnes is still the de jure Chief of Police of Zamboanga City, and that, as such, he is entitled to continue holding said office and discharging the powers and duties thereof, and, consequently, enjoining the defendants herein, as well as their subordinates or persons acting in their behalf, to refrain from molesting the plaintiff, or otherwise interfering in the possession of said office, and in the discharge of the powers and duties attached thereto, with costs against said defendants. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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