

POLICARPO ALMEDA, PLAINTIFF AND APPELLANT, VS. JULIAN FLORENTINO, DEFENDANT AND APPELLEE.

G. R. No. L-23800. December 21, 1965

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

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

Appeal from a decision of the Court of First Instance of Pasay City (in Sp. Civil Case No. 2462-P) dismissing the Quo Warranto proceedings instituted by petitioner appellant Policarpo Almeda against respondent appellee Julian Florentino. Both parties claim title to the position of Secretary to the Municipal Board of Pasay City.

The background of the litigation is the following:

Republic Act No. 183, the charter of Pasay (formerly Rizal) City (enacted June 21, 1947), provides in its section 12 that:

"SEC. 12. Constitution and organization of the Municipal Board—Compensation of members thereof.—The Municipal Board shall be the legislative body of the city and shall be composed of the Mayor, who shall be its presiding officer, the Vice-Mayor, who shall be ex-officio councilor when not acting as Mayor, and seven councilors, who shall be elected at large by popular vote during every election for provincial and municipal officials in conformity with the provisions of the Election Code. In case of sickness, absence, suspension or temporary disability of any member of the Board, or if necessary to maintain a quorum, the President of the Philippines may appoint a temporary substitute who shall possess all the rights and perform all the duties of a member of the Board until the return to duty of the regular incumbent.

If any member of the Municipal Board should be a candidate for office in any election, he shall be disqualified to act with the Board in the discharge of the duties conferred upon it relative to election matters, and in such case the other members of the Board shall discharge said duties without his assistance, or they may choose some disinterested elector of the city to act with the Board in such matters in his stead.

The members of the Municipal Board shall receive ten pesos for each day of attendance of the session of the Board."

Section 14, paragraph 1, of Republic Act 183, in turn, provides:

"Sec 14. Appointment, salary and duties of Secretary of Board.— The Board shall have a secretary who shall be appointed by it to serve during the term of office of the members thereof. The compensation of the secretary shall be fixed by ordinance approved by the Secretary of the Interior, at not exceeding three thousand six hundred pesos per annum. A vacancy in the office of the secretary shall be filled temporarily for the unexpired term in like manner."

On June 18, 1960, Republic Act No. 2709 amended section 12 of Republic Act 183 (Pasay City Charter) to make it read as follows:

"SEC. 12. Constitution and organization of the Municipal Board.— Compensation of members thereof.—The Municipal Board shall be the legislative body of the city and shall be composed of the Vice-Mayor, who shall

be its presiding officer, and ten councilors who shall be elected at large by popular vote during every election for provincial and municipal officials in conformity with the provisions of the Election Code. In case of sickness, absence, suspension or temporary disability of any member of the Board or if necessary to maintain a quorum, the President of the Philippines may appoint a temporary substitute who shall possess all the rights and perform all the duties of a member of the Board until the return to duty of the regular incumbent.

"The Vice-Mayor shall appoint all the employees of the Board who may be suspended or removed in accordance with law, and shall approve the payroll of the said employees.

"If any member of the Municipal Board should be a candidate for office in any election, he shall be disqualified to act with the Board in the discharge of the duties conferred upon it relative to election matters, and in such case the other members of the Board shall discharge said duties without his assistance, or they may choose some disinterested elector of the city to act with the Board in such matters in his stead.

"The members of the Municipal Board shall receive a compensation for four thousand eight hundred pesos each per annum."

On the strength of paragraph 2 of section 12 of the Pasay City Charter, as amended, the Vice-Mayor of Pasay City appointed appellant Almeda, as secretary of the Municipal Board of said City, on January 1, 1964. The very next day, the Board refused to recognize appellant as its secretary, and in turn appointed respondent-appellee Julian Florentino to the position, purportedly under section 14 of the City Charter. Hence the quo warranto proceeding, that raised in the trial court, and here, one lone issue: which law applies on the matter of the appointment of the Secretary of the Municipal Board of Pasay City, the amendatory Republic Act No. 2709 or the original charter, Republic Act 183.

Almeda's contention is that the amendatory act vesting appointment of "all the employees of the (Municipal) Board" in the Vice-Mayor, being the later act, should apply to the Board Secretary; but his claim was rejected by the court below, on the ground that the general appointing power of the Vice-Mayor must be construed as not including that of the Board secretary, which is provided for in a separate section.

We find that the petition for quo warranto was correctly dismissed. There is nothing in Rep. Act 2709 that indicates any intention on the part of the Legislature to repeal, alter, or modify in any way the provisions of section 14 of the Pasay City charter (Rep. Act No. 183) regarding the appointment of its secretary by the Municipal Board. The power of appointment of Board employees is conferred upon the vice-mayor by section 1 of Republic Act 2709; but the preamble of said section expressly recites that it is an amendment to section 12 of the Pasay charter, and no other. Because repeals by implication are not favored, unless it is manifest that the legislature so intended (*U.S. vs. Palacio*, 33 Phil. 216; *Lichauco vs. Apostol*, 44 Phil. 138) ; and since courts are duty bound to adopt a construction that will give effect to every part of a statute, if at all possible, following the maxim "*ut res magis valeat quam pereat*" ("that construction (is to be) sought which gives effect to the whole, of the statute—is every word", *Tamayo vs. Gsell*, 35 Phil. 853, 980), there is no alternative but to interpret the charter as the lower court has done, i.e., limiting the power of the Vice-Mayor under section 12 (as amended) to the appointment of all the employees of the Board other than the Secretary, who is to be appointed by the Board itself, as specifically prescribed by section 14 of the Pasay city charter.

Wherefore, the decision appealed from is hereby affirmed, with costs against the appellant.

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

Judgment affirmed.

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