

RUBEN O. SANGALANG, PLAINTIFF AND APPELLEE, VS. BRIGIDA VERGARA, DEFENDANT AND APPELLANT.

G. R. No. L-16174. October 30, 1962

Ponente: REGALA, J.

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REGALA, J.:

The issue in this case is whether the Mayor of the City of Manila still has the power to appoint clerks in the Office of the City Fiscal in view of the amendment of the Revised Charter of Manila (Rep. Act No. 409), as amended by Republic Act No. 1201. Plaintiff affirms the power of the Mayor to make such appointments, while defendant takes the opposite view, claiming that that power belongs to the Secretary of Justice.

It appears that the defendant was appointed by the Secretary of Justice upon recommendation of the City Fiscal on March 28, 1958, effective May 1st. Her appointment was attested to by the Commissioner of Civil Service. The plaintiff, on the other hand, was appointed by the Mayor with the consent of the Municipal Board of the city on February 1, 1959, the appointment to take effect on the same date. Both appointees are second grade civil service eligibles.

The plaintiff brought this suit for quo warranto against the defendant because of the latter's refusal to vacate the position. The Court of First Instance of Manila upheld the plaintiff's appointment by the Mayor. It ordered, therefore, the defendant to vacate the position. From that decision, the defendant appealed to this Court, raising the question stated at the beginning of this opinion.

The pertinent provision of law involved is the Revised Charter of the City of Manila. Before its amendment, Section 20 of this law provided as follows:

"City Departments.—There shall be the following city departments over which the mayor shall have direct supervision and control, any existing law to the contrary notwithstanding:

- Department of Engineering and Public Works
- Police Department
- Law Department

* * * * *

As amended by Republic Act No. 1201, which took effect on September 2, 1954, Section 20 reads as follows:

"City Departments.—There shall be the following city departments over which the Mayor shall have direct supervision and control, except over the Office of the City Fiscal which shall be under the Department of Justice, any existing law to the contrary notwithstanding :

- Department of Engineering and Public Works
- Police Department

- Office of the City Fiscal

* * * * " (Italics ours.)

In its appealed decision, the trial court held in part that—

"Did the Congress in enacting Republic Act No. 1201 amending section 20 of the Revised Charter of Manila intend to convert the Office of the City Fiscal from a City government office to a national office belonging to the Department of Justice? That there is no such intent is shown by the fact that the Office of the City Fiscal is enumerated as one of the eight (8) departments of the City government under the amendatory act; that the said office is not one of those mentioned in Article V of the Revised Charter of Manila; and that section 22 of the Revised Charter dealing with the 'appointment and removal of officials and employees' of the City mentions the City Fiscal as among the City officials.

"* * * With this interpretation of Section 20 of Republic Act 409, as amended by Republic Act No. 1201, to the effect that the Office of the City Fiscal still continues to be a department of the city government and forming a part and parcel thereof but subject to the supervision and control of the Department of Justice, all the provisions of said section 20, as amended, would be harmonized and given effect. The employees of the Office of the City Fiscal are hence employees of the city government."

The trial court then concluded that the power to appoint the clerks in the City Fiscal's office is lodged in the Mayor, by virtue of the following provisions of the city charter:

"SEC. 11. General duties and powers of the mayor.—The general duties and powers of the mayor shall be:

" * * * * *

(q) Subject to the provisions of the Civil Service Law, to appoint all officers and employees of the City of Manila, any existing law to the contrary, notwithstanding, except those whose appointments are vested in the President. All appointments of the mayor shall be with the consent of the majority of all the members of the Municipal Board; Provided, That appointments not rejected or noted upon within thirty days after submission shall be deemed approved."

"SEC. 22. Appointment and removal of officials and employees.— With the consent of the Commission on Appointments of Congress, the President of the Philippines shall appoint the City Fiscal and his assistants, the judges and the clerk of the municipal court and, in case of a temporary vacancy in such court, an acting judge therefor, the city engineer and his assistant, the chief of police and his deputy and the chief of detectives, the chief of the fire department and his deputy, the city treasurer and his assistant, the city assessor and his assistant, the city health officer and his assistant, the city public service officer and his assistant and the city superintendent of schools and his assistants. The Mayor shall appoint all other officers and employees of the city whose appointment is not vested in the President subject to the provisions of Section 11 (q). Appointive city officers or employees not appointed by the President of the Philippines shall be suspended and removed by the Mayor, subject to appeal to the Secretary of the Interior, whose decision shall be final. The Mayor may recommend to the President the suspension or removal of any city officer or employee appointed by him."

To conclude, as the trial court did, that the Office of City Fiscal is a department of the City Government because it is mentioned in Section 20 is simply to beg the question. Precisely, the main issue in this case whether the phrase "except over the Office of the City Fiscal which shall be under the Department of Justice" has the effect of withdrawing the fiscal's office from the list of city departments under the Mayor.

To our mind, it does. It is to be noted that the change in name of the Law Department is significant, for while all the seven other offices are called departments, e.g., Department of Engineering and Public Works, Police Department, Fire Department, etc., the Law Department was renamed Office of the City Fiscal.

There must be a reason why the Legislative Department has worded or modified the provision of Section 20 of the Charter. It will reduce to the minimum the interplay of politics if the appointment of such employees were vested in the Secretary of Justice. The *raison d'être* of this Court in the case of *Lacson, et al. vs. Villafranca, et al.*, G. R. No. L-17398, January 30, 1962, holding that employees of the Municipal Court of Manila should be appointed by the Secretary of Justice, and not by the City Mayor, for the reason that "the administration of justice is a matter of national, not local, concern" applies with equal force here.

We hold, therefore, that the phrase in question was meant to withdraw the Office of the City Fiscal from the list of city departments and to place the same under the Department of Justice. As this Court held in *Lacson, et al. vs. Villafranca, et al.*, *supra*,

"Section 20 of Republic Act No. 409 enumerates the 'city departments,' and—as in the corresponding provisions of the Original Charter of Manila (Sec. 11, Act No. 183) and the Administrative Codes of 1916 (Sec. 2417) and 1917 (Sec. 2445)—the Municipal Court is not included in the enumeration. Even the Office of the City Fiscal, one of the city departments mentioned in said section 20, has been placed by the same under the Department of Justice and beyond the supervision and control of the Mayor."

Plaintiff claims that the amendment merely placed the Office of the City Fiscal under the supervision and control of the Department of Justice but that it did not divest the mayor of the power to appoint the employees of the office of the City Fiscal. There is no merit in such contention. Otherwise, the phrase "except over the Office of the City Fiscal which shall be under the Department of Justice" would be meaningless.

This being the case, the appointments of clerks in the Office of the City Fiscal come under Section 79 (D) of the Revised Administrative Code which provides:

"Power to appoint and remove.—The Department Head, upon recommendation of the chief of the Bureau or office concerned, shall appoint all subordinate officers and employees whose appointment is not expressly vested by law in the President of the Philippines and may remove or punish them except as especially provided otherwise, in accordance with the Civil Service Law.* * *."

Wherefore, the decision of the Court of First Instance of Manila is hereby reversed, without pronouncement as to costs.

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

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