

SALVADOR H. LAUREL, PETITIONER, VS. HON. ANIANO A. DESIERTO, IN HIS CAPACITY AS OMBUDSMAN, RESPONDENT.

G.R. No. 145368. July 01, 2002

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Petitioner Salvador H. Laurel moves for a reconsideration of this Court's decision declaring him, as Chair of the National Centennial Commission (NCC), a public officer. Petitioner also prays that the case be referred to the Court En Banc.

First, petitioner points out that the decision has "serious constitutional repercussions"[1] because the composition of the NCC included members of the Cabinet, the Senate, the House of Representatives and the Supreme Court,[2] who are prohibited by the Constitution from holding any other office during their term or tenure.[3]

In connection, the Court, in its decision, allegedly disregarded the pronouncement in *Manila Electric Co. vs. Panay Transportation Co.*[4] that the "Supreme Court and its members should not and cannot be required to exercise any power or to perform any trust or to assume any duty not pertaining to or connected with the administering of judicial functions." [5]

These arguments are irrelevant. The issue in this case is whether petitioner, as Chair of the NCC, is a public officer under the jurisdiction of the Ombudsman. Assuming, as petitioner proposes, that the designation of other members to the NCC runs counter to the Constitution, it does not make petitioner, as NCC Chair, less a public officer. Such "serious constitutional repercussions" do not reduce the force of the rationale behind this Court's decision.

Second, petitioner invokes estoppel. He claims that the official acts of the President, the Senate President, the Speaker of the House of Representatives, and the Supreme Court, in designating Cabinet members, Senators, Congressmen and Justices to the NCC, led him to believe that the NCC is not a public office.[6]

The contention has no merit. In estoppel, the party representing material facts must have the intention that the other party would act upon the representation.[7] It is preposterous to suppose that the President, the Senate President, the Speaker and the Supreme Court, by the designation of such officials to the NCC, intended to mislead petitioner just so he would accept the position of NCC Chair. Estoppel must be unequivocal and intentional.[8] Moreover, petitioner himself admits that the principle of estoppel does not operate against the Government in the exercise of its sovereign powers.[9]

Third, as ground for the referral of the case to the Court En Banc, petitioner submits that our decision in this case modified or reversed doctrines rendered by this Court, which can only be done by the Court En Banc.

It is argued that by designating three of its then incumbent members to the NCC, the Court took the position that the NCC was not a public office.[10] The argument is a bit of a stretch. Section 4 (3), Article VIII of the Constitution provides that "no doctrine or principle of law laid down by the court in a decision rendered en banc

or in division may be modified or reversed except by the court sitting en banc.” In designating three of its incumbent members to the NCC, the Court did not render a “decision,” in the context of said constitutional provision, which contemplates an actual case. Much less did the Court, by such designation, articulate any “doctrine or principle of law.”

Invoking the same provision, petitioner asserts[11] that the decision in this case reversed or modified *Macalino vs. Sandiganbayan*,[12] holding that the Assistant Manager of the Treasury Division and the Head of the Loans Administration & Insurance Section of the Philippine National Construction Corporation (PNCC) is not a public officer under Republic Act No. 3019. This contention also has no merit. The rationale for the ruling in *Macalino* is that “the PNCC has no original charter as it was incorporated under the general law on corporations.” However, as we pointed out in our decision, a conclusion that EXPOCORP is a government-owned or controlled corporation would not alter the outcome of this case because petitioner’s position and functions as Chief Executive Officer of EXPOCORP are by virtue of his being Chairman of the NCC. The other issues raised by petitioner are mere reiterations of his earlier arguments. The Court, however, remains unswayed thereby.

ACCORDINGLY, the motion for reconsideration and referral to the Court En Banc is DENIED. This denial is final.

Puno, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., (Chairman), no part, due to close relationship to a party.

Austria-Martinez, J., no part.

[1] Rollo, pp. 562-564.

[2] Section 1 of Executive Order No. 128 (Reconstituting the Committee for the Preparation of the National Centennial Celebrations in 1998) provides:

The Committee for the Preparation of the National Centennial Celebrations in 1998 shall hereinafter be called the National Centennial Commission. It is hereby reconstituted to be composed of the following:

(a)

Former Vice-President Salvador H. Laurel;

(b)

Secretary of Education, Culture and Sports;

(c)

Secretary of National Defense;

(d)

Secretary of the Interior and Local Government;

(e)

Secretary of Tourism;

(f)

Secretary of Trade and Industry;

(g)

Secretary of Public Works and Highways;

(h)

Secretary of Transportation and Communications;

(i)

Secretary of Budget and Management;

(j)

Press Secretary;

(k)

Two representatives each from the Senate and the House of Representatives to be designated by the Senate President and Speaker of the House;

(l)

Two (2) representatives from the Judiciary to be designated by the Chief Justice;

(m)

The Executive Director of the National Historical Institute;

(n)

Three (3) representatives from the National Commission for Culture and Arts;

(o)

Three (3) representatives from the Philippine Centennial Foundation, Inc.; and

(p)

Other members from the government and the private sectors, as may be designated later.

The Chairman of the Commission shall be former Vice-President Salvador H. Laurel. The President shall designate the Vice-Chairman and the private sector members of the Commission.

The Honorary Chairpersons of the Commission shall be former Presidents Diosdado M. Macapagal and Corazon C. Aquino.

[3] Section 13, Article VI:

No Senator or Member of the House of Representatives may hold any other office or employment in the government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries during his term without forfeiting his seat. x x x.

Section 13, Article VII:

The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. x x x.

Section 12, Article VIII:

The Members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions.

[4] 57 Phil. 500 (1932).

[5] Rollo, pp. 569-570.

[6] Id., at 564-566.

[7] See Metropolitan Bank & Trust Company vs. Court of Appeals, 333 SCRA 212 (2000).

[8] Manila Memorial Park Cemetery, Inc. vs. Court of Appeals, 344 SCRA 769 (2000).

[9] Rollo, pp. 565-566.

[10] Id., pp. 566-569.

[11] Id., at 561-562, 571-572, 595-599.

[12] G.R. Nos. 140 199-200, February 6, 2002.

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