

FRANCISCO S. TATAD, PETITIONER, VS. COMMISSION ON APPOINTMENTS, RESPONDENT.

G.R. No. 183171. August 14, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

THE appointment to ambassadorial positions of qualified persons over 70 years of age is at focus in this petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) dismissing former Senator Francisco Tatad's appeal from the Order[2] of the Regional Trial Court (RTC) in Quezon City.

On May 4, 2005, respondent Commission on Appointments (Commission) issued a Certification of Consent[3] and confirmed the appointment of former Vice President Teofisto Guingona, Jr. as Ambassador Extraordinary and Plenipotentiary to the People's Republic of China with concurrent jurisdiction over the Democratic People's Republic of Korea and Mongolia. Petitioner Tatad challenged the consent before the RTC in Quezon City via a Complaint for Declaration of Nullity. The case, docketed as Civil Case No. Q-05-55417, was raffled off to Branch 219 of said court, presided by Judge Bayani V. Vargas.

Petitioner prayed that the Commission's consent be declared as void from the beginning on the ground that the appointment of former Vice President Guingona to the position was contrary to law and public policy because he was already beyond seventy (70) years old at that time.

After respondent Commission filed its Answer,[4] petitioner filed a Motion for Judgment on the Pleadings.[5] Respondent opposed the motion and contended that the complaint should be dismissed considering that the issue had been mooted after Ambassador Guingona tendered his resignation from the position.[6]

On August 30, 2006, the RTC issued its Order[7] dismissing the complaint. The fallo of the RTC order runs in this wise:

WHEREFORE, premises considered, the Motion for Judgment on the Pleadings is hereby denied and the Motion to Dismiss the instant case is Granted.[8]

Disagreeing, petitioner elevated the matter before the CA. In his appeal, petitioner argued, inter alia, that Republic Act (R.A.) No. 7157, otherwise known as the Philippine Foreign Service Act of 1991,[9] prohibits appointments of those beyond seventy (70) years old to ambassadorial posts; that Ambassador Guingona's resignation did not render the case moot because there must be a continuing determination of those responsible for the illegal act.

On March 17, 2008, the CA dismissed the appeal.[10]

Petitioner is now before us via Rule 45 hoisting the same issues he raised before the CA.

At the time petitioner filed his complaint before the RTC seeking to nullify the official act of respondent, former Vice President Guingona was still occupying the position of Ambassador Extraordinary and Plenipotentiary to the People's Republic of China with concurrent jurisdiction over the Democratic People's Republic of Korea and

Mongolia. A favorable resolution of petitioner's complaint would have nullified respondent's consent to the appointment, resulting in the appointee being unable to officially assume the ambassadorial position.

Pending the resolution of petitioner's complaint by the RTC, however,[11] former Vice President Guingona resigned from the position. On this basis, both the RTC and the CA ruled that the issue had become moot.

We agree with both the trial and appellate courts. The resignation of former Vice President Guingona as Ambassador rendered the issues raised in this petition moot. It has become a non-issue such that a resolution either way would be of no practical effect. In essence, there is no more illegal appointment to speak of because the appointee ceased to occupy the subject position.

An issue becomes moot and academic when it ceases to present a justiciable controversy. In such a case, there is no actual substantial relief which a petitioner would be entitled to and which would be negated by the dismissal of the petition.[12] We have consistently held that courts will not determine a moot question in a case in which no practical relief will be granted.[13]

Petitioner insists that despite the resignation of former Vice President Guingona from the position, a resolution of the issues presented is imperative so that the public may know whether respondent Commission violated the law and public policy.

Petitioner is mistaken. Because the present case lacks an actual controversy, any resolution of the issues presented would not result in an adjudication of the rights of the parties, but would take the nature merely of an advisory opinion. As this Court held in *Ticzon v. Video Post Manila, Inc.*,[14] courts are called upon to resolve actual cases and controversies, not to render advisory opinions.

ACCORDINGLY, the petition is DENIED.

SO ORDERED.

Puno, C. J., Quisumbing , Ynares-Santiago, Carpio, Austria-Martinez , Corona , Carpio Morales, Azcuna, Tinga, Chico-Nazario , Velasco, Jr., Leonardo-De Castro, and Brion, JJ., concur.

Nachura, J., No part. Justice Nachura participated in the present case as Solicitor General.

[1] Rollo, pp. 17-24. CA-G.R. No. 87806, dated March 17, 2008. Penned by Associate Justice Myrna Dimaranan Vidal, with Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr., concurring.

[2] Civil Case No. Q-05-55417, dated August 30, 2006.

[3] Rollo, p. 5.

[4] Id. at 36-45.

[5] Id. at 46-49.

[6] Id. at 50-53.

[7] Id. at 54-55.

[8] Id. at 55.

[9] Approved on September 19, 1991.

[10] Rollo, pp. 17-24.

[11] No exact date was presented in the records.

[12] *Olanolan v. Commission on Elections*, G.R. No. 165491, March 31, 2005, 454 SCRA 807, 816.

[13] *Villarico v. Court of Appeals*, G.R. No. 132115, January 4, 2002, 373 SCRA 23; *Pepsi-Cola Products Philippines, Inc. v. Secretary of Labor*, G.R. Nos. 96663 & 103300, August 10, 1999, 312 SCRA 104.

[14] 389 Phil. 20, 23 (2000).

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