

JUANITO YARCIA, MELCHOR PARAS, ALFREDO G. ACENA, ET AL., PLAINTIFFS AND APPELLEES VS. ZOILO CASTRILLO, DIRECTOR OF LANDS AND APOLONIO QUIDILING, DISTRICT LAND OFFICER, LAND DIST...

G. R. No. 19066. May 31, 1966

Ponente: DIZON, J.

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DIZON, J.:

Appeal from the decision of the Court of First Instance of Baguio City in Civil Case No. 978 declaring void Special Order No. 10 issued by the Director of Lands on July 13, 1960, and making permanent the preliminary injunction issued therein restraining the enforcement of said order.

It is not disputed that appellees are all civil service eligibles employed in different capacities with District Land Office No. 3, Baguio City. By virtue of the special order above-mentioned, the Director of Lands ordered their transfer to other provinces. Upon being notified thereof, they filed the present action for injunction in the lower court claiming that the order in question was void and that their transfer amounted to a virtual removal without cause. Appellants answered the complaint relying principally upon the following defenses: that the action was premature; that the court had no jurisdiction over the case; that the complaint stated no sufficient cause of action and was fatally defective because it was not verified by all the plaintiffs and because, furthermore, the plaintiff who swore to the allegations made therein did not appear to have been authorized to bind his co-parties.

After trial upon the issues thus joined, the court rendered the appealed judgment.

Appellants contend that the trial court erred in declaring void Special Order No. 10 of the Director of Lands on the erroneous ground that only the Secretary of Agriculture and Natural Resources may effect the transfer of appellees as provided for in the questioned order. In support of their contention they aver that the positions occupied by appellees were not created by law nor regulations but came into existence as mere items of expenditure in the yearly Appropriation Act to be occupied by personnel of the Bureau of Lands in general; that their appointments were not as employees of the District Land Office in Baguio but as employees of the Bureau of Lands and could therefore be assigned to any place as the interest of the service may demand; that the questioned order was issued by the Director of Lands by virtue of his general supervisory power as Chief Executive and Administrative Officer of said bureau, for the purpose of meeting the exigencies of the service.

It should be noted that almost all the appointments extended to appellees were made by the Secretary of Agriculture and Natural Resources, and the rest were made on his behalf and upon his authority by his Executive Assistant, while, on the other hand, their transfer is being effected simply by an order issued by the Director of Lands. In accordance with the clear provisions of Section 79 (d) of the Revised Administrative Code, we believe that it is the Department Head who may "change the distribution among the several bureaus or offices of his department of the employees or subordinates authorized by law", this authority having been impliedly denied to, Heads of bureaus and offices under his department.

Even under the provisions of Section 550 of the same code, upon which appellants rely, the maximum claim that could be made in favor of the power of the Director or Chief Official of a bureau or office, in connection with the exercise of his functions as Chief Executive and as Administrative Officer, is to transfer employees thereof from one place to another only upon authority and with the approval of the Department Head, because said section precisely authorizes him to exercise general authority in all matters embraced within the jurisdiction of his bureau or relating to its operation "under the immediate control, direction, and supervision of the proper Department Head."

Wherefore, the decision appealed from being in accordance with law, the same is hereby affirmed, without costs.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Barrera, Regala, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Judgment affirmed.

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