

VICENTE SEGOVIA, PETITIONER AND APPELLEE, VS. PEDRO NOEL, RESPONDENT AND APPELLANT.

G.R. No. 23226. March 04, 1925

Ponente: MALCOLM, J.

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MALCOLM, J.:

The question to be decided on this appeal is whether that portion of Act No. 3107 which provides, that justices of the peace and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years, should be given retroactive or prospective effect.

Vicente Segovia was appointed justice of the peace of Dumanjug, Cebu, on January 21, 1907. He continuously occupied this position until having passed sixty-five milestones, he was ordered by the Secretary of Justice on July 1, 1924, to vacate the office. Since that date, Pedro Noel, the auxiliary justice of the peace has acted as justice of the peace for the municipality of Dumanjug.

Mr. Segovia being desirous of avoiding a public scandal and of opposing physical resistance to the occupancy of the office of justice of the peace by the auxiliary justice of the peace, instituted friendly quo warranto proceedings in the Court of First Instance of Cebu to inquire into the right of Pedro Noel to occupy the office of justice of the peace, to oust the latter therefrom, and to procure reinstatement as justice of the peace of Dumanjug. To this complaint, Pedro Noel interposed a demurrer on the ground that it did not allege facts sufficient to constitute a cause of action, because Act No. 3107 was constitutional and because Mr. Segovia being sixty-five years old had automatically ceased to be justice of the peace. On the issue thus framed and on stipulated facts, judgment was rendered by Honorable Adolph Wislizenus, Judge of First Instance, overruling the demurrer, and in favor of petitioner and against respondent.

Proceeding by way of elimination so as to resolve the case into its simplest factors, it will first be noted that the petitioner abandons the untenable position, assumed by him in one portion of his complaint, to the effect that section 1 of Act No. 3107 is unconstitutional in that it impairs the contractual right of the petitioner to an office. It is a fundamental principle that a public office cannot be regarded as the property of the incumbent, and that a public office is not a contract.

It will next be noted that, while the respondent as appellant assigns three errors in this court, the first two relating to preliminary matters are ultimately renounced by him in order that there may be an authoritative decision on the main issue. The third error specified and argued with ability by the provincial fiscal of Cebu, is that the trial judge erred in declaring that the limitation regarding the age of justices of the peace provided by section 1 of Act No. 3107 is not applicable to justices of the peace and auxiliary justices of the peace appointed and acting before said law went into effect.

Coming now to the law, we find on investigation the original provision pertinent to the appointment and term of office of justices of the peace, in section 67 of Act No. 136, wherein it was provided that justices of the peace shall hold office during the pleasure of the Commission. Act No. 1450, in force when Vicente Segovia was

originally appointed justice of the peace, amended section 67 of the Judiciary Law by making the term of office of justices and auxiliary justices of the peace two years from the first Monday in January nearest the date of appointment. Shortly after Segovia's appointment, however, the law was again amended by Act No. 1627 by providing that "all justices of the peace and auxiliary justices of the peace shall hold office during good behavior and those now in office shall so continue." Later amended by Acts Nos. 2041 and 2617, the law was ultimately codified in sections 203 and 206 of the Administrative Code.

Codal section 203 in its first paragraph provides that "one justice of the peace and one auxiliary justice of the peace shall be appointed by the Governor-General for the City of Manila, the City of Baguio, and for each municipality, township, and municipal district in the Philippine Islands, and if the public interests shall so require, for any other minor political division or unorganized territory in said Islands." It was this section which section 1 of Act No. 3107 amended by adding at the end thereof the following proviso: "Provided, That justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years." But section 206 of the Administrative Code entitled "Tenure of office," and reading "a justice of the peace having the requisite legal qualifications shall hold office during good behavior unless his office be lawfully abolished or merged in the jurisdiction of some other justice," was left unchanged by Act No. 3107.

A sound canon of statutory construction is that a statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. Following the lead of the United States Supreme Court and putting the rule more strongly, a statute ought not to receive a construction making it act retroactively, unless the words used are so clear, strong, and imperative that no other meaning can be annexed to them, or unless the intention of the legislature cannot be otherwise satisfied. No court will hold a statute to be retroactive when the legislature has not said so. As our Civil Code has it in article 3, "Law shall not have a retroactive effect unless therein otherwise provided." (Farrel vs. Pingree [1888], 5 Utah, 443; 16 Pac, 843; Greer vs. City of Asheville [1894], 114 N. C, 495; United States Fidelity & Guaranty Co. vs. Struthers Wells Co. [1907], 209 U. S., 306; Montilla vs. Agustinian Corporation [1913], 24 Phil., 220; In re will of Riosa [1918], 39 Phil., 23.)

The same rule is followed by the courts with reference to public offices. A well-known New York decision held that "though there is no vested right in an office, which may not be disturbed by legislation, yet the incumbent has, in a sense, a right to his office. If that right is to be taken away by statute, the terms should be clear in which the purpose is stated." (People ex rel. Ryan vs. Green [1874], 58 N. Y., 295.) In another case, a new constitutional provision as to the advanced age which should prevent the incumbents of certain judicial offices from retaining them was held prospective; it did not apply to persons in office at the time of its taking effect. (People vs. Gardner, 59 Barb., 198; II Lewis' Sutherland Statutory Construction, Chap. XVII, particularly pages 1161, 1162; Mechem on Public Officers, sec. 389.)

The case at bar is not the same as the case of Chanco vs. Imperial ([1916], 34 Phil., 329). In that case, the question was as to the validity of section 7 of Act No. 2347. The law under consideration not only provided that Judges of First Instance shall serve until they have reached the age of sixty-five years, but it further provided "that the present judges of Courts of First Instance * * * vacate their positions on the taking effect of this Act: and the Governor-General, with the advice and consent of the Philippine Commission, shall make new appointments of judges of Courts of First Instance * * *." There, the intention of the Legislature to vacate the office was clearly expressed. Here, it is not expressed at all.

The language of Act No. 3107 amendatory of section 203 of the Administrative Code, gives no indication of retroactive effect. The law signifies no purpose of operating upon existing rights. A proviso was merely tacked on to section 203 of the Administrative Code, while leaving intact section 206 of the same Code which permits

justices of the peace to hold office during good behavior. In the absence of provisions expressly making the law applicable to justices of the peace then in office, and in the absence of provisions impliedly indicative of such legislative intent, the courts would not be justified in giving the law an interpretation which would legislate faithful public servants out of office.

Answering the question with which we began our decision, we hold that the proviso added to section 203 of the Administrative Code by section 1 of Act No. 3107, providing that justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years, should be given prospective effect only, and so is not applicable to justices of the peace and auxiliary justices of the peace appointed before Act No. 3107 went into force. Consequently, it results that the decision of the trial court is correct in its findings of fact and law and in its disposition of the case.

Judgment affirmed, without costs. It is so ordered.

Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

Johnson, J., concurs in the result.

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