

ROBERTO R. MONROY, PETITIONER, VS. HON. COURT OF APPEALS AND FELIPE DEL ROSARIO, RESPONDENTS.*G.R. No. 23258. July 01, 1967*

Ponente: BENGZON, J.P., J.

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Petitioner Roberto Monroy was the incumbent Mayor of Navotas, Rizal, when on September 15, 1961, his certificate of candidacy as representative of the first district of Rizal in the forthcoming elections was filed with the Commission on Elections. Three days later, or on September 18, 1961, petitioner filed a letter withdrawing said certificate of candidacy. The Commission on Elections, per resolution,[1] approved the withdrawal. But on September 21, 1961, respondent Felipe del Rosario, then the vice-mayor of Navotas, took his oath of office as municipal mayor on the theory that petitioner had forfeited the said office upon his filing of the certificate of candidacy in question.

Upon these facts, the Court of First Instance of Rizal, sitting in Pasig, held in the suit for injunction instituted by petitioner against respondents that (a) the former had ceased to be mayor of Navotas, Rizal, after his certificate of candidacy was filed on September 15, 1961; (b) respondent del Rosario became municipal mayor upon his having assumed office as such on September 21, 1961; (c) petitioner must reimburse, as actual damages, the salaries to which respondent was entitled as Mayor from September 21, 1961 up to the time he can reassume said office; and (d) petitioner must pay respondent P1,000.00 as moral damages.

This judgment was, on appeal by petitioner to the Court of Appeals, affirmed in toto except for the award of moral damages which was eliminated. The same Court reaffirmed its stand upon petitioner's filing a motion to reconsider. Hence, this petition for certiorari to review the ruling of the Court of Appeals.

Petitioner first argues that both the lower court and the Court of Appeals had done what they had no jurisdiction to do - review a resolution of the Commission on Elections. The submission is without merit.

The Constitution empowers the Commission on Elections to

"x x x decide, save those involving the right to vote, all administrative questions affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials, x x x"[2] (Emphasis supplied)

And the decisions, orders and rulings of the Commission on these administrative questions are reviewable only by the Supreme Court.[3] Since the powers of the Commission are limited to matters connected with the "conduct of elections", necessarily its adjudicatory or quasi-judicial powers are likewise limited to controversies connected with the "conduct of elections." This phrase covers all the administrative process of preparing and operating the election machinery so that the people could exercise their right to vote at the given time.[4] All questions and controversies that may arise therefrom are to be resolved exclusively by the Commission, subject to review only by the Supreme Court.

However, in this case there appears to be no decision, order or ruling of the Commission on any administrative question or controversy. There was no dispute before the Commission. Respondent never contested the filing of petitioner's certificate of candidacy. Neither has he disputed before that body the withdrawal thereof. And even if there was a controversy before the Commission, the same did not and could not possibly have anything to do with the conduct of elections. What the parties are actually controverting is whether or not petitioner was still the municipal mayor after September 15, 1961. This purely legal dispute has absolutely no bearing or effect on the conduct of the elections for the seat of congressman for the first district of Rizal. The election can go on irrespective of whether petitioner is considered re-signed from his position of municipal mayor or not. The only interest and, for that matter, jurisdiction, of the Commission on Elections in this regard is to know who are the running candidates for the forthcoming elections, for that affects the conduct of election. So when petitioner withdrew the certificate announcing his candidacy for Congressman, as far as the Commission could be concerned, petitioner was no longer interested in running for that seat. The matter of his having forfeited his present position and the possible legal effect thereon by the withdrawal of his certificate was completely out of the picture. Hence, that purely legal question properly fell within the cognizance of the courts.

Now the withdrawal of his certificate of candidacy did not restore petitioner to his former position. Sec. 27 of the Rev. Election Code providing that ?

"Any elective provincial, municipal, or city official running for an office, other than the one which he is actually holding, shall be considered resigned from his office from the moment of the filing of his certificate of candidacy,"

makes the forfeiture automatic and permanently effective upon the filing of the certificate of candidacy for another office. Only the moment and act of filing are considered. Once the certificate is filed, the seat is forfeited forever and nothing save a new election or appointment can restore the ousted official. Thus, as We had occasion to remark, through Justice J.B.L. Reyes, in *Castro v. Gatuslao*, 98 Phil. 194, 196:

"x x x The wording of the law plainly indicates that only the date of filing of the certificate of candidacy should be taken into account. The law does not make the forfeiture dependent upon future contingencies, unforeseen and unforeseeable, since the vacating is expressly made as of the moment of the filing of the certificate of candidacy. x x x" (Emphasis supplied)

Petitioner's contention that the certificate of candidacy was filed without his knowledge and consent and, hence, the Commission's approval of its withdrawal invalidated such certificate for all legal purposes, is untenable. It nowhere appears that the Commission's resolution expressly invalidated the certificate. The withdrawal of a certificate of candidacy does not necessarily render the certificate void ab initio. Once filed, the permanent legal effects produced thereby remain even if the certificate itself be subsequently withdrawn. Moreover, both the trial court and the Court of Appeals expressly found as a fact that the certificate in question was filed with petitioner's knowledge and consent. And since the nature of the remedy taken by petitioner before Us would allow a discussion of purely legal questions only, such fact is deemed conceded.[5]

Petitioner would next maintain that respondent Court of Appeals likewise erred in affirming a lower court judgment requiring petitioner to pay respondent Del Rosario by way of actual damages the salaries he was allegedly entitled to receive from September 21, 1961, to the date of petitioner's vacation of his office as mayor. In support of this he relies solely upon *Rodriguez v. Tan*, 91 Phil. 724, holding that a senator who had been proclaimed and had assumed office but was later on ousted in an election protest, is a de facto officer during the time he held the office of senator, and can retain the emoluments received even as against the successful protestant. Petitioner's factual premise is the appellate court's finding that he was a de facto officer when he continued occupying the office of mayor after September 15, 1961.

However, We agree with the Court of Appeals that the Rodriguez case is not applicable here for absence of factual and legal similarities. The Rodriguez case involved a senator who had been proclaimed as duly elected, assumed the office and was subsequently ousted as a result of an election contest. These peculiar facts called for the application of an established precedent in this jurisdiction that the candidate duly proclaimed must assume office notwithstanding a protest filed against him and can retain the compensation paid during his incumbency. But the case at bar does not involve a proclaimed elective official who will be ousted because of an election contest. The pre-sent case for injunction and quo warranto involves the forfeiture of the office of municipal mayor by the incumbent occupant thereof and the claim to that office by the vice mayor because of the operation of Sec. 27 of the Rev. Election Code. The established precedent invoked in the Rodriguez case cannot therefore be applied in this case.

It is the general rule then, i.e., "that the rightful incumbent of a public office may recover from an officer de facto the salary received by the latter during the time of his wrongful tenure, even though he entered into the office in good faith and under color of title"[6] that applies in the present case. The resulting hardship occasioned by the operation of this rule to the de facto officer who did actual work is recognized; but it is far more cogently acknowledge that the de facto doctrine has been formulated, not for the protection of the de facto officer principally, but rather for the protection of the public and individuals who get involved in the official acts of persons discharging the duties of an office without being lawful officers.[7] The question of compensation involves different principles and concepts however. Here, it is possession of title, not of the office, that is decisive. A de facto officer, not having good title, takes the salaries at his risk and must therefore account to the de jure officer for whatever amount of salary he received during the period of his wrongful retention of the public office.[8]

WHEREFORE, finding no error in the judgment appealed from, the same is, as it is hereby, affirmed in toto. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, JBL, Makalintal, Zaldivar, and Angeles, JJ., concur.

Dizon, J., on official leave.

Sanchez, Castro, and Fernando, JJ., did not take part.

[1] The records of this case do not include a copy of this resolution. Hence, it nowhere appears when this resolution was issued.

[2] Philippine Constitution, Art. X, sec. 2.

[3] Ibid; see also: Sec. 5, Rev. Election Code.

[4] See: Guevara vs. Commission on Elections, L-12596, July 31, 1958.

[5] See: Ramos v. Pepsi-Cola, L-22533, Feb. 9, 1967.

[6] Walker v. Hughes, 36 A 2d 47, 151 ALR 946, 949-950.

[7] See: 2 Tañada & Carreon, Political Law of the Phils., 1962, pp. 544-545.

[8] Walker vs. Hughes, supra.

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