

**OSCAR V. CO, PETITIONER, VS. COMMISSION ON ELECTIONS,
ABELARDO SUBIDO, AS COM-MISSIONER OF CIVIL SERVICE, AND
CECILIO O. ESTOESTA, AS ELECTION REGISTRAR OF THE
COMMISSION ON ELE...**

G.R. No. 26956. July 21, 1967

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

This is a petition for certiorari, prohibition, man-damus and quo warranto, with prayer for preliminary in-junction.

Main protagonists are the petitioner Oscar V. Co and the respondent Cecilio O. Estoesta, both election registrar-appointees of the respondent Commission on Elections (here-inafter called COMELEC), in reference to the office of muni-cipal election registrar for Agoo, La Union, to which the petitioner claims to be entitled and from which he prays that the respondent be excluded.

The facts are indubitable. On November 2, 1964 the petitioner was extended by the COMELEC a provisional appointment as "Election Registrar of the Commission on Elections", without statement of any specific official station. On November 9, 1964, per a telegram-directive, he was "directed to report and assume duty as election registrar for the municipality of Agoo, province of La Union", which he did. He served in that capacity until September 6, 1966 when he was extended a permanent ap-ointment as "Election Registrar in the Commission on Elections for Sabangan, Mountain Province", and directed to immediately proceed to his new station. On the follow-ing day, September 7, 1966, the respondent Cecilio O. Esto-esta was also appointed "Election Registrar in the Commis-sion on Elections for Agoo, La Union", which appointment was duly certified by the Civil Service Commission and ac-cepted by the said respondent. Viewing these moves as vio-lative of civil service rules and regulations and as in-fringing upon his right to security of tenure as election registrar of Agoo, La Union, the petitioner declined the proffered appointment and forthwith moved the COMELEC to reconsider its action in the premises. Thereafter, he came to this Court on the present recourse.

The only issue to be resolved here is whether, under the circumstances at bar, the appointment of the petitioner as election registrar for Sabangan, Mountain Province, trench-es upon his right to security of tenure as election registrar of Agoo, La Union. This question has since been set at rest in Ibañez, et al. vs. Commission on Elections, et al., G.R. L-26558, April 27, 1967, which arose from factual circumstan-ces similar to those in the case at bar. We there reaffirmed our adherence to the view that "the rule which proscribes transfers without consent as anathema to the security of te-nure is predicated upon the theory that the officer involved is appointed - not merely assigned - to a particular station (Miclát vs. Ganaden, et al., G.R.L-14459, May 30, 1960; Jaro vs. Valencia, et al., G.R. L-18352, August 30, 1963)." Since there, as in the case now before us, the appointments relied upon did not specifically state the particular stations to which the appointees were appointed, and that the said ap-ointees were merely assigned to specific places by means of subsequent separate directives or

assignments, we rejected the theory that they acquired any vested right to the places to which they were thus detailed as to entitle them to the protection of the security of tenure guaranteed by the Constitution. On this point we there made the pronouncement that –

"* * * the prospective appointees were entitled only to such security of tenure as the appointment papers concerned actually conferred - not in that of any place to which they may have been subsequently assigned. * * *. As things stand, in default of any particular station stated in their respective appointments, no security of tenure can be asserted by the petitioners on the basis of the mere assignments which were given to them. A contrary rule will erase altogether the demarcation line we have repeatedly drawn between appointment and assignment as two distinct concepts in the law of public officers."

In *Ibanez vs. COMELEC*, *supra*, we also made the following observations which we consider pertinent to the case at bar:

"Nor is there necessity to dwell at length on the validity of the appointments extended to the petitioners which do not state any specific station contrary to the spirit and expressed mandate of the Permanent Registration Act. At the very least, having accepted said appointments as they are and having reaped benefits therefrom, they cannot now be heard to impugn their validity. Besides, whichever way the verdict on the question of validity may go, the petitioners will profit nothing by it. Were we to uphold said appointments, the petitioners' cause will necessarily fail because, as aforesaid, the same involves not an appointment to a particular station but a mere assignment to a certain place in the interest of the service. Upon the other hand, striking down said appointments as void would virtually pull the rug from under the petitioners' feet. For, a void appointment confers no rights whatsoever except, perhaps, those recognized under the *de facto* doctrine, but definitely never so far as to entitle the incumbent to take shelter under the aegis of the guarantee of security of tenure. That the respondent Commission may have erred in extending the defectively formulated appointments relied upon is of no moment. The mistake, acquiescence and tolerance of the proper officials resulting in the non-observance of legal requirements do not bestow upon the petitioners any right to the positions in question or to the guarantees provided by law."

No valid reason has been advanced why the foregoing ratiocination should not similarly control the present controversy.

ACCORDINGLY, the petition is hereby dismissed, at petitioner's cost.

Reyes, JBL, Makalintal, Bengzon, JP, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., did not take part.

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