

F. E. F. REMOTIGUE, ET AL., PETITIONERS, VS. HON. SERGIO OSMEÑA, JR., RESPONDENT.

G.R. No. 28202. November 10, 1967

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PER CURIAM:

Upon consideration of the complaint in original case G. R. No. L-28202, entitled "F. E. F. Remotigue, et al. v. Hon. Sergio Osmeña, Jr.," and of the answer filed by the defendant therein, as well as the arguments adduced by the parties at the hearing held on November 6, 1957, and the memorandum filed by the plain-tiffs, and it appearing:

1. That the main issue raised by the pleadings is the qualification of defendant Sergio Osmeña, Jr. to be a candidate for the office of City Mayor of Cebu City in the general elections to be held on November 14, 1967;

2. That it is the stand of the plaintiffs that de-fendant Sergio Osmeña, Jr. is not qualified to run for the office of City Mayor of Cebu City because he filed his certificate of candidacy for the office of City Mayor without first having resigned from his office as Senator, in violation of Section 9 of the Charter of Cebu City which provides as follows:

"Sec. 9 - GENERAL QUALIFICATIONS OF ELECTIVE OFFICIALS - In addition to any special qualifications prescribed by this Charter, all elective officers of the City shall be qualified and registered voter of the City, and shall hold no other public office except that of notary public or membership in the armed forces reserve, nor any other employment with the city or with the National Government or any pro-vince or municipality.";

3. That the plaintiffs claim that the candidacy of defendant Sergio Osmeña, Jr. is prejudicial to their interests and to the interests of the persons they represent;

4. That in the complaint - which is captioned as "For Injunction and Declaratory Relief" - the plaintiffs pray this Court to declare defendant Sergio Osmeña, Jr. disqualified to run for the office of City Mayor of Cebu City and to declare his certificate of candidacy ille-gal, null and void and without force and effect, and al-so to restrain him from running as City Mayor of Cebu City and from resigning from his office as Senator;

5. That the determination, in this case, of the issue thus raised by the plaintiffs would amount to a declaratory judgment and a judgment in an original act-ion for injunction, which are matters that are not with-in the original exclusive jurisdiction of this Court;

6. That neither would the allegations in the complaint warrant the treatment of the action brought here-in as one for a petition for certiorari or prohibition, or any other action that is within the original and ex-clusive jurisdiction of this Court;

The Court RESOLVED that the herein complaint of plaintiffs be, as it is hereby, DISMISSED, with costs against the plaintiffs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

Fernando, J., did not take part.

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