

**MIGUEL R. CORNEJO, MUNICIPAL PRESIDENT OF PASAY,
PETITIONER, VS. ELIGIO NAVAL, PROVINCIAL GOVERNOR OF
RIZAL, JOSE M. PEREZ AND CELESTINO DE DIOS, MEMBERS OF THE
PROVINCIAL BOARD...**

G.R. No. 33648. July 30, 1930

Ponente: MALCOLM, J.

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MALCOLM, J.:

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The ultimate question, on the resolution of which the correct disposition of these original proceedings depends, hinges on the power of a provincial governor and a provincial board to suspend a municipal president who has been convicted in the Court of First Instance of the crime of falsification of a private document.

Stripped of irrelevant allegations, the pleadings disclose the facts which may be summarized as follows: Miguel R. Cornejo was until recently occupying the position of municipal president of Pasay, Rizal, Eligio Naval, Jose M. Perez, and Celestino de Dios constitute the provincial board of Rizal, the first named being the provincial governor of that province. On criminal charges being presented and after due trial, the Court of First Instance of Rizal found Cornejo guilty of the crime of falsification of a private document and sentenced him therefor to one year, eight months, and twenty-one days imprisonment, to pay a fine of 1,000 pesetas, with subsidiary imprisonment in case of insolvency, and to suffer the accessory penalties provided by law. An appeal from this judgment was taken by the accused to the Supreme Court.

Immediately after conviction in the trial court, the provincial governor of Rizal filed with the provincial board of that province an administrative complaint against Cornejo for corruption and improper conduct unbecoming a public officer. Thereafter, the provincial governor suspended Cornejo as president of Pasay pending action by the provincial board on the administrative charges preferred against Cornejo. Aside from filing an answer and challenging the jurisdiction of the provincial board, Cornejo did not otherwise defend himself before the board. The provincial board eventually decided that it had jurisdiction to investigate the charges, conducted its investigation, and recommended to the Chief of the Executive Bureau the suspension from office "of Cornejo pending the final determination by the Supreme Court of his appeal. On the recommendation of the Chief of the Executive Bureau, the Secretary of the Interior on April 29, 1930, approved the suspension of Cornejo as municipal president of Pasay, Rizal, for a period of time to extend to the conclusion of his appeal to the Supreme Court.

The provincial authorities of Rizal and the higher executive authorities claim a right to proceed against Cornejo as they have because of the provisions of sections 2188, 2189, 2190, and 2191 of the Administrative Code.

Section 2189 relates to the trial of municipal officers by the provincial board, section 2190 to action by the provincial board, and section 2191 to action by the Chief of the Executive Bureau and the Department Head. The first cited section, viz. 2188, the terminology of which needs interpretation, reads as, follows:

"Supervisory authority of provincial governor over municipal officers,—The provincial governor shall receive and investigate complaints made under oath against municipal officers for neglect of duty, oppression, corruption, or other form of maladministration in office.. For minor delinquency he may reprimand the offender; and if a more severe punishment seems to be desirable, he shall submit written charges touching the matter to the provincial board, furnishing a copy of such charges to the accused either personally or by registered mail, and he may in such case suspend the officer (not being the municipal treasurer) pending action by the board, if in his opinion the charge be one affecting the official integrity of the officer in question. Where suspension is thus effected, the written charges against the officer shall be filed with the board within five days."

It will not escape attention that the charge against the municipal officer must be one "affecting the official integrity of the officer in question" and that the charge must be in the nature of a complaint against the municipal officer "for neglect of duty, oppression, corruption, or other form of maladministration in office." The petitioner, with emphasis on the words "other," "in office," and "official," would limit action to misconduct relating to the office and not extending to personal misbehavior. The respondents would lay emphasis on the word "corruption" and construing this word independently of what follows would give it a meaning which would include conviction of the crime of falsification of a private document.

The authorities are in conflict. Vicente del Rosario, the former Chief of the Executive Bureau, in a case which came before him was of the following opinion:

"The conviction of the municipal president for theft does not constitute neglect of duty, oppression, or maladministration in office. Nor does it fall within the term 'corruption' because it is the opinion of the undersigned that the word denotes corruption in office or an act done with an intent to give some advantage inconsistent with official duty and the right of others' Professor Mechem in his authoritative work on Public Offices and Officers is in the same connection quoted to the following effect:

"Where the removal is to be for official misconduct or for misfeasance or mal-administration in office, the misconduct which shall warrant a removal of the officer must be such as affects his performance of his duties as an officer and not such only as affect his character as a private individual. In such cases, it is necessary 'to separate the character of the man from the character of the officer,'" (Page 290.) On the other hand, the Acting Chief of the Executive Bureau in the instant case believed that the provincial board of Rizal acquired jurisdiction over President Cornejo and that the corresponding administrative investigation conducted by the said board was in accordance with law, and in this view the Acting Chief of the Executive Bureau was upheld by his superior officer. The Attorney- General argues to the same effect, citing the case of Jones vs. State ([1912], 104 Ark., 261; 149 S. W., 56), but on examination the law of Arkansas is found to differ from the law of the Philippines.

It is a well recognized rule of statutory construction and of the law of public officers that a statute prescribing" the grounds for which an officer may be suspended is penal in nature, and should be strictly construed. Making this principle the basis of our investigation, it is not possible to reach any other conclusion than that the prepositional phrase "in office" qualifies the various grounds for legal suspension. The law says "or other form of maladministration in office." By the maxim *Ejusdem generis*, the scope of the word "other" is limited to that which is of the same kind as its antecedent. Corruption, therefore, refers to corruption in office.

The crime of which the petitioner was convicted, it will be recalled, was that of falsification of a private document. As neither the evidence of this case nor the decision finding the petitioner guilty are before us, it would

not be possible to make any assumptions regarding the facts of the case without prejudging it. On simply the admitted fact that the petitioner was convicted of the crime of falsification of a private document, then it becomes evident under the Penal Code that this crime contrasts sharply with the crime of falsification of a public document, for a characteristic of the latter crime is the "taking advantage of his official position" (Penal Code, arts. 301-304).

Inasmuch as conviction of the crime of falsification of a private document does not imply that one takes advantage of his official position, inasmuch as corruption signifies corruption in office, and inasmuch as the charge must be one affecting the official integrity of the officer in question, our opinion is that the provincial board and the provincial governor of Rizal acted in excess of jurisdiction in suspending the petitioner as municipal president of Pasay. Where the power of suspension is limited to specific causes, the suspending authority may not suspend for any cause not so specified. If the law is too narrow in scope, it is for the Legislature rather than the courts to expand it.

The writ prayed for will issue and the suspension of the petitioner will be held without effect. It will be so ordered without special taxation of costs.

Avancena, C. J., Ostrand, Johns, Romualdez and Villa-Real, JJ., concur.

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