

FELIPE REGALADO, PETITIONER, VS. JOSE YULO, SECRETARY OF JUSTICE, JUAN G. LESACA, JUDGE OF FIRST INSTANCE OF ALBAY, AND ESTEBAN T. VILLAR, RESPONDENTS.*G.R. No. 42935. February 15, 1935*

Ponente: MALCOLM, J.

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This is an action of quo warranto originally brought in this court to determine the respective rights of the petitioner Felipe Regalado and one of the respondents, Esteban T. Villar, to the office of justice of the peace of Malinao, Albay. The issue in the case is whether or not under the provisions of section 203 of the Administrative Code, as amended by Act No. 3899, the justices of the peace and auxiliary justices of the peace appointed prior to the approval of the last mentioned Act who reached the age of sixty-five years after said Act took effect shall cease to hold office upon reaching the age of sixty-five years.

The facts as stipulated are principally the following: Felipe Regalado qualified for the office of justice of the peace of Malinao, Albay, on April 12, 1906. On September 13, 1934, Regalado became sixty-five years of age. As a consequence, shortly thereafter, the judge of first instance of Albay, acting in accordance with instructions from the Secretary of Justice, designated Esteban T. Villar, justice of the peace of Tabaco, Albay, to act as justice of the peace of Malinao, Albay. Regalado surrendered the office to Villar under protest. On December 17, 1934, Villar qualified as justice of the peace of Malinao, Albay, and entered upon the discharge of the duties of the office.

The text of section 203 of the Administrative Code, as amended by Act No. 3899, reads in Spanish, the language in which this Act was enacted by the Philippine Legislature, as follows:

"Art. 203. Nombramiento y distribution de jueces de paz.—El Gobernador General nombrara, con el consejo y consentimiento del Senado de Filipinas, un juez de paz y un juez de paz auxiliar para la Ciudad de Baguio y para cada municipio, township y distrito municipal de las Islas Filipinas y si el interes publico asi lo exigiere para cualquier otra division politica de menos importancia y territorio no organizado en dichas Islas: Entendiendose, Que los jueces de paz y jueces de paz auxiliares seran nombrados para servir hasta cumplir sesenta y cinco anos de edad: Entendiendose, ademds, Que los actuales jueces de paz y jueces de paz auxiliares que al tiempo de la vigencia de esta Ley hayan cumplido sesenta y cinco anos de edad, cesardn el primero de enero de mil novecientos treinta y tres en sus cargos; y el Gobernador General, con el consejo y consentimiento del Senado de Filipinas, hara nuevos nombramientos para cubrir las vacantes que habran de ocurrir por ministerio de esta Ley."

The English version of the same codal section, as amended, reads as follows:

"Sec. 203. Appointment and distribution of justices of the peace.—One justice of the peace and one auxiliary justice of the peace shall be appointed by the GovernorGeneral, with the advise and consent of the Philippine Senate, for 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: Provided, That justices and auxiliary justices of the peace shall be appointed to serve until they have reached the age of sixty-five years: Provided, further, That the present justices and auxiliary justices of the peace who shall, at the time this Act takes effect, have completed sixty-five years of age, shall automatically cease to hold office on January first, nineteen hundred and thirty-three; and the Governor-General, with the advise and consent of the Philippine Senate, shall make new appointments to cover the vacancies occurring by operation of this Act."

Petitioner Regalado insists that the law is clear and accordingly needs no interpretation. The meaning of the law according to him is that only those justices of the peace and auxiliary justices of the peace ceased to hold office who had completed sixty-five years of age on or before November 16, 1931, when Act No. 3899 took effect. On the other hand, the Solicitor-General, as attorney for the respondents, admits that the provisions of the second proviso added to section 203 of the Administrative Code by Act No. 3899, are not very specific, but that according to the real intention of the law the only sensible and proper construction that could be placed on the proviso in question is that under its provisions all justices of the peace and auxiliary justices of the peace, whether appointed prior to the approval of the Act or subsequent thereto, who had completed the age of sixty-five years of age at the time of the approval of the Act, and those who shall complete that age thereafter, shall cease to hold office, the former on January 1, 1933, and the latter at the time they complete that age.

All are agreed that the language which should prevail in the interpretation of Act No. 3899 is Spanish, but that the English text may be consulted to explain the Spanish. The English text is deficient in that it includes the word "automatically", the equivalent of which does not appear in the Spanish. Also, in the Administrative Code containing a compilation of section 203, as amended, the word "office" was omitted after the word "hold". Finally, the Spanish uses the term "al tiempo de la vigencia de est'a ley", translated into English as "at the time this Act takes effect". But the Solicitor-General insists that the equivalent of the term "al" is "at" and that "at" can be construed as equivalent to "during".

The Solicitor-General properly invites attention to the history of the law and from that history would deduce the legislative intention to be effectuated. Let us briefly notice this point. Originally judges of first instance and justices of the peace had no age limits on their tenures of office. Eventually, however, the Philippine Legislature enacted Act No. 2347. That law 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 the Courts of First Instance * * *." This law was held valid. (*Chanco vs. Imperial* [1916], 34 Phil., 329.) Subsequently section 203 of the Administrative Code, relating to justices of the peace, was amended by section 1 of Act No. 3107 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." It was held that the law should be given prospective effect only and was not applicable to justices and auxiliary justices of the peace appointed before it went into effect. (*Segovia vs. Noel* [1925], 47 Phil., 543.) Thereafter the matter again came before the Philippine Legislature and apparently it was in the mind of certain members of the Legislature to make the law fixing the age limit for justices of the peace retroactive in nature. At least the bill as introduced in the Senate, and providing: "Entendiendose, ad.emds, Que los actuales jueces de paz y jueces de paz auxiliares que al tiempo de la vigencia de esta Ley hayan cumplido sesenta y cinco anos de edad, cesaran automaticamente en sus cargos; y el Gobernador General, con el consejo y consentimiento del Senado de Filipinas, hara nuevos nombramientos para cubrir las vacantes que habra de ocurrir por ministerio de esta ley,"—appears to have had this purpose both because of the language used and because of what can be gleaned from the debates on the bill while it was under consideration in the Senate. But when the bill left the Philippine Legislature it was in a different form, for the

word "automaticamente" had been omitted and instead there was to be found the words "el primero de enero de mil novecientos treinta y tres".

The Solicitor-General finally points out that the Secretary of Justice has consistently interpreted the proviso in question as meaning, that all justices of the peace and auxiliary justices of the peace no matter when appointed who had completed the age of sixty-five years prior to the approval of the law and those who shall complete that age thereafter, shall cease to hold office upon their attaining that age. It is of course a cardinal rule that the practical construction of a statute by the department whose duty it is to carry it into execution is entitled to great weight. Nevertheless the court is not bound by such construction and the rule does not apply in cases where the construction is not doubtful.

The fundamental purpose in enacting Act No. 3899, it is argued, was to correct the phraseology of the first proviso to section 203 of the Administrative Code added thereto by Act No. 3107, and to place justices of the peace and auxiliary justices of the peace on the same footing as regards their cessation from office by reason of age. We are asked to effectuate this legislative purpose. We would accede if that result was obtainable by any logical construction of the law whether strict or liberal. But we cannot reach that result when to do so compels us to rewrite a law and to insert words or phrases not found in it. If the court should do that it would pass beyond the bounds of judicial power to usurp legislative power.

The intent of the Legislature to be ascertained and enforced is the intent expressed in the words of the statute. If legislative intent is not expressed in some appropriate manner, the courts cannot by interpretation speculate as to an intent and supply a meaning not found in the phraseology of the law. In other words, the courts cannot assume some purpose in no way expressed and then construe the statute to accomplish this supposed intention.

Delving a little more deeply into the meaning of the law as applied to the case of the petitioner, at the time Act No. 3899 took effect he was one of the "actuales jueces de paz" (present justices of the peace). Giving the term "al tiempo de la vigencia de la ley" the ordinary meaning of "at the time this Act takes effect", which was on November 16, 1931, on that date the petitioner was not sixty-five years of age. Proceeding further, the phrase "hayan cumplido se senta y cinco afios de edad", appearing in English as "have completed sixty-five years of age", is of the past tense and could not regularly be taken to contemplate the future. Finally the phrase "el primero de enero de mil novecientos treinta y tres", in English "on January first nineteen hundred and thirty-three", is also a date in the past, for on that date the petitioner had not yet reached the age of sixtyfive.

Before we conclude, let us again return to the consideration of the law and see if it would be possible under any logical interpretation, to give the law the meaning which the Government insists it should have. Supposing we give to the phrase "al tiempo de la vigencia de esta ley" the unusual meaning of "within the time this Act is effective", but having done so, we then reach the barrier that the petitioner within the time this Act is effective must have completed sixty-five years of age and cease to hold office on January 1, 1933. The petitioner having become sixty-five years of age on September 13, 1934, could not be included under a law which required justices of the peace sixty-five years of age to cease to hold office on January 1, 1933.

For the reasons given, we are of the opinion that the natural and reasonable meaning of the language used in Act No. 3899 leaves room for no other deduction than that a justice of the peace appointed prior to the approval of the Act and who completed sixty-five years of age on September 13, 1934, subsequent to the approval of the Act, which was on November 16, 1931, and who by the law was required to cease to hold office on January 1, 1933, is not affected by the said Act. Accordingly it is our judgment that the respondent Esteban T. Villar be ousted from the office of justice of the peace of Malinao, Albay, and that the petitioner Felipe Regalado be placed in possession of the same. So ordered, without special pronouncement as to the costs.

Villa-Real, Imperial, Butte, and Goddard, JJ., concur.

Writ granted.

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