

DALUMA ANGGAY, ABUBACAR UNTILING, OTE SULTAN, DIMAPINTO MANUBAC, MALAMIT SULOG, CONDAROAN ANARIG, SOLAIMAN DERON, MADID L. ALI, SAMUEL CHEN, GIONGCAT MILICAN AND CASAN IMAM, PET...

G.R. No. 78189. April 15, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Petitioners are the duly elected Barangay Captains of Balo-i, Lanao del Norte in the last Barangay elections of May 1982. They assumed office and performed their functions continuously up to April 1987 when respondents OIC Governor of Lanao del Norte and OIC Mayor of Balo-i, Lanao del Norte issued orders for their removal and replacement by the other respondents herein by virtue of their designations dated January 27, 1987 as officers-in-charge of their respective Barangays.[1]

The respondents aver that the removal or replacement of petitioners was within the period of one year from February 25, 1986 to February 24, 1987 as provided for in Section 2, Article III of the Freedom Constitution, which provides:

"All elective and appointive officials and employees under the 1973 Constitution shall continue in office until otherwise provided by proclamation or executive order or upon designation or appointment and qualification of their successors, if such is made within a period of one year from February 25, 1986."

The designations of said respondents were dated January 27, 1987 and they appear to have assumed office on January 28, 1987.

An examination, however, of the Oaths of Office of said respondents[2] shows that while the respondents took their Oaths of Office on January 28, 1987 before respondent Municipal Mayor Lomondot, their respective Residence Certificates appearing at the bottom of their respective Oaths of Office reveal that they in fact took their oath beyond the one-year period provided for by the Freedom Constitution. The Residence Certificates of said respondents are: Busran Rangaig - April 13, 1987; Sarip B. Usman - April 7, 1987; Musacala Dipo - March 6, 1987; Esmail Mudag - March 9, 1987; Halim Maruhom - March 20, 1987; Muslimen Macaurao - March 22, 1987; and Omar Oti - March 19, 1987,[3] bely the claim of said respondents that they took their oath on January 28, 1987. It corroborates the protestation of petitioners that they were relieved of the office only in April 1987, way beyond the one-year period above provided in the Freedom Constitution.[4]

Verily, under Section 44 of the Local Government Code, the term of office of the said Barangay Captains is for six years from the time petitioners were elected in the last Barangay elections of May 1982 and they shall hold office up to June 30, 1988. The next elections of Barangay officials shall be held on the second day of May 1988.

Section 37 of the Omnibus Election Code provides as follows:

"Sec. 37. Regular election of barangay officials.- The election for barangay officials shall be held throughout

the Philippines in the manner herein prescribed on the second Monday of May Nineteen hundred and eighty-eight and on the same day every six years thereafter.

The officials elected shall assume office on the thirtieth day of June next following the elections and shall hold office for six years and until their successors shall have been elected and qualified."

Under Section 60 of Batas Pambansa Blg. 337, otherwise known as the Local Election Code, an elected local official may be suspended or removed only on the grounds provided for by law as follows:

"Sec. 60. Suspension and Removal; Grounds.- An elective local official may be suspended or removed from office on any of the following grounds committed while in office:

- (1) Disloyalty to the Republic of the Philippines;
- (2) Culpable violation of the Constitution;
- (3) Dishonesty, oppression, misconduct in office and neglect of duty;
- (4) Commission of any offense involving moral turpitude;
- (5) Abuse of authority;
- (6) Unauthorized absence for three (3) consecutive months.

The removal of petitioners was not based on any of the foregoing grounds. Thus, the orders for their replacement should be struck down.

WHEREFORE, the petition is hereby GRANTED and the orders of the respondents OIC Governor and OIC Mayor of January 27, 1987 designating the other respondents as officers-in-charge of the Barangay offices held by petitioners[5] are hereby declared null and void and respondents are hereby permanently enjoined from replacing, removing and/or taking over the position of petitioners as Barangay Captains of heir respective barangays. This decision is immediately executory.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.

[1] Annexes A to A-7 of the Petition.

[2] Annexes A to A-7 of Petitioners' reply to comment.

[3] Footnote reference not found in the original copy.

[4] Section 2, Article III, Freedom Constitution.

[5] Annexes A to A-7 of the Petition.

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