

ANICETO SIETE, PETITIONER, VS. SECRETARY OF LOCAL GOVERNMENT LUIS T. SANTOS AND PORFERIO CHIONG, JR., RESPONDENTS.

G.R. No. 82421. September 26, 1990

Ponente: PARAS, J.

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PARAS, J.:

These eight (8) cases have one main issue in common, which is the validity of the removal of the petitioners from office due to the reorganization of the Department of local Government. Hence, this joint decision.

G.R. No. 82421 - Aniceto Siete v. Luis. T. Santos

Respondent Secretary of Local Government Luis T. Santos in a memorandum dated March 11, 1988, ordered incumbent OIC-Mayor Geofredo Ymalay to turn over the Office of the Mayor to respondent LGO Porferio Chiong, Jr. who will act as Officer-in-Charge, Office of the Mayor, Tangub City, until such time as the duly elected officer shall have qualified thereto (Rollo, p. 13). However, petitioner Aniceto Siete, the duly proclaimed Vice-Mayor of Tangub in the 1988 local election and presently discharging the function of said office, believes that he is the one legally entitled to discharge the functions of Mayor in case of vacancy pursuant to Section 172 of the Local Government Code regardless of whether the vacancy is permanent or temporary. Hence, he filed this special civil action for certiorari and prohibition with prayer for preliminary injunction praying, among others, that he be declared lawfully mandated to assume and to discharge the duties of the Office of the Mayor of Tangub City while the pre-proclamation controversy involving the said office remain unresolved, and until the duly elected Mayor shall have qualified thereto.

G.R. No. 83019 - Balt et al. vs. Santos

Petitioner Bayan G. Balt was designated on September 16, 1986 as Member of the Lupong Tagapagpaganap ng Pook (LTP), Regional Autonomous Government, Region XII, by then Secretary of Local Government Aquilino Q. Pimentel, Jr. (Rollo, Annex "A"; p. 17). He has been serving for over one (1) year as member of the LTP in the Regional Autonomous Government in Region XII until the designation in his stead on January 12, 1988 of respondent Dr. Ali Basher Lucman as Officer-in-Charge of said office, by now respondent Secretary of Local Government Luis T. Santos (Rollo, Annex "B", p. 18). On the other hand, petitioner Diego M. Palomares, Jr., was designated on September 12, 1986 as Member of the Sangguniang Pampook (Regional Assembly) in Autonomous Region XII, also by then Secretary of Local Government Aquilino Q. Pimentel, Jr. (Rollo, Annex "C", p. 19) and has been serving over one (1) year as such until the designation in his stead on December 29, 1987 of respondent Banasing Macarambon, Jr., also by now respondent Secretary of Local Government Luis T. Santos (Rollo, Annex "D", p. 21). The designation of petitioners Balt and Palomares to their respective positions on September 16, 1986 and September 12, 1986 were made within one (1) year from February 25, 1986, as provided for in Section 2, Article III of Proclamation No. 3 (otherwise known as the "Freedom Constitution") promulgated on March 25, 1986 (Rollo, Petition, p. 5). On the other hand, the designations of respondents Lucman and Macarambon, Jr. on

January 12, 1988 and December 29, 1987, respectively, were made after the ratification of the 1987 Constitution on February 2, 1987 (Ibid.). Failing to secure remedy from the Office of the President regarding their ouster from their respective positions (Rollo, Annex "G", pp. 27-31), they filed a petition for quo warranto with this Court to annul the memorandum issued by Secretary Luis T. Santos designating private respondents to their above-mentioned positions.

G.R. NO. 83470 - Jacob Montesa v. Santos, et al.

On August 28, 1986, Minister Aquilino Q. Pimentel, Jr., appointed Atty. Jacob F. Montesa to replace Atty. Delfin Samson as Legal Counsel of the Ministry of Local Government (Rollo, Annex "D", p. 19). On April 8, 1988, respondent Secretary Luis T. Santos issued Department Order No. 88-116 designating respondent Nicanor M. Patricio as Chief of the Legal Service, in his stead. Atty. Jacob F. Montesa, was directed to report to the Office of the Secretary to perform special assignments under the direction of the Secretary (Rollo Annex "A", p. 16). Aggrieved by his removal from office, petitioner Jacob F. Montesa filed a request for reconsideration of the Department Order which was rendered moot with the appointment of respondent Nicanor Patricio as Legal Service Chief of the Department of Local Government, on April 11, 1988 by the President herself (Rollo, Annex "C", p. 18). Hence, a petition for Quo Warranto with preliminary injunction and/or restraining order seeking to annul the designation and later the appointment of Mr. Patricio as violative of due process and security of tenure.

G.R. No. 83654 - De Vera, et al. vs. Santos, et al.

In 1987, the then Metro Manila Governor, Jose D. Lina, Jr., in his separate letters, all dated January 19, 1987, designated petitioners as OIC Barangay Captains of their respective barangays, replacing private respondents. The designations were approved by Rodolfo B. Valentino the then OIC Mayor of Marikina, Metro Manila (Rollo, pp. 16-19) and they immediately assumed office. Private respondents, in a joint letter-appeal dated March 9, 1987 with the Department of Local Government (DLG), docketed as Adm. Case No. 8-IV-18, assailed the validity and legality of petitioners' designations and their consequent removal from office. They prayed for their immediate reinstatement which was acted on favorably by respondent Secretary Luis T. Santos, in Memorandum No. 2, dated November 20, 1987 reinstating private respondents (Ibid., p. 24). Respondent Secretary in his resolution of December 9, 1987 (Ibid., pp. 58-63), denied all the requests for reconsideration filed by the petitioners. Hence, the instant petition for quo warranto, with preliminary injunctions seeking to be declared the duly designated, appointed Barangay Captains.

G.R. No. 84056 – Cano, et al. vs. Santos, et al.

On October 9, 1986, former Minister of Local Government Aquilino Q. Pimentel, Jr. designated petitioners Benito Cano, Rogelio Esmele, Ruben Calpo, Herminigildo Radona, Agripino Saromo, Ernesto Domingo, Mario de Leon, Jose Orcullo, Guillermo Mendoza and Andres Reyes as officers-in-charge, offices of the barangay captains, vice some of the herein respondents in the eleven (11) barangays, City of Olongapo, Zambales (Rollo, p.86). On April 17-28, 1988, barangay assembly elections for the offices of the barangay captains were held in said eleven (11) barangays of Olongapo City, pursuant to Chapter 6, Book 11, Local Government Code, in accordance with the rules and regulations of the Department of Local Government and under the close supervision of Local Government Officer Ruperto Ilaya. On June 27, 1988, Mayor Richard Gordon of Olongapo City apprised public respondent Secretary Luis T. Santos of the results of said barangay assembly elections naming private respondents as elected barangay captains. On June 28, 1988, public respondent issued the questioned memorandum designating respondents as officers-in-charge, offices of the barangay captains vice petitioners (Ibid, p. 11). Hence, this petition for prohibition and/or quo warranto with writ of preliminary injunction assailing the validity of said memorandum.

G.R. No. 84212 - Montesa v. Santos, et al.

On April 8, 1986, petitioner Felipe F. Montesa was designated as Regional Director, Region X, of the Ministry of Local Government by then Minister Aquilino Q. Pimentel effective upon assumption to duty. He took his oath and assumed office on April 14, 1986 (Rollo, p. 25). On May 10, 1986, then Executive Secretary Joker P. Arroyo, by authority of President Corazon C. Aquino, appointed petitioner to the position of Regional Director, Region X, Ministry of Local Government (Ibid., p. 26). After the ratification of the 1987 Constitution, that, is on July 24, 1987, petitioner was again appointed as Regional Director, Region X, Department of Local Government, by said Executive Secretary Joker P. Arroyo, by authority of the President (Ibid., p. 27). On July 25, 1987, the President by virtue of her legislative power, promulgated Executive Order No. 262 reorganizing the Department of Local Government, declaring inter alia, that all officers and employees of the Department shall upon approval thereof, be in a hold-over capacity and the incumbents whose positions are abolished or who are not reappointed shall be deemed separated from the service. On June 20, 1988, respondent Jaime L. Madridano was appointed by the President as Regional Director, Region X, vice petitioner (Ibid.) and the latter was so informed in a memorandum on June 27, 1988 by respondent Secretary Luis T. Santos. Hence, the instant petition for quo warranto with preliminary injunction and damages seeking to annul the questioned appointment.

G.R. No. 84865 - Reyes v. Colet and Santos

On January 14, 1987, petitioner was appointed by then Officer-in-Charge Mayor of Quezon City, Brigido Simon, Jr., as Barangay Captain of Barangay UP Campus, Diliman, Quezon City (Rollo, Annex "A", p. 11). He discharged his duties the following day (Rollo, Petition, p. 4). On August 2, 1988, however, public respondent Luis Santos appointed private respondent Angel V. Colet to the same position occupied by petitioner (Rollo, Annex "B", p. 12). Private respondent thereafter immediately assumed office and started discharging the functions of petitioner (Rollo, Petition, p. 4). Hence, this petition for Quo Warranto assailing aforesaid designation.

G.R. No. 86038 - Abueme v. Santos, et al.

On September 1, 1986, petitioner was appointed Assistant Director of the Bureau of Local Government Development (BLGD), then Ministry of Local Government, by then Minister Aquilino Q. Pimentel, Jr., pursuant to Executive Order No. 17 (Rollo, Annex "D", p. 14). On the same date, petitioner assumed office (Rollo, Petition, p. 4). As earlier stated, on July 25, 1987, the President, by virtue of her legislative power, issued Executive Order No. 262 otherwise known as the Reorganization Act of the Department of Local Government. Pursuant thereto, on June 20, 1988, the President appointed respondent Geronimo A. Alilio as Assistant Director of BLGD, DLG (Rollo, Annex "B", pp. 11-12) and was so informed by Secretary Santos (Rollo, Annex "A", p. 10). Hence, this petition for quo warranto with preliminary injunction and/or restraining order seeking to nullify said appointment as violative of due process and security of tenure.

G.R. Nos. 82421, 83019, 83654, 84056 and 84865, have been rendered moot and academic by the results of the elections which finally settled the claims for the contested positions and, therefore, the corresponding petitions should be dismissed.

In G.R. No. 82421 neither the incumbent Vice-Mayor Aniceto Siete nor the designee LGO Porfirio Chiong, Jr. can now assume the position of Mayor which is presently occupied by Eleno Regidor, Jr. the duly elected Mayor of Tangub City, as proclaimed by the City Board of Governors on May 5, 1988.

In G.R. No. 83019, the contested positions of Members of the Lupong Tagapagpaganap ng Pook (LTP) Regional Autonomous Government, Region XII have been abolished by the enactment of R.A. 6734 which took effect on November 19, 1989. The elections in the Autonomous Region in Mindanao were held last February 17, 1990 by

virtue of which the members holding such positions have ceased in their office. Accordingly, neither petitioners nor respondents can claim to be entitled thereto.

In the same manner, the elections for Barangay Captains have settled the claims for the contested positions, in G.R. No. 83654 where both petitioners and respondents had to give way to the duly elected Barangay Captains in the elections held in March 1989; G.R. No. 84056 where the ten (10) private respondents were among those elected as barangay captains in eleven (11) barangays of Olongapo City on April 17-28, 1988; and in G.R. No. 84865 where petitioner did not run for election while private respondent ran but garnered only fifth place and was allocated the position of Kagawad of the Barangay U.P. Campus.

On the other hand, petitioners assail the validity of the appointments made by the President of the Philippines in G.R. No. 83470 to Nicanor M. Patricio as Chief Legal Service of the Department of Local Government vice Jacob F. Montes; in G.R. No. 84212 to Jaime L. Madridano as Regional Director of Region X, Department of Local Government (DLG) vice Felipe F. Montesa and in G.R. No. 86038 to Geronimo A. Alilio as Assistant Director, Bureau of Local Government (DLG) vice Virgilio A. Abueme, all allegedly repugnant to and violative of the constitutional guarantees on due process and security of tenure.

Petitioners' contentions are impressed with merit.

All of said appointments were made pursuant to Executive Order No. 262, otherwise known as the Reorganization Act of the Department of Local Government. It provides among others, that upon approval of said Order, the officers and employees of the Department shall be in a hold-over capacity until such time that the reorganization of the Department is completed and the incumbents whose positions are not included therein shall be deemed separated from the service.

Thus, petitioners are deemed under said Order to hold office only in a hold-over capacity and will cease to do so only if their successor is appointed AND such appointment of the successor and the consequent ouster from office of the incumbent are made in GOOD FAITH.

Aside from the fact that it is well-settled that the right to hold a public office under our political system is neither a natural nor a vested right (*Aparri v. Court of Appeals*, 127 SCRA 237-238 [1984]; *Mechem "Public Office and Officers"*, Sec 64), Section 16, Article XVIII of the 1987 Constitution explicitly authorizes the removal of career civil service employees not for cause but as a result of the reorganization pursuant to Proclamation No. 3 dated March 25, 1986 and the reorganization following the ratification of said Constitution.

In fact, the right of the State to reorganize the Government resulting in the separation of career civil service employees under the 1987 Constitution is beyond dispute, but as emphasized in the *Mison* case (G.R. Nos. 81954, 81967 and 82023, August 8, 1989) and in the cases of *Bondoc vs. Sec. of Science and Technology* (G.R. No. 83025), *Quisumbing vs. Tupas* (G.R. No. 87401) and *Hamed vs. Civil Service Commission* (G.R. No. 89069), all of which having been promulgated on July 19, 1990, said reorganization, ouster, and appointments of successors must be made in GOOD FAITH.

PREMISES CONSIDERED, G.R. Nos. 82421, 83019, 83654, 84056 and 84865 are hereby DISMISSED for being moot and academic. On the other hand, G.R. Nos. 83470, 84212 and 86038 are hereby GRANTED and the petitioners therein are hereby reinstated to their former position since their ouster was evidently made not in GOOD FAITH, there being no justifiable reason for their removal simply because they were in a hold-over capacity.

SO ORDERED.

Gutierrez, Jr., Gancayco, Bidin, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Fernan, C.J., and Narvasa, J., joins J. Feliciano in his dissenting statement.

Melencio-Herrera, J., concur in the dissent of J. Feliciano.

Cruz, J., see separate opinion.

Feliciano, J., see separate dissenting statement.

Padilla, Sarmiento, and Cortes, JJ., in the result.

Montesa vs Santos : 83470 : September 26, 1990 : J. Cruz : En Banc : Dissenting Opinion 6 pt 6 pt 0 3
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DISSENTING OPINION**CRUZ, J.:**

While reiterating my support for Dario v. Mison (in which I filed a separate concurring opinion), I feel I must withhold my concurrence from the herein ponencia insofar as it grants the petitions in G.R. No. 83470, G.R. No. 84212 and G.R. No. 86038, on the justification that the appointments of the private respondents were not made in good faith. There is no explanation or elaboration of this conclusion, nor is it even at least suggested in the narration of facts. In Mison there was such a finding and it was thoroughly and meticulously discussed. I find no similar effort in the case at bar, only a cursory pronouncement of the absence of good faith.

As Mr. Justice Feliciano correctly observes, "the lack of good faith cannot be assumed casually," more so, if I might add, since good faith is presumed. Hence, in the absence of a more persuasive showing that the challenged appointments were made in bad faith, I must also dissent in the said cases.

Siete vs Santos : 82421 : September 21, 1990 : J. Feliciano : En Banc : Dissenting Opinion Clean 6 pt 6 pt 0 3
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DISSENTING OPINION**FELICIANO, J.:**

To the extent that G.R. No. 82421 and the other cases therewith consolidated are being decided by the majority on the basis of the opinion of the majority in Dario v. Hon. Salvador M. Mison, et al., G.R. No. 81954 and related cases, all promulgated on 8 August 1989, I dissent on the grounds stated in the dissenting opinion of Mme. Justice Melencio-Herrera in said cases in which separate opinion I had joined.

In the majority opinion in the instant cases, my distinguished brother in the Court Mr. Justice Paras states that the Mison cases and subsequent cases (Bondoc v. Secretary of Science and Technology, G.R. No. 83025; Quisumbing v. Tupas, G.R. No. 87401; and Hamed v. Civil Service Commission, G.R. No. 89069, all

promulgated on 19 July 1990), held that the "reorganization, ouster, and appointments of successors must be made in GOOD FAITH" (Emphasis in the original). The instant opinion, however, does not discuss at all why the reorganization presumably involved in all of the instant cases is being held to have been done not in good faith. There is no inquiry into the facts and actual practice followed by the Department of Local Government in planning and implementing the reorganization of that Department pursuant to Executive Order No. 262 (the "Reorganization Act of the Department of Local Government"). Since the lack of good faith cannot be assumed casually, I believe it is incumbent upon the Court to present here and analyze the facts and precisely to indicate where the failure of good faith occurred. Because the majority in the Mison cases found the reorganization of the Bureau of Customs under Executive Order No. 127 not to have been carried out in good faith, surely does not mean that the reorganization of other bureaus and offices of the Government was also not carried out in good faith.

Accordingly, I vote to dismiss the Petitions in G.R. Nos. 83470, 84212 and 86038. Upon the other hand, I agree that the other cases consolidated should be dismissed for having become moot and academic. Indeed these other cases do not appear to involve at all Executive Order No. 262 and lumping them all together here may have been counter-productive.

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