

HON. GEMILIANO C. LOPEZ, JR., IN HIS CAPACITY AS CITY MAYOR OF MANILA, PETITIONER, VS. THE CIVIL SERVICE COMMISSION, HON. DANILO R. LACUNA, IN HIS CAPACITY AS VICE-MAYOR AND PRE...

G.R. No. 87119. April 16, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The only question in this petition, denominated as a "direct appeal under Article VIII, Section 5(2)(e), of the Constitution and Section 9(3), of Batas Blg. 129," is whether the City Council of Manila still has the power to appoint Council officers and employees under Republic Act No. 409, otherwise known as the Charter of the City of Manila, or whether the power is now vested with the City Mayor pursuant to Republic Act No. 5185, the Decentralization Law, and Batas Blg. 337, the Local Government Code. The facts are as follows:

On September 13, 1988, the Vice-Mayor of Manila and Presiding Officer of the City Council of Manila, the Hon. Danilo R. Lacuna, submitted to the Civil Service Commission, through the Regional Director of the National Capital Region, the appointments of nineteen officers and employees in the Executive Staff of the Office of the Presiding Officer, City Council of Manila, pursuant to the provisions of Section 15, of said Republic Act No. 409, as amended, which reads:

SEC. 15. x x x

x x x The Board shall appoint and the Vice Mayor shall sign all appointments of the other employees of the Board.[1]

The City Budget Officer of Manila later sought from the Personnel Bureau of the Mayor's office "comment and/or recommendation" on whether the payroll of the newly appointed employees of the City Council may be paid on the basis of appointments signed by the Vice-Mayor.[2] The Personnel Bureau then forwarded the query to the City Legal Officer who, in a 3rd endorsement dated September 19, 1988,[3] rendered an opinion that the proper appointing officer is the City Mayor and not the City Council. This opinion was transmitted by the Secretary to the City Mayor to the Commission.

On February 1, 1989, the Commission promulgated Resolution No. 89-075, and held that contrary to the opinion of the City Legal Officer, it is the City Council to which the appointing power is vested. The dispositive portion thereof is as follows:

WHEREFORE, foregoing premises considered, the Commission resolved to rule, as it hereby rules that the proper appointing authority of the officers and employees of the City Council of Manila is the City Council and the signatory of individual appointments thus issued is the City Vice-Mayor of Manila.[4]

As we stated at the outset, the issue is whether or not Section 15, *supra*, of the Charter of the City of Manila has

been repealed, and as a result, the City Council can no longer tender appointments to Council positions.

As we also mentioned at the outset, this petition has been brought by way of a "direct appeal" from the resolution of the Civil Service Commission pursuant supposedly to the Constitution and Batas Blg. 129. In this connection, we have held that no appeal lies from the decisions of the Civil Service Commission, and that parties aggrieved thereby may proceed to this Court alone on certiorari under Rule 65 of the Rules of Court, within thirty days from receipt of a copy thereof, pursuant to Section 7, Article IX, of the Constitution. We quote:

SEC. 7. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.[5]

As we held, the Civil Service Commission, under the Constitution, is the single arbiter of all contests relating to the civil service and as such, its judgments are unappealable and subject only to this Court's certiorari jurisdiction.[6]

The petitioner's omission notwithstanding, we are nevertheless accepting the petition and because of the important public interest it involves, we are considering it as a petition for certiorari under Rule 65, considering further that it was filed within the thirty-day period.[7]

As the petitioner contends, Section 15 of Republic Act No. 409 as amended has supposedly been repealed by Republic Act No. 5185, specifically, Section 4 thereof, which we quote, in part:

xxx xxx xxx

The City Assessor, City Agriculturist, City Chief of Police and City Chief of Fire Department and other heads of offices entirely paid out of city funds and their respective assistants or deputies shall, subject to civil service law, rules and regulations, be appointed by the City Mayor: Provided, however, That this section shall not apply to Judges, Auditors, Fiscals, City Superintendents of Schools, Supervisors, Principals, City Treasurers, City Health Officers and City Engineers.

xxx xxx xxx

All other employees, except teachers, paid out of provincial, city or municipal general funds, road and bridge funds, school funds, and other local funds, shall, subject to civil service law, rules and regulations, be appointed by the Provincial Governor, City or Municipal Mayor upon recommendation of the office head concerned. x x x[8]

and by Batas Blg. 337, we likewise quote:

SEC. 171. Chief Executive; Compensation, Powers, and Duties. —

xxx xxx xxx

(2) The city mayor shall:

xxx xxx xxx

(h) Appoint, in accordance with civil service law, rules and regulations, all officers and employees of the city, whose appointments are not otherwise provided in this Code:[9]

There is no doubt that Republic Act No. 409, which provides specifically for the organization of the Government of the City of Manila, is a special law, and whereas Republic Act No. 5185 and Batas Blg. 337, which apply to municipal governments in general, are general laws. As the Solicitor General points out, and we agree with him, it is a canon of statutory construction that a special law prevails over a general law—regardless of their dates of

passage—and the special is to be considered as remaining an exception to the general.[10]

So also, every effort must be exerted to avoid a conflict between statutes. If reasonable construction is possible, the laws must be reconciled in that manner.

Repeals of laws by implication moreover are not favored, and the mere repugnancy between two statutes should be very clear to warrant the court in holding that the later in time repeals the other.[11]

Why a special law prevails over a general law has been put by the Court as follows:

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x x x The Legislature consider and make provision for all the circumstances of the particular case. The Legislature having specially considered all of the facts and circumstances in the particular case in granting a special charter, it will not be considered that the Legislature, by adopting a general law containing provisions repugnant to the provisions of the charter, and without making any mention of its intention to amend or modify the charter, intended to amend, repeal, or modify the special act. (Lewis vs. Cook County, 74 Ill. App., 151; Philippine Railway Co. vs. Nolting, 34 Phil., 401.)[12]

In one case, we held that Republic Act No. 5185 did not divest the Mayor of Manila of his power under the Charter of the City of Manila to approve the city budget.[13]

We also agree with the Civil Service Commission that the provisions of Republic Act No. 5185, giving mayors the power to appoint all officials "entirely paid out by city funds"[14] and those of Batas Blg. 337, empowering local executives with the authority to appoint "all officers and employees of the city,"[15] were meant not to vest the city mayors per se with comprehensive powers but rather, to underscore the transfer of the power of appointment over local officials and employees from the President to the local governments and to highlight the autonomy of local governments. They were not meant, however, to deprive the City Council of Manila for instance, its appointing power granted by existing statute, and after all, that arrangement is sufficient to accomplish the objectives of both the Decentralization Act and the Local Government Code, that is, to provide teeth to local autonomy.

In the light of all the foregoing, we do not find any grave abuse of discretion committed by the respondent Commission.

WHEREFORE, the petition is DISMISSED. No costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] Rep. Act No. 409, as amended by Rep. Act No. 1571, sec. 15.

[2] Rollo, 17.

[3] Id., 19.

[4] Id., 27.

[5] CONST., art. IX, sec. 7; Dario v. Mison, G.R. Nos. 81954, 81967, 82023, 83737, 85310, 85335, 86241, August 8, 1989, 176 SCRA 84.

[6] Dario v. Mison, *supra*.

[7] The petitioners received a copy of Resolution No. 89-075 of the Civil Service Commission on February 15, 1989 (rollo, id., 5); the petition was filed on March 2, 1989.

[8] Rep. Act No. 5185, sec. 4.

[9] Batas Blg. 337, sec. 171(h).

[10] Butuan Sawmill, Inc. v. City of Butuan, No. L-21516, April 29, 1966, 16 SCRA 755.

[11] Manila Railroad Co. v. Rafferty, 40 Phil. 224, 228 (1919).

[12] *Supra*, 230.

[13] Cabigao v. Villegas, No. L-31463, August 31, 1970, 34 SCRA 632.

[14] Rep. Act No. 5785, sec. 4, *supra*.

[15] Batas Blg. 337, sec. 171(h), *supra*.

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