

EN BANC

[G.R. No. 147870, July 31, 2002]

RAMIR R. PABLICO, PETITIONER, VS. ALEJANDRO A. VILLAPANDO, RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

May local legislative bodies and/or the Office of the President, on appeal, validly impose the penalty of dismissal from service on erring elective local officials?

This purely legal issue was posed in connection with a dispute over the mayoralty seat of San Vicente, Palawan. Considering that the term of the contested office expired on June 30, 2001,^[1] the present case may be dismissed for having become moot and academic.^[2] Nonetheless, we resolved to pass upon the above-stated issue concerning the application of certain provisions of the Local Government Code of 1991.

The undisputed facts are as follows:

On August 5, 1999, Solomon B. Maagad, and Renato M. Fernandez, both members of the Sangguniang Bayan of San Vicente, Palawan, filed with the *Sangguniang Panlalawigan* of Palawan an administrative complaint against respondent Alejandro A. Villapando, then Mayor of San Vicente, Palawan, for abuse of authority and culpable violation of the Constitution.^[3] Complainants alleged that respondent, on behalf of the municipality, entered into a consultancy agreement with Orlando M. Tiape, a defeated mayoralty candidate in the May 1998 elections. They argue that the consultancy agreement amounted to an appointment to a government position within the prohibited one-year period under Article IX-B, Section 6, of the 1987 Constitution.

In his answer, respondent countered that he did not appoint Tiape, rather, he merely hired him. He invoked Opinion No. 106, s. 1992, of the Department of Justice dated August 21, 1992, stating that the appointment of a defeated candidate within one year from the election as a consultant does not constitute an appointment to a government office or position as prohibited by the Constitution.

On February 1, 2000, the *Sangguniang Panlalawigan* of Palawan found respondent guilty of the administrative charge and imposed on him the penalty of dismissal from service.^[4] Respondent appealed to the Office of the President which, on May 29, 2000, affirmed the decision of the *Sangguniang Panlalawigan* of Palawan.^[5]

Pending respondent's motion for reconsideration of the decision of the Office of the President, or on June 16, 2000, petitioner Ramir R. Pablico, then Vice-mayor of San Vicente, Palawan, took his oath of office as Municipal Mayor. Consequently, respondent filed with the Regional Trial Court of Palawan a petition for certiorari and

prohibition with preliminary injunction and prayer for a temporary restraining order, docketed as SPL Proc. No. 3462.^[6] The petition, seeks to annul, inter alia, the oath administered to petitioner. The Executive Judge granted a Temporary Restraining Order effective for 72 hours, as a result of which petitioner ceased from discharging the functions of mayor. Meanwhile, the case was raffled to Branch 95 which, on June 23, 2000, denied respondent's motion for extension of the 72-hour temporary restraining order.^[7] Hence, petitioner resumed his assumption of the functions of Mayor of San Vicente, Palawan.

On July 4, 2000, respondent instituted a petition for certiorari and prohibition before the Court of Appeals seeking to annul: (1) the May 29, 2000 decision of the Office of the President; (2) the February 1, 2000, decision of the *Sangguniang Panlalawigan* of Palawan; and (3) the June 23, 2000 order of the Regional Trial Court of Palawan, Branch 95.

On March 16, 2001, the Court of Appeals^[8] declared void the assailed decisions of the Office of the President and the *Sangguniang Panlalawigan* of Palawan, and ordered petitioner to vacate the Office of Mayor of San Vicente, Palawan.^[9] A motion for reconsideration was denied on April 23, 2001.^[10] Hence, the instant petition for review.

The pertinent portion of Section 60 of the Local Government Code of 1991 provides:

Section 60. Grounds for Disciplinary Actions. – An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

x x x x x x x x x

An elective local official may be removed from office on the grounds enumerated above by order of the proper court.
(Emphasis supplied)

It is clear from the last paragraph of the aforecited provision that the penalty of dismissal from service upon an erring elective local official may be decreed only by a court of law. Thus, in *Salalima, et al. v. Guingona, et al.*,^[11] we held that "[t]he Office of the President is without any power to remove elected officials, since such power is exclusively vested in the proper courts as expressly *provided* for in the last paragraph of the aforequoted Section 60."

Article 124 (b), Rule XIX of the Rules and Regulations Implementing the Local Government Code, however, adds that – "(b) An elective local official may be removed from office on the grounds enumerated in paragraph (a) of this Article [The grounds enumerated in Section 60, Local Government Code of 1991] by order of the proper court or the disciplining authority whichever first acquires jurisdiction to the exclusion of the other." The disciplining authority referred to pertains to the *Sangguniang Panlalawigan*/Panlungsod/Bayan and the Office of the President.^[12]

As held in *Salalima*,^[13] this grant to the "disciplining authority" of the power to remove elective local officials is clearly beyond the authority of the Oversight Committee that prepared the Rules and Regulations. No rule or regulation may alter, amend, or contravene a provision of law, such as the Local Government Code.