

## SECOND DIVISION

[ G.R. No. 131977, February 04, 1999 ]

**PEDRO MENDOZA, PETITIONER, VS. RAY ALLAS AND  
GODOFREDO OLORES, RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

Before us, petitioner prays for the execution of the decision of the trial court<sup>[1]</sup> granting his petition for *quo warranto* which ordered his reinstatement as Director III, Customs Intelligence and Investigation Service, and the payment of his back salaries and benefits.

Petitioner Pedro Mendoza joined the Bureau of Customs in 1972. He held the positions of Port Security Chief from March 1972 to August 1972, Deputy Commissioner of Customs from August 1972 to September 1975, Acting Commissioner of Customs from September 1975 to April 1977 and Customs Operations Chief I from October 1987 to February 1988.<sup>[2]</sup> On March 1, 1988, he was appointed Customs Service Chief of the Customs Intelligence and Investigation Service (CIIS). In 1989, the position of Customs Service Chief was reclassified by the Civil Service as "Director III" in accordance with Republic Act No. 6758 and National Compensation Circular No. 50. Petitioner's position was thus categorized as "Director III, CIIS" and he discharged the function and duties of said office.

On April 22, 1993, petitioner was temporarily designated as Acting District Collector, Collection District X, Cagayan de Oro City. In his place, respondent Ray Allas was appointed as "Acting Director III" of the CIIS. Despite petitioner's new assignment as Acting District Collector, however, he continued to receive the salary and benefits of the position of Director III.

In September 1994, petitioner received a letter from Deputy Customs Commissioner Cesar Z. Dario, informing him of his termination from the Bureau of Customs, in view of respondent Allas' appointment as Director III by President Fidel V. Ramos. The pertinent portion of the letter reads:

"Effective March 4, 1994, Mr. Ray Allas was appointed Director III by President Fidel V. Ramos and as a consequence, [petitioner's] services were terminated without prejudice to [his] claim for all government benefits due [him]."

Attached to the letter was the appointment of respondent Ray Allas as "Director III, CIIS, Bureau of Customs, *vice* Pedro Mendoza."

Petitioner wrote the Customs Commissioner demanding his reinstatement with full back wages and without loss of seniority rights. No reply was made.

On December 2, 1994, petitioner filed a petition for *quo warranto* against respondent Allas before the Regional Trial Court, Paranaque, Branch 258.<sup>[3]</sup> The case was tried and on September 11, 1995, a decision was rendered granting the petition. The court found that petitioner was illegally terminated from office without due process of law and in violation of his security of tenure, and that as he was deemed not to have vacated his office, the appointment of respondent Allas to the same office was void *ab initio*. The court ordered the ouster of respondent Allas from the position of Director III, and at the same time directed the reinstatement of petitioner to the same position with payment of full back salaries and other benefits appurtenant thereto.

Respondent Allas appealed to the Court of Appeals. On February 8, 1996, while the case was pending before said court, respondent Allas was promoted by President Ramos to the position of Deputy Commissioner of Customs for Assessment and Operations. As a consequence of this promotion, petitioner moved to dismiss respondent's appeal as having been rendered moot and academic. The Court of Appeals granted the motion and dismissed the case accordingly. The order of dismissal became final and entry of judgment was made on March 19, 1996.<sup>[4]</sup>

On May 9, 1996, petitioner filed with the court *a quo* a Motion for Execution of its decision. On July 24, 1996, the court denied the motion on the ground that the contested position vacated by respondent Allas was now being occupied by respondent Godofredo Olores who was not a party to the *quo warranto* petition.<sup>[5]</sup>

Petitioner filed a special civil action for *certiorari* and *mandamus* with the Court of Appeals questioning the order of the trial court.<sup>[6]</sup> On November 27, 1997, the Court of Appeals dismissed the petition.<sup>[7]</sup> Hence, this recourse.

Petitioner claims that:

"The Court of Appeals grossly erred in holding that a writ of execution may no longer be issued, considering that respondent Olores who was not a party to the case now occupies the subject position."<sup>[8]</sup>

The instant petition arose from a special civil action for *quo warranto* under Rule 66 of the Revised Rules of Court. *Quo warranto* is a demand made by the state upon some individual or corporation to show by what right they exercise some franchise or privilege appertaining to the state which, according to the Constitution and laws of the land, they cannot legally exercise except by virtue of a grant or authority from the state.<sup>[9]</sup> In other words, a petition for *quo warranto* is a proceeding to determine the right of a person to the use or exercise of a franchise or office and to oust the holder from its enjoyment, if his claim is not well-founded, or if he has forfeited his right to enjoy the privilege.<sup>[10]</sup> The action may be commenced for the Government by the Solicitor General or the fiscal<sup>[11]</sup> against individuals who usurp a public office, against a public officer whose acts constitute a ground for the forfeiture of his office, and against an association which acts as a corporation without being legally incorporated.<sup>[12]</sup> The action may also be instituted by an individual in his own name who claims to be entitled to the public office or position usurped or unlawfully held or exercised by another.<sup>[13]</sup>

Where the action is filed by a private person, he must prove that he is entitled to the controverted position, otherwise respondent has a right to the undisturbed possession of the office.<sup>[14]</sup> If the court finds for the respondent, the judgment should simply state that the respondent is entitled to the office.<sup>[15]</sup> If, however, the court finds for the petitioner and declares the respondent guilty of usurping, intruding into, or unlawfully holding or exercising the office, judgment may be rendered as follows:

"*Sec. 10. Judgment where usurpation found.*-- When the defendant is found guilty of usurping, intruding into, or unlawfully holding or exercising an office, position, right, privilege, or franchise, judgment shall be rendered that such defendant be ousted and altogether excluded therefrom, and that the plaintiff or relator, as the case may be, recover his costs. Such further judgment may be rendered determining the respective rights in and to the office, position, right, privilege, or franchise of all the parties to the action as justice requires."

If it is found that the respondent or defendant is usurping or intruding into the office, or unlawfully holding the same, the court may order:

- (1) The ouster and exclusion of the defendant from office;
- (2) The recovery of costs by plaintiff or relator;
- (3) The determination of the respective rights in and to the office, position, right, privilege or franchise of all the parties to the action as justice requires.<sup>[16]</sup>

The character of the judgment to be rendered in *quo warranto* rests to some extent in the discretion of the court and on the relief sought.<sup>[17]</sup> In the case at bar, petitioner prayed for the following relief:

"WHEREFORE, it is respectfully prayed that respondent be ousted and altogether excluded from the position of Director III, Customs Intelligence and Investigation Service of the Bureau of Customs, and petitioner be seated to the position as the one legally appointed and entitled thereto.

Other reliefs, just or equitable in the premises, are likewise prayed for."<sup>[18]</sup>

In granting the petition, the trial court ordered that:

"WHEREFORE, viewed in the light of the foregoing, judgment is hereby rendered granting this petition for *quo warranto* by:

1. Ousting and excluding respondent Ray Allas from the position of Director III, Customs Intelligence and Investigation Service of the Bureau of Customs; and
2. Reinstating petitioner Pedro C. Mendoza, Jr. to the position of Director III, Customs Intelligence and Investigation Service of the