

The Case of Villena v. the Secretary of the Interior

By GELASIO M. IBARRA

HAS the Secretary of the Interior the power to suspend a municipal mayor from office pending the investigation of the charges against him for official misconduct? This question was answered in the affirmative by our Supreme Court in the case of *Villena, petitioner vs. Secretary of the Interior, respondent*, G. R. No. 46570, decided on April 21, 1939. The facts of this case may be briefly stated as follows: "The Division of Investigation of the Department of Justice, upon the request of the Secretary of the Interior, conducted an inquiry into the conduct of the petitioner, as a result of which the latter was found to have committed bribery, extortion, malicious abuse of authority, and unauthorized practice of the law profession. The respondent, therefore, recommended to the President of the Philippines the suspension of the petitioner which recommendation was granted verbally by the President. The Secretary of the Interior suspended the petitioner from office and thereafter appointed a special investigator to investigate the charges." The Court on this point said: "The fact, however, that the power of suspension is expressly granted by Section 2188 of the Administrative Code to the provincial governor does not mean that the grant is necessarily exclusive and precludes the Secretary of the Interior from exercising a similar power."

With due respect to our Supreme Court, the writer believes

that under the present laws the Secretary of the Interior may not suspend a municipal mayor from office during the pendency of administrative charges. Neither the Constitution of the Philippines nor any other law confers upon the Secretary the power to suspend a municipal official. Provincial governors alone are expressly empowered to suspend municipal officials for causes specified by Section 2188 of the Revised Administrative Code. Thus in the case of *Cornejo vs. Gabriel and Provincial Board of Rizal*, 41 Phil. 188, where the provincial governor, without a hearing, temporarily suspended the municipal president pending the administrative charges against him, the Supreme Court held that the provincial governor in suspending the municipal president from office has only followed the provisions of the law contained in Section 2188 of the Revised Administrative Code. Said Section 2188 provides as follows:

"The provincial governor shall receive and investigate complaints made under oath against municipal officials for neglect of duty, oppression, corruption, or other form of maladministration of office, and conviction by final judgment of any crime involving moral turpitude. For minor delinquency he may reprimand the offender: and if a more severe punishment seems to be desirable, he shall submit written charges touching the matter to the provincial board * * * and he may in such case suspend the officer (not be-

ing the municipal treasurer) pending action by the board, if in his opinion the charge be one affecting the official integrity of the officer in question. Where suspension is thus affected, the written charges against the officer shall be filed with the board within five days."

Commenting on the foregoing statutory provision, the Supreme Court, in the case of *Cornejo vs. Gabriel and Provincial Board of Rizal*, (*supra*) says: "The provincial governor, in receiving and investigating complaints against such officers, may take three courses. For a minor delinquency he may reprimand the offender; but if the maladministration in office is more serious he may temporarily suspend the officer, and thereafter may file written charges against the officer with the provincial board * * *."

The provision of Section 2188 of the Revised Administrative Code is clear. When the power of suspension is limited to specific cases, the suspending authority may not suspend for any cause not so specified. (*Cornejo vs. Naval*, 54 Phil. 8093). It cannot be inferred from the said section that the Secretary of the Interior has also such power of suspension. If the statute is plain and free from ambiguity, and expresses a single, definite, and sensible meaning, it must be interpreted literally, as that meaning is conclusively presumed to be the meaning which the legislature intended to convey. (Black, *Statutory Construction*, 48-50; 25 R. C. L. 962-963). If the law is too narrow in scope, it is for the legislature rather than for the courts to expand it. (*Cornejo vs. Naval*, *supra*).

The Court citing Section 79 (C) of the Administrative

Code stated that "the said section speaks, it is true, of direct control, direction, and supervision over bureaus and offices under the jurisdiction of the Secretary of the Interior, but this section should be interpreted in relation to Section 86 of the same Code which grants to the Department of the Interior executive supervision over the administration of provinces, municipalities, chartered cities, and other local political subdivisions'".

Section 79 (C) should not be interpreted in relation to Section 86 of the Revised Administrative Code. It should be observed, however, that while Section 79 (C) refers to the general grant of power of *control* and *direction* to all Department Heads over all bureaus and offices under their respective jurisdiction, Section 86 refers to the specific grant of power of *supervision* to the Secretary of the Interior over the administration of local governments. Said Section 79 (C) provides as follows:

"The Department Head shall have direct control, direction, and supervision over all bureaus and offices under his jurisdiction and may, any provision of existing law to the contrary, notwithstanding, repeal or modify the decisions of the Chief of said bureaus or offices when advisable in the public interest. The Department Head may order the investigation of any act or conduct of any person in the service of any bureau or office under his department and in connection therewith may appoint a committee or designate an official or person who shall conduct the investigation, * * *."

It becomes necessary for us, therefore, to resort to the rules of statutory construction to determine the effect, if any, of a general grant of power when followed by

a specific grant of power in the same statute. 2 Sutherland, in his *Statutory Construction*, (2nd Edition) Sec. 387, states:

"When there are two provisions in a statute, one of which is general and designed to apply to cases generally, and the other is particular and relates to only one case or subject within the scope of the general provision, then the particular provision must prevail; and, if both cannot apply, the particular provision will be treated as an exception to the general provision." (See also Black, *Statutory Construction*, 328-331).

Our Supreme Court in the case of *Lichauco vs. Apostol*, 44 Phil. 138, on this particular matter, held that "when there is in the same statute a particular enactment, and also a general one, which in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its general language as are not within the provisions of the particular enactment."

Applying these general rules of statutory construction to the two above-mentioned Sections, the inevitable conclusion is that Section 86 is an *exception* to section 79 (C), that is to say, the Secretary of the Interior exercises merely *executive supervision* as provided for in Section 86 instead of *control* as contained in Section 79 (C) over local governments. Otherwise, the law would have been silent as to the supervisory power of the Secretary of the Interior over local governments since this power is already deemed to be in-

cluded in the general grant of power of *control* and *direction*.

Now this interesting question may be asked: Does this power of executive supervision given to the Secretary of the Interior over all local governments necessarily carry with it the power of control, including that of suspension and removal, over municipal officials? Before venturing to answer this question, it is of utmost importance for us to determine whether the word "supervision" is synonymous with the word "control". Hereinbelow, are some definitions and explanations of the above mentioned terms:

"Supervision implies oversight and direction. Control must have been used to authorize additional power, such as is contained in one of its definitions, to exercise a restraining or governing influence over, to regulate." (13 *Corpus Juris*, 240).

Control as a verb means "to exercise restraining or directing influence over; to dominate; regulate; hence, to hold for action," while the verb *supervise* means "to oversee for direction; to superintend; to inspect with authority." (*Webster's New International Dictionary*, 2nd Edition).

Applying these definitions and explanations to the present case we may safely conclude that while it is true that the power of supervision may be said to be included in the power of control, it cannot be said to include the power of control. Having merely the power of supervision over local governments, the Secretary of the Interior may not, therefore, suspend a municipal mayor from office pending investigation, for suspension is obviously control.