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SECOND DIVISION

[G.R. No. L-29789. April 19, 1978]

CALIXTO CARISMA and ROMULO MERCADO, *petitioners, vs.* **Hon. JOSE C. DIVINAGRACIA, Judge of the Court of First Instance of Negros Occidental, Branch VII; PROCOPIO DISEN and EDUARDO MAHILUM,** *respondents.*

SYLLABUS

ADMINISTRATIVE LAW; ADMINISTRATIVE PROCEEDINGS; DISMISSED FOR BEING MOOT AND ACADEMIC; CASE AT BAR.— This Court in its resolution of February 20, 1978 required the parties to state whether this case had become moot and academic. The provincial fiscal of Negros Occidental, as counsel for the petitioners, stated in his manifestation of March 13, 1978 that the case had become moot because Mercado was no longer acting as municipal treasurer of Victorias. He became city treasurer of Bago City and later of Cadiz City. Rodrigo Locsin is the incumbent municipal treasurer of Victorias. Respondent Disen is dead and his co-respondent, Mahilum, after becoming municipal treasurer of Sagay, retired from the service. Petitioner Mercado in his manifestation of March 11, 1978 agreed that this case had become moot. He said that he was appointed permanent municipal treasurer of Victorias on December 12, 1967 and that he is the incumbent city Treasurer of Cadiz City. This case is dismissed for having become moot and academic.

APPEARANCES OF COUNSEL

Ramon H. Garaygay for petitioner Mercado.
Rodolfo Herman for petitioner Carisma.
Vicente P. Delfin for private respondent.

R E S O L U T I O N

AQUINO, *J.*:

This was a dispute regarding the position of municipal treasurer of Victorias, Negros Occidental. On July 31, 1967 Calixto Carisma.

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as acting provincial treasurer of Negros Occidental, issued an office order designating Romulo Mercado, the municipal treasurer of Kabankalan, as acting municipal treasurer of Victorias, a position which became vacant upon the retirement of Emilio Cuesta on May 27, 1967.

Procopio Disen and Eduardo Mahilum, the respective municipal treasurers of Sagay and Toboso, Negros Occidental, who aspired to be promoted to that vacant position, which has a higher rank and salary, contested the designation of Mercado by filing protests with the provincial treasurer's office, the Civil Service Commission and the Secretary of Finance. The protestants also instituted a *mandamus* action in the Court of First Instance to compel the provincial treasurer to appoint either one of them as municipal treasurer of Victorias (Civil Case No. 530, *Disen vs. Carisma*).

The provincial treasurer filed a motion to dismiss the *mandamus* case on the ground that the petitioners had not exhausted their administrative remedies. The lower court denied the motion. On November 12, 1968 the provincial treasurer and the acting municipal treasurer of Victorias filed the instant *certiorari* and prohibition case against Disen and Mahilum in order to annul the lower court's order denying their motion to dismiss.

The petition was given due course. A temporary restraining order was issued. The respondents answered the petition. The parties filed memoranda. The case was submitted for decision on April 10, 1969.

This Court in its resolution of February 20, 1978 required the parties to state whether this case had become moot and academic. The provincial fiscal of Negros Occidental, as counsel for the petitioners, stated in his manifestation of March 13, 1978 that the case had become moot because Mercado was no longer acting as municipal treasurer of Victorias. He became city treasurer of Bago City and later of Cadiz City. Rodrigo Locsin is the incumbent municipal treasurer of Victorias. Respondent Disen is dead and his co-respondent, Mahilum, after becoming municipal treasurer of Sagay, retired from the service.

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Petitioner Mercado in his manifestation of March 11, 1978 agreed that this case had become moot. He said that he was appointed permanent municipal treasurer of Victorias on December 12, 1967 and that he is the incumbent city treasurer of Cadiz City.

WHEREFORE, this case is dismissed for having become moot and academic. No costs.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, Concepcion Jr., and *Santos, JJ.*, concur.

SECOND DIVISION

[A.M. No. 237-MJ. April 25, 1978]

ALPIO BALLEZA, *complainant, vs.* **MUNICIPAL JUDGE ALFREDO BOLINAS of Banate, Iloilo,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; CHARGE AGAINST JUDICIAL OFFICER; UNFOUNDED IN CASE AT BAR.— It is obvious in the light of the above relevant facts that this administrative complaint lacks justification. If it were not dismissed outright, it is primarily because of the principle adhered to by this Tribunal that in order to give full force and effect to the constitutional right to petition, a charge, even if on its face apparently lacking in sufficient gravity as to call for disciplinary action, must still be inquired into and acted upon. Even the dismissal thereof serves a useful purpose. It does not only afford satisfaction to the complainant as well as to the respondent but also constitutes a reassurance to the general public that charges against members of the bench are not neglected or minimized.