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refused to pay; he only asked for some liberality so he could pay in installments. Surely, such proposal could not have converted him into a debtor in bad faith. The point of integrity raised by respondent court appears a little harsh. Otherwise stated, We find the ground for which petitioner has been removed to be rather precipitate. From which, it results that the orders herein assailed constitute grave abuse of discretion and should be set aside.

Accordingly, the petition is granted and the orders mentioned at the outset of this decision are hereby set aside, without prejudice to respondent court acting, as the facts and the law may warrant, on the new move of private respondent for the removal of petitioner. The restraining order heretofore issued is hereby lifted and respondent court is now free to act on all the incidents for which leave of this Court is being sought in various motions to that end. Costs against respondent.

Antonio, Aquino, Concepcion Jr., and *Abad Santos, JJ.*, concur.

Santos, J., is on leave.

SECOND DIVISION

[G.R. No. L-46096. July 30, 1979]

EUFEMIO T. CORREA, *petitioner, vs.* **COURT OF FIRST INSTANCE OF BULACAN (BRANCH II), CITY SHERIFF OF QUEZON CITY, MUNICIPALITY OF NORZAGARAY, BULACAN, HON. ARMANDO ENRIQUEZ, as the Incumbent Mayor of Norzagaray, Bulacan, CANDIDO P. CRUZ, ISABELO SAPLALA, TOMAS PALAD, ANTONIO SILVERIO, MELANIO ESTEBAN, ELIGIO PUNZAL, CELEDONIO PRINCIPE, ANTONIO ANCHETA, and JUANITO SARMIENTO,** *respondents.*

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SYLLABUS

1. **POLITICAL LAW; PUBLIC OFFICERS; LIABILITY FOR MISTAKE OR ERROR.**— A public officer who commits a tort or other wrongful act, done in excess or beyond the scope of his duty, is not protected by his office and is personally liable therefor like any private individual. This principle of personal liability has been applied to cases where a public officer removes another officer or discharges an employee wrongfully, the reported cases saying that by reason of non-compliance with the requirements of law in respect to removal from office, the officials were acting outside their official authority.

2. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GRAVE ABUSE OF DISCRETION, ABSENT.**— Respondent Court, therefore, did not commit grave abuse of discretion in denying petitioner's motion to quash writ of execution. The writ was strictly in accordance with the terms of the judgment.

APPEARANCES OF COUNSEL

Magtanggol C. Gunigundo for petitioner.
Ponciano G. Hernandez for private respondents.

D E C I S I O N

ANTONIO, *J.*:

Petition for *certiorari* prohibition and declaratory relief assailing the Order dated April 22, 1977 of respondent Court of First Instance of Bulacan, Branch II, denying petitioner's Motion to Quash Writ of Execution issued in Civil Case No. 3621-M. The following are the relevant facts:

On December 13, 1968, respondent Court rendered judgment in Civil Case No. 3621-M in favor of therein plaintiffs (private respondents herein) and adversely against therein defendants Eufemio T. Correa (petitioner herein) and Virgilio Sarmiento. The pertinent portions of the decision read as follows:

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"This Court finds that defendants Eufemio T. Correa and Virgilio Sarmiento, municipal mayor and municipal treasurer of Norzagaray, Bulacan respectively, should be ordered personally to pay the salaries which the plaintiffs failed to receive by reason of their illegal removal from office until they are actually reinstated.

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"WHEREFORE, judgment is hereby rendered:

1. Permanently enjoining the defendants from enforcing and/or implementing the Administrative Order No. 1, Series of 1968;

2. Declaring the termination of the services of the plaintiffs illegal and of no legal effect;

3. Ordering the defendant Eufemio T. Correa to reinstate the plaintiffs to their former position as policemen in the Police Force of Norzagaray, Bulacan;

4. Ordering the defendants Eufemio T. Correa and Virgilio Sarmiento to pay, jointly and severally to the plaintiff Juanito Sarmiento his salary for the period beginning January 15, 1968, plaintiff Melanio Esteban his salary for the period beginning February 1, 1968; and plaintiffs Candido Cruz, Isabelo Saplala, Tomas Palad, Antonio Ancheta, Antonio Silverio, Eligio Punzal and Celedonio Principe their salaries for the period beginning January 23, 1968, until they are actually reinstated to their former positions;

5. Ordering defendant Eufemio T. Correa and Virgilio Sarmiento to pay, jointly and severally, the costs of this suit.

SO ORDERED."

The aforesaid decision was affirmed by the Court of Appeals on March 22, 1976, and the motion for reconsideration of the Appellate Court's decision was denied on May 11, 1976. On August 24, 1976, the decision of the Court of Appeals became final and executory.[1]

It is in connection with the efforts of the petitioner to quash the writ of execution issued to enforce the aforestated final judgment that the present proceedings arose. Thus, on March

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[1] Annex "E", Petition, *Rollo*, p. 36.

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8, 1977, petitioner filed a Motion to Quash the Writ of Execution and to Direct Execution to the Municipality of Norzagaray, Bulacan, alleging that at the time the writ was served on him, he was no longer mayor of Norzagaray, Bulacan. Petitioner invoked the principle that when judgment is rendered against an officer of the municipal corporation who is sued in his official capacity for the payment of back salaries of officers illegally removed, the judgment is binding upon the corporation, whether or not the same is included as party to the action.[2]

On April 22, 1977, respondent Court issued the Order denying the Motion to Quash Writ of Execution. Petitioner thus came to this Court, maintaining that he could no longer be required to pay the back salaries of the private respondents because payment on his part presupposes his continuance in office, which is not the case. He contends that it is the Municipality of Norzagaray that is liable for said payment, invoking *Aguador v. Enerio*[3] and *Sison v. Pajo*.[4] Further, petitioner alleges that the fact that he is no longer municipal mayor of Norzagaray, constitutes a substantial change in the situation of the parties which makes the issuance of the writ of execution inequitable.

Petitioner prays, among others, that judgment be rendered declaring that the payment of back salaries of private respondents should be made by the incumbent mayor and by the municipality of Norzagaray, Bulacan, and that petitioner is no longer liable for the payment thereof; and annulling the Order dated April 22, 1977 of respondent court denying the motion to quash the writ of execution.

On May 24, 1977, this Court required petitioner to implead the Municipality of Norzagaray, Bulacan as party respondent and on June 25, 1977, petitioner filed an amended petition impleading the Municipality of Norzagaray and Amando Enriquez, the incumbent municipal mayor.

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[2] Record on Appeal, p. 191, *Rollo*, p. 44.

[3] L-20388, Jan. 30, 1971, 37 SCRA 140.

[4] L-18443, May 31, 1965, 14 SCRA 160, 169-170.

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In his amended petition, petitioner alleges that the writ of execution is already being enforced against the personal properties of petitioner; that such enforcement during the pendency of the instant petition would probably work injustice to petitioner; and that petitioner stands to suffer great and irreparable injury if enforcement of the writ is not temporarily restrained. Petitioner, therefore, prays that the execution be stayed or a temporary restraining order be issued pending resolution of the instant proceedings.

On August 1, 1977, private respondents filed their Comment maintaining that respondent court acted correctly and committed no abuse of discretion when it denied petitioner's motion to quash the writ of execution, (1) it being the ministerial duty of the trial court to issue a writ for the enforcement of a final and executory judgment; and (2) since the personal liability of the petitioner and his co-defendant to pay the back salaries of the private respondents as mandated in the decision sought to be executed cannot be shifted or transferred to the municipality of Norzagaray, Bulacan, for to do so would be to vary the terms of a final judgment. On August 12, 1977, this Court resolved to consider the Comment of respondents as *answer* to the petition and required the parties to file their respective memoranda, and thereafter the case was submitted for decision.

The issue is whether or not respondent Court in denying the Motion to Quash the Writ of Execution acted with grave abuse of discretion or with lack or excess of jurisdiction.

It cannot be denied that both the judgments of the Court of First Instance of Bulacan and of the Court of Appeals categorically state that the liability of herein petitioner is personal. Thus, according to the trial court, "Eufemio T. Correa and Virgilio Sarmiento, municipal mayor and municipal treasurer of Norzagaray, Bulacan, respectively, should be ordered *personally* to pay the salaries which the plaintiffs failed to receive by reason of their illegal removal from office until they are actually reinstated." (Italics supplied)

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In affirming the decision of the trial court, the Court of Appeals[5] ruled that "The defendants are *personally* liable jointly and severally because they acted without justifiable cause (*Nemenzo vs. Sabillano*, Sept. 7, 1968, 25 SCRA 1)."[6]

The jurisprudence relied upon by the petitioner in his effort to shift the responsibility to the Municipality of Norzagaray appears inapplicable. In *Aguador v. Enerio, supra*, cited by petitioner, the municipal mayor and the members of the Municipal Council of Oroquieta were specifically ordered "to appropriate necessary amounts to pay the salary differentials for the petitioners and also for the payment of their entire salaries from month to month, subject naturally to the availability of funds after all statutory and subsisting contractual obligations shall have been properly covered by adequate appropriations." The issue raised was whether or not, after the municipal mayor, members of the municipal council and the municipal treasurer were expressly made parties in the *mandamus* case and in the contempt proceedings, it was necessary to include the municipality as a party, to make the latter liable. This issue was resolved in the negative by this Court. In the case of *Sison v. Pajo, supra*, the trial court directed the Acting Municipal Mayor and Acting Chief of Police of Bamban, Tarlac to reinstate Bonifacio Lacanlale as Acting Chief of Police, effective June 30, 1957 "with the incident of payment of back salaries by the Municipality of Bamban." The issue was whether or not the municipality of Bamban could be ordered to pay the back salaries of the Chief of Police, it appearing that said municipality was not impleaded in the case. This Court ruled that the fact that the Municipality of Bamban, Tarlac was not by name impleaded in the case for reinstatement and back salaries does not affect the employee's right to the payment of back salaries, considering that the officers required by law to represent the municipality in all suits were made parties in their official capacity, hence the case was heard

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[5] Fifth Division, composed of Justice Ramon C. Fernandez, now Associate Justice of this Court, as *ponente*, and concurred in by Justices Ricardo C. Puno and Delfin Fl. Batacan.

[6] Decision of the Court of Appeals, p. 15, *Rollo*, p. 30. Italics supplied.

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and decided as if the municipality had been made a party. In both cases the judgment of the Court specifically directed the municipality to pay the back salaries.

Here, the judgment of the trial court, which was affirmed by the Court of Appeals, found petitioners Eufemio T. Correa and Virgilio Sarmiento personally liable for the payment of the salaries which the dismissed policemen failed to receive because of their illegal removal from office, and ordered them "to pay jointly and severally to the plaintiff Juanito Sarmiento his salary for the period beginning January 15, 1968; plaintiff Melanio Esteban his salary for the period beginning February 1, 1968; and plaintiffs Candido Cruz, Isabelo Saplala, Tomas Palad, Antonio Ancheta, Antonio Silverio, Eligio Punzal and Celedonio Principe their salaries for the period beginning January 23, 1968, until they are actually reinstated to their former positions."

In *Nemenzo vs. Sabillano*,[7] the Court ruled that appellant Municipal Mayor Bernabe Sabillano was "correctly adjudged liable" for the payment of the back salaries of appellee Police Corporal Joaquin P. Nemenzo because his act of dismissing appellee "without previous administrative investigation and without justifiable cause * * * is clearly an injury to appellee's rights. Appellant cannot hide under the mantle of his official capacity and pass the liability to the municipality of which he was mayor. There are altogether too many cases of this nature, wherein local elective officials, upon assumption of office, wield their new-found power indiscriminately by replacing employees with their own proteges, regardless of the laws and regulations governing the civil service. Victory at the polls should not be taken as authority for the commission of such illegal acts."

In the discharge of governmental functions, "municipal corporations are responsible for the acts of its officers, except if and when, and only to the extent that, they have acted by authority of the law, and in conformity with the requirements thereof."[8]

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[7] L-20977, Sept. 7, 1968, 25 SCRA 1.

[8] *Palma v. Graciano*, L-7240, May 16, 1956, 99 Phil. 72, 74, citing Cooley, *Municipal Corporations*, 376; 38 Am. Jur. 299-300.

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A public officer who commits a tort or other wrongful act, done in excess or beyond the scope of his duty, is not protected by his office and is personally liable therefor like any private individual.[9] This principle of personal liability has been applied to cases where a public officer removes another officer or discharges an employee wrongfully, the reported cases saying that by reason of non-compliance with the requirements of law in respect to removal from office, the officials were acting outside their official authority.[10]

Respondent Court, therefore, did not commit grave abuse of discretion in denying petitioner's motion to quash writ of execution. The writ was strictly in accordance with the terms of the judgment.

WHEREFORE, the instant petition is hereby DISMISSED. Costs against petitioner.

Barredo (Chairman), Aquino, Concepcion Jr., and *De Castro, JJ.*, concur.

Santos and *Abad Santos, JJ.*, are on leave.

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[9] *Palma v. Graciano, Ibid.*; *Carreon v. Province of Pampanga, et al.*, L-8136, Aug. 30, 1956, 99 Phil. 808.

[10] *Stiles v. Lowell*, 233 Mass. 174, 123 NE 615, 4 ALR 1365, cited in 63 Am. Jur. 2d 770.