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FIRST DIVISION

[G.R. No. L-34024. April 5, 1978]

ISIDRO G. ARENAS, *petitioner, vs.* **CITY OF SAN CARLOS (PANGASINAN), CITY COUNCIL OF SAN CARLOS CITY, JUAN C. LOMIBAO, BENJAMIN POSADAS, DOUGLAS D. SORIANO, BASILIO BULATAO, CATALINA B. CAGAMPAN, EUGENIO RAMOS, FRANCISCO CANCINO, ALFREDO VINLUAN, MARCELO LAPEÑA, LEOPOLDO C. TULAGAN and TORIBIO PAULINO, in their official capacities as City Mayor, City Vice Mayor, City Councilors and City Treasurer, respectively, and Honorable Presiding Judge, COURT OF FIRST INSTANCE OF SAN CARLOS CITY (PANGASINAN), BRANCH X,** *respondents.*

SYLLABUS

CONSTITUTIONAL LAW; JUDICIARY; SALARIES; REPUBLIC ACT NO. 5967 (SEC. 7); RATIONALE THEREOF.— It is clear from the deliberation of the Senate that the intention of Congress in enacting Republic Act No. 5967 was that the salary of a city judge should not be higher than the salary of the city mayor. The saving clause "Provided, however, That the salary of a city judge shall be at least ₱100.00 per month less than that of the city mayor" qualifies the earlier provision which fixes the salary of city judges for second and third class cities at ₱18,000.00 per annum. The primary purpose of a proviso is to limit the general language of a statute. When there is irreconcilable repugnancy between the proviso and the body of the statute, the former is given precedence over the latter on the ground that it is the latest expression of the intent of the legislature. Inasmuch as the city mayor of San Carlos City (Pangasinan) was receiving an annual salary of ₱13,200.00, the respondents cannot be compelled to provide for an annual salary of ₱18,000.00 for the petitioner as city judge of the said city.

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APPEARANCES OF COUNSEL

Daniel C. Macaraeg and *Alfredo P. Arenas* for petitioner.
Abelardo P. Fermin & Antonio Ruiz for respondents.

D E C I S I O N

FERNANDEZ, *J.*:

This is a petition for *certiorari* to review the decision of the Court of First Instance of Pangasinan at San Carlos City, Branch X, dismissing the petition for *mandamus* in Civil Case No. SCC-182.[1]

In January 1971, Isidro G. Arenas, a City Judge of San Carlos City (Pangasinan), instituted against the City of San Carlos (Pangasinan), City Council of San Carlos City and the Mayor, Vice-Mayor, City Councilors and City Treasurer of San Carlos City, a petition for *mandamus* in the Court of First Instance of Pangasinan.

The petition alleged that the petitioner, Isidro G. Arenas, is the incumbent City Judge of San Carlos City (Pangasinan); that the respondent City of San Carlos, from the time of its creation in 1966 up to the present, has been classified as a third class city; that Republic Act No. 5967 which became effective on June 21, 1969 provides that the basic salary of city judges of second and third class cities shall be ₱18,000.00 per annum; that the petitioner was then actually receiving a monthly salary of ₱1,000.00 of which ₱350.00 was the share of the national government and ₱650.000 is the share of the city government, which salary was ₱500.00 below the basic monthly salary of a City Judge of a third class city; that under Republic Act No. 5967, the difference between the salary actually being received by a City Judge and the basic salary established in said act shall be paid by the city government; that from June 21, 1969 up to the filing of the petition on January 21, 1971, the

[1] Annex "A" of the Petition. *Rollo*, pp. 21-24.

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petitioner was entitled to a salary differential of ₱9,500.00 with the respondent City of San Carlos (Pangasinan); that the petitioner had repeatedly requested the respondents to enact the necessary budget and to pay him the said differential but the respondents, without any justification whatsoever, refused and still refuse to do the same; that it is the clear duty of the respondent to enact the necessary budget providing for the payment of the salary of the petitioner as provided for in Republic Act No. 5967; that petitioner has no other plain, adequate and speedy remedy except the present action for *mandamus*; and that because of the refusal of the respondent to comply with their obligation as provided in Republic Act No. 5967, the petitioner was forced to engage the services of a lawyer to file this action for which he was to pay the sum of ₱2,000.00 as attorney's fees.[2]

In their answer dated February 10, 1971, the respondents admitted and denied the allegations in the petition and alleged that Republic Act No. 5967 further provides, among other things, that the salary of the city judge shall at least be one hundred pesos per month less than that of a city mayor; that the city judge receives an annual salary of ₱12,000.00 which is ₱100.00 per month less than the salary being received by the city mayor which is ₱13,200.00 yearly; that assuming the existence of a salary difference, in view of the provision of Republic Act No. 5967, that the payment of the salary difference shall be subject to the implementation of the respective city government, which is discretionary on the part of the city government as to whether it would or would not implement the payment of the salary difference, and in view of the financial difficulties of the city which has a big overdraft, the payment of the salary difference of the city judge cannot be made; and that the petitioner should pay his lawyer and should not charge the attorney's fees to the respondents who have not violated any rights of the petitioner.[3]

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[2] Annex "B" to the Petition. *Rollo*, pp. 25-30.

[3] Annex "C" to the Petition. *Rollo*, pp. 31-32.

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The Court of First Instance of San Carlos City (Pangasinan), Branch X, rendered its decision dated May 31, 1971 dismissing the petition, without pronouncement as to costs.

The pertinent portion of Section 7, Republic Act No. 5967 reads:

"Sec. 7. *Unless the City Charter or any special law provides higher* salary, the city judge in chartered cities shall receive a basic salary which shall not be lower than the sums as provided thereinbelow:

x x x x x x x x x

(c) For second and third class cities, eighteen thousand pesos per annum;

x x x x x x x x x

For the cities of Baguio, Quezon, Pasay and other first class cities, the city judge shall receive one thousand pesos less than that fixed for the district judge, and for second and third class cities, the city judge shall receive one thousand five hundred pesos less than that fixed for the district judge, *and for other cities, the city judge shall* receive two thousand pesos less than that fixed for the district judge: Provided, however, That the salary of a city judge shall be at least *one hundred pesos per month* less than that of the city mayor."

The petitioner contends that "x x x if the last proviso of said Section 7 of Republic Act No. 5967 would be interpreted as the controlling measure for fixing the salary of the city judges, then the principal provision of Section 7 fixing the salaries of City Judges at a rate very much higher than that of a City Mayor (particularly in the case of second and third class cities) would be rendered totally useless." The petitioner submitted "that since the principal intention of the legislature in enacting Section 7 of Republic Act 5967 is to increase the salary of the city judges, then the last proviso of said Section 7 should give way to the provisions of said section preceding said proviso."

The record shows that when Republic Act No. 5967 took effect on June 21, 1969, San Carlos City (Pangasinan) was a third class city; that the petitioner as city judge received an annual salary of ₱12,000.00; and that the city mayor of San

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Carlos City received an annual salary of ₱13,200.00 which was exactly ₱100.00 a month more than the salary of the city judge.

During the deliberation in the Senate on House Bill No. 17046, which became Republic Act No. 5967, the following discussion took place:

"SENATOR GANZON — Because with the bill as drafted, I recall that there will be some cities where the city judges will receive salaries higher than those of the mayors. And in all charters, Your Honor, the city judge is considered a department head — theoretically, at least, under the mayor. It would not be fair for the purposes of public administration that a city department head should receive a salary higher than that of the chief executive of the city.

"SENATOR LAUREL. That point is very well taken, and I would like to congratulate Your Honor.

"SENATOR LAUREL. No. Mr. President, I understand the concern of the distinguished gentleman from Davao. But in this particular amendment prepared by the distinguished lady from La Union, this *will not require* the council to pay it at ₱100.00 exactly less than the salary of the mayor. It is just the limit — the *maximum* — but they may fix it *at much less than that*. That is why the words 'at least' were suggested by the Committee. It need not be exactly just ₱100.00 less. It may be ₱500.00 less.

"SENATOR ALMENDRAS. Your Honor, take for example the cities of Iloilo, Cebu, Bacolod or Manila for that matter. The Mayors are receiving at least ₱1,500 a month. Now, under the amendment of the lady from La Union, Nueva Ecija and Davao — which has already been accepted by the sponsor — does it mean that if the salary of the city mayor is ₱1,500, the city judges will receive ₱1,400?

xxx xxx xxx

"SENATOR ANTONINO — I would like to call his attention to lines 13 to 20. We presented this amendment because it says here: 'For the cities of Baguio, Quezon, Pasay and other first class cities, the city judge shall receive one thousand pesos less than that fixed for the district judge.' So it will happen, and my attention was called by the gentlemen from Iloilo — that the city judge will be receiving more salary than the city mayor. Hence the amendment, Mr. President.

xxx xxx xxx

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'I conferred with the gentlemen from Iloilo and Batangas, and this was their objection. We have proposed this amendment to at least solve this problem, so that *no city judge will be receiving more than the city mayor*. So they will *be receiving less than* what is proposed in this Bill.'" (Vol. IV, No. 61, Senate Congressional Records, pages 2773-2787. (Italics supplied).[4]

It is clear from the deliberation of the Senate that the intention of Congress in enacting Republic Act No. 5967 was that the salary of a city judge should not be higher than the salary of the city mayor. The saving clause "Provided, however, That the salary of a city judge shall be at least ₱100.00 per month less than that of the city mayor" qualifies the earlier provision which fixes the salary of city judges for second and third class cities at ₱18,000.00 per annum.

The primary purpose of a proviso is to limit the general language of a statute. When there is irreconcilable repugnancy between the proviso and the body of the statute, the former is given precedence over the latter on the ground that it is the latest expression of the intent of the legislature.

Inasmuch as the city mayor of San Carlos City (Pangasinan) was receiving an annual salary of ₱13,200.00, the respondents cannot be compelled to provide for an annual salary of ₱18,000.00 for the petitioner as city judge of the said city.

WHEREFORE, the petition for review is hereby dismissed and the decision appealed from is affirmed, without pronouncement as to cost.

SO ORDERED.

Makasiar, Muñoz Palma, and *Guerrero, JJ.*, concur.

Teehankee (Chairman), J., in the result.

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[4] Answer, *Rollo*. pp. 41-42.