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[G.R. No. L-34374. May 30, 1972]

RUBEN TIBURCIO, BENJAMIN SAMSON, LUCIO CRUZ, and DANIEL SAN JOSE, *petitioners, vs.* THE MUNICIPAL COURT OF MARIKINA, PROVINCE OF RIZAL, THE BOARD OF ELECTION TELLERS OF BARRIO BARANGKA, MARIKINA, RIZAL and ALFONSO MENDOZA, *respondents.*

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; CERTIORARI AND PROHIBITION; DISMISSAL FOR BEING MOOT; PETITIONERS' TERMS OF OFFICE EXPIRED.— Where the terms of office of the petitioners in the instant petition for certiorari and prohibition to restrain the recount of ballots cast in a barrio elections on January 14, 1968 had already expired, the barrio elections for the four-year term beginning the year 1972 having been duly held as required by law, the said petition should be dismissed for being moot and academic.

APPEARANCES OF COUNSEL

Alberto R. de Joya for petitioners.

Cleofe B. Villar-Verzola for respondents.

R E S O L U T I O N

FERNANDO, *J.*:

Petitioners, the first named, Ruben Tiburcio, being then the barrio captain and the others being then barrio councilors of Barrio Barangka, Marikina, Rizal,[1] filed on November 18, 1971 a suit for certiorari and prohibition with preliminary injunction against the Municipal Court of Marikina and the other respondents. Its purpose was to restrain respondent Court from further proceeding with the recount of the ballots cast on the January 14, 1968 election in Barrio Barangka, Marikina, Rizal on the ground that there was no protest filed and that the party seeking judicial recount was without legal authority to do so, the only remedy, after a proclamation duly made,

[1] The other respondents named are Province of Rizal,the Board of Election Tellers of Barrio Barangka, Marikina, Rizal and Alfonso Mendoza.

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being a protest. On November 25, 1971, there was a resolution by this Court requiring respondent to comment on such petition. The respondent Municipal Court filed such a pleading on December 17, 1971, the other respondents submitting their comments even earlier, on December 11, 1971. There was thereafter on the part of petitioners a motion for extension of time to file a rejoinder to the comments received by this Court on December 27, 1971. Then on January 21, 1971, another motion for a further extension of twenty days was received by this Court from petitioners the said motion being granted by resolution of January 27, 1972.

In the meanwhile, the terms of office of petitioners expired; the barrio elections for the four-year term beginning the year 1972 were duly held as required by law. Under such circumstances, a resolution to this effect was adopted by us on February 24, 1972: "Considering the allegations of the issues raised and the arguments adduced in the petition for certiorari and prohibition with preliminary injunction, the comments of the respondents thereon and the rejoinder of the petitioners to said comments, [The Court resolved] to require the petitioners to show cause, within ten (10) days from notice hereof, why this case should not be considered as moot."[2] There was on March 9, 1972 a manifestation on the part of petitioners objecting to their petition being declared moot. While they did submit arguments not entirely lacking in plausibility as to why a ruling on the legal questions raised would be of significance, still this Court following a series of pronouncements has no choice but to declare the petition moot. As was so clearly expressed in a resolution of such tenor penned by Justice Zaldivar in Gonzaga *v.* Bico:[3] "We find, however, that the matter to be decided in the

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[2] Resolution dated February 24, 1972.

[3] L-20291, February 27, 1965, 13 SCRA 363. Cf. Tuanda *v.* Simplicio Donaldo, L-20117, July 15, 1966, 17 SCRA 646; Paranpan, Juan *v.* Querubin, L-22102, Nov. 24, 1966, 18 SCRA 787; Lofranco *v.* Jimenez, Sr., L-27583, Jan. 30, 1968, 22 SCRA 330; Dirampaten *v.* Alonto, L-25052, March 15, 1968, 22 SCRA 1083; Valencia *v.* Crisologo, L-25646, Oct. 14, 1968, 25 SCRA 535; Milanes *v.* de Guzman, L-23967, Nov. 29, 1968, 26 SCRA 163; Descuatan *v.* Balayon, L-29865, Feb. 28, 1969, 27 SCRA 208; Dumlao *v.* Hon. Diaz, L-24476, Sept. 30, 1969, 29 SCRA 595; Abesamis *v.* Judge Reyes, L-23435, Jan. 30, 1970, 31 SCRA 178 and Villareal *v.* Santos, L-28736, Aug. 31, 1970, 34 SCRA 432.

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present case refers to officers of the barrio assembly of Barrio Lagasan, Bago, Negros Occidental, who were proclaimed elected on January 14, 1962, as to whether they were legally elected or not. Under Republic Act 2370, otherwise known as Barrio Charter, the term of office of the barrio lieutenant and members of the barrio council is only for a period of two years. It follows, therefore, that the term of office of those that were elected in the barrio elections of January 14, 1962 has already expired. As a matter of fact, another barrio elections were held throughout the Philippines on January 12, 1964. We consider, therefore, that the question to be decided in the present case has become academic, so that this case has become moot."[4] It only remains to add that only last February, such a principle was adhered to in Bautista *v.* Primicias, Jr.,[5] in a resolution with Justice Teehankee as *ponente*.

WHEREFORE, the petition for certiorari and prohibition with preliminary injunction is dismissed for being moot and academic. No costs.

Reyes, J.B.L. (Acting C.J.), Makalintal, Zaldivar, Teehankee, Barredo, Makasiar, and *Antonio, JJ.,* concur.

Ruiz Castro, J., did not take part.

Concepcion, C.J., on official leave.

[G.R. No. L-22977. May 31, 1972]

COLLECTOR OF CUSTOMS for the port of Manila, SABINO ROMERO and Agents of the PRESIDENTIAL ANTI-GRAFT COMMITTEE (PAGCOM), *petitioners, vs.* HONORABLE GUILLERMO E. TORRES, as Presiding Judge of Branch VIII, Court of First Instance of Rizal, HONORABLE ANDRES REYES, as Presiding Judge of Branch VI, ANGELA ALVARAN, LETICIA AFRICA,

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[4] *Ibid.,* p. 365.

[5] L-33583, February 12, 1972, 43 SCRA 234.