

of P5,500.00. Suffice it to say on this point that after the rejection by the petitioners of the valid tender made by the respondents, the latter filed the corresponding complaint in court accompanying the filing of the suit with the consignment of the money in court and alleging and mentioning said consignment in the complaint. This was sufficient notice to the petitioners of the consignment so that if they wanted to receive that money from the court in return for a reconveyance of the property in question, they could have done so." Again, in *Duñgao et al. v. Roque, et al.*, G. R. Nos. L-4140 and L-4141, decided on December 29, 1951, this Court held: "How the second notice is to be effected is not specified. The usual method is, when the consignment is followed by the filing of a suit, through service to the defendant of the summons accompanied by a copy of the complaint."

The consignment being thus valid, Valenzuela was released from any further obligation regarding the repurchase price, and it consequently became the duty of the appellee to execute the necessary deed of reconveyance in favor of Valenzuela, now subrogated by Florencio H. Araullo. It is noteworthy that the amount deposited in court covered not only the repurchase price but also the rentals due up to the date of the consignment, plus the necessary expenses.

Wherefore, the appealed judgment is reversed and the appellee, Jose I. Bakani, is hereby ordered to execute, within ninety days from the finality of this decision, the proper deed of reconveyance covering the properties herein involved, in favor of Florencio H. Araullo. So ordered without pronouncement as to costs.

Benzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo, and Labrador, JJ., concur.
PABLO, M., *disidente*;

Yo opino que la decision del Juzgado de Primera Instancia debe confirmarse, y no ordenar al demandado Bakani a otorgar la escritura de venta sin recibir nada, considerando buena y legitima la consignacion verificada por Valenzuela en 31 de marzo de 1944 al presentar la demanda.

La escritura otorgada por las partes en 6 de mayo de 1938, decia que la recompra seria en la suma de P13,490.00 pesos filipinos, y no en papel moneda japonesa; al tiempo de otorgarse la escritura, a nadie se le ocurriria que vendrian los japoneses a ocupar las Islas; por lo tanto, el demandado Bakani tiene derecho a exigir que la recompra se haga con moneda filipina, y no con otra, de acuerdo con el articulo 1090 del Codice Civil.

En la escritura otorgada en 22 de mayo de 1943 (Exh. B) no se estipulo sobre el precio de la recompra, ni en su cantidad, ni en su calidad. El parrafo que enmendo la primera escritura dice asi:

"Que yo el VENDEDOR Y COMPRADOR A RETRO convenimos por el presente en que: (1.o) SE EXTIENDA EL PLAZO DEL REFERIDO RETRACTO A DIEZ (10) AÑOS CONTADOS DESDE EL MAYO 16, 1943; (2.o) SE REDUZCA EL PAGO DEL CANON A P867.00 ANUAL EN VEZ DE P1,100.00; (3.o) PARA EL CASO DE QUE DENTRO DEL REFERIDO PLAZO DICHO VENDEDOR A RETRO NO PUDIERA RETRAER AUN LAS REFERIDAS PINCAS LA EXPRESADA VENTA A RETRO ADQUIRIRA EL CARACTER DE ABSOLUTA E IRREVOCABLEMENTE CONSUMADA."

No hubo novacion en cuan a la calidad del precio de recompra; solamente hubo novacion en cuanto al plazo del retracto.

Puesto que la cantidad consignada no era la moneda convenida — pesos filipinos, sino papel moneda japonesa, — la consignacion entonces no es buena, no se ha hecho de acuerdo con la ley.
PADILLA, J., *disidente*;

I dissent from the pronouncement that the Japanese military or war notes were legal tender and that the consignment of the repurchase price and stipulated annual rentals was valid, for the same reasons stated in my dissent in *La Orden de P. Benedictinos vs. Philippine Trust Company*, 47 Off. Gaz. 2894, 2897. That part of the judgment appealed from requiring the vendor's assignee to pay in the present currency the redemption price of the parcels of land sold under a *pacto de retro*, together with the annual rentals due and unpaid, should be affirmed.

II

JACINTO R. BOHOL, PETITIONER VS. MAURO ROSARIO, AS PROVINCIAL AUDITOR OF SAMAR, AND JOSE C. ORTEZA, AS PROVINCIAL TREASURER OF SAMAR, RESPONDENTS, G. R. No. L-5057, JULY 31, 1953.

1. SALARY LAW; OPINION OF THE SECRETARY OF FINANCE AS TO ITS APPLICATION AND ENFORCEMENT.— The claim that the position of secretary to the provincial governor of a first class A province comes within Grades 1-8, inclusive, is at best highly controversial. But granting again, for the purpose of this case, that by a very liberal interpretation petitioner could qualify under any of these grades as well as Grades 12 to 15, the opinion of the Secretary of Finance, nevertheless, should be entitled to respect and preference in case of overlapping of grades and their definitions and of divergence of views, this official being the instrumentality charged with supervising the allocation of salaries in local governments. He is to judge the kind and degree of ability, experience, training and other circumstances needed to discharge the duties of each position.
2. ID: UNIFORMITY IN THE EMOLUMENTS OF OFFICERS.— It is a manifest policy of Congress that there be a central authority to establish uniformity in the emoluments of officers and employees of equal ranks in the numerous provinces and other local entities. Determination of the rates of compensation of such officers and employees cannot be left to the will and discretion of each provincial board or city or municipal council if there is to be "standardization of salaries," "equal distribution of funds for salary expenses among the different provincial offices," or security of "the financial solvency and stability of the provinces," as provided by Executive Order No. 167, series of 1938.
3. CONSTITUTION; LEGITIMATE EXERCISE OF THE POWER OF SUPERVISION VESTED IN THE PRESIDENT.— Classification through the President of government positions is a legislative prerogative, and the President's designation by executive order of his chief financial officer to see that the classification and the Salary Law are observed by local governments, is a legitimate exercise of the power of supervision vested in the Chief Executive by Section 10(1), Article VII, of the Constitution.
Jacinto Bohol for appellant Sol. Gen. Pompeyo Diaz and Solicitor Emilio Lumantad for respondents.

DECISION

TUAZON J.:

This was a proceeding for mandamus instituted in the Court of First Instance of Samar against Mauro Rosario, as provincial auditor, and Jose C. Orteza, as provincial treasurer, both of that province. By order of the court the petition was amended by including the Secretary of Finance as party respondent. Upon trial of the case, the application was denied, and the petitioner appealed.

Petitioner Jacinto R. Bohol is Secretary to the Provincial Governor of Samar. On July 19, 1950, his salary was raised from P3,120 to P3,600 a year "as an exceptional case under Section 256 of the Revised Administrative Code," and on July 20, the raise was approved by the provincial board by appropriate resolution. But the Secretary of Finance, acting on the annual budget of the province, disapproved the petitioner's promotion with this comment: "The standard rate of salary fixed by this Department for same position in a first class A province like Samar is P2,760 per annum. However, as it appears that the incumbent of this position is already receiving P3,120 per annum, this rate may be reduced to P2,760 per annum, only upon vacancy of the position." On account of this disapproval, the provincial auditor refused to pass in audit, and the provincial treasurer to pay, the petitioner's voucher on the differential between the old and the new rates of compensation corresponding to the second half of July.

Commonwealth Act No. 78, approved October 26, 1936, transferred to the Secretary of Finance the power and administrative supervision theretofore exercised by the Secretary of Interior over the assessment of real property, appropriation, and other financial affairs of provincial, municipal and city governments, and over the offices of provincial, municipal and city treasurers and provincial and city assessors. In pursuance of this Act, Executive Order No. 167, series of 1938, was promulgated designating "the Secretary of Finance as the agency of the National Government for the supervi-

sion and control of the financial affairs of the provincial, city and municipal governments," and providing, among other matters, for the submission to the said Secretary, through the Secretary of the Interior, of the local budgets which are "to contain the plantilla of personnel."

Petitioner contends that Republic Act No. 528, approved on June 16, 1950, abrogated Executive Order No. 167 and that, moreover, that executive order is unconstitutional in that thereby the Chief Executive assumes control as well as supervision of local governments, whereas by Section 10(1) of Article VII of the Constitution the President only has "general supervision" over such governments.

Republic Act No. 528 amended Section 2081 of the Revised Administrative Code so as to read as follows:

"Section. 2081. *Employment of subordinates.*— The Provincial Board shall fix the number of assistants, deputies, clerks, and other employees for the various branches of the provincial government and in accordance with the Salary Law to fix the rates of salary or wage they shall receive.

"After their number and compensation shall have been thus determined, the Provincial Governor shall, any provision of existing law to the contrary notwithstanding, appoint, upon recommendation of the chief provincial official concerned, all the subordinate officers and employees in the various branches of the provincial government whose salaries, compensation or wages are paid, wholly from provincial funds, in conformity with the provisions of the Civil Service Law, except those whose appointments are now or may hereafter be vested in the President or proper Department Head, teachers and other school employees and transient officials or employees who shall, as heretofore, be appointed by the proper chief of provincial office with the approval of the Department Head concerned x x x"

Assuming, without deciding, that this Act has superseded previous enactments and executive orders inconsistent therewith, yet, it will be noticed, the powers conferred on local entities by the statute are subject to the condition that they be exercised in accordance with the Salary Law and the Civil Service Law. Upon this assumption the question then arises, is petitioner's new salary of P3,600 yearly in conformity to the Salary Law? No question is raised as to the petitioner's civil service eligibility.

Executive Order No. 94, series of 1947, "reorganizing the different departments, bureaus, offices, and agencies of the Government of the Republic of the Philippines, etc." and issued by virtue of Republic Act No. 51, entitled "An act authorizing the President of the Philippines to reorganize within one year the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government, including the corporations owned or controlled by it," amended Commonwealth Act No. 402, The Salary Law, and classifies into 15 grades, with salaries ranging from P2,400 to P6,000 per annum, chiefs of divisions, chiefs of sections, supervisory positions and positions of equal ranks, the rates of compensation being based on the nature of work performed, "latitude for the exercise of independent judgment," the importance and size of divisions or sections, on the technical, professional and experience of the incumbents, and the like.

Petitioner alleges in his petition that his position as secretary to the provincial governor "requires and imposes on him the exercise and performance of judgment and functions falling under Grade 1 which prescribes a salary of P6,000 per annum." He stated in his memorandum in the court below that he is "the administrative head or chief of the Office of the Governor," "required to perform the administrative direction and with a very wide latitude for the exercise of independent judgment." And in his brief filed in this instance the claim is made that he "supervises the personnel of such (Governor's) office and the provincial jail," "is also the head of the local and municipal divisions in Samar," and "carries out confidential measures required of him by the Governor." He says in addition that "he is a lawyer of long experience in practice."

On the other side, it is asserted that the petitioner's position comes under Grade 13 for which the compensation authorized is P2,760 per annum.

The classification of positions by Executive Order No. 94, series

of 1947, is loose and the demarcation lines between the grades quite indefinite. But it is fairly certain that, giving petitioner the full extent and benefit of his description of his job, the Secretary of Finance has not departed from the standard set by the schedules of salaries laid down in the executive order just mentioned, in placing petitioner's position within Grade 12-15. Actually, it has been seen, he is allowed the salary provided for Grade 11, which we believe calls for a latitude of independent judgment, technical training and experience, and supervisory work and ability well above those demonstrated by the allegations.

The claim that the position of secretary to the provincial governor of a first class A province comes within 1-8, inclusive, is at best highly controversial. But granting again, for the purpose of this case, that by a very liberal interpretation petitioner could qualify under any of these grades as well as Grades 12 to 15, the opinion of the Secretary of Finance, nevertheless, should be entitled to respect and preference in case of overlapping of grades and their definitions and of divergence of views, this official being the instrumentality charged with supervising the allocation of salaries in local governments. He is to judge the kind and degree of ability, experience, training and other circumstances needed to discharge the duties of each position. It is a manifest policy of Congress that there be a central authority to establish uniformity in the emoluments of officers and employees of equal ranks in the numerous provinces and other local entities. Determination of the rates of compensation of such officers and employees cannot be left to the will and discretion of each provincial board or city or municipal council, if there is to be "standardization of salaries," "equal distribution of funds for salary expenses among the different provincial offices," or security of "the financial solvency and stability of the provinces," as provided by Executive Order No. 167, series of 1938.

From the standpoint of the Constitution to which the petitioner would cast this case, we perceive no valid objection to the intervention by the Secretary of Finance in the application and enforcement of the Salary Law. Classification through the President of government positions is a legislative prerogative, and the President's designation by executive order of his chief financial officer to see that the classification and the Salary Law are observed by local governments, is a legitimate exercise of the power of supervision vested in the Chief Executive by Section 10 (1), Article VII, of the Constitution.

Finding no reversible error in the dismissal of the proceeding by the court below, the appealed decision is hereby affirmed, with costs against appellant.

Paras, Pablo, Padilla, Montenegro, Reyes, Jugo, Bautista, Angelo, and Labrador, J. J., concur.

III

MARCELINO BUSACAY, PLAINTIFF AND APPELLANT VS. ANTONIO F. BUENAVENTURA, AS PROVINCIAL TREASURER OF PANGASINAN & ALFREDO MURAO, DEFENDANTS AND APPELLEES, G. R. No. L-5856, SEPTEMBER 23, 1953.

PUBLIC OFFICERS; WHEN A POSITION MAY BE DEEMED ABOLISHED. — A was the toll collector of a bridge which was destroyed by flood; hence he and two other toll collectors were laid off. When the bridge was reconstructed and reopened to traffic A notified the provincial treasurer of his intention and readiness to resume his duties as toll collector but the treasurer refused to reinstate or reappoint him. *Held:* (1) The collapse of said bridge did not destroy but only suspended A's position; therefore, upon the bridge's rehabilitation and reoperation as a toll bridge A's right to the position was similarly and automatically restored. (2) To consider an office abolished there must have been an intention to do away with it wholly and permanently, as the word "abolish" denotes. (3) The position of toll collector is temporary, transitory, or precarious only in the sense that its life is co-extensive with that of the bridge as a toll bridge. For that matter, all offices created by statutes are more or less temporary, transitory or precarious in