

101 Phil. 558

[G. R. No. L-9912. May 23, 1957]

ROMULO CUYO, PETITIONER AND APPELLEE, VS. THE CITY MAYOR, BAGUIO CITY, ET. AL., RESPONDENTS AND APPELLANTS.

D E C I S I O N

CONCEPCION, J.:

On June 5, 1951, petitioner Romulo Cuyo, a regular member of the Baguio Police Department since February 20, 1946, was suspended from office pending investigation, by councilor Luis Lardizabal of the City of Baguio, of the administrative charges preferred against him (Cuyo) by the then City Mayor, involving alleged irregularities in the performance of his duties and violation of law and duty, said to have been committed as follows:

“December 31, 1946, Administrative charge filed against him for Insubordination and Reprehensible Conduct;

“October 21, 1948, Conduct “Unbecoming a Peace Officer, for which he was reprimanded and warned;

“April 16, 1951, Telling a Lie, for which he was severely reprimanded;

“May 13, 1961, Abandoning his Post Without Proper Relief and Authority; and

“May 16, 1951, Absent Without Leave (AWOL).” (Folder of Exhibits, p. 5.)

In line with the report of the investigation conducted by said councilor, who found Cuyo guilty of said charges, on July 20, 1951, the City Council of Baguio passed Resolution No. 204 ordering his dismissal effective on June 5, 1951. On appeal taken therefrom, the Civil Service Commissioner, in a decision dated December 20, 1951, held— after considering that Cuyo had already been punished for the individual offenses aforementioned, and that, being responsible for the maintenance of peace and order in the City of Baguio, the City Council and its Mayor should have some discretion in the

choice of the members of its police forces—that said officers of the City were not guilty of abuse of discretion and that there was “nothing reversible” in said resolution of the City Council. The dispositive part of said decision, however, reads:

“Wherefore, and in line with the action taken by this Office in the case of Patrolman Quintin Bugasto of the same organization, respondent-appellant Cuyo should be, as he is hereby transferred to another branch of the Baguio City Government. The decision ordering his dismissal from the service is thus modified.” (Folder of Exhibits, p. 11.)

A reconsideration of this decision was denied by the Commissioner of Civil Service on March 13, 1952. On August 1, 1955, Cuyo instituted the present action, for mandamus and damages, in the Court of First Instance of Baguio, against its Mayor, Council and Treasurer. In his petition he prays:

- “(1) that the investigation had, and the decision made in the administrative charge against the petitioner be declared illegal, null and void ab initio;
- “(2) that the respondent City Mayor of Baguio be ordered to reinstate the petitioner as member of the Baguio City Police Department;
- “(3) that the respondents be ordered to pay to the petitioner his salary from June 5, 1951, until actually reinstated;
- “(4) that the respondents be condemned to pay to the petitioner the sum of P1,000.00 as attorney’s fees, plus the costs of this suit; and
- “(5) that the petitioner be granted all reliefs and remedies deemed just and equitable in the premises.”

In due course, said court rendered a decision, the dispositive part of which follows:

“Judgment is, therefore, rendered against Respondents, ordering them to place Petitioner in another branch of the City Government; Petitioner shall be entitled to his back pay as policeman from June 5, 1951; No attorney’s fees are awarded Petitioner as this is a case of good faith on the part of Respondents; No special pronouncement as to costs.”

The case is now before us on appeal taken by the respondents. Petitioner maintains that his dismissal by the City Council of Baguio is null and void, the administrative charges preferred against him having been investigated, not by said Council, but by one of its members, in violation of Republic Act No. 557, as construed in *Festejo vs. Municipal Mayor of Nabua* (96 Phil., 286, 51 Off. Gaz., 121). Indeed, we have repeatedly held that administrative charges against members of the local police force must, pursuant to Republic Act No. 557, be investigated by the Municipal or City Council, and that an investigation conducted by, either a member, or a committee thereof, is null and void, even if the Council shall have approved the action and recommendation of its investigating member or committee (see *Covacha vs. Amante*, L-8358, May 25, 1956; *Carmona vs. Amante*, 99 Phil., 716; *Senarillos vs. Hermosisima*, 100 Phil., 501, 53 Off. Gaz., [4] 1043).

It is, also, settled, however, that the reinstatement of an officer illegally dismissed may not be secured by mandamus, if the action therefor is filed over one (1) year after his dismissal. The reason for this rule is that the right to a public office may be lost by abandonment thereof, which may be deduced from his failure to seek reinstatement within said period of one (1) year (*Florentino Jose, Jr., vs. Arsenio H. Lacson*, L-10477, May 17, 1957; *Unabia vs. Hon. City Mayor*, 99 Phil., 253), and that "it is not proper that the title to public office should be subjected to continued uncertainty, and people's interest requires that such right should be determined as speedily as practicable" (*Tumulak vs. Egay*, 82 Phil., 828, 48 Off. Gaz., 3693, 3695).

In the case at bar, Cuyo's motion for reconsideration of the decision of the Commissioner of Civil Service, substantially affirming the action taken by the City Council of Bagnio, was denied by said officer on March 13, 1952. Although the resolution of said Council, dismissing Cuyo, was modified by the Commissioner of Civil Service, in the sense that petitioner "should be, as he is hereby transferred to another branch of the Baguio City Government," the latter, seemingly, understood the decision of said Commissioner as sustaining the removal of Cuyo from the police force. What is more, said decision, as well as the attitude or inaction of the City Government of Baguio, was similarly construed by the petitioner, for, in his petition herein, Cuyo alleges that he "should not have been *separated* as member of the police force of the City of Baguio, *until* and unless he is 'transferred to another branch of the City Government of Baguio in accordance with the decision of the Commissioner of Civil Service' (paragraph VII), and that "respondents failed and still fail, neglected and still neglect, refused and still refuse to *reinstate* the petitioner

to his position as member of the Baguio City Police Department” (paragraph VIII). In other words, Cuyo understood the aforementioned decision as authorizing his *dismissal* from said department, upon his transfer to another branch of the City Government, and regarded the action taken by the latter as amounting to his *removal* from the police force, prior to said transfer, and, yet, he did not bring this case until August 1, 1955, or about three (3) years and live (5) months after the denial of his aforesaid motion for reconsideration. Hence, regardless of the legality or illegality of the aforementioned resolution of the City Council of Baguio, Cuyo’s petition for mandamus is barred by the implied abandonment of his office and, also, by laches. As a consequence, his claims for backpay and damages must, also, fail.

Wherefore, the decision appealed from must be, as it is hereby reversed, and the petition dismissed, with costs against the petitioner. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bantista Angelo, Labrador, Reyes, J. B. L., Endencia and Felix, JJ., concur.
