

HERACLEO VILLACIN, MUNICIPAL MAYOR OF CADIZ, NEGROS OCCIDENTAL, PETITIONER, VS. HONORABLE FRANCISCO ARELLANO, JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL AND MANUE...

G.R. No. L-12590. January 30, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition for certiorari and prohibition with preliminary injunction filed by Heracleo Villacin, to enjoin respondent Judge from enforcing his order dated July 6, 1957 (Annex H), directing petitioner Villacin, as Mayor of Cadiz, Negros Occidental, to reinstate Manuel R. Solivio as Chief of Police of Cadiz, with back salaries, as well as the order of July 20, 1957 ordering the same petitioner Villacin to once more reinstate respondent Solivio who had been suspended by him on July 10, 1957.

This is rather a complicated case that involves two cases taken up to us, G. R. Nos. L-9174 and L-10535, which, fortunately, have already been finally decided. For a better understanding of the case, it is convenient, if not necessary, to make the following narration of facts to serve as background.

On July 1, 1946, Jose Agapuyan was removed from office as Chief of Police of Cadiz, by the then Acting Municipal Mayor, Francisco C. Borromeo. In his place, Ernesto A. Villanueva was appointed, and when he resigned, Manuel R. Solivio, who plays an important role not only in the present case, but also in the two other cases, was appointed Chief of Police of Cadiz on July 16, 1947. On August 19, 1950, Solivio received a promotion in salary, from P1,560.00 to P1,800.00 per annum. He is a qualified civil service eligible and his appointment was proposed by the Commissioner of Civil Service.

In connection with his removal as Chief of Police in 1946, Agapuyan would appear to have written letters to the Municipal Mayor of Cadiz and to the Secretary of Interior, but nothing seems to have come out of said letters, and it seems that he had resigned himself to his dismissal. On July 1, 1948, he, Agapuyan, accepted appointment as temporary ranger in the Bureau of Forestry, at P1,140.00 per annum, and in July 1952, he was promoted to senior forest guard as a permanent employee in the same bureau, at P1,440.00. He resigned from that post on February 28, 1953.

After his resignation, it is possible that Agapuyan entertained the notion to renew his efforts to be reinstated as Chief of police of Cadiz. But on June 21, 1954, Agapuyan wrote to respondent Joaquin Ledesma as Mayor of Cadiz, saying that he was no longer interested in his reinstatement as Chief of Police. On June 27, 1954, however, Agapuyan again wrote to Ledesma, advising him to disregard his letter of June 21, 1954, and on August 5, 1954, he filed Civil Case No. 3132 in the Court of First Instance of Negros Occidental for mandamus to compel Municipal Mayor Joaquin Ledesma to reinstate him to his former post of Chief of Police of Cadiz, and to pay him back salaries from July 1, 1946 to July 1, 1948, the date when he accepted appointment as temporary ranger in the Bureau of Forestry.

That civil case No. 3132 was decided by the trial court in favor of Agapuyan. Defendant Mayor Joaquin Ledesma appealed the decision, but pending appeal, Agapuyan moved for the execution of the judgment, which the lower court granted on the ground that the appeal was suspicious and taken merely for purposes of delay. Notwithstanding the offer of Ledesma to put up a supersedeas bond to suspend execution, the trial court had the judgment executed, as a result of which, Solivio who was then Chief of Police, had to give way and deliver his post to Agapuyan.

Against this action of the trial court in executing its judgment in Civil Case No. 3132 whereby Agapuyan replaced Solivio as Chief of Police of Cadiz, defendant Mayor Ledesma came to this Court on a petition for certiorari and mandamus, G. R. No. L-9174, claiming that the order of execution was clearly an abuse of discretion on the part of the respondent Judge Jose Teodoro, Sr. Deciding that case, G. R. No.- L-9174, by unanimous vote, this Tribunal held that there were no good reasons for the issuance of the order of execution pending appeal; neither was there sufficient justification for rejecting the supersedeas bond offered by appellant Ledesma. On the contrary, the order of execution was improperly issued, and so we set it aside. We ordered Agapuyan whom the trial court ordered reinstated pending appeal, to vacate the post of Chief of Police of Cadiz and to restore it to Solivio, subject to the outcome of the appeal of the decision of the trial court. Incidentally, we also found and held that the action for reinstatement filed by Agapuyan in 1954 was barred for the reason that he allowed about eight years to elapse from the time he was dismissed before he sought reinstatement through the courts; and furthermore, because of his acceptance of appointment to the Bureau of Forestry in 1948.

As already stated, that decision of the trial court in Civil Case No. 3132 was appealed to us under G. R. No. L-10535. In a unanimous decision promulgated on April 25, 1957, we held that there was no reason for altering our holding in G. R. No. L-9174 to the effect that Agapuyan was barred from pressing his claim for reinstatement not only because he filed his suit too late, but also because he had accepted another post in the Government, that of ranger in the Bureau of Forestry. Moreover, we found another reason against the claim of Agapuyan for reinstatement, namely, that he was appointed merely as Police of Acting Chief of Cadiz in 1946; that said appointment was of temporary character and terminable at the pleasure of the appointing power. Consequently, his removal from the post was warranted. As a result, the appealed decision in Civil Case No. 3132 ordering the reinstatement of Agapuyan was reversed and his petition for mandamus was dismissed, with costs against him.

In view of our decision in G. R. No. L-9174, ordering Agapuyan to vacate the post of Chief of Police of Cadiz and restore it to Solivio, the latter filed with us a motion for the execution of the decision. By resolution of March 7, 1956, we said that movant Solivio may resort to the Court of First Instance. On the strength of said resolution, Solivio filed with the trial court a petition for the issuance of a writ of execution, which was granted by the trial court's order of March 28, 1956, issued by Judge Jose Teodoro, Sr., directing Agapuyan to immediately vacate the post of Chief of Police and restore it to Solivio, subject to the outcome of the main case. However, Agapuyan had in the meantime already resigned the post of Chief of Police which he was occupying, and the Sheriff did not know on whom to serve the writ. Solivio asked the trial court for another order. Judge Francisco Arellano issued the order of April 18, 1956, amending the order of March 28, 1956, so as to read as follows:

"Acting on the ex-parte motion dated April 17, 1956, filed by Manuel R. Solivio, and in compliance with the decision of the Supreme Court promulgated on January 25, 1956, the Court hereby orders the incumbent municipal mayor of Cadiz, Negros Occidental, Mr. Heracleo Villacin, to restore the movant, Manuel R. Solivio, to his position as Chief of Police thereat, subject to the outcome of the main case which is hereby appealed to the Supreme Court.

Solvio went to Villacin who was then Mayor of Cadiz, but the latter refused to obey the order for the reason that he was not a party to the case, but ex-Mayor Ledesma who had been voted out of office. Villacin moved for the

reconsideration of said order of April 18, 1956. Judge Teodoro granted the motion and setting aside the order of April 18, restored the original order of March 28, 1955, by his order of May 19, 1956, saying:

"After considering the urgent motion for reconsideration, dated April 26, 1956, filed by Atty. Armando C. Gustilo for the movant Heracleo Villacin, and after hearing the forceful (not to say brilliant) arguments advanced by counsel for the movant as well as the equally forceful (not to say brilliant) arguments advanced by Atty. Lalisan in opposition to the said motion for reconsideration of the order of this court dated April 18, 1956, this court has arrived at the conclusion that its order dated March 28, 1956, which was substantially amended by another order of this court dated April 18, 1956, is still in order, as can very well be seen by a clear reading of the said order of March 28, 1956, which is in strict compliance with the order of the Supreme Court. In issuing the order of April 18, 1956, this court undoubtedly was not aware of all the facts surrounding the original case No. 3132 which was the mother case, out of which G. R. No. 9174 of the Supreme Court came.

"The order of this Court dated March 28, 1956, being in order, it is hereby restored to life in all its freshness and vigor, and the order of this court dated April 18, 1956, being an honest mistake, is hereby set aside, and consequently the motion for reconsideration is hereby granted."

Later, Solivio asked the court to issue an alias writ of execution, which the court, through Judge Eduardo D. Enriquez, granted by its order of May 11, 1957, ordering Heracleo Villacin to restore Solivio to the post of Chief of Police of Cadiz, with back salaries from the date he was illegally dismissed up to the date of his reinstatement. Because of the refusal of Villacin to enforce said order and acting upon the motipn of Solivio, Judge Enriquez, by order of May 21, 1957, ordered Villacin to appear before it and explain why he should not be held guilty of contempt for failing to reinstate Villacin.

Villacin filed a motion for reconsideration (Annex G, Petition) but the same was denied and Judge Francisco Arellano, by order of July 6, 1957 (Annex H), directed Villacin to restore Solivio to the post of Chief of Police of Cadiz within twenty-four hours under pain of arrest. Villacin complied with said order and reinstated Solivio on July 9, 1957 (Annex I, Petition), and Solivio acknowledged his reinstatement (Annex J).

However, on the same day of Solivio's reinstatement, July 9, 1957, Villacin as Mayor ordered him to investigate reports of rampant cattle rustling and illegal slaughter of carabaos (Annex K, Petition). Solivio in writing requested that he be allowed to finish making the inventory of the properties pertaining to the office of Chief of Police, to which he had just been reinstated, before proceeding to make investigation of the same. He further stated that he was not yet properly equipped to discharge his duties, since he did not even have a firearm (Annex 6, Answer). The following day, Villacin suspended Solivio (Annex 5, Answer), supposedly because of his "unlawful disobedience and dereliction of duty coupled with deliberate intent to defy the Mayor's authority" (Paragraph 17, Petition). To justify the suspension, Villacin filed with the Municipal Council of Cadiz on the same day, July 10, 1957, a complaint against Solivio "Chief of Police, under order of the Court of First Instance, dated July 6, 1957" for "dishonesty, abuse of authority, negligence of duty and oppression", and "illegal stay in office" (Annex L, Petition).

Solivio forthwith filed with the trial court a motion for contempt and arrest of Villacin (Annex N, Petition), which motion was opposed by Villacin (Annex G, Petition). After the same was submitted for resolution, the trial court, through Judge Francisco Arellano, dictated an order in open court (July 20, 1957), directing petitioner to reinstate once more Solivio to the post of Chief of Police of Cadiz, without prejudice to the continuation of the administrative charges filed against him (Annex P, Petition). Failing to secure a reconsideration of the order, Villacin filed the present case for certiorari and prohibition, with preliminary injunction, seeking to set aside of July 6, 1957 and July 20, 1957, issued by Judge Arellano, directing him to reinstate Solivio with back salaries, as

well as the order directing him (Villacin) to annul his order of suspension of Solivio.

As regards the order of July 6, 1957 (Annex H, Petition), petitioner Villacin claims that Solivio, who secured said order, had no standing in court, inasmuch as he (Solivio) was not a party in G. R. No. Lf-9174, nor was he a party in G. R. No. L-10535; consequently, the said order was issued without or in excess of the court's jurisdiction. Furthermore, petitioner contends that the order was directed against the wrong party, since he (Villacin), petitioner, was not a party in said cases G. R. Nos. L-9174 and L-10535. And with respect to the order of July 20, 1956 (Annex B), directing petitioner to once more reinstate Solivio to the post of Chief of Police after petitioner had suspended him, petitioner argues that the same was issued with abuse of discretion because it deprived him of the power of suspension vested in him by Republic Act 557.

As regards the right of Solivio to move for and obtain the order to reinstate him, it is true that he was not a party in case G. R. No. L-9174; that said case was decided in favor of then Mayor Ledesma; and that as a rule, only the party in whose favor a case is decided, has the right to seek for execution. However, under the peculiar circumstances of the case, when G. R. No. L-9174 was decided, in favor of Ledesma, he was no longer Mayor of y Cadiz. Consequently, he was in no position to ask for execution of the judgment of our decision to reinstate Solivio, and Villacin, who was then Mayor, would not ask for the execution, in order to reinstate Solivio, because all along, he was against Solivio and in favor of Agapuyan. To show where his interest lay, after he assumed the office of Mayor and while the appeal taken by his predecessor Ledesma under G. R. No. L-10535 was pending before us, Villacin filed a motion with us to withdraw said appeal on the ground that Ledesma was no longer the Mayor of Cadiz, and that movant (Villacin) had already reached an amicable settlement with the appellee, Agapuyan, which withdrawal would have resulted in favor of Agapuyan and against Solivio. Fortunately, however, Ledesma and Solivio opposed the motion on the ground that Ledesma was sued in his official capacity as Mayor and the withdrawal of the appeal would render nugatory and ineffective our decision in G. R. No. L-9174. We denied the motion to withdraw the appeal and as already stated, we decided the appeal on the merits in favor of Ledesma, and dismissed the petition of Agapuyan for mandamus. Under the circumstances, the only person logically called upon to ask for execution of our judgment in G. R. No. L-9174 was Solivio himself, for although technically he was not a party to the case, he was the person directly benefited compelled under pain of arrest to reinstate him the day before, was a manifest defiance not only of the judgment of this Tribunal in G. R. No. L-9174, but of the order of Judge Arellano, directing him to reinstate Solivio himself, for although technically he was not a party to the case, he was the person directly benefited by said decision. Moreover, when Solivio filed a motion with us for the execution of our judgement, and instead of granting it, we told him that he "may resort to the Court of First Instance," we practically acknowledged and recognized his right to ask for said execution.

As to the right to suspend the Chief of Police claimed by Villacin under Republic Act. 557, there is no question that normally and under ordinary circumstances, he has that right. However, to us it is clear that his suspension of Solivio on July 10, 1957, after he had been compelled under pain of arrest to reinstate him the day before, was a manifest defiance not only of the judgment of this Tribunal in G. R. No. L-9174, but of the order of Judge Arellano, directing him to reinstate Solivio. In our opinion, it was a clear abuse of authority. True, to justify his suspension of Solivio, he filed charges against the latter. Without prejudging the validity and propriety of said charges, one cannot avoid the suspicion that they were filed not in complete good faith and for the public interest, specially if we consider the fact that they were filed on the same day of the suspension of Solivio on July 10, 1957, let alone the fact that said charges are indefinite as to the date of alleged commission. With regard to the alleged unlawful disobedience and dereliction of duty, with deliberate intent to defy the Mayor's authority, suffice it to say that Solivio had just assumed his office of Chief of Police and was busy preparing the inventory of the properties of the office which he was to receive and be responsible and accountable for. As regards the other charges, they were allegedly committed between 1954 and 1955 (t.s.n., pp. 23-24, Annex 7, Answer/, that is to

say, more than two years before Solivio was reinstated. We are inclined to believe that petitioner Villacin's order of suspension of July 10, 1957 smacks of harassment and persecution, regardless of whether the charges made to support the suspension could be duly established. Judge Arellano expresses the following opinion in support of his order of July 20, 1957:

"The only question in the mind of the Court is whether Villacin, in his official capacity as mayor of Cadiz, has abused the authority and power vested in him by Republic Act No. 557 in suspending Solivio under the strength of the administrative case filed by the said mayor with the municipal council of Cadiz.

"There is no question that under the said Republic Act No. 557, the respondent municipal mayor is empowered to suspend chief of police Solivio because of the charges filed either by him or by any other person with the municipal council. The question now is, whether the respondent mayor had abused his power of suspension in the case of petitioner Solivio. xxx.

"Respondent Villacin in the present case has been ordered to execute the decision of the Supreme Court and although he executed such decision, nevertheless, he suspended the person whom he has just reinstated upon the Strength of the charges filed by himself with the municipal council, and what is worse, such suspension was effected in less than 24 hours after such reinstatement. The very attorney for the respondent admitted in open court, and correctly, that the power to suspend is not mandatory but discretionary. If the charges filed by him with the municipal council are just and true, there is no harm to the proceedings that may be had thereof if he had abstained from suspending the chief of police because the administrative complaint may proceed its ordinary course; but he should not suspend the chief of police considering the nature and the circumstance of the present case, otherwise the dignity and majesty of the judicial power will be converted into a mockery, and this the judicial power cannot and will not tolerate that its mandates will be just a mere toy in the hands of persons vested with authority. If, according to the respondent thru his attorney, the charges happened between 1954 and 1955, why only now after the present case was decided definitely by the Supreme Court were they filed? With regards to the fact that Solivio neglected his duty for not having complied with a lawful order of the respondent mayor given to him on the very day of his reinstatement, it is very evident that the short time intervening between the reinstatement and the suspension deprived Solivio of the chance to comply with said order, if any such order was really given. At any rate, as the Court has stated above, Villacin should have abstained himself from suspending Solivio under the circumstances obtaining in the present case. The alleged compliance with the order of execution of the decision of the Supreme Court on July 9th and the suspension of Solivio on July 10th clearly shows that said order of suspension was not procured in good faith, and in the mind of the Court, is a clear intention on the part of respondent Villacin to defy the order above- mentioned (Annex P, petition)."

IN VIEW OF THE FOREGOING, the petition for certiorari and prohibition is hereby denied, with costs against petitioner.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes J.B.L., and Endencia, JJ., concur.

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