

PASAY LAW AND CONSCIENCE UNION, INC., AND ROLANDO C. SIQUIJOR, AS CHIEF OF POLICE OF PASAY CITY, PETITIONERS, VS. PABLO CUNETA, AS MAYOR OF PASAY CITY AND CARLOS T. GALVEZ, AS O...

G.R. No. L-34532. December 19, 1980

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petitioners, by way of prohibition with preliminary injunction, question the validity of Memorandum Order No. 1, dated January 3, 1972, assigning the petitioner Chief of Police of Pasay City with the office of respondent Mayor Pablo Cuneta as consul-tant on police matters, and Memorandum Order No. 10, dated Jan-uary 4, 1972, designating respondent Carlos T. Galvez as respondent mayor's representative to take charge of all his orders relating to all police matters to render more effective his power of control and supervision over the Pasay police force, as acts allegedly contrary to law intended to deprive petitioner Roland C. Siquijor of his lawful appointment and position as qualified Chief of Police of Pasay City without lawful cause and due process of law.[1]

On January 13, 1972, this Court issued a preliminary injunction, to wit:

"NOW, THEREFORE, effective immediately and until further orders from this Court, You, Your agents, representatives, assigns or any persons acting upon your orders, place or stead, are hereby enjoined from executing and enforcing Memorandum Order Nos. 1, dated January 3, 1972, and No. 10, dated January 4, 1972, both issued by herein respondent Pablo Cuneta."[2]

Pertinent undisputed facts of record are:

On September 11, 1971, petitioner Roland C. Siquijor was extended a promotional appointment as Chief of Police of Pasay City by then City Mayor Jovito O. Claudio, vice Francisco A. Villa, who resigned when he became a candidate during the elections of 1971. Petitioner Siquijor qualified and took his oath of office on the same date. Said appointment was approved by the Civil Service Commission on September 23, 1971.[3]

On January 3, 1972, first official day of office of newly elected respondent Pasay City Mayor Pablo Cuneta, he issued his contested Memorandum Order No. 1, assigning petitioner Chief of Police Roland C. Siquijor to the mayor's office as consultant to study ways and means for the proposed reorganization of the police department.[4]

Respondent Mayor issued Memorandum Order No. 4, also on January 3, 1972, designating respondent Carlos T. Galvez, as officer-in-charge of the Pasay City Police Department.[5] On the same date, respondent Mayor issued Memorandum Order No. 5, announcing to all Department Heads of the Pasay City Government the contents of Memorandum Order No. 4,[6] and Memorandum Order No. 6, to the Police Department of Pasay City, directing all chiefs of sections and bureaus of the Pasay Police Department to receive and comply with the orders issued/given by Lt. Col. Carlos T. Galvez, officer-in-charge.[7]

Respondent Carlos T. Galvez, in compliance with aforementioned Memorandum Orders Nos. 1, 4, 5, 6 by

respondent Mayor, issued on the same date General Order No. 72-01 to the Pasay City Police Department, announcing his assumption of office and directing all Staff Officers and Chiefs of Bureaus and Departments of the same office to attend a conference on January 4, 1972.[8]

Also, on January 3, 1972, petitioner Siquijor wrote a letter to respondent Mayor, questioning Memorandum Orders Nos. 1, 4, 5 and 6 as irregular and asked for a reconsideration of the same.[9]

On January 4, 1972, respondent City Mayor issued contested Memorandum Order No. 10, outwardly revoking his Memorandum Order Nos. 4, 5, 6, dated January 3, 1972, but notifying all chiefs of bureaus and divisions of the Pasay Police Department that Lt. Col. Carlos T. Galvez (respondent), as assistant to the respondent Mayor, was designated to take charge of all policies and orders of the City Mayor relating to all police matters to render more effective his power of control and supervision over the police force.[10]

Petitioner Pasay Law and Conscience Union, Inc., a duly organized corporation, civic, non-profit, and non-partisan, allegedly dedicated to the "rule of law and conscience" joined petitioner Roland C. Siquijor in the present petition for prohibition, questioning the respondents' acts as designed to clandestinely remove or ease out petitioner Siquijor as Pasay City Chief of Police, to exclude him from the use and enjoyment of his rights and privileges appertaining to said office, and to strip him of his powers and duties tantamount to removal from office without lawful cause or due process.[11]

In an answer to the petition dated February 1, 1972, respondents claim that Memorandum Orders Nos. 1, 4, 5 and 6 by respondent Mayor were issued in good faith to devise ways and means of strengthening the Pasay Police Force. It is alleged that Memorandum Order No. 1 was never implemented because of petitioner's letter dated January 3, 1972, requesting a reconsideration. Memorandum Order Nos. 4, 5 and 6, dated January 3, 1972, were all revoked by Memorandum Order No. 10, dated January 4, 1972. Respondents claim that as the questioned Memorandum Order No. 1, was not implemented and as Memorandum Orders Nos. 4, 5 and 6 were revoked, the petition did not present a justiciable issue and asked for its dismissal.[12]

After the present petition had been filed on January 8, 1972, and after this Court had already issued a preliminary injunction on January 13, 1972, respondent Mayor issued a Memorandum Circular, on January 23, 1972, to all divisions, bureaus and sections chiefs of the Pasay City Police Department, apparently recalling his Memorandum Orders Nos. 1, dated January 3, 1972 and 10, dated January 4, 1972, but at the same time stating that they were issued in conformity with respondent mayor's power of control and supervision over the Pasay City Police Department.[13]

On February 9, 1972, petitioners filed a Supplemental Petition[14] claiming that on January 12, 1972, respondent Mayor issued a memorandum order to the effect that "all memorandum orders, personal orders, indorsements, or any other communication pertaining to police matters should be coured to the undersigned thru Lt. Col. Carlos Galvez, Assistant to the Mayor, now presently holding office at the Police Headquarters." [15] Petitioners claim that the aforementioned memorandum order is an implementation of the questioned Memorandum Orders Nos. 1, 4, 5, 6, 10 by the respondent Mayor and General Order No. 72-01 by respondent Galvez, intended to strip petitioner Siquijor of his powers, duties and functions as Chief of Police of Pasay City.[16]

On January 31, 1972, apparently to implement the questioned aforementioned memorandum orders and general order, respondent Mayor, in disregard of this Court's injunction issued on January 13, 1972,[17] issued a memorandum order[18] addressed to all department heads of the Pasay City Government, advising them that since respondent Mayor assumed office he has taken over the control and supervision of the Pasay Police Department, and all matters relative to police office work/activities and other allied police duties concerning the department and/or its individual members like vacation/sick leave applications, vouchers, salaries/payrolls

should be submitted to the respondent Mayor for approval and/or signature.

On February 2, 1972, implementing further the same questioned memorandum orders and general order, and again in defiance of this Court's preliminary injunction, respondent Mayor issued a memorandum circular^[19] to all Chiefs of Bureaus/Division/Section of the Pasay City Police Department, calling attention to the wanton defiance of his memorandum order dated January 12, 1972, and warning that further wilful and deliberate defiance of said directive shall be dealt with accordingly and drastically.

Petitioners claim in the Supplemental Petition that by his acts, respondent Mayor continuously defies the injunction issued by this Court, in acting as the Chief of Police of Pasay City.

On February 11, 1972, petitioners, by "Manifestation Re-Contempt of Court," prayed that respondents be cited and punished for contempt, for defying this Court's preliminary injunction issued on January 13, 1972, by taking over all the powers, functions, duties of petitioner Chief of Police of Pasay City.^[20]

On February 18, 1972, petitioner, by "Urgent Motion", informed this Court that respondent Mayor tried to eject the petitioner Chief of Police from his office, said move predicated on a letter by the Civil Service Commissioner dated February 16, 1972, to the effect that the approval of the appointment of petitioner Chief of Police had been revoked. Petitioners pray that the writ of preliminary injunction issued by this Court on January 13, 1972, be amended so as to place the parties in status quo pending the decision of this case, in as much as the legality of the appointment of petitioner Chief of Police is an issue in this case.^[21]

On February 21, 1972, this Court amended the preliminary injunction, to wit:

"NOW, THEREFORE, effective immediately and until further orders from this Court, You, Your agents, representatives, assigns or any persons acting upon your orders, place or stead, are hereby enjoined from executing and enforcing Memorandum Order Nos. 1, 4, 5, 6, all dated January 3, 1972, the letter to petitioner Roland C. Siquijor dated February 17, 1972, the letter to respondent Lt. Col. Carlos T. Galvez dated February 17, 1972, all issued and/or written by Mayor Pablo Cuneta, the 1st indorsement dated February 16, 1972, of the Acting Commissioner of Civil Service, and Gen. Order No. 72-01 dated January 3, 1972 issued by Lt. Col. Carlos T. Galvez."^[22]

Respondents, in their Supplemental Answer, Explanation, with Counter Petition,^[23] filed on March 9, 1972, insist on the averments in their Answer that the questioned memorandum orders by respondent Mayor were issued in good faith simply to exercise his control and supervision over the city police force. The questioned memorandum order dated January 12, 1972, was issued to effectively supervise the police force in curbing criminality. The questioned memorandum order dated January 31, 1972 was issued for the same purposes. The February 2, 1972 memorandum circular was intended for the same objective. Respondent Mayor claims he can exercise the power of supervision and control over the Pasay police force.

Respondent mayor admits that on February 10, 1972, he questioned the validity of the appointment of petitioner Chief of Police before the Commissioner of Civil Service,^[24] and the latter revoked the approval of said appointment on February 16, 1972.^[25] However, the Commissioner of Civil Service on February 18, 1972, set aside his revocation of petitioner Chief of Police's appointment.^[26]

Notwithstanding this Court's amended preliminary injunction dated February 21, 1972, including its effectivity on the revocation of the petitioner's appointment by the Commissioner of Civil Service on February 16, 1972, respondent Mayor insisted in his February 23, 1972 letter to the Commissioner of Civil Service that said appointment must be revoked.^[27] Respondents claim that since petitioner Chief of Police's appointment is void, petitioner has no personality before this Court and he should be the one punished for contempt.^[28]

Petitioner's reply, filed on April 6, 1972, refuted all of the respondents' claim of good faith in trying to exercise control and supervision over the Pasay Police Force, claimed that petitioner PLACU, like the PHILCONSA, being a civic, non-profit, non-partisan organization intended in upholding the rule of law, has a personality in this case, and insisted that respondents be punished for contempt for continuous defiance of this Court's preliminary injunction, as amended, said respondents allegedly acting in bad faith and coming to court with unclean hands.[29]

Respondent's rejoinder, filed on May 10, 1972, insisted on lack of legal interest on part of petitioner PLACU, claimed that petitioners charges are unfounded and irrelevant, and they have not violated this Court's preliminary injunction.[30]

Petitioners filed on May 20, 1972, a "Supplemental Manifestation Re-Contempt of Court," claiming that respondent Mayor, in defiance of this Court's preliminary injunction dated January 13, 1972, and amended writ of preliminary injunction, dated February 22, 1972, issued a memorandum dated May 11, 1972, designating a certain Jesus P. Amor as officer-in-charge of the police department.[31]

Respondents filed on May 27, 1972, "Answer to the Supplemental Manifestation Re-Contempt of Court," claiming good faith in the designation of Jesus P. Amor as head of the police department, and that respondent mayor recalled said designation.[32]

A rejoinder to answer was filed by petitioners on June 3, 1972, calling the attention of this Court to the repeated assurance of respondent Mayor that he did not intend to violate the preliminary injunction issued, and yet the repeated violations of the injunction.[33]

This Court considered the case submitted for decision on June 13, 1972.[34]

Petitioner PLACU, together with the real party in interest, petitioner Chief of Police, is not disqualified to appear as petitioner in this case, because as a non-profit, civic and non-partisan organization, like the PHILCONSA, it is merely interested in up-holding the rule of law.

However, the question of the validity of the transfer of the petitioner, Rolando C. Siquijor, to the Office of the Mayor of Pasay City by the respondent Pablo Cuneta has become MOOT and ACA-DEMIC upon the promulgation of Presidential Decree No. 421, in-tegrating the city and municipal police forces, jails and fire departments within the Greater Manila Area, which vested the "power to direct and control the tactical, strategic movements, deploy-ments, placements and/or utilization of the entire Metropolitan Police Force or any of its elements and components, equipment, facilities and other resources within its territorial jurisdic-tion," upon the Commanding General, PC METROCOM.

As to the continuous contempt of this Court allegedly perpe-trated by respondent Mayor in open defiance of this Court's preliminary injunction of January 13, 1972, and the amended writ of preliminary injunction dated February 22, 1972, all intended to place the parties in status quo pending the resolution of this case, and to prevent the respondent Mayor from interfering in the performance of duties of petitioner Chief of Police, it is of record that notwithstanding the existence of said injunction, respondent Mayor did the following acts:

(1)

January 23, 1972, supposed recall of contested memorandum order Nos. 1 and 10, dated January 3 and 4, respectively, insisting that respon-dent Mayor's intention in issuing them was be-cause of his control and supervision over the Pasay Police Force;[35]

(2)

January 12, 1972, memorandum order to all officers and men of the Pasay Police Department, ordering them that all orders, indorsements, communication pertaining to police matters be coursed to the respondent Mayor, thru respondent Carlos Galvez;[36]

(3)

January 31, 1972, memorandum order to all department heads of the Pasay City Government, advising them that respondent Mayor since his assumption of office has taken over the control and supervision of the Pasay Police Department, and directing that all matters relative to police work be submitted to respondent Mayor for approval;[37]

(4)

February 2, 1972, memorandum circular to all chiefs of bureau, division, section, of the Pasay Police Department, informing them of the defiance to the respondent Mayor's January 12, 1972 memorandum order, directing all police matters to be coursed to respon-dent Mayor, thru respondent Carlos Galvez, And warning them that defiance of said direc-tive shall be dealt with accordingly;[38]

(5)

February 9, 1972, memorandum order, to Atty. Ruperto Constantino, newly appointed Deputy Chief of Police, instructing him to report to respondent Carlos Galvez, officer-in- charge of the Pasay City Police Department;[39]

(6)

February 5, 1972, the respondent Mayor as-sumed the duties of the petitioner as Chief of Police;[40]

(7)

February 7, 1972, memorandum to petitioner Chief of Police, asking him to explain with-in 72 hours why he should not be administratively dealt with for defying respondent mayor's memorandum orders;[41]

(8)

February 18, 1972, respondent Mayor tried to eject petitioner Chief of Police from his office, and threatened to forcibly evict the latter;[42]

(9)

February 17, 1972, respondent Mayor extended an appointment to respondent Carlos T. Galvez, as Chief of Police of Pasay City;[43]

(10)

February 23, 1972, respondent Mayor insisted in his letter to the Commissioner of Civil Service that the appointment of petitioner Chief of Police should be declared void;[44]

(11)

May 11, 1972, memorandum to Jesus Amor, designating him as officer-in-charge of the Police Force of Pasay City.[45]

It is readily discernible from the foregoing, that aside from the January 12, 1972 act, which was one day before this Court issued the preliminary injunction on January 13, 1972, all the stated acts of respondent Mayor were done subsequent to the injunctions issued by this Court. Notwithstanding the repeated pro-testations of good faith

in doing those acts by respondent Mayor and his likewise repeated allegations of recall of those memorandum orders, his pattern of subtle defiance to this Court's injunction orders appears clearly defined. His acts show an obsession to remove and replace the petitioner Chief of Police, whatever be the means, even if the issue of the validity of the appointment of the petitioner is before this Court to determine as a justiciable issue. His defiance of this Court's injunction orders may be subtle and refined, yet it is by all means no less a defiance. Although con-tempt should not be utilized as a vindictive measure, this Court believes that respondent Mayor should be taught a lesson not to take this Court's injunction orders lightly and not to use means, bordering on schemes, to circumvent the effects of said injunctions. Respondent Mayor deserves punishment for contempt of this Court with a warning that a repetition of the same shall be dealt with more severely, as provided for under Secs. 3(b) and 6 of Rule 71, Rules of Court.

WHEREFORE, the petition should be, as it is hereby, dismissed. But the respondent Mayor Pablo Cuneta is hereby declared in contempt of this Court and fined P1,000.00; with double costs against respondents.

SO ORDERED.

Barredo, (Chairman), Aquino, Abad Santos, and De Castro, JJ., concur.

[1] pp. 1-6, rollo.

[2] pp. 20-21, Id.

[3] pp. 7-9, Id.

[4] p. 10, Id.

[5] p. 11, Id.

[6] p. 12, Id.

[7] p. 13, Id.

[8] pp. 14-15, Id.

[9] p. 16, Id.

[10] p. 17, Id.

[11] pp. 1, 4-5, Id.

[12] pp. 28-30, Id.

[13] p. 31, Id.

[14] pp. 36-41, Id.

[15] p. 42, Id.

[16] p. 36, Id.

[17] p. 20, Id.

[18] p. 43, Id.

[19] pp. 44, Id.

[20] pp. 46-49, Id.

[21] pp. 55-57, Id.

[22] p. 63, Id.

[23] pp. 73-100, Id.

[24] pp. 84-88, Id.

[25] pp. 88-89, Id.

[26] pp. 89-90, Id.

[27] p. 91, Id.

[28] p. 97, Id.

[29] pp. 121-156, Id.

[30] pp. 179-191, Id.

[31] pp. 194-197, Id.

[32] pp. 203-310, Id.

[33] pp. 218-225, Id.

[34] p. 238, Id.

[35] p. 31, Id.

[36] p. 42, Id.

[37] p. 43, Id.

[38] p. 44, Id.

[39] p. 50, Id.

[40] pp. 51-53, Id.

[41] P. 53, Id.

[42] p. 55, Id.

[43] p. 58, Id.

[44] pp. 104-108, Id.

[45] p. 197, Id.

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