

VICTORIO D. SANTOS, PETITIONER AND APPELLANT, VS. MACARIO MENDOZA ROSA, ETC., ET AL., RESPONDENTS AND APPELLEES.*G.R. No. L-4700. November 13, 1952*

Ponente: PARAS, C.J.

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Under Republic Act No. 557, approved on June 17, 1950, members of the municipal police cannot be removed or discharged except for misconduct or incompetency, dishonesty, disloyalty to the Philippine Government, serious irregularities in the performance of their duties, and violation of law or duty, and in such cases, charges shall be preferred by the municipal mayor and investigated by the municipal council. (Section 1.) When charges are filed against a member of the municipal police, the municipal mayor may suspend the accused, but said suspension shall not be longer than sixty days; and if during the period of sixty days, the case shall not have been decided finally, the accused, if he is suspended, shall ipso facto reinstated in office without prejudice to the continuation of the case until its final decision, unless the delay in the disposition of the case is due to the fault, negligence, or petition of the accused, in which case the period of the delay shall not be counted in computing the period of the suspension. (Section 3.)

On August 12, 1950, administrative charges were filed by Jose N. Layug, municipal mayor of Guagua, Pampanga (hereinafter to be referred to as respondent mayor), against the chief of police, Victorio D. Santos, (hereinafter to be referred to as the petitioner), before the municipal council, as a result of which the respondent mayor suspended the petitioner from his office on August 16, 1950. The municipal council of Guagua referred the charges to the committee on police and public safety, composed of three of its own members, (hereinafter to be referred to as respondent committee) for investigation, reception of evidence, and recommendation. The respondent committee, on September 11, 1950, set the investigation of the case for September 16. At the instance of the petitioner, the investigation was postponed to September 23. Upon motion of the petitioner, the investigation was further postponed, first, to September 30 and, secondly, to October 10, 1950. On the latter date the petitioner assailed the right of the respondent committee to investigate him. under Republic Act No. 557, on the ground, that the acts charged against him were committed prior to the passage of said Act, and that the municipal council could not delegate its power to investigate to the respondent committee. The petitioner, therefore, moved that the case be dismissed. The denial of this motion to dismiss led to the filing by the petitioner on October 26, 1950, in the Court of First Instance of Pampanga, of a petition for prohibition against Macario Mendoza Rosa, Jose Cayanan and Emeterio Manlulu, as members of the respondent committee, and Jose N. Layug, municipal mayor of Guagua.

On October 27, 1950, the petitioner requested the respondent mayor to reinstate him, and this request was referred to the respondent committee which denied the same. Whereupon, on November 9, 1950, the petitioner instituted a petition for mandamus in the Court of First Instance of Pampanga against the respondent mayor, to compel the latter to reinstate the petitioner as chief of police, with his corresponding salary during the period of suspension, plus damages in the sum of P500. Upon motion of the petitioner in the prohibition case, the court issued a writ of

preliminary injunction on November 22, 1950, restraining the respondent committee from proceeding with the investigation. In said case, the Court of First Instance of Pampanga rendered a decision dated January 23, 1951, dismissing the petition for prohibition and dissolving the writ of preliminary injunction. In the mandamus case, the Court of First Instance of Pampanga (thru Judge Francisco Area) rendered a decision dated January 23, 1951, ordering the respondent mayor to reinstate the petitioner within a period of twenty-four hours, without prejudice to the continuation of the investigation against him. However, upon motion for reconsideration filed by the respondent mayor, the court (thru Judge Edilborto Barot) issued an order dated February 12, 1951, vacating the decision of January 23, 1951, insofar as it orders the reinstatement of the petitioner. From the decision in the prohibition case and from the last order in the mandamus case, the petitioner has appealed.

I. With reference to the petition for prohibition, it is contended for the petitioner that (1) he cannot be investigated under Republic Act No. 557 because the acts imputed to him were committed before the approval of said Act, and (2) assuming that Republic Act No. 557 is applicable, the respondent committee has no jurisdiction to investigate him, because it is the municipal council that is empowered to conduct the necessary investigation.

The petitioner argues that the charges against him should be investigated by the Provincial Inspector of the Philippine Constabulary who shall forward the case, after the investigation, to the Commissioner of Civil Service for decision, in accordance with Executive Order No. 175, series of 1938, in force at the time the acts in question were committed. Petitioner's contention is obviously untenable, since Republic Act No. 557, in providing merely for a new procedure by which charges against a member of the municipal police are to be investigated, may validly be given retroactive effect. It is not contended that, by the new procedure, the petitioner is deprived of any substantial right, or that his opportunity for defending himself is in any manner impaired.

Neither is there merit in the contention that the municipal council cannot delegate its power to investigate the charges against the petitioner to the respondent committee. It is true that section 1 of Republic Act No. 557 expressly provides that charges filed against a member of the municipal police shall be investigated by the municipal council, but this does not amount to a prohibition against the delegation by the municipal council of said function to a committee composed of several of its members. In practice, with a view to expediting the business of a municipal council, the latter creates various committees for the purpose of handling or studying matters that call for public hearings or reception of evidence which may not otherwise be conveniently attended to by the municipal council as a body. At any rate, the final decision in the case at bar lies with and is therefore the sole responsibility of the municipal council.

II. In the petition for mandamus, it is contended for the petitioner that from August 16, (commencement of petitioner's suspension) to November 22, 1950 (when the writ of preliminary injunction was issued), 98 days had elapsed and that, therefore, in accordance with section 3 of Republic Act No. 557, which provides that the suspension shall not be for more than 60 days, his reinstatement was in order.

It appears, however, that the three postponements asked by the petitioner, namely, from September 16 to September 23, from September 23 to September 30, and September 30 to October 10, 24 days were embraced. Deducting these from 98 days, 74 days are left. This figure was taken as the basis of the decision of Judge Area of January 23, 1950, ordering the reinstatement of the petitioner. In our opinion, however, Judge Barot properly deducted the period comprised between October 10 and November 22, 1950, because said period resulted from the fact that when the case was to be heard on October 10, the petitioner, instead of submitting to the investigation, questioned the jurisdiction of the respondent committee to investigate the charges against him and on October 26, 1950, instituted his petition for prohibition against the respondent committee; and although the latter reset the investigation for November 24, 1950, the Court of First Instance of Pampanga, upon motion of the petitioner, issued a writ of preliminary injunction on November 22, 1950. The delay from October 10 to

November 22 is clearly chargeable against the petitioner. As already noted, under section 3 of Republic Act No. 557, reinstatement shall ipso facto follow after a period of sixty days when the case shall not have been decided finally, unless the delay is due to the fault, negligence, or petition of the accused, in which case the period of the delay shall not be counted in computing the period of suspension.

Wherefore, the appealed decisions are hereby affirmed, and it is so ordered with costs against the petitioner-appellant.

Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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