

GUNTRANO C. GICA, MUNICIPAL MAYOR OF THE MUNICIPALITY OF DUMANJUG, CEBU, THE MUNICIPAL TREASURER, MUNICIPALITY OF DUMANJUG, CEBU, AND THE MEMBERS OF THE MUNICIPAL POLICE FORCE O...*G.R. No. L-28020. September 08, 1972*

Ponente: MAKASIAR, J.

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This petition for certiorari was filed on September 8, 1967 by then municipal mayor Guntrano C. Gica, the municipal treasurer and members of the municipal police force of Dumanjug, Cebu as well as by the then provincial governor and provincial auditor of Cebu against the then presiding judge of the Court of First Instance of Cebu, Barili Branch, and private respondents Jesus Galeos, et. al. praying for the issuance of a writ of preliminary injunction res-training the respondent judge from further enforcing the writ of preliminary injunction he issued (Annex C, pp. 20-21, rec.) in Civil Case No. 355-BC pending before his court and, after hearing, to make the said writ permanent and/or to order the dissolution of said writ of preliminary injunction, Annex C.

It appears that herein private respondents, alleging that they were duly appointed policemen in the municipality of Dumanjug, Cebu on May 10, 1966 by herein respondent acting mayor Pacifico Alpuerto duly approved by the municipal council, that the appointments by herein peti-tioner mayor Guntrano C. Gica of said municipality of the herein petitioners policemen were duly disapproved by the municipal council, and that the Chief of Staff of the Philippine Constabulary, the provincial commander of Cebu threatened and attempted to disarm herein private respondents as policemen of the municipality of Dumanjug pursuant to the opinion of the Department of Justice that then acting mayor Pacifico Alpuerto could not validly appoint members of the police force during the suspension of then mayor Gica, filed a petition for declaratory relief with mandatory and prohibitory injunction and preliminary in junction against the Chief of Staff, Philippine Constabulary, the provincial PC commander of Cebu, the provincial governor of Cebu and provincial auditor of Cebu, mayor Guntrano C. Gica, Lorenzo Alpuerto, Lucio Reconalla, Eduardo Aldanese, Remigio Alpuerto, Avelino Jongoy, Fortunato Patlingrao, Sergio Cantones, Eugenio Tuanson, Veleriano Balansag, Buenaventura Escuadro and Inocencio Cabag, all dismissed members of the police force appointed by Mayor Gica, and the municipal treasurer, praying among others for the issuance of a writ of preliminary injunction to restrain the aforesaid officials from disarming and depriving Jesus Galeos, et. el. of their positions and from turning over their firearms and badges to the dismissed members of the police force Lorenzo Alpuerto, et. al. and to prevent the municipal treasurer, the provincial auditor or their agents from paying the salaries of the said dismissed policemen (Annex A, pp. 14-18, rec.).

In an order dated March 15, 1967, then Presiding Judge Mateo Canonoy of Branch III of the Court of First Instance of Cebu in said Civil Case No. 355-BC issued a writ of preliminary injunction restraining respondents therein from disarming and depriving therein petitioners of their positions and from turning their firearms to the dismissed members of the town police force, upon the filing by the petitioners therein of a bond in the amount of P500.00 (Annexes B & C, pp. 19-21, rec.).

Herein petitioners filed a motion for reconsideration dated March 25, 1967 and the lifting of the aforesaid writ of preliminary injunction (Annexes G & H, pp. 47-83, rec.), to which therein petitioners Jesus Galeos, et. al. filed an opposition dated April 20, 1967 (Annex 1, pp. 85-107, rec.).

In an order dated August 3, 1967, herein respondent judge deferred resolution on the said motion for re-consideration and for the lifting of the writ of preliminary injunction until after the trial on the merits (Annex K, pp. 108-111, rec.).

Hence, this petition.

In Our resolution dated September 14, 1967, WE issued the writ of preliminary injunction upon the posting by herein petitioners of a bond of P1,000.00 (pp. 112, 113, 116-118, 122-123, rec.).

The answer of herein respondents dated October 5, 1967 was received on October 9, 1967 (pp. 125-132, rec.).

In Our resolution dated November 17, 1967, herein petitioners were given thirty (30) days within which to submit a memorandum in lieu of oral argument, while the respondents were granted leave to submit their reply within thirty (30) days from receipt of a copy of petitioners' memorandum (p. 140, rec.).

Herein petitioners' memorandum dated December 15, 1967 was received on December 28, 1967, to which herein respondents have not submitted a reply (pp. 141-150, rec.).

In a manifestation dated June 10, 1972 and received on June 19, 1972, counsel for private petitioners stated that the issues involved in this case before Us had become moot and academic, because the incumbent presiding judge in Civil Case No. 355-BC of the Court of First Instance of Cebu had already dismissed said case wherein the questioned writ of preliminary injunction, Annex C, was issued for lack of interest on the part of petitioners therein to prosecute the said case, in an order dated June 2, 1972, attaching thereto a copy of said order as Annex A (pp. 152-154, rec.).

OUR resolution of June 26, 1972, which was received by herein respondents on July 11, 1972, required said respondents to comment on the above manifestation of the counsel of herein petitioners within ten (10) days from notice thereof.

Until this date, herein respondents have not filed the required comment, from which it can be inferred that Civil Case No. 355-BC was already dismissed. Consequently, said dismissal necessarily dissolved the writ of preliminary in-junction issued in said Civil Case No. 355-BC, the validity of which is the issue in the petition before US.

WHEREFORE, this petition is hereby dismissed as moot and academic, without pronouncement as to costs.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Fernando, Antonio, and Esguerra, JJ., concur.

Teehankee and Barredo, JJ., took no part.

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