

PETRONILO L. RUIZ, PETITIONER-APPELLEE, VS. GERMANICO A. CARREON, AND VENUSTO C. HAMOY, RESPONDENTS-APPELLANTS.*G.R. No. L-29707. March 30, 1970*

Ponente: CONCEPCION, C.J.

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Direct appeal, taken by respondents Germanico A. Carreon and Venusto C. Hamoy, from a decision of the Court of First Instance of Zamboanga del Norte.

Petitioner Petronilo L. Ruiz has been chief of police of Dapitan City since March 16, 1966, when he assumed said office. On August 6, 1968, the Acting City Fiscal of Dapitan filed, with its City Court, an information (Exh. B) charging petitioner herein with "other light threats", whereupon, the City Mayor, respondent Germanico A. Carreon, issued an order (Exh. C) suspending petitioner, "effective August 7, 1968". Subsequently, Mayor Carreon designated respondent Venusto C. Hamoy, a police lieutenant of the Police Department of Dapitan, as Officer-In-Charge of said department, during petitioner's suspension. This led to the filing by petitioner herein of the present quo warranto proceedings against said respondents, upon the ground that Mayor Carreon had no authority to suspend him and that, accordingly, Lt. Hamoy is usurping petitioner's office as Chief of Police of Dapitan. In their answer, respondents maintained that Mayor Carreon has the power to suspend petitioner, under the aforementioned provision of the Police Act.

After appropriate proceedings, the Court of First Instance of Zamboanga del Norte rendered a decision overruling respondents' contention and nullifying the order of suspension of petitioner herein, as well as declaring him entitled to hold, possess, exercise and discharge the functions and duties of Chief of Police of Dapitan, and ordering his immediate reinstatement to said office, with all the privileges and emoluments appertaining thereto, from the date of his aforementioned suspension, without pronouncement as to costs. Hence, this appeal by respondents.

It is not disputed that petitioner herein was appointed by the President, pursuant to Section 19 of Republic Act No. 3811, approved on June 22, 1963, which is the Charter of the City of Dapitan and that his appointment had been duly confirmed by the Commission on Appointments. Said provision reads:

"Sec. 19. Appointment and removal of officials and employees. - The President of the Philippines, with the consent of the Commission on Appointments, shall appoint the city judge, the city treasurer, the city engineer, the city fiscal, the chief of police, the city health officer, the city assessor, the chief of the fire department, the city superintendent of schools, and other heads of such city departments as may be created. Said officers shall not be suspended nor removed except in the manner and for causes provided by law.

"Subject to the provisions of the Civil Service Law, the City Mayor shall appoint all other officers and employees paid out of city funds, and they shall be suspended or removed in accordance with law."

It is clear from the foregoing that, on February 17, 1966, when petitioner was appointed, as well as on March 16, 1966, when he assumed his duties, as Chief of Police of Dapitan, the power to fill the same was vested in the

President, who, likewise, had the authority to suspend or remove him, in the manner and for the causes provided in said R.A. No. 3811. Subsequently, however, on September 8, 1966, Republic Act No. 4864, otherwise known as the Police Act of 1966, was approved. The pertinent parts of Section 8 and 16 of said Act read:

"Sec. 8. Power to Appoint. - Upon approval of this Act, appointment to a local police agency shall be made by the mayor from the list of eligibles certified by the Civil Service Commission: Provided, That in those cities where the city council participates in the appointment of members of the Police Force, the said power shall be maintained in accordance with their respective charters: Provided, further, That all such appointments shall be on probationary basis for a period of six months with an evaluation and recommendation report for retention or dismissal by the chief of police prior to the expiration thereof: Provided, furthermore, That the power to appoint the Chief of Police, Assistant Chief of Police or Chief of the Secret Service of the Police Department in accordance with the provisions of existing city charters shall continue to be vested in the President until December 31, 1967.

"xxx xxx xxx

"Sec. 16. Suspension of Members of the Police Force or Agency. x x x

"When a member of the police force or agency is accused in court of any felony or violation of law by the city or municipal attorney or by the chief of the municipal police or the provincial or assistant provincial fiscal or city or assistant city fiscal, as the case may be, the city mayor or municipal mayor concerned, shall immediately suspend the accused from office pending the final decision by the court, and in case of acquittal, the accused shall be entitled to immediate reinstatement and the payment of the entire salary he failed to receive during his suspension: Provided, however, That trial and disposition of criminal cases against members of the police forces shall be accorded priority by the courts."

In consequence of these provisions of Rep. Act No. 4864, the power of the President to appoint chiefs of police of chartered cities, pursuant to the provisions of their respective charters, lapsed on December 31, 1967, so that beginning from January 1, 1968, the authority to fill the office of chief of police of Dapitan was vested in its City Mayor. Moreover, on September 12, 1967, Rep. Act No. 5185, commonly known as the Decentralization Act of 1967, was approved. Section 4 thereof ordains:

"xxx xxx xxx

"The City Assessor, City Agriculturist, City Chief of Police and City Chief of Fire Department and other heads of offices entirely paid out of city funds and their respective assistants or deputies shall, subject to civil service law, rules and regulations, be appointed by the City Mayor. x x x

"xxx xxx xxx

"The suspension, removal, transfer and other personnel action on the heads of offices and their other employees in provinces, cities and municipalities shall be subject to the provisions of civil service law, rules and regulations.

"xxx xxx xxx."

The issue for our determination is whether, having been appointed by the President of the Philippines, petitioner herein could be suspended or removed from office by respondent City Mayor, to whom said power of appointment was transferred by Rep. Act No. 5185, since Sept. 12, 1967, and by Rep. Act No. 4864, since Jan. 1, 1968. A direct answer to this question is not supplied by any of the legislations adverted to above. However, Section 3 of Rule XIII of the Police Manual, issued on December 30, 1967, by the Office of the President, upon the recommendation of the Police Commission - which was created by said Rep. Act No. 4864, precisely to carry out the objectives thereof - is of the following tenor:

"Sec. 3. Status of Chiefs of Police and other police officers appointed by the President. - All chiefs of police and other police officers appointed by the President and confirmed by the Commission on Appointments, shall continue to enjoy their status as presidential appointees and may be suspended or removed only for cause and by order of the President. x x x." [1]

Explaining the reason for the inclusion of this provision in the Police Manual, the Acting Chairman of said Commission, in his letter to respondent Mayor, dated May 3, 1968 (Exhs. D and D-1), had this to say:

"The need for a clearcut definition of the security-of-time status of the chiefs of police who are appointed by the President was not at first foreseen by the committee drafting the Police Manual until it became too obvious in subsequent events that their security in office was actually threatened. To avoid the recurrence of such situation as are plainly prejudicial to the integrity and independence of said officials, and to avoid future politically-expedient construction of Sections 14 and 16 of the Police Act of 1966, it was decided that such a provision as was quoted above was necessary as a measure of safeguard and protection." [2]

Although not a part of Republic Act No. 4864, said section 3 of Rule XIII of the Police Manual is the official interpretation and implementation of said Act by the very agency created therein to take charge of its administration and enforcement. As such, it is entitled to great weight and consideration, and should be respected by courts of justice, unless clearly erroneous. [3] We do not find it to be so. On the contrary, according to the last paragraph of section 8 of Rep. Act No. 4864:

"The provisions of this section shall be without prejudice to the tenure of the incumbent chiefs of police, assistant or deputy chiefs of police and chiefs of the secret service and those holding office on January 1, 1968 in accordance with existing laws and/or civil service rules and regulations all of whom can only be removed for cause: PROVIDED, FINALLY, That the municipal mayor, city mayor and provincial governor shall in no case appoint special policemen or special agents or confidential agents within sixty days before and after every election."

Pursuant thereto, the provisions of said section 8 shall be "without prejudice to the tenure of the incumbent chiefs of police, x x x and those holding office on January 1, 1968 in accordance with existing laws x x x." One of such incumbents was petitioner herein, and, pursuant to the laws in force on December 31, 1967, the authority to suspend or remove him was impliedly, but clearly, vested in the President, as the officer who had the power to appoint the Chief of Police of Dapitan. [4]

Moreover, it is difficult to reconcile the power of general supervision over local governments vested in the President by the Constitution with the alleged authority of municipal or city mayors to suspend a presidential appointee. Indeed, such avowed authority of Mayors would enable them, in effect, to set aside an act of the President, by seeing to it that criminal charges - even if insubstantial - are filed against a member of the police force appointed by the Executive, so that the accused could - under the theory of respondents herein - be suspended by the incumbent Mayor, thus giving the latter an opportunity to install his own man, in lieu of said accused.

The relevance of this evil becomes more apparent when we consider the circumstances under which the criminal case against petitioner herein for "other light threats," had been filed. In this connection, the record shows that petitioner had, prior thereto, been suspended by Mayor Carreon, in connection with administrative charges preferred against the former, on February 16, 1968, by several policemen, mainly for disciplinary measures taken against them by the petitioner. The aforementioned suspension led to the intervention of the Police Commission, whose Acting Chairman wrote the letter above quoted explaining the reasons underlying section 3 of Rule XIII of the Police Manual, thereby suggesting indirectly that petitioner's previous suspension was illegal. Then came the criminal case for "other light threats," allegedly committed by the petitioner as follows:

"That in the morning, on or about the 31st day of July, 1968, in the City of Dapitan, Philip-pines, within the jurisdiction of this Honorable Court, the above-named accused did, then and there wilfully, unlawfully, feloniously and orally threaten one GERARDO C. DULALAS with some harm constituting a crime, but who by subsequent acts showed that the said accused did not persist in the idea involved in his threat.

"That the crime was committed with the aggravating circumstance of advantage taken by the accused of his public position as Chief of Police of Dapitan City."

The undisclosed nature of the "harm constituting a crime," charged in this information, and the fact that Gerardo C. Dulalas, the offended party in said criminal case, is an officer of the Police Department of Dapitan, subordinate to petitioner, like the complain-ants in the administrative case above referred to, considered in relation to the events preceding the filing of said information, strongly suggest that its underlying purpose was to justify peti-tioner's suspension and pave the way to the appointment of another one in his place.

In short, We find the decision of the lower court to be in accord with the nature of the official relations between the Presi-dent and city or municipal mayors, and with the spirit and purpose of Rep. Acts Nos. 3811, 4864 and 5185, for which reason, the deci-sion appealed from should be, as it is hereby affirmed, without special pronouncement as to costs.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Villamor, JJ., concur.
Teehankee and Barredo, JJ., took no part.

[1] Underscoring ours.

[2] Underscoring ours.

[3] In re Allen, 2 Phil. 630; Government v. Municipality of Binalonan, 32 Phil. 634; Molina v. Rafferty, 37 Phil, 545; Madrigal v. Rafferty, 38 Phil. 414; Guanio v. Fernandez, 55 Phil. 814; Ramos v. C.I.R., L-22753, December 18, 1967.

[4] Hojilla v. Mariño, L-20574, Feb. 26, 1965; Fernandez v. Ledesma, L-18878, March 30, 1963.

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