

**FELIX C. HALIMAO, PETITIONER, VS. THE HONORABLE FRANCISCO P. FELIX, MUNICIPAL MAYOR OF CAINTA, RIZAL, RESPONDENT.***G.R. NO. L-35271. March 29, 1974*

Ponente: FERNANDO, J.

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Petitioner Felix C. Halimao, in this suit for mandamus with preliminary mandatory injunction, sought the termination of his preventive suspension and his reinstatement to his position as Chief of Police of the Municipality of Cainta, Province of Rizal, alleging that for the second time he was suspended for practically the same complaint for seduction which had previously been dismissed and that even on the assumption that there was still a pending case against him, he was entitled to go back to his position as there had been an unreasonable delay in the disposition of such administrative case which by the time of the suit had lasted for three years. In the comment of respondent Francisco P. Felix, then Municipal Mayor of the Municipality of Cainta, he admitted that the limit of sixty days for preventive suspension had been exceeded, but he alleged that with the delay of the disposition of the administrative case being due to the fault or negligence of petitioner himself, such period should not be applicable to him. Such comment was considered as the answer and the case was duly set for hearing. Thereafter, the parties filed their respective memoranda.

Subsequently, there was a manifestation and motion to dismiss filed by counsel for the respondent wherein it was alleged: "1. The principal prayer of the 'Petition' for mandamus filed in the above-entitled case seeks the reinstatement of the petitioner to his former position of Chief of Police of the Municipality of Cainta, Rizal. 2. In several papers already filed before this Honorable Court, express mention was made of the fact that there is an administrative case for grave misconduct pending before the Police Commission against the herein petitioner. 3. In a 'Decision' dated March 19, 1973 in Administrative Case No. 2690 of the Police Commission entitled 'Pedro de Guzman v. Felix Halimao,' the Police Commission has already found as follows: '[In view of the foregoing], this Board finds respondent Chief of Police [Felix Halimao], Cainta Police Department, Rizal guilty of "Gross Misconduct" and hereby orders his dismissal from the service with prejudice.' . . . 4. Having been found guilty and ordered to be dismissed from the service with prejudice, it is manifest that the instant petition for the petitioner's reinstatement to his original position as Chief of Police of Cainta, Rizal has now become moot and academic." [1] The prayer was for the dismissal of this petition. On May 8, 1973, a resolution of this tenor was issued by this Court: "Considering the manifestation and motion of respondent to dismiss the herein petition on the ground that in the decision of the Police Commission in Administrative Case No. 2690, entitled 'Pedro de Guzman vs. Felix Halimao' dated March 19, 1973, said Commission found petitioner herein guilty of gross misconduct and was ordered to be dismissed from the service with prejudice, the Court Resolved to require the petitioner to [Comment] thereon, within ten (10) days from notice hereof." [2] It was not until the later part of August that such comment came; it reads thus: "That the decision of the Police Commission in Administrative Case No. 2690, entitled 'Pedro de Guzman vs. Felix Halimao, dated March 1973, found herein petitioner guilty of gross misconduct and was ordered to be dismissed from the service with prejudice; 2. That the petitioner did not file any motion for reconsideration of the decision mentioned in paragraph 1 hereof, and, consequently, the same

became final in accordance with law; 3. That, therefore, the issues involved in the above-entitled case have become moot and academic and herein petitioner hereby manifests that he shall no longer pursue the remedies available in the above-entitled case but shall take steps or remedies available to him under existing laws." [3]

WHEREFORE, the petition is dismissed on the ground of its being moot and academic.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J., took no part.

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[1] Manifestation and Motion to Dismiss dated April 26, 1973, 1-2.

[2] Resolution dated May 8, 1973.

[3] Comment dated June 7, 1973.

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