

JOSE R. OLIVEROS, IN HIS CAPACITY AS MUNICIPAL MAYOR OF ANTIPOLO, RIZAL, PETITIONER, VS. HON. BENJAMIN H. AQUINO, JUDGE, COURT OF FIRST INSTANCE OF RIZAL, JOSE S. OLIVEROS, OSCA...

G.R. Nos. L-31506, L-31507 and L-31508. December 29, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

As an aftermath of a shooting incident which occurred in a nightclub in Antipolo, Rizal on January 31, 1969, Jose S. Oliveros, the chief of police of Antipolo, and his policemen named Oscar Oliveros, Jose Sumulong, Jose Paranas, Elpidio Herrera, Benjamin Araquel, Gregorio Carigma, Federico Garcia, and Antonio Santos, and others were charged with murder, homicide and frustrated murder in the office of the provincial fiscal at Pasig, Rizal in February, 1969.

In that shooting incident, Generoso Santiago, the deputy chief of police of Teresa, Rizal, Reynaldo Oquendo and Ponciano Caluma were killed while Serapio Sto. Tomas was injured. (See I. S. No. 69-315.) Benjamin H. Aquino, who was then the provincial fiscal of Rizal, conducted the corresponding preliminary investigation.

At the same time, a charge of grave misconduct was filed by Fidelita Francisco, the widow of the deceased deputy chief of police of Teresa, with the Police Commission (Polcom) against the chief of police and his policemen.

Fiscal Aquino filed on May 29, 1969 an information charging with double homicide and frustrated homicide Mario C. Oliveros, Rodolfo Gammad, Quirino Calica, Crispin Anclote, Jose Manlangit and Manuel del Rosario (Criminal Case No. 19348). He charged Alberto Panong with homicide through reckless imprudence in a separate information (Criminal Case No. 19349). He dismissed the complaint against the chief of police of Antipolo.

On July 2, 1969, Jose R. Oliveros, the mayor of Antipolo (not to be confused with Jose S. Oliveros, the chief of police), suspended the policemen accused in Criminal Cases Nos. 19348 and 19349.

Upon the recommendation of the local board of investigators, the mayor issued an order suspending from office the respondents in the administrative case, namely, the chief of police, Corporals Oscar Oliveros, Jose Sumulong, Jose Paranas and Elpidio Herrera and Patrolmen Benjamin Araquel, Gregorio Carigma, Federico Garcia and Antonio (Antonino) Santos. The order of suspension was served on July 11, 1969 upon the chief of police and the eight policemen. After the chief of police was included in Criminal Case No. 19348, the mayor ordered his preventive suspension.

That order provoked the chief of police and his eight policemen to file in the Court of First Instance of Rizal at Pasig an injunction suit to restrain the mayor from implementing the suspension (Civil Case No. 11992). That case was assigned to Judge Benjamin H. Aquino who was promoted to the judiciary. Judge Aquino issued an ex parte order dated July 12, 1969, restraining the mayor from suspending the chief of police and his eight policemen. The restraining order was confirmed in an order of injunction dated August 13, 1969.

Not content with having filed the injunction suit, Civil Case No. 11992, the chief of police filed an action for declaratory relief against the Commissioner of Civil Service, the Chairman of the Polcom, and the local police board of investigators (Civil Case No. 12065). He contended that the authority to discipline the chief of police was lodged in the Commissioner of Civil Service and not in the Polcom.

That case, like Civil Case No. 11992, was assigned to Judge Aquino's sala. He issued an order, and later an injunction, restraining the Polcom and the board of investigators from investigating the administrative case against the chief of police. The eight policemen subsequently joined the chief of police as co-petitioners in Civil Case No. 12065.

Meanwhile, in view of the suspension of the chief of police, the mayor requested assistance from the Constabulary for the maintenance of peace and order in Antipolo. Captain Mariano E. Escalona, Jr. was designated officer-in-charge of the Antipolo police force. Eight Constabulary enlisted men were assigned to Antipolo.

Because of the Constabulary takeover of the police functions in Antipolo, Jose Sumulong, the acting chief of police, filed a quo warranto action against Captain Escalona, Colonel Daniel Alger, the provincial commander of Rizal, and the mayor (Civil Case No. 12540). The case was also assigned to Judge Aquino. He issued on December 3, 1969 a restraining order directing the said Constabulary officers not to prevent Sumulong from discharging his duties as acting chief of police. The restraining order was converted later into a writ of preliminary injunction.

On January 23, 1970, the mayor filed in this Court against Judge Aquino, the chief of police and the eight policemen (including Sumulong) the instant special civil actions of certiorari and prohibition, assailing the restraining and injunction orders issued in Civil Cases Nos. 11992, 12065 and 12540 and praying for the dismissal of those cases.

The Chief Justice issued on January 28, 1970 an order restraining the enforcement of the injunctive processes in the three cases. The respondents answered the petition and filed a memorandum. The case was submitted for decision on July 7, 1970 without the mayor's memorandum.

Judge Aquino was dismissed from the service in 1972. Two respondents herein, Jose Paranas and Antonino Santos, in their manifestation of August 2, 1978, stated that their co-respondent chief of police died a long time ago, that the eight policemen, respondents herein, are no longer connected with the police department of Antipolo, and that this case had become moot and academic.

Judge Serafin Camilon, who succeeded Judge Aquino, stated in his manifestation of August 3, 1978 (1) that the quo warranto case, Civil Case No. 12540, was dismissed by Judge Aquino on July 8, 1973 for failure to prosecute; (2) that Civil Case No. 12065, the case for declaratory relief, was archived and (3) that Civil Case No. 11992, the injunction case, was reassigned to Judge Rizalina Bonifacio Vera.

The mayor's counsel in his manifestation of December 13, 1978 stated that this case had really become moot and academic. He stated that Criminal Case No. 19348 was finally terminated with the acquittal of the accused therein.

It is obvious that, because of the 1970 restraining order issued by this Court, the mayor achieved the main objective of his petition herein which was to freeze the restraining and injunctive orders issued by former Judge Aquino. Hence, the mayor lost interest in this case. He did not even bother to file a memorandum.

This case has become moot and academic because the chief of police and his eight policemen (respondents

herein) are, like Judge Aquino, no longer in the service. In fact, the chief of police is dead. They filed the injunction suit and the action for declaratory relief in the lower court, Civil Cases Nos. 11992 and 12065, in order to stop the administrative investigation against them.

But since they had ceased to be connected with the Antipolo police department, the administrative case against them must have been ipso facto terminated. Hence, the restraining and injunctive orders issued in those two cases, which the mayor has assailed in this case, have become functus officio.

As already noted above, the third case, Civil Case No. 12540, the quo warranto case, was dismissed and, therefore, the restraining and injunctive orders issued in that case, also being assailed herein, had likewise become functus officio.

WHEREFORE, this case is dismissed for having become moot and academic. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Concepcion, Jr., and Santos, JJ., concur.

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