

FLORENCIO F. MANGUBAT, PETITIONER, VS. CRISPINO M. DE CASTRO, JOSE G. LUKBAN, LORENZO YGOT AND TEOFILA BALTAZAR, RESPONDENTS.

G.R. No. L-33892. July 28, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the decision of respondent officials of the Police Commission dated September 18, 1969 in Administrative Case No. 275 against Detective Florencio Mangubat, Cebu City Police Department for "Misconduct, Dishonesty and/or Violation of Law", the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, this Commission finds Detective Florencio Mangubat, Cebu City Police Department guilty of Grave Misconduct and Violation of Law and hereby orders his dismissal from the service with prejudice." (Annex "B", Rollo, p. 16).

The antecedent facts are:

On January 11, 1963, this case was instituted by then Mayor Carlos J. Quizon of Cebu City, against petitioner with the former Municipal Board of that city pursuant to Republic Act No. 557, which provides:

"Members of the provincial guards, city police and municipal police shall not be removed and, except in cases of resignation, shall not be discharged except for misconduct or incompetency x x x and investigated by the provincial board, the city or municipal councils x x x and the investigating body shall decide the case within fifteen days from the time the case is submitted for decision." (Rollo, p. 11).

He was temporarily suspended by the Mayor pending the outcome of the investigation from January 11, 1963 and was reinstated sixty (60) days thereafter. Hearings were conducted by said board, after which by Resolution No. 1189 the case was considered submitted for decision. Petitioner was required to submit his memorandum, which was never filed (Decision, Rollo, p. 9). However, before the case could be decided, the Charter of Cebu City (R.A. 3857) was approved on June 10, 1964 and the name Municipal Board was changed to City Council of the City of Cebu. Among others, Section 30 thereof provides:

"Sec. 30. - The Fiscal of the City-his assistants, his duties, x x x The Fiscal of the City shall x x x whenever it is brought to his knowledge that any city officer or employee is guilty of neglect or misconduct in office x x investigate the same and report to the Mayor; x x x." (Rollo, p. 9).

Meanwhile, no decision was rendered by the City Council. On September 15, 1964, in view of the legal opinion of the City Fiscal that he is now authorized to investigate City Officers and employees charged with neglect and misconduct in office, the City Mayor of Cebu City forwarded said administrative case to the Cebu City Fiscal for reinvestigation. A reinvestigation was conducted by said officer, mostly on the basis of the records and testimonies before the Municipal Board (now City Council) and finding no prima facie evidence, the Assistant City Fiscal, in a resolution, recommended the dismissal of the administrative case. Said resolution was affirmed

by the City Fiscal and transmitted to the City Mayor on December 14, 1965.

On February 25, 1966, the City Mayor returned the records to the City Fiscal, requesting for the submission of an appropriate resolution, with a brief statement of material and relevant facts of the case as well as the findings thereon, as basis for an administrative order the Mayor would issue on the case. Records show that no such appropriate resolution was submitted by the City Fiscal and no such administrative order was issued by the Mayor.

On February 2, 1968, the City Attorney of Cebu City again transmitted the records of the case to the City Mayor, invoking therein Section 26 of R.A. 4864 and recommended that final action thereon be made by the City Board of Investigators.

On February 5, 1968, the Mayor forwarded the records of the case to Jesus E. Zabate, Acting City Treasurer and Chairman, Cebu City Board of Investigators requesting that he take cognizance of this case.

On February 22, 1968, the Chairman of the Board of Investigators, without further investigation, forwarded the records to the Police Commission. Apparently the Chairman of the Board of Investigators, found a formal investigation no longer necessary since the City Fiscal's Office had recommended dismissal of the aforementioned administrative case.

The Commission rendered its decision on September 18, 1969. On the basis of the records, petitioner filed a motion for reconsideration of the decision of the Commission dated September 18, 1969 on December 17, 1969 (Annex "C"; Rollo, p. 17) which motion was denied in a Resolution of said Commission dated May 20, 1970 (Annex "D"; Rollo, p. 21).

On June 12, 1970, petitioner filed a motion for reconsideration with prayer for pre-trial (Annex "E"; Rollo, p. 22) which new motion was returned to petitioner without action in view of the policy of the Commission not to entertain second motions for reconsideration as provided for in Memo Cir. No. 12, I, Section I (9.04) of the Commission (Annex "F"; Rollo, p. 29).

Hence, this petition.

This Court in its resolution dated September 23, 1971, set the case for hearing on Friday, October 22, 1971, at 9:30 a.m. at which date, both parties appeared.

The Solicitor General filed on November 25, 1971 his memorandum for respondent officials (Rollo, p. 72) and on December 18, 1971, petitioner filed his memorandum (Rollo, p. 89).

Petitioner raised the following issues, to wit:

I

WHETHER OR NOT RESPONDENT COMMISSION PROPERLY AND VALIDLY ACQUIRED JURISDICTION OVER THE ADMINISTRATIVE CASE AGAINST PETITIONER.

II

WHETHER OR NOT RESPONDENT COMMISSION VIOLATED PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS.

Petitioner contends that the absorption or taking over by the Police Commissioner of pending cases should take place only after the publication of the Manual as explicitly and clearly provided by Section 26 of the Police Act of 1966.

Petitioner insists that the action of the Police Commission was highly irregular when it took over the case and thereafter made its own findings, contrary to the findings of the City Fiscal acquitting petitioner of the charges, apart from the fact that its decision was based on the records which were forwarded by the Board of Investigators without the latter making its own investigation, and its own findings and recommendation.

This argument misconceives the meaning of due process. The proceeding provided for is merely administrative and summary in character, in line with the principle that "administrative rules of procedure should be construed liberally in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of their respective claims and defenses." (*Police Commission v. Lood*, 127 SCRA 757 [1984]). Otherwise stated, where due process is present, the administrative decision is generally sustained.

The records show that the case at bar was exhaustively heard both in the Municipal Board and in the Fiscal's office, with both parties afforded ample opportunity to adduce their evidence and argue their causes. But as earlier stated, the findings of the Fiscal that there was no prima facie case were not finalized with the requested brief statement of materials and relevant facts on which a conclusion could be based. Without the requested resolution, the City Mayor was unable to issue the corresponding administrative order. Verily, the respondent Commission can not be bound by the findings of the City Fiscal, much less was it prohibited from making findings of its own on the basis of the records which both the Commission and the Board of Investigators considered sufficient for purposes of rendering a decision. Neither was the Board's discretion not to conduct a new investigation foreclosed by such findings.

Furthermore, apart from the fact that the uniform requirements of due process were all complied with under Republic Act No. 557, Republic Act No. 3857 (the Revised Charter of Cebu City) and Republic Act No. 4864 by the investigating officials, there is nothing in the records indicative of any act on the part of subject administrative bodies amounting to a deprivation of petitioner's right to administrative process.

At this juncture, the oft-repeated rule that findings of administrative agencies are generally accorded not only respect but also finality where the decision and the order of execution issued by public respondents are not tainted with unfairness or arbitrariness that would amount to abuse of discretion or lack of jurisdiction (*Rosario Bros. Inc. v. Ople*, 131 SCRA 72 [1984]); deserves reiteration. The findings of fact must be respected, so long as they are supported by substantial evidence even if not overwhelming or preponderant (*Police Commission v. Lood*, 127 SCRA 758 [1984]).

Indeed, if the Police Commission were to accede to the suggestion of petitioner that the Board of Investigators be directed to conduct its own investigation and give the parties a chance to present their evidence and not merely rely on the result of the investigation conducted by the Municipal Board and by the City Fiscal's Office, this would be favoring technicalities over substantial justice.

Clearly, petitioner was given his "day in court" and there is no occasion to impute deprivation of due process. On the contrary, the rendition of the questioned decision by the Police Commission actually promoted and served the interests of justice.

In addition, there is no denial of due process if the decision was rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected (*Ang Tibay et al. v. CIR et al.*, supra; *Provincial Chapter of Laguna, Nacionalista Party v. COMELEC*, 122 SCRA 423 [1983], under-scoring supplied).

PREMISES CONSIDERED, this petition is DISMISSED and the decision of respondent Police Commission is AFFIRMED.

SO ORDERED.

Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

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