

JESUS GALANO, BASILIO FLORES, SOLTICIO PLAZA, ISIDRO SAN JOSE, PATRICIO ANASTACIO, RODOLFO DE LAS ARMAS, AMADO REGIS, PEDRO CRUZ, FEDERICO MANUEL, EULOGIO MAKIRAMDAM, APOLONIO A...

G.R. No. L-31241. September 12, 1975

Ponente: BARREDO, J.

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BARREDO, J.:

Petition denominated by petitioners as one for mandamus but actually one for quo warranto praying in effect that respondent mayor be ordered to comply with the following 1st indorsement dated August 13, 1969 of the Commissioner of Civil Service:

"Respectfully returned to the Municipal Mayor, San Mateo, Rizal, the following proposed appointments for patrolman in the San Mateo Police Department, which were disapproved by this Office in its 3rd Indorsement dated February 21, 1969 (copy enclosed) to that office:

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Name

Position & Salary

Effective date

1. Ernesto L. Garcia

Patrolman

P1,560.00

Upon assumption of duty

2. ClaroLinco

- do -

- do -

- do -

3. Sixto Alfonso

- do -

- do -

- do -

4. Secosio C. Sulit

- do -

- do -

- do -

5. Primo Sedi

- do -

- do -

- do -

6. Conrado de Belen

- do -

- do -

- do -

7. Francisco Fernandez

- do -

- do -

- do -

8. RicardoClemente

- do -

- do -

- do -

9. Arsenio Leal

- do -

- d o-

- do -

10. Ricardo Mendoza, Jr.

- do -

- do -

- do -

11. Renato T. Leal

- do -

- do -

- do -

12. Conrado Sandalo

- do -

- do -

- do -

13. Castor Rivera

- do -

- do -

- do -

14. Vivencio Santos

- do -

- do -

- do -

15. Angel Santos

- do -

- do -

- do -

/BLOCKQUOTE>

Attention is hereby invited to the pertinent recommendations of the Hearing Officer, Police Commission, in which the Civil Service Commission concurs in-re petition for restoration of Messrs. Jesus Galano et al., of the San Mateo Police Department and which the POLCOM en banc unanimously approved in its enclosed Resolution dated August 7, 1969, to wit:

- The resignations of the petitioners be declared null and void;

- The petitioners be reinstated to their former positions in the San Mateo Police Department within 15 days upon receipt of this resolution and that they be paid their salaries which they failed to receive during the period they were unduly deprived of their position, "chargeable against the Mayor pursuant to the decision of the Supreme Court in Nemenzo v. Sabillano (G. R. No. L-20977, promulgated on September 7, 1968).

Immediate compliance is hereby directed.

(Sgd.) ABELARDO SUBIDO
Commissioner of Civil Service"

(Annex C, p. 62-Record.).

In the local elections of 1967, respondent Nemesio Roxas was elected mayor of the Municipality of San Mateo,

Rizal. Shortly after he assumed office or more specifically between January 2 and 6, 1968, there were filed with his office twenty-four (24) resignations signed by petitioners Chief of Police Jesus Galano and his twenty-three co-petitioners, all members of the police department of said town. Together with said resignations were their respective applications for terminal leave. These resignations were accepted by respondent mayor and subsequently, on varying dates between January 31, 1968 and June 30, 1968, corresponding payments on the applications for leave were made by the municipal treasurer and duly received by petitioners.

As a result of the above resignations, only eight (8) policemen of the town remained. With the police force thus badly depleted two municipal councilors, Arriola and Valerio, had to perform traffic and patrol duties. Soon enough, respondent mayor appointed replacements to the positions vacated by petitioners.

Under date of January 12, 1968, however, petitioners addressed separate letters to the Police Commission and the Civil Service Commission complaining that respondent mayor had threatened them into filing those "courtesy resignations" and praying that the same be declared null and void and the appointments of their respective replacements be accordingly disapproved. The Civil Service Commission referred the matter for investigation to the Police Commission. On August 1, 1969, the Hearing Officer of the Police Commission who conducted the investigation submitted his report recommending that the resignations of petitioners be declared null and void and that they be reinstated to their former positions with corresponding payment of back salaries. This report was approved by the Police Commission en banc and forwarded to the Civil Service Commission, with the result that the latter made the indorsement to respondent mayor of August 13, 1969 quoted above. On September 4, 1969, respondent moved for reconsideration but his motion was denied on September 25, 1969. Three days after receiving this denial on October 3, 1969, i.e., on October 6, 1969, respondent made the following indorsement to His Excellency, the President of the Philippines:

"Respectfully referred to His Excellency, Ferdinand E. Marcos, President of the Republic of the Philippines, thru the Executive Secretary, Malacaftang Palace, Manila, the 3rd Indorsement dated September 25, 1969, by the Honorable Commissioner, Abelardo Subido, Civil Service Commission, Manila, requesting this Office to reinstate Jesus A. Galano, et als., former Chief of Police, and 20 members of the San Mateo Police Department, San Mateo, Rizal, respectively for your information and guidance.

STATEMENT OF FACTS

On January 1, 1968, I assumed office as Mayor of San Mateo, Rizal, by virtue of the sovereign mandate of the people of San Mateo, Rizal, mindful of my duties and responsibilities of my oath, my first and foremost duty is to look into the peace and order obtaining in the community, and to my surprise some members of the San Mateo Police including the chief of police Jesus Galano were not performing their duties as expected, they were loitering around the premises of the municipal building, only to find out that they were planning to resign en masse for unknown reasons. I called the attention of some of them and warned the members that unless their resignations had been accepted by me they should perform their duties, but despite of said warning they continued to defy the same. On January 2, 1968, traffic and patrol duties had been abandoned day and night, there were few members who were reporting for duties. From January 2-8, 1968, inclusive letters of resignations have been pouring in my Office. To counteract this insidious machination to paralyze my administration by the erstwhile members of the San Mateo Police, I have to utilize the services of some councilors, myself, and few members left to do the traffic and patrol duties. Believing that it would be unwise for me to keep these men in the service, who showed indifference and apathy in the performance of their sworn duties, I have decided to approve their resignations and appoint new ones to fill-up the existing vacancies in the interest of public service, public order, and public welfare.

LETTER COMPLAINT

On January 16, 1968, a copy of a letter-complaint has been received by my Office through the Acting

Chairman, Police Commission by the former members of the San Mateo Police, alleging among others that they were requested by me to submit courtesy resignation, and further alleged that I have coerced them into resigning. Upon receipt of the letter-complaint, and in reply thereto, I stated that they resigned voluntarily. How could I coerce them? The truth of the matter was that I was only able to see them individually when they presented their letter of resignations duly indorsed by former chief Jesus Galano for my signature, and subsequently by signing their individual voucher covering the payment of their individual unused vacation and sick leave. Evidence showed that some members have collected the money value of their accumulated vacation and sick leave, which imply their voluntary resignations.

It is seemingly unthinkable, a Chief of Police, like Jesus Galano, a Civil Service eligible, completed the training course conducted by the Police Commission, for Chiefs of Police, and 20 other members allegedly also Civil Service eligibles, who could be coerced by a new Mayor to resign? Following this contention as per the Police Commission fact finding Committee, then they have no business to stay in the service. I repeat, imagine 21 men with arms, for cowardice, ignorance, and stupidity. If they do not know what are their duties, rights, and privileges under existing laws, then it follows that they could not defend the rights of their constituents whom they swore and pledged to protect under oath. How could they execute the laws and enforce law and order? Why resign and ask for restoration? Accordingly, I requested them three (3) times to resign, again, if this is so, and if they were in fact interested in their former positions, they should complain to the Civil Service Commission or to the Police Commission of the alleged coerced resignations. What is ridiculous in the issue of coercion was they resigned first, then ask to be restored in their former positions. The only logical conclusion to this undisputed fact is that they wanted to resign, and in fact they resigned voluntarily, and used the Civil Service Commission as an instrument to harrass my administration.

FACT FINDING COMMITTEE

As a courtesy, upon invitation by both the Honorable Abelardo Subido, and the Honorable Acting Chairman, Crispino de Castro, Police Commission on different dates to thresh-out these resignations of the former members of the San Mateo Police, I told these gentlemen that there was no problem because they resigned voluntarily and so I can not do anything. Both on different occasions threatened me that if I would not restore petitioners to their former positions they would file criminal as well as administrative charges against me.

Again, as a courtesy, I submitted to;the fact finding committee of the Police Commission for the purpose of ascertaining the true facts of the case. A series of hearings has been conducted on April 25, May 23, June 21, July 12, August 6 and August 13, 1968. The last hearing was on August 13, 1968, and finally on August 1, 1969, exactly one year after the Police Commission could release the findings. Aside from the apparent inaction of the Police Commission, its findings of facts and recommendations are devoid of merit, one sided, biased arbitrary and adverse to the evidence adduced during the hearings. There was no single instance wherein petitioners have proved that I coerced them into resigning in the course of the hearings conducted by the fact finding committee and yet it say so. In the light of the findings and recommendations of said committee, it is worthy to note that the findings of coercion is a conclusion of purely infertile imagination and wanting of legal basis.

CIVIL SERVICE COMMISSION

For unknown reasons, may be because of the raging controversy between the erstwhile members of the San Mateo Police and myself from January 1, 1968 to date no appointment extended by me to fill-up existing vacancies in the municipal government has been approved and/or attested by Commissioner Subido, to the detriment of public welfare, whether in the classified and unclassified service, as example is the appointment of the Secretary of the Municipal Council, whose appointment under the law belongs to the unclassified service and until this writing, has been pending for almost two years now in the Civil Service Commission, and so do not receive his salary. Appointments in the Police Department eligibles and non-eligibles have been disapproved indiscriminately for flimsy and trivial reasons.

For several occasions my municipality is the victim of fishing evidenced launched in the guise of inspection and audit service of the Personnel Inspection and Audit Service, Civil Service Commission, fortunately the Commissioner and his authorized representatives found nothing, because I have nothing to hide, a clear sign of pure and simple harrassment.

Mr. President, to prolong this dilemma and confusion prevailing in our community, would in effect sow discontentment, demoralizes public service, and ultimately loses confidence in our constituted government through no fault of YOUR EXCELLENCY, but by your Commissioner Abelardo Subido, and so it is high time now Mr. President to use your power in accordance with law to correct this evil doer in the public service, because you alone is the hope to help us in our endeavor to bring the government nearer to the people.

REINSTATEMENT

In view of the foregoing, it is with deep regret that I could not reinstate petitioners in their former position as requested by Commissioner Subido, unless by order of a competent court.

I shall look forward for your immediate intervention in the premises and assuring you of my full cooperation for the sake of good government.

(Sgd.) NEMESIO M. ROXAS
Mayor"

(Annex K, pp. 170-172 — Record.).

As far as this Court is informed, after respondent submitted copies of the transcript of the proceedings in the Polcom and other pertinent documents, as required, to the Office of the President, no further action has been taken by that office on respondent's indorsement. And as respondent would not comply with the orders of the Civil Service Commission, on November 20, 1969, the instant petition was filed with this Court.

Several issues are discussed extensively and creditably by both learned counsel in their memoranda. For instance, relying on their respective evidence presented before the Hearing Officer of the Polcom, petitioners and respondent insist on diametrically opposite positions as to the root cause of the aforementioned resignations. Petitioners maintain that respondent had practically coerced them to file their "courtesy resignations" by threatening them that "baka mayroon pang mangyari "(something might happen yet) if they refused. On the other hand, respondent contends that he had not made any such threat and that, on the contrary, the "en masse" resignations of the petitioner Chief of Police and his co-petitioners was the culmination of a concerted move deliberately planned and "master-minded" by the said Chief of Police as soon as respondent won as mayor, for the purpose of embarrassing his administration. In fact, according to respondent, it is indisputable that he never talked to any of the petitioners other than said Chief, and when he did so, he only spoke to him about the need to cooperate for the good of the municipality and it was the latter who on his own accord induced the resignation of his co-petitioners.

As already indicated, the Polcom did find petitioners' version to have been substantiated, but respondent vigorously disputes the bases of its conclusions. Besides, respondent posits that neither the Polcom nor the Civil Service Commission has the authority to order the reinstatement in question, since only courts can do so.

To be sure, the question thus posed by the parties are quite interesting. But as We see the situation of the case now before Us, We do not feel any need to indulge in any fact finding regarding the real reasons behind the resignations in dispute. There are two important points that have come to Our attention, the resolution of which should be decisive and by reason of which We can prescind from having to pass on the other issues joined by the parties.

First, We note that in effect, petitioners would have this Court sanction the action of the Civil Service Commission of disapproving the appointments of those who have replaced petitioner & in their jobs. Verily, their removal would be a necessary consequence if We should hold petitioners' resignation to be illegal and void. In either case, whether We treat the matter of the disapproval of the appointments of said replacements independently or as a corollary of our action on the resignations of petitioners, the plain fact would remain that they have a vital interest in the outcome of the petition herein. Consequently, this case cannot be decided without giving them an opportunity to be heard. They are indispensable parties to these proceedings and their absence is fatal to the authority of this Court to act, their "presence being a sine qua non of the exercise of judicial power." (*BorJasa vs. Polistico*, 47 Phil. 345, at p. 347.).

Secondly, and this We will add in order to make the parties aware already of another fatal and incurable defect of the case of petitioners and thereby save those concerned from any further futile effort to pursue any judicial remedy, with the concomitant waste of money and time, the unbending jurisprudence in this jurisdiction is to the effect that a petition for quo warranto and mandamus affecting titles to public office must be filed within one (1) year from the date the petitioner is ousted from his position. (*Cui vs. Cui*, L-18727, Aug. 31, 1964, 11 SCRA 755; *Villaluz vs. Zaldivar*, L-22754, Dec. 31, 1965, 15 SCRA 710; *Villegas vs. De la Cruz*, L-23752, Dec. 31, 1965, 15 SCRA 720; *De la Maza vs. Ochave*, L-22336, May 23, 1967, 20 SCRA 142; *Alejo vs. Marquez*, L-29053, Feb. 27, 1971, 37 SCRA 762). And this period is not interrupted by the prosecution of any administrative remedy. (*Torres vs. Quintos*, 88 Phil. 436.) Accordingly, after said period has lapsed, the remedy of the aggrieved party, if any, lies exclusively with administrative authorities. In the case at bar, the theory of petitioners themselves is that they were separated from the service thru the ruse of accepting their "courtesy resignations" between January 2 and 6, 1968 and the record shows that they were aware of the supposed illegality of their ouster as early as January 10, 1968, the date of their separate letters to the Police Commission and the Civil Service Commission impugning the action of respondent mayor. It is thus evident that in the premises, they are beyond the help of the courts, their time to resort thereto having lapsed.

"The reason is obvious. While it may be desirable that administrative remedies be first resorted to, no one is compelled or bound to do so; and as said remedies neither are pre-requisite to nor bar the institution of quo warranto proceedings, it follows that he who claims the right to hold a public office allegedly usurped by another and who desires to seek redress in the courts, should file the proper judicial action within the reglementary period. As emphasized in *Bautista vs. Fajardo*, (38 Phil., 62), and *Tumnlak vs. Egay* (46 Off. Gaz., 3683), (82 Phil., 828) public interest requires that the right of public office should be determined as speedily as practicable." (*Torres vs. Quintos*, 88 Phil. 436, at p. 440.).

WHEREFORE, the petition is DISMISSED, without costs. The motion to declare petitioner Galano in contempt of court is DENIED for lack of merit, the alleged intent to mislead the Court not being beyond doubt.

Makalintal, C.J., Fernando, Aquino, and Martin, JJ., concur.

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