

ROQUE SENARILLOS, PETITIONER AND APPELLEE, VS. EIPANIO HERMOSISIMA, ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. 10662. December 14, 1956*

Ponente: REYES, J.B.L., J.

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Upon petition of Roque Senarillos (appellee before us) and after due hearing, Judge M. M. Mejia of the Court of First Instance of Cebu (in Case No. R-4001), issued a writ of mandamus to compel the respondents Municipal Mayor and Council of Sibonga, Cebu, to reinstate petitioner to the position of Chief of Police of Sibonga, Cebu, declaring null and void his removal from that post, although the same was approved by the council and confirmed by the Director of Civil Service and the Board of Civil Service Appeals; and required the respondents Municipal Treasurer of Sibonga and Provincial Treasurer of Cebu to pay petitioner Senarillos his salary at P840.00 per annum from January 3, 1952, and taxing costs against respondents Municipal Mayor and Council of Sibonga. Respondents have appealed.

The parties are agreed that Roque Senarillos, being a civil service eligible, was appointed Chief of Police of Sibonga, Cebu, and served as such until January 2, 1952. On that date, upon charges filed by one Roque Geraldizo and despite his denials, Senarillos was suspended by the Municipal Mayor of Sibonga, and investigated by a "police committee" composed of three councilors, created by Resolution No. 2, Series 1952, of the municipal council. Notwithstanding express protest on the part of Senarillos that the investigation should not be conducted by a committee, but by full council, as provided by Republic Act 557, the committee proceeded to try his case, and on April 15, 1952, rendered an adverse decision, signed later by the members of the municipal council. This decision was appealed to, and on August 28, 1952, was affirmed by, the Commissioner of Civil Service, and later in October, 1954, by the Civil Service Board of Appeals.

In the meantime, upon the expiration of the original period of suspension, Municipal Mayor Hermosisima again suspended Senarillos on the strength of Administrative Case No. V-6, which was never tried; and as the sixty days of the second suspension expired, the Chief of Police was reinstated on May 25, 1952. However on July 9, 1952 the Municipal Mayor filed a criminal case for swindling against Senarillos, and suspended him for the third time. The criminal case was dismissed on July 28, 1954. Then on April 27, 1955, Senarillos resorted to the Court of First Instance for relief.

That the investigation of police officers under Republic Act No. 557 (as distinguished from section 2272 of the Administrative Code) must be conducted by the council itself, and not by a mere committee thereof, is now established jurisprudence and no longer open to question since our decision in *Festejo vs. Mayor of Nabua*, 96 Phil., 286; 51 Off. Gaz. p. 121, reaffirmed in subsequent decisions.

"The second reason for invalidating the investigation is the fact that the charges were investigated by a committee of the city council, not by the council itself. While it is true that we had held in *Santos vs. Mendoza*, 48 Off. Gaz., No. 11, p. 4801, that such a procedure is valid, the law has been changed since the above decision. Republic Act No. 557 has eliminated the provision authorizing investigation by a committee of the

council. We held that the change meant that the investigation should be by the council itself (*Festejo vs. Municipal Mayor of Nabua*, G. R. No. L-4983, prom. December 22, 1954). We affirmed this doctrine in the recent case of *Covacha vs. Amante*, G. R. No. L-8358, promulgated May 25, 1956. The trial court was, therefore, correct in holding that the investigation proceedings were not conducted by the municipal council and in annulling the results of the investigation. (*Crispin Carmona vs. Felix P. Amante*, G. R. Nos. 8790-8797, August 14 1956, 52 Off. Gaz. No. 11, p. 5109).

Therefore, it is clear that under the present law, the "police committee" constituted by the Municipal Council of Sibonga had no jurisdiction to investigate the appellee Chief of Police; hence the decision against him was invalid, even if concurred in by the rest of the councilors, specially since the petitioner called attention from the beginning to the impropriety and illegality of the committee's actuations, and of his trial by only some and not all the members of the council. The subsequent reaffirmation of their decision by the Civil Service authorities could not validate a proceeding that was illegal and ab initio void.

That the decision of the Municipal Council of Sibonga was issued before the decision in *Festejo vs. Mayor of Nabua* was rendered, would be, at the most, proof of good faith on the part of the police committee, but can not sustain the validity of their action. It is elementary that the interpretation placed by this Court upon Republic Act 557 constitutes part of the law as of the date it was originally passed, since this Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect.

Respondents also claim that petitioner was guilty of laches, on the strength of *Unabia vs. Mayor of Cebu*, 99 Phil., 258 and related decisions. Suffice it to observe that the persistent efforts of the appellee to secure from the Civil Service authorities a reversal of the unlawful decisions of the Municipal Council of Sibonga, and the harassment and prosecution to which he was subjected by the mayor, who suspended petitioner-appellee three times, are more than adequate evidence that the appellee did not sleep on his rights or abandon his office. His appeal was finally decided by the Civil Service on October of 1954, and this case was filed less than a year later, in April 1955.

The decision appealed from is affirmed, with the sole modification that the reimbursement of petitioner-appellee's salary shall not include the pay corresponding to the period from May 26 to July 8, 1952, since it was stipulated (p. 14) that he was paid for that time. Costs against respondents, Municipal Mayor and Council of Sibonga, Cebu. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur.

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