

IN RE CONTEMPT PROCEEDINGS AGAINST ARMANDO RAMOS. JESUS L. CARMELO, IN HIS CAPACITY AS CHAIRMAN OF THE PROBE COMMITTEE, OFFICE OF THE MAYOR OF MANILA, PETITIONER AND APPELLANT, ...

G.R. No. 17778. November 30, 1962

Ponente: REGALA, J.

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REGALA, J.:

On February 3, 1960, the Mayor of Manila issued an executive order creating a committee "to investigate the anomalies involving the license inspectors and other personnel of the License Inspection Division of the Office of the City Treasurer and of the License and Permits Division of this Office (of the Mayor)." He named Mr. Jesus L. Carmelo as chairman of said committee.

It appears that the committee issued subpoenas to Armando Ramos, a private citizen working as a bookkeeper in the Casa de Alba, requiring him to appear before it on June 3, 8, 9, 15 and 16 and August 4 and 11, 1960, in connection with an administrative case against Crisanto Estanislao but that Ramos, on whom the subpoenas were duly served, refused to appear.

Claiming that Ramos' refusal tended "to impede, obstruct, or degrade the administrative proceedings," petitioner filed in the Court of First Instance of Manila a petition to declare Armando Ramos in contempt. After hearing, during which petitioner was required to show a prima facie case, the trial court dismissed the petition. The lower court held that there is no law empowering committees created by municipal mayors to issue subpoenas and demand that witnesses testify under oath. It also held that to compel Ramos to testify would be to violate his right against self-incrimination.

It appears that in a statement given to investigators of the office of the Mayor, Ramos admitted having misappropriated, on several occasions, sums of money given to him by the owner of Casa de Alba for the payment of the latter's taxes for 1956-1959 and that this fact had not been discovered earlier because Ramos used to entertain employees in the City Treasurer's office at Casa de Alba where Ramos was a bookkeeper as stated above. The trial court held that to compel Ramos to confirm this statement in the administrative case against certain employees in the Office of the City Treasurer would be to compel him to give testimony that could be used against him in a criminal case for estafa of which the owner of Casa de Alba was the offended party. From that decision, petitioner appealed to this Court.

The main issue in this case is the power, if any, of a committee, like the committee of which petitioner is the chairman, to subpoena witnesses to appear before it and to ask for their punishment in case of refusal.

The rule is that Rule 64 (Contempt)[1] of the Rules of Court applies only to inferior and superior courts and does not comprehend contempt committed against administrative officials or bodies like the one in this case, unless said contempt is clearly considered and expressly defined as contempt of court, as in done in paragraph 2 of

Section 580 of the Revised Administrative Code. (People vs. Mendoza and Dizon, 92 Phil., 570; 49 Off. Gaz. No. 2, 541)

Petitioner invokes Section 580 of the Revised Administrative Code which provides as follows:

"Powers incidental to taking of testimony. When authority to take testimony or evidence is conferred upon an administrative officer or upon any nonjudicial person, committee, or other body, such authority shall be understood to comprehend the right to administer oaths and summon witnesses and shall include authority to require the production of documents under a subpoena duces tecum or otherwise, subject in all respects to the same restrictions and qualifications as apply in judicial proceedings of a similar character.

"Saving the provisions of section one hundred and two of this Act, any one who, without lawful excuse, falls to appear upon summons issued under the authority of the preceding paragraph or who, appearing before any individual or body exercising the power therein defined, refuses to make oath, give testimony, or produce documents for inspection, when thereunto lawfully required, shall be subject to discipline as in case of contempt of court and upon application of the individual or body exercising the power in question shall be dealt with by the judge of first instance having jurisdiction of the case in the manner provided by law."

One who invokes this provision of the law must first show that he has "authority to take the testimony or evidence" before he can apply to the courts for the punishment of hostile witnesses. (Francia vs. Pecson, et al., 87 Phil., 100)

Now, what authority to take testimony does petitioner's committee have from which the power to cite witnesses may be implied, pursuant to section 580?

To be sure, there is nothing said in the executive order of the Mayor creating the committee about such a grant of power. All that the order gives to this body is the power to investigate anomalies involving certain city employees.

Petitioner contends that the Mayor of Manila has the implied power to investigate city officials and employees appointed by him to the end that the power expressly vested in him to suspend and remove such officials or employees (Sec. 22, Republic Act No. 409) may be justly and fairly exercised. We agree with this proposition and We held so in the case of Pagkanluñgan vs. de la Fuente, 92 Phil., 94; 48 Off. Gaz., No. 10, p. 4332. But We do not agree with the petitioner that a delegation of such power to investigate implies also a delegation of the power to take testimony or evidence of witnesses whose appearance may be required by the compulsory process of subpoena. Thus, in denying this power to an investigating body in the Office of the Mayor of Manila, We said in Francia vs. Pecson, et al., supra: "We do not think the mayor (of Manila) can delegate or confer the powers to administer oaths, to take testimony, and to issue subpoenas."

Furthermore, it is doubtful whether the provisions of section 580 of the Administrative Code are applicable to the City of Manila as these pertain to national bureaus or offices of the government.

Citing 50 Am. Jur. 449, petitioner contends that "the power of the investigation committee to issue compulsory process to secure the attendance of witnesses undoubtedly exists since only complimentary to the power of the mayor to investigate, suspend and remove city officers and employees, supra, is the recognized rule that where the statute grants a right, it also confers by implication every particularly power necessary for the exercise thereof." There is no merit in the argument. In the first place, the authority cited speaks of statutory grant of power to a body. Here, We have seen that whatever power may be claimed by petitioner's committee may only be traced to the power of the Mayor to investigate as implied from his power to suspend or remove certain city employees. There is no statutory grant of power to investigate to petitioner's committee.

In the second place, even granting that the Mayor has the implied power to require the appearance of witnesses

before him, the rule, as noted earlier, is that the Mayor can not delegate this power to a body like the committee of the petitioner. (*Francia vs. Pecson, et al.*, *supra*)

Lastly, 50 Am. Jur. Sec. 428, p. 450 itself admits an exception to the rule invoked by the petitioner. Thus, it is stated that "where the liberty and property of persons are sought to be brought within the operation of a power claimed to be impliedly granted by an act because necessary to its due execution, the case must be clearly seen to be within those intended to be reached." Here, no less than the liberty of Armando Ramos is involved in the claim of the committee to the right to cite witnesses.

We hold, therefore, that petitioner's committee has no power to cite witnesses to appear before it and to ask for their punishment in case of refusal. This conclusion makes it unnecessary for Us to pass upon the other error assigned by petitioner as having been allegedly committed by the trial court.

Wherefore, the decision of the Court of First Instance of Manila is hereby affirmed, without pronouncement as to costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] Section 4 of this rule provides in part: "Charge; Where filed.—* * *And where a contempt punishable by law has been committed against an administrative officer or any non-judicial person, committee, or other body, the charge may be filed with the Court of First Instance of the province or city in which the contempt has been committed." This provision of Rule 64 embodies the historical notion that the contempt power is necessarily judicial. This notion dates as far back as 1893, when the Supreme Court of the United States, in *ICC vs. Brimson*, 154 U.S. 447, remarked that such body as the Interstate Commerce Commission "could not, under our system of government, and consistently with due process of law, be invested with authority to compel obedience to its orders by a judgment of fine or imprisonment." But the Court went on to hold that a judicial proceeding to enforce a subpoena issued by the Commission satisfies the "case" or "controversy" requirement of the Constitution and that judicial enforcement does not violate the principle of separation of powers. Accordingly, since 1893, the Congress of the United States has consistently refused to empower any agency to commit for contempt, customarily providing instead that agencies may apply to appropriate district court for an order enforceable by contempt proceedings. (Davis, "The Administrative Power of investigation," 56 Yale, L. J. No. 7, 1111 at 1139-40)

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