

**FELICIANO Z. TIMBANCAYA, PETITIONER AND APPELLEE,
SEVERINO E. VICENTE, ET AL., RESPONDENTS AND APPELLANTS.***G.R. No. 19100. December 27, 1963*

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

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Appeal from a decision of the Court of First Instance of Palawan, in its Civil Case No. 381 for mandamus, declaring the decision of the Municipal Council of Puerto Princesa to oust the Chief of Police, as affirmed by the Commissioner of Civil Service, to be unjustified, and ordering said municipal officers to reinstate the police chief, and pay him with back salary during his ouster.

The Municipal Mayor of Puerto Princesa had filed administrative charges against the Chief of Police, Feliciano Z. Timbancaya, on April 11, 1960. Pursuant to Republic Act No. 557, the charges were investigated and tried by the Municipal Council; that body, on June 6, 1960, found the respondent guilty on two counts, to wit: (a) failure to arrest two persons who boxed the Municipal Attorney in front of the municipal building in the presence of the respondent Chief of Police, and (b) delaying the filing of a homicide case against the person responsible for the killing. The Council decided that the Chief of Police be required to resign his position. Upon appeal by the respondent, the case was reviewed by the Commissioner of Civil Service, who affirmed the ouster decision. An attempt to have the case elevated to the Civil Service Board of Appeals failed, because the Board declined to take cognizance of the case on the ground that the Commissioner's decision was final under section 5 of Republic Act No. 557.

The Chief of Police then instituted mandamus proceedings to compel his reinstatement in the Court of First Instance of Palawan, alleging—

"9. That the decision of the Municipal Council was contrary to (the) law and evidence presented, and there is a manifest misapplication of a clear and legal provision.

10. That there was no impartial, free, full and fair hearing in view of the fact that evidence is (was) weighed in the spirit of Hostility and partisanship."

The Provincial Fiscal, representing the respondents asked for the dismissal of the complaint on the ground of lack of jurisdiction and lack of a cause of action, but the court refused to dismiss. The fiscal then filed his answer denying the charges made by the petitioning Chief of Police, and interposed the defense that petitioner had voluntarily submitted to investigation by the Municipal Council; that the trial was fair, free, and adequate; that the decision, affirmed by the Commissioner of Civil Service, barred the remedy of mandamus, and was not reviewable by the court in the absence of any allegation of "abuse of confidence, manifest injustice or palpable excess of authority."

At the trial, the court, over the Fiscal's objection, received the testimony of the Chief of Police and his witnesses, to the effect that he was not guilty of the administrative charges made against him. The Fiscal refused to cross-examine.

On July 17, 1961, the court rendered its decision, finding that there was no sufficient evidence to support the charges that the Council and the Civil Service had found to have been proved, and said court held that the Chief of Police was not present when the municipal attorney was boxed, and that he did not delay the prosecution of the homicide case.

Thereafter, the Fiscal appealed to this Court, insisting that the Court of First Instance had no power to review the merits of the administrative case and erred in retrying the case de novo.

We find the appeal meritorious. Instead of inquiring into the charge of partiality by the Commissioner of Civil Service, the decision appealed from proceeded to inquire into the sufficiency of the evidence against the Chief of Police, on the basis of his testimony and that of the witnesses presented in court. This method was clearly erroneous. The invariable rule set by this Court in reviewing administrative decisions of the Executive branch of the Government is that the findings of fact made therein must be respected, so long as they are supported by substantial evidence, even if not overwhelming or preponderant (*Ang Tibay vs. C.I.R.*, 69 Phil., 635); that it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of the witnesses, or otherwise substitute its own judgment for that of the administrative agency on the sufficiency of the evidence (*Lao Tang Bun vs. Fabre*, 81 Phil., 682); that the administrative decision in matters within the executive jurisdiction can only be set aside on proof of gross abuse of discretion, fraud, or error of law (*Lovina vs. Moreno*, L-17821, November 29, 1963).

These principles negate the power of a reviewing court to re-examine the sufficiency of the evidence in an administrative case as if originally instituted therein, and do not authorize the court to receive additional evidence that was not submitted to the administrative agency concerned. Common sense dictates that the question whether the administrative agency abused its discretion in weighing the evidence should be resolved solely on the basis of the proof that the administrative authorities had before them and no other. To assume, as the lower court has done, that after the administrative decision has been rendered the courts are then free to retry the case de novo is to misconceive the fundamental mission of judicial review. What was open to inquiry by the court are the charges of error of law, partiality, and denial of due process against the decision of the Commissioner of Civil Service, since that is the operative decision against the petitioner Timbancaya.

Wherefore, the decision appealed from is hereby reversed and set aside and the case is remanded to the Court of origin for further proceedings conformable to this opinion. Costs against appellee, Feliciano Z. Timbancaya.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion., Barrera, Peredes, Dizon, Regala and Makalintal, JJ., concur.

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