

PEDRO R. DIZON AND OLIMPIO MANALANG, PETITIONERS, VS. HON. JUDGE AMBROSIO T. DOLLETE AND ARTEMIO SALDANA, RESPONDENTS.*G.R. No. 19838. June 30, 1964*

Ponente: LABRADOR, J.

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Petition for certiorari with preliminary injunction to set aside or modify two orders (dated March 9 and May 3, 1962) of the Court of First Instance of Bataan, Hon. Ambrosio T. Dollete, presiding, and to declare the suspension of Artemio C. Saldana, Mayor of Samal, by petitioner Dizon, legal, and for other relief. Upon petitioner's filing a surety bond in the amount of five hundred pesos a writ of preliminary injunction was issued by this Court on July 3, 1962 to restrain respondent judge from enforcing his order dated March 9, 1962.

The facts giving rise to the present petition are as follows: Fermin Adraneda and Guillermo Balintos, a regular policeman and special agent, respectively, of the municipality of Samal, Bataan, were charged before the Court of First Instance of Bataan with the crime of frustrated homicide, committed against one Andres Delatonga. Information about said criminal charge having been received, Governor Dizon sent a letter to the Municipal Mayor of Samal on March 3, 1961, requiring him to suspend policemen Adraneda and Balintos in accordance with the provisions of Section 4, Republic Act No. 557 (which, in the governor's opinion, is mandatory in character) or face administrative or disciplinary action should he refuse to comply with the governor's directive. On March 27, 1961, the governor demanded that the municipal mayor explain, within five days, why no administrative disciplinary action should be taken against him for failing to comply with his letter of March 3, 1961. The mayor failed to comply with thn request to explain. Upon the lapse of the time given, the provincial governor, on April 13, 1961, again sent a letter to the municipal mayor warning him that unless he receives the requested explanation on or before the morning of Monday, April 17, 1961, formal administrative charges against the mayor will be filed before the provincial board, and the mayor suspended "pursuant to Section 2188 of the Revised Administrative Code, for gross violation of the provisions of Section 4, Republic Act No. 557 and for utter disregard of my lawful orders contained in the aforesaid letters."

On April 14, 1961, Mayor Saldana sent a reply stating the reasons why he refused to comply with the directive of the provincial governor. But the governor found the reasons given insufficient and inadequate, so he again enjoined the mayor on May 5, 1951 to immediately suspend patrolman Adraneda from office, pending final determination of the criminal case against him.

Because of the mayor's consistent refusal to comply with the instructions of the provincial governor, the latter filed administrative charges before the provincial board against Mayor Saldana, for neglect of duty and violation of law, and for investigation and decision pursuant to Section 2188 of the Revised Administrative Code. At the same time, he issued Executive Order No. 1, dated February 15, 1962, suspending Mayor Artemio Saldana from office for a period of thirty days and appointing Vice-Mayor Marciano Medina as acting municipal mayor of

Samal. The day after his assumption of office Mayor Medina issued Executive Order No. 1 suspending patrolman Adraneda from service pending final disposition of his case.

Thereupon, suspended Mayor Saldana filed an action for prohibition, with a writ of preliminary injunction, with the Bataan Court of First Instance, as a result of which said court issued an order on March 9, 1962 enjoining Governor Dizon and Provincial Commander Olimpio Manalang from proceeding with the suspension of petitioner therein, or to reinstate him to his position if already suspended. Respondent governor's motion for reconsideration having been denied on May 3, 1962, he presented with this Court the present petition for certiorari with preliminary injunction. The matter at issue before Us is: May a provincial governor, pursuant to Section 2188 of the Revised Administrative Code, suspend a municipal mayor for the latter's refusal to suspend a policeman who has been charged in court with a criminal offense. Said section provides:

"Sec. 2188. Supervisory authority of provincial governor or municipal officers.—The provincial governor shall receive and investigate complaints made under oath against municipal officers for neglect of duty, oppression, corruption or other form of maladministration of office, and conviction by final judgment of any crime involving moral turpitude for minor delinquency, he may reprimand the offender; and if a more severe punishment seems to be desirable, he shall submit written charges touching the matter to the provincial board, furnishing a copy of such charges to the accused, either personally or registered mail, and he may in such case suspend the officer (not being the municipal treasurer) pending action by the board, if in his opinion the charge be one affecting the official integrity of the officer in question. Where suspension is thus effected the written charges against the officer be filed with the board within five days."

The courts below in ruling for suspended Mayor Saldana, opined that Section 2188 of the Revised Administrative Code empowers the governor to suspend a municipal official only if the charges brought against the latter involve or affect his official integrity, and that the mayor's refusal to suspend patrolman Adraneda did not amount to an act of official dishonesty, the suspension of an official under his control and supervision not being mandatory but merely discretionary on his part.

On the other hand, petitioners' contention is that the, suspension of a municipal policeman charged in court with a criminal offense is mandatory pursuant to Section 4, Republic Act No. 557, which reads:

"Sec.4. When a member of the provincial guards, city police or municipal police is accused in court of and felony or violation of law by the provincial fiscal or city fiscal, as the case may be, the provincial governor, the city mayor or the municipal mayor shall immediately suspend the accused from office pending the final determination of the case by the court and, in case of acquittal, the accused shall be entitled to payment of the entire salary he failed to receive during his suspension."

and, therefore, respondent municipal mayor's refusal to suspend the accused policeman amounted to neglect of duty and violation of the law.

We find merit in the stand taken by petitioners. The wording of the above provision leaves no room for doubt that it is the duty of the municipal mayor to immediately suspend a member of the police force who has been accused in court of any felony or violation of law by the provincial or city fiscal, pending final decision of the case against him. The law makes no exception. The mandatory character of the provision is made more manifest by the fact that the law in the same breath considers the interest of the accused, who may later on be found innocent, by entitling him to payment of the entire salary he failed to receive during his suspension. Moreover, We have already held that Section 4 of Republic Act No. 557 refers to cases in which the local executive is bound to suspend members of the police force charged with crime in court, although: such official is not precluded from exercising the discretion vested in him by Section 3 of said Act. (Ferrer vs. De. Leon, 109 Phil., 202, August 29, 1960.) Such suspension is intended to divest an accused policeman of his power to victimize the people he was

bound to protect, and to strip him, at least for the time being, of the authority to intimidate the witnesses against him. (Ibid.)

Respondent municipal mayor's adamant refusal to suspend policeman Adraneda, despite repeated demands by the provincial governor for him to comply with Republic Act No. 567, coupled with the warning of disciplinary action should he refuse to obey the orders, amounted to a clear neglect of duty in violation of the law—acts which undoubtedly involve or affect his official integrity. Integrity includes not only soundness of moral principle and character but also connotes strictness or fidelity in the discharged of the trust reposed.

"INTEGRITY. As occasionally used in statutes prescribing the qualifications of public officers, trustees, etc., this term means soundness of moral principle and character, as shown by one person dealing with others in the making and performance of contract, and fidelity and honesty in the discharge of trusts; it is synonymous with probity, 'honesty' and 'uprightness.'" (Black's Law Dictionary, p. 94).

Upon taking his oath of office, the municipal mayor bound himself to obey the laws, legal orders and decrees promulgated by the duly constituted authorities of the Republic of the Philippines. The mayor's unyielding stand in ignoring the orders of the governor, if not displaying an utter disregard of the lawful orders of a superior officer, betrays, at the very least, an attitude of indifference or neglect in the execution of the law.

Respondent mayor further claims that the provincial governor acted contrary to the provisions of Section 2188 of the Revised Administrative Code, because the letter-complaint filed by Andres Delatonga with the provincial board was not made under oath. In answer thereto, it is a fact that the governor did not file the charges by reason of said letter-complaint dated June 6, 1961. As early as March 3, 1961, the governor, on his own initiative, already required the mayor to suspend the accused policeman pursuant to Section 4 of Republic Act No. 557. And again, on March 27 and April 13, 1961, the governor demanded compliance with his directive of March 3, each time warning the mayor with disciplinary action should he continue disregarding his orders. In filing the charges, the governor acted by virtue of his supervisory authority over municipal officers under Section 2188 of the Revised Administrative Code (See Annex "J" of Petition), the provisions of which do not preclude him from taking action himself where he finds that a municipal officer is guilty of maladministration or neglect in the performance of his duties; and in the exercise of his authority as chief executive of the province pursuant to Section 2082 of said Code, thus:

"Sec. 2082. Provincial governor as chief executive of province.—The provincial governor shall be elected by the qualified voters of the province, and he shall be the chief executive officer of the provincial government. As such it shall be his duty to exercise, in conformity with law, a general supervision over the government of the province and of the municipalities or other political subdivision contained in it and to see that the laws are faithfully executed by all officers therein.

"He shall make known to the people of various municipalities and municipal districts of the province, by proclamations or communications delivered to the respective mayors, all general laws or governmental order which especially concern them." (Italics supplied)

Wherefore, the orders of the lower court dated March. 9 and May 3, 1962 should be as they hereby are set aside, Executive Order No. 1 dated February 12, 1962 suspending Mayor Saldana, issued by the provincial governor of Bataan declared legal, and the writ of preliminary injunction issued by this Court is hereby made permanent. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Regala, and Makalintal, JJ., concur.

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