

**THE CITY MAYOR, ENGR. ARTEMIO MATE, ET AL.,
PETITIONERS-APPELLANTS, VS. THE CHIEF PHILIPPINE
CONSTABULARY, COL. NICANOR GARCIA, ET AL.,
RESPONDENTS-APPELLEES.**

G.R. No. 20346. October 31, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

This is an appeal from the decision of the Court of First Instance of Leyte, in its Civil Case No. 3033, relating to a petition for declaratory relief filed by the City Mayor, the Chief of Police, and the Chief of the Secret Service, of the City of Tacloban, against the Chief of the Philippine Constabulary, the Commanding Officer of the IIIRD P.C. Zone and the Provincial Commander of the Philippine Constabulary in the province of Leyte.

The facts are undisputed. Respondent Col. Alfonso Palencia, Commanding Officer of the 3rd PC Zone, believing that the Philippine Constabulary has concurrent jurisdiction with the City Police Department within the City of Tacloban in the enforcement of gambling and anti-vice laws, issued an order to the Provincial Commander of Leyte, under the provisions of Section 2 of Commonwealth Act No. 343, to exercise police powers and conduct raids on gambling places and other places of vice within the city without informing the petitioners herein of such raids. Acting on said order, the officer-in-charge of the Leyte PC Command, together with other PC officers and policemen from Jaro, Leyte, conducted, without the previous call from, nor notice to, the City Mayor, a series of raids in the City of Tacloban. On February 2, 1962, they raided the house of Filemon Cinco; on February 14, 1962, the house of Delfin Rubillos; on February 17, 1962, the cockpit; and on February 22, 1962, the house of Pilar Custodio.

Petitioners vehemently protested against this exercise of police jurisdiction claiming that it was in direct contravention of the provisions of the Charter of the City of Tacloban (Rep. Act 3068). The respondents having lent a deaf ear to said protest, petitioners filed a petition before the Court of First Instance of Leyte, praying that an order issue restraining the Philippine Constabulary from exercising police authority within the City of Tacloban during the pendency of the case, and after trial on the merits, that judgment issue interpreting the duties and responsibilities of the parties under the Charter of the City of Tacloban and determining the extent of the powers of the parties therein. The respondents opposed the issuance of an order for a writ of injunction basing their stand on the authority and powers of the Philippine Constabulary as provided in Section 2 of Commonwealth Act No. 343 and Sections 825, 831 and 848 of the Revised Administrative Code. After hearing, the Court of First Instance of Leyte rendered, on April 2, 1962, its decision, the dispositive portion of which reads as follows:

"IN VIEW OF ALL THE FOREGOING, this Court holds and renders judgment as follows:

"a. Declaring that, under existing laws, the Philippine Constabulary and its agents could enter the City of Tacloban, exercise police authority, and conduct police operations within its territorial limits without the consent of the City Mayor first obtained;

"b. Declaring that under the purview of Section 37, Article XI of Republic Act 3068, known as the Charter of the City of Tacloban, notice to the City Mayor of Tacloban or the Chief of Police of any police action contemplated by the Philippine Constabulary and its agents within the territorial limits of Tacloban City may be required;

"c. Declaring that a member of the Philippine Constabulary who casually happens to be in Tacloban City may without prior notice to the City authorities, legally effect arrests, just as any private individual can, under the circumstances enumerated in Section 6 of Rule 109 of the Rules of Court;

"d. Denying the petition of the petitioners for an issuance of a writ of injunction against the respondents, without special pronouncement as to costs."

Their motion for reconsideration of said decision having been denied, petitioners took the present appeal directly to this Court on purely questions of law.

Petitioners contend, in their first and second assignments of error, that as per provisions of Sections 40 and 37(b) of Republic Act No. 3068 (Charter of the City of Tacloban) police jurisdiction and supervision, and the preservation of peace and order within the City of Tacloban pertain exclusively to the Police Department of the City of Tacloban, and consequently the Philippine Constabulary may not exercise police authority and conduct police operations therein except when the Mayor "shall deem it necessary to avert danger or to protect life and property, in case of riot, disturbance, or public calamity, or when he has reason to fear any serious violation of law and order."

Respondents, on the contrary, contend that the Philippine Constabulary can conduct police operations and exercise police authority, anywhere in the Philippines irrespective of territorial limits, and without need of giving prior, notice to, and even without the previous request for help from, the Mayor of the City of Tacloban. Respondents also aver that petitioners' contention had already been answered by Opinion No. 270, series of 1958 of the Secretary of Justice which, although said opinion refers to the extent of the power of the Philippine Constabulary to exercise police functions in the City of Manila, is applicable to the City of Tacloban because the Charters of the City of Tacloban and of the City of Manila both provide that the Chief of Police has "exclusive police supervision" within the territorial limits of the city. The opinion of the Secretary of Justice cited Sections 825, 831 and 848 of the Revised Administrative Code and Section 2 of Commonwealth Act No. 343 in support of the view that "As peace officers the members (of the Philippine Constabulary) are authorized and empowered, without statutory limitation with respect to place, to prevent and suppress violations of law and make arrests and seizures, and 'to cooperate with and to assist the city, municipal, and other duly established bodies of local police in the Philippines.'" [1] The opinion however concluded "that notice to the City Mayor or the Chief of Police of any police action contemplated by the Philippine Constabulary within the territorial limits of Manila may be required." Respondents furthermore contend that petitioners' theory "would virtually limit or curtail the exercise by the President of his inherent constitutional powers as commander-in-chief of all armed forces of the Philippines, of which the Philippine Constabulary is a part, to 'call out such armed forces to prevent or suppress lawless violence, invasion, insurrection or rebellion' (Art. VII, Sec. 10, Constitution)," which power was impliedly exercised by the President when he issued Executive Order No. 153, series of 1938, and Executive Order No. 389, series of 1950, constituting a segment of the Armed Forces of the Philippines (Philippine Constabulary) as a National Police Force charged with the enforcement of law and order throughout the Philippines. [2]

The issue in the present case can be resolved by recourse to the pertinent statutory provisions. Section 37 of the Revised Charter of the City of Tacloban (Rep. Act No. 3068), approved June 17, 1961, provides in part as follows:

"Sec. 37. The Chief of Police - His powers and duties. - There shall be a chief of police who shall have charge of the police department: x x x.

x x x x

"(b) He shall quell riots, disorders, disturbances of the peace, and shall arrest and prosecute through the city fiscal, violators of any law or ordinance; shall exercise exclusive police supervision over all land and water within the police jurisdiction of the city; shall be charged with the protection of the rights of persons and property wherever found within the jurisdiction of the city, and shall arrest when necessary to prevent the escape of the offender, violators of any law or ordinance, and all who obstruct or interfere with him in the discharge of his duty; x x x." (Emphasis supplied).

Section 40 in part provides:

"Sec. 40. Peace officers - their powers and duties. - The Mayor, the chief of police, the deputy chief of police, the chief of the secret service, and all officers and members of the city police force and detective force shall be peace officers. x x x Whenever the Mayor shall deem it necessary to avert danger or to protect life and property, in case of riot, disturbance, or public calamity, or when he has reason to fear any serious violation of law and order, he may call upon the provincial commander or other members of the Armed Forces of the Philippines. Except upon the occurrence of any of such conditions, police jurisdiction and supervision and the preservation of peace and order shall pertain exclusively to the peace officers herein mentioned, and existing law to the contrary notwithstanding."

The Revised Charter of the City of Tacloban (R. A. No. 3068)[3] expressly provides that police jurisdiction and supervision and the preservation of peace and order exclusively pertains, notwithstanding existing law to the contrary, to the mayor, the chief of police, the deputy chief of police, the chief of the secret service and all members of the city police and detective force except "whenever the Mayor shall deem it necessary to avert danger or to protect life and property in case of riot, disturbance or public calamity, or when he has reason to fear any serious violation of law and order, he may call upon the provincial commander or other members of the Armed Forces of the Philippines." The Chief of Police, furthermore, shall exercise exclusive police supervision over all land and water within the police jurisdiction of the city.

The provision regarding the exclusive police jurisdiction and supervision in the Revised Charter of the City of Tacloban is new, in the sense that the old charter did not expressly grant the same to the officers mentioned, as can be seen by a perusal of Sections 26 and 28 of Republic Act No. 760 (the old charter). This new provision, embodied in Republic Act No. 3068, indicates that a change and departure from the old charter was intended, and the same must be given significance and effect.[4] The language of the grant used in the statute being plain and unambiguous, its clear and obvious meaning must control. What is the clear meaning conveyed by the language of the statute?

The term "exclusive" in its usual and generally accepted sense, means possessed to the exclusion of others; appertaining to the subject alone, not including, admitting or pertaining to another or others, undivided, sole. (15 Words and Phrases p. 510, citing *Mitchell v. Tulsa Water, Light, Heat and Power Co.*, 95 P. 961, 969, 21 Okl. 243; and p. 513, citing *Commonwealth v. Superintendent of House of Correction*; 64 Pa. Super, 613, 615).

The term "police" of the state, in a comprehensive sense, embraces its whole system of internal regulation for the preservation of public order and prevention of offenses against the state. "Police" is an organized civil force for maintaining order, preventing and detecting crime, and enforcing the law (32A Words and Phrases, p. 366, citing *Levine v. State*, 166 A. 300, 301, 110 N.J.L. 467, and *Green v. City of Bennettsville*, 15 S.E. 2d, 337, 197 S.C. 313).

"Supervision" is the act of one who supervises. This Court has had occasion to give the connotation of "supervise," when it said thus:

"'To supervise' is to oversee, to have oversight of, to superintend the execution of or the performance of a thing, or the movements or work of a person; to inspect with authority; to inspect and direct the work of others. (Fluet vs. McCabe, Mass., 12 N. E. 2d 89, 93.) It is to be noted that there are two senses in which the term 'supervision' has been understood. In one, it means superintending alone or the oversight of the performance of a thing, without power to control or to direct. In the other, the inspection is coupled with the right to direct or even to annul. The decisions of courts in the United States distinguish between supervision exercised by an official of a department over subordinates of that department, and supervision for the purpose only of preventing and punishing abuses, discriminations, and so forth." (Rodriguez, et al. v. Montinola, et al., 94 Phil., 964, 972)

Supervision to be conscientious must be based on actual facts and conditions which can be disclosed only after careful study and investigation, and consequently supervision implies the power to inquire into those facts. Thus, in *Planas v. Gil*, 67 Phil., 62, 65, this Court said that:

"x x x Supervision is not a meaningless thing. It is an active power. It is certainly not without limitation, but it at least implies authority to inquire into facts and conditions in order to render the power real and effective. If supervision is to be conscientious and rational, and not automatic and brutal, it must be founded upon a knowledge of actual facts and conditions disclosed after careful study and investigation."

When the Revised Charter of the City of Tacloban, therefore, granted, notwithstanding provision of existing law to the contrary, police jurisdiction and supervision and the preservation of peace and order in the city exclusively to the peace officers named therein, it meant that these peace officers named and no other, shall have the power to oversee and superintend the preservation of the public order within the city, and inasmuch as such power of supervision cannot be exercised conscientiously without knowledge of facts and conditions obtaining, it includes the power to require prior notice of any police action contemplated to be carried in the city even by the Philippine Constabulary. Without such prior notice the statutory power of supervision cannot be real and effective. To whom the law has granted the power in him it must remain, and by him must it be exercised. Where the statute grants a right or imposes a duty, it also confers by implication every particular power and every reasonable means necessary for the exercise of the one and the performance of the other. The contention, therefore, that the Philippine Constabulary has concurrent jurisdiction with the Police Department of the City of Tacloban within the city in the enforcement of gambling and anti-vice laws, is untenable. Anent this matter it may be stated, further, that the members of the Philippine Constabulary are not charged with the functions of the local police. Thus, Section 848 of the Revised Administrative Code provides, in part -

"The Philippine Constabulary shall not, however, be charged with the duty of enforcing the ordinances of any municipality, and shall not make arrests for violations of the same, unless the Department Head or the Provincial Governor shall, in writing, request the senior Constabulary officer of the province to direct his subordinate to enforce the ordinances, or any particular ordinance or ordinances of any or all the municipalities of the province."

The exclusive police authority and supervision granted by the Revised Charter to the peace officers mentioned in Section 40 of Republic Act 3068 is not, however, absolute, for the same section provides an exception, namely:

"x x x Whenever the Mayor shall deem it necessary to avert danger or to protect life and property, in case of riot, disturbance, or public calamity, or when he has reason to fear any serious violation of law and order, he may call upon the provincial commander or other members of Armed Forces of the Philippines. Except upon the occurrence of any of such conditions, police jurisdiction and supervision and the preservation of peace and order shall pertain exclusively to the peace officers herein mentioned, and existing law to the contrary

notwithstanding."

It should be understood, moreover, that the Charter was not intended to make the City of Tacloban a sanctuary to which a law offender may find refuge and his person would therein be protected against pursuit and arrest by a member of the Philippine Constabulary. The demands of public order, public safety and security would not permit such an implication. After all, members of the Philippine Constabulary are peace officers, empowered to make arrests even without a warrant for breaches of the peace and other violations of law (Section 848, Revised Administrative Code), and pursuit of a law offender is something done not as planned before hand but as urgently demanded by the exigencies of a given situation.

It is also obvious, for the reason given above, that the grant of exclusive police jurisdiction and supervision, as is provided in the Charter of the City of Tacloban, in no way deprives even a private person of his right to arrest without a warrant a person committing a crime in his presence or under circumstances as provided in Section 6 of Rule 113 of the Rules of Court. Thus, a member of the Philippine Constabulary may make arrest within the limits of the City of Tacloban just like any private person under the circumstances just mentioned.

We do not see how the grant of exclusive police supervision and jurisdiction to the peace officers mentioned in Section 40 of the Charter of the City of Tacloban can be considered as a limitation or curtailment of the constitutional power of the President to call out the armed forces to prevent or suppress lawless violence, invasion, insurrection or rebellion, as contended by appellees, unless, of course, the Commanding Officer of the Philippine Constabulary believes that his orders are automatically the orders of the President of the Philippines. A distinction must be made between an order of the commanding officer of any unit or command of the Philippine Constabulary to conduct operations within the City of Tacloban and the order which emanates from the President, or by authority of the President, to conduct the police operations. In the case of the order that solely comes from the commanding officer of a unit of the Philippine Constabulary, or even from the Chief of the Philippine Constabulary himself, police operations by the members of the Philippine Constabulary within the City of Tacloban cannot be undertaken in disregard of the provisions of the Charter of the city. But if the order comes from the President, certainly the power of the President as provided in the Constitution has to prevail over any power granted by statutes to local authorities.

It would be stating the obvious when We say that the grant of exclusive police supervision and jurisdiction to the peace officers of the City of Tacloban cannot in any way affect the constitutional duty of the President of the Philippines "to take care that the laws be faithfully executed", and from his constitutional power to call out, in case of necessity, "such armed forces to prevent or suppress lawless violence, invasion, insurrection, or rebellion" [Article VII, Sections 10(1) and (2), Constitution of the Philippines]. The Philippine Constabulary, it should be noted, is one of the major services of the Armed Forces of the Philippines.[5]

Consequently, where peace and order have so deteriorated that local authorities are powerless to enforce the laws, or unwilling, or afraid, to do so, the power of the President, to call out the Philippine Constabulary or any segment of the armed forces, may be exercised - certainly not to supersede the law but rather to enforce it.

There is merit, therefore, in the contention of the appellants, in their third assignment of error, that the provisions of Sections 825, 831 and 848 of the Revised Administrative Code and also of Commonwealth Act No. 343 have been repealed by Republic Act 3068 insofar as the latter Act has provided for special conditions or restrictions relative to police supervision and jurisdiction in the City of Tacloban. The Revised Administrative Code and Commonwealth Act No. 343 are general laws, while Republic Act 3068 is a special law.

There can be no question that a special law must be considered as an exception to the general law (*Baga v. Philippine National Bank*, 99 Phil., 889), and to the extent of the necessary repugnancy between Republic Act No.

3068, which is a special law, and Sections 825, 831, and 848 of the Revised Administrative Code as well as Commonwealth Act No. 343, which are general laws, the former will modify, or prevail over, the latter (*Cassion v. Banco Nacional Filipino*, 89 Phil., 560; *Laxamana v. Baltazar*, 92 Phil., 32). Hence, the provision of Republic Act No. 3068 regarding the grant to the peace officers of the City of Tacloban of exclusive police jurisdiction and supervision must prevail, as stated above, over the contrary provisions of the Re-vised Administrative Code and Commonwealth Act No. 343.

From what has been said above, it is clear that the prayer for an injunction against respondents restraining them from exercising police functions or conducting police operations inside the City of Tacloban should have been granted by the lower court.

PREMISES CONSIDERED, the decision appealed from is reversed, and We hold:

(1) That police jurisdiction and supervision and the preservation of peace and order within the City of Tacloban are functions that pertain exclusively to the peace officers mentioned in Sections 37 and 40 of the Charter of the City of Tacloban (Republic Act No. 3068; subject only, to the exception provided in said Charter -- that is, when the City Mayor calls upon the provincial commander of the Philippine Constabulary or other members of the Armed Forces of the Philippines under the circumstances specified in the Charter, and to the power of the President of the Philippines under the Constitution.

(2) That the Philippine Constabulary may conduct police operations or exercise police functions in the City of Tacloban only upon previous notice to, and with the consent of the City Mayor, except in cases of pursuit of law offenders who enter the territorial limits of the city.

(3) That a member of the Philippine Constabulary who casually happens to be in the City of Tacloban may legally effect arrests just as any private individual can under the circumstances enumerated in Section 6, Rule 113 of the Rules of Court, without previous notice to the peace officers of the city.

The respondents-appellees are hereby enjoined from exercising police jurisdiction and conducting police operations in the City of Tacloban, in consonance with the rulings rendered in this decision.

No pronouncement as to costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] As quoted from the opinion of the Secretary of Justice.

[2] Appellees' brief, p. 10.

[3] Approved and made effective on June 17, 1961.

[4] *McGee v. Republic*, L-5387, April 29, 1954.

[5] See Section 9, Executive Order No. 389, December 23, 1950; Sections 17 and 19, Commonwealth Act No. 1.

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