

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ELIGIO LEGASPI ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 47071. June 17, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This appeal is interposed from an order of the Court of First Instance of Camarines Sur dated October 13, 1937, the dispositive portion of which recites as follows:

"Considerados los hechos y circunstancias en el presente caso, que determinaron el fallo absolutorio de esta causa, el Juzgado se abstiene de hacer constar que los acusados tengan derecho al pago de los sueldos que dejaron de percibir durante su suspension con motivo de este procesamiento.

"Por tanto, se deniega la petition."

On October 21, 1936, Eligio Legaspi, Dionisio Perez, Leon Marano, Andres Concha, Andres Quintano, Antonio Borromeo, Isidoro Agaton, and Mariano Oiiate, who were then chief, sergeant, and members respectively of the municipal police force of Naga, Camarines Sur, were charged with robbery in the Court of First Instance of Camarines Sur. The cause was there docketed as criminal case No. 8980.

In accordance with the provisions of section 2272 of the Revised Administrative Code of 1917, as amended by Act No. 3206, the municipal president of Naga suspended the said accused effective October 1, 1936, pending the final decision of the case by the court. After hearing, the trial court absolved the accused on the ground of reasonable doubt, without, however, making any pronouncement in the decision regarding their right to collect their remuneration during the period of their suspension.

On September 17, 1937, the herein appellants filed a motion asking the trial court to confirm their claim to their salaries in view of their acquittal. The court, in its order of October 13, 1937, hereinabove referred to, denied the petition. Hence, this appeal.

The sole question of law involved is whether or not the trial court erred in refusing to make a pronouncement as to the right of the appellants to receive their compensation during their suspension from office.

The pertinent portion of section 2272 of Act No. 2711, as amended by Act No. 3206, which is now in issue, provides as follows:

"When a chief or member of the municipal police is accused in court of any felony or violation of law by the provincial fiscal, the municipal president shall immediately suspend the accused from office pending the final decision of the case by the courts and, in case of acquittal, the accused shall be entitled to payment of the entire salary he failed to receive during his suspension if the court should so provide in its sentence." (Italics ours.)

It is clear that when a chief or member of the municipal police is accused in court of any felony or violation of law, he may be suspended immediately by the municipal president, and that should he be acquitted, he may

receive his entire salary for the term of his suspension "if the court should provide in its sentence." In other words, mere exculpation does not entitle the suspended police official to the salary which accrued during suspension. The court must authorize payment. In the present case, the lower court advisedly declined to so authorize. We find no reason for interfering with the exercise of the authority conferred upon the lower court.

The order appealed from is hereby affirmed, with costs against the appellants. So ordered.

Avanceña, C.J., Imperial, Diaz, and Moran, JJ., concur.

Order affirmed.

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