

GEN. RENATO DE VILLA, BRIG. GEN. DOMINGO RIO, LT. COL. MIGUEL CORONAL, AND P/MAJ. NICOLAS TORRES, PETITIONERS, VS. THE CITY OF BACOLOD AND LT. COL. HERMAN S. PLOTENA, RESPONDENTS.

G.R. No. 80744. September 20, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

On or about 12 September 1987, petitioner Lt. Gen. Renato de Villa, then Director General of the Integrated National Police (INP), relieved respondent Lt. Col. Herman S. Ploteña as Bacolod City INP Station Commander and assigned him to the PC Provincial Headquarters in Bacolod City.

The city of Bacolod filed with the RTC of Bacolod a complaint for declaratory relief and/or injunction with prayer for issuance of a writ of preliminary mandatory injunction to declare the relief of Ploteña as invalid and illegal.

Said complaint was later amended to implead Ploteña as an unwilling co-plaintiff (defendant) who filed an answer with crossclaim praying for dismissal of the complaint against him but asked for reinstatement with full backwages and without loss of seniority rights allegedly because he has security of tenure as a civil servant. Defendants therein (herein petitioners) claimed that Gen. de Villa, as Director General of the INP, has the power and authority under PD 765, PD 1162 and EO 1012 to replace Ploteña. Thru the Solicitor General, a motion to dismiss was filed. After hearing on the motion to dismiss, the entire case was, by agreement of the parties, submitted for resolution.

Since the replacement of Ploteña was a fait accompli, the RTC treated the case as an ordinary civil action pursuant to Sec. 6, Rule 64 of the Rules of Court, and held on 12 November 1987 that Ploteña was summarily replaced without observance of due process, violative of Executive Order 1012 as amended by Executive Order 1027 and the 1987 Constitution requiring as an essential condition for relief a prior recommendation of, or consultation with the local chief executive, in the instant case, the City Mayor of Bacolod.

Not satisfied with the decision of the RTC, petitioners have come to this Court. Respondent Ploteña in a manifestation dated 31 May 1988 refrained from filing any comment and opted to adopt whatever favorable comment the respondent city would file. After two (2) show cause resolutions from this Court and motions for extension, the city of Bacolod finally filed its one (1) page comment praying for the dismissal of the petition as moot and academic, it being satisfied with the performance of the new station commander Lt. Col. Nicolas Torres. Ploteña filed a manifestation to the effect that he will abide by the RTC decision while the Office of the Solicitor General prays for the allowance of the petition in order to reverse the RTC decision.

We grant the petition because the city's change of heart is not a permanent solution to the issues it has raised.

It is worth noting that Section 6 of PD 765[1] includes regular members of the INP within the career service category of the Civil Service. Section 7 of the decree also provides:

"SEC. 7. Authority of the President of the Philippines over the Integrated National Police. - In the exercise of its power to maintain peace, law, order and public safety, the Integrated National Police shall be subject, to the command and general supervision of the President of the Philippines and shall function directly under the Department of National Defense."

Section 9 provides:

"Transfer of Administrative Supervision and Control. - The power of administrative super-vision and control by city and municipal governments over their respective local police forces, jails and fire departments as defined under existing laws and charters, notwithstanding the transition periods provided in the abovementioned Decrees on integration, shall be transferred to, and exercised by the Chief of Constabulary as Director-General of the Integrated National Police; x x x." [2] (underscoring supplied)

The power of control, undefined in PD 765, has been jurisprudentially defined (with reference to the president's power of control) as the power of an officer to alter or modify or nullify or set aside what a subordinate officer has done in the performance of his duties and to substitute the judgment of the former for that of the latter.[3]

In *Ang-Angco vs. Castillo, et al.* (L-17169, 30 November 1963) control was defined as follows:

"That meaning is also the meaning given to the word 'control' as used in administrative law. Thus, the Department Head pursuant to Section 79(c) is given direct control of all bureaus and offices under his department by virtue of which he may 'repeal or modify decisions of the chiefs of said bureaus or offices' and under Section 74 of the same Code, the President's control over the executive department only refers to matters of general policy. x x x."

On the other hand, the power of supervision means the power of a superior officer to see to it that subordinates perform their functions according to law.[4]

General supervision, operational supervision and direction are separately defined under PD 1162, Section 1 as follows:

"d. General Supervision. It is the power to see to it that the units or elements of the Integrated National Police perform their duties properly according to existing laws and the rules, regulations and policies promulgated by competent authority in order that the overall mission of the Integrated National Police in maintaining law and order insuring public safety n any province, city or municipality shall be effectively achieved. x x x.

e. Operational Supervision and Direction. It is the power to see to it that the units or elements of the Integrated National Police perform their duties properly according to existing laws and the rules, regulations and policies promulgated by competent authority, and the power to employ or deploy such units or elements, in coordination with the Provincial or District Police Superintendent, Station Commander or Officer-in-Charge to insure public safety and the effective maintenance of peace and order within the locality."

In addition, the last paragraph of Section 1, Executive Order 1012[5] provides:

"x x x x x x x x x x

In accordance with Section 2 of Presidential Decree No. 1162, the Provincial Governors, City Mayors and Municipal Mayors shall have the power to exercise general supervision over units and elements of the INP stationed or assigned in their respective jurisdictions, and shall accordingly exercise the powers and authorities provided for in Section 1(d) of said Presidential Decree No. 1162."

Executive Orders 1012 and 1027 did not remove adminis-trative supervision and control over police units from the INP chief, what is given to local executives over local police units is general and, at most, operational supervision and direction.

Administrative supervision and control is not the same as general or operational supervision, and direction; but the RTC ruling appears to interchange the two (2) things.

Section 4 of Executive Order 1027[6] which is relied upon by the Bacolod RTC states:

"SEC. 4. Once the reassignments herein required are in place, no further reassignment or detail of policemen outside their respective towns or cities of residence shall be made with-out the approval of the Municipal or City Mayor concerned. No appointment of new policemen in any municipality or city shall be made, except upon the recommendation of the Municipal or City Mayor therein. The new appointees shall, as a general rule, be residents of the city or munici-pality to where they are assigned or stationed. (Underscoring supplied)"

The above section speaks of no further reassignment or detail of policemen outside their respective towns or cities of residence without the approval of the Municipal or City Mayor concerned. The Office of the Solicitor General contends that said directive refers only to ordinary police-men and not to officers and the approval of the local chief executive is necessary only if the reassignment or detail of the policemen is outside of the city or municipality which happens to be his residence. But, even if the section were to apply to police officers, the situation contemplated in the section does not exist in the case at bar for Ploteña has been re-assigned to the PC Provincial Headquarters also in Bacolod City.

PD 531[7] which integrated the police departments of Negros Occidental provides in Section 6 thereof that in case of conflict between the exercise of administrative control and supervision on the one hand and operational control, direction and supervision on the other hand, the latter shall prevail. Be that as it may, the operative word here is control, i.e. who has control? The local executives have general and operational supervision over local police units, but no power of administrative supervision or control over them; hence, absence of recommendation from the local chief executive does not invalidate the replacement of a Station Commander made by the INP Director General.

At best, the participation of the local chief executive is recommendatory but the power to relieve or reassign a city INP Station Commander is lodged with the INP Director General under existing laws.

To conclude, as the Bacolod RTC has done, that Ploteñas' replacement, transfer or reassignment may only be done upon approval of the local chief executive, defies organizational interests. If the RTC's position were correct, a deadlock can ensue; an intransigent local executive would be in a position to nullify the power of administrative supervision and control vested by law in the PC Chief/INP Director General.

The undisputed assertion of the Office of the Solicitor General is that the decision to relieve Ploteña was reached after consultations with the Regional Directors and Police Superintendents relative to his performance in the face of the worsening peace and order and insurgency situation in Bacolod City. The PC/INP Commander's power of control encompasses such a transfer. There is thus no need to discuss further the issue of due process.

Moreover, Executive Order 1040[8] directly placed the National Police Commission under the office of the President. The Commission exercises administrative control and supervision over all units of the INP force throughout the country. Questions therefore of propriety of a transfer or relief of policemen have to be threshed out before said body whose decisions are appealable to the office of the President. Were it not for the legal issue presented, the petition before the lower court would have been premature for failure to exhaust administrative remedies.

The Supreme Court interprets the law, it does not shirk from this duty but takes this opportunity to bring to the attention of our lawmakers the danger of numerous laws/issuances covering the same subject matter, as demons-trated in this case. Careful drafting and compilation in one comprehensive/concise piece of legislation

can eliminate unnecessary contradictions and confusing interpretations by those tasked to execute such laws. WHEREFORE, the petition is GRANTED. The challenged RTC decision is REVERSED and SET ASIDE.

SO ORDERED.

Melencio-Herrera, (Chairman), Sarmiento, and Regalado, JJ., concur.
Paras, J., on leave.

[1] Dated 8 August 1975

[2] Also Section 7 PD 1162, dated 8 June 1977

[3] Mondano vs. Silvosa, 97 Phil. 143, 148; Tuazon vs. Magallanes, Co. Inc., G.R. No.L-27811, October 17, 1967; Lacson vs. Romero, 84 Phil. 740, 759

[4] Bernas, Joaquin G. The (Revised) 1973 Philippine Constitution Notes and Cases, Part. I, 1983 Edition, p. 474

[5] Dated 22 March 1985

[6] Dated 14 May 1985

[7] 8 August 1974

[8] Dated 10 July 1985

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