

2 Phil. 413

[G. R. No. 1430. August 12, 1903]

**PLACIDO BANAYO, PETITIONER AND APPELLANT, VS. THE MUNICIPAL
PRESIDENT OF SAN PABLO, RESPONDENT AND APPELLEE.**

D E C I S I O N

COOPER, J.:

An application was made on the 24th day of June, 1903, to the judge of the Court of First Instance of the Sixth Judicial District, by Placido Banayo, for a writ of habeas corpus, the petitioner alleging that he was deprived of his liberty and imprisoned by Marcos Paulino, municipal president of San Pablo, Province of Laguna, in the public prison of the said municipality; that he was so placed in confinement about the 80th day of May, 1903, in the municipal prison, without then being informed of the cause of his detention; that two or three days afterwards he was given over to the justice of the peace on an accusation of *estafa*, which offense, as alleged against him, consisted in the fact that he had refused to pay the wages of one of his servants; that the justice of the peace, as soon as he heard the facts of the case, discharged the petitioner from further prosecution; that notwithstanding this fact, the municipal president, Marcos Paulino, again caused him to be imprisoned in the municipal prison, where he is now held without any order of competent authority; that there existed neither complaint nor information, or other formal allegations.

The writ of habeas corpus was issued in accordance with the prayer of the petitioner. The respondent made return to the writ, and for cause of the detention presented a copy of a decision rendered by the municipal council of San Pablo on the 8th day of June, 1903, which set forth that Placido Banayo had been arrested for the crime of *estafa* on the complaint of Julian Arellano and by the teniente of the barrio of San Francisco, Don Mamerto Evangelista, as a disturber of the peace of the inhabitants; that, with respect to the first-named offense, it was admitted that the justice of the peace alone had jurisdiction to investigate the matter; that as to the second offense, that of disturbance of the public peace,

such act is an administrative offense (*delito administrativo*) ; that the investigation being had by way of administrative complaint, as a result it was proven that the disturbance of the public order was committed by the accused in the barrio mentioned, and that thereupon the president and municipal council, under their powers to correct acts which tend to the disturbance of the peace of the inhabitants, after declaring the acts to be dangerous to the tranquillity of the town, sentenced the accused, Placido Banayo, to the penalty of one hundred and sixty-eight days of imprisonment and a fine of \$199. It will not be necessary here to consider the character of the acts upon which the complaint for disturbance of the peace is based. It is sufficient to say that they appear to have been quite frivolous, and consist in the accused having incited various persons who had been excluded from participation in the division of an estate to litigate concerning the opening of the estate of Juan Banayo, deceased, the grandfather of the defendant, and in which estate the defendant himself was interested ; and in the accused having cut the coeanut trees on the estate.

The cause was heard on the 22d day of July, 1903, by the Court of First Instance and the petitioner was remanded to the custody of the respondent; the costs of the proceeding were adjudged against the petitioner. From this judgment of the Court of First Instance the petitioner has appealed to this court.

The decision of the Court of First Instance is apparently based upon the construction given to section 528 of the Code of Civil Procedure of 1901, which provides that the writ of habeas corpus shall not be allowed when it appears that the person alleged to be deprived of his liberty is in the custody of an officer under process issued by a court or magistrate, or held by virtue of a judgment or order of a court of record having jurisdiction. It was the opinion of the judge of the Court of First Instance that the municipal council of San Pablo was acting within its jurisdiction, and that, the defendant being held by virtue of an order of the municipal council, the court could not inquire into the sufficiency of the complaint as to vices or defects of the proceedings, or as to whether the judgment or sentence was erroneous or not, the remedy of the defendant being by appeal.

Under Act No. 82, which is a general act for the organization of municipal governments in the Philippine Islands, the powers vested in the municipal governments are subdivided, that part of an executive and judicial character being vested in the president, and that part of a legislative character being vested in the municipal council. The president is made the chief executive of the municipality, and, by section 18 (g), he is empowered to hold a court to hear and adjudge alleged violations of public ordinances, upon complaint filed by his direction or by a police officer, or a private citizen, and after due trial, in which the accused

and his witnesses shall be heard, shall, upon conviction, impose such punishment, either by admonition or by fine and imprisonment, or both, in his discretion, as is provided for in section 39 (*dd*) of the act. To the municipal council is delegated legislative power alone. It possesses no powers whatever of a judicial character. Nor is there any such proceeding known in our present laws as . *delito gubernativo*.

The power of the municipal council being dependent upon the municipal act, and, as stated, no judicial power having been delegated to the municipal council, the exercise of any such power by it is without authority, and it had no jurisdiction to render the judgment or make the order under which the petitioner is held. The proceeding before the municipal council was an absolute nullity, and the detention or imprisonment of the petitioner under these void proceedings was illegal and wrongful, and the Court of First Instance erred in not directing his discharge from custody.

For the reasons above stated, the judgment of the Court of First Instance is reversed, and judgment is here rendered directing that the petitioner be discharged from custody, and that the costs of these proceedings be adjudged against the respondent, Marcos Paulino.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, JJ., concur.
