

**CELESTINO E. ESUERTE, MARIA BITOY, HONORATO LUCERO, AND
ANATALIO BARCENA, PETITIONERS, VS. HON. MACAPANTON ABBAS,
JUDGE OF THE COURT OF FIRST INSTANCE OF DAVAO, HON.
SALVADOR R....**

G. R. No. L-21122. June 23, 1966

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0bb01aee44d9/>

BARRERA, J.:

This is an original petition for certiorari to question the correctness of the order of the Court of First Instance of Davao, denying petitioners' motion for the issuance of a writ of preliminary injunction in Special Civil Case No. 3950 of said court.

Following the designation by President Macapagal, on January 25, 1963, of Delfin Jampayas, as Acting Mayor, Eulogio Viajedor, as Acting Vice-mayor, Antonio Macadangdang, Demetrio B. Hechanova, Rlcardo Bitoy, and Francisco Esquerdo, as Acting Councilors of the Municipality of Mawab, province of Davao, Celestino Esuerte, Maria Bitoy, Honorato Lucero, and Anatolio Barcena, who were extended ad interim appointments by President Garcia on December 29, 1961,[1] instituted prohibition and quo warranto proceedings in the Court of First Instance of Davao (Sp. Civ. Case No. 3950) to declare them (petitioners) lawfully entitled to the positions. As the court denied their prayer for a writ of preliminary injunction, to restrain respondents from entering the discharge of the functions of the offices, petitioners filed the instant action. It is here claimed that as rightful occupants of the disputed positions, they are entitled not only to the salaries attached thereto, but also to the peaceful, continuous, and uninterrupted exercise of the regular duties and functions of the office.

This petition was given due course in this Court, but no writ of preliminary injunction was issued. Thus, the trial of the main case (Sp. Civ. Case No. 3950) continued and on November 26, 1963, the court a quo rendered a decision dismissing the petition. Therein petitioners brought the case on appeal to this Court (G.R. No. L-23301).

In our decision of February 28, 1966 (in G.R. No. L-23301, Esuerte et al. vs. Jampayas et al.), the ad-interim appointments of petitioners Esuerte, et al., extended by President Garcia on December 29, 1961 were declared part of the "midnight" appointments covered by the ruling laid down in the Avtona vs. Castillo[2] case. In effect, therefore, the designations by President Macapagal of respondents Jampayas, et al. to the disputed positions were upheld. In view of our resolution of the controversy in the main case, the issue in the present action, which is merely an incident in the main case, has become moot and academic.

WHEREFORE, this petfcion is hereby dismissed, without costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

[1] Esuerte, as Mayor, Bitoy as Vice-mayor, and Lucero and Barcena as Councilors of the same municipality.

[2] G.R. No. L-19313, Jan. 19, 1962.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.