

SEGUNDO SANTOS, PETITIONER, VS. SECRETARY OF LABOR, RAOUL M. INOCENTES, COMMISSIONER OF CIVIL SERVICE, RICARDO TIONGCO AND CASHIER, REGIONAL OFFICE NO. 4, RESPONDENTS.*G.R. No. L-21624. February 27, 1968*

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/20767bfc79fa/>**SANCHEZ, J.:**

Segundo Santos was, for a number of years, employed as Labor Conciliator I (Regional Office No. 4) of the Department of Labor. His monthly pay was P259 per month, or P3108 per annum. On August 24, 1960, he was extended an appointment (promotion) as Labor Conciliation II (Regional Office No. 3, Manila), with compensation per annum of P3493 vice Juan Mendoza, Jr., resigned. This appointment, effective September 1, 1960, was approved by the Commissioner of Civil Service on May 14, 1962, and released to the Department of Labor on May 25, 1962.

In June of 1962, respondent Secretary of Labor appointed Ricardo Tiongco, one of the respondents, to the same position of Labor Conciliator II.[1]

Petitioner's demand for the revocation of respondent Tiongco's appointment and payment to him (Santos) of salary differentials was rejected by respondent Secretary of Labor.

From the foregoing events stemmed the present petition for mandamus filed on August 20, 1962 - three days before Santos actually retired from the service which was on August 23, 1962.[2] The petition prays, inter alia, that respondents be commanded to nullify the appointment of Tiongco, and to uphold as legal and existing petitioner's appointment, as Labor Conciliator II, from September 1, 1960; and that the salary differentials aforesaid be paid petitioner. Respondents seasonably answered the petition.

Before the case could be tried on the merits, that is, on February 14, 1963, Santos died. A motion to substitute the "Estate of Segundo Santos, deceased," represented by Rodolfo Santos, one of the heirs, was filed. This triggered a move on respondents' part to seek dismissal of the case.

The court, on April 10, 1963, dismissed the petition without costs. Hence, this appeal on purely questions of law.

1. The threshold question is this: May the Estate of Segundo Santos, deceased, be substituted in place of petitioner herein?

Public office is a public trust.[3] It is personal to the incumbent thereof or appointee thereto. In this sense, it is not property which passes to his heirs. None of the heirs may replace him in that position. It is in this context that we say that the Estate of the deceased Segundo Santos may not press Santos' claim that he be allowed to continue holding office as Labor Conciliator II. *Actio personalis moritur cum persona*.

But jurisdiction of the court had attached before the death of Santos. That jurisdiction continues until the termination of the suit. It is true that what is left is a money claim for salary differentials. But death will not

dislodge jurisdiction on that money claim - it subsists. Resolution of this question depends upon the right of Segundo Santos to the position of Labor Conciliator II.

We rule that the Estate of the deceased Segundo Santos may be substituted for him in the present proceedings. We do so now.

2. We go to the merits.

Stripped of unnecessary details, the facts are: On August 24, 1960, petitioner, a second grade eligible, was appointed Labor Conciliator II at an annual compensation of P3493 effective September 1, 1960. As far as salary is concerned, no law, rule or regulation has been violated. Because, an annual pay of P3493 is well within the range provided for second grade civil service eligibles.[4]

Respondents challenge the legality of petitioner's appointment as Labor Conciliator II. They say that such appointment is within the prohibition set forth in the memorandum circular of the Civil Service Commission dated February 16, 1961, thus: "Employees should not be assigned or promoted to positions the initial rate of the salary allocation of which exceed the maximum allowable for their eligibility. Respondent likewise aver that it was because of this circular, that the appointment of petitioner as Labor Conciliator II was recalled on September 7, 1961. The circular was not violated.

And the withdrawal of petitioner's appointment is not a proven fact. What the record clearly disclose is that the original appointment of petitioner as Labor Conciliator II was not taken out of the Civil Service Commission; it was approved by the Commissioner of Civil Service on May 14, 1962 and released to the Secretary of Labor on May 25, 1962.

More important now is that the defense of recall has been abandoned by respondents. The case was ready for trial below. They did not go to trial. Instead, they thought it advantageous to them - upon petitioner's death - to submit their case on their motion to dismiss based solely on legal grounds, namely, that the death of petitioner extinguished the controversy, and that the remaining claim for damages is ancillary to mandamus and is also abated by death.

The money claim here involved, however, descended to Santos' heirs. And, as we have earlier in this opinion stated, his Estate may prosecute that claim to its conclusion.

It will not be in harmony with our sense of justice to return this case to the court below - at this stage - just to allow respondents to prove their defense of recall of petitioner's appointment.

Respondents had a choice: To go to trial on the merits upon the issues raised in their answer or, seek to overthrow petitioner's case on legal issues. They did elect the latter. They cannot be permitted once again to return to the lower court for a trial on the merits.[5] Suitors should not normally be allowed to gamble with court proceedings in the hope of obtaining beneficial results. It is unfair that this case should, on respondents' choice, be made to bounce from the lower court to this Court, and back to the lower court and perhaps only to be appealed once again to an appellate court. The ensuing delay, increased cost of litigation, and trouble and anxiety and harassment to be caused to the adverse party, the wastage of the courts' time - these are reasons potent enough to support this view.

At all events, petitioner's right to salary differentials and the duty to pay him are both clear. Civil Service approval completed petitioner's appointment,[6] clinched the case for him.

3. The rest is a question of mathematical computation. Petitioner's pay as Labor Conciliator I was at the rate of P259 per month or P3108 per annum. His increased compensation as Labor Conciliator II from September 1, 1960, to August 23, 1962, the date of his retirement, is at the rate of P3493 per annum, specified in his

promotional appointment, and reiterated in the 5th indorsement of the Commissioner of Civil Service to the Secretary of Labor dated May 22, 1962. He is entitled only to the pay set forth in his appointment, and no more - absent a legal adjustment thereof. There is no such adjustment here. Petitioner's salary differentials during the period covered amounts to P761.68. And this should be paid to his Estate.

Upon the view we take of this case, we vote to reverse the order of the Court of First Instance of Manila dated April 10, 1963, and to direct the Secretary of Labor and the corresponding Cashier to pay the Estate of the deceased petitioner Segundo Santos the sum of P761.68

No costs.

SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Respondents' answer [par. 5(b)]states that Tiongco's appointment was made on February 23, 1962.

[2] Civil Case 51313, Court of First Instance of Manila, entitled "Segundo Santos, Petitioner, vs. The Secretary of Labor, et al., Respondents."

[3] Morfe vs. Mutuc, L-20387, January 31, 1968.

[4] Section 9, Civil Service Act of 1959 before amendment.

[5] In pari materia: Moody, Aronson & Co. vs. Hotel Bilbao, 50 Phil. 198, 200, where it was held that: "The defendant who, after the plaintiff has submitted his evidence, makes a motion to dismiss which the trial court in a decision grants, and who, on appeal of the plaintiff, has the judgment reversed, cannot then be permitted to produce evidence in defense. The defendant in offering a motion to dismiss in effect elects to stand on the insufficiency of the plaintiff's case. Otherwise, the result will be to invite unnecessary litigation. As a shining example is the case at bar involving some P400 brought on appeal in two instances, and which in addition, if we accede to the petition of the defense, will have to be retried which the possibility of still another appeal." See: Demetrio vs. Lopez, 50 Phil. 45, 51-52; Arroyo vs. Azur, 76 Phil. 493, 498-503; Guido vs. Castelo, 81 Phil. 81, 82-83; Cotaoco vs. Dinglasan, 83 Phil. 681-682; Abriol vs. Homeres, 84 Phil. 525, 529-530; Atun vs. Nuñez, 51 O.G. No. 11, pp. 5628, 5631.

[6] Mitra vs. Subido, 1967C Phil. 681, 691.

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.