

**AMADO O. IBAÑEZ AND ESTHER A. RAFAEL-IBAÑEZ, PETITIONERS,
VS. COMMISSION ON ELECTIONS; ABELARDO SUBIDO, AS
COMMISSIONER OF CIVIL SERVICE; EDILBERTO REGALADO,
ENRIQUE ROA, ERNEST...**

G.R. No. L-26558. April 27, 1967

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4b8443cfe859/>

CASTRO, J.:

By the present multi-purpose petition denominated "Certiorari, Prohibition, Mandamus and Quo Warranto, with Writ of Preliminary Injunction", the petitioners-spouses Amado O. Ibañez and Esther A. Rafael-Ibañez seek to be declared permanent election registrars for the City of Manila, to enjoin the respondent Commission on Elections from assigning them to the provinces, to nullify the appointments of the respondents Edilberto Regalado, Enrique Roa, Ernesto Verdejo and Nestorio Bautista as permanent election registrars for the City of Manila as well as the Memorandum Order of the respondent Commission of September 6, 1966 relieving the petitioners from their assignments as election registrars for the fourth congressional district of Manila, to lift the order of the respondent Commission of September 9, 1966 suspending the petitioners for their disobedience of the relief order and their refusal to turn over their property accountability to the four respondent election registrars, to enjoin the respondent Commission from proceeding with the administrative investigation of the petitioners for the disobedience and refusal aforesaid, and to compel the respondent Benito Tagulao to pay to the petitioners their withheld salaries; or, in the alternative, to command the respondent Commission to appoint the petitioners as permanent election registrars for the City of Manila.

Upon bond filed by the petitioners and approved by this Court, the corresponding preliminary injunction was duly issued.

Pursuant to Republic Act 3808 - evidently calculated to streamline the organizational set-up in the respondent Commission in order to enable it not only to effectively discharge its constitutional functions but also to cope with the demands of the inauguration in this jurisdiction of a drastically revised system of permanent registration of voters under a companion measure, Republic Act 3588 - the respondent Commission, acting on the recommendations of a Committee on Reorganization theretofore created, approved on December 21, 1963 a re-organization plan which, amongst others, called for the following positions -

"147. Forty-three city registrars at

P5,760 P 123,840"

"149. One thousand three hundred twenty-six municipal registrars

at P5,760 P3,818,880."

Except for changes in the compensation attached thereto, these positions were subsequently incorporated in and

authorized by succeeding General Appropriations Acts, respectively, as items 176 and 178 in Republic Act 4164 for the fiscal year 1964-1965; items 177 and 179 in Republic Act 4642 for the fiscal year 1965-1966; and items 177 and 179 in Republic Act 4848 for the fiscal year 1966-1967. Now, as then, four of the forty-three positions for city registrars are duly allotted to the City of Manila.

In the implementation of the reorganization as far as election registrars were concerned, several problems arose. There was a dearth of qualified personnel immediately avail-able to fill the openings for election registrars required for the whole country. In view of the nature of the duties of the office and the innovations in the new system of registration of voters, even the then available personnel had first to undergo training and probation. Not all the local governments called upon to provide accommodations for the registrars responded with dispatch. And the new system did not itself catch on fast enough that it became necessary to drum up interest therein and acceptance thereof by the electorate - a campaign which, it was thought, would be best successful if initially waged in strategic areas of population concentration. Considering that Republic Act 3588 then merely provided that -

"Section 2. - There shall be in each city, municipality and municipal district at least one election registrar x x x appointed by the Commission on Elections x x x",

without categorically requiring that each election registrar be appointed to a specific station, the respondent Commission found it expedient to adopt the policy of appointing election registrars without indicating, in their respective appointments, any specific official station and shifting them later on from one assignment to another as the requirements of registration demanded. Consonant to this policy, said respondent Commission actually named almost all of its 400 special and field attorneys as "Election Registrars in the Commission on Elections". And because of the number of prospective registrants in Manila, some fifty of them were thereafter assigned therein from time to time. The situation became specially critical when, as a condition precedent to the use of the new lists of voters in the then forthcoming national elections, a certain percentage of the previously registered voters had to be registered under the new system before a given deadline. So that in its all-out effort to meet the deadline the respondent Commission went so far as to appoint election registrars-at-large.

Amongst the appointments extended under the aforestated policy was that of the petitioner Amado O. Ibañez who, on February 1, 1964, was named "Election Registrar in the Commission on Elections". Filled thereby, as indicated in the appointment, was "Item No. 149(165), Page 23, Reorg. of the Comelec pursuant to RA 3808" corresponding to one of the positions of municipal registrars. The appointment was approved by the respondent Civil Service Commissioner Abelardo Subido, and the said petitioner duly qualified and assumed office. Thereafter, effective June 15, 1964, he was, in a memorandum for the purpose, "assigned as Registrar(s) for the 4th District, Manila", together with three others. On November 23, 1964, he was invested with additional duties as "Election Registrar-at-Large" in Manila per covering memorandum of even date. Similarly, on November 2, 1964, the petitioner Esther A. Rafael-Ibañez, wife of the first-named petitioner, was also appointed "Election Registrar in the Commission on Elections" to fill the then "Item No. 178(1271), page 2455, R.A.4164 COMELEC Standardization Resolution 9/24/64", corresponding likewise to one of the positions of municipal registrars. Said appointment was duly approved by the respondent Abelardo Subido and accepted by the appointee who forthwith assumed the duties of the office. Per telegraphic directive of November 12, 1964, the respondent Esther A. Rafael-Ibañez was also assigned to act as election registrar in the fourth district of Manila. But for the adjustments in the compensation thereof effected on December 27, 1965 and the change in the numbering of the items involved to make them correspond with the provisions of Republic Act 4642, the General Appropriations Act for 1965--1966, i.e., for the petitioner Amado O. Ibañez, Item 179(165), page 2576, and for the petitioner Esther A. Rafael-Ibañez, Item 179(1271), page 2576, these are the very same positions held by the petitioners

when the present controversy came to a head.

Upon the other hand, the respondents Edilberto Regalado, Enrique Roa, Ernesto Verdejo and Nestorio Bautista - like the petitioners - were also duly appointed "Election Registrar in the Commission on Elections". In his appointment of February 1, 1964, the respondent Regalado was given "Item No. 149-(129), Page 23, Reorg. of the Comelec pursuant to RA 3808". From his initial assignment at San Fernando, Pampanga, he was recalled on May 18, 1964 and instructed "to assume and perform the duties of your office as Election Registrar designated by the Commission for the City of Manila". Here he remained until May 21, 1965 when he was detailed to the Law Department of the respondent Commission. The respondent Roa was appointed on February 1, 1964 to "Item No. 149(132), Page 23, Reorg. of the Comelec pursuant to RA 3808", which he accepted and assumed. On June 25, 1964, he was stationed in Manila "as one of the Registrars on temporary assignment", a post he occupied until he was transferred to the Policy Staff of the respondent Commission in September, 1965. The respondent Verdejo's position, per his appointment of February 1, 1964, is "Item No. 149(101), Page 23, Reorg. of the Comelec pursuant to RA 3808". He was assigned as such to Manila on June 4, 1964, and actually assumed office thereat on June 8, 1964. Finally, the respondent Bautista was, under an appointment dated January 31, 1964, named to "Item No. 149(68), Page 23, Reorg. of the Comelec pursuant to RA 3808". Effective June 15, 1964 he was also "assigned as Registrar for the 4th District, Manila", and remained thereat until May 21, 1965 when, like the respondent Regalado, he was assigned to the Law Department of the respondent Commission. Like the two petitioners, the above-named respondents held positions corresponding to those of municipal registrars and were all amongst the about fifty registrars assigned by the respondent Commission in its saturation drive in the City of Manila. None of them, however, was then officially appointed as election registrar specifically for the said city.

Meanwhile, the validity of the appointments of election registrars-at-large was challenged. In *Buyat vs. Commission on Elections*, G.R.L-24329, April 8, 1965, this Court ruled out said appointments as void. Collaterally, moves in Congress for a more precise statement of the legislative intent on the matter resulted in the passage of Republic Act 4730, effective June 18, 1966, which incorporated in section 3 of the Permanent Registration Act, Republic Act 3588, the qualification that -

"* * * every election registrar shall be appointed to a specific city, municipality or municipal district; and once appointed may not be transferred or removed to another city, municipality or municipal district without cause or his consent. * * *"

These developments prompted the respondent Commission not only to reassess its policies in the implementation of the new system of registration of voters but also to take immediate steps to comply with the clear mandate of the amendatory law just adverted to. Realizing that, under the *Puyat vs. Commission on Elections* doctrine, even the appointments of election registrars without specification of station were equally illegal, and recognizing that no appointments to any place could be extended in excess of the number of election registrars theretofore authorized by the current appropriations act, the respondent Commission found no alternative but to appoint and/or disperse the then incumbent election registrars to specific cities and municipalities as contemplated in the original reorganization resolution of the respondent Commission. The problem of choosing permanent stations for said registrars was particularly pressing in Manila where, despite the allotment thereto of only four positions of election registrars, no less than fifty election registrars have served or were serving as such. A duly constituted screening committee which analyzed the records of the said fifty incumbent registrars and considered their respective Bar and Comelec examination ratings, academic background, training, related experience, performance and dependability, drew up a recommendation that the appointments of city election registrars for Manila be made from amongst Enrique Roa, Edilberto Regalado, Adelaida Reyes, Ernesto Verdejo and Nestorio Bautista. Acting on this recommendation, the respondent Commission, in its Resolution of August

24, 1966, resolved to permanently appoint as "Election Registrars in the City of Manila", effective August 24, 1966, the respondents Roa, Regalado Verdejo and Bautista. In due season, their appointments as "Election Registrar in the Commission on Elections for Manila", respectively, under Items 177(2), 177(1), 177(3) and 177(4), all on page 2587, R.A. 4848, the General Appropriations Act for 1966-1967, were duly issued by the respondent Commission and approved by the respondent Civil Service Commissioner Abelardo Subido. Said respondent registrars thereafter duly qualified and assumed their respective offices.

Forthwith, in a Memorandum dated September 6, 1966, the respondent Commission notified the forty-one other election registrars then detailed in Manila, the petitioners herein included, of the appointment of the four respondent registrars as permanent city election registrars for Manila, and directed them to turn over to the latter such properties, equipment and unused registration forms as they might still have under their respective accountabilities, as well as to continue assisting the said permanent registrars in the Manila Registrar's Office pending their permanent appointments to specific cities or municipalities. To a man, the said forty-one registrars demurred and refused to heed the order aforesaid. Regarding this as "disobedience to lawful orders of superior authority and conduct prejudicial to the best interests of the service, in violation of the Civil Service Law", the respondent Commission forthwith initiated administrative proceedings against the said registrars, including the petitioners herein, and accordingly ordered their preventive suspension. The registrars' explanation and subsequent motion for reconsideration of the action taken by the respondent Commission proved unavailing. The petitioners, then, invoked our intervention.

To be sure, there are preliminary issues raised in the pleadings which ordinarily deserve preferential resolution before the merits of the petition are inquired into. However, because several other cases posing the same principal question as that here presented have been spawned by the same factual setting above laid out, we deem it more profitable to forthwith take the case by its horns, so to speak, and thereby set the principal issue at rest once and for all.

By the petitioners' own formulation, the basic issue to be resolved here is whether the action of the respondent Commission in ousting them, and others like them, from their assignments in Manila pending their appointment to permanent stations, as well as in suspending and administratively investigating them for their alleged disobedience heretofore adverted to, is illegal and void, in excess of jurisdiction and grave abuse of discretion for being a subversion of the permanence of station and security of tenure contemplated by Republic Act 3588, as amended by Republic Act 4730, and guaranteed by the Constitution. The gravamen of the petitioners' pose in sustaining the affirmative side of this issue is that although their appointment papers did not specify Manila as their permanent station, their assignment thereto made them permanent election registrars thereof and may not now be ousted therefrom without trenching upon their security of tenure. This point is deduced from the premise that permanency of station being of the essence of the office of an election registrar - as is implicit in the original Republic Act 3588, recognized in *Puyat vs. Commission on Elections*, supra., and categorically expressed in the amendatory law, Republic Act 4730 - the petitioners' appointments without indication of a specific station were defective and ineffectual until they were complemented by corresponding assignments to particular stations. Hence, they theorize that their subsequent assignment to Manila validated or perfected their appointments as ones for permanent election registrars thereat. As such, they claim to be entitled to seek refuge behind the right to security of tenure.

That security of tenure is an essential and constitutionally guaranteed feature of our Civil Service system, is not open to debate. The mantle of its protection extends not only against removals without cause but also against unconsented transfers which, as repeatedly enunciated, are tantamount to removals which are within the ambit of the fundamental guarantee. However, the availability of that security of tenure necessarily depends, in the first

instance, upon "the nature of the appointment" (Hojilla vs. Marino, et al., G.R.L-20574, February 26, 1965). Such that the rule which proscribes transfers without consent as anathema to the security of tenure is predicated upon the theory that the officer involved is appointed - not merely assigned - to a particular station (Micalat vs. Ganaden, et al., G.R.L-14459, May 30, 1960; Jaro vs. Valencia, et al., G.R.L-18352, August 30, 1963).

Assayed upon the foregoing legal crucible, the petitioners' case suffers an initial setback. The appointments upon which they respectively anchor their claim clearly state that they were merely appointed as "Election Registrars in the Commission on Elections". Nowhere is it there intimated, much less stated, to which city, municipality or municipal district they are appointed as such registrars. On top of this, it is there specifically indicated that they were to fill Items 179(165) and 179(1271), page 2576, Republic Act 4642, both of which correspond to positions of "municipal registrars". Therefore, by these appointments - which, as aforesaid, are per-force controlling - there can be no gainsaying the fact that the petitioners were not appointed to, and consequently not entitled to any security of tenure or permanence in, any specific station. On general principles, they may be transferred as the exigencies of the service require. They ordinarily have no right to complain against any change of assignment.

True it is that the said appointments may be of doubtful regularity in view of the essential nature of the office of an election registrar contemplated by Republic Act 3588, as amended by Republic Act 4730. Indeed, the petitioners themselves insinuate that the said appointments were initially defective but were validated upon their subsequent assignments to Manila. This is definitely off-tangent. We cannot subscribe to the theory that an assignment to a particular station, in the light of the terms of the appointments in question, was necessary to complete the said appointments. The approval thereof by the Commissioner of Civil Service gave those appointments the stamp of finality. With the view that the respondent Commission then took of its power in the premises and the demands of the mission it set out to accomplish with the appointments it extended, said appointments were definitely meant to be complete as then issued. The subsequent assignment of the appointees thereunder that the said respondent Commission held in reserve to be exercised as the needs of each locality justified did not in any way detract from the perfection attained by the appointments beforehand. And the respective appointees were entitled only to such security of tenure as the appointment papers concerned actually conferred - not in that of any place to which they may have been subsequently assigned. This is particularly true in the case at bar where the offices filled by the petitioners were those of "municipal registrars", whereas the assignments given to them were stations corresponding to "city registrars" - which they were not - covered by item numbers in the current appropriations act which are altogether different from those stated in their respective appointments. As things stand, in default of any particular station stated in their respective appointments, no security of tenure can be asserted by the petitioners on the basis of the mere assignments which were given to them. A contrary rule will erase altogether the demarcation line we have repeatedly drawn between appointment and assignment as two distinct concepts in the law of public officers.

Nor is there necessity to dwell at length on the validity of the appointments extended to the petitioners which do not state any specific station contrary to the spirit and expressed mandate of the Permanent Registration Act. At the very least, having accepted said appointments as they are and having reaped benefits therefrom, they cannot now be heard to impugn their validity. Besides, whichever way the verdict on the question of validity may go, the petitioners will profit nothing by it. Were we to uphold said appointments, the petitioners' cause will necessarily fail because, as aforesaid, the same involves not an appointment to a particular station but a mere assignment to a certain place in the interest of the service. Upon the other hand, striking down said appointments as void would virtually pull the rug from under the petitioners' feet. For, a void appointment confers no rights whatsoever except, perhaps, those recognized under the de facto doctrine, but definitely never so far as to entitle the incumbent to take shelter under the aegis of the guarantee of security of tenure. That the respondent Commission may have erred in extending the defectively formulated appointments relied upon is of no moment. The mistake,

acquiescence and tolerance of the proper officials resulting in the non-observance of legal requirements do not bestow upon the petitioners any right to the positions in question or to the guarantees provided by law. As appropriately observed elsewhere -

"* * * In the circumstances, for the duration of his occupancy of the position in question, the petitioner may be considered merely as a de facto officer, and may consequently be removed from office even without cause." (Favis vs. Rupisan, et al., G.R.L-22823, May 19, 1966).

Then, if said appointments were void, no number of assignments given to the appointees thereunder could have validated the same. Once void, they remained so and could have been corrected only by subsequent valid reappointments. Here, no pretense is made by the petitioners to any validating appointments. Instead, they pray - as an alternative relief - that, if new appointments are required, they be extended new ones as permanent election registrars of Manila to which they insist they have a preferred right.

But this cannot be done either. Under the circumstances at bar, the petitioners have established no right whatsoever, in preference to anyone, to the positions aspired for. They may have been performing duties as city election registrars, it is conceded. But -

"* * * one may not claim a right to an office, position or employment subject to the civil service laws merely because he is performing the duties of the office, position or employment". (67 C.J.S., 174).

Worse still, only forty-three positions for city election registrars have been provided for, four of which are allotted to Manila. If, as the petitioners would have it, they and their colleagues who are assigned in Manila are all entitled to remain as permanent election registrars thereat, then, not only will they be perpetuated in inexistent offices, but also all other cities in the Philippines will be left without any election registrars at all. Certainly, it cannot be seriously contended that the respondent Commission could, even if it wanted to, validly appoint forty-one permanent city election registrars for Manila alone when only four have been legally allotted thereto. Much less can it successfully be maintained that the said petitioners should be appointed as permanent city election registrars of Manila inasmuch as, anyway, the corresponding budgetary authority and provision therefor can always be subsequently made. Obviously, the petitioners overlook that such authority is exclusively discretionary for Congress to provide, and it would be asking us to tread upon a forbidden domain to have us command the respondent Commission to make the desired appointments on the assumption that Congress could later be obliged to make provisions therefor. So also, the respondent Commission can hardly be begrudged for its efforts at rectifying as soon as it can the evident defects in the appointments it had previously extended. It is only meet that it should correct itself if its error is exposed. Since none of the contenders had theretofore been extended any appointment as permanent city election registrar for Manila, it is not for us to say who should be so appointed from amongst the candidates therefor. To the respondent Commission is primarily entrusted the discretion to make the choice. It had a whole field of about fifty people, all similarly situated, to choose from. As we scan the guidelines adopted by its screening committee for this purpose, we see no evidence of discrimination or favoritism. The choices were made in keeping with the criteria laid down and are justified by the comparative records relied upon. As a matter of fact, vis-a-vis the petitioners herein, the chosen four respondents truly appear to have a definite edge. In these circumstances, we find no cause to declare that the respondent Commission in any way abused its discretion in the premises. We have heretofore conceded that -

"The power to appoint is in essence discretionary on the part of the proper authority, in this case the head of the department. The appointing power has the right of choice which he may exercise freely according to his judgment, deciding for himself who is best qualified for any competitive position in the Civil Service." (Jimenez vs. Francisco, et al., G.R.L-9699, February 28, 1957).

We have been shown no reason to sanction a departure from this salutary rule and to substitute our own discretion

for that of the respondent Commission.

The petitioners' case flounders upon still another veritable legal shoal. They do not pretend to have been named to the same positions as the respondent registrars. Their subsisting appointments are to positions of "municipal registrars". The most they can muster is to assert a right to be appointed to the posts of permanent "city election registrars" for Manila. And, yet, while they impugn the appointments of the four respondent registrars as such, they do not say which of the four are actually usurping the positions supposedly pertaining to the two of them. Decisive in this posture are the following pronouncements:

"Thus, one who does not claim to be entitled to the office allegedly usurped or unlawfully held or exercised by another cannot question his title thereto by quo warranto. In the case at bar, petitioners do not claim to be entitled to the office held by respondent herein. None of them has been appointed thereto and none of them may, therefore, be placed in said office, regardless of the alleged flaws in the respondent's title thereto. They merely assert a right to be appointed to said office. Considering, however, that there are seven (7) petitioners and that only one (1) office is involved in this case, none of them can, or does, give an assurance that he will be the one appointed by the President, should said office be declared vacant. In short, the claim of each petitioner is predicated solely upon a more or less remote possibility that, in said event, he may be the recipient of the appointment. It is obvious, therefore, that none of them has a cause of action against respondent herein (*Acosta vs. Flor*, 5 Phil. 18, 22; *Lino Luna vs. Rodriguez*, 36 Phil. 401; *Nueno vs. Angeles*, 76 Phil. 12)." (*Cuyegkeng, et al. vs. Cruz*, G.R.L-16263, July 26, 1960).

"An individual cannot sue and oust two or more persons although the latter are holding illegally their respective offices, unless he is entitled to all of them. Although this question has not been raised by the parties, we may rest our decision on that ground alone and dismiss the action; for if we were to decide this case in favor of the petitioners, we would be at a loss to determine which of the six respondents should be ousted as holding illegally the four offices or places claimed by the four petitioners. There is nothing in the record showing which of the six respondents occupy the four seats or offices formerly occupied by the four petitioners." (*Nueno vs. Angeles*, 76 Phil., 12, 21).

The rest is a foregone conclusion. The respondent Commission was well within its province in proceeding as it did. For the petitioners' defiance of its lawful directive, the said respondent Commission rightly called upon them to account. Its order suspending the petitioners pending the administrative investigation initiated to that end cannot be denounced as a denial of due process. Being a mere preservative measure - not a penal sanction - said suspension may be resorted to without need of prior notice or opportunity to be heard (*Cornejo vs. Gabriel*, 41 Phil., 188).

In the end, we hold that the petitioners have not made out a case for certiorari, prohibition, mandamus or quo warranto. It thus becomes superfluous to delve into the other issues raised in the pleadings.

ACCORDINGLY, the petition is hereby dismissed, and the writ of preliminary injunction heretofore issued by dissolved, at petitioners' cost.

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

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.