

ESTEBAN T. BUMANGLAG, PETITIONER AND APPELLANT VS. JOSE FERNANDEZ, AND HON. PEDRO TUASON, AS SECRETARY OF JUSTICE, RESPONDENTS AND APPELLEES.

G.R. No. L-11482. November 29, 1960

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5181d7bbeb1/>

PAREDES, J.:

This is an appeal from the judgment of the Court of First Instance of Manila, dismissing the petition for Quo Warranto, instituted by Esteban T. Bumanglag against Jose Fernandez, incumbent Justice of the Peace of Talipao and Maimbung, Sulu, and Hon. Pectro Tuason, as Secretary of Justice.

Petitioner-appellant Esteban T. Bumanglag was a duly appointed and confirmed Justice of the Peace of Talipao and Maimbung, Sulu. While occupying the said position, administrative charges were preferred against him, to wit :

"(1). That contrary to standing: regulations, he did not reside within his jurisdiction but in the municipality of Jolo;

(2) That in criminal case No. 90 of the Court of First Instance of Sulu against Amirul and Amilasan, for rape, which was tried on March 12, 13, and 19, 1947, the respondent appeared as counsel de parte for the accused; and that despite his absence from office as justice of the peace on these dates, he collected his salary corresponding thereto by making it appear in his time record that he actually rendered service; and

(3) That in one instance, the respondent demanded and collected the sum of P60.00 from a person who had a case brought to his court."

After, an investigation, the petitioner was found guilty of the and and 3rd charges and the President of the Philippines, by Administrative Order No. 53, dated April 23, 1948; removed him from office.

On March 17, 1950, the President nominated CeJestino V. Ramos as Justice of the Peace of Maimbung and Talipao, and this nomination was confirmed by the Commission on Appointments during its session held on April 21, 1950 (Exhibit 7). Ramos stayed in this Office until August 9, 1954, when respondent Jose Fernandez was appointed in his place (Exhibit 6).

On June 18, 1948 and February 24, 1950, petitioner made representations to the Secretary of Justice and to the President for the reinvestigation of his case, not with the aim of reversing the decision contained in Administrative Order No. 53, but for the purpose, as alleged by petitioner, of allowing him to leave the service in a less embarrassing way of escaping criminal prosecution, for as to him, his separation from the service was a sufficient punishment (Exhibits G; 3, and 4). Said requests were repeatedly denied on July 13, 1948 and on June 20, 1950, on the ground that a careful consideration of the grounds advanced in support of the petition, did not warrant the reinvestigation of the case (Exhibits D and E).

On September 19, 1950, upon representations made by petitioner that "he was not given every opportunity to put

up his defense because of the hostile and threatening attitude of the attorney of the complainant as well as that of the investigator during the investigation of the case," the Office of the President finally authorized the reinvestigation of the case (Exhibits F, 1-a, 1-b).

On April 25, 1951, the investigator submitted his report to the Secretary of Justice, with the following recommendation:

"It is believed that the evidence presented at this reopening can not prevail over the evidence presented at the previous investigation. It is, therefore, recommended that Administrative Order No. 53 of the President, dated April 23, 1948, dismissing: respondent from his position as Justice of the Peace be upheld." (Exhibit 1. *Italics ours*).

On July 5, 1951, the Secretary of Justice after receipt of the aforesaid report and obviously considering the fact that petitioner has already sufficiently been punished by his separation from the service, recommended to the President that "the order of dismissal (Administrative Order No. 53) be reconsidered in such a way that the respondent be considered as having resigned from office, effective as of the date of his separation from the service, without prejudice to his reinstatement, not necessarily in his former position as Justice of the Peace of Talipao and Maimbung, Sulu, which is at present not vacant" (Exhibit G).

On December 28, 1953, the President issued Administrative Order No. 260, modifying Administrative Order No. 53, "in the sense that Mr. Esteban T. Bumanglag is considered as having resigned from Office as Justice of the Peace of Talipao and Maimbung, Province of Sulu, effective on the date of his separation from the service, without prejudice to reinstatement" (Exhibit H).

On February 18, 1954, petitioner filed with the Office of the President a request for reinstatement to his former position, claiming, among other things, that Administrative Order No. 260 exonerated him of the charges and that the present incumbent was illegally occupying said office (Exhibit I). On February 23, 1954, petitioner filed another request with the Office of the President, praying that Administrative Order No. 260 be amended by embodying in said Administrative Order his complete exoneration and reinstatement to his former position, with back salaries (Exhibit 5),.

On May 18, 1954, in reply to requests for reinstatement of petitioner, the Undersecretary of Justice opined that "inasmuch as under Administrative Order No. 260 of the President, dated December 28, 1953, Mr. Esteban Bumanglag was considered as having resigned from his position as Justice of the Peace of Talipao and Maimbung, Sulu, effective April 23, 1948, without prejudice to reinstatement, he could return to the service only if appointed anew" (Exhibit K).

On November 29, 1954, petitioner filed this petition for Quo Warranto. After due trial, the court a quo rendered its decision on July 9, 1955, dismissing the said petition for quo warranto.

In his brief, petitioner alleges that the lower court erred: (1) in holding that respondent Fernandez was appointed when there was a legal vacancy. (2) In holding that the court cannot oust the respondent; and (3) In not declaring, that petitioner is entitled to his salaries from December 1947 until he assumes office. A pivotal issue as to whether or not the petition was filed within the prescribed period, was also raised by respondents-appellees.

Section 16, Rule 68 of the Rules of Court, among others, provides the following:

"Nothing contained in this rule shall be construed * * * to authorize an action against an officer for his ouster from office unless the same be commenced within one year after the cause of such ouster, or the right of the plaintiff to hold office, arose; * * *"

The period of one year fixed in the above rule, is a condition precedent to the existence of the cause of action for quo warranto and that the inaction of the officer for one year could be validly considered as a waiver (*Abeto vs. Bodas*, 82 Phil., 59; 46 Off. Gaz., 930; *Bautista vs. Fajardo*, 38 Phil., 624; *Lim vs. Yulo*, 62 Phil., 161; *Tumulak vs. Egay*, 82 Phil., 828; 46 Off. Gaz., 3693). In the case of *Torres vs. Quintos*, 88 Phil., 436, the quo warranto petition instituted only on February 1, 1949, was dismissed on the ground that same was not commenced within one year period. We declared in said case: "there is every ground to hold the petitioner's right to hold the disputed office, if at all, arose in May, 1945, when he was replaced by Colonel Jones and when he was arrested by the CIC and thereafter prosecuted for treason in the People's Court",

In the present case, the petitioner-appellant should have availed of the remedy provided by the Rule heretofore quoted, within one year from his ouster on April 23, 1948, or at the latest, within one year after he was replaced by Celestino V. Ramos on April 21, 1950; in either event, the period of one year had irremediably expired on April 23, 1949, or April 21, 1951, respectively. The petition for quo warranto having been filed only on November 29, 1954, we are, therefore, of the opinion that petitioner-appellant's cause of action was already barred.

It should be noted that petitioner-appellant's subsequent representations requesting reopening and/or re-investigation of his case, were simply prompted by his desire to be allowed to leave the service in a less embarrassing way, instead of a removal for cause. Administrative Order No. 260 which had considered him as having resigned from office as justice of the peace, did not have the effect of exonerating him from the charges or justifying the construction that the same constituted a reversal of the former order No. 53; it simply modified the penalty, by reducing it from removal to a mere separation from the service, which had obviously a less dramatic impact; it reaffirmed the justice of punishing him, for if he was really exonerated, there was no reason whatsoever of imposing upon him any form of punishment, either removal, dismissal, or compulsory resignation.

Conceding in *gratia argumenti*, that the cause of action has not prescribed, we are nevertheless of the opinion that when Ramos, and later the respondent Fernandez were appointed, there existed a legal vacancy. From the time of his removal, the petitioner-appellant had not been reinstated or reappointed to his former position, thereby leaving a vacancy which the President had filled.

Petitioner-appellant makes capital of that portion of Administrative Order No. 260 which "considered him as having resigned from office, without prejudice to reinstatement", arguing that it was a virtual exoneration, and he should be automatically reinstated to his former position. This view is far fetched, to say the least. The respondent Secretary of Justice, answering the petitioner-appellant's requests for reinstatement opined that "he could return to the service only if appointed anew" (Exhibit K). And this should be so, because the position of justice of the peace to which petitioner-appellant can be reinstated or appointed, is not now vacant.

With particular attention to respondent Fernandez, it should be stated that the power to suspend and remove a justice of the peace has been expressly vested in the President (Sec. 97, Rep. Act No. 296); that the power of the President to appoint officers involves discretion which the Court cannot control (*Lamb vs. Phipps*, 22 Phil., 456; *Concepcion vs. Paredes* 42 Phil., 599; *Abrera vs. Wood*, 45 Phil., 612); that when the appointing power has once acted and the appointee has accepted the office and done what is required of him upon its acceptance, he cannot be removed therefrom, except for any of the causes designated and in accordance with the proceedings established by law (*Serafin vs. Cruz*, 68 Phil., 611). There is no gainsaying the fact that no cause for ouster of respondent Fernandez from his present position, appears of records.

Not having been exonerated nor reinstated, petitioner-appellant is not entitled to back salaries (*Reyes vs. Hernandez*, 71 Phil., 397). '

In view hereof, the decision appealed from, dismissing the petition for quo warranto is hereby affirmed, with costs against petitioner-appellant.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Gutierrez David and Dizon, JJ., concur.

Judgment affirmed.

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.