

JESUS L. SANTOS, PETITIONER, VS. HON. JUDGE MARIANO CASTANEDA, JR., PRESIDING JUDGE, BRANCH III, COURT OF FIRST INSTANCE OF PAMPANGA, AND TOMAS GUEVARRA, RESPONDENTS.

G.R. No. L-37645. July 17, 1975

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/716a9339effb/>

CASTRO, J.:

This is a petition for review on certiorari of the order of the Court of First Instance of Pampanga dated August 25, 1974, in Election Contest 3858, dismissing the election protest filed by the herein petitioner Jesus L. Santos against the herein private respondent Tomas Guevarra. We set aside the order a quo for the reasons herein below stated.

On November 16, 1971 the petitioner lodged an election protest against the private respondent who was proclaimed mayor-elect by the municipal board of canvassers of Mexico, Pampanga in the local elections of 1971 by a margin of 41 votes.

On May 15, 1973, with the protest proceedings having moved more than halfway, the private respondent filed a motion to dismiss on the ground that the contest became moot and academic upon the advent of the new Constitution, with particular reliance on section 9, article XVII (Transitory Provisions), which pertinently reads:

"All officials and employees in the existing Government of the Republic of the Philippines shall continue in office until otherwise provided by law or decreed by the incumbent President of the Philippines x x x"

It was the submission below of the private respondent that during the period of transition under the new Constitution it is "the incumbent President of the Philippines who has the exclusive jurisdiction or power to determine the right and tenure of office of the officials who are presently holding elective offices." The respondent judge, on August 25, 1973, ordered the dismissal of the election protest.

Hence, the present recourse.

The basic issue is whether the respondent judge correctly dismissed the election protest on the strength of the cited provision of the new Constitution.

In our view, the constitutional grant of privilege to continue in office, made by the new Constitution for the benefit of persons who were incumbent officials or employees of the Government when the new Constitution took effect, cannot be fairly construed as indiscriminately encompassing every person who at that time happened to be performing the duties of an elective office, albeit under protest or contest.

It is the considered opinion of this Court that, subject to the constraints specifically mentioned in section 9, article XVII of the Transitory Provisions, it neither was nor could have been the intention of the framers of our new fundamental law to disregard and shunt aside the statutory right of a candidate for elective position who, within the time-frame prescribed in the Election Code of 1971, commenced proceedings beamed mainly at the proper

determination in a judicial forum of a proclaimed candidate-elect's right to the contested office.[1]

In three cases[2] of recent vintage, Justice Estanislao Fernandez, speaking for the Court, made the following pronouncements:

"It must be emphasized that the 'right' of the private respondents to continue in office indefinitely arose not only by virtue of Section 9 of Art. XVII of the New Constitution but principally from their having been proclaimed elected to their respective positions as a result of the November 8, 1971 elections. Therefore, if in fact and in law, they were not duly elected to their respective positions and consequently, have no right to hold the same, perform their functions, enjoy their privileges and emoluments, then certainly, they should not be allowed to enjoy the indefinite term of office given to them by said constitutional provision.

"It is erroneous to conclude that under Section 9, Art. XVII of the New Constitution, the term of office of the private respondents expired, and that they are now holding their respective offices under a new term. We are of the opinion that they hold their respective offices still under the term to which they have been elected, although the same is now indefinite. In the case of *Ingles vs. Mutuc*, We held that although the term of office of an official or employee holding a position that is primarily confidential is indefinite, the term is deemed to have expired only when the appointing power expresses its decision to put an end to the services of the incumbent; when this event takes place, his term is then considered to have expired. Consequently, it is only when by law or by decree of the incumbent President the services of an incumbent elective official are put to an end that his present indefinite term of office will be considered to have expired."

ACCORDINGLY, the order of dismissal is set aside, and the court a quo is ordered to continue, forthwith and with deliberate speed, the trial of Election Contest No. 3858. No pronouncement as to costs.

Makasiar, Esguerra, Munoz Palma, and Martin, JJ., concur.

Teehankee, J., is on leave.

[1] Section 7 of the Transitory Provisions declares: "All existing laws not inconsistent with this Constitution shall remain operative until amended, modified, or repealed by the National Assembly."

[2] *Paredes vs. Uyan*, L-36927-28, *Sunga vs. Mosqueda*, L-37715, *Valley vs. Caro*, L- 38331, April 15, 1974, 56 SCRA 522.

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.