

DELFIN SANTOS, ET AL., PETITIONERS-APPELLANTS, VS. ROBERTO E. CHICO, ET AL., RESPONDENTS-APPELLEES.*G.R. No. L-24155. September 28, 1968*

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7d8666dfd7cd/>**REYES, J.B.L., J.:**

Appeal on points of law from a judgment of the Court of First Instance of Bulacan, in its case No. 2900-M, dismissing appellant's petition for a writ of mandamus with preliminary mandatory injunction to restrain appellee Roberto Chico, as Municipal Mayor of Baliuag, Bulacan, from removing or separating appellants from their positions as municipal policemen and to compel appellee Elpidio Dalistan, Municipal Treasurer, to continue paying them their emoluments as such policemen, plus damages and costs.

The facts are not controverted, and are thus stated in the opinion of the court below:

"It appears that petitioners (Delfin Santos, Josefino Legaspi, Ricardo Agapito and Conrado Aterado) were, on August 1, 1962, extended temporary appointments by the then municipal mayor Felix R. Tiongson of Baliuag, with salaries at the rate of P1,620.00 per annum, which appointments were attested as provisional by the Commissioner of Civil Service (Exhs. A, B, C and D), subsequent to their respective original appointments. On January 15, 1964, said petitioners were served with memoranda of the incumbent municipal mayor, terminating their services as policemen of Baliuag as of said date (Exhs. E, F, G and H), which memoranda gave rise to the instant petition.

"The issues raised by the pleadings in this case are: (1) whether or not the appointments terminated are temporary in nature; and (2) whether or not petitioners who are non-eligibles may be replaced with other non-eligibles.

"Petitioners contend that although their appointments extended by the then municipal mayor of Baliuag partake of temporary ones, yet upon the approval by the Commissioner of Civil Service under the provisions of the New Civil Service Law, their said appointments became provisional in nature and as such they cannot be replaced by non-civil service eligibles like them."

The court a quo denied the writ sought by petitioners-appellants, being of the belief that their original appointment was temporary and that the nature thereof could be changed by the Commissioner of Civil Service; that as temporary appointees, their services could be terminated at any time with or without cause. Hence, this appeal.

We find no error in the decision complained of. While the Civil Service Law (Republic Act 2260) recognizes three classes of civil service appointments, permanent, provisional and temporary (section 24), each class with requisites and effects of its own, the determination of the kind of appointment to be extended lies in the official vested by law with appointing power (the Municipal Mayor in case of local policemen) and not in the Commissioner of Civil Service. The statute could be scanned in vain for any authority on the part of the Commissioner to supersede the discretion of the appointing officer on the nature or class of the appointment to be extended. All that the Commissioner is empowered to do is to approve or reject the appointment, depending upon

its compliance with statutory requirements, and to review, correct or revise those made by provincial, municipal and city executives (Republic Act 2260, section 20), in order to make them conform thereto.

In the case before us, the act of the Civil Service Commissioner in approving as provisional the temporary appointment made by the Municipal Mayor constitutes an unwarranted invasion of the discretion of the appointing officer, and can not be operative. Otherwise, the Commissioner would be exercising himself the power of appointment that the law has lodged elsewhere; it would make him the arbiter of what kind of appointments should be extended in every case. Certainly, nothing in the Civil Service Law indicates a legislative intent to this effect.

It follows that the appointment of petitioners must be regarded as temporary as originally extended, and should be deemed approved as such by the Civil Service. As a result, the petitioners enjoy no fixed or protected tenure, and the appellee-respondent, Mayor Chico, had the right to terminate their services at any time, this condition being inherent in the temporary character of their appointment.

In *Jimenia vs. Guanzon*, January 22, 1968, 22 SCRA 227, 229, PHILD 1968-A, pages 220-224, this Court, citing numerous precedents, ruled:

"Since his appointment is temporary, it did not confer upon appellant a vested right to occupy in a permanent character the position to which he was appointed. His civil service eligibility will avail him none. For a civil service eligible who accepts a position in a temporary capacity is not entitled to the protection accorded by Republic Act No. 557,[1] nor to the protection of security of tenure in office guaranteed by the Constitution.[2] The undisturbed unanimity of the cases is that one who holds a temporary appointment has no fixed tenure of office; his employment can be terminated any time at the pleasure of the appointing power without need to show that it is for cause.[3]"

IN VIEW OF THE FOREGOING, the judgment appealed from is affirmed, with costs against petitioners-appellants.

Concepcion, C.J., Makalintal, Sanchez, Ruiz Castro, Angeles, Fernando and Capistrano, JJ., concur.

Judgment affirmed.

[1] *Hortillosa v. Ganzon*, L-11169, Jan. 30, 1959.

[2] *Taboada v. Municipality of Badian, et al.*, L-14604, May 31, 1961.

[3] *Hojilla v. Marino, et al.*, L-20574, Feb. 26, 1965; *Aguila v. Castro, et al.*, L-23778, Dec. 24, 1965; *Serrano, et al. v. National Science Development Board, et al.*, L-19349, Mar. 31, 1964; *Cunado and Vallecera v. Gamus, et al.*, L-16782-83, May 30, 1963; *Taboada v. Mun. of Badian, supra*; *Azueto v. Arnaldo, et al.*, L-15144, May 26, 1960; *Madrid v. Auditor General, et al.*, L-13523, May 31, 1960 (citing *Mendez v. Ganzon, et al.*, L-10483, Apr. 12, 1957; *University of the Philippines, et al. v. Court of Industrial Relations, et al.*, L-15416, Apr. 28, 1960; *Agapuyan v. Ledesma*, L-10535, Apr. 25, 1957); *Quitiquit v. Villacorta, supra*; *Montero, et al. vs. Castellanes*, L-12694, June 30, 1960; *Ferrer v. De Leon*, L-15076, Aug. 29, 1960 (citing *Austria v. Amante*, 79 Phil. 780); *Villanosa, et al. v. Alera, et al., supra*; *Elegida v. Gacutara, supra*; *Cuadra v. Cordova, etc.*, L-11602, April 21, 1958, 54 O.G. 8063; *Castro v. Solidum*, L-7750, June 30, 1955.

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.