

**BRUNO O. APARRI, PETITIONER, VS. THE COURT OF APPEALS AND
LAND AUTHORITY, THE LATTER IN SUBSTITUTION FOR REMEDIOS
O. FORTICH, AS CHAIRMAN, ANGELINO M. BANZON, RAFAEL B.
HILAO, V...**

G.R. No. L-30057. January 31, 1984

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This petition for certiorari seeks to review the decision of the then Court of Appeals (now Intermediate Appellate Court under BP 129) dated September 24, 1968, affirming the decision of the then Court of First Instance (now Regional Trial Court), the dispositive portion of which is as follows:

"WHEREFORE, the judgment of the lower court insofar as it decrees the dismissal of the present petition for mandamus is hereby affirmed, without pronouncement as to costs" (p. 50, rec.).

The facts of the case are as follows:

On January 15, 1960, private respondents (as members of the Board of Directors of the defunct National Resettlement and Rehabilitation Administration created under Republic Act No. 1160, approved June 18, 1954 - NARRA) approved the following resolution:

"RESOLUTION NO. 13 (Series of 1960)

"RESOLVED, as it is hereby resolved, to appoint Mr. Bruno O. Aparri, as General Manager of the National Resettlement and Rehabilitation Administration (NARRA) with all the rights, prerogatives and compensation appurtenant thereto to take effect on January 16, 1960);

"RESOLVED FURTHER, as it is hereby resolved, to inform the President of the Philippines of the above appointment of Mr. Aparri" (p. 2, rec.).

Pursuant thereto, private respondent Remedios O. Fortich, in her capacity as Chairman of the NARRA Board, appointed petitioner Bruno O. Aparri as reflected in the following letter:

"Manila, January 22, 1960

"Mr. Bruno O. Aparri

c/o NARRA, Manila

"SIR:

"You are hereby appointed as GENERAL MANAGER in the National Resettlement and Rehabilitation Administration (NARRA) with compensation at the rate of TWELVE THOUSAND (P12,000.00) PESOS per annum, the appointment to take effect January 16, 1960 . . . REINSTATEMENT x x x x" (p. 2, rec.).

The power of the Board of Directors of the NARRA to appoint the general manager is provided for in paragraph (2), Section 8, Republic Act No. 1160 (approved June 18, 1954), to wit:

"Sec. 8. Powers and Duties of the Board of Directors. -- The Board of Directors shall have the following powers and duties: x x x

"2) To appoint and fix the term of office of General Manager x x x, subject to the recommendation of the Office of Economic Coordination and the approval of the President of the Philippines, x x x. The Board, by a majority vote of all members, may, for cause, upon recommendation of the Office of Economic Coordination and with the approval of the President of the Philippines, suspend and/or remove the General Manager and/or the Assistant General Manager" (p. 46, rec., Italics supplied).

On March 15, 1962, the same Board of Directors approved the following resolution:

"RESOLUTION NO. 24 (Series of 1962)

"WHEREAS, the Chairman of the Board has transmitted to the Board of Directors the desire of the Office of the President, Malacañang, Manila, to fix the term of office of the incumbent General Manager up to the close of office hours on March 31, 1962, in accordance with the provision of Section 8, sub-section 2 of R.A. No. 1160;

"NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, that the Board of Directors hereby fix, as it is hereby fixed, the term of office of the incumbent General Manager of the National Resettlement and Rehabilitation Administration (NARRA) to March 31, 1962" (pp. 6-7, rec., Italics supplied).

Petitioner filed a petition for mandamus with preliminary injunction with the then Court of First Instance of Manila on March 29, 1962. The petition prayed to annul the resolution of the NARRA Board dated March 15, 1962, to command the Board to allow petitioner to continue in office as General Manager until he vacates said office in accordance with law and to sentence the private respondents jointly and severally to pay the petitioner actual damages in the sum of P95,000.00, plus costs.

On August 8, 1963, when the case was still pending decision in the lower court, Republic Act No. 3844, otherwise known as the Agricultural Land Reform Code, took effect. The said law abolished the NARRA (Sec. 73, R.A. 3844) and transferred its functions and powers to the Land Authority. On October 21, 1963, the then Court of First Instance of Manila rendered judgment, finding "that this case has become academic by reason of the approval of the Agricultural Land Reform Code (Republic Act No. 3844) and thereby dismissing the instant petition without pronouncement as to costs" (p. 5, rec.).

On appeal to the then Court of Appeals, the appellate tribunal, speaking through then Mr. Justice Antonio C. Lucero, affirmed the decision of the lower court in dismissing the petition for mandamus. Pertinent provisions of the decision are as follows:

"x x x x x x x x .

"In the light of the foregoing facts, it is evident that Bruno O. Aparri accepted the position of General Manager without fixed term and his appointment is, in essence, terminable at the pleasure of the appointing power which, in this case, is the Board of Directors. Where, as in the case at bar, the appointing officer, that is, the Board of Directors, had fixed the term of office of the incumbent Manager to end on March 31, 1962, the replacement of Bruno O. Aparri is not removal but by reason of the term of his office which is one of the recognized modes of terminating official relations. Considering that the term of office of the General Manager of the NARRA is not fixed by law nor has it been fixed by the Board of Directors at the time of his appointment although it had the power to do so, it is obvious that the term of office of herein petitioner Bruno O. Aparri expired on March 31, 1962 and his right to hold the said office was thereby extinguished. In other

words, Bruno O. Aparri's cessation from office invokes no removal but merely the expiration of the term of office which was within the power of the Board of Directors to fix. Hence, Bruno O. Aparri continues only for so long as the term of his office has not ended (*Alba vs. Hon. Jose N. Evangelista* 100 Phil. 683) [Decision of the Court of Appeals, pp. 48-49, rec., *Italics supplied*].

The motion for reconsideration by petitioner in the then Court of Appeals was denied on January 10, 1969.

On January 20, 1969, the petitioner filed a petition for certiorari to review the decision of the then Court of Appeals dated September 24, 1968 (pp. 1-41, rec.). The same was initially denied for lack of merit in a resolution dated January 27, 1969 (p. 55, rec.); but on motion for reconsideration filed on February 11, 1969, the petition was given due course (p. 66, rec.).

The only legal issue sought to be reviewed is whether or not Board Resolution No. 24 (series of 1962) was a removal or dismissal of petitioner without cause.

WE affirm. WE hold that the term of office of the petitioner expired on March 31, 1962.

A public office is the right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public (*Mechem, Public Offices and Officers*, Sec. 1). The right to hold a public office under our political system is therefore not a natural right. It exists, when it exists at all, only because and by virtue of some law expressly or impliedly creating and conferring it (*Mechem, Ibid.*, Sec. 64). There is no such thing as a vested interest or an estate in an office, or even an absolute right to hold office. Excepting constitutional offices which provide for special immunity as regards salary and tenure, no one can be said to have any vested right in an office or its salary (42 Am. Jur. 881).

The National Resettlement and Rehabilitation Administration (NARRA) was created under Republic Act No. 1160 (approved June 18, 1954), which provides that:

"Sec. 2 - NATIONAL RESETTLEMENT AND REHABILITATION ADMINISTRATION - x x there is hereby created a corporation to be known as National Resettlement and Rehabilitation Administration hereafter referred to as 'NARRA' to perform under the supervision and control of the President of the Philippines, through the Office of Economic Coordinator all the duties and functions of the Bureau of Lands as provided for in Commonwealth Act numbered Six Hundred and Ninety-One, as amended, and such other duties as are hereinafter specified in this Act. It shall be headed by a General Manager and an Assistant Manager who shall be appointed as hereinafter provided" (*Italics supplied*).

Paragraph 2, Section 8 of Republic Act 1160 expressly gives to the Board of Directors of the NARRA the power "to appoint and fix the term of office of the general manager x x x subject to the recommendation of Economic Coordination and the approval of the President of the Philippines" (*Italics supplied*).

By "appointment" is meant the act of designation by the executive officer, board or body, to whom that power has been delegated, of the individual who is to exercise the functions of a given office (*Mechem, op. cit.*, Sec. 102). When the power of appointment is absolute, and the appointee has been determined upon, no further consent or approval is necessary, and the formal evidence of the appointment, the commission, may issue at once. Where, however, the assent or confirmation of some other officer or body is required, the commission can issue or the appointment is complete only when such assent or confirmation is obtained (*People vs. Bissell* 49 Cal. 407). To constitute an "appointment" to office, there must be some open, unequivocal act of appointment on the part of the appointing authority empowered to make it, and it may be said that an appointment to office is made and is complete when the last act required of the appointing authority has been performed (*Molnar vs. City of Aurora* 348 N.E. 2d 262, 38 Ill. App. 3d 580). In either case, the appointment becomes complete when the last act

required of the appointing power is performed (State vs. Barbour, 53 Conn. 76, 55 Am. Rep. 65).

The petitioner was appointed as general manager pursuant to Resolution No. 13 (series of 1960 - approved on January 15, 1960) of the Board of Directors. A careful perusal of the resolution points out the fact that the appointment is by itself incomplete because of the lack of approval of the President of the Philippines to such appointment. Thus, WE note that Resolution No. 13 states:

“x x x x x x x x .

"x x x RESOLVED FURTHER, as it is hereby resolved, to inform the President of the Philippines of the above appointment of Mr. Aparri" (p. 2, rec.).

Presumably, the Board of Directors of the NARRA expected that such appointment be given approval by the then President. Lacking such approval by the President as required by the law (par. 2, Sec. 8 of R.A. 1160), the appointment of petitioner was not complete. The petitioner can, at best, be classified as a de facto officer because he assumed office "under color of a known appointment or election, void because the officer was not eligible or because there was a want of power in the electing body, or by reasons of some defect or irregularity in its exercise, such ineligibility, want of power, or defect being unknown to the public" (State vs. Carroll, 38 Conn. 449, 9Am. Rep. 409).

However, such appointment was made complete upon approval of Resolution No. 24 (series of 1962 - approved March 15, 1962) wherein the President submitted to the Board his "desire" to fix the term of office of the petitioner up to the close of office hours on March 31, 1962. The questioned resolution corrected whatever requisite lacking in the earlier Resolution No. 13 of the respondent Board. Resolution No. 24, approved by the respondent Board and pursuant to "the desire of the President" legally fixed the term of office of petitioner as mandated by paragraph 2, Section 8 of Republic Act 1160.

The word "term" in a legal sense means a fixed and definite period of time which the law describes that an officer may hold an office (Sueppel vs. City Council of Iowa City, 136 N.W. 2D 523, quoting 67 CJS OFFICERS, secs. 42, 54[1]). According to Mechem, the term of office is the period during which an office may be held. Upon the expiration of the officer's term, unless he is authorized by law to hold over, his rights, duties and authority as a public officer must ipso facto cease (Mechem, op. cit., Secs. 396- 397). In the law on Public Officers, the most natural and frequent method by which a public officer ceases to be such is by the expiration of the term for which he was elected or appointed. The question of when this event has occurred depends upon a number of con-siderations, the most prominent of which, perhaps, are whether he was originally elected or appointed for a definite term or for a term dependent upon some act or event x x x (Mechem, op. cit., Sec. 384).

It is necessary in each case to interpret the word "term" with the purview of statutes so as to effectuate the statutory scheme pertaining to the office under examination (Barber vs. Blue, 417 P. 2D 401, 52 Cal. Rptr. 865, 65 C. 2d N5). In the case at bar, the term of office is not fixed by law. However, the power to fix the term is vested in the Board of Directors subject to the recommendation of the Office of Economic Coordination and the approval of the President of the Philippines. Resolution No. 24 (series of 1962) speaks of no removal but an expiration of the term of office of the petitioner.

The statute is undeniably clear. It is the rule in statutory construction that if the words and phrases of a statute are not obscure or ambiguous, its meaning and the intention of the legislature must be determined from the language employed, and, where there is no ambiguity in the words, there is no room for construction (Black on Interpretation of Laws, Sec. 51). The courts may not speculate as to the probable intent of the legislature apart from the words (Hondoras vs. Soto, 8 Am. St., Rep. 744). The reason for the rule is that the legislature must be presumed to know the meaning of words, to have used words advisedly and to have expressed its intent by the use

of such words as are found in the statute (50 Am. Jur. p. 212).

Removal entails the ouster of an incumbent before the expiration of his term (Manalang vs. Quitariano, 50 O.G. 2515). The petitioner in this case was not removed before the expiration of his term. Rather, his right to hold the office ceased by the expiration on March 31, 1962 of his term to hold such office.

WHEREFORE, THE DECISION APPEALED FROM IS HEREBY AFFIRMED. WITHOUT COSTS.

SO ORDERED.

Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

Aquino, J., in the result.

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