

ANTONIO C. TORRES, PETITIONER AND APPELLANT VS. EDUARDO QUINTOS, RESPONDENT AND APPELLEE.*G. R. No. L-3304. April 05, 1951*

Ponente: PARAS, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ea1e95667125/>**PARAS, C.J.:**

The petitioner-appellant held the position of chief of police of the City of Manila from March 3, 1936, until the coming of the American liberation forces when Col. Marcus E. Jones, U. S. A., assumed the functions of the office on orders of Gen. Douglas MacArthur upon request of President Osmeia. The petitioner served as assistant to Col. Jones until March 15, 1945, when he left the post at his own request. Col. Jones was relieved by Col. J. W. Holland, U. S. A., who remained as Manila chief of police until March 1, 1946, when Lt. Col. Angel Tuason, P. A., was appointed acting chief of police by the President of the Philippines. In the meantime, on March 18, 1945, the petitioner was taken into custody by C. I. C. and subsequently indicted for treason in the People's Court which, however, acquitted him on January 16, 1948. During the pendency of the criminal case against the petitioner, Col. Lamberto T. Javalera was appointed chief of police of Manila in place of Col. Tuason; Col. Manuel de la Fuente replaced Col. Javalera; and the respondent-appellee, who was in turn appointed in place of Col. De la Fuente, qualified for the position on January 12, 1948, and has remained in said office. The appointments of Col. Javalera and the respondent were both confirmed by the Commission on Appointments.

After his acquittal, or on February 6, 1948, the petitioner addressed a letter to the Mayor of Manila inquiring about his official status and impliedly asserting his right to be reinstated as chief of police, which claim was turned down. The petitioner, on July 7, 1948, sent a letter to the President of the Philippines reiterating his claim to the position. On January 17, 1949, the petitioner was advised by the Secretary of Justice to bring his case before the courts of justice. On January 26, 1949, the petitioner filed in the Supreme Court a petition for quo warranto against the respondent, but the same was dismissed on January 28, 1949, without prejudice to its filing in the Court of First Instance. The present quo warranto petition was instituted in the Court of First Instance of Manila on February 1, 1949. After hearing, judgment was rendered dismissing the petition on the ground that the same was not commenced within one year after the cause of the respondent's ouster or the petitioner's right to hold office arose, in accordance with section 16, Rule 68, of the Rules of Court. From this judgment the petitioner has appealed, pressing the contention made in the lower court that the reglementary period of one year was suspended during the pendency of petitioner's request for reinstatement addressed, first, to the Mayor of Manila and, secondly, to the President of the Philippines. Reliance is placed on the decision in *Agcaoili vs. Suguitan*, (48 Phil., 676).

There is every ground to hold that the petitioner's right to hold the disputed office, if at all, arose in May, 1945, when he was replaced by Col. Jones and when he was arrested by the CIC and thereafter prosecuted for treason in the People's Court. As a matter of fact, the petitioner admits, in his brief, that he had been deprived of said office "first by the arbitrary action of the Counter Intelligence Corps of the United States Army and, later On, during the pendency of the treason case in the People's Court by his own sense of propriety." And it is noteworthy that in

Casin vs. Caluag (80 Phil., 758; 45 Off. Gaz., Supp. No. 9, p. 379), we have held that a special civil action for quo warranto may be tried and decided independently of a pending criminal case for treason. Hence, excessively more than one year had elapsed before the proper quo warranto petition was commenced. Assuming, however, that the petitioner's cause of action arose only on January 12, 1948, when the respondent qualified for the position of the Manila chief of police, or on January 16, 1948, when the petitioner was acquitted by the People's Court, the petition for quo warranto filed in the Supreme Court on January 28, 1949, is still beyond the one-year period prescribed in section 16 of Rule 68.

In Abeto vs. Rodas, (82 Phil., 59; 46 Off. Gaz., 930), we applied section 16 of Rule 68 and held that the period fixed therein is a condition precedent to the existence of the cause of action, "with the result that, if a complaint is not filed within one year, it cannot prosper although the matter is not set up in the answer or motion to dismiss." In said case, the petitioner (Abeto) filed a supplemental motion for reconsideration in which, invoking the case of Agcaoili vs. Suguitan, it was contended that the reglementary period of one year was suspended by the order of the President exonerating him from certain administrative charges, because the petitioner (Abeto) "was justified in waiting for the President of the Philippines to reappoint him as the logical and legal consequence of his exoneration," and "only after considerable delay, when his hopes failed, did petitioner institute the present proceedings." We denied said supplemental action in a minute resolution, the effect of which is of course to reject the theory that the pendency of an administrative remedy suspends the period within which a petition for quo warranto should be filed.

The reason is obvious. While it may be desirable that administrative remedies be first resorted to, no one is compelled or bound to do so; and as said remedies neither are prerequisite to nor bar the institution of quo warranto proceedings, it follows that he who claims the right to hold a public office allegedly usurped by another and who desires to seek redress in the courts, should file the proper judicial action within the reglementary period. As emphasized in Bautista vs. Fajardo, (38 Phil., 62), and Tumulak vs. Egay (46 Off. Gaz., 3683) ,[*] public interest requires that the right of public office should be determined as speedily as practicable.

This makes it unnecessary to take up the other contentions made as well by the petitioner as by the respondent.

The appealed judgment is hereby affirmed with costs against the petitioner-appellant. So ordered.

Pablo, Bengzon, Padilla, Montemayor and Jugo, JJ., concur.

[*] 82 Phil., 828.

DISSENTING

BAUTISTA ANGELO, J., with whom concur Feria, Tuason and Reyes, JJ.,

The transition which our country has undergone resulting from the last global war has cast doubt and uncertainty on the tenure of office of persons who were formerly holding positions in our government. Some, apprehensive of the future, yielded meekly to the avowed policy that to hold on to their former positions there is need of a previous reappointment. Others, more courageous and more persevering, dared to challenge the official (bidding even if to do so they have to undergo a cumbersome judicial process prompted by their earnest desire to vindicate their rights under the Constitution. To the latter group belongs the petitioner who instituted the present action.

The facts of this case, which are undisputed, show in bold relief the travails undergone by the petitioner in an effort to regain his former position as Chief of Police of the City of Manila, which he claims he never surrendered

nor abandoned, yet brushing aside the efforts made the majority opinion determined that the petitioner has already forfeited his claim to the position because of his failure to assert his right within the period enjoined by law. From this opinion I regret to dissent.

The facts of this case are well stated in the majority opinion as follows:

"The petitioner-appellant held the position of chief of police of the City of Manila from March 3, 1936, until the coming of the American liberation forces when Col. Marcus E. Jones, U. S. A., assumed the functions of the office on orders of Gen. Douglas MacArthur upon request of President Osmefia. The petitioner served as assistant to Col. Jones until March 15, 1945, when he left the post at his own request. Col. Jones was relieved by Col. J. W. Holland, U. S. A., who remained as Manila chief of police until March 1, 1946, when Lt. Col. Angel Tuason, P.A., was appointed acting chief of police by the President of the Philippines. In the meantime, on March 18, 1945, the petitioner was taken into custody by C. I. C. and subsequently indicted for treason in the People's Court which, however, acquitted him on January 16, 1948. During the pendency of the criminal case against the petitioner, Col. Lamberto T. Javalera was appointed chief of police of Manila in place of Col. Tuason; Col. Manuel de la Fuente replaced Col. Javalera; and the respondentappellee, who was in turn appointed in place of Col. De la Fuente, qualified for the position on January 12, 1948, and has remained in said office. The appointments of Col. Javalera and the respondent were both confirmed by the Commission on Appointments.

After his acquittal, or on February 6, 1948, the petitioner addressed a letter to the Mayor of Manila inquiring about his official status and impliedly asserting his right to be reinstated as chief of police, which claim was turned down. The petitioner, on July 7, 1948, sent a letter to the President of the Philippines reiterating his claim to the position. On January 17, 1949, the petitioner was advised by the Secretary of Justice to bring his case before the courts of Justice. On January 26, 1949, the petitioner filed in the Supreme Court a petition for quo warranto against the respondent, but the same was dismissed on January 28, 1949, without prejudice to its filing in the Court of First Instance. The present quo warranto petition was instituted in the Court of First Instance of Manila on February 1, 1949. After hearing, judgment was rendered dismissing the petition on the ground that the same was not commenced within one year after the cause of the respondent's ouster or the petitioner's right to hold office arose, in accordance with section 16, Rule 68, of the Rules of Court."

It should be noted that the petitioner held the position of Chief of Police of the City of Manila from March 3, 1936, until the coming of the American Forces of Liberation, when Colonel Marcus E. Jones, U. S. A., assumed the functions of the office on orders of Gen. Douglas MacArthur upon request of President Osmena. The petitioner served as assistant to Col. Jones until March 15, 1945, when he left the position at his own request. It is a well known fact that the conditions of peace and order months after the liberation of Manila were not yet normal so much so that even after the reestablishment of the Commonwealth Government on February 27, 1945, (41 Off. Gaz., No. 1, p. 86) the American Forces of Liberation had virtual control of important sections of the city of Manila. In fact, the Philippine Civil Affairs Unit, (PCAU), an agency of the U. S. Army, has opened many posts in different sections of Manila, not to say of the Philippines, charged with the function of giving aid and relief to the sufferers and other victims of the war. It is undoubtedly for this reason that President Osmena recommended Col. Jones to assume the functions of Chief of Police of the City of Manila and caused the designation of petitioner to assist him in the difficult task of restoring normalcy to our people. The petitioner, conscious of his civic duty, could not but accede to President Osmefia's bidding without for a moment surrendering his claim to the position. And he evinced this attitude when days after his designation as Assistant Chief of Police, he left his post, not before sending to Col. Jones a letter of the following tenor:

"March 13, 1945

"Colonel N. E. Jones

"Chief of Police

"Manila

"Sir:

"In connection with our conversation yesterday afternoon, I beg to request that I be relieved of my duties as Assistant Chief of Police of Manila pursuant to the designation you have given me about a couple of weeks ago upon the transfer of the Manila Police Department from the control of the city government to that of the Provost Marshal General. You will notice that I am not tendering my resignation for the reason that first, I was appointed by the President of the Commonwealth as Chief of Police of Manila and, second, because under the present set-up you were the authority who gave me the designation of Assistant Chief of Police.

"To clear that point of my assignment under you, permit me to explain that if I had offered my services to you without any hesitation under any capacity it was because the highest representative of the Commonwealth Government then present in Malacanang during the last days of 1941 instructed me and my organization to remain in post for the interest of peace and order and protection of life and property of the residents of this city and not because we volunteered our services to the Japanese, and if we continued that service during the last three years it was because there was no other alternative, either we have to be incarcerated or executed.

"Trusting that I have made myself clear in this delicate matter, please allow me to express to you my sincere appreciation for the courtesies you and your colleagues have extended to me during the short time that I have been working under you and if you believe that I can still be of service to you and the U. S. Army in any other capacity I will be very willing to render it.

"Yours very sincerely,

"ANTONIO C. TORRES"

Note that the above letter was submitted to Col. Jones on March 13, 1945, wherein he particularly stressed the fact that he was not resigning from his position but merely asking that he be relieved of his duties as Assistant Chief of Police because he believed then that he was still the Chief of Police by virtue of an appointment extended to him by the President of the Commonwealth, and that if he acceded to serve under him it was merely because "the highest representative of the Commonwealth Government then present in Malacanang during the last days of 1941 instructed me and my organization to remain in post for the interest of peace and order and protection of life and property of the residents of this city." Note also that on March 18, 1945, the petitioner was taken into custody by C. I. C. and was subsequently indicted for treason in the People's Court.

The failure of the petitioner to avail of his right when he was replaced in his former position by Col. Jones, and was arrested by the C. I. C. and prosecuted before the People's Court is very understandable. A becoming sense of decency and propriety would counsel anyone to refrain from taking any coercive measure when the finger of suspicion is pointed to him with his fate hanging in the balance. A charge for treason is a very serious crime which carries with it capital punishment. It also carries with it expulsion from the service and deprivation of civil and political rights. It is the worst crime that a citizen may commit against his government and people, such that the policy of the government has always been not to reappoint a person indicted of this crime, or to suspend from office one who is tainted with this stigma. Common sense and prudence dictate that under the circumstances the proper attitude to pursue is to wait for the termination of the case. Surely. There is no point to start an action for quo warranto before knowing the outcome of the treason case, since its nature and effect may make such action

unnecessary. I am aware that a case of quo warranto may proceed independently of a criminal action for treason (Casin vs. Caluag, 45 Off. Gaz., Supp. No. 9, p. 379), but this is no justification for, holding one guilty of laches or of abandonment for following a different course of action.

After the petitioner was acquitted on January 16, 1948, which vindicated his name and reaffirmed his loyalty to the Government he had faithfully served, he renewed his efforts to regain his position. Thus, on February 6, 1948, he addressed a letter to the Mayor of Manila inquiring about his official status and impliedly asserting his right to be reinstated as Chief of Police. This claim was turned down. On July 7, 1948, he sent a letter to the President of the Philippines reiterating the same claim to the position. On January 17, 1949, he was advised by the Secretary of Justice to bring his case before the courts of justice, and following this advice, on January 26, 1949, he filed with the Supreme Court a petition for quo warranto against the respondent, which was dismissed on January 28, 1949, without prejudice to its filing in the Court of First Instance; and the present petition for quo warranto was accordingly instituted on February 1, 1949. These steps proved conclusively his ever consuming desire to regain his position by exhausting every administrative remedy available to him under the circumstances before going through the vicissitudes of a cumbersome judicial process. And, again, I find this interlude understandable, for if the authorities concerned would consider his case favorably, and he is reinstated by an executive fiat, there is no point to take the matter to court. This attitude finds support in the leading case of Agcaoili vs. Suguitan, (48 Phil. 676), the facts of which, for purposes of comparison, will presently be discussed. I will attempt to show that the latter case is applicable here contrary to the opinion of the majority.

Julio Agcaoili was appointed Justice of the Peace of Laoag, Ilocos Norte by Governor Harrison on March 25, 1916, to hold office during good behavior. On March 17, 1923, Act No. 3107 was approved providing, among other things, that Justices of the Peace shall serve until they reach the age of 65 years. On April 9, 1923, the Undersecretary of Justice advised Agcaoili to cease as Justice of the Peace upon receipt of notice. Agcaoili received the letter on April 26, 1923. On April 28, he sent a letter of protest contending that the new Act was not applicable to him and evinced his desire to continue in office. The Undersecretary of Justice instructed the Provincial Fiscal to prosecute him for having disobeyed his order. Thereupon, on July 7, 1923, upon being advised of this instruction, Agcaoili turned over his office to the Auxiliary Justice of the Peace. In the meantime Agcaoili waited for the decision of the Secretary of Justice on his protest, and as no reply was forthcoming, he filed a petition for a writ of quo warranto on April 23, 1925, or nearly two years after surrendering his office to the Auxiliary Justice of the Peace. One of the questions raised was whether the petition was filed within the period of one year prescribed by law. The court answered the question in the affirmative saying on this point as follows:

"It will be remembered that on the 7th day of July, 1923, the appellant was ousted from his office as justice of the peace of the municipality of Laoag. Not only did he surrender his office on that date under protest, but also on the 28th day of April, 1923, when he was notified by the Secretary of Justice that he cease to be a justice of the peace of his municipality, he then protested and gave a long and lucid argument in support of his protest. In all justice to him, did he not have a right, without any legal action to protect his right, to await the solution of his protest of the 28th day of April, 1923? He had a right to believe that grounds upon which his protest was based would be convincing to the Secretary of Justice and that he would not be removed. Until this very hour the record contains no reply from the Secretary of Justice and no answer whatever to the legal grounds presented by the appellant upon his right to continue as justice of the peace and not to be ousted."

"In our opinion, even granting that section 216 is applicable to the appellant, the period of prescription had not begun to run at the time of the commencement of the present action. He was justified in delaying the commencement of his action until an answer to his protest had been made. He had a right to wait the answer to his protest, in the confident belief that it would be resolved in his favor and that action would not be unnecessary" (Agcaoili vs. Suguitan, 48 Phil., 696-697.)

We have taken notice of the fact that the above ruling was penned by Justice Johnson and concurred in by Justices Villamor, Romualdez and Villa-Real. Justice Johns concurred in the result. Justice Malcolm concurred and dissented, while Justices Street, Avancena and Ostrand dissented. Apparently, the Agcaoili case was decided by a divided court. It appears, however, that the individual opinions merely differed on matters collateral to the main issue, the fact being that there was unanimity on the question that the right of action of the petitioner has not yet prescribed. In other words, the Court, acting upon a motion for reconsideration filed by the respondent, resolved I unanimously that the defense of prescription does not apply 'to the petitioner under the particular facts of the case. (Supra p. 707).

The parallelism between the facts of the two cases is very apparent. In one case, Agcaoili was advised by the Undersecretary of Justice to cease as Justice of the Peace on April 26, 1923. He protested on April 28, stating his reason why he should not cease in office, but surrendered his position on July 17, 1923, when threatened with criminal prosecution. He filed his petition for quo warranto only on April 23, 1925 when he saw that the resolution of the Secretary of Justice was not forthcoming. He therefore waited for nearly two years before presenting his action in court. No plausible reason was advanced for his passive attitude during the interregnum other than his desire to wait for the official resolution. He should have taken a more militant attitude by making sporadic inquiries on the matter but he preferred to be silent until after the expiration of the statutory period. Yet the Supreme Court held that Agcaoili was justified and has not forfeited his right to the position. A similar attitude was adopted by the petitioner herein with the particularity that he was more aggressive and more militant, and when he was advised to bring the matter to court he lost no time in taking the corresponding action. In the Abeto case, relied upon by the majority in disregarding the Agcaoili case, this Court decided the contrary because Abeto did not file any protest nor a petition for his reinstatement and merely waited for the President of the Philippines to reappoint him as the logical and legal consequence of his exoneration. Abeto is clearly guilty of inaction if not of abandonment of his former office. No plausible reason, therefore, is seen why this case cannot be decided in the light of the doctrine laid down in the Agcaoili case.

The stand I have taken on this matter also finds justification from a consideration of the origin and scope of the statute we are called upon to apply. As was said by this Court, originally there was no limitation or prescription of action in an action for quo warranto for the reason that it was an action by the government, and prescription can not be pleaded as a defense to an action by the government. Even at the present time in many of the civilized countries of the world the action is still regarded as a prerogative writ and no limitation or prescription is permitted to bar the action. As a general principle it might be stated that ordinary statutes of limitation, civil or penal, have no application to quo warranto proceedings brought to enforce a public right. (McPhail vs. People ex rel. Lambert, 160 111., 77; 52 Am. St. Rep., 806; People ex rel. Moloney vs. Pullman's Palace Car Co., 175 111., 125; 64 L. R. A. 366, cited in Agcaoili vs. Suguitan, 48 Phil., pp. 676, 692.)

There are, however, some States which have adopted some statutes of limitation regarding institution of quo warranto proceedings, one of them being Ohio, from the statute of which, section 16 of Rule 68 of our Rules of Court has been derived. But these States are few and no decisive precedent can be cited that may be used as guidance in the determination of the present case. However, actions for quo warranto abound where the defense of laches or abandonment had been set up and wherein illuminating decisions had been rendered. In our quest for precedents we found one which, because of the similarity of the facts involved, may be considered of persuasive force and effect in this case. I refer to the case of People vs. Bailey, decided by the District Court of Appeal of California (158 Pac. Rep., pp. 1036-1041).

The facts of this case are: J. N. Black was appointed in 1902 a member of the police force of the City of San Jose. He was later made captain of police. On July 22, 1908, the Chief of Police of said city filed charges against him

alleging that he had violated certain provisions of the Charter and asked that he be removed from office. Upon filing the charges, the Board of Police suspended him and at the same time appointed one Bailey to his place. Thereafter, on July 22, 1908, Black filed a suit against said Board to obtain a judgment prohibiting said Board from trying him upon the charges preferred against him. A temporary order restraining said Board was entered, but later, upon trial, judgment was rendered permanently prohibiting the Board from trying the petitioner. After the appointment of Bailey, Black began mandamus proceedings against said Board to collect his salary on the theory that he had not been legally removed from office. Judgment was rendered in his favor by the trial court, but upon appeal, the decision was reversed. On March 23, 1912, an information in the nature of quo warranto was filed in behalf of Black alleging that he is the duly appointed captain of police of the City of San Jose, and that he was illegally removed from office by the Board and it was requested that he be reinstated to said office. In resolving the case, the court held:

"The case does not show laches on the part of the state or on the part of the relator barring relief. * * *.

* * * * *

"Nothing appears in the conduct of the relator since August, 1908, that savors at all of laches as above defined. No delay is shown in asserting his rights, and the lapse of time between his attempted ouster and the bringing of this proceeding is fully and satisfactorily explained and excused. In addition to the prohibition suit above referred to he began mandamus proceedings to collect his salary. This proceedings was finally decided against him on the ground distinctly stated, that before a judgment could be rendered in his favor for his salary it would be necessary to determine his right to the office; that could not be done in a mandamus proceeding while another was occupying the office, performing its duties, and claiming the right so to do. The present action was begun within 90 days after the final disposition of the mandamus proceeding. The record shows that relator has at all times been actively asserting his right to the office, and, while it was finally decided that he had mistaken his remedy, it may not be said that his conduct shows "passive assent" to the conduct of the board or city or defendant and negatives all idea of unexcused delay." (People vs. Bailey 158 Pac, pp. 1036, 1038-1039).

As may be seen, the court did not find the relator Black guilty of laches in spite of the lapse of time between the attempted ouster and the bringing of the proceedings for quo warranto. He was found to have at all times proceeded diligently to have the title to his office determined and all the steps taken by him were found to have been done in good faith under the belief that he was adopting the correct procedure to protect his right. While the case was decided on the principle of laches and not on that of prescription, the case acquires importance here in view of the considerations made on the steps, erroneously or otherwise, taken by the relator in protecting his right which were found to be satisfactory and justifiable. The element of time is of the essence in the defense of laches as well as in the defense of prescription. In my opinion, the Bailey case is also of persuasive force and effect in the case under consideration.

For the foregoing reasons, I am of the opinion that the herein petitioner has not yet lost his right to have his title to office determined by this Court, and that, therefore, he should have been given the benefit of a judgment on the merits. This is what this Court should have done: to decide the case on the merits. For these reasons, I dissent.

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.