

ALFONSO C. SALCEDO AND PASCUAL IGNACIO, PETITIONER, VS. DIOSDADO M. CARPIO AND GERMANCIO CARREON, RESPONDENTS.

G. R. No. L-4495. June 06, 1951

Ponente: FERIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f03015dc1573/>

FERIA, J.:

This is a special civil action of quo warranto instituted by the petitioners against the respondents.

The petitioners Dr. Alfonso C. Salcedo and Dr. Pascual Ignacio were appointed, together with Dr. Gervasio Erana, as chairman, on July 16, 1949, members of the Board of Dental Examiners by the Acting Secretary of Health, under the provisions of Sections 2 and 5 of Republic Act No. 417. Dr. Gervasio Erana designated as chairman of the Board was to hold office for one year from July 18, 1949 to July 18, 1950; Dr. Alfonso C. Salcedo for two years from July 18, 1949, to July 18, 1951, and Dr. Paacual Ignacio for three years from July 18, 1949, to July 18, 1952.

On June 17, 1950, Republic Act No. 546 was approved, and Section 1 thereof amended Section 10 of the Reorganization Act No. 4007 by making the Commissioner of Civil Service an Executive Officer of all the Boards of Examiners thereafter named, who shall conduct the examinations given by said Boards according to the rules and regulations promulgated by him and approved by the President, and by providing that the Board of Dental Examiners and all other Boards of Examiners "shall be composed of a chairman and two members who shall be appointed by the President of the Philippines, upon recommendation of the said Commissioner of Civil Service, among such persons of recognized standing in their profession as may be certified as having practiced at least ten years, academically and morally fully qualified by their respective bona fide professional organizations; who shall serve for a period of three years, and who shall receive compensation not to exceed ten pesos per capita of the candidates examined or without examination, provided that the first Boards to be appointed after the approval of this Act shall hold office for the following terms: Chairman for three years, one member for two years, and one member for three years,"

Under the above-quoted provisions of Republic Act No. 546, on November 23, 1950, a Board of Dental Examiners was, upon the recommendation of the Director of Civil Service, appointed by the President, composed of Dr. Gervasio Erana as Chairman for a term of three years expiring November 27, 1953, Dr. Germanico Carreon member for a term of two years expiring November 27, 1952, and Dr. Diosdado M. Carpio member for a term of one year expiring November 27, 1951.

The petitioners filed this action on January 20, 1951, to oust the respondents Dr. Germanico Carreon and Dr. Diosdado M. Carpio on the ground that, as the petitioners' term of office have not yet expired and they have not either been removed from office for causes provided for in Section 8 of Republic Act No. 417, or abandoned their office or forfeited it by operation of some provisions of law, the appointment of the said respondents to their respective position was null and void, and the latter are unlawfully holding the office of members of the Board of Dental Examiners.

Whether or not the petitioners in the present case have been removed from their office for causes provided for in Section 8 of Republic Act No. 417 is immaterial. It is also a well established rule that Congress may by law terminate the term of office of the petitioners at any time and even while the office is occupied by the incumbent, because there is no prohibition contained in the Constitution. (*Erana vs. Vergel de Dios*, 47 Off. Gaz., 2302). The only question for this Court to determine is whether it was the intention of Congress, in enacting Republic Act No. 546, to abolish all the pre-existing Boards of Examiners existing after the time of the enactment thereof. If it were, the appointment of the respondents is valid and the petitioners have no right of action. Otherwise, the appointment of the respondents is invalid and they have no right to continue in office.

After a due consideration of this case, we are of the opinion, and so hold, that the appointment of the respondents as members of the Board of Dental Examiners is valid. Although there is no express provision in Republic Act No. 546 abolishing the pre-existing Board of Dental Examiner and other boards of examiners, created under Sections 785 and 787 of the Revised Administrative Code, as amended by Act No. 4007, and Republic Act No. 417, it is obvious that it was the intention of Congress to do so, because the provisions of said Republic Act are inconsistent with those of the Revised Administrative Code as amended by said Act No. 4007 and Republic Act No. 417. The last paragraph of Section 1 of said Republic Act No. 546 provides that "Except as modified by this Act, all laws governing examinations given by the above-mentioned boards shall continue in force."

In the case of *Erafia vs. Vergel de Dios*, this Court held that, because Sections 785 to 787 of the Revised Administrative Code as modified by Act No. 4007, and the Republic Act No. 417 contain inconsistent provisions as to qualification and tenure of office, and compensation, "transparent is the intention of the law maker to replace the pre-existing board with the new board created by Republic Act No. 417". Applying this ruling in that case to the present, a fortiori we have to conclude that it was the intention of Congress to replace all the pre-existing boards with the new boards created by Republic Act No. 546; because, not only the qualifications for appointment of members of the board were raised, 10 years practice of the particular profession involved now being required instead of 5 years required under Republic Act No. 417, but the tenure of office is fixed for a period of three years for all members of all Boards of Examiners, and their appointments under Republic Act No. 546 shall be made by the President upon the recommendation of the Commissioner of Civil Service, and the chairman of the respective Boards shall be appointed by the President, and not merely designated by the respective Department heads; and because said Republic Act No. 546 now fixes a general and uniform pattern of composition and tenure of office of all government examining boards in order to create a continuing body, like the composition of the Philippine Senate.

The petitioners' main contention is that the inference made by this Court in the case of *Eraia vs. Vergel de Dios*, supra, and reiterated now in the present case, cannot be made from the foregoing facts, because it would be contrary to the general principle of law, affirmed time and again in judicial decisions, to the effect that unless otherwise provided therein the provisions of law should be applied prospectively.

We are sorry to say that this contention is not correct. To apply the provision of Republic Act No. 546 to the petitioners is not to apply it retrospectively, because to do so is to make said Act merely effective, not before, but after the date it was approved or became effective, and it will affect their continuance in office, not before, but after the approval of Republic Act No. 546. The fact that they have been appointed prior thereto does not make said Act of retroactive effect. In the case of *Camacho vs. Court of Industrial Relations*[1] it was held that it is a well established rule recognized by all authorities without exception, that a retrospective or retroactive law is that which creates a new obligation, imposes a new duty or attaches a new disability in respect to a transaction already past; but that status is not made retrospective because it draws on antecedent facts for its operation, or in other words part of the requirements for its action and application is drawn from a time antedating its passage (See

cases cited in 37 Words and Phrases, pp. 530-533)."

But even if it were the intention of Congress to apply Republic Act No. 546 to the petitioners, let us say several months before the approval of Republic Act No. 546, so as to abolish them the Board of which they were members, it would not make said Act unconstitutional and void, because it would not deprive them of any vested rights as already stated. In the same case of *Camacho vs. Court of Industrial Relations*, supra, we also held the following: "But even if to apply Republic Act No. 34 to the tenancy relations in agricultural year 1946-1947 between the parties would be tantamount to giving said Act retroactive or retrospective effect, our Constitution does not in terms prohibit the enactment of retrospective laws which do not impair the obligations of contract or deprive a person of property without due process of law, that is, which do not divest rights of property and vested rights."

Besides, the second paragraph, Section 10, of Republic Act No. 546, provides that all the sixteen Boards of Examiners, including expressly the Board of Dental Examiners, "shall each be composed of a chairman and two members who shall be appointed by the President of the Philippines upon the recommendation of the Commissioner of Civil Service, * * * who shall serve for a period of three years * * * provided that the members of the first board to be appointed after the approval of this Act shall hold office for the following terms: chairman for three years, one member for two years, and one member for one year." It is true that this, as a proviso, is an exception to the general provision to the effect that the chairman and the two members of each Board of Examiners shall serve for a period of three years; and as it does not operate as a substantive enactment, it cannot alone or in itself be construed as a sufficient authority for the abolition of the preexisting boards at the time of the approval of Republic Act No. 546. But it may certainly be taken into consideration together with the other provisions of said Act in support of our opinion. Unless the pre-existing Boards of Examiners including the Board of Dental Examiners be deemed abolished upon the approval of said Act, the abovequoted proviso could not be carried out, because the President of the Philippines can not, after the approval of Republic Act No. 546, appoint a new Board of Dental Examiners composed of three members, one for the term of three years as Chairman, one for the term of two years and another for one year. The most that the President could appoint, under the petitioners' theory, is one member of the Board of Dental Examiners each year.

In view of the foregoing, the petitioners' action of quo warranto is dismissed with costs against them. So ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, Reyes and Bautista Angelo, JJ., concur.

[1]80 Phil., 848.

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.