

PABLO TEVES, PLAINTIFF AND APPELLANT, VS. PERPETUO A. SINDIONG, DEFENDANT AND APPELLEE.*G.R. No. L-2050. October 21, 1948*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f0a69cc5cd39/>**MONTEMAYOR, J.:**

Pablo Teves, — for the purpose of having himself declared legally entitled to the office of Justice of the Peace of the Municipality of Luzurriaga (now Valencia), Negros Oriental, and placed in possession thereof, and at the same time of having the defendant Perpetuo A. Sindiong, the incumbent, declared not entitled to the said office, and so ousted therefrom.— instituted the present quo warranto proceedings in the Court of First Instance of Oriental Negros. After due hearing, the trial court found and held that the plaintiff, Pablo was not entitled to the said office of Justice of the Peace of Luzurriaga, and that he had no cause of action against the defendant Perpetuo A. Sindiong, and so it dismissed the case, with costs against the plaintiff, Teves has now brought the case here on appeal.

The following facts are not disputed On December 19, 1914, Pablo Teves was appointed Justice of the Peace of Luzurriaga, Negros Oriental. He qualified for and assumed said office on January 14, 1915, and had since discharged the duties of said office up to the outbreak of the Pacific war in December 1941 . Negros Oriental, or part thereof, was subsequently occupied by the Japanese army. The plaintiff followed and stayed with the guerrillas in the free area and continued to discharge his duties as Justice of the Peace of that part of Luzurriaga not occupied by the invaders. However, sometime in October 1943, the plaintiff was arrested by a Japanese patrol and was later taken down to Dumaguete, capital of Negros Oriental, and there kept a virtual prisoner. Because of plaintiff's absence from the free area of Luzurriaga where a free government had been organized and maintained by the guerrilla forces, the Deputy Governor of said government appointed Atty. Mauro Edral as Justice of the Peace of said municipality of Luzurriaga. Edral qualified for the position and performed the duties thereof from July 8, 1944 to January 4, 1945. In October Pablo Teves managed to escape from his confinement in Dumaguete, went to the free area of Luzurriaga, and asked the Deputy Governor under the guerrilla Government to restore to him his post of Justice of the Peace of Luzurriaga. He was advised that before he could be reinstated he should secure a clearance certificate from the guerrilla military authorities to prove his loyalty to the Filipino cause. Plaintiff secured the necessary clearance, and, on January 4, 1945 he was appointed Justice of the Peace of the municipalities of Luzurriaga and Bacong, 6th Administrative District, by Deputy Governor Margarito Teves, which appointment was approved by Alfredo Montelibano, Governor of the Islands of Negros and Siquijor. Plaintiff Teves resumed, or rather qualified for said office and discharged the duties thereof.

On May 1, 1945, Teves was again appointed acting Justice of the Peace of Luzurriaga, Bacong and Dauin, by special agent Jose M. Aldeguer of the Department of the interior, by virtue of the authority vested in that Department by the President of the Commonwealth of the Philippines, said appointment bearing the approval of the Commanding Officer of PCAU 24. On the same day, the plaintiff qualified for and assumed said office. Then, on December 26, 1945 Teves was again appointed by President of the Philippines Sergio Osmeña, as ad interim

Justice of the Peace of Luzurriaga, Negros Oriental. Teves again qualified for and assumed said office. However, when his appointment was submitted to the Commission on Appointments, it was not confirmed. Despite this non-confirmation, plaintiff Teves continued in office.

In the meantime, and presumably because of this non-confirmation of Teves' appointment, the President of the Philippines nominated the defendant Perpetuo A. Sindiong Justice of the Peace of Luzurriaga and said nomination was confirmed by the Commission on Appointments on September 3, 1946. Sindiong took the corresponding oath on September 14, 1946, and then advised the plaintiff of his appointment and demanded of him the surrender of the office. Plaintiff refused to comply with this demand, insisting that he was the legitimate Justice of the Peace of Luzurriaga. On being apprised of the situation, the Judge of the Court of First Instance of Negros Oriental issued a summary order dated September 23, 1946, directing plaintiff Pablo Teves to make delivery within ten days of the office of Justice of the Peace of Luzurriaga, together with the documents and records pertaining thereto to the defendant Perpetuo A. Sindiong, under penalty of contempt. To avoid unpleasant consequence, Teves surrendered the office and its records to Sindiong on October 7, 1946, and a week later, or on October 14, he commenced the present action in the Court below.

The trial court held that there is no parity between the present case and that of *Tavora vs. Gavina et al* (79 Phil., 421) cited by the plaintiff in support of his contention, for the reason that in the *Tavora* case the petitioner therein, who was appointed Justice of the Peace of San Farnando, La Union, before the war and continued to act as such until the outbreak of the last war, did not accept any new position, which acceptance may be regarded as an abandonment of his old post. On the other hand, it applied and relied upon the case of *Zanduetta vs. Da la Costa et al.* (66 Phil., 615), wherein this Court held that when a judge of first instance, presiding over a branch of a Court of First Instance of a Judicial district by virtue of a legal and valid appointment, accepts another appointment to preside over the same branch of the same Court of First Instance in addition to another court of the same category, both of which belong to a new judicial district formed by the addition of another Court of First Instance to the old one, enters into the discharge of the functions of his new office and draws the salary corresponding thereto, he abandons his old position and cannot claim to have any right to reoccupy it when his new appointment was turned down by the Commission on Appointments. According to the lower court, in accepting first the position of Justice of the Peace of Luzurriaga and Bacong, and afterwards, the position of Justice of the Peace of Luzurriaga, Bacong and Dauin, the plaintiff had abandoned his old office of Justice of the Peace of Luzurriaga alone.

Considering the circumstances under which the appellant herein accepted the two positions.— first as Justice of the Peace of Luzurriaga and Bacong and later as Justice of the Peace of Luzurriaga, Bacong and Dauin,—we disagree with the view or conclusion of the trial court. There is no question that under the doctrine laid down in the case of *Tavora vs. Gavina et al. supra.*, by virtue of Art. VIII, section 9, of the Philippine Constitution, — which provides that "members of the Supreme Court and all judges of inferior courts shall hold office during good behaviour, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office,"— a Justice of the Peace appointed and qualified before the war, but who ceased to discharge duties as such at the outbreak thereof, may, after liberation or after the war, resume and continue in his office until he either reaches the age limit, becomes incapacitated, resigns from office, is properly removed therefrom, or abandons the same. The appellant herein is still below the age of seventy, and none of the other factors or elements justifying loss of, or separation from, his office as Justice of the Peace of Luzurriaga, exists with the possible exception of that of abandonment.

If the acts of acceptance In this case, particularly plaintiff's acceptance of the two new appointments to the position first as Justice of the Peace of Luzurriaga and Bacong, and then of Luzurriaga, Bacong and Dauin, had taken place during normal conditions, there might be force and reason in the position maintained by the lower

court regarding abandonment. If, during normal times, as a result of a judicial reorganization pursuant to a provision of law, the position of Justice of the Peace of Luzurriaga had been abolished, and in its place the office of Justice of the Peace of Luzurriaga and Bacong had been established, and again under another legal reorganization the second position was again abolished and in its place a new district or circuit had been established comprising the municipalities of Luzurriaga, Bacong and Dauin, and that the plaintiff, without pressure or necessity, or considerations of Government expediency due to war, had successfully accepted said two now positions or districts, we might agree that he had lost right; and title to the old post of Justice of the Peace of Luzurriaga by abandonment. However, the conditions obtaining at the time were far from normal. It seems that the town proper of Luzurriaga was occupied by the Japanese forces. Instead of rendering service to, or cooperating with, those military occupants and continuing to serve as Justice of the Peace of the town proper under them, Teves joined the guerrillas in the mountains and continued to exercise his judicial functions and administer justice in the free area of Luzurriaga under the aegis of the government maintained by the Filipino forces, until he was arrested by the Japanese soldiers and confined in Dumagueta. He escaped from confinement and again joined the guerrillas. Later, for some reason not known to us, at least not appearing in the record, but possibly because of the limited area occupied by the guerrillas and for purposes of expediency, the municipalities of Luzurriaga and Bacong were joined so as to comprise one single judicial district or circuit; and this district was given to Teves due to his desire and willingness to continue serving the guerrilla Government in his judicial capacity. But it is extremely doubtful whether, in accepting this post, Teves acted with complete freedom of choice. Normally, one would prefer to serve as Justice of the Peace of only one town like Luzurriaga, if under complete peace and order in the poblacion rather than for two towns with perhaps a bit more pay and a little wider territorial jurisdiction, but in the mountains, under abnormal conditions and subject to be continually harassed or even captured and summarily punished by the superior Japanese occupation forces. Said fear was not imaginary or fanciful, as proven by the fact that, while serving as Justice of the Peace in this area, Teves had previously been captured by the Japanese forces and confined in Dumaguete. Abandonment of an office by reason of the acceptance of another, in order to be effective and binding, should spring from and be accompanied by deliberation and freedom of choice, either to keep the old office or renounce it for another. Teves, — and for it he could not well be blamed, — did not wish to continue staying with, and performing his judicial duties under the Japanese Government and administration. He preferred to be with the resistance movement; but, in continuing to serve his people in a judicial capacity, in the free area, he could not well dictate his terms or his wishes to the guerrilla authorities, such as insisting that his judicial district comprising only one municipality, that of Luzurriaga, be preserved. Conditions and reasons of expediency, possibly military, perhaps called for the merging of the towns of Luzurriaga and Bacong into a new judicial circuit or district. This district, Teves accepted, because he felt he could not keep his old office under the Japanese.

Coming to the second appointment extended to him on May 1, 1945. The record shows that the conditions in Negros Oriental at the time were not yet normal. True, some areas, and perhaps the greater portion of Negros Oriental, were already occupied by the American liberation forces. But there was still fighting between said forces and Japanese troops entrenched in the mountains. For purposes of debt moratorium, Proclamation No. 9 of President Osmeña (41 Off Gaz., 205) declared Negros Oriental free from enemy occupation as of May 30, 1945. The lower court in its decision said that when Negros Oriental was liberated, plaintiff Teves was discharging his duties of Justice of the Peace of the three municipalities of Luzurriaga, Bacong and Dauin. This goes to show that when the plaintiff accepted his second appointment on May 1, 1945 Negros Oriental where these three municipalities were located had not yet been liberated. And to further show that at that time normalcy had not yet returned, the appointment extended to plaintiff as Justice of the Peace of Luzurriaga, Bacong and Dauin, was made not by the President of the Philippines but by an agent of the Department of the Interior and under the approval of the PCAU (Philippine Civil Affairs Unit), a body which was administering civil affairs for the Army.

And it was not a permanent appointment either, but merely as acting Justice of the peace. And it is significant that these two appointments, — the first by the guerrilla Government, and the second, by the Department of the Interior, — were not ad interim appointments subject to confirmation by the Commission on Appointments, as regular appointments should have been.

All these circumstances and considerations forcibly bring out the fact that the formation of a judicial circuit including Luzurriaga, — first, the grouping of the municipalities of Luzurriaga and Bacong, and later the merger of the three towns of Luzurriaga, Bacong and Dauin, into a circuit, — was a makeshift arrangement, a mere temporary expedient, far from being permanent in nature, but merely designed to meet and solve the exigencies of the administration of justice in those areas in the best manner possible under said abnormal conditions. And the best proof that all that arrangement and setup was temporary in nature, is the fact that in December 1945 when conditions were much better, and were fast becoming normal, the old judicial arrangement or setup was restored, namely, the office of Justice of the Peace of Luzurriaga alone. And it is significant to note that the person who was appointed to this post was none other than the original pre-war incumbent, the plaintiff herein.

The law and the doctrines governing abandonment of an office may not and should not be too strictly applied to cases occurring during war, especially in those areas occupied partly or entirely by the enemy. How many public officials, upon the outbreak of or during the war, left their offices in the cities, particularly Manila, and returned to their native towns, but who were not held as having abandoned said office, and were recalled to them after liberation. In that case of *Tavora vs. Gavina et al.*, already cited, Tavora who had been appointed Justice of the Peace of San Fernando, La Union, and had been discharging his judicial functions as such, ceased to perform his duties at the outbreak of the war. True, he was later appointed to the same post by the Chairman of the Philippine Executive Commission and he served under said appointment, but, in July 1944 he ceased to act in said office and did not resume his duties until April 1945. Under normal conditions, such act or conduct may clearly be regarded as an abandonment and vacation of his office, a voluntary relinquishment *thru nonuser* (46 C.J. 980-1). And yet, it was not even insinuated that Tavora had abandoned his office for failure and for ceasing to discharge his functions and for nonuser.

Considering all the circumstances surrounding this case, we believe and hold that in accepting the post of Justice of the Peace of Luzurriaga and Bacong and later the office of Justice of the Peace of Luzurriaga, Bacong and Dauin, the appellant herein did not abandon his post of Justice of the Peace of Luzurriaga.

But one might contend that plaintiff's acceptance of the ad interim appointment by President Osmeña in December 1945 of his old post of Justice of the Peace of Luzurriaga, was a waiver of his right and title to the old post and showed his willingness to abide by the implications and consequences of that new ad interim appointment. In the first place, in view of our conclusion that the appellant did not abandon his old post, we are of the opinion and so declare that he has the right to hold the same, not under the new ad interim appointment in December 1945, but by virtue of his original appointment in 1914. One cannot properly be appointed to the same post that he is already holding under a valid appointment. Incidentally, it may even possibly be maintained, and not without reason, that the last appointment for the post of Justice of the Peace of Luzurriaga in December 1945) was invalid for the additional reason that the President could not extend an appointment to one who, under a new appointment, is not duly qualified. Plaintiff herein is not a member of the Bar, although, having been appointed before the approval of the Constitution of the Philippines and of Commonwealth Act No. 101 which lastly amended Sec. 207 of the Revised Administrative Code in October 28, 1936, which require membership in the Bar as a qualification for the position of Justice of the Peace, he was not bound by this legal requisite as far as his appointment in 1914 is concerned. However, a new appointment like that appointment extended to him in December 1945 for the post of Justice of the Peace would come under this requirement,— that is to say, that no

person who is not a lawyer may be appointed to the office of Justice of the Peace after the approval of the Philippine Constitution and of Commonwealth Act No, 101 amending section 207 of the Revised Administrative Coda. In this connection, we might cite the ruling found in Corpus Juris, which reads:

"Where a duly elected officer subsequently accepts an appointment to the same office under an Invalid statute, there is no abandonment, but rather an attempted fortification of his possession of the office." (46 C.J., 981)

One other consideration. It was held by this Court in the case of Garces vs. Bello et al. (80 Phil., 153), and Singson vs. Quintillan et al. (80 Phil., 245), the facts of which are similar to those in the present case, that an appointment to the post of Justice of the Peace extended to one who had a right to it because of a previous prewar appointment under which he had qualified and discharged his duties, may be regarded as a mere restitution or restoration of the position which belonged to him 5 and that the new appointment can add nothing to or diminish his right to the office conferred by his original appointment. It may well be said that the appointment extended to the plaintiff in December 1945 was a mere restitution of the office which belonged to him but which he failed to hold because of and during the war.

In conclusion, we find and hold that the appellant here had not abandoned his post of Justice of the Peace of Luzurriaga, Negros Oriental, because of his acceptance and discharge of the duties of the position first of Justice of the Peace of Luzurriaga and Bacong, and later, of Justice of the Peace of Luzurriaga, Bacong and Dauin, under abnormal conditions due to the last war, which new position successively occupied were temporary in nature and intended as a mere temporary expedient; and that his last appointment in December 1945, to his original office of Justice of the Peace of Luzurriaga, mag unnecessary if not invalid, and his acceptance of the same would not in any way affect his right to hold said office under his original appointment in 1914.

Reversing the decision appealed from, the plaintiff- appellant Pablo Teves is hereby declared to be legally entitled to the office of Justice of the Peace of Luzurriaga (now Valencia), Negros Oriental, and the defendant-appellee Perpetuo A. Dindiong is hereby ordered to deliver said office and all the records appertaining thereto to said plaintiff-appellant. No pronouncement as to costs. So ordered.

Moran, C. J., Ozaeta, Paras, Perfecto, Pablo, and Tuason, JJ., concur.
Feria and Briones, JJ., concur in the result.

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.