

REINO R. ROSETE, PETITIONER, VS. COURT OF APPEALS, RICHARD J. GORDON, LORETO P. AZORES, AND ARTURO MENDOZA, RESPONDENTS.

G.R. No. 107841. November 14, 1996

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-107841/>

KAPUNAN, J.:

This petition for review on certiorari under Rule 45 of the Revised Rules of Court seeks to annul the Decision of the Court of Appeals dated 7 May 1992 in CA-G.R. SP No. 24087, setting aside a decision of the Regional Trial Court of Olongapo City denying petitioner's motion for reconsideration.

The antecedent facts are undisputed.

Petitioner Reino R. Rosete is a medical doctor by profession, with a master's degree in Hospital Administration. He started his career in the Olongapo City General Hospital as Junior Physician in 1962. On 1 September 1971, he was appointed Chief of Hospital of the Olongapo City General Hospital.

On 20 November 1985, private respondent Richard J. Gordon, then Olongapo City Mayor, filed a formal charge against petitioner for "[g]rave misconduct, conduct prejudicial to the best interests of service, dishonesty, grave abuse of authority, violation of Anti-Graft and Corrupt Practices Act, neglect of duty and gross negligence." [1] Invoking Sec. 40 of P.D. No. 807, [2] the Mayor, on 2 January 1986 found petitioner guilty as charged and summarily dismissed him for being "notoriously undesirable." [3]

Petitioner questioned his dismissal for being allegedly made without due process. In a petition for certiorari, prohibition and mandamus filed directly with this Court (docketed as G.R. No. 73449), petitioner asserted that an appeal to the Civil Service Commission was not a plain, speedy and adequate remedy because: (a) the jurisdiction of Gordon to investigate, suspend or dismiss petitioner relative to the charges against petitioner was squarely raised in issue; (b) the summary suspension and dismissal of petitioner were without just and lawful cause and without proper hearing before an impartial officer and were based on hearsay evidence and, therefore, patently null and void; (c) the validity or constitutionality of Section 40 of P.D. 807 was questioned; and (d) the need for relief was urgent.

However, the case was overtaken by the EDSA Revolution of February 1986 which saw respondent Mayor ousted from office following a revamp of the entire government.

In a Memorandum dated 19 March 1986, Atty. Teddy C. Macapagal, Olongapo OIC Mayor vice Gordon, reversed the summary dismissal of petitioner and ordered him to resume the performance of his duties as Chief of Hospital.

Submitting his Comment dated 30 June 1986 in G.R. No. 73449, OIC Mayor Macapagal explained his decision to reverse Gordon's earlier order, taking the position that the former mayor's summary dismissal of petitioner was irregular and illegal, to wit:

x x x

(2) Manifests to Your Honors that Petitioner has been a very good, able and competent Chief of the Olongapo City General Hospital. Among the doctors there, he is still the best surgeon, the best prepared for hospital administrator, as per records of the hospital;

(3) Submits to Your Honors that the charges against petitioner are not true; they were but trumped up by respondent with the assistance of and thru Mr. Fernando Magrata whom the respondent appointed Acting Hospital Administrator, to malign petitioner, then oust him from the hospital - for improper or personal ends;

(4) Submits, further, to Your Honors that the two (2) affidavits and the resolution (Annexes "D", "E" and "F" of the FORMAL CHARGE of respondents) blaming Petitioner for -

- (a) his failure to recommend the hiring of doctors;
- (b) not training the doctors, medical staff, etc.;
- (c) the demoralization of hospital staff, etc., due to oppressive policies, etc.;
- (d) not providing the hospital laboratory with equipment supplies, etc.;
- (e) not providing the hospital with drugs, medicine, etc.;
- (f) allowing hospital equipment to deteriorate, etc.;
- (g) the poor quality of food served to patients, etc.;
- (h) the wards are dirty, etc.;
- (i) the hospital was slaughter house, etc.;
- (j) the hospital has only 1 operating room;
- (k) drugs worth P34,000.00 was allowed to expired by him;
- (l) the loss of an automatic adjustable ambulance stretcher worth P10,000.00;
- (m) and many others more.

are unworthy of credence; they were purposely made to discredit Petitioner; the accusations therein are unfounded, devoid of truth, otherwise Petitioner would have been called earlier to explain anyone of them, specially the P34,000.00 worth of expired drugs and the alleged loss of P10,000.00 stretcher, but no he was never called even for once;

(5) Submits, furthermore, to Your Honors that because of the falsity of the charges, respondent did not want that a hearing be conducted thereon, despite a request from the petitioner; neither did he, despite his deep-seated bias and prejudice against Petitioner, want some other person but him to hear the charged in the open investigation. Why? because the charges could not be proved or stand legal scrutiny. So that what respondent did after receiving the ANSWER of Petitioner to his (respondent) FORMAL CHARGE was to forthwith render a decision dismissing Petitioner. WHERE IS DUE PROCESS HERE, YOUR HONORS?

(6) Manifests, finally, to Your Honors that Petitioner has had received awards, recognitions, commendations, etc. from his former Boss Dr. Clemente Gatmaitan, former Secretary of Health from civic organizations, government agencies for job well done as Chief of the Olongapo City General Hospital. After taking his oath as OIC of the City of Olongapo on March 17, 1986, undersigned requested petitioner to resume his duties as Chief of the Hospital and he (petitioner) did on March 20, 1986.[4]

On the basis of Macapagal's comment, this Court on 19 May 1987 issued a resolution dismissing the petition for

being moot and academic considering that petitioner had been reinstated to his former position by Macapagal. There we held that:

Petitioner was dismissed summarily by the respondent Mayor of Olongapo City. In this petition for certiorari, prohibition and mandamus with preliminary injunction he seeks (1) to invalidate Section 40 of the Civil Service Law on summary dismissal, (2) to annul and set aside the respondent's action in proceeding summarily against him, finding him guilty as charged and deciding to dismiss him from the service, (3) enjoin enforcement of the decision, and (4) order his reinstatement. Considering the pleadings and the annexes together with the Comment filed by the successor of the respondent mayor disagreeing with the acts of his predecessor and informing the Court that at his request the petitioner had resumed his duties as Chief of Hospital on 20 March 1986, there being no need to pass upon the constitutional issue the Court resolved to DISMISS the petition for being moot and academic.[5]

Petitioner continued performing the functions of Chief of Hospital.

On 11 November 1987, Macapagal was succeeded by Mr. Ildefonso Arriola as OIC of Olongapo City. Arriola forthwith issued a directive to the petitioner to cease and desist from further executing the duties and functions of Chief of Hospital effective 13 November 1987, on which date another physician, Dr. Antonio M. Cava was appointed as Officer-in-Charge of Olongapo City General Hospital, effective 16 November 1987. A memorandum was likewise issued by Arriola explaining his prior directives.

In response, petitioner sent OIC Mayor Arriola a letter dated 2 December 1987 explaining that he was legally holding the position. Petitioner continued to perform the functions of Chief of Hospital.

Thereafter, the first local elections following the EDSA Revolution were held, in which respondent Gordon was re-elected Mayor of Olongapo City. On 3 February 1988, respondent Mayor extended an appointment to Dr. Concordia A. Ligad as Chief of Hospital. The appointment was approved by the Regional Director of the Civil Service Commission. Thus, Dr. Ligad commenced performing the functions and duties of said Office. On 8 February 1988, Gordon issued a Memorandum[6] to the City Treasurer enforcing and affirming the earlier dismissal of petitioner, at the same time instructing the City Treasurer to implement the same. Petitioner's office was padlocked and his things were removed therefrom by the Hospital Administrator.

On 8 March 1988, petitioner instituted another petition for mandamus before this Court, docketed as G.R. No. 82171, entitled "Dr. Reino R. Rosete v. City Mayor Richard J. Gordon & City Treasurer Loreto P. Azores," praying inter alia that a writ of preliminary mandatory injunction be issued directing respondents to pay petitioner's salary for February, 1988 and every month thereafter; and to restore him to his office and residential quarters. He asked that his reinstatement as Chief of Hospital be upheld and maintained, free from undue interference.[7]

On 21 March 1988, this Court referred said petition for hearing to the Executive Judge of the Regional Trial Court of Olongapo City. The case was initially raffled to Branch 73 of said court, docketed as Civil Case No. 188-0-88. But as the Presiding Judge of said Branch voluntarily inhibited herself from hearing the case, said case was re-raffled to the sala of respondent Judge Esther Nobles Bans of Branch 72.

In a motion dated 23 August 1988, Gordon asked for the inhibition of Judge Bans. He also filed a motion dated 24 August 1988 for the dismissal of the petition, alleging that: (a) petitioner has no cause of action because his summary dismissal by Gordon on 30 November 1985 was not appealed to the Civil Service Commission, hence, the same became final and executory; (b) petitioner had already been replaced by Dr. Concordia Lingad; and (c) mandamus is not a proper remedy. Both motions were denied by Judge Bans in an Order dated 9 September 1988.

On 19 September 1988, Gordon and the City Treasurer of Olongapo City questioned the Order of 9 September

1988 of Judge Bans in a petition for certiorari/prohibition with writ of preliminary injunction filed with the Court of Appeals, docketed as CA-G.R. SP No. 15635. The petition was dismissed by the Court of Appeals for lack of merit in its Decision dated 28 February 1989. Gordon and the City Treasurer challenged the Court of Appeals' decision in a petition for certiorari filed with this Court under date 14 June 1989. However, on 28 August 1989, this Court denied the petition for lack of sufficient showing that the findings of the Court of Appeals were not supported by substantial evidence or that said court had committed any reversible error.

Meanwhile, Dr. Concordia A. Lingad retired. In her stead, Dr. Arturo E. Mendoza was appointed on 10 January 1989 in a temporary capacity. Dr. Mendoza was subsequently issued a second appointment on 11 September 1989, which was approved by the Civil Service Commission. Dr. Mendoza then assumed said position and discharged the corresponding duties of the Office of Chief of Hospital of the Olongapo City General Hospital.

Mendoza thus filed a motion to be allowed to intervene in the case. This motion, however, was denied.

Judge Bans, after hearing, issued the questioned Order dated 31 July 1990 in Civil Case No. 188-0-88, granting petitioner's prayer for a writ of preliminary injunction. The dispositive portion of said order reads:

WHEREFORE, the Court finds the right of the petitioner to the position of Chief of Hospital clear and unmistakable, the invasion on his right to the said office in February 1988 was material and substantial, and there is an urgent necessity for the issuance of the writ of preliminary mandatory injunction and the petitioner's application for a writ of preliminary mandatory injunction is hereby granted.

The petitioner is ordered to post a bond of P30,000.00 and upon approval by the Court, let a writ of preliminary mandatory injunction be issued: (a) commanding petitioner Dr. Reino R. Rosete to immediately return as Chief/Director of the Olongapo City General Hospital and discharge the duties and functions of said position; (b) commanding respondents City Mayor Richard J. Gordon and City Treasurer Loreto Azores of Olongapo City or whoever is acting in their place, to allow Dr. Rosete to resume and perform unhampered his duties as Chief/Director of the Olongapo City General Hospital; (c) commanding respondents to pay his back salaries, emoluments, etc. due him from February 1988 to the present, including the increases that have taken place, and to restore/provide to him his office, quarters, etc. which are necessary in the discharge of his functions as Chief/Director of the Olongapo City General Hospital; and (d) commanding whoever is acting Chief/Director of the Olongapo City General Hospital to immediately vacate the same in favor of Dr. Reino R. Rosete.

SO ORDERED.[8]

Motion for reconsideration of said order was denied by the Regional Trial Court on 5 December 1990.

Hence, on 6 February 1991, Mayor Gordon, et al., filed a petition[9] with the Court of Appeals, docketed as CA-G.R. SP No. 24087, for certiorari and prohibition with a prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order to review, annul, and set aside the Regional Trial Court's Orders dated 31 July and 5 December 1990 in Civil Case No. 188-0-88.

On 7 May 1992, respondent Court of Appeals promulgated its decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the instant petition for certiorari and prohibition is GRANTED.

The Orders dated 31 July 1990 and 05 December 1990 issued by the Regional Trial Court of Olongapo City, Branch 72 in Civil Case No. 188-0-88 are hereby ANNULLED and SET ASIDE.[10]

On 4 June 1992, petitioner filed a motion for reconsideration of said decision, which was denied by respondent court.

Hence, the instant petition in which petitioner interposes the following assignment of errors:

I

RESPONDENT COURT OF APPEALS COMMITTED PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION IN RULING THAT THE STATUS QUO AT THE TIME PETITIONER FILED HIS PETITION FOR MANDAMUS, WITH PRAYER FOR A WRIT OF PRELIMINARY MANDATORY INJUNCTION, WAS THAT HE WAS NOT HOLDING OFFICE AS CHIEF OF THE HOSPITAL.

II

RESPONDENT COURT OF APPEALS COMMITTED PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION IN RULING THAT PETITIONER CANNOT CLAIM A CLEAR LEGAL RIGHT TO THE POSITION OF THE CHIEF OF THE HOSPITAL.[11]

We find merit in the petition.

Respondent court erred in holding that the status quo prior to the filing of the petition for mandamus in the court below was that petitioner was not the actual holder of the disputed office. Said court held:

x x x. The record shows that Respondent Rosete's earlier dismissal from the position had been reiterated by Mayor Gordon; Dr. Concordia A. Ligad had been appointed Chief of Hospital of the Olongapo City General Hospital, qualified for the position and discharged her functions and duties as such officer until her retirement on 08 January 1989, and in her stead, Dr. Arturo E. Mendoza, Jr. was appointed in a temporary capacity, duly approved by the Civil Service Commission. It is therefore evident that at the time of the filing of the petition by Dr. Rosete before the Supreme Court that he was not holding office as Chief of Hospital of the Olongapo City General Hospital. In issuing the writ, the respondent court committed a grave abuse of discretion for allowing respondent Dr. Rosete to assume a position from which he had been earlier dismissed and which order he never elevated by way of appeal to the Civil Service Commission. At the time the petition for mandamus was filed before the Supreme Court, it was Dr. Ligad who was the Chief of said Hospital it was not Dr. Rosete. This was the status quo. And, at the time of the issuance of the writ in question, it was Dr. Mendoza who was discharging the functions and duties of the contested position, not Dr. Rosete.[12]

We cannot agree.

The status quo usually preserved by a preliminary injunction is the last actual, peaceable, and uncontested status which preceded the actual controversy. The subsequent appointment of Dr. Ligad and later of Dr. Mendoza as Chief of Hospital cannot be deemed part of the last actual, peaceable, uncontested status which preceded the controversy, because such was neither peaceable nor uncontested. While it may be true that at the time petitioner filed his petition for mandamus with prayer for a writ of preliminary mandatory injunction on 8 March 1988, he was not actually holding the position of Chief of Hospital, this was not due to his own voluntary act or to any valid ground, but rather to his forcible and illegal dismissal by respondent Mayor. Before his dismissal on 8 February 1988, he had been actually occupying the contested position, having been reinstated to the said office by OIC Macapagal on 19 March 1986.

Petitioner's dismissal prior to 1988 could not be invoked to justify his second dismissal.

First, respondent Mayor's successor in office after the EDSA Revolution, OIC Macapagal, reversed the first dismissal and manifested before us that the charges against petitioner were "unworthy of credence."

On 20 March 1986, petitioner resumed all the duties and responsibilities of the said office, as well as the rights and privileges pertaining thereto. On 18 May 1982, we dismissed the first petition (G.R. No. 73449) for being moot and academic.

For all legal intents and purposes therefore, the first summary dismissal had no legal force and effect: petitioner's

tenure of office was never interrupted by respondent Mayor's first order of dismissal. As we ruled in *Tañala v. Legaspi*:^[13]

When a government official or employee in the classified civil service had been illegally suspended or illegally dismissed, and his reinstatement had later been ordered, for all legal purposes he is considered as not having left his office, so that he is entitled to all the rights and privileges that accrue to him by virtue of the office that he held.

Also, in *Floreza v. Ongpin*,^[14] we held that:

Section 2 of RA No. 6656 entitles a victim of a removal in violation of the bonafide rule to a reinstatement or reappointment to the position from which he was removed. The fact that there is now an appointee to the position he claims, holding an appointment signed by the President, is of no moment. There was no vacancy in the office to which Jaime M. Maza was appointed and, therefore, his promotion was not valid.

On 11 February 1988, petitioner immediately protested his second illegal dismissal to no avail. Petitioner was thus constrained on 8 March 1988, to file before us a petition for mandamus with a prayer for a writ of preliminary mandatory injunction docketed as G.R. No. 82171 entitled "*Dr. Reino R. Rosete v. City Mayor Richard J. Gordon and City Treasurer Loreto P. Azores*." In the aforementioned petition, Rosete questioned his second dismissal and prayed for the immediate restoration to his office and residential quarters, and for the payment of his salary.

It is, therefore, readily apparent that the status quo prior to the second illegal dismissal of petitioner on 8 February 1988 was that he was actually holding the Office of Chief of Hospital of the Olongapo City General Hospital, discharging his functions and duties and receiving the salary and other appurtenant benefits. In other words, the last peaceable and uncontested status should have been reckoned at the very least from 20 March 1986, when he was reinstated by OIC Macapagal.

The subsequent appointments as Chief of Hospital of Dr. Ligad and later on of Dr. Mendoza cannot be deemed part of the last actual, peaceable and uncontested status which preceded the controversy. For implied in such appointments is the condition that "the separation of the former incumbent is in order" and that there is "no decision by competent authority that will adversely affect the approval of their appointment."^[15] Drs. Lingad and Mendoza were clearly estopped and barred from contesting the Order of the trial court dated July 31, 1990 which merely sought to enforce a condition implicitly attached to their appointments.

In *Cabiling v. Pabualan*,^[16] we held that:

To the above We must add the circumstance that appellees are estopped from claiming that their acting appointments were, in reality, permanent appointments. As already stated, President Garcia extended in their favor acting appointments twice. x x x Appellees having accepted the appointments thus extended to them without any protest or reservation, and having acted thereunder for a considerable time, it is clear that they cannot now be heard to say that such appointments were, in reality, permanent and that, by reason of their being so, they could not be removed, except for cause, before the end of the term for which they were supposedly appointed.

This Court's Resolution of 18 May 1987 actually addressed the issues brought forth in the petition for certiorari, prohibition and mandamus with preliminary injunction. The petition docketed as G.R. No. 73449 sought "(1) to invalidate Sec. 40 of the Civil Service Law on Summary Dismissal, (2) to annul and set aside the respondent's [City Mayor Gordon's] action in proceeding summarily against him, finding him guilty as charged and dismissing him from the service, (3) to enjoin enforcement of the decision, and (4) to order his reinstatement.

This Court arrived at its resolution to dismiss the petition for being moot and academic after "considering the pleadings and the annexes together with the Comment filed by the successor or respondent mayor disagreeing

with the acts of his predecessor and informing the Court that at his request the petitioner had resumed his duties as Chief of Hospital on 20 March 1986." [17] Hence, it cannot be validly asserted by respondents in their comment that "the Court never had the opportunity to pass upon the issues of x x x the illegality of the summary dismissal of the petitioner; and x x x did not even address itself to the issues and squarely pass upon the same." [18] The Resolution dated 18 May 1987 did resolve the issues raised in the pleadings, except with respect to the constitutionality of Section 40 of P.D. 807. Consequently, upon attaining finality on 8 June 1987, the resolution became the law of the case and constituted a bar to any relitigation of the same issues in any other proceeding under the principle of *res judicata*.

In fine, our 18 May 1987 Resolution was a final judgment on the merits. Respondents cannot be allowed now to invoke the summary dismissal of petitioner on 2 January 1986 as justification for his second dismissal on 8 February 1988.

Proceeding to the second issue, petitioner asserts that the respondent court committed palpable error and grave abuse of discretion in ruling that petitioner cannot claim a clear legal right to the position of the Chief of Hospital. There is merit in this contention.

The records show that petitioner was appointed Chief of Hospital of the Olongapo City General Hospital on 1 September 1971. As such, he is entitled to the basic constitutional rights to due process of law and security of tenure. Except for dismissal for just cause and in the manner provided by law, therefore, petitioner can neither be removed nor suspended without due process of law.

Article III, Section 1 of the 1987 Constitution states:

SECTION 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

And, Article IX, Section 2(3) of the same Constitution provides:

x x x

(3) No officer or employee of the civil service shall be removed or suspended except for cause provided by law.

The law presumes, in protecting such rights, that "a person acting in a public office was regularly appointed or elected to it" [19] and that "official duty has been regularly performed." [20] Moreover, the law specifically requires a special civil action of *quo warranto* in the name of the Republic of the Philippines or in the name of the person claiming right or title to a public office or position. [21] This is a recourse which respondents should have taken but failed to do.

Finally, respondents claim that the position of the Chief of Hospital is "primarily confidential, policy determining and/or highly confidential," such that when petitioner was summarily dismissed by respondent Gordon on 2 January 1986 he was not actually removed but his tenure of office expired due to loss of trust and confidence. [22] This is untenable.

Nowhere is it alleged in the formal charges submitted by respondent Mayor that petitioner's dismissal was due to loss of confidence. Neither was such ground alleged in respondent's comment in G.R. No. 73449. Respondent Mayor cannot be allowed to raise a new theory this late in the pleadings. In any event, this is merely an afterthought.

We note that respondent Mayor's claim that petitioner was occupying a primarily confidential position was not actually invoked in the second dismissal of 8 February 1988. In his Memorandum dated 8 February 1988 to

respondent Treasurer, respondent Mayor merely reiterated the first summary dismissal as a ground for the second termination after he was reinstated on 20 March 1986. As we held in *Cortez v. Bartolome*:^[23]

"As an employee in the civil service and as civil service eligible, respondent is entitled to the benefits, rights and privileges extended to those belonging to the service. He cannot be removed or dismissed without just cause xxx."

Moreover, in the more recent case of *Jocom v. Regalado*,^[24] we emphasized that "the constitutional and statutory guarantee of security of tenure is extended to both those in the career and non-career positions."

Respondents argue that petitioner was summarily dismissed under Section 40 of P.D. 807 which was still in force at that time. However, the first summary dismissal on 2 January 1986 was subsequently revised, superseded, and judicially settled with finality. And the second summary dismissal on 8 February 1988 was admittedly done without prior notice and hearing.

A perusal of the pleadings with annexes filed in G.R. No. 73449 shows that no formal investigation of the charges was conducted against the petitioner despite his express request in his answer to the charges, pursuant to Section 39(b) of P.D. 807.^[25] It is clear that petitioner was deprived of a basic right guaranteed by the due process clause -- an opportunity to be heard.

It is also significant to note that Sec. 40 of P.D. 807 under which petitioner was summarily dismissed has been repealed by RA No. 6654, approved on 20 May 1988 and published in the Official Gazette on 30 May 1988.^[26] While we did not find it necessary to resolve the constitutional issue raised by the petitioner in G.R. No. 73449, We have nonetheless expressed our view and sentiment on the same issue in *Abalos v. Civil Service Commission*,^[27] thus:

xxx The Court had earlier entertained serious misgivings about the constitutionality of Section 40 as against strong protests that it was violative of due process in so far as it deprived the civil servant of the right to defend himself against the ex parte decision to dismiss him. While it is true that this section had been upheld in earlier decisions (albeit not very categorically), there was a growing sentiment that the law should be reexamined more closely in deference to the right to a hearing that it was foreclosing.

Fortunately, the question has been rendered moot and academic by the Congress of the Philippines, which has itself seen fit to remove it from our statute books. The Court is happy to note the little-known fact that at the instance of Senator Neptali A. Gonzales, a recognized constitutionalist with a vigilant regard for due process, and Representative Narciso D. Monfort, himself an avowed advocate of fair play, Section 40 was repealed by Republic Act 6654, which was approved on May 20, 1988 and published in the Official Gazette on May 30, 1988.

The private respondents were dismissed on October 14, 1987, when Section 40 was still in force. But as already explained, it was not applicable even then in the case at bar.

There is no question that the repeal of Section 40 will further bolster the independence and integrity of the Civil Service and protect its members from the arbitrary exercise of authority by officials with less than the proper respect for due process of law.

The right to be heard is one of the brightest hallmarks of the free society. We should be proud that in this jurisdiction every person who may be involved in controversy is entitled to present his side, no less than his adversary, at a hearing duly called for that purpose. This right is available to citizen and alien alike, from the humblest to the most exalted, and covers with its protection the offer of arguments and evidence, from the profound to the absurd, in defense of one's life, liberty and property. That is a right we must all cherish.

WHEREFORE, the Judgment of respondent Court of Appeals on 7 May 1992 and its Resolution of 30 October

1992 in CA-G.R. SP No. 24087 are hereby NULLIFIED and SET ASIDE, and the Orders dated 31 July 1990 and 5 December 1990 of the Regional Trial Court of Olongapo City, Branch 72 in Civil Case No. 188-0-88 REINSTATED.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Vitug, and Hermosisima, Jr., JJ., concur.

[1] Rollo, pp. 120-153.

[2] Sec. 40 P.D. No. 807 reads:

"SEC. 40. Summary Proceedings." No formal investigation is necessary and the respondent may be immediately removed or dismissed if any of the following circumstances is present:

"(a) When the charge is serious and the evidence of guilt is strong.

"(b) When the respondent is a recidivist or has been repeatedly charged and there is reasonable ground to believe that he is guilty of the present charge.

"(c) When the respondent is notoriously undesirable.

"Resort to summary proceedings by the disciplining authority shall be done with utmost objectivity and impartiality to the end that no injustice is committed: Provided, That removal or dismissal except those by the President himself, or upon his order, may be appealed to the Commission."

[3] See Note 1, pp. 124-133.

[4] Id., at 225-226.

[5] Id., at 10.

[6] Id., at 229-230.

[7] Id., at 213-224.

[8] Id., at 117-118.

[9] Id., at 56.

[10] Id., at 56.

[11] Id., at 25.

[12] CA Decision, pp. 5-6, Rollo, pp. 54-55.

[13] 13 SCRA 566 (1965).

[14] 182 SCRA 692, 709 (1990).

[15] See Annexes "G," "G-1," and "G-2."

[16] 14 SCRA 274 (1965).

[17] Rollo, p. 182.

[18] Id., at 292.

[19] Rule 131, Rules of Court, Sec. 5(l).

[20] Id., at Sec. 5(m).

[21] Rule 66, Rules of court, Secs. 1 and 6.

[22] Rollo, p. 292.

[23] 100 SCRA 1 (1980).**[24] 201 SCRA 73 (1991).**

[25] Section 39(b) of P.D. 807 states:

x x x

(b) A petition for reconsideration shall be based only on any of the following grounds: (1) new evidence has been discovered which materially affects the decision rendered; (2) the decision is not supported by the evidence on record; or (3) errors of law or irregularities have been committed prejudicial to the interest of the respondent: Provided, That only one petition for reconsideration shall be entertained.

[26] 196 SCRA 81, 85 (1991).

[27] Supra.

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.