

AURELIO P. REYES AND FRANCISCO REYES, PETITIONERS, VS. THE HON. GUILLERMO ROMERO, IN HIS CAPACITY AS JUSTICE OF THE PEACE OF PARAÑAQUE, RIZAL AND CONCURRENTLY ACTING MUNICIPAL J...

G.R. No. 14917. May 31, 1961

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14917/>

PAREDES, J.:

On July 29, 1958, a team of PC Rangers raided a house at 2605 Park Avenue, Pasay City, Rizal, dubbed as a Gambling Casino. As a result of said raid, twelve (12) persons were charged with a Violation of the Gambling Law (Crim. Case No. 8212) in the Municipal Court of Pasay. The case was tried in the branch of the Pasay Municipal Court, presided by Judge Lucio Tianco, who acquitted the accused therein for insufficiency of evidence.

Another off-shoot of the raid, was the prosecution of herein petitioners Aurelio P. Reyes and Francisco Reyes for a Violation of Art. 195, par. 2 of the Rev. Penal Code, before the same Court (Crim. Case No. 8370), as maintainers of a gambling den. The case was also assigned to the branch presided by Judge Tianco. However, said Judge was on leave, so that the Secretary of Justice designated now respondent Judge Guillermo Romero to preside over said branch, in the absence of the incumbent. The hearing of criminal case No. 8370 started with Captain Adelio Cruz on the witness stand.

On December 11, 1958, Judge Tianco returned to office and resumed his duties. Notwithstanding this, respondent Judge Romero ordered the continuation of the trial before him, and set the case for hearing on December 26, 1958. On said date (December 26), the herein petitioners filed a motion, asking Judge Romero to inhibit from hearing the case, in view of the return of Judge Tianco. The motion was denied on the same day and also the motion for reconsideration presented. The continuation of the hearing of the case by Judge Romero was authorized by the then Secretary of Justice, Hon. Jesus G. Barrera, in an Administrative Order No. 183, which reads:

"In the interest of the administration of justice and pursuant to the provisions of Sec. 76 of Rep. Act No. 183, as amended, otherwise known as the Charter of Pasay City, Mr. Guillermo Romero, Justice of the Peace of Parañaque, Rizal, is hereby designated Acting Municipal Judge of Pasay City, on December 17, 1958, and every time Judge Romero has to try Criminal Case No. 8370, entitled *People vs. Aurelio P. Reyes, et al.*, of the Municipal Court of Pasay City, provided Municipal Judge Lucio Tianco goes on leave every time the case is set for hearing".

Claiming that the above Administrative Order is illegal and contrary to the provisions of Republic Act No. 183 (Charter of the City of Pasay); that to allow Judge Romero to continue trying the case would violate the rule on the independence of the judiciary and that the accused in said case have no other plain, speedy and adequate remedy in the ordinary course of law, the matter was brought directly to this Court on a petition for Prohibition

with Preliminary Injunction.

The answers to the petition, after the usual admissions and denials, contained certain clarifications, to wit: (1) that when the information was filed on September 20, 1958, Judge Tianco was already on leave and Administrative Order No. 134, dated September 10, 1958, designating Judge Romero as acting judge in the sala of Judge Tianco already went into effect; (2) that Capt. Cruz was the principal witness, having been the head of the raiding party and his testimony was long; and (3) that the clerk of Judge Romero who was not the official stenographer of Judge Tianco had taken the notes of the proceedings. Respondents also interposed the special and affirmative defenses that Administrative Order No.183, had been issued in the interest of justice; that when Judge Tianco resumed his work, he wrote the Secretary of Justice, requesting that he be granted leave on December 17, 1958, to enable Judge Romero to continue hearing the criminal case in question and to consider him (Judge Tianco) on leave every time the case is set for hearing until it is finally decided; and that the said Administrative Order did not contravene the Charter of the City of Pasay.

It would appear that the issues which are called upon to determine are: (1) the propriety and validity of Administrative Order No. 183, and (2) whether respondent Judge in refusing to inhibit himself from continuing with the trial of the criminal case in question, acted without or in excess of his jurisdiction or with grave abuse of discretion.

Administrative Order No. 183 under consideration, was issued after Judge Tianco had already reported for work and at his own behest. In fact, he wrote to the Secretary of Justice the following letter:—

"I have the honor to request for a vacation leave of one day on November 17, 1958. I am constrained to ask for this vacation leave so as to enable Judge Guillermo Romero to continue with the trial of Criminal Case No. 8370, entitled, The People of the Philippines vs. Aurelio P. Reyes and Francisco Reyes which he has already started.

If possible I also respectfully request that I be considered on vacation leave everytime Judge Romero has to try the said criminal case until its final termination. This request has the conformity of Judge Guillermo Romero".

Evidently, Judge Tianco was motivated by a desire to have said case terminated by someone who had already started it, for the convenience of and in fairness to all parties concerned, and in the interest of justice. The Judiciary Act of 1948, as amended and the Charter of the City of Pasay, authorized the designation of a temporary judge in the municipal court of the City of Pasay, if the exigencies of the service demand, to be taken from the place nearest to it (Sec. 70, Act 296). Section 76 of the Pasay City Charter permits the designation of an acting Judge in case of absence of the municipal judge.

This is an action for Prohibition. In the petition, however, we find no allegation whatsoever charging the respondent Judge with lack of jurisdiction or with having committed grave abuse of discretion. And even if there were, there can be no abuse of discretion, much less a grave one, for respondent Judge to comply with a valid and legal Administrative Order (No. 183) of the Secretary of Justice.

The petition is denied, and the writ of preliminary injunction earlier issued in this case, is hereby dissolved, with costs against petitioners.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Dizon, De Leon, and Natividad, JJ., concur.

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.