

LIZA M. QUIROG AND RENE L. RELAMPAGOS, PETITIONERS, VS. GOVERNOR ERICO B. AUMENTADO, RESPONDENT.

G.R. No. 163443. November 11, 2008

Ponente: LEONARDO-DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-163443/>

LEONARDO-DE CASTRO, J.:

Before this Court are two consolidated petitions for review under Rule 45 of the Rules of Court both assailing and seeking to set aside the Court of Appeals' (CA) Decision[1] dated March 31, 2003 and the Resolution[2] dated April 12, 2004 in CA-G.R. SP No. 70255. The Decision set aside Resolution Nos. 011812 and 020271 dated November 20, 2001 and February 22, 2002, respectively, of the Civil Service Commission in Administrative NDC No. 01-88 and reinstated the (a) June 28, 2001 Order and (b) July 23, 2001 Decision of the Civil Service Commission Regional Office No. VII.

The facts as culled from the records are as follows:

On May 28, 2001, Bohol Provincial Governor Rene L. Relampagos permanently appointed[3] Liza M. Quirog as Provincial Government Department Head[4] of the Office of the Bohol Provincial Agriculture (PGDH-OPA). The appointment was confirmed by the Sangguniang Panlalawigan in Resolution No. 2001-199[5] on June 1, 2001. On even date, Quirog took her oath of office.

Before the issuance of the permanent appointment, the Personnel Selection Board (PSB) of the Human Resource Management and Development Office of Bohol issued a certification[6] that Quirog was one of two candidates qualified for the position of PGDH-OPA.

A copy of the Monthly Report on Personnel Actions (ROPA) covering the months of May and June 2001 of the provincial government was submitted to the Civil Service Commission Regional Office No. VII (CSCROVII), Cebu City.

In the Order dated June 28, 2001[7], the Director of CSCROVII invalidated Quirog's appointment as PGDH-OPA upon finding that the same was part of the bulk appointments issued by then Governor Relampagos after the May 14, 2001 elections allegedly in violation of Item No. 3(d)[8] of CSC Resolution No. 010988 dated June 4, 2001. The Order pointed out that the prohibition against the issuance of midnight appointments was already laid down as early as February 29, 2000 in CSC Resolution No. 000550.[9]

Both Relampagos and Quirog moved for reconsideration of the CSCROVII Order, alleging that when the latter took her oath of office on June 1, 2001, CSC Resolution No. 010988 was not yet effective as it took effect only on June 4, 2001. They argued that the subject appointment cannot be considered a midnight appointment because it was made days before the expiration of Relampagos' term, and that Quirog was already the acting Provincial Agriculturist a year prior to said appointment or since June 19, 2000.[10] Besides, so they asserted, since Quirog had already taken her oath of office, assumed her duties and collected her salary for the month of June, 2001, she had already acquired a legal, not merely equitable, right to the position in question, which cannot be taken away

from her either by revocation of the appointment or by removal except for cause and with previous notice and hearing.

In a decision^[11] dated July 23, 2001, the CSCROVII denied Quirog's and Relampagos' motion for reconsideration for lack of legal personality to file such pleading, citing Section 2, Rule VI of CSC Memorandum Circular (MC) No. 40, series of 1998. The CSCROVII explained that only the appointing officer may request reconsideration of the disapproval of an appointment by the Civil Service Commission. Even if Relampagos was the one who appointed Quirog, he could not file a motion for reconsideration because his term as governor had already expired.

Aggrieved, the petitioners in G.R. No. 163443 appealed to the Civil Service Commission (CSC) where their joint appeal was docketed as Adm. NDC No. 01-88.

On November 20, 2001, the CSC issued Resolution No. 011812,^[12] which granted the said joint appeal and set aside the order and decision of the CSCROVII. More specifically, the Resolution states:

WHEREFORE, the joint appeal of former Governor Rene L. Relampagos and Liza M. Quirog is hereby GRANTED. Accordingly, the decision dated July 23, 2001 of the Civil Service Commission-Regional Office No. VII and CSCRO No. VII Order dated June 28, 2001 are hereby set aside. Said Regional Office is enjoined to approve the appointment of Quirog to the position of Provincial Government Head, Office of the Provincial Agriculturist, Province of Bohol.

According to the CSC, since Relampagos had ceased to be the appointing authority upon the expiration of his term as governor and incumbent Governor Erico B. Aumentado was not the official who made the subject appointment, equity dictates that the appointee Quirog be allowed to question the decision to obviate possible damage or injury to the delivery of public service. The CSC also declared that the appointment of Quirog was not a midnight appointment as it was not hurriedly issued nor did it subvert the policies of the incoming administration. The CSC relaxed the application of Item 3(a)^[13] in CSC Resolution 01-0988 requiring that appointments should have gone through the regular screening by the PSB before the election ban or the prohibited period from March 30, 2001 to May 14, 2001. After noting that the selection board only deliberated upon Quirog's qualifications on May 24, 2001, or after the election ban, the CSC ratiocinated that the spirit, rather than the letter of the said rule should prevail as long as the case did not involve a midnight appointment proscribed by *Aytona v. Castillo, et al.*^[14] Lastly, the CSC justified Quirog's appointment even though such was included among 46 post-election appointments because of the need to immediately fill up in a permanent capacity the vacant position of Provincial Agriculturist and the fact that Governor Aumentado expressly declared his trust and confidence in Quirog in his Memorandum No. 1^[15] dated July 2, 2001.

On December 10, 2001, incumbent Bohol Governor Erico B. Aumentado filed an amended Motion for Reconsideration^[16] of the CSC Resolution No. 011812. He insisted that Quirog and Relampagos had no legal personality to file a motion for reconsideration of the disapproved appointment or to appeal the same. He insisted that Quirog's appointment was a midnight appointment. Aumentado added that the selection board which screened Quirog's qualifications was not validly constituted and that the subject appointment was made more than six months from the time it was published on July 23, 2000 in violation of CSC Resolution No. 010114^[17] dated January 10, 2001. Aumentado insisted that Relampagos made 97, not 46, mass appointments on the eve of his term, 95 of which were invalidated by the CSC Bohol Field Office and two, including that of Quirog, by the CSCROVII.

In Resolution No. 020271^[18] dated February 22, 2002, the CSC denied Aumentado's motion for reconsideration. Aumentado then filed a petition for review^[19] under Rule 43 of the Rules of Court with the CA where it was

docketed as CA-G.R. SP No. 70255.

On March 31, 2003, the CA rendered the herein challenged Decision,[20] granting Aumentado's petition. The CA reversed and set aside CSC Resolution No. 011812 and ruled that Quirog's appeal should have been dismissed outright for lack of legal personality:

WHEREFORE, based on the foregoing premises, the instant petition is hereby GRANTED, the assailed CSC Resolution Nos. 011812 and 020271, dated November 20, 2001 and February 22, 2002 respectively, are REVERSED and SET ASIDE. The CSCROVII's June 28, 2001 Order and its July 23, 2001 Decision are hereby REINSTATED.

SO ORDERED.

On April 12, 2004, the CA rendered the second assailed Resolution,[21] denying Quirog and Relampagos' motion for reconsideration.

From the adverse decision of the CA, the CSC as well as Relampagos and Quirog interposed separate petitions for review on certiorari. Relampagos and Quirog's petition[22] filed on June 25, 2004, was docketed as G.R. No. 163443, while the CSC's petition[23] filed on July 8, 2004, was docketed as G.R. No. 163568.

In the Resolution[24] dated July 13, 2004, the Court ordered the consolidation of the two petitions.

The consolidated petitions present the following issues for the Court's resolution: (1) whether or not petitioners Relampagos and Quirog have the legal standing to file a motion for reconsideration of, or appeal from, the disapproval of the latter's appointment by the Civil Service Commission, (2) whether or not Quirog's appointment violated Item 3 of CSC Resolution No. 010988 dated June 4, 2001, and 3) whether or not the subject appointment was a midnight appointment.

In the herein challenged decision, the CA held that only the appointing authority could challenge the CSC's disapproval of an appointment. In arriving at such a conclusion, the CA relied solely on Section 2 of Rule VI of CSC Memorandum Circular (MC) No. 40, series of 1998[25] which provides:

Sec. 2. Requests for reconsideration of, or appeal from, the disapproval of an appointment may be made by the appointing authority and submitted to the Commission within fifteen (15) days from receipt of the disapproved appointment.

The petitioners share the view that the word may in the afore-quoted provision simply means that a request for reconsideration or appeal from a disapproved appointment is not vested exclusively in the appointing authority and that Quirog's appeal should have been given due course because she was the real party-in-interest, being the one aggrieved by the disapproval of the appointment.

Petitioners Quirog and Relampagos contend that their appeal before the CA should not have been dismissed on a mere technicality such as lack of legal personality. They argued that litigants must be afforded full opportunity for the adjudication of their case on the merits.

The CSC for its part, pointed out that in previously decided cases, the CSC allowed the appointees to take relief from the disapproval of their appointments as an exception to the rule on legal standing.

Upon the other hand, respondent Aumentado maintains that the controlling rule on the matter of legal standing is the afore-cited Section 2, Rule VI, CSC MC No. 40, series of 1998. He anchors his argument in Mathay, Jr. v. Civil Service Commission,[26] where the Court laid down the ruling that only the appointing authority can request for reconsideration of a CSC-disapproved appointment.

The Court rules for the petitioners.

In the recent case of *Abella, Jr. v. Civil Service Commission*,^[27] the Court declared that both the appointing authority and the appointee are equally real parties in interest who have the requisite legal standing to bring an action challenging a CSC disapproval of an appointment. In said case, we held that:

The CSC's disapproval of an appointment is a challenge to the exercise of the appointing authority's discretion. The appointing authority must have the right to contest the disapproval. Thus, Section 2 of Rule VI of CSC Memorandum Circular 40, s. 1998 is justified insofar as it allows the appointing authority to request reconsideration or appeal.

x x x

Although the earlier discussion demonstrates that the appointing authority is adversely affected by the CSC's Order and is a real party in interest, the appointee is rightly a real party in interest too. He is also injured by the CSC disapproval, because he is prevented from assuming the office in a permanent capacity. Moreover, he would necessarily benefit if a favorable judgment is obtained, as an approved appointment would confer on him all the rights and privileges of a permanent appointee.

x x x

Section 2 of Rule VI of CSC Memorandum Circular 40, s. 1998 should not be interpreted to restrict solely to the appointing authority the right to move for a reconsideration of, or to appeal, the disapproval of an appointment. PD 807 and EO 292, from which the CSC derives the authority to promulgate its rules and regulations, are silent on whether appointees have a similar right to file motions for reconsideration of, or appeals from, unfavorable decisions involving appointments. Indeed, there is no legislative intent to bar appointees from challenging the CSC's disapproval.

The view that only the appointing authority may request reconsideration or appeal is too narrow. The appointee should have the same right. Parenthetically, CSC Resolution 99-1936 recognizes the right of the adversely affected party to appeal to the CSC Regional Offices prior to elevating a matter to the CSC Central Office. The adversely affected party necessarily includes the appointee.^[28]

Also, in *Abella, Jr.* we held that the right of the appointee to seek reconsideration or appeal was not the main issue in *Mathay*:

This judicial pronouncement does not override *Mathay v. Civil Service Commission* xxx. The Court merely noted in passing -- by way of obiter -- that based on a similar provision, only the appointing officer could request reconsideration of actions taken by the CSC on appointments.

In that case, Quezon City Mayor Ismael A. Mathay Jr. sought the nullification of CSC Resolutions that recalled his appointment of a city government officer. He filed a Petition assailing the CA Decision, which had previously denied his Petition for Certiorari for being the wrong remedy and for being filed out of time. We observed then that the CSC Resolutions were already final and could no longer be elevated to the CA. Furthermore, Mathay's Petition for Certiorari filed with the CA was improper, because there was an available remedy of appeal. And the CSC could not have acted without jurisdiction, considering that it was empowered to recall an appointment initially approved.

The right of the appointee to seek reconsideration or appeal was not the main issue in *Mathay*. At any rate, the present case is being decided en banc, and the ruling may reverse previous doctrines laid down by this Court.
^[29]

Clearly, pursuant to *Abella, Jr.*, Quirog had the right to ask for reconsideration of, or to appeal the adverse ruling of CSCROVII. In contrast, Relampagos, by reason of the expiration of his term as governor, had lost the legal

personality to contest the disapproval of the appointment.

As to the validity of Quirog's appointment, the CSCROVII disapproved Quirog's appointment for non-compliance with Item No. 3 of CSC Resolution No. 010988 dated June 4, 2001. Item No. 3 refers to the disapproval of appointments unless certain requisites are complied with. Item No. 3 reads:

- All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, x x x which are issued AFTER the elections, regardless of their dates of effectivity and/or date of receipt by the Commission, x x x shall be disapproved unless the following requisites concur relative to their issuance:
- a) The appointment has gone through the regular screening by the Personnel Selection Board (PSB) before the prohibited period on the issuance of appointments as shown by the PSB report or minutes of its meeting;
- b) That the appointee is qualified;
- c) There is a need to fill up the vacancy immediately in order not to prejudice public service and/or endanger public safety;
- d) That the appointment is not one of those mass appointments issued after the elections.

The CSC ruled that the promotional appointment extended to Quirog by Governor Relampagos was not violative of the aforesaid CSC Resolution. This interpretation by the CSC of its own rules should be given great weight and consideration for after all, it is the agency tasked with interpreting or applying the same.

Records disclose that on May 28, 2001, the PSB of the Human Resource Management and Development Office of Bohol, issued a certification^[30] that Quirog was one of two candidates qualified for the position of PGDH-OPA. On the same day, Quirog was appointed by then Governor Relampagos and on June 1, 2001, she took her oath of office. CSC Resolution No. 010988 was issued three days later, or on June 4, 2001. Evidently, the CSCROVII should not have subjected Quirog's appointment to the requirements under said resolution, as its application is against the prospective application of laws. Having no provision regarding its retroactive application to appointments made prior to its effectivity, CSC Resolution No. 010988 must be taken to be of prospective application. As we have held time and again:

Since the retroactive application of a law usually divests rights that have already become vested, the rule in statutory construction is that all statutes are to be construed as having only a prospective operation unless the purpose and intention of the legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used.^[31]

Prescinding therefrom, it cannot be said that Quirog's appointment violated CSC Resolution No. 010988, the said Resolution having taken effect after the questioned appointment was extended.

It cannot also be said that Quirog's appointment was a midnight appointment. The constitutional prohibition on so-called midnight appointments, specifically, those made within two (2) months immediately prior to the next presidential elections, applies only to the President or Acting President.^[32]

As the Court ruled in *De Rama v. CA*^[33] :

The records reveal that when the petitioner brought the matter of recalling the appointments of the fourteen (14) private respondents before the CSC, the only reason he cited to justify his action was that these were midnight appointments that are forbidden under Article VII, Section 15 of the Constitution. However, the CSC ruled, and correctly so, that the said prohibition applies only to presidential appointments. In truth and in fact, there is no law that prohibits local elective officials from making appointments during the last days of his or her tenure.

We, however, hasten to add that the aforementioned ruling does not mean that the *raison d'etre* behind the prohibition against midnight appointments may not be applied to those made by chief executives of local government units, as here. Indeed, the prohibition is precisely designed to discourage, nay, even preclude, losing candidates from issuing appointments merely for partisan purposes thereby depriving the incoming administration of the opportunity to make the corresponding appointments in line with its new policies. As we held in *Aytona v. Castillo*:

The filling up of vacancies in important positions, if few, and so spaced as to afford some assurance of deliberate action and careful consideration of the need for the appointment and the appointee's qualifications may undoubtedly be permitted. But the issuance of 350 appointments in one night and the planned induction of almost all of them in a few hours before the inauguration of the new President may, with some reason, be regarded by the latter as an abuse of Presidential prerogatives, the steps taken being apparently a mere partisan effort to fill all vacant positions irrespective of fitness and other conditions, and thereby to deprive the new administration of an opportunity to make the corresponding appointments.[34] (Emphasis ours)

The appointment of Quirog cannot be categorized as a midnight appointment. For it is beyond dispute that Quirog had been discharging and performing the duties concomitant with the subject position for a year prior to her permanent appointment thereto. Surely, the fact that she was only permanently appointed to the position of PGDH-OPA after a year of being the Acting Provincial Agriculturist more than adequately shows that the filling up of the position resulted from deliberate action and a careful consideration of the need for the appointment and the appointee's qualifications. The fact that Quirog had been the Acting Provincial Agriculturist since June 2000 all the more highlights the public need for said position to be permanently filled up.

Besides, as correctly held by the CSC:

A careful evaluation of the circumstances obtaining in the issuance of the appointment of Quirog shows the absence of the element of hurriedness on the part of former Governor Relampagos which characterizes a midnight appointment. There is also wanting in the records of the case the subversion by the former governor of the policies of the incumbent Governor Erico Aumentado as a logical consequence of the issuance of Quirog's appointment by the latter. Both elements are the primordial considerations by the Supreme Court when it laid down its ruling in prohibiting midnight appointments in the landmark case of *Aytona vs Castillo*, et. al. [35]

In any event, respondent Governor Aumentado, in a Memorandum[36] dated March 4, 2003, has reinstated Quirog to the permanent position of PGDH-OPA. Such act of respondent bespeaks of his acceptance of the validity of Quirog's appointment and recognition that indeed, the latter is qualified for the subject position.

WHEREFORE, the assailed Decision dated March 31, 2003 and the Resolution dated April 12, 2004 of the Court of Appeals are REVERSED AND SET ASIDE and CSC Resolution Nos. 011812 and 020271 dated November 20, 2001 and February 22, 2002, respectively, are AFFIRMED.

SO ORDERED.

Puno, C.J. Quisumbing, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Brion, JJ., concur.
Ynares-Santiago, on leave.

[1] Penned by then Associate Justice Elvi John S. Asuncion with then Presiding Justice Ruben T. Reyes (now a member of this Court) and Associate Justice Lucas P. Bersamin, concurring; G.R. No. 163443, rollo, pp. 169-174.

[2] Id. at 191.

[3] Id. at 41.

[4] Also called Provincial Agriculturist.

[5] G.R. No. 163443; rollo, pp .42-43.

[6] Id. at 49.

[7] Id. at 45-46.

[8] Pertinently, Item 3(d) reads:

- All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, x x x which are issued AFTER the elections, regardless of their dates of effectivity and/or date of receipt by the Commission, x x x shall be disapproved unless the following requisites concur relative to their issuance:

x x x

d) That the appointment is not one of those mass appointments issued after the elections.

[9] Entitled Castro, Ariel, et. al., Re: Appeal, Termination of Services, Midnight Appointments.

[10] G.R. No. 163443; rollo, p. 37.

[11] Id.at. 54-55.

[12] Id. at 69-76.

[13] Pertinently, Item 3(a) reads:

- All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, x x x which are issued AFTER the elections, regardless of their dates of effectivity and/or date of receipt by the Commission, x x x shall be disapproved unless the following requisites concur relative to their issuance:

a) The appointment has gone through the regular screening by the Personnel Selection Board (PSB) before the prohibited period on the issuance of appointments as shown by the PSB report, or minutes of its meeting.

[14] No. L-19313, January 19, 1962, 4 SCRA 1.

[15] Rollo, p. 193.

[16] G.R. No. 163443; id. at 78-89.

[17] CSC Resolution No. 010114 dated January 10, 2001 pertinently reads: The publication of a particular vacant position shall be valid until filled up but not to extend beyond six months reckoned from the date the vacant position was published.

[18] G.R. No. 163443 Rollo, pp. 113-120.

[19] Id. at 121-138.

[20] Supra note 1.

[21] Supra note 2.

[22] G.R. No. 163443, rollo, pp. 10-34.

[23] G.R. No. 163568, *id.*, at 10-19.

[24] *Id.* at 32.

[25] Revised Omnibus Rules on Appointments and Other Personnel Actions.

[26] G.R. No. 1320214, August 9, 1999, 312 SCRA 91, 99-100.

[27] G.R. No. 152574, November 17, 2004, 442 SCRA 507.

[28] *Id.* at 518, 521-522.

[29] *Id.* at 523-524.

[30] *Supra* note 6.

[31] *Paloma v. Mora, et al.*, G.R. No. 157783, September 23, 2005, 470 SCRA 711, 723.

[32] The constitutional provision referred to is Section 15, Article VII which states: "Two months immediately before the next presidential elections and up to the end of his term, a President or Acting President shall not make appointments, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety."

[33] G.R. No. 131136, February 28, 2001, 353 SCRA 95, 102.

[34] *Supra* note 14 at 10.

[35] G.R. No. 163443; *rollo*, p. 74.

[36] *Id.* at 193.

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.