

DOMICIANO F. VALER, PETITIONER, VS. CELERINO O. BRIONES, RESPONDENT.*G.R. No. 20033. November 29, 1963*

Ponente: CONCEPCION, J.

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This is an original action for quo warranto involving the office of member of the Board of Directors of the Abaca Corporation of the Philippines. Petitioner Domiciano F. Valer prays that a writ of quo warranto be issued ousting respondent Celerino O. Briones as member of said Board, declaring that he (petitioner) is entitled to said office and placing him in possession thereof.

Having been appointed ad interim member of said Board, and said appointment having been confirmed by the Commission on Appointments, petitioner assumed said office and performed the duties thereof from December 22, 1958 to July 28, 1961, when his term of office expired. On August 8, 1961, he was designated "acting member" of the same Board, in view of which he continued discharging the functions thereof up to June 26, 1962, when respondent Celerino O. Briones, whom the new Executive had, on June 22, 1962, appointed ad interim member of said Board, vice petitioner herein, for a term to expire on July 28, 1964, assumed the duties of said office.

Petitioner maintains that on November 6, 1961, the former Executive had issued in his favor an ad interim appointment to the same office, that said appointment was confirmed by the Commission on Appointments on April 27, 1962, and that on May 12, 1962, he took the corresponding oath of office. However, this second ad interim appointment in favor of the petitioner was not released until December 29 or 30, 1961, when the Office of the President sent a telegram notifying petitioner of said appointment, and on December 31, 1961, the new President issued Administrative Order No. 2, recalling, withdrawing and cancelling all ad interim appointments made or released by his predecessor in office after December 13, 1961. Accordingly, this case falls within the purview of our decision in *Aytona vs. Castillo*, G. R. No. L-19313, promulgated January 19, 1962, and petitioner is not entitled to the relief prayed for (*Rodriguez vs. Quirino*, L-19800, October 28, 1963).

Moreover, upon inquiry by the auditor of the Abaca Corporation of the Philippines, made on January 17, 1962, as to petitioner's status, which inquiry was referred to him on January 19, 1962, petitioner, in a first indorsement, dated January 24, 1962, averred that he had "no knowledge of the supposed appointment by the then President Garcia dated December 29, 1961, issued in his favor as member of the Board of Directors of the Abaca Corporation of the Philippines * * *", and that "if there is" such appointment, he had "not accepted or taken oath of office under said appointment." Thus, petitioner's claim to the office in question was based exclusively upon his "designation" on August 8, 1961 as "acting member" of the aforementioned Board. It is well settled that a "designation" or appointment as "acting" officer is essentially temporary and revocable at the pleasure of the appointing power (*Austriav. Amante*, 79 Phil. 780; *Mendanilla vs. Onandia*, L-17803, June 30, 1962; *Mendez vs. Ganson*, 101 Phil., 48; *Castro vs. Solidum*, L-7750, June 30, 1955; *Madrid vs. Auditor General*, 108 Phil., 578; *U.P. vs. CIR.*, 107 Phil., 848; *Agapayan vs. Ledesma*, L-10535, April 25, 1957). Hence, the legality of the

subsequent ad interim appointment of respondent herein, which amounts to a revocation of said designation of the petitioner as acting member of the Board, is manifest (*Valencia vs. Peralta*, L-20864, August 23, 1963).

Wherefore, the petition is dismissed and the writ prayed for denied, with costs against the petitioner. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

Barrera, J., concurs in the result.

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