

PROCOPIO R. MORALES, JR. PETITIONER, VS. TORIANO PATRIARCA AND THE HON. JUAN R. LIWAG, RESPONDENTS.*G.R. No. 21280. April 30, 1965*

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-21280/>**BENGZON, J.P., J.:**

On November 6, 1961, Procopio Morales, Jr. was extended an ad interim appointment as Justice of the Peace of an Andres, Quezon. On December 27, 1961, the appointment was released. Procopio Morales, Jr. took his oath, and assumed office, on December 28, 1961.

Secretary of Justice Diokno, on January 27, 1962, telegrammed the Executive Judge of Lucena City, stating: 44 Under Administrative Order Two President Macapagal And Supreme Court Decision Aytona Case, Morales Appointment Declared Without Effect Stop Please Advise Him Vacate Office Immediately".

Procopio Morales, Jr., on February 26, 1962, wrote the Secretary of Justice for reconsideration of said "advice". On April 3, 1962, the Secretary of Justice denied the request for reconsideration of the order to vacate.

On April 27, 1962, the Commission on Appointments confirmed Procopio Morales, Jr.'s appointment.

On October 19, 1962, Toriano Patriarca was extended an ad interim appointment as Justice of the Peace of San Andres, Quezon. The new appointee took his oath, and assumed office, on October 26, 1962.

On May 13, 1963, Procopio Morales, Jr. filed in this Court the instant petition for "Quo Warranto, Prohibition, Injunction, Etc.," against Toriano Patriarca and the Secretary of Justice.

Petitioner contends, first, that his appointment is not among the so-called midnight appointments¹ withdrawn and declared without effect by Administrative Order No. 2, and in the light of this Court's ruling in Aytona vs. Castillo, L-19313, January 19, 1962; secondly, that his present suit is filed on time.

From the decisions of this Court in the wake of the Aytona ruling, it is clear that petitioner's appointment was not a midnight appointment. The same was extended on November 6, 1961, even before election day, indicating deliberate and careful action (Merrera vs. Liwag, L-20079 September 30, 1963). Petitioner took his oath on December 28, 1961, before the "scramble" in Malacañang that started in the evening of December 29, 1961 (Gillera vs. Fernandez, L-20741, January 31, 1964). No haste and irregularity, therefore, attended petitioner's appointment, and he took his oath days before the promulgation, on December 31, 1961, of Administrative Order No. 2 (Soreno vs. Secretary of Justice, L-20272, December 27, 1963).

Petitioner, however, cannot be reinstated, since the present action for reinstatement is filed more than one year from his removal. As a public official in the service, he should have begun his court action for reinstatement, be it by quo warranto or mandamus, within one year from his removal or separation, otherwise his action is barred (Sec. 16, Rule 66, Rules of Court; Unabia vs. Mayor, 99 Phil. 253; 53 Off. Gaz., 132; Velasquez vs. Gil, 99 Phil. 457; 53 Off. Gaz., 5615; Jose vs. Lacson, L-10177, May 17, 1957; Cuyo vs. City Mayor of Baguio, 101 Phil. 558;

Abella vs. Rodriguez, 54 Off. Gaz., 2879; Erauda vs. Cramen 54 Off. Gaz., 6253; Alipio vs. Rodriguez L-17336, December 26, 1963).

Petitioner's removal was, at the latest, on April 3, 1962, when the Secretary of Justice denied his motion for reconsideration of the order to vacate. Since the one-year period runs even during the pendency of a motion for reconsideration in the administrative level (Torres vs. Quintos, 88 Phil. 436), said removal should even be deemed prior to April 3, 1962. The present suit was filed, as stated, on May 13, 1963, that is, at least 1 year, 1 month and 10 days from petitioner's removal.

It is petitioner's contention, however, that the one-year period should be counted from October 26, 1962, the date his successor assumed office. We cannot accept such a view. The rationale of the one-year period is that title to public office should not be subjected to uncertainties but should be determined as speedily as possible (Tumalak vs. Egay, 82 Phil., 828; 46 Off. Gaz., 3693). Consequently' the period runs even when there is no person as yet pointed to succeed in the position (Bautista vs. Fajardo, 38 Phil. 624; Agcaoili vs. Suguitan, 48 Phil. 076; Lim. vs. Yulo, 62 Phil. 161).

Wherefore, the petition is hereby dismissed, with costs against petitioner. It is so ordered.

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

RESOLUTION

October 21, 1965

BENGZON, J. P., J.:

Petitioner filed herein on September 3, 1965 a "petition for relief" after entry of judgment on June 24, 1965-praying that his second motion for reconsideration and the memorandum in support thereof be considered on the merits.

The decision of this Court promulgated April 30, 1965 ruled that petitioner cannot be reinstated to the office of Justice of the Peace of San Andres Quezon, since his present action for reinstatement was filed more than one year from his removal.

Against the foregoing, petitioner would argue, in his second motion for reconsideration and its supporting memorandum, that (1) he was not removed at all; (2) that the present action is not for reinstatement; and (3) that, at any rate, the one-year period should be counted from October 26, 1962 when respondent Patricia assumed the disputed office, for only then could petitioner have initiated quo warranto proceedings with a view to reinstatement.

- As stated in the decision, petitioner was ordered by then Secretary of Justice Diokno to vacate the office in question. On April 3, 1962 the Secretary of Justice denied petitioner's motion for reconsideration of said order to vacate. From April 3, 1962, thereof, at the latest, petitioner was dismissed from his office. A clear indication that petitioner was deemed removed from said date is the refusal of the Secretary of Justice thereafter to authorize payment of salaries and emoluments to him or recognize him in any way as such Justice of the Peace. Consequently, whether petitioner was legally or illegally removed, the fact is that he was removed just the same. Petitioner may have continued discharging the functions of his office, but the same does not detract from the fact that he had been dismissed and that the said dismissal had been implemented by non-recognition of his official capacity, and non-payment of salaries.

- The present suit, entitled "Quo Warranto, Prohibition, Injunction, Etc., is directed against the Secretary of Justice as well as petitioner's successor in office. It seeks to compel the Secretary of Justice to recognize petitioner as Justice of the Peace of San Andres, Quezon, and to authorize payment to him of the salaries and emoluments appurtenant thereto. The suit, is, therefore, in substance an action for mandamus to compel the Secretary of Justice to reinstate petitioner to the office from which the former had dismissed him.

As a matter of fact petitioner stated in his reply memorandum that the present action is for mandamus against the Secretary of Justice.

"* * * the instant petition is not solely for quo warranto, but also for mandamus, prohibition, etc. as may be readily gathered from the allegations in paragraph 3,4, and 5 of the petition, Verily Section 3 of Rule 67, not to mention of Rule 60, referring to injunction, authorizes the filling of a petition for mandamus against any person who 'unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy, and adequate remedy in the ordinary course of law, * * *', while Section 2, also of Rule 67, likewise authorizes the filling of a petition for prohibition against any person, 'whether exercising functions judicial or ministerial, without or in excess of his jurisdiction, or with grave abuse of discretion and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law * * *.' The exactly, is what the Department of Justice had done * * *"

"* * * as far as respondent Department of Justice is concerned, the action is not for a quo warranto but for mandamus * * *" (Petitioner's Reply Memorandum, pp. 1-3.)

- Petitioner could have brought his instant action for mandamus, to compel the Secretary of Justice to reinstate him, even on April 3, 1962, that is, even before respondent Patricia assumed office. In mandamus, unlike quo warranto, there is no requirement that the respondent be actually holding the disputed office. The fact, therefore, that petitioner was not replaced by another for some time after his dismissal could have precluded him from filing an action for reinstatement.

As pointed out in the decision, the one-year limitation for bringing an action for reinstatement has been applied as well to mandamus as to quo warranto proceedings (Unabia vs. Mayor, 99 Phil., 253; 53 Off. Gaz., 132).

Finally, examining once again the reason behind his for bringing of limitation, we still find it equally obtaining in a case where no other incumbent has as yet been appointment to succeed, as where there is one. The rationale is stated in Tumalak vs. Egay, 82 Phil., 8258; 46 Off. Gaz., 3693, 3695: "It is not proper that the titled to public office should be subjected to continued uncertainty and the people's interest requires that such right should be determined as speedily as possible." After having been ordered to vacate his office and thereupon considered dismissed by the Secretary of Justice, petitioner could only have proceeded to discharge the functions of the office at issue under "continued uncertainty" as to his title. Consequently, he should have forthwith taken steps to question the legality of the order of removal, and his failure to do so within the time prescribed by law has rendered the present action untenable.

From the above discussion it results that even in the light of arguments set forth in petitioner's second motion for reconsideration and its supporting memorandum, the instant action still would not lie.

Wherefore, the petition for relief is denied. So ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Dizon, Regala, Makalintal and Zaldivar, JJ., concur.

Petition denied.

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.