

EXEQUIEL KARE, PLAINTIFF AND APPELLANT, VS. JULIAN M. LOCSIN, DEFENDANT AND APPELLEE.

G.R. No. 42107. June 18, 1935

Ponente: BUTTE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-42107/>

BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Manila sustaining the demurrer of the defendant-appellee to & complaint in which the plaintiff-appellant prays for a personal judgment for P9,600 which was paid to the defendant by the House of Representatives of the Ninth Philippine Legislature as compensation for his services as a member of said House.

It is alleged in substance that the plaintiff and the defendant were opposing candidates at a special election held on September 29, 1931, for the office of representative for the first representative district of Albay. No question is raised as to the qualifications or eligibility of the defendant for said office nor as to the legality of the election but it is alleged that the majority of 105 votes in favor of the defendant certified to by the provincial board M canvassers was not actually received by the defendant; that the election returns were falsified, illegal and irregular in various respects and that it was the plaintiff and not the defendant who received in fact the majority of the votes cast.

Subsequently, the plaintiff filed an election protest before the House of Representatives which was heard and tried by the committee on elections and resulted in a resolution of the House adopted January 31, 1933, which unseated Mr. Locsin and declared Mr. Kare the elected representative of the First District of Albay.

Mr. Locsin presented his credentials which were accepted by the House and he served as a member thereof from September 29, 1931, to January 30, 1933, and was paid the compensation of a member by authority of the House.

The petition alleges that the plaintiff has always been ready and willing to perform the duties of said office and is therefore rightfully entitled to the compensation therefor from the date of his election on September 29, 1931; that he has made demand on the defendant for the said compensation amounting to P9,600 illegally received by the defendant and now prays for judgment for the said sum as salary of his office "illegally usurped" by the defendant, together with P4,000 additional damages.

The defendant demurred, first, on the ground that the court has no jurisdiction over the subject matter of. the action; second, that the complaint does not state facts sufficient to constitute a cause of action; and third, that the complaint is vague, ambiguous, unintelligible and uncertain.

We are of the opinion that the first ground of the demurrer is sound for the following reasons:

Section 18 of the Organic Act of the Philippine Islands (39 Stat. at L., page 545) provides in part as follows:

"That the senate and house of representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members, * * *. The senators and representatives shall receive an annual compensation for their services, to be ascertained by law, and paid out of the treasury of the Philippine

Islands."

In the case before us Julian M. Locsin presented his certificate of election to the House of Representatives of the Ninth Philippine Legislature. It is admitted in the complaint that Locsin was proclaimed elected to said office by the provincial board of canvassers of the Province of Albay, his certificate reciting that he obtained a majority of 105 votes; that Locsin qualified for and performed the duties of said office from September 29, 1931, to January 30, 1933, and was paid the compensation provided by law for said period of service.

In the case of *Page vs. United States* (127 U. S., 67; 32 Law. ed., 65), it was held that one whose credentials showed that he was regularly elected a member of Congress and who was sworn in and took his seat and served and drew the salary of the office should be considered the "predecessor" of the person who contested his election and was seated in his stead. In that case William A. Pirce presented his certificate of election and was recognized by the House as a member of Congress on March 4, 1885. His election was contested by Page. On January 25, 1887, the House adopted the following resolution:

"Resolved that William A. Pirce was not elected a member of the House of Representatives of the Forty-ninth Congress from the Second Congressional District of Rhode Island, and that the seat be declared vacant." The Supreme Court held that Page could not recover compensation for the period during which Pirce actually served and until he was ousted by vote of the House. It is true the case arose under a special statute (section 51 of the Revised Statutes of the United States). But the case is significant in holding that Pirce was to be regarded as the lawful "predecessor" of Page although Page claimed and proved that he, not Pirce, was entitled to the certificate of election to the office. In other words, when a legislative body which, by the constitution is made the sole judge of the elections, return and qualifications of its members, in a formal way accepts the credentials of an applicant, administers to him the oath of office, allows him to serve and vote and participate in its proceedings and pays him the lawful salary during his term of service, this recognition is an adjudication which clothes the member with a de jure right to the office until he is unseated. He is not to be classed as a usurper or as a mere de facto officer acting under a colorable title. There is no tribunal with authority to review or annul the resolutions of the House in this respect except the House itself. The fact that the House may at a later date, by reason of a contest or for any other reason, unseat the member, does not, in the absence of express language to that effect, retroactively convert his prior de jure status into the status of a usurper or a de facto officer holding merely under a colorable title.

The resolution which the Philippine House adopted on January 31, 1933, unseating Mr. Locsin and seating Mr. Kare, is substantially in the same form as the resolution adopted by the House of Representatives of Congress in the case of William A. Pirce, *supra*. It reads as follows:

"Se resuelve, Desaprobar, como por la presente se desaprueba, el acta del Honorable Julian Locsin, y declarar, como por la presente se declara, electo Representante por el Primer Distrito de Albay, al recurrente Exequiel Kare." Therefore, the ratio decidendi of the decision in *Page vs. United States*, *supra*, is applicable here.

In this respect a legislative body which by the constitution is made the sole judge of the elections, returns and qualifications of its members is fundamentally different from other legislative bodies, for example, provincial boards and municipal councils, which are not made by law the sole judges of the elections, returns and qualifications of their members. In other words, in the former case the action of the Legislature is an adjudication conclusive and final. In the latter case the resolution at most would confer a prima facie right reviewable as a rule by the courts. This case therefore presents no analogy to the one of a de facto insular or provincial officer whose right is contested and whose title to office depends on a judicial determination of the controversy. (See *State vs. Porter*, 55 Mont, 471 [1919].)

Locsin drew his pay by resolution and authority of the Legislature. The propriety of those payments cannot be

questioned on this complaint. We recognize Locsin's right to receive and to retain the compensation because the Legislature voted it to him in spite of Mr. Kare's pending contest and claim to that compensation. The Legislature's determination of Mr. Locsin's right to compensation necessarily carries the corollary of Mr. Kare's lack of right to the same compensation. The Legislature might possibly have required reimbursement by Locsin had it been its intention to recognize Mr. Kare's claim to the same compensation; but not having done so, Locsin's superior right to this compensation is *res judicata* for the courts.

Counsel for the appellant, in his brief, admits that he has searched "dusty tomes" in vain for a parallel case. The cases of *Sheridan vs. City of St. Louis* (183 Mo., 25 [1904]) and *State ex rel. Cutts vs. Hart, State Treasurer* (56 Mont., 571 [1909]) involved appointments to office which were void *ab initio* and are therefore not in point here. The interesting decisions of *Stuhr vs. Curran* (44 N. J. L. R., 181; 43 Am. Rep., 353) and *Chubbuck vs. Wilson* (151 Cal., 162; 12 Ann. Cas., 888), and the cases relied upon by the appellant pertaining to the right of a *de jure* public officer to recover the compensation collected by a usurper or *de facto* incumbent of the office are likewise inapplicable because the offices there involved do not fall within the class as to which the House and Senate of the Legislature respectively are vested with exclusive jurisdiction by constitutional provision.

The lower court was therefore right in sustaining the demurrer to the complaint on the ground of lack of jurisdiction. The judgment is affirmed with costs against the appellant.

Malcolm, Abad Santos, Hull, Vickers, Goddard, and Diaz, JJ., concur.

Judgment affirmed.

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.