

**DR. LAMPA I. PANDI AND DR. JARMILA B. MACACUA, PETITIONERS,
VS. THE COURT OF APPEALS, AND DR. AMER A. SABER,
RESPONDENTS.**

G.R. No. 116850. April 11, 2002

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-116850/>

CARPIO, J.:

The Case

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal of the decision of the Court of Appeals dated April 15, 1994[1] and its resolution dated August 16, 1994.[2] The Court of Appeals granted the Petition for a Writ of Quo Warranto[3] filed against petitioners Dr. Lampa I. Pandi and Dr. Jarmila B. Macacua (“Pandi” and “Macacua”, respectively, for brevity) in favor of respondent

Dr. Amer A. Saber (“Saber” for brevity). The Court of Appeals declared Saber entitled to the position of Officer-in-Charge of the Integrated Provincial Health Office-Amai Pakpak General Hospital (“IPHO-APGH” for brevity), Lanao del Sur.

The Facts

On August 9, 1993, Macacua, in her capacity as Regional Director[4] and as Secretary[5] of the Department of Health of the Autonomous Region in Muslim Mindanao (“DOH” and “ARMM”, respectively, for brevity), issued a Memorandum designating Pandi, who was then DOH-ARMM Assistant Regional Secretary, as Officer-in-Charge of the IPHO-APGH, Lanao del Sur. In the same Memorandum, Macacua detailed Dr. Mamasao Sani (“Sani” for brevity), then the provincial health officer of the IPHO-APGH, Lanao del Sur, to the DOH-ARMM Regional Office in Cotabato City.

On September 15, 1993, Lanao del Sur Provincial Governor Mahid M. Mutilan issued Office Order No. 07 designating Saber also as Officer-in-Charge of the IPHO-APGH, Lanao del Sur.

On August 12, 1993, Sani filed a complaint[6] with the Regional Trial Court of Lanao del Sur, Branch 10, Marawi City challenging the August 9, 1993 Memorandum transferring him to the DOH-ARMM Regional Office in Cotabato City, alleging that he is the holder of a permanent appointment as provincial health officer of the IPHO-APGH, Lanao del Sur.

On October 5, 1993, Saber filed with the Court of Appeals a petition for quo warranto with prayer for preliminary injunction, claiming that he is the lawfully designated Officer-in-Charge of the IPHO-APGH, Lanao del Sur. On October 14, 1993, the Court of Appeals issued a temporary restraining order enjoining Pandi from further discharging the functions and duties as Officer-in-Charge of the IPHO-APGH, Lanao del Sur. On October 25, 1993, Pandi and Macacua filed their comment on the petition and opposition to the application for writ of preliminary injunction.

On October 29, 1993, then President Fidel V. Ramos issued Executive Order No. 133 transferring the powers and functions of the Department of Health in the region to the Regional Government of the ARMM. On November 6, 1993, Macacua, again in her capacity as DOH-ARMM Secretary-Designate, issued a Memorandum reiterating Pandi's designation as Officer-in-Charge of the IPHO-APGH, Lanao del Sur, as well as Sani's detail to the Regional Office of the DOH-ARMM in Cotabato City.

On November 19, 1993, the Court of Appeals issued a writ of preliminary injunction upon the filing by Saber of a P100,000.00 bond. On November 24, 1993, Pandi and Macacua filed a motion for reconsideration or recall of the writ of preliminary injunction. With an offer of a P200,000.00 counter-bond, Pandi and Macacua moved on December 13, 1993 to dissolve the writ of preliminary injunction. The Court of Appeals denied both motions.

On December 8, 1993, Sani filed with the Court of Appeals a motion for intervention accompanied by a complaint in intervention. Pandi, Macacua and Saber opposed the same.

On March 21, 1994, Pandi and Macacua filed a motion seeking the dismissal of Saber's petition, on the ground that the issues therein had become moot and academic. Pandi and Macacua cited as reason the enactment by the ARMM Regional Assembly of the Muslim Mindanao Autonomy Act No. 25, otherwise known as the ARMM Local Government Code ("ARMM Local Code" for brevity), as well as the execution of the Memorandum of Agreement dated March 14, 1994 between the DOH of the National Government and the ARMM Regional Government.[7]

On April 15, 1994, the Court of Appeals rendered the assailed decision.[8] In a resolution dated August 16, 1994, the Court of Appeals denied Pandi and Macacua's motion for reconsideration and supplemental motion for reconsideration of the decision.[9]

The Ruling of the Court of Appeals

The Court of Appeals held that Saber is the lawfully designated Officer-in-Charge of the IPHO-APGH, Lanao del Sur. The Court of Appeals ruled that Lanao del Sur Governor Mahid Mutilan has the power and authority to appoint the provincial health officer under Section 478[10] of the Local Government Code of 1991 (R.A. No. 7160, the "1991 LGU Code" for brevity). The Court of Appeals declared:

"xxx. Accordingly, health services including hospitals, which used to be under the central authority of the Department of Health were devolved to the local government units (Art. 25, Implementing Rules and Regulations of the Local Government Code of 1991; Sec. 17, RA 7160). Pertinently, Sec. 478 of RA No. 7160 makes mandatory for provincial governments "the appointment of a health officer" and under Article 115 of the Implementing Rules and Regulations, it is specifically provided that the "Provincial Health Officer" is one of the "mandatory appointive provincial officials." There is thus, no doubt in the mind of the Court that the authority and power to appoint the Provincial Health Officer is vested by law in the Provincial Governor." [11] (Emphasis supplied)

The Court of Appeals likewise ruled that the issuance of Executive Order No. 133, and the Memorandum of Agreement entered between the DOH of the National Government and the ARMM pursuant to Executive Order No. 133, did not render moot and academic the issues raised in the proceedings before it. The Court of Appeals explained:

"xxx. Mere devolution of the powers and functions of the DOH to the ARMM does not authorize Dr. Macacua as Secretary of the DOH-ARMM to make the questioned designation. Sections 2, 3, 4, 5 and 7 of Executive Order 133 which provide for the transfer of certain powers and functions of the DOH to the ARMM, speak of administrative supervision and control and other functions which do not in any manner relate to the power of appointment and designation of the Provincial Health Officer, which under the law is clearly vested in the

provincial chief executive.”[12]

Neither did the Court of Appeals give credence to Pandi and Macacua’s argument that the passage of the ARMM Local Code puts to rest the issues in the instant case. The Court of Appeals stated:

“While Section 457 (b) and (d) of MMA Act No. 25 state that:

“(b) In addition thereto, the governor may appoint a provincial natural resources and environment officer, a provincial cooperative officer, a provincial architect and a provincial information officer.

“Provided, that the governor shall submit a list of at least three (3) qualified recommendees to the autonomous regional government for appointment, according to Civil Service Law to the positions of a Provincial Health Officer, a Provincial Social Welfare and Development Officer, a Provincial Agriculturist, a Provincial Natural Resources and Environment Officer, and a Provincial Tourism Officer, to be paid by regional funds.

x-x-x x-x-x x-x-x

“(d) Unless otherwise provided herein, heads of the departments and offices shall be appointed by the governor with the concurrence of the majority of all the sangguniang panlalawigan members, subject to civil service law, rules and regulations. x x x”

it is opined that the above provisions should be interpreted to conform to or should otherwise be not contrary to the Organic Act (RA 6734) for the Autonomous Region in Muslim Mindanao.”[13]

The Court of Appeals maintained that the Organic Act of 1989 and the ARMM Local Code could not prevail over the 1991 LGU Code. The Court of Appeals interpreted Section 457 (b) and (d) of the ARMM Local Code to mean that it is the ARMM Regional Governor, and not the Provincial Governor, who exercises a recommendatory prerogative in the appointment of the provincial health officer. The Court of Appeals declared:

“Section 1 of Article V (on “Powers of Government”) of Republic Act 6734 provides:

“SECTION 1. The Regional Government shall exercise powers and functions for the proper governance and development of all the constituent units within the Autonomous Region consistent with the constitutional policy on regional and local autonomy and decentralization: Provided, That nothing herein shall authorize the diminution of the powers and functions already enjoyed by the local government units.”

Also, Section 18, Article VIII of the same Organic Act states:

“SECTION 18. Subject to the exceptions provided for in this Organic Act, the regional Governor shall have control of all the regional executive commissions, boards, bureaus, and offices. He shall ensure that the laws be faithfully executed. The Regional Governor shall exercise general supervision over the local government units within the Autonomous Region: Provided, however, That nothing herein shall authorize the diminution of the powers and functions already enjoyed by local government units.”

From the above-cited provisions of the Organic Act for ARMM, it is clear that nothing therein should be construed to authorize and empower the Regional Government and the Regional Governor for that matter to diminish, much less, render nugatory the powers and functions already enjoyed by the local government units. Inasmuch as the local chief executive of the province already enjoys the mandatory power to appoint the Provincial Health Officer under Republic Act 7160, it is believed that Section 457 (b) and (d) of MMA Act 25 was not intended to diminish the power of the Provincial Governor to appoint/designate the Provincial Health Officer for his province. Accordingly, Section 457 (b) merely grants to the Regional Governor recommendatory prerogative over appointments for the position of Provincial Health Officer.”[14]

The Court of Appeals likewise ruled that there is nothing in Section 18,[15] Chapter 5, Title IX, Book IV of the Revised Administrative Code of 1987 which explicitly or even impliedly vests in Macacua, as DOH-ARMM

Secretary, the power to make such an appointment or designation.

The Court of Appeals further ruled that Article 465[16] of the 1991 LGU Code, which limits the appointing power of the Provincial Governor to provincial officials and employees paid mainly from provincial funds, refers to employees whose appointments are not otherwise provided in the Code. Since the provincial health officer is a mandatory appointive provincial officer under Section 478 of the 1991 LGU Code, the limitation in Article 465 cannot apply to the appointment or designation of a provincial health officer even if his salary is paid from national or regional funds.

The Court of Appeals also found that Sani's permanent appointment is that of "Provincial Health Officer (R-05 5[th] Step) in the Office of the Regional Health Director, Regional Health Office No. XII, Cotabato City x x x." Sani was merely on detail to the position of provincial health officer of the IPHO-APGH, Lanao del Sur. Sani could not claim a vested right or entitlement to permanence in that office. Moreover, the incumbent Provincial Governor of Lanao del Sur, as the appointing authority for all positions made mandatory in the organizational structure of the provincial government, did not appoint or designate Sani to the position of provincial health officer. Accordingly, for lack of merit, the Court of Appeals denied Sani's motion to intervene.

The dispositive portion of the assailed decision of the Court of Appeals declared that:

"WHEREFORE, the Writ of Quo Warranto is GRANTED and petitioner, Dr. Amer A. Saber, is hereby declared entitled to the position of Officer-in-Charge of the Integrated Provincial Health Office. The preliminary injunction heretofore issued is hereby made permanent.

SO ORDERED."[17]

Hence, this petition.

The Issues

The petitioners raise the following issues:

- WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT SABER IS THE LEGALLY DESIGNATED OFFICER-IN-CHARGE OF THE IPHO-APGH, LANAO DEL SUR, PURSUANT TO SECTION 478 OF THE 1991 LGU CODE MAKING MANDATORY FOR PROVINCIAL GOVERNMENTS THE APPOINTMENT OF A HEALTH OFFICER, AND VESTING IN GOVERNOR MAHID MUTILAN OF LANAO DEL SUR THE POWER AND AUTHORITY TO APPOINT THE PROVINCIAL HEALTH OFFICER;
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT EXECUTIVE ORDER NO. 133 DATED OCTOBER 29, 1993, THE ARMM LOCAL CODE, AND THE MEMORANDUM OF AGREEMENT ENTERED INTO BETWEEN THE DEPARTMENT OF HEALTH (NATIONAL) AND THE ARMM, DID NOT RENDER MOOT AND ACADEMIC THE ISSUES RAISED IN THE PETITION;
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT THE REGIONAL GOVERNOR OF THE ARMM HAS ONLY A RECOMMENDATORY PREROGATIVE IN THE APPOINTMENT OF PROVINCIAL HEALTH OFFICER UNDER SECTION 457 OF THE ARMM LOCAL CODE;
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE ORGANIC ACT OF 1989 IS AN EXCEPTION TO THE 1991 LGU CODE AND THAT THE FORMER PREVAILS OVER THE LATTER;
- WHETHER OR NOT THE COURT OF APPEALS ERRED IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION AND SUPPLEMENTAL MOTION FOR RECONSIDERATION OF THE DECISION

IN CA-G.R. SP NO. 32242; AND

- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN APPROVING THE BOND POSTED BY PRIVATE RESPONDENT WITHOUT AFFORDING THE PETITIONERS OPPORTUNITY TO COMMENT ON OR EXCEPT TO ITS SUFFICIENCY OR OF THE SURETY OR SURETIES THEREON, AND IN ISSUING A WRIT OF PRELIMINARY INJUNCTION WITHOUT HEARING.

The Ruling of the Court

The Court finds the petition meritorious.

All the issues raised by petitioners can be reduced into three basic questions. First, whether an incumbent provincial health officer of Lanao del Sur can be assigned to another province and if so, who can order such assignment. Second, who can designate the Officer-in-Charge in the provincial health office of Lanao del Sur - the Provincial Governor or the ARMM Secretary of Health. Third, who is empowered to appoint the provincial health officer of Lanao del Sur - the Provincial Governor, the Regional Governor or the ARMM Secretary of Health.

The answers to these questions require an examination of the laws before and after the enactment of the Organic Act of 1989. The relevant laws cover five periods. The first period is the time prior to the enactment of the Organic Act of 1989. The second period is the time after the enactment of the Organic Act of 1989 but before the adoption of the 1991 LGU Code. The third period is the time after the enactment of the 1991 LGU Code but before the adoption of the ARMM Local Code. The fourth period is the time after the adoption of the ARMM Local Code but before the enactment of the Organic Act of 2001. The fifth period is the time after the enactment of the Organic Act of 2001.

First Period: Prior to the Organic Act of 1989

Prior to the passage of the Organic Act of 1989, the law governing the appointment of provincial health officers was found in Executive Order No. 119,[18] then the charter of the Department of Health, issued on January 30, 1987 by then President Corazon C. Aquino. The provincial health office was an agency of the Ministry of Health, and the Minister of Health was the appointing power of provincial health officers. Section 17 of Executive Order No. 119 provided as follows:

“Section 17. Provincial Health Office. The integrated Provincial Health Office created under Executive Order No. 851 shall remain as the Ministry agency in the province. It shall exercise supervision and control over district health offices and other field units of the Ministry in the province, except those otherwise placed under the Ministry proper or directly under the Regional Health Office.

The Provincial Health Office shall be headed by a Provincial Health Officer. x x x. The Provincial Health Officer and Assistant Provincial Health Officer shall be appointed by the Minister to a region, and their assignment to a province shall be made by the Minister on recommendation of the Regional Director.”
(Emphasis supplied)

Under Section 17 of Executive Order No. 119, a provincial health officer is appointed to “a region” and not to a province. The Minister of Health, upon recommendation of the Regional Director, can assign the provincial health officer to any province within the region.

The Local Government Code of 1984 (Batas Pambansa Blg. 337, or the “1984 LGU Code” for brevity) did not include the provincial health officer as an official of the provincial government. Section 199 of the 1984 LGU Code stated that:

“Sec. 199. Officials of the Provincial Government. (1) There shall be in each province a governor, a vice-governor, members of the sangguniang panlalawigan, a provincial secretary, a provincial treasurer, a provincial assessor, a provincial budget officer, a provincial engineer, a provincial agriculturist and a provincial planning and development coordinator.”

The enumeration of provincial officials in Section 199 clearly excluded the provincial health officer. Although called the provincial health officer, this official was not a provincial government official but a national government official appointed by the Minister of Health and paid entirely from national funds.

Under the 1984 LGU Code, the Provincial Governor could appoint only “heads of offices and other employees of the provincial government” whose salaries came mainly from provincial funds, unless the law made him the appointing power regardless of where the salaries of the appointees were sourced. Section 203 of the 1984 LGU Code provided that:

“Sec. 203. Provincial Governor as Chief Executive of the Province; Powers and Duties. - (1) The governor shall be the chief executive of the provincial government and shall exercise such powers and duties as provided in this Code and other laws.

(2) The governor shall:

(a) x x x;

x x x

(e) Appoint the heads of offices and other employees of the provincial government whose salaries are entirely or mainly paid out of the provincial funds and whose appointments are not herein otherwise provided for, and those whom he may be authorized by law to appoint;

x x x.” (Emphasis supplied)

Thus, the Minister of Health appointed all provincial health officers who were in reality national government officials paid entirely from national funds. The appointment of a provincial health officer was to a specific region, and the Minister (later renamed Secretary) could assign him to any province within the region upon recommendation of the Regional Director. This was the state of the law immediately prior to the effectivity of the Organic Act of 1989.

Second Period: After the Organic Act of 1989

Congress enacted the Organic Act of 1989 on August 1, 1989 and the President signed it into law on August 21, 1989. The creation of the ARMM itself took effect on November 19, 1989 when a majority of the ARMM residents voted in a plebiscite to create the autonomous region. Section 3, Article III of the Organic Act of 1989 provided as follows:

“Sec. 3. The Regional Government shall adopt a policy on local autonomy whereby regional powers shall be devolved to local government units where appropriate: Provided, however, that until a regional law implementing this provision is enacted, the Local Government Code shall be applicable.” (Emphasis supplied)

At the time of the effectivity of the Organic Act of 1989, the 1984 LGU Code was the existing law governing local government units. Thus, the 1984 LGU Code applied to the ARMM until the Regional Government adopted its own regional local government code. This meant that provincial health officers were not officials of the provincial government since the 1984 LGU Code did not list the provincial health officer as a provincial government official.

Under the Organic Act of 1989, the power of the Secretary of Health to appoint provincial health officers to a region, and to assign them to any province within the region, was not immediately devolved to the Regional Government. Section 4, Article XIX of the Organic Act of 1989 immediately placed certain line agencies and

offices of the national government under the supervision and control of the Regional Government upon the organization of the Autonomous Region following the election of the Regional Government's first set of regional officials on February 12, 1990. However, other line agencies and offices of the national government, including the regional offices of the Department of Health, were not immediately placed under the supervision and control of the Regional Government. Section 4, Article XIX of the Organic Act of 1989 provided that:

"Sec. 4. Upon the organization of the Autonomous Region, the line agencies and offices of the National Government dealing with local government, social services, science and technology, labor, natural resources, and tourism, including their personnel, equipment, properties and budgets, shall be immediately placed under the control and supervision of the Regional Government.

Other National Government offices and agencies in the Autonomous Region, which are not excluded under paragraph (9), Section 2, Article V of this Organic Act, together with their personnel, equipment, properties and budgets, shall be placed under the control and supervision of the Regional Government pursuant to a schedule prescribed by the Oversight Committee mentioned in Section 3, Article XIX of this Organic Act: Provided, however, That the transfer of these offices and agencies and their personnel, equipment, properties and budget shall be accomplished within six (6) years from the organization of the Regional Government. (Emphasis supplied)

x x x."

It was not until October 29, 1993, when then President Fidel V. Ramos issued Executive Order No. 133, that the regional offices of the Department of Health in the ARMM were placed under the supervision and control of the Regional Government. Executive Order No. 133 was the operative act that actually transferred the powers and functions of the Department of Health, together with its regional personnel, equipment, properties, and budgets, to the Regional Government.

Thus, until the effectivity of Executive Order No. 133, the Secretary of Health of the National Government continued to appoint provincial health officers in the ARMM, with the authority to assign a provincial health officer to any province within the region. This was the state of the law after the passage of the Organic Act of 1989 until the effectivity of Executive Order No. 133.

A few months after the effectivity of the Organic Act of 1989, the Revised Administrative Code of 1987 took effect on November 24, 1989. The reason for this delayed effectivity is that R.A. No. 6622 directed that "[T]his Code shall take effect two years after its publication in the Official Gazette." The Revised Administrative Code retained the power of the Secretary of Health to appoint provincial health officers who remained national government officials. Section 19, Chapter 5, Title IX, Book IV of the Revised Administrative Code provides that:

"SEC. 19. Provincial Health Office. The Provincial Health Office shall be the Department agency in the province. x x x.

The Provincial Health Office shall be headed by a Provincial Health Officer. x x x. The Provincial Health Officers and Assistant Provincial Health Officers shall be appointed by the Secretary to a region, and their assignment to a province shall be made by the Secretary on recommendation of the Regional Health Director."

The foregoing Section is practically a reenactment of Section 17 of Executive Order No. 119, the former charter of the Department of Health. Nevertheless, the Revised Administrative Code of 1987, although a later law than the Organic Act of 1989, did not alter the terms of the devolution under the Organic Act of 1989.

An ordinary statute, whether general or special, cannot amend an organic act that provides for an autonomous region which under the Constitution may only be created, and therefore changed, through a plebiscite called for the purpose. Under Section 3, Article XVIII of the Organic Act of 1989, any amendment to the Organic Act

required the approval of a majority of the votes cast in a plebiscite called for the purpose within the constituent units of the ARMM. Section 3 of Article XVIII provides as follows:

“Sec 3. Any amendment to or revision of this Organic Act shall become effective only when approved by a majority of the votes cast in a plebiscite called for the purpose, which shall be held not earlier than sixty (60) days or later than ninety (90) days after the approval of such amendment or revision.”

Unless this amendatory process is followed, no subsequent law can amend or revise the Organic Act of 1989. In any event, with respect to the appointment and assignment of provincial health officers, the Revised Administrative Code did not change the existing law applicable to the ARMM under the Organic Act of 1989.

The Revised Administrative Code of 1987, however, applies to the ARMM on matters not covered by the devolution under the Organic Act of 1989. These matters are: (a) foreign affairs; (b) national defense; (c) postal service; (d) coinage and fiscal and monetary policies; (e) administration of justice; (f) quarantine; (g) customs and tariff; (h) citizenship; (i) naturalization, immigration and deportation; (j) general auditing, civil service, elections; (k) foreign trade; (l) maritime, land and air transportation and communications affecting areas outside of the ARMM; (m) patents, trademarks, tradenames, and copyrights.[19] Still, nothing in the Revised Administrative Code of 1987 can reduce or diminish powers and functions devolved or to be devolved to the ARMM under the Organic Act of 1989.

Third Period: After the Local Government Code of 1991

The Local Government Code of 1991 (R.A. No. 7160, or the “1991 LGU Code” for brevity) took effect on January 1, 1992. Unlike the 1984 LGU Code, the 1991 LGU Code made, for the first time, the provincial health officers one of the officials of the provincial government to be appointed by the provincial governor if his salary came mainly from provincial funds. Section 463 of the 1991 LGU Code states that:

“Section 463. Officials of the Provincial Government. (a) There shall be in each province a governor, a vice-governor, members of the sangguniang panlalawigan, a secretary to the sangguniang panlalawigan, a provincial treasurer, a provincial assessor, a provincial accountant, a provincial engineer, a provincial budget officer, a provincial planning and development coordinator, a provincial legal officer, a provincial administrator, a provincial health officer, a provincial social welfare and development officer, a provincial general services officer, a provincial agriculturist, and a provincial veterinarian. x x x.

(d) Unless otherwise provided herein, heads of departments and offices shall be appointed by the governor with the concurrence of the majority of all the sangguniang panlalawigan members, subject to civil service law, rules and regulations. The sangguniang panlalawigan shall act on the appointment within fifteen (15) days from the date of its submission; otherwise the same shall be deemed confirmed.” (Emphasis supplied)

The proviso in Section 463 (d) refers to Section 465 of the 1991 LGU Code which limits the appointing power of the provincial governor to officials and employees paid mainly from provincial funds. Section 465 provides as follows:

“Section 465. The Chief Executive: Powers, Duties, Functions and Compensation.

(a) x x x.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the provincial government, and in this connection, shall:

(i) x x x.

x x x.

(v)

Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint; x x x.” (Emphasis supplied)

The 1991 LGU Code, however, although a later law like the Revised Administrative Code of 1987, did not amend the Organic Act of 1989 because the Organic Act could only be amended through the ratification process laid out in the Organic Act itself. Section 526 of the 1991 LGU Code provides that:

“Section 526. Application of this Code to Local Government Units in the Autonomous Regions. This Code shall apply to all provinces, cities, municipalities and barangays in the autonomous regions until such time as the regional government concerned shall have enacted its own local government code.”

Section 526, however, should apply only to autonomous regions created after the effectivity of the 1991 LGU Code, or in the absence of a statute governing a specific situation within a region. Otherwise, Section 526 of the 1991 LGU Code will collide directly with Section 3, Article XVIII of the Organic Act of 1989.

Thus, even after the passage of the 1991 LGU Code, the Secretary of Health continued to be the appointing power of provincial health officers who remained national government officials. The Secretary of Health also continued to exercise the authority to assign provincial health officers to any province within the region. This situation, however, was only temporary, arising from the need for a phased transfer of the personnel, equipment, properties and budgets of the Department of Health in the ARMM to the Regional Government pursuant to Section 4, Article XIX of the Organic Act of 1989.

On October 29, 1993, Executive Order No. 133 was issued, finally transferring the powers and functions of the Department of Health in the autonomous region to the Regional Government. Section 2 of Executive Order No. 133 stated that:

“Sec 2. General Powers and Functions. The following powers and functions of the Department of Health (DOH), as enumerated in Section 4 of Executive Order No. 119, series of 1987, shall be transferred to the Autonomous Regional Government (ARG) subject to the specific conditions or limitations provided in this Executive Order. x x x.”

Notably, Executive Order No. 133 referred to the powers and functions of the Department of Health under Executive Order No. 119 and not under the Revised Administrative Code of 1987 because Executive Order No. 119 was the existing charter of the Department of Health at the time of the effectivity of the Organic Act of 1989.

Executive Order No. 133 was issued upon recommendation^[20] of the Oversight Committee created by Section 3 of the Organic Act of 1989 “for the purpose of supervising the transfer to the Autonomous Region of such powers and functions vested in it by this Organic Act x x x.” Section 3 of the Organic Act mandated the President to “act on the report and recommendations” of the Oversight Committee within ninety days after receipt thereof.

The devolved powers under the Organic Act of 1989, as implemented by Executive Order No. 133, included the power of supervision and control over provincial health officers, as well as the power to appoint provincial health officers. The power of supervision and control, previously exercised by the Secretary of Health, carried with it the authority to assign provincial health officers to any province within the region pursuant to Section 17 of Executive Order No. 119. Assignment within a region of personnel appointed to a region is an administrative matter exercised by the head of office who is vested with the power of supervision and control over the office. Section 3 of Executive Order No. 133 provided as follows:

Sec. 3. Functions of Department Secretary to be Transferred. Hereunder are the authority and responsibilities

of the Secretary of the Department of Health which shall be vested in the Head of the Regional Department of Health (Regional DOH):

a. x x x;

x x x;

c. Exercise supervision and control over the functions and activities of the Regional Department within the autonomous region;

x x x. (Emphasis supplied)

Upon the effectivity of Executive Order No. 133, the administrative authority of the Secretary of Health to assign provincial health officers to any province within a region was transferred to the ARMM Secretary of Health as the regional counterpart of the national Secretary of Health. This transfer of administrative authority to the Regional Secretary was essential to insure the continuation of vital health services to residents in the ARMM.

There could be no gap or lacuna in the transfer of administrative authority from the National Government to the Regional Government because basic and essential services were involved that affected the lives of people. This is the reason why Section 3 of Executive Order No. 133 expressly stated that “the authority and responsibility of the Secretary of the Department of Health x x x shall be vested in the Head of the Regional Department of Health.”

On the other hand, the power to appoint provincial health officers, previously conferred by law on the Secretary of Health, was devolved to the Regional Governor. The Organic Act of 1989 devolved specified powers of the National Government to the three branches of the Regional Government, executive power being devolved to the Regional Governor, legislative power to the Regional Assembly and judicial power to the Shari’ah and tribal courts. Section 2, Article IV of the Organic Act of 1989 provided that:

“Sec. 2. The powers devolved to the Autonomous Region shall be exercised through the Regional Assembly, the Regional Governor, and the special courts as provided in this Act.”

Moreover, Section 1, Article VIII of the Organic Act of 1989 expressly vested executive power in the Regional Governor:

“Section 1. The executive power shall be vested in a Regional Governor who shall be elected at large by direct vote of the people of the Autonomous Region.”

The Regional Governor therefore acquired certain executive powers that the President of the Philippines and the Secretary of Health used to exercise prior to the Organic Act of 1989, subject to the limitations on the devolved powers under the Organic Act.

As the holder of executive power, the Regional Governor was made the appointing power in the executive branch of the Regional Government in accordance with Section 17 of Article VIII of the Organic Act of 1989:

“Sec. 17. The Regional Governor shall appoint, in addition to the members of the Cabinet, their deputies, the chairmen and members of the commissions and the heads of bureaus of the Regional Government, and those whom he may be authorized by regional law to appoint. The Regional Assembly may, by law, vest the appointment of other officers or officials lower in rank in the heads of departments, agencies, commissions, or boards.”

The appointing powers of the Regional Governor were those expressly granted to him under the Organic Act of 1989, as well as those that he might be granted pursuant to regional law. The Regional Assembly could also enact a law authorizing regional department heads, like the ARMM Secretary of Health, to appoint lower officials.

The power to appoint provincial health officers is one that the Regional Assembly could thus grant by law to the Regional Secretary of Health. However, the Regional Assembly has not enacted a law authorizing the Regional

Secretary of Health to appoint provincial health officers. Since the power to appoint must be expressly conferred by law, and cannot be implied from the power of supervision and control, this ruled out the Regional Secretary of Health as the appointing power of provincial health officers. Significantly, the power to appoint provincial health officers is not one of the powers transferred to the Regional Secretary of Health under Executive Order No. 133.

On the other hand, the Regional Governor is the official to whom the executive powers of the national government have been expressly devolved. This is clear from the language of Section 2, Article IV of the Organic Act of 1989 when it stated that the “powers devolved to the Autonomous Region shall be exercised through the Regional Assembly, the Regional Governor, and the special courts provided in this Act.” It is understood that, unless otherwise provided in the Organic Act of 1989, the Regional Governor would exercise the devolved executive powers, the Regional Assembly the devolved legislative powers, and the Shari’ah and tribal courts the devolved judicial powers. Again, there could be no gap or lacuna in the devolution of powers from the National Government to the Regional Government because the exercise of these powers was essential to the maintenance of basic services for the general welfare.

As provided in Section 2 (9), Article V of the Organic Act of 1989, part of the devolved powers were the “[P]owers, functions and responsibilities exercised by the departments of the National Government,” except those expressly excluded like foreign affairs, national defense and security, postal services and others mentioned in the Organic Act. Since the Department of Health was not excluded, the power to appoint provincial health officers, previously vested in the Secretary of the Department of Health, was indisputably one of the executive powers devolved to the Regional Government to be exercised by the Regional Governor.

Until the Regional Assembly enacts a law authorizing some other ARMM executive official to appoint provincial health officers, the power to appoint provincial health officers would remain with the Regional Governor pursuant to the devolution of powers under the Organic Act of 1989 as implemented by Executive Order No. 133. The provincial health officers, after being devolved to the Regional Government, became regional officials upon the effectivity of Executive Order No. 133.

Fourth Period: After the ARMM Local Code

On January 25, 1994, the Regional Assembly enacted the ARMM Local Code which was approved by the Regional Governor on March 3, 1994. Section 457 of the ARMM Local Code provides that:

“Sec. 457. Officials of the Provincial Government. (a) There shall be in each province a governor, a vice-governor, members of the sangguniang panlalawigan, a secretary to the sangguniang panlalawigan, a provincial treasurer, a provincial assessor, a provincial accountant, a provincial planning and development coordinator, a provincial legal officer, a provincial administrator, a provincial health officer, x x x.

(b) In addition thereto, the governor may appoint a provincial population officer, a provincial natural resources and environment officer, x x x.

Provided, that the governor shall submit a list of at least three (3) qualified recommendees to the autonomous regional government for appointment, according to Civil Service law to the positions of a Provincial Health Officer, a Provincial Social Welfare and Development Officer, a Provincial Agriculturist, a Provincial Natural Resources and Environment Officer, and a Provincial Tourism Officer, to be paid by regional funds.”

(c) x x x

(d) Unless otherwise provided herein, heads of departments and offices shall be appointed by the governor with the concurrence of the majority of all the sangguniang panlalawigan members, subject to civil service law, rules and regulations. The sangguniang panlalawigan shall act on the appointment within fifteen (15) days from the date of its submission; otherwise the same shall be deemed confirmed.” (Emphasis supplied)

Under the ARMM Local Code, the provincial health officer in the ARMM, previously a regional official, has also become a provincial government official, catching up with the status of provincial health officers outside of the ARMM. The Regional Governor appoints the provincial health officer from a list of three recommendees of the Provincial Governor. The ARMM Local Code provides that the salary of the provincial health officer shall be paid from regional funds.

The ARMM Local Code also states that if the salary of the provincial health officer comes mainly from provincial funds, the Provincial Governor is the appointing power. The power of the Regional Governor to appoint provincial officials applies only to provincial officials “paid by regional funds.” Section 459 of the ARMM Local Code expressly provides that:

“Sec. 459. The Chief Executive. Powers, Duties, Functions, and Compensation. (a) The provincial governor, as the chief executive of the provincial government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants, the provincial governor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the provincial government and in this connection, shall:

x x x

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint; (Emphasis supplied)

x x x.”

The ARMM Local Code must be interpreted liberally in favor of the powers of the provincial governor as against those of the Regional Governor. Section 5 (a) of the ARMM Local Code mandates that:

“Sec. 5. Rules of Interpretation. In the interpretation of the provisions of this Code, the following rules shall apply:

(a)

Any provision on the power of the autonomous government and its local government units shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of the devolution of powers and of the lower local government unit. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit concerned; (Emphasis supplied)

x x x.”

Consequently, if a province can afford and is willing to shoulder the salary of its provincial health officer, then the Provincial Governor becomes the appointing power in place of the Regional Governor since this will favor the devolution of power to a lower local government unit.

Section 459 of the ARMM Local Code vests in the Provincial Governor the power to exercise supervision and control over all provincial government officials. The conversion of the provincial health officer from a regional government official to a provincial government official under Section 457 of the ARMM Local Code placed the provincial health officer under the supervision and control of the Provincial Governor. Consequently, with the passage of the ARMM Local Code the Regional Secretary of Health lost the authority to assign provincial health

officers to other provinces within the region.

The state of the law after the enactment of the ARMM Local Code became more favorable to Provincial Governors, at least with respect to the appointment and assignment of provincial health officers. While before the appointment of provincial health officers was solely the prerogative of the Regional Governor, now a Provincial Governor has the power to recommend three nominees. The Regional Governor can appoint only from among the three nominees of the Provincial Governor even though the salary of the provincial health officer comes from regional funds. Likewise, while before the Regional Secretary of Health could assign provincial health officers to other provinces within the region, this authority of the Regional Secretary ceased to exist. Since a provincial health officer was now appointed to a specific province, he could no longer be assigned to another province without his consent. Moreover, the Provincial Governor now exercises supervision and control over the provincial health officer who has become a provincial government official. Finally, if the provincial government assumes payment of the salary of the provincial health officer, then the Provincial Governor becomes the appointing power of such provincial official.

Fifth Period: The Organic Act of 2001

Republic Act No. 9054 (“Organic Act of 2001” for brevity) took effect on August 14, 2001, the date of its ratification by a majority of the votes cast in a plebiscite held for the purpose within the constituent units of the ARMM. The Organic Act of 2001 incorporates the salient features of the Peace Agreement entered into between the National Government and the Moro National Liberation Front on September 2, 1996.[21] The Organic Act of 2001 is a completely new autonomy act for Muslim Mindanao since it totally replaced the Organic Act of 1989. It is not an ordinary amendment but a total substitution since the Organic Act of 2001 is as comprehensive as the Organic Act of 1989.

The Organic Act of 2001 expressly adopted, as a minimum, the devolution under the 1991 LGU Code. This gave the local government units within ARMM the same devolved powers, functions and tax-sharing entitlements enjoyed by local government units outside of the ARMM. Section 3, Article III of the Organic Act of 2001 provides that:

“Sec 3. Devolution of Powers. x x x.

The Regional Assembly may not pass any law to diminish, lessen, or reduce the powers, functions, and shares in the internal revenue taxes of the said local government units as provided by Republic Act No. 7160, the Local Government Code of 1991.” (Emphasis supplied)

To stress the importance of this legislative policy, the provisions of Section 3 of Article III are reiterated in Section 1 of Article IV of the same Organic Act, to wit:

“Section 1. Powers and Functions. x x x.

The Regional Government may enact its own regional administrative code and regional local government code consistent with the Constitution. The powers and functions already vested upon and the shares of the national taxes provided by Republic Act No. 7160, the Local Government Code of 1991, to provinces, cities, municipalities, and barangays in the autonomous region shall not be reduced.” (Emphasis supplied)

Congress expressly made the devolved powers and functions under the 1991 LGU Code as the basic minimum for all local government units in the ARMM precisely to put them on equal footing with local government units outside of the ARMM. Congress was aware that the 1991 LGU Code took effect after the Organic Act of 1989 became law, and therefore the devolved powers and functions under the 1991 LGU Code could not have been incorporated into the Organic Act of 1989. Congress was also aware that the Supreme Court had ruled, in

Matalam vs. Pangandaman,[22] that the 1991 LGU Code “being a general law, may not be made to prevail over a special law or code” like the ARMM Local Code. Section 3 of Article III and Section 1 of Article IV of the Organic Act of 2001 corrected this imbalance in the devolved powers and functions between local government units within and those outside of the ARMM.

In contrast, the Organic Act of 1989 adopted, as a minimum, the devolution under the 1984 LGU Code which was the existing local government code at that time. Under the Organic Act of 1989, the Regional Assembly could not diminish or reduce the powers, functions and responsibilities that the local government units “already enjoyed” at the time of the effectivity of the Organic Act of 1989. This did not prevent, however, Congress from subsequently increasing the share in national taxes of local government units within the ARMM to the same level as that of local government units outside of the ARMM. Such increase in allotment of national taxes did not amend or revise in any way the Organic Act of 1989 since the formula for the tax sharing is found in the 1991 LGU Code, not in the Organic Act of 1989. There was still, however, the issue of whether the Regional Government could reduce the share of local government units in national taxes as provided in the 1991 LGU Code. With the passage of the Organic Act of 2001, this issue has been resolved in favor of local government units in the ARMM.

The passage of the Organic Act of 2001 means that the powers and functions of a Provincial Governor under the 1991 LGU Code are now enjoyed, as a minimum, by a Provincial Governor in the ARMM. Thus, the Provincial Governor appoints the provincial health officer if the latter’s salary comes from provincial funds. If the provincial health officer’s salary comes mainly from regional funds, then the ARMM Local Code applies, in which case the Regional Governor is the appointing power but he must appoint only from among the three nominees of the Provincial Governor. Moreover, the Provincial Governor exercises supervision and control over the provincial health officer because the ARMM Local Code has classified him as a provincial government official. This is now the present state of the law on the appointment of provincial health officers in the ARMM. This is actually the same as the law after the effectivity of the ARMM Local Code but prior to the passage of the Organic Act of 2001. The only difference is that the Regional Assembly cannot amend the ARMM Local Code to reduce or diminish this power of the Provincial Governor because this devolved power, emanating from the 1991 LGU Code, is now part of the Organic Act of 2001.

Application of the law to the designation of Saber

Lanao del Sur Provincial Governor Mahid M. Mutilan designated Saber as Officer-in-Charge of the IPHO-APGH, Lanao del Sur, on September 15, 1993. On this date the provincial health officer of Lanao del Sur was still a national government official paid entirely from national funds. The provincial health officer was still appointed by the national Secretary of Health to a region and not to a province. The Secretary of Health exercised supervision and control over the provincial health officer. The Secretary of Health was also the official authorized by law to assign the provincial health officer to any province within the region. Indisputably, on September 15, 1993, Provincial Governor Mutilan had no power to designate Saber as Officer-in-Charge of IPHO-APGH, Lanao del Sur. Consequently, the designation of Saber as such Officer-in-Charge is void.

The provincial health officer of Lanao del Sur became a provincial government official only after the effectivity of the ARMM Local Code, which was enacted by the Regional Assembly on January 25, 1994 and approved by the Regional Governor on March 3, 1994. Prior to the ARMM Local Code but after the issuance of Executive Order No. 133, the Regional Governor appointed the provincial health officer while the Regional Secretary of Health could assign the provincial health officer to any province within the ARMM. The Provincial Governor had no power to appoint or even designate the Officer-in-Charge of the provincial health office.

The Court of Appeals’ reliance on Section 478 of the 1991 LGU Code as Provincial Governor Mutilan’s

authority to appoint Saber is misplaced. Section 478 of the 1991 LGU Code, which provides that “[T]he appointment of a health officer shall be mandatory for provincial, city and municipal governments,” is not a grant of power to governors and mayors to appoint local health officers. It is simply a directive that those empowered to appoint local health officers are mandated to do so. In short, the appointment of local health officers, being essential for public services, is a mandatory obligation on the part of those vested by law with the power to appoint them. Moreover, as explained earlier, the 1991 LGU Code did not amend the Organic Act of 1989.

Application of the law to the appointment and transfer of Sani

Sani was appointed provincial health officer by then Secretary of Health Alfredo R.A. Bengzon on January 1, 1988. He was appointed as “Provincial Health Officer (R-05 5[th] Step), Office of the Regional Health Director, Regional Health Office No. XII, Cotabato City.” Sani was appointed provincial health officer in Region XII since at that time Executive Order No. 119, the charter of the Department of Health, expressly stated that provincial health officers were to be appointed to a region. The Secretary of Health, upon recommendation of the Regional Director, could assign provincial health officers to any province within the region. In *Miclat vs. Ganaden*,^[23] this Court held that:

“While the doctrine x x x to the effect that the transfers of officers against their will amount to a removal, the same is predicated upon the theory that said officers are appointed to particular stations and as such cannot be transferred without their consent. x x x.

The case before us, however, does not involve any appointment to any particular station. It merely concerns an assignment to a station made in the interest of the service. x x x.”

Consequently, Sani cannot claim any security of tenure as provincial health officer of Lanao del Sur because he was never appointed to that office.

Macacua, in her capacity as Regional Director and ARMM Secretary of Health, detailed Sani to the DOH-ARMM Regional Office in Cotabato City on August 9, 1993. As of that date, the powers and functions of the Department of Health were not yet transferred to the Regional Government, and the Secretary of Health of the National Government still exercised the power to assign the provincial health officers in the ARMM. Consequently, the August 9, 1993 directive of Macacua detailing or assigning Sani to the Regional Office in Cotabato City is void.

However, on November 6, 1993, Macacua issued another Memorandum reiterating Sani’s detail or assignment to the Regional Office in Cotabato City. This second Memorandum was issued after the issuance of Executive Order No. 133 which expressly transferred “supervision and control over all functions and activities of the Regional Department of Health” to “the Head of the Regional Department of Health.” In *Gen. Renato de Villa vs. City of Bacolod*,^[24] this Court ruled that the power of administrative control encompasses the power to transfer personnel who under the law may be reassigned to other stations. The second detail or assignment of Sani to the Regional Office in Cotabato, issued on November 6, 1993, is within the authority of Macacua as Regional Secretary of Health. Thus, the second detail of Sani is valid.

Application of the law to the designation of Pandi

Macacua, as Regional Director and Regional Secretary of Health, designated Pandi Officer-in-Charge of the IPHO-APGH, Lanao del Sur, on August 9, 1993 and again on November 6, 1993. The designation dated August 9, 1993 is void since the Regional Secretary at that time did not yet exercise supervision and control over the provincial health offices of the ARMM. However, the designation of Pandi on November 6, 1993 is valid since at that time Executive Order No. 133 had already been issued vesting in the Regional Secretary of Health supervision and control over all functions and activities of the Department of Health in the ARMM. The

designation of Pandi, however, while valid is only temporary in nature, good until a new designation or a permanent appointment is made.

As Regional Secretary of Health, Macacua was, as of November 6, 1993, the official vested by law to exercise supervision and control over all provincial health offices in the ARMM. The Regional Secretary, by virtue of Executive Order No. 133, assumed the administrative powers and functions of the Secretary of Health of the National Government with respect to provincial health offices within the ARMM. The official exercising supervision and control over an office has the administrative authority to designate, in the interest of public service, an Officer-in-Charge if the office becomes vacant. Macacua, therefore, had the authority on November 6, 1993 to designate an Officer-in-Charge in the provincial health office of Lanao del Sur pending the appointment of the permanent provincial health officer. After the effectivity of the ARMM Local Code, the Regional Secretary of Health lost the authority to make such a designation.

Under the ARMM Local Code, the provincial health officer became for the first an official of the provincial government even though he is appointed by the Regional Governor and draws his salary from regional funds. The ARMM Local Code vests in the Provincial Governor the power to “exercise general supervision and control over all programs, projects, services, and activities of the provincial government.” Upon the effectivity of the ARMM Local Code, the power of supervision and control over the provincial health officer passed from the Regional Secretary to the Provincial Governor. From then on the Provincial Governor began to exercise the administrative authority to designate an Officer-in-Charge in the provincial health office pending the appointment of a permanent provincial health officer.

WHEREFORE, the petition is GRANTED and the assailed decision of the Court of Appeals dated April 15, 1994 in CA-G.R. SP No. 32242 is SET ASIDE. The designation on September 15, 1993 of Dr. Amer A. Saber as Officer-in-Charge of the Integrated Provincial Health Office of Lanao del Sur is declared void. On the other hand, the designation on November 6, 1993 of Dr. Lampa I. Pandi as Officer-in-Charge of the Integrated Provincial Health Office of Lanao del Sur, and the assignment on November 6, 1993 of Dr. Mamasao Sani to the DOH-ARMM Regional Office in Cotabato City, are declared valid. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Penned by Associate Justice Corona Ibay-Somera and concurred in by Associate Justices Nathanael P. De Pano, Jr. and Alfredo M. Marigomen, Rollo, pp. 26-37.

[2] Ibid., p. 39-41.

[3] Court of Appeals Records docketed as CA-G.R. S.P. No. 32242.

[4] In Department of Health Memorandum Order No. 202-A dated June 11, 1993, then Secretary of Health Juan Flavio Velez authorized Macacua to exercise the authority and functions vested in a DOH Regional Director. This is allowed by Section 23, Chapter 5, Title IX, Book IV of the Revised Administrative Code of 1987, which states: “Sec 23. Delegation of Power by Secretary. The Secretary shall have the authority to delegate such substantive and administrative powers and authority as may be necessary to the heads of the Regional Health Offices, in addition to such administrative authority as have been mandated for delegation for all Departments by the President. x x x.” The same delegation of power is found in Section 21 of Executive Order No. 119 dated January 30, 1987.

[5] As designated by ARMM Regional Governor Lininding Pangandaman.

[6] The complaint was docketed as Civil Case No. 205-93 against Pandi and Macacua. Sani alleged that his permanent appointment was issued on January 1, 1988 by then Secretary of Health Alfredo A. R. Bengzon, and attested by the Civil Service Commission. Thus, Sani claimed he could not be removed, suspended, relieved or dismissed without just cause and due process. The case was dismissed on September 15, 1993 but was reinstated on November 19, 1993 after the issuance of the writ of preliminary injunction in CA-G.R. SP No. 32242.

[7] Effecting the immediate transfer of powers, functions and resources of the Department of Health within the ARMM to the ARMM-DOH in consonance with the principles and policies mandated by R.A. No. 6734 and Executive Order No. 133.

[8] Supra, see note 1.

[9] Supra, see note 2.

[10] The second paragraph of Section 478 of the 1991 LGU Code provides that: "The appointment of a health officer shall be mandatory for provincial, city and municipal governments."

[11] Supra, see note 1, Decision, p. 5.

[12] Ibid., p. 7.

[13] Ibid., p. 8-9.

[14] Ibid., p. 10.

[15] Section 18, Chapter 5, Title IX, Book IV of the Revised Administrative Code provides as follows:

"Sec. 18. Regional Health Offices. The Department is authorized to establish, operate, and maintain a Department-wide Regional Office, in each of the administrative regions of the country, under the supervision of an Executive Committee chaired by the Secretary. Each Regional Office shall be headed by a Regional Director to be appointed by the President, and supported by an Assistant Director. The appointment of the Regional Director and Assistant Regional Director shall be to the Department-at-large and assignment shall be by administrative issuances of the Secretary. The Regional Health Office shall be responsible for the field operations of the Department in its administrative region and for providing the region with efficient and effective health and medical services. It shall supervise all Department agencies in its administrative region including whatever medical centers, regional hospitals, sanatoria, provincial health offices and city health offices are located in the region except those placed under the Department Proper.

In addition to the foregoing, a Regional Office shall have within its administrative region, the following functions:

- (1) Implement laws and rules, regulations, policies, plans, programs and projects of the Department in the region;
- (2) Provide efficient and effective health and medical services to the people;
- (3) Coordinate with regional offices of other departments, offices and agencies in the region;
- (4) Coordinate with local government units; and
- (5) Perform such other functions as may be provided by law."

[16] Article 465, par. (b), No. 1 (v) provides as follows:

"x x x.

(b) x x x the provincial governor shall:

(i)

Exercise general supervision and control over all programs, projects, services, and activities of the provincial government, and in this connection, shall:

x x x.

(v)

Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint.”

[17] Decision, pp. 5-12, Rollo, pp. 30-37.

[18] Issued by then President Corazon C. Aquino during the effectivity of the Freedom Constitution.

[19] Section 2 (9), Article V of the Organic Act of 1989.

[20] The second Whereas clause of executive Order No. 133 provides as follows: “Whereas, the Oversight Committee created by virtue of Republic Act No. 6734, recognizing the primacy and importance of health as a necessary pillar of the inhabitants of the Autonomous Region in Muslim Mindanao, has recommended the devolution of powers and functions and that the offices of the Department of Health may be transferred to the Autonomous Regional Government to carry out its mandate.”

[21] Explanatory Note of House Bill No. 2577 sponsored by Representatives Alfredo E. Abueg, Jr. and Eduardo R. Ermita.

[22] En Banc Resolution dated May 16, 1995 in G.R No. 114676.

[23] 108 Phil. 439 (1960).

[24] 189 SCRA 736 (1990).

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.