

**RAMON ALQUIZOLA, SR., MARISSA C. DOROMAL AND ADELO SECO,
PETITIONERS, VS. GALLARDO OCOL, CAMILO P. PENACO,
SATURNINO MENDOZA, RAFAEL R. ARDIENTE, VICENTE C. CASERES,
RICARDO B. ...**

G.R. No. 132413. August 27, 1999

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-132413/>

VITUG, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking a reversal of the decision, dated 19 November 1997, of the Regional Trial Court of Lanao Del Norte, Branch 04, Iligan City, that has ordered petitioner Ramon Alquizola, Sr., to cease and desist from dismissing respondents and replacing them with his co-petitioners.

Petitioner Ramon Alquizola, Sr., won the post of Punong Barangay of Barangay Tubod, Iligan City, in the 12th May 1997 barangay elections. Respondents Gallardo Ocol, Camilo Penaco, Saturnino Mendoza, Rafael Ardiente, Vicente Caseres, Ricardo Zosa III, and Sirad Umpa were appointees of the former punong barangay of Barangay Tubod, the first two occupying the positions of barangay treasurer and barangay secretary, respectively, with the rest being barangay utility workers.

After the elections, petitioner Alquizola terminated the services of respondents and appointed his co-petitioners, Marissa Doromal and Adelo Seco, respectively, as barangay treasurer and as barangay secretary. In consonance with Section 394 and Section 395 of the Local Government Code, he submitted both appointments to the Sangguniang Barangay for approval. The Sanggunian rejected the appointments.

Following the action taken by the Sangguniang Barangay, respondents filed a complaint for quo warranto, mandamus and prohibition with the Regional Trial Court of Lanao Del Norte to enjoin petitioner from terminating the services of the former. The trial court found in favor of respondents and ordered petitioner Ramon Alquizola, Sr., to cease and desist from dismissing respondents on the ground that their dismissal had been effected without the corresponding approval of the Sangguniang Barangay. It held that Section 389(b)(5) limited the power of a barangay captain to remove appointive barangay officials by requiring an approval of such act by a majority of the Sangguniang Barangay. A motion for reconsideration was denied.

The Court finds no merit in the instant petition for certiorari.

The issue involved, purely a question of law, relates to the proper application of the following provisions of the Local Government Code; viz:

"Section 389. Chief Executive: Powers, Duties, and Functions. - x x x

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

"x x x x x x x x"(5) Upon approval by a majority of all the members of the sangguniang barangay, appoint or replace the barangay treasurer, the barangay secretary, and other appointive barangay officials;"

The term "replace" would obviously embrace not only the appointment of the replacement but also the prior removal of, or the vacation by, the official currently occupying the appointive position concerned. "To replace" is to take the place of, to serve as a substitute for or successor of, to put in place of, or to fill the post of an incumbent.[1] In order to provide a replacement to an office, the prior holder must have first been removed or the office must have, otherwise, been previously rendered vacant.

Aside from what may be implicit in Section 389, there is no other provision in the Local Government Code that treats of the power of the Punong Barangay to remove the barangay secretary, the barangay treasurer, or any other appointive barangay official from office. The duration of the term of office of these barangay officials have not been fixed by the Local Government Code. Where the tenure of the office is not fixed by law, it is a sound and useful rule to consider the power of removal as being an incident to the power of appointment.[2] Elsewise stated, the power to remove is deemed implied in the power to appoint.

The Code explicitly vests on the punong barangay, upon approval by a majority of all the members of the sangguniang barangay, the power to appoint or replace the barangay treasurer, the barangay secretary, and other appointive barangay officials. This provision is reinforced, in the case of the secretary and the treasurer, by the provisions of Section 394 and Section 395 of the Local Government Code; to wit:

"Section 394. Barangay Secretary: Appointment, Qualifications, Powers and Duties. - (a) The barangay secretary shall be appointed by the punong barangay with the concurrence of the majority of all the sangguniang barangay members. The appointment of the barangay secretary shall not be subject to attestation by the Civil Service Commission."

"Section 395. Barangay Treasurer: Appointment, Qualifications, Powers and Duties. - (a) The barangay treasurer shall be appointed by the punong barangay with the concurrence of the majority of all the sangguniang barangay members. The appointment of the barangay treasurer shall not be subject to attestation by the Civil Service Commission."

Verily, the power of appointment is to be exercised conjointly by the punong barangay and a majority of all the members of the sangguniang barangay. Without such conjoint action, neither an appointment nor a replacement can be effectual.

Applying the rule that the power to appoint includes the power to remove, one that the Court finds no cogent reason to now depart from, the questioned dismissal from office of the barangay officials by the punong barangay without the concurrence of the majority of all the members of the Sangguniang Barangay cannot be legally justified. To rule otherwise could also create an absurd situation of the Sangguniang Barangay members refusing, like here, to give their approval to the replacements selected by the punong barangay who has unilaterally terminated the services of the incumbents. It is likely that the legislature did not intend this absurdity to flow from its enactment of the law.

WHEREFORE, the instant petition is DENIED and the decision, dated 19 November 1997, of the Regional Trial Court of Lanao Del Norte is AFFIRMED. No costs.

SO ORDERED.

Melo, (Chairman), Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] See Webster's Third New International Dictionary.

[2] MECHEM, A Treatise on the Law of Public Offices and Officers, § 445, p. 284.

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.