

**CIVIL SERVICE COMMISSION, AND THE MUNICIPALITY OF MASIU,
LANAO DEL SUR, REPRESENTED BY MAYOR NASSER P.
PANGANDAMAN, JR., PETITIONERS, VS. SAMAD M. UNDA,
RESPONDENT.**

G.R. No. 213237. September 13, 2017

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

An appointment to a position that is optional under the Local Government Code (LGC) but without the corresponding appropriation by the relevant sanggunian is ineffectual.

The Case

The petitioners in these consolidated cases assail the decision promulgated on January 23, 2014,[1] whereby the Court of Appeals (CA) reversed the decision of the Civil Service Commission (CSC) and upheld the appointment of the respondent as Municipal Environmental and Natural Resources Officer (MENRO) for the Municipality of Masiu in the Province of Lanao Del Sur,[2] disposing thus:

WHEREFORE, premises considered, the assailed Decision date 15 March 2012 and the Resolution dated 16 October 2012 are REVERSED and SET ASIDE. The Orders dated 15 February 2010 and 2 June 2010 of the Civil Service Commission-Autonomous Region in Muslim Mindanao (CSC-ARMM) are hereby AFFIRMED. Petitioner Samad M. Unda's appointment as Municipal Environment and Natural Resources Officer is valid and in accordance with law.

SO ORDERED.[3]

Antecedents

Outgoing Mayor Aminullah D. Arimao of the Municipality of Masiu, Lanao del Norte had appointed respondent Samad M. Unda as the MENRO for the Municipality of Masiu in the Province of Lanao Del Sur on March 8, 2007. After the 2007 local elections, petitioner Nasser P. Pangandaman, Jr. assumed office as the newly-elected Municipal Mayor of Masiu.[4] He soon discovered that the local government unit (LGU) had not enacted any annual budget for the years 2006 and 2007, and had operated on the basis of the re-enacted 2005 annual budget; and that nine municipal employees,[5] including the respondent, had been midnight appointees whose appointments had been based on a non-existing budget. Inasmuch as said appointees were not reporting to work, Mayor Pangandaman ordered their salaries withheld.[6] Later on, he filed a petition for the annulment of the appointments by the Civil Service Commission (CSC),[7] and the case was referred to the CSC Regional Office-Autonomous Region in Muslim Mindanao (CSCRO--ARMM).

On February 15, 2010, the CSCRO-ARMM upheld the respondent's appointment for having satisfied the screening of the Personnel Screening Board (PSB) prior to the election ban.[8]

Dissatisfied, the Municipality of Masiu, represented by Mayor Pangandaman, sought reconsideration, but the motion was denied on June 2, 2010.[9] Thus, the LGU appealed to the CSC.

Ruling of the CSC

On March 15, 2012, the CSC promulgated its decision reversing the CSCRO-ARMM.[10] The CSC disapproved the respondent's appointment because the position of MENRO was only newly created under the 2006 annual budget that had not been approved,[11] and because the respondent had not passed the screening by the PSB.

The LGU and the respondent moved for the partial reconsideration of the decision, but the CSC denied their respective motions on October 16, 2012.[12]

Aggrieved, the respondent appealed to the CA.

Decision of the CA

On January 23, 2014, the CA promulgated its now assailed decision reversing the CSC and reinstating the decision of the CSCRO-ARMM.[13] The CA pointed out that Section 443 and Section 484 of the LGC had created the position of the MENRO, and, as such, the appointment of anyone as the MENRO would not be contingent on the resolution by the LGU, to wit:

It is an elementary rule in administrative law and the law on public officers that a public office is either created by the Constitution (fundamental law), by law (statute duly enacted by Congress) or by authority of law.

Here, the creation and establishment of the Municipal Environment and Natural Resources Office was made by law under Sections 443 and 484 of the Local Government Code of 1991, viz:

SEC. 443. Officials of the Municipal Government. - (a) a) There shall be in each municipality a municipal mayor, a municipal vice-mayor, sangguniang bayan members, a secretary to the sangguniang bayan, a municipal treasurer, a municipal assessor, a municipal accountant, a municipal budget officer, a municipal planning and development coordinator, a municipal engineer/building official, a municipal health officer and a municipal civil registrar.

(b) In addition thereto, the mayor may appoint a municipal administrator, a municipal legal officer, a municipal agriculturist, a municipal environment and natural resources officer, a municipal social welfare and development officer, a municipal architect, and a municipal information officer.

xxx xxx xxx

SEC 484. Qualifications, Powers and Duties. - (a) No person shall be appointed environment and natural resources officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in environment, forestry, agriculture or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in environmental and natural resources management, conservation, and utilization, of at least five (5) years in the case of the provincial or city environment and natural resources officer, and three (3) years in the case of the municipal environment and natural resources officer. The appointment of the environment and natural resources officer is optional for provincial, city, and municipal governments.

Notably, this office or position does not only exist in municipalities but also in the cities and provinces. Its creation does not depend on any Resolution issued by a local legislative body such as Resolution No. 29 Series of 2005, but by a law duly enacted by Congress which is the Local Government Code of 1991.[14]

The CA observed that the prohibition against midnight appointments did not extend to the respondent because his appointment had been made 22 days prior to the start of the election ban on March 30, 2007;[15] and that the PSB

had screened his application for the position in compliance with CSC Memorandum Circular No. 40 (Revised Rules on Appointments and Other Personnel Actions) as borne out by the certification to that effect by its chairman.[16]

On June 20, 2014, the CA denied the motions for reconsideration of the LGU and the CSC.[17]

Hence, the consolidated appeals.

Issues

In G.R. No. 213331, petitioner LGU submits:

I

THE HONORABLE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT THERETOFORE DECIDED BY THE SUPREME COURT, IN HOLDING THAT THE POSITION OF MUNICIPAL AND ENVIRONMENTAL OFFICER OF THE MUNICIPALITY OF MASIU, PROVINCE OF LANA DEL SUR IS VALIDLY CREATED BASED SOLELY ON THE PROVISIONS OF SECTIONS 443 AND 484 OF THE LOCAL GOVERNMENT CODE AND ITS CREATION DOES NOT DEPEND UPON ANY RESOLUTION ISSUED BY A LOCAL LEGISLATIVE BODY SUCH AS RESOLUTION NO. 29, SERIES OF 2005.

II

THE HONORABLE COURT OF APPEALS HAS DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS WHEREBY A STATUTE IS CONSTRUED AS A WHOLE, AND NOT JUST A PARTICULAR PROVISION THEREOF, BY CONSTRUING SECTIONS 443 AND 484 OF THE LOCAL GOVERNMENT CODE AS SUFFICIENT BASIS FOR THE CREATION OF THE POSITION OF MENRO, IN WILLFUL AND DELIBERATE DISREGARD OF OTHER RELEVANT PROVISIONS GOVERNING THE CREATION, ORGANIZATION, COMPENSATION AND OTHER BENEFITS OF THE OFFICIALS AND PERSONNEL OF LOCAL GOVERNMENT UNITS.[18]

In G.R. No. 213237, petitioner LGU tenders the issue of:

I

WHETHER OR NOT THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN DECLARING PETITIONER'S APPOINTMENT AS VALID AND IN ACCORDANCE WITH LAW.[19]

The LGU argues that the appointment to the position of the MENRO could not be based solely on Section 443 and Section 484 of the LGC; that the appointment also required a budget or appropriations ordinance, pursuant to Section 443(e) of the LGC, which provides that elective and appointive municipal officials shall receive compensation, allowances and other emoluments based on a law or ordinance, as well as Section 305(a) of the LGC, which mandates that "no money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law;"[20] that the position of the MENRO was optional and not automatically institutionalized in every municipality, and, accordingly, there must still be a positive act by the sangguniang bayan to create the position and to provide the necessary appropriation for the position;[21] that Section 76 of the LGC empowers the LGU to design and implement its own organizational structure and staffing pattern, and to determine the compensations of its local officials and personnel; and that Section 447 grants to the LGU the power to approve the annual and supplemental budgets for its operations.[22]

On its part, the CSC shares the view of the Municipality of Masiu to the effect that the appointment of the respondent must be supported by the 2006 annual budget. Hence, the CSC contends that the appointment of the respondent was ineffectual considering that the certification of the municipal budget officer, the joint affidavit of the members of the Sangguniang Bayan of Masiu, and the certification from the Sangguniang Panlalawigan of

Lanao del Sur all showed that the Municipality of Masiu had no approved annual budget for 2006.[23]

Additionally, the CSC points out the lack of concurrence by the majority of the members of the Sangguniang Bayan of Masiu as required by Section 443 of the LGC; and that such concurrence of the Sangguniang Bayan in relation to the appointment of the "heads of departments and offices" under paragraph (d) of Section 443 of the LGC likewise referred to the officials mentioned in paragraphs (a) and (d) thereof, among them the MENRO.[24]

In refutation, the respondent counters that the LGC created the position of the MENRO; that the LGC validly enacted and adopted an appropriation ordinance (Resolution No. 29, series of 2005); that the Sangguniang Bayan of Masiu confirmed his appointment on February 7, 2007 through Resolution No. 02-24, series of 2007 (entitled A Resolution Confirming the Appointment of Mr. Samad M. Unda as Municipal Environment and Natural Resources Officer-1);[25] that the letter sent by the Provincial Government of Lanao del Sur could not be relied upon for being partial considering that the then incumbent Provincial Governor was the party-mate of the Representative of the First Congressional District of Lanao del Sur who was the brother of Mayor Pangandaman; that the power of the Sangguniang Panlalawigan over appropriation ordinances of the Municipality of Masiu was merely supervisory in character; that Resolution No. 29 dated October 24, 2005[26] could not be collaterally attacked; and that if there was no approved 2006 budget, it would have been improbable to pay the respondent his salaries and benefits for the months of May and June 2007.[27]

The issues to be considered and resolved may be stated thusly: (1) Was the respondent validly appointed as the MENRO of the Municipality of Masiu?; and (2) Did the appointment of the respondent as the MENRO require a prior resolution by the Sangguniang Bayan creating the position, confirming the appointment, and appropriating funds for the salaries and benefits to be given to the appointee?

Ruling of the Court

The Court GRANTS the petitions for review on certiorari, and REVERSES the CA.

I

Municipal governments have the discretion to appoint their MENROs

A public office is created either by the Constitution, by law, or by authority of law.[28] The legal basis for the appointment of the respondent as the MENRO of the Municipality of Masiu was Section 443 of the LGC, which provides in full:

SECTION 443. Officials of the Municipal Government. -

(a) There shall be in each municipality a municipal mayor, a municipal vice-mayor, sangguniang bayan members, a secretary to the sangguniang bayan, municipal treasurer, a municipal assessor, a municipal accountant, a municipal budget officer, a municipal planning and development coordinator, a municipal engineer/building official, a municipal health officer and a municipal civil engineer.

(b) In addition thereto, the mayor may appoint a municipal administrator, a municipal legal officer, a municipal agriculturist, a municipal environment and natural resources officer, a municipal social welfare and development officer, a municipal architect, and a municipal information officer.

(c) The sangguniang bayan may:

(1) Maintain existing offices not mentioned in subsections (a) and (b) hereof;

(2) Create such other offices as may be necessary to carry out the purposes of the municipal government; or

(3) Consolidate the functions of any office with those of another in the interest of efficiency and economy.

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

(e) Elective and appointive municipal officials shall receive such compensation, allowances and other emoluments as may be determined by law or ordinance, subject to the budgetary limitations on personal services as prescribed in Title Five, Book II of this Code: Provided, That no increase in compensation of the mayor, vice-mayor, and sangguniang bayan members shall take effect until after the expiration of the full term of all the elective local officials approving such increase. (Bold underscoring supplied for emphasis)

Pursuant to the foregoing, there ought to be no question that the appointment of the respondent as the MENRO was but optional on the part of the Municipality of Masiu, and that such appointment required the concurrence of the Sangguniang Bayan, as well as the adoption of the appropriation ordinance to fund the payment of his salaries and other emoluments.

The CA opined that Section 443 and Section 484 of the LGC institutionalized the position of MENRO in the LGUs; hence, no resolution of the Sangguniang Bayan was required to create the office. The CA was correct in light of paragraphs (a) and (b) of Section 443 of the LGC expressly creating and identifying the public offices of the municipalities.

Even so, the Municipality of Masiu was also justified in construing the appointment of the MENRO as optional on its part. This is based on the usage in paragraph (b) of the term may, which means that the Municipal Mayor has been given the discretion whether or not to appoint the MENRO and the other officers of the municipality listed in the provision. It is a basic postulate of statutory construction that the word may means a merely permissive act, and operates to confer upon a party discretion to do or not to do the act.[29] Indeed, the second paragraph of Section 484(a) of the LGC expressly states that the appointment of the MENRO is optional on the part of the LGU.[30]

II

The appointment of the respondent as the MENRO further required the concurrence by the majority of the members of the Sangguniang Bayan as well as a validly enacted appropriation ordinance

Section 443 of the LGC expressly includes the position of the MENRO in the municipality. Nonetheless, the provision subjects the appointment of the MENRO to several conditions, namely: (1) the concurrence by the majority of the sangguniang bayan as provided in its paragraph (d); and (2) the adoption of an ordinance setting the compensation, allowances and other emoluments conformably with its paragraph (e). The requirement for the appropriation ordinance is consistent with the fundamental principle of fiscal administration enunciated in Section 305 of the LGC that "[n]o money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law."

Evidently, Section 443(b) of the LGC institutionalizes the office of the MENRO in local governments, while Section 443(e) sets the corresponding budgetary mechanism for the establishment of the position. In other words, the LGU must enact an ordinance allocating the budget for the office of the MENRO. Thus, the determination should be made whether or not the Municipality of Masiu enacted an appropriation ordinance for the position of the MENRO to which the respondent was appointed.

The petitioners insist that the Sangguniang Bayan of Masiu did not enact an appropriation ordinance for the years

2006 and 2007. On the other hand, the respondent claims that the appropriation for his position was embodied in Resolution No. 29 dated October 24, 2005.

The insistence of the petitioners is fully warranted. The fact that the Sangguniang Bayan of Masiu had no appropriation ordinances for the years 2006 and 2007 relative to the position of the MENRO belied the respondent's claim. His reliance on Resolution No. 29 dated October 24, 2005 did not suffice. Under Section 306(b) of the LGC, an appropriation is defined as the "authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes." Also, Section 305 and Section 443(d) of the LGC specifically refer to an ordinance, not to a resolution. Thus, the appropriation for the office of the MENRO could have only been through an ordinance.

The adoption of Resolution No. 29 dated October 24, 2005 was inherently inadequate for the purpose. The distinctions between an ordinance and a resolution are significant, and cannot be ignored. The Court has pointed out such distinctions in *Municipality of Parañaque v. V.M. Realty Corporation*,^[31] as follows:

We are not convinced by petitioner's insistence that the terms "resolution" and "ordinance" are synonymous. A municipal ordinance is different from a resolution. An ordinance is a law, but a resolution is merely a declaration of the sentiment or opinion of a lawmaking body on a specific matter. An ordinance possesses a general and permanent character, but a resolution is temporary in nature. Additionally, the two are enacted differently a third reading is necessary for an ordinance, but not for a resolution, unless decided otherwise by a majority of all the Sanggunian members. (Bold underscoring supplied for emphasis)

The text of Resolution No. 29 dated October 24, 2005 reads:

RESOLUTION NO. 29

Series of 2005

A RESOLUTION APPROPRIATING THE AMOUNT OF TWENTY THREE MILLION NINE HUNDRED FORTY FIVE THOUSAND FOUR HUNDRED FORTY SIX (P23,945,446.00) PESOS AS ANNUAL BUDGET FOR CALENDAR YEAR 2006 AND THE NEWLY CREATED POSITIONS.

WHEREAS, the Honorable members of the Sangguniang Bayan has lengthily deliberate the proposed Annual Budget Calendar Year 2006, and after thorough review of the itemized appropriate for Personal Services (PS), Maintenance and Other Operating Expenditures (MOOE) as well as the Capital Outlay (CO) and Non-Office Expenditures as the main body of the proposed annual budget which was prepared and submitted by the Honorable Mayor in compliance with Republic Act No. 7160, otherwise known as the Local Government Code for deliberation.

WHEREAS, the proposed Annual Budget for Calendar Year 2006 was formally presented to the Honorable August Body by the Local Finance Committee, this municipality and after careful analysis and matured deliberation, Honorable Sittie Naura Pangandamun formally put into motion that the proposed Annual Budget for Calendar Year 2006 be approved and it was duly seconded by all member present; it was

RESOLVED, as it hereby Resolved, enacted and adopt Appropriation Ordinance No. 01 series 2005 approving the General Fund Budget for Calendar Year 2006.

BE IT ORDAINED BY THE Sangguniang Bayan of this Municipality of Masiu, Lanao del Sur in session assembled that;

Section 1 - Title - This ordinance shall be known as the Appropriation Ordinance No. 01, series 2005.

Section 2 - Scope - The Annual Budget of the Municipal Government of Masiu, Lanao del Sur shall be as follows:

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RESOLVED FURTHER, to furnish copy of this resolution to the Civil Service Commission, City Hall, Marawi City/Lanao del Sur and other concerned offices for information guidance and favorable action.

APPROVED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.

Prepared by:

(sgd)

SOMERA M. MACADAAG

SB Secretary

ATTESTED:

(sgd)

Hon. USMANP. URANGGAGA

Vice-Mayor/Presiding Officer

APPROVED:

(sgd)

HON. AMINULLAH D. ARIMAO

Municipal Mayor

As its text indicates, Resolution No. 29 dated October 24, 2005 embodied the sentiment of the members of the Sanggunian Bayan of Masiu to support the draft of the proposed appropriation for the LGU. There is no indication that Resolution No. 29 dated October 24, 2005 underwent three readings as required of an ordinance.[32] This was quite evident from the affidavit of Somera Macadaag, the Secretary of the Sanggunian Bayan of Masiu at the time, who thereby deposed that on October 24, 2005, Resolution No. 29 "was passed after a thorough discussion and deliberated upon by and among the members of the Sangguniang Bayan who were then present," thus:

2. That on October 24 2005, the members of the Sangguniang Bayan of the Municipality of Masin, Lanao del Sur had a regular session at the Session Hall, Municipal Hall with Usman P. Uranggaga, then Municipal Vice Mayor as the Presiding Officer and attended by the following SB Members, to wit: (1) CAIRODEN S. MOTALIB; (2) HADJI SATAR M. SAMPORNA; (3) SITTIE NAURA PANGANDAMUN; (4) MANALAO S. MONTE; (5) MONER CASAD (ABC President); (6) SARIPIE H.R. MACABINTA (Women Sector); (7) USMAN ZAMAN (Agricultural Sector); and (8) USMAN M. NATANGCOP. Absent SB Members were the following: (1) ALINAIR M. PANGANDAMUN; (2) ANUAR P. SALIC; (3) ALIANAMARIE M. MACAALIN, and (4) MAYRANISA S. PANGANDAMUN (SK Federation President);

3. That during said session, RESOLUTION NO. 29 Series 2005, A RESOLUTION APPROPRIATING THE AMOUNT OF TWENTY THREE MILLION NINE HUNDRED FORTY FIVE THOUSAND FOUR HUNDRED FORTY SIX (P23,945,446.00) PESOS AS ANNUAL BUDGET FOR CALENDAR YEAR 2006 AND THE NEWLY CREATED POSITIONS, was passed after a thorough discussion and deliberation by and among the members of the Sangguniang Bayan who were then present. In the same Resolution, a new position was created, i.e. MUNICIPAL ENVIRONMENT AND NATURAL RESOURCES OFFICER;

4. That it is not true that Resolution No. 29, Series of 2005 was not discussed and deliberated upon by the members of the Sangguniang Bayan, the truth being that it was indeed thoroughly discussed and deliberated

upon by the members of the Sangguniang Bayan who were then present, as in fact, they even affixed their respective signatures thereon. Besides, I was then present being the SB Secretary, and witnessed the discussion and deliberation in the body. xxxx.[33] (Bold underscoring supplied for emphasis)

Moreover, Section 56 of the LGC instructs that every ordinance enacted by the municipalities shall be forwarded to the sangguniang panlalawigan for review and approval in furtherance of the supervisory authority of the latter over municipal governments. Based on the certification[34] issued by Atty. Cosain M. Macarambon, the secretary of the Sangguniang Panlalawigan of Lanao del Sur, the LGU of Masiu did not submit its budget for the fiscal year of 2006 to the Sangguniang Panlalawigan. Hence, the Sangguniang Panlalawigan had no opportunity to review and approve Resolution No. 29 dated October 24, 2005.

Lastly, Ms. Ragaintan T. Pangandaman, the municipal budget officer of the LGU of Masiu, certified that there was "no [a]pproved 2006 Annual Budget," and that the "last [a]pproved budget was on 2005 which does not include the MENRO position in the plantilla." [35]

III

Approval by the members of the Sangguniang Panlalawigan of the resolution by the Sangguniang Bayan confirming the appointment was unnecessary

The respondent insists that his appointment was confirmed by a majority of the members of the sangguniang bayan through Resolution No. 02-24, series of 2007; [36] but the CSC contends that the appointment was not confirmed because Resolution No. 02-24, series of 2007 required approval by the Sangguniang Panlalawigan.

The CSC was mistaken. [37]

The supervisory function of the sangguniang panlalawigan over the enactment of municipal resolutions by the sangguniang bayan is limited only to those relating to local development plans and public investment programs formulated by the local development councils. Section 56(a) of the LGC clearly states so, to wit:

Section 56. Review of Component City and Municipal Ordinances or Resolutions by the Sangguniang Panlalawigan. - (a) Within three (3) days after approval, the secretary to the sangguniang panlungsod or sangguniang bayan shall forward to the sangguniang panlalawigan for review, copies of approved ordinances and the resolutions approving the local development plans and public investment programs formulated by the local development councils.

Hence, the approval by the Sangguniang Panlalawigan of Resolution No. 02-24, series of 2007 was unnecessary because the confirmation thereby made by the majority of the LGU's sangguniang bayan sufficed.

Nonetheless, the purported confirmation by the Sangguniang Bayan of Masiu through Resolution No. 02-24, series of 2007 would not make a difference in the outcome of this case. The assailed appointment of the respondent as the MENRO was still ineffectual for lack of the requisite appropriation ordinance, and for lack of the approval thereof by the Sangguniang Panlalawigan of Lanao del Sur pursuant to Section 443 in relation to Section 56 of the LGC.

IV

The respondent was a de facto officer

With the respondent's appointment as the MENRO having been rendered ineffective by the lack of the appropriation ordinance, he was nonetheless a de facto officer whose acts were as valid as those performed by a de jure officer. A de facto officer is one who is in possession of an office, and is discharging his duties under color of authority, by which is meant authority derived from an appointment, however irregular or informal, so that the incumbent is not a mere volunteer. [38] Consequently, where there is no de jure officer, a de facto officer who, in

good faith, has possession of the office and discharges the duties pertaining thereto, is legally entitled to the emoluments of the office, and may in an appropriate action recover the salary, fees and other compensations attached to the office.[39]

WHEREFORE, the Court GRANTS the petitions for review on certiorari; REVERSES and SETS ASIDE the decision promulgated on January 23, 2014 by the Court of Appeals; REINSTATES the decision rendered on March 15, 2012 by the Civil Service Commission; and ORDERS the respondent to pay the costs of suit.

SO ORDERED.

Velasco, Jr., Leonen, Martires, and Gesmundo, JJ., concur.

December 1, 2017

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 13, 2017 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 1, 2017 at 10:20 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo (G.R. No. 213237), pp. 27-35; penned by CA Associate Justice Edgardo T. Lloren with the concurrence of Associate Justice Marie Christine Azcarraga-Jacob and Associate Justice Edward B. Contreras.

[2] Rollo (G.R. No. 213331), pp. 79-88.

[3] Rollo (G.R. No. 213237), p. 34.

[4] Id. at 27.

[5] Id. at 169 and 173 (the appointees were Naima U. Badarol (Human Resources Assistant), Nadja P. Mardan (Ticket Checker), Soraya M. Sharief (Municipal Accountant), Samad M. Unda (MENRO), Omar Arimao (Driver I) Caris Mamalo (Utility Worker I), Mariam M. Oranggaga (Clerk II), Amerhassan O. Unda (Driver I) and Juaida P. Usman (Utility Worker I).

[6] Rollo (G.R. No. 213331), p. 5 (the Municipality of Masiu also alleged that Unda was appointed to a non-vacant position and his appointment was ineffective for lack of attestation within 30 days from issuance).

[7] Id. at 58-65.

[8] Id. at 66-75.

- [9] Id. at 76-78.
- [10] Id. at 79-88.
- [11] Id. at 63.
- [12] Id. at 89-94.
- [13] Id. at 47-55.
- [14] Rollo (G.R. No. 213237), pp. 31-32.
- [15] Rollo (G.R. No. 213331), p. 52.
- [16] Id. at 53.
- [17] Id. at 56-57.
- [18] Id. at 32.
- [19] Rollo (G.R. No. 213237), p. 14.
- [20] Rollo (G.R. No. 213331), pp. 36-37.
- [21] Id. at 37-38.
- [22] Id. at 42.
- [23] Rollo (G.R. No. 213327), pp. 18-19.
- [24] Id. at 15-16.
- [25] Id. at 498.
- [26] Id. at 485-492.
- [27] Rollo (G.R. No. 213331), pp. 271-273.
- [28] Malaria Employees and Workers Association of the Philippines Inc. (MEWAP) v. Romulo, G.R. No. 160093, July 31, 2007, 528 SCRA 673, 679; citing Buklod ng Kawaning EIIB v. Zamora, G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718, 726.
- [29] Capati v. Ocampo, G.R. No. L-28742, April 30, 1982, 113 SCRA 794, 796.
- [30] The second paragraph reads: "The appointment of the environment and natural resources officer is optional for the provincial, city and municipal governments."
- [31] G.R. No. 127820, July 20, 1998, 292 SCRA 678, 689.
- [32] See Article 107 (c) and (d) of the Implementing Rules and Regulations of the Local Government Code.
- [33] Rollo (G.R. No. 213327), p. 213.
- [34] Id. at 51.
- [35] Id. at 53.
- [36] Id. at 498.

[37] Id. at 14-18.

[38] *Zoleta v. Sandiganbayan* (Fourth Division), G.R. No. 185224, July 29, 2015, 764 SCRA 110, 120; *Topacio v. Ong*, 574 SCRA 817, 829.

[39] *Arimao v. Taher*, G.R. No. 152651, August 7, 2006, 498 SCRA 74, 91; citing *Civil Liberties Union v. Executive Secretary*, G.R. No. 83896, February 22, 1991, 194 SCRA 317, 340.

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