

**HOMOBONO A. ADAZA, PETITIONER, VS. FERNANDO PACANA, JR.,
RESPONDENT.***G.R. No. 68159. March 18, 1985*

Ponente: ESCOLIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-68159/>**ESCOLIN, J.:**

The issues posed for determination in this petition for prohibition with prayer for a writ of preliminary injunction and/or restraining order are: [1] whether or not a provincial governor who was elected and had qualified as a Mambabatas Pambansa [MP] can exercise and discharge the functions of both offices simultaneously; and [2] whether or not a vice-governor who ran for the position of Mambabatas Pambansa, but lost, can continue serving as vice-governor and subsequently succeed to the office of governor if the said office is vacated.

The factual background of the present controversy is as follows:

Petitioner Homobono A. Adaza was elected governor of the province of Misamis Oriental in the January 30, 1980 elections. He took his oath of office and started discharging his duties as provincial governor on March 3, 1980. Elected vice-governor for said province in the same elections was respondent Fernando Pacana, Jr., who likewise qualified for and assumed said office on March 3, 1980. Under the law, their respective terms of office would expire on March 3, 1986.

On March 27, 1984, respondent Pacana filed his certificate of candidacy for the May 14, 1984 Batasan Pambansa elections; petitioner Adaza followed suit on April 27, 1984. In the ensuing elections, petitioner won by placing first among the candidates, while respondent lost.

Petitioner took his oath of office as Mambabatas Pambansa on July 19, 1984[1] and since then he has discharged the functions of said office.

On July 23, 1984, respondent took his oath of office as governor of Misamis Oriental before President Ferdinand E. Marcos,[2] and started to perform the duties of governor on July 25, 1984.

Claiming to be the lawful occupant of the governor's office, petitioner has brought this petition to exclude respondent therefrom. He argues that he was elected to said office for a term of six years, that he remains to be the governor of the province until his term expires on March 3, 1986 as provided by law, and that within the context of the parliamentary system, as in France, Great Britain and New Zealand, a local elective official can hold the position to which he had been elected and simultaneously be an elected member of Parliament.

Petitioner further contends that respondent Pacana should be considered to have abandoned or resigned from the position of vice-governor when he filed his certificate of candidacy for the 1984 Batas Pambansa elections; and since respondent had reverted to the status of a mere private citizen after he lost in the Batas Pambansa elections, he could no longer continue to serve as vice-governor, much less assume the office of governor.

1. The constitutional prohibition against a member of the Batasan Pambansa from holding any other office or employment in the government during his tenure is clear and unambiguous. Section 10, Article VIII of the

1973 Constitution provides as follows:

"Section 10. A member of the National Assembly [now Batasan Pambansa] shall not hold any other office or employment in the government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, during his tenure, except that of prime minister or member of the cabinet. x x x"

The language used in the above-cited section is plain, certain and free from ambiguity. The only exceptions mentioned therein are the offices of prime minister and cabinet member. The wisdom or expediency of the said provision is a matter which is not within the province of the Court to determine.

A public office is a public trust.[3] It is created for the interest and the benefit of the people. As such, a holder thereof "is subject to such regulations and conditions as the law may impose" and "he cannot complain of any restrictions which public policy may dictate on his holding of more than one office." [4] It is therefore of no avail to petitioner that the system of government in other states allows a local elective official to act as an elected member of the parliament at the same time. The dictate of the people in whom legal sovereignty lies is explicit. It provides no exceptions save the two offices specifically cited in the above-quoted constitutional provision. Thus, while it may be said that within the purely parliamentary system of government no incompatibility exists in the nature of the two offices under consideration, as incompatibility is understood in common law, the incompatibility herein present is one created by no less than the constitution itself. In the case at bar, there is no question that petitioner has taken his oath of office as an elected Mambabatas Pambansa and has been discharging his duties as such. In the light of the oft-mentioned constitutional provision, this fact operated to vacate his former post and he cannot now continue to occupy the same, nor attempt to discharge its functions.

2. The second proposition advanced by petitioner is that respondent Pacana, as a mere private citizen, had no right to assume the governorship left vacant by petitioner's election to the Batasan Pambansa. He maintains that respondent should be considered as having abandoned or resigned from the vice-governorship when he filed his certificate of candidacy for the Batas Pambansa elections. The point pressed runs a foul of Batas Pambansa Blg. 697, the law governing the election of members of the Batasan Pambansa on May 14, 1984, Section 13[2] of which specifically provides that "governors, mayors, members of the various sangguniang or barangay officials shall, upon filing a certificate of candidacy, be considered on forced leave of absence from office." Indubitably, respondent falls within the coverage of this provision, considering that at the time he filed his certificate of candidacy for the 1984 Batasan Pambansa election he was a member of the Sangguniang Panlalawigan as provided in Sections 204 and 205 of Batas Pambansa Blg. 337,[5] otherwise known as the Local Government Code. The reason the position of vice-governor was not included in Section 13[2] of BP Blg. 697 is explained by the following interchange between Assemblymen San Juan and Davide during the deliberations on said legislation:

"MR. DAVIDE. If I was able to get correctly the proposed amendment it would cover only governors and members of the different sanggunians? Mayor, governors?

MR. SAN JUAN. Governors, mayors, members of the various sanggunian or barangay officials. A vice-governor is a member of the Sanggunian Panlalawigan.

MR. DAVIDE. All. Why don't we instead use the word, 'Local officials'?

MR. SAN JUAN. Well, Mr. Speaker, your humble representation...

MR. DAVIDE. And, secondly, why don't we include the vice-governor, the vice-mayors?

MR. SAN JUAN. Because they are members of the Sanggunians, Mr. Speaker. They are covered by the provision on members of sanggunian." [Record of Proceedings, February 20, 1984, p. 92, Rollo].

Thus, when respondent reassumed the position of vice-governor after the Batas Pambansa elections, he was acting within the law. His succession to the governorship was equally legal and valid, the same being in accordance with Section 204[2] [a] of the same Local Government Code, which reads as follows:

"SECTION 204. Powers, Duties and Privileges:

1] x x x

2] He shall:

a] Assume the office of the governor for the unexpired term of the latter in the cases provided for in Section 48, paragraph 16 of this Code;"

WHEREFORE, the instant petition is hereby dismissed. No costs.

SO ORDERED.

Teehankee, Makasiar, Aquino, Concepcion, Jr., Melencio-Herrera, Plana, Relova, Gutierrez, Jr., de la Fuente, Cuevas, and Alampay, JJ., concur.
Fernando, C.J., and Abad Santos, JJ., no part.

[1] Exh. "7", Resp., p. 89, Rollo.

[2] Exh. "8", Resp., p. 90, Rollo.

[3] Sec. 1, Art. XIII, 1973 Constitution.

[4] 42 Am. Jur. 926.

[5] Section 204. Powers, Duties and Privileges:

1] The vice-governor shall be an ex-officio member of the Sangguniang Panlalawigan with all the rights, duties and privileges of any member thereof;

Section 205. Composition:

1] x x x

2] The Sangguniang Panlalawigan shall be composed of the governor, vice-governor, elective members of said sanggunians, and the president of the Katipunang Panlalawigan, etc. .x x x

[6] Section 48, par. 1, BP Blg. 337 reads:

Sec. 48. Permanent Vacancy in the Office of the Governor, City or Municipal Mayor.- [1] In case a permanent vacancy arises when a governor, city or municipal mayor refuses to assume office, fails to qualify, dies, or is removed from office, voluntarily resigns or is otherwise permanently incapacitated to discharge the functions of his office, the vice-governor, city or municipal vice-mayor, as the case may be, shall assume the office for the unexpired term of the former.

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.