

RODOLFO E. AGUINALDO, PETITIONER, VS. HON. LUIS SANTOS, AS SECRETARY OF THE DEPARTMENT OF LOCAL GOVERNMENT, AND MELVIN VARGAS, AS ACTING GOVERNOR OF CAGAYAN, RESPONDENTS.

G.R. No. 94115. August 21, 1992

Ponente: NOCON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94115/>

NOCON, J.:

In this petition for certiorari and prohibition with preliminary mandatory injunction and/or restraining order, petitioner Rodolfo E. Aguinaldo assails the decision of respondent Secretary of Local Government dated March 19, 1990 in Adm. Case No. P-10437-89 dismissing him as Governor of Cagayan on the ground that the power of the Secretary of Local Government to dismiss local government officials under Section 14, Article I, Chapter 3 and Sections 60 to 67, Chapter 4 of Batas Pambansa Blg. 337, otherwise known as the Local Government Code, was repealed by the effectivity of the 1987 Constitution.

The pertinent facts are as follows: Petitioner was the duly elected Governor of the province of Cagayan, having been elected to said position during the local elections held on January 17, 1988, to serve a term of four (4) years therefrom. He took his oath sometime around March 1988.

Shortly after the December 1989 coup d'etat was crushed, respondent Secretary of Local Government sent a telegram and a letter, both dated December 4, 1989, to petitioner requiring him to show cause why he should not be suspended or removed from office for disloyalty to the Republic, within forty-eight (48) hours from receipt thereof.

On December 7, 1989, a sworn complaint for disloyalty to the Republic and culpable violation of the Constitution was filed by Veronico Agatep, Manuel Mamba and Orlino Agatep, respectively the mayors of the municipalities of Gattaran, Tuao and Lasam, all in Cagayan, against petitioner for acts the latter committed during the coup. Petitioner was required to file a verified answer to the complaint.

On January 5, 1990, the Department of Local Government received a letter from petitioner dated December 29, 1989 in reply to respondent Secretary's December 4, 1989 letter requiring him to explain why he should not be suspended or removed from office for disloyalty. In his letter, petitioner denied being privy to the planning of the coup or actively participating in its execution, though he admitted that he was sympathetic to the cause of the rebel soldiers.[1]

Respondent Secretary considered petitioner's reply letter as his answer to the complaint of Mayor Veronico Agatep and others.[2] On the basis thereof, respondent Secretary suspended petitioner from office for sixty (60) days from notice, pending the outcome of the formal investigation into the charges against him.

During the hearing conducted on the charges against petitioner, complainants presented testimonial and documentary evidence to prove the charges. Petitioner neither presented evidence nor even cross-examined the

complainants' witnesses, choosing instead to move that respondent Secretary inhibit himself from deciding the case, which motion was denied.

Thereafter, respondent Secretary rendered the questioned decision finding petitioner guilty as charged and ordering his removal from office. Installed as Governor of Cagayan in the process was respondent Melvin Vargas, who was then the Vice-Governor of Cagayan.

Petitioner relies on three grounds for the allowance of the petition, namely: (1) that the power of respondent Secretary to suspend or remove local government officials under Section 60, Chapter IV of B.P. Blg. 337 was repealed by the 1987 Constitution; (2) that since respondent Secretary no longer has power to suspend or remove petitioner, the former could not appoint respondent Melvin Vargas as Governor of Cagayan; and (3) the alleged act of disloyalty committed by petitioner should be proved by proof beyond reasonable doubt, and not be a mere preponderance of evidence, because it is an act punishable as rebellion under the Revised Penal Code.

While this case was pending before this Court, petitioner filed his certificate of candidacy for the position of Governor of Cagayan for the May 11, 1992 elections. Three separate petitions for his disqualification were then filed against him, all based on the ground that he had been removed from office by virtue of the March 19, 1990 resolution of respondent Secretary. The Commission on Elections granted the petitions by way of a resolution dated May 9, 1992. On the same day, acting upon a "Motion to Clarify" filed by petitioner, the Commission ruled that inasmuch as the resolutions of the Commission become final and executory only after five (5) days from promulgation, petitioner may still be voted upon as a candidate for governor pending the final outcome of the disqualification cases with this Court.

Consequently, on May 13, 1992, petitioner filed a petition for certiorari with this Court, G.R. Nos. 105128-30, entitled *Rodolfo E. Aguinaldo v. Commission on Elections, et al.*, seeking to nullify the resolution of the Commission ordering his disqualification. The Court, in a resolution dated May 14, 1992, issued a temporary restraining order against the Commission to cease and desist from enforcing its May 9, 1992 resolution pending the outcome of the disqualification case, thereby allowing the canvassing of the votes and returns in Cagayan to proceed. However, the Commission was ordered not to proclaim a winner until this Court has decided the case.

On June 9, 1992, a resolution was issued in the aforementioned case granting the petition and annulling the May 9, 1992 resolution of the Commission on the ground that the decision of respondent Secretary has not yet attained finality and is still pending review with this Court. As petitioner won by a landslide margin in the elections, the resolution paved the way for his eventual proclamation as Governor of Cagayan.

Under the environmental circumstances of the case, We find the petition meritorious.

Petitioner's re-election to the position of Governor of Cagayan has rendered the administrative case pending before Us moot and academic. It appears that after the canvassing of votes, petitioner garnered the most number of votes among the candidates for governor of Cagayan province. As held by this Court in *Aguinaldo v. Comelec et al.*, *supra*:

x x x [T]he certified true xerox copy of the "CERTIFICATE OF VOTES OF CANDIDATES", attached to the "VERY URGENT MOTION FOR THE MODIFICATION OF THE RESOLUTION DATED MAY 14, 1992["] filed by petitioner shows that he received 170,382 votes while the other candidates for the same position received the following total number of votes: (1) Patricio T. Antonio - 54,412; 2) Paquito F. Castillo - 2,198; and 3) Florencio L. Vargas - 48,129.

x x x

'Considering the facts narrated, the expiration of petitioner's term of office during which the acts charged were

allegedly committed, and his subsequent reelection, the petition must be dismissed for the reason that the issue has become academic. In *Pascual v. Provincial Board of Nueva Ecija*, L-11959, October 31, 1959, this Court has ruled:

'The weight of authority, however, seems to incline to the rule denying the right to remove from office because of misconduct during a prior term to which we fully subscribe.

'Offenses committed, or acts done, during a previous term are generally held not to furnish cause for removal and this is especially true where the Constitution provides that the penalty in proceeding for removal shall not extend beyond the removal from office, and disqualification from holding office for a term for which the officer was elected or appointed. (6 C.J.S. p. 248, citing *Rice v. State*, 161 S.W. 2nd 4011; *Montgomery v. Newell*, 40 S.W. 23rd 418; *People ex rel Bashaw v. Thompson*, 130 P. 2nd 237; *Board of Com'rs Kingfisher County v. Shutler*, 281 P. 222; *State v. Blake*, 280 P. 388; *In re Fedula*, 147 A 67; *State v. Wald*, 43 S.W. 217)

'The underlying theory is that each term is separate from other terms, and that the reelection to office operates as a condonation of the officer's misconduct to the extent of cutting off the right to remove him therefor. (43 Am. Jur. p. 45, citing *Atty. Gen. v. Kasty*, 184 Ala. 121, 63 Sec. 599, 50 L.R.A. [NS] 553). As held in *Comant v. Bregan* [1887] 6 N.Y.S.R. 332, cited in 17 A.L.R. 63 Sec. 559, 50 [NE] 553

'The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his fault or misconduct, if he had been guilty of any. It is not for the court, by reason of such fault or misconduct, to practically overrule the will of the people.' (*Lizares v. Hechanova, et al.* 17 SCRA 58, 59-60 [1966]) (See also *Oliveros v. Villaluz*, 57 SCRA 163 [1974])[3]

Clearly then, the rule is that a public official can not be removed for administrative misconduct committed during a prior term, since his re-election to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor. The foregoing rule, however, finds no application to criminal cases pending against petitioner for acts he may have committed during the failed coup.

The other grounds raised by petitioner deserve scant consideration. Petitioner contends that the power of respondent Secretary to suspend or remove local government officials as alter ego of the President, and as embodied in B.P. Blg. 337 has been repealed by the 1987 Constitution and which is now vested in the courts.

We do not agree. The power of respondent Secretary to remove local government officials is anchored on both the Constitution and a statutory grant from the legislative branch. The constitutional basis is provided by Articles VII (17) and X (4) of the 1987 Constitution which vest in the President the power of control over all executive departments, bureaus and offices and the power of general supervision over local governments, and by the doctrine that the acts of the department head are presumptively the acts of the President unless expressly rejected by him.[4] The statutory grant found in B.P. Blg. 337 itself has constitutional roots, having been enacted by the then Batasan Pambansa pursuant to Article XI of the 1973 Constitution, Section 2 of which specifically provided as follows --

SEC. 2. The National Assembly shall enact a local government code which may not thereafter be amended except by a majority vote of all its Members, defining a more responsive and accountable local government structure with an effective system of recall, allocating among the different local government units their powers, responsibilities, and resources, and providing for the qualifications, election and removal, term, salaries, power, functions, and duties of local government officials, and all other matters relating to the organization and operation of the local units. However, any change in the existing form of local government shall not take effect

until ratified by a majority of the votes cast in a plebiscite called for the purpose.[5]

A similar provision is found in Section 3, Article X of the 1987 Constitution, which reads:

SEC. 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment, and removal, term and salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.[6]

Inasmuch as the power and authority of the legislature to enact a local government code, which provides for the manner of removal of local government officials, is found in the 1973 Constitution as well as in the 1987 Constitution, then it can not be said that B.P. Blg. 337 was repealed by the effectivity of the present Constitution.

Moreover, in *Bagabuyo et al. vs. Davide, Jr., et al.*,[7] this Court had the occasion to state that B.P. Blg. 337 remained in force despite the effectivity of the present Constitution, until such time as the proposed Local Government Code of 1991 is approved.

The power of respondent Secretary of the Department of Local Government to remove local elective government officials is found in Secs. 60 and 61 of B.P. Blg. 337.[8]

As to petitioner's argument of the want of authority of respondent Secretary to appoint respondent Melvin Vargas as Governor of Cagayan, We need but point to Section 48 (1) of B.P. Blg. 337 to show the fallacy of the same, to wit -?

In case a permanent vacancy arises when a governor . . . 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 . . . shall assume the office for the unexpired term of the former.[9]

Equally without merit is petitioner's claim that before he could be suspended or removed from office, proof beyond reasonable doubt is required inasmuch as he is charged with a penal offense of disloyalty to the Republic which is defined and penalized under Article 137 of the Revised Penal Code. Petitioner is not being prosecuted criminally under the provisions of the Revised Penal Code, but administratively with the end in view of removing petitioner as the duly elected Governor of Cagayan Province for acts of disloyalty to the Republic where the quantum of proof required is only substantial evidence.[10]

WHEREFORE, the petition is hereby GRANTED and the decision of public respondent Secretary of Local Government dated March 19, 1990 in Adm. Case No. P-10437-89, dismissing petitioner as Governor of Cagayan, is hereby REVERSED.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Bellosillo, JJ., concur.

Melo, J., no part.

[1] See the text of the letter as quoted in the Decision of respondent Secretary, pp. 4-6

[2] The validity of respondent Secretary's action was upheld by this Court in *Santos vs. Villacete*, G.R. No. 91522, January 25, 1990.

[3] G.R. Nos. 105128-30, Rodolfo E. Aguinaldo vs. Comelec, Florencio Vargas, Luzviminda Villaflor and Alfonso Purugganan, prom. June 9, 1992, pp. 3, 4-5.

[4] Citizen J. Antonio Carpio vs. Executive Secretary, G.R. No. 96409, February 14, 1992; Federation of Free Workers vs. Inciong, 161 SCRA 295 (1988); Villena vs. Secretary of Interior, 67 Phil. 451 (1951).

[5] Emphasis supplied.

[6] Emphasis supplied.

[7] G.R. No. 87233, September 21, 1989.

[8] Sec. 60. Suspension and Removal; Grounds. -- An elective local official may be suspended or removed from office on any of the following grounds committed while in office:

- (1) Disloyalty to the Republic of the Philippines;
- (2) Culpable violation of the Constitution;
- (3) Dishonesty, oppression, misconduct in office and neglect of duty;
- (4) Commission of any offense involving moral turpitude;
- (5) Abuse of authority;
- (6) Unauthorized absence for three consecutive months.

[9] Emphasis supplied.

[10] Ang Tibay vs. CIT, 69 Phil. 635; Air Manila, Inc. vs. Balatbat, 38 SCRA 489.

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.