



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PROVINCE OF MAGUINDANAO
 DEL NORTE, represented by its
 Governor FATIMA AINEE LIMBONA
 SINSUAT,

G.R. No. 265373

Petitioner,

Present:

-versus-

LEONEN, S.A.J., Chairperson,
 LAZARO-JAVIER,
 LOPEZ, M.,
 LOPEZ, J., and
 KHO, JR., JJ.

BUREAU OF LOCAL
 GOVERNMENT FINANCE,
 REGIONAL OFFICE NO. XII,
 represented by its Acting Regional
 Director JUNE ANN C. ABELLA;
 BUREAU OF LOCAL
 GOVERNMENT FINANCE,
 CENTRAL OFFICE, represented by
 OIC Executive Director MA. PAMELA
 P. QUIZON; MINISTRY OF THE
 INTERIOR AND LOCAL
 GOVERNMENT, represented by
 Minister NAGUIB G. SINARIMBO,
 Bangsamoro Autonomous Region in
 Muslim Mindanao,

Promulgated:

NOV 13 2023

Respondents.

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DECISION

LAZARO-JAVIER, J.:

Antecedents

On May 27, 2021, Republic Act No. 11550¹ was signed into law, dividing the province of Maguindanao into two distinct and independent

¹ Republic Act No. 11550, "Charter of the Provinces of Maguindanao del Norte and Maguindanao del Sur," which originated in the House of Representatives was passed by the House of Representatives on

provinces. Under Section 48 thereof, the provinces of Maguindanao del Norte and Maguindanao del Sur shall be created upon approval by majority of the votes cast by the voters of the affected areas in a plebiscite to be conducted and supervised by the Commission on Elections (COMELEC) within 90 days from the effectivity of the law.² The COMELEC, however, deferred the plebiscite until after the 2022 National and Local Elections (2022 NLE). Consequently, the Province of Maguindanao proceeded to elect a new set of officials during the 2022 NLE.³

On September 17, 2022, the COMELEC eventually conducted the plebiscite, which resulted in the overwhelming ratification of Republic Act No. 11550. Accordingly, the elected officials of the province of Maguindanao carried out the transitional governance structure ordained under Section 50⁴ of the law. For Maguindanao del Norte, the elected Vice Governor of the province of Maguindanao, Fatima Ainee L. Sinsuat (Sinsuat), and the next ranking member of the Sangguniang Panlalawigan of the province of Maguindanao, Datu Sharifudin Tucao P. Mastura (Mastura), assumed their respective offices as Governor and Vice Governor, both bearing the qualifications for the posts under Section 50.⁵

On December 20, 2022, Sinsuat sent a letter to the Bureau of Local Government Finance Regional Office No. XII (BLGF Region XII), requesting that Badorie M. Alonzo (Alonzo) be designated as Provincial Treasurer of the province of Maguindanao del Norte in a concurrent capacity as Provincial Treasurer of the mother province of Maguindanao, in accordance with Section 51⁶ of Republic Act No. 11550.⁷

On February 1, 2023, Acting Regional Director June Ann C. Abella of BLGF Region XII informed Sinsuat that BLGF Region XII intended to seek legal guidance from the BLGF Central Office, as well as the Ministry of the Interior and Local Government (MILG) of the Bangsamoro Administrative Region in Muslim Mindanao (BARMM), on the correct interpretation of the transitory provisions of Republic Act No. 11550. According to the said office, since the plebiscite was held only after and not before the 2022 NLE, Section

June 1, 2020, amended by the Senate of the Philippines on March 9, 2021, and which amendments were concurred in by the House of Representatives on March 22, 2021. This was later approved on May 27, 2021 by President Rodrigo Roa Duterte.

² Transitory Provision, Section 48. Plebiscite. - The provinces of Maguindanao del Norte and Maguindanao del Sur shall be created as provided for in this Chapter upon approval by the majority of the votes cast by the voters of the affected areas in a plebiscite to be conducted and supervised by the Commission on Elections (COMELEC) within ninety (90) days from the date of the effectivity of this Act. The expenses for the conduct of the plebiscite shall be borne by the present Province of Maguindanao.

³ *Rollo*, p. 4.

⁴ *Id.*

⁵ *Id.* at 40.

⁶ Republic Act No. 11550, Section 51. Organization of the Provincial Government. - All provincial appointive positions in the newly created provinces shall be filled within sixty (60) days upon commencement of its corporate existence.

⁷ *Rollo*, p. 9.

50 would no longer apply *vis-à-vis* the assumption to office of the supposed governing officials of the newly created province of Maguindanao del Norte.⁸

Petitioner Maguindanao del Norte, represented by Sinsuat, thus filed a Petition for *Mandamus* with prayer for issuance of a writ of preliminary mandatory injunction⁹ against respondents to compel the latter to process the designation of Alonzo or any qualified person designated by petitioner as its Provincial Treasurer.

On April 4, 2023, President Ferdinand Marcos, Jr. appointed Abdulraof Abdul Macacua (Macacua) and Bai Mariam Sangki Mangudadatu as Officers-in-Charge (OICs) of the Offices of the Governor of Maguindanao del Norte and Maguindanao del Sur, respectively. On April 5, 2023, Macacua took his oath.¹⁰

Meantime, under Resolution¹¹ dated April 19, 2023, the Court issued a Writ of Preliminary Mandatory Injunction, ordering respondents to process the designation of Alonzo or any qualified person as Provincial Treasurer of Maguindanao del Norte, *viz.* :

ISSUE a WRIT OF PRELIMINARY MANDATORY INJUNCTION, effective immediately and continuing until further orders from this Court, mandatorily enjoining respondent Bureau of Local Government Finance, Regional Office No. XII, its agents, representatives, or persons acting in its place or stead, to process the designation of Badorie M. Alonzo or any qualified person designated by petitioner Province of Maguindanao del Norte as Provincial Treasurer of the Province of Maguindanao del Norte.¹²

On April 24, 2023, the MILG, through Minister Naguib G. Sinarimbo (Sinarimbo) issued a Certificate of Recognition¹³ to Macacua as Officer-in-Charge Governor (OIC Governor) of the province of Maguindanao del Norte pursuant to his appointment. Macacua thereafter assumed office.¹⁴

On May 11, 2023, BLGF Region XII submitted to the Court its Compliance Report,¹⁵ stating that Ms. Zaira E. Ala, Municipal Treasurer of Datu Odin Sinsuat, Maguindanao del Norte, has been designated as the Acting Provincial Treasurer of the province of Maguindanao del Norte in a concurrent capacity effective April 24, 2023, pursuant to the recommendation of Sinsuat.

⁸ *Id.* at 11.

⁹ *Id.* at 3–28.

¹⁰ *Id.* at 346.

¹¹ *Id.* at 188–189.

¹² *Id.*

¹³ *Id.* at 300.

¹⁴ *Id.* at 186.

¹⁵ *Id.* at 197–201.

By Decision¹⁶ dated June 26, 2023, the Court granted the Petition for *Mandamus* and made the Writ of Preliminary Mandatory Injunction permanent, *viz.*:

ACCORDINGLY, the Petition for *Mandamus* is **GRANTED**. Respondent Bureau of Local Government Finance, Regional Office No. XII is **ORDERED** to process the appointment of Badorie M. Alonzo or any qualified person designated by petitioner Province of Maguindanao del Norte, through Acting Governor Fatima Ainee L. Sinsuat, as Provincial Treasurer of the Province of Maguindanao del Norte with utmost dispatch. The writ of preliminary mandatory injunction issued earlier is made permanent.

SO ORDERED.¹⁷ (Emphases in the original)

In determining whether a Writ of *Mandamus* may issue, the Court affirmed the clear legal right of petitioner, represented by Sinsuat as Acting Governor, to recommend the appointment of its Provincial Treasurer.

The Present Motions

Before the Court are three Motions filed by the parties, namely: (1) the Omnibus Motion¹⁸ dated August 29, 2023 filed by the Office of the Solicitor General (OSG), representing BLGF Region XII and BLGF Central; (2) the Motion for Reconsideration¹⁹ dated September 12, 2023 filed by the MILG; and (3) the Motion to Cite Respondents, et al. for Indirect Contempt²⁰ dated August 18, 2023 filed by petitioner.

In its Omnibus Motion, the OSG prays that the case be referred to the Court *En Banc*, be set for oral arguments and, after due deliberations, the Court's Decision dated June 26, 2023 be reversed, dismissing the Petition. The OSG has also informed the Court that on April 26, 2023, the President appointed several officers for the provinces of Maguindanao del Norte and Maguindanao del Sur. Among which were Macacua and Sinsuat as Governor and Vice Governor, respectively, of the province of Maguindanao del Norte.²¹ On April 28, 2023, Sinsuat and Macacua accepted the President's appointments and took their oaths of office.²²

The OSG argues that Sinsuat effectively abandoned her claim as Acting Governor of Maguindanao del Norte and relinquished the authority to

¹⁶ *Id.* at 241–258. Penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Senior Associate Justice (then Acting Chief Justice) Marvic M.V.F. Leonen and Associate Justices Mario V. Lopez, Jhosep Y. Lopez, and Antonio T. Kho, Jr. of the Second Division of the Supreme Court.

¹⁷ *Id.* at 257.

¹⁸ *Id.* at 339–389.

¹⁹ *Id.* at 436–486.

²⁰ *Id.* at 284–297.

²¹ *Id.* at 348–349.

²² *Id.* at 349.

appoint its Provincial Treasurer when she accepted her appointment and took her oath of office as the Vice Governor of the said province. Consequently, she also effectively abandoned her interest in pursuing the subject of the Petition, rendering the case moot.²³

The President allegedly is the one empowered to fill the vacant positions of Governor and Vice Governor of Maguindanao del Norte pursuant to Section 16, Article VII²⁴ of the 1987 Constitution. The OSG insists that Article 50(a) of Republic Act No. 11550 is inoperable because the conditions set by the legislature, i.e., if Republic Act No. 11550 was approved and ratified more than six months prior to the 2022 NLE, never took place. Since the law does not provide for a contingency provision for a different scenario, the President may validly appoint the Governor or Vice Governor of Maguindanao del Norte until the people elect their officials in the next elections.²⁵

More, the BLGF Region XII was not purportedly obliged to process the appointment of Alonzo as Provincial Treasurer because Sinsuat had no authority to recommend her for the position. In any case, her recommendation was not compliant with the required number of eligible recommendees, i.e., at least three ranking eligible recommendees.²⁶

Finally, the OSG maintains that the Court erred in granting the Petition for *Mandamus* since Sinsuat had no clear legal right to recommend the appointment of the Provincial Treasurer of Maguindanao del Norte.²⁷

In its Motion for Reconsideration, the MILG prays for identical remedies prayed for by the OSG. The MILG avers that the issue concerning who shall assume as Governor and Vice Governor of Maguindanao del Norte has become moot because of the supervening events which transpired during the pendency of the case, specifically the appointment to and assumption of office of Macacua and Sinsuat, respectively.²⁸ Notably, none of the exceptions to mootness applies to the case.²⁹

²³ *Id.* at 356–361.

²⁴ Const. (1987), art. VII, sec. 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until after disapproval by the Commission on Appointments or until the next adjournment of the Congress.

²⁵ *Rollo*, pp. 364–375.

²⁶ *Id.* at 376–381.

²⁷ *Id.* at 381–386.

²⁸ *Id.* at 443–454.

²⁹ *Id.* at 454–455.

At any rate, Sinsuat has voluntarily renounced her claim to the position of Governor of Maguindanao del Norte after she accepted her appointment as its Vice Governor.³⁰ As a result of her actions, Sinsuat was allegedly already estopped from questioning Macacua's assumption to office as Governor.³¹ The assailed Decision of the Court must thus be reversed since Sinsuat had no clear legal right to assume the position of Governor of Maguindanao del Norte, to represent the province in the present case, and to recommend its Provincial Treasurer.³² Verily, a writ of *mandamus* may not issue.

Petitioner, on the other hand, **prays** in its Motion for Indirect Contempt that the following persons be ordered to show cause why they should not be cited in indirect contempt for committing the following acts, which allegedly contravened the Decision dated June 26, 2023 of the Court:

- 1) The MILG, represented by Sinarimbo, for refusing to recognize Sinsuat as the Acting Governor of the province of Maguindanao del Norte and for misinforming the public in Sinarimbo's media interviews that the Decision dated June 26, 2023 only rendered the Writ of Preliminary Mandatory Injunction permanent and only involved the designation of Maguindanao del Norte's Provincial Treasurer, but did not pertain to the governorship of the province of Maguindanao del Norte;³³
- 2) Macacua, for undermining the assumption of office of Sinsuat and Mastura as Acting Governor and Acting Vice Governor, respectively;³⁴
- 3) Provincial Administrator Dr. Tomanda D. Antok, for issuing the Memorandum³⁵ dated August 15, 2023, which directed the officers and employees of the province of Maguindanao del Norte to recognize the authority of Macacua as Governor;³⁶
- 4) Land Bank Acting Branch Head Teodocia T. Pelle, for requiring Sinsuat to submit a Certificate of Recognition from the MILG as a requirement for Land Bank to act on Sinsuat's request for the updating of the accounts of the province of Maguindanao del Norte;³⁷ and

³⁰ *Id.* at 21–23.

³¹ *Id.* at 24–29.

³² *Id.* at 29–33.

³³ *Id.* at 279–281.

³⁴ *Id.* at 232.

³⁵ *Id.* at 302.

³⁶ *Id.*

³⁷ *Id.* at 303.

- 5) Treasury Operations Officer IV/OIC Cosna O. Gulam, for refusing to honor the request of Sinsuat to process her fidelity bond.³⁸

Issues

- 1) Has Sinsuat effectively abandoned her claim to the position of Governor of Maguindanao del Norte when she accepted her appointment, took her oath, and assumed her post as Vice Governor of the province of Maguindanao del Norte?
- 2) Is the issuance of a writ of *mandamus* to compel BLGF Region XII to process the appointment of the Provincial Treasurer of Maguindanao del Norte proper in view of the appointment and assumption to office of Macacua and Sinsuat as Governor and Vice Governor, respectively, of Maguindanao del Norte?
- 3) May the Motion to Cite Respondents in Indirect Contempt prosper?

Our Ruling

Upon careful and judicious consideration of the *facts* and relevant developments here, the Court grants the Omnibus Motion of the OSG and the Motion for Reconsideration of the MILG in the main, but denies the prayer to refer the case to the Court *En Banc* and set it for oral arguments. On the other hand, we deny the Motion for Indirect Contempt of petitioner.

Sinsuat is deemed to have abandoned her claim to the position of Governor of Maguindanao del Norte when she accepted her appointment, took her oath, and assumed office as Vice Governor of the province

Preliminarily, we emphasize that the factual circumstances under which the Court rendered its assailed Decision dated June 26, 2023 are drastically different from the *present state of things* as revealed by the parties themselves in their respective Motions.

Remarkably, several months have lapsed between the occurrence of the pivotal supervening event now in contention and the promulgation of our assailed disposition, yet, none of the parties accorded the Court due courtesy

³⁸ *Id.* at 304.



by promptly informing it of recent developments affecting the case such as the President's appointment of Macacua and Sinsuat as Governor and Vice Governor, respectively, of Maguindanao del Norte; most especially Sinsuat's acceptance of her appointment and her subsequent oath taking and assumption of office—acts equating to an abandonment of her claim to the post of Governor of Maguindanao del Norte.

Indeed, abandonment of office is a *specie* of resignation, defined as the voluntary relinquishment of an office by the holder, accompanied by the intention of terminating his or her possession and control thereof. It springs from deliberation and freedom of choice. Its concomitant effect is that the former holder of an office can no longer legally repossess it even by forcible reoccupancy.³⁹

To warrant a finding of abandonment, its two essential elements must be present: *first*, an intention to abandon; and *second*, an overt or "external" act by which the intention is carried into effect.⁴⁰ On this score, our pronouncement in *Sangguniang Bayan of San Andres v. Court of Appeals (San Andres)*,⁴¹ wherein the Court found that the private respondent therein effectively abandoned his claim to the contested office, is *apropos*, viz.:

Indeed, the following clearly manifest the intention of private respondent to abandon his position: (1) his failure to perform his function as member of the *Sangguniang Bayan*, (2) his failure to collect the corresponding remuneration for the position, (3) his failure to object to the appointment of Aquino as his replacement in the *Sangguniang Bayan*, (4) his prolonged failure to initiate any act to reassume his post in the *Sangguniang Bayan* after the Supreme Court had nullified his designation to the *Sangguniang Panlalawigan*.

On the other hand, the following overt acts demonstrate that he had effected his intention: (1) his letter of resignation from the *Sangguniang Bayan*, (2) his assumption of office as member of the *Sangguniang Panlalawigan*, (3) his faithful discharge of his duties and functions as member of said *Sanggunian*, and (4) his receipt of the remuneration for such post.

x x x In all cases, however, the law does not require the public servant to resign from his original post. Rather, the law allows him to concurrently discharge the functions of both offices.

Private respondent, however, did not simultaneously discharge the duties and obligations of both positions. Neither did he, at that time, express an intention to resume his office as member of the *Sangguniang Bayan*. His overt acts, silence, inaction and acquiescence, when Aquino succeeded him to his original position, show that Antonio had abandoned the contested office. His immediate and natural reaction upon Aquino's appointment should have been to object or, failing to do that, to file appropriate legal

³⁹ See *Sangguniang Bayan of San Andres, Catanduanes v. Court of Appeals*, 348 Phil. 303, 317 (1998) [Per J. Panganiban, Third Division].

⁴⁰ *Id.*

⁴¹ *Id.*

action or proceeding. But he did neither. It is significant that he expressed his intention to resume office only on March 31, 1992, after Aquino had been deemed resigned on March 23, 1992, and months after this Court had nullified his “designation” on August 12, 1991. From his passivity, he is deemed to have recognized the validity of Aquino’s appointment and the latter’s discharged [sic] of his duties as a member of the *Sangguniang Bayan*.⁴²

In *San Andres*, private respondent was deemed to have abandoned his office as a member of the Sangguniang Bayan based on his acts indicative of his intention to abandon the same. Notably, Sinsuat did the same acts, as shown below.

First, Sinsuat never expressed any objection when the President appointed Macacua as OIC Governor of Maguindanao del Norte on April 4, 2023 or when he assumed office as such on April 11, 2023. In fact, her silence continued even until Macacua’s title ceased to be OIC Governor and ripened into Governor of Maguindanao del Norte upon his subsequent appointment as such on April 26, 2023 and his second oath of office on April 28, 2023. Although nothing barred Sinsuat from promptly attacking Macacua’s title to the said office through proper legal action, she failed to do so.

Second, she ceased to discharge the functions of Governor of Maguindanao del Norte in the *interim*, i.e., from Macacua’s assumption until the promulgation of our assailed Decision; and

Lastly, by virtue of her voluntary relinquishment of the position, she likewise presumably failed to collect the remuneration for the post of Governor during such period.

More compelling, the following positive acts of Sinsuat virtually carried into effect her intention to abandon the post of Governor of Maguindanao del Norte.

First, she accepted her appointment as Vice Governor of the province, knowing full well that by doing so, she could not simultaneously be the Governor of Maguindanao del Norte.

Second, on April 28, 2023, she took her oath of office as Vice Governor of Maguindanao del Norte before no less than the President of the Philippines. Surely, the seriousness of swearing an oath before the very head of state precludes any notion that such act was carried out without the most deliberate and cognizant intention of fully assuming such position; and

⁴² *Id.* at 319–320.

Lastly, Sinsuat sealed her choice by assuming the office and discharging the duties and functions of Vice Governor of Maguindanao del Norte while Macacua acted as Governor of the same province.

Certainly, the totality of the circumstances leads to no other reasonable conclusion than Sinsuat had already abandoned her claim to the position of Governor of Maguindanao del Norte. Surely, nothing bars the Court from making this finding since the foregoing official acts of the President are matters which the Court may take judicial notice of.⁴³

The controversies involved in the present case have consequently become moot; none of the exceptions to mootness applies

Considering Sinsuat's abandonment of her claim to the post of Governor of Maguindanao del Norte, the issues raised in the Petition have been rendered *moot* and her authority to represent petitioner has ceased, warranting the dismissal of the case.

A case is moot if it "ceases to present a justiciable controversy because of the supervening events so that a declaration thereon would be of no practical use or value." When a case is moot and academic, the Court generally declines jurisdiction over it,⁴⁴ lest the ruling result in a mere advisory opinion. The rule stems from the Court's judicial power,⁴⁵ which is limited to settling actual cases and controversies involving legally demandable and enforceable rights.⁴⁶

To recall, the controversy raised in the Petition sprang from respondents' refusal to recognize Sinsuat as the Governor of the newly-constituted province of Maguindanao del Norte and her authority to recommend the appointment

⁴³ RULES OF COURT, Rule 129, sec. 1. *Judicial notice, when mandatory*. – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

⁴⁴ *Land Bank of the Phils. v. Fastech Synergy Phils., Inc., et al.*, 816 Phil. 422, 423 (2017) [Per J. Leonen, Second Division], citing *Timbol v. Commission on Elections*, 754 Phil. 578, 584 (2015) [Per J. Leonen, *En Banc*].

⁴⁵ *Express Telecommunications Co., Inc. (Extelcom) v. AZ Communications, Inc.*, 877 Phil. 44, 54 (2020) [Per J. Leonen, Third Division].

⁴⁶ Const. (1987), art. VIII, sec. 1. The judicial power shall be vested in one Supreme Court and in such lower court as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.



of its Provincial Treasurer. In fine, the resolution of the issues in the Petition is hinged on the validity of Sinsuat's claim to the said office, which she has, to reiterate, already abandoned. Consequently, there is no longer any point in determining whether she validly assumed the position of Governor of Maguindanao del Norte pursuant to Section 50 of Republic Act No. 11550. For even if the same were upheld, she no longer wields the right to recommend the appointment of the Provincial Treasurer after she relinquished the contested position.

Significantly, *Defensor-Santiago v. Ramos*⁴⁷ an election protest, finds parallelism to the present case insofar as former Senator Defensor-Santiago was likewise deemed to have abandoned her claim to the presidential seat, rendering her election protest moot:

The term of office of the Senators elected in the 8 May 1995 election is six years, the first three of which coincides with the last three years of the term of the President elected in the 11 May 1992 synchronized elections. The latter would be Protestant Santiago's term if she would succeed in proving in the instant protest that she was the true winner in the 1992 elections. **In assuming the office of Senator then, the Protestant has effectively abandoned or withdrawn this protest, or at the very least, in the language of Moraleja, abandoned her "determination to protect and pursue the public interest involved in the matter of who is the real choice of the electorate." Such abandonment or withdrawal operates to render moot the instant protest.** Moreover, the dismissal of this protest would serve public interest as it would dissipate the aura of uncertainty as to the results of the 1992 presidential election, thereby enhancing the all-to [sic] crucial political stability of the nation during this period of recovery. (Emphasis supplied)

Indeed, that a case had become moot does not *absolutely bar* the Court from resolving the case if any of the following exceptions are present: (1) grave constitutional violations; (2) exceptional character of the case; (3) paramount public interest; (4) the case presents an opportunity to guide the bench, the bar, and the public; or (5) the case is capable of repetition yet evading review.⁴⁸

None of these exceptions, however, apply here, for it appears that the province of Maguindanao del Norte has, during the pendency of the case, become slowly operational. President Ferdinand Marcos, Jr. has appointed key officials in the province who now manage and oversee the administration of the provincial government's affairs. More, the birthing pain experienced by the new province of Maguindanao del Norte from which the Petition arose is a rare and unique occurrence which will not likely find identical repetition in the future.

⁴⁷ P.E.T. Case No. 001, February 13, 1996.

⁴⁸ *Oclarino et al. v. Navarro et al.*, 863 Phil. 949, 955 (2019) [Per J. J. Reyes, Jr., Second Division].

At any rate, Sinsuat has no clear legal right to compel respondents to perform the acts demanded; the Petition for Mandamus may not prosper

In any case, even granting that Sinsuat never meant to surrender her claim to the office of Governor, the Petition must still be dismissed for lack of merit.

To reiterate, for *mandamus* to lie, it is imperative that the following requisites be present: (1) the plaintiff has a clear legal right to the act demanded; (2) it must be the duty of the defendant to perform the act, because it is mandated by law; (3) the defendant unlawfully neglects the performance of the duty enjoined by law; (4) the act to be performed is ministerial, not discretionary; and (5) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.⁴⁹

Only specific legal rights are enforceable by *mandamus*, which requires that the right sought to be enforced must be *certain* and *clear*, and the writ will not issue in cases where the right is *doubtful*.⁵⁰

Here, the appointment and assumption to office of Macacua as Governor of Maguindanao del Norte cast an inescapable shadow of doubt over Sinsuat's claim to the same position as well as her concomitant right to recommend the appointment of Maguindanao del Norte's Provincial Treasurer. For now, there arises a dispute as to who between them rightfully exercises the authority to designate an individual to such position. Verily, the first requisite is remarkably *absent*, which precludes the issuance of the writ.

Consequently, upon due consideration of the integral supervening events here, the Court must reverse its earlier pronouncement in the assailed Decision and revoke the Writ of *Mandamus* and Writ of Preliminary Mandatory Injunction earlier issued.

Petitioner's Motion for Indirect Contempt must be denied for utter lack of merit

As for petitioner's Motion for Indirect Contempt, the same must be denied for lack of merit.

⁴⁹ See *Del Rosario v. Shaikh*, 867 Phil. 731, 740 (2019) [Per J. J. Reyes, Jr., First Division].

⁵⁰ *Sanson v. Barrios*, 63 Phil. 198 (1936) [Per J. Recto, *En Banc*].

Contempt of court has been defined as a willful disregard or disobedience of a public authority. In its broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.⁵¹

The power to punish for contempt is inherent in all courts and need not be specifically granted by statute, for it lies at the core of the administration of a judicial system.⁵² Yet, however, plenary contempt powers may seem, the same ought to be exercised judiciously and sparingly with utmost self-restraint.⁵³ Only in cases of clear and contumacious refusal to obey should the power be exercised. Such power, being drastic and extraordinary in nature, should not be resorted to unless necessary in the interest of justice.⁵⁴

There are two types of contempt of court: (1) direct contempt, and (2) indirect contempt.⁵⁵ It is important to distinguish between the two, as they differ in their nature, grounds, procedures, penalties, and remedies.

Direct contempt is committed when a person is guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including: (a) disrespect toward the court; (b) offensive personalities toward others; (c) refusal to be sworn or to answer as a witness; or (d) to subscribe an affidavit or deposition when lawfully required to do so.⁵⁶ As to procedure, no formal proceedings are required to cite a person in direct contempt. The Court may summarily adjudge one in direct contempt without a hearing. In fact, a person may be cited in direct contempt at the very moment or at the very instance of the commission of the act of contumely.⁵⁷

Indirect contempt, on the other hand, is that which is committed out of the presence of the court.⁵⁸ This form of contempt involves conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect.⁵⁹ Rule 71, Section 3 of the Revised Rules of Court provides the grounds for indirect contempt, as follows:

⁵¹ *Ligon v. The RTC, Br. 56 at Makati City, et al.*, 728 Phil. 131, 145 (2014) [Per J. Perlas-Bernabe, Second Division].

⁵² *Lorenzo Shipping Corp., et al. v. Distribution Management Assn. of the Phils., et al.*, 672 Phil. 1, 10 (2011) [Per J. Bersamin, First Division].

⁵³ *Britania v. Gepty*, 869 Phil. 386, 396 (2020) [Per J. Lazaro-Javier, First Division].

⁵⁴ *Bank of the Philippine Islands v. Labor Arbiter Calanza, et al.*, 647 Phil. 507, 514 (2010) [Per J. Nachura, Second Division].

⁵⁵ *Bro. Oca, et al. v. Custodio*, 814 Phil. 641, 666 (2017) [Per J. Leonen, Second Division].

⁵⁶ *Subic Bay Metropolitan Authority v. Rodriguez*, 633 Phil. 196, 213 (2010) [Per J. Carpio, Second Division].

⁵⁷ *See Español v. Atty. Formoso*, 552 Phil. 297, 305 (2007) [Per J. Sandoval-Gutierrez, First Division].

⁵⁸ *Subic Bay Metropolitan Authority v. Rodriguez*, *supra* note 56.

⁵⁹ *P/Supt. Marantan v. Atty. Diokno, et al.*, 726 Phil. 642, 648 (2014) [Per J. Mendoza, Third Division].

- (a) Misbehavior of an officer of a court in the performance of his [or her] official duties or in his [or her] official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
- (f) Failure to obey a subpoena duly served; [and]
- (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

Unlike direct contempt, the proceeding for indirect contempt is criminal in nature.⁶⁰ Thus, the procedural requirements of: (1) a charge in writing; (2) an opportunity for the person charged to appear and explain his or her conduct; and (3) opportunity to be heard by himself/herself or by counsel,⁶¹ under Rule 71 of the Revised Rules of Court are *mandatory*.⁶²

Here, petitioner through Sinsuat, charges MILG et al. with indirect contempt for their purported disobedience of the Court's Decision dated June 26, 2023 and improper conduct which tended to impede the administration of justice,⁶³ through a mere *Motion*. This, petitioner cannot do. Consequently, the Motion must be dismissed outright for being procedurally infirm.

Under Rule 71, Section 4⁶⁴ of the Revised Rules of Court, there are *only two ways* by which a person may be charged with indirect contempt: *first*,

⁶⁰ *Kaisahan ng mga Manggagawa sa La Campana v. Tantongco*, G.R. No. L-18338, October 31, 1962 [Per J. Paredes, *En Banc*].

⁶¹ *Barredo-Fuentes v. Judge Albarracin*, 496 Phil. 31, 41 (2005) [Per J. Tinga, Second Division].

⁶² *Office of the Court Administrator v. Judge Lerma*, 647 Phil. 216 (2010) [*Per Curiam, En Banc*].

⁶³ *Rollo*, pp. 293–294.

⁶⁴ REVISED RULES OF COURT, Rule 71, sec. 4. *How proceedings commenced*. – Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition

through a verified petition; and *second*, by order or formal charge initiated by the court *motu proprio*.

Where the court did not initiate the contempt charge, *as here*, the Rules prescribe that a *verified petition* which has complied with the requirements of initiatory pleadings as outlined under Rule 71, Section 4(2)⁶⁵ of the Revised Rules of Court, must be filed.⁶⁶ Thus, in *Ladano v. Neri et al.*,⁶⁷ the Court denied the urgent motion to cite private respondents in contempt of court, categorically stating that a charge for indirect contempt cannot be initiated by a *mere motion*, to wit:

A charge for indirect contempt, such as disobedience to a court's lawful order, is initiated either *motu proprio* by order of or a formal charge by the offended court, or by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. **It cannot be initiated by a mere motion**, such as the one that petitioner filed.⁶⁸ (Emphasis supplied, citations omitted)

Notably, petitioner here is aware of the procedural infirmity of the present Motion. It, however, cites the urgency of the Petition for *Mandamus*, which supposedly impelled the issuance of the Writ of Preliminary Mandatory Injunction, as justification for the Court to except the Motion from the requisite form under the rules of procedure.⁶⁹

We are not persuaded.

Any urgency inherent to the case has already been dissipated by the supervening events which culminated in the assumption of office of key officials in the province. More, a Provincial Treasurer for the province of Maguindanao del Norte has already been appointed in the *interim*. Verily, the exigency previously brought about by the vacuum in the said position, which crippled the province's fiscal management, is no longer present and may no longer be invoked now. Hence, on the ground of its procedural infirmities, the Motion should be denied outright.

But even on the merits, the Motion must fail. Petitioner insists that MILG et al.'s refusal to recognize Sinsuat as Acting Governor, in view of Macacua's appointment, constitutes disobedience to our Decision dated June 26, 2023 wherein the Court purportedly affirmed Sinsuat's assumption as

for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.

⁶⁵ *Id.*

⁶⁶ *Capitol Hills Golf & Country Club, Inc. v. Sanchez*, 728 Phil. 58 (2014) [Per J. Peralta, Third Division].

⁶⁷ 698 Phil. 354 (2012) [Per J. Del Castillo, Second Division].

⁶⁸ *Id.* at 365.

⁶⁹ *Rollo*, p. 296.

Acting Governor as valid for being in accordance with Section 50 of Republic Act No. 11550.

The argument is devoid of merit. To stress, the core issue brought by the Petition for *Mandamus* which the Court resolved under Decision dated June 26, 2023 only hinged on whether petitioner, through Sinsuat, had a clear legal right to demand the designation of its Provincial Treasurer and whether respondents are duty-bound to perform the required act.⁷⁰ As mentioned, this issue has been rendered *academic* in view of Sinsuat's abandonment of her claim to the position of Governor.

In any case, the determination of Sinsuat's authority to act on behalf of petitioner was merely *a necessary incident* of, and limited to, resolving the main issue raised by the Petition, i.e., whether respondents may be compelled to process the designation of Maguindanao del Norte's Provincial Treasurer. It was not meant to be wielded as an absolute and encompassing *fiat* in favor of Sinsuat's title, especially where in the *interim*, a supervening event occurred, i.e., another person was appointed to and thereafter assumed the same office.

More important, the Motion must be dismissed for being a collateral attack against Macacua's title to the public office. A careful and judicious reading of petitioner's Motion shows that what is essentially sought from the Court is an affirmation that Sinsuat has a *better right* over Macacua to the seat of Governor of Maguindanao del Norte, which is *absolutely* outside the ambit of a charge for indirect contempt. Here, Macacua assumed his position pursuant to an appointment issued by the President of the Philippines. *At the very least*, therefore, he holds a colorable title to the office.

On this score, the Court declared in *Nacionalista Party v. De Vera*⁷¹ that where an officer has at least a colorable right to the office, his or her title can be determined only in a *quo warranto* proceeding. To be sure, a *quo warranto* proceeding is the proper legal remedy to determine a person's right or title to a public office and to oust the holder from its enjoyment. It is the proper remedy to inquire into a public officer's eligibility or the validity of his or her appointment.⁷² In other words, petitioner may not be allowed to circumvent this rule *via* a mere Motion for Indirect Contempt.

In the same vein, the Court shall not tackle here and now the apparent clash between Macacua's title to the office and Sinsuat's adverse claim thereto, such issue being the proper subject of a *quo warranto*, especially since Macacua is not even a party to this case. Consequently, no exigent constitutional issue is left for resolution here, which would justify the referral

⁷⁰ See *Judge Villanueva v. Judicial and Bar Council*, 757 Phil. 534 (2015) [Per J. Reyes, *En Banc*].

⁷¹ 85 Phil. 127 (1949) [Per C.J. Moran, *En Banc*].

⁷² *Republic of the Phils. v. Sereno*, 833 Phil. 449 (2018) [Per J. Tijam, *En Banc*].

of the case to the Court *En Banc* or the holding of oral arguments therefor. We thus deny the common prayer for such relief by the OSG and the MILG.

Sinsuat must show cause why she should not be cited in contempt for failing to inform the Court of her appointment to and acceptance and assumption of the office of the Vice Governor

Finally, the parties' glaring omission to be forthright regarding the material developments affecting this case does not escape the attention of the Court. Albeit the Court mandatorily takes judicial notice of the official acts of the President, the parties ought to have at least filed manifestations informing the Court of the supervening events which significantly altered the possible outcome of the case.

For Sinsuat, most of all, her silence and strategic omissions appear to constitute intentional concealment which tends to disrespect the authority of the Court as final dispenser of justice. Not only did she opt to stay mum, failing to apprise the Court that she has already accepted her appointment as Vice Governor of Maguindanao del Norte, she notably and conveniently omitted to mention this important fact in the Motion for Indirect Contempt where she so candidly and eagerly divulged the twin appointment of Macacua as Governor. Perceptibly, her actions or lack thereof tend to cripple the authority of the Court to render an informed and just resolution of the case.

Verily, Sinsuat ought to be ordered to show cause why she should not be cited in contempt of court for her failure to promptly inform the Court of her appointment, oath taking, and assumption as Vice Governor of Maguindanao del Norte.

The Court **NOTES** the (1) Comment/Opposition⁷³ dated October 26, 2023 of respondent MILG to the Motion to Cite Respondents, et al. for Indirect Contempt⁷⁴ dated August 18, 2023; and (2) Comment⁷⁵ dated November 8, 2023 of petitioner on the respondent's motion for reconsideration of the Decision⁷⁶ dated June 26, 2023, both in compliance with the Resolution⁷⁷ dated October 4, 2023.

⁷³ *Rollo*, pp. 682–694.

⁷⁴ *Id.* at 284–298.

⁷⁵ *Id.* at 741–782.

⁷⁶ *Id.* at 241–258.

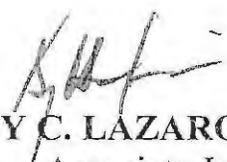
⁷⁷ *Id.* at 586–588.

ACCORDINGLY, the Omnibus Motion of the Office of the Solicitor General and the Motion for Reconsideration of the Ministry of the Interior and Local Government are **PARTLY GRANTED**. The Court's Decision dated June 26, 2023 is **REVERSED** and the Petition for *Mandamus* is **DISMISSED** for being moot. The Writ of *Mandamus* and Writ of Preliminary Mandatory Injunction earlier issued are **DISSOLVED**.

The prayer to refer the case to the Court *En Banc* and set it for oral argument is **DENIED**. Petitioner province of Maguindanao del Norte's Motion for Indirect Contempt is likewise **DENIED** for lack of merit.

Bai Fatima Ainee L. Sinsuat is **ORDERED** to **SHOW CAUSE** within 10 days from notice why she should not be cited in contempt for her failure to promptly inform the Court of her appointment, oath taking, and assumption as Vice Governor of the province of Maguindanao del Norte.

SO ORDERED.

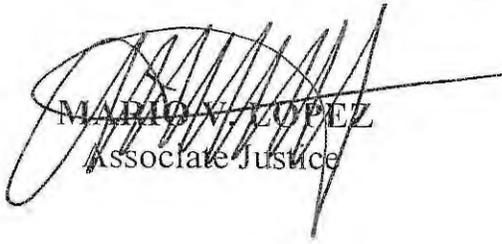


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:



MARVIC M. V. F. LEONEN
Senior Associate Justice
Chairperson



MARIO V. LOPEZ
Associate Justice



J. JOSE V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

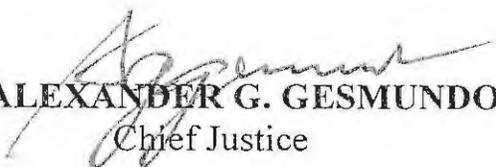


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson



CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

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