

**GOVERNOR EMILIO M.R. OSMENA, (PROVINCE OF CEBU),
GOVERNOR ROBERTO PAGDANGANAN, ON BEHALF OF THE LEAGUE
OF GOVERNORS OF THE PHILIPPINES, REPRESENTATIVES PABLO P.
GARCIA (3RD DIST...**

G.R. No. 100318. July 30, 1991

Ponente: PARAS, J.

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PARAS, J.:

For all the awesome power of the Congress and the Executive, the Court will not hesitate to "make the hammer fall, and heavily," to use Justice Laurel's pithy language, where the acts of these departments, or of any public official betray the people's will as expressed in the Constitution. (*Association of Small Landowners in the Philippines, Inc., v. Secretary of Agrarian Reform*, 175 SCRA 343, 365)

It need only be added, to borrow again the words of Justice Laurel, that -

"x x x when the Judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments, it does not in reality nullify or invalidate an act of the Legislative, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed 'judicial supremacy' which properly is the power of judicial review under the Constitution." (*Angara v. Electoral Commission*, 63 Phil. 139)

The petition now before Us (G.R. No. 100318) calls for a determination of the validity and constitutionality of Republic Act 7056, "An Act Providing for the National and Local Elections in 1992, Pave the Way for Synchronized and Simultaneous Elections Beginning 1995, and Authorizing Appropriations Therefor," which was signed into law on June 20, 1991. The suit was instituted by Governor Emilio M. Osmena (Province of Cebu), Governor Roberto Pagdanganan on behalf of the League of Governors of the Philippines, Representatives Pablo P. Garcia (3rd District-Cebu), Raul V. del Mar, (North District-Cebu City), Antonio T. Bacaltos (1st District-Cebu), Wilfredo G. Cainglet (3rd District-Zamboanga del Norte) and Romeo Guanzon (lone District-Bacolod City), by way of a petition for Prohibition, Mandamus and Injunction with temporary restraining order and/or preliminary injunction to prevent the implementation of said Republic Act 7056 and the consequent expenditure of public funds and to compel the Comelec to immediately and with all deliberate speed set up the machinery and make the necessary preparation for the holding of synchronized national and local elections on the second Monday of May, 1992.

The petitioners' claim they have actual and material legal interest in the subject matter of this case not only because, as public officials, they have taken an oath to support and defend the Constitution but also because, as taxpayers, they have an interest in seeing to it that public funds are properly and, more importantly, lawfully disbursed. They pray for this Court to declare Republic Act No. 7056 as unconstitutional and, therefore, invalid

and inoperative because:

"1. Republic Act 7056 violates the mandate of the Constitution for the holding of synchronized national and local elections on the second Monday of May 1992.

"2. Republic Act 7056, particularly the 2nd paragraph of Section 3 thereof, providing that all incumbent provincial, city and municipal officials shall hold over beyond June 30, 1992 and shall serve until their successors shall have been duly elected and qualified violates Section 2, Article XVIII (Transitory Provision) of the Constitution.

"3. The same paragraph of Section 3 of Republic Act 7056, which in effect, shortens the term or tenure of office of local officials to be elected on the 2nd Monday of November, 1992 violates Section 8, Article X of the Constitution.

"4. Section 8 of Republic Act 7056, providing for the campaign periods for Presidential, Vice-Presidential and Senatorial elections, violates the provision of Section 9, Article IX under the title 'Commission on Elections' of the Constitution.

"5. The so-called many difficult if not insurmountable problems mentioned in Republic Act 7056 to synchronized national and local elections set by the Constitution on the second Monday of May, 1992, are not sufficient, much less, valid justification for postponing the local elections to the second Monday of November 1992, and in the process violating the Constitution itself. If, at all, Congress can devise ways and means, within the parameters of the Constitution, to eliminate or at least minimize these problems and if this, still, is not feasible, resort can be made to the self-correcting mechanism built in the Constitution for its amendment or revision." (pp. 4-5, Petition)

Similar claims have been made in the other cases mentioned in the caption.

The Court in its Resolution dated June 27, 1991 issued a restraining order, "ordering the respondents and/or anyone acting in their place or stead, or by their authority, to cease and desist from implementing Republic Act 7056, which provides among others, for the holding of desynchronized national and local elections in 1992." (p. 29, Rollo) The Court also required respondents to comment on the petition within a non-extendible period of ten (10) days from notice.

Commenting on the petition as required, the Solicitor General prays for the denial of the petition arguing that the question raised by petitioners is political in nature and therefore beyond the jurisdiction of this Court. He stresses, citing *National Economic Protective Association v. Ongpin*, 171 SCRA 657, that petitioners failed to show justification for the exercise of its judicial power, viz (1) the existence of an appropriate case; (2) an interest personal and substantial by the party raising the constitutional question; (3) the plea that the function be exercised at the earliest opportunity; and (4) the necessity that the constitutional question be passed upon in order to decide the case. He also questions the legal standing of the petitioners, who, he contends are merely asking for an advisory opinion from the Court, there being no justiciable controversy for resolution.

On the merits of the case, the Solicitor General contends that Republic Act 7056 is a valid exercise of legislative power by Congress and that the regular amending process prescribed by the Constitution does not apply to its transitory provisions.

Ruling first on the jurisdictional issue, We hold that contrary to the respondents' assertion, the Court has the competence to act on the matter at bar. What is before us is not a discretionary act of Congress or the Executive that may not be reviewed by us because it is political in nature. What is involved here is the legality, not the wisdom of Republic Act 7056. And even if we were to assume that the issue presented before us is political in

nature, We would still not be precluded from resolving it under the expanded jurisdiction conferred upon us that now covers in proper cases even political questions (*Daza v. Singson*, 180 SCRA 496), provided naturally, that the question is not solely and exclusively political (as when the Executive extends recognition to a foreign government) but one which really necessitates a forthright determination of constitutionality, involving as it does a question of national importance. Article VIII, Sec. 1 of the 1987 Constitution clearly provides:

"The judicial power shall be vested in one Supreme Court and in such lower courts 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."

On the other procedural issues raised, We held as early as in the Emergency Power Cases (*Araneta v. Dinglasan*, 84 Phil. 368; *Rodriguez v. Gella*, 93 Phil. 603) that where serious constitutional questions are involved, "the transcendental importance to the public of these cases demands that they be settled promptly and definitely, brushing aside if we must, technicalities of procedure." The same policy has since then been consistently followed by the Court, as in *Gonzales v. Commission on Elections*, 21 SCRA 774, where We held:

"In the course of the deliberations, a serious procedural objection was raised by five members of the Court. It is their view that respondent Commission on Election not being sought to be restrained from performing any specific act, this suit cannot be characterized as 'other than a mere request for an advisory opinion.' Such a view, from the remedial law standpoint, has much to recommend it. Nonetheless, a majority would affirm the original stand that under the circumstances, it could still rightfully be treated a petition for prohibition.

"The language of Justice Laurel fits the case: 'All await the decision of this Court on the constitutional question. Considering, therefore, the importance which the instant case has assumed and to prevent multiplicity of suits, strong reasons of public policy demand that (its) constitutionality x x x be now resolved.' It may likewise be added that the exceptional character of the situation that confronts us, the paramount public interest and the undeniable necessity for ruling, the national election being barely six months away reinforce our stand.

"It would appear undeniable, therefore, that before us is an appropriate invocation of our jurisdiction to prevent the enforcement of an alleged unconstitutional statute. We are left with no choice then; we must act on the matter."

In the case of *Kapatiran ng Mga Naglilingkod sa Pamahalaan ng Pilipinas, Inc. v. Tan*, 163 SCRA 371, 378, wherein the Solicitor General raised the same issues - failure to show justification for the exercise of judicial powers and lack of justiciable controversy for resolution, the Court ruled that these are mere procedural matters and -

"considering the importance to the public of the case at bar and in keeping with the court's duty under the 1987 Constitution to determine whether or not other branches of government have kept themselves within the limits of the Constitution and the laws and that they have not abused the discretion given to them, the Court has brushed aside technicalities of procedure and had taken cognizance of this petition."

This ruling was re-echoed in the case of "*Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*", 175 SCRA 343 and in the more recent case of "*Attys. Humberto Basco et. al. v. Philippine Amusement and Gaming Corporation (PAGCOR)*", G.R. No. 91649, promulgated May 14, 1991.

To summarize, on the procedural issue, We hold in view of the foregoing considerations, that the issue presented to us in the case at bar, is justiciable rather than political. Even if the question were political in nature, it would

still come within our powers of review under the expanded jurisdiction conferred upon us by Article VIII, Section 1 of the 1987 Constitution, which includes the authority to determine whether grave abuse of discretion amounting to excess or lack of jurisdiction has been committed by any branch or instrumentality of the government. As for the other alleged procedural flaws – lack of court standing, etc., assuming the existence of such flaws, the same may be brushed aside, conformably with existing doctrine so that the important constitutional issue raised may be addressed.

Accordingly, We are left with no other alternative but to uphold the jurisdiction of the Court over the present cases. It goes without saying that We do this not because the Court is superior to the Executive and/or Legislative but simply because the Executive, the Legislative and this Court are subject to the Constitution as the supreme law.

As this Court stated in *Daza v. Singson*, *supra*:

"x x x But as our jurisdiction has been invoked and more importantly, because a constitutional stalemate has to be resolved, there was no alternative for us except to act and to act decisively. In doing so, of course, we are not imposing our will upon the said agencies, or substituting our discretion for theirs, but merely discharging our sworn responsibility to interpret and apply the Constitution. That is a duty we do not evade, lest we ourselves betray our oath."

Now, We go to the merits of the case.

At the core of this controversy is Article XVIII, Sections 2 and 5 (Transitory Provisions) of the 1987 Constitution, which reads -

"Sec. 2. The Senators, Members of the House of Representatives and the local officials first elected under this Constitution shall serve until noon of June 30, 1992.

"Of the Senators elected in the election in 1992, the first twelve obtaining the highest number of votes shall serve for six years and the remaining twelve for three years.

"xxx xxx xxx

"Sec. 5. The six-year term of the incumbent President and Vice President elected in the February 7, 1986 election is, for purposes of synchronization of elections, hereby extended to noon of June 30, 1992.

"The first regular elections for President and Vice-President under this Constitution shall be held on the second Monday of May, 1992."

(underscoring supplied)

It is clear from the aforequoted provisions of the 1987 Constitution that the terms of office of Senators, Members of the House of Representatives, the local officials, the President and the Vice-President have been synchronized to end on the same hour, date and year - noon of June 30, 1992.

It is likewise evident from the wording of the above-mentioned Sections that the term synchronization is used synonymously as the phrase holding simultaneously since this is the precise intent in terminating their Office Tenure on the same day or occasion. This common termination date will synchronize future elections to once every three years (Bernas, *the Constitution of the Republic of the Philippines*, Vol. II, p. 605).

That the election for Senators, Members of the House of Representatives and the local officials (under Sec. 2, Art. XVIII) will have to be synchronized with the election for President and Vice President (under Sec. 5, Art. XVIII) is likewise evident from the following records of the proceedings in the Constitutional Commission:

"CONSIDERATION OF THE SURVEY OF SYNCHRONIZATION OF ELECTIONS

"MR. ROMULO. Madam President, we have two subject matters to be taken up. The first with regard to the synchronization of elections, copies of the results of the survey of which, I think, has been provided to everybody and the second question is the party list sectoral representation issue.

"I move that we proceed to the consideration of the survey on the synchronization of the elections for the Offices of the President and Vice-President, the members of the Congress and the local officials.

"THE PRESIDENT. Is there any objection to the motion of the Acting Floor Leader? (Silence) the Chair hears none; the motion is approved.

"MR. OPLE. Madam President, will the Acting Floor Leader yield to a question concerning this agenda?

"MR. ROMULO. Yes, certainly.

"MR. OPLE. We are taking up the consideration of the survey on the synchronization of the elections, and within that context the specific terms of office of the President and the Vice-President, the Members of the Congress and the local officials. Is that correct?

"MR. ROMULO. That is my proposal inasmuch as the survey covers all of those offices.

"MR. OPLE. This will not foreclose a full debate on the question of the terms of the President and the Vice-President in the Constitution later on?

"MR. ROMULO. Madam President, firstly, I do not think this involves the incumbents.

"MR. OPLE. Thank you very much.

"Mr. ROMULO. Does that satisfy Commissioner Ople?

"MR. OPLE. That is all the information I wanted. Thank you very much, Madam President.

"THE PRESIDENT. The term of the incumbents is taken up in the Transitory Provisions. Is that correct?

"MR. ROMULO. That is correct, Madam President.

"THE PRESIDENT. So the body will now discuss the term of office of the President, Vice-President, the Members of the Congress and the local officials.

"MR. ROMULO. Yes. So in other words, strictly speaking, we will discuss the synchronization of elections." (Records, July 24, 1986, pp. 204-205)

Further, the records of the proceedings of October 3, 1986 show the following:

"MR. MAAMBONG. For purposes of identification, I will now read a section which we will temporarily indicate as Section 14. It reads: 'THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE LOCAL OFFICIALS ELECTED IN THE FIRST ELECTION SHALL SERVE FOR FIVE YEARS, TO EXPIRE AT NOON OF JUNE ___1992.'

"This was presented by Commissioner Davide, so may we ask that Commissioner Davide be recognized.

"THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

"MR. DAVIDE. Before going to the proposed amendment, I would only state that in view of the action taken by the Commission on Section 2 earlier, I am formulating a new proposal. It will read as follows: 'THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE LOCAL OFFICIALS FIRST ELECTED UNDER THIS CONSTITUTION SHALL SERVE UNTIL NOON OF JUNE 30, 1992.'

"I proposed this because of the proposed section of the Article on Transitory Provisions giving a term to the incumbent President and Vice-President until 1992. Necessarily then, since the term provided by the Commission for Members of the Lower House and for local officials is three years, if there will be an election in 1987, the next election for said officers will be in 1990, and it would be very close to 1992. We could never attain, subsequently, any synchronization of election which is once every three years.

"So under my proposal we will be able to begin actual synchronization in 1992, and consequently, we should not have a local election or an election for Members of the Lower House in 1990 for them to be able to complete their term of three years each. And if we also stagger the Senate, on the first election it will result in an election in 1993 for the Senate alone, and there will be an election for 12 Senators in 1990. But for the remaining 12 who will be elected in 1987, if their term is for six years, their election will be in 1993. So, consequently we will have elections in 1990, in 1992 and in 1993, the later election will be limited to only 12 Senators and of course to the House of the Lower House. But, definitely, thereafter we can never have an election once every three years, therefore defeating the very purpose of the Commission when we adopted the term of six years for the President and another six years for the Senators with the possibility of staggering with 12 to serve for six years and 12 for three years insofar as the first Senators are concerned. And so my proposal is the only way to effect the first synchronized election which would mean, necessarily, a bonus of two years to the Members of the Lower House and a bonus of two years to the local elective officials.

"THE PRESIDING OFFICER (Mr. Rodrigo). What does the committee say?

"MR. DE CASTRO. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner de Castro is recognized.

"MR. DE CASTRO. Thank you.

"During the discussion on the legislative and the synchronization of elections, I was the one who proposed that in order to synchronize the elections every three years, which the body approved - the first national and local officials to be elected in 1987 shall continue in office for five years, the same thing the Honorable Davide is now proposing. That means they will all serve until 1992, assuming that the term of the President will be for six years and continue beginning in 1986. So from 1992, we will again have national, local and presidential elections. This time, in 1992, the President shall have a term until 1998 and while the next 12 shall serve until 1995, and then the local officials elected in 1992 will serve until 1995. From then on, we shall have an election every three years.

"So, I will say that the proposition of Commissioner Davide is in order, if we have to synchronize our elections every three years which was already approved by the body.

"Thank you, Mr. Presiding Officer.

"xxx xxx xxx

"MR. GUINGONA. What will be synchronized, therefore, is the election of the incumbent President and Vice-President in 1992.

"MR. DAVIDE. Yes.

"MR. GUINGONA. Not the reverse. Will the committee not synchronize the election of the Senators and local officials with the election of the President?

"MR. DAVIDE. It works both ways, Mr. Presiding Officer. The attempt here is on the assumption that the provision of the Transitory Provisions on the term of the incumbent President and Vice-President would really end in 1992.

"MR. GUINGONA. Yes.

"MR. DAVIDE. In other words, there will be a single election in 1992 for all, from the President up to the municipal officials.

"xxx xxx xxx

"MR. SUAREZ. Last point of inquiry to the Honorable Davide.

"From 1987 up to 1992, as envisioned under the Gentlemen's proposal, will there be no local or national election?

"MR. DAVIDE. None, Mr. Presiding Officer.

"MR. SUAREZ. And the second local and national elections will be held in 1992?

"MR. DAVIDE. That is correct. Mr. Presiding Officer.

"MR. SUAREZ. Prior to June 30, 1992?

"MR. DAVIDE. Yes, Mr. Presiding Officer.

(Record, October 3, 1986, pp. 429-432, Underscoring supplied)

It thus becomes very evident that the Constitution has mandated a synchronized national and local election prior to June 30, 1992 or more specifically as provided for in Article XVIII, Sec. 5 - on the second Monday of May, 1992.

On this point, it has to be stressed that the term of office of elective local officials, except barangay officials, is fixed by the Constitution at three years (Sec. 8, Art. X). The incumbent local officials were elected in January 1988. Therefore, their term would have expired on February 2, 1991. But their term was adjusted to expire at noon of June 30, 1992. The reason for the said adjustment, as well as those of the Senators, members of the House of Representatives, President and Vice-President, is the same – to synchronize the national and local elections.

Upon the other hand, and contrary to the express mandate of the 1987 Constitution, Republic Act 7056 provides for two (2) separate elections in 1992 as follows:

"Sec. 2. Start of Synchronization - To start the process of synchronization of election in accordance with the policy hereinbefore declared there shall be held:

"(a) An election for President and Vice-President of the Philippines, twenty four (24) Senators and all elective Members of the House Representatives on the second Monday of May, 1992, and

"(b) An election of all provincial, city and municipal elective officials on the second Monday of November, 1992.

The purpose of Republic Act 7056 is as stated in Section 1 thereof under the heading "Statement of Policy" -

"x x x to start, as much as practicable, the synchronization of the elections so that the process can be completed in the 1995 elections with the result that beginning 1995 there shall be only one (1) simultaneous regular elections for national and local elective officials every three (3) years.

With the clear mandate of the 1987 Constitution to hold synchronized (simultaneous) national and local elections in the second Monday of May, 1992, the inevitable conclusion would be that Republic Act 7056 is clearly violative of the Constitution because it provides for the holding of a desynchronized election. Stated differently, Republic Act 7056 particularly Sections 1 and 2 thereof contravenes Article XVIII, Sections 2 and 5 of the 1987

Constitution.

But this is not all. There are other provisions of the Constitution violated by RA 7056. For one, there is Section 2, Article XVIII of the Constitution which provides that the local official first elected under the Constitution shall serve until noon of June 30, 1992. But under Sec. 3 of RA 7056, these incumbent local officials shall hold over beyond June 30, 1992 and shall serve until their successors shall have been duly elected and qualified. It has been held that:

"It is not competent for the legislature to extend the term of officers by providing that they shall hold over until their successors are elected and qualified where the constitution has in effect or by clear implication prescribed the term and when the Constitution fixes the day on which the official term shall begin, there is no legislative authority to continue the office beyond that period, even though the successors fail to qualify within the time." (Sec. 67 CJS, p. 379, Underscoring supplied)

In American Jurisprudence it has been stated as follows:

"It has been broadly stated that the legislature cannot, by an act postponing the election to fill an office the term of which is limited by the Constitution, extend the term of the incumbent beyond the period as limited by the Constitution." (43 Am. Jur., 152, page 13)

Also, there is Section 8, Article X of the Constitution which provides that:

"The term of office of elective local officials, except barangay officials which shall be determined by law shall be three years and no such official shall serve for more than three consecutive terms. x x x"

But if the local election will be held on the second Monday of November 1992 under RA 7056, those to be elected will be serving for only two years and seven months, that is, from November 30, 1992 to June 30, 1995, not three years as provided for by the Constitution.

Then also, Section 9, Article IX of the Constitution provides that:

"Unless otherwise fixed by the Commission in special cases, the election period shall commence ninety days before the day of election and shall end thirty days thereafter."

Under this provision the filing of the Certificate of Candidacy and the ensuing campaign period must be embraced or circumscribed within that election period of ninety days, except when in special cases, the Comelec (not Congress) alters the period. But RA 7056 provides for a different campaign period, as follows:

"Sec. 8.

"xxx xxx xxx

"(a) For President and Vice-Presidential elections one hundred thirty (130) days before the day of election.

"(b) For Senatorial elections, ninety (90) days before the day of the election, and

"(c) For the election of Members of the House of Representatives and local elective provincial, city and municipal officials forty-five (45) days before the day of the elections.

All these - the postponement of the holding of a synchronized national and local election from 1992 to 1995; the hold-over provision for incumbent local officials; the reduction of the term of office of local officials to be elected on the second Monday of November 1992 and the change in the campaign periods, are violative of the 1987 Constitution.

The contention of the Solicitor General that the method of amendment or revision prescribed by the Constitution

(Article XVIII) does not apply to the Transitory Provisions because in the nature of things Transitory Provisions are to be carried out as soon as practicable, and Congress can, in the exercise of its legislative power enact the needed legislation, in this case RA 7056, deserves no consideration at all. The 1987 Constitution has stated in clear and categorical language that "the six-year term of the incumbent President and Vice-President elected in the February 7, 1986 election is, for purposes of synchronization of elections, hereby extended to noon of June 30, 1992 (Article XVIII, Sec. 5)." As discussed earlier, the elections referred to, to be synchronized with the election of the President and Vice-President on the second Monday of May 1992, is the election for Senators, Members of the House of Representatives and local officials.

Incidentally, Webster defines -

Synchronization - as the act or result of synchronizing; concurrence of events or motions in respect to time.

Synchronize - to happen or take place at the same time; to represent or arrange event so as to indicate coincidence or co-existence; to cause to agree in time.

It is noteworthy that the Solicitor General evaded the issue of the constitutionality of Republic Act 7056. Although he made a lengthy discussion on the procedural issues and on the legislative power of Congress, he failed to refute the arguments of the petitioners that Republic Act 7056 violated several provisions of the 1987 Constitution more importantly, the provision on synchronization of election.

Insofar as the motion for intervention filed by some Congressmen on July 29, 1991 is concerned, We believe the same is meritless because the mere absence of a provision in the 1987 Constitution which would prohibit the holding of separate elections does not mean that the Constitution does not intend the holding of simultaneous or synchronized elections.

IN VIEW OF THE FOREGOING CONSIDERATIONS, Republic Act 7056 is hereby declared UNCONSTITUTIONAL, hence, NULL and VOID. The restraining order earlier issued is hereby made permanent. No costs.

SO ORDERED.

Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Grino-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Fernan, C.J., no part, due to close personal relationship with certain parties.

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