

ENRIQUE T. GARCIA, ET AL., PETITIONERS, VS. COMMISSION ON ELECTIONS AND SANGGUNIANG BAYAN OF MORONG, BATAAN, RESPONDENTS.

G.R. No. 111230. September 30, 1994

Ponente: PUNO, J.

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PUNO, J.:

The 1987 Constitution is borne of the conviction that people power can be trusted to check excesses of government. One of the means by which people power can be exercised is thru initiatives where local ordinances and resolutions can be enacted or repealed. An effort to trivialize the effectiveness of people's initiatives ought to be rejected.

In its Pambayang Kapasyahan Blg. 10, Serye 1993,[1] the Sangguniang Bayan ng Morong, Bataan agreed to the inclusion of the municipality of Morong as part of the Subic Special Economic Zone in accord with Republic Act No. 7227.

On May 24, 1993, petitioners filed a petition[2] with the Sangguniang Bayan of Morong to annul Pambayang Kapasyahan Blg. 10, Serye 1993. The petition states:

"I. Bawiin, nulipikahin at pawalang-bisa ang Pambayang Kapasyahan Blg. 10, Serye 1993 ng Sangguniang Bayan para sa pag-anib ng Morong sa SSEZ na walang kondisyon.

II. Palitan ito ng isang Pambayang Kapasiyahan na aanib lamang ang Morong sa SSEZ kung ang mga sumusunod na kondisyones ay ipagkakaloob, ipatutupad at isasagawa para sa kapakanan at interes ng Morong at Bataan:

‘(A). Ibalik sa Bataan ang "Virgin Forests" -- isang bundok na hindi nagagalaw at punong-puno ng malalaking punong-kahoy at iba’-ibang halaman.

(B). Ihiwalay ang Grande Island sa SSEZ at ibalik ito sa Bataan.

(K). Isama ang mga lupain ng Bataan na nakapaloob sa SBMA sa pagkukuenta ng salaping ipinagkakaloob ng pamahalaang national o "Internal Revenue Allotment" (IRA) sa Morong, Hermosa at sa Lalawigan.

(D). Payagang magtatag rin ng sariling "special economic zones" ang bawat bayan ng Morong, Hermosa at Dinalupihan.

(E). Ibase sa laki ng kanya--kanyang lupa ang pamamahagi ng kikitain ng SBMA.

(G). Ibase rin ang alokasyon ng pagbibigay ng trabaho sa laki ng nasabing mga lupa.

(H). Pabayaang bukas ang pinto ng SBMA na nasa Morong ng 24 na oras at bukod dito sa magbukas pa ng pinto sa hangganan naman ng Morong at Hermosa upang magkaroon ng pagkakataong umunlad rin ang mga nasabing bayan, pati na rin ng iba pang bayan ng Bataan.

(I). Tapusin ang pagkokonkreto ng mga daang Morong-Tala-Orani at Morong-Tasig-Dinalupihan para sa kabutihan ng mga taga-Bataan at tuloy makatulong sa pangangalaga ng mga kabundukan.

(J). Magkaroon ng sapat na representasyon sa pamunuan ng SBMA ang Morong, Hermosa at Bataan."

The municipality of Morong did not take any action on the petition within thirty (30) days after its submission. Petitioners then resorted to their power of initiative under the Local Government Code of 1991.[3] They started to solicit the required number of signatures[4] to cause the repeal of said resolution. Unknown to the petitioners, however, the Honorable Edilberto M. de Leon, Vice Mayor and Presiding Officer of the Sangguniang Bayan ng Morong, wrote a letter dated June 11, 1993 to the Executive Director of COMELEC requesting the denial of "x x x the petition for a local initiative and/or referendum because the exercise will just promote divisiveness, counter productive and futility." [5] We quote the letter, viz:

"The Executive Director

C O M E L E C

Intramuros, Metro Manila

Sir:

In view of the petition filed by a group of proponents headed by Gov. Enrique T. Garcia, relative to the conduct of a local initiative and/or referendum for the annulment of Pambayang Kapasyahan Blg. 10, Serye 1993, may we respectfully request to deny the petition referred thereto considering the issues raised by the proponents were favorably acted upon and endorsed to Congress and other government agencies by the Sangguniang Bayan of Morong.

For your information and guidance, we are enumerating hereunder the issues raised by the petitioners with the corresponding actions undertaken by the Sangguniang Bayan of Morong, to wit:

ISSUES RAISED BY PROPONENTS

I. Pawalang-bisa ang Pambayang Kapasyahan Blg. 10, Serye ng taong 1993.

II. Palitan ito ng isang Kapasyahang Pag-anib sa SSEZ kung;

a) Ibabalik sa Morong ang pag-aaring Grande Island, kabundukan at Naval Reservation;

b) Ibase sa aring lupa ng LGU ang kikitain at mapapasok na manggagawa nila sa SSEZ;

c) Isama ang nasabing lupa sa pagkukuwenta ng 'IRA' ng Morong, Hermosa at Dinalupihan;

d) Makapagtatag ng sariling 'economic zones' ang Morong, Hermosa at Dinalupihan;

e) Pabayaang bukas ang pinto ng Morong patungong SSEZ at magbukas ng dalawang (2) pinto pa;

f) Konkretihin ang daang Morong papunta sa Orani at Dinalupihan;

g) Pumili ng SBMA Chairman na taga-ibang lugar.

ACTIONS UNDERTAKEN BY THE SB OF MORONG

1. By virtue of R.A. 7227, otherwise known as the Bases Conversion Development Act of 1992, all actions of LGU's correlating on the above issues are merely recommendatory in nature when such provisions were already embodied in the statute.

2. Corollary to the notion, the Sangguniang Bayan of Morong passed and approved Pambayang Kapasyahan Blg. 18, Serye 1993, requesting Congress of the Philippines to amend certain provisions of R.A. 7227, wherein it reasserted its position embodied in Pambayan Kapasyahan Blg. 08 and Blg. 12, Serye ng taong 1992, (Attached and marked as Annex "A:") which tackled the same issues raised by the petitioners particularly items a), b), c), e), and g).

3. Item d) is already acted upon by BCDA Chairman Arsenio Bartolome III in its letter to His Excellency President Fidel V. Ramos, dated May 7, 1993 (Attached and marked as Annex "B") with clarifying letter from BCDA Vice-Chairman Rogelio L. Singson regarding lands on Mabayo and Minanga dated June 3, 1993 that only lands inside the perimeter fence are envisioned to be part of SBMA.

4. Item f), President Ramos in his marginal note over the letter request of Morong, Bataan Mayor Bienvenido L. Vicedo, the Sangguniang Bayan and Congressman Payumo, when the Resolution of Concurrence to SBMA was submitted last April 6, 1993, order the priority implementation of completion of Morong-Dinalupihan (Tasik-Road) Project, including the Morong-Poblacion-Mabayao Road to DPWH. (Attached and marked as Annex "C").

Based on the foregoing facts, the Sangguniang Bayan of Morong had accommodated the clamor of the petitioners in accordance with its limited powers over the issues. However, the Sangguniang Bayan of Morong cannot afford to wait for amendments by Congress of R.A. 7227 that will perhaps drag for several months or years, thereby delaying the development of Morong, Bataan.

Henceforth, we respectfully reiterate our request to deny the petition for a local initiative and/or referendum because the exercise will just promote divisiveness, counter productive and futility.

Thank you and more power.

Very truly yours,

(SGD.) EDILBERTO M. DE LEON

Mun. Vice Mayor/Presiding Officer"

In its session of July 6, 1993, the COMELEC en banc resolved to deny the petition for local initiative on the ground that its subject is "merely a resolution (pambayang kapasyahan) and not an ordinance." [6] On July 13, 1993, the COMELEC en banc further resolved to direct Provincial Election Supervisor, Atty. Benjamin N. Casiano, to hold action on the authentication of signatures being gathered by petitioners. [7]

These COMELEC resolutions are sought to be set aside in the petition at bench. The petition makes the following submissions:

"5. This is a petition for certiorari and mandamus.

5.01 For certiorari, conformably to Sec. 7, Art. IX of the Constitution, to set aside Comelec Resolution Nos. 93-1676 and 93-1623 (Annexes "E" and "H") insofar as it disallowed the initiation of a local initiative to annul PAMBAYANG KAPASYAHAN BLG. 10, SERYE 1993 including the gathering and authentication of the required number of signatures in support thereof.

5.01.1 As an administrative agency, respondent Comelec is bound to observe due process in the conduct of its proceedings. Here, the subject resolutions, Annexes "E" and "H", were issued ex parte and without affording petitioners and the other proponents of the initiative the opportunity to be heard thereon. More importantly, these resolutions and/or directives were issued with grave abuse of discretion. A Sangguniang Bayan resolution being an act of the aforementioned local legislative assembly is undoubtedly a proper subject of initiative. (Sec. 32, Art. VI, Constitution)

5.02 For mandamus, pursuant to Sec. 3, Rule 65, Rules of Court, to command the respondent Comelec to schedule forthwith the continuation of the signing of the petition, and should the required number of signatures be obtained, set a date for the initiative within forty-five (45) days thereof.

5.02.1 Respondent Comelec's authority in the matter of local initiative is merely ministerial. It is duty-bound to supervise the gathering of signatures in support of the petition and to set the date of the initiative once the required number of signatures are obtained.

'If the required number of signatures is obtained, the Comelec shall then set a date for the initiative during which the proposition shall be submitted to the registered voters in the local government unit concerned for their approval within sixty (60) days from the date of certification by the Comelec, as provided in subsection (g) hereof, in case of provinces and cities, forty-five (45) days in case of municipalities, and thirty (30) days in case of barangays. The initiative shall then be held on the date set, after which the results thereof shall be certified and proclaimed by the Comelec. (Sec. 22, par. (h) R.A. 7160.'

Respondent COMELEC opposed the petition. Through the Solicitor General, it contends that under the Local Government Code of 1991, a resolution cannot be the subject of a local initiative. The same stance is assumed by the respondent Sangguniang Bayan of Morong.[8]

We grant the petition.

The case at bench is of transcendental significance because it involves an issue of first impression -delineating the extent of the all important original power of the people to legislate. Father Bernas explains that "in republican systems, there are generally two kinds of legislative power, original and derivative. Original legislative power is possessed by the sovereign people. Derivative legislative power is that which has been delegated by the sovereign people to legislative bodies and is subordinate to the original power of the people."[9]

Our constitutional odyssey shows that up until 1987, our people have not directly exercised legislative power, both the constituent power to amend or revise the Constitution or the power to enact ordinary laws. Section 1, Article VI of the 1935 Constitution delegated legislative power to Congress, thus "the legislative power shall be vested in a Congress of the Philippines, which shall consist of a Senate and a House of Representatives." Similarly, section 1, Article VIII of the 1973 Constitution, as amended, provided that "the Legislative power shall be vested in a Batasang Pambansa." [10]

Implicit in the set up was the trust of the people in Congress to enact laws for their benefit. So total was their trust that the people did not reserve for themselves the same power to make or repeal laws. The omission was to prove unfortunate. In the 70's and until the EDSA revolution, the legislature failed the expectations of the people especially when former President Marcos wielded lawmaking powers under Amendment No. 6 of the 1973 Constitution. Laws which could have bridled the nation's downslide from democracy to authoritarianism to anarchy never saw the light of day.

In February 1986, the people took a direct hand in the determination of their destiny. They toppled down the government of former President Marcos in a historic bloodless revolution. The Constitution was rewritten to embody the lessons of their sad experience. One of the lessons is the folly of completely surrendering the power to make laws to the legislature. The result, in the perceptive words of Father Bernas, is that the new Constitution became "less trusting of public officials than the American Constitution." [11]

For the first time in 1987, the system of people's initiative was thus installed in our fundamental law. To be sure, it was a late awakening. As early as 1898, the state of South Dakota has adopted initiative and referendum in its constitution [12] and many states have followed suit. [13] In any event, the framers of our 1987 Constitution

realized the value of initiative and referendum as an ultimate weapon of the people to negate government malfeasance and misfeasance and they put in place an overarching system. Thus, thru an initiative, the people were given the power to amend the Constitution itself. Sec. 2 of Art. XVII provides: "Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters therein." Likewise, thru an initiative, the people were also endowed with the power to enact or reject any act or law by congress or local legislative body. Sections 1 and 32 of Article VI provide:

"Section 1. The legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives except to the extent reserved to the people by the provision on initiative and referendum.

x x x.

Section 32. The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom, whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof passed by the Congress or local legislative body after the registration of a petition therefor signed by at least ten per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters thereof.

The COMELEC was also empowered to enforce and administer all laws and regulations relative to the conduct of an initiative and referendum.[14] Worthwhile noting is the scope of coverage of an initiative or referendum as delineated by section 32 Art. VI of the Constitution, supra - any act or law passed by Congress or local legislative body.

In due time, Congress responded to the mandate of the Constitution. It enacted laws to put into operation the constitutionalized concept of initiative and referendum. On August 4, 1989, it approved Republic Act No. 6735 entitled "An Act Providing for a System of Initiative and Referendum and Appropriating Funds Therefor." Liberally borrowed from American laws,[15] R.A. No. 6735, among others, spelled out the requirements[16] for the exercise of the power of initiative and referendum, the conduct of national initiative and referendum;[17] the procedure of initiative and referendum;[18] and their limitations.[19] Then came Republic Act No. 7160, otherwise known as The Local Government Code of 1991. Chapter 2, Title XI, Book I of the Code governed the conduct of local initiative and referendum.

In light of this legal backdrop, the essential issue to be resolved in the case at bench is whether Pambayang Kapasyahan Blg. 10, serye 1993 of the Sangguniang Bayan of Morong, Bataan is the proper subject of an initiative. Respondents take the negative stance as they contend that under the Local Government Code of 1991 only an ordinance can be the subject of initiative. They rely on section 120, Chapter 2, Title XI, Book I of the Local Government Code of 1991 which provides: "Local Initiative Defined. - Local initiative is the legal process whereby the registered voters of a local government unit may directly propose, enact, or amend any ordinance."

We reject respondents' narrow and literal reading of the above provision for it will collide with the Constitution and will subvert the intent of the lawmakers in enacting the provisions of the Local Government Code of 1991 on initiative and referendum.

The Constitution clearly includes not only ordinances but resolutions as appropriate subjects of a local initiative. Section 32 of Article VI provides in luminous language: "The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom, whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof passed by the Congress, or local legislative body x x

x" An act includes a resolution. Black20 defines an act as "an expression of will or purpose ... it may denote something done... as a legislature, including not merely physical acts, but also decrees, edicts, laws, judgments, resolves, awards, and determinations x x x." It is basic that a law should be construed in harmony with and not in violation of the Constitution.²¹ In line with this postulate, we held in *Re Guarina* that "if there is doubt or uncertainty as to the meaning of the legislative, if the words or provisions are obscure, or if the enactment is fairly susceptible of two or more constructions, that interpretation will be adopted which will avoid the effect of unconstitutionality, even though it may be necessary, for this purpose, to disregard the more usual or apparent import of the language used."²²

The constitutional command to include acts (i.e., resolutions) as appropriate subjects of initiative was implemented by Congress when it enacted Republic Act No. 6735 entitled "An Act Providing for a System of Initiative and Referendum and Appropriating Funds Therefor." Thus, its section 3(a) expressly includes resolutions as subjects of initiatives on local legislations, viz:

"Sec. 3. Definition of Terms - For purposes of this Act, the following terms shall mean:

(a) "Initiative" is the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose.

There are three (3) systems of initiative, namely:

a.1 Initiative on the Constitution which refers to a petition proposing amendments to the Constitution.

a.2 Initiative on statutes which refers to a petition proposing to enact a national legislation; and

a.3 Initiative on local legislation which refers to a petition proposing to enact a regional, provincial, city, municipal, or barangay law, resolution or ordinance." (Emphasis ours)

Similarly, its section 16 states: "Limitations Upon Local Legislative Bodies - Any proposition on ordinance or resolution approved through the system of initiative and referendum as herein provided shall not be repealed, modified or amended, by the local legislative body concerned within six (6) months from the date therefrom x x x." On January 16, 1991, the COMELEC also promulgated its Resolution No. 2300 entitled "In Re Rules and Regulations Governing the Conduct of Initiative on the Constitution, and Initiative and Referendum, on National and Local Laws." It likewise recognized resolutions as proper subjects of initiatives. Section 5, Article I of its Rules states: "Scope of power of initiative - The power of initiative may be exercised to amend the Constitution, or to enact a national legislation, a regional, provincial, city, municipal or barangay law, resolution or ordinance."

There can hardly be any doubt that when Congress enacted Republic Act No. 6735 it intended resolutions to be proper subjects of local initiatives. The debates confirm this intent. We quote some of the interpellations when the Conference Committee Report on the disagreeing provisions between Senate Bill No. 17 and House Bill No. 21505 were being considered in the House of Representatives, viz:

"THE SPEAKER PRO TEMPORE. The Gentleman from Camarines Sur is recognized.

MR. ROCO. On the Conference Committee Report on the disagreeing provisions between Senate Bill No. 17 and the consolidated House Bill No. 21505 which refers to the system providing for the initiative and referendum, fundamentally, Mr. Speaker, we consolidated the Senate and the House versions, so both versions are totally intact in the bill. The Senators ironically provided for local initiative and referendum and the House of Representatives correctly provided for initiative and referendum on the Constitution and on national legislation.

I move that we approve the consolidated bill.

MR. ALBANO. Mr Speaker.

THE SPEAKER PRO TEMPORE. What is the pleasure of the Minority Floor Leader?

MR. ALBANO. Will the distinguished sponsor answer just a few questions?

THE SPEAKER PRO TEMPORE. What does the sponsor say?

MR. ROCO. Willingly, Mr. Speaker.

THE SPEAKER PRO TEMPORE. The Gentleman will please proceed.

MR. ALBANO. I heard the sponsor say that the only difference in the two bills was that in the Senate version there was a provision for local initiative and referendum, whereas the House version has none.

MR. ROCO. In fact, the Senate version provided purely for local initiative and referendum, whereas in the House version, we provided purely for national and constitutional legislation.

MR. ALBANO. Is it our understanding, therefore, that the two provisions were incorporated?

MR. ROCO. Yes, Mr. Speaker.

MR. ALBANO. So that we will now have a complete initiative and referendum both in the constitutional amendment and national legislation.

MR. ROCO. That is correct.

MR. ALBANO. And provincial as well as municipal resolutions?

MR. ROCO. Down to barangay, Mr. Speaker.

MR. ALBANO. And this initiative and referendum is in consonance with the provision of the Constitution whereby it mandates this Congress to enact the enabling law, so that we shall have a system which can be done every five years. Is it five years in the provision of the Constitution?

MR. ROCO. That is correct, Mr. Speaker. For constitutional amendments to the 1987 Constitution, it is every five years."²³

Contrary to the submission of the respondents, the subsequent enactment of the Local Government Code of 1991 which also dealt with local initiative did not change the scope of its coverage. More specifically, the Code did not limit the coverage of local initiatives to ordinances alone. Section 120, Chapter 2, Title IX Book I of the Code cited by respondents merely defines the concept of local initiative as the legal process whereby the registered voters of a local government unit may directly propose, enact, or amend any ordinance. It does not, however, deal with the subjects or matters that can be taken up in a local initiative. It is section 124 of the same Code which does. It states:

"Sec. 124. Limitations on Local Initiatives. (a) The power of local initiative shall not be exercised more than once a year.

(b) Initiative shall extend only to subjects or matters which are within the legal powers of the Sanggunians to enact.

x x x."

This provision clearly does not limit the application of local initiatives to ordinances, but to all "subjects or matters which are within the legal powers of the Sanggunians to enact," which undoubtedly includes resolutions. This interpretation is supported by section 125 of the same Code which provides: "Limitations upon Sanggunians.

- Any proposition or ordinance approved through the system of initiative and referendum as herein provided shall not be repealed, modified or amended by the sanggunian concerned within six (6) months from the date of the approval thereof x x x." Certainly, the inclusion of the word proposition is inconsistent with respondents' thesis that only ordinances can be the subject of local initiatives. The principal author of the Local Government Code of 1991, former Senator Aquilino Pimentel, espouses the same view. In his commentaries on the said law, he wrote, viz:²⁴

"4. Subject Matter Of Initiative. All sorts of measures may be the subject of direct initiative for as long as these are within the competence of the Sanggunian to enact. In California, for example, direct initiatives were proposed to enact a fishing control bill, to regulate the practice of chiropractors, to levy a special tax to secure a new library, to grant a franchise to a railroad company, and to prevent discrimination in the sale of housing and similar bills.

Direct initiative on the local level may, therefore, cover all kinds of measures provided that these are within the power of the local Sanggunians to enact, subject of course to the other requisites enumerated in the section.

5. Form of Initiative. Regarding the form of the measure, the section speaks only of "ordinance," although the measure may be contained in a resolution. If the registered voters can propose ordinances, why are they not allowed to propose resolutions too? Moreover, the wording of Sec. 125, below, which deals not only with ordinances but with "any proposition" implies the inclusion of resolutions. The discussion hereunder will also show support for the conclusion that resolutions may indeed be the subject of local initiative."

We note that respondents do not give any reason why resolutions should not be the subject of a local initiative. In truth, the reason lies in the well known distinction between a resolution and an ordinance - i.e., that a resolution is used whenever the legislature wishes to express an opinion which is to have only a temporary effect while an ordinance is intended to permanently direct and control matters applying to persons or things in general.²⁵ Thus, resolutions are not normally subject to referendum for it may destroy the efficiency necessary to the successful administration of the business affairs of a city.²⁶

In the case at bench, however, it can not be argued that the subject matter of the resolution of the municipality of Morong merely temporarily affects the people of Morong for it directs a permanent rule of conduct or government. The inclusion of Morong as part of the Subic Special Economic Zone has far reaching implications in the governance of its people. This is apparent from a reading of section 12 of Republic Act No. 7227 entitled "An Act Accelerating the Conversion of Military Reservations Into Other Productive Uses, Creating the Bases Conversion and Development Authority For This Purpose, Providing Funds Therefor and For Other Purposes." to wit:

"Sec. 12. Subic Special Economic Zone. - Subject to the concurrence by resolution of the sangguniang panlungsod of the City of Olongapo and the sangguniang bayan of the Municipalities of Subic, Morong and Hermosa, there is hereby created a Special Economic and Free-port Zone consisting of the City of Olongapo and the Municipality of Subic, Province of Zambales, the lands occupied by the Subic Naval Base and its contiguous extensions as embraced, covered, and defined by the 1947 Military Bases Agreement between the Philippines and the United States of America as amended, and within the territorial jurisdiction of the Municipalities of Morong and Hermosa, Province of Bataan, hereinafter referred to as the Subic Special Economic Zone whose metes and bounds shall be delineated in a proclamation to be issued by the President of the Philippines. Within thirty (30) days after the approval of this Act, each local government unit shall submit its resolution of concurrence to join the Subic Special Economic Zone to the Office of the President. Thereafter, the President of the Philippines shall issue a proclamation defining the metes and bounds of the zone as provided herein.

The abovementioned zone shall be subject to the following policies:

(a) Within the framework and subject to the mandate and limitations of the Constitution and the pertinent provisions of the Local Government Code, the Subic Special Economic Zone shall be developed into a self-sustaining, industrial, commercial, financial and investment center to generate employment opportunities in and around the zone and to attract and promote productive foreign investments;

(b) The Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw material, capital and equipment. However, exportations or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines;

(c) The provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed within the Subic Special Economic Zone. In lieu of paying taxes, three percent (3%) of the gross income earned by all businesses and enterprises within the Subic Special Economic Zone shall be remitted to the National Government, one percent (1%) each to the local government units affected by the declaration of the zone in proportion to their population area, and other factors. In addition, there is hereby established a development fund of one percent (1%) of the gross income earned by all businesses and enterprises within the Subic Special Economic Zone to be utilized for the development of municipalities outside the City of Olongapo and the Municipality of Subic, and other municipalities contiguous to the base areas.

In case of conflict between national and local laws with respect to tax exemption privileges in the Subic Special Economic Zone, the same shall be resolved in favor of the latter;

(d) No exchange control policy shall be applied and free markets for foreign exchange, gold, securities and futures shall be allowed and maintained in the Subic Special Economic Zone;

(e) The Central Bank, through the Monetary Board, shall supervise and regulate the operations of banks and other financial institutions within the Subic Special Economic Zone;

(f) Banking and finance shall be liberalized with the establishment of foreign currency depository units of local commercial banks and offshore banking units of foreign banks with minimum Central Bank regulation;

(g) Any investor within the Subic Special Economic Zone whose continuing investment shall not be less than Two hundred fifty thousand dollars (\$250,000), his/her spouse and dependent children under twenty-one (21) years of age, shall be granted permanent resident status within the Subic Special Economic Zone. They shall have freedom of ingress and egress to and from the Subic Special Economic Zone without any need of special authorization from the Bureau of Immigration and Deportation. The Subic Bay Metropolitan Authority referred to in Section 13 of this Act may also issue working visas renewable every two (2) years to foreign executives and other aliens possessing highly-technical skills which no Filipino within the Subic Special Economic Zone possesses, as certified by the Department of Labor and Employment. The names of aliens granted permanent residence status and working visas by the Subic Bay Metropolitan Authority shall be reported to the Bureau of Immigration and Deportation within thirty (30) days after issuance thereof.

(h) The defense of the zone and the security of its perimeters shall be the responsibility of the National Government in coordination with the Subic Bay Metropolitan Authority. The Subic Bay Metropolitan Authority shall provide and establish its own internal security and fire fighting forces; and

(i) Except as herein provided, the local government units comprising the Subic Special Economic Zone shall retain their basic autonomy and identity. The cities shall be governed by their respective charters and the municipalities shall operate and function in accordance with Republic Act No. 7160, otherwise known as the Local Government Code of 1991."

In relation thereto, section 14 of the same law provides:

"Sec. 14. Relationship with the Conversion Authority and the Local Government Units. ?

(a) The provisions of existing laws, rules and regulations to the contrary notwithstanding, the Subic Authority shall exercise administrative powers, rule making and disbursement of funds over the Subic Special Economic Zone in conformity with the oversight function of the Conversion Authority.

(b) In case of conflict between the Subic Authority and the local government units concerned on matters affecting the Subic Special Economic Zone other than defense and security, the decision of the Subic Authority shall prevail."

Considering the lasting changes that will be wrought in the social, political, and economic existence of the people of Morong by the inclusion of their municipality in the Subic Special Economic Zone, it is but logical to hear their voice on the matter via an initiative. It is not material that the decision of the municipality of Morong for the inclusion came in the form of a resolution for what matters is its enduring effect on the welfare of the people of Morong.

Finally, it cannot be gainsaid that petitioners were denied due process. They were not furnished a copy of the letter-petition of Vice Mayor Edilberto M. de Leon to the respondent COMELEC praying for denial of their petition for a local initiative on Pambayang Kapasyahan Blg. 10, Serye 1993. Worse, respondent COMELEC granted the petition without affording petitioners any fair opportunity to oppose it. This procedural lapse is fatal for at stake is not an ordinary right but the sanctity of the sovereignty of the people, their original power to legislate through the process of initiative. Ours is the duty to listen and the obligation to obey the voice of the people. It could well be the only force that could foil the mushrooming abuses in government.

IN VIEW WHEREOF, the petition is GRANTED and COMELEC Resolution 93-1623 dated July 6, 1993 and Resolution 93-1676 dated July 13, 1993 are ANNULLED and SET ASIDE. No costs.

SO ORDERED.

Narvasa, C.J., Cruz, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, Padilla, and Bidin, JJ., on leave.

[1] Annex "B," Petition.

[2] Annex "A," Petition.

[3] Sec. 122, par. (b) of R.A. No. 7160.

[4] Sec. 122, par. (e) of R.A. No. 7160.

[5] Annex "G," Petition.

[6] Annex "H," Petition, embodying Res. 93-1623 of the COMELEC en banc.

[7] Annex "E," Petition, embodying Res. 93-1676 of the COMELEC en banc.

[8] Comment, pp. 61-63, Records.

[9] Constitutional Structure and Powers of Government, 1991 ed., p. 39.

[10] Section 1, Article VIII of the original 1973 Constitution provides: "The Legislative power shall be vested in a

National Assembly." Under Amendment No. 6 of the same Constitution, legislative power was shared by the President.

[11] Sounding Board, Today's issue of September 6, 1994.

[12] State ex rel. Wagner v. Summers, 33 SD 40, 144 NW 730.

[13] Among them, California, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Nebraska, Oklahoma, Oregon, Utah, and Washington.

[14] Section 2(1) C, Art. IX of the 1987 Constitution.

[15] Vol. VI, Journal of the House of Representatives, Second Regular Session, 1988-89, February 14, 1989, p. 141 Sponsorship Speech of then Congressman, now Senator Raul Roco of H.B. No. 21505.

[16] Sec. 5 of R.A. No. 6735.

[17] Sec. 8, *ibid*.

20 Law Dictionary, 5th ed., p. 24

21 Agpalo, Statutory Construction, 2nd ed., 1990 ed., p.189 citing PLDT v. Collector of Internal Revenue, 90 Phil. 674; Hebron v. Reyes, 104 Phil. 175; Primicias v. Fugoso, 80 Phil. 1.

22 24 Phil. 37, 47 [1913].

23 Journal of the House of Representatives, Vol. VIII, June 8, 1989, p. 960; see also Vol. VII, June 7, 1990, p. 762, sponsorship remarks of Rep. Acosta; Vol. I, July 24, 1990, p. 92, sponsorship remarks of Rep. Puzon.

24 The Local Government Code of 1991, The Key to National Development, pp. 229-230.

25 Words and Phrases, Permanent Edition, Vol. 37 A, p. 6, citing Conley v. Texas Division of United Daughters of the Confederacy, Tex., 164 S.W. 24, 26; see also Allen v. Wise, 50 S.E. 2d 69, 71, 204 Ga. 415.

26 122 ALR, Annotated, p. 770 citing Hopping v. Richmond, 170 Cal. 605, 150 p. 977.

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