

**LIGA NG MGA BARANGAY, AND ALEX L. DAVID, PETITIONERS, VS.
THE COMMISSION ON ELECTIONS, HON. TEOFISTO T. GUINGONA, JR.
IN HIS CAPACITY AS EXECUTIVE SECRETARY, HON. RAFAEL M.
ALUNA...**

G.R. No. 114809. May 05, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

On 18 April 1994, petitioner Liga Ng Mga Barangay, an organization of barangays, represented by petitioner Alex L. David, its president and secretary general as well as a taxpayer, filed this petition for prohibition, with prayer for a temporary restraining order (G.R. No. 114809). Petitioners question what they perceive as “the threatened illegal transfer, disbursement and use of public funds in a manner contrary to the Constitution and the law”[1] relative to the conduct of the forthcoming barangay elections (scheduled for 9 May 1994).

On 22 April 1994, another petition raising the same issues as in the first petition was filed, (docketed as G.R. No. 114896). The said petition has been consolidated with the first petition and both petitions are here resolved jointly. Petitioners claim that in the General Appropriation Act of 1994, only One Hundred Thirty Seven Million Eight Hundred Seventy Eight Thousand Pesos (P137,878,000.00) were appropriated by Congress for the holding of the 1994 barangay elections.[2] By early 1994, according to petitioners, Congress itself had made an assessment that such appropriated sum would be insufficient to defray the cost of holding the said elections.

In order to augment the said appropriated amount, petitioners allege that the respondents have threatened and are about to effect a transfer or re-allocation of the following amounts to be sourced from the executive and legislative branches of Government to respondent Commission on Elections (COMELEC);

(a) One Hundred Eighty Million Pesos (P180,000,000) from the appropriation of the Department of Interior and Local Government (DILG).

(b) One Hundred Million Pesos (P100,000,000) from the Countryside Development Fund; Seventy Million Pesos (P70,000,000) from the Senate and Thirty Million Pesos (P30,000,000) from the House of Representatives; and

(c) Forty Three Million Pesos (P43,000,000) from the Internal Revenue Allotments (IRA) of Provinces, Cities and Municipalities.

The foregoing figures were culled by petitioners from a news item entitled “Barangay Poll Funds Found” appearing in the 18 March 1994 issue of the Manila Bulletin. Based on the said news report, petitioners claim that respondents will effect the transfer of said public funds from the executive and legislative branches of the Government to respondent COMELEC, which in turn would use the said funds for the purpose of holding the barangay elections scheduled on 9 May 1994.

Deliberating on the seriousness of the afore-mentioned allegations in the Petition, and because of the proximity of

the 9 May barangay elections, the Court on 21 April 1994 resolved to require respondents to comment on the Petition within a non-extendible period of five (5) days.

On 26 April 1994, respondents, through the Solicitor General, filed their comment.

In their comment, respondents claim that petitioners acted solely on the basis of reports made in a newspaper, not bothering to confirm the veracity of the said reports either from the COMELEC, the DILG, and/or any of the respondents, particularly on whether respondents are indeed officially initiating the alleged transfer of funds for the barangay elections.

The truth of the matter, according to respondents, is that the said reports were mere unofficial proposals or suggestions made in the process of searching for funds for the said elections but which were later discarded by the proponents themselves.

Respondents aver that the COMELEC never had planned to secure any funding from the DILG, CDFs or IRAs, as alleged by petitioners, or from any other source for that matter which would be contrary to the Constitution and the election laws.

Respondent COMELEC particularly alleges that it intends to fund the forthcoming barangay elections from the P137,878,000 appropriated by Congress for the said elections and from its (COMELEC's) own savings resulting from unused funds originally intended for the conduct and supervision of elections and other political exercises such as funds for the sectoral elections which did not take place and possibly from a portion of its (COMELEC's) modernization program for which the amount of more than five hundred million pesos (P500,000,000) had been appropriated by Congress.

The Solicitor General defends the above COMELEC scheme as allowed by Sec. 25(5), Article VI of the Constitution and Sections 17 and 19 of the General Appropriations Act for Fiscal Year 1994, viz:

“(5). No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.”

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Sec. 17. Use of Savings. The President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Heads of Constitutional Commissions under Article IX of the Constitution, the Ombudsman and the Commission on Human Rights are hereby authorized to augment any item in this Act for their respective offices from savings in other items of their respective appropriations.

x x x x x x x x

Sec. 19. Meaning of Savings and Augmentation. Savings refer to portions of balances of any programmed appropriation free of any obligation or encumbrance still available after the satisfactory completion or unavoidable discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized, or arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay.

Augmentation implies the existence in this Act of an item, project, activity or purpose with an appropriation which upon implementation or subsequent evaluation of needed resources is determined to be deficient. In no case, therefore, shall non-existent item, project, activity, purpose or object of expenditure be funded by augmentation from savings or by the use of appropriations authorized otherwise in this Act.” (emphasis

supplied)

Moreover, respondents maintain that funds of local government units may also be used to help defray the cost of the forthcoming barangay elections. For authority, they cite Opinion No. 51, s. 1994 of the Honorable, the Secretary of Justice, dated 19 April 1994, issued upon request from the COMELEC, wherein the former takes the view that under Section 50 of the Omnibus Election Code, local government units are required to appropriate funds for barangay elections. The Opinion explained that:

“We find legal basis for the issuance by COMELEC of an appropriate directive requiring the local government units to appropriate funds to defray expenses for the barangay elections.

Article I, General Provisions, of the Omnibus Election Code (B.P. Blg. 881, as amended) pertinently states as follows:

‘Sec. 10. Election expenses. – Except in barangay elections, such expenses as may be necessary and reasonable in connection with the elections, referenda, plebiscites and other similar exercises shall be paid by the Commission. The Commission may direct that in the provinces, cities or municipalities, the election expenses chargeable to the Commission be advanced by the province, city or municipality concerned subject to reimbursement by the Commission upon presentation of the proper bill.’ (Underscoring supplied)

Funds needed by the Commission to defray the expenses for the holding of regular and special elections, referenda and plebiscites shall be provided in the regular appropriation of the Commission which, upon request, shall immediately be released to the Commission. In case of deficiency, the amount so provided shall be augmented from the special activities funds in the general appropriation act and from those specifically appropriated for the purpose in special laws. (Emphasis supplied)

Article IV of the same Code dealing with ‘Election of Barangay Officials’ provides as follows:

‘SEC. 50. Funding. - Local governments shall appropriate such funds to defray such necessary and reasonable expenses of the members of the board of election tellers, board of canvassers and the printing of election forms and procurement of other election paraphernalia, and the installation of polling booths.’

Undoubtedly, under the foregoing provisions, while the Comelec answers for all expenditures relative to political exercises of the province, city and municipality, local governments are mandated to share in the expenses of the election for barangay officials through appropriation of funds for the purpose. The Comelec may direct compliance by the local governments with the aforesaid provision of Section 50, Article IV of the Omnibus Election Code pursuant to its constitutional authority to enforce and administer all laws and regulations relative to the conduct of elections (Sec. 2 [1], Art. IX-C, 1987 Constitution), in the same manner that the Comelec may also issue an appropriate directive for the province, city or municipality to advance the election expenses that are chargeable to it. Since the President exercises general supervision over all local governments (Sec. 4, Art. X, *ibid.*), the Comelec may course its directive to local governments through the Office of the President and to be implemented by the DILG.”

Pursuant to said opinion of the Secretary of Justice, the COMELEC issued Comelec Resolution No. 2713, dated 21 April 1994, promulgating the guidelines for the sharing by local government units in the expenses of the barangay elections.

The validity of the aforesaid COMELEC resolution is not at issue in the petitions before us. What is in issue here is the existence or lack of factual basis on whether or not the impleaded public respondents are attempting, or intending to effect the transfer of funds which would be in direct contravention of Sec. 25(5), Art. VI, of the Constitution.

Undoubtedly, the threat to pursue the scheme, if ever there was one, existed only in newspaper reports which could have misled the general public, including the petitioners, into believing that the same emanated from unimpeccable sources.

The Court acknowledges that petitioners have displayed vigilance and acted with the best of intentions when they filed the present petitions. Yet, it would have been more prudent for them to have first obtained an official statement or at least confirmation from respondents as to the veracity of the reports contained in the said news item - which could itself have been quoted out of context by the reporter concerned or simply abbreviated to meet the day's deadline.

WHEREFORE, finding the explanation of respondents to be well taken, the Court resolved to DISMISS the petitions for lack of merit.

SO ORDERED.

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

[1] Petition, p. 9

[2] General Appropriation Act. FY 1994, p. 1167

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