

CIRILO ROY G. MONTEJO, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT, SERGIO A.F. APOSTOL, INTERVENOR.*G.R. No. 118702. March 16, 1995*

Ponente: PUNO, J.

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More than political fortunes are at stake in the case at bench. Petitioner Cirilo Roy G. Montejo, representing the First District of Leyte, pleads for the annulment of section 1 of Resolution No. 2736 of the COMELEC, redistricting certain municipalities in Leyte, on the ground that it violates the principle of equality of representation. To remedy the alleged inequity, petitioner seeks to transfer the municipality of Tolosa from his district to the Second District of the province. Intervenor Sergio A.F. Apostol, representing the Second District, vigorously opposed the inclusion of Tolosa in his district. We gave due course to the petition considering that, at bottom, it involves the validity of the unprecedented exercise by the COMELEC of the legislative power of redistricting and reapportionment.

The province of Leyte with the cities of Tacloban and Ormoc is composed of five (5) legislative districts.[1]

The first district[2] covers Tacloban City and the municipalities of Alangalang, Babatngon, Palo, San Miguel, Sta. Fe, Tanauan and Tolosa.

The second district[3] is composed of the municipalities of Barugo, Barauen, Capoocan, Carigara, Dagami, Dulag, Jaro, Julita, La Paz, Mayorga, MacArthur, Pastrana, Tabontabon, and Tunga.

The third district[4] is composed of the municipalities of Almeria, Biliran, Cabucgayan, Caibiran, Calubian, Culaba, Kawayan, Leyte, Maripipi, Naval, San Isidro, Tabango, and Villaba.

The fourth district[5] is composed of Ormoc City and the municipalities of Albuera, Isabel, Kananga, Matagob, Merida, and Palompon.

The fifth district[6] is composed of the municipalities of Abuyog, Bato, Baybay, Hilongos, Hindang, Inopacan, Javier, Mahaplag, and Matalom.

Biliran, located in the third district of Leyte, was made its sub-province by virtue of Republic Act No. 2141 enacted on April 8, 1959.[7] Section 1 of the law spelled out the municipalities comprising the sub-province, viz: "Almeria, Biliran, Cabucgayan, Caibiran, Culaba, Kawayan, Maripipi and Naval and all the territories comprised therein."

On January 1, 1992, the Local Government Code took effect. Pursuant to its Section 462, the sub-province of Biliran became a regular province. It provides:

"Existing sub-provinces are hereby converted into regular provinces upon approval by a majority of the votes cast in a plebiscite to be held in the sub-provinces and the original provinces directly affected. The plebiscite shall be conducted by the COMELEC simultaneously with the national elections following the effectivity of

this code. The new legislative districts created as a result of such conversion shall continue to be represented in Congress by the duly-elected representatives of the original districts out of which said new provinces or districts were created until their own representatives shall have been elected in the next regular congressional elections and qualified."

The conversion of Biliran into a regular province was approved by a majority of the votes cast in a plebiscite held on May 11, 1992. As a consequence of the conversion, eight (8) municipalities of the Third District composed the new province of Biliran, i.e., Almeria, Biliran, Cabucgayan, Caibiran, Culaba, Kawayan, Maripipi, and Naval. A further consequence was to reduce the Third District to five (5) municipalities with a total population of 145,067 as per the 1990 census.

To remedy the resulting inequality in the distribution of inhabitants, voters and municipalities in the province of Leyte, respondent COMELEC held consultation meetings with the incumbent representatives of the province and other interested parties. On December 29, 1994, it promulgated Resolution No. 2736 where, among others, it transferred the municipality of Capoocan of the Second District and the municipality of Palompon of the Fourth District to the Third District of Leyte. The composition of the First District which includes the municipality of Tolosa and the composition of the Fifth District were not disturbed. After the movement of municipalities, the composition of the five (5) legislative districts appeared as follows:

First District:

Population

Registered
Voters

(1990)

(1994)

1. Tacloban City,

137,190

81,679

2. Alangalang,

33,375

20,543

3. Babatngon,

17,795

9,929

4. Palo,

38,100

20,816

5. San Miguel,

13,438

8,167

6. Sta Fe,

12,119

7,497

7. Tanauan and,

38,033

22,357

8. Tolosa;

13,299

7,700

TOTAL -

303,349

178,688

Second District:

Population

Registered
Voters

(1990)

(1994)

1. Barugo,

23,817

13,237

2. Barauen,

46,029

23,307

3. Carigara

38,863

22,036

4.Dagami,

25,606

16,519

5.Dulag,

33,020

19,375

6. Jaro,

31,727

17,139

7.Julita,

9,944

6,196

8.La Paz,

14,311

9,003

9.Mayorga,

10,530

5,868

10.Mac Arthur,

13,159

8,628

11. Pastrana,

12,565

7,348

12. Tabontabon, and

7,183

4,419

13.Tunga;

5,413

3,387

TOTAL -

272,167

156,462

Third District:

Population

Registered
Voters

(1990)

(1994)

1. Calubian,

25,968

16,649

2. Leyte,

32,575

16,415

3. San Isidro,

24,442

14,916

4. Tabango,

29,743

15,487

5. Villaba,

32,339

21,227

6. Capoocan, and

23,687

13,595

7. Palompon;

45,745

27,474

TOTAL -

214,499

125,763

Fourth District:

Population

Registered
Voters

(1990)

(1994)

1. Ormoc City,

129,456

75,140

2.Albuera,

32,395

17,493

3.Isabel,

33,389

21,889

4.Kananga,

36,288

19,873

5. Matagob,

15,474

9,407

6.Merida, and

22,345

12,474

TOTAL -

269,347

155,995

Third District:

Population

Registered
Voters

(1990)

(1994)

1. Abuyog,

47,265

28,682

2. Bato,

28,197

16,130

3. Baybay,

82,281

47,923

4. Hilongos,

48,617

26,871

5. Hindang,

16,272

9,659

6. Inopacan,

16,894

10,401

7. Javier,
18,658
11,713
8. Mahaplag, and
22,673
13,616
9. Matalom
28,291
16,247

TOTAL -
309,148
181,242

Petitioner Montejo filed a motion for reconsideration calling the attention of respondent COMELEC, among others, to the inequitable distribution of inhabitants and voters between the First and Second Districts. He alleged that the First District has 178,688 registered voters while the Second District has 156,462 registered voters or a difference of 22,226 registered voters. To diminish the difference, he proposed that the municipality of Tolosa with 7,700 registered voters be transferred from the First to the Second District. The motion was opposed by intervenor, Sergio A.F. Apostol. Respondent Commission denied the motion ruling that: (1) its adjustment of municipalities involved the least disruption of the territorial composition of each district; and (2) said adjustment complied with the constitutional requirement that each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory.

In this petition, petitioner insists that Section 1 of Resolution No. 2736 violates the principle of equality of representation ordained in the Constitution. Citing *Wesberry v. Sanders*,^[8] he argues that respondent COMELEC violated "the constitutional precept that as much as practicable one man's vote in a congressional election is to be worth as much as another's." The Solicitor General, in his Comment, concurred with the views of the petitioner. The intervenor, however, opposed the petition on two (2) grounds: (1) COMELEC has no jurisdiction to promulgate Resolution No. 2736; and (2) assuming it has jurisdiction, said Resolution is in accord with the Constitution. Respondent COMELEC filed its own Comment alleging that it acted within the parameters of the Constitution.

We find section 1 of Resolution No. 2736 void.

While the petition at bench presents a significant issue, our first inquiry will relate to the constitutional power of the respondent COMELEC^[9] to transfer municipalities from one legislative district to another legislative district in the province of Leyte. The basic powers of respondent COMELEC, as enforcer and administrator of our election laws, are spelled out in black and white in section 2(c), Article IX of the Constitution. Rightly, respondent COMELEC does not invoke this provision but relies on the Ordinance appended to the 1987 Constitution as the source of its power of redistricting which is traditionally regarded as part of the power to make laws. The Ordinance is entitled "Apportioning the Seats of the House of Representatives of the Congress of the

Philippines to the Different Legislative Districts in Provinces and Cities and the Metropolitan Manila Area." Its substantive sections state:

"SECTION 1. For purposes of the election of Members of the House of Representatives of the First Congress of the Philippines under the Constitution proposed by the 1986 Constitutional Commission and subsequent elections, and until otherwise provided by law, the Members thereof shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila Area as follows:

x x x x x x x x

"SECTION 2. The Commission on Elections is hereby empowered to make minor adjustments of the reapportionment herein made.

"SECTION 3. Any province that may hereafter be created, or any city whose population may hereafter increase to more than two hundred fifty thousand shall be entitled in the immediately following election to at least one Member or such number of Members as it may be entitled to on the basis of the number of its inhabitants and according to the standards set forth in paragraph (3), Section 5 of Article VI of the Constitution. The number of Members apportioned to the province out of which such new province was created or where the city, whose population has so increased, is geographically located shall be correspondingly adjusted by the Commission on Elections but such adjustment shall not be made within one hundred and twenty days before the election." (Italics supplied)

The Ordinance was made necessary because Proclamation No. 3[10] of President Corazon C. Aquino, ordaining the Provisional Constitution of the Republic of the Philippines, abolished the Batasang Pambansa.[11] She then exercised legislative powers under the Provisional Constitution.[12]

The Ordinance was the principal handiwork of then Commissioner Hilario G. Davide, Jr.,[13] now a distinguished member of this Court. The records reveal that the Constitutional Commission had to resolve several prejudicial issues before authorizing the first congressional elections under the 1987 Constitution. Among the vital issues were: whether the members of the House of Representatives would be elected by district or by province; who shall undertake the apportionment of the legislative districts; and, how the apportionment should be made.[14] Commissioner Davide, Jr., offered three (3) options for the Commission to consider: (1) allow President Aquino to do the apportionment by law; (2) empower the COMELEC to make the apportionment; or (3) let the Commission exercise the power by way of an Ordinance appended to the Constitution.[15] The different dimensions of the options were discussed by Commissioners Davide, Felicitas S. Aquino and Blas F. Ople. We quote the debates in extenso, viz:[16]

x x x x x x x x

"MR. PADILLA. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Padilla is recognized.

"MR. PADILLA. I think I have filed a very simple motion by way of amendment by substitution and this was, I believe, a prior or a proposed amendment. Also, the chairman of the Committee on the Legislative said that he was proposing a vote first by the Chamber on the concept of whether the election is by province and cities on the one hand, or by legislative districts on the other. So I propose this simple formulation which reads: 'FOR THE FIRST ELECTION UNDER THIS CONSTITUTION THE LEGISLATIVE DISTRICTS SHALL BE APPORTIONED BY THE COMMISSION ON ELECTIONS.' I hope the chairman will accept the proposed amendment.

SUSPENSION OF SESSION

"MR. DAVIDE. The effect is, more or less, the same insofar as the apportionment is concerned, but the Bernas-Sarmiento et al. proposal would also provide for a mandate for the apportionment later, meaning after the first election, which will in effect embody what the Commission had approved, reading as follows: 'Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section.'

"So, Mr. Presiding Officer, may I request for a suspension of the session, so that all the proponents can work together.

"THE PRESIDING OFFICER (Mr. Jamir). The session is suspended.

"It was 3:33 p.m.

RESUMPTION OF SESSION

"At 3:40 p.m., the session was resumed.

"THE PRESIDING OFFICER (Mr. Jamir). The session is resumed.

"Commissioner Davide is recognized.

"MR. DAVIDE. Mr. Presiding Officer, as a compromise, I wonder if the Commission will allow this. We will just delete the proposed subparagraph (4) and all the capitalized words in paragraph (5). So that in paragraph (5), what would be left would only be the following: 'Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section.'

"But we shall have an ordinance appended to the new Constitution indicating specifically the following: 'FOR PURPOSES OF THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES IN THE FIRST CONGRESSIONAL ELECTION IMMEDIATELY FOLLOWING THE RATIFICATION OF THIS CONSTITUTION PROPOSED BY THE 1986 CONSTITUTIONAL COMMISSION AND SUBSEQUENT ELECTIONS AND UNTIL OTHERWISE PROVIDED BY LAW, THE MEMBERS OF THE HOUSE OF REPRESENTATIVES SHALL BE ELECTED FROM LEGISLATIVE DISTRICTS APPORTIONED AMONG THE PROVINCES, CITIES AND THE METROPOLITAN MANILA AREA AS FOLLOWS.'

"And what will follow will be the allocation of seats to Metropolitan Manila Area, to the provinces and to the cities, without indicating the municipalities comprising each of the districts. Then, under Section 2, we will mandate the COMELEC to make the actual apportionment on the basis of the number of seats provided for and allocated to each province by us.

"MS. AQUINO. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Aquino is recognized.

"MS. AQUINO. I have to object to the provision which will give mandate to COMELEC to do the redistricting. Redistricting is vitally linked to the baneful practices of cutting up areas or spheres of influence; in other words, gerrymandering. This Commission, being a nonpartisan, a nonpolitical deliberative body, is in the best possible situation under the circumstances to undertake that responsibility. We are not wanting in expertise and in time because in the first place, the Committee on the Legislative has prepared the report on the basis of the recommendation of the COMELEC.

"MR. OPLE. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Ople is recognized.

"MR. OPLE. I would like to support the position taken by Commissioner Aquino in this respect. We know that

the reapportionment of provinces and cities for the purpose of redistricting is generally inherent in the constituent power or in the legislative power. And I would feel very uncertain about delegating this to a quasi-judicial body even if it is one of the constitutional offices created under this Constitution. We have the assurance of Commissioner Davide, as chairman of the Committee on the Legislative, that even given the very short time remaining in the life of this Commission, there is no reason why we cannot complete the work of reapportionment on the basis of the COMELEC plan which the committee has already thoroughly studied and which remains available to the Constitutional Commission.

"So, I support the position taken by Commissioner Aquino, Mr. Presiding Officer. I think, it is the safest, the most reasonable, and the most workable approach that is available to this Commission.

"THE PRESIDING OFFICER (Mr. Jamir). What does Commissioner Davide say:

"MR. DAVIDE. The issue now is whether this body will make the apportionment itself or whether we will leave it to the COMELEC. So, there arises, therefore, a prejudicial question for the body to decide. I would propose that the Commission should now decide what body should make the apportionment. Should it be the Commission or should it be the COMELEC? And the Committee on the Legislative will act accordingly on the basis of the decision.

"MR. BENGZON. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Bengzon is recognized.

"MR. BENGZON. Apropos of that, I would like to inform the body that I believe the Committee on the Legislative has precisely worked on this matter and they are ready with a list of apportionment. They have, in fact, apportioned the whole country into various districts based on the recommendation of the COMELEC. So they are ready with the list and if this body would wish to apportion the whole country by district itself, then I believe we have the time to do it because the Committee on the Legislative is ready with that particular report which need only to be appended to the Constitution. So if this body is ready to accept the work of the Committee on the Legislative we would have no problem. I just would like to give that information so that the people here would be guided accordingly when they vote.

"MR. RODRIGO. Mr. Presiding Officer.

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

"MR. RODRIGO. I just would like to ask Commissioner Davide some questions.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Davide may yield if he so desires.

"MR. DAVIDE. Gladly.

"MR. RODRIGO. Will this apportionment which we are considering apply only to the first election after the enactment of the Constitution?

"MR. DAVIDE. On the basis of the Padilla proposal, it will be for the first election; on the basis of the Sarmiento proposal, it will only apply to the first election.

"MR. RODRIGO. And after that, Congress will have the power to reapportion.

"MR. DAVIDE. Yes.

"MR. RODRIGO. So, if we attach this to the Constitution - the reapportionment based on the COMELEC study and between the approval of the Constitution and the first election - the COMELEC no longer has the power to change that even a bit.

x x x x x x x x

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Regalado is recognized.

"MR. REGALADO. May I address a clarificatory question to Commissioner Davide?

"THE PRESIDING OFFICER (Mr. Jamir). The Gentleman will please proceed.

"MR. REGALADO. On the basis of the Commissioner's proposed apportionment and considering the fact that there will be a corresponding reduction to 183 seats, would there be instances of underrepresentation or non-representation?

"MR. DAVIDE. None at all, Mr. Presiding Officer. I can assure the Commission that there will be no case of inequitable distribution. It will come out to be one for every 350 to 400,000 inhabitants.

"MR. REGALADO. And that would be within the standard that we refer to.

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

"MR. REGALADO. Thank you.

"MR. RAMA. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). The Floor Leader is recognized.

"MR. RAMA. The parliamentary situation is that there was a motion by Commissioner Sarmiento to mandate COMELEC to do the redistricting. This was also almost the same motion by Commissioner Padilla and I think we have had some kind of meeting of minds. On the other hand, there seems to be a prejudicial question, an amendment to the amendment as suggested by Commissioner Aquino, that instead of the COMELEC, it should be this Commission that shall make the redistricting. So may I ask Commissioner Aquino, if she insists on that idea, to please formulate it into a motion so we can vote on that first as an amendment to the amendment.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Aquino is recognized.

"MS. AQUINO. The motion is for this Commission to undertake the apportionment of the legislative districts instead of the proposal that COMELEC be given the mandate to undertake the responsibility.

x x x x x x x x

"MR. SARMIENTO. May I be clarified, Mr. Presiding Officer. Is it the motion or the proposed amendment?

"THE PRESIDING OFFICER (Mr. Jamir). The proposed amendment.

"MR. SARMIENTO. May we move for the approval of this proposed amendment which we substitute for paragraphs 4 and 5.

"MR. DAVIDE. May I request that it should be treated merely as a motion to be followed by a deletion of paragraph 4 because that should not really appear as a paragraph in Section 5; otherwise, it will appear very ugly in the Constitution where we mandate a Commission that will become functus officio to have the authority. As a matter of fact, we cannot exercise that authority until after the ratification of the new Constitution.

"THE PRESIDING OFFICER (Mr. Jamir). What does Commissioner Sarmiento say?

"MR. SARMIENTO. It is accepted, Mr. Presiding Officer. So, may I move for the approval of this proposed amendment.

"MS. AQUINO. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). Commissioner Aquino is recognized.

"MS. AQUINO. Would that require a two-thirds vote or a simple plurality to adopt that motion?

"THE PRESIDING OFFICER (Mr. Jamir). That will require a two-thirds vote.

"MS. AQUINO. Thank you. Mr. Presiding Officer.

"MR. SARMIENTO. May I restate the motion, Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). The Gentleman may proceed.

"MR. SARMIENTO. May I move that this Commission do the reapportionment of the legislative districts.

"MS. AQUINO. Mr. Presiding Officer.

"THE PRESIDING OFFICER (Mr. Jamir). What is the pleasure of Commissioner Aquino?

"MS. AQUINO. May I be clarified again on the motion. Is Commissioner Sarmiento, therefore, adopting my motion? Would it not be right for him to move that the COMELEC be mandated?

"MR. SARMIENTO. No, we accepted the amendment. It is already the Commission that will be mandated.

"MS. AQUINO. So, the Gentleman has accepted the amendment.

"Thank you.

"MR. SARMIENTO. I am voting that this Commission do the reapportionment.

VOTING

"THE PRESIDING OFFICER (Mr. Jamir). Let us proceed to vote.

"As many as are in favor, please raise their hand. (Several Members raised their hand.)

"As many as are against, please raise their hand. (No Member raised his hand.)

"The results show 30 votes in favor and none against; the motion is approved."

Clearly then, the Constitutional Commission denied to the COMELEC the major power of legislative apportionment as it itself exercised the power. Section 2 of the Ordinance only empowered the COMELEC "to make minor adjustments of the reapportionment herein made." The meaning of the phrase "minor adjustments" was again clarified in the debates[17] of the Commission, viz:

x x x x x x x x

"MR. GUINGONA. This is just clarificatory, Mr. Presiding Officer. In Section 2, the Commission on Elections is empowered to make minor adjustments on the apportionment made here.

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

"MR. GUINGONA. We have not set any time limit for this.

"MR. DAVIDE. We should not set a time limit unless during the period of amendments a proposal is made. The authority conferred would be on minor corrections or amendments, meaning to say, for instance, that we may have forgotten an intervening municipality in the enumeration, which ought to be included in one district. That we shall consider a minor amendment.

"MR. GUINGONA. Thank you.

X X X X X X X X

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

"MR. DE CASTRO. Thank you.

I was about to ask the committee the meaning of minor adjustment. Can it be possible that one municipality in a district be transferred to another district and call it a minor adjustment?

"MR. DAVIDE. That cannot be done, Mr. Presiding Officer. Minor, meaning, that there should be no change in the allocations per district. However, it may happen that we have forgotten a municipality in between, which is still in the territory of one assigned district, or there may be an error in the correct name of a particular municipality because of changes made by the interim Batasang Pambansa and the Regular Batasang Pambansa. There were many batas pambansa enacted by both the interim and the Regular Batasang Pambansa changing the names of municipalities.

"MR. DE CASTRO. So, the minor adjustment may be made only if one of the municipalities is not mentioned in the ordinance appended to, and it will be up for the COMELEC now to adjust or to put such municipality to a certain district.

"MR. DAVIDE. Yes, Mr. Presiding Officer. For instance, we may not have the data regarding a division of a municipality by the interim Batasang Pambansa or the Regular Batasang Pambansa into two municipalities, meaning, a mother municipality and the new municipality, but still actually these are within the geographical district area.

"MR. DE CASTRO. So the minor adjustment which the COMELEC cannot do is that, if, for example, my municipality is in the First District of Laguna, they cannot put that in any other district.

"MR. DAVIDE. That is not even a minor correction. It is a substantive one.

"MR. DE CASTRO. Thank you.

Consistent with the limits of its power to make minor adjustments, Section 3 of the Ordinance did not also give the respondent COMELEC any authority to transfer municipalities from one legislative district to another district. The power granted by section 3 to the respondent COMELEC is to adjust the number of members (not municipalities) "apportioned to the province out of which such new province was created...".

Prescinding from these premises, we hold that respondent COMELEC committed grave abuse of discretion amounting to lack of jurisdiction when it promulgated section 1 of its Resolution No. 2736 transferring the municipality of Capoocan of the Second District and the municipality of Palompon of the Fourth District to the Third District of Leyte.

It may well be that the conversion of Biliran from a sub-province to a regular province brought about an imbalance in the distribution of voters and inhabitants in the five (5) legislative districts of the province of Leyte. This imbalance, depending on its degree, could devalue a citizen's vote in violation of the equal protection clause of the Constitution. Be that as it may, it is not proper at this time for petitioner to raise this issue using the case at bench as his legal vehicle. The issue involves a problem of reapportionment of legislative districts and petitioner's remedy lies with Congress. Section 5(4), Article VI of the Constitution categorically gives Congress the power to reapportion, thus: "Within three (3) years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section." In *Macias v. COMELEC*,^[18] we ruled that the validity of a legislative apportionment is a justiciable question. But while this Court can strike down an unconstitutional reapportionment, it cannot itself make the reapportionment as petitioner would want us to do by directing respondent COMELEC to transfer the municipality of Tolosa from the First District to the Second District of the province of Leyte.

IN VIEW WHEREOF, section 1 of Resolution No. 2736 insofar as it transferred the municipality of Capoocan of the Second District and the municipality of Palompon of the Fourth District to the Third District of the province of Leyte, is annulled and set aside. We also deny the Petition praying for the transfer of the municipality of Tolosa from the First District to the Second District of the province of Leyte. No costs.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quason, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

[1] Ordinance Appended to the Constitution.

[2] Represented by Congressman Cirilo Roy G. Montejo.

[3] Represented by Congressman Sergio A.F. Apostol.

[4] Represented by Congressman Alberto S. Veloso.

[5] Represented by Congressman Carmelo J. Locsin.

[6] Represented by Congressman Eriberto V. Loreto.

[7] Section 9, Article XVIII of the Constitution provides: "A sub-province shall continue to exist and operate until it is converted into a regular province or until its component municipalities are reverted to the mother province."

[8] 376 US 1. See also Reynolds v. Sims, 377 US 533; WMCA, Inc. v. Lomenzo, 377 US 633, Maryland Commission For Fair Representation v. Tawes, 377 US 656, etc.

[9] The power of the respondent COMELEC to redistrict does not appear to have been disputed by the parties in the proceedings below.

[10] Promulgated March 26, 1986 and otherwise known as Freedom Constitution.

[11] See Article I, Section 3 of Proclamation No. 3.

[12] See Section 1, Article II of Provisional Constitution.

[13] He was the Chairman of the Committee on the Legislative. The other co-sponsors of the Ordinance, introduced in the Commission as Resolution No. 551, were Commissioners Azcuna, Sumulong, Calderon, Alonto, Jamir, Lerum, Guingona, Abubakar, Rodrigo, Aquino, Concepcion, de los Reyes, Jr., Garcia and Treñas.

[14] Record of Constitutional Commission, October 9, 1986 session, p. 686.

[15] Ibid, p. 687.

[16] Ibid, pp. 692-694, 700.

[17] Records of Constitution Commission, Session of October 13, 1986, pp. 950-951.

[18] No. L-18684, September 14, 1961, 3 SCRA 1.

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