

ALEX L. DAVID, IN HIS OWN BEHALF AS BARANGAY CHAIRMAN OF BARANGAY 77, ZONE 7, KALOOKAN CITY AND AS PRESIDENT OF THE LIGA NG MGA BARANGAY SA PILIPINAS, PETITIONER, VS. COMMISSION...

G.R. No. 127116. April 08, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The two petitions before us raise a common question: How long is the term of office of barangay chairmen and other barangay officials who were elected to their respective offices on the second Monday of May 1994? Is it three years, as provided by RA 7160 (the Local Government Code) or five years, as contained in RA 6679? Contending that their term is five years, petitioners ask this Court to order the cancellation of the scheduled barangay election this coming May 12, 1997 and to reset it to the second Monday of May, 1999.

The Antecedents *G.R. No. 127116*

In his capacity as barangay chairman of Barangay 77, Zone 7, Kalookan City and as president of the Liga ng mga Barangay sa Pilipinas, Petitioner Alex L. David filed on December 2, 1996 a petition for prohibition docketed in this Court as *G.R. No. 127116*, under Rule 65 of the Rules of Court, to prohibit the holding of the barangay election scheduled on the second Monday of May 1997. On January 14, 1997, the Court resolved to require the respondents to comment on the petition within a non-extendible period of fifteen days ending on January 29, 1997.

On January 29, 1997, the Solicitor General filed his four-page Comment siding with petitioner and praying that “the election scheduled on May 12, 1997 be held in abeyance.” Respondent Commission on Elections filed a separate Comment, dated February 1, 1997 opposing the petition. On February 11, 1997, the Court issued a Resolution giving due course to the petition and requiring the parties to file simultaneous memoranda within a non-extendible period of twenty days from notice. It also requested former Senator Aquilino Q. Pimentel, Jr.[1] to act as amicus curiae and to file a memorandum also within a non-extendible period of twenty days. It noted but did not grant petitioner’s Urgent Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction dated January 31, 1997 (as well as his Urgent Ex-Parte Second Motion to the same effect, dated March 6, 1997). Accordingly, the parties filed their respective memoranda. The Petition for Leave to Intervene filed on March 17, 1997 by Punong Barangay Rodson F. Mayor was denied as it would just unduly delay the resolution of the case, his interest like those of all other barangay officials being already adequately represented by Petitioner David who filed this petition as “president of the Liga ng mga Barangay sa Pilipinas.”

G.R. No. 128039

On February 20, 1997, Petitioner Liga ng mga Barangay Quezon City Chapter represented by its president Bonifacio M. Rillon filed a petition, docketed as *G.R. No. 128039*, “to seek a judicial review by certiorari to

declare as unconstitutional:

“1. Section 43(c) of R.A. 7160 which reads as follows:

‘(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May 1994.’

2. COMELEC Resolution Nos. 2880 and 2887 fixing the date of the holding of the barangay elections on May 12, 1997 and other activities related thereto;

3. The budgetary appropriation of P400 million contained in Republic Act No. 8250 otherwise known as the General Appropriations Act of 1997 intended to defray the costs and expenses in holding the 1997 barangay elections;”[2]

Comelec Resolution 2880,[3] promulgated on December 27, 1996 and referred to above, adopted a “Calendar of Activities and List and Periods of Certain Prohibited Acts for the May 12, 1997 Barangay Elections.” On the other hand, Comelec Resolution 2887 promulgated on February 5, 1997 moved certain dates fixed in Resolution 2880.[4]

Acting on the petition, the Court on February 25, 1997 required respondents to submit their comment thereon within a non-extendible period of ten days ending on March 7, 1997. The Court further resolved to consolidate the two cases inasmuch as they raised basically the same issue. Respondent Commission filed its Comment on March 6, 1997[5] and the Solicitor General, in representation of the other respondent, filed his on March 6, 1997. Petitioner’s Urgent Omnibus Motion for oral argument and temporary restraining order was noted but not granted. The petition was deemed submitted for resolution by the Court without need of memoranda.

The Issues

Both petitions though worded differently raise the same ultimate issue: How long is the term of office of barangay officials?

Petitioners[6] contend that under Sec. 2 of Republic Act No. 6653, approved on May 6, 1988, “(t)he term of office of barangay officials shall be for five (5) years x x x.” This is reiterated in Republic Act No. 6679, approved on November 4, 1988, which reset the barangay elections from “the second Monday of November 1988” to March 28, 1989 and provided in Sec. 1 thereof that such five-year term shall begin on the “first day of May 1989 and ending on the thirty-first day of May 1994.” Petitioners further aver[7] that although Sec. 43 of RA 7160 reduced the term of office of all local elective officials to three years, such reduction does not apply to barangay officials because (1) RA 6679 is a special law applicable only to barangays while RA 7160 is a general law which applies to all other local government units; (2) RA 7160 does not expressly or impliedly repeal RA 6679 insofar as the term of barangay officials is concerned; (3) while Sec. 8 of Article X of the 1987 Constitution fixes the term of elective local officials at three years, the same provision states that the term of barangay officials “shall be determined by law”; and (4) thus, it follows that the constitutional intention is to grant barangay officials any term, except three years; otherwise, “there would be no rhyme or reason for the framers of the Constitution to except barangay officials from the three year term found in Sec. 8 (of) Article X of the Constitution.” Petitioners conclude (1) that the Commission on Elections committed grave abuse of discretion when it promulgated Resolution Nos. 2880 and 2887 because it “substituted its own will for that of the legislative and usurped the judicial function x x x by interpreting the conflicting provisions of Sec. 1 of RA 6679 and Sec. 43 (c) of RA 7160; and (2) that the appropriation of P400 million in the General Appropriation Act of 1997 (RA 8250) to be used in the conduct of the barangay elections on May 12, 1997 is itself unconstitutional and a waste of public funds.

The Solicitor General agrees with petitioners, arguing that RA 6679 was not repealed by RA 7160 and thus “he believes that the holding of the barangay elections (o)n the second Monday of May 1997 is without sufficient legal basis.”

Respondent Commission on Elections, through Chairman Bernardo P. Pardo, defends its assailed Resolutions and maintains that the repealing clause of RA 7160 includes “all laws, whether general or special, inconsistent with the provisions of the Local Government Code,” citing this Court’s dictum in *Paras vs. Comelec*[8] that “the next regular election involving the barangay office is barely seven (7) months away, the same having been scheduled in May 1997.” Furthermore, RA 8250 (the General Appropriations Act for 1997) and RA 8189 (providing for a general registration of voters) both “indicate that Congress considered that the barangay elections shall take place in May, 1997, as provided for in RA 7160, Sec. 43 (c).”[9] Besides, petitioners cannot claim a term of more than three years since they were elected under the aegis of the Local Government Code of 1991 which prescribes a term of only three years. Finally, Respondent Comelec denies the charge of grave abuse of discretion stating that the “question presented x x x is a purely legal one involving no exercise of an act without or in excess of jurisdiction or with grave abuse of discretion.”[10]

As *amicus curiae*, former Senator Aquilino Q. Pimentel, Jr. urges the Court to deny the petitions because (1) the Local Autonomy Code repealed both RA 6679 and 6653 “not only by implication but by design as well”; (2) the legislative intent is to shorten the term of barangay officials to three years; (3) the barangay officials should not have a term longer than that of their administrative superiors, the city and municipal mayors; and (4) barangay officials are estopped from contesting the applicability of the three-year term provided by the Local Government Code as they were elected under the provisions of said Code.

From the foregoing discussions of the parties, the Court believes that the issues can be condensed into three, as follows:

1. Which law governs the term of office of barangay officials: RA 7160 or RA 6679?
2. Is RA 7160 insofar as it shortened such term to only three years constitutional?
3. Are petitioners estopped from claiming a term other than that provided under RA 7160?

The Court’s Ruling

The petitions are devoid of merit.

Brief Historical Background of Barangay Elections

For a clear understanding of the issues, it is necessary to delve briefly into the history of barangay elections.

As a unit of government, the barangay antedated the Spanish conquest of the Philippines. The word “barangay” is derived from the Malay “balangay,” a boat which transported them (the Malays) to these shores.[11] Quoting from Juan de Plasencia, a Franciscan missionary in 1577, Historian Conrado Benitez[12] wrote that the barangay was ruled by a *dato* who exercised absolute powers of government. While the Spaniards kept the barangay as the basic structure of government, they stripped the *dato* or *rajah* of his powers.[13] Instead, power was centralized nationally in the governor general and locally in the *encomiendero* and later, in the *alcalde mayor* and the *gobernadorcillo*. The *dato* or *rajah* was much later renamed *cabeza de barangay*, who was elected by the local citizens possessing property. The position degenerated from a title of honor to that of a “mere government employee. Only the poor who needed a salary, no matter how low, accepted the post.”[14]

After the Americans colonized the Philippines, the barangays became known as “barrios.”[15] For some time, the laws governing barrio governments were found in the Revised Administrative Code of 1916 and later in the

Revised Administrative Code of 1917.[16] Barrios were granted autonomy by the original Barrio Charter, RA 2370, and formally recognized as quasi-municipal corporations[17]by the Revised Barrio Charter, RA 3590. During the martial law regime, barrios were “declared” or renamed “barangays” -- a reversion really to their pre-Spanish names -- by PD. No. 86 and PD No. 557. Their basic organization and functions under RA 3590, which was expressly “adopted as the Barangay Charter,” were retained. However, the titles of the officials were changed to “barangay captain,” “barangay councilman,” “barangay secretary” and “barangay treasurer.”

Pursuant to Sec. 6 of Batas Pambansa Blg. 222,[18] “a Punong Barangay (Barangay Captain) and six Kagawads ng Sangguniang Barangay (Barangay Councilmen), who shall constitute the presiding officer and members of the Sangguniang Barangay (Barangay Council) respectively” were first elected on May 17, 1982. They had a term of six years which began on June 7, 1982.

The Local Government Code of 1983[19] also fixed the term of office of local elective officials at six years.[20] Under this Code, the chief officials of the barangay were the punong barangay, six elective sangguniang barangay members, the kabataang barangay chairman, a barangay secretary and a barangay treasurer.[21]

B.P. Blg. 881, the Omnibus Election Code,[22] reiterated that barangay officials “shall hold office for six years,” and stated that their election was to be held “on the second Monday of May nineteen hundred and eighty eight and on the same day every six years thereafter.”[23]

This election scheduled by B.P. Blg. 881 on the second Monday of May 1988 was reset to “the second Monday of November 1988 and every five years thereafter[24] by RA 6653. Under this law, the term of office of the barangay officials was cut to five years[25] and the punong barangay was to be chosen from among themselves by seven kagawads, who in turn were to be elected at large by the barangay electorate.[26]

But the election date set by RA 6653 on the second Monday of November 1988 was again “postponed and reset to March 28, 1989” by RA 6679,[27] and the term of office of barangay officials was to begin on May 1, 1989 and to end on May 31, 1994. RA 6679 further provided that “there shall be held a regular election of barangay officials on the second Monday of May 1994 and on the same day every five (5) years thereafter. Their term shall be for five years x x x.”[28] Significantly, the manner of election of the punong barangay was changed. Sec. 5 of said law ordained that while the seven kagawads were to be elected by the registered voters of the barangay, “(t)he candidate who obtains the highest number of votes shall be the punong barangay and in the event of a tie, there shall be a drawing of lots under the supervision of the Commission on Elections.”

Under the Local Government Code of 1991, RA 7160,[29] several provisions concerning barangay officials were introduced:

(1) The term of office was reduced to three years, as follows:

“SEC. 43. Term of Office. --

x x x x x x x x

(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May, 1994” (Underscoring supplied.)

(2) The composition of the Sangguniang Barangay and the manner of electing its officials were altered, inter alia, the barangay chairman was to be elected directly by the electorate, as follows:

SEC. 387. Chief Officials and Offices. -- (a) There shall be in each barangay a punong barangay, seven (7) sanggunian barangay members, the sanggunian kabataan chairman, a barangay secretary and a barangay treasurer.

X X X X X X X X

SEC. 390. Composition. -- The Sangguniang barangay, the legislative body of the barangay, shall be composed of the punong barangay as presiding officer, and the seven (7) regular sangguniang barangay members elected at large and the sangguniang kabataan chairman as members.”

SEC. 41. Manner of Election. -- (a) The x x x punong barangay shall be elected at large x x x by the qualified voters” in the barangay.” (Underscoring supplied.)

Pursuant to the foregoing mandates of the Local Autonomy Code, the qualified barangay voters actually voted for one punong barangay and seven (7) kagawads during the barangay elections held on May 9, 1994. In other words, the punong barangay was elected directly and separately by the electorate, and not by the seven (7) kagawads from among themselves.

The First Issue: Clear Legislative Intent and Design to Limit Term to Three Years

In light of the foregoing brief historical background, the intent and design of the legislature to limit the term of barangay officials to only three (3) years as provided under the Local Government Code emerges as bright as the sunlight. The cardinal rule in the interpretation of all laws is to ascertain and give effect to the intent of the law.[30] And three years is the obvious intent.

First. RA 7160, the Local Government Code, was enacted later than RA 6679. It is basic that in case of an irreconcilable conflict between two laws of different vintages, the later enactment prevails.[31] *Legis posteriores priores contrarias abrogant*. The rationale is simple: a later law repeals an earlier one because it is the later legislative will. It is to be presumed that the lawmakers knew the older law and intended to change it. In enacting the older law, the legislators could not have known the newer one and hence could not have intended to change what they did not know. Under the Civil Code, laws are repealed only by subsequent ones --[32] and not the other way around.

Under Sec. 43-c of RA 7160, the term of office of barangay officials was fixed at “three (3) years which shall begin after the regular election of barangay officials on the second Monday of May 1994.” This provision is clearly inconsistent with and repugnant to Sec. 1 of RA 6679 which states that such “term shall be for five years.” Note that both laws refer to the same officials who were elected “on the second Monday of May 1994.”

Second. RA 6679 requires the barangay voters to elect seven kagawads and the candidate obtaining the highest number of votes shall automatically be the punong barangay. RA 6653 empowers the seven elected barangay kagawads to select the punong barangay from among themselves. On the other hand, the Local Autonomy Code mandates a direct vote on the barangay chairman by the entire barangay electorate, separately from the seven kagawads. Hence, under the Code, voters elect eight barangay officials, namely, the punong barangay plus the seven kagawads. Under both RA 6679 and 6653, they vote for only seven kagawads, and not for the barangay chairman.

Third. During the barangay elections held on May 9, 1994 (second Monday), the voters actually and directly elected one punong barangay and seven kagawads. If we agree with the thesis of petitioners, it follows that all the punong barangays were elected illegally and thus, Petitioner Alex David cannot claim to be a validly elected barangay chairman, much less president of the national league of barangays which he purports to represent in this petition. It then necessarily follows also that he is not the real party-in-interest and on that ground, his petition should be summarily dismissed.

Fourth. In enacting the general appropriations act of 1997,[33] Congress appropriated the amount of P400 million

to cover expenses for the holding of barangay elections this year. Likewise, under Sec. 7 of RA 8189, Congress ordained that a general registration of voters shall be held “immediately after the barangay elections in 1997.” These are clear and express contemporaneous statements of Congress that barangay officials shall be elected this May, in accordance with Sec. 43-c of RA 7160.

Fifth. In *Paras vs. Comelec*,^[34] this Court said that “the next regular election involving the barangay office concerned is barely seven (7) months away, the same having been scheduled in May, 1997.” This judicial decision, per Article 8 of the Civil Code, is now a “part of the legal system of the Philippines.”

Sixth. Petitioners pompously claim that RA 6679, being a special law, should prevail over RA 7160, an alleged general law pursuant to the doctrine of *generalia specialibus non derogant*. Petitioners are wrong. RA 7160 is a codified set of laws that specifically applies to local government units. It specifically and definitively provides in its Sec. 43-c that “the term of office of barangay officials x x x shall be for three years.” It is a special provision that applies only to the term of barangay officials who were elected on the second Monday of May 1994. With such particularity, the provision cannot be deemed a general law. Petitioner may be correct in alleging that RA 6679 is a special law, but they are incorrect in stating (without however giving the reasons therefor) that RA 7160 is necessarily a general law.^[35] It is a special law insofar as it governs the term of office of barangay officials. In its repealing clause,^[36] RA 7160 states that “all general and special laws x x x which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.” There being a clear repugnance and incompatibility between the two specific provisions, they cannot stand together. The later law, RA 7160, should thus prevail in accordance with its repealing clause. When a subsequent law encompasses entirely the subject matter of the former enactments, the latter is deemed repealed.^[37]

The Second Issue: Three-Year Term Not Repugnant to Constitution

Sec. 8, Article X of the Constitution states:

“SEC. 8. 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. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.”

Petitioner *Liga ng mga Barangay Quezon City Chapter* posits that by excepting barangay officials whose “term shall be determined by law” from the general provision fixing the term of “elective local officials” at three years, the Constitution thereby impliedly prohibits Congress from legislating a three-year term for such officers. We find this theory rather novel but nonetheless logically and legally flawed.

Undoubtedly, the Constitution did not expressly prohibit Congress from fixing any term of office for barangay officials. It merely left the determination of such term to the lawmaking body, without any specific limitation or prohibition, thereby leaving to the lawmakers full discretion to fix such term in accordance with the exigencies of public service. It must be remembered that every law has in its favor the presumption of constitutionality.^[38] For a law to be nullified, it must be shown that there is a clear and unequivocal (not just implied) breach of the Constitution.^[39] To strike down a law as unconstitutional, there must be a clear and unequivocal showing that what the fundamental law prohibits, the statute permits.^[40] The petitioners have miserably failed to discharge this burden and to show clearly the unconstitutionality they aver.

There is absolutely no doubt in our mind that Sec. 43-c of RA 7160 is constitutional. Sec. 8, Article X of the Constitution -- limiting the term of all elective local officials to three years, except that of barangay officials which “shall be determined by law” -- was an amendment proposed by Constitutional Commissioner (now Supreme Court Justice) Hilario G. Davide, Jr. According to Fr. Joaquin G. Bernas, S.J., the amendment was

“readily accepted without much discussion and formally approved.” Indeed, a search into the Record of the Constitutional Commission yielded only a few pages[41] of actual deliberations, the portions pertinent to the Constitutional Commission’s intent being the following:

“MR. NOLLEDO. One clarificatory question, Madam President. What will be the term of the office of barangay officials as provided for?

MR. DAVIDE. As may be determined by law.

MR. NOLLEDO. As provided for in the Local Government Code?

MR. DAVIDE. Yes.

X X X X X X X X

THE PRESIDENT. Is there any other comment? Is there any objection to this proposed new section as submitted by Commissioner Davide and accepted by the Committee?

MR. RODRIGO. Madam President, does this prohibition to serve for more than three consecutive terms apply to barangay officials?

MR. DAVIDE. Madam President, the voting that we had on the terms of office did not include the barangay officials because it was then the stand of the Chairman of the Committee on Local Governments that the term of barangay officials must be determined by law. So it is now for the law to determine whether the restriction on the number of reelections will be included in the Local Government Code.

MR. RODRIGO. So that is up to Congress to decide.

MR. DAVIDE. Yes.

MR. RODRIGO. I just wanted that clear in the record.”

Although the discussions in the Constitutional Commission were very brief, they nonetheless provide the exact answer to the main issue. To the question at issue here on how long the term of barangay officials is, the answer of the Commission was simple, clear and quick: “As may be determined by law”; more precisely, “(a)s provided for in the Local Autonomy Code.” And the Local Autonomy Code, in its Sec. 43-c, limits their term to three years.

The Third Issue: Petitioners Estopped From Challenging Their Three-Year Terms

We have already shown that constitutionally, statutorily, logically, historically and commonsensically, the petitions are completely devoid of merit. And we could have ended our Decision right here. But there is one last point why petitioners have no moral ascendancy for their dubious claim to a longer term of office: the equities of their own petition militate against them. As pointed out by Amicus Curiae Pimentel,[42] petitioners are barred by estoppel from pursuing their petitions.

Respondent Commission on Elections submitted as Annex “A” of its memorandum,[43] a machine copy of the certificate of candidacy of Petitioner Alex L. David in the May 9, 1994 barangay elections, the authenticity of which was not denied by said petitioner. In said certificate of candidacy, he expressly stated under oath that he was announcing his “candidacy for the office of punong barangay for Barangay 77, Zone 7” of Kalookan City and that he was “eligible for said office.” The Comelec also submitted as Annex “B”[44] to its said memorandum, a certified statement of the votes obtained by the candidates in said elections, thus:

“BARANGAY 77**CERTIFIED LIST OF CANDIDATES****VOTES OBTAINED**

May 9, 1994 BARANGAY ELECTIONS

PUNONG BARANGAY VOTES OBTAINED

1. DAVID, ALEX L. 112

KAGAWAD

1. Magalona, Ruben 150

2. Quinto, Nelson L. 130

3. Ramon, Dolores Z. 120

4. Dela Pena, Roberto T. 115

5. Castillo, Luciana 114

6. Lorico, Amy A. 107

7. Valencia, Arnold 102

8. Ang, Jose 97

9. Dequilla, Teresita D. 58

10. Primavera, Marcelina 52”

If, as claimed by petitioners, the applicable law is RA 6679, then (1) Petitioner David should not have run and could not have been elected chairman of his barangay because under RA 6679, there was to be no direct election for the punong barangay; the kagawad candidate who obtained the highest number of votes was to be automatically elected barangay chairman; (2) thus, applying said law, the punong barangay should have been Ruben Magalona, who obtained the highest number of votes among the kagawads -- 150, which was much more than David's 112; (3) the electorate should have elected only seven kagawads and not one punong barangay plus seven kagawads.

In other words, following petitioners' own theory, the election of Petitioner David as well as all the barangay chairmen of the two Liga petitioners was illegal.

The sum total of these absurdities in petitioners' theory is that barangay officials are estopped from asking for any term other than that which they ran for and were elected to, under the law governing their very claim to such offices: namely, RA 7160, the Local Government Code. Petitioners' belated claim of ignorance as to what law governed their election to office in 1994 is unacceptable because under Art. 3 of the Civil Code, “(i)gnorance of the law excuses no one from compliance therewith.”

Epilogue

It is obvious that these two petitions must fail. The Constitution and the laws do not support them. Extant jurisprudence militates against them. Reason and common sense reject them. Equity and morality abhor them.

They are subtle but nonetheless self-serving propositions to lengthen governance without a mandate from the governed. In a democracy, elected leaders can legally and morally justify their reign only by obtaining the voluntary consent of the electorate. In this case however, petitioners propose to extend their terms not by seeking the people's vote but by faulty legal argumentation. This Court cannot and will not grant its imprimatur to such untenable proposition. If they want to continue serving, they must get a new mandate in the elections scheduled on May 12, 1997.

WHEREFORE, the petitions are DENIED for being completely devoid of merit.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Kapunan, Mendoza, Francisco, and Torres, Jr., JJ., concur.

Vitug, J., concurs except that on the matter of estoppel he reserved his vote.

Hermosisima, Jr., J., on leave.

[1] Sen. Pimentel was the principal author of the Local Government Code of 1991.

[2] Petition, p. 2; Rollo, p. 4, G.R. No. 128039.

[3] Signed by Chairman Bernardo P. Pardo and Comms. Regalado E. Maambong, Remedios S. Fernando, Manolo B. Gorospe, Julio F. Desamito, Teresita D. L. Flores and Japal M. Guiani.

[4] Resolution 2887 was signed also by the Chairman and six commissioners of the Comelec mentioned in note 3.

[5] Subsequently, on March 11, 1997, Comelec filed a Manifestation and a corrected version of its Comment.

[6] Petition, pp. 3-4; Rollo, pp. 5-6, G.R. No. 127116.

[7] Petition, pp. 4 et seq.; Rollo, pp. 6 et seq., G.R. No. 128039.

[8] G.R. No. 123169, November 4, 1996.

[9] Comelec Comment, pp. 10-11, G.R. No. 128039.

[10] Comelec Comment, p. 7, G.R. No. 127116.

[11] Agoncillo and Alfonso, A Short History of the Filipino People, 1961 ed. p. 38; Cushner, Spain in the Philippines, 1971 ed. p. 5.

The Encyclopedia of the Philippines, Vol. XI, 1953 Ed. p. 12, authored by Zoilo M. Galang relates that "(t)he word BARANGAY is originally BALANGAY from the Malay BALANG which means a boat larger than the Chinese sampan. It is used in the diminutive sense, having the suffix ay x x x. The etymology of this word confirms what the historians say about the way the Malay people emigrated for the first time to (our) Islands. They came in small boats (BALANGAY). These groups by BALANGAY were found by the Spaniards and kept by them to the end of their dominion."

[12] Benitez, A History of the Philippines, 1940 ed., p. 119. See also Guerrero, Philippine Society and Revolution, 1971 ed., p. 6.

[13] Blair and Robertson, The Philippine Islands, 1493-1898, Vol. XVI, pp. 155-157.

[14] Arcilla, An Introduction to Philippine History, 1971 ed. p. 73.

[15] See Hayden, The Philippines, A Study in National Development, 1950 ed. p. 261 et seq. However, Casiano

O. Flores and Jose P. Abletez (Barangay: Its Government and Management, 1989 Ed., p. 3), aver that “the barangays became barrios and components of Spanish pueblos” even prior to the arrival of the Americans. See also, Ortiz, The Barangays of the Philippines, 1990 Ed., p.1.

[16] Aruego, Barrio Government Law, 1971 ed., p. 15.

[17] Section 2, RA 3590.

[18] Approved on March 25, 1982.

[19] Approved on February 10, 1983 as B.P. Blg. 337.

[20] Sec. 44, B.P. Blg. 337.

[21] Sec. 86, B.P. Blg. 337.

[22] Approved on December 3, 1985.

[23] Sec. 37, B.P. Blg. 881.

[24] Sec. 1, RA 6653.

[25] Sec. 2, *ibid.*

[26] Sec. 5, *ibid.*

[27] Approved on October 21, 1988.

[28] Sec. 1, 2nd paragraph, RA 6679.

[29] Approved on October 10, 1991 and took effect on January 1, 1992.

[30] Collector of Internal Revenue vs. Manila Lodge No. 761, 105 Phil. 983, cited in Agpalo, Statutory Construction, 1990 Ed. p. 36; Francisco, Statutory Construction, Third Ed., pp. 5 and 106; Martin, Statutory Construction, 1979 Ed. p. 40.

[31] Agpalo, Statutory Construction, 1990 Ed. p. 294.

[32] Art. 7, Civil Code.

[33] RA 8250.

[34] G.R. No. 123169, November 4, 1996.

[35] If the Local Government Code merely provided that all local officials, without specifying barangay officials, “shall have a term of three years,” then such provision could be deemed a general law. But the Code provision in question (Sec. 43[c]) specifically and specially mentioned barangay officials. Hence, such provision ceased to be a general law. Rather, it assumes the nature of a special law, or a special provision of a code of laws.

[36] Sec. 534.

[37] Iloilo Palay vs. Feliciano, 13 SCRA 377, March 3, 1965; Joaquin vs. Navarro, 81 Phil. 373 (1948).

[38] Abbas vs. Comelec, 179 SCRA 287, 301, November 10, 1989; Lim vs. Paquing 240 SCRA 649, January 27, 1995; People vs. Permakiel, 173 SCRA 324, 675, May 12, 1989; La Union Electric Cooperative vs. Yaranon, 179 SCRA 828, 836, December 4, 1989.

[39] Basco vs. Pagcor, 197 SCRA 52, 68, May 14, 1991.

[40] Garcia vs. Comelec, 227 SCRA 100, October 5, 1993.

[41] Vol. III, pp. 406-408 and 451.

[42] “The petitioner is estopped from contesting the applicability of the three year term of elective barangay officials as fixed by the Code.

The present set of barangay officials were elected in 1994 to a three-year term under the provisions of the Code.

The rules issued by the Commission on Elections covering the barangay elections of 1994 state among other things that the laws that govern the said elections include the Code. In fact, when the petitioner and the candidates for punong barangay filed their certificates of candidacy for purposes of the 1994 barangay elections, they had to state categorically that they were standing for election as punong barangay, which the Code required but which was not so required under Rep. Act No. 6653 and Rep. Act No. 6679, as the two acts then provided for two different ways of electing the punong barangay which have been explained earlier.

One of the provisions of the Code that the Comelec implemented in connection with the barangay elections of 1994 is Sec. 43, which categorically ordains that the barangay officials would only have a three, not a five, year term.

The petitioner as well as other elective barangay officials who are now in office knowingly ran under the provisions of the code. They have been elected under the strictures of the Code. The petitioner and all the elective barangay officials are making use of the various provisions of Code. They are holding sangguniang barangay meetings and passing barangay ordinances under the provisions of the Code. They are receiving the honoraria granted them by the Code. They are getting in behalf of their barangay their shares of the taxes and the wealth of the nation as directed by the Code.

For the petitioner (and the barangay officials associated with his cause) to avail of all the beneficial provisions of the Code intended for the barangay exclusive, however, of the three-year term limitation for barangay officials is plain opportunism, patently ludicrous and should, thus, be laughed out of the court ” (Comment, pp. 10-11; Rollo, pp. 114-115, G.R. No. 127116.)

On the other hand, in a rather delayed and undated “Urgent Ex-parte x x x Rejoinder to the x x x Amicus Curiae” filed with this Court on March 31, 1997, Petitioner David laments the alleged “intemperate, ungentlemanly and uncalled for language x x x of (the) distinguished legal practitioner and former senator.” He argues that “(t)he barangay elections of 1994 were held solely at the instance of the COMELEC and all the rules, orders and directives governing the elections in 1994 were prepared, promulgated and implemented by COMELEC.” He asserts that the “blame” for the failure of the RA 7160 to expressly repeal RA 6653 and 6679 and the confusion resulting therefrom should be laid on Sen. Pimentel, the principal author of RA 7610, and not on the “lowly and innocent 420,000 elected barangay officials” who are seeking “for the first time a judicial interpretation of the laws and issues involved x x x.”

[43] Rollo, pp. 75, 86; G.R. No. 127116.

[44] Ibid, p. 87.

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