HERMIE M. HERRERA, DONABELLA T. SORONGON, JULIO T. TAMAYOR, EDELJULIO R. ROMERO, PETITIONERS, VS. THE COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 131499. November 17, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

This is a petition for certiorari to annul and set aside Resolution No. 2950 promulgated on November 3, 1997 by respondent Commission on Elections, which amended its Resolution Nos. 2379, 2396 and 2778 on the districting and adjustment of Sangguniang Panlalawigan and Panglungsod seats in connection with the May 11, 1998 elections, on the alleged ground of grave abuse of discretion tainting the same. In particular, petitioners, as taxpayers, assail the portion of subject Resolution dividing the Province of Guimaras into two provincial districts and apportioning eight (8) elective Sangguniang Panlalawigan seats therefor.

The facts that matter are as follows:

In view of the addition of the two (2) new municipalities, San Lorenzo and Sibunag, to the Province of Guimaras, the Sangguniang Panlalawigan of Guimaras decided to have the province subdivided into two provincial districts. Conformably, on March 25, 1996, it passed Resolution No. 68 requesting the Commission on Elections to bring about the desired division.

Acting upon the said Resolution, the Provincial Election Supervisor in the Province of Guimaras conducted two consultative meetings on August 21,1996 and on October 2 of the same year, with due notice to all elected provincial and municipal officials, barangay captains, barangay kagawads, representatives of all political parties, and other interested parties. Through secret balloting, a consensus was reached unanimously in favor of a division as follows:

> - First District shall be composed of the Municipalities of Jordan Buenavista and San Diego with three (3) Sangguniang Panlalawigan Members, and
>
> - The Second District shall be composed of the Municipalities of Jordan, Nueva Valencia and Sibunag with three (3) Sangguniang Panlalawigan Members.

On October 3, 1996, guided by the result of the consultative meetings, the Provincial Election Supervisor issued a Memorandum recommending the division of the Province of Guimaras into two (2) provincial districts.

On April 30, 1997, the Bureau of Local Government Finance of the Department of Finance issued Memorandum Circular No. 97-1 reclassifying several provinces including the Province of Guimaras, which was reclassified from fifth class to fourth class province.

In line with such reclassification, the Commission on Elections issued, on November 3, 1997, the Resolution No. 2950 under attack, which allotted eight (8) Sangguniang Panlalawigan seats to the Province of Guimaras, dividing

it into two provincial districts in the following manner:

Region VI

1. GUIMARAS - 126,470

(8 seats)

1[st] District - 56,218

2[nd] District - 70,252

(3 seats) (5 seats)

1. Buenavista - 37,681

1. Jordan - 25,321

2. San Lorenzo - 18,537

2. Nueva Valencia - 27,158

3. Sibunag - 17,773

Resolution No. 2950 of the Commission on Elections is the subject of the present Petition for Certiorari brought by the petitioners, as taxpayers and residents of the Province of Guimaras.

Petitioners question the manner in which the province was so divided into districts, pointing out that: 1) the districts do not comprise a compact, contiguous and adjacent area; 2) the "consultative meeting" upon which the districting was based did not express the true sentiment of the voters of the province; 3) the apportionment of the province into two districts is not equitable, and 4) there is disparity in the ratio of the number of voters that a Board Member represents. Petitioners propose that the province be redistricted as follows:

FIRST DISTRICT

- 63,002 voters

(4 seats)

Buenavista

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- 37,681

Jordan - 25,321

resulting in a ratio of one (1) Board member per 15,000 voters

SECOND DISTRICT

- 63,468 VOTERS

(4 seats)

Nueva Valencia

- 27,158

Sibunag - 17,773

San Lorenzo - 18,537

resulting in a ratio of one (1) Board member per 15,696 voters, pointing out that such redistricting is more in accordance with provisions of law and the Constitution.

The division of provinces into districts and the corresponding apportionment, by district, of the number of elective members of the Sangguniang Panlalawigan are provided for by law. Under Republic Act No. 6636,[1] allotment of elective members to provinces and municipalities must be made on the basis of its classification as a province and/or municipality. Section 4 of R.A. 6636 provides:

> SEC. 4 Provinces and Municipalities - First and second class provinces shall each have ten (10) elective members; third and fourth class provinces, eight; and fifth and sixth class provinces, six to be elected at large by the qualified voters therein.
>
> All other municipalities shall have the same number of elective members as provided in existing laws.

Thus, a fourth class province under R.A. 6636 shall have eight Sangguniang Panlalawigan members.

In relation thereto, Republic Act No. 7166[2] reads:

> SEC. 3 (b) For provinces with only one (1) legislative district, the Commission shall divide them into two (2) districts for purposes of electing the members of the Sangguniang Panlalawigan, as nearly as practicable according to the number of inhabitants, each district comprising a compact, contiguous and adjacent territory, and the number of seats of elective members of their respective sanggunian shall be equitably apportioned between the districts in accordance with the immediately preceding paragraph;
>
> xxx xxx xxx

A province with only one legislative district, such as Guimaras, should therefore be divided into two provincial districts.

It must be noted that on April 30, 1997, the Province of Guimaras was re-classified from a fifth class to a fourth class province under Memorandum Circular No. 97-1 issued by the Bureau of Local Government Finance of the Department of Finance. Hence, the Province of Guimaras, having only one legislative district, has to be divided into two provincial districts with an allotment of eight elective members of the Sangguniang Panlalawigan by virtue of its reclassification into a fourth class province.

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The rules and guidelines to be followed by the Commission on Elections in the apportionment, by district, of the number of elective members of the Sangguniang Panlalawigan in provinces with only one (1) legislative district is provided for by law. Under the above cited R.A. 7166, division of provinces into districts shall be done in a manner: (1) as nearly as practicable, (2) according to the number of inhabitants, (3) each district comprising a compact, contiguous and adjacent territory, and (4) the number of seats of elective members of the respective Sanggunian equitably apportioned between the districts.

Corollarily, COMELEC also promulgated Resolution No. 2131 which provides the rules and guidelines for the apportionment by district of members of the Sangguniang Panlalawigan in provinces with only one legislative district and Sangguniang Bayan of municipalities in the Metro Manila area. The said Resolution provides, among others, that for provinces with only one (1) legislative district:

> a) The province shall be divided into two (2) Sanggunian districts for provincial representation, as nearly as practicable according to the number of inhabitants based on the 1990 census of population.
>
> b) Each district shall comprise a compact, contiguous and adjacent territory;
>
> c) A municipality shall belong to one (1) district ONLY, in no case shall a part thereof be apportioned to another provincial Sanggunian district.

The same Resolution requires that (1) the 1990 census of population be secured from the provincial or municipal representative of the National Statistics Office concerned; (2) consultations, hearings and meetings be conducted with elective local officials, representatives of political parties, non-government organizations, civic and religious groups and other sectors of the community for their suggestions and proposals for possible incorporation into the project of apportionment, and (3) the project of apportionment and the map of the province indicating the districts, the population of each district and showing the delineation of boundaries be submitted to the COMELEC for study and evaluation.

Petitioners aver that the apportionment of the Province of Guimaras into two districts is not equitable due to disproportionate representation. It is claimed that the districting embodied in Resolution No. 2950 results in a disparity of representation in that, in the first district, there is a ratio of one board member per 18,739 voters while in the second district, the ratio is one board member per 14, 050 voters.

Petitioners' contention is untenable. Under R.A. 7166 and Comelec Resolution No. 2313, the basis for division into districts shall be the number of inhabitants of the province concerned and not the number of listed or registered voters as theorized upon by petitioners. Thus, Comelec did not act with grave abuse of discretion in issuing the assailed Resolution because clearly, the basis for the districting is the number of inhabitants of the Province of Guimaras by municipality based on the official 1995 Census of Population as certified to by Tomas P. Africa, Administrator of the National Statistics Office.

Petitioners' next contention is that the consultative meetings upon which the districting was based did not express the true sentiment of the voters of the province as the inhabitants were not properly represented during the said meetings.

Again, this contention of petitioners is bereft of any basis. As duly certified to by Mr. Romulo L. Lequisia, Provincial Election Supervisor of the Province of Guimaras, two consultative meetings were held by the Office of the Provincial Election Supervisor, one on August 21 and another on October 2, 1996, in order to arrive at a consensus on the matter of the proposed districting of Guimaras into two Sangguniang Panlalawigan districts. And, as shown by the documentary exhibits, all interested parties were duly notified and represented during the two consultative meetings as required by Comelec Resolution No. 2313. Appended to respondent Comelec's

Comment are the attendance sheets where the names and signatures of those who attended the consultative meetings and the corresponding barangay and/or group which they represented appear and which belie petitioners' allegation that there was no valid representation.

Finally, petitioners maintain that the Comelec committed grave abuse of discretion when it issued Resolution No. 2950 because thereunder, the municipalities which comprise each district do not embrace a compact, contiguous and adjacent area.

Petitioners' asseveration is equally erroneous. Under Comelec Resolution No. 2950, the towns of Buenavista and San Lorenzo were grouped together to form the first district and the second district is composed of the municipalities of Jordan, Nueva Valencia and Sibunag. R.A. 7166 requires that each district must cover a compact, contiguous and adjacent territory. "Contiguous" and/or "adjacent" means "adjoining, nearby, abutting, having a common border, connected, and/or touching along boundaries often for considerable distances."[3] Not even a close perusal of the map of the Province of Guimaras is necessary to defeat petitioners' stance. On its face, the map of Guimaras indicates that the municipalities of Buenavista and San Lorenzo are "adjacent" or "contiguous". They touch along boundaries and are connected throughout by a common border. Buenavista is at the northern part of Guimaras while San Lorenzo is at the east portion of the province. It would be different if the towns grouped together to form one district were Buenavista and Nueva Valencia or Buenavista and Sibunag. In that case, the districting would clearly be without any basis because these towns are not contiguous or adjacent. Buenavista is at the north while Nueva Valencia and Sibunag are at the southern and southeastern part of the province, respectively.

Premises studiedly considered in proper perspective, the Court is of the irresistible conclusion, and so finds, that the respondent Comelec did not gravely abuse its discretion when it issued Resolution No. 2950.

WHEREFORE, for lack of merit the petition under consideration is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon Jr., JJ., concur.

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[1] entitled "An Act Resetting The Local Elections From November 9, 1987 to January 18, 1998, Amending For This Purpose Executive Order Number Two Hundred and Seventy" effective November 6, 1987.

[2]entitled "An Act Providing For Synchronized National and Local Elections and For Electoral Reforms, Authorizing Appropriations Therefor and For Other Purposes" approved on November 26, 1991.

[3]as defined in Webster's Dictionary.

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