

**ELPIDIO M. SALVA, VILMA B. DE LEON, CLEMENTE M. MATIRA,  
REGION P. DE LEON, MARILOU C. DE LEON, JAIME RELEVO, JOEY S.  
VERGARA, CARMENCITA A. SALVA, DIONISIO B. DE LEON, JORGE S.**

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*G.R. No. 132603. September 18, 2000*

Ponente: BUENA, J.

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**BUENA, J.:**

This is an appeal by certiorari under Rule 45 of the Rules of Court seeking the reversal of the Order dated February 25, 1998,[1] of the Regional Trial Court of Balayan, Batangas, Branch XI,[2] in Civil Case No. 3442, denying the issuance of a temporary restraining order and/or preliminary injunction to enjoin the Commission on Elections (COMELEC) from holding the plebiscite scheduled on February 28, 1998, on the ground of lack of jurisdiction.

The facts are undisputed.

On February 23, 1998, petitioners, as officials and residents of barangay San Rafael, Calaca, Batangas, filed a class suit against the Sangguniang Panglalawigan of Batangas, Sangguniang Pambayan of Calaca, Batangas, and the Commission on Elections (COMELEC), docketed as Civil Case No. 3442, before the Regional Trial Court of Balayan, Batangas, Branch XI, for annulment of Ordinance No. 05 and Resolution No. 345, series of 1997, both enacted by the Sangguniang Panglalawigan of Batangas, and COMELEC Resolution No. 2987, series of 1998, with prayer for preliminary injunction/temporary restraining order. Ordinance No. 05[3] declared the abolition of barangay San Rafael and its merger with barangay Dacanlao, municipality of Calaca, Batangas and accordingly instructed the COMELEC to conduct the required plebiscite as provided under Sections 9 and 10 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991.[4] On the other hand, Resolution No. 345[5] affirmed the effectivity of Ordinance No. 05, thereby overriding the veto[6] exercised by the governor of Batangas.[7] Ordinance No. 05 was vetoed by the governor of Batangas for being ultra vires, particularly, as it was not shown that the essential requirements under Section 9, in relation to Section 7, of Republic Act No. 7160, referring to the attestations or certifications of the Department of Finance (DOF), National Statistics Office (NSO) and the Land Management Bureau of the Department of Environment and Natural Resources (DENR), were obtained. Pursuant to the foregoing ordinance and resolution, on February 10, 1998, the COMELEC promulgated Resolution No. 2987, providing for the rules and regulations governing the conduct of the required plebiscite scheduled on February 28, 1998, to decide the issue of the abolition of barangay San Rafael and its merger with barangay Dacanlao, Calaca, Batangas.[8] Simultaneous with the filing of the action before the trial court, petitioners also filed an ex parte motion for the issuance of a temporary restraining order to enjoin respondents from enforcing Ordinance No. 05, Resolution No. 345, and COMELEC Resolution No. 2987.

In an Order dated February 25, 1998, the trial court denied the ex parte motion for the issuance of a temporary restraining order and/or preliminary injunction for lack of jurisdiction. According to the trial court, the temporary

restraining order/injunction sought by petitioners is directed only to COMELEC Resolution No. 2987. The trial court ruled that any petition or action questioning an act, resolution or decision of the COMELEC must be brought before the Supreme Court.[9]

On February 27, 1998, petitioners filed the instant petition with prayer for a temporary restraining order, without filing a motion for reconsideration of the trial courts Order dated February 25, 1998, claiming the urgency or immediate necessity to enjoin the conduct of the plebiscite scheduled on February 28, 1998.[10]

In a Resolution dated March 10, 1998, the Court directed the parties to maintain the status quo prevailing at the time of the filing of the petition.[11]

On August 28, 1998, the Solicitor General filed a Manifestation and Motion in lieu of Comment, declaring that he concurs with petitioners cause and recommending that the instant petition be given due course.[12] Consequently, the Court further resolved on September 29, 1998 to require the COMELEC and the Sangguniang Panglalawigan of Batangas to submit their own Comment on the petition.

In a Resolution dated June 15, 1999, the Court resolved to give due course to the petition and require the parties to submit their respective memoranda.[13]

In their Memorandum filed on October 26, 1999, petitioners submitted the following issue for the resolution of this Court:

"WHETHER OR NOT THE RESPONDENT COURT HAS JURISDICTION TO ENJOIN THE COMELEC FROM IMPLEMENTING ITS RESOLUTION NO. 2987, SERIES OF 1998, WHICH PROVIDED FOR THE RULES AND REGULATIONS FOR THE CONDUCT OF THE PLEBISCITE SCHEDULED ON FEBRUARY 28, 1998 TO DECIDE ON THE ABOLITION OF BARANGAY SAN RAFAEL AND ITS MERGER WITH BARANGAY DACANLAO, CALACA, BATANGAS, PENDING THE DETERMINATION OF CIVIL CASE NO. 3442 FOR THE ANNULMENT OF ORDINANCE NO. 05, RESOLUTION NO. 345 AND COMELEC RESOLUTION NO. 2987.[14]

First, petitioners contend that the assailed Order dated February 25, 1998, of the Regional Trial Court of Balayan, Batangas, Branch XI, encourages multiplicity of suit[s] and splitting a single cause of action, contrary to Section 3, Rule 2, of the Rules of Court.[15] Petitioners maintain that since COMELEC Resolution No. 2987 was only issued pursuant to Ordinance No. 05 and Resolution No. 345 of the Sangguniang Panglalawigan of Batangas, the propriety of the issuance of COMELEC Resolution No. 2987 is dependent upon the validity of the Ordinance No. 05 and Resolution No. 345.[16] And considering that the jurisdiction of the trial court to hear and determine the validity of Ordinance No. 05 and Resolution No. 345 is not disputed, the assailed Order dated February 25, 1998, directing petitioners to seek the preliminary injunction and/or temporary restraining order before this Court, advances multiplicity of suits and splitting a single cause of action.

Second, petitioners assert that when the COMELEC exercises its quasi-judicial functions under Section 52 of the Omnibus Election Code (Batas Pambansa Blg. 881), its acts are subject to the exclusive review by this Court; but when the COMELEC performs a purely ministerial duty, such act is subject to scrutiny by the Regional Trial Court,[17] citing *Filipinas Engineering and Machine Shop vs. Ferrer* (135 SCRA 25 [1985]), thus:

"It cannot be gainsaid that the powers vested by the Constitution and the law on the Commission on Elections may either be classified as those pertaining to its adjudicatory or quasi-judicial functions, or those which are inherently administrative and sometimes ministerial in character." [18]

Corollary thereto, petitioners submit that [t]he conduct of [a] plebiscite, pursuant to Ordinance No. 05 and Resolution No. 345, is not adjudicatory [or quasi-judicial] in nature but simply ministerial or administrative in

nature [and only] in obedience to the aforesaid Ordinance and Resolution, citing *Garces vs. Court of Appeals*, 259 SCRA 99 (1996), thus:

"xxx To rule otherwise would surely burden the Court with trivial administrative questions that are best ventilated before the RTC [Regional Trial Court], a court which the law vests with the power to exercise original jurisdiction over all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions." [19]

Lastly, petitioners allege that while the plebiscite sought to be enjoined has already been conducted on February 28, 1998, the instant petition is far from being moot and academic, claiming that the actual holding of the said plebiscite could not validate an otherwise invalid ordinance and resolution; [20] that there are still substantial matters to be resolved; [21] assuming *arguendo* that this petition has become moot and academic, courts will decide a question otherwise moot and academic if it is capable of repetition, yet evading review; [22] and finally, petitioners maintain that this Court has resolved to require the parties to maintain the status quo prevailing at the time of the filing of the petition, that is, a day before the plebiscite was scheduled to be conducted. [23]

Concurring with petitioners arguments, the Solicitor General, in his Memorandum filed on September 7, 1999, asserts that xxx. [i]t is already settled in this jurisdiction that what is contemplated by the terms any decision, order or ruling of the COMELEC reviewable by certiorari to this Honorable Court, as provided under Section 7, Article IX-A of the [1987] Constitution, are those that relate to the COMELECs exercise of its adjudicatory or quasi-judicial powers involving elective regional, provincial and city officials. (Citations omitted.) [24] 24 The Solicitor General further argues that the issuance of COMELEC Resolution No. 2987 is a ministerial duty of the COMELEC in the exercise of its administrative functions, hence, it is submitted that the aforesaid constitutional provision is inapplicable.

Public respondent Commission on Elections (COMELEC), on the other hand, submits that the power to review or reverse COMELEC Resolution No. 2987 solely belongs to this Court, citing the earlier cases of *Zaldivar vs. Estenzo* (23 SCRA 533, 540-541 [1968] ); *Luison vs. Garcia* (L-10916, May 20, 1957); *Macud vs. COMELEC* (23 SCRA 224 [1968] ); and *Aratuc vs. COMELEC* (88 SCRA 251, 272 [1979]); [25] thus:

"xxx. For even without the express constitutional prescription that only this Court may review the decisions, orders and rulings of the Commission on Elections, it is easy to understand why no interference whatsoever with the performance of the Commission on Elections of its functions should be allowed unless emanating from this Court. The observation of Acting Chief Justice J.B.L. Reyes in *Albano v. Arranz* while not precisely in point, indicates the proper approach. Thus: It is easy to realize the chaos that would ensue if the Court of First Instance of each and every province were to arrogate unto itself the power to disregard, suspend, or contradict any order of the Commission on Elections; that constitutional body would be speedily reduced to impotence." [26]

The COMELEC further argues that if a Regional Trial Court does not have jurisdiction to issue writs against statutory agencies of government like the ones cited above [referring to the former Court of Industrial Relations, Philippine Patent Office, Public Service Commission, Social Security Commission, National Electrification Administration and Presidential Commission on Good Government], a fortiori it can not have any such jurisdiction over the Commission on Elections, a constitutional independent body expressly clothed by the 1987 Constitution with, among others, quasi-judicial functions and tasked with one of the most paramount aspects of a democratic government. xxx. [27] Finally, the COMELEC contends that the temporary restraining order sought by petitioners has been rendered moot and academic by the actual holding of the plebiscite sought to be enjoined. [28]

The appeal is meritorious.

Section 7, Article IX-A of the 1987 Constitution provides in part that:

"SEC. 7. xxx. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof."

In *Garces vs. Court of Appeals* (259 SCRA 99 [1996] ) and *Filipinas Engineering and Machine Shop vs. Ferrer* (135 SCRA 25 [1985]), we found occasion to interpret the foregoing provision in this wise:

"xxx. What is contemplated by the term final orders, rulings and decisions of the COMELEC reviewable by certiorari by the Supreme Court as provided by law are those rendered in actions or proceedings before the COMELEC and taken cognizance of by the said body in the exercise of its adjudicatory or quasi-judicial powers." [29]

In *Filipinas*, we have likewise affirmed that the powers vested by the Constitution and the law on the Commission on Elections may either be classified as those pertaining to its adjudicatory or quasi-judicial functions, or those which are inherently administrative and sometimes ministerial in character. [30]

As aptly explained by the Solicitor General, in the instant case, after the COMELEC ascertained the issuance of the ordinance and resolution declaring the abolition of barangay San Rafael, it issued COMELEC Resolution No. 2987 calling for a plebiscite to be held in the affected barangays, pursuant to the provisions of Section 10 of Republic Act No. 7160. We agree with the Solicitor General that xxx. [t]he issuance of [COMELEC] Resolution No. 2987 is thus a ministerial duty of the COMELEC that is enjoined by law and is part and parcel of its administrative functions. It involves no exercise of discretionary authority on the part of respondent COMELEC; let alone an exercise of its adjudicatory or quasi-judicial power to hear and resolve controversies defining the rights and duties of party-litigants, relative to the conduct of elections of public officers and the enforcement of the election laws. (Citation omitted.) [31] Briefly, COMELEC Resolution No. 2987 which provides for the rules and regulations governing the conduct of the required plebiscite, was not issued pursuant to the COMELEC's quasi-judicial functions but merely as an incident of its inherent administrative functions over the conduct of plebiscites, thus, the said resolution may not be deemed as a "final order" reviewable by certiorari by this Court. Any question pertaining to the validity of said resolution may be well taken in an ordinary civil action before the trial courts.

Even the cases cited by the public respondent in support of its contention that the power to review or reverse COMELEC Resolution No. 2987 solely belongs to this Court are simply not in point. *Zaldivar vs. Estenzo* [32] speaks of the power of the COMELEC to enforce and administer all laws relative to the conduct of elections to the exclusion of the judiciary. In the present case, petitioners are not contesting the exclusive authority of the COMELEC to enforce and administer election laws. *Luison vs. Garcia* [33] refers to this Court's power to review administrative decisions, particularly referring to a COMELEC resolution declaring a certain certificate of candidacy null and void, based on Article X, Section 2 of the 1935 Constitution. In *Macud vs. COMELEC*, [34] we reiterated that when a board of canvassers rejects an election return on the ground that it is spurious or has been tampered with, the aggrieved party may elevate the matter to the COMELEC for appropriate relief, and if the COMELEC sustains the action of the board, the aggrieved party may appeal to this Court. In both *Luison* and *Macud*, the assailed COMELEC resolutions fall within the purview of final orders, rulings and decisions of the COMELEC reviewable by certiorari by this Court.

In view of the foregoing, public respondents' other contentions deserve scant consideration.

WHEREFORE, the petition for review is hereby GRANTED, and the assailed Order dated February 25, 1998, of the Regional Trial Court of Balayan, Batangas, Branch XI is hereby SET ASIDE and ANNULLED. The Regional

Trial Court of Balayan, Batangas, Branch XI is ordered to proceed with dispatch in resolving Civil Case No. 3442. The execution of the result of the plebiscite held on February 28, 1998 shall be deferred depending on the outcome of Civil Case No. 3442.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.

Pardo, J., no part, was Comelec Chairman at the time.

Ynares-Santiago, J., on leave.

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[1] Rollo, pp. 17-19.

[2] Presided by Judge Roberto L. Makalintal.

[3] Dated June 23, 1997.

[4] Rollo, pp. 30-32.

[5] Dated August 4, 1997.

[6] Rollo, p. 35.

[7] Ibid. at pp. 33-35.

[8] Ibid at pp. 36-43.

[9] Ibid. at p. 18.

[10] Ibid. at p. 8.

[11] Ibid. at p. 44.

[12] Ibid. at pp. 61-69.

[13] Ibid at p. 127.

[14] Ibid. at p. 159.

[15] Ibid. at p. 160.

Section 3, Rule 2 of the Rules of Court provides:

SECTION 3. One suit for a single cause of action.- A party may not institute more than one suit for a single cause of action.

[16] Ibid. at p. 159.

[17] Ibid. at p. 160.

[18] *Filipinas Engineering and Machine Shop vs. Ferrer*, 135 SCRA 25, 32 (1985).

[19] *Garces vs. Court of Appeals*, 259 SCRA 99, 108 (1996).

[20] Rollo, p. 161.

[21] Ibid. at p. 162. Citing *Atienza vs. COMELEC*, 239 SCRA 298 (1994).

[22] Ibid. Citing Alunan III vs. Mirasol, 276 SCRA 501 (1997) and Viola vs. Alunan III, 277 SCRA 409 (1997).

[23] Ibid.

[24] Ibid. at pp. 149-150.

[25] Ibid. at p. 140.

[26] Ibid. Citing Zaldivar vs. Estenzo, 23 SCRA 533, 540-541 (1968).

[27] Ibid. at pp. 140-141.

[28] Ibid. at pp. 141-142.

[29] Filipinas Engineering and Machine Shop vs. Ferrer, 135 SCRA 25, 32 (1985).

**[30] 135 SCRA 25, 32 (1985).**

[31] Rollo, p. 150.

**[32] 23 SCRA 533 (1968).**

**[33] 101 PHIL. 1218 (1957).**

**[34] 23 SCRA 224 (1968).**

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