

**JOSE C. MIRANDA, ALFREDO S. DIRIGE, MANUEL H. AFIADO,
MARIANO V. BABARAN AND ANDRES R. CABUYADAO, PETITIONERS,
VS. HON. ALEXANDER AGUIRRE, IN HIS CAPACITY AS EXECUTIVE
SECRETARY...**

G.R. No. 133064. September 16, 1999

Ponente: PUNO, J.

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PUNO, J.:

This is a petition for a writ of prohibition with prayer for preliminary injunction assailing the constitutionality of Republic Act No. 8528 converting the city of Santiago, Isabela from an independent component city to a component city.

On May 5, 1994, Republic Act No. 7720 which converted the municipality of Santiago, Isabela into an independent component city was signed into law. On July 4, 1994, the people of Santiago ratified R.A. No. 7720 in a plebiscite.[1]

On February 14, 1998, Republic Act No. 8528 was enacted. It amended R.A. No. 7720. Among others, it changed the status of Santiago from an independent component city to a component city, viz:

“AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED 7720 – AN ACT CONVERTING THE MUNICIPALITY OF SANTIAGO INTO AN INDEPENDENT COMPONENT CITY TO BE KNOWN AS THE CITY OF SANTIAGO.

“Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

“SECTION 1. Section 2 of Republic Act No. 7720 is hereby amended by deleting the words “an independent” thereon so that said Section will read as follows:

‘SEC. 2. The City of Santiago. – The Municipality of Santiago shall be converted into a component city to be known as the City of Santiago, hereinafter referred to as the City, which shall comprise of the present territory of the Municipality of Santiago, Isabela. The territorial jurisdiction of the City shall be within the present metes and bounds of the Municipality of Santiago.’

“Sec. 2. Section 51 of Republic Act No. 7720 is hereby amended deleting the entire section and in its stead substitute the following:

‘SEC. 51. Election of Provincial Governor, Vice-Governor, Sangguniang Panlalawigan Members, and any Elective Provincial Position for the Province of Isabela.- The voters of the City of Santiago shall be qualified to vote in the elections of the Provincial Governor, Vice-Governor, Sangguniang Panlalawigan members and other elective provincial positions of the Province of Isabela, and any such qualified voter can be a candidate for such provincial positions and any elective provincial office.’

“Sec. 3. Repealing Clause.- All existing laws or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

“Sec. 4. Effectivity.- This Act shall take effect upon its approval.

“Approved.”

Petitioners assail the constitutionality of R.A. No. 8528.[2] They alleged as ground the lack of provision in R.A. No. 8528 submitting the law for ratification by the people of Santiago City in a proper plebiscite. Petitioner Miranda was the mayor of Santiago at the time of the filing of the petition at bar. Petitioner Afiado is the President of the Liga ng mga Barangay ng Santiago City. Petitioners Dirige, Cabuyadao and Babaran are residents of Santiago City.

In their Comment, respondent provincial officials of Isabela defended the constitutionality of R.A. No. 8528. They assailed the standing of petitioners to file the petition at bar. They also contend that the petition raises a political question over which this Court lacks jurisdiction.

Another Comment was filed by the Solicitor General for the respondent public officials. The Solicitor General also contends that petitioners are not real parties in interest. More importantly, it is contended that R.A. No. 8528 merely reclassified Santiago City from an independent component city to a component city. It allegedly did not involve any “creation, division, merger, abolition, or substantial alteration of boundaries of local government units,” hence, a plebiscite of the people of Santiago is unnecessary.

A third Comment similar in tone was submitted by intervenor Giorgidi B. Aggabao,[3] a member of the provincial board of Isabela.[4] He contended that both the Constitution and the Local Government Code of 1991 do not require a plebiscite “to approve a law that merely allowed qualified voters of a city to vote in provincial elections. The rules implementing the Local Government Code cannot require a plebiscite. He also urged that petitioners lacked locus standi.

Petitioners filed a Reply to meet the arguments of the respondents and the intervenor. They defended their standing. They also stressed the changes that would visit the city of Santiago as a result of its reclassification.

We find merit in the petition.

First. The challenge to the locus standi of petitioners cannot succeed. It is now an ancient rule that the constitutionality of law can be challenged by one who will sustain a direct injury as a result of its enforcement.[5] Petitioner Miranda was the mayor of Santiago City when he filed the present petition in his own right as mayor and not on behalf of the city, hence, he did not need the consent of the city council of Santiago City. It is also indubitable that the change of status of the city of Santiago from independent component city to a mere component city will affect his powers as mayor, as will be shown hereafter. The injury that he would sustain from the enforcement of R.A. No. 8528 is direct and immediate and not a mere generalized grievance shared with the people of Santiago City. Similarly, the standing of the other petitioners rests on a firm foundation. They are residents and voters in the city of Santiago. They have the right to be heard in the conversion of their city thru a plebiscite to be conducted by the COMELEC. The denial of this right in R.A. No. 8528 gives them proper standing to strike the law as unconstitutional.

Second. The plea that this court back off from assuming jurisdiction over the petition at bar on the ground that it involves a political question has to be brushed aside. This plea has long lost its appeal especially in light of Section 1 of Article VIII of the 1987 Constitution which defines judicial power as including “the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.” To be sure, the cut between a political and justiciable issue has been made by this Court in many cases and need no longer mystify us. In *Tañada v.*

Cuenco,[6] we held:

“x x x

“The term ‘political question’ connotes what it means in ordinary parlance, namely, a question of policy. It refers ‘to those questions which under the Constitution are to be decided by the people in their sovereign capacity; or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government.’ It is concerned with issues dependent upon the wisdom, not legality, of a particular measure.”

In *Casibang v. Aquino*,[7] we defined a justiciable issue as follows:

“A purely justiciable issue implies a given right, legally demandable and enforceable, an act or omission violative of such right, and a remedy granted and sanctioned by law, for said breach of right.”

Clearly, the petition at bar presents a justiciable issue. Petitioners claim that under Section 10, Article X of the 1987 Constitution they have a right to approve or disapprove R.A. No. 8528 in a plebiscite before it can be enforced. It ought to be self-evident that whether or not petitioners have the said right is a legal not a political question. For whether or not laws passed by Congress comply with the requirements of the Constitution pose questions that this Court alone can decide. The proposition that this Court is the ultimate arbiter of the meaning and nuances of the Constitution need not be the subject of a prolix explanation.

Third. The threshold issue is whether R.A. No. 8528 is unconstitutional for its failure to provide that the conversion of the city of Santiago from an independent component city to a component city should be submitted to its people in a proper plebiscite. We hold that the Constitution requires a plebiscite. Section 10, Article X of the 1987 Constitution provides:

“No province, city, municipality, or barangay may be created, or divided, merged, abolished, or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.”

This constitutional requirement is reiterated in Section 10, Chapter 2 of the Local Government Code (R.A. No. 7160), thus:

“Sec. 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.”

The power to create, divide, merge, abolish or substantially alter boundaries of local government units belongs to Congress.[8] This power is part of the larger power to enact laws which the Constitution vested in Congress.[9] The exercise of the power must be in accord with the mandate of the Constitution. In the case at bar, the issue is whether the downgrading of Santiago City from an independent component city to a mere component city requires the approval of the people of Santiago City in a plebiscite. The resolution of the issue depends on whether or not the downgrading falls within the meaning of creation, division, merger, abolition or substantial alteration of boundaries of municipalities per Section 10, Article X of the Constitution. A close analysis of the said constitutional provision will reveal that the creation, division, merger, abolition or substantial alteration of boundaries of local government units involve a common denominator - - - material change in the political and economic rights of the local government units directly affected as well as the people therein. It is precisely for this reason that the Constitution requires the approval of the people “in the political units directly affected.” It is not difficult to appreciate the rationale of this constitutional requirement. The 1987 Constitution, more than any of our previous Constitutions, gave more reality to the sovereignty of our people for it was borne out of the people power

in the 1986 EDSA revolution. Its Section 10, Article X addressed the undesirable practice in the past whereby local government units were created, abolished, merged or divided on the basis of the vagaries of politics and not of the welfare of the people. Thus, the consent of the people of the local government unit directly affected was required to serve as a checking mechanism to any exercise of legislative power creating, dividing, abolishing, merging or altering the boundaries of local government units. It is one instance where the people in their sovereign capacity decide on a matter that affects them - - - direct democracy of the people as opposed to democracy thru people's representatives. This plebiscite requirement is also in accord with the philosophy of the Constitution granting more autonomy to local government units.

The changes that will result from the downgrading of the city of Santiago from an independent component city to a component city are many and cannot be characterized as insubstantial. For one, the independence of the city as a political unit will be diminished. The city mayor will be placed under the administrative supervision of the provincial governor. The resolutions and ordinances of the city council of Santiago will have to be reviewed by the Provincial Board of Isabela. Taxes that will be collected by the city will now have to be shared with the province. Petitioners pointed out these far reaching changes on the life of the people of the city of Santiago, viz:[10]

“Although RESPONDENTS would like to make it appear that R.A. No. 8528 had “merely re-classified” Santiago City from an independent component city into a component city, the effect when challenged (sic) the Act were operational would be, actually, that of conversion. Consequently, there would be substantial changes in the political culture and administrative responsibilities of Santiago City, and the Province of Isabela. Santiago City from an independent component city will revert to the Province of Isabela, geographically, politically and administratively. Thus, the territorial land area of Santiago City will be added to the land area comprising the province of Isabela. This will be to the benefit or advantage of the Provincial Government of Isabela on account of the subsequent increase of its share from the internal revenue allotment (IRA) from the National Government (Section 285, R.A. No. 7160 or the Local Government Code of 1991). The IRA is based on land area and population of local government units, provinces included.

“The nature or kinds, and magnitude of the taxes collected by the City Government, and which taxes shall accrue solely to the City Government, will be redefined (Section 151, R.A. No. 7160), and may be shared with the province such as taxes on sand, gravel and other quarry resources (Section 138, R.A. No. 7160), professional taxes (Section 139, R.A. No. 7160), or amusement taxes (Section 140, R.A. No. 7160). The Provincial Government will allocate operating funds for the City. Inarguably, there would be a (sic) diminished funds for the local operations of the City Government because of reduced shares of the IRA in accordance with the schedule set forth by Section 285 of the R.A. No. 7160. The City Government's share in the proceeds in the development and utilization of national wealth shall be diluted since certain portions shall accrue to the Provincial Government (Section 292, R.A. No.7160).

“The registered voters of Santiago City will vote for and can be voted as provincial officials (Section 451 and 452 [c], R.A. No. 7160).

“The City Mayor will now be under the administrative supervision of the Provincial Governor who is tasked by law to ensure that every component city and municipality within the territorial jurisdiction of the province acts within the scope of its prescribed powers and functions (Section 29 and 465 (b) (2) (i), R.A. No. 7160), and to review (Section 30, R.A. No. 7160) all executive orders submitted by the former (Section 455 (b) (1) (xii), R.A. No. 7160) and (R)eportorial requirements with respect to the local governance and state of affairs of the city (Section 455 (b) (1) (xx), R.A. No. 7160). Elective city officials will also be effectively under the control of the Provincial Governor (Section 63, R.A. No. 7160). Such will be the great change in the state of the political autonomy of what is now Santiago City where by virtue of R.A. No. 7720, it is the Office of the President which has supervisory authority over it as an independent component city (Section 25, R.A. No.

7160; Section 4 (ARTICLE X), 1987 Constitution).

“The resolutions and ordinances adopted and approved by the Sangguniang Panlungsod will be subject to the review of the Sangguniang Panlalawigan (Sections 56, 468 (a) (1) (i), 468 (a) (2) (vii), and 469 (c) (4), R.A. No. 7160). Likewise, the decisions in administrative cases by the former could be appealed and acted upon by the latter (Section 67, R.A. No. 7160).”

It is markworthy that when R.A. No. 7720 upgraded the status of Santiago City from a municipality to an independent component city, it required the approval of its people thru a plebiscite called for the purpose. There is neither rhyme nor reason why this plebiscite should not be called to determine the will of the people of Santiago City when R.A. No. 8528 downgrades the status of their city. Indeed, there is more reason to consult the people when a law substantially diminishes their right. Rule II, Article 6, paragraph (f) (1) of the Implementing Rules and Regulations of the Local Government Code is in accord with the Constitution when it provides that:

“(f) Plebiscite - (1) no creation, conversion, division, merger, abolition, or substantial alteration of boundaries of LGUS shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the LGU or LGUs affected. The plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) days from the effectivity of the law or ordinance prescribing such action, unless said law or ordinance fixes another date.

“x x x.”

The rules cover all conversions, whether upward or downward in character, so long as they result in a material change in the local government unit directly affected, especially a change in the political and economic rights of its people.

A word on the dissenting opinions of our esteemed brethren. Mr. Justice Buena justifies R.A. No. 8528 on the ground that Congress has the power to amend the charter of Santiago City. This power of amendment, however, is limited by Section 10, Article X of the Constitution. Quite clearly, when an amendment of a law involves the creation, merger, division, abolition or substantial alteration of boundaries of local government units, a plebiscite in the political units directly affected is mandatory. He also contends that the amendment merely caused a transition in the status of Santiago as a city. Allegedly, it is a transition because no new city was created nor was a former city dissolved by R.A. No. 8528. As discussed above, the spirit of Section 10, Article X of the Constitution calls for the people of the local government unit directly affected to vote in a plebiscite whenever there is a material change in their rights and responsibilities. They may call the downgrading of Santiago to a component city as a mere transition but they cannot blink away from the fact that the transition will radically change its physical and political configuration as well as the rights and responsibilities of its people.

On the other hand, our esteemed colleague, Mr. Justice Mendoza, posits the theory that "only if the classification involves changes in income, population, and land area of the local government unit is there a need for such changes to be approved by the people x x x."

With due respect, such an interpretation runs against the letter and spirit of section 10, Article X of the 1987 Constitution which, to repeat, states: "No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered except in accordance with the criteria established in the Local Government Code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected." It is clear that the Constitution imposes two conditions - - - first, the creation, division, merger, abolition or substantial alteration of boundary of a local government unit must meet the criteria fixed by the Local Government Code on income, population and land area and second, the law must be approved by the people "by a majority of the votes cast in a plebiscite in the political units directly affected."

In accord with the Constitution, sections 7, 8, and 9 of the Local Government Code fixed the said criteria and they involve requirements on income, population and land area. These requirements, however, are imposed to help assure the economic viability of the local government unit concerned. They were not imposed to determine the necessity for a plebiscite of the people. Indeed, the Local Government Code does not state that there will be no more plebiscite after its requirements on income, population and land area have been satisfied. On the contrary, section 10, Chapter 2 of the Code provides: "No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes casts in a plebiscite called for the purpose in the political unit or units directly affected. Said plebiscite shall be conducted by the COMELEC within one hundred twenty (120) days from the date of the effectivity of the law or ordinance effecting such action, unless said law or ordinance fixes another date." [11] Senator Aquilino Pimentel, the principal author of the Local Government Code of 1991, opines that the plebiscite is absolute and mandatory. [12]

It cannot be overstressed that the said two requirements of the Constitution have different purposes. The criteria fixed by the Local Government Code on income, population and land area are designed to achieve an economic purpose. They are to be based on verified indicators, hence, section 7, Chapter 2 of the Local Government Code requires that these "indicators shall be attested by the Department of Finance, the National Statistics Office, and the Lands Management Bureau of the Department of Environment and Natural Resources." In contrast, the people's plebiscite is required to achieve a political purpose --- to use the people's voice as a check against the pernicious political practice of gerrymandering. There is no better check against this excess committed by the political representatives of the people themselves than the exercise of direct people power. As well-observed by one commentator, as the creation, division, merger, abolition, or substantial alteration of boundaries are "xxx basic to local government, it is also imperative that these acts be done not only by Congress but also be approved by the inhabitants of the locality concerned. xxx By giving the inhabitants a hand in their approval, the provision will also eliminate the old practice of gerrymandering and minimize legislative action designed for the benefit of a few politicians. Hence, it promotes the autonomy of local government units." [13]

The records show that the downgrading of Santiago City was opposed by certain segments of its people. In the debates in Congress, it was noted that at the time R.A. No. 8528 was proposed, Santiago City has been converted to an independent component city barely two and a half (2 1/2) years ago and the conversion was approved by a majority of 14,000 votes. Some legislators expressed surprise for the sudden move to downgrade the status of Santiago City as there had been no significant change in its socio-economic-political status. The only reason given for the downgrading is to enable the people of the city to aspire for the leadership of the province. To say the least, the alleged reason is unconvincing for it is the essence of an independent component city that its people can no longer participate or be voted for in the election of officials of the province. The people of Santiago City were aware that they gave up that privilege when they voted to be independent from the province of Isabela. There was an attempt on the part of the Committee on Local Government to submit the downgrading of Santiago City to its people via a plebiscite. The amendment to this effect was about to be voted upon when a recess was called. After the recess, the chairman of the Committee announced the withdrawal of the amendment "after a very enlightening conversation with the elders of the Body." We quote the debates, viz: [14]

"BILL ON SECOND READING

H.B. No. 8729 - City of Santiago

"Senator Tatad. Mr. President, I move that we consider House Bill No. 8729 as reported out under Committee Report No. 971.

"The President. Is there any objection? [Silence] there being none, the motion is approved.

"Consideration of House Bill No. 8729 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the Record the whole text thereof.

"The Acting Secretary [Atty. Raval]. House Bill No. 8729, entitled

AN ACT AMENDING CERTAIN SECTIONS OF R.A. NO. 7720 ENTITLED "AN ACT CONVERTING THE MUNICIPALITY OF SANTIAGO INTO AN INDEPENDENT COMPONENT CITY TO BE KNOWN AS THE CITY OF SANTIAGO

The following is the full text of H.B. No. 8729

Insert

"Senator Tatad. Mr. President, for the sponsorship, I ask that the distinguished Chairman of the Committee on Local Government be recognized.

"The President. Senator Sotto is recognized.

SPONSORSHIP SPEECH OF SENATOR SOTTO

"Mr. President. House Bill No. 8729, which was introduced in the House by Congressman Antonio M. Abaya as its principal author, is a simple measure which merely seeks to convert the City of Santiago into a component city of the Province of Isabela.

"The City of Santiago is geographically located within, and is physically an integral part of the Province of Isabela. As an independent component city, however, it is completely detached and separate from the said province as a local political unit. To use the language of the Explanatory Note of the proposed bill, the City of Santiago is an 'island in the provincial milieu.'

"The residents of the city no longer participate in the elections, nor are they qualified to run for any elective positions in the Province of Isabela.

"The Province of Isabela, on the other hand, is no longer vested with the power and authority of general supervision over the city and its officials, which power and authority are now exercised by the Office of the President, which is very far away from Santiago City.

Being geographically located within the Province of Isabela, the City of Santiago is affected, one way or the other, by the happenings in the said province, and is benefited by its progress and development. Hence, the proposed bill to convert the City of Santiago into a component city of Isabela.

"Mr. President, it is my pleasure, therefore, to present for consideration of this august Body Committee Report No. 971 of the Committee on Local Government, recommending approval, with our proposed committee amendment, of House Bill No. 8729.

"Thank you, Mr. President.

"The President. The Majority Leader is recognized.

"Senator Tatad. Mr. President, I moved (sic) that we close the period of interpellations.

"The President. Is there any objection? [Silence] There being none, the period of interpellations is closed.

"Senator Tatad. I move that we now consider the committee amendments.

"Senator Roco. Mr. President.

"The President. What is the pleasure of Senator Roco?

"Senator Roco. Mr. President, may I ask for a reconsideration of the ruling on the motion to close the period of interpellations just to be able to ask a few questions?

"Senator Tatad. May I move for a reconsideration of my motion, Mr. President.

"The President. Is there any objection to the reconsideration of the closing of the period of interpellations? [Silence] There being none, the motion is approved.

"Senator Roco is recognized.

"Senator Roco. Will the distinguished gentleman yield for some questions?

"Senator Sotto. Willingly, Mr. President.

"Senator Roco. Mr. President, together with the Chairman of the Committee on Local Government, we were with the sponsors when we approved this bill to make Santiago a City. That was about two and a half years ago. At that time, I remember it was the cry of the city that it be 'independent.' Now we are deleting that word 'independent.'

"Mr. President, only because I was a co-author and a co-sponsor, for the Record, I want some explanation on what happened between then and now that has made us decide that the City of Santiago should cease to be independent and should now become a component city.

"Senator Sotto. Mr. President, the officials of the province said during the public hearing that they are no longer vested with the power and authority of general supervision over the city. The power and authority is now being exercised by the Office of the President and it is quite far from the City of Santiago.

"In the public hearing, we also gathered that there is a clamor from some sectors that they want to participate in the provincial elections.

"Senator Roco. Mr. President, I did not mean to delay this. I did want it on record, however. I think there was a majority of 14,000 who approved the charter, and maybe we owe it to those who voted for that charter some degree of respect. But if there has been a change of political will, there has been a change of political will, then so be it.

"Thank you, Mr. President.

"Senator Sotto. Mr. President, to be very frank about it, that was a very important point raised by Senator Roco, and I will have to place it on the Record of the Senate that the reason why we are proposing a committee amendment is that, originally, there was an objection on the part of the local officials and those who oppose it by incorporating a plebiscite in this bill. That was the solution. Because there were some sectors in the City of Santiago who were opposing the reclassification or reconversion of the city into a component city.

"Senator Roco. All I wanted to say, Mr. President -- because the two of us had special pictures (sic) in the city -- is that I thought it should be put on record that we have supported originally the proposal to make it an independent city. But now if it is their request, then, on the manifestation of the Chairman, let it be so.

"Thank you.

"Senator Drilon. Mr. President.

"Senator Drilon. Will the gentleman yield for a few questions, Mr. President?

"Senator Sotto. Yes, Mr. President.

"Senator Drilon. Mr. President, further to the interpellation of our good friend, the Senator from Bicol, on the matter of the opinion of the citizens of Santiago City, there is a resolution passed by the Sanggunian on January 30, 1997 opposing the conversion of Santiago from an independent city.

"This opposition was placed on records during the committee hearings. And that is the reason why, as mentioned by the good sponsor, one of the amendments is that a plebiscite be conducted before the law takes effect.

"The question I would like to raise-- and I would like to recall the statement of our Minority Leader -- is that, at this time we should not be passing it for a particular politician.

"In this particular case, it is obvious that this bill is being passed in order that the additional territory be added to the election of the provincial officials of the province of Isabela.

"Now, is this for the benefit of any particular politician, Mr. President.

"Senator Sotto. If it is, I am not aware of it, Mr. President.

"Senator Alvarez. Mr. President.

"The President. With the permission of the two gentlemen on the Floor, Senator Alvarez is recognized.

"Senator Alvarez. As a born inbred citizen of this city, Mr. President, may I share some information.

"Mr. President, if we open up the election of the city to the provincial leadership, it will not be to the benefit of the provincial leadership, because the provincial leadership will then campaign in a bigger territory.

"As a matter of fact, the ones who will benefit from this are the citizens of Santiago who will now be enfranchised in the provincial electoral process, and whose children will have the opportunity to grow into provincial leadership. This is one of the prime reasons why this amendment is being put forward.

"While it is true that there may have been a resolution by the city council, those who signed the resolution were not the whole of the council. This bill was sponsored by the congressman of that district who represents a constituency, the voice of the district.

"I think, Mr. President, in considering which interest is paramount, whose voice must be heard, and if we have to fathom the interest of the people, the law which has been crafted here in accordance with the rules should be given account, as we do give account to many of the legislations coming from the House on local issues.

"Senator Drilon. Mr. President, the reason why I am raising this question is that, as Senator Roco said, just two-and-a-half years ago we passed a bill which indeed disenfranchized--if we want to use that phrase-- the citizens of the City of Santiago in the matter of the provincial election. Two-and-a-half years after, we are changing the rule.

"In the original charter, the citizens of the City of Santiago participated in a plebiscite in order to approve the conversion of the city into an independent city. I believe that the only way to resolve this issue raised by Senator Roco is again to subject this issue to another plebiscite as part of the provision of this proposed bill and as will be proposed by the Committee Chairman as an amendment.

"Thank you very much, Mr. President.

"Senator Alvarez. Mr. President, the Constitution does not require that the change from an independent to a component city be subjected to a plebiscite.

"Sections 10, 11, 12 of Article X of the 1987 Constitution provides as follows:

'Sec. 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its

boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.'

"This change from an independent city into a component city is none of those enumerated. So the proposal coming from the House is in adherence to this constitutional mandate which does not require a plebiscite.

"Senator Sotto. Mr. President, the key word here is 'conversion'. The word 'conversion' appears in that provision wherein we must call a plebiscite. During the public hearing, the representative of Congressman Abaya was insisting that this is not a conversion; this is merely a reclassification. But it is clear in the bill.

"We are amending a bill that converts, and we are converting it into a component city. That is how the members of the committee felt. That is why we have proposed an amendment to this, and this is to incorporate a plebiscite in as much as there is no provision on incorporating a plebiscite. Because we would like not only to give the other people of Santiago a chance or be enfranchised as far as the leadership of the province is concerned, but also we will give a chance to those who are opposing it. To them, this is the best compromise. Let the people decide, instead of the political leaders of Isabela deciding for them.

"Senator Tatad. Mr. President.

"The President. The Majority Leader is recognized.

"Senator Tatad. At this point, Mr. President, I think we can move to close the period of interpellations.

"The President. Is there any objection? [Silence] There being none, the motion is approved.

"Senator Tatad. I move that we now consider the committee amendments, Mr. President.

"The President. Is there any objection? [Silence] There being none, the motion is approved.

"Senator Sotto. On page 2, after line 13, insert a new Section 3, as follows:

"SEC. 3. SECTION 49 OF REPUBLIC ACT NO. 7720 IS HEREBY AMENDED BY DELETING THE ENTIRE SECTION AND IN ITS STEAD SUBSTITUTE THE FOLLOWING:

"SEC. 49. PLEBISCITE. - THE CONVERSION OF THE CITY OF SANTIAGO INTO A COMPONENT CITY OF THE PROVINCE OF ISABELA SHALL TAKE EFFECT UPON THE RATIFICATION OF THIS ACT BY A MAJORITY OF THE PEOPLE OF SAID CITY IN A PLEBISCITE WHICH SHALL BE HELD FOR THE PURPOSE WITHIN SIXTY (60) DAYS FROM THE APPROVAL OF THIS ACT. THE COMMISSION ON ELECTIONS SHALL CONDUCT AND SUPERVISE SUCH PLEBISCITE.

"The President. Is there any objection?

"Senator Enrile. Mr. President.

"The President. Senator Enrile is recognized.

"Senator Enrile. I object to this committee amendment, Mr. President.

"SUSPENSION OF SESSION

"Senator Tatad. May I ask for a one-minute suspension of the session.

"The President. The session is suspended for a few minutes if there is no objection. [There was none]

"It was 7:54 p.m.

"RESUMPTION OF SESSION

"At 7:57 p.m., the session was resumed.

"The President. The session is resumed.

"Senator Sotto is recognized.

"Senator Sotto. Mr. President, after a very enlightening conversation with the elders of the Body, I withdraw my amendment.

"The President. The amendment is withdrawn.

"Senator Maceda. Mr. President.

"The President. Senator Maceda is recognized.

"Senator Maceda. We wish to thank the sponsor for the withdrawal of the amendment.

"Mr. President, with due respect to the Senator from Isabela -- I am no great fan of the Senator from Isabela -- but it so happens that this is a local bill affecting not only his province but his own city where he is a resident and registered voter.

"So, unless the issue is really a matter of life and death and of national importance, senatorial courtesy demands that we, as much as possible, accommodate the request of the Senator from Isabela as we have done on matters affecting the district of other senators. I need not remind them.

"Thank you anyway, Mr. President.

"Senator Alvarez. Mr. President.

"The President. Senator Alvarez is recognized.

"Senator Alvarez. Mr. President, may I express my deepest appreciation for the statement of the gentleman from Ilocos and Laguna. Whatever he may have said, the feeling is not mutual. At least for now, I have suddenly become his great fan for the evening.

"May I put on record, Mr. President, that I campaigned against the cityhood of Santiago not because I do not want it to be a city but because it had disenfranchised the young men of my city from aspiring for the leadership of the province. The town is the gem of the province. How could we extricate the town from the province?

"But I would like to thank the gentleman, Mr. President, and also the Chairman of the Committee.

"Senator Tatad. Mr. President.

"The President. The Majority Leader is recognized.

"Senator Tatad. There being no committee amendments, I move that the period of committee amendments be closed.

"The President. Shall we amend the title of this bill by removing the word 'independent' preceding 'component city'?

"Senator Sotto. No, Mr. President. We are merely citing the title. The main title of this House Bill No. 8729 is 'An Act Amending Certain Sections of Republic Act 7720'. The title is the title of Republic Act 7720. So, I do not think that we should amend that anymore.

"The President. What is the pending motion? Will the gentleman kindly state the motion?

"Senator Tatad. I move that we close the period of committee amendments.

"The President. Is there any objection? [Silence] There being none, the motion is approved.

"Senator Tatad. Unless there are any individual amendments, I move that we close the period of individual amendments.

"The President. Is there any objection? [Silence] There being none, the period of individual amendments is closed.

"APPROVAL OF H.B. NO. 8729 ON SECOND READING

"Senator Tatad. Mr. President, I move that we vote on Second Reading on House Bill No. 8729.

"The President. Is there any objection? [Silence] There being none, we shall now vote on Second Reading on House Bill No. 8729.

"As many as are in favor of the bill, say aye.

"Several Members. Aye

"As many as are against the bill, say nay. [Silence]

"House Bill No. 8729 is approved on Second Reading."

The debates cannot but raise some quizzical eyebrows on the real purpose for the downgrading of the city of Santiago. There is all the reason to listen to the voice of the people of the city via a plebiscite.

In the case of *Tan, et al. vs. COMELEC*,^[15] BP 885 was enacted partitioning the province of Negros Occidental without consulting its people in a plebiscite. In his concurring opinion striking down the law as unconstitutional, Chief Justice Teehankee cited the illicit political purpose behind its enactment, viz:

"The scenario, as petitioners urgently asserted, was 'to have the creation of the new Province a fait accompli by the time elections are held on February 7, 1986. The transparent purpose is unmistakably so that the new Governor and other officials shall by then have been installed in office, ready to function for purposes of the election for President and Vice-President.' Thus, the petitioners reported after the event: 'With indecent haste, the plebiscite was held; Negros del Norte was set up and proclaimed by President Marcos as in existence; a new set of government officials headed by Governor Armando Gustilo was appointed; and, by the time the elections were held on February 7, 1986, the political machinery was in place to deliver the 'solid North' to ex-President Marcos. The rest is history. What happened in Negros del Norte during the elections - the unashamed use of naked power and resources - contributed in no small way to arousing 'people's power' and steel the ordinary citizen to perform deeds of courage and patriotism that makes one proud to be a Filipino today.

"The challenged Act is manifestly void and unconstitutional. Consequently, all the implementing acts complained of, viz. the plebiscite, the proclamation of a new province of Negros del Norte and the appointment of its officials are equally void. The limited holding of the plebiscite only in the areas of the proposed new province (as provided by Section 4 of the Act) to the exclusion of the voters of the remaining areas of the integral province of Negros Occidental (namely, the three cities of Bacolod, Bago and La Carlota and the Municipalities of Las Castellana, Isabela, Moises Padilla, Pontevedra, Hinigaran, Himamaylan, Kabankalan, Murcia, Valladolid, San Enrique, Ilog, Cauayan, Hinoba-an and Sipalay and Candoni), grossly contravenes and disregards the mandate of Article XI, section 3 of the then prevailing 1973 Constitution that no province may be created or divided or its boundary substantially altered without 'the approval of a majority of the votes in a plebiscite in the unit or units affected.'

It is plain that all the cities and municipalities of the province of Negros Occidental, not merely those of the proposed new province, comprise the units affected. It follows that the voters of the whole and entire province of Negros Occidental have to participate and give their approval in the plebiscite, because the whole province is affected by its proposed division and substantial alteration of its boundary. To limit the plebiscite to only the voters of the areas to be partitioned and seceded from the province is as absurd and illogical as allowing only the secessionists to vote for the secession that they demanded against the wishes of the majority and to nullify the basic principle of majority rule.”

Mr. Justice Mendoza and Mr. Justice Buena also cite two instances when allegedly independent component cities were downgraded into component cities without need of a plebiscite. They cite the City of Oroquieta, Misamis Occidental,[16] and the City of San Carlos, Pangasinan[17] whose charters were amended to allow their people to vote and be voted upon in the election of officials of the province to which their city belongs without submitting the amendment to a plebiscite. With due respect, the cities of Oroquieta and San Carlos are not similarly situated as the city of Santiago. The said two cities then were not independent component cities unlike the city of Santiago. The two cities were chartered but were not independent component cities for both were not highly urbanized cities which alone were considered independent cities at that time. Thus, when the case of San Carlos City was under consideration by the Senate, Senator Pimentel explained:[18]

"x x x Senator Pimentel. The bill under consideration, Mr. President, merely empowers the voters of San Carlos to vote in the elections of provincial officials. There is no intention whatsoever to downgrade the status of the City of San Carlos and there is no showing whatsoever that the enactment of this bill will, in any way, diminish the powers and prerogatives already enjoyed by the City of San Carlos. In fact, the City of San Carlos as of now, is a component city. It is not a highly urbanized city. Therefore, this bill merely, as we said earlier, grants the voters of the city, the power to vote in provincial elections, without in any way changing the character of its being a component city. It is for this reason that I vote in favor of this bill.” It was Senator Pimentel who also sponsored the bill[19] allowing qualified voters of the city of Oroquieta to vote in provincial elections of the province of Misamis Occidental. In his sponsorship speech, he explained that the right to vote being given to the people of Oroquieta City was consistent with its status as a component city.[20] Indeed, during the debates, former Senator Neptali Gonzales pointed out the need to remedy the anomalous situation then obtaining “xxx where voters of one component city can vote in the provincial election while the voters of another component city cannot vote simply because their charters so provide.”[21] Thus, Congress amended other charters of component cities prohibiting their people from voting in provincial elections.

IN VIEW WHEREOF, the petition is granted. Republic Act No. 8528 is declared unconstitutional and the writ of prohibition is hereby issued commanding the respondents to desist from implementing said law.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Kapunan, Panganiban, Pardo, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

Vitug, J., see separate opinion.

Mendoza, J., see dissenting opinion.

Quisumbing, and Purisima, JJ., joins J. Mendoza in his dissenting opinion.

Buena, J., see dissenting opinion.

[1] See Section 4 of R.A. No. 7720.

[2] See Section 10, Article X of the 1987 Constitution.

[3] The intervention was granted on June 30, 1998.

[4] After R.A. No. 8528 was enacted, COMELEC reallocated the seats for the provincial board in Isabela. It added one (1) seat to the 4th district where Santiago City belongs. The intervenor won the additional seat in the May 11, 1998 elections.

[5] *Sanidad vs. COMELEC*, 73 SCRA 333 (1976).

[6] 100 Phil. 1101 (1957).

[7] 92 SCRA 642 (1979).

[8] *Mendenilla v. Onandia*, 115 Phil. 534 (1962).

[9] Section 1, Article VI of the 1987 Constitution.

[10] Reply of Petitioners, pp. 7-9.

[11] See also Rule II, Article 6, par. F(1) of the Implementing Rules of the Local Government Code.

[12] Pimentel, *The Local Government Code of 1991, The Key to National Development*, p. 36.

[13] Hector S. de Leon, *Philippine Constitutional Law*, Vol. 2, 1991 ed., p. 509.

[14] *Journal of the Senate*, 10th Congress, 3rd Regular Session, Session No. 55, February 3, 1998, pp. 92-100.

[15] 142 SCRA 727, 753-754 (1986).

[16] See R.A. No. 6720 which amended R.A. No. 5518.

[17] See R.A. No. 6843 which amended R.A. No. 4487.

[18] *Record of the Senate*, October 20, 1989, p. 795.

[19] House Bill No. 1881; Committee Report Nos. 73 and 76 in the Senate.

[20] *Record of the Senate*, November 25, 1988, p. 763.

[21] *Ibid.*, p. 764. See *Record of the Senate*, October 6, 1989, p. 506 where the cases of the cities of Naga and Ormoc were cited as examples.

SEPARATE OPINION

VITUG, J.:

I share the opinion of the majority of my colleagues that, for the reasons expressed in the ponencia, a plebiscite is essential in order to render effective the conversion of the City of Santiago, Isabela, from an independent to a component city. I would not go to the extent, however, of declaring Republic Act No. 7720 unconstitutional; instead, with due respect, I take the view that a plebiscite can be held conformably with the provisions of the Local Government Code. I do not see, in this instance, a serious incompatibility in having Republic Act No. 7720 stand along with the Local Government Code.

DISSENTING

MENDOZA, J.:

The issue in this case is whether the conversion of the City of Santiago in Isabela province from an independent component city to a component city constitutes the creation, division, merger, abolition, or substantial alteration of the boundary of a city within the contemplation of Art. X, §10 of the Constitution so as to require the approval of the people in a plebiscite. The Court, in declaring R.A. No. 8528 unconstitutional for lack of provision for a plebiscite, does not say that the reclassification of Santiago City as an ordinary component city constitutes creation, division, merger, abolition, or substantial alteration of boundary. Nonetheless, the Court today holds that because the reclassification of the city would result in a “material change in the political and economic rights of the local government units directly affected as well as the people therein,” the approval of the law in a plebiscite is required.

With all due respect I submit that not every change - however “material” and far-reaching - in the classification of a local government unit requires popular approval. Only if the reclassification involves changes in income, population, and land area of the local government unit is there a need for such changes to be approved by the people, for then there would be a creation, division, merger, abolition, or substantial alteration of the boundary of a local government unit, as the case may be, within the meaning of Art. X, §10 of the Constitution. Thus, the Local Government Code (R.A. No. 7160), in implementing the constitutional provision in question, states:

SEC. 7. Creation and Conversion. - As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators or viability and projected capacity to provide services, to wit:

(a) Income. - It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;

(b) Population. - It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and

(c) Land Area. - It must be contiguous, unless it comprises two (2) or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).

SEC. 8. Division and Merger. - Division and merger of existing local government units shall comply with the same requirements herein prescribed for their creation: Provided, however, That such division shall not reduce the income, population, or land area of the local government unit or units concerned to less than the minimum requirements prescribed in this Code: Provided, further, That the income classification of the original local government unit or units shall not fall below its current income classification prior to such division.

The income classification of local government units shall be updated within six (6) months from the effectivity of this Code to reflect the changes in their financial position resulting from the increased revenues as provided herein.

SEC. 9. Abolition of Local Government Units. - A local government unit may be abolished when its income, population, or land area has been irreversibly reduced to less than the minimum standards prescribed for its creation under Book III of this Code, as certified by the national agencies mentioned in Section 7 hereof to Congress or to the sanggunian concerned, as the case may be.

The law or ordinance abolishing a local government unit shall specify the province, city, municipality, or barangay with which the local government unit sought to be abolished will be incorporated or merged.

The conversion from an independent component city to a component city involves no such changes in income, population, or land area. There may be changes in the voting rights of the residents of the city, the supervision of the city's administration, and the city's share in the local taxes, as petitioners point out, but such changes do not amount to the creation, division, merger, abolition, or substantial alteration of the boundary of a local government unit so as to require a plebiscite for their approval. An independent component city and an ordinary component city are both component cities, as distinguished from highly urbanized cities.[1] The only difference between them is that the charters of the independent component cities prohibit their voters from voting for provincial elective officials and such cities are independent of the provinces in which they are located.[2] Thus, the Local Government Code provides:

SEC. 450. Requisites for Creation. - (a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of at least Twenty million pesos (P20,000,000.00) for the last two (2) consecutive years based on 1991 constant prices, and if it has either of the following requisites:

- (i) a contiguous territory of at least one hundred (100) square kilometers, as certified by the Lands Management Bureau; or
- (ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, transfers, and nonrecurring income.

SEC. 451. Cities, Classified. - A city may either be component or highly urbanized: Provided, however, That the criteria established in this Code shall not affect the classification and corporate status of existing cities.

Independent component cities are those component cities whose charters prohibit their voters from voting for provincial elective officials. Independent component cities shall be independent of the province.

SEC. 452. Highly Urbanized Cities. - (a) Cities with a minimum population of two hundred thousand (200,000.00) inhabitants, as certified by the National Statistics Office, and with the latest annual income of at least Fifty Million Pesos (P50,000,000.00) based on 1991 constant prices, as certified by the city treasurer, shall be classified as highly urbanized cities.

(b) Cities which do not meet the above requirements shall be considered component cities of the province in which they are geographically located. If a component city is located within the boundaries of two (2) or more

provinces, such city shall be considered a component of the province of which it used to be a municipality.

(c) Qualified voters of highly urbanized cities shall remain excluded from voting for elective provincial officials.

Unless otherwise provided in the Constitution or this Code, qualified voters of independent component cities shall be governed by their respective charters, as amended, on the participation of voters in provincial elections.

Qualified voters of cities who acquired the right to vote for elective provincial officials prior to the classification of said cities as highly urbanized after the ratification of the Constitution and before the effectivity of this Code, shall continue to exercise such right.

The Court says that the changes resulting from the reclassification of Santiago City as an ordinary component city “cannot be considered insubstantial.” For one, it is said, its independence will be diminished because the city mayor will be placed under the administrative supervision of the provincial governor. For another, the resolutions and ordinances of the city council will have to be approved by the provincial board of Isabela.

The fact is that whether the City of Santiago is an independent component city or an ordinary component city, it is subject to administrative supervision, with the only difference that, as an independent component city, it is under the direct supervision of the President of the Philippines, whereas, as an ordinary component city, it will be subject to the supervision of the President through the province.[3] That is hardly a distinction. For the fact is that under the Constitution, the President of the Philippines exercises general supervision over all local governments.[4]

Nor does it matter that ordinances passed by the city councils of component cities are subject to review (not approval as the Court says) by the provincial boards for the purpose of determining whether the ordinances are within the powers of the city councils to enact.[5] For that matter, ordinances passed by the city councils of independent component cities are likewise subject to review, although by the Office of the President.[6] The reason for this is to be found in Art. X, §4 of the Constitution which provides:

The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.

In any case, these are not important differences which determine whether the law effecting them should be approved in a plebiscite. The defining characteristics of a local government unit are its income, population, and local area, as §§450 and 452 of the LGC provide. These are referred to in §7 of the LGC and its Implementing Rules as the “verifiable indicators of viability and projected capacity to provide services.” Tested by these standards, there is no change in the City of Santiago requiring the approval of the people in a plebiscite.

The majority states: “It is markworthy that when R.A. No. 7720 upgraded the status of Santiago City from a municipality to an independent component city, it required the approval of its people thru a plebiscite called for the purpose. There is neither rhyme nor reason why this plebiscite should not be called to determine the will of the people of Santiago City when R.A. No. 8528 downgrades the status of their city.” The conversion of the then Municipality of Santiago in Isabela Province by R.A. No. 7720 was an act of creation. It was based on the municipality’s satisfying the requisites for the creation of a city as provided in the LGC, to wit:

SEC. 450. Requisites for Creation. - (a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of a least Twenty million pesos (P20,000,000.00) for the last two (2) consecutive years based on 1991 constant prices, and if it has either of the following requisites:

(i) a contiguous territory of at least one hundred (100) square kilometers, as certified by the Lands Management Bureau; or

(ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office;

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, transfers, and nonrecurring income.

As thus indicated these requisites are based on the “verifiable indicators” of income, population, and land area and, therefore, the conversion of what was once a municipality into a city needed approval in a plebiscite. But the conversion of Santiago City from an independent component city into a component city involves no more than a change in the right of the people (i.e., the registered voters of the city) to vote for provincial elective officials.

If an analogy is needed, it is to the reversion of a component city $\frac{3}{4}$ whether independent or ordinary $\frac{3}{4}$ to the status of a municipality. For then the city is actually abolished and abolition, as stated in the Art. X, §10 of the Constitution, must be approved by the majority of the votes cast in a plebiscite. Stated otherwise, when a municipality is converted into a city, a city is created, and when the city is reverted into a municipality, the city is abolished. Both acts of creation and abolition require the approval of the people in a plebiscite called for the purpose. But when an independent component city is converted into a component city, it is not created into another form, it is not divided, it is not merged with another unit of local government, it is not abolished, much less is its boundary substantially altered.

Indeed, this is not the first time that an independent component city is converted into a component city without a plebiscite. The City of Oroquieta, created as an independent component city in 1969 by R.A. No. 5518, was converted into a component city in 1989 by R.A. No. 6726, while the City of San Carlos, created as an independent component city in 1965 by R.A. No. 4487, was converted into a component city by R.A. No. 6843 in 1990. In both cases, the conversion was made without submitting the matter to a plebiscite.

There is, therefore, no reason for requiring that the reclassification of Santiago City as a component city must be approved by the majority of the votes cast in a plebiscite and for holding that, because R.A. No. 8528 contains no provision for such plebiscite, it is unconstitutional.

It is easy to sympathize with calls for plebiscites as an exercise of direct democracy by the people. But, although the Constitution declares that “Sovereignty resides in the people and all government authority emanates from them,” it also provides that we are a “republican State.”[7] It is thus a representative form of government that we have. With few exceptions, we have vested the legislative power in the Congress of the Philippines.[8] This means that when an act of the people’s representatives assembled in Congress is duly passed and approved by the President in the manner prescribed in the Constitution, the act becomes a law[9] without the need of approval or ratification by the people in order to be effective.[10]

This is the theory of representative government. Such a government is no less democratic because it is indirect. In some ways it is better than direct government given the complexity of modern society, let alone the volatility of

voters and their susceptibility to manipulation. In this age of mass communication there is less reason to distrust the judgment of the people's representatives in Congress on matters such as this and, therefore, no reason to require the people to manifest their sovereign will, except where this is expressly required by the Constitution.

For the foregoing reasons, I vote to dismiss the petition in this case.

[1] See LOCAL GOVERNMENT CODE, §451.

[2] CONST., ART. X, §12; LGC, §451.

[3] LGC, §25.

[4] ART. X, §4.

[5] LGC, §468(a)(1)(i).

[6] Id., §25(a).

[7] ART. II, §1.

[8] ART. VI, §1.

[9] Id., §§26-27.

[10] In the following cases, the Constitution requires a plebiscite or a referendum to approve or ratify an act of Congress or of the President: (1) the creation, division, merger, abolition, or substantial alteration of the boundary of a local government unit [Art. X, §10]; (2) the creation of a special metropolitan political subdivision [Id., §11]; (3) the creation of an autonomous region [Id., §18]; (4) the adoption of a new name, national anthem, or national seal for the country [Art. XVI, §2]; (5) referral to the people of the question whether to call a constitutional convention [Art. XVII, §3]; (6) ratification of constitutional amendments [Art. XVII, §4]; and (7) the adoption of a treaty allowing foreign military bases, troops, or facilities in the Philippines if Congress decides to refer the matter to the people [Art. XVIII, §25].

Direct lawmaking by the people is provided through initiative and referendum [Art. VI, §32; R.A. No. 6735] and ratification of constitutional amendments through a plebiscite [Art. XVII, §4].

DISSENTING

BUENA, J.:

With all due respect to my esteemed colleague, Mr. Justice Reynato S. Puno, whose well-written ponencia expresses his opinion with clarity, I regret that I am unable to agree that Republic Act No. 8528 should be declared as unconstitutional for the following reasons:

1. Section 10, Article X of the 1987 Constitution provides that –

“Section 10, Article X. – No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the Local Government Code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.”

Section 10 Chapter 2 of the Local Government Code (R.A. No. 7160) provides:

“Section 10, Chapter 2. – Plebiscite Requirement. No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected. Said plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) from the date of effectivity of the law or ordinance effecting such action, unless said law or ordinance fixes another date.”

In short, conversion does not appear in the 1987 Constitution nor in the Section 10, Chapter 2 of the Local Government Code. Surprisingly, Rule II, Article 6, paragraph (f) (1) of the Implementing Rules of the Local Government Code included conversion in the enumeration of the modes of changing the status of local government units, thus:

“(f) Plebiscite. – (1) No creation, conversion, division, merger, abolition, or substantial alteration of boundaries of LGUs shall take effect unless approved by a majority of the votes cast in the plebiscite called for the purpose in the LGU or LGUs affected. The plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) days from the effectivity of the law or ordinance prescribing such action, unless said law or ordinance fixes another date.

xxx xxx xxx.” (italics supplied)

Other than that, the Local Government Code uses the term “conversion” only in the following instances: (1) Section 7, which provides that “[a]s a general rule, the creation of a local government unit or its conversion from one level to another shall be based on verifiable indicators of viability and projected capacity to provide services, to wit: xxx xxx;” (2) Section 450, which provides for the requisites for the “conversion” of a municipality or a cluster of barangays into a component city; and (3) Section 462, which involves the “conversion” of existing sub-provinces into regular provinces.

Senator Aquilino Pimentel, Jr. defines^[1] “conversion” as “the elevation of an LGU from one level to another, like converting a municipality to a city or a component city to a highly urbanized one or the raising of the classification of one municipality, city or province from a fourth class category to third, second or first.” It is my humble opinion therefore that the requirement of a plebiscite does not apply to the case at bar which does not involve the upgrading or elevation of Santiago City but a downgrading thereof.

2. I am not convinced that a mere Rule and Regulation intended to implement the Local Government Code can expand the terms and provisions clearly expressed in the basic law to be implemented. As aptly contended by the Solicitor General in his Comment on the petition viz:

“It is settled jurisprudence that the power of administrative agencies to promulgate rules and regulation must be in strict compliance with the legislative enactment. Thus, in *Tayug Rural Bank vs. Central Bank of the Philippines* (146 SCRA 129-30), this Honorable Court ruled that in the case of discrepancy between the basic law and a rule or regulation to implement said law, the basic law prevails as said rule or regulation can not go beyond the terms and provisions of the basic law. Neither can such rules and regulation extend or expand the letter and spirit of the law they seek to implement. (*Iglesia ni Kristo vs. Court of Appeal*, 259 SCRA 529)”^[2]

As a matter of fact, Mr. Justice Puno, in his ponencia in the above cited case of *Iglesia ni Kristo*, opined that “(T)his rule is void for it runs smack against the hoary doctrine that administrative rules and regulations cannot expand the letter and spirit of the law they seek to enforce.”^[3]

3. The proceedings in the Senate show that the Committee on Local Government, to which H.B. No. 8729 was referred, reported back to the senate with the recommendation that it be approved with the following amendment:

“SECTION 3. Section 49 of Republic Act No. 7720 is hereby amended by deleting the entire section and in its stead substitute the following:

“SEC. 49. PLEBISCITE. – THE CONVERSION OF THE CITY OF SANTIAGO INTO A COMPONENT CITY OF THE PROVINCE OF ISABELA SHALL TAKE EFFECT UPON THE RATIFICATION OF THIS ACT BY A MAJORITY OF THE PEOPLE OF SAID CITY IN A PLEBISCITE WHICH SHALL BE HELD FOR THE PURPOSE WITHIN (60) DAYS FROM THE APPROVAL OF THIS ACT. THE COMMISSION ON ELECTIONS SHALL CONDUCT AND SUPERVISE SUCH PLEBISCITE.”

However, after the deliberation in the Senate, the Committee on Local Government decided to withdraw the foregoing proposed amendment. Hence, on February 6, 1998, the Republic Act No. 8528, the constitutionality of which is challenged by the petitioners, was approved.

Be that as it may, this Court properly require a plebiscite for the validity of said law when Congress itself, which had been given the opportunity to include such a requirement, decided against it? Are we not supplanting our judgment over that of Congress, or co-equal branch of government entrusted by the Constitution to enact laws? I respectfully submit that we may not do so without disturbing the balance of power as apportioned and delineated by the Constitution.

4. I Likewise submit that we must consider the ramifications of declaration of unconstitutionality of Republic Act No. 8528 on Republic Act No. 6726 (1989) and Republic Act No. 6843 (1990), respectively allowing the voters of the City of Oroquieta (Misamis Oriental) and San Carlos City (Pangasinan) to vote and be voted for any of the respective provincial offices, in effect downgrading them from independent component cities to component cities. The resulting confusion on the political structures of the local government units involved would surely be disastrous to the order and stability of these cities.

5. Finally, in the situation where the supposed breach of the constitution is doubtful, equivocal and, at best, based on argumentative implications, I believe that, as we have ruled in a plethora of cases[4], every law has in its favor, the presumption of constitutionality and in case of doubt, the Court must exert every effort to prevent the invalidation of the law and the nullification of the will of the legislature that enacted it and the executive that approved it.

I therefore vote to dismiss the petition.

[1] In The Local Government Code of 1991, The Key to National Development, 1993 ed., p. 34.

[2] Rollo, p. 110.

[3] Iglesia ni Kristo vs. Court of Appeal, 259 SCRA 529, pp. 547-548.

[4] Tan vs. People, 290 SCRA 117 (1998); Tano vs. Socrates, 278 SCRA 154 (1997); Padilla vs. Court of Appeals, 269 SCRA 402 (1997); Alvarez vs. Guingona, Jr., 252 SCRA 695 (1996); Drilon vs. Lim, 235 SCRA 135 (1994); Garcia vs. Comelec, 227 SCRA 100 (1993).

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