MOISES S. SAMSON, PETITIONER, VS. HON. ALEXANDER AGUIRRE, IN HIS CAPACITY AS THE EXECUTIVE SECRETARY, COMMISSION ON ELECTIONS, AND THE DEPARTMENT OF BUDGET, RESPONDENTS.

G.R. No. 133076. September 22, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On February 23, 1998, President Fidel V. Ramos signed into law Republic Act No. 8535, creating the City of Novaliches out of 15 barangays of Quezon City. Petitioner Moises S. Samson, incumbent councilor of the first district of Quezon City, is now before the Court challenging the constitutionality of Republic Act No. 8535.

Petitioner also seeks to enjoin the Executive Secretary from ordering the implementation of R.A. 8535, the COMELEC from holding a plebiscite for the creation of the City of Novaliches, and the Department of Budget and Management from disbursing funds for said plebiscite. Lastly, he prays for the issuance of a preliminary injunction or temporary restraining order, through a motion we duly noted.

Petitioner bases his petition on the following grounds:

> "a) R.A. No. 8535 failed to conform to the criteria established by the Local Government Code particularly, Sections 7, 11(a) and 450(a), as to the requirements of income, population and land area; seat of government; and no adverse effect to being a city of Quezon City, respectively, and its Implementing Rules as provided in Article 11(b)(1) and (2), as to furnishing a copy of the Quezon City Council of barangay resolution; and
>
> b) The said law will in effect amend the Constitution."[1]

Petitioner asserts that certifications as to income, population, and land area were not presented to Congress during the deliberations that led to the passage of R.A. No. 8535. This, he argues, is clear from the minutes of the public hearings conducted by the Senate Committee on Local Government on the proposed charter of the City of Novaliches. Petitioner particularly cites its hearings held on October 3 and 27, 1997. He is silent, however, on the hearings held by the appropriate Committee in the House of Representatives.

Likewise, petitioner points out that there is no certification attesting to the fact that the mother local government unit, Quezon City, would not be adversely affected by the creation of the City of Novaliches, in terms of income, population, and land area.

In their Comment, respondents through the Office of the Solicitor General, traversed all the allegations of petitioner. They claimed he failed to substantiate said allegations with convincing proof. In their memorandum, respondents argued that petitioner had the burden of proof to overcome the legal presumption that Congress considered all the legal requirements under the Local Government Code of 1991 in passing R.A. 8535. Further, respondents stated that the petition itself is devoid of any pertinent document supporting petitioner's claim that R.A. 8535 is unconstitutional. Respondents pray that the present petition be dismissed for lack of merit.

In Victoriano v. Elizalde Rope Workers' Union,[2] we had occasion to stress that:

> "All presumptions are indulged in favor of constitutionality; one who attacks a statute, alleging unconstitutionality must prove its invalidity beyond a reasonable doubt; that a law may work hardship does not render it unconstitutional; that if any reasonable basis may be conceived which supports the statute, it will be upheld, and the challenger must negate all possible bases; that the courts are not concerned with the wisdom, justice, policy, or expediency of a statute; and that a liberal interpretation of the constitution in favor of the constitutionality of legislation should be adopted."[3]

Every statute is presumed valid.[4] Every law is presumed to have passed through regular congressional processes.[5] A person asserting the contrary has the burden of proving his allegations clearly and unmistakably. Having this in mind, we now proceed to examine whether or not petitioner was able to successfully overcome the presumption of validity accorded R.A. No. 8535.

The Local Government Code of 1991 provides under Section 7:

> "SECTION 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 of 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 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 Land Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).

Corollarily, the Rules and Regulations Implementing the Code provide in Article 11:

> ART. 11. Cities. – (a) Requisites for creation – A city shall not be created unless the following requisites on income and either population or land area are present:
>
> (1)
>
> Income – an average annual income of not less than Twenty Million Pesos (P20,000,000.00), for the immediately preceding two (2) consecutive years based on 1991 constant prices, as certified by DOF. The average annual income shall include the income accruing to the general fund, exclusive of special funds, special accounts, transfers, and nonrecurring income; and
>
> (2)
>
> Population or land area – Population which shall not be less than one hundred fifty thousand (150,000) inhabitants, as certified by the NSO; or land area which must be contiguous with an area of at least one hundred (100) square kilometers, as certified by LMB. The territory need not be contiguous if it comprises two (2) or more islands or is separated by a chartered city or cities which do not contribute to the income of the province. The land area requirement shall not apply where the proposed city is composed of one (1) or more

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> islands. The territorial jurisdiction of a city sought to be created shall be properly identified by metes and bounds.
>
> The creation of a new city shall not reduce the land area, population, and income of the original LGU or LGUs at the time of said creation to less than the prescribed minimum requirements. All expenses incidental to the creation shall be borne by the petitioners."

Petitioner argues that no certifications attesting compliance with the foregoing requirements were submitted to Congress, citing in particular public hearings held by the Senate Committee on Local Government.

However, we note that the bill that eventually became R.A. No. 8535 originated in the House of Representatives. Its principal sponsor is Cong. Dante Liban of Quezon City. Petitioner did not present any proof, but only allegations, that no certifications were submitted to the House Committee on Local Government, as is the usual practice in this regard. Allegations, without more, cannot substitute for proof. The presumption stands that the law passed by Congress, based on the bill of Cong. Liban, had complied with all the requisites therefor.

Moreover, present during the public hearings held by the Senate Committee on Local Government were resource persons from the different government offices like National Statistics Office, Bureau of Local Government Finance, Land Management Bureau, and Department of Budget and Management, aside from officials of Quezon City itself.

The representative from the Bureau of Local Government Finance estimated the combined average annual income of the 13 barangays[6] for the years 1995 and 1996 to be around P26,952,128.26.[7] Under the Local Government Code, a proposed city must have an average annual income of only at least P20,000,000.00 for the immediately preceding two years. The representative from the NSO estimated the population in the barangays that would comprise the proposed City of Novaliches to be around 347,310.[8] This figure is more than the 150,000 required by the Implementing Rules. There is no need to consider the land area, given these figures, since under the Local Government Code, the proposed city must comply with requirements as regards income and population or land area. Other than the income requirement, the proposed city must have the requisite number of inhabitants or land area. Compliance with either requirement, in addition to income, is sufficient. Judicial notice may also be taken that Novaliches is now highly urbanized.

Petitioner avers that the oral manifestation made by the representatives of government offices is not enough certification. But respondents reply that in the hearings, particularly by the Local Government Committee headed by Senator Sotto, on October 3 and 27, 1997, the DBM, DILG, and Finance Officials were present along with other officers armed with official statistics and reference materials. In their official capacity, they spoke and shed light on population, land area and income of the proposed city. Their official statements could serve the same purpose contemplated by law requiring certificates. Their affirmation as well as their oath as witnesses in open session of either the Senate or the House of Representatives give even greater solemnity than a certification submitted to either chamber routinely.

Moreover, petitioner failed to show that, aside from the oral declarations during the public hearings, the representatives present did not also submit written certifications. Note that under the Implementing Rules, written certifications are required to be attached to the petition for the creation of a city, to be submitted by interested municipalities or barangays to Congress in the form of a resolution. Petitioner, however, did not even bother to present a copy of said petition if only to prove that it was without the written certifications attached as required by law. We are thus constrained to presume, as respondents urge, that these requirements were met appropriately in the passage of the assailed legislative act.

Petitioner then argues that R.A. No. 8535 failed to specify the seat of government of the proposed City of

Novaliches as required under Section 11(a) of the Local Government Code:

> "SECTION 11. Selection and Transfer of Local Government Site, Offices, and Facilities. – (a) The law or ordinance creating or merging local government units shall specify the seat of government from where governmental and corporate service shall be delivered. In selecting said site, factors relating to geographical centrality, accessibility, availability of transportation and communication facilities, drainage and sanitation, development and economic progress, and other relevant considerations shall be taken into account."

Indeed, a reading of R.A. No. 8535 will readily show that it does not provide for a seat of government. However, this omission, to our mind, is not as fatal to the validity of R.A. No. 8535 as petitioner makes it to be. We agree with respondents that under Section 12 of the Local Government Code, which applies to the proposed City of Novaliches by virtue of Section 54 of R.A. No. 8535,[9] the City of Novaliches can still establish a seat of government after its creation. For said Code already provides as follows:

> "SECTION 12. Government Centers. – Provinces, cities, and municipalities shall endeavor to establish a government center where offices, agencies, or branches of the National Government, local government units, or government-owned or –controlled corporations may, as far as practicable, be located. In designating such a center, the local government unit concerned shall take into account the existing facilities of national and local agencies and offices which may serve as the government center as contemplated under this Section. The National Government, local government unit or government-owned or –controlled corporation concerned shall bear the expenses for the construction of its buildings and facilities in the government center."

While Section 12 speaks of the site of government centers, such site can very well also be the seat of government, "from where governmental and corporate service shall be delivered."[10]

With regard to the alleged adverse effect on Quezon City by the creation of the City of Novaliches, petitioner again failed to present any concrete evidence on this point. Quezon City Mayor Ismael Mathay, Jr., was present during the deliberations of the Senate Committee on Local Government, and made no mention of anything concerning such adverse effects. As chief executive of Quezon City, Mayor Mathay would be the first person to protest any development that might prove detrimental to Quezon City. The fact that he did not raise any adverse issue during the public hearings on R.A. No. 8535, stressing instead his concern on the matter of inclusion of all Quezon City voters in the plebiscite that would decide the fate of the City of Novaliches, is indicative of the non-existence of such negative issues. Moreover, in the plebiscite as contemplated on R.A. 8535, all persons concerned will obviously have the opportunity to raise those issues even before they vote on the principal question of the cityhood of Novaliches.

That the Quezon City Council was not furnished a copy of the petition of concerned barangays calling for the creation of the City of Novaliches, if true, will also not render invalid R.A. No. 8535. The evident purpose of this requirement, found in the Implementing Rules, is to inform the City Council of the move to create another city and to enable it to formulate its comments and recommendations on said petition. The Quezon City Council members are obviously aware of the petition. The matter has been widely publicized in the mass media. Surely members of the Quezon City Council, including petitioner, could not now be heard to claim they have not known of the contents of the barangays' petition to create the City of Novaliches.

The proposed creation of the City of Novaliches will in no way result in a prohibited amendment of the Constitution, contrary to petitioner's contention. The ordinance appended to the Constitution merely apportions the seats of the House of Representatives to the different legislative districts in the country. Nowhere does it provide that Metro Manila shall forever be composed of only 17 cities and municipalities as claimed by petitioner. Too literal a reading of the ordinance in or appendix of the Constitution will only result in its erroneous interpretation.

Clearly, from the foregoing considerations, petitioner has failed to present clear and convincing proof to defeat the presumption of constitutionality being enjoyed by R.A. No. 8535. Nor did he succeed to convince the Court with substantial and persuasive legal reasons for us to grant the reliefs he seeks.

WHEREFORE, the instant petition is hereby DISMISSED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur. Panganiban, J., in the result.

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[1] Rollo, p. 233.

[2] 59 SCRA 54 (1974).

[3] Id. at 66.

[4] Basco v. PAGCOR, 197 SCRA 52, 59 (1991); Peralta v. COMELEC, 82 SCRA 30 (1978).

[5] Tobias v. Abalos, 239 SCRA106, 111 (1994).

[6] Before the inclusion of Greater Lagro and North Fairview.

[7] Rollo, p. 129.

[8] Id. at 199.

[9] SEC. 54. Applicability of Laws. – The provisions of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, other laws pertaining to Quezon City, and such laws as are applicable to cities shall govern the City of Novaliches insofar as they are not inconsistent with the provisions of this Act.

[10] LOCAL GOVERNMENT CODE, Sec. 11(a).

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