BENJAMIN E. CAWALING, JR., PETITIONER, VS. THE COMMISSION ON ELECTIONS, AND REP. FRANCIS JOSEPH G. ESCUDERO, RESPONDENTS.

G.R. No. 146319. October 26, 2001

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us are two (2) separate petitions challenging the constitutionality of Republic Act No. 8806 which created the City of Sorsogon and the validity of the plebiscite conducted pursuant thereto.

On August 16, 2000, former President Joseph E. Estrada signed into law R.A. No. 8806, an "Act Creating The City Of Sorsogon By Merging The Municipalities Of Bacon And Sorsogon In The Province Of Sorsogon, And Appropriating Funds Therefor."[1]

Pursuant to Section 10, Article X of the Constitution,[2] the Commission on Elections (COMELEC), on December 16, 2000, conducted a plebiscite in the Municipalities of Bacon and Sorsogon and submitted the matter for ratification.

On December 17, 2000, the Plebiscite City Board of Canvassers (PCBC) proclaimed[3] the creation of the City of Sorsogon as having been ratified and approved by the majority of the votes cast in the plebiscite.[4]

Invoking his right as a resident and taxpayer of the former Municipality of Sorsorgon, Benjamin E. Cawaling, Jr. filed on January 2, 2001 the present petition for certiorari (G.R. No. 146319) seeking the annulment of the plebiscite on the following grounds:

> - The December 16, 2000 plebiscite was conducted beyond the required 120-day period from the approval of R.A. 8806, in violation of Section 54 thereof; and
>
> - Respondent COMELEC failed to observe the legal requirement of twenty (20) day extensive information campaign in the Municipalities of Bacon and Sorsogon before conducting the plebiscite.

Two days after filing the said action, or on January 4, 2001, petitioner instituted another petition (G.R. No. 146342), this time for prohibition, seeking to enjoin the further implementation of R.A. No. 8806 for being unconstitutional, contending, in essence, that:

> - The creation of Sorsogon City by merging two municipalities violates Section 450(a) of the Local Government Code of 1991 (in relation to Section 10, Article X of the Constitution) which requires that only "a municipality or a cluster of barangays may be converted into a component city"; and
>
> - R.A. No. 8806 contains two (2) subjects, namely, the (a) creation of the City of Sorsogon and the (b) abolition of the Municipalities of Bacon and Sorsogon, thereby violating the "one subject-one bill" rule prescribed by Section 26(1), Article VI of the Constitution.

Hence, the present petitions which were later consolidated.[5]

Significantly, during the pendency of these cases, specifically during the May 14, 2001 elections, the newly-created Sorsogon City had the first election of its officials. Since then, the City Government of Sorsogon has been regularly discharging its corporate and political powers pursuant to its charter, R.A. No. 8806.

We shall first delve on petitioner's constitutional challenge against R.A. No. 8806 in G.R. No. 146342.

Every statute has in its favor the presumption of constitutionality.[6] This presumption is rooted in the doctrine of separation of powers which enjoins upon the three coordinate departments of the Government a becoming courtesy for each other's acts.[7] The theory is that every law, being the joint act of the Legislature and the Executive, has passed careful scrutiny to ensure that it is in accord with the fundamental law.[8] This Court, however, may declare a law, or portions thereof, unconstitutional, where a petitioner has shown a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative one.[9] In other words, the grounds for nullity must be beyond reasonable doubt,[10] for to doubt is to sustain.[11]

Petitioner initially rejects R.A. No. 8806 because it violates Section 10, Article X of the Constitution which provides, inter alia:

> "Section 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." (Emphasis ours)

The criteria for the creation of a city is prescribed in Section 450 of the Local Government Code of 1991 (the Code), thus:

> "Section 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 (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 specific funds, transfers, and non-recurring income." (Emphasis ours)

Petitioner is not concerned whether the creation of Sorsogon City through R.A. No. 8806 complied with the criteria set by the Code as to income, population and land area. What he is assailing is its mode of creation. He contends that under Section 450(a) of the Code, a component city may be created only by converting "a municipality or a cluster of barangays," not by merging two municipalities, as what R.A. No. 8806 has done.

This contention is devoid of merit.

Petitioner's constricted reading of Section 450(a) of the Code is erroneous. The phrase "A municipality or a

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cluster of barangays may be converted into a component city" is not a criterion but simply one of the modes by which a city may be created. Section 10, Article X of the Constitution, quoted earlier and which petitioner cited in support of his posture, allows the merger of local government units to create a province, city, municipality or barangay in accordance with the criteria established by the Code. Thus, Section 8 of the Code distinctly provides:

> "Section 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. x x x." (Emphasis ours)

Verily, the creation of an entirely new local government unit through a division or a merger of existing local government units is recognized under the Constitution, provided that such merger or division shall comply with the requirements prescribed by the Code.

Petitioner further submits that, in any case, there is no "compelling" reason for merging the Municipalities of Bacon and Sorsogon in order to create the City of Sorsogon considering that the Municipality of Sorsogon alone already qualifies to be upgraded to a component city. This argument goes into the wisdom of R.A. No. 8806, a matter which we are not competent to rule. In Angara v. Electoral Commission,[12] this Court, through Justice Jose P. Laurel, made it clear that "the judiciary does not pass upon questions of wisdom, justice or expediency of legislation." In the exercise of judicial power, we are allowed only "to settle actual controversies involving rights which are legally demandable and enforceable,"[13] and "may not annul an act of the political departments simply because we feel it is unwise or impractical."[14]

Next, petitioner assails R.A. No. 8806 since it contravenes the "one subject-one bill" rule enunciated in Section 26 (1), Article VI of the Constitution, to wit:

> "Section 26 (1). Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof." (emphasis ours)

Petitioner contends that R.A. No. 8806 actually embraces two principal subjects which are: (1) the creation of the City of Sorsogon, and (2) the abolition of the Municipalities of Bacon and Sorsogon. While the title of the Act sufficiently informs the public about the creation of Sorsogon City, petitioner claims that no such information has been provided on the abolition of the Municipalities of Bacon and Sorsogon.

The argument is far from persuasive. Contrary to petitioner's assertion, there is only one subject embraced in the title of the law, that is, the creation of the City of Sorsogon. The abolition/cessation of the corporate existence of the Municipalities of Bacon and Sorsogon due to their merger is not a subject separate and distinct from the creation of Sorsogon City. Such abolition/cessation was but the logical, natural and inevitable consequence of the merger. Otherwise put, it is the necessary means by which the City of Sorsogon was created. Hence, the title of the law, "An Act Creating the City of Sorsogon by Merging the Municipalities of Bacon and Sorsogon in the Province of Sorsogon, and Appropriating Funds Therefor," cannot be said to exclude the incidental effect of abolishing the two municipalities, nor can it be considered to have deprived the public of fair information on this consequence.

It is well-settled that the "one title-one subject" rule does not require the Congress to employ in the title of the enactment language of such precision as to mirror, fully index or catalogue all the contents and the minute details therein.[15] The rule is sufficiently complied with if the title is comprehensive enough as to include the general object which the statute seeks to effect,[16] and where, as here, the persons interested are informed of the nature,

scope and consequences of the proposed law and its operation.[17] Moreover, this Court has invariably adopted a liberal rather than technical construction of the rule "so as not to cripple or impede legislation."[18]

Consequently, we hold that petitioner has failed to present clear and convincing proof to defeat the presumption of constitutionality of R.A. No. 8806.

We now turn to G.R. No. 146319 wherein petitioner assails the validity of the plebiscite conducted by the COMELEC for the ratification of the creation of Sorsogon City.

Petitioner asserts that the plebiscite required by R.A. No. 8806 should be conducted within 120 days from the "approval" of said Act per express provision of its Section 54, viz:

> "Sec. 54. Plebiscite. - The City of Sorsogon shall acquire corporate existence upon the ratification of its creation by a majority of the votes cast by the qualified voters in a plebiscite to be conducted in the present municipalities of Bacon and Sorsogon within one hundred twenty (120) days from the approval of this Act. x x x." (Emphasis ours)

The Act was approved on August 16, 2000 by former President Joseph E. Estrada. Thus, petitioner claims, the December 16, 2000 plebiscite was conducted one (1) day late from the expiration of the 120-day period after the approval of the Act. This 120-day period having expired without a plebiscite being conducted, the Act itself expired and could no longer be ratified and approved in the plebiscite held on December 16, 2000.

In its comment, the COMELEC asserts that it scheduled the plebiscite on December 16, 2000 based on the date of the effectivity of the Act. Section 65 of the Act states:

> "Sec. 65. Effectivity. - This Act shall take effect upon its publication in at least two (2) newspapers of general and local circulation."

The law was first published in the August 25, 2000 issue of TODAY, a newspaper of general circulation. Then on September 01, 2000, it was published in a newspaper of local circulation in the Province of Sorsogon. Thus, the publication of the law was completed on September 1, 2000, which date, according to the COMELEC, should be the reckoning point in determining the 120-day period within which to conduct the plebiscite, not from the date of its approval (August 16, 2000) when the law had not yet been published. The COMELEC argues that since publication is indispensable for the effectivity of a law, citing the landmark case of Tañada vs. Tuvera,[19] it could only schedule the plebiscite after the Act took effect. Thus, the COMELEC concludes, the December 16, 2000 plebiscite was well within the 120-day period from the effectivity of the law on September 1, 2000.

The COMELEC is correct.

In addition, Section 10 of the Code provides:

> "Section 10. 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. Such plebiscite shall be conducted by the Commission on Elections within one hundred twenty (120) days from the date of the effectivity of the law or ordinance affecting such action, unless said law or ordinance fixes another date." (Emphasis ours)

Quite plainly, the last sentence of Section 10 mandates that the plebiscite shall be conducted within 120 days from the date of the effectivity of the law, not from its approval. While the same provision allows a law or ordinance to fix "another date" for conducting a plebiscite, still such date must be reckoned from the date of the effectivity of the law.

Consequently, the word "approval" in Section 54 of R.A. No. 8806, which should be read together with Section 65 (effectivity of the Act) thereof, could only mean "effectivity" as used and contemplated in Section 10 of the Code. This construction is in accord with the fundamental rule that all provisions of the laws relating to the same subject should be read together and reconciled to avoid inconsistency or repugnancy to established jurisprudence. As we stated in Tañada:

> "Art. 2. Laws shall take effect after fifteen days following the completion of their publication in the Official Gazette, unless it is otherwise provided. This Code shall take effect one year after such publication.
>
> After a careful study of this provision and of the arguments of the parties, both on the original petition and on the instant motion, we have come to the conclusion, and so hold, that the clause `unless it is otherwise provided' refers to the date of effectivity and not to the requirement of publication itself, which cannot in any event be omitted. This clause does not mean that the legislature may make the law effective immediately upon approval, or on any other date, without its previous publication." (Emphasis supplied)

To give section 54 a literal and strict interpretation would in effect make the Act effective even before its publication, which scenario is precisely abhorred in Tañada.

Lastly, petitioner alleges that the COMELEC failed to conduct an extensive information campaign on the proposed Sorsogon cityhood 20 days prior to the scheduled plebiscite as required by Article 11 (b.4.ii), Rule II of the Rules and Regulations Implementing the Code. However, no proof whatsoever was presented by petitioner to substantiate his allegation. Consequently, we sustain the presumption[20] that the COMELEC regularly performed or complied with its duty under the law in conducting the plebiscite.

WHEREFORE, the instant petitions are DISMISSED for lack of merit. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, and De Leon, Jr., JJ., concur.
Vitug, J., on official leave.

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[1] Annex "A" of Petition in G.R. No. 146342, Rollo, pp. 35-83.

[2] Section 10, Article X of the Constitution provides: "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."

[3] Annex "E" (Certificate of Canvass of Votes and Proclamation), ibid, p. 109.

[4] Annex "D" (Statement of Votes) of Petition, ibid., p. 108.

[5] Resolution dated September 25, 2001.

[6] Abbas v. Commission on Elections, 179 SCRA 287 (1989), citing Yu Cong Eng v. Trinidad, 47 Phil. 387 (1925); Salas v. Jarencio, 46 SCRA 734 (1972); Morfe v. Mutuc, 22 SCRA 424 (1968); Peralta v. COMELEC, 82 SCRA 30 (1978).

[7] Garcia v. Executive Secretary, 204 SCRA 516 (1991).

[8] Philippine Judges Association v. Prado, 227 SCRA 703 (1993).

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[9] Lacson v. Executive Secretary, 301 SCRA 298 (1999).

[10] Alvarez v. Guingona, Jr., 252 SCRA 695 (1996).

[11] Philippine Judges Association v. Prado, supra, p. 706.

[12] 63 Phil. 139 (1936), cited in Garcia v. Executive Secretary, supra.

[13] Section 1, Article VII of the Constitution.

[14] Garcia v. Executive Secretary, supra, p. 523.

[15] Tatad v. The Secretary of the Department of Energy, 281 SCRA 330 (1997).

[16] Lim v. Pacquing, 240 SCRA 649 (1995).

[17] Lidasan v. COMELEC, 21 SCRA 496 (1967).

[18] Tobias v. Abalos, 239 SCRA 106 (1994) and Sumulong v. COMELEC, 73 Phil. 288 (1941).

[19] 146 SCRA 446 (1986).

[20] Section 3 (m), Rule 131 of the Revised Rules of Court provides: "Disputable presumptions.- The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x

(m) That official duty has been regularly performed;

x x x."

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