

MA. SALVACION BUAC AND ANTONIO BAUTISTA, PETITIONERS, VS. COMMISSION ON ELECTIONS AND ALAN PETER S. CAYETANO, RESPONDENTS.*G.R. No. 155855. January 26, 2004*

Ponente: PUNO, J.

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This is a petition for certiorari and mandamus filed by petitioners Ma. Salvacion Buac and Antonio Bautista assailing the October 28, 2002 'en banc Resolution of the Commission on Elections (COMELEC) which held that it has no jurisdiction over controversies involving the conduct of plebiscite and the annulment of its result.

The facts show that in April, 1988, a plebiscite was held in Taguig for the ratification of the Taguig Cityhood Law (Republic Act No. 8487) proposing the conversion of Taguig from a municipality into a city. Without completing the canvass of sixty-four (64) other election returns, the Plebiscite Board of Canvassers declared that the "NO" votes won and that the people rejected the conversion of Taguig to a city.

The Board of Canvassers was, however, ordered by the COMELEC en banc to reconvene and complete the canvass. The Board did and in due time issued an Order proclaiming that the negative votes prevailed in the plebiscite conducted.

Forthwith, petitioners filed with the COMELEC a petition to annul^[1] the results of the plebiscite with a prayer for revision and recount of the ballots cast therein. They alleged that fraud and irregularities attended the casting and counting of votes. The case was docketed as an election protest and raffled to the COMELEC Second Division.^[2]

Private respondent Cayetano intervened and moved to dismiss the petition on the ground of lack of jurisdiction of the COMELEC. He claimed that a plebiscite cannot be the subject of an election protest. He averred that the jurisdiction to hear a complaint involving the conduct of a plebiscite is lodged with the Regional Trial Court (RTC).^[3]

The COMELEC Second Division initially gave due course to the petition and ruled that it has jurisdiction over the case. It treated the petition as akin to an election protest considering that the same allegations of fraud and irregularities in the casting and counting of ballots and preparation of returns are the same grounds for assailing the results of an election. It then ordered the Taguig ballot boxes to be brought to its Manila office and created revision committees to revise and recount the plebiscite ballots.^[4]

In an unverified motion, intervenor Cayetano moved for reconsideration of the COMELEC Order insisting that it has no jurisdiction to hear and decide a petition contesting the results of a plebiscite.

In a complete turnaround, the COMELEC 2nd Division issued an Order on November 29, 2001 granting the Motion for Reconsideration. It dismissed the petition to annul the results of the Taguig plebiscite and ruled that the COMELEC has no jurisdiction over said case as it involves an exercise of quasi-judicial powers not

contemplated under Section 2 (2), Article IX (C) of the 1987 Constitution.[5]

On appeal, the COMELEC en banc affirmed the ruling of its 2nd Division. It held that the COMELEC cannot use its power to enforce and administer all laws relative to plebiscites as this power is purely administrative or executive and not quasi-judicial in nature. It concluded that the jurisdiction over the petition to annul the Taguig plebiscite results is lodged with the RTC under Section 19 (6) of Batas Pambansa Big. 129 which provides that the RTC shall have exclusive original jurisdiction in cases not within the exclusive jurisdiction of any court or body exercising judicial or quasi-judicial functions.[6]

Hence this petition.

Petitioners Ma. Salvacion Buac and Antonio Bautista reiterate their submission that jurisdiction to decide plebiscite protest cases is constitutionally vested with the COMELEC. They likewise claim that the impugned Order is discriminatory as during the pendency of the Taguig case, the COMELEC assumed jurisdiction over a similar case concerning the revision and recount of the plebiscite ballots involving the conversion of Malolos into a city. The COMELEC resolved said case and already declared Malolos a city.

Respondents contend that there is no such action as a plebiscite protest under the Constitution, the laws and the COMELEC rules as they provided only for election protests; the quasi-judicial jurisdiction of the COMELEC over election contests extends only to cases enumerated in Section 2(2), Article IX (C) of the Constitution, which does not include controversies over plebiscite results; and, even if the petition to annul plebiscite results is akin to an election protest, it is the RTC that has jurisdiction over election protests involving municipal officials, and the COMELEC has only appellate jurisdiction in said cases.

The petition is impressed with merit.

First. The key to the case at bar is its nature. The case at bar involves the determination of whether the electorate of Taguig voted in favor of, or against the conversion of the municipality of Taguig into a highly urbanized city in the plebiscite conducted for the purpose. Respondents submit that the regular courts of justice, more specifically, the Regional Trial Court, has the jurisdiction to adjudicate any controversy concerning the conduct of said plebiscite. We hold that the invocation of judicial power to settle disputes involving the conduct of a plebiscite is misplaced. Section 1, Article VIII of the Constitution 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." According to Mr. Justice Isagani Cruz, "the first part of the authority represents the traditional concept of judicial power involving the settlement of conflicting rights as conferred by law." [7] The case at bar assailing the regularity of the conduct of the Taguig plebiscite does not fit the kind of a case calling for the exercise of judicial power. It does not involve the violation of any legally demandable right and its enforcement. There is no plaintiff or defendant in the case at bar for it merely involves the ascertainment of the vote of the electorate of Taguig whether they approve or disapprove the conversion of their municipality to a highly urbanized city. There is no invocation of a private right conferred by law that has been violated and which can be vindicated alone in our courts of justice in an adversarial proceeding. Rather, the issue in the case at bar is the determination of the sovereign decision of the electorate of Taguig. The purpose of this determination is more to protect the sovereignty of the people and less to vindicate the private interest of any individual. Such a determination does not contemplate the clash of private rights of individuals and hence cannot come under the traditional jurisdiction of courts.

Second. If the determination of the result of a plebiscite is not fit for the exercise of judicial power, the invocation of Section 19 of B.P. Big. 129, as amended, otherwise known as the Judiciary Reorganization Act, is ineluctably

errant, viz:

Sec. 19. Jurisdiction in civil cases. — Regional Trial Courts shall exercise exclusive original jurisdiction:

- In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

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- In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions.

There cannot be any doubt with doubt that the aforequoted provisions refer to civil cases or actions. A civil action is one by which a party sues another for the enforcement or protection of a right or the prevention or redress of a wrong.[8] As stressed above, a plebiscite involves the expression of the public will on a public issue. The determination of the public will is a subject that does not fit the jurisdiction of civil courts, for civil courts are established essentially to resolve controversies between private persons.[9]

The case of *Salva v. Macalintal*[10] does not support the overarching thesis that "any question on the validity of plebiscite, or any dispute on the result of the plebiscite falls within the general jurisdiction of regular trial courts." Looking at it with clear eyes, *Salva* resolved the validity, not of a plebiscite or its result, but of a provision in the rules and regulations issued by the COMELEC governing the conduct of a plebiscite.

Third. To grant the RTC jurisdiction over petitions to annul plebiscite results can lead to jumbled justice. Consider for instance where the plebiscite is national as it deals with the ratification of a proposed amendment to our Constitution. Snap thinking will tell us that it should be the COMELEC that should have jurisdiction over a petition to annul its results. If jurisdiction is given to the regular courts, the result will not enhance the orderly administration of justice. Any regional trial court from every nook and corner of the country will have jurisdiction over a petition questioning the results of a nationwide plebiscite. Bearing in mind that the jurisdiction of these courts is limited only within their respective judicial regions, the difficulties that will attend their exercise of jurisdiction would be many if not unmanageable.

Fourth. An eye contact with our Constitution and related laws will reveal that only contests relating to the elections, returns and qualifications of elected officials are subject to the exercise of judicial power of our courts or quasi-judicial power of our administrative agencies, thus: (a) contests involving elective municipal officials are tried and decided by trial courts of general jurisdiction, while those involving barangay officials are tried and decided by trial courts of limited jurisdiction; in both cases, however, the COMELEC exercises appellate jurisdiction; (b) contests involving all elective regional, provincial and city officials fall within the exclusive original jurisdiction of the COMELEC in the exercise of its quasi-judicial power; (c) contests involving members of the House of Representatives fall within the exclusive original jurisdiction of the House of Representatives Electoral Tribunal in the exercise of quasi-judicial power; (d) contests involving members of the Senate fall within the exclusive original jurisdiction of the Senate Electoral Tribunal in the exercise of quasi-judicial power; and, (e) contests involving the President and the Vice President fall within the exclusive original jurisdiction of the Presidential Electoral Tribunal, also in the exercise of quasi-judicial power.

What grabs the eyeball is the intent of our Constitution and election laws to subject only contests relating to the elections, returns and qualifications of elected officials — from the barangay to the President of the Philippines — to the exercise of judicial or quasi-judicial powers of courts or administrative tribunals. Contests which do not involve the election, returns and qualifications of elected officials are not subjected to the exercise of the judicial or quasi-judicial powers of courts or administrative agencies. Clearly, controversies concerning the conduct of a plebiscite appertain to this category. In the case at bar, the conduct of the Taguig plebiscite is the core of the controversy. This is a matter that involves the enforcement and administration of a law relative to a plebiscite. It falls under the jurisdiction of the COMELEC under Section 2(1), Article IX (C) of the Constitution which gives it the power "to enforce and administer all laws and regulations relative to the conduct of a plebiscite."

Fifth. The Court agrees with the following submissions of the Solicitor General, viz.

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There can hardly be any doubt that the test and intent of the constitutional grant of powers to the COMELEC is to give it all the necessary and incidental powers for it to achieve the holding of free, orderly, honest and peaceful and credible elections [Maruhom v. COMELEC, 331 SCRA 473 (2000)]. Hence, the all encompassing power endowed the COMELEC to enforce and administer all laws and regulations relative to the conduct of an election (or plebiscite, initiative, referendum and recall) includes the power to cancel proclamations [(Nolasco v. COMELEC, 275 SCRA 762 (1997))]. The COMELEC also has the power to supervise and control the proceedings of the board of canvassers, suspend and/or annul illegal and void proclamations, declare a failure of elections and promulgate rules and regulations concerning the conduct of elections.

While the jurisdiction of the COMELEC is most commonly invoked over popular elections — that which involves the choice or selection of candidates to public office by popular vote, the same may likewise be invoked in connection with the conduct of a plebiscite.

In the present case, petitioners filed a petition for revision of ballots cast in a plebiscite. The COMELEC dismissed the petition on the ground that it has no jurisdiction over the petition considering that the issue raised therein calls for the exercise by the COMELEC of its judicial or quasi-judicial power. According to the COMELEC, there is no law nor any constitutional provision that confers it with jurisdiction to hear and decide a case contesting the officially proclaimed results of a plebiscite based on frauds and irregularities.

The COMELEC's position is highly untenable. Article LX-C, Section 2(1) is very explicit that the COMELEC has the power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall." To enforce means to cause to take effect or to cause the performance of such act or acts necessary to bring into actual effect or operation, a plan or measure. When we say the COMELEC has the power to enforce all laws relative to the conduct of a plebiscite, it necessarily entails all the necessary and incidental power for it to achieve the holding of an honest and credible plebiscite. Obviously, the power of the COMELEC is not limited to the mere administrative function of conducting the plebiscite. The law is clear. It is also mandated to enforce the laws relative to the conduct of the plebiscite. Hence, the COMELEC, whenever it is called upon to correct or check what the Board of Canvassers erroneously or fraudulently did during the canvassing, can verify or ascertain the true results of the plebiscite either through a pre-proclamation case or through revision of ballots. To remove from the COMELEC the power to ascertain the true results of the plebiscite through revision of ballots is to render nugatory its constitutionally mandated

power to "enforce" laws relative to the conduct of plebiscite. It is not correct to argue that the quasi-judicial power of the COMELEC is limited to contests relating to the elections, returns and qualifications of all elective regional, provincial and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective Barangay officials decided by trial courts of limited jurisdiction. If the COMELEC has quasi-judicial power to enforce laws relating to elective officials then there is no reason why it cannot exercise the same power to ascertain the true results of a plebiscite. All that the Constitution provides is that the COMELEC shall exercise exclusive jurisdiction over all contests relating to elective officials. The provision is not a limiting provision in the sense that it only limits the quasi-judicial power of the COMELEC to said cases. To repeat, the power of the COMELEC to ascertain the true results of the plebiscite is implicit in its power to enforce all laws relative to the conduct of plebiscite.

COMELEC's claim that the petition for revision of ballots is cognizable by the Regional Trial Courts pursuant to Section 19 (6) of the Judiciary Reorganization Act of 1980 which provides that "Regional Trial Courts shall exercise exclusive original jurisdiction x x x in cases not within the exclusive jurisdiction of any court tribunal, person or body exercising judicial or quasi-judicial functions lacks merit. To repeat, the power to ascertain the true results of the plebiscite is necessarily included in the power to enforce all laws relative to the conduct of plebiscite.[11]

Sixth. From our earliest Constitution and election laws, the conduct of plebiscite and determination of its result have always been the business of the COMELEC and not the regular courts. If the COMELEC has no jurisdiction over this matter, our laws would have been amended to that effect. There is another reason why the jurisdiction of the COMELEC to resolve disputes involving plebiscite results should be upheld. Such a case involves the appreciation of ballots which is best left to the COMELEC. As an independent constitutional body exclusively charged with the power of enforcement and administration of all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall, the COMELEC has the indisputable expertise in the field of election and related laws. Consequently, we should be extra cautious in delimiting the parameters of the COMELEC's broad powers. We should give the COMELEC enough latitude in the exercise of its expertise, for to straightjacket its discretion in the enforcement and administration of laws relating to the conduct of election, plebiscite or referendum may render it impotent. This is the first time that the COMELEC's jurisdiction over a petition to annul the results of a plebiscite has been assailed and surprisingly, this is the first time that the COMELEC has yielded its historic jurisdiction. More inexplicable is the inconsistent stance of the COMELEC on the issue. As stressed by the petitioners, the COMELEC assumed jurisdiction over the case assailing the result of the Malolos plebiscite. In the case at bar, it refused to exercise jurisdiction.

Seventh. Finally, it appears that the Motion for Reconsideration of private respondent Congressman Cayetano was filed out of time. Section 2, Rule 19 of the COMELEC Rules of Procedure provides that a motion for reconsideration should be filed within five (5) days from receipt of the COMELEC Order or Resolution. Congressman Cayetano himself admitted[12] that he received a copy of the October 3, 2001 Resolution of the COMELEC 2nd Division on October 9, 2001. The records show that it was only ten (10) days after said receipt, or on October 19, 2001, that private respondent Cayetano filed his undated and unverified Motion for Reconsideration. Clearly, the COMELEC 2nd Division had no jurisdiction to entertain his Motion. .

IN VIEW WHEREOF, the petition is GRANTED. The COMELEC is directed to reinstate the petition to annul the results of the 1998 Taguig plebiscite and to decide it without delay.

SO ORDERED.

Davide, Jr., C.J., Vitug, Panganiban, Quisumbing, Ynares-Sanliago, Sandoval-Gutierrez, Austria-Martinez, Corona and Azcuna, JJ., concur.

Carpio and Carpio Morales, JJ., see dissenting opinions. Callejo, Sr., J., concurs in the dissent of Carpio Morales. Tinga, J., took no part. One of the intervenors and former counsel for the intervenor.

[1] Docketed as EPC No. 98-102; Annex "G", Petition. Rollo at 100-110.

[2] Presided by Commissioner Ralph C. Lantion, with Commissioners Mehol K. Sadain and Florentino A. Tuazon, Jr. as members.

[3] Motion to Dismiss, Annex "J", Petition, Rollo at 120-130.

[4] October 3, 2001 COMELEC 2nd Division Order. Annex "L". Petition, id. at 137-142.

[5] The COMELEC shall exercise "exclusive original jurisdiction over all contests relating to the elections, returns and qualifications of all elective regional, provincial and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction."

[6] October 28, 2002 Resolution of the COMELEC en banc. Annex "A". Petition, Rollo at 56-77.

[7] Philippine Political Law. p. 247 (1998 ed.).

[8] Section 3(a), Rule 1 of the 1997 Rules of Civil Procedure.

[9] Moran, Comments on the Rules of Court, p. 2. Vol. I. 1970 ed.

[10] 340 SCRA 506 (2000). cited in the dissenting opinion of Justice Carpio.

[11] Manifestation in Lieu of Comment. Rollo. pp. 415-418.

[12] Sec p. 1 of his Motion for Reconsideration, Annex "N" of Petition. o, p. 213.

DISSENTING OPINION

CARPIO, J.,

I dissent from the majority opinion penned by Justice Reynato S. Puno that the Commission on Elections ("COMELEC") has jurisdiction over the instant petition to annul the results of the plebiscite held on 25 April 1998 on the proposed conversion of Taguig from a municipality into a city.

The Constitution expressly confers on the COMELEC only a limited quasi-judicial jurisdiction. Thus, Section 2(2), Article IX-C of the Constitution provides:

Section 2. The Commission on Elections shall exercise the following powers and functions:

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(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory and not appealable. (*Italics supplied*)

A plain reading of the text of this constitutional provision clearly shows that the quasi-judicial jurisdiction of the COMELEC applies only to election contests involving elective officials. The wording of this provision is not susceptible to any other interpretation.

Thus, this Court has ruled that the quasi-judicial jurisdiction of the COMELEC is found only in Section 2(2) of Article IX-C and nowhere else. In *Baytan v. COMELEC*,^[1] the Court held:

Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC's administrative powers are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether en banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions.

On the other hand, the COMELEC's quasi-judicial powers are found in Section 2 (2) of Article IX-C, to wit:

"Section 2. The Commission on Elections shall exercise the following powers and functions:

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(2) Exercise exclusive original jurisdiction over all contests relating to the elections, return's, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable."

The COMELEC's exercise of its quasi-judicial powers is subject to Section 3 of Article IX-C which expressly requires that all election cases, including pre-proclamation controversies, shall be decided by the COMELEC in division, and the motion for reconsideration shall be decided by the COMELEC en banc. It follows, as held by the Court in *Canicosa*, that the COMELEC is mandated to decide cases first in division, and then upon motion for reconsideration en banc, only when the COMELEC exercises its quasi-judicial powers.

The Court reiterated this ruling in the more recent case of *Bautista v. COMELEC*.^[2]

The COMELEC can exercise its quasi-judicial jurisdiction only if there is an election contest involving an elective official. A plebiscite on whether a municipality should become a city does not involve the election into public office of any official. Such a plebiscite does not involve any election contest as no one is running for any public

office. Thus, the COMELEC has no quasi-judicial jurisdiction over any dispute involving the results of such plebiscite. In *Garces v. Court of Appeals*,^[3] this Court ruled:

The jurisdiction of the RTC was challenged by respondent Empeynado contending that this is a "case" or "matter" cognizable by the COMELEC under Sec. 7, Art. 1X-A of the 1987 Constitution. The COMELEC resolution cancelling the appointment of Garces as Election Registrar of Gutalac. he argues, should be raised only on certiorari before the Supreme Court and not before the RTC, else the latter court becomes a reviewer of an en banc COMEL resolution contrary to Sec. 7, Art. 1X-A.

The contention is without merit. Sec. 7, Art. IX-A of the Constitution provides:

"Each commission shall decide by a majority vote of all its members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof."

This provision is inapplicable as there was no case or matter filed before the COMELEC. On the contrary, it was the COMELEC's resolution that triggered this controversy. The "case" or "matter" referred to by the constitution must be something within the jurisdiction of the COMELEC, i.e., must pertain to an election dispute. The settled rule is that "decision, rulings, order" of the COMELEC that may be brought to the Supreme Court on certiorari under Sec. 7, Art. IX-A are those that relate to the COMELEC's exercise of its adjudicator}- or quasi-judicial powers involving "elective regional, provincial and city officials." In this case, what is being assailed is the COMELEC's choice of an appointee to occupy the Gutalac Post which is an administrative duty done for the operational set-up of an agency. The controversy involves an appointive, not an elective, official. Hardly can this matter call for the certiorari jurisdiction of the Supreme Court. To rule otherwise would surely burden the Court with trivial administrative questions that are best ventilated before the RTC, a court which the law vests with the power to exercise original jurisdiction over "all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions." (Italics supplied)

The distinction between the administrative powers and quasi-judicial jurisdiction of the COMELEC extends to the conduct of plebiscites. The COMELEC's power to "enforce and administer all laws relative to the conduct's x x x of x x x plebiscite" does not include any quasi-judicial power. Any question on the validity of the plebiscite, or any dispute on the results of the plebiscite, falls within the general jurisdiction of regular trial courts. Thus, in *Salva v. Makalintal*,^[4] this Court ruled:

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

Indisputably, the Constitution has not vested in the COMELEC any quasi-judicial jurisdiction over disputes involving the results of plebiscites. The question then arises whether such disputes fall under the jurisdiction of

the regular courts. This leads us to Section 19 of the Judiciary Reorganization Act, as amended,[5] which states:

Sec. 19. Jurisdiction in civil cases. — Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

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(6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions; x x x. (Italics supplied)

An action to annul the results of a plebiscite is one incapable of pecuniary estimation, just like an action to declare the unconstitutionality of a law.[6] Moreover, an action to annul the results of a plebiscite does not fall under the exclusive jurisdiction of the COMELEC in the exercise of its quasi-judicial functions. Thus, under Section 19(1) and (6) of the Judiciary Reorganization Act, such action expressly falls under the exclusive original jurisdiction of Regional Trial Courts.

The argument that Regional Trial Courts have no experience in the revision of ballots does not hold water. Regional Trial Courts exercise exclusive original jurisdiction over election contests involving elective municipal officials.[7] Regional Trial Courts also exercise appellate jurisdiction over election contests involving elective barangay officials.[8] Besides, it is the law that confers jurisdiction, not experience, practice or tradition.

The suggestion that the administrative power of the COMELEC to "[Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall]"[9] should be liberally construed to include quasi-judicial jurisdiction over the instant petition would lead to constitutional anomalies. To do so would also mean granting to the COMELEC quasi-judicial jurisdiction over disputes arising from the validity of an initiative, or the recall of local officials. Under the same logic, the COMELEC would also have quasi-judicial jurisdiction over cases involving violations of election laws. If Congress subsequently confers on regular trial courts exclusive jurisdiction over these cases, then such legislative act would have to be invalidated as unconstitutional. This would wreak havoc on the constitutional concept of judicial power as being lodged in the judiciary.[10]

In summary, neither the Constitution nor any existing law grants the COMELEC jurisdiction over a petition to annul the results of a plebiscite. However, the Judiciary Reorganization Act expressly confers on Regional Trial Courts exclusive original jurisdiction over such a petition. The ineluctable conclusion is that the COMELEC has no jurisdiction over the instant petition to annul the results of the plebiscite held on 25 April 1998 on the proposed conversion of Taguig from a municipality into a city. Such jurisdiction clearly belongs to the proper Regional Trial Court.

Accordingly, I vote to DISMISS the instant petition, without prejudice to the filing of an appropriate action with the proper Regional Trial Court.

- [1] G.R. No. 153945. 4 February 2003.
- [2] G.R. Nos. 154796-97. 21 October 2003.
- [3] G.R. No. I 14795. 17 JuK 1996. 259 SCRA 99.
- [4] G.R. No. 132603. 18 September 2000. 340 SCRA 506.
- [5] Republic Act No. 7691.
- [6] *Mirasol v. Cowl of Appeals*, G.R. No. 128448. 1 February 2001. 351 SCRA 44; *Drilon v. Lim*, G.R. No. 112497. 4 August 1994, 235 SCRA 135.
- [7] Section 251, *Batas Pambansa Big. 881*, otherwise known as "Omnibus Election Code of the Philippines."
- [8] Section 252. *ibid*.
- [9] Section 2(1), Article 1X-C of the Constitution.
- [10] Section 1, Article VIII of the Constitution.

DISSENTING OPINION

CARPIO MORALES, J.,

With due respect, I dissent from the majority decision that the Commission on Elections (COMELEC) has jurisdiction over the present petition to annul the results of the plebiscite held on April 25, 1998 on the proposed conversion of Taguig from a municipality into a highly urbanized city.

Petitioners and petitioners-intervenors invoke the following provision of Section 2(1), Article XI-C of the 1987 Constitution which reads:

Section 2. The Commission on Elections shall exercise the following powers and functions:

(I) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

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(Emphasis and italics supplied).

They claim that the above-quoted provision clearly bestows jurisdiction in the COMELEC to order the recount of plebiscite results.[1]

In *Baytan v. COMELEC*,[2] this Court classified the constitutionally-vested powers of the COMELEC, in this

wise:

Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC's administrative powers are found in Section 2(1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C. x x x

On the other hand, the COMELEC'S quasi-judicial powers are found in Section 2 (2) of Article IX-C, to wit:

Section 2. The Commission on Elections shall exercise the following powers and functions:

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(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by the trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving municipal and barangay offices shall be final, executory and not appealable."

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(Emphasis and italics supplied)

Given the above classification of the COMELEC's constitutionally vested powers, petitioners and petitioner-intervenors thus invoke an administrative power of the COMELEC to order the revision and recount of ballots.

The grounds petitioners and petitioner-intervenors are raising, however — fraud, anomalies and irregularities that attended the balloting and canvassing alleged to have seriously affected the results of the plebiscite — are similar to the grounds raised in an election contest. Petitioners and petitioner-intervenors are thus asking the COMELEC to exercise a function similar to what it exercises in election protests.

The Constitution provides, however, that election protests are governed by Section 2(2) of Article IX-C — a quasi-judicial power of the COMELEC. Ergo, petitioners and petitioner-intervenors call on the COMELEC to exercise a function quasi-judicial in nature but invoke a constitutionally-vested administrative power as legal basis thereof. This is impermissible.

It bears emphasis that Section 2(2) of Article IX-C of the Constitution can neither be applied to the petition for revision and recount of plebiscite votes, for the Constitution expressly enunciates the quasi-judicial power of the COMELEC as covering the exercise of exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial and city officials appellate jurisdiction over all contests involving elective municipal official decided by trial courts of general jurisdiction, involving elective

barangay officials decided by trial courts of limited jurisdiction. To extend by implication the jurisdiction to plebiscite results violates the clear provision of the Constitution.

In *Lopez v. Roxas*,^[3] this Court held that the Constitution vests the entirety of judicial power in the judicial branch "except only so much as the Constitution confers upon some other agency" in which case said agency would be exercising quasi-judicial power. Consequently, where the power has not been expressly delegated by either the law or the Constitution to "some other agency," the same remains lodged with the judicial branch.

Since neither the Constitution nor any law confers upon the COMELEC the jurisdiction to order the revision and recount of ballots in plebiscites or any contests arising from plebiscite results, it is the judicial branch that can take cognizance thereof.

Not only by analogy with election contests can it be concluded that the COMELEC has no jurisdiction over controversies involving plebiscites. The case at bar does not simply involve "the determination of whether the electorate of Taguig voted in favor of, or against the conversion of the municipality of Taguig into a highly urbanized city" as seen by the majority. For petitioners are alleging that there have been fraud, anomalies and irregularities in the balloting and counting. Whether there was fraud or there were anomalies or irregularities is a legal question which is determinable by a judicial or quasi-judicial body calling for the exercise of judicial power or quasi-judicial power as the case may be.

The majority also view the case as not calling for the exercise of judicial power as it does not involve violation of any legally demandable and enforceable right nor the protection of the private interest of any individual and does not contemplate the clash of contending private parties. I beg to differ. The Taguig electorate, being directly affected by the proposed conversion into cityhood, has the constitutionally vested right to vote in said plebiscite.^[4] The exercise of such right would be futile if it does not come with the concurrent right to a canvass free from fraud, anomalies and irregularities. As said right is alleged to have been impaired, as in the case at bar, then there exists a controversy which calls for the exercise of judicial power.

Just as I beg to disagree with the conclusion that the exercise of judicial and quasi-judicial powers of courts and administrative tribunals is limited only to contests relating to elected officials and not to plebiscites. The question is not whether the case involves a plebiscite or an elected official.

To determine whether a case calls for the exercise of judicial or quasi-judicial powers of courts or administrative tribunals is to determine whether it involves a justiciable controversy or only involves a purely administrative function.

As previously pointed out, the case at bar calls for determination as to whether the balloting and canvassing was attended with fraud, anomalies and irregularities, a legal question which is clearly justiciable and thus requires the exercise of judicial or quasi-judicial power.

Being justiciable, B.P. Big. 129 or the Judiciary Reorganization Act of 1980, specifically Section 19, which provides:

Section 19. Jurisdiction in Civil Cases. — Regional Trial Courts shall exercise exclusive original jurisdiction:

xxx

xxx

xxx.

(6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions;

xxx

xxx

xxx.

(Italics supplied)

applies.

The above-quoted provision is not limited to traditional civil cases, i.e., involving the violation of a right of specific person, as the majority seems to point out. The Rules of Court provides for special civil actions of certiorari, prohibition and mandamus for questioning the legality of any law, act, order or ordinance. The special civil action of quo warranto may also be commenced by a verified petition brought in the name of the Republic or the Philippines. Such civil actions do not necessarily involve a violation of a specific right of a particular person.

As to the apparent fear of "jumbled justice" that may result in giving the Regional Trial Courts jurisdiction over petitions to annul plebiscite results in the event that they involve a nationwide plebiscite, it should be stressed that the present petition accentuates the present gap in the law as neither the Constitution nor legislation provides which court or body has jurisdiction over said controversy. Recognizing such gap in the law, however, does not empower the judiciary to fill it in without committing judicial legislation.

WHEREFORE, I vote that the petition be DISMISSED, without prejudice to the filing of an appropriate action with the proper court.

[1]Rollo at 326.

[2] G.R. No. 153945. February 4, 2003.

[3] 17 SCRA 756 (1966).

[4] Section 10, Article X of the 1987 Constitution reads: "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 majority of the votes cast in a Plebiscite in the political units directly affected."

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