

ROGELIO Z. BAGABUYO, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 176970. December 08, 2008

Ponente: BRION, J.

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BRION, J.:

Before us is the petition for certiorari, prohibition, and mandamus,[1] with a prayer for the issuance of a temporary restraining order and a writ of preliminary injunction, filed by Rogelio Bagabuyo (petitioner) to prevent the Commission on Elections (COMELEC) from implementing Resolution No. 7837 on the ground that Republic Act No. 9371[2] - the law that Resolution No. 7837 implements - is unconstitutional.

BACKGROUND FACTS

On October 10, 2006, Cagayan de Oro's then Congressman Constantino G. Jaraula filed and sponsored House Bill No. 5859: "An Act Providing for the Apportionment of the Lone Legislative District of the City of Cagayan De Oro." [3] This law eventually became Republic Act (R.A.) No. 9371. [4] It increased Cagayan de Oro's legislative district from one to two. For the election of May 2007, Cagayan de Oro's voters would be classified as belonging to either the first or the second district, depending on their place of residence. The constituents of each district would elect their own representative to Congress as well as eight members of the Sangguniang Panglungsod.

Section 1 of R.A. No. 9371 apportioned the City's barangays as follows:

Legislative Districts - The lone legislative district of the City of Cagayan De Oro is hereby apportioned to commence in the next national elections after the effectivity of this Act. Henceforth, barangays Bonbon, Bayabas, Kauswagan, Carmen, Patag, Bulua, Iponan, Baikingon, San Simon, Pagatpat, Canitoan, Balulang, Lumbia, Pagalungan, Tagpangi, Taglimao, Tuburan, Pigsag-an, Tumpagon, Bayanga, Mambuaya, Dansulihon, Tignapoloan and Bisigan shall comprise the first district while barangays Macabalan, Puntod, Consolacion, Camaman-an, Nazareth, Macasandig, Indahag, Lapasan, Gusa, Cugman, FS Catanico, Tablon, Agusan, Puerto, Bugo, and Balubal and all urban barangays from Barangay 1 to Barangay 40 shall comprise the second district. [5]

On March 13, 2007, the COMELEC en Banc promulgated Resolution No. 7837 [6] implementing R.A. No. 9371.

Petitioner Rogelio Bagabuyo filed the present petition against the COMELEC on March 27, 2007. [7] On 10 April 2008, the petitioner amended the petition to include the following as respondents: Executive Secretary Eduardo Ermita; the Secretary of the Department of Budget and Management; the Chairman of the Commission on Audit; the Mayor and the members of the Sangguniang Panglungsod of Cagayan de Oro City; and its Board of Canvassers. [8]

In asking for the nullification of R.A. No. 9371 and Resolution No. 7837 on constitutional grounds, the petitioner argued that the COMELEC cannot implement R.A. No. 9371 without providing for the rules, regulations and guidelines for the conduct of a plebiscite which is indispensable for the division or conversion of a local

government unit. He prayed for the issuance of an order directing the respondents to cease and desist from implementing R.A. No. 9371 and COMELEC Resolution No. 7837, and to revert instead to COMELEC Resolution No. 7801 which provided for a single legislative district for Cagayan de Oro.

Since the Court did not grant the petitioner's prayer for a temporary restraining order or writ of preliminary injunction, the May 14 National and Local Elections proceeded according to R.A. No. 9371 and Resolution No. 7837.

The respondent's Comment on the petition, filed through the Office of the Solicitor General, argued that: 1) the petitioner did not respect the hierarchy of courts, as the Regional Trial Court (RTC) is vested with concurrent jurisdiction over cases assailing the constitutionality of a statute; 2) R.A. No. 9371 merely increased the representation of Cagayan de Oro City in the House of Representatives and Sangguniang Panglungsod pursuant to Section 5, Article VI of the 1987 Constitution; 3) the criteria established under Section 10, Article X of the 1987 Constitution only apply when there is a creation, division, merger, abolition or substantial alteration of boundaries of a province, city, municipality, or barangay; in this case, no such creation, division, merger, abolition or alteration of boundaries of a local government unit took place; and 4) R.A. No. 9371 did not bring about any change in Cagayan de Oro's territory, population and income classification; hence, no plebiscite is required.

The petitioner argued in his reply that: 1) pursuant to the Court's ruling in *Del Mar v. PAGCOR*,^[9] the Court may take cognizance of this petition if compelling reasons, or the nature and importance of the issues raised, warrant the immediate exercise of its jurisdiction; 2) Cagayan de Oro City's reapportionment under R.A. No. 9371 falls within the meaning of creation, division, merger, abolition or substantial alteration of boundaries of cities under Section 10, Article X of the Constitution; 3) the creation, division, merger, abolition or substantial alteration of boundaries of local government units involve a common denominator - the material change in the political and economic rights of the local government units directly affected, as well as of the people therein; 4) a voter's sovereign power to decide on who should be elected as the entire city's Congressman was arbitrarily reduced by at least one half because the questioned law and resolution only allowed him to vote and be voted for in the district designated by the COMELEC; 5) a voter was also arbitrarily denied his right to elect the Congressman and the members of the city council for the other legislative district, and 6) government funds were illegally disbursed without prior approval by the sovereign electorate of Cagayan De Oro City.^[10]

THE ISSUES

The core issues, based on the petition and the parties' memoranda, can be limited to the following contentious points:

- 1) Did the petitioner violate the hierarchy of courts rule; if so, should the instant petition be dismissed on this ground?
- 2) Does R.A. No. 9371 merely provide for the legislative reapportionment of Cagayan de Oro City, or does it involve the division and conversion of a local government unit?
- 3) Does R.A. No. 9371 violate the equality of representation doctrine?

OUR RULING

Except for the issue of the hierarchy of courts rule, we find the petition totally without merit.

The hierarchy of courts principle.

The Supreme Court has original jurisdiction over petitions for certiorari, prohibition, mandamus, quo warranto,

and habeas corpus.[11] It was pursuant to this original jurisdiction that the petitioner filed the present petition.

While this jurisdiction is shared with the Court of Appeals[12] and the RTCs,[13] a direct invocation of the Supreme Court's jurisdiction is allowed only when there are special and important reasons therefor, clearly and especially set out in the petition. Reasons of practicality, dictated by an increasingly overcrowded docket and the need to prioritize in favor of matters within our exclusive jurisdiction, justify the existence of this rule otherwise known as the "principle of hierarchy of courts." More generally stated, the principle requires that recourse must first be made to the lower-ranked court exercising concurrent jurisdiction with a higher court.[14]

Among the cases we have considered sufficiently special and important to be exceptions to the rule, are petitions for certiorari, prohibition, mandamus and quo warranto against our nation's lawmakers when the validity of their enactments is assailed.[15] The present petition is of this nature; its subject matter and the nature of the issues raised - among them, whether legislative reapportionment involves a division of Cagayan de Oro City as a local government unit - are reasons enough for considering it an exception to the principle of hierarchy of courts. Additionally, the petition assails as well a resolution of the COMELEC en banc issued to implement the legislative apportionment that R.A. No. 9371 decrees. As an action against a COMELEC en banc resolution, the case falls under Rule 64 of the Rules of Court that in turn requires a review by this Court via a Rule 65 petition for certiorari.[16] For these reasons, we do not see the principle of hierarchy of courts to be a stumbling block in our consideration of the present case.

The Plebiscite Requirement.

The petitioner insists that R.A. No. 9371 converts and divides the City of Cagayan de Oro as a local government unit, and does not merely provide for the City's legislative apportionment. This argument essentially proceeds from a misunderstanding of the constitutional concepts of apportionment of legislative districts and division of local government units.

Legislative apportionment is defined by Black's Law Dictionary as the determination of the number of representatives which a State, county or other subdivision may send to a legislative body.[17] It is the allocation of seats in a legislative body in proportion to the population; the drawing of voting district lines so as to equalize population and voting power among the districts.[18] Reapportionment, on the other hand, is the realignment or change in legislative districts brought about by changes in population and mandated by the constitutional requirement of equality of representation.[19]

Article VI (entitled Legislative Department) of the 1987 Constitution lays down the rules on legislative apportionment under its Section 5 which provides:

Sec. 5(1). (1) The House of Representatives shall be composed of not more than two hundred fifty members unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional and sectoral parties or organizations.

x x x

(3) Each legislative district shall comprise, as far as practicable, continuous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

(4) Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section.

Separately from the legislative districts that legal apportionment or reapportionment speaks of, are the local government units (historically and generically referred to as "municipal corporations") that the Constitution itself classified into provinces, cities, municipalities and barangays.[20] In its strict and proper sense, a municipality has been defined as "a body politic and corporate constituted by the incorporation of the inhabitants of a city or town for the purpose of local government thereof." [21] The creation, division, merger, abolition or alteration of boundary of local government units, i.e., of provinces, cities, municipalities, and barangays, are covered by the Article on Local Government (Article X). Section 10 of this Article 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 unit directly affected.

Under both Article VI, Section 5, and Article X, Section 10 of the Constitution, the authority to act has been vested in the Legislature. The Legislature undertakes the apportionment and reapportionment of legislative districts,[22] and likewise acts on local government units by setting the standards for their creation, division, merger, abolition and alteration of boundaries and by actually creating, dividing, merging, abolishing local government units and altering their boundaries through legislation. Other than this, not much commonality exists between the two provisions since they are inherently different although they interface and relate with one another.

The concern that leaps from the text of Article VI, Section 5 is political representation and the means to make a legislative district sufficiently represented so that the people can be effectively heard. As above stated, the aim of legislative apportionment is "to equalize population and voting power among districts." [23] Hence, emphasis is given to the number of people represented; the uniform and progressive ratio to be observed among the representative districts; and accessibility and commonality of interests in terms of each district being, as far as practicable, continuous, compact and adjacent territory. In terms of the people represented, every city with at least 250,000 people and every province (irrespective of population) is entitled to one representative. In this sense, legislative districts, on the one hand, and provinces and cities, on the other, relate and interface with each other. To ensure continued adherence to the required standards of apportionment, Section 5(4) specifically mandates reapportionment as soon as the given standards are met.

In contrast with the equal representation objective of Article VI, Section 5, Article X, Section 10 expressly speaks of how local government units may be "created, divided, merged, abolished, or its boundary substantially altered." Its concern is the commencement, the termination, and the modification of local government units' corporate existence and territorial coverage; and it speaks of two specific standards that must be observed in implementing this concern, namely, the criteria established in the local government code and the approval by a majority of the votes cast in a plebiscite in the political units directly affected. Under the Local Government Code (R.A. No. 7160) passed in 1991, the criteria of income, population and land area are specified as verifiable indicators of viability and capacity to provide services.[24] The division or merger of existing units must comply with the same requirements (since a new local government unit will come into being), provided that a division shall not reduce the income, population, or land area of the unit affected to less than the minimum requirement prescribed in the Code.[25]

A pronounced distinction between Article VI, Section 5 and, Article X, Section 10 is on the requirement of a plebiscite. The Constitution and the Local Government Code expressly require a plebiscite to carry out any creation, division, merger, abolition or alteration of boundary of a local government unit.[26] In contrast, no plebiscite requirement exists under the apportionment or reapportionment provision. In *Tobias v. Abalos*, [27] a case that arose from the division of the congressional district formerly covering San Juan and Mandaluyong into separate districts, we confirmed this distinction and the fact that no

plebiscite is needed in a legislative reapportionment. The plebiscite issue came up because one was ordered and held for Mandaluyong in the course of its conversion into a highly urbanized city, while none was held for San Juan. In explaining why this happened, the Court ruled that no plebiscite was necessary for San Juan because the objective of the plebiscite was the conversion of Mandaluyong into a highly urbanized city as required by Article X, Section 10 the Local Government Code; the creation of a new legislative district only followed as a consequence. In other words, the apportionment alone and by itself did not call for a plebiscite, so that none was needed for San Juan where only a reapportionment took place.

The need for a plebiscite under Article X, Section 10 and the lack of requirement for one under Article VI, Section 5 can best be appreciated by a consideration of the historical roots of these two provisions, the nature of the concepts they embody as heretofore discussed, and their areas of application.

A Bit of History.

In *Macias v. COMELEC*,^[28] we first jurisprudentially acknowledged the American roots of our apportionment provision, noting its roots from the

Fourteenth Amendment^[29] of the U.S. Constitution and from the constitutions of some American states. The Philippine Organic Act of 1902 created the Philippine Assembly,^[30] the body that acted as the lower house of the bicameral legislature under the Americans, with the Philippine Commission acting as the upper house. While the members of the Philippine Commission were appointed by the U.S. President with the conformity of the U.S. Senate, the members of the Philippine Assembly were elected by representative districts previously delineated under the Philippine Organic Act of 1902 pursuant to the mandate to apportion the seats of the Philippine Assembly among the provinces as nearly as practicable according to population. Thus, legislative apportionment first started in our country.

The Jones Law or the Philippine Autonomy Act of 1916 maintained the apportionment provision, dividing the country into 12 senate districts and 90 representative districts electing one delegate each to the House of Representatives. Section 16 of the Act specifically vested the Philippine Legislature with the authority to redistrict the Philippine Islands.

Under the 1935 Constitution, Article VI, Section 5 retained the concept of legislative apportionment together with "district" as the basic unit of apportionment; the concern was "equality of representation . . . as an essential feature of republican institutions" as expressed in the leading case of *Macias v. COMELEC*.^[31] The case ruled that inequality of representation is a justiciable, not a political issue, which ruling was reiterated in *Montejo v. COMELEC*.^[32] Notably, no issue regarding the holding of a plebiscite ever came up in these cases and the others that followed, as no plebiscite was required.

Article VIII, Section 2 of the 1973 Constitution retained the concept of equal representation "in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio" with each district being, as far as practicable, contiguous, compact and adjacent territory. This formulation was essentially carried over to the 1987 Constitution, distinguished only from the previous one by the presence of party-list representatives. In neither Constitution was a plebiscite required.

The need for a plebiscite in the creation, division, merger, or abolition of local government units was not constitutionally enshrined until the 1973 Constitution. However, as early as 1959, R.A. No. 2264^[33] required, in the creation of barrios by Provincial Boards, that the creation and definition of boundaries be "upon petition of a majority of the voters in the areas affected." In 1961, the Charter of the City of Caloocan (R.A. No. 3278) carried this further by requiring that the "Act shall take effect after a majority of voters of the Municipality of Caloocan vote in favor of the conversion of their municipality into a city in a plebiscite." This was followed up to 1972 by

other legislative enactments requiring a plebiscite as a condition for the creation and conversion of local government units as well as the transfer of sitios from one legislative unit to another.[34] In 1973, the plebiscite requirement was accorded constitutional status.

Under these separate historical tracks, it can be seen that the holding of a plebiscite was never a requirement in legislative apportionment or reapportionment. After it became constitutionally entrenched, a plebiscite was also always identified with the creation, division, merger, abolition and alteration of boundaries of local government units, never with the concept of legislative apportionment.

Nature and Areas of Application.

The legislative district that Article VI, Section 5 speaks of may, in a sense, be called a political unit because it is the basis for the election of a member of the House of Representatives and members of the local legislative body. It is not, however, a political subdivision through which functions of government are carried out. It can more appropriately be described as a representative unit that may or may not encompass the whole of a city or a province, but unlike the latter, it is not a corporate unit. Not being a corporate unit, a district does not act for and in behalf of the people comprising the district; it merely delineates the areas occupied by the people who will choose a representative in their national affairs. Unlike a province, which has a governor; a city or a municipality, which has a mayor; and a barangay, which has a punong barangay, a district does not have its own chief executive. The role of the congressman that it elects is to ensure that the voice of the people of the district is heard in Congress, not to oversee the affairs of the legislative district. Not being a corporate unit also signifies that it has no legal personality that must be created or dissolved and has no capacity to act. Hence, there is no need for any plebiscite in the creation, dissolution or any other similar action on a legislative district.

The local government units, on the other hand, are political and corporate units. They are the territorial and political subdivisions of the state.[35] They possess legal personality on the authority of the Constitution and by action of the Legislature. The Constitution defines them as entities that Congress can, by law, create, divide, abolish, merge; or whose boundaries can be altered based on standards again established by both the Constitution and the Legislature.[36] A local government unit's corporate existence begins upon the election and qualification of its chief executive and a majority of the members of its Sanggunian.[37]

As a political subdivision, a local government unit is an "instrumentality of the state in carrying out the functions of government." [38] As a corporate entity with a distinct and separate juridical personality from the State, it exercises special functions for the sole benefit of its constituents. It acts as "an agency of the community in the administration of local affairs" [39] and the mediums through which the people act in their corporate capacity on local concerns.[40] In light of these roles, the Constitution saw it fit to expressly secure the consent of the people affected by the creation, division, merger, abolition or alteration of boundaries of local government units through a plebiscite.

These considerations clearly show the distinctions between a legislative apportionment or reapportionment and the division of a local government unit. Historically and by its intrinsic nature, a legislative apportionment does not mean, and does not even imply, a division of a local government unit where the apportionment takes place. Thus, the plebiscite requirement that applies to the division of a province, city, municipality or barangay under the Local Government Code should not apply to and be a requisite for the validity of a legislative apportionment or reapportionment.

R.A. No. 9371 and COMELEC Res. No. 7837

R.A. No. 9371 is, on its face, purely and simply a reapportionment legislation passed in accordance with the

authority granted to Congress under Article VI, Section 5(4) of the Constitution. Its core provision - Section 1 - provides:

SECTION 1. Legislative Districts. -- The lone legislative district of the City of Cagayan de Oro is hereby apportioned to commence in the next national elections after the effectivity of this Act. Henceforth, barangays Bonbon, Bayabas, Kauswagan, Carmen, Patag, Bulua, Iponan, Baikingon, San Simon, Pagatpat, Canitoan, Balulang, Lumbia, Pagalungan, Tagpangi, Taglimao, Tuburan, Pigsag-an, Tumpagon, Bayanga, Mambuaya, Dansulihon, Tignapoloan and Bisigan shall comprise the first district while barangays Macabalan, Puntod, Consolacion, Camaman-an, Nazareth, Macansandig, Indahag, Lapasan, Gusa, Cugman, FS Catanico, Tablon, Agusan, Puerto, Bugo and Balubal and all urban barangays from Barangay 1 to Barangay 40 shall comprise the second district.

Under these wordings, no division of Cagayan de Oro City as a political and corporate entity takes place or is mandated. Cagayan de Oro City politically remains a single unit and its administration is not divided along territorial lines. Its territory remains completely whole and intact; there is only the addition of another legislative district and the delineation of the city into two districts for purposes of representation in the House of Representatives. Thus, Article X, Section 10 of the Constitution does not come into play and no plebiscite is necessary to validly apportion Cagayan de Oro City into two districts.

Admittedly, the legislative reapportionment carries effects beyond the creation of another congressional district in the city by providing, as reflected in COMELEC Resolution No. 7837, for additional Sangguniang Panglunsod seats to be voted for along the lines of the congressional apportionment made. The effect on the Sangguniang Panglunsod, however, is not directly traceable to R.A. No. 9371 but to another law - R.A. No. 6636[41] - whose Section 3 provides:

SECTION 3. Other Cities. -- The provision of any law to the contrary notwithstanding the City of Cebu, City of Davao, and any other city with more than one representative district shall have eight (8) councilors for each district who shall be residents thereof to be elected by the qualified voters therein, provided that the cities of Cagayan de Oro, Zamboanga, Bacolod, Iloilo and other cities comprising a representative district shall have twelve (12) councilors each and all other cities shall have ten (10) councilors each to be elected at large by the qualified voters of the said cities: Provided, That in no case shall the present number of councilors according to their charters be reduced.

However, neither does this law have the effect of dividing the City of Cagayan de Oro into two political and corporate units and territories. Rather than divide the city either territorially or as a corporate entity, the effect is merely to enhance voter representation by giving each city voter more and greater say, both in Congress and in the Sangguniang Panglunsod.

To illustrate this effect, before the reapportionment, Cagayan de Oro had only one congressman and 12 city council members citywide for its population of approximately 500,000.[42] By having two legislative districts, each of them with one congressman, Cagayan de Oro now effectively has two congressmen, each one representing 250,000 of the city's population. In terms of services for city residents, this easily means better access to their congressman since each one now services only 250,000 constituents as against the 500,000 he used to represent. The same goes true for the Sangguniang Panglunsod with its ranks increased from 12 to 16 since each legislative district now has 8 councilors. In representation terms, the fewer constituents represented translate to a greater voice for each individual city resident in Congress and in the Sanggunian; each congressman and each councilor represents both a smaller area and fewer constituents whose fewer numbers are now concentrated in each representative. The City, for its part, now has twice the number of congressmen speaking for it and voting in the halls of Congress. Since the total number of congressmen in the country has not increased to the point of doubling its numbers, the presence of two congressman (instead of one) from the same city cannot but be a

quantitative and proportional improvement in the representation of Cagayan de Oro City in Congress.

Equality of representation.

The petitioner argues that the distribution of the legislative districts is unequal. District 1 has only 93,719 registered voters while District 2 has 127,071. District 1 is composed mostly of rural barangays while District 2 is composed mostly of urban barangays.[43] Thus, R.A. No. 9371 violates the principle of equality of representation.

A clarification must be made. The law clearly provides that the basis for districting shall be the number of the inhabitants of a city or a province, not the number of registered voters therein. We settled this very same question in *Herrera v. COMELEC*[44] when we interpreted a provision in R.A. No. 7166 and COMELEC Resolution No. 2313 that applied to the Province of Guimaras. We categorically ruled that the basis for districting is the number of inhabitants of the Province of Guimaras by municipality based on the official 1995 Census of Population as certified to by Tomas P. Africa, Administrator of the National Statistics Office.

The petitioner, unfortunately, did not provide information about the actual population of Cagayan de Oro City. However, we take judicial notice of the August 2007 census of the National Statistics Office which shows that barangays comprising Cagayan de Oro's first district have a total population of 254,644, while the second district has 299,322 residents. Undeniably, these figures show a disparity in the population sizes of the districts.[45] The Constitution, however, does not require mathematical exactitude or rigid equality as a standard in gauging equality of representation.[46] In fact, for cities, all it asks is that "each city with a population of at least two hundred fifty thousand shall have one representative," while ensuring representation for every province regardless of the size of its population. To ensure quality representation through commonality of interests and ease of access by the representative to the constituents, all that the Constitution requires is that every legislative district should comprise, as far as practicable, contiguous, compact, and adjacent territory. Thus, the Constitution leaves the local government units as they are found and does not require their division, merger or transfer to satisfy the numerical standard it imposes. Its requirements are satisfied despite some numerical disparity if the units are contiguous, compact and adjacent as far as practicable.

The petitioner's contention that there is a resulting inequality in the division of Cagayan de Oro City into two districts because the barangays in the first district are mostly rural barangays while the second district is mostly urban, is largely unsubstantiated. But even if backed up by proper proof, we cannot question the division on the basis of the difference in the barangays' levels of development or developmental focus as these are not part of the constitutional standards for legislative apportionment or reapportionment. What the components of the two districts of Cagayan de Oro would be is a matter for the lawmakers to determine as a matter of policy. In the absence of any grave abuse of discretion or violation of the established legal parameters, this Court cannot intrude into the wisdom of these policies.[47]

WHEREFORE, we hereby DISMISS the petition for lack of merit. Costs against the petitioner.

SO ORDERED.

Puno, C.J., Quisumbing, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro JJ., concur.
Ynares-Santiago, J., on leave.

[1] Under Rule 65 of the Rules of Court.

- [2] "An Act Providing for the Apportionment of the Lone Legislative District of the City of Cagayan De Oro."
- [3] Rollo, p. 214.
- [4] Id. , p. 25.
- [5] Id., p. 25.
- [6] Id., pp. 23-24.
- [7] Id., pp. 3-22.
- [8] Id., pp. 60-93
- [9] G.R. No. 138298, November 29, 2000, 346 SCRA 485.
- [10] Rollo, pp. 123-148.
- [11] CONSTITUTION, Article VIII, Section 5(1).
- [12] Sec. 9 (1), B.P. Blg. 129.
- [13] Sec. 21 (1), B.P. Blg. 129.
- [14] See: People v. Cuaresma, G.R. No. 67787, April 18, 1989, 172 SCRA 415.
- [15] Santiago v. Guingona, Jr., G.R. No. 134577, November 18, 1998, 298 SCRA 756.
- [16] See: Bautista v. COMELEC, G.R. Nos. 154796-97, October 23, 2003, 414 SCRA 299.
- [17] Black's Law Dictionary, 5th Edition, p. 91.
- [18] Clapp, James E., Dictionary of Law (2000), p. 33.
- [19] Black's Law Dictionary, supra note 17, p. 1137.
- [20] CONSTITUTION, Art. X, Sec. 1.
- [21] Martin, Public Corporations, Revised 1983 Edition, p. 5.
- [22] Article VI, Section 5; Montejo v. COMELEC, 312 Phil. 492 (1995).
- [23] Supra note 18.
- [24] Section 7, Local Government Code.
- [25] CONSTITUTION, Art. X, Sec. 10.
- [26] SEC. 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. Said plebiscite shall be conducted by the Commission on Elections (Comelec) within one hundred twenty (120) days from the date of effectivity of the law or ordinance effecting such action, unless said law or ordinance fixes another date.
- [27] G.R. No. 114783, December 8, 1994, 239 SCRA 106.
- [28] G.R. No. L-18684, September 14, 1961, 113 Phil. 1 (1961).
- [29] The Fourteenth Amendment of the U.S. Constitution provides the basis for the requirement of an equitable

apportionment scheme. See generally, *Colegrove v. Green*, 328 U.S. 549, cited in *Macias v. COMELEC*, *supra* note 28.

[30] *People v. Santiago*, 43 Phil 120 (1922).

[31] *Supra* note 28.

[32] G.R. No. 118702, March 16, 1995.

[33] "An Act Amending the Laws Governing Local Governments by Increasing their Autonomy and Reorganizing Provincial Governments."

[34] A plebiscite was a *conditio sine qua non* in the creation of municipal corporations including, but not limited to, the following: 1) the City of Angeles, R.A. 3700; 2) the Municipality of Pio Duran in the Province of Albay, R.A. 3817; 3) the Provinces of Northern Samar, Eastern Samar and Western Samar, R.A. 4221; 4) the Provinces of Agusan del Norte and Agusan del Sur, R.A. 4979. The prior approval of a majority of the qualified voters of certain sitios of the Municipality of Anilao was also required before the transfer of the same sitios to the Municipality of Banate under R.A. 4614 took effect.

[35] *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*, G.R. No. 135962, March 27, 2000, 328 SCRA 836.

[36] CONSTITUTION, Article X, Secs. 3 and 10; Aquilino Pimentel, Jr., *The Local Government Code of 1991: The Key to National Development*, p. 5.

[37] Sec. 14, Local Government Code.

[38] *Lidasan v. Commission on Elections*, G.R. No. L-28089 October 25, 1967, 21 SCRA 496.

[39] *Ibid*.

[40] Section 15 of the Local Government Code provides: Political and Corporate Nature of Local Government Units. - Every local government unit created or recognized under this Code is a body politic and corporate endowed with powers to be exercised by it in conformity with law. As such, it shall exercise powers as a political subdivision of the national government and as a corporate entity representing the inhabitants of its territory.

[41] Enacted into law on November 6, 1987.

[42] As provided by COMELEC Res. No. 7801 that COMELEC Res. No. 7837 superseded.

[43] *Rollo*, p. 71.

[44] G.R. No. 131499, November 17, 1999, 318 SCRA 337.

[45] Total Population by Province, City, Municipality and Barangay: as of August 1, 2007 , last accessed November 5, 2008.

[46] Harlan, dissenting opinion in *Baker v. Carr*, 369 U. S. 186 citing *Allied Stores of Ohio v. Bowers*, 358 U.S. 522 and *McGowan v. Maryland*, 366 U.S. 420, in which the Supreme Court ruled that the Equal Protection Clause does not demand of legislation "finicky or exact conformity to abstract correlation xxx. The Constitution is satisfied if a legislature responds to the practical living facts with which it deals. Through what precise points in a field of many competing pressures a legislature might most suitably have drawn its lines is not a question for judicial re-examination. It is enough to satisfy the Constitution that in drawing them the principle of reason has not been disregarded. And what degree of uniformity reason demands of a statute is, of course, a function of the

complexity of the needs which the statute seeks to accommodate."

[47] Tobias v. Abalos, G.R. No. L-114783, December 8, 1994, 239 SCRA 106.

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