

BARANGAY ASSOCIATION FOR NATIONAL ADVANCEMENT AND TRANSPARENCY (BANAT) PARTY-LIST, REPRESENTED BY SALVADOR B. BRITANICO, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 177508. August 07, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for prohibition[1] with a prayer for the issuance of a temporary restraining order or a writ of preliminary injunction[2] filed by petitioner Barangay Association for National Advancement and Transparency (BANAT) Party List (petitioner) assailing the constitutionality of Republic Act No. 9369 (RA 9369)[3] and enjoining respondent Commission on Elections (COMELEC) from implementing the statute.

RA 9369 is a consolidation of Senate Bill No. 2231 and House Bill No. 5352 passed by the Senate on 7 December 2006 and the House of Representatives on 19 December 2006. On 23 January 2007, less than four months before the 14 May 2007 local elections, the President signed RA 9369. Two newspapers of general circulation, *Malaya* and *Business Mirror*, published RA 9369 on 26 January 2007. RA 9369 thus took effect on 10 February 2007.

On 7 May 2007, petitioner, a duly accredited multi-sectoral organization, filed this petition for prohibition alleging that RA 9369 violated Section 26(1), Article VI of the Constitution.[4] Petitioner also assails the constitutionality of Sections 34, 37, 38, and 43 of RA 9369. According to petitioner, these provisions are of questionable application and doubtful validity for failing to comply with the provisions of the Constitution.

The COMELEC and the Office of the Solicitor General (OSG) filed their respective Comments. At the outset, both maintain that RA 9369 enjoys the presumption of constitutionality, save for the prayer of the COMELEC to declare Section 43 as unconstitutional.

The Assailed Provisions of RA 9369

Petitioner assails the following provisions of RA 9369:

1. Section 34 which provides:

SEC. 34. Sec. 26 of Republic Act No. 7166 is hereby amended to read as follows:

"SEC. 26. Official Watchers. - Every registered political party or coalition of political parties, and every candidate shall each be entitled to one watcher in every polling place and canvassing center: Provided That, candidates for the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sangguniang Bayan belonging to the same slate or ticket shall collectively be entitled to only one watcher.

"The dominant majority party and dominant minority party, which the Commission shall determine in

accordance with law, shall each be entitled to one official watcher who shall be paid a fixed per diem of four hundred pesos (400.00).

"There shall also recognized six principal watchers, representing the six accredited major political parties excluding the dominant majority and minority parties, who shall be designated by the Commission upon nomination of the said parties. These political parties shall be determined by the Commission upon notice and hearing on the basis of the following circumstances:

"(a) The established record of the said parties, coalition of groups that now composed them, taking into account, among other things, their showing in past election;

"(b) The number of incumbent elective officials belonging to them ninety (90) days before the date of election;

"(c) Their identifiable political organizations and strengths as evidenced by their organized/chapters;

"(d) The ability to fill a complete slate of candidates from the municipal level to the position of President; and

"(e) Other analogous circumstances that may determine their relative organizations and strengths."

2. Section 37 which provides:

SEC. 37. Section 30 of Republic Act No. 7166 is hereby amended to read as follows:

"SEC. 30. Congress as the National Board of Canvassers for the Election of President and Vice President: The Commission en banc as the National Board of Canvassers for the election of senators: Determination of Authenticity and Due Execution of Certificates of Canvass. - Congress and the Commission en banc shall determine the authenticity and due execution of the certificate of canvass for president and vice president and senators, respectively, as accomplished and transmitted to it by the local boards of canvassers, on a showing that: (1) each certificate of canvass was executed, signed and thumbmarked by the chairman and members of the board of canvassers and transmitted or caused to be transmitted to Congress by them; (2) each certificate of canvass contains the names of all of the candidates for president and vice president or senator, as the case may be, and their corresponding votes in words and their corresponding votes in words and in figures; (3) there exists no discrepancy in other authentic copies of the certificates of canvass or any of its supporting documents such as statement of votes by city/municipality/by precinct or discrepancy in the votes of any candidate in words and figures in the certificate; and (4) there exists no discrepancy in the votes of any candidate in words and figures in the certificates of canvass against the aggregate number of votes appearing in the election returns of precincts covered by the certificate of canvass: Provided, That certified print copies of election returns or certificates of canvass may be used for the purpose of verifying the existence of the discrepancy.

"When the certificate of canvass, duly certified by the board of canvassers of each province, city or district, appears to be incomplete, the Senate President or the Chairman of the Commission, as the case may be, shall require the board of canvassers concerned to transmit by personal delivery, the election returns from polling places that were not included in the certificate of canvass and supporting statements. Said election returns shall be submitted by personal delivery within two (2) days from receipt of notice.

"When it appears that any certificate of canvass or supporting statement of votes by city/municipality or by precinct bears erasures or alteration which may cast doubt as to the veracity of the number of votes stated herein and may affect the result of the election, upon request of the presidential, vice presidential or senatorial candidate concerned or his party, Congress or the Commission en banc, as the case may be, shall, for the sole purpose of verifying the actual number of votes cast for president, vice president or senator, count the votes as they appear in the copies of the election returns submitted to it.

"In case of any discrepancy, incompleteness, erasure or alteration as mentioned above, the procedure on pre-proclamation controversies shall be adopted and applied as provided in Section 17, 18, 19 and 20.

"Any person who present in evidence a simulated copy of an election return, certificate of canvass or statement of votes, or a printed copy of an election return, certificate of canvass or statement of votes bearing a simulated certification or a simulated image, shall be guilty of an election offense shall be penalized in accordance with Batas Pambansa Blg. 881."

3. Section 38 which provides:

SEC. 38. Section 15 of Republic Act No. 7166 is hereby amended to read as follows:

"SEC. 15. Pre-proclamation Cases in Elections for President, Vice President, Senator, and Member of the House of Representatives. - For purposes of the elections for president, vice president, senator, and member of the House of Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of election returns or the certificates of canvass, as the case may be, except as provided for in Section 30 hereof. However, this does not preclude the authority of the appropriate canvassing body motu proprio or upon written complaint of an interested person to correct manifest errors in the certificate of canvass or election returns before it.

"Questions affecting the composition or proceedings of the board of canvassers may be initiated in the board or directly with the Commission in accordance with Section 19 hereof.

"Any objection on the election returns before the city or municipal board of canvassers, or on the municipal certificates of canvass before the provincial board of canvassers or district board of canvassers in Metro Manila Area, shall be specifically noticed in the minutes of the respective proceedings."

4. Section 43 which provides:

SEC. 43. Section 265 of Batas Pambansa Blg. 881 is hereby amended to read as follows:

"SEC. 265. Prosecution. - The Commission shall, through its duly authorized legal officers, have the power, concurrent with the other prosecuting arms of the government, to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same."

The Issues

Petitioner raises the following issues:

- Whether RA 9369 violates Section 26(1), Article VI of the Constitution;
- Whether Sections 37 and 38 violate Section 17, Article VI[5] and Paragraph 7, Section 4, Article VII[6] of the Constitution;
- Whether Section 43 violates Section 2(6), Article IX-C of the Constitution;[7] and
- Whether Section 34 violates Section 10, Article III of the Constitution.[8]

The Court's Ruling

The petition has no merit.

is settled that every statute is presumed to be constitutional.[9] The presumption is that the legislature intended to enact a valid, sensible and just law. Those who petition the Court to declare a law unconstitutional must show that there is a clear and unequivocal breach of the Constitution, not merely a doubtful, speculative or argumentative one; otherwise, the petition must fail.[10]

In this case, petitioner failed to justify why RA 9369 and the assailed provisions should be declared unconstitutional.

RA 9369 does not violate Section 26(1), Article VI of the Constitution

Petitioner alleges that the title of RA 9369 is misleading because it speaks of poll automation but contains substantial provisions dealing with the manual canvassing of election returns. Petitioner also alleges that Sections 34, 37, 38, and 43 are neither embraced in the title nor germane to the subject matter of RA 9369.

Both the COMELEC and the OSG maintain that the title of RA 9369 is broad enough to encompass topics which deal not only with the automation process but with everything related to its purpose encouraging a transparent, credible, fair, and accurate elections.

The constitutional requirement that "every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof" has always been given a practical rather than a technical construction.[11] The requirement is satisfied if the title is comprehensive enough to include subjects related to the general purpose which the statute seeks to achieve.[12] The title of a law does not have to be an index of its contents and will suffice if the matters embodied in the text are relevant to each other and may be inferred from the title.[13] Moreover, a title which declares a statute to be an act to amend a specified code is sufficient and the precise nature of the amendatory act need not be further stated.[14]

RA 9369 is an amendatory act entitled "An Act Amending Republic Act No. 8436, Entitled 'An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, to Encourage Transparency, Credibility, Fairness and Accuracy of Elections, Amending for the Purpose Batas Pambansa Blg. 881, as Amended, Republic Act No. 7166 and Other Related Election Laws, Providing Funds Therefor and For Other Purposes.'" Clearly, the subject matter of RA 9369 covers the amendments to RA 8436, Batas Pambansa Blg. 881 (BP 881),[15] Republic Act No. 7166 (RA 7166),[16] and other related election laws to achieve its purpose of promoting transparency, credibility, fairness, and accuracy in the elections. The provisions of RA 9369 assailed by petitioner deal with amendments to specific provisions of RA 7166 and BP 881, specifically: (1) Sections 34, 37 and 38 amend Sections 26, 30 and 15 of RA 7166, respectively; and (2) Section 43 of RA 9369 amends Section 265 of BP 881. Therefore, the assailed provisions are germane to the subject matter of RA 9369 which is to amend RA 7166 and BP 881, among others.

Sections 37 and 38 do not violate Section 17, Article VI and Paragraph 7, Section 4, Article VII of the Constitution

Petitioner argues that Sections 37 and 38 violate the Constitution by impairing the powers of the Presidential Electoral Tribunal (PET) and the Senate Electoral Tribunal (SET). According to petitioner, under the amended provisions, Congress as the National Board of Canvassers for the election of President and Vice President (Congress), and the COMELEC en banc as the National Board of Canvassers (COMELEC en banc), for the election of Senators may now entertain pre-proclamation cases in the election of the President, Vice President, and Senators. Petitioner concludes that in entertaining pre-proclamation cases, Congress and the COMELEC en banc undermine the independence and encroach upon the jurisdiction of the PET and the SET.

The COMELEC maintains that the amendments introduced by Section 37 pertain only to the adoption and application of the procedures on pre-proclamation controversies in case of any discrepancy, incompleteness, erasure or alteration in the certificates of canvass. The COMELEC adds that Section 37 does not provide that Congress and the COMELEC en banc may now entertain pre-proclamation cases for national elective posts.

OSG argues that the Constitution does not prohibit pre-proclamation cases involving national elective posts. According to the OSG,

only Section 15 of RA 7166[17] expressly disallows pre-proclamation cases involving national elective posts but this provision was subsequently amended by Section 38 of RA 9369.

In *Pimentel III v. COMELEC*,[18] we already discussed the implications of the amendments introduced by Sections 37 and 38 to Sections 15 and 30[19] of RA 7166, respectively and we declared:

Indeed, this Court recognizes that by virtue of the amendments introduced by Republic Act No. 9369 to Sections 15 and 30 of Republic Act No. 7166, pre-proclamation cases involving the authenticity and due execution of certificates of canvass are now allowed in elections for President, Vice-President, and Senators. The intention of Congress to treat a case falling under Section 30 of Republic Act No. 7166, as amended by Republic Act No. 9369, as a pre-proclamation case is apparent in the fourth paragraph of the said provision which adopts and applies to such a case the same procedure provided under Sections 17, 18, 19 and 20 of Republic Act No. 7166 on pre-proclamation controversies.

In sum, in [the] elections for President, Vice-President, Senators and Members of the House of Representatives, the general rule is still that pre-proclamation cases on matters relating to the preparation, transmission, receipt, custody and appreciation of election returns or certificates of canvass are still prohibited. As with other general rules, there are recognized exceptions to the prohibition, namely: (1) correction of manifest errors; (2) questions affecting the composition or proceeding of the board of canvassers; and (3) determination of the authenticity and due execution of certificates of canvass as provided in Section 30 of Republic Act No. 7166, as amended by Republic Act No. 9369.[20]

In the present case, Congress and the COMELEC en banc do not encroach upon the jurisdiction of the PET and the SET. There is no conflict of jurisdiction since the powers of Congress and the COMELEC en banc, on one hand, and the PET and the SET, on the other, are exercised on different occasions and for different purposes. The PET is the sole judge of all contests relating to the election, returns and qualifications of the President or Vice President. The SET is the sole judge of all contests relating to the election, returns, and qualifications of members of the Senate. The jurisdiction of the PET and the SET can only be invoked once the winning presidential, vice presidential or senatorial candidates have been proclaimed. On the other hand, under Section 37, Congress and the COMELEC en banc shall determine only the authenticity and due execution of the certificates of canvass. Congress and the COMELEC en banc shall exercise this power before the proclamation of the winning presidential, vice presidential, and senatorial candidates.

Section 43 does not violate Section 2(6), Article IX-C of the Constitution

Both petitioner and the COMELEC argue that the Constitution vests in the COMELEC the "exclusive power" to investigate and prosecute cases of violations of election laws. Petitioner and the COMELEC allege that Section 43 is unconstitutional because it gives the other prosecuting arms of the government concurrent power with the COMELEC to investigate and prosecute election offenses.[21]

We do not agree with petitioner and the COMELEC that the Constitution gave the COMELEC the "exclusive power" to investigate and prosecute cases of violations of election laws.

Section 2(6), Article IX-C of the Constitution vests in the COMELEC the power to "investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices." This was an important innovation introduced by the Constitution because this provision was not in the 1935[22] or 1973[23] Constitutions.[24] The phrase "[w]here appropriate" leaves to the legislature the power to determine the kind of election offenses that the COMELEC shall prosecute exclusively or concurrently with other prosecuting arms of the government.

The grant of the "exclusive power" to the COMELEC can be found in Section 265 of BP 881, which provides:

Sec. 265. Prosecution. - The Commission shall, through its duly authorized legal officers, have the exclusive power to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same. The Commission may avail of the assistance of other prosecuting arms of the government: Provided, however, That in the event that the Commission fails to act on any complaint within four months from his filing, the complainant may file the complaint with the office of the fiscal or with the Ministry of Justice for proper investigation and prosecution, if warranted. (Emphasis supplied)

This was also an innovation introduced by BP 881. The history of election laws shows that prior to BP 881, no such "exclusive power" was ever bestowed on the COMELEC.[25]

We also note that while Section 265 of BP 881 vests in the COMELEC the "exclusive power" to conduct preliminary investigations and prosecute election offenses, it likewise authorizes the COMELEC to avail itself of the assistance of other prosecuting arms of the government. In the 1993 COMELEC Rules of Procedure, the authority of the COMELEC was subsequently qualified and explained.[26] The 1993 COMELEC Rules of Procedure provides:

Rule 34 - Prosecution of Election Offenses

Sec. 1. Authority of the Commission to Prosecute Election Offenses. - The Commission shall have the exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law. (Emphasis supplied)

It is clear that the grant of the "exclusive power" to investigate and prosecute election offenses to the COMELEC was not by virtue of the Constitution but by BP 881, a legislative enactment. If the intention of the framers of the Constitution were to give the COMELEC the "exclusive power" to investigate and prosecute election offenses, the framers would have expressly so stated in the Constitution. They did not.

In *People v. Basilla*,[27] we acknowledged that without the assistance of provincial and city fiscals and their assistants and staff members, and of the state prosecutors of the Department of Justice, the prompt and fair investigation and prosecution of election offenses committed before or in the course of nationwide elections would simply not be possible.[28] In *COMELEC v. Español*,[29] we also stated that enfeebled by lack of funds and the magnitude of its workload, the COMELEC did not have a sufficient number of legal officers to conduct such investigation and to prosecute such cases.[30] The prompt investigation, prosecution, and disposition of election offenses constitute an indispensable part of the task of securing free, orderly, honest, peaceful, and credible elections.[31] Thus, given the plenary power of the legislature to amend or repeal laws, if Congress passes a law amending Section 265 of BP 881, such law does not violate the Constitution.

Section 34 does not violate Section 10, Article III of the Constitution

assails the constitutionality of the provision which fixes the per diem of poll watchers of the dominant majority and dominant minority parties at Pon election day. Petitioner argues that this violates the freedom of the parties to contract and their right to fix the terms and conditions of the contract they see as fair, equitable and just. Petitioner adds that this is a purely private contract using private funds which cannot be regulated by law.

The OSG argues that petitioner erroneously invoked the non-impairment clause because this only applies to previously perfected contracts. In this case, there is no perfected contract and, therefore, no obligation will be impaired.

Both the COMELEC and the OSG argue that the law is a proper exercise of police power and it will prevail over a contract. According to the COMELEC, poll watching is not just an ordinary contract but is an agreement with the solemn duty to ensure the sanctity of votes. The role of poll watchers is vested with public interest which can be

regulated by Congress in the exercise of its police power. The OSG further argues that the assurance that the poll watchers will receive fair and equitable compensation promotes the general welfare. The OSG also states that this was a reasonable regulation considering that the dominant majority and minority parties will secure a copy of the election returns and are given the right to assign poll watchers inside the polling precincts.

There is no violation of the non-impairment clause. First, the non-impairment clause is limited in application to laws that derogate from prior acts or contracts by enlarging, abridging or in any manner changing the intention of the parties.[32] There is impairment if a subsequent law changes the terms of a contract between the parties, imposes new conditions, dispenses with those agreed upon or withdraws remedies for the enforcement of the rights of the parties.[33]

As observed by the OSG, there is no existing contract yet and, therefore, no enforceable right or demandable obligation will be impaired. RA 9369 was enacted more than three months prior to the 14 May 2007 elections. Hence, when the dominant majority and minority parties hired their respective poll watchers for the 14 May 2007 elections, they were deemed to have incorporated in their contracts all the provisions of RA 9369.

Second, it is settled that police power is superior to the non-impairment clause.[34] The constitutional guaranty of non-impairment of contracts is limited by the exercise of the police power of the State, in the interest of public health, safety, morals, and general welfare of the community.

Section 8 of COMELEC Resolution No. 1405[35] specifies the rights and duties of poll watchers:

The watchers shall have the right to stay in the space reserved for them inside the polling place. They shall have the right to witness and inform themselves of the proceedings of the board; to take notes of what they may see or hear, to take photographs of the proceedings and incidents, if any, during the counting of votes, as well as the election returns, tally board and ballot boxes; to file a protest against any irregularity or violation of law which they believe may have been committed by the board or by any of its members or by any person; to obtain from the board a certificate as to the filing of such protest and/or of the resolution thereon; to read the ballots after they shall have been read by the chairman, as well as the election returns after they shall have been completed and signed by the members of the board without touching them, but they shall not speak to any member of the board, or to any voter, or among themselves, in such a manner as would disturb the proceedings of the board; and to be furnished, upon request, with a certificate of votes for the candidates, duly signed and thumbmarked by the chairman and all the members of the board of election inspectors.

Additionally, the poll watchers of the dominant majority and minority parties in a precinct shall, if available, affix their signatures and thumbmarks on the election returns for that precinct.[36] The dominant majority and minority parties shall also be given a copy of the certificates of canvass[37] and election returns[38] through their respective poll watchers. Clearly, poll watchers play an important role in the elections.

Moreover, while the contracting parties may establish such stipulations, clauses, terms, and conditions as they may deem convenient, such stipulations should not be contrary to law, morals, good customs, public order, or public policy.[39]

In *Beltran v. Secretary of Health*,[40] we said:

Furthermore, the freedom to contract is not absolute; all contracts and all rights are subject to the police power of the State and not only may regulations which affect them be established by the State, but all such regulations must be subject to change from time to time, as the general well-being of the community may require, or as the circumstances may change, or as experience may demonstrate the necessity.[41] (Emphasis supplied)

Therefore, assuming there were existing contracts, Section 34 would still be constitutional because the law was enacted in the exercise of the police power of the State to promote the general welfare of the people. We agree

with the COMELEC that the role of poll watchers is invested with public interest. In fact, even petitioner concedes that poll watchers not only guard the votes of their respective candidates or political parties but also ensure that all the votes are properly counted. Ultimately, poll watchers aid in fair and honest elections. Poll watchers help ensure that the elections are transparent, credible, fair, and accurate. The regulation of the per diem of the poll watchers of the dominant majority and minority parties promotes the general welfare of the community and is a valid exercise of police power.

WHEREFORE, we DISMISS the petition for lack of merit.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Corona, Carpio-Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.
Quisumbing, J., on official leave.

[1] Under Rule 65 of the 1997 Revised Rules of Civil Procedure.

[2] In petitioner's Consolidated Reply dated 24 September 2007, petitioner withdrew the request for a writ of preliminary injunction since the 14 May 2007 elections had already been concluded.

[3] An Act Amending Republic Act No. 8436, Entitled "An Act Authorizing The Commission On Elections To Use An Automated Election System In The May 11, 1998 National Or Local Elections And In Subsequent National And Local Electoral Exercises, To Encourage Transparency, Credibility, Fairness And Accuracy Of Elections, Amending For The Purpose Batas Pambansa Blg. 881, As Amended, Republic Act No. 7166 And Other Related Election Laws, Providing Funds Therefor And For Other Purposes." Approved on 23 January 2007.

[4] Section 26(1), Article VI of the Constitution provides:

Sec. 26. (1) Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof.

[5] Section 17, Article VI of the Constitution provides:

SECTION 17. THE SENATE AND THE HOUSE OF REPRESENTATIVES SHALL EACH HAVE AN ELECTORAL TRIBUNAL WHICH SHALL BE THE SOLE JUDGE OF ALL CONTESTS RELATING TO THE ELECTION, RETURNS, AND QUALIFICATIONS OF THEIR RESPECTIVE MEMBERS. x x x

[6] Paragraph 7, Section 4, Article VII of the Constitution provides:

SECTION 4. X X X THE SUPREME COURT, SITTING EN BANC, SHALL BE THE SOLE JUDGE OF ALL CONTESTS RELATING TO THE ELECTION, RETURNS, AND QUALIFICATIONS OF THE PRESIDENT OR VICE- PRESIDENT, AND MAY PROMULGATE ITS RULES FOR THE PURPOSE. X X X

[7] Section 2(6) of the 1987 Constitution provides:

SECTION 2. THE COMMISSION ON ELECTIONS SHALL EXERCISE THE FOLLOWING POWERS AND FUNCTIONS: X X X

(6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

[8] Section 10, Article III of the Constitution provides:

SECTION 10. NO LAW IMPAIRING THE OBLIGATION OF CONTRACTS SHALL BE PASSED.

[9] *Lacson v. Executive Secretary*, 361 Phil. 251 (1999); *Alvarez v. Guingona, Jr.*, 322 Phil. 774 (1996); *Basco v. Philippine Amusements and Gaming Corp.*, 274 Phil. 323 (1991); *Abbas v. COMELEC*, G.R. No. 89651, 10 November 1989, 179 SCRA 287; *Peralta v. COMELEC*, 172 Phil. 31 (1978); *Salas v. Jarencio*, 150-B Phil. 670 (1972); *Yu Cong Eng v. Trinidad*, 47 Phil. 385 (1925).

[10] *Arceta v. Mangrobang*, 476 Phil. 106 (2004); *Lacson v. Executive Secretary*, *supra*.

[11] *Chiongbian v. Orbos*, 315 Phil. 251 (1995).

[12] *Tio v. Videogram Regulatory Board*, 235 Phil. 198 (1987).

[13] *Association of Small Landowners in the Phils., Inc. v. Secretary of Agrarian Reform*, G.R. No. 78742, 14 July 1989, 175 SCRA 343.

[14] *Manila Trading & Supply Co. v. Reyes*, 62 Phil. 461 (1935).

[15] Entitled "Omnibus Election Code Of The Philippines." Approved on 3 December 1985.

[16] ENTITLED "AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR AND FOR OTHER PURPOSES." APPROVED ON 26 NOVEMBER 1991.

[17] Section 15 of RA 7166 provides:

SEC. 15. Pre-proclamation Cases Not Allowed in Elections for President, Vice President, Senator, and Member of the House of Representatives. - For purposes of the election for President, Vice President, Senator and Member of the House of Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of the election returns or the certificates of canvass, as the case may be. However, this does not preclude the authority of the appropriate canvassing body *motu proprio* or upon written complaint of an interested person to correct manifest errors in the certificate of canvass or election returns before it.

Questions affecting the composition or proceedings of the board of canvassers may be initiated in the board or directly with the Commission in accordance with Section 19 hereof.

Any objection on the election returns before the city or municipal board of canvassers, or on the municipal certificates of canvass before the provincial board of canvassers or district board of canvassers in Metro Manila Area, shall be specifically noticed in the minutes of their respective proceedings.

[18] G.R. No. 178413, 13 March 2008, 548 SCRA 169.

[19] Section 30 of RA 7166 provides:

SEC. 30. Congress as the National Board of Canvassers for the Election of President and Vice President; Determination of Authenticity and Due Execution of Certificates of Canvass. - Congress shall determine the authenticity and due execution of the certificates of canvass for President and Vice President as accomplished and transmitted to it by the local board of canvassers, on a showing that: (1) each certificate of canvass was executed, signed and thumbmarked by the chairman and members of the board of canvassers and transmitted or caused to be transmitted to Congress by them; (2) each certificate of canvass contains the name of all of the candidates for President and Vice President and their corresponding votes in words and in figures; and (3) there exists no discrepancies in other authentic copies of the certificate of canvass or discrepancy in the votes

of any candidate in words and figures in the same certificate.

When the certificate of canvass, duly certified by the board of canvassers of each province, city or district, appears to be incomplete, the Senate President shall require the board of canvassers concerned to transmit by personal delivery, the election returns from polling places that were not included in the certificate of canvass and supporting statements. Said election returns shall be submitted by personal delivery within two days from receipt of notice.

When it appears that any certificate of canvass or supporting statement of votes by precinct bears erasures or alterations which may cast doubt as to the veracity of the number of votes stated therein and may affect the result of the election, upon request of the Presidential or Vice Presidential candidate concerned or his party, Congress shall, for the sole purpose of verifying the actual number of votes cast for President and Vice President, count the votes as they appear in the copies of the election returns submitted to it.

[20] Pimentel III v. COMELEC, supra 189-191.

[21] The OSG did not comment on the issue.

[22] Section 2, Article X of the 1935 Constitution provides:

SECTION 2. The Commission on Elections shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials. All law-enforcement agencies and instrumentalities of the Government, when so required by the Commission, shall act as its deputies for the purpose of insuring free, orderly, and honest election. The decisions, orders, and rulings of the Commission shall be subject to review by the Supreme Court.

No pardon, parole, or suspension of sentence for the violation of any election law may be granted without the favorable recommendation of the Commission.

[23] Section 2, Article XII-C of the 1973 Constitution provides:

SEC. 2. The Commission on Elections shall have the following powers and functions:

- (1) Enforce and administer all laws relative to the conduct of elections.
- (2) Be the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa and elective provincial and city officials.
- (3) Decide, save those involving the right to vote, administrative questions affecting elections, including the determination of the number and location of polling places, the appointment of election officials and inspectors, and the registration of voters.
- (4) Deputize, with the consent or at the instance of the President, law enforcement agencies and instrumentalities of the Government, including the armed forces of the Philippines, for the purpose of ensuring free, orderly, and honest elections.
- (5) Register and accredit political parties subject to the provisions of Section eight hereof.
- (6) Recommend to the Batasang Pambansa effective measures to minimize election expenses and prohibit all forms of election frauds and malpractices, political opportunism, guest or nuisance candidacy, or other similar acts.
- (7) Submit to the President, the Prime Minister, and the Batasang Pambansa a report on the conduct and manner

of each election.

(8) Perform such other functions as may be provided by law.

[24] RECORD, CONSTITUTIONAL COMMISSION No. 106 (12 October 1986).

[25] Republic Act No. 6388, also known as the Election Code of 1971, provides:

Section 236. Prosecution of Election Offenses. - The Commission shall, through its duly authorized legal officers, have the power to investigate and prosecute before the Court of First Instance on preliminary investigation all election offenses. Approved on 2 September 1971.

PRESIDENTIAL DECREE NO. 1296, ALSO KNOWN AS THE 1978 ELECTION CODE, PROVIDES:

SECTION 182. PROSECUTION. THE COMMISSION SHALL, THROUGH ITS DULY AUTHORIZED LEGAL OFFICERS, HAVE THE POWER TO CONDUCT PRELIMINARY INVESTIGATION OF ALL ELECTION OFFENSES PUNISHABLE UNDER THIS CODE, AND TO PROSECUTE THE SAME. THE COMMISSION MAY AVAIL OF THE ASSISTANCE OF OTHER PROSECUTING ARMS OF THE GOVERNMENT. APPROVED ON 7 FEBRUARY 1978.

[26] *Margarejo v. Escoses*, 417 Phil. 506 (2001).

[27] G.R. Nos. 83938-40, 6 November 1989, 179 SCRA 87.

[28] *Id.* at 93-94.

[29] 463 Phil. 240 (2003).

[30] *Id.* at 254.

[31] *People v. Basilla*, *supra* note 27.

[32] *Serrano v. Gallant Maritime Services, Inc.*, G.R. No. 167614, 24 March 2009.

[33] *Clemons v. Nolting*, 42 Phil. 702 (1922).

[34] *Philippine National Bank v. Remigio*, G.R. No. 78508, 21 March 1994, 231 SCRA 362; *Anglo-Fil Trading Corporation v. Lazaro*, 209 Phil. 400 (1983); *Ortigas & Co., Ltd. Partnership v. Feati Bank and Trust Co.*, 183 Phil. 176 (1979).

[35] Dated 30 March 1992.

[36] Section 12 of Republic Act No. 6646 entitled "An Act Introducing Additional Reforms in the Electoral System and For Other Purposes." Approved on 5 January 1988.

[37] SECTION 21 of RA 9369.

[38] SECTION 33 of RA 9369.

[39] CIVIL CODE, Article 1306.

[40] G.R. Nos. 133640, 133661 and 139147, 25 November 2005, 476 SCRA 168.

[41] *Id.* at 198.

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