

COMMISSION ON ELECTIONS, PETITIONER, VS. CONRADO CRUZ, SANTIAGO P. GO, RENATO F. BORBON, LEVVINO CHING, CARLOS C. FLORENTINO, RUBEN G. BALLEGA, LOIDA ALCEDO, MARIO M. CAJUCOM, E...

G.R. No. 186616. November 20, 2009

Ponente: BRION, J.

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BRION, J.:

We resolve in this Decision the constitutional challenge, originally filed before the Regional Trial Court of Caloocan City, Branch 128 (RTC), against the following highlighted portion of Section 2 of Republic Act (RA) No. 9164 (entitled "An Act Providing for Synchronized Barangay and Sangguniang Kabataan Elections, amending RA No. 7160, as amended, otherwise known as the Local Government Code of 1991"):

Sec. 2. Term of Office. - The term of office of all barangay and sangguniang kabataan officials after the effectivity of this Act shall be three (3) years.

No barangay elective official shall serve for more than three (3) consecutive terms in the same position: Provided, however, That the term of office shall be reckoned from the 1994 barangay elections. Voluntary renunciation of office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official was elected.

The RTC granted the petition and declared the challenged proviso constitutionally infirm. The present petition, filed by the Commission on Elections (COMELEC), seeks a review of the RTC decision.[1]

THE ANTECEDENTS

Before the October 29, 2007 Synchronized Barangay and Sangguniang Kabataan (SK) Elections, some of the then incumbent officials of several barangays of Caloocan City[2] filed with the RTC a petition for declaratory relief to challenge the constitutionality of the above-highlighted proviso, based on the following arguments:

- I. The term limit of Barangay officials should be applied prospectively and not retroactively.
- II. Implementation of paragraph 2 Section 2 of RA No. 9164 would be a violation of the equal protection of the law.
- III. Barangay officials have always been apolitical.

The RTC agreed with the respondents' contention that the challenged proviso retroactively applied the three-term limit for barangay officials under the following reasoning:

When the Local Government Code of 1991 took effect abrogating all other laws inconsistent therewith, a different term was ordained. Here, this Court agrees with the position of the petitioners that Section 43 of the Code specifically exempted barangay elective officials from the coverage of the three (3) consecutive term

limit rule considering that the provision applicable to these (sic) class of elective officials was significantly separated from the provisions of paragraphs (a) and (b) thereof. Paragraph (b) is indeed intended to qualify paragraph (a) of Section 43 as regards to (sic) all local elective officials except barangay officials. Had the intention of the framers of the Code is (sic) to include barangay elective officials, then no excepting proviso should have been expressly made in paragraph (a) thereof or, by implication, the contents of paragraph (c) should have been stated ahead of the contents of paragraph (b).

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Clearly, the intent of the framers of the constitution (sic) is to exempt the barangay officials from the three (3) term limits (sic) which are otherwise applicable to other elected public officials from the Members of the House of Representatives down to the members of the sangguniang bayan/panlungsod. It is up for the Congress whether the three (3) term limit should be applied by enacting a law for the purpose.

The amendment introduced by R.A. No. 8524 merely increased the term of office of barangay elective officials from three (3) years to five (5) years. Like the Local Government Code, it can be noted that no consecutive term limit for the election of barangay elective officials was fixed therein.

The advent of R.A. 9164 marked the revival of the consecutive term limit for the election of barangay elective officials after the Local Government Code took effect. Under the assailed provision of this Act, the term of office of barangay elective officials reverted back to three (3) years from five (5) years, and, this time, the legislators expressly declared that no barangay elective official shall serve for more than three (3) consecutive terms in the same position. The petitioners are very clear that they are not assailing the validity of such provision fixing the three (3) consecutive term limit rule for the election of barangay elective officials to the same position. The particular provision the constitutionality of which is under attack is that portion providing for the reckoning of the three (3) consecutive term limit of barangay elective officials beginning from the 1994 barangay elections.

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Section 2, paragraph 2 of R.A. 9164 is not a mere restatement of Section 43(c) of the Local Government Code. As discussed above, Section 43(c) of the Local Government Code does not provide for the consecutive term limit rule of barangay elective officials. Such specific provision of the Code has in fact amended the previous enactments (R.A. 6653 and R.A. 6679) providing for the consecutive term limit rule of barangay elective officials. But, such specific provision of the Local Government Code was amended by R.A. 9164, which reverted back to the previous policy of fixing consecutive term limits of barangay elective officials." [3]

In declaring this retroactive application unconstitutional, the RTC explained that:

By giving a retroactive reckoning of the three (3) consecutive term limit rule for barangay officials to the 1994 barangay elections, Congress has violated not only the principle of prospective application of statutes but also the equal protection clause of the Constitution inasmuch as the barangay elective officials were singled out that their consecutive term limit shall be counted retroactively. There is no rhyme or reason why the consecutive limit for these barangay officials shall be counted retroactively while the consecutive limit for other local and national elective officials are counted prospectively. For if the purpose of Congress is [sic] to classify elective barangay officials as belonging to the same class of public officers whose term of office are limited to three (3) consecutive terms, then to discriminate them by applying the proviso retroactively violates the constitutionally enshrined principle of equal protection of the laws.

Although the Constitution grants Congress the power to determine such successive term limit of barangay elective officials, the exercise of the authority granted shall not otherwise transgress other constitutional and statutory privileges.

This Court cannot subscribe to the position of the respondent that the legislature clearly intended that the

provision of RA No. 9164 be made effective in 1994 and that such provision is valid and constitutional. If we allow such premise, then the term of office for those officials elected in the 1997 barangay elections should have ended in year 2000 and not year 2002 considering that RA No. 9164 provides for a three-year term of barangay elective officials. The amendment introduced by R.A. No. 8524 would be rendered nugatory in view of such retroactive application. This is absurd and illusory.

True, no person has a vested right to a public office, the same not being property within the contemplation of constitutional guarantee. However, a cursory reading of the petition would show that the petitioners are not claiming vested right to their office but their right to be voted upon by the electorate without being burdened by the assailed provision of the law that, in effect, rendered them ineligible to run for their incumbent positions. Such right to run for office and be voted for by the electorate is the right being sought to be protected by assailing the otherwise unconstitutional provision.

Moreover, the Court likewise agrees with the petitioners that the law violated the one-act-one subject rule embodied in the Constitution. x x x x The challenged law's title is "AN ACT PROVIDING FOR THE SYNCHRONIZED BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING REPUBLIC ACT 7160 OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991 AND FOR OTHER PURPOSES." x x x x

x x x x

To this court, the non-inclusion in the title of the act on the retroactivity of the reckoning of the term limits posed a serious constitutional breach, particularly on the provision of the constitution [sic] that every bill must embrace only one subject to be expressed in the title thereof.

x x x the Court is of the view that the affected barangay officials were not sufficiently given notice that they were already disqualified by a new act, when under the previous enactments no such restrictions were imposed.

Even if this Court would apply the usual test in determining the sufficiency of the title of the bill, the challenged law would still be insufficient for how can a retroactivity of the term limits be germane to the synchronization of an election x x x x.[4]

The COMELEC moved to reconsider this decision but the RTC denied the motion. Hence, the present petition on a pure question of law.

The Petition

The COMELEC takes the position that the assailed law is valid and constitutional. RA No. 9164 is an amendatory law to RA No. 7160 (the Local Government Code of 1991 or LGC) and is not a penal law; hence, it cannot be considered an ex post facto law. The three-term limit, according to the COMELEC, has been specifically provided in RA No. 7160, and RA No. 9164 merely restated the three-term limitation. It further asserts that laws which are not penal in character may be applied retroactively when expressly so provided and when it does not impair vested rights. As there is no vested right to public office, much less to an elective post, there can be no valid objection to the alleged retroactive application of RA No. 9164.

The COMELEC also argues that the RTC's invalidation of RA No. 9164 essentially involves the wisdom of the law - the aspect of the law that the RTC has no right to inquire into under the constitutional separation of powers principle. The COMELEC lastly argues that there is no violation of the one subject-one title rule, as the matters covered by RA No. 9164 are related; the assailed provision is actually embraced within the title of the law.

THE COURT'S RULING

We find the petition meritorious. The RTC legally erred when it declared the challenged proviso unconstitutional.

Preliminary Considerations

We find it appropriate, as a preliminary matter, to hark back to the pre-1987 Constitution history of the barangay political system as outlined by this Court in *David v. COMELEC*,^[5] and we quote:

As a unit of government, the barangay antedated the Spanish conquest of the Philippines. The word "barangay" is derived from the Malay "balangay," a boat which transported them (the Malays) to these shores. Quoting from Juan de Plasencia, a Franciscan missionary in 1577, Historian Conrado Benitez wrote that the barangay was ruled by a dato who exercised absolute powers of government. While the Spaniards kept the barangay as the basic structure of government, they stripped the dato or rajah of his powers. Instead, power was centralized nationally in the governor general and locally in the encomendero and later, in the alcalde mayor and the gobernadorcillo. The dato or rajah was much later renamed cabeza de barangay, who was elected by the local citizens possessing property. The position degenerated from a title of honor to that of a "mere government employee. Only the poor who needed a salary, no matter how low, accepted the post."

After the Americans colonized the Philippines, the barangays became known as "barrios." For some time, the laws governing barrio governments were found in the Revised Administrative Code of 1916 and later in the Revised Administrative Code of 1917. Barrios were granted autonomy by the original Barrio Charter, RA 2370, and formally recognized as quasi-municipal corporations by the Revised Barrio Charter, RA 3590. During the martial law regime, barrios were "declared" or renamed "barangays" -- a reversion really to their pre-Spanish names -- by PD. No. 86 and PD No. 557. Their basic organization and functions under RA 3590, which was expressly "adopted as the Barangay Charter," were retained. However, the titles of the officials were changed to "barangay captain," "barangay councilman," "barangay secretary" and "barangay treasurer."

Pursuant to Sec. 6 of Batas Pambansa Blg. 222, "a Punong Barangay (Barangay Captain) and six Kagawads ng Sangguniang Barangay (Barangay Councilmen), who shall constitute the presiding officer and members of the Sangguniang Barangay (Barangay Council) respectively" were first elected on May 17, 1982. They had a term of six years which began on June 7, 1982.

The Local Government Code of 1983 also fixed the term of office of local elective officials at six years. Under this Code, the chief officials of the barangay were the punong barangay, six elective sangguniang barangay members, the kabataang barangay chairman, a barangay secretary and a barangay treasurer.

B.P. Blg. 881, the Omnibus Election Code, reiterated that barangay officials "shall hold office for six years," and stated that their election was to be held "on the second Monday of May nineteen hundred and eighty eight and on the same day every six years thereafter." [Emphasis supplied.]

The 1987 Philippine Constitution extended constitutional recognition to barangays under Article X, Section 1 by specifying barangays as one of the territorial and political subdivisions of the country, supplemented by Section 8 of the same Article X, which provides:

SEC. 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected. [Emphasis supplied.]

The Constitutional Commission's deliberations on Section 8 show that the authority of Congress to legislate relates not only to the fixing of the term of office of barangay officials, but also to the application of the three-term limit. The following deliberations of the Constitutional Commission are particularly instructive on this point:

MR. NOLLEDO:

One clarificatory question, Madam President. What will be the term of the office of barangay officials as provided for?

MR. DAVIDE:

As may be determined by law.

MR. NOLLEDO:

As provided for in the Local Government Code?

MR. DAVIDE:

Yes.

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THE PRESIDENT:

Is there any other comment? Is there any objection to this proposed new section as submitted by Commissioner Davide and accepted by the Committee?

MR. RODRIGO:

Madam President, does this prohibition to serve for more than three consecutive terms apply to barangay officials?

MR. DAVIDE:

Madam President, the voting that we had on the terms of office did not include the barangay officials because it was then the stand of the Chairman of the Committee on Local Governments that the term of barangay officials must be determined by law. So it is now for the law to determine whether the restriction on the number of reelections will be included in the Local Government Code.

MR.

RODRIGO: So that is up to Congress to decide.

MR. DAVIDE:

Yes.

MR. RODRIGO:

I just wanted that clear in the record."^[6] [Emphasis supplied.]

After the effectivity of the 1987 Constitution, the barangay election originally scheduled by Batas Pambansa Blg. 881^[7] on the second Monday of May 1988 was reset to "the second Monday of November 1988 and every five years thereafter by RA No. 6653."^[8] Section 2 of RA No. 6653 changed the term of office of barangay officials and introduced a term limitation as follows:

SEC. 2. The term of office of barangay officials shall be for five (5) years from the first day of January following their election. Provided, however, That no kagawad shall serve for more than two (2) consecutive terms. [Emphasis supplied]

Under Section 5 of RA No. 6653, the punong barangay was to be chosen by seven kagawads from among

themselves, and they in turn, were to be elected at large by the barangay electorate. The punong barangay, under Section 6 of the law, may be recalled for loss of confidence by an absolute majority vote of the Sangguniang Barangay, embodied in a resolution that shall necessarily include the punong barangay's successor.

The election date set by RA No. 6653 on the second Monday of November 1988 was postponed yet again to March 28, 1989 by RA No. 6679 whose pertinent provision states:

SEC. 1. The elections of barangay officials set on the second Monday of November 1988 by Republic Act No. 6653 are hereby postponed and reset to March 28, 1989. They shall serve a term which shall begin on the first day of May 1989 and ending on the thirty-first day of May 1994.

There shall be held a regular election of barangay officials on the second Monday of May 1994 and on the same day every five (5) years thereafter. Their term shall be for five (5) years which shall begin on the first day of June following the election and until their successors shall have been elected and qualified: Provided, That no barangay official shall serve for more than three (3) consecutive terms.

The barangay elections shall be nonpartisan and shall be conducted in an expeditious and inexpensive manner.

Significantly, the manner of election of the punong barangay was changed -

Section 5 of the law provided that while the seven kagawads were to be elected by the registered voters of the barangay, "(t)he candidate who obtains the highest number of votes shall be the punong barangay and in the event of a tie, there shall be a drawing of lots under the supervision of the Commission on Elections."

More than two (2) years after the 1989 barangay elections, RA No. 7160 (the LGC) introduced the following changes in the law:

SEC. 41. Manner of Election. -- (a) The x x x punong barangay shall be elected at large x x x by the qualified voters" therein.

SEC. 43. Term of Office. - (a) The term of office of all local elective officials elected after the effectivity of this Code shall be three (3) years, starting from noon of June 30, 1992 or such date as may be provided for by law, except that of elective barangay officials: Provided, That all local officials first elected during the local elections immediately following the ratification of the 1987 Constitution shall serve until noon of June 30, 1992.

(b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May 1994.

SEC. 387. Chief Officials and Offices. -- (a) There shall be in each barangay a punong barangay, seven (7) sangguniang barangay members, the sangguniang kabataan chairman, a barangay secretary and a barangay treasurer.

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SEC. 390. Composition. -- The Sangguniang barangay, the legislative body of the barangay, shall be composed of the punong barangay as presiding officer, and the seven (7) regular sangguniang barangay members elected at large and the sangguniang kabataan chairman as members. [Emphasis supplied.]

This law started the direct and separate election of the punong barangay by the "qualified voters" in the barangay and not by the seven (7) kagawads from among themselves.[9]

Subsequently or on February 14, 1998, RA No. 8524 changed the three-year term of office of barangay officials under Section 43 of the LGC to five (5) years. On March 19, 2002, RA No. 9164 introduced the following significant changes: (1) the term of office of barangay officials was again fixed at three years on the reasoning that the barangay officials should not serve a longer term than their supervisors;^[10] and (2) the challenged proviso, which states that the 1994 election shall be the reckoning point for the application of the three-term limit, was introduced. Yet another change was introduced three years after or on July 25, 2005 when RA No. 9340 extended the term of the then incumbent barangay officials - due to expire at noon of November 30, 2005 under RA No. 9164 - to noon of November 30, 2007. The three-year term limitation provision survived all these changes.

Congress' Plenary Power to Legislate Term Limits for Barangay Officials and Judicial Power

In passing upon the issues posed to us, we clarify at the outset the parameters of our powers.

As reflected in the above-quoted deliberations of the 1987 Constitution, Congress has plenary authority under the Constitution to determine by legislation not only the duration of the term of barangay officials, but also the application to them of a consecutive term limit. Congress invariably exercised this authority when it enacted no less than six (6) barangay-related laws since 1987.

Through all these statutory changes, Congress had determined at its discretion both the length of the term of office of barangay officials and their term limitation. Given the textually demonstrable commitment by the 1987 Constitution to Congress of the authority to determine the term duration and limitation of barangay officials under the Constitution, we consider it established that whatever Congress, in its wisdom, decides on these matters are political questions beyond the pale of judicial scrutiny,^[11] subject only to the certiorari jurisdiction of the courts provided under Section 1, Article VIII of the Constitution and to the judicial authority to invalidate any law contrary to the Constitution.^[12]

Political questions refer "to those questions which, under the Constitution, are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government; it is concerned with issues dependent upon the wisdom, not legality of a particular measure."^[13] These questions, previously impervious to judicial scrutiny can now be inquired into under the limited window provided by Section 1, Article VIII. *Estrada v. Desierto*^[14] best describes this constitutional development, and we quote:

To a great degree, the 1987 Constitution has narrowed the reach of the political doctrine when it expanded the power of judicial review of this court not only to settle actual controversies involving rights which are legally demandable and enforceable but also 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 government. Heretofore, the judiciary has focused on the "thou shalt not's" of the Constitution directed against the exercise of its jurisdiction. With the new provision, however, courts are given a greater prerogative to determine what it can do to prevent grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of government. Clearly, the new provision did not just grant the Court power of doing nothing. In sync and symmetry with this intent are other provisions of the 1987 Constitution trimming the so called political thicket. xxxx

Thus, we can inquire into a congressional enactment despite the political question doctrine, although the window provided us is narrow; the challenge must show grave abuse of discretion to justify our intervention.

Other than the Section 1, Article VIII route, courts can declare a law invalid when it is contrary to any provision

of the Constitution. This requires the appraisal of the challenged law against the legal standards provided by the Constitution, not on the basis of the wisdom of the enactment. To justify its nullification, the breach of the Constitution must be clear and unequivocal, not a doubtful or equivocal one, as every law enjoys a strong presumption of constitutionality.[15] These are the hurdles that those challenging the constitutional validity of a law must overcome.

The present case, as framed by the respondents, poses no challenge on the issue of grave abuse of discretion. The legal issues posed relate strictly to compliance with constitutional standards. It is from this prism that we shall therefore resolve this case.

The Retroactive Application Issue

a. Interpretative / Historical Consideration

The respondents' first objection to the challenged proviso's constitutionality is its purported retroactive application of the three-term limit when it set the 1994 barangay elections as a reckoning point in the application of the three-term limit.

The respondents argued that the term limit, although present in the previous laws, was not in RA No. 7160 when it amended all previous barangay election laws. Hence, it was re-introduced for the first time by RA No. 9164 (signed into law on March 19, 2002) and was applied retroactively when it made the term limitation effective from the 1994 barangay elections. As the appealed ruling quoted above shows, the RTC fully agreed with the respondents' position.

Our first point of disagreement with the respondents and with the RTC is on their position that a retroactive application of the term limitation was made under RA No. 9164. Our own reading shows that no retroactive application was made because the three-term limit has been there all along as early as the second barangay law (RA No. 6679) after the 1987 Constitution took effect; it was continued under the LGC and can still be found in the current law. We find this obvious from a reading of the historical development of the law.

The first law that provided a term limitation for barangay officials was RA No. 6653 (1988); it imposed a two-consecutive term limit. After only six months, Congress, under RA No. 6679 (1988), changed the two-term limit by providing for a three-consecutive term limit. This consistent imposition of the term limit gives no hint of any equivocation in the congressional intent to provide a term limitation. Thereafter, RA No. 7160 - the LGC - followed, bringing with it the issue of whether it provided, as originally worded, for a three-term limit for barangay officials. We differ with the RTC analysis of this issue.

Section 43 is a provision under Title II of the LGC on Elective Officials. Title II is divided into several chapters dealing with a wide range of subject matters, all relating to local elective officials, as follows: a. Qualifications and Election (Chapter I); b. Vacancies and Succession (Chapter II), c. Disciplinary Actions (Chapter IV) and d. Recall (Chapter V). Title II likewise contains a chapter on Local Legislation (Chapter III).

These Title II provisions are intended to apply to all local elective officials, unless the contrary is clearly provided. A contrary application is provided with respect to the length of the term of office under Section 43(a); while it applies to all local elective officials, it does not apply to barangay officials whose length of term is specifically provided by Section 43(c). In contrast to this clear case of an exception to a general rule, the three-term limit under Section 43(b) does not contain any exception; it applies to all local elective officials who must perforce include barangay officials.

An alternative perspective is to view Sec. 43(a), (b) and (c) separately from one another as independently standing

and self-contained provisions, except to the extent that they expressly relate to one another. Thus, Sec. 43(a) relates to the term of local elective officials, except barangay officials whose term of office is separately provided under Sec. 43(c). Sec. 43(b), by its express terms, relates to all local elective officials without any exception. Thus, the term limitation applies to all local elective officials without any exclusion or qualification.

Either perspective, both of which speak of the same resulting interpretation, is the correct legal import of Section 43 in the context in which it is found in Title II of the LGC.

To be sure, it may be argued, as the respondents and the RTC did, that paragraphs (a) and (b) of Section 43 are the general law for elective officials (other than barangay officials); and paragraph (c) is the specific law on barangay officials, such that the silence of paragraph (c) on term limitation for barangay officials indicates the legislative intent to exclude barangay officials from the application of the three-term limit. This reading, however, is flawed for two reasons.

First, reading Section 43(a) and (b) together to the exclusion of Section 43(c), is not justified by the plain texts of these provisions. Section 43(a) plainly refers to local elective officials, except elective barangay officials. In comparison, Section 43(b) refers to all local elective officials without exclusions or exceptions. Their respective coverages therefore vary so that one cannot be said to be of the same kind as the other. Their separate topics additionally strengthen their distinction; Section 43(a) refers to the term of office while Section 43(b) refers to the three-term limit. These differences alone indicate that Sections 43(a) and (b) cannot be read together as one organic whole in the way the RTC suggested. Significantly, these same distinctions apply between Sec. 43(b) and (c).

Second, the RTC interpretation is flawed because of its total disregard of the historical background of Section 43(c) - a backdrop that we painstakingly outlined above.

From a historical perspective of the law, the inclusion of Section 43(c) in the LGC is an absolute necessity to clarify the length of term of barangay officials. Recall that under RA No. 6679, the term of office of barangay officials was five (5) years. The real concern was how Section 43 would interface with RA No. 6679. Without a categorical statement on the length of the term of office of barangay officials, a general three-year term for all local elective officials under Section 43(a), standing alone, may not readily and completely erase doubts on the intended abrogation of the 5-year term for barangay officials under RA No. 6679. Thus, Congress added Section 43(c) which provided a categorical three-year term for these officials. History tells us, of course, that the unequivocal provision of Section 43(c) notwithstanding, an issue on what is the exact term of office of barangay officials was still brought to us via a petition filed by no less than the President of the Liga ng Mga Barangay in 1997. We fully resolved the issue in the cited *David v. Comelec*.

Section 43(c) should therefore be understood in this context and not in the sense that it intended to provide the complete rule for the election of barangay officials, so that in the absence of any term limitation proviso under this subsection, no term limitation applies to barangay officials. That Congress had the LGC's three-term limit in mind when it enacted RA No. 9164 is clear from the following deliberations in the House of Representatives (House) on House Bill No. 4456 which later became RA No. 9164:

MARCH 5, 2002:

THE DEPUTY SPEAKER (Rep. Espinosa, E.R.). Majority Leader.

REP. ESCUDERO. Mr. Speaker, next to interpellate is the Gentleman from Zamboanga City. I ask that the Honorable Lobregat be recognized.

THE DEPUTY SPEAKER (Rep. Espinosa, E.R.). The Honorable Lobregat is recognized.

REP. LOBREGAT. Thank you very much, Mr. Speaker. Mr. Speaker, this is just ...

REP. MACIAS. Willingly to the Gentleman from Zamboanga City.

REP. LOBREGAT. ... points of clarification, Mr. Speaker, the term of office. It says in Section 4, "The term of office of all Barangay and sangguniang kabataan officials after the effectivity of this Act shall be three years." Then it says, "No Barangay elective official shall serve for more than three (3) consecutive terms in the same position."

Mr. Speaker, I think it is the position of the committee that the first term should be reckoned from election of what year, Mr. Speaker?

REP. MACIAS. After the adoption of the Local Government Code, Your Honor. So that the first election is to be reckoned on, would be May 8, 1994, as far as the Barangay election is concerned.

REP. LOBREGAT. Yes, Mr. Speaker. So there was an election in 1994.

REP. MACIAS. Then an election in 1997.

REP. LOBREGAT. There was an election in 1997. And there will be an election this year ...

REP. LOBREGAT. ... election this year.

REP. MACIAS. That is correct. This will be the third.

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REP. SUMULONG. Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Espinosa, E.R.) The Honorable Sumulong is recognized.

REP. SUMULONG. Again, with the permission of my Chairman, I would like to address the question of Congressman Lobregat.

THE DEPUTY SPEAKER (Rep. Espinosa, E.R.). Please proceed.

REP. SUMULONG. With respect to the three-year consecutive term limits of Barangay Captains that is not provided for in the Constitution and that is why the election prior to 1991 during the enactment of the Local Government Code is not counted because it is not in the Constitution but in the Local Government Code where the three consecutive term limits has been placed. [Emphasis supplied.]

which led to the following exchanges in the House Committee on Amendments:

March 6, 2002

COMMITTEE ON AMENDMENTS

REP. GONZALES. May we now proceed to committee amendment, if any, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Gonzalez). The Chair recognizes the distinguished Chairman of the Committee on Suffrage and Electoral Reforms.

REP. SYJUCO. Mr. Speaker, on page 2, line 7, after the word "position", substitute the period (.) and add the following: PROVIDED HOWEVER THAT THE TERM OF OFFICE SHALL BE RECKONED FROM THE 1994 BARANGAY ELECTIONS. So that the amended Section 4 now reads as follows:

"SEC. 4. Term of Office. - The term of office of all barangay and sangguniang kabataan officials after the effectivity of this Act shall be three (3) years.

No barangay elective local official shall serve for more than three (3) consecutive terms in the same position COLON (:) PROVIDED, HOWEVER, THAT THE TERM OF OFFICE SHALL BE RECKONED FROM THE 1994 BARANGAY ELECTIONS. Voluntary renunciation of office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official was elected.

The House therefore clearly operated on the premise that the LGC imposed a three-term limit for barangay officials, and the challenged proviso is its way of addressing any confusion that may arise from the numerous changes in the law.

All these inevitably lead to the conclusion that the challenged proviso has been there all along and does not simply retroact the application of the three-term limit to the barangay elections of 1994. Congress merely integrated the past statutory changes into a seamless whole by coming up with the challenged proviso.

With this conclusion, the respondents' constitutional challenge to the proviso - based on retroactivity - must fail.

b. No Involvement of Any
Constitutional Standard

Separately from the above reason, the constitutional challenge must fail for a more fundamental reason - the respondents' retroactivity objection does not involve a violation of any constitutional standard.

Retroactivity of laws is a matter of civil law, not of a constitutional law, as its governing law is the Civil Code,[16] not the Constitution. Article 4 of the Civil Code provides that laws shall have no retroactive effect unless the contrary is provided. The application of the Civil Code is of course self-explanatory - laws enacted by Congress may permissibly provide that they shall have retroactive effect. The Civil Code established a statutory norm, not a constitutional standard.

The closest the issue of retroactivity of laws can get to a genuine constitutional issue is if a law's retroactive application will impair vested rights. Otherwise stated, if a right has already vested in an individual and a subsequent law effectively takes it away, a genuine due process issue may arise. What should be involved, however, is a vested right to life, liberty or property, as these are the ones that may be considered protected by the due process clause of the Constitution.

In the present case, the respondents never raised due process as an issue. But even assuming that they did, the respondents themselves concede that there is no vested right to public office.[17] As the COMELEC correctly pointed out, too, there is no vested right to an elective post in view of the uncertainty inherent in electoral exercises.

Aware of this legal reality, the respondents theorized instead that they had a right to be voted upon by the electorate without being burdened by a law that effectively rendered them ineligible to run for their incumbent positions. Again, the RTC agreed with this contention.

We do not agree with the RTC, as we find no such right under the Constitution; if at all, this claimed right is merely a restatement of a claim of vested right to a public office. What the Constitution clearly provides is the power of Congress to prescribe the qualifications for elective local posts;[18] thus, the question of eligibility for an elective local post is a matter for Congress, not for the courts, to decide. We dealt with a strikingly similar issue in *Montesclaros v. Commission on Elections*[19] where we ruled that SK membership - which was claimed as a property right within the meaning of the Constitution - is a mere statutory right conferred by law. *Montesclaros* instructively tells us:

Congress exercises the power to prescribe the qualifications for SK membership. One who is no longer qualified because of an amendment in the law cannot complain of being deprived of a proprietary right to SK membership. Only those who qualify as SK members can contest, based on a statutory right, any act disqualifying them from SK membership or from voting in the SK elections. SK membership is not a property right protected by the Constitution because it is a mere statutory right conferred by law. Congress may amend at any time the law to change or even withdraw the statutory right.

A public office is not a property right. As the Constitution expressly states, a "[P]ublic office is a public trust." No one has a vested right to any public office, much less a vested right to an expectancy of holding a public office. In *Cornejo v. Gabriel*, decided in 1920, the Court already ruled:

Again, for this petition to come under the due process of law prohibition, it would be necessary to consider an office a "property." It is, however, well settled x x x that a public office is not property within the sense of the constitutional guaranties of due process of law, but is a public trust or agency. x x x The basic idea of the government x x x is that of a popular representative government, the officers being mere agents and not rulers of the people, one where no one man or set of men has a proprietary or contractual right to an office, but where every officer accepts office pursuant to the provisions of the law and holds the office as a trust for the people he represents.

Petitioners, who apparently desire to hold public office, should realize from the very start that no one has a proprietary right to public office. While the law makes an SK officer an ex-officio member of a local government legislative council, the law does not confer on petitioners a proprietary right or even a proprietary expectancy to sit in local legislative councils. The constitutional principle of a public office as a public trust precludes any proprietary claim to public office. Even the State policy directing "equal access to opportunities for public service" cannot bestow on petitioners a proprietary right to SK membership or a proprietary expectancy to ex-officio public offices.

Moreover, while the State policy is to encourage the youth's involvement in public affairs, this policy refers to those who belong to the class of people defined as the youth. Congress has the power to define who are the youth qualified to join the SK, which itself is a creation of Congress. Those who do not qualify because they are past the age group defined as the youth cannot insist on being part of the youth. In government service, once an employee reaches mandatory retirement age, he cannot invoke any property right to cling to his office. In the same manner, since petitioners are now past the maximum age for membership in the SK, they cannot invoke any property right to cling to their SK membership. [Emphasis supplied.]

To recapitulate, we find no merit in the respondents' retroactivity arguments because: (1) the challenged proviso did not provide for the retroactive application to barangay officials of the three-term limit; Section 43(b) of RA No. 9164 simply continued what had been there before; and (2) the constitutional challenge based on retroactivity was not anchored on a constitutional standard but on a mere statutory norm.

The Equal Protection Clause Issue

The equal protection guarantee under the Constitution is found under its Section 2, Article III, which provides: "Nor shall any person be denied the equal protection of the laws." Essentially, the equality guaranteed under this clause is equality under the same conditions and among persons similarly situated. It is equality among equals, not similarity of treatment of persons who are different from one another on the basis of substantial distinctions related to the objective of the law; when things or persons are different in facts or circumstances, they may be treated differently in law.[20]

Appreciation of how the constitutional equality provision applies inevitably leads to the conclusion that no basis exists in the present case for an equal protection challenge. The law can treat barangay officials differently from

other local elective officials because the Constitution itself provides a significant distinction between these elective officials with respect to length of term and term limitation. The clear distinction, expressed in the Constitution itself, is that while the Constitution provides for a three-year term and three-term limit for local elective officials, it left the length of term and the application of the three-term limit or any form of term limitation for determination by Congress through legislation. Not only does this disparate treatment recognize substantial distinctions, it recognizes as well that the Constitution itself allows a non-uniform treatment. No equal protection violation can exist under these conditions.

From another perspective, we see no reason to apply the equal protection clause as a standard because the challenged proviso did not result in any differential treatment between barangay officials and all other elective officials. This conclusion proceeds from our ruling on the retroactivity issue that the challenged proviso does not involve any retroactive application.

Violation of the Constitutional

One Subject- One Title Rule

Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof. *Fariñas v. Executive Secretary*[21] provides the reasons for this constitutional requirement and the test for its application, as follows:

The proscription is aimed against the evils of the so-called omnibus bills and log-rolling legislation as well as surreptitious and/or unconsidered encroachments. The provision merely calls for all parts of an act relating to its subject finding expression in its title.

To determine whether there has been compliance with the constitutional requirement that the subject of an act shall be expressed in its title, the Court laid down the rule that -

Constitutional provisions relating to the subject matter and titles of statutes should not be so narrowly construed as to cripple or impede the power of legislation. The requirement that the subject of an act shall be expressed in its title should receive a reasonable and not a technical construction. It is sufficient if the title be comprehensive enough reasonably to include the general object which a statute seeks to effect, without expressing each and every end and means necessary or convenient for the accomplishing of that object. Mere details need not be set forth. The title need not be an abstract or index of the Act.

x x x x

x x x This Court has held that an act having a single general subject, indicated in the title, may contain any number of provisions, no matter how diverse they may be, so long as they are not inconsistent with or foreign to the general subject, and may be considered in furtherance of such subject by providing for the method and means of carrying out the general subject.

x x x x

x x x Moreover, the avowed purpose of the constitutional directive that the subject of a bill should be embraced in its title is to apprise the legislators of the purposes, the nature and scope of its provisions, and prevent the enactment into law of matters which have not received the notice, action and study of the legislators and the public.

We find, under these settled parameters, that the challenged proviso does not violate the one subject-one title rule.

First, the title of RA No. 9164, "An Act Providing for Synchronized Barangay and Sangguniang Kabataang Elections, amending Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991," states the law's general subject matter - the amendment of the LGC to synchronize the barangay and SK

elections and for other purposes. To achieve synchronization of the barangay and SK elections, the reconciliation of the varying lengths of the terms of office of barangay officials and SK officials is necessary. Closely related with length of term is term limitation which defines the total number of terms for which a barangay official may run for and hold office. This natural linkage demonstrates that term limitation is not foreign to the general subject expressed in the title of the law.

Second, the congressional debates we cited above show that the legislators and the public they represent were fully informed of the purposes, nature and scope of the law's provisions. Term limitation therefore received the notice, consideration, and action from both the legislators and the public.

Finally, to require the inclusion of term limitation in the title of RA No. 9164 is to make the title an index of all the subject matters dealt with by law; this is not what the constitutional requirement contemplates.

WHEREFORE, premises considered, we GRANT the petition and accordingly AFFIRM the constitutionality of the challenged proviso under Section 2, paragraph 2 of Republic Act No. 9164. Costs against the respondents.

SO ORDERED.

Puno, C.J., Carpio, Carpio Morales, Chico-Nazario, Nachura, Leonardo-De Castro, Bersamin, Del Castillo, Abad, and Villarama, Jr., JJ., concur.

Corona, Velasco, Jr., and Peralta, JJ., on official leave.

[1] Filed under Rule 45 of the Rules of Court; the RTC Decision was penned by Judge Eleonor Kwong.

[2] The respondents herein: Conrado Cruz, Santiago P. Go, Renato F. Borbon, Levvino Ching, Carlos C. Florentino, Ruben G. Ballega, Loida Alcedo, Mario M. Cajucom, Emmanuel M. Calma, Manuel A. Rayos, Wilma L. Chua, Eufemio S. Alfonso, Jesus M. Lacanilao, Bonifacio N. Alcapa, Jose H. Silverio, Rodrigo Develles, Nida R. Paunan, Mariano B. Estuye, Jr., Rafael C. Arevalo, Arturo T. Manabat, Ricardo O. Lizarondo, Leticia C. Maturan, Rodrigo A. Alayan, Leonilo N. Miranda, Desederio O. Monreal, Francisco M. Bahia, Nestor R. Foronda, Vicente B. Que, Jr., Aurelio A. Biluan, Danilo R. Gatchalian, Lourdes R. del Mundo, Emma O. Calzado, Felimon de Leon, Tany V. Catacutan, and Concepcion P. Jao.

[3] Rollo, pp. 46-56

[4] Ibid.

[5] 337 Phil. 534 (1997); penned by Associate Justice, later Chief Justice, Artemio V. Panganiban (retired).

[6] Underscoring supplied; cited in *David v. Comelec*, *supra*.

[7] Omnibus Election Code.

[8] Section 1, R.A. No. 6653.

[9] See *David v. COMELEC*, *supra* note 5.

[10] See the Deliberations in the Senate, cited in the respondents' Petition for Declaratory Relief; rollo, pp. 66-67.

[11] See *Baker v. Carr*, 369 US 186, 82 S.Ct. 691, 7 L ed 2d 663, 686 (1962), as cited in *Estrada v. Desierto*, 406 Phil. 1 (2001).

[12] *Garcia v. Executive Secretary* (G.R. No. 157584, April 2, 2009) holds:

The power of judicial review is the power of the courts to test the validity of executive and legislative acts for their conformity with the Constitution. Through such power, the judiciary enforces and upholds the supremacy of the Constitution. For a court to exercise this power, certain requirements must first be met, namely:

- (1) an actual case or controversy calling for the exercise of judicial power;
- (2) the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
- (3) the question of constitutionality must be raised at the earliest possible opportunity; and
- (4) the issue of constitutionality must be the very *lis mota* of the case.

[13] See *Estrada v. Desierto*, *supra* note 11.

[14] *Ibid*.

[15] *Abakada Guro Party List v. Purisima*, G.R. No. 166715, August 14, 2008, 562 SCRA 251.

[16] Republic Act No. 386, otherwise known as the Civil Code of the Philippines.

[17] See Respondents' Comment, pp. 8-9.

[18] CONSTITUTION, Article X, Section 3 provides:

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

[19] 433 Phil. 620 (2002).

[20] *Abakada Guro Party List v. Purisima*, *supra* note 16.

[21] 463 Phil. 179 (2003).

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