

HON. MICHAEL L. RAMA, IN HIS CAPACITY AS MAYOR OF CEBU CITY; METROPOLITAN CEBU WATER DISTRICT (MCWD), REPRESENTED BY ITS GENERAL MANAGER, ARMANDO PAREDES; THE BOARD OF DIRECTORS...

G.R. No. 197146. August 08, 2017

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-197146/>

BERSAMIN, J.:

For resolution is the motion for reconsideration filed by the respondents vis-a-vis the decision promulgated on December 6, 2016[1] annulling and setting aside the decision rendered on November 16, 2010[2] by the Regional Trial Court (RTC), Branch 18, in Cebu City in Civil Case No. CEB-34459; and declaring Section 3(b) of Presidential Decree No. 198 unconstitutional to the extent that the provision applied to highly urbanized cities like Cebu City as well as to component cities with charters expressly providing for their voters not eligible to vote for the officials of the provinces to which they belong, and for being in violation of the express policy of the 1987 Constitution on local autonomy, among others.

The respondents claim that the petitioners have disregarded the principle of hierarchy of courts, and have resorted to the wrong remedy in assailing the decision of the RTC.[3] They explain that under the principle of hierarchy of courts, the petitioners should have filed their petition in the Court of Appeals instead of in this Court, which is a court of last resort. They also insist that the petitioners have no locus standi inasmuch as they - being officials of Cebu City - will never sustain direct injury from the application of Section 3(b) of P.D. 198.[4]

We deny the motion for reconsideration.

The policy on the hierarchy of courts is not to be regarded as an iron-clad rule. In *The Diocese of Bacolod v. Commission on Elections*[5] and *Querubin v. Commission on Elections*,[6] the Court has enumerated the various specific instances when direct resort to the Court may be allowed, to wit: (a) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (b) when the issues involved are of transcendental importance; (c) cases of first impression; (d) when the constitutional issues raised are best decided by this Court; (e) when the time element presented in this case cannot be ignored; (f) when the petition reviews the act of a constitutional organ; (g) when there is no other plain, speedy, and adequate remedy in the ordinary course of law; (h) when public welfare and the advancement of public policy so dictates, or when demanded by the broader interest of justice; (i) when the orders complained of are patent nullities; and G) when appeal is considered as clearly an inappropriate remedy.

This case falls under two of the aforesaid exceptions considering that the validity or constitutionality of P.D. No. 198 a statute or decree, or a provision thereof is being challenged. Moreover, the Court has full discretionary power to take cognizance of and assume jurisdiction over the special civil actions for certiorari and mandamus filed directly with it for exceptionally compelling reasons or when warranted by the nature of the issues that are clearly and specifically raised in the petition.[7]

While this Court has often insisted on the strict application of the principle of hierarchy of courts in numerous cases, the application has not been absolute. When the issues involve the constitutionality of a statute or law, or when the issues involved are those of transcendental importance, procedural technicalities should yield in accordance with the well-entrenched principle that rules of procedure are not inflexible tools designed to hinder or delay, but rather to facilitate and promote the administration of justice.[8] And while it is true that laws are presumed to be constitutional, that presumption is not by any means conclusive and in fact may be rebutted. Indeed, if there be a clear showing of their invalidity, and of the need to declare them so, then "will be the time to make the hammer fall, and heavily, 11 to recall Justice Laurel's trenchant warning. Stated otherwise, courts should not follow the path of least resistance by simply presuming the constitutionality of a law when it is questioned.[9]

The standing of the petitioners to bring this suit is also being challenged on the basis that they would not suffer any direct injury from the enforcement of the assailed law.

The challenge is unworthy of consideration. In *Imbong v. Ochoa, Jr.*,[10] the Court, citing *Coconut Oil Refiners Association, Inc. v. Torres*,[11] has held that the standing requirement may be relaxed in cases of paramount importance where serious constitutional questions are involved, and a suit may be allowed to prosper even where there is no direct injury to the party claiming the right of judicial review.[12] Moreover, the Court has held that a party's standing before the Court is a procedural technicality that it may, in the exercise of its discretion, set aside in view of the importance of the issues raised.[13]

All the other issues raised by the respondent in the motion for reconsideration were already resolved and sufficiently discussed in the assailed decision.

WHEREFORE, the Court DENIES the motion for reconsideration for its lack of merit.

SO ORDERED.

Sereno, C. J., Velasco, Jr., Peralta, Mendoza, Perlas-Bernabe, Leonen, Caguioa, Martires, Tijam, and Reyes, Jr., JJ., concur.

Carpio, J., I join the dissent of Justice Brion in the main case.

Leonardo-De Castro, J., Please see my dissenting opinion.

Del Castillo, J., I maintain my vote joining the dissent of J. Brion in the main case.

Jardeleza, J., I maintain my vote joining the dissent of J. Brion in the case main.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on August 8, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 22, 2017 at 1:30 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 503-522.

[2] Id. at 73-80.

[3] Id. at 576-580; penned by Judge Gilbert P. Moises.

[4] Id. at 568.

[5] G.R. No. 205728, January 21, 2015, 747 SCRA 1, 45-49.

[6] G.R. No. 218787, December 8, 2015, 776 SCRA 715, 754-755.

[7] Department of Foreign Affairs v. Falcon, G.R. No. 176657, September 1, 2010, 629 SCRA 644, 669.

[8] Jaworski v. Philippine Amusement and Gaming Corporation, G.R. No. 144463, January 14, 2004, 419 SCRA 317, 323-324.

[9] Ynot v. Intermediate Appellate Court, No. L-74457, March 20, 1987, 148 SCRA 659, 666.

[10] G.R. Nos. 204819, 204934, 204957, 204988, 205003, 205043, 205138, 205478, 205491, 205720, 206355, 207111, 207172, & 207563, April 8, 2014, 721 SCRA 146.

[11] G.R. No. 132527, July 29, 2005, 465 SCRA 47.

[12] Imbong v. Ochoa, supra note 10, at 284.

[13] Kilosbayan, Incorporated v. Guingona, Jr., G.R. No. 113375, May 5, 1994, 232 SCRA 110, 191.

DISSENTING OPINION**LEONARDO-DE CASTRO, J.:**

I vote to grant the Motion for Reconsideration of respondent Governor of Cebu Province and maintain my position that Section 3(b) of Presidential Decree (PD) No. 198 is not unconstitutional and that the Court should not engage in judicial legislation by vesting the power to appoint a member of the Board of Directors of Metropolitan Cebu Water District (MCWD) upon petitioner Mayor of Cebu City.

The ponente, in his Resolution denying respondent Governor's Motion for Reconsideration, directly addressed only two procedural issues raised in said Motion, i.e., the failure of petitioners to observe the hierarchy of courts and petitioners' lack of legal standing. Essentially, the ponente cited the exceptions to well-settled principles/doctrines to justify his giving due course to the instant Petition for Certiorari despite its procedural infirmities. The ponente then stated that all other issues raised by respondent Governor in the Motion for Reconsideration were already resolved and sufficiently discussed in the Decision dated December 6, 2016.

In my view, petitioners utterly failed to establish that the constitutional issues raised in the Petition at bar are of transcendental importance calling for urgent resolution, which would warrant the relaxation of the doctrine of locus standi and the principle of hierarchy of courts. Indeed, the constitutional issues presently before the Court

relate to local water districts (LWDs) in charge of local water supply and waste water disposal; but as pointed out by now retired Associate Justice Arturo D. Brion, whom I joined in his Dissenting Opinion to the Decision dated December 6, 2016, none of the parties alleged that the operations of MCWD had been or would be paralyzed simply because the appointing power of the members of the MCWD Board of Directors shifted from one government official to the other. In addition, Section 18 of PD No. 198[1] specifically limits the power of the Board of Directors of an LWD, such as MCWD, to policy-making, hence, any question as to the appointment of its Board members will not have a direct and immediate effect upon the day-to-day operations of MCWD.

More importantly, respondent Governor's arguments in the Motion for Reconsideration on the substantive issues should be accorded more than just a cursory, pro-forma consideration. The constitutional issues at the crux of the present case deserve another thorough scrutiny.

As Justice Brion declared in his Dissenting Opinion to the Decision dated December 6, 2016, all laws, including Presidential Decrees issued by President Marcos, enjoy the presumption of constitutionality. To justify the nullification of a law, there must be a clear and unequivocal breach of the Constitution, not a doubtful and equivocal breach. Laws shall not be declared invalid unless the conflict with the Constitution is clear beyond reasonable doubt.[2]

I am still of the opinion that there is no clear and unequivocal breach of the Constitution by Section 3(b) of PD No. 198. Petitioners were unable to establish beyond reasonable doubt that Section 3(b) of PD No. 198 violated their constitutional rights to due process and equal protection of the law.

Section 3(b) of PD No. 198 does not deprive Cebu City of any property without due process of law. Indeed, majority of the assets and facilities of MCWD originated from the Osmeña Waterworks System (OWS), which was previously operated and maintained by Cebu City. Yet, in accordance with the provisions of PD No. 198 on the creation of an LWD, Cebu City, through Resolution No. 873, which was approved on May 9, 1974 by then Mayor Eulogio Borres, created the MCWD, and thereafter, transferred all the assets and facilities of OSW to MCWD. Once formed, the MCWD became a government-owned-and-controlled corporation which was no longer under the jurisdiction of any political subdivision, even of Cebu City. The assets and facilities of OSW are now owned by MCWD, and Cebu City no longer has any existing proprietary rights to the same.

Neither does Section 3(b) of PD No. 198 violate the right of Cebu City to equal protection of the law since it is based on a reasonable classification. Worth reproducing below is Justice Brion's ratiocination on the matter in his Dissenting Opinion to the Decision dated December 6, 2016:

One substantial distinction between provinces, on one hand, and cities (whether component, highly urbanized, or independent) and municipalities, on the other, is the land areas they cover.

Under the Local Government Code, a province must have a contiguous territory of at least two thousand (2,000) square kilometers. On the other hand, a city or a municipality must have a contiguous territory of at least one hundred (100), and fifty (50) square kilometers, respectively.

By giving the Governor the power to appoint, Section 3(b) entrusts the appointing power to the highest local official who oversees the largest geography where the LWD may expand its operations.

However, Section 3(b) also realizes that confining the appointing power to the Governor loses its relevance where the LWD operates almost entirely within a single city or municipality. Thus, as an alternative, Section 3(b) lodges the appointing power with the Mayor of the City or Municipality where 75% or 3/4 of the LWDs water connections are located.

Neither was the 75% threshold created to favor Governors, as specific class, over Mayors; nor is it limited to

conditions existing at the time PD 198 was enacted, or at the time an LWD is created.

The phrase "In the event that more than seventy-five percent of the total active water service connections of a local water district are within the boundary of any city or municipality" signifies that the appointing power may shift at any time depending on the circumstances.

To illustrate this dynamic, while the province of Cebu now enjoys the appointing power, a future increase in MCWD's water connections within Cebu City may re-shift the appointing power to the Mayor.

Finally, do I not see anything wrong in applying the 75% threshold to all cities, regardless of their respective status as a component, independent component or highly urbanized.

Ironically, what would consist of discrimination is to treat highly urbanized and independent component cities differently from component cities on the supposed reason that the former enjoys autonomy over its territory. The authority to appoint, as I will discuss below, does not equate to control over the other LGUs serviced by an LWD.

May I also reiterate herein the argument in my Dissenting Opinion to the Decision dated December 6, 2016 that the LGU does not surrender any of its powers under the Constitution or the Local Government Code to another LGU vested with the power to appoint Board members of the LWD since PD No. 198 explicitly provides that a district once formed shall not be under the jurisdiction of any political subdivision. The LWD has a separate juridical personality which is independent of the LGUs comprising it. Consequently, the power to appoint Board members of an LWD, which is vested upon the LGU determined in accordance with the formula or rule prescribed by Section 3(b) of PD No. 198, does not impair the autonomy of the other LGUs included in the LWD. Moreover, if a province can join an LWD and be subjected to the provisions of PD No. 198, there is no cogent reason why the change of status of a component city of a province, which would later become a highly urbanized city, should affect its powers, rights, and obligations under PD No. 198.

Finally, the Decision dated December 6, 2016 engaged in judicial legislation by substituting a rule or formula to that provided under Section 3(b) of PD No. 198 for determining the appointing authority for the Board members of MCWD. By granting the Petition and vesting the appointing authority on Cebu City, the Decision effectively reduced the threshold of 75% of total active water service connections within the boundary of any city or municipality, which is fixed under Section 3(b) of PD No. 198, to just a majority (or 51%) of such total active water service connections, which is a totally arbitrary figure without basis in law. If Section 3(b) of PD No. 198 is no longer in keeping with the current status, socio-economic, and political conditions of the LGUs comprising the LWD, then the appropriate remedy is legislative amendment, not judicial legislation. It is not for the Court to prescribe another rule or formula to determine which LGU shall have the authority to appoint the Board members of the LWD.

For the aforementioned reasons, I vote to grant the Motion for Reconsideration and deny the Petition for Certiorari for lack of merit.

[1] Sec. 18. Functions Limited to Policy-Making. - The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district.

[2] *Dumlao v. Commission on Elections*, 184 Phil. 369, 382 (1980).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.