

AURELIO M. UMALI, PETITIONER, VS. COMMISSION ON ELECTIONS, JULIUS CESAR V. VERGARA, AND THE CITY GOVERNMENT OF CABANATUAN, RESPONDENTS.

G.R. No. 203974. April 22, 2014

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-203974/>

VELASCO JR., J.:

Before the Court is the consolidated case for Petition for Certiorari and Prohibition with prayer for injunctive relief, docket as G.R. No. 203974, assailing Minute Resolution No. 12-0797[1] and Minute Resolution No. 12-0925[2] dated September 11, 2012 and October 16, 2012, respectively, both promulgated by public respondent Commission on Elections (COMELEC), and Petition for Mandamus, docketed G.R. No. 204371, seeking to compel public respondent to implement the same.

The Facts

On July 11, 2011, the Sangguniang Panglungsod of Cabanatuan City passed Resolution No. 183-2011, requesting the President to declare the conversion of Cabanatuan City from a component city of the province of Nueva Ecija into a highly urbanized city (HUC). Acceding to the request, the President issued Presidential Proclamation No. 418, Series of 2012, proclaiming the City of Cabanatuan as an HUC subject to “ratification in a plebiscite by the qualified voters therein, as provided for in Section 453 of the Local Government Code of 1991.”

Respondent COMELEC, acting on the proclamation, issued the assailed Minute Resolution No. 12-0797 which reads:

WHEREFORE, the Commission RESOLVED, as it hereby RESOLVES, that for purposes of the plebiscite for the conversion of Cabanatuan City from component city to highly-urbanized city, only those registered residents of Cabanatuan City should participate in the said plebiscite.

The COMELEC based this resolution on Sec. 453 of the Local Government Code of 1991 (LGC), citing conversion cases involving Puerto Princesa City in Palawan, Tacloban City in Southern Leyte, and Lapu-Lapu City in Cebu, where only the residents of the city proposed to be converted were allowed to vote in the corresponding plebiscite.

In due time, petitioner Aurelio M. Umali, Governor of Nueva Ecija, filed a Verified Motion for Reconsideration, maintaining that the proposed conversion in question will necessarily and directly affect the mother province of Nueva Ecija. His main argument is that Section 453 of the LGC should be interpreted in conjunction with Sec. 10, Art. X of the Constitution. He argues that while the conversion in question does not involve the creation of a new or the dissolution of an existing city, the spirit of the Constitutional provision calls for the people of the local government unit (LGU) directly affected to vote in a plebiscite whenever there is a material change in their rights and responsibilities. The phrase “qualified voters therein” used in Sec. 453 of the LGC should then be interpreted to refer to the qualified voters of the units directly affected by the conversion and not just those in the component city proposed to be upgraded. Petitioner Umali justified his position by enumerating the various adverse effects of

the Cabanatuan City's conversion and how it will cause material change not only in the political and economic rights of the city and its residents but also of the province as a whole.

To the Verified Motion for Reconsideration, private respondent Julius Cesar Vergara, city mayor of Cabanatuan, interposed an opposition on the ground that Sec. 10, Art. X does not apply to conversions, which is the meat of the matter. He likewise argues that a specific provision of the LGC, Sec. 453, as couched, allows only the qualified voters of Cabanatuan City to vote in the plebiscite. Lastly, private respondent pointed out that when Santiago City was converted in 1994 from a municipality to an independent component city pursuant to Republic Act No. (RA) 7720, the plebiscite held was limited to the registered voters of the then municipality of Santiago.

Following a hearing conducted on October 4, 2012,[3] the COMELEC En Banc on October 16, 2012, in E.M No. 12-045 (PLEB), by a vote of 5-2[4] ruled in favor of respondent Vergara through the assailed Minute Resolution 12-0925. The dispositive portion reads:

The Commission, taking into consideration the arguments of counsels including the Reply-memorandum of Oppositor, after due deliberation, RESOLVED, as it hereby RESOLVES, as follows:

- 1) To DENY the Motion for Reconsideration of oppositor Governor Aurelio M. Umali; and
- 2) To SCHEDULE the conduct of Plebiscite for the conversion of Cabanatuan City from component city into highly-urbanized city with registered residents only of Cabanatuan City to participate in said plebiscite.

Let the Deputy Executive Director for Operations implement this resolution.

SO ORDERED.

Hence, the Petition for Certiorari with prayer for injunctive relief, docketed as G.R. No. 203974, on substantially the same arguments earlier taken by petitioner Umali before the poll body. On the other hand, public respondent COMELEC, through the Office of the Solicitor General, maintained in its Comment that Cabanatuan City is merely being converted from a component city into an HUC and that the political unit directly affected by the conversion will only be the city itself. It argues that in this instance, no political unit will be created, merged with another, or will be removed from another LGU, and that no boundaries will be altered. The conversion would merely reinforce the powers and prerogatives already being exercised by the city, with the political unit's probable elevation to that of an HUC as demanded by its compliance with the criteria established under the LGC. Thus, the participation of the voters of the entire province in the plebiscite will not be necessary.

Private respondent will later manifest that it is adopting the Comment of the COMELEC.

Meanwhile, on October 25, 2012, respondent COMELEC promulgated Resolution No. 9543, which adopted a calendar of activities and periods of prohibited acts in connection with the conversion of Cabanatuan City into an HUC. The Resolution set the conduct of the plebiscite on December 1, 2012. Thereafter, a certain Dr. Rodolfo B. Punzalan filed a Petition for Declaratory Relief which was raffled to the Regional Trial Court (RTC), Branch 40 in Palayan City. In the said case, Punzalan prayed that Minute Resolution No. 12-0797 be declared unconstitutional, that the trial court decree that all qualified voters of the province of Nueva Ecija be included in the plebiscite, and that a Temporary Restraining Order (TRO) be issued enjoining public respondent from implementing the questioned resolution. On October 19, 2012, the RTC granted the prayer for a TRO.

On November 6, 2012, public respondent through Minute Resolution No. 12-0989 suspended the preparations for the event in view of the TRO issued by the RTC. On November 27, 2012, the plebiscite was once again rescheduled to give way to the May 13, 2013 national, local and ARMM regional elections as per Resolution No. 9563.

After this development, petitioner J.V. Bautista, on December 3, 2012, filed a case before this Court for Mandamus, docketed as G.R. No. 204371, praying that public respondent be ordered to schedule the plebiscite either on December 15 or 22, 2012. Petitioner Bautista argued that since the TRO issued by the RTC has already expired, the duty of the public respondent to hold the plebiscite has become mandatory and ministerial. Petitioner Bautista also alleged that the delay in holding the plebiscite is inexcusable given the requirement that it should be held within a period of 120 days from the date of the President's declaration.

In its Comment to the Bautista petition, public respondent justified its position by arguing that mandamus will not issue to enforce a right which is in substantial dispute. With all the legal conflicts surrounding the case, it cannot be said that there is a clear showing of petitioner Bautista's entitlement to the relief sought. Respondent COMELEC likewise relied on Sec. 5 of the Omnibus Election Code to justify the postponements, citing incidents of violence that ensued in the locality during the plebiscite period.

After the conclusion of the 2013 elections, public respondent issued Resolution No. 1353 scheduling the plebiscite to January 25, 2014. However, a TRO was issued by this Court on January 15, 2014 in G.R. No. 203974 to suspend the conduct of the plebiscite for Cabanatuan City's conversion. Given the intertwining factual milieu of the two petitions before the Court, both cases were consolidated on March 18, 2014.

The Issue

The bone of contention in the present controversy boils down to whether the qualified registered voters of the entire province of Nueva Ecija or only those in Cabanatuan City can participate in the plebiscite called for the conversion of Cabanatuan City from a component city into an HUC. Resolving the Petition for Certiorari either way will necessarily render the Petition for Mandamus moot and academic for ultimately, the public respondent will be ordered to hold the plebiscite. The only variation will be as regards its participants.

The Court's Ruling

The Petition for Certiorari is meritorious.

Sec. 453 of the LGC should be interpreted in accordance with Sec. 10, Art. X of the Constitution

Petitioner Umali asseverates that Sec. 10, Art. X of the Constitution should be the basis for determining the qualified voters who will participate in the plebiscite to resolve the issue. Sec. 10, Art. X reads:

Section 10, Article X. – No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected. (emphasis supplied)

Petitioner Umali elucidates that the phrase "political units directly affected" necessarily encompasses not only Cabanatuan City but the entire province of Nueva Ecija. Hence, all the registered voters in the province are qualified to cast their votes in resolving the proposed conversion of Cabanatuan City.

On the other hand, respondents invoke Sec. 453 of the LGC to support their claim that only the City of Cabanatuan should be allowed to take part in the voting. Sec. 453 states:

Section 453. Duty to Declare Highly Urbanized Status. – It shall be the duty of the President to declare a city as highly urbanized within thirty (30) days after it shall have met the minimum requirements prescribed in the immediately preceding Section, upon proper application therefor and ratification in a plebiscite by the qualified voters therein. (emphasis supplied)

Respondents take the phrase "registered voters therein" in Sec. 453 as referring only to the registered voters in the

city being converted, excluding in the process the voters in the remaining towns and cities of Nueva Ecija.

Before proceeding to unravel the seeming conflict between the two provisions, it is but proper that we ascertain first the relationship between Sec. 10, Art. X of the Constitution and Sec. 453 of the LGC.

First of all, we have to restate the general principle that legislative power cannot be delegated. Nonetheless, the general rule barring delegation is subject to certain exceptions allowed in the Constitution, namely:

(1) Delegation by Congress to the President of the power to fix “tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government” under Section 28(2) of Article VI of the Constitution; and

(2) Delegation of emergency powers by Congress to the President “to exercise powers necessary and proper to carry out a declared national policy” in times of war and other national emergency under Section 23(2) of Article VI of the Constitution.

The power to create, divide, merge, abolish or substantially alter boundaries of provinces, cities, municipalities or barangays, which is pertinent in the case at bar, is essentially legislative in nature.[5] The framers of the Constitution have, however, allowed for the delegation of such power in Sec. 10, Art. X of the Constitution as long as (1) the criteria prescribed in the LGC is met and (2) the creation, division, merger, abolition or the substantial alteration of the boundaries is subject to the approval by a majority vote in a plebiscite.

True enough, Congress delegated such power to the Sangguniang Panlalawigan or Sangguniang Panlungsod to create barangays pursuant to Sec. 6 of the LGC, which provides:

Section 6. Authority to Create Local Government Units. - A local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the sangguniang panlalawigan or sangguniang panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.” (emphasis supplied)

The guidelines for the exercise of this authority have sufficiently been outlined by the various LGC provisions detailing the requirements for the creation of barangays[6], municipalities[7], cities[8], and provinces[9]. Moreover, compliance with the plebiscite requirement under the Constitution has also been directed by the LGC under its Sec. 10, which reads:

Section 10. Plebiscite Requirement. – No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected.” (emphasis supplied)

With the twin criteria of standard and plebiscite satisfied, the delegation to LGUs of the power to create, divide, merge, abolish or substantially alter boundaries has become a recognized exception to the doctrine of non-delegation of legislative powers.

Likewise, legislative power was delegated to the President under Sec. 453 of the LGC quoted earlier, which states:

Section 453. Duty to Declare Highly Urbanized Status. – It shall be the duty of the President to declare a city as highly urbanized within thirty (30) days after it shall have met the minimum requirements prescribed in the immediately preceding Section, upon proper application therefor and ratification in a plebiscite by the qualified voters therein.

In this case, the provision merely authorized the President to make a determination on whether or not the

requirements under Sec. 452[10] of the LGC are complied with. The provision makes it ministerial for the President, upon proper application, to declare a component city as highly urbanized once the minimum requirements, which are based on certifiable and measurable indices under Sec. 452, are satisfied. The mandatory language “shall” used in the provision leaves the President with no room for discretion.

In so doing, Sec. 453, in effect, automatically calls for the conduct of a plebiscite for purposes of conversions once the requirements are met. No further legislation is necessary before the city proposed to be converted becomes eligible to become an HUC through ratification, as the basis for the delegation of the legislative authority is the very LGC.

In view of the foregoing considerations, the Court concludes that the source of the delegation of power to the LGUs under Sec. 6 of the LGC and to the President under Sec. 453 of the same code is none other than Sec. 10, Art. X of the Constitution.

Respondents, however, posit that Sec. 453 of the LGC is actually outside the ambit of Sec. 10, Art. X of the Constitution, considering that the conversion of a component city to an HUC is not “creation, division, merge, abolition or substantial alternation of boundaries” encompassed by the said constitutional provision.

This proposition is bereft of merit.

First, the Court’s pronouncement in *Miranda vs. Aguirre*[11] is apropos and may be applied by analogy. While *Miranda* involves the downgrading, instead of upgrading, as here, of an independent component city into a component city, its application to the case at bar is nonetheless material in ascertaining the proper treatment of conversions. In that seminal case, the Court held that the downgrading of an independent component city into a component city comes within the purview of Sec. 10, Art. X of the Constitution.

In *Miranda*, the rationale behind the afore-quoted constitutional provision and its application to cases of conversion were discussed thusly:

A close analysis of the said constitutional provision will reveal that the creation, division, merger, abolition or substantial alteration of boundaries of local government units involve a common denominator - - - material change in the political and economic rights of the local government units directly affected as well as the people therein. It is precisely for this reason that the Constitution requires the approval of the people “in the political units directly affected.” It is not difficult to appreciate the rationale of this constitutional requirement. The 1987 Constitution, more than any of our previous Constitutions, gave more reality to the sovereignty of our people for it was borne out of the people power in the 1986 EDSA revolution. Its Section 10, Article X addressed the undesirable practice in the past whereby local government units were created, abolished, merged or divided on the basis of the vagaries of politics and not of the welfare of the people. Thus, the consent of the people of the local government unit directly affected was required to serve as a checking mechanism to any exercise of legislative power creating, dividing, abolishing, merging or altering the boundaries of local government units. It is one instance where the people in their sovereign capacity decide on a matter that affects them - - - direct democracy of the people as opposed to democracy thru people’s representatives. This plebiscite requirement is also in accord with the philosophy of the Constitution granting more autonomy to local government units.[12]

It was determined in the case that the changes that will result from the conversion are too substantial that there is a necessity for the plurality of those that will be affected to approve it. Similar to the enumerated acts in the constitutional provision, conversions were found to result in material changes in the economic and political rights of the people and LGUs affected. Given the far-reaching ramifications of converting the status of a city, we held that the plebiscite requirement under the constitutional provision should equally apply to conversions as well. Thus, RA 8528[13] was declared unconstitutional in *Miranda* on the ground that the law downgraded Santiago

City in Isabela without submitting it for ratification in a plebiscite, in contravention of Sec. 10, Art. X of the Constitution.

Second, while conversion to an HUC is not explicitly provided in Sec. 10, Art. X of the Constitution we nevertheless observe that the conversion of a component city into an HUC is substantial alteration of boundaries.

As the phrase implies, “substantial alteration of boundaries” involves and necessarily entails a change in the geographical configuration of a local government unit or units. However, the phrase “boundaries” should not be limited to the mere physical one, referring to the metes and bounds of the LGU, but also to its political boundaries. It also connotes a modification of the demarcation lines between political subdivisions, where the LGU’s exercise of corporate power ends and that of the other begins. And as a qualifier, the alteration must be “substantial” for it to be within the ambit of the constitutional provision.

Pertinent is Art. 12(c) of the LGC’s Implementing Rules and Regulations, which reads:

Art. 12. Conversion of a Component City into a Highly Urbanized City. –

x x x x

(c) Effect of Conversion – The conversion of a component city into a highly-urbanized city shall make it independent of the province where it is geographically located. (emphasis added)

Verily, the upward conversion of a component city, in this case Cabanatuan City, into an HUC will come at a steep price. It can be gleaned from the above-cited rule that the province will inevitably suffer a corresponding decrease in territory brought about by Cabanatuan City’s gain of independence. With the city’s newfound autonomy, it will be free from the oversight powers of the province, which, in effect, reduces the territorial jurisdiction of the latter. What once formed part of Nueva Ecija will no longer be subject to supervision by the province. In more concrete terms, Nueva Ecija stands to lose 282.75 sq. km. of its territorial jurisdiction with Cabanatuan City’s severance from its mother province. This is equivalent to carving out almost 5% of Nueva Ecija’s 5,751.3 sq. km. area. This sufficiently satisfies the requirement that the alteration be “substantial.”

Needless to stress, the alteration of boundaries would necessarily follow Cabanatuan City’s conversion in the same way that creations, divisions, mergers, and abolitions generally cannot take place without entailing the alteration. The enumerated acts, after all, are not mutually exclusive, and more often than not, a combination of these acts attends the reconfiguration of LGUs.

In light of the foregoing disquisitions, the Court rules that conversion to an HUC is substantial alternation of boundaries governed by Sec. 10, Art. X and resultantly, said provision applies, governs and prevails over Sec. 453 of the LGC.

Moreover, the rules of statutory construction dictate that a particular provision should be interpreted with the other relevant provisions in the law. The Court finds that it is actually Sec. 10 of the LGC which is undeniably the applicable provision on the conduct of plebiscites. The title of the provision itself, “Plebiscite Requirement”, makes this obvious. It requires a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected. On the other hand, Sec. 453 of the LGC, entitled “Duty to Declare Highly Urbanized Status”, is only on the duty to declare a city as highly urbanized. It mandates the Office of the President to make the declaration after the city has met the requirements under Sec. 452, and upon proper application and ratification in a plebiscite. The conduct of a plebiscite is then a requirement before a declaration can be made. Thus, the Court finds that Sec. 10 of the LGC prevails over Sec. 453 of the LGC on the plebiscite requirement.

We now take the bull by the horns and resolve the issue whether Sec. 453 of the LGC trenches on Sec. 10, Art. X of the Constitution.

Hornbook doctrine is that neither the legislative, the executive, nor the judiciary has the power to act beyond the Constitution's mandate. The Constitution is supreme; any exercise of power beyond what is circumscribed by the Constitution is ultra vires and a nullity. As elucidated by former Chief Justice Enrique Fernando in *Fernandez v. Cuerva*:^[14]

Where the assailed legislative or executive act is found by the judiciary to be contrary to the Constitution, it is null and void. As the new Civil Code puts it: "When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern." Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution. The above provision of the civil Code reflects the orthodox view that an unconstitutional act, whether legislative or executive, is not a law, confers no rights, imposes no duties, and affords no protection. x x x

Applying this orthodox view, a law should be construed in harmony with and not in violation of the Constitution.^[15] In a long line of cases, the cardinal principle of construction established is that a statute should be interpreted to assure its being in consonance with, rather than repugnant to, any constitutional command or prescription.^[16] If there is doubt or uncertainty as to the meaning of the legislative, if the words or provisions are obscure or if the enactment is fairly susceptible of two or more constitution, that interpretation which will avoid the effect of unconstitutionality will be adopted, even though it may be necessary, for this purpose, to disregard the more usual or apparent import of the language used.^[17]

Pursuant to established jurisprudence, the phrase "by the qualified voters therein" in Sec. 453 should be construed in a manner that will avoid conflict with the Constitution. If one takes the plain meaning of the phrase in relation to the declaration by the President that a city is an HUC, then, Sec. 453 of the LGC will clash with the explicit provision under Sec. 10, Art. X that the voters in the "political units directly affected" shall participate in the plebiscite. Such construction should be avoided in view of the supremacy of the Constitution. Thus, the Court treats the phrase "by the qualified voters therein" in Sec. 453 to mean the qualified voters not only in the city proposed to be converted to an HUC but also the voters of the political units directly affected by such conversion in order to harmonize Sec. 453 with Sec. 10, Art. X of the Constitution.

The Court finds that respondents are mistaken in construing Sec. 453 in a vacuum. Their interpretation of Sec. 453 of the LGC runs afoul of Sec. 10, Art. X of the Constitution which explicitly requires that all residents in the "political units directly affected" should be made to vote.

Respondents make much of the plebiscites conducted in connection with the conversion of Puerto Princesa City, Tacloban City and Lapu-Lapu City where the ratification was made by the registered voters in said cities alone. It is clear, however, that the issue of who are entitled to vote in said plebiscites was not properly raised or brought up in an actual controversy. The issue on who will vote in a plebiscite involving a conversion into an HUC is a novel issue, and this is the first time that the Court is asked to resolve the question. As such, the past plebiscites in the aforementioned cities have no materiality or relevance to the instant petition. Suffice it to say that conversion of said cities prior to this judicial declaration will not be affected or prejudiced in any manner following the operative fact doctrine?that "the actual existence of a statute prior to such a determination is an operative fact and may have consequences which cannot always be erased by a new judicial declaration."^[18]

The entire province of Nueva Ecija will be directly affected by Cabanatuan City's conversion

After the Court has resolved the seeming irreconcilability of Sec. 10, Art. X of the Constitution and Sec. 453 of

the LGC, it is now time to elucidate the meaning of the phrase “political units directly affected” under Sec. 10, Art. X.

a. “Political units directly affected” defined

In identifying the LGU or LGUs that should be allowed to take part in the plebiscite, what should primarily be determined is whether or not the unit or units that desire to participate will be “directly affected” by the change. To interpret the phrase, *Tan v. COMELEC*[19] and *Padilla v. COMELEC*[20] are worth revisiting.

We have ruled in *Tan*, involving the division of Negros Occidental for the creation of the new province of Negros del Norte, that the LGUs whose boundaries are to be altered and whose economy would be affected are entitled to participate in the plebiscite. As held:

It can be plainly seen that the aforecited constitutional provision makes it imperative that there be first obtained “the approval of a majority of votes in the plebiscite in the unit or units affected” whenever a province is created, divided or merged and there is substantial alteration of the boundaries. It is thus inescapable to conclude that the boundaries of the existing province of Negros Occidental would necessarily be substantially altered by the division of its existing boundaries in order that there can be created the proposed new province of Negros del Norte. Plain and simple logic will demonstrate that two political units would be affected. The first would be the parent province of Negros Occidental because its boundaries would be substantially altered. The other affected entity would be composed of those in the area subtracted from the mother province to constitute the proposed province of Negros del Norte.[21]

x x x x

To form the new province of Negros del Norte no less than three cities and eight municipalities will be subtracted from the parent province of Negros Occidental. This will result in the removal of approximately 2,768.4 square kilometers from the land area of an existing province whose boundaries will be consequently substantially altered. It becomes easy to realize that the consequent effects of the division of the parent province necessarily will affect all the people living in the separate areas of Negros Occidental and the proposed province of Negros del Norte. The economy of the parent province as well as that of the new province will be inevitably affected, either for the better or for the worse. Whatever be the case, either or both of these political groups will be affected and they are, therefore, the unit or units referred to in Section 3 of Article XI of the Constitution which must be included in the plebiscite contemplated therein.[22] (emphasis added)

Sec. 3, Art. XI of the 1973 Constitution, as invoked in *Tan*, states:

SEC. 3. No province, city, municipality or barrio may be created, divided, merged abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code, and subject to the approval by a majority of the votes in a plebiscite in the unit or units affected. (emphasis added)

Despite the change in phraseology compared to what is now Sec. 10, Art. X, we affirmed our ruling in *Tan* in the latter case of *Padilla*. As held, the removal of the phrase “unit or” only served to sustain the earlier finding that what is contemplated by the phrase “political units directly affected” is the plurality of political units which would participate in the plebiscite. As reflected in the journal of the Constitutional Commission:[23]

Mr. Maambong: While we have already approved the deletion of “unit or,” I would like to inform the Committee that under the formulation in the present Local Government Code, the words used are actually “political unit or units.” However, I do not know the implication of the use of these words. Maybe there will be no substantial difference, but I just want to inform the Committee about this.

Mr. Nollado: Can we not adhere to the original “unit or units”? Will there be no objection on the part of the

two Gentlemen from the floor?

Mr. Davide: I would object. I precisely asked for the deletion of the words “unit or” because in the plebiscite to be conducted, it must involve all the units affected. If it is the creation of a barangay plebiscite because it is affected. It would mean a loss of a territory. (emphasis added)

The same sentiment was shared by the Senate during its deliberations on Senate Bill No. 155—the predecessor of the LGC—thus:

Senator Guingona. Can we make that clearer by example? Let us assume that a province has municipalities and there is a merger of two municipalities. Would this therefore mean that the plebiscite will be conducted within the two merged municipalities and not in the eight other municipalities?

Senator Pimentel. The whole province, Mr. President, will be affected, and that is the reason we probably have to involve the entire province.

Senator Guingona. So the plebiscite will not be held only in the two municipalities which are being merged, but the entire province will now have to undergo.

Senator Pimentel. I suppose that was the ruling in the Negros del Norte case.

Senator Guingona. Supposing it refers to barangays, will the entire municipality have to vote? There are two barangays being merged, say, out of 100 barangays. Would the entire municipality have to participate in the plebiscite?

Senator Pimentel. Yes, Mr. President, because the municipality is affected directly by the merger of two of its barangay.

Senator Guingona. And, if, out of 100 barangay, 51 are being merged, abolished, whatever, would the rest of the municipality not participate in the plebiscite?

Senator Pimentel. Do all the 51 barangay that the Gentleman mentioned, Mr. President, belong to one municipality?

Senator Guingona. Yes.

Senator Pimentel. Then it will only involve the municipality where the 51 barangays belong.

Senator Guingona. Yes. So, the entire municipality will now have to undergo a plebiscite.

Senator Pimentel. That is correct, Mr. President.

Senator Guingona. In the earlier example, if it is only a merger of two municipalities, let us say, in a province with 10 municipalities – the entire province – will the other municipalities although not affected also have to participate in the plebiscite?

Senator Pimentel. Yes. The reason is that the municipalities are within the territorial boundaries of the province itself, it will have to be altered as a result of the two municipalities that the Gentleman mentioned.[24]

In the more recent case of *Miranda*, the interpretation in *Tan and Padilla* was modified to include not only changes in economic but also political rights in the criteria for determining whether or not an LGU shall be considered “directly affected.” Nevertheless, the requirement that the plebiscite be participated in by the plurality of political units directly affected remained.

b. Impact on Economic Rights

To recall, it was held in *Miranda* that the changes that will result in the downgrading of an LGU from an

independent component city to a component city cannot be categorized as insubstantial, thereby necessitating the conduct of a plebiscite for its ratification. In a similar fashion, herein petitioner Umali itemized the adverse effects of Cabanatuan City's conversion to the province of Nueva Ecija to justify the province's participation in the plebiscite to be conducted.

Often raised is that Cabanatuan City's conversion into an HUC and its severance from Nueva Ecija will result in the reduction of the Internal Revenue Allotment (IRA) to the province based on Sec. 285 of the LGC. The law states:

Section 285. Allocation to Local Government Units. - The share of local government units in the internal revenue allotment shall be collected in the following manner:

- (a) Provinces - Twenty-three percent (23%);
- (b) Cities - Twenty-three percent (23%);
- (c) Municipalities - Thirty-four percent (34%); and
- (d) Barangays - Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

- (a) Population - Fifty percent (50%);
- (b) Land Area - Twenty-five percent (25%); and
- (c) Equal sharing - Twenty-five percent (25%)

In our earlier disquisitions, we have explained that the conversion into an HUC carries the accessory of substantial alteration of boundaries and that the province of Nueva Ecija will, without a doubt, suffer a reduction in territory because of the severance of Cabanatuan City. The residents of the city will cease to be political constituencies of the province, effectively reducing the latter's population. Taking this decrease in territory and population in connection with the above formula, it is conceded that Nueva Ecija will indeed suffer a reduction in IRA given the decrease of its multipliers' values. As assessed by the Regional Director of the Department of Budget and Management (DBM) for Region III:[25]

Basis for IRA

Computation

Province of

Nueva Ecija

Cabanatuan City

Province of

Nueva Ecija Net

of Cabanatuan City

No. of Population CY 2007 Census

1,843,853

259,267

1,584,586

Land Area (sq. km.)

5,751.33

282.75

5,468.58

IRA Share of
Nueva EcijaActual IRA
ShareEstimated IRA
share excluding
Cabanatuan City

Reduction

Based on Population

P800,772,618.45**P688,174,751.66****P112,597,866.79**

Based on Land Area

P263,470,472.62**P250,517,594.56****P 12,952,878.06**

Total

P125,550,744.85

Clear as crystal is that the province of Nueva Ecija will suffer a substantial reduction of its share in IRA once Cabanatuan City attains autonomy. In view of the economic impact of Cabanatuan City's conversion, petitioner Umali's contention, that its effect on the province is not only direct but also adverse, deserves merit.

Moreover, his claim that the province will lose shares in provincial taxes imposed in Cabanatuan City is well-founded. This is based on Sec. 151 of the LGC, which states:

SECTION 151. Scope of Taxing Powers. – Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code. (emphasis added)

Once converted, the taxes imposed by the HUC will accrue to itself. Prior to this, the province enjoys the prerogative to impose and collect taxes such as those on sand, gravel and other quarry resources,[26] professional taxes,[27] and amusement taxes[28] over the component city. While, it may be argued that this is not a derogation of the province's taxing power because it is in no way deprived of its right to collect the mentioned taxes from the rest of its territory, the conversion will still reduce the province's taxing jurisdiction, and corollary to this, it will

experience a corresponding decrease in shares in local tax collections. This reduction in both taxing jurisdiction and shares poses a material and substantial change to the province's economic rights, warranting its participation in the plebiscite.

To further exemplify the impact of these changes, a perusal of Secs. 452(a) and 461(a) of the LGC is in order, viz:

Section 452. Highly Urbanized Cities.

(a) Cities with a minimum population of two hundred thousand (200,000) inhabitants as certified by the National Statistics Office, and within the latest annual income of at least Fifty Million Pesos (P50,000,000.00) based on 1991 constant prices, as certified by the city treasurer, shall be classified as highly urbanized cities.

Section 461. Requisites for Creation.

(a) A province may be created if it has an average annual income, as certified by the Department of Finance, of not less than Twenty million pesos (P20,000,000.00) based on 1991 constant prices and either of the following requisites:

(i) a contiguous territory of at least two thousand (2,000) square kilometers, as certified by the Lands Management Bureau; or

(ii) a population of not less than two hundred fifty thousand (250,000) inhabitants as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

A component city's conversion into an HUC and its resultant autonomy from the province is a threat to the latter's economic viability. Noteworthy is that the income criterion for a component city to be converted into an HUC is higher than the income requirement for the creation of a province. The ensuing reduction in income upon separation would clearly leave a crippling effect on the province's operations as there would be less funding to finance infrastructure projects and to defray overhead costs. Moreover, the quality of services being offered by the province may suffer because of looming austerity measures. These are but a few of the social costs of the decline in the province's economic performance, which Nueva Ecija is bound to experience once its most progressive city of Cabanatuan attains independence.

c. Impact on Political Rights

Aside from the alteration of economic rights, the political rights of Nueva Ecija and those of its residents will also be affected by Cabanatuan's conversion into an HUC. Notably, the administrative supervision of the province over the city will effectively be revoked upon conversion. Secs. 4 and 12, Art. X of the Constitution read:

Sec. 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.

Sec 12. Cities that are highly urbanized, as determined by law, and component cities whose charters prohibit their voters from voting for provincial elective officials, shall be independent of the province. The voters of component cities within a province, whose charters contain no such prohibition, shall not be deprived of their right to vote for elective provincial officials.

Duties, privileges and obligations appertaining to HUCs will attach to Cabanatuan City if it is converted into an HUC. This includes the right to be outside the general supervision of the province and be under the direct

supervision of the President. An HUC is not subject to provincial oversight because the complex and varied problems in an HUC due to a bigger population and greater economic activity require greater autonomy.[29] The provincial government stands to lose the power to ensure that the local government officials of Cabanatuan City act within the scope of its prescribed powers and functions,[30] to review executive orders issued by the city mayor, and to approve resolutions and ordinances enacted by the city council.[31] The province will also be divested of jurisdiction over disciplinary cases concerning the elected city officials of the new HUC, and the appeal process for administrative case decisions against barangay officials of the city will also be modified accordingly.[32] Likewise, the registered voters of the city will no longer be entitled to vote for and be voted upon as provincial officials.[33]

In cutting the umbilical cord between Cabanatuan City and the province of Nueva Ecija, the city will be separated from the territorial jurisdiction of the province, as earlier explained. The provincial government will no longer be responsible for delivering basic services for the city residents' benefit. Ordinances and resolutions passed by the provincial council will no longer cover the city. Projects queued by the provincial government to be executed in the city will also be suspended if not scrapped to prevent the LGU from performing functions outside the bounds of its territorial jurisdiction, and from expending its limited resources for ventures that do not cater to its constituents.

In view of these changes in the economic and political rights of the province of Nueva Ecija and its residents, the entire province certainly stands to be directly affected by the conversion of Cabanatuan City into an HUC. Following the doctrines in Tan and Padilla, all the qualified registered voters of Nueva Ecija should then be allowed to participate in the plebiscite called for that purpose.

Respondents' apprehension that requiring the entire province to participate in the plebiscite will set a dangerous precedent leading to the failure of cities to convert is unfounded. Their fear that provinces will always be expected to oppose the conversion in order to retain the city's dependence is speculative at best. In any event, any vote of disapproval cast by those directly affected by the conversion is a valid exercise of their right to suffrage, and our democratic processes are designed to uphold the decision of the majority, regardless of the motive behind the vote. It is unfathomable how the province can be deprived of the opportunity to exercise the right of suffrage in a matter that is potentially deleterious to its economic viability and could diminish the rights of its constituents. To limit the plebiscite to only the voters of the areas to be partitioned and seceded from the province is as absurd and illogical as allowing only the secessionists to vote for the secession that they demanded against the wishes of the majority and to nullify the basic principle of majority rule.[34]

WHEREFORE, premises considered, the Petition for Certiorari, docketed as G.R. No. 203974, is hereby GRANTED. COMELEC Minute Resolution No. 12-0797 dated September 11, 2012 and Minute Resolution No. 12-0925 dated October 16, 2012 are hereby declared NULL and VOID. Public respondent COMELEC is hereby enjoined from implementing the said Resolutions. Additionally, COMELEC is hereby ordered to conduct a plebiscite for the purpose of converting Cabanatuan City into a Highly Urbanized City to be participated in by the qualified registered voters of Nueva Ecija within 120 days from the finality of this Decision. The Petition for Mandamus, docketed as G.R. No. 204371, is hereby DISMISSED.

SO ORDERED.

Carpio, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Perez, Mendoza, and Perlas-Bernabe, JJ., concur.

Sereno, C.J., Villarama, Jr., and Reyes, JJ., joins the dissent of J. Leonen.

Abad, J., took no part.

Leonen, J., I dissent, see separate opinion.

[1] Rollo, pp. 113-115.

[2] Id. at 64-65.

[3] Id. at 143-146.

[4] COMELEC Chairperson Sixto Brillantes and Commissioner Armando Velasco cast the dissenting votes.

[5] *Mendenilla v. Onandia*, 115 Phil. 534 (1962).

[6] RA 7160, Sec. 385-386

[7] Id., Sec. 441-442

[8] Id., Sec. 449-450

[9] Id., Sec. 460-461

[10] Section 452. Highly Urbanized Cities.

(a) Cities with a minimum population of two hundred thousand (200,000) inhabitants as certified by the National Statistics Office, and within the latest annual income of at least Fifty Million Pesos (P50,000,000.00) based on 1991 constant prices, as certified by the city treasurer, shall be classified as highly urbanized cities.

(b) Cities which do not meet above requirements shall be considered component cities of the province in which they are geographically located. If a component city is located within the boundaries of two (2) or more provinces, such city shall be considered a component of the province of which it used to be a municipality.

(c) Qualified voters of highly urbanized cities shall remain excluded from voting for elective provincial officials.

Unless otherwise provided in the Constitution or this Code, qualified voters of independent component cities shall be governed by their respective charters, as amended, on the participation of voters in provincial elections.

Qualified voters of cities who acquired the right to vote for elective provincial officials prior to the classification of said cities as highly-urbanized after the ratification of the Constitution and before the effectivity of this Code, shall continue to exercise such right.

[11] G.R. No. 133064, September 16, 1999, 314 SCRA 603.

[12] Id. at 610.

[13] An Act Amending Certain Sections of Republic Act Numbered 7720 – An Act Converting the Municipality of Santiago into an Independent Component City to Be Known as the City of Santiago.

[14] No. L-21114, November 28, 1967, 21 SCRA 1095, 1106 .

[15] *Garcia v. COMELEC*, G.R. No. 111230, September 30, 1994, 237 SCRA 279, 291

[16] *Mutuc v. COMELEC*, G.R. No. 32717, Nov. 26, 1970, 36 SCRA 228.

[17] *Garcia v. COMELEC*, supra note 15.

[18] *Fernandez v. Cuerva*, supra note 14.

[19] No. L-73155, July 11, 1986, 142 SCRA 727.

[20] G.R. No. 103328, October 19, 1992, 214 SCRA 735.

[21] Tan v. COMELEC, *supra* note 19, at 742-743.

[22] *Id.* at 745-746.

[23] III RECORD, CONSTITUTIONAL COMMISSION 486.

[24] Senate Bill No. 155, II Records of the Senate 121, 4th Regular Session (July 26, 1990).

[25] Rollo, p. 89.

[26] RA 7160, Sec. 138.

[27] *Id.*, Sec. 139.

[28] *Id.*, Sec. 140.

[29] De Leon, Hector S. & De Leon, Hector Jr., Textbook on the Philippine Constitution (2011).

[30] LGC, Section 29. Provincial Relations with Component Cities and Municipalities. - The province, through the governor, shall ensure that every component city and municipality within its territorial jurisdiction acts within the scope of its prescribed powers and functions. Highly urbanized cities and independent component cities shall be independent of the province.

Id., Section 465. The Chief Executive: Powers, Duties, Functions, and Compensation.

x x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

x x x x

(2) Enforce all laws and ordinances relative to the governance of the province and the exercise of the appropriate corporate powers provided for under Section 22 of this Code, implement all approved policies, programs, projects, services and activities of the province and, in addition to the foregoing, shall:

(i) Ensure that the acts of the component cities and municipalities of the province and of its officials and employees are within the scope of their prescribed powers, duties and functions.

[31] *Id.*, Section 30. Review of Executive Orders. -

(a) Except as otherwise provided under the Constitution and special statutes, the governor shall review all executive orders promulgated by the component city or municipal mayor within his jurisdiction. The city or municipal mayor shall review all executive orders promulgated by the punong barangay within his jurisdiction. Copies of such orders shall be forwarded to the governor or the city or municipal mayor, as the case may be, within three (3) days from their issuance. In all instances of review, the local chief executive concerned shall ensure that such executive orders are within the powers granted by law and in conformity with provincial, city, or municipal ordinances.

(b) If the governor or the city or municipal mayor fails to act on said executive orders within thirty (30) days after their submission, the same shall be deemed consistent with law and therefore valid.

x x x x

Id., Section 455. Chief Executive; Powers, Duties and Compensation.

x x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the city government. and in this connection, shall:

x x x x

(xii) Furnish copies of executive orders issued by him, to the provincial governor in the case of component city mayors, to the Office of the President in the case of highly-urbanized city mayors and to their respective metropolitan council chairmen in the case of mayors of cities in the Metropolitan Manila Area and other metropolitan political subdivisions, within seventy-two (72) hours after their issuances;

x x x x

(xx) Submit to the provincial governor, in case of component cities; to the Office of the President, in the case of highly-urbanized cities; to their respective metropolitan authority council chairmen and to the Office of the President, in case of cities of the Metropolitan Manila Area and other metropolitan political subdivisions, the following reports: an annual report containing a summary of all matters pertinent to the management, administration and development of the city and all information and data relative to its political, social and economic conditions; and supplemental reports when unexpected events and situations arise at any time during the year, particularly when man-made or natural disasters or calamities affect the general welfare of the city, province, region or country.

[32] Id., Section 67. Administrative Appeals. - Decisions in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:

(a) The sangguniang panlalawigan, in the case of decisions of the sangguniang panlungsod of component cities and the sangguniang bayan; and

(b) The Office of the President, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities.

Decisions of the Office of the President shall be final and executory.

[33] Id., Secs. 451-452(c).

[34] Tan v. COMELEC, supra note 19, at 747, Concurring Opinion, Teehankee, C.J.

DISSENTING OPINION

LEONEN, J.,

I am constrained by my view of my judicial duty to express a dissenting opinion to the ponencia of an esteemed colleague.

The issue raised in this case has not yet been passed upon squarely by this court. At issue is whether the change in classification of a component city to a highly urbanized city requires a plebiscite which includes the voters of the entire province or only those within the component city. More specifically, we are asked to construe Section 453 of the Local Government Code in relation to Article X, Section 10 of the Constitution.

Section 453 of the Local Government Code provides:

Section 453. Duty to Declare Highly Urbanized Status. – It shall be the duty of the President to declare a city

as highly urbanized within thirty (30) days after it shall have met the minimum requirements prescribed in the immediately preceding section, upon proper application therefor and ratification in a plebiscite by the qualified voters therein.[1] (Emphasis supplied)

Article X, Section 10 of the Constitution states:

Section 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected. (Emphasis supplied)

While this issue is novel for this court, the Commission on Elections and the executive have had their interpretation of these provisions implemented in a number of cities. Petitioner Governor Aurelio M. Umali proposes that it should be the entire Province of Nueva Ecija that should be included in the plebiscite while respondent Mayor Julius Cesar V. Vergara asserts that only the qualified voters of Cabanatuan City should participate in the plebiscite in accordance with the resolution of the Commission on Elections.

It is granted that any change in the status of Cabanatuan City will have its consequences on the lives of its citizens and the politics of both the city and the province.

The ponencia relied mainly on *Miranda v. Aguirre*[2] to support its contention that the petition should be granted. I will have to disagree with my esteemed colleague. In *Miranda v. Aguirre*, the issue was the challenge of the constitutionality of Republic Act No. 8528, which downgraded Santiago City, located in the Province of Isabela, from an independent component city to a component city without a requirement of a plebiscite. The court ruled that:

It is markworthy that when R.A. No. 7720 upgraded the status of Santiago City from a municipality to an independent component city, it required the approval of its people thru a plebiscite called for the purpose. There is neither rhyme nor reason why this plebiscite should not be called to determine the will of the people of Santiago City when R.A. No. 8528 downgrades the status of their city. Indeed, there is more reason to consult the people when a law substantially diminishes their right. Rule II, Article 6, paragraph (f) (1) of the Implementing Rules and Regulations of the Local Government Code is in accord with the Constitution when it provides that:

(f) Plebiscite – (1) no creation, conversion, division, merger, abolition, or substantial alteration of boundaries of LGUs shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the LGU or LGUs affected. The plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) days from the effectivity of the law or ordinance prescribing such action, unless said law or ordinance fixes another date.

The rules cover all conversions, whether upward or downward in character, so long as they result in a material change in the local government unit directly affected, especially a change in the political and economic rights of its people.[3] (Emphasis in the original)

That case contained no definitive juridical pronouncement regarding the scope of the plebiscite that is required.

Also cited in the ponencia is *Tan v. COMELEC*.[4] Residents questioned the constitutionality of Batas Pambansa Blg. 885, which proposed the creation of the new province, the Province of Negros del Norte, from Negros Occidental. Batas Pambansa No. 885 was nullified because it did not conform with the land area and income requirements of the old Local Government Code. With regard to the plebiscite, this court stated that:

x x x the more significant and pivotal issue in the present case revolves around in the interpretation and application in the case at bar of Article XI, Section 3 of the Constitution, which being brief and for

convenience, We again quote:

SEC. 3. No province, city, municipality or barrio may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code, and subject to the approval by a majority of the votes in a plebiscite in the unit or units affected.

It can be plainly seen that the aforecited constitutional provision makes it imperative that there be first obtained “the approval of a majority of votes in the plebiscite in the unit or units affected” whenever a province is created, divided or merged and there is substantial alteration of the boundaries. It is thus inescapable to conclude that the boundaries of the existing province of Negros Occidental would necessarily be substantially altered by the division of its existing boundaries in order that there can be created the proposed new province of Negros del Norte. Plain and simple logic will demonstrate then that two political units would be affected. The first would be the parent province of Negros Occidental because its boundaries would be substantially altered. The other affected entity would be composed of those in the area subtracted from the mother province to constitute the proposed province of Negros del Norte.[5]

What was involved in Tan was the creation of a new province, Negros del Norte, and not the process of conversion of a component city into a highly urbanized city.

Padilla, Jr. v. COMELEC[6] is also cited in the ponencia. This involved a plebiscite for the creation of the Municipality of Tulay-Na-Lupa. Again, this case is not applicable because it involved the creation of a new municipality. The creation of a new municipality is different from the conversion of an already existing component city into a highly urbanized city.

Governor Umali alleged that the phrase “qualified voters therein” in Section 453 should mean the voters in the whole province of Nueva Ecija and not only those in Cabanatuan City.[7]

On the other hand, Mayor Vergara of Cabanatuan City argues that the same phrase “qualified voters therein” refers to the qualified voters of the city.[8] Among others, he pointed out that “only the residents of Cabanatuan City”[9] will be affected because “they will lose their right to vote for provincial officials.”[10]

In its comment, the Commission on Elections pointed out:

However, qualification must be permitted where, as in this case, the subject city of Cabanatuan is simply being converted from a component city into a highly urbanized city. In this instance, the political unit directly affected by the conversion is only Cabanatuan City, which exercises powers and prerogatives it already maintains and enjoys but which are being reinforced with the political unit’s probable elevation to that of a highly urbanized city as demanded by its compliance with the criteria established under the Local Government Code. No political unit is created, merged or removed from another local government unit. No boundaries are being altered or affected. In fact, contrary to petitioner’s ratiocination, there is no severance from the parent unit, which has long enjoyed the status of being a component city since its elevation to cityhood on June 16, 1950.[11]

More in point is the Commission on Elections’ Minute Resolution No. 12-0797, specifically the memorandum of Commissioner Rene V. Sarmiento, which discussed the rationale for the rule regarding “qualified voters” in cases of conversion of local government units:

It is respectfully submitted that only those registered residents of Cabanatuan City should participate in the plebiscite.

First, the primary purpose of the conversion from being a component city to highly urbanized city is INDEPENDENCE from the province where it is geographically located. A conversion will necessarily affect the province as it will reduce its income, voters for the provincial elective position, among others. As expected,

it would be detrimental to any petition for conversion from component city to HUC to allow residents of the entire province to vote in the plebiscite. If we allow this, a scenario will be created wherein all the indicators for the conversion have been met including the vote of approval of the residents of Cabanatuan City but conversion was not allowed due to the opposition through votes of the other residents of the province.

It is a general rule of statutory construction that a law should not be so construed as to produce an absurd result. The law does not intend to be an absurdity or that an absurd consequence shall flow from its enactment. If the words of the statute are susceptible of more than one meaning, the one that has a logical construction should be adopted over the one that will produce an absurdity. Statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion.

Moreover, under the Implementing Rules and Regulations of the LGC:

(f) Plebiscite – (1) no creation, conversion, division, merger, abolition, or substantial alteration of boundaries of LGUs shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the LGU or LGUs affected. The plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) days from the effectivity of the law or ordinance prescribing such action, unless said law or ordinance fixes another date.

While the province will be affected by the conversion, it is submitted that the LGU directly, as pertained above, is the Cabanatuan City and not the province. Even assuming that the IRR contemplates the direct effect on both Cabanatuan and the province, it must be remembered that the IRR cannot go beyond what is provided in the law which it seeks to implement.

The Local Government Code provides:

Sec. 452. Highly urbanized cities.

(c) Qualified voters of highly urbanized cities shall remain excluded from voting for elective provincial officials.’

Section 453. Duty to Declare Highly Urbanized Status.

It shall be the duty of the President to declare a city as highly urbanized within 30 days after it shall have met the minimum requirements prescribed in the immediately preceding Section, upon proper application therefor and ratification in a plebiscite by the qualified voters therein.

The term qualified voters therein pertains to the voters of the city to be converted as highly urbanized city. ‘Therein’ pertains to the city to be declared as highly urbanized.

Third, previous conversion of component cities to HUCs would show that only those residents of the converted city were allowed to vote. Example: Puerto Princesa City, Tacloban City and Lapu Lapu City.[12]

The Commission on Elections’ position is in line with the position of the executive. Thus, the Implementing Rules of the Local Government Code, Rule II, Article 12, paragraph (b) provides:

Article 12. Conversion of a Component City Into a Highly-Urbanized City. — (a) Requisites for conversion — A component city shall not be converted into a highly-urbanized city unless the following requisites are present:

x x x x

(b) Procedure for conversion —

(1) Resolution — The interested component city shall submit to the Office of the President a resolution of its sanggunian adopted by a majority of all its members in a meeting duly called for the purpose, and approved and endorsed by the city mayor. Said resolution shall be accompanied by certifications as to income and population.

(2) Declaration of conversion — Within thirty (30) days from receipt of such resolution, the President shall, after verifying that the income and population requirements have been met, declare the component city as highly-urbanized.

(3) Plebiscite — Within one hundred twenty (120) days from the declaration of the President or as specified in the declaration, the COMELEC shall conduct a plebiscite in the city proposed to be converted. Such plebiscite shall be preceded by a comprehensive information campaign to be conducted by the COMELEC with the assistance of national and local government officials, media, NGOs, and other interested parties.

(c) Effect of Conversion —

The conversion of a component city into a highly-urbanized city shall make it independent of the province where it is geographically located.[13]

Cabanatuan City is not the first city to apply for conversion from a component city into a highly urbanized city. In 2007, Lapu-Lapu City in the Province of Cebu held a plebiscite for its conversion. The Commission on Elections issued Resolution No. 7854[14] dated April 3, 2007. Section 7 of Resolution No. 7854 states:

Sec. 7. Who may vote. – All qualified voters of Lapu-Lapu City duly registered as of the January 8-12, 2007 hearings of the Election Registration Board (ERB) are entitled to vote in the plebiscite.

The EO of Lapu-Lapu City shall prepare the lists of voters for use in the plebiscite in accordance with Section 11 hereof.[15]

In 2008, Tacloban City conducted a plebiscite for its conversion from a component city into a highly urbanized city. The Commission on Elections then issued Resolution No. 8516[16] dated November 12, 2008. With regard to the qualified voters for the conduct of the plebiscite, Resolution No. 8516 states:

Sec. 7. Who may vote. – All qualified voters of Tacloban City during the October 29, 2007 Barangay and SK Elections are entitled to vote in the plebiscite.

The EO of Tacloban City shall prepare the lists of voters for use in the plebiscite in accordance with Section 11 hereof.[17]

The conversion of Cabanatuan City is no different from the conversions of Lapu-Lapu City and Tacloban City. There is no need to deviate from the settled rule, which is based on law as interpreted by the executive and the Commission on Elections.

By its very nature, the exercise of judicial review should be attended with a great deal of deference to acts of co-equal and coordinative constitutional organs. In this case, the legislature provided in Section 453 of the Local Government Code the plain phrase “ratification on a plebiscite by the qualified voters therein.”[18] The executive implements this provision with the recognition of conversion following a plebiscite involving only the qualified voters of a component city. The Commission on Elections, equally a constitutional organ tasked with the implementation of all laws relating to plebiscites, also interprets the statutory provision and the relevant constitutional provision to the same effect: the plebiscite should include only the qualified voters of a component city.

Our power to strike down an act of co-equal constitutional organs is not unlimited. When we nullify a governmental act, we are required “to determine whether there has been a grave abuse of discretion amounting to lack or excess jurisdiction on the part of any branch or instrumentality of the Government.”[19]

No less than three constitutional organs have interpreted the law and the relevant provision of the Constitution. I am of the view that our power to strike down that interpretation should not be on the basis of the interpretation we

prefer. Rather, Governor Umali should bear the burden of proving that the interpretation of the law and the Constitution in the actual controversy it presents is not unreasonable and not attended by any proven clear and convincing democratic deficit. We should wield the awesome power of judicial review awash with respectful deference that the other constitutional organs are equally conscious of the mandate of our people through our Constitution.

The Constitution provides:

Article X, Section 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected. (Emphasis supplied)

This provision applies when a city is “created, divided, merged, abolished or its boundary substantially altered.” Clearly, this does not apply to Cabanatuan City’s quest to have itself elevated to the status of “highly urbanized city” with all the consequent advantages of that new legal categorization. Arguably, one way to read this provision is to say that the boundary of the province is substantially altered. I could understand how certain pragmatic political and economic considerations can support this conclusion to the extent that we can tend to minimize other’s viewpoints.

But that is not what this court should do. Rather, it should uphold principled modalities for reviewing statutes in relation to constitutional provisions that can serve as a check for our personal preferences. After all, all of us who sit in this chamber are sentinels of the rule of law and reason. We do not sit to entrench specific political ideologies.

It is reasonable to read the provision of the Constitution in question in the way that Mayor Vergara, the City Government of Cabanatuan, and the Commission on Elections have proposed consistent with the view of the legislature, the executive, and the Constitutional Commission. This reading is not attended with arbitrariness or capriciousness. It is not so abhorrent that it amounts to the kind of grave abuse of discretion that will cause us to unleash our power to nullify these acts in judicial review.

In my view, this interpretation may be consistent with the constitutional concept of local autonomy and the kind of local self-determination that could have been envisioned by our people when we ratified the Constitution. After all, it is realistically possible that provinces that are economically or politically dependent on one progressive component city will be the obstacle for the continued progress of that city when the latter decides to take advantage of all that a highly urbanized city will enjoy.

Governor Umali has not discharged his burden enough. I do not find grave abuse of discretion on the part of the legislature, the executive, and the Commission on Elections. I do not view the past practice that allowed several component cities to convert into highly urbanized cities as unreasonable in the light of the exact text of the Constitution. Rather, given the facts of this case, I propose that we adopt the judicial temperament which requires caution, courtesy, and deference.

Accordingly, I vote to deny the petition.

[1] Republic Act No.7160, An Act Providing for a Local Government Code of 1991, sec. 453.

[2] Jose C. Miranda, Alfredo S. Dirige, Manuel H. Afiado, Mariano V. Babaran and Andres R. Cabuyadao v. Hon Alexander Aguirre, in his capacity as Executive Secretary; Hon. Epimaco Velasco, in his capacity as Secretary of Local Government, Hon. Salvador Enriquez, in his capacity as Secretary of Budget, the Commission on Audit, the

Commission on Elections, Hon. Benjamin G. Dy, in his capacity as Governor of Isabela, the Honorable Sangguniang Panlalawigan of Isabela, Atty. Baltazar Picio, in his capacity as Provincial Administrator, and Mr. Antonio Chua, in his capacity as Provincial Treasurer; Giorgidi B. Aggabao, intervenor, G.R. No. 133064, September 16, 1999, 314 SCRA 603 (1999) [Per J. Puno].

[3] Id at pp.612-613.

[4] Patricio Tan, Felix Ferrer, Juan M. Hagad, Sergio Hilado, Virgilio Gaston, Conchita Minaya, Teresita Estacio, Desiderio Deferia, Romeo Gamboa, Alberto Lacson, Fe Hofileña, Emily Jison, Nieves Lopez, and Cecilia Magsaysay v. The Commission on Elections and The Provincial Treasurer of Negros Occidental, G.R. No. L-73155, 142 SCRA 727 (1986) [Per J. Alampay].

[5] Id. at pp.742-743.

[6] Hon. Roy A. Padilla, Jr., in his capacity as Governor of the Province of Camarines Norte v. Commission on Elections, G.R. No. 103328, 214 SCRA 735 (1992) [Per J. Romero].

[7] Rollo, p. 35.

[8] Id. at 408.

[9] Id.

[10] Id.

[11] Id. at 238-239.

[12] Id. at 113-114.

[13] Administrative Order No. 270, Prescribing the Implementing Rules and Regulations of the Local Government Code of 1991, Rule II, article 12 (b).

[14] COMELEC Resolution No. 7854, Rules and Regulations Governing the Conduct of the May 14, 2007 Plebiscite to Ratify the Conversion of Lapu-Lapu City from a Component City into a Highly-Urbanized City, pursuant to Presidential Proclamation No. 1222 dated January 23, 2007, simultaneously with the May 14, 2007 Synchronized National and Local Elections, April 3, 2007 < <http://www.comelec.gov.ph/?r=Archives/RegularElections/2007NLE/Resolutions/res7854> > (visited March 21, 2014).

[15] Id.

[16] COMELEC Resolution No. 8516, Rules and Regulations Governing the Conduct of the December 18, 2008 Plebiscite to Ratify the Conversion of Tacloban City from a Component City into a Highly-Urbanized City, pursuant to Presidential Proclamation No. 1637 dated October 4, 2008, November 12, 2008 < <http://www.comelec.gov.ph/?r=References/ComelecResolutions/OtherMatters/Res8516> > (visited March 21, 2014).

[17] Id.

[18] Republic Act No.7160, An Act Providing for a Local Government Code of 1991, Sec. 453.

[19] Sec. 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are

legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess jurisdiction on the part of any branch or instrumentality of the Government.

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.