

PIO FELWA, GAS PAR PONCHINIAN, ALFREDO PACYAYA, LEONARDO CADIOGAN, WILLIAM CLAVER, MANUEL SUMEDGA, WILLIAM PACRAY, ALBERTO OYA-OY, ROMULO ZARATE, CENON BAUTISTA, ALEXANDER SUMED...

G. R. No. 26511. October 29, 1966

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

This is an original action for prohibition with preliminary injunction.

Petitioners herein are the provincial governor, the elective members of the provincial board and some of the important appointive officials of Mountain Province prior to June 18, 1966, the date of approval and effectivity of Republic Act No. 4695, which divides Mountain Province in to four (4) provinces to be known as Benguet, Mountain Province, Ifugao, and Kalinga-Apayao. They seek the declaration of unconstitutionality of said Act and to prevent its enforcement by respondents herein, namely, the Executive Secretary, the Auditor General, the Secretary of Finance, the Commissioner of Civil Service, the Provincial Governor of Benguet, and the Assistant Executive Secretary and Chairman of the Committee designated to implement the aforementioned legislation. In their complaint, petitioners, likewise, prayed for a writ of preliminary injunction, which this Court has not issued.

Said Republic Act No. 4695 reads:

"An Act Creating The Province of Benguet, Mountain Province, Ifugao and Kalinga-Apayao.

"Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

"SECTION 1. Mountain Province is hereby divided into four provinces, to be known as Benguet, Mountain Province, Ifugao and Kalinga-Apayao.

"SEC. 2. The Province of Benguet shall comprise the Subprovince of Benguet and the municipalities of Tuba, Sablan, Itogon, La Trinidad, Tublay, Atok, Boko, Kabayan, Kapangan, Bakun, Kibungan, Mankayan, and Buguias.

"SEC. 3. Mountain Province shall comprise the Subprovince of Bontoc and the municipalities of Barlig, Bauko, Besao, Bontoe, Natonin, Sabangan, Sadanga, Sagada, Tadian and Paraceles.

"SEC. 4. The Province of Ifugao shall comprise the Subprovince of Ifugao and the municipalities of Banaue, Lagawe, Hungduan, Kiangan, Lamut, Mayaoyao and Potia.

"SEC. 5. The Province of Kalinga-Apayao shall comprise the Subprovince of Kalinga and Apayao. "The municipalities of Balbalan, Lubuagan, Pinuk-puk, Tabuk, Tanudan, Tinglayan, Quirino and Liwan in the Subprovince of Kalinga shall retain its status as the Subprovince of Kalinga. The Municipalities of Luna, Flora, Kabugao, Pudtol, Conner and Bayag in the Subprovince of Apayao shall retain its status as the Subprovince of Apayao.

"SEC. 6. The Provincial Capital of the Province of Benguet shall be La Trinidad; that of Mountain Province shall be Bontoc; that of the Province of Ifugao shall be Lagawe; that of the Province of Kalinga-Apayao shall be Tabuk.

"SEC. 7. Except as herein after provided, all provisions of law now or hereafter applicable to regular provinces shall apply to the Provinces of Benguet, Mountain Province, Ifugao and Kalinga-Apayao.

"SEC. 8. The present elective provincial officers of Mountain Province shall, until their successors shall have been elected and shall have qualified, be assigned to and perform their duties as such officers in the corresponding province herein created, to which said elective provincial officers belong as a member of the particular tribe or ethnic group inhabiting said province: Provided, That they shall continue to receive the salaries they are receiving at the time of approval of this Act until the new readjustment of salaries, in accordance with existing law. Where the position of provincial governor, in a newly created province, becomes vacant as a consequence of the division herein effected and the incumbent vice governor is assigned to said province in accordance with the provisions of this Act, the law of succession shall apply and the vice governor shall automatically succeed and shall hold office as such until his successor shall have been elected in the election following approval of this Act and shall have qualified. All other elective officers as may be necessary to fill in any of the said provinces shall, for the time being, be appointed by the President of the Philippines, with the consent of the Commission on Appointments, and shall hold office until their successors shall have been elected in the election for provincial and municipal officials following the approval of this Act, and shall have qualified.

"SEC. 9. The present appointive provincial officers and employees of Mountain Province shall likewise perform their respective duties as such in any of the four provinces herein created which they shall individually choose within thirty days from the date of approval hereof: Provided. That they shall continue to receive the salaries they are receiving at the time of approval of this Act until the new readjustment of salaries in accordance with existing law. Such appointive officers and employees as may be necessary to organize, or to complete, the government personnel of either province shall be appointed as provided by law.

"SEC. 10. The incumbent Members of the House of Representatives shall continue to serve the districts in which they are elected until their term of office shall expire, after which each province shall be represented by one Member: Provided, That the City of Baguio shall form part of the representative district of the Province of Benguet.

"SEC. 11. Upon effectivity of this Act, the obligations, funds, assets and other properties of Mountain Province shall be divided equitably among the provinces of Benguet, Mountain Province, Ifugao and Kalinga-Apayao by the President of the Philippines upon the recommendation of the Auditor General.

"SEC. 12. This Act shall take effect upon its approval.

"Approved, June 18, 1966."

Petitioners herein maintain that this Act is unconstitutional and hence null and void, because: (1) it denies equal protection; (2) one of the provisions thereof is not covered by its title; (3) it creates congressional districts without the reapportionment provided in the Constitution; and (4) the congressional districts thus created do not consist of contiguous and compact territory.

I. The alleged denial of equal protection is based upon the following premises, viz.:

(a) That the old Mountain Province became a first class province under the administration of its Governor, petitioner Lamien, who, pursuant to Republic Act No. 4695, retains said position in the new Mountain Province, which, however, in view of the divisions effected by said Act, is reduced to the category of a sixth-class province. Upon the other hand, respondent Dennis Molintas, as Vice-Governor of the old Mountain Province and, hence,

subordinate of petitioner Lamén, as Governor thereof, has become, in consequence of the contested legislation, the Governor of Benguet, a second class province, and, hence, higher, in this respect, in rank to his former superior officer, petitioner Lamén, who, because of the same statute, has been reduced to the category of Governor of a sixth-class province.

(b) That, although by becoming Provincial Governor of the new province of Benguet, respondent Molintas vacates his former position as Vice-Governor of the old Mountain Province, petitioner Pio Felwa, the senior member of the provincial board of the old Mountain Province is retained, by Republic Act No. 4695, in such position in the new Mountain Province, instead of filling said vacant position of Vice-Governor of Mountain Province, pursuant to the order of succession prescribed in Section 4 of Republic Act No. 2264, and Section 21, paragraph 6, of Republic Act No. 180.

(c) That similarly, petitioners Gaspar Ponchinlan and Castro Lammawin, as elective members of the Provincial Board of the old Mountain Province, are retained as members of the provincial board of the new provinces of Ifugao and Kalinga-Apayao, respectively, instead of becoming Vice-Governors thereof, pursuant to the rule of succession prescribed in said Republic Act Nos. 180 and 2264, which are applied to - respondent Molintas, as Vice-Governor of the old Mountain Province, who, pursuant to Republic Act No. 4695, becomes the Governor of the new province of Benguet.

The foregoing arguments do not prove that equal protection has been denied to petitioners herein, It is well settled that the equal protection clause applies only to persons or things identically situated and does not bar a reasonable classification of the subjects of legislation, and that a classification is reasonable where: (1) it is based upon substantial distinction which make real differences; (2) these are germane to the purpose of the law; (3) the classification applies, not only to present conditions, but, also, to future conditions which are substantially identical to those of the present; and (4) the classification applies equally to all those who belong to the same class.[1]

We believe that these requirements are sufficiently met in Republic Act No. 4695. It cannot be denied that the offices of provincial governor and vice-governor on the one hand,[2] are substantially different from those of plain members of the provincial board,[3] and those of appointive officers of the provincial government,[4] on the other. The former are essentially executive in nature, whereas plain members of the said board perform functions a partaking of a legislative character, since the authority vested by law upon provincial boards involves primarily a delegation of some legislative powers of Congress. Indeed, a good legislator is not necessarily an effective executive, and vice-versa. And, this is specially true in provinces, like those created by Republic Act No. 4695, for its Inhabitants belong to the non-Christian and less enlightened minorities of our population, and the administration of their public affairs requires a special kind of tact, understanding and vision, which are not needed in the Christianized regions of the Philippines. It goes without saying that the equal protection clause does not require the identical treatment of appointive and elective officers, insofar as the order of succession is concerned, because they obviously belong to different classes, both constitutionally and administratively.

The reduction In class of Mountain Province is not material to the Issue of equal protection.[5] It may not be amiss to add, also, that such reduction is not made by Republic Act No. 4695, but Is a mere effect of the limited revenues of the territory comprised in the new Mountain Province, as compared to that of Benguet;[6] that the territory of each of the four (4) provinces established by the Act in question merely follows the traditional political division of the region commonly known as Mountain Province, based upon the tribes or ethnic groups inhabiting the same; and that, being a resident of the Municipality of Sagada, which is part of the new Mountain Province, petitioner Lamén cannot be made Provincial Governor of any of the other three (3) provinces into which the old Mountain Province has been divided, without violating the very policies of our laws on public

corporations which petitioners cite in their favor. By the same token, respondent Molintas, who resides in La Trinidad, which is the provincial capital of the new province of Benguet, cannot, without impinging upon said policies, be made provincial governor either of the new Mountain Province, or of Ifugao, or Kalinga-Apayao.

II. Petitioners assail Republic Act No. 4695 upon the ground that the provision thereof reading:

"x x x Where the position of provincial governor, in a newly created province, becomes vacant as a consequence of the division herein effected and the incumbent vice governor is assigned to said province in accordance with the provisions of this Act, the law of succession shall apply and the vice governor shall automatically succeed to the position of governor in said province and shall hold office as such until his successor shall have been elected in the election following approval of this Act and shall have qualified." (Section 8.)

pursuant to which former Vice-Governor Molintas becomes provincial governor of Benguet, upon the ground that it is not included in the title of said legislation, reading: "An Act Creating the Provinces of Benguet, Mountain Province, Ifugao, and Kalinga-Apayao."

This pretense is absolutely devoid of merit, for, surely, an Act creating said provinces must be expected to provide for the officers who shall run the affairs thereof. In other words, the above quoted provision of Section 8 of Republic Act No. 4695 is manifestly germane to the subject of this legislation, as set forth in its title. III. & IV. The Constitution ordains:

"The House of Representatives shall be composed of not more than one hundred and twenty Members who shall be apportioned among the several provinces as nearly as may be according to the number of their respective Inhabitants, but each province shall have at least one Member. The Congress shall by law make an apportionment within three years after the return of every enumeration, and not otherwise. Until such apportionment shall have been made, the House of Representatives shall have the same number of Members as that fixed by law for the National Assembly, who shall be elected by the qualified electors from the present Assembly districts. Each representative district shall comprise, as far as practicable, contiguous and compact territory."

Pursuant to this Section, a representative district may come into existence: (a) Indirectly, through the creation of a province - for "each province shall have at least one member" In the House of Representatives; or (b) by direct creation of several representative districts within a province. The requirements concerning the apportionment of representative districts and the territory thereof refer only to the second method of creation of representative districts, and do not apply to those incidental to the creation of provinces, under the first method. This is deducible, not only from the general tenor of the provision above quoted, but, also, from the fact that the apportionment therein alluded to refers to that which is made by an Act of Congress. Indeed, when a province is created by statute, the corresponding representative district comes into existence neither by authority of that statute -which cannot provide otherwise - nor by apportionment, but by operation of the Constitution, without a reapportionment.

There is no constitutional limitation as to the time when, territory of, or other conditions under which a province may be created, except, perhaps, if the consequence thereof were to exceed the maximum of 120 representative districts prescribed in the Constitution, which is not the effect of the legislation under consideration. As a matter of fact, provinces have been created or subdivided into other provinces, with the consequent creation of additional representative districts, without complying with the aforementioned requirements. [[7]]

Then, again, petitioners' allegation to the effect that the new representative districts resulting from the creation of the new provinces of Benguet, Mountain Province, Ifugao and Kalinga-Apayao, do not comprise contiguous and compact territory, has been controverted by respondents and has not been sufficiently proven.

Last, but not least, the constitutional command to the effect that "each representative district shall comprise xxx contiguous and compact territory" is, not absolute, but, qualified by the phrase "as far as practicable." In the case at bar, the delimitation of the provinces involved therein is based upon the tribes or ethnic groups inhabiting the same.

WHEREFORE, the petition herein is hereby dismissed, with costs against the petitioners.

IT IS SO ORDERED.

Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro JJ., concur.

Barrera, J., on leave.

[1]Aleja vs. GSIS, G. R. No. L-18529 (February 26, 1965); People vs. Solon, G.R. No. L-14864 (November 23, 1960); People vs. Vera (65 Phil. 56); People vs. Cayat (68 Phil. 12); Laurel vs. Misa (42 Off. Gaz., 2847).

[2] Rev. Adm. Code, Sec. 2082; Rep. Act 2264, Sec. 4.

[3] Revised Administrative Code, Sections 2096, 2102, 2105, 2106.

[4] Revised Administrative Code, Section 2088, 2092, 1673, 1910-1911, 593-597; Republic Act No. 1082, Section 2.

[5] Barbier vs. Connolly, 113 U.S. 27.

[6] Revised Administrative Code, Section 2067-A.

[7] Republic Acts Nos. 505, 711, 1414 and 2228.

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