

GOVERNOR ZOSIMO J. PAREDES AND MAYOR MARIO W. CHILAGAN, PETITIONERS, VS. THE HONORABLE EXECUTIVE SECRETARY TO THE PRESIDENT OF THE PHILIPPINES, THE HONORABLE COMMISSION ON ELECT...

G.R. No. 55628. March 02, 1984

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The constitutional question raised in a declaratory relief proceeding treated as a special civil action for prohibition, one of first impression, arose from the issuance of a proclamation by the President,[1] directing that a plebiscite be conducted in certain barangays[2] all within the municipality of Mayoyao, Province of Ifugao, segregated under a Batas Pambansa,[3] "to determine whether the said Barangays shall become a new municipality to be known as the Municipality of Aguinaldo, Province of Ifugao." In such proclamation, respondent Commission on Elections[4] was charged with the duty of supervising the conduct of such plebiscite and empowered to promulgate the necessary rules and regulations to implement the proclamation. It is alleged that Batas Pambansa Blg. 86 is unconstitutional for being violative of Article XI, Section 3 of the Constitution.[5] The basis for such contention is that the state excluded from the plebiscite the voters from the poblacion and other barangays of the Municipality of Mayoyao except those mentioned in the Act.

This is the issue specifically posed: Who are to be included in such plebiscite? As contended by petitioners Zosimo J. Paredes and Mario W. Chilagan, the former being the incumbent Governor of the Province of Ifugao and the latter, Mayor of the Municipality of Mayoyao, Ifugao, all the inhabitants of such municipality should participate in such plebiscite as they are included in the "unit or units affected."

Such interpretation is disputed by respondents.[6] It is their submission that in the interpretation of the above phrase, the Court "should not lose sight of the fact that this provision is intended to promote autonomy of our local government units. Thus, in a case where barrios are being separated from an existing municipality to form a new municipality, as in the case at bar, the units affected are the barrios whose transfer is being sought. It is the people in these barrios who will really be affected by the new grant of autonomy. They will be under a new set of officials, a new government, a new set of powers and responsibilities. They should thus be consulted on whether they are willing to shoulder the responsibilities attendant to autonomy. Barrios which will remain with the original municipality are not affected since their autonomy vis-a-vis the national government is not in any way diminished. They will be under the same local government, without any diminution whatsoever of their rights. There is therefore no infringement of the Constitution if people in these barrios do not vote in the plebiscite. On the contrary, an anomalous situation may arise if they are allowed to vote and if their voters are numerically superior to frustrate any attempt of some barrios to break away from the original municipality. In such an eventuality, one very populous barrio may for selfish reason prevent the desired autonomy of other barrios." [7]

The Court sustains the stand of respondents. The petition must be dismissed.

1. Admittedly, this is one of those cases where the discretion of the Court is allowed considerable leeway. There is indeed an element of ambiguity in the use of the expression "unit or units affected." It is plausible to assert as petitioners do that when certain barangays are separated from a parent municipality to form a new one, all the voters therein are affected. It is much more persuasive, however, to contend as respondents do that the acceptable construction is for those voters, who are not from the barangays to be separated, should be excluded in the plebiscite.

2. For one thing, it is in accordance with the settled doctrine that between two possible constructions, one avoiding a finding of unconstitutionality and the other yielding such a result, the former is to be preferred. That which will save, not that which will destroy, commends itself for acceptance. After all, the basic presumption all these years is one of validity.[8] The onerous task of proving otherwise is on the party seeking to nullify a statute. It must be proved by clear and convincing evidence that there is an infringement of a constitutional provision, save in those cases where the challenged act is void on its face. Absent such a showing, there can be no finding of unconstitutionality. A doubt, even if well-founded, does not suffice. Justice Malcolm's aphorism is apropos: "To doubt is to sustain." [9]

3. Such a doubt moreover is dispelled by a reference to this fundamental principle declared in the Constitution: "The State shall guarantee and promote the autonomy of local government units, especially the [barangays], to ensure their fullest development as self-reliant communities." [10] It is clear that in granting autonomy, priority is to be accorded the smallest unit, the barangay. That enables its residents the fullest development as a self-reliant community, with a distinct personality of its own. Adherence to such a philosophy compels the conclusion that when there are indications that the inhabitants of several barangays are inclined to separate from a parent municipality they should be allowed to do so. What is more logical than to ascertain their will in a plebiscite called for that purpose. If it is they, and they alone, who shall constitute the new unit. New responsibilities will be assumed. New burdens will be imposed. A new municipal corporation will come into existence. Its birth will be a matter of choice - their choice. They should be left alone then to decide for themselves. To allow other voters to participate will not yield a true expression of their will. They may even frustrate it. That certainly will be so if they vote against it for selfish reasons, and they constitute the majority. That is not to abide by the fundamental principle of the Constitution to promote local autonomy, the preference being for smaller units. To rule as this Tribunal does is to follow an accepted principle of constitutional construction, that in ascertaining the meaning of a particular provision that may give rise to doubts, the intent of the framers and of the people may be gleaned from provisions in pari materia.

4. One last consideration. What is sought in this suit is to enjoin respondents particularly respondent Commission from implementing Batas Pambansa Blg. 86, specifically "from conducting, holding and undertaking the plebiscite provided for in said Act." The petition was filed on December 5, 1980. There was a plea for a restraining order, but Proclamation No. 2034 fixing the date for such plebiscite on December 6, 1980 had been issued as far back as November 11, 1980. Due to this delay in filing this suit, attributable solely to petitioners, there was no time even to consider such a plea. The plebiscite was duly held. The certificate of canvass and proclamation of the result disclosed that out of 2,409 total votes cast in such plebiscite, 2,368 votes were cast in favor of the creation of the new municipality, which, according to the statute, will be named municipality of Aguinaldo. There were only 40 votes cast against. As a result, such municipality was created. There is no turning back the clock. The moot and academic character of this petition is thus apparent.

WHEREFORE, the petition is dismissed. No costs.

Aquino, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Escolin, Relova, Gutierrez, Jr. and De La Fuente, JJ., concur.

Makasiar and Plana, JJ., vote to dismiss the petition on the grounds that it has become moot and academic.

Abad Santos, J., see dissenting opinion.

Teehankee, J., on official leave.

[1] Proclamation No. 2034 (1980).

[2] The barangays are Bunhian, Damag, Galonogon, Itab, Jacmal, Taang, Taleta and Ubao.

[3] Batas Pambansa Blg. 86 (1980).

[4] The other respondents are the then Executive Secretary to the President of the Philippines and the Municipal Treasurer of the Municipality of Mayoyao, Ifugao.

[5] Article XI, Section 3 of the Constitution reads: "No province, city, municipality, or barrio may be created, divided, merged, abolished or its boundaries 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 cast in a plebiscite in the unit or units affected."

[6] The answer was filed by Solicitor General Estelito P. Mendoza and Assistant Solicitor General Ruben E. Agpalo and Solicitor Amado D. Aquino.

[7] Answer, 6.

[8] Cf. Manila Trading Supply Co. v. E.M. Reyes, 62 Phil. 461 (1935); Angara v. Electoral Commission, 63 Phil. 139 (1936); People v. Vera, 65 Phil. 56 (1937); National Housing Authority v. Reyes, L--49439, June 29, 1983, 123 SCRA 245.

[9] Yu Cong Eng v. Trinidad, 47 Phil. 385 (1925).

[10] Article II, Section 10 of the Constitution.

DISSENTING OPINION

ABAD SANTOS, J.:

With all due deference to Chief Justice Enrique M. Fernando who has no peer on the subject of Constitutional Law, I am constrained to dissent.

Batas Pambansa Blg. 86 created the Municipality of Aguinaldo out of eight barangays within the Municipality of Mayoyao, Ifugao. The same statute, presumably because of the provision of the Constitution which stipulates that "No province, city, municipality, or barrio may be created, divided, merged, abolished or its boundaries 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 cast in a plebiscite in the unit or units affected" (Art. XI, Sec. 3), states in Section 3 thereof that a plebiscite be conducted in the areas constituting the proposed new Municipality of Aguinaldo. Accordingly, the other barangays of the Municipality of Mayoyao were excluded from the plebiscite.

I have grave doubts about the constitutionality of B.P. Blg. 86 for two reasons:

1. It was enacted even before there was a local government code and, therefore, the creation of the Municipality of Aguinaldo or the division of the Municipality of Mayoyao was done without reference to any established criteria.
2. I believe that when the Constitution speaks of "the unit or units affected" it means all of the people of the municipality if the municipality is to be divided such as in the case at bar or all of the people of two or more

municipalities if there be a merger. I see no ambiguity in the Constitutional provision.

In the case of the creation of the Municipality of Aguinaldo, it is obvious that the people in all of the barangays of the Municipality of Mayoyao have an interest in the matter for it will mean the dis-memberment of their town.

The proposition that:

"Barrios which will remain with the original muni-cipality are not affected since their autonomy vis-a-vis the national government is not in any way diminished. They will be under the same local government, without any diminution whatsoever of their rights. There is therefore no infringement of the Constitution if people in these barrios do not vote in the plebiscite"

is utterly false. For to reduce a municipality both in area and population will produce adverse effects. Rizal was once the premiere province of the Philippines. But after several towns were removed from it such as Pasay and Caloocan and after still more towns were detached from it to form part of Metro Manila, Rizal province has been reduced to a practically insignificant political entity.

No effect on the barangays which will remain with the Municipality of Mayoyao? Why then did the Governor of Ifugao and the Mayor of Mayoyao get excited?

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