

SAMUEL C. OCCEÑA, PETITIONER, VS. THE COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 60258. January 31, 1984

Ponente: PLANA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-60258/>

PLANA, J.:

This petition for prohibition seeks the declaration as unconstitutional of Sections 4 and 22 of Batas Pambansa Blg. 222, otherwise known as the Barangay Election Act of 1982, insofar as it prohibits any candidate in the Barangay election of May 17, 1982 "from representing or allowing himself to be represented as a candidate of any political party... or prohibits a political party, political group, political committee... from intervening in the nomination of a candidate in the barangay election or in the filing of his certificate of candidacy, or giving aid or support directly or indirectly, material or otherwise, favorable to or against his campaign for election." On this basis, it is prayed that -

"... judgment be rendered declaring the 1982 Barangay elections NULL AND VOID ab initio, for being UNCONSTITUTIONAL, and directing the holding of new barangay elections without any ban on the involvement of political parties, political committees, political organizations and other political group." [1]

The constitutionality of the prohibition vis-a-vis non-political groups is not challenged.

This Court has considered the Comments of the Solicitor General as an Answer and deemed the case submitted for decision after the oral arguments on May 5, 1982.[2]

The legal provisions in question read as follows:

"SEC. 4. Conduct of elections. - The barangay election shall be non-partisan and shall be conducted in an expeditious and inexpensive manner.

"No person who filed a certificate of candidacy shall represent or allow himself to be represented as a candidate of any political party or any other organization; and no political party, political group, political committee, civic, religious, professional or other organization or organized group of whatever nature shall intervene in his nomination or in the filing of his certificate of candidacy or give aid or support directly or indirectly, material or otherwise, favorable to or against his campaign for election: Provided, That this provision shall not apply to the members of the family of a candidate within the fourth civil degree of consanguinity or affinity nor to the personal campaign staff of the candidate which shall not be more than one for every one hundred registered voters in his barangay Provided, further, That without prejudice to any liability that may be incurred, no permit to hold a public meeting shall be denied on the ground that the provisions of this paragraph may or will be violated.

"Nothing in this section, however, shall be construed as in any manner affecting or constituting an impairment of the freedom of individuals to support or oppose any candidate for any barangay office.

SEC. 22. Penalties. - Violations of this Act shall constitute prohibited acts under Sec. 178 of the 1978 Election Code and shall be prosecuted and penalized in accordance with the provisions of said code."

The petitioner contends -

- (a) That the ban on the intervention of political parties in the election of barangay officials is violative of the constitutional guarantee of the right to form associations and societies for purposes not contrary to law.
- (b) That the ban is incompatible with a democracy and a parliamentary system of government.

I

The right to form associations or societies for purposes not contrary to law is neither absolute nor illimitable; it is always subject to the pervasive and dominant police power of the state and may constitutionally be regulated or curtailed to serve appropriate and important public interests. (*Gonzales vs. Comelec*, 27 SCRA 835; *Imbong vs. Comelec*, 35 SCRA 28). Whether a restriction imposed is constitutionally permissible or not depends upon the circumstances of each case.

Examining Section 4 of the Barangay Election Act of 1982, be it noted that thereunder, the right to organize is intact. Political parties may freely be informed although there is a restriction on their activities, i.e., their intervention in the election of barangay officials on May 17, 1982 is proscribed. But the ban is narrow, not total. It operates only on concerted or group action of political parties. Members of political and kindred organizations, acting individually, may intervene in the barangay election. As the law says: "Nothing (therein) ... shall be construed as in any manner affecting or constituting an impairment of the freedom of individuals to support or oppose any candidate for any barangay office." Moreover, members of the family of a candidate within the fourth civil degree of consanguinity or affinity as well as the personal campaign staff of a candidate (not more than 1 for every 100 registered voters in his barangay) can engage in individual or group action to promote the election of their candidate.

Aside from the narrow character of the restriction thus imposed, the limitation is essential to meet the felt need of the hour. Explaining the reason for the non-partisan character of the barangay election when he sponsored Parliamentary Bill 2125 which later became BP Blg. 222, Minister of State for Political Affairs Leonardo B. Perez said:

"Mr. Speaker, we must not lose sight of the fact that the barangay is the basic unit not only of our social structure, but also of our political, structure, As much as possible, we believe that it would be a more prudent policy to insulate the barangays from the influence of partisan politics.

"Mr. Speaker, we have seen the salutary results of the non-partisan election of the members of the Constitutional Convention of 1971. We all recall, Mr. Speaker, that the election of Concon delegates was non-partisan and, therefore, when history will judge that Constitutional Convention, it can be safely stated that that Constitutional Convention did not belong to any political party because it was chosen under a non-partisan method; that it was a constitutional convention that was really of the people, for the people and by the people. So we should not be concerned and our attention should not be focused on the process but on the after effects of the process. We would like to say later on, Mr. Speaker, that the barangays, although it is true they are already considered regular units of our government, are non-partisan; they constitute the base of the pyramid of our social and political structure, and I think that in order that that base will not be subject to instability because of the influence of political forces, it is better that we elect the officials thereof through a non-partisan system."

There are other reasons for insulating the barangay from the divisive and debilitating effects of a partisan political campaign. The Barangay Captain and the Barangay Council, apart from their legislative and consultative powers, also act as an agency for neutral community action such as the distribution of basic foodstuff and as an instrument in conducting plebiscites and referenda. The Barangay Captain, together with the members of the Lupon

Tagapayapa appointed by him, exercises administrative supervision over the barangay conciliation panels in the latter's work of setting local disputes. The Barangay Captain settle settles or helps settle local controversies within the barangay either through mediation or arbitration. It would definitely enhance the objective and impartial discharge of their duties for barangay officials to be shielded from political party loyalty. In fine, the ban against the participation of political parties in the barangay election is an appropriate legislative response to the unwholesome effects of partisan bias in the impartial discharge of the duties imposed on the barangay and its officials as the basic unit of our political and social structure.

This is not the first time that a restriction as that prescribed in Section 4 of Batas Pambansa Blg. 222 has been judicially challenged. In *Imbong vs. Comelec*, supra, the first paragraph of Section 8(a) of Republic Act No. 6132 was assailed as unconstitutional for, allegedly being violative of the constitutional guarantees of due process, equal protection of the laws, freedom of expression, freedom of assembly and freedom of association. Like Section 4 of BP Blg. 222, Section 8(a) of RA 6132 prohibited:

1. any candidate for delegate to the (Constitutional) Convention
 - (a) from representing, or
 - (b) allowing himself to be represented as being a candidate of any political party or any other organization; and
2. any political party, political group, political committee, civic, religious, professional or other organizations or organized group of whatever nature from
 - (a) intervening in the nomination of any such candidate or in the filing of his certificate, or
 - (b) from giving aid or support directly or indirectly, material or otherwise, favorable to or against his campaign for election.

In refusing to declare the assailed legal provisions as unconstitutional, this Court, speaking thru Mr. Justice Makasiar, said:

"The ban against all political parties or organized groups of whatever nature contained in par. 1 of Sec. 8(a), is confined to party or organization support or assistance, whether material, moral, emotional or otherwise. The very Sec. 8(a) in its proviso permits the candidate to utilize in his campaign the help of the members of his family within the fourth degree of consanguinity or affinity, and a campaign staff composed of not more than one for every ten precincts in his district. x x x The right of a member or any political party or association to support him or oppose his opponent is preserved as long as such member acts individually. x x x .

"It is therefore patent that the restriction contained in Sec. 8(a) is so narrow that the basic constitutional rights themselves remain substantially intact and inviolate. And it is therefore a valid infringement of the aforesaid constitutional guarantees invoked by petitioners. xx x.

"In the said *Gonzales vs. Comelec* case, this Court gave 'due recognition to the legislative concern to cleanse, and if possible, render spotless, the electoral process,' impressed as it was by the explanation made by the author of R.A. No. 4880, Sen. Lorenzo Tañada, who appeared as amicus curiae, 'that such provisions were deemed by the legislative body to be part and parcel of the necessary and appropriate response not merely to a clear and present danger but to the actual existence of a grave and substantive evil of excessive partisanship, dishonesty and corruption as well as of violence that of late has marred election campaigns and partisan-political activities in this country. He did invite our attention likewise to the well settled doctrine that in the choice of remedies for an admitted Malady requiring governmental action, on the legislature primarily rests the responsibility. Nor should the cure prescribed by it, unless clearly repugnant to fundamental rights, be ignored or disregarded.'

"But aside from the clear and imminent danger of the debasement of the electoral process, as conceded by Senator Pelaez, the basic motivation, according to Senate Majority Floor Leader Senator Arturo Tolentino, the sponsor of the Puyat Tolentino amendment embodied in par. 1 of Sec. 8(a) of R.A. No. 6132, is to assure the candidates equal protection of the laws by according them equality of chances. The primary purpose of the prohibition then is also to avert the clear and present danger of another substantive evil, the denial of the equal protection of the laws. The candidates must depend on their individual merits and not on the support of political parties or organizations. Senator Tolentino and Senator Salonga emphasized that under this provision, the poor candidate has an even chance as against the rich candidate. We are not prepared to disagree with them, because such a conclusion, predicated as it is on empirical logic, finds support in our recent political history and experience. Both senators stressed that the independent candidate who wins in the election against a candidate of the major political parties, is a rare phenomenon in this country and the victory of an independent candidate mainly rests on his ability to match the resources, financial and otherwise, of the political parties or organization supporting his opponent. This position is further strengthened by the principle that the guarantee of social justice under Sec. 5, Art. II of the Constitution, includes the guarantee of equal opportunity, equality of political rights, and equality before the law enunciated by Mr. Justice Tuason in the case *Guido vs. Rural Progress Administration*.

"While it may be true that a party's support of a candidate is not wrong per se, it is equally true that Congress in the exercise of its broad law-making authority can declare certain acts as mala prohibita when justified by the exigencies of the times. One such act is the party or organization support prescribed in Sec. 8(a), which ban is a valid limitation on the freedom of association as well as expression, for the reasons aforesated.

"Senator Tolentino emphasized that 'equality of chances may be better attained by banning all organization support.'"

x x x x x x x x

"The political parties and the other organized groups have built-in advantages because of their machinery and other facilities, which, the individual candidate who is with out any organization support, does not have.

x x x x x x x x

"The freedom of association also implies the liberty not to associate or join with others or join any existing organization. A person may run independently on his own merits without need of catering to a political party or any other association for support. And he, as much as the candidate whose candi-dacy does not evoke sympathy from any political party or organized group, must be afforded equal chances. As emphasized by Senators Tolentino and Salonga, this ban is to assure equal chances to a candidate with talent and imbued with patriotism as well as nobility of purpose, so that the country can utilize their services if elected."

Since Section 4 of the Barangay Election Act is almost a verbatim copy of the first paragraph of Section 8(a) of Republic Act No. 6132, the quoted arguments in support of the constitutionality of the latter apply as well in support of the former.

II

The petitioner argues that in a democracy, all elections necessarily must be partisan. This is not so. For in a representative democracy such as ours, there is merely a guarantee of participation by the people in the affairs of government thru their chosen representatives, without assurance that in every instance concerted partisan activity in the selection of those representatives shall be allowed, unless otherwise mandated expressly or impliedly by the Constitution. The case of *Imbong vs. Comelec* has precisely rejected the petitioner's posture.

Nor does a parliamentary system of government carry the guarantee that elections in all levels of government

shall be partisan. Under the Constitution, there is an implicit guarantee of political party participation in the elections for President and members of the Batasang Pambansa. For the outcome of the elections for President determines the subsequent accreditation of political parties.

"The political parties whose respective candidates for President have obtained the first and second highest number of votes in the last preceding election for President under this Constitution shall be entitled to accreditation if each has obtained at least ten percent (10%) of the total number of votes cast in such election. If the candidates for President obtaining the two highest number of votes do not each obtain at least ten percent (10%) of the total number of votes cast, or in case no election for President shall as yet have been held, the Commission on Elections shall grant accreditation to political parties as may be provided by law." (Art. XII-C Sec. 8.)

On the other hand, the presence and participation of majority and Minority parties are essential to the proper working of the Batasang Pambansa, the operation of which assumes that there is a ruling political party that determines the program of government and a fiscalizing political party or parties to curb possible abuses of the dominant group.

Outside of the cases where the Constitution clearly requires that the selection of particular officials shall be thru the ballot and with the participation of political parties, the lawmaking body, in the exercise of its power to enact laws regulating the conduct of elections, may in our view ban or restrict partisan elections. We are not aware of any constitutional provision expressly or impliedly requiring that barangay officials shall be elected thru partisan electoral process. Indeed, it would be within the competence of the National Assembly to prescribe that the barangay captain and councilmen, rather than elected, shall be appointed by designated officials such as the City or Municipal Mayors or Provincial Governors. If barangay officials could thus be made appointive, we do not think it would be constitutionally-obnoxious to prescribe that they shall be elective, but without political party or partisan involvement in the process in order to promote objectivity and lack of partisan bias in the performance of their duties that are better discharged in the absence of political attachment.

WHEREFORE, the petition is denied for lack of merit. No costs.

SO ORDERED.

Makasiar, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Escolin, Vasquez, Relova, and Gutierrez, JJ., concur.

Fernando, C.J., concurs in the result and submits a brief separate opinion.

Teehankee, J., dissents in a separate opinion.

Aquino, J., concurs in the result. Petitioner, as a tax-payer, has no cause of action for prohibition to test the Constitutionality of the Barangay Election Law. Prohibition is not proper in this case.

Abad Santos, J., no part.

[1] There was a prayer to restrain the holding of the barangay election on May 17, 1982 pursuant to Sec. 4 of B.P. 222, but this Court did not issue a restraining order.

[2] Delay in deciding this case was occasioned by the acceptance of the resignations of all the Justices of the Court on May 10, 1982.

CONCURRING OPINION

FERNANDO, C.J.:

The opinion of the Court penned by Justice Plana deserves to be commended for the thoroughness with which it analysed all pertinent issues and for the soundness of the conclusion reached. My concurrence in the result is due to certain reservations insofar as the ponencia would rely on *Imbong v. Commission on Elections*,^[1] as the basis for limiting the constitutional right to freedom of association.

The concluding paragraph of the dissent of Justice Teehankee cites an excerpt from my concurring and dissenting opinion in *Imbong*. I stressed therein the constitutional right to freedom of association, implicit in which is "the right to join others of a like persuasion to pursue, common objectives" characterized as "embraced within if not actually encouraged by the regime of liberty ordained by the Constitution."^[2]

I stand by what I said. That does not, for me at least conclude the matter. My dissent was predicated on the ban on the 1971 Constitutional Convention Delegates. Here the ban is on Barangay candidates. There is then, for me, a significant distinction. Hence the result reached by the Court is for me entitled to acceptance.

Nor would I want to be misunderstood. The ponencia of Justice Plana is equally deserving of approval insofar as his treatment of what a barangay stands for is concerned: Thus: "There are other reasons for insulating the barangay from the divisive and debilitating effects of a partisan political campaign. The Barangay Captain and the Barangay Council, apart from their legislative and consultative powers, also act as an agency for neutral community action such as the distribution of basic foodstuff and as an instrument in conducting plebiscites and referenda. The Barangay Captain, together with the members of the Lupon Tagapayapa appointed by him, exercises administrative supervision over the barangay conciliation panels in the latter's work of settling local disputes. The Barangay Captain himself settles or helps settle local controversies within the barangay either through mediation or arbitration. It would definitely enhance the objective and impartial discharge of their duties for barangay officials to be shielded from political party loyalty. In fine, the ban against the participation of political parties in the barangay election is an appropriate legislative response to the unwholesome effects of partisan bias in the impartial discharge of the duties imposed on the barangay and its officials as the basic unit of our political and social structure."^[3]

Now as to what I believe is the test of the permissible limitation on freedom of association. As set forth in my ponencia in *Gonzales v. Commission on Elections*,^[4] referred to in the opinion of the Court: "It is indispensable not only for its enhancing the respect that should be accorded a human personality but equally so for its assurance that the wishes of any group to oppose whatever for the moment is the party in power and with the help of the electorate to set up its own program of government would not be nullified or frustrated. To quote from Douglas anew: 'Justice Frankfurter thought that political and academic affiliations have a preferred position under the due process version of the First Amendment. But the associational rights protected by the First Amendment are in my view much broader and cover the entire spectrum in political ideology as well as in art, in journalism, in teaching, and in religion. In my view, government can neither legislate with respect to nor probe the intimacies of political, spiritual, or intellectual relationships in the myriad of lawful societies and groups, whether popular or unpopular, that exist in this country.' Nonetheless, the Constitution limits this particular freedom in the sense that there could be an abridgment of the right to form associations or societies when their purposes are 'contrary to law'. How should the limitation 'for purposes not contrary to law' be interpreted? It is submitted that it is another way of expressing the clear and present danger rule for unless an association or society could be shown to create an imminent danger to public safety, there is no justification for abridging the right to form associations or

societies."[5]

[1] L-32432, September 11, 1970, 35 SCRA 28.

[2] Ibid, 47.

[3] Opinion of the Court, 5-6.

[4] L-27833, April 18, 1969, 27 SCRA 835.

[5] Ibid, 863.

DISSENTING OPINION

TEEHANKEE, J.:

I submit that the case has become moot and academic since the May 17, 1982 barangay elections have already been held with the enforcement of the questioned prohibition against political party or other organized group support for or against any candidate.

If the Court should nevertheless render judgment upholding the validity of the questioned prohibition, I wish to record my dissent. Experience has shown, as stated in my dissent in *Badoy, Jr. vs. Comelec* (35 SCRA 285), that such strictures and restrictions in elections which constitute the most elemental and direct participation of the citizen in the conduct of government and necessarily imply political or concerted group activity and support, (more so, on the barangay level) far from suppressing evils of "political partisanship" to foment them by denying "non-political" candidates the very freedoms of effectively appealing to the electorate through the public media and of being supported by organized groups that would give them at least a fighting chance to win against candidates of the political kingpins. The he political bigwigs are meanwhile left to give their individual blessings to their favored candidates which in actuality is taken by all as the party's blessings.

For brevity's sake, I reproduce herein by reference my separate dissenting opinions in the cases of *Badoy, supra*, and *In re: Kay Villegas Kami, Inc.* (35 SCRA 429) that the herein challenged provision (similar to the challenged Con-Con Act [Republic Act 6132]) in the cited cases "oppressively and unreasonably straitjacket the candidates as well as the electorate and gravely violate the constitutional guaranties of freedom of expression, freedom of the press and freedom of association, and deny due process and the equal protection of the laws, " and that "(S)uppression of free, open and public discussion of men and issues, particularly in times of elections, goes against our traditions of liberty and freedom."

Finally, a reference to the separate opinions of the now Chief Justice in the cited cases would be enlightening. As he stated in the *Imbong* case: "I find it difficult to reconcile the decision reached insofar as the aforesaid ban on political parties and civic, professional and other organizations is concerned with the explicit provision that the freedom to form associations or societies for pur-poses not contrary to law shall not be abridged. The right of an individual to join others of a like persuasion to pursue common objectives and to engage in activities is embraced within if not actually encouraged by the regime of liberty ordained by the Constitution. This particular freedom has an indigenous cast, its origin being traceable to the Malolos Constitution." (35 SCRA at pages 47-48)

I accordingly vote to grant the petition.

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.