

**ALEX G. ALMARIO, ISAGANI M. JUNGCO, ESTANISLAO L. CESA, JR.,
DORINTINO FLORESTA, FIDELA Y. VARGAS, ET AL., PETITIONERS, VS.
HON. MANUEL ALBA AND THE COMMISSION ON ELECTIONS,
RESPO...**

G.R. No. 66088. January 25, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

As provided for in Batas Pambansa Blg. 643, the Filipino electorate will go to the polls on January 27, 1984 to either approve or reject amendments to the Constitution proposed by Resolution Nos. 104, 105, 110, 111, 112, and 113 of the Batasang Pambansa. The proposed amendments are embodied in four (4) separate questions to be answered by simple YES or NO answers.

Petitioners herein seek to enjoin the submission on January 27, 1984 of Question Nos. 3 and 4, which cover Resolution Nos. 105 and 113, to the people for ratification or rejection on the ground that there has been no fair and proper submission following the doctrine laid down in *Tolentino v. COMELEC* (41 SCRA 707). The petitioners do not seek to prohibit the holding of the plebiscite but only ask for more time for the people to study the meaning and implications of Resolution Nos. 105 and 113 until the nature and effect of the proposals are fairly and properly submitted to the electorate.

The questions to be presented to the electorate at the plebiscite are:

QUESTION NO. 3

Do you vote for the approval of amendments to the Constitution as proposed by the Batasang Pambansa in Resolution Numbered 105 which, in sub-stance, provide that grant shall be an additional mode for the acquisition of lands belonging to the public domain and that the agrarian reform program may include the grant or distribution of alienable lands of the public domain to qualified tenants, farmers and other landless citizens.

QUESTION NO. 4

Do you vote for the approval of an amendment to the Constitution as proposed by the Batasang Pambansa in its Resolution Numbered 113, adding the following paragraph to Section 12 of Article XIV of the Constitution:

"The State shall moreover undertake an urban land reform and social housing program to provide deserving landless, homeless or inadequately sheltered low in-come resident citizens reasonable opportunity to acquire land and decent housing consistent with Section 2 of Article IV of this Constitution."

After a careful consideration of the issues raised in the petition for prohibition with preliminary injunction, the answer of the Solicitor General, and the arguments of the parties during the hearing on January 24, 1984, the

COURT Resolved to DISMISS the petition for lack of merit.

Section 2, Article XVI of the Constitution which states:

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SEC. 2. Any amendment to, or revision of, this Constitution shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not later than three months after the approval of such amendment or revision.

allows a period of not more than three months for the conduct of information campaigns. The sufficiency of the period during which amendments are submitted to the people before they vote to either affirm or reject depends on the complexity and intricacy of the questions presented. The petitioners have failed to show that the addition of the one word "grant" to Section 11, Article XIV to make the provision read:

"x x x nor may any citizen hold such (alienable) lands (of the public domain) by lease in excess of five hundred hec-tares or acquire by purchase, homestead, or GRANT in excess of twenty four hectares. x x x"

or that the addition of two paragraphs including one on urban land reform to Section 12 of Article XIV to make it read:

SEC. 12. The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution.

"SUCH PROGRAM MAY INCLUDE THE GRANT OR DISTRIBUTION OF ALIENABLE AND DISPOSABLE LANDS OF THE PUBLIC DOMAIN TO QUALIFIED TENANTS, FARMERS AND OTHER LANDLESS CITIZENS IN AREAS WHICH THE PRESIDENT MAY BY OR PUR-SUANT TO LAW RESERVE FROM TIME TO TIME, NOT EXCEEDING THE LIMITATIONS FIXED IN ACCORDANCE WITH THE IMMEDIATELY PRECEDING SECTION.

"THE STATE SHALL MOREOVER UNDERTAKE AN URBAN LAND REFORM AND SOCIAL HOUSING PROG-RAM TO PROVIDE DESERVING LANDLESS, HOMELESS OR INADEQUATELY SHELTERED LOW INCOME RESIDENT CITIZENS REASONABLE OPPORTUNITY TO ACQUIRE LAND AND DECENT HOUSING CONSISTENT WITH SECTION 2 OF ARTICLE IV OF THIS CONSTITUTION."

result in amendments of such nature that when the people go to the polls on January 27, 1984 they cannot arrive at an intelligent judgment on their acceptability or non-acceptability.

The present provisions of the Constitution are adequate to support any program of the government for the grant of public lands to qualified and deserving citizens or for the implementation of urban land reform. Homesteads and free patents are "grants." We likewise see no constitutional infirmity to a law passed by the Batasang Pambansa, under the present Constitution, that would grant alienable and dis-posable lands of the public domain not more than twenty four (24) hectares to any qualified tenant, farmer, and other landless citizen in areas reserved by the President, acting pursuant to such law. Nor is it correct to say that after the agrarian land reform program now being implemented and the agitation for a similar program in urban areas, the meaning of "urban land reform" is

not yet understood. Questions No. 3 and No. 4, if ratified with an affirmative vote, will serve at most a symbolic purpose. That much the Solicitor General conceded when he stated that the amendments under Question No. 3 serve to confirm existing practice pursuant to long standing legislation. Any interpretation of "grant" will, therefore, carry the weight of applicable precedents which surround the associated words "homestead" and "purchase" in the same clause of the Constitution. Similarly, any legislation laying down the rules on urban land reform will have to survive the constitutional tests of due process, equal protection, police power, reasonable compensation, etc., now applied to agrarian land reform.

More important, however, is that the necessity, expediency, and wisdom of the proposed amendments are beyond the power of the courts to adjudicate. Precisely, whether or not "grant" of public land and "urban land reform" are unwise or improvident or whether or not the proposed amendments are unnecessary is a matter which only the people can decide. The questions are presented for their determination. Assuming that a member or some members of this Court may find undesirable any additional mode of disposing of public land or an urban land reform program, the remedy is to vote "NO" in the plebiscite but not to substitute his or their aversion to the proposed amendments by denying to the millions of voters an opportunity to express their own likes or dislikes. The issue before us has nothing to do with the wisdom of the proposed amendments, their desirability, or the danger of the power being abused. The issue is whether or not the voters are aware of the wisdom, the desirability, or the dangers of abuse. The petitioners have failed to make out a case that the average voter does not know the meaning of "grant" of public land or of "urban land reform."

As argued by the Solicitor-General:

"Agrarian reform program', for example, has been in the 'consciousness of the Filipino people', to borrow a phrase from the petitioners, since 1972 with the passage of P. D. No. 27 (Oct. 21, 1972), emancipating our tenants and transferring to them ownership of the land they toil, without mentioning the fact that even prior to this, there were several laws enacted attempting at land reform, notably Rep. Act No. 3844 (1964), ordaining the agricultural Land Reform Code and instituting land reforms in the country. More importantly and more to the point, 'grant' or 'land grant or distribution' are subject matters that have been in the 'consciousness' of the Filipino people since Commonwealth days, with the enactment of Commonwealth Act No. 141, amending and compiling the pre-viously scattered laws relative to the conservation and disposition of lands of the public domain.

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"Similarly, the Filipino people have long been since familiar with the topics of 'urban land reform' and 'social housing', beginning perhaps with the country's first zoning laws and, through all these years, with such laws as Rep. Act No. 267(1948), authorizing cities to purchase or expropriate home sites and landed estates and subdivide them for resale at cost, P.D. No. 814 (1975), providing a land tenure system for the Tondo Foreshore Dagat-Dagatan Urban Development Project, P.D. No. 933 (1976) creating the Human Settlement Commission 'to bring about the optimum use of land', Rep. Act No. 1322 (1955) creating the Philippine Homesite and Housing Authority, and P.D. No. 1517, proclaiming an urban land reform in the Philippines, to give but a few samples. x x x"

Batas Pambansa Blg. 643 directs the COMELEC to publish the amendments. The respondents assure us that publication in all provinces and cities, except a few where there are no local newspapers, has been effected and that Barangays all over the country have been enjoined to hold community gatherings for this purpose. The Integrated Bar of the Philippines and various civic organizations have taken a strong stand for or against the last two proposed questions. Television and radio programs regularly broadcast the amendments. The petitioners have failed to explain why, inspite of all the above, there is still no fair and proper submission.

On the bid for additional time, the respondents point out that Resolution No. 105 will have been submitted for sixty seven (67) days to the people on Plebiscite Day while Resolution No. 113 will have been submitted for forty two (42) days. The entire 1935 Constitution was submitted for ratification thirty six (36) days after approval of Act No. 4200. The 1976 amendments which admittedly are much more complicated, difficult to understand, and novel and far-reaching in their implications were presented to the people for only three (3) weeks. In *Sanidad v. Commission on Elections* (73 SCRA 333, 375), this was how this Court answered the issue of sufficient and proper submission:

"Upon the third issue, Chief Justice Castro and Associate Justices Barredo, Makasiar, Aquino, Concepcion, Jr. and Martin are of the view that there is a sufficient and proper submission of the proposed amendments for ratification by the people. Associate Justices Barredo and Makasiar expressed the hope, however, that the period of time may be extended. Associate Justices Fernando, Makasiar and Antonio are of the view that the question is political and therefore beyond the competence and cognizance of this Court. Associate Justice Fernando adheres to his concurrence in the opinion of Chief Justice Concepcion in *Gonzales v. COMELEC* (21 SCRA 774). Associate Justices Teehankee and Muñoz Palma hold that prescinding from the President's lack of authority to exercise the constituent power to propose the amendments, etc., as above stated, there is no fair and proper submission with sufficient information and time to assure intelligent consent or rejection under the standards set by this Court in the control-ling cases of *Gonzales, supra* and *Tolentino v. COMELEC* (41 SCRA 702)."

The undersigned ponente would like to add his personal views to this opinion of the Court. On January 27, 1984, the average voter goes to the polling place and reads Question No. 3 will know whether or not he or she is in favor of distributing alienable public lands through "grants" in addition to leases, homesteads and purchases. Upon reading Question No. 4, the voter will know whether or not he or she is in favor of an urban land reform program. I personally find existing provisions of the Constitution more than sufficient basis for legislation to achieve the objectives of the proposed amendments. To me, the second question on the Vice-President vis-a-vis the Executive Committee involves more complex and difficult issues involving as it does a collegiate body as successor to the President. Yet, no one seems to question its fair and proper submission. However, my personal feelings about the merits or demerits of the third and fourth questions are entirely distinct and separate from the issue of their fair and proper submission to the electorate. Like any other voter, my remedy is to vote NO on any proposal I find unwise or ill-advised and YES on those I favor. I respect the views of those who may think differently.

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

Makasiar, and Aquino, voting to dismiss for lack of a cause action. Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

Fernando, (C.J.), and Plana, JJ., concurred and also submitted separate opinions.

Abad Santos, Melencio-Herrera, and Relova, JJ., see separate opinions.

Teehankee, J., see dissenting opinion.

CONCURS

FERNANDO, C.J.:

While recognizing the force and eloquence with which the late Justice Sanchez in Gonzales and retired Justice Barredo in Tolentino expounded their views on the question of proper submission, still for me - and from the strict legal aspect as to the precise boundary which separates a question of wisdom, which belongs to the political branches, and the question of power, which the court is duty bound to inquire into - the opinion of Chief Justice Concepcion in Gonzales, with which O concurred then, is the one that should prevail. There is, for me, this added reinforcement to the conclusion I have reached Resolution No. 105 deals with the grant or distribution of alienable and disposable lands of the public domain to qualified tenants, farmers and other landless citizens. Resolution No. 113 deals with urban land reform and social housing program. They are, then, immediately recognizable as logical and necessary extensions of the fundamental principle of social justice enshrined as far back as the 1935 Constitution and expanded in the present Constitution. Our adoption of such principle antedated the Universal Declaration of Human Rights by thirteen years. To my mind, therefore, no question need arise under the standard of proper submission.

SEPARATE OPINION**PLANA, J.:**

Petitioners ask that the plebiscite set on January 27, 1984 on Questions 3 and 4 be deferred, leaving that on Questions 1 and 2 to proceed as scheduled. Grant of the petition will therefore have the effect of having two plebiscites.

Under the existing Constitution, plenary legislative power is vested in the Batasang Pambansa, including the power to enact laws authorizing the conveyance or grant of alienable public lands to deserving citizens under prescribed terms and conditions. Indeed there are extant so many laws providing for such disposition of public land.

Section 11 of Article XIV of the Constitution clearly recognizes the existence of the power and, on that assumption, merely restricts the same by providing that no citizen may "acquire by purchase or homestead (alienable lands of the public domain) in excess of 24 hectares."

With respect to social justice measures which include urban land reform and social housing program, the present Constitution provides –

"The State shall promote social justice to insure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits." (Article II, Section 6.)

"The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution." (Article XIV, Section 12.)

Reflecting on the foregoing Constitutional provisions, it seems evident that what is sought to be adopted under Questions 3 and 4 of the forthcoming plebiscite based on Resolutions Nos. 105 and 113 of the Batasang Pambansa, is already authorized under the existing Constitution.

If the foregoing be correct and the proposed Constitutional amendments under Questions 3 and 4 would just be confirmatory of a legislative power already existing, it stands to reason that a protracted discussion of the proposed constitutional amendments under Questions 3 and 4 is neither necessary nor constitutionally required.

At any rate, I find that there is compliance with Article XVI, Section 2 of the Constitution, under which a proposed Constitutional amendment shall be submitted to a plebiscite "which shall be held not later than 3 months after the approval of such amendment." The proposed amendments under Questions 3 and 4, as embodied in Resolutions 105 and 113 of the Batasang Pambansa, were adopted on November 21 and December 19, 1983, respectively. From November 21, 1983, when Resolution No. 105 was adopted, up to January 27, 1984, there would be a spread of 67 days. On the other hand, from December 19, 1983, when Resolution No. 113 was adopted, up to January 27, 1984, there would be a spread of 39 days.

Finally, apart from legal considerations, I do not see any compelling reason why so much of the people's money should be spent for holding a separate plebiscite when the purpose, by and large, of the second is merely to confirm an existing Constitutional power.

I therefore vote to deny the petition.

SEPARATE OPINION

ABAD SANTOS, J.:

Once again the Filipino people are asked to approve or reject amendments to the 1973 Constitution.

The Batasan Pambansa, convened as a constituent assembly, approved six (6) resolutions, namely:

1. Resolution No. 104 proposing to amend Sections Two and Four, Article VIII of the Constitution by providing that Members of the Batasang Pambansa shall be apportioned among the provinces, cities and Metropolitan Manila or its districts.
2. Resolution No. 105 proposing amendments to Section 11 and 12 of Article XIV of the Philippine Constitution, as amended.
3. Resolution No. 110 proposing amendments to the Constitution to establish a different mode of presidential succession by creating the Office of Vice-President and abolishing the Executive Committee.
4. Resolution No. 111 proposing to amend Section 1 of Article IX of the Constitution by providing that at least a majority of the Members of the Cabinet who are heads of ministries shall come from the provincial, city or district representatives of the Batasang Pambansa.
5. Resolution No. 112 providing for an Ordinance to be appended to the Constitution apportioning the Members of the Batasang Pambansa to the different provinces with their component cities, highly urbanized cities, and the districts of Metropolitan Manila.
6. Resolution No. 113 proposing to add a last paragraph to Section 12 of Article XIV of the Philippine Constitution in order to provide for urban land reform and social housing program.

In the plebiscite scheduled to be held on January 27, 1984 -

Question No. 1 deals with Resolutions Numbered 104, 111 and 112;

Question No. 2 deals with Resolution Numbered 110;

Question No. 3 deals with Resolution Numbered 105; and

Question No. 4 deals with Resolution Numbered 113.

The petition in this case is confined to questions numbered 3 and 4. The petition recites:

"5. Petitioners respectfully submit that of the six (6) proposed amendments, Proposal No. 5 (Resolution Nos. 105 adopted by the Batasang Pambansa on November 2, 1983), which would empower the President of the Philippines to grant alienable lands of the public domain to individuals and landless citizens, and Proposal No. 6 (Resolution No. 113, adopted by the Batasang Pambansa on December 19, 1983), which provides for urban land reform and social housing program, have not yet been properly and fairly submitted to the understanding of the Filipino people.

"6. These two mentioned proposals bear far-reaching implications, and are bound to affect existing Constitutional and statutory provisions as well as Supreme Court holdings on acquisition and/or disposition of public lands and on property rights particularly in urban areas, that said proposals ought first to be thoroughly explained to the people before they are made to vote for their approval or disapproval. Such is the import of the doctrine of fair and proper submission (*Tolentino vs. COMELEC*, 41 SCRA 707 [1971]).

"7. Petitioners are not aware of any campaign by the COMELEC, nor by any other governmental agency, endeavoring to register in the consciousness of the Filipino people the rationale behind Resolution Nos. 105 and 113 and their implications.

"8. It appears to the petitioners, therefore, who stand to be adversely or favorably affected both as citizens and as taxpayers, together with the rest of the Filipino electorates - to be a deception if the Filipino people are hurried to approve or disapprove the above-stated proposed amendments to the constitution x x x."

The petitioners pray that this Court stop the "respondents from holding the plebiscite on 27 January 1984 until the matters complained of in the body of this petition are properly and fairly submitted for the understanding of the electorate."

I vote to grant partial relief to the petitioners.

There is manifest basis for the claim of the petitioners that the citizenry has not been adequately educated on the proposed amend-ments on grant of public lands and urban land reform. At this late date - January 24, 1984 - I am

asked questions about the two proposals and although I try to do the best I can, I am not too sure about my answers.

The petitioners cite the case of Tolentino vs. COMELEC. In that case the following question was posed for resolution:

"Is it within the powers of the Constitutional Convention of 1971 to order, on its own fiat, the holding of a plebiscite for the ratification of the proposed amendment reducing to eighteen years the age for the exercise of suffrage under Section 1 of Article V of the Constitution proposed in the Convention's Organic Resolution No. 1 in the manner and form provided for in said resolution and the subsequent implementing acts and resolution of the Convention?" (At p. 721.)

This Court answered the question in the negative.

To be sure, the instant case does not fall squarely under the Tolentino decision but as the petitioners assert, that case can serve as a guide in the resolution of this case. In the eloquent and ringing words of Mr. Justice Antonio P. Barredo:

"We are certain no one can deny that in order that a plebiscite for the ratification of an amendment to the Constitution may be validly held, it must provide the voter not only sufficient time but ample basis for an intelligent appraisal of the nature of the amendment per se as well as its relation to the other parts of the Constitution with which it has to form a harmonious whole." (At p. 729).

The petitioners do not raise any question with respect to Questions 1 and 2 and indeed I can vouch that those questions have been thoroughly discussed in public and private fora for which reason there is no cause to delay their submission to the people. Preparations for the plebiscite on January 27, 1984, have reached the point of no return. Questions 1 and 2 can and should be submitted to the people on plebiscite day but Questions 3 and 4 should be submitted at some other appropriate date.

SEPARATE OPINION

MELENCIO-HERRERA, J.:

In this case, petitioners have asked that this Court promulgate a judgment "stopping ... the plebiscite on 27 January 1984" until the constitutional amendments proposed in Batasan Resolutions Nos. 105 (Resn. 105) and 113 (Resn. 113) "are properly and fairly submitted for the understanding of the electorate." I vote for the grant of that plea.

Article XVI of the Constitution provides:

"SECTION 1. (1) Any amendment to, or revision of, this Constitution may be proposed by the Batasang Pambansa upon a vote of three-fourths of all its Mem-bers, or by a constitutional convention. (2) The Batasang Pambansa may, by a vote of two-thirds of all its Members, call a constitutional convention or, by a majority vote of all its Members, submit the question of calling such a convention to the electorate in an election.

SEC. 2 Any amendment to, or revision of, this Constitution shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not later than three months after the approval of such amendment or revision."

What may be noted in Article XVI is that, besides the provision for the number of votes necessary for the Batasan's proposal to amend or revise the Constitution, or to call a convention or propose to the people the calling

of a convention, the procedure for the revision or amendment of the Constitution has not been established. Hence, the procedure shall be as the Batasan shall adopt in the exercise of sound judgment, in the understanding that when it does so, it acts only as a constituent assembly and not as a legislative body. If the Batasan, as a constituent assembly, should provide for the revision or amendment of the Constitution in a manner not consonant with fundamentals of democracy and of good government, and its action is challenged, this Court can assume jurisdiction to resolve the controversy.

What is involved herein are Resn. No. 105 adopted on November 21, 1983, Resn. No. 113 adopted on December 19, 1983, and BP Bilang 643, enacted on December 22, 1983.

Resn. 105 has proposed that Sections 11 and 12, Article XIV, of the Constitution be amended to read as follows:

"SEC. 11. The Batasang Pambansa, taking into account conservation, ecological, and developmental requirements of the natural resources, shall determine by law the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation, or association, and the conditions therefore. No private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares or acquire by purchase, homestead or grant, in excess of twenty-four hectares. No private corporation or association may hold by lease, concession, license, or permit, timber or forest lands and other timber of forest resources in excess of one hundred thousand hectares; however, such area may be increased by the Batasang Pambansa upon recommendation of the National Economic and Development Authority."

"SEC. 12. The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution.

"Such program may include the grant or distribution of alienable and disposable lands of the public domain to qualified tenants, farmers and other landless citizens in areas which the President may by or pursuant to law reserve from time to time, not exceeding the limitations fixed in accordance with the immediately preceding Section."

Resn. 113 has proposed that the following paragraph be added to Section 12, Article XIV, of the Constitution:

"The State shall moreover undertake an urban land reform and social housing program to provide deserving landless, homeless or inadequately sheltered low income resident citizens reasonable opportunity to acquire land and decent housing consistent with Section 2 of Article IV of this Constitution."

BP 643, a statute, provides for the holding of the plebiscite on January 27, 1984 for submission to the vote of the citizenry the adoption or rejection of the amendments proposed in Resn. 105 and Resn. 113.

That Resn. 105 and Resn. 113 have been approved by three-fourth (3/4) vote of all Batasan members is not in question. Publication, in my opinion, is a fundamental requirement for those two resolutions, and it has been sought to be done in BP 643. In the same way that the people are entitled to know what laws have been approved by the Batasan, through their publication in the Official Gazette, the same requirement should be followed in respect of resolutions proposing constitutional amendments.

Coming now to BP 643, a statutory law setting January 27, 1984, for the plebiscite, where the people can vote on the proposed constitutional amendments, it should be published in the Official Gazette pursuant to the provisions of the Civil Code. The Code provides that "laws shall take effect after fifteen (15) days following the completion of their publication in the Official Gazette, unless it is otherwise provided." The important factor in the codal

provision is the publication, and the date of effectivity of the law is of secondary importance. I do not subscribe to the proposition that, when 'a statute provides for the date of its effectivity it no longer needs to be published. The provision should be interpreted such that when a statute provides for the date of its effectivity, it shall not become effective after fifteen days of publication but it shall be effective after publication, on the date provided in the statute itself. As stated in *People vs. Que Po Lay*, 94 Phil. 640, 642, "the general principle and theory that before the public is bound by its contents, especially its penal provisions, a law, regulation, circular must first be published and the people officially and especially informed of said contents and its penalties." There is no "penalty" for an individual in BP 643 but the entire statute, if not publicized, can penalize the great majority of the people.

A reading of the minimum standards set in *Gonzalez vs. COMELEC*, 21 SCRA 774 (1967) will readily show that principles of good government require that, in a plebiscite for the revision of the Constitution, aside from other standards set, the ballots should set out in full the proposed constitutional amendments so that there can be no question that when a citizen had voted "yes" or "no", he thoroughly knew what he had voted for or against. Publication is for the general public. Individual notice should also be given to the voter and this can be done easily through the ballot that he will cast. Thus, in the case of non-resident defendants, summons is published in a newspaper of general circulation but it is also required that summons be served to him individually through registered mail sent to his last known address. In the ballots to be prepared for the January 27 plebiscite, as mentioned in BP 643, the citizen is not made aware of the exact amendments which have been proposed by the Batasan. Said law merely makes mention of the amendments in substance. For example, anent Question No. 3, that the "grant" is limited to 24 hectares is not stated. Question No. 4 is not even indicated. Again, to my mind, there is failure of effective publication. It is not enough that the citizen is expected, or required, to read the newspapers and posted copies in public places.

If BP 643 is published in the Official Gazette, and the ballots for the plebiscite should contain in full the proposed amendments to the Constitution, the plebiscite can be held on a stated date within 3 months following the completion of the last publications. The number of days after completion of the last publication, whether it is ten days, one month, or three months, will be a question which this Court will have no jurisdiction to resolve. It is very clear in Article XVI of the Constitution that the plebiscite shall be held in so many number of days after approval of the amendment provided they do not exceed 3 months. The number of days is within the exclusive power of the Batasan to determine.

SEPARATE OPINION

RELOVA, J.:

Petition for prohibition to restrain respondents Commission on Elections and Minister of the Budget from holding the plebiscite on 27 January 1984. It is argued that the proposed amendments: Resolution No. 105 which would empower the President of the Philippines to grant alienable lands of the public domain to individuals and landless citizens, and Resolution No. 113 which provides for urban land reform and social housing program, have not been properly and fairly submitted to the understanding of the Filipino people. Paragraph 6 of the petition states that –

"These two mentioned proposals bear far-reaching implications and are bound to affect existing Constitutional and statutory provisions as well as Supreme Court holdings on acquisition and/or disposition of public lands and on property rights particularly in urban areas, that said proposals ought first to be thoroughly explained to the people before they are made to vote for their approval or disapproval."

Respondents deny the truth of the allegations of the petition with respect to the issue of proper submission to the electorate and claim "that Resolution No. 105 was approved on November 21, 1983 and Resolution No. 113 was approved on December 19, 1983 or 67 and 42 days, respectively, before the plebiscite scheduled on January 27, 1984. Assuredly, these periods afford adequate and sufficient time for debate. In fact, the amendments are now being discussed all over the country, in barangay meetings, in civic organization discussions, as well as in radio and television. The Integrated Bar of the Philippines has been airing its views on the amendments." (pp. 23-24, Rollo)

On the questioned proposed amendments, it is safe to say that the people in the provinces are not, and by Friday (January 27) will not be sufficiently informed of the meaning, nature and effects thereof. Undersigned takes judicial notice of the fact that they have not been afforded ample time to deliberate thereon conscientiously. As stated by this Court in *Tolentino vs. Commission on Elections*, 41 SCRA 702, 729, "in order that a plebiscite for the ratification of an amendment to the Constitution may be validly held, it must provide the voter not only sufficient time but ample basis for an intelligent appraisal of the nature of the amendment per se as well as its relation to the other parts of the Constitution with which it has to form a harmonious whole." In the case at bar, it is sad to state that proposed Amendments 3 & 4 have not been fairly laid before the people for their approval or rejection. In fact, said proposed Amendments have only been translated into Tagalog and Cebuano. There has been no translation thereof in the many other dialects in which case it cannot be said that our people were afforded ample opportunity to understand and deliberate over them. Mr. Justice Conrado V. Sanchez, in *Gonzales vs. Commission on Elections*, 21 SCRA 774, expressed his view on the minimum requirements that must be met in order that there can be a proper submission to the people of a proposed constitutional amendment. He said:

"x x x amendments must be fairly laid before the people for their blessing or spurning. The people are not to be mere rubber stamps. They are not to vote blindly. They must be afforded ample opportunity to mull over the original provisions, compare them with the proposed amendments, and try to reach a conclusion as the dictates of their conscience suggest, free from the incubus of extraneous or possibly insidious influences. We believe the word 'submitted' can only mean that the government, within its maximum capabilities, should strain every effort to inform every citizen of the provisions to be amended, and the proposed amendments and the meaning, nature and effects thereof. By this, we are not to be understood as saying that, if one citizen or 100 citizens or 1,000 citizens cannot be reached then there is no submission within the meaning of the word as intended by the framers of the Constitution. What the Constitution in effect directs is that the government, in submitting an amendment for ratification, should put every instrumentality or agency within its structural framework to enlighten the people, educate them with respect to their act of ratification or rejection. For, as we have earlier stated, one thing is submission and another is ratification. There must be fair submission, intelligent consent or rejection. x x x"

Undersigned is of the view that in the instant case the people have not been properly informed of proposed Amendments 3 & 4 to the Constitution and, accordingly, its submission to them should be postponed. Respondents are hereby enjoined from submitting them to the people on Friday, January 27, 1984. However, the plebiscite should proceed with respect to proposed Amendments 1 & 2.

January 24, 1984.

DISSENTING OPINION

TEEHANKEE, J.:

I vote for the partial granting of the petition and for the elimination of Questions Nos. 3 and 4 at the Plebiscite set on January 27, 1984.

The Comelec has formulated four plebiscite questions for approval or rejection by the people of the latest proposed amendments to the Constitution, as follows:

1. Election of the members of the Batasang Pambansa (National Assembly) by provinces and cities and in the case of Metropolitan Manila, by districts, instead of by regions;

2. Restoration of the office of Vice President who shall succeed the President in case of the latter's death or incapacity, instead of the 15-member Executive Committee designated by him;

3. The insertion of the word "grant" in Article XIV, section 11 of the Constitution so as to provide for granting as an additional mode (besides purchase and homestead as presently provided) for the disposition (although the word "acquisition" is used in the question) of lands belonging to the public domain; and

4. The insertion of a second paragraph in Article XIV, section 12 of the Constitution so that the same would be amended to read, as follows:

"SEC. 12. The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution.

"Such program may include the grant or distribution of alienable and disposable lands of the public domain to qualified tenants, farmers and other landless citizens in areas which the President may by or pursuant to law reserve from time to time, not exceeding the limitations fixed in accordance with the immediately preceding Section."

(The Italized paragraph constitutes the proposed amendment by insertion under Resolution No. 105 of the Batasang Pambansa adopted on November 21, 1983, entitled "Resolution Proposing Amendments to Sections 11 and 12 of Article XIV of the Philippine Constitution, as Amended." [1]). Under Resolution No. 113 of the Batasang Pambansa adopted on December 19, 1983, entitled "Resolution Proposing to Add a Last Paragraph to Section 12 of Article XIV of the Philippine Constitution in Order to Provide for Urban Land Reform and Social Housing Program," the proposed additional second paragraph carries an entirely different wording, as follows:

"The State shall moreover undertake an urban land reform and social housing program to provide deserving landless, homeless or inadequately sheltered low income resident citizens reasonable opportunity to acquire land and decent housing consistent with Section 2 of Article IV of this Constitution."

(This additional second paragraph providing for the inclusion of an urban land reform and social housing program appears to be the one submitted for the people's approval or rejection in accordance with available literature and leaflets issued by the Comelec.)

The doctrine of fair and proper submission to the people of proposed constitutional amendments as enunciated by the Court in *Tolentino vs. Comelec* (41 SCRA 702, 729) mandates that "in order that a plebiscite for the ratification of an amendment to the Constitution may be validly held, it must provide the voter not only sufficient time, but ample basis for an intelligent appraisal of the nature of the amendment per se as well as its relation to the other parts of the Constitution with which it has to form a harmonious whole." There must be fair submission and intelligent consent or rejection.[2]

As the late Justice Conrado V. Sanchez stressed in his separate opinion in the earlier case of *Gonzales vs. Comelec*, concurred in by the late Chief Justice Fred Ruiz Castro and Justice Calixto Zaldivar, (21 SCRA 774, 817), the people must be "sufficiently informed of the amendments to be voted upon, to conscientiously deliberate thereon, to express their will in a genuine manner."

Questions Nos. 1 and 2 are not placed in issue by petitioners. As already indicated, they ask for the approval or rejection of the proposed amendments for restoration of the old office of Vice President of the Republic and the old system of electing the members of the National Assembly by provinces or by cities instead of by regions. These two proposed constitutional amendments apparently bear the endorsement of the Government and the party in power, the KBL, as well as by the opposition in general who have long clamored for such restoration. Hence, there appears to be no question as to their being fully understood by the people in the same manner that they readily understood and approved the first amendment to the 1935 Constitution of giving women the right to vote.

Questions Nos. 3 and 4, however, do present a problem. They appear to be simple yet complex. Petitioners cite the separate joint concurring opinion of Justices J. B. L. Reyes, Zaldivar, Ruiz Castro and Makasiar in the *Tolentino* case which stopped the scheduled plebiscite on November 8, 1971 to allow 18-year olds to vote, wherein the pungent remark was made that while the proposed amendment "would seem to be uncomplicated and innocuous. But it is one of life's verities that things which appear to be simple may turn out not to be so simple after all."

To start with, several members of this very Court who have turned down the petition have expressed the view that the amendments proposed by Questions Nos. 3 and 4 are "unnecessary," while others like Justice Abad Santos have expressed their inability at this late date to comprehend the nature and significance of the proposed amendments and their implications and complexities.

The Solicitor General himself at the hearing held on January 24, 1984 stated that in his personal (not official) perception, Question No. 3 adding the single word "grant" as a mode of additional disposition of public lands was "unnecessary", because "this has been done already. There are so many lots which had been donated by the government granted for that building and their constitutionality has never been questioned." And as to Question No. 4 which would insert a second additional paragraph to the present Article XIV, section 12 of the Constitution to provide that the State shall undertake an urban land reform and social housing program, the Solicitor General stated at the same hearing that its utility would be to "eradicate completely" any doubts about the Government's expropriation program for the purpose.

The Solicitor General in his answer to the petition further submits that the proposed amendments are "relatively simple and easy to comprehend," as follows:

"It is to be noted also that Resolutions 105 and 103[3] are relatively simple and easy to comprehend, even as compared to the other four amendments proposed for ratification at the same time and the submission of which

are not questioned by the petitioners. Re-resolution No. 105 which proposes to amend Section 11, Art. XIV merely adds the word 'grant' and adds additional paragraph in Section 12 of the same Article. The additional paragraph is really nothing new for among the government's policies, it has always been the policy to make lands of the public domain available to tenants, farmers and other landless citizens (see Sec. 13, Art. XIV, Constitution). And as to Resolution No. 103 which adopts as a State responsibility 'urban reform and housing program' the policy is also not new and housing is, in point of fact, already among the declared objectives of government (Section 7, Article XI of the Constitution)." (*Italics supplied*)

Professor and former Dean Froilan M. Bacungan of the U.P. College of Law shares the same view that the proposed amendments submitted with Questions Nos. 3 and 4 are unnecessary, as follows:

"The proposed amendment to the agrarian reform program and urban land reform and social housing program may be considered by constitutional law experts as unnecessary.

"The 1973 Constitution now has, in addition to its specific provision on agrarian reform, a very categorical provision on social justice where the State is mandated to 'promote social justice to ensure the dignity, welfare, and security of all the people' and where it continues to say: 'Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment and disposition of private property, and equitably diffuse property ownership and profits.'

"It should also be noted that the Supreme Court, interpreting constitutional law concepts such as 'police power' and 'due process of law,' has given very much greater emphasis on the former and very much less emphasis on the latter, when it comes to the interpretation of laws implementing economic, social and cultural rights.

"But as emphasized by its proponents, these proposed amendments on agrarian and urban land reform are most useful for they reinforce the constitutional basis and mandate for government activities in these fields."

The Philippines Daily Express editorial of January 25, 1984 presents the following justifications for urging a "Yes" vote to the questioned amendments, as follows:

"As for the proposal to empower the government to grant public lands to citizens, we believe that it is a move to enhance the development and productivity of public lands which have been idle for a long time now. Many of our countrymen are still landless, and if they are enterprising and industrious enough to convert the great wilderness into a productive land, they should be given all the chances to do so. The fear of some quarters that the proposal will only spawn graft and corruption emanates from negative thinking and suspicious minds.

"On the fourth question about urban land reform, it must be noted that the proposal is nothing but a statement of national policy in the basic charter of the land. There is already an existing law on urban land reform and it does not authorize the grabbing of urban lands from private owners for distribution to the landless. No government in its right senses would do that."

The premises of the newspaper would seem to be contradicted by the figures given by Minister of Agrarian Reform Conrado Estrella in a newspaper of the same date to the effect that only 3.26 million hectares of the

Philippines' total land area remain disposable, as follows:

"Estrella said the country has a total land area of 30 million hectares. Of this, 13,371 mil-lion hectares are disposable, 11.07 million are timberland, and 5.55 million unclassified.

"Of the 13.37 million hectares alienable lands, 2.75 are judicially registered, 7.35 million covered by land applications, and 3.26 million remain disposable." [4]

On the other hand, all the bar associations, including the compulsory Integrated Bar of the Philippines and the voluntary bar associations, have expressed grave doubts as to the questioned amendments. To cite a few observations, Atty. Raul Roco, IBP President, "said the granting of such properties could be a cause of corruption among public officials. He compared the proposed amendment to the Spanish era when vast lands were acquired by government supporters through royal grants." [5]

Philippine Bar Association President Enrique P. Syquia "said the Constitution itself embodies the policy of conserving the patrimony of the nation for all Filipinos, including those yet unborn. But Syquia said the amendment would allow these lands, including residential, commercial, industrial, educational, charitable, and resettlement lands, to be given away freely to any Filipino chosen at pleasure." [6]

The Philippine Lawyers Association stated that "the proposed amendment, which will allow these lands, including 'residential, commercial, industrial,' and other classes of land to be given away fully and freely on any Filipino chosen at pleasure, goes against the very preamble of the Constitution. These land grants may very well be the source of patronage, graft, and corruption, it said." [7]

All these go but to show that there has not been ample time and dissemination of information to comprehend the significance, implications and complications and consequences of the proposed amendments so as to comply with the fundamental requirements of a fair and proper submission in order that the people may intelligently approve or reject the same. It is, therefore, but proper, in accordance with due process in dealing with such a fundamental instrument as the Constitution which basically is a charter of limitation of the powers of government, that the precipitate submittal on January 27, 1984 of Questions Nos. 3 and 4 for the people's ratification or rejection be enjoined. It is far better to avail of the maximum 90-day period after the approval of the proposed amendments for their sub-mittal in a plebiscite so that the people may at the proper time make their decision with the fullest possible comprehension. During this interval, the separate and completely different second additional paragraphs proposed to be inserted in Article XIV, section 12 of the Constitution in conflicting Resolutions Nos. 105 and 113 (103) as pointed out on pages 2 and 5 hereof should be clarified. Otherwise, if the plebiscite is held on the 27th, the people would just have to go by the position taken by the State at the hearing of January 24th that their remedy is to vote "No" against the proposed amendments which they do not understand (or are "unnecessary").

[1] As published by the Comelec in the Evening Post issue of December 30, 1983.

[2] See writer's separate opinions in *Sanidad vs. Comelec*, 73 SCRA 333, 405 (1976) and *Occeña vs. Comelec*, 104 SCRA 1, 12 (1981).

[3] The Solicitor General's reference to Resolution No. 103 would appear to be erroneous. The official resolution as published by the Comelec to provide for urban land reform refers to the No. of the Resolution as 113, not 103.

[4] Bulletin Today issue of Jan. 25, 1984, p. 6.

[5] Bulletin Today issue of Jan. 20, 1984.

[6] Bulletin Today issue of Jan. 25, 1984.

[7] Bulletin Today issue of January 24, 1984.

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