

SATURNINO V. BERMUDEZ, PETITIONER.

G.R. No. 76180. October 24, 1986

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PER CURIAM:

In a petition for declaratory relief impleading no respondents, petitioner, as a lawyer, quotes the first paragraph of Section 5 (not Section 7 as erroneously stated) of Article XVIII of the proposed 1986 Constitution, which provides in full as follows:

"Sec. 5. The six-year term of the incumbent President and Vice-President elected in the February 7, 1986 election is, for purposes of synchronization of elections, hereby extended to noon of June 30, 1992.

"The first regular elections for the President and Vice-President under this Constitution shall be held on the second Monday of May, 1992."

Claiming that the said provision "is not clear" as to whom it refers, he then asks the Court "to declare and answer the question of the construction and definiteness as to who, among the present incumbent President Corazon Aquino and Vice President Salvador Laurel and the elected President Ferdinand E. Marcos and Vice President Arturo M. Tolentino being referred to under the said Section 7 (sic) of ARTICLE XVIII of the TRANSITORY PROVISIONS of the proposed 1986 Constitution refers to, x x x."

The petition is dismissed outright for lack of jurisdiction and for lack of cause of action.

Prescinding from petitioner's lack of personality to sue or to bring this action (*Tan vs. Macapagal*, 43 SCRA 677), it is elementary that this Court assumes no jurisdiction over petitions for declaratory relief. More importantly, the petition amounts in effect to a suit against the incumbent President of the Republic, President Corazon C. Aquino, and it is equally elementary that incumbent Presidents are immune from suit or from being brought to court during the period of their incumbency and tenure.

The petition furthermore states no cause of action. Petitioner's allegation of ambiguity or vagueness of the aforequoted provision is manifestly gratuitous, it being a matter of public record and common public knowledge that the Constitutional Commission refers therein to incumbent President Corazon C. Aquino and Vice-President Salvador H. Laurel, and to no other persons, and provides for the extension of their term to noon of June 30, 1992 for purposes of synchronization of elections. Hence, the second paragraph of the cited section provides for the holding on the second Monday of May, 1992 of the first regular elections for the President and Vice-President under said 1986 Constitution. In previous cases, the legitimacy of the government of President Corazon C. Aquino was likewise sought to be questioned with the claim that it was not established pursuant to the 1973 Constitution. The said cases were dismissed outright by this Court which held that:

"Petitioners have no personality to sue and their petitions state no cause of action. For the legitimacy of the Aquino government is not a justiciable matter. It belongs to the realm of politics where only the people of the Philippines are the judge. And the people have made the judgment; they have accepted the government of President Corazon C. Aquino which is in effective control of the entire country so that it is not merely a de facto government but in fact and law a de jure government. Moreover, the community of nations has recognized the

legitimacy of the present government. All the eleven members of this Court, as reorganized, have sworn to uphold the fundamental law of the Republic under her government." (Joint Resolution of May 22, 1986 in G.R. No. 73748 [Lawyers League for a Better Philippines, etc. vs. President Corazon C. Aquino, et al.]; G.R. No. 73972 [People's Crusade for Supremacy of the Constitution, etc. vs. Mrs. Cory Aquino, et al.]; and G.R. No., 73990 [Councilor Clifton U. Ganay vs. Corazon C. Aquino, et al.]

For the above-quoted reasons, which are fully applicable to the petition at bar, *mutatis mutandis*, there can be no question that President Corazon C. Aquino and Vice-President Salvador H. Laurel are the incumbent and legitimate President and Vice-President of the Republic of the Philippines.

ACCORDINGLY, petition is hereby dismissed.

Teahankee, C.J., Feria, Yap, Fernan, Narvasa, Alampay, and Paras, JJ., concur.

Melencio-Herrera, Gutierrez, Jr., and Feliciano, JJ., see separate concurring opinion.

Cruz, J., see separate opinion.

CONCURRING OPINION

Justices Ameurfina M. Herrera, Hugo E. Gutierrez, Jr. and Florentino P. Feliciano qualify their concurrence as follows:

The petitioner asks the Court to declare who are "the incumbent President and Vice President elected in the February 7, 1986 elections" as stated in Article XVIII, Section 5 of the Draft Constitution adopted by the Constitutional Commission of 1986.

We agree that the petition deserves outright dismissal as this Court has no original jurisdiction over petitions for declaratory relief.

As to lack of cause of action, the petitioner's prayer for a declaration as to who were elected President and Vice President in the February 7, 1986 elections should be addressed not to this Court but to other departments of government constitutionally burdened with the task of making that declaration.

The 1935 Constitution, the 1973 Constitution as amended, and the 1986 Draft Constitution uniformly provide that boards of canvassers in each province and city shall certify who were elected President and Vice President in their respective areas. The certified returns are transmitted to the legislature which proclaims, through the designated Presiding Head, who were duly elected.

Copies of the certified returns from the provincial and city boards of canvassers have not been furnished this Court nor is there any need to do so. In the absence of a legislature, we cannot assume the function of stating, and neither do we have any factual or legal capacity to officially declare, who were elected President and Vice President in the February 7, 1986 elections.

As to who are the incumbent President and Vice President referred to in the 1986 Draft Constitution, we agree that there is no doubt the 1986 Constitutional Commission referred to President Corazon C. Aquino and Vice President Salvador H. Laurel.

Finally, we agree with the Resolution of the Court in G.R. Nos. 73748, 73972, and 73990.

For the foregoing reasons, we vote to DISMISS the instant petition.

SEPARATE OPINION**CRUZ, J.:**

I vote to dismiss this petition on the ground that the Constitution we are asked to interpret has not yet been ratified and is therefore not yet effective. I see here no actual conflict of legal rights susceptible of judicial determination at this time. (Aetna Life Insurance Co. vs. Haworth, 300 U.S. 227; PACU vs. Secretary of Education, 97 Phil. 806.)

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