

RUPERTO TAULE, PETITIONER, VS. SECRETARY LUIS T. SANTOS AND GOVERNOR LEANDRO VERCELES, RESPONDENTS.

G.R. No. 90336. August 12, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The extent of authority of the Secretary of Local Government over the katipunan ng mga barangay or the barangay councils is brought to the fore in this case.

On June 18, 1989, the Federation of Associations of Barangay Councils (FABC) of Catanduanes, composed of eleven (11) members, in their capacities as Presidents of the Association of Barangay Councils in their respective municipalities, convened in Virac, Catanduanes with six members in attendance for the purpose of holding the election of its officers.

Present were petitioner Ruperto Taule of San Miguel, Allan Aquino of Viga, Vicente Avila of Virac, Fidel Jacob of Panganiban, Leo Sales of Caramoran and Manuel Torres of Baras. The Board of Election Supervisors/Consultants was composed of Provincial Government Operation Officer (PGOO) Alberto P. Molina, Jr. as Chairman with Provincial Treasurer Luis A. Manlapaz, Jr. and Provincial Election Supervisor Arnold Soquerata as members.

When the group decided to hold the election despite the absence of five (5) of its members, the Provincial Treasurer and the Provincial Election Supervisor walked out.

The election nevertheless proceeded with PGOO Alberto P. Molina, Jr. as presiding officer. Chosen as members of the Board of Directors were Taule, Aquino, Avila, Jacob and Sales.

Thereafter, the following were elected officers of the FABC:

President - Ruperto Taule

Vice-President - Allan Aquino

Secretary - Vicente Avila

Treasurer - Fidel Jacob

Auditor - Leo Sales[1]

On June 19, 1989, respondent Leandro I. Vercelles, Governor of Catanduanes, sent a letter to respondent Luis T. Santos, the Secretary of Local Government,* protesting the election of the officers of the FABC and seeking its nullification in view of several flagrant irregularities in the manner it was conducted.[2]

In compliance with the order of respondent Secretary, petitioner Ruperto Taule as President of the ABC, filed his comment on the letter-protest of respondent Governor denying the alleged irregularities and denouncing said respondent Governor for meddling or intervening in the election of FABC officers which is a purely non-partisan

affair and at the same time requesting for his appointment as a member of the Sangguniang Panlalawigan of the province being the duly elected President of the FABC in Catanduanes.[3]

On August 4, 1989, respondent Secretary issued a resolution nullifying the election of the officers of the FABC in Catanduanes held on June 18, 1989 and ordering a new one to be conducted as early as possible to be presided by the Regional Director of Region V of the Department of Local Government.[4]

Petitioner filed a motion for reconsideration of the resolution of August 4, 1989 but it was denied by respondent Secretary in his resolution of September 5, 1989.[5]

In the petition for certiorari before Us, petitioner seeks the reversal of the resolutions of respondent Secretary dated August 4, 1989 and September 5, 1989 for being null and void.

Petitioner raises the following issues:

- 1) Whether or not the respondent Secretary has jurisdiction to entertain an election protest involving the election of the officers of the Federation of Association of Barangay Councils;
- 2) Whether or not the respondent Governor has the legal personality to file an election protest;
- 3) Assuming that the respondent Secretary has jurisdiction over the election protest, whether or not he committed grave abuse of discretion amounting to lack of jurisdiction in nullifying the election;

The Katipunan ng mga Barangay is the organization of all sangguniang barangays in the following levels: in municipalities to be known as katipunang bayan; in cities, katipunang panlungsod; in provinces, katipunang panlalawigan; in regions, katipunang pampook; and on the national level, katipunan ng mga barangay.[6]

The Local Government Code provides for the manner in which the katipunan ng mga barangay at all levels shall be organized:

"Sec. 110. Organization. --- (1) The katipunan at all levels shall be organized in the following manner:

(a) The katipunan in each level shall elect a board of directors and a set of officers. The president of each level shall represent the katipunan concerned in the next higher level of organization.

(b) The katipunan ng mga barangay shall be composed of the katipunang pampook, which shall in turn be composed of the presidents of the katipunang panlalawigan and the katipunang panlungsod. The presidents of the katipunang bayan in each province shall constitute the katipunang panlalawigan. The katipunang panlungsod and the katipunang bayan shall be composed of the punong barangays of cities and municipalities, respectively.

x x x ."

The respondent Secretary, acting in accordance with the the provision of the Local Government Code empowering him to "promulgate in detail the implementing circulars and the rules and regulations to carry out the various administrative actions required for the initial implementation of this Code in such a manner as will ensure the least disruption of on-going programs and projects,"[7] issued Department of Local Government Circular No. 89-09 on April 7, 1989,[8] to provide the guidelines for the conduct of the elections of officers of the Katipunan ng mga Barangay at the municipal, city, provincial, regional and national levels.

It is now the contention of petitioner that neither the constitution nor the law grants jurisdiction upon the respondent Secretary over election contests involving the election of officers of the FABC, the katipunan ng mga barangay at the provincial level. It is petitioner's theory that under Article IX, C, Section 2 of the 1987 Constitution, it is the Commission on Elections which has jurisdiction over all contests involving elective

barangay officials.

On the other hand, it is the opinion of the respondent Secretary that any violation of the guidelines as set forth in said circular would be a ground for filing a protest and would vest upon the Department jurisdiction to resolve any protest that may be filed in relation thereto.

Under Article IX, C, Section 2(2) of the 1987 Constitution, the Commission on Elections shall exercise "exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction." The 1987 Constitution expanded the jurisdiction of the COMELEC by granting it appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction or elective barangay officials decided by trial courts of limited jurisdiction.[9]

The jurisdiction of the COMELEC over contests involving elective barangay officials is limited to appellate jurisdiction from decisions of the trial courts. Under the law,[10] the sworn petition contesting the election of a barangay officer shall be filed with the proper Municipal or Metropolitan Trial Court by any candidate who has duly filed a certificate of candidacy and has been voted for the same office within 10 days after the proclamation of the results. A voter may also contest the election of any barangay officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines by filing a sworn petition for quo warranto with the Metropolitan or Municipal Trial Court within 10 days after the proclamation of the results of the elections.[11] Only appeals from decisions of inferior courts on election matters as aforesaid may be decided by the COMELEC.

The Court agrees with the Solicitor General that the jurisdiction of the COMELEC is over popular elections, the elected officials of which are determined through the will of the electorate. An election is the embodiment of the popular will, the expression of the sovereign power of the people.[12] It involves the choice or selection of candidates to public office by popular vote.[13] Specifically, the term "election," in the context of the Constitution, may refer to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes[14] which do not characterize the election of officers in the *katipunan ng mga barangay*. "Election contests" would refer to adversary proceedings by which matters involving the title or claim of title to an elective office, made before or after proclamation of the winner, is settled whether or not the contestant is claiming the office in dispute[15] and in the case of elections of barangay officials, it is restricted to proceedings after the proclamation of the winners as no pre-proclamation controversies are allowed.[16]

The jurisdiction of the COMELEC does not cover protests over the organizational set-up of the *katipunan ng mga barangay* composed of popularly elected *punong barangays* as prescribed by law whose officers are voted upon by their respective members. The COMELEC exercises only appellate jurisdiction over election contests involving elective barangay officials decided by the Metropolitan or Municipal Trial Courts which likewise have limited jurisdiction. The authority of the COMELEC over the *katipunan ng mga barangay* is limited by law to supervision of the election of the representative of the *katipunan* concerned to the *sanggunian* in a particular level conducted by their own respective organization.[17]

However, the Secretary of Local Government is not vested with jurisdiction to entertain any protest involving the election of officers of the FABC.

There is no question that he is vested with the power to promulgate rules and regulations as set forth in Section 222 of the Local Government Code.

Likewise, under Book IV, Title XII, Chapter 1, Sec. 3(2) of the Administrative Code of 1987*, the respondent Secretary has the power to "establish and prescribe rules, regulations and other issuances and implementing laws on the general supervision of local government units and on the promotion of local autonomy and monitor compliance thereof by said units."

Also, the respondent Secretary's rule making power is provided in Sec. 7, Chapter II, Book IV of the Administrative Code, to wit;

"(3) Promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects;"

Thus, DLG Circular No. 89-09 was issued by respondent Secretary in pursuance of his rule-making power conferred by law and which now has the force and effect of law.[18]

Now the question that arises is whether or not a violation of said circular vests jurisdiction upon the respondent Secretary, as claimed by him, to hear a protest filed in relation thereto and consequently declare an election null and void.

It is a well-settled principle of administrative law that unless expressly empowered, administrative agencies are bereft of quasi-judicial powers.[19] The jurisdiction of administrative authorities is dependent entirely upon the provisions of the statutes reposing power in them; they cannot confer it upon themselves.[20] Such jurisdiction is essential to give validity to their determinations.[21]

There is neither a statutory nor constitutional provision expressly or even by necessary implication conferring upon the Secretary of Local Government the power to assume jurisdiction over an election protest involving officers of the katipunan ng mga barangay. An understanding of the extent of authority of the Secretary over local governments is therefore necessary if We are to resolve the issue at hand.

Presidential power over local governments is limited by the Constitution to the exercise of general supervision[22] "to ensure that local affairs are administered according to law." [23] The general supervision is exercised by the President through the Secretary of Local Government.[24]

In administrative law, supervision means overseeing or the power or authority of an officer to see that the subordinate officers perform their duties. If the latter fails or neglects to fulfill them the former may take such action or step as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter. The fundamental law permits the Chief Executive to wield no more authority than that of checking whether said local government or the officers thereof perform their duties as provided by statutory enactments. Hence, the President cannot interfere with local governments so long as the same or its officers act within the scope of their authority.[25] Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body.[26]

Construing the constitutional limitation on the power of general supervision of the President over local governments, We hold that respondent Secretary has no authority to pass upon the validity or regularity of the election of the officers of the katipunan. To allow respondent Secretary to do so will give him more power than the law or the Constitution grants. It will in effect give him control over local government officials for it will permit him to interfere in a purely democratic and non-partisan activity aimed at strengthening the barangay as the basic component of local governments so that the ultimate goal of fullest autonomy may be achieved. In fact, his order that the new elections to be conducted be presided by the Regional Director is a clear and direct interference

by the Department with the political affairs of the barangays which is not permitted by the limitation of presidential power to general supervision over local governments.[27]

Indeed, it is the policy of the state to ensure the autonomy of local governments.[28] This state policy is echoed in the Local Government Code wherein it is declared that "the State shall guarantee and promote the autonomy of local government units to ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress." [29] To deny the Secretary of Local Government the power to review the regularity of the elections of officers of the katipunan would be to enhance the avowed state policy of promoting the autonomy of local governments.

Moreover, although the Department is given the power to prescribe rules, regulations and other issuances, the Administrative Code limits its authority to merely "monitoring compliance" by local government units of such issuances.[30] To monitor means "to watch, observe or check." [31] This is compatible with the power of supervision of the Secretary over local governments which as earlier discussed is limited to checking whether the local government unit concerned or the officers thereof perform their duties as provided by statutory enactments. Even the Local Government Code which grants the Secretary power to issue implementing circulars, rules and regulations is silent as to how these issuances should be enforced. Since the respondent Secretary exercises only supervision and not control over local governments, it is truly doubtful if he could enforce compliance with the DLG Circular.[32] Any doubt therefore as to the power of the Secretary to interfere with local affairs should be resolved in favor of the greater autonomy of the local government.

Thus, the Court holds that in assuming jurisdiction over the election protest filed by respondent Governor and declaring the election of the officers of the FABC on June 18, 1989 as null and void, the respondent Secretary acted in excess of his jurisdiction. The respondent Secretary not having the jurisdiction to hear an election protest involving officers of the FABC, the recourse of the parties is to the ordinary courts. The Regional Trial Courts have the exclusive original jurisdiction to hear the protest.[33]

The provision in DLG Circular No. 89-15 amending DLG Circular No. 89-09 which states that "whenever the guidelines are not substantially complied with, the election shall be declared null and void by the Department of Local Government and an election shall conduct anew," being invoked by the Solicitor General cannot be applied. DLG Circular No. 89-15 was issued on July 3, 1989 after the June 18, 1989 elections of the FABC officers and it is the rule in statutory construction that laws, including circulars and regulations,[34] cannot be applied retrospectively.[35] Moreover, such provision is null and void for having been issued in excess of the respondent Secretary's jurisdiction, inasmuch as an administrative authority cannot confer jurisdiction upon itself.

As regards the second issue raised by petitioner, the Court finds that respondent Governor has the personality to file the protest. Under Section 205 of the Local Government Code, the membership of the sangguniang panlalawigan consists of the governor, the vice-governor, elective members of the said sanggunian, and the presidents of the katipunang panlalawigan and the kabataang barangay provincial federation. The governor acts as the presiding officer of the sangguniang panlalawigan.[36]

As presiding officer of the sangguniang panlalawigan, the respondent governor has an interest in the election of the officers of the FABC since its elected president becomes a member of the assembly. If the president of the FABC assumes his presidency under questionable circumstances and is allowed to sit in the sangguniang panlalawigan, the official actions of the sanggunian may be vulnerable to attacks as to their validity or legality. Hence, respondent governor is a proper party to question the regularity of the elections of the officers of the FABC.

As to the third issue raised by petitioner, the Court has already ruled that the respondent Secretary has no

jurisdiction to hear the protest and nullify the elections.

Nevertheless, the Court holds that the issue of the validity of the elections should now be resolved in order to prevent any unnecessary delay that may result from the commencement of an appropriate action by the parties.

The elections were declared null and void primarily for failure to comply with Section 2.4 of DLG Circular No. 89-09 which provides that "the incumbent FABC President or the Vice-President shall preside over the reorganizational meeting, there being a quorum." The rule specifically provides that it is the incumbent FABC President or Vice-President who shall preside over the meeting. The word "shall" should be taken in its ordinary signification, i. e., it must be imperative or mandatory and not merely permissive,[37] as the rule is explicit and requires no other interpretation. If it had been intended that any other official should preside, the rules would have provided so, as it did in the elections at the town and city levels[38] as well as the regional level.[39]

It is admitted that neither the incumbent FABC President nor the Vice-President presided over the meeting and elections but Alberto P. Molina, Jr., the Chairman of the Board of Election Supervisors/Consultants. Thus, there was a clear violation of the aforesaid mandatory provision. On this ground, the elections should be nullified.

Under Sec. 2.3.2.7 of the same circular it is provided that a Board of Election Supervisors/Consultants shall be constituted to oversee and/or witness the canvassing of votes and proclamation of winners. The rules confine the role of the Board of Election Supervisors/Consultants to merely overseeing and witnessing the conduct of elections. This is consistent with the provision in the Local Government Code limiting the authority of the COMELEC to the supervision of the election.[40]

In case at bar, PGOO Molina, the Chairman of the Board, presided over the elections. There was direct participation by the Chairman of the Board in the elections contrary to what is dictated by the rules. Worse, there was no Board of Election Supervisors to oversee the elections in view of the walk out staged by its two other members, the Provincial COMELEC Supervisor and the Provincial Treasurer. The objective of keeping the election free and honest was therefore compromised.

The Court therefore finds that the election of officers of the FABC held on June 18, 1989 is null and void for failure to comply with the provisions of DLG Circular No. 89-09.

Meanwhile, pending resolution of this petition, petitioner filed a supplemental petition alleging that public respondent Local Government Secretary, in his memorandum dated June 7, 1990, designated Augusto Antonio as temporary representative of the Federation to the sangguniang panlalawigan of Catanduanes.[41] By virtue of this memorandum, respondent governor swore into said office Augusto Antonio on June 14, 1990.[42]

The Solicitor General filed his comment on the supplemental petition[43] as required by the resolution of the Court dated September 13, 1990.

In his comment, the Solicitor General dismissed the supervening event alleged by petitioner as something immaterial to the petition. He argues that Antonio's appointment was merely temporary "until such time that the provincial FABC president in that province has been elected, appointed and qualified." [44] He stresses that Antonio's appointment was only a remedial measure designed to cope with the problems brought about by the absence of a representative of the FABC to the "sangguniang panlalawigan."

Sec. 205 (2) of the Local Government Code (B.P. Blg. 337) provides --

"(2) The sangguniang panlalawigan shall be composed of the governor, the vice-governor, elective members of the said sanggunian, and the presidents of the katipunang panlalawigan and the kabataang barangay provincial federation who shall be appointed by the President of the Philippines." (Emphasis supplied.)

Batas Pambansa Blg. 51, under Sec. 2 likewise states:

"x x x

The sangguniang panlalawigan of each province shall be composed of the governor as chairman and presiding officer, the vice-governor as presiding officer pro tempore, the elective sangguniang panlalawigan members, and the appointive members consisting of the president of the provincial association of barangay councils, and the president of the provincial federation of the kabataang barangay." (Emphasis supplied.)

In *Ignacio vs. Banate*, J.[45] the Court, interpreting similarly worded provisions of Batas Pambansa Blg. 337 and Batas Pambansa Blg. 51 on the composition of the sangguniang panlungsod,[46] declared as null and void the appointment of private respondent Leoncio Banate, Jr. as member of the Sangguniang Panlungsod of the City of Roxas representing the katipunang panlungsod ng mga barangay for he lacked the eligibility and qualification required by law, not being a barangay captain and for not having been elected president of the association of barangay councils. The Court held that an unqualified person cannot be appointed a member of the sanggunian, even in an acting capacity. In *Reyes vs. Ferrer*,[47] the appointment of Nemesio L. Rasgo, Jr. as representative of the youth sector to the sangguniang panlungsod of Davao City was declared invalid since he was never the president of the kabataang barangay city federation as required by Sec. 173, Batas Pambansa Blg. 337.

In the present controversy involving the sangguniang panlalawigan, the law is likewise explicit. To be appointed by the President of the Philippines to sit in the sangguniang panlalawigan is the president of the katipunang panlalawigan. The appointee must meet the qualifications set by law.[48] The appointing power is bound by law to comply with the requirements as to the basic qualifications of the appointee to the sangguniang panlalawigan. The President of the Philippines or his alter ego, the Secretary of Local Government, has no authority to appoint anyone who does not meet the minimum qualification to be the president of the federation of barangay councils.

Augusto Antonio is not the president of the federation. He is a member of the federation but he was not even present during the elections despite notice. The argument that Antonio was appointed as a remedial measure in the exigency of the service cannot be sustained. Since Antonio does not meet the basic qualification of being president of the federation, his appointment to the sangguniang panlalawigan is not justified notwithstanding that such appointment is merely in a temporary capacity. If the intention of the respondent Secretary was to protect the interests of the federation in the sanggunian, he should have appointed the incumbent FABC President in a hold-over capacity. For even under the guidelines, the term of office of officers of the katipunan at all levels shall be from the date of their election until their successors shall have been duly elected and qualified, without prejudice to the terms of their appointments as members of the sanggunian to which they may be correspondingly appointed.[49] Since the election is still under protest such that no successor of the incumbent has as yet qualified, the respondent Secretary has no choice but to have the incumbent FABC President sit as member of the sanggunian. He could even have appointed petitioner since he was elected the president of the federation but not Antonio. The appointment of Antonio, allegedly the protege of respondent Governor, gives credence to petitioner's charge of political interference by respondent Governor in the organization. This should not be allowed. The barangays should be insulated from any partisan activity or political intervention if only to give true meaning to local autonomy.

WHEREFORE, the petition is GRANTED in that the resolution of respondent Secretary dated August 4, 1989 is hereby SET ASIDE for having been issued in excess of jurisdiction.

The election of the officials of the ABC Federation held on June 18, 1989 is hereby annulled. A new election of officers of the federation is hereby ordered to be conducted immediately in accordance with the governing rules and regulations.

The Supplemental petition is hereby GRANTED. The appointment of Augusto Antonio as representative to the Sanguniang Panlalawigan in a temporary capacity is declared null and void.

No costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] Page 18, Rollo.

* Now Secretary of Interior and Local Government by virtue of R.A. No. 6975.

[2] Page 21, Rollo.

[3] Page 23, Rollo.

[4] Page 14, Rollo.

[5] Page 16, Rollo.

[6] Sec. 108, Batas Pambansa Blg. 337.

[7] Sec. 222, *ibid.*

[8] Amended by Department of Local Government Circular No. 89-15 issued on July 3, 1989.

[9] Sec. 2 (2), Art. XII-C, 1973 Constitution provides as follows - "The Commission on Elections shall have the following powers and functions: xxx (2) Be the sole judge of all contests relating to the elections, returns, and qualifications of all members of the Batasang Pambansa and elective provincial and city officials. xxx."

[10] Sec. 9, Republic Act No. 6679; Sec. 252, Batas Pambansa Blg. 881.

[11] Sec. 9, Republic Act No. 6679; Sec. 253, Batas Pambansa Blg. 881.

[12] *Hontiveros vs. Altavos*, 24 Phil. 636 (1913).

[13] *Gonzales vs. Commission on Elections*, 21 SCRA 796 (1967).

[14] *Javier vs. Commission on Elections*, 144 SCRA 194 (1986).

[15] *Ibid.*

[16] Sec. 9, Republic Act No. 6679.

[17] Sec. 43, Batas Pambansa Blg. 337.

* Executive Order No. 292.

[18] *Cebu Institute of Technology vs. Ople*, 156 SCRA 632 (1987); *People vs. Maceren*, 79 SCRA 450 (1977); *Philippine Blooming Mills Co., Inc. vs. Social Security Commission*, 17 SCRA 1077 (1966).

[19] *Pilipinas Shell Petroleum Corporation vs. Oil Industry Commission*, 145 SCRA 433 (1986).

[20] 42 Am. Jur. 109.

[21] Ibid.

[22] Section 4, Article X, 1987 Constitution.

[23] Section 14, Batas Pambansa Blg. 337.

[24] Ibid.

[25] Pelaez vs. Auditor General, 15 SCRA 569 (1965); Hebron vs. Reyes, 104 Phil. 175 (1958); Mondano vs. Silvosa, et al., 97 Phil. 143 (1955).

[26] Hebron vs. Reyes, *supra*.

[27] Ibid.

[28] Section 25, Article II, 1987 Constitution.

[29] Section 2, Batas Pambansa Blg. 337.

[30] Sec. 3 (2), Chapter 1, Title XII, Book IV, Administrative Code of 1987

[31] Webster's Third New International Dictionary, 1971 ed., page 1460.

[32] See Serafica vs. Treasurer of Ormoc City, 27 SCRA 1108 (1969).

[33] B.P. Blg. 129, Sec. 19. provides as follows - "Jurisdiction in civil cases. - Regional Trial Courts shall exercise original jurisdiction: x x x (6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions."

[34] People vs. Que Po Lay, 94 Phil. 640 (1954).

[35] Romualdez III vs. Civil Service Commission and Philippine Ports Authority, G.R. Nos. 94878-94881, May 15, 1991; Baltazar vs. Court of Appeals, 104 SCRA 619 (1981).

[36] Section 206 (3), Batas Pambansa Blg. 337.

[37] Diokno vs. Rehabilitation Finance Corp., 91 Phil. 608 (1952).

[38] Sec. 2.3.2, DLG Circular No. 89-09, where only the incumbent president initially presides over the reorganizational meeting.

[39] Sec. 2.5, DLG Circular No. 89-09 which provides that the incumbent Regional FABC President or the vice-president or the member of the Board in succession shall temporarily preside in the reorganizational meeting.

[40] Sec. 43, Batas Pambansa Blg. 337.

[41] Annex A to supplemental petition, p. 60, Rollo.

[42] Annex B to supplemental petition, p. 61, Rollo.

[43] P. 67, Rollo.

[44] P. 68, Rollo.

[45] 153 SCRA 546 (1987).

[46] Sec. 173 of B.P. Blg. 337 provides as follows -,

"Composition and Compensation. --- (1) The sangguniang panlungsod, as the legislative body of the city, shall be composed of the vice-mayor, as presiding officer, the elected sangguniang panlungsod members, and the members who may be appointed by the President of the Philippines consisting of the presidents of the katipunang panlungsod ng mga barangay and the kabataang barangay city federation.

x x x.

Sec. 3 of B.P. Blg. 51, "Cities. --- There shall be in each city such elective local officials as provided in their respective charters, including the city mayor, the city vice-mayor, and the elective members of the sangguniang panglungsod, all of whom shall be elected by the qualified voters in the city. In addition thereto, there shall be appointive sangguniang panglungsod members consisting of the president of the city association of barangay councils, the president of the city federation of the kabataang barangay, and one representative each from the agricultural and industrial labor sectors who shall be appointed by the President x x x."

[47] 156 SCRA 317 (1987).

[48] Ibid.

[49] Section 2.2., DLG Circular No. 89-09.

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