

CITIZEN J. ANTONIO M. CARPIO, PETITIONER, VS. THE EXECUTIVE SECRETARY, THE SECRETARY OF LOCAL GOVERNMENTS, THE SECRETARY OF NATIONAL DEFENSE, AND THE NATIONAL TREASURER, RESPOND...

G.R. No. 96409. February 14, 1992

Ponente: PARAS, J.

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PARAS, J.:

At the very outset, it should be well to set forth the constitutional provision that is at the core of the controversy now confronting us, thus:

Article XVI, Section 6:

"The State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law."^[1]

With the aforequoted provision in mind, Congress passed Republic Act No. 6975 entitled "AN ACT ESTABLISHING THE PHILIPPINE NATIONAL POLICE UNDER A REORGANIZED DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT, AND FOR OTHER PURPOSES" as the consolidated version of House Bill No. 23614 and Senate Bill No. 463.

Following the said Act's approval by President Corazon C. Aquino on December 13, 1990, it was published on December 17, 1990.^[2]

Presently, however, petitioner as citizen, taxpayer and member of the Philippine Bar sworn to defend the Constitution, filed the petition now at bar on December 20, 1990, seeking this Court's declaration of unconstitutionality of RA 6975 with prayer for temporary restraining order.

But in an en banc resolution dated December 27, 1990, We simply required the public respondents to file their Comment, without however giving due course to the petition and the prayer therein. Hence, the Act took effect after fifteen days following its publication, or on January 1, 1991.^[3]

Before we settle down on the merits of the petition, it would likewise be well to discuss albeit briefly the history of our police force and the reasons for the ordination of Section 6, Article XVI in our present Constitution.

During the Commonwealth period, we had the Philippine Constabulary as the nucleus of the Philippine Ground Force (PGF), now the Armed Forces of the Philippines (AFP). The PC was made part of the PGF but its administrative, supervisory and directional control was handled by the then Department of the Interior. After the war, it remained as the "National Police" under the Department of National Defense, as a major service component of the AFP.^[4]

Later, the Integration Act of 1975^[5] created the Integrated National Police (INP) under the Office of the

President, with the PC as the nucleus, and the local police forces as the civilian components. The PC-INP was headed by the PC Chief who, as concurrent Director-General of the INP, exercised command functions over the INP.[6]

The National Police Commission[7] (NAPOLCOM) exercised administrative control and supervision while the local executives exercised operational supervision and direction over the INP units assigned within their respective localities.[8]

The set-up whereby the INP was placed under the command of the military component, which is the PC, severely eroded the INP's civilian character and the multiplicity in the governance of the PC-INP resulted in inefficient police service.[9] Moreover, the integration of the national police forces with the PC also resulted in inequities since the military component had superior benefits and privileges.[10]

The Constitutional Commission of 1986 was fully aware of the structural errors that beset the system. Thus, Com. Teodulo C. Natividad explained that:

x x x

"MR. NATIVIDAD. xxx The basic tenet of a modern police organization is to remove it from the military.[11]

x x x

Here in our draft Constitution, we have already made a constitutional postulate that the military cannot occupy any civil service position [in Section 6 of the Article on the Civil Service[12]]. Therefore, in keeping with this and because of the universal acceptance that a police force is a civilian function, a public service, and should not be performed by military force, one of the basic reforms we are presenting here is that it should be separated from the military force which is the PC.[13]

x x x

Furthermore:

x x x

xxx the civilian police cannot blossom into full profession because most of the key positions are being occupied by the military. So, it is up to this Commission to remove the police from such a situation so that it can develop into a truly professional civilian police. xxx"[14]

Hence, the "one police force, national in scope, and civilian in character" provision that is now Article XVI, Section 6 of the 1987 Constitution.

And so we now come to the merits of the petition at hand.

In the main, petitioner herein respectfully advances the view that RA 6975 emasculated the National Police Commission by limiting its power "to administrative control" over the Philippine National Police (PNP), thus, "control" remained with the Department Secretary under whom both the National Police Commission and the PNP were placed.[15]

We do not share this view.

To begin with, one need only refer to the fundamentally accepted principle in Constitutional Law that the President has control of all executive departments, bureaus, and offices[16] to lay at rest petitioner's contention on the matter.

This presidential power of control over the executive branch of government extends over all executive officers

from Cabinet Secretary to the lowliest clerk[17] and has been held by us, in the landmark case of *Mondano vs. Silvosa*,[18] to mean "the power of [the President] 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 with that of the latter." It is said to be at the very "heart of the meaning of Chief Executive." [19]

Equally well accepted, as a corollary rule to the control powers of the President, is the "Doctrine of Qualified Political Agency". As the President cannot be expected to exercise his control powers all at the same time and in person,[20] he will have to delegate some of them to his Cabinet members.

Under this doctrine, which recognizes the establishment of a single executive,[21] "all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or law to act in person on the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the Chief Executive." [22] (underscoring ours).

Thus, and in short, "the President's power of control is directly exercised by him over the members of the Cabinet who, in turn, and by his authority, control the bureaus and other offices under their respective jurisdictions in the executive department." [23]

Additionally, the circumstance that the NAPOLCOM and the PNP are placed under the reorganized Department of the Interior and Local Government is merely an administrative realignment that would bolster a system of coordination and cooperation among the citizenry, local executives and the integrated law enforcement agencies and public safety agencies created under the assailed Act,[24] the funding of the PNP being in large part subsidized by the national government.

Such organizational set-up does not detract from the mandate of the Constitution that the national police force shall be administered and controlled by a national police commission as at any rate, and in fact, the Act in question adequately provides for administration and control at the commission level, as shown in the following provisions, to wit:

"Sec. 14. Powers and Functions of the Commission. - The Commission shall exercise the following powers and functions:

x x x

(i) Approve or modify plans and programs on education and training, logistical requirements, communications, records, information systems, crime laboratory, crime prevention and crime reporting;

(j) Affirm, reverse or modify, through the National Appellate Board, personnel disciplinary actions involving demotion or dismissal from the service imposed upon members of the Philippine National Police by the Chief of the PNP;

(k) Exercise appellate jurisdiction through the regional appellate boards over administrative cases against policemen and over decisions on claims for police benefits;

x x x

Sec. 26. The Command and direction of the PNP shall be vested in the Chief of the PNP. xxx Such command and direction of the Chief of the PNP may be delegated to subordinate officials with respect to the units under

their respective commands, in accordance with the rules and regulations prescribed by the Commission. xxx

x x x

Sec. 35. x x x To enhance police operational efficiency and effectiveness, the Chief of the PNP may constitute such other support units as may be necessary subject to the approval of the Commission. xxx

x x x

Sec. 37. xxx There shall be established a performance evaluation system which shall be administered in accordance with the rules, regulations and standards, and a code of conduct promulgated by the Commission for members of the PNP. x x x

x x x

Petitioner further asserts that in manifest derogation of the power of control of the NAPOLCOM over the PNP, RA 6975 vested the power to choose the PNP Provincial Director and the Chiefs of Police in the Governors and Mayors, respectively; the power of "operational supervision and control" over police units in city and municipal mayors; in the Civil Service Commission, participation in appointments to the positions of Senior Superintendent to Deputy Director-General as well as the administration of qualifying entrance examinations; disciplinary powers over PNP members in the "People's Law Enforcement Boards" and in city and municipal mayors.[25]

Once more, we find no real controversy upon the foregoing assertions.

It is true that when the Constitutional Commissioners of 1986 provided that the authority of local executives over the police units in their jurisdiction shall be provided by law, they intended that the day-to-day functions of police work like crime investigation, crime prevention activities, traffic control, etc., would be under the operational control of the local executives as it would not be advisable to give full control of the police to the local executives.[26]

They reasoned that in the past, this gave rise to warlordism, bossism, and sanctuaries for vices and abuses.[27]

It would appear then that by vesting in the local executives the power to choose the officers in question, the Act went beyond the bounds of the Constitution's intent.

Not so. We find light in the principle of constitutional construction that every presumption should be indulged in favor of constitutionality and the court in considering the validity of the statute in question should give it such reasonable construction as can be reached to bring it within the fundamental law."[28]

Under the questioned provisions, which read as follows:

"D. PARTICIPATION OF LOCAL EXECUTIVES IN THE ADMINISTRATION OF THE PNP.

Sec. 51. Powers of Local Government Officials over the PNP Units or Forces.

Governors and mayors shall be deputized as representatives of the Commission in their respective territorial jurisdictions. As such, the local executives shall discharge the following functions:

a.) Provincial Governor - (1) x x x

The provincial governor shall choose the provincial director from a list of three (3) eligibles recommended by the PNP Regional Director.

4) x x x City and municipal mayors shall have the following authority over the PNP units in their respective jurisdictions:

i.) Authority to choose the chief of police from a list of five (5) eligibles recommended by the Provincial Police Director. x x x (Underscoring ours).

full control remains with the National Police Commission.

We agree, and so hold, with the view of the Solicitor General that "there is no usurpation of the power of control of the NAPOLCOM under Section 51 because under this very same provision, it is clear that the local executives are only acting as representatives of the NAPOLCOM. XXX As such deputies, they are answerable to the NAPOLCOM for their actions in the exercise of their functions under that section. Thus, unless countermanded by the NAPOLCOM, their acts are valid and binding as acts of the NAPOLCOM." [29] It is significant to note that the local officials, as NAPOLCOM representatives, will choose the officers concerned from a list of eligibles (those who meet the general qualifications for appointment to the PNP) [30] to be recommended by PNP officials.

The same holding is true with respect to the contention on the operational supervision and control exercised by the local officials. These officials would simply be acting as representatives of the Commission.

As regards the assertion involving the Civil Service Commission, suffice it to say that the questioned provisions, which read:

"Sec. 31. Appointment of PNP Officers and Members. The Appointment of the officers and members of the PNP shall be effected in the following manner:

(a) Police Officer I to Senior Police Officer IV. Appointed by the PNP regional director for regional personnel or by the Chief of the PNP for national headquarters personnel and attested by the Civil Service Commission;

(b) Inspector to Superintendent - Appointed by the Chief of the PNP, as recommended by their immediate superiors, and attested by the Civil Service Commission;

(c) Senior Superintendent to Deputy Director-General - Appointed by the President upon recommendation of the Chief of the PNP, with proper endorsement by the Chairman of the Civil Service Commission x x x.

Sec. 32. Examinations for Policemen. The Civil Service Commission shall administer the qualifying entrance examinations for policemen on the basis of the standards set by the NAPOLCOM."

precisely underscore the civilian character of the national police force, and will undoubtedly professionalize the same.

The grant of disciplinary powers over PNP members to the "People's Law Enforcement Boards" (or the PLEB) and city and municipal mayors is also not in derogation of the Commission's power of control over the PNP.

Pursuant to the Act, the Commission exercises appellate jurisdiction, thru the regional appellate boards, over decisions of both the PLEB and the said mayors. This is so under Section 20(c). Furthermore, it is the Commission which shall issue the implementing guidelines and procedures to be adopted by the PLEB for the conduct of its hearings, and it may assign NAPOLCOM hearing officers to act as legal consultants of the PLEBs (Section 43-d4, d5).

As a disciplinary board primarily created to hear and decide citizen's complaints against erring officers and members of the PNP, the establishment of PLEBs in every city and municipality would all the more help professionalize the police force.

Petitioner would likewise have this Court imagine that Section 12 of the questioned Act, the pertinent portion of which reads:

"Section 12. Relationship of the Department with the Department of National Defense. - During a period of

twenty-four (24) months from the effectivity of this Act, the Armed Forces of the Philippines (AFP) shall continue its present role of preserving the internal and external security of the State: Provided, that said period may be extended by the President, if he finds it justifiable, for another period not exceeding twenty-four (24) months, after which, the Department shall automatically take over from the AFP the primary role of preserving internal security, leaving to the AFP its primary role of preserving external security."

X X X

constitutes an "encroachment upon, interference with, and an abdication by the President of, executive control and commander-in-chief powers."

That We are not disposed to do for such is not the case at all here. A rejection thus of petitioner's submission anent Section 12 of the Act should be in order in the light of the following exchanges during the CONCOM deliberations of Wednesday, October 1, 1986:

X X X

"MR. RODRIGO. Just a few questions. The President of the Philippines is the Commander-in-Chief of all the armed forces.

MR. NATIVIDAD. Yes, Madam President.

MR. RODRIGO. Since the national police is not integrated with the armed forces, I do not suppose they come under the Commander-in-Chief powers of the President of the Philippines.

MR. NATIVIDAD. They do, Madam President. By law they are under the supervision and control of the President of the Philippines.

MR. RODRIGO. Yes, but the President is not the Commander-in-Chief of the national police.

MR. NATIVIDAD. He is the President.

MR. RODRIGO. Yes, the Executive. But they do not come under that specific provision that the President is Commander-in-Chief of all the armed forces.

MR. NATIVIDAD. No, not under the Commander-in-Chief provision.

MR. RODRIGO. There are two other powers of the President. The President has control over departments, bureaus and offices, and supervision over local governments. Under which does the police fall, under control or under supervision?

MR. NATIVIDAD. Both, Madam President.

MR. RODRIGO. Control and Supervision.

MR. NATIVIDAD. Yes, in fact, the National Police Commission is under the Office of the President:" (CONCOM RECORDS, Vol. 5, p. 296)

It thus becomes all too apparent then that the provision herein assailed precisely gives muscle to and enforces the proposition that the national police force does not fall under the Commander-in-Chief powers of the President. This is necessarily so since the police force, not being integrated with the military, is not a part of the Armed Forces of the Philippines. As a civilian agency of the government, it properly comes within, and is subject to, the exercise by the President of the power of executive control.

Consequently, Section 12 does not constitute abdication of commander-in-chief powers. It simply provides for the transition period or process during which the national police would gradually assume the civilian function of

safeguarding the internal security of the State. Under this instance, the President, to repeat, abdicates nothing of his war powers. It would bear to here state, in reiteration of the preponderant view, that the President, as Commander-in-Chief, is not a member of the Armed Forces. He remains a civilian whose duties under the Commander-in-Chief provision "represent only a part of the organic duties imposed upon him. All his other functions are clearly civil in nature." [31] His position as a civilian Commander-in-Chief is consistent with, and a testament to, the constitutional principle that "civilian authority is, at all times, supreme over the military." (Article II, Section 3, 1987 Constitution.).

Finally, petitioner submits that the creation of a "Special Oversight Committee" under Section 84 of the Act, especially the inclusion therein of some legislators as members (namely: the respective Chairmen of the Committee on Local Government and the Committee on National Defense and Security in the Senate, and the respective Chairmen of the Committee on Public Order and Security and, the Committee on National Defense in the House of Representatives) is an "unconstitutional encroachment upon and a diminution of, the President's power of control over all executive departments, bureaus and offices."

But there is not the least interference with the President's power of control under Section 84. The Special Oversight Committee is simply an ad hoc or transitory body, established and tasked solely with planning and overseeing the immediate "transfer, merger and/or absorption" into the Department of the Interior and Local Governments of the "involved agencies." This it will undertake in accordance with the phases of implementation already laid down in Section 85 of the Act and once this is carried out, its functions as well as the committee itself would cease altogether. [32] As an ad hoc body, its creation and the functions it exercises, decidedly do not constitute an encroachment and in diminution of the power of control which properly belongs to the President. What is more, no executive department, bureau or office is placed under the control or authority of the committee. [33]

As a last word, it would not be amiss to point out here that under the Constitution, there are the so-called independent Constitutional Commissions, namely: The Civil Service Commission, Commission on Audit, and the Commission on Elections. (Article IX-A, Section 1).

As these Commissions perform vital governmental functions, they have to be protected from external influences and political pressures. Hence, they were made constitutional bodies, independent of and not under any department of the government. [34] Certainly, they are not under the control of the President.

The Constitution also created an independent office called the "Commission on Human Rights." (Article XIII, Section 17[1]). However, this Commission is not on the same level as the Constitutional Commissions under Article IX, although it is independent like the latter Commissions. [35] It still had to be constituted thru Executive Order No. 163 (dated May 5, 1987).

In contrast, Article XVI, Section 6 thereof, merely mandates the statutory creation of a national police commission that will administer and control the national police force to be established thereunder.

This commission is, for obvious reasons, not in the same category as the independent Constitutional Commissions of Article IX and the other constitutionally created independent Office, namely, the Commission on Human Rights.

By way of resume, the three Constitutional Commissions (Civil Service, Audit, Elections) and the additional commission created the Constitution (Human Rights) are all independent of the Executive; but the National Police Commission is not. [36] In fact, it was stressed during the CONCOM deliberations that this commission would be under the President, and hence may be controlled by the President, thru his or her alter ego, the Secretary of the

Interior and Local Government.

WHEREFORE, having in view all of the foregoing holdings, the instant petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.

[1] 1987 Constitution.

[2] Dec. 17, 1990 issue of Philippine Star.

[3] Section 96, RA 6975

[4] Textbook on 1987 Constitution by Hector S. De Leon, 1989 Ed., p. 598, Footnote 21a.

[5] PD No. 765 (Aug. 8, 1979).

[6] The Constitution by De Leon, Supra, at p. 598.

[7] First created by RA 4864 under the Office of the President. Under RA 6975, the National Police Commission created thereunder is a collegial body within the Department of the Interior and Local Government (DILG) with the DILG Secretary, as Ex Officio Chairman of the Commission.

[8] The Constitution by De Leon, Supra, at p. 599. See also Exec. Order No. 1012, as amended by EO Nos. 1027 and 1040, dated July 10, 1985.

[9] *Iid*, at p. 599, citing "The Police Under the New Constitution", by Com. Teodulo C. Natividad, Manila Bulletin, October 1986.

[10] *Ibid*, at p. 599-600.

[11] CONCOM RECORDS, Vol. 5, p. 294.

[12] Now Article XVI, Section 5, par. 4.

[13] CONCOM Records, Supra, at p. 293.

[14] *Ibid* at page 294.

[15] Rollo, pp. 4 and 47.

[16] Article VII, Section 17.

[17] The Constitution, A Commentary. By Fr. Joaquin Bernas, S.J., Vol. II, 2nd Ed. (1988), p. 203-204.

[18] 97 Phil. 143 (1955).

[19] The Constitution by Bernas, Supra, at p. 204.

[20] *Ibid*.

[21] *Ibid*.

[22] *Ibid.*, at p. 204, citing *Villena vs. Secretary of Interior*, 67 Phil. 451, 464 (1939). Also *Lacson-Magallanes*

Co., Inc. vs. Pano, 21 SCRA 895 (1967).

[23] De Leon vs. Carpio 178 SCRA 457 (1989), thru Justice Isagani A. Cruz.

[24] Declaration of Policy, Section 2, R.A. 6975.

[25] Rollo, p. 4.

[26] CONCOM Records, Vol. 5, p. 293.

[27] Ibid, at p. 293.

[28] In re Guarina, 24 Phil. 37.

[29] Rollo, p. 26.

[30] Sec. 30, RA 6975. General Qualifications for Appointment. - No person shall be appointed as officer or member of the PNP unless he possesses the following minimum qualifications:

(a) A citizen of the Philippines;

(b) A person of good moral conduct;

(c) Of sound mind and body;

(d) Must possess a formal baccalaureate degree for appointment as officer and must have finished at least second year college or the equivalent of seventy-two (72) collegiate units for appointment as non-officer or an equivalent training or experience for those already in the service upon the effectivity of this Act;

(e) Must be eligible in accordance with the standards set by the Commission;

(f) Must not have been dishonorably discharged from military employment or dismissed for cause from any civilian position in the Government;

(g) Must not have been convicted by final judgment of an offense or crime involving moral turpitude;

(h) Must be at least one meter and sixty-two centimeters (1.62 m.) in height for male and one meter and fifty-seven centimeters (1.57 m.) for female;

(i) Must weigh not more or less than five kilograms (5 kg.) of the standard weight corresponding to his or her height, age, and sex; and

(j) For a new applicant, must not be less than twenty-one (21) nor more than thirty (30) years of age.

[31] The Constitution, A Commentary, by Fr. Joaquin Bernas, S.J., Vol. II, p. 212.

[32] COMMENT of the Solicitor General, Rollo, p. 32.

[33] Ibid.

[34] The Constitution by Bernas. Supra at p. 325

[35] Ibid., at p. 501; CONCOM RECORDS, Vol. IV, p. 30.

[36] Under the Administrative Code of 1987 (specifically Section 70, Subtitle III of Title VIII), the old NAPOLCOM was placed under the Office of the President. Prior to that, it was, for a time, placed under the Ministry of Justice. EO 1040 (1985) then transferred it back to the Office of the President.

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