

EN BANC

[G.R. No. 196271, February 28, 2012]

DATU MICHAEL ABAS KIDA, IN HIS PERSONAL CAPACITY, AND IN REPRESENTATION OF MAGUINDANAO FEDERATION OF AUTONOMOUS IRRIGATORS ASSOCIATION, INC., HADJI MUHMINA J. USMAN, JOHN ANTHONY L. LIM, JAMILON T. ODIN, ASRIN TIMBOL JAIYARI, MUJIB M. KALANG, ALIH AL-SAIDI J. SAPI-E, KESSAR DAMSIE ABDIL, AND BASSAM ALUH SAUPI, PETITIONERS, VS. SENATE OF THE PHILIPPINES, REPRESENTED BY ITS PRESIDENT JUAN PONCE ENRILE, HOUSE OF REPRESENTATIVES, THRU SPEAKER FELICIANO BELMONTE, COMMISSION ON ELECTIONS, THRU ITS CHAIRMAN, SIXTO BRILLANTES, JR., PAQUITO OCHOA, JR., OFFICE OF THE PRESIDENT EXECUTIVE SECRETARY, FLORENCIO ABAD, JR., SECRETARY OF BUDGET, AND ROBERTO TAN, TREASURER OF THE PHILIPPINES, RESPONDENTS.

[G.R. NO. 196305]

BASARI D. MAPUPUNO, PETITIONER, VS. SIXTO BRILLANTES, IN HIS CAPACITY AS CHAIRMAN OF THE COMMISSION ON ELECTIONS, FLORENCIO ABAD, JR. IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, PAQUITO OCHOA, JR., IN HIS CAPACITY AS EXECUTIVE SECRETARY, JUAN PONCE ENRILE, IN HIS CAPACITY AS SENATE PRESIDENT, AND FELICIANO BELMONTE, IN HIS CAPACITY AS SPEAKER OF THE HOUSE OF REPRESENTATIVES, RESPONDENTS.

[G.R. NO. 197221]

REP. EDCEL C. LAGMAN, PETITIONER, VS. PAQUITO N. OCHOA, JR., IN HIS CAPACITY AS THE EXECUTIVE SECRETARY, AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

[G.R. NO. 197280]

ALMARIM CENTI TILLAH, DATU CASAN CONDING CANA, AND PARTIDO DEMOKRATIKO PILIPINO LAKAS NG BAYAN (PDP-LABAN), PETITIONERS, VS. THE COMMISSION ON ELECTIONS, THROUGH ITS CHAIRMAN, SIXTO BRILLANTES, JR., HON. PAQUITO N. OCHOA, JR., IN HIS CAPACITY AS EXECUTIVE SECRETARY, HON. FLORENCIO B. ABAD, JR., IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND HON. ROBERTO B. TAN, IN HIS CAPACITY AS TREASURER OF THE PHILIPPINES, RESPONDENTS.

[G.R. NO. 197282]

ATTY. ROMULO B. MACALINTAL, PETITIONER, VS. COMMISSION ON ELECTIONS AND THE OFFICE OF THE PRESIDENT, THROUGH EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., RESPONDENTS.

[G.R. NO. 197392]

LOUIS "BAROK" C. BIRAOGO, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., RESPONDENTS.

[G.R. NO. 197454]

JACINTO V. PARAS, PETITIONER, VS. EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

MINORITY RIGHTS FORUM, PHILIPPINES, INC., RESPONDENTS-INTERVENOR.

R E S O L U T I O N

BRION, J.:

We resolve: (a) the motion for reconsideration filed by petitioners Datu Michael Abas Kida, et al. in G.R. No. 196271; (b) the motion for reconsideration filed by petitioner Rep. Edcel Lagman in G.R. No. 197221; (c) the *ex abundante ad cautelam* motion for reconsideration filed by petitioner Basari Mapupuno in G.R. No. 196305; (d) the motion for reconsideration filed by petitioner Atty. Romulo Macalintal in G.R. No. 197282; (e) the motion for reconsideration filed by petitioners Almarim Centi Tillah, Datu Casan Conding Cana and Partido Demokratiko Pilipino Lakas ng Bayan in G.R. No. 197280; (f) the manifestation and motion filed by petitioners Almarim Centi Tillah, et al. in G.R. No. 197280; and (g) the very urgent motion to issue clarificatory resolution that the temporary restraining order (*TRO*) is still existing and effective.

These motions assail our Decision dated October 18, 2011, where we upheld the constitutionality of Republic Act (RA) No. 10153. Pursuant to the constitutional mandate of synchronization, RA No. 10153 postponed the regional elections in the Autonomous Region in Muslim Mindanao (ARMM) (which were scheduled to be held on the second Monday of August 2011) to the second Monday of May 2013 and recognized the President's power to appoint officers-in-charge (OICs) to temporarily assume these positions upon the expiration of the terms of the elected officials.

The Motions for Reconsideration

The petitioners in G.R. No. 196271 raise the following grounds in support of their motion:

- I. THE HONORABLE COURT ERRED IN CONCLUDING THAT THE ARMM ELECTIONS ARE LOCAL ELECTIONS, CONSIDERING THAT THE CONSTITUTION GIVES THE ARMM A SPECIAL STATUS AND IS SEPARATE AND DISTINCT FROM ORDINARY LOCAL GOVERNMENT UNITS.
- II. R.A. 10153 AND R.A. 9333 AMEND THE ORGANIC ACT.
- III. THE SUPERMAJORITY PROVISIONS OF THE ORGANIC ACT (R.A. 9054) ARE NOT IRREPEALABLE LAWS.
- IV. SECTION 3, ARTICLE XVII OF R.A. 9054 DOES NOT VIOLATE SECTION 18, ARTICLE X OF THE CONSTITUTION.
- V. BALANCE OF INTERESTS TILT IN FAVOR OF THE DEMOCRATIC PRINCIPLE[.]^[1]

The petitioner in G.R. No. 197221 raises similar grounds, arguing that:

- I. THE ELECTIVE REGIONAL EXECUTIVE AND LEGISLATIVE OFFICIALS OF ARMM CANNOT BE CONSIDERED AS OR EQUATED WITH THE TRADITIONAL LOCAL GOVERNMENT OFFICIALS IN THE LOCAL GOVERNMENT UNITS (LGUs) BECAUSE (A) THERE IS NO EXPLICIT CONSTITUTIONAL PROVISION ON SUCH PARITY; AND (B) THE ARMM IS MORE SUPERIOR THAN LGUs IN STRUCTURE, POWERS AND AUTONOMY, AND CONSEQUENTLY IS A CLASS OF ITS OWN APART FROM TRADITIONAL LGUs.
- II. THE UNMISTAKABLE AND UNEQUIVOCAL CONSTITUTIONAL MANDATE FOR AN ELECTIVE AND REPRESENTATIVE EXECUTIVE DEPARTMENT AND LEGISLATIVE ASSEMBLY IN ARMM INDUBITABLY PRECLUDES THE APPOINTMENT BY THE PRESIDENT OF OFFICERS-IN-CHARGE (OICs), ALBEIT MOMENTARY OR TEMPORARY, FOR THE POSITIONS OF ARMM GOVERNOR, VICE GOVERNOR AND MEMBERS OF THE REGIONAL ASSEMBLY.
- III. THE PRESIDENT'S APPOINTING POWER IS LIMITED TO APPOINTIVE OFFICIALS AND DOES NOT EXTEND TO ELECTIVE OFFICIALS EVEN AS THE PRESIDENT IS ONLY VESTED WITH SUPERVISORY POWERS OVER THE ARMM, THEREBY NEGATING THE AWESOME POWER TO APPOINT AND REMOVE OICs OCCUPYING ELECTIVE POSITIONS.
- IV. THE CONSTITUTION DOES NOT PROSCRIBE THE HOLDOVER OF ARMM ELECTED OFFICIALS PENDING THE ELECTION AND QUALIFICATION OF THEIR SUCCESSORS.
- V. THE RULING IN OSMENA DOES NOT APPLY TO ARMM ELECTED OFFICIALS WHOSE TERMS OF OFFICE ARE NOT PROVIDED FOR BY THE CONSTITUTION BUT PRESCRIBED BY THE ORGANIC ACTS.

- VI. THE REQUIREMENT OF A SUPERMAJORITY OF $\frac{3}{4}$ VOTES IN THE HOUSE OF REPRESENTATIVES AND THE SENATE FOR THE VALIDITY OF A SUBSTANTIVE AMENDMENT OR REVISION OF THE ORGANIC ACTS DOES NOT IMPOSE AN IRREPEALABLE LAW.
- VII. THE REQUIREMENT OF A PLEBISCITE FOR THE EFFECTIVITY OF A SUBSTANTIVE AMENDMENT OR REVISION OF THE ORGANIC ACTS DOES NOT UNDULY EXPAND THE PLEBISCITE REQUIREMENT OF THE CONSTITUTION.
- VIII. SYNCHRONIZATION OF THE ARMM ELECTION WITH THE NATIONAL AND LOCAL ELECTIONS IS NOT MANDATED BY THE CONSTITUTION.
- IX. THE COMELEC HAS THE AUTHORITY TO HOLD AND CONDUCT SPECIAL ELECTIONS IN ARMM, AND THE ENACTMENT OF AN IMPROVIDENT AND UNCONSTITUTIONAL STATUTE IS AN ANALOGOUS CAUSE WARRANTING COMELEC'S HOLDING OF SPECIAL ELECTIONS.^[2] (*italics supplied*)

The petitioner in G.R. No. 196305 further asserts that:

- I. BEFORE THE COURT MAY CONSTRUE OR INTERPRET A STATUTE, IT IS A CONDITION *SINE QUA NON* THAT THERE BE DOUBT OR AMBIGUITY IN ITS LANGUAGE.

THE TRANSITORY PROVISIONS HOWEVER ARE CLEAR AND UNAMBIGUOUS: THEY REFER TO THE 1992 ELECTIONS AND TURN-OVER OF ELECTIVE OFFICIALS.

IN THUS RECOGNIZING A SUPPOSED "INTENT" OF THE FRAMERS, AND APPLYING THE SAME TO ELECTIONS 20 YEARS AFTER, THE HONORABLE SUPREME COURT MAY HAVE VIOLATED THE FOREMOST RULE IN STATUTORY CONSTRUCTION.

x x x x

- II. THE HONORABLE COURT SHOULD HAVE CONSIDERED THAT RA 9054, AN ORGANIC ACT, WAS COMPLETE IN ITSELF. HENCE, RA 10153 SHOULD BE CONSIDERED TO HAVE BEEN ENACTED PRECISELY TO AMEND RA 9054.

x x x x

- III. THE HONORABLE COURT MAY HAVE COMMITTED A SERIOUS ERROR IN DECLARING THE $\frac{2}{3}$ VOTING REQUIREMENT SET FORTH IN RA 9054 AS UNCONSTITUTIONAL.

x x x x

IV. THE HONORABLE COURT MAY HAVE COMMITTED A SERIOUS ERROR IN HOLDING THAT A PLEBISCITE IS NOT NECESSARY IN AMENDING THE ORGANIC ACT.

x x x x

V. THE HONORABLE COURT COMMITTED A SERIOUS ERROR IN DECLARING THE HOLD-OVER OF ARMM ELECTIVE OFFICIALS UNCONSTITUTIONAL.

x x x x

VI. THE HONORABLE COURT COMMITTED A SERIOUS ERROR IN UPHOLDING THE APPOINTMENT OF OFFICERS-IN-CHARGE.^[3]
(italics and underscoring supplied)

The petitioner in G.R. No. 197282 contends that:

A.

ASSUMING WITHOUT CONCEDING THAT THE APPOINTMENT OF OICs FOR THE REGIONAL GOVERNMENT OF THE ARMM IS NOT UNCONSTITUTIONAL TO BEGIN WITH, SUCH APPOINTMENT OF OIC REGIONAL OFFICIALS WILL CREATE A FUNDAMENTAL CHANGE IN THE BASIC STRUCTURE OF THE REGIONAL GOVERNMENT SUCH THAT R.A. NO. 10153 SHOULD HAVE BEEN SUBMITTED TO A PLEBISCITE IN THE ARMM FOR APPROVAL BY ITS PEOPLE, WHICH PLEBISCITE REQUIREMENT CANNOT BE CIRCUMVENTED BY SIMPLY CHARACTERIZING THE PROVISIONS OF R.A. NO. 10153 ON APPOINTMENT OF OICs AS AN "INTERIM MEASURE".

B.

THE HONORABLE COURT ERRED IN RULING THAT THE APPOINTMENT BY THE PRESIDENT OF OICs FOR THE ARMM REGIONAL GOVERNMENT IS NOT VIOLATIVE OF THE CONSTITUTION.

C.

THE HOLDOVER PRINCIPLE ADOPTED IN R.A. NO. 9054 DOES NOT VIOLATE THE CONSTITUTION, AND BEFORE THEIR SUCCESSORS ARE ELECTED IN EITHER AN ELECTION TO BE HELD AT THE SOONEST POSSIBLE TIME OR IN MAY 2013, THE SAID INCUMBENT ARMM REGIONAL OFFICIALS MAY VALIDLY CONTINUE FUNCTIONING AS SUCH IN A HOLDOVER CAPACITY IN ACCORDANCE WITH SECTION 7, ARTICLE VII OF R.A. NO. 9054.

D.

WITH THE CANCELLATION OF THE AUGUST 2011 ARMM ELECTIONS,