

EN BANC

[G.R. No. 189793, April 07, 2010]

SENATOR BENIGNO SIMEON C. AQUINO III AND MAYOR JESSE ROBREDO, PETITIONERS, VS. COMMISSION ON ELECTIONS REPRESENTED BY ITS CHAIRMAN JOSE A.R. MELO AND ITS COMMISSIONERS, RENE V. SARMIENTO, NICODEMO T. FERRER, LUCENITO N. TAGLE, ARMANDO VELASCO, ELIAS R. YUSOPH AND GREGORIO LARRAZABAL, RESPONDENTS.

D E C I S I O N

PEREZ, J.:

This case comes before this Court by way of a Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court. In this original action, petitioners Senator Benigno Simeon C. Aquino III and Mayor Jesse Robredo, as public officers, taxpayers and citizens, seek the nullification as unconstitutional of Republic Act No. 9716, entitled "*An Act Reapportioning the Composition of the First (1st) and Second (2nd) Legislative Districts in the Province of Camarines Sur and Thereby Creating a New Legislative District From Such Reapportionment.*" Petitioners consequently pray that the respondent Commission on Elections be restrained from making any issuances and from taking any steps relative to the implementation of Republic Act No. 9716.

Republic Act No. 9716 originated from House Bill No. 4264, and was signed into law by President Gloria Macapagal Arroyo on 12 October 2009. It took effect on 31 October 2009, or fifteen (15) days following its publication in the Manila Standard, a newspaper of general circulation.^[1] In substance, the said law created an additional legislative district for the Province of Camarines Sur by reconfiguring the existing first and second legislative districts of the province.

Prior to Republic Act No. 9716, the Province of Camarines Sur was estimated to have a population of 1,693,821,^[2] distributed among four (4) legislative districts in this wise:

District	Municipalities/Cities		Population
1 st District	Del Gallego Ragay Lupi Sipocot Cabusao	Libmanan Minalabac Pamplona Pasacao San Fernando	417,304
2 nd District	Gainza Milaor Naga	Canaman Camaligan Magarao	474,899

	Pili Ocampo	Bombon Calabanga	
3 rd District	Caramoan Garchitorena Goa Lagonoy Presentacion	Sangay San Jose Tigaon Tinamba Siruma	372,548
4 th District	Iriga Baao Balatan Bato	Buhi Bula Nabua	429,070

Following the enactment of Republic Act No. 9716, the first and second districts of Camarines Sur were reconfigured in order to create an additional legislative district for the province. Hence, the first district municipalities of Libmanan, Minalabac, Pamplona, Pasacao, and San Fernando were combined with the second district municipalities of Milaor and Gainza to form a new second legislative district. The following table^[3] illustrates the reapportionment made by Republic Act No. 9716:

District	Municipalities/Cities		Population
1 st District	Del Gallego Ragay Lupi Sipocot Cabusao		176,383
2 nd District	Libmanan Minalabac Pamplona Pasacao	San Fernando Gainza Milaor	276,777
3 rd District (formerly 2 nd District)	Naga Pili Ocampo Canaman	Camaligan Magarao Bombon Calabanga	439,043
4 th District (formerly 3 rd District)	Caramoan Garchitorena Goa Lagonoy Presentacion	Sangay San Jose Tigaon Tinamba Siruma	372,548
5 th District (formerly 4 th District)	Iriga Baao Balatan Bato	Buhi Bula Nabua	429,070

Republic Act No. 9716 is a well-milled legislation. The factual recitals by both parties of the origins of the bill that became the law show that, from the filing of House Bill No. 4264 until its approval by the Senate on a vote of thirteen (13) in favor and two (2) against, the process progressed step by step, marked by public hearings on the sentiments and position of the local officials of Camarines Sur on the creation of a new congressional district, as well as argumentation and debate on the issue, now

before us, concerning the stand of the oppositors of the bill that a population of at least 250,000 is required by the Constitution for such new district.^[4]

Petitioner Aquino III was one of two senators who voted against the approval of the Bill by the Senate. His co-petitioner, Robredo, is the Mayor of Naga City, which was a part of the former second district from which the municipalities of Gainza and Milaor were taken for inclusion in the new second district. No other local executive joined the two; neither did the representatives of the former third and fourth districts of the province.

Petitioners contend that the reapportionment introduced by Republic Act No. 9716, runs afoul of the *explicit constitutional standard* that requires a minimum population of two hundred fifty thousand (250,000) for the creation of a legislative district.^[5] The petitioners claim that the reconfiguration by Republic Act No. 9716 of the first and second districts of Camarines Sur is unconstitutional, because the proposed first district will end up with a population of less than 250,000 or only 176,383.

Petitioners rely on Section 5(3), Article VI of the 1987 Constitution as basis for the cited 250,000 minimum population standard.^[6] The provision reads:

Article VI

Section 5. (1) x x x x

(2) x x x x

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. **Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.**

(4) x x x x (Emphasis supplied).

The petitioners posit that the 250,000 figure appearing in the above-cited provision is the minimum population requirement for the creation of a legislative district.^[7] The petitioners theorize that, save in the case of a newly created province, each legislative district created by Congress must be supported by a minimum population of at least 250,000 in order to be valid.^[8] Under this view, existing legislative districts may be reapportioned and severed to form new districts, provided each resulting district will represent a population of at least 250,000. On the other hand, if the reapportionment would result in the creation of a legislative seat representing a populace of less than 250,000 inhabitants, the reapportionment must be stricken down as invalid for non-compliance with the minimum population requirement.

In support of their theory, the petitioners point to what they claim is the intent of the framers of the 1987 Constitution to adopt a population minimum of 250,000 in the creation of additional legislative seats.^[9] The petitioners argue that when the Constitutional Commission fixed the original number of district seats in the House of Representatives to two hundred (200), they took into account the projected national

population of fifty five million (55,000,000) for the year 1986.^[10] According to the petitioners, 55 million people represented by 200 district representatives translates to *roughly* 250,000 people for every one (1) representative.^[11] Thus, the 250,000 population requirement found in Section 5(3), Article VI of the 1987 Constitution is actually based on the population constant used by the Constitutional Commission in distributing the initial 200 legislative seats.

Thus did the petitioners claim that in reapportioning legislative districts independently from the creation of a province, Congress is bound to observe a 250,000 population threshold, in the same manner that the Constitutional Commission did in the original apportionment.

Verbatim, the submission is that:

1. Republic Act 9716 is unconstitutional because the newly apportioned first district of Camarines Sur failed to meet the population requirement for the creation of the legislative district as explicitly provided in Article VI, Section 5, Paragraphs (1) and (3) of the Constitution and Section 3 of the Ordinance appended thereto; and
2. Republic Act 9716 violates the principle of proportional representation as provided in Article VI, Section 5 paragraphs (1), (3) and (4) of the Constitution.^[12]

The provision subject of this case states:

Article VI

Section 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional and sectoral parties or organizations.

(2) x x x x

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

(4) Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section.

On the other hand, the respondents, through the Office of the Solicitor General, seek the dismissal of the present petition based on procedural and substantive grounds.

On procedural matters, the respondents argue that the petitioners are guilty of two (2) fatal technical defects: first, petitioners committed an error in choosing to assail the constitutionality of Republic Act No. 9716 *via* the remedy of *Certiorari* and Prohibition under Rule 65 of the Rules of Court; and second, the petitioners have no *locus standi* to question the constitutionality of Republic Act No. 9716.

On substantive matters, the respondents call attention to an apparent distinction between cities and provinces drawn by Section 5(3), Article VI of the 1987 Constitution. The respondents concede the existence of a 250,000 population condition, but argue that a plain and simple reading of the questioned provision will show that the same has no application with respect to the creation of legislative districts in provinces.^[13] Rather, the 250,000 minimum population is only a requirement for the creation of a legislative district in a city.

In sum, the respondents deny the existence of a fixed population requirement for the reapportionment of districts in provinces. Therefore, Republic Act No. 9716, which only creates an additional legislative district within the province of Camarines Sur, should be sustained as a perfectly valid reapportionment law.

We first pass upon the threshold issues.

The respondents assert that by choosing to avail themselves of the remedies of *Certiorari* and Prohibition, the petitioners have committed a fatal procedural lapse. The respondents cite the following reasons:

1. The instant petition is bereft of any allegation that the respondents had acted without or in excess of jurisdiction, or with grave abuse of discretion.
2. The remedy of *Certiorari* and Prohibition must be directed against a tribunal, board, officer or person, whether exercising judicial, quasi-judicial, or ministerial functions. Respondents maintain that in implementing Republic Act No. 9716, they were not acting as a judicial or quasi-judicial body, nor were they engaging in the performance of a ministerial act.
3. The petitioners could have availed themselves of another plain, speedy and adequate remedy in the ordinary course of law. Considering that the main thrust of the instant petition is the declaration of unconstitutionality of Republic Act No. 9716, the same could have been ventilated through a *petition for declaratory relief*, over which the Supreme Court has only appellate, not original jurisdiction.

The respondents likewise allege that the petitioners had failed to show that they had sustained, or is in danger of sustaining any substantial injury as a result of the implementation of Republic Act No. 9716. The respondents, therefore, conclude that the petitioners lack the required legal standing to question the constitutionality of