

EN BANC

[G.R. No. 177508, August 07, 2009]

**BARANGAY ASSOCIATION FOR NATIONAL ADVANCEMENT AND
TRANSPARENCY (BANAT) PARTY-LIST, REPRESENTED BY
SALVADOR B. BRITANICO, PETITIONER, VS. COMMISSION ON
ELECTIONS, RESPONDENT.**

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for prohibition^[1] with a prayer for the issuance of a temporary restraining order or a writ of preliminary injunction^[2] filed by petitioner Barangay Association for National Advancement and Transparency (BANAT) Party List (petitioner) assailing the constitutionality of Republic Act No. 9369 (RA 9369)^[3] and enjoining respondent Commission on Elections (COMELEC) from implementing the statute.

RA 9369 is a consolidation of Senate Bill No. 2231 and House Bill No. 5352 passed by the Senate on 7 December 2006 and the House of Representatives on 19 December 2006. On 23 January 2007, less than four months before the 14 May 2007 local elections, the President signed RA 9369. Two newspapers of general circulation, Malaya and Business Mirror, published RA 9369 on 26 January 2007. RA 9369 thus took effect on 10 February 2007.

On 7 May 2007, petitioner, a duly accredited multi-sectoral organization, filed this petition for prohibition alleging that RA 9369 violated Section 26(1), Article VI of the Constitution.^[4] Petitioner also assails the constitutionality of Sections 34, 37, 38, and 43 of RA 9369. According to petitioner, these provisions are of questionable application and doubtful validity for failing to comply with the provisions of the Constitution.

The COMELEC and the Office of the Solicitor General (OSG) filed their respective Comments. At the outset, both maintain that RA 9369 enjoys the presumption of constitutionality, save for the prayer of the COMELEC to declare Section 43 as unconstitutional.

The Assailed Provisions of RA 9369

Petitioner assails the following provisions of RA 9369:

1. Section 34 which provides:

SEC. 34. Sec. 26 of Republic Act No. 7166 is hereby amended to read as follows:

"SEC. 26. *Official Watchers.* - Every registered political party or coalition of political parties, and every candidate shall each be entitled to one watcher in every polling place and canvassing center: *Provided That*, candidates for the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sangguniang Bayan belonging to the same slate or ticket shall collectively be entitled to only one watcher.

"The dominant majority party and dominant minority party, which the Commission shall determine in accordance with law, shall each be entitled to one official watcher who shall be paid a fixed per *diem* of four hundred pesos (400.00).

"There shall also recognized six principal watchers, representing the six accredited major political parties excluding the dominant majority and minority parties, who shall be designated by the Commission upon nomination of the said parties. These political parties shall be determined by the Commission upon notice and hearing on the basis of the following circumstances:

"(a) The established record of the said parties, coalition of groups that now composed them, taking into account, among other things, their showing in past election;

"(b) The number of incumbent elective officials belonging to them ninety (90) days before the date of election;

"(c) Their identifiable political organizations and strengths as evidenced by their organized/chapters;

"(d) The ability to fill a complete slate of candidates from the municipal level to the position of President; and

"(e) Other analogous circumstances that may determine their relative organizations and strengths."

2. Section 37 which provides:

SEC. 37. Section 30 of Republic Act No. 7166 is hereby amended to read as follows:

"SEC. 30. *Congress as the National Board of Canvassers for the Election of President and Vice President: The Commission en banc as the National Board of Canvassers for the election of senators: Determination of Authenticity and Due Execution of Certificates of Canvass.* - Congress and the Commission *en banc* shall determine the authenticity and due execution of the certificate of canvass for president and vice president and senators, respectively, as accomplished and transmitted to it by the

local boards of canvassers, on a showing that: (1) each certificate of canvass was executed, signed and thumbmarked by the chairman and members of the board of canvassers and transmitted or caused to be transmitted to Congress by them; (2) each certificate of canvass contains the names of all of the candidates for president and vice president or senator, as the case may be, and their corresponding votes in words and their corresponding votes in words and in figures; (3) there exists no discrepancy in other authentic copies of the certificates of canvass or any of its supporting documents such as statement of votes by city/municipality/by precinct or discrepancy in the votes of any candidate in words and figures in the certificate; and (4) there exist no discrepancy in the votes of any candidate in words and figures in the certificates of canvass against the aggregate number of votes appearing in the election returns of precincts covered by the certificate of canvass: *Provided*, That certified print copies of election returns or certificates of canvass may be used for the purpose of verifying the existence of the discrepancy.

"When the certificate of canvass, duly certified by the board of canvassers of each province, city or district, appears to be incomplete, the Senate President or the Chairman of the Commission, as the case may be, shall require the board of canvassers concerned to transmit by personal delivery, the election returns from polling places that were not included in the certificate of canvass and supporting statements. Said election returns shall be submitted by personal delivery within two (2) days from receipt of notice.

"When it appears that any certificate of canvass or supporting statement of votes by city/municipality or by precinct bears erasures or alteration which may cast doubt as to the veracity of the number of votes stated herein and may affect the result of the election, upon request of the presidential, vice presidential or senatorial candidate concerned or his party, Congress or the Commission *en banc*, as the case may be shall, for the sole purpose of verifying the actual number of votes cast for president, vice president or senator, count the votes as they appear in the copies of the election returns submitted to it.

"In case of any discrepancy, incompleteness, erasure or alteration as mentioned above, the procedure on pre-proclamation controversies shall be adopted and applied as provided in Section 17,18,19 and 20.

"Any person who presents in evidence a simulated copy of an election return, certificate of canvass or statement of votes, or a printed copy of an election return, certificate of canvass or statement of votes bearing a simulated certification or a simulated image, shall be guilty of an election offense shall be penalized in accordance with Batas Pambansa Blg. 881."

3. Section 38 which provides:

SEC. 38. Section 15 of Republic Act No. 7166 is hereby amended to read as follows:

"SEC. 15. *Pre-proclamation Cases in Elections for President, Vice President, Senator, and Member of the House of Representatives.* - For purposes of the elections for president, vice president, senator, and member of the House of Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of election returns or the certificates of canvass, as the case may be, except as provided for in Section 30 hereof. However, this does not preclude the authority of the appropriate canvassing body *motu proprio* or upon written complaint of an interested person to correct manifest errors in the certificate of canvass or election returns before it.

"Questions affecting the composition or proceedings of the board of canvassers may be initiated in the board or directly with the Commission in accordance with Section 19 hereof.

"Any objection on the election returns before the city or municipal board of canvassers, or on the municipal certificates of canvass before the provincial board of canvassers or district board of canvassers in Metro Manila Area, shall be specifically noticed in the minutes of the respective proceedings."

4. Section 43 which provides:

SEC. 43. Section 265 of Batas Pambansa Blg. 881 is hereby amended to read as follows:

"SEC. 265. *Prosecution.* - The Commission shall, through its duly authorized legal officers, have the power, concurrent with the other prosecuting arms of the government, to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same."

The Issues

Petitioner raises the following issues:

1. Whether RA 9369 violates Section 26(1), Article VI of the Constitution;
2. Whether Sections 37 and 38 violate Section 17, Article VI^[5] and Paragraph 7, Section 4, Article VII^[6] of the Constitution;
3. Whether Section 43 violates Section 2(6), Article IX-C of the Constitution;^[7] and
4. Whether Section 34 violates Section 10, Article III of the Constitution.^[8]

The Court's Ruling

The petition has no merit.

is settled that every statute is presumed to be constitutional.^[9] The presumption is that the legislature intended to enact a valid, sensible and just law. Those who petition the Court to declare a law unconstitutional must show that there is a clear and unequivocal breach of the Constitution, not merely a doubtful, speculative or argumentative one; otherwise, the petition must fail.^[10]

In this case, petitioner failed to justify why RA 9369 and the assailed provisions should be declared unconstitutional.

RA 9369 does not violate Section 26(1), Article VI of the Constitution

Petitioner alleges that the title of RA 9369 is misleading because it speaks of poll automation but contains substantial provisions dealing with the manual canvassing of election returns. Petitioner also alleges that Sections 34, 37, 38, and 43 are neither embraced in the title nor germane to the subject matter of RA 9369.

Both the COMELEC and the OSG maintain that the title of RA 9369 is broad enough to encompass topics which deal not only with the automation process but with everything related to its purpose encouraging a transparent, credible, fair, and accurate elections.

The constitutional requirement that "every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof" has always been given a practical rather than a technical construction.^[11] The requirement is satisfied if the title is comprehensive enough to include subjects related to the general purpose which the statute seeks to achieve.^[12] The title of a law does not have to be an index of its contents and will suffice if the matters embodied in the text are relevant to each other and may be inferred from the title.^[13] Moreover, a title which declares a statute to be an act to amend a specified code is sufficient and the precise nature of the amendatory act need not be further stated.^[14]

RA 9369 is an amendatory act entitled "An Act Amending Republic Act No. 8436, Entitled `An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, to Encourage Transparency, Credibility, Fairness and Accuracy of Elections, Amending for the Purpose Batas Pambansa Blg. 881, as Amended, Republic Act No. 7166 and Other Related Election Laws, Providing Funds Therefor and For Other Purposes.'" Clearly, the subject matter of RA 9369 covers the amendments to RA 8436, Batas Pambansa Blg. 881 (BP 881),^[15] Republic Act No. 7166 (RA 7166),^[16] and other related election laws to achieve its purpose of promoting transparency, credibility, fairness, and accuracy in the elections. The provisions of RA 9369 assailed by petitioner deal with amendments to specific provisions of RA 7166 and BP 881, specifically: (1) Sections 34, 37 and 38 amend Sections 26, 30 and 15 of RA 7166, respectively; and (2) Section 43 of RA 9369 amends Section 265 of BP 881. Therefore, the assailed provisions are germane to the subject matter of RA 9369 which is to amend RA 7166 and BP 881, among others.