

**EN BANC**

**[ G.R. No. 176951, November 18, 2008 ]**

**LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF BAYBAY, PROVINCE OF LEYTE; MUNICIPALITY OF BOGO, PROVINCE OF CEBU; MUNICIPALITY OF CATBALOGAN, PROVINCE OF WESTERN SAMAR; MUNICIPALITY OF TANDAG, PROVINCE OF SURIGAO DEL SUR; MUNICIPALITY OF BORONGAN, PROVINCE OF EASTERN SAMAR; AND MUNICIPALITY OF TAYABAS, PROVINCE OF QUEZON, RESPONDENTS.**

**CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.**

**G.R. No. 177499**

**LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF LAMITAN, PROVINCE OF BASILAN; MUNICIPALITY OF TABUK, PROVINCE OF KALINGA; MUNICIPALITY OF BAYUGAN, PROVINCE OF AGUSAN DEL SUR; MUNICIPALITY OF BATAK, PROVINCE OF ILOCOS NORTE; MUNICIPALITY OF MATI, PROVINCE OF DAVAO ORIENTAL; AND MUNICIPALITY OF GUIHULNGAN, PROVINCE OF NEGROS ORIENTAL, RESPONDENTS.**

**CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL**

**SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.**

**G.R. No. 178056**

**LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF CABADBARAN, PROVINCE OF AGUSAN DEL NORTE; MUNICIPALITY OF CARCAR, PROVINCE OF CEBU; AND MUNICIPALITY OF EL SALVADOR, MISAMIS ORIENTAL, RESPONDENTS.**

**CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.**

## **D E C I S I O N**

**CARPIO, J.:**

### **The Case**

These are consolidated petitions for prohibition<sup>[1]</sup> with prayer for the issuance of a writ of preliminary injunction or temporary restraining order filed by the League of Cities of the Philippines, City of Iloilo, City of Calbayog, and Jerry P. Treñas<sup>[2]</sup> assailing the constitutionality of the subject Cityhood Laws and enjoining the Commission on Elections (COMELEC) and respondent municipalities from conducting plebiscites pursuant to the Cityhood Laws.

### **The Facts**

During the 11<sup>th</sup> Congress,<sup>[3]</sup> Congress enacted into law 33 bills converting 33 municipalities into cities. However, Congress did not act on bills converting 24 other municipalities into cities.

During the 12<sup>th</sup> Congress,<sup>[4]</sup> Congress enacted into law Republic Act No. 9009 (RA 9009),<sup>[5]</sup> which took effect on 30 June 2001. RA 9009 amended Section 450 of the Local Government Code by increasing the annual income requirement for conversion of a municipality into a city from P20 million to P100 million. The rationale for the amendment was to restrain, in the words of Senator Aquilino Pimentel, "the mad rush" of municipalities to convert into cities solely to secure a larger share in the Internal Revenue Allotment despite the fact that they are incapable of fiscal independence.<sup>[6]</sup>

**After** the effectivity of RA 9009, the House of Representatives of the 12<sup>th</sup> Congress<sup>[7]</sup> adopted Joint Resolution No. 29,<sup>[8]</sup> which sought to exempt from the P100 million income requirement in RA 9009 the 24 municipalities whose cityhood bills were not approved in the 11<sup>th</sup> Congress. However, the 12<sup>th</sup> Congress ended without the Senate approving Joint Resolution No. 29.

During the 13<sup>th</sup> Congress,<sup>[9]</sup> the House of Representatives re-adopted Joint Resolution No. 29 as Joint Resolution No. 1 and forwarded it to the Senate for approval. However, the Senate again failed to approve the Joint Resolution. Following the advice of Senator Aquilino Pimentel, 16 municipalities filed, through their respective sponsors, individual cityhood bills. The 16 cityhood bills contained a common provision exempting all the 16 municipalities from the P100 million income requirement in RA 9009.

On 22 December 2006, the House of Representatives approved the cityhood bills. The Senate also approved the cityhood bills in February 2007, except that of Naga, Cebu which was passed on 7 June 2007. The cityhood bills lapsed into law (Cityhood Laws<sup>[10]</sup>) on various dates from March to July 2007 without the President's signature.<sup>[11]</sup>

The Cityhood Laws direct the COMELEC to hold plebiscites to determine whether the voters in each respondent municipality approve of the conversion of their municipality into a city.

Petitioners filed the present petitions to declare the Cityhood Laws unconstitutional for violation of Section 10, Article X of the Constitution, as well as for violation of the equal protection clause.<sup>[12]</sup> Petitioners also lament that the wholesale conversion of municipalities into cities will reduce the share of existing cities in the Internal Revenue Allotment because more cities will share the same amount of internal revenue set aside for all cities under Section 285 of the Local Government Code.<sup>[13]</sup>

### **The Issues**

The petitions raise the following fundamental issues:

1. Whether the Cityhood Laws violate Section 10, Article X of the Constitution; and
2. Whether the Cityhood Laws violate the equal protection clause.

## **The Ruling of the Court**

We grant the petitions.

The Cityhood Laws violate Sections 6 and 10, Article X of the Constitution, and are thus unconstitutional.

*First*, applying the P100 million income requirement in RA 9009 to the present case is a prospective, not a retroactive application, because RA 9009 took effect in 2001 while the cityhood bills became law more than five years later.

*Second*, the Constitution requires that Congress shall prescribe all the criteria for the creation of a city in the Local Government Code and not in any other law, including the Cityhood Laws.

*Third*, the Cityhood Laws violate Section 6, Article X of the Constitution because they prevent a fair and just distribution of the national taxes to local government units.

*Fourth*, the criteria prescribed in Section 450 of the Local Government Code, as amended by RA 9009, for converting a municipality into a city are clear, plain and unambiguous, needing no resort to any statutory construction.

*Fifth*, the intent of members of the 11<sup>th</sup> Congress to exempt certain municipalities from the coverage of RA 9009 remained an intent and was never written into Section 450 of the Local Government Code.

*Sixth*, the deliberations of the 11<sup>th</sup> or 12<sup>th</sup> Congress on unapproved bills or resolutions are not extrinsic aids in interpreting a law passed in the 13<sup>th</sup> Congress.

*Seventh*, even if the exemption in the Cityhood Laws were written in Section 450 of the Local Government Code, the exemption would still be unconstitutional for violation of the equal protection clause.

### ***Preliminary Matters***

Prohibition is the proper action for testing the constitutionality of laws administered by the COMELEC,<sup>[14]</sup> like the Cityhood Laws, which direct the COMELEC to hold plebiscites in implementation of the Cityhood Laws. Petitioner League of Cities of the Philippines has legal standing because Section 499 of the Local Government Code tasks the League with the "primary purpose of ventilating, articulating and crystallizing issues affecting city government administration and securing, through proper and legal means, solutions thereto."<sup>[15]</sup> Petitioners-in-intervention,<sup>[16]</sup> which are existing cities, have legal standing because their Internal Revenue Allotment will be reduced if the Cityhood Laws are declared constitutional. Mayor Jerry P. Treñas has legal standing because as Mayor of Iloilo City and as a taxpayer he has sufficient interest to prevent the unlawful expenditure of public funds, like the release of more Internal Revenue Allotment to political units than what the law allows.

### ***Applying RA 9009 is a Prospective Application of the Law***

**RA 9009 became effective on 30 June 2001 during the 11<sup>th</sup> Congress.** This law specifically amended Section 450 of the Local Government Code, which now provides:

Section 450. *Requisites for Creation.* -- (a) A municipality or a cluster of barangays may be converted into a component city if it has a locally generated **average annual income, as certified by the Department of Finance, of at least One hundred million pesos (P100,000,000.00) for the last two (2) consecutive years based on 2000 constant prices**, and if it has either of the following requisites:

(i) a contiguous territory of at least one hundred (100) square kilometers, as certified by the Land Management Bureau; or

(ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office.

The creation thereof shall not reduce the land area, population and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, transfers, and non-recurring income. (Emphasis supplied)

Thus, RA 9009 increased the income requirement for conversion of a municipality into a city from P20 million to P100 million. Section 450 of the Local Government Code, as amended by RA 9009, does not provide any exemption from the increased income requirement.

Prior to the enactment of RA 9009, a total of 57 municipalities had cityhood bills pending in Congress. Thirty-three cityhood bills became law before the enactment of RA 9009. **Congress did not act on 24 cityhood bills during the 11<sup>th</sup> Congress.**

During the 12<sup>th</sup> Congress, the House of Representatives adopted Joint Resolution No. 29, exempting from the income requirement of P100 million in RA 9009 the 24 municipalities whose cityhood bills were not acted upon during the 11<sup>th</sup> Congress. This Resolution reached the Senate. **However, the 12<sup>th</sup> Congress adjourned without the Senate approving Joint Resolution No. 29.**

**During the 13<sup>th</sup> Congress,** 16 of the 24 municipalities mentioned in the unapproved Joint Resolution No. 29 filed between November and December of 2006, through their respective sponsors in Congress, individual cityhood bills containing a common provision, as follows: