

## EN BANC

[ G.R. No. 155855, January 26, 2004 ]

**MA. SALVACION BUAC AND ANTONIO BAUTISTA, PETITIONERS,  
VS. COMMISSION ON ELECTIONS AND ALAN PETER S.  
CAYETANO, RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

This is a petition for *certiorari* and *mandamus* filed by petitioners Ma. Salvacion Buac and Antonio Bautista assailing the October 28, 2002 *en banc* Resolution of the Commission on Elections (COMELEC) which held that it has no jurisdiction over controversies involving the conduct of plebiscite and the annulment of its result.

The facts show that in April, 1988, a plebiscite was held in Taguig for the ratification of the Taguig Cityhood Law (Republic Act No. 8487) proposing the conversion of Taguig from a municipality into a city. Without completing the canvass of sixty-four (64) other election returns, the Plebiscite Board of Canvassers declared that the "NO" votes won and that the people rejected the conversion of Taguig to a city.

The Board of Canvassers was, however, ordered by the COMELEC *en banc* to reconvene and complete the canvass. The Board did and in due time issued an Order proclaiming that the negative votes prevailed in the plebiscite conducted.

Forthwith, petitioners filed with the COMELEC a *petition to annul*<sup>[1]</sup> *the results of the plebiscite with a prayer for revision and recount of the ballots cast therein*. They alleged that fraud and irregularities attended the casting and counting of votes. The case was docketed as an election protest and raffled to the COMELEC Second Division.<sup>[2]</sup>

Private respondent Cayetano intervened and moved to dismiss the petition on the ground of lack of jurisdiction of the COMELEC. He claimed that a plebiscite cannot be the subject of an election protest. He averred that the jurisdiction to hear a complaint involving the conduct of a plebiscite is lodged with the Regional Trial Court (RTC).<sup>[3]</sup>

The COMELEC Second Division initially gave due course to the petition and ruled that it has jurisdiction over the case. It treated the petition as akin to an election protest considering that the same allegations of fraud and irregularities in the casting and counting of ballots and preparation of returns are the same grounds for assailing the results of an election. It then ordered the Taguig ballot boxes to be brought to its Manila office and created revision committees to revise and recount the plebiscite ballots.<sup>[4]</sup>

In an unverified motion, intervenor Cayetano moved for reconsideration of the COMELEC Order insisting that it has no jurisdiction to hear and decide a petition

contesting the results of a plebiscite.

In a complete turnaround, the COMELEC 2nd Division issued an Order on November 29, 2001 granting the Motion for Reconsideration. It dismissed the petition to annul the results of the Taguig plebiscite and ruled that the COMELEC has no jurisdiction over said case as it involves an exercise of quasi-judicial powers not contemplated under Section 2 (2), Article IX (C) of the 1987 Constitution.<sup>[5]</sup>

On appeal, the COMELEC *en banc* affirmed the ruling of its 2nd Division. It held that the COMELEC cannot use its power to enforce and administer all laws relative to plebiscites as this power is purely administrative or executive and not quasi-judicial in nature. It concluded that the jurisdiction over the petition to annul the Taguig plebiscite results is lodged with the RTC under Section 19 (6) of Batas Pambansa Big. 129 which provides that the RTC shall have exclusive original jurisdiction in cases not within the exclusive jurisdiction of any court or body exercising judicial or quasi-judicial functions.<sup>[6]</sup>

Hence this petition.

Petitioners Ma. Salvacion Buac and Antonio Bautista reiterate their submission that jurisdiction to decide plebiscite protest cases is constitutionally vested with the COMELEC. They likewise claim that the impugned Order is discriminatory as during the pendency of the Taguig case, the COMELEC assumed jurisdiction over a similar case concerning the revision and recount of the plebiscite ballots involving the conversion of Malolos into a city. The COMELEC resolved said case and already declared Malolos a city.

Respondents contend that there is no such action as a plebiscite protest under the Constitution, the laws and the COMELEC rules as they provided only for election protests; the quasi-judicial jurisdiction of the COMELEC over election contests extends only to cases enumerated in Section 2(2), Article IX (C) of the Constitution, which does not include controversies over plebiscite results; and, even if the petition to annul plebiscite results is akin to an election protest, it is the RTC that has jurisdiction over election protests involving municipal officials, and the COMELEC has only appellate jurisdiction in said cases.

The petition is impressed with merit.

*First.* The key to the case at bar is its nature. The case at bar involves the determination of whether the electorate of Taguig voted in favor of, or against the conversion of the municipality of Taguig into a highly urbanized city in the plebiscite conducted for the purpose. Respondents submit that the regular courts of justice, more specifically, the Regional Trial Court, has the jurisdiction to adjudicate any controversy concerning the conduct of said plebiscite. We hold that the invocation of judicial power to settle disputes involving the conduct of a plebiscite is misplaced. Section 1, Article VIII of the Constitution defines judicial power as including "the duty of the courts of justice to settle actual *controversies involving rights which are legally demandable* and enforceable and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." According to Mr. Justice Isagani Cruz, "the first part of the authority represents the *traditional concept of judicial power involving the settlement of conflicting rights as conferred by law.*"<sup>[7]</sup> The case at bar assailing the regularity of the conduct of the Taguig plebiscite does

not fit the kind of a case calling for the exercise of judicial power. It does not involve the violation of any legally demandable right and its enforcement. There is no plaintiff or defendant in the case at bar for it merely involves the ascertainment of the vote of the electorate of Taguig whether they approve or disapprove the conversion of their municipality to a highly urbanized city. There is no invocation of a private right conferred by law that has been violated and which can be vindicated alone in our courts of justice in an adversarial proceeding. Rather, the issue in the case at bar is the determination of the sovereign decision of the electorate of Taguig. The purpose of this determination is more to protect the sovereignty of the people and less to vindicate the private interest of any individual. Such a determination does not contemplate the clash of private rights of individuals and hence cannot come under the traditional jurisdiction of courts.

*Second.* If the determination of the result of a plebiscite is not fit for the exercise of judicial power, the invocation of Section 19 of B.P. Big. 129, as amended, otherwise known as the Judiciary Reorganization Act, is ineluctably errant, viz:

Sec. 19. Jurisdiction in civil cases. — Regional Trial Courts shall exercise exclusive original jurisdiction:

1. In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

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6. In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions.

There cannot be any doubt with doubt that the aforequoted *provisions refer to civil cases or actions*. A civil action is one by which a party sues another for the enforcement or protection of a right or the prevention or redress of a wrong.<sup>[8]</sup> As stressed above, a plebiscite involves the expression of the public will on a public issue. The determination of the public will is a subject that does not fit the jurisdiction of civil courts, for civil courts are established essentially to resolve controversies between private persons.<sup>[9]</sup>

The case of *Salva v. Macalintal* <sup>[10]</sup> does not support the overarching thesis that "any question on the validity of plebiscite, or any dispute on the result of the plebiscite falls within the general jurisdiction of regular trial courts." Looking at it with clear eyes, Salva resolved the validity, not of a plebiscite or its result, but of a provision in the rules and regulations issued by the COMELEC governing the conduct of a plebiscite.

*Third.* To grant the RTC jurisdiction over petitions to annul plebiscite results can lead to jumbled justice. Consider for instance where the plebiscite is national as it deals with the ratification of a proposed amendment to our Constitution. Snap thinking will tell us that it should be the COMELEC that should have jurisdiction over a petition to annul its results. If jurisdiction is given to the regular courts, the result will not enhance the orderly administration of justice. Any regional trial court from every nook and corner of the country will have jurisdiction over a petition questioning the results of a nationwide plebiscite. Bearing in mind that the

*jurisdiction of these courts is limited only within their respective judicial regions, the difficulties that will attend their exercise of jurisdiction would be many if not unmanageable.*

*Fourth.* An eye contact with our Constitution and related laws will reveal that *only* contests relating to the elections, returns and qualifications of *elected officials* are subject to the exercise of judicial power of our courts or quasi-judicial power of our administrative agencies, thus: (a) contests involving elective municipal officials are tried and decided by trial courts of general jurisdiction, while those involving barangay officials are tried and decided by trial courts of limited jurisdiction; in both cases, however, the COMELEC exercises appellate jurisdiction; (b) contests involving all elective *regional, provincial and city officials* fall within the exclusive original jurisdiction of the COMELEC in the exercise of its *quasi-judicial power*; (c) contests involving members of the House of Representatives fall within the exclusive original jurisdiction of the House of Representatives Electoral Tribunal in the exercise of quasi-judicial power; (d) contests involving members of the Senate fall within the exclusive original jurisdiction of the Senate Electoral Tribunal in the exercise of quasi-judicial power; and, (e) contests involving the President and the Vice President fall within the exclusive original jurisdiction of the Presidential Electoral Tribunal, also in the exercise of quasi-judicial power.

What grabs the eyeball is the intent of our Constitution and election laws to subject *only* contests relating to the elections, returns and qualifications of *elected officials* — from the barangay to the President of the Philippines — to the exercise of judicial or quasi-judicial powers of courts or administrative tribunals. Contests which do not involve the election, returns and qualifications of elected officials are not subjected to the exercise of the judicial or quasi-judicial powers of courts or administrative agencies. Clearly, controversies concerning the conduct plebiscite appertain to this category. In the case at bar, conduct of the Taguig plebiscite is the core of the controversy. This is a matter that involves the *enforcement and administration of a law relative to a plebiscite*. It falls under the jurisdiction of the COMELEC under Section 2(1), Article IX (C) of the Constitution which gives it the power "to enforce and administer all laws and regulations relative to the conduct of a x x x plebiscite x x x."

*Fifth.* The Court agrees with the following submissions of the Solicitor General, viz.

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There can hardly be any doubt that the test and intent of the constitutional grant of powers to the COMELEC is to give it all the necessary and incidental powers for it to achieve the holding of free, orderly, honest and peaceful and credible elections [*Maruhom v. COMELEC*, 331 SCRA 473 (2000)]. Hence, the all encompassing power endowed the COMELEC to enforce and administer all laws and regulations relative to the conduct of an election (or plebiscite, initiative, referendum and recall) includes the power to cancel proclamations [(*Nolasco v. COMELEC*, 275 SCRA 762 (1997))]. The COMELEC also has the power to supervise and control the proceedings of the board of canvassers, suspend and/or annul illegal and void proclamations, declare a failure of elections and promulgate rules and regulations concerning the conduct of elections.

While the jurisdiction of the COMELEC is most commonly invoked over popular elections — that which involves the choice or selection ' of candidates to public office by popular vote, the same may likewise be invoked in connection with the conduct of plebiscite.

In the present case, petitioners filed a petition for revision of ballots cast in a plebiscite. The COMELEC dismissed the petition on the ground that it has no jurisdiction over the petition considering that the issue raised therein calls for the exercise by the COMELEC of its judicial or quasi-judicial power. According to the COMELEC, there is no law nor any constitutional provision that confers it with jurisdiction to hear and decide a case contesting the officially proclaimed results of a plebiscite based on frauds and irregularities.

The COMELEC's position is highly untenable. *Article LX-C, Section 2(1) is very explicit that the COMELEC has the power to "enforce administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall."* To enforce means to cause to take effect or to cause the performance of such act or acts necessary to bring into actual effect or operation, a plan or measure. When we say the COMELEC has the power to enforce all laws relative to the conduct of a plebiscite, it necessarily entails all the necessary and incidental power for it to achieve the holding of an honest and credible plebiscite. Obviously, the power of the COMELEC is not limited to the mere administrative function of conducting the plebiscite. The law is clear. It is also mandated to enforce the laws relative to the conduct of the plebiscite. Hence, the COMELEC, whenever it is called upon to correct or check what the Board of Canvassers erroneously or fraudulently did during the canvassing, can verify or ascertain the true results of the plebiscite either through a pre-proclamation case or through revision of ballots. To remove from the COMELEC the power to ascertain the true results of the plebiscite through revision of ballots is to render nugatory its constitutionally mandated power to "enforce" laws relative to the conduct of plebiscite. It is not correct to argue that the quasi-judicial power of the COMELEC is limited to contests relating to the elections, returns and qualifications of all elective regional, provincial and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective Barangay officials decided by trial courts of limited jurisdiction. If the COMELEC has quasi-judicial power to enforce laws relating to elective officials then there is no reason why it cannot exercise the same power to ascertain the true results of a plebiscite. All that the Constitution provides is that the COMELEC shall exercise exclusive jurisdiction over all contests relating to elective officials. The provision is not a limiting provision in the sense that it only limits the quasi-judicial power of the COMELEC to said cases. To repeat, the power of the COMELEC to ascertain the true results of the plebiscite is implicit in its power to enforce all laws relative to the conduct of plebiscite.

COMELEC's claim that the petition for revision of ballots is cognizable by the Regional Trial Courts pursuant to Section 19 (6) of the Judiciary Reorganization Act of 1980 which provides that "Regional Trial Courts shall exercise exclusive original jurisdiction x x x in cases not within the