

EN BANC

[G.R. No. 154599, January 21, 2004]

**THE LIGA NG MGA BARANGAY NATIONAL, PETITIONER, VS. THE
CITY MAYOR OF MANILA, HON. JOSE ATIENZA, JR., AND THE
CITY COUNCIL OF MANILA, RESPONDENTS.**

DECISION

DAVIDE JR., CJ.:

This petition for *certiorari* under Rule 65 of the Rules of Court seeks the nullification of Manila City Ordinance No. 8039, Series of 2002,^[1] and respondent City Mayor's Executive Order No. 011, Series of 2002,^[2] dated 15 August 2002, for being patently contrary to law.

The antecedents are as follows:

Petitioner *Liga ng mga Barangay National* (Liga for brevity) is the national organization of all the barangays in the Philippines, which pursuant to Section 492 of Republic Act No. 7160, otherwise known as *The Local Government Code of 1991*, constitutes the duly elected presidents of highly-urbanized cities, provincial chapters, the metropolitan Manila Chapter, and metropolitan political subdivision chapters.

Section 493 of that law provides that "[t]he liga at the municipal, city, provincial, metropolitan political subdivision, and national levels directly elect a president, a vice-president, and five (5) members of the board of directors." All other matters not provided for in the law affecting the internal organization of the leagues of local government units shall be governed by their respective constitution and by-laws, which must always conform to the provisions of the Constitution and existing laws.^[3]

On 16 March 2000, the Liga adopted and ratified its own Constitution and By-laws to govern its internal organization.^[4] Section 1, third paragraph, Article XI of said Constitution and By-Laws states:

All other election matters not covered in this Article shall be governed by the "Liga Election Code" or such other rules as may be promulgated by the National Liga Executive Board in conformity with the provisions of existing laws.

By virtue of the above-cited provision, the *Liga* adopted and ratified its own Election Code.^[5] Section 1.2, Article I of the Liga Election Code states:

1.2 *Liga ng mga Barangay Provincial, Metropolitan, HUC/ICC Chapters.*
There shall be nationwide synchronized elections for the provincial,

metropolitan, and HUC/ICC chapters to be held on the third Monday of the month immediately after the month when the synchronized elections in paragraph 1.1 above was held. The incumbent Liga chapter president concerned duly assisted by the proper government agency, office or department, e.g. Provincial/City/NCR/Regional Director, shall convene all the duly elected Component City/Municipal Chapter Presidents and all the current elected Punong Barangays (for HUC/ICC) of the respective chapters in any public place within its area of jurisdiction for the purpose of reorganizing and electing the officers and directors of the provincial, metropolitan or HUC/ICC Liga chapters. Said president duly assisted by the government officer aforementioned, shall notify, in writing, all the above concerned at least fifteen (15) days before the scheduled election meeting on the exact date, time, place and requirements of the said meeting.

The Liga thereafter came out with its Calendar of Activities and Guidelines in the Implementation of the Liga Election Code of 2002,^[6] setting on 21 October 2002 the synchronized elections for highly urbanized city chapters, such as the Liga Chapter of Manila, together with independent component city, provincial, and metropolitan chapters.

On 28 June 2002, respondent City Council of Manila enacted Ordinance No. 8039, Series of 2002, providing, among other things, for the election of representatives of the District Chapters in the City Chapter of Manila and setting the elections for both chapters thirty days after the barangay elections. Section 3 (A) and (B) of the assailed ordinance read:

SEC. 3. Representation Chapters. — Every Barangay shall be represented in the said Liga Chapters ... by the Punong Barangay...or, in his absence or incapacity, by the kagawad duly elected for the purpose among its members....

A. District Chapter

All elected Barangay Chairman in each District shall elect from among themselves the President, Vice-President and five (5) members of the Board....

B. City Chapter

The District Chapter representatives shall automatically become members of the Board and they shall elect from among themselves a President, Vice-President, Secretary, Treasurer, Auditor and create other positions as it may deem necessary for the management of the chapter.

The assailed ordinance was later transmitted to respondent City Mayor Jose L. Atienza, Jr., for his signature and approval.

On 16 July 2002, upon being informed that the ordinance had been forwarded to the Office of the City Mayor, still unnumbered and yet to be officially released, the Liga sent respondent Mayor of Manila a letter requesting him that said ordinance be vetoed considering that it encroached upon, or even assumed, the functions of the

Liga through legislation, a function which was clearly beyond the ambit of the powers of the City Council.^[7]

Respondent Mayor, however, signed and approved the assailed city ordinance and issued on 15 August 2002 Executive Order No. 011, Series of 2002, to implement the ordinance.

Hence, on 27 August 2002, the Liga filed the instant petition raising the following issues:

I

WHETHER OR NOT THE RESPONDENT CITY COUNCIL OF MANILA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION, WHEN IT ENACTED CITY ORDINANCE NO. 8039 S. 2002 PURPOSELY TO GOVERN THE ELECTIONS OF THE MANILA CHAPTER OF THE LIGA NG MGA BARANGAYS AND WHICH PROVIDES A DIFFERENT MANNER OF ELECTING ITS OFFICERS, DESPITE THE FACT THAT SAID CHAPTER'S ELECTIONS, AND THE ELECTIONS OF ALL OTHER CHAPTERS OF THE LIGA NG MGA BARANGAYS FOR THAT MATTER, ARE BY LAW MANDATED TO BE GOVERNED BY THE LIGA CONSTITUTION AND BY-LAWS AND THE LIGA ELECTION CODE.

II

WHETHER OR NOT THE RESPONDENT CITY MAYOR OF MANILA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION WHEN HE ISSUED EXECUTIVE ORDER NO. 011 TO IMPLEMENT THE QUESTIONED CITY ORDINANCE NO. 8039 S. 2002.

In support of its petition, the Liga argues that City Ordinance No. 8039, Series of 2002, and Executive Order No. 011, Series of 2002, contradict the Liga Election Code and are therefore invalid. There exists neither rhyme nor reason, not to mention the absence of legal basis, for the Manila City Council to encroach upon, or even assume, the functions of the Liga by prescribing, through legislation, the manner of conducting the Liga elections other than what has been provided for by the Liga Constitution and By-laws and the Liga Election Code. Accordingly, the subject ordinance is an *ultra vires* act of the respondents and, as such, should be declared null and void.

As for its prayer for the issuance of a temporary restraining order, the petitioner cites as reason therefor the fact that under Section 5 of the assailed city ordinance, the Manila District Chapter elections would be held thirty days after the regular barangay elections. Hence, it argued that the issuance of a temporary restraining order and/or preliminary injunction would be imperative to prevent the implementation of the ordinance and executive order.

On 12 September 2002, Barangay Chairman Arnel Peña, in his capacity as a member of the Liga ng mga Barangay in the City Chapter of Manila, filed a Complaint in Intervention with Urgent Motion for the Issuance of Temporary Restraining Order and/or Preliminary Injunction.^[8] He supports the position of the

Liga and prays for the declaration of the questioned ordinance and executive order, as well as the elections of the Liga ng mga Barangay pursuant thereto, to be null and void. The assailed ordinance prescribing for an "indirect manner of election" amended, in effect, the provisions of the *Local Government Code of 1991*, which provides for the election of the Liga officers at large. It also violated and curtailed the rights of the petitioner and intervenor, as well as the other 896 Barangay Chairmen in the City of Manila, to vote and be voted upon in a direct election.

On 25 October 2002, the Office of the Solicitor General (OSG) filed a Manifestation in lieu of Comment.^[9] It supports the petition of the Liga, arguing that the assailed city ordinance and executive order are clearly inconsistent with the express public policy enunciated in R.A. No. 7160. Local political subdivisions are able to legislate only by virtue of a valid delegation of legislative power from the national legislature. They are mere agents vested with what is called the power of subordinate legislation. Thus, the enactments in question, which are local in origin, cannot prevail against the decree, which has the force and effect of law.

On the issue of non-observance by the petitioners of the hierarchy-of-courts rule, the OSG posits that technical rules of procedure should be relaxed in the instant petition. While Batas Pambansa Blg. 129, as amended, grants original jurisdiction over cases of this nature to the Regional Trial Court (RTC), the exigency of the present petition, however, calls for the relaxation of this rule. Section 496 (should be Section 491) of the Local Government Code of 1991 primarily intended that the *Liga ng mga Barangay* determine the representation of the Liga in the sanggunians for the immediate ventilation, articulation, and crystallization of issues affecting barangay government administration. Thus, the immediate resolution of this petition is a must.

On the other hand, the respondents defend the validity of the assailed ordinance and executive order and pray for the dismissal of the present petition on the following grounds: (1) *certiorari* under Rule 65 of the Rules of Court is unavailing; (2) the petition should not be entertained by this Court in view of the pendency before the Regional Trial Court of Manila of two actions or petitions questioning the subject ordinance and executive order; (3) the petitioner is guilty of forum shopping; and (4) the act sought to be enjoined is *fait accompli*.

The respondents maintain that *certiorari* is an extraordinary remedy available to one aggrieved by the decision of a tribunal, officer, or board exercising judicial or quasi-judicial functions. The City Council and City Mayor of Manila are not the "board" and "officer" contemplated in Rule 65 of the Rules of Court because both do not exercise judicial functions. The enactment of the subject ordinance and issuance of the questioned executive order are legislative and executive functions, respectively, and thus, do not fall within the ambit of "judicial functions." They are both within the prerogatives, powers, and authority of the City Council and City Mayor of Manila, respectively. Furthermore, the petition failed to show with certainty that the respondents acted without or in excess of jurisdiction or with grave abuse of discretion.

The respondents also asseverate that the petitioner cannot claim that it has no other recourse in addressing its grievance other than this petition for *certiorari*. As a matter of fact, there are two cases pending before Branches 33 and 51 of the RTC of Manila (one is for *mandamus*; the other, for declaratory relief) and three in the