

EN BANC

[G.R. No. 149848, November 25, 2004]

**ARSADI M. DISOMANGCOP AND RAMIR M. DIMALOTANG,
PETITIONERS, VS. THE SECRETARY OF THE DEPARTMENT OF
PUBLIC WORKS AND HIGHWAYS SIMEON A. DATUMANONG AND
THE SECRETARY OF BUDGET AND MANAGEMENT EMILIA T.
BONCODIN, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

At stake in the present case is the fate of regional autonomy for Muslim Mindanao which is the epoch-making, Constitution-based project for achieving national unity in diversity.

Challenged in the instant petition for certiorari, prohibition and mandamus with prayer for a temporary restraining order and/or writ of preliminary injunction^[1] (Petition) are the constitutionality and validity of Republic Act No. 8999 (R.A. 8999),^[2] entitled "*An Act Establishing An Engineering District in the First District of the Province of Lanao del Sur and Appropriating Funds Therefor,*" and Department of Public Works and Highways (DPWH) Department Order No. 119 (D.O. 119)^[3] on the subject, "Creation of Marawi Sub-District Engineering Office."

The Background

The uncontested legal and factual antecedents of the case follow.

For the first time in its history after three Constitutions, the Philippines ordained the establishment of regional autonomy with the adoption of the 1987 Constitution. Sections 1^[4] and 15, Article X mandate the creation of autonomous regions in Muslim Mindanao and in the Cordilleras. Section 15 specifically provides that "[t]here shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines." To effectuate this mandate, the Charter devotes a number of provisions under Article X.^[5]

Pursuant to the constitutional mandate, Republic Act No. 6734 (R.A. 6734), entitled "*An Act Providing for An Organic Act for the Autonomous Region in Muslim Mindanao,*" was enacted and signed into law on 1 August 1989. The law called for the holding of a plebiscite in the provinces of Basilan, Cotabato, Davao del Sur, Lanao del Norte, Lanao del Sur, Maguindanao, Palawan, South Cotabato, Sultan

Kudarat, Sulu, Tawi-Tawi, Zamboanga del Norte, and Zamboanga del Sur, and the cities of Cotabato, Dapitan, Dipolog, General Santos, Iligan, Marawi, Pagadian, Puerto Princesa and Zamboanga.^[6] In the ensuing plebiscite held on 19 November 1989, only four (4) provinces voted for the creation of an autonomous region, namely: Lanao del Sur, Maguindanao, Sulu and Tawi-Tawi. These provinces became the Autonomous Region in Muslim Mindanao (ARMM).^[7] The law contains elaborate provisions on the powers of the Regional Government and the areas of jurisdiction which are reserved for the National Government.^[8]

In accordance with R.A. 6734, then President Corazon C. Aquino issued on 12 October 1990, Executive Order No. 426 (E.O. 426), entitled "*Placing the Control and Supervision of the Offices of the Department of Public Works and Highways within the Autonomous Region in Muslim Mindanao under the Autonomous Regional Government, and for other purposes.*" Sections 1 to 3^[9] of the Executive Order are its operative provisions.

ARMM was formally organized on 6 November 1990. President Corazon C. Aquino flew to Cotabato, the seat of the Regional Government, for the inauguration. At that point, she had already signed seven (7) Executive Orders devolving to ARMM the powers of seven (7) cabinet departments, namely: (1) local government; (2) labor and employment; (3) science and technology; (4) public works and highways; (5) social welfare and development; (6) tourism; and (7) environment and national resources.^[10]

Nearly nine (9) years later, on 20 May 1999, then Department of Public Works and Highways (DPWH) Secretary Gregorio R. Vigilar issued D.O. 119 which reads, thus:

Subject: Creation of Marawi Sub-District Engineering Office

Pursuant to Sections 6 and 25 of Executive Order No. 124 dated 30 January 1987, there is hereby created a DPWH Marawi Sub-District Engineering Office which shall have jurisdiction over all national infrastructure projects and facilities under the DPWH within Marawi City and the province of Lanao del Sur. The headquarters of the Marawi Sub-District Engineering Office shall be at the former quarters of the Marawi City Engineering Office.

Personnel of the above-mentioned Sub-District Engineering Office shall be made up of employees of the National Government Section of the former Marawi City Engineering Office who are now assigned with the Iligan City Sub-District Engineering Office as may be determined by the DPWH Region XII Regional Director. (Emphasis supplied)

Almost two (2) years later, on 17 January 2001, then President Joseph E. Estrada approved and signed into law R.A. 8999. The text of the law reads:

AN ACT ESTABLISHING AN ENGINEERING DISTRICT IN THE FIRST DISTRICT OF THE PROVINCE OF LANA DEL SUR AND APPROPRIATING FUNDS THEREFOR

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The City of Marawi and the municipalities comprising the First District of the Province of Lanao del Sur are hereby constituted into an engineering district to be known as the First Engineering District of the Province of Lanao del Sur.

SEC. 2. The office of the engineering district hereby created shall be established in Marawi City, Province of Lanao del Sur.

SEC. 3. The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law. Thereafter, such sums as may be necessary for the maintenance and continued operation of the engineering district office shall be included in the annual General Appropriations Act.

SEC. 4. This Act shall take effect upon its approval. (Emphasis supplied)

Congress later passed Republic Act No. 9054 (R.A. 9054), entitled "*An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, Amending for the Purpose Republic Act No. 6734, entitled An Act Providing for the Autonomous Region in Muslim Mindanao, as Amended.*" Like its forerunner, R.A. 9054 contains detailed provisions on the powers of the Regional Government and the retained areas of governance of the National Government.^[11]

R.A. 9054 lapsed into law^[12] on 31 March 2001. It was ratified in a plebiscite held on 14 August 2001. The province of Basilan and the City of Marawi also voted to join ARMM on the same date. R.A. 6734 and R.A. 9054 are collectively referred to as the ARMM Organic Acts.

On 23 July 2001, petitioners Arsadi M. Disomangcop (Disomangcop) and Ramir M. Dimalotang (Dimalotang) addressed a petition to then DPWH Secretary Simeon A. Datumanong, seeking the revocation of D.O. 119 and the non-implementation of R.A. 8999. No action, however, was taken on the petition.^[13]

Consequently, petitioners Disomangcop and Dimalotang filed the instant petition, in their capacity as Officer-in-Charge and District Engineer/Engineer II, respectively, of the First Engineering District of the Department of Public Works and Highways, Autonomous Region in Muslim Mindanao (DPWH-ARMM) in Lanao del Sur.

Petitioners seek the following principal reliefs: (1) to annul and set aside D.O. 119; (2) to prohibit respondent DPWH Secretary from implementing D.O. 119 and R.A. 8999 and releasing funds for public works projects intended for Lanao del Sur and Marawi City to the Marawi Sub-District Engineering Office and other administrative regions of DPWH; and (3) to compel the Secretary of the Department of Budget and Management (DBM) to release all funds for public works projects intended for Marawi City and the First District of Lanao del Sur to the DPWH-ARMM First Engineering District in Lanao del Sur only; and to compel respondent DPWH Secretary to let the DPWH-ARMM First Engineering District in Lanao del Sur implement all public works projects within its jurisdictional area.^[14]

The petition includes an urgent application for the issuance of a temporary restraining order (TRO) and, after hearing, a writ of preliminary injunction, to enjoin respondent DBM Secretary from releasing funds for public works projects in Lanao del Sur to entities other than the DPWH-ARMM First Engineering District in Lanao del Sur, and also to restrain the DPWH Secretary from allowing others besides the DPWH-ARMM First Engineering District in Lanao del Sur to implement public works projects in Lanao del Sur.^[15]

To support their petition, petitioners allege that D.O. 119 was issued with grave abuse of discretion and that it violates the constitutional autonomy of the ARMM. They point out that the challenged Department Order has tasked the Marawi Sub-District Engineering Office with functions that have already been devolved to the DPWH-ARMM First Engineering District in Lanao del Sur.^[16]

Petitioners also contend that R.A. 8999 is a piece of legislation that was not intelligently and thoroughly studied, and that the explanatory note to House Bill No. 995 (H.B. 995) from which the law originated is questionable. Petitioners assert as well that prior to the sponsorship of the law, no public hearing nor consultation with the DPWH-ARMM was made. The House Committee on Public Works and Highways (Committee) failed to invite a single official from the affected agency. Finally, petitioners argue that the law was skillfully timed for signature by former President Joseph E. Estrada during the pendency of the impeachment proceedings.^[17]

In its resolution of 8 October 2001, the Court required respondents to file their comment.^[18] In compliance, respondents DPWH Secretary and DBM Secretary, through the Solicitor General, filed on 7 January 2002, their *Comment*.

In their *Comment*,^[19] respondents, through the Office of the Solicitor General, maintain the validity of D.O. 119, arguing that it was issued in accordance with Executive Order No. 124 (E.O. 124).^[20] In defense of the constitutionality of R.A. 8999, they submit that the powers of the autonomous regions did not diminish the legislative power of Congress.^[21] Respondents also contend that the petitioners have no *locus standi* or legal standing to assail the constitutionality of the law and the department order. They note that petitioners have no personal stake in the outcome of the controversy.^[22]

Asserting their *locus standi*, petitioners in their *Memorandum*^[23] point out that they will suffer actual injury as a result of the enactments complained of.^[24]

Jurisdictional Considerations

First, the jurisdictional predicates.

The 1987 Constitution is explicit in defining the scope of judicial power. It establishes the authority of the courts to determine in an appropriate action the validity of acts of the political departments. It speaks of judicial prerogative in terms of duty.^[25]

Jurisprudence has laid down the following requisites for the exercise of judicial power: First, there must be before the Court an actual case calling for the exercise

of judicial review. Second, the question before the Court must be ripe for adjudication. Third, the person challenging the validity of the act must have standing to challenge. Fourth, the question of constitutionality must have been raised at the earliest opportunity. Fifth, the issue of constitutionality must be the very *lis mota* of the case.^[26]

In seeking to nullify acts of the legislature and the executive department on the ground that they contravene the Constitution, the petition no doubt raises a justiciable controversy. As held in *Tañada v. Angara*,^[27] “where an action of the legislative branch is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute.” But in deciding to take jurisdiction over this petition questioning acts of the political departments of government, the Court will not review the wisdom, merits, or propriety thereof, but will strike them down only on either of two grounds: (1) unconstitutionality or illegality and (2) grave abuse of discretion.^[28]

For an abuse to be grave, the power must be exercised in an arbitrary or despotic manner by reason of passion or personal hostility. The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or to act in contemplation of law. There is grave abuse of discretion when respondent acts in a capricious or whimsical manner in the exercise of its judgment as to be equivalent to lack of jurisdiction.^[29]

The challenge to the legal standing of petitioners cannot succeed. Legal standing or *locus standi* is defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The term “interest” means a material interest, an interest in issue affected by the decree, as distinguished from a mere interest in the question involved, or a mere incidental interest.^[30]

A party challenging the constitutionality of a law, act, or statute must show “not only that the law is invalid, but also that he has sustained or is in immediate, or imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way.” He must show that he has been, or is about to be, denied some right or privilege to which he is lawfully entitled, or that he is about to be subjected to some burdens or penalties by reason of the statute complained of.^[31]

But following the new trend, this Court is inclined to take cognizance of a suit although it does not satisfy the requirement of legal standing when paramount interests are involved. In several cases, the Court has adopted a liberal stance on the *locus standi* of a petitioner where the petitioner is able to craft an issue of transcendental significance to the people.^[32]

In the instant case, petitioner Disomangcop holds the position of Engineer IV. When he filed this petition, he was the Officer-in-Charge, Office of the District Engineer of the First Engineering District of DPWH-ARMM, Lanao del Sur. On the other hand, petitioner Dimalotang is an Engineer II and President of the rank and file employees also of the First Engineering District of DPWH-ARMM in Lanao del Sur. Both are charged with the duty and responsibility of supervising and implementing all public