

EN BANC

[G.R. No. 152295, July 09, 2002]

ANTONIETTE V.C. MONTESCLAROS, MARICEL CARANZO, JOSEPHINE ATANGAN, RONALD ATANGAN AND CLARIZA DECENA, AND OTHER YOUTH OF THE LAND SIMILARLY SITUATED, PETITIONERS, VS. COMMISSION ON ELECTIONS, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, DEPARTMENT OF BUDGET AND MANAGEMENT, EXECUTIVE SECRETARY OF THE OFFICE OF THE PRESIDENT, SENATOR FRANKLIN DRILON IN HIS CAPACITY AS SENATE PRESIDENT AND SENATOR AQUILINO PIMENTEL IN HIS CAPACITY AS MINORITY LEADER OF THE SENATE OF THE PHILIPPINES, CONGRESSMAN JOSE DE VENECIA IN HIS CAPACITY AS SPEAKER, CONGRESSMAN AGUSTO L. SYJOCO IN HIS CAPACITY AS CHAIRMAN OF THE COMMITTEE ON SUFFRAGE AND ELECTORAL REFORMS, AND CONGRESSMAN EMILIO C. MACIAS II IN HIS CAPACITY AS CHAIRMAN OF THE COMMITTEE ON LOCAL GOVERNMENT OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE PAMBANSANG KATIPUNAN NG MGA SANGGUNIANG KABATAAN, AND ALL THEIR AGENTS AND REPRESENTATIVES, RESPONDENTS.

DECISION

CARPIO, J.:

Before us is a petition for certiorari, prohibition and mandamus with prayer for a temporary restraining order or preliminary injunction. The petition seeks to prevent the postponement of the *Sangguniang Kabataan* ("SK" for brevity) elections originally scheduled last May 6, 2002. The petition also seeks to prevent the reduction of the age requirement for membership in the SK.

Petitioners, who are all 20 years old, filed this petition as a taxpayer's and class suit, on their own behalf and on behalf of other youths similarly situated. Petitioners claim that they are in danger of being disqualified to vote and be voted for in the SK elections should the SK elections on May 6, 2002 be postponed to a later date. Under the Local Government Code of 1991 (R.A. No. 7160), membership in the SK is limited to youths at least 15 but not more than 21 years old.

Petitioners allege that public respondents "connived, confederated and conspired" to postpone the May 6, 2002 SK elections and to lower the membership age in the SK to at least 15 but less than 18 years of age. Petitioners assail the alleged conspiracy because youths at least 18 but not more than 21 years old will be "summarily and unduly dismembered, unfairly discriminated, unnecessarily disenfranchised, unjustly disassociated and obnoxiously disqualified from the SK organization."^[1]

Thus, petitioners pray for the issuance of a temporary restraining order or preliminary injunction -

“a) To prevent, annul or declare unconstitutional any law, decree, Comelec resolution/directive and other respondents’ issuances, orders and actions and the like in postponing the May 6, 2002 SK elections.

b) To command the respondents to continue the May 6, 2002 SK elections set by the present law and in accordance with Comelec Resolutions No. 4713 and 4714 and to expedite the funding of the SK elections.

c) In the alternative, if the SK elections will be postponed for whatever reason, there must be a definite date for said elections, for example, July 15, 2002, and the present SK membership, except those incumbent SK officers who were elected on May 6, 1996, shall be allowed to run for any SK elective position even if they are more than 21 years old.

d) To direct the incumbent SK officers who are presently representing the SK in every sanggunian and the NYC to vacate their post after the barangay elections.”^[2]

The Facts

The SK is a youth organization originally established by Presidential Decree No. 684 as the *Kabataang Barangay* (“KB” for brevity). The KB was composed of all barangay residents who were less than 18 years old, without specifying the minimum age. The KB was organized to provide its members with the opportunity to express their views and opinions on issues of transcendental importance.^[3]

The Local Government Code of 1991 renamed the KB to SK and limited SK membership to those youths “at least 15 but not more than 21 years of age.”^[4] The SK remains as a youth organization in every barangay tasked to initiate programs “to enhance the social, political, economic, cultural, intellectual, moral, spiritual, and physical development of the youth.”^[5] The SK in every barangay is composed of a chairperson and seven members, all elected by the *Katipunan ng Kabataan*. The *Katipunan ng Kabataan* in every barangay is composed of all citizens actually residing in the barangay for at least six months and who meet the membership age requirement.

The first SK elections took place on December 4, 1992. RA No. 7808 reset the SK elections to the first Monday of May of 1996 and every three years thereafter. RA No. 7808 mandated the Comelec to supervise the conduct of the SK elections under rules the Comelec shall promulgate. Accordingly, the Comelec on December 4, 2001 issued Resolution Nos. 4713^[6] and 4714^[7] to govern the SK elections on May 6, 2002.

On February 18, 2002, petitioner Antoniette V.C. Montesclaros (“Montesclaros” for brevity) sent a letter^[8] to the Comelec, demanding that the SK elections be held as scheduled on May 6, 2002. Montesclaros also urged the Comelec to respond to her letter within 10 days upon receipt of the letter, otherwise, she will seek judicial relief.

On February 20, 2002, Alfredo L. Benipayo (“Chairman Benipayo” for brevity), then Comelec Chairman, wrote identical letters to the Speaker of the House^[9] and the Senate President^[10] about the status of pending bills on the SK and Barangay elections. In his letters, the Comelec Chairman intimated that it was “operationally very

difficult” to hold both elections simultaneously in May 2002. Instead, the Comelec Chairman expressed support for the bill of Senator Franklin Drilon that proposed to hold the Barangay elections in May 2002 and postpone the SK elections to November 2002.

Ten days lapsed without the Comelec responding to the letter of Montesclaros. Subsequently, petitioners received a copy of Comelec *En Banc* Resolution No. 4763^[11] dated February 5, 2002 recommending to Congress the postponement of the SK elections to November 2002 but holding the Barangay elections in May 2002 as scheduled.^[12]

On March 6, 2002, the Senate and the House of Representatives passed their respective bills postponing the SK elections. On March 11, 2002, the Bicameral Conference Committee (“Bicameral Committee” for brevity) of the Senate and the House came out with a Report^[13] recommending approval of the reconciled bill consolidating Senate Bill No. 2050^[14] and House Bill No. 4456.^[15] The Bicameral Committee’s consolidated bill reset the SK and Barangay elections to July 15, 2002 and lowered the membership age in the SK to at least 15 but not more than 18 years of age.

On March 11, 2002, petitioners filed the instant petition.

On March 11, 2002, the Senate approved the Bicameral Committee’s consolidated bill and on March 13, 2002, the House of Representatives approved the same. The President signed the approved bill into law on March 19, 2002.

The Issues

Petitioners^[16] raise the following grounds in support of their petition:

“I.

RESPONDENTS ACTED WHIMSICALLY, ILLEGALLY AND UNCONSTITUTIONALLY THUS CONSTITUTED (SIC) WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY INTENDED TO POSTPONE THE SK ELECTIONS.

II.

RESPONDENTS ACTED WHIMSICALLY, ILLEGALLY AND UNCONSTITUTIONALLY THUS CONSTITUTED (SIC) WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY INTENDED TO DISCRIMINATE, DISENFRANCHISE, SINGLE OUT AND DISMEMBER THE SK MEMBERS WHO ARE 18 BUT NOT LESS^[17] (SIC) THAN 21 YEARS OLD COMPOSED OF ABOUT 7 MILLION YOUTH.

III.

RESPONDENTS ACTED WHIMSICALLY, ILLEGALLY AND UNCONSTITUTIONALLY THUS CONSTITUTED (SIC) WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY WILLFULLY FAILED TO FUND THE SK ELECTION PURPORTEDLY TO POSTPONE THE SAME IN ORDER TO IMPLEMENT THEIR ILLEGAL SCHEME

AND MACHINATION IN SPITE OF THE FACT THAT THERE ARE AVAILABLE FUNDS FOR THE PURPOSE.

IV.

THE INCUMBENT SK OFFICERS WANTED TO PERPETUALLY SIT ON THEIR RESPECTIVE OFFICES CONTRARY TO THE ENVISION (SIC) OF THE CREATION OF THE SK ORGANIZATION, HENCE, IN VIOLATION OF LAW AND CONSTITUTION.”^[18]

The Court’s Ruling

The petition is bereft of merit.

At the outset, the Court takes judicial notice of the following events that have transpired since petitioners filed this petition:

1. The May 6, 2002 SK elections and May 13, 2002 Barangay elections were not held as scheduled.
2. Congress enacted RA No. 9164^[19] which provides that voters and candidates for the SK elections must be “at least 15 but less than 18 years of age on the day of the election.”^[20] RA No. 9164 also provides that there shall be a synchronized SK and Barangay elections on July 15, 2002.
3. The Comelec promulgated Resolution No. 4846, the rules and regulations for the conduct of the July 15, 2002 synchronized SK and Barangay elections.

Petitioners, who all claim to be 20 years old, argue that the postponement of the May 6, 2002 SK elections disenfranchises them, preventing them from voting and being voted for in the SK elections. Petitioners’ theory is that if the SK elections were postponed to a date later than May 6, 2002, the postponement would disqualify from SK membership youths who will turn 21 years old between May 6, 2002 and the date of the new SK elections. Petitioners claim that a reduction in the SK membership age to 15 but less than 18 years of age from the then membership age of 15 but not more than 21 years of age would disqualify about seven million youths. The public respondents’ failure to hold the elections on May 6, 2002 would prejudice petitioners and other youths similarly situated.

Thus, petitioners instituted this petition to: (1) compel public respondents to hold the SK elections on May 6, 2002 and should it be postponed, the SK elections should be held not later than July 15, 2002; (2) prevent public respondents from passing laws and issuing resolutions and orders that would lower the membership age in the SK; and (3) compel public respondents to allow petitioners and those who have turned more than 21 years old on May 6, 2002 to participate in any re-scheduled SK elections.

The Court’s power of judicial review may be exercised in constitutional cases only if all the following requisites are complied with, namely: (1) the existence of an actual and appropriate case or controversy; (2) a personal and substantial interest of the party raising the constitutional question; (3) the exercise of judicial review is pleaded at the earliest opportunity; and (4) the constitutional question is the *lis mota* of the case.^[21]

In the instant case, there is no actual controversy requiring the exercise of the power of judicial review. While seeking to prevent a postponement of the May 6, 2002 SK

elections, petitioners are nevertheless amenable to a resetting of the SK elections to any date not later than July 15, 2002. RA No. 9164 has reset the SK elections to July 15, 2002, a date acceptable to petitioners. With respect to the date of the SK elections, there is therefore no actual controversy requiring judicial intervention.

Petitioners' prayer to prevent Congress from enacting into law a proposed bill lowering the membership age in the SK does not present an actual justiciable controversy. A proposed bill is not subject to judicial review because it is not a law. A proposed bill creates no right and imposes no duty legally enforceable by the Court. A proposed bill, having no legal effect, violates no constitutional right or duty. The Court has no power to declare a proposed bill constitutional or unconstitutional because that would be in the nature of rendering an advisory opinion on a proposed act of Congress. The power of judicial review cannot be exercised *in vacuo*.^[22] The second paragraph of Section 1, Article VIII of the Constitution states –

“Judicial power includes 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.” (Emphasis supplied)

Thus, there can be no justiciable controversy involving the constitutionality of a proposed bill. The Court can exercise its power of judicial review only after a law is enacted, not before.

Under the separation of powers, the Court cannot restrain Congress from passing any law, or from setting into motion the legislative mill according to its internal rules. Thus, the following acts of Congress in the exercise of its legislative powers are not subject to judicial restraint: the filing of bills by members of Congress, the approval of bills by each chamber of Congress, the reconciliation by the Bicameral Committee of approved bills, and the eventual approval into law of the reconciled bills by each chamber of Congress. Absent a clear violation of specific constitutional limitations or of constitutional rights of private parties, the Court cannot exercise its power of judicial review over the internal processes or procedures of Congress.^[23]

The Court has also no power to dictate to Congress the object or subject of bills that Congress should enact into law. The judicial power to review the constitutionality of laws does not include the power to prescribe to Congress what laws to enact. The Court has no power to compel Congress by mandamus to enact a law allowing petitioners, regardless of their age, to vote and be voted for in the July 15, 2002 SK elections. To do so would destroy the delicate system of checks and balances finely crafted by the Constitution for the three co-equal, coordinate and independent branches of government.

Under RA No. 9164, Congress merely restored the age requirement in PD No. 684, the original charter of the SK, which fixed the maximum age for membership in the SK to youths less than 18 years old. Petitioners do not have a vested right to the permanence of the age requirement under Section 424 of the Local Government Code of 1991. Every law passed by Congress is always subject to amendment or repeal by Congress. The Court cannot restrain Congress from amending or repealing laws, for the power to make laws includes the power to change the laws.^[24]