

## EN BANC

[ G.R. No. 127325, March 19, 1997 ]

**MIRIAM DEFENSOR SANTIAGO, ALEXANDER PADILLA AND MARIA ISABEL ONGPIN, PETITIONERS, VS. COMMISSION ON ELECTIONS, JESUS DELFIN, ALBERTO PEDROSA & CARMEN PEDROSA, IN THEIR CAPACITIES AS FOUNDING MEMBERS OF THE PEOPLE’S INITIATIVE FOR REFORMS, MODERNIZATION AND ACTION (PIRMA), RESPONDENTS, SENATOR RAUL S. ROCO, DEMOKRASYA-IPAGTANGGOL ANG KONSTITUSYON (DIK), MOVEMENT OF ATTORNEYS FOR BROTHERHOOD INTEGRITY AND NATIONALISM, INC. (MABINI), INTEGRATED BAR OF THE PHILIPPINES (IBP) AND LABAN NG DEMOKRATIKONG PILIPINO (LABAN), PETITIONERS-INTERVENORS.**

### DECISION

**DAVIDE, JR., J.:**

The heart of this controversy brought to us by way of a petition for prohibition under Rule 65 of the Rules of Court is the right of the people to directly propose amendments to the Constitution through the system of initiative under Section 2 of Article XVII of the 1987 Constitution. Undoubtedly, this demands special attention, as this system of initiative was unknown to the people of this country, except perhaps to a few scholars, before the drafting of the 1987 Constitution. The 1986 Constitutional Commission itself, through the original proponent<sup>[1]</sup> and the main sponsor<sup>[2]</sup> of the proposed Article on Amendments or Revision of the Constitution, characterized this system as “innovative”.<sup>[3]</sup> Indeed it is, for both under the 1935 and 1973 Constitutions, only two methods of proposing amendments to, or revision of, the Constitution were recognized, viz., (1) by Congress upon a vote of three-fourths of all its members and (2) by a constitutional convention.<sup>[4]</sup> For this and the other reasons hereafter discussed, we resolved to give due course to this petition.

On 6 December 1996, private respondent Atty. Jesus S. Delfin filed with public respondent Commission on Elections (hereafter, COMELEC) a “Petition to Amend the Constitution, to Lift Term Limits of Elective Officials, by People’s Initiative” (hereafter, Delfin Petition)<sup>[5]</sup> wherein Delfin asked the COMELEC for an order

1. Fixing the time and dates for signature gathering all over the country;
2. Causing the necessary publications of said Order and the attached “Petition for Initiative on the 1987 Constitution, in newspapers of general and local circulation;
3. Instructing Municipal Election Registrars in all Regions of the Philippines, to assist Petitioners and volunteers, in establishing signing stations at the time and on the dates designated for the purpose.

Delfin alleged in his petition that he is a founding member of the Movement for People's Initiative,<sup>[6]</sup> a group of citizens desirous to avail of the system intended to institutionalize people power; that he and the members of the Movement and other volunteers intend to exercise the power to directly propose amendments to the Constitution granted under Section 2, Article XVII of the Constitution; that the exercise of that power shall be conducted in proceedings under the control and supervision of the COMELEC; that, as required in COMELEC Resolution No. 2300, signature stations shall be established all over the country, with the assistance of municipal election registrars, who shall verify the signatures affixed by individual signatories; that before the Movement and other volunteers can gather signatures, it is necessary that the time and dates to be designated for the purpose be first fixed in an order to be issued by the COMELEC; and that to adequately inform the people of the electoral process involved, it is likewise necessary that the said order, as well as the Petition on which the signatures shall be affixed, be published in newspapers of general and local circulation, under the control and supervision of the COMELEC.

The Delfin Petition further alleged that the provisions sought to be amended are Sections 4 and 7 of Article VI,<sup>[7]</sup> Section 4 of Article VII,<sup>[8]</sup> and Section 8 of Article X<sup>[9]</sup> of the Constitution. Attached to the petition is a copy of a "Petition for Initiative on the 1987 Constitution"<sup>[10]</sup> embodying the proposed amendments which consist in the deletion from the aforecited sections of the provisions concerning term limits, and with the following proposition:

**DO YOU APPROVE OF LIFTING THE TERM LIMITS OF ALL ELECTIVE GOVERNMENT OFFICIALS, AMENDING FOR THE PURPOSE SECTIONS 4 AND 7 OF ARTICLE VI, SECTION 4 OF ARTICLE VII, AND SECTION 8 OF ARTICLE X OF THE 1987 PHILIPPINE CONSTITUTION?**

According to Delfin, the said Petition for Initiative will first be submitted to the people, and after it is signed by at least twelve per cent of the total number of registered voters in the country it will be formally filed with the COMELEC.

Upon the filing of the Delfin Petition, which was forthwith given the number UND 96-037 (INITIATIVE), the COMELEC, through its Chairman, issued an Order<sup>[11]</sup> (a) directing Delfin "to cause the publication of the petition, together with the attached Petition for Initiative on the 1987 Constitution (including the proposal, proposed constitutional amendment, and the signature form), and the notice of hearing in three (3) daily newspapers of general circulation at his own expense" not later than 9 December 1996; and (b) setting the case for hearing on 12 December 1996 at 10:00 a.m.

At the hearing of the Delfin Petition on 12 December 1996, the following appeared: Delfin and Atty. Pete Q. Quadra; representatives of the People's Initiative for Reforms, Modernization and Action (PIRMA); intervenor-oppositor Senator Raul S. Roco, together with his two other lawyers; and representatives of, or counsel for, the Integrated Bar of the Philippines (IBP), Demokrasya-Ipagtanggol ang Konstitusyon (DIK), Public Interest Law Center, and Laban ng Demokratikong Pilipino (LABAN).<sup>[12]</sup> Senator Roco, on that same day, filed a Motion to Dismiss the Delfin Petition on

the ground that it is not the initiatory petition properly cognizable by the COMELEC.

After hearing their arguments, the COMELEC directed Delfin and the oppositors to file their "memoranda and/or oppositions/memoranda" within five days.<sup>[13]</sup>

On 18 December 1996, the petitioners herein -- Senator Miriam Defensor Santiago, Alexander Padilla, and Maria Isabel Ongpin -- filed this special civil action for prohibition raising the following arguments:

(1) The constitutional provision on people's initiative to amend the Constitution can only be implemented by law to be passed by Congress. No such law has been passed; in fact, Senate Bill No. 1290 entitled An Act Prescribing and Regulating Constitutional Amendments by People's Initiative, which petitioner Senator Santiago filed on 24 November 1995, is still pending before the Senate Committee on Constitutional Amendments.

(2) It is true that R.A. No. 6735 provides for three systems of initiative, namely, initiative on the Constitution, on statutes, and on local legislation. However, it failed to provide any subtitle on initiative on the Constitution, unlike in the other modes of initiative, which are specifically provided for in Subtitle II and Subtitle III. This deliberate omission indicates that the matter of people's initiative to amend the Constitution was left to some future law. Former Senator Arturo Tolentino stressed this deficiency in the law in his privilege speech delivered before the Senate in 1994: "There is not a single word in that law which can be considered as implementing [the provision on constitutional initiative]. Such implementing provisions have been obviously left to a separate law."

(3) Republic Act No. 6735 provides for the effectivity of the law after publication in print media. This indicates that the Act covers only laws and not constitutional amendments because the latter take effect only upon ratification and not after publication.

(4) COMELEC Resolution No. 2300, adopted on 16 January 1991 to govern "the conduct of initiative on the Constitution and initiative and referendum on national and local laws, is ultra vires insofar as initiative on amendments to the Constitution is concerned, since the COMELEC has no power to provide rules and regulations for the exercise of the right of initiative to amend the Constitution. Only Congress is authorized by the Constitution to pass the implementing law.

(5) The people's initiative is limited to amendments to the Constitution, not to revision thereof. Extending or lifting of term limits constitutes a revision and is, therefore, outside the power of the people's initiative.

(6) Finally, Congress has not yet appropriated funds for people's initiative; neither the COMELEC nor any other government department, agency, or office has realigned funds for the purpose.

To justify their recourse to us via the special civil action for prohibition, the petitioners allege that in the event the COMELEC grants the Delfin Petition, the people's initiative spearheaded by PIRMA would entail expenses to the national treasury for general re-registration of voters amounting to at least P180 million, not to mention the millions of additional pesos in expenses which would be incurred in the conduct of the initiative itself. Hence, the transcendental importance to the public and the nation of the issues raised demands that this petition for prohibition be settled promptly and definitely, brushing aside technicalities of procedure and calling for the admission of a taxpayer's and legislator's suit.<sup>[14]</sup> Besides, there is no other plain, speedy, and adequate remedy in the ordinary course of law.

On 19 December 1996, this Court (a) required the respondents to comment on the petition within a non-extendible period of ten days from notice; and (b) issued a temporary restraining order, effective immediately and continuing until further orders, enjoining public respondent COMELEC from proceeding with the Delfin Petition, and private respondents Alberto and Carmen Pedrosa from conducting a signature drive for people's initiative to amend the Constitution.

On 2 January 1997, private respondents, through Atty Quadra, filed their Comment<sup>[15]</sup> on the petition. They argue therein that:

1. IT IS NOT TRUE THAT "IT WOULD ENTAIL EXPENSES TO THE NATIONAL TREASURY FOR GENERAL REGISTRATION OF VOTERS AMOUNTING TO AT LEAST PESOS: ONE HUNDRED EIGHTY MILLION (P180,000,000.00)" IF THE "COMELEC GRANTS THE PETITION FILED BY RESPONDENT DELFIN BEFORE THE COMELEC."

2. NOT A SINGLE CENTAVO WOULD BE SPENT BY THE NATIONAL GOVERNMENT IF THE COMELEC GRANTS THE PETITION OF RESPONDENT DELFIN. ALL EXPENSES IN THE SIGNATURE GATHERING ARE ALL FOR THE ACCOUNT OF RESPONDENT DELFIN AND HIS VOLUNTEERS PER THEIR PROGRAM OF ACTIVITIES AND EXPENDITURES SUBMITTED TO THE COMELEC. THE ESTIMATED COST OF THE DAILY PER DIEM OF THE SUPERVISING SCHOOL TEACHERS IN THE SIGNATURE GATHERING TO BE DEPOSITED and TO BE PAID BY DELFIN AND HIS VOLUNTEERS IS P2,571, 200.00;

3. THE PENDING PETITION BEFORE THE COMELEC IS ONLY ON THE SIGNATURE GATHERING WHICH BY LAW COMELEC IS DUTY BOUND "TO SUPERVISE CLOSELY" PURSUANT TO ITS "INITIATORY JURISDICTION" UPHELD BY THE HONORABLE COURT IN ITS RECENT SEPTEMBER 26, 1996 DECISION IN THE CASE OF SUBIC BAY METROPOLITAN AUTHORITY VS. COMELEC, ET AL. G.R. NO. 125416;

4. REP. ACT NO. 6735 APPROVED ON AUGUST 4, 1989 IS THE ENABLING LAW IMPLEMENTING THE POWER OF PEOPLE INITIATIVE TO PROPOSE AMENDMENTS TO THE CONSTITUTION. SENATOR DEFENSOR-SANTIAGO'S SENATE BILL NO. 1290 IS A DUPLICATION OF WHAT ARE ALREADY PROVIDED FOR IN REP. ACT NO. 6735;

5. COMELEC RESOLUTION NO. 2300 PROMULGATED ON JANUARY 16,

1991 PURSUANT TO REP. ACT 6735 WAS UPHOLD BY THE HONORABLE COURT IN THE RECENT SEPTEMBER 26, 1996 DECISION IN THE CASE OF SUBIC BAY METROPOLITAN AUTHORITY VS. COMELEC, ET AL. G.R. NO. 125416 WHERE THE HONORABLE COURT SAID: "THE COMMISSION ON ELECTIONS CAN DO NO LESS BY SEASONABLY AND JUDICIOUSLY PROMULGATING GUIDELINES AND RULES FOR BOTH NATIONAL AND LOCAL USE, IN IMPLEMENTING OF THESE LAWS."

6. EVEN SENATOR DEFENSOR-SANTIAGO'S SENATE BILL NO. 1290 CONTAINS A PROVISION DELEGATING TO THE COMELEC THE POWER TO "PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS ACT." (SEC. 12, S.B. NO. 1290, ENCLOSED AS ANNEX E, PETITION);

7. THE LIFTING OF THE LIMITATION ON THE TERM OF OFFICE OF ELECTIVE OFFICIALS PROVIDED UNDER THE 1987 CONSTITUTION IS NOT A "REVISION" OF THE CONSTITUTION. IT IS ONLY AN AMENDMENT. "AMENDMENT ENVISAGES AN ALTERATION OF ONE OR A FEW SPECIFIC PROVISIONS OF THE CONSTITUTION. REVISION CONTEMPLATES A RE-EXAMINATION OF THE ENTIRE DOCUMENT TO DETERMINE HOW AND TO WHAT EXTENT IT SHOULD BE ALTERED." (PP. 412-413, 2ND. ED. 1992, 1097 PHIL. CONSTITUTION, BY JOAQUIN G. BERNAS, S.J.).

Also on 2 January 1997, private respondent Delfin filed in his own behalf a Comment<sup>[16]</sup> which starts off with an assertion that the instant petition is a "knee-jerk reaction to a draft 'Petition for Initiative on the 1987 Constitution' ... which is not formally filed yet." What he filed on 6 December 1996 was an "Initiatory Pleading" or "Initiatory Petition," which was legally necessary to start the signature campaign to amend the Constitution or to put the movement to gather signatures under COMELEC power and function. On the substantive allegations of the petitioners, Delfin maintains as follows:

(1) Contrary to the claim of the petitioners, there is a law, R.A. No. 6735, which governs the conduct of initiative to amend the Constitution. The absence therein of a subtitle for such initiative is not fatal, since subtitles are not requirements for the validity or sufficiency of laws.

(2) Section 9(b) of R.A. No. 6735 specifically provides that the proposition in an initiative to amend the Constitution approved by the majority of the votes cast in the plebiscite shall become effective as of the day of the plebiscite.

(3) The claim that COMELEC Resolution No. 2300 is ultra vires is contradicted by (a) Section 2, Article IX-C of the Constitution, which grants the COMELEC the power to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall; and (b) Section 20 of R.A. 6735, which empowers the COMELEC to promulgate such rules and regulations as may be necessary to carry out the purposes of the Act.