

## EN BANC

[ G.R. No. 127116, April 08, 1997 ]

**ALEX L. DAVID, IN HIS OWN BEHALF AS BARANGAY CHAIRMAN OF BARANGAY 77, ZONE 7, KALOOKAN CITY AND AS PRESIDENT OF THE LIGA NG MGA BARANGAY SA PILIPINAS, PETITIONER, VS. COMMISSION ON ELECTIONS, THE HONORABLE SECRETARY, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, AND THE HONORABLE SECRETARY, DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENTS.**

[G.R. NO. 128039. APRIL 8, 1997]

**LIGA NG MGA BARANGAY QUEZON CITY CHAPTER, REPRESENTED BY BONIFACIO M. RILLON, PETITIONER, VS. COMMISSION ON ELECTIONS AND DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENTS.**

### D E C I S I O N

#### **PANGANIBAN, J.:**

The two petitions before us raise a common question: How long is the term of office of barangay chairmen and other barangay officials who were elected to their respective offices on the second Monday of May 1994? Is it three years, as provided by RA 7160 (the Local Government Code) or five years, as contained in RA 6679? Contending that their term is five years, petitioners ask this Court to order the cancellation of the scheduled barangay election this coming May 12, 1997 and to reset it to the second Monday of May, 1999.

#### ***The Antecedents***

#### **G.R. No. 127116**

In his capacity as barangay chairman of Barangay 77, Zone 7, Kalookan City and as president of the Liga ng mga Barangay sa Pilipinas, Petitioner Alex L. David filed on December 2, 1996 a petition for prohibition docketed in this Court as G.R. No. 127116, under Rule 65 of the Rules of Court, to prohibit the holding of the barangay election scheduled on the second Monday of May 1997. On January 14, 1997, the Court resolved to require the respondents to comment on the petition within a non-extendible period of fifteen days ending on January 29, 1997.

On January 29, 1997, the Solicitor General filed his four-page Comment siding with petitioner and praying that "the election scheduled on May 12, 1997 be held in abeyance." Respondent Commission on Elections filed a separate Comment, dated February 1, 1997 opposing the petition. On February 11, 1997, the Court issued a Resolution giving due course to the petition and requiring the parties to file simultaneous memoranda within a non-extendible period of twenty days from

notice. It also requested former Senator Aquilino Q. Pimentel, Jr.<sup>[1]</sup> to act as amicus curiae and to file a memorandum also within a non-extendible period of twenty days. It noted but did not grant petitioner's Urgent Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction dated January 31, 1997 (as well as his Urgent Ex-Parte Second Motion to the same effect, dated March 6, 1997). Accordingly, the parties filed their respective memoranda. The Petition for Leave to Intervene filed on March 17, 1997 by Punong Barangay Rodson F. Mayor was denied as it would just unduly delay the resolution of the case, his interest like those of all other barangay officials being already adequately represented by Petitioner David who filed this petition as "president of the Liga ng mga Barangay sa Pilipinas."

### **G.R. No. 128039**

On February 20, 1997, Petitioner Liga ng mga Barangay Quezon City Chapter represented by its president Bonifacio M. Rillon filed a petition, docketed as G.R. No. 128039, "to seek a judicial review by certiorari to declare as unconstitutional:

"1. Section 43(c) of R.A. 7160 which reads as follows:

'(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May 1994.'

2. COMELEC Resolution Nos. 2880 and 2887 fixing the date of the holding of the barangay elections on May 12, 1997 and other activities related thereto;

3. The budgetary appropriation of P400 million contained in Republic Act No. 8250 otherwise known as the General Appropriations Act of 1997 intended to defray the costs and expenses in holding the 1997 barangay elections;"<sup>[2]</sup>

Comelec Resolution 2880,<sup>[3]</sup> promulgated on December 27, 1996 and referred to above, adopted a "Calendar of Activities and List and Periods of Certain Prohibited Acts for the May 12, 1997 Barangay Elections." On the other hand, Comelec Resolution 2887 promulgated on February 5, 1997 moved certain dates fixed in Resolution 2880.<sup>[4]</sup>

Acting on the petition, the Court on February 25, 1997 required respondents to submit their comment thereon within a non-extendible period of ten days ending on March 7, 1997. The Court further resolved to consolidate the two cases inasmuch as they raised basically the same issue. Respondent Commission filed its Comment on March 6, 1997<sup>[5]</sup> and the Solicitor General, in representation of the other respondent, filed his on March 6, 1997. Petitioner's Urgent Omnibus Motion for oral argument and temporary restraining order was noted but not granted. The petition was deemed submitted for resolution by the Court without need of memoranda.

### **The Issues**

Both petitions though worded differently raise the same ultimate issue: How long is the term of office of barangay officials?

Petitioners<sup>[6]</sup> contend that under Sec. 2 of Republic Act No. 6653, approved on May 6, 1988, "(t)he term of office of barangay officials shall be for five (5) years x x x." This is reiterated in Republic Act No. 6679, approved on November 4, 1988, which reset the barangay elections from "the second Monday of November 1988" to March 28, 1989 and provided in Sec. 1 thereof that such five-year term shall begin on the "first day of May 1989 and ending on the thirty-first day of May 1994." Petitioners further aver<sup>[7]</sup> that although Sec. 43 of RA 7160 reduced the term of office of all local elective officials to three years, such reduction does not apply to barangay officials because (1) RA 6679 is a special law applicable only to barangays while RA 7160 is a general law which applies to all other local government units; (2) RA 7160 does not expressly or impliedly repeal RA 6679 insofar as the term of barangay officials is concerned; (3) while Sec. 8 of Article X of the 1987 Constitution fixes the term of elective local officials at three years, the same provision states that the term of barangay officials "shall be determined by law"; and (4) thus, it follows that the constitutional intention is to grant barangay officials any term, except three years; otherwise, "there would be no rhyme or reason for the framers of the Constitution to except barangay officials from the three year term found in Sec. 8 (of) Article X of the Constitution." Petitioners conclude (1) that the Commission on Elections committed grave abuse of discretion when it promulgated Resolution Nos. 2880 and 2887 because it "substituted its own will for that of the legislative and usurped the judicial function x x x by interpreting the conflicting provisions of Sec. 1 of RA 6679 and Sec. 43 (c) of RA 7160; and (2) that the appropriation of P400 million in the General Appropriation Act of 1997 (RA 8250) to be used in the conduct of the barangay elections on May 12, 1997 is itself unconstitutional and a waste of public funds.

The Solicitor General agrees with petitioners, arguing that RA 6679 was not repealed by RA 7160 and thus "he believes that the holding of the barangay elections (o)n the second Monday of May 1997 is without sufficient legal basis."

Respondent Commission on Elections, through Chairman Bernardo P. Pardo, defends its assailed Resolutions and maintains that the repealing clause of RA 7160 includes "all laws, whether general or special, inconsistent with the provisions of the Local Government Code," citing this Court's dictum in *Paras vs. Comelec*<sup>[8]</sup> that "the next regular election involving the barangay office is barely seven (7) months away, the same having been scheduled in May 1997." Furthermore, RA 8250 (the General Appropriations Act for 1997) and RA 8189 (providing for a general registration of voters) both "indicate that Congress considered that the barangay elections shall take place in May, 1997, as provided for in RA 7160, Sec. 43 (c)."<sup>[9]</sup> Besides, petitioners cannot claim a term of more than three years since they were elected under the aegis of the Local Government Code of 1991 which prescribes a term of only three years. Finally, Respondent Comelec denies the charge of grave abuse of discretion stating that the "question presented x x x is a purely legal one involving no exercise of an act without or in excess of jurisdiction or with grave abuse of discretion."<sup>[10]</sup>

As *amicus curiae*, former Senator Aquilino Q. Pimentel, Jr. urges the Court to deny the petitions because (1) the Local Autonomy Code repealed both RA 6679 and 6653 "not only by implication but by design as well"; (2) the legislative intent is to shorten the term of barangay officials to three years; (3) the barangay officials should not have a term longer than that of their administrative superiors, the city

and municipal mayors; and (4) barangay officials are estopped from contesting the applicability of the three-year term provided by the Local Government Code as they were elected under the provisions of said Code.

From the foregoing discussions of the parties, the Court believes that the issues can be condensed into three, as follows:

1. Which law governs the term of office of barangay officials: RA 7160 or RA 6679?
2. Is RA 7160 insofar as it shortened such term to only three years constitutional?
3. Are petitioners estopped from claiming a term other than that provided under RA 7160?

### **The Court's Ruling**

The petitions are devoid of merit.

### **Brief Historical Background of Barangay Elections**

For a clear understanding of the issues, it is necessary to delve briefly into the history of barangay elections.

As a unit of government, the barangay antedated the Spanish conquest of the Philippines. The word "barangay" is derived from the Malay "balangay," a boat which transported them (the Malays) to these shores.<sup>[11]</sup> Quoting from Juan de Plasencia, a Franciscan missionary in 1577, Historian Conrado Benitez<sup>[12]</sup> wrote that the barangay was ruled by a dato who exercised absolute powers of government. While the Spaniards kept the barangay as the basic structure of government, they stripped the dato or rajah of his powers.<sup>[13]</sup> Instead, power was centralized nationally in the governor general and locally in the encomiendero and later, in the alcalde mayor and the gobernadorcillo. The dato or rajah was much later renamed cabeza de barangay, who was elected by the local citizens possessing property. The position degenerated from a title of honor to that of a "mere government employee. Only the poor who needed a salary, no matter how low, accepted the post."<sup>[14]</sup>

After the Americans colonized the Philippines, the barangays became known as "barrios."<sup>[15]</sup> For some time, the laws governing barrio governments were found in the Revised Administrative Code of 1916 and later in the Revised Administrative Code of 1917.<sup>[16]</sup> Barrios were granted autonomy by the original Barrio Charter, RA 2370, and formally recognized as quasi-municipal corporations<sup>[17]</sup> by the Revised Barrio Charter, RA 3590. During the martial law regime, barrios were "declared" or renamed "barangays" -- a reversion really to their pre-Spanish names -- by PD. No. 86 and PD No. 557. Their basic organization and functions under RA 3590, which was expressly "adopted as the Barangay Charter," were retained. However, the titles of the officials were changed to "barangay captain," "barangay councilman," "barangay secretary" and "barangay treasurer."

Pursuant to Sec. 6 of Batas Pambansa Blg. 222,<sup>[18]</sup> "a Punong Barangay (Barangay

Captain) and six Kagawads ng Sangguniang Barangay (Barangay Councilmen), who shall constitute the presiding officer and members of the Sangguniang Barangay (Barangay Council) respectively” were first elected on May 17, 1982. They had a term of six years which began on June 7, 1982.

The Local Government Code of 1983<sup>[19]</sup> also fixed the term of office of local elective officials at six years.<sup>[20]</sup> Under this Code, the chief officials of the barangay were the punong barangay, six elective sangguniang barangay members, the kabataang barangay chairman, a barangay secretary and a barangay treasurer.<sup>[21]</sup>

B.P. Blg. 881, the Omnibus Election Code,<sup>[22]</sup> reiterated that barangay officials “shall hold office for six years,” and stated that their election was to be held “on the second Monday of May nineteen hundred and eighty eight and on the same day every six years thereafter.”<sup>[23]</sup>

This election scheduled by B.P. Blg. 881 on the second Monday of May 1988 was reset to “the second Monday of November 1988 and every five years thereafter<sup>[24]</sup> by RA 6653. Under this law, the term of office of the barangay officials was cut to five years<sup>[25]</sup> and the punong barangay was to be chosen from among themselves by seven kagawads, who in turn were to be elected at large by the barangay electorate.<sup>[26]</sup>

But the election date set by RA 6653 on the second Monday of November 1988 was again “postponed and reset to March 28, 1989” by RA 6679,<sup>[27]</sup> and the term of office of barangay officials was to begin on May 1, 1989 and to end on May 31, 1994. RA 6679 further provided that “there shall be held a regular election of barangay officials on the second Monday of May 1994 and on the same day every five (5) years thereafter. Their term shall be for five years x x x.”<sup>[28]</sup> Significantly, the manner of election of the punong barangay was changed. Sec. 5 of said law ordained that while the seven kagawads were to be elected by the registered voters of the barangay, “(t)he candidate who obtains the highest number of votes shall be the punong barangay and in the event of a tie, there shall be a drawing of lots under the supervision of the Commission on Elections.”

Under the Local Government Code of 1991, RA 7160,<sup>[29]</sup> several provisions concerning barangay officials were introduced:

(1) The term of office was reduced to three years, as follows:

“SEC. 43. Term of Office. --

x x x

x x x

x x x

(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May, 1994” (Underscoring supplied.)

(2) The composition of the Sangguniang Barangay and the manner of electing its officials were altered, inter alia, the barangay chairman was to be elected directly by the electorate, as follows: