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[G.R. No. 146319, October 26, 2001]

BENJAMIN E. CAWALING, JR., PETITIONER, VS. THE COMMISSION ON ELECTIONS, AND REP. FRANCIS JOSEPH G. ESCUDERO, RESPONDENTS.

[G.R. NO. 146342. OCTOBER 26, 2001]

BENJAMIN E. CAWALING, JR., PETITIONER, VS. THE EXECUTIVE SECRETARY TO THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT, SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, SOLICITOR GENERAL, PROVINCE OF SORSOGON, MUNICIPALITY OF SORSOGON, MUNICIPALITY OF BACON, RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us are two (2) separate petitions challenging the constitutionality of Republic Act No. 8806 which created the City of Sorsogon and the validity of the plebiscite conducted pursuant thereto.

On August 16, 2000, former President Joseph E. Estrada signed into law R.A. No. 8806, an "Act Creating The City Of Sorsogon By Merging The Municipalities Of Bacon And Sorsogon In The Province Of Sorsogon, And Appropriating Funds Therefor."[1]

Pursuant to Section 10, Article X of the Constitution,[2] the Commission on Elections (COMELEC), on December 16, 2000, conducted a plebiscite in the Municipalities of Bacon and Sorsogon and submitted the matter for ratification.

On December 17, 2000, the Plebiscite City Board of Canvassers (PCBC) proclaimed[3] the creation of the City of Sorsogon as having been ratified and approved by the majority of the votes cast in the plebiscite.[4]

Invoking his right as a resident and taxpayer of the former Municipality of Sorsorgon, Benjamin E. Cawaling, Jr. filed on January 2, 2001 the present petition for certiorari (G.R. No. 146319) seeking the annulment of the plebiscite on the following grounds:

> A. The December 16, 2000 plebiscite was conducted beyond the required 120-day period from the approval of R.A. 8806, in violation

of Section 54 thereof; and

B. Respondent COMELEC failed to observe the legal requirement of twenty (20) day extensive information campaign in the Municipalities of Bacon and Sorsogon before conducting the plebiscite.

Two days after filing the said action, or on January 4, 2001, petitioner instituted another petition (G.R. No. 146342), this time for prohibition, seeking to enjoin the further implementation of R.A. No. 8806 for being unconstitutional, contending, in essence, that:

1. The creation of Sorsogon City by merging two municipalities violates Section 450(a) of the Local Government Code of 1991 (in relation to Section 10, Article X of the Constitution) which requires that only "a municipality or a cluster of barangays may be converted into a component city"; and

2. R.A. No. 8806 contains two (2) subjects, namely, the (a) creation of the City of Sorsogon and the (b) abolition of the Municipalities of Bacon and Sorsogon, thereby violating the "one subject-one bill" rule prescribed by Section 26(1), Article VI of the Constitution.

Hence, the present petitions which were later consolidated.[5]

Significantly, during the pendency of these cases, specifically during the May 14, 2001 elections, the newly-created Sorsogon City had the first election of its officials. Since then, the City Government of Sorsogon has been regularly discharging its corporate and political powers pursuant to its charter, R.A. No. 8806.

We shall first delve on petitioner's constitutional challenge against R.A. No. 8806 in **G.R. No. 146342**.

Every statute has in its favor the presumption of constitutionality.[6] This presumption is rooted in the doctrine of separation of powers which enjoins upon the three coordinate departments of the Government a becoming courtesy for each other's acts.[7] The theory is that every law, being the joint act of the Legislature and the Executive, has passed careful scrutiny to ensure that it is in accord with the fundamental law.[8] This Court, however, may declare a law, or portions thereof, unconstitutional, where a petitioner has shown a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative one.[9] In other words, the grounds for nullity must be beyond reasonable doubt,[10] for to doubt is to sustain. [11]

Petitioner initially rejects R.A. No. 8806 because it violates Section 10, Article X of the Constitution which provides, *inter alia*:

"Section 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected." (Emphasis ours)

The criteria for the creation of a city is prescribed in Section 450 of the Local Government Code of 1991 (the Code), thus:

"Section 450. **Requisites for Creation**. - (a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of at least Twenty million (P20,000,000.00) for the last two (2) consecutive years based on 1991 constant prices, and if it has either of the following requisites:

(i) a contiguous territory of at least one hundred (100) square kilometers, as certified by the Lands Management Bureau; or

(ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of specific funds, transfers, and non-recurring income." (Emphasis ours)

Petitioner is not concerned whether the creation of Sorsogon City through R.A. No. 8806 complied with the criteria set by the Code as to income, population and land area. What he is assailing is its mode of creation. He contends that under Section 450(a) of the Code, a component city may be created only by converting "a municipality or a cluster of barangays," not by merging two municipalities, as what R.A. No. 8806 has done.

This contention is devoid of merit.

Petitioner's constricted reading of Section 450(a) of the Code is erroneous. The phrase "A municipality or a cluster of *barangays* may be **converted** into a component city" is not a criterion but simply one of the **modes** by which a city may be created. Section 10, Article X of the Constitution, quoted earlier and which petitioner cited in support of his posture, allows the **merger** of local government units to create a province, **city**, municipality or *barangay* in accordance with the criteria established by the Code. Thus, Section 8 of the Code distinctly provides:

> "Section 8.   Division and Merger. - **Division** and **merger** of existing local government units **shall comply with the same requirements herein prescribed for their creation**: Provided, however, That such division shall not reduce the income, population, or land area of the local government unit or units concerned to less than the minimum requirements prescribed in this Code: Provided, further, That the income classification of the original local government unit or units shall not fall below its current income classification prior to such division. x x x." (Emphasis ours)

Verily, the creation of an entirely new local government unit through a **division** or a **merger** of existing local government units is **recognized** under the Constitution, provided that such merger or division **shall comply with the requirements prescribed by the Code.**

Petitioner further submits that, in any case, there is no "compelling" reason for merging the Municipalities of Bacon and Sorsogon in order to create the City of Sorsogon considering that the Municipality of Sorsogon alone already qualifies to be upgraded to a component city. This argument goes into the **wisdom** of R.A. No. 8806, a matter which we are not competent to rule. In *Angara v. Electoral Commission,*[12] this Court, through Justice Jose P. Laurel, made it clear that "the judiciary does not pass upon questions of wisdom, justice or expediency of legislation." In the exercise of judicial power, we are allowed only "to settle actual controversies involving rights which are legally demandable and enforceable,"[13] and "may not annul an act of the political departments simply because we feel it is unwise or impractical."[14]

Next, petitioner assails R.A. No. 8806 since it contravenes the "one subject-one bill" rule enunciated in Section 26 (1), Article VI of the Constitution, to wit:

> "Section 26 (1). Every bill passed by the Congress shall embrace only **one subject which shall be expressed in the title thereof.**" (emphasis ours)

Petitioner contends that R.A. No. 8806 actually embraces two principal subjects which are: (1) the creation of the City of Sorsogon, and (2) the abolition of the Municipalities of Bacon and Sorsogon. While the title of the Act sufficiently informs the public about the creation of Sorsogon City, petitioner claims that no such information has been provided on the abolition of the Municipalities of Bacon and