

EN BANC

[G.R. No. 132603, September 18, 2000]

ELPIDIO M. SALVA, VILMA B. DE LEON, CLEMENTE M. MATIRA, REGION P. DE LEON, MARILOU C. DE LEON, JAIME RELEVO, JOEY S. VERGARA, CARMENCITA A. SALVA, DIONISIO B. DE LEON, JORGE S. VERGARA, GORGONIO B. DE LEON, AND OTHERS TOO NUMEROUS TO ENUMERATE AS A CLASS SUIT, PETITIONERS, VS. HON. ROBERTO L. MAKALINTAL, PRESIDING JUDGE, REGIONAL TRIAL COURT, BR. XI, BALAYAN, BATANGAS; HON. SANGGUNIANG PANGLALAWIGAN OF BATANGAS, BATANGAS CITY; HON. SANGGUNIANG PANGBAYAN, CALACA, BATANGAS; AND HON. COMMISSION ON ELECTIONS, RESPONDENTS.

DECISION

BUENA, J.:

This is an appeal by *certiorari* under Rule 45 of the Rules of Court seeking the reversal of the Order dated February 25, 1998,^[1] of the Regional Trial Court of Balayan, Batangas, Branch XI,^[2] in Civil Case No. 3442, denying the issuance of a temporary restraining order and/or preliminary injunction to enjoin the Commission on Elections (COMELEC) from holding the plebiscite scheduled on February 28, 1998, on the ground of lack of jurisdiction.

The facts are undisputed.

On February 23, 1998, petitioners, as officials and residents of *barangay* San Rafael, Calaca, Batangas, filed a class suit against the *Sangguniang Panglalawigan* of Batangas, *Sangguniang Pambayan* of Calaca, Batangas, and the Commission on Elections (COMELEC), docketed as Civil Case No. 3442, before the Regional Trial Court of Balayan, Batangas, Branch XI, for annulment of Ordinance No. 05 and Resolution No. 345, series of 1997, both enacted by the *Sangguniang Panglalawigan* of Batangas, and COMELEC Resolution No. 2987, series of 1998, with prayer for preliminary injunction/temporary restraining order. Ordinance No. 05^[3] declared the abolition of *barangay* San Rafael and its merger with *barangay* Dacanlao, municipality of Calaca, Batangas and accordingly instructed the COMELEC to conduct the required plebiscite as provided under Sections 9 and 10 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991.^[4] On the other hand, Resolution No. 345^[5] affirmed the effectivity of Ordinance No. 05, thereby overriding the veto^[6] exercised by the governor of Batangas.^[7] Ordinance No. 05 was vetoed by the governor of Batangas for being *ultra vires*, particularly, as it was not shown that the essential requirements under Section 9, in relation to Section 7, of Republic Act No. 7160, referring to the attestations or certifications of the Department of Finance (DOF), National Statistics Office (NSO) and the Land Management Bureau of the Department of Environment and Natural Resources

(DENR), were obtained. Pursuant to the foregoing ordinance and resolution, on February 10, 1998, the COMELEC promulgated Resolution No. 2987, providing for the rules and regulations governing the conduct of the required plebiscite scheduled on February 28, 1998, to decide the issue of the abolition of *barangay* San Rafael and its merger with *barangay* Dacanlao, Calaca, Batangas.^[8] Simultaneous with the filing of the action before the trial court, petitioners also filed an *ex parte* motion for the issuance of a temporary restraining order to enjoin respondents from enforcing Ordinance No. 05, Resolution No. 345, and COMELEC Resolution No. 2987.

In an Order dated February 25, 1998, the trial court denied the *ex parte* motion for the issuance of a temporary restraining order and/or preliminary injunction for lack of jurisdiction. According to the trial court, the temporary restraining order/injunction sought by petitioners is directed only to COMELEC Resolution No. 2987. The trial court ruled that any petition or action questioning an act, resolution or decision of the COMELEC must be brought before the Supreme Court.^[9]

On February 27, 1998, petitioners filed the instant petition with prayer for a temporary restraining order, without filing a motion for reconsideration of the trial courts Order dated February 25, 1998, claiming the urgency or immediate necessity to enjoin the conduct of the plebiscite scheduled on February 28, 1998.^[10]

In a Resolution dated March 10, 1998, the Court directed the parties to maintain the *status quo* prevailing at the time of the filing of the petition.^[11]

On August 28, 1998, the Solicitor General filed a Manifestation and Motion in *lieu* of Comment, declaring that he concurs with petitioners cause and recommending that the instant petition be given due course.^[12] Consequently, the Court further resolved on September 29, 1998 to require the COMELEC and the *Sangguniang Panglalawigan* of Batangas to submit their own Comment on the petition.

In a Resolution dated June 15, 1999, the Court resolved to give due course to the petition and require the parties to submit their respective memoranda.^[13]

In their Memorandum filed on October 26, 1999, petitioners submitted the following issue for the resolution of this Court:

"WHETHER OR NOT THE RESPONDENT COURT HAS JURISDICTION TO ENJOIN THE COMELEC FROM IMPLEMENTING ITS RESOLUTION NO. 2987, SERIES OF 1998, WHICH PROVIDED FOR THE RULES AND REGULATIONS FOR THE CONDUCT OF THE PLEBISCITE SCHEDULED ON FEBRUARY 28, 1998 TO DECIDE ON THE ABOLITION OF *BARANGAY* SAN RAFAEL AND ITS MERGER WITH *BARANGAY* DACANLAO, CALACA, BATANGAS, PENDING THE DETERMINATION OF CIVIL CASE NO. 3442 FOR THE ANNULMENT OF ORDINANCE NO. 05, RESOLUTION NO. 345 AND COMELEC RESOLUTION NO. 2987.^[14]

First, petitioners contend that the assailed Order dated February 25, 1998, of the Regional Trial Court of Balayan, Batangas, Branch XI, encourages multiplicity of suit[s] and splitting a single cause of action, contrary to Section 3, Rule 2, of the Rules of Court.^[15] Petitioners maintain that since COMELEC Resolution No. 2987 was only issued pursuant to Ordinance No. 05 and Resolution No. 345 of the

Sangguniang Panglalawigan of Batangas, the propriety of the issuance of COMELEC Resolution No. 2987 is dependent upon the validity of the Ordinance No. 05 and Resolution No. 345.^[16] And considering that the jurisdiction of the trial court to hear and determine the validity of Ordinance No. 05 and Resolution No. 345 is not disputed, the assailed Order dated February 25, 1998, directing petitioners to seek the preliminary injunction and/or temporary restraining order before this Court, advances multiplicity of suits and splitting a single cause of action.

Second, petitioners assert that when the COMELEC exercises its quasi-judicial functions under Section 52 of the Omnibus Election Code (*Batas Pambansa Blg. 881*), its acts are subject to the exclusive review by this Court; but when the COMELEC performs a purely ministerial duty, such act is subject to scrutiny by the Regional Trial Court,^[17] citing ***Filipinas Engineering and Machine Shop vs. Ferrer*** (135 SCRA 25 [1985]), thus:

"It cannot be gainsaid that the powers vested by the Constitution and the law on the Commission on Elections may either be classified as those pertaining to its adjudicatory or quasi-judicial functions, or those which are inherently administrative and sometimes ministerial in character."^[18]

Corollary thereto, petitioners submit that [t]he conduct of [a] plebiscite, pursuant to Ordinance No. 05 and Resolution No. 345, is not adjudicatory [or quasi-judicial] in nature but simply ministerial or administrative in nature [and only] in obedience to the aforesaid Ordinance and Resolution, citing ***Garces vs. Court of Appeals***, 259 SCRA 99 (1996), thus:

"xxx To rule otherwise would surely burden the Court with trivial administrative questions that are best ventilated before the RTC [Regional Trial Court], a court which the law vests with the power to exercise original jurisdiction over all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions."^[19]

Lastly, petitioners allege that while the plebiscite sought to be enjoined has already been conducted on February 28, 1998, the instant petition is far from being moot and academic, claiming that the actual holding of the said plebiscite could not validate an otherwise invalid ordinance and resolution;^[20] that there are still substantial matters to be resolved;^[21] assuming *arguendo* that this petition has become moot and academic, courts will decide a question otherwise moot and academic if it is capable of repetition, yet evading review;^[22] and finally, petitioners maintain that this Court has resolved to require the parties to maintain the *status quo* prevailing at the time of the filing of the petition, that is, a day before the plebiscite was scheduled to be conducted.^[23]

Concurring with petitioners arguments, the Solicitor General, in his Memorandum filed on September 7, 1999, asserts that xxx. [i]t is already settled in this jurisdiction that what is contemplated by the terms any decision, order or ruling of the COMELEC reviewable by *certiorari* to this Honorable Court, as provided under Section 7, Article IX-A of the [1987] Constitution, are those that relate to the COMELEC's exercise of its **adjudicatory or quasi-judicial** powers involving **elective** regional, provincial and city officials. (Citations omitted.)^[24] 24 The