

## EN BANC

[ G.R. No. 133076, September 22, 1999 ]

**MOISES S. SAMSON, PETITIONER, VS. HON. ALEXANDER AGUIRRE, IN HIS CAPACITY AS THE EXECUTIVE SECRETARY, COMMISSION ON ELECTIONS, AND THE DEPARTMENT OF BUDGET, RESPONDENTS.**

### DECISION

#### **QUISUMBING, J.:**

On February 23, 1998, President Fidel V. Ramos signed into law Republic Act No. 8535, creating the City of Novaliches out of 15 barangays of Quezon City. Petitioner Moises S. Samson, incumbent councilor of the first district of Quezon City, is now before the Court challenging the constitutionality of Republic Act No. 8535.

Petitioner also seeks to enjoin the Executive Secretary from ordering the implementation of R.A. 8535, the COMELEC from holding a plebiscite for the creation of the City of Novaliches, and the Department of Budget and Management from disbursing funds for said plebiscite. Lastly, he prays for the issuance of a preliminary injunction or temporary restraining order, through a motion we duly noted.

Petitioner bases his petition on the following grounds:

“a) R.A. No. 8535 failed to conform to the criteria established by the Local Government Code particularly, Sections 7, 11(a) and 450(a), as to the requirements of income, population and land area; seat of government; and no adverse effect to being a city of Quezon City, respectively, and its Implementing Rules as provided in Article 11(b)(1) and (2), as to furnishing a copy of the Quezon City Council of barangay resolution; and

b) The said law will in effect amend the Constitution.”<sup>[1]</sup>

Petitioner asserts that certifications as to income, population, and land area were not presented to Congress during the deliberations that led to the passage of R.A. No. 8535. This, he argues, is clear from the minutes of the public hearings conducted by the Senate Committee on Local Government on the proposed charter of the City of Novaliches. Petitioner particularly cites its hearings held on October 3 and 27, 1997. He is silent, however, on the hearings held by the appropriate Committee in the House of Representatives.

Likewise, petitioner points out that there is no certification attesting to the fact that the mother local government unit, Quezon City, would not be adversely affected by the creation of the City of Novaliches, in terms of income, population, and land area.

In their Comment, respondents through the Office of the Solicitor General, traversed all the allegations of petitioner. They claimed he failed to substantiate said allegations with convincing proof. In their memorandum, respondents argued that petitioner had the burden of proof to overcome the legal presumption that Congress considered all the legal requirements under the Local Government Code of 1991 in passing R.A. 8535. Further, respondents stated that the petition itself is devoid of any pertinent document supporting petitioner's claim that R.A. 8535 is unconstitutional. Respondents pray that the present petition be dismissed for lack of merit.

In *Victoriano v. Elizalde Rope Workers' Union*,<sup>[2]</sup> we had occasion to stress that:

"All presumptions are indulged in favor of constitutionality; one who attacks a statute, alleging unconstitutionality must prove its invalidity beyond a reasonable doubt; that a law may work hardship does not render it unconstitutional; that if any reasonable basis may be conceived which supports the statute, it will be upheld, and the challenger must negate all possible bases; that the courts are not concerned with the wisdom, justice, policy, or expediency of a statute; and that a liberal interpretation of the constitution in favor of the constitutionality of legislation should be adopted."<sup>[3]</sup>

Every statute is presumed valid.<sup>[4]</sup> Every law is presumed to have passed through regular congressional processes.<sup>[5]</sup> A person asserting the contrary has the burden of proving his allegations clearly and unmistakably. Having this in mind, we now proceed to examine whether or not petitioner was able to successfully overcome the presumption of validity accorded R.A. No. 8535.

The Local Government Code of 1991 provides under Section 7:

"SECTION 7. *Creation and Conversion.* – As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:

(a) Income. – It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;

(b) Population. – It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and

(c) Land Area. – It must be contiguous, unless it comprises two or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and

the Land Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).

Corollarily, the Rules and Regulations Implementing the Code provide in Article 11:

**ART. 11. Cities.** – (a) Requisites for creation – A city shall not be created unless the following requisites on income and either population or land area are present:

- (1) Income – an average annual income of not less than Twenty Million Pesos (P20,000,000.00), for the immediately preceding two (2) consecutive years based on 1991 constant prices, as certified by DOF. The average annual income shall include the income accruing to the general fund, exclusive of special funds, special accounts, transfers, and nonrecurring income; and
- (2) Population or land area – Population which shall not be less than one hundred fifty thousand (150,000) inhabitants, as certified by the NSO; or land area which must be contiguous with an area of at least one hundred (100) square kilometers, as certified by LMB. The territory need not be contiguous if it comprises two (2) or more islands or is separated by a chartered city or cities which do not contribute to the income of the province. The land area requirement shall not apply where the proposed city is composed of one (1) or more islands. The territorial jurisdiction of a city sought to be created shall be properly identified by metes and bounds.

The creation of a new city shall not reduce the land area, population, and income of the original LGU or LGUs at the time of said creation to less than the prescribed minimum requirements. All expenses incidental to the creation shall be borne by the petitioners.”

Petitioner argues that no certifications attesting compliance with the foregoing requirements were submitted to Congress, citing in particular public hearings held by the *Senate* Committee on Local Government.

However, we note that the bill that eventually became R.A. No. 8535 originated in the House of Representatives. Its principal sponsor is Cong. Dante Liban of Quezon City. Petitioner did not present any proof, but only allegations, that no certifications were submitted to the *House* Committee on Local Government, as is the usual practice in this regard. Allegations, without more, cannot substitute for proof. The presumption stands that the law passed by Congress, based on the bill of Cong. Liban, had complied with all the requisites therefor.

Moreover, present during the public hearings held by the Senate Committee on Local Government were resource persons from the different government offices like National Statistics Office, Bureau of Local Government Finance, Land Management Bureau, and Department of Budget and Management, aside from officials of Quezon City itself.

The representative from the Bureau of Local Government Finance estimated the