



Republic of the Philippines
Supreme Court
 Manila

EN BANC

ENGR. OSCAR A. MARMETO,
Petitioner,

G.R. No. 213953

Present:

SERENO, *C.J.*,
 CARPIO,*
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,*
 CAGUIOA,
 MARTIRES,
 TIJAM,
 REYES, *and*
 GESMUNDO, *JJ.*

- versus -

**COMMISSION ON ELECTIONS
 (COMELEC),**
Respondent.

Promulgated:
 September 26, 2017

X ----- *Alfonso C. Jara* ----- X

DECISION

DEL CASTILLO, J.:

Before the Court is a Petition for *certiorari* and *mandamus*¹ seeking to annul the Resolution No. 14-0509 dated July 22, 2014² of the respondent Commission of Elections (COMELEC). The assailed resolution declared that the power of initiative could not be invoked by the petitioner, Engr. Oscar A. Marmeto (Marmeto), for the passage of a proposed ordinance in Muntinlupa City, citing the lack of budgetary appropriation for the conduct of the initiative process.³

* On official leave.

¹ Filed under Rules 65 of the Rules of Court, *rollo*, pp. 3-16.

² Id. at 17-18, signed by COMELEC Chairman Sixto S. Brillantes, Jr., Commissioners Lucenito N. Tagle, Christian Robert S. Lim, Al A. Parreño, and Luie Tito F. Guia.

³ Id. at 18.

THE FACTS

On January 21, 2013, Marmeto filed in behalf of the Muntinlupa People Power⁴ (MPP) a proposed ordinance with the *Sangguniang Panlungsod* of Muntinlupa.⁵ The proposal sought the creation of a sectoral council and the appropriation of the amount of ₱200 million for the livelihood programs and projects that would benefit the people of Muntinlupa City.

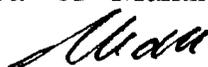
For failure of the *Sanggunian Panlungsod* to act on the proposition within 30 days from its filing, Marmeto filed a petition for initiative with the same body to invoke the power of initiative under the Republic Act (RA) No. 7160, otherwise known as the Local Government Code of 1991 (LGC).

The secretary of *Sanggunian Panlungsod* of Muntinlupa wrote a letter dated June 11, 2013 to the COMELEC stating that the proposal could not be acted upon by the *Sanggunian* because the City's budget for FY 2013 had already been enacted. Thus, the secretary claimed that a new appropriation ordinance was needed to provide funds for the conduct of the initiative.

On July 31, 2013, the COMELEC issued **Resolution No. 13-0904** setting aside Marmeto's initiative petition because the propositions therein were beyond the powers of the *Sanggunian Panglungsod* to enact and were not in accordance with the provisions of existing laws and rules.⁶

Marmeto sought reconsideration⁷ of COMELEC's Resolution No. 13-0904 by contending that the sectoral council sought to be created would not constitute as a legislative body separate from the *Sanggunian Panlungsod*. He clarified that the sectoral council would merely act as the people's representative, which would facilitate the exercise of the people's power of initiative and referendum.

However, the COMELEC did not find Marmeto's motion for reconsideration meritorious and issued **Resolution No. 13-1039** dated September 17, 2013,⁸ affirming its earlier ruling dismissing the initiative petition. It ruled that the issues Marmeto raised in his motion were mere reiterations of his petition which it had already addressed. Nonetheless, it noted that Marmeto might opt to re-file his initiative petition, since the then newly-elected members of the *Sangguniang Panlungsod* of Muntinlupa might be more sympathetic to Marmeto's propositions.



⁴ The MPP is an informal association of residents and registered voters of Muntinlupa City, and is represented by Marmeto, see *rollo*, p. 38.

⁵ Id. at 4.

⁶ Id. at 32.

⁷ Id. at 33-35.

⁸ Id. at 36-37.

Accordingly, on December 2, 2013, Marmeto filed a second proposed ordinance with the *Sangguniang Panlungsod* of Muntinlupa. Again, no favorable action was done by the *Sanggunian* within 30 days from the filing of the proposal, prompting Marmeto file a **second initiative petition** with the Office of the City Election Officer on February 10, 2014.⁹

On April 1, 2014, Marmeto filed a Supplemental Petition to comply with the requirements of COMELEC Resolution No. 2300,¹⁰ which provided the *Rules and Regulations Governing the Conduct of Initiative on the Constitution, and Initiative and Referendum on National and Local Laws*.

The Assailed COMELEC Resolution

On July 22, 2014, the COMELEC issued the assailed **Resolution No. 14-0509**¹¹ which effectively dismissed Marmeto's second initiative petition for **lack of budgetary allocation**. The pertinent portion of the assailed resolution reads as follows:

Considering the absence of any provision in the Commission's FY 2014 budget for the expenses for local initiative or any other election activity x x x the Commission RESOLVED, as it hereby RESOLVES, to adopt the foregoing recommendation x x x that **the power of local initiative cannot be invoked by Engr. Oscar A. Marmeto** x x x for the passage of an ordinance for the appropriation of funds for livelihood projects for the residents of Muntinlupa City since the setting up of signature stations, verification of signatures, the certification of the number of registered voters, and all other acts to be done in exercise thereof will entail expenses on the part of the Commission.¹² (Emphasis supplied)

Disagreeing with **Resolution No. 14-0509**, Marmeto filed the present *certiorari* and *mandamus* petition contending that the COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it dismissed his second initiative petition.

THE PARTIES' ARGUMENTS

Marmeto assails the COMELEC's Resolution No. 14-0509, contending that the denial of an initiative petition due to lack of appropriated funds constitutes a gross neglect and abandonment of the COMELEC's duties under the Constitution.¹³

⁹ Id. at 38-40.

¹⁰ Dated January 16, 1991.

¹¹ *Rollo*, pp. 17-18.

¹² Id. at 18.

¹³ Id. at 8, 11.

Marmeto believes that the COMELEC has a ministerial duty to conduct the initiative proceedings under pertinent laws upon compliance with the legal requirements for the exercise of the right. He asserts that the COMELEC evaded its mandated duty by citing unavailability of funds as ground to frustrate the conduct of local initiative.¹⁴

The COMELEC, on the other hand, claims that the denial of Marmeto's initiative petition was proper, since the propositions therein were beyond the legal powers of the *Sangguniang Panlungsod* to enact.¹⁵ Section 124(b) of the LGC provides that the "[i]nitiative shall extend only to subjects or matters which are within the legal powers of the *Sanggunian* to enact." According to the COMELEC, Marmeto's second initiative petition proposed the creation of a council composed of 12 sectoral representatives. This sectoral council will act as a legislative body that will directly propose, enact, approve, or reject any ordinance through the power of initiative and referendum.¹⁶

The COMELEC refers to Section 458 of the LGC which enumerates the powers and duties of the *Sangguniang Panlungsod*, noting that nothing in the provision grants the *Sanggunian* the power to create a separate local legislative body. Moreover, Section 457 of the LGC allows only *three* sectoral representatives to become members of the *Sangguniang Panlungsod*. These sectoral representatives are to be elected by the residents of the city as members of the *Sanggunian*, and cannot be appointed through an initiative election.

THE COURT'S RULING

The Court **dismisses** the Petition.

The COMELEC is mandated to enforce and administer the laws on local initiative and referendum

Initiative has been described as an instrument of direct democracy whereby the citizens directly propose and legislate laws.¹⁷ As it is the citizens themselves who legislate the laws, direct legislation through initiative (along with referendum) is considered as an exercise of original legislative power,¹⁸ as opposed to that of

¹⁴ Id. at 13.

¹⁵ Id. at 77.

¹⁶ Id. at 79, 87-88.

¹⁷ Christopher A. Coury, *Direct Democracy through Initiative and Referendum: Checking the Balance*, 8 Notre Dame J. Law, Ethics & Pub. Policy 573 (1994), available at <http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1446&context=ndjlepp> (last visited 11 September 2017).

¹⁸ *Garcia v. Commission on Elections*, 307 Phil. 296, 303 (1994).

derivative legislative power which has been delegated by the sovereign people to legislative bodies such as the Congress.¹⁹

Section 1 of Article VI of the Constitution recognizes the distinction between original and derivative legislative power by declaring that “legislative power shall be vested in the Congress x x x *except to the extent reserved to the people by the provision on initiative and referendum.*” The italicized clause pertains to the original power of legislation which the sovereign people have reserved for their exercise in matters they consider fit. Considering that derivative legislative power is merely delegated by the sovereign people to its elected representatives, it is deemed subordinate to the original power of the people.²⁰

The Constitution further mandated the Congress to “provide for a system of initiative and referendum, x x x whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof by the Congress or local legislative body x x x.”²¹ In compliance, the Congress enacted RA No. 6735 on August 4, 1989 which provided for a system of initiative and referendum on national and local laws. To implement RA No. 6735, the COMELEC promulgated Resolution No. 2300 on January 16, 1991, which provided the rules and regulations governing the conduct of initiative on the Constitution,²² and initiative and referendum on national and local laws. Since the LGC codified all laws pertaining to local governments,²³ the provisions on local initiative and referendum found in RA No. 6735 were reiterated, with slight modifications, in Sections 120 to 127 of the LGC; all other provisions in RA No. 6735 not inconsistent within the Sections 120 and 127 of the LGC remained valid and in effect.

RA No. 6735 and the LGC are thus the pertinent laws on local initiative and referendum which the COMELEC is mandated to enforce and administer under Article IX-C, Section 2(1) of the Constitution. Naturally, the conduct of initiative and referendum (as with any election exercise) will entail expenses on the part of the government. The budget for the conduct of the exercise of political rights, specifically those on suffrage and electoral rights, is given to the COMELEC, whose approved annual appropriations are automatically and regularly released.²⁴

¹⁹ Id.

²⁰ Id. at 303, 305.

²¹ CONSTITUTION, Article VI, Section 32.

²² The Supreme Court nullified the provisions on initiative on the amendment of the Constitution under Republic Act No. 6735 in *Santiago v. Commission on Elections*, 336 Phil. 848 (1997).

²³ Pursuant to Section 3, Article X of the Constitution.

²⁴ CONSTITUTION, Article IX-A, Section 5. See also Constitution, Article IX-C, Section 11, which states that:

Section 11. Funds certified by the Commission as necessary to defray the expenses for holding regular and special elections, plebiscites, initiatives, referenda, and recalls, shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission.

The COMELEC cannot defeat the exercise of the people's original legislative power for lack of budgetary allocation for its conduct

In *Goh v. Hon. Bayron*,²⁵ the Court has definitely ruled the question of **whether the COMELEC may prevent the conduct of a recall election for lack of specific budgetary allocation therefor**. In as much as the issue resolved in *Goh* is similar to the present one before the Court, a brief summary thereof is necessary.

In 2014, Alroben Goh commenced the proceedings for the conduct of recall elections against Puerto Princessa City Mayor Lucilo Bayron. Although the COMELEC found Goh's petition sufficient in form and substance, it resolved to suspend the recall election because there was no appropriation provided for the conduct of recall elections in the FY 2014 General Appropriations Act (GAA). As there was no line item in the GAA for recall elections, there could likewise be no augmentation according to the COMELEC.

Contrary to the COMELEC's assertions, the Court ruled that the FY 2014 GAA "actually expressly provides for a line item appropriation for the conduct and supervision of recall elections."²⁶ Under the Program category of the COMELEC's 2014 budget,²⁷ the following amounts were provided:

XXXII. COMMISSION ON ELECTIONS

For general and administration support, and operations, including locally-funded projects, as indicated hereunder
 ₱ 2,735,321,000
 =====

New Appropriations, by Programs/Activities/Projects, by Operating Units

		Current Operating Expenditures			Totals
		Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays	
PROGRAMS					
100000000	General Administration and Support				
100010000	General management and supervision	₱ 454,457,000	₱ 276,749,000		₱ 731,206,000
	National Capital Region (NCR)	454,457,000	276,749,000		731,206,000
	Central Office	454,457,000	276,749,000		731,206,000
Sub-total,	General Administration and Support	454,457,000	276,749,000		731,206,000
300000000	Operations				
301000000	MFO 1: REGULATION OF ELECTIONS	1,483,087,000	174,188,000		1,657,275,000
301010000	Management and supervision of elections and other electoral exercises	1,437,272,000	172,058,000		1,609,330,000
301010001	Conduct of voter's education and information campaign thru print/radio/television and social media	10,141,000	1,363,000		11,504,000
	National Capital Region (NCR)	10,141,000	1,363,000		11,504,000
	Central Office	10,141,000	1,363,000		11,504,000

²⁵ 748 Phil. 282 (2014).

²⁶ Id. at 305.

²⁷ Department of Budget and Management, FY 2014 GAA - Annex A: Details of the Budget, Volume 1, available at <http://www.dbm.gov.ph/wp-content/uploads/GAA/GAA2014%20ANNEXES/Vol%201/COMELEC/COMELEC.pdf> (last visited 11 September 2017). Emphasis ours.

301010002	Preparation of maps of territorial units of voting centers, the establishment of new voting centers, and the transfer, merger or abolition of existing ones	21,662,000	2,161,000	23,823,000
	National Capital Region (NCR)	21,662,000	2,161,000	23,823,000
	Central Office	21,662,000	2,161,000	23,823,000
301010003	Development of software system and procedures	6,432,000	5,674,000	12,106,000
	National Capital Region (NCR)	6,432,000	5,674,000	12,106,000
	Central Office	6,432,000	5,674,000	12,106,000
301010004	Monitoring the implementation on the conduct of election and other political exercises and development of measures to improve the registration and election systems including the dissemination of election results of previous elections	10,379,000	120,644,000	131,023,000
	National Capital Region (NCR)	10,379,000	120,644,000	131,023,000
	Central Office	10,379,000	120,644,000	131,023,000
301010005	Conduct and supervision of elections, referenda, recall votes and plebiscites	1,360,975,000	40,526,000	1,401,501,000
	National Capital Region (NCR)	67,917,000	6,439,000	74,356,000
	Central Office	67,917,000	6,439,000	74,356,000

Notably, for its Major Final Output (MFO) 1 on the Regulation of Elections, the COMELEC was provided with a total of ₱1,401,501,000 for the “**Conduct and supervision of elections, referenda, recall votes and plebiscites**,” which amount was subdivided among the 15 administrative regions in the country.

The Court added that “[w]hen the COMELEC receives a budgetary appropriation for its ‘Current Operating Expenditures,’ such appropriation includes expenditures to carry out its constitutional functions x x x”²⁸ The Court considered the appropriation of ₱1.4 billion as specific enough to fund elections, which includes both regular and special elections, including recall elections.

Further, the allocation of a specific budget for the conduct of elections constituted as “a line item which can be augmented from the COMELEC’s savings to fund the conduct of recall elections in 2014.”²⁹ Thus, the Court concluded that –

[c]onsidering that there is an existing line item appropriation for the conduct of recall elections in the 2014 GAA, we see no reason why the COMELEC is unable to perform its constitutional mandate to ‘enforce and administer all laws and regulations relative to the conduct of x x x recall.’ Should the funds appropriated in the 2014 GAA be deemed insufficient, then the COMELEC Chairman may exercise his authority to augment such line item appropriation from the COMELEC’s existing savings, as this augmentation is expressly authorized in the 2014 GAA.³⁰

There is no reason not to extend the *Goh* ruling to the present case. In fact, Marmeto’s second initiative petition was also filed in 2014; in dismissing

²⁸ *Goh v. Hon. Bayron*, supra note 25 at 305. Emphasis ours.

²⁹ Id. at 316.

³⁰ Id. at 320.

Marmeto's petition for lack of funds, the COMELEC was referring to its budget under the FY 2014 GAA.

Although *Goh* involved the conduct of recall elections, the ₱1.4 billion appropriation under the FY 2014 GAA was for the “conduct and supervision of **elections**, referenda, recall votes and plebiscites.”³¹ The term “election” is comprehensive enough to include other kinds of electoral exercises, including initiative elections. As earlier mentioned, the COMELEC's constitutional mandate is to enforce and administer all laws relative to the conduct of an election, plebiscite, initiative, referendum, and recall. The Constitution further states that the “[f]unds certified by the [COMELEC] as necessary to defray the expenses for holding regular and special elections, plebiscites, initiatives, referenda, and recalls, shall be provided in the regular or special appropriations and, once approved shall be released automatically.”³² Thus, the budgetary allocation for the “regulation of elections” identified as the COMELEC's MFO 1 should necessarily also cover expenses for the conduct of initiative elections.

The Court also notes that, aside from the ₱1.4 billion appropriation for the “conduct and supervision of elections, referenda, recall votes and plebiscites,” the COMELEC was also given ₱1.6 billion in the FY 2014 GAA for the “management and supervision of elections and other electoral exercises.”³³

Thus, as in *Goh*, the COMELEC was provided with budgetary allocation for the conduct of initiative elections. The COMELEC, therefore, committed grave abuse of discretion in dismissing Marmeto's second initiative petition on the ground that there were no funds allocated for the purpose.

The COMELEC has the power to review whether the propositions in an initiative petition are within the power of the concerned Sanggunian to enact

The resolution of the present case, however, does not end in applying the Court's ruling in *Goh* to the present case. In its Comment and Memorandum, the COMELEC defends the dismissal of Marmeto's second initiative petition on the ground that the propositions raised therein were matters that were not within the powers of the *Sangguniang Panlungsod* to enact. This petition purportedly proposed the creation of another legislative body separate from the *Sanggunian*, composed of 12 appointive sectoral representatives. Not only does the LGC

³¹ Department of Budget and Management, FY 2014 GAA - Annex A: Details of Budget, Volume 1, supra note 27.

³² CONSTITUTION, Article IX-C, Section 11.

³³ Department of Budget and Management, FY 2014 GAA - Annex A: Details of the Budget, Volume 1, supra note 27.

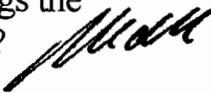


denies to the *Sanggunian* the power to create a separate legislative body, but it also limits the number of sectoral representatives in the *Sanggunian* itself to only three *elected* members.³⁴ For these reasons, the COMELEC argues that the dismissal of Marmeto's second initiative petition was proper.

Marmeto counters that the arguments the COMELEC now raises were not the grounds which the COMELEC cited in Resolution No. 14-0509 that is assailed in the present *certiorari* and *mandamus* petition. He points out that Resolution No. 14-0509 dismissed his second initiative petition solely for lack of specific budgetary allocation. There was no mention in the assailed resolution that the propositions in his second initiative petition were not within the powers of the *Sanggunian* to enact. This ground was instead cited by the COMELEC in its Resolution Nos. 13-0904 and 13-1039 which dismissed Marmeto's *first* initiative petition. Hence, he opines that the propriety of the propositions contained in his second initiative petition, not being covered by the assailed COMELEC resolution, cannot be reviewed in the present petition.

In several cases, this Court considered issues which were not raised by either party when these issues are necessary for the complete resolution of the cases.³⁵ If the Court can review unassigned errors which are necessary to arrive at a just resolution of the case, with all the more reason can it review a matter raised as a defense by a party to uphold the validity of a resolution assailed in the case.

Section 124(b) of the LGC provides that “[i]nitiatives shall extend only to subjects or matters which are within the legal powers of the *Sanggunian* to enact.” Section 127 of the LGC gives the courts authority to declare “null and void **any proposition approved** pursuant to this Chapter³⁶ for violation of the Constitution or **want of capacity of the *sanggunian* concerned to enact the said measure.**”³⁷

Significantly, the power of the courts to nullify propositions for being *ultra vires* extends only to those **already approved**, *i.e.* those which have been approved by a majority of the votes cast in the initiative election called for the purpose. In other words, **the courts can review the terms only of an approved ordinance**. It will be premature for the courts to review the propositions contained in an initiative petition that has yet to be voted for by the people because at that point, there is no actual controversy that the courts may adjudicate. This begs the question of which tribunal can review the sufficiency of an initiative *petition*? 

³⁴ *Rollo*, pp. 88-90.

³⁵ See *Martinez v. Buen*, G.R. No. 187342, April 5, 2017; *Garcia v. Ferro Chemicals, Inc.*, 744 Phil. 590, 602-603 (2014); *Dinio v. Hon. Laguesma*, 339 Phil. 309, 318-319 (1997).

³⁶ Referring to Chapter II – Local Initiative and Referendum of Title IX – Other Provisions Applicable to Local Government Units, Book I of the LGC.

³⁷ Emphasis ours.

Inasmuch as the COMELEC also has quasi-judicial and administrative functions, **it is the COMELEC which has the power to determine whether the propositions in an initiative petition are within the powers of a concerned *sanggunian* to enact.** In *Subic Bay Metropolitan Authority v. Commission on Elections*,³⁸ the Court ruled that –

while regular courts may take jurisdiction over ‘approved propositions’ per said Sec. 18 of R.A. 6735, **the Comelec in the exercise of its quasi-judicial and administrative powers may adjudicate and pass upon such proposals insofar as their form and language are concerned x x x and it may be added, even as to content, where the proposals or parts thereof are patently and clearly outside the ‘capacity of the local legislative body to enact.’ x x x** (Emphasis supplied)

The COMELEC’s power to review the substance of the propositions is also implied in Section 12 of RA No. 6735, which gives this Court appellate power to review the COMELEC’s “findings of the sufficiency or insufficiency of the petition for initiative or referendum x x x.”

Marmeto’s propositions in his initiative petition are beyond the powers of the Sanggunian Panlungsod ng Muntinlupa to enact

Accordingly, a review of the propositions put forth by Marmeto in his second initiative petition becomes imperative.

Unfortunately, the records do not contain a copy of the proposed ordinance itself. Nevertheless, Marmeto’s pleadings and the annexes thereto (particularly the Supplemental Petition³⁹) refer to the significant propositions put forth in his second initiative petition.

The Court also notes that the propositions in Marmeto’s second petition are closely related to those in his first petition, which are mentioned in the COMELEC Resolution Nos. 13-0904 and 13-1039. As Marmeto never denied that the propositions in his second initiative petition are completely different from those in his first petition,⁴⁰ it is not implausible to presume that the propositions contained in both petitions are more or less the same. Since the COMELEC had already ruled on the propriety of these propositions in its Resolution No. 13-0904 and to avoid a remand of the case that will prolong these proceedings, the Court

³⁸ 330 Phil. 1082, 1111 (1996).

³⁹ *Rollo*, pp. 41-45.

⁴⁰ In fact, he refers to the second petition as the “re-filed proposed ordinance” (id. at 97), and done in compliance with the COMELEC’s advise to file his petition anew with the *Sanggunian* (id. at 37).

will proceed to rule on the issue of whether Marmeto's propositions are within the power of the *Sanggunian* to enact and thus be valid subjects of an initiative petition.

Marmeto's initiative petitions propose the following:

- (1) The creation of a sectoral council composed of 12 members from various sectors who will serve as the people's representatives for the implementation and management of livelihood programs and projects;⁴¹
- (2) The sectoral council will also stand as the people's representatives that will directly propose, enact, approve, or reject ordinances through initiative or referendum;⁴²
- (3) An appropriation of ₱200 million to be allocated for livelihood projects of the people and other purposes. The net income from the projects will then be used for the delivery of basic services and facility for Muntinlupa residents;⁴³
- (4) The MPP will create the implementing guidelines and procedure for the utilization of the appropriated funds, and conduct programs and project feasibility studies. It shall comply with the prescribed accounting and auditing rules of, and submit monthly accomplishment report to the local government unit (LGU). It shall also observe transparency and accountability in fund management.⁴⁴

These propositions, however, are either sufficiently covered by or violative of the LGC for reasons explained below.

(A) *The creation of a separate local legislative body is ultra vires*

Under the LGC, local legislative power within the city is to be exercised by the *sangguniang panlungsod*,⁴⁵ which shall be comprised of *elected* district and sectoral representatives.⁴⁶ The sectoral representatives, moreover, shall be limited to three members, coming from enumerated/identified sectors.⁴⁷

⁴¹ Id. at 30.

⁴² Id. Although Marmeto claims that the Sectoral Council will only facilitate the electorate's exercise of the power of initiative and referendum, id. at 33, 122.

⁴³ Id. at 43.

⁴⁴ Id.

⁴⁵ LOCAL GOVERNMENT CODE, Article 48.

⁴⁶ LOCAL GOVERNMENT CODE, Article 41(a) and (b).

⁴⁷ LOCAL GOVERNMENT CODE, Article 41(c).

Significantly, nothing in the LGC allows the creation of another local legislative body that will enact, approve, or reject local laws either through the regular legislative process or through initiative or referendum. Even Marmeto's claim that the sectoral council will not legislate but will merely "facilitate" the people's exercise of the power of initiative and referendum is rendered unnecessary by the task the COMELEC must assume under the LGC. Section 122(c) of the LGC provides that the COMELEC (or its designated representative) shall extend assistance in the formulation of the proposition.

(B) The sectoral council/MPP's proposed function overlaps with the Local Development Council

The law recognizes the right of the people to organize themselves and encourages the formation of non-governmental, community-based, or sectoral organizations that aim to promote the nation's welfare.⁴⁸ Even the LGC promotes relations between the LGUs and people's and non-governmental organizations (PO/NGOs), and provides various ways by which they can be active partners in pursuing local autonomy.⁴⁹

The LGC, moreover, requires the establishment in each LGU of a local development council, whose membership includes representatives of POs/NGOs operating within the LGU.⁵⁰ These local development councils are primarily tasked with developing a "comprehensive multi-sectoral development plan"⁵¹ in their respective LGUs. City development councils are specifically tasked to exercise the following functions:

- (1) Formulate long-term, medium-term, and annual socio-economic development plans and policies;



⁴⁸ CONSTITUTION, Article II, Section 23.

⁴⁹ LOCAL GOVERNMENT CODE, Sections 34 to 36 provide:

SECTION 34. Role of People's and Nongovernmental Organizations. - Local government units shall promote the establishment and operation of people's and nongovernmental organizations to become active partners in the pursuit of local autonomy.

SECTION 35. Linkages with People's and Non-Governmental Organizations. - Local government units may enter into joint ventures and such other cooperative arrangements with people's and nongovernmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

SECTION 36. Assistance to People's and Nongovernmental Organizations. - A local government unit may, through its local chief executive and with the concurrence of the Sanggunian concerned, provide assistance, financial or otherwise, to such people's and nongovernmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.

⁵⁰ LOCAL GOVERNMENT CODE, Section 107.

⁵¹ LOCAL GOVERNMENT CODE, Section 106.

- (2) x x x;
- (3) Appraise and prioritize socio-economic development programs and projects;
- (4) x x x;
- (5) Coordinate, monitor, and evaluate the implementation of development programs and projects; and
- (6) Perform such other functions as may be provided by law or competent authority.⁵²

Given these functions of the city development council, there is a clear overlap with those proposed by Marmeto to be performed by the sectoral council and/or MPP.

(C) The LGC requires local government funds and monies to be spent solely for public purposes, and provides transparency and accountability measures to ensure this end

The overlap in functions, by itself, does not suffice to turn down Marmeto's proposal to create a sectoral council or any similar organization. What the Court finds disturbing in Marmeto's initiative petitions is the authority of the proposed sectoral council to utilize, manage, and administer public funds as it sees fit.

The fundamental principles in local fiscal administration provided in the LGC state that no money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law,⁵³ and that local government funds and monies shall be spent solely for public purposes.⁵⁴

Marmeto's petition proposes the appropriation of ₱200 million for the livelihood programs and projects of Muntinlupa residents. Significantly, **the utilization of this amount is subject to the guidelines to be later implemented by Marmeto's MPP.** That these guidelines will be drafted and implemented subsequent to the initiative elections denies the Muntinlupa residents of the opportunity to assess and scrutinize the utilization of local funds, and gives Marmeto and his organization an almost complete discretion in determining the allocation and disbursement of the funds. It is no justification that the funds will be used for public purposes on the claim these will be applied to programs and projects that will eventually redound to the benefit of the public.



⁵² LOCAL GOVERNMENT CODE, Section 109(a).

⁵³ LOCAL GOVERNMENT CODE, Section 305(a).

⁵⁴ LOCAL GOVERNMENT CODE, Section 305(b).

Our laws have put in place measures to ensure transparency and accountability in dealing with public funds,⁵⁵ since “[p]ublic funds are the property of the people and must be used prudently at all times with a view to prevent dissipation and waste.”⁵⁶ These measures may be subverted or rendered inapplicable when the management and utilization of the funds is turned over to private persons or entities. Although comprised of Muntinlupa residents and voters, Marmeto’s MPP remains a private organization and its members cannot be considered as public officers who are burdened with responsibility for public funds and who may be held administratively and criminally liable for the imprudent use thereof.

CONCLUSION

Initiative and referendum are the means by which the sovereign people exercise their legislative power, and the valid exercise thereof should not be easily defeated by claiming lack of specific budgetary appropriation for their conduct. The Court reiterates its ruling in *Goh* that the grant of a line item in the FY 2014 GAA for the conduct and supervision of elections constitutes as sufficient authority for the COMELEC to use the amount for elections and other political exercises, including initiative and recall, and to augment this amount from the COMELEC’s existing savings.

Nonetheless, as the Court ruled in *Subic Bay Metropolitan Authority*, the COMELEC is likewise given the power to review the sufficiency of initiative petitions, particularly the issue of whether the propositions set forth therein are within the power of the concerned *sanggunian* to enact. In as much as a *sanggunian* does not have the power to create a separate local legislative body and that other propositions in Marmeto’s initiative petition clearly contravene the existing laws, the COMELEC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petition and cannot be ordered to conduct and supervise the procedure for the conduct of initiative elections.

WHEREFORE, the Petition for *certiorari* and *mandamus* is **DISMISSED**. The Resolution No. 14-0509 of the Commission on Elections dated July 22, 2014 is **AFFIRMED**.



⁵⁵ These laws include Presidential Decree No. 1445 or the Government Accounting Code of the Philippines, and Sections 335 to 354 of the LGC.

⁵⁶ *Yap v. Commission on Audit*, 633 Phil. 174, 188 (2010).

SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

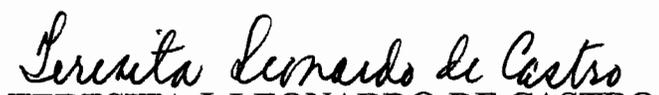


MARIA LOURDES P. A. SERENO
Chief Justice

(On official leave)
ANTONIO T. CARPIO
Associate Justice



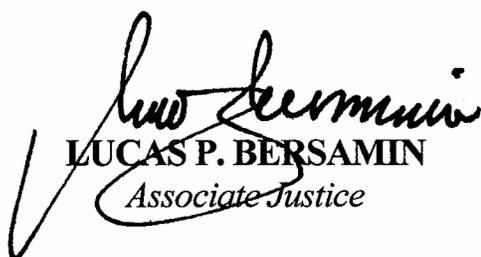
PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice

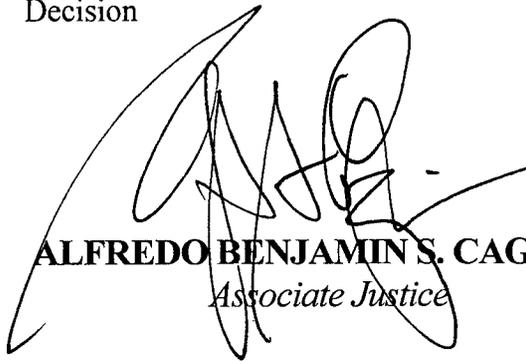


ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

(On official leave)
FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice



NOEL GIMENEZ TIJAM
Associate Justice



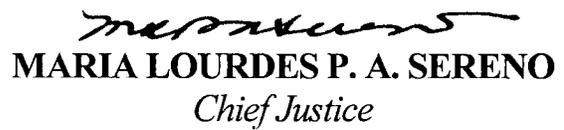
ANDRES B. REYES, JR.
Associate Justice



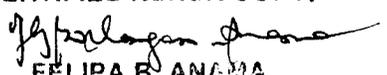
ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:

FELIPA B. ANAMA
 CLERK OF COURT, EN BANC
 SUPREME COURT

