



Republic of the Philippines
Supreme Court
Manila

EN BANC

ADVISORY

G.R. No. 263590 (ATTY. ROMULO B. MACALINTAL, *petitioner* v. COMMISSION ON ELECTIONS and THE OFFICE OF THE PRESIDENT, through EXECUTIVE SECRETARY LUCAS P. BERSAMIN, *respondents*).

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For the orderly proceeding of the **Oral Arguments** on the above-captioned case scheduled on **Friday, October 21, 2022, three o'clock in the afternoon (3:00 p.m.)**, at the *En Banc* Session Hall, 2nd Floor, SC Main Building, the parties are required to observe the following:

I. Petitioner and respondents shall limit their discussion to the following essential issues:

Substantive issues.

Whether Republic Act No. (RA) 11935 is unconstitutional. Particularly:

1. Whether Congress, pursuant to the power granted to it to fix the term of office of barangay officials under Section 8, Article X of the Constitution, has the power to postpone or cancel the schedule of barangay elections:
 - a) Whether the power to “fix the term of office of barangay officials”, as provided under Section 8, Article X of the Constitution, includes the power to postpone and/or cancel a scheduled barangay election.
 - b) Whether the phrase “except barangay officials, which shall be determined by law” under Section 8, Article X of the Constitution applies to a particular election period, and once the term is determined for such period,

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whether it can be amended to apply to incumbent barangay officials or should any amendment thereto be applied to the next election period.

- (i) Whether any extension of the term of barangay officials as fixed by Congress pursuant to Section 8, Article X of the Constitution be made to apply retroactively to incumbent barangay officials.
 - (ii) Whether there is a constitutional prohibition against the fixing of term of barangay officials to a term longer than that provided by the Constitution for the President, Vice-President, Senators, Members of the House of Representatives, and local government officials.
- c) Whether the power of the Commission on Elections (COMELEC) to “[d]ecide, x x x all questions affecting elections”, as provided under Section 2 (3), Article IX-C of the Constitution, precludes the power of Congress to amend or repeal a law fixing the schedule of barangay elections.
- d) Notwithstanding the absence of a relief for the postponement of *Sangguniang Kabataan* elections, considering the mandate of Section 1 of RA 9164, as amended, entitled “An Act Providing for Synchronized Barangay and Sangguniang Kabataan Elections, Amending Republic Act No. 7160, as amended, otherwise known as the ‘Local Government Code of 1991,’ and for other purposes,” for a synchronized elections, whether any pronouncement on the postponement of barangay elections should automatically be applied to the *Sangguniang Kabataan* elections.
2. Whether Congress, with the enactment of RA 11935, effectively disenfranchised voters thereby violating their right to due process and their right of suffrage.
- a) Whether the postponement of the barangay elections amounts to a deprivation of the fundamental right of the electorate to choose the officials of their barangay.

- b) Whether the postponement of the barangay elections amounts to a deprivation of the due process rights of the sovereign electorate in that there appears to be no substantial reason for the repeated postponement.
 - c) Whether RA 11935 violates the State's guarantee of equal access to opportunities for public service by postponing the barangay elections.
3. Whether RA 11935 violates the "one subject, one title rule" enshrined in Section 26 (1), Article VI of the Constitution for supposedly amending Section 5 of *Batas Pambansa Blg. (BP) 881* despite the general repealing clause found in Section 6 of RA 11935.
4. Whether the postponement of barangay elections is constitutionally constrained by the grounds enumerated under Section 5 of BP 881, otherwise known as the "Omnibus Election Code of the Philippines," subject to the sole determination of the COMELEC.
 - a) Whether there is a constitutional prohibition against the postponement or cancellation of barangay elections for causes other than those provided under Section 5 of BP 881.
5. Whether the postponement of the barangay elections, scheduled to be held on December 5, 2022, to October 2023 will amount to a "legislative" appointment of the incumbent barangay officials.
6. In light of RA 11935 which resulted in the COMELEC staying its preparations for the December 5, 2022 barangay and *Sangguniang Kabataan* elections, whether the COMELEC still has the logistical capability to conduct said elections should the December 5, 2022 schedule push through.

II. Each side shall have a total of **twenty (20) minutes** to present their arguments on the foregoing issues

III. Counsel/s for each side are directed to coordinate with each other and, thereafter, submit to the Court a manifestation stating: (a) the list of lawyer/s that will be attending for each side, **which number shall not exceed five (5)** due to prevailing health and safety protocols; (b) the name/s of the

presenting lawyer/s on each issue or group of issues; and (c) the time allotted for each lawyer, the total of which should not, however, exceed the time limit as stated in item II above. Each side is required to submit their manifestation **not later than twelve o'clock noon (12:00 NN) of Thursday, October 20, 2022.**

IV. The interpellations by the Members of the Court shall immediately follow after the presentation of each side. The time allotted for counsels shall be exclusive of the time devoted to the interpellations by the Members of the Court.

V. Counsels who intend to present audio-visual materials must submit a manifestation to this effect not later than **twelve o'clock noon (12:00 NN) of Thursday, October 20, 2022**, so that the Court can make the necessary arrangements.

VI. All manifestations to be submitted to the Court pursuant to parts III and V may be filed before the Court personally or via electronic mail at efile_jro.sc@judiciary.gov.ph on or before the deadline set therein.

VII. All other matters not covered by the Oral Arguments shall not, however, be considered as eliminated issues but shall be discussed and argued in the written memoranda to be required of the concerned parties. The Members of the Court further maintain their right to ask any question on any relevant matter, including procedural issues, necessary for the resolution of the issues in this case.

VIII. All attendees shall be required to present negative antigen test results within twenty-four (24) hours prior to the Oral Arguments. In this regard, antigen testing shall also be available at the centennial building, subject to payment of the required fees.

October 19, 2022.

By authority of the Court:


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Clerk of Court

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Senior Associate Justice
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HON. RAMON PAUL L. HERNANDO (x)
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HON. HENRI JEAN PAUL B. INTING (x)
HON. RODIL V. ZALAMEDA (x)
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HON. SAMUEL H. GAERLAN (x)
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HON. JHOSEF Y. LOPEZ (x)
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