

A Changing of Minds: Weighing the Substantive and Procedural Issues in *League of Cities v. COMELEC*

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*The moving finger writes; and, having writ,
Moves on: nor all thy piety nor wit
Shall lure it back to cancel half a line,
Nor all thy tears wash out a word of it.*

— Omar Khayyam¹

I. INTRODUCTION

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1. Omar Khayyám, *Rubaiyat* (cited in *Poe v. Macapagal-Arroyo*, 454 SCRA 142, 144-45 (2005)) (translated by Edward Fitzgerald).

Of late, *League of Cities v. COMELEC*,² after having been laid to rest in April of last year, has been gradually resurrected, no thanks to Chief Justice Renato C. Corona's pending impeachment trial.³ The trial has brought to the fore issues of alleged flip-flopping in the Supreme Court's decisions among others.⁴ Media is replete with articles and commentaries that have virtually already convicted the Highest Magistrate.⁵ The repercussions of the allegations against the Chief Justice spell disastrous effects not only to the bench but also to the bar, and indeed to the country's entire judicial and legal system.⁶ One, of course, can only cringe at the thought of seeing this charge finally sustained by the impeachment court. Then, the integrity of the Court goes into shambles.

To mimic a cliché, there is more to *League of Cities*, however, than meets the eye. For a layman whose only concern is to rest assured that courts are still the repositories of justice, this could mean a terrible lot. It is also at this point where students and practitioners of law become, in a real sense,

2. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 652 SCRA 798 (June 2011).

3. See Verified Complaint For Impeachment at 25, In the Matter of the Impeachment of Renato C. Corona as Chief Justice of the Supreme Court of the Philippines, No. 002-2011 (2011).

4. Articles III and V of the Impeachment Complaint against Chief Justice Renato C. Corona provide, respectively:

Respondent committed culpable violation of the Constitution and betrayed the public trust by failing to meet and observe the stringent standards under Article VIII, Section 7 (3) of the Constitution that provides that '[a] member of the Judiciary must be a person of proven competence, integrity, probity, and independence' in allowing the Supreme Court to act on mere letters filed by a counsel which caused the issuance of flip-flopping decisions in final and executory cases; and

...

Respondent betrayed the public trust through wanton arbitrariness and partiality in consistently disregarding the principle of *res judicata* in the cases involving the 16 newly-created cities, and the promotion of the Dinagat Island into a province.

See Verified Complaint for Impeachment, *supra* note 3, at 11 & 12.

5. See, e.g., Corona impeachment case transmitted to Senate, available at <http://www.sunstar.com.ph/manila/local-news/2011/12/13/corona-impeachment-case-transmitted-senate-195565> (last accessed Dec. 19, 2011).

6. See, e.g., News Analysis: Impeachment of Corona casts shadow on national economy, PHIL. STAR., Dec. 17, 2011, available at <http://www.philstar.com/nation/corona-on-trial/article.aspx?publicationSubCategoryId=200&articleId=759668> (last accessed Dec. 19, 2011).

indispensable to society — taking on as they do, the roles of teacher and legal adviser. It takes indeed an ample amount of time and intellectual resources to undergo the de-mystifying and eventual justifying of this intricate case.

Such is the aim of this Comment. On a superficial level, it shall validate or invalidate the accusations of decision tossing purportedly committed by the high tribunal. More pertinently, it shall lay down the Case's salient legal issues and the corresponding arguments proffered by the Court — testing their authority, soundness, and logical consistency. The Author shall cautiously walk through the series of decisions rendered in this case, judging each on its face value and on no other basis. Because of its high-profile nature, the case has generated certain alarming speculations, most known of which is the alleged influence of one of the parties' counsel to the Court.⁷

As to loftier ideals, this Comment aims to fulfill at least three concrete goals. The first goal is that law students be provided a competent source of legal research and sound legal argumentation — that they be equally inspired to further their rigorous study of the law. The second goal is that law practitioners find in this work a useful tool in their prolific scholarship and practice — an adequate reference of prevailing rules and doctrines to aid them in their functions as lawyers. Finally and loftiest of all, that this serve, in any extent possible, as a constructive check on the Judiciary's performance of its role as interpreter of the law and guardian of the Constitution.

II. NATURE OF THE CASE

The first *League of Cities Case*⁸ stemmed from the consolidated petitions for prohibition⁹ with prayer for the issuance of a writ of preliminary injunction or temporary restraining order brought by the League of Cities of the Philippines (LCP), Iloilo City, Calbayog City, and Jerry P. Treñas contesting the constitutionality of the subject Cityhood Laws¹⁰ and enjoining the

7. See MARITES DAÑGUILAN VITUG, *SHADOW OF DOUBT* 28 (2010). The counsel referred to is former Solicitor General Estelito Mendoza, who represents the Cities Baybay, Bogo (Cebu), et al. He is rumored to have caused the reversal of the Court's decision on the basis of correspondence he made to the same.

8. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 571 SCRA 263, 274 (2008).

9. See 1997 RULES ON CIVIL PROCEDURE, rule 65, § 2.

10. The 16 Cityhood Laws are as follows:

(a) Republic Act No. 9389, entitled "An Act converting the Municipality of Baybay in the Province of Leyte into a component city to be known as the City of Baybay." Lapsed into law on Mar. 15, 2007;

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- (b) Republic Act No. 9390, entitled “An Act converting the Municipality of Bogo, Cebu Province into a component city to be known as the City of Bogo.” Lapsed into law on Mar. 15, 2007;
 - (c) Republic Act No. 9391, entitled “An Act converting the Municipality of Catbalogan in the Province of Samar into a component city to be known as the City of Catbalogan.” Lapsed into law on Mar. 15, 2007;
 - (d) Republic Act No. 9392, entitled “An Act converting the Municipality of Tandag in the Province of Surigao del Sur into a component city to be known as the City of Tandag.” Lapsed into law on Mar. 15, 2007;
 - (e) Republic Act No. 9394, entitled “An Act converting the Municipality of Borongan in the Province of Eastern Samar into a component city to be known as the City of Borongan.” Lapsed into law on Mar. 16, 2007;
 - (f) Republic Act No. 9398, entitled “An Act converting the Municipality of Tayabas in the Province of Quezon into a component city to be known as the City of Tayabas.” Lapsed into law on Mar. 18, 2007;
 - (g) Republic Act No. 9393, entitled “An Act converting the Municipality of Lamitan in the Province of Basilan into a component city to be known as the City of Lamitan.” Lapsed into law on Mar. 15, 2007;
 - (h) Republic Act No. 9404, entitled “An Act converting the Municipality of Tabuk into a component city of the Province of Kalinga to be known as the City of Tabuk.” Lapsed into law on Mar. 23, 2007;
 - (i) Republic Act No. 9405, entitled “An Act converting the Municipality of Bayugan in the Province of Agusan del Sur into a component city to be known as the City of Bayugan.” Lapsed into law on Mar. 23, 2007;
 - (j) Republic Act No. 9407, entitled “An Act converting the Municipality of Batac in the Province of Ilocos Norte into a component city to be known as the City of Batac.” Lapsed into law on Mar. 24, 2007;
 - (k) Republic Act No. 9408, entitled “An Act converting the Municipality of Mati in the Province of Davao Oriental into a component city to be known as the City of Mati.” Lapsed into law on 24 March 2007;
 - (l) Republic Act No. 9409, entitled “An Act converting the Municipality of Guihulngan in the Province of Negros Oriental into a component city to be known as the City of Guihulngan.” Lapsed into law on Mar. 24, 2007;
 - (m) Republic Act No. 9434, entitled “An Act converting the Municipality of Cabadbaran into a component city of the Province of Agusan Del Norte to be known as the City of Cabadbaran.” Lapsed into law on Apr. 12, 2007;
 - (n) Republic Act No. 9436, entitled “An Act converting the Municipality of Carcar in the Province of Cebu into a component city to be known as the City of Carcar.” Lapsed into law on Apr. 15, 2007;

COMELEC from conducting plebiscites pursuant to said Laws.¹¹ The Cityhood Laws provided for the conversion of 16 municipalities into cities across the country purportedly in conformity with the requirements of income, population, and land area laid down under the Local Government Code (LGC) of 1991.¹²

Petitioner LCP is an association of cities in the Philippines and is organized and existing under Philippines laws.¹³ It was represented herein by Jerry P. Treñas, its National President.¹⁴ Respondents are COMELEC and the following municipalities: Baybay (Leyte), Bogu (Cebu), Catbalogan (Western Samar), Tandag (Surigao del Sur), Borongan (Eastern Samar), Tayabas (Quezon), Lamitan (Basilan), Tabuk (Kalinga), Bayugan (Agusan del Sur), Batac (Ilocos Norte), Mati (Davao Oriental), Guihulngan (Negros Oriental), Cabadbaran (Agusan del Norte), Carcar (Cebu), and El Salvador (Misamis Oriental).¹⁵ Member cities Oroquieta, Victorias, and Cauayan of Isabela also filed separate petitions-for-intervention in support of their mother association, which were admitted by the Court.¹⁶ A few months after the last petition for prohibition was filed, petitioners filed a supplemental petition impleading, as additional respondents, the Municipality of Naga, Cebu, and the Department of Budget and Management (DBM).

III. HISTORICAL BACKGROUND

The Supreme Court has handed down a total of three decisions on the case, including five resolutions. These shall be discussed chronologically; their nuisances, similarities, and differences with respect to the facts, issues, and ruling shall also be presented.

(o) Republic Act No. 9435, entitled “An Act converting the Municipality of El Salvador in the Province of Misamis Oriental into a component city to be known as the City of El Salvador.” Lapsed into law on Apr. 12, 2007; and

(p) Republic Act No. 9491, entitled “An Act converting the Municipality of Naga in the Province of Cebu into a component city to be known as the City of Naga.” Lapsed into law on July 15, 2007.

League of Cities of the Philippines, 571 SCRA at 274-75 (2008).

11. *Id.* at 272.

12. An Act Providing for a Local Government Code of 1991 [LOCAL GOVERNMENT CODE], Republic Act No. 7160, as Amended (1991).

13. *League of Cities of the Philippines*, 571 SCRA at 278 (2008).

14. *Id.* at 272.

15. *Id.* at 263.

16. *Id.* at 297 (J. Reyes, dissenting opinion).

A. First Decision: 18 November 2008

The 11th Congress, in session for June 1998 to June 2001, passed into law 33 bills changing 33 municipalities into cities.¹⁷ It failed to act on 24 other bills pushing for the conversion of 24 other municipalities into cities.¹⁸ On 30 June 2001, Republic Act (R.A.) No. 9009¹⁹ took effect under the auspices of the 12th Congress, amending the LGC of 1991 by “increasing the annual income requirement for conversion of a municipality into a city from ₱20 million to ₱100 million.”²⁰ The same Congress also adopted Joint Resolution No. 29²¹ exempting the 24 municipalities whose bills were not acted upon by the 11th Congress from the ₱100 million income requirement. The 12th Congress, however, adjourned without the Resolution being approved by the Senate.²² The 13th Congress re-adopted Joint Resolution No. 29 as Joint Resolution No. 1, which, likewise suffered from the same lack of approval from the Senate.²³

Prompted by Senator (Sen.) Aquilino Pimentel’s suggestion, the 16 municipalities individually filed their respective cityhood bills.²⁴ Each bill featured a provision exempting the municipality from the new income requirement set forth in R.A. No. 9009.²⁵

Approved by both the House of Representatives and the Senate in 2006 and 2007 respectively, the cityhood bills lapsed into law on different dates from March to July 2007 without then President Gloria Macapagal-Arroyo’s signature.²⁶

17. *Id.* at 273.

18. *Id.*

19. An Act Amending Section 450 of Republic Act No. 7160, otherwise Known as the Local Government Code of 1991, By Increasing the Average Annual Income Requirement for a Municipality or Cluster of Barangays to be Converted into a Component City [R.A. No. 9009], Republic Act No. 9009 (2001).

20. *League of Cities of the Philippines*, 571 SCRA at 273 (2008).

21. Joint Resolution to Exempt Certain Municipalities Embodied in Bills Filed in Congress before June 30, 2001 from the Coverage of Republic Act No. 9009, HJ. Res. No. 29, 11th Cong., 3d Reg. Sess. (2001).

22. *Id.* at 273.

23. *Id.* at 274. See also Romeo Raymond C. Santos, *The Internal Revenue Allotment: A Review of Legislative, Executive, and Judicial Decisions*, 36 IBP J. 20 (2011).

24. *League of Cities of the Philippines*, 571 SCRA at 274 (2008).

25. *Id.*

26. *Id.* at 274-75.

Petitioners sought to have the 16 Cityhood Laws declared unconstitutional on the following grounds:²⁷ (1) non-conformity with Section 10, Article X of the 1987 Constitution;²⁸ (2) violation of the equal protection clause;²⁹ and (3) reduction of the Internal Revenue Allotment (IRA) share of existing cities as there will be more cities sharing the same amount of internal revenue allotted to cities under the LGC.³⁰

Penned by Justice Carpio, the 18 November 2008 Decision (First Decision) held that the Cityhood Laws violated Sections 63¹ and 10,³² Article X of the Constitution.³³ Seven arguments were proffered to support this conviction, namely:

27. *Id.* at 277-78.

28. PHIL. CONST. art. X, § 10. This Article provides that “[n]o 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.” PHIL. CONST. art. X, § 10.

29. PHIL. CONST. art. III, § 1. This Article provides that “[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.” PHIL. CONST. art. III, § 1.

30. LOCAL GOVERNMENT CODE, § 285. The Section provides:

Sec. 285. Allocation to Local Government Units. — The share of local government units in the internal revenue allotment shall be allocated in the following manner:

- (a) Provinces — Twenty-three percent (23%);
- (b) Cities — Twenty-three percent (23%);
- (c) Municipalities — Thirty-four percent (34%); and
- (d) Barangays — Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

- (a) Population — Fifty percent (50%);
- (b) Land Area — Twenty-five percent (25%); and
- (c) Equal sharing — Twenty-five percent (25%)

Id.

31. PHIL. CONST. art. X, § 6. This Article provides that “[l]ocal government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.” PHIL. CONST. art. X, § 6.

32. PHIL. CONST. art. X, § 10.

33. *League of Cities of the Philippines*, 571 SCRA at 277 (2008).

- (1) *First*, applying the ₱100 million income requirement in R.A. No. 9009 to the present case is a prospective, not a retroactive application, because R.A. No. 9009 took effect in 2001 while the cityhood bills became law more than five years later.³⁴
- (1) *Second*, the Constitution requires that Congress shall prescribe all the criteria for the creation of a city in the Local Government Code and not in any other law, including the Cityhood Laws.³⁵
- (2) *Third*, the Cityhood Laws violate Section 6, Article X of the Constitution because they prevent a fair and just distribution of the national taxes to local government units.³⁶
- (3) *Fourth*, the criteria prescribed in Section 450 of the Local Government Code, as amended by R.A. No. 9009, for converting a municipality into a city are clear, plain and unambiguous, needing no resort to any statutory construction.³⁷
- (4) *Fifth*, the intent of members of the 11th Congress to exempt certain municipalities from the coverage of R.A. No. 9009 remained an intent and was never written into Section 450 of the Local Government Code.³⁸
- (5) *Sixth*, the deliberations of the 11th or 12th Congress on unapproved bills or resolutions are not extrinsic aids in interpreting a law passed in the 13th Congress.³⁹
- (6) *Seventh*, even if the exemption in the Cityhood Laws were written in Section 450 of the Local Government Code, the exemption would still be unconstitutional for violation of the equal protection clause.⁴⁰

Justices Quisumbing, Austria-Martinez, Carpio-Morales, Velasco, Jr., and Brion concurred with this Decision, while Justices Reyes, Corona,

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* at 278.

39. *League of Cities of the Philippines*, 571 SCRA at 278 (2008).

40. *Id.*

Azcuna, Tinga, and Chico-Nazario dissented.⁴¹ Justices Puno and Nachura were took no part therein; Justice Ynares-Santiago was on leave.⁴²

B. First Resolution: 31 March 2009

Respondent local government units (LGUs) moved for reconsideration of the 18 November 2008 Decision, essentially contesting the validity of the factual premises upon which the decision was based.⁴³ They argued that the premises were “not contained in the pleadings of the parties, let alone established,” pertaining to the Court’s assumption that existing cities during the enactment of the cityhood bills met the ₱100 million income requirement.⁴⁴

The Court, on a 7-5 vote, denied the motion for reconsideration through a resolution.⁴⁵

C. Second Resolution: 28 April 2009

Unfazed, the LGUs filed a second motion for reconsideration, praying that the “new and meritorious arguments [] raised by [R]espondent’s Motion for Reconsideration dated 9 December 2008” be considered by the Court.⁴⁶ By a vote of 6-6, the Court rejected the subsequent motion for lack of merit and held that the majority vote required to overturn the 31 March 2009 Resolution was not obtained.⁴⁷ Furthermore, it ruled that the second motion for reconsideration is a prohibited pleading.⁴⁸

D. Third Resolution: 2 June 2009

Still on 14 May 2009, respondent LGUs submitted a “Motion to Amend the Resolution of April 28, 2009 by Declaring Instead that Respondents’ ‘Motion for Reconsideration of the Resolution of March 31, 2009’ and ‘Motion for Leave to File and to Admit Attached Second Motion for Reconsideration of the Decision Dated November 18, 2008’ Remain Unresolved and to Conduct Further Proceedings Thereon.”⁴⁹

41. *Id.* at 291.

42. *Id.*

43. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 608 SCRA 636, 647-48 (2009).

44. *Id.* at 648.

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. *League of Cities of the Philippines*, 608 SCRA at 648-49 (2009).

Through another Resolution dated 2 June 2009, the Court expunged the 14 May 2009 motion above-mentioned in view of the entry of judgment on 21 May 2009.⁵⁰

E. Second Decision: 21 December 2009

On the premise that the first Resolution dated 31 March 2009 denying the motion for reconsideration on the ground that “the basic issues have already been passed upon” was issued by a divided court, and that the third Resolution dated 2 June 2009 likewise produced a tie vote, the Court decided to reconsider its initial decision on the case.⁵¹ In sum, the Court granted reconsideration ratiocinating that a tie-vote is inadequate to declare a law unconstitutional pursuant to Section 4 (2), Article VIII of the Constitution, which provides that “[a]ll cases involving the constitutionality of a ... law, which shall be heard by the Supreme Court *en banc* ... shall be decided with the concurrence of a *majority* of the Members who actually took part in the deliberations on the issues in the case and voted thereon.”⁵²

Speaking for the Court, Justice Velasco justified the reversal saying that while the 31 March 2009 Resolution ruled upon the issues raised in the first motion for reconsideration, “at the end of the day, the single issue that matters and the vote that really counts really turn on the constitutionality of the cityhood laws.”⁵³ He dispensed with a reminder to the effect that the “inconclusive” 6-6 vote in the 28 April 2009 Resolution remains to be the last vote on the issue of the constitutionality of the cityhood laws.⁵⁴

Notwithstanding the rule on tie-vote situations found in Rule 56, Section 7 of the Rules of Court⁵⁵ and A.M. No. 99-1-09-SC,⁵⁶ the Court

50. *Id.* at 649.

51. *Id.* at 649-50.

52. PHIL. CONST. art. VIII, § 4 (2) (emphasis supplied).

53. *Id.* at 650.

54. *Id.*

55. 1997 RULES OF CIVIL PROCEDURE, rule 56, § 7. The Section provides:

Sec. 7. Procedure if Opinion is Equally Divided. — Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no reason is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied.

Id.

56. Supreme Court, In the Matter of Clarifying the Rule in Resolving Motions for Reconsideration, SC Administrative Matter No. 99-1-09 [SC A.M. No. 99-1-09] (Jan. 26, 1999). A motion for reconsideration of a decision or resolution by

held that *League of Cities* falls under the cases mentioned in Section 4 (2), Article VIII of the Constitution,⁵⁷ and hence shall be decided by a concurrence of a majority of the Members who participated in the deliberations and correspondingly voted.⁵⁸

Addressing the issue that there has already been an entry of judgment of the 18 November 2008 Decision on 21 May 2009, the Court echoed Justice Leonardo-De Castro's reflection that the said decision is not yet final since the entry "was effected before the Court could act on the [] motion which was filed within the 15-day period counted from receipt of the April 28, 2009 Resolution."⁵⁹ Else said, the Court declared the entry of judgment prematurely made, its issuance precipitate.⁶⁰

The Court summarized the main arguments upholding the constitutionality of the Cityhood Laws in this wise:

- (1) Congress did not intend the increased income requirement in R.A. No. 9009 to apply to the cityhood bills which became the cityhood laws in question. In other words, Congress intended the subject cityhood laws to be exempted from the income requirement of P100 million prescribed by R.A. No. 9009;
- (2) The cityhood laws merely carry out the intent of R.A. No. 9009, now Section 450 of the LGC of 1991, to exempt respondent LGUs from the P100 million income requirement;
- (3) The deliberations of the 11th or 12th Congress on unapproved bills or resolutions are extrinsic aids in interpreting a law passed in the 13th Congress. It is really immaterial if Congress is not a continuing body. The hearings and deliberations during the 11th and 12th Congress may still be used as extrinsic reference inasmuch as the same cityhood bills

the Court *en banc* or of a Division "may be granted upon a vote of a majority of the *en banc* or of a Division, as the case may be, who actually took part in the deliberation of the motion." If the result of the vote is a tie, "the motion for reconsideration is deemed denied." *Id.*

57. PHIL. CONST. art. VIII, § 4 (2).

58. *League of Cities of the Philippines*, 608 SCRA at 652 (2009).

59. *Id.* at 649. The Court cited Justice Leonardo-De Castro's Reflections, where it was noted that he took:

common cause with Justice Bersamin to grant the motion for reconsideration of the April 28, 2009 Resolution and to recall the entry of judgment, stated the observation, and with reason, that the entry was effected 'before the Court could act on the aforesaid motion which was filed within the 15-day period counted from receipt of the April 28, 2009 Resolution.'

Id.

60. *Id.* at 652.

which were filed before the passage of R.A. No. 9009 were being considered during the 13th Congress. Courts may fall back on the history of a law, as here, as extrinsic aid of statutory construction if the literal application of the law results in absurdity or injustice[; and]

- (4) The exemption accorded the 16 municipalities is based on the fact that each had pending cityhood bills long before the enactment of R.A. No. 9009 that substantially distinguish them from other municipalities aiming for cityhood. On top of this, each of the 16 also met the ₱20 million income level exacted under the original Section 450 of the 1991 LGC.⁶¹

Justices Corona, Leonardo-De Castro, Bersamin, Abad, and Villarama, Jr. concurred with the decision.⁶² Justice Carpio maintained his dissent, joined by Justices Carpio-Morales, Brion, and Peralta. Justices Puno, Nachura, and Del Castillo took no part.⁶³

F. Fourth Resolution: 24 August 2010

Acting upon the *Ad Cautelam*⁶⁴ Motions for Reconsideration and Motion to Annul the 21 December 2009 Decision of petitioner LCP, the Court reverted to its first decision declaring the Cityhood Laws unconstitutional.⁶⁵ Preliminarily, it stressed that the 18 November 2008 Decision had already become final and executory and was duly recorded in the Book of Entries of Judgments on 21 May 2009.⁶⁶

In addition to the grounds virtually reproduced from the 18 November 2008 Decision, *ponente* Justice Carpio reiterated that, following Rule 56, Section 7 of the Rules of Court and A.M. No. 99-1-09-SC, the November Decision stands affirmed since voting over the second motion for reconsideration resulted in a 6-6 tie by the Court *en banc*.⁶⁷ The Court distinguished between a tie-vote on the second motion for reconsideration and a tie-vote on the main decision, the former merely signifying a lack of majority to overturn the November 2008 Decision and March 2009 Resolution.⁶⁸ Moreover, the tie-vote “did not mean that the present cases were left undecided because there remain the Decision of 18 November

61. *Id.* at 676-77.

62. *Id.* at 678.

63. *League of Cities of the Philippines*, 608 SCRA at 677-78 (2009).

64. A Latin term meaning “with caution.”

65. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 628 SCRA 819, 830 (2010).

66. *Id.*

67. *Id.* at 836.

68. *Id.* at 837.

2008 and the Resolution of 31 March 2009 where a majority of the Court *en banc* concurred in declaring the unconstitutionality of the sixteen Cityhood Laws.”⁶⁹

Justice Sereno, a newcomer in the Supreme Court, concurred in the resolution along with Justices Carpio-Morales, Brion, Peralta, Villarama, Jr., and Mendoza.⁷⁰ Justices Corona, Leonardo-De Castro, Bersamin, Abad, and Perez joined in the dissent of Justice Velasco, Jr.⁷¹

G. Fifth Resolution: 15 February 2011

A few months later in February 2011, the Supreme Court entertained another review of the case with Justice Bersamin justifying such move as follows:

Considering these circumstances where the Court *En Banc* has twice changed its position on the constitutionality of the 16 Cityhood Laws, and especially taking note of the novelty of the issues involved in these cases, the Motion for Reconsideration of the ‘Resolution’ dated August 24, 2010 deserves favorable action by this Court.⁷²

The fifth resolution swung the pendulum yet again, upholding the constitutionality of the 16 Cityhood Laws. In sum, the Court ruled that the said laws do not violate Sections 6⁷³ and 10,⁷⁴ Article X of the Constitution. It attributed the exemption of respondent municipalities from the increased income requirement under R.A. No. 9009 to the wisdom of Congress.⁷⁵ It went on to discuss the distinctive traits of the respondent municipalities, essentially showing their viability and capability as “centers of trade and commerce, points of convergence of transportation, rich havens of agricultural, mineral, and other natural resources, and flourishing tourism spots.”⁷⁶

Further, the Court rejected petitioners’ claim that their IRA would be reduced in view of an enlarged group of recipients who would be sharing the same allotment.⁷⁷ By contrast, it stated that the projected reduction was

69. *Id.*

70. *Id.* at 840.

71. *League of Cities of the Philippines*, 628 SCRA at 840 (2010).

72. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 643 SCRA 150, 161 (Feb. 2011).

73. *Id.* at 173.

74. *Id.* at 161.

75. *Id.* at 164-65.

76. *Id.* at 165.

77. *Id.* at 178-79.

false and that, in fact, their respective shares were augmented and not reduced after the implementation of the laws.⁷⁸

While, on the one hand, petitioners feel aggrieved because of the projects and expenditures they would have to forego, they, on the other hand, have neglected the fact that respondents have their own obligations to meet, have hired employees to pay, and have begun and finished projects as component cities.⁷⁹ Figuratively stated: “[i]t is like the elder siblings, wanting to kill the newly-borns so that their inheritance would not be diminished.”⁸⁰

Finally, the Court reasoned that technical rules of procedure should not prevail over transcendental interests of justice and equality.⁸¹ In his Concurring Opinion, Justice Abad rationalized the Court’s repeated reversal of its decisions, else described by commentators as “flip-flopping,” saying that:

[i]ts shifting views are understandable because of the nearly even soundness of the opposing advocacies of the two groups of cities over the validity of the sixteen cityhood laws. It also does not help that the membership of the Court has been altered by retirements and replacements at various stages from when it first decided to annul the laws, to when it reconsidered and upheld their validity, and to when it reverted to the original position and declared the laws involved unconstitutional. This to me is a healthy sign of democracy at work, the members being blind to the need to conform.⁸²

Justices Corona, Velasco, Jr., Perez, and Mendoza concurred in the resolution.⁸³ Justice Carpio reinstated his dissent and was joined by Justices Carpio-Morales, Brion, Sereno, Peralta, and Villarama.⁸⁴ Voting was pegged at 6-6 with Justices Nachura and Del Castillo taking no part therein.⁸⁵

H. Sixth Resolution: 12 April 2011

Anchored upon the ground that the Court no longer has the power to change its judgment declaring the Cityhood Laws unconstitutional as such had long become final and executory, petitioners re-filed an *Ad Cautelam* Motion for Reconsideration.⁸⁶ In addition to the other grounds previously

78. *League of Cities of the Philippines*, 643 SCRA at 179 (Feb. 2011).

79. *Id.* at 183.

80. *Id.*

81. *Id.* at 184.

82. *Id.* at 186 (J. Abad, concurring opinion).

83. *Id.* at 185.

84. *League of Cities of the Philippines*, 643 SCRA at 185 (Feb. 2011).

85. *Id.* at 185-86.

86. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 648 SCRA 344, 358 (Apr. 2011).

raised against the laws' validity, they charged the Court of having offended the principles of *res judicata* and the doctrine of immutability of final judgments.⁸⁷ In particular, they claimed that the controversy terminated with the denial of the second motion for reconsideration as a prohibited pleading via the 28 April 2008 Resolution with respect to the 18 November 2008 Decision (first decision) and in view of the entry of judgment on 21 May 2009.⁸⁸

The Court differed with them on the rationale that by virtue of the Court's action to vote on the second motion for reconsideration, it had, in effect, allowed its filing.⁸⁹ This made the second motion for reconsideration no longer a prohibited pleading, which, however, failed to overturn the 18 November 2008 Decision and 31 March 2009 Resolution (first resolution) because it fell short of the majority vote requirement.⁹⁰ Later, in its 21 December 2009 Decision (second decision), the Court mustered the majority votes required to grant the second motion for reconsideration, thereby upholding the constitutionality of the Cityhood Laws.

With respect to *res judicata* and immutability of final judgments, the Court averred that "the succession of [] events ... indicates that the controversy about the 16 Cityhood Laws has not yet been resolved with finality."⁹¹ For this reason, the principle of immutability of judgments did not yet set in.⁹² It continued that, likewise, adherence to the doctrine of *res judicata* was not yet called for, "especially considering that the precedential ruling for this case needed to be revisited and set with certainty and finality."⁹³

In the 37-page decision, Justice Bersamin recalled all the arguments of the Court in favor of the constitutionality of the Cityhood Laws. First, it was the clear intention of Congress to exempt the LGUs covered by the Cityhood Laws from the coverage of R.A. No. 9009 increasing the income requirement of cities to ₱100 million.⁹⁴ Second, the new income standard is arbitrary and is extremely difficult to comply with in view of the large number of existing cities still unable to satisfy the same five years after the effectivity of R.A. No. 9009.⁹⁵ Thus, "[w]hen the sponsor of the law chose

87. *Id.* at 360-61.

88. *Id.* at 361.

89. *Id.* at 355-66.

90. *Id.*

91. *Id.* at 367.

92. *League of Cities of the Philippines*, 648 SCRA at 367 (Apr. 2011)

93. *Id.* at 368.

94. *Id.* at 368-69.

95. *Id.* at 372.

the specific figure of ₱100 million, no research or empirical data buttressed the figure. Nor was there proof that the proposal took into account the after-effects that were likely to arise.”⁹⁶ Lastly, the Constitution should not be construed as yielding to every amendment to the LGC despite adverse effects which run afoul to the Local Code’s thrusts to promote autonomy, decentralization, countryside development, and national growth.⁹⁷

Voting was again tied at 6-6, with Justices Nachura and Del Castillo still taking no part therein.⁹⁸

The dispositive portion of the Resolution pertinently reads: “WHEREFORE, the [*Ad Cautelam*] Motion for Reconsideration (of the Decision dated 15 February 2011) is denied with finality.”⁹⁹

The issues culled from the cases can be narrowed down into three:

- (1) Whether the 16 Cityhood Laws violate Sections 6 and 10 of Article X of the Constitution;
- (2) Whether the said Laws violate the equal protection clause found in Section 1, Article III of the Constitution; and
- (3) Whether the reversals of the Court’s decisions violate the principle of immutability of final judgment and the doctrine of *res judicata*.

IV. DISCUSSION & ANALYSIS

A. Substantive Grounds

1. *Legislative Intent and “Plain Import” of the Law*: Whether the Cityhood Laws violate Section 10, Article X of the Constitution

Section 10, Article X of the Constitution states: “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.”¹⁰⁰

96. *Id.* at 376.

97. *Id.* at 376-77.

98. *League of Cities of the Philippines*, 648 SCRA at 379-80 (Apr. 2011).

99. *Id.* at 379.

100. PHIL. CONST. art. X, § 10.

The present local government code is R.A. No. 7160 or the Local Government Code of 1991.¹⁰¹ The criteria established therein with respect to the creation of a city are found in its Section 450, which reads:

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 (₱20,000,000.00) 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.¹⁰²

Meanwhile, R.A. No. 9009 amended Section 450 of the LGC of 1991 insofar as the average annual income requirement is concerned.¹⁰³ As already mentioned, it increased the income amount from ₱20 million to ₱100 million, which must have been generated by the municipality for the last two consecutive years based on constant prices in 2000.¹⁰⁴

Respondent municipalities claim that they were properly exempted from the increased income requirement under R.A. No. 9009 by virtue of a

101. An Act Providing for the Local Government Code of 1991, [LOCAL GOVERNMENT CODE OF 1991], R.A. No. 7160 (1991).

102. *Id.* tit. III, § 450.

103. *See* R.A. No. 9009, § 1.

104. *Id.*

common exemption provision found in the laws mandating their conversion into cities.¹⁰⁵

Ultimately, the question that arises is whether the exemption provided in the Cityhood Laws properly amended Section 450 of the LGC of 1991 (as amended by R.A. No. 9009) to warrant compliance with Section 10, Article X of the Constitution. In other words, the issue is whether respondent municipalities have complied with the Constitution in its requirement that the creation of a city be in accordance with the Local Government Code.

In this regard, the Supreme Court subscribed to two distinct views: one upholds the exempt status of the respondent municipalities and another holds that they are not excused from such stricter requirement. The bone of contention between the two lies on the intent of Congress in enacting R.A. No. 9009 and the subject Cityhood Laws.

In its final 12 April 2011 Resolution (and consistent with its previous decisions upholding the constitutionality of the Cityhood Laws), the Court ruled that “Congress clearly intended that the local government units covered by the Cityhood Laws be exempted from the coverage of R.A. No. 9009.”¹⁰⁶ The Court noted the pertinent deliberations during the 11th Congress on Senate Bill (S.B.) No. 2157 which later on became R.A. No. 9009, particularly then Senate President Franklin Drilon’s interpellation of Senator Aquilino Pimentel.¹⁰⁷ To Drilon’s query whether S.B. No. 2157 will apply to the then pending conversion bills, Pimentel indirectly answered in the negative. The floor exchange between the two lawmakers ensued as follows:

THE PRESIDENT. The Chair would like to ask for some clarificatory point.

THE PRESIDENT. This is just on the point of the pending bills in the Senate which propose the conversion of a number of municipalities into cities and which qualify under the present standard.

We would like to know the view of the sponsor: Assuming that this bill becomes a law, will the Chamber apply the standard as proposed in this bill to those bills which are pending for consideration?

SENATOR PIMENTEL, Mr. President, *it might not be fair to make this bill ... [if] approved, retroact to the bills that are pending in the Senate for conversion from municipalities to cities.*

105. *League of Cities of the Philippines*, 571 SCRA at 315 (2008). The exemption clause merely states: “Exemption from Republic Act No. 9009 ... The City of ... shall be exempted from the income requirement prescribed under Republic Act No. 9009.” *Id.*

106. *League of Cities of the Philippines*, 648 SCRA at 368 (Apr. 2011)

107. *Id.* at 368. See also *League of Cities of the Philippines*, 608 SCRA at 665-66 (2009).

THE PRESIDENT. Will there be an appropriate language crafted to reflect that view? Or does it not become a policy of the Chamber, assuming that this bill becomes a law ... that it will apply to those bills which are already approved by the House under the old version of the [LGC] and are now pending in the Senate? The Chair does not know if we can craft a language which will limit the application to those which are not yet in the Senate. Or is that a policy that the Chamber will adopt?

SENATOR PIMENTEL. *Mr. President, personally, I do not think it is necessary to put that provision because what we are saying here will form part of the interpretation of this bill. Besides, if there is no retroactivity clause, I do not think that the bill would have any retroactive effect.*

THE PRESIDENT. So the understanding is that those bills which are already pending in the Chamber will not be affected.

SENATOR PIMENTEL. These will not be affected, Mr. President.¹⁰⁸

The Court, through Justice Bersamin, deduced two “complementary legislative intentions” from the above dialogue: first, that the pending cityhood bills would be “outside the pale” of the ₱100 million income requirement proposed by S.B. No. 2159; and second, that “R.A. No. 9009 would not have any retroactive effect” with respect to the cityhood bills.¹⁰⁹

It further explained that Congress’ intent to exempt respondent LGUs from R.A. No. 9009 during the 11th Congress was carried on to the 12th Congress, during which the said law took effect, and until the 13th Congress.¹¹⁰ This was manifested by the adoption and re-adoption of resolutions in the sessions moving to exempt the municipalities with pending conversion bills from the coverage of R.A. 9009.¹¹¹ The Court concluded that the acts of Congress manifest that “the exemption clauses ultimately incorporated in the Cityhood Laws are but the *express articulation of the clear legislative intent to exempt the respondents*, without exemption, from the coverage of R.A. No. 9009.”¹¹²

The Supreme Court, in its decisions holding that the respondent LGUs are not exempt from R.A. No. 9009, ruled that R.A. No. 9009 made no mention of the exemption supposedly to be enjoyed by the municipalities with pending conversion bills. Thus, “[i]n enacting R.A. No. 9009,

108. *League of Cities of the Philippines*, 608 SCRA at 665-66 (2009) (citing *League of Cities of the Philippines*, 571 SCRA at 321-22 (2008) (J. Reyes, dissenting opinion)) (emphasis supplied). See also S. JOURNAL Sess. No. 59, at 1240, 13th Cong., 3d Reg. Sess. (Jan. 29, 2007).

109. *League of Cities of the Philippines*, 608 SCRA at 666 (2009).

110. *League of Cities of the Philippines*, 648 SCRA at 368-69 (Apr. 2011).

111. *Id.* at 369.

112. *Id.* at 371-72.

Congress did not grant any exemption to respondent municipalities, even though their cityhood bills were pending in Congress when Congress passed R.A. No. 9009.”¹¹³ While it was conceded that members of Congress deliberated on exempting certain municipalities from R.A. No. 9009, the Court emphasized that Congress “did not write this intended exemption into law.”¹¹⁴ Thus, it “could have easily included such exemption in R.A. No. 9009 but [it] did not.”¹¹⁵ The Court described such omission as fatal to respondents’ cause since the exemption must be stated in R.A. No. 9009 as an amendment to Section 450 of the Local Government Code.¹¹⁶ Pursuant to the Constitution, said the Court, the criteria for the conversion of a municipality into a city, which includes exemptions to such criteria should “all be written in the Local Government Code.”¹¹⁷

The Author is inclined to agree with the first view of the Court.

There is no dispute that the creation of local government units pertains fundamentally to the Legislature.¹¹⁸ As early as *Pelaez v. Auditor General*,¹¹⁹ decided under the 1973 Constitution, the Court already said that “the authority to create municipal corporations is essentially legislative in nature.”¹²⁰ This was echoed in *Torralba v. Municipality of Sibagat*,¹²¹ where the Court ruled, “[i]n the absence of any constitutional limitations[,] a legislative body may create any corporation it deems essential for the more efficient administration of government.”¹²² Likewise, in a case tackling the validity of Santiago City’s (Isabela) downgrading from an independent component city to a component city, Section 10, Article X of the Constitution was expounded, thus: “The power to create, divide, merge, abolish or substantially alter boundaries of local government units belongs to Congress. This power is part of the larger power to enact laws which the Constitution vested in Congress.”¹²³ Additionally, *Sema v. COMELEC*¹²⁴ held that such power can be exercised by Congress even in the absence of a

113. *League of Cities of the Philippines*, 571 SCRA at 282 (2008).

114. *Id.* at 284.

115. *Id.*

116. *Id.* at 284-85.

117. *Id.* at 285.

118. *See generally* PHIL. CONST. art. X.

119. *Pelaez v. Auditor General*, 15 SCRA 569 (1965).

120. *Id.* at 576.

121. *Torralba v. Municipality of Sibagat*, 147 SCRA 390 (1987).

122. *Id.* at 394.

123. *Miranda v. Aguirre*, 314 SCRA 603, 609 (1999).

124. *Sema v. Commission on Elections*, 558 SCRA 700 (2008).

constitutional grant.¹²⁵ Resorting to parallelisms, the Court held in *Magtajas v. Pryce Properties*,¹²⁶ dealing with the power dynamics between the national government and an LGU that:

[m]unicipal corporations owe their origin to, and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. As it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might, by a single act, and if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the State, and the corporation could not prevent it. We know of no limitation on the right so far as to the corporation themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature.

[W]e here confirm that Congress retains control of the local government units although in significantly reduced degree now than under our previous Constitutions. The power to create still includes the power to destroy. The power to grant still includes the power to withhold or recall ... By and large, however, the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.¹²⁷

Applied to the *League of Cities*, this basic tenet validly justifies the view that Congress properly exempted respondent municipalities from the coverage of R.A. No. 9009. The deliberations anent R.A. No. 9009 unmistakably betray the legislators' desire to so exclude respondents. This desire found its clear manifestation in the exemption clauses deliberately inserted in each of the Cityhood Laws later enacted. All these incidents point to the discretion exercised by the Legislature with respect to R.A. No. 9009 vis-à-vis the 16 Cityhood Laws. It enacted both laws and obviously saw it fit to make them mutually exclusive of each other. As succinctly put in the Court's final Resolution: "this Court should do no less by stamping its imprimatur to the clear and unmistakable legislative intent and by duly recognizing the certain collective wisdom of Congress."¹²⁸

That all criteria for the creation of LGUs must be contained in the local government code, in the instant case Local Government Code of 1991, as proffered by the dissenting justices, fails to convince. The Court, in *Torralba*, has had the occasion to discuss the relevance of a local government

125. *Id.*

126. *Magtajas v. Pryce Properties Corp., Inc.*, 234 SCRA 255 (1994). In particular, this case involves certain ordinances issued by Cagayan De Oro City prohibiting the Philippine Games and Amusement Corporation and Pryce Properties from operating a casino in the city. *Id.*

127. *Id.* at 272-73 (1994) (citing *Clinton v. Cedar Rapids Railroad Co.*, 24 Iowa 455 (U.S.)).

128. *League of Cities of the Philippines*, 648 SCRA at 379 (Apr. 2011).

code to Section 3, Article XI of the 1973 Constitution, which is the forerunner of Section 10, Article X of the present Constitution:

The absence of the Local Government Code at the time of its enactment did not curtail nor was it intended to cripple legislative competence to create municipal corporations. Section 3, Article XI of the 1973 Constitution does not proscribe nor prohibit the modification of territorial and political subdivisions before the enactment of the Local Government Code. It contains no requirement that the Local Government Code is a condition sine qua non for the creation of a municipality, in much the same way that the creation of a new municipality does not preclude the enactment of a Local Government Code.

*What the Constitutional provision means is that once said Code is enacted, the creation, modification or dissolution of local government units should conform with the criteria thus laid down. In the interregnum before the enactment of such Code, the legislative power remains plenary except that the creation of the new local government unit should be approved by the people concerned in a plebiscite called for the purpose.*¹²⁹

Following this line of argument by the Court, it seems that since the Local Government Code of 1991 has already been enacted,¹³⁰ then the creation of LGUs must necessarily comply with the criteria provided therein and in nowhere else. Father (Fr.) Joaquin G. Bernas, S.J. notes, however, that the said pronouncement was based on the 1973 Constitution, and that “the freedom which Congress has in departing from the Local Government Code is wider now than under the 1973 Constitution because the Local Government Code now is just like any other statute.”¹³¹

Therefore, as legislative power is the authority to make laws and likewise to alter and repeal them,¹³² the Local Government Code of 1991, considered as any other law created by the Legislature, can properly be the subject of amendment and even repeal. As the Court correctly distinguished in its 21 December 2009 Resolution in *League of Cities*:

[T]he ‘code’ similarly referred to in the 1973 and 1987 Constitutions is clearly but a law Congress enacted. This is consistent with the aforementioned plenary power of Congress to create political units. Necessarily, since Congress wields the vast power of creating political subdivisions, surely it can exercise the lesser authority of requiring a set of criteria, standards, or ascertainable indicators of viability for their creation. *Thus, the only conceivable reason why the Constitution employs the clause ‘in*

129. *Torralba*, 147 SCRA at 394 (emphasis supplied).

130. The Local Government Code of 1991 took effect on Jan. 1, 1992.

131. JOAQUIN G. BERNAS, S.J., *THE 1987 PHILIPPINE CONSTITUTION: A COMMENTARY* 431 (2009 ed.).

132. *Id.* at 654.

*accordance with the criteria established in the local government code' is to lay stress that it is Congress alone, and no other, which can impose the criteria.*¹³³

This stance — focusing on the exclusive power of the Legislature to create laws and change them rather than on the Local Government Code of 1991 as an exclusive source of criteria in LGU creation — is more consistent with the policy of *local autonomy* enshrined in the Code. Section 2 of the Code espouses that “the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals.”¹³⁴ This policy traces its roots to the Constitution which provides in Section 2, Article X that “[t]he territorial and political subdivisions shall enjoy local autonomy.”¹³⁵ Local autonomy goes beyond mere decentralization.¹³⁶ Fr. Bernas, in *Limbona v. Mangelin*,¹³⁷ explains the two senses by which decentralization may be understood: decentralization of administration and decentralization of power, thus:

[t]here is decentralization of administration when the central government delegates administrative powers to political subdivisions in order to broaden the base of government power and in the process to make local governments ‘more responsive and accountable,’ ‘and ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress.’ At the same time, it relieves the central government of the burden of managing local affairs and enables it to concentrate on national concerns.

Decentralization of power, on the other hand, involves an abdication of political power in the favor of local governments units declare to be

133. *League of Cities of the Philippines*, 608 SCRA at 659 (2009) (emphasis supplied).

134. LOCAL GOVERNMENT CODE, § 2 (a). This Section provides:

Sec. 2. *Declaration of Policy.* — It is hereby declared the policy of the Sate that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the National Government to the local government units.

Id.

135. PHIL. CONST. art. X, § 2.

136. BERNAS, *supra* note 131, at 1077.

137. *Limbona v. Mangelin*, 170 SCRA 786 (1989).

autonomous. In that case, the autonomous government is free to chart its own destiny and shape its future with minimum intervention from central authorities. According to a constitutional author, decentralization of power amounts to 'self-immolation,' since in that event, the autonomous government becomes accountable not to the central authorities but to its constituency.¹³⁸

Furthermore, the Author submits that the policy of local autonomy weighs far more heavily in the scheme of Philippine Constitutional Law than the consideration of maintaining a uniform and non-discriminatory manner of creating LGUs claimed by the dissenting justices. The latter must yield to the higher ideals protected by the former. First, it is more consistent with the breadth and depth of legislative power, i.e., its plenary nature. Second, it is more in keeping with the thrust of the 1987 Constitution placing premium importance on local autonomy and decentralization. Lastly, pursuant to the hornbook doctrine of separation of powers, it becomes incumbent on the Judiciary to pay adequate deference to the wisdom of Congress in enacting such laws, irrespective of their subject matter (constitutive, exempting, etc.) and the Court's own preferences.

It also bears noting that a resort to Congressional deliberations was warranted in this case in the legitimate pursuit of determining legislative intent. A principle in statutory construction provides that "the Court[, in interpreting laws,] should start with the assumption that the legislature intended to enact an effective law, and the legislature is not presumed to have done a vain thing in the enactment of a statute." Further, "[a]n interpretation should, if possible, be avoided under which a statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative or nugatory. More importantly, a statute should be read or constructed as being consistent with the Constitution, in the Court's words, "in harmony" with the fundamental law.

Lastly, the Court's reliance on the entrenched maxim of *ratio legis est anima*, or "the spirit rather than the letter of the law," finds support in countless decisions of the tribunal. Mr. Justice Isagani Cruz eloquently puts:

As judges, we are not automatons. We do not and must not unfeelingly apply the law as it is worded, yielding like robots to the literal command without regard to its cause and consequence. 'Courts are apt to err by sticking too closely to the words of a law,' so we are warned, by Justice Holmes again, 'where these words import a policy that goes beyond them.' *While we admittedly may not legislate, we nevertheless have the power to interpret the law in such a way as to reflect the will of the legislature. While we may not read into the law a purpose that is not there, we nevertheless have the right to read out of it the reason for its enactment.* In doing so, we defer not to 'the letter that

138. *Id.* at 794-95.

killeth' but to 'the spirit that vivifieth,' to give effect to the lawmaker's will.¹³⁹

Thus, the Court has admonished against a too literal interpretation of the law where it would lead to absurdity, impossibility, or injustice.¹⁴⁰ Corollarily, a too literal interpretation of the constitutional provision that the creation of an LGU be made "in accordance with the criteria established in the local government code"¹⁴¹ and in the code alone inevitably leads to absurd and unjust consequences. This suggests that Congress' hands would practically be tied in providing for additional and different standards in dealing with municipal corporations. Surely, such curtailment of the otherwise plenary legislative powers of Congress could not have been intended by the Constitution. Therefore, "courts ought not to interpret and should not accept an interpretation that would defeat the intent of the law and its legislators."¹⁴² It should be recalled that the legislative intent in *League of Cities* was clearly manifested in the deliberations of Congress for R.A. No. 9009 in relation to the Cityhood Laws. Said intent must not be frustrated by the courts in subscribing to an "isolationist" view of the Local Government Code of 1991.

2. "Just Share as Determined by Law" Examined: Whether the Cityhood Laws violate Section 6, Article X of the Constitution

Section 6 of Article X of the 1987 Constitution provides that "[l]ocal government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them."¹⁴³

Petitioners, as existing cities, claim that the taxes to be given to them in the form of internal revenue from the national government would be substantially reduced since they would share the same with respondent municipalities. This, for them, infringes on their just share in the national taxes, or diminishes what is legally their due.

139. *Id.* at 527 (J. Del Castillo, concurring opinion (citing *Alonzo v. Intermediate Appellate Court*, 234 Phil. 267, 272-73 (1987))) (emphasis supplied).

140. *Id.* at 454 (citing *Commissioner of Internal Revenue v. Solidbank Corporation*, 416 SCRA 436 (2003); *Republic v. Court of Appeals*, 299 SCRA 199 (1998)).

141. *League of Cities of the Philippines*, 648 SCRA at 384 (Apr. 2011).

142. *League of Cities of the Philippines*, 608 SCRA at 665-66 (2009) (citing *League of Cities of the Philippines*, 571 SCRA at 321-22 (2008) (J. Reyes, dissenting opinion)) (emphasis supplied). See also S. JOURNAL Sess. No. 59, at 1240, 13th Cong., 3d Reg. Sess. (Jan. 29, 2007).

142. *League of Cities of the Philippines*, 608 SCRA at 644 (2009).

143. PHIL CONST. art. X, § 6.

The Court has sufficiently addressed this concern explaining that the share of LGUs in the national taxes refers to a *percentage*, pursuant to Section 285 of the LGC of 1991, and not an exact amount.¹⁴⁴ The said Section provides:

Section 285. The share of local government units in the internal revenue allotment shall be collected in the following manner:

Provinces — Twenty-three percent (23%);

Cities — *Twenty-three percent (23%)*;

Municipalities — Thirty-four percent (34%); and

Barangays — Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

Population — Fifty percent (50%);

Land Area — Twenty-five percent (25%); and

*Equal sharing — Twenty-five percent (25%).*¹⁴⁵

Accordingly, the share of cities in the IRA is 23%. Each city's share in this fraction is further determined on the basis of the following: population (50%), land area (25%), and equal sharing (25%). This share likewise depends on the number of existing cities: when the number of cities increases, more will divide and share in the cities' allocation.¹⁴⁶ The Court noted that, "[h]owever, ... *the allocation by the National Government is not a constant, and can either increase or decrease.*"¹⁴⁷ Thus, "[w]ith every newly converted city becoming entitled to share the allocation for cities, the percentage of IRA entitlement of each city will decrease, although the actual amount received may be more than that received in the preceding year."¹⁴⁸ This, explained the Court, is a necessary consequence of Sections 285 and 286 of the LGC of 1991 providing for LGUs' share in the IRA.¹⁴⁹

The above manner of arriving at the share of each LGU in the IRA reveals the weakness of petitioners' assertion. Since what is involved here is not a specific amount upon which they can validly put a stake on, it is premature for them to complain of supposed reduction in their shares. For one, they are not privy to the fact (and have not produced evidence to this

144. *League of Cities of the Philippines*, 648 SCRA at 378 (Apr. 2011).

145. LOCAL GOVERNMENT CODE OF 1991, § 285.

146. *League of Cities of the Philippines*, 648 SCRA at 378 (Apr. 2011).

147. *Id.*

148. *Id.*

149. *Id.*

effect) that an amount similar to the one granted before would be dispensed with by the National Government and hence shared by more cities. However, even assuming that the same amount has been earmarked for cities, they have no legal right whatsoever to prevent the same from being distributed to all qualified cities on the mere premise that their individual shares would be prejudiced. As so-called elder siblings, they are in no way justified in killing the newborns just so their inheritance would not be prejudiced.¹⁵⁰ Such matter is properly directed to the wisdom of Congress.

Justice Abad, in his Concurring Opinion to the 15 February 2011 Resolution, further posited that the “IRA is not [the respondent municipalities’] property until it has been automatically released.”¹⁵¹ What they had was a mere expectancy in receiving the said allotment, and hence does not properly fall under “property” protected by the Bill of Rights.¹⁵²

The Court’s alternative view that only through a uniform and non-discriminatory criteria can Section 6, Article X be fully operationalized raises a valid point insofar as the LGUs’ “just share” is concerned. It fails, though, to consider that crucial part of the provision which reads, “as determined by law.” Verily, while a perceived reduction in their share of the IRA would mean injustice on their part, petitioners cannot deny the fact that the said share nonetheless was arrived at following the law on the matter, i.e. Section 285 of the LGC of 1991. The phrase “just share” here must be interpreted as tempered by the phrase “as determined by law.” In construing the Constitution, the Court has said that effect is to be given, if possible, to the whole instrument, and to every section and clause. If different portions seem to conflict, the courts must harmonize them, if practicable, and must lean in favor of a construction which will render every word operative, rather than one which may make some words idle and nugatory. The framers of the Constitution should be presumed to have expressed themselves in careful and measured terms.¹⁵³

3. *A Case of Good Timing?* Whether the Cityhood Laws Violate the Equal Protection Clause

All animals are equal, but some animals are more equal than others.

— George Orwell¹⁵⁴

150. See *League of Cities of the Philippines*, 648 SCRA at 378-79 (Apr. 2011).

151. *League of Cities of the Philippines*, 643 SCRA at 193 (Feb. 2011) (J. Abad, concurring opinion).

152. *Id.*

153. *Sanidad v. Commission on Elections*, 73 SCRA 333, 416 (citing 1 THOMAS M. COOLEY, CONSTITUTIONAL LIMITATIONS 128-29 (8th ed.)).

154. GEORGE ORWELL, ANIMAL FARM 133 (2008 ed.).

The above discussion on local government nonetheless, petitioners aver a violation of the equal protection of laws on the part of municipalities who were not similarly exempted from the increased income requirement under R.A. No. 9009 as they had no pending conversion bills in Congress when the said law was enacted.

The equal protection clause (EPC) is embodied in that fundamental first provision of the Bill of Rights, which provides: “[n]o person shall be deprived of life, liberty, or property without due process of law, *nor shall any person be denied the equal protection of the laws.*”¹⁵⁵

Equal protection of the laws is subsumed under the general protection afforded by due process, as every impartial treatment offends the dictates of justice and fair play.¹⁵⁶ Thus, “[a]rbitrariness in general may be challenged on the basis of the due process clause, [yet] if the particular act assailed partakes of an unwarranted partiality or prejudice, the sharper weapon to cut it down is the [EPC].”¹⁵⁷ The clause — like due process — is couched in indefinite language so as to ensure that it is dynamic and flexible enough to address the rapidly changing concerns of society.¹⁵⁸

Juxtaposed with governmental powers, *People v. Vera*¹⁵⁹ describes the guarantee as “a restraint on all the three grand departments of our government and on the subordinate instrumentalities and subdivisions thereof, and on many constitutional powers, like the police power, taxation and eminent domain.”¹⁶⁰

The EPC is a specific constitutional guarantee of the equality of the person.¹⁶¹ Such equality is more properly referred to as legal equality, else the equality of all persons before the law.¹⁶² To be sure, it makes it no requirement that laws be universally applied without distinction.¹⁶³ It zeroes in on equality among equals;¹⁶⁴ alikes being treated as alikes;¹⁶⁵ those

155. PHIL. CONST. art. III, § 1.

156. ISAGANI A. CRUZ, CONSTITUTIONAL LAW 123 (2007 ed.).

157. *Id.*

158. *Id.*

159. *People v. Vera*, 65 Phil. 56, 125 (1937).

160. *Id.* at 125.

161. BERNAS, *supra* note 131, at 136.

162. *Id.*

163. CRUZ, *supra* note 156, at 127.

164. *Id.*

165. *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 446 SCRA 299, 369 (2004).

similarly situated being treated similarly.¹⁶⁶ It “contemplates equality in the enjoyment of similar rights and privileges granted by law.”¹⁶⁷ Dispensing with a caveat, Fr. Bernas says that such equality should not be regarded as a “disembodied” equality — that is, its effect is not to deprive the state the power to validly consider and take measures upon actual differences among individuals.¹⁶⁸ The EPC takes cognizance of the fact that inherent in the right to legislate is the right to classify.¹⁶⁹

As defined, classification is the “grouping of persons or things similar to each other in certain particulars and different from all others in these same particulars.”¹⁷⁰ What the EPC guards against is insidious classification — that which is arbitrary, capricious, unreasonable, or suffers from a lack of basis.¹⁷¹ It likewise combats class legislation where certain individuals or classes are discriminated against and others unduly favored.¹⁷² Much as it disapproves of baseless categorizing, the EPC has proven to be powerless in the face of valid classification. As held countless times by the Court beginning with *People v. Cayat*,¹⁷³ classification, to be valid or reasonable, must cover the following bases: (1) rest on substantial distinctions; (2) be germane to the purpose of the law; (3) not be limited to existing conditions only; and (4) apply equally to all members of the same class.¹⁷⁴ Whether there exists a valid classification in *League of Cities* shall be ascertained according to these four, which, evidently, must concur in order to strike down any claim of offensive differentiation.

4. Substantial Distinctions

The Court, in its decisions/resolutions sustaining the claim of EPC violation, consistently held that no substantial distinctions exist between respondent municipalities that were exempted from R.A. No. 9009 and the other municipalities which were not so exempted.¹⁷⁵ It stated that, if sustained, the exemption will be “based solely on the fact that the 16 municipalities had

166. *Ichong v. Hernandez*, 101 Phil. 1156, 1165 (1957).

167. *Ceniza v. Commission on Elections*, 95 SCRA 763, 773 (1980).

168. BERNAS, *supra* note 131, at 136.

169. *Id.* at 136-37.

170. CRUZ, *supra* note 156, at 127 (citing *International Harvester Co. v. Missouri*, 234 U.S. 199 (U.S.)).

171. *Vera*, 65 Phil. at 125-26.

172. *Id.* at 125.

173. *People v. Cayat*, 68 Phil. 12, 18 (1939).

174. *Id.* at 18. See also *De Guzman, Jr. v. COMELEC*, 336 SCRA 188 (2000); *Tiu v. Court of Appeals*, 301 SCRA 278 (1999).

175. See, e.g., *League of Cities of the Philippines*, 628 SCRA at 834 (2010).

cityhood bills pending in the 11th Congress when R.A. No. 9009 was enacted.”¹⁷⁶ And this is no valid classification, concluded the Court, notwithstanding the Congress’ deliberations on intending to exempt the same.¹⁷⁷ In categorical terms:

The mere pendency of a cityhood bill in the 11th Congress is not a material difference to distinguish one municipality from another for the purpose of the income requirement. The pendency of a cityhood bill in the 11th Congress does not affect or determine the level of income of a municipality. Municipalities with pending cityhood bills in the 11th Congress might even have lower annual income than municipalities that did not have pending cityhood bills.¹⁷⁸

It was further pointed out that municipalities that did not have pending cityhood bills then in Congress were placed at an obvious disadvantage, as they were not properly informed that a pending bill in the said Congress would entitle them to an exemption from the P100 million income requirement of R.A. No. 9009.¹⁷⁹ Were they informed, the Court said that they would have most likely caused their own cityhood bills to be filed.¹⁸⁰

Upon reversal, however, the Court ruled that respondent municipalities are substantially different from other municipalities wanting to become cities on the following grounds: (1) pendency of cityhood bills before the passage of R.A. No. 9009; (2) compliance with the income requirement under the LGC of 1991 years before the passage of R.A. No. 9009; and (3) filing of cityhood bills along with 33 other municipalities during the 11th Congress, but unfortunately not passed.¹⁸¹ To recall, there were 57 municipalities which then sought to become cities; 24 were successful, 33 were not as lucky, including the 16 respondent municipalities.¹⁸²

In sum, the exemption of respondent municipalities was justified on the premise that the rules should not be changed in the middle of the game.¹⁸³ The Court sustained then Senator Alfredo Lim’s arguments during his sponsorship speech for a resolution seeking to exempt respondents, which, in part provides:

Much as the proponents of the 24 cityhood bills then pending struggled to beat the effectivity of the law on June 30, 2001, events that then unfolded

176. *League of Cities of the Philippines*, 571 SCRA at 287 (2008).

177. *Id.*

178. *Id.* at 289.

179. *Id.*

180. *Id.*

181. *League of Cities of the Philippines*, 608 SCRA at 671 (2009).

182. *Id.*

183. *Id.*

were swift and overwhelming that Congress just did not have the time to act on the measures.

Some of these intervening events were ... the impeachment of President Estrada ... and the May 2001 elections.

The imposition of a much higher income requirement for the creation of a city ... was unfair; like any sport — changing the rules in the middle of the game.

...

I, for one, share their view that fairness dictates that they should be given a legal remedy by which they could be allowed to prove that they have all the necessary qualifications for city status using the criteria set forth under the [LGC] prior to its amendment by R.A. [No.] 9009.¹⁸⁴

When they entered the game, so to speak, respondent municipalities had to contend with a set of rules to which they were compliant. However, due to certain peculiar intervening circumstances — President Estrada’s impeachment, related *jueteng* scandal investigations, EDSA II, May 2011 Elections, etc. — they were not able to attain their cityhood, and worse, the rules have already been changed, making them more difficult to comply with. For this equitable reason, the Court ruled that they should be properly excused from following such new rules. Thus, “[b]ecause of events they had absolutely nothing to do with, a spoiler in the form of R.A. [No.] 9009 supervened. [T]o impose on them the much higher income requirement after what they have gone through would appear to be indeed ‘unfair.’”¹⁸⁵

Furthermore, the Court described respondent municipalities as a class of their own.¹⁸⁶ As centers of trade and commerce among others, they are said to have shown themselves viable and capable of being component cities in their provinces.¹⁸⁷

5. Germane to Purpose of Law

In the same vein, the Court ruled that the criterion for classification — mere pendency of a cityhood bill in the 11th Congress — has no relevant connection to the purpose of R.A. No. 9009, which is to regulate the conversion of municipalities into cities, especially with respect to those who are not yet fiscally viable.¹⁸⁸ It is said to be “not rationally related to [its]

184. *Id.* at 671-72 (citing S. JOURNAL, at 1238-40, 13th Cong., 59th Sess. (Jan. 23, 2007) cited in J. Reyes, dissenting opinion, 33-37).

185. *Id.* at 673.

186. *League of Cities of the Philippines*, 648 SCRA at 375 (Apr. 2011).

187. *Id.*

188. *League of Cities of the Philippines*, 571 SCRA at 289 (2008).

purpose, [i.e.,] to prevent fiscally non-viable municipalities from converting into cities.”¹⁸⁹

Contrarily, on reconsideration, the Court found the classification germane to the purpose of the law in that the exemption of respondent LGUs was intended to mitigate the inequality caused by the passage of R.A. No. 9009.¹⁹⁰ It was supposedly designed to dispense with fairness and justice to the LGUs.¹⁹¹

6. Not Limited to Existing Conditions

Neither was the classification in this case limited to existing conditions, as noted by the Court. The requirement that a cityhood bill be then pending before the 11th Congress confines the exemption to a specific condition existing during the passage of R.A. No. 9009 and which, for all intents and purposes, will never have the chance of occurring again.¹⁹² Citing *Mayflower Farms, Inc. v. Ten Eyck*,¹⁹³ the Court considered the fact of having a pending bill in Congress as a license for exemption a “unique advantage based on an arbitrary date.”¹⁹⁴ Such date referred to was the period before the close of the 11th Congress.¹⁹⁵

The Court reckoned on a reverse ruling that it is rather impossible to still have municipalities that belong to the same context as respondents, i.e., filed before the enactment of R.A. No. 9009 and at the same time amenable to the ₱20 million income requirement of the LGC of 1991.¹⁹⁶ As such, they are precluded from claiming the same exemption allowed to respondents.¹⁹⁷

7. Equal Application to Members of Same Class

189. *Id.*

190. *League of Cities of the Philippines*, 608 SCRA at 674 (2009).

191. *Id.*

192. *League of Cities of the Philippines*, 571 SCRA at 289 (2008).

193. *Mayflower Farms, Inc. v. Ten Eyck*, 297 U.S. 266 (1936) (U.S.). In this case, the challenged provision is unlike such laws, since, on its face, it is not a regulation of a business or an activity in the interest of, or for the protection of, the public, but an attempt to give an economic advantage to those engaged in a given business at an arbitrary date as against all those who enter the industry after that date. *Id.*

194. *League of Cities of the Philippines*, 571 SCRA at 290 (2008) (emphasis supplied).

195. *Id.*

196. *League of Cities of the Philippines*, 608 SCRA at 675 (2009).

197. *Id.*

Lastly the Court reiterated that applying the exemption exclusively to the 16 respondent municipalities runs counter to the fourth requisite.¹⁹⁸ Even if other municipalities have the same income as the specific 16 LGUs, they have been effectively barred from availing of the exemption since they did not have pending cityhood bills in Congress at that crucial time. They cannot become cities while the fortunate 16 can.¹⁹⁹

The Court did not expound on this point in its reversal decisions.

The problem with resolving this EPC dilemma lies in two respects. One, there are several laws involved, namely: R.A. No. 9009 and the 16 Cityhood Laws. So, unlike a normal equal protection problem which usually involves one law to which the violation is attributed, the instant case covers a number of interlinked laws. Second, not only are these laws many, they are likewise enacted by different Congresses. As a matter of fact, they span a total of three Congresses: 11th, 12th, and 13th. The 16 Cityhood Bills were filed during the 11th; R.A. No. 9009 took effect during the 12th; the 16 bills became laws during the 13th. Viewed in this light, the conflicting claims of the Court somehow become understandable.

The Author therefore submits that there is no violation of the EPC in this case. All four requirements have been satisfied.

First, there exist substantial distinctions between respondent municipalities and the other municipalities that were not similarly exempted from the increased income requirement of R.A. No. 9009. “Substantial distinctions” has been characterized as *real, actual, positive, and fundamental* differences,²⁰⁰ and not merely imaginary or whimsical,²⁰¹ between two classes or groups. The Court has exercised ample discretion in the determination of “substantial” distinctions in a host of cases. In *Taxicab Operators of Metro Manila v. Board of Transportation*,²⁰² the Court found substantial distinctions between taxicabs operating in Metro Manila and those outside, saying that said vehicles are exposed to heavier traffic and much more frequent use.²⁰³ In *Mirasol v. Department of Works and Highways*,²⁰⁴ real differences were said to exist between motorcycles and other forms of transport such that prohibiting the former to ply highways is justified. The “most obvious and troubling difference would be that a two-

198. *League of Cities of the Philippines*, 571 SCRA at 290 (2008).

199. *Id.*

200. See *Ichong v. Hernandez*, 101 Phil. 1155 (1957).

201. See *Cayat*, 68 Phil. 12 (1939).

202. *Taxicab Operators of Metro Manila v. Board of Transportation*, 117 SCRA 597 (1982).

203. *Id.* at 606.

204. *Mirasol v. Department of Works and Highways*, 490 SCRA 318 (2006).

wheeled vehicle is less stable and more easily overturned than a four-wheeled vehicle.”²⁰⁵ Likewise, in *Philippine Association of Service Exporters v. Drilon*,²⁰⁶ the Court saw it fit to distinguish between female contract workers and their male counterparts in terms of labor protection on the premise that Filipinas working abroad have been systematically exploited and abused unlike men overseas contract workers.²⁰⁷ Former Chief Justice Enrique M. Fernando elucidates on the special treatment to be afforded to certain classes:

Where the classification is based on such distinctions that make a real difference as *infancy, sex, and stage of civilization* of minority groups, the better rule, it would seem, is to recognize its validity only if the young, the women, and the cultural minorities are singled out for favorable treatment. There would be an element of unreasonableness if on the contrary their status that calls for the law ministering to their needs is made the basis of discriminatory legislation against them. If such be the case, it would be difficult to refute the assertion of denial of equal protection.²⁰⁸

In another case, dissimilarities were recognized between land-based and sea-based Filipino overseas workers with respect to work environment, safety, accessibility to social, civic, and spiritual activities as would merit the validity of POEA issuances increasing the compensation and benefits of seafarers.²⁰⁹ In *Tablarin v. Gutierrez*,²¹⁰ different cut-off scores were said to be borne out by substantial distinctions between medical school applicants of one school year and another in terms of the number of slots to be filled, average score, difficulty of the examination, etc.²¹¹ In the ancient *Tolentino v. Secretary of Finance*,²¹² the Court likewise found nothing objectionable in granting tax exemptions to cooperatives servicing the “homeless poor” and not the “homeless less poor,” as the latter class can still afford to rent houses when they cannot own their own homes but the former cannot.²¹³

The Court, however, has had occasion to declare the non-existence of substantial distinctions between classes that have been differentiated by law.

205. *Id.* at 324.

206. *Philippine Association of Service Importers, Inc. v. Drilon*, 163 SCRA 386 (1988).

207. *Id.* at 392.

208. ENRIQUE M. FERNANDO, *THE CONSTITUTION OF THE PHILIPPINES* 549-50 (1977).

209. *Conference of Maritime Manning Agencies, Inc. v. Philippine Overseas Employment Administration*, 243 SCRA 666, 677 (1995).

210. *Tablarin v. Gutierrez*, 152 SCRA 730 (1987).

211. *Id.* at 744.

212. *Tolentino v. Secretary of Finance*, 249 SCRA 629 (1995).

213. *Id.* at 657.

For instance, in *GSIS v. Montesclaros*,²¹⁴ it was ruled that the classification preventing a surviving spouse who married a pensioner within three years before the latter qualified for the benefit suffers from arbitrariness. Assuming that such policy was designed to eliminate deathbed marriages, the Court failed to see the rationale why the three-year prohibition was reckoned from the pensioner's qualification and not from his death.²¹⁵ In *Central Bank Employees Association, Inc. v. BSP*,²¹⁶ nil distinction was likewise recognized between the rank-and-file employees of the Bangko Sentral ng Pilipinas and the rank-and-file employees of the other government financial institutions as to subject the former to the Salary Standardization Law and not the latter.²¹⁷ The Court lumped them together into one class, invariably deserving of exemption from the said Law.²¹⁸ Congressman Romeo G. Jalosjos, having been convicted of rape and acts of lasciviousness,²¹⁹ has likewise failed to convince the Court that his peculiar situation as an elective official called for a different treatment from other prisoners. Without much hesitation, it was held that "[t]he functions and duties of [his] office are *not* substantial distinctions which lift him from the class of prisoners interrupted in their freedom and restricted in liberty of movement."²²⁰ Also, in *International School of Alliance of Educators v. Quisumbing*,²²¹ the labor principle of equal pay for equal work was invoked to invalidate the favorable treatment given to foreigner teachers to the detriment of local hires.²²² The Court rationalized that the former receive adequate compensation for the work hazards of distance and difference in culture, environment, and so forth.²²³

In the recent controversial case of *Biraogo v. The Philippine Truth Commission*,²²⁴ the Court ruled that no such real differences exist between the Arroyo Government and all past administrations.²²⁵ The ruling essentially denied that the previous administration was a class in and of itself based on the premise that such administration, like all others that preceded it, was

214. *Government Service Insurance System v. Montesclaros*, 434 SCRA 441 (2004).

215. *Id.* at 451-55.

216. *Central Bank Employees Association, Inc. v. BSP*, 446 SCRA 299 (2004).

217. *Id.* at 353-70.

218. *Id.*

219. *People v. Jalosjos*, 324 SCRA 689, 707 (2000).

220. *Id.* at 702.

221. *International School Alliance of Educators v. Quisumbing*, 333 SCRA 13 (2000).

222. *Id.* at 22-23.

223. *Id.* at 23.

224. *Biraogo v. Philippine Truth Commission of 2010*, 637 SCRA 78 (2010).

225. *Id.* at 171.

plagued with reports of widespread corruption.²²⁶ Taking after Justice Isagani Cruz, it said: “Superficial differences do not make for a valid classification.”²²⁷ The *ponencia*, however, met strong opposition.²²⁸

As stated, substantial distinctions can reasonably be drawn between the exempt respondent municipalities on the one hand, and the other municipalities on the other. For one, respondent municipalities filed bills in Congress unequivocally seeking their conversion into cities. They performed the positive act of *filing* their respective bills. They entered their request before the legislative body, thereby recognizing its authority to act upon such recommendations and to see to their realization. Theirs was a deliberate measure, an intentional act. Evidently prompted by a definite goal — that of becoming a city — they took an affirmative action to initiate the process of fulfilling it. This becomes relevant in discrediting the claim of the dissenting opinions that the mere pendency of a cityhood bill in Congress makes no real distinction between the concerned LGUs. It does. Bills do not become pending in Congress for no reason. Behind such suspended stage is an entire conscious process of public consultations, drafting, submitting to the chamber, referral to a committee, several readings, or all such steps that inure to the making of a law short of its enactment. The idea that respondent municipalities were unduly favored on the sole basis of their being existing and pending during the 11th Congress, and as such, can be ostensibly described as being at the right place and at the right time, should be re-evaluated to take into account the definitive position taken by them. True, they might be at the right place and at the right time so as to privilege them with an exemption from R.A. No. 9009, but they were so situated because of their own cause-oriented doing. This positive act of filing constitutes a real, actual, positive, and fundamental difference between them and the passive others. More than once has the Court recognized a valid distinction between one who actively pursues his right and another who sleeps on it. Thus have arisen the equitable principles of laches and estoppel. The law favors the active subject rather than the inanimate bystander. One knows his right and decides to enforce it, the other neglects to act on it despite notice.

Second, respondent municipalities have qualified, unquestionably, to become cities long before R.A. No. 9009 even became a law. In contrast, the other municipalities did not aver a similar accomplishment. Indeed, not a word was said whether they have met, at that time prior to the enactment of R.A. No. 9009, the much lower minimum requirement of the LGC of 1991. At this juncture, the two classes are again set at odds.

226. *Id.*

227. *Id.* at 168.

228. *Id.* at 178. Justices Abad, Carpio, Carpio-Morales, Nachura, and Sereno each issued their respective dissenting opinions.

Third and as an adjunct of the first, respondent municipalities were effectively prevented by sufficient intervening causes which caused their indefinite pendency in Congress. Be it restated: respondents were among the 33 municipalities which filed cityhood bills; 24 of them were successfully converted; however, they (16) were left not acted upon by Congress. The reason behind this inaction of Congress can only be left to the approximation of its non-members. What is clear, however, is that during two of the three Congresses where the bills were pending, resolutions were adopted exempting respondent municipalities from the coverage of R.A. No. 9009. These signified the clear intention of Congress to so treat respondents differently. Filed before June 2001 when R.A. No. 9009 took effect, the progress of the various cityhood bills was interrupted by national events which predominantly occupied the attention and resources of Congress. These were the Estrada impeachment trial, EDSA II, May 2001 elections, among others. Thus, due to constraints in time and resources, the cityhood bills passed from one Congress to another, failing to attain cityhood status in each case. Here enters the valid argument of the Court along the lines of refraining from changing the rules in the middle of the game. Given two things — the respondents' compliance with the income requirement then in force during their filing (₱20 million) and the express and categorical intent of Congress to exempt them as evidenced by their resolutions — the decision to construe their belated enactment into law as one brought about by circumstances beyond their control becomes all the more persuasive. The Court chose to decide on the basis of fairness and justice, deferring to the overriding dictates of due process instead of the rigid postulate of prospectivity. As they had no such filed and pending bills in the first place, the other municipalities cannot claim a common ground with respondents. They were not caught off guard during the pendency of their bills by an abrupt change in the requirements of cityhood. The rules of the game, as far as they are concerned, have not changed an inch since they did not join it in the first place.

Based on the foregoing, therefore, the Author finds a compelling enough reason to favor respondent municipalities over the other municipalities. It is asserted that each case should be read according to the circumstances that surround it, not in an utter vacuum where laws are interpreted and applied without regard to the nuisances of the case.

As to the second requisite, the classification is properly germane to the purpose of the law. The adverse opinions contend that exempting respondents has no rational relation to the purpose of R.A. No. 9009 of preventing non-viable municipalities from converting. As will be shown, the exemption is in no way inimical to the avowed policy of R.A. No. 9009. In his sponsorship speech, Sen. Pimentel said its purpose was to “restrain ... the ‘mad rush’ of municipalities to convert into cities solely to secure a larger share in the [IRA] despite the fact that they are incapable of fiscal

independence.”²²⁹ The rush referred to by the senator was qualified by the word “mad,” which, in this context, can be safely understood to mean unreasonable, baseless, or unwarranted. Considering the tedious process endured by respondents since they filed their cityhood bills, a fair inference would be that they are not part of the mad rush wishing to convert. They have registered their intention to so promote themselves early on and acted concretely upon it. What is more, they were perfectly qualified when they applied for cityhood, thus dispelling any misguided notion that they were wanting of fiscal independence and covetous merely of a larger share in the IRA. For sure, Congress itself, as a body, deemed them excluded from those who rushed madly into converting even without the required fiscal strength through the resolutions it adopted.

The third requirement, that the classification be not limited to existing conditions, albeit tricky, is likewise present in this case. It has been argued that the exemption of respondents emanates from a purely arbitrary date, which is before the close of the 11th Congress. The Author regards this as a rather myopic viewpoint on the matter. Rather, it is asserted that, conceding the lucky timing of respondents (being pending while R.A. No. 9009 was enacted), the discretion of Congress should not be preempted by assuming that given the same set of circumstances and unanimous sentiments of the lawmaking body, they would not grant the same advantages to the righteous recipient. Simply, it is not for the Court to say that the conditions, peculiar as they were, will not happen again, and in which event, Congress would change its course of action. The fact that the circumstances of this case take the form of a rare occurrence does not necessarily mean that the benefit will only be applied in this instance. It is always safer to assume that in the event of a recurrence, Congress would act as judiciously and fairly as it did herein. The possibility of having pending bills and an intervening amendatory law which makes a requirement more onerous than anticipated is not too far-fetched a happening as the dissenters would like to portray. Indeed, in the course of Congress’ active legislative calendar, things like this are bound to happen at one point or another. In said instances, the body is presumed to be reminiscent of its accommodations in this case.

Lastly, there is no dispute that the exemption applies to all LGUs similarly situated as respondent municipalities. Congress has upheld the exempt-status of all 16 of them in finally allowing them to convert into cities during the 12th Congress.

B. Procedural Grounds

- I. Whether the Reversals of the Court’s Decisions Violate the Principle of Immutability of Final Judgment

229. *League of Cities of the Philippines*, 571 SCRA at 273 (2008).

Let's have no more argument. I have chosen Mr. Baggins and that ought to be enough for all of you. If I say he is a Burglar, a Burglar he is, or will be when the time comes. There is a lot more in him than you guess, and a deal more than he has any idea of himself. You may (possibly) all live to thank me yet.

— J.R.R. Tolkien²³⁰

The settled Principle of Immutability of Final judgment is not lost in a number of decisions by the Court. Succinctly, it provides that “a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest Court of the land, rendered it.”²³¹ Said immunity stands irrespective of any occasional injustice.²³² The underlying reason for the Principle is two-fold, according to the Court in *Navarro v. Metropolitan Bank and Trust Company*:²³³ first, “to avoid delay in the administration of justice and thus make orderly the discharge of judicial business;” and second, “to put judicial controversies to an end ... inasmuch as controversies cannot be allowed to drag on indefinitely.”²³⁴ Also, the rights and obligations of litigants must not be suspended for an indefinite period.²³⁵ As the oft-cited pronouncement goes:

*Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be, not through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.*²³⁶

In the same way that losing parties are afforded the right of appeal, so are winning parties guaranteed the right to enjoy the finality of the resolution of their case.²³⁷ Access to courts, while a guaranteed right, is not without

230. J.R.R. TOLKIEN, *THE HOBBIT* 22 (1982 ed.).

231. *Apo Fruits Corporation v. Land Bank of the Philippines*, 632 SCRA 727, 760 (2010) (citing *Equitable Banking Corporation v. Sadac*, 490 SCRA 380, 416-17 (2006)).

232. *Flores v. Court of Appeals*, 259 SCRA 618, 620 (1996).

233. *Navarro v. Metropolitan Bank and Trust Company*, 595 SCRA 149 (2009).

234. *Id.* at 159.

235. *Id.* (citing *Social Security System v. Isip*, 520 SCRA 310 (2007)).

236. *Yau v. Silverio, Sr.*, 543 SCRA 520 (2008) (citing *Lim v. Jabalde*, 172 SCRA 211 (1989)) (emphasis supplied).

237. *Id.* (citing *Seven Brothers Shipping Corporation v. Oriental Assurance Corporation*, 391 SCRA 67 (2002)).

limit.²³⁸ Where a litigant's rights have already been adjudicated upon in a valid final judgment, "he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then, unscrupulous litigants will multiply in number to the detriment of the administration of justice."²³⁹

Basic as the Principle is, it is not without exceptions. The Court has allowed a final judgment to be altered to correct clerical errors, to make *nunc pro tunc* entries, or in the case of void judgments.²⁴⁰

Applied to *League of Cities*, the Principle of Immutability of Final Judgment necessitates an initial determination of whether there was a "final judgment" to reckon with. What then is a final judgment? It has been defined as:

one that finally disposes of a case, leaving nothing more for the court to do in respect thereto, such as an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right, or a judgment or order that dismisses an action on the ground of *res judicata* or prescription, for instance.²⁴¹

By contrast, an order which does not finally dispose of the case and indicates that other things remain to be done by the court is called interlocutory.²⁴² At the risk of repetitiveness, "once a judgment becomes final and executory, it can no longer be disturbed, altered, or modified in any respect. *Nothing further can be done to a final judgment except to execute it.*"²⁴³

It is the unwavering position of Justice Carpio²⁴⁴ that the Court's 18 November 2008 Decision (First Decision) has already attained finality, hence, the subsequent decisions, beginning with the 21 December 2009

238. *Heirs of Wenceslao Samper v. Reciproco-Noble*, 525 SCRA 515, 525 (2007).

239. *Id.* at 525-26 (citing *Pacquing v. Court of Appeals*, 115 SCRA 117 (1982)).

240. *League of Cities of the Philippines (LCP) v. Commission on Elections*, 652 SCRA 798, 827 (June 2011) (J. Sereno, dissenting opinion).

241. *Intramuros Tennis Club, Inc. v. Philippine Tourism Authority*, 341 SCRA 90, 104 (2000).

242. *See, e.g., Philippine Business Bank v. Chua*, 634 SCRA 635 (2010); *Investments, Inc. v. Court of Appeals*, 147 SCRA 334 (1987); *PLDT Employees' Union v. PLDT Co. Free Tel. Workers' Union*, 97 Phil. 424 (1955).

243. *Salting v. Velez*, 639 SCRA 124, 131 (2011).

244. He was joined in his dissent by Justices Sereno, Brion, and Villarama, Jr. *See League of Cities of the Philippines*, 652 SCRA at 810 (June 2011).

Decision (Second Decision), are null and void. The Author believes that the Justice's view is correct.

For all the arguments of the Majority Decision denying the finality of the First Decision, a mere survey of the events that transpired in the case would reveal otherwise.

To recall, the Court rendered its First Decision in November 2008 declaring the Cityhood Laws unconstitutional. A first motion for reconsideration was filed and denied by the Court in its First Resolution dated 31 March 2009. Subsequently, respondent municipalities filed a second MR asking the Court to consider the new and meritorious arguments in their first MR. On a 6-6 tie-vote, the Court again denied the said motion via its Second Resolution dated 28 April 2009. Respondent municipalities responded with the filing of a unique "Motion to Amend the Resolution of April 28, 2009 by Declaring Instead that Respondents' 'Motion for Reconsideration of the Resolution of March 31, 2009' and 'Motion for Leave to File and to Admit Attached 'Second Motion for Reconsideration of the Decision Dated November 18, 2008' Remain Unresolved and to Conduct Further Proceedings Thereon.'" Said intricately-worded motion was expunged from the records, thereby denied by the Court, in view of the entry of judgment made of the First Decision in 21 May 2009. In December 2009, however, the Court reversed its consistent previous rulings and declared the Laws constitutional. It is submitted that the Court erred in doing so.

a. Second Motion for Reconsideration

Prior to the alleged flip-flopping of decisions, there was the important issue of motion for reconsideration. As stated, apropos to the First Decision, respondent municipalities filed an MR (the first), which, however, was denied by the Court, causing them to file a second such motion. Point of contention: Should the Court have allowed this? The Author submits in the negative. First, on the strength of Rule 52, Section 2 in relation to Rule 56, Section 2 of the Rules of Court, second MRs are to be disallowed:

Sec. 2. Second Motion for Reconsideration. No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.²⁴⁵

By virtue of this express provision, thus, second MRs are considered as a prohibited pleading with respect to original actions filed in the Court of Appeals and in the Supreme Court. As in other procedural rules, this proscription has been relaxed on several occasions, as both courts entertained

245. 1997 RULES OF CIVIL PROCEDURE, rule 52, § 2 & rule 56, § 2.

second or even third MRs. Thus, Section 3, Rule 15 of the Internal Rules of Court provides:

SEC. 3. Second motion for reconsideration. — The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the *higher interest of justice* by the Court en banc upon a vote of at least two-thirds of its actual membership.²⁴⁶

The Court has interpreted “higher interest of justice” in various ways, ranging from matters affecting life and death, compelling interest, transcendental importance, substantial justice, and so on.²⁴⁷ However, not one of these mentioned exclusions obtain in the instant case. The second MR sought a review of the First Resolution on the ground of “new and meritorious” arguments. This comes across as a flimsy excuse to circumvent the prohibition since respondent municipalities had not raised any novel issues apart from those already tackled in the First Decision and First Resolution denying the first MR. Therefore, absent a valid ground to compel the Court to reconsider its two earlier decisions, the second MR should not have been given due course and should have been rejected outright.

Assuming arguendo that a plausible exception existed to justify the grant of the second MR, the Author thinks that the subsequent events in the case should have spelled the death of the respondents’ advocacy.

b. Tie-Vote on Second Motion for Reconsideration

Notwithstanding the Court’s liberality in entertaining the second MR, it still was denied eventually. On a 6–6 split vote, the Second Resolution found no merit in the motion and declared that the required majority to overturn the First Resolution was not met. Then came the conspicuous third MR, entitled “Motion to Amend the Resolution of April 28, 2009 by Declaring Instead that Respondents’ ‘Motion for Reconsideration of the Resolution of March 31, 2009’ and ‘Motion for Leave to File and to Admit Attached ‘Second Motion for Reconsideration of the Decision Dated November 18, 2008’ Remain Unresolved and to Conduct Further Proceedings Thereon,” which not only was denied by the Court but even expunged from its records. *Given the definitive rulings of the Court in not reconsidering its initial decisions as evidenced by the three denials, it behooves anyone with a little learning of remedial law why it decided to reverse on an ostensible fourth MR.* The case should have ended at the point where the third MR was expunged from the records.

246. *Id.* rule 15 (emphasis supplied).

247. *See, e.g.,* *People v. Gako, Jr.*, 348 SCRA 334 (2000); *People v. Court of Appeals*, 309 SCRA 705 (1999); *Almelor v. Regional Trial Court of Las Piñas City, Br. 254*, 563 SCRA 447 (2008).

Let it be stressed, the Court's order of striking from the records the third MR was but called for by the circumstances, i.e., the lapse of 15 days after respondents' counsel's receipt of the Second Resolution denying their second MR on 21 May 2009. Past said date, no valid action from the losing party can be welcomed.

Respondents' contention that the split vote on the second MR failed to resolve with finality the issue of constitutionality of the Cityhood Laws — while apparently a difficult question of law — can be resolved conclusively using the appropriate provisions of law.

Section 7, Rule 56 of the Rules of Court governs the voting of the Court *en banc* that results in a tie or lack of the necessary majority:

SEC. 7. Procedure if opinion is equally divided. — Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied.²⁴⁸

There are three instances referred to in this Section, namely: (1) original actions, (2) appeals, and (3) incidental matters, such as petitions or motions. Each has a corresponding effect unique only to itself. Thus, in case of an equal voting or lack of necessary majority vote in an *en banc* decision, the parallel effects are: (1) dismissal, (2) affirmation of judgment or order appealed from, and (3) denial. Put together, where the necessary majority is not met in an *en banc* decision re-deliberated upon, incidental matters, such as a motion for reconsideration, are denied. Applied to *League of Cities*, the 7-5 vote denying the first MR is a clear example of lack of majority. Even after deliberation anew conducted by the Court in the instance of the second MR, *no decision* was reached. In fact, the Court was divided equally in two camps: one in favor of reconsideration and another not. The inevitable result is a denial of the motion.

Furthermore, the rule on tie-votes with respect to motions for reconsideration is more aptly provided in the Court's A.M. No. 99-1-09-SC, thus:

A motion for reconsideration of a decision or resolution of the Court *En Banc* or of a Division may be granted upon a vote of a majority of the *En Banc* or of a Division, as the case may be, who actually took part in the deliberation of the motion.

248. 1997 RULES OF CIVIL PROCEDURE, rule 56, § 7.

*If the voting results in a tie, the motion for reconsideration is deemed denied.*²⁴⁹

Plain and simple, where voting on a motion for reconsideration of a division or *en banc* decision produces a tie, the motion is lost. Reconsideration *should* not be granted. In the instant case, where voting was split 6–6 upon the second MR, the motion was denied. The prior judgment produced by a majority vote (First Decision) was, or should have been, affirmed. Justice Jose Melo, in *Fortrich v. Corona*,²⁵⁰ stuck to this fundamental rule, saying: “In our own Court *[e]n [b]anc*, if the voting is evenly split, on a 7–7 vote, one (1) slot vacant, or with one (1) justice inhibiting or disqualifying himself, the motion (for reconsideration) shall, of course, not be carried because that is the *end of the line*.”²⁵¹

Respondents muddled an otherwise straightforward issue claiming that the tie-vote resulted in the Court not rendering a definite ruling as to the constitutionality of the Cityhood Laws, allegedly according to Article VIII, Section 4 (2) of the Constitution, which provides:

(2) All cases involving the constitutionality of a treaty, international or executive agreement, or law, which shall be heard by the Supreme Court *en banc*, and all other cases which under the Rules of Court are required to be heard *en banc*, including those involving the constitutionality, application, or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, shall be decided with the *concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon*.²⁵²

To be sure, cases dealing with the constitutionality of laws are not the only ones to be decided by a majority vote. Motions, such as motions for reconsideration, fall under the purview of “all other cases which under the Rules ... are required to be heard *en banc*.” Thus, they must also be decided by a majority vote, which was not obtained in the instant case.

Finally, therefore, since the second MR, upon a tie-vote, was denied, then the rational result would be that the First Decision was affirmed. It did not undergo any reconsideration. Consequently, its ruling that the 16 Cityhood Laws are unconstitutional is likewise upheld. Justice Carpio concludes, quite consistently, thus:

The 6–6 tie-vote by the Court *en banc* on the second motion for reconsideration necessarily resulted in the denial of the second motion for reconsideration. *Certainly, the 6-6 tie-vote did not overrule the prior majority en*

249. IN THE MATTER OF CLARIFYING THE RULE IN RESOLVING MOTIONS FOR RECONSIDERATION, A.M. No. 99–1–09–SC, Jan. 26, 1999 (emphasis supplied).

250. *Fortrich v. Corona*, 298 SCRA 678 (1998).

251. *Id.* (J. Melo, separate opinion).

252. PHIL. CONST. art. VIII, § 4 (2) (emphasis supplied).

*banc Decision of 18 November 2008, and the prior majority en banc Resolution of 31 March 2009 denying reconsideration. ... Further, the tie-vote on the second motion for reconsideration did not mean that the present cases were left undecided because there remain the Decision of 18 November 2008 and Resolution of 31 March 2009 where majority of the Court en banc concurred in decreeing the unconstitutionality of the sixteen Cityhood Laws. ... These prior majority actions of the Court en banc can only be overruled by a new majority vote, not a tie-vote because a tie-vote cannot overrule a prior affirmative action.*²⁵³

That said, nothing prevented the First Decision from attaining finality after the reglementary period following receipt of the Second Resolution denying the second MR by respondents.

V. CONCLUSION

The tally of issues in this case fosters no surprise. Arguments on the substantial issues tilt the scale towards a finding that, indeed, the Cityhood Laws remain faithful to the Constitution. Thus, they have passed the tests of determining possible violations of Sections 6 and 10 of Article X of the Constitution. As successfully, they have also passed the crucible of the Equal Protection Clause. These achievements, however, are illusory. For all their deliberative strength, the merits fail in the face of the procedural lapses incurred, to say at the least. The reasoned judgments of the Court would not have seen the light of day had it not been for a rather callous treatment of procedural rules. They would not have been raised in the first place were the Court been more discerning in its actuations. As said, *League of Cities* was born in its 28 November 2008 Decision and should have died upon said decision's finality.

The Majority Decision harps on the "spirit of the law" and "ends of justice" in granting reconsideration. The Author respectfully differs. There is no occasion here for the Court to invoke these principles. Respondent municipalities had a fair fighting chance in this legal battle and they lost at the outset. They were not deprived of their day in court or their chance to prove their case. In fact, what they were allowed was more than any party-litigant could ever think of bargaining for. The Court's kind, almost lax, accommodation of their requests, therefore, makes for a puzzling observation.

Of course, substantive law takes usual precedence over procedural law.²⁵⁴ But there are obvious limits to this rule. Where, in the first place,

253. *League of Cities of the Philippines*, 608 SCRA at 687-88 (2009).

254. "Substantive law is that part of the law which creates, defines[,] and regulates rights, or which regulates the rights and duties that give rise to a cause of action, as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtaining redress for their invasion." JOSE Y. FERIA &

substantive issues should not be taken up because of procedural infirmities, the former must give way. For, in the larger scheme of things, these two, rather than observing seniority in application, complement each other. Only where a case satisfies both procedural and substantive requirements does it necessarily succeed. For good or for bad, *League of Cities* fails this.

With regard to flip-flopping, the Author believes no such indecisiveness can rightfully be attributed to the Court. Yes, it has committed two reversals. Yet, these are not entirely incredible due to the changes in the circumstances of the Court as a collegial body. Some of its members left and others came in. Naturally, minds changed along with their persons. If at all, Justice Velasco was the sole Justice who shifted positions. That is his discretion. It is not a crime to do so. It would be the height of irrationality to impute upon the whole Court such a demeaning charge when it was merely discharging its duties as arbiter of controversies and undertaking the requisite turnovers among its ranks.

Finally, courts are not kingdoms to themselves. Theirs is a moral ascendancy to protect and to observe at all costs. However, such ascendancy does not exist in abstraction; it manifests in the Court's appearance of impartiality and actual decisions. Nothing frightens more than finding the guardian of grave abuse of discretion guilty of the same felony.