



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
Francisco Gold Condominium II, EDSA cor. Mapagmahal St.
Diliman, Quezon City

OFFICE OF THE SECRETARY

FILE OPINION NO. 39 S. 2008.

03 June 2008

HON. OSCAR "Oca" G. MALAPITAN
Representative, 1st District of Caloocan City
House of Representatives
Batasan Complex, Constitution Hills
Diliman, Quezon City

Dear Congressman Malapitan:

This refers to your letter-inquiry as regards this Department's "*scope of authority*" in connection with a Decision of the COMELEC 2nd Division promulgated 09 May 2008, which you have attached as our reference.

We note your juxtaposition of this Department's Advisory dated 27 September 2007, stating, in part, our pronouncement that "No elective barangay official shall serve for more than three (3) consecutive terms and the term of office shall be reckoned from the 1994 barangay election" and that of the dispositive portion of the decision you have appended, which reads: "Let a copy of this decision be furnished to the Election Officer concerned and the Department of the Interior and Local Government for proper implementation".

Based on the above, you inquired the following:

1. *"What is the scope of authority (of) your Honorable Office has with respect to situations where the facts and issues are similarly the same as decided by the COMELEC in its Decision?"*
2. *"Can your office apply to, enforce and implement this Decision against other barangay officials similarly situated?"*



As to the first issue, may we respectfully inform you that this Department's role/duty in the implementation of decisions of the COMELEC is merely in the supportive aspect, i.e., we shall implement, if so directed by the Commission, or we shall take action if the Election Officer so directed to implement the COMELEC decision or resolution requests our assistance.

As regards the second issue, please be informed that court decisions are only effective and applied as against the parties to the case, not against those who are not impleaded. The fact that the decision you have appended contain facts squarely applicable to other incidents involving other parties does not make the former readily applicable to the latter. Let it be noted that only decisions of the Supreme Court constitute part of our legal system which have the effect of laws, which thus excludes decisions from lower adjudicatory bodies/courts.

Finally, to address your juxtaposition earlier stated, may we respectfully inform you that when we came out with our 27 September 2007 Advisory, we were acting out our mandate as general supervisors of local government units and local government officials. This duty is totally unrelated to our supporting role as regards implementation of election decisions.

Hope we have enlightened you on the matter.

Very truly yours,


AUSTERE A. PANADERO
Acting Secretary 

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