

99 Phil. 898

[G.R. No. L-9895. September 12, 1956]

**VALENTIN GABALDON, PETITIONER, VS. COMMISSION ON ELECTIONS,
RESPONDENT.**

D E C I S I O N

BAUTISTA ANGELO, J.:

On August 31, 1955, ten qualified electors and members of the “Mannalon-Mangmangued”, a local faction of the Democratic Party of the municipality of Anao, province of Tarlac, filed with the Commission on Elections the certificate of candidacy of Valentin Gabaldon for the position of vice-mayor of said municipality, said certificate having been subscribed under oath. Among the ten persons aforesaid were Jose de la Cruz and Tomaa Ofrecio, president and secretary respectively of said faction, who had been duly elected as such on July 28, 1955. On said date, Gabaldon was duly nominated as such candidate by the faction with which he was affiliated.

The Commission on Elections, in a resolution dated October 7, 1955, resolved not to give due course to the certificate on the ground that the same was not filed in accordance with law. A petition for reconsideration having been filed, the Commission denied the petition stating as grounds therefor, first, that the certificate does not state that Gabaldon was nominated by his party; and second, the certificate was not sworn to by the president and secretary of his party as required by section 35 of the Revised Election Code. From this resolution, Gabaldon took this appeal by way of certiorari disputing the validity of the action of the Commission on Elections and praying that, pending determination of the petition on the merits, a writ of preliminary mandatory injunction be issued in order that his candidacy as vice-mayor may be voted upon by the electorate in the elections to be held on November 8, 1955. In due time, the writ prayed for was granted upon a bond of P300.

The question to be determined is whether the certificate of candidacy of petitioner as vice-mayor of Anao, Tarlac filed by the ten qualified electors and members of the local faction of

the Democratic Party complies with the requirements of section 35 of the Revised Election Code.

It appears that the certificate of candidacy was merely signed under oath by ten qualified electors and members of the local faction of the Democratic Party without stating therein that petitioner has been duly nominated by said faction as candidate for the office of vice-mayor. Said certificate does not also state the position held by the ten members of the nominating party. For these reasons, respondent Commission considered said certificate legally inadequate for it does not meet the requirements of section of the Revised Election Code which provides in part:

“SEC. 35. Certificates of candidacy filed by ‘political group or political party.—Certificates of candidacy of candidates may be filed by a political party nominating them without the signature or oath of said candidates.

“Any political party having officially nominated candidates shall file with the Commission on Elections a certificate of such official nominations subscribed under oath by the president and secretary or corresponding officers of such political group or party.”

Considering the certificate alone, the stand of respondent Commission would appear to be correct for it fails to state that petitioner has been duly nominated by a political party and it is not subscribed under oath by the president and secretary of said party as required by law. But it should be noted that in the petition for reconsideration filed by the ten electors who registered said certificate of candidacy they made the manifestation that petitioner had been duly nominated as candidate for vice-mayor of Anao, Tarlac in a convention duly called for the purpose and that among the ten persons who had been authorized to file his certificate of candidacy were Jose de la Cruz and Tomas Ofrecio, the president and secretary, respectively, of the local faction of the Democratic Party, attaching to the petition a duplicate copy of the minutes of the meeting held concerning said nomination. Thus, pertinent portions of the minutes are quoted hereunder:

“Upon motion of Mr. Andres de la Cruz, seconded by Mr. Federico Primero, to the effect that, in view of the fact that they are fully aware of the active service to the town and the masses of their brother, Mr. Valentin Gabaldon, and because

he has no time to come to town due to the importance of his work with respect to his tenants in the "hacienda" where he worked, he moved; therefore, that his companions in the party be the ones to present his candidacy for vice-mayor in the town of Anao, Tarlac, in the November 8 election. The certificate of his candidacy should be presented by ten (10) persons of this party headed by the secretary, Tomas Ofrecio, and his companions to sign the same are Jose de la Cruz, president; Igmedio Ofrecio, vice-president; Alexander Baniqued, sub-secretary; Clemente Navarro, treasurer; Lucia Cayme, sergeant-at-arms; Gregorio de la Cruz, sergeant-at-arms; Eugenio Fermantes, auditor; Leon Suarez, sub-auditor; Lorenzo de la Cruz, adviser and Leandro Reyes, adviser; and, the said certificate of candidacy, to be Submitted, should be subscribed to before the Justice of the Peace of that town so as to make it secure. Any objection to the motion? There was none. Therefore, the same was approved." (Annex B of the petition as translated.)

It appearing that the petition for reconsideration was filed on the time wherein it states, that the petitioner had been duly nominated as candidate for vice-mayor of Anao, Tarlac, and that the certificate of candidacy was duly subscribed under oath by the president and secretary of the local faction of the Democratic Party which nominated him, together with other eight electors and members of the same party, we are of the opinion that said certificate substantially complies with the requirements of the law. It was, therefore, a mistake for respondent Commission to disregard the same to the prejudice of the nominee.

It should be stated in passing that the electorate did not consider of any consequence the technical objection of the Commission on Elections when in the ensuing elections it voted for petitioner who in due time took his oath of office. He is now the incumbent vice-mayor of Anao, Tarlac.

Petition is granted, without pronouncement as to costs.

The writ of injunction issued by this Court is hereby made permanent.

Paras., C J., Bengzon Paddlla, Montemayor, Labrador, Concepcion, Reyez, J. B. L., Endencia, and Felix, JJ., concur.

Date created: October 10, 2014