101 Phil. 886

[G. R. No. L-11583. July 19, 1957]

BENJAMIN K. GOROSPE, ET AL., PETITIONERS AND APPELLANTS, VS. MARIANO B. PEÑAFLORIDA, ET AL., RESPONDENTS AND APPELLEES.

D E C I S I O N

BAUTISTA ANGELO, J.:

This is a petition for review of a decision of the Court of Appeals rendered on October 12, 1956, as well as its resolution entered on October 30, 1956, denying the motion for reconsideration filed by petitioners seeking the modification of said decision. The decision adverted to contain an injunction restraining the Provincial Fiscal of iloilo from proceeding with the investigation of a criminal complaint filed by Jose C. Zulueta against respondents Mariano B. Peñaflorida and Ricardo Y. Ladrido.

Zulueta and Peñaflorida were candidates for the position of Provincial Governor of Iloilo in the elections held on November 8, 1955. Penaflorida was declared elected by the Board of Canvassers with a plurality of 4,687 votes on November 25, 1955. Zulueta filed with the Court of First Instance of Iloilo a protest contesting the election of Peñaflorida on the grounds of errors, irregularities, frauds and corrupt practices. On January 6, 1956, Ceferino de los Santos, Jr., a defeated candidate for board member, filed a criminal complaint in said court against Peñaflorida and Ladrido charging the latter with a violation of Section 49 of the Revised Election Code relative to corrupt practices. This complaint was dismissed on the ground that, the violation charged being a public offense, the same can only be prosecuted by a government prosecutor and not by a private individual. And taking cue of this suggestion, Zulueta lodged a complaint with the fiscal involving the same charged against Peñaflorida and Ladrido.

The fiscal set the complaint for investigation on February 14, 1956 at which the complainant presented his evidence, but after the same was presented, Peñaflorida and Ladrido, through . their counsel, asked for the suspension of the investigation on the

ground that, the violation being one of the grounds on which the election protest then pending in court is based, the same constitutes a prejudicial question which must first be decided before the criminal complaint could be given due course. This motion having been denied on the ground that the point raised does not constitute a prejudicial question, Peñaflorida and Ladrido, through counsel, filed a petition for-prohibition with injunction on April 18, 1956 with the Court of First Instance of Iloilo praying that the provincial fiscal be enjoined from proceeding with the investigation of the criminal case until after the election contest shall have been finally determined, and on April 20, the court issued a preliminary injunction after petitioner had filed a bond in the amount of P1,000. In the prohibition case, the court allowed Attys. Ceferino de Ios Santos, Sr., Ceferino de Ios Santos, Jr. and Vicente Custodio to appear as *amici curia*e in its order entered on July 6, 1956.

In the meantime, Zulueta filed in the election protest an amended petition, which was further amended later, seeking to strike out from the original protest the averment relative to corrupt practices which are involved in the criminal case then under investigation by the fiscal, which was strongly resisted by Peñaflorida. But, over his opposition, the court admitted the amended petition on July 6, 1956. Peñaflorida on his part asked leave to file an amended answer containing a counterclaim wherein he not only denied the imputation made against him in the original protest concerning corrupt practices committed by him and his henchmen, but prayed: for moral damages and attorney's fees in the aggregate amount of P150,000. This motion was denied on April 24, 1956, whereupon Peñaflorida and Ladrido brought the case by way of certiorari to the Court of Appeals wherein they sought to set aside the following orders: one dated July 6, 1956 admitting the amended petition of protestant; one dated April 24, 1956 denying the admission of protestee's amended answer, and another dated July 6, 1956 granting leave to Attys. Ceferino de Ios Santos, Sr., Ceferino de Ios Santos, Jr. and Vicente Custodio to appear as amid euriae in the certiorari ease. On October 12, 1956, the Court of Appeals denied the petition but enjoined forever the fiscal from proceeding with the investigation of the criminal complaint filed by Zulueta against Peñaflorida and Ladrido.

The question to be determined in this appeal is whether the Court of Appeals erred in enjoining the provincial fiscal from proceeding with the investigation of the criminal charge filed by Zulueta against Peñaflorida and Ladrido on the sole ground that, the charge involving as it does a disqualification to hold office, the same is tantamount to a petition for *quo warranto* which can only be filed within one week from the proclamation of the one declared elected. Since the criminal complaint was lodged with the fiscal after the lapse

of one week from proclamation, the Court of Appeals expressed the view that Peñaflorida can no longer be prosecuted for the offense and so the fiscal should be perpetually enjoined.

The *ratio decidendi* on which the foregoing conclusion of the Court of Appeals, is predicated is contained in the following portion of its decaion:

> "* * * The purpose, therefore, of the protestant in filing a criminal complaint against Peñaflorida and Ladrido for the alleged violation of Sec. 49 is to have them imprisoned and disqualified to hold office to which they have been elected. If Sec. 173 prohibits the filing of a petition for *quo warranto* for the purpose of disqualifying the respondent after the lapse of one week from the time of the proclamation of petitioner Peñaflorida, the same purpose cannot be accomplished after the lapse of one week from the time of his proclamation by the filing of a criminal complaint and hence the protestant and respondent herein Zulueta and the fiscal should he enjoined forever from proceeding with the investigation of the criminal complaint filed by the former and the filing thereof by the latter."

The theory of the Court of Appeals would appear to be as follows: the action of *quo warranto* allowed by Section 173 of the Revised Election Code has for its purpose the disqualification of the winning candidate. A criminal action for violation of Section 49 of the same Code on corrupt practices aims likewise at the disqualification of the winning candidate which may be imposed upon him as a punishment. Since both actions have the same purpose, both must be governed by the same rule prescribed by Section 173 which requires that the action be filed within one week from proclamation of the winning candidate. If the criminal action is taken beyond that period, its prosecution against the candidate should be forever barred.

We find this reasoning erroneous. To begin with, one should not confuse an action of *quo warranto* with the complaint for a violation of the Election Code even if the same may have the effect of disqualifying a candidate to hold the office to which he is elected. One partakes of the nature of a civil case wherein the petitioner is the defeated candidate, while the other is a criminal action which is prosecuted in the name of the People. Both proceedings have different objectives and are predicated on different grounds. The purpose of *quo warranto* is merely to prevent an elective official from assuming office on the ground

of ineligibility. To be eligible, one must have the qualifications required by law with regard to citizenship, residence, age, loyalty, etc.[1] On the other hand, the principal purpose of the criminal action is the imprisonment of the offender, be he a candidate or not, and the grounds of the action vary depending upon the acts committed. Here the acts involved are those prohibited by Section 49 of the Election Cade relative to corrupt practices. The fact that the present offense carries with it the accessory penalty of disqualification from holding office does not convert it into an action of *quo warranto*. Lastly, there is a difference as regards the prescriptibility of the action. While an action of *quo warranto* should be filed within one week from proclamation, an election offense prescribes after two years, from the date of its commission, and if the discovery is made on the occasion of an election contest, the period shall commence on the date the judgment becomes final (Section 188, Revised Election Code). Indeed, this provision would be rendered nugatory if the theory of the Court of Appeals is entertained.

Another point to be considered is that, "as a general rule, an injunction will not be granted to restrain a criminal prosecution" (Kwong Sing vs. City of Manila, 41 Phil., 1.03). The reason is obvious, Public interest requires that criminal acts be immediately investigated and prosecuted for the protection of society. This is more so in connection with a violation of the Election Law. The only way to curb fraud, terrorism and other corrupt practices that are committed in the elections is to demand their immediate investigation and prosecution. Only in this way can we maintain a clean election and secure the free expression of the people's will at the polls.

> "The general rule, sometimes by virtue of statutory provisions, is that an injunction will not be granted to stay criminal or quasi criminal proceedings, whether the prosecution is for the violation of the common law or the infraction of statutes or municipal ordinances, or to stay the enforcement of orders of a board or commission. This general rule is based, in addition to other considerations, on the principle that equity is concerned only with the protection of civil and property rights, and is intended to supplement, and not usurp, the functions of the courts of law, and on the fact that the party has an adequate remedy at law by establishing as a defense to the prosecution that he did not commit the act charged, or that the statute or ordinance on which the prosecution is based is invalid, and, in case of conviction, by taking an appeal." (43 C. J. S., pp. 768-770).

It is contended that this rule admits of exceptions, one. of them being that "injunctions may be issued to restrain vexatious and oppressive criminal prosecutions" (Yellowstone Kit vs. Wood, 43 S. W. 1068, 19 Tex. C. App. 683). This may be true, but we are not prepared to hold that Zulueta filed the criminaf. charge with the intent to harass and oppress respondents, there being no clear findings to that effect by the Court of Appeals. The fact remains that the injunction is predicated not on that ground but on another which we have found to be legally untenable.

The counter assignment of errors made by respondents-appellees in their brief, which seeks to set aside the orders of the court a quo which were maintained by the Court of Appeals, cannot be entertained it appearing that respondents-appellees did not appeal from the decision.

> "* * * While an appellee may on appeal be permitted to make counter assignment of errors when the purpose is merely to defend himself against the errors imputed by appellant to the court a quo, such is allowed merely *to sustain the judgment in his favor* but not to seek a modification or reversal of said judgment, for in such a case there is need for him to appeal from the judgment. This is what we said in a recent case. For us to change the *ratio decidendi* of the decision to suit the theory of respondents would be to infringe this ruling', and this are not prepared to do." (Pineda & Ampil Manufacturing Co., et al. vs. Arsenio Bartolome, et al., 95 Phil., 980).
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> "Appellee, who is not appellant, may assign errors in his brief where his purpose is to maintain the judgment on other grounds, but he may not do so if his purpose is to have the judgment modified or reversed, for, in such case, he must appeal. (Saenz vs. Mitchell, 60 Phil., 69, 80; Mendoza vs. Mendiola, 63 Phil., 267; Villavert vs. Lim, 62 Phil., 178; Balajadia vs. Eusala, G. R. No. 42579.)' (Bunge Corporation and Universal Agencies vs. Elena Camenforte & Co., 91 Phil, 861, 48 Off. Gaz., p. S377.)"

Wherefore, the decision appealed from is) hereby modi- fied by deleting from its dispositive part that portion which enjoins the provincial fiscal from proceeding with the investigation of the criminal complaint filed by Zulueta against respondents Penaflorida and Ladrido. No costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Conception, Reyes, J. B. L., Endencia and *Felix, JJ.,* concur.

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[1]Section 2071, Revised Administrative Code, as. amended by Commonwealth Act 233; Sections 2174 and 2175, Revised Administrative Code; Section 2440, Revised Administrative Code, as amended by Commonwealth Act 233; As regards the ineligibility of members of municipal board of chartered cities, they are covered by their different charters.

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