

### Title: Social Weather Stations, Inc. and Pulse Asia, Inc. vs. Commission on Elections

### Facts:

Social Weather Stations, Inc. (SWS) and Pulse Asia, Inc. (Pulse Asia), petitioners, are polling firms in the Philippines conducting regular pre-election surveys. On February 15-17, 2013, SWS published a senatorial candidates preference survey. Representative Tobias Tiangco requested SWS to disclose the subscribers along with the payors and commissioners of the survey, which SWS declined.

On April 10, 2013, the COMELEC (respondent) enjoined for a clarificatory hearing that SWS was directed to attend. Pulse Asia also received a similar request. During the hearing, COMELEC emphasized that it wasn't a formal hearing or investigation. On April 23, 2013, COMELEC issued Resolution No. 9674, requiring SWS and Pulse Asia to submit within three days the names of all commissioners and payors, including subscribers, of surveys published from February 12, 2013, to April 23, 2013, stating that such data would be for the exclusive and confidential use of COMELEC. The resolution also stated that non-compliance would constitute an election offense.

The petitioners argued they never received copies of Resolution No. 9674 and contested its provisions as being in excess of the regulatory mandate of COMELEC, violating the non-impairment clause of contracts, and denying them due process for being charged with violation without proper service of the resolution.

On May 8, 2013, COMELEC reissued the directive, warning non-compliance would be punishable under the Omnibus Election Code. By July 1, 2013, COMELEC filed a criminal complaint, which the petitioners argued they were also not furnished with.

### Issues:

1. Is COMELEC Resolution No. 9674 validating the requirement to disclose subscribers' names of election surveys invalid?
2. Does the requirement curtail petitioners' right to free speech?
3. Does the resolution violate the constitutional proscription against the impairment of contracts?
4. Was Resolution No. 9674 already effective when COMELEC required names of the survey subscribers?
5. Were petitioners deprived of due process in terms of non-service of Resolution No. 9674 and the criminal complaint?

### Court's Decision:

The Supreme Court partially granted the petition, upholding the validity of COMELEC Resolution No. 9674 but also enjoining the COMELEC from prosecuting the petitioners for failure to submit the requested names. It ruled that COMELEC did not serve the petitioners with a copy of the resolution or the criminal complaint, thereby violating their right to due process.

### Doctrine:

The Court reiterated the principle that published election surveys can potentially influence voter preferences and, when published, partake of the nature of election propaganda. Hence, regulating the manner of their publication, including the disclosure of those who commissioned and/or paid for them, serves the constitutional purpose and does not contravene the petitioners' right to free speech. However, the implementation of duly promulgated rules must comply with the lawful procedures and due process rights of the involved parties.

### Class Notes:

- COMELEC has broad powers to regulate the conduct of elections, but these are limited by statutory laws and constitutional provisions, one of which is the right to due process.
- The "non-impairment of contracts" clause may yield to more compelling state interests, such as ensuring fair elections.
- To prove a violation of due process, it must be shown that the administrative body acted arbitrarily or capriciously in its proceedings.

### Historical Background:

The case reflects the increasing role of survey firms in Philippine elections and the tensions between regulating electoral propaganda and protecting contractual and free speech rights. The resolution and the petition underscore the complexities within the COMELEC's mandate to ensure free, orderly, honest, peaceful, and credible elections while respecting constitutional liberties.