

Title

****Archbishop Fernando R. Capalla v. Commission on Elections (2013 Automated Election System Case)****

Facts

1. In March 2009, the Commission on Elections (COMELEC) issued an invitation for bids for the 2010 Poll Automation Project per Republic Act No. 8436 as amended by RA No. 9369, focusing on the use of an Automated Election System (AES).
2. COMELEC approved a Request for Proposal for the project, which included the Paper-Based Automation Election System (AES), Electronic Transmission of Election Results using Public Telecommunications Network, and Overall Project Management.
3. On June 9, 2009, COMELEC awarded the AES contract to Smartmatic-TIM with a “lease of the AES with an option to purchase (OTP)” until December 31, 2010.
4. On September 23, 2010, COMELEC partially exercised its OTP by purchasing 920 PCOS machines from Smartmatic-TIM.
5. Smartmatic-TIM extended the OTP until March 31, 2012, but COMELEC did not exercise it until March 21, 2012.
6. COMELEC issued resolutions to purchase Smartmatic-TIM’s PCOS machines and related software/hardware for the May 2013 elections.
7. Four separate Petitions for Certiorari, Prohibition, and Mandamus were filed against COMELEC, asserting that extending the OTP period, exercising the OTP without public bidding, and purchasing allegedly defective PCOS machines were illegal and unconstitutional.
8. On April 24, 2012, the Supreme Court issued a Temporary Restraining Order (TRO) against implementing the contract of sale, later hearing oral arguments.

Issues

1. Whether COMELEC could validly accept Smartmatic-TIM’s unilateral extension of the OTP under the AES contract beyond the original deadline.
2. Whether the acceptance of the OTP extension and the subsequent COMELEC Resolutions violate RA No. 9184 (Government Procurement Reform Act) and RA No. 9369 (Automated Election Systems Act).

Court’s Decision

1. ****OTP Extension Validity****:
 - The SC validated the extension agreement, stating both parties could amend the AES contract by mutual agreement. The AES contract was still effective as Smartmatic-TIM’s

performance security had not been fully released, thus the contract's terms, including amendments, were still operational.

- The exercise of the OTP fell within the agreed-upon amendments, which did not breach public policy or competitive bidding principles.

2. **Compliance with RA 9184**:

- The SC noted that the extension and exercise of the OTP did not necessitate new public bidding because the financial parameters and conditions of the original AES contract were maintained.

- Public policy wasn't violated as Smartmatic-TIM's amended extension did not offer terms unfavorable compared to those available during the initial bidding process, thus maintaining equal footing among initial bidders.

3. **Technical Concerns with PCOS Machines**:

- The SC decided that COMELEC was justified in proceeding despite identified issues with PCOS machines from the 2010 elections, as Smartmatic-TIM agreed to rectify these issues.

- The extension and exercise of the OTP was seen as the more pragmatic choice considering budget constraints and the timeline leading to the 2013 elections.

Doctrine

- **Amendability of Contracts**: Contracts, especially those involving government procurement, can be amended to extend periods or modify terms provided mutual consent is obtained, adherence to the original competitive bidding principles is maintained, and such amendments do not introduce substantial or material differences from the original contract.

- **Public Bidding**: In government procurement, any substantial amendments must not alter the financial or technical essence of the original terms which underwent public bidding.

Class Notes

- **Key Elements**:

- **Option to Purchase (OTP)**: A contractual provision allowing one party to purchase assets under agreed-upon terms within a set period.

- **Public Bidding Principles**: Any changes to a public contract must not be substantial or introduce undue advantages not offered during the original bidding.

Statutory Provisions:

- Republic Act 9184 (Government Procurement Reform Act) emphasizes fair, competitive

bidding as a mechanism to ensure transparency and least cost to the government.

- Republic Act 9369 (Automated Election Systems Act) mandates using a tested and demonstrated Automated Election Solution to ensure transparency and integrity in elections.

Historical Background

The case takes place during a period of heightened anticipation regarding election automation in the Philippines, reflecting a broader global trend towards enhancing electoral transparency through technological interventions. The COMELEC's quest to fully automate the elections was seen as pivotal for bolstering democratic processes, despite technical and legal challenges raised both domestically and internationally. The Supreme Court's decisions shaped future procurement practices and the legal bounds of government contracts within an evolving digital election ecosystem.