

ESTANISLAO A. FERNANDEZ, PETITIONER, VS. VICENTE B. FERNANDEZ AND THE COMMISSION ON ELECTIONS, RESPONDENTS.*G.R. No. L-32675. November 03, 1970*

Ponente: RUIZ CASTRO, J.

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By this petition for certiorari, the petitioner Estanislao A. Fernandez prays this Court to set aside and declare null and void the resolution of the respondent Commission on Elections (COMELEC) dated October 10, 1970 (resolution 746) which denied his petition to strike out the certificate of acceptance of nomination (for delegate of the second district of Laguna to the Constitutional Convention) filed with the COMELEC on September 10, 1970 by the respondent Vicente B. Fernandez.

The petition before the COMELEC was anchored on two grounds, namely, (1) that the respondent Vicente B. Fernandez "is not qualified to be a candidate for delegate in the said [second] district because he is not a resident of Laguna," and, (2) invoking Section 37 of the Revised Election Code, "that respondent has no bona fide intention to run or to win and that his only purpose is to annul votes with the name 'Fernandez' and to prejudice petitioner's candidacy by causing confusion because of the similarity in the surnames of petitioner and respondent thereby preventing a faithful determination of the true will of the electorate." Without making any definitive findings of fact, the COMELEC denied the petition, stating, in its own language, that it "has no jurisdiction to rule on whether or not respondent is qualified to be a candidate," and that "the evidence to support a finding that respondent is a nuisance candidate is inconclusive," respondent being "entitled to the benefit of the presumption of good faith."

Meanwhile, hearing was had before the election registration board of Mabitac, Laguna, on the application of the respondent Vicente B. Fernandez for registration as a voter in the said town. Denial of this application on October 12, 1970 prompted the respondent to file a petition with the Court of First Instance of Laguna (Branch IV, Judge Maximo A. Maceren presiding), praying that the said court order the election registration board of Mabitac to include his name in the list of qualified voters of the said municipality. On October 28, 1970 the said court, after due hearing, denied the respondent's petition for inclusion, stating that "petitioner's [respondent Vicente B. Fernandez] attempts to show his intention to establish residence in Mabitac through the presentation of proofs that he had acquired properties there (Exhibit A) are all futile. He has miserably failed to convince this Court not only of his preferred [sic] intention to establish residence in Mabitac, Laguna, but also to show positive acts to match his professed intention."

The respondent Vicente B. Fernandez' Answers to the Petition at bar was filed on October 27, 1970, and oral argument was had on October 30, 1970. The petitioner Estanislao A. Fernandez argued in his own behalf; Arty. Luis A. L. Javellana appeared for and argued in behalf of the respondent Vicente B. Fernandez.

On the basis of a perceptive study of the record and of the pleadings therein, as well as the admissions made at the oral argument held on October 30, 1970, this Court has arrived at essential findings of fact, hereunder recited.

The petitioner Estanislao A. Fernandez is a resident of Lilio, Laguna, having resided in that municipality since 1945. He ran for representative for the second district of Laguna in the elections of 1946, 1949 and 1953, and for senator in 1957, 1959 and 1965. He has become known in the second district of Laguna especially by the surname Fernandez not only because he has been in the political arena for more than two decades but also because he has been a practicing lawyer in the province of Laguna for the same period of time. He announced his candidacy for delegate to the Constitutional Convention for the second district of Laguna as early as Holy Week of this year, more specifically "on March 27 to 29, 1970, going around the district" for this purpose. (This is not denied or controverted by the respondent Vicente B. Fernandez.) On September 9, 1970 he filed his formal certificate of candidacy dated September 7, 1970 with the COMELEC, and the same was given due course on September 22, 1970.

The respondent Vicente B Fernandez, who was born in Manila on August 8, 1919, has been a resident of 360 Guevara Avenue, San Juan, Rizal from before World War II. In the general elections on November 11, 1969 he voted in Precinct No. 117 of San Juan, Rizal, using Ballot No. 44778. As late as September 18, 1970, he had not filed any application for his transfer as a voter to any other place (this, according to the certification of the election registrar of San Juan, Rizal dated September 18, 1970). As late as September 14, 1970 he was not a registered voter in the municipality of Mabitac, Laguna, nor did he have in the said municipality any real property declared under his name for taxation purposes. Nor is he a registered voter in the municipality of Siniloan, Laguna, although he avers that his provincial address is "c/o Dr. Alfredo Fernandez, Siniloan, Laguna." The certification of the municipal treasurer of Siniloan, Laguna dated September 17, 1970 states that "Vicente B. Fernandez does not have any real property" in the said municipality. He was nominated to be a candidate for delegate on September 1, 1970, and he filed his certificate of acceptance dated September 9, 1970 on September 10, 1970. This certificate of acceptance was given due course by the COMELEC on October 20, 1970. Although he filed his certificate of acceptance as early as September 10, 1970, as late as October 10, 1970 he had "not started his campaign... because he wanted to await the decision of the Commission... for he felt it was not proper for him to campaign when there is 'a cloud on his candidacy.'"

It is the petitioner's submission that the respondent Vicente B. Fernandez lacks "the requisite residence qualification, which is not less than one year immediately prior to his election"; that this disqualification, although not patent on the face of his certificate of acceptance of nomination, is nonetheless proven by indubitable documents; that, consequently, the COMELEC has jurisdiction to reject and should reject the said certificate; and that, furthermore, the COMELEC should not have given due course to the said certificate, because knowing that he does not have the residence qualification in filing his certificate of acceptance and in insisting to run in the second district of Laguna, the respondent is a "nuisance" candidate within the purview of Section 37 of the Revised Election Code, the pertinent portion of which reads as follows:

"x x x Provided, That in all cases the said Commission may, motu proprio or upon petition of an interested party, refuse to give due course to a certificate of candidacy if it is shown that said certificate has been presented and filed to cause confusion among the electors by the similarity of the names of the registered candidates or by other means which demonstrate that the candidate has no bona fide intention to run for the office for which certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate."

The petitioner specifically asserts that the sole purpose of the respondent Fernandez in filing his certificate of acceptance of nomination is to cause "the annulment of votes that would be cast for the petitioner only with the surname Fernandez," considering that a great number of the voters in the second district of Laguna had voted for the petitioner previously, writing only the surname "Fernandez," when he ran for representative in 1946, 1949, and 1953, and when he ran for senator in 1957, 1959 and 1965. He avers that he came to be known in the second

district of Laguna by the surname Fernandez only, in the course of all political campaigns wherein he participated as a leader; and that on the other hand, the respondent is practically unknown in said district, and up to the time of the institution of the petitioner's petition in the COMELEC, the respondent Fernandez had not campaigned nor distributed any propaganda materials.

Among the indubitable documents relied upon by the petitioner are (1) the certificate of the election registrar of San Juan, Rizal, dated September 18, 1970; (2) a certified copy of the Voter's Registration Record dated March 7, 1965 and a certified copy of the Voting Record of the respondent Fernandez, which clearly show that the latter was born in Manila on August 8, 1919, that he has been residing in San Juan, Rizal for the last 38 years, and that he voted in Precinct No. 117 of San Juan, Rizal in the elections of 1967 and in the elections of November 11, 1969.

Another indubitable document submitted by the petitioner (attached to his supplemental petition filed with this Court on October 30, 1970) is the decision of the Court of First Instance of Laguna dated October 28, 1970 on the appeal filed by the respondent Fernandez from the decision of the election registration board of Mabitac, Laguna, denying his application for registration as voter in the said municipality on the ground of lack of residence qualification.

The respondent Fernandez, on the other hand, denies that he is a "nuisance" candidate, and argues that although the Resolution of the COMELEC states that "the only reason he has not started his campaign is because he wanted to await the decision of the Commission," he afterwards started campaigning earnestly, distributing leaflets (a copy of which is attached to his Answer). He further contends that resolution of the question of his alleged lack of residence qualification is a matter that properly is within the competence solely of the Constitutional Convention.

Adverting once more to the decision of the Court of First Instance of Laguna, it is obvious that the same could not have been presented to the COMELEC because it was rendered some time after the latter had promulgated its Resolution of October 10, 1970. Copies of the said decision were however submitted to this Court on October 30, 1970, and a copy served on Atty. Javellana (for the respondent Fernandez) at 9:25 am. on the same date. It will be recalled that at the hearing on the said date, the merits of the said decision were not discussed nor commented on in any manner by Atty. Javellana in his oral argument. Under the circumstances, there thus appears to be no impediment to our taking into account the import of the said decision in our resolution of the issues presented to this Court by the Petition at bar.

The pertinent portions of the said decision of the Court of First Instance of Laguna read as follows:

"From the evidence submitted the following facts have been established:

"According to the Voters Registration Card, a certified true and correct xerox copy of which was marked as Exhibit 2 for the intervenors, and which was admitted by the petitioner on the witness stand to be indeed a true copy of his Voters Registration Record, the herein petitioner was born on August 8, 1919 in Manila and at the time of the filing of said Voters Registration Record on March 7, 1965, he was a domicile of the Municipality of San Juan, Rizal, for 38 years. On the witness stand and upon cross-examination, petitioner admitted these facts and added that it does not mean continuous because he has also a residence in Baguio and Iloilo where he and his family occasionally stop for a vacation. He further declared on cross-examination that he had always considered San Juan, Rizal where he grew up, as the place where he could establish a continuous residence.

"On the witness stand, upon cross-examination, petitioner admitted also that Exhibit 3 is a certified true and correct xerox copy of the original of his voting record and that the facts stated in the certification issued by Jovencio G. Recelusado, Election Registrar of San Juan del Monte, Rizal which was marked as Exhibit 1, are all correct except that portion which states that he has not filed any application for his transfer as voter to any other place because, as a matter of fact, he did file an application to transfer as voter in Mabitac, Laguna, on

October 5, 1970. The other facts stated in Exhibit 1 are that Vicente Fernandez y Bartolome is a registered voter in Precinct No. 117 of San Juan, Rizal, as shown by his voting record filed on March 7, 1965 and duly approved on March 24, 1965; that said record bears Serial No. 45A21-10456; that he voted in said Precinct No. 117 in the November, 1967 election, using Ballot No. 44438; that he also voted in the November 11, 1969 election using Ballot No. 44778. On the witness stand, while under cross-examination, petitioner volunteered the information that he never voted in Mabitac, Laguna and had always voted in San Juan, Rizal, and that he also voted in 1965 aside from 1967 and 1969 but he does not remember having voted in 1961.

"On further cross-examination the petitioner disclosed that he 'finished many things,' among which is a degree in law but he never practiced it when he finished it in 1941; that being his last contact with the legal profession. He further revealed on cross-examination that he studied in various schools in Manila but he never studied in Mabitac, Laguna.

"The foregoing facts sufficiently show that the domicile of origin of petitioner is at the Municipality of San Juan del Monte, Province of Rizal. Consequently, the only issue now to be resolved is whether or not the petitioner has actually changed his residence to Mabitac, Laguna since 1969.

"To show that he did in fact transfer his residence to Mabitac, Laguna petitioner presented Ex-Mayor Cesar Marfal and incumbent Vice-Mayor Vicente Olarte of Mabitac, Laguna.

"The testimony of Ex-Mayor Marfal, however, instead of supporting petitioner's claim that he had in fact transferred his residence to Mabitac, established the exact opposite of what it was intended to prove. Ex-Mayor Marfal, among other things, declared that petitioner came to his house in the month of September, 1969 to request him to be allowed to stay in his house because he was going to take care of the properties of his parents. So, according to Ex-Mayor Marfal, petitioner stayed in his house sometime one day in a week and there are times when he stays only three or four days in a month. During the time when petitioner is not in his house, Ex-Mayor Marfal disclosed, petitioner is attending his office in Quezon City because he has a livelihood there. Petitioner himself, on the witness stand, even somewhat proudly but justifiably, disclosed that indeed he still has up to the present, many business interests in Quezon City and the greater Manila Area to which he has to divide his time and attention. Among them are the National Printing Press located in Quezon City which he modestly admitted to be only fairly large and not the biggest in the Philippines as suggested to him on cross-examination. This company is a family corporation, it appears, and petitioner is the Chairman of the Board and President. He succeeded his father who is already 79 years old, when he retired from actually managing this company in June 1969 when he decided to get married. Previous to the retirement of his father, petitioner was the executive vice-president.

"Petitioner disclosed that there is no general manager in his company because he is the chief executive officer. This, he quickly adds, does not mean, however, that he has to stay at his desk for eight hours a day. He has an assistant general manager who attends to the day to day management of the company.

"Aside from this company, petitioner also proudly disclosed on further cross-examination, that he is also a director in the Trans-Asia Oleo-Mineral Corporation; that he is 'heavily involved' in Luzon Stevedoring Company; that he has large investments in Lepanto Consolidated; that he was engaged in mining with Philmag.

"He also disclosed that he had meetings of the board of Trans-Asia not less than twice a month; in Luzon Stevedoring 'very often' whenever there is a quorum.

"In the opinion of this Court all the foregoing facts and admissions by the petitioner are already sufficient to negate his professed desire to establish his residence in Mabitac, Laguna, ostensibly for the 'romance of it' as he put it while testifying on direct examination, because Mabitac is the ancestral home of his forbears. But this protestations of sentimental attachment to the ancestral home of his forbears is belied by the overwhelming evidence to the contrary. Aside from the foregoing considerations, petitioner admitted that his wife and eight

children are all still residing in San Juan, Rizal. Two of his children have already homes of their own having married already but the remaining six are still residing in their original domicile at No. 360 Guevara Avenue, San Juan, Rizal. Petitioner tries to explain the failure of his wife to join him in Mabitac, Laguna by the fact that she is sickly (Exhibit L) and needs to be near her doctor and the best hospitals for constant check up. This, nevertheless, cannot explain why petitioner, who is obviously affluent and has two other residences where he and his family goes for a vacation, could not match his professed intention to establish his residence in Mabitac, Laguna to go back to the 'ancestral home' of his forbears 'for the romance of it' with positive acts such as establishing a house of his own, or at least a residence of his own, instead of living with his cousin, Ex-Mayor Marfal.

"But even this claim is seriously and convincingly contested by the two witnesses for the intervenors, namely incumbent Mayor Felix Carpio of Mabitac, Laguna and Marcelo Vicuna. Both vigorously and steadfastly maintained that it is not true that petitioner is living with Ex-Mayor Marfal, much less that he has been residing there for the past 14 months. Mayor Carpio declared that since he assumed office as Mayor of Mabitac in January, 1968, he always was in the center of the town almost every day and night and during all these times he had never seen the petitioner in the house of Ex-Mayor Marfal. This corroborates the testimony of Marcela Vicuna, a next-door neighbor of Ex-Mayor Marfal who also declared that she never saw the petitioner living in the house of Ex-Mayor Marfal; that she had every opportunity to see who are living in the house of Ex-Mayor Marfal because the gate and stairs leading to his house is just on the opposite side of a common boundary that is only marked by a hedge of San Francisco plants which are always trimmed to a height of only a meter towards the front part of the lot but is a little higher in the middle portion. The witness was asked to draw a sketch of the relative locations of her house and that of Ex-Mayor Marfal which sketch was marked as Exhibit M and the different portions thereof marked as Exhibits M-1 to M-8. This sketch convinces the Court that indeed this witness could really tell who are the persons residing in the house of Ex-Mayor Marfal, especially if he has been residing there for the past 14 months as the petitioner claims. But this witness categorically declared that the only residents in the house of Ex-Mayor Marfal are his wife and his two children and the brother of his wife named Andres. They were the only ones residing there since September, 1969 and for the past preceding fourteen months.

"In the light of the foregoing facts and considerations, petitioner's attempts to show his intention to establish residence in Mabitac through the presentation of proofs that he had acquired properties there (Exhibit A) are all futile. He has miserably failed to convince this Court not only of his proffered intention to establish residence in Mabitac, Laguna, but also to show positive acts to match this professed intention.

"WHEREFORE, premises considered, the petition for inclusion is hereby DENIED, x x x"[1]

Resolving now the issues squarely before us, and putting in perspective the categorical admission of the counsel of the respondent Fernandez that the latter's residence in Mabitac, Laguna, started (at the very earliest) only on November 12, 1969, it is our view, considering his impressive educational attainment,[2] that the respondent Fernandez could not but be completely aware that the period of his residence in Laguna (assuming for the sake of argument that his occasional visits to the province of Laguna were accompanied by animus to reside therein) is short of the one-year period required by law of candidates for the position sought by him. Further considering the other circumstances clearly proven in the record, we are fully persuaded that in filing his certificate of acceptance and in insisting to run, he has no other intention but to cause confusion among the electorate by the similarity of his and the petitioner's surnames, and that he has no bona fide intention to run for the office for which his certificate of candidacy was filed. He therefore clearly falls within the proscription of the provisions of Section 37 of the Revised Election Code. This conclusion is incalculably buttressed by the circumstances that while the petitioner Estanislao A. Femanadez has been and is well known and referred to as "Fernandez" in the second district of Laguna, has served as congressman for the said district for two terms, and a senator for one term, has participated in all the electoral campaigns in Laguna, and has had extensive law practice in the said province, the

respondent Vicente B. Fernandez, in sharp contrast, is practically unknown in the second district of Laguna, the greater portion of his vast business interests, demanding his personal attention, dedication and involvement, being located in the Greater Manila Area.

It might be stated en passant that the respondent Fernandez, if he indeed is fired by a genuine desire to serve his country as a delegate to the Constitutional Convention, could have and should have filed his certificate of candidacy for delegate for the first district of Rizal — his qualifications therefor, as far as the record shows, not being vulnerable to any legal objection or marred by any "cloud on his candidacy."

We therefore hold that the certificate of acceptance of nomination as candidate for delegate filed by the respondent Fernandez should not at all have been given due course by the respondent COMELEC and that the same should therefore be voided.

We have already held that the COMELEC should refuse to give due course to a certificate of candidacy if the disqualification is patent on its face (*Juan Sanchez vs. Oscar del Rosario*, L-16878, April 27, 1961, 1 SCRA 1102). In the case at bar, the respondent Fernandez, thru counsel, admitted unequivocally during the oral argument that, the said respondent having voted in San Juan, Rizal on November 11, 1969, the earliest time that he could have transferred his residence to Laguna was on November 12, 1969. And the period of time from that date up to November 10, 1970 (the date of the coming elections) encompasses a total of only 363 days, or 2 days short of the one-year residence qualification for a candidate for delegate. This unequivocal and categorical admission on the part of the respondent Fernandez, in view of the peculiar environmental circumstances here obtaining, amounts to the disqualification being patent on the face of the certificate of candidacy.

Jose de Asis vs. Emil L. Ong, L-32576, September 25, 1970, is not here applicable because In the said case there is no admission on the part of the respondent that he is not a natural born citizen; and neither was the issue of the respondent being a "nuisance" candidate raised there, as the petitioner and the respondent in the said case do not have the same surname. Nor is the case of *Lachica vs. Yap* (L-25379, Sept 25, 1968, 25 SCRA 140) in point, as this involved a petition for recount of votes after the proclamation of, and taking of oath by, the respondent Peralta as congressman.

ACCORDINGLY, the writ of certiorari prayed for is granted. The Resolution of the respondent COMELEC of October 10, 1970 and that giving due course to the certificate of candidacy of the respondent Fernandez are hereby set aside; and the respondent Fernandez' certificate of acceptance of nomination is hereby ordered stricken out. The COMELEC is hereby ordered to recall, without delay, all copies of the respondent Fernandez' certificate of acceptance and certificate of candidacy sent to the different boards of inspectors in the second district of Laguna. This decision is hereby declared executory immediately upon its promulgation. No costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, and Teehankee, JJ., concur.

Barredo, J., I concur and would like to add a few words in a separate opinion.

Fernando and Villamor, JJ., did not take part.

Makasiar, J, is on official leave.

[1] Parenthetically, the inescapable implication from the above-quoted decision is that the respondent Vicente B. Fernandez has not resided in the municipality of Mabitac for a period of more than six months immediately preceding the coming elections on November 10, 1970. This must be so because section 98 of the Revised

Election Code states that "Every citizen of the Philippines, whether male or female, twenty one years of age or over, able to read and write, who has been a resident of the Philippines for one year and of the municipality in which he has registered during the six months preceding, who is not otherwise disqualified, may vote in the said place in any election." (emphasis supplied)

[2] Respondent Fernandez is a law graduate, cum laude, a member of the Philippine Bar, a graduate of the Advanced Management Program, Harvard School of Business Administration, and was a member of the Faculty of the Feati Tech Graduate School of Business (see biographical data contained in his propaganda leaflet, Annex 8).

CUNCURRING

BARREDO, J.,

I fully concur in the opinion ably written for the Court by Mr. Justice Castro. The only purpose of this brief separate opinion is to express in my own way my view on the very important question of jurisdiction raised by respondent Vicente Fernandez. He insists that the matter of his qualifying residence in Mabitac, Laguna may not be inquired into whether by the Comelec or by this Court in passing upon the question of whether or not his certificate of candidacy should be given due course. I hold that respondent's posture in this respect is untenable.

To begin with, it is not only overwhelmingly borne by the evidence on record but also candidly admitted by respondent that up to November 11, 1969, he was a resident of San Juan, Rizal and that the earliest he could have changed his residence to Mabitac was on November 12, 1969. Incidentally, it is alleged in the supplemental petition and not denied by respondent that his application for registration as a voter in Mabitac for the purpose of the coming constitutional convention election has been denied by the local registration board and, on appeal, by the

Court of First Instance of Laguna, whose decision on such matters is final,[1] and considering that for such registration only six months prior residence in the municipality is required by law, it may be said that it is beyond all dispute that even assuming that respondent did in fact transfer his residence to Mabitac on November 12, 1969, an assumption more liberal to him than the decision of the registration board and the Court of First Instance of Laguna above referred to, he would still have less than one year residence in Mabitac by November 10, 1970, the date of the election in which he wants to be candidate for Delegate to the constitutional convention. If, as respondent claims in his propaganda, he is a member of the Bar, it is to be presumed that when he filed his certificate of candidacy he knew that his own pretended residence in Mabitac is short of the one year which the Constitutional Convention Law requires of candidates for Delegate.

Under Section 37 of the Revised Election Code, even the certificates of candidacy of candidates who undisputably have all the legal qualifications for the positions they are running for may be denied due course by the Comelec upon proof that the same has been "presented and filed to cause confusion among electors by the similarity of the names of the registered candidates or by other means which demonstrate that the candidate has no bona fide intention to run for the office for which the certificate has been filed and thus prevent a faithful determination of the true will of the electorate." This provision does not require that a candidate be legally disqualified in order that the Comelec may refuse to give due course to his certificate of candidacy, but surely, if in addition to other relevant evidence tending to establish a case of "nuisance" candidacy, as the situation contemplated in the statute is ordinarily referred to, it appears that the candidate concerned knows or ought to know that he lacks one or more

of the legal qualifications of the office indicated in his certificate of candidacy, the Comelec or this Court, on appeal, may take such circumstance into account in ruling whether or not the above-mentioned Section 37 of the Revised Election Code may be applied. In doing so, the Comelec or this Court does not encroach at all into the exclusive jurisdiction of the Constitutional Convention to decide on the qualifications of its members.

The case of respondent is not one wherein his certificate of candidacy is being denied due course because he does not possess all the legal qualifications of Delegate. It is being denied because there are enough circumstances in the record indicating that his candidacy is not bona fide, principally, as far as I am concerned, the fact that according to the finding of the Comelec in its resolution under review, respondent would not start his campaign until after the "cloud" on his candidacy has been removed. Generally, this Court has consistently held that consciousness of the existence of a cloud over one's right or title is inconsistent with good faith in claiming the same. I am inclined to believe that respondent's expectation that the Comelec would decline to pass upon the controversy as to the period of his legal residence in Mabitac was what emboldened him to sally forth notwithstanding his own knowledge of its inadequacy. It is my considered view that Section 37 of the Revised Election Code, which is one of the devices conceived by Congress to purify the exercise of suffrage would be rendered nugatory in the most appropriate cases if respondent's theory is upheld. Precisely, the candidate who knows he is not qualified is the one who would more likely agree to be a "nuisance" candidate because he would have nothing to lose anyway. If respondent were being denied the right to run solely because of a finding of the Comelec or this Court that he lacks one or some of the legal qualifications of Delegate, I would have voted to deny the present petition. I am voting to grant it, not because I hold he is disqualified, but because I have to presume that he well knows he has less than one year residence in Mabitac and I hold that that knowledge, taken together, but not otherwise, with other undeniable facts in the record, indicative, to my mind, of the less than full-hearted resolution on the part of the respondent to run for the office of Delegate, leads to no other conclusion than that his case comes within the letter and spirit of Section 37 of the Revised Election Code.

In conclusion, I vote to grant the petition but I believe it is necessary for this Court to spell out that respondent's certificate is being denied due course not because We hold that he is not legally qualified but simply because the circumstances surrounding the filing thereof, among them the fact that it was not spontaneous on his part but only accepted by him after petitioner had filed his own certificate, sufficiently convinces Us that this is one of the instances wherein the power to deny due course to a certificate of candidacy should be exercised, without primary regard to whether or not said respondent is legally qualified.

[1] The only remedy against such a decision is a certiorari in the Supreme Court and none such appears to have been filed by respondent.

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