

JOSE L. LACHICA AND THE LIBERAL PARTY, PETITIONER, VS. HON. JUAN E. YAP, IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF SORSOGON, SERGIO ABESAMES, ET ALS. ...

G.R. No. L-25379. September 25, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

This is a petition for certiorari with preliminary injunction, petitioners being Jose L. Lachita, the candidate for the office of Congressman of the other petitioner, Liberal Party, for the Second. District of the Province of Sorsogon, filed against respondent Judge, the Honorable Juan E. Yap, of the Court of First instance of Sorsogon, the chairman and members of the provincial board of canvassers as well as Vicente L. Peralta, the Nacionalista Party candidate, now deceased. It was filed on December 2, 1965, to nullify an order of November 29, 1965 of respondent Judge denying the petition for recount, of the ballots cast in Precinct No. 7 of the Municipality of Bacon, Precinct No. 22, of the Municipality of Casiguran and Precincts Nos. 48 and 58 of the Municipality of Sorsogon and thereafter to order respondent Judge to proceed with such judicial recount. On the assumption that respondent Vicente L. Peralta had already been proclaimed, it was likewise prayed in the petition that judgment be rendered declaring the same null and void, so that the winner could be ascertained after such judicial recount and thereafter declared as such.

This Court, in a resolution of December 3, 1965, gave due course to the petition, requiring respondents to answer within 10 days, No injunction was issued.

In the answer of respondent. Vicente L. Peralta, he asserted that there was no valid ground for a judicial recount. Hence, the order of respondent judge denying such a plea was in accordance with law and judicial precedents. Moreover, he alleged in his special defenses that his proclamation "has been made in the regular performance of duty by the respondent Provincial Board of Canvassers [and] is now a consummated fact it is not tainted with illegality or irregularity of any kind. [1] The prayer was for the dismissal of the petition for certiorari.

Thereafter, in the manifestation filed on January 14, 1966 by respondent Vicente L. Peralta, he stated that this petition was set forth for oral argument for December 20, 1965, at which date counsel for the opposing parties appealed and argued for the respective sides, petition being submitted for decision. It was like-wise alleged that he, having been proclaimed previously, had "already taken his oath of office last December 30, 1965, and having effectively assumed and commenced the discharge of his duties as the duly elected Congressman of the Second District of Sorsogon, the above-entitled petition of petitioner Lachica has now become a moot question." [2]

The above manifestation was noted in a resolution of January 19, 1966 of this Court. There was no denial of such fact of proclamation by petitioners in their counter-manifestation of January 18, 1966, they would have however, this Court, the above proclamation notwithstanding, still rule on the merits of their petition.

According to the Constitution: "The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election returns, and qualifications of their

respective Members. ***"[3] In the lead-ing case of *Angara v. Electoral Commission*, [4] the scope of such authority was set forth thus: "From the deliberations of our Consti-tutional Convention it is evident that the purpose was to transfer in, its totality all the powers previously exercised by the legislature in matters pertaining to contested elections of its members, to an independent and impartial tribunal." [5] The grant of power to the then Philippine Senate and House of Representatives under the Jones Law was characterized by this Court as "full, clear and complete." [6] Moreover, as noted by Justice Laurel in the same *Angara* decision; "The grant of power to the Electoral Commission to judge all contests relating to the election, returns and qualifications of members of the National Assembly, is intended to be as complete and unimpaired as if it had remained originally in the legislature." [7]

To such a doctrine this Court has remained committed. The power of the Electoral Tribunal remains fall, clear and complete. It excludes the exercise of any authority on the part of this Court that would in any wise restrict or curtail it or even affect the same. [8]

Prior, to the proclamation of respondent Peralta, this Court could very well pass on the validity of the action of respondent Judge in an appropriate proceeding. After such proclamation, and much more so after the oath of office was taken by the candidate proclaimed, with his exercise of the prerogatives vested in such position, it would not only curtail the plenary grant of authority to the Electoral Tribunal but likewise could result in an unseemly wrangling between such constitutional agency and this Court if the matter were not left to the sole and exclusive appraisal and judgment of the Electoral Tribunal.

The resolution of this Court in *Nacionalista Party v. Commission on Elections*, [9] affords a precedent for the dismissal of this suit. Thus: "* * *, acting on the motion to dismiss filed by respondent Benigno Aquino, Jr. and petitioners' opposition thereto; considering that the principal issue in this case involves the eligibility or qualification of said respondent under Section 4, Article VI of the Consti-tution, which provides in part that 'no person shall be a Senator unless he be a natural-born citizen of the Philippines and, at the time of his election is at least thirty-five years of age, * * *'; that Section 11 of the same Article makes the Senate Electoral. Tribunal the sole Judge of al contests relating to the elections, returns, and qualifications of the members of the Senate; that inasmuch as respondent Benigno Aguino, Jr. has been proclaimed elected to that body and has assumes office as member thereof the determination of his eligibility or qualification properly and exclusively pertains to the Senate Electoral Tribunal, where in fact a case involving this issue has been filed and is now pending; and that the other issues raised in the original petition herein as well, as in the other pleadings subsequently filed by the parties, as summarized in petitioners' opposition to the motion to dismiss, are merely incidental in character and have become moot and academic insofar as the main issue is concerned: the Court resolved to dismiss the instant petition, without pronouncement as to costs."

WHEREFORE, this petition is denied. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Sanchez, Castro, Angeles and Capistrano, JJ., concur.
Dizon and Zaldivar, JJ., did not take part.

[1] Answer of respondent Vicente L. Peralta, Special Defenses, par. 17.

[2] Manifestation of respondent Peralta of January 14, 1966.

[3] Section 11, Article VI, Constitution of the Philippines.

[4] 63 Phil. 139 (1936).

[5] Ibid, p.175.

[6] Veloso v. Board of Canvassers, 39 Phil. 886 (1919).

[7] Angara v. Electoral Commission, 63 Phil. 139, 175.

[8] Cf.. Suanez v. Chief Accountant, 81 Phil. 818 (1948) and Tañada v. Cuenco, 103 Phil. 1051 (1957)

[9] L-28242, February 23. 1968.

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