

## JOSE L. GUEVARA, PETITIONER VS. THE COMMISSION ON ELECTIONS, RESPONDENT.

*G. R. No. L-12596. July 31, 1958*

Ponente: BAUTISTA ANGELO, J.

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### BAUTISTA ANGELO, J.:

Petitioner was ordered by the Commissioner on Elections to show cause why he should not be punished for contempt for having published in the Sunday Times issue of June 2, 1957 an article entitled "Ballot Boxes Contract Hit", which tended to interfere with and influence the Commission on Elections and its members in the adjudication of a controversy then pending investigation and determination before said body "arising from the third petition for reconsideration of May 20, 1957 and the supplementary petition thereof of June 1, 1957 filed by Acme Steel Mfg. Co., Inc., praying for reconsideration of the resolutions of the Commission of May 4 and 13, 1957, awarding the contracts for the manufacture and supply of 34,000 ballot boxes to the National Shipyards & Steel Corporation and the Asiatic Steel Mfg. Co., Inc. and the respective answers of the latter two corporations to said petitions; and which article likewise tended to degrade, bring into disrepute, and undermine the exclusive constitutional function of this Commission and its Chairman Domingo Imperial and Member Sixto Brillantes in the administration of all the laws relative to the conduct of elections."

Petitioner, answering the summons issued to him by the Commission, appeared and filed a motion to quash on the following grounds:

"a) The Commission, has no jurisdiction to punish as contempt the publication of the alleged contemptuous article, as neither in the Constitution nor in statutes is the Commission granted a power to so punish the same, for should Section 5 of Republic Act No. 180, vesting the Commission with 'power to punish contempts provided for in Rule 64 of the Rules of Court under the same procedure and with the same penalties provided therein,' be applied to the case at hand, said provision would be unconstitutional.

"b) Assuming that the Commission's power to punish contempt exists, the same cannot be applied to the instant case, where the Commission is exercising a purely administrative function of purchasing ballot boxes.

"c) Assuming that the Commission's power to punish contempt exists, said power cannot apply to the present case because the matter of purchasing the ballot boxes was already a closed case when the article in question was published.

"d) Assuming that controversy contemplated by the law was still pending, the article in question was a fair report because it could be assumed that the news report of the respondent was based on the motion for reconsideration filed by the Acme Steel where there was an allegation of fraud, etc,"

The Commission, after hearing, denied the motion to quash but granted petitioner a period of fifteen (15) days within which to elevate the matter to the Supreme Court in view of the issue raised which assails the jurisdiction of the Commission to investigate and punish petitioner for contempt in connection with the alleged publication. Hence the present petition for prohibition with preliminary injunction.

The facts which gave rise to the present contemptuous incident are: The Commission on Elections, on May 4, 1957, after proper negotiations, awarded to the National Shipyards & Steel Corporation (NASSCO), the Acme Steel Mfg. Co., Inc. (ACME), and the Asiatic Steel Mfg. Co., Inc. (ASIATIC), the contracts to manufacture and supply the Commission 12,000, 11,000 and 11,000 ballot boxes at P17.64, P14.00 and P17.00 each, respectively. On May 8, 1957, both the NASSCO and the ASIATIC signed with the Commission on Elections the corresponding contracts thereon. On May 13, 1957, the Commission cancelled the award to the ACME for failure of the latter to sign the contract within the designated time and awarded to the NASSCO and the ASIATIC, one-half each, the 11,000 ballot boxes originally allotted to the ACME. The corresponding contracts thereon were signed on May 16, 1957.

Then followed a series of petitions filed by the acme for the reconsideration of the resolution of the Commission of May 13, 1957. The first of these petitions was filed on May 14, 1957 which, after hearing, was denied by the Commission in its resolution of May 16, 1957. The second petition was filed on May 16, 1957 and was denied on May 17, 1957. The third petition was filed on May 20, 1957, and because of the seriousness of the grounds alleged therein for the annulment of its previous resolutions, the Commission resolved to conduct a formal investigation on the matter ordering the NASSCO and the ASIATIC to file their respective answers. Thereafter, after these corporations had filed their answers, the Commission held a formal hearing thereon on May 24, 1957. On May 28, 1957, the acme filed a memorandum on the points adduced during the hearing, and on June 4, 1957, the Commission issued its resolution denying the third motion for reconsideration. The article signed by petitioner was published in the June 2, 1957 issue of the Sunday Times, a newspaper of nationwide circulation.

The question to be determined is whether the Commission on Elections has the power and jurisdiction to conduct contempt proceedings against petitioner with a view to imposing upon him the necessary disciplinary penalty in connection with the publication of an article in the Sunday Times issue of June 2, 1957 which, according to the charge, tended to interfere with and influence said Commission in the adjudication of a controversy then pending determination and to degrade and undermine the function of the Commission and its members in the administration of all laws relative to the conduct of elections.

The Commission on Elections is an independent administrative body which was established by our Constitution to take charge of the enforcement of all laws relative to the conduct of elections and devise means and methods that will insure the accomplishment of free, orderly, and honest elections (*Sumulong vs. Commission on Elections*, 73 Phil., 288; *Nacionalista Party vs. The Solicitor General*, 85 Phil, 101; 47 Off. Gaz. 2356). Its powers are denned in the Constitution. It provides that it "shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions, affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials" (Section 2, Article X). The Revised Election Code supplements what other powers may be exercised by said Commission. Among these powers are those embodied in Section 5 thereof which, for ready reference, we quote:

"SEC. 5. Powers of Commission.—The Commission on Elections or any of the members thereof shall have the power to summon the parties to a controversy pending before it, issue subpoenas and subpoenas duces tectim and otherwise take testimony in any investigation or hearing pending before it, and delegate such power to any officer. Any controversy submitted to the Commission on Elections shall be tried, heard and decided by it within fifteen days counted from the time the corresponding petition giving rise to said controversy is filed. The Commission or any of the members thereof shall have the power to punish contempts provided for in rule sixty-four of the Rules of Court, under the same procedure and with the same penalties provided therein. "Any violation of any final and executory decision, order or ruling of the Commission shall constitute contempt of

the Commission.

"Any decision, order or ruling of the Commission on Elections may be reviewed by the Supreme Court by writ of certiorari in accordance with the Rules of Court or with such rules as may be promulgated by the Supreme Court."

It would therefore appear that the Commission on Elections not only has the duty to enforce and administer all laws relative to the conduct of elections but the power to try, hear and decide any controversy that may be submitted to it in connection with the elections, And as an incident of this power, it may also punish for contempt in those cases provided for in Rule 64 of the Rules of Court under the same procedure and with the same penalties provided therein. In this sense, the Commission, although it cannot be classified as a court of justice within the meaning of the Constitution (Section 13, Article VIII), for it is merely an independent administrative body (*The Nacionalista Party vs. Vera*, 85 Phil., 126; 47 Off. Gaz. 2375), may however exercise quasi-judicial functions in so far as controversies that by express provision of the law come under its jurisdiction. As to what questions may come within this category, neither the Constitution nor the Revised Election Code specifies. The former merely provides that it shall come under its jurisdiction, saving those involving the right to vote, all administrative questions affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and other election officials, while the latter is silent as to what questions may be brought before it for determination. But it is clear that, to come under its jurisdiction, the questions should be controversial in nature and must refer to the enforcement and administration of all laws relative to the conduct of election. The difficulty lies in drawing the demarcation line between a duty which inherently is administrative in character and a function which is justiciable and which would therefore call for judicial action by the Commission. But this much depends upon the factors that may intervene when a controversy should arise.

Thus, it has been held that the Commission has no power to annul an election which might not have been free, orderly and honest for such matter devolves upon other agencies of the Government (*Nacionalista Party vs. Commission on Elections*, 85 Phil., 148; 47 Off. Gaz. 2851); neither does it have the power to decide the validity or invalidity of votes cast in an election for such devolves upon the courts or the electoral tribunals (*Ibid.*) ; it does not also have the power to order a recounting of the votes before the proclamation of election even if there are discrepancies in the election returns for it is a function of our courts of justice (*Ramos vs. Commission on Elections*, 80 Phil., 722); nor does it have the power to order the correction of a certificate of canvass after a candidate had been proclaimed and assumed office (*De Leon vs. Imperial*, 94 Phil., 680); and only very recently this Court has held that the Commission has no power to reject a certificate of candidacy except only when its purpose is to create confusion in the minds of the electors (*Abcede vs. Imperial*, 103 Phil., 136).

On the other hand, it has been held that the Commission has the power to annul an illegal registry list of voters (*Feliciano, et al. vs. Lugay, et al.*, 93 Phil., 744; 49 Off. Gaz. 3863); to annul an election canvass made by a municipal board of canvassers (*Mintu vs. Enage, et al.*, G. R. No. L- 1834); and to investigate and act on the illegality of a canvass of election made by a municipal board of canvassers (*Ramos vs. Commission on Elections*, 80 Phil., 722). And as to what are the ministerial duties which the Commission on Elections must perform in connection with the conduct of elections, the following resume made by the Commission itself in a controversy which was submitted to it for determination is very enlightening:

"In the enforcement and administration of all laws relative to the conduct of elections, the first duty of the Commission is to set in motion all the multifarious preparatory processes ranging from the purchase of election supplies, printing of election forms and ballots, appointments of members of the boards of inspectors, establishment of precincts and designation of polling places to the preparation of the registry lists of voters, so as to put in readiness on election day the election machinery in order that the people who are legally qualified to exercise the right of suffrage may be able to cast their votes to express their sovereign will. It is incumbent

upon the Commission to see that all these preparatory acts will insure free, orderly and honest elections. All provisions of the Revised Election Code contain regulations relative to these processes preparatory for election day. It is incumbent upon the Commission on Elections to see that all these preparatory acts are carried out freely, honestly and in an orderly manner. It is essential that the Commission or its authorized representatives, in establishing precincts or designating polling places, must act freely, honestly and in an orderly manner. It is also essential that the printing of election forms and the purchase of election supplies and their distribution are done freely, honestly and in an orderly manner. It is further essential that the political parties or their duly authorized representatives who are entitled to be represented in the boards of inspectors must have the freedom to choose the person who will represent them in each precinct throughout the country. It is further essential that once organized, the boards of inspectors shall be given all the opportunity to be able to perform their duties in accordance with law freely, honestly and in an orderly manner, individually and as a whole. In other words, it is the duty of the Commission to see that the boards of inspectors, in all their sessions, are placed in an atmosphere whereby they can fulfill their duties without any pressure, influence and interference from any private person or public official. All these preparatory steps are administrative in nature and all questions arising therefrom are within the exclusive powers of the Commission to resolve. All irregularities, anomalies and misconduct committed by any election official in these preparatory steps are within the exclusive power of the Commission to correct. Any erring official must respond to the Commission for investigation. Of these preparatory acts, the preparation of the permanent list of voters is the matter involved in this case, which to our mind is completely an administrative matter." (Decision of the Commission on Elections, October 28, 1951, In Re Petition of Angel Genuino vs. Prudente, et al., Case No. 196) [1]

Considering that the paramount administrative duty of the Commission is to set in motion all the multifarious preparatory processes ranging from the purchase of election supplies, printing of election forms and ballots, appointments of members of the board of inspectors, establishment of precincts and designation of polling places to the preparation of registry lists of voters, so as to put in readiness on election day the election machinery, it may also be reasonably said that the requisitioning and preparation of the necessary ballot boxes to be used in the elections is by the same token an imperative ministerial duty which the Commission is bound to perform if the elections are to be held. Such is the incident which gave rise to the contempt case before us. It stems from the ministerial act of the Commission in requisitioning for the necessary ballot boxes in connection with the last elections and in so proceeding it provoked a dispute between several dealers who offered to do the job.

Although the negotiation conducted by the Commission has resulted in controversy between several dealers, that however merely refers to a ministerial duty which the Commission has performed in its administrative capacity in relation to the conduct of elections ordained by our Constitution. In proceeding on this matter, it only discharged a ministerial duty; it did not exercise any judicial function. Such being the case, it could not exercise the power to punish for contempt as postulated in the law, for such power is inherently judicial in nature. As this Court has aptly said: "The power to punish for contempt is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of judgments, orders and mandates of courts, and, consequently, in the administration of justice" (Slade Perkins vs. Director of Prisons, 58 Phil., 271; U. S. vs. Loo Hoe, 36 Phil., 867; In Re Sotto, 46 Off. Gaz. 2570; In Re Kelly, 35 Phil., 944). The exercise of this power has always been regarded as a necessary incident and attribute of courts (Slade Perkins vs. Director of Prisons, Ibid.). Its exercise by administrative bodies has been invariably limited to making effective the power to elicit testimony (People vs. Swena, 296 P., 271). And the exercise of that power by an administrative body in furtherance of its administrative function has been held invalid (Langenberg vs. Decker, 31 N.E. 190; In Re Sims 37 P., 135; Roberts vs. Hacney, 58 S.W., 810). We are therefore persuaded to conclude that the Commission on Elections has no power nor authority to submit petitioner to contempt proceedings if its purpose is to discipline him because of the publication of the article mentioned in the charge under consideration.

Wherefore, petition is granted. Respondent Commission is hereby enjoined from proceeding with the contempt

case set forth in its resolution of June 20, 1957, without pronouncement as to ccsts.

The preliminary injunction issued by this Court is made permanent.

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

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[1]This case has been upheld by the Supreme Court in the certiorari case, G. R. No. L-5222, Prudente, et al. vs. Genuino, et al., Nov. 6, 1951.

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