

**FILIPINAS ENGINEERING AND MACHINE SHOP, PETITIONER, VS.
HON. JAIME N. FERRER, LINO PATAJO AND CESAR MIRAFLOR AS
COMMISSIONERS OF THE COMMISSION ON ELECTIONS; COMELEC
BIDDING COM...**

G.R. No. L-31455. February 28, 1985

Ponente: CUEVAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/57e0ae12050f/>

CUEVAS, J.:

Appeal by Certiorari from the Order dated November 15, 1969 issued by the respondent Judge of the then Court of First Instance of Manila, Branch II, DISMISSING Civil Case No. 77972 entitled, "Filipinas Engineering and Machine Shop vs. COMELEC, et al.", and his Honor's subsequent Order of December 20, 1969 DENYING petitioner's motion for reconsideration.

In preparation for the national elections of November 11, 1969, then respondent Commissioners of the Commission on Elections (COMELEC) issued an INVITATION TO BID CALL No. 127 on September 16, 1969 calling for the submission of sealed proposals for the manufacture and delivery of 11,000 units of voting booths with the following specifications and descriptions, to wit:

"11,000 Units VOTING BOOTHS, easy to install and store. Must be of light but strong and durable materials, rust proof or rust resistant and construction must be sturdy. Each unit shall consists of two (2) voting booths with overall measurements of 150 cms. long x 75 cms. wide x 185 cms. high. (Each voting booth or compartment measuring 75 cms. long x 75 cms. wide x 185 cms. high). The top and all sides except the front side, shall be fully covered. The front side of the unit shall be without cover to serve as its opening (entrance). Each voting compartment shall be provided with a writing table.

"Each unit shall be contained in individual wooden box.

"Bidders are required to submit finished sample."[1]

Among the seventeen bidders who submitted proposals in response to the said INVITATION were the herein petitioner, Filipinas Engineering and Machine Shop, (Filipinas for short) and the private respondent, Acme Steel Manufacturing Company, (Acme for short).

Filipinas' sealed proposal was as follows:

Prices Per Unit

Brief Description

P128.00

Sample 2 - same in construction as sample 1, except that its siding and top cover is made of plywood (or

lawanit if available). 33.5 kilos in weight. Packed in wooden box.

P123.00

Same as sample 2, except that it is packed in corrugated carton box.[2]

Acme's bid was:

Prices Per Unit

Brief Description

P78.00

Made of steel, channel type frames with steel sheet sidings, top cover and table; painted, 51 kilos in weight.[3]

On October 7, 1969, the respondent COMELEC Bidding Committee Chairman and Members submitted their Memorandum on the proceedings taken pursuant to the said Invitation to Bid which stated that Acme's bid had to be rejected because the sample it submitted was "made of black iron sheets, painted, and therefore not rust proof or rust resistant," and that, "it is also heavy - 51 kilos in weight." [4] The Committee instead recommended that Filipinas be awarded the contract to manufacture and supply the voting booths, but that an "ocular inspection be made by all members of the Commission of all the samples before the final award be made." [5]

On October 9, 1969, after an ocular inspection of all the samples submitted was conducted by the COMELEC Commissioners, and after the Commissioners noted that Acme submitted the lowest bid, the COMELEC issued a Resolution awarding the contract (for voting booths) to Acme, subject to the condition, among others, that "(Acme) improves the sample submitted in such manner as it would be rust proof or rust resistant. x x x." [6]

On October 11, 1969, the COMELEC issued Purchase Order No. 682 for the manufacture and supply of the 11,000 Units of voting booths in favor of Acme. Acme accepted the terms of the purchase.

On October 16, 1969, Filipinas filed an Injunction suit with the then Court of First Instance of Manila, docketed as Civil Case No. 77972, against herein public respondents COMELEC Commissioners, chairman and members of the Comelec Bidding Committee, and private respondent Acme.

Filipinas also applied for a writ of preliminary injunction. After hearing petitioner's said application, the respondent Judge in an order dated October 20, 1969 denied the writ prayed for. [7]

Thereafter or more specifically on October 29, 1969, the public respondents filed a Motion to Dismiss on the grounds that the lower court has no jurisdiction over the nature of suit, and that the complaint states no cause of action. [8]

Acting on the motion (to dismiss), the respondent Judge issued the questioned Order dismissing Civil Case No. 77972. Filipinas' motion for reconsideration was denied for lack of merit.

Hence, the instant appeal.

In the meantime, since no restraining order had been issued against the holding of the national elections scheduled

on November 11, 1969, Acme complied with its contract with the COMELEC.

On this score alone, this petition should be dismissed for being moot and academic. Considering however the nature and importance of the legal questions raised, We have opted to discuss and resolve the same with finality.

Two main issues are raised before Us, namely:

1. Whether or not the lower court has jurisdiction to take cognizance of a suit involving an order of the COMELEC dealing with an award of contract arising from its invitation to bid; and
2. Whether or not Filipinas, the lo-sing bidder, has a cause of action under the premises against the COMELEC and Acme, the winning bidder, to enjoin them from complying with their contract.

We resolve the first issue in the affirmative.

By constitutional mandate -

"The Commission on Elections 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 of location of polling places, and the appointment of election inspectors and of other election officials. x x x The decisions, orders and rulings of the Commission shall be subject to review by the Supreme Court." (Section 2, Article X, 1935 Philippine Constitution, which was then in force)

Section 5 of the Revised Election Code (Republic Act No. 180, approved June 21, 1947, the election law then enforced) provided that, "(a) 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," and that, "any violation of any final and executory decision, order, or ruling of the Commission shall constitute contempt of court." Likewise, the same section provided that, "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."

Similarly, Section 17(5) of the Judiciary Act of 1948 (Republic Act No. 296), as amended, provides that, "final awards, judgments, decisions or orders of the Commission on Elections x x x" fall within the exclusive jurisdiction of the Supreme Court by way of certiorari. Section 1, Rule 43 of the 1964 Revised Rules of Court prescribed the manner of appeal by certiorari to the Supreme Court from a final order, ruling or decision of the Commission on Elections, among other administrative bodies.

Hence it has been consistently held^[9] that it is the Supreme Court, not the Court of First Instance, which has exclusive jurisdiction to review on certiorari final decisions, orders or rulings of the COMELEC relative to the conduct of elections and enforcement of election laws.

We are however, far from convince that an order of the COMELEC awarding a contract to a private party, as a result of its choice among various proposals submitted in response to its invitation to bid comes within the purview of a "final order" which is exclusively and directly appealable to this court on certiorari. What is contemplated by the term "final orders, rulings and decisions" of the COMELEC reviewable by certiorari by the Supreme Court as provided by law are those rendered in actions or proceedings before the COMELEC and taken cognizance of by the said body in the exercise of its adjudicatory or quasi-judicial powers.

It cannot be gainsaid that the powers vested by the Constitution and the law on the Commission on Elections may either be classified as those pertaining to its adjudicatory or quasi-judicial functions, or those which are inherently

administrative and sometimes ministerial in character.

Thus in the case of *Masangcay vs. Commission on Elections*, G.R. No. L-13827, September 28, 1962 (6 SCRA 27, 28-29), We held that -

"x x x (W)e had the occasion to stress in the case of *Guevarra vs. Commission on Elections* (G.R. No. L-12596, July 31, 1958) that under the law and the constitution, the Commission on Elections has not only the duty to enforce and administer all laws relative to the conduct of elections, but also the power to try, hear and decide any controversy that may be submitted to it in connection with the elections. In this sense, We said, the Commission, although it cannot be classified as a court of justice within the meaning of the Constitution (Sec. 30, Article VIII), for it is merely an administrative body, may, however, exercise quasi-judicial functions insofar as controversies that by express provision of law come under its jurisdiction. The difficulty lies in drawing the demarcation line between the duty which inherently is administrative in character and a function which calls for the exercise of the quasi-judicial function of the Commission. In the same case, we also expressed the view that when the Commission exercises a ministerial function it cannot exercise the power to punish for contempt because such power is inherently judicial in nature x x x x."

We agree with petitioner's contention that the order of the Commission granting the award to a bidder is not an order rendered in a legal controversy before it wherein the parties filed their respective pleadings and presented evidence after which the questioned order was issued; and that this order of the commission was issued pursuant to its authority to enter into contracts in relation to election purposes. In short, the COMELEC resolution awarding the contract in favor of Acme was not issued pursuant to its quasi-judicial functions but merely as an incident of its inherent administrative functions over the conduct of elections, and hence, the said resolution may not be deemed as a "final order" reviewable by certiorari by the Supreme Court. Being non-judicial in character, no contempt may be imposed by the COMELEC from said order, and no direct and exclusive appeal by certiorari to this Tribunal lie from such order. Any question arising from said order may be well taken in an ordinary civil action before the trial courts.

On the second issue, We rule that Filipinas, the losing bidder, has no cause of action under the premises to enjoin the COMELEC from pursuing its contract with Acme, the winning bidder.

While it may be true that the lower court has the jurisdiction over controversies dealing with the COMELEC's award of contracts, the same being purely administrative and civil in nature, nevertheless, herein petitioner has no cause of action on the basis of the allegations of its complaint.

Indeed, while the law requires the exercise of sound discretion on the part of procurement authorities,[10] and that the reservation to reject any or all bids may not be used as a shield to a fraudulent award,[11] petitioner has miserably failed to prove or substantiate the existence of malice or fraud on the part of the public respondents in the challenged award.

The COMELEC's Invitation to Bid No. 127, dated September 16, 1969, expressly stipulates -

"8. AWARD OF CONTRACT

Subject to the rights herein reserved, award shall be made by the Commission by resolution to the lowest and responsible bidder whose offer will best serve the interest of the Commission on Elections. The resolution of the Commission shall be communicated in writing to the winning bidder. The winning bidder or awardees shall enter into contract with the Commission on Elections for the supply of the voting booths under the terms and conditions embodied in the Invitation to Bid.

THE COMMISSION ON ELECTIONS RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS; TO WAIVE ANY INFORMATION THEREIN; OR TO ACCEPT SUCH BID AS MAY IN ITS DISCRETION BE CONSIDERED MOST REASONABLE AND ADVANTAGEOUS. The right is also reserved to reject

bids which are defective due to inadequate preparation, omission or lacks sufficient data, guarantee and other information required to be submitted, or bids without the accompanying bond. The right is further reserved to reject the bid of a bidder who had previously failed to perform properly or to deliver on time materials covered by contract of similar nature.

x x x x x

"14. THIS CALL FOR BIDS IS NO MORE THAN AN INVITATION TO MAKE PROPOSALS AND THE COMMISSION ON ELECTIONS IS NOT BOUND TO ACCEPT ANY BID, NOR SHALL THIS CALL FOR BIDS BY ITSELF CONFER A RIGHT TO ANY BIDDER TO ACTION FOR DAMAGES OR UNREALIZED OR EXPECTED PROFITS UNLESS THE BID IS DULY ACCEPTED BY THE RESOLUTION OF THE COMMISSION ON ELECTIONS." [12] (Underscoring supplied)

The "Bidders Tender Call No. 127", the form accomplished by the bidder pursuant to Invitation to Bid No. 127, also categorically provide that the bidder submits his proposals "subject to the conditions stated in the invitation." [13]

It is crystal clear from the aforequoted conditions, that subject to the rights of the COMELEC duly reserved in the said Invitation, award shall be made to the lowest and responsible bidder whose offer will best serve the interest of the COMELEC; that the COMELEC had reserved the right, among others, to accept such bid, as may in its discretion, be considered most reasonable and advantageous; and that the invitation was merely a call for proposals. Consequently, the COMELEC was not under legal obligation to accept any bid since "Advertisements for bidders are simply invitation to make proposals and the advertiser is not bound to accept the highest or lowest bidder, unless the contrary appears." [14]

Pursuant to COMELEC's Invitation to Bid No. 127, a bidder may have the right to demand damages, or unrealized or expected profits, only when his bid was accepted by resolution of the COMELEC. Filipinas' bid, although recommended for award of contract by the bidding committee, was not the winning bid. No resolution to that effect appeared to have been issued by the COMELEC. Decidedly then, Filipinas has no cause of action.

In *Leoquinco vs. Postal Savings Bank*, 47 Phil. 772, 774-775, this Court held:

"x x x (A)ppellant set forth and admitted in his pleadings in the regulation adopted by the Board of Directors authorizing the sale at public auction of the land, as well as the notice announcing the auction that appellant had expressly reserved to themselves the right to reject any and all bids. By taking part in the auction and offering his bid, the appellant voluntarily submitted to the terms and conditions of the auction sale announced in the notice, and clearly acknowledged the right reserved to the appellees. The appellees, making use of that right, rejected his offer. Clearly the appellant has no ground of action to compel them to execute a deed of sale of the land in his favor, nor to compel them to accept his bid or offer. x x x."

In issuing the resolution awarding the contract for voting booths in Acme's favor, the Commissioners of the COMELEC had taken into account that Acme's bid was the lowest; that Acme was a responsible manufacturer; and that upon an ocular inspection of the samples submitted by the bidders, Acme's sample was favorably chosen subject to certain conditions cited in the resolution. In fine, the public respondents properly exercised its sound discretion in making the award.

Once more, We reiterate the dictum earlier laid down in the case of *Jalandoni vs. National Resettlement and Rehabilitation Administration, et al.*, G.R. No. L-15198, May 30, 1960 (108 Phil. 486, 491-492) that -

"Neither can it be contended that the fact that appellant gave the lowest quotation, which was favorably indorsed by the Committee on Bids, created a vested right in favor of the said bidder. Admittedly, the offers were rejected by the Board of Directors. It is clear therefore that there having no meeting of the minds of the parties, there was no perfected contract between them which could be the basis of action against the

defendants-appellees.

The presentation by a reliable and responsible bidder of the lowest bid to officials whose duty it is to let the contract to the lowest reliable and responsible bidder, but who have the right and have given notice that they reserve the right to reject any and all bids, does not constitute an agreement that they will make a contract with such a bidder, nor vest in him such an absolute right to the contract as against a higher bidder (*Colorado Paving Co. vs. Murphy*, (CCA 8th) 78 F. 28, 37 LRA 630).

The mere determination of a public official or board to accept the proposal of a bidder does not constitute a contract (*Smithmeyer vs. United States*, 147 U.S. 342, 37 L. ed. 196, 13 S. Ct. 321); the decision must be communicated to the bidder (*Cedar Rapids Lumber Co. vs. Fischer*, 129 Iowa 332, 105 N.W. 595, 4 LRA (NS) 177).

No contractual relation can arise merely from a bid, unless by the terms of the statute and the advertisement, a bid in pursuance thereof is, as a matter of law, an acceptance of an offer, wholly apart from any action on the part of the municipality or any of its officers (*Molloy vs. Rochelle*, *supra*)."

WHEREFORE, finding the instant petition to be without merit aside from being moot and academic, the same is hereby DISMISSED.

No pronouncement as to costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.
Aquino, J., in the result.

[1] Page 34, Rollo.

[2] Pages 40-41, Rollo.

[3] Page 39, Id.

[4] Id., pages 44-45.

[5] Id., page 48.

[6] Id., page 50.

[7] Records, pages 38-39.

[8] Rollo, page 85.

[9] *Albano vs. Arranz*, 114 Phil. 318; *Zaldivar vs. Estenzo*, 23 SCRA 533; *Macud vs. COMELEC*, 23 SCRA 224.

[12] Rollo, pages 36-37.

[13] Id., page 38.

[14] Article 1326, New Civil Code.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.