

MARCELINO G. COLLADO, PETITIONER AND APPELLANT, VS. JUAN A. ALONZO, RESPONDENT AND APPELLEE.

G. R. No. L-23637. December 24, 1965

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is an appeal from the decision of Hon. Samuel Reyes, Judge of the Cagayan court of first instance dismissing the quo warranto petition of Mareelino G. Collado.

It appears that said Collado ran as candidate for mayor of the town of Ballesteros, Cagayan, in the November 1963 election. His opponent, Juan A. Alonso, won. In due time, he commenced this action to disqualify Alonso, contending that,

- Alonso's certificate of candidacy had been filed beyond the statutory period; and

- Alonso had incurred or made excessive expenditures, contrary to the Election Law.

There is no question that the regular election of November 1963 was held on the 12th day thereof, and that Alonso filed his certificate of candidacy on September 13, 1963. The statute provides that such certificate must be filed "at least 60 days before the regular election." [1] And Collado argues that as the certificate "was filed within the 60-day period next preceding the day of the election", it must be deemed to be out of time. We do not think so. It was filed on the first day of the 60-day period before election; therefore, it was filed within "60-days before" the election, as His Honor, the trial judge held. In fact, the Commission on Elections had fixed September 13, 1963, as the deadline for filing certificates of candidacy. Anyway, "the filing of a certificate of candidacy is a technicality that should be enforced before the election, but can be disregarded after the electorate has made the choosing." (Francisco, Revised Election Code [1965 Ed.] p. 118 citing *Cecilio vs. Belmonte*, 51 Phil. 540.)

The other ground of the petition alleged excessive or unlawful expenditures, because in his campaign speeches, Alonso had promised to donate his salary as mayor of the town, for the education of indigent but deserving students. Contrary to petitioner's contention, we do not believe that Alonso may be held to have "spent in his election campaign, more than the total emoluments attached to the office for one year." This was no expenditure during the campaign.

Neither may the donation be considered as prohibited by sec. 49 of the Election Law, [2] because it was not made to one particular person or persons to induce him or them to vote or withhold his or their votes. It could not even be construed to have been made to voters, because indigent students" might not even be voters. Furthermore, the identity of future beneficiaries was, at the time of the election, unknown. This promise and its long-range effect can not be distinguished from the election promises of candidates to support this or that law or public project or local improvement, which although favorable to some, may not be classified as among the pledges which candidates for public office are prohibited to make.

We are, of course, aware of judicial opinions to the effect that:

"Direct promises, or statements made by candidates for election, that they will, if elected, serve for less than the regularly established salary or fees of the office frequently have been held to be within the denunciation of not only provisions of corrupt practices, but also constitutional, statutory or common-law inhibitions against bribery. The principle underlying this rule is that when candidates offer to discharge the duties of elective offices which they seek for less than the salaries fixed by law and which must be paid by taxation, they offer to reduce protanto the amount of taxes which each individual taxpayer must pay and are thus indirectly making the same offer of pecuniary gain as if they were offering him money directly." (Francisco, Revised Election Code [1965 Ed.] p. 135, 136 citing 18 Am. Jur. 334)

But the circumstances before us may be differentiated, because this respondent did not promise to waive collection of his salary. He intended to collect it; but he undertook to spend it in such a way as to help bright and deserving students-not necessarily voters-whose identity could not be known at the time of the election. So, it may not be said that this or that voter had been influenced by the scholarship offer.

Wherefore, seeing no reason to reverse or modify the appealed decision, we hereby affirm it with costs against appellant.

Bautista Angelo, Concepcion, Reyes, J. B. L., Regala, Makalintal, Bengzon, J. P. and Zaldivar, concur.

Judgment affirmed.

[1] Sec. 36, Revised Election Code.

[2]Sec. 49. Unlawful expenditures.—It is unlawful for any person make or offer to make an expenditure? or to cause an expenditure to be made or offered to any person to induce one either to vote withhold his vote for to vote for or against any candidate, or any aspirant for the nomination or selection of a candidate a Political party, and it is unlawful for any person to solicit receive directly or indirectly any expenditure for any of the foregoing considerations.

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