

## **ESMERALDO M. GATCHALIAN, PETITIONER ON HIS BEHALF AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, VS. COMMISSION ON ELECTIONS, RESPONDENT.**

*G.R. Nos. L-32560-61. October 22, 1970*

Ponente: MAKASIAR, J.

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### **MAKASIAR, J.:**

Petitioner Esmeraldo M. Gatchalian alleges that he is a candi-date for delegate to the Constitutional Convention for the first district of Rizal, having filed his certificate of candidacy with the Commission on Elections on September 8, 1970.

It appears that pursuant to the request of the advertising firms and associations of the Philippines, the Commission on Elections promulgated on August 13, 1970 Comelec Resolution No. RR-707 holding that "donations of billboards to the Commission by foreign-ers or companies or corporations owned and controlled partially or wholly by foreigners are not covered by the provision of Sec. 56 of the Revised Election Code." (See Annex A.)

On September 17, 1970, pursuant to the request of the Adver-tising Council of the Philippines, the Commission on Elections pro-mulgated Resolution No. RR-731 to the effect that the ban in Sec. 46 of the Revised Election Code, as amended, does not cover the projected campaign for funds and other contributions by the Advertising Council of the Philippines and others similarly situated, during the 120 days immediately preceding a regular or special election; and "that in line with the ruling in its resolution numbered RR-707, donations and contributions for the above campaign may be received from foreigners, companies or corporations owned and/or controlled wholly or partially by foreigners. (See Annex B.)

On September 21, 1970, petitioner filed a petition with the Commission on Elections impugning the validity of said Resolu-tions Nos. RR-707 and 731 as violative of Sec. 56 of the Revised Election Code. (See Annex C.)

On the same day, September 21, 1970, the Commission on Elections denied the petitioner's petition on the ground "that con-tributions by foreigners to the Comelec Billboards Committee for the purpose of financing costs of Comelec billboards are not made in aid or support of any particular candidate in a particular district and that the allocation of space for its candidate is allowed by lottery, nor would it in any way influence the result of the election, xx xx". (See Annex D.)

From the said order of the Comelec denying his petition, petitioner, pursuant to Sec. 2 of Art. X of the Constitution, filed a notice of appeal and the present petition for a review by this Tri-bunal of the said Comelec ruling, contending that said order of the Comelec is null and void as contrary to law or having been issued in excess of the powers of the Commission on Elections or in grave abuse of its discretion, and praying for a writ of preliminary as well as permanent injunction.

No writ of preliminary injunction nor restraining order was issued, however, by reason of the fact that the Comelec itself re-frained from enforcing the questioned Resolutions Nos. RR-707 and 731 and had given the

corresponding advice to the advertising firms and associations concerned, including the Advertising Council of the Philippines.

Sec. 56 of the Revised Election Code, as amended, provides that

"No foreigner shall aid any candidate, directly or indirectly, or to take part in or to influence in any manner any elections."

The prohibited active intervention of foreigners thereunder may consist of:

- (1) aiding any candidate, directly or indirectly, in any election;
- (2) taking part in any election; and
- (3) influencing in any manner any election.

## I

To dissipate any doubt, although not raised by the parties, the first question is whether the term "any elections" as used in Sec. 56 of the Revised Election Code, as amended, includes the election of delegates to the Constitutional Convention under Resolution of both Houses No. 2 of March 16, 1967, as amended by Resolution of both Houses No. 4 of June 17, 1969, as implemented by Rep. Act No. 6132.

The affirmative answer is beyond debate; because Sec. 8 of R.A. No. 6132 expressly enumerates prohibited acts "In addition to and supplementing prohibited acts provided for in the Revised Election Code." Said Sec. 56 of the Revised Election Code, as amended, defines one such prohibited act or corrupt election practice. Moreover, Sec. 2 of Res. No. 2 states that the election of delegates to the Constitutional Convention "shall be held on the second Tuesday in November, 1970 in accordance with the Revised Election Code, " which is restated in Sec. 6 of R.A. No. 6132.

The same conclusion finds support in controlling jurisprudence.

Thus, We held recently that the term "any election" in Sec. 2 of Art. XII of the Constitution, which prohibits officers and employees in the Civil Service, including members of the Armed Forces, from engaging "directly or indirectly in partisan political activities" or "taking part in any election except to vote," comprehends or applies to election of delegates to the Constitutional Convention.[1]

The term "any election" in a statute making it criminal to bet on any duel or on the result of any election includes all elections held in the State.[2] It means not only any election then provided by the laws and the Constitution, but any election which may thereafter be established or required to be held pursuant to law.[3]

## II

The second issue is whether the term "foreigner" as employed in the law includes both natural and juridical persons or associations or organized groups, with or without legal personality.

Under Sec. 39 of Art. III of the Revised Election Code, "the term 'person' includes an individual, partnership, committee, association, corporation and any other organization or group of persons." [4] Sec. 39 refers to contributions from or expenditures by any person for the purpose of influencing or attempting to influence the election of candidates.

The contributors to electoral campaign funds are either natural or artificial persons, or an organized group of persons without separate legal personality. Sec. 39 even goes further by including in the definition of the term

"person", a committee or any other group of persons which may not have any juridical personality.

Moreover, under Sec. 185 of the Revised Election Code, as amended, Sec. 56, a violation of which is a serious election offense under Sec. 183 of the same Code, may be violated by an entity which, if found guilty, shall be sentenced to pay a fine of from five thousand pesos (P5,000.00) to one hundred thousand pesos (P100, 000.00) and its President, officials and employees performing duties connected with the offense committed are liable as principals, accomplices or accessories as the case may be, in addition "to the responsibility of such entity." [5]

To limit the term "foreigner" to natural persons would be unrealistic and would remove much of the bite in the prohibition. It should not be disputed that juridical persons or organized groups --- whether civic, fraternal, religious, professional, trade, or labor --- have more funds than individuals with which to subsidize a candidate. Consequently, the influence of a juridical person or organized group, which is a contributor or donor, is greater than that of any natural person. Furthermore, any juridical person or organized group has more interests to protect than any of its component members or stockholders. And if the interest of the individual stockholders or members of the juridical person or organized group were also to be considered, because usually the stockholders or members have common cause with their corporation or organized group, such arti-ficial person or organized group together with its members will be under a more compelling motivation to aid a candidate or to influence the conduct as well as the outcome of the election -- even to frustrate the holding of the election if it is necessary to protect, if not enhance, their interests.

It has likewise been held that in the absence of an expressed statutory provision or instruction the word "person" comprehends private corporations unless it appears that it is used in a more limited sense, and that prima facie the word "person" under even a penal statute which is intended to inhibit an act, must be a "person in law" -- that is, an artificial as well as a natural person and there-fore includes corporations if they are within the sphere and purpose of the statute. [6]

There is nothing in the Revised Election Code, much less in Sec. 56 itself, indicating that the term "foreigner" is limited only to natural persons. Neither is there any provision in the same Revised Election Code expressly or impliedly suggesting that the circumstances of an artificial person in law are not identical to those of natural persons covered by the prohibition in the Revised Election Code. On the contrary, there is greater reason to believe that the law-maker feared more the assistance and influence of artificial persons in the elections than the aid of natural persons. Hence, the law utilizes the more generic term "foreigner".

It is a cardinal rule of statutory construction that a law is understood to contain, by implication, if not by its expressed terms, all such provisions as may be necessary to effectuate its object and purpose. And that the whole and every part of the statute must be considered in fixing the meaning of its parts. [7]

The law penalizing corrupt election practices should be given a reasonable construction in the interests of the purity of the elec-tions. [8] Since, as heretofore stated, the danger of desecration of the sanctity of the ballot is greater from artificial persons by reason of their vastly superior financial and other resources inclu-ding the combined voting power of their members and employees, the term "foreigner" in Sec.56 should be understood to include artificial persons and other organized groups, without distinct legal personality.

The position of the respondents Chairman and members of the Commission on Elections that the Advertising Council of the Philippines and the other advertising firms, associations and organizations are the donors, and not the alien contributors for the construction of Comelec billboards, is as inaccurate as it is specious.

Inaccurate, because the very Resolution No. RR-707 states that the advertising firms and associations mentioned therein "re-quest an opinion from the Commission whether or not foreigners or companies or corporations which

are owned partially or wholly by foreigners or with foreign stockholders may contribute to or donate billboards to the Commission without violating Sec. 56 of the Revised Election Code xx xx xxx " (See Annex A), re-empha-sized by its concluding paragraph that "in line with the above rulings of the Commission in the previous elections the Commission hereby RESOLVES to hold that the donations of billboards to the Commission by foreigners or companies or corporations owned and controlled par-tially or wholly by foreigners are not covered by the prohibition of Sec. 56 of the Revised Election Code." (underlining supplied)

Specious, because the advertising firms and organizations are merely the collectors of such donations or contributions; they do not own the money or materials contributed or donated by the foreigners who are the actual benefactors.

### III

The third issue is whether the term "any candidate" in Sec. 56 comprehends "some candidates" or "all candidates".

The term "any candidate" should be construed also to mean some or all candidates. It has been held that the term "any candidate" voted for at any election refers to "candidates";[9] and that the term "any person" is not limited to "any person" in the singular, but is applicable as well to two or more persons.[10]

"When the context so indicates, the word may be construed to mean, and indeed it has been fre-quently used in its enlarged and plural sense, as meaning "all", "all or every", "each", "each one of all", "every", without limitation; indefinite number or quantity, an indeterminate unit or number of units out of many or all, one or more as the case may be, several, some.[11]

Penal laws, like Sec. 56 and the Revised Penal Code, usually refer to the felon in the singular.

It is possible that, to play safe or for his own protection, the donor may aid or assist both opponents or all of them, especially if they have approximately the same political strength or following.

### IV

The fourth question is whether by such donations, the foreigner

- (a) aids any candidate directly or indirectly, or
- (b) takes a part in any election, or
- (c) influences in any manner any election.

In law, the word "aid" is understood to mean to support, to help, to assist or to strengthen or to act in cooperation with.[12]

On the other hand, the term "to take part" means to participate or to engage in;[13] while the term "influence" means to use the party's endeavors, though he may not be able to carry his point, or to exert or have an effect on the nature or behaviour of, or affect the action or thought of, or modify; or to sway; to persuade; to affect; to have an effect on the condition or development of; to modify or act upon physically, especially in some gentle, subtle, or gradual way; or to exert or maintain a mental or moral power upon or over; to effect or sway by modifications, feelings or conduct.[14] (underscoring supplied)

The fact that the Comelec allowed:

- (1) Operations Quick Count 1969 (OQC '69), established by civic-minded citizens for the pur-pose of reporting truthfully and speedily the results of the 1969 Presidential Elections, to accept monetary and material

contributions from foreign individuals and corporations to finance its activities;

(2) Robert L. Stewart, an American citizen who owns TV Channel 7, to utilize his Radio-TV station to disseminate information and public features beneficial to public interests in connection with the elections; and

(3) Time-Ad, Inc. whose President is an alien who owns 25% of its stocks, to accept political commercials from candidates for inclusion in their television programs

as not contravening Sec. 56 of the Revised Election Code, does not make the questioned Resolutions Nos. RR-707 and 731 legal, nor the 1969 resolutions regarding OQC '69, Channel 7, and Time-Ad, Inc., valid and binding on this Tribunal.

It would indeed be a myopic view and the height of naivete to believe that donations for Comelec billboards will not aid the candidates nor in any way influence the elections, no matter how small the contributions may be; although parenthetically, the needed amount of two hundred fifty thousand pesos (P250,000.00) for billboards is not insubstantial. The fact that alien donors have no direct participation in the distribution or allocation of the Comelec billboards, does not inevitably mean that they have no participation in the election nor exercise any influence in the same, nor give assistance to any candidate. Billboards are means of propaganda. Supplying billboards to all candidates is an assistance greater than the aid that may be given to one candidate. The influence therefore that may be exerted jointly by the donors on all the candidates is correspondingly as great, because all the candidates benefited thereby will naturally be grateful to the donors for such needed materials for their publicity or propaganda. This is even worse than supporting a single candidate, because if the latter's opponent wins he will not be amenable to influence by those who supported the adversary -- but in donations of this sort, whoever wins will feel grateful. The fact that the identity of the donors is not publicized, does not necessarily mean that their identity cannot be made known to the candidates themselves thru adroit, subtle means. The names of the donors will be entered in the books of the collecting advertising agencies or associations which must acknowledge receipts thereof and must account for the same in their itemized reports to the Comelec and to their respective members. Besides, there is nothing to stop the donors or contributors from informing the candidates during the campaign and after the elections.

The contributions or donations, no matter how small, can affect the thinking or attitude of the victorious candidates in dealing with matters involving foreigners, and more so when the sum total of all these donations is to be taken into account. The aggregate total will certainly generate a greater influence on the triumphant candidates than the contribution of one foreigner considered separately or individually.

Then again, masterminds and financiers almost always stay in the background from where they issue orders to those who are either their outright dummies or who are beholden to them.

This will open the floodgates to undesirable alien influences in our country, which may be exercised subtly and covertly in many guises and forms. In matters of national interest as well as affecting civil liberties, the caveat is *obsta principiis* -- oppose or resist from the very beginning such "erosion of small encroachments".

Consequently, We apprehend the same danger feared by petitioner; because the Constitutional Convention will inescapably discuss proposals concerning the rights -- civil, social, economic, legal and political -- of foreigners in this country, accentuated by the off-and-on renegotiations of the Parity Amendment as well as the U.S.-Philippine military base agreement, and which renegotiations may extend to other treaties to which the Philippines is a signatory. The delegates who are beneficiaries of the Comelec billboards contributed or donated by foreigners will be under terrific pressure from quarters whose interest are alien, if not inimical, to ours. Some sectors are already agitating for the inclusion in the new Constitution of the principle of *jus soli* as a mode of

acquiring Filipino citizenship with retroactive effect. One could just visualize the impact of such a constitutional amendment. Dire repercussions arising from such and other amendments on the political and economic life of our country and people may be too terrifying to contemplate.

If, as asserted by the Assistant Solicitor General and the Solicitor, who filed an Answer in behalf of the Comelec, (which Answer curiously does not bear the signature of the Solicitor General), the needed amount is only about two hundred fifty thousand pesos (P250, 000.00) for the billboards to be allocated free to all candidates in all congressional districts in the country or at the rate of two pesos and fifty centavos (P2.50) for each candidate, this amount of two hundred fifty thousand pesos (P250,000.00) can easily be covered by contributions from patriotic and civic-minded Filipino citizens or Filipino owned corporations or associations or organized groups composed entirely of Filipino citizens, which abound in our land. If there are not enough patriotic and civic-minded citizens of this country who can underwrite said amount, then it is certainly a sad commentary on the character of our people.

However, even donations from our own compatriots for such billboards, are objectionable; because Congress should appropriate the needed funds for the purpose.

That Congress slashed the proposed Comelec budget for this election, can only mean that the legislators, who are familiar with the cost of such campaign materials, estimated that the diminished appropriation will suffice to cover the expenses for this election including those for Comelec billboards. In the same manner that it had economized and accumulated savings the last fiscal year, the Comelec must not be prodigal with public funds to effectuate the legislative judgment in reducing its budget for this particular election.

But above all, our sense of national integrity, pride and dignity should restrain us in subscribing to such a mendicant attitude, especially considering that our country is endowed by Divine Providence with rich natural resources and a people whose talents, initiative and resourcefulness are equal, if not superior in some respects, to those of foreigners. That we should, without feeling any shame, barter our national integrity, dignity and pride by running for succor to foreigners to obtain such a measly amount of two hundred fifty thousand pesos (P250,000.00), does not speak well of our independent status.

WHEREFORE, the resolutions of the Commission on Elections Nos. RR-707 and 731 promulgated respectively on August 13, 1970 and September 17, 1970 are hereby declared illegal and null and void. Writ granted, without costs.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Ruiz Castro, Fernando, and Villamor, JJ., concur.

Concepcion, C.J., on leave.

Teehankee and Barredo, JJ., in the result.

Zaldivar, J., reserves his vote.

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[1] *Abelardo Subido vs. Comelec*, in re Validity and Constitutionality of Sec. 4, R.A. 6132, Hon. Guardson Lood, Judge, CFI, Pasig, Rizal, et al., petitioners, G.R. No. L-32439, Sept. 9, 1970; Resolution of Motion for Clarification dated Sept. 23, 1970 in the same cases.

[2] *Sharkey vs. State*, 33 Miss. 353-354; 29 C.J.S. 13.

[3] *Janson vs. Grandfort County*, 113 N.W. 1071, 1073 16 N.D. 16363, 125 Am. State Ref. 662; Vol. 3 A, Words and Phrases, pp. 118-119.

[4] Sec. 39, par. D, Revised Election Code, as amended.

[5] Sec. 184, Revised Election Code, as amended.

[6] 11 N.Y. Jur. Sec. 17, pp. 125-136.

[7] Black's Construction and Interpretation of the Laws, 2nd Ed., 84, 317.

[8] Nelson vs. Gass, 146 N.W., 537 Ann. Ca. 1915 C, 796.

[9] Bellknab vs. Ionia County, 54 N. W. 376, Vol. 3 A, Words and Phrases, p. 93.

[10] State vs. Carlino, 118 A, 784, 786; Vol. 3 A, Words and Phrases, p. 174,

[11] See Logan vs. Small, 43 Mo. 254; McMurray vs. Brown 91 U.S. 265, 23 L. Ed. 321; Vol. I, Bouvier's Law Dictionary, p. 205; C.J.S. Vol. 3 pp. 1400-1401.

[12] Black's Law Dictionary, 3rd Ed., p. 86 citing Hines vs. State 16 Ga. App. 411, 85 SE 452, 454; State vs. Harris, 74 Or. 573, 144 P 109, 111 Ann. Gas. 1916 A, 1156; Cornett vs. Commonwealth, 198 Ky. 236, 248 S.W. 540-542; 3 C.J.S. 502-503.

[13] Words and Phrases, Vol. 31, pp. 228-229 citing Lee vs. Guardian Life, 46 NY S Sec. 241, 246; State vs. Datee 198 S.O. 102-103, 144 Fla. 448; Martin vs. Mutual Life, 71 S.W. Sec. 694, 696, 189 Ar. 291; 67 C.J.S. 879-880.

[14] Words and Phrases, Vol. 21, pp. 600-602; 43 C.J.S. 382.

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