

LEON G. MAQUERA, PETITIONER, VS. JUAN BORRA, ET AL., RESPONDENTS.

G.R. No. 24761 and 24828. September 07, 1965

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Upon consideration of case G. R. No. L-24761, "Leon G. Maquera vs. Juan Borra, et al.", and case G. R. No. L-24828, "Felipe N. Aurea and Melecio Malabanan vs. Commission on Elections", and it appearing:

- That Republic Act No. 4421 requires "all candidates for national, provincial, city and municipal offices" to "post a surety bond equivalent to the one-year salary or emoluments of the position to which he is a candidate, which bond shall be forfeited in favor of the national, provincial, city or municipal government concerned if the candidate, except when declared winner, fails to obtain at least 10% of the votes cast for the office to which he has filed his certificate of candidacy, there being not more than four (4) candidates for the same office";

- That, in compliance with said Republic Act No. 4421, the Commission on Elections had, on July 20, 1965, decided to require all candidates for President, Vice-President, Senator and Member of the House of Representatives to file a surety bond, by a bonding company of good reputation, acceptable to the Commission, in the sums of P60,000.00 and P40,000.00 for President and Vice-President, respectively, and P32,000.00 for Senator and Member of the House of Representatives;

- That, in consequence of said Republic Act No. 4421 and the aforementioned action of the Commission on Elections, every candidate has to pay the premium charged by bonding companies, and, to offer thereto, either his own properties, worth, at least, the amount of the surety bond, or properties, of the same worth, belonging to other persons willing to accommodate him, by way of counter-bond in favor of said bonding companies;

- That the effect of said Republic Act No. 4421 is, therefore, to prevent or disqualify from running for President, Vice-President, Senator or Member of the House of Representatives those persons who, although having the qualifications prescribed by the Constitution therefor, can not file the surety bond aforementioned, owing to failure to pay the premium charged by the bonding company and/or lack of the property necessary for said counter-bond;

- That said Republic Act No. 4421 has, likewise, the effect of disqualifying for provincial, city or municipal elective offices, persons who, although possessing the qualifications prescribed by law therefor, cannot pay said premium and/or do not have the property essential for the aforementioned counter-bond;

- That said Republic Act No. 4421 has, accordingly, the effect of imposing property qualifications in order that a

person could run for a public office and that the people could validly vote for him;

- That said property qualifications are inconsistent with the nature and essence of the Republican system ordained in our Constitution and the principle of social justice underlying the same, for said political system is premised upon the tenet that sovereignty resides in the people and all government authority emanates from them, and this, in turn, implies necessarily that the right to vote and to be voted for shall not be dependent upon the wealth of the individual concerned, whereas social justice presupposes equal opportunity for all, rich and poor alike, and that, accordingly, no person shall, by reason of poverty, be denied the chance to be elected to public office; and

- That the bond required in Republic Act No. 4421 and the confiscation of said bond are not predicated upon the necessity of defraying certain expenses or of compensating services given in connection with elections, and is, therefore, arbitrary and oppressive.

The Court resolved, without prejudice to rendering an . extended decision, to declare that said Republic Act No. 4421 is unconstitutional and hence null and void, and, hence, to enjoin respondents herein, as well as their representatives and agents, from enforcing- and/or implementing said unconstitutional enactment.

Bautista Angelo, Conception, Reyes, J. B. L., Dizon Makalintal and Zaldivar, JJ., concur.

CONCURRING

BENGZON, J.P., J.,

A democratic form of government requires that political rights be enjoyed by the citizens regardless of social or conomic distinctions. Such is our government. As far back as 1899, the Representatives of the Filipino people adopted a Political Constitution at Malolos, Bulacan, prodding that: "The political association of all the Filipinos constitutes a nation, whose state is called the Philippine Republic"; "The Philippine Republic is free and independent; and "Sovereignty resides exclusively in the people". (Arts. 1, 2 and 3.) A generation later, in 1935, the Filipino People, imploring the aid of Divine Providence, ordained and promulgated the present Constitution of the Philippines, stating the same principle: "The Philippines is a republican state. Sovereignty resides in the people and all government authority emanates from them". (Sec 1, Art. II.) Clearly and solemnly, therefore, our citizenry have thus been given the supreme guaranty of a democratic way of life, with all its freedoms and limitations, all its rights and duties.

Among the political rights of a Filipino citizen is the right to vote and be voted for a public office. The Constitution has given the right of suffrage to "citizens of the Philippines not otherwise disqualified by law who are, twenty-one years of age or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality wherein they propose to vote for at least six.months preceding the election." (Sec. 1, Art. V.)

It is within the power of Congress, however, to prescribe the manner of exercising political rights so long as it does not run counter to the Constitution. The Revised Election Code (RA 180) is the chief instance of the exercise of such legislative power.

Republic Act 4421, effective June 19, 1985, incorporated to the Revised Election Code:

"Sec. 36-A. Posting of bond by candidates; exception; forfeiture.— All candidates for national, provincial, city

and municipal offices shall post a surety bond equivalent to the one-year salary or emoluments of the position to which he is a candidate, which bond shall be forfeited in favor of the national, provincial, city or municipal government concerned if the candidate, except when declared winner, fails to obtain at least ten per cent of the votes cast for the office to which he has filed his certificate of candidacy there being not more than four candidates for the same office."

The Commission on Elections, implementing Sec. 36-A aforementioned, adopted on July 20, 1965 the following guidelines for the purpose, of the November 9, 1965 elections:-

"1. WHO SHALL POST SURETY BOND— All candidates for national offices' shall post a surety bond. A candidate who withdraws candidacy or ceases to be one, may ask for the return or cancellation of his bond. A party may post surety bond for each of its official candidates.

"2. WHEN TO FILE —On or before September 10, 1965, to coincide with the last day for filing certificates of candidacy, to facilitate processing of both bond and certificates of candidacy by the Law-Department.

"3. WHERE TO file—The surety bond shall be filed with the Cash Division, Commission on Elections. Cash bonds may be allowed and the same to be filed in the Commission.

"4. AMOUNT OF BOND—The surety bond shall be equivalent to the one-year salary or emoluments of the position to which he is a candidate, to wit:

President P60,000

(R.A. 4134)

Vice-President P40,000

—do—

Senators P32,000

—do—

Congressmen P32,000

—do—

"5. CONDITION OF THE BOND—That the bond shall be forfeited in favor of the national government if the candidate, except when declared the winner, fails to obtain at least ten percent of the votes cast for the office to which he has filed his certificate of candidacy, there being not mere than four candidates for the same office.

"6.FAILURE TO POST SURETY BOND.—If a candidate fails to post the required surety bond, the Commission on Elections shall refuse to give due course to the certificate of candidacy of said candidate.

"7. SURETY—A bonding company of good reputation and acceptable to the Commission.

"8. FORFEITURE—The 10% required number of votes shall be based on and determined by the certificate of canvass and proclamation."

At bar are petitions that question the constitutionality of Republic Act 4421 on the ground that the same is undemocratic and contrary to the letter and spirit of the Constitution.

The avowed purpose of Republic Act 4421 in requiring a candidate to post a bond equal to a year's salary of the office for which he will run is to curb the practice of so-called nuisance candidates. Said the explanatory note to said law:

"We have had sad experiences along that line. When a person, having the same name as that of a strong candidate, files his candidacy for the same position sought by the latter, this act has the ultimate effect of frustrating the true intent of the voters. While their intent was to vote for the publicly-known strong candidate, their votes could be credited to the nuisance candidate. If this practice is not curbed, the Filipino people may find the wrong men elected to an office."

Such an objective is indeed within the competence of the legislature to provide for. Nonetheless, the purpose alone does not resolve the constitutionality of a statute. It must also be asked whether the effect of said law is or is not to transgress the fundamental law.

Does the law, it may then be asked, operate to bar bona fide candidates from running for office because of their financial inability to meet the bond required. For this the test must be the amount at which the bond is fixed. Where it is fixed at an amount that will impose no hardship on any person for whom there should be any desire to vote as a nominee for an office, and yet enough to prevent the filing of certificates of candidacies by anyone, regardless of whether or not he is a desirable candidate, it is a reasonable means to regulate elections. On the other hand, if it puts a real barrier that would stop many suitable men and women from presenting themselves as prospective candidates, it becomes unjustifiable, for it would defeat its very objectives of securing the right of honest candidates to run for public office.

Foremost democracies have a similar measure to discourage "freak and propaganda candidates". ' One was adopted in the electoral system of England. A candidate for the House of Commons, where each member receives 3,250 pounds annual compensation (formerly 1,000 pounds) is required, by the Representatives of the People's Act of 1918, to deposit 150 pounds with the returning officer at

the time of nomination, the money to be forfeited if he failed to secure 1/8 of the votes.[1]

In the United States of America a fee system obtains in some states whereby candidates are required to pay filing fees—frequently to help defray costs of election services— ranging from one dollar upwards or a certain percentage of the annual salary of the office sought, the percentage being from 1/4 to 5%.[2]

It should be noted that in the foregoing the deposits or fees are based on or constitute a certain percentage of the yearly salary. The amount of the bond required by RA 4421 is, as noted, equal to the one-year salary or emolument of the office. It is quite evident, therefore, that several or a considerable number of deserving, honest and sincere prospective candidates for that office would be prevented from running in the election solely due, to their being less endowed with the material things in life. It is worth remembering that Section 48 of the Evised Election Code provides: "No candidate shall spend for his election campaign more than the total amount of the emoluments for one year attached to the office for which he is a candidate". Thus, the amount of a one-year salary is considered by the law itself to be substantial enough to finance the entire election campaign of the candidate. For Congress therefore to require such amount to be posted in the form of surety bond, with the danger of forfeiting the same in the event of failure to obtain the required percentage of votes, unless there are more than four candidates, places a financial burden on honest candidates that will in effect disqualify some of them who would otherwise have been qualified and bona fide candidates.

The Constitution, in providing for the qualification of Congressmen, sets forth only age, citizenship, voting and residence qualifications. No property qualification of any-kind is thereunder required. Since the effect of Republic Act 4421 is to require candidates for Congress a substantial property qualification, and to disqualify those who do

not meet the same, it goes against the provision of the Constitution which, in line with its democratic character, requires no property qualification for the right to hold said public office.

Freedom of the voters to exercise the elective franchise at a general election implies the right to freely choose from all qualified candidates for public office. The imposition of unwarranted restrictions and hindrances precluding qualified candidates from running, is, therefore, violative of the constitutional guaranty of freedom in the exercise of elective franchise. It seriously interferes with the right of the electorate to choose freely from among those eligible to office whomever they may desire.[3]

Republic Act 4421, moreover, relates a person's right to run for office to the degree of success he will show at the polls. A candidate, however, has no less a right to run when he faces prospects of defeat as when he is expected to win. Consequently, for the law to impose on said candidate—should he lose by the fatal margin—a financial penalty not imposed on others would unreasonably deny him equal protection of the laws. It is, also, in my opinion, unconstitutional on this account. (See. 1[1], Art. III, Phil. Const.)

Nuisance candidates, as an evil to be remedied, do not justify the adoption of measures that would bar poor candidates from running for office. Republic Act 4421 in fact enables rich candidates, whether nuisance or not, to present themselves for election. Consequently, it cannot be sustained as a valid regulation of elections to secure the expression of the popular will.

I fully concur, therefore, with the majority opinion.

Regala, J., concurs.

Republic Act No. 4421, declared unconstitutional.

[1]At the salary of £3,250 per annum for a Member of the House of Commons, £150 is 4.6% of the one-year salary.

[2] State ex. rel. Higgle vs. Brodigan, 143 Pac. 238, LRA 1915B, p. 197; Kelso vs. Cook, 110 NE 987; Johnson vs. Grand Porks County, 16 N.D. 363, 113 NW 1071; Ballinger vs. McLaughlin, 22 S.D. 206, 116 N.W. 70; Ledgerwood vs. Pitts, 122 Tenn. 570, 125 SW 1036.

[3] See Adair vs. Drexel, 72 Neb. 776, 105 N.W. 174.

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