

LOREN B. LEGARDA, PROTESTANT, VS. NOLI L. DE CASTRO, PROTESTEE.

P.E.T. CASE NO. 003. March 31, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a Resolution[1] dated January 18, 2005, the Presidential Electoral Tribunal (PET) confirmed the jurisdiction over the protest of Loren B. Legarda and denied the motion of protestee Noli L. de Castro for its outright dismissal. The Tribunal further ordered concerned officials to undertake measures for the protection and preservation of the ballot boxes and election documents subject of the protest.

On February 4, 2005, protestee filed a motion for reconsideration assailing the said resolution. Protestee contends therein that:

I

THIS HONORABLE TRIBUNAL ERRED IN RULING THAT IT CAN RE-CANVASS THE ELECTION RETURNS AND OTHER CANVASS DOCUMENTS DESPITE THE AVAILABILITY OF THE BALLOTS.

II

THIS HONORABLE TRIBUNAL ERRED IN RULING THAT IT HAS THE POWER TO CORRECT MANIFEST ERRORS IN THE ELECTION RETURNS OR CERTIFICATES OF CANVASS.

III

THIS HONORABLE TRIBUNAL ERRED IN TRANSFORMING ITSELF INTO A CANVASSING BODY.

IV

THIS HONORABLE TRIBUNAL ERRED IN RULING THAT THE INSTANT PETITION/PROTEST ALLEGED A CAUSE OF ACTION SUFFICIENT TO CONTEST PROTESTEE'S VICTORY IN THE 10 MAY 2004 VICE-PRESIDENTIAL ELECTIONS.[2]

Protestee argues that where the correctness of the number of votes is the issue, the best evidence are the ballots;[3] that the process of correcting the manifest errors in the certificates of canvass or election returns is a function of the canvassing bodies;[4] that once the canvassing bodies had done their functions, no alteration or correction of manifest errors can be made;[5] that since the authority of the Tribunal involves an exercise of judicial power to determine the facts based on the evidence presented and to apply the law based on the established facts, it cannot perform the ministerial function of canvassing election returns;[6] that the averments contained in the protest are mere conclusions of law which are inadequate to form a valid cause of action;[7] that the allegations are not supported by facts;[8] and that the allegations were merely copied from a pleading in another election protest.[9] He further claims that since the errors sought to be corrected are no longer clear and obvious, it would be impossible for the Tribunal to correct the alleged errors at this stage.[10]

In her Comment, protestant avers that protestee's motion was merely a reiteration of the issues already resolved by the Tribunal.[11] However, although protestee's contentions may be mere reiterations of his previous pleadings and arguments, and he does not raise new substantial issues, nonetheless, in order to write finis to the controversy on jurisdictional issues, we now revisit our resolution of January 18, 2005.

Protestee contends that the Tribunal cannot correct the manifest errors on the statements of votes (SOV) and certificates of canvass (COC). But it is not suggested by any of the parties that questions on the validity, authenticity and correctness of the SOVs and COCs are outside the Tribunal's jurisdiction. The constitutional function as well as the power and the duty to be the sole judge of all contests relating to the election, returns and qualification of the President and Vice-President is expressly vested in the PET, in Section 4, Article VII of the Constitution. Included therein is the duty to correct manifest errors in the SOVs and COCs.[12] There is no necessity, in our view, to amend the PET Rules to perform this function within the ambit of its constitutional function.

We also note the apparent ambivalence of the protestee relative to the Tribunal's jurisdiction over re-canvass of the election returns. He claims the Tribunal's authority to re-canvass is "inexorably linked to [its] constitutional mandate as the sole judge of all contests relating to the presidential and the vice-presidential elections." [13] Contrarily, he states that the Tribunal cannot re-canvass and must resolve the protest through revision of ballots. If he contends that the Tribunal has the authority to re-canvass, there is no reason why it cannot perform this function now. We agree that the ballots are the best and most conclusive evidence in an election contest where the correctness of the number of votes of each candidate is involved.[14] However, we do not find any reason to resort to revision in the first part of the protest, considering that the protestant concedes the correctness of the ballot results, concerning the number of votes obtained by both protestant and protestee, and reflected in the election returns.[15] Protestant merely seeks the correction of manifest errors, that is, errors in the process of different levels of transposition and addition of votes. Revision of ballots in case of manifest errors, in these circumstances, might only cause unwarranted delay in the proceedings.

On the matter of sufficiency of the protest, protestee failed to adduce new substantial arguments to reverse our ruling. We hold that while *Peña v. House of Representatives Electoral Tribunal* [16] on requisites of sufficiency of election protest is still good law, it is inapplicable in this case. We dismissed the petition in *Peña* because it failed to specify the contested precincts. In the instant protest, protestant enumerated all the provinces, municipalities and cities where she questions all the results in all the precincts therein. The protest here is sufficient in form and substantively, serious enough on its face to pose a challenge to protestee's title to his office. In our view, the instant protest consists of alleged ultimate facts, not mere conclusions of law, that need to be proven in due time.

Considering that we find the protest sufficient in form and substance, we must again stress that nothing as yet has been proved as to the veracity of the allegations. The protest is only sufficient for the Tribunal to proceed and give the protestant the opportunity to prove her case pursuant to Rule 61 of the PET Rules.[17] Although said rule only pertains to revision of ballots, nothing herein prevents the Tribunal from allowing or including the correction of manifest errors, pursuant to the Tribunal's rule-making power under Section 4, Article VII of the Constitution.[18]

On a related matter, the protestant in her reiterating motion [19] prays for ocular inspection and inventory-taking of ballot boxes, and appointment of watchers. However, the Tribunal has already ordered the protection and safeguarding of the subject ballot boxes; and it has issued also the appropriate directives to officials concerned. At this point, we find no showing of an imperative need for the relief prayed for, since protective and safeguard measures are already being undertaken by the custodians of the subject ballot boxes.

WHEREFORE, protestee's motion for reconsideration is hereby DENIED WITH FINALITY for lack of merit. Protestant's reiterating motion for ocular inspection and inventory-taking with very urgent prayer for the appointment of watchers is also DENIED for lack of showing as to its actual necessity.

Further, the protestant LOREN B. LEGARDA is ORDERED to specify, within ten (10) days from notice, the three (3) provinces best exemplifying the manifest errors alleged in the first part of her protest, and three (3) provinces best exemplifying the frauds and irregularities alleged in the second part of her protest, for the purpose herein elucidated.

Lastly, the Tribunal hereby ORDERS the Commission on Elections to SUBMIT, within 30 days hereof, the official project of precincts of the May 2004 Elections.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Ynares-Santiago, J., no part.

[1] PET Rollo, pp. 331-347.

[2] Id. at 377-378.

[3] Id. at 379.

[4] Id. at 381.

[5] Id. at 383.

[6] Id. at 385.

[7] Id. at 392-394.

[8] Id. at 398.

[9] Id. at 400.

[10] Id. at 453-454.

[11] Id. at 416.

[12] Id. at 336-337.

[13] Id. at 455.

[14] Lerias v. House of Representatives Electoral Tribunal, G.R. No. 97105, 15 October 1991, 202 SCRA 808, 822.

[15] PET Rollo, p. 14.

[16] G.R. No. 123037, 21 March 1997, 270 SCRA 340.

[17] Rule 61. As public interest demands the speedy termination of the contest, the Tribunal may, after the issues have been joined, require the protestant to indicate, within a fixed period, the province or provinces numbering not more than three best exemplifying the frauds or irregularities alleged in his petition; and the revision of ballots and reception of evidence will begin with such provinces. If upon examination of such ballots and proof, and after

making reasonable allowances, the Tribunal is convinced that, taking all the circumstances into account, the protestant will most probably fail to make out his case, the contest may forthwith be dismissed, without further consideration of the other provinces mentioned in the contest.

[18] . . .

The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

[19] PET Rollo, pp. 371-375.

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