

NICANOR D. YÑIGUEZ, PETITIONER, VS. THE HONORABLE COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. L-31127. November 05, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Republic Act. No. 5777, creating the municipality of Tomas Oppus, province of Southern Leyte, and approved on June 21, 1969, provides in Section 3 that "the first mayor, vice-mayor and councilors of the municipality shall be elected in the next general elections."

On September 11, 1969 the Commission on Elections promulgated a resolution, number RR-651, authorizing the holding of special elections, simultaneously with the national elections on November 11, 1969, to fill the positions of local elective officials in nine (9) newly-created municipalities in different provinces pursuant to Section 9 of the Decentralization Act of 1967 (R. A. No. 5185), which provides:

"SEC. 9. Filling of Elective Offices in Newly Created Provinces, Cities, Municipalities or Municipal Districts.- Elective offices in any new province, city, municipality or municipal district shall be filled by regular or special election to coincide with the next regular presidential or local election: Provided, That if it is created within thirty days before a regular presidential or local election, the said vacancies shall be filled as hereinafter provided in the next succeeding section."

The municipality of Tomas Oppus was not one of those enumerated in the aforesaid resolution, However, the Law Division of the Commission on Elections, purportedly in conformity with the tenor thereof, took steps for the election of the local officials of the said municipality also on November 11, 1969, by ordering the printing of the required ballots and election forms and sending the corresponding notices to the provincial officials of Southern Leyte and the other officials concerned. The steps thus taken by the Law Division were confirmed by the Commission itself on October 14, 1969.

In the meantime Hon. Nicanor E. Yñiguez, Congressman from Southern Leyte and sponsor of the bill which became Republic Act No. 5777, sent a letter to the Commission on October 6, 1969, advising the latter that the intention of said law was "for the municipal officials (of Tomas Oppus) to be elected during the regular local elections in 1971," and asking that the election scheduled by the Commission be deferred accordingly. The request was denied by the Commission in the same session it held to confirm the action of its Law Division on October 14, 1969, and a subsequent motion for reconsideration by Congressman Yñiguez was like-wise denied by resolution dated October 21, 1969.

The instant petition for review, with an implied prayer that it be considered as a special civil action for certiorari, prohibition and mandamus, was filed by Congress-man Yñiguez on October 28, 1969, alleging lack or excess of jurisdiction on the part of the Commission on Elections and asking that its resolutions of October 14 and 21 be declared null and void and that it be prohibited from calling or holding a special election on November 11, 1969, for the positions of mayor, vice-mayor and councilors in the newly-created municipality of Tomas Oppus.

Respondent Commission filed its answer to the petition and the case was heard by this Court on oral argument on November 3, 1969, after which it was submitted for decision.

The focal point of our inquiry is the meaning and intent of Section 3 of Republic Act No. 5777, which says that "the first mayor, vice-mayor and councilors shall be elected in the next general elections." The stand of respondent Commission is that since the presidential election on November 11, 1969, wherein the President, the Vice-President, eight of the twenty-four Senators and all the Congressmen are to be chosen by the electorate, is a general election, this is the one referred to in Republic Act No. 5777, being "next" to its approval on June 21, 1969. Reliance is also placed by the Commission on Section 9 of the Decentralization Act of 1967, which as already pointed out provides that "elective offices in any new...municipality ...shall be filled by regular or special elections to coincide with the next regular presidential or local election."

It is our opinion that the foregoing interpretation is not justified.

1. The fact that general elections in the Philippines are staggered every two years - one for national offices and another for local offices (in provinces, municipalities and chartered cities) - rules out the conclusion that the term "next general elections" used in the Act necessarily means the very first general election following the enactment. The more reasonable interpretation is that the reference is to the general election for local officials, since the offices to be filled are local and not national in nature.
2. This is the same interpretation given in American decisions. In Words and Phrases, Vol. 28A, Permanent Edition, we find on page 205:

"The phrase "next general election," as used in Wilson's Rev. & Ann. St. 1903, sec. 3750, 51 Okl. St. Ann. sec. 10, which provides that a person appointed to fill a vacancy shall serve until the next general election, means the next regular election at which that particular class of officers is to be chosen. Wainwright v. Fore, 97 P. 831, 833, 22 Okl. 387.

"Next general election," within constitutional provision requiring appointee, appointed to fill vacancy in elective office, to hold until next general election, means next general election at which vacancy may legally be filled, not necessarily next ensuing general election. I.C.A. Const. art. 4, sec. 10; art. 11, sec. S. State ex rel. Halback v. Claussen 250 N. 195, 216 Iowa, 1079.

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Const, art. 5, sec. 37, provides that vacancies in the elective offices shall be filled by appointment until the "next general election." Held, that the phrase "next general election" meant the next election at which it is provided by law that the officer may be elected whose office has become vacant. State v. Gardner, 54 N.W. 606, 607, 3 S.D. 553; People v. Col, 64 P. 477, 478, 132 Cal. 334.

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The term "next general election," as used in Laws 1905, p. 18, sec. 10, providing that all officers appointed by the act should hold their respective offices until after the "next general election," so far as the office of clerk of the district court is concerned, means the "next general election" held to fill that office in the judicial district, and a person holding such office is not ousted by the election of a successor at a general election called by the Governor for the election of other officers than clerk of the district court. State ex rel. Livesay v. Smith, 90 P. 750, 751, 35 Mont. 523, 10 Ann. Cas. 1138."

3. Respondent Commission itself has adopted the same interpretation in another case of similar nature, concerning the election of the provincial officials of Southern Leyte after its creation as a separate province (Case No. 369, Resolution promulgated May 30, 1961). The Commission there said:

"Regular election next following the effectivity of this Act' used in Sec. 4 of Rep. Act No. 2227 refers to the regular election for provincial and local officials.

Case: By virtue of Republic Act No. 2227, approved on May 2, 1959, the province of Southern Leyte was created; began its corporate existence as such on July 1, 1960, with the appointment and qualification of its provincial officials. Section 4 of Republic Act No. 2227 pro-vides that said officials 'shall hold office until their successors shall have been elec-ted in the regular election next following the effectivity of this Act.' The question now is whether or not election for the offices of provincial governor, vice-governor and members of the provincial board of the province of Southern Leyte will be held on November 14, 1961, simultaneously with the election for President, Vice-President, Senators, and Congressmen.

Ruling: It is plain that the phrase 'regular election next following the effectivity of this Act' used in Sec. 4 of Republic Act No. 2227 refers to the regular election for provin-cial and local officials which will be held in November, 1963, and not to the coming regular election for national officials on November 14, 1961.

The phrase in question is also explained by the context of the law taken as a whole wherein it is used. Said Section 4 treats of provincial offices, and, therefore, when it speaks of regular election to fill said offices, it can only refer to the regular election for provincial offices, considering that the Re-vised Election Code, in Section 7 thereof, entitled 'Regular elections for provincial, city, municipal and municipal district offices,-' specifically provides for a separate regular election for provincial offices distinct from that set in Section 6 entitled 'Regular elections for national offices.'

4. In the course of the hearing of this petition counsel for respondent Commission argued that its ruling in the Southern Leyte case has no application herein in view of the supervening enactment of the Decentralization Act, particularly Section 9. We do not see that this Act should compel a different ruling. It may be noted that Section 9 provides for two ways to fill elective offices in a newly created municipality: by regular or special election to coincide with the next regular presidential or local election. Obviously if the next regular election is a local one, there need be no special election to fill such offices. The election for that purpose is considered also "regular." However, if the next regular election is presidential, then the election "to coincide" with it in order to fill such local offices necessarily has to be a special one. But Act No. 5777 does not provide for, and evidently does not contemplate, the holding of a special election. What it does say is that the first mayor, vice-mayor and councilors shall be elected in the next general elections.

5. The cases of the nine newly created municipalities where respondent Commission on Elections has called special elections for November 11, 1969 to fill the corresponding municipal offices (Res. No. RR-651, Sept. 11, 1969) are quite revealing. The pertinent provisions of the different laws creating the said municipalities are quoted in the answer of the Commission and herein reproduced as follows:

"1. R.A. 5500, creating Biri, Northern Samar:

"Sec. 2. The first mayor, vice-mayor, and councilors of the new municipality shall-be elected in the next general elections in November, nineteen hundred and sixty-nine."

2. R.A. 5460 – Rizal, Occ. Mindoro:

"Sec. 2. The first mayor, vice-mayor and councilors of the new municipality shall be elected in a special election to be held simultaneously with the general elections of nineteen hundred and sixty-nine. x x."

3. R.A. 5459 - Magsaysay, Occ. Mindoro:

"Sec. 2. The first mayor, vice-mayor and councilors of the new municipality shall be elected in a special election to be held si-multaneously with the general elections of nineteen hundred and sixty-nine. x x."

4. R.A. 5645 - Alamada, Cotabato:

"Sec. 2. The first mayor, vice-mayor, and councilors of the new municipality shall be elected in a special elections to coincide with the presidential elections in November of nineteen hundred and sixty-nine."

5. R.A. 5511 - Bingawan, Iloilo:

"Sec. 2. The first mayor, vice-mayor and councilors of the new municipality shall be elected in a special elections of nineteen hundred and sixty-nine. x x ."

6. R.A. 5522 - Malungon, So. Cotabato:

"Sec. 2. The first mayor, vice-mayor and councilors of the new municipality shall be elected in a special election to coincide with the elections of November, nineteen hundred and sixty-nine."

7. R.A. 5442 - Mina, Iloilo:

"Sec. 2. The first mayor, vice-mayor and councilors of the new municipality shall be elected in a special election to be held simultaneously with the general elections of nineteen hundred and sixty-nine."

8. R.A.5229 – Alegria, Surigao Norte:

"Sec. 2. The Municipality of Alegria shall acquire corporate existence upon the election and qualification of the first mayor, vice-mayor and councilors in the nineteen hun-dred sixty-nine elections.

9. R. A. 5662 - San Isidro Bohol:

"Sec. 3. The first mayor, vice-mayor and councilors of the new municipality shall be elected at the next general elections, to hold office until their successors shall have been elected in the next general elections for local officials and shall have qualified."

As may be observed, in the above instances the Congress, while employing different phraseologies, has nevertheless made its intention explicit by the invariable reference to the elections of 1969. Where no such reference exists-in the case of San Isidro, Bohol - the legislative intention is made no less explicit by the proviso "to hold office until their successors shall have been elected in the next general election for local officials." In the absence of similar restrictive terms or provisions in Republic Act No. 5777 the logic of the situation must prevail, that is, when it merely says "the next general elections" it means the next general elections for the offices which are to be filled, which will be held in 1971.

The spirit of the Decentralization Act, as expressed in its Declaration of Policy (Sec. 2) is not violated by this interpretation inasmuch as the newly created municipality of Tomas Oppus will continue to be governed, until 1971, by the same set of officials of the mother municipality which the local electorate voted into office in the last elections of 1967.

Wherefore, the writs prayed for are granted; the resolutions in question are set aside insofar as the municipality of Tomas Oppus is concerned, and respondent Commission is directed to refrain from calling, or proceeding with, the special election on November 11, 1969 for the positions of mayor, vice-mayor and councilors therein, and to issue the necessary instructions for that purpose. No costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Ruiz Castro, Fernando, Teehankee, and Barredo, JJ., concur. Zaldivar, J., took no part.

Sanchez, J., reserves his vote.

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