

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. BRAULIO DE VENECIA, ACCUSED AND APPELLEE.

G.R. No. L-20808. July 31, 1965

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

In the Pangasinan Court of First Instance, Braulio de Venecia was prosecuted for electioneering, because according to the information:

"he did * * * wilfully * * * induce, influence, sway and make the electors vote in favor of candidates for public office in the November 10, 1959 election, namely, Felipe Oda, NP candidate for Municipal mayor of Binalonan * * * by, then and there, distributing and or causing to be distributed election handbills, a sample of which is attached hereto as Annex "A" and made integral part hereof, which leaflets were distributed and/or caused to be distributed by the accused to win votes for NP candidates Felipe Oda * * *."

Upon a motion to quash, the court dismissed the case, holding that sec. 54 of the Revised Election Code (upon which the prosecution rested) had been repealed by sec. 29 of Republic Act 2260. Hence this appeal, the Government insisting that sec. 54 has not been repealed, and that De Venecia's conduct violated it.

For convenience, the two legal provisions are herewith reproduced:

"SEC. 54.—Active intervention of public officers and employees.—No justice, judge, fiscal, treasurer, or assessor of any province, no officer or employee of the Army, no member of the national, provincial, city, municipal or rural police force, and no classified civil service officer or employee shall aid any candidates, or exert influence in any manner in any election or take part herein, except to vote, if entitled thereto, or to preserve public peace, if he is a peace officer." (CA 357-48)

"SEC. 29. Political Activity.—Officers and employees in the Civil service, whether in the competitive or classified, or non-competitive or unclassified service, shall not engage directly or indirectly in partisan political activities or take part in any election except to vote. Nothing herein provided shall be understood to prevent any officer or employee from expressing his views on current political problems or issues, or from mentioning the names of candidates for public office whom he supports."

The only issue is whether the latter repealed the former. It is at once apparent that sec. 29 is administrative in nature, whereas sec. 54 is a penal statute. The first contains prohibitions of administrative character, even as it grants or reserves some privileges to civil public servants. Of course, logically, restrictions contained in sec. 29 that are not contained in sec. 54 could not be criminally punished—e. g. unclassified service employees are not punishable under sec. 54. But a realistic view would hold that activities permitted in sec. 29—though it is a mere administrative measure—should not be criminally dealt with under sec. 54.

The results is that although sec. 54 prohibits a classified civil service employee from aiding any candidate, sec 29 allows such classified employee to express his views on current political problems or issues, or to mention the name of his candidate for public office, even if such expression of views or mention of names may result in aiding

one particular candidate. In other words, the last sentence of sec. 29 is an exception to sec. 54[1]; at most, an amendment to sec. 54.

On the other hand, an employee (classified civil service) who contributes money for election purposes to a candidate, violates sec. 54 (and is punishable with imprisonment) because he "aided a candidate" and may not invoke the privilege reserved to him by sec. 29.

Applying these considerations to the case of De Venecia, we find that the leaflets he distributed (Annex A) bore the symbol of the Nacionalista Party, and read as follows:

"To all party-men of Binalonan.

You should vote for Mayor Felipe Oda for the office of Mayor because he is our Party's official candidate. I want him to win so that we will succeed in our undertakings.

If you are true party-men do not vote for independent candidate Atty. Roque Tomelden, because he is destroying our party. Write the Straight Nacionalista Ticket.

Mabuhay Nacionalista
Conrado F. Estrella

Distributing handbills like the above is undoubtedly "aiding" candidate Felipe Oda. It is not merely mentioning the candidate whom De Venecia supported, nor mere expression of his opinion on current political problems. It is solicitation of the elector's vote in favor of Oda. It is indorsement of the request for his support by gubernatorial candidate Conrado F. Estrella.

To repeat, by the act charged in the information, i.e. distributing and causing the distribution of the leaflets like Exh. A, defendant "aided" candidate Oda and/or exerted influence in the election and/or took part therein, contrary to the prohibitions contained in sec. 54.

It is our opinion that in dismissing the information the trial court erred. Consequently, the appealed order is hereby reversed and the record remanded to the Pangasinan court for further proceedings.

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

[1] As an exception, it should be strictly construed.

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