

NICOLAS Y. FELICIANO, ET AL., PETITIONERS, VS. ARSENIO LUGAY, ET AL., RESPONDENTS.*G.R. No. L-6756. September 16, 1953*

Ponente: PARAS, C.J.

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In November, 1951, the herein respondent Arsenio Lugay filed with the Commission on Elections a petition for the annulment of the lists of voters for the municipality of Concepcion, Tarlac, after said lists had been revised on November 1, 1951, substantially on the ground that the regulations were held under wholesale fraud, intimidation and terrorism. For lack of material time to dispose of the case before the election day, the Commission issued on November 8, 1951, an order suspending the hearing of the case, but requiring the herein petitioners to answer not later than November 12, 1951. Upon requirement of the Commission, the respondent filed a bill of particulars on April 28, 1953. In the course of the proceedings, the preliminary question that arose was whether the Commission, as pointed out in its resolution of April 4, 1952, "has jurisdiction to annul at this time any registry list of voters which has already been used in the last elections of November 13, 1951, in view of the provisions of Section 95 of the Revised Election Code as amended by Republic Act No. 599 that the list of voters prepared in the election of 1951 shall constitute the permanent list of voters until its renewal in 1963."

In a resolution signed by Commissioners Leopoldo Rovira and Rodrigo D. Perez and promulgated on June 3, 1953, the following pronouncement was made: "In view of the foregoing, we hold that this Commission has the power to annul fraudulent registry lists of voters notwithstanding the fact that they have been used in an election and therefore, hereby order the Secretary of the Commission to furnish the petitioner and respondent copies of this resolution and to summon them to appear before this Commission on June 8, 1953 at 10 o'clock in the morning in the Office of this Commission, the petitioner to present whatever evidence he may have in support of his claims in the Bill of Particulars and the oppositor to present his side of the case." Commissioner Domingo Imperial prepared a dissenting opinion in which he expressed the following view: "The petition in this case was filed on November 7, 1951, or four days after the present and existing list of voters had become permanent and unrenovable until the expiration of the period of twelve years, or in 1963. The petition, therefore, was filed too late, when the Commission on Elections had already lost the power and jurisdiction to order the total annulment of the registration in the municipality of Concepcion, Tarlac, unless, of course, the Commission on Elections contravenes the express provision of law in section 95 of the Revised Election Code, which action cannot be done without at the same time contravening the constitutional mandate that the Commission on Elections 'shall enforce and administer all laws relative to the conduct of elections.'"

The present petition for certiorari was instituted by the petitioners in this court, to set aside the resolution of the Commission on Elections of June 3, 1953. It is contended that, admitting the facts on which the petition for annulment of the lists of voters are premised, the Commission has no jurisdiction to annul said lists which had already become permanent, subject only to corrections by proper petitions for exclusion; that section 5 of the Revised Election Code, providing that any controversy submitted to the Commission on Elections shall be tried,

heard and decided by it within fifteen days, is mandatory.

That the Commission on Elections is authorized to annul illegal registry lists of voters has in effect already been decided by this Court in *Remigio Prudente, et al. vs. Angel Genuino, et al.*, G. R. No. L-5222, Resolution of November 6, 1951. Upon the other hand, the contention that the disputed lists had become permanent is of no moment, because we find that, assuming said lists to have become permanent on November 3, 1951, (according to the very dissenting opinion of Chairman Imperial), the petitioners filed with the Commission as early as November 2, 1951, a petition in the form of a letter, praying for the annulment of the lists in question. Although upon order of the Commission the respondents filed the petition in proper form only on November 7, 1951, we are inclined to rule that, for the purpose of giving effect to the constitutional powers of the Commission, the petition presented on November 2, was sufficient.

There is also no merit in the argument that the failures of the Commission to dispose of the proceeding for annulment within fifteen days, as required in section 5 of the Revised Election Code, has resulted in the loss of its jurisdiction, inasmuch as said provision must be considered merely directory, in the same way that similar provisions for the disposition of election contests (section 177 and 178 of the Revised Election Code) were held directory. (*Querubin vs. Court of Appeals, et al.*, [1] 46 Off. Gaz., 1954, followed in *Cachola vs. Cordero*, [2], G. R. No. L-5780, February 28, 1953.) More or less the same considerations control as regards the jurisdiction of the courts over election contests and the authority of the Commission on Elections over matters placed under it by the Constitution.

The petition will therefore be as it is hereby dismissed with costs against the petitioners and in favor of the respondent Lugay. So ordered.

Pablo, Bengzon, Padilla, Tuazon, Montemayor, Reyes, Bautista Angelo and Labrador, JJ., concur.

[1] 82 Phil. 227.

[2] 92 Phil. 744.

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