

MARIANO G. HIQUIANA, PETITIONER, VS. COMMISSION ON ELECTIONS, HONORABLE JOSE A. ROÑO, IN HIS CAPACITY AS SECRETARY OF DEPARTMENT OF LOCAL GOVERNMENT AND COMMUNITY DEVELOPMENT, A...

G.R. No. L-40143. May 12, 1975

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In his petition for certiorari, prohibition and/or mandamus with preliminary prohibitory and/or mandatory injunction filed on February 17, 1975, petitioner Mariano G. Hiquiana seeks to annul the order (should be resolution) dated February 5, 1975 of respondent Commission on Elections, stating that it will recognize the barrio captain of Santol, Quezon City, who is officially recognized by the Department of Local Government and Community Development in connection with the registration of barangay members for the national referendum on February 27 and 28, 1975.

It appears that petitioner Hiquiana was the duly elected barrio captain in 1972 of Zone 43 or barrio Santol, Quezon City and performed his functions as such barrio captain during the January and July, 1973 national referenda. In December, 1973, private respondent Daniel Sakay was appointed by Quezon City Mayor Norberto Amoranto as barangay captain vice petitioner, who, thereupon filed on January 7, 1974 a quo warranto case challenging the legality of the appointment of Sakay before the Quezon City Court of First Instance (Civil Case No. Q-18398) and secured on January 31, 1974 a writ of preliminary injunction enjoining respondents therein, namely Daniel Sakay, Mayor Norberto Amoranto and Councilor Honorio David to hold in abeyance the removal of petitioner Hiquiana from his position as barrio captain of barrio Santol, Quezon City and restraining Daniel Sakay from discharging the duties of barrio captain.

On May 1, 1974, Sakay obtained an appointment as zone chairman of Zone 43 or barrio Santol, Quezon City from President Marcos pursuant to which he claims that as such zone chairman he has replaced petitioner Hiquiana as Barangay captain of barangay Santol under the reorganization of the Department of Local Government and Community Development.

During the registration of barangay members for the aforesaid referendum, both petitioner Hiquiana and private respondent Sakay separately registered barangay members in the area so that there were two separate lists of barangay members of Zone 43 being prepared. This situation was the basis for the challenged order or resolution of February 5, 1975 because the Comelec thereafter recognized for purposes of such registration for the national referendum set for February 27-28, 1975 private respondent Sakay as the latter was the one who is officially recognized by the Department of Local Government and Community Development.

In a motion filed on February 8, 1974 in the quo warranto case, petitioner Hiquiana prayed that Daniel Sakay and City Councilor Honorio David be declared guilty of contempt of court.

In Our resolution dated February 19, 1975, respondents were required to comment on the petition.

Private respondent Sakay, thru counsel, in his compliance therewith, simply stated that on May 1, 1974, the President of the Philippines appointed him zone chairman of Santol, Quezon City, thus rendering moot and academic and therefore inefficacious the writ of preliminary injunction issued by the Quezon City Court of First Instance in the quo warranto case against him, attaching thereto a xerox copy of said appointment (pp. 41-42, rec.).

In his comment thru counsel, respondent Secretary of the Department of Local Government and Community Development stated that when the Quezon City Court of First Instance issued on January 31, 1974 the writ of preliminary injunction, he was not yet party-respondent in said quo warranto case No. Q-18398 and said writ has not been subsequently amended to include him after petitioner Hiquiana filed an amended petition for quo warranto on November 5, 1974, which included him as party-respondent.

The Solicitor General, in his comment in behalf of respondents Commission on Election and the Secretary of the Department of Local Government and Community Development, stated, among others, that in connection with the registration of barangay members for the national referendum scheduled for February 27-28, 1975, the Comelec was faced with the problem of ascertaining who should perform the registration duties of barangay captain of Zone 43 of Santol, Quezon City since both petitioner Hiquiana and respondent Sakay either registered or caused the registration of barangay members in said area resulting in two separate lists of voters being prepared and issued the questioned order of February 5, 1975 to immediately dispose of the problem; that because the reliefs prayed for in the instant petition all referred to the acts and functions connected with the February 27-28, 1975 national referendum, which was held as scheduled during which all the barangay members of barrio Santol cast their votes which were counted and canvassed and results of which were announced on March 15, 1975 by the Commission on Elections; and that herein respondents Commission on Elections and the Secretary of Local Government and Community Development have nothing more to do with the registration of barangay members for the aforesaid national referendum, the instant petition has become moot and academic.

In his reply filed on April 4, 1975, herein petitioner Hiquiana urges that the writ of preliminary injunction issued on January 31, 1974 by the Quezon City Court of First Instance in Civil Case No. Q-18398 has not been rendered inefficacious by the appointment of respondent Sakay as zone chairman of barrio Santol, Zone 43, Quezon City by the President of the Philippines on May 1, 1974 to the position of zone chairman of barrio Santol, Quezon City.

As pointed out by the Solicitor General, the order or resolution of respondent Comelec dated February 5, 1975 was issued in connection with the registration of barangay members for the national referendum of February 27-28, 1975, which had been already held as scheduled and terminated, thus rendering pointless further, consideration of the present petition, which prays for the nullification and setting aside of the aforesaid order or resolution. However, this is without prejudice to the continuation of the hearing of Civil Case No. Q-18398 for quo warranto now pending before the Quezon City Court of First Instance as well as the motion for contempt filed by petitioner Hiquiana therein.

WHEREFORE, this petition is hereby dismissed as moot and academic. Without costs.

Castro, (Chairman), Teehankee, Esguerra, Muñoz Palma, and Martin, JJ., concur.

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