

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. WILFREDO D. REYES, PRESIDING JUDGE, RTC, BRANCH 36, MANILA AND BUENAVENTURA C. MANIEGO, RESPONDENTS.

G.R. No. 115022. August 14, 1995

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-115022/>

PUNO, J.:

This is a petition for certiorari and mandamus under Rule 65 of the Revised Rules of Court to annul and set aside the orders dated September 23, 1993 and January 25, 1994 of respondent Judge Wilfredo D. Reyes, Regional Trial Court, Branch 36, Manila in Criminal Case No. 93-120275.

The facts reveal that respondent Buenaventura C. Maniego, Collector of Customs, Collection District II, Bureau of Customs, Manila International Container Port (MICP), issued MICP Customs Personnel Order No. 21-92 dated January 10, 1992 assigning Jovencio D. Ebio, Customs Operation Chief, MICP to the Office of the Deputy Collector of Customs for Operations as Special Assistant.[1] The actual transfer of Ebio was made on January 14, 1992.

On May 4, 1992, Ebio filed with the Commission on Elections (COMELEC) a letter-complaint protesting his transfer. Ebio claimed that his new assignment violated COMELEC Resolution No. 2333 and Section 261 (h) of B.P. Blg. 881, the Omnibus Election Code, which prohibit the transfer of any employee in the civil service 120 days before the May 11, 1992 synchronized national and local elections.

After a preliminary investigation, the COMELEC filed on May 6, 1995 an information with the Regional Trial Court, Branch 36, Manila charging respondent Maniego with a violation of Section 261 (h) of B.P. Blg 881 committed as follows:

"That on or about January 14, 1992 which was within the election period of the May 11, 1992 synchronized elections and within the effectivity of the ban on transfer or detail of officers and employees in the civil service, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public official, being the Collector of Customs VI, Manila International Container Port, Bureau of Customs, by taking advantage of his position and abuse of authority, did, then and there, wilfully and unlawfully, transfer Jovencio D. Ebio, Chief of the Piers and Inspection Division, Manila International Container Port, Bureau of Customs, to Special Assistant in the office of the Deputy Collector for Operations, of the same office, without a prior written authority from the Commission on Elections." [2]

Before the arraignment, respondent Maniego moved to quash the information on the ground that the facts alleged do not constitute an offense. He contended that the transfer of Ebio on January 14, 1992 did not violate B.P. Blg. 881 because on that date the act was not yet punishable as an election offense. It purportedly became punishable only on January 15, 1992, the date of effectivity of COMELEC Resolution No. 2333 implementing Section 261 (h) of B.P. Blg. 881. Petitioner, through the COMELEC, opposed the motion to quash.

On September 23, 1993, the trial court granted private respondent's motion to quash and dismissed Criminal Case No. 93-120275.[3] Petitioner moved to reconsider but the same was denied on January 25, 1995.[4] Petitioner forthwith elevated the case to this Court on a pure question of law.

We affirm.

The basic law supposed to have been violated by respondent Maniego is Section 261 (h) of B.P. Blg. 881 which reads as follows:

"Sec. 261. Prohibited acts. — The following shall be guilty of any election offense:

xxx xxx xxx

(h) Transfer of officers and employees in the civil service. — Any public official who makes or causes any transfer or detail whatever of any officer or employee in the civil service including public school teachers, within the election period except upon prior approval of the Commission:" (Underscoring supplied).

The Constitution has fixed the election period for all elections to commence ninety (90) days before the day of election and end thirty (30) days thereafter, unless otherwise fixed in special cases by the COMELEC.[5] For the May 11, 1992 synchronized national and local elections, the COMELEC fixed a longer election period of one hundred twenty (120) days before the scheduled elections and thirty (30) days thereafter. It issued Resolution No. 2314 on September 23, 1991 primarily adopting therein a calendar of activities. In the process, it designated January 12, 1992 to June 10, 1992 as the election period, viz.:

"RESOLUTION NO. 2314

Pursuant to the powers vested in it by the Constitution of the Republic of the Philippines, the Omnibus Election Code (B.P. Blg. 881), and Republic Act No. 7166, the Commission on Elections has RESOLVED to adopt, as it hereby adopts, the following calendar of activities for the May 11, 1992 elections:

Date/Period

Activities

November 28, 1991

-

Start of the period of nomination and selection of official candidates for President, Vice-President and Senators (165 days, SEC. 6, R.A. 7166)

January 2, 1992

-

Last day for appointment of members of boards of election inspectors (Sec.164, OEC) (Subject to appointments which may be extended later on account of lack of public school teachers and disqualifications due to relationship to candidates.)

January 12, 1992 (Sunday) to

-

ELECTION PERIOD (120 days, per Res. No. ____)

June 10, 1992 (Wednesday)

Bans on carrying of firearms, suspension of elective local officials, organization of strike forces, etc. (Sec. 261, OEC)."[6]

x x x

On January 2, 1992, the COMELEC promulgated Resolution No. 2328 for the sole and specific purpose of fixing for the said elections the election period from January 12, 1992 to June 10, 1992.[7] This Resolution was published in the January 5, 1992 issue of the Manila Times and the January 6, 1992 issue of the Philippine Times Journal.[8]

On January 2, 1992, the COMELEC also passed Resolution No. 2333 which promulgated the necessary rules to enforce Section 261 of B.P. Blg. 881. We quote its pertinent portions:

"RESOLUTION NO. 2333

WHEREAS, the Omnibus Election Code of the Philippines provides:

Sec. 261. Prohibited acts. - The following shall be guilty of an election offense:

xxx xxx xxx

(h) Transfer of officers and employees in the civil service. - Any public official who makes or causes any transfer or detail whatever of any officer or employee in the civil service including public school teachers, within the election period except upon prior approval of the Commission.

xxx xxx xxx

WHEREAS, to enforce effectively the foregoing provisions, there is need to promulgate the necessary rules for the guidance of all concerned;

NOW, THEREFORE, pursuant to the power vested in it by the Constitution, the Omnibus Election Code, Republic Acts No. 6646 and 7166 and other election laws, the Commission has RESOLVED to promulgate, as it hereby promulgates, the following rules to implement the provisions of Sec. 261, subsections (g), (h) and (x) of the Omnibus Election Code.

xxx xxx xxx

Sec. 2. Request for authority of the Commission. - Any request for authority to make or cause any transfer or detail of any officer or employee in the civil service, including public school teachers, shall be submitted in writing to the Commission indicating therein the office and place to which the officer or employee is proposed to be transferred or detailed, and stating the reason therefor.

xxx xxx xxx

Sec. 6. Effectivity. - This resolution shall take effect on the seventh day after its publication in two (2) newspapers of general circulation in the Philippines.

xxx xxx xxx"

Resolution No. 2333 was published in the January 8, 1992 issues of Malaya and the Manila Standard. Hence, it took effect on January 15, 1992, the seventh day after its publication.

It is undeniable that the transfer of complainant Ebio on January 14, 1992 was made during the election period. The question, however, is whether this transfer ipso facto makes respondent Maniego liable for an election offense under Section 261 (h) of B.P. Blg. 881.

We rule in the negative.

We start with the constitutional injunction that no officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign.[9] This prohibition is reiterated in the Administrative Code of 1987.[10] Section 261 (h) of B.P. Blg. 881 implements this constitutional prohibition.

It ought to be immediately obvious that Section 261 (h) of B.P. Blg. 881 does not per se outlaw the transfer of a government officer or employee during the election period. To be sure, the transfer or detail of a public officer or employee is a prerogative of the appointing authority.[11] It is necessary to meet the exigencies of public service sometimes too difficult to perceive and predict. Without this inherent prerogative, the appointing authority may not be able to cope with emergencies to the detriment of public service. Clearly then, the transfer or detail of a government officer or employee will not be penalized by Section 261 (h) of B.P. Blg. 881 if done to promote efficiency in the government service. Hence, Section 2 of Resolution No. 2333 provides that the COMELEC has to pass upon the reason for the proposed transfer or detail, viz: "Any request for authority to make or cause any transfer or detail of any officer or employee in the civil service, including public school teachers, shall be submitted in writing to the Commission indicating therein the office and place to which the officer or employee is proposed to be transferred or detailed, and stating the reason therefor." [12]

Prescinding from this predicate, two (2) elements must be established to prove a violation of Section 261 (h) of B.P. Blg. 881, viz: (1) The fact of transfer or detail of a public officer or employee within the election period as fixed by the COMELEC, and (2) the transfer or detail was effected without prior approval of the COMELEC in accordance with its implementing rules and regulations.

In the case at bench, respondent Maniego transferred Ebio, then the Customs Operation Chief, MICP to the Office of the Deputy Collector of Customs for Operations as Special Assistant on January 14, 1992. On this date, January 14, 1992, the election period for the May 11, 1992 synchronized elections had already been fixed to commence January 12, 1992 until June 10, 1992. As aforesaid, this election period had been determined by the COMELEC in its Resolution No. 2314 dated November 20, 1991 and Resolution No. 2328 dated January 2, 1992. Nonetheless, it was only in Resolution No. 2333 which took effect on January 15, 1992 that COMELEC promulgated the necessary rules on how to get its approval on the transfer or detail of public officers or employees during the election period. Before the effectivity of these rules, it cannot be said that Section 261 (h) of B.P. Blg. 881, a penal provision, was already enforceable. Needless to state, respondent Maniego could not be charged with failing to secure the approval of the COMELEC when he transferred Ebio on January 14, 1992 as on that day, the rules of the COMELEC on the subject were yet inexistent.

IN VIEW WHEREOF, the petition is dismissed and the orders dated September 23, 1993 and January 25, 1995 of the respondent judge in Criminal Case No. 93-120275 are affirmed.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Mendoza, and Francisco, JJ., concur.

[1] Records, p. 10.

[2] Records, p. 3.

[3] Rollo, pp. 19-28; Records, pp. 146-153.

[4] Rollo, pp. 27-28; Records, pp. 186-187.

[5] Constitution of the Philippines, Article IX-C, Section 9; B.P. Blg. 881, Sec. 3; R.A. 7166, Sec. 5.

[6] Rollo, p. 29.

[7] Rollo, pp. 32-33.

[8] Rollo, pp. 21, 38.

[9] Constitution of the Philippines, Art. IX-B, Sec. 2 (4).

[10] Bk. V Title I-A Chapter 7, Sec. 55.

[11] E.O No. 292, Administrative Code of 1987, Bk. V Title I-A, Chapter 5, Sec. 26.

[12] Rollo, p. 35.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.