

## JUANITO C. PILAR, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

*G.R. No. 115245. July 11, 1995*

Ponente: QUIASON, J.

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### QUIASON, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court assailing the Resolution dated April 28, 1994 of the Commission on Elections (COMELEC) in UND No. 94-040.

#### I

On March 22, 1992, petitioner Juanito C. Pilar filed his certificate of candidacy for the position of member of the Sangguniang Panlalawigan of the Province of Isabela.

On March 25, 1992, petitioner withdrew his certificate of candidacy.

In M.R. Nos. 93-2654 and 94-0065 dated November 3, 1993 and February 13, 1994 respectively, the COMELEC imposed upon petitioner the fine of Ten Thousand Pesos (P10,000.00) for failure to file his statement of contributions and expenditures.

In M.R. No. 94-0594 dated February 24, 1994, the COMELEC denied the motion for reconsideration of petitioner and deemed final M.R. Nos. 93-2654 and 94-0065 (Rollo, p. 14).

Petitioner went to the COMELEC En Banc (UND No. 94-040), which denied the petition in a Resolution dated April 28, 1994 (Rollo, pp. 10-13).

Hence, this petition for certiorari.

We dismiss the petition.

#### II

Section 14 of R. A. No. 7166 entitled "An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes" provides as follows:

"Statement of Contributions and Expenditures: Effect of Failure to File Statement. Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

"No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

"The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act.

"Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One Thousand Pesos (P1,000.00) to Thirty Thousand Pesos (P30,000.00), in the discretion of the Commission.

"The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

"It shall be the duty of every city or municipal election registrar to advise in writing, by personal delivery or registered mail, within five (5) days from the date of election all candidates residing in his jurisdiction to comply with their obligation to file their statements of contributions and expenditures.

"For the commission of a second or subsequent offense under this Section, the administrative fine shall be from Two Thousand Pesos (P2,000.00) to Sixty Thousand Pesos (P60,000.00), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office" (Italics supplied).

To implement the provisions of law relative to election contributions and expenditures, the COMELEC promulgated on January 13, 1992 Resolution No. 2348 (Re: Rules and Regulations Governing Electoral Contributions and Expenditures in Connection with the National and Local Elections on May 11, 1992). The pertinent provisions of said Resolution are:

"Sec. 13. Statement of contributions and expenditures: Reminders to candidates to file statements. Within five (5) days from the day of the election, the Law Department of the Commission, the regional election director of the National Capital Region, the provincial election supervisors and the election registrars shall advise in writing by personal delivery or registered mail all candidates who filed their certificates of candidacy with them to comply with their obligation to file their statements of contributions and expenditures in connection with the elections. Every election registrar shall also advise all candidates residing in his jurisdiction to comply with said obligation" (Italics supplied).

"Sec. 17. Effect of failure to file statement. (a) No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

"The same prohibition shall apply if the political party which nominated the winning candidates fails to file the statement required within the period prescribed by law.

"(b) Except candidates for elective barangay office, failure to file statements or reports in connection with the electoral contributions and expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One Thousand Pesos (P1,000) to Thirty Thousand Pesos (P30,000), in the discretion of the Commission.

"The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

"For the commission of a second or subsequent offense under this section, the administrative fine shall be from Two Thousand Pesos (P2,000) to Sixty Thousand Pesos (P60,000), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office."

Petitioner argues that he cannot be held liable for a failure to file a statement of contributions and expenditures because he was a "non-candidate," having withdrawn his certificate of candidacy three days after its filing. Petitioner posits that "it is x x x clear from the law that the candidate must have entered the political contest, and should have either won or lost" (Rollo, p. 39).

Petitioner's argument is without merit.

Section 14 of R. A. No. 7166 states that "every candidate" has the obligation to file his statement of contributions and expenditures.

Well-recognized is the rule that where the law does not distinguish, courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemus* (Philippine British Assurance Co. Inc. v. Intermediate Appellate Court, 150 SCRA 520 [1987]; cf. *Olfato v. Commission on Elections*, 103 SCRA 741 [1981]). No distinction is to be made in the application of a law where none is indicated (*Lo Chan v. Ocampo*, 77 Phil. 636 [1946]).

In the case at bench, as the law makes no distinction or qualification as to whether the candidate pursued his candidacy or withdrew the same, the term "every candidate" must be deemed to refer not only to a candidate who pursued his campaign, but also to one who withdrew his candidacy.

The COMELEC, the body tasked with the enforcement and administration of all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall (The Constitution of the Republic of the Philippines, Art. IX(C), Sec. 2[1]), issued Resolution No. 2348 in implementation or interpretation of the provisions of Republic Act No. 7166 on election contributions and expenditures. Section 13 of Resolution No. 2348 categorically refers to "all candidates who filed their certificates of candidacy."

Furthermore, Section 14 of the law uses the word "shall." As a general rule, the use of the word "shall" in a statute implies that the statute is mandatory, and imposes a duty which may be enforced, particularly if public policy is in favor of this meaning or where public interest is involved. We apply the general rule (*Baranda v. Gustilo*, 165 SCRA 757 [1988]; *Diokno v. Rehabilitation Finance Corporation*, 91 Phil. 608 [1952]).

The state has an interest in seeing that the electoral process is clean, and ultimately expressive of the true will of the electorate. One way of attaining such objective is to pass legislation regulating contributions and expenditures of candidates, and compelling the publication of the same. Admittedly, contributions and expenditures are made for the purpose of influencing the results of the elections (B.P. Blg. 881, Sec. 94; Resolution No. 2348, Sec. 1). Thus, laws and regulations prescribe what contributions are prohibited (B.P. Blg. 881, Sec. 95 Resolution No. 2348, Sec. 4), or unlawful (B.P. Blg. 881, Sec. 96), and what expenditures are authorized (B.P. Blg. 881, Sec. 102; R.A. No. 7166, Sec. 13; Resolution No. 2348, Sec. 7) or lawful (Resolution No. 2348, Sec. 8).

Such statutes are not peculiar to the Philippines. In "corrupt and illegal practices acts" of several states in the United States, as well as in federal statutes, expenditures of candidates are regulated by requiring the filing of statements of expenses and by limiting the amount of money that may be spent by a candidate. Some statutes also regulate the solicitation of campaign contributions (26 Am Jur 2d, Elections § 287). These laws are designed to compel publicity with respect to matters contained in the statements and to prevent, by such publicity, the improper use of moneys devoted by candidates to the furtherance of their ambitions (26 Am Jur 2d, Elections § 289). These statutes also enable voters to evaluate the influences exerted on behalf of candidates by the contributors, and to furnish evidence of corrupt practices for annulment of elections (*Sparkman v. Saylor* [Court of Appeals of Kentucky], 180 Ky. 263, 202 S.W. 649 [1918]).

State courts have also ruled that such provisions are mandatory as to the requirement of filing (*State ex rel. Butchofsky v. Crawford* [Court of Civil Appeals of Texas], 269 S.W. 2d 536 [1954]; *Best v. Sidebottom*, 270 Ky. 423, 109 S.W. 2d 826 [1937]; *Sparkman v. Saylor*, supra.)

It is not improbable that a candidate who withdrew his candidacy has accepted contributions and incurred expenditures, even in the short span of his campaign. The evil sought to be prevented by the law is not all too remote.

It is noteworthy that Resolution No. 2348 even contemplates the situation where a candidate may not have

received any contribution or made any expenditure. Such a candidate is not excused from filing a statement, and is in fact required to file a statement to that effect. Under Section 15 of Resolution No. 2348, it is provided that "[i]f a candidate or treasurer of the party has received no contribution, made no expenditure, or has no pending obligation, the statement shall reflect such fact."

Lastly, we note that under the fourth paragraph of Section 73 of the B.P. Blg. 881 or the Omnibus Election Code of the Philippines, it is provided that "[t]he filing or withdrawal of certificate of candidacy shall not affect whatever civil, criminal or administrative liabilities which a candidate may have incurred." Petitioner's withdrawal of his candidacy did not extinguish his liability for the administrative fine.

WHEREFORE, the petition is DISMISSED.

Narvasa, C.J., Feliciano, Regalado, Davide, Jr., Romero, Bellosillo, Puno, Vitug, Mendoza, and Francisco, JJ., concur.

Padilla, J., join J. Melo in his dissenting opinion.

Kapunan, J., on leave.

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### DISSENTING OPINION

#### MELO, J.:

The majority opinion is to the effect that every candidate, including one who has withdrawn his certificate of candidacy, is obliged to file his statement of contributions and expenditures in line with Section 14 of Republic Act No. 7166 vis-a-vis the pertinent portions of Comelec Resolution No. 2348. I must concede that the use of the word "shall" in the main statute as well as the implementing rules generally suggest mandatoriness as to cover all candidates.

But is an aspirant for public office who had a sudden change of heart, so to speak, still considered a candidate to begin with? I am of the impression that he is not and is thus not bound to render an accounting subsequent to election for the simple reason that the term 'candidate' is used to designate a person who actually submits himself and is voted for at our election (Santos vs. Miranda, 35 Phil. 643, 648 (1916) citing State vs. Hirsch, 125 Ind., 207; 9 L.R.A. 107; Moreno, Philippine Law Dictionary, 1972 2nd ed., p. 84). Certainly, one who withdraws his certificate of candidacy 3 days after the filing thereof, can not be voted for at an election. And considering the shortness of the period of 3 days from the filing to the withdrawal of the certificate of candidacy, petitioner cannot be accused, as indeed there is no such charge, of utilizing his aborted candidacy for purposes to raise funds or to extort money from other candidates in exchange for the withdrawal.

I, therefore, vote to grant the petition.

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