

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PATRIA E. YANZA, DEFENDANT AND APPELLEE.*G.R. No. 12089. April 29, 1960*

Ponente: BENGZON, J.

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In the general elections held November 8, 1955, Patria K. Yanza, was elected municipal councilor of the municipality of Tayabas, Quezon Province. She was duly proclaimed and took her oath of office on March 31, 1956. A quo warranto proceeding was filed afterwards against her on the ground that in November 1955, she had not completed her 23 years, inasmuch as she was born in March 1933. However, the proceeding was dismissed because it was not filed within a week after the proclamation of her candidacy, as required by Section 173 of the Election Law.

On August 4, 1956, the Provincial Fiscal filed an information charging her with falsification because in her certificate of candidacy, she had "willfully and unlawfully" made the false statement that she was "eligible" to the said office although "in fact and in truth, she knew fully well that she was under 23 years old, thereby making in this manner, (an) untruthful statement in the narration of facts." Upon a motion of the defendant, the Court of First Instance, dismissed the complaint upon the ground that the dismissal of the quo warranto proceeding which is the remedy afforded under Section 173 of the Election Law, precluded the institution afterwards, of the criminal action based on the same facts." Citing the decision of the Court of Appeals in *Peñaflorida vs. Jarencio*[1], His Honor, added in justification that to permit the criminal prosecution of the successful candidate (after the dismissal of the quo warranto proceeding for ineligibility), would amount to authorizing the Provincial Fiscal to question the eligibility of Patria E. Yanza, anytime within the prescriptive period fixed by the Penal Code; and that would defeat the underlying object of the law in prescribing a one-week period in Sec. 173 within which to challenge the right of any successful candidate to hold office.

The provincial Fiscal appealed in due time.

There is no question that the defendant stated under oath in her certificate of candidacy filed on September 6, 1955, that she was "eligible" for the office of the municipal-councilor. There is also no question that she was born in March 29, 1933.

Section 2174 provides as follows:

"SEC. 2174. Qualification of elective municipal officer.—An elective municipal officer must, at the time of the election, be a qualified voter in his municipality and must have been resident therein for at least one year; he must be loyal to the united states (now the Republic of the Philippines) and not less than twenty-three years of age. He must also be able to read and write intelligently either spanish, english or the local dialect."

None denies that, except as to age, Yanza had all the qualifications above enumerated.

The prosecution contends that the certificate filed by her "was tantamount to stating that as of November 8, 1955,

she was 23 years of age, to comply with the age requirement as provided for in Sec. 2174." The contention that a candidate for municipal office must, on the day of election, be not less than 23 years of age, accords with the opinion of the majority of this Court as expressed in *Felidano vs. Aquino*, L-10201, September 23, 1957. However, five members contended that under the above section the candidate need not be 23 years of age on election day, it being sufficient that he was 23 years old on the day he should take, or actually takes the oath. Evidently, this defendant in stating she was "eligible" thought along the same lines expressed in such minority opinion.

Now then, considering that when defendant certified she was eligible for the position, she practically wrote a conclusion of law^[2] which, turned out to be inexact^[3] or erroneous^[4] —not entirely groundless—we are all of the opinion that she may not be declared guilty of falsification, specially because the law which she has allegedly violated (Art. 171, Revised Penal Code, in connection with other provisions), punishes the making of untruthful statements in a narration of facts—emphasis on "facts". Had she stated that she was born on March 29, 1931, she would undoubtedly have been guilty of falsification, because the date of her birth was a matter of fact. But when she declared that she was "eligible", she merely expressed her belief that the 28-year requirement could be adequately met if she reached 23 years upon assuming the councilorship. Unfortunately, she made a mistake of judgment^[5]; but she could not be held thereby to have intentionally made a false statement of fact in violation of Article 171 above-mentioned.^[6]

The foregoing views make it unnecessary to pass on the correctness of the position adopted by the Court a quo in relation to the period within which the right of defendant to hold office may be challenged, directly or indirectly.

Wherefore, the dismissal of the charges must be, and is hereby affirmed. So ordered.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

[1] C. A. G. R. No. 18038-R.

[2] Eligible—"legally qualified"; "capable of being legally chosen".

See Words and Phrases.

A misrepresentation relating to a matter of law does not constitute the crime of false pretenses. (22 Am, Jur. 454.)

[3] Of the five qualifications prescribed in sec. 2174, she admittedly had four; inaccurate affirmation.

"La mera inexactitud no es bastante para integrar este delito; es preciso que concurra la intencion de faltar a la verdad en la narracion de los hechos." (Cuello Calon, Derecho Penal, Tomo 2, p. 216, Sexta Ed.)

[4] According to the majority in the *Feliciano* case. The question has not been discussed anew, despite the presence of new members; We simply assume, for the purposes of this decision, that the doctrine stands.

[5] See previous footnote.

[6] See *U. S. vs. Peñalosa*, 1 Phil., 109; *U. S. vs. San Jose*, 7 Phil., 604; *U. S. vs. Bayot*, 10 Phil., 518, *Cuello Calon*, *supra*.

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