

ISIDRO B. GARCIA, PETITIONER, VS. COMMISSION ON ELECTIONS AND AUGUSTO GARCIA, RESPONDENTS.

G.R. No. 121139. July 12, 1996

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a petition for certiorari under Rule 65 seeking to nullify the Resolution of the COMELEC en banc dated June 30, 1995[1] in SPA No. 95-034 entitled "Isidro B. Garcia vs. Augusto M. Garcia," for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The assailed resolution reversed the previous Resolution of the Second Division of the COMELEC promulgated on May 4, 1995,[2] wherein respondent Augusto M. Garcia was declared a nuisance candidate resulting in the cancellation of his certificate of candidacy for the mayoralty seat of Tagig.

During the May 8, 1995 local elections, petitioner Isidro B. Garcia and respondent Augusto M. Garcia were both candidates for mayor in Tagig, Metro Manila. Claiming that respondent filed his certificate of candidacy for no other legitimate purpose but to cause confusion and disarray among the voters of Tagig considering the similarity in their surname, petitioner filed a petition with the COMELEC for the declaration of respondent as a nuisance candidate pursuant to Section 69 of the Omnibus Election Code.

In its Resolution dated May 4, 1995, the COMELEC (Second Division) granted the petition and declared respondent as a nuisance candidate. The COMELEC based its ruling on the following: 1) dubious veracity of respondent's certificate of nomination by the PDP-LABAN; 2) failure of respondent to actively campaign; and 3) the absence of any campaign materials.

On May 10, 1995, two days after the election, respondent filed a motion for reconsideration[3] with the COMELEC seeking the reversal of the aforementioned resolution. In the meanwhile, the canvassing of the election returns proceeded which eventually resulted in the proclamation of petitioner on May 23, 1995 as the winning candidate. However, another losing candidate, Ricardo Papa filed a petition for annulment of the proclamation, and an election protest as well, with the COMELEC and the Regional Trial Court of Pasig, respectively, against petitioner.

On June 30, 1995, the COMELEC en banc promulgated the assailed resolution, granting private respondent's motion for reconsideration and reversing the previous resolution declaring him a nuisance candidate, despite admitting that the motion has been rendered moot and academic as a result of petitioner's proclamation on May 23, 1995 as winning candidate.

The COMELEC discarded petitioner's claim that respondent lacked the logistical means and machinery to pursue a serious political campaign due to the absence of propaganda materials, and ruled that such assumption has no bearing on the qualification of respondent to seek public office.

Petitioner is now before us seeking to nullify and set aside the resolution of the COMELEC en banc.

It is argued that the COMELEC gravely abused its discretion when it granted respondent's motion for reconsideration despite having been rendered moot and academic by the proclamation of petitioner as duly elected mayor of Tagig. Petitioner bewails the fact that the motion was granted with the end in view of benefiting the pending electoral protest filed by losing candidate Ricardo Papa who, according to petitioner, was the one who instigated and conspired with respondent to run for mayor to confuse the voters and undermine petitioner's chances of winning.

Private respondent however denies the abovementioned imputation and contends that his only purpose in filing a motion for reconsideration from the resolution declaring him a nuisance candidate was solely to reacquire his legal status as a legitimate and qualified candidate for public office.

Well entrenched is the rule that where the issues have become moot and academic, there is no justiciable controversy, thereby rendering the resolution of the same of no practical use or value.[4]

Surprisingly, despite respondent COMELEC's admission that private respondent's motion for reconsideration has already been rendered moot and academic due to petitioner's proclamation as duly elected mayor of Tagig in the May 8, 1995 elections, it nevertheless resolved to grant the motion.

Obviously, the assailed resolution would no longer be of any practical use or value to private respondent considering that he did not even dispute the proclamation of petitioner as the winning candidate. In fact, even private respondent's sole purpose in filing his motion for reconsideration - to regain his legal status as a legitimate and qualified candidate for public office - has been rendered inconsequential as a result of petitioner's proclamation.

Petitioner was proclaimed mayor of Tagig as early as May 23, 1995, while the assailed resolution was promulgated by respondent COMELEC on June 30, 1995. Undoubtedly, there was more than ample opportunity for the COMELEC to be apprised of supervening events that rendered private respondent's motion moot and academic, which in turn should have guided it to properly deny the motion. But having failed to do so, respondent COMELEC acted with grave abuse of discretion in granting the motion.

ACCORDINGLY, the petition is hereby GRANTED. The resolution of the COMELEC dated June 30, 1995 in SPA No. 95-034 is hereby SET ASIDE and a new one entered denying private respondent's motion for reconsideration for being moot and academic.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.

[1] Rollo, p. 24.

[2] Rollo, p. 32.

[3] Rollo, p. 42.

[4] Southeast Asia Manufacturing Corporation vs. Municipal Council of Tagbilaran, 94 SCRA 341 (1979); Yorac vs. Magalona, 3 SCRA 76 (1961).

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