HERMAN TIU LAUREL, PETITIONER, VS. THE HONORABLE PRESIDING JUDGE, REGIONAL TRIAL COURT OF MANILA, BRANCH 10, AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. No. 131778. January 28, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioner seeks to annul the Court of Appeals decision, as well as its resolution denying reconsideration, in C.A. G.R. SP No. 42618, which upheld the trial court's denial of his motion to quash the charges against him for falsification of public documents and violation of the Omnibus Election Code.

The factual antecedents are as follows:

> On 13 December 1995, the Hon. Bernardo P. Pardo, Chairman of respondent COMELEC[1] sent a verified letter-complaint to Jose P. Balbuena, Director of the Law Department of the said respondent, charging petitioner with "Falsification of Public Documents" and violation of [Section 74] of the Omnibus Election Code, stating in the same letter the facts on which he relies upon to support his accusations, which are, inter alia, that petitioner "was born in Manila on October 8, 1951 xxx (and) (a)t the time of his birth, both his father and mother were Chinese citizens. xxx On February 20, 1995, Herman Tiu Laurel filed a certificate of candidacy with the Law Department xxx for the position of Senator, stating that he is a natural-born Filipino citizen xxx. This statement xxx is false and constitutes not only a falsification of public documents but also a violation of the Omnibus Election Code."
>
> On the basis of the said Complaint, an investigation was conducted by the COMELEC Law Department, docketed as EO Case No. 95-843 entitled The Hon. Bernardo P. Pardo, Complainant, versus Herman Tiu Laurel, Respondent. Thereafter, or on 18 January 1996, a Report was made by the said Department recommending the filing of an Information against petitioner for violation of the Omnibus Election Code, as well as for Falsification under Articles 171 and 172 of the Revised Penal Code. During an en banc meeting of the COMELEC held on 25 January 1997, the said Report was deliberated upon, after which COMELEC resolved:
>
> "1. To file the necessary information against respondent Herman Tiu Laurel with the appropriate court for violation of Section 74, in relation to Section 262 of the Omnibus Election Code, the prosecution of which shall be handled by a lawyer to be designated by the Director IV of the Law Department with the duty to render periodic report after every hearing.
>
> 2. To file a criminal complaint with the appropriate court against the same respondent for falsification defined and penalized under paragraph 4, Article 171, in relation to paragraph 1, Article 172 of the Revised Penal Code."
>
> Pursuant thereto, on 05 February 1995, an information for "Violation of Section 74, in relation to Section 262 of the Omnibus Election Code" was filed by Director Jose F. Balbuena against petitioner, which was raffled to respondent court, docketed as Crim. Case No. 96-147550.

> On 14 February 1996, or after the filing of the Information, plaintiff filed a Motion for Inhibition in EO Case No. 95-843, seeking the inhibition of the entire COMELEC, alleging that "(r)espondent (petitioner herein) is not confident that this present forum is capable of fairly and impartially rendering a resolution on the merits of the above-captioned complaint", [stating] his reasons therefor. In a Minute Resolution, the COMELEC informed petitioner "that the Commission has lost jurisdiction over the case as it is now before the Regional Trial Court of Manila xxx." With respect to the Information, plaintiff in turn filed on 07 May 1996 a Motion to Quash the same, alleging lack of jurisdiction and lack of authority on the part of Director Balbuena to file the information. On 16 May 1996, respondent COMELEC, through Director Aliodem D. Dalaig of the Law Department, filed an Opposition thereto. On 20 May 1996, plaintiff filed his Reply.
>
> On 11 September 1996, respondent court issued the first questioned order, the decretal portion of which reads:
>
> "WHEREFORE, in view of all the foregoing, the Motion to Quash together with the Alternative Motions contained therein is hereby denied."
>
> To this, petitioner duly excepted on 09 October 1996 by filing a Motion for Reconsideration, which respondent court denied in its second questioned order dated 29 October 1996."[2]

From the denial of his Motion for Reconsideration, petitioner then filed a petition for certiorari before the Court of Appeals. He alleged, in essence, that the COMELEC violated its own rules of procedure on the initiation of the preliminary investigation and the consequent filing of a criminal complaint against him.[3] The Court of Appeals upheld the trial court and ruled that the proper procedure was followed by the COMELEC.

According to the Court of Appeals, the complaint signed by Pardo was in the nature of a motu proprio complaint filed by the COMELEC and signed by the Chairman, pursuant to Rule 34, Section 4 of the COMELEC Rules of Procedure. Pardo’s referral of the complaint to the COMELEC’s Law Department and the subsequent preliminary investigation were likewise done in accordance with the rules.

The complaint being an official act, it bears the presumption of having been regularly performed.

The Court of Appeals added that even if the complaint were to be considered as a complaint filed by a private citizen, still, Pardo as head of the COMELEC had the authority to direct commencement of a preliminary investigation in connection therewith.

At the same time, however, the Court of Appeals also directed the trial court to remand the case to the COMELEC for reception of petitioner’s motion for reconsideration of the COMELEC resolution dated January 25, 1996,[4] which approved the filing of a criminal complaint against petitioner. Petitioner claimed that he failed to receive copy of this resolution and, consequently, failed to move for its reconsideration.[5]

The Court of Appeals denied petitioner’s motion for reconsideration of its decision. Hence, the present petition, in which petitioner raises the following issues:

> - It was error for the Court of Appeals to hold there was no flaw in the procedure followed by the COMELEC in the conduct of the preliminary investigation.
>
> - The Court of Appeals erred in holding that petitioner’s protestations on COMELEC’s having acted as complainant, investigator, prosecutor, judge and executioner in the conduct of the preliminary investigation ring hollow.[6]

Petitioner asserts that the preliminary investigation was defective since the complaint was not initiated in accordance with applicable law and rules. He alleges that the information filed with the trial court was void and respondent judge could not have acquired jurisdiction over the case.

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Petitioner cites Section 3, Rule 34 of the COMELEC Rules of Procedure, which provides:

> "Sec. 3. Initiation of complaint. -- Initiation of complaint for election offenses may be done motu proprio by the Commission, or upon written complaint by any citizen xxx." (Emphasis by petitioner)

Petitioner contends that the complaint filed by Pardo was not in the nature of a motu proprio complaint filed by the COMELEC since Pardo, by himself alone, was not the COMELEC. If the complaint were to be considered as one filed by a private citizen, then Pardo as a citizen did not have the requisite authority to file his complaint directly with the COMELEC's Law Department. Petitioner contends that only the COMELEC has the capacity to do so, under Section 5 of said Rule 34.

> "SEC. 5. Referral for Preliminary Investigation. - If the complaint is initiated motu proprio by the Commission, or is filed with the Commission by any aggrieved party, it shall be referred to the Law Department for investigation. xxx"

Petitioner argues that a resolution of the COMELEC en banc is necessary for the referral of a complaint to the Law Department. He asserts that Pardo did not have the authority, as a private citizen, to directly file his complaint with the Law Department. According to petitioner, Pardo should have filed his complaint with the COMELEC and the latter should have passed a resolution en banc referring the matter to the Law Department.[7] Petitioner insists that only the COMELEC, through an en banc resolution, may direct the Law Department to conduct an investigation. Thus, it was wrong for Pardo to direct the Law Department to conduct a preliminary investigation, as he did in his complaint, and the latter "could and should not have acted pursuant to Chairman Pardo's complaint."[8]

Moreover, petitioner avers that the resolution of the COMELEC en banc dated January 25, 1996, issued after the preliminary investigation and which recommended the filing of charges against him, did not cure the irregularities present during the preliminary investigation.

Lastly, petitioner contends he could no longer expect impartiality and fairness from the COMELEC. In his Memorandum, petitioner declared,

> "This was the then COMELEC boss, personally and by himself, (who) gathered the evidence in an attempt to nail down petitioner. The then COMELEC Chairman was the complainant as well. And, as his letter-complaint incontrovertibly shows, it was also the then COMELEC Chairman who directed that a preliminary investigation be conducted and completed within 30 days."[9]

Petitioner concludes that the COMELEC could not but be partial in this case, hence the proceedings are fatally biased against him.

On the other hand, the COMELEC in its Memorandum[10] contends that the complaint was properly filed since Section 4(b), Rule 34 of the COMELEC Rules of Procedure specifically states that the complaint shall be filed with the Law Department. It is of no moment that the complainant was, at that time, the chairman of the COMELEC himself. This should not preclude him from filing a complaint with the COMELEC for alleged violations of election laws, provided he does not participate in the discussions regarding the case. The COMELEC points out that, indeed, Pardo did not participate in the deliberation of his own complaint.

On the charge that there can be no fairness in the investigation of the complaint filed by the COMELEC chairman, the COMELEC points out that the Commission is a collegiate body. It is the entire membership of the Commission that deliberates and decides on cases brought before it and not just the chairman. To disallow the COMELEC in this case from conducting a preliminary investigation would be to tie the hands of the Commission and prevent it from performing its constitutional mandate. It could also cause a deluge in the number of election

law violators.

In addition, the COMELEC asserts that petitioner was given the opportunity to present evidence in his defense while Pardo's complaint was being investigated by the Commission.

The Constitution gives the COMELEC the power to investigate and, where appropriate, to prosecute cases of violations of election laws.[11] This power is an exclusive prerogative of the COMELEC.[12]

There are two ways through which a complaint for election offenses may be initiated. It may be filed by the COMELEC motu proprio, or it may be filed via written complaint by any citizen of the Philippines, candidate, registered political party, coalition of political parties or organizations under the partylist system or any accredited citizens arms of the Commission.[13]

Motu proprio complaints may be signed by the Chairman of the COMELEC and need not be verified.[14]

On the other hand, complaints filed by parties other than the COMELEC must be verified and supported by affidavits and other evidence.[15]

The complaint shall be filed with the COMELEC Law Department or with the offices of election registrars, provincial election supervisors or regional election directors, or of the state prosecutor, provincial or city fiscal.[16]

Whether initiated motu proprio or filed with the COMELEC by any other party, the complaint shall be referred to the COMELEC Law Department for investigation. Upon direction of the Chairman, the preliminary investigation may be delegated to any lawyer of the Department, any Regional Election Director or Provincial Election Supervisor, or any COMELEC lawyer.[17]

The complaint subject of this case was filed by then COMELEC Chairman Bernardo P. Pardo. It was addressed to Jose P. Balbuena, director of the COMELEC Law Department. It starts with the following statement:

> "I hereby charge former senatorial candidate Herman Tiu Laurel with falsification of public documents and violation of the Omnibus Election Code."[18]

In the same complaint, Pardo directed the conduct of a preliminary investigation of the charges he leveled against Tiu Laurel, to be completed within 30 days. In the verification at the end of the complaint, he stated that, "I am the complainant in the ... letter complaint..."[19]

Was the complaint one initiated by the COMELEC motu proprio?

To our mind, the complaint in question in this case is one filed by Pardo in his personal capacity and not as chairman of the COMELEC. This is obvious from the opening sentence of the complaint, which starts with "I hereby charge..." It is also manifest in the verification of the complaint in which Pardo stated that he is the complainant therein. The fact that the complaint was verified is another indication that it was filed by a private citizen, for only such complaints require verification. Pardo must have known this.

Besides, the COMELEC itself, in its Comment filed before this Court, admitted that the complaint was initiated in Pardo's "individual capacity."[20]

Could Pardo then have, in his personal capacity, filed his complaint directly with the COMELEC's Law Department? We believe he could, under Rule 34, Section 4 of the COMELEC Rules of Procedure, which clearly provides:

> SEC. 4. Form of Complaint and Where to File. - xxx

(b)

The complaint shall be filed with the Law Department of the Commission; or with the offices of the Election Registrars, Provincial Election Supervisors or Regional Election Directors, or the State Prosecutor, Provincial Fiscal or City Fiscal..."(Underscoring supplied.)

But petitioner insists, and this is the crux of his arguments, that absent an en banc resolution directing the Law Department to conduct a preliminary investigation, there could be no valid investigation. Without a valid preliminary investigation, no valid information could be filed against him. He cites Rule 34, Section 5 of the COMELEC Rules of Procedure in support of his claim.

"SEC. 5. Referral for Preliminary Investigation.-- If the complaint is initiated motu proprio by the Commission, or is filed with the Commission by any aggrieved party, it shall be referred to the Law Department for investigation. Upon direction of the Chairman of the Commission, the preliminary investigation may be delegated to any lawyer of said Department, or to any of the Regional Election Directors or Provincial Election Supervisors, or any lawyer of the Commission."

However, we fail to see from Section 5 the requirement that only the COMELEC en banc may refer a complaint to the Law Department for investigation. What Section 5 states only is that it is the Law Department, not another office, of the COMELEC which may conduct an investigation into the allegations in the complaint. There is no specific requirement as to how referral to the department shall be made. We cannot read into the rules what simply is not there.

Section 5 refers to two situations, one of which is where a complaint filed by a party other than the COMELEC is addressed to the Commission itself. Since it is not the entire Commission that conducts the preliminary investigation, the complaint must necessarily be referred to its Law Department. Under the rules, this department is tasked with conducting preliminary investigations of complaints filed before the COMELEC.[21] Where, as in this case, the complaint was directly filed with the Law Department under Section 4 of Rule 34, obviously there is no need to refer such complaint to the same Law Department.

There is likewise no rule against the COMELEC chairman directing the conduct of a preliminary investigation, even if he himself were the complainant in his private capacity. In fact, under Section 5, the preliminary investigation may be delegated to any of those officials specified in the rule, upon the direction of the COMELEC chairman. We agree with the Court of Appeals' observation that,

"[E]ven if we regard the complaint to have been filed by Chairman Pardo as a private citizen, there is no rhyme nor reason why he cannot direct the Law Department to perform an investigation and delegate the conduct of preliminary investigation to any lawyer of said Department in his capacity as Chairman of the Commission on Elections. The justification is, in so doing, he was merely acting pursuant to Section 5 of Rule 34 of the COMELEC Rules of Procedure. No clash or conflict could be attributed in his performance of the said acts, one as a private citizen, and the other as Chairman of COMELEC, as it would not be him but another lawyer in the Legal Department that would actually be carrying out the preliminary investigation. The outcome of the inquiry, therefore, could not, per se, be considered as sullied with bias."[22]

Clearly, the applicable rules were followed in the conduct of the preliminary investigation of Pardo's complaint against petitioner, contrary to the latter's assertion.

Anent petitioner's contention that bias tainted the preliminary investigation, we again quote with approval from the ruling of the Court of Appeals:

"There may be evidence that the relations between petitioner and Chairman Pardo are not exactly cordial. However, this should not detract from the validity of the preliminary investigation and corresponding

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> Information filed against the petitioner, for two (2) important reasons: First, the records will readily support the conclusion that there is sufficient evidentiary basis to at least find probable cause to indict the petitioner for violation of the Omnibus Election Code; and second, it also appears from the records that, apart from directing the Law Department to launch an investigation, Chairman Pardo had no other participation in the proceedings which led to the filing of the Information."[23]

The entire COMELEC cannot possibly be restrained from investigating the complaint filed against petitioner, as the latter would like the courts to do. The COMELEC is mandated by no less than the Constitution to investigate and prosecute, when necessary, violations of election laws. This power is lodged exclusively with the COMELEC. For the entire Commission to inhibit itself from investigating the complaint against petitioner would be nothing short of an abandonment of its mandate under the Constitution and the Omnibus Election Code. This we cannot allow.

As regards the alleged failure of the COMELEC to serve petitioner with a copy of its resolution recommending the filing of an information against him, this is denied by the COMELEC. However, the Court of Appeals found that, indeed, there is no showing that petitioner was ever sent a copy of said resolution. This factual finding is binding upon this Court. Thus, as ruled by the Court of Appeals, the case should be remanded to the COMELEC for reception of petitioner's motion for reconsideration of the January 25, 1996 resolution, if petitioner is still interested in submitting one. The proceedings in Criminal Case No. 96-147550 should be suspended while resolution of the motion that may be filed is pending.

WHEREFORE, the instant petition is hereby DENIED and the decision of the Court of Appeals in CA-G.R. SP No. 42618 is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Vitug, Kapunan, Mendoza, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

Pardo, J., no part.

Puno, and Panganiban, JJ., in the result.

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[1] Now a Justice of this Court.

[2] Rollo, pp. 79-80.

[3] Id. at 81.

[4] Minute Resolution No. 96-0231; Rollo, p. 89.

[5] Rollo, p. 45.

[6] Id. at 31.

[7] Id. at 33.

[8] Id. at 34.

[9] Id. at 239.

[10] Rollo, p. 272. As prayed for, OSG was excused from filing a Memorandum to avoid redundancy. (Rollo, p. 308).

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[11] CONST., Art. IX-C, Sec. 2(6).

[12] OMNIBUS ELECTION CODE, Sec. 265.

[13] COMELEC Rules of Procedure, Rule 34, Sec. 3.

[14] Id., Sec. 4(a).

[15] Ibid.

[16] Id., Sec. 4(b).

[17] Rule 34, Sec. 5.

[18] Rollo, p. 52.

[19] Id. at 54.

[20] Id. at 119.

[21] COMELEC Rules of Procedure, Rule 34, Sec. 5.

[22] Rollo, p. 84.

[23] Id. at 85.

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