EMMANUEL SINACA, PETITIONER, VS. MIGUEL MULA AND COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. No. 135691. September 27, 1999

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

Before us is a special civil action for certiorari, mandamus and prohibition, with a prayer for preliminary injunction and/or temporary restraining order assailing the Resolution of 6 October 1998, of respondent Commission on Elections (hereafter COMELEC) in SPA No. 98-292, declaring as invalid the substitution of mayoralty candidate Teodoro F. Sinaca, Jr. by herein petitioner Emmanuel D. Sinaca.[1]

The records disclose that in the 11 May 1998 elections, the two opposing factions of the ruling party LAKAS-NUCD-UMPD (hereafter LAKAS) filled in separate candidates for the position of mayor of the Municipality of Malimano, Surigao del Norte. One faction headed by Robert Z. Barbers (hereafter "BARBERS Wing") nominated Grachil G. Canoy (hereafter CANOY), while the other group lead by Francisco T. MATUGAS (hereafter "MATUGAS Wing") endorsed the candidacy of Teodoro F. Sinaca, Jr. (hereafter TEODORO).

Miguel H. Mula (hereafter MULA), a candidate for vice-mayor and belonging to the "BARBERS Wing," filed before the COMELEC a petition for disqualification against TEODORO which was docketed as SPA 98-021. On 8 May 1998, the Second Division of the COMELEC issued a resolution disqualifying TEODORO as candidate for mayor of the Municipality of Malimono, Surigao del Norte and ordering the cancellation of his certificate of candidacy because of prior conviction of bigamy, a crime involving moral turpitude.[2]

On 10 May 1998, TEODORO filed a motion for reconsideration of the aforesaid resolution. On even date, herein petitioner Emmanuel D. Sinaca, (hereafter EMMANUEL), an independent candidate, withdrew his certificate of candidacy for Sangguniang Bayan Member, joined and became a member of the LAKAS party and was nominated by the LAKAS "MATUGAS Wing" as the substitute mayoralty candidate for the Municipality of Malimono, Surigao del Norte. On the basis of said nomination, EMMANUEL filed his certificate of candidacy[3] attached thereto is his certificate of nomination as LAKAS mayoralty candidate signed by Governor Francisco T. MATUGAS (hereafter MATUGAS), as party provincial chairman together with EMMANUEl's written acceptance of the party's nomination.[4]

On 11 May 1998, MULA filed through mail another petition for disqualification, this time against EMMANUEL, which was received by the COMELEC on 14 May 1998 and was docketed as SPA No. 98-292. In his petition MULA contended that the nomination of EMMANUEL as substitute candidate is illegal on the following grounds:

> a)
>
> The substitute, before he filed his Certificate of Candidacy as LAKAS candidate, was an independent candidate. Being so, he cannot rightfully substitute the disqualified one;

b)

The nomination of respondent substitute bears only the approval of Provincial Chairman Matugas and without consultation and consent of the higher political hierarchy especially Mr. Robert Ace Barbers who has also a say on nomination of candidates within his jurisdiction, as evidenced by an authority hereto attached as Annex "E";

c)

Substitution generally takes place when by reason of a candidate's disqualification the party to which he belongs loses such representation. In the instant case, the disqualification did not at all prejudice LAKAS NUCD-UMDP because Mr. Garchil G. Canoy is still there representing the party after the disqualification. The substitution is a redundancy and not necessary under the circumstances, more so that it was done with malice and without the required consensus of the political hierarchy.[5]

In his answer, EMMANUEL moved for the dismissal of the petition for the following reasons:

a)

The petition does not state a cause of action as it is not based on any of the grounds for disqualification as provided under Sec. 68 of the Omnibus Election Code and Sec. 40(A) of the Local Government Code of 1991;

b)

The issue of who in LAKAS has the authority to nominate candidates for local officials, is an intra-party matter hence beyond the jurisdiction of the Comelec;

c)

Gov. Matugas was duly authorized by LAKAS as its Provincial Chairman and official candidate for Provincial Governor to nominate the party's local candidates; and

d)

The petition is already moot and academic because of the proclamation of EMMANUEL as mayor of the Municipality of Malimono, Surigao del Norte.[6]

On 28 May 1998, the COMELEC Second Division dismissed the petition for disqualification and upheld the candidacy for mayor of EMMANUEL.[7] The pertinent part of the resolution reads:

It is therefore clear, that candidate for governor Matugas was clothed with the authority to nominate the respondent as substitute candidate for the position of mayor of Malimono, Surigao del Norte, vice the disqualified candidate, Apropos thereto, Section 77 of the Omnibus Election Code states:
x x x
Considering that on May 10, 1998 the proper nomination was issued by the official of the party authorized therefor, it stands to reason that the substitution was valid, respondent having accepted the nomination and his certificate of candidacy dated May 10, 1998, correspondingly filed.

Respondent is correct in stating that the question of nomination is a party concern which is beyond the ambit of the Commission. What matters is, the candidate has been certified as a party member and the nomination duly issued in his favor.

Be that as it may, the petition is rendered moot and academic by the proclamation of respondent on May 12, 1998, as evidenced by the certificate of canvass and proclamation of winning candidates for municipal offices with SN 16671298 and his oath of office dated May 13, 1998, which forms part of the record of this case.

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> WHEREFORE, premises considered, the Commission (Second Division) RESOLVES to DISMISS the instant petition for lack of merit.

MULA filed a motion for reconsideration raising in the main that the signature alone of MATUGAS in the nomination was not sufficient because the party's authority to nominate was given to both MATUGAS and Senator Robert S. Barbers (hereafter BARBERS), in their joint capacity, and that the nomination of EMMANUEL is void since he was an independent candidate prior to his nomination.[8]

On 6 October 1998, the COMELEC en banc issued a Resolution[9] which set aside the resolution dated 28 May 1998 of the Second Division and disqualified EMMANUEL, for the following reasons:

> In the motion for reconsideration, petitioner argues that the signature only of Governor Matugas in the nomination was not sufficient because the party's authority to nominate was given to both Governor Matugas and Senator Robert Barbers, in their joint capacity.
>
> We do not have to resolve this issue because the more important issue is whether respondent is disqualified as a substitute candidate. He was an independent candidate for councilor at the time he filed his certificate of candidacy for mayor as a substitute of a disqualified candidate. Thus, he did not belong to the same political party as the substituted candidate.
>
> We sustain petitioner's position. We declare that the substitution of disqualified mayoralty candidate Teodoro F. Sinaca, Jr. by respondent Emmanuel D. Sinaca was not valid because the latter was an independent candidate for councilor prior to his nomination as substitute candidate in place of the withdrawing candidate who was a Lakas party member.
>
> IN VIEW WHEREOF, the Commission en banc hereby resolves to SET ASIDE the Commission (Second Division)'s resolution dated May 28, 1998. We declare Emmanuel D. Sinaca DISQUALIFIED to be a substitute candidate for mayor of Malimono, Surigao del Norte, and ANNUL his proclamation as such being void ab initio. Upon finality of this resolution, he is ordered to vacate the position of mayor of the municipality of Malimono, Surigao del Norte, to which the vice-mayor elected in the May 11, 1998 elections shall succeed by operation of law.

Not satisfied therewith, EMMANUEL is now before us alleging that the COMELEC committed grave abuse of discretion in issuing the assailed Resolution. EMMANUEL principally contends that his nomination as a substitute candidate was regular and valid hence, his proclamation as mayor of the Municipality of Malimono, Surigao del Norte must be upheld.

In the assailed resolution, the COMELEC disqualified EMMANUEL solely on the basis that he was an independent candidate prior to his nomination as a substitute candidate.

The rule on substitution of an official candidate of a registered or accredited political party who dies, withdraws or is disqualified for any cause after the last day for the filing of certificates of candidacy is governed by Sec. 77 of the Omnibus Election Code which provides:

> If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate maybe filed with any board of election inspectors in the political subdivision where he is a candidate, or, in the case of candidates to be voted for by the entire electorate of the country, with the Commission.

Thus, under the said provision it is necessary, among others, that the substitute candidate must be of the same political party as the original candidate and must be duly nominated as such by the political party.

In the instant case, there was substantial compliance with the above said requirements. EMMANUEL was properly nominated as substitute candidate by the LAKAS party "MATUGAS wing" to which TEODORO, the disqualified candidate, belongs, as evidenced by the Certificate of Nomination and Acceptance signed by MATUGAS, the Party's provincial chairman.[10] That EMMANUEL is a bona fide member of the LAKAS party is shown not only by the certificate of membership,[11] which is being controverted for having been presented as new evidence for the first time before this court, but more importantly by his certificate of candidacy filed before the COMELEC stating therein that he belongs to the LAKAS party.[12]

A certificate of candidacy is in the nature of a formal manifestation to the whole world of the candidate's political creed or lack of political creed.[13] It is a statement of a person seeking to run for a public office certifying that he announces his candidacy for the office mentioned and that he is eligible for the office, the name of the political party to which he belongs, if he belongs to any, and his post-office address for all election purposes being as well stated.[14]

The certificate of candidacy of EMMANUEL permitted the placing of his name before the electorate. It constituted an authorized badge, which the voter could scrutinize before casting his ballot. Thus, with the declaration of EMMANUEL in his certificate of candidacy that he is affiliated with the LAKAS party, he was effectively voted by the electorate not as an independent candidate, but as a member of the LAKAS party. His allegation in the certificate of candidacy as to political party to which he belongs is sufficient to make the electorate conscious of the platform of the said political party.[15]

The fact that EMMANUEL was an independent candidate prior to his nomination is immaterial. What is more significant is that he had previously withdrawn his certificate of candidacy as independent candidate for Sangguniang member before he filed his certificate of candidacy as a substitute for TEODORO at which time he was, for all intents and purposes, already deemed a member of the LAKAS party "MATUGAS wing." As such, EMMANUEL is obliged to pursue and carry out the party's ideology, political ideas and platforms of government. As the official candidate of an organized political party, he is bound by the party's rule. He owes loyalty to the party, its tenet and its policies, its platforms and programs of government. To the electorate he represents the party, its principles, ideals and objectives.[16]

Even the fact that EMMANUEL only became a member of the LAKAS party after the disqualification of TEODORO, will not affect the validity of the substitution. There is nothing in the Constitution or the statute which requires as a condition precedent that a substitute candidate must have been a member of the party concerned for a certain period of time before he can be nominated as such. Section 77 of the Omnibus Election Code only mandates that a substitute candidate should be a person belonging to and certified by the same political party as the candidate to be replaced. We cannot provide for an additional requirement or condition not provided under the said provision without encroaching into the domain of the legislative department.

As aptly observed by Commissioner Teresita Dy-Liacco Flores in her dissenting opinion, to wit:

> x x x. With due respect to the majority opinion, I find that at the time the substitute candidate filed his certificate of candidacy for mayor and at the time of his election as such, he was an independent candidate no more. He was, at that time, a nominee of the LAKAS NUCD-UMDP Political Party. This fact is evidenced by the Certificate of Nomination and Acceptance dated 10 May 1998 executed by the Provincial Chairman of the said party of Surigao del Norte and by herein respondent. This certificate presupposes that respondent is a bonafide member of the said party. To rule that respondent was still an independent candidate and not a member of the LAKAS NUCD-UMDP political party at the time of filing his certificate of candidacy as a

> substitute candidate for mayor is to arrogate upon this Commission what would have been the sole and exclusive prerogative of any political organization -- to determine party membership and its nominees to elective positions. It is an accepted fact that, in this country, politicians switch party affiliations more frequently than the ebb and flow of the tides.[17]

The argument advanced by private respondent MULA that MATUGAS has no authority to nominate a candidate without the concurrence of BARBERS is devoid of merit.

Firstly, MATUGAS, was designated by the LAKAS National Headquarters through its Deputy Secretary General and National Secretariat Executive Director Reynaldo L. Maclang, as the party officer authorized to nominate, sign, attest under oath, and issue Certificates of Nomination and Acceptance for the Party's official candidates for the positions of Board Members, City Councilors, Municipal Mayors, Vice-mayors and councilors for the Province of Surigao del Norte.[18]

This authorization which was dated March 26, 1998 replaced and/or modified the former authorization given by the party to both BARBERS and MATUGAS.[19] Both BARBERS and MATUGAS were given separate and distinct authorizations when the mother of BARBERS ran for governor against MATUGAS.

Secondly, there are only two official candidates for mayor of Malimono, Surigao del Norte, namely TEODORO and CANOY,[20] both of whom are members of the LAKAS party but from different factions. TEODORO was indorsed by the "MATUGAS wing" and CANOY by the "BARBERS Wing." The certificates of candidacy of these candidates were never questioned despite the fact that they belong to the same political party and were separately and independently endorsed by either BARBERS or MATUGAS. Therefore, if the absence of a joint nomination is to be considered fatal to the validity of the certificate of candidacy of TEODORO or CANOY, then there would in effect no candidates running for mayor in the Municipality of Malimono, Surigao del Norte.

Verily, it stands to reason that with the disqualification of TEODORO, who is a member of the LAKAS "MATUGAS wing," the substitute must come from the same faction as the candidate to be substituted and since it was MATUGAS who indorsed the nomination of TEODORO, then MATUGAS' nomination of EMMANUEL in substitution of TEODORO is sufficient and in order.

There is also no irregularity in the act of EMMANUEL in joining a political party. The right of individuals to form an association as guaranteed by the fundamental law includes the freedom to associate or refrain from association.[21] No man is compelled by law to become a member of a political party; or after having become such, to remain a member. He may join such a party for whatever reason seems good to him, and may quit the party for any cause, good, bad, or indifferent, or without cause.[22] The decision of a candidate on whether to run as an independent candidate or to join a political party, group or aggrupation is left entirely to his discretion.[23]

We also agree with the contention of EMMANUEL that the decision as to which member a party shall nominate as its candidate is a party concern which is not cognizable by the courts.

A political party has the right to identify the people who constitute the association and to select a standard bearer who best represents the party's ideologies and preference.[24] Political parties are generally free to conduct their internal affairs free from judicial supervision; this common-law principle of judicial restraint, rooted in the constitutionally protected right of free association, serves the public interest by allowing the political processes to operate without undue interference.[25] Thus, the rule is that the determination of disputes as to party nominations rests with the party, in the absence of statutes giving the court's jurisdiction.[26]

Quintessentially, where there is no controlling statute or clear legal right involved, the court will not assume jurisdiction to determine factional controversies within a political party, but will leave the matter for

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determination by the proper tribunals of the party itself or by the electors at the polls.[27] Similarly, in the absence of specific constitutional or legislative regulations defining how nominations are to be made, or prohibiting nominations from being made in certain ways, political parties may handle party affairs, including nominations, in such manner as party rules may establish.[28]

An election in which the voters have fully, fairly, and honestly expressed their will is not invalid even though an improper method is followed in the nomination of candidates.[29] This is because in determining the effect of a particular irregularity in a party nomination for office on the result of the general election, the pivotal issue is whether the irregularity complained of has prevented a full, fair, and free expression of the public will. Thus, in the absence of a statutory provision to the contrary, an election may not even be invalidated by the fact that the nomination of the successful candidate was brought about by fraud, and not in the manner prescribed by the statute, provided it appears that noncompliance with the law did not prevent a fair and free vote.[30]

None of the situations adverted to above are obtaining in the case at bar as to warrant this Court's intervention in ascertaining the propriety of EMMANUEL's nomination as a substitute candidate by the LAKAS 'MATUGAS wing."

Finally, the issue as to the validity of EMMANUEL's nomination as substitute candidate has been rendered moot and academic by his proclamation on May 12, 1998, by the Board of Canvassers of Malimono as the duly elected municipal mayor and after he has assumed into office. The fact that the nomination of a substitute lacks the signature of one of the authorized signatory is but a technicality which cannot be used to frustrate the will of the electorate.

It has been held that the provisions of the election law regarding certificates of candidacy, such as signing and swearing on the same, as well as the information required to be stated therein, are considered mandatory prior to the elections. Thereafter, they are regarded as merely directory. With respect to election laws, it is an established rule of interpretation that mandatory provisions requiring certain steps before election will be construed as directory after the elections, to give effect to the will of the electorate. Thus, even if the certificate of candidacy was not duly signed or if it does not contain the required data, the proclamation of the candidate as winner may not be nullified on such ground. The defects in the certificate should have been questioned before the election; they may not be questioned after the election without invalidating the will of the electorate, which should not be done.[31] In Guzman v. Board of Canvassers,[32] the Court held that the "will of the people cannot be frustrated by a technicality that the certificate of candidacy had not been properly sworn to. This legal provision is mandatory and non-compliance therewith before the election would be fatal to the status of the candidate before the electorate, but after the people have expressed their will, the result of the election cannot be defeated by the fact that the candidate has not sworn to his certificate of candidacy."

Thus, were a candidate has received popular mandate, overwhelmingly and clearly expressed, all possible doubts should be resolved in favor of the candidate's eligibility for to rule otherwise is to defeat the will of the people.[33] Above and beyond all, the determination of the true will of the electorate should be paramount. It is their voice, not ours or of anyone else, that must prevail. This, in essence, is the democracy we continue to hold sacred.[34]

WHEREFORE, the petition is GRANTED. The assailed resolution of 6 October 1998 of the COMELEC en banc is hereby REVERSED and SET ASIDE and another one rendered declaring EMMANUEL SINACA as having been duly elected mayor of the Municipality of Malimono, Surigao del Norte.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur. Pardo, J., no part. was Comelec Chair.

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[1] Annex “O,” Rollo 87-89.

[2] Per Guiani, J., Comm., with Desamito, J., Pres. Comm. and Calderon, A., Comm., concurring. Annex “A,” Rollo, 31-32.

[3] Annex “C,” Id., 34.

[4] Annex “B,” Id., 33.

[5] Annex “J,” Rollo, 60-62.

[6] Annex “K,” Id., 63-65.

[7] Annex “M,” Rollo, 77-80. Per Desamito, J., Pres. Comm., with Guiani, J. and Calderon, A., Comms., concurring.

[8] Annex “N,” Id., 81-85.

[9] Supra note 1, with Commissioner Teresita Dy-Liacco Flores, dissenting.

[10] Supra note 4.

[11] Annex “Q”; Rollo, 90.

[12] Supra note 3.

[13] Papa v. Municipal Board of Manila, et al., 47 Phil. 694 [1925].

[14] Ruperto G. Martin, The Revised Election Code with Annotations 41 (First Edition).

[15] See supra note 13, at 702.

[16] See Peralta v. COMELEC, 82 SCRA 30, 57 [1978].

[17] Rollo, 112-113.

[18] Annex “P,” Rollo, 89.

[19] Dated 20 March 1998, Annex “1”; Rollo, 66.

[20] Annex”C”; Rollo, 74.

[21] Emerson, Freedom of Association, 74 Yale Law Journal,1, 4 [1964] as cited in the case of Peralta v. Comelec, supra note 16.

[22] Peralta v. COMELEC, ibid., citing 25 Am Jur. 2nd 800.

[23] Ibid., 56.

[24] See 26 Am Jur 2d, Elections §255, 67.

[25] Nielsen v. Kezer, 232 Conn 65, 652 A2d 1013.

[26] Hunt v. Superior Court, 64 Ariz 325, 170 P2d 293. See also O'Niel v O'Connell, 300 Ky 707, 189 Sw2d 965, 169 ALR 1271, holding that courts have no power in the absence of a statute conferring jurisdiction to interfere with operations of a political party.

[27] 25 Am Jur 2d, Elections §205, 982.

[28] Tucker v. State Board of Alcoholic Control, 240 NC 177, 81 SE 2d 399; Brewster v. Massey (Tex Civ App) 232 SW2d 678, mand overr.

[29] Howell v. Bain, 176 Or 187, 156 P2d 576.

[30] Hooper v. Almand, 196 Ga 52, 25 SE2d 778.

[31] Lambanao v. Terro, 15 SCRA 716 [1965]; Callado v. Alonzo, 15 SCRA 562 [1965]; See Villanueva v. COMELEC, 140 SCRA 352 [1985].

[32] 48 Phil. 211 [1925].

[33] Jaime Opinion and Ruben Agpalo, The Law on Elections 57 (1987 ed.); See also Avelino v. Rosales, 48 O.G. No. 12, 5309 [6 Sept. 1952].

[34] Mentang v. COMELEC, 229 SCRA 667 [1994].

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