

ARNOLD V. GUERRERO, PETITIONER, VS. THE COMMISSION ON ELECTIONS, HON. MANUEL B. VILLAR, JR., AS THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, 11TH CONGRESS, HON. ROBERTO P. NAZAR...*G.R. No. 137004. July 26, 2000*

Ponente: QUISUMBING, J.

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Before the Court is a petition for certiorari, prohibition, and mandamus, with prayer for a temporary restraining order and/or preliminary injunction, under Rule 65 of the Rules of Court. It assails the Order of the Commission on Elections, Second Division, dated May 10, 1998, in COMELEC Case No. SPA 98-227, which dismissed the petition filed by herein respondent Guillermo C. Ruiz to disqualify respondent Rodolfo C. Fariñas as a candidate for the elective office of Congressman in the first district of Ilocos Norte during the May 11, 1998 elections. It also assails the Resolution dated May 16, 1998, of the COMELEC En Banc, denying the motion for reconsideration filed by respondent Ruiz and dismissing the petition-in-intervention filed by herein petitioner Arnold V. Guerrero.

In the Second Division of the COMELEC, Ruiz sought to perpetually disqualify respondent Fariñas as a candidate for the position of Congressman.[1] Ruiz alleged that Fariñas had been campaigning as a candidate for Congressman in the May 11, 1998 polls, despite his failure to file a Certificate of Candidacy for said office. Ruiz averred that Fariñas' failure to file said Certificate violated Section 73 of the Omnibus Election Code[2] in relation to COMELEC Resolution No. 2577, dated January 15, 1998. Ruiz asked the COMELEC to declare Fariñas as a "nuisance candidate" pursuant to Section 69 of the Omnibus Election Code[3] and to disqualify him from running in the May 11, 1998 elections, as well as in all future polls.

On May 8, 1998, Fariñas filed his Certificate of Candidacy with the COMELEC, substituting candidate Chevylle V. Fariñas who withdrew on April 3, 1998.

On May 9, 1998, Ruiz filed an "Urgent Ex-Parte Motion To Resolve Petition" with the COMELEC, attaching thereto a copy of the Certificate of Candidacy of Fariñas.

On May 10, 1998, the Second Division of the COMELEC decided Case No. SPA 98-227, disposing as follows:

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

"SO ORDERED." [4]

In dismissing Ruiz's petition, the Second Division of the COMELEC stated, "[T]here is none (sic) in the records to consider respondent an official candidate to speak of without the filing of said certificate. Hence, there is no certificate of candidacy to be cancelled, consequently, no candidate to be disqualified." [5]

On May 11, 1998, the elections pushed through as scheduled. The post-election tally of votes in Ilocos Norte showed that Fariñas got a total of 56,369 votes representing the highest number of votes received in the first district. Fariñas was duly proclaimed winner.

On May 16, 1998, Ruiz filed a motion for reconsideration, contending that Fariñas could not validly substitute for Chevylle V. Fariñas, since the latter was not the official candidate of the Lakas ng Makabayan Masang Pilipino (LAMMP), but was an independent candidate. Another person cannot substitute for an independent candidate. Thus, Fariñas' certificate of candidacy claiming to be the official candidate of LAMMP in lieu of Chevylle V. Fariñas was fatally defective, according to Ruiz.

On June 3, 1998, Fariñas took his oath of office as a member of the House of Representatives.

On June 10, 1998, petitioner herein filed his "Petition-In-Intervention" in COMELEC Case No. SPA 98-227. Petitioner averred that he was the official candidate of the Liberal Party (LP) in said elections for Congressman, and stood to be adversely affected by Case No. SPA 98-227. Guerrero contended that Fariñas, having failed to file his Certificate of Candidacy on or before the last day therefor, being midnight of March 27, 1998, Fariñas illegally resorted to the remedy of substitution provided for under Section 77 of the Omnibus Election Code[6] and thus, Fariñas' disqualification was in order. Guerrero then asked that the position of Representative of the first district of Ilocos Norte be declared vacant and special elections called for, but disallowing the candidacy of Fariñas.

On January 6, 1999, the COMELEC En Banc dismissed Ruiz's motion for reconsideration and Guerrero's petition-in-intervention in Case No. SPA 98-227. The decretal portion of its Resolution reads:

"PRESCINDING FROM THE FOREGOING PREMISES, this Commission (En Banc) RESOLVED, as it hereby RESOLVES, to AFFIRM the Order of the Commission (Second Division) and thereafter, DISMISS this instant motion for reconsideration for lack of jurisdiction (*italics in the original*) without prejudice to the filing of a quo warranto case, if he so desires.

"SO ORDERED." [7]

Hence, the instant petition, anchored on the following grounds:

- THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN REFUSING TO RULE ON THE VALIDITY OR INVALIDITY OF THE CANDIDACY OR PURPORTED CERTIFICATE OF CANDIDACY OF PRIVATE RESPONDENT FARIÑAS.
- THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN TOSSING THE DUTY TO RULE ON THE VALIDITY OR INVALIDITY OF THE CANDIDACY OR PURPORTED CERTIFICATE OF CANDIDACY OF PRIVATE RESPONDENT FARIÑAS TO THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET) CONSIDERING THAT THE LATTER (HRET) OBVIOUSLY LACKS JURISDICTION TO RULE ON THE ISSUE THEREBY UNDULY CREATING A VACUUM AND RENDERING PETITIONER WITHOUT A REMEDY.
- THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN NOT RENDERING A RULING, BASED ON THE FACTS AS STATED IN ITS ASSAILED RESOLUTION DATED JANUARY 6, 1999 (Annex "B" hereof) DISQUALIFYING PRIVATE RESPONDENT FARIÑAS AS A CANDIDATE FOR CONGRESSMAN OF THE FIRST LEGISLATIVE DISTRICT OF ILOCOS NORTE DURING THE MAY 11, 1998 ELECTIONS, PREMISED ON ITS FINDINGS THAT "THERE IS NONE IN THE RECORDS TO CONSIDER

RESPONDENT (FARIÑAS) AN OFFICIAL CANDIDATE TO SPEAK OF WITHOUT THE FILING OF SAID CERTIFICATE, HENCE, THERE IS NO CERTIFICATE OF CANDIDACY TO BE CANCELLED, CONSEQUENTLY, NO CANDIDATE TO BE DISQUALIFIED."

- THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN NOT CALLING A SPECIAL ELECTION TO FILL-UP THE VACANT POSITION OF CONGRESSMAN OF THE FIRST LEGISLATIVE DISTRICT OF ILOCOS NORTE DUE TO THE DISQUALIFICATION OF RESPONDENT FARIÑAS AS A CANDIDATE THERETO AND WHO APPEARS TO HAVE OBTAINED THE HIGHEST NUMBER OF VOTES CAST IN THE MAY 11, 1998 ELECTIONS.

We find pertinent for our resolution this issue:

Did the COMELEC commit grave abuse of discretion in holding that the determination of the validity of the certificate of candidacy of respondent Fariñas is already within the exclusive jurisdiction of the Electoral Tribunal of the House of Representatives?

In its assailed resolution, the COMELEC had noted that respondent Fariñas had taken his oath and assumed office as a Member of the 11[th] Congress and by express mandate of the Constitution,[8] it had lost jurisdiction over the case.

Petitioner Guerrero argues that the refusal of the COMELEC to rule on the validity or invalidity of the certificate of candidacy of Fariñas amounted to grave abuse of discretion on its part. He claims that COMELEC failed in its Constitutional duty to uphold and enforce all laws relative to elections.[9] He relies on *Gallardo v. Judge Tabamo, Jr.*, 218 SCRA 253 (1993), which reiterated the doctrine laid down in *Zaldivar v. Estenzo*, 23 SCRA 533 (1968), that the COMELEC has exclusive charge of the enforcement and administration of all laws relative to the conduct of an electoral exercise.

A special civil action for certiorari may be availed of when the tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling the proceeding.[10] It is the proper remedy to question any final order, ruling and decision of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers.[11] But for an action for certiorari to prosper, there must be a showing that the COMELEC acted with grave abuse of discretion. This means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or excess thereof, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility, and it must be so patent as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by law.[12]

In the present case, we find no grave abuse of discretion on the part of the COMELEC when it held that its jurisdiction over Case No. SPA 98-277 had ceased with the assumption of office of respondent Fariñas as Representative for the first district of Ilocos Norte. While the COMELEC is vested with the power to declare valid or invalid a certificate of candidacy, its refusal to exercise that power following the proclamation and assumption of the position by Fariñas is a recognition of the jurisdictional boundaries separating the COMELEC and the Electoral Tribunal of the House of Representatives (HRET). Under Article VI, Section 17 of the Constitution, the HRET has sole and exclusive jurisdiction over all contests relative to the election, returns, and qualifications of members of the House of Representatives. Thus, once a winning candidate has been proclaimed, taken his oath, and assumed office as a member of the House of Representatives, COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins.[13] Thus, the COMELEC's decision to discontinue exercising jurisdiction over the case is justifiable, in deference to the HRET's own jurisdiction and functions.

However, petitioner contends that the jurisdiction of the HRET as defined under Article VI, Section 17 of the Constitution is limited only to the qualifications prescribed under Article VI, Section 6 of the Constitution.[14] Consequently, he claims that any issue which does not involve these constitutional qualifications is beyond the realm of the HRET. The filing of a certificate of candidacy being a statutory qualification under the Omnibus Election Code is outside the pale of the HRET, according to him.

This contention lacks cogency and is far from persuasive. Article VI, Section 17 of the Constitution cannot be circumscribed lexically. The word "qualifications" cannot be read as qualified by the term "constitutional." *Ubi lex non distinguit nec nos distinguere debemus*. Basic is the rule in statutory construction that where the law does not distinguish, the courts should not distinguish.[15] There should be no distinction in the application of a law where none is indicated. For firstly, the drafters of the fundamental law, in making no qualification in the use of a general word or expression, must have intended no distinction at all. Secondly, the courts could only distinguish where there are facts or circumstances showing that the lawgiver intended a distinction or qualification. In such a case, the courts would merely give effect to the lawgiver's intent.[16]

Petitioner further argues that the HRET assumes jurisdiction only if there is a valid proclamation of the winning candidate. He contends that if a candidate fails to satisfy the statutory requirements to qualify him as a candidate, his subsequent proclamation is void ab initio. Where the proclamation is null and void, there is no proclamation at all and the mere assumption of office by the proclaimed candidate does not deprive the COMELEC at all of its power to declare such nullity, according to petitioner. But as we already held, in an electoral contest where the validity of the proclamation of a winning candidate who has taken his oath of office and assumed his post as Congressman is raised, that issue is best addressed to the HRET.[17] The reason for this ruling is self-evident, for it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate.

Whether respondent Fariñas validly substituted Chevylle V. Fariñas and whether respondent became a legitimate candidate, in our view, must likewise be addressed to the sound judgment of the Electoral Tribunal. Only thus can we demonstrate fealty to the Constitutional provision that the Electoral Tribunal of each House of Congress shall be the "sole judge of all contests relating to the election, returns, and qualifications of their respective members".[18]

WHEREFORE, the petition is hereby DISMISSED for lack of merit. Costs against petitioner.

SO ORDERED.

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

[1] Annex "C," Rollo, pp. 51-58.

[2] 'SEC. 73. Certificate of candidacy. – No person shall be eligible for any elective public office unless he files a sworn certificate of candidacy within the period fixed herein.

"A person who has filed a certificate of candidacy may, prior to the election, withdraw the same by submitting to the office concerned a written declaration under oath.

"No person shall be eligible for more than one office to be filled in the same election, and if he files his certificate of candidacy for more than one office, he shall not be eligible for any of them. However, before the expiration of the period for the filing of certificates of candidacy, the person who has filed more than one certificate of

candidacy may declare under oath the office for which he desires to be eligible and cancel the certificate of candidacy for the other office or offices.

"The filing or withdrawal of certificate of candidacy shall not affect whatever civil, criminal or administrative liabilities which a candidate may have incurred."

[3] "SEC. 69. Nuisance candidates. – The Commission may, motu proprio or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy, if it is shown that said certificate has been filed to put the election process in mockery or disrepute or cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate."

[4] Supra Note 1, at 43.

[5] Id. at 42-43.

[6] "SEC. 77. Candidates in case of death, disqualification or withdrawal of another. – 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 may be 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."

[7] Rollo, p. 49.

[8] Art. VI, Sec. 17 provides: "The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman."

[9] "Art. IX-C, Sec. 2. The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall. x x x"

[10] *Suntay v. Cojuangco-Suntay*, 300 SCRA 760, 766 (1998) citing *Sempio v. Court of Appeals*, 263 SCRA 617 (1996).

[11] *Loong v. Commission on Elections*, 305 SCRA 832, 852 (1999) citing *Filipinas Engineering and Machine Shop v. Ferrer*, 135 SCRA 25 (1985); *Reyes v. Regional Trial Court of Oriental Mindoro, Br. XXXIX*, 244 SCRA 41, 45 (1995).

[12] *Cuison v. Court of Appeals*, 289 SCRA 159, 171 (1998) citing *Esguerra v. Court of Appeals*, 267 SCRA 380 (1997).

[13] *Aquino v. Commission on Elections*, 248 SCRA 400, 417-418 (1995); *Romualdez-Marcos v. Commission on Elections*, 248 SCRA 300, 340-341 (1995).

[14] Art. VI, Sec. 6 provides: "No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election."

[15] *Olfato v. Commission on Elections*, 103 SCRA 741, 778 (1981).

[16] *Social Security System v. City of Bacolod*, 115 SCRA 412, 415 (1982).

[17] *Lazatin v. Commission on Elections*, 157 SCRA 337, 338 (1988).

[18] CONST., Art. VI, Section 17.

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