

ROGELIO M. TORAYNO SR., GENEROSO ELIGAN AND JACQUELINE M. SERIÑO, PETITIONERS, VS. COMMISSION ON ELECTIONS AND VICENTE Y. EMANO, RESPONDENTS.*G.R. No. 137329. August 09, 2000*

Ponente: PANGANIBAN, J.

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The Constitution and the law requires residence as a qualification for seeking and holding elective public office, in order to give candidates the opportunity to be familiar with the needs, difficulties, aspirations, potentials for growth and all matters vital to the welfare of their constituencies; likewise, it enables the electorate to evaluate the office seekers' qualifications and fitness for the job they aspire for. Inasmuch as Vicente Y. Emano has proven that he, together with his family, (1) had actually resided in a house he bought in 1973 in Cagayan de Oro City; (2) had actually held office there during his three terms as provincial governor of Misamis Oriental, the provincial capitol being located therein; and (3) has registered as voter in the city during the period required by law, he could not be deemed "a stranger or newcomer" when he ran for and was overwhelmingly voted as city mayor. Election laws must be liberally construed to give effect to the popular mandate.

The Case

Before us is a Petition for Certiorari under Rule 65 of the Rules of Court seeking to set aside the January 18, 1999 Resolution[1] of the Commission on Elections (Comelec) en banc in SPA No. 98-298, which upheld the July 14, 1998 Resolution[2] of the Comelec First Division. The assailed Resolutions ruled that Private Respondent Vicente Y. Emano possessed the minimum period of residence to be eligible to vote in Cagayan de Oro City, as well as be voted mayor thereof.

The Facts

The pertinent facts of the case, as culled from the records, are as follows.

During the 1995 elections, Vicente Y. Emano ran for, was elected, and proclaimed provincial governor of Misamis Oriental. It was his third consecutive term as governor of the province. In his Certificate of Candidacy dated March 12, 1995, his residence was declared to be in Tagoloan, Misamis Oriental.

On June 14, 1997, while still the governor of Misamis Oriental, Emano executed a Voter Registration Record in Cagayan de Oro City (geographically located in the Province of Misamis Oriental), a highly urbanized city, in which he claimed 20 years of residence. On March 25, 1998, he filed his Certificate of Candidacy for mayor of the city, stating therein that his residence for the preceding two years and five months was at 1409 San Jose Street, Capistrano Subdivision, Gusa, Cagayan de Oro City.

Among those who ran for the mayorship of the city in 1998, along with Emano, was Erasmo B. Damasing, counsel of herein petitioners. On May 15, 1998, Petitioners Rogelio M. Torayno Sr., Generoso Q. Eligan and Jacqueline M. Seriño, all residents of Cagayan de Oro City, filed a Petition before the Comelec, docketed as SPA

No. 98-298, in which they sought the disqualification of Emano as mayoral candidate, on the ground that he had allegedly failed to meet the one-year residence requirement. Prior to the resolution of their Petition, the Comelec proclaimed private respondent as the duly elected city mayor. Thus, on May 29, 1998, petitioners filed another Petition before the Comelec, this time for quo warranto,[3] in which they sought (1) the annulment of the election of private respondent; and (2) the proclamation of Erasmo B. Damasing, who had garnered the next highest number of votes, as the duly elected mayor of the city.

In its Resolution dated July 14, 1998, the Comelec First Division denied the Petition for Disqualification. Upon petitioners' Motion for Reconsideration and Motion for Consolidation, the two cases were consolidated.[4]

Ruling of the Comelec

As earlier stated, the Comelec en banc upheld the findings and conclusions of the First Division, holding that "[t]he records clearly show that the respondent is an actual resident of Cagayan de Oro City for such a period of time necessary to qualify him to run for mayor therein. This fact is clearly established by the respondent having a house in the city which has been existing therein since 1973 and where his family has been living since then."

Additionally, it ruled:

"There is nothing in the law which bars an elected provincial official from residing and/or registering as a voter in a highly urbanized city whose residents are not given the right to vote for and be elected to a position in the province embracing such highly urbanized city as long as he has complied with the requirements prescribed by law in the case of a qualified voter.

"Neither can the list of voters submitted as evidence for the petitioners showing that the respondent was a registered voter as of March 13, 1995 in Precinct No. 12, Barangay Poblacion, Tagoloan, Misamis Oriental bolster the petitioner's argument that the respondent is not a resident [or a] registered voter in Cagayan de Oro City since registration in said Precinct No. 12 does not preclude the respondent from registering anew in another place."

Hence, this recourse[5] before this Court.

Issues

In their Memorandum,[6] petitioners submit that the main issue is whether the "Comelec gravely abused its discretion amounting to lack of jurisdiction in issuing the questioned Resolutions." Allegedly, the resolution of this issue would depend on the following:[7]

"1. Whether or not private respondent Emano's

(a) remaining as governor of Misamis Oriental until he filed his certificate of candidacy for mayor of Cagayan de Oro City on March 25, 1998 in the May 11, 1998 election;

(b) asserting under oath [that he was] qualified to act as governor of said province until said date; and

(c) admitting, in sworn statements, [that he was] a resident of Misamis Oriental,

precluded him from acquiring a bona fide domicile of choice for at least one (1) year in Cagayan de Oro City prior to the May 11, 1998 elections, as to disqualify him for being a candidate for city mayor of said City.

2. Differently stated, whether or not Emano's securing a residence certificate in Cagayan de Oro City, holding offices as governor of Misamis Oriental in the Capitol Building located in Cagayan de Oro City and having a house therein where [he had] stay[ed] during his tenure as governor, and registering as a voter in said City in June 1997, would be legally sufficient, as against the undisputed facts above enumerated, to constitute a change of his

domicile of birth in Tagoloan, Misamis Oriental in favor of a new domicile of choice in Cagayan de Oro City for at least one (1) year for purposes of qualifying him to run for city mayor in the May 11, 1998 elections.

3. Whether or not Erasmo Damasing, the candidate for mayor of Cagayan de Oro City in the May 11, 1998 elections, who received the second highest number of votes, can be declared winner, considering that respondent Emano was disqualified to run for and hold said office and considering that his disqualification or ineligibility had been extensively brought to the attention and consciousness of the voters prior to the May 11, 1998 election as to attain notoriety, notwithstanding which they still voted for him."

Petitioners are seeking the resolution of essentially two questions: (1) whether private respondent had duly established his residence in Cagayan de Oro City at least one year prior to the May 11, 1998 elections to qualify him to run for the mayorship thereof; and (2) if not, whether Erasmo Damasing, the candidate who had received the second highest number of votes, should be proclaimed mayor of the city.

The Court's Ruling

The Petition has no merit.

Preliminary Matter:

Locus Standi of Petitioners

Although not raised by the parties, the legal standing of the petitioners was deliberated upon by the Court. We note that petitioners pray, among others, for judgment "declaring Atty. Erasmo B. Damasing as entitled to be proclaimed winner as mayor in the May 11, 1998 elections in Cagayan de Oro City." [8] And yet, Damasing is not a party to the instant "Petition for Certiorari pursuant to Rule[s] 64 and 65" brought before us.

Under the Rules of Court, a quo warranto may be brought only by (1) the solicitor general or (2) a public prosecutor or (3) a person claiming to be entitled to the public office or position usurped or unlawfully held or exercised by another. [9] A reading of the Rules shows that petitioners, none of whom qualify under any of the above three categories, are without legal standing to bring this suit.

However, the present Petition finds its root in two separate cases filed before the Comelec: (1) SPC 98-298 for disqualification and (2) EPC 98-62 for quo warranto. Under our election laws and the Comelec Rules of Procedure, any voter may file a petition to disqualify a candidate on grounds provided by law, [10] or to contest the election of a city officer on the ground of ineligibility or disloyalty to the Republic. [11] The petitioners herein, being "duly-registered voters" of Cagayan de Oro City, therefore satisfy the requirement of said laws and rules. [12]

Main Issue:

Residence Qualification for Candidacy

Petitioners argue that private respondent maintains his domicile in Tagoloan, Misamis Oriental, not in Cagayan de Oro City, as allegedly shown by the following facts: (1) he had run and won as governor of the province of Misamis Oriental for three consecutive terms immediately preceding the 1998 elections; (2) in the pleadings he filed in connection with an election protest against him relating to the 1995 election, he had stated that he was a resident of Tagoloan, Misamis Oriental; (3) he had fully exercised the powers and prerogatives of governor until he filed his Certificate of Candidacy for mayor on March 25, 1998.

Petitioners claim that in discharging his duties as provincial governor, private respondent remained a resident of the province. They aver that residence is a continuing qualification that an elective official must possess throughout his term. Thus, private respondent could not have changed his residence to Cagayan de Oro City while

he was still governor of Misamis Oriental.

Petitioners further contend that the following were not sufficient to constitute a change of domicile: having a house in Cagayan de Oro City, residing therein while exercising one's office as governor (the city being the seat of government of the province), securing a residence certificate and registering as voter therein.

Private respondent, on the other hand, alleges that he actually and physically resided in Cagayan de Oro City while serving as provincial governor for three consecutive terms, since the seat of the provincial government was located at the heart of that city.[13] He also avers that one's choice of domicile is a matter of intention, and it is the person concerned who would be in the best position to make a choice. In this case, Emano decided to adopt Cagayan de Oro City as his place of residence after the May 1995 elections. In fact, in January 1997, he secured his Community Tax Certificate at the City Treasurer's Office, stating therein that he was a resident of 1409 San Jose Street, Capistrano Subdivision, Gusa, Cagayan de Oro City. During the general registration of voters in June 1997, he registered in one of the precincts of Gusa, Cagayan de Oro City. This meant that, at the time, Emano had been a voter of the city for the minimum period required by law. No one has ever challenged this fact before any tribunal.

Private respondent contends further that his transfer of legal residence did not ipso facto divest him of his position as provincial governor. First, there is no law that prevents an elected official from transferring residence while in office. Second, an elective official's transfer of residence does not prevent the performance of that official's duties, especially in private respondent's case in which the seat of government became his adopted place of residence. Third, as ruled in *Frivaldo v. Comelec*,[14] the loss of any of the required qualifications for election merely renders the official's title or right to office open to challenge. In Emano's case, no one challenged his right to the Office of Provincial Governor when he transferred his residence to Cagayan de Oro City. Naturally, he continued to discharge his functions as such, until he filed his candidacy for mayor in March 1998.

Lastly, Emano urges that the sanctity of the people's will, as expressed in the election result, must be respected. He is not, after all, a stranger to the city, much less to its voters. During his three terms as governor of Misamis Oriental, his life and actuations have been closely interwoven with the pulse and beat of Cagayan de Oro City.

Public Respondent Comelec relies essentially on *Romualdez-Marcos v. Comelec*[15] in its Memorandum[16] which supports the assailed Resolutions, and which has been filed in view of the solicitor general's Manifestation and Motion in Lieu of Comment.[17] Thus, the poll body argues that "x x x the fact of residence x x x ought to be decisive in determining whether or not an individual has satisfied the Constitution's residency qualification requirement."

Law on Qualifications of Local Elective Officials

The pertinent provision sought to be enforced is Section 39 of the Local Government Code (LGC) of 1991,[18] which provides for the qualifications of local elective officials, as follows:

"SEC. 39. Qualifications. - (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province x x x where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect."

Generally, in requiring candidates to have a minimum period of residence in the area in which they seek to be elected, the Constitution or the law intends to prevent the possibility of a "stranger or newcomer unacquainted with the conditions and needs of a community and not identified with the latter from [seeking] an elective office to serve that community." [19] Such provision is aimed at excluding outsiders "from taking advantage of favorable

circumstances existing in that community for electoral gain." [20] Establishing residence in a community merely to meet an election law requirement defeats the purpose of representation: to elect through the assent of voters those most cognizant and sensitive to the needs of the community. This purpose is "best met by individuals who have either had actual residence in the area for a given period or who have been domiciled in the same area either by origin or by choice." [21]

Facts Showing Change of Residence

In the recent en banc case *Mamba-Perez v. Comelec*, [22] this Court ruled that private respondent therein, now Representative Rodolfo E. Aguinaldo of the Third District of Cagayan, had duly proven his change of residence from Gattaran, Cagayan (part of the First District) to Tuguegarao, Cagayan (part of the Third District in which he sought election as congressman). He proved it with the following facts: (1) in July 1990, he leased and lived in a residential apartment in Magallanes Street, Tuguegarao, Cagayan; (2) in July 1995, he leased another residential apartment in Kamias Street, Tanza, Tuguegarao, Cagayan; (3) the January 18, 1998 Certificate of Marriage between Aguinaldo and his second wife, Lerma Dumaguít; (4) the Certificate of Live Birth of his second daughter; and (5) various letters addressed to him and his family showed that he had been a resident of Tuguegarao for at least one year immediately preceding the May 1998 elections. The Court also stated that it was not "of much importance that in his [Aguinaldo's] certificates of candidacy for provincial governor in the elections of 1988, 1992, and 1995, private respondent stated that he was a resident of Gattaran." [23]

In the case at bar, the Comelec found that private respondent and his family had actually been residing in Capistrano Subdivision, Gusa, Cagayan de Oro City, in a house he had bought in 1973. Furthermore, during the three terms (1988-1998) that he was governor of Misamis Oriental, he physically lived in that city, where the seat of the provincial government was located. In June 1997, he also registered as voter of the same city. Based on our ruling in *Mamba-Perez*, these facts indubitably prove that Vicente Y. Emano was a resident of Cagayan de Oro City for a period of time sufficient to qualify him to run for public office therein. Moreover, the Comelec did not find any bad faith on the part of Emano in his choice of residence.

Petitioners put much emphasis on the fact that Cagayan de Oro City is a highly urbanized city whose voters cannot participate in the provincial elections. Such political subdivisions and voting restrictions, however, are simply for the purpose of parity in representation. The classification of an area as a highly urbanized or independent component city, for that matter, does not completely isolate its residents, politics, commerce and other businesses from the entire province -- and vice versa -- especially when the city is located at the very heart of the province itself, as in this case.

Undeniably, Cagayan de Oro City was once an integral part of Misamis Oriental and remains a geographical part of the province. Not only is it at the center of the province; more important, it is itself the seat of the provincial government. As a consequence, the provincial officials who carry out their functions in the city cannot avoid residing therein; much less, getting acquainted with its concerns and interests. Vicente Y. Emano, having been the governor of Misamis Oriental for three terms and consequently residing in Cagayan de Oro City within that period, could not be said to be a stranger or newcomer to the city in the last year of his third term, when he decided to adopt it as his permanent place of residence.

Significantly, the Court also declared in *Mamba-Perez* that "although private respondent declared in his certificates of candidacy prior to the May 11, 1998 elections that he was a resident of Gattaran, Cagayan, the fact is that he was actually a resident of the Third District not just for one (1) year prior to the May 11, 1998 elections but for more than seven (7) years since July 1990. His claim that he ha[s] been a resident of Tuguegarao since July 1990 is credible considering that he was governor from 1988 to 1998 and, therefore, it would be convenient

for him to maintain his residence in Tuguegarao, which is the capital of the province of Cagayan."

Similarly in the instant case, private respondent was actually and physically residing in Cagayan de Oro City while discharging his duties as governor of Misamis Oriental. He owned a house in the city and resided there together with his family. He even paid his 1998 community tax and registered as a voter therein. To all intents and purposes of the Constitution and the law, he is a resident of Cagayan de Oro City and eligible to run for mayor thereof.

To petitioners' argument that Emano could not have continued to qualify as provincial governor if he was indeed a resident of Cagayan de Oro City, we respond that the issue before this Court is whether Emano's residence in the city qualifies him to run for and be elected as mayor, not whether he could have continued sitting as governor of the province. There was no challenge to his eligibility to continue running the province; hence, this Court cannot make any pronouncement on such issue. Considerations of due process prevent us from adjudging matters not properly brought to us. On the basis, however, of the facts proven before the Comelec, we hold that he has satisfied the residence qualification required by law for the mayorship of the city.

We stress that the residence requirement is rooted in the desire that officials of districts or localities be acquainted not only with the metes and bounds of their constituencies but, more important, with the constituents themselves -- their needs, difficulties, aspirations, potentials for growth and development, and all matters vital to their common welfare. The requisite period would give candidates the opportunity to be familiar with their desired constituencies, and likewise for the electorate to evaluate the former's qualifications and fitness for the offices they seek.

In other words, the actual, physical and personal presence of herein private respondent in Cagayan de Oro City is substantial enough to show his intention to fulfill the duties of mayor and for the voters to evaluate his qualifications for the mayorship. Petitioners' very legalistic, academic and technical approach to the residence requirement does not satisfy this simple, practical and common-sense rationale for the residence requirement.

Interpretation to Favor Popular Mandate

There is no question that private respondent was the overwhelming choice of the people of Cagayan de Oro City. He won by a margin of about 30,000 votes.[24] Thus, we find it apt to reiterate the principle that the manifest will of the people as expressed through the ballot must be given fullest effect. In case of doubt, political laws must be interpreted to give life and spirit to the popular mandate.[25] Verily, in *Frivaldo v. Comelec*,[26] the Court held:

"x x x [T]his Court has repeatedly stressed the importance of giving effect to the sovereign will in order to ensure the survival of our democracy. In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. To successfully challenge a winning candidate's qualifications, the petitioner must clearly demonstrate that the ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote."

In the same vein, we stated in *Alberto v. Comelec*[27] that "election cases involve public interest; thus, laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections."

Indeed, "it would be far better to err in favor of popular sovereignty than to be right in complex but little understood legalisms."[28]

In sum, we hold that Respondent Comelec cannot be faulted with abuse, much less grave abuse, of discretion in upholding private respondent's election.

Corollary Issue: Effect of Disqualification of Winner on Second Placer

With the resolution of the first issue in the positive, it is obvious that the second one posited by petitioners has become academic and need not be ruled upon.

WHEREFORE, the Petition is DISMISSED and the assailed Comelec Resolutions AFFIRMED. Costs against petitioners.

SO ORDERED.

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

Bellosillo, J., abroad on official business.

[1] Rollo, pp. 47-51; signed by Comms. Luzviminda G. Tancangco (officer-in-charge), Manolo B. Gorospe, Julio F. Desamito, Teresita Dy-Liacco Flores and Japal M. Guiani.

[2] Ibid., pp. 52-55; signed by Comms. Manolo B. Gorospe (presiding commissioner) and Teresita Dy-Liacco Flores.

[3] Docketed as EPC No. 98-62.

[4] Rollo, pp. 124-25.

[5] This case was deemed submitted for resolution upon this Court's receipt of private respondent's Memorandum on April 26, 2000.

[6] Rollo, pp. 264 et seq.

[7] Petitioners' Memorandum, pp. 9-10, signed by Attys. Ruben E. Agpalo and Renato B. Damasing.

[8] Petition, p. 38; rollo, p. 41.

[9] §§2, 3 & 5, Rule 66, Rules of Court.

[10] §2, Rule 25, Comelec Rules of Procedure, in rel. to §78, Omnibus Election Code, as amended.

[11] §253, Omnibus Election Code, as amended.

[12] The Court desisted from further discussing whether Congress could constitutionally and by law change procedures in mandamus or disqualification proceedings, since such constitutional issue had not specifically been raised.

[13] See private respondent's Memorandum, signed by Attys. Frederico M. Gapuz and Armando S. Kho who erroneously labeled their law firm as "counsel for the petitioner."

[14] 174 SCRA 245, June 23, 1989.

[15] 248 SCRA 300, September 18, 1995.

[16] Signed by Atty. Jose P. Balbuena.

[17] Rollo pp. 185-190; this pleading was signed by Solicitor General Ricardo P. Galvez, Asst. Sol. Gen. Cecilio O. Estoesta and Sol. Zenaida Hernandez Perez.

[18] RA 7160.

[19] Romualdez-Marcos v. Comelec, 248 SCRA 300, 313, September 18, 1995 per Kapunan, J.; citing Gallego v. Vera, 73 Phil 453, 459, November 24, 1941.

[20] Aquino v. Comelec, 248 SCRA 400, 420-21, September 18, 1995, per Kapunan, J.

[21] Ibid.

[22] GR No. 133944, October 28, 1999, per Mendoza, J.

[23] Ibid., p. 10.

[24] To be exact, 29,273. See private respondent's Memorandum, p. 18. This claim was not disputed by petitioners.

[25] Garay v. Comelec, 261 SCRA 222, 234, August 28, 1996.

[26] Supra, p. 769.

[27] 311 SCRA 215, 222, July 27, 1999, per Romero, J. See also Punzalan v. Comelec, 289 SCRA 702, 720, April 27, 1998.

[28] Frivaldo v. Comelec, 257 SCRA 727, 771-772, June 28, 1996, per Panganiban, J.

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