

ROBERTO CONQUILLA, PETITIONER, VS. COMMISSION ON ELECTIONS AND EDUARDO A. ALARILLA, RESPONDENTS.

G.R. No. 139801. May 31, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ROBERTO CONQUILLA assails in this special civil action for certiorari the En Banc Resolution of the Commission on Elections (COMELEC) dated 7 September 1999 which affirmed the Resolution of its First Division dated 21 May 1998 dismissing his Petition for Cancellation of Candidacy and Disqualification against private respondent EDUARDO A. ALARILLA[1] for lack of merit.

On 27 March 1998 ALARILLA filed his Certificate of Candidacy with the Municipal Election Officer of Meycauayan, Bulacan, without however indicating the elective position which he was aspiring for. Thus in the blank space provided therefor appeared merely -

CERTIFICATE OF CANDIDACY

I hereby announce my candidacy for the office of Meycauayan, Bulacan, Republic of the Philippines, in the May 11, 1998 elections x x x x

However, attached thereto and filed with his Certificate of Candidacy was ALARILLA's Certificate of Nomination and Acceptance to wit -

CERTIFICATE OF NOMINATION AND ACCEPTANCE

I, JOSE DE VENECIA, JR., by virtue of the powers and authority vested in me by the Constitution and By-Laws of the Lakas National Union of Christian Democrats-United Muslim Democrats of the Philippines (LAKAS NUCD-UMDP) as its Secretary-General, hereby nominate:

EDUARDO A. ALARILLA

as the Party's official candidate in the May 11, 1998 elections for the position of MUNICIPAL MAYOR of the Municipality of Meycauayan in the Fourth District of Bulacan.

WITNESS MY HAND this 18th day of March 1998 in Makati City, Metro Manila.

(signed)

JOSE DE VENECIA, JR.
Secretary-General

x x x x

A C C E P T A N C E

I hereby accept the foregoing nomination and pledge to work for the total victory of the Party in my area of responsibility.

(signed)

EDUARDO A. ALARILLA

On 14 April 1998 CONQUILLA filed with the COMELEC a Petition for Cancellation of Certificate of Candidacy and Disqualification, docketed as SPA No. 98-132, praying that private respondent ALARILLA's Certificate of Candidacy be expunged and cancelled on the ground that it was null and void for failing to specify the elective position he was running for and, consequently, he be disqualified to run for any position in Meycauayan, Bulacan.

During the pendency of SPA No. 98-132 the Board of Canvassers proclaimed ALARILLA as the Mayor-elect of Meycauayan, Bulacan. As a consequence, CONQUILLA filed an "Urgent Motion to Annul the Proclamation and/or to Suspend the Effects of Proclamation" of ALARILLA contending that any decision in SPA No. 98-132 would be pre-empted unless his proclamation was nullified. The records do not show that the motion was properly acted upon.

On 21 May 1998 the First Division of COMELEC dismissed SPA No. 98-132 for lack of merit. It ruled that ALARILLA's failure to specify the public office he was seeking in his Certificate of Candidacy was not a fatal defect because the required information was supplied in the Certificate of Nomination and Acceptance attached to his Certificate of Candidacy. In addition, the First Division ruled that ALARILLA was able to correct his omission by filing an Amended Certificate of Candidacy on 21 April 1998 clearly indicating therein that he was running for the position of Municipal Mayor, Meycauayan, Bulacan.

On 1 June 1998 CONQUILLA filed an "Appeal with Urgent Motion for Annulment and/or Suspension of Proclamation with Prayer for Issuance of a Restraining Order." He also prayed that the Resolution of the First Division be set aside. The "Appeal with Urgent Motion for Annulment . . . " was treated as a motion for reconsideration under Rule 19 of the Comelec Rules of Procedure and accordingly certified to the COMELEC En Banc pursuant to Sec. 5 thereof.[2]

On 7 September 1998 the COMELEC En Banc denied the motion for reconsideration for being pro-forma and for late filing.[3] The COMELEC ruled that under Sec. 9, Rule 19, of the Comelec Rules of Procedure[4] CONQUILLA had only until 31 March 1998, i.e., five (5) days within which to move for reconsideration counted from the time he allegedly received the questioned Resolution of the First Division on 26 March 1998. Hence, the "Appeal with Urgent Motion for Annulment and/or Suspension of Proclamation with Prayer for Issuance of a Restraining Order" was late having been filed on 1 June 1998.

CONQUILLA contends that public respondent COMELEC committed grave abuse of discretion: (a) in affirming in toto the Resolution of the First Division dismissing SPA No. 98-132 for lack of merit; (b) in ruling that the Certificate of Nomination and Acceptance attached to private respondent's Certificate of Candidacy could be used as basis in determining the elective position private respondent was seeking; and, (c) in not resolving the motion to suspend private respondent's proclamation as Mayor-elect of Meycauayan, Bulacan. Additionally, CONQUILLA contends that COMELEC erred in dismissing his appeal for late filing.

We agree with CONQUILLA that his motion for reconsideration was not filed late on 1 June 1998 considering that 31 May 1998 was a Sunday, hence, he had until the next working day, which was 1 June 1998, within which to ask for reconsideration.[5] However, we cannot agree that ALARILLA's failure to specify the public office he was seeking in his Certificate of Candidacy was a fatal defect, for several reasons.

First. As correctly observed by the First Division of COMELEC and affirmed by COMELEC En Banc, the information omitted in the Certificate of Candidacy was supplied in the Certificate of Nomination and Acceptance attached thereto specifying that ALARILLA was nominated as the Lakas NUCD-UMDP's official candidate for the position of Municipal Mayor of Meycauayan, Bulacan, and that such nomination had been accepted by

ALARILLA. As the COMELEC itself has clarified, certificates of nomination and acceptance are procedurally required to be filed with, and form an integral part of, the certificates of candidacy of official candidates of political parties.

Second. ALARILLA timely rectified the deficiency in his original Certificate of Candidacy by filing an Amended Certificate on 21 April 1998 specifically stating that he was running for the position of Municipal Mayor of Meycauayan, Bulacan, in the 11 May 1998 elections. In *Alialy v. Commission on Elections*[6] where petitioners sought the reversal of a COMELEC resolution denying due course to a certificate of candidacy on the ground that it was not subscribed under oath by the secretary of the Nacionalista Party as required by Sec. 35 of the Revised Election Code, this Court ruling on the effectiveness of the amended certificate of candidacy filed to correct the defect declared that the filing of an amended certificate even after the deadline but before the election was substantial compliance with the law which cured the defect. The Court further said -

x x x when the Election Law does not provide that a departure from a prescribed form will be fatal and such departure has been due to an honest mistake or misinterpretation of the Election Law on the part of him who was obligated to observe it, and that such departure has not been used as a means for fraudulent practices x x x the law will be held directory and such departure will be considered a harmless irregularity (*Gardiner v. Romulo*, 26 Phil. 521, cited in the *De Guzman v. Bd. of Canvassers of La Union and Lucero*, 48 Phil. 211, 214-215). For inconsequential deviations which cannot affect the result of the election, or deviations from provisions intended primarily to secure timely and orderly conduct of elections, a directory construction is generally applied (*III Sutherland Stat. Const.*, 3rd Ed. Sec. 5820, pp.113-114 - cases cited therein). The same ruling is given on acts not calculated to affect the integrity of the elections (*Hunt v. Mann*, 136 Miss. 590).

Third. The purpose in requiring a certificate of candidacy (which is to enable the voters to know before the elections the candidates among whom they are to make a choice) was deemed satisfied not only by the Amended Certificate of Candidacy filed before the elections but also by the Certified List of Candidates issued by the Office of the Election Officer, Meycauayan, Bulacan, indubitably listing therein EDUARDO A. ALARILLA as candidate for the position of "mayor" of said municipality.

Finally, it cannot be denied that ALARILLA was elected Mayor of Meycauayan, Bulacan, in the 11 May 1998 elections. If substantial compliance with the Election Law should give way to a mere technicality, the will of the electorate, as far as ALARILLA is concerned, would be frustrated.[7]

WHEREFORE, the petition is DISMISSED. The assailed En Banc Resolution dated 7 September 1999 of public respondent Commission on Elections which affirmed the Resolution dated 21 May 1998 of its First Division dismissing the Petition for Cancellation of Certificate of Candidacy and Disqualification filed by petitioner ROBERTO CONQUILLA against private respondent EDUARDO A. ALARILLA is AFFIRMED. Costs against petitioner.

SO ORDERED.

Melo, Puno, Vitug, Kapunan, Mendoza, Purisima, Buena, and Gonzaga-Reyes, JJ., concur.

Davide Jr., C.J., on official leave.

Panganiban, Quisumbing Ynares-Santiago, and De Leon, Jr., JJ., on leave.

Pardo, J., no part.

[1] Docketed as SPA No. 98-132.

[2] Upon the filing of a motion to reconsider a decision, resolution, order or ruling of a Division, the Clerk of Court concerned shall, within twenty-four (24) hours from the filing thereof, notify the Presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission en banc.

[3] Under Sec. 4(c), Rule 3, Part I, Comelec Rules of Procedure, any motion to reconsider a decision, resolution, order or ruling of a Division shall be resolved by the Commission en banc.

[4] A motion to reconsider a decision, resolution, order, or ruling of a Division shall be filed within five (5) days from the promulgation thereof. Such motion, if not pro-forma, suspends the execution or implementation of the decision, resolution, order or ruling.

[5] Sec. 1, Rule 22, 1997 Rules of Civil Procedure.

[6] No. L-16165, 31 July 1961, 2 SCRA 957.

[7] See *Alialy v. Commission on Elections* citing *De Guzman v. Bd. of Canvassers of La Union and Lucero* (48 Phil. 540)

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