

PANGKAT LAGUNA, PETITIONER, VS. COMMISSION ON ELECTIONS AND TERESITA “NINGNING” LAZARO, RESPONDENTS.

G.R. No. 148075. February 04, 2002

Ponente: BUENA, J.

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BUENA, J.:

In this specie of controversy which involves, to a large extent, the determination of the true will of the electorate and, which by its very nature, touches upon the ascertainment of the people’s choice as gleaned from the hallowed medium of the ballot, this Court finds cogency to reiterate – at the outset – that the factual findings and determinations of the Commission on Elections (COMELEC) ought to be accorded great weight and finality, in the absence of any remarkable trace of grave abuse of discretion in the exercise of its constitutionally mandated tasks.

Sought to be reversed in this special civil action for certiorari is the Resolution[1] of the Commission on Elections (COMELEC) en banc in S.P.A. 01-218 promulgated on 24 May 2001, which set aside the Resolution[2] of the COMELEC Second Division dated 11 May 2001, ordering the disqualification of herein private respondent Teresita “Ningning” Lazaro as candidate for Governor of the Province of Laguna in the 14 May 2001 Elections.

The antecedents unfold.

On 30 January 2001, respondent Lazaro, who was then Vice Governor of Laguna, assumed by succession the office of the Governor, when then Laguna Governor Jose D. Lina, Jr. was appointed Secretary of Interior and Local Government by President Gloria Macapagal-Arroyo. On 28 February 2001, respondent Lazaro filed her certificate of candidacy[3] for the gubernatorial position of Laguna.

On 04 May 2001, herein petitioner Pangkat Laguna, a duly registered political party, filed with the COMELEC a petition[4] which sought to disqualify respondent Lazaro as candidate in the gubernatorial race. Docketed as SPA No. 01-218, the disqualification petition alleged in the main that respondent Lazaro committed acts violative of Section 80 (Election campaign or partisan political activity outside the campaign period) and Section 261(v) (Prohibition against release, disbursement or expenditure of public funds) of the Omnibus Election Code.

In its petition for disqualification, petitioner Pangkat Laguna specifically alleged that private respondent Lazaro, upon assuming – by succession – the Office of the Governor on 30 January 2001, “publicly declared her intention to run for governor” in the May 2001 elections. Thus, according to petitioner, respondent Lazaro on 07 February 2001, ordered the purchase of 14,513 items such as trophies, basketballs, volleyballs, chessboard sets, and t-shirts, allegedly worth Four Million Five Hundred Fifty Six Thousand and Five Pesos (P4,556,005.00) “serving no public purpose but to promote her popularity as a candidate.”[5]

In addition, petitioner alleged that on 08 February 2001, respondent directed the purchase and distribution of “1,760 medals and pins valued at One Hundred Ten Thousand Pesos (P110,000.00) to various schools in Laguna, serving no meaningful public purpose but to again promote her forthcoming candidacy.”[6] According to

petitioner, the abovementioned acts, in effect, constituted “premature campaigning” inasmuch as the same were done prior to the start of the campaign period on 30 March 2001. Petitioner adds that these acts constitute a ground for disqualification under Section 68, in relation to Section 80 of the Omnibus Election Code.

Moreover, petitioner argues that respondent Lazaro violated Section 261 (v) of the Omnibus Election Code, as implemented by COMELEC Resolution No. 3479, when the latter caused the bidding of seventy nine (79) public works projects on 28 March 2001.

On 08 May 2001, respondent Lazaro filed an answer denying the allegations in the petition for disqualification. In a Resolution dated 11 May 2001, the COMELEC Second Division granted the petition to disqualify respondent as candidate for the gubernatorial post of Laguna, prompting respondent Lazaro to file a motion for reconsideration before the COMELEC en banc.

On May 17, 2001, petitioner filed a Motion to Suspend Proclamation Under Sec. 6, R.A. 6646.[7]

On 19 May 2001, the Provincial Board of Canvassers proclaimed respondent Lazaro as the duly elected Governor of Laguna in the 14 May 2001 Elections. On 22 May 2001, petitioner Pangkat Laguna filed a Motion to Annul Proclamation and/or to Suspend Effect of Proclamation under Sec. 6, R.A. 6646.[8]

On 24 May 2001, the COMELEC en banc promulgated a resolution, the dispositive portion of which declares:

“WHEREFORE, premises considered, the Motion for Reconsideration filed by respondent Lazaro is hereby granted. The resolution issued by the Second Division dated 11 May 2001 is hereby correspondingly REVERSED AND SET ASIDE.

“SO ORDERED.”

Through the expediency of Rule 65 of the Rules of Court, petitioner now assails the Resolution of the COMELEC en banc dated 24 May 2001, for having been “issued with grave abuse of discretion amounting to lack of jurisdiction.”

The petition is devoid of merit.

Doctrinally entrenched is the rule that in a petition for certiorari, findings of fact of administrative bodies, such as respondent COMELEC in the instant case, are final unless grave abuse of discretion has marred such factual determinations.[9] Stated differently, factual findings of the COMELEC based on its own assessments and duly supported by evidence, are conclusive upon the Court, more so, in the absence of a substantiated attack on the validity of the same. The COMELEC, as the government agency tasked with the enforcement and administration of election laws, is entitled to the presumption of regularity of official acts with respect to the elections.[10]

First, as to the issue of “premature campaigning”, this Court holds that respondent Lazaro was not guilty of violating the provisions of Section 80 of the Omnibus Election Code, to wit:

“SEC. 80. Election campaign or partisan political activity outside campaign period. – It shall be unlawful for any person, whether or not a voter or candidate, or for any party, or association of persons, to engage in an election campaign or partisan political activity except during the campaign period: Provided, that political parties may hold political conventions or meetings to nominate their official candidates within thirty days before the commencement of the campaign period and forty-five days for Presidential and Vice-Presidential election.”

On this score, it bears stressing that the act of respondent Lazaro – as Chief Executive of the Province of Laguna – in ordering the purchase of various items and the consequent distribution thereof to the constituents of Laguna, in line with the local government unit’s sports and education program, is – to our mind – not constitutive of the act

of election campaigning or partisan political activity contemplated and explicitly proscribed under the pertinent provisions of Section 80 of the Omnibus Election Code.

To this end, we quote with affirmance respondent COMELEC's observation on the matter:

"Not every act of beneficence from a candidate may be considered 'campaigning.' The term 'campaigning' should not be made to apply to any and every act which may influence a person to vote for a candidate, for that would be stretching too far the meaning of the term. Examining the definition and enumeration of election campaign and partisan political activity found in COMELEC Resolution 3636, the Commission is convinced that only those acts which are primarily designed to solicit votes will be covered by the definition and enumeration.

"In this present case, the respondent was not in any way directly (or) indirectly soliciting votes. Respondent Lazaro was merely performing the duties and tasks imposed upon her by law, which duties she has sworn to perform as the Governor of the Province of Laguna.

"Respondent has satisfactorily shown the regularity of the implementation of the questioned sports and education programs. The number of items purchased and the amount involved were within the regular purchases of the provincial government. How the funds were sourced and how the program was implemented, as correctly pointed out by respondent, (are) not for us to resolve for such issue is way beyond our constitutionally mandated jurisdiction." [11] (Emphasis ours).

In *Lozano vs. Yorac*, [12] this Court in upholding the findings of the COMELEC negating the charge of vote-buying, in effect, affirmed the dismissal of the petition for disqualification filed against Makati mayoralty candidate Jejomar Binay, thus:

"We uphold the foregoing factual findings, as well as the conclusions reached by respondent COMELEC, in dismissing the petition for the disqualification of respondent Binay. No clear and convincing proof exists to show that respondent Binay was indeed engaged in vote buying. The traditional gift-giving of the Municipality of Makati during the Christmas Season is not refuted. That it was implemented by respondent Binay as OIC Mayor of Makati at that time does not sufficiently establish that respondent was trying to influence and induce his constituents to vote for him. This would be stretching the interpretation of the law too far. Petitioner deduces from this act of gift-giving that respondent was buying the votes of the Makati residents. It requires more than a mere tenuous deduction to prove the offense of vote buying. There has to be concrete and direct evidence, or, at least, strong circumstantial evidence to support the charge that respondent was indeed engaged in vote-buying. We are convinced that the evidence presented, as well as the facts obtaining in the case at bar, do not warrant such finding." (Emphasis ours.)

Notably, upon a close perusal of the entirety of circumstances attendant in the instant case, this Court is of the firm view that herein petitioner failed to establish by clear and convincing evidence that the questioned purchase and distribution of the aforesaid items were, in any significant way, perpetrated for the purpose of promoting the candidacy of respondent Lazaro or were, in any manner, calculated to directly or indirectly solicit votes on behalf or in favor of respondent. Similarly, the records are bereft of any clear and convincing proof that the purchase and distribution of the items were deliberately or consciously done to influence and induce the constituents of Laguna to vote for respondent, in direct violation of the provisions of the Omnibus Election Code.

To us, respondent's acts do not fall within, and are not contemplated by, the prohibition embodied in Section 80 of the Code so as to effectively disqualify her from the elections and bar her from holding office.

Second, as to the charge of violation of the 45-Day Public Works Ban, [13] petitioner asserts that respondent Lazaro transgressed the provisions of Section 261 (v) of the Omnibus Election Code, as implemented by COMELEC Resolution No. 3479, when the latter caused or directed the bidding of 79 public works projects on 28

March 2001.

We do not agree. Section 261 (v) of the Omnibus Election Code is explicit:

“Sec. 261. Prohibited Acts. – The following shall be guilty of an election offense:

“x x x

“(v) Prohibition against release, disbursement or expenditure of public funds. – Any public official or employee including barangay officials and those of government-owned or controlled corporations and their subsidiaries, who, during forty-five days before a regular election and thirty days before a special election, releases, disburses or expends any public funds for:

“(1) Any and all kinds of public works, except the following:

“x x x

“(b) Work undertaken by contract through public bidding held, or by negotiated contract awarded, before the forty-five day period before election: Provided, that work for the purpose of this section undertaken under the so-called ‘takay’ or ‘paquiao’ system shall not be considered as work by contract; x x x.”

Beyond this, evidence is wanting to sufficiently establish and substantiate petitioner’s bare allegation that – in furtherance of the public bidding conducted on 28 March 2001 – public funds were ever released, disbursed or expended during the 45-day prohibitive period provided under the law and the implementing rules. Absent such clear and convincing proof, we find no cogent reason to disturb the factual findings and conclusions of respondent COMELEC – the constitutional body tasked by no less than the fundamental law to “decide, except those involving the right to vote, all questions affecting elections.”[14]

WHEREFORE, in view of the foregoing, the instant petition is DENIED. ACCORDINGLY, the Resolution of the Commission on Elections en banc dated 24 May 2001 is hereby AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Rollo, pp. 81-87.

[2] Ibid., pp. 32-35.

[3] Rollo, p. 99.

[4] Annex “F”; Rollo, pp. 88-98.

[5] Records, p. 4.

[6] Ibid., p. 5.

[7] Annex “C”, Rollo, pp. 71-75.

[8] Annex “D”, Rollo, pp. 76-80.

[9] Rivera vs. Commission on Elections, 199 SCRA 178 (1991).

[10] Mohammad vs. Commission on Elections, 320 SCRA 258 (1999).

[11] Rollo, pp. 83-84.

[12] 203 SCRA 256 (1991).

[13] Under Section 261 (v) [Prohibited Acts] of the Omnibus Election Code, as implemented by COMELEC Resolution No. 3479.

[14] Article IX-C, Section 2 par. (3) of the Constitution.

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