

RICARCO CANCERAN, FAUSTINO DY, VICENTE TALOSIG, DOMINGO MADDARA, RAMON ALBANO, FEDERICO RAMONES, ENRIQUE DUMATAY, AND EULOGIO DAMATAN, PETITIONERS, VS. THE COMMISSION ON ELECTIO...

G.R. No. 16132. March 30, 1960

Ponente: BARRERA, J.

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BARRERA, J.:

On August 26, 1959, petitioner Eulogio Damatan, in his capacity as local chapter chairman of the Nacionalista Party at Cauayan, Isabela, filed with respondent Commission on Elections, the certificate of candidacy (Annex A) of Tranquilino Dalupang, for mayor; petitioner Ricardo Canceran, for vice-mayor; and Tino Vilorio and petitioners Faustino Dy, Vicente Talosig, Eulogio Damatan, Domingo Maddera, Ramon Albano, Federico Ramones, and Enrique Dumatay, for councilors. Petitioners had been nominated and proclaimed official candidates of the Nacionalista Party for the November, 1959 elections, in a convention held at said municipality on June 15, 1959 (Annexes B and C). After their said proclamation as official candidates, petitioners started their barrio to barrio campaign announcing by means of posters, leaflets, and amplified speeches, their platform of office, if and when elected.

On October 9, 1959, petitioners were informed by the Municipal Treasurer of Cauayan that respondent Commission had instructed him by telegram, to suspend the distribution to the different election precincts of said municipality of copies of petitioners' certificate of candidacy. Thereupon, one of the petitioners (Ricardo Canceran) proceeded to the Commission on Elections in Manila to verify the information. Upon his arrival on October 14, 1959, he was informed in the office of the Commission on Elections that respondent Commission, by its resolution of October 6, 1959, had declared null and void the aforementioned certificate of candidacy (Annex A), on the grounds that it was not subscribed under oath by the secretary of the party chapter at Cauayan, Isabela, and that it failed to state that the persons named therein are official candidates of the Nacionalista Party in said municipality.

The following day, or on October 15, 1959, petitioners filed with respondent Commission, a motion for reconsideration (Annex D) alleging, inter alia, that they had been duly chosen and selected as official candidates of the Nacionalista Party at a convention duly and lawfully called for by delegates, in accordance with the rules and regulations of the party, and that said certificate of candidacy (Annex A) was not signed by the secretary of the party (herein petitioner Vicente Talosig), due to his "honest belief" that he was no longer authorized to do so, in view of his candidacy as councilor (see affidavits, Annexes E and C of the local chairman and secretary, respectively). Petitioners prayed that they be allowed to file a corrected certificate of candidacy and that it be treated as if filed on time. Said motion was denied by respondent Commission, in its resolution, dated October 20, 1959 (Annex E), although it allowed Eulogio Damatan, who signed the collective certificate of candidacy, to substitute it with one of his own as candidate for councilor.

From this resolution, petitioners took this appeal by way of certiorari, contesting the validity of the action of respondent Commission and praying that, pending the determination of the petition on the merit, a writ of preliminary mandatory injunction be issued by this Court restraining respondent Commission, or its agents, representatives, and employees from enforcing said resolution of October 6, 1959 annulling the certificate of candidacy in question, and ordering them to count whatever votes will be cast in favor of petitioners during the elections on November 10, 1959. In due time; the writ prayed for was issued upon petitioners' filing a bond in the amount of P200.00.

The question to be determined in this case is whether the certificate of candidacy (Annex A) in question complies with the requirements of Section 35 of the Revised Election Code which, in part provides:

"SEC. 35. Certificates of candidacy filed by political group or political party. Certificates of candidacy of candidates may be filed by a political party nominating them without the signatures or oath of said candidates.

"Any political party having officially nominated candidates shall file with the Commission on Elections a certificate of such official nominations subscribed under oath by the president and secretary or corresponding officers of such political group or party. * * *."

Respondent Commission's resolution declaring null and void the certificate of candidacy (Annex A) in question is predicated on two grounds, namely: (1) it was subscribed and sworn to only by petitioner Eulogio Damatan, the local chairman of the Nacionalista Party at Cauayan, Isabela, and (2) it does not certify that the candidates therein mentioned (herein petitioners) have been officially nominated as official candidates of said party.

Anent the first ground above-mentioned, it appears that the failure of the secretary of the Nacionalista Party at Cauayan, Isabela (herein petitioner Vicente Talosig) to sign said certificate, was due to his honest belief that being one of the official candidates for councilor of said party, he was no longer authorized to sign the same. (See Annexes B, C, and D.) This, in our opinion, is an honest mistake which does not invalidate the certificate.

"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 such departure has not been used as a means for fraudulent practices or for the intimidations of voters, and it is clear that there has been a free and honest expression of the popular will, the law will be held directory and such departure will be considered a harmless irregularity." (Gardiner vs. Romulo, 26 Phil., 521; italics supplied.)[1]

In respect of the second ground, it may be stated that the omission aforesaid, does not constitute a grave departure from the requirement of the statute above-quoted, as to warrant the nullification of the certificate in question. The statements therein contained, that he (petitioner, Eulogio Damatan) announces the candidacy of petitioners Faustino Dy, Tino Viloria, Vicente Talosig, Domingo Maddara, Ramon Albano, Federico Ramones, and Enrique Dumatay in the November 10, 1959 elections; and that they belong to the Nacionalista Party, may be considered substantial compliance with said requirement. It is important to note that said chairman of the Nacionalista Party chapter at Cauayan who filed said certificate, did not attest to the candidacy of any person other than the candidates' therein mentioned on behalf of whom said certificate was filed by him. This circumstance, it is believed, coupled with the fact that it is stated in the certificate that the candidates therein mentioned belong to the Nacionalista Party, conveys the impression that they have been officially nominated by the said party as its official candidates.

Moreover, the timely filing of the motion for reconsideration (Annex D) by petitioners on October 15, 1959 has, in effect, cured the said defect of the certificate, inasmuch as it includes as petitioners or movants, the chairman and secretary of the Nacionalista Party in Cauayan, Isabela, the very officials required by the statute to sign said

certificate. In the case of *Gabaldon vs. Commission on Elections* (99 Phil., 898), this Court, in effect, has held that when the original defects of a certificate of candidacy are cured by the allegations of a motion for reconsideration filed in due time (that is, before the election) with the Commission on Elections, there is substantial compliance with the statutory requirement of Section 35.

Lastly, we have been informed by respondent Commission that out of the herein seven petitioners, candidates for councilor, in the November 10, 1959 elections, three (namely, Eulogio Damatan, Vicente Talosig, and Federico Ramones) were elected. In the light of this circumstance, to hold now that the certificate of candidacy (Annex A) in question is null and void, as held by respondent Commission, would frustrate and defeat the will of the electorate who have seen fit to choose and elect them to the position which they now hold. (*Guzman vs. Board of Canvassers*; *Lino Luna vs. Rodriguez*, both *supra*; *Cecilio vs. Belmonte*, 51 Phil., 540; *Nico vs. Blanco*, 81 Phil., 214)

All things considered, we are of the opinion and so hold, that the certificate of candidacy (Annex A) in question substantially complies with the requirement of Section 35 of the Revised Election Code.

Wherefore, the petition is granted, and the writ of preliminary injunction issued by this Court is hereby made permanent. Without pronouncement as to costs. So ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Gutierrez David, JJ., concur.

[1] See also *Guzman vs. Board of Canvassers*, 48 Phil., 211; *Lino Luna vs. Rodriguez*, 39 Phil., 208.

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