

JUAN SANCHEZ, PETITIONER AND APPELLEE, VS. OSCAR DEL ROSARIO, RESPONDENT AND APPELLANT.

G.R. No. 16878. April 26, 1961

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

In a petition for quo warranto brought by Juan Sanchez, a defeated candidate for the office of councilor in the municipality of Bocaue, Bulacan, against Oscar del Rosario, a winning candidate for the same position, the Court of First Instance of said province rendered judgment unseating respondent from said elective office on the ground of the latter's ineligibility. Hence, this appeal.

It remains uncontested that appellant Oscar del Rosario was, on the date of his election, only 21 years, 3 months and 7 days old, having been born on 3 August 1938. He was thus disqualified to run for an elective municipal office under Section 2174 of the Revised Administrative Code (*People vs. Yanza*, 107 Phil., 888; *Feliciano vs. Aquino*, G. R. No. L-10201, September 23, 1957), which reads:

"Qualifications of Elective Municipal Officer.—An elective municipal officer must, at the time of the election, be a qualified voter of his municipality and must have been a resident therein at least one year; he must be loyal to the Republic of the Philippines, and not less than twenty-three years of age. He must also be able to read and write intelligently either Spanish, English or the local dialect." (*Italics supplied.*)

Appellant, however, insists (1) that petitioner having already known respondent's age disqualification before the elections and having then failed to question the latter's candidacy, is estopped from instituting these proceedings for quo warranto; (2) that petitioner has no legal personality to bring this suit, since he would not. anyway be entitled to the office sought to be vacated by respondent; (3) that the petition filed by one Maximo Ortega with the Commission on Elections to annul the certificates of candidacy of Nacionalista Party candidates (among whom is herein appellant) is *res judicata* in the instant litigation; and (4) that the age requirement prescribed by the aforesaid Section 2174 of the Revised Administrative Code becomes directory merely after the elections.

We find these contentions unmeritorious.

Estoppel is untenable; indeed, this Court has already made the observation that the right to an elective municipal office can be contested, under existing legislation, only after proclamation, and that there is no authorized proceedings upon which an ineligible candidate could be barred from running for office (see *Castañeda vs. Yap*, 91 Phil., 819; 48 Off. Gaz., No. 8, 3364; *Cesar vs. Garrido*, 53 Phil., 97). Petitioner merely followed the steps outlined under Section 173 of the Revised Election Code, thus:

"Procedure against an ineligible person.—When a person who is not eligible is elected to a provincial or municipal office, his right to the office may be contested by any registered candidate for the same office before the Court of First Instance of the province, within one week after the proclamation of his election, by filing a petition for quo warranto. The case shall be conducted in accordance with the usual procedure and shall be decided within thirty days from the filing of the complaint. A copy of the decision shall be furnished the

Commission on Elections."

Respondent argues that petitioner could have questioned the former's candidacy in the Commission on Elections long before the elections were held; but, as will later be explained, it is doubtful whether said body could have granted any relief at all. Finally, the matter in litigation is one affecting public interest, so that estoppel, if at all, should be applied very sparingly and only on serious grounds.

That petitioner would not be entitled to the elective office even if respondent is ordered to vacate the same is likewise an invalid objection against the institution of this suit, for, otherwise, Section 173 of the Revised Election Code would clearly be rendered nugatory. Under said law, the contestant's right to the office involved is not contemplated, and thus this Court has repeatedly ruled that respondent's declaration of ineligibility does not entitle the petitioner to said office (*Luison vs. Garcia*, 103 Phil., 453; *Llamoso vs. Ferrer*, 84 Phil., 489; 47 Off. Gaz., No. 2, 727; *Calano vs. Cruz*, 94 Phil., 230; 50 Off. Gaz., 610). Yet, in said rulings, the petitioners have never been considered to be without any legal personality to file the necessary quo warranto proceedings. We need not conjecture into the philosophy of the law; suffice it to say that the legislature expressed its intentions very plainly.

Why appellant's third contention that the petition filed by one Maximo Ortega with the Commission on Elections questioning the certificates of candidacy of all Nacionalista Party candidates for municipal offices in Bocaue is res judicata is not sustainable was amply explained by the lower court in these words:

"Neither can the decision of the Commission on Elections be considered as a bar to the present petition, for, it appears that the petition filed with the Commission on Elections was general in character, and referred to all the candidates in the last elections for municipal offices in Bocaue, Eulacan, for reasons other than that of the ineligibility by reason of non-age. An action may bar another action if the requisites prescribed by the Rules are present; namely: (1) That the parties are identical; and, (2) That the action refers to the same subject-matter. These requisites are not present in this case."

We may add, however, that the duty of the Commission on Elections to give due course to certificates of candidacy, filed in due form, is ministerial in character (see *Abcede vs. Imperial*, 103 Phil., 136). Stated in another way, while the Commission may look into patent defects in the certificates, nevertheless, it may not go into matters not appearing on their face. The question of eligibility or ineligibility of a candidate for non-age is thus beyond the usual and proper cognizance of said body^[1], and could not have consequently been litigated therein.

Availing that *vox populi suprema est lex*, appellant argues that the people's choice, expressed in the local elections, should be respected and that, accordingly, the age qualification should be construed merely directory as to him. This same question was raised and considered quite extensively by us in the case of *Feliciano vs. Aquino*, supra; and while this Court was divided on whether the age requirement prescribed by the election law is exacted of the candidate at the time of the elections or only upon assumption of office, here, however, it appears that said qualification was not satisfied in either instance by herein appellant.

Wherefore, the judgment appealed is affirmed, with costs against appellant Oscar del Rosario.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, and Dizon, JJ., concur.

[1] Note that under Sec. 32 of the Revised Election Code, the candidate need not state in his certificate of candidacy his exact age or other qualifications, the statement that he is eligible for office being sufficient.

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