

ANTONIO B. GUNSI, SR., PETITIONER, VS. THE HONORABLE COMMISSIONERS, COMMISSION ON ELECTIONS AND DATU ISRAEL SINSUAT, RESPONDENTS.

G.R. No. 168792. February 23, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

At bar is a petition for certiorari and prohibition under Rule 65[1] of the Rules of Court filed by petitioner Antonio B. Gunsí Sr. (Gunsí) challenging the June 9, 2005 Resolution[2] of the Commission on Elections (COMELEC) En Banc which affirmed the October 11, 2004 Order[3] of the COMELEC Second Division.

The undisputed facts:

On January 9, 2004, private respondent Datu Israel Sinsuat (Sinsuat) filed a petition for the denial of due course to or cancellation of the certificate of candidacy (COC) of Gunsí in connection with the May 10, 2004 Synchronized National and Local Elections. Essentially, Sinsuat sought the disqualification of Gunsí for Mayor of South Upi, Maguindanao, alleging, that: (a) Gunsí was not a registered voter in the Municipality of South Upi, Maguindanao since he failed to sign his application for registration; (b) Gunsí's name was inserted illegally in the List of Applicants and Voters by Alice Lim, Acting Election Officer of South Upi, Maguindanao; and (c) the unsigned application for registration has no legal effect.

In refutation, Gunsí asseverated that his failure to sign his application for registration did not affect the validity of his registration since he possesses the qualifications of a voter set forth in Section 116 of the Omnibus Election Code as amended by Section 9 of Republic Act 8189.

On March 12, 2004, after hearing, the Investigating Officer and Provincial Election Supervisor III, Lintang H. Bedol, issued a resolution recommending Gunsí's disqualification to run for Municipal Mayor of South Upi, Maguindanao on the ground that he is not a registered voter of the municipality. Bedol pointed out that the signature in the application for registration is indispensable for its validity as it is an authentication and affirmation of the data appearing therein.

On August 2, 2004, the COMELEC Second Division issued a Resolution,[4] to wit:

Although this case has become moot and academic since [Sinsuat] had been proclaimed as the winning candidate for the position of Mayor of South Upi, Maguindanao, in connection with the May 10, 2004 Synchronized National and Local Elections, [w]e, however, cannot allow the irregularities accompanying [Gunsí's] registration as raised by [Sinsuat] in his petition.

The absence of [Gunsí's] signature in his application for registration casts serious doubt in its preparation and execution. It also renders the authenticity of the document questionable. In *Dalumpines v. Court of Appeals*, the Supreme Court ruled that "the absence of the signature of the contracting parties on the deed itself casts serious doubt in the preparation and execution of the deed."

In addition, the inclusion of [Gungsi's] name in the Election Registration Board's Certified List of Applicants for Registration appears to have been added irregularly as the last name in a list of applicants arranged alphabetically.

WHEREFORE, considering that [Gungsi] lost in the election for the position of Mayor of South Upi, Maguindanao and the fact that [Sinsuat] was duly proclaimed as Mayor of South Upi, Maguindanao on May 16, 2004, there being only one respondent, the instant petition is hereby DISMISSED for being moot and academic.

The Law Department, however, is directed to investigate the alleged irregularities herein mentioned for possible violation of election laws and to file the necessary information as the evidence warrants.

SO ORDERED.[5]

Subsequently, the same division of the COMELEC issued the herein assailed Order[6] clarifying the August 2, 2004 Resolution, thus:

In the light, however, of the pending pre-proclamation case docketed as SPC 04-247, filed by herein respondent, and the resolution issued by the [COMELEC] (First Division) annulling the proclamation of [Sinsuat], the possibility that a re-canvassing of the election returns of the Municipality of South Upi, Maguindanao is becoming more certain. Therefore, the ruling of the [COMELEC] (Second Division) dismissing the present petition for disqualification against herein respondent for being moot and academic becomes ineffective for the fact that, as argued by [Sinsuat] in his manifestation and clarification, his proclamation has been annulled by the [COMELEC] (First Division).

It is therefore, incumbent upon the [COMELEC] (Second Division) to issue a categorical ruling based on its finding as already articulated in the August 2, 2004 resolution.

x x x x

In accordance with the above finding of the [COMELEC] (Second Division) it is [o]ur resolve that [petitioner] Antonio B. Gungsi, Sr. is disqualified to run as Mayor of South Upi, Maguindanao for being a non-registered resident of the same municipality.

WHEREFORE, premises considered, the [COMELEC] (Second Division), hereby, clarifies its August 2, 2004 resolution by declaring that, in accordance with the findings of the [COMELEC] (Second Division) in the promulgated resolution, [petitioner] Antonio B. Gungsi, Sr. is hereby DISQUALIFIED to run as Mayor of South Upi, Maguindanao for being a non-registered resident of the same.

SO ORDERED.[7]

Upon motion for reconsideration of Gungsi, the COMELEC En Banc issued the herein assailed Resolution:[8]

A perusal of the motion for reconsideration would show that the respondent failed to raise any new material issue. All matters raised in the Motion had already been traversed and resolved in the Recommendation of Provincial Election Supervisor Lintang Bedol dated March 12, 2004 and the Resolution of this Commission (Second Division) promulgated last August 2, 2004 as clarified by its Order dated October 11, 2004.

WHEREFORE, premises considered, the MOTION FOR RECONSIDERATION is hereby DENIED. The ORDER dated October 11, 2004 is AFFIRMED.

SO ORDERED.[9]

Hence, this petition imputing grave abuse of discretion to the COMELEC. Gungsi posits the following issues for our resolution:

WHETHER OR NOT THE HONORABLE COMMISSION HAS JURISDICTION OVER CASES INVOLVING THE RIGHT TO VOTE.

GRANTING FOR THE SAKE OF ARGUMENT THAT THE HONORABLE COMMISSION HAS JURISDICTION, WHETHER OR NOT THE HONORABLE SECOND DIVISION CAN CLARIFY ITS RESOLUTION AFTER SIXTY-NINE (69) DAYS FROM ITS PROMULGATION OR AFTER IT HAS BECOME FINAL AND EXECUTORY.

GRANTING FOR THE SAKE OF ARGUMENT THAT THE HONORABLE COMMISSION HAS JURISDICTION, WHETHER OR NOT THE HONORABLE COMMISSION COMMITTED SERIOUS ERRORS WHICH IS TANTAMOUNT TO GRAVE ABUSE OF DISCRETION.

GRANTING FOR THE SAKE OF ARGUMENT THAT THE HONORABLE COMMISSION HAS JURISDICTION, WHETHER OR NOT THE HONORABLE COMMISSION IS CORRECT WHEN IT DISQUALIFIED [GUNSI] TO RUN AS MAYOR OF SOUTH UPI, MAGUINDANAO FOR BEING A NON REGISTERED RESIDENT OF THE SAME DUE TO HIS INADVERTENT FAILURE TO AFFIX HIS SIGNATURE OVER HIS HANDWRITTEN NAME IN THE SPACE PROVIDED THEREFOR IN HIS APPLICATION FOR REGISTRATION PERSONALLY FILLED UP, SWORN TO AN ADMINISTERING OFFICER AND DULY FILED WITH THE COMELEC.[10]

At the outset, we note that the term of office of Mayor of South Upi, Maguindanao, for which position Gunsí was disqualified by the COMELEC to run as a candidate had long expired on June 30, 2007 following the last elections held on May 14 of the same year. The expiration of term, therefore, is a supervening event which renders this case moot and academic.

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.[11]

The rule, however, admits of exceptions. Thus, courts may choose to decide cases otherwise moot and academic if: first, there is a grave violation of the Constitution; second, the exceptional character of the situation and the paramount public interest is involved; third, the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar and the public; or fourth, the case is capable of repetition yet evasive of review.[12] None of the foregoing exceptions calling for this Court to exercise jurisdiction obtains in this instance.

In any event, upon a perusal of the merits or lack thereof, the petition is clearly dismissible.

Gunsí insists that he possessed the qualifications to run for Mayor of South Upi, Maguindanao; specifically, he claims that he was a registered voter at the time he filed his COC. Gunsí is adamant that his mere failure to affix his signature to the application for registration, which he accomplished personally before Joel Ellano, COMELEC Administering Officer, did not necessarily invalidate his application for registration. Consequently, Gunsí maintains that he is a registered voter, especially considering that his name appears in the Registry List of Voters. In all, Gunsí avers that his COC should not have been cancelled; ultimately, he should not have been disqualified from running as Mayor of South Upi, Maguindanao.

We are not convinced. Gunsí's arguments are annihilated by Section 10 of Republic Act No. 8189,[13] The Voter's Registration Act of 1996, which explicitly provides in pertinent part:

SECTION 10. Registration of Voters. - A qualified voter shall be registered in the permanent list of voters in a precinct of the city or municipality wherein he resides to be able to vote in any election. To register as a voter, he shall personally accomplish an application form for registration as prescribed by the Commission in three

(3) copies before the Election Officer on any date during office hours after having acquired the qualifications of a voter.

x x x x

x x x The application for registration shall contain three (3) specimen signatures of the applicant, clear and legible rolled prints of his left and right thumbprints, with four identification size copies of his latest photograph, attached thereto, to be taken at the expense of the Commission.[14]

In stark contrast are the prevailing circumstances of Gunsi's application for registration:

- Only a photocopy[15] of Gunsi's application for registration was submitted in evidence before Investigating Officer Bedol as the original thereof was purportedly lost. The photocopy of the document clearly shows that Gunsi failed to sign parts 2 and 3 thereof. The administering officer, Joel Ellano, likewise did not sign part 3 of said document. These parts refer to the oath which Gunsi should have taken to validate and swear to the veracity of the contents appearing in the application for registration.

- Joel Ellano was not presented by Gunsi to corroborate his claim that his failure to sign the application was merely due to inadvertence. Surprisingly, Gunsi chose to present, as witness, Alice Lim, Acting Election Officer of South Upi, Maguindanao, who admitted that she received an unsigned letter furnishing her a copy of Gunsi's unsigned application for registration and that she did not bother requiring Gunsi to accomplish in full the application for registration in order to complete the List of Voters.[16] Lim likewise admits to inserting Gunsi's name in the List of Voters based on the photocopy of an unsigned application for registration which she had previously seen. Hence, the listing of the Applicants for Registration and the Lists of Voters which are alphabetically arranged with Gunsi's name inserted thereat.[17]

- The testimonies of Noraida Enero, Rowena Unson and Abdullah Mato, Municipal Treasurer of Upi, members of the Election Registration Board of South Upi, Maguindanao, who all categorically stated that they did not encounter Gunsi's application for registration.[18]

Plainly, from the foregoing, the irregularities surrounding Gunsi's application for registration eloquently proclaim that he did not comply with the minimum requirements of RA No. 8189. This leads to only one conclusion: that Gunsi, not having demonstrated that he duly accomplished an application for registration, is not a registered voter. In short, the cancellation of Gunsi's COC by the COMELEC and his consequent disqualification from running as Mayor of South Upi, Maguindanao, was correct.

WHEREFORE, premises considered, the petition is hereby DISMISSED. The COMELEC Order and Resolution dated October 11, 2004 and June 9, 2005 are AFFIRMED.

SO ORDERED.

ANTONIO EDUARDO B. NACHURA
Associate Justice

WE CONCUR:

REYNATO S. PUNO
Chief Justice

LEONARDO A. QUISUMBING
Associate Justice

(on official leave)

CONSUELO YNARES-SANTIAGO

Associate Justice

ANTONIO T. CARPIO

Associate Justice

MA. ALICIA AUSTRIA-MARTINEZ

Associate Justice

RENATO C. CORONA

Associate Justice

CONCHITA CARPIO MORALES

Associate Justice

(on official leave)

DANTE O. TINGA

Associate Justice

MINITA V. CHICO-NAZARIO

Associate Justice

(on official leave)

PRESBITERO J. VELASCO, JR.

Associate Justice

TERESITA J. LEONARDO-DE CASTRO

Associate Justice

ARTURO D. BRION

Associate Justice

DIOSDADO M. PERALTA

Associate Justice

[1] The petition for certiorari and prohibition should have been filed under Rule 64 of the Rules of Court.

[2] Rollo, pp. 25-27.

[3] Id. at 50-52.

[4] Id. at 45-49.

[5] Id. at 47-48.

[6] Id. at 50-52.

[7] Id. at 50-51.

[8] Supra note 2.

[9] Rollo, p. 26.

[10] Id. at 10-11.

[11] David v. Macapagal-Arroyo, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489, 171424, May 3, 2006, 489 SCRA 160.

[12] Id.

[13] Entitled "AN ACT PROVIDING FOR A GENERAL REGISTRATION OF VOTERS, ADOPTING A SYSTEM OF CONTINUING REGISTRATION, PRESCRIBING THE PROCEDURES THEREOF AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR."

[14] Emphasis supplied.

[15] Rollo, p. 62.

[16] Id. at 54.

[17] Id. at 53-54.

[18] Id. at 55-57.

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