

JAMELA SALIC MARUHOM, PETITIONER, VS. COMMISSION ON ELECTIONS, AND MOHAMMADALI “MERICANO” A. ABINAL, RESPONDENTS.

G.R. No. 179430. July 27, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Certiorari[1] with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction assailing the Resolution[2] dated 21 August 2007 of the Commission on Elections (COMELEC) En Banc and Resolution[3] dated 8 May 2007 of the COMELEC First Division, both pertaining to SPA No. 07-093.

The facts gathered from the records are as follows:

Petitioner Jamela Salic Maruhom (Maruhom) and private respondent Mohammadali "Mericano" A. Abinal (Abinal) were mayoralty candidates in the Municipality of Marantao, Lanao del Sur, for the 14 May 2007 national and local elections. Both Maruhom and Abinal filed their respective sworn Certificates of Candidacy (COCs) for the said position with the COMELEC Election Officer of Marantao. Abinal was then the incumbent Mayor of Marantao who was seeking re-election.

On 1 April 2007, Abinal filed before the COMELEC a Petition for Disqualification and to Deny Due Course to or Cancel the Certificate of Candidacy under Section 78 of Batas Pambansa Bilang 881,[4] otherwise known as the Omnibus Election Code of the Philippines (OEC),[5] against Maruhom, which was docketed as SPA No. 07-093. Abinal alleged that Maruhom was a double registrant, being a registered voter in Precinct No. 0208A, Barangay Pangao Saduc, Marawi City and Precinct No. 0040A, Barangay Kialdan Proper, Marantao. Maruhom registered as a voter in Marawi on 26 July 2003. Only three days thereafter, on 29 July 2003, Maruhom registered again as a voter in Marantao, without canceling her Marawi registration. There being double registration, Maruhom's subsequent registration in Marantao was null and void ab initio. And, not being a registered voter in Marantao, Maruhom was disqualified from running for municipal mayor of said municipality.[6]

Abinal also averred that Maruhom made false material representations in her registrations in Marawi and Marantao.[7] Maruhom stated in her Marawi registration that: (1) she was "Jamela H. Salic Maruhom"; (2) she was born on 5 April 1960; (3) she was born in Marawi; and (4) she had resided in Marawi for 43 years. On the other hand, Maruhom indicated in her Marantao registration that: (1) she was "Hadja Jamelah Salic Abani"; (2) she was born on 3 September 1960; (3) she was born in Marantao; and (4) she had resided in Marantao for 42 years.[8]

Abinal further claimed that Maruhom also made false material representations in her COC. Maruhom wrote in her Marantao registration[9] that she was born on 3 September 1960; she was a registered voter in Precinct No. 0040A, Marantao; and her surname was "Abani" and her maiden/maternal name was "Salic." In contrast, Maruhom declared[10] in her COC that she was born on 5 April 1960; she was a registered voter in Precinct No.

0042A, Marantao; and her surname was "Salic" and her maiden/maternal name was "Abani, Mama, Esmail, Maruhom." Moreover, Maruhom was registered in Marantao as "Hadja Jamelah Salic Abani." This was inconsistent with the Certificate of Nomination dated 23 March 2007, issued by Dr. Ombra A. Tamano, Lanao del Sur Provincial Chairman of Laban ng Demokratikong Pilipino, stating that Maruhom's full name was "Jamelah Abani Salic."

Abinal asserted that the aforementioned false material representations made by Maruhom were valid grounds for denying due course to, or cancellation of, the latter's COC under Section 78 of the OEC.[11]

Maruhom filed before the COMELEC an Answer with Motion to Dismiss SPA No. 07-093 contending that she was qualified to run as municipal mayor of Marantao, as she had all the qualifications and none of the disqualifications provided by law. A candidate could only be disqualified for a ground provided by law, and there was no law declaring double registration as a ground for disqualification. Maruhom also insisted that she did not make false material representations in her COC, because her complete name was "Salic, Jamelah, Abani, Mama, Esmail, Maruhom." Maruhom explained that "Salic" was her father's surname; "Jamelah" was her first name; that "Abani, Mama, Esmail" were her paternal and maternal grandparents' names; and "Maruhom" was her husband's surname. Hence, Maruhom asked the COMELEC to dismiss Abinal's Petition in SPA No. 07-093.[12]

After submission of the parties' Position Papers and Memoranda, the COMELEC First Division issued a Resolution in SPA No. 07-093 on 8 May 2007, granting Abinal's Petition. The COMELEC First Division found that Maruhom had two subsisting registrations, one in Marawi, and another in Marantao. Maruhom's Marantao registration was void ab initio pursuant to COMELEC Minute Resolution No. 00-1513, issued on 25 July 2000.[13] Since Maruhom was not a registered voter in Marantao, she was disqualified from being a mayoralty candidate therein. Thus, the COMELEC First Division ordered the deletion of Maruhom's name from the list of official candidates for municipal mayor of Marantao.

Maruhom filed a Motion for Reconsideration of the 8 May 2007 Resolution of the COMELEC First Division, to which Abinal filed an Opposition.[14] The COMELEC First Division then referred Maruhom's Motion for Reconsideration to the COMELEC en banc for disposition.[15]

Meanwhile, the 14 May 2007 national and local elections were held, and Abinal won over Maruhom. Abinal was proclaimed the duly elected municipal mayor of Marantao and, thereupon, assumed office. Maruhom filed an election protest against Abinal before the Regional Trial Court (RTC) of Lanao del Sur, Branch 10, docketed as Election Case No. 1731-07.[16]

On 21 August 2007, the COMELEC En Banc issued a Resolution denying Maruhom's Motion for Reconsideration and affirming in toto the 8 May 2007 Resolution of the COMELEC First Division. The COMELEC En Banc further ordered the referral of the case to the COMELEC Law Department for investigation on the possible commission of an election offense by Maruhom.

Aggrieved, Maruhom filed the instant Petition for Certiorari, under Rule 64 of the Revised Rules of Court, imputing grave abuse of discretion on the part of COMELEC, based on the following grounds:

I.

THE COMELEC HAS NO JURISDICTION TO DECLARE NULL AND VOID THE REGISTRATION OF THE PETITIONER AS A REGISTERED VOTER OF MARANTAO, LANA DEL SUR IN THE MAY 14, 2007 ELECTIONS;

II.

THE COMELEC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DECLARED THE PETITIONER AS A DOUBLE REGISTRANT.[17]

The Petition at bar has no merit.

Maruhom challenges in her Petition the jurisdiction of the COMELEC in declaring her registration in Marantao void. She asserts that Section 2, Article IX(c) of the Constitution prohibits the COMELEC from assuming jurisdiction or deciding issues involving the right to vote. Section 33 of Republic Act No. 8189, or the Voter's Registration Act of 1996 (VRA), confers upon the Municipal Trial Courts (MTCs) and Metropolitan Trial Courts (MeTCs) original and exclusive jurisdiction over all cases of inclusion and exclusion of voters in their respective cities or municipalities. Maruhom argues that the validity of her registration in Marantao can only be directly challenged in a petition for exclusion filed with the MTC of Marantao, and cannot be collaterally attacked in the Petition for Disqualification and to Deny Due Course to or Cancel the Certificate of Candidacy filed by Abinal before the COMELEC. Maruhom further contends that the reliance by COMELEC on its "broad plenary powers to enforce and administer all laws relating to election" is baseless in light of the aforementioned Section 33 of the VRA. The Resolution dated 8 May 2007 of the COMELEC First Division and Resolution dated 21 August 2007 of the COMELEC En Banc amount to judicial legislation, since the COMELEC has no authority to prescribe what the law does not provide, its functions not being legislative.[18]

Maruhom, whether intentionally or inadvertently, is muddling the issues in this case. The present case is not about her being denied her right to register as a voter, but is all about her making false material representations in her COC, which would warrant the cancellation of the same.

Abinal's Petition in SPA No. 07-093 primarily prays that the COMELEC deny due course to or cancel Maruhom's COC under Section 78 of the OEC, alleging that Maruhom made false material representations in her COC.

Under Section 78 of the OEC, a false representation of material fact in the COC is a ground for the denial or cancellation of the COC. The false representation must pertain to a material fact that affects the right of the candidate to run for the election for which he filed his COC. Such material fact refers to a candidate's eligibility or qualification for elective office like citizenship, residence or status as a registered voter.[19] Aside from the requirement of materiality, the false representation must consist of a deliberate attempt to mislead, misinform, or hide a fact that would otherwise render a candidate ineligible. In other words, it must be made with the intention to deceive the electorate as to the would-be candidate's qualifications for public office.[20]

It is settled that the COMELEC has jurisdiction over a petition filed under Section 78 of the OEC.[21] In the exercise of such jurisdiction, it is within the competence of the COMELEC to determine whether false representation as to material facts was made in the COC.[22]

If the candidate states a material representation in the COC that is false, the COMELEC is empowered to deny due course to or cancel the COC. The person whose COC is denied due course or cancelled under Section 78 of the OEC is not treated as a candidate at all, as if such person never filed a COC.[23]

Evidence on record supports the following facts: Maruhom registered as a voter in Marawi on 26 July 2003;[24] only three days after, on 29 July 2003, Maruhom again registered as a voter in Marantao, without first canceling her registration in Marawi;[25] and on 28 March 2007, Maruhom filed her COC declaring that she was a registered voter in Marantao and eligible to run as a candidate for the position of mayor of said municipality.[26]

Given Maruhom's double registration in Marawi and Marantao, then COMELEC should determine which registration was valid and which one was null. COMELEC could not consider both registrations valid because it would then give rise to the anomalous situation where Maruhom could vote in two precincts at the same time.

This would be a dangerous precedent that would open the floodgates to massive election cheating and fraud. This was precisely the situation that the COMELEC intended to address when it issued its Minute Resolution No. 00-1513 on 25 July 2000, seven years prior to the 14 May 2007 elections in which Maruhom intended to run. To foster honesty and credibility in the registration of voters, so as to avoid the padding of vote registration, COMELEC laid down the rule in Minute Resolution No. 00-1513 that while the first registration of any voter subsists, any subsequent registration thereto is void ab initio.

Following the clear and plain words of Minute Resolution No. 00-1513, therefore, Maruhom's earlier registration in Marawi is deemed valid, while her subsequent registration in Marantao is void ab initio. Accordingly, Maruhom cannot be considered a registered voter in Marantao and, thus, she made a false representation in her COC when she claimed to be one.

Maruhom's voter registration constitutes a material fact because it affects her eligibility to be elected as municipal mayor of Marantao. Section 39(a) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991,[27] requires that an elective local official must be, among other things, a registered voter in the barangay, municipality, city or province where he intends to be elected.

Several circumstances convince us that Maruhom was aware that she had a subsisting registration in Marawi and deliberately attempted to conceal said fact, which would have rendered her ineligible to run as mayoralty candidate in Marantao. Before filing her COC, Maruhom requested the COMELEC to cancel her Marawi registration.[28] It is undisputed that by the time Maruhom filed her COC, the COMELEC had not yet acted on her request for cancellation of her Marawi registration. Despite knowing that her request for cancellation of her Marawi registration was still pending before the COMELEC, Maruhom proceeded to declare, under oath, in her COC, that she was a registered voter in Marantao and that she was eligible to run for the position of mayor of said municipality. There is no showing that Maruhom informed or advised the election officer of Marantao of her subsisting Marawi registration and her pending request for cancellation of the same. Evidently, Maruhom would much rather sweep the fact of her Marawi registration under the carpet, than deal with the complications arising from it, which may very well put in jeopardy her intention to run for mayor of Marantao.

Indeed, Maruhom made false material representations in her COC that she was a registered voter in Marantao and that she was eligible to be a mayoralty candidate in said municipality.

Maruhom's insistence that only the MTC has jurisdiction to rule on her voter registration is specious. It must be underscored that in addition to the express jurisdiction of COMELEC over petitions for cancellation of COCs, on the ground of false material representations, under Section 78 of the OEC, the Constitution also extends to COMELEC all the necessary and incidental powers for it to achieve the holding of free, orderly, honest, peaceful, and credible elections.[29] The determination, therefore, made by the COMELEC that Maruhom's Marawi registration is valid, while her Marantao registration is void, is only in accord with its explicit jurisdiction, or at the very least, its residual powers. Furthermore, as aptly pointed out by Abinal and COMELEC, through the Office of the Solicitor General,[30] the 8 May 2007 Resolution of the COMELEC First Division and the 21 August 2007 Resolution of the COMELEC en banc merely defeated Maruhom's intent to run for elective office, but it did not deprive her of her right to vote. Although Maruhom's registration in Marantao is void, her registration in Marawi still subsists. She may be barred from voting or running for mayor in the former, but she may still exercise her right to vote, or even run for an elective post, in the latter.

Maruhom does not deny at all that she registered twice. However, Maruhom calls our attention to the fact that on 30 December 2003, she made a written request to the election officer of Marawi to cancel her registration therein as a voter. On 20 March 2007, she reiterated her request to the same election officer. On 23 March 2007, she also

informed the COMELEC Law Department of her request for cancellation of her registration in Marawi. Thus, the failure of the election officer of Marawi to cancel Maruhom's voter registration in said municipality, despite repeated requests, should not be taken against the latter.[31]

It is true that Maruhom did make several requests for the cancellation of her Marawi registration, but without official action by the COMELEC thereon, they remain mere requests. They cannot simply be deemed granted. We take note that Maruhom's first request for cancellation of her Marawi registration was submitted on 30 December 2003, and her next request was made only on 20 March 2007. Maruhom subsequently filed her COC for the mayoralty position in Marantao on 28 March 2007. Far from convincing us that she had exercised due diligence in having her Marawi registration cancelled, we are more persuaded that Maruhom had not been assiduous in ensuring that her request for cancellation be acted upon by COMELEC. Maruhom's reiteration of her request for cancellation of her Marawi registration on 20 March 2007, three years and three months since her first request, and just a week prior to the filing of her COC for the mayoralty position in Marantao, reveals a harried attempt to comply with the eligibility requirements for her candidacy than a sincere desire to right a wrong. COMELEC, thus, had more than enough basis to support its conclusion of Maruhom being a double registrant whose subsequent registration in Marantao was null and void, rendering her unfit to run as municipal mayor therein.

Therefore, Maruhom, at the time she filed her COC, could not have honestly declared therein that she was a registered voter of Marantao and an eligible candidate for mayor of the said municipality. It is incumbent upon Maruhom to truthfully state her eligibility in her COC, especially so because the COC is filled up under oath.[32] An elective office is a public trust. He who aspires for elective office should not make a mockery of the electoral process by falsely representing himself.[33]

The well-settled rule is that this Court will not interfere with a COMELEC decision/resolution unless the COMELEC is shown to have committed grave abuse of discretion. Correctly understood, grave abuse of discretion is such "capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or an exercise of power in an arbitrary and despotic manner by reason of passion or personal hostility, or an exercise of judgment so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act in a manner not at all in contemplation of law." [34] Given our foregoing discussion, we find no capricious and whimsical exercise of judgment on the part of the COMELEC in rendering the assailed Resolutions in SPA No. 07-093.

WHEREFORE, after due deliberation, the instant Petition for Certiorari is hereby DISMISSED. The Resolution dated 8 May 2007 of the COMELEC First Division and the Resolution dated 21 August 2007 of the COMELEC En Banc in SPA No. 07-093, are hereby AFFIRMED in toto. Costs against petitioner Jamela Salic Maruhom.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.

[1] Under Rule 64 in relation to Rule 65 of the Rules of Court; rollo, pp. 3-18.

[2] Penned by Chairman Benjamin S. Abalos, Sr. with Commissioners Resurreccion Z. Borra, Florentino A. Tuason, Jr., Romeo A. Brawner and Rene V. Sarmiento, concurring; rollo, pp. 40-45.

[3] Rollo, pp. 21-28.

[4] SEC. 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to

deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false x x x.

[5] The Omnibus Election Code took effect on 3 December 1985.

[6] Records, p. 11.

[7] Id. at 22.

[8] Id. at 12.

[9] Id. at 22.

[10] Id.

[11] Id.

[12] Id. at 27-32.

[13] In the Matter of the Omnibus Resolution Annulling the Second or Subsequent Registration of any Registered Voter While His First Registration Subsists:

"The Commission, after due deliberation, RESOLVED as it hereby RESOLVES x x x as follows:

1. That while the first registration of any voter subsists, any subsequent registration thereto is void ab initio;
2. That to allow the names of such double/multiple registrant to remain in the computerized voters list is to tolerate padding thereof;
- (3) That it is imperative to delete the names of the double/multiple registrants from the computerized voters list, their subsequent registration being invalid;
- (4) That the deletion of the names of double/multiple registrants shall be without prejudice to their prosecution for committing double/multiple registration. x x x.

[14] Records, pp. 49-56 and 69-82.

[15] Pursuant to Section 5 (c), Rule 3 of the 1993 COMELEC Rules of Procedure which provides that "any motion to reconsider a decision, resolution, order or ruling of a Division shall be resolved by the Commission en banc x x x."

[16] Election Case No. 1731-07 is still pending; rollo, p. 145.

[17] Rollo, pp. 221-222.

[18] Id. at 222-223.

[19] Velasco v. Commission on Elections, G.R. No. 180051, 24 December 2008; Fermin v. Commission on Elections, G.R. No. 179695, 18 December 2008.

[20] Id.

[21] Saya-ang, Sr. v. Commission on Elections, 462 Phil. 373, 379 (2003).

[22] Domino v. Commission on Elections, 369 Phil. 798, 814 (1999).

[23] Fermin v. Commission on Elections, supra note 19.

[24] Records, p. 21.

[25] Id. at 22.

[26] Id. at 20

[27] SECTION 39. Qualifications. - (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province, or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

[28] Records, pp. 57-59.

[29] Maruhom v. Commission on Elections, 387 Phil. 491, 506 (2000).

[30] Rollo, pp. 189-190 and 207.

[31] Id. at 224.

[32] Section 73 of the Omnibus Election Code reads:

SEC. 73. Certificate of Candidacy. No person shall be eligible for any elective public office unless he files a sworn certificate of candidacy within the period fixed herein.

[33] Bautista v. Commission on Elections, 460 Phil. 459, 488 (2003).

[34] Velasco v. Commission on Elections, supra note 19.

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