

MARIO O. SALVADOR, PETITIONER, VS. COMMISSION ON ELECTIONS AND ALEXANDER S. BELENA, RESPONDENTS.*G.R. No. 230744. September 26, 2017*

Ponente: TIJAM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-230744/>**TIJAM, J.:**

In this Petition for Certiorari[1] under Rule 64, petitioner Mario O. Salvador (Salvador) challenges the Resolutions dated November 2, 2015[2] and March 8, 2017[3] of the Commission on Elections (COMELEC) En Banc, in E.O. Case No. 14-483, which found probable cause against him for violation of Section 100[4] in relation to Section 262[5] of Batasang Pambansa Blg. 881 or the Omnibus Election Code of the Philippines, as amended by Section 13[6] of Republic Act (R.A.) No. 7166 or An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes.

The Facts

Salvador, a member of the political party Bagong Lakas ng Nueva Ecija, was a mayoralty candidate in San Jose City, Nueva Ecija in 2010.[7] Marivic Violago-Belena, private respondent Alexander Belena's (Belena) wife, won over the petitioner in said mayoralty election.[8]

On December 4, 2014, Belena filed a Complaint-Affidavit for overspending or violation of Section 100 in relation to Section 262 of the Omnibus Election Code (OEC), as amended by Section 13 of R.A. No. 7166 against Salvador.[9]

According to Belena, Salvador exceeded the expenditure limit allowed by law for a mayoralty candidate. Citing Salvador's Statement of Election Contribution and Expenditure (SOCE), Belena averred that Salvador spent a total of P449,000.00 in the 2010 election, when the maximum expenditure allowed by law is P275,667.00.[10]

Belena averred that according to Section 13 of R.A. No. 7166, a candidate, other than for presidency and vice presidency, is allowed to spend an amount of P3.00 for every voter currently registered in the constituency where he filed his certificate of candidacy. However, if a candidate without any political party and without any support from any political party, he may be allowed to spend P5.00 for every such voter.[11]

Considering that the total number of registered voters in San Jose City, Nueva Ecija is 91,889 and that Salvador is a member of a political party, Belena contended that he was only allowed to spend P275,667.00 only.[12]

For his part, Salvador maintained that while he is a member of a political party, he argued that he did not receive any support from any political party. Hence, the exception under Section 13 of R.A. No. 7166 was applicable to him.[13]

In a Resolution[14] dated November 2, 2015, the COMELEC En Banc directed its Law Department to file the appropriate information against Salvador for overspending. The COMELEC En Banc disregarded the interpretation of Salvador and held that the P5.00 cap applies to a candidate who is not a member of a political

party and who did not receive any support from any political party, using the principle *verba legis non est recedendum*. The fallo thereof reads:

WHEREFORE, premises considered, the Commission (En Banc) RESOLVED, as it hereby RESOLVES, to DIRECT the Law Department to FILE AN INFORMATION against [Salvador] for violation of Section 100, in relation to Section 262 of the [OEC], as amended by Section 13 of [R.A.] No. 7166.

SO ORDERED.[15]

Undeterred, Salvador filed a Motion for Reconsideration,[16] which was denied in a Resolution[17] dated March 8, 2017. The COMELEC En Banc reiterated its earlier ruling that the provisions of law under consideration require no interpretation as the law is clear and free from ambiguity. The dispositive portion of the COMELEC En Banc resolution reads:

WHEREFORE, premises considered, the Commission En Banc RESOLVED, as it hereby RESOLVES, to deny the Motion for Reconsideration for lack of merit.

SO ORDERED.[18]

Hence, this petition.

The Issue

Did the COMELEC En Banc commit grave abuse of discretion amounting to lack or in excess of jurisdiction when it recommended the filing of an appropriate information against Salvador?

Ruling of the Court

We rule in the negative.

Section 13 of R.A. No. 7166, a provision which provides for the allowable expenses of a candidate and political parties, is an amendment to Section 100 of the OEC. The pertinent provisions state:

Sec. 100. Limitations upon expenses of candidates. - No candidate shall spend for his election campaign an aggregate amount exceeding one peso and fifty centavos for every voter currently registered in the constituency where he filed his candidacy; Provided, That the expenses herein referred to shall include those incurred or caused to be incurred by the candidate, whether in cash or in kind, including the use, rental or hire of land, water, or aircraft, equipment, facilities, apparatus and paraphernalia used in the campaign; Provided, further, That where the land, water, aircraft, equipment, facilities, apparatus and paraphernalia used is owned by the candidate, his contributor or supporter, the Commission is hereby empowered to assess the amount commensurate with the expenses for the use thereof, based on the prevailing rates in the locality and shall be included in the total expenses incurred by the candidate.

While Section 13 of R.A. No. 7166 provides:

Sec. 13. Authorized Expenses of Candidates and Political Parties. - The aggregate amount that a candidate or registered political party may spend for election campaign shall be as follows:

1. For Candidates. - Ten pesos (P10.00) for President and Vice President; and for other candidates Three Pesos (P3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy; Provided, That a candidate without any political party and without support from any political party may be allowed to spend Five Pesos (P5.00) for every such voter; and
2. For political parties. - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

Any provision of law to the contrary notwithstanding any contribution in cash or in kind to any candidate or political party or coalition of parties for campaign purposes, duly reported to the Commission shall not be subject to the payment of gift tax.

It could be found that Section 100 of the OEC is substantially lifted from Section 51 of Presidential Decree (P.D.) No. 1296 or the 1978 Election Code, which provides:

Sec. 51. Limitations upon expenses of candidates. No candidate shall spend for his election campaign an amount more than the salary or the equivalent of the total emoluments for one year attached to the office for which he is a candidate: Provided, That the expenses herein referred to shall include those incurred by the candidate, his contributors and supporters, whether in cash or in kind, including the use, rental or hire of land, water or air craft, equipment, facilities, apparatus and paraphernalia used in the campaign: Provided, further, That, where the land, water or air craft, equipment, facilities, apparatus and paraphernalia used is owned by the candidate, his contributor or supporter, the Commission is hereby empowered to assess the amount commensurate with the expenses for the use thereof, based on the prevailing rates in the locality and shall be included in the total expenses incurred by the candidate.

In the case of candidates for the interim Batasang Pambansa, they shall not spend more than sixty thousand pesos for their election campaign.

Verily, Section 51 of P.D. No. 1296 and Section 100 of the OEC made a categorical declaration as to the allowable expenditure by any kind of candidate, whether a member of a political party or an independent candidate. With the amendment introduced by R.A. No. 7166, a distinction was made between a candidate without a political party and without support from any political party and a candidate with political party and who receives support from a political party. The former is allowed to spend the P5.00 cap while the latter is allowed to spend the P3.00 cap.

In enacting these provisions, the legislature intended to ensure equality between and among aspirants with deep pockets and those with less financial resources,[19] as the legislature understood the apparent disparity between candidates who are members of political parties and candidates who are not members of political parties. The political advantages which necessarily goes with a candidate's membership in a political party include the machinery,[20] goodwill, representation, and resources of the political party.[21] As said advantages are not enjoyed by non-members of a political party, it is necessary that an independent candidate, whose candidacy does not evoke sympathy from any political party or organized group, be afforded equal chances.[22]

Thus, in construing Section 13 of R.A. No. 7166, We treat the word "and" between "without political party" and "without support from any political party" as conjunctive. It means in addition to. The word "and", whether it is used to connect words, phrases or full sentences, must be accepted as binding together and as relating to one another.[23] Applying the foregoing to Section 13, the proper construction is that the allowable expenditure for candidates without any political party and without support from any political party is P3.00.

After all, the word "support," which is explicitly provided by the law, is not solely limited to financial aid. As aforementioned, political parties are designed to assist a candidate in his desire to win the vote of the populace. Political parties use its machinery and its resources to achieve such end. For example, political parties put up banners or give out leaflets containing the names of its members for the public to consider. In doing so, these organizations effectively support each candidate belonging to its unit.

The law is clear — the candidate must both be without a political party and without support from any political party for the P5.00 cap to apply. In the absence of one, the exception does not apply. Thus, We do not subscribe with petitioner's assertion that there is a room for different interpretation in terms of constructing the provision of

Section 13 of R.A. No. 7166, as amended. To allow Salvador's contention is to deviate from the intention of the legislature in enacting the law, as the same would find all candidates on equal footing, whether member of a political party or not.

Coming to the present case, it is undisputed that the current number of registered voters in San Jose City, Nueva Ecija is 91,889. Following the provisions of the law and its proper interpretation, Salvador is entitled to spend the amount of P275,667.00, as he is allowed to spend P3.00 for each registered voter. However, Salvador spent the amount of P449,000.00 as declared in his SOCE. Clearly, he exceeded the allowable limit provided by law. As such, it constitutes an election offense under Article 262[24] in relation to Article 263[25] of the OEC.

Hence, the COMELEC En Banc did not commit grave abuse of discretion amounting to lack or in excess of jurisdiction in ordering its Law Department to file the appropriate information against Salvador.

WHEREFORE, premises considered, the petition is DENIED. The Resolutions dated November 2, 2015 and March 8, 2017 of the Commission on Elections En Banc in E.O. Case No. 14-483 are AFFIRMED in toto.

SO ORDERED.

Sereno, C. J., Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Perlas-Bernabe, Leonen, Caguioa, Martires, Reyes, Jr., and Gesmundo, JJ., concur.

Carpio, J., on official leave.

Jardeleza, J., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 26, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 28, 2017 at 10:45 a.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 3-17.

[2] Penned by Chairman J. Andres D. Bautista, concurred in by Commissioners Christian Robert S. Lim, Luie Tito F. Guia, Ma. Rowena Amelia V. Guanzon, Al A. Parreño, Arthur D. Lim and Sheriff M. Abas; id. at 20-25.

[3] Id. at 36-40.

[4] Sec. 100. Limitations upon expenses of candidates. - No candidate shall spend for his election campaign an aggregate amount exceeding one peso and fifty centavos for every voter currently registered in the constituency

where he filed his candidacy: Provided, That the expenses herein referred to shall include those incurred or caused to be incurred by the candidate, whether in cash or in kind, including the use, rental or hire of land, water or aircraft, equipment, facilities, apparatus and paraphernalia used in the campaign: Provided, further, That where the land, water or aircraft, equipment, facilities, apparatus and paraphernalia used is owned by the candidate, his contributor or supporter, the Commission is hereby empowered to assess the amount commensurate with the expenses for the use thereof, based on the prevailing rates in the locality and shall be included in the total expenses incurred by the candidate.

[5] Sec. 262. Other election offenses. - Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections 9, 18, 74, 75, 76, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 122, 123, 127, 128, 129, 132, 134, 135, 145, 148, 150, 152, 172, 173, 174, 178, 180, 182, 184, 185, 186, 189, 190, 191, 192, 194, 195, 196, 197, 198, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 223, 229, 230, 231, 233, 234, 235, 236, 239 and 240.

[6] Sec. 13. Authorized Expenses of Candidates and Political Parties. - The aggregate amount that a candidate or registered political party may spend for election campaign shall be as follows:

(a)

For Candidates. - Ten pesos (P10.00) for President and Vice President; and for other candidates Three Pesos (P3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy; Provided, That a candidate without any political party and without support from any political party may be allowed to spend Five Pesos (P5.00) for every such voter; and

(b)

For political parties. - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

Any provision of law to the contrary notwithstanding, any contribution in cash or in kind to any candidate or political party or coalition of parties for campaign purposes, duly reported to the Commission shall not be subject to the payment of any gift tax.

[7] Rollo, p. 184.

[8] Id. at 5.

[9] Id. at 20-21.

[10] Id. at 21.

[11] Id.

[12] Id.

[13] Id. at 22.

[14] Id. at 20-25.

[15] Id. at 25.

[16] Id. at 26-32.

[17] Id. at 36-40.

[18] Id. at 40.

[19] *Ejercito v. Hon. COMELEC, et al.*, 748 Phil. 205, 279 (2014).

[20] *Occeña v. COMELEC*, 212 Phil. 368, 377 (1984).

[21] See Concurring and Dissenting Opinion of Justice Marvic M.V.F. Leonen in *Atong Paglaum v. COMELEC*, 707 Phil. 454 (2013).

[22] *Imbong v. Ferrer, etc., et al.*, 146 Phil. 30, 55 (1970).

[23] *Commissioner of Internal Revenue v. Ariete*, 624 Phil. 458, 467-468 (2010).

[24] Sec. 262. Other election offenses. - Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections 9, 18, 74, 75, 76, 80, 81, 82, 83, 84,85,86,87,88, 89,95,96,97,98,99, 100, 101, 102, 103, 104, 105, 106 107, 108, 109, 110, 111, 112, 122, 123, 127, 128, 129, 132, 134, 135, 145, 148, 150, 152, 172, 173, 174, 178, 180, 182, 184, 185, 186, 189, 190, 191, 192, 194, 195, 196, 197, 198, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 223,229, 230, 231, 233, 234, 235, 236, 239 and 240.

[25] Sec. 263. Persons criminally liable. - The principals, accomplices, and accessories, as defined in the Revised Penal Code, shall be criminally liable for election offenses. If the one responsible be a political party or an entity, its president or head, the officials and employees of the same, performing duties connected with the offense committed and its members who may be principals, accomplices, or accessories shall be liable, in addition to the liability of such party or entity.

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