

**JUAN SUMULONG, IN HIS CAPACITY AS PRESIDENT OF
#PAGKAKAISA NG BAYAN# (POPULAR FRONT PARTY),
PETITIONER, VS. THE COMMISSION ON ELECTIONS, RESPONDENT.**

G.R. No. 47940, December 05, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

In a communication dated October 28, 1940, addressed to the respondent, the commission on Elections, the petitioner, Juan Sumulong, as head of the party denominated "Pagkakaisa ng Bayan" (Popular Front Party), asks that said party be declared to be entitled to name the third election inspector in municipalities where it has candidates either for municipal or provincial officers in the forthcoming general election, although it had no candidates and did not obtain votes in those municipalities in the 1937 election. In this communication, the petitioner cites as a typical example the case of Bauan, Batangas, wherein "Pagkakaisa ng Bayan" has candidates for the coming election but is denied by the municipal mayor of the said municipality the right to minority representation on the board of election inspectors, for the reason that it did not have any candidates and did not receive votes in the 1937 election. The said municipal mayor distributed the three election inspectors between the Nacionalista candidates, awarding the minority inspector to the minority faction of said party which opposed the other faction in the next preceding election. In the communication above referred to, the petitioner also alleged that in other provinces, namely, Abra, Agusan, Antique, Cagayan, Camarines Sur, Capiz, Davao, Ilocos Sur, Isabela, La Union, Leyte, Marinduque, Masbate, Mindoro, Mt. Province, Misamis Occidental, Negros Oriental, Nueva Vizcaya, Romblon, Surigao, Zambales, and Zamboanga, there are cases in which "Pagkakaisa ng Bayan" finds itself in the same situation as that described in the example cited with respect to minority representation on the boards of election inspectors.

On November 12, 1940, the respondent Commission rendered a decision denying the petition contained in the communication of October 28, 1940, the dispositive part of which reads as follows:

"Teniendo en consideration que la carta del Sr. Juan Sumulong, considerandola como una petition formal, plantea ante esta Comision una cuestion de derecho sin referirse a ningun caso especifico ni alegar los hechos que sirvan de base, a su petici6n, esta Comision es de opinion que no esta llamada a resolver cuestiones teoricas y de caracter general. Por tanto, se deniega la petici6n."

On November 18, 1940, the petitioner filed with the respondent Commission a motion for reconsideration, alleging, that although his petition of October 28, 1940, covered municipalities in twenty-three provinces, the case of Bauan, Batangas, was specified therein as a concrete case wherein "Pagkakaisa ng Bayan" has been denied the right to name the third election inspector by the municipal mayor for the reason already stated.

On November 29, 1940, the respondent Commission rendered a decision on the merits of the petition of the 28th of October, with particular reference to the municipality of Bauan, Batangas, in which the said petition was again denied on the following grounds:

"Section 70 of (the Election Code provides, among other other things, that 'two of the inspectors and the poll clerk and their substitutes shall belong to the party which polled the largest number of votes at the next preceding election, and the other inspector and his substitute shall belong to the party which polled the next largest number of votes at said election. In computing the number of votes polled by the parties, in case the appointment of inspectors is for a regular election of provincial and municipal offices, the votes polled by all the candidates of each party for said offices in the municipality shall be counted, * * *' (Underscoring supplied.) Evidently, the law grants election inspectors only to the parties that had polled the largest and next largest number of votes in the preceding election in the municipality. Not having participated in the regular election held in 1937 for provincial and municipal officials, the Popular Front Party did not poll any vote in the municipality of Bauan, and therefore, for lack of the basis prescribed in Section 70 of the Election Code, that is, the obtaining of votes constituting the next immediate place, said party, although national in character, is not entitled to the third inspector.

"The Popular Front Party having failed to establish its right to the third inspectors, we now find ourselves confronted with the task of finding whether the third inspector was given to the correct party or not. The presiding officer of the municipal council of Bauan gave the third or minority inspector to a faction of the Nacionalista Party opposed to the other faction. Strictly speaking, under the express terms of Section 70 of the Election Code aforecited, neither a faction of, or group, affiliated to the Nacionalista Party, nor the Popular Front Party is entitled to the third or minority inspector in the municipality of Bauan. This is so because the faction of the Nationalist Party is not a political party within the contemplation of said Section 70; and the Popular Front Party, altho it is national in character, and a political party within the contemplation of said Section 70 of the Election Code did not obtain any vote in the said municipality in the election held in 1937. Therefore, the present case under consideration is not expressly covered by the provisions of the Election Code, but is rather a case falling into that indiscriminate residue of matter not expressly covered by legislative enactment but must, in order not to paralyze the orderly functions of government, be held to fall within the field of administrative discretion; and in the exercise of that administrative discretion, this Commission has chosen not to disturb the appointment of the election inspectors already made by the presiding officer of the municipal council of Bauan. In thus so deciding, we were influenced by the question as to which of the two minority parties, namely, the Popular Front Party or the minority faction of the Nacionalista Party has a better right to the third inspector, and can exercise a better check and balance of the workings of the majority representation in the board of election inspectors. While we have always adhered to the fundamental principle that no party shall be allowed to monopolize all election inspectors and poll clerks, yet we cannot close our eyes to the fact that the Nacionalista Party is only united and is under one leadership in so far as national politics and national policies are concerned, but divided on questions of local politics and local problems. Under the spirit of the law, a faction of the same party, or a political group if it consists and constitutes to be the real opposition in the locality¹ and obtained the next immediate place therein during the election held in 1937, and presents candidate or candidates for the forthcoming election, is entitled to the third inspector. The necessary check and balance which is the object of the law in giving representation to the different political parties in the election board is properly maintained and observed in this instance because although the two major political parties, the Partido Nacionalista Democrático, commonly known as the Anti Party and the Partido Nacionalista Pro Independencia, commonly known as the Pro Party, together with the many other local groups of the Nacionalista Party, the division of the Nacionalista Party, notwithstanding this fusion, into what is commonly known as the Pro and Anti factions in some provinces and in the other provinces under the name of local leaders, is maintained. These factions of the Nacionalista Party have, since the election held in 1937 for provincial and municipal officials, continued to oppose each other in almost all municipalities of the country, vigorously and uncompromisingly, in the polls according to the records of this Commission, thus demonstrating that the Popular Front Party has not been the actual opposition party in some municipalities and therefore should not be entitled to recognition in said municipalities under Section 70 of the Election Code where it did not obtain votes in the preceding election of 1937 to the prejudice of the minority faction of the Nacionalista Party which obtained the next largest number of votes in the 1937 regular election."

The petitioner now presents this petition for review, praying that this court hold the aforesaid decisions of November 12 and 29, 1940, to be erroneous and declare "Pagkakaisa ng Bayan" to be the party entitled to nominate the third election inspector and his substitute in Bauan, Batangas, as well as in other municipalities where conditions similar to those existing in the former obtain. As grounds for the allowance of this petition, the petitioner contends that the respondent Commission has erred:

"(a) in permitting the Nacionalista Party to have a monopoly of election inspectors in Bauan, Batangas, for the forthcoming elections;

"(b) in allowing the municipal mayor of Bauan, Batangas, to grant the third inspector to a faction, the so-called minority faction of the Nacionalista Party in said municipality, in controvention of the plain and unequivocal provisions of the Election Code;

"(c) in depriving Pagkakaisa ng Bayan which the Commission itself recognizes to be the national political minority, of any representation in the board of inspectors in Bauan, Batangas, in the coming December 10th elections, contrary to the uniform doctrine laid down by this Hon. Supreme Court both before as well as after the enactment of the present Election Code;

"(d) in not holding that sec. 70 of the Election Code contemplates a situation where at least two national parties obtained votes in the preceding election, and is not applicable to the case of Bauan, Batangas, where the candidates in the 1937 elections all belonged to a single political party, the Nacionalista Party, although they belonged to different factions of that party;

"(e) in not holding that the votes received by the different factions of the Nacionalista Party in the 1937 elections in Bauan, Batangas, must be deemed to be votes received by the Nacionalista Party, and not as votes received by each of the contending factions of said party in that municipality;

"(f) in interpreting sec. 70 of the Election Code to mean that in all cases a political minority party must have participated and must have obtained the next largest number of votes in the next preceding election before it can claim the right to nominate the third minority inspector,—and interpretation which would render empty and meaningless the provisions of sec. 71 of the same Code which permits the granting of the third inspector to candidates of the opposition party even though it did not poll the next largest number of votes in the next preceding election, in cases where the parties polling the largest and next largest number of votes at the next preceding election have united; and

"(g) in not declaring Pagkakaisa ng Bayan to be entitled to name the third election inspector in Bauan, Batangas, for the forthcoming elections, as well as in all other municipalities where conditions similar to Bauan, Batangas, exist."

The respondent Commission filed its answer on December 4, 1940, and, among other things, alleges:

"3. That the so-called majority and minority factions of the Nacionalista Party, in Bauan and other municipalities in like situation, are not branches or factions that have seceded from the Nacionalista Party, but are branches and divisions of said Party duly recognized by the National Directorate thereof;

"4. That said so-called majority and minority factions have presented different sets of candidates for provincial and/or municipal offices for the elections to be held on December 10, 1940;

"5. That said majority and minority factions of the Nacionalista Party in Bauan, Batangas (as well as in the other municipalities mentioned in the petition), presented different sets of candidate and were the only parties whose candidates received votes in the next preceding election for provincial and municipal offices held in 1937;

"6. That the Popular Front Party presented no candidates in any of the municipalities aforesaid at the said

elections of 1937, and consequently polled no votes therein;"

It is admitted that the minority group which was accorded the minority representation on the boards of election inspectors in Bauan, Batangas, is but a faction of the Nacionalista Party, which faction obtained the next largest number of votes at the immediately preceding election in the said municipality. It is likewise admitted that "Pagkakaisa iig Bayan" is a party of national standing but did not take part in the immediately preceding election in the said municipality. The principal question to be determined, therefore, is as between a faction of a party which obtained the next largest number of votes in the preceding election and a national party which did not participate in such election and did not obtain votes therein, which has a better right to minority representation on the boards of election inspectors.

The question here presented is not specifically provided for in the Election Code, and if we were to interpret section 70 of the said Code strictly, neither the faction nor the party in question would be entitled to name the third election inspector. We are of the opinion, however, that in case of doubt the balance should be inclined in favor of an interpretation which would effectively safeguard the purity of suffrage and avoid a monopoly of inspectors of election by a single party. It is, of course, to be expected that the opposing group of the majority party will check up the actuations of the other group and guard against abuses during the entire period of election, but this is only true in cases where the two groups of the majority party have different candidates for all the provincial and municipal offices. Upon the other hand, if "Pagkakaisa fig Bayan" is not accorded an inspector of election, the result would be that a single party would have a monopoly of the election inspectors contrary to the spirit and purpose of the law.[^]In the case of *Emiliano Tria Tirona vs. The Municipal Council of Dagupan, Pangasinan*, XXXVI O. G. 1102, we said:

"* * * It is clear, however, that the purpose of the legislature in providing for a system of political representation on all the boards of election inspectors is to insure the purity of elections. Any attempt therefore, to deprive a political party of representation to which it is entitled should not be permitted. We are of the opinion and so hold that where the two major political parties at the last preceding general elections have fused or consolidated into one party, and there are two sets of candidates of this party for elective provincial and municipal candidates against one set of candidates of an opposing party, the opposition party is entitled to one inspector and substitute inspector of election in each and every electoral precinct of the municipality. As it does not appear that the Partido Nacionalista has presented official candidates but that each of the two wings of this party has presented a complete ticket of candidates for provincial and municipal offices in Pangasinan, one of the two inspectors and substitute inspectors of election in every electoral precinct of the municipality of Dagupan shall correspond to the anti faction and the other inspector and substitute inspector to the pro faction. The third inspector and substitute inspector shall go to the Frente Popular,

"The judgment of the lower court is accordingly reversed and the municipal council of Dagupan is hereby ordered to meet within 48 hours from notice of this decision and to revoke the appointments of inspectors and substitute inspectors of election for the anti faction and forthwith to appoint an inspector and substitute inspector of election for the Frente Popular in each and every electoral precinct of Dagupan, Pangasinan, such appointments for the Frente Popular to be made in accordance with the proposal of the duly authorized representative of this party in the province or municipality aforementioned."

We see no reason why we should depart from the doctrine laid down in the above-entitled case. Each faction of the Nacionalista Party in Bauan, Batangas, is, therefore, entitled to one inspector and the "Pagkakaisa ng Bayan" to the third inspector in each and every election precinct of the municipality, such inspectors to be appointed in the manner prescribed by section 73 of Commonwealth Act No. 357.

The decision of the Commission on Elections is hereby reversed and the presiding officer of the municipal council of Bauan, Batangas, is hereby ordered, through the Commission on Elections, to rescind his action granting the

majority group two inspectors and to forthwith appoint an inspector of election for "Pagkakaisa ng Bayan" in each and every electoral precinct of the municipality, such appointments to be made in accordance with the proposal of the national directorate of said party.

Without any pronouncement regarding costs. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno,, JJ., concur.

Decision reversed.

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