

JUAN SUMULONG, IN HIS CAPACITY AS PRESIDENT OF THE POPULAR FRONT, PETITIONER, VS. THE COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 48634. October 08, 1941

Ponente: MORAN, J.

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MORAN, J.:

This is a petition for certiorari to review the resolution of the Commission on Elections granting the Popular Front Party headed by Pedro Abad Santos the exclusive right to propose the minority election inspector in the second congressional district of Pampanga for the forthcoming national elections.

In the elections of 1938, the Popular Front Party, supporting the candidacies of Francisco Lazatin and Joaquin Alejandrino for the first and second legislative districts of Pampanga, polled more than ten per centum of the total votes cast in said legislative districts. It appears, however, that said Popular Front Party was then a mere coalition of several minority groups among which are the Popular Front faction of Juan Sumulong and that of Pedro Abad Santos. These two factions now stand out as separate and independent minority parties supporting different sets of candidacies for the forthcoming national elections. On September 15, 1941, the Commission on Elections granted to the Popular Front Party of Abad Santos the right to propose the minority inspector in the first congressional district of Pampanga, and to the Popular Front Party of Sumulong, the minority inspector in the second congressional district of said province. On September 26, 1941, on motion for reconsideration by Francisco M. Ramos, candidate of the Popular Front Party of Abad Santos, the Commission, upon a finding that "the real opposition party in Pampanga is the Popular Front of Abad Santos and that the Popular Front Party of Sumulong has but a nominal existence in the province," modified its ruling of the 15th of September by awarding the minority inspector to the Popular Front Party of Abad Santos. This resolution is the subject of review in this petition for certiorari.

It is now a well-settled rule that where the minimum number of votes required by law (Commonwealth Act No. 657, sec. 5) was polled by a mere coalition or alliance of minority parties, the right to minority representation in the board of election inspectors to which such coalition is entitled, cannot be claimed by any of the component parties which have thereafter separated. (Sumulong vs. Commission on Elections, 40 Off. Gaz. [9th Sup.], No. 13, pp. 226, 230-231; Vinzons vs. Commission on Elections et al., G. R. No. 48596, October 1, 1941.) And where such situation obtains, the Commission shall have the discretion to choose the minority inspector. (Commonwealth Act No. 657, sec. 5; Vinzons vs. Commission on Elections et al., supra; Rimando vs. Commission on Elections et al., G. R. No. 48603, October 1, 1941.) The modification by the Commission of its ruling of September 15th awarding the minority inspector to the Popular Front Party headed by Abad Santos is a legal exercise of the discretion vested in it by law.

The resolution of the Commission is affirmed, with costs against petitioner.

Diaz, Laurel, and Horrilleno, MM., concur.

Ozaeta, J., dissenting:

I maintain here my dissent in the analogous cases of Vinzons and Rimando, G. R. Nos. 48596 and 48603, respectively. The Commission on Elections having found that neither the Sumulong nor the Abad Santos faction of the Popular Front was entitled under the law to the minority inspector, it should have followed what the law provides in such a case, namely, to choose such inspector at its discretion (sec. 5, Commonwealth Act No. 657), and the person so chosen should be nonpartisan (sec. 6, id.). When the Commission allowed the Abad Santos faction of the Popular Front to choose the inspector for it, it abdicated the power and authority vested in it by law in favor of said faction, and at the same time unconsciously laid itself bare to criticism of partiality from the Sumulong faction.

It must be borne in mind that the coming election is not for Representatives only but also for President, Vice-President, and Senators-at-large. With more reason, therefore, should the Commission on Elections have appointed a person of its own choice for the second inspector in order better to safeguard the interests of all the contending parties.

There is another reason why in my opinion the award by the Commission on Elections of the second inspector to the Abad Santos faction is particularly unfortunate. It is a notorious fact that the party headed by Mr. Pedro Abad Santos is the Communist Party of the Philippines. Before said party joined the Pagkakaisa ng Bayan, which was organized by Mr. Juan Sumulong, in December, 1936, it was known as the Socialist Party of Pampanga. After said party headed by Mr. Abad Santos has separated from the Pagkakaisa ng Bayan or Popular Front, and has reverted to its former independent existence, the Commission on Elections now permits it not only to parade as Popular Front>-and not as Communist Party-but also to have the second inspector to which it admittedly is not entitled. I cannot bring myself to sanction that result.

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