

HERMILANDO C. ALCALA, ROSENDO C. ANGELES, ABNER S. BRIONES, FAUSTINO V. MAGADIA, ADORACION J. MIRANDILLA, ROLANDO M. DE RAMOS, JOVITO E. TALABONG AND CLARO Y. TALAGA, PETITIONER...

G.R. No. 52817. November 21, 1984

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

A novel question is raised in this certiorari proceeding to review the resolution of respondent Commission on Elections of January 19, 1980, the dispositive portion of which reads as follows: "Considering that Mario L. Tagarao was the official candidate of KBL upon the nomination signed by the President of the Philippines and Chairman, Central Committee dated December 31, 1979, the Commission RESOLVED to recognize and give due course to his nominees from Vice-Mayor and the eight members of the Sangguniang Panglungsod." [1] It is whether such determination as to who were the official candidates of the Kilusang Bagong Lipunan (hereinafter referred to as the KBL) should be set aside, there being another set of nominees for such positions presumably from the same party, with the election having been thereafter held and respondents having been elected and proclaimed. As will be shown, under the controlling facts, the answer must be in the negative.

On January 2 and 4, 1980, both respondent Mario L. Tagarao, as the then incumbent Mayor in Lucena City, and then Governor Anacleto C. Alcala of Quezon submitted to respondent Commission on Elections their respective lists of candidates. [2] Respondent Commission tried to verify which list should form the slate of KBL candidates, but without success. [3] Since it was its duty to have printed the certified list of candidates for each city, province, municipality and municipal district, it had to act, resulting in the aforesaid resolution, private respondents as the KBL candidates and petitioners as independents. [4] The KBL was notified of such resolution, which was given wide publicity in Lucena City. [5] On election day, such certified list of candidates was posted at various election centers. [6] The election returns were canvassed, with respondent Tagarao obtaining 26,563 votes as against his opponent, Euclides Abcede, who obtained 11,459 votes. He is not a petitioner in this case.

The claim of petitioners is that their nomination as KBL candidates for such positions was duly authorized, both by the President of the Philippines, Ferdinand E. Marcos, as Chairman of the KBL, and Secretary General of the KBL, Deputy Prime Minister Jose Roño. They were surprised, therefore, when on the date of the election, the petitioners nominated for the municipal positions were listed in the certified list of candidates as independent candidates and respondents as official candidates. [7]

Petitioners contend that there was grave abuse of discretion on the part of respondent Commission. They pray that the votes in favor of respondents be credited in favor of petitioners so that they could be declared the winners. It is quite obvious that the burden of persuasion to be borne by them was quite heavy. As will be shown, they were not able to sustain it. There were certain material facts not alleged in their pleading - matters clarified in the Comments considered as the answers. [8] When they are considered and the proper law applied, it is quite obvious

that the petition must fail.

1. As of the first week of January, 1980 then, the electorate of Lucena City already knew that there were two groups of candidates composed of petitioners and respondents competing for the positions of Vice-Mayor and members of the Sanggunian, both carrying the KBL banner. The campaign period was on. The voters had the opportunity to make the choice. Whatever doubt that existed as to who were the KBL candidates was dispelled by the resolution of January 19, 1980. As admitted in the petition itself, on election day, January 30, 1980, "in the certified list of candidates for local election in Lucena City which was issued by the respondent Honorable Commission on Elections [and] in all voting centers, [petitioners] were listed as independent candidates and the respondents as official candidates of the [KBL.]"[9] It cannot be plausibly argued then that they were misled. They exercised their right to vote freely and intelligently. They chose the candidates, who in their opinion could best represent them, whether they were carrying the KBL banner or not. How can it be plausibly argued then that the result of such election should be ignored just because the Commission on Elections could have erred in listing private respondents as the KBL candidates? In the canvass of the election returns it was shown that private respondent Tagarao obtained 26,563 votes as against the 11,459 votes of candidate Euclides Abcede, who was not even named petitioner. As for the position of Vice-Mayor, respondent Palillo received 23,756 votes as against the 11,230 votes of Alcala. The result of the voting for members of the Sangguniang Panglungsod is quite revealing. Independent candidate Flotilda C. Villariba, the one last named in Alcala's nominees, obtained more votes than three KBL candidates.[10] One KBL candidate, A. Cuevas, failed to get elected. It thus clearly appears that the election was duly held and the people's will had been clearly manifested. Why then should it be disregarded. Respondents had been duly proclaimed and are presumably discharging their official functions. Whatever be the remedy that could have been availed of by petitioners, this is not it.

2. The situation herein presented calls to mind the principle that rules and regulations for the conduct of election while mandatory before the voting may be held only directory after the election is held. So it was clearly set forth in the leading *Lino Luna* case.[11] Again even assuming that the Commission on Elections erred, it was not enough to call for annulling the result, when the electors long before the date of election, had full opportunity to decide for whom to vote.

3. Viewed objectively and rationally, respondent Commission could not be indicted for arbitrariness in reaching the assailed decision. Respondent Tagarao was duly authorized to make the nomination as the KBL Mayor of Lucena City. It is true the then Governor Alcala had been similarly authorized earlier to submit another list of candidates of the KBL for the same positions. Under the circumstances, it was not un-reasonable for respondent Commission to assume that Alcala's nominees had already been superseded by the nominees submitted by respondent Tagarao. On the above facts, there is justification for this submission in the Comment of the Office of the Solicitor General: "Governor Alcala's authority to nominate KBL candidates in the City of Lucena proceeded from two sources: (1) the letter of the President of the KBL dated December 27, 1979 (this, however, withheld from Gov. Alcala the authority to nominate the candidate for the position of Mayor); and (2) the letter of the Secretary-General of the KBL dated December 30, 1979. Apparently, the scope of the authority issued to Gov. Alcala was expanded by the Secretary-General of the KBL to include the candidate for the position of mayor of Lucena City. It was thus pursuant to this second authority that Governor Alcala nominated Euclides Abcede and all the petitioners as KBL candidates for mayor, vice-mayor, and Sangguniang Panglungsod members of Lucena City, respectively. On December 31, 1979, however, the President of the KBL submitted to the respondent COMELEC a list of nominees of all KBL official candidates for the positions of provincial governors and city mayors."[12] All that respondent Commission did, after vainly trying to have the KBL office in Manila to inform it as to who should be its official candidates, was to hold that respondent Tagarao as City Mayor, the positions being offices of Lucena City, should be sustained. Moreover, respondent Commission was not repudiated by the

KBL or any of its leaders.

WHEREFORE, the petition is dismissed. No costs.

Makasiar, Aquino, Concepcion, Jr., Melencio-Herrera, Plana, Escolin, Gutierrez, Jr., De La Fuente, and Cuevas, JJ., concur.

Teehankee and Abad Santos, JJ., no part.

Relova, J., on leave.

[1] Resolution of respondent Commission on Elections, dispositive portion. The other private respondents who were nominated for the position of Vice-Mayor and the eight members of the Sangguniang Panglungsod in the City of Lucena are Ruben Q. Palillo, for Vice-Mayor, Romeo Carmona, Antonio Cuevas, Godofredo Faller, Nestor Guinto, Meynardo Mangubat, Vicente Oreste, Godofredo Villaseñor and Cesar Zaballero for the Sangguniang Panglungsod.

[2] Comment of Solicitor-General, 1-2. The nominees of the latter, now petitioners, are Hermilando C. Alcala for Vice-Mayor, and Rosendo C. Angeles, Abner S. Briones, Faustino V. Magadia, Adoracion J. Mirandilla, Rolando M. de Ramos, Jovito E. Talabong and Claro Y. Talaga for members of the Sangguniang Panglungsod.

[3] Ibid, 2.

[4] Ibid.

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[6] Ibid.

[7] Ibid, par. 8. According to the petition, it was only on February 28, 1980, almost a month after the election, that they found out there was such a resolution.

[8] There is moreover this inaccuracy of petitioners, noted in the Comment of private respondents, their failing to mention that as of February 4, 1980, petitioners were quite aware of the action taken by respondent Commission on Elections for on that date they sought to suspend proclamation of private respondents.

[9] Petition, par. 8.

[10] M. Mangubat, R. Carmona and N. Guinto.

[11] Lino Luna v. Rodriguez, 39 Phil. 208 (1918). The Lino Luna case was followed in subsequent cases: Valenzuela v. Carlos, 42 Phil. 428 (1921); Cailles v. Gomez, 42 Phil. 496 (1921); De los Angeles v. Rodriguez, 46 Phil. 595 (1924); De Guzman v. Board of Canvassers, 48 Phil. 211 (1925); Kiamzon v. Pugeda, 54 Phil. 755 (1930).

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