

QUINTIN C. SIM, PETITIONER, VS. HONORABLE PEDRO D. OFIANA AND PEDRO N. SALES, RESPONDENTS.*G.R. No. 54362. February 28, 1985*

Ponente: FERNANDO, C.J.

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It is undisputed in this certiorari, prohibition and mandamus proceeding that in the election of January 30, 1980 for the office of mayor of Municipality of Manaoag, Pangasinan, petitioner received the greater number of votes and was accordingly proclaimed by the Municipal Board of Canvassers as the duly elected mayor on February 3.[1] On February 25, 1980, or twenty-one days after such proclamation, private respondent Pedro N. Sales, the losing candidate, filed a petition for quo warranto in Civil Case No. D-5071 with the Court of First Instance of Pangasinan, Branch IV, then presided by respondent Judge Pedro D. Ofiana since then retired.[2]

Accordingly, petitioner as respondent in the lower court filed a motion to dismiss such quo warranto proceeding primarily on the ground that petitioner then, now respondent Sales, had no personality to institute the instant action because his certificate of candidacy was not given due course in a resolution of the Commission on Elections of January 28, 1980. It was shown that having been affiliated with the Kilusang Bagong Lipunan, he changed his party affiliation because he was not chosen as its official candidate.[3] Such motion to dismiss likewise contained the additional argument that, at any rate, since under the Election Code the petition for quo warranto should be filed within ten days after the proclamation of the result of the election and since now petitioner Sim, when respondent, was proclaimed on February 4, 1980 a petition for quo warranto filed on February 25, 1980 was filed out of time, it should therefore be dismissed.[4] After hearing the quo warranto petition, respondent Judge denied the motion to dismiss.[5] A motion for reconsideration having proved futile, this petition was filed.

Respondents were required to comment. In the Comment submitted by the Solicitor General for respondent Judge, it was submitted that the quo warranto petition was not instituted by the public official mandated by law to commence the same; that even on the assumption that it could be filed by a private person, it should be by someone entitled to the office contended, private respondent not falling to that category as the certificate of candidacy was not allowed; and that at any rate, the petition was filed late as it was not done within the ten-day period after the proclamation.[6] Hence the dismissal of the petition was sought.

On the other hand, in the Comment of private respondent, it was pointed out that while it was true that respondent Commission did issue the resolution on February 12, 1980, according to respondent Sales there was a manifestation of withdrawal of petition which was the cause of his not filing a motion for reconsideration.[7] On the question of the petition having been filed out of time, the Comment alleged: "We beg to disagree with this ground. Private respondent Sales filed his petition to disqualify Mr. Sim (PDC 237) with Comelec on January 24, 1980. This petition was denied by Comelec only on February 12, 1980, and the order of denial was received by Sales on February 14, 1980." [8] He likewise submitted a copy of the telegram advising him of the result of his petition to disqualify now petitioner Sim from running as mayor. Thus: "BE ADVISED COMMISSION

RESOLVED ON 12 FEBRUARY 80 ITEM 9086 IN PDC CASE NO. 237 QUOTE IN THE MATTER OF THE PETITION OF PEDRO N. SALES SEEKING TO DISQUALIFY RESPONDENT QUINTIN C. SIMON THE GROUND THAT HE IS A CHINESE CITIZEN CLN THE COMMISSION ON PROPER MOTION DULY SECONDED RESOLVED TO DENY THE PETITION FOR LACK OF EVIDENCE CMA WITHOUT PREJUDICE TO THE FILING BY HEREIN PETITIONER CMA IF SO DESIRED CMA QUO WARRANTO PROCEEDINGS UNQUOTE AND LAW."[9]

The Comments were considered as the Answers of respondents.

It was alleged by petitioner Sim, respondent before the lower court, that the petition could not prosper as it was filed out of time. The alleged disqualification of then petitioner Sim on the ground of citizenship was the very question before the Commission on Elections. It ruled on the matter. Its resolution constitutes the law of the case. It was there explicitly stated that petitioner then, now private respondent Sales, could file the necessary quo warranto proceeding if he so desires. Having done so in accordance therewith, the question of citizenship raised being one better threshed out in an appropriate judicial proceeding, this certiorari and prohibition proceeding must fail.

1. In a recent election case, *Reyes v. Commission on Elections*,^[10] there was a reaffirmation of the doctrine of the law of the case which in the language of its opinion, citing *People v. Pinuila*,^[11] "means that whatever is once irrevocably established as the controlling legal rule of decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the Court."^[12] In *Reyes* as well as in this case, such a doctrine is decisive of this controversy.

2. Neither is there any persuasive force to the allegation that the lower court lacks jurisdiction in view of the lapse of the ten-day period. Respondent Sales was notified on February 14, 1980 of the resolution of respondent Commission. His petition to declare then respondent now petitioner Sim, disqualified on the ground of his being a Chinese citizen was denied. The very telegram, however, stated that such denial was "WITHOUT PREJUDICE TO THE FILING BY THE HEREIN PETITIONER (SALES) IF HE SO DESIRES CMA QUO WARRANTO UNQUOTE."^[13] That was what he did on February 25, 1980. It would be to stress technicality, and disregard the equities of the case if the excess of one-day period will be held against petitioner. Moreover, in *Faderanga v. Commission on Elections*,^[14] a period of fifteen days was granted. Here the delay, if it could be called such, was only one day.

WHEREFORE, the petition is dismissed for lack of merit. No costs.

Teehankee, Makasiar, Conception, Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Aquino, J., no part.

[1] Petition, par. 4.

[2] *Ibid*, par. 5.

[3] *Ibid*, par. 6, Annexes A and A-1.

[4] *Ibid*.

[5] *Ibid*, par. 8.

[6] Comment of the Solicitor General, 7.

[7] Comment of Private Respondent, 3-6.

[8] Ibid, 8-9.

[9] Annex 2.

[10] G.R. No. 56385, May 19, 1984, 129 SCRA 286.

[11] 103 Phil. 992 (1958).

[12] 129 SCRA 286, 290-291.

[13] Comment of Private Respondent, 9.

[14] G.R. No. 55938, 105 SCRA 123.

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