

RENATO U. REYES, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND ERNESTO LIWANAG, RESPONDENTS.

G.R. No. 56385. May 19, 1984

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

An earlier decision, *Reyes v. Commission on Elections*[1] is decisive of this controversy. Petitioner and public respondent Commission on Elections were the same parties in that certiorari and mandamus proceeding. This Court granted the writ of certiorari nullifying and setting aside the resolution of respondent Commission disqualifying petitioner to become a candidate and cancelling his certificate of candidacy for the position of municipal mayor of Bongabon, Oriental Mindoro. As it was issued, however, on February 7, 1980 although the petition for disqualification was filed on January 25, 1980, he was voted for the position of municipal mayor in the election held on January 30 and was certified as having obtained more votes than his opponent, Jose A. Enriquez. The February 7 resolution of the Commission on Elections led to the Board of Canvassers declaring Enriquez as mayor-elect of Bongabon. Such proclamation was likewise nullified and set aside by this Court. This Court in the same decision granted the writ of mandamus ordering respondent Board of Canvassers of Bongabon to proclaim in accordance with the canvass already terminated petitioner Reyes as mayor-elect. The basis for the decision was the absence of procedural due process, petitioner not having been heard on the question of his being disqualified for having changed his party within the six-month period contrary to a constitutional provision. Characterizing the ban on a change of party affiliation as "both innovative and mandatory,"[2] this Court likewise ordered: "Thereafter, the case is referred to the respondent Commission on Elections so that it could proceed to pass on the question of the disqualification of petitioner Renato U. Reyes after a hearing to be conducted in accordance with the cardinal requirements of procedural due process." [3]

Accordingly, respondent Commission set anew for hearing the disqualification case against petitioner. Thereafter, he filed a motion to dismiss alleging lack of jurisdiction of respondent Commission on the ground that it had previously given due course to his certificate of candidacy and that he was thereafter voted for, with a majority of the votes being cast in his favor.[4] Another ground mentioned is that there is an election protest against the petitioner, one of the issues raised being the change of his political party affiliation.[5] In the Order denying such motion to dismiss, respondent Commission stated: "Things were held in abeyance until May 19, 1980 upon notice of the Decision dated May 15, 1980 of the Supreme Court in the above-cited case, wherein it was directed, among others, that the cancellation of the certificate of candidacy of Reyes and the proclamation of Enriquez as mayor-elect were nullified; the proclamation of Reyes as mayor-elect was ordered; and the case was returned to the Commission for a hearing on the question of the disqualification of Reyes." [6]

It is then quite clear why as set forth at the beginning of this opinion, the decision in the first Reyes case is controlling.

1. The doctrine of "the law of the case" identified as the opinion delivered in the former appeal is an insurmountable obstacle to this petition being granted. "More specifically," according to *People v. Pinuila*, [7]

"it 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." [8] To the same effect is this holding in *Kabigting v. Director of Prisons*, [9] the opinion coming from the then Justice, later Chief Justice, now Speaker Makalintal: "It need not be stated that the Supreme Court, being the Court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case." [10] Nowhere is there a more emphatic statement of such a principle than in the ponencia of Justice J.B.L. Reyes in *People v. Olarte*. [11] Thus: "Suffice it to say that our ruling in Case L-13027, rendered on the first appeal, constitutes the law of the case, and even if erroneous, it may no longer be disturbed or modified since it has become final long ago." [12] The all-embracing scope of such a principle was duly noted in the latest case in point, *Festin v. Faderanga* [13] in these words: "What is express as well as what is implied in a decision is included, to be implemented faithfully, no circumvention or evasion being allowed." [14]

2. Petitioner, however, seeks to escape from the imperative character of such a principle. His reliance is on what was said in *Arcenas v. Commission on Elections*: [15] "It is now the prevailing doctrine that after an election duly held and a proclamation thereafter made, a pre-proclamation controversy should no longer be viable." [16] Such reliance is misplaced. *Arcenas* and the cases cited therein [17] dealt with petitions filed with this Court, not previously decided. This is not the situation here. This is the second time for petitioner to come to this Court. He was successful the first time he sought relief. The decision in his favor ordered precisely what should be done by respondent Commission. Now that it is performing such a task hearing the evidence to satisfy the demands of procedural due process on the question of whether or not, he should be disqualified, petitioner files a new action to stop it from going ahead. It is hardly in consonance with equity to indulge him in his change of mind. That is an affront to reason. It is offensive to fairness, which is the essence of due process. Considering the difference in the environmental circumstances between this case and *Arcenas*, petitioner cannot be heard to argue that there was a modification of the doctrine announced in the first Reyes decision. Even if there were, however, petitioner is still not entitled to the remedy now sought. Justice J.B.L. Reyes in the same *Olarte* opinion cannot be any more categorical: "A subsequent reinterpretation of the law may be applied to new cases but certainly not to an old one finally and conclusively determined." [18]

3. The other ground alleged by petitioner for the dismissal of the proceedings in respondent. Commission is that there is another action pending in Court for the same cause. [19] It is alleged in his petition: "In March 1980, Jose A. Enriquez, the losing candidate, filed with the Court of First Instance of Oriental Mindoro an election protest against the election of petitioner, docketed as Election Case No. R-8, which to date is still pending." [20] Clearly, such a ground is unavailing. Petitioner pleaded and succeeded in his first case to get a favorable decision on May 15, 1980. That was two months after the filing of the election protest against him. He was quite content with the result. He knew then that the matter was referred back to respondent Commission. He did not seek any change or modification. What other conclusion can there be then except full awareness and recognition on his part that according to law, respondent Commission is precisely the agency to receive evidence on the question of whether or not he ought to be disqualified. Now he would assert lack of jurisdiction on the ground of another action pending in Court for the same cause. In the first place, the principle of the law of the case is, as set forth previously, an insurmountable obstacle. Even in the absence of such a principle, petition still is doomed to fail. The Election Code mandates: "The Commission shall be the sole judge of all pre-proclamation controversies and any of its decisions, orders, and rulings shall be final and executory." [21]

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

Makasiar, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., and De La Fuente, JJ., concur.

Teehankee, J., dissents in a separate opinion.

Aquino, J., see attached concurrence.

Abad Santos, J., see dissenting opinion.

[1] G. R. No. 52699, May 15, 1980, 97 SCRA 500.

[2] Ibid, 504.

[3] Ibid, 510.

[4] Petition, Annex "C".

[5] Ibid.

[6] Ibid, Annex "D".

[7] 103 Phil. 992 (1958).

[8] Ibid, 999.

[9] 116 Phil. 589 (1962).

[10] Ibid, 594.

[11] L-22465, Feb. 28, 1967, 19 SCRA 494.

[12] Ibid, 498. The Olarte opinion finds support in *Fernando v. Crisostomo*, 90 Phil. 585 (1951); *Padilla v. Paterno*, 93 Phil. 884 (1953); *Samahang Magsasaka, Inc. v. Chua Guan*, 96 Phil. 974 (1955); *People v. Pinuila*, 103 Phil. 992 (1958) and *Pomeroy v. Director of Prisons*, 107 Phil. 50 (1960). Cf. *Sanchez v. Court of Industrial Relations*, L-26932, March 28, 1969, 27 SCRA 490.

[13] G.R. No.57351, Jan. 16, 1982, 111 SCRA 1.

[14] Ibid, 7. The following cases were cited: *Libudan v. Gil*, L-21163, May 17, 1972, 45 SCRA 17; *Palad v. Governor of Quezon Province*, L-24302, Aug. 18, 1972, 46 SCRA 354; *Rodriguez v. Director of Prisons*, L-35386, Sept. 28, 1972, 47 SCRA 153; *Mangayao v. de Guzman*, L-24787, Feb. 22, 1974, 55 SCRA 540; *National Shipyard and Steel Corporation v. CIR*, L-31852, June 28, 1974, 57 SCRA 642; *Cosmos Foundry Ship Workers Union v. Lo Bu*, L-40136, March 25, 1975, 63 SCRA 313; *National Mines and Allied Workers Union v. Luna*, L-46722, June 15, 1978, 83 SCRA 607; *Villanueva v. WCC*, L-44108, July 31, 1978, 84 SCRA 423; *Gokongwei, Jr. v. Securities and Exchange Commission*, L-45911, April 11, 1979, 89 SCRA 336; *Bueno Industrial and Development Corporation v. R.C. Aquino Timber and Plywood Co., Inc.*, L-25747, August 21, 1980, 99 SCRA 109.

[15] G.R. No. 54039, November 28, 1980, 101 SCRA 437.

[16] Ibid, 440.

[17] *Venezuela v. Commission on Elections*, G.R. No. 53522, July 25, 1980, 98 SCRA 790; *Villegas v. Commission on Elections*, G.R. No. 52563, Sept. 1980, 99 SCRA 595. The rather broad statement in *Arcenas* has been made more precise in *Sande Aguinaldo v. Commission on Elections*, G.R. No. 53953, January 5, 1981, 102 SCRA 1.

[18] *People v. Olarte*, 19 SCRA 494, 498.

[19] Petition, par. 7.

[20] Ibid, par. 6.

[21] Section 175, 1978 Election Code.

DISSENTING OPINION

ABAD SANTOS, J.:

The judgment in *Reyes vs. Commission on Elections*, G.R. No. 52699, May 15, 1980, 97 SCRA 500, 510 states:

"WHEREFORE, the writ of certiorari is granted and the resolution of respondent Commission on Elections of February 7, 1980 declaring petitioner Renato U. Reyes and the proclamation of respondent Board of Canvassers declaring Jose A. Enriquez as Mayor-elect of Bongabong, Oriental Mindoro, are hereby nullified, set aside and declared to be without force and effect. The writ of mandamus is granted and respondent Board of Canvassers of Bongabong, Oriental Mindoro, is commanded to proclaim, in accordance with the canvass already terminated, petitioner Renato U. Reyes as Mayor-elect. Thereafter, the case is referred to the respondent Commission on Elections so that it could proceed to pass on the question of the disqualification of petitioner Renato U. Reyes after a hearing to be conducted in accordance with the cardinal requirements of procedural due process."

I gave my assent to the judgment but after thinking more about it, I am now prepared to withdraw my assent to the last sentence thereof which refers to the Commission on Elections the question of the disqualification of Reyes with the injunction that procedural due process should be followed. My reasons are:

1. The status of political parties during the regime of martial law and thereafter up to January 30, 1980, when elections for local offices were held was so uncertain and nebulous that one could not really say whether or not there was "turncoatism" by any candidate. The vagueness of the situation made the concept of "turncoatism" constitutionally infirm.
2. Reyes obtained more votes than Enriquez, his rival. Considering that provisions of the Election Code are mandatory before but directory after the election, the only suit to which Reyes should be exposed is that of an election protest. An inquiry whether he was disqualified because of turncoatism should no longer be viable.

In the light of the foregoing, I vote to grant the petition.

CONCURRING OPINION

AQUINO, J.:

In G. R. No. 52699, May 15, 1980, *Reyes vs. Comelec*, 97 SCRA 500, this Court directed the Comelec to nullify the proclamation of Jose A. Enriquez as mayor of Bongabong, Oriental Mindoro and, instead, to proclaim Renato U. Reyes and to hold a hearing on the pending disqualification case against Reyes filed by Ernesto Liwanag, identified as Comelec Case PP No. 374.

When the case was returned to the Comelec, Reyes, instead of proceeding with the disqualification case against him, moved to dismiss it on the ground that there was pending in the Court of First Instance an election protest filed by Enriquez against Reyes in March, 1980 and docketed as Election Case No. R-8.

The Comelec denied Reyes' motion to dismiss. Reyes filed on March 11, 1981 in this Court the instant case, G. R. No. 56385, insisting that the Comelec should dismiss the disqualification case.

The petition is without merit because, as pointed out by the Chief Justice, the ruling in the 1980 case is the law of the case. The disqualification case is a pre-proclamation controversy. It can co-exist with the electoral protest case because the issues are different.

As the matter involves the 1980 elections, there is a pressing urgency for the early resolution of the two cases.

DISSENTING OPINION

TEEHANKEE, J.:

As stated in my separate opinion in the earlier decision in *Reyes vs. Commission on Elections* (97 SCRA 500, 511-516):

"I have previously urged that all such pre-election cases seeking to disqualify the winner on the ground of alleged turncoatism should be ordered dismissed after the elections, subject to the filing of an appropriate quo warranto action or election protest against the winner in the appropriate forum (the Comelec for provincial and city officials and the proper Court of First Instance for municipal officials). This coincides with the President's own view as he was reported in the February 27, 1980 newspapers 'to have ordered the lawyers of the KBL [Kilusang Bagong Lipunan] to withdraw all disqualification charges to allow already proclaimed opposition candidates involved in such cases to assume office,' reserv-ing the right to file an election protest (although such Presidential orders seem to have been ignored since I am not aware of any of the numerous disqualification cases before us that have been so withdrawn)."

For the reasons and considerations set forth in my said opinion, as well as in the separate dissenting opinion filed by Mr. Justice Abad Santos, I am constrained to dissent from the majority judgment that would allow the continuance - at this late stage - of the disqualification case against petitioner "as a pre-proclamation controversy," when petitioner has all this time been proclaimed and assumed office as the duly elected mayor of Bongabong, Oriental Mindoro. To continue with the pre-proclamation controversy is to go against the reality that his opponent, the losing candidate Jose A. Enriquez, had since March 1980, within the reglementary period, filed an election protest against the election of petitioner, which to date is still pending and unacted upon - and which by all standards is the proper recourse of said losing candidate. (See majority opinion at pp. 3-6).

ACCORDINGLY, I vote to grant the petition.

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