

CORNELIO R. CALABIG, PETITIONER, VS. HONORABLE FLORENTINO M. VILLANUEVA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF LAGUNA, BRANCH V, AND VENERANDO BALDEMOR, RESPONDENTS.*G.R. No. 56598. March 15, 1985*

Ponente: CUEVAS, J.

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Assailed and challenged in this special civil action for CERTIORARI and PROHIBITION with Preliminary Injunction and/or Restraining Order, is the order of the Hon. respondent Judge dated April 1, 1981 issued in Election Case No. 2 entitled "Venerando Baldemor, protestant versus Cornelio Calabig, protestee" of the then Court of First Instance of Laguna - Branch V denying admission of petitioner's, amended answer.

Petitioner Cornelio R. Calabig (Calabig for short) was the KBL official candidate for Mayor of Paete, Laguna in the national local election of January 30, 1980. Private respondent Venerando Baldemor, (Baldemor for short) on the other hand, was the standard bearer for the same position of the Nacionalista Party (NP).

After all the votes cast in the aforesaid election were counted and tallied, Calabig appeared to be the winner with a plurality of two votes. Accordingly, petitioner was, on February 11, 1980, proclaimed as the duly elected Mayor of Paete, Laguna. He was sworn into office on March 3, 1980.[1]

A little earlier, however, or more specifically on February 20, 1980, Baldemor filed an election protest with the then Court of First Instance of Laguna - Branch V, docketed therein as Election Case No. 2, impugning the election of Calabig on the ground of alleged massive frauds, vote buying, violence, intimidation and other rampant irregularities.[2]

On February 22, 1980, petitioner filed his answer denying the material allegations of private respondent's election protest. By way of counter protest, he alleged that Baldemor, his leaders and sympathizers, committed coercion, intimidation, vote buying and other electoral frauds and anomalies. He also claimed that private respondent Baldemor has no cause of action or legal capacity to file said protest since he was a disqualified candidate, his certificate of candidacy having been denied due course by the Comelec in PDC No. 67.

Said PDC No. 67 is a petition filed by one Isaac Bathan with the Comelec on January 15, 1980 seeking to disqualify private respondent Baldemor as a candidate for Mayor of Paete on the ground of turncoatism for having switched party affiliation, from KBL to NP, in violation of the Constitution and Batas Pambansa Blg. 52. Acting thereon, Comelec, on January 28, 1980 came out with Resolution No. 8544 denying due course to Baldemor's certificate of candidacy. On the same date, (January 28, 1980) however, respondent Baldemor, joined by other NP local candidates, filed with this court a petition for Certiorari and Prohibition[3] against the Comelec and the KBL Provincial Chapter questioning the validity of his disqualification and praying for the setting aside of said Comelec resolution No. 8544 with a plea for a restraining order enjoining Comelec from enforcing the aforesaid questioned resolution.

The restraining order prayed for having been issued by this court, the votes cast for Baldemor for the position of Mayor of Paete, Laguna were counted and tallied. But the result of the counting, as herein earlier stated, showed petitioner Calabig to be the winner over Baldemor by a margin of two votes.[4]

Instead, however, of remanding the case to the Comelec for further hearing, this court in its Resolution of January 13, 1981, in said G.R. No. 42426, ruled -

"In the case of mayoralty candidate Baldemor who lost to his opponent intervenor Cornelio Calabig by two (2) votes, Baldemor already filed since February 20, 1980 the corresponding election protest against Calabig in the Court of First Instance of Laguna, Branch V, docketed as Election Case No. II of said court and presently being heard by said court and this is the appropriate remedy, the office involved being that of municipal mayor, instead of a remand to the Comelec. (Arcenas vs. Comelec, G.R. No. 54039, November 28, 1980)."

Failing to obtain a favorable reconsideration of the aforequoted resolution, petitioner sought to amend his "Answer with Counter Protest" in the said Election Case No. II by filing a motion for the admission of his amended answer wherein he pleads by way of affirmative and special defenses the disqualification of private respondent, a matter which is however already alleged in his original answer but amplified and elaborated in the amended answer sought to be admitted. Petitioner then prayed that before any revision of ballots may proceed, a preliminary hearing must first be conducted on the issue of respondent Baldemor's disqualification since the result thereof would be determinative of the outcome of private respondent's election protest. Petitioner further prayed that the Quo Warranto proceedings filed by Baldemor with the same court,[5] for his (petitioner's) disqualification, also on ground of turncoatism (from LP to KBL), be likewise heard and decided before any revision of ballots may or should be made by the respondent court. Finally, petitioner Calabig also asked that respondent Judge Florentino Villanueva be disqualified and/or prohibited from continuing with the hearing of the aforementioned election protest since his Honor had already prejudged the issue of private respondent's disqualification without any hearing having lost the cold neutrality of an impartial judge.

After an exchange of pleadings on the subject - respondent's Opposition to the Admission of the Amended Answer, petitioner's Joint Reply to the Opposition, and private respondent's Rejoinder, respondent Judge issued the now controverted Order dated April 1, 1981, denying admission of petitioner's Amended Answer and scheduled the revision of ballots on April 13, 1981.

Contending that the respondent Judge acted with grave abuse of discretion amounting to lack of jurisdiction in denying admission of his Amended Answer and already resolved the issue of private respondent's disqualification on the merits without any hearing, petitioner now comes before Us through the instant petition praying for the nullification of the aforementioned questioned order, and for the issuance of an order directing respondent Judge to first hear and decide the issue of private respondent's eligibility before conducting any revision of ballots.

In a Resolution promulgated on April 28, 1981, We required respondents to COMMENT on the petition. We likewise enjoined respondent Comelec from enforcing its Resolution No. 8544. Private respondent's COMMENT was filed on April 26, 1981; that of the respondent Judge, on May 18, 1981.

In a Resolution dated June 11, 1981, the petition was given due course and the petitioners were required to file their respective memorandum within twenty-five (25) days from notice which they did after several extensions. This was followed later by Motions, Counter-Motions, Comments, Replies and Rejoinders.

The petition is devoid of merit. Consequently, its dismissal is in order.

It cannot be denied and petitioner does not controvert, that nothing new is sought to be introduced in his Amended Answer.[6] He admits that the amendments incorporated consist merely of allegations of ultimate facts

in amplification or elaboration of the ground already previously alleged in his original Answer, not new grounds;^[7] that some of the amendments merely consist of a change in phraseology;^[8] and insofar as the counter-protest is concerned, the amendment consists merely in the introduction of a new statement of facts which do not change essentially the grounds of the protest but merely an elaboration of those already alleged.

Considering the subject, scope and text of the amendment in dispute, We perceive no harm nor any prejudice petitioner may sustain by the denial of his motion to amend, either procedurally or from the evidentiary point of view. On the basis of the allegations of the original and the amended answer, there is nothing that petitioner could accomplish by way of proof under his amended Answer which he is precluded from so doing under his original Answer. And this is because no new material matters which may come within the purview of substantial amendment appeared alleged in petitioner's amended answer. We therefore fully subscribe to the observation aptly made by the Honorable respondent Judge that to allow and entertain petitioner's amended answer will only delay disposition of the pending election protest filed by petitioner against private respondent and vice versa it appearing that the issue of private respondent's disqualification and those allegations in relation to petitioner's counter-protest are essentially mere elaboration of the previous grounds already set forth in the original Answer.

There can be no quarrel that amendment of pleadings are favored and should be liberally allowed in the furtherance of justice in order to determine every case as far as possible on its merits without regards to technicalities, to speed up trial and to save party litigants from incurring unnecessary expenses,^[9] so that a full hearing on the merits of every case may be had and avoid multiplicity of suits.^[10] The only limitations to this liberal policy of allowing amendments are: that the cause of action, defense or theory of the case is substantially changed although this is not an inflexible rule;^[11] that the amendment will result in the alteration final judgment on a substantial matter;^[12] that the amendment is for the purpose of making tie complaint confer jurisdiction upon the court when none existed before;^[13] that the amendment is for the purpose of curing a premature or non-existing cause of action;^[14] and finally, that the amendment is for purposes of delay.^[15]

This last exception finds greater applicability in election protest which does not merely concern the personal interest of rival candidates for an office. Over and above their claims is the deep public interest involved, the need to imperatively determine the correct expression of the will of the electorate. So much so that laws governing election protests must be liberally interpreted to the end that the popular will expressed in the election of public officers will not, by reason of purely technical objections, be defeated.^[16] Hence, technicalities are not favored.^[17] This should be more so upon consideration that in an election protest, public interests enter - thus, the need of ascertaining the free and true will of the voters at the earliest possible time.

Along this same vein is this court's pronouncement in the case of *Jardiel vs. Comelec*, 124 SCRA 591 which runs thus -

"x x x In an election protest proceeding, however, which is a summary one, and in which the periods are short and fatal, and trials rapid and preferential as the peremptory nature of the litigation so requires, the motion for dismissal at that stage of the proceeding must be considered as a demurrer to the evidence presented by the protestant, with implied waiver by the protestee to present his evidence, whatever may be the ruling, whether adverse or favorable, either in the first instance or on appeal, the court of origin or appellate court having the power to definitely decide the protest. If, in the prosecution of election protests the ordinary practice were to be followed in regard to the presentation of motions for dismissal or of demurrers to the evidence, in the majority of cases, if not always, the law would be frustrated and the will of the electorate defeated, to the great detriment of the underlying principles of representative government, because, in case of revocation of a ruling sustaining the motion of dismissal or the demurrer on appeal, the case would have to be remanded to the court below for the continuation of the trial and the introduction of evidence by the protestee, thus causing the proceeding to continue during the term of the office in question, with the possible result that the defeated, and

not the elected, candidate would be discharging the office.

In election protests, therefore, the protests should not be permitted to present a motion for dismissal or a demurrer to the evidence of the protestant, unless he waives the introduction of his own evidence in case the ruling on his motion or demurrer is adverse to him, in which case the court that tries the case must definitely decide it." [18] (Underscoring supplied)

Petitioner's submittal to the effect that the issue of private respondent's disqualification be first resolved before any revision of ballot may be made is, at this point of time, when the term for the disputed office is about to expire, not merely not in accord with the aforesaid principle but in total derogation thereof. To sustain such a view will, in effect nullify the sovereign will of the electorate - for time is running short - which we are not prepared to countenance.

Both the disqualification cases against private respondent and petitioner, together with the election contest involving the parties herein are now with the same court. To simplify matters and for the convenience of all concerned, but more importantly in compliance with the aforesaid doctrines, said cases must be tried jointly and disposed of soonest possible.

Anent petitioner's plea for the inhibition of the respondent Judge, that is now moot and academic with the transfer of respondent Judge Villanueva to another jurisdiction and the appointment of another judge, Hon. Judge Narciso Salcedo to the Siniloan branch.

WHEREFORE, the instant Petition is hereby DISMISSED. Judge Narciso Salcedo or whoever may now be presiding over the Siniloan Regional Trial Court, is hereby ordered to proceed immediately with the trial of Election Case No. 2, together with the disqualification cases against private respondent and the herein petitioner.

The restraining order earlier issued is hereby LIFTED and SET ASIDE.

This decision is IMMEDIATELY EXECUTORY.

SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., de la Fuente, and Alampay, JJ., concur.

Aquino, J., in the result.

Concepcion, Jr., no part.

[1] Par. 8, Petition in G.R. No. 55692.

[2] Annex "A".

[3] G.R. No. 42426.

[4] Petition - Election Protest No. II, Par. 2.

[5] Civil Case No. S-261.

[6] Motion for Admission of Amended Answer with Supplemental Affirmative Defenses and Counter-Protest - Annex "D".

[7] Par. 4, Motion to Amend.

[8] Par. 5, Motion to Amend.

- [9] Versoza vs. Versoza, L-25609, November 27, 1968; Sese vs. GSIS, L-13581, August 31, 1960.
- [10] Sadeco vs. CA, 115 SCRA 90.
- [11] Torres vs. Tomacruz, 49 Phil. 913; Arches vs. Villaruz, 54 O.G. 4269.
- [12] De Ocampo vs. Mañalac, 92 Phil. 860.
- [13] Rosario vs. Carandang, 96 Phil. 845.
- [14] Limpangco vs. Mercado, 10 Phil. 508.
- [15] Sec. 3, Rule 3, Rules of Court; Paman vs. Diaz, 116 SCRA 125.
- [16] De Leon vs. Guadiz, 104 SCRA 591.
- [17] De Castro vs. Gineta, 27 SCRA 623; Jalandoni vs. Sarcon, 94 Phil. 266; Surtida vs. Lesaca, 66 Phil. 168; Anis vs. Contreras, 55 Phil. 923; Galang vs. Miranda & De Leon, 35 Phil. 269.
- [18] Demetrio vs. Lopez, 50 Phil. 45 cited in Jardiel vs. Commission on Election, 124 SCRA 650, 658.

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