

RODOLFO DE LEON, PETITIONER, VS. THE COMMISSION ON ELECTIONS, AND CONRADO LINDO, RESPONDENTS.

G.R. No. 56968. April 30, 1984

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

An impressive number of cases from *Venezuela v. Commission on Elections*^[1] dictates the outcome of this petition to review a decision of respondent Commission on Elections, dismissing a case for the disqualification of respondent Conrado Lindo to run as a candidate for municipal mayor of Ternate, Cavite in the 1980 Elections. Petitioner is the duly-elected mayor, performing his functions after being proclaimed. His undue insistence on the matter still being adjudged manifests a failure to abide by the generally accepted principle that a pre-proclamation controversy should be laid to rest, there being the remedy of a protest or a quo warranto proceeding that could be utilized. The petition must fail.

The facts that gave rise to this petition for review may be summarized thus: In the January 30, 1980 elections for the position of mayor for the municipality of Ternate, Cavite, petitioner Rodolfo de Leon was the KBL candidate while respondent Conrado Lindo, also from the KBL, was the independent candidate for the same position.^[2] On January 25, 1980, there was a verified letter-petition (PDC No. 390) filed with respondent Commission by petitioner to disqualify respondent Lindo on the ground that he allegedly lacked the six-month residence requirement, it being alleged that said respondent was a resident of Noveleta, Cavite prior to the filing of his certificate of candidacy.^[3] There was, in addition a supplemental letter from petitioner filed on January 28, 1980, with a certification dated January 25, 1980 of one Amado Melo, allegedly the barangay captain of San Rafael II, Noveleta, Cavite, that "as per record of Census on file in this barangay, Spouses Conrado Lindo and Cdrason Zapanta has (sic) been residents" of said barangay "since 1969 up to the present."^[4] The election took place on January 30, 1980 without such petition being decided.^[5] That was followed on February 5, 1980 with petitioner filing three separate certifications coming respectively from the Municipal Treasurer of Ternate, Cavite, Barangay Captain of the poblacion of Ternate, and Election Clerk of same municipality.^[6] In the meanwhile, petitioner had been proclaimed the duly-elected mayor of Ternate and had assumed the position.^[7] On February 28, 1980, respondent Commission denied the petition for disqualification, the resolution stating that "petitioner failed to present sufficient evidence against herein respondent."^[8] There was a motion for reconsideration.^[9] As stated above, it was denied for lack of merit the reason being that "petitioner was already proclaimed Mayor of Ternate, Cavite, had assumed the position and is now discharging the duties of his office so that this pre-proclamation controversy has become moot and academic. Also, the certification issued by the Election Registrar of Ternate (Exhibit 2) and the list of voters (Exhibits 2-A, 2B and 2b-1) which have not been controverted show that Conrado Lindo voted in Voting Center No. 3-A Ternate, Cavite during the April 7, 1978 IBP elections and January 30, 1980 local elections."^[10]

Clearly then, respondent Commission cannot be faulted for deciding the way it did. It did so in accordance with the settled law on the subject. No useful purpose would be served by a petition of this character, taking up its time

when its dismissal was the most appropriate response. There was no legitimate grievance that petitioner could show. The votes in his favor were counted; he was duly proclaimed; he is in actual discharge of his functions as municipal mayor. There is, therefore, no reason for prolonging a pre-proclamation controversy.

Petitioner raised the question of the alleged constitutional infirmity contending that there was no observance of procedural due process. This argument is devoid of merit. There was in his original letter dated January 25, 1980 to respondent Commission seeking to disqualify respondent Lindo no document that would justify his assertion of his opponent being a resident of Noveleta. On January 28, 1980, in his supplemental-letter petition, there was attached a certification dated January 25, 1980 of the barangay captain of San Rafael II, Noveleta to the effect that respondent "has been a resident" of said barangay "since 1969 up to the present", and on that basis he requested "the immediate and favorable attention" of COMELEC. To bolster his case, there was a second supplemental letter petition dated February 1, 1980, petitioner with three more certifications to support his claim that respondent Lindo was a resident of Noveleta and, with the prayer that respondent Commission disqualify respondent Lindo.

As set forth in the Comment of the Office of the Solicitor General: "There is nothing in all these three letter-petitions where petitioner reserved to present additional evidence. He did not move for formal hearing of the case so that he could present testimonial evidence. It is implicit in these letters that petitioner wanted respondent COMELEC to immediately disqualify respondent Lindo on the basis of the documents he had attached to his supplemental letters. When therefore COMELEC found on the basis of those documents that there was no sufficient factual basis for the charge that respondent Lindo did not meet the residence requirement of the law, COMELEC only acted pursuant to the obvious prayer of petitioner to resolve the case expeditiously on the basis of the evidence presented by him." [11]

Petitioner has, therefore, only himself to blame. He was quite resolute in his belief that the documentary evidence was sufficient. As noted in respondent Commission's order denying the motion for reconsideration: "Also, the certification issued by the Election Registrar of Ternate, (Exhibit 2) and the list of voters (Exhibits 2-A, 2B and 3b1) which have not been controverted show that Conrado Lindo voted in Voting Center No. 3-A Ternate, Cavite during the April 7, 1978 IBP elections and January 30, 1980 local elections." [12] It is, likewise, a well-settled principle that the filing of a motion for reconsideration cures a defect based on the alleged lack of procedural due process.

In the light of the above, it cannot be rationally concluded that there was a grave abuse of discretion on the part of respondent Commission when it dismissed the petition for the disqualification of respondent Lindo.

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

Aquino, Concepcion, Jr., Guerrero, Melencio-Herrera, Plana, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

Teehankee, J., petitioner's action for the disqualification of his defeated rival has clearly become moot. Joins Mr. Justice Abad Santos' vote for imposition of treble costs.

Makasiar, in the result.

Abad Santos, J., this is a frivolous petition which he would have summarily dismissed with treble costs against the petitioner.

De Castro and Escolin, JJ., did not take part.

[1] G.R. No. 53532, July 25, 1980, 98 SCRA 790. Cf. *Potencion v. Comelec*, G.R. No. 52527, Sept. 4, 1980, 99 SCRA 575; *Villegas v. Comelec*, G.R. No. 52463, Sept. 4, 1980, 99 SCRA 582; *Arcenas v. Comelec*, G.R. No.

54039, Nov. 28, 1980, 101 SCRA 437; *Singco v. Comelec*, G.R. No. 52830, Nov. 28, 1980, 101 SCRA 420; *Aguinaldo v. Comelec*, G.R. No. 53953, Jan. 5, 1981, 102 SCRA 1; *Laguda v. Comelec*, G.R. No. 53747, Feb. 20, 1981, 102 SCRA 857; *Agcaoili v. Santos and Comelec*, G.R. No. 52791, Feb. 26, 1981, 103 SCRA 350; *Faderanga v. Comelec*, G.R. No. 55938, June 26, 1981, 105 SCRA 123; *Festin v. Faderanga*, G.R. No. 57351, Jan. 16, 1982, 111 SCRA 1; *Disini v. Comelec*, G.R. No. 52502, Dec. 30, 1982, 119 SCRA 511; *Resurreccion v. Poblete*, G.R. No. 57219-20, Jan. 4, 1984.

[2] Petition, Statement of Facts, 1st par.

[3] *Ibid*, 2nd par.

[4] *Ibid*, Annex H and H-1.

[5] *Ibid*, 3rd par.

[6] *Ibid*, Annexes I-1, I-2, and I-3.

[7] *Ibid*.

[8] *Ibid*, Annex A.

[9] *Ibid*, Annex B.

[10] *Ibid*, Annex C.

[11] Comment, 5.

[12] Annex C to Petition.

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