

ADELINA B. GABATAN, PETITIONER, VS. COMMISSION ON ELECTIONS AND LEONARDO MACALALAG, RESPONDENTS.*G.R. No. 58113. May 02, 1983*

Ponente: FERNANDO, C.J.

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The question before this Tribunal in this certiorari and prohibition proceeding is one of first impression. It is whether or not an action for ineligibility against a municipal official falls within the jurisdiction of respondent Commission on Elections or of a Court of First Instance. Petitioner Adelina B. Gabatan relies on the specific provision of the 1978 Election Code to support her claim that such authority belongs to the courts and not to respondent Commission. It reads thus: "Election contests for municipal and municipal district offices.— A sworn petition contesting the election of a municipal or municipal district officer shall be filed with the proper Court of First Instance by any candidate for the same office who has duly filed a certificate of candidacy, within ten days after the proclamation of the election." [1] She assailed the jurisdiction of respondent Commission which after her proclamation as Mayor of Pagsanjan, Laguna, took cognizance of a petition to disqualify her for changing her party affiliation within the prohibited period. That is to disregard the immediately—preceding section of the Election Code, which grants the right to any voter "contesting the election of any officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines [to] file a petition for quo warranto with the Commission within ten days after the proclamation of his election." [2]

The facts are undisputed. Petitioner Gabatan and private respondent Macalalag were the only candidates for the position of Mayor of the municipality of Pagsanjan, Laguna in the local elections held on January 30, 1980. [3] Thereafter, petitioner was duly proclaimed as winner the next day by the Municipal Board of Canvassers of Pagsanjan, Laguna. [4] Then came on February 2, 1980 a petition for her disqualification filed with respondent Commission on the ground of turncoatism, she having changed her party affiliation within six months preceding the election. [5] A petition for quo warranto based on the same ground was filed before the Court of First Instance by private respondent on February 7, 1980, such action being continuously heard, private respondent at the time of the filing of this case with this Court having just terminated presenting his evidence in rebuttal. [6] Then on February 23, 1980, a motion to dismiss was filed by petitioner with respondent Commission on the ground of lack of jurisdiction. [7] An answer was filed, the motion to dismiss having remained unresolved, and on March 4, 1981 the motion to dismiss was denied. [8] A motion for reconsideration proved unavailing. Hence, this petition. [9]

The Court after due consideration and for reasons to be hereinafter set forth holds that on the facts disclosed, it is respondent Commission, that is vested with jurisdiction.

1. In *de Jesus v. People of the Philippines*, [10] a decision rendered in February of this year, the question to be decided was whether on the one hand, the power to investigate, prosecute and try election offenses committed by a public officer in relation to his office is vested in the Commission on Elections and the Court of First Instance, now the regional trial court, or, on the other hand, the Tanodbayan for the prosecution and thereafter the Sandiganbayan for the trial. This Court in the able opinion penned by Justice Escolin held: "The grant to the

COMELEC of the power, among others, to enforce and administer all laws relative to the conduct of election and the concomitant authority to investigate and prosecute election offenses is not without compelling reason. The evident constitutional intendment in bestowing this power to the COMELEC is to insure the free, orderly and honest conduct of elections, failure of which would result in the frustration of the true will of the people and make a mere idle ceremony of the sacred right and duty of every qualified citizen to vote. To divest the COMELEC of the authority to investigate and prosecute offenses committed by public officials in relation to their office would thus seriously impair its effectiveness in achieving this clear constitutional mandate. From a careful scrutiny of the constitutional provisions relied upon by the Sandiganbayan, We perceive neither explicit nor implicit grant to it and its prosecuting arm, the Tanodbayan, of the authority to investigate, prosecute and hear election offenses committed by public officers in relation to their office, as contradistinguished from the clear and categorical bestowal of said authority and jurisdiction upon the COMELEC and the courts of first instance under Sections 182 and 184, respectively, of the Election Code of 1978."^[11]

2. There is persuasive force to such an approach. It is undeniable that more than in the 1935 Constitution as amended in 1940, the Commission on Elections under the present Constitution has been vested with broader authority. So it was pointed out in *Villegas v. Commission on Elections*:^[12] "A novel provision in the present Constitution is that empowering the Commission on Elections to be 'the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the National Assembly and elective provincial and city officials.' Thus, its competence is greater than that formerly found in the 1935 Constitution which is limited to the 'enforcement and administration of all laws relative to the conduct of elections.'"^[13] The basic postulate appears to be to concentrate in one agency the inquiry into and thereafter the resolution of any dispute or controversy dealing with elections. That is to manifest adherence to the concept now accorded universal recognition that expertise is more easily acquired if the work entrusted to an office is of a specialized kind. Clearly then, a ruling that would deprive the Commission of jurisdiction can hardly be impressed with plausibility.

3. Nor is the reliance of private respondent on the constitutional provision alone. The Election Code, as noted earlier, recognizes the right of any voter to file a petition for quo warranto on the ground of ineligibility or disloyalty to the Republic of the Philippines. It would be then far too restrictive an interpretation of such provision if respondent Commission, is denied the power to act on a petition of this character. That would not be in keeping with the expanded scope of its authority as ordained by the Constitution. Nor is it a sufficient ground to deny such competence by relying on the constitutional provision earlier referred to in *Villegas v. Commission on Elections* that it should be "the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa and elective provincial and city officials."^[14] Implicit in the use of the word "sole" is the recognition of the power of the legislative body to enable the courts to judge controversies of municipal officials. As long as such statutory provision exists then, there being no finding of unconstitutionality, it must be obeyed.

4. Assuming, therefore, that there is an element of ambiguity, the proper interpretation being that jurisdiction of respondent Commission and the courts is concurrent, the petition still must fail. As admitted by petitioner, the plea for her disqualification on the ground of having changed her party affiliation within six months preceding the election was filed as early as February 2, 1980 before a quo warranto proceeding was filed on February 7, 1980 in the Court of First Instance. It is elementary that the agency which first assumes jurisdiction of a case retains control.

WHEREFORE, the petition is dismissed. No costs.

Makasiar, Concepcion Jr., Guerrero, De Castro, Plana, Escolin, Vasquez and Gutierrez, Jr., JJ., concur.
Teehankee, J., joins the dissent of Mr. Justice Abad Santos and files a brief dissenting opinion.

Aquino, J., no part.

Abad Santos, J., dissents in a separate opinion.

Melencio-Herrera and Relova, JJ., are on leave.

[1] Sec. 190 of the 1978 Election Code.

[2] Ibid, Sec. 189.

[3] Petition, II, par. 4.

[4] Ibid, par. 5.

[5] Ibid, par. 6 and Annex A.

[6] Ibid, par. 7.

[7] Ibid, par. 8.

[8] Ibid, pars. 9-11.

[9] Ibid, pars. 12-13.

[10] G.R. No. 61998, February 22, 1983.

[11] Ibid, 4-5.

[12] G.R. No. 52463, September 4, 1980, 99 SCRA 582.

[13] Ibid, 584-585.

[14] Article XII, C, Sec. 2, par. 2 of the Constitution.

DISSENTING OPINION

TEEHANKEE, J.:

I join the dissent of Mr. Justice Abad Santos. It is quite clear from the quoted provisions of Sections 189 and 190 of the 1978 Election Code that Section 189 refers to contests concerning "the election of any member of the interim Batasang Pambansa or any provincial or city official" which must be filed with the Commission on Elections, while Section 190 deals with contests referring to "the election of a municipal or municipal district officer" which must be filed with the proper Court of First Instance (now Regional Trial Court). The Commission on Elections, therefore, lacks original jurisdiction to take cognizance of the contest at bar. The same involves the office of the municipal mayor of Pagsanjan, Laguna and exclusive jurisdiction over such contest is vested in the Regional Trial Court (as successor of the defunct Court of First Instance).

DISSENTING OPINION

ABAD SANTOS, J.:

I regret that I have to dissent from the usual learned opinion of Chief Justice Fernando.

Two provisions of the 1978 Election Code (P.D. No. 1296) are mentioned in the opinion of the Chief Justice,

namely:

"Sec. 189. Filing of petition.— A sworn petition contesting the election of any member of the interim Batasang Pambansa or any provincial or city official shall be filed with the Commission by any candidate for the same office within ten days after the proclamation of the results of the election.

"Any voter contesting the election of any officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines may file a petition for quo warranto with the Commission within ten days after the proclamation of his election."

"Sec. 190. Election contests for municipal and municipal district offices.— A sworn petition contesting the election of a municipal or municipal district officer shall be filed with the proper Court of First Instance by any candidate for the same office who has duly filed a certificate of candidacy, within ten days after the proclamation of the election."

The Chief Justice applies paragraph 2 of Sec. 189 to the case at bar. On the other hand I submit that the controlling provision is Sec. 190.

I believe that paragraph 2 of Sec. 189 has to be read in connection with paragraph 1 and thus read will have a restricted meaning because it deals only with "any member of the interim Batasang Pambansa or any provincial or city official." The second paragraph of the same section must necessarily refer to those officials only. In this light, said second paragraph cannot apply to the case at bar which involves a municipal office, specifically the office of the mayor of Pagsanjan, Laguna. The operative provision should be Sec. 190 which deals with municipal officials.

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