

FRANCISCO B. ASUNCION, JR., PETITIONER, VS. HONORABLE ROSALIO C. SEGUNDO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF PANGASINAN, BRANCH V, VILLASIS PAN...

G.R. No. 59593. September 24, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The infirmity, fatal in character, that argues against the reversal of an order of dismissal by respondent Judge, Rosalio C. Segundo, of a quo warranto suit on the ground of ineligibility, is quite apparent from the motion to dismiss of private respondent Laureano S. Perez. It was alleged, and correctly so, that the action, if any, had prescribed. The concluding paragraph of such order of respondent Judge speaks for itself: "The Court, after considering all the issues raised by the pleadings of both petitioner and respondent and after hearing their arguments pro and con, is of the considered opinion that the instant case was, indeed, filed out of time and that this Court has no jurisdiction over the case." [1] The facts, as hereinafter disclosed, justify such a conclusion. Moreover, the applicable law is on the side of private respondent. This certiorari petition lacks merit.

The facts are clear. On July 15, 1981, petitioner filed a special civil action docketed in the sala of respondent Judge against private respondent. [2] Then on July 29, 1981, private respondent filed a motion to dismiss with petitioner filing his opposition to such motion on August 12, 1981. [3] On September 8, 1981 the assailed order of respondent Judge was issued, dismissing such quo warranto suit. [4] There was a motion for reconsideration, which was denied. [5] In the motion to dismiss, it was pointed out that the proclamation of private respondent having been made on February 1, 1980, the period for filing a quo warranto suit on the ground of ineligibility should be within ten days from such a date. [6] As admitted in the petition, it was not until July 15, 1981 that this case was filed in the sala of respondent Judge. As pointed out in such order of dismissal: "Obviously, the petition should have been filed with the Commission on Elections and this should have been done within ten (10) days after proclamation of the election of the respondent on February 1, 1980." [7]

The law is equally clear. The Election Code grants the right to a 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." [8] There is no getting away from the explicit mandate of the law. A ten-day period is set forth. It must be obeyed. This Court has reiterated time and time again the principle that when the statute speaks clearly and unequivocally, there is no room for interpretation. It must be applied as worded. [9] It is to be noted that there is a distinction between an election protest and a quo warranto suit on ground of ineligibility. [10] This Court has even gone as far as holding that an action for quo warranto cannot be converted into an election protest. [11] It may not be amiss to state that under the former Election Code, [12] the period granted is limited one week or seven days, [13] not ten days as now provided. Then as well as now, however, whatever period is prescribed be followed to the letter. It is as simple as that.

WHEREFORE, this certiorari petition is dismissed for lack of merit, and the order of dismissal issued by respondent Judge in Special Civil Case No. U-3667 dated September 8, 1981 is affirmed. No costs.

Makasiar, Aquino, Concepcion, Jr., Guerrero, Melencio-Herrera, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee, J., no part.

Abad Santos, J., concurs on the basis of Sec. 190 of the 1978 Election Code.

De Castro, J., on sick leave.

[1] Order of respondent Judge, Annex D to Petition, 3.

[2] Petition, par. 2 and Annex A to Petition.

[3] Ibid, pars. 3 and 4, and Annexes B and C to Petition.

[4] Ibid, par. 5 and Annex D to Petition.

[5] Ibid, pars. 6 and 7, and Annex E and F to Petition.

[6] In the motion to dismiss, the 10-day period was counted up to February 10, 1980. That is a mistake. It should be February 11, 1980.

[7] Order of respondent Judge, Annex D to Petition, 2.

[8] Section 189 of the 1978 Election Code.

[9] Cf. *Kapisanan ng mga Manggagawa v. Manila Railroad Co.*, L-25316, Feb. 28, 1979, 88 SCRA 616. The opinion cited 13 cases starting from *People v. Mapa*, L-22301, Aug. 30, 1967, 20 SCRA 1164 to *Gonzaga v. Court of Appeals*, L-27455, June 28, 1973, 51 SCRA 381. After the *Manggagawa* decision came two later cases of the same tenor: *Banawa v. Mirano*, L-24750, May 16, 1980, 97 SCRA 517; *Insular Lumber Co. v. Court of Tax Appeals*, L-31057, May 29, 1981, 104 SCRA 710.

[10] Cf. *De la Rosa v. Yanson*, 62 Phil. 446 (1928); *Pacal v. Ramos*, 81 Phil. 30 (1948); *Gorospe v. Peñaflorida*, 101 Phil. 886 (1957).

[11] Cf. *Luison v. Garcia*, 103 Phil. 453 (1958); *Sanchez v. del Rosario*, 111 Phil. 733 (1961); *Republic v. Corpin*, 104 Phil. 49 (1958); *Campus and Oroc v. Degamo and Palarca*, 116 Phil. 541 (1962).

[12] Section 173, Republic Act No. 180 (1947).

[13] Section 189, Election Code of 1978.

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