

ROGELIO DE JESUS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, ET AL., RESPONDENTS.*G.R. No. 61998. February 22, 1983*

Ponente: ESCOLIN, J.

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The question of law posed for determination in this petition for review on certiorari of the resolution of the Sandiganbayan may be propounded thus: Which of these entities have the power to investigate, prosecute and try election offenses committed by a public officer in relation to his office—the Commission on Elections and the Court of First Instance [now the regional trial court] or the Tanodbayan and the Sandiganbayan?

After the local elections of January 18, 1980, Ananias Hibo, defeated candidate of the Nacionalista Party for the office of mayor of the Municipality of Casiguran, Sorsogon, filed with the COMELEC a complaint charging petitioner Rogelio de Jesus, then COMELEC registrar of Casiguran, with violation of the 1978 Election Code. Copy of the complaint was sent to the Ministry of Justice which endorsed the same to the Provincial Fiscal of Sorsogon for investigation. Noting that petitioner was being charged in relation to his office, Asst. Fiscals Manuel Genova and Delfin Tarog, in their capacity as deputized Tanodbayan prosecutors, conducted an investigation. Thereafter Fiscal Genova issued a resolution, finding the existence of a prima facie case against petitioner for violation of Section 89[1] and sub-sections [x][2] and [mm][3] of Section 178 of the Election Code of 1978. After approval thereof by the Tanodbayan, the following information, dated January 27, 1982, was filed before the Sandiganbayan:

"That on or about January 30, 1980 and sometime thereafter to February 6, 1980, in the Municipality of Casiguran, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused while discharging the Office of the Election Registrar in the Municipality of Casiguran, Province of Sorsogon, taking advantage and abusing his official position, did then and there willfully, unlawfully and feloniously by reason of his being a registrar knowingly registered persons in order to vote on January 30, 1980 being an election day and at the same time issuing identification cards during election day, thereby violating the provision of the Election Code of 1978 and at the same time tampering with the election reports by making it appear that 10,727 persons were the total number of registered voters for the election of January 30, 1980, when in truth and in fact the actual total number of voters as reported on January 27, 1980 by the accused was only 10,532 but then changed to 10,727, thereby violating the provisions of Section '89' and Section '178' under Article XVI specifically sub-section 'X' and sub-section 'MM', which is a violation of the Election Code of 1978 to the erosion of public faith and confidence."

The case, docketed as SB Criminal Case No. 5054, was raffled to the Second Division of the Sandiganbayan.

Petitioner filed a motion to quash the information, contending that neither the Tanodbayan nor the Sandiganbayan has the authority to investigate, prosecute and try the offense charged in the information, the same being an election offense over which the power to investigate, prosecute and try is lodged by law in the COMELEC and the Court of First Instance. In its opposition, the prosecution maintained the Tanodbayan's exclusive authority to

investigate and prosecute offenses committed by public officers and employees in relation to their office, and consequently, the Sandiganbayan's jurisdiction to try and decide the charges against petitioner.

The COMELEC, having learned of the pendency of the case, entered its appearance as amicus curiae, and through its law department manager, Atty. Zoilo Gomez, Jr., submitted a memorandum supporting petitioner's stand.[4]

On August 13, 1982, the Sandiganbayan issued the questioned resolution denying the motion to quash. Petitioner's motion for reconsideration was likewise denied. Hence, this petition for review on certiorari.

The legal question posed being one of first impression, this Court resolved to give due course to the petition, treating the same as an original petition for certiorari under Rule 65 of the Rules of Court, the proper mode by which relief from the resolution of the Sandiganbayan could be obtained from this Tribunal.

Petitioner and respondents rely on different provisions of the 1973 Constitution as bases for their respective contentions. Petitioner invokes Section 2 of Article XII[c] of the 1973 Constitution which vests upon the COMELEC the power "to enforce and administer all laws relative to the conduct of elections," and its implementing legislation, Section 182 of the 1978 Election Code, which provides the following:

"Section 182— Prosecution. The Commission shall, thru its duly authorized legal officer, have the power to conduct preliminary investigation of all election offenses punishable under this Code and to prosecute the same. The Commission may avail of the assistance of other prosecuting arms of the government."

Petitioner further cites Section 184 of the same Code which invests the court of first instance with "exclusive original jurisdiction to try and decide any criminal action or proceedings for violation of this Code, except those relating to the offense of failure to register or failure to vote which shall be under the jurisdiction of the city or municipal courts. . . ." The Solicitor General supports the petitioner's views.[5]

Upon the other hand, the Sandiganbayan, in its resolution of August 13, 1982,[6] asserts its jurisdiction over Criminal Case No. 5054 on the authority of Section 5, Article XIII of the Constitution, which mandated the creation by the Batasan Pambansa of "a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices, and such other offenses committed by public officers and employees, including those in government-owned and controlled corporations, in relation to their office as may be determined by law."

To the Sandiganbayan, as set forth in the challenged resolution, ". . . the key phrase in the determination as to which of the Sandiganbayan or the regular courts of first instance should take cognizance of an election offense, is the phrase, 'in relation to their office'." Thus, it would distinguish between election offenses committed by public officers and employees in relation to their office and those committed not in relation to their office, in this manner:

"If the election offense is committed by a public officer or employee NOT in relation to their office, generally, jurisdiction will be assumed by the regular courts. If, on the other hand, the offense was committed by a public officer or employee in relation to their office, then there is no other tribunal vested with jurisdiction to try such offense but this court, in consonance with the mandate of the Constitution that the Sandiganbayan has jurisdiction, 'over . . . offenses committed by public officers and employees in relation to their office.'"

We find the position taken by the Sandiganbayan devoid of merit.

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.

Under the Constitution, the Sandiganbayan shall have jurisdiction over "... offenses committed by public officers ... in relation to their office as may be determined by law" [Sec. 5, Art. XIII]; while the Office of the Tanodbayan shall "receive and investigate complaints relative to public office." [Sec. 6, Art. XIII]. The clause, "as may be determined by law" is, to Our mind, imbued with grave import. It called for a legislation that would define and delineate the power and jurisdiction of both the Tanodbayan and the Sandiganbayan, as what, in fact had been provided for in Presidential Decree Nos. 1606 and 1607, creating the said entities.

Thus, under Section 4 of P.D. No. 1606, the Sandiganbayan shall have jurisdiction over:

"[a] Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 1379;

[b] Crimes committed by public officers and employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and,

[c] Other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office."

Plainly, the above quoted paragraph [c] is but a re-statement of the constitutional provision relating to the Sandiganbayan. It is also to be noted that it is phrased in terms so broad and general that it cannot be legitimately construed to vest said entity with exclusive jurisdiction over election offenses committed by public officers in relation to their office. Neither can it be interpreted to impliedly repeal the exclusive and original jurisdiction granted by Section 184 of the Election Code of 1978 to the court of first instance to hear and decide all election offenses, without qualification as to the status of the accused.

Apart from the fact that repeals by implication are not favored, it is noted that while Section 184 of the Election Code deals specifically with election offenses, Section 4[c] of P.D. No. 1606 speaks generally of "other crimes or offenses committed by public officers ... in relation to their office." Needless to state, as between specific and general statute, the former must prevail since it evinces the legislative intent more clearly than a general statute does.[7] And where a reconciliation between the statute is possible, as in the case at bar, the former should be deemed an exception to the latter.[8]

The same principle of statutory construction should be applied with respect to the powers vested upon the COMELEC and the Tanodbayan in so far as election offenses are concerned.

Moreover, as aptly observed by the COMELEC as well as the Solicitor General, splitting the jurisdiction over election offenses would serve no beneficial purpose but would rather spawn much controversy—"complaints about unequal protection, about inconsistent decisions, etc. (which are) not conducive to a fair and speedy administration of justice." [p. 17, Comment, Solicitor General]

WHEREFORE, the resolution of the Sandiganbayan Second Division dated August 13, 1982 is hereby set aside and Criminal Case No. 5054, entitled "People of the Philippines versus Rogelio de Jesus" is ordered dismissed. The COMELEC is hereby directed to forthwith conduct an investigation, and if the evidence so warrants, to prosecute the complaint against petitioner before the proper court of first instance. No costs.

SO ORDERED.

Fernando, C.J., Makasiar, Concepcion Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Teehankee and Abad Santos, JJ., reserves their vote.

Aquino, J., is on leave.

[1] Section 89 of the 1978 Election Code provides:

"Sec. 89. Certified list of voters.— Not later than three days before the day of the election, the election registrar and the members of the citizens election committee shall prepare and certify, in three copies, a complete list of voters for each voting center containing the names, in alphabetical order, and addresses of all voters registered in the city, municipality or municipal district based on the approved applications in the books of voters. One copy shall be delivered to the election committee together with the books of voters for use on election day, one copy shall be delivered to the barangay captain concerned who shall inform the voters of their voting center, and the third copy shall be retained by the election registrar."

[2] & [3] Sub-sections "x" and "mm" of Section 178 of the 1978 Election Code read as follows:

"Sec. 178. Prohibited Acts.— The following shall be guilty of an election offense:

.....

[x] Any election registrar or any person acting in his behalf who issues or causes the issuance of a voter's certificate of registration or cancels or causes the cancellation thereof in violation of the provisions of this Code.

.....

[mm] Any person who, without authority, acts as, or assumes or performs any any function of a member of the election committee, or the board of canvassers, or deputy of representative of the Commission."

[4] Annex "F", p. 47, Rollo.

[5] Solicitor General's Comment dated January 11, 1983.

[6] p. 124, Rollo.

[7] Lacsamana vs. Baltazar, 92 Phil. 32; Wilhemsen vs. Baluyot, 83 SCRA 38.

[8] Lichauco vs. Apostol, 44 Phil. 138; Butuan Saw Mill Inc. vs. City of Butuan, et al., 16 SCRA 755.

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