

PROCESO SIDRO, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND NESTORIO TEJANO, RESPONDENTS.

G.R. No. 64033. July 25, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The disposition of this appeal by certiorari from a decision of respondent Commission on Elections presents no difficulty in the light of the undisputed facts and the applicable legal principles. After the January 1980 local elections, to be precise, on January 31, 1980, private respondent, Nestorio Tejano, the Nacionalista candidate, was proclaimed as the duly elected mayor of Mapanas, Northern Samar, having obtained more than two hundred votes as against petitioner, Proceso Sidro, the KBL candidate.[1] He then filed a quo warranto petition for disqualification of the victor. He alleged that private respondent changed party affiliation within six months immediately preceding the January 30, 1980 elections. There was a denial by private respondent and co-respondents in the suit filed with the Commission on Elections.[2] The parties were duly heard. On April 18, 1983, the quo warranto petition was dismissed.[3]

Respondent Commission on Elections took pains in explaining why the dismissal of the petition was warranted. Thus "We have repeatedly examined the petitioner's exhibits A, C, D, E, F, G, H and I, which are supposed to show and establish turncoatism on the part of the respondents, and it is Our opinion that such documents cannot support a verdict of guilt for the alleged shift of party allegiance by the respondents from the KBL to the NP. Petitioner's documentary exhibits are shot through with such questionable features suggestive of the fact that said documents are 'manufactured'. They are either unsigned by the respondents; or, if signed, the signatures thereon are faked, or affixed thereto without any political undertones; or, certified by one other than the person who was supposed to prepare the same. As such, they serve no legal purpose, much less be the basis to disqualify and unseat the respondents for alleged turncoatism. As for exhibit B, which is offered to further prove respondent Tejano's KBL membership before he turned Nacionalista on January 4, 1980, the date his certificate of candidacy under the NP was filed, We declare it to be illegal, contrary to public policy and void from its inception. As an agreement among the three aspirants for mayor of Mapanas, Northern Samar, its object is a public office, or more specifically, the occupancy thereof. In our political system, a public office is beyond the commerce of man (Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. IV, 1962 Ed., 478) and being so, it cannot be subject of contracts. Evidently, the charge of turncoatism against the respondents had not been sustained by the evidence. Their KBL connection was not established. The only party of which they have been shown to be members and which was admitted by them to be their party in the 1980 election was the Nacionalista Party (see respondents' Answer, par. 3; also Exhibit J or 5). Therefore, they could not be turncoats." [4] The dispositive portion of such decision follows: "With the foregoing findings and conclusions, this Commission (Second Division) cannot but [Affirm] the election of all the respondents. Petition [Dismissed]." [5] Hence this certiorari petition by way of an appeal.

It is apparent why, as indicated at the outset, no difficulty is presented in the disposition of this appeal.

Respondent Commission must be sustained.

Further, respondent Commission on Elections, according to the Comment of the Solicitor General, "held that respondent Tejano has always been an NP and logically was the then official NP candidate for mayor. This is not without basis. There is undisputed testimony that he had been elected as mayor of Mapanas under the NP, three times since 1967 to December 30, 1979 (p. 8, tsn, February 11, 1982) until his successor, the petitioner herein, was appointed by the President as mayor on January 2, 1980. It is not also denied that respondent Tejano presided over the local NP convention before the January 30, 1980 elections (pp. 61-62, tsn, December 8, 1981). And said respondent likewise denied that he was the chairman of the local KBL during said elections, that he signed any affiliation paper, or that he ever took his oath as a member of the party (pp. 30-34, tsn, February 11, 1982)."[6]

There is more than sufficient justification for this assertion in such Comment: "The factual findings then of COMELEC were not whimsical and capricious."[7] How then can the prayer of petitioner to reverse the decision under review be granted? This Court has invariably followed the principle that in the absence of any jurisdictional infirmity or an error of law of the utmost gravity, the conclusion reached by respondent Commission on a matter that falls within its competence is entitled to the utmost respect. So it has been reiterated time and time again.[8]

Thus it was in the first leading case on the matter under the 1935 Constitution, *Sotto v. Commission on Elections*.^[9] The opinion of Justice Feria, after setting forth the applicable constitutional provisions and the Rules of Court, stated: "In accordance with the provision of section 9 of Commonwealth Act No. 657, this Court can not, therefore, review the rulings or findings of fact of the Commission on Elections."^[10] A caveat is in order. Such rulings or findings a fact of the Commission on Elections must be lacking in arbitrariness to be conclusive on this Court.

WHEREFORE, this petition is dismissed for lack of merit. The judgment is immediately executory. No costs.

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

Guerrero, J., did not take part.

De Castro and Vasquez, JJ., on leave.

[1] Petition, 2-3.

[2] *Ibid*, 2.

[3] *Ibid*.

[4] Decision, Appendix A to Petition, 4-5.

[5] *Ibid*, 5.

[6] Comment, 7.

[7] *Ibid*, 7, 8.

[8] The cases decided under the present Constitution follow: *Aratuc v. Commission on Elections*, L-49705-09, Feb. 8, 1979, 88 SCRA 251; *Sabeniano v. Commission on Elections*, 53619, Nov. 21, 1980, 101 SCRA 289; *Omar v. Commission on Elections*, 53962, Feb. 3, 1981, 102 SCRA 611; *Ticzon v. Commission on Elections*, 52451, March 31, 1981, 103 SCRA 671; *Olfato v. Commission on Elections*, 52749, March 31, 1981, 103 SCRA 741; *United Democratic Opposition v. Commission on Elections*, 56515, April 3, 1981, 104 SCRA 17; *Garcia v. Commission on Elections*, 53793, June 29, 1981, 105 SCRA 250; *Sandalo v. Commission on Elections*, 52737,

Aug. 31, 1981, 107 SCRA 132; *Geronimo v. Commission on Elections*, 52413, Sept. 26, 1981, 107 SCRA 614; *Pasion v. Commission on Elections*, 54151, Nov. 16, 1981, 109 SCRA 238; *Mangca v. Commission on Elections*, 58309-10, Feb. 25, 1982, 112 SCRA 273.

[9] 76 Phil. 516 (1946).

[10] *Ibid*, 521.

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