

ANASTACIO C. GOMEZ, PETITIONER, VS. COMMISSION ON ELECTIONS AND GENEROSO TRIESTE, SR., RESPONDENTS.

G.R. Nos. 52781 and 53658. February 16, 1983

Ponente: CONCEPCION JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-52781/>

CONCEPCION JR., J.:

Petitions for certiorari, mandamus, and injunction with a prayer for the issuance of a writ of preliminary injunction, to annul and set aside COMELEC Resolution Nos. 8529 and 9468, issued on January 28 and March 10, 1980, respectively, in COMELEC Case No. PDC-131, entitled: "In re: Petition for Disqualification of Candidacy for Municipal Mayor of Numancia, Aklan; Primitivo B. Torrecampo, petitioner, versus Anastacio C. Gomez, respondents."

The record shows that in the last elections for local government officials on January 30, 1980, the herein petitioner Anastacio C. Gomez and the private respondent Generoso Trieste, Sr., were the candidates for the position of Municipal Mayor of Numancia, Aklan. Gomez was the official candidate of the Nacionalista Party, while Trieste, Sr. was the official candidate of the Kilusang Bagong Lipunan. On January 18, 1980, one Primitivo B. Torrecampo, a registered voter of the municipality, filed a petition with the Commission on Elections, docketed therein as COMELEC Case No. PDC-131, to disqualify Gomez as a candidate on the ground of "turncoatism" in that "at least within six months immediately preceding January 30, 1980, he was affiliated with the Kilusang Bagong Lipunan (KBL) party (as) the municipal chairman thereof"; and that the herein petitioner's "change of party affiliation is violative of Section 10, Article XII(c) of the Constitution in relation to Section 4 of Batas Pambansa Bilang 52." [1]

On January 24, 1980, the herein petitioner filed his Answer to the petition for disqualification, claiming that he was a member of the Nacionalista Party when he was elected Municipal Mayor of Numancia, Aklan in 1971 and has remained a member of said party ever since; that he was designated municipal chairman of the KBL without renouncing his party affiliation before the 1978 elections for the Interim Batasang Pambansa when the KBL was merely an umbrella organization and not a political party; and that when he submitted the KBL Municipal Chapter Organization, alluded to in Torrecampo's petition, he was under the belief that the KBL was not a political party. [2]

On January 28, 1980, the COMELEC issued Resolution No. 8529, granting Torrecampo's petition and ordering the cancellation of the herein petitioner's certificate of candidacy for the reason that—

"It appears that respondent herein was elected Chairman of the KBL Municipal Chapter of Numancia, Aklan as shown in his report to the Provincial Committee Chairman (Annex 'B'); that while being a bona fide and active member of the KBL having been elected therefor and without having formally resigned therefrom, on January 3, 1980 filed with the Commission on Elections his certificate of candidacy for the position of Mayor of Numancia, Aklan, in violation of the Constitution and other pertinent laws." [3]

On election day, all Citizens Election Committees of Numancia, Aklan were informed of the cancellation of

herein petitioner's certificate of candidacy,[4] and as a result, the votes cast for the petitioner were considered stray. Only the votes cast for the KBL candidate, who obtained 3,753 votes, were counted. However, an unofficial tally made by NP watchers showed that the herein petitioner had 3,908 votes, or a margin of 155 votes over his KBL opponent. After the canvass, the Municipal Board of Canvassers of Numancia, Aklan proclaimed the private respondent Generoso Trieste, Sr. as the mayor-elect of Numancia, Aklan.

On that same day, the herein petitioner filed a motion for the reconsideration of COMELEC Resolution No. 8529, alleging that said Resolution was issued without notice and without affording him a chance to be heard; and that the finding of "turncoatism" is groundless.[5] The COMELEC did not act on this motion, and, sensing that no action was forthcoming even as the date fixed by law for the assumption of office by the elected officials drew closer, Gomez filed a petition for certiorari, mandamus and injunction with preliminary injunction with this Court, docketed as G.R. No. 52781, on February 28, 1980, to annul and set aside COMELEC Resolution No. 8529, claiming that the COMELEC acted with grave abuse of discretion "in capriciously, arbitrarily and with unseemly haste issuing its order dated January 28, 1980 cancelling the herein petitioner's certificate of candidacy in gross violation of the constitutional requirement of due process", and, that the finding that the petitioner is a turncoat is groundless.

Meanwhile, on March 6, 1980, the COMELEC issued its Resolution No. 9452, stating—

"On motion duly seconded, the Commission RESOLVED as follows: (1) to order all the citizens election committees of said municipality to reconvene immediately in the Numancia Municipal Building for purposes of counting and tallying on the election returns the votes obtained by respondent ANASTACIO C. GOMEZ in the January 30, 1980 elections; (b) to order the Numancia Municipal Board of Canvassers to reconvene immediately in the Numancia Municipal Building for purposes of canvassing the votes obtained by said respondent and, thereafter, to proclaim the winning candidate for mayor of Numancia, Aklan; and (c) to constitute a Special Action Team to supervise said election processes. This proclamation, however, shall be without prejudice to the continuation of the hearing and ruling on the disqualification of said respondent in accordance with the Commission resolution of February 27, 1980 (Item 9), as well as the final disposition of the appealed case G.R. No. 52781 (Gomez vs. Comelec), now pending with the Supreme Court." [6]

A recount of the ballots was made as ordered, and after the canvass, it was determined that the herein petitioner Gomez received 3706 votes as against 3753 cast for his KBL opponent who was thereafter, again, proclaimed as the mayor-elect.[7]

However, on March 10, 1980, the COMELEC issued its Resolution No. 9468, setting aside its Resolution No. 9452, dated March 6, 1980, stating as follows:

"Considering the Commission order of March 7, 1980 to hold in abeyance implementation of Comelec Resolution 9452 and considering further that Special Action Team notwithstanding said restraining order to hold implementation of said resolution continued to enforce said resolution the Commission Resolves (1) to set aside Comelec Res. 9452; (2) to set aside whatever action the Special Action Team has taken in implementation of Res. 9452; (3) to annul proclamation that has been made by or upon instance of the Special Action Team on March 7, 1980; and (4) to recognize the previous proclamation made by Board of Canvassers, without prejudice to whatever legal remedies may be taken by aggrieved party or parties." [8]

This, notwithstanding, on March 18, 1980, the herein petitioner, "believing in the validity and legality of COMELEC Res. No. 9452, filed with the Court of First Instance of Aklan a petition of protest contesting the election and proclamation of Generoso O. Trieste, Sr. as mayor-elect of Numancia, Aklan." [9] The case was docketed therein as Election Case No. 2619.[10] On March 25, 1980, the protestee filed his Answer thereto, alleging, as a special defense, that the protestant (petitioner herein) is disqualified to run as a candidate for Mayor

under the Nacionalista Party during the last election on January 30, 1980.[11]

Then on April 10, 1980, Gomez filed another petition for certiorari with this Court, docketed as G.R. No. 53658, imputing grave abuse of discretion on the part of the COMELEC in issuing its Resolution No. 9468, alleging that it was done "in haste and in gross violation of the basic rules of justice, fair play and due process." He prayed that COMELEC Resolution No. 9452 be sustained and that COMELEC Resolution No. 9468 be annulled and set aside.

Commenting on both petitions, the Solicitor General contended that the "petitioner can not claim that respondent Commission did not afford him any formal hearing and therefore he was denied due process of law, for the essence of due process is fair play and due process does not necessarily mean or require a formal hearing (*Suntay vs. People*, 101 Phil. 833) particularly in administrative cases, as the one at bar."

The Solicitor General's contention is without merit and was rejected in *Reyes vs. COMELEC*,[12] where this Court, through Chief Justice Enrique M. Fernando, stressed "Fidelity to the authoritative command in the leading case of *Ang Tibay vs. Court of Industrial Relations*, (69 Phil. 635) as to the observance by administrative agencies exercising quasi-judicial powers of the cardinal requirements of due process, the most prominent of which are the right to a hearing and the necessity for substantial evidence in support of its ruling." And, in *Gonzales vs. COMELEC*,[13] the extent and scope of a hearing were spelled out thusly: "A hearing means that a party should be given a chance to adduce his evidence to support his side of the case and that evidence should be taken into account in the adjudication of the case."

It results that COMELEC Resolution No. 8529, dated January 28, 1980, which was issued without proper notice and hearing, is arbitrary and therefore, of no force and effect. But since a proclamation had been made and an electoral protest, contesting the election and proclamation of the private respondent Generoso Trieste, Sr., had already been instituted in the Court of First Instance of Aklan, the issue of herein petitioner's disqualification should be resolved therein, instead of remanding the case to the COMELEC, in accordance with the case of *Arcenas vs. COMELEC*,[14] where the Court, through Chief Justice Enrique M. Fernando, said:

"1. . . . It is now the prevailing doctrine that after an election duly held and a proclamation thereafter made, a pre-proclamation controversy should no longer be viable. As was pointed out in the *Venezuela* opinion: 'it would save the time and energy of the litigants as well as respondent Commission, and eventually this Court in review of its appellate jurisdiction, if the matter were passed upon in an election protest or quo warranto petition in the proper court or agency, the office involved being that of municipal mayor.'"

WHEREFORE, the petitions should be, as they are hereby DISMISSED. No costs.

SO ORDERED.

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

Makasiar, J., reserves his vote.

Teehankee and Abad Santos, JJ., took no part.

[1] Rollo of G.R. No. 52781, pp. 10-11.

[2] *Id.*, p. 3.

[3] *Id.*, p. 12.

[4] Id., p. 13.

[5] Id., p. 13(a).

[6] Id., p. 41.

[7] Id., p. 43.

[8] Rollo of G.R. No. 53658, p. 21.

[9] Id., p. 3.

[10] Id., p. 13.

[11] Id., p. 18.

[12] G.R. No. 52649, May 15, 1980, 97 SCRA 500.

[13] G.R. No. 52789, Dec. 19, 1980, 101 SCRA 751.

[14] G.R. No. 54039, Nov. 28, 1980, 101 SCRA 437.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.