

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. GUALBERTO P. DELGADO, PRESIDING JUDGE, RTC, BR. 29, TOLEDO CITY, ELSIE RAGO, IRENIE LUMANGTAD, VIVENCIA ABARIDO, AVELINA BUTASLAC...

G.R. Nos. 93419-32. September 18, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The authority of the Regional Trial Court (RTC) to review the actions of the Commission on Elections (COMELEC) in the investigation and prosecution of election offenses filed in said court is the center of controversy of this petition.

On January 14, 1988 the COMELEC received a report-complaint from Atty. Lauron E. Quilatan, Election Registrar of Toledo City, against private respondents for alleged violation of the Omnibus Election Code. The COMELEC directed Atty. Manuel Oyson, Jr., Provincial Election Supervisor of Cebu, to conduct the preliminary investigation of the case.

After conducting such preliminary investigation, Oyson submitted a report on April 26, 1989 finding a prima facie case and recommending the filing of an information against each of the private respondents for violation of Section 261 (y) (2) and (5) of the Omnibus Election Code. The COMELEC en banc in minute resolution No. 89-1291 dated October 2, 1989 as amended by resolution No. 89-1574 dated November 2, 1989 resolved to file the information against the private respondents as recommended.

On February 6, 1990, fifteen (15) informations were filed against each of private respondents in the RTC of Toledo City docketed as Criminal Cases Nos. TCS-1220 to TCS-1234. In three separate manifestations the Regional Election Director of Region VII was designated by the COMELEC to handle the prosecution with the authority to assign another COMELEC prosecutor.

Private respondents, through counsels, then filed motions for reconsiderations and the suspension of the warrant of arrest with the respondent court on the ground that no preliminary investigation was conducted. On February 22, 1990 an order was issued by respondent court directing the COMELEC through the Regional Election Director of Region VII to conduct a reinvestigation of said cases and to submit his report within ten (10) days after termination thereof. The Toledo City INP was directed to hold in abeyance the service of the warrants of arrest until the submission of the reinvestigation report.[1]

On March 16, 1990 the COMELEC Prosecutor filed a motion for reconsideration and opposition to the motion for reinvestigation alleging therein that it is only the Supreme Court that may review the decisions, orders, rulings and resolutions of the COMELEC. This was denied in an order dated April 5, 1990 whereby the respondent trial court upheld its jurisdiction over the subject matter.[2]

Hence, the herein petition for certiorari, mandamus and prohibition wherein the following issues are raised:

"(a) Whether or not the respondent Court has the power or authority to order the Commission on Elections through its Regional Election Director of Region VII or its Law Department to conduct a reinvestigation of Criminal Cases Nos. TCS-1220 to TCS-1234;

(b) Whether or not the respondent court in issuing its disputed order dated April 5, 1990 gravely usurped the functions of the Honorable Supreme Court, the sole authority that has the power to review on certiorari, decisions, orders, resolutions or instructions of the Commission on Elections; and

(c) Whether or not the respondent Court has the power or authority to order the Comelec Law Department to furnish said respondent the records of preliminary investigation of the above criminal cases for purposes of determining a probable cause."[3]

The main thrust of the petition is that inasmuch as the COMELEC is an independent constitutional body, its actions on election matters may be reviewed only on certiorari by the Supreme Court.[4]

On the other hand, the respondents contend that since the cases were filed in court by the COMELEC as a public prosecutor, and not in the exercise of its power to decide election contests, the trial court has authority to order a reinvestigation.

Section 2, Article IX-C of the Constitution provides:

"SEC. 2. The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective, municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

(3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

(4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission in addition to other penalties that may be prescribed by law.

(6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusions or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or

omissions constituting election frauds, offenses, and malpractices.

(7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidates.

(8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.

(9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall." (Underscoring supplied.)

Section 52, Article VII of the Omnibus Election Code (Batas Pambansa Blg. 881) provides among the powers and functions of the COMELEC as follows -

"Sec. 52. Power and functions of the Commission on Elections. - In addition to the powers and functions conferred upon it by the Constitution, the Commission shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of securing free, orderly and honest elections xxx." (Underscoring supplied.)

Section 7, Article IX-A of the Constitution reads thus-

"SEC. 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof." (Underscoring supplied.)

From the aforementioned provisions of Section 2, Article IX-C of the Constitution the powers and functions of the COMELEC may be classified in this manner -

- (1) Enforcement of election laws;^[5]
- (2) Decision of election contests;^[6]
- (3) Decision of administrative questions;^[7]
- (4) Deputizing of law enforcement agencies;^[8]
- (5) Registration of political parties;^[9] and
- (6) Improvement of elections.^[10]

As provided in Section 7, Article IX of the Constitution, unless otherwise provided by law, any decision, order or ruling of the COMELEC may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

In *Filipinas Engineering and Machine Shop vs. Ferrer*,^[11] this Court held that "what is contemplated by the term 'final orders, rulings and decisions' of the COMELEC reviewable on certiorari by the Supreme Court as provided by law are those rendered in actions or proceedings before the COMELEC and taken cognizance of by said body the exercise of its adjudicatory or quasi-judicial powers." Thus, the decisions of the COMELEC on election contests or administrative questions brought before it are subject to judicial review only by this Court.

However, under Section 2(6), of Article IX-C of the Constitution, the COMELEC may "investigate and, where

appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses and malpractices." Under Section 265 of the Omnibus Election Code, the COMELEC, through its duly authorized legal officers, "have the exclusive power to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same."

Section 268 of the same Code provides that: "The regional trial courts shall have 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 metropolitan or municipal trial courts. From the decision of the courts, appeal will lie as in other criminal cases."

From the foregoing provisions of the Constitution and the Omnibus Election Code, it is clear that aside from the adjudicatory or quasi-judicial power of the COMELEC to decide election contests and administrative questions, it is also vested the power of a public prosecutor with the exclusive authority to conduct the preliminary investigation and the prosecution of election offenses punishable under the Code before the competent court. Thus, when the COMELEC, through its duly authorized law officer, conducts the preliminary investigation of an election offense and upon a prima facie finding of a probable cause, files the information in the proper court, said court thereby acquires jurisdiction over the case. Consequently, all the subsequent disposition of said case must be subject to the approval of the court.[12] The COMELEC cannot conduct a reinvestigation of the case without the authority of the court or unless so ordered by the court.[13]

The records of the preliminary investigation required to be produced by the court must be submitted by the COMELEC. The trial court may rely on the resolution of the COMELEC to file the information, by the same token that it may rely on the certification made by the prosecutor who conducted the preliminary investigation, in the issuance of the warrant of arrest. Nevertheless the court may require that the record of the preliminary investigation be submitted to it to satisfy itself that there is probable cause which will warrant the issuance of a warrant of arrest.[14]

The refusal of the COMELEC or its agents to comply with the order of the trial court requiring them to conduct a reinvestigation in this case and to submit to the court the record of the preliminary investigation on the ground that only this Court may review its actions is certainly untenable.

One last word. The petition is brought in the name of People of the Philippines. Only the Solicitor General can represent the People of the Philippine in this proceeding.[15] In the least, the consent of the Office of the Solicitor General should have been secured by the COMELEC before the filing of this petition. On this account alone, the petition should be dismissed.

WHEREFORE, the petition is DISMISSED for lack of merit. No pronouncement as to costs.

SO ORDERED.

Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.
Fernan, C.J., and Paras, J., on leave.

[1] Annex E to petition; pages 56 to 57, rollo.

[2] Annex G to petition; pages 60 to 62, rollo.

[3] Pages 2 to 3, Rollo.

[4] Citing Section 7, Article IX and section 2(1), Article IX-C of the Constitution.

[5] Section 2 (1), Article IX-C, Constitution.

[6] Id., paragraph (2).

[7] Id., paragraph (3).

[8] Id. paragraph (4).

[9] Id. paragraph (5).

[10] id., paragraph (7). See also Cruz, Philippine Political Law 1987 Edition, pages 287 to 297.

[11] 135 SCRA 25, 32 (1985)

[12] Crespo vs. Mogul, 151 SCRA 462 (1987).

[13] Ibid..

[14] Section 2, Article III, Constitution.

[15] City Fiscal of Tacloban vs. Espina, 166 SCRA 614, 616 to 617 (1988).

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