



REPUBLIC OF THE PHILIPPINES

**Supreme Court**

Manila

EN BANC

**G.R. No. 153945**      **February 4, 2003****REYNATO BAYTAN, REYNALDO BAYTAN and ADRIAN BAYTAN**, petitioners,

vs.

**THE COMMISSION ON ELECTIONS**, respondent.

## D E C I S I O N

**CARPIO, J.:**The Case

Challenged in this petition for certiorari<sup>1</sup> with prayer for temporary restraining order and preliminary injunction is the Resolution dated June 3, 2002<sup>2</sup> of the Commission on Elections ("COMELEC" for brevity) en banc in E.O. Case No. 97-503. In its assailed Resolution, the COMELEC en banc denied the motion to reconsider Minute Resolution No. 00-2281 dated November 9, 2000<sup>3</sup> ordering the Law Department to file criminal cases for "double registration" against petitioners Reynato Baytan, Reynaldo Baytan and Adrian Baytan ("petitioners" for brevity).

The Antecedents

On June 15, 1997, petitioners were on their way to register for the May 1998 elections when they met the newly elected Barangay Captain, Roberto Ignacio ("Ignacio" for brevity), in Barangay 18, Zone II of Cavite City. Ignacio led petitioners to register in Precinct No. 83-A of Barangay 18. Petitioners registered in this precinct as evidenced by Voters Registration Records Nos. 41762473, 41762472 and 41762470.

When petitioners returned home, they wondered why the registrants in this precinct looked unfamiliar to them. This prompted petitioners to return to the registration center to study the precinct map of Barangay 18. They then realized that their residence is situated within the jurisdiction of Barangay 28. Thus, petitioners proceeded to Precinct 129-A of Barangay 28 and registered anew on June 22, 1997 as evidenced by Voters Registration Records Nos. 42662969, 42662968 and 42662917.

Subsequently, petitioners sent a letter dated August 21, 1997 to former COMELEC Assistant Executive Director Jose Pio O. Josen and furnished a copy thereof to COMELEC Registrar Francisco Trias. In this letter, petitioners requested for advice on how to cancel their previous registration. They also explained the reason and circumstances of their second registration and expressed their intention to redress the error.

On September 16, 1997, the Election Officer of Cavite City forwarded copies of petitioners' Voters Registration Records to the Provincial Election Supervisor, Atty. Juanito V. Ravanzo ("Ravanzo" for brevity), for evaluation. Ravanzo endorsed the matter to the Regional Director for prosecution. Eventually, the Law Department endorsed the case to Ravanzo for resolution.

On January 10, 1998, Ravanzo recommended filing an information for double registration against petitioners. In an en banc meeting held on November 09, 2000, the COMELEC in its Minute Resolution No. 00-2281 affirmed the recommendation of Ravanzo. Petitioners moved for reconsideration. The COMELEC en banc denied the motion and disposed as follows:

"WHEREFORE, premises considered, the En Banc resolution dated November 9, 2000 is hereby AFFIRMED. The Law Department is hereby directed to file the proper information against respondents for violation of Art. XXII, Sec. 261, par. (y) sub-par. (5) of the Omnibus Election Code."

Hence, the instant petition.

### The Issues

Petitioners contend that the COMELEC en banc committed grave abuse of discretion amounting to lack or excess of jurisdiction in –

1. Recommending the prosecution of petitioners for double registration despite clear and convincing evidence on record that they had no intention of committing said election offense;
2. Not considering the letter dated August 21, 1997 addressed to the COMELEC Assistant Director of Cavite City as substantial compliance with the requirement of the law for cancellation of previous registration; and
3. Taking cognizance of the case in the first instance in violation of Section 3, Article IX-C of the Constitution.

In sum, petitioners insist they are innocent of any wrongdoing in their act of registering twice on different days in two different precincts. Petitioners argue that they did not intend to perpetrate the act prohibited, and therefore they should be exculpated. They claim honest mistake and good faith in registering twice. Petitioners claim they made the first registration because of the intervention and instigation of Ignacio.

Petitioners theorize that their August 21, 1997 letter to the election registrar of Cavite City informing him of the lapse and asking how to rectify the same constitutes substantial compliance with the Omnibus Election Code's requirement of cancellation of prior registration. They further implore a liberal construction of the laws on election offenses since almost five years had lapsed from the date of the commission of the offense on June 15, 1997. They claim the case is about to prescribe under the Election Code.

Lastly, petitioners fault the COMELEC en banc for assuming original jurisdiction over the case in contravention of Section 3, Article IX-C of the Constitution. Petitioners argue that this constitutional provision requires that election cases must first be heard and decided by a Division before assumption of jurisdiction by the COMELEC en banc.

### The Court's Ruling

The petition is bereft of merit.

First and Second Issues: Whether the criminal cases should be dismissed on the ground of lack of intent and substantial compliance with the requirement of cancellation of previous registration.

In Minute Resolution No. 00-2281 dated November 9, 2000, the COMELEC en banc affirmed the recommendation of the investigating officer. The COMELEC thus directed its Law Department to file the necessary information against petitioners for violation of Article XXII, SEC. 261 (y) (5) of the Election Code which reads:

"SEC. 261. Prohibited Acts. – The following shall be guilty of an election offense:

(y) On Registration of Voters:

(5) Any person who, being a registered voter, registers anew without filing an application for cancellation of his previous registration."

Petitioners filed a motion for reconsideration to which the COMELEC en banc issued the assailed Resolution dated June 3, 2002 affirming the Minute Resolution.

The grant by the Constitution to the COMELEC of the power to investigate and prosecute election offenses is intended to enable the COMELEC to assure the people of "free, orderly, honest, peaceful and credible elections." This grant is an adjunct to the COMELEC's constitutional duty to enforce and administer all election laws. Failure by the COMELEC to exercise this power could result in the frustration of the true will of the people and make an idle ceremony of the sacred right and duty of every qualified citizen to vote.<sup>4</sup>

Petitioners lose sight of the fact that the assailed resolutions were issued in the preliminary investigation stage. A preliminary investigation is essentially inquisitorial and is only the means to discover who may be charged with a crime, its function being merely to determine probable cause.<sup>5</sup> All that is required in the preliminary investigation is the determination of probable cause to justify the holding of petitioners for trial. By definition, probable cause is –

"x x x a reasonable ground of presumption that a matter is, or may be, well founded x x x such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe or entertain an honest or

strong suspicion that a thing is so. The term does not mean 'actual or positive cause' nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge."<sup>6</sup>

There is no question that petitioners registered twice on different days and in different precincts without canceling their previous registration. Aside from this, the COMELEC found certain circumstances prevailing in the case sufficient to warrant the finding of probable cause. The COMELEC noted that petitioners wrote down their address in Precinct No. 83-A of Barangay 18 as No. 709 T. Gomez Extension St., Barangay 18-Maya, Cavite City. However, in Precinct No. 129-A of Barangay 28, petitioners registered as residents of No. 709 Magcawas St., Barangay 28-Taurus, Caridad, Cavite City. The COMELEC noted further that the affidavits submitted by petitioners contained glaring inconsistencies. Petitioners claimed that Ignacio led them to the wrong precinct to register. However, Ignacio's affidavit stated that while he led them to the voting precinct of Barangay 18, he immediately left the area not knowing that petitioners registered in the wrong barangay. Contrary to petitioners' sworn statements, Aurora Baytan, mother of petitioners, had another version. She claimed in her affidavit that on June 15, 1997, Ignacio went to their house to inform them about the redefinition of their barangay's territorial jurisdiction. Right then and there, Ignacio brought her sons to Barangay 18 to register.

The COMELEC also pointed out that since "double registration" is *malum prohibitum*, petitioners' claim of lack of intent to violate the law is inconsequential. Neither did the COMELEC consider petitioners' letter dated August 22, 1997 as an application to cancel their previous registration. The COMELEC explained that this letter was sent after their second registration was accomplished and after the election officer of Cavite City had already reported their act of double registration to a higher official.

All told, a reasonably prudent man would readily conclude that there exists probable cause to hold petitioners for trial for the offense of double registration.

Moreover, petitioners' claims of honest mistake, good faith and substantial compliance with the Election Code's requirement of cancellation of previous registration are matters of defense best ventilated in the trial proper rather than at the preliminary investigation.<sup>7</sup> The established rule is that a preliminary investigation is not the occasion for the full and exhaustive display of the parties' evidence. It is for the presentation of such evidence only as may engender a well-grounded belief that an offense has been committed and the accused is probably guilty thereof.<sup>8</sup>

It is also well-settled that the finding of probable cause in the prosecution of election offenses rests in the COMELEC's sound discretion. The COMELEC exercises the constitutional authority to investigate and, where appropriate, prosecute cases for violation of election laws, including acts or omissions constituting election frauds, offenses and malpractices.<sup>9</sup> Generally, the Court will not interfere with such finding of the COMELEC absent a clear showing of grave abuse of discretion. This principle emanates from the COMELEC's exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law.<sup>10</sup>

We also cannot accept petitioners' plea for a liberal construction of the laws on the ground of prescription. Prescription of the crime or offense is the forfeiture or loss of the right of the State to prosecute the offender after the lapse of a certain time.<sup>11</sup>

Section 267 of the Election Code provides that "election offenses shall prescribe after five years from the date of their commission." In this case, the offense of double registration allegedly occurred on June 22, 1997 when petitioners registered for a second time in a different precinct without canceling their previous registration. At this point, the period of prescription for the alleged offense started to run.

However, prescription is interrupted when proceedings are instituted against the offender. Specifically, the period of prescription is interrupted by the filing of the complaint even if it be merely for purposes of preliminary examination or investigation.<sup>12</sup>

The COMELEC initiated the complaint for double registration against petitioners *motu proprio* under Sections 3,<sup>13</sup> 4<sup>14</sup> and 5,<sup>15</sup> Rule 34 of the 1993 COMELEC Rules of Procedure. On September 16, 1997, the Election Officer of Cavite City forwarded copies of petitioners' Voters' Registration Records for evaluation to Atty. Juanito V. Ravanzo, Provincial Election Supervisor of Cavite City, who was also tasked to investigate the case. Ravanzo endorsed the matter to the Regional Director for prosecution. The Regional Director forwarded the case to the Law Department and the latter re-endorsed the same to the office of Ravanzo for resolution. A preliminary investigation hearing was conducted on January 19, 1998 where petitioners were instructed to submit their counter-affidavits. After the preliminary investigation and based on the affidavits and other evidence submitted in the case, Ravanzo recommended the prosecution of petitioners for the offense of double registration. Ineluctably, the prescriptive period of the offense was interrupted upon the COMELEC's initiation of proceedings against petitioners and remains tolled pending the termination of the case.

The liberal construction of punitive laws in relation to the prescription of offenses cannot be invoked to prejudice the interest of the State to prosecute election offenses, especially those which the COMELEC described as "ruffling the electoral system."<sup>16</sup>

Third Issue: Whether the COMELEC en banc's assumption of original jurisdiction over the case violated the Constitution.

Petitioners rely on Section 3, Article IX-C of the 1987 Constitution which states:

"Sec. 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc."

Petitioners assert that this constitutional provision serves as basis to nullify the proceedings conducted and orders issued by the COMELEC en banc in E.O. Case No. 97-503. Petitioners cite *Sarmiento v. Comelec*<sup>17</sup> and *Zarate v. Comelec*<sup>18</sup> to support their stand that the COMELEC en banc acted without jurisdiction or with grave abuse of discretion when it assumed original jurisdiction over the case without first referring the same to any of its divisions. In *Sarmiento* and *Zarate*, the Court similarly held that "election cases must first be heard and decided by a Division of the Commission," and that the "Commission, sitting en banc, does not have the authority to hear and decide the same at the first instance."

In its Comment for the COMELEC, the Solicitor General points out that the rulings in *Sarmiento* and *Zarate* were clarified in *Canicosa v. COMELEC*<sup>19</sup> to mean that –

"[I]t is only in the exercise of its adjudicatory or quasi judicial powers that the COMELEC is mandated to hear and decide cases first by division and then, upon motion for reconsideration, by the COMELEC en banc. This is when it is jurisdictional."

The Solicitor General contends that the conduct of a preliminary investigation before the filing of an information in court does not in any way adjudicate with finality the rights and liabilities of the parties investigated. A preliminary investigation does not make any pronouncement as to the guilt or innocence of the party involved. Hence, a preliminary investigation cannot be considered a judicial or quasi-judicial proceeding required to be heard by the Division in the first instance.

On the other hand, petitioners countered that in *Cruz v. People*,<sup>20</sup> the Court held that the conduct of a preliminary investigation "is a judicial or quasi-judicial proceeding since there is opportunity to be heard and for the production and weighing of evidence and a decision is rendered thereon."

Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC's administrative powers are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C.<sup>21</sup> The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether en banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions.<sup>22</sup>

On the other hand, the COMELEC's quasi-judicial powers are found in Section 2 (2) of Article IX-C, to wit:

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

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(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."

The COMELEC's exercise of its quasi-judicial powers is subject to Section 3 of Article IX-C which expressly requires that all election cases, including pre-proclamation controversies, shall be decided by the COMELEC in division, and the motion for reconsideration shall be decided by the COMELEC en banc. It follows, as held by the Court in *Canicosa*,<sup>23</sup> that the COMELEC is mandated to decide cases first in division, and then upon motion for reconsideration en banc, only when the COMELEC exercises its quasi-judicial powers.

The COMELEC is empowered in Section 2(6), Article IX-C of the 1987 Constitution to "prosecute cases of violations of election laws." The prosecution of election law violators involves the exercise of the COMELEC's administrative powers. Thus, the COMELEC en banc can directly approve the recommendation of its Law Department to file the criminal information for double registration against petitioners in the instant case. There is no constitutional requirement that the filing of the criminal information be first decided by any of the divisions of the COMELEC.

In sum, the second sentence of Section 3, Article IX-C of the 1987 Constitution is not applicable in administrative cases, like the instant case where the COMELEC is determining whether probable cause exists to charge petitioners for violation of the provision of the Election Code prohibiting double registration.

Indeed, the COMELEC acted in accordance with Section 9(b), Rule 34 of the 1993 COMELEC Rules of Procedure governing the prosecution of election offenses in meeting en banc in the first instance and acting on the recommendation of Investigating Officer Ravanzo to file charges against petitioners. The rule reads:

**"SEC. 9. Duty of the Law Department, State Prosecutor, Provincial or City Fiscal Upon Receipt of Records. –**  
x x x

(b). In cases investigated by the lawyers or the field personnel of the Commission, the Director of the Law Department shall review and evaluate the recommendation of said legal officer, prepare a report and make a recommendation to the Commission affirming, modifying or reversing the same which shall be included in the agenda of the succeeding meeting en banc of the Commission. If the Commission approves the filing of an information against the respondent/s, the Director of the Law Department shall prepare and sign the information for immediate filing with the appropriate court." (Emphasis supplied)

Minute Resolution No. 00-2281 was issued during the en banc meeting held on November 9, 2000 to resolve the recommendation of Ravanzo in the case.

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr. and Azcuna, JJ., concur.

## Footnotes

<sup>1</sup> Filed under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure.

<sup>2</sup> Rollo, pp. 20-26.

<sup>3</sup> Rollo, pp. 34-36.

<sup>4</sup> *Pimentel, Jr. v. Commission on Elections*, 289 SCRA 586 (1998).

<sup>5</sup> *Garcia-Rueda v. Pascasio*, 278 SCRA 769 (1997).

<sup>6</sup> *Allado v. Diokno*, 232 SCRA 192 (1994).

<sup>7</sup> *Pimentel, Jr.*, supra, see note 4.

<sup>8</sup> *Cruz v. People*, 233 SCRA 439 (1995).

<sup>9</sup> *Ibid.*

<sup>10</sup> Section 265 of the Omnibus Election Code provides:

SEC. 265. Prosecution. – The Commission shall, 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. The Commission may avail of the assistance of other prosecuting arms of the government: Provided, however, That in the event that the Commission fails to act on any complaint within four months from his filing, the complainant may file the complaint with the office of the fiscal or with the Ministry of Justice for proper investigation and prosecution, if warranted.

<sup>11</sup> LUIS B. REYES, *The Revised Penal Code*, 12th Ed., 1981, p. 828.

<sup>12</sup> *Arambulo v. Laqui, Sr.*, 342 SCRA 740 (2000).

<sup>13</sup> Sec. 3. Initiation of Complaint. – Initiation of complaint for election offenses may be done motu proprio by the Commission, or upon written complaint by any citizen of the Philippines, candidate, registered political party, coalition of political parties or organizations under the partylist system or any accredited citizens arms of the Commission.

<sup>14</sup> Sec. 4. Form of Complaint and Where to File. –

(a) When not initiated motu proprio by the Commission, the complaint must be verified and supported by affidavits and/or any other evidence. Motu proprio complaints may be signed by the Chairman of the Commission, or the Director of the Law Department upon direction of the Chairman, and need not be verified;

(b) The complaint shall be filed with the Law Department of the Commission; or with the offices of the Election Registrars, Provincial Election Supervisors or Regional Election Directors, or the State Prosecutor, Provincial Fiscal or City Fiscal. If filed with any of the latter three (3) officials, investigation thereof may be delegated to any of their assistants;

(c) If filed with the Regional Election Directors or Provincial Election Supervisors, said officials shall immediately furnish the Director of the Law Department a copy of the complaint and the supporting documents, and inform the latter of the action taken thereon.

<sup>15</sup> Sec. 5. Referral for Preliminary Investigation. – If the complaint is initiated motu proprio by the Commission, or is filed with the Commission by any aggrieved party, it shall be referred to the Law Department for investigation. Upon direction of the Chairman of the Commission, the preliminary investigation may be delegated to any lawyer of said Department, or to any of the Regional Election Directors or Provincial Election Supervisors, or any lawyer of the Commission.

<sup>16</sup> Rollo, p. 25.

<sup>17</sup> 212 SCRA 307 (1992 ).

<sup>18</sup> 318 SCRA 608 (1999).

<sup>19</sup> 282 SCRA 512 (1997).

<sup>20</sup> Supra, see note 8.

<sup>21</sup> Section 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) xxx

(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 citizen's 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 inclusion 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 candidacies...

(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.

<sup>22</sup> [Commission on Elections vs. Silva, Jr., 286 SCRA 177 \(1998\)](#); [Pimentel vs. Commission on Elections, 289 SCRA 586 \(1998\)](#); [Commission on Elections vs. Noynay, 292 SCRA 254 \(1998\)](#); [Domalanta vs. Commission on Elections, 334 SCRA 555 \(2000\)](#).

<sup>23</sup> [Supra](#), see note 19.