

EN BANC

[G.R. No. 209835, September 22, 2015]

ROGELIO BATIN CABALLERO, PETITIONER, VS. COMMISSION ON ELECTIONS AND JONATHAN ENRIQUE V. NANUD, JR., RESPONDENTS.

D E C I S I O N

PERALTA, J.:

Before us is a petition for *certiorari* with prayer for issuance of a temporary restraining order seeking to set aside the Resolution^[1] dated November 6, 2013 of the Commission on Elections (COMELEC) En Banc which affirmed *in toto* the Resolution^[2] dated May 3, 2013 of the COMELEC First Division canceling the Certificate of Candidacy (COC) of petitioner Rogelio Batin Caballero.

Petitioner^[3] and private respondent Jonathan Enrique V. Nanud, Jr.^[4] were both candidates for the mayoralty position of the Municipality of Uyugan, Province of Batanes in the May 13, 2013 elections. Private respondent filed a Petition^[5] to deny due course to or cancellation of petitioner's certificate of candidacy alleging that the latter made a false representation when he declared in his COC that he was eligible to run for Mayor of Uyugan, Batanes despite being a Canadian citizen and a non-resident thereof.

During the December 10, 2012 conference, petitioner, through counsel, manifested that he was not properly served with a copy of the petition and the petition was served by registered mail not in his address in Barangay Imnajbu, Uyugan, Batanes. He, however, received a copy of the petition during the conference. Petitioner did not file an Answer but filed a Memorandum controverting private respondent's substantial allegations in his petition.

Petitioner argued that prior to the filing of his COC on October 3, 2012, he took an Oath of Allegiance to the Republic of the Philippines before the Philippine Consul General in Toronto, Canada on September 13, 2012 and became a dual Filipino and Canadian citizen pursuant to Republic Act (RA) No. 9225, otherwise known as the *Citizenship Retention and Reacquisition Act of 2003*. Thereafter, he renounced his Canadian citizenship and executed an Affidavit of Renunciation before a Notary Public in Batanes on October 1, 2012 to conform with Section 5(2) of RA No. 9225.^[6] He claimed that he did not lose his domicile of origin in Uyugan, Batanes despite becoming a Canadian citizen as he merely left Uyugan temporarily to pursue a brighter future for him and his family; and that he went back to Uyugan during his vacation while working in Nigeria, California, and finally in Canada.

On May 3, 2013, the COMELEC First Division issued a Resolution finding that petitioner made a material misrepresentation in his COC when he declared that he is

a resident of Barangay Imnajbu, Uyugan, Batanes within one year prior to the election. The decretal portion of the resolution reads:

WHEREFORE, premises considered, this Commission RESOLVED, as it hereby RESOLVES to GRANT the instant Petition. The Certificate of Candidacy of respondent Caballero is hereby CANCELLED.^[7]

The COMELEC First Division did not discuss the procedural deficiency raised by petitioner as he was already given a copy of the petition and also in consonance with the Commission's constitutional duty of determining the qualifications of petitioner to run for elective office. It found that while petitioner complied with the requirements of RA No. 9225 since he had taken his Oath of Allegiance to the Philippines and had validly renounced his Canadian citizenship, he failed to comply with the other requirements provided under RA No. 9225 for those seeking elective office, i.e., persons who renounced their foreign citizenship must still comply with the one year residency requirement provided for under Section 39 of the Local Government Code. Petitioner's naturalization as a Canadian citizen resulted in the abandonment of his domicile of origin in Uyugan, Batanes; thus, having abandoned his domicile of origin, it is incumbent upon him to prove that he was able to reestablish his domicile in Uyugan for him to be eligible to run for elective office in said locality which he failed to do.

Elections were subsequently held on May 13, 2013 and the election returns showed that petitioner won over private respondent.^[8] Private respondent filed an Urgent *Ex-parte* Motion to Defer Proclamation.^[9]

On May 14, 2013, petitioner was proclaimed Mayor of Uyugan, Batanes.

On May 16, 2013, petitioner filed a Motion for Reconsideration with the COMELEC En Banc assailing the May 3, 2013 Resolution issued by the COMELEC's First Division canceling his COC.

On May 17, 2013, private respondent filed a Petition to Annul Proclamation.^[10]

On November 6, 2013, the COMELEC En Banc issued its assailed Resolution denying petitioner's motion for reconsideration.

Petitioner filed with us the instant petition for *certiorari* with prayer for the issuance of a temporary restraining order.

In the meantime, private respondent filed a Motion for Execution^[11] of the May 3, 2013 Resolution of the COMELEC First Division as affirmed by the En Banc and prayed for the cancellation of petitioner's COC, the appropriate correction of the certificate of canvas to reflect that all votes in favor of petitioner are stray votes, declaration of nullity of petitioner's proclamation and proclamation of private respondent as the duly-elected Mayor of Uyugan, Batanes in the May 13, 2013 elections.

On December 12, 2013, COMELEC Chairman Sixto S. Brillantes, Jr. issued a Writ of

Execution.^[12] Private respondent took his Oath of Office^[13] on December 20, 2013.

In the instant petition for *certiorari*, petitioner raises the following assignment of errors, to wit:

THE COMELEC EN BANC GRAVELY ERRED IN DISREGARDING THE CLEAR IMPORT OF PROCEDURAL RULES PROVIDED FOR UNDER COMELEC RESOLUTION NO. 9523 PROMULGATED ON 25 SEPTEMBER 2012.

THE COMELEC EN BANC GRAVELY ERRED IN FINDING THAT PETITIONER ABANDONED HIS PHILIPPINE DOMICILE WHEN HE WORKED IN SEVERAL FOREIGN COUNTRIES FOR "GREENER PASTURE."

EVEN ASSUMING THAT PETITIONER HAS ABANDONED HIS PHILIPPINE DOMICILE WHEN HE BECAME A CANADIAN CITIZEN, HIS REACQUISITION OF HIS FILIPINO CITIZENSHIP, TAKING OATH OF ALLEGIANCE TO THE PHILIPPINE GOVERNMENT NINE (9) MONTHS PRIOR TO HIS ELECTION ON 13 MAY 2013, IS A SUBSTANTIAL COMPLIANCE WITH THE LAW ON RESIDENCY.^[14]

Petitioner contends that when private respondent filed a petition to deny due course or to cancel his COC with the Office of the Municipal Election Officer of Uyugan, Batanes, a copy thereof was not personally served on him; that private respondent later sent a copy of the petition to him by registered mail without an attached affidavit stating the reason on why registered mail as a mode of service was resorted to. Petitioner argues that private respondent violated Section 4, paragraphs (1)^[15] and (4),^[16] Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, thus, his petition to deny due course or cancel petitioner's certificate of candidacy should have been denied outright.

We are not convinced.

While private respondent failed to comply with the above-mentioned requirements, the settled rule, however, is that the COMELEC Rules of Procedure are subject to liberal construction. Moreover, the COMELEC may exercise its power to suspend its own rules as provided under Section 4, Rule 1 of their Rules of Procedure.

Sec. 4. *Suspension of the Rules.* - In the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.

Under this authority, the Commission is similarly enabled to cope with all situations without concerning itself about procedural niceties that do not square with the need to do justice, in any case without further loss of time, provided that the right of the parties to a full day in court is not substantially impaired.^[17]

In *Hayudini v. COMELEC*,^[18] we sustained the COMELEC's liberal treatment of

respondent's petition to deny due course or cancel petitioner's COC despite its failure to comply with Sections 2 and 4 of Rule 23 of the COMELEC Rules of Procedure, as amended by Resolution No. 9523, i.e., pertaining to the period to file petition and to provide sufficient explanation as to why his petition was not served personally on petitioner, respectively, and held that:

As a general rule, statutes providing for election contests are to be liberally construed in order that the will of the people in the choice of public officers may not be defeated by mere technical objections. Moreover, it is neither fair nor just to keep in office, for an indefinite period, one whose right to it is uncertain and under suspicion. It is imperative that his claim be immediately cleared, not only for the benefit of the winner but for the sake of public interest, which can only be achieved by brushing aside technicalities of procedure that protract and delay the trial of an ordinary action. This principle was reiterated in the cases of *Tolentino v. Commission on Elections* and *De Castro v. Commission on Elections*, where the Court held that "in exercising its powers and jurisdiction, as defined by its mandate to protect the integrity of elections, the COMELEC must not be straitjacketed by procedural rules in resolving election disputes."

Settled is the rule that the COMELEC Rules of Procedure are subject to liberal construction. The COMELEC has the power to liberally interpret or even suspend its rules of procedure in the interest of justice, including obtaining a speedy disposition of all matters pending before it. This liberality is for the purpose of promoting the effective and efficient implementation of its objectives - ensuring the holding of free, orderly, honest, peaceful, and credible elections, as well as achieving just, expeditious, and inexpensive determination and disposition of every action and proceeding brought before the COMELEC. Unlike an ordinary civil action, an election contest is imbued with public interest. It involves not only the adjudication of private and pecuniary interests of rival candidates, but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate. And the tribunal has the corresponding duty to ascertain, by all means within its command, whom the people truly chose as their rightful leader.^[19]

Here, we find that the issue raised, i.e., whether petitioner had been a resident of Uyugan, Batanes at least one (1) year before the elections held on May 13, 2013 as he represented in his COC, pertains to his qualification and eligibility to run for public office, therefore imbued with public interest, which justified the COMELEC's suspension of its own rules. We adopt the COMELEC's s ratiocination in accepting the petition, to wit:

This Commission recognizes the failure of petitioner to comply strictly with the procedure for filing a petition to deny due course to or cancel certificate of candidacy set forth in Section 4, Rule 23 of the COMELEC Rules of Procedure as amended by COMELEC Resolution No. 9523, which requires service of a copy of the petition to respondent prior to its filing.

But then, we should also consider the efforts exerted by petitioner in serving a copy of his petition to respondent after being made aware that such service is necessary. We should also take note of the impossibility for petitioner to personally serve a copy of the petition to respondent since he was in Canada at the time of its filing as shown in respondent's travel records.

The very purpose of prior service of the petition to respondent is to afford the latter an opportunity to answer the allegations contained in the petition even prior to the service of summons by the Commission to him. In this case, respondent was given a copy of the petition during the conference held on 10 December 2012 and was ultimately accorded the occasion to rebut all the allegations against him. He even filed a Memorandum containing his defenses to petitioner's allegations. For all intents and purposes, therefore, respondent was never deprived of due process which is the very essence of this Commission's Rules of Procedure.

Even the Supreme Court acknowledges the need for procedural rules to bow to substantive considerations "through a liberal construction aimed at promoting their objective of securing a just, speedy and inexpensive disposition of every action and proceeding, x x x

x x x x

When a case is impressed with public interest, a relaxation of the application of the rules is in order, x x x.

Unquestionably, the instant case is impressed with public interest which warrants the relaxation of the application of the [R]ules of [P]rocedure, consistent with the ruling of the Supreme Court in several cases.^[20]

Petitioner next claims that he did not abandon his Philippine domicile. He argues that he was born and baptized in Uyugan, Batanes; studied and had worked therein for a couple of years, and had paid his community tax certificate; and, that he was a registered voter and had exercised his right of suffrage and even built his house therein. He also contends that he usually comes back to Uyugan, Batanes during his vacations from work abroad, thus, his domicile had not been lost. Petitioner avers that the requirement of the law in fixing the residence qualification of a candidate running for public office is not strictly on the period of residence in the place where he seeks to be elected but on the acquaintance by the candidate on his constituents' vital needs for their common welfare; and that his nine months of actual stay in Uyugan, Batanes prior to his election is a substantial compliance with the law. Petitioner insists that the COMELEC gravely abused its discretion in canceling his COC.

We are not persuaded.

RA No. 9225, which is known as the *Citizenship Retention and Reacquisition Act of 2003*, declares that natural-born citizens of the Philippines, who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign