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[G.R. No. 189698, February 22, 2010]

ELEAZAR P. QUINTO AND GERINO A. TOLENTINO, JR., PETITIONERS, VS. COMMISSION ON ELECTIONS, RESPONDENT.

R E S O L U T I O N

PUNO, C.J.:

Upon a careful review of the case at bar, this Court resolves to grant the respondent Commission on Elections' (COMELEC) motion for reconsideration, and the movants-intervenors' motions for reconsideration-in-intervention, of this Court's December 1, 2009 Decision (Decision).[1]

The assailed Decision granted the Petition for Certiorari and Prohibition filed by Eleazar P. Quinto and Gerino A. Tolentino, Jr. and declared as unconstitutional the second proviso in the third paragraph of Section 13 of Republic Act No. 9369,[2] Section 66 of the Omnibus Election Code[3] and Section 4(a) of COMELEC Resolution No. 8678,[4] mainly on the ground that they violate the equal protection clause of the Constitution and suffer from overbreadth. The assailed Decision thus paved the way for public appointive officials to continue discharging the powers, prerogatives and functions of their office notwithstanding their entry into the political arena.

In support of their respective motions for reconsideration, respondent COMELEC and movants-intervenors submit the following arguments:

(1) The assailed Decision is contrary to, and/or violative of, the constitutional proscription against the participation of public appointive officials and members of the military in partisan political activity;

(2) The assailed provisions do not violate the equal protection clause when they accord differential treatment to elective and appointive officials, because such differential treatment rests on material and substantial distinctions and is germane to the purposes of the law;

(3) The assailed provisions do not suffer from the infirmity of overbreadth; and

(4) There is a compelling need to reverse the assailed Decision, as public safety and interest demand such reversal.

We find the foregoing arguments meritorious.

I.
Procedural Issues

First, we shall resolve the procedural issues on the timeliness of the COMELEC's

motion for reconsideration which was filed on December 15, 2009, as well as the propriety of the motions for reconsideration-in-intervention which were filed after the Court had rendered its December 1, 2009 Decision.

i. Timeliness of COMELEC's Motion for Reconsideration

Pursuant to Section 2, Rule 56-A of the 1997 Rules of Court,[5] in relation to Section 1, Rule 52 of the same rules,[6] COMELEC had a period of fifteen days from receipt of notice of the assailed Decision within which to move for its reconsideration. COMELEC received notice of the assailed Decision on December 2, 2009, hence, had until December 17, 2009 to file a Motion for Reconsideration.

The Motion for Reconsideration of COMELEC was timely filed. It was filed on December 14, 2009. The corresponding Affidavit of Service (in substitution of the one originally submitted on December 14, 2009) was subsequently filed on December 17, 2009 - still within the reglementary period.

ii. Propriety of the Motions for Reconsideration-in-Intervention

Section 1, Rule 19 of the Rules of Court provides:

> A person who has legal interest in the matter in litigation or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Pursuant to the foregoing rule, this Court has held that a motion for intervention shall be entertained when the following requisites are satisfied: (1) the would-be intervenor shows that he has a substantial right or interest in the case; and (2) such right or interest cannot be adequately pursued and protected in another proceeding. [7]

Upon the other hand, Section 2, Rule 19 of the Rules of Court provides the time within which a motion for intervention may be filed, *viz.*:

> SECTION 2. Time to intervene.- *The motion for intervention may be filed at any time before rendition of judgment* by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (italics supplied)

This rule, however, is not inflexible. Interventions have been allowed even beyond the period prescribed in the Rule, when demanded by the higher interest of justice. Interventions have also been granted to afford indispensable parties, who have not been impleaded, the right to be heard even after a decision has been rendered by

the trial court,[8] when the petition for review of the judgment has already been submitted for decision before the Supreme Court,[9] and even where the assailed order has already become final and executory.[10] In **Lim v. Pacquing**,[11] the motion for intervention filed by the Republic of the Philippines was allowed by this Court to avoid grave injustice and injury and to settle once and for all the substantive issues raised by the parties.

In fine, the allowance or disallowance of a motion for intervention rests on the sound discretion of the court[12] after consideration of the appropriate circumstances.[13] We stress again that Rule 19 of the Rules of Court is a rule of procedure whose object is to make the powers of the court fully and completely available for justice.[14] Its purpose is not to hinder or delay, but to facilitate and promote the administration of justice.[15]

We rule that, with the exception of the IBP - Cebu City Chapter, all the movants-intervenors may properly intervene in the case at bar.

First, the movants-intervenors have each sufficiently established a substantial right or interest in the case.

As a Senator of the Republic, Senator Manuel A. Roxas has a right to challenge the December 1, 2009 Decision, which nullifies a long established law; as a voter, he has a right to intervene in a matter that involves the electoral process; and as a public officer, he has a personal interest in maintaining the trust and confidence of the public in its system of government.

On the other hand, former Senator Franklin M. Drilon and Tom V. Apacible are candidates in the May 2010 elections running against appointive officials who, in view of the December 1, 2009 Decision, have not yet resigned from their posts and are not likely to resign from their posts. They stand to be directly injured by the assailed Decision, unless it is reversed.

Moreover, the rights or interests of said movants-intervenors cannot be adequately pursued and protected in another proceeding. Clearly, their rights will be foreclosed if this Court's Decision attains finality and forms part of the laws of the land.

With regard to the IBP - Cebu City Chapter, it anchors its standing on the assertion that "this case involves the constitutionality of elections laws for this coming 2010 National Elections," and that "there is a need for it to be allowed to intervene xxx so that the voice of its members in the legal profession would also be heard before this Highest Tribunal as it resolves issues of transcendental importance."[16]

Prescinding from our rule and ruling case law, we find that the IBP-Cebu City Chapter has failed to present a specific and substantial interest sufficient to clothe it with standing to intervene in the case at bar. Its invoked interest is, in character, too indistinguishable to justify its intervention.

We now turn to the substantive issues.

II.
Substantive Issues

The assailed Decision struck down Section 4(a) of Resolution 8678, the second proviso in the third paragraph of Section 13 of Republic Act (RA) 9369, and Section 66 of the Omnibus Election Code, on the following grounds:

> (1) They violate the equal protection clause of the Constitution because of the differential treatment of persons holding appointive offices and those holding elective positions;
>
> (2) They are overbroad insofar as they prohibit the candidacy of all civil servants holding appointive posts: (a) without distinction as to whether or not they occupy high/influential positions in the government, and (b) they limit these civil servants' activity regardless of whether they be partisan or nonpartisan in character, or whether they be in the national, municipal or *barangay* level; and
>
> (3) Congress has not shown a compelling state interest to restrict the fundamental right of these public appointive officials.

We grant the motions for reconsideration. We **now rule** that Section 4(a) of Resolution 8678, Section 66 of the Omnibus Election Code, and the second proviso in the third paragraph of Section 13 of RA 9369 are not unconstitutional, and accordingly **reverse** our December 1, 2009 Decision.

III.
Section 4(a) of COMELEC Resolution 8678 Compliant with Law

Section 4(a) of COMELEC Resolution 8678 is a faithful reflection of the present state of the law and jurisprudence on the matter, *viz.*:

Incumbent Appointive Official. - Under Section 13 of RA 9369, which reiterates Section 66 of the Omnibus Election Code, any person holding a public appointive office or position, including active members of the Armed Forces of the Philippines, and officers and employees in government-owned or -controlled corporations, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy.

Incumbent Elected Official. - Upon the other hand, pursuant to Section 14 of RA 9006 or the Fair Election Act,[17] which repealed Section 67 of the Omnibus Election Code[18] and rendered ineffective Section 11 of R.A. 8436 insofar as it considered an elected official as resigned only upon the start of the campaign period corresponding to the positions for which they are running,[19] an elected official is not deemed to have resigned from his office upon the filing of his certificate of candidacy for the same or any other elected office or position. In fine, an elected official may run for another position without forfeiting his seat.

These laws and regulations implement Section 2(4), Article IX-B of the 1987

Constitution, which prohibits civil service officers and employees from engaging in any electioneering or partisan political campaign.

The intention to impose a strict limitation on the participation of civil service officers and employees in partisan political campaigns is unmistakable. The exchange between Commissioner Quesada and Commissioner Foz during the deliberations of the Constitutional Commission is instructive:

> MS. QUESADA.
>
> x x x x
>
> Secondly, I would like to address the issue here as provided in Section 1 (4), line 12, and I quote: "No officer or employee in the civil service shall engage, directly or indirectly, in any partisan political activity." This is almost the same provision as in the 1973 Constitution. However, we in the government service have actually experienced how this provision has been violated by the direct or indirect partisan political activities of many government officials.
>
> *So, is the Committee willing to include certain clauses that would make this provision more strict, and which would deter its violation?*
>
> MR. FOZ. *Madam President, the existing Civil Service Law and the implementing rules on the matter are more than exhaustive enough to really prevent officers and employees in the public service from engaging in any form of partisan political activity. But the problem really lies in implementation because, if the head of a ministry, and even the superior officers of offices and agencies of government will themselves violate the constitutional injunction against partisan political activity, then no string of words that we may add to what is now here in this draft will really implement the constitutional intent against partisan political activity*. x x x[20] (italics supplied)

To emphasize its importance, this constitutional ban on civil service officers and employees is presently reflected and implemented by a number of statutes. Section 46(b)(26), Chapter 7 and Section 55, Chapter 8 - both of Subtitle A, Title I, Book V of the Administrative Code of 1987 - respectively provide in relevant part:

> *Section 44. Discipline: General Provisions*:
>
> x x x x
>
> (b) The following shall be grounds for disciplinary action:
>
> x x x x
>
> (26) Engaging directly or indirectly in partisan political activities by one