

## EN BANC

[ G. R. No. 167011, April 30, 2008 ]

**SPOUSES CARLOS S. ROMUALDEZ AND ERLINDA R. ROMUALDEZ,  
PETITIONERS, VS. COMMISSION ON ELECTIONS AND DENNIS GARAY,  
RESPONDENTS.**

### DECISION

**CHICO-NAZARIO, J.:**

This treats of the Petition for Review on *Certiorari* with a prayer for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction filed by petitioners Spouses Carlos S. Romualdez and Erlinda R. Romualdez seeking to annul and set aside the Resolutions, dated 11 June 2004<sup>[1]</sup> and 27 January 2005<sup>[2]</sup> of the Commission on Elections (COMELEC) in E.O. Case No. 2000-36. In the Resolution of 11 June 2004, the COMELEC *En Banc* directed the Law Department to file the appropriate Information with the proper court against petitioners Carlos S. Romualdez and Erlinda Romualdez for violation of Section 10(g) and (j)<sup>[3]</sup> in relation to Section 45(j)<sup>[4]</sup> of Republic Act No. 8189, otherwise known as The Voter's Registration Act of 1996.<sup>[5]</sup> Petitioners' Motion for Reconsideration thereon was denied.

The factual antecedents leading to the instant Petition are presented hereunder:

On 12 July 2000, private respondent Dennis Garay, along with Angelino Apostol<sup>[6]</sup> filed a Complaint-Affidavit<sup>[7]</sup> with the COMELEC thru the Office of the Election Officer in Burauen, Leyte, charging petitioners with violation of Section 261(y)(2)<sup>[8]</sup> and Section 261(y)(5)<sup>[9]</sup> of the Omnibus Election Code, similarly referred to as Batas Pambansa Blg. 881; and Section 12<sup>[10]</sup> of Republic Act No. 8189.

Private respondent deposed, *inter alia*, that: petitioners are of legal ages and residents of 113 Mariposa Loop, Mariposa Street, Bagong Lipunan ng Crame, Quezon City; on 9 May 2000 and 11 May 2000, petitioners Carlos S. Romualdez and Erlinda R. Romualdez, applied for registration as new voters with the Office of the Election Officer of Burauen, Leyte, as evidenced by Voter Registration Record Nos. 42454095 and 07902952, respectively; in their sworn applications, petitioners made false and untruthful representations in violation of Section 10<sup>[11]</sup> of Republic Act Nos. 8189, by indicating therein that they are residents of 935 San Jose Street, Burauen, Leyte, when in truth and in fact, they were and still are residents of 113 Mariposa Loop, Mariposa Street, Bagong Lipunan ng Crame, Quezon City, and registered voters of Barangay Bagong Lipunan ng Crame, District IV, Quezon City, Precinct No. 4419-A, as evidenced by Voter Registration Record Nos. 26195824 and 26195823; and that petitioners, knowing fully well said truth, intentionally and willfully, did not fill the blank spaces in said applications corresponding to the length of time which they have resided in Burauen, Leyte. In fine, private respondent charged petitioners, to wit:

Respondent-spouses, Carlos Sison Romualdez and Erlinda Reyes Romualdez committed and consummated election offenses in violation of our election laws, specifically, Sec. 261, paragraph (y), subparagraph (2), for knowingly making any false or untruthful statements relative to any data or information required in the application for registration, and of Sec. 261, paragraph (y), subparagraph (5), committed by any person who, being a registered voter, registers anew without filing an application for cancellation of his previous registration, both of the Omnibus Election Code (BP Blg. 881), and of Sec. 12, RA 8189 (Voter Registration Act) for

failure to apply for transfer of registration records due to change of residence to another city or municipality."<sup>[12]</sup>

The Complaint-Affidavit contained a prayer that a preliminary investigation be conducted by the COMELEC, and if the evidence so warrants, the corresponding Information against petitioners be filed before the Regional Trial Court (RTC) for the prosecution of the same.

Petitioners filed a Joint Counter-Affidavit with Motion to Dismiss<sup>[13]</sup> dated 2 April 2001. They contended therein that they did not make any false or untruthful statements in their application for registration. They avowed that they intended to reside in Burauen, Leyte, since the year 1989. On 9 May 2000, they took actual residence in Burauen, Leyte, by leasing for five (5) years, the house of Juanito and Fe Renomeron at No. 935, San Jose Street in Burauen, Leyte. On even date, the Barangay District III Council of Burauen passed a Resolution of Welcome, expressing therein its gratitude and appreciation to petitioner Carlos S. Romualdez for choosing the Barangay as his official residence.<sup>[14]</sup>

On 28 November 2003, Atty. Maria Norina S. Tangaro-Casingal, COMELEC Investigating Officer, issued a Resolution, recommending to the COMELEC Law Department (Investigation and Prosecution Division), the filing of the appropriate Information against petitioners, disposing, thus:

PREMISES CONSIDERED, the Law Department (Investigation and Prosecution Division), RECOMMENDS to file the necessary information against Carlos Sison Romualdez before the proper Regional Trial Court for violation of Section 10 (g) and (j) in relation to Section 45 (j) of Republic Act 8189 and to authorize the Director IV of the Law Department to designate a Comelec Prosecutor to handle the prosecution of the case with the duty to submit periodic report after every hearing of the case.<sup>[15]</sup>

On 11 June 2004, the COMELEC *En Banc* found no reason to depart from the recommendatory Resolution of 28 November 2003, and ordered, *viz*:

WHEREFORE, premises considered, the Law Department is hereby directed to file the appropriate information with the proper court against respondents CARLOS S. ROMUALDEZ AND ERLINDA ROMUALDEZ for violation of Section 10 (g) and (j) in relation to Section 45 (j) of the Republic Act No. 8189.<sup>[16]</sup>

Petitioners filed a Motion for Reconsideration thereon.

Acting on the Motion, the COMELEC found no cogent reason to disturb the assailed *En Banc* Resolution of 11 June 2004,<sup>[17]</sup> rationalizing, thus:

However, perusal of the records reveal (sic) that the arguments and issues raised in the Motion for Reconsideration are merely a rehash of the arguments advanced by the Respondents in [their] Memorandum received by the Law Department on 17 April 2001, the same [w]as already considered by the Investigating Officer and was discussed in her recommendation which eventually was made as the basis for the *En Banc*'s resolution.

As aptly observed by the Investigating Officer, the filing of request for the cancellation and transfer of Voting Registration Record does not automatically cancel the registration records. The fact remains that at the time of application for registration as new voter of the herein Respondents on May 9 and 11, 2001 in the Office of Election Officer of Burauen, Leyte their registration in Barangay 4419-A, Barangay Bagong Lipunan ng Crame Quezon City was still valid and subsisting.<sup>[18]</sup>

On 12 January 2006, Alioden D. Dalaig, Director IV, Law Department of the COMELEC filed with the RTC, Burauen, Leyte, separate Informations against petitioner Carlos S. Romualdez<sup>[19]</sup> for violation of Section 10(g), in relation to Section 45(j) of Republic Act No. 8189, and against petitioner Erlinda R. Romualdez<sup>[20]</sup> for violation of Section 10(g), in relation to Section 45(j) of

Republic Act No. 8189, subsequently docketed as Crim. Case No. BN-06-03-4185 and Crim. Case No. BN-06-03-4183, respectively. Moreover, separate Informations for violation of Section 10(j), in relation to Section 45(j) of Republic Act No. 8189 were filed against petitioners.<sup>[21]</sup>

Hence, petitioners come to us *via* the instant Petition, submitting the following arguments:

## I

RESPONDENT COMMISSION ON ELECTIONS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF ITS JURISDICTION; *and*

## II

COMELEC GRAVELY ABUSED ITS DISCRETION WHEN IT PREMISED ITS RESOLUTION ON A MISAPPREHENSION OF FACTS AND FAILED TO CONSIDER CERTAIN RELEVANT FACTS THAT WOULD JUSTIFY A DIFFERENT CONCLUSION.<sup>[22]</sup>

On 4 May 2006, petitioners filed a Motion Reiterating Prayer for Issuance of Writ of Preliminary Injunction and to Cite for Indirect Contempt,<sup>[23]</sup> alleging that two separate Informations, both dated 12 January 2006, were filed with the RTC by the COMELEC against petitioner Carlos S. Romualdez for violation of Section 10(j), in relation to Section 45(j) of Republic Act No. 8189, in Criminal Case No. BN-06-03-9184; and for violation of Section 10(g), in relation to Section 45(j) of Republic Act No. 8189, in Criminal Case No. BN-06-03-9185. Similarly, the Motion alleged that the COMELEC filed with the RTC, two separate Informations, both dated 12 January 2006, against petitioner Erlinda R. Romualdez, charging her with the same offenses as those charged against petitioner Carlos S. Romualdez, and thereafter, docketed as Criminal Case No. BN-06-03-9182, and No. BN-06-03-9183.

On 20 June 2006, this Court issued a Resolution<sup>[24]</sup> denying for lack of merit petitioners' Motion Reiterating Prayer for Issuance of Writ of Preliminary Injunction and to Cite for Indirect Contempt.

We shall now resolve, *in seriatim*, the arguments raised by petitioners.

Petitioners contend that the election offenses for which they are charged by private respondent are entirely different from those which they stand to be accused of before the RTC by the COMELEC. According to petitioners, private respondent's complaint charged them for allegedly violating, to wit: 1) Section 261(y)(2) and Section 261(y)(5) of the Omnibus Election Code, and 2) Section 12 of the Voter's Registration Act; however, the COMELEC *En Banc* directed in the assailed Resolutions, that they be charged for violations of Section 10(g) and (j), in relation to Section 45(j) of the Voter's Registration Act. Essentially, petitioners are of the view that they were not accorded due process of law. Specifically, their right to refute or submit documentary evidence against the new charges which COMELEC ordered to be filed against them. Moreover, petitioners insist that Section 45(j) of the Voter's Registration Act is vague as it does not refer to a definite provision of the law, the violation of which would constitute an election offense; hence, it runs contrary to Section 14(1)<sup>[25]</sup> and Section 14(2),<sup>[26]</sup> Article III of the 1987 Constitution.

We are not persuaded.

*First.* The Complaint-Affidavit filed by private respondent with the COMELEC is couched in a language which embraces the allegations necessary to support the charge for violation of Section 10(g) and (j), in relation to Section 45(j) of Republic Act No. 8189.

A reading of the relevant laws is in order, thus:

Section 10(g) and Section 10(j) of Republic Act No. 8189, provide as follows:

SEC. 10 - *Registration of Voters.*- A qualified voter shall be registered in the permanent list of voters in a precinct of the city or municipality wherein he resides to be able to vote in any election. To register as a voter, he shall personally accomplish an application form for registration as prescribed by the Commission in three (3) copies before the Election Officer on any date during office hours after having acquired the qualifications of a voter.

The application shall contain the following data:

x x x x

(g) Periods of residence in the Philippines and in the place of registration;

x x x x

(j) A statement that the application is not a registered voter of any precinct;

The application for registration shall contain three (3) specimen signatures of the applicant, clear and legible rolled prints of his left and right thumbprints, with four identification size copies of his latest photograph, attached thereto, to be taken at the expense of the Commission.

Before the applicant accomplishes his application for registration, the Election Officer shall inform him of the qualifications and disqualifications prescribed by law for a voter, and thereafter, see to it that the accomplished application contains all the data therein required and that the applicant's specimen signatures, fingerprints, and photographs are properly affixed in all copies of the voter's application.

Moreover, Section 45(j) of the same Act, recites, thus:

SEC. 45. *Election Offense.* - The following shall be considered election offenses under this Act:

x x x x

(j) Violation of any of the provisions of this Act.

Significantly, the allegations in the Complaint-Affidavit which was filed with the Law Department of the COMELEC, support the charge directed by the COMELEC *En Banc* to be filed against petitioners with the RTC. Even a mere perusal of the Complaint-Affidavit would readily show that Section 10 of Republic Act No. 8189 was specifically mentioned therein. On the matter of the acts covered by Section 10(g) and (j), the Complaint-Affidavit, spells out the following allegations, to wit:

5. Respondent-spouses made false and untruthful representations in their applications (Annexes "B" and "C") in violation of the requirements of Section 10, RA 8189 (The Voter's Registration Act):

5.1 Respondent-spouses, in their sworn applications (Annexes "B" and "C", claimed to be residents of 935 San Jose [S]treet, Burauen, Leyte, when in truth and in fact, they were and still are residents of 113 Mariposa Loop, Mariposa [S]treet, Bagong Lipunan ng Crame, Quezon City and registered voters of Barangay Bagong Lipunan ng Crame, District IV, Quezon City, Precinct No. 4419-A, a copy of the Certification issued by Hon. Emmanuel V. Gozon, Punong Barangay, Bagong Lipunan ng Crame, Quezon City is hereto attached and made an integral part hereof, as Annex "D";

5.2 Respondent-spouses knowing fully well said truth, intentionally and

willfully, did not fill the blank spaces in their applications (Annexes "B" and "C") corresponding to the length of time they have resided in Burauen, Leyte;

6. Respondent-spouses, in (sic) all intents and purposes, were and still are residents and registered voters of Quezon City, as evidenced by Voter Registration Record Nos. 26195824 and 26195823, respectively; photocopies of which are hereto attached as Annexes "E" and "F"[.] Likewise, attached is a "Certification" (Annex "G") of Ms. Evelyn B. Bautista, Officer-in-Charge of the Office of the Election Officer, Fourth District, Quezon City, dated May 31, 2000, together with a certified copy of the computer print-out of the list of voters of Precinct No. 4419-A (Annex "G-1" ) containing the names of voters Carlos Romualdez and Erlinda Reyes Romualdez. The Certification reads as follows:

"THIS IS TO CERTIFY that as per office record MR. CARLOS ROMUALDEZ and MS. ERLINDA REYES ROMUALDEZ are registered voters of Barangay Bagong Lipunan ng Crame, District IV, Quezon City, Precinct Number 4419A with voters affidavit serial nos. 26195824 and 26195823, respectively.

This certification is issued for whatever legal purpose it may serve."

7. Respondent-spouses, registered as new voters of the Municipality of Burauen, Leyte, [in spite of] the fact that they were and still are, registered voters of Quezon City as early as June 22, 1997;

#### 7.1 That, Double Registration is an election offense.

A person qualified as a voter is only allowed to register once.

If a person registers anew as a voter in spite of a subsisting registration, the new application for registration will be disapproved. The registrant is also liable not only for an election offense of double registration, but also for another election offense of knowingly making any false or untruthful statement relative to any data or information required in the application for registration.

In fact, when a person applies for registration as a voter, he or she fills up a Voter Registration Record form in his or her own handwriting, which contains a Certification which reads:

"I do solemnly swear that the above statements regarding my person are true and correct; that I possess all the qualifications and none of the disqualifications of a voter; that the thumbprints, specimen signatures and photographs appearing herein are mine; and that *I am not registered as a voter in any other precinct.*"<sup>[27]</sup>

Petitioners cannot be said to have been denied due process on the claim that the election offenses charged against them by private respondent are entirely different from those for which they stand to be accused of before the RTC, as charged by the COMELEC. In the first place, there appears to be no incongruity between the charges as contained in the Complaint-Affidavit and the Informations filed before the RTC, notwithstanding the denomination by private respondent of the alleged violations to be covered by Section 261(y)(2) and Section 261(y)(5) of the Omnibus Election Code and Section 12 of Republic Act No. 8189. Evidently, the Informations directed to be filed by the COMELEC against petitioners, and which were, in fact, filed with the RTC, were based on the same set of facts as originally alleged in the private respondent's Complaint-Affidavit.