

EN BANC

[G.R. No. 147387, December 10, 2003]

RODOLFO C. FARIÑAS, MANUEL M. GARCIA, FRANCIS G. ESCUDERO, AND AGAPITO A. AQUINO, AS MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ALSO AS TAXPAYERS, IN THEIR OWN BEHALF AND IN REPRESENTATION OF THE MEMBERS OF THE MINORITY IN THE HOUSE OF REPRESENTATIVES, PETITIONERS, VS. THE EXECUTIVE SECRETARY, COMMISSION ON ELECTIONS, HON. FELICIANO R. BELMONTE, JR., SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT, SECRETARY OF THE SENATE, AND SECRETARY GENERAL OF THE HOUSE OF REPRESENTATIVES, RESPONDENTS.

[G.R. NO. 152161]

CONG. GERRY A. SALAPUDDIN, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

Before the Court are two Petitions under Rule 65 of the Rules of Court, as amended, seeking to declare as unconstitutional Section 14 of Republic Act No. 9006 (The Fair Election Act), insofar as it expressly repeals Section 67 of *Batas Pambansa Blg. 881* (The Omnibus Election Code) which provides:

SEC. 67. *Candidates holding elective office.* – Any elective official, whether national or local, running for any office other than the one which he is holding in a permanent capacity, except for President and Vice-President, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy.

The petition for certiorari and prohibition in G.R. No. 147387 was filed by Rodolfo C. Fariñas, Manuel M. Garcia, Francis G. Escudero and Agapito A. Aquino. At the time of filing of the petition, the petitioners were members of the minority bloc in the House of Representatives. Impleaded as respondents are: the Executive Secretary, then Speaker of the House of Representatives Feliciano R. Belmonte, Jr., the Commission on Elections, the Secretary of the Department of the Interior and Local Government (DILG), the Secretary of the Senate and the Secretary General of the House of Representatives.

The petition for prohibition in G.R. No. 152161 was filed by Gerry A. Salapuddin, then also a member of the House of Representatives. Impleaded as respondent is the COMELEC.

Rep. Act No. 9006, entitled "An Act to Enhance the Holding of Free, Orderly, Honest, Peaceful and Credible Elections through Fair Election Practices," is a consolidation of the following bills originating from the House of Representatives and the Senate, respectively:

House Bill (HB) No. 9000 entitled "AN ACT ALLOWING THE USE OF MASS MEDIA FOR ELECTION PROPAGANDA, AMENDING FOR THE PURPOSE BATAS PAMBANSA BILANG 881, OTHERWISE KNOWN AS THE 'OMNIBUS ELECTION CODE,' AS AMENDED, AND FOR OTHER PURPOSES;"^[1]

...

Senate Bill (SB) No. 1742 entitled "AN ACT TO ENHANCE THE HOLDING OF FREE, ORDERLY, HONEST, PEACEFUL, AND CREDIBLE ELECTIONS THROUGH FAIR ELECTION PRACTICES."^[2]

A Bicameral Conference Committee, composed of eight members of the Senate^[3] and sixteen (16) members of the House of Representatives,^[4] was formed to reconcile the conflicting provisions of the House and Senate versions of the bill.

On November 29, 2000, the Bicameral Conference Committee submitted its Report,^[5] signed by its members, recommending the approval of the bill as reconciled and approved by the conferees.

During the plenary session of the House of Representatives on February 5, 2001, Rep. Jacinto V. Paras proposed an amendment to the Bicameral Conference Committee Report. Rep. Didagen P. Dilangalen raised a point of order commenting that the House could no longer submit an amendment thereto. Rep. Sergio A.F. Apostol thereupon moved that the House return the report to the Bicameral Conference Committee in view of the proposed amendment thereto. Rep. Dilangalen expressed his objection to the proposal. However, upon *viva voce* voting, the majority of the House approved the return of the report to the Bicameral Conference Committee for proper action.^[6]

In view of the proposed amendment, the House of Representatives elected anew its conferees^[7] to the Bicameral Conference Committee.^[8] Then again, for unclear reasons, upon the motion of Rep. Ignacio R. Bunye, the House elected another set of conferees^[9] to the Bicameral Conference Committee.^[10]

On February 7, 2001, during the plenary session of the House of Representatives, Rep. Bunye moved that the House consider the Bicameral Conference Committee Report on the contrasting provisions of HB No. 9000 and SB No. 1742. Rep. Dilangalen observed that the report had been recommitted to the Bicameral Conference Committee. The Chair responded that the Bicameral Conference Report was a new one, and was a result of the reconvening of a new Bicameral Conference Committee. Rep. Dilangalen then asked that he be given time to examine the new report. Upon motion of Rep. Apostol, the House deferred the approval of the report until the other members were given a copy thereof.^[11]

After taking up other pending matters, the House proceeded to vote on the

Bicameral Conference Committee Report on the disagreeing provisions of HB No. 9000 and SB No. 1742. The House approved the report with 125 affirmative votes, 3 negative votes and no abstention. In explaining their negative votes, Reps. Fariñas and Garcia expressed their belief that Section 14 thereof was a rider. Even Rep. Escudero, who voted in the affirmative, expressed his doubts on the constitutionality of Section 14. Prior to casting his vote, Rep. Dilangalen observed that no senator signed the Bicameral Conference Committee Report and asked if this procedure was regular.^[12]

On the same day, the Senate likewise approved the Bicameral Conference Committee Report on the contrasting provisions of SB No. 1742 and HB No. 9000.

Thereafter, Rep. Act No. 9006 was duly signed by then Senate President Aquilino Pimentel, Jr. and then Speaker of the House of Representatives Feliciano R. Belmonte, Jr. and was duly certified by the Secretary of the Senate Lutgardo B. Barbo and the Secretary General of the House of Representatives Robert P. Nazareno as "the consolidation of House Bill No. 9000 and Senate Bill No. 1742," and "finally passed by both Houses on February 7, 2001."

President Gloria Macapagal-Arroyo signed Rep. Act No. 9006 into law on February 12, 2001.

The Petitioners' Case

The petitioners now come to the Court alleging in the main that Section 14 of Rep. Act No. 9006, insofar as it repeals Section 67 of the Omnibus Election Code, is unconstitutional for being in violation of Section 26(1), Article VI of the Constitution, requiring every law to have only one subject which should be expressed in its title.

According to the petitioners, the inclusion of Section 14 repealing Section 67 of the Omnibus Election Code in Rep. Act No. 9006 constitutes a proscribed rider. They point out the dissimilarity in the subject matter of Rep. Act No. 9006, on the one hand, and Section 67 of the Omnibus Election Code, on the other. Rep. Act No. 9006 primarily deals with the lifting of the ban on the use of media for election propaganda and the elimination of unfair election practices, while Section 67 of the Omnibus Election Code imposes a limitation on elective officials who run for an office other than the one they are holding in a permanent capacity by considering them as *ipso facto* resigned therefrom upon filing of the certificate of candidacy. The repeal of Section 67 of the Omnibus Election Code is thus not embraced in the title, nor germane to the subject matter of Rep. Act No. 9006.

The petitioners also assert that Section 14 of Rep. Act No. 9006 violates the equal protection clause of the Constitution because it repeals Section 67 only of the Omnibus Election Code, leaving intact Section 66 thereof which imposes a similar limitation to appointive officials, thus:

SEC. 66. *Candidates holding appointive office or position.* – 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.

They contend that Section 14 of Rep. Act No. 9006 discriminates against appointive officials. By the repeal of Section 67, an elective official who runs for office other than the one which he is holding is no longer considered *ipso facto* resigned therefrom upon filing his certificate of candidacy. Elective officials continue in public office even as they campaign for reelection or election for another elective position. On the other hand, Section 66 has been retained; thus, the limitation on appointive officials remains - they are still considered *ipso facto* resigned from their offices upon the filing of their certificates of candidacy.

The petitioners assert that Rep. Act No. 9006 is null and void in its entirety as irregularities attended its enactment into law. The law, not only Section 14 thereof, should be declared null and void. Even Section 16 of the law which provides that "[t]his Act shall take effect upon its approval" is a violation of the due process clause of the Constitution, as well as jurisprudence, which require publication of the law before it becomes effective.

Finally, the petitioners maintain that Section 67 of the Omnibus Election Code is a good law; hence, should not have been repealed. The petitioners cited the ruling of the Court in *Dimaporo v. Mitra, Jr.*, ^[13] that Section 67 of the Omnibus Election Code is based on the constitutional mandate on the "Accountability of Public Officers:"^[14]

Sec. 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.

Consequently, the respondents Speaker and Secretary General of the House of Representatives acted with grave abuse of discretion amounting to excess or lack of jurisdiction for not considering those members of the House who ran for a seat in the Senate during the May 14, 2001 elections as *ipso facto* resigned therefrom, upon the filing of their respective certificates of candidacy.

The Respondents' Arguments

For their part, the respondents, through the Office of the Solicitor General, urge this Court to dismiss the petitions contending, preliminarily, that the petitioners have no legal standing to institute the present suit. Except for the fact that their negative votes were overruled by the majority of the members of the House of Representatives, the petitioners have not shown that they have suffered harm as a result of the passage of Rep. Act No. 9006. Neither do petitioners have any interest as taxpayers since the assailed statute does not involve the exercise by Congress of its taxing or spending power.

Invoking the "enrolled bill" doctrine, the respondents refute the petitioners' allegations that "irregularities" attended the enactment of Rep. Act No. 9006. The signatures of the Senate President and the Speaker of the House, appearing on the bill and the certification signed by the respective Secretaries of both houses of Congress, constitute proof beyond cavil that the bill was duly enacted into law.

The respondents contend that Section 14 of Rep. Act No. 9006, as it repeals Section 67 of the Omnibus Election Code, is not a proscribed rider nor does it violate Section

26(1) of Article VI of the Constitution. The title of Rep. Act No. 9006, "An Act to Enhance the Holding of Free, Orderly, Honest, Peaceful and Credible Elections through Fair Election Practices," is so broad that it encompasses all the processes involved in an election exercise, including the filing of certificates of candidacy by elective officials.

They argue that the repeal of Section 67 is germane to the general subject of Rep. Act No. 9006 as expressed in its title as it eliminates the effect of prematurely terminating the term of an elective official by his filing of a certificate of candidacy for an office other than the one which he is permanently holding, such that he is no longer considered *ipso facto* resigned therefrom. The legislature, by including the repeal of Section 67 of the Omnibus Election Code in Rep. Act No. 9006, has deemed it fit to remove the "unfairness" of considering an elective official *ipso facto* resigned from his office upon the filing of his certificate of candidacy for another elective office. With the repeal of Section 67, all elective officials are now placed on equal footing as they are allowed to finish their respective terms even if they run for any office, whether the presidency, vice-presidency or other elective positions, other than the one they are holding in a permanent capacity.

The respondents assert that the repeal of Section 67 of the Omnibus Election Code need not be expressly stated in the title of Rep. Act No. 9006 as the legislature is not required to make the title of the act a complete index of its contents. It must be deemed sufficient that the title be comprehensive enough reasonably to include the general subject which the statute seeks to effect without expressing each and every means necessary for its accomplishment. Section 26(1) of Article VI of the Constitution merely calls for all the parts of an act relating to its subject to find expression in its title. Mere details need not be set forth.

According to the respondents, Section 14 of Rep. Act No. 9006, insofar as it repeals Section 67, leaving Section 66 of the Omnibus Election Code intact and effective, does not violate the equal protection clause of the Constitution. Section 67 pertains to elective officials while Section 66 pertains to appointive officials. A substantial distinction exists between these two sets of officials; elective officials occupy their office by virtue of their mandate based upon the popular will, while the appointive officials are not elected by popular will. The latter cannot, therefore, be similarly treated as the former. Equal protection simply requires that all persons or things similarly situated are treated alike, both as to rights conferred and responsibilities imposed.

Further, Section 16, or the "Effectivity" clause, of Rep. Act No. 9006 does not run afoul of the due process clause of the Constitution as it does not entail any arbitrary deprivation of life, liberty and property. Specifically, the section providing for penalties in cases of violations thereof presume that the formalities of the law would be observed, *i.e.*, charges would first be filed, and the accused would be entitled to a hearing before judgment is rendered by a court having jurisdiction. In any case, the issue about lack of due process is premature as no one has, as yet, been charged with violation of Rep. Act No. 9006.

Finally, the respondents submit that the respondents Speaker and Secretary General of the House of Representatives did not commit grave abuse of discretion in not excluding from the Rolls those members thereof who ran for the Senate during the May 14, 2001 elections. These respondents merely complied with Rep. Act No.