

EN BANC

[G.R. No. 143351, September 14, 2000]

MA. AMELITA C. VILLAROSA, PETITIONER, VS. THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND RICARDO V. QUINTOS, RESPONDENTS.

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MA. AMELITA C. VILLAROSA, PETITIONER, VS. THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND RICARDO V. QUINTOS, RESPONDENTS.

DECISION

DAVIDE JR., C.J.:

These cases, which were ordered consolidated on 15 August 2000, have their genesis in HRET Case No. 98-030,^[1] an election protest case filed by private respondent Ricardo V. Quintos (hereafter QUINTOS) against petitioner Amelita C. Villarosa (hereafter VILLAROSA) before the House of Representatives Electoral Tribunal (hereafter HRET).

VILLAROSA and QUINTOS were the only candidates for the office of Representative of the Lone Legislative District of Occidental Mindoro in the 11 May 1998 synchronized national and local elections. On 27 May 1998 the Provincial Board of Canvassers proclaimed VILLAROSA as the winning candidate with a margin of 3,032 votes.

On 4 June 1998 QUINTOS filed an election protest against VILLAROSA^[2] contesting the results of the election in all the 882 precincts in the eleven municipalities of Occidental Mindoro on the following grounds: (1) the ballots were misread and counted in favor of protestee; (2) there was rampant substitute voting, *i.e.*, persons other than the registered voters voted; (3) violence and intimidation were committed by protestee and her followers against known supporters of protestant to enhance protestee's candidacy; 4) previously prepared ballots for the protestee were deposited in the ballot boxes; and (5) illiterate Mangyan voters voting for protestant were assisted by self-appointed assistants of protestee, who wrote "JTV" on the ballots contrary to the instruction of said illiterate voters.

On 6 July 1998 VILLAROSA filed her Answer with Counter-Protest and Counterclaim.^[3] She counter-protested the results of the election in 497 precincts.

During the preliminary conference conducted by the HRET on 6 August 1998, QUINTOS and VILLAROSA agreed on the following facts:

1. Protestant and Protestee were registered candidates for and voted as Representatives, Lone Legislative District of Occidental Mindoro in the May 11, 1998 elections;
2. On May 27, 1998, after canvass of returns, the Provincial Board of Canvassers proclaimed Protestee Villarosa as the winning candidate for having obtained fifty-five thousand four hundred (55,400) votes, or a margin of three thousand thirty-two (3,032) votes over Protestant Quintos who was credited fifty-two thousand three hundred sixty-eight (52,368) votes;
3. All the precincts in the Lone Legislative District of Occidental Mindoro functioned in the elections;
4. Protestant contests the results of the elections in all the precincts of the eleven (11) municipalities comprising the Lone Legislative District of Occidental Mindoro; upon the other hand, Protestee counter-protests the results of the elections in four hundred ninety-seven (497) precincts;
5. Protestee is wife of JOSE T. VILLAROSA, who was Representative of the District in question for two terms, the last of which ended on June 30, 1998; in his certificate of candidacy for the election of May 8, 1995, JOSE T. VILLAROSA wrote as his "nickname or stage name: JOE-JTV."
6. In her certificate of candidacy, Protestee wrote "JTV" as her "nickname/stage name."
7. In her affidavit dated April 16, 1998 sent to the Office of the Provincial Election Supervisor, Occidental Mindoro, Protestee asked that she be allowed to insert in her certificate of candidacy the name GIRLIE such that her name should read in full as MA. AMELITA "Girly" C. VILLAROSA as "in every barangays [sic] of the Province of Occidental Mindoro" she is known as "Girly Villarosa";
8. In a letter dated March 27, 1998 sent by Provincial Election Supervisor (PES) Arsenio Guste of Occidental Mindoro to Director Jose B. Balbuena, Law Department, COMELEC, the former notified the latter that the nickname of protestee in her certificate of candidacy is JTV;
9. In his Memorandum dated May 10, 1998 to all Election Officers, PES Guste informed them that "JTV" is the authorized nickname or stage name of protestee and that "henceforth JTV, for all intents and purposes, in the appreciation of official ballots, ... should be counted in her favor;"
10. One Atty. Dan Restor of San Jose, Occidental Mindoro, had filed with the COMELEC a petition to invalidate/cancel "JTV" as the official nickname of the protestee; the petition was docketed as Election Matter No. 98-044; both Protestant and Protestee were not

made formal parties thereto;

11. In its Resolution of May 11, 1998, the COMELEC *en banc* unanimously granted the petition in Election Matter No. 98-044; it ruled that the Protestee "cannot use the nickname "JTV" considering that the same is not her nickname to which she is popularly known." Protestee's motion to reconsider the resolution was denied by the COMELEC in its Order of May 13, 1998; Protestee thereafter filed with the Supreme Court a Special Civil Action for Certiorari to challenge the resolution and order, which was docketed as G.R. No. 133927, which is still pending therein;
12. Per joint affidavit of Ms. Michelle Vizcarra and Mrs. Carmen Antonio (Annex "D" of Petition) a copy of the COMELEC Resolution of May 11, 1998 in Election Matter No. 98-044 was received by PES Guste at around 4:00 p.m., but were seen by him at 4:20 p.m. of May 11, 1998;
13. Before the filing of this protest, Protestant filed with the COMELEC a petition to disqualify Protestee, which was docke[te]d therein as SPA No. 98-342, on the grounds that protestee had "given money or material consideration to influence, induce or corrupt the voters or public officials performing electoral functions and committed acts of terrorism to enhance her candidacy." The case is still pending.^[4]

The parties further agreed and stipulated on the following issues:

1. Whether or not the votes JTV should be counted in favor of Protestee;
2. Recount and appreciation of ballots;
3. Damages, attorney's fees and litigation expenses as alleged and prayed for by Protestee, and according to Protestant, as indicated in prayer for "other relief, just and equitable."^[5]

The HRET thereafter required the parties to designate 25% of the protested and counter-protested precincts as their respective pilot precincts pursuant to Rule 68 of the HRET Rules of Procedure.

During the revision, ballots bearing "JTV," "JTB," "GTV," "GTB," "Jitivi," "Gitivi," "Jitibi" and "Gitibi" on the line for Representative were classified as ballots for VILLAROSA, which the revisors of QUINTOS objected to. Likewise, ballots bearing "Girlie" on the line for Representative were classified as votes for VILLAROSA.

On 5 August 1999, QUINTOS filed a "Motion to Withdraw Remaining Non-Pilot Protested Precincts."^[6]

On 7 October 1999, after granting this motion, the HRET promulgated a resolution^[7] stating that with QUINTOS' withdrawal of the remaining non-pilot protested precincts, QUINTOS impliedly limited the issue to

WHETHER OR NOT THE "JTV" VOTES SHOULD BE COUNTED IN FAVOR OF
PROTESTEE AMELITA C. VILLAROSA

On 9 December 1999 the HRET conducted an oral argument and heard QUINTOS and VILLAROSA on the aforestated issue.^[8]

On 18 May 2000, the HRET promulgated Resolution No. 00-65^[9] wherein it resolved to "PROCEED with the revision of the ballots in the remaining 75%; and DIRECT the Secretariat to continue with the revision." This resolution prompted VILLAROSA to file an Omnibus Motion^[10] praying for (1) the suspension of the revision of the ballots pursuant to HRET Resolution No. 00-65; (2) a categorical ruling that all ballots cast for "JTV" are valid votes for VILLAROSA; and (3) the dismissal of the protest.

On 8 June 2000 the HRET issued Resolution No. 00-82^[11] informing the parties that "the Tribunal ruled on May 18, 2000, by [a] vote of 5-4 of its members, *not to count* 'JTV' and its variations as valid votes for Protestee Amelita C. Villarosa, the same being considered stray ballots... [and that it] directed that the revision of ballots proceed with respect to the 75% counter-protest precincts."

On 14 June 2000, VILLAROSA filed with this Court a petition for *certiorari* docketed as G.R. No. 143351. She alleged therein that the HRET gravely abused its discretion in (a) issuing the above-mentioned resolutions of 18 May and 8 June 2000 in that it violated her right to due process when it disposed by a 5-4 ruling a vital election incident without stating therein the findings of fact and law on which the resolutions were based; and (b) treating "JTV" votes as stray and invalid, resulting in the disenfranchisement of the voters of Occidental Mindoro. She argued that "JTV" was her designated nickname in the official list of candidates submitted by the provincial election supervisor to the COMELEC in Manila; it was the nickname she used in her posters, handbills and other election propaganda throughout the campaign period. In her speeches during the rallies, she urged the voters who might have found her full name difficult to write to simply vote "JTV," as she had decided to use that nickname as a shortcut of her name as a married woman under Article 370 of the Civil Code. Under this Article, a married woman may use (1) her maiden first name and surname and add her husband's surname; (2) her maiden first name and her husband's surname; or (3) her husband's full name, but prefixing a word indicating that she is his wife, such as Mrs.

VILLAROSA then prayed that this Court issue a temporary restraining order (TRO) or a writ of preliminary injunction in G.R. No. 143351 to enjoin the HRET from resuming the revision of the remaining ballots in HRET Case No. 98-030. The Court, however, did not issue a TRO but required the HRET and QUINTOS to file a comment on the petition.

In his Comment, QUINTOS alleged that the petition in G.R. No. 143351 is premature because the HRET had not yet rendered a decision on the election protest. The assailed resolutions of the HRET are not decisions or formal resolutions which, as mandated by the Constitution, should set out the facts and the law on which they are based; nor are they acts which may be reviewed by *certiorari* under Rule 65 of the Rules of Court. As to the use of "JTV" as VILLAROSA's nickname, QUINTOS claims that the HRET's ruling on the matter should be maintained because under

Section 211 of the Omnibus Election Code any vote containing initials only shall be considered a stray vote. Moreover, VILLAROSA's use of such nickname was attended by bad faith, fraud and misrepresentation, and could have been for no other purpose than to make voters believe that they are voting for her husband, who was the Congressman of Occidental Mindoro for two terms and the incumbent Congressman at the time of the elections on 11 May 1998.

The Office of the Solicitor General submitted a Manifestation in Lieu of Comment and took the position that "JTV" votes should be declared valid and counted in favor of VILLAROSA, and to declare otherwise would frustrate the sovereign will of the people of Occidental Mindoro.

No TRO having been issued by this Court, the revision of the ballots of the remaining 75% of the counter-protested precincts went on and was completed on 28 June 2000. Because of the ruling that "JTV" votes or votes consisting of variations of "JTV" are stray votes, VILLAROSA lost 1,842 votes in the 75% counter-protested precincts and 4,336 votes in the 25% pilot precincts.

Accordingly, in its decision promulgated on 27 July 2000,^[12] the HRET, by a vote of 5-4, (1) ruled that QUINTOS obtained 51,465 votes, while VILLAROSA garnered 48,617 votes; (2) declared QUINTOS as the duly elected Representative of the Lone District of Occidental Mindoro, having obtained the highest number of votes with a margin of 2,848 votes over VILLAROSA; and (3) ordered VILLAROSA to vacate her office at the House of Representatives.

The HRET maintained that the issue of whether to count in favor of VILLAROSA votes for "JTV" or its variations necessitated a determination of whether VILLAROSA was in fact generally or popularly known as such in the locality of Occidental Mindoro.

The HRET held against VILLAROSA for various reasons. First, in her affidavit asking for the insertion of "GIRLIE" between her given name and surname she stated that she was known as GIRLIE in every barangay of the Province of Occidental Mindoro. This is an admission that, indeed, her nickname is not "JTV" but "GIRLIE." In fact, votes cast for "GIRLIE" were credited in her favor. Hence, the counting in her favor of ballots bearing "JTV" votes on the line for Representative would be tantamount to injustice because that would allow VILLAROSA to use two nicknames, "GIRLIE" and "JTV," which would be in violation of the second paragraph of Section 74 of the Omnibus Election Code allowing candidates to use only one nickname or stage name by which they are generally or popularly known in the locality. Moreover, Rule 13, Section 211 of the Omnibus Election Code on appreciation of ballots provides:

The use of nicknames and appellations of affection and friendship, if accompanied by the first name or surname of the candidate, does not annul such vote, except when they were used as a means to identify the voter, in which case the whole ballot is invalid; Provided, That if the nickname used is unaccompanied by the name or surname of a candidate and it is the one by which he is generally or popularly known in the locality, the name shall be counted in favor of said candidate, if there is no other candidate for the same office with the same nickname.