

## EN BANC

[ G.R. No. 171208, September 07, 2007 ]

**THE COMMISSION ON ELECTIONS, Petitioner, vs. HON. THELMA CANLAS TRINIDAD-PE AGUIRRE, Presiding Judge, Regional Trial Court, Br. 129, Caloocan City, and MA. LEONISA GENOVIA, Respondents.**

### D E C I S I O N

**CARPIO MORALES, J.:**

The present petition for Certiorari under Rule 64 of the Rules of Court involves jurisdiction over an election offense punishable under the Omnibus Election Code by "imprisonment of not less than one year but not more than six years."

On the directive of the Commission on Elections (COMELEC) *En Banc*,<sup>[1]</sup> its Law Department filed an Information against respondent Ma. Leonisa Genovia, for violation of Section 261 (z) (3) of the Omnibus Election Code which penalizes

"Any person who votes in substitution for another whether with or without the latter's knowledge and/or consent." (Underscoring supplied)

The accusatory portion of the Information, dated July 26, 2005, which was filed before the Regional Trial Court (RTC) of Caloocan City where it was docketed as Criminal Case No. C-73774, reads:

That on or about July 15, 2002 Synchronized Barangay and Sangguniang Kabataan (SK) Elections, in the City of Caloocan, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully, cast her vote in substitution of another person by misrepresenting herself to be Emely Genovia and voted in substitution of said Emely Genovia, a registered voter in Precinct No. 779-A, Barangay 60, Caloocan City.<sup>[2]</sup>

Under Section 264 of the Omnibus Election Code, violation of any election offense is punishable as follows:

**SECTION 264. Penalties. - Any person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years** and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be sentenced to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than ten thousand pesos, which shall be imposed upon such party after criminal action has been instituted in which their corresponding officials have

been found guilty. x x x (Italics in the original; emphasis and underscoring supplied)

By Order of September 21, 2005,<sup>[3]</sup> Branch 129 of the Caloocan RTC dismissed the case for lack of jurisdiction, it citing Section 32(2) of Batas Pambansa (B.P.) Blg. 129 (The Judiciary Reorganization Act of 1980) reading:

Sec. 32. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases.* - Except in cases falling within the exclusive jurisdiction of Regional Trial Courts and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

x x x x

(2) **Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years** irrespective of the amount of fine regardless of other imposable accessory penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, or value amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof. (Italics in the original; emphasis and underscoring supplied)

The COMELEC moved to reconsider the trial court's dismissal order,<sup>[4]</sup> inviting attention to Section 268 of the Omnibus Election Code which reads:

SECTION 268. *Jurisdiction of courts.* - The regional trial court shall have the exclusive original jurisdiction to try and decide any criminal action or proceedings for violation of this Code, except those relating to the offense of failure to register or failure to vote which shall be under the jurisdiction of the metropolitan or municipal trial courts. From the decision of the courts, appeal will lie as in other criminal cases. (Underscoring supplied)

By a one sentence Order of November 15, 2005,<sup>[5]</sup> the trial court denied the COMELEC's motion for "lack of merit."

Hence, the present petition for certiorari under Rule 64,<sup>[6]</sup> the COMELEC contending that the dismissal order is contrary to Section 268 of the Omnibus Election Code.

The COMELEC argues that under the above-quoted provision of Section 268 of the Omnibus Election Code, all criminal cases for violation of the Code, *except those relating to failure to register or failure to vote which shall be under the exclusive jurisdiction of inferior courts*, fall under the exclusive jurisdiction of regional trial courts.<sup>[7]</sup>

The petition is meritorious.

From the above-quoted provision of Section 32 of BP Blg. 129, jurisdiction of first-level courts - the metropolitan trial courts, municipal trial courts and municipal circuit trial courts - does not cover criminal cases which, by specific provision of law,