

## EN BANC

[ G.R. No. 215995, January 19, 2016 ]

**VICE-MAYOR MARCELINA S. ENGLE, PETITIONER, VS.  
COMMISSION ON ELECTIONS EN BANC AND WINSTON B.  
MENZON, RESPONDENTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Challenged in this petition for *certiorari* and prohibition under Rule in relation to Rule 65 of the 1997 Rules of Civil Procedure is the Resolution<sup>[1]</sup> of the Commission on Elections (COMELEC) En Banc dated January 20, 2015 which upheld the Resolution<sup>[2]</sup> of the COMELEC Second Division dated July 5, 2013, denying due course to and/or cancelling petitioner's certificate of candidacy; annulling her proclamation as the duly-elected Vice-Mayor of Babatngon, Leyte; and proclaiming private respondent in her stead.

Petitioner and private respondent vied for the position of Vice-Mayor of the Municipality of Babatngon, Province of Leyte in the May 13, 2013 Automated Synchronized National, Local and ARMM Regional Elections (the May 13, 2013 Elections, for brevity). Petitioner's late husband, James L. Engle, was originally a candidate for said contested position; however, he died of cardiogenic shock on February 2, 2013.<sup>[3]</sup> Due to this development, petitioner filed her certificate of candidacy<sup>[4]</sup> on February 22, 2013 as a substitute candidate for her deceased spouse.

In response, private respondent filed, on February 25, 2013, a Petition to Deny Due Course and/or Cancel the Certificate of Candidacy<sup>[5]</sup> (COC) of petitioner arguing in the main that the latter misrepresented that she is qualified to substitute her husband, who was declared an independent candidate by the COMELEC. It would appear that James L. Engle's Certificate of Nomination and Acceptance (CONA) was signed by Lakas Christian Muslim Democrats (Lakas-CMD) Leyte Chapter President, Ferdinand Martin G. Romualdez (Romualdez). However, Lakas-CMD failed to submit to the COMELEC Law Department the authorization of Romualdez to sign the CONAs of Lakas-CMD candidates in Babatngon as prescribed by Section 6(3) of COMELEC Resolution No. 9518. Thus, the COMELEC Law Department considered all Lakas-CMD candidates whose CONAs were signed by Romualdez as independent candidates.<sup>[6]</sup> For this reason, private respondent charged petitioner with violation of Section 15, COMELEC Resolution No. 9518 which disallows the substitution of an independent candidate. He argued that petitioner's declaration that she was a member of the political party, Lakas-CMD, was intended to deceive the electorate that she was qualified to substitute her husband. Additionally, private respondent claimed that "[t]he false representation of the [petitioner] that she is qualified for public office consisted of a deliberate attempt to mislead, misinform, or hide a fact that would

otherwise render a candidate ineligible."<sup>[7]</sup>

In petitioner's Verified Answer,<sup>[8]</sup> she countered that: (1) the ground relied upon in private respondent's petition was not the ground contemplated by Section 1, Rule 23 of COMELEC Resolution No. 9523; (2) the COMELEC did not issue an official declaration that petitioner's husband was an independent candidate; and (3) James L. Engle's CONA was signed by an authorized person acting on behalf of LAKAS-CMD.

With regard to her first counter-argument, petitioner posited that, under Section 1, Rule 23 of COMELEC Resolution No. 9523, the exclusive ground for denial or cancellation of a COC is the falsity of a material representation contained therein that is required by law. Private respondent's assertion that petitioner's statement in her COC regarding her affiliation with a political party was such a false representation is "absurd" considering that her CONA was signed by Senator Ramon "Bong" Revilla, Jr. and Mr. Raul L. Lambino, President and Senior Deputy Secretary-General of Lakas-CMD, respectively. Assuming the veracity of private respondent's allegations, his contention that petitioner is disqualified to run as a substitute is not a proper subject of a petition to deny due course or to cancel a COC. The qualification or disqualification of a candidate is allegedly covered by Sections 12, 68, 69 and 78 of the Omnibus Election Code. In petitioner's view, the petition to cancel her COC is dismissible according to the second paragraph of Section 1 of COMELEC Resolution No. 9523 which provides that "[a] petition to Deny Due Course to or Cancel Certificate of Candidacy invoking grounds other than those stated above or grounds for disqualification, or combining grounds for a separate remedy, shall be summarily dismissed."

As for petitioner's counter-arguments on the substantive issues, she contended that there was no official declaration from the COMELEC that her deceased husband was an independent candidate. Private respondent's reliance on a mere print out of the COMELEC website listing her husband as an independent candidate was misplaced as the same cannot be considered authoritative as opposed to official documents that showed James L. Engle's nomination by Lakas-CMD and his acceptance of said nomination to run for the position of Vice-Mayor of Babatngon, Leyte under the banner of Lakas-CMD. Moreover, petitioner stressed that Romualdez was authorized to sign James L. Engle's CONA. She attached to her Verified Answer a copy of the Authority to Sign Certificates of Nomination and Acceptance dated September 11, 2012 which was signed by Ramon "Bong" Revilla, Jr. (National President) and Jose S. Aquino II (Secretary-General) of Lakas-CMD in favor of Romualdez.

The petition to deny due course or cancel petitioner's COC was still pending with the COMELEC Second Division when the May 13, 2013 Elections were held. James L. Engle's name remained on the ballot. On May 15, 2013, the Municipal Board of Canvassers issued a certificate of canvass of votes and proclamation of winning candidates for Babatngon Mayor and Vice-Mayor<sup>[9]</sup> wherein petitioner was declared as the duly-elected Vice-Mayor of Babatngon, Leyte. Petitioner was credited with the Six Thousand Six Hundred Fifty Seven (6,657) votes cast for her husband as against private respondent's Three Thousand Five Hundred Fifteen (3,515) votes.<sup>[10]</sup>

It was only on July 5, 2013 did the COMELEC Second Division promulgate the assailed Resolution which denied due course to and cancelled petitioner's COC

resulting in the annulment of petitioner's previous proclamation as duly-elected Vice-Mayor of Babatngon, Leyte and the declaration of private respondent as winner of the contested position. The dispositive portion of the July 5, 2013 Resolution is reproduced here:

**WHEREFORE**, premises considered, this Commission hereby **RESOLVES** to **DENY DUE COURSE** to and/or CANCEL the Certificate of Candidacy filed by Respondent **MARCELINA S. ENGLE** for the position of Vice-Mayor of Babatngon, Leyte, for the 13 May 2013 National and Local Elections. Moreover, Respondent **MARCELINA S. ENGLE's** proclamation as the duly-elected Vice-Mayor of Babatngon, Leyte is hereby **ANNULLED**. Accordingly:

1. The Executive Director is ordered to constitute a Special Municipal Board of Canvassers for the municipality of Babatngon, Leyte; and
2. The Special Municipal Board of Canvassers is ordered to immediately notify the parties, reconvene and proclaim Petitioner **WINSTON B. MENZON** as the duly-elected Vice-Mayor of Babatngon, Leyte.

Let the Executive Director implement this Resolution.<sup>[11]</sup>

According to the COMELEC Second Division, the substitution of petitioner as a candidate in place of her deceased husband for the position of Vice-Mayor of Babatngon, Leyte was not a material misrepresentation which may be a ground for cancellation of her COC under Section 78, in relation to Section 74, of the Omnibus Election Code (OEC). Citing jurisprudence, the COMELEC Second Division ruled that the false representation contemplated under the law refers to a material fact affecting a candidate's qualification for office such as citizenship or residence.

Despite the foregoing finding, the COMELEC Second Division nonetheless found sufficient basis to cancel petitioner's COC on the ground that she could not have validly substituted her husband, who was deemed an independent candidate for failure of Lakas-CMD to submit to the COMELEC Law Department Romualdez's authority to sign CONAs for and on behalf of the party on or before October 1, 2012 in violation of Section 6 (3) of COMELEC Resolution No. 9518. The COMELEC Second Division noted that the purported authorization of Romualdez to sign CONAs for Lakas-CMD candidates in Leyte was belatedly submitted in connection with the proceedings on the petition to deny due course to, or cancel petitioner's COC.

Finally, on the point on who should be declared the winning candidate for the position of Vice-Mayor of Babatngon, the COMELEC Second Division held that private respondent, the second placer, should be declared the winner in line with jurisprudence stating that if the COC of the winning candidate is void ab initio then the votes of the disqualified or ineligible candidate should be considered stray.

Aggrieved, petitioner moved for reconsideration of the aforementioned ruling of the COMELEC Second Division with the COMELEC *En Banc*. However, the latter tribunal denied petitioner's plea in the assailed January 20, 2015 Resolution, the dispositive

portion of which reads:

**WHEREFORE**, premises considered, the Motion for Reconsideration is **DENIED** for **LACK OF MERIT**. The Resolution of the Commission (*Second Division*) is **AFFIRMED**.<sup>[12]</sup>

Appealing now to this Court for relief, petitioner offers the following arguments in support of her petition:

I

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED THE PETITION FILED BY MENZON DESPITE ITS FINDING THAT ENGLE DID NOT COMMIT ANY MATERIAL MISREPRESENTATION IN HER CERTIFICATE OF CANDIDACY.

II

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED THE PETITION FILED BY MENZON EVEN THOUGH NO LEGAL GROUND EXISTS TO DENY DUE COURSE TO OR CANCEL ENGLE'S CERTIFICATE OF CANDIDACY GIVEN THE ABSENCE OF MATERIAL MISREPRESENTATION IN THIS CASE.

III

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED DUE COURSE TO AND CANCELLED PETITIONER'S CERTIFICATE OF CANDIDACY EVEN THOUGH THE PETITION FILED BY MENZON IS CLEARLY THE WRONG LEGAL REMEDY TO ASSAIL THE SUPPOSED INVALIDITY OF PETITIONER'S SUBSTITUTION THUS VIOLATING ENGLE'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

IV

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DECLARED THAT ROMUALDEZ HAS NO AUTHORITY TO SIGN THE CON A OF LAKAS-CMD's CANDIDATES IN LEYTE.

V

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR

EXCESS OF JURISDICTION WHEN IT GRANTED THE PETITION FILED BY MENZON AND PENALIZED THE PETITIONER FOR AN OMISSION DONE BY ANOTHER PARTY AS THIS RUN CONTRARY TO THE PRINCIPLE OF RES INTER ALIOSACTA.

## VI

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DECLARED THAT PETITIONER ENGLE CANNOT VALIDLY SUBSTITUTE HER DECEASED HUSBAND, JAMES L. ENGLE, AS THE LAKAS-CMD CANDIDATE FOR THE POSITION OF VICE-MAYOR OF BABATNGON, LEYTE.

## VII

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISREGARDED AND BYPASSED THE WILL OF THE ELECTORATE BY IGNORING THE OVERWHELMING AND PROMINENT NUMBER OF VOTES OBTAINED BY ENGLE DURING THE RECENTLY CONCLUDED MAY 13, 2013 NATIONAL AND LOCAL ELECTIONS.

## VIII

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ORDERED THE PROCLAMATION OF MENZON, THE CANDIDATE WHO OBTAINED THE SECOND HIGHEST NUMBER OF VOTES, FOR THE POSITION OF VICE-MAYOR OF BABATNGON, LEYTE.<sup>[13]</sup>

During the pendency of this petition, the COMELEC *En Banc* issued on February 3, 2015 a Writ of Execution<sup>[14]</sup> in SPA Case No. 13-232 (DC) (F) in response to a motion filed by private respondent which set the stage for the immediate implementation of the assailed COMELEC Resolutions which are the subject matter of this case.

On February 26, 2015, the COMELEC filed its Comment<sup>[15]</sup> wherein it raised the following counter-arguments:

### I.

THE NAME AND SPECIMEN SIGNATURES OF THE PARTY OFFICIAL AUTHORIZED TO SIGN THE CONA SHOULD BE TRANSMITTED TO THE COMELEC WITHIN THE PERIOD PROVIDED IN RESOLUTION NO. [9518].

### II.