

EN BANC

[G.R. No. 148334, January 21, 2004]

**ARTURO M. TOLENTINO AND ARTURO C. MOJICA, PETITIONERS,
VS. COMMISSION ON ELECTIONS, SENATOR RALPH G. RECTO
AND SENATOR GREGORIO B. HONASAN, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

This is a petition for prohibition to set aside Resolution No. NBC 01-005 dated 5 June 2001 ("Resolution No. 01-005") and Resolution No. NBC 01-006 dated 20 July 2001 ("Resolution No. 01-006") of respondent Commission on Elections ("COMELEC"). Resolution No. 01-005 proclaimed the 13 candidates elected as Senators in the 14 May 2001 elections while Resolution No. 01-006 declared "official and final" the ranking of the 13 Senators proclaimed in Resolution No. 01-005.

The Facts

Shortly after her succession to the Presidency in January 2001, President Gloria Macapagal-Arroyo nominated then Senator Teofisto T. Guingona, Jr. ("Senator Guingona") as Vice-President. Congress confirmed the nomination of Senator Guingona who took his oath as Vice-President on 9 February 2001.

Following Senator Guingona's confirmation, the Senate on 8 February 2001 passed Resolution No. 84 ("Resolution No. 84") certifying to the existence of a vacancy in the Senate. Resolution No. 84 called on COMELEC to fill the vacancy through a special election to be held simultaneously with the regular elections on 14 May 2001. Twelve Senators, with a 6-year term each, were due to be elected in that election.^[1] Resolution No. 84 further provided that the "Senatorial candidate garnering the 13th highest number of votes shall serve only for the unexpired term of former Senator Teofisto T. Guingona, Jr.," which ends on 30 June 2004.^[2]

On 5 June 2001, after COMELEC had canvassed the election results from all the provinces but one (Lanao del Norte), COMELEC issued Resolution No. 01-005 provisionally proclaiming 13 candidates as the elected Senators. Resolution No. 01-005 also provided that "the first twelve (12) Senators shall serve for a term of six (6) years and the thirteenth (13th) Senator shall serve the unexpired term of three (3) years of Senator Teofisto T. Guingona, Jr. who was appointed Vice-President."^[3] Respondents Ralph Recto ("Recto") and Gregorio Honasan ("Honasan") ranked 12th and 13th, respectively, in Resolution No. 01-005.

On 20 June 2001, petitioners Arturo Tolentino and Arturo Mojica ("petitioners"), as

voters and taxpayers, filed the instant petition for prohibition, impleading only COMELEC as respondent. Petitioners sought to enjoin COMELEC from proclaiming with finality the candidate for Senator receiving the 13th highest number of votes as the winner in the special election for a single three-year term seat. Accordingly, petitioners prayed for the nullification of Resolution No. 01-005 in so far as it makes a proclamation to such effect.

Petitioners contend that COMELEC issued Resolution No. 01-005 without jurisdiction because: (1) it failed to notify the electorate of the position to be filled in the special election as required under Section 2 of Republic Act No. 6645 ("R.A. No. 6645");^[4] (2) it failed to require senatorial candidates to indicate in their certificates of candidacy whether they seek election under the special or regular elections as allegedly required under Section 73 of Batas Pambansa Blg. 881;^[5] and, consequently, (3) it failed to specify in the Voters Information Sheet the candidates seeking election under the special or regular senatorial elections as purportedly required under Section 4, paragraph 4 of Republic Act No. 6646 ("R.A. No. 6646").^[6] Petitioners add that because of these omissions, COMELEC canvassed all the votes cast for the senatorial candidates in the 14 May 2001 elections without distinction such that "there were no two separate Senate elections held simultaneously but just a single election for thirteen seats, irrespective of term."^[7]

Stated otherwise, petitioners claim that if held simultaneously, a special and a regular election must be distinguished in the documentation as well as in the canvassing of their results. To support their claim, petitioners cite the special elections simultaneously held with the regular elections of 13 November 1951 and 8 November 1955 to fill the seats vacated by Senators Fernando Lopez and Carlos P. Garcia, respectively, who became Vice-Presidents during their tenures in the Senate.^[8] Petitioners point out that in those elections, COMELEC separately canvassed the votes cast for the senatorial candidates running under the regular elections from the votes cast for the candidates running under the special elections. COMELEC also separately proclaimed the winners in each of those elections.^[9]

Petitioners sought the issuance of a temporary restraining order during the pendency of their petition.

Without issuing any restraining order, we required COMELEC to Comment on the petition.

On 20 July 2001, after COMELEC had canvassed the results from all the provinces, it issued Resolution No. 01-006 declaring "official and final" the ranking of the 13 Senators proclaimed in Resolution No. 01-005. The 13 Senators took their oaths of office on 23 July 2001.

In view of the issuance of Resolution No. 01-006, the Court required petitioners to file an amended petition impleading Recto and Honasan as additional respondents. Petitioners accordingly filed an amended petition in which they reiterated the contentions raised in their original petition and, in addition, sought the nullification of Resolution No. 01-006.

In their Comments, COMELEC, Honasan, and Recto all claim that a special election

to fill the seat vacated by Senator Guingona was validly held on 14 May 2001. COMELEC and Honasan further raise preliminary issues on the mootness of the petition and on petitioners' standing to litigate. Honasan also claims that the petition, which seeks the nullity of his proclamation as Senator, is actually a *quo warranto* petition and the Court should dismiss the same for lack of jurisdiction. For his part, Recto, as the 12th ranking Senator, contends he is not a proper party to this case because the petition only involves the validity of the proclamation of the 13th placer in the 14 May 2001 senatorial elections.

The Issues

The following are the issues presented for resolution:

(1) Procedurally –

(a) whether the petition is in fact a petition for *quo warranto* over which the Senate Electoral Tribunal is the sole judge;

(b) whether the petition is moot; and

(c) whether petitioners have standing to litigate.

(2) On the merits, whether a special election to fill a vacant three-year term Senate seat was validly held on 14 May 2001.

The Ruling of the Court

The petition has no merit.

On the Preliminary Matters

The Nature of the Petition and the Court's Jurisdiction

A *quo warranto* proceeding is, among others, one to determine the right of a public officer in the exercise of his office and to oust him from its enjoyment if his claim is not well-founded.^[10] Under Section 17, Article VI of the Constitution, the Senate Electoral Tribunal is the sole judge of all contests relating to the qualifications of the members of the Senate.

A perusal of the allegations contained in the instant petition shows, however, that what petitioners are questioning is the validity of the special election on 14 May 2001 in which Honasan was elected. Petitioners' various prayers are, namely: (1) a "declaration" that no special election was held simultaneously with the general elections on 14 May 2001; (2) to enjoin COMELEC from declaring anyone as having won in the special election; and (3) to annul Resolution Nos. 01-005 and 01-006 in so far as these Resolutions proclaim Honasan as the winner in the special election. Petitioners anchor their prayers on COMELEC's alleged failure to comply with certain requirements pertaining to the conduct of that special election. Clearly then, the petition does not seek to determine Honasan's right in the exercise of his office as Senator. Petitioners' prayer for the annulment of Honasan's proclamation and, ultimately, election is merely incidental to petitioners' cause of action. Consequently, the Court can properly exercise jurisdiction over the instant petition.

On the Mootness of the Petition

COMELEC contends that its proclamation on 5 June 2001 of the 13 Senators and its subsequent confirmation on 20 July 2001 of the ranking of the 13 Senators render the instant petition to set aside Resolutions Nos. 01-005 and 01-006 moot and academic.

Admittedly, the office of the writ of prohibition is to command a tribunal or board to desist from committing an act threatened to be done without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.^[11] Consequently, the writ will not lie to enjoin acts already done.^[12] However, as an exception to the rule on mootness, courts will decide a question otherwise moot if it is capable of repetition yet evading review.^[13] Thus, in ***Alunan III v. Mirasol***,^[14] we took cognizance of a petition to set aside an order canceling the general elections for the Sangguniang Kabataan ("SK") on 4 December 1992 despite that at the time the petition was filed, the SK election had already taken place. We noted in ***Alunan*** that since the question of the validity of the order sought to be annulled "is likely to arise in every SK elections and yet the question may not be decided before the date of such elections," the mootness of the petition is no bar to its resolution. This observation squarely applies to the instant case. The question of the validity of a special election to fill a vacancy in the Senate in relation to COMELEC's failure to comply with requirements on the conduct of such special election is likely to arise in every such election. Such question, however, may not be decided before the date of the election.

On Petitioners' Standing

Honasan questions petitioners' standing to bring the instant petition as taxpayers and voters because petitioners do not claim that COMELEC illegally disbursed public funds. Neither do petitioners claim that they sustained personal injury because of the issuance of Resolution Nos. 01-005 and 01-006.

"Legal standing" or *locus standi* refers to a personal and substantial interest in a case such that the party has sustained or will sustain direct injury because of the challenged governmental act.^[15] The requirement of standing, which necessarily "sharpens the presentation of issues,"^[16] relates to the constitutional mandate that this Court settle only actual cases or controversies.^[17] Thus, generally, a party will be allowed to litigate only when (1) he can show that he has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable action.^[18]

Applied strictly, the doctrine of standing to litigate will indeed bar the instant petition. In questioning, in their capacity as voters, the validity of the special election on 14 May 2001, petitioners assert a harm classified as a "generalized grievance." This generalized grievance is shared in substantially equal measure by a large class of voters, if not all the voters, who voted in that election.^[19] Neither have petitioners alleged, in their capacity as taxpayers, that the Court should give due course to the petition because in the special election held on 14 May 2001 "tax

money [was] 'x x x extracted and spent in violation of specific constitutional protections against abuses of legislative power' or that there [was] misapplication of such funds by COMELEC or that public money [was] deflected to any improper purpose."^[20]

On the other hand, we have relaxed the requirement on standing and exercised our discretion to give due course to voters' suits involving the right of suffrage.^[21] Also, in the recent case of ***Integrated Bar of the Philippines v. Zamora***,^[22] we gave the same liberal treatment to a petition filed by the Integrated Bar of the Philippines ("IBP"). The IBP questioned the validity of a Presidential directive deploying elements of the Philippine National Police and the Philippine Marines in Metro Manila to conduct patrols even though the IBP presented "too general an interest." We held:

[T]he IBP primarily anchors its standing on its alleged responsibility to uphold the rule of law and the Constitution. Apart from this declaration, however, the IBP asserts no other basis in support of its *locus standi*. The mere invocation by the IBP of its duty to preserve the rule of law and nothing more, while undoubtedly true, is not sufficient to clothe it with standing in this case. This is too general an interest which is shared by other groups and the whole citizenry. x x x.

Having stated the foregoing, this Court has the discretion to take cognizance of a suit which does not satisfy the requirement of legal standing when paramount interest is involved. In not a few cases, the court has adopted a liberal attitude on the *locus standi* of a petitioner where the petitioner is able to craft an issue of transcendental significance to the people. Thus, when the issues raised are of paramount importance to the public, the Court may brush aside technicalities of procedure. In this case, a reading of the petition shows that the IBP has advanced constitutional issues which deserve the attention of this Court in view of their seriousness, novelty and weight as precedents. Moreover, because peace and order are under constant threat and lawless violence occurs in increasing tempo, undoubtedly aggravated by the Mindanao insurgency problem, the legal controversy raised in the petition almost certainly will not go away. It will stare us in the face again. It, therefore, behooves the Court to relax the rules on standing and to resolve the issue now, rather than later.^[23] (Emphasis supplied)

We accord the same treatment to petitioners in the instant case in their capacity as voters since they raise important issues involving their right of suffrage, considering that the issue raised in this petition is likely to arise again.

***Whether a Special Election for a Single, Three-Year Term
Senatorial Seat was Validly Held on 14 May 2001***

Under Section 9, Article VI of the Constitution, a special election may be called to fill any vacancy in the Senate and the House of Representatives "in the manner prescribed by law," thus: