

EN BANC

[G.R. No. 139801, May 31, 2000]

ROBERTO CONQUILLA, PETITIONER, VS. COMMISSION ON ELECTIONS AND EDUARDO A. ALARILLA, RESPONDENTS.

DECISION

BELLOSILLO, J.:

ROBERTO CONQUILLA assails in this special civil action for certiorari the En Banc Resolution of the Commission on Elections (COMELEC) dated 7 September 1999 which affirmed the Resolution of its First Division dated 21 May 1998 dismissing his *Petition for Cancellation of Certificate of Candidacy and Disqualification* against private respondent EDUARDO A. ALARILLA^[1] for lack of merit.

On 27 March 1998 ALARILLA filed his *Certificate of Candidacy* with the Municipal Election Officer of Meycauayan, Bulacan, without however indicating the elective position which he was aspiring for. Thus in the blank space provided therefor appeared merely -

CERTIFICATE OF CANDIDACY

I hereby announce my candidacy for the office of **Meycauayan, Bulacan**, Republic of the Philippines, in the May 11, 1998 elections x x x
x

However, attached thereto and filed with his *Certificate of Candidacy* was ALARILLA's *Certificate of Nomination and Acceptance* to wit -

CERTIFICATE OF NOMINATION AND ACCEPTANCE

I , JOSE DE VENECIA, JR., by virtue of the powers and authority vested in me by the Constitution and By-Laws of the Lakas National Union of Christian Democrats-United Muslim Democrats of the Philippines (LAKAS NUCD-UMDP) as its Secretary-General, hereby nominate:

EDUARDO A. ALARILLA

as the Party's official candidate in the May 11, 1998 elections for the position of MUNICIPAL MAYOR of the Municipality of Meycauayan in the Fourth District of Bulacan.

WITNESS MY HAND this 18th day of March 1998 in Makati City, Metro Manila.

(signed)
JOSE DE VENECIA, JR.

Secretary-General

x x x x

A C C E P T A N C E

I hereby accept the foregoing nomination and pledge to work for the total victory of the Party in my area of responsibility.

(signed)

EDUARDO A. ALARILLA

On 14 April 1998 CONQUILLA filed with the COMELEC a *Petition for Cancellation of Certificate of Candidacy and Disqualification*, docketed as SPA No. 98-132, praying that private respondent ALARILLA's *Certificate of Candidacy* be expunged and cancelled on the ground that it was null and void for failing to specify the elective position he was running for and, consequently, he be disqualified to run for any position in Meycauayan, Bulacan.

During the pendency of SPA No. 98-132 the Board of Canvassers proclaimed ALARILLA as the Mayor-elect of Meycauayan, Bulacan. As a consequence, CONQUILLA filed an "*Urgent Motion to Annul the Proclamation and/or to Suspend the Effects of Proclamation*" of ALARILLA contending that any decision in SPA No. 98-132 would be pre-empted unless his proclamation was nullified. The records do not show that the motion was properly acted upon.

On 21 May 1998 the First Division of COMELEC dismissed SPA No. 98-132 for lack of merit. It ruled that ALARILLA's failure to specify the public office he was seeking in his *Certificate of Candidacy* was not a fatal defect because the required information was supplied in the *Certificate of Nomination and Acceptance* attached to his *Certificate of Candidacy*. In addition, the First Division ruled that ALARILLA was able to correct his omission by filing an *Amended Certificate of Candidacy* on 21 April 1998 clearly indicating therein that he was running for the position of Municipal Mayor, Meycauayan, Bulacan.

On 1 June 1998 CONQUILLA filed an "*Appeal with Urgent Motion for Annulment and/or Suspension of Proclamation with Prayer for Issuance of a Restraining Order*." He also prayed that the Resolution of the First Division be set aside. The "*Appeal with Urgent Motion for Annulment . . .*" was treated as a motion for reconsideration under Rule 19 of the *Comelec Rules of Procedure* and accordingly certified to the COMELEC En Banc pursuant to Sec. 5 thereof.^[2]

On 7 September 1998 the COMELEC *En Banc* denied the motion for reconsideration for being *pro-forma* and for late filing.^[3] The COMELEC ruled that under Sec. 9, Rule 19, of the *Comelec Rules of Procedure*^[4] CONQUILLA had only until 31 March 1998, i.e., five (5) days within which to move for reconsideration counted from the time he allegedly received the questioned Resolution of the First Division on 26 March 1998. Hence, the "*Appeal with Urgent Motion for Annulment and/or Suspension of Proclamation with Prayer for Issuance of a Restraining Order*" was late having been filed on 1 June 1998.