EN BANC

[G.R. No. 132365, July 09, 1998]

COMMISSION ON ELECTIONS, PETITIONER, VS. HON. TOMAS B. NOYNAY, ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 23, ALLEN, NORTHERN SAMAR, AND DIOSDADA F. AMOR, ESBEL CHUA, AND RUBEN MAGLUYOAN, RESPONDENTS.

D E C I S I O N

DAVIDE, JR., J.:

The pivotal issue raised in this special civil action for certiorari with mandamus is whether R.A. No. 7691[1] has divested Regional Trial Courts of jurisdiction over election offenses, which are punishable with imprisonment of not exceeding six (6) years.

The antecedents are not disputed.

In its Minute Resolution No. 96-3076 of 29 October 1996, the Commission on Elections (COMELEC) resolved to file an information for violation of Section 261(i) of the Omnibus Election Code against private respondents Diosdada Amor, a public school principal, and Esbel Chua and Ruben Magluyoan, both public school teachers, for having engaged in partisan political activities. The COMELEC authorized its Regional Director in Region VIII to handle the prosecution of the cases.

Forthwith, nine informations for violation of Section 261(i) of the Omnibus Election were filed with Branch 23 of the Regional Trial Court of Allen, Northern Samar, and docketed therein as follows:

a) Criminal Cases Nos. A-1439 and A-1442, against private respondents Diosdada Amor, Esbel Chua, and Ruben Magluyoan.

b) Criminal Case No. A-1443, against private respondents Esbel Chua and Ruben Magluyoan.

c) Criminal Cases Nos. A-1444 and A-1445, against private respondent Esbel Chua only;

d) Criminal Cases Nos. A-1446 to A-1449, against private respondent Diosdada Amor only.

In an Order[2] issued on 25 August 1997, respondent Judge Tomas B. Noynay, as presiding judge of Branch 23, motu proprio ordered the records of the cases to be withdrawn and directed the COMELEC Law Department to file the cases with the appropriate Municipal Trial Court on the ground that pursuant to Section 32 of B.P. Blg. 129 as amended by R.A. No. 7691,[3] the Regional Trial Court has no

jurisdiction over the cases since the maximum imposable penalty in each of the cases does not exceed six years of imprisonment. Pertinent portions of the Order read as follows:

[I]t is worth pointing out that all the accused are uniformly charged for [sic] Violation of Sec. 261(i) of the Omnibus Election Code, which under Sec. 264 of the same Code carries a penalty of not less than one (1) year but not more than six (6) years of imprisonment and not subject to Probation plus disqualification to hold public office or deprivation of the right of suffrage.

Sec. 31 [sic] of the Judiciary Reorganization Act of 1980 (B.P.) Blg. 129 as Amended by Rep. Act. 6691 [sic] (Expanded Jurisdiction) states: Sec. 32. Jurisdiction – Metropolitan Trial Courts, Municipal Circuit Trial Courts, Municipal Trial Courts in Criminal Cases – Except [in] cases falling within the exclusive original jurisdiction of the Regional Trial Courts and the Sandiganbayan, the Municipal Trial Courts, Metropolitan Trial Courts and the Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over all violations of city or municipal ordinance committed within their respective territorial jurisdiction; and

(2) Exclusive original jurisdiction over all offenses punishable with an imprisonment of not exceeding six (6) years irrespective of the amount or fine and regardless of other imposable accessory and other penalties including the civil liability arising from such offenses or predicated thereon, irrespective of time [sic], nature, value and amount thereof, Provided, However, that in offenses including damages to property through criminal negligence, they shall have exclusive original jurisdiction thereof.

In light of the foregoing, this Court has therefore, no jurisdiction over the cases filed considering that the maximum penalty imposable did not exceed six (6) years.

The two motions[4] for reconsideration separately filed by the COMELEC Regional Director of Region VIII and by the COMELEC itself through its Legal Department having been denied by the public respondent in the Order of 17 October 1997,[5] the petitioner filed this special civil action. It contends that public respondent "has erroneously misconstrued the provisions of Rep. Act No. 7691 in arguing that the Municipal Trial Court has exclusive original jurisdiction to try and decide election offenses" because pursuant to Section 268 of the Omnibus Election Code and this Court's ruling in "Alberto [sic] vs. Judge Juan Lavilles, Jr.," Regional Trial Courts have the exclusive original jurisdiction over election offenses.

On 17 February 1998, we required the respondents and the Office of the Solicitor General to comment on the petition.

In its Manifestation of 5 March 1998, the Office of the Solicitor General informs us that it is "adopting" the instant petition on the ground that the challenged orders of public respondent "are clearly not in accordance with existing laws and jurisprudence."

In his Manifestation of 12 March 1998, public respondent avers that it is the duty of counsel for private respondents interested in sustaining the challenged orders to

appear for and defend him.

In their Comment, private respondents maintain that R.A. No. 7691 has divested the Regional Trial Courts of jurisdiction over offenses where the imposable penalty is not more than 6 years of imprisonment; moreover, R.A. 7691 expressly provides that all laws, decrees, and orders inconsistent with its provisions are deemed repealed or modified accordingly. They then conclude that since the election offense in question is punishable with imprisonment of not more than 6 years, it is cognizable by Municipal Trial Courts.

We resolved to give due course to the petition.

Under Section 268 of the Omnibus Election Code, Regional Trial Courts have exclusive original jurisdiction to try and decide any criminal action or proceedings for violation of the Code except those relating to the offense of failure to register or failure to vote.[6] It reads as follows:

SEC. 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.

Among the offenses punished under the Election Code are those enumerated in Section 261 thereof. The offense allegedly committed by private respondents is covered by paragraph (i) of said Section, thus:

SEC. 261. Prohibited Acts. – The following shall be guilty of an election offense:

(i) Intervention of public officers and employees. – Any officer or employee in the civil service, except those holding political offices; any officer, employee, or member of the Armed Forces of the Philippines, or any police forces, special forces, home defense forces, barangay self-defense units and all other para-military units that now exist or which may hereafter be organized who, directly or indirectly, intervenes in any election campaign or engages in any partisan political activity, except to vote or to preserve public order, if he is a peace officer.

Under Section 264 of the Code the penalty for an election offense under the Code, except that of failure to register or failure to vote, is "imprisonment of not less than one year but not more than six years" and the offender shall not be subject to probation and shall suffer disqualification to hold public office and deprivation of the right of suffrage.

Section 32 of B.P. Blg. 129 as amended by Section 2 of R.A. No. 7691, provides as follows:

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 original jurisdiction of Regional Trial Court and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise: