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[G.R. No. 221201; March 29, 2022]

ATTY. VICTOR AGUINALDO, *Petitioner*, *v.* **NEW BILIBID PRISON (BUREAU OF CORRECTIONS), DEPARTMENT OF JUSTICE, COMMISSION ON ELECTIONS, BUREAU OF JAIL MANAGEMENT AND PENOLOGY, DIFFERENT MUNICIPAL, CITY AND PROVINCIAL JAILS IN THE PHILIPPINES, AND ENLISTED VOTERS OF THE NEW BILIBID PRISON, AND/OR DETAINEES,** *Respondents*.

R E S O L U T I O N

LOPEZ, J., *J.*:

This resolves the Petition for *Certiorari* and Prohibition with Application for Injunctive Relief[1] filed by Atty. Victor Aguinaldo (*Atty. Aguinaldo*) under Rule 65 in relation to Rule 64 of the Rules of Court, assailing Commission on Elections (*COMELEC*) Resolution No. 9371, or the Rules and Regulations on Person Deprived of Liberty (PDL) Registration and Voting in Connection with the May 13, 2013 National and Local Elections and Subsequent Elections Thereafter.

Antecedents

On March 6, 2012, COMELEC promulgated Resolution No. 9371. Among its key provisions, this issuance defined persons deprived of liberty (*PDL*)[2] who are eligible to register and vote,

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[1] Petition to Declare as Unconstitutional Certain Provisions of COMELEC Resolution No. 9371 (*Rules on Detainee Voting and Registration*) with Prayer for Temporary Restraining Order, Injunction, and/or Prohibition Pursuant to Rule 64 in Relation to Rule 65 under the 1997 Rules of Civil Procedure; *rollo*, pp. 3-27.

[2] COMELEC Resolution No. 9371, Rule 1, Sec. 2(a).

Previously, Resolution No. 9371 made use of the term "Detainee." However, Sec. 3(u) of the Revised Implementing Rules and Regulations (*IRR*) of Republic

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constituted a Committee on PDL Voting,[3] laid down the guidelines for registration[4] and voting,[5] designated special polling places inside jails,[6] and constituted a Special Board of Election Inspectors and their support staff.[7]

Since certain PDLs are statutorily denied the right to vote,[8] Rule 1, Section 2 (a) of Resolution No. 9371, which applies to PDLs qualified to register and vote (*qualified PDLs*), provides that:

Act (*R.A.*) No. 10575, *The Bureau of Corrections Act of 2013*, later adopted "persons deprived of liberty" as standard parlance.

Sec. 3. Definition of Terms. For purposes of this IRR, the following terms or words and phrases shall mean or be understood as follows:

x x x x

u. Person Deprived of Liberty (PDL) – refers to a detainee, inmate, or prisoner, or other person under confinement or custody in any other manner. However, in order to prevent labeling, branding or shaming by the use of these or other derogatory words, the term "prisoner" has been replaced by this new and neutral phrase "person deprived of liberty" under Article 10, of International Covenant on Civil and Political Rights (ICCPR), who "shall be treated with humanity and with respect for the inherent dignity of the human person."

[3] COMELEC Resolution No. 9371, Rule 1, Secs. 3 and 4.

[4] COMELEC Resolution No. 9371, Rule 2.

[5] COMELEC Resolution No. 9371, Rules 6 & 7.

[6] COMELEC Resolution No. 9371, Rule 3.

[7] COMELEC Resolution No. 9371, Rule 4.

[8] R.A. No. 8189 (1996), Sec. 11.

Sec. 11. *Disqualification*. The following shall be disqualified from registering:

a) Any person who has been sentenced by final judgment to suffer imprisonment of not less than one (1) year, such disability not having been removed by plenary pardon or amnesty: Provided, however, That any person disqualified to vote under this paragraph shall automatically reacquire the right to vote upon expiration of five (5) years after service of sentence;

b) Any person who has been adjudged by final judgment by a competent court or tribunal of having committed any crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the firearms laws or any crime against national security, unless restored to his full civil and political rights in accordance with law: Provided, That he shall automatically reacquire the right to vote upon expiration of five (5) years after service of sentence; and

x x x x

Batas Pambansa Bilang 881 (1981), Sec. 118.

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Persons Deprived of Liberty[9] — Refers to any person: (1) confined in jail, formally charged for any crime/s and awaiting/undergoing trial; or (2) serving a sentence of imprisonment for less than one (1) year; or (3) whose conviction of a crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the firearms laws or any crime against national security or for any other crime is on appeal.

In this petition, Atty. Aguinaldo assails the validity of Resolution No. 9371 as it failed to provide for its own implementing rules and regulations, did not undergo prior public consultations, violates the equal protection of laws by favoring PDL voters over other classes of voters, and fails to address certain operational and logistical blind spots, ultimately praying:

WHEREFORE, PREMISES CONSIDERED, PETITIONER respectfully prays of this Honorable Court that respondents, and/or all government agencies tasked to implement COMELEC Resolution No. 9371 be **RESTRAINED, ENJOINED**, and/or **PROHIBITED** from applying the said law; and thus, not allowing all the detainees in the entire Philippines to register and vote in the 2016 coming elections unless clear parameters or guidelines have been set as to cover all circumstances or incidents on detainee registration and voting. Further, it is hereby prayed that the afore-cited provisions of COMELEC Resolution No. 9371 be declared as **UNCONSTITUTIONAL** because of their imperfections, inadequacies, and deficiencies in its applications; and thus, creating uncertainties, loopholes, gaps, and ambiguities in its provisions,

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Sec. 118. *Disqualifications*. - The following shall be disqualified from voting:

(a) Any person who has been sentenced by final judgment to suffer imprisonment for not less than one year, such disability not having been removed by plenary pardon or granted amnesty: *Provided, however*, That any person disqualified to vote under this paragraph shall automatically reacquire the right to vote upon expiration of five years after service of sentence.

(b) Any person who has been adjudged by final judgment by competent court or tribunal of having committed any crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the anti-subversion and firearms laws, or any crime against national security, unless restored to his full civil and political rights in accordance with law: Provided, That he shall regain his right to vote automatically upon expiration of five years after service of sentence.

[9] Originally denoted as "Detainees," but adjusted pursuant to Sec. 3(u) of the Revised IRR of R.A. No. 10575.

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application, and/or implementation. Unless COMELEC Resolution No. 9371 has been **AMENDED**, **REVISITED** and **REVISED**, the same should be declared as **UNCONSTITUTIONAL OR OF NO FORCE AND EFFECT**.[10]

On behalf of respondents COMELEC, New Bilibid Prison, Bureau of Corrections (*BuCor*), Department of Justice, Bureau of Jail Management and Penology, and Different Municipal, City and Provincial Jails in the Philippines, the Office of the Solicitor General (*OSG*) submitted a Comment dated February 3, 2016,[11] arguing that petitioner filed a procedurally flawed petition, and that he failed to rebut Resolution No. 9371's presumed constitutionality.

Subsequently, the Court, in an April 19, 2016 Resolution,[12] partially granted petitioner's prayer for injunctive relief insofar as Resolution No. 9371 would impact the conduct of the 2016 Local Elections. However, the same Resolution allowed qualified PDLs to vote on the National Level:

WHEREFORE, the Court **PARTIALLY GRANTS** the application for a **TEMPORARY RESTRAINING ORDER** and **ENJOINS** the Commission on Elections and the other respondents from applying the following provisions on the May 9, 2016 elections on the **LOCAL LEVEL**: (i) Rule 1, Section 1; (ii) Rule 1, Section 2(a) and (c); Rule 2, Section 3; (iii) Rule 3, Section 1; and (iv) Rule 7, Section 1 of COMELEC Resolution No. 9371.

This Temporary Restraining Order is **NOT APPLICABLE** to the May 9, 2016 elections on the **NATIONAL LEVEL**. Detainees are, if they so choose, **ALLOWED** to vote on the National Level.[13]

On May 3, 2016, prompted by the Court's injunction,[14] the COMELEC promulgated Resolution No. 10113, *General*

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[10] *Id.* at 16.

[11] *Id.* at 95-115.

[12] *Id.* at 118-124.

[13] *Id.* at 123.

[14] *Id.* at 125-133.

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Instructions on the Conduct of Counting and Canvassing of Ballots of Persons Deprived of Liberty (PDL) Voters with Votes Cast in Favor of Local Candidates in Connection with the May 9, 2016 National and Local Elections. The 2016 National and Local Elections then proceeded in due course.

On March 13, 2019, the Commission on Human Rights (*CHR*) sought to intervene as *amicus curiae*[15] and submitted an *Amicus Curiae* Brief[16] for the Court's consideration. In its brief, the CHR asserted its mandate to ensure the fulfillment of the human rights of persons deprived of liberty and argued, among other points, that granting the petition would deprive qualified PDLs of their right to electoral participation. Thus the CHR prayed for the dismissal of the petition.[17]

Seeing as respondents Enlisted Voters of New Bilibid Prison and/or Detainees (*Enlisted Voters*) had yet to participate in the instant proceedings, the Court issued a March 3, 2020 Resolution,[18] requiring said respondents to comment on the petition. As custodian of the enlisted PDL voters, the BuCor filed a Manifestation dated September 30, 2020,[19] asking the Court to direct the COMELEC to furnish the BuCor a list of the PDL voters who participated in the 2016 Elections. This way, the BuCor could facilitate the preparation and filing of the enlisted PDL voters' comment. The Court issued such an order in a May 4, 2021 Resolution,[20] to which the COMELEC asked for an extension to comply.[21]

With the imminent 2022 National and Local Elections, and considering that respondents Enlisted Voters' participation on the local level hinges on a resolution of this petition, the Court

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[15] Motion to Intervene as *Amicus Curiae* and to Admit *Amicus Curiae* Brief dated March 4, 2019; *id.* at 166-177.

[16] *Amicus Curiae* Brief dated March 4, 2019; *id.* at 178-202.

[17] *Id.* at 197-199.

[18] *Id.* at 218-219.

[19] *Id.* at 234-237.

[20] *Id.* at 264-265.

[21] *Id.* at 270-273.

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resolves to dispense with the filing of their comment.[22] At any rate, the OSG's Comment on behalf of the other respondents presents exhaustive arguments on the issue of legality of the assailed COMELEC Resolution.

The Court's Ruling

After a judicious review of the allegations, issues, and arguments adduced by the parties, the Court dismisses the instant petition for failing to establish the requisites of judicial review.

The Court's power of judicial review may be exercised in constitutional cases only if all the following requisites are complied with: (i) the existence of an actual and appropriate case or controversy; (ii) a personal and substantial interest of the party raising the constitutional question; (iii) the exercise of judicial review is pleaded at the earliest opportunity; and (iv) the constitutional question is the *lis mota* of the case.[23]

Deplorably, petitioner did not even bother to establish the foregoing requisites. Fatally absent in the instant petition are the requisites of an actual case or controversy, and petitioner's *locus standi*.

As defined, an actual case or controversy is one that involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice.[24] Clearly, the existence of an actual clash between legal rights brought about by the assailed act is required before courts of justice may exercise the power of judicial review.

In *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*,[25] therein petitioner likewise assailed the constitutionality of a Department of Labor

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[22] *Id.* at 298.

[23] *Montesclaros v. Commission on Elections*, 433 Phil. 620, 633 (2009).

[24] *Garcia v. Executive Secretary*, 602 Phil. 64, 73 (2009).

[25] 836 Phil. 205 (2018).

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and Employment administrative rule. The Court dismissed the petition for failing to present an actual case or controversy, ruling that "for there to be a real conflict between the parties, *there must exist actual facts from which courts can properly determine whether there has been a breach of constitutional text*."[26] Else, the Court would only be rendering an advisory opinion, which is:

> x x x one where the factual setting is conjectural or hypothetical. In such cases, the conflict will not have sufficient concreteness or adversariness so as to constrain the discretion of this Court. After all, legal arguments from concretely lived facts are chosen narrowly by the parties. Those who bring theoretical cases will have no such limits. They can argue up to the level of absurdity. They will bind the future parties who may have more motives to choose specific legal arguments.[27]

It was thus important for petitioner to show the effect of the assailed COMELEC Resolution on him, how it may have diminished his legal rights, *i.e.*, the actual facts that would ground the COMELEC Resolution's supposed unconstitutionality. Petitioner had not shown any such circumstances. Absent a clear showing of a diminished right for which petitioner will suffer because of the implementation of the assailed COMELEC Resolution, it cannot be said that a conflict of legal rights exists. On this score alone, the instant petition is already dismissible.

Still, regarding *locus standi*, petitioner merely stated his standing as "a citizen, lawyer and taxpayer"[28] without further elaborating on the same.

When suing as a citizen, the petitioner must be able to show not only that the law or any government act is invalid, but also that he sustained, or is in imminent danger of sustaining, some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way.[29] Alternatively, in assailing

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[26] *Id.* at 246. (Italics in the original)

[27] *Supra* note 24, at 245-246.

[28] *Rollo*, p. 4

[29] *Francisco, Jr. v. House of Representatives, et al.*, 460 Phil. 830, 895-896 (2003).

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the constitutionality of a governmental act, petitioners suing as citizens may dodge the requirement of having to establish a direct and personal interest if they show that the act affects a public right.[30] Mere mention of being a citizen, without sufficiently alleging nor establishing how the implementation of Resolution No. 9371 would affect him or any supposed public right, fails to establish citizens' standing to invoke the Court's exercise of judicial review.

Parties suing as taxpayers must specifically prove sufficient interest in preventing the illegal expenditure of money raised by taxation.[31] Apart from the glaring omission of these requisite assertions, petitioner overlooks that Resolution No. 9371 is not a disbursement measure, but, rather, outlines the procedure and logistics for the registration and voting of PDLs.

Finally, on standing as a lawyer, the mere invocation of the duty to preserve the rule of law does not suffice to clothe members of the bar with standing.[32] Even more so must petitioner's claim of lawyers' standing fail, considering that he did not substantiate this allegation.

As a general rule, the challenger must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement.[33] Petitioner's material averments fail to show how he stands to be affected by the implementation of Resolution No. 9371. He does not appear to be a PDL voter covered by the COMELEC issuance, or an official tasked with implementing its provisions. Essentially, petitioner has no interest in this supposed controversy. As firmly and consistently held by the Court, *locus standi* requires a personal stake in the outcome of a controversy for significant reasons. It assures adverseness and sharpens the presentation of issues for

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[30] *Saguisag, et al. v. Exec. Sec. Ochoa, et al.*, 777 Phil. 280, 353 (2016).

[31] *Jumamil v. Cafe*, 507 Phil. 455, 466 (2005).

[32] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452, 478 (2010).

[33] *Lagman v. Medialdea*, 812 Phil. 179, 257 (2017).

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the illumination of the Court in resolving difficult constitutional questions.[34]

As the petitioner failed to meet the requisites of judicial review, the Court sees no need to delve into the substantive issues raised.

WHEREFORE, the instant petition is **DISMISSED**. The Temporary Restraining Order issued on April 19, 2016 is **LIFTED** thereby allowing the Commission on Elections to fully implement Resolution No. 9371 in the upcoming and succeeding elections.

SO ORDERED.

Gesmundo, C.J., Perlas-Bernabe, Leonen, Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, Dimaampao, and *Marquez, JJ.*, concur.

Kho, Jr., J., no part.

APPEARANCES OF COUNSEL

The S-Firm & Associates for petitioner.
The Solicitor General for respondents.

[34] *Atty. Lozano, et al. v. Speaker Nograles* (Resolution), 607 Phil. 334, 342 (2009).