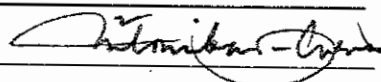


EN BANC

G.R. Nos. 191299-191302 (Herman Bascon and Antonio Villamor v. Emiliano Negre, *et al.*)

Promulgated:

March 14, 2023



CONCURRENCE

LAZARO-JAVIER, J.:

The *ponencia* pronounces that petitioners Herman Bascon and Antonio Villamor (petitioners) failed to prove that respondents Emiliano Negre, *et al.* (respondents) reside in their employer's bunk house. Thus, there is no point to rule on the alleged question of law posed by petitioners, *i.e.* whether an employee who temporarily resides in his or her employer's bunk house can register as a voter in the barangay, municipality, or city where the bunk house is located.

The *ponencia* likewise underscores that property ownership is not among the qualifications enumerated under the law to be qualified as a voter in a city or municipality. The petition to exclude respondents as voters of Barangay Punta, San Remigio, Cebu, therefore, has no leg to stand on.

I agree with the well-written *ponencia* of my esteemed colleague Associate Justice Ramon Paul Hernando. May I, nonetheless, humbly expound my concurrence why respondents' registration as voters should be maintained.

Section 1, Article V of the 1987 Constitution provides that suffrage may be exercised by (1) all citizens of the Philippines; (2) not otherwise disqualified by law; (3) at least 18 years of age; and (4) residents of the Philippines for at least one year in the place where they propose to vote and at least six months immediately preceding the election. The qualifications to vote are the same as the requisites for registration as a voter.

Meanwhile, Section 11 of Republic Act No. 8189 or the Voter's Registration Act provides the instances where a person is disqualified from registering, thus:

Section 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
- c) Insane or incompetent persons declared as such by competent authority unless subsequently declared by proper authority that such person is no longer insane or incompetent.

Notably, the act of registering is only one step towards voting. One may be a qualified voter without exercising the right to vote. Registering does not confer the right; it is only a condition precedent to the exercise of the right.¹

Here, I agree that petitioners' action for exclusion as registered voters against respondents lacks: 1) factual basis and 2) sufficient evidence to support their cause.

First. Petitioners' allegation that respondents merely occupy their employer's bunk house was not proven as a fact. Petitioners even requested for the actual inspection of the bunk house of respondents' employer before the courts *a quo*. This shows that petitioners are second guessing their own contention. As pointed out in the *ponencia*, it is not the Court's duty to investigate the veracity of petitioners' allegations to support the latter's cause. More, the resolution of this particular question of fact is not proper in a petition for review under Rule 45 of the Rules of Court.

Second. Respondents presented as evidence a Certification from Barangay Chairman Alfredo Hilari (Barangay Chairman Hilari) of Punta, San Remigio, Cebu attesting that they are actual residents of the said Barangay.

In *Sabili v. Commission on Elections, et al.*,² the Court held that a Certification of Actual Residency issued by a Barangay Captain is not only admissible in evidence but also entitled due consideration. Rule 130, Section 44 of the Rules of Court provides:

¹ *Yra v. Abano*, 52 Phil. 380 (1928) [Per J. Malcolm, *En Banc*]; *Rocha v. Cordis*, 103 Phil. 327, 328-329 (1958) [Per J. Bautista Angelo, *En Banc*].

² 686 Phil. 649, 679 (2012) [Per J. Sereno, *En Banc*].

SEC. 44. *Entries in official records*. — Entries in official **records made in the performance of his duty by a public officer** of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated. (Emphasis supplied)

Indubitably, it is the business of a Punong Barangay to know who the residents are in his or her own jurisdiction. The Punong Barangay likewise exercises the powers and duties concomitant to the position which requires him or her to be privy to the records concerning his or her constituents.

Third. Assuming that respondents are merely residing in their employer's bunk house, it is enough that they actually resided in the place they wish to exercise their voting rights, *i.e.*, in Barangay Punta, San Remigio, Cebu, within the period required by law. To repeat, respondents proved this fact as evidenced by their Certificate of Employment, and Certification of Actual Residency issued by Barangay Chairman Hilari.


In any event, it is settled that property ownership is not among the qualifications enumerated to exercise one's right to vote in a city or municipality.

Section 9 of Republic Act No. 8189 ordains, *viz.* :

Section 9. *Who may Register.* All citizens of the Philippines not otherwise disqualified by law who are at least eighteen (18) years of age, and **who shall have resided in the Philippines for at least one (1) year, and in the place wherein they propose to vote, for at least six (6) months immediately preceding the election,** may register as a voter.

Any person who temporarily resides in another city, municipality or country solely by reason of his occupation, profession, employment in private or public service, educational activities, work in the military or naval reservations within the Philippines, service in the Armed Forces of the Philippines, the National Police Forces, or confinement or detention in government institutions in accordance with law, shall not be deemed to have lost his original residence.


Any person, who, on the day of registration may not have reached the required age or period of residence but, who, on the day of the election shall possess such qualifications, may register as a voter. (Emphasis supplied)



In *Neo v. Yapha, Jr.*³ the Court pronounced that property ownership is **not a requirement to vote** and be voted upon. **A candidate may only be leasing a room or a house, but it does not make him or her any less of a resident of an area.** Likewise, *Jalover v. Osmena*⁴ decreed that to require property ownership would imply that only the landed can establish compliance with the residency requirement.

In fine, petitioners' unsubstantiated allegations pale in comparison to the consistent factual findings and resultant conclusions of the Election Regulatory Board, Municipal Circuit Trial Court, and Regional Trial Court that respondents possess all the qualifications and none of the disqualifications as voters of Punta, San Remigio, Cebu.

Accordingly, I vote for the denial of the petition for lack of merit.


AMY C. LAZARO-JAVIER
Associate Justice

³ G.R. No. 209285 (Notice), June 28, 2016.

⁴ 743 Phil. 825, 841 (2014) [Per J. Brion, *En Banc*].