

JOSE M. MERCADO, PETITIONER, VS. BOARD OF ELECTION SUPERVISORS OF THE MUNICIPALITY OF IBAAN, PROVINCE OF BATANGAS, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, CRISANTO P. PANGI...

G.R. No. 109713. April 06, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

The novel issues presented in this petition may be reduced to (1) the legality and constitutionality of Section 24, Resolution No. 2499 of the Commission on Elections (COMELEC) creating, for purposes of the elections in the Sangguniang Kabataan (SK), the Boards of Election Supervisors (BES) and making it the final arbiter of all election protests, and (2) the jurisdiction of Regional Trial Courts over contests involving sangguniang kabataan elections.

Petitioner Jose M. Mercado was proclaimed winner in the 4 December 1992 election for chairman of the SK of Barangay Mabalar, Ibaan, Batangas. The proclamation was made by the Board of Election Tellers (BET), acting as the Board of Canvassers, on the basis of its tally which showed Mercado winning by one vote (49 to 48) over his rival, private respondent Crisanto P. Pangilinan.[1]

Mercado's victory was, however, short-lived. Immediately after Mercado's proclamation as the winner by the BET, Pangilinan filed a formal protest with the BES questioning the results of the election. He alleged that the BET Chairman, drinking gin and Coke during the counting, had invalidated some votes without consulting the other board members. The BES ordered the reopening of the ballot box and the recount of the votes for SK Chairman. The recount reversed the earlier tally to 51 to 49 in favor of Pangilinan, who was thereupon proclaimed the duly elected SK Chairman by the BES, which issued for that purpose its own Certificate of Canvass and Proclamation.

Mercado then filed with the Regional Trial Court (RTC) of Batangas City a petition for certiorari and mandamus praying for the annulment of Pangilinan's proclamation by the BES, and for the issuance of an order to compel the Department of Interior and Local Government (DILG) to recognize him as the duly elected SK Chairman of Barangay Mabalar and to allow him to take his oath of office and discharge his duties as such.

In his petition docketed as Civil Case No. 3565, Mercado assailed the jurisdiction of the BES to act on the protest filed by Pangilinan as the ground cited therein was allegedly in the nature of an election protest properly cognizable by the Metropolitan or Municipal Trial Court in accordance with Section 252 of the Omnibus Election Code. He further claimed that, assuming that the BES has jurisdiction over the protest, the grounds raised therein were deemed waived by Pangilinan's failure to invoke them at the level of the BET, and that the BES acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying the petitioner of due process when it ordered the reopening of the ballot box and the recounting of the votes without affording him the opportunity to be heard.

In its Order dated 13 January 1993, the RTC dismissed the petition for lack of jurisdiction. The trial court stated that it was not aware of any law by which it could act on the matters raised in Mercado's petition since Resolution No. 2499 of the COMELEC did not vest in the RTC jurisdiction over controversies affecting Sangguniang Kabataan elections, constituting instead the BES, which is under COMELEC jurisdiction, as the final arbiter of all election controversies within its level.

Mercado moved for a reconsideration of the dismissal order. He argued that the RTC was competent to act on his petition because: (a) one mode of seeking judicial review is through the writ of certiorari which may be issued by the RTC under B.P. Blg. 129; (b) under its Resolutions Nos. 2499 and 2520, the COMELEC was to provide only technical assistance in the conduct of the SK election and therefore could not grant any relief from the action of the BES; moreover, under said Resolution No. 2499, no appeal to a higher administrative level was allowed from the action of the BES; and (c) the principle of exhaustion of administrative remedies did not apply to the case at bar, the jurisdictional and due process issues raised therein being legal in nature.

Unconvinced, the RTC, in its Order dated 2 March 1993, denied the motion for reconsideration for lack of merit. It ruled that the reopening of the ballot box for Barangay Mabalar and the recounting of the votes cast therein were perfectly within the ambit of the BES's authority, and that Mercado should have gone to the DILG which has direct control and supervision of the SK elections.

Hence, Mercado's present petition under Rule 45 of the Rules of Court for the review on pure questions of law of the Orders of 13 January 1993 and 2 March 1993 of the Batangas RTC. He initially raises the same issues he presented in Civil Case No. 3565 on the competency of the BES to take cognizance of Pangilinan's protest and his right to due process, and he reiterates the arguments he adduced in his motion for reconsideration regarding the jurisdiction of the RTC over Civil Case No. 3565. However, in refutation of the Solicitor General's defense of the BES jurisdiction as conferred by COMELEC Resolution No. 2499, Mercado, in his Consolidated Reply, now contends that COMELEC Resolution No. 2499 is null and void because: (a) it prescribes a separate set of rules for the election of the SK Chairman different from and inconsistent with that set forth in the Omnibus Election Code, thereby contravening Section 2, Article I of the said Code which explicitly provides that "it shall govern all elections of public officers"; and, (b) it constitutes a total, absolute, and complete abdication by the COMELEC of its constitutionally and statutorily mandated duty to enforce and administer all election laws as provided for in Section 2(1), Article IX-C of the Constitution; Section 52, Article VIII of the Omnibus Election Code; and Section 2, Chapter 1, Subtitle C, Title I, Book V of the 1987 Administrative Code.

The issues presented require a flashback into the history of the SK. It was initially organized by P.D. No. 684 (15 April 1975) as the Kabataang Barangay (KB), a youth organization composed of all barangay residents who were less than 18 years of age which aims to provide its members with the opportunity to express their views and opinions on issues of transcendental importance. Its affairs were administered by a barangay youth chairman together with six barangay youth leaders, who should at least be 15 years of age or over but less than 18. The then Secretary of Local Government and Community Development was authorized to promulgate the implementing rules and regulations.

Pursuant to P.D. No. 1191 (1 September 1977), the Pambansang Katipunan ng Kabataang Barangay ng Pilipinas was constituted as "a body corporate" with "the powers and attributes of a corporation" and placed directly under the Office of the President. Its affairs were to be administered by the Executive Committee which was empowered to promulgate rules and regulations governing the KB. This youth organization was recognized in B.P. Blg. 337 (The Local Government Code),^[2] which raised the maximum age requirement of the members from 18 to 21.

Under R.A. No. 7160 (The Local Government Code of 1991), the Kabataang Barangay was changed to the

Sangguniang Kabataan.[3] It remains as a youth organization in every barangay, composed of a chairman and seven members to be elected by the katipunan ng kabataan, and the secretary and the treasurer to be appointed by the SK chairman with the concurrence of the SK.[4] The katipunan ng kabataan is composed of all citizens of the Philippines actually residing in the barangay for at least six months who are 15 but not more than 21 and who are duly registered in the list of the SK or in the official barangay list in the custody of the barangay secretary.[5] The chairman, upon assumption of office, shall automatically become an ex-officio member of the sangguniang barangay.[6]

Under subparagraph (5), paragraph (e), Article 203, Rule XXVII of the Rules and Regulations Implementing the Local Government Code of 1991,[7] the conduct and administration of the elections for sangguniang kabataan members shall be governed by the rules promulgated by the COMELEC.

Pursuant to such authority and for purposes of the SK election authorized under Section 532 of R.A. No. 7160, the COMELEC promulgated Resolution No. 2499 which closely followed the pattern set in the Constitution of the Kabataang Barangay providing for a Board of Election Supervisors and Board of Election Tellers, with the former having direct general supervision in the conduct of such election and as the final arbiter of all election protests. Article V of Resolution No. 2499 expressly provides:

ARTICLE V

BOARD OF ELECTION SUPERVISORS AND

BOARD OF ELECTION TELLERS

SEC. 24. Board of election supervisors. -- There shall be created a board of election supervisors (BES) in every city or municipality composed of the following: a) city/municipal local government operations officer as chairman; b) city/municipal election officer as member; and c) city/municipal secretary as member.

The board shall have direct general supervision in the conduct of elections for sangguniang kabataan in the barangay and shall act as final arbiter in the resolution of all election protests.

No pre-proclamation cases shall be allowed on matters relating to the election of sangguniang kabataan chairman and members.

The petitioner contends that COMELEC Resolution No. 2499 is illegal and unconstitutional because it makes the BES the final arbiter of election contests involving the SK in contravention of Section 252 of the Omnibus Election Code which vests in the proper metropolitan or municipal trial court original jurisdiction over such contests and, on a more fundamental ground; in contravention of Section 2, Article IX-C of the Constitution which lodges on such courts exclusive original jurisdiction over contests involving elective barangay officials.[8]

This contention is without merit for it assumes that the SK election is an election involving elective barangay officials within the purview of the aforesaid statutory and constitutional provisions.

Section 252 of the Omnibus Election Code and that portion of paragraph (2), Section 2, Article IX--C of the Constitution on the COMELEC's exclusive appellate jurisdiction over contests involving elective barangay officials refer to the elective barangay officials under the pertinent laws in force at the time the Omnibus Election Code was enacted and upon the ratification of the Constitution. That law was B.P. Blg. 337, otherwise known as the Local Government Code, and the elective barangay officials referred to were the punong barangay and the six sangguniang bayan members.[9] They were to be elected by those qualified to exercise the right of suffrage.[10] They are also the same officers referred to by the provisions of the Omnibus Election Code of the Philippines[11] on election of barangay officials.[12] Metropolitan and municipal trial courts had exclusive original jurisdiction over contests relating to their election. The decisions of these courts were appealable to the Regional Trial

Courts.[13]

These were the laws on elective barangay officials which the Constitutional Commission took into account when it debated on that portion of paragraph (2), Section 2, Article IX-C of the Constitution relating to contests involving elective barangay officials. During such debates, the following discussions took place:

MR. MAAMBONG:

Madam President and members of the Committee, I understand from the sponsorship speech that in matters of contests of barangay, municipal and provincial officials, the jurisdiction is all exclusive to the Commission on Elections. Under the present law that we have, cases involving election contests of barangay officials are initiated in the municipal trial court or metropolitan trial court, subject to appeal to the Regional Trial Court whose decision is final. In other words, when it comes to barangay officials, the COMELEC has nothing to do at all with the election contest. In the case, however, of municipal officials, under the present law, the Omnibus Election Code, the original jurisdiction is with the Regional Trial Court, and the decision is appealable to the Commission on Elections. We are suggesting — and we would like the Committee to take note of this that while we admit that in all contests, whether it be barangay, municipal, provincial or city officials, the sole authority should be the Commission on Elections -- that there should be a two-tiered resolution of cases in the sense that when it comes to barangay officials, the municipal trial court or the metropolitan trial court should have jurisdiction first, then it is appealable to the COMELEC.

In the case of municipal officials, we are thinking that the regional trial court should have jurisdiction, and then it is appealable to the COMELEC. And in the case of provincial or city officials, the first jurisdiction, which is exclusive, would be the COMELEC. I wonder if the Committee would take that into consideration considering these facts. If we will allow the COMELEC to have executive [sic] jurisdiction over cases involving barangay and municipal officials, one can just imagine the difficulty of the COMELEC, considering that we have thousands of barangay and municipal officials. And as I understand from my private conversation with the Chairman of the COMELEC, the Honorable Ramon Felipe, when it comes to contests involving barangay and municipal officials, the COMELEC may have to send hearing officers; whereas if we will allow the municipal trial court and the metropolitan trial court to have jurisdiction over these cases, they will be given the proper consideration by the court. In the case of contests involving municipal officials, the regional trial court, which is also a court, should have jurisdiction, not the hearing officers of the COMELEC. So, we have a two-tiered situation here which we lawyers think would be the best remedy considering again my allusion to the fact that there are so many barangays and municipalities all over the country.

That is just my suggestion. I do not know if the Committee could respond to it so that we could perhaps present some amendments.

MR. REGALADO:

In other words, insofar as the appellate jurisdiction of the Commission on Elections is concerned, it is still preserved despite the fact that it involves barangay, municipal, city or provincial officials.

MR. MAAMBONG:

Yes, we would rather insist on that because that is a constitutional mandate.

MR. REGALADO:

The Commissioner's proposal is only with respect to the original jurisdiction; that is, insofar as election contests involving barangay officials are concerned, the municipal trial courts have the original jurisdiction; whereas in the case of city and provincial officials, the original jurisdiction is vested in the regional trial courts.

MR. MAAMBONG:

No, Madam President. In the case of provincial and city officials, the original and exclusive jurisdiction should be with the Commission on Elections.

MR. REGALADO:

In the case of municipal officials, then it will be the regional trial courts which will exercise original jurisdiction.

MR. MAAMBONG:

That is correctly put, Madam President.

MR. REGALADO:

But altogether, in the ultimate analysis on appellate jurisdiction, they will all have to go to the Commission on Elections eventually.

MR. MAAMBONG:

Yes, Madam President. They will still be the sole judge of all election contests.[14]

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MR. REGALADO:

May I ask Commissioner Maambong a question?

MR. MAAMBONG:

Yes, Madam President.

MR. REGALADO:

Is it his concern that we vest in the municipal trial courts the matter of election contests for barangay officials and in the regional trial courts election contests involving municipal officials thereby requiring a judicial officer to handle these cases, heightened by the fact that the decisions of the municipal trial court or the regional trial court in those election contests involving barangay and municipal officials are final and immediately executory?

MR. MAAMBONG:

Under the present law, when it comes to appeals from the municipal trial court to the regional trial court, these become final and executory, and we feel that in this regard, the jurisdiction of the COMELEC has been diluted. And we do not like that, Madam President.

MR. REGALADO:

Thank you.[15]

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MR. MAAMBONG:

In that case, Madam President, may I proceed to propose this amendment in collaboration and with the advice and consent of Commissioner de los Reyes and Commissioner Rodrigo.

THE PRESIDENT:

What is the amendment?

MR. MAAMBONG:

On line 9, Section 2(2), delete the words "Be the sole judge of" and in its stead insert the words EXERCISE EXCLUSIVE JURISDICTION OVER. On line 11, before the word "provincial," insert the word REGIONAL and a comma (,). After the word "provincial" on line 11, insert the word AND. After the word "city," delete the comma (,) and the words "municipal and barangay." After the word "official," place a comma (,) and insert the following: AND OF ALL CONTESTS INVOLVING MUNICIPAL AND BARANGAY OFFICIALS ON APPEAL FROM THE REGIONAL TRIAL COURTS AND FROM THE METROPOLITAN OR MUNICIPAL TRIAL COURTS, RESPECTIVELY.

I move for the approval of the amendment, Madam President.

THE PRESIDENT:

Is this amendment accepted by the Committee?

MR. REGALADO:

Yes, Madam President.

THE PRESIDENT:

So, this is an amendment jointly submitted by Commissioners Rodrigo, Maambong and de los Reyes.

MR. MAAMBONG:

Yes, Madam President.

THE PRESIDENT:

Is there any objection to the amendment on Section 2(2), line 9 and 11? (Silence) The Chair hears none; the amendment is approved.[16]

In the light of the foregoing, it is indisputable that contests involving elections of SK (formerly KB) officials do not fall within Section 252 of the Omnibus Election Code and paragraph 2, Section 2, Article IX-C of the Constitution and that no law in effect prior to the ratification of the Constitution had made the SK chairman an elective barangay official. His being an ex-officio member of the sangguniang barangay does not make him one for the law specifically provides who are its elective members, viz., the punong barangay and the seven regular sangguniang barangay members[17] who are elected at large by those who are qualified to exercise the right of suffrage under Article V of the Constitution and who are duly registered voters of the barangay.

The Court recognizes the consequences of the quasi-judicial acts performed by the BES pursuant to Section 24 of COMELEC Resolution No. 2499 under the operative fact doctrine; thus, we hold that the Regional Trial Court is competent to review the decision of the BES in election controversies within its level. As correctly stated by the petitioner, it is a basic principle in administrative law that the absence of a provision for the review of an

administrative action does not preclude recourse to the courts.

It is generally understood that as to administrative agencies exercising quasi-judicial or legislative power there is an underlying power in the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute. The purpose of judicial review is to keep the administrative agency within its jurisdiction and protect substantial rights of parties affected by its decisions. It is part of the system of checks and balances which restricts the separation of powers and forestalls arbitrary and unjust adjudications.[18]

The Court further holds that there was no need for the petitioner to exhaust administrative remedies; firstly, because Section 24 of COMELEC Resolution No. 2499 did not provide for recourse to a higher administrative body; and secondly, the petitioner's cause falls within the exception to the rule in that his petition in Civil Case No. 3565, aside from raising pure questions of law and jurisdiction,[19] also alleges deprivation of due process.[20]

WHEREFORE, the instant petition is GRANTED. The assailed orders of the Regional Trial Court of Batangas City, Branch 4, in Civil Case No. 3565 are hereby REVERSED and SET ASIDE. Civil Case No. 3565 is REINSTATED for further proceedings. The Hon. Judge Conrado R. Antona is directed to proceed with the case with deliberate dispatch, and if necessary, to conduct a recount of the ballots to determine once and for all the true winner in the 4 December 1992 Sangguniang Kabataan Elections in Barangay Mabalar, Ibaan, Batangas. This decision is immediately executory. No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

Romero, J., on official travel.

[1] There being only one voting precinct in Barangay Mabalar, the BET also acted as the Board of Canvassers in accordance with Section 36, COMELEC Resolution No. 2499.

[2] Chapter 10, Title One, Book II.

[3] Chapter 8, Title One, Book III.

[4] Sections 423, 424, 430, and 431, R.A. No. 7160.

[5] Sections 423 and 424, Id.; AQUILINO Q. PIMENTEL, JR., The Local Government Code of 1991, The Key to National Development 440-441 [1993 ed.].

[6] Section 430, Id.

[7] Authorized under Section 533 of the Code. R.A. No. 7808, approved on 2 September 1994, amended Section 532(a) of R.A. No. 7160 by, inter alia, expressly providing that "[t]he conduct of the sangguniang kabataan elections shall be under the supervision of the Commission on Elections."

[8] It provides:

SEC. 2. The Commission on Elections shall exercise the following powers and functions:

- (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

[9] The title and numbers of the elective barangay officials had undergone several changes. In R.A. No. 2370 (An Act Granting Autonomy to Barrios of the Philippines [20 June 1959]), elective barrio officials were the barrio lieutenant and four council members and the exclusive jurisdiction over contests relating to their election was vested in the justice of the peace courts. In R.A. No. 3590 (Revised Barrio Charter), the elective barangay officials were the barrio lieutenant and six barrio councilmen. By virtue of P.D. No. 557, the barrios were converted to barangays and the official designation of the elective officials were changed to barangay captain and barangay councilmen. Thereafter, B.P. Blg. 222 changed the titles of the barangay captain to punong barangay and the barangay councilmen to kagawad ng sangguniang barangay.

[10] Section 4, R.A. No. 2370; Section 10, R.A. No. 3590; Section 43, B.P. Blg. 337.

[11] Approved 3 December 1985.

[12] Sections 37 to 51, Article VI (Election of Barangay Officials).

[13] Section 252.

[14] Record of the Constitutional Commission, vol. One, 626.

[15] Record of the Constitutional Commission, vol. One, 624-625.

[16] Record of the Constitutional Commission, vol. One, 643.

[17] Section 390, R.A. No. 7160.

[18] *San Miguel Corp. vs. Secretary of Labor*, 64 SCRA 56 [1975].

[19] *Municipality of La Trinidad vs. CFI of Baguio*, 123 SCRA 81 [1983]; *Palma-Fernandez vs. De la Paz*, 160 SCRA 751 [1988]; *Eastern Shipping Lines vs. POEA*, 166 SCRA 533 [1988]; *Valmonte vs. Belmonte*, 170 SCRA 256 [1989].

[20] *Reyes vs. Subido*, 66 SCRA 203 [1975]; *Municipality of La Trinidad vs. CFI of Baguio*, supra note 19.

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