MIGUEL MELENDRES, JR., PETITIONER, VS. THE COMMISSION ON ELECTIONS AND RUPERTO P. CONCEPCION, RESPONDENTS.

G.R. No. 129958. November 25, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Challenged in this petition for certiorari is the Resolution[1] of the respondent Commission on Elections (COMELEC) dated July 17, 1997, in SPR No. 16-97 entitled "Ruperto P. Concepcion, Petitioner v. Hon. Maria Cristina Cornejo, Presiding Judge, Branch 66, MTC, Pasig City and Miguel Melendres, Jr., Respondents" the dispositive portion of which reads:

> WHEREFORE, the questioned Orders of public respondent are hereby set aside for being NULL and VOID. The public respondent is hereby ordered to cease and desist from further acting on Election Case No. 083-97 entitled Miguel Melendres, Jr. v. Ruperto Concepcion.
>
> SO ORDERED.

Petitioner alleges that the COMELEC gravely abused its discretion in issuing and promulgating ex parte the assailed resolution without complying with the provisions of Sections 5 and 6 of Rule 28, Section 1 of Rule 10, Sections 1 to 6 of Rule 14, Sections 1 to 4 of Rule 17 and Section 9 of Rule 18, all of the COMELEC Rules of Procedure.

The factual antecedents of the controversy which are matters of record have been summed thus by the COMELEC:

> Petitioner (herein private respondent Ruperto P. Concepcion) and private respondent (herein petitioner Miguel Melendres, Jr.) were candidates for the position of Barangay Chairman of Barangay Caniogan, Pasig City, in the May 12, 1997 barangay elections. After the counting of the votes, petitioner (Concepcion) was proclaimed as the duly elected Barangay Chairman. On May 21, 1997, private respondent (Melendres) filed an election protest against petitioner (Concepcion) with the Metropolitan Trial Court of Pasig City, contesting therein the results of the election in all forty-seven (47) precincts of said barangay. The case was assigned to Branch 68.

On June 4, 1997, after the preliminary hearing of the election case, it was shown that no filing or docket fee was paid by the protestant therein, which payment is required in the COMELEC Rules of Procedure, Rule 37, Sec. 6. Petitioner Concepcion moved to dismiss the case on the ground of failure to comply with this requirement. In the contested Order, public respondent denied the motion to dismiss on the ground that the requirement of payment of filing or docket fee is merely an administrative procedural matter and [is] not jurisdictional. Petitioner presented an oral motion for reconsideration of the Order, which oral motion was promptly denied by public respondent. Consequently, the contested ballots were scheduled for review.

On June 16, 1997, Concepcion filed this instant case for Certiorari and Prohibition, with a prayer for a Temporary Restraining order and/or Preliminary Injunction. On June 25, 1997, he filed an Urgent Motion for Immediate Issuance of a Temporary Restraining Order to "temporarily restrained (sic) public respondent from commencing

with the revision [of the ballots], pending the hearing of the petition, in order to maintain the status quo and in order that the issues raised and the prayer stated in the petition may not become moot and academic; xxx" The move was prompted by the Order issued by the public respondent on June 6, 1997, which deferred the revision of ballots to give way to the petition for certiorari brought to this Commission, as it involves a question of the court's jurisdiction. The order also stated that, as agreed upon by both parties, if no injunction is issued by the end of June, 1997, the revision of ballots would proceed.

On July 1, 1997, public respondent issued another Order scheduling the revision of ballots on July 9, considering that no injunctive writ was issued by the Commission. Consequently, on July 7, 1997, the latter filed a Second Urgent Motion for Immediate Issuance of a Temporary Restraining Order with this Commission.

On the same day, respondent Melendres filed with the Commission a Manifestation wherein he claimed that the contested issue of non-payment of filing fee was now moot and academic as the same had been paid on June 6, 1997, ten days before this petition was filed.

On the basis of the foregoing factual recital, respondent COMELEC rendered the challenged Order nullifying the orders of the public respondent in SPR No. 16-97.

Asserting that the COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction, petitioner contends that public respondent erred -

> 14.1
>
> in disregarding and violating its own rules, specifically Section 5, Rule 28 of the COMELEC RULES OF PROCEDURE, in not issuing and serving an order requiring the Respondents to answer the petition filed before it;
>
> 14.2
>
> in disregarding and violating its own rules, specifically Section 1, Rule 10 of the COMELEC RULES OF PROCEDURE, in not issuing and serving the Summons and COPY OF THE PETITION to the Respondents, both private and public, in SPR 16-97;
>
> 14.3
>
> in disregarding and violating its own rules, specifically the provisions of Sections 2 to 6, Rule 14 of the COMELEC RULES OF PROCEDURE requiring the issuance, service and proof of service of summons to the respondents in SPR 16-97;
>
> 14.4
>
> In disregarding and violating its own rules, specifically Section 6, Rule 28 and Sections 1 to 4, Rule 17, when it did not set or conduct any hearing in SPR 16-97;
>
> 14.5
>
> in disregarding and violating its own rules when it promulgated the questioned Resolution despite the clear provision of Section 6, Rule 28, that it shall render judgment only "AFTER SUCH HEARING";
>
> 14.6
>
> in disregarding and violating its own rules, specifically Section 9 (a), Rule 18 of the COMELEC RULES OF PROCEDURE, when it issued the questioned Resolution even though SPR 16-97 is not yet DEEMED SUBMITTED FOR DECISION;

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14.7

in resolving the Petition (SPR 16-97) without a hearing, when Respondent Concepcion himself requests for a decision on his petition AFTER HEARING;

14.8

in acting on the Petition for Certiorari raised by Respondent Concepcion even though it involves the denial of his Motion to Dismiss by the lower Court, a PROHIBITED PLEADING under Section 1, Rule 13 of the COMELEC RULES OF PROCEDURE;

14.9

in ruling on the issue of non-payment of filing fee, when said issue was never raised as a Special or Affirmative Defense in the Answer of Respondent Concepcion;

14.10

in circumventing its own rules when it allowed the issue of non-payment of filing fee to be discussed even if the same was not raised in the Answer, but only in a Motion to Dismiss, a prohibited pleading under the RULES;

14.11

in applying the case of Gatchalian v. Court of Appeals[2] even if the Gatchalian case involves the NON-PAYMENT of filing fee, whereas SPR 16-97 involves the WILLFUL REFUSAL of the Clerk of Court to accept the payment of filing fee;

14.12

in applying the Gatchalian case notwithstanding FULL PAYMENT made by the Petitioner following a lawful order of the Court;

14.13

in ignoring the real issue in SPR 16-97, which is the right and the authority of the lower court to order the Clerk of Court to accept the payment of the filing fee in protest cases;

14.14

in overturning the doctrine consistently laid down by the Supreme Court in a long line of decisions that "election cases must be construed liberally to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections"; and

14.15

in not applying the decision of the Supreme Court in the case of Rodillas v. Commission on Elections[3] consistent with the provisions of Section 18 of Rule 42 of the COMELEC RULES OF PROCEDURES."

The Court issued a Resolution dated September 14, 1999 which, among others, gave due course to the petition and required the parties to submit their respective memoranda within thirty (30) days from notice. However, in view of petitioner's "Urgent Motion for Early Resolution"[4] and private respondent's Comment[5] thereon, echoing petitioner's desire that the petition be "immediately resolved in order that the issues raised may be finally put to rest," the Court deemed it to the best interest of justice to dispense with the filing of the said memoranda and to forthwith decide the questions raised on the basis of the parties' pleadings.

The issues raised here boils down to whether or not: 1.] the payment of the filing fee in an election protest is a

jurisdictional requirement and non-compliance can be a valid basis for the dismissal of the protest; 2.] subsequent full payment of the filing fee after the lapse of the reglementary period will cure the jurisdictional defect; and, 3.] public respondent observed due process prior to the promulgation of the questioned resolution in SPR No. 16-97.

With regard to the first issue, it appears from the record that private respondent was proclaimed as the duly elected Punong Barangay of Barangay Caniogan, Pasig City on May 12, 1997.[6] On May 21, 1997, petitioner filed an election protest challenging the results of the barangay elections with the Metropolitan Trial Court of Pasig City where the same was docketed as Election Protest Case No. 083-97 and raffled to Branch 68 of said court.

On June 4, 1997, after the preliminary hearing of the case, it was shown that no filing or docket fee was paid by petitioner/protestant,[7] prompting private respondent/protestee to move for the dismissal of the election protest on the ground of lack of jurisdiction for failure to comply with the jurisdictional requirement of payment of filing fee as required under Section 6, Rule 37 of the COMELEC Rules of Procedure which provides that -

> SEC. 6. Filing fee. - No protest shall be given due course without the payment of a filing fee of One Hundred Pesos (P100.00) and the legal research fee as required by law. (Emphasis supplied).

On June 5, 1997, the Presiding Judge of the Metropolitan Trial Court of Pasig City, Branch 68, issued an Order which reads:

Upon verification with the Clerk of Court, Metropolitan Trial Court of Pasig City, it was found out that indeed, no filing fee was paid for this petition, as none was collected by the Clerk of Court from all those who filed election protests.

Be that as it may, the question raised in this case is whether or not compliance with Sec. 6, Rule 37 of the COMELEC Rules of Procedure is jurisdictional.

In ordinary civil actions to which the Revised Rules of Court and other related doctrines apply, the court acquires jurisdiction over the case only upon payment of the filing fee. It should be noted, however, that the instant case is not an ordinary action but an election case. By express provision of Rule 143, the Revised Rules of Court shall not apply to election cases except by analogy or in a suppletory character whenever practicable and convenient. Suffice it to say that the suppletory character is applied only when a law or Rule in question is silent on the matter in contention. The COMELEC Rule in question is, however, explicit. Under the circumstances, the Revised Rules of Court and its related doctrines do not apply to this case.

As afore-cited, the COMELEC Rule in question (Sec. 6, Rule 37) is explicit. The Rule does not speak of conferment of jurisdiction upon the Court or the acquisition by the Court of jurisdiction upon payment of the filing fee. Nothing extant in the COMELEC Rules either expressly or by implication requires the payment of the filing fee for purposes of conferment upon or acquisition by the Court of jurisdiction over the case. The Rule speaks only of "giving due course" to the protest upon the payment of the filing fee. Undeniably therefore, the payment of the filing fee is an administrative procedural matter, proceeding as it does from an administrative body.

Due course has been given to this protest when it was accepted for filing by the Clerk of Court without payment of the filing fee. There was an honest error of omission on the part of the Clerk of Court as evidenced by the fact that all the other election protests were accepted for filing by the Clerk of Court without the payment of filing fee. This petition was no exception. There simply was an administrative procedural lapse but which does not detract from the fact that the Court has jurisdiction over this case as conferred upon it by substantive law, the Omnibus Election Code.

The Court had acquired jurisdiction over the case. The jurisdiction of the Court over a contest attaches when motion containing the proper jurisdictional averments is filed within the time prescribed by law; the jurisdiction of the Court cannot thereafter be determined by law; what the law itself may do or may not do (Lucero vs. De Guzman, 46 Phil. 852). The payment of the filing fee is not one of the jurisdictional facts required to be alleged in the petition. At any rate, the sufficiency of the allegations in the petition is not essential for the acquisition of jurisdiction (which had already been acquired by the filing of the petition, as afore-cited), but only to continue in its exercise, once it has been acquired (Santiago vs. Ignacio, 52 Phil. 376).

It is axiomatic that an election contest, involving as it does not only the adjudication and settlement of private interests of the rival candidates but also the paramount need of dispelling once and for all the uncertainty that beclouds the real choice of the electorate with respect to who shall discharge the prerogative of the officers within their girt, is a proceeding imbued with public interest which raises it onto a plane over and above ordinary civil actions. For this reason, broad perspective[s] of public policy impose upon the Courts the imperative duty to ascertain by all means within their command who is the real candidate elected in an expeditious manner as possible, without being fettered in technicalities and procedural barriers to the end that the will of the people may not be frustrated (Sibulo vda. de Mesa, et al. vs. Hon. Eulogio Mencias, et al. Oct. 29, 1966, citing Ibasco vs. Ilao, et al., Dec. 20, 1960.)

On the basis of all the foregoing considerations, it is resolved that the payment of the filing of fee for purposes of an election protest and counter-protest is not jurisdictional and, hence, non-compliance therewith at the outset will not operate to deprive the Court of jurisdiction conferred upon it by law and acquired pursuant to the Rules. Accordingly, the Motion to Dismiss the instant petition is hereby denied.

The herein protestant is hereby directed to pay the filing fee of P100.00 with respect to his protest, and the protestee is directed to pay the filing fee with respect to his counter-protest.[8]

Aggrieved, private respondent filed on June 16, 1997 a petition for certiorari and prohibition with respondent Commission on Elections (COMELEC), docketed as SPR No. 16-97 entitled "Ruperto P. Concepcion, Petitioner v. Hon. Maria Cristina Cornejo and Miguel Melendres, Jr., Respondents."

The COMELEC overruled the assailed Order of the Metropolitan Trial Court reasoning as follows:

> Petitioner contends that public respondent committed grave abuse of discretion amounting to lack of jurisdiction in not dismissing the election protest for failing to comply with the required payment of filing and legal research fees as prescribed in the COMELEC Rules of Procedure, such requirement being jurisdictional, as opposed to the contention of public respondent. The COMELEC Rules of Procedure, Rule 37, Sec. 6, states:
>
> Sec. 6. Filing fee. - No protest shall be given due course without the payment of a filing fee of One Hundred Pesos (P100.00) and the legal research fee as required by law. (Emphasis supplied).

There is no denying private respondent's failure to comply with this requirement, given the certification of the Clerk of Court of Branch 68. Melendres' failure to pay said fee at the time the election protest was filed is also clear from the questioned Order and in the July 7, 1997 Manifestation of Concepcion filed with this Commission. Hence, the contested Orders must be reversed.

In Gatchalian v. Court of Appeals,[9] the Supreme Court has stated clearly that "[i]t is the payment of the filing fee that vests jurisdiction of the court over the election protest xxx." In the case of Pahilan v. Tabalba,[10] the Court recognized a distinction between the partial payment of filing fees and the complete absence of such payment. If there is complete absence of payment, the case is not given due course. The court entertained the case because there was, at least "incomplete payment" of the filing fees. The Court compared this to the case of

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Malimit v. Degamo[11] wherein there was no payment of the fees at all. The Supreme Court stated therein that "[b]efore the payment of the docket fees, the case is not deemed duly registered and docketed."[12]

The ruling in Sun Insurance Office Ltd. v. Asuncion[13] is a prelude to the Pahilan ruling. There was likewise an incomplete payment of the said fees in Sun Insurance, and the

> "subsequent payment of the correct [amount was allowed] provided it is within the reglementary period or before prescription has set in xxx [and that] there was no intent on the part of the petitioners therein to defraud the government xxx"[14]

The requirement of payment of filing fees is not, therefore, a mere procedural matter but is, rather, jurisdictional. The Metropolitan Trial Court of Pasig City, Branch 68 could not be said to have acquired jurisdiction despite the complete failure of the private respondent to pay the said fees.

Private respondent claims that the payment of the filing fee ten (10) days before this petition was filed, rendered the same moot and academic. This is untenable. The Rules of Procedure of the Commission, in Sec. 6 of Rule 37 requires the payment of the filing fee of one hundred pesos for the proper court to acquire jurisdiction. However, this has to be read in conjunction with Sec. 4 of the same rule:

> Sec. 4. Period within which to file petition. - The petition shall be filed within ten (10) days after the proclamation."

Given the cited rulings of the Supreme Court above, especially those in the Malimit and Gatchalian cases, such late payment does not vest any jurisdiction upon the Metropolitan Trial Court of Pasig City, Branch 68, said payment having been made beyond the period prescribed.

It needs be stressed that the power of administrative agencies to promulgate rules in the implementation of a statute is necessarily limited to what is provided for in the legislative enactment.[15] However, "[A] long line of cases establish the basic rule that the courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies."[16] More explicitly -

> Generally, the interpretation of an administrative government agency, which is tasked to implement a statute, is accorded great respect and ordinarily controls the construction of the courts.[17] The reason behind this rule was explained in Nestle Philippines, Inc. vs. Court of Appeals,[18] in this wise:
>
> `The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to the accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute. In Asturias Sugar Central, Inc. v. Commissioner of Customs[19] the Court stressed that executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to the government agency or officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are drafters of the law they interpret."

As a general rule, contemporaneous construction is resorted to for certainty and predictability in the laws,[20] especially those involving specific terms having technical meanings.

However, courts will not hesitate to set aside such executive interpretation when it is clearly erroneous, or when there is no ambiguity in the rule,[21] or when the language or words used are clear and plain or readily understandable to any ordinary reader.[22]

Stated differently, when an administrative agency renders an opinion or issues a statement of policy, it merely interprets a pre-existing law and the administrative interpretation is at best advisory for it is the courts that finally determine what the law means.[23] Thus an action by an administrative agency may be set aside by the judicial department if there is an error of law, abuse of power, lack of jurisdiction or grave abuse of discretion clearly conflicting with the letter and spirit of the law.[24]

However, there is no cogent reason to depart from the general rule because the findings of the COMELEC conforms to rather than conflicts with the governing statute and controlling case law on the matter.

It will be observed that the order of the Metropolitan Trial Court was challenged on certiorari before respondent COMELEC because private respondent's motion to dismiss was denied on the basis of the trial court's observation that the non-payment of filing fees is not jurisdictional but is merely an administrative matter which did not affect its jurisdiction.

This ruling of the trial court directly contravenes this Court's explicit pronouncement in Gatchalian v. Court of Appeals[25] declaring in no uncertain terms that -

> It is the payment of the filing fee that vests jurisdiction of the court over the election protest, not the payment of the docket fees for the claim of damages and attorney's fees. For failure to pay the filing fee prescribed under Section 9, Rule 35 of the COMELEC Rules of Procedure, "[n]o protest xxx shall be given due course without the payment of a filing fee in the amount of Three Hundred Pesos (P300.00) for each interest." (Emphasis and italics supplied.)

Apropos the second issue, the subsequent payment of the filing fee on June 6, 1997 will not extricate petitioner from his predicament considering that before the payment of the filing fee, a case is not deemed duly registered and docketed.[26] In other words, the date of the payment of the filing fee is deemed the actual date of the filing of the election protest and, viewed vis-à-vis Section 3, Rule 35 of the COMELEC Rules of Procedure which provides that -

> "SEC. 3. Period to file petition. - The petition shall be filed within ten (10) days following the date of proclamation of the results of the election."

the subsequent payment of the filing fee on June 6, 1997 did not cure the jurisdictional defect because the said date which is deemed the actual date of filing the election protest is twenty-five (25) days after the proclamation of the results of the election on May 12, 1997 and, needless to state, way beyond the ten-day reglementary period to file the same. In this regard, it bears stressing that -

> "The rule prescribing the ten-day period is mandatory and jurisdictional and the filing of an election protest beyond the period deprives the court of jurisdiction over the protest.[27] Violation of this rule should not be taken lightly nor should it be brushed aside as a mere procedural lapse that can be overlooked. The rule is not a mere technicality but an essential requirement, the non-compliance of which would oust the court of jurisdiction over the case.
>
> In Lim vs.COMELEC,[28] citing Kho vs. COMELEC,[29] this court reiterated the long standing rule that a counterprotest must be filed within the period provided by law, otherwise, the court acquires no jurisdiction to entertain it.[30]
>
> Relatedly, if the docket fees are not fully paid on time, even if the election protest is timely filed, the court is deprived of jurisdiction over the case."[31] (Emphasis and italics supplied).

Neither can petitioner seek refuge behind his argument that the motion to dismiss filed by private respondent is a prohibited pleading under Section 1, Rule 13 of the COMELEC Rules of Procedure because the said provision

refers to proceedings filed before the COMELEC. The applicable provisions on the matter are found in Part VI of the Rules of Procedure titled "PROVISIONS GOVERNING ELECTION CONTESTS BEFORE TRIAL COURT" and as this Court pointedly stated in Aruelo v. Court of Appeals:[32]

> "It must be noted that nowhere in Part VI of the COMELEC Rules of Procedure is it provided that motions to dismiss and bill of particulars are not allowed in election protests or quo warranto cases pending before regular courts.
>
> Constitutionally speaking, the COMELEC cannot adopt a rule prohibiting the filing of certain pleadings in the regular courts. The power to promulgate rules concerning pleadings, practice and procedure in all courts is vested on the Supreme Court."[33] (Emphasis and italics supplied)

The grounds relied upon to support his position in the third issue is, likewise, no refuge for petitioner who insists that public respondent denied him his right to due process by violating its own rules. More specifically, petitioner contends that the COMELEC did not comply with the requirements regarding the issuance and service of summons and conducting hearings for the purpose of receiving evidence under Rule 14 of the COMELEC Rules. Petitioner's arguments along this line fails to persuade. It must be borne in mind that the assailed order of the Metropolitan Trial Court was elevated to the COMELEC by way of certiorari. Section 1, Rule 14 does not require the issuance and service of summons in cases involving appeals from the decisions of the courts in election protests, special actions, special cases, special reliefs and special proceedings, viz:

> "SEC. 1. Clerk to issue summons. - Unless otherwise provided herein, the Clerk of Court concerned shall issue the corresponding summons to the protestee or repondent within three (3) days following the filing of a protest or petition in ordinary actions except appeals from decisions of courts in election protest cases, in special actions, special cases, special reliefs and in special proceedings."

In relation to the foregoing, Section 4, Rule 28 of the COMELEC Rules provides that:

> "SEC. 4. Duty of Clerk of Court of the Commission. - Upon the filing of the petition, the Clerk of Court shall calendar the case for an en banc ex parte hearing of the Commission to determine if it is sufficient in form and substance." (Emphasis and italics supplied).

It can be clearly gleaned from these complementing provisions of Section 4, Rule 28 that the petitioner has no right to require the COMELEC to first hear and receive evidence before deciding the merits of the petition for certiorari.

At any rate, petitioner can hardly feign denial of due process given the prevailing facts of this case. It appears from the record that on June 16, 1997, before filing with the COMELEC the petition for certiorari challenging the validity of the Metropolitan Trial Court's order, petitioner was furnished a copy of the said petition by registered mail. In fact, no less than petitioner himself expressly admits in the petition[34] that he received a copy of the petition for certiorari and prohibition on June 19, 1997 or three (3) days after the filing thereof with respondent COMELEC. It must be remembered that a formal notice would have been an idle ceremony where an adverse party, as in this case, had actual knowledge of the proceedings.[35]

What, however, spells finis to any further pretensions of petitioner that he was neither afforded an opportunity to be heard nor was jurisdiction acquired over his person is his filing on June 23, 1997 of an exhaustive Comment[36] to the petition. Petitioner, in filing the said pleading, submitted himself to the jurisdiction of respondent COMELEC because as has been consistently held in a litany of cases, jurisdiction over a party is acquired either by coercive process, generally by service of summons, or by voluntary appearance.[37] In other words, the filing of the Comment as well as a Manifestation subsequently filed on July 7, 1997[38] cured the lack of summons considering that "[V]oluntary appearance is equivalent to service of summons, in fact it even cures

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the defect of summons."[39]

Finally, with regard to the requisite of hearing, suffice it to state that -

> A formal trial-type hearing is not at all times and in all instances essential to due process. It is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to present evidence on which a fair decision can be based xxx.
>
> xxx xxx xxx
>
> Commenting on the same topic, we said earlier in Zaldivar vs. Sandiganbayan[40]

"Due process as a constitutional precept does not, always and in all situations, require a trial-type proceedings. The essence of due process is to be found in the reasonable opportunity to be heard and to submit any evidence one may have in support of one's defense. "To be heard" does not only mean verbal arguments in court. One may also be heard through pleadings where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of due process.[41]

All told, the issue of jurisdiction was rendered moot by petitioner's active participation in the proceedings below[42] and such active participation of the petitioner against whom the action was brought is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.[43]

WHEREFORE, in view of all the foregoing, the petition is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.
Pardo J., no part.

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[1] Annex "E", Petition.

[2] 245 SCRA 208 [1995].

[3] 245 SCRA 702 [1995].

[4] Rollo, pp. 174-179.

[5] Rollo, pp. 181-184.

[6] Rollo, p. 124.

[7] Ibid., p. 129.

[8] Rollo, pp. 95-97.

[9] 245 SCRA 208 [1995].

[10] 230 SCRA 205 [1994].

[11] 12 SCRA 450 [1964].

[12] Citing Lazaro v. Endencia, 57 Phil. 552 [1933]; In the matter of the petition for citizenship of Johnny Lee, G.R. L-15027, 31 January 1964.

[13] 170 SCRA 274 [1989].

[14] Pahilan v. Tabalba, supra, p. 217.

[15] Blaquera et al. v. Alcala, et al., GR Nos. 109406, 110642, 111494, 112056, 119597, 11 September 1998, 295 SCRA 366, citing Teozon v. Member of the Board of Administrators, 33 SCRA 585 [1970].

[16] First Lepanto Ceramics, Inc. v. Court of Appeals, 253 SCRA 552 [1996], citing Ysmael, Jr. & Co. v. Deputy Executive Secretary, 190 SCRA 673 [1990].

[17] Nestle, Philippines, Inc. v. Court of Appeals, 203 SCRA 504 [1991], citing In re Allen, 2 Phil. 630 [1903].

[18] Ibid., pp. 510-511.

[19] 29 SCRA 617 [1969].

[20] Lim Hoa Ting v. Central Bank of the Philippines, 104 Phil. 573 [1958], citing Erwin N. Griswold of Harvard Law School.

[21] Divinagracia, Jr. v. Sto. Tomas, 244 SCRA 595 [1995].

[22] Leveriza v. IAC, 153 SCRA 282 [1988].

[23] Peralta v. Civil Service Commission, 212 SCRA 425 [1992], citing Victorias Milling Co., Inc. v. SSS, 114 Phil. 555 [1962]

[24] Ibid., citing Sagun v. PHHC, 162 SCRA 411 [1988].

[25] 245 SCRA 208 [1995].

[26] Malimit v. Degamo, 12 SCRA 450 [1964].

[27] Gallardo v. Rimando, 187 SCRA 463 [1990].

[28] 282 SCRA 53 [1997].

[29] 279 SCRA 463 [1997].

[30] See also Maliwanag v. Herrera, 25 SCRA 175 [1968].

[31] Roquero v. COMELEC, 289 SCRA 150 [1998], citing Calucag v. COMELEC, 274 SCRA 405 [1997] and Loyola v. COMELEC, 270 SCRA 404 [1997].

[32] 227 SCRA 311 [1993].

[33] Citing Article VIII, Sec. 5 [5].

[34] See p. 3, paragraph 5 of Petition; Rollo, p. 5.

[35] Heirs of the Late Jesus Fran v. Salas, 210 SCRA 303 [1992].

[36] Rollo, pp. 39-46; Annex "C", Petition.

[37] Legarda v. Court of Appeals, 280 SCRA 642 [1997], citing Vda. de Macoy v. Court of Appeals, 206 SCRA 244 [1992]; Munar v. Court of Appeals, 238 SCRA 372 [1994]; Ablan v. Enage, 120 SCRA 778 [1983]; Haban v. Vamenta, 33 SCRA 569 [1970]; Avon Insurance PLC v. Court of Appeals, 278 SCRA 312 [1997]; Tuason v. Court of Appeals, 268 SCRA 42 [1997]; Minucher v. Court of Appeals, 214 SCRA 242 [1992].

[38] Rollo, pp. 47-49; Petition, Annex "D".

[39] Mapa v. Court of Appeals, 214 SCRA 417 [1992], citing Infante v. Toledo, 44 Phil. 834 [1918]; Republic v. Kerr & Co., 18 SCRA 207 [1966]; Aguilos v. Sepulveda, 53 SCRA 269 [1973]; J.M. Tuason & Co. v. Estabillo, 62 SCRA 1 [175]; Boticano v. Chu, 148 SCRA 541 [1987]; Busuego v. Court of Appeals, 151 SCRA 376 [1987].

[40] 166 SCRA 313 [1988].

[41] Abiera v. NLRC, 215 SCRA 476 [1992].

[42] Maneja v. NLRC, 290 SCRA 603 [1998].

[43] Maneja v. NLRC, supra, p. 618, citing Stolt-Nielsen Marine Services (Phils.), Inc. v. NLRC, 264 SCRA 307 [1996] and Marquez v. Secretary of Labor, 171 SCRA 337 [1989].

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