

ROBERTO D. RAMAS, FRANCISCO N. ORAIZ, JR., BENERANDO F. MIRANDA, GEORGE V. BATERNA, TOMAS R. LACIERDA, SR., AND PEDRO T. CALIMOT, JR., PETITIONERS, VS. COMMISSION ON ELECTIONS, ...

G.R. No. 130831. February 10, 1998

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

The petitioners urge us in this special civil action for certiorari[1] under Rule 65 of the Rules of Court to set aside the 23 September 1997 Resolution[2] of public respondent Commission on Elections (hereafter COMELEC) in SPR No. 14-96,[3] which denied herein petitioners' petition for certiorari and prohibition to set aside and annul the order of Branch 29 of the Regional Trial Court (RTC) of Pagadian City in Election Protest Cases Nos. 07-95 to 12-95, inclusive, granting execution pending appeal of the judgment therein.

The petitioners and the private respondents were the official candidates of the Nationalist People's Coalition (NPC) and the Lakas-NUCD, respectively, for the elective municipal positions of Guipos, Zamboanga del Sur, in the elections of 8 May 1995. After the canvass of the election returns, the Municipal Board of Canvassers of Guipos declared and proclaimed the petitioners as the duly elected municipal officials, to wit:

Petitioner Roberto D. Ramas -- as Mayor

Petitioner Francisco N. Oraiz -- as Vice Mayor

Petitioner Benerando F. Miranda -- as fifth Member of the Sangguniang Bayan (SB)

Petitioner George V. Baterna -- as sixth Member of the SB

Petitioner Tomas R. Lacierda -- as seventh Member of the SB

Petitioner Pedro T. Calimot, Jr. -- as eighth Member of the SB

Private respondents Raul F. Famor and Ponciano P. Cajeta, the losing candidates for mayor and vice mayor, respectively, as well as Merlyn U. Rabe, Crescencia C. Boiser, Edgar S. Revelo, and Julieta B. Mabascog, the 9[th], 10[th], 11[th], and 12[th] placers, respectively, for members of the SB, seasonably filed separate election protests with the RTC of Pagadian City. The cases were docketed as Election Protest Cases Nos. 07-95, 08-95, 09-95, 10-95, 11-95, and 12-95 and thereafter consolidated and jointly tried.

On 16 May 1996, the trial court rendered a 103-page decision[4] declaring petitioner Miranda and all the private respondents except Mabascog as winners in the 8 May 1995 elections. The dispositive portion thereof reads as follows:

WHEREFORE, judgment is hereby rendered declaring:

1. For Mayor, RAUL F. FAMOR, as winner with the margin of Two hundred Ninety Eight (298) votes over protestee Roberto Ramas, and as a consequence, the proclamation and oath taking of Protestee Roberto Ramas as Municipal Mayor of Guipos, Zamboanga del Sur, as null and void and of no force and effect;

2. For Vice-Mayor, PONCIANO CAJETA, as winner, with a majority of Three Hundred Forty One (341) votes over that of protestee Francisco Oraiz, Jr., and as a consequence, his proclamation as Vice-Mayor of Guipos, Zamboanga del Sur, as null and void and of no force and effect;

3. For Members of the Sangguniang Bayan of Guipos, Zamboanga del Sur, the following are declared duly qualified and elected, as follows:

3.a Merlyn U. Rabe with 2,403 votes garnered;

3.b Benerando Miranda with 2,361 votes garnered;

3.c Edgar Revelo with 2,249 votes garnered;

3.d Cresencia C. Boiser with 2,238 votes garnered;

and as a consequence, the proclamation and taking of oath of George Baterna, Tomas Lacierda, Sr., and Pedro Calimot, Jr., are declared null and void and of no force and effect.

With cost de officio.

SO ORDERED.

On 22 May 1996, private respondents Famor, Cajeta, Rabe, Revelo, and Boiser filed a Motion for Immediate Execution of Decision Pending Appeal[5] alleging as follows:

2. That pursuant to Section 2, Rule 39 of the Rules of Court, and the Supreme Court ruling in the case of Tomas Tobon Uy vs. COMELEC and Jose C. Neyre, G.R. No. 97108-09, March 4, 1992, and Daniel Garcia & Teodoro O'hara vs. Ernesto De Jesus & Cecilia David & Comelec, G.R. No. 88158, March 4, 1992 (SCRA Vol. 206, pages 779-801), Regional Trial Courts can order execution pending appeal.

3. That there are good reasons in granting the execution of the decision pending appeal; firstly, the appeal is merely dilatory, and it takes several years to terminate the appeal; that in most cases, the term of office will already expire before the appeal is finally decided. To construe otherwise would be to bring back the ghost of the "grab-the-proclamation-prolong-the-protest" techniques so often resorted to by devious politicians in the past in their efforts to perpetuate their hold to an elective office. This would, as a consequence, lay to waste the will of the electorate. (See Estrada vs. Sto. Domingo, G.R. No. L-30570, 29 July 1969; Lagumbay vs. Comelec, G.R. No. L-25444, 31 January 1966, 16 SCRA 175); secondly, on the ground of public interest. It must be noted that the term of office of the contested positions is nearing expirations, hence, there is a need, then, for this joint decision to be immediately executory. (See Tomas Tobon Uy vs. Commission on Elections & Jose C. Neyra, 206 SCRA 779, G.R. No. L-97108-09, March 4, 1992)

4. That protestants [are] willing to put up bond in the amount of P500,000.00, to answer for any damages protestees may suffer in the event protestants [are] not entitled to the immediate execution.

On 28 May 1996, the petitioners filed their Opposition to the Motion for Immediate Execution of the Consolidated Decision.[6] On that same day, they filed their respective Notices of Appeal.[7]

The next day, or on 29 May 1996, the trial court issued an order[8] granting the motion for execution pending appeal. The order reads as follows:

Acting upon the Motion for Execution of the decision pending appeal with the opposition thereto, the Court

finds the Motion to be well taken and there being a good reason to grant the same, taking into consideration this involves the public interest and the near expiration of the term of office of two (2) years and the pendency of the protest which lasted for one (1) year.

WHEREFORE, the Motion is granted, let a writ of execution be issued to enforce the decision of the Court pending appeal for the reason aforecited.

SO ORDERED.

On even date, a Writ of Execution[9] was issued. Petitioners' urgent motion to reconsider the order of execution was denied.[10]

On 4 June 1996, the petitioners assailed the trial court's order granting execution pending appeal in a Petition for Certiorari and Prohibition with Prayer for Preliminary Injunction and/or Temporary Restraining Order[11] filed with the COMELEC. The case was docketed as SPR[12] No. 14-96.

On 6 June 1996, the COMELEC issued an Order[13] requiring the respondents to answer the petition within ten days; setting for hearing the application for a writ of preliminary injunction on 2 July 1996; and ordering the issuance of a temporary restraining order directing private respondents Famor, Cajeta, Rabe, Boiser, and Revelo to cease and desist from assuming the positions of mayor, vice mayor, and councilors of Guipos, Zamboanga del Sur, respectively, until further orders from the Commission. A Temporary Restraining Order[14] was forthwith issued.

Thereafter, on various dates, the following were filed by the parties before the COMELEC: a) private respondents' Motion to Dissolve/Recall Temporary Restraining Order,[15] b) petitioners' Opposition to the Motion to Dissolve/Recall Temporary Restraining Order,[16] c) petitioners' Urgent Motion to Cite Private Respondents for Contempt.[17] The above motions were heard by the COMELEC on 9 July 1996; after which the parties submitted their respective memoranda.[18]

On 23 September 1997, respondent COMELEC promulgated a Resolution[19] denying the petition in SPR No. 14-96. It ratiocinated thus:

The Court has find [sic] public interest and the pendency of the protest for one (1) year sufficient to grant execution pending appeal. In election cases, over and above the claims of the respective contestants is the deep public interest involved, the need to imperatively determine the correct expression of the will of the electorate. So much so that laws governing election protest must be literally interpreted to the end that the popular will expressed in the election of public officers will not, by reason of purely technical objections, be defeated. [Calabig vs. Villanueva, 135 SCRA 300]. Our earlier pronouncements in "Dictado vs. Cosico, SPR No. 2-93, July 29, 1993 and Aragdon vs. Balongo, et al., SPR No. 56-96, January 7, 1997," may provide some enlightenment. We held:

"For while it is true that when an election protest is filed the protestee is only considered a presumptive winner until the protest is resolved in the same way, when protestant is adjudged the winner by a court of law but the case is on appeal with Commission, such appeal likewise makes the protestant a presumptive winner...."

Under the said Dictado and Aragdon doctrines, private respondents can be adjudged presumptive winners of the contested election, during the pendency of the appeal. The proclamation rendered by the board of canvassers suffices as basis for the right to assume, notwithstanding election protest. The proclaimed winners are simply presumptive winners pending the resolution of the election protest, and they still are able to assume office. A judgment favorable to the protestant renders the latter presumptive winner, notwithstanding the appeal therefrom.

It has already cost the private respondents and the people of Guipos, Zamboanga del Sur, more than a year

before the protest was resolved in the lower court. Depriving the private respondents the assumption of the duties and functions ... will only resurrect the evils that the Court has long sought to contain – the “grab-the-proclamation-prolong-the-protest” technique. [Cf *Gahol vs. Riodique*, 64 SCRA 494, *Estrada vs. Sto. Domingo*, 28 SCRA 890, *Lagumbay vs. COMELEC* 16 SCRA 175].

We fail to find any abuse of discretion, grave or otherwise. In fact, the position of the Honorable Judge granting execution pending appeal by reason of public interest and more than a year pendency of the election protest appears to be even justified by the Court, as it found in *Garcia vs. De Jesus* [206 SCRA 779]: “In retrospect, good reasons did in fact exist which justified the RTC Order... granting execution pending appeal. Among others mentioned by the RTC are the combined considerations of the near expiration of the term of office, public interest, the pendency of the election contest for more than 3 years....”

Unsatisfied with the Resolution, the petitioners came to us via this petition wherein they allege that

A RESPONDENT COMMISSION SERIOUSLY ERRED IN HOLDING THAT PETITIONERS FAILED TO ESTABLISH A CASE OF GRAVE ABUSE OF DISCRETION ON THE PART OF THE TRIAL COURT.

1. The questioned order itself of the trial court granting execution pending appeal which cited insufficient reasons is proof of such grave abuse of discretion.

B RESPONDENT COMMISSION ACTED ARBITRARILY AND IN EXCESS OF JURISDICTION WHEN, CONTRARY TO LAW AND THE COMMISSION’S OWN CASE PRECEDENTS, IT AFFIRMED AS GOOD REASONS NEAR EXPIRATION OF THE TERM AND A YEAR PENDENCY OF THE PROTEST.

1. The Dissenting Opinion enunciates the correct state of law on executions pending appeal.

In the resolution of 11 November 1997, we ordered the parties to maintain the status quo prevailing at the time of the filing of the petition.

In its Comment for public respondent COMELEC, the Office of the Solicitor General opines that the trial court was evidently guided by the decisions of this Court in *Garcia v. De Jesus*[20] and *Gahol v. Riodique*[21] in holding that the combined grounds of (a) public interest, (b) the near expiration of the term of office, and (c) the pendency of the protest for one year constituted good reasons to grant private respondents’ motion for execution pending appeal.

In their Comment, the private respondents maintain that the COMELEC acted in accordance with law and existing jurisprudence in denying petitioners’ petition for certiorari and prohibition. They also allege that the petitioners are even guilty of forum shopping in filing the instant petition.

The Omnibus Election Code of the Philippines (B.P. Blg. 881) and the other election laws[22] do not specifically provide for execution pending appeal of judgment in election cases, unlike the Election Code of 1971 whose Section 218 made express reference to the Rules of Court on execution pending appeal; thus:

SEC. 218. Assumption of office notwithstanding an election contest. - Every candidate for a provincial, city, municipal or municipal district office duly proclaimed elected by the corresponding board of canvassers shall assume office, notwithstanding the pendency in the courts of any contest against his election, without prejudice to the final decision thereon and applicable provisions of the Rules of Court regarding execution of judgment pending appeal.

In *Gahol v. Riodique*,[23] we explicitly ruled that the assumption of office provided for in the aforementioned section “is that of the protestant, which is made possible by the provisions of the Rules of Court regarding execution pending appeal, which is none other than Section 2 of Rule 39.”

The failure of the extant election laws to reproduce Section 218 of the Election Code of 1971 does not mean that execution of judgment pending appeal is no longer available in election cases. In election contests involving elective municipal officials, which are cognizable by courts of general jurisdiction; and those involving elective barangay officials, which are cognizable by courts of limited jurisdiction,[24] execution of judgment pending appeal under Section 2 of Rule 39 of the Rules of Court are permissible pursuant to Rule 143 of the Rules of Court, which is now Section 4, Rule 1 of the 1997 Rules of Civil Procedure. This Section 4 provides:

SEC. 4. In what cases not applicable. -- These Rules shall not apply to election cases, land registration, cadastral, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient. (R143a).

As to election cases involving regional, provincial, and city officials, which fall within the exclusive original jurisdiction of the COMELEC,[25] Section 3 of Article IX-C of the Constitution vests the COMELEC with the authority to promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. Additionally, Section 52(c), Article VII of the Omnibus Election Code empowers the COMELEC to promulgate rules and regulations implementing the provisions of the Code or other laws which it is required to enforce and administer. Accordingly, the COMELEC promulgated the COMELEC Rules of Procedure. Section 1 of Rule 41 thereof expressly provides that “[i]n the absence of any applicable provision in [said] Rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in a suppletory character and effect.”

This Court has explicitly recognized and given approval to execution of judgments pending appeal in election cases[26] filed under existing election laws. In those cases, the immediate execution was made in accordance with Section 2 of Rule 39 of the Rules of Court[27] reading as follows:

SEC. 2. Execution pending appeal. -- On motion of the prevailing party with notice to the adverse party the court may, in its discretion, order execution to issue even before the expiration of the time to appeal, upon good reasons to be stated in a special order. If a record on appeal is filed thereafter, the motion and the special order shall be included therein.

All that was required for a valid exercise of the discretion to allow execution pending appeal was that the immediate execution should be based “upon good reasons to be stated in a special order.” The rationale why such execution is allowed in election cases is, as stated in *Gahol v. Riodique*,[28] “to give as much recognition to the worth of a trial judge’s decision as that which is initially ascribed by the law to the proclamation by the board of canvassers.” Thus:

Why should the proclamation by the board of canvassers suffice as basis of the right to assume office, subject to future contingencies attendant to a protest, and not the decision of a court of justice? Indeed, when it is considered that the board of canvassers is composed of persons who are less technically prepared to make an accurate appreciation of the ballots, apart from their being more apt to yield to extraneous considerations, and that the board must act summarily, practically raising [sic] against time, while, on the other hand, the judge has benefit of all the evidence the parties can offer and of admittedly better technical preparation and background, apart from his being allowed ample time for conscientious study and mature deliberation before rendering judgment, one cannot but perceive the wisdom of allowing the immediate execution of decisions in election cases adverse to the protestees, notwithstanding the perfection and pendency of appeals therefrom, as long as there are, in the sound discretion of the court, good reasons therefor.

To deprive trial courts of their discretion to grant execution pending appeal would, in the words of *Tobon Uy v. COMELEC*,

bring back the ghost of the “grab-the-proclamation-prolong the protest” techniques so often resorted to by

devious politicians in the past in their efforts to perpetuate their hold to an elective office. This would, as a consequence, lay to waste the will of the electorate.

What are the recognized reasons for execution pending appeal in election cases?

In *Gahol v. Riodique*, the motion for execution pending appeal recited the following reasons:

- (a) The full term for municipal officials elected in the November 1971 elections expires at the end of December 1975, thereby leaving protestant no more than ten (10) months of the four-year-term to which she is rightfully entitled, within which she may be able to seat [sic] and represent her constituency;
- (b) In view of the results of the referendum which was held on February 27, 1975, President Ferdinand E. Marcos was granted the right to appoint local officials in lieu of the elective [sic] ones and it is possible that protestant's opportunity to occupy the seat may even be effectively reduced;
- (c) Considering the fully-substantiated finding of massive fraud in the preparation of ballots cast in favor of the protestee consisting, among others, of ballots written by one and the same hand, any appeal that the protestee may interpose would be frivolous and definitely dilatory in character; and
- (d) Any further delay in protestant's assumption of office would prejudice the electorate.

In *Tobon Uy v. COMELEC*, where protestant Tobon Uy was credited with a slim margin of only five votes, this Court stated:

In retrospect good reasons did, in fact, exist which justified the RTC Order, dated 10 January 1991, granting execution pending appeal. Among others mentioned by the RTC are the combined considerations of the near expiration of the term of office, public interest, the pendency of the election contest for more than three (3) years, and that TOBON UY had filed a bond in the amount of P300,000.00 (Rollo, p. 46).

In *Malaluan v. COMELEC*,^[29] this Court declared:

Without evaluating the merits of the trial court's actual appreciation of the ballots contested in the election protest, we note on the face of its decision that the trial court relied on the findings of the National Bureau of Investigation (NBI) handwriting experts which findings private respondent did not even bother to rebut. We thus see no reason to disregard the presumption of regularity in the performance of official duty on the part of the trial court judge. Capping this combination of circumstances which impelled the grant of immediate execution is the undeniable urgency involved in the political situation in the Municipality of Kidapawan, North Cotabato. The appeal before the COMELEC would undoubtedly cause the political vacuum in said municipality to persist, and so the trial court reasonably perceived execution pending appeal to be warranted and justified.

In *Gutierrez v. COMELEC*,^[30] this Court sustained the trial court's finding of good reasons; thus:

[T]he protestee died on April 6, 1996 and it [was] the Vice-Mayor who acted as Mayor after the protestee died and during the pendency of this case before this Court; the protestant have been found to be the true winner in the mayoralty race for Tiwi, Albay and should have been sitting as such from July 1, 1995 to the present but was not able to sit; that as of today, one-third of the term has already expired; that public interest will be better served and it would be giving true meaning to the electoral will of Tiwi, Albay that their chosen Mayor, the protestant herein, should immediately sit as the Mayor and govern them instead of the Vice-Mayor.

In *Lindo v. COMELEC*,^[31] where the protestant obtained a margin of 200 votes as adjudged by the trial court, this Court affirmed as good reasons those relied upon by the trial court in granting execution pending appeal; thus:

In its Order of execution, respondent RTC Judge Dilag cited two reasons to justify execution of his decision pending appeal, viz.: (1) the grant of execution would give substance and meaning to the people's mandate,

especially since the RTC has established private respondent's right to the office; and (2) barely 18 months is left on the tenure of the Ternate mayor and the people have the right to be governed by their chosen official. In the recent case of *Gutierrez v. COMELEC* [G.R. No. 126298, March 25, 1997], the same grounds for execution pending appeal of the decision in the protest case were relied upon by the trial court and we found them to be valid reasons for execution.

In a nutshell, the following constitute "good reasons," and a combination of two or more of them will suffice to grant execution pending appeal: (1) the public interest involved or the will of the electorate; (2) the shortness of the remaining portion of the term of the contested office; and (3) the length of time that the election contest has been pending. The filing of a bond, which was mentioned in *Tobon Uy*, does not constitute a good reason.^[32] Nevertheless, the trial court may require the filing of a bond as a condition for the issuance of a corresponding writ of execution to answer for the payment of damages which the aggrieved party may suffer by reason of the execution pending appeal.

In the instant case, the trial court relied on the following as "good reasons" for its grant of execution pending appeal: (1) public interest, (2) near expiration of the term of office involved, and (3) pendency of the election protest for one year. The trial court cannot, therefore, be said to have acted with grave abuse of discretion. Hence, the COMELEC acted correctly when it denied SPR No. 14-96.

If any error was committed by the COMELEC, it was in the failure to resolve private respondents' Motion To Dissolve/Recall Temporary Restraining Order and the petitioners' opposition thereto, as well as the Urgent Motion to Cite for Contempt, although the motions were heard on 9 July 1996.

Because of COMELEC's inaction on the first motion, the temporary restraining order issued on 6 June 1996 was taken full advantage of by the petitioners, who then refused to surrender to the prevailing private respondents their offices. This created an unwholesome spectacle: two sets of officials exercising the functions of the elective local positions of Guipos, Zamboanga del Sur. Such a situation was inimical to public interest and was a potential source of trouble and even bloodshed between the contending partisan forces. The COMELEC should have taken a more drastic and positive action to prevent such a situation by complying strictly with the rule on restraining orders. Under Section 5, Rule 30 of the COMELEC Rules of Procedure and Section 5, Rule 58 of the Rules of Court, the lifetime of a restraining order is only twenty days. This period is nonextendible.^[33] If the COMELEC wanted to restrain further the implementation of the trial court's order granting execution pending appeal and the writ of execution, it should have, if warranted, issued a writ of preliminary injunction; but it did not.

WHEREFORE, the instant civil action is DISMISSED for failure of the petitioners to show that respondent Commission on Elections had acted with grave abuse of discretion in rendering the challenged resolution of 23 September 1997 in SPR No. 14-96, which is hereby AFFIRMED. The status quo order of 11 November 1997 is LIFTED and the Commission on Elections is DIRECTED to forthwith cause the full implementation of the execution pending appeal, unless it shall have been rendered academic by a decision adverse to private respondents in the regular appeals filed by the petitioners with said Commission.

Costs against petitioners.

SO ORDERED.

Narvasa, C.J., Regalado, Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

[1] The remedy contemplated in Section 7, subdivision A of Article IX of the Constitution. See *Rivera v.*

Commission on Elections, 199 SCRA 178 [1991].

[2] Annex “A” of Petition, Rollo, 32-41.

[3] Entitled Roberto D. Ramas v. Hon. Fausto H. Imbing.

[4] Annex “D” of Petition; Rollo, 83-184. Per Judge Fausto H. Imbing.

[5] Annex “F” of Petition; Rollo, 187-190.

[6] Annex “G” of Petition; Rollo, 191-194.

[7] Page 12, Petition; Rollo, 14. These appeals were docketed by the Commission on Elections as EAC Nos. 21-96 to 26-96, inclusive.

[8] Annex “H” of Petition; Rollo, 195.

[9] Annex “I” of Petition; Rollo, 196-198.

[10] Annex “J” of Petition; Rollo, 199-200.

[11] Annex “L” of Petition; Rollo, 203-220. This remedy may be granted by the COMELEC per *Relampagos v. Cumba*, 243 SCRA 690, 703-704 [1995].

[12] A prefix for Special Reliefs Cases in the COMELEC (Sec. 4, Rule 7 in relation to Sec. 5, Rule 1 and Rule 28, Revised COMELEC Rules of Procedure).

[13] Annex “M” of Petition; Rollo, 222-223.

[14] Annex “M-1” of Petition, Rollo, 224-225.

[15] Annex “N” of Petition; Rollo, 226-229.

[16] Annex “O” off Petition, Rollo, 230-234.

[17] Annex “P” of Petition; Rollo, 236-243.

[18] Page 15, Petition; Rollo, 17.

[19] Annex “A” of Petition; Rollo, 32-41.

[20] 206 SCRA 779 [1992].

[21] 64 SCRA 494 [1975].

[22] The Congressional Elections Law of 1987 (Executive Order No. 134); The Local Elections Law of 1988 (R.A. No. 6636); The Electoral Reforms Law of 1987 (R.A. No. 6646); and The Synchronized Elections and Electoral Reforms Law of 1991 (R.A. No. 7166).

[23] *Supra* note 21 at 513-514.

[24] Section 2(2) of Article IX-C of the Constitution.

[25] *Id.*

[26] For example, *Tobon Uy v. COMELEC*, 206 SCRA 779 [1992]; *Abeja v. Tañada*, 236 SCRA 60 [1994]; *Edding v. COMELEC*, 246 SCRA 502 [1995]; *Malaluan v. COMELEC*, 254 SCRA 397 [1996]; *Gutierrez v.*

COMELEC, G.R. No. 126298, 25 March 1997; Lindo v. COMELEC, G.R. No. 127311, 19 June 1997; and Nazareno v. COMELEC, G.R. No. 126977, 12 September 1997.

[27] This provision has been amended by the 1997 Rules of Civil Procedure; thus:

SEC. 2. Discretionary execution.

(a) Execution of a judgment or final order pending appeal. -- On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

(b) Execution of several, separate or partial judgments. -- A several, separate or partial judgment may be executed under the same terms and conditions as execution of a judgment or final order pending appeal.

[28] Supra note 21 at 514-515. See also Tobon Uy v. COMELEC, supra note 26.

[29] Supra note 26 at 413.

[30] Supra note 26.

[31] Supra note 26.

[32] Roxas v. Court of Appeals, 157 SCRA 370, 378 [1988].

[33] Dionisio v. CFI of South Cotabato, 124 SCRA 222 [1983]; Board of Transportation v. Castro, 125 SCRA 410 [1983]; Aquino v. Luntok, 184 SCRA 177 [1990]; Prado v. Veridiano II, 204 SCRA 654 [1991].

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