

ESPIRITA N. ACOSTA, PETITIONER, VS. THE COMMISSION ON ELECTIONS, JUDGE GENOVEVA COCHING MARAMBA, IN HER CAPACITY AS PRESIDING JUDGE OF THE MUNICIPAL CIRCUIT TRIAL COURT, SAN FA...*G.R. No. 131488. August 03, 1998*

Ponente: ROMERO, J.

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For the Court's resolution is the instant petition for certiorari with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order assailing the December 2, 1997, resolution of the Commission on Elections (COMELEC) En Banc in SPR No. 13-97, entitled "Espirita N. Acosta v. Hon. Genoveva Coching-Maramba in her capacity as Presiding Judge, 4th Municipal Circuit Trial Court, San Fabian-San Jacinto, Pangasinan, and Raymundo I. Rivera."

The parties herein were candidates for the position of Punong Barangay in Bgy. Sobol, San Fabian, Pangasinan, during the May 12, 1997, barangay election. By a winning margin of four votes, petitioner was proclaimed as the duly elected Punong Barangay. On May 15, 1997, Rivera filed an election protest with the Municipal Circuit Trial Court of San Fabian-San Jacinto, alleging that the votes cast for him in Precincts No. 22-A, No. 22-A-1, No. 22-B, and No. 22-B-1 were not duly and properly accounted for due to "misreading, non-reading, mistallying, and misappreciation of ballots/votes," and praying for a recount of the votes. The following day, the court a quo summoned Acosta who, on May 19, 1997, filed a Motion for Time to File Answer. In an order dated May 21, 1997, the court denied said motion and concluded that the election protest was sufficient in form and substance. Furthermore, considering that from the allegations in the protest a revision of ballots was necessary, the court also ordered the COMELEC Election Registrar and/or the Municipal Treasurer of San Fabian to bring to court the ballot boxes of Bgy. Sobol, together with their keys, list of voters with voting records, book of voters and other election documents.

On May 29, 1997, petitioner filed with the COMELEC a petition for certiorari and prohibition with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, questioning the May 21, 1997, order of the MCTC. This was docketed as SPR No. 13-97.

The following day, May 30th, after determining that Rivera should have garnered 408 votes, three votes more than Acosta's 405, the lower court rendered a decision nullifying petitioner's proclamation and declaring Rivera as the duly elected Punong Barangay of Bgy. Sobol. Petitioner filed a notice of appeal on June 11, 1997, which respondent Judge granted in an order of even date. Said appeal was assigned UNDK No. 5-97 before the COMELEC.

On December 2, 1997, the COMELEC issued an en banc Resolution in SPR No. 13-97 dismissing the petition for lack of merit, and affirming the assailed order dated May 21, 1997, as well as the trial court's decision dated May 20, 1997 (should be May 30, 1997). Aggrieved by said ruling, petitioner went to this Court for relief.

The Court finds the instant petition meritorious.

The COMELEC indeed exceeded the bounds of its authority when it affirmed the trial court's decision when said judgment was not the subject of SPR No. 13-97, a special civil action assailing an interlocutory order of the same lower court. The fact that the decision was eventually elevated to the COMELEC on appeal does not cure the defect since said appeal was not consolidated with SPR No. 13-97. In fact, it was still undocketed at the time and the parties had not yet submitted any evidence relating to the election protest.

Due process dictates that before any decision can be validly rendered in a case, the following safeguards must be met: (a) the court or tribunal must be clothed with judicial authority to hear and determine the matter before it; (b) it must have jurisdiction over the person of the party or over the property subject of the controversy; (c) the parties thereto must have been given an opportunity to adduce evidence in their behalf, and (d) such evidence must be considered by the tribunal in deciding the case.[1] While the COMELEC cannot be faulted for resolving the issue raised by petitioner in SPR No. 13-97, namely, the propriety of the lower court's order dated May 21, 1997, it exceeded its authority and thereby gravely abused its discretion when, in the same resolution, it affirmed said court's decision dated May 30, 1997, which was the subject of petitioner's appeal, UNDK No. 5-97.

Furthermore, the Court notes that the assailed resolution was issued by the COMELEC en banc, again in excess of its jurisdiction. Under Article IX-C, Section 3 of the Constitution, the COMELEC must hear and decide election cases "in division, provided that motions for reconsideration of decision shall be decided by the Commission en banc." [2] This Constitutional mandate was clearly violated by the COMELEC in the case at bar.

WHEREFORE, the instant petition for certiorari is GRANTED. The assailed resolution of the COMELEC en banc dated December 2, 1997, is hereby NULLIFIED and SET ASIDE, and the records of this case are ordered REMANDED to a Division of the COMELEC for proper disposition of SPR No. 13-97 and UNDK No. 5-97. No pronouncement as to costs.

SO ORDERED.

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

[1] *Rabino v. Cruz*, 222 SCRA 493 (1993), citing *El Banco-Español-Filipino v. Palanca*, 37 Phil. 94; *Macabingkil v. Yatco*, 21 SCRA 150 (1967); and *Lorenzana v. Cayetano*, 78 SCRA 485 (1977).

[2] *Sarmiento v. COMELEC*, 212 SCRA 307, 313-14 (1992); *Ong v. COMELEC*, 216 SCRA 806, 812 (1992); *Ong v. COMELEC*, 221 SCRA 475, 482-483 (1993).

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