

JUAN PONCE ENRILE, PETITIONER, VS. SENATE ELECTORAL TRIBUNAL AND AQUILINO PIMENTEL, JR., RESPONDENTS.

G.R. No. 132986. May 19, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing for having been issued with grave abuse of discretion Resolution 97-22[1] denying petitioner's Motion to Annul/Set Aside Partial Results in Pimentel's Protest and to Conduct Another Appreciation of Ballots in the Presence of All Parties; and Resolution No. 98-02[2] denying his motion for reconsideration in SET Case No. 001-95, "Aquilino Pimentel, Jr. vs. Gregorio B. Honasan, et al."

The antecedent facts of the case are as follows:

On January 20, 1995, Senator Aquilino Pimentel, private respondent herein, filed with the Senate Electoral Tribunal (SET) an election protest against Senator Juan Ponce Enrile, petitioner, and other senatorial candidates who won in the May 1995 senatorial elections, docketed as SET Case No. 001-95.

On June 30, 1995, petitioner filed his answer with counter-protest. Issues having been joined, the SET required the parties to submit the list of pilot precincts numbering not more than 25% of the total precincts involved in respondent's protest.

Subsequently, the SET conducted the revision of ballots in the pilot precincts, namely: Paoay, Ilocos Norte; Tarlac, Tarlac; Tawi-Tawi; Maguindanao; Sulu; Bulacan; Lanao del Sur; Lanao del Norte; Pasig City; Biñan, Laguna; Cuyapo, Nueva Ecija; Pangasinan; Agusan del Sur and Agusan del Norte. Thereafter, the SET directed the parties to submit their evidence and memoranda.

On August 21, 1997, the SET, without resolving the election protest, held a press conference at the Supreme Court Session Hall announcing the partial and tentative results of the revision of ballots in the pilot precincts. A press release entitled "Partial Results in Pimentel's Protest"[3] was then issued accompanied by the tabulation of votes for the parties. In the said tabulation, the name of petitioner dropped from number 11 to number 15.[4]

On September 24, 1997, petitioner filed a "Motion to Set Aside Partial Results in Pimentel's Protest and to Conduct Another Appreciation of Ballots in the Presence of All Parties." [5] Petitioner alleged that the partial results were manifestly erroneous. The SET then issued Resolution No. 97-20 requiring all the parties to file their respective comments on petitioner's motion. Only respondent and Senator Nikki Coseteng filed their separate comments alleging, among others, that petitioner's motion is premature considering that the SET has not yet resolved respondent's election protest.

In its assailed Resolution No. 97-22, the SET admitted there was an "oversight," hence, the tally of votes for Paoay, Ilocos Norte should be made. Consequently, the 30,000 votes deducted by the SET from those garnered by petitioner were "given back to him."

Nevertheless, the SET denied petitioner's motion, holding that there is no sufficient basis to discard its partial tabulation.

"The Tribunal took pains in reviewing its records and hereby acknowledges that an adjustment should be made in the tally of votes for the Municipality of Paoay, Ilocos Norte. However, the Tribunal alone should not be faulted for this oversight. Although the Regional Tally for Region I was offered in evidence by the Protestant, Protestee Enrile, far from claiming that the same reflected the accurate number of votes garnered by the senatorial candidates, even went to the extent of objecting to its admissibility.

In the province of Ilocos Norte, the vote total of Enrile in the SOV/M of 65,343 is listed in the PCOC at 95,343 or an increase of 30,000 votes. As unearthed, Enrile's votes had already been corrected by the COMELEC in the Regional Tally such that the 30,000 votes deducted by the Tribunal must be, as it is hereby, given back to him. Similarly, Mitra regains the 20,000 votes deducted from him in this province.

These corrections, notwithstanding, the Tribunal finds no sufficient basis to discard its partial tabulation. In fact, the ranking of the parties is not at all affected by the omission.

Finally, to grant Enrile's prayer to have himself represented in the appreciation of ballots by the Tribunal amounts to an encroachment on judicial functions. Needless to state, appreciation of evidence is the Tribunal's exclusive domain."

Petitioner filed his motion for reconsideration but was denied by the SET in its Resolution No. 98-02.

Hence, this petition, petitioner contending that:

"A.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN RULING THAT NO SUFFICIENT BASIS EXISTS TO ANNUL THE MANIFESTLY ERRONEOUS TABULATION OF THE RESULTS OF REVISION AND APPRECIATION OF BALLOTS.

B.

PUBLIC RESPONDENT COMMITTED PATENT AND GROSS ERROR IN RECTIFYING THE RESULTS OF THE PHYSICAL COUNT, AS REFLECTED IN THE REVISION REPORTS BY USING OTHER ELECTION DOCUMENTS.

C.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT RELEASED "PARTIAL AND TENTATIVE" RESULTS WHICH CAUSED GRAVE PREJUDICE TO HEREIN PETITIONER.

D.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION IN RULING THAT PETITIONER IS NOT ENTITLED TO BE HEARD IN THE APPRECIATION PROCEEDINGS."

The main issue for our resolution is whether or not the SET committed grave abuse of discretion in denying petitioner's "Motion To Set Aside Partial Results in Pimentel's Protest and to Conduct Another Appreciation of Ballots in the Presence of all Parties."

Petitioner contends that the partial results released by the SET are erroneous because they are improbable and not supported by evidence.

In their comments, both respondent and the Solicitor General maintain that the SET did not commit grave abuse of discretion in issuing the challenged Resolutions. Furthermore, the Solicitor General asserts that the "present

petition has become moot and academic because the tenure of the contested senatorial position subject of respondent's protest where the assailed Resolutions originated expired on June 30, 1998."

In its assailed Resolution No. 97-22, the SET explained the process in determining the partial results, thus:

"The entire process in determining the parties' votes in the pilot municipalities is explained in the corresponding written reports thereon shortly to be completed. In the meantime, let it be stressed that the proceedings conducted by the Tribunal with respect to the pilot areas of Protestant Pimentel consisted of several stages or steps, to wit:

- Recount and revision of the ballots where the parties are represented;
- Recount and revision of the ballots where the parties are represented;
- Examination of the different election documents including the verification of the accuracy of the addition of the figures appearing on Statement of Votes by Precincts (SOV/M or SOV/C); and
- Comparison of the figures appearing on the SOV/P, the Municipal or City Certificate of Canvass (MCOC or CCOPC), the SOV/M or SOV/C and the Provincial Certificate of Canvass (PCOC).

From the arguments of protestee Enrile, it is apparent that only the revision of ballots and the SOV/P were taken into account. Worse, he speculated on the rulings made in the appreciation of ballots.

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Put differently, the number of ballots objected to against a particular party is not necessarily the maximum number of votes that may be deducted from the said party, in the same way as the number of ballots/votes claimed by a party is not necessarily the maximum number of votes that may be credited to said party. As a result of the appreciation of the contested ballots, the parties may be deducted more votes than the number of ballots specifically objected to against them, or may be credited with additional votes even if the parties made no claims.

Aside from the ruling on the claims and objections, the Tribunal likewise verified the accuracy of the counting of ballots done by the revision teams. Errors in the revision reports were rectified which also resulted in the addition to, or deduction of votes from the parties.

Consistent with the allegation of Protestant Pimentel that 'Operation Dagdag-Bawas' was affected through the padding or deduction of votes in the different election documents, the Tribunal also conducted accuracy checks on the addition of the figures appearing on the SOV/P and the SOV/M. The verification process disclosed errors which have resulted in the addition or deduction of votes from the parties.

To ensure that the correct figures were recorded from one election document to the other, the Tribunal compared the figures appearing on the SOV/P vis-à-vis the MCOC/CCOC; the MCOC/CCOC with the PCOC. Where the discrepancies in the figures were noted, the corresponding adjustments were made which resulted in the addition or deduction of votes from the parties.

Thus, while the votes of the parties in the municipal level are determined through the counting and appreciation of the ballots, the votes of the parties on the provincial level are also adjusted on the basis of the comparison of the different election documents. The written report/decision on the pilot precincts, soon to be released, contains the specifics and sets forth in detail the reason for each addition or deduction of votes."

The above process clearly shows why the figures presented by petitioner in his motion do not tally with the figures released by the SET.

At any rate, we agree with the Solicitor General that the petition has become moot and academic. The tenure of the contested senatorial position subject of this petition expired as early as June 30, 1998.

A case becomes moot and academic when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits.[6]

In *Garcia vs. COMELEC*,^[7] we held that “where the issues have become moot and academic, there is no justiciable controversy, thereby rendering the resolution of the same of no practical use or value.”

Likewise, in *Gancho-on vs. Secretary of Labor and Employment*,^[8] we ruled:

“It is a rule of universal application that courts of justice constituted to pass upon substantial rights will not consider questions in which no actual interests are involved; they decline jurisdiction of moot cases. And where the issue has become moot and academic, there is no justiciable controversy, so that a declaration thereon would be of no practical use or value. There is no actual substantial relief to which petitioners would be entitled and which would be negated by the dismissal of the petition.”

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Davide, Jr. C.J., and Puno, J., on official leave.

Vitug, J., (acting Chief Justice), no part.

[1] Annex “A”, Rollo at 35.

[2] Annex “B”, *id.* at 41.

[3] Annex “C”, Petition for Certiorari at 49-56.

[4] Annex “D”, *id.* at 58.

[5] *Id.* at 57-76.

[6] *Philippine National Bank vs. Court of Appeals*, G.R. No. 121251, June 26, 1998, 291 SCRA 271, 278, citing *Ozaeta vs. Oil Industry Commission*, 98 SCRA 417 (1980) and *Philsugin vs. Aspem*, 115 SCRA 835 (1982).

[7] G.R. No. 121139, July 12, 1996, 258 SCRA 754, 757.

[8] G.R. No. 108033, April 14, 1997, 271 SCRA 204, 207-208.

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