

**PERLA GARCIA, PAZ CRUZ AND GERALDINE PADERNAL,
PETITIONERS, VS. THE HOUSE OF REPRESENTATIVES ELECTORAL
TRIBUNAL (HRET) AND REP. HARRY ANGPING (3RD DISTRICT
MANILA), RESPONDENTS.**

G.R. No. 134792. August 12, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

May a petition for quo warranto before the House of Representatives Electoral Tribunal be summarily dismissed for failure to pay cash deposit, notwithstanding that petitioner rectified payment thereof?

On May 29, 1998, within the prescribed ten (10) day period from respondent Harry Angping's proclamation as duly elected Representative for the 3rd District of Manila, petitioners, all duly registered voters in the district, filed a petition for quo warranto[1] before the House of Representatives Electoral Tribunal (HRET) against Congressman Harry Angping. Petitioner questioned the eligibility of Congressman Angping to hold office in the House of Representatives, claiming that the latter was not a natural-born citizen of the Philippines, a constitutional requirement. They prayed that Congressman Angping be declared ineligible to assume or hold office as member of the House of Representatives and for the candidate who received the highest number of votes from among the qualified candidates to be proclaimed the winner.

Upon filing of the their petition, petitioners duly paid the required P5,000.00 filing fee.[2]

On June 10, 1998, however, the HRET issued a Resolution[3] dismissing the petition for quo warranto for failure to pay the P5,000.00 cash deposit required by its Rules. After receiving a copy of the aforesaid Resolution, petitioners paid the P5,000.00 cash deposit[4] on June 26, 1998 and attached the corresponding receipt to the Motion for Reconsideration[5] they filed with the HRET on the same day. Petitioners' Motion for Reconsideration was, however, denied, in view of Rule 32 of the 1998 HRET Rules which required a P5,000.00 cash deposit in addition to filing fees for quo warranto cases.[6]

Hence, the instant Petition,[7] filed on August 14, 1998, anchored upon the following grounds -

"THE RESPONDENT HRET COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING THE PETITION BELOW DESPITE ACTUAL PAYMENT BY HEREIN PETITIONER (ALBEIT LATE) OF THE REQUIRED CASH DEPOSIT OF P5,000.00, THEREBY STRICTLY AND LITERALLY CONSTRUING THE HRET RULES IN CONTRAVENTION OF RULE 2 (OF THE SAME RULES) ENJOINING A LIBERAL CONSTRUCTION THEREOF.

THE RESPONDENT HRET COMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE PETITION BELOW UPON A MERE TECHNICALITY EVEN AS THE EVIDENCE AND/OR DOCUMENTS ATTACHED THEREIN CLEARLY SHOW THE INELIGIBILITY OF RESPONDENT ANGPING TO HOLD AND/OR CONTINUE TO ASSUME OFFICE AS MEMBER OF THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF THE PHILIPPINES."[8]

On September 24, 1998, Congressman Angping filed his Comment[9] to the petition arguing that there was no grave abuse of discretion committed as the dismissal of the petition below was based on clear and unambiguous provisions of the HRET which leave no room for liberal construction. Furthermore, Congressman Angping argued that this Court is not a trier of facts and that all election contests lie within the exclusive jurisdiction of the HRET.

Prior to that, on September 18, 1998, the Office of the Solicitor General filed a Manifestation to the effect that under the terms of this Court's Resolution dated August 25, 1998 requiring only Rep. Harry Angping to comment, the Office of the Solicitor General is not required to file a comment on the petition on behalf of the HRET. This Manifestation was noted by this Court in its Resolution dated October 13, 1998.

On October 15, 1998, petitioner filed their Reply[10] stressing that according to Rule 21 of the 1998 Rules of the HRET, summary dismissals may be ordered by the HRET in case of non-payment of the required cash deposit within the prescribed time only in election protest cases and not in quo warranto proceedings. Petitioners also assert that this Court can very well resolve the merits of their petition for quo warranto inasmuch as the Alien Certificate of Registration attached to their petition, being a public document, is admissible as proof of Congressman Angping's ineligibility to hold office, without need for proof as to its authenticity and due execution.

The first issue to resolve is whether or not this Court can take cognizance of the instant petition for certiorari.

Under the Constitution,[11] the HRET shall be the sole judge of all contests relating to the elections, returns and qualifications of its members. This does not, however, bar us from entertaining petitions which charge the HRET with grave abuse of discretion. Indeed, in *Libanan v. House of Representatives Electoral Tribunal*,[12] we explained our assumption of jurisdiction in election related cases involving the HRET as follows --

"x x x. In *Robles vs. HRET* (181 SCRA 780), the Court has explained that while the judgments of the Tribunal are beyond judicial interference, the Court may do so, however, but only 'in the exercise of this Courts so-called extraordinary jurisdiction, ... upon a determination that the Tribunal's decision or resolution was rendered without or in excess of jurisdiction, or with grave abuse of discretion or paraphrasing *Morrero*, upon a clear showing of such arbitrary and improvident use by the Tribunal of its power as constitutes a denial of due process of law, or upon a determination of a very clear unmitigated error, manifestly constituting such grave abuse of discretion, that there has to be a remedy for such abuse'.

In the old, but still relevant, case of *Morrero vs. Bocar* (66 Phil. 429), the Court has ruled that the power of the Electoral Commission 'is beyond judicial interference except, in any event, upon a clear showing of arbitrary and improvident use of power as will constitute a denial of due process'. The Court does not, to paraphrase it in *Co vs. HRET* (199 SCRA 692), venture into the perilous area of correcting perceived errors of independent branches of the Government; it comes in only when it has to vindicate a denial of due process or correct an abuse of discretion so grave or glaring that no less than the Constitution itself calls for remedial action."

That this Court may very well inquire into the issue of whether the complained act of the HRET has been made with grave abuse of discretion may be inferred from Section 1, Article VIII of the Constitution which has expanded judicial power to include the determination of "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

This leads us to the second issue of whether or not the HRET has committed grave abuse of discretion in summarily dismissing the petition for quo warranto of petitioners and in refusing to reinstate the same even after the payment of the required Five Thousand Pesos (P5,000.00) cash deposit.

Rule 32 of the 1998 Rules of the HRET provides that in addition to filing fees, a petitioner in quo warranto

proceedings should make a Five Thousand Pesos (P5,000.00) cash deposit with the Tribunal.

It is not disputed that petitioners did not initially pay the required cash deposit; but after their petition was summarily dismissed by the HRET for such non-payment, petitioners rectified their inadvertence and paid the Five Thousand Pesos (P5,000.00) required cash deposit, at the same time seeking a reconsideration of the dismissal.

Rule 32 of the 1998 Rules of the HRET provides ---

"RULE 32. Cash Deposit. - In addition to the fees prescribed in the preceding Rule, each protestant, counter-protestant or petitioner in quo warranto shall make a cash deposit with the Tribunal in the following amounts:

(1)

in a petition for quo warranto, Five Thousand (P5,000.00) Pesos;

(2)

if the protest or counter-protest does not require the bringing to the Tribunal of ballot boxes and other election documents and paraphernalia from the district concerned, Five Thousand (P5,000.00) Pesos;

(3)

if the protest or counter-protest requires the bringing of ballot boxes and other election documents and paraphernalia, Five Hundred (P500.00) Pesos for each precinct involved therein; Provided, that in no case shall the deposit be less than Ten Thousand (P10,000.00)Pesos;

(4)

if, as thus computed, the amount of the deposit does not exceed Seventy Five Thousand (P75,000.00) Pesos, the same shall be made in full with the Tribunal within ten (10) days after filing of the protest or counter-protest;

(5)

if the deposit exceeds Seventy Five Thousand (P75,000.00) Pesos, partial deposit of at least Seventy Five Thousand (P75,000.00) Pesos shall be made within ten (10) days after the filing of the protest or counter-protest. The balance shall be paid in such installments as may be required by the Tribunal on at least five (5) days advance notice to the party required to make the deposit.

x x x x x x x x."

On the other hand, Rule 21 of the 1998 Rules of the HRET governing summary dismissal of election contests provides, to wit -

"RULE 21. Summary Dismissal of Election Contest. - An election protest or petition for quo warranto may be summarily dismissed by the Tribunal without the necessity of requiring the protestee or respondent to answer if, inter alia:

- (1) the petition is insufficient in form and substance;
- (2) the petition is filed beyond the period provided in Rules 16 and 17 of these Rules;
- (3) the filing fee is not paid within the period provided for filing the protest or petition for quo warranto;
- (4) in case of protests where a cash deposit is required, the cash deposit or the first P100,000.00 thereof, is not paid within ten (10) days after the filing of the protest;
- (5)
the petition or copies thereof and the annexes thereto filed with the Tribunal are not clearly legible."
(underscoring ours)

Rule 33 of the Rules likewise provides ---

"RULE 33. Effect of Failure to Make Cash Deposit. - If a party fails to make the cash deposits or additional deposits herein provided within the prescribed time limit, the Tribunal may dismiss the protest, counter-protest, or petition for quo warranto, or take such action as it may deem equitable under the circumstances."

It may be argued that unlike in the case of election protests, no period is provided for to make the cash deposit in the case of petitions for quo warranto. However, the cash deposit required in quo warranto cases is fixed, i.e., P5,000.00. It does not vary nor can it be varied; it is required to be paid together with the filing fee at the time the petition is filed. It is different from a protest and/or counter-protest where the amount of the required cash deposit is yet to be determined since it has to be based on the number of ballot boxes and other election documents and paraphernalia to be collected and brought to the tribunal. Therefore, depending on the amount that may be required for the collection of the ballot boxes and other election documents and paraphernalia, the parties are given specified periods within which to pay. Thus, when the required amount of cash deposits does not exceed P75,000.00, the party concerned must make the deposit within ten (10) days after the filing of the protest or counter-protest; otherwise, when it exceeds P75,000.00 he is required to make a partial deposit of at least P75,000.00 likewise within ten (10) days and the balance payable in installments as may be determined by the Tribunal.

Petitioners herein, Perla Garcia, Paz Cruz and Geraldine Padernal, filed their petition for quo warranto on May 29, 1998. However, the required cash deposit of P5,000.00 was paid only on June 26, 1998, which was after the dismissal of the petition and only after an unreasonable delay of twenty-eight (28) days. Indeed, in dismissing the petition the HRET acted judiciously, correctly and certainly within its jurisdiction. It was a judgment call of the HRET which is clearly authorized under its Rules. As long as the exercise of discretion is based on well-founded factual and legal basis, as in this case, no abuse of discretion can be imputed to the Tribunal.

The petition for quo warranto attacks the ineligibility of Congressman Angping to hold office as a Member of the House of Representatives, not being a natural-born citizen of the Philippines. This is a serious charge, which, if true, renders Congressman Angping disqualified from such office. In view of the delicate nature and importance of this charge, the observance of the HRET Rules of Procedure must be taken seriously if they are to attain their objective, i.e., the speedy and orderly determination of the true will of the electorate. Correlatively, party litigants

appearing before the HRET or, to be more precise, their lawyers, are duty bound to know and are expected to properly comply with the procedural requirements laid down by the Tribunal without being formally ordered to do so. They cannot righteously impute abuse of discretion to the Tribunal if by reason of the non-observance of those requirements it decides to dismiss their petition. Imperative justice requires the proper observance of technicalities precisely designed to ensure its proper and swift dispensation.

Therefore, we find that the HRET did not commit grave abuse of discretion in applying its Rules strictly and in dismissing the petition for quo warranto. Accordingly, the instant petition for certiorari cannot prosper.

"Certiorari as a special civil action can be availed of only if there is concurrence of the essential requisites, to wit: (a) the tribunal, board or officer exercising judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or in excess of jurisdiction, and (b) there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding. There must be a capricious, arbitrary and whimsical exercise of power for it to prosper." [13]

"To question the jurisdiction of the lower court or the agency exercising judicial or quasi-judicial functions, the remedy is a special civil action for certiorari under Rule 65 of the Rules of Court. The petitioner in such cases must clearly show that the public respondent acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion defies exact definition, but generally refers to 'capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.'

"It has been held, however, that no grave abuse of discretion may be attributed to a court simply because of its alleged misappreciation of facts and evidence. A writ of certiorari may not be used to correct a lower tribunal's evaluation of the evidence and factual findings. In other words, it is not a remedy for mere errors of judgment, which are correctible by an appeal or a petition for review under Rule 45 of the Rules of Court.

"In fine, certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court. As long as a court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than errors of judgment which are reviewable by timely appeal and not by special civil action for certiorari." [14]

Indeed, the function of this Court is merely to check whether grave abuse of discretion has been committed by the HRET in the dismissal of the petition for quo warranto before it. A petition for certiorari under Rule 65 of the Rules of Court will prosper only if there is a showing of grave abuse of discretion or an act without or in excess of jurisdiction on the part of respondent tribunal. [15] In the absence of such a showing, there is no reason for this Court to annul the decision of the respondent tribunal or to substitute it with its own judgment, for the simple reason that it is not the office of a petition for certiorari to inquire the correctness of the assailed decision. In this case, as we have stated above, we find that the HRET committed no grave abuse of discretion. The instant petition must be dismissed.

WHEREFORE, the petition for certiorari is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, and Gonzaga-Reyes, JJ., concur.

[1] Records, pp. 1-12.

- [2] Id., p. 13.
- [3] Id., pp. 14-15.
- [4] Id., p. 19.
- [5] Id., pp. 16-18.
- [6] See Resolution, 3 July 1998; Records, pp. 21-22.
- [7] Rollo, pp. 3-43.
- [8] Petition, p. 4; Rollo, p. 6.
- [9] Rollo, pp. 53-60.
- [10] Rollo, pp. 66-71.
- [11] Sec. 17, Article VI.
- [12] G.R. No. 129783, 283 SCRA 520, 529-530 (1997).
- [13] *Suntay v. Cojuangco-Suntay*, G.R. No. 132524, December 29, 1998.
- [14] *People of the Philippines v. Court of Appeals*, G.R. No. 128986, June 21, 1999.
- [15] *National Federation of Labor v. NLRC*, 283 SCRA 275 (1997).

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