FERDINAND TRINIDAD, PETITIONER, VS. COMMISSION ON ELECTIONS AND MANUEL C. SUNGA, RESPONDENTS.

G.R. No. 135716. September 23, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The instant Petition for Certiorari questions the June 22, 1998 Resolution[1] of the Commission on Elections (hereinafter referred to as COMELEC) in SPA No. 95-213, disqualifying petitioner as a candidate for Mayor of Iguig, Cagayan, in the May 8, 1995 elections. It also questions the October 13, 1998 COMELEC Resolution[2] which not only denied petitioner's Motion for Reconsideration, but also annulled his proclamation as elected Mayor in the May 11, 1998 elections.

This case has been filed before this Court when the Petition for Disqualification of private respondent (SPA No. 95-213) was dismissed by the COMELEC. Acting on the Petition for Certiorari of private respondent, this court, in Sunga v. Commission on Elections,[3] ordered the COMELEC to reinstate SPA No. 95-213 and act thereon.

The facts of the case, as found in Sunga v. Commission on Elections, supra, are as follows:

> "Petitioner (herein private respondent) Manuel C. Sunga was one of the candidates for the position of Mayor in the Municipality of Iguig, Province of Cagayan, in the May 8, 1995 elections. Private respondent (herein petitioner) Ferdinand B. Trinidad, then incumbent mayor, was a candidate for re-election in the same municipality.
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> On 22 April 1995, Sunga filed with the COMELEC a letter-complaint for disqualification against Trinidad, accusing him of using three (3) local government vehicles in his campaign, in violation of Section 261, par. (o), Art. XXII, of BP Blg. 881 (Omnibus Election Code, as amended). On 7 May 1995, Sunga filed another letter-complaint with the COMELEC charging Trinidad this time with violation of Sec. 261, par. (e) (referring to threats, intimidation, terrorism or other forms of coercion) of the Omnibus Election Code, in addition to the earlier violation imputed to him in the first letter-complaint. This was followed by an Amended Petition for disqualification consolidating the charges in the two (2) letters-complaint, including vote buying, and providing more specific details of the violations committed by Trinidad. The case was docketed as SPA No. 95-213.
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> In a Minute Resolution dated 25 May 1995, the COMELEC 2nd Division referred the complaint to its Law Department for investigation. Hearings were held wherein Sunga adduced evidence to prove his accusations. Trinidad, on the other hand, opted not to submit any evidence at all.
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> Meanwhile, the election results showed that Trinidad garnered the highest number of votes, while Sunga trailed second.
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> On 10 May 1995 Sunga moved for the suspension of the proclamation of Trinidad. However, notwithstanding the motion, Trinidad was proclaimed the elected mayor, prompting Sunga to file another motion to suspend the effects of the proclamation. Both motions were not acted upon by the COMELEC 2nd Division.

> On 28 June 1995 the COMELEC Law Department submitted its Report to the COMELEC En Banc recommending that Trinidad be charged in court for violation of the following penal provisions of the Omnibus Election Code: (a) Sec. 261, par. (a), on vote buying; (b) Sec. 261, par. (e), on threats, intimidation, terrorism or other forms of coercion; and, (c) Sec. 261, par. (o), on use of any equipment, vehicle owned by the government or any of its political subdivisions. The Law Department likewise recommended to recall and revoke the proclamation of Ferdinand D. Trinidad as the duly elected Mayor of Iguig, Cagayan; proclaim Manuel C. Sunga as the duly elected Mayor, and, direct Sunga to take his oath and assume the duties and functions of the office.
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> The COMELEC En Banc approved the findings of the Law Department and directed the filing of the corresponding informations in the Regional Trial Court against Trinidad. Accordingly, four (4) informations for various election offenses were filed in the Regional Trial Court of Tuguegarao, Cagayan. The disqualification case, on the other hand, was referred to the COMELEC 2nd Division for hearing.
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> On 2 May 1996 Sunga filed a Second Urgent Motion to Suspend the Effects and Annul the Proclamation with Urgent Motion for Early Resolution of the Petition. But in its 17 May 1996 Resolution, the COMELEC 2nd Division dismissed the petition for disqualification, x x x.
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> His motion for reconsideration having been denied by the COMELEC En Banc, Sunga filed the instant petition contending that the COMELEC committed grave abuse of discretion in dismissing the petition for disqualification x x x."

As we have mentioned, above, private respondent's Petition with this Court was granted and COMELEC was ordered to reinstate SPA No. 95-213 and hear the same.[4]

Finally, on June 22, 1998, the COMELEC 1st Division (former 2nd Division) promulgated the first questioned Resolution disqualifying petitioner as a candidate in the May 8, 1995 elections.[5] Petitioner filed a Motion for Reconsideration,[6] claiming denial of due process. Private respondent filed his Opposition to the Motion,[7] at the same time moving for the cancellation of petitioner's proclamation as elected Mayor in the 1998 elections and praying that he be proclaimed Mayor instead.

On October 13, 1998, the COMELEC En Banc denied petitioner's Motion for Reconsideration and also annulled his proclamation as duly elected Mayor of Iguig, Cagayan in the May 11, 1998 elections.[8] Private respondent's motion to be declared Mayor was, however, denied. Commissioner Teresita Dy-Liacco Flores rendered a dissenting opinion insofar as the Resolution annulled the proclamation of petitioner as Mayor in the May 11, 1998 elections, which she found to be "bereft of any legal basis."

Petitioner alleges that the questioned Resolutions were promulgated without any hearing conducted and without his evidence having been considered by the COMELEC, in violation of his right to due process. He also contends that the portion of the October 13, 1998 Resolution annulling his proclamation as Mayor in the May 11, 1998 elections was rendered without prior notice and hearing and that he was once more effectively denied due process. Petitioner also adopts the stand of Commissioner Dy-Liacco Flores that his disqualification, if any, under SPA No. 95-213 cannot extend beyond the three-year term to which he was elected on May 8, 1995, in relation to which the corresponding Petition for his disqualification was lodged.

In his Comment,[9] private respondent assails the arguments raised in the Petition and prays that he be proclaimed as the elected Mayor in the 1998 elections. Petitioner filed a Reply[10] to private respondent's Comment on February 24, 1999. Meanwhile, on February 25, 1999, the criminal cases filed against the petitioner with the Regional Trial Court of Tuguegarao, Cagayan were dismissed.[11] On March 8, 1999, the Solicitor General filed a Comment for the COMELEC,[12] reiterating the argument that the COMELEC is empowered to disqualify petitioner from continuing to hold public office and at the same time, barring private respondent's moves to be

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proclaimed elected in the 1998 elections. Respective Memoranda were filed by both parties.

The issues before us may be summarized as follows:

1.

Was petitioner deprived of due process in the proceedings before the COMELEC insofar as his disqualification under the May 8, 1995 elections was concerned?

2.

Was petitioner deprived of due process in the proceedings before the COMELEC insofar as his disqualification under the May 11, 1998 elections was concerned?

3.

May petitioner's proclamation as Mayor under the May 11, 1998 elections be cancelled on account of the disqualification case filed against him during the May 8, 1995 elections?

4.

May private respondent, as the candidate receiving the second highest number of votes, be proclaimed as Mayor in the event of petitioner's disqualification?

The Commission on Elections is the agency vested with exclusive jurisdiction over election contests involving regional, provincial and city officials, as well as appellate jurisdiction over election contests involving elective municipal and barangay officials. Unless the Commission is shown to have committed a grave abuse of discretion, its decision and rulings will not be interfered with by this Court.[13]

Guided by this doctrine, we find that no violation of due process has attached to the COMELEC's June 22, 1998 Resolution.

Petitioner complains that while the COMELEC reinstated SPA No. 95-213, it conducted no hearing and private respondent presented no evidence.[14] Yet, this does not equate to a denial of due process. As explained in Paat v. Court of Appeals[15]--

> "x x x. Due process does not necessarily mean or require a hearing, but simply an opportunity or right to be heard (Pepsi Cola Distributors of the Phil. V. NLRC, G.R. No. 100686, August 15, 1995). One may be heard, not solely by verbal presentation but also, and perhaps many times more creditably and predictable than oral argument, through pleadings (Concerned Officials of MWSS v. Vasquez, G.R. No. 109113, January 25, 1995). In administrative proceedings moreover, technical rules of procedure and evidence are not strictly applied; administrative process cannot be fully equated with due process in its strict judicial sense (Ibid.) Indeed, deprivation of due process cannot be successfully invoked where a party was given a chance to be heard on his motion for reconsideration (Rodriguez v. Project 6 Market Service Cooperative, G.R. No. 79968, August 23, 1995), as in the instant case, when private respondents were undisputedly given the opportunity to present their side when they filed a letter of reconsideration dated June 28, 1989 which was, however, denied in an order of July 12, 1989 of Executive Director Baggayan. In Navarro III vs. Damasco (G.R. No. 101875, July 14, 1995), we ruled that:
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> 'The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of. A formal or trial type hearing is not at all times and in all instances essential. The requirements are satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice or hearing.'"

In the case at bar, petitioner was able to file an Answer with Counter Petition and Motion to Dismiss.[16] He was also able to submit his counter-affidavit and sworn statements of forty-eight (48) witnesses. While he complains that these were not considered by the Hearing Officer, he, himself, admits that the COMELEC did not rely on the findings of the Hearing Officer but referred the case to its Second Division. Thus, by the time the Second Division reviewed his case, petitioner's evidence were already in place. Moreover, petitioner was also given a chance to explain his arguments further in the Motion for Reconsideration which he filed before the COMELEC. Clearly, in the light of the ruling in Paat, no deprivation of due process was committed. Considering that petitioner was afforded an opportunity to be heard, through his pleadings, there is really no denial of procedural due process.[17]

Being interrelated, we shall discuss the second and third issues together.

We note that petitioner's term as Mayor under the May 8, 1995 elections expired on June 30, 1998.[18] Thus, when the first questioned Resolution was issued by COMELEC on June 22, 1998, petitioner was still serving his term. However, by the time the Motion for Reconsideration of petitioner was filed on July 3, 1998, the case had already become moot and academic as his term had already expired. So, too, the second questioned Resolution which was issued on October 13, 1998, came at a time when the issue of the case had already been rendered moot and academic by the expiration of petitioner's challenged term of office.

In Malaluan v. Commission on Elections,[19] this Court clearly pronounced that expiration of the challenged term of office renders the corresponding petition moot and academic. Thus:

> "It is significant to note that the term of office of the local officials elected in the May, 1992 elections expired on June 30, 1995. This petition, thus, has become moot and academic insofar as it concerns petitioner's right to the mayoralty seat in his municipality (Amatong v. COMELEC, G.R. No. 71003, April 28, 1988, En Banc, Minute Resolution; Artano v. Arcillas, G.R. No. 76823, April 26, 1988, En Banc, Minute Resolution) because expiration of the term of office contested in the election protest has the effect of rendering the same moot and academic (Atienza v. Commission on Elections, 239 SCRA 298; Abeja v. Tanada, 236 SCRA 60; Yorac v. Magalona, 3 SCRA 76).
>
> When the appeal from a decision in an election case has already become moot, the case being an election protest involving the office of the mayor the term of which had expired, the appeal is dismissible on that ground, unless the rendering of a decision on the merits would be of practical value (Yorac v. Magalona, supra). This rule we established in the case of Yorac v. Magalona which was dismissed because it had been mooted by the expiration of the term of office of the Municipal Mayor of Saravia, Negros Occidental. x x x."
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> (underscoring, ours)

With the complaint for disqualification of private respondent rendered moot and academic by the expiration of petitioner's term of office therein contested, COMELEC acted with grave abuse of discretion in proceeding to disqualify petitioner from his reelected term of office in its second questioned Resolution on the ground that "it comes as a matter of course after his disqualification in SPA No. 95-213 promulgated after the 1998 election." While it is true that the first questioned Resolution was issued eight (8) days before the term of petitioner as Mayor expired, said Resolution had not yet attained finality and could not effectively be held to have removed petitioner from his office.[20] Indeed, removal cannot extend beyond the term during which the alleged misconduct was committed. If a public official is not removed before his term of office expires, he can no longer be removed if he is thereafter reelected for another term.[21]

In this regard, therefore, we agree with the dissenting opinion of Commissioner Teresita Dy-Liacco Flores in the second questioned Resolution that petitioner's disqualification under SPA No. 95-213 cannot extend beyond the term to which he was elected in 1995.[22]

Yet another ground to reverse the COMELEC's annulment of petitioner's proclamation under the 1998 elections is the undeniable fact that petitioner was not accorded due process insofar as this issue is concerned. To be sure, this was not part of the first questioned Resolution which only touched on the matter raised in the complaint – the May 8, 1995 elections. Private respondent merely prayed for the annulment of petitioner's proclamation as winner in the 1998 elections in his Opposition to the Motion for Reconsideration. It was with grave abuse of discretion, then, that the COMELEC went on to annul petitioner's proclamation as winner of the 1998 elections without any prior notice or hearing on the matter.[23]

As per the Certificate of Canvass,[24] petitioner obtained 5,920 votes as against the 1,727 votes obtained by private respondent and 15 votes garnered by the third mayoral candidate, Johnny R. Banatao. This gives petitioner a high 77.26% of the votes cast. There is no doubt, therefore, that petitioner received his municipality's clear mandate. This, despite the disqualification case filed against him by private respondent.

This further lends support to our decision to bar his disqualification insofar as the May 11, 1998 elections is concerned. Indeed, in election cases, it is fundamental that the people's will be at all times upheld. As eloquently stressed in Frivaldo v. Commission on Elections[25]--

> "This Court has time and again liberally and equitably construed the electoral laws of our country to give fullest effect to the manifest will of our people, for in case of doubt, political laws must be interpreted to give life and spirit to the popular mandate freely expressed through the ballot. Otherwise stated, legal niceties and technicalities cannot stand in the way of the sovereign will. Consistently, we have held:
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> 'x x x (L)aws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections (Benito v. Commission on Elections, 235 SCRA 436, 442 [August 17, 1994])'."

Finally, we see no error in the COMELEC's rejection of private respondent's move to be declared as Mayor on account of petitioner's disqualification. To begin with, the issue had been rendered moot and academic by the expiration of petitioner's challenged term of office. Second, even in law and jurisprudence, private respondent cannot claim any right to the office. As held by the COMELEC, the succession to the office of the mayor shall be in accordance with the provisions of the Local Government Code which, in turn, provides that the vice mayor concerned shall become the mayor.[26] Also, in Nolasco v. Commission on Elections,[27] citing Reyes v. Commission on Elections,[28] we already rejected, once and for all, the position that the candidate who obtains the second highest number of votes may be proclaimed the winner in the event of disqualification or failure of the candidate with the highest number of votes to hold office. This court ratiocinated thus –

> "That the candidate who obtains the second highest number of votes may not be proclaimed winner in case the winning candidate is disqualified is now settled (Frivaldo v. COMELEC, 174 SCRA 245 [1989]; Labo, Jr. v. COMELEC, 176 SCRA 1 [1989]; Abella v. COMELEC, 201 SCRA 253 [1991]; Labo, Jr. v. COMELEC, 211 SCRA 297 [1992]; Benito v. COMELEC, 235 SCRA 436 [1994]). The doctrinal instability caused by see-sawing rulings (Compare Topacio v. Paredes, 23 Phil. 238 [1912] with Ticson v. COMELEC, 103 SCRA 687 [1981]; Geronimo v. Ramos, 136 SCRA 435 [1985] with Santos v. COMELEC, 137 SCRA 740 [1985]) has since been removed. In the latest ruling (Aquino v. COMELEC, G.R. No. 120265, September 18, 1995) on the question, this Court said:
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> To simplistically assume that the second placer would have received the other votes would be to substitute our judgment for the mind of the voter. The second placer is just that, a second placer. He lost the elections. He was repudiated by either a majority or plurality of voters. He could not be considered the first among qualified candidates because in a field which excludes the disqualified candidate, the conditions would have substantially changed. We are not prepared to extrapolate the results under the circumstances."

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Private respondent claims that there are compelling reasons to depart from this doctrine. He argues that since the disqualification case filed against the petitioner for the 1995 elections has been rendered moot and academic, it is with the 1998 elections that its impact must be felt. He also claims that justice should be given him as victim of petitioner's dilatory tactics.

We are not persuaded. On the other hand, the fact that despite the disqualification case filed against petitioner relating to the 1995 elections, he still won the mandate of the people for the 1998 elections, leads us to believe that the electorate truly chose petitioner and repudiated private respondent. To allow private respondent, a defeated and repudiated candidate, to take over the mayoralty despite his rejection by the electorate is to disenfranchise the electorate without any fault on their part and to undermine the importance and meaning of democracy and the people's right to elect officials of their choice.[29]

Therefore, the Resolution of the COMELEC dated October 13, 1998 which annulled petitioner's proclamation as Mayor of Iguig, Cagayan in the May 11, 1998 elections should be set aside. On the other hand, the petition filed before the COMELEC against petitioner for election offenses committed during the May 1995 elections should be dismissed for being moot and academic, the term of office to which petitioner was elected having already expired.

WHEREFORE, the petition is partly GRANTED. The Resolution of the COMELEC, dated October 13, 1998 is SET ASIDE insofar as it annuls the proclamation of petitioner as winner in the May 11, 1998 elections. Insofar as the May 8, 1995 elections is concerned, we find the issues related thereto rendered moot and academic by expiration of the term of office challenged and, accordingly, DISMISS the petition lodged in connection therewith. No costs.

SO ORDERED.

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

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[1] Records, Vol. I, pp. 250-257.

[2] Id., pp. 300-306.

[3] G.R. No. 125629, 288 SCRA 76 [1998].

[4] See Decision in Sunga v. Commission on Elections and Ferdinand B. Trinidad, Records, Vol. I, pp. 202-226; G.R. No. 125629, 288 SCRA 76 [1998].

[5] See Note 1.

[6] Records, Vol. I, pp. 258-264.

[7] Id., pp. 269-278.

[8] See Note 2.

[9] Rollo, pp. 84-111.

[10] Id., pp. 125-139.

[11] See Petitioner's Memorandum, Annex "A", Joint-Report in Criminal Cases Nos. 7114-7117.

[12] Rollo, pp. 144-153.

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[13] Bulaong v. Commission on Elections, G.R. No. 116206, 241 SCRA 180, 190 [1995], citing Lucman v. Dimaporo, 144 Phil. 102 [1970]. Cf. Galido v. COMELEC, 193 SCRA 78 [1991]; Rivera v. COMELEC, 199 SCRA 178 [1991].

[14] Petition, p. 11; Rollo, p. 13.

[15] G.R. No. 111107, 266 SCRA 167, 178-179 [1997].
[16] Records, Vol. I, pp. 59-114.

[17] Salonga v. Court of Appeals, G.R. No. 111478, 269 SCRA 534, 547-548 [1997].

[18] As per Sec. 43 of R.A. No. 7160.

[19] G.R. No. 120193, 254 SCRA 397, 403 [1996].

[20] See Section 13, Rule 18, Part IV of the COMELEC Rules of Procedure.

[21] Reyes v. Commission on Elections, G.R. No. 120905, 254 SCRA 514, 525-526 [1996].

[22] See Note 2, at p. 305.

[23] See Bince, Jr. v. COMELEC, G.R. No. 106291, 218 SCRA 782 [1993].

[24] Records, Vol. I, p. 276.

[25] G.R. Nos. 120295 & 123755, 257 SCRA 727, 770-771 [1996].

[26] See Section 44, R.A. No. 7160.

[27] G.R. Nos. 122250 & 122258, 275 SCRA 762, 780 [1997].

[28] G.R. No. 120905, 254 SCRA 514, 525-526 [1996].

[29] See Benito v. Commission on Elections, G.R. No. 106053, 235 SCRA 436, 441 [1994].

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