RUSTICO H. ANTONIO, PETITIONER, VS. COMMISSION ON ELECTIONS AND VICENTE T. MIRANDA, JR., RESPONDENTS.

G.R. No. 135869. September 22, 1999

Ponente: GONZAGA_REYES, J.

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GONZAGA_REYES, J.:

Is the period to appeal a decision of a municipal trial court to the Commission on Elections ("COMELEC") in an election protest involving a barangay position five (5) days per COMELEC Rules of Procedure or ten (10) days as provided for in Republic Act 6679[1] and the Omnibus Election Code? This is the sole issue posed in the instant petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure seeking to annul the order dated August 3, 1998 of the Second Division of the COMELEC,[2] dismissing the appeal of petitioner Rustico Antonio for having been filed out of time pursuant to COMELEC Rules of Procedure, and the order promulgated on October 14, 1998 of the COMELEC en banc, denying petitioner's motion for reconsideration.

The antecedents as found by the COMELEC in the order dated October 14, 1998 are:

> "The parties in this case were rival candidates for the Punong Barangay of Barangay Ilaya, Las Piñas City, Metro Manila. After the board of canvassers proclaimed protestee-appellant Rustico Antonio, protestant-appellee Vicente T. Miranda, Jr. filed an election protest docketed as Election Protest Case No. 97-0017 against Antonio before the Metropolitan Trial Court of Las Piñas City (Branch LXXIX). The trial court rendered a Decision dated 9 March 1998, the dispositive portion of which states:
> WHEREFORE, the Court declares the protestant Vicente Miranda as the duly elected Barangay Chairman of Barangay Ilaya, Las Piñas City, Metro Manila.

Antonio admitted receipt of the above-quoted decision on 18 March 1998. Subsequently, Antonio filed a Notice of Appeal with the trial court on 27 March 1998 or nine (9) days after receipt thereof. Meanwhile, Miranda moved to execute the trial court's decision. Rustico, in his Opposition to the Motion for Execution or Execution Pending Appeal, argued against Miranda's motion for execution. After the trial court denied the motion for execution, the records of this case was forwarded to the Commission (Second Division).

On 10 August 1998, protestee-appellant Rustico Antonio received from this Commission (Second Division) an Order dated 3 August 1998 stating as follows:

> In the light of the aforequoted rules, protestee RUSTICO ANTONIO, failed to perfect his appeal within the five (5) days period prescribed for perfecting his appeal, as he filed his Notice of Appeal only on March 27, 1998 or nine (9) days after receipt of the decision sought to be appealed.
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> The Period aforestated is jurisdictional and failure of the protestee to perfect his appeal within the said period deprives the Commission of its appellate jurisdiction.
>
> ACCORDINGLY, the instant appeal is hereby DISMISSED for lack of jurisdiction."
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> Hence, this motion for reconsideration.

The instant Motion for Reconsideration is DENIED and We AFFIRM the Order dated 3 August 1998 of this Commission (Second Division)."[3]

In the instant petition for certiorari, petitioner argues that the COMELEC committed grave abuse of discretion amounting to lack of jurisdiction when it dismissed the appeal for the following reasons:

> "(a)
>
> In barangay electoral protest cases, the period of appeal is ten (10) days from receipt of the decision of the Metropolitan or Municipal Trial Court. This is provided for by Sec. 9 of R.A. 6679 and Sec. 252 of the Omnibus Election Code
>
> (b)
>
> The provisions of Sec. 21, Rule 37 of the COMELEC Rules of Procedure providing for a five-day period within which to appeal from the decision of the Metropolitan or Municipal Trial Court could not prevail upon the express provisions of Rep. Act No. 6679 and Sec. 252 of the Omnibus Election Code;
>
> (c)
>
> Moreover, the COMELEC committed an error of jurisdiction when it disregarded the provisions of Sections 5,6 & 7, Rule 22 of the COMELEC Rules of Procedure requiring the filing of briefs by the appellant and the appellee. The questioned resolution of August 3, 1998 was issued motu propio and without prior notice and hearing. The petitioner was fast tracked;
>
> (d)
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> The alleged winning margin of the private respondent over the petitioner as found by the Metropolitan Trial Court of Las Piñas is only four (4) votes the results being MIRANDA – 1,171; ANTONIO – 1,167. The people's will must not go on procedural points. "An election protest involves public interest, and technicalities should not be sanctioned when it will be an obstacle in the determination of the true will of the electorate in the choice of its public officials." [Macasundig vs. Macalanagan, 13 SCRA 577; Vda. De Mesa vs. Mensias, 18 SCRA 533; Juliano vs. Court of Appeals, 20 SCRA 808; Genete vs. Archangel, 21 SCRA 1178; Maliwanag vs. Herrera, 25 SCRA 175; De Castro vs. Genete, 27 SCRA 623]
>
> (e)
>
> The questioned resolutions violated the above principle because the COMELEC did not appreciate the contested ballots."[4]

In dismissing the appeal, the COMELEC relied on Section 21, Rule 35 of the COMELEC Rules of Procedure which reads:

> "SEC. 21. Appeal – From any decision rendered by the court, the aggrieved party may appeal to the Commission on Elections within five (5) days after the promulgation of the decision."

On the other hand, petitioner contends that the period of appeal from decisions of the Municipal Trial Courts or Metropolitan Trial Courts involving barangay officials is governed by Section 9 of Republic Act 6679 and Section 252 of the Omnibus Election Code.

Section 9 of Republic Act 6679 reads:

> "SEC. 9. A sworn petition contesting the election of a barangay official may be filed with the proper municipal or metropolitan trial court by any candidate who has duly filed a certificate of candidacy and has been voted for a barangay office within ten (10) days after the proclamation of the results of the election. The trial court

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> shall decide the election protest within thirty (30) days after the filing thereof. The decision of the municipal or metropolitan trial court may be appealed within ten (10) days from receipt of a copy thereof by the aggrieved party to the regional trial court which shall decide the issue within thirty (30) days from receipt of the appeal and whose decision on questions of fact shall be final and non-appealable. For purposes of the barangay elections, no pre-proclamation cases shall be allowed."
>
> Similarly, Section 252 of the Omnibus Election Code provides:
>
> "SEC. 252. Election contest for barangay offices. – A sworn petition contesting the election of a barangay officer shall be filed with the proper municipal or metropolitan trial court by any candidate who has duly filed a certificate of candidacy and has been voted for the same office within ten days after the proclamation of the results of the election. The trial court shall decide the election protest within fifteen days after the filing thereof. The decision of the municipal or metropolitan trial court may be appealed within ten days from receipt of a copy thereof by the aggrieved party to the regional trial court which shall decide the case within thirty days from its submission, and whose decisions shall be final."

In applying Section 21 of the COMELEC Rules of Procedure rather than Section 9 of Republic Act 6779 and Section 252 of the Omnibus Election Code, the COMELEC rationalized thus:

> "Antonio asserts that Section 9 of Republic Act 6679 and Section 252 of the Omnibus Election Code providing for a ten-day period to appeal prevails over the provisions of the COMELEC Rules of Procedure. According to Antonio, quasi-judicial bodies, including this Commission, cannot amend an act of Congress and in case of discrepancy between the basic law and an interpretative or administrative ruling, the former prevails. Generally, yes. But the situation herein does not fall within the generic situation contemplated therein.
>
> No less than the 1987 Constitution (Article IX-A, Section 6 and Article IX-C, Section 3) grants and authorizes this Commission to promulgate its own rules of procedure as long as such rules concerning pleadings and practice do not diminish, increase or modify substantive rights. Hence, the COMELEC Rules of Procedure promulgated in 1993 as amended in 1994 is no ordinary interpretative or administrative ruling. It is promulgated by this Commission pursuant to a constitutionally mandated authority which no legislative enactment can amend, revise or repeal.
>
> The COMELEC Rules of Procedure (Rule 37 Section 21) provides that from the decision rendered by the court, the aggrieved party may appeal to the Commission on Elections within five (5) days after the promulgation of the decision. Rule 22 Section 9 (d) of Our Rules of Procedure further provides that an appeal from decisions of courts in election protest cases may be dismissed at the instance of the Commission for failure to file the required notice of appeal within the prescribed period.
>
> In case at bar, Antonio filed his notice of appeal before the trial court on the ninth (9) day from receipt of the decision appealed from or four (4) days after the five-day prescribed period to appeal lapsed. Therefore, the present appeal must be dismissed. For it is axiomatic that the perfection of an appeal in the manner and within the period laid down by the COMELEC Rules of Procedure is not only mandatory but also jurisdictional. As a consequence, the failure to perfect an appeal within the prescribed period as required by the Rules has the effect of defeating the right of appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. So the High Court rules in Villanueva vs. Court of Appeals, et.al. (205 SCRA 537). And so, it should also be in the case at bar.
>
> Worth noting is that Our Rules of Procedure may be amended, revised or repealed pursuant to the 1987 Constitution (Article VIII Section 5[5]) providing that rules of procedure of ... quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. But far from being disapproved the COMELEC Rules of Procedure received approbation and has constantly been cited by the Supreme Court in a number of decisions such as in the case of Pahilan vs. Tabalba (230 SCRA 205, at 211) and Rodillas vs. Commission on Elections (245 SCRA 702, at 704). In the more recent case of Calucag vs. Commission on Elections

> promulgated on 19 June 1997 (G.R. N.o 123673), the Supreme Court stated that:
>
> Therefore, the COMELEC is the proper appellate court clothed with jurisdiction to hear the appeal WHICH APPEAL MUST BE FILED WITHIN FIVE DAYS AFTER THE PROMULGATION OF THE MTC DECISION...(page 4-5).
>
> The repeated recognition given by the Supreme Court of this five-day rule within which to file the required notice of appeal will make questionable the legislative enactment providing for a ten-day period."[5]

Without adopting the foregoing ratiocination of the COMELEC, we nonetheless find the instant petition devoid of merit.

It is beyond cavil that legislative enactments prevail over rules of procedure promulgated by administrative or quasi-judicial bodies and that rules of procedure should be consistent with standing legislative enactments. In relation to the above-quoted Section 9 of Republic Act 6679 and Section 252 of the Omnibus Election Code, petitioner points out that in Flores vs. Commission on Elections[6], this Court had declared that decisions of the Metropolitan or Municipal Court in election protest cases involving barangay officials are no longer appealable to the Regional Trial Court but to the COMELEC pursuant to Section 2(2) of Article IX-C of the 1987 Constitution.[7] Petitioner submits that the dispositive portion in the Flores case only declared unconstitutional that portion of Section 9 of Republic Act 6679 providing for appeal to the Regional Trial Court but not the ten (10) day period of appeal. The dispositive portion of the Flores case reads:

> "1. Declaring Section 9 of Rep. Act No. 6679 UNCONSTITUTIONAL insofar as it provides that barangay election contests decided by the municipal or metropolitan trial court shall be appealable to the regional trial court:"

Petitioner admits that the provisions in Republic Act No. 6679 and for that matter the Omnibus Election Code providing for appellate jurisdiction to the Regional Trial Court had been declared unconstitutional in the aforecited Flores case. A verbatim comparison of both provisions reveals that they provide the same remedy, that is, appeal from a decision of the municipal or metropolitan trial court in barangay election cases to the regional trial court. Both provisions provide that (1) results of a barangay election may be contested by filing a sworn petition with the municipal trial court within ten days from proclamation; (2) the MTC shall decide within thirty days per Republic Act No. 6679 or fifteen days per Omnibus Election Code; and (3) the decision of the municipal trial court may be appealed to the regional trial court within ten days from receipt by the aggrieved party, which decision is final and non-appealable. There is no appreciable basis to make a distinction between the two provisions, except for their different numbers, to advance that they provide for two different remedies. It would be superfluous to insist on a categorical declaration of the unconstitutionality of the appeal provided for in Sec. 252 of the Omnibus Election Code, as the same appeal in Sec. 9, Republic Act No. 6679 had already been categorically declared unconstitutional. Further, Sec. 252 of the Omnibus Election Code[8] as amended by the new law, Republic Act No. 6679[9], has in effect, been superseded by the latter. While the appellate procedure has been retained by the amendatory act, Republic Act No. 6679 nonetheless supersedes the verbatim provision in the Omnibus Election Code. Hence, it was not necessary for Flores to mention Sec. 252 of the Omnibus Election Code, considering that as aforestated, Section 9 of Republic Act No. 6679 was a mere reenactment of the former law.

Petitioner is of the opinion, though, that the unconstitutionality extended only as to which court has appellate jurisdiction without affecting the period within which to appeal. According to petitioner, only the portion providing for the appellate jurisdiction of the Regional Trial Court in said cases should be deemed unconstitutional. The rest of the provisions, particularly on the period to appeal, free from the taint of

unconstitutionality, should remain in force and effect in view of the separability clauses contained in Republic Act 6779[10] and the Omnibus Election Code.[11]

We do not agree.

First, petitioner's argument raises the presumption that the period to appeal can be severed from the remedy or the appeal itself which is provided in Section 9, Republic Act 6679 and survive on its own. The presumption cannot be sustained because the period to appeal is an essential characteristic and wholly dependent on the remedy.

Aptly, the rules on statutory construction prescribe:

> "The general rule is that where part of a statute is void as repugnant to the Constitution, while another part is valid, the valid portion, if separable from the invalid, may stand and be enforced. The presence of a separability clause in a statute creates the presumption that the legislature intended separability, rather than complete nullity, of the statute. To justify this result, the valid portion must be so far independent of the invalid portion that it is fair to presume that the legislature would have enacted it by itself if it had supposed that it could not constitutionally enact the other. Enough must remain to make a complete, intelligible, and valid statute, which carries out the legislative intent. The void provisions must be eliminated without causing results affecting the main purpose of the act in a manner contrary to the intention of the legislature. The language used in the invalid part of the statute can have no legal effect or efficacy for any purpose whatsoever, and what remains must express the legislative will independently of the void part, since the court has no power to legislate.
>
> The exception to the general rule is that when the parts of a statute are so mutually dependent and connected, as conditions, considerations, inducements, or compensations for each other, as to warrant a belief that the legislature intended them as a whole the nullity of one part will vitiate the rest. In making the parts of the statute dependent, conditional, or connected with one another, the legislature intended the statute to be carried out as a whole and would not have enacted it if one part is void, in which case if some parts are unconstitutional, all the other provisions thus dependent, conditional, or connected must fall with them.[12]

In the instant petition, the exception applies. Section 9 of Republic Act No. 6679 and Section 252 of the Omnibus Election Code, without the constitutionally infirm portion on the appellate jurisdiction of Regional Trial Courts in barangay election protest cases, does not remain complete in itself, sensible, capable of being executed and wholly independent of the portion which was rejected. In other words, with the elimination of the forum, the period cannot stand on its own. Moreover, when this Court stated that "Section 9 of Rep. Act No. 6679 is declared unconstitutional insofar as it provides that barangay election contests decided by the municipal or metropolitan trial court shall be appealable to the regional trial court", it meant to preserve the first two sentences on the original jurisdiction of municipal and metropolitan trial courts to try barangay election protests cases but not, as advanced by the petitioner, the ten-day period to appeal to the Regional Trial Court. This is the logical and sound interpretation of subject portion of the Flores case.

Second, what was invalidated by the Flores case was the whole appeal itself and not just the question of which court to file the petition. If the remedy itself is declared unconstitutional how could the period to appeal possibly survive? How could the time limit exist if there is nothing to be done within such time?

Third, we cannot indulge in the assumption that Congress still intended, by the said laws, to maintain the ten (10) day period to appeal despite the declaration of unconstitutionality of the appellate jurisdiction of the regional trial court, Republic Act No. 7166[13] amending the Omnibus Election Code, evinces the intent of our lawmakers to expedite the remedial aspect of election controversies. The law was approved on November 26, 1991, after the Flores case which was promulgated on April 20,1990, and presumably, the legislature in enacting the same was

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cognizant of the ruling in Flores. Said law provides the same five (5) day period to appeal decisions of the trial court in election contests for municipal officers to the COMELEC. Section 22 thereof reads:

> "Sec. 22. Election Contests for Municipal Officers. – All election contests involving municipal offices filed with the Regional Trial Court shall be decided expeditiously. The decision may be appealed to the Commission within five (5) days from promulgation or receipt of a copy thereof by the aggrieved party. The Commission shall decide the appeal within sixty (60) days after it is submitted for decision, but not later than six (6) months after the filing of the appeal, which decision shall be final, unappealable and executory."

There would be no logic nor reason in ruling that a longer period to appeal to the COMELEC should apply to election contests for barangay officials.

Fourth, since the whole remedy was invalidated, a void was created. Thus, the COMELEC had to come in and provide for a new appeal in accordance with the mandate of the Constitution. As correctly pointed out by the COMELEC, Section 6, Article IX-A[14] of the 1987 Constitution grants and authorizes the COMELEC to promulgate its own rules of procedure. The 1993 COMELEC Rules of Procedure have provided a uniform five (5) day period for taking an appeal[15] consistent with the expeditious resolution of election-related cases. It would be absurd and therefore not clearly intended, to maintain the 10-day period for barangay election contests. Hence, Section 3, Rule 22 of the COMELEC Rules of Procedure is not in conflict with any existing law. To adopt a contrary view would defeat the laudable objective of providing a uniform period of appeal and defy the COMELEC's constitutional mandate to enact rules of procedure to expedite disposition of election cases.

In view of the Flores case, jurisprudence has consistently recognized that the COMELEC Rules of Procedure are controlling in election protests heard by a regional trial court.[16] The Court en banc has held in Rodillas vs. COMELEC[17] that "the procedure for perfecting an appeal from the decision of the Municipal Trial Court in a barangay election protest case is set forth in the COMELEC Rules of Procedure." More recently, in Calucag vs. Commission on Elections[18], the Court en banc had occasion to state that:

> "It follows that after the promulgation of Flores, the same arguments propounded therein by the petitioner may no longer be employed. Article 8 of the Civil Code states that "(j)udicial decisions applying or interpreting the laws or the constitution shall form part of the legal system of the Philippines." Said pronouncement of the Court, having formed part of the law of the land, ignorance thereof can no longer be countenanced. Therefore, the COMELEC is the proper appellate court clothed with jurisdiction to hear the appeal, which appeal must be filed within five days after the promulgation of the MTC's decision. The erroneous filing of the appeal with the RTC did not toll the running of the prescriptive period. xxx. The five-day period having expired without the aggrieved party filing the appropriate appeal before the COMELEC, the statutory privilege of petitioner to appeal is deemed waived and the appealed decisions has become final and executory."

Significantly, Section 5(5), Article VIII of the Constitution provides in part that "[r]ules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court."

Equally devoid of merit is the contention that petitioner was fast tracked because the COMELEC did not require the parties to file their appeal briefs; that the dismissal was issued motu proprio without prior notice and hearing; and that dismissal of the appeal defeats the people's will on procedural points. Suffice it to state that the period for filing an appeal is by no means a mere technicality of law or procedure. It is an essential requirement without which the decision appealed from would become final and executory as if no appeal was filed at all. The right of appeal is merely a statutory privilege and may be exercised only in the manner prescribed by, and in accordance with, the provisions of the law.[19] Further, by virtue of Section 9 (d), Rule 22 of the COMELEC Rules of Procedure which provides that "an appeal may be dismissed upon motion of either party or at the instance of the Commission for failure to file a notice of appeal within the prescribed period", the COMELEC is precisely given

the discretion, in a case where the appeal is not filed on time to dismiss the action or proceeding.

The COMELEC, therefore, did not commit an abuse of discretion in dismissing the appeal.

WHEREFORE, the instant petition for certiorari is hereby DISMISSED for lack of merit. The assailed orders of the Commission on Elections dated August 3, 1998 and October 14, 1998 are hereby AFFIRMED.

SO ORDERED.

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

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[1] An Act To Amend Republic Act No. 6653 To Postpone The Barangay Elections To March 28, 1989, Prescribing Additional Rules Governing The Conduct Of Barangay Election And For Other Purposes.

[2] Composed of Commissioners Julio F. Desamito and Japal M. Guiani.

[3] Rollo, pp. 36-37.

[4] Ibid., p. 10.

[5] Rollo, p. 38.

[6] 184 SCRA 484.

[7] “Sec. 2. The Commission on Elections shall exercise the following powers and functions:

(1) x x x.

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualification of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

(3) x x x.

(4) x x x.

(5) x x x.

(6) x x x.

(7) x x x.

(8) x x x.

(9) x x x.

[8] Approved on December 3, 1985.

[9] Approved on November 4, 1988.

[10] SEC. 17. If any part or provision of this Act is declared invalid or unconstitutional, the other parts or

provisions thereof shall remain valid and effective.

[11] Sec. 281. Separability clause. – If for any reason any section or provision of this Code, or any portion thereof, or the application of such section, provision or portion to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Code or the application of such section, provision or portion thereof to other persons, groups or circumstances shall not be affected by such declaration.

[12] Ruben E. Agpalo, Statutory Construction, 1990, pp. 27-28, quoting Lidasan vs. Commission on Elections, 21 SCRA 496.

[13] An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and For Other Purposes (November 26, 1991).

[14] SEC. 6. Each Commission en banc may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights.

[15] Rule 22 - Appeals from Decisions of Courts in Election Protest Cases

SEC. 3. Notice of Appeal. – Within five (5) days after promulgation of the decision of the court, the aggrieved party may file with said court a notice of appeal, and serve a copy thereof upon the attorney of record of the adverse party.

Rule 27 – Pre-Proclamation Controversies

SEC. 10. Appeals from Rulings of Board of Canvassers. –(a) A party aggrieved by a ruling of the Board of Canvassers shall, within forty-eight hours from receipt of a copy of the ruling of the Board of Canvassers, file with the Board a written and verified Notice of Appeal; and within an inextendible period of five (5) days, he shall file his appeal to the Commission.

Rule 35 – Election Contests Before Courts of General Jurisdiction

SEC. 21. Appeal. – From any decision rendered by the court the aggrieved party may appeal to the Commission on Elections within five (5) days after the promulgation of the decision.

Rule 36 – Quo Warranto Case Before Courts of General Jurisdiction

SEC. 14. Appeal.- From any decision rendered by the court, the aggrieved party may appeal to the Commission on Elections, within five (5) days after the promulgation of the decision.

Rule 37 – Review of Decisions of the Commission

SEC. 3. Decisions Final After Five Days.- Decisions in pre-proclamation cases and petitions to deny due course to or cancel certificates of candidacy, to declare a candidate as nuisance candidate or to disqualify a candidate, and to postpone or suspend elections shall become final and executory after the lapse of five (5) days from their promulgation, unless restrained by the Supreme Court.

[16] Abeja vs. Tañada, 236 SCRA 60 (1994).

[17] 245 SCRA 702 (1995).

[18] 274 SCRA 405 (1997), emphasis supplied.

[19] Laza vs. Court of Appeals, 269 SCRA 654.

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