GIL TAROJA VILLOTA, PETITIONER, VS. COMMISSION ON ELECTIONS AND LUCIANO COLLANTES, RESPONDENTS.

G.R. No. 146724. August 10, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This Petition for Certiorari seeks the reversal of the June 13, 2000 Order[1] of the Commission on Elections (COMELEC) in EAC No. 5-2000, which dismissed petitioner's appeal from the decision[2] of the Metropolitan Trial Court of Manila, Branch 24, for failure of the petitioner to perfect his appeal on time; and the Resolution dated February 1, 2001,[3] denying petitioner's motion for reconsideration.

The antecedent facts are as follows:

In the May 12, 1997 barangay elections, petitioner was proclaimed as the Punong Barangay of Barangay 752, Zone 81, District V, over his opponent, herein private respondent. Consequently, the latter filed an election protest against petitioner with the Metropolitan Trial Court of Manila, Branch 24. On December 29, 1999, the court, after due hearing rendered decision declaring private respondent as the duly elected Punong Barangay. The decretal portion thereof reads:

> WHEREFORE, premises considered, judgment is hereby rendered:
>
> - DECLARING PROTESTANT LUCIANO COLLANTES as the duly elected Punong Barangay of Barangay 752, Zone 81, District V of the City of Manila in the May 12, 1997 barangay elections;
>
> - DECLARING AS NULL AND VOID and SETTING ASIDE the proclamation of the protestee by the barangay board of canvassers; and
>
> - ORDERING the protestee Villota to vacate in favor of protestant the position of Punong Barangay of Barangay 752, Zone 81, District V of the City of Manila.
>
> No pronouncement as to cost.
>
> SO ORDERED.[4]

On March 2, 2000, petitioner filed a notice of appeal and simultaneously paid with the cashier of Metropolitan Trial Court the amount of P150.00 as appeal fee and another P20.00 as legal research fee, or a total of P170.00.

On March 9, 2000, or nine (9) days after petitioner's receipt of the decision of the trial court, he again paid with the Cash Division of the COMELEC the sum of P520.00 as appeal fee and legal research fee. Private respondent filed a motion to dismiss petitioner's appeal for failure to pay the appeal fee within the reglementary period.

On June 13, 2000, the COMELEC issued an Order dismissing the appeal, the dispositive portion of which reads:

> WHEREFORE, premises considered, this Commission (FIRST DIVISION) RESOLVED, as It hereby RESOLVES to DISMISS the instant appeal for failure of the Commission to acquire appellate jurisdiction over

> the case.
>
> Accordingly, the December 29, 1999 decision of the Metropolitan Trial Court of Manila, Branch 24 in Election Protest Case No. 97001263 is now FINAL AND EXECUTORY.
>
> Let the records of this case be immediately remanded to the court a quo for the execution of its December 29, 2000 Decision.
>
> SO ORDERED.[5]

A motion for reconsideration of the foregoing Order was denied by the COMELEC in its questioned Resolution dated February 1, 2001.

Hence, the instant petition.

The sole issue for resolution here is whether or not the COMELEC gravely abused its discretion amounting to lack or excess of jurisdiction in dismissing petitioner's appeal and in denying his motion for reconsideration.

> Section 3, Rule 22, of the COMELEC Rules of Procedure[6] specifically mandates that the notice of appeal must be filed within five (5) days after the promulgation of the decision, otherwise, the appeal is dismissible under Section 9,[7] of the same rule.
>
> Corollary thereto, pertinent portion of Sections 3 and 4, Rule 40, of the COMELEC Rules of Procedure, provide:
>
> Section 3. Appeal Fees. – The appellant in election cases shall pay an appeal fee as follows:
>
> (a) x x x x x x x x x
>
> (b) Election cases appealed from courts of limited jurisdiction... P500.00.
>
> In every case, a legal research fee of P20.00 shall be paid by the appellant in accordance with Section 4, Republic Act No. 3870, as amended.
>
> Section 4. Where and When to pay. – The fees prescribed in Sections x x x 3 hereof shall be paid to, and deposited with, the Cash Division of the Commission within the period to file the notice of appeal.

In Soller v. COMELEC, et al.,[8] reiterating the cases of Loyola v. COMELEC, et al.,[9] and Miranda v. Castillo, et al.,[10] the Court stressed the caveat that errors in the payment of filing fees in election cases is no longer excusable. Thus, on the matter of non-payment or incomplete payment of filing fees we opined that: "the Court would no longer tolerate any mistake in the payment of the full amount of filing fees for election cases filed after the promulgation of the Loyola decision on March 25, 1997."[11]

In the case at bar, although petitioner filed his notice of appeal within the reglementary period, however, he erroneously paid the required appeal fees with the cashier of the Metropolitan Trial Court and not with the Cash Division of the COMELEC, as required in Sections 3 and 4, Rule 40, of the COMELEC Rules of Procedure. After he realized his mistake, petitioner paid again with the Cash Division of the COMELEC the total amount of P520.00 only on March 9, 2000 or four (4) days beyond the five (5) day reglementary period to appeal.

Verily, the present controversy is no different from the case of Rodillas v. COMELEC, et al.,[12] where the necessary appeal fees were likewise paid out of time. The Court held therein that:

> The mere filing of the notice of appeal was not enough. It should be accompanied by the payment of the correct amount of appeal fee (See Galang v. Court of Appeals, 199 SCRA 683 [1991]; Guevarra v. Court of Appeals, 157 SCRA 32 [1998]).

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> Petitioner had only five days from receipt of the decision of the Municipal Circuit Trial Court or until June 5, 1994 to perfect his appeal. While he timely filed his Amended Notice of Appeal on June 2, 1994, he paid the amount of P510 representing the appeal and legal research fees only on June 14, 1994. It is, therefore, evident that petitioner belatedly paid said amount. x x x
>
> The payment of the full amount of the docket fee is an indispensable step for the perfection of an appeal (Dorego v. Perez, 22 SCRA 8 [1968]; Bello v. Fernandez, 4 SCRA 135 [1962]). In both original and appellate case, the court acquires jurisdiction over the case only upon the payment of the prescribed docket fees as held in Acda v. Minister of Labor, 119 SCRA 306 (1982). The requirement of an appeal fee 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 to appeal is merely a statutory privilege and may be exercised only in the manner prescribed by, and in accordance with, the provision of the law.[13]

Invoking Enojas, Jr. v. Gacott, Jr.,[14] petitioner insists on a liberal interpretation of the rules of procedure. A reading, however, of the Enojas case shows that petitioner had taken the ruling therein out of context. In the said case, the Court found gross ignorance of the law on the part of the respondent judge in not applying a liberal interpretation of the rules of procedure in election cases as enunciated in Pahilan v. Tabalba, et al.[15] The Court explained in Enojas that the Pahilan case should have been applied by the judge because it was the prevailing doctrine at the time he rendered the assailed decision.[16] It bears stressing, however, that nowhere in the said case did the Court imply that errors in the payment of filing fees can still be permitted. To repeat, as early as March 25, 1997, we emphasized in the Loyola case that our decision therein, as well as in Pahilan v. Tabalba, et al., and Gatchalian v. Court of Appeals, et al.,[17] would no longer provide any excuse for shortcomings in the payment of filing fees. Thus, we ruled: “these cases now bar any claim of good faith, excusable negligence or mistake in any failure to pay the full amount of filing fees in election cases which may be filed after the promulgation of this decision.”[18]

In view of the foregoing, the Court finds that no grave abuse of discretion was committed by respondent COMELEC in dismissing petitioner’s appeal for failure to pay the appeal fee within the reglementary period and in denying his motion for reconsideration.

WHEREFORE, the instant Petition is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.
Sandoval-Gutierrez, J., on leave.

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[1] First Division, composed of Commissioners Julio F. Desamito (Presiding Commissioner), Luzviminda G. Tancangco and Rufino S. Javier.

[2] Judge Aida Rangel Roque.

[3] En Banc.

[4] Rollo, pp. 57-58.

[5] Rollo, p. 41.

[6] Section 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 x x x.

[7] Section 9. Grounds for Dismissal of Appeal. – The appeal may be dismissed upon motion of either party or at the instance of the Commission on any of the following grounds:

(a) Failure of the appellant to pay the correct appeal fee;

x x x x x x x x x

[8] G.R. No. 139853, September 5, 2000.

[9] 270 SCRA 404 [1997].

[10] 274 SCRA 503 [1997].

[11] Miranda, supra, p. 509.

[12] 245 SCRA 702 [1995].

[13] Id., 705-706.

[14] 322 SCRA 272 [2000].

[15] 230 SCRA 205 [1994].

[16] Enojas, supra, p. 281.

[17] 245 SCRA 208 [1995].

[18] Loyola, supra, p. 412.

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