

RAYMUNDO M. ADORMEO, PETITIONER, VS. COMMISSION ON ELECTIONS AND RAMON Y. TALAGA, JR., RESPONDENTS.*G.R. No. 147927. February 04, 2002*

Ponente: QUISUMBING, J.

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Before us is a petition for certiorari, with a prayer for a writ of preliminary injunction and/or temporary restraining order, to nullify and set aside the resolution dated May 9, 2001 of public respondent Commission on Elections in Comelec SPA No. 01-055, which granted the motion for reconsideration and declared private respondent Ramon Y. Talaga, Jr., qualified to run for Mayor in Lucena City for the May 14, 2001 election. Petitioner prays that votes cast in private respondent's favor should not be counted; and should it happen that private respondent had been already proclaimed the winner, his proclamation should be declared null and void.

The uncontroverted facts are as follows:

Petitioner and private respondent were the only candidates who filed their certificates of candidacy for mayor of Lucena City in the May 14, 2001 elections. Private respondent was then the incumbent mayor.

Private respondent Talaga, Jr. was elected mayor in May 1992. He served the full term. Again, he was re-elected in 1995-1998. In the election of 1998, he lost to Bernard G. Tagarao. In the recall election of May 12, 2000, he again won and served the unexpired term of Tagarao until June 30, 2001.

On March 2, 2001, petitioner filed with the Office of the Provincial Election Supervisor, Lucena City a Petition to Deny Due Course to or Cancel Certificate of Candidacy and/or Disqualification of Ramon Y. Talaga, Jr., on the ground that the latter was elected and had served as city mayor for three (3) consecutive terms as follows: (1) in the election of May 1992, where he served the full term; (2) in the election of May 1995, where he again served the full term; and, (3) in the recall election of May 12, 2000, where he served only the unexpired term of Tagarao after having lost to Tagarao in the 1998 election. Petitioner contended that Talaga's candidacy as Mayor constituted a violation of Section 8, Article X of the 1987 Constitution which provides:

Sec. 8. – The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

On March 9, 2001, private respondent responded that he was not elected City Mayor for three (3) consecutive terms but only for two (2) consecutive terms. He pointed to his defeat in the 1998 election by Tagarao. Because of his defeat the consecutiveness of his years as mayor was interrupted, and thus his mayorship was not for three consecutive terms of three years each. Respondent added that his service from May 12, 2001 until June 30, 2001 for 13 months and eighteen (18) days was not a full term, in the contemplation of the law and the Constitution. He cites *Lonzanida vs. COMELEC*, G.R. No. 135150, 311 SCRA 602, 611 (1999), as authority to the effect that to apply disqualification under Section 8, Article X of the Constitution, two (2) conditions must concur, to wit: (a)

that the official concerned has been elected for three consecutive terms in the same local government post, and (b) that he has fully served three (3) consecutive terms.

On April 20, 2001, the COMELEC, through the First Division, found private respondent Ramon Y. Talaga, Jr. disqualified for the position of city mayor on the ground that he had already served three (3) consecutive terms, and his Certificate of Candidacy was ordered withdrawn and/or cancelled.

On April 27, 2001, private respondent filed a motion for reconsideration reiterating that “three (3) consecutive terms” means continuous service for nine (9) years and that the two (2) years service from 1998 to 2000 by Tagarao who defeated him in the election of 1998 prevented him from having three consecutive years of service. He added that Tagarao’s tenure from 1998 to 2000 could not be considered as a continuation of his mayorship. He further alleged that the recall election was not a regular election, but a separate special election specifically to remove incompetent local officials.

On May 3, 2001, petitioner filed his Opposition to private respondent’s Motion for Reconsideration stating therein that serving the unexpired term of office is considered as one (1) term.[1] Petitioner further contended that Article 8 of the Constitution speaks of “term” and does not mention “tenure”. The fact that private respondent was not elected in the May 1998 election to start a term that began on June 30, 1998 was of no moment, according to petitioner, and what matters is that respondent was elected to an unexpired term in the recall election which should be considered one full term from June 30, 1998 to June 30, 2001.

On May 9, 2001, the COMELEC en banc ruled in favor of private respondent Ramon Y. Talaga, Jr.. It reversed the First Division’s ruling and held that 1) respondent was not elected for three (3) consecutive terms because he did not win in the May 11, 1998 elections; 2) that he was installed only as mayor by reason of his victory in the recall elections; 3) that his victory in the recall elections was not considered a term of office and is not included in the 3-term disqualification rule, and 4) that he did not fully serve the three (3) consecutive terms, and his loss in the May 11, 1998 elections is considered an interruption in the continuity of his service as Mayor of Lucena City.

On May 19, 2001, after canvassing, private respondent was proclaimed as the duly elected Mayor of Lucena City.

Petitioner is now before this Court, raising the sole issue:

WHETHER OR NOT PUBLIC RESPONDENT COMELEC ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ISSUED ITS RESOLUTION DATED MAY 9, 2001, DECLARING PRIVATE RESPONDENT RAMON Y. TALAGA, JR., QUALIFIED TO RUN FOR MAYOR IN LUCENA CITY FOR THE MAY 14, 2001 ELECTIONS.[2]

Stated differently, was private respondent disqualified to run for mayor of Lucena City in the May 14, 2001 elections?[3] This issue hinges on whether, as provided by the Constitution, he had already served three consecutive terms in that office.

Petitioner contends that private respondent was disqualified to run for city mayor by reason of the three-term rule because the unexpired portion of the term of office he served after winning a recall election, covering the period May 12, 2000 to June 30, 2001 is considered a full term. He posits that to interpret otherwise, private respondent would be serving four (4) consecutive terms of 10 years, in violation of Section 8, Article X of 1987 Constitution[4] and Section 43 (b) of R.A. 7160, known as the Local Government Code.

Section 43. Term of Office.—

x x x

(b) No local elective official shall serve for more than three (3) consecutive terms in the same position.

Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

Private respondent, in turn, maintains that his service as city mayor of Lucena is not consecutive. He lost his bid for a second re-election in 1998 and between June 30, 1998 to May 12, 2000, during Tagarao's incumbency, he was a private citizen, thus he had not been mayor for 3 consecutive terms.

In its comment, the COMELEC restated its position that private respondent was not elected for three (3) consecutive terms having lost his third bid in the May 11, 1998 elections, said defeat is an interruption in the continuity of service as city mayor of Lucena.

The issue before us was already addressed in *Borja, Jr. vs. COMELEC*, 295 SCRA 157, 169 (1998), where we held,

To recapitulate, the term limit for elective local officials must be taken to refer to the right to be elected as well as the right to serve in the same elective position. Consequently, it is not enough that an individual has served three consecutive terms in an elective local office, he must also have been elected to the same position for the same number of times before the disqualification can apply. This point can be made clearer by considering the following case or situation:

x x x

Case No. 2. Suppose B is elected mayor and, during his first term, he is twice suspended for misconduct for a total of 1 year. If he is twice reelected after that, can he run for one more term in the next election?

Yes, because he has served only two full terms successively.

x x x

To consider C as eligible for reelection would be in accord with the understanding of the Constitutional Commission that while the people should be protected from the evils that a monopoly of political power may bring about, care should be taken that their freedom of choice is not unduly curtailed.

Likewise, in the case of *Lonzanida vs. COMELEC*, 311 SCRA 602, 611 (1999), we said,

This Court held that the two conditions for the application of the disqualification must concur: a) that the official concerned has been elected for three consecutive terms in the same local government post and 2) that he has fully served three consecutive terms.

Accordingly, COMELEC's ruling that private respondent was not elected for three (3) consecutive terms should be upheld. For nearly two years he was a private citizen. The continuity of his mayorship was disrupted by his defeat in the 1998 elections.

Patently untenable is petitioner's contention that COMELEC in allowing respondent Talaga, Jr. to run in the May 1998 election violates Article X, Section 8 of 1987 Constitution.[5] To bolster his case, respondent adverts to the comment of Fr. Joaquin Bernas, a Constitutional Commission member, stating that in interpreting said provision that "if one is elected representative to serve the unexpired term of another, that unexpired, no matter how short, will be considered one term for the purpose of computing the number of successive terms allowed." [6]

As pointed out by the COMELEC en banc, Fr. Bernas' comment is pertinent only to members of the House of Representatives. Unlike local government officials, there is no recall election provided for members of Congress.[7]

Neither can respondent's victory in the recall election be deemed a violation of Section 8, Article X of the

Constitution as “voluntary renunciation” for clearly it is not. In *Lonzanida vs. COMELEC*, we said:

...The second sentence of the constitutional provision under scrutiny states, “Voluntary renunciation of office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which he was elected.” The clear intent of the framers of the constitution to bar any attempt to circumvent the three-term limit by a voluntary renunciation of office and at the same time respect the people’s choice and grant their elected official full service of a term is evident in this provision. Voluntary renunciation of a term does not cancel the renounced term in the computation of the three term limit; conversely, involuntary severance from office for any length of time short of the full term provided by law amounts to an interruption of continuity of service. The petitioner vacated his post a few months before the next mayoral elections, not by voluntary renunciation but in compliance with the legal process of writ of execution issued by the COMELEC to that effect. Such involuntary severance from office is an interruption of continuity of service and thus, the petitioner did not fully serve the 1995-1998 mayoral term.[8]

WHEREFORE, the instant petition is hereby **DISMISSED**. The resolution of public respondent Commission on Elections dated May 9, 2001, in Comelec SPA No. 01-055 is **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Rollo, p. 57.

[2] Id. at 119.

[3] Id. at 141.

[4] Supra, on p. 2.

[5] Sec. 8 – The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

[6] Joaquin Bernas, *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY*, p. 637.

[7] Rollo, pp. 83-84.

[8] G.R. No. 135150, 311 SCRA 602, 613 (1999).

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