EDGAR L. VALDEZ, PETITIONER, VS. NATIONAL ELECTRIFICATION ADMINISTRATION AND JOSEPHINE S. SEÑERES, RESPONDENTS.

G.R. NO. 148938. July 12, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review on certiorari[1] of the 14 February 2001[2] and 29 June 2001 Resolutions[3] of the Court of Appeals in CA-G.R. SP No. 57583. The 14 February 2001 Resolution granted the motion for reconsideration filed by the National Electrification Administration (NEA) and private respondent Josephine S. Señeres (Señeres) and affirmed with modification the 14 February 2000 NEA Resolution declaring Señeres as the duly elected director of the Sultan Kudarat Electric Cooperative, Inc. (SUKELCO). The 29 June 2001 Resolution denied petitioner Edgar L. Valdez's (Valdez) motion for reconsideration.

The Facts

SUKELCO is an electric cooperative organized under Presidential Decree No. 269,[4] as amended by Presidential Decree No. 1645,[5] with a franchise to operate in Sultan Kudarat and some municipalities in the province of Maguindanao.

On 13 March 1999, SUKELCO conducted elections for one member of the board of directors to represent the Municipality of Tacurong, Sultan Kudarat. Valdez and Señeres were the only candidates in the election. Later that day, the District Election Committee (DECOM) proclaimed Señeres as the winner.

On 16 March 1999, Valdez filed a protest with the DECOM praying for the disqualification of Señeres and the nullification of the election results in six precincts. Valdez alleged massive fraud, widespread cheating, and serious election irregularities.

In an Order dated 19 March 1999, the DECOM recalled and cancelled the proclamation of Señeres and restrained her from assuming the position of member of the board of SUKELCO. Pending resolution of the protest, the NEA allowed Valdez, the incumbent board member, to continue being a board member in a hold-over capacity.

On 24 March 1999, Señeres filed her answer and a motion for reconsideration of the 19 March 1999 DECOM Order. On 28 April 1999, Señeres filed a motion to inhibit the DECOM from further hearing the protest.

On 2 July 1999, the DECOM denied the motions of Señeres and scheduled the case for presentation of evidence. Upon Valdez's motion and over the objections of Señeres, the DECOM opened the ballot boxes and started the recount. Then in a letter dated 21 July 1999, Señeres stated that she was "inhibiting" herself from taking part in the proceedings before the DECOM because she believed that she could not be afforded her constitutional right to due process and that she would just submit herself to the jurisdiction of the NEA.

On 9 October 1999, the DECOM issued its Decision[6] and the dispositive portion of the DECOM Decision reads:

> WHEREFORE, in view of the findings of the DECOM regarding widespread and massive election fraud and irregularities perpetrated by the protestee, the DECOM annuls the election results in Precincts No. 17, 18, 19, 20, 21 and 22, Tacurong District, and confirms the recall and hereby annuls the proclamation of the Protestee as the duly elected member of the Cooperative BODs representing Tacurong District in the Election held on March 13, 1999. For the same reasons adverted to above, this DECOM further disqualifies her to vote and be voted upon as a member of the BODs in future elections of the Cooperative.
>
> With the annulment, therefore, of the election results in precinct No. 17, 18, 19, 20, 21 and 22, thus 1,436 votes of protestee less 736 annulled votes = 700 votes, 981 votes of protestant less 142 votes annulled = 839 votes, this DECOM proclaims the Protestant as the duly elected member of the BODs of the Cooperative, Tacurong District by a majority of 139 votes.
>
> SO ORDERED.[7]

On 12 October 1999, Valdez filed a motion for execution pending appeal. The DECOM granted the motion and proclaimed Valdez as the winner.[8]

On 18 October 1999, Valdez filed a motion to declare the DECOM Decision final and executory because Señeres failed to appeal to the Regional Electrification Center (RE Center).

On 19 October 1999, the DECOM granted the motion.[9] The DECOM noted that although Señeres filed a notice of appeal[10] with the DECOM on 13 October 1999, Señeres appealed to the wrong body. According to the DECOM, Señeres should have appealed the DECOM Decision to the RE Center and not to "NEA, Manila."

However, the NEA gave due course to the appeal of Señeres. On 14 February 2000, the NEA issued its Resolution.[11] The dispositive portion of the NEA Resolution reads:

> WHEREFORE, in light of the foregoing consideration, subscribing to the doctrine that ours is still a government of laws and not of men and considering that the electorate of the Tacurong District of the Sultan Kudarat Electric Cooperative (SUKELCO) had thus spoken and had made their verdict in electing JOSEPHINE S. SEÑERES as their representative director to the SUKELCO Board of Directors, the decision of the District Election Committee dated October 9, 1999 is hereby REVERSED.
>
> Consequently:
>
> - The proclamation of JOSEPHINE S. SEÑERES as a duly elected director of SUKELCO dated March 13, 1999 is hereby declared VALID AND BINDING and its recall by the DECOM per its order dated March 19, 1999 declared NULL AND VOID;
>
> - The Board of Directors of SUKELCO is hereby ordered to RECOGNIZE said JOSEPHINE S. SEÑERES as duly- elected director for SUKELCO, Tacurong District;
>
> - Protestant is hereby ordered to REIMBURSE any and all per diems and allowances he had received from SUKELCO prior to this decision;
>
> - SUKELCO is hereby ordered to PAY protestee such per diems and allowances denied her prior to this decision.
>
> The Regional Director of Region XII Engr. Lauro G. Baltazar is hereby directed to immediately implement this decision.
>
> No pronouncement as to costs.

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SO ORDERED.[12]

On 6 March 2000, Valdez filed with the Court of Appeals a special civil action for certiorari and prohibition with prayer for writ of preliminary injunction and temporary restraining order.[13]

On 10 March 2000, the Court of Appeals issued a temporary restraining order enjoining the implementation of the NEA Resolution.[14] On 30 March 2000, the Court of Appeals issued a writ of preliminary injunction.[15]

The Ruling of the Court of Appeals

On 12 May 2000, the Court of Appeals rendered a Decision[16] the dispositive portion of which reads:

> WHEREFORE, the assailed decision of the National Electrification Administration is hereby REVERSED and SET ASIDE and the decision of the District Election Committee is hereby REINSTATED. Costs against respondent.
>
> SO ORDERED.[17]

The Court of Appeals ruled that Señeres committed a fatal error when she appealed to the NEA and not to the RE Center, which exercises appellate jurisdiction over decisions of the DECOM. Therefore, the DECOM Decision became final and could no longer be assailed before the NEA. Even assuming that the DECOM Decision did not attain finality and the NEA was the proper forum, the Court of Appeals ruled that the NEA still failed to adequately support its decision to overturn the DECOM Decision. As to Valdez's failure to exhaust administrative remedies, the Court of Appeals ruled that Valdez did not have to file a motion for reconsideration of the NEA Resolution because Valdez was deprived of his right to due process and there was extreme urgency for the relief.

The NEA and Señeres both filed motions for reconsideration.

On 14 February 2001, the Court of Appeals issued a Resolution[18] granting the motions of the NEA and Señeres. The dispositive portion of the 14 February 2001 Resolution reads:

> WHEREFORE, the motion is hereby GRANTED. The resolution of the National Electrification Administration dated February 14, 2000 is hereby AFFIRMED subject to the MODIFICATION that: a) the directive in the dispositive portion of said resolution that: "c. Protestant is hereby ordered to REIMBURSE any and all per diems and allowances he had received from SUKELCO prior to this decision," is DELETED, and b) petitioner is awarded the corresponding compensation, emoluments and allowances appurtenant to the position he held as de facto director.
>
> SO ORDERED.[19]

The Court of Appeals ruled that the NEA validly assumed jurisdiction over the appeal of Señeres from the DECOM Decision because of (1) the unwarranted delay in the proceedings before the DECOM, (2) the partiality of the DECOM towards Señeres, (3) the NEA's power of supervision and control over electric cooperatives, and (4) the doctrine that the rules promulgated in the conduct of elections and qualifications of candidates are directory in cases brought before it after elections. The Court of Appeals also ruled that Valdez should have filed a motion for reconsideration with the NEA before filing a special civil action for certiorari. Since Valdez failed to exhaust the administrative remedies, his petition should be dismissed for lack of cause of action.

Valdez filed a motion for reconsideration. In a Resolution dated 29 June 2001, the Court of Appeals denied the motion.[20]

Hence, this petition.

The Issues

Valdez raises the following issues:

- Whether the NEA validly assumed jurisdiction over the appeal of Señeres; and

- Whether Valdez should have exhausted the administrative remedies provided by law.

The Court's Ruling

The petition is meritorious.

However, the Court notes that the case has become moot and academic. The term of office of a regularly elected member of the board of directors is three years.[21] The SUKELCO election was held on 13 March 1999 and, therefore, the term of office of the elected director expired on 13 March 2002.

On the NEA's Assumption of Jurisdiction

Valdez argues that the NEA cannot assume jurisdiction over the appeal of Señeres because the DECOM Decision became final since Señeres failed to appeal to the RE Center.

The right to appeal is a statutory right and one who seeks to avail of this right must comply with the manner required by the pertinent rules for the perfection of an appeal.[22]

Section 52, Article XII of the Guidelines on the Conduct of EC District Elections[23] provides:

> Section 52 - Decision on Contest – Either by the majority or en banc, the district election committee (DECOM) shall decide all post-election protest brought before it within fifteen (15) days from the date of receipt after the notice and hearing. The decision of the committee may be appealed to the Regional Electrification Center within five (5) days from receipt of the decision, who shall decide on the matter within fifteen (15) days upon receipt. The decision of the RE Center may be further appealed to the NEA also within five (5) days from receipt thereof. The NEA decision shall become final and executory five (5) days after receipt thereof by the appellant.

In this case, Señeres appealed the DECOM Decision to "NEA, Manila."[24] Señeres failed to follow the rules on appeal because the aggrieved party should appeal the DECOM Decision to the RE Center. If the decision of the RE Center is still adverse, then appeal to the NEA is the next recourse.

The RE Center is the proper body clothed with jurisdiction to hear the appeal and where the appeal must be filed within five days after receipt of the DECOM Decision. The erroneous filing of the appeal with the NEA did not toll the running of the prescriptive period. The five day period having expired without Señeres filing the appropriate appeal before the RE Center, Señeres lost or waived her statutory privilege to appeal and the DECOM Decision became final and executory.[25]

On the Exhaustion of Administrative Remedies

Valdez argues that the rule on exhaustion of administrative remedies does not apply in this case. Valdez insists that there was no need to file a motion for reconsideration of the NEA Resolution because he raised purely legal issues before the Court of Appeals. Valdez also claims that he was denied due process because the NEA took cognizance of the appeal of Señeres without giving him due notice.

The rule of exhaustion of administrative remedies is not absolute but admits of exceptions. One of these exceptions is when only a question of law is involved.[26] In this case, the issue of whether the NEA validly assumed jurisdiction over the appeal of Señeres is one which calls for the interpretation and application of the Guidelines on the Conduct of EC District Elections. Consequently, the Court of Appeals validly assumed

jurisdiction over the petition.

Valdez's contention that he was denied due process is, however, untenable. Valdez filed a Motion to Dismiss[27] before the NEA, thus belying his claim that he did not know that the DECOM Decision had been appealed to the NEA. Consequently, Valdez cannot claim lack of notice. It is settled that what the law prohibits is not the absence of previous notice but the absolute absence thereof and lack of opportunity to be heard.[28]

WHEREFORE, we DENY the petition for being moot and academic.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Under Rule 45 of the Rules of Civil Procedure.

[2] Rollo, pp. 114-134. Penned by Associate Justice Oswaldo D. Agcaoili, with Associate Justices Martin S. Villarama, Jr. and Wenceslao I. Agnir, Jr., concurring.

[3] Id. at 157.

[4] Creating the "National Electrification Administration" as a Corporation, Prescribing its Powers and Activities, Appropriating the Necessary Funds Therefor and Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, the Organization, Promotion and Development of Electric Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for their Operations, the Repeal of Republic Act No. 6038, and for Other Purposes. Dated 6 August 1973.

[5] Dated 8 October 1979.

[6] Rollo, pp. 56-63.

[7] Id. at 63.

[8] Id. at 64.

[9] Id. at 66-67.

[10] Id. at 65.

[11] Id. at 68-82.

[12] Id. at 81.

[13] CA rollo, pp. 2-73.

[14] Rollo, pp. 85-86.

[15] Id. at 88-90.

[16] Id. at 92-112.

[17] Id. at 111-112.

[18] Id. at 114-134.

[19] Id. at 134.

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[20] Id. at 157.

[21] Article III, Section 13(1), Guidelines on the Conduct of EC District Elections.

[22] Sulpicio Lines, Inc. v. First Lepanto-Taisho Insurance Corporation, G.R. No.140349, 29 June 2005, 462 SCRA 125.

[23] Dated 23 June 1993.

[24] Rollo, p. 65.

[25] Calucag v. Commission on Elections, G.R. No. 123673, 19 June 1997, 274 SCRA 405.

[26] Espina v. CA, 356 Phil. 15 (1998).

[27] CA rollo, pp.103-142.

[28] Espina v. CA, supra.

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