

HOMER T. SAQUILAYAN, PETITIONER, VS. COMMISSION ON ELECTIONS AND OSCAR JARO, RESPONDENTS.

G.R. No. 157249. November 28, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

The present petition for certiorari, under Rule 65 of the Rules of Court, seeks a reversal of the resolution of Commission on Elections (Comelec) en banc, which ordered the Presiding Judge of the Regional Trial Court (RTC) of Imus, Cavite[1] to proceed with the hearing of the election protest filed by Oscar Jaro (Jaro) against Homer T. Saquilayan (Saquilayan).

The facts are not disputed.

Petitioner Saquilayan and respondent Jaro were candidates for the Office of Municipal Mayor of Imus, Cavite in the May 14, 2001 local elections. After the votes were canvassed, Saquilayan was proclaimed the winner for having received 27,494 votes against Jaro's 26,746 votes.

On May 28, 2001, Jaro instituted an Election Protest Case (EPC No. 01-02) before the RTC of Imus, Cavite contesting the results in all 453 election precincts in the Municipality of Imus. Saquilayan filed his Answer with Motion to Dismiss contending, among other things, that the election protest failed to state a cause of action. The Motion to Dismiss was denied by the RTC in an Order dated July 31, 2001.

Saquilayan questioned the denial before the Comelec's Second Division through a petition for certiorari and prohibition, which was docketed as SPR No. 19-2001. On January 22, 2002, the Second Division ruled in favor of Saquilayan and ordered the dismissal of the election protest.

Jaro sought a reconsideration of the order of dismissal and the case was elevated to the Comelec en banc. On February 26, 2003, the Comelec en banc issued the questioned resolution granting Jaro's Motion for Reconsideration. Saquilayan's petition was thereunder dismissed and EPC No. 01-02 was ordered to proceed.

Aggrieved, Saquilayan filed the present petition.

The whole controversy revolves around the following averments contained in Jaro's election protest:

Grounds for the Protest

6. Protestant hereby impugns the correctness of the results reflected in the election returns in ALL the 453 protested precincts of the Municipality of Imus, Cavite on the following grounds:

7.1.

Votes in the ballots lawfully and validly cast in favor of protestant were deliberately misread and/or misappreciated by various chairmen of the different boards of election inspectors;

7.2.

Valid votes of protestant were intentionally or erroneously counted or tallied in the election returns as votes of protestee;

7.3.

Valid votes legally cast in favor of protestant were considered stray;

7.4.

Ballots containing valid votes for protestant were intentionally and erroneously misappreciated or considered as marked and declared as null and void;

7.5. Ballots with blank spaces in the line for Mayor were just read and counted in favor of protestee;

7.6.

Ballots prepared by persons other than the voters themselves, and fake or unofficial ballots wherein the name of protestee was written, were illegally read and counted in favor of protestee;

7.7. Groups of ballots prepared by one (1) person and/or individual ballots prepared by two (2) persons were purposely considered as valid ballots and counted in favor of protestee;

7.8.

Votes that were void, because the ballots containing them were posted with stickers or because of pattern markings appearing in them or because of other frauds and election anomalies, were unlawfully read and counted in favor of protestee; and

7.9.

Votes reported in some election returns were unlawfully increased in favor of protestee, such that protestee appeared to have obtained more votes than those actually cast in his favor.

The Second Division of the Comelec unanimously ruled that the above allegations failed to state a cause of action, citing as a basis the Court's ruling in *Peña v. House of Representatives Electoral Tribunal*.^[2]

In said case, petitioner Teodoro Peña, the losing party in the congressional elections, contested 700 out of 742 election precincts without specifying the precincts where the anomalies allegedly occurred. Furthermore, Peña made only general allegations, to wit:^[3]

7. The elections in the precincts of the Second District of Palawan were tainted with massive fraud, widespread vote-buying, intimidation and terrorism and other serious irregularities committed before, during and after the voting, and during the counting of votes and the preparation of election returns and certificates of canvass which affected the results of the election. Among the fraudulent acts committed were the massive vote-buying and intimidation of voters, disenfranchisement of petitioner's known supporters through systematic deletion of names from the list of voters, allowing persons to vote in excess of the number of registered voters, misappreciation, misreading and non-reading of protestant's ballots and other irregularities.

The Court in that case dismissed the election protest, holding that the failure to make specific mention of the precincts where wide-spread election fraud and irregularities occurred, and the bare allegations of massive fraud, widespread intimidation and terrorism, without specification and substantiation of where and how these occurrences took place, render the protest fatally defective. As explained by the Court:

The prescription that the petition must be sufficient in form and substance means that the petition must be more than merely rhetorical. If the allegations contained therein are unsupported by even the faintest whisper of

authority in fact and law, then there is no other course than to dismiss the petition, otherwise, the assumption of an elected official may, and always [will,] be held up by petitions of this sort by a losing candidate.

However, the Comelec en banc, voting 4-3,[4] ruled that what is applicable to the case is the ruling in Miguel v. Comelec.[5] In the Miguel case, therein respondent Eladio Lapuz filed an election case against James Miguel who defeated the former in the mayoralty race in Rizal, Nueva Ecija. Lapuz questioned the results in all the precincts on the following grounds:

a)

Rampant switching of ballot boxes and stuffing of ballot boxes with fake ballots;

b)

Padding of votes in favor of petitioner;

c)

Misappreciation of ballots to the prejudice of private respondent;

d)

Counting of illegal and/or marked ballots and stray votes in favor of petitioner;

e)

Misreading and mis-tallying of ballots or votes;

f)

Massive vote-buying;

g)

Substitution of votes;

h)

Multiple voting by flying voters and harassment of voters;

i)

Massive disenfranchisement;

j)

Massive threats, coercion and intimidation of voters.

Therein petitioner Miguel argued that the general allegations of fraud and irregularities were not sufficient to order the opening of ballot boxes and counting of ballots. The Court, however, found the allegations embodied in the election protest to be serious enough to necessitate the opening of the ballot boxes to resolve the issue of fraud and irregularities in the election.

The facts of the present petition are similar to those in Miguel rather than to those in Peña. In Miguel, there was a controversy between two candidates for municipal mayor, while Peña dealt with candidates for a congressional district office. Also, one reason that led to the dismissal of the election protest in Peña was the protestant's failure to specify the 700 out of the 743 precincts where the alleged anomalies occurred. In both Miguel and the present

petition, the protestants questioned all the precincts in their respective municipalities.

Furthermore, the Miguel case, being the more recent decision, should prevail in case of a conflict, under the well-established doctrine that a later judgment supersedes a prior one in case of an inconsistency.[6]

In closing, the Court reiterates its pronouncement in *Carlos v. Angeles* :[7]

Election contests involve public interest, and technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. Laws 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. In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate. The Supreme Court frowns upon any interpretation of the law or the rules that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results.

No doubt, allowing the election protest to proceed would be the best way of removing any doubt as to who was the real candidate chosen by the electorate. Barring the proceedings due to technicalities and procedures accomplishes nothing except possibly to suppress the will of the majority.

WHEREFORE, in view of the foregoing, the petition is hereby DISMISSED and the Resolution of the Comelec en banc in SPR No. 19-2001 is AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and Tinga, JJ., concur.

[1] Branch 90.

[2] 270 SCRA 340 (1997).

[3] Ibid.

[4] Members of the Second Division who unanimously voted to dismiss the protest maintained their positions.

[5] 335 SCRA 172 (2000).

[6] *Dario v. Mison*, 176 SCRA 84 (1989).

[7] 346 SCRA 571 (2000).

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