

HADJA NIDA B. ARADAIS, PETITIONER, VS. COMMISSION ON ELECTIONS AND ABDUSALI ASMADUN, RESPONDENTS.

G.R. No. 157863. April 28, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Before this Court is a Petition for Certiorari under Rule 64 of the 1997 Revised Rules of Court seeking to nullify and set aside the March 31, 2003 Resolution of the Commission on Elections (COMELEC) En Banc in SPA Case No. 01-362, “In Re: Petition for Annulment of Proclamation of Abdul Asmadun as Mayor-Elect of Lugus, Sulu, with Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order, Hadja Nida B. Aradais v. Abdusali Asmadun and the Municipal Board of Canvassers of Lugus, Sulu.”

The antecedent facts of the case are as follows:

Petitioner Hadja Nida B. Aradais and respondent Abdusali Asmadun were mayoralty candidates in the municipality of Lugus, Sulu during the May 14, 2001 elections.

After the casting of votes on May 14, 2001, the ballot boxes were brought to the headquarters of the 104th Army Brigade in Jolo, Sulu for the centralized counting and canvassing of votes.

The canvassing was completed in the morning of May 17, 2001. As there was no pending pre-proclamation controversy, the Municipal Board of Canvassers (BOC) of Lugus, Sulu proclaimed respondent as the mayor-elect by virtue of a Certificate of Canvass (COC) bearing No. 8701805[1] signed and thumbmarked by its Chairman Sabdani A. Bakri and Secretary Sitti Hindon Dammang. BOC Vice-Chairman Wadja A. Uddoh’s signature and thumbmark do not appear in the first COC.

Petitioner, also on May 17, 2001, was proclaimed as mayor-elect of Lugus, Sulu by virtue of a second Certificate of Canvass[2] bearing the same serial number as that of the first COC, signed and thumbmarked by all three members of the BOC.

On May 19, 2001, respondent took his oath of office and assumed office on July 2, 2001.

Petitioner, on the other hand, took his oath of office on June 23, 2001. On even date, petitioner’s spouse former Mayor Mansur Aradais went to the headquarters of the 104th Infantry Brigade and requested for army escorts for the formal assumption of office of petitioner,[3] he presenting to Brigade Commander Col. Romeo P. Tolentino photocopies of 1) petitioner’s Panunumpa ng Katungkulan dated June 23, 2001; 2) the second COC; and 3) the Statement of Votes by Precincts dated May 17, 2001.

Noting that the documents presented by the former mayor were photocopies, Col. Tolentino directed his deputy to accompany the former to have said documents authenticated by a notary public.[4]

In the meantime, by letter[5] of June 26, 2001 to Col. Tolentino, Helen G. Aguila-Flores, Regional Election Director of Region IX, Zamboanga City, advised that the COMELEC “recognize[d] only one proclamation,” that

of respondent, and petitioner's proclamation was without any legal effect. This prompted petitioner to file before the COMELEC a petition for the annulment of respondent's proclamation with prayer for the issuance of writ of preliminary injunction and/or temporary restraining order.

On July 12, 2001, the COMELEC, by Resolution No. 01-1029, created an ad hoc Committee composed of Atty. Ferdinand T. Rafanan, Atty. Juanito O. Icaro and Atty. Jovencio G. Balanguit to look into cases of double proclamations including the case at bar.

The Ad Hoc Committee thereupon directed[6] petitioner, respondent, the three members of the BOC, COMELEC Regional Director Aguila-Flores, and the Provincial Election Supervisor of Sulu to submit their respective position papers or memoranda and other pertinent documents, as well as affidavits of their witnesses.

On August 2, 2001, respondent submitted a Manifestation[7] to the Ad Hoc Committee stating that he was adopting his Opposition[8] submitted to the COMELEC in SPC Case No. 362, Hadja Nida Aradais v. Abdulsali Asmadun, as his position paper. In said Opposition, respondent alleged that the canvassing of votes was completed in the morning of May 17, 2001 in an orderly and peaceful manner after which he was proclaimed as mayor-elect; and that the proclamation of petitioner proceeded from illegal acts of terrorism, intimidation and threats against COC Chairman Bakri and Secretary Dammang.

As for petitioner, she alleged in her Memorandum with Manifestation[9] that while the canvassing had yet to be completed, respondent and his followers pressured and intimidated the members of the BOC to proclaim him as the winner; and that BOC President Bakri and Secretary Dammang succumbed to the threats and proclaimed respondent as mayor-elect, while BOC member Uddoh walked out of the canvassing hall. Attached to petitioner's manifestation was the affidavit of Uddoh confirming petitioner's allegations.

The Ad Hoc Committee, finding it necessary to hear the testimonies of the members of the BOC, held a clarificatory hearing on August 22, 2001 during which only Bakri and Dammang appeared.

By Bakri's testimony, the first COC declaring respondent as the winner was the legitimate one, he (Bakri) having been merely forced to sign the second COC.[10]

Dammang, on the other hand, testified that she only signed the first COC proclaiming respondent,[11] and added that when they were to sign said COC, BOC member Uddoh left the proceedings on account of stomach ache and never returned.[12]

In its report, the Ad Hoc Committee made the following recommendations, quoted verbatim:

- The affirmation of the proclamation of ABSULSALI K. ASMAJUM, as mayor-elect, and the other officials as Sangguniang Bayan-elect of the municipality of Lugus, Province of Sulu, as appearing in C.E.F. No. 25 which the Committee finds to be genuine, valid and lawful;
- The nullification of the improvised C.E.F. No. 25 submitted to the ERSD bearing Hadja Nida Aradais as the winning mayoralty candidate of Lugus, Sulu which the Committee finds to be spurious and falsified; and
- Further investigation of the culpability and possible prosecution of persons who prepared and submitted to the ERSD, Comelec the spurious C.E.F. No. 25.[13] (Emphasis in the original)

Concurring with the findings and recommendations of the Ad Hoc Committee, the COMELEC Second Division, by Resolution[14] of August 21, 2002, disposed as follows:

WHEREFORE, premises considered, the proclamation of ABDULSALI K. ASMAJUM as duly-elected Mayor of Lugus, Sulu, and ABDURAHMAN SANING, AMBAY PATULAN, ABDUL IDRIS, MANUEL USMAN, SYEDHASHIM ABUBAKAR, BENSALI JALMAANI, DHOH WAHAB and JAAFAR

ASAMUDDIN, as duly-elected Members of the Sangguniang Bayan of Lugas, Sulu, as contained in C.E.F. No. 25 with serial no. 870185, is hereby AFFIRMED as VALID and LAWFUL; while the proclamation of Hadja Nida B. Aradais together with Muadjud A. Aradais, Mobin A. Aradais, Kaungan H. Hapasain, Boy Hassan I. Iribani, Cesar S. Absari, Marma A. Abdurajak AND Najir S. Abdunnasser as contained in the spurious C.E.F. No. 25 purporting to have the same serial number 8701805, is hereby declared INVALID and WITHOUT LEGAL EFFECT.

The Law Department is directed to conduct an investigation into the circumstances surrounding the falsification of the aforementioned election documents, and determine if there is a basis for filing charges against Commission officials and/or other parties involved.

Her Motion for Reconsideration of the August 21, 2002 Resolution having been denied by COMELEC En Banc Resolution of March 31, 2003, petitioner filed the present petition.

Petitioner contends that the COMELEC En Banc gravely abused its power and discretion when it delegated its constitutional duty to “hear and decide” pre-proclamation cases to a mere ad hoc committee. She argues that the COMELEC should have ordered a recanvass and retabulation of the votes, instead of limiting itself to the findings of the Ad Hoc Committee which did not actually resolve the conflicting claims of the parties.

The petition fails to convince the Court.

The findings and recommendations of the Ad Hoc Committee are merely advisory in nature and do not bind the COMELEC, especially in light of petitioner’s failure to present any evidence that the COMELEC merely relied on said findings and recommendations and did not go over the records of the case to make its own assessment. Absent any evidence to the contrary then, the presumption of regular performance of an official duty stands.[15]

It bears emphasis that the COMELEC has broad powers to ascertain the true results of an election by means available to it.[16] In the case at bar, it was well within the COMELEC’s discretion to avail of the means it deemed effective, such as requiring the parties to present their side through position papers and memoranda and conducting a clarificatory hearing wherein the members of the BOC were required to shed light on the two proclamations made. Besides, it is a settled rule that the COMELEC’s judgment cannot be overturned by this Court unless it is clearly tainted with grave abuse of discretion.[17]

Since the assailed resolution is supported by substantial evidence, it cannot be considered whimsical, capricious or arbitrary warranting this Court’s power of review.

WHEREFORE, for failure of petitioner to show that the Commission on Elections committed grave abuse of discretion amounting to lack or excess of jurisdiction, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

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

[1] Rollo at 40.

[2] Id. at 39.

[3] COMELEC Records, Volume III at 6.

[4] Ibid.

[5] Id. at 4-5.

[6] Id. at 34.

[7] Id. at 32-33.

[8] Id. at 16-31.

[9] Id. at 80-102.

[10] Transcript of Stenographic Notes (TSN), August 22, 2001 at 15-32.

[11] Id. at 110.

[12] Id. at 101-102, 106-107.

[13] COMELEC Records, Volume II.

[14] Rollo at 20-26.

[15] Rules of Court, Rule 131, Section 3(m).

[16] Sarangani. v. Commission on Elections, 334 SCRA 379, 389 (2000) citing Mastura v. COMELEC, 285 SCRA 493 (1998).

[17] Pangarungan v. Commission on Elections, 216 SCRA 522, 538-539 (1992).

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