

DULCE ANN K. HOFER, petitioner, vs. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL and BELMA C. CABILAO, respondents.

G.R. No. 158833. May 12, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Procedural rules in election cases are designed to achieve not only a correct but also an expeditious determination of the popular will of the electorate.[1] Unfortunately, the interpretation of said rules by the petitioner has prolonged the termination of the instant case.

Before us is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolutions[2] dated March 27, 2003 and May 8, 2003 rendered by the House of Representatives Electoral Tribunal in HRET Case No. 01-006, entitled “Dulce Ann K. Hofer vs. Belma A. Cabilao.”

The antecedents of the present petition are as follows:

Dulce Ann K. Hofer, herein petitioner, and Belma A. Cabilao, herein respondent, were congressional candidates in the lone congressional district of Zamboanga Sibugay[3] during the May 14, 2001 national and local elections. On May 18, 2001, respondent was proclaimed the duly elected congressional representative with a total of 55,740 votes, as against petitioner’s 43,566, or a margin of 12,174 votes.

Claiming that massive vote buying, tampering of election returns and other irregularities were committed in 671 precincts during the voting, counting of votes and canvassing of election returns, petitioner, on May 28, 2001, filed with the House of Representatives Electoral Tribunal (HRET) an election protest, docketed as HRET Case No. 01-006.

After the issues were joined, the case was set for preliminary conference on September 13, 2001.

Subsequently or on July 22, 2002, the revision proceeding of contested ballots, pursuant to Section 35 of the 1998 HRET Rules, as amended, commenced with the identification by petitioner of the total contested precincts.

On August 1, 2002, the revision of the ballots for 481 pilot contested precincts was completed. The Report of the Canvass Board Service on the results of the revision shows a reduction of votes for petitioner and respondent, thus:

Votes before

Revision

Votes after

Revision

Claims

Gain (+)

Loss (-)

Protestant

18,138

17,799

1,094

339 (-)

Protestee

23,793

23,492

1,425

301 (-)

During the preliminary conference, both parties, through their respective counsel, agreed on the following dates of hearing: October 15, 16, 29, 30, November 5, 6 and 18, 2002 at 9:30 o'clock in the morning and 1:30 o'clock in the afternoon. The Hearing Commissioner informed them that they could set succeeding dates later. However, the hearings set on October 15, 16, 30 and November 5 and 6, 2002 were cancelled at the instance of petitioner. Only the hearing on October 29, 2002 took place.

On February 12, 2003, respondent filed a motion to dismiss the protest for petitioner's failure to prosecute for an unreasonable period of time.

In a Resolution dated March 27, 2003, the HRET granted the motion and dismissed petitioner's election protest, ratiocinating thus:

"We find the long delay in the prosecution of this election protest to be inexcusable. A perusal of the records reveal that out of the seven (7) hearing dates set by protestant for the reception of her evidence, six (6) settings were postponed through her instance. Only one hearing on the 29th of October 2002 proceeded, in which hearing the protestant presented documentary evidence consisting of election documents. It may be stressed that protestant, despite the lapse of more than six (6) months, reckoned from October 15, 2002, has not yet completed the presentation of her evidence. Having exhausted the period of twenty (20) days and having been granted an extension of ten (10) days without presenting all her evidence, protestant is deemed to have slept on her right. Her failure to take necessary steps to prosecute this case justify its dismissal.

x x x

Rule 59 of the 1998 HRET Rules lays down the period allotted to each party in the presentation of his evidence, thus:

'RULE 59. Time Limit for Presentation of Evidence. - Each party is given a period of twenty (20) working days, preferably successive, to complete the presentation of his evidence, including the formal offer thereof. This period shall begin to run from the first date set for the presentation of the party's evidence, either before the Tribunal or before a Hearing Commissioner. Once commenced, presentation of the evidence-in-chief shall continue every working day until completed or until the period granted for such purpose is exhausted. Upon motion based on meritorious grounds, the Tribunal may grant a ten-day extension of the period herein fixed.

The hearing for any particular day or days may be postponed or cancelled upon the request of the party presenting evidence, provided, however; that the delay caused by such postponement or cancellation shall be

charged to said party's period for presenting evidence.'

Simply stated, each party is given a limited period of twenty (20) days in the presentation of his evidence, including the formal offer thereof. This requirement in the presentation of evidence is prompted by the nature of election contest, which should be decided as soon as practicable. The period of 20 days given to each of the parties may be extended by the Tribunal upon meritorious grounds and on motion of the party concerned. This time limit prescribed by the Rules in the presentation of evidence contemplates not only actual period spent in presenting before the Tribunal, but also the period used in the taking of deposition of the witnesses under Rule 61 of the 1998 HRET Rules."

Petitioner then filed with the HRET a motion for reconsideration but was denied in a Resolution dated May 8, 2003.

Hence, this petition for certiorari.

Petitioner contends that the HRET acted with grave abuse of discretion in dismissing her protest on mere technicalities, thus, depriving her of her right to due process.

The Solicitor General, in his comment, maintains that the HRET did not gravely abuse its discretion in dismissing petitioner's protest considering that she failed to prosecute it within the period allowed by the rules.

Petitioner invokes our ruling in *Arao vs. COMELEC*[4] that "the choice of the people to represent them may not be bargained away by sheer negligence of a party, nor defeated by technical rules of procedure." What she is saying is that the laws governing election contests, especially appreciation of ballots and returns, must be liberally interpreted to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.

We are not convinced.

The election protest filed by petitioner is a serious charge which, if true, could unseat protestee as Representative of her district. Hence, the observance of the HRET Rules in conjunction with our own Rules of Court, must be taken seriously.

Section 59 of the 1998 HRET Rules, quoted earlier, is explicit. Unfortunately, petitioner did not comply with it. In fact, despite the lapse of six (6) months (starting October 15, 2002 – initial date of hearing), she failed to present her evidence. Such inaction shows her utter lack of interest to prosecute her case.

In *Baltazar vs. Commission of Elections*,[5] we held:

"By their very nature and given the public interest involved in the determination of the results of an election, the controversies arising from the canvass must be resolved speedily, otherwise the will of the electorate would be frustrated. And the delay brought about by the tactics resorted to by petitioner is precisely the very evil sought to be prevented by election statutes and controlling case law on the matter."

We thus find that the HRET did not commit grave abuse of discretion in dismissing petitioner's election protest. If at all, she has only herself to blame for her predicament.

WHEREFORE, the petition is DISMISSED. No pronouncement as to costs.

SO ORDERED.

Vitug, Panganiban, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Davide, Jr., C.J., in the result.

Puno, Quisumbing, and Ynares-Santiago, JJ., no part.

[1] Gementiza vs. Commission on Elections, G.R. No. 140884, March 6, 2001, 353 SCRA 724.

[2] Annexes “A” and “B”, Petition for Certiorari, Rollo at 35-49.

[3] Former Third District of Zamboanga del Sur.

[4] G.R. No. 103877, June 23, 1992, 210 SCRA 290.

[5] G.R. No. 140158, January 29, 2001, 350 SCRA 518, 526-527.

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