

ROMEO M. ESTRELLA, PETITIONER, VS. COMMISSION ON ELECTIONS, HON. COMMISSIONER RALPH C. LANTION AND ROLANDO F. SALVADOR, RESPONDENTS.

G.R. No. 160465. May 27, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

From this Court's Resolution of April 28, 2004, private respondent Rolando F. Salvador seeks a reconsideration.

In his petition for certiorari filed before this Court, petitioner Romeo M. Estrella sought the nullification of the November 5, 2003 Status Quo Ante Order^[1] issued by the Commission on Elections (COMELEC) En Banc in EAC No. A-10-2002, "Romeo M. Estrella v. Rolando F. Salvador," directing the "parties to maintain the status quo ante order, which is the condition prevailing before the issuance" by the Regional Trial Court of Malolos of a writ of execution for the enforcement of said court's decision declaring petitioner as the duly elected mayor of Baliwag, Bulacan.

In the issuance of the questioned COMELEC En Banc Status Quo Ante Order, five (5) of the then incumbent seven (7) members of the COMELEC participated: Commissioners Benjamin Abalos, Sr., Luzviminda Tangcangco, Rufino S.B. Javier, Ressureccion Z. Borra and Ralph C. Lantion.

Commissioners Abalos, Tangcangco, Javier and Lantion voted for the issuance of said order, while Commissioner Borra dissented.

Commissioner Lantion previously inhibited in SPR No. 21-2002, a case pending before the COMELEC Second Division involving the same parties, thus necessitating the issuance of an order designating Commissioner Borra as his substitute. The substitution order was subsequently adopted in EAC No. A-10-2002. Parenthetically, petitioner had previously filed a Motion for Inhibition of Commissioner Lantion before the Second Division in SPR No. 21-2002 which was denied, albeit on Motion for Reconsideration the Second Division, in its Resolution of May 7, 2002, noted that "Com[missioner] Lantion indicated for the record that he is no longer taking part in the proceedings in this case."

In the COMELEC En Banc Status Quo Ante Order, Commissioner Lantion stated in his handwriting that "his previous voluntary inhibition is only in the SPR cases and not in the EAC" and that "as further agreed in the Second Division, [he] will not participate in the Division deliberations but will vote when the case is elevated [to the] en banc."

In this Court's Resolution^[2] of April 28, 2004 now the subject of private respondent's Motion for Reconsideration, it was held that:

Commissioner Lantion's voluntary piecemeal inhibition cannot be countenanced. Nowhere in the COMELEC Rules does it allow a Commissioner to voluntarily inhibit with reservation. To allow him to participate in the En Banc proceedings when he previously inhibited himself in the Division is, absent any satisfactory

justification, not only judicially unethical but legally improper and absurd.

Since Commissioner Lantion could not participate and vote in the issuance of the questioned order, thus leaving three (3) members concurring therewith, the necessary votes of four (4) or majority of the members of the COMELEC was not attained. The order thus failed to comply with the number of votes necessary for the pronouncement of a decision or order, as required under Rule 3, Section 5(a) of the COMELEC Rules of Procedure which provides:

Section 5. Quorum; Votes Required. – (a) When sitting en banc, four (4) Members of the Commission shall constitute a quorum for the purpose of transacting business. The concurrence of a majority of the Members of the Commission shall be necessary for the pronouncement of a decision, resolution, order or ruling.

WHEREFORE, the instant petition is GRANTED. The Status Quo Ante Order dated November 5, 2003 issued by the COMELEC En Banc is hereby NULLIFIED. This Resolution is IMMEDIATELY EXECUTORY. (Emphasis and underscoring supplied)

In seeking a reconsideration of the above-quoted Resolution, private respondent cites *Cua v. Commission on Elections*[3] wherein this Court ruled:

After considering the issues and the arguments raised by the parties, the Court holds that the 2-1 decision rendered by the First Division was a valid decision under Article IX-A, section 7 of the Constitution. Furthermore, the three members who voted to affirm the First Division constituted a majority of the five members who deliberated and voted thereon en banc and their decision is also valid under the aforecited constitutional provision. x x x (Italics in the original; emphasis supplied)

Private respondent argues that “[f]ollowing the doctrine laid out in *Cua*, three (3) votes would have been sufficient to constitute a majority to carry the decision of the COMELEC En Banc as provided by the Constitution and the appropriate rules.”[4]

Section 5(a) of the COMELEC Rules of Procedure was lifted from Section 7, Article IX-A of the Constitution which provides:

SECTION 7. Each Commission shall decide by a majority vote of all its members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. x x x (Emphasis and underscoring supplied)

The provision of the Constitution is clear that it should be the majority vote of all its members and not only those who participated and took part in the deliberations. Under the rules of statutory construction, it is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained.[5] Since the above-quoted constitutional provision states “all of its members,” without any qualification, it should be interpreted as such.

In the case at bar, following the clear provision of the Constitution, counting out Commissioner Lantion’s vote from the questioned COMELEC En Banc resolution would leave just three (3) votes out of “all” seven (7) members of the COMELEC.

Even former Constitutional Commissioner Fr. Joaquin Bernas, SJ, questions the *Cua* ruling in light of Section 7, which says “majority of all the Members.” He thus concludes that “[t]hree is not the majority of seven.”[6]

Had the framers intended that it should be the majority of the members who participated or deliberated, it would have clearly phrased it that way as it did with respect to the Supreme Court in Section 4(2), Article VIII of the Constitution:

SECTION 4(2) x x x all other cases which under the Rules of Court are required to be heard en banc, x x x

shall be decided with the concurrence of a majority of the members who actually took part in the deliberations on the issues in the case and voted thereon. (*Italics in the original; emphasis and underscoring supplied*).

For the foregoing reasons then, this Court hereby abandons the doctrine laid down in Cua and holds that the COMELEC En Banc shall decide a case or matter brought before it by a majority vote of “all its members,” and NOT majority of the members who deliberated and voted thereon.

WHEREFORE, private respondent’s motion for reconsideration is hereby DENIED.

SO ORDERED.

Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Davide, Jr., C.J., and Puno, J., on official leave.

Quisumbing, J., in the result.

[1] Rollo at 55-56.

[2] Id. at 427-435.

[3] 156 SCRA 582 (1987).

[4] Rollo at 439-440.

[5] J.M. Tuason & Co., Inc. v. Land Tenure Administration, 31 SCRA 413, 422 (1970).

[6] Bernas, SJ, Joaquin G., The 1987 Philippine Constitution A Reviewer-Primer, 2002 at 410.

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