

NOEL Y. REPOL, PETITIONER, VS. COMMISSION ON ELECTIONS AND VIOLETO CERACAS, RESPONDENTS.

G.R. No. 161418. April 28, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Petitioner Noel Y. Repol (“Repol”) filed this Petition for Certiorari[1] on 21 January 2004 alleging that the Commission on Elections (“COMELEC”) First Division[2] committed grave abuse of discretion in issuing the Order dated 12 January 2004 (“Order”) in SPR Case No. 1-2004. The Order directed “the parties to maintain the STATUS QUO ANTE, which is the condition prevailing before the issuance and implementation of the questioned Order of the court a quo dated January 5, 2004 in Election Case No. T-001 entitled, ‘Noel Y. Repol versus Violeto Ceracas.’”

The Facts

Repol and private respondent Violeto Ceracas (“Ceracas”) were candidates for Municipal Mayor of Pagsanghan, Samar in the 14 May 2001 elections. On 16 May 2001, Ceracas was proclaimed as the duly elected mayor with 66 votes more than Repol.

On 23 May 2001, Repol filed an election protest before the Regional Trial Court of Tarangnan, Samar, Branch 40 (“trial court”), docketed as Election Case No. T-001. Claiming that fraud and other irregularities marred the elections in Precincts 3A, 5A and 71, Repol prayed for revision of the ballots in these precincts. Judge Francisco Mazo dismissed the election protest on 28 August 2001. On certiorari, the COMELEC First Division reversed the dismissal order of Judge Mazo in a Resolution dated 22 May 2002 “for being issued with grave abuse of discretion tantamount to lack of jurisdiction.” The COMELEC First Division directed the trial court “to reinstate the subject election protest, conduct the revision of ballots from the protested precincts and render its Decision with immediate dispatch.” On 18 September 2003, the COMELEC en banc denied Ceracas’s motion to reconsider the Resolution dated 22 May 2002. The COMELEC en banc affirmed in toto the reinstatement of Repol’s election protest. This time around, trial and revision of the ballots ensued with Judge Roberto A. Navidad presiding.

On 30 December 2003, the trial court declared Ceracas’s proclamation void and proclaimed Repol the duly elected mayor of Pagsanghan, Samar. The trial court explained thus:

After a very careful study and meticulous and painstaking appraisal of the contested ballots, the Court finds and so holds that the cheating and commission of various frauds and irregularities in these three contested precincts was massive, used many people to fill up the ballots – including the voters, connivance with those perpetrating the fraud and the members of the Board of Election Inspectors, the perpetrators of the fraud enjoyed the luxury of time to perpetrate the fraud and filling the ballots, that filling up of some of the ballots

was done outside of the voting booth and it is not difficult to finally find the answers to the questions of the Protestant as to wherever and whatever happened to the 24 excess ballots it noted in precinct 3A (Barangay Canlapwas) and 21 excess ballots in precinct 5A (Brgy. Sto. Ninio).

From the foregoing peculiar facts and circumstances it is clearly evident that the electoral fraud was perpetrated by the use of some ballots as shuttles [lanzadera], by which device, the ballots of the voters who are not skilled in the act of writing or whose fidelity to party is in doubt is illegally written out for them by others.

It is likewise not hard to find the answers why the sisters in law of the Protestee were illegally at the table of the BEI Chairman controlling the voting process and even angrily and at the top of their voices demanding that some voters be allowed to vote as illiterates even though there were no proper identifications and indications that indeed they were illiterates. Or why the Minutes of Voting in precinct 5A is not the printed one. It only means that there was something to hide.

After a very careful study, meticulous and painstaking appraisal of the ballots the Court finds that the handwriting of one person in some of the ballots in one precinct are also found in the other two precincts.

Thus, the handwriting in the ballots in Exhibits 1, 12, 24, 27, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 53 all in Precinct 3A (Canlapwas) is the same handwriting as in the ballots in Exhs. 3, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 38, 39, 40, 56, 57, 58, 59 all in Precinct 5A (Sto. Ninio) and is also the same handwriting in the ballots in Exhs. 3, 12, 13, 14, 25, 30, 36, 38, 41, 44, 49, 51, 52 all in Precinct 7A (Buenos Aires).

The handwriting in the ballots in Exhs. 3, 6, 8, 9, 10, 13, 16, 19, 21, 22, 23, 26 all of Precinct 3A (Canlapwas) is the same handwriting in the ballots in Exhs. 12, 34, 35, 37, 43, 44, 45, 49, 50, 51, 52, 53, 54, 55, 60, 61, 64, 65, 68, 69, 70, 71 all precinct 5A (Sto. Ninio) is the same handwriting in the ballots in Exhs. 10, 26, 27, 28, 29, 36, 61, 62, 65, 66, 67 all of precinct 7A (Buenos Aires).

Likewise, the other handwriting in the ballots in Exhs. 4, 48, 60, 61, 64 and 65 all in precinct 3A (Canlapwas) is the same handwriting in the ballots in Exhs. 14, 15, 16, 17, 18, 19, 20, 21, 22 all in precinct 5A (Sto. Ninio) is the same handwriting in the ballots in Exhs. 40, and 47 all in precinct 7A (Buenos Aires).

Likewise, the handwriting in the ballots in Exhs. 11, 8, 20, 30 all of Precinct 3A (Canlapwas) is the same handwriting in the ballots in Exhs. 46, 47, 48, 63 all in precinct 5A (Sto. Ninio).

In like manner, the handwriting in the ballots in Exhs. 2, 7, 14, 35, 36 all in precinct 3A (Canlapwas) is the same handwriting in the ballots in Exhs. 6, 7, 36, all in precinct 5A (Sto. Ninio).

All these ballots should not be counted in favor of the Protestee.

Further, the following ballots are marked for their being written with or unnecessary decorations serving to easily identify his vote. Accordingly, they should not be counted in favor of the protestee. These ballots are:

- Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 all of Precinct 5A (Sto. Ninio) and
- Exhs. 1, 2 and 3 all of precinct 7A (Buenos Aires).

Clearly, the will of the electorate was fraudulently substituted by the will of the perpetrators of the fraud.

All in all a total of 142 votes had been illegally counted in favor of the Protestee. Deducting 66 from 142 we get a total of 76. In other words, the Protestant garnered a majority of 76 votes over that of the protestee.[3]

In light of these findings, the trial court rendered judgment as follows:

WHEREFORE, and in view of the foregoing, judgment is hereby rendered DECLARING as null and void the proclamation of the Protestee and instead hereby PROCLAIM AND DECLARE, NOEL Y. REPOL, the duly

elected Mayor of Pagsanghan, Samar in the May 2001 elections with a majority of 77 votes.[4]

Repol filed before the trial court a motion for execution pending appeal. On 5 January 2004, the trial court granted Repol's motion and issued a writ of execution. Meanwhile, Ceracas appealed the trial court's judgment to the COMELEC.

On 6 January 2004, Repol took his oath of office as the duly elected mayor of Pagsanghan, Samar. On the same date, Ceracas filed before the trial court an omnibus motion to reconsider, set aside and quash the writ of execution.

During the pendency of Ceracas's appeal with the COMELEC and without waiting for the trial court to resolve his omnibus motion, Ceracas filed with the COMELEC a Petition for Certiorari (with prayer for temporary restraining order, writ of preliminary injunction and/or status quo ante) assailing the writ of execution, docketed as SPR No. 1-2004.[5] On 12 January 2004, the COMELEC First Division issued the assailed Order directing the parties to maintain the status quo ante. The Order reads in part:

Acting on the Petition for Certiorari with Prayer for the issuance of Temporary Restraining Order, Writ of Preliminary Injunction and/or Status Quo Ante Order filed by Petitioner Violeto Ceracas through counsel on January 8, 2004, the Commission (First Division) hereby directs respondents to file their Answer within ten (10) days from receipt hereof.

The application for the Writ of Preliminary Injunction shall be heard on January 29, 2004 at ten o'clock in the morning at the Comelec Session Hall, Intramuros, Manila.

In the interest of justice and so as not to render the issues moot and academic, the Comelec (First Division) hereby directs the parties to maintain the STATUS QUO ANTE, which is the condition prevailing before the issuance and implementation of the questioned Order of the court a quo dated January 5, 2004 in Election Case No. T-001, entitled, "Noel Y. Repol versus Violeto Ceracas".

Accordingly, effective immediately, private respondent Noel Repol, is hereby ordered to cease and desist from assuming the duties and functions of Municipal Mayor of Pagsanghan, Western Samar until further orders from this Commission. In the meantime, petitioner Violeto Ceracas shall assume the post of Municipal Mayor of Pagsanghan, Western Samar.

The Provincial Election Supervisor of Samar and the Provincial Director of the Philippine National Police (PNP), Catbalogan, Samar, are hereby directed to immediately implement this Order and make a return of service within five (5) days from the implementation thereof.

The Clerk of Commission is hereby directed to serve a copy of this Order together with a copy of the Petition to each of the respondents.[6] (Emphasis supplied)

At the scheduled hearing on 29 January 2004, the COMELEC First Division issued an order which reads in full:

In today's hearing of the application for a Writ of Preliminary Injunction prayed for in the above entitled petition, Atty. Sixto S. Brillantes appeared for the petitioner, while Attys. Baltazar Y. Repol and Farah D. Repol appeared for the private respondent.

Both parties argued on their respective legal positions.

In view of the pendency of the petition for certiorari filed by private respondent with the Supreme Court questioning the status quo ante issued on January 12, 2004, both parties are hereby given five (5) days from today or until February 3, 2004 to file their respective memoranda on the issue of whether this Commission can resolve on the Application for a Writ of Preliminary Injunction despite the pendency of the said petition. Parties may likewise include in their memoranda authorities and arguments on the life span of a status quo ante

Order issued by the Commission. Thereafter, with or without the said memoranda, the said issue shall be deemed submitted for resolution.

SO ORDERED.

Hence, the instant petition.

The Issues

Repol raises the sole issue of –

WHETHER THE COMELEC IS EMPOWERED UNDER ANY STATUTE, RULE, OR JURISPRUDENCE TO ISSUE A STATUS QUO ANTE IN EFFECT OVERTURNING THE EFFECTIVE ENFORCEMENT OF THE WRIT OF EXECUTION ISSUED BY THE TRIAL COURT AND SUSPENDING INDEFINITELY, WITHOUT PRIOR NOTICE AND HEARING, THE IMPLEMENTATION OF SUCH WRIT.[7]

Repol argues that the COMELEC First Division acted with grave abuse of discretion in issuing the status quo ante Order which indefinitely suspended and effectively nullified the trial court's writ of execution. Repol contends that the COMELEC First Division has no authority to issue the Order after the trial court found the election in the protested precincts marred by fraud and after the trial court considered meritorious the grounds cited by Repol in his motion for execution pending appeal. According to Repol, the law, rule and jurisprudence limit the COMELEC's power to issue temporary restraining orders to a non-extendible period of 20 days from the date of issuance.

Ceracas agrees with Repol that the rules do not expressly grant to the COMELEC the power to issue status quo ante orders. However, Ceracas argues that the COMELEC's power to issue temporary restraining orders and preliminary injunctions necessarily includes the power to issue status quo ante orders.

On the other hand, the Office of the Solicitor General (OSG) appearing on behalf of the COMELEC, prays that the Court dismiss the instant petition. The OSG asserts that Repol cannot challenge before this Court by way of a petition for certiorari an interlocutory order issued by a COMELEC Division without first filing a motion for reconsideration with the COMELEC en banc.

The Court's Ruling

The petition is meritorious.

Remedy to Assail Interlocutory Orders
of the COMELEC in Division

Where the COMELEC in division allegedly committed grave abuse of discretion or acted without or in excess of jurisdiction in issuing an interlocutory order, the applicable rule is Section 5(c), Rule 3 of the 1993 COMELEC Rules of Procedure, which states-

Section 5. Quorum; Votes Required. –

(a) x x x.

(b) x x x.

(c) Any motion to reconsider a decision, resolution, order or ruling of a Division shall be resolved by the Commission en banc except motions on interlocutory orders of the division, which shall be resolved by the division which issued the order. (Emphasis supplied)

The 12 January 2004 Order did not dispose of the case completely as there is something more to be done.

Interlocutory orders merely rule on an incidental issue and do not terminate or finally dispose of the case as they leave something to be done before it is finally decided on the merits.[8] Since the COMELEC First Division issued the interlocutory Order of 12 January 2004, the same COMELEC First Division should resolve Repol's motion for reconsideration of the Order. The remedy of the aggrieved party is neither to file a motion for reconsideration for certification to the COMELEC en banc nor to elevate the issue to this Court via a petition for certiorari under Rule 65 of the Rules of Civil Procedure.

Section 5, Rule 19 of the 1993 COMELEC Rules of Procedure governs motions for reconsideration of decisions of a COMELEC Division, as follows:

SEC. 5. How Motion for Reconsideration Disposed of. - Upon the filing of a motion to reconsider a decision, resolution, order or ruling of a Division, the Clerk of Court concerned shall, within twenty-four (24) hours from the filing thereof, notify the presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission en banc.

In *Gementiza v. Commission on Elections*,[9] the Court explained the import of this rule in this wise:

Under the above-quoted rule, the acts of a Division that are subject of a motion for reconsideration must have a character of finality before the same can be elevated to the COMELEC en banc. The elementary rule is that an order is final in nature if it completely disposes of the entire case. But if there is something more to be done in the case after its issuance, that order is interlocutory.

Only final orders of the COMELEC in Division may be raised before the COMELEC en banc. Section 3, Article IX-C of the 1987 Constitution mandates that only motions for reconsideration of final decisions shall be decided by the COMELEC en banc, thus:

SEC. 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in Division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc. (Emphasis supplied)

Under this constitutional provision, the COMELEC en banc shall decide motions for reconsideration only of "decisions" of a Division, meaning those acts having a final character.[10] Clearly, the assailed status quo ante Order, being interlocutory, should first be resolved by the COMELEC First Division via a motion for reconsideration.

Furthermore, the present controversy does not fall under any of the instances over which the COMELEC en banc can take cognizance of the case. Section 2, Rule 3 of the 1993 COMELEC Rules of Procedure provides:

SEC. 2. The Commission En Banc. – The Commission shall sit en banc in cases hereinafter specifically provided, or in pre-proclamation cases upon a vote of a majority of the members of the Commission, or in all other cases where a division is not authorized to act, or where, upon a unanimous vote of all the Members of a Division, an interlocutory matter or issue relative to an action or proceeding before it is decided to be referred to the Commission en banc.

The present case is not one of the cases specifically provided under the COMELEC Rules of Procedure in which the COMELEC may sit en banc. Neither is this case one where a division is not authorized to act nor a case where the members of the First Division unanimously voted to refer the issue to the COMELEC en banc. Thus, the COMELEC en banc is not even the proper forum where Repol may bring the assailed interlocutory Order for resolution.

We held in *Ambil, Jr. v. Commission on Elections*[11] that -

Under the existing Constitutional scheme, a party to an election case within the jurisdiction of the COMELEC in division can not dispense with the filing of a motion for reconsideration of a decision, resolution or final order of the Division of the Commission on Elections because the case would not reach the Comelec en banc without such motion for reconsideration having been filed x x x.

Repol went directly to the Supreme Court from an interlocutory order of the COMELEC First Division. Section 7, Article IX of the 1987 Constitution prescribes the power of the Supreme Court to review decisions of the COMELEC, as follows:

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. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the commission or by the commission itself. Unless otherwise provided by this constitution or by law, any decision, order, or ruling of each commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

We have interpreted this constitutional provision to mean final orders, rulings and decisions of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers.[12] The decision must be a final decision or resolution of the COMELEC en banc.[13] The Supreme Court has no power to review via certiorari[14] an interlocutory order or even a final resolution of a Division of the COMELEC. Failure to abide by this procedural requirement constitutes a ground for dismissal of the petition.[15]

However, this rule is not ironclad. In *ABS-CBN Broadcasting Corporation v. COMELEC*,[16] we stated –

This Court, however, has ruled in the past that this procedural requirement [of filing a motion for reconsideration] may be glossed over to prevent a miscarriage of justice, when the issue involves the principle of social justice or the protection of labor, when the decision or resolution sought to be set aside is a nullity, or when the need for relief is extremely urgent and certiorari is the only adequate and speedy remedy available.

The Court further pointed out in *ABS-CBN* that an exception was warranted under the peculiar circumstances of the case since there was hardly enough opportunity to move for a reconsideration and to obtain a swift resolution in time for the 11 May 1998 elections. The same can be said in Repol's case. We rule that direct resort to this Court through a special civil action for certiorari is justified under the circumstances obtaining in the present case.

Validity of the Status Quo Ante Order

The main issue to be resolved in this petition is whether the COMELEC First Division acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the status quo ante Order which effectively overturned the trial court's grant of execution pending appeal in Repol's favor. This issue is not mooted even if the next elections are just a few weeks away. The holding of periodic elections is a basic feature of our democratic government.[17] To set aside the resolution of the issue now will only postpone a task that could well crop up again in future elections.[18]

We rule in the affirmative.

First. Rule 30 of the 1993 COMELEC Rule of Procedure provides the metes and bounds on the COMELEC's power to issue injunctive relief as follows:

SECTION 1. Preliminary Injunction. - The Commission or any of its Divisions may grant preliminary injunction in any ordinary action, special action, special case, or special relief pending before it.

SECTION 2. Grounds for issuance of preliminary injunction. - A preliminary injunction may be granted at any

time after the commencement of an action or proceeding and before judgment when it is established that:

(a) The petitioner or protestant is entitled to the relief demanded and the whole or part of such relief consists in restraining the commission or continuance of the acts complained of, or in the performance of an act or acts, either for a limited period or perpetually.

(b) The commission or continuance of some act complained of during the pendency of the action or the non-performance thereof would work injustice to the petitioner or protestant.

(c) The respondent or protestee is doing, threatens, or is about to do, or is procuring to be done, some act in violation of petitioner's/protestant's rights respecting the subject of the action, and tending to render the judgment ineffectual.

SECTION 3. Grant of injunction discretionary. - The grant of the preliminary injunction is entirely left to the sound discretion of the Commission or its Divisions.

SECTION 4. Bond for preliminary injunction. - No writ of preliminary injunction shall be issued unless the applicant shall file a bond, in an amount to be fixed by the Commission or the Division concerned, to the effect that the petitioner/protestant will pay to such party all damages which the latter may sustain by reason of the injunction if the Commission or the Division concerned shall finally decide that the petitioner/protestant was not entitled thereto.

SECTION 5. Preliminary injunction not granted without notice; issuance of restraining order. - No preliminary injunction shall be granted without notice to the adverse party. If it shall appear from the facts shown by affidavits or the verified petition that great or irreparable injury would result to the applicant before the matter can be heard on notice, the Commission or any Division to which the application for preliminary injunction was made, may issue a restraining order to be effective only for a period of twenty days from date of its issuance. Within the said twenty-day period, the Commission or the Division, as the case may be, must cause an order to be served on the respondent requiring him to show cause, at a specified time and place, why the injunction should not be granted, and determine within the same period whether or not the preliminary injunction shall be granted and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated. (Emphasis supplied)

A cursory reading of the Order dated 12 January 2004 or the so-called status quo ante Order reveals that it was actually a temporary restraining order. It ordered Repol to cease and desist from assuming the position of municipal mayor of Pagsanghan, Samar and directed Ceracas to assume the post in the meantime. The status quo ante Order had a life span of more than 20 days since the directive was qualified by the phrase "until further orders from this Commission." This violates the rule that a temporary restraining order has an effective period of only 20 days and automatically expires upon the COMELEC's denial of the preliminary injunction. Thus, the status quo ante Order automatically ceased to have any effect after 1 February 2004 since the COMELEC First Division did not issue a writ of preliminary injunction.

While the hearing on Ceracas's application for a writ of preliminary injunction was held on 29 January 2004, the COMELEC First Division failed to resolve the application. Instead, it issued an Order directing the parties to file their memoranda until 3 February 2004 on their respective positions "on the life span of status quo ante orders and whether a writ of preliminary injunction should be granted in the case." Clearly, the COMELEC First Division's indecision on the matter not only worked injustice to Repol but also failed to dispel the uncertainty beclouding the real choice of the electorate for municipal mayor.

Second. The decision of the trial court in Election Case No. T-001 was rendered on 30 December 2003, or after almost one year of trial and revision of the questioned ballots. It found Repol as the candidate with the plurality of

votes. The grant of execution pending appeal was well within the discretionary powers of the trial court.[19] In the recent case of *Edgar Y. Santos v. Commission on Elections (First Division)* and *Pedro Q. Panulaya*,[20] we ruled:

Between the determination by the trial court of who of the candidates won the elections and the finding of the Board of Canvassers as to whom to proclaim, it is the court's decision that should prevail. This was sufficiently explained in the case of *Ramas v. COMELEC* in this wise:

All that was required for a valid exercise of the discretion to allow execution pending appeal was that the immediate execution should be based "upon good reasons to be stated in a special order." The rationale why such execution is allowed in election cases is, as stated in *Gahol v. Riodique*, "to give as much recognition to the worth of a trial judge's decision as that which is initially ascribed by the law to the proclamation by the board of canvassers." Thus:

Why should the proclamation by the board of canvassers suffice as basis of the right to assume office, subject to future contingencies attendant to a protest, and not the decision of a court of justice? Indeed, when it is considered that the board of canvassers is composed of persons who are less technically prepared to make an accurate appreciation of the ballots, apart from their being more apt to yield to extraneous considerations, and that the board must act summarily, practically racing against time, while, on the other hand, the judge has the benefit of all the evidence the parties can offer and of admittedly better technical preparation and background, apart from his being allowed ample time for conscientious study and mature deliberation before rendering judgment, one cannot but perceive the wisdom of allowing the immediate execution of decisions in election cases adverse to the protestees, notwithstanding the perfection and pendency of appeals therefrom, as long as there are, in the sound discretion of the court, good reasons therefor.

To deprive trial courts of their discretion to grant execution pending appeal would, in the words of *Tobon Uy v. COMELEC*,

bring back the ghost of the "grab-the-proclamation-prolong the protest" techniques so often resorted to by devious politicians in the past in their efforts to perpetuate their hold to an elective office. This would, as a consequence, lay to waste the will of the electorate.

Applying *Santos* to this petition, we hold that the COMELEC First Division committed grave abuse of discretion in setting aside the trial court's order granting execution pending appeal.

Ceracas was Guilty of Forum Shopping

We must point out that Ceracas is guilty of forum-shopping. At the time he instituted SPR Case No. 1-2004 with the COMELEC, he had a pending omnibus motion to reconsider, set aside and quash the writ of execution with the trial court. In addition, Ceracas's appeal of the trial court's adverse decision was also pending before the COMELEC.[21] Forum shopping is an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for certiorari.[22] It may also be the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.[23]

Due to a clear showing that Ceracas was forum-shopping, the COMELEC First Division, following our ruling in *Santos*,[24] should have dismissed outright instead of giving due course to Ceracas's petition in SPR No. 1-2004.

WHEREFORE, the instant petition is GRANTED. The Order dated 12 January 2004 of the COMELEC First Division in SPR Case No. 1-2004 is ANNULLED and said case is ordered DISMISSED on the ground of forum-shopping. The Order dated 5 January 2004 of the Regional Trial Court of Tarangnan, Samar, Branch 40, granting the execution pending appeal of its decision in Election Case No. T-001, and the Writ of Execution

issued pursuant thereto, are REINSTATED. The full enforcement of the said Writ must forthwith be made.

This Decision shall be immediately executory.

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

Corona, J., on leave.

[1] Under Rule 65 of the 1997 Rules of Civil Procedure.

[2] Composed of Commissioners Rufino S.B. Javier, Luzviminda G. Tangcangco and Resurreccion Z. Borra.

[3] Rollo, pp. 33-35.

[4] Ibid.

[5] Ibid., pp. 60-86.

[6] Ibid., pp. 25-27.

[7] Ibid., p. 12.

[8] *Nepomuceno v. Salazar*, G.R. No. 37165, 15 May 1989, 173 SCRA 366.

[9] G.R. No. 140884, 6 March 2001, 353 SCRA 724.

[10] Ibid.

[11] G.R. No. 143398, 25 October 2000, 344 SCRA 358.

[12] Ibid.

[13] Ibid.

[14] The mode by which a decision, order or ruling of the COMELEC en banc may be elevated to the Supreme Court is by the special civil action of certiorari under Rule 65 of the 1964 Revised Rules of Court, now expressly provided in Rule 64, 1997 Rules of Civil Procedure.

[15] See note 11.

[16] 380 Phil. 780 (2000).

[17] Ibid.

[18] Ibid.

[19] *Navarosa v. COMELEC*, G.R. No. 157975, 18 September 2003; *Fermo v. Commission on Elections*, 384 Phil. 584 (2000).

[20] G.R. No. 155618, 26 March 2003.

[21] Repol filed an Urgent Manifestation on 19 April 2004 informing this Court that Ceracas's appeal (docketed as EAC No. A-1-2004) with the COMELEC was dismissed for failure to file an Appellant's Brief.

[22] *Edgar Santos v. Commission on Elections*, *supra*, note 20.

[23] Ibid.

[24] Ibid.

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