INGATUN G. ISTARUL, PETITIONER, VS. COMMISSION ON ELECTIONS AND PAMARAN T. MATURAN, RESPONDENTS.

G.R. NO. 170702. June 16, 2006

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-170702/

AUSTRIA-MARTINEZ, J.:

This resolves the petition for certiorari seeking to set aside the Resolution[1] of the First Division of the Commission on Elections (COMELEC 1[st] Division) dated October 21, 2005 granting private respondent's petition for certiorari and prohibition, and the Resolution[2] of the Commission on Elections En Banc (COMELEC En Banc) dated December 12, 2005 affirming the aforementioned Resolution of the COMELEC 1[st] Division.

A thorough scrutiny of the records reveals that the narration of the antecedent facts set forth in the COMELEC 1[st] Division Resolution dated October 21, 2005 is undisputed; hence, the pertinent portions thereof are reproduced hereunder:

> During the 2004 elections, Maturan [herein private respondent], Istarul [herein petitioner] as well Munap H. Pacio and Ahmad Atahal ran for the position of mayor of the municipality of Tipo-Tipo, Basilan.
>
> Maturan was eventually proclaimed by the Municipal Board of Canvassers as the duly elected mayor of Tipo-Tipo. Thereafter, private respondent Istarul filed an election protest [3] case docketed Election Case No. 01-04. Pacio, another losing candidate, also filed his protest case docketed as Election Case No. 26-04. Both cases were assigned to the public respondent [4] who, for reason of consistency, decided them jointly. The dispositive portion of the joint decision dated August 10, 2005 is quoted as follows:"WHEREFORE, in view of all the foregoing, the court hereby ANNULS the proclamation of protestee dated May 15, 2004, and DECLARES protestant Ingatun G. Istarul as the duly elected Mayor of the Municipality of Tipo-Tipo, Basilan, having obtained the highest number of votes for the said office in the election held on May 10, 2004."

On the same date, August 10, 2005, petitioner filed his Notice of Appeal. The following day, August 11, 2004, private respondent filed his Motion for Execution Pending Appeal. On August 17, 2005, petitioner filed his Opposition thereto. After the hearing, specifically on August 22, 2005, public respondent issued its Special Order granting private respondent's Motion. He also issued a Writ of Execution on the same day.

On August 23, 2005, the instant petition was filed. On the same day, this Commission (First Division) issued a Temporary Restraining/Status Quo Ante Order.

After the hearing, both parties filed their respective memoranda. Thereafter, the case was deemed submitted for resolution.[5]

On October 21, 2005, the COMELEC 1[st] Division issued a Resolution holding that there are no good reasons to justify the issuance of the Special Order granting execution pending appeal. The COMELEC 1[st] Division ruled that Judge Danilo Bucoy's failure to establish that public interest would be served; and that a mere statement about the length of time that the case had been pending in the trial court do not support the issuance of said Order.

The COMELEC 1[st] Division further noted in its Resolution that Judge Bucoy failed to state in the Joint Decision dated August 10, 2005 his explanation for crediting certain ballots in favor of either of the parties, thus, violating the principle that a decision should clearly show the basis for the judge's rulings. It then concluded that the decision is seriously impaired and cannot be the source of a valid execution pending appeal.

The dispositive portion of the Resolution of the COMELEC 1[st] Division dated October 21, 2005 reads as follows:

> WHEREFORE, premises considered, the petition is hereby GRANTED. Accordingly, the Special Order and the Writ of Execution issued by the public respondent, the Honorable Danilo Bucoy, dated August 22, 2005 are hereby REVERSED and SET ASIDE. Private Respondent INGATARUN G. ISTARUL is directed to immediately cease and desist from performing his functions as mayor of the municipality of Tipo-Tipo, Basilan. Petitioner PAMARAN MATURAN is restored to his position as Mayor of the same municipality and instructed to perform his functions as such until the final determination of the appeal case he filed.
>
> SO ORDERED.[6]

Petitioner then filed a motion for reconsideration which was referred to the COMELEC En Banc. On December 12, 2005, it issued a Resolution affirming the Resolution of the COMELEC 1[st] Division. The COMELEC En Banc reiterated that there were no good reasons for the issuance of execution pending appeal because a final determination of the true will of the people would be had only after the resolution of the appeal pending with the COMELEC 1[st] Division.

Aggrieved by the actions of the COMELEC 1[st] Division and the En Banc, petitioner then filed the present petition for certiorari assailing said Tribunal's Resolutions.

Petitioner prayed for the issuance of a temporary restraining order which this Court granted in its Resolution dated January 17, 2006. Thereafter, private respondent filed a motion to lift the temporary restraining order. On February 28, 2006, the Court issued a Resolution dissolving the temporary restraining order because private respondent was able to prove that, at the time of the filing of the petition, he was the one acting as Mayor of Tipo-Tipo, Basilan.

As grounds for allowance of the petition, it is alleged that:

> 5.1.1. The Comelec seriously erred in wantonly disregarding the jurisprudential rule on execution pending appeal.
>
> 5.1.2. The Comelec seriously erred in ignoring that rule that, as between two presumptive winners, the proclamation made by the court prevails over that of the board of canvassers.
>
> 5.1.3. The Comelec seriously erred in not considering the fact that petitioner never filed a motion for reconsideration with the trial court.
>
> 5.1.4. The assailed Resolution violated the right of the petitioner to procedural due process and the equal protection clause since it never considered the basic issues raised by petitioner in his pleadings.[7]

Private respondent, on the other hand, counters that the Joint Decision of Judge Bucoy dated August 10, 2005 is null and void for failure of the trial court to state particular reasons for rejecting certain ballots and, as such, it should not be executed pending appeal. He further argues that in this case, the filing of a motion for reconsideration with the trial court before filing his petition for certiorari with the COMELEC could be dispensed with considering that the need for relief is extremely urgent.

It should be borne in mind that "unless the COMELEC is shown to have committed grave abuse of discretion, its

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

decision will not be interfered with by this Court."[8] In this case, petitioner fails to convince the Court that the COMELEC 1[st] Division and En Banc committed grave abuse of discretion amounting to lack of jurisdiction.

It is clear from the discussion in the petition that what are assigned as errors of the COMELEC 1[st] Division and En Banc - i.e., that the COMELEC erred in wantonly disregarding the jurisprudential rule on execution pending appeal; in ignoring that rule that, as between two presumptive winners, the proclamation made by the court prevails over that of the board of canvassers; in not considering the fact that private respondent did not file a motion for reconsideration before the trial court; and in not considering the issues raised by petitioner in his pleadings - are merely alleged errors of judgment as they question the wisdom and legal soundness of the COMELEC's resolutions and not the jurisdiction of said body. In People v. Court of Appeals,[9] the Court expounded on the function of the remedy of certiorari as follows:

> As observed in Land Bank of the Philippines v. Court of Appeals, et al. "the special civil action for certiorari is a remedy designed for the correction of errors of jurisdiction and not errors of judgment. The raison d'etre for the rule is when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. In such a scenario, the administration of justice would not survive. Hence, where the issue or question involved affects the wisdom or legal soundness of the decision - not the jurisdiction of the court to render said decision - the same is beyond the province of a special civil action for certiorari. x x x [10] (Emphasis supplied)

Evidently, since the issues raised in this petition merely question the correctness of the COMELEC's rulings, petitioner cannot avail of the writ of certiorari.

Nevertheless, a close examination of the records reveals that petitioner's allegations are baseless.

There is no showing whatsoever that the COMELEC disregarded the jurisprudential rule on execution pending appeal. On the contrary, the COMELEC 1[st] Division and the COMELEC En Banc proceeded on the premise that, indeed, execution pending appeal may be granted in election cases provided there are good reasons therefore as held in a long line of cases.[11] Unfortunately, in this case, the COMELEC 1[st] Division and COMELEC En Banc found the "good reasons" alleged by petitioner and relied on by the trial court to be insufficient to justify the issuance of the special order granting execution pending appeal.

Petitioner cites as one of the "good reasons" for execution pending appeal, the will of the electorate, based on the finding of the trial court that he garnered the highest number of votes for the position of mayor of Tipo-Tipo, Basilan during the May 2004 elections. However, the COMELEC 1st Division, in its Resolution dated October 21, 2005, found the trial court's Joint Decision to be "seriously impaired" for its (trial court's) failure to state any explanation as to its rulings regarding the crediting of votes in favor of the candidates and the COMELEC concluded that "a decision suffering from grave infirmities cannot be a source of a valid execution."[12]

A perusal of the Joint Decision of the trial court, on its face, shows that the COMELEC's observation that there was a total lack of explanation for the trial court's rulings for crediting ballots or votes in favor of the candidates, is correct. Apparently, the supposed victory of petitioner has not been clearly established. Hence, the COMELEC has a valid basis for not considering the supposed will of the electorate as a "good reason" to allow execution pending appeal. Having such a basis for its ruling, the COMELEC cannot be deemed to have gravely abused its discretion.

Verily, there is, as yet, no strong evidence that it is, indeed, the will of the electorate for herein petitioner to occupy the position of mayor of Tipo-Tipo, Basilan, as said issue is still pending resolution in the appeal filed by private respondent before the COMELEC.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

Moreover, the length of time that the election protest has been pending, thus, leaving petitioner only 21 months as the remaining portion of the term to serve as mayor, does not constitute "good reason" to justify execution pending appeal. The case of Fermo v. Comelec,[13] which is closely analogous to the present case, is instructive. Therein, the Court stated thus:

> "Shortness of term," alone and by itself cannot justify premature execution. It must be manifest in the decision sought to be executed that the defeat of the protestee and the victory of the protestant has been clearly established.[14] (Emphasis supplied)

The COMELEC also did not ignore the rule that, as between two presumptive winners, the proclamation made by the trial court prevails over that of the board of canvassers. However, after finding that the trial court's ruling regarding which candidate garnered the highest number of votes is unreliable, the COMELEC applied the ruling in Camlian v. Comelec,[15] where the Court agreed with the COMELEC that:

> x x x while it is true that when an election protest is filed the protestee is only considered a presumptive winner until the protest is resolved, in the same way, when a protestant is adjudged the winner by a court of law but the case is on appeal with the Commission, such appeal likewise makes the protestant a presumptive winner and, unless meritorious grounds exist to execute judgment pending appeal, it is illogical to replace a presumptive winner proclaimed by a board of canvassers, by another presumptive winner so declared by a court. It needs no explanation that when a protestant is installed as a winner pending appeal, that in itself is already disruptive of the government service. How much more if the protestee wins the appeal in which case he will have to be reinstalled again to the office which he was forced to vacate?[16] (Emphasis supplied)

With regard to petitioner's asseveration that the COMELEC did not consider the circumstance that private respondent did not file a motion for reconsideration of the Special Order before filing the petition for certiorari, the Court finds the same unmeritorious. Note that the COMELEC 1[st] Division pointed out that "a decision suffering from grave infirmities cannot be a source of a valid execution."[17] Evidently, the COMELEC found the case to be one of those falling within the exceptions to the general rule that the filing of which is an indispensable condition to the filing of a special civil action for certiorari. Some of the exceptions to this general rule are: (1) when public interest is involved, (2) the matter is one of urgency, and (3) the order is a patent nullity.[18] Since the COMELEC found the Joint Decision of the trial court to be seriously impaired, it then concluded that the Special Order granting execution pending appeal is invalid or a patent nullity; and that the trial court was then acting with grave abuse of discretion amounting to lack of jurisdiction when it issued said Special Order. Again, the Court finds no grave abuse of discretion committed by the COMELEC in ruling so.

Petitioner tries to impress upon the Court that the COMELEC acted with bias. He cites the speed with which the COMELEC 1[st] Division issued and served the Temporary Restraining Order on the trial court in Basilan. However, petitioner failed to submit any proof of the alleged irregularity that the bailiff of the COMELEC was already in Basilan in the morning of August 24, 2005 to serve the TRO, while the order for him to proceed to Basilan was released only at noon of August 24, 2005.

Petitioner also questions the fact that the Resolution of the COMELEC 1[st] Division dated October 21, 2005 was promulgated merely four days after the submission of the parties' memoranda. This circumstance does not at all show bias or grave abuse of discretion. Rather, it shows that the COMELEC is upholding its mandate to resolve issues before it with dispatch.

Lastly, petitioner questions why the COMELEC did not dismiss the petition filed by private respondent despite the fact that private respondent had allegedly been convicted of nepotism and violation of Section 4 (c) of Republic Act No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees." Thus, argues petitioner, private respondent had lost the legal personality to pursue the case against

petitioner. Private respondent was, however, able to present a Joint Order[19] of the Office of the Ombudsman dated January 11, 2006 stating that herein private respondent's motion for reconsideration is submitted for resolution. This proves that the judgment of the Ombudsman has not yet become final and executory as private respondent's motion for reconsideration of the resolution of the Ombudsman is still pending. Furthermore, this issue is better addressed in the appeal before the COMELEC, as the only issue in this petition for certiorari is whether or not the COMELEC gravely abused its discretion by setting aside the trial court's Special Order allowing execution pending appeal.

In sum, petitioner has not sufficiently proven that the COMELEC acted with bias or capricious and whimsical arbitrariness to warrant the issuance of the writ of certiorari.

WHEREFORE, the petition is DISMISSED for lack of merit. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Sandoval-Gutierrez, Carpio, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.
Ynares-Santiago, J., on leave.

---

[1] Per Curiam

[2] Per Curiam

[3] With the Regional Trial Court, Branch 2, Isabela City, Basilan.

[4] Judge Danilo Bucoy.

[5] Rollo, pp. 55-56.

[6] Rollo, pp. 60-61.

[7] Rollo, p. 11.

[8] Sarangani v. Commission on Elections, G.R. Nos. 155560-62, November 11, 2003, 415 SCRA 614, 623.

[9] G.R. No. 142051, February 24, 2004, 423 SCRA 605.

[10] Id. at 613.

[11] Navarosa v. Comelec, G.R. No. 157957, September 18, 2003, 411 SCRA 369; Fermo v. Comelec, 384 Phil. 584 (2000); Ramas v. Comelec, 349 Phil. 857 (1998); Garcia v. De Jesus, G.R. No. 88158, March 4, 1992, 206 SCRA 779; Gahol v. Riodique, No. L-40415, June 27, 1975, 64 SCRA 494.

[12] Rollo, p. 60.

[13] 384 Phil 584 (2000).

[14] Id. at 592.

[15] 338 Phil. 474 (1997).

[16] Id. at 765.

[17] Rollo, p. 60.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[18] Far East Bank and Trust Co. v. Toh, Sr., 452 Phil. 734 (2003).

[19] Rollo, pp. 144-145.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.