

ARNULFO A. AGUILAR, PETITIONER, VS. COURT OF APPEALS, CIVIL SERVICE COMMISSION AND COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. No. 172986. October 02, 2009

Ponente: BRION, J.

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BRION, J.:

The present petition provides an occasion to revisit the doctrine that perfection of an appeal within the reglementary period is not only mandatory but also jurisdictional; failure to perfect the appeal renders the challenged decision final and executory, and deprives the appellate court or tribunal of the jurisdiction to entertain the appeal and to alter the final decision.

THE CASE

Before us is the petition for review on certiorari^[1] filed by petitioner Arnulfo A. Aguilar (petitioner) to reverse and set aside the decision^[2] dated September 23, 2004 and resolution^[3] dated June 1, 2006 of the Special Former Eighth Division of the Court of Appeals (CA) in CA-G.R. SP No. 68853 entitled "Arnulfo A. Aguilar v. Civil Service Commission and Commission on Elections."

FACTUAL BACKGROUND

The facts of the case, as gathered from the records, are briefly summarized below.

During the 1998 National and Local Elections, the petitioner, an Election Officer (EO) IV of the Commission on Elections (COMELEC)-Navotas, was designated as Acting EO and Chairman of the Municipal Board of Canvassers (MBC) of San Pedro, Laguna. His duties included the canvassing of election returns, the preparation of the certificates of canvass of votes, and the proclamation of the winning candidates.

At 6 o'clock in the evening of May 11, 1998, the MBC convened in the Session Hall of the Sangguniang Bayan, San Pedro, Laguna, to receive and tabulate the election returns and certificates of canvass. At about 1:30 a.m. of May 15, 1998, the MBC resolved to suspend its proceedings and to continue at 3:30 p.m. that same day. The petitioner failed to report back to his post when the MBC resumed the canvassing. The MBC eventually proclaimed the winners without the petitioner's participation due to his absence.

On June 2, 1998, Geronima F. Abellera (Abellera) filed a letter-complaint^[4] against the petitioner. Abellera questioned the validity of the proclamation of the winning candidates, since the certificates of canvass and proclamation did not bear the signature of the petitioner as MBC Chairman.

On June 11, 1998, then COMELEC Executive Director Resurreccion Z. Borra directed^[5] the petitioner to explain in writing his alleged abandonment of position as Chairman of the MBC.

On June 16, 1998, the petitioner responded to the directive through a memorandum.^[6] He explained that he did

not abandon his post, but he was absent due to illness and that he duly requested relief from duty from the COMELEC Regional Director. The COMELEC en banc referred the case to its Law Department for appropriate action.[7]

On February 4, 1999, the petitioner was formally charged with Ignorance of the Law, Grave Misconduct, Neglect of Duty, Abandonment and Conduct Unbecoming a Public Officer Prejudicial to the Interest of Public Service for his failure to report back to his post as Chairman of the MBC.[8] He was also preventively suspended for sixty (60) days pending investigation of the case.

In his formal answer dated March 12, 1999, the petitioner explained that his failure to return to his post was due to illness, physical exhaustion, and death threat from the militant group "Alex Boncayao Brigade" (ABB). The petitioner also waived his right to a formal investigation.

Despite the petitioner's waiver, the COMELEC conducted a formal investigation.

THE COMELEC RULING

The COMELEC, through Resolution No. 99-1067 dated May 31, 1999, found the petitioner guilty of Abandonment, Neglect of Duty and Conduct Unbecoming a Public Officer, and imposed on him the penalty of suspension from the service for six (6) months.[9]

The petitioner received a copy of Resolution No. 99-1067 on August 26, 1999.[10] On August 30, 1999, the petitioner moved, through a Memorandum, for the reconsideration of the COMELEC resolution and the lifting of his suspension,[11] but the COMELEC denied the motion in Resolution No. 99-1805 dated October 11, 1999.[12]

Instead of filing an appeal with the Civil Service Commission (CSC), the petitioner sought, on November 26, 1999, the reconsideration of his suspension through another Memorandum, but the COMELEC denied the motion in Resolution No. 00-0215 dated January 27, 2000.[13] The petitioner then filed an Urgent Motion for Reinvestigation, but the COMELEC likewise denied this motion under Resolution No. 00-0399 dated February 17, 2000.[14]

On April 28, 2000, the petitioner filed his Notice of Appeal together with his Appeal Memorandum with the CSC. The petitioner alleged that there was no substantial evidence to hold him liable for the offenses charged against him, and that there was failure to comply with the requirements of due process.

THE CSC RULING

On August 17, 2001, the CSC issued Resolution No. 011396 dismissing the petitioner's appeal.[15] The CSC found that the petitioner failed to provide evidentiary support for the reasons he gave for his failure to return to his post. The CSC noted that he failed to submit the required medical certificate showing that he was sick at that time, nor did he communicate with other members of the MBC when it resumed the canvassing in the afternoon of May 15, 1998 until the completion of the canvass on May 16, 1998. It also noted that the alleged ABB death threat did not exist, since the ABB letter simply warned the petitioner not to commit any irregularity that would impair the results of the election. The CSC found no merit in the claimed denial of due process, since the right to the assistance of counsel is not an indispensable requirement of due process, except during custodial investigation and during the trial of the accused.

The CSC, however, modified COMELEC Resolution No. 99-1067 by finding the petitioner guilty of Gross Neglect of Duty and Conduct Grossly Prejudicial to the Best Interest of the Service and imposing on him the penalty of dismissal from the service. The CSC observed that the petitioner's act of leaving his post as Election

Officer and Chairman of the MBC was a serious breach that endangered the public welfare, at the same time that it prejudiced the public service; it affected the efficient canvassing of votes and put into question the legality of the winners' proclamation.

The petitioner moved for a reconsideration of CSC Resolution No. 011396, but the CSC denied the motion in Resolution No. 20015[16] dated January 3, 2002.

The petitioner then elevated his case to the CA through a petition for review under Rule 43 of the Rules of Court. He prayed that all the resolutions of the CSC and the COMELEC be set aside, and the penalty of dismissal imposed upon him be lifted for lack of factual and legal basis.

THE CA RULING

On September 23, 2004, the CA rendered a decision dismissing the petition on the ground that CSC Resolution No. 011396 had become final and executory without any timely motion for reconsideration having been filed, and could therefore no longer be modified, altered or reversed. The appellate court found that the petitioner's motion for reconsideration with the CSC was filed only on October 1, 2001, more than 15 days from September 7, 2001, when the petitioner received a copy of CSC Resolution No. 011396.

The petitioner moved but failed to secure reconsideration of the CA decision; hence, he came to us through the present petition.

THE PETITION and THE PARTIES' POSITIONS

The petitioner prays for judicial leniency because at stake is not only his employment with the COMELEC but also his means of livelihood. He contends that he filed his motion for reconsideration on September 25, 2001 as indicated by the date stamped on the motion, not October 1, 2001 as declared by the CA. He further argues that when he filed his motion for reconsideration on September 25, 2001 it was only one day late since the fifteen-day period from September 7, 2001, the day he received CSC Resolution No. 011396, fell on September 22, 2001, a Saturday, and he had until September 24, 2001, a Monday, to file his motion.

The petitioner maintains that he is not guilty of abandonment or neglect of duty because his inability to report back for the scheduled resumption of canvass was justified by sickness and death threats from the ABB. In addition, he claims that his request for temporary relief from duty was granted by Atty. Milagros Somera, COMELEC Regional Director for Region IV.

The respondents CSC and COMELEC, through the Office of the Solicitor General (OSG), counter-argue that the petition is defective in form and should be dismissed outright, since it improperly impleads the CA as party respondent in violation of Section 4 of Rule 45 of the Rules of Court. The OSG defends the decision of the CA to dismiss the petition by pointing out that the petitioner filed his motion for reconsideration of CSC Resolution No. 011396 beyond the fifteen-day reglementary period.

The OSG further submits that the CSC correctly found the petitioner guilty of Gross Neglect of Duty and Conduct Grossly Prejudicial to the Best Interest of the Service, and correctly imposed the penalty of dismissal from the service. It insists that the petitioner's failure to perform his assigned duties and legal obligations prejudiced the public service because it hampered the smooth canvassing of votes and impaired the integrity of the results of the canvassing.

OUR RULING

We find the petition meritorious.

We deal first with the issue of form raised by the respondents.

Formal defects in petitions are given
liberal treatment to dispose of cases
on the merits rather than on a
technicality

We agree with the OSG that the petition erroneously impleads the CA. The correct procedure, as required by Section 4, Rule 45 of the 1997 Rules of Court, is not to implead the lower court that rendered the assailed decision.[17] However, inappropriately impleading the lower court as respondent in the petition for review on certiorari does not automatically mean the dismissal of the appeal; the rule merely authorizes the dismissal of the petition, as its violation is a mere formal defect,[18] and even as such is not uncommon.[19] In those cases we merely called the petitioners' attention to the defect and proceeded to resolve the cases on their merits.

We find no reason why we should not afford the same liberal treatment to the present case. While, unquestionably, we have the discretion to dismiss the appeal for being defective, sound judicial policy dictates that cases are better disposed on the merits rather than on technicality, particularly when the latter approach may result in injustice.[20] This is in accordance with Section 6, Rule 1 of the Rules of Court[21] which encourages a reading of the procedural requirements in a manner that will help secure and not defeat the ends of justice.[22]

We now proceed to the main issue, which simply is, did the CA err in dismissing the petitioner's petition for review before it for the late filing of the petitioner's motion for reconsideration with the CSC?

We answer in the affirmative.

Finality of Judgment Due to the
Failure to Seasonably File a
Motion for Reconsideration

The CA erred in finding that the petitioner's motion for reconsideration with the CSC was filed only on October 1, 2001, or nine (9) days beyond September 22, 2001 deadline. Our own examination of the records shows that the date of filing with the CSC was September 25, 2001, as indicated by date stamped on the motion.[23] Since September 22, 2001 fell on a Saturday, the petitioner actually had until September 24, 2001, a Monday, to file the motion for reconsideration, pursuant to Section 1, Rule 22 of the Rules of Court.[24] Thus, the petitioner was one day late when he filed his motion for reconsideration on September 25, 2001.

On this point, the CA conclusion is correct although it erroneously recognized October 1, 2001 as the date of filing of the motion. Whether with our count or with the CA's, the same result is achieved; the motion was not filed on time, resulting in the finality of the judgment sought to be reconsidered.

Other Reasons for Finality; the
Doctrine of Finality of Judgments

Even if we liberally treat the petitioner's one-day tardiness in the filing of his motion for reconsideration, the COMELEC decision nevertheless lapsed into finality for reasons subsequent to the motion for reconsideration. Although the parties did not put these subsequent developments in issue, we are not prevented from delving into these developments, since they affect the jurisdiction of the CSC to entertain the appeal.[25]

Jurisprudence teaches us that the perfection of an appeal within the statutory or reglementary period is not only mandatory, but also jurisdictional.[26] This rule is founded upon the principle that the right to appeal is not part of due process of law but is a mere statutory privilege to be exercised only in the manner and in accordance with the provisions of the law.[27] Failure to interpose a timely appeal (or a motion for reconsideration) renders the appealed decision, order or award final and executory and this deprives the appellate body of any jurisdiction to alter the final judgment,[28] more so, to entertain the appeal.[29]

Rule III of CSC Resolution No. 991936,[30] otherwise known as the Uniform Rules on Administrative Cases in the Civil Service (URACCS), provides the following remedies to a party adversely affected by the decision of the disciplining authority:

Section 38. Filing of Motion for Reconsideration. - The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof.

x x x

Section 41. Limitation. - Only one motion for reconsideration shall be entertained.

x x x

Section 43. Filing of Appeals. - Decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty days salary, may be appealed to the Commission Proper within a period of fifteen (15) days from receipt thereof. x x x (Emphasis supplied)

In the present case, the petitioner, instead of filing a proper appeal with the CSC, filed a second motion for reconsideration with the COMELEC on November 26, 1999 after the denial of his first motion for reconsideration in COMELEC Resolution No. 99-1805 dated October 11, 1999. The petitioner also subsequently filed an Urgent Motion for Reinvestigation. When the petitioner filed his Notice of Appeal with the CSC on April 28, 2000, more than six (6) months had lapsed, and the CSC should have forthwith denied his Notice of Appeal for non-compliance with Rule III of the URACCS. The petitioner's Notice of Appeal on April 28, 2000, having been filed beyond the fifteen-day reglementary period, did not toll COMELEC Resolution No. 99-1067 from becoming final and executory.

The settled and firmly established rule is that a decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of the judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land.[31] The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write finis to disputes once and for all. This is a fundamental principle in our justice system, without which no end to litigations will take place. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act that violates such principle must immediately be struck down.[32] Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of courts, but extends as well to those of all other tribunals exercising adjudicatory powers.[33]

Being an immutable decision, COMELEC Resolution No. 99-1067 may no longer be modified, altered or changed. CSC Resolution No. 011396 which modified a final and executory judgment is a void judgment. As such, it is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences

of a valid adjudication.[34] Thus, CSC Resolution No. 011396 finding the petitioner guilty of Gross Neglect of Duty and Conduct Grossly Prejudicial to the Best Interest of the Service, and the consequent penalty of dismissal from the service is rendered ineffectual. The petitioner is entitled to full backwages from the time he has duly served his six-month suspension under COMELEC Resolution No. 99-1067 until his actual reinstatement.

WHEREFORE, premises considered, we hereby REVERSE and SET ASIDE the Decision of the Court of Appeals in CA-G.R. SP No. 68853 dated September 23, 2004. CSC Resolution No. 011396 dated August 17, 2001, having been issued in violation of the rule on immutability of decisions, is ANNULLED and SET ASIDE. Petitioner Arnulfo F. Aguilar is hereby REINSTATED to his former position as Election Officer IV after having duly served his six-month suspension under COMELEC Resolution No. 99-1067 dated May 31, 1999. He is entitled to backwages from the time he completed service of his suspension until his actual reinstatement.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, Bersamin, Del Castillo, and Abad, JJ., concur.
Quisumbing, J., on Sabbatical leave.

[1] Filed under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Aurora Santiago-Lagman, with Associate Justice Portia Aliño-Hormachuelos and Associate Justice Rebecca de Guia-Salvador; rollo, pp. 61-66.

[3] Rollo, pp. 58-59.

[4] Id., pp. 148-150.

[5] Id., p. 151.

[6] Id., pp. 152-153.

[7] Id., p. 154.

[8] Id., pp. 157-159.

[9] Id., pp. 164-165.

[10] Id., pp. 168-171.

[11] Ibid.

[12] Id., p. 172.

[13] Id., p. 175.

[14] Id., pp. 176-177.

[15] Id., pp. 72-78.

[16] Id., pp. 68-71.

[17] SEC. 4. Contents of petition. - The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner; and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof

either as petitioners or respondents; x x x (Emphasis supplied)

[18] SEC. 5. Dismissal or denial of petition. - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.x x x (Emphasis supplied)

[19] *Bejoc v. Cabrerros*, G.R. No. 145849, July 22, 2005, 464 SCRA 78, 80; *Miguel v. JCT Group, Inc.*, G.R. No. 157752, March 16, 2005, 453 SCRA 529, 531; *Villamor v. National Power Corporation*, G.R. No. 146735, October 25, 2004, 441 SCRA 329, 330; *Payongayong v. Court of Appeals*, G.R. No. 144576, May 28, 2004, 430 SCRA 210, 212; *Hanil Development Co., Ltd. v. Court of Appeals*, G.R. Nos. 113176 & 113342, July 30, 2001, 362 SCRA 1, 5; *Philippine Global Communications, Inc. v. Relova*, No. L-60548, November 10, 1986, 145 SCRA 385, 387.

[20] *Gutierrez v. Cabrera*, G.R. No. 154064, February 28, 2005, 452 SCRA 521, 529; *Asia Traders Insurance Corporation v. Court of Appeals*, G.R. No. 152537, February 16, 2004, 423 SCRA 114, 118; *Armed Forces of the Philippines Mutual Benefits Association, Inc. v. Court of Appeals*, G.R. No. 126745, July 26, 1999, 311 SCRA 143, 157.

[21] SEC. 6. Construction. - These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.

[22] *Gutierrez v. Cabrera*, supra note 20, at 529-530; *Paras v. Baldado*, G.R. No. 140713, March 8, 2001, 354 SCRA 141, 145.

[23] *Rollo*, p. 178.

[24] Section 1 of Rule 22 of the 1997 Rules of Court provides:

SECTION 1. How to compute time. - x x x If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

[25] Section 8, Rule 51 of the 1997 Rules of Court states:

SEC. 8. Questions that may be decided. – No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

[26] *Yaneza v. Court of Appeals*, G.R. No. 149322, November 28, 2008; *Petilla v. Court of Appeals*, G.R. No. 150792, March 3, 2004, 424 SCRA 254, 261.

[27] *David v. Cordova*, G.R. No. 152992, July 28, 2005, 464 SCRA 384, 395; *Delgado v. Court of Appeals*, G.R. No. 137881, December 21, 2004, 447 SCRA 402, 413; *Fukuzumi v. Sanritsu Great International Corporation*, G.R. No. 140630, August 12, 2004, 436 SCRA 228, 234; *Zaragosa v. Nobleza*, G. R. No. 144560, May 13, 2004, 428 SCRA 410, 419.

[28] *San Miguel Corporation v. National Labor Relations Commission*, G.R. No. 101021, April 6, 1993, 221 SCRA 48, 51; *Paramount Vinyl Corp. v. NLRB*, G.R. No. 81200, October 17, 1990, 190 SCRA 525.

[29] Effective September 26, 1999.

[30] *Salvacion v. Sandiganbayan*, G.R. No. 175006, November 27, 2008; *Philippine Commercial International*

Bank v. Court of Appeals, 452 Phil. 542, 551 (2003).

[31] Collantes v. Court of Appeals, G.R. No. 169604, March 6, 2007, 517 SCRA 561, 562; Ramos v. Ramos, 447 Phil. 114, 119 (2003).

[32] Temic Semiconductors, Inc. Employees Union (TSIEU)-FFW, et al. v. Federation of Free Workers (FFW), G.R. No. 160993, May 20, 2008, 554 SCRA 122, 134; Peña v. Government Service Insurance System (GSIS), G.R. No. 159520, September 19, 2006, 502 SCRA 383, 404; Fortich v. Corona, G.R. No. 131457, April 24, 1998, 289 SCRA 624, 651.

[33] Peña v. Government Service Insurance System (GSIS), supra note 32; San Luis v. Court of Appeals, G.R. No. 80160, June 26, 1989, 174 SCRA 258, 271.

[34] Roces v. House of Representatives Electoral Tribunal, G.R. No. 167499, September 15, 2005, 469 SCRA 681; Nazareno v. Court of Appeals, G.R. No. 111610, February 27, 2002, 378 SCRA 28, 35.

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