

MAYOR IBARRA R. MANZALA, PETITIONER, VS. COMMISSION ON ELECTIONS AND JULIE R. MONTON, RESPONDENTS.

G.R. No. 176211. May 08, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for certiorari and prohibition with prayer for the issuance of a temporary restraining order (TRO), or status quo ante order, and/or writ of preliminary injunction.

Petitioner Ibarra R. Manzala seeks to annul the resolution, dated August 24, 2006, of the Former Second Division[1] of the Commission on Elections (COMELEC), declaring private respondent Julie R. Monton to be the duly elected Municipal Mayor of Magdiwang, Romblon in the May 10, 2004 National and Local Elections, and the resolution of the COMELEC en banc,[2] dated January 24, 2007, denying petitioner's motion for reconsideration and affirming the Resolution of August 24, 2006 with modification as to the number of votes obtained by both parties after re-appreciation.

The antecedents are as follows:

Petitioner Ibarra R. Manzala and private respondent Julie R. Monton were mayoralty candidates in the Municipality of Magdiwang, Romblon, during the May 10, 2004 National and Local Elections. On May 13, 2004, the Municipal Board of Canvassers proclaimed private respondent as the duly elected Municipal Mayor with 2,579 votes, or a margin of 13 votes, over petitioner's 2,566 votes.

On May 19, 2004, petitioner filed an election protest with the Regional Trial Court of Romblon, Branch 81 (Election Protest Case No. 7), seeking recount in the 10 precincts of Magdiwang on the grounds of fraud, serious irregularities, and willful violation of the Omnibus Election Code (Batas Pambansa Bilang 881) and other pertinent COMELEC rules allegedly committed by the voters and the Chairman and members of the Board of Election Inspectors during the election.

Private respondent filed an Answer with Counter-Protest and Counterclaim, averring that the election was held peacefully with no irregularity whatsoever. By way of counter-protest, private respondent contested the election in certain precincts, to wit: Precincts 41A, 40A, 39A, 38A, 37A, 36A and 35A of Barangay Tampayan; Precincts 1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, 9A and 9B of Barangay Poblacion; Precinct 16A of Barangay Agutay; Precinct 24A of Barangay Dulangan; and Precinct 32A of Barangay Jao-asan.

Thereafter, petitioner filed a Reply and Answer to the Counter-Protest and Counterclaim.

A revision of ballots was later conducted. In its decision of December 8, 2005, the trial court rendered judgment in favor of petitioner, thus:

WHEREFORE, premises considered, protestant IBARRA R. MANZALA is hereby proclaimed as the duly-elected Municipal Mayor of Magdiwang, Romblon during the election of May 10, 2004 who won over protestee JULIE R. MONTON with a majority of 137 valid votes and is entitled to occupy said position. The

proclamation by the MUNICIPAL BOARD OF CANVASSERS of Magdiwang, Romblon that JULIE R. MONTON was the duly-elected MAYOR is hereby ANNULLED.

SO ORDERED.[3]

Petitioner moved for the execution of the decision pending appeal which the trial court granted on December 16, 2005.

On appeal, private respondent raised the following assignment of errors: that the trial court seriously erred in invalidating 144 votes of private respondent ostensibly on the ground of pattern voting; that sets of ballots were marked, as well as written by two persons; that the trial court erred in not considering and appreciating the objections raised by private respondent involving the counter-protested precincts, and in arriving at its decision, it considered only the objections and/or exhibits of the petitioner; and that the trial court seriously erred when it declared petitioner as the duly elected Municipal Mayor of Magdiwang, Romblon despite the patent defects in the appealed decision.

On August 24, 2006, the Former Second Division of the COMELEC issued a Resolution which reversed and set aside the decision of the trial court. It found that private respondent obtained 2,560 votes, or a margin of 17 votes, over petitioner's 2,543 votes. The dispositive portion of the Resolution reads:

WHEREFORE, the instant appeal is hereby GRANTED. The December 8, 2005 Decision of the Regional Trial Court, Fourth Judicial Region, Branch 81, Romblon, Romblon in Election Protest Case No. 7 is hereby REVERSED and SET ASIDE.

ACCORDINGLY, the Commission (Former Second Division) hereby DECLARES protestee-appellant JULIE E. MONTON, the duly-elected Municipal Mayor of Magdiwang, Romblon during the May 10, 2004 National and Local Elections.

SO ORDERED.[4]

Petitioner's motion for reconsideration was denied by the COMELEC en banc in its Resolution of January 24, 2007. It affirmed the earlier Resolution dated August 24, 2006 which proclaimed private respondent as the duly elected Municipal Mayor with modification as to the number of votes obtained by both parties after re-appreciation, i.e., private respondent garnered 2,535 votes, or a margin of 60 votes, over petitioner's 2,475 votes.

Meanwhile, acting on private respondent's Motion for Immediate Execution and Issuance of an Entry of Judgment, the COMELEC en banc issued a writ of execution on February 28, 2007 declaring its Resolution of January 24, 2007 as final and executory as of February 26, 2007.

Consequently, in the Order dated March 1, 2007, the COMELEC en banc directed the implementation of the writ of execution ordering petitioner to cease and desist from discharging the powers and functions of the Office of the Municipal Mayor of Magdiwang, Romblon; to relinquish and vacate the post in favor of private respondent; and to cause the smooth turn-over of the office to the latter.

On February 1, 2007, petitioner filed this petition for certiorari and prohibition contending that the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in declaring private respondent as the duly elected Municipal Mayor of Magdiwang, Romblon with a prayer that the COMELEC be directed to cease and desist from implementing the challenged Resolutions of August 24, 2006 and January 24, 2007.

Private respondent maintains that "to allow the arguments of the petitioner to prevail would make him assume office by the grace of impropriety and misappreciation of ballots by the lower court, whose decision has already

been reversed and set aside by the Former Second Division of the COMELEC and affirmed by the Commission en banc."

The petition should be dismissed.

Petitioner argues that the motion for reconsideration filed with the Former Second Division of the COMELEC "has thrown the whole case wide open for review as in a trial de novo in a criminal case," yet the COMELEC en banc failed to conduct a thorough review of the contested ballots.

This argument has no basis. Section 2 (2) of Article IX-C of the Constitution provides the COMELEC with quasi-judicial power to exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable. Section 3 thereof states the administrative power of the COMELEC, either en banc or in two divisions, to 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.

Clearly, from the decision of the trial court, the COMELEC exercises appellate jurisdiction to review, revise, modify, or even reverse and set aside the decision of the former and substitute it with its own decision. In the exercise of its adjudicatory or quasi-judicial powers, the Constitution also mandates the COMELEC to hear and decide cases first by division and upon motion for reconsideration, by the COMELEC en banc. Election cases cannot be treated in a similar manner as criminal cases where, upon appeal from a conviction by the trial court, the whole case is thrown open for review and the appellate court can resolve issues which are not even set forth in the pleadings. In the present case, the COMELEC en banc had thoroughly reviewed the decision of its Former Second Division and affirmed the findings thereof with modification as to the number of votes obtained by both parties after re-appreciation, that is, private respondent obtained 2,535 votes, or a margin of 60 votes, over petitioner's 2,475 votes.

Petitioner further contends that the trial court's "judicial appreciation of the contested ballots [should be] honored, respected, and given the importance it deserves by [this] Court."

This contention has no merit. Section 2, Rule 64 of the Rules of Court states that from a judgment or final order or resolution of the COMELEC, the aggrieved party, herein petitioner, may file a petition for certiorari under Rule 65. Thus, in a special civil action of certiorari under Section 1 of Rule 65, the only question that may be raised and/or resolved is whether or not the COMELEC had acted with grave abuse of discretion amounting to lack or excess of jurisdiction.[5] Such fact does not exist in the present case.

Moreover, the appreciation of the contested ballots and election documents involves a question of fact best left to the determination of the COMELEC, a specialized agency tasked with the supervision of elections all over the country. To reiterate, the COMELEC is the constitutional commission vested with the exclusive original jurisdiction over election contests involving regional, provincial and city officials, as well as appellate jurisdiction over election protests involving elective municipal and barangay officials. Consequently, in the absence of grave abuse of discretion or any jurisdictional infirmity or error of law, the factual findings, conclusions, rulings and decisions rendered by the said Commission on matters falling within its competence shall not be interfered with by this Court.[6]

Finally, to justify the issuance of an injunctive relief, petitioner claims that there had been a "misinterpretation and misapplication of the law" by the COMELEC and that "should the facts and circumstances presented in this petition be sufficiently persuasive, ... a writ of preliminary injunction or a temporary restraining order be issued to prevent the public respondent COMELEC from disrupting the stability of governance in the Municipality of Magdiwang, Province of Romblon, in the meantime that the petition is being reviewed."

As a consequence of the dismissal of the instant petition, petitioner's prayer for any form of injunctive relief, perforce, has no factual and legal basis.

WHEREFORE, the petition is DISMISSED for lack of showing that the Commission on Elections committed any grave abuse of discretion in issuing the assailed Resolution, dated August 24, 2006, by the Former Second Division and the Resolution, dated January 24, 2007, by the Commission en banc, which declared private respondent Julie R. Monton to be the duly elected Municipal Mayor of Magdiwang, Romblon in the May 10, 2004 National and Local Elections.

Accordingly, the Commission on Elections en banc is DIRECTED to forthwith cause the full implementation of the Writ of Execution it issued on February 28, 2007 and the Order of March 1, 2007.

In view of the proximity of the next National and Local Elections on May 14, 2007, this Decision is IMMEDIATELY EXECUTORY.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.

Austria-Martinez, and Corona, JJ., on leave.

Carpio-Morales, J., I Certify that J. Morales voted/concurred in the Decision. -CJ RPuno.

[1] Per Commissioner Romeo A. Brawner and concurred in by Commissioner Florentino A. Tuason, Jr.

[2] Per Commissioner Rene V. Sarmiento and concurred in by Chairman Benjamin S. Abalos and Commissioners Resurreccion Z. Borra, Florentino A. Tuason, Jr., Romeo A. Brawner, and Nicodemo T. Ferrer.

[3] See, COMELEC Resolution dated August 24, 2006, Rollo, p. 29.

[4] Id. at 83.

[5] *Carloto v. COMELEC, et al.*, G.R. No. 174155, January 24, 2007.

[6] *Punzalan v. COMELEC*, G.R. No. 126669, April 27, 1998, 289 SCRA 702 citing *Mastura v. COMELEC*, G.R. No. 124521, January 29, 1998, 285 SCRA 493; *Bulaong v. COMELEC*, G.R. No. 116206, February 7, 1995, 241 SCRA 180; *Navarro v. COMELEC*, G.R. No. 106019, December 17, 1993, 228 SCRA 596; *Lozano v. Yorac*, G.R. No. 94521, October 28, 1991, 203 SCRA 256; *Pimping v. COMELEC*, G.R. Nos. L-69765-67, November 19, 1985, 140 SCRA 192.

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