

INDIRA R. FERNANDEZ, PETITIONER, VS. HON. COMMISSION ON ELECTIONS (FIRST DIVISION) AND MARK ANTHONY B. RODRIGUEZ, RESPONDENTS.

G.R. No. 176296. June 30, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

For the resolution of the Court is a petition for certiorari and prohibition filed under Rules 64 and 65 of the Rules of Court assailing the December 4, 2006 Resolution[1] and the January 31, 2007 Order[2] of the Commission on Elections (COMELEC) First Division in EAC No. 14-2004.

The records disclose that, in the July 15, 2002 synchronized barangay and Sangguniang Kabataan (SK) Elections, respondent Rodriguez, who had obtained 27 votes, emerged as the winning candidate for SK chairman of Barangay Pandan del Sur, Pandan, Catanduanes, over his opponent, petitioner Fernandez, who had garnered only 25 votes. Discontented with the results, petitioner instituted an election protest docketed as Election Case No. P-192 with the 4th Municipal Circuit Trial Court (MCTC) of Pandan-Caramoran.[3]

After the conduct of appropriate proceedings, the MCTC rendered its Decision[4] on January 12, 2004, declaring petitioner the duly elected SK chairman of the said barangay and ordering her proclamation as such. The decision was premised on the results of the revision which showed that petitioner obtained 29 votes and respondent, 24.[5]

Adversely affected, respondent appealed the case to the COMELEC. On December 4, 2006, the COMELEC First Division rendered the assailed Resolution[6] nullifying the MCTC's decision. It ruled that 3 ballots marked as Exhibits "1", "4" and "5" should not have been credited to the petitioner, given that they were tampered to show that they represented votes for Fernandez, when in truth they were for Rodriguez. It ruled that where a person other than the voter crossed out the originally written name of a candidate and replaced it with that of another, the vote should be admitted for the original candidate and rejected for the second. Thus, deducting the 3 votes from the 29 votes of the petitioner and adding the same to the 24 votes of the respondent, the result would be 26 for the petitioner and 27 for the respondent, with the latter winning by a single vote.[7]

On January 31, 2007, the COMELEC First Division, in the other assailed Order,[8] denied petitioner's motion for reconsideration for having been filed out of time and found no necessity to refer the same to the COMELEC en banc.

Petitioner, then, on February 6, 2007, filed the instant petition arguing in the main, as she had strongly argued before the COMELEC, that the latter has no appellate jurisdiction over contests involving SK officials decided by trial courts of limited jurisdiction. Even granting that it does, she claimed that the COMELEC gravely abused its discretion in nullifying the decision of the trial court.[9]

The Court dismisses the instant petition.

Considering that the term of the contested office has already expired, the petition has been rendered moot and

academic.[10] Republic Act (R.A.) No. 9164[11] provides that the term of the SK officials elected in the July 15, 2002 synchronized barangay and SK elections shall be 3 years, commencing on August 15, 2002, and ending at noon on November 30, 2005.[12] R.A. 9340,[13] however, amended the aforesaid law and reset the barangay and SK elections to October 2007, thereby extending the term of those elected in 2002 up to noon of November 30, 2007.[14] On the latter date, therefore, the term of the barangay and SK officials elected in 2002 expired. It is thus an exercise in futility for the Court to indulge itself in a review of the records and in an academic discussion of the applicable legal principles to determine who really won the said elections, because whatever judgment is reached, the same can no longer have any practical legal effect or, in the nature of things, can no longer be enforced.[15]

Be that as it may, we deem it necessary to discuss the issue of jurisdiction raised in the petition for the guidance of the bench and the bar.[16]

The 1987 Constitution vests in the COMELEC appellate jurisdiction over all contests involving elective barangay officials decided by trial courts of limited jurisdiction.[17] Construed in relation to the provision in R.A. No. 7160[18] that includes in the enumeration of barangay officials the SK chairman,[19] the constitutional provision indeed sanctions the appellate review by the COMELEC of election protests involving the position of SK chairman, as in the instant case. Hence, we find nothing improper in the COMELEC's assumption of jurisdiction over respondent's appeal.

Petitioner's reliance on our ruling in *Mercado v. Board of Election Supervisors*[20] that contests involving the SK chairman do not fall within Section 252 of the Omnibus Election Code[21] and paragraph 2, Section 2, Article IX-C of the Constitution, is misplaced. The doctrine therein, as we explained in the much later *Marquez v. Commission on Elections*,[22] is no longer controlling. Thus, the rule at the present is that trial courts of limited jurisdiction have exclusive original jurisdiction over election protests involving barangay officials, which include the SK chairman, and that the COMELEC has the exclusive appellate jurisdiction over such protests.[23]

WHEREFORE, premises considered, the petition for certiorari and prohibition is DISMISSED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] Rollo, pp. 25-30.

[2] Id. at 32.

[3] Id. at 26.

[4] Id. at 59-64.

[5] Id. at 27, 63.

[6] Supra note 1.

[7] Rollo, pp. 28-30. The COMELEC First Division disposed of the case as follows:

WHEREFORE, premises considered, the Commission (First Division) RESOLVED, as it hereby RESOLVES, to GIVE DUE COURSE to the instant APPEAL finding it imbued with MERIT.

ACCORDINGLY, protestee-appellant Mark Anthony B. Rodriguez is hereby DECLARED as the DULY ELECTED Sangguniang Kabataan Chairman of Barangay Pandan del Sur, in the July 15, 2002 Synchronized

Barangay and Sangguniang [Kabataan] (SK) Elections. The January 12, 2004 Decision of the 4[th] Municipal Circuit Trial Court of Pandan-[Caramoran] is hereby ORDERED SET ASIDE and the proclamation of protestant-appellee Indira R. Fernandez as Sangguniang Kabataan Chairman of said Barangay is hereby DECLARED NULL and VOID. CONSEQUENTLY, protestant-appellee Indira R. Fernandez is hereby ORDERED to immediately VACATE and RELINQUISH the duties and functions of the Office of Sanggunian Kabataan Chairman, to protestee-appellant Mark Anthony B. Rodriguez.

Let the Office of the Deputy Executive Director on Operations (ODEDO), this Commission, implement and furnish a copy of this Resolution to the Office of the President, Secretary of the Department of Interior and Local Government, Chairman of the Commission on Audit and the Barangay Secretary of Pandan del Sur, Pandan, Catanduanes, upon its finality.

SO ORDERED.

[8] Supra note 2.

[9] Rollo, pp. 135-148. The issues submitted by petitioner for our resolution are the following:

I - WHETHER OR NOT THE RESPONDENT COMELEC (FIRST DIVISION) HAS APPELLATE JURISDICTION TO ENTERTAIN APPEALS FROM DECISIONS OF THE METROPOLITAN TRIAL COURTS/MUNICIPAL TRIAL COURTS/MUNICIPAL CIRCUIT TRIAL COURTS IN CASES INVOLVING THE ELECTION OF THE CHAIRMAN AND MEMBERS OF THE SANGGUNIANG KABATAAN.

II - WHETHER OR NOT THERE IS A STATUTORY RIGHT TO APPEAL FROM THE DECISIONS OF THE AFORESAID COURTS TO ANY HIGHER COURT OR THE COMMISSION ON ELECTIONS.

III - ASSUMING THAT THE RESPONDENT COMELEC (FIRST DIVISION) HAS JURISDICTION OVER AN APPEALED ELECTION CASE, WHETHER OR NOT IT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NULLIFYING THE DECISION OF THE LOWER COURT A QUO. (Id. at 135-136.)

[10] *Albaña v. Commission on Elections*, 478 Phil. 941, 949 (2004); *Trinidad v. Commission on Elections*, 373 Phil. 802, 812-813 (1999), citing *Malaluan v. Commission on Elections*, 324 Phil. 676, 683 (1996).

[11] Entitled "AN ACT PROVIDING FOR SYNCHRONIZED BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING REPUBLIC ACT NO. 7160, AS AMENDED, OTHERWISE KNOWN AS THE 'LOCAL GOVERNMENT CODE OF 1991,' AND FOR OTHER PURPOSES," and approved on March 19, 2002.

[12] Sections 1, 2 and 4 of R.A. 9164 pertinently read:

SEC. 1. Date of Election.—There shall be synchronized barangay and sangguniang kabataan elections which shall be held on July 15, 2002. Subsequent synchronized barangay and sangguniang kabataan elections shall be held on the last Monday of October and every three (3) years thereafter.

SEC. 2. Term of Office.—The term of office of all barangay and sangguniang kabataan officials after the effectivity of this Act shall be three (3) years."

x x x x

SEC. 4. Assumption of Office.—The term of office of the barangay and sangguniang kabataan officials elected under this Act shall commence on August 15, 2002. The term of office of the barangay and sangguniang kabataan

officials elected in subsequent elections shall commence at noon of November 30 next following their election.

[13] Entitled "AN ACT AMENDING REPUBLIC ACT NO. 9164, RESETTling THE BARANGAY AND SANGGUNIANg KABATAAN ELECTIONS, AND FOR OTHER PURPOSES," and approved on September 22, 2005.

[14] Sections 1 and 2 of R.A. 9340 pertinently read:

SEC. 1. Section 1 of Republic Act No. 9164 is hereby amended to read as follows:

Section 1. Date of Election.—There shall be synchronized barangay and sangguniang kabataan elections which shall be held on July 15, 2002. Subsequent synchronized barangay and sangguniang kabataan elections shall be held on the last Monday of October 2007 and every three (3) years thereafter.

SEC. 2. Section 4 of Republic Act No. 9164 is hereby amended to read as follows:

Section 4. Assumption of Office.—The term of office of the barangay and sangguniang kabataan officials elected under this Act shall commence on August 15, 2002. The term of office of the barangay and sangguniang kabataan officials elected in the October 2007 election and subsequent elections shall commence at noon of November 30 next following their election.

[15] *Lanuza, Jr. v. Yuchengco*, G.R. No. 157033, March 28, 2005, 454 SCRA 130, 138.

[16] See *Roble Arrastre, Inc. v. Villaflor*, G.R. No. 128509, August 22, 2006, 499 SCRA 434, 446-447, in which the Court was constrained to decide a moot question in order to educate the bench and the bar.

[17] See CONSTITUTION, Art. IX-C, Sec. 2(2).

[18] Otherwise known as the "Local Government Code of 1991," approved on October 10, 1991 and became effective on January 1, 1992.

[19] Section 387(a) of the Local Government Code of 1991 pertinently reads:

Section 387. Chief Officials and Offices.—

(a) There shall be in each barangay a punong barangay, seven (7) sangguniang barangay members, the sangguniang kabataan chairman, a barangay secretary, and a barangay treasurer.

[20] 313 Phil. 278, 294 (1995).

[21] *Batas Pambansa Blg. 881*, approved on December 3, 1985. Section 252 thereof provides:

Section 252. Election contest for barangay offices.—A sworn petition contesting the election of a barangay officer shall be filed with the proper municipal or metropolitan trial court by any candidate who has duly filed a certificate of candidacy and has been voted for the same office, within ten days after the proclamation of the results of the election. The trial court shall decide the election protest within fifteen days after the filing thereof. The decision of the municipal or metropolitan trial court may be appealed within ten days from receipt of a copy thereof by the aggrieved party to the regional trial court which shall decide the case within thirty days from its submission, and whose decisions shall be final.

In *Flores v. Commission on Elections*, G.R. No. 89604, April 20, 1990, 184 SCRA 484, 488-490, the Court declared that the appeal of the MTC's decisions in election protests involving barangay officials must be lodged with the COMELEC by virtue of Article IX-C, Section 2(2) of the Constitution.

[22] 371 Phil. 842, 850 (1999).

[23] Batoy v. Judge Calibo, Jr., 445 Phil. 547, 553-554 (2003); Beso v. Aballe, 382 Phil. 862, 870 (2000).

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