

**RUDOLFO I. BELUSO, PETITIONER, VS. COMMISSION ON ELECTIONS AND GABRIELA WOMEN'S PARTY, RESPONDENTS.***G.R. No. 180711. June 22, 2010*

Ponente: PERALTA, J.

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Before this Court is a Petition for Certiorari[1] under Rule 65 to set aside and annul a portion of the Resolution of the COMELEC dated April 26, 2007[2] and November 8, 2007,[3] which declared petitioner, Rudolfo I. Beluso, perpetually barred from serving in any capacity in any canvassing board of the COMELEC, in relation to Election Offense Case No. 04-117 (Gabriela Women's Party vs. Atty. Nelly Abao-Lee, et al.) for being erroneous and issued with grave abuse of discretion amounting to lack or in excess of jurisdiction.

The antecedent facts are as follows:

In 2004, during the canvassing of the party list votes conducted by the National Board of Canvassers (NBOC), GABRIELA Women's Party (GABRIELA) discovered that the provincial certificate of canvass for the Province of Capiz reflected only forty-three (43) votes for their party when it actually garnered two thousand seventy-one (2,071) as shown by the Statement of Votes.

The Chairman of the Provincial Board of Canvassers (PBOC) of Capiz, Atty. Nelly Abao-Lee, however, was quick to admit the mistake and promised to request authority to immediately correct the erroneous entries in the certificate of canvass. Subsequently, in Resolution No. 7158[4] dated May 19, 2004, the PBOC granted said request. Thus, the necessary corrections were made.

Nevertheless, despite the correction, on May 21, 2004, GABRIELA filed a Complaint against Atty. Nelly Abao-Lee, Rudolfo I. Beluso, Elnora A. Barrios, Mary Grace Abagatnan, Sharon Barrientos, Demetrio Forel and Antonio Sobrepeña for violation of Section 27 (b) of Republic Act No. 6646, otherwise known as The Electoral Reforms Law of 1987. On May 28, 2004, Director Alioden D. Dalaig of the Law Department issued a Memorandum to Regional Election Director (RED) Victor C. Gaborne directing him to conduct the preliminary investigation of the complaint. On March 21, 2006, the said directive was issued anew to Atty. Tomas S. Valera. The same directive was re-issued to the Acting RED, Dennis L. Agusan, on July 22, 2006, or more than two years after. On March 30, 2006, Atty. Valera issued summons to the respondents.

On April 21, 2006, respondents submitted their respective affidavits. In her Affidavit,[5] Atty. Abao-Lee contended that it was only during the canvassing of the NBOC at the Philippine International Convention Center (PICC) that she was informed of the inaccuracies in the entries in the Certificate of Canvass of Capiz. She claimed that the erroneous entries were made by one of the Board's support personnel and admitted that she merely relied on the entries made by such personnel without scrutinizing the accuracy thereof by comparing the entries in the Certificate of Canvass with those reflected in the Statement of Votes.[6]

For their part, petitioner Beluso, the Provincial Prosecutor of Capiz and the Vice-Chairman of the PBOC of Capiz,

and Barrios, the Schools' Superintendent of Capiz and Secretary of the PBOC of Capiz, both claimed that the inaccuracies made in the Certificate of Canvass were due to human error as admitted by Forel, one of the tabulators of the PBOC of Capiz.

On the other hand, Abagatnan and Barrientos, both tabulators of the PBOC of Capiz, alleged that due to voluminous work, the tabulators agreed that Forel and Sobrepeña, who were assigned to assist them, will be the ones to record the entries to the Certificate of Canvass based on the actual votes appearing in the tally board. Likewise, both admitted that they signed the Certificate of Canvass without further examination and scrutiny.

For his part, Sobrepeña, in his Affidavit,[7] claimed that he and Forel were designated as assistants of the Tabulator's team during the provincial canvass of the May 10, 2004 National and Local Elections for the Province of Capiz. He and Forel were tasked to record in the Certificate of Canvass the votes garnered by the candidates. He narrated that he and Forel agreed to divide the workload to hasten the recording of votes in the Certificate of Canvass. Sobrepeña claimed that he recorded the entries from the votes for president up to number 28 for Senators, while Forel recorded the entries from number 29 for senators to number 45 of the party-list. Thereafter, he proceeded again with the entries from number 46 for party-list onwards. He maintained that the erroneous entries were made by Forel, as he was the one assigned with the recording of votes for GABRIELA. Sobrepeña asserted that he signed the Statement of Votes in good faith, as he merely relied with the supposed correctness of the entries and never intended to defraud the concerned candidates.[8]

Meanwhile, Forel, in his Affidavit,[9] corroborated the statement of Sobrepeña. He admitted that he was the one who recorded the entries from number 29 of the senatorial candidates up to number 45 of the party-list candidates in the Certificate of Canvass, while the rest of the entries were recorded by Sobrepeña. Forel, likewise, admitted that he made a mistake in recording the votes for GABRIELA. He admitted that he erroneously entered the 43 votes of KALOOB to GABRIELA, instead of 2,071, which is the correct number of votes for the latter. He, however, stressed that the errors were unintentional and not meant to defraud any party concerned.[10]

In a Resolution[11] dated April 26, 2007, the COMELEC dismissed the Complaint for lack of probable cause to charge respondents, including petitioner Beluso. However, it found respondents' errors to be arising from "sheer gross negligence," especially on the part of the three members of the PBOC of Capiz. It, thus, declared respondents to be perpetually barred from serving, in any capacity, in any canvassing board of the COMELEC in any future election. The pertinent portion of the Resolution reads:

Although the members of the PBOC are allowed to be assisted by their support staff during the canvassing, the responsibility of preparing the certificate of canvass falls exclusively upon the three members thereof. According to Section 231 of the Omnibus Election Code as elaborated in Section 24 (k) of COMELEC Resolution No. 6669, which lays down the general instructions for canvassing in the May 10, 2004 Elections, the Board of Canvassers shall prepare a certificate of canvass, together with the supporting statement of votes. The substantial preparation of this document cannot be left to a support staff by letting said staff copy the figures from the statement of votes into the certificate of canvass without the members of the Board personally checking for themselves the accuracy of the data so copied. It is in this regard that the members of the PBOC failed in the performance of their assigned duties.

This total lack of exercise of oversight functions and supervision by the three principal members of the PBoC over the work of their subordinates in the canvassing body resulted into a haphazard and mindless execution of legally sanctioned procedures. Although the mistake was clearly not intentional - the reckless negligence clearly evident in the method of its commission - the oversight committed by the members of the board in leaving the sensitive task of accomplishing the certificate of canvass to a mere supply officer and an eleventh hour recruit, without double-checking the correctness of the entries made by said supply officer, almost borders on criminal negligence.[12]

On May 11, 2007, Beluso filed a Motion for Partial Reconsideration. He argued that he is not negligent; hence, the penalty of perpetual disqualification from serving in any canvassing board of the COMELEC was too harsh and unreasonable.

On November 8, 2007, COMELEC denied his motion for lack of merit. [13]

Thus, the instant petition for certiorari.

Petitioner advances the following arguments:

I

THE HONORABLE COMMISSION ON ELECTIONS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT ERRONEOUSLY FOUND PETITIONER TO BE GROSSLY NEGLIGENT IN THE PERFORMANCE OF HIS DUTY AS A MEMBER OF THE PROVINCIAL BOARD OF CANVASSERS OF CAPIZ.

II

THE HONORABLE COMMISSION ON ELECTIONS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ERRONEOUSLY RULED THAT PETITIONER HEREIN BE BARRED FROM SERVING IN ANY CAPACITY IN ANY CANVASSING BOARD OF THIS COMMISSION IN ANY FUTURE ELECTIONS.

The petition lacks merit.

A special civil action for certiorari, under Rule 65, is an independent action based on the specific grounds therein provided and will lie only if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law. A petition for certiorari will prosper only if grave abuse of discretion is alleged and proved to exist. "Grave abuse of discretion," under Rule 65, has a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross.[14] Such is not the case here.

Nothing in the records of this case supports petitioner's bare assertion that the COMELEC rendered its assailed Resolutions with grave abuse of discretion. Beluso alleged grave abuse of discretion on the part of the COMELEC in perpetually disqualifying him to serve in any canvassing board, yet failed to prove where the abuse existed.

Notably, the apparent thrust of Beluso's petition is the alleged error on the part of the COMELEC in drawing its conclusions based on its findings and investigation. Thus, in reality, what Beluso was questioning is the COMELEC's appreciation of evidence. At this point, however, it is not this Court's function to re-evaluate the findings of fact of the COMELEC, given its limited scope of its review power, which is properly confined only to issues of jurisdiction or grave abuse of discretion.

Moreover, the arguments in the petition and the issues alleged are only possible errors of judgment, questioning the correctness of the COMELEC's rulings. Where the real issue involves 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 petition for certiorari under Rule 65.[15]

It is well settled that a writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ cannot be used for any other purpose, as its function is limited to keeping the inferior court within the bounds of its jurisdiction.[16] The supervisory

jurisdiction of this Court to issue a certiorari writ cannot be exercised in order to review the judgment of the lower court as to its intrinsic correctness, either upon the law or the facts of the case.[17]

In *People v. Court of Appeals*, [18] the Court expounded, thus:

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'être* 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 [19]

WHEREFORE, the instant petition for certiorari is hereby DISMISSED.

### SO ORDERED

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Bersamin, Del Castillo, Abad, Villarama, Jr., and Perez, JJ., concur.

Mendoza, J., on leave.

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[1] Rollo, pp. 3-16

[2] Id. at 19-27

[3] Id. at 30-32.

[4] Id. at 33-34.

[5] Id. at 40-41.

[6] Id. at 41.

[7] Id. at 46-47.

[8] Id.

[9] Id. at 48-49.

[10] Id.

[11] Id. at 3-16.

[12] Id. at 24-25. (Emphasis supplied.)

[13] Id. at 30-32.

[14] *Fajardo v. Court of Appeals*, G.R. No. 157707, October 29, 2008, 570 SCRA 156, 163.

[15] Id. at 163. (Emphasis supplied).

[16] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, 479 Phil. 768, 778 (2004).

[17] *A.F. Sanchez Brokerage, Inc. v. Court of Appeals*, G.R. No. 147079, December 21, 2004, 447 SCRA 427,

436-437; *Angara v. Fedman Development Corporation*, G.R. No. 156822, October 18, 2004, 440 SCRA 467, 480.

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

[19] *Estrera v. Court of Appeals*, G.R. Nos. 154235-36, August 16, 2006, 499 SCRA 86, 94. (Emphasis supplied.)

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