

MAYOR JOSE MARQUEZ LISBOA PANLILIO, PETITIONER, VS. COMMISSION ON ELECTIONS AND SAMUEL ARCEO DE JESUS, SR., RESPONDENTS.

G.R. No. 184286. February 26, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about an attempt by the Regional Trial Court (RTC) to install the winning protestant in an election protest case pending appeal by the protestee to the Commission on Elections (COMELEC) despite the latter's order to the parties to maintain the status quo.

The Facts and the Case

Petitioner Jose Panlilio (Panlilio) and respondent Samuel de Jesus, Sr. (De Jesus) ran against each other for Mayor of Busuanga, Palawan, in the May 14, 2007 elections. De Jesus got 3,902 votes as against Panlilio's 3,150 votes, with De Jesus winning by 752 votes. On May 25, 2007 Panlilio filed an election protest^[1] with the RTC, Branch 51, Puerto Princesa City. On March 7, 2008 the RTC declared Panlilio the winner over De Jesus by two votes.^[2]

De Jesus appealed the RTC decision to the COMELEC.^[3] Pending resolution of the appeal, petitioner Panlilio filed with the RTC a motion for execution of its judgment pending appeal.^[4] Initially, the RTC denied the motion on the grounds a) that Panlilio gave no good reason that would justify immediate execution; and b) that public interest would be better served if there were no disruptions in governance.^[5] On April 17, 2008, however, the RTC issued an order,^[6] reversing itself and allowing execution pending appeal because its previous order had brought more confusion and chaos in the municipality^[7] and Panlilio had the support of the provincial government and the congressional district.

Respondent De Jesus filed a motion for reconsideration^[8] but the RTC denied it on April 28, 2008.^[9] Thus, he filed a petition for certiorari with application for a temporary restraining order (TRO) and preliminary injunction with the COMELEC against the RTC and petitioner De Jesus,^[10] seeking to annul the order of execution pending appeal.^[11]

On May 15, 2008 the COMELEC's Second Division issued a 60-day TRO, enjoining the execution pending appeal or, in case petitioner Panlilio had already taken his oath, directing a return to the status quo prior to the issuance of the order of execution pending appeal. The Second Division also directed respondent De Jesus to continue discharging his duties as Mayor until further orders. Lastly, it required Panlilio to answer De Jesus' petition.^[12]

On July 15, 2008 the Second Division issued a resolution, granting respondent De Jesus' petition and setting aside the RTC's orders of April 17 and 28, 2008.^[13] The Second Division did not find good reasons for allowing execution of the RTC decision pending an appeal from it to the COMELEC. The RTC declared petitioner Panlilio winner on a mere 2-vote margin, said the Second Division, after the RTC deducted 754 votes from De Jesus.

Before the people's will can be enforced, it must be first ascertained. Thus, the Second Division directed all parties "to observe the status quo" prior to the issuance of the RTC's order of April 17, 2008 and directed respondent De Jesus to keep his post "until the finality of the March 7, 2008 decision of the court a quo."

On July 19, 2008 Panlilio filed a motion for reconsideration of the July 15, 2008 order,[14] which motion the COMELEC division elevated to the en banc for its resolution.[15] Meanwhile, on July 21, 2008 Panlilio asked the RTC to implement the writ of execution it earlier issued in his favor, given that the COMELEC's 60-day TRO had already expired. The Court granted the motion in its order of August 27, 2008.[16] After the sheriff served the writ of execution on the parties or on September 3, 2008, Panlilio took his oath as Mayor.

On September 4, 2008 respondent De Jesus hurried to the COMELEC en banc to seek relief from petitioner Panlilio's threatened takeover of the mayor's office.[17] On September 5, 2008 the en banc set aside the RTC's order.[18] It also ordered the RTC and Panlilio to maintain the July 15, 2008 status quo order of the COMELEC Second Division. Acting on a query of the Department of Interior and Local Government regarding which mayor to recognize, the COMELEC en banc issued an order on September 11, 2008, declaring incumbent De Jesus as the Mayor of Busuanga.[19]

Undeterred, on September 12, 2008 petitioner Panlilio filed this petition for certiorari and prohibition with application for TRO and preliminary injunction against COMELEC and respondent De Jesus.[20] He asks this Court to annul the actions of the COMELEC that allowed De Jesus to keep the post of Mayor of Busuanga.

The Issue

The key issue in this case is whether or not the COMELEC en banc acted with grave abuse of discretion when it enjoined the implementation of the RTC's order of execution pending appeal notwithstanding the lapse of the 60-day TRO that the COMELEC Second Division had earlier issued.

The Court's Ruling

Petitioner Panlilio points out that since the COMELEC Second Division did not issue a preliminary injunction order after its 60-day TRO lapsed, nothing prevented the RTC from implementing its earlier order installing Panlilio as Busuanga Mayor pending respondent De Jesus' appeal from the decision against him. And, since the resolution annulling the RTC orders of execution pending appeal had not yet become final, the same cannot yet be implemented. Panlilio concludes from this that the COMELEC en banc committed grave abuse of discretion when it issued its September 5, 2008 order enjoining the RTC and the parties to comply with the Second Division's status quo order.

But, the Second Division did better than just issue a preliminary injunction to supplant the expiring TRO. It issued after hearing its resolution of July 15, 2008, already adjudicating the merits of the case. It annulled the RTC order that allowed the execution of its decision pending appeal for lack of good reasons to support its issuance. The dispositive portion of Second Division's resolution reads:

WHEREFORE, premises considered, the Commission RESOLVED, as it hereby RESOLVES, to GRANT the instant petition for certiorari. The Orders of the public respondent dated April 17 and 28, 2008 are hereby SET ASIDE.

Accordingly, all parties are directed to observe the status prior to issuance of the April 17, 2008 Special Order of the public respondent and the petitioner Samuel Arce[o] de Jesus, Sr. is directed to continue to function as municipal mayor of Busuanga, Palawan until the finality of the March 28, 2008 decision of the court a quo.[21]

The first part of the above grants the main relief that respondent De Jesus sought: it SETS ASIDE the RTC's orders of April 17 and 28, 2008 that allowed execution of its decision pending appeal. On the other hand, the second part grants the preliminary injunction he sought. It took the place of the TRO. Although the Second Division did not here use the words "preliminary injunction," it directed or enjoined all parties "to observe the status quo" that existed prior to the issuance of the RTC's order of April 17, 2008. It was the same "status quo" that the expiring TRO enforced.

True, the implementation of the main relief granted--the setting aside of the RTC's orders that allowed execution pending appeal--may be deemed suspended when petitioner Panlilio filed a motion for its reconsideration.[22] But the preliminary injunction component of the resolution--the maintenance of the status quo that existed before the RTC issued its April 17, 2008 order--is not suspended. It is expressly kept in force.

Besides, if instead of issuing a preliminary injunction in place of a TRO, a court opts to decide the case on its merits with the result that it also enjoins the same acts covered by its TRO, it stands to reason that the decision amounts to a grant of preliminary injunction. Such injunction should be deemed in force pending any appeal from the decision. The view of petitioner Panlilio--that execution pending appeal should still continue notwithstanding a decision of the higher court enjoining such execution--does not make sense. It will render quite inutile the proceedings before such court.

Parenthetically, respondent De Jesus accuses petitioner Panlilio of forum shopping in view of a manifestation he filed with the COMELEC en banc on September 17, 2008, asking it to already resolve his motion for reconsideration of the July 15, 2008 resolution of the Second Division[23] despite the pendency of the present petition.

The Court does not have to resolve this issue considering its ruling above. At any rate, it seems clear that the subject matter of the present petition is the COMELEC en banc's order of September 15, 2008, enjoining the parties to maintain the status quo directed by its Second Division. On the other hand, the subject matter of petitioner Panlilio's September 17, 2008 manifestation urging action from the COMELEC en banc is the motion for reconsideration that he filed from the resolution or decision of the Second Division. Since the Court did not enjoin this, the COMELEC en banc was free to proceed with its adjudication of the main case.

ACCORDINGLY, the Court DISMISSES the petition and AFFIRMS the orders of the Commission on Elections En Banc in SPR 76-2008 dated September 5 and 11, 2008.

SO ORDERED.

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

[1] Docketed as SPL. PROC. 1871.

[2] Rollo, pp. 225-255.

[3] Docketed as EAC A-37-2008.

[4] Rollo, pp. 259-262.

[5] Id. at 270-272.

[6] Id. at 221-223.

[7] Id. at 221.

[8] Id. at 290-299.

[9] Id. at 224.

[10] Docketed as SPR 76-2008.

[11] Rollo, pp. 187-220.

[12] Id. at 50-51.

[13] Id. at 78-86.

[14] Id. at 87-99.

[15] Id. at 100.

[16] Id. at 52-61.

[17] COMELEC records, pp. 220-225.

[18] Rollo, pp. 43-44.

[19] Id. at 46-49.

[20] Id. at 7-40.

[21] Id. at 86.

[22] COMELEC RULES OF PROCEDURE, Rule 19, Sec. 2. Period for Filing Motions for Reconsideration.--A motion to reconsider a decision, resolution, order or ruling of a Division shall be filed within five (5) days from the promulgation thereof. Such motion, if not pro forma, suspends the execution or implementation of the decision, resolution, order or ruling.

[23] COMELEC records, pp. 472-479.

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