

NILO T. PATES, PETITIONER, VS. COMMISSION ON ELECTIONS AND EMELITA B. ALMIRANTE, RESPONDENTS.

G.R. No. 184915. June 30, 2009

Ponente: BRION, J.

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BRION, J.:

Our Resolution of November 11, 2008 dismissed the petition in caption pursuant to Section 3, Rule 64 of the Rules of Court which provides:

SEC. 3. Time to file petition.—The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.

taking into account the following material antecedents:

- February 1, 2008 - The COMELEC First Division issued its Resolution (assailed in the petition);
- February 4, 2008 - The counsel for petitioner Nilo T. Pates (petitioner) received a copy of the February 1, 2008 Resolution;
- February 8, 2008 - The petitioner filed his motion for reconsideration (MR) of the February 1, 2008 Resolution (4 days from receipt of the February 1, 2008 Resolution)
- September 18, 2008 - The COMELEC en banc issued a Resolution denying the petitioner's MR (also assailed in the petition).
- September 22, 2008 - The petitioner received the COMELEC en banc Resolution of September 18, 2008

Under this chronology, the last day for the filing of a petition for certiorari, i.e., 30 days from notice of the final COMELEC Resolution, fell on a Saturday (October 18, 2008), as the petitioner only had the remaining period of 26 days to file his petition, after using up 4 days in preparing and filing his Motion for Reconsideration. Effectively, the last day for filing was October 20, 2008 - the following Monday or the first working day after October 18, 2008. The petitioner filed his petition with us on October 22, 2008 or two days late; hence, our Resolution of dismissal of November 11, 2008.

The Motion for Reconsideration

The petitioner asks us in his "Urgent Motion for Reconsideration with Reiteration for the Issuance of a Temporary Restraining Order" to reverse the dismissal of his petition, arguing that the petition was seasonably filed under the fresh period rule enunciated by the Supreme Court in a number of cases decided beginning the year 2005. The "fresh period" refers to the original period provided under the Rules of Court counted from notice of the ruling on the motion for reconsideration by the tribunal below, without deducting the period for the preparation and filing of

the motion for reconsideration.

He claims that, historically, the fresh period rule was the prevailing rule in filing petitions for certiorari. This Court, he continues, changed this rule when it promulgated the 1997 Rules of Civil Procedure and Circular No. 39-98, which both provided for the filing of petitions within the remainder of the original period, the "remainder" being the original period less the days used up in preparing and filing a motion for reconsideration. He then points out that on September 1, 2000 or only three years after, this Court promulgated A.M. No. 00-02-03-SC bringing back the fresh period rule. According to the petitioner, the reason for the change, which we supposedly articulated in *Narzoles v. National Labor Relations Commission*,^[1] was the tremendous confusion generated by Circular No. 39-98.

The fresh period rule, the petitioner further asserts, was subsequently applied by this Court in the following cases:

- (1) *Neypes v. Court of Appeals*^[2] which thenceforth applied the fresh period rule to ordinary appeals of decisions of the Regional Trial Court to the Court of Appeals;
- (2) *Spouses de los Santos v. Vda. de Mangubat*^[3] reiterating *Neypes*;
- (3) *Active Realty and Development Corporation v. Fernandez*^[4] which, following *Neypes*, applied the fresh period rule to ordinary appeals from the decisions of the Municipal Trial Court to the Regional Trial Court; and
- (4) *Romero v. Court of Appeals*^[5] which emphasized that A.M. No. 00-02-03-SC is a curative statute that may be applied retroactively.

A reading of the ruling in these cases, the petitioner argues, shows that this Court has consistently held that the order or resolution denying the motion for reconsideration or new trial is considered as the final order finally disposing of the case, and the date of its receipt by a party is the correct reckoning point for counting the period for appellate review.

The Respondent's Comment

We asked the respondents to comment on the petitioner's motion for reconsideration. The Office of the Solicitor General (OSG), citing Section 5, Rule 65 of the Rules of Court and its related cases, asked via a "Manifestation and Motion" that it be excused from filing a separate comment. We granted the OSG's manifestation and motion.

For her part, respondent Emelita B. Almirante (respondent Almirante) filed a comment stating that: (1) we are absolutely correct in concluding that the petition was filed out of time; and (2) the petitioner's reliance on Section 4, Rule 65 of the Rules of Court (as amended by A.M. No. 00-02-03-SC) is totally misplaced, as Rule 64, not Rule 65, is the vehicle for review of judgments and final orders or resolutions of the COMELEC. Respondent Almirante points out that Rule 64 and Rule 65 are different; Rule 65 provides for a 60-day period for filing petitions for certiorari, while Rule 64 provides for 30 days.

OUR RULING

We do not find the motion for reconsideration meritorious.

A. As a Matter of Law

Section 7, Article IX-A of the Constitution provides that unless otherwise provided by the Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Court on certiorari by the aggrieved party within 30 days from receipt of a copy thereof. For this reason, the Rules of Court provide for a separate rule (Rule 64) specifically applicable only to decisions of the COMELEC and the Commission on Audit. This Rule

expressly refers to the application of Rule 65 in the filing of a petition for certiorari, subject to the exception clause - "except as hereinafter provided." [6]

Even a superficial reading of the motion for reconsideration shows that the petitioner has not challenged our conclusion that his petition was filed outside the period required by Section 3, Rule 64; he merely insists that the fresh period rule applicable to a petition for certiorari under Rule 65 should likewise apply to petitions for certiorari of COMELEC rulings filed under Rule 64.

Rule 64, however, cannot simply be equated to Rule 65 even if it expressly refers to the latter rule. They exist as separate rules for substantive reasons as discussed below. Procedurally, the most patent difference between the two - i.e., the exception that Section 2, Rule 64 refers to - is Section 3 which provides for a special period for the filing of petitions for certiorari from decisions or rulings of the COMELEC en banc. The period is 30 days from notice of the decision or ruling (instead of the 60 days that Rule 65 provides), with the intervening period used for the filing of any motion for reconsideration deductible from the originally-granted 30 days (instead of the fresh period of 60 days that Rule 65 provides).

Thus, as a matter of law, our ruling of November 11, 2008 to dismiss the petition for late filing cannot but be correct. This ruling is not without its precedent; we have previously ordered a similar dismissal in the earlier case of *Domingo v. Commission on Elections*. [7] The Court, too, has countless times in the past stressed that the Rules of Court must be followed. Thus, we had this to say in *Fortich v. Corona*: [8]

Procedural rules, we must stress, should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. The requirement is in pursuance to the bill of rights inscribed in the Constitution which guarantees that "all persons shall have a right to the speedy disposition of their before all judicial, quasi-judicial and administrative bodies," the adjudicatory bodies and the parties to a case are thus enjoined to abide strictly by the rules. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. There have been some instances wherein this Court allowed a relaxation in the application of the rules, but this flexibility was "never intended to forge a bastion for erring litigants to violate the rules with impunity." A liberal interpretation and application of the rules of procedure can be resorted to only in proper cases and under justifiable causes and circumstances. (Emphasis supplied)

As emphasized above, exceptional circumstances or compelling reasons may have existed in the past when we either suspended the operation of the Rules or exempted a particular case from their application. [9] But, these instances were the exceptions rather than the rule, and we invariably took this course of action only upon a meritorious plea for the liberal construction of the Rules of Court based on attendant exceptional circumstances. These uncommon exceptions allowed us to maintain the stability of our rulings, while allowing for the unusual cases when the dictates of justice demand a correspondingly different treatment.

Under this unique nature of the exceptions, a party asking for the suspension of the Rules of Court comes to us with the heavy burden of proving that he deserves to be accorded exceptional treatment. Every plea for a liberal construction of the Rules must at least be accompanied by an explanation of why the party-litigant failed to comply with the rules and by a justification for the requested liberal construction. [10]

Significantly, the petitioner presented no exceptional circumstance or any compelling reason to warrant the non-application of Section 3, Rule 64 to his petition. He failed to explain why his filing was late. Other than his appeal to history, uniformity, and convenience, he did not explain why we should adopt and apply the fresh period rule to an election case.

To us, the petitioner's omissions are fatal, as his motion does not provide us any reason specific to his case why we should act as he advocates.

B. As a Matter of Policy

In harking back to the history of the fresh period rule, what the petitioner apparently wants - for reasons of uniformity and convenience - is the simultaneous amendment of Section 3, Rule 64 and the application of his proposed new rule to his case. To state the obvious, any amendment of this provision is an exercise in the power of this Court to promulgate rules on practice and procedure as provided by Section 5(5), Article VIII of the Constitution. Our rulemaking, as every lawyer should know, is different from our adjudicatory function. Rulemaking is an act of legislation, directly assigned to us by the Constitution, that requires the formulation of policies rather than the determination of the legal rights and obligations of litigants before us. As a rule, rulemaking requires that we consult with our own constituencies, not necessarily with the parties directly affected in their individual cases, in order to ensure that the rule and the policy that it enunciates are the most reasonable that we can promulgate under the circumstances, taking into account the interests of everyone - not the least of which are the constitutional parameters and guidelines for our actions. We point these out as our adjudicatory powers should not be confused with our rulemaking prerogative.

We acknowledge that the avoidance of confusion through the use of uniform standards is not without its merits. We are not unmindful, too, that no less than the Constitution requires that "motions for reconsideration of [division] decisions shall be decided by the Commission en banc."^[11] Thus, the ruling of the Commission en banc on reconsideration is effectively a new ruling rendered separately and independently from that made by a division.

Counterbalanced against these reasons, however, are other considerations no less weighty, the most significant of which is the importance the Constitution and this Court, in obedience to the Constitution, accord to elections and the prompt determination of their results. Section 3, Article IX-C of the Constitution expressly requires that the COMELEC's rules of procedure should expedite the disposition of election cases. This Court labors under the same command, as our proceedings are in fact the constitutional extension of cases that start with the COMELEC.

Based on these considerations, we do not find convenience and uniformity to be reasons sufficiently compelling to modify the required period for the filing of petitions for certiorari under Rule 64. While the petitioner is correct in his historical data about the Court's treatment of the periods for the filing of the different modes of review, he misses out on the reason why the period under Section 3, Rule 64 has been retained. The reason, as made clear above, is constitutionally-based and is no less than the importance our Constitution accords to the prompt determination of election results. This reason far outweighs convenience and uniformity. We significantly note that the present petition itself, through its plea for the grant of a restraining order, recognizes the need for haste in deciding election cases.

C. Our Liberal Approach

Largely for the same reason and as discussed below, we are not inclined to suspend the rules to come to the rescue of a litigant whose counsel has blundered by reading the wrong applicable provision. The Rules of Court are with us for the prompt and orderly administration of justice; litigants cannot, after resorting to a wrong remedy, simply cry for the liberal construction of these rules.^[12] Our ruling in *Lapid v. Laurea*^[13] succinctly emphasized this point when we said:

Members of the bar are reminded that their first duty is to comply with the rules of procedure, rather than seek exceptions as loopholes. Technical rules of procedure are not designed to frustrate the ends of justice. These are provided to effect the prompt, proper and orderly disposition of cases and, thus, effectively prevent the

clogging of court dockets. Utter disregard of these rules cannot justly be rationalized by harking on the policy of liberal construction. [Emphasis supplied.]

We add that even for this Court, liberality does not signify an unbridled exercise of discretion. It has its limits; to serve its purpose and to preserve its true worth, it must be exercised only in the most appropriate cases.[14]

WHEREFORE, premises considered, we DENY the motion for reconsideration for lack of merit. Our Resolution of November 11, 2008 is hereby declared FINAL. Let entry of judgment be made in due course.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, and Bersamin, JJ., concur.

Carpio Morales, J., on leave.

[1] G.R. No. 141959, September 29, 2000, 341 SCRA 533.

[2] G.R. No. 141524, September 15, 2005, 469 SCRA 633.

[3] G.R. No. 149508, October 10, 2007, 535 SCRA 411.

[4] G.R. No. 157186, October 19, 2007, 537 SCRA 116.

[5] G.R. No. 142803, November 20, 2007, 537 SCRA 643.

[6] RULES OF COURT, Rules 64, Section 2.

[7] G.R. No. 136587, August 30, 1999, 313 SCRA 311

[8] G.R. No. 131457, November 17, 1998, 298 SCRA 679, 690-691

[9] See: Ponciano v. Laguna Lake Development Authority, G.R. No. 1745636, October 29, 2008 and Tagle v. Equitable PCI Bank, G.R. No. 172299, April 22, 2008, 552 SCRA 424

[10] Prudential Guarantee and Assurance, Inc. v. Court of Appeals, G.R. No. 146559, August 13, 2004, 436 SCRA 478, 483.

[11] CONSTITUTION, Article IX-C, Section 3.

[12] Aguila v. Baldovizo, G.R. No. 163186, February 28, 2007, 517 SCRA 91.

[13] G.R. No. 139607, October 28, 2002, 391 SCRA 277.

[14] See: Lozano, et al. v. Nograles, G.R. Nos. 187883 and 187910, June 16, 2009, that, from another perspective, also speaks of the limits of liberality.

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