

**CONSTANCIO F. MENDOZA AND SANGGUNIANG BARANGAY OF
BALATASAN, BULALACAO, ORIENTAL MINDORO, PETITIONERS, VS.
MAYOR ENRILO VILLAS AND BRGY. KAGAWAD LIWANAG HERATO
AND MARLON DE CAS...**

G.R. No. 187256. February 23, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Before this Court is a Petition dated April 7, 2009[1] filed by Constancio F. Mendoza and Sangguniang Barangay of Balatasan, Bulalacao, Oriental Mindoro. In the Petition, it is prayed that the Court: (1) set aside the Order dated February 2, 2009[2] of the Regional Trial Court (RTC), Branch 43 in Roxas, Oriental Mindoro and its Order dated March 17, 2009[3] denying petitioners' motion for reconsideration of the Order dated February 2, 2009; and (2) direct the RTC to continue with the proceedings in Special Civil Action No. 08-10 entitled *Constancio Mendoza v. Mayor Enrilo Villas*.

The factual antecedents of the case are as follows:

In the 2007 barangay elections, Mendoza obtained the highest votes for the position of Punong Barangay of Barangay Balatasan, Bulalacao, Oriental Mindoro, while respondent Liwanag Herato obtained the highest number of votes for the position of Barangay Kagawad. Notably, Mayor Enrilo Villas was the incumbent Mayor of Bulalacao, Oriental Mindoro at the time of the barangay elections.[4]

After the elections, the Commission on Elections (COMELEC) proclaimed Mendoza as the duly-elected Punong Barangay of Balatasan. Thus, the losing candidate, Thomas Pajanel, filed a petition for quo warranto with the Municipal Trial Court (MTC) of Mansalay-Bulalacao which was docketed as Election Case No. 407-B. The MTC issued a Decision dated February 23, 2008, disqualifying Mendoza and declaring that Herato was entitled to succeed him as Punong Barangay with Herato garnering the highest number of votes as a Barangay Kagawad. Mendoza appealed the MTC Decision to the COMELEC.

On February 28, 2008, Villas administered the Oath of Office to Herato.[5] Then, Villas issued Memorandum No. 2008-03-010 dated March 3, 2008,[6] directing all department heads of the Municipal Government to act only on documents signed or authorized by Herato.

Meanwhile, Mendoza sought the advice of the Department of the Interior and Local Government (DILG) as to who should exercise the powers of Punong Barangay of Balatasan given the prevailing controversy.

In a letter dated April 11, 2008,[7] DILG Undersecretary Austere A. Panadero responded to Mendoza's inquiry informing Villas that Mendoza should occupy the post of Punong Barangay as there was no Writ of Execution Pending Appeal of the MTC Decision dated February 23, 2008.

Nevertheless, the Bulalacao Municipal Administrator, Edezer Acheron, by the authority of Villas, issued a letter

dated April 23, 2008[8] to respondent Marlon de Castro, Manager, Pinamalayan Branch, Land Bank of the Philippines (LBP), requesting that transactions entered into by Mendoza in behalf of Barangay Bulalacao should not be honored. In the same letter, Aceron dismissed the DILG letter dated April 11, 2008, saying that it is merely advisory and not binding on the municipal government of Bulalacao and the LBP.

In response, de Castro issued Villas and Mendoza a letter dated April 24, 2008,[9] advising both parties that the LBP shall not honor any transaction with regard the accounts of Barangay Balatasan.

Thereafter, petitioners filed a Petition dated May 5, 2008 for Mandamus with Damages and Prayer for the Writ of Preliminary Mandatory Injunction, docketed as Special Civil Action No. 08-10 pending with the Regional Trial Court, Branch 43 in Roxas, Oriental Mindoro. Petitioners prayed that the LBP be directed to release the funds of Barangay Balatasan to them in order to render necessary, basic public services to the inhabitants of the barangay.

Thus, Villas and Herato filed an Answer dated May 16, 2008 interposing the following affirmative defenses: (1) that the petition for mandamus was defective, being directed against two or more different entities and requiring to perform different acts; and (2) that Mendoza does not have any clear and legal right for the writ of mandamus.

On the other hand, the LBP also filed its Answer dated June 5, 2008, stating that its decision of withholding the barangay funds was a mere act of prudence given the controversy surrounding the true Punong Barangay of Balatasan while manifesting that it will release the funds to whom the Court directs it to.

Thereafter, Villas and Herato filed a Motion to Dismiss dated November 7, 2008. In the Motion, a copy of the COMELEC Resolution dated September 8, 2008 in COMELEC Case No. SPA-07-243-BRGY was attached. This case originated from a disqualification case against Mendoza filed with the COMELEC by Senen Familara before the conduct of the 2007 barangay elections. In the Resolution, the COMELEC disqualified Mendoza as a candidate for Punong Barangay of Barangay Balatasan in the 2007 barangay elections for having already served three (3) consecutive terms for the same position. In response, Mendoza presented a Certification dated February 27, 2009[10] from the COMELEC which stated that COMELEC Case No. SPA-07-243-BRGY is still pending with the Commission.

In an attempt to clarify the issues on the matter, Mendoza again sought the opinion of the DILG regarding the controversy. Thus, the DILG issued another letter, denominated as DILG Opinion No. 5, Series of 2009 dated January 2009,[11] reiterating its stance that the MTC Decision dated February 23, 2008 has not yet become final and executory.

Nevertheless, the RTC issued the assailed order dated February 2, 2009 dismissing the petition on the strength of the COMELEC Resolution dated September 8, 2008 disqualifying Mendoza from running in the 2007 elections. As stated, petitioners' motion for reconsideration of the Order dated February 2, 2009 was denied in an Order dated March 17, 2009.

From such orders the petitioners went directly to this Court.

The instant petition is a direct recourse to this Court from the assailed orders of the RTC. Notably, petitioners did not cite the rule under the Rules of Court by which the petition was filed. If the petition is to be treated as a petition filed under Rule 65 of the Rules of Court, the petition must be dismissed outright for having been filed prematurely.

In *Chamber of Real Estate and Builders Associations, Inc. (CREBA) v. Secretary of Agrarian Reform*,[12] a petition for certiorari filed under Rule 65 was dismissed for having been filed directly with the Court, violating the principle of hierarchy of courts, to wit:

Primarily, although this Court, the Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum. In *Heirs of Bertuldo Hinog v. Melicor*, citing *People v. Cuaserna*, this Court made the following pronouncements:

This Court's original jurisdiction to issue writs of certiorari is not exclusive. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. (Emphasis supplied.)

Similarly, there are no special and important reasons that petitioners cite to justify their direct recourse to this Court under Rule 65.

On the other hand, direct recourse to this Court has been allowed for petitions filed under Rule 45 when only questions of law are raised, as in this case. Thus, the Court ruled in *Barcenas v. Tomas*:^[13]

Section 1 of Rule 45 clearly states that the following may be appealed to the Supreme Court through a petition for review by certiorari: 1) judgments; 2) final orders; or 3) resolutions of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or similar courts, whenever authorized by law. The appeal must involve only questions of law, not of fact.

This Court has, time and time again, pointed out that it is not a trier of facts; and that, save for a few exceptional instances, its function is not to analyze or weigh all over again the factual findings of the lower courts. There is a question of law when doubts or differences arise as to what law pertains to a certain state of facts, and a question of fact when the doubt pertains to the truth or falsity of alleged facts.

Under the principle of the hierarchy of courts, decisions, final orders or resolutions of an RTC should be appealed to the CA exercising territorial jurisdiction over the former. On the other hand, RTC judgments, final orders or resolutions are appealable to the CA through either of the following: an ordinary appeal if the case was originally decided by the RTC; or a petition for review under Rule 42, if the case was decided under the RTC's appellate jurisdiction.

Nonetheless, a direct recourse to this Court can be taken for a review of the decisions, final orders or resolutions of the RTC, but only on questions of law. Under Section 5 of Article VIII of the Constitution, the Supreme Court has the power to

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

x x x x

(e) All cases in which only an error or question of law is involved.

This kind of direct appeal to this Court of RTC judgments, final orders or resolutions is provided for in Section 2(c) of Rule 41, which reads:

SEC. 2. Modes of appeal.—

x x x x

(c) Appeal by certiorari.—In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.

Procedurally then, petitioners could have appealed the RTC Decision affirming the MTC (1) to this Court on questions of law only; or (2) if there are factual questions involved, to the CA -- as they in fact did. Unfortunately for petitioners, the CA properly dismissed their petition for review because of serious procedural defects. This action foreclosed their only available avenue for the review of the factual findings of the RTC. (Emphasis supplied.)

Thus, the Court shall exercise liberality and consider the instant petition as one filed under Rule 45. In *Artistica Ceramica, Inc. v. Ciudad Del Carmen Homeowner's Association, Inc.*,^[14] citing *Republic v. Court of Appeals*,^[15] the Court noted that it has the discretion to determine whether a petition was filed under Rule 45 or 65 of the Rules of Court:

Admittedly, this Court, in accordance with the liberal spirit pervading the Rules of Court and in the interest of justice, has the discretion to treat a petition for certiorari as having been filed under Rule 45, especially if filed within the reglementary period for filing a petition for review.

Nevertheless, even providing that the petition was not filed prematurely, it must still be dismissed for having become moot and academic.

In *Gunsi, Sr. v. Commissioners, The Commission on Elections*,^[16] the Court defined a moot and academic case as follows:

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.

With the conduct of the 2010 barangay elections, a supervening event has transpired that has rendered this case moot and academic and subject to dismissal. This is because, as stated in *Fernandez v. Commission on Elections*,^[17] "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." Mendoza's term of office has expired with the conduct of last year's local elections. As such, Special Civil Action No. 08-10, where the assailed Orders were issued, can no longer prosper. Mendoza no longer has any legal standing to further pursue the case, rendering the instant petition moot and academic.

WHEREFORE, the Petition is DENIED.

SO ORDERED.

Corona, C.J., (Chairperson), Nachura,^[*] Del Castillo, and Perez, JJ., concur.

[*] Additional member per Special Order No. 947 dated February 11, 2011.

[1] Rollo, p. 3-27.

[2] Id. at 43-46.

[3] Id. at 69.

- [4] Id..at 71.
- [5] Id. at 72.
- [6] Id. at 73
- [7] Id. at 75-78.
- [8] Id. at 79.
- [9] Id. at 80.
- [10] Id. at 68.
- [11] Id. at 81-82.
- [12] G.R. No. 183409, June 18, 2010, 621 SCRA 295, 309-310.
- [13] G.R. No. 150321, March 31, 2005, 454 SCRA 593, 606-607.
- [14] G.R. Nos. 167583-84, June 16, 2010, 621 SCRA 22, 34.
- [15] G.R. No. 95533, November 20, 2000, 345 SCRA 63, 70.
- [16] G.R. No. 168792, February 23, 2009, 580 SCRA 70, 76.
- [17] G.R. No. 176296, June 30, 2008, 556 SCRA 765, 771.

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