

LEONOR DANGAN-CORRAL, PETITIONER, VS. COMMISSION ON ELECTIONS AND ERNESTO ENERO FERNANDEZ, RESPONDENTS.

G.R. No. 190156. February 12, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Does the allowance of execution pending appeal of a Decision of a Regional Trial Court (RTC) in an election protest case constitute grave abuse of discretion amounting to lack or excess of jurisdiction when the said RTC Decision does not contain the specific matters required by the Rules of Procedure in Election Contests? This is the question directly involved in the present case.

In the present Petition for Certiorari, petitioner assails the December 17, 2008 and November 10, 2009 Resolutions of the Commission on Elections (Comelec) in Comelec Special Relief Case, SPR No. 51-2008 dismissing petitioner's petition for certiorari and denying her motion for reconsideration, respectively. The Comelec found that the RTC substantially complied with the rules on execution pending appeal and did not gravely abuse its discretion amounting to lack or excess of jurisdiction.

Antecedents

Petitioner Leonor Dangan-Corral (Corral) and private respondent Ernesto Enero Fernandez (Fernandez) were candidates for the position of mayor of the Municipality of El Nido, Palawan during the May 14, 2007 elections. Corral was eventually proclaimed the winner with 5,113 votes as against Fernandez's 3,807. The latter, thereafter, filed an election protest docketed as Special Proceedings Case No. 1870 which was raffled to Branch 95 of the RTC of Puerto Princesa City, Palawan.

Ruling of the Regional Trial Court

On February 22, 2008, the RTC promulgated its Decision,[1] the dispositive portion of which reads:

WHEREFORE, premises considered, the Court rules that, in view of the invalidation of the ballots judicially declared as written by one (1) or two (2) persons, the Protestant is hereby declared the duly elected Mayor of El Nido, Palawan by a vote of 1,701, x x x winning over protestee whose final tally of votes after above deduction is 1,236 votes, the Protestant winning by a margin of 465 votes.[2]

On the same day that the decision was promulgated, Corral filed her formal Notice of Appeal simultaneously paying the required amount of docket/appeal fees. Fernandez, on the other hand, filed a Motion for Execution Pending Appeal and set the same for hearing on February 27, 2008.

On the said date of hearing, Corral filed her written opposition to the motion; nevertheless, the hearing was held. After the hearing, the RTC judge issued the Order[3] granting the motion for execution of his Decision pending its appeal. The dispositive part of the Order states:

WHEREFORE, premises considered, in view of the circumstances cited above surrounding the execution of

the above questioned ballots, there exists a cloud of doubt on the earlier pronouncement of the Board of Election Canvassers declaring Protestee as winner of the election contest and should not continue in office as Protestee has no mandate of the people of El Nido at this point in time and in lieu thereof, the Court hereby GRANTS the execution pending appeal of its Decision dated February 22, 2008.

IT IS SO ORDERED.[4]

On March 5, 2008, Corral filed a Motion for Reconsideration of the said Order, but the motion was denied. Thus, Corral filed on March 12, 2008 a petition for certiorari before the Comelec imputing grave abuse of discretion to the RTC for granting Fernandez's motion for execution pending appeal despite the absence of good and special reasons or superior circumstances as expressly required by existing rules.

Ruling of the Comelec First Division

The Comelec First Division issued a 60-day Temporary Restraining Order (TRO) on March 26, 2008 enjoining the enforcement and implementation of the February 27, 2008 Order of the RTC. Thereafter, as the TRO was about to expire, it issued an order dated May 22, 2008 granting the preliminary injunction prayed for by the petitioner. Then on December 17, 2008, it resolved the petition and issued the assailed Resolution, the dispositive portion of which states:

WHEREFORE, premises considered, the instant petition for certiorari is hereby DISMISSED. The orders of the respondent court dated February 27, 2008 and March 7, 2008 are consequently affirmed.

SO ORDERED.[5]

Ruling of the Comelec En Banc

Petitioner moved for a reconsideration before the Comelec En Banc which resolved the matter on November 10, 2009 as follows:

WHEREFORE, premises considered, the Commission en banc RESOVLED, as it hereby RESOLVES, to:

1. DISMISS petitioner LEONOR DANGAN-CORRAL'S Motion for Reconsideration for lack of merit;
2. AFFIRM the dismissal of the herein Petition by the First Division of this Commission, hereby giving way to the implementation of the execution pending appeal issued by the court a quo in favor of private respondent Ernesto Enero Fernandez, and hereby ordering petitioner Leonor Dangan-Corral to vacate the position of Municipal Mayor of El Nido, Province of Palawan; and the Electoral Contests Adjudication Department is hereby directed to furnish the Department of Interior and Local Government a copy of this Resolution for proper implementation;
3. DENY public respondent RTC Judge Bienvenido Blancaflor's motion to dismiss (addressed to his own court) the charge of contempt filed against him, and instead, he is hereby found GUILTY of CONTEMPT OF THIS COMMISSION and sentenced to pay a fine in the amount of ONE THOUSAND (P1,000.00) PESOS;
4. DIRECT private respondent Ernesto Enero Fernandez to explain within ten (10) days from receipt of this Resolution why he should not be cited for contempt of this Commission for assuming the herein controverted position of Municipal Mayor of El Nido, Province of Palawan, while the Writ of Preliminary Injunction earlier issued was still in full force and effect.

SO ORDERED.[6]

Issues

Hence, this petition, which alleges palpable grave abuse of discretion, to wit:

The respondent Comelec committed not only a reversible error but gravely abused its discretion when it ignored the mandatory requirements of the SUPREME COURT duly promulgated Rule on the matter of FORM of Decision of trial court in protest cases.

The respondent Comelec likewise committed grave abuse of discretion when it disregarded the mandatory requirements of the SUPREME COURT duly promulgated Rule, specifically Rule 14, Section 11 of the Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials by simplistically relying on the dispositive portion of the decision of the trial court and refusing to examine the substantial portion of the said grossly defective trial court decision so as to determine whether the victory of the protestant and the defeat of protestee was clearly established.

The respondent Comelec committed grave abuse of discretion when it sustained the validity of the Special Order granting private respondent's Motion for Execution Pending Appeal notwithstanding the clear absence of the requisite two [2] good reasons to support such grant.

The respondent Comelec committed grave abuse of discretion when it stubbornly insisted on merely applying in this case the general principles of Certiorari Petitions and refused to apply and correlate therewith the provisions of the New Rules on Protest Cases Applicable to the Trial Courts most especially on the subject of Execution Pending Appeal.

In sum, the issue is whether the Comelec gravely abused its discretion amounting to lack or excess of jurisdiction in affirming the execution pending appeal of the decision of the RTC.

Petitioner's Arguments

Petitioner contends that the RTC Decision sought to be executed pending appeal violates the mandatory required form of decisions in election cases and thus should not be executed. She further contends that the determination of whether the victory of the protestant was clearly established should be made from the entire decision and not, as what the Comelec did, merely from the dispositive portion. She insists that the RTC Decision readily shows the inconclusive, defective and infirmed nature of protestant's alleged victory. Petitioner also posits that there was no valid or good reason given for granting the execution pending appeal. She also contends that the Comelec refused to apply the new rules on protest cases and is thus guilty of grave abuse of discretion.

Private Respondent's Arguments

On the other hand, Fernandez contends that the Decision of the RTC is well grounded based on the evidence presented and it clearly establishes his victory over Corral by a margin of 465 votes. Fernandez also contends that there are good reasons to allow execution pending appeal, like giving substance to the voice of the people of El Nido. Hence, he maintains that the decision may properly be the subject of a writ of execution pending appeal.

Our Ruling

There are clear cut requirements on when RTC decisions may be executed pending appeal. Rule 14 of the Rules of Procedure in Election Contests states:

Sec. 11. Execution pending appeal. - On motion of the prevailing party with notice to the adverse party, the court, while still in possession of the original records, may, at its discretion, order the execution of the decision in an election contest before the expiration of the period to appeal, subject to the following rules:

(a) There must be a motion by the prevailing party with three-day notice to the adverse party. Execution pending appeal shall not issue without prior notice and hearing. There must be good reasons for the execution pending appeal. The court, in a special order, must state the good or special reasons justifying the execution pending appeal. Such reasons must:

(1) constitute superior circumstances demanding urgency that will outweigh the injury or damage should the losing party secure a reversal of the judgment on appeal; and

(2) be manifest, in the decision sought to be executed, that the defeat of the protestee or the victory of the protestant has been clearly established.

(b) If the court grants an execution pending appeal, an aggrieved party shall have twenty working days from notice of the special order within which to secure a restraining order or status quo order from the Supreme Court or the Commission on Elections. The corresponding writ of execution shall issue after twenty days, if no restraining order or status quo order is issued. During such period, the writ of execution pending appeal shall be stayed. (Emphasis supplied)

A valid exercise of discretion to allow execution pending appeal requires that it must be manifest in the decision sought to be executed that the defeat of the protestee and the victory of the protestant have been clearly established.[7] The Rules of Procedure in Election Contests now embody this doctrine, which the Comelec has in the past[8] given value to and used in resolving cases before it, and which has formed part of our jurisprudence.

We have taken to heart the need to decide election contests with dispatch; hence, we promulgated A.M. No. 07-4-15-SC[9] to address the matter. Noteworthy is the fact that particular attention has been given to the decision itself in election contests. For comparison, in the Rules of Court, Section 1 of Rule 36 merely states: "A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court." In the Rules of Procedure in Election Contests, however, Section 2 of Rule 14 states:

Section 2. Form of decision in election protests.-After termination of the revision of ballots and before rendering its decision in an election protest that involved such revision, the court shall examine and appreciate the original ballots. The court, in its appreciation of the ballots and in rendering rulings on objections and claims to ballots of the parties, shall observe the following rules:

(a) On Marked Ballots- The court must specify the entries in the ballots that clearly indicate that the intention of the voter is to identify the ballot. The specific markings in the ballots must be illustrated or indicated;

(b) On Fake or Spurious Ballots- The court must specify the COMELEC security markings that are not found in the ballots that are considered fake or spurious;

(c) On Stray Ballots- The court must specify and state in detail why the ballots are considered stray;

(d) On Pair or Group of Ballots Written by One or Individual Ballots Written by Two- When ballots are invalidated on the ground of written by one person, the court must clearly and distinctly specify why the pair or group of ballots has been written by only one person. The specific strokes, figures or letters indicating that the ballots have been written by one person must be specified. A simple ruling that a pair or group of ballots has been written by one person would not suffice. The same is true when ballots are excluded on the ground of having been written by two persons. The court must likewise take into consideration the entries of the Minutes of Voting and Counting relative to illiterate or disabled voters, if any, who cast their votes through assistants, in determining the validity of the ballots found to be written by one person, whether the ballots are in pairs or in groups; and

(e) On Claimed Ballots- The court must specify the exact basis for admitting or crediting claimed votes to either party. (Emphasis supplied)

Notably, the word "must" is used in the above-quoted rule, thus, clearly indicating the mandatory -- not merely directory -- nature of the requirement of what the decision should contain. The specific rules on the contents of decisions in election contests were formulated so that the decision could, by itself, be taken as a valuable aid in

expeditiously deciding on appeal incidents peripheral to the main case. In the present case, the contents of the decision become particularly relevant and useful in light of the need to decide the case before us with utmost dispatch, based only on the documents submitted before us, considering that the records and election materials are with another tribunal, as a matter of course.

For the limited purpose of determining whether the essential requisite of a clear showing in the decision of the protestant's victory and the protestee's defeat is present, we have examined the RTC Decision subject of the present case. It is glaring and unmistakable that the said Decision does not conform to the requirements set forth in Section 2 of the Rules. It does not give the specifics of its findings. The general statement invalidating 67% of the total votes cast on the ground that the ballots were written by one person or written by two persons is grossly infirm. The Decision does not specify why the court considered particular groups of ballots to have been written by one person, and other invalidated ballots to have been written by two persons. Worse, the Decision does not state which and how many ballots were written by one person; and which and how many ballots were written by two persons. The entire Decision, even the lengthy part enumerating the exhibits offered by each party, fails to yield the exact number of and which ballots were written by one person, and the exact number of and which ballots were written by two persons. There is also no mention in the decision of whether or not the RTC took into consideration the entries of the Minutes of Voting and Counting relative to illiterate or disabled voters, if any, who cast their votes through assistants. The Decision merely states that "[a] careful and cursory examination of these ballots indubitably shows that these ballots are written either by one (1) or two (2) persons, given the palpable similarity in the handwritings indicated in these ballots earlier declared by Protestant's revisors as written by one (1) and two (2) persons." [10] It utterly violates the mandatory requirement that "the court must clearly and distinctly specify why the pair or group of ballots has been written by only one person. The specific figures or letters indicating that the ballots have been written by one person must be specified."

In the present case, the victory of the protestant and the defeat of the protestee were not clearly established in the Decision because of the RTC's failure to conform to the prescribed form of the Decision. Because of said infirmity, there is no certainty, it not being mentioned in the Decision, on whether the ballots of those who voted through assistants were also invalidated or not, in conjunction with the lack of a specific number of ballots invalidated for being written by one person. The ballots of those who voted through assistants, if any, could validly be written by one person. It being unclear from the Decision whether these ballots, if any, were invalidated, it follows that the victory of the protestant and defeat of the protestee are unclear and not manifest therein.

Consequently, to allow the execution of such a grossly infirm RTC Decision in disregard of established jurisprudence and clear and straightforward rules is arbitrary and whimsical and constitutes grave abuse of discretion amounting to lack or excess of jurisdiction. [11]

Considering that the execution pending appeal cannot be validly allowed without the above discussed requisite, and having already found the presence of grave abuse of discretion, we find no necessity of addressing the other matters raised by the petitioner and of still determining the presence or absence of the other requisites for execution pending appeal.

WHEREFORE the petition is GRANTED. The December 17, 2008 Resolution of the First Division of the Commission on Elections and November 10, 2009 Resolution of the Commission on Elections En Banc in Special Relief Case, SPR No. 51-2008 are declared NULL and VOID.

SO ORDERED.

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

[1] Rollo, pp. 88-124; penned by Judge Bievenido C. Blancaflor.

[2] Id. at 124.

[3] Id. at 144-146.

[4] Id. at 146.

[5] Id. at 64.

[6] Id. at 86-87.

[7] Pecson v. Commission on Elections, G.R. No. 182856, December 24, 2008, 575 SCRA 634, 649.

[8] Fermo v. Commission on Elections, 384 Phil. 584, 592 (2000); Istarul v. Commission on Elections, G.R. No. 170702, June 16, 2006, 491 SCRA 300, 309.

[9] Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials (Rules of Procedure in Election Contests).

[10] RTC Decision, p. 37; rollo, p. 124.

[11] Information Technology Foundation of the Philippines v. Commission on Elections, 464 Phil. 173, 323 (2004).

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