

HENRY “JUN” DUEÑAS, JR., PETITIONER, VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND ANGELITO “JETT” P. REYES, RESPONDENTS.

G.R. No. 191550. May 04, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Certiorari under Rule 65 of the Rules of Court praying that the Decision[1] of the House of Representatives Electoral Tribunal (HRET) dated February 25, 2010 and its Resolution[2] dated March 18, 2010 be declared null and void ab initio.

Petitioner was proclaimed as the Congressman for the Second Legislative District of Taguig City. Private respondent filed an election protest with the HRET. After revision of ballots in 100% of the protested precincts and 25% of the counter-protested precincts, the case was submitted for resolution upon the parties' submission of memoranda. However, in its Order[3] dated September 25, 2008, the HRET directed the continuation of the revision and appreciation of ballots for the remaining 75% of the counter- protested precincts. Petitioner's motion for reconsideration of said Order was denied in a HRET Resolution dated October 21, 2008 which reiterated the Order to continue revision in the remaining 75% of the counter-protested precincts. Petitioner then filed a petition for certiorari with this Court docketed as G.R. No. 185401, seeking the nullification of said order of revision, alleging that it was issued with grave abuse of discretion. On July 21, 2009, the Court promulgated a Decision dismissing the petition. Said Decision became final and executory and the HRET continued the proceeding in the electoral protest case.

On February 25, 2010, the HRET promulgated its Decision which declared private respondent as the winner with a margin of 37 votes.

In the instant petition, the main thrust of petitioner's argument is that since private respondent's margin of votes is merely 37, this shows that the alleged reason for the HRET's order of revision, i.e., that the proclaimed results of the congressional elections in Taguig City have been substantially affected by the results of the initial revision and appreciation of ballots, is baseless. Petitioner then continued to reiterate his arguments raised in his earlier petition for certiorari seeking the nullification of the HRET Resolution dated October 21, 2008. He also pointed out that the three Justices of the Court who are members of the HRET took no part in the HRET's Decision and Resolution denying reconsideration.

In his Comment, private respondent counters that petitioner's allegations do not show grave abuse of discretion on the part of the HRET.

The Court resolves to dismiss the petition for lack of merit.

It is hornbook principle that this Court's jurisdiction to review decisions and orders of electoral tribunals is exercised only upon showing of grave abuse of discretion committed by the tribunal; otherwise, the Court shall

not interfere with the electoral tribunal's exercise of its discretion or jurisdiction.[4] Grave abuse of discretion has been defined as the capricious and whimsical exercise of judgment, the exercise of power in an arbitrary manner, where the abuse is so patent and gross as to amount to an evasion of positive duty.[5]

Such showing of grave abuse of discretion is sorely wanting in this case. Petitioner dwells on his theory that there was no justification for the HRET's Order to continue the revision of ballots in 75% of the counter-protested precincts. Since it was eventually determined that private respondent's margin of votes is only 37, this allegedly shows that the results of the initial revision of ballots really had no substantial effect on the proclaimed results and, thus, the order for continuation of revision of ballots was uncalled for. In petitioner's view, the HRET's continuation of revision of ballots, in addition to the circumstance that none of the Supreme Court Justices who are members of the HRET took part in the Decision, are proof that the HRET committed grave abuse of discretion.

The Court has long declared in *Dueñas, Jr. v. House of Representatives Electoral Tribunal*,[6] that the HRET was acting well within the rules when it ordered the continuation of revision of ballots. Petitioner cannot resurrect his claims, which had been finally adjudged unmeritorious by this Court, through the present petition. Thus, the fact that the HRET went on with the revision of ballots in 75% of the counter-protested precincts cannot be considered as grave abuse of discretion on the part of the electoral tribunal.

Likewise, the circumstance that none of the three Supreme Court Justices took part in the Decision, cannot be taken as proof of grave abuse of discretion. Rule 89 of the 2004 Rules of the House of Representatives Electoral Tribunal provides that "[f]or rendition of decisions and the adoption of formal resolutions, the concurrence of at least five (5) Members shall be necessary." The HRET Decision dated February 25, 2010 had the concurrence of six of its members. Verily, the HRET was acting in accordance with its rules and cannot be said to have committed any abuse of its discretion.

WHEREFORE, the petition is DISMISSED for lack of merit. The Decision dated February 25, 2010 and the Resolution dated March 18, 2010 of the House of Representatives Electoral Tribunal are AFFIRMED.

SO ORDERED.

Puno, C.J., Carpio, Nachura, Brion, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Corona, J., no part.

Carpio Morales, J., No part. Previously ascte on it as HRET member.

Velasco, Jr., and Leonardo-De Castro, JJ., no part, member of HRET.

[1] Rollo, pp. 54-92.

[2] Id. at 93-95.

[3] Id. at 164.

[4] *Abubakar v. House of Representatives Electoral Tribunal*, G.R. Nos. 173310 and 173609, March 7, 2007, 517 SCRA 762, 776; *Torres v. House of Representatives Electoral Tribunal*, G.R. No. 144491, 351 SCRA 312, 326-327.

[5] *Villarosa v. House of Representatives Electoral Tribunal*, G.R. Nos. 143351 and 144129, September 14, 2000, 340 SCRA 396.

[6] G.R. No. 185401, July 21, 2009, 593 SCRA 316.

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