ATTY. EVILLO C. PORMENTO, PETITIONER, VS. JOSEPH “ERAP” EJERCITO ESTRADA AND COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. No. 191988. August 31, 2010

Ponente: CORONA, J.

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CORONA, J.:

What is the proper interpretation of the following provision of Section 4, Article VII of the Constitution: "[t]he President shall not be eligible for any reelection?"

The novelty and complexity of the constitutional issue involved in this case present a temptation that magistrates, lawyers, legal scholars and law students alike would find hard to resist. However, prudence dictates that this Court exercise judicial restraint where the issue before it has already been mooted by subsequent events. More importantly, the constitutional requirement of the existence of a "case" or an "actual controversy" for the proper exercise of the power of judicial review constrains us to refuse the allure of making a grand pronouncement that, in the end, will amount to nothing but a non-binding opinion.

The petition asks whether private respondent Joseph Ejercito Estrada is covered by the ban on the President from "any reelection." Private respondent was elected President of the Republic of the Philippines in the general elections held on May 11, 1998. He sought the presidency again in the general elections held on May 10, 2010. Petitioner Atty. Evillo C. Pormento opposed private respondent's candidacy and filed a petition for disqualification. However, his petition was denied by the Second Division of public respondent Commission on Elections (COMELEC).[1] His motion for reconsideration was subsequently denied by the COMELEC en banc.[2]

Petitioner filed the instant petition for certiorari[3] on May 7, 2010. However, under the Rules of Court, the filing of such petition would not stay the execution of the judgment, final order or resolution of the COMELEC that is sought to be reviewed.[4] Besides, petitioner did not even pray for the issuance of a temporary restraining order or writ of preliminary injunction. Hence, private respondent was able to participate as a candidate for the position of President in the May 10, 2010 elections where he garnered the second highest number of votes.[5]

Private respondent was not elected President the second time he ran. Since the issue on the proper interpretation of the phrase "any reelection" will be premised on a person's second (whether immediate or not) election as President, there is no case or controversy to be resolved in this case. No live conflict of legal rights exists.[6] There is in this case no definite, concrete, real or substantial controversy that touches on the legal relations of parties having adverse legal interests.[7] No specific relief may conclusively be decreed upon by this Court in this case that will benefit any of the parties herein.[8] As such, one of the essential requisites for the exercise of the power of judicial review, the existence of an actual case or controversy, is sorely lacking in this case.

As a rule, this Court may only adjudicate actual, ongoing controversies.[9] The Court is not empowered to decide moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the result as to

the thing in issue in the case before it.[10] In other words, when a case is moot, it becomes non-justiciable.[11]

An action is considered "moot" when it no longer presents a justiciable controversy because the issues involved have become academic or dead or when the matter in dispute has already been resolved and hence, one is not entitled to judicial intervention unless the issue is likely to be raised again between the parties. There is nothing for the court to resolve as the determination thereof has been overtaken by subsequent events.[12]

Assuming an actual case or controversy existed prior to the proclamation of a President who has been duly elected in the May 10, 2010 elections, the same is no longer true today. Following the results of that elections, private respondent was not elected President for the second time. Thus, any discussion of his "reelection" will simply be hypothetical and speculative. It will serve no useful or practical purpose.

Accordingly, the petition is denied due course and is hereby DISMISSED.

SO ORDERED.

Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza and Sereno, JJ., concur.
Brion, J., on leave.
Peralta, J., on official leave.

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[1] Resolution dated January 10, 2010 penned by Commissioner Nicodemo T. Ferrer and concurred in by Commissioners Lucenito N. Tagle and Elias R. Yusoph. Rollo, pp. 21-46.

[2] Resolution dated May 4, 2010 penned by Commissioner Armando C. Velasco and concurred in by Chairperson Jose A.R. Melo and Commissioners Rene V. Sarmiento, Nicodemo T. Ferrer, Lucenito N. Tagle, Elias R. Yusoph and Gregorio Y. Larrazabal. Id., pp. 47-51.

[3] Under Rule 65 in relation to Rule 64 of the Rules of Court.

[4] See Section 8, Rule 64 of the Rules of Court.

[5] Benigno Simeon C. Aquino III garnered the highest number of votes and was therefore proclaimed as President.

[6] See discussion on the concept of "case" or "contoversy" in Cruz, Isagani, Philippine Political Law, 2002 Edition, p. 259.

[7] Id.

[8] Id.

[9] Honig v. Doe, 484 U.S. 305 (1988).

[10] Id.

[11] While there are exceptions to this rule, none of the exceptions applies in this case. What may most probably come to mind is the "capable of repetition yet evading review" exception. However, the said exception applies only where the following two circumstances concur: (1) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration and (2) there is a reasonable expectation that the same complaining party would be subjected to the same action again (Lewis v. Continental Bank Corporation, 494 U.S. 472 [1990]). The second of these requirements is absent in this case. It is highly speculative and hypothetical that

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petitioner would be subjected to the same action again. It is highly doubtful if he can demonstrate a substantial likelihood that he will "suffer a harm" alleged in his petition. (See Honig v. Doe, supra.)

[12] Santiago v. Court of Appeals, G.R. No. 121908, 26 January 1998, 285 SCRA 16.

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