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G.R. No. 220514. September 25, 2019

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

Assailed in this Petition for Review on Certiorari are the April 30, 2015 Decision[1] and the September 15, 2015 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 134482 which affirmed the February 10, 2014 Decision[3] of the Regional Trial Court, Parañaque City, Branch 258 (RTC) in Civil Case No. 10-0070, an intra-corporate election contest.

The Antecedents

The petitioners are members of Samahang Barangay Don Bosco Tricycle Operators and Drivers, Inc. (SBDBTODI), a non-stock and non-profit association, duly registered with the Securities and Exchange Commission (SEC).[4] They were also candidates of an election held on January 30, 2010. On the other hand, the respondents are the opposing candidates and the winners in the said election.

The petitioners filed a complaint seeking nullification of the election held on January 30, 2010. They alleged that the respondents did not possess the qualifications required for their positions. First, Silverio Navarro, the elected President, as well as Romeo Diño, Reywell Ruaya, Angelito Bayawa, Valeriano Cantungan, Rogelio Pagsisihan, and Nemencio Aguilar, all elected as members of the Board of Directors, did not possess Motorized Tricycle Operation Permit (MTOP) as required by the Association's By-Laws. Second, the elected President, Vice-President, Secretary, Treasurer and Auditor had not proved that they were high school graduates. Third, the respondents arbitrarily imposed that only those members who have barangay clearance, National Bureau of Investigation (NBI) clearance, police clearance and valid driver's license could vote. Thus, a number of members who would have voted in favor of the petitioners were disenfranchised and unable to vote. The petitioners further averred that the result of the January 30, 2010 election was void because there was no registration of voters conducted prior to the election as required by the Association's Constitution and By-Laws. They also contended that the Committee on Elections was illegally constituted because some of its members are relatives of the candidates.

On February 1, 2010, the petitioners filed their written protest before the Committee on Elections. The said Committee, however, failed to act on the protest prompting the petitioners to file a complaint before the RTC.

In their Answer, the respondents argued that the master list of purported members of the Association with MTOPs which was submitted by the petitioners should not be given credence as it was full of erasures and insertions and it was not certified by the Association's President. Moreover, the petitioners did not even identify the eligible members who were allegedly not allowed to vote.

While the case was pending, the Association held on December 15, 2012 an election to choose a new set of officers and Board of Directors.

The RTC Ruling

In a Decision dated February 10, 2014, the RTC dismissed the case for being moot and academic on the ground that the term of office of the respondents expired on January 31, 2013. The fallo reads:

WHEREFORE, in [the] light of the foregoing, the instant case is hereby DISMISSED for being moot and academic.

SO ORDERED.[5]

Aggrieved, the petitioners elevated an appeal before the CA.

The CA Ruling

In a Decision dated April 30, 2015, the CA affirmed the ruling of the RTC. It held that the case does not fall into the exception of an action "capable of repetition, yet evading review." The appellate court noted that the petitioners did not run in the 2012 election whereas the respondents actually ran for re-election and eventually won another term. Thus, it opined that it is unlikely that the petitioners would be subjected again to the same action by the respondents. The CA concluded that the resolution of the present action based on the merits will serve no useful or practical purpose on account of the expiration of the respondents' term of office. It disposed the case in this wise:

WHEREFORE, premises considered, the Decision dated February 10, 2014 rendered by the Regional Trial Court of Para[ña]que is hereby AFFIRMED.

IT IS SO ORDERED.[6]

The petitioners moved for reconsideration, but the same was denied by the CA in a Resolution dated September 15, 2015.

The Issue

WHETHER THIS PETITION PRESENTS A JUSTICIABLE CONTROVERSY AFTER THE TERM OF OFFICE OF THE RESPONDENTS HAVE ALREADY EXPIRED.

The Court's Ruling

The existence of an actual case or controversy is a condition precedent for the court's exercise of its power of adjudication. An actual case or controversy exists when there is a conflict of legal rights or an assertion of opposite legal claims between the parties that is susceptible or ripe for judicial resolution.[7] On the other hand, 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 a case, or dismiss it on ground of mootness;[8] otherwise, the court would engage in rendering an advisory opinion on what the law would be upon a hypothetical state of facts.

A case becomes moot and academic when the conflicting issue that may be resolved by the court ceases to exist as a result of supervening events.[9] While it is true that this Court may assume jurisdiction over a case that has been rendered moot and academic by supervening events, the following instances must be present:

(1)

Grave constitutional violations;

(2)

Exceptional character of the case;

(3)

Paramount public interest;

(4)

The case presents an opportunity to guide the bench, the bar, and the public; or

(5)

The case is capable of repetition yet evading review.[10]

None of these circumstances are present in this case. The expiration of the respondents' term of office operates as a supervening event that mooted the present petition. The petitioners, however, insist that the case falls under the fifth exception, i.e., the case is capable of repetition yet evading review. There are two factors to be considered before a case is deemed one capable of repetition yet evading review: (1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration; and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action.[11] In this case, while the respondents were re-elected, their re-election was never assailed. Also, there is no sufficient showing that the respondents would seek further re-election, and even if they do, their victory is not guaranteed. Moreover, the qualifications which the petitioners alleged that the respondents lack could be subsequently cured. To be sure, the respondents could easily become owners of tricycle units. Further, the petitioners did not present any proof to contradict the respondents' evidence that they are high school graduates and even if indeed the respondents did not graduate from high school, it is not beyond the realm of possibility that they would do so. At this point, it must be emphasized that the second requisite requires "reasonable expectation," not mere speculation that the complaining party would be subjected to the same action.

Indeed, the Court has resolved cases which are capable of repetition yet evading review. Among these cases is *Belgica v. Ochoa, Jr.*[12] where the constitutionality of the Executive Department's lump-sum, discretionary funds under the 2013 General Appropriations Act, known as the Priority Development Assistance Fund (PDAF) was assailed. Considering the fact that PDAF has always been incorporated in the national budget which is enacted annually, the Court ruled that it is one capable of repetition yet evading review, thus:

Finally, the application of the fourth exception [to the rule on mootness] is called for by the recognition that the preparation and passage of the national budget is, by constitutional imprimatur, an affair of annual occurrence. The relevance of the issues before the Court does not cease with the passage of a "PDAF-free budget for 2014." The evolution of the "Pork Barrel System," by its multifarious iterations throughout the course of history, lends a semblance of truth to petitioners' claim that "the same dog will just resurface wearing a different collar." In *Sanlakas v. Executive Secretary*, the government had already backtracked on a previous course of action yet the Court used the "capable of repetition but evading review" exception in order "[t]o prevent similar questions from re-emerging." The situation similarly holds true to these cases. Indeed, the myriad of issues underlying the manner in which certain public funds are spent, if not resolved at this most opportune time, are capable of repetition and hence, must not evade judicial review.[13] [Emphases supplied; citations omitted]

Evidently, unlike the PDAF which was incorporated in the annual budget, the election of the respondents is neither certain nor definite.

In addition, although what is involved in the present case is the election of officers in a non-stock and non-profit

association, the Court's pronouncement in *Malaluan v. COMELEC*,^[14] reiterated in the cases of *Sales v. COMELEC*^[15] and *Baldo, Jr. v. COMELEC*,^[16] that the expiration of the challenged term of office renders the corresponding petition moot and academic, finds application.

Likewise, in *Manalad v. Trajano*^[17] which concerns the election of union officers, the Court declared:

After a careful consideration of the facts of this case, We are of the considered view that the expiration of the terms of office of the union officers and the election of officers on November 28, 1988 have rendered the issues raised by petitioners in this case moot and academic. It is pointless and unrealistic to insist on annulling an election of officers whose terms had already expired. We would have thereby a judgment on a matter which cannot have any practical legal effect upon a controversy, even if existing, and which, in the nature of things, cannot be enforced. We must consequently abide by our consistent ruling that where certain events or circumstances have taken place during the pendency of the case which would render the case moot and academic, the petition should be dismissed.^[18] [Emphases supplied; citations omitted]

Indeed, an academic discussion of a case presenting a moot question is not necessary, because a judgment on the case cannot have any practical legal effect or, in the nature of things, cannot be enforced. Stated otherwise, the Court will not determine a moot question in a case in which no practical relief can be granted.^[19]

WHEREFORE, the petition is DENIED for being moot and academic.

SO ORDERED.

Carpio, Acting Chief Justice, (Chairperson), Caguioa, Lazaro-Javier, and Zalameda, JJ., concur.

* Acting Chief Justice per Special Order No. 2703 dated September 10, 2019.

[1] Penned by Associate Justice Danton Q. Bueser, with Associate Justices Apolinario D. Bruselas, Jr. and Edwin D. Sorongon, concurring; rollo, pp. 31-40.

[2] *Id.* at 41-42.

[3] Penned by Presiding Judge Noemi J. Balitaan; *id.* at 407-413.

[4] *Id.* at 111.

[5] *Id.* at 413.

[6] *Id.* at 39.

[7] *Spouses Arevalo v. Planters Development Bank*, 686 Phil. 236, 248 (2012).

[8] *Gunsi, Sr v. Commissioners, Commission on Elections*, 599 Phil. 223, 229 (2009).

[9] *David v. Macapagal-Arroyo*, 522 Phil. 705, 753 (2006).

[10] *Republic v. Moldex Realty, Inc.*, 780 Phil. 553, 561 (2016).

[11] *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines)*, 791 Phil. 243, 273 (2016).

[12] 721 Phil. 416, 522 (2013).

[13] *Id.* at 524-525.

[14] 324 Phil. 676, 683 (1996).

[15] 559 Phil. 593, 597 (2007).

[16] 607 Phil. 281, 286 (2009).

[17] 256 Phil. 64, 71 (1989).

[18] Id.

[19] Villarico v. Court of Appeals, 424 Phil. 26, 34 (2002).

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