

MOHAMAD LAMPING MITMUG, PETITIONER, VS. THE COMMISSION ON ELECTIONS (DIVISION I), THE MUNICIPAL BOARD OF CANVASSERS OF LUMBA BAYABAO, LANA DEL SUR, AND MANGAYAO DAGALANGIT, RES...

G.R. No. 54082. March 24, 1981

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

Petitioner in this certiorari and prohibition proceeding filed on June 20, 1980 against respondent Commission on Elections, sought to enjoin the enforcement of its resolution dated May 9, 1980. It reads as follows: "It appearing that the Municipal Board of Canvassers of Lumba Bayabao, Lanao del Sur has canvassed the election returns and tabulated the votes obtained by the candidates, except election returns which has been excluded, and in order not to deprive the municipality of the services of its elective municipal officials, the Commission [resolved] as it hereby resolves, to order the Municipal Board of Canvassers to immediately convene and temporarily proclaim, after due notice, the winning mayoralty candidate of Lumba Bayabao, Lanao del Sur, pursuant to Resolution No. 9434, as amended by Resolution No. 9440, of this Commission, without prejudice to the final outcome of the said cases." [1]

Petitioner Mohamad Lamping Mitmug must have had the impression that if such resolution be implemented his opponent, respondent Mangayao Dagalangit would be proclaimed. The issue raised, therefore, is the validity of allowing a temporary proclamation, prior to the canvassing being completed. Respondent Commission on Elections was then looking into charges and countercharges of alleged anomalies by both candidates. In the restraining order issued on June 26, 1980, it was specifically stated that respondent Mangayao Dagalangit should "DESIST from assuming, discharging or performing the functions or duties of Municipal Mayor and to further claim and receive salaries therefor." [2]

As early as July 7, 1980, private respondent Mangayao Dagalangit filed his comment. Thereafter on August 18, 1980, the comment of respondent Commission on Elections was filed through Solicitor General Estelito P. Mendoza. [3] Then on August 20, 1980 there was a reply to comment by petitioner. All of those comments were noted. Subsequently on January 13, 1981 there was a manifestation filed by respondent Commission on Elections to the effect that: "Inasmuch as the Court's restraining Order of June 26, 1980 did not restrain the enforcement of COMELEC Resolution No. 9759 dated May 7, 1980, the fingerprint division of COMELEC proceeded with the examination and analysis of fingerprints and signatures on the records of voting and the books of voters specified in the said COMELEC Resolution of May 7, 1981, and has now submitted its report on the matter. Accordingly, COMELEC issued an order dated January 8, 1981 setting the pre-proclamation cases for hearing on January 19, 1981 at 10:00 o'clock in the morning, ..." [4]

The latest pleading, received on March 19, 1981, is a manifestation submitted directly to the Supreme Court by respondent Commission: "1. That the new Municipal Board of Canvassers of Lumba Bayabao, Lanao del Sur, as

duly constituted pursuant to the herein respondent's Resolution No. 81-01, dated March 3, 1981, convened and canvassed the votes of candidates for Mayor of said municipality, on March 14, 1981, at 10:00 o'clock in the morning, in the Session Hall of the Commission on Elections, Intramuros, Manila; and 2. That after the aforesaid canvass, the results showed that the votes obtained by the three (3) candidates for Mayor are as follows: (1) Mangayao Dagalangit - 2,376 votes (2) Mohamad Lamping Mitmug - 1,432 votes (3) Bambai Dagalangit - 54 votes and, thereafter, the same board of canvassers proclaimed Mangayao N. Dagalangit, one of the respondents in this case, as the duly elected Mayor of Lumba Bayabao, Lanao del Sur."^[5] It likewise enclosed copies of the certificate of canvass of the votes cast and proclamation of the winning candidates; statement of canvass and statement of votes by voting center.

It is thus clear that the objective of the petitioner is to prevent a temporary proclamation. With the canvassing completed, and the proclamation made, private respondent emerging as the victor with the right reserved to petitioner to file his corresponding election protest, this case has become moot and academic.

Moreover, this mode of disposing the case is in accordance with the invariable principle followed by this Court given its formulation as to disqualification controversies in *Aguinaldo v. Commission on Elections*.^[6] It is equally applicable to petitions raising questions more appropriately decided in an election protest. By virtue thereof, proceedings filed with us after January 30, 1980 are dismissed, without prejudice to having the issues passed upon in the appropriate contests before the proper agency. The time that had elapsed since the 1980 election emphasizes the validity and wisdom of such an approach. It is even more appropriate here. An election protest should settle the matter conclusively once and for all, instead of the parties being caught in the procedural meshes of a pre-proclamation controversy.

WHEREFORE, this petition is dismissed. This decision is immediately executory. The temporary restraining order issued on June 26, 1980 is lifted. No costs.

Teehankee, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

Barredo and Abad Santos, JJ., on official leave.

[1] Petition, 5.

[2] Temporary Restraining Order, 2.

[3] He was assisted by Assistant Solicitor General Ruben E. Agpalo and Solicitor Juan C. Nabong Jr.

[4] Manifestation, 2-3.

[5] Manifestation, 1.

[6] G.R. No. 53953, January 5, 1981.

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