

DEMETRIO G. VILLA, PETITIONER, VS. HONORABLE FEDERICO A. LLANES, JR., LAOAG CITY JUDGE, RESPONDENT.

G.R. No. 61498. January 17, 1983

Ponente: PLANA, J.

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PLANA, J.:

In this petition for certiorari and prohibition questioning the denial by the Laoag City Court of the petitioner's appeal from its decision in a barangay election protest, we are asked to rule on the period within which the said decision may be appealed to the Court of First Instance. Batas Pambansa Blg. 222, otherwise known as the Barangay Election Act of 1982, fixed the period at ten days. This period, which is prescribed in Section 20 of the law, must be followed.

There is no question about the antecedent facts.

Following the Barangay Elections of May 17, 1982, the petitioner was proclaimed by the Barangay Board of Canvassers as the duly elected barangay captain of Barangay 48-B Cabungaan, Laoag City. On May 26, 1982, one Concepcion M. Domingo, the only other candidate for barangay captain, filed with the Laoag City Court an election protest against the petitioner. A decision declaring Domingo as the winner was rendered on July 19, 1982. The petitioner's counsel received a copy of this decision on July 20, 1982. Ten days thereafter or on July 30, 1982, the petitioner filed with the city court his notice of appeal and appeal bond. The said court denied the appeal on the ground that under Rule VII, Section 14 of COMELEC Resolution No. 1566, in a barangay election protest —

"The decision of the Court shall become final three (3) days from receipt thereof. No motion for reconsideration shall be entertained."

The above Order is now challenged.

As at the outset stated, the period of ten days stated in Section 20 of the Barangay Election Act of 1982 governs the appeal of the petitioner from the adverse decision of the respondent city court. It provides —

"Section 20. . . .

"A sworn petition contesting the election of any barangay official shall be filed with the city or municipal or metropolitan trial court, as the case may be, within ten days from the date of proclamation of the winners. The trial court shall decide the election protest within fifteen days after the filing thereof. The decision of the municipal or city or metropolitan trial court may be appealed within ten days from receipt of a copy thereof to the Regional Trial Court (CFI) which shall decide within thirty days from submission, and whose decision shall be final."

It is quite evident that the petitioner filed his Notice of Appeal and Appeal Bond in the city court within the period prescribed in the law. The Notice was filed on July 30, 1982, the tenth day from petitioner's receipt on July 20, 1982 of a copy of the decision. The Order of the respondent court denying the appeal was not in conformity with

law.

There was, in this case, a mistaken reliance upon the provisions of Rule VII, Section 14 of Comelec Resolution No. 1566 promulgated on May 24, 1982. As pointed out by the Commission on Elections through the Solicitor General in the Comment filed pursuant to Our Resolution of September 8, 1982, Comelec Resolution No. 1566 was amended by Resolution No. 1583 on June 22, 1982, one a month and two weeks before the rendition of the questioned Order. Resolution No. 1583 provides —

"RESOLUTION NO. 1583

"WHEREAS, Sec. 20 of Batas Pambansa Blg. 222 provides that the decision of the Metropolitan, Municipal or Municipal Circuit Trial Court may be appealed within ten days from receipt of a copy thereof to the Regional Trial Court (CFI);

"WHEREAS, Sec. 14 and Sec. 16 of Comelec Resolution No. 1566 provides as follows:

"Sec. 14 . . . The Decision of the court shall become final three (3) days from receipt thereof. No motion for reconsideration shall be entertained.

"Sec. 16. Appeal. From any decision rendered by the Metropolitan, Municipal or Municipal Circuit Trial Court the aggrieved party may appeal to the Regional Trial Court (CFI) within ten days from receipt of a copy of the decision." . . . ;

"WHEREAS, there is an apparent conflict between the two provisions cited above on the period regarding the finality of decision; . . .

"NOW, THEREFORE, . . .

"Section 1. The last paragraph of Sec. 14, Resolution No. 1566, is hereby amended to read as follows:

"THE DECISION OF THE COURT SHALL BECOME FINAL AFTER TEN (10) DAYS FROM RECEIPT THEREOF. NO MOTION FOR RECONSIDERATION SHALL BE ENTERTAINED." (*Italics supplied*).

Section 14 of Resolution No. 1566 had already been amended when the respondent court invoked it as a reason for the denial of petitioner's appeal. The original error therein had already been corrected. And error there factually was, for Section 14 was in conflict not only with Section 16 of the same Resolution but, more significantly, with Section 20 of the very law from which it draws its life — Batas Pambansa Blg. 222. So that in this case, even if there had been no subsequent amendment of Resolution 1566, the respondent court should not have been misled thereby because it is incontestable that the Barangay Election Act of 1982 is superior to the rule which merely seeks to implement the law's mandate.

Accordingly, the Order dated August 2, 1982 of the Laoag City Court in Election Case No. 82-05 is annulled and set aside. The respondent judge is hereby directed to give due course to petitioner's appeal.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

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