

REP. VIRGILIO P. ROBLES, PETITIONER, VS. HON. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND ROMEO L. SANTOS, RESPONDENTS.

G.R. No. 86647. February 05, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari with prayer for a temporary restraining order assailing the resolutions of the House of Representatives Electoral Tribunal (HRET): 1) dated September 19, 1988 granting herein private respondent's Urgent Motion to Recall and Disregard Withdrawal of Protest, and 2) dated January 26, 1989, denying petitioner's Motion for Reconsideration.

Petitioner Virgilio Robles and private respondent Romeo Santos were candidates for the position of Congressman of the 1st district of Caloocan City in the last May 11, 1987 congressional elections. Petitioner Robles was proclaimed the winner on December 23, 1987.

On January 5, 1988, Santos filed an election protest with respondent HRET. He alleged, among others, that the elections in the 1st District of Caloocan City held last May 11, 1987 were characterized by the commission of electoral frauds and irregularities in various forms, on the day of elections, during the counting of votes and during the canvassing of the election returns. He likewise prayed for the recounting of the genuine ballots in all the 320 contested precincts (pp. 16-20, Rollo).

On January 14, 1988, petitioner filed his Answer (pp. 22-26, Rollo) to the protest. He alleged as among his affirmative defenses, the lack of residence of protestant and the late filing of his protest.

On August 15, 1988, respondent HRET issued an order setting the commencement of the revision of contested ballots on September 1, 1988 and directed protestant Santos to identify 25% of the total contested precincts which he desires to be revised first in accordance with Section 18 of the Rules of the House of Representatives Electoral Tribunal (pp. 76-77, Rollo).

On September 7, 1988, the revision of the ballots for 75 precincts, representing the initial 25% of all the contested precincts, was terminated.

On September 8, 1988, Robles filed an Urgent Motion to Suspend Revision and on September 12, 1988, Santos filed a Motion to Withdraw Protest on the unrevised precincts (pp. 78-80, Rollo).

No action on Robles' motion to suspend revision and Santos' motion to withdraw protest on unrevised precincts were yet taken by respondent HRET when on September 14, 1988, Santos filed an Urgent Motion to Recall and Disregard Withdrawal of Protest (pp. 81-85, Rollo). On September 19, 1988, Robles opposed Santos' Motion to Recall and Disregard Withdrawal of Protest in an Urgent Motion to Cancel Continuation of Revision with Opposition to Motion to Recall Withdrawal (pp. 86-91, Rollo). On the same day, respondent HRET issued a resolution which, among others, granted Santos' Urgent Motion to Recall and Disregard Withdrawal of Protest.

The said resolution states:

"House of Representatives Electoral Tribunal Case No. 43 (Romeo L. Santos vs. Virgilio P. Robles). Three pleadings are submitted for consideration by the Tribunal: (a) Protestee's 'Urgent Motion to Suspend Revision,' dated September 8, 1988; (b) Protestant's 'Motion to Withdraw Protest on Unrevised Precincts and Motion to Set Case for Hearing,' dated September 12, 1988; and (c) Protestant's 'Urgent Motion to Recall and Disregard Withdrawal of Protest,' dated September 14, 1988.

"Upon the filing of Protestant's Motion to Withdraw Protest, the revision of ballots was stopped and such revision remains suspended until now. In view of such suspension, there is no need to act on Protestee's Motion.

"The 'Motion to Withdraw Protest,' has been withdrawn by Protestant's later motion, and therefore need not be acted upon.

"WHEREFORE, Protestee's 'Urgent Motion to Suspend Revision' and Protestant's 'Motion to Withdraw Protest' are NOTED. The 'Urgent Motion to Recall and Disregard Withdrawal of Protest' is GRANTED.

"The Secretary of the Tribunal is directed to schedule the resumption of the revision on September 26, 1988 and to send out the necessary notices for this purpose." (p. 84, Rollo)

On September 20, 1988, Robles filed an Urgent Motion and Manifestation praying that his Urgent Motion to Cancel Revision with Opposition to Motion to Recall dated September 19, 1988 be treated as a Motion for Reconsideration of the HRET resolution of September 19, 1988 (pp. 92-94, Rollo).

On September 22, 1988, respondent HRET directed Santos to comment on Robles' "Urgent Motion to Cancel Continuation of Revision with Opposition to Motion to Recall Withdrawal" and ordered the suspension of the resumption of revision scheduled for September 26, 1988.

On January 26, 1989, the House of Representatives Electoral Tribunal denied Robles' Motion for Reconsideration (pp. 109-111, Rollo). Hence, the instant petition was filed on February 1, 1989 (pp. 1-14, Rollo).

On February 2, 1989, We required the respondents to comment within ten (10) days from notice of the petition (p. 118, Rollo). On February 9, 1989, petitioner Robles filed an Urgent Motion Reiterating Prayer for Injunction or Restraining Order (pp. 119-120, Rollo) which We Noted on February 16, 1989. Petitioner's Motion for Leave to File Reply to Comment was granted in the same resolution of February 16, 1989. On February 22, 1989, petitioner filed a Supplemental Petition (p. 129, Rollo), this time questioning respondent HRET's February 16, 1989 resolution denying petitioner's motion to defer or reset revision until this Court has finally disposed of the instant petition and declaring that a partial determination pursuant to Section 18 of the House of Representatives Electoral Tribunal Rules was had with private respondent Santos making a recovery of 267 votes (see Annex "C" of Supplemental Petition, p. 138, Rollo).

It is petitioner's main contention in this petition that when private respondent Santos filed the Motion to Withdraw Protest on Unrevised Precincts and Motion to Set Case for hearing dated September 12, 1988, respondent HRET lost its jurisdiction over the case, hence, when respondent HRET subsequently ordered the revision of the unrevised protested ballots, notwithstanding the withdrawal of the protest, it acted without jurisdiction or with grave abuse of discretion.

We do not agree with petitioner.

It is noted that upon Santos' filing of his Motion to Withdraw Protest on Unrevised Precincts on September 12, 1988, no action thereon was taken by respondent HRET. Contrary to petitioners's claim that the motion to

withdraw was favorably acted upon, the records show that it was only on September 19, 1988 when respondent HRET resolved said motion together with two other motions. The questioned resolution of September 19, 1988 resolved three (3) motions, namely: a) Protestee's Urgent Motion to Suspend Revision dated September 8, 1988; b) Protestant's Motion to Withdraw Protest on Unrevised Precincts and Motion to Set Case for Hearing dated September 12, 1988; and c) Protestant's 'Urgent Motion to Recall and Disregard Withdrawal of Protest,' dated September 14, 1988. The resolution resolved the three (3) motions as follows:

"x x x

"WHEREFORE, Protestee's 'Urgent Motion to Suspend Revision' and Protestant's 'Motion to Withdraw Protest' are NOTED. The 'Urgent Motion to Recall and Disregard Withdrawal of Protest' is GRANTED.

"x x x."

The mere filing of the motion to withdraw protest on the remaining uncontested precincts, without any action on the part of respondent tribunal, does not by itself divest the tribunal of its jurisdiction over the case. Jurisdiction, once acquired, is not lost upon the instance of the parties but continues until the case is terminated (*Jimenez v. Nazareno*, G.R. No. L-37933, April 15, 1988, 160 SCRA 1).

We agree with respondent House of Representatives Electoral Tribunal when it held:

"We cannot agree with Protestee's contention that Protestant's 'Motion to Withdraw Protest on Unrevised Precincts' effectively withdrew the precincts referred to therein from the protest even before the Tribunal has acted thereon. Certainly, the Tribunal retains the authority to grant or deny the Motion, and the withdrawal becomes effective only when the Motion is granted. To hold otherwise would permit a party to deprive the Tribunal of jurisdiction already acquired.

"We hold therefore that this Tribunal retains the power and the authority to grant or deny Protestant's Motion to Withdraw, if only to insure that the Tribunal retains sufficient authority to see to it that the will of the electorate is ascertained.

"Since Protestant's 'Motion to Withdraw Protest on the Unrevised Precincts' had not been acted upon by this Tribunal before it was recalled by the Protestant, it did not have the effect of removing the precincts covered thereby from the protest. If these precincts were not withdrawn from the protest, then the granting of Protestants 'Urgent Motion to Recall and Disregard Withdrawal of Protest' did not amount to allowing the refile of protest beyond the reglementary period."

Where the court has jurisdiction over the subject matter, its orders upon all questions pertaining to the cause are orders within its jurisdiction, and however erroneous they may be, they cannot be corrected by certiorari (*Santos v. Court of Appeals*, G.R. No. 56614, July 28, 1987, 152 SCRA 378; *Paramount Insurance Corp. v. Luna*, G.R. No. 61404, March 16, 1987, 148 SCRA 564). This rule more appropriately applies to respondent HRET whose independence as a constitutional body has time and again been upheld by Us in many cases. As explained in the case of *Lazatin v. The House of Representatives Electoral Tribunal and Timbol*, G.R. No. 84297, December 8, 1988, thus:

"The use of the word 'sole' emphasizes the exclusive character of the jurisdiction conferred [*Angara v. Electoral Commission*, supra, at 162.] The exercise of the power by the Electoral Commission under the 1935 Constitution has been described as 'intended to be complete and unimpaired as if it had remained originally in the legislature' [*Id.* at 175.] Earlier, this grant of power to the legislature was characterized by Justice Malcolm as 'full, clear and complete' [*Veloso v. Board of Canvassers of Leyte and Samar*, 39 Phil. 886 (1919).] Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal [*Suanes v. Chief Accountant of the Senate*, 81 Phil. 818 (1948)] and it remained as full, clear and complete as that

previously granted the legislature and the Electoral Commission [Lachica v. Yap, G.R. No. L-25379, September 25, 1968, 25 SCRA 140.] The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution. Thus, 'judicial review of decisions or final resolutions of the House Electoral Tribunal is (thus) possible only in the exercise of this Court's so-called extraordinary jurisdiction, x x x upon a determination that the tribunal's decision or resolution was rendered without or in excess of its jurisdiction, or with grave abuse of discretion or, paraphrasing Morrera, upon a clear showing of such arbitrary and improvident use by the Tribunal of its power as constitutes a denial of due process of law, or upon a demonstration of a very clear unmitigated ERROR manifestly constituting such a GRAVE ABUSE OF DISCRETION that there has to be a remedy for such abuse.'

In the absence of any clear showing of abuse of discretion on the part of respondent tribunal in promulgating the assailed resolutions, a writ of certiorari will not issue.

Further, petitioner's objections to the resolutions issued by respondent tribunal center mainly on procedural technicalities, i.e., that the motion to withdraw, in effect, divested the HRET of jurisdiction over the electoral protest. This argument aside from being irrelevant and baseless, overlooks the essence of a public office as a public trust. The right to hold an elective office is rooted on electoral mandate, not perceived entitlement to the office. This is the reason why an electoral tribunal has been set up in order that any doubt as to right/mandate to a public office may be fully resolved vis-a-vis the popular/public will. To this end, it is important that the tribunal be allowed to perform its function as a constitutional body, unhampered by technicalities or procedural play of words.

The case of Dimaporo v. Estipona (G.R. No. L-17358, May 30, 1961, 2 SCRA 282) relied upon by petitioner does not help to bolster his case because the facts attendant therein are different from the case at bar. In the said case, the motion to withdraw was favorably acted upon before the resolution thereon was questioned.

As regards petitioner's Supplemental Petition questioning respondent tribunal's resolution denying his motion to defer or reset revision of the remaining seventy-five (75) per cent of the contested precincts, the same has become academic in view of the fact that the revision was resumed on February 20, 1989 and was terminated on March 2, 1989 (Private Respondent's Memorandum, p. 208, Rollo). This fact was not rebutted by petitioner.

The allegation of petitioner that he was deprived of due process when respondent tribunal rendered a partial determination pursuant to Section 18 of the HRET rules and found that Santos made a recovery of 267 votes after the revision of the first twenty-five per cent of the contested precincts has likewise, no basis. The partial determination was arrived at only by a simple addition of the votes adjudicated to each party in the revision of which both parties were properly represented.

It would not be amiss to state at this point that "an election protest is impressed with public interest in the sense that the public is interested in knowing what happened in the elections" (Dimaporo v. Estipona, supra.), for this reason, private interests must yield to what is for the common good.

ACCORDINGLY, finding no grave abuse of discretion on the part of respondent House of Representatives Electoral Tribunal in issuing the assailed resolutions, the instant petition is DISMISSED.

SO ORDERED.

Narvasa, Paras, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, and Regalado, JJ., concur.

Fernan, C.J., no part; former member of HRET.

Melencio-Herrera, Cruz, and Feliciano, JJ., no part; members of HRET.

Gutierrez, Jr., J., no part as He did not participate in the deliberations.

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