

JUAN GARCIA RIVERA, PETITIONER, VS. COMMISSION ON ELECTIONS AND JUAN MITRE GARCIA II, RESPONDENTS.

G.R. No. 95336. July 12, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

Petitioner Juan Garcia Rivera and private respondent Juan Mitre Garcia II were candidates for the position of Mayor of Guinobatan, Albay, during the local elections in January 1988. The Municipal Board of Canvassers proclaimed Rivera as the duly elected Mayor by a majority of ten (10) votes.

On 26 January 1988, Garcia filed an election protest with the Regional Trial Court, Legazpi City, docketed as Case No. 01-88. After due hearing, and upon considering the report of a Revision Committee it had earlier created, the trial court rendered its verdict on 9 September 1989, finding Garcia to have obtained 6,376 votes as against Rivera's 6,222.

Rivera appealed to the COMELEC. Through its First Division, the COMELEC sustained with modification the appealed judgment of the Regional Trial Court, as follows:

"1. Affirming the Trial court's annulment of the Board of Canvasser's proclamation of Protestee--Appellant Juan G. Rivera as the duly elected Municipal Mayor,

2. Declaring Protestant-Appellee Juan Mitre Garcia II as the duly elected Municipal Mayor of Guinobatan, Albay, by a majority of ONE HUNDRED FIFTY THREE (153) votes over Protestee-Appellant Juan G. Rivera instead of a plurality of ONE HUNDRED FIFTY FOUR (154) votes; and

3. Protestee-Appellant Juan Garcia Rivera is hereby directed to turn over the Office of the Municipal Mayor to Protestant-Appellee Juan Mitre Garcia II.

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Rivera's motion for reconsideration was acted upon by the COMELEC en banc. In its per curiam decision, dated 6 September 1990, the COMELEC denied the motion and re-affirmed the decision of its First Division declaring Garcia as the duly elected Mayor of Guinobatan, Albay but with a winning margin of one hundred twenty-three (123) votes over Rivera.

Garcia commenced to discharge the duties and functions of Mayor of Guinobatan on 10 October 1990, by virtue of a writ of execution implementing the COMELEC decision of 6 September 1990. He continued as mayor until 10 November 1990 when he was served notice of this Court's temporary restraining order, issued upon Rivera's motion.

Rivera filed the present petition on 5 October 1990 seeking annulment of the COMELEC en banc decision rendered in favor of respondent Garcia. He also prayed for the issuance of an order restraining the implementation of the said judgment, arguing that the same had not yet become final and executory as of the time this petition was

filed. He cites Article IX-C, Section 2, Par. (2) of the 1987 Constitution, in relation to Part VII, Rule 39, Section 1 of the COMELEC Rules of Procedure. He also contends that since the COMELEC decision of 6 September 1990 has not yet become final and executory, the COMELEC has no authority to issue the assailed order and writ of execution. Petitioner maintains further that he has a period of thirty (30) days from 6 September 1990 or until 6 October 1990 within which to elevate the COMELEC decision, on certiorari, to this Court, pursuant to Section 1, Rule 39 of the COMELEC Rules of Procedure. He submits that the questioned COMELEC decision is not one that became final and executory unless restrained by this Court as provided under Section 3, Rule 39 of the COMELEC Rules, as said rule applies only to "decisions in pre-proclamation cases and petitions to deny due course or to disqualify a candidate, and postpone or suspend elections."

Lastly, according to petitioner, Section 13(a) of Rule 18 (finality of Comelec decisions or resolutions) and Section 1 of Rule 39 (review by the Supreme Court of Comelec decisions, orders and rulings) of the COMELEC Rules of Procedure, should be read in the context of Section 7, Article IX-A of the Constitution (Supreme Court authority to review on certiorari a Comelec decision, order or ruling).

Upon the other hand, respondent Garcia contends that:

1. The Constitution declares the decisions of the COMELEC on election contests involving elective municipal and barangay officials to be final, executory and not appealable (Article IX-C, Sec. 2, par. (2), second sentence, 1987 Constitution).
2. In an earlier petition for certiorari filed by Rivera with this Court, docketed as G.R. No. 87046, charging the Regional Trial Court of grave abuse of discretion in Case No. 01-88, wherein the same issue now raised in this petition was raised by Rivera, this Court dismissed the petition for lack of merit on 7 March 1989.
3. The supplemental ground raised by petitioner Rivera that the COMELEC committed grave abuse of discretion "by not excluding from the total votes of Garcia at least ten (10) votes which were misappreciated in Garcia's favor, outside of those objected votes already ruled upon by the COMELEC" does not deserve any consideration. If true, it is an error in judgment, correctible by appeal, not by a petition for certiorari pursuant to Rule 65, Sec. 1, of the Rules of Court.

The environmental facts of this petition are similar to those in the Galido case (G.R. No. 95346, decided 18 January 1991). The issue of whether the decisions of the COMELEC in election contests involving elective municipal and barangay officials, being final and executory and not appealable, preclude the filing of a special civil action of certiorari, was decided in the said Galido case. The Court held:

"Under Article IX (A), Section 7 of the Constitution, which petitioner cites in support of this petition, it is stated: '(U)nless otherwise provided by the Constitution or by law, any decision, order, or ruling of each (Constitut-ional) Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.'

On the other hand, private respondent relies on Article IX, (C), Section 2 (2), paragraph 2 of the Constitution which provides that decisions, final orders, or rulings of the Commission on Elections in contests involving elective municipal and barangay offices shall be final, executory and not appealable. (Emphasis supplied)

We resolve this issue in favor of the peti-tioner. The fact that decisions, final orders or rulings of the Commission on Elections in contests involving elective municipal and barangay offices are final, executory and not appealable, does not preclude a recourse to this Court by way of a special civil action of certiorari. The proceedings in the Constitutional Commission on this matter are enlightening. Thus -

'MR. FOZ. So, the amendment is to delete the word "inappealable."

MR. REGALADO. Before that, on page 26, line 26, we should have a trans-position because decisions are always orders. So, it should read: "However, decisions, final orders or rulings," to distinguish them from interlocutory orders, "... of the Commission on Elections on municipal and barangay officials shall be final and IMMEDIATELY executory."

That would be my proposed amendment.

MR. FOZ. Accepted, Mr. Presiding Officer.

MR. REGALADO. It is understood, however, that while these decisions with respect to barangay and municipal officials are final and immediately executory and, therefore, not appeal-able, that does not rule out the possibility of an original special civil action for certiorari, prohibition, or mandamus, as the case may be, under Rule 65 of the Rules of Court.

MR. FOZ. That is understood, Mr. Presiding Officer.

MR. REGALADO. At least it is on record.

Thank you, Mr. Presiding Officer.'"

Earlier, the Court had occasion to resolve the same issue in the case of *Flores vs. COMELEC* (G.R. No. 89604, 20 April 1990) where the Court stated:

"Obviously, the provision of Article IX-C, Section 2(2) of the Constitution that 'decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable' applies only to questions of fact and not of law. That provision was not intended to divest the Supreme Court of its authority to resolve questions of law as inherent in the judicial power conferred upon it by the Constitution. We eschew a literal reading of that provision that would contradict such authority."

Actually, the main thrust of the present petition for certiorari is that the respondent COMELEC en banc committed grave abuse of discretion when it affirmed the decision of its First Division, promulgated on 2 May 1990, annulling the proclamation of the petitioner as the duly elected Mayor of Guinobatan, Albay and when it did not exclude from the total votes of Garcia at least ten (10) votes which were allegedly misappreciated in Garcia's favor.

We have closely scrutinized the challenged COMELEC decision and find that the said decision was not arrived at capriciously or whimsically by respondent COMELEC. A painstaking re-evaluation of the questioned 67 ballots was made by the COMELEC en banc. In fact, fourteen (14) ballots originally adjudicated in Garcia's favor were overruled by the Commission en banc, thus reducing the number of votes in his favor to 894 votes out of the 2,445 contested ballots. On the other hand, 16 ballots were added in Rivera's favor, thus increasing the votes in his favor to 1,087 votes.

Moreover, the appreciation and re-evaluation of ballots are factual determinations. It is settled that in a petition for certiorari, findings of fact of administrative bodies are final unless grave abuse of discretion has marred such factual determinations. We find none in this case.

ACCORDINGLY, the Court resolved to DISMISS the petition. The temporary restraining order issued on 20 November 1990 is hereby LIFTED.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Cruz, Paras, Feliciano, Bidin, and Griño-Aquino, JJ., concur.

Narvasa, J., see dissent.

Gutierrez, Jr. and Davide, Jr., JJ., join Justice Narvasa in his dissent.

Regalado, J., see concurring opinion.

Sarmiento, J., no part, petitioner's counsel is a member of his former law firm.

Medialdea, J., no part, petitioner's counsel is the law firm of his son.

Gancayco, J., on leave.

Rivera vs COMELEC : 95336 : July 12, 1991 : J. Narvasa : En Banc : Dissenting Opinion Clean Clean 6 pt 6 pt 0 3 MicrosoftInternetExplorer4 /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in; mso-para-margin-bottom:.0001pt; mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";}

DISSENTING OPINION

NARVASA, J.:

I beg to dissent. I believe we should override our earlier ruling in *Galido v. COMELEC*, G.R. No. 95346, January 18, 1991 to the effect that the provisions of paragraph 2, Section 2 (20, Article IX-C of the Constitution do “not preclude a recourse to this Court by way of a special civil action of certiorari” for the review of “decisions, final orders or rulings of the Commission on Elections in contests involving elective municipal and barangay offices.” I think that the “understanding” made of record in the proceedings of the Constitutional Commission by Commissioner Florenz D. Regalado (now Associate Justice of this Court) -?

" * * that while these decisions with respect to barangay and municipal officials are final and immediately executory and, therefore, not appealable, that does not rule out the possibility of an original special civil action for certiorari, prohibition, or mandamus, as the case may be, under Rule 65 of the Rules of Court" -?

is not decisive since it would appear that Commissioner Regalado made his observations in the context of the traditional modes of appeal, as distinguished from the special civil actions referred to by him. In light of this Court's rulings prior and subsequent to the effectivity of the 1987 Constitution, I submit that the provision therein incorporated that decisions of the COMELEC on election contests involving municipal or barangay officials are final, executory and not appealable, should be interpreted to mean that no review thereof may henceforth be had by any mode or manner in this or any other Court.

The matter of judicial review of decisions, orders or rulings of the Commission on Elections -- as well as of the Civil Service Commission and the Commission on Audit -- is primarily governed by the third sentence of Section 7, Article IX-A of the Constitution.

Said Section 7 reads as follows:[1]

“Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each commission may be brought to the Supreme Court on certiorari by

the aggrieved party within thirty days from receipt of a copy thereof.”

Pursuant to this provision, a review of any decision, order, or ruling of the COMELEC may be sought by the aggrieved party within thirty days from receipt thereof, by filing a petition for certiorari with this Court.[2]

There is, to be sure, a regrettable vagueness in the procedure of review thus referred to. It is not clear whether the mode contemplated is that governed by Rule 45 of the Rules of Court, i.e., an appeal taken by a petition for review on certiorari, or that set out in Rule 65 of the Rules, i.e., the special civil action of certiorari. This Court has since had occasion, however,[3] to interpret said Section 7 as referring to the special civil action of certiorari under Rule 65 of the Rules of Court conformably to *Aratuc v. Commission on Elections*,[4] decided in 1979 -- an interpretation thereafter uniformly and unvaryingly observed and applied as regards appeals from said Commission -- it being presumed that the Members of the Constitutional Commission which drew up the 1987 Constitution had that familiar precedent in mind when it adopted the provision governing review of final dispositions of the Constitutional Commissions.

It is evident that the Constitutional Commission did not see fit to adopt any of the traditional modes of appeal in this jurisdiction, namely: (1) ordinary appeal or appeal by writ of error (under Rule 40, 41, and Rule 122, Rules of Court) -- which is deemed to be a matter of right and may raise issues of fact or mixed issues of fact and law; (2) appeal by certiorari to the Supreme Court from a Regional Trial Court[5] or the Court of Appeals under Rule 45 or Rule 122, Rules of Court -- which is not a matter of right but entirely dependent on this Court's discretion, guided by criteria set out in said Rule 45, and allowing only questions of law to be set up; and (3) appeal by petition for review under B.P. No. 129[6]

The Constitutional Commission opted, to repeat, to prescribe the special civil action of certiorari under Rule 65, rather than the usual procedures of appeal just mentioned, as the process for the review of the decisions, orders or rulings of the COMELEC. It also decreed that that certiorari action, as a review procedure, may be instituted only in the Supreme Court. This mode of review necessarily limits the questions that may be raised thereby to those indicated by said Rule 65, to wit: whether or not the COMELEC "has acted without or in excess of its ** jurisdiction, or with grave abuse of discretion." [7] Moreover, it is entirely discretionary on the part of the Supreme Court to accept or reject the invocation of its supervisory jurisdiction as a form of appeal or review process.[8]

Generally, then, any order, ruling or judgment of the COMELEC may be thus appealed, or sought to be reviewed through the extraordinary remedy of certiorari under Rule 65.[9] In his petition, it behooves the aggrieved party, the appellant, to attempt to persuade this Court that the COMELEC had indeed acted without jurisdiction, in excess of its jurisdiction, or with grave abuse of discretion, these being, as already pointed out, the only issues that may properly be raised.

There are, however, certain orders or judgments which are pronounced in quite categorical terms to be unappealable. Section 2, Article IX-C, of the Constitution provides, in its second sentence,[10] that:

“ ***

“Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.”

It bears stressing that the final, executory and unappealable character of the COMELEC's rulings, orders or decisions in election contests involving elective municipal and barangay offices, is pronounced not by statute or presidential issuance, but by the Constitution itself. This is a relevant consideration because while Congress is granted by Section 2, Article VIII of the Constitution the "power to define, prescribe, and apportion the

jurisdiction of the various courts, ** (it) may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5" of the same Article VIII; and said Section 5 declares it to be one of the powers of the Supreme Court to "(r)evuew, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in ** (specifically listed cases)."[11] It is in truth this fundamental limitation on the legislative prerogative to "define, prescribe, and apportion the jurisdiction" of courts -- which is, that the Supreme Court may not be deprived by law of jurisdiction over certain particular cases -- that underlay this Court's doctrines allowing review by the special civil action of certiorari under Rule 65 of judgments and final orders of the National Labor Relations Commission under the Labor Code, and the Central Board of Assessment Appeals, from which no appeal is prescribed by law.[12]

It cannot be gainsaid however that while Congress may not deprive the Supreme Court of its constitutionally stated powers, that self-same Constitution may itself effect that deprivation; and this appears to be precisely the purpose and intent of said Section 2, Article IX-C of the Constitution as written: to remove from this Court's power to review, revise, reverse, modify, or affirm on appeal or certiorari final judgments and orders of the COMELEC in "election contests involving elective municipal and barangay offices."

There is here a declaration, clear and unmistakable, that no party aggrieved by a decision of the COMELEC in an election contest involving an elective municipal or barangay office is permitted to seek a review of that judgment by the mode prescribed for review of COMELEC decisions in general, i.e., by petition for certiorari under Rule 65 of the Rules of Court which ascribes to the COMELEC lack or excess of jurisdiction, or grave abuse of discretion invalidating its judgment on the case.

There is therefore no way by which a final judgment or order of the COMELEC in "election contests involving elective municipal and barangay offices" may be elevated to the Supreme Court. As already pointed out, the Constitution prescribes none of the three (3) traditional modes of appeal as a procedure for the review of decisions or rulings of the COMELEC. It has singled out the special action of certiorari under Rule 65 as the sole method for the review of the COMELEC's judgments and rulings, in general. But even this mode of review is, by specific provision, eliminated as regards, particularly, "election contests involving elective municipal and barangay offices." It is legally impossible for a party aggrieved in such contests to appeal by any of the three (3) usual modes of appeal, none being provided for; and it is legally impossible for said party to resort to the mode of review prescribed for judgments and rulings of the COMELEC, generally: the special civil action of certiorari under Rule 65. It thus results that, as explicitly ordained by Section 7 of Article IX-C of the Constitution:

"Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable."

Hence, the institution by the petitioner in this Court of the special civil action of certiorari at bar, in an effort to nullify and set aside the decision of the COMELEC en banc in the election contest between him and private respondent Garcia involving the elective municipal office of mayor of Guinobatan -- on the theory that the COMELEC had acted without or in excess of jurisdiction or with grave abuse of discretion -- is totally unavailing and must be dismissed. For it is precisely that action -- which, to repeat, is the general mode of review of COMELEC decisions -- that is proscribed in the particular cases of election contests involving elective municipal and barangay offices. And it is entirely inutile to attempt to distinguish between certiorari as a mode of appeal and certiorari as a special civil action, considering that it is in truth the special civil action that is prescribed as the mode of appeal. Apart from this, to allow review of COMELEC decisions on election contests involving elective municipal and barangay offices by certiorari as a special civil action, and not as a mode of review, would make the constitutional proviso in question a dead thing; for then, every party aggrieved in any such contest would seek to make the insubstantial and specious distinction between certiorari as a special civil action and as a mode of

review, and said election contests involving elective municipal and barangay offices will always be subject of review through certiorari as a special civil action, as tenuously distinguished from certiorari as a form of appeal. That the constitutional intent be set at naught in this manner cannot, of course, be allowed.

I therefore vote to dismiss the petition and lift and set aside the temporary restraining order issued on November 10, 1990.

[1] Emphasis supplied

[2] SEC. 1, Rule 39 of the COMELEC Rules of Procedure reproduces the relevant portion of Sec. 7, ART. IX-A, Constitution

[3] *Dario v. Mison*, 176 SCRA 84, 111 reaffirming the teaching of *Aratuc*; *Pedalizo v. Mariano*, UDK-9819, March 15, 1990 to the effect that decisions, orders, or rulings of the Constitutional Commissions may only be brought to and reviewed by the Supreme Court on certiorari under Rule 65 of the Rules of Court alone, citing *Dario*

[4] 88 SCRA 251

[5] Sec. 5 (2e), ART. X, 1973 Constitution; Sec. 5 (2e), ART. VIII, 1987 Constitution; RA 4330

[6] Sec. 22; Sec. 29, Judiciary Act of 1948 as amended by RA 5433

[7] Sec. 1, Rule 65

[8] Sec. 6, Rule 65

[9] This would include, orders, rulings or judgments in election contests involving provincial officials, pre-proclamation cases, disqualify candidates, postpone or suspend elections, etc. (SEC. 3, Rule 39, COMELEC Rules)

[10] Emphasis supplied; SEC. 2, Rule 39 of the COMELEC Rules hews to the constitutional provision. It reads as follows: "SEC. 2. Non-reviewable decisions. -- Decisions in appeals from courts of general or limited jurisdiction in election cases relating to the elections, returns, and qualifications of municipal and barangay officials are not appealable."

[11] I.e.: "(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question; (b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto; (c) All cases in which the jurisdiction of any lower court is in issue; (d) All criminal cases in which the penalty imposed is reclusion perpetua or higher; (e) All cases in which only an error or question of law is involved."

[12] SEE *San Miguel Corporation v. Secretary of Labor*, 64 SCRA 56 (1975) and *Caltex (Phil.), Inc. v. Central Board of Assessment Appeals*, 114 SCRA 296 (1982)

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CONCURRING OPINION

REGALADO, J.:

It is settled that, under the present state of the law and jurisprudence, no appeal lies from the decisions, orders or rulings of the Commission on Elections or, for that matter, the Civil Service Commission and the Commission on Audit. *Dario vs. Mison, et al.* (176 SCRA 84 [1989]) clarified that the recourse by certiorari from said constitutional commissions to this Court, authorized by Section 7, Article IX-A of the Constitution, refers to the special civil action of certiorari under Rule 65 of the Rules of Court. Consequently, the authorized modes of appeal, i.e., ordinary appeal and appeal by petition for review on certiorari under Rule 45, cannot be availed of to challenge the awards, orders or rulings of said constitutional commissions. The third mode, which is the petition for review under *Batas Pambansa Blg. 129*, is not involved here.

What the foregoing observations actually boil down to is that the decisions, orders, or rulings of said constitutional commissions are not subject to appellate review, that is, with this Court acting in the exercise of appellate jurisdiction and exercising its power of review over alleged errors of law and, sometimes, of fact or both. Such decisions, orders or rulings are not, however, invulnerable to an original civil action of certiorari, prohibition or mandamus invoking the original jurisdiction of this Court, under its power of control and supervision over the lower courts, to pass upon errors of jurisdiction imputed to said commissions. This is inevitable and justified because no appeal or any other plain, speedy or adequate remedy in the ordinary course of law lies from said adjudications.

Coming now to the case at bar involving the Commission on Elections, the dissenting opinion points out that the "(d)ecisions, final orders or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory and not appealable," as provided in Section 2(2), Article IX-C of the Constitution. From this, it is posited that such dispositions contemplated therein may no longer be assailed in this Court in an original action for certiorari and, concomitantly, in a prohibition or mandamus proceeding. I am constrained to disagree.

I find no reason why the same considerations and rationale authorizing an original action for certiorari under the aforesaid Section 7, Article IX-A, that is, since the decisions, orders or rulings stated therein are unappealable, should not apply to the same determination of said commission under Section 2(2), Article IX-C which are likewise unappealable. That Section 7, Article IX-A is supposed to be the general rule while Section 2(2), Article IX-C is a special rule does not, to my mind, constitute a dichotomous treatment. Both rules, instead of being discrete and inconsistent, should be complementary and consonant. If, under the situation envisioned in Section 7, Article IX-A the possibility of jurisdictional errors warrants availment of the extraordinary writ of certiorari, the same could just as well exist in the commission's dispositions stated in Section 2(2), Article IX-C and likewise justify resort to the same writ.

It is true that the Constitution bars Congress from depriving this Court of the power of appellate review, on ordinary appeal or petition for review on certiorari, over certain specified cases enumerated in Section 5, Article VIII. That power of this Court to review, revise, reverse, modify, or affirm the judgments and orders of lower courts in said cases shall be "as the law or Rules of Court may provide." Hence, where no such mode of appeal to this Court is provided by the law or the Rules of Court, appellate review is unavailable. However, in its stead and precisely because of its unavailability, the remedy of an original action for certiorari is disponible, albeit limited only to jurisdictional grounds, as is the current procedure with respect to judgments and final orders of the National Labor Relations Commission and the Central Board of Assessment Appeals.

It is argued, however, that the foregoing procedure is permissible because the elimination of the right to appeal in

said cases was pronounced by statute or presidential issuances, but not in the present case since the unappealability of the decisions, final orders or rulings of the Commission on Elections in Section 2(2) of Article IX-C is by declaration of the Constitution itself. I cannot see how this could make such a difference as to result in a bifurcated procedural rule. Said Section 2(2) is clear. It merely declares the adjudications stated therein final, executory and not appealable but it does not declare them unassailable on jurisdictional errors which may have attended the same. Had the contrary been intended by the Constitutional Commission, it could readily have so provided. Yet the deliberations on this particular provision (Record of the Constitutional Commission, Vol. I, p. 562) show that the remedies of certiorari, prohibition and mandamus were categorically agreed and intended to be available in this particular instance. In sum, what was intended and provided was that decisions, final orders and rulings of the Commission on Elections in election contests involving elective municipal and barangay offices shall be final, executory and not appealable and, therefore, no further appeal may be taken therefrom. That is all. Excluded from that proscription, which is directed only against another appeal, are the original special civil actions of certiorari, prohibition or mandamus, when proper and justified, because they serve and are intended for specific objectives and are based on different grounds.

It is suggested that when Section 2(2) of Article IX-C declares that the dispositions of the commission involving municipal and barangay officials are "not appealable," what is actually barred is an original action under Rule 65 since that is the "sole method for the review of the COMELEC's judgments and rulings, in general," pursuant to Section 7 of Article IX-A. It should be recalled, however, that the records of the Constitutional Commission are not clear on whether the recourse by certiorari stated in said Section 7 referred to an appeal under Rule 45 or an original action under Rule 65. It was settled, as aforesaid, only in *Dario*. At any rate, since Section 2(2) of Article IX-C clearly interdicts only an appeal, the evident purpose could not be but to explicitate that in the specific cases embraced therein no further appeals under Rule 45 should be allowed since prior appellate proceedings from the lower courts to the commission had already been availed of and the issues permissible therein were already resolved.

While it may be advanced that the special civil action of certiorari is allowed in Section 7, Article IX-A because only one evaluative stage has been conducted, that is, by the Commission on Elections alone, whereas the situation in Section 2(2), Article IX-C contemplates two adjudicative levels, that of the lower courts and the commission, I do not find this argument, which has a ring of familiarity but in a different setting, a compelling reason to set aside what is clear in the Constitution and further clarified in the plenary deliberations before the latter provision was adopted. Nor should the possibility of unnecessary resort to special civil actions in this Court from adjudications involved in Section 2(2), Article IX-C be allowed to deprive a party with a just cause of an ultimate remedy. After all, such remedies do not indiscriminately lie for just any jurisdictional error. The abuse of discretion to be actionable must be grave, in the concept which jurisprudence has lucidly elaborated on this term; and the lack or excess of jurisdiction must, of necessity, be patent and indisputable.

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