

ALAN PETER S. CAYETANO, PETITIONER, VS. COMMISSION ON ELECTIONS, MA. SALVACION BUAC AND ANTONIO BAUTISTA, RESPONDENTS.

G.R. NOS. 166388 AND 166652. January 23, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution are two (2) petitions for certiorari:[1]

1. G.R. No. 166388

The petition in this case, filed by Congressman Alan Peter S. Cayetano, representing the District of Taguig-Pateros, against the Commission on Elections (COMELEC), Ma. Salvacion Buac and Antonio Bautista, mainly assails the Resolution of the COMELEC en banc dated December 8, 2004 in EPC No. 98-102 declaring the ratification and approval, through a plebiscite, of the conversion of the Municipality of Taguig, Metro Manila, into a highly urbanized city. Private respondents are residents and duly registered voters of Taguig.

2. G.R. No. 166652

The petition here, filed by the same petitioner against the same respondents, questions the (a) COMELEC Resolution dated January 28, 2005 declaring the said Resolution of December 8, 2004 final and executory; and (b) the recording of the said Resolution in the COMELEC's Book of Entry of Judgments dated January 28, 2005.

The facts are:

On April 25, 1998, the COMELEC conducted a plebiscite in Taguig, Metro Manila on the conversion of this municipality into a highly urbanized city as mandated by Republic Act No. 8487.[2] The residents of Taguig were asked this question: "Do you approve the conversion of the Municipality of Taguig, Metro Manila into a highly urbanized city to be known as the City of Taguig, as provided for in Republic Act No. 8487? "

On April 26, 1998, the Plebiscite Board of Canvassers (PBOC), without completing the canvass of sixty-four (64) other election returns, declared that the "No" votes won, indicating that the people rejected the conversion of Taguig into a city.

However, upon order of the COMELEC en banc, the PBOC reconvened and completed the canvass of the plebiscite returns, eventually proclaiming that the negative votes still prevailed.

Alleging that fraud and irregularities attended the casting and counting of votes, private respondents, filed with the COMELEC a petition seeking the annulment of the announced results of the plebiscite with a prayer for revision and recount of the ballots. The COMELEC treated the petition as an election protest, docketed as EPC No. 98-102. It was raffled to the Second Division.

Petitioner intervened in the case. He then filed a motion to dismiss the petition on the ground that the COMELEC

has no jurisdiction over an action involving the conduct of a plebiscite. He alleged that a plebiscite cannot be the subject of an election protest.

The COMELEC Second Division issued a Resolution granting petitioner's motion and dismissing the petition to annul the results of the Taguig plebiscite for lack of jurisdiction. The COMELEC en banc affirmed this Resolution.

Aggrieved, private respondents filed with this Court a petition for certiorari and mandamus, docketed as G.R. No. 155855, entitled *Ma. Salvacion Buac and Antonio Bautista vs. COMELEC and Alan Peter S. Cayetano*. On January 26, 2004, we rendered a Decision reversing the COMELEC's Resolution. We held that the controversy on the conduct of the Taguig plebiscite "is a matter that involves the enforcement and administration of a law relative to a plebiscite. It falls under the jurisdiction of the COMELEC under Section 2 (1), Article IX (C) of the Constitution authorizing it "to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall." Thus, we directed the COMELEC "to reinstate the petition to annul the results of the 1998 Taguig plebiscite and to decide it without delay." Petitioner filed a motion for reconsideration but we denied the same in a Resolution dated February 24, 2004.

Accordingly, on April 19, 2004, the COMELEC Second Division issued an Order in EPC No. 98-102 constituting the committees for the revision/recount of the plebiscite ballots.

On April 28, 2004, the revision/recount proceedings commenced and upon its termination, the Committees on Revision submitted their complete and final reports.

Thereafter, the COMELEC Second Division set the case for hearing. As no witnesses were presented by petitioner, the parties were directed to submit their respective memoranda, which they did.

However, the COMELEC Second Division failed to render a decision as the required number of votes among its members could not be obtained. Consequently, pursuant to Section 5 (b),[3] Rule 3 of the COMELEC Rules of Procedure, the case was elevated to the Commission en banc for resolution.[4]

On November 24, 2004, the COMELEC en banc issued an Order considering the case submitted for resolution. On December 8, 2004, it issued the assailed Resolution declaring and confirming the ratification and approval of the conversion of the Municipality of Taguig into a highly urbanized city, thus:

"WHEREFORE, premises considered, the instant petition is hereby GRANTED.

"Considering that 21,105 affirmative votes represent the majority and the highest votes obtained during the 1998 Taguig Plebiscite, this Commission hereby DECLARES and CONFIRMS the RATIFICATION and APPROVAL of the conversion of the municipality of Taguig into a highly urbanized city.

"Let the Election Officer of Taguig and the Department of Interior and Local Government (DILG) implement this Resolution.

"SO ORDERED."

Hence, petitioner filed the instant petition for certiorari in G.R. No. 166388, alleging that in rendering the said Resolution, the COMELEC acted with grave abuse of discretion.

On January 28, 2005, the COMELEC en banc, upon motion of private respondents, issued an Order declaring its Resolution of December 8, 2004 final and executory as of January 9, 2005 in conformity with Section 13 (a),[5]Rule 18 of the COMELEC Rules of Procedure. On the same date, the Resolution of December 8, 2004 was recorded in its Book of Entry of Judgments.

On January 31, 2005, petitioner again filed with this Court a petition for certiorari, docketed as G.R. No. 166652, challenging the COMELEC en banc Order of January 28, 2005 and the corresponding Entry of Judgment. Subsequently, we directed that the case be consolidated with G.R. No. 166388.[6]

At the outset, petitioner himself makes it clear that "for the record, – as the representative of Taguig and Pateros – he is for the cityhood of Taguig. Conversion of a municipality into a highly urbanized city per se is not appalling; in fact, efforts towards its realization should be welcomed. But (he) firmly believes that Taguig must become a city the right way, by a fair count of votes and not by twisting the electoral will." [7]

Petitioner contends that "the revision of the plebiscite ballots cannot be relied upon for the determination of the will of the electorate" because "the revision is incomplete." [8] He claims that:

"Based on the Final Report of the Committee on Revision for each of the eight (8) Revision Committees, the revision of ballots yielded a total of 15,802 votes for 'Yes' and a total of 12,602 votes for 'No.' The revision committee thus canvassed only a total of 28,404 ballots." [9]

Besides, "many irregularities, frauds and anomalies attended the revision proceedings." [10] He maintains that the COMELEC "acted with grave abuse of discretion amounting to lack or in excess of jurisdiction" in confirming the ratification and approval of the conversion of Taguig into a highly urbanized city.

In their respective comments, the Solicitor General, on behalf of the COMELEC, and the private respondents vehemently disputed petitioner's allegations and prayed that the instant petitions be dismissed for lack of merit.

Both petitions must fail.

It is clear from petitioner's allegations that the matters being raised – the alleged incomplete canvass of plebiscite votes during the revision proceedings and the irregularities, frauds, and anomalies purportedly committed therein – are factual in nature. They involve an examination of the admissibility and sufficiency of the evidence presented during the revision proceedings before the COMELEC. Certainly, this we cannot do in the present special civil actions for certiorari under Rule 65 of the 1987 Rules of Civil Procedure, as amended. Section 1 of the same Rule confines the power of this Court to resolve issues mainly involving jurisdiction, including grave abuse of discretion amounting to lack or in excess of jurisdiction attributed to the public respondent. [11]

Nonetheless, in the interest of substantial justice and considering likewise the interest of the residents and voters of the City of Taguig, we still reviewed the evidence and found that petitioner erred when he alleged that the revision of ballots yielded a total of "15,802 votes for 'Yes' and a total of 12,602 votes for 'No.'"

As shown by the records, the COMELEC considered not only the total number of votes reflected in the Final Canvassing Report of the Taguig PBOC, but also the voting results based on (1) the physical count of the ballots; (2) the returns of the uncontested precincts; and (3) the appreciation of the contested ballots, all summed up and tallied as follows: [12]

Affirmative Negative

Total Number of Votes Per PBOC Canvassing Report 19,413 21,890

Minus: Number of Invalid Votes 253 419

Minus: Number of Votes Deducted from the Plebiscite Returns After Physical Count (Table D) 0 2,024

Plus: Number of Votes Added After Physical Count (Table D) 1,936 0

Plus: Credited Claimed Ballots 9 13

Total 21,105 19,460

The above factual findings of the COMELEC supported by evidence, are accorded, not only respect, but finality.[13] This is so because "the conduct of plebiscite and determination of its result have always been the business of the COMELEC and not the regular courts. Such a case involves the appreciation of ballots which is best left to the COMELEC. As an independent constitutional body exclusively charged with the power of enforcement and administration of all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall, the COMELEC has the indisputable expertise in the field of election and related laws." [14] Its acts, therefore, enjoy the presumption of regularity in the performance of official duties.[15]

In fine, we hold that in issuing the challenged Resolution and Order in these twin petitions, the COMELEC did not gravely abuse its discretion.

WHEREFORE, the instant petitions are DISMISSED for lack of merit. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, S.r., Azcuna, Chico-Nazario, and Garcia, JJ., concur.

Tinga, J., no part. due to prior prohibition in previous case.

[1] Filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended, in relation to Sec. 2, Rule 64.

[2] "An Act Converting the Municipality of Taguig, Metro Manila, into a Highly Urbanized City to be known as the City of Taguig, and for other purposes."

[3] "Sec. 5. Quorum; Votes Required.— (a) x x x. (b) When sitting in Divisions, two (2) Members of a Division shall constitute a quorum to transact business. The concurrence of at least two (2) Members of a Division shall be necessary to reach a decision, resolution, order or ruling. If this required number is not obtained, the case shall be automatically elevated to the Commission en banc for decision or resolution."

[4] Order dated November 22, 2004.

[5] "Sec. 13. Finality of Decisions or Resolutions.— (a) In ordinary actions, special proceedings, provisional remedies and special reliefs, a decision or resolution of the Commission en banc shall become final and executory after thirty (30) days from its promulgation."

[6] Resolution dated February 8, 2005.

[7] Petition in G.R. No. 166388 at 3.

[8] Id. at 3, 15.

[9] Id. at 15-16.

[10] Id. at 18.

[11] Abinal vs Commission on Elections, G.R. No. 148540, April 22, 2002, 381 SCRA 462; Recado, Jr. vs. Commission on Elections, G.R. No. 134293, June 21, 1999, 308 SCRA 793.

[12] See COMELEC En Banc Resolution dated December 8, 2004 in EPC No. 98-102, Rollo at 36-156, 155.

[13] Pangkat Laguna vs. Commission on Elections, G.R. No. 148075, February 4, 2002, 376 SCRA 97; Socrates vs. Commission on Elections, G.R. No. 154512, November 12, 2002, 391 SCRA 457, citing Malonzo vs. COMELEC, 269 SCRA 380 (1997); Cawasa vs. Commission on Elections, G.R. No. 150469, July 3, 2002, 383

SCRA 787; Mohammad vs. Commission on Elections, G.R. No. 136384, December 8, 1999, 320 SCRA 258. Rivera vs. Commission on Elections, G.R. No. 95336, July 12, 1991, 199 SCRA 178.

[14] Buac vs. Commission on Elections, G.R. No. 1555855, January 26, 2004, 421 SCRA 92, 106.

[15] Montesclaros vs. Commission on Elections, G.R. No. 152295, July 9, 2002, 384 SCRA 269; Pangkat Laguna vs. Commission on Elections, *supra*.

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