

SALVADOR DIVINAGRACIA, JR., PETITIONER, VS. COMMISSION ON ELECTIONS AND ALEX A. CENTENA, RESPONDENTS.

G.R. NOS. 186007 & 186016. July 27, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Salvador Divinagracia, Jr. (petitioner) and Alex Centena (private respondent) vied for the vice-mayorality race in Calinog, Iloilo during the May 14, 2007 Elections wherein petitioner garnered 8,141 votes or 13 votes more than the 8,128 votes received by respondent.

After the proclamation of petitioner as the duly elected vice-mayor on May 16, 2007, private respondent filed with the Regional Trial Court (RTC) of Iloilo City an election protest, docketed as Election Case No. 07-2007, claiming that irregularities attended the appreciation of marked ballots in seven precincts.[1]

By Decision of December 5, 2007, Branch 24 of the RTC dismissed private respondent's protest. It ruled that private respondent failed to overcome the disputable presumption of regularity in the conduct of elections[2] since no challenge of votes or objection to the appreciation of ballots was raised before the Board of Elections Inspectors or the Municipal Board of Canvassers.

Private respondent and petitioner filed their respective notices of appeal before the trial court, upon payment of the P1,000 appeal fee under Section 9, Rule 14 of the "Rules of Procedure in Election Contests before the Courts involving Elective Municipal and Barangay Officials" (A.M. No. 07-4-15-SC) which took effect on May 15, 2007.

The Comelec, by Order of March 12, 2008, consolidated the appeals of the parties and directed them to file their respective briefs.

Meanwhile, the duly elected mayor of Calinog, Teodoro Lao, died on March 18, 2008. On even date, petitioner assumed office as mayor.

On July 17, 2008, the Comelec Second Division issued its first assailed resolution declaring private respondent as the duly elected vice mayor. Thus it disposed:

WHEREFORE, this Commission GRANTS the Appeal in EAC No. A-10-2008, and hereby DECLARES protestant-appellant Alex Centena as the duly elected Vice-Mayor of the Municipality of Calinog, Iloilo, with a total of 8,130 votes against protestee-appellee Salvador Divinagracia, Jr.'s total of 8,122 votes, or a winning margin of eight (8) votes.

The Decision of the Regional Trial Court of Iloilo City, Branch 24, dated 5 December 2007, is hereby REVERSED and SET ASIDE.

The Appeal in EAC No. A-11-2008 is hereby DENIED for lack of merit.

SO ORDERED.[3]

In reversing the trial court's Decision, the Comelec Second Division found the same to be fatally defective in form for non-observance of the prescribed rules[4] as it failed to indicate the specific markings in the contested ballots and merely discussed in a general manner the reasons why those ballots should not be declared as "marked." [5] The Comelec re-appreciated those ballots and ascertained that respondent was the true winner in the elections for the vice-mayorality post.

Petitioner filed a Verified Motion for Reconsideration, alleging, inter alia, that both parties failed to pay the appeal fee/s in the amount of P3,200 under Section 3, Rule 40 of the Comelec Rules of Procedure,[6] and following Section 9, Rule 22 of the same Rules, an appeal may be dismissed motu proprio or upon motion on the ground of failure of the appellant to pay the correct appeal fee.

On January 26, 2009, the Comelec En Banc issued its second assailed Resolution affirming[7] the pronouncements of the Second Division. It held that petitioner was barred under the doctrine of estoppel by laches when he failed to raise the question of jurisdiction when he filed his Appellant's and Appellee's Briefs.

Hence, the present petition for certiorari and prohibition which asserts that payment of the appeal fee is a mandatory and jurisdictional requirement and that the question of jurisdiction may be raised at any stage of the proceedings. It cites earlier rulings of the Comelec dismissing analogous cases involving the same issue of non-payment of appeal fee which, so he contends, contradict the assailed Resolutions.

In support of the issue of whether the Comelec gravely abused its discretion amounting to lack or excess of jurisdiction in issuing the assailed Resolutions, petitioner submits the following arguments:

7.1. THE PUBLIC RESPONDENT COMELEC DID NOT ACQUIRE JURISDICTION OVER THE APPEAL DOCKETED AS EAC NO. A-10-2008 FOR FAILURE OF THE APPELLANT TO PAY THE FILING FEE/APPEAL FEE.

7.2. PAYMENT OF FILING FEE/APPEAL FEE IS MANDATORY AND JURISDICTIONAL, HENCE, CAN BE RAISED AT ANY STAGE OF THE PROCEEDINGS PENDING WITH THE SAME COURT/COMELEC.

7.3. THE FLIP-FLOPPING RULINGS OF THE PUBLIC RESPONDENT COMELEC SECOND DIVISION IS IN DEROGATION OF THE RULES AND THE PROPER ADMINISTRATION OF JUSTICE.

7.4. IN ASSAILING THE RULING TO AFFIRM THE SECOND DIVISION RESOLUTION, THE PETITIONER IS NOT BARRED BY ESTOPPEL BECAUSE HIS PARTICIPATION IN THE PROCEEDINGS WAS DIRECTED BY THE PUBLIC RESPONDENT COMELEC.

7.5. THERE APPEARS TO BE AN INCONSISTENCY IN THE APPLICATION OF THE RULES BETWEEN THE FIRST AND SECOND DIVISION OF THE PUBLIC RESPONDENT COMELEC.[8]

Private respondent filed his Comment of March 17, 2009, while petitioner submitted a Reply of May 11, 2009.

Records show that private respondent took his oath of office as vice-mayor and, forthwith successively, as mayor on March 6, 2009,[9] pursuant to the Comelec Order of March 3, 2009 directing the issuance of a writ of execution.[10]

The petition lacks merit.

The jurisprudence on payment of filing fees in election cases metamorphosed in the 1997 case of *Loyola v. Comelec*. [11] In *Loyola*, the Court did not dismiss the election protest for inadequate payment of filing fees arising from the incorrect assessment by the clerk of court, after finding substantial compliance with the filing fee requirement in election cases. The Court noted the clerk's ignorance or confusion as to which between Section

5(a)(11),[12] Rule 141 of the Rules of Court and Section 9, Rule 35 of the Comelec Rules of Procedure would apply in assessing the filing fee, considering that the particular election protest fell within the exclusive original jurisdiction of the Regional Trial Court.

After clarifying the matter, the Court in *Loyola* warned that the cases cited therein would no longer provide any excuse for such shortcoming and would now bar any claim of good faith, excusable negligence or mistake in any failure to pay the full amount of filing fees in election cases which may be filed after the promulgation of the decision in said case.

Shortly thereafter, in the similar case of *Miranda v. Castillo*[13] which involved two election protests filed on May 24, 1995, the Court did not yet heed the *Loyola* warning and instead held that an incomplete payment of filing fee is correctible by the payment of the deficiency. The Court, nonetheless, reiterated the caveat in *Loyola* that it would no longer tolerate any mistake in the payment of the full amount of filing fees for election cases filed after the promulgation of the *Loyola* decision on March 25, 1997.

The force of the *Loyola* doctrine was strongly felt in the 2000 case of *Soller v. Comelec*,[14] where the Court ordered the dismissal of the therein election protest for, inter alia, incomplete payment of filing fee, after finding a P268 deficiency in the fees paid, similar to what occurred in *Loyola* and *Miranda*. The Court once again clarified that the then P300 filing fee prescribed by the Comelec under Section 9, Rule 35 of the Comelec Rules of Procedure was the correct filing fee that must be paid.

The ripples of the caveat in *Loyola* continued in *Villota v. Commission on Elections*[15] and *Zamoras v. Commission on Elections*,[16] both of which involved, this time, the matter of full payment of the appeal fee in election contests within the five-day reglementary period.

The petitioner in *Villota* timely filed a notice of appeal and simultaneously paid to the trial court's cashier the appeal fees totaling P170. Four days beyond the reglementary period, the therein petitioner realized his mistake and again paid to the Cash Division of the Comelec the appeal fees in the sum of P520, pursuant to Sections 3 and 4, Rule 40 of the Comelec Rules of Procedure, which Sections fix the amount of the fees and the place of payment thereof. Maintaining that errors in the matter of non-payment or incomplete payment of filing fees in election cases are no longer excusable, the Court sustained the Comelec's dismissal of the appeal.

The Court was more emphatic in *Zamoras* in reiterating the *Loyola* doctrine. In that case, the petitioner failed to fully pay the appeal fees under Comelec Resolution No. 02-0130 (September 18, 2002) which amended Section 3, Rule 40 of the Comelec Rules of Procedure by increasing the fees to P3,200. There the Court ruled:

x x x A case is not deemed duly registered and docketed until full payment of the filing fee. Otherwise stated, the date of the payment of the filing fee is deemed the actual date of the filing of the notice of appeal. x x x

x x x x

x x x The payment of the filing fee is a jurisdictional requirement and non-compliance is a valid basis for the dismissal of the case. The subsequent full payment of the filing fee after the lapse of the reglementary period does not cure the jurisdictional defect. x x x[17] (*Italics in the original, underscoring supplied*)

Such has been the jurisprudential landscape governing the matter of payment of filing fees and appeal fees in election cases.

On May 15, 2007, the Court, by A.M. No. 07-4-15-SC, introduced the "Rules of Procedure in Election Contests before the Courts involving Elective Municipal and Barangay Officials," which superseded Rules 35 and 36 of the Comelec Rules of Procedure governing elections protests and quo warranto cases before the trial courts.[18] Not

only was the amount of the filing fee increased from P300 to P3,000 for each interest;[19] the amount of filing fee was determined by the Court, not by the Comelec, which was, to recall, the cause of confusion in Loyola, Miranda and Soller.

Another major change introduced by A.M. No. 07-4-15-SC is the imposition of an appeal fee under Section 9 of Rule 14 thereof, separate and distinct from, but payable within the same period as, the appeal fee imposed by the Comelec under Sections 3 and 4, Rule 40 of the Comelec Rules of Procedure, as amended by Comelec Resolution No. 02-0130. Contrary to respondent's contention, the Comelec-prescribed appeal fee was not superseded by A.M. No. 07-4-15-SC.

The requirement of these two appeal fees by two different jurisdictions had caused confusion in the implementation by the Comelec of its procedural rules on payment of appeal fees for the perfection of appeals, prompting the Comelec to issue Resolution No. 8486 (July 15, 2008) clarifying as follows:

1. That if the appellant had already paid the amount of P1,000.00 before the Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court or lower courts within the five-day period, pursuant to Section 9, Rule 14 of the Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials (Supreme Court Administrative Order No. 07-4-15) and his Appeal was given due course by the Court, said appellant is required to pay the Comelec appeal fee of P3,200.00 at the Commission's Cash Division through the Electoral Contests Adjudication Department (ECAD) or by postal money order payable to the Commission on Elections through ECAD, within a period of fifteen days (15) from the time of the filing of the Notice of Appeal with the lower court. If no payment is made within the prescribed period, the appeal shall be dismissed pursuant to Section 9(a) of Rule 22 of the COMELEC Rules of Procedure, which provides:

Sec. 9. Grounds for Dismissal of Appeal. The appeal may be dismissed upon motion of either party or at the instance of the Commission on any of the following grounds:

(a) Failure of the appellant to pay the correct appeal fee; x x x

2. That if the appellant failed to pay the P1,000.00-appeal fee with the lower court within the five (5) day period as prescribed by the Supreme Court New Rules of Procedure but the case was nonetheless elevated to the Commission, the appeal shall be dismissed outright by the Commission, in accordance with the aforestated Section 9(a) of Rule 22 of the Comelec Rules of Procedure. (Emphasis, italics and underscoring supplied)

That Comelec Resolution No. 8486 took effect on July 24, 2008[20] or after a party had filed a notice of appeal, as in the case of petitioner, does not exempt it from paying the Comelec-prescribed appeal fees. The Comelec merely clarified the existing rules on the payment of such appeal fees, and allowed the payment thereof within 15 days from filing the notice of appeal.

In the recent case of Aguilar v. Comelec,[21] the Court harmonized the rules with the following ratiocination:

The foregoing resolution is consistent with A.M. No. 07-4-15-SC and the COMELEC Rules of Procedure, as amended. The appeal to the COMELEC of the trial court's decision in election contests involving municipal and barangay officials is perfected upon the filing of the notice of appeal and the payment of the P1,000.00 appeal fee to the court that rendered the decision within the five-day reglementary period. The non-payment or the insufficient payment of the additional appeal fee of P3,200.00 to the COMELEC Cash Division, in accordance with Rule 40, Section 3 of the COMELEC Rules of Procedure, as amended, does not affect the perfection of the appeal and does not result in outright or ipso facto dismissal of the appeal. Following, Rule 22, Section 9(a) of the COMELEC Rules, the appeal may be dismissed. And pursuant to Rule 40, Section 18 of the same rules, if the fees are not paid, the COMELEC may refuse to take action thereon until they are paid and may dismiss the action or the proceeding. In such a situation, the COMELEC is merely given the discretion to dismiss the appeal or not. (Italics in the original; emphasis and underscoring supplied)

In Aguilar, the Court recognized the Comelec's discretion to allow or dismiss a "perfected" appeal that lacks payment of the Comelec-prescribed appeal fee. The Court stated that it was more in keeping with fairness and prudence to allow the appeal which was, similar to the present case, perfected months before the issuance of Comelec Resolution No. 8486.

Aguilar has not, however, diluted the force of Comelec Resolution No. 8486 on the matter of compliance with the Comelec-required appeal fees. To reiterate, Resolution No. 8486 merely clarified the rules on Comelec appeal fees which have been existing as early as 1993, the amount of which was last fixed in 2002. The Comelec even went one step backward and extended the period of payment to 15 days from the filing of the notice of appeal.

Considering that a year has elapsed after the issuance on July 15, 2008 of Comelec Resolution No. 8486, and to further affirm the discretion granted to the Comelec which it precisely articulated through the specific guidelines contained in said Resolution, the Court now declares, for the guidance of the Bench and Bar, that for notices of appeal filed after the promulgation of this decision, errors in the matter of non-payment or incomplete payment of the two appeal fees in election cases are no longer excusable.

On the Comelec's application of the doctrine of estoppel by laches, records show that petitioner raised the issue of lack of jurisdiction for his and private respondent's non-payment of the appeal fee only after the Comelec appreciated the contested ballots and ruled in favor of respondent, an issue which could have been raised with reasonable diligence at the earliest opportunity. The Court finds the Comelec resolution well-taken.

That petitioner's filing of the appellee's brief was an invocation of the Comelec's jurisdiction and an indication of his active participation cannot be refuted on the mere asseveration that he was only complying with the Comelec's directive to file the same. The submission of briefs was ordered precisely because the Comelec could not anticipate the claims and defenses that would be raised by the parties. Moreover, in his Verified Motion for Reconsideration, petitioner once again pleaded to the Comelec to exercise its jurisdiction by dismissing private respondent's appeal on the merits.[22]

The doctrine of estoppel by laches is not new in election cases. It has been applied in at least two cases involving the payment of filing fees.

In *Navarosa v. Comelec*,[23] the therein petitioner questioned the trial court's jurisdiction over the election protest in the subsequent petition for certiorari before the Comelec involving the ancillary issue of execution pending appeal. The petitioner having raised for the first time the therein private respondent's incomplete payment of the filing fee in her Memorandum submitted to the Comelec, the Court applied the doctrine of estoppel in this wise:

In an earlier ruling, the Court held that an election protest is not dismissible if the protestant, relying on the trial court's assessment, pays only a portion of the COMELEC filing fee. However, in *Miranda v. Castillo*, the Court, reiterating *Loyola v. Commission on Elections*, held that it would no longer tolerate "any mistake in the payment of the full amount of filing fees for election cases filed after the promulgation of the *Loyola* decision on March 25, 1997." Nevertheless, our rulings in *Miranda* and *Loyola* are inapplicable to the present case.

At no time did petitioner Navarosa ever raise the issue of respondent Esto's incomplete payment of the COMELEC filing fee during the full-blown trial of the election protest. Petitioner Navarosa actively participated in the proceedings below by filing her Answer, presenting her evidence, and later, seeking a stay of execution by filing a supersedeas bond. Not only this, she even invoked the trial court's jurisdiction by filing a counter-protest against respondent Esto in which she must have prayed for affirmative reliefs.

Petitioner Navarosa raised the issue of incomplete payment of the COMELEC filing fee only in her memorandum to respondent Esto's petition before the COMELEC Second Division. Petitioner Navarosa's conduct estops her from claiming, at such late stage, that the trial court did not after all acquire jurisdiction

over the election protest. Although a party cannot waive jurisdictional issues and may raise them at any stage of the proceedings, estoppel may bar a party from raising such issues. In *Pantranco North Express v. Court of Appeals*, this Court applied the doctrine of estoppel against a party who also belatedly raised the issue of insufficient payment of filing fees to question the court's exercise of jurisdiction over the case. We held:

The petitioner raised the issue regarding jurisdiction for the first time in its Brief filed with public respondent [Court of Appeals] x x x After vigorously participating in all stages of the case before the trial court and even invoking the trial court's authority in order to ask for affirmative relief, the petitioner is effectively barred by estoppel from challenging the trial court's jurisdiction.

Indeed, in *Miranda and Loyola*, as in every other case where we sustained the dismissal of the election protest for lack or incomplete payment of the COMELEC filing fee, the protestee timely raised the non-payment in a motion to dismiss. Before any revision of the contested ballots, the protestee filed a petition for certiorari questioning the trial court's jurisdiction before the COMELEC and eventually before this Court. In contrast, in the instant case, petitioner Navarosa did not raise the incomplete payment of the COMELEC filing fee in a motion to dismiss. Consequently, the trial court proceeded with the revision of the contested ballots and subsequently rendered judgment on the election protest. Petitioner Navarosa raised for the first time the incomplete payment of the COMELEC filing fee in her memorandum before the COMELEC Second Division.

Thus, estoppel has set in precluding petitioner Navarosa from questioning the incomplete payment of the COMELEC filing fee, and in effect assailing the exercise of jurisdiction by the trial court over the election protest. The law vests in the trial court jurisdiction over election protests although the exercise of such jurisdiction requires the payment of docket and filing fees by the party invoking the trial court's jurisdiction. Estoppel now prevents petitioner Navarosa from questioning the trial court's exercise of such jurisdiction, which the law and not any act of the parties has conferred on the trial court. At this stage, the remedy for respondent Esto's incomplete payment is for him to pay the P200 deficiency in the COMELEC filing fee. It is highly unjust to the electorate of Libacao, Aklan, after the trial court has completed revision of the contested ballots, to dismiss the election protest and forever foreclose the determination of the true winner of the election for a mere P200 deficiency in the COMELEC filing fee. x x x[24] (*Italics and emphasis in the original; underscoring supplied*)

In *Villagracia v. Commission on Elections*,[25] the Court dismissed the petition after finding that the therein petitioner was estopped from raising the jurisdictional issue for the first time on appeal. The Court ratiocinated:

Petitioner contends that had public respondent followed the doctrine in *Soller v. COMELEC*, it would have sustained the ruling of the First Division that the trial court lacked jurisdiction to hear the election protest due to private respondent's failure to pay the correct filing fees.

We disagree. The *Soller* case is not on all fours with the case at bar. In *Soller*, petitioner therein filed with the trial court a motion to dismiss private respondent's protest on the ground of, among others, lack of jurisdiction. In the case at bar, petitioner actively participated in the proceedings and voluntarily submitted to the jurisdiction of the trial court. It was only after the trial court issued its decision adverse to petitioner that he raised the issue of jurisdiction for the first time on appeal with the COMELEC's First Division.

While it is true that a court acquires jurisdiction over a case upon complete payment of the prescribed filing fee, the rule admits of exceptions, as when a party never raised the issue of jurisdiction in the trial court. As we stated in *Tijam v. Sibonghanoy, et al.*, viz.:

xxx [I]t is too late for the loser to question the jurisdiction or power of the court. xxx [I]t is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty.

It was therefore error on the part of the COMELEC's First Division to indiscriminately apply Soler to the case at bar. As correctly pointed out by public respondent in its questioned Resolution, viz.:

x x x. Villagrancia never assailed the proceedings of the trial court for lack of jurisdiction during the proceedings therein. Instead, he filed an Answer to the Protest on 2 August 2002 and then actively participated during the hearings and revision of ballots and subsequently filed his Formal Offer of Exhibits. The issue on the filing fees was never raised until the Decision adverse to his interest was promulgated by the trial court and only on [a]ppeal to the COMELEC. Necessarily, we apply the case of *Alday vs. FGU Insurance Corporation* where the Supreme Court instructed that "although the lack of jurisdiction of a court may be raised at any stage of the action, a party may be estopped from raising such questions if he has actively taken part in the very proceedings which he questions, belatedly objecting to the court's jurisdiction in the event that the judgment or order subsequently rendered is adverse to him." Villagrancia is therefore estopped from questioning the jurisdiction of the trial court only on [a]ppeal.[26] (Underscoring supplied)

To allow petitioner to espouse his stale defense at such late stage of the proceedings would run afoul of the basic tenets of fairness. It is of no moment that petitioner raised the matter in a motion for reconsideration in the same appellate proceedings in the Comelec, and not before a higher court. It bears noting that unlike appellate proceedings before the Comelec, a motion for reconsideration of a trial court's decision in an election protest is a prohibited pleading,[27] which explains why stale claims of non-payment of filing fees have always been raised belatedly before the appellate tribunal. In appellate proceedings before the Comelec, the stage to belatedly raise a stale claim of non-payment of appeal fees to subvert an adverse decision is a motion for reconsideration. The Commission thus did not gravely abuse its discretion when it did not countenance the glaring inequity presented by such situation.

More. Petitioner, guilty as he is of the same act that he assails, stands on equal footing with private respondent, for he himself admittedly did not pay the appeal fee, yet the Comelec similarly adjudicated his appeal on the merits, the resolution of which he glaringly does not assail in the present petition. He who comes to court must come with clean hands.

Election cases cannot be treated in a similar manner as criminal cases where, upon appeal from a conviction by the trial court, the whole case is thrown open for review and the appellate court can resolve issues which are not even set forth in the pleadings.[28] Petitioner having set his eyes only on the issue of appeal fees, the present petition must be resolved, as it is hereby resolved, on the basis of such singular ground which, as heretofore discussed, failed to convince the Court.

En passant, appreciation of the contested ballots and election documents involves a question of fact best left to the determination of the Comelec, a specialized agency tasked with the supervision of elections all over the country. In the absence of grave abuse of discretion or any jurisdictional infirmity or error of law, the factual findings, conclusions, rulings and decisions rendered by the Comelec on matters falling within its competence shall not be interfered with by this Court.[29]

By the assailed Resolutions, the Comelec declared as "marked" those ballots containing the words "Ruby," "Ruby Lizardo" and its variants after finding a discernible pattern in the way these words were written on the ballots, leading to the conclusion that they were used to identify the voter. The Comelec found material the following evidence aliunde: the name "Ruby Lizardo" referred to a community leader and political supporter of petitioner; said name and its variants were written on several ballots in different precincts; and the fact that Ruby Lizardo acted as an assistor in the elections cannot hold water since an assistor cannot assist in the preparation of the ballots for more than three times.[30] The Comelec did not invalidate the other ballots for absence of evidence aliunde to prove that the markings therein were used for the purpose of identifying the voter. It ruled that circles,

crosses and lines (e.g., "X" marks) placed on spaces on which the voter has not voted are considered signs to indicate his desistance from voting and should not invalidate the ballot.

Petitioner failed to establish, or even allege, the presence of grave abuse of discretion with respect to the substance of the assailed Resolutions. Petitioner's silent stance on this point is an implied waiver of whatever infirmities or errors of law against the substantive aspect of the assailed Resolutions, for the Court abhors a piecemeal approach in the presentation of arguments and the adjudication thereof.

WHEREFORE, the petition is DISMISSED for lack of merit. The July 17, 2008 Resolution and the January 26, 2009 Resolution of the Commission on Elections are AFFIRMED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, and Bersamin, JJ., concur.

Brion, J., on official leave.

[1] Precint Nos. 137A, 138A, 68A/69A, 70A, 71A, 148A/149A, and 146A/147A.

[2] A.M. No. 07-4-15-SC (effective May 15, 2007) or the Rules of Procedure in Election Contests before the Courts involving Elective Municipal and Barangay Officials, Rule 13, Sec. 6, par. (a), sub-pars. 4-5 and par. (c), sub-pars. 2-5.

[3] Rollo, p. 85.

[4] RULES OF PROCEDURE IN ELECTION CONTESTS BEFORE THE COURTS INVOLVING ELECTIVE MUNICIPAL AND BARANGAY OFFICIALS, Rule 14, Sec. 2.

[5] Rollo, pp. 58-59

[6] Comelec Rules of Procedure (February 15, 1993) as amended by Comelec Resolution No. 02-0130 (September 18, 2002). The fees are broken down as follows: appeal fee= P3,000; bailiff's fee= P150; and legal research fee= P50.

[7] The Comelec en banc additionally found three ballots with the word "Rodolfo Lavilla" and its variant as "marked" ballots and thus consequently deducted three more votes from petitioner's total votes (rollo, pp. 118-120).

[8] Rollo, p. 18.

[9] Id. at 286-287.

[10] Id. at 280-281.

[11] 337 Phil. 134 (1997).

[12] From P32, the amount was increased to P400 in 1990, and was again increased on a staggered basis from 2004 to 2006 starting with P750, P1,000, P1,500, and P2,000, under now Section 7(b)(3).

[13] G.R. No. 126361, June 19, 1997, 274 SCRA 503.

[14] 394 Phil. 197 (2000); for an earlier case, vide Melendres, Jr. v. Comelec, 377 Phil. 275 (1999) citing Roquero v. Comelec, 351 Phil. 1079, 1087 (1998).

[15] 415 Phil. 87 (2001).

[16] G.R. No. 158610, November 12, 2004, 442 SCRA 397.

[17] Id. at 404-406.

[18] RULES OF PROCEDURE IN ELECTION CONTESTS BEFORE THE COURTS INVOLVING ELECTIVE MUNICIPAL AND BARANGAY OFFICIALS, Rule 17, Sec. 1.

[19] RULES OF PROCEDURE IN ELECTION CONTESTS BEFORE THE COURTS INVOLVING ELECTIVE MUNICIPAL AND BARANGAY OFFICIALS, Rule 7, Sec. 1.

[20] The seventh day following its publication on July 17, 2008 in Philippine Star and Manila Standard Today, pursuant to its effectivity clause.

[21] G.R. No. 185140, June 30, 2009.

[22] Petitioner argued that the findings and conclusions of the Comelec were "contrary to law, the evidence and existing jurisprudence." (rollo, p. 139).

[23] 458 Phil. 233 (2003).

[24] Id. at 245-248.

[25] G.R. No. 168296, January 31, 2007, 513 SCRA 655.

[26] Id. at 659-660.

[27] RULES OF PROCEDURE IN ELECTION CONTESTS BEFORE THE COURTS INVOLVING ELECTIVE MUNICIPAL AND BARANGAY OFFICIALS, Rule 6, Sec. 1(d); formerly, Comelec Rules of Procedure, Rule 35, Sec. 19.

[28] Id. at 37.

[29] Vide *Manzala v. Commission on Elections*, G.R. No. 176211, May 8, 2007, 523 SCRA 31, 38.

[30] Rollo, p. 61.

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