

SALIC B. DUMARPA, MARANAO C. DANGANAN AND SAADUDDIN ALAUYA, PETITIONERS, VS. JAMIL DIMAPORO AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. Nos. 87014-16. September 13, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

By Resolution dated October 28, 1988,[1] the Commission on Elections en banc[2] passed upon and disposed of -?

(a) "two motions for reconsideration filed by Datu Abdulmadid Panondiongan Maruhom and Monabai Panondiongan Balt, from a decision of the Commission (First Division) promulgated July 11, 1988, dismissing their petitions and affirming the proclamation of Jamil Dimaporo as the duly elected municipal mayor of Marogong, Lanao del Sur," and

(b) "a motion for contempt of the Commission (against) Provincial Fiscal Salic B. Dumarpa, 3rd Assistant Provincial Fiscal Maranao D. Danganan, and Vice-Governor Saaddudin Alauya, all of the Province of Lanao del Sur."

As regards the motions for reconsideration, the Resolution declared them to be without merit, and "sustain(ed) the decision of the First Division on all cases."

As regards the motion for contempt, said Resolution found the charge to have been duly substantiated, pronounced respondents "Provincial Fiscal Salic Dumarpa, 3rd Assistant Provincial Fiscal Maranao Danganan and Vice-Governor Saaddudin Alauya ** in contempt ** (and) imposed (on them) a Fine of Five Hundred Pesos (P500.00) each **."1 It is this aspect of the Resolution and the Order subsequently promulgated on January 12, 1989 denying the respondents' motion for reconsideration, that are now challenged in the instant special civil action of certiorari.

The facts are not complicated. They have to be gone into in some detail, however, so that the issue, albeit simple, may be more accurately defined.

On February 3, 1988, Datu Jamil Dimaporo was proclaimed by the Board of Canvassers Mayor-elect of Marogong.

The annulment of the proclamation and the canvass on which it was based² was sought in two (2) separate petitions filed by defeated mayoralty candidates: one filed on February 15, 1988 by Datu Abdulmadid Panondiongan Maruhom (docketed as SPC No. 88-646), and the other, on February 17, 1988, by Monabai Panondiongan Balt (docketed as SPC Nos. 88-697 and 88-697-A).

While these petitions were pending adjudgment by the COMELEC First Division, the Secretary of Local Governments issued on May 19, 1988 a memorandum addressed to the Regional Director, Region XII of the

Department of Local Governments, designating Maclis Balt "Officer-in-Charge, Office of the Mayor of Marogong, Lanao del Sur vice Abdullah Imam." The memorandum precisely took account of said petitions. It stated that the designation of the OIC was made "(i)n view of the election controversy that has arisen over the mayoralty race of Marogong, Lanao del Sur, and to ensure that the democratic process is respected throughout the transition period."³

A copy of this memorandum was furnished Governor Saidamen Pangarungan, among others. He, in turn, issued on May 23, 1988 a memorandum to "All Concerned," on the subject, "Lifting of Suspension Order," reading as follows:⁴

"In view of the designation of OIC-Mayors in the municipalities of Bacolod-Grande and Marogong, Lanao del Sur by the Secretary of Local Governments on different dates pending final resolution by the Commission on Elections of the mayoralty poll disputes therein, the order issued by this Office suspending the processing of vouchers and other financial matters as well as the encashment of pertinent checks for said towns is hereby lifted.

All concerned are hereby advised to recognize the said designation of the Secretary of Local Governments.

For compliance."

Evidently on the strength of the designation of the Secretary of Local Governments and said memorandum of Governor Pangarungan, Maclis Balt assumed the position and discharged the functions of OIC, Office of the Mayor, Marogong.

The petitions seeking annulment of Datu Dimaporo's proclamation were ultimately dismissed by the First Division of the COMELEC, by decision rendered on July 11, 1988. Motions for reconsideration thereof were seasonably presented by both petitioners. These were brought up to the Commission en banc for resolution.

Datu Dimaporo lost no time in seeking official recognition of his status as mayor-elect of Marogong, as confirmed by the First Division's Decision of July 11, 1988. Under date of July 18, 1988, his counsel, Mangurun Batuampar, sent a formal communication to Provincial Governor Saidamen B. Pangarungan, "transmitting ** the 'RESOLUTION' of the Honorable First Division of the Commission on Elections **," and praying "that communications and other official matters involving the affairs of the Municipality of Marogong, Lanao del Sur be accorded to DATU JAMIL DATU MULOK DIMAPORO whose proclamation was affirmed by the Commission on Elections as aforestated." This letter, and other related documents collated by the Office of the Governor, were later referred to the Provincial Fiscal of Lanao del Sur by 3rd Indorsement dated August 1, 1988, of Atty. Sa-Aduden Alauya, "Vice Governor-OIC Governor." The 3rd Indorsement reads as follows:¹

"Respectfully forwarded to the Provincial Fiscal, this province, the herein attached basic communication, dated July 18, 1988, of Atty. Mangurun Batuampar, counsel of Datu Jamil ** Dimaporo with a xerox copy of the Resolution dated July 11, 1988, of the First Division of the Commission on Elections, and the comment thereto by OIC-Mayor Maclis Balt with a xerox copy of the motion for reconsideration filed in behalf of Monorabai Panondiongan Balt on July 1988, together with the preceding indorsements thereof, for legal opinion as to who between Datu Jamil ** Dimaporo and Maclis Balt should be recognized as the Municipal Mayor and/or OIC-Mayor of Marogong, Lanao del Sur.

Early action on the matter is desired."

The Provincial Fiscal acted promptly on the request. The opinion sought was communicated to the Vice Governor by 4th Indorsement dated August 5, 1988. It was signed by 3rd Assistant Provincial Fiscal Maranao C. Danganan, with the conformity ("conforme") of Provincial Fiscal Salic B. Dumarpa. The indorsement reads as follows:

"Respectfully returned to the Honorable Vice Governor-OIC Governor, this province, the herein attached 3rd Indorsement together with its enclosures, with the legal opinion that Datu Maclis Balt is still the Mayor of the Municipality of Marogong, Lanao del Sur, pursuant to Sec. 3, paragraph C, Article IX of the Constitution which mandates that motions for reconsideration from a decision of a Division of the Commission on Elections shall be decided En Banc by the Commission. Considering that a motion for reconsideration was timely filed by the OIC2 the decision of the Division is not final and executory. The decision of the Commission En Banc is not yet even final until and after 5 days whenever no restraining order is issued by the Supreme Court."

On learning of this legal opinion, Datu Dimaporo filed with the COMELEC en banc a motion to hold Fiscals Dumarpa and Danganan, as well as Vice-Governor Alauya, in contempt.³ His motion, dated August 22, 1988, inter alia drew attention to the inaccuracy in the 4th Indorsement -- that OIC Maclis Balt had filed a motion for reconsideration of the Decision of the First Division of the COMELEC¹ -- and pointed out that the respondents should have known "that MACLIS BALT has never been a candidate for Mayor in Marogong during the February 1, 1988 local elections and therefore, cannot file a motion for reconsideration in the above-entitled cases not being a party therein." The motion theorized that the act of Vice-Governor Alauya in seeking legal opinion of the Office of the Provincial Fiscal, and the formulation and communication of the requested opinion by Fiscals Dumarpa and Danganan, constituted "indirect contempt as it is clearly an improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice (Sec. 3-d, Rule 71, revised Rules of Court), and is also an unlawful interference with the processes or proceedings of this Honorable Commission en banc (Sec. 3-c., Rule 71 **) where the above-entitled cases are now pending for decision * *." In exposition of this thesis, the motion made the following assertions:

"10. That the aforesaid improper conduct ** causes chaos and confusion among the National, Provincial, Municipal officials and the general public on who is really the legal Mayor of Marogong, Lanao del Sur, considering the conflict of the defendants' legal opinion and the 'Resolution' of the COMELEC Division, as aforesaid, resulting to damage, injury and prejudice not only upon the complainant but to public service, particularly the people of Marogong, Lanao del Sur;

11. That defendants are good lawyers and know very well that resolutions, orders or decisions of this Honorable Commission can only be reviewed by the Supreme Court as indicated in Exhibit '2' (legal opinion), and the issuance of the legal opinion is indeed with evil motive and tainted with malice;

12. That the aforesaid improper conduct of the defendants if not timely corrected by severely punishing them in contempt of this Honorable Commission will be establishing a very bad precedence because such improper conduct amounts to a REVIEW by a Provincial Fiscal of whatever resolution, order or decision of this Honorable Commission."

Responses to the motion for contempt were separately filed by the fiscals and by the Vice-Governor. In a pleading entitled "Vigorous Opposition to Motion ***" dated September 15, 1988,² Vice-Governor Alauya declared that -

1) "Datu Maclis Balt as an OIC Mayor of the Municipality (of Marogong) is religiously performing the prescribed duties, powers and responsibilities of the mayor of the town until the final adjudication of the mayoralty election cases, hence, it is not true that defendants' act causes chaos and confusion in said Municipality;"

2) in the situation that he had found himself -- confronted by the letter of Datu Dimaporo's counsel requesting recognition by the Office of the Governor as Mayor of Marogong pursuant to the Decision of the COMELEC First Division, the comment of OIC Mayor Balt, and the motion for reconsideration filed by defeated candidate Monarabai Balt -- "and in his desire to act safely and correctly and to be in good faith all along, he indorsed ** (the) documents ** to the Provincial Fiscal in his capacity as a legal counsel of the province in the absence of the Provincial Attorney for legal opinion;"

3) "said legal opinion has not disputed or contradicted the force and effect of the said resolution (of the First Division) ** ; (o)n the contrary, the defendants recognize and respect the force and effect of said resolution and because a motion for reconsideration was timely filed on July 19, 1988, then it has not become final and executory, hence, it is not true that the defendants' act resulted to damage, injury and prejudice upon anybody in said Municipality of Marogong;"

4) "the opinion ** does not constitute a review of the aforesaid resolution of the ** Comelec First Division in the sense that the defendant-Fiscals did not affirm or reverse said resolution. They did not even say anything against it. They merely opined that because a motion for reconsideration was timely filed, then said resolution has not become final and executory. This is known to any student of law. Actually, these are the offshoots of the letter of movant's counsel to the Governor **. If the herein defendant did not take such an appropriate action, possibility is not remote that he will be charged of negligence of duty. Suffice it to state that the herein defendant acted honestly, dedicatedly and without any iota of malice or evil motive in his heart and mind. It is hoped with defendant's prayer to Allah that all his action will not help throw this province into blood bath."

For their part, the respondent fiscals asserted the following pertinent propositions in their Answer dated September 12, 1988 (in addition to substantially the same arguments set forth in the Vice-Governor's "Opposition" above adverted to):¹

1) in their written opinion, they had "just humbly stated in three sentences the provision of law on the subject of the query of the Office of the Provincial Governor **; that such statements **, briefly stating the provision of the constitution particularly Sec. 3, paragraph c of Article IX thereof in relation to Sec. 246 of the Omnibus Election Code, are not directed against the authority, dignity and majesty of the Commission on Elections so as to constitute a contumacious attitude and flouting or arrogant belligerence against it that the act may constitute contempt;"

2) said opinion "has no punitive values that could interfere with the process or proceedings of the Commission," and could not be deemed a contempt thereof; and

3) "the counsel for the complaint has put down the Commission to the level of the Provincial Fiscal in alluding to a 'conflict of the defendants' opinion and the Resolution of the COMELEC Division, (thus) displaying his apparent oblivion of the bureaucratic set-up and the jurisprudence prevailing in this country."

The fiscals also submitted a Memorandum, bearing the same date as their answer,² in which, among other things, they expressed the view that since the First Division had assumed jurisdiction over the petitions questioning the proclamation of Datu Dimaporo -- indeed, "it took the Honorable First Division ** considerable time and effort to resolve the controversy" -- the presumption was that the proclamation must have appeared invalid to the First Division, otherwise it "could not have acquired (assumed) jurisdiction over the ** cases because the remedy of the petitioners-appellants was a regular protest before the Regional Trial Court of Lanao del Sur." They "were forced to assume that the proclamation of Jamil Dimaporo was irregular because the First Division heard the petition to annul the said proclamation," and this left them "no other option than affirm the jurisdiction of the First Division over the cases by stating the law sanctioning its authority and that is article IX of the Constitution."

In its Resolution of October 28, 1988 anent the contempt incident, the Commission en banc condemned the fiscal's conception of "the First Division's jurisdiction of the pre-proclamation controversy" as a "distortion of the law and jurisprudence." It said: "The propriety and legality of proclamations already made or about to be made are precisely the issues in pre-proclamation controversies over which the Commission has exclusive jurisdiction. It is a rule so consistent and well established in this jurisdiction that even the Commission itself cannot disturb a proclamation made by a Board of Canvassers without notice and hearing. This rule we hold respondents bound by

judicial notice." Stressing that under the law "it is solely the Commission that can suspend or annul any proclamation made," the Resolution pointed out that "What respondents Alauya, Dumarpa and Danganan in effect did was to suspend the effects of the proclamation of intervenor Dimaporo made by the Municipal Board of Canvassers of Marogong, to prevent him from discharging the duties of his office, and pave the way for the appointment of or assumption to office by an Officer-in-Charge, who is the wife of one of the parties to the instant petitions" -- which are acts constituting "unauthorized and illegal assumption of powers that pertain exclusively to the Commission, an unlawful interference with its processes and proceedings, and improper conduct that tends directly or indirectly to impede, obstruct or degrade the administration of justice in this case." Brushing aside, too, the respondents' argument "that they were merely seeking and rendering an opinion * * and therefore the same was not directed against the authority and dignity of the Commission" as being "devoid of merit," the Resolution declared the respondents guilty of contempt and sentenced each of them to pay a fine of P500.00.

The fiscals and the Vice-Governor filed a motion for reconsideration dated November 9, 1988, depositing at the same time "the amount of One Thousand Five Hundred (P1,500.00) with the Provincial Election Supervisor in Marawi City as and by way of penalty if finally adjudged guilty without prejudice to ventilate their rights in the appropriate forum."¹ They stated among other things that ?

1) Acting Gov. Alauya was faced with a case needing "urgent action because both parties are claiming the fund releases of Marogong and the tension between the protagonists in SPC Nos. 88-646, 88-697 and 88-697-A has reached its boiling point so volatile that without settling the legal issue the mayorship of Marogong could have been contested by the sound of guns and thus a resultant bloodshed." Thus, "his act of referring the legal controversy to the legal adviser of the province" was, to him, "the most appropriate under the circumstances;" * * (and the) act of not implementing the decision of the Commission, if at all such decision is due for implementation, is at most unintentional mistake and, which act did not constitute contempt (citing *Asociacion de Agricultores de Talisay-Silay, Inc. v. Talisay-Silay Mining Co., Inc.*, 88 SCRA 294);"

2) no suspension of the effects of Dimaporo's proclamation was or could have been effected by them since Dimaporo had never "enjoyed the powers and functions appurtenant to the Office of the mayor," had never been paid his salary as mayor, and had not as yet "been accorded recognition as elected mayor ** by the provincial and national government;" indeed, "long before the query for legal opinion was lodged, Balt was already designated as Officer-in-Charge;"

3) the fiscals had merely performed "a legal duty reposed upon them when they rendered the questioned legal opinion," a duty they could not have refused without incurring liability "for dereliction of a defined duty;" and

4) with or without the fiscal's opinion, "Maclis Balt would still (have) continue(d) discharging the duties of the mayor, at least, until October 28, 1988 (when the Resolution of the COMELEC en banc was promulgated)."

By Resolution dated January 12, 1989 the COMELEC en banc not only denied the motion for reconsideration, but also "rebuked" the movants "for insisting upon an erroneous legal position." According to the COMELEC -

"Normally, there is nothing objectionable in seeking a legal opinion and in rendering it. But what transpired in connection with these cases were not innocent acts that were intended to guide official action. Rather, they were a deliberate contrivance that were meant to undermine the efficacy of official acts of the Commission from the municipal board of canvassers to the First Division of the Commission and even the Commission en banc which had not in any way issued any restraining order to suspend the proclamation of the winning candidate. If clarification had to be made in connection with the proclamation and the decision of the First Division, it should have been sought in the Commission itself, for movants knew, or should have known, that the Commission has exclusive jurisdiction over pre-proclamation controversies. That they attempted to settle the matter among themselves demonstrates the intention to effect disobedience to and defiance of the lawful

acts and orders of the Commission."

The convicted contemnners have instituted the instant special civil action of certiorari in this Court to bring about the nullification of the Resolution of October 28, 1988 "as regards the findings for contempt."

Required to comment in behalf of the public respondent,¹ the Office of the Solicitor General begged to "be discharged from the duty to *** (do so as it) maintains a position different from that taken by respondent COMELEC."² This Court granted the request and accorded to "the respondent COMELEC itself a period of ten (10) days from notice within which to file the required comment, if it so desires."³ Respondent Datu Dimaporo has not done so, despite notice. The COMELEC filed its own comment on July 25, 1989.

The COMELEC counsel submits that the facts "manifest the firm resolve (on petitioners') part to delay, if not totally prevent, the assumption of office by private respondent Dimaporo * *, a scheme to shroud with doubt the validity and force of a proclamation while trifling with public respondent's discretion on when to annul a proclamation or suspend its effects;" that the only perceived purpose of the request for opinion was "to provide an aura of legality to the continuity in office of the designated officer-in-charge, to the exclusion of the proclaimed winner in the election;" that "from an overview of the acts of petitioners and the situation in which all parties found themselves thereafter, petitioners' pretensions to good faith recede to a wantonly subtle interference with matters within the exclusive competence of public respondent," and that petitioners' acts were in fact "a deliberate interference with the process or proceedings before respondent Commission **."

Upon the facts above narrated at some length, the Court is constrained to nullify and set aside the conviction by the COMELEC en banc of the petitioners for contempt.

The essential accusation against the petitioners was that the rendition by the petitioner fiscals of a legal opinion upon request of petitioner Vice Governor had caused "chaos and confusion among the National, Provincial, Municipal officials and the general public on who is really the legal Mayor of Marogong, Lanao del Sur, considering the conflict of the defendants' legal opinion and the 'Resolution' of the COMELEC Division, as aforesaid, resulting to damage, injury and prejudice not only upon the complainant but to public service, particularly the people of Marogong, Lanao del Sur."⁴ This was implicitly sustained by the COMELEC when it ruled that -5

"What respondents Alauya, Dumarpa and Danganan in effect did was to suspend the effects of the proclamation of intervenor Dimaporo made by the Municipal Board of Canvassers of Marogong, to prevent him from discharging the duties of his office, and pave the way for the appointment of or assumption to office by an Officer-in-Charge, who is the wife of one of the parties to the instant petitions."

The trouble is, there is nothing in the challenged Resolutions of the COMELEC en banc, or anywhere else in the record, for that matter, to demonstrate the actuality of the alleged (1) "chaos and confusion among the National, Provincial, Municipal officials and the general public," or (2) "suspension of the effects of the proclamation of intervenor Dimaporo * * (in order to) pave the way for the appointment of or assumption to office by an Officer-in-Charge," or (3) that the latter "is the wife of one of the parties to the instant petitions;" or (4) that the legal opinion was "a deliberate contrivance ** meant to undermine the efficacy of official acts of the Commission from the municipal board of canvassers to the First Division of the Commission and even the Commission en banc which had not in any way issued any restraining order to suspend the proclamation of the winning candidate."

On the other hand, there are the facts asserted by the petitioners -- never denied or disputed by respondents -- that as of the time that the fiscal's opinion was solicited and even thereafter, Datu Dimaporo had never yet "enjoyed the powers and functions appurtenant to the Office of the mayor," had never been paid his salary as mayor, and

had not as yet "been accorded recognition as elected mayor ** by the provincial and national government;" and that indeed, "long before the query for legal opinion was lodged, (Maclis) Balt ** (had been) already designated as Officer-in-Charge" and since then and during all the time material to the inquiry, had been discharging the functions of mayor of Marogong.

It thus appears that the Resolution in question not only lacks factual foundation of any sort but is contradicted by such of the relevant facts as may be discerned from the record.

It appears furthermore that the Fiscals are being sanctioned for rendering an opinion that in the view of the COMELEC en banc was "a distortion of law and jurisprudence." But what is it in that legal opinion that the COMELEC deemed so offensive to its authority and dignity as to move it to punish its authors? That opinion was rendered in answer to the inquiry of the Acting Governor as to whether or not, in view of the judgment by the First Division of the COMELEC upholding the proclamation by the Board of Canvassers of Datu Dimaporo as Mayor-Elect of Marogong, the duly designated OIC Mayor, theretofore acting as such, Datu Maclis Balt, could still be recognized as the Mayor of the Municipality. The inquiry had been made necessary in view of the conflict in claims to the mayoralty then being asserted by both Datu Dimaporo and Datu Balt, which conflict had to be swiftly and legally resolved to prevent its resolution by arms and bloodshed. The fiscals' opinion was based on "Sec. 3, paragraph C, Article IX of the Constitution which mandates that motions for reconsideration from a decision of a Division of the Commission on Elections shall be decided En Banc by the Commission." They declared that since "a motion for reconsideration was timely filed by the OIC, the decision of the Division is not final and executory. The decision of the Commission En Banc is not yet even final until and after 5 days whenever no restraining order is issued by the Supreme Court." The Court, quite frankly, sees in the text of the opinion nothing even remotely resembling an affront to the COMELEC, or a criticism of the First Division's judgment. On the contrary, the opinion simply paraphrases -- correctly, it would appear -- the COMELEC's own Rules of Procedure¹ on the subject it addresses. But even if, as the questioned Resolution declares, the views therein expressed are clearly wrong, it cannot for that reason alone be considered contumacious; otherwise, liability for contempt would invariably attach to every declared instance of orders or judgments rendered without or in excess of jurisdiction or with grave abuse of discretion, or otherwise attended by serious error of one kind or another. The absurdity of such a rule or policy need not be belabored.

Nor may the Acting Governor be faulted for consulting the lawyers of the province as to the effects of a judgment on the authority and actuations of municipal or provincial officials, or the fiscals for advising him on such matters. The law implicitly authorizes the former to seek such advice and expressly imposes upon the latter the duty to give it on request. Section 1682, first paragraph, of the Revised Administrative Code provides:

"SEC. 1682. Duty of fiscal as legal adviser of province and provincial subdivisions. - The provincial fiscal shall be the legal adviser of the provincial government and its officers, including district health officers, and of the mayor and council of the various municipalities and municipal districts of the province. As such he shall, when so requested, submit his opinion in writing upon any legal question submitted to him by any such officer or body pertinent to the duties thereof."

Thus, all that the respondent fiscals did was perform a duty specifically enjoined by law, for the failure or refusal to do which they could appropriately have been called to account. It may be that the opinion they submitted was erroneous, though this is by no means certain and is not here fully inquired into, there being no need to do so. As already observed, it cannot, on the ground of error alone and absent any indication in the record that it was prompted by a deliberate intent to affront the Commission or ignore or belittle its judgments and orders, be considered contumacious.

The Court is somewhat intrigued by the statement in the challenged Resolution which "**** hold(s) respondents

bound by judicial notice" to the rule "**** that even the Commission itself cannot disturb a proclamation made by a Board of Canvassers without notice and hearing." Interpreted in consonance with its context, the statement would appear to charge the respondents with judicial notice of the cited rule. But surely it could not have been meant to be taken in that sense because the rule of judicial notice binds only courts acting as such and, moreover, it is doubtful if the precept referred to is a proper subject of judicial notice. One would, however, be hard put to give the statement any other meaning that would not in one way or another contradict the ordinary intendment of its language.

The respondent Commission would have it that if need was felt for any clarification in connection with the proclamation and the Resolution in question, it should have been sought with said Commission itself since the petitioners knew, or should have known, that it has exclusive jurisdiction over pre-proclamation controversies. It fails to explain, however, how the Acting Governor could have done this, not being a party to that particular controversy. And even had that step been feasible, it does not appear that said respondent has jurisdiction to render an advisory opinion or declaratory judgment.

The power to hold in contempt, it has time and again been held, must be exercised, not on the vindictive, but on the preservative principle.¹ It is not to be meted out of pique, or from an imperial sense of the nature and functions of judicial office. What appears to be an honest difference of opinion has been blown up into something that it is not -- a direct and confrontational challenge to the puissance and prerogatives of the Commission. In a word, petitioners have been found in contempt because, to put it baldly, their opinion did not sit well with the Commission and failed to conform to its own views. Judicial sensibilities should not become too tender or self-protective. All things considered, the contempt ruling here cannot be justified on the preservative principle, there being no clear showing, either in the terms of the allegedly contumacious opinion or from the circumstances that led to its issuance, of any intent to denigrate the authority of the respondent Commission or erode the faith and respect due its decisions, orders or other actuations. Said ruling is, therefore, REVERSED and SET ASIDE, and petitioners are absolved of the contempt charge. No costs.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.
Feliciano, J., on leave.

[1] SPC No. 88-646 (Datu Maruhom, petitioner) and SPC Nos. 88-697 and 88-697-B (Monabai P. Balt, petitioner)

[2] The resolution was written by Commissioner Haydee B. Yorac, and concurred in by Chairman Davide and Commissioners Abueg, Jr., Africa, Flores, Rama and Dimaampao

1 Rollo, pp. 79, 81, 82

2 On the ground of failure of elections, fraud, lack of authority of the Chairman of the Board of Canvassers, rollo, pp. 42-43

3 Id., p. 39

4 Id., p. 40

1 Id., p. 19

2 This italicized statement is clearly a mistake, since, as clearly appears from the 3rd indorsement, it was not OIC Maclis Balt, but Monorabai Panondiongan Balt who filed a motion for reconsideration. The mistake was acknowledged and rectified by the fiscals in their answer to the motion for contempt (Rollo, pp. 26 et seq., SEE footnote 1, *infra*)

3 Rollo, pp. 16 et seq.

1 SEE preceding footnote

2 Rollo, pp. 31-37

1 *Id.*, pp. 26-30

2 *Id.*, pp. 21-25

1 *Id.*, pp. 51, 60

1 *Id.*, p. 66

2 *Id.*, p. 88

3 *Id.*, p. 90

4 SEE footnote 3 and related text at pp. 3 - 4

5 SEE pp. 5 - 6

1 Sec. 2 of Rule 19, to the effect that a motion to reconsider a decision, resolution, order or ruling of a Division filed within five (5) days from promulgation thereof, if not pro-forma, suspends the execution or implementation of the decision, resolution, etc.; and Sec. 3 of Rule 39, providing that decisions in pre-proclamation cases, among others, become final and executory five (5) days after their promulgation unless restrained by the Supreme Court

1 *Victorino vs. Espiritu*, 5 SCRA 653; *Commissioner of Immigration vs. Cloribel*, 20 SCRA 1241; *Austria vs. Masaquel*, 20 SCRA 1247, citing *Lualhati vs. Albert*, 57 Phil. 86, *Villavicencio vs. Lukban*, 39 Phil. 778, *In re: Quirino*, 76 Phil. 630 and *People vs. Rivera*, 91 Phil. 354; *Rivera vs. Florendo*, 144 SCRA 643, citing *Villavicencio vs. Lukban*, *supra*, *Gamboa vs. Teodoro, et al.*, 91 Phil. 274, *Sulit vs. Tiangco*, 115 SCRA 207, and *Lipata vs. Tutaan*, 124 SCRA 880; *Romero vs. Valle, Jr.*, 147 SCRA 197

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