

EN BANC

[G.R. No. 212615, July 19, 2016]

LEODEGARIO A. LABAO, JR., PETITIONER, VS. COMMISSION ON ELECTIONS AND LUDOVICO L, MARTELINO, JR., RESPONDENTS.

[G.R. NO. 212989]

SHARON GRACE MARTINEZ-MARTELINO, PETITIONER, VS. COMMISSION ON ELECTIONS AND VICE MAYOR JOSE O. ALBA, JR., RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court are two consolidated Petitions:

G.R. No. 212615 is a Petition for *Certiorari* and Prohibition filed by Leodegario A. Labao, Jr. (Labao, Jr.) to annul and set aside the May 21, 2014^[1] and September 24, 2013^[2] Resolutions of the Commission on Elections (COMELEC) in SPA Case No. 13-294 (DC), entitled "*Ludovico L. Martelino, Jr. v, Leodegario A. Labao, Jr.,*" disqualifying him as candidate for the position of Mayor of the Municipality of Mambusao, Capiz as well as nullifying his proclamation as the duly elected Mayor thereof.

And, **G.R. No. 212989** is a Petition for *Certiorari* and *Mandamus* filed by Sharon Grace Martinez-Martelino (Sharon) (/) to annul and set aside the aforementioned resolutions of the COMELEC but only as to the portion directing the application of the rules of succession (in case of a permanent vacancy in the Office of the Mayor) pursuant to Section 44 of the Local Government Code; and (ii) to compel the COMELEC to proclaim her, instead, as the duly elected Mayor of the Municipality of Mambusao, Capiz.

Both petitions were filed pursuant to Rule 64 in relation to Rule 65, of the Rules of Court, as amended.

The facts shared by both cases are as follows:

In a Petition for Disqualification dated May 8, 2013 filed before the COMELEC, Ludovico L. Martelino, Jr. (Ludovico) sought the disqualification of Labao, Jr. as candidate^[3] for Mayor of the Municipality of Mambusao, Capiz in the May 13, 2013 elections, on the ground that Labao, Jr. was a fugitive from justice. Ludovico essentially averred that there was an outstanding warrant for Labao, Jr.'s arrest in connection with the filing of an Information for Murder against him and four other persons; and that he had eluded arrest, thus, was at large.

The Information for murder stemmed from the assassination of Vice-Mayor Abel P. Martinez (Vice-Mayor Martinez) in front of his residence on May 4, 2012. The assailants of Vice-Mayor Martinez were not immediately known. But on December 20, 2012, one Roger D. Loreda (Loreda) executed an extrajudicial confession admitting his participation in the killing of Vice Mayor Martinez, and implicating Labao, Jr. as the mastermind thereof. On April 4, 2013, the Department of Justice (DOJ) found probable cause to indict Labao, Jr. and four other persons for murder.

On April 10, 2013, an Information^[4] for murder was filed before the Regional Trial Court (RTC), Branch 21, Mambusao, Capiz. On the same day, warrants for the arrest of Labao, Jr. and four other personalities were issued.

On April 14, 2013, acting on a tip, members of the Philippine National Police (PNP) attempted but failed to apprehend Labao, Jr. at St. Paul's Hospital in Iloilo City where he was supposedly confined.^[5]

In view of the above-described state of affairs, Ludovico filed the said petition for disqualification against Labao, Jr. alleging that the latter's *"flight from justice [was] apparent when he surreptitiously eluded arrest, that is, without proper discharge clearance from St. Paul's Hospital, at the time the PNP personnel tried to serve the warrant of arrest on him."* He argued that Labao, Jr. qualified as a fugitive from justice as he went into hiding after he was charged in court to avoid criminal prosecution.^[6] It is for such reason that Labao, Jr. is considered a fugitive from justice and, thus, disqualified from running as mayor pursuant to Section 40 of the Local Government Code, viz.:

Section 40. Disqualifications. — The following persons are disqualified from running for any elective local position;

xxxx

(e) Fugitives from justice in criminal or nonpolitical cases here or abroad[.]

In his Answer dated June 12, 2013, Labao, Jr. denied the assertion that he was a fugitive from justice. He countered that there was no charge against him when he filed his Certificate of Candidacy (COC); and that he was only implicated in the crime when Loreda filed his extrajudicial confession on December 20, 2012. Further, he asserted that:

14, On 10 April 2013 to 14 April 2013, respondent [Labao, Jr.] was confined at St. Paul's Hospital, Iloilo City due to constant chest pains occasioned by an enlarged heart that his Cardiologist recommended "Complete Management for Acute Coronary Syndrome, Plan to do Angiogram," per Clinical/Medical Abstract dated 13 April 2013 x x x.

15. Having been confined at said hospital, particularly at its Surgical Intensive Care Unit, respondent had no idea as to the truth or falsity of the allegations that the Murder charge against him were maliciously broadcasted/published over radio, tv and the newspapers.

16. On or about 12 April 2013, respondent intended to submit himself to

the jurisdiction of the court by filing a motion for hospital arrest with [Presiding Judge] Amular but he was informed that PJ Amular was in Boracay, Aklan and will report for work only on 15 April 2013, hence, the filing of that motion was rescheduled on 15 April 2013.

17. On 14 April 2013, respondent learned from his staff that police authorities had surrounded the hospital and they personally heard a police officer say "Shoot to kill si Labao." Instinctively, without any intent to elude arrest, but for the singular purpose of preserving his life, he was forced to leave the hospital.

18. On 15 April 2013, PJ Amular decided to inhibit himself from the Murder case after issuing the Warrant of Arrest against respondent with precipitate haste, per the Order of Inhibition dated 15 April 2013 xxx,

19. Immediately thereafter, the Murder case was referred to the Supreme Court for assignment to another court/judge as there is no pairing judge to try or hear the subject case in the Regional Trial Court of Mambusao, Capiz.

20. Since then, respondent had been preparing himself to undergo angiogram to improve his heart ailment as well as **awaiting the assignment by the Supreme Court of the Murder case to another court/judge so he can submit himself to the jurisdiction of the court** by applying for hospital arrest and/or filing any other appropriate pleading.

21. Until the Supreme Court has assigned the Murder case to another court/judge, the same cannot be prosecuted, without any fault on the part of respondent, as it was PJ Amular himself who was responsible in creating that consequential situation wherein the prosecution of the case was held in abeyance due to his inhibition.^[7]

Finally, Labao, Jr. puts emphasis on the fact that he had already been proclaimed as the duly elected Municipal Mayor of Mambusao, Capiz on May 14, 2013.^[8]

Ruling of the COMELEC First Division

In a Resolution dated September 24, 2013, the COMELEC First Division resolved to disqualify Labao, Jr., the dispositive part of which reads:

WHEREFORE, premises considered, the Commission **RESOLVED** as it hereby **RESOLVES** to: **DISQUALIFY** respondent Leodegario A. Labao Jr. as candidate for the position of Mayor of Mambusao, Capiz.^[9]

Citing *Rodriguez v. Commission on Elections*,^[10] to wit:

[A] fugitive from justice x x~x includes not only those who flee *after conviction to avoid* punishment but likewise who, after being charged, flee to avoid prosecution.

The definition thus indicates that the intent to evade is the compelling

factor that animates one's flight from a particular jurisdiction. And obviously, there can only be an *intent to evade* prosecution or punishment when there is knowledge by the fleeing subject of an already instituted indictment, or of a promulgated judgment of conviction.

Prescinding from the above definition, the COMELEC First Division held that Labao, Jr. was a fugitive from justice, *i.e.*, that his acts subsequent to the filing of the Information for murder and the issuance of a warrant of arrest indicate an unmistakable intent to evade prosecution. Particularly, it held that:

There is no question that an Information for Murder was already filed and pending in court against respondent. Likewise, there is no question that a warrant of arrest was issued against him as early as April 10, 2013. In fact, the arrest warrant was implemented during respondent's confinement at the hospital, only he was able to elude arrest. In other words, respondent knew that he is an accused for a capital offense and a warrant was already issued against him. Under such circumstance, therefore, he should have voluntarily surrendered to the authorities. The fact that respondent has not yet assumed office despite having been proclaimed as the duly elected Mayor of Mambusao, Capiz, militates against his insistence that he is in good faith.

Moreover, his insistence that he could not be considered as avoiding prosecution because the case has not yet been assigned to another court/judge is of no moment. The surrender of a person against whom a warrant of arrest has been issued does not depend upon the presence or the absence of a judge.

It also does not escape us that respondent even executed a Special Power of Attorney in favor of his wife authorizing her "to appear in all stages of the proceedings, if required, and if necessary, to testify and/or submit appropriate documentary evidence." While this is undoubtedly within respondent's prerogative, it is a clear indication that he does not wish to face the music by complying with the warrant of arrest which up to now is still outstanding.^[11] (Emphasis supplied.)

Labao, Jr. moved for the reconsideration^[12] of the above-quoted ruling based on the following grounds: (i) the petition for disqualification has ceased to be a pre-proclamation controversy as he had already been proclaimed as Mayor; (ii) the *Rodriguez* ruling on "fugitive from justice" did not apply to him; and (iii) since he had already been proclaimed as winner, all doubts regarding his qualification should be resolved in his favor in order to breathe life to the will of the people.

On October 14, 2013, Sharon, the daughter of Vice-Mayor Martelino and wife of Ludovico, filed a *Motion to Intervene* in the COMELEC case as well as a *Motion for Reconsideration* of the September 24, 2013 Resolution of the COMELEC First Division. In her motions,^[13] she averred that she also ran for the same Mayoralty position as Labao, Jr. in the May 13, 2013 elections; that since Labao, Jr.'s disqualification made his candidacy illegitimate, the votes cast in his favor should be considered stray under Section 211, paragraph 24^[14] of the Omnibus Election Code; and that she obtained the second highest number of votes; hence, she should be proclaimed the winning Mayoralty candidate.

On November 4, 2013, the Liga ng mga Barangay-Mambusao Chapter (LBMC) also moved to intervene, arguing that the case, which was considered a pre-proclamation controversy, should be dismissed for having been rendered moot and academic by Labao, Jr.'s victory.^[15]

In the meantime, RTC-Branch 21^[16] issued an Order^[17] on November 4, 2013 temporarily suspending the proceedings in consideration of a July 15, 2013 DOJ *Resolution*^[18] issued by Undersecretary Francisco F. Baraan III (Baraan Resolution) excluding Labao, Jr. from the Information for murder of Vice-Mayor Martinez. The fallo of the said RTC Order reads:

In view of the foregoing, the implementation of the warrant of arrest against accused Labao is lifted and temporarily suspended. Consequently, the proceedings against accused Labao is temporarily suspended until and after the final determination of [the] Motion for Reconsideration filed by the prosecution with the Department of Justice through the Police Provincial Office. All law enforcers, their deputies and agents or anyone acting for and on their behalf or authority are directed to immediately cease and desist from enforcing the Warrant of Arrest dated April 10, 2013 against Leodegario A. Labao, Jr. until further orders from this Court.
^[19]

Thus, in view of the said RTC Order, on November 6, 2013, Labao, Jr. filed a *Supplemental Motion for Reconsideration*^[20] before the COMELEC on the ground that "he is already a free man, and most certainly 'not a fugitive from justice,'" by virtue of the lifting and suspension of the implementation of the warrant of arrest by the RTC.

On November 14, 2013, however, DOJ Secretary Leila De Lima reversed the July 15, 2013 *Baraan Resolution*, effectively reinstating Labao, Jr. as an accused in the criminal case filed before RTC-Branch 21.^[21]

In yet another twist of events, on May 21, 2014, resolving the issue of whether or not probable cause exists for the issuance of a warrant of arrest against Labao, Jr., RTC-Branch 21 issued another Order^[22] this time dismissing altogether the criminal complaint against Labao, Jr. on the ground of lack of probable cause.

Ruling of the COMELEC En Banc

In a Resolution dated May 21, 2014, the same day as the issuance of the above-mentioned RTC Order, the COMELEC *En Banc* denied Labao, Jr. 's motion, viz.:

WHEREFORE, the Motion for Reconsideration of **RESPONDENT LEODEGARIO A. LABAO, JR.** of the Resolution dated 24 September 2013 of the First Division is hereby **DENIED** for lack of merit and his disqualification as candidate for the position of Mayor of Mambusao, Capiz is hereby **AFFIRMED.**

Consequently, Respondent's **PROCLAMATION** is hereby declared **NULL AND VOID.**