

EN BANC

[G.R. No. 186006, October 16, 2009]

**NORLAINIE MITMUG LIMBONA, PETITIONER, VS. COMMISSION
ON ELECTIONS AND MALIK "BOBBY" T. ALINGAN,
RESPONDENTS.**

RESOLUTION

NACHURA, J.:

Before this Court is a Petition for *Certiorari* under Rule 65, in relation to Rule 64, assailing the Resolution^[1] dated November 23, 2007 of the Second Division of the Commission on Elections (Comelec) and the Resolution^[2] of the Comelec *En Banc* dated January 14, 2009 in SPA No. 07-621.

The factual and procedural antecedents are as follows:

Prior to the May 14, 2007 elections, petitioner Norlainie Mitmug Limbona and her husband, Mohammad "Exchan" Limbona, each filed a Certificate of Candidacy for Mayor of Pantar, Lanao del Norte. On April 2, 2007, private respondent Malik "Bobby" Alingan filed a disqualification case against Mohammad before the Provincial Election Supervisor of Lanao del Norte. On April 12, 2007, Alingan also filed a petition for disqualification against petitioner.^[3] Both disqualification cases were premised on the ground that petitioner and her husband lacked the one-year residency requirement and both were not registered voters of Pantar.^[4]

On April 17, 2007, petitioner executed an Affidavit of Withdrawal of her certificate of candidacy,^[5] which was subsequently approved by the Comelec.^[6] Petitioner also filed a Motion to Dismiss the disqualification case against her for being moot and academic.^[7]

On election day, May 14, 2007, the Comelec resolved to postpone the elections in Pantar because there was no final list of voters yet. A special election was scheduled for July 23, 2007.^[8]

On May 24, 2007, the Comelec First Division promulgated a Resolution disqualifying Mohammad as candidate for mayor for failure to comply with the one-year residency requirement.^[9] Petitioner then filed her Certificate of Candidacy as substitute candidate on July 21, 2007. On July 23, 2007, Alingan filed a petition for disqualification against petitioner for, among others, lacking the one-year residency requirement (SPA No. 07-621).^[10]

In a Resolution in SPA No. 07-621^[11] dated November 23, 2007, the Comelec Second Division ruled that petitioner was disqualified from running for Mayor of

Pantar. The Comelec held that petitioner only became a resident of Pantar in November 2006. It explained that petitioner's domicile of origin was Maguing, Lanao del Norte, her birthplace. When she got married, she became a resident of *Barangay* Rapasun, Marawi City, where her husband was *Barangay* Chairman until November 2006. *Barangay* Rapasun, the Comelec said, was petitioner's domicile by operation of law under the Family Code. The Comelec found that the evidence petitioner adduced to prove that she has abandoned her domicile of origin or her domicile in Marawi City two years prior to the elections consisted mainly of self-serving affidavits and were not corroborated by independent and competent evidence. The Comelec also took note of its resolution in another case where it was found that petitioner was not even a registered voter in Pantar. Petitioner filed a Motion for Reconsideration.^[12]

The Comelec resolved the motion in an *En Banc* Resolution dated January 14, 2009,^[13] affirming the Second Division's Resolution disqualifying petitioner. The Comelec said that the issue of whether petitioner has complied with the one-year residency rule has been decided by the Supreme Court in *Norlainie Mitmug Limbona v. Commission on Elections and Malik "Bobby" T. Alingan* promulgated on June 25, 2008. The Comelec noted that, in said case, the Supreme Court upheld the Comelec First Division's Decision in SPA No. 07-611 disqualifying petitioner from running for mayor of Pantar for failure to comply with the residency requirement.

Petitioner is now before this Court assailing the Comelec's November 23, 2007 and January 14, 2009 Resolutions. She posits that the Comelec erred in disqualifying her for failure to comply with the one-year residency requirement. She alleges that in a disqualification case against her husband filed by Nasser Macauyag, another mayoralty candidate, the Comelec considered her husband as a resident of Pantar and qualified to run for any elective office there. Petitioner avers that since her husband was qualified to run in Pantar, she is likewise qualified to run.^[14]

Petitioner also stresses that she was actually residing and was physically present in that municipality for almost two years prior to the May 2007 elections. During the time she had been residing in Pantar, she associated and mingled with residents there, giving her ample time to know the needs, difficulties, aspirations, and economic potential of the municipality. This, she said, is proof of her intention to establish permanent residency there and her intent to abandon her domicile in Marawi City.

She next argues that, even as her husband was *Punong Barangay* of Rapasun, Marawi City, he never abandoned Pantar as his hometown and domicile of origin. She avers that the performance of her husband's duty in Rapasun did not prevent the latter from having his domicile elsewhere. Hence, it was incorrect for the Comelec to have concluded that her husband changed his domicile only on November 11, 2006.^[15] At the very least, petitioner says, the Comelec's conflicting resolutions on the issue of her husband's residence should create a doubt that should be resolved in her and her husband's favor.^[16]

She further contends that to disqualify her would disenfranchise the voters of Pantar, the overwhelming majority of whom elected her as mayor during the July 23, 2007 special elections.^[17]

The Comelec, through the Office of the Solicitor General (OSG), filed its Comment, insisting that the Comelec correctly disqualified petitioner from running as mayor for lack of the one-year residency requirement.^[18] The OSG argues that there is no evidence that petitioner has abandoned her domicile of origin or her domicile in Marawi City.^[19] Moreover, the OSG said that this Court has ruled on the issue of petitioner's residency in *Norlaine Mitmug Limbona v. Commission on Elections and Malik "Bobby" T. Alingan*.^[20] Lastly, the OSG contends that the Comelec's ruling in *Nasser A. Macauyag v. Mohammad Limbona* is not binding on petitioner because she was not a party to the case.^[21]

We dismiss the Petition.

The issue of petitioner's disqualification for failure to comply with the one-year residency requirement has been resolved by this Court in *Norlaine Mitmug Limbona v. Commission on Elections and Malik "Bobby" T. Alingan*.^[22] This case stemmed from the first disqualification case filed by herein respondent against petitioner, docketed as SPA No. 07-611. Although the petitioner had withdrawn the Certificate of Candidacy subject of the disqualification case, the Comelec resolved the petition and found that petitioner failed to comply with the one-year residency requirement, and was, therefore, disqualified from running as mayor of Pantar.

A unanimous Court upheld the findings of the Comelec, to wit:

WHEREFORE, the petition for certiorari is **DISMISSED**. The September 4, 2007 Resolution of the Commission on Elections in SPA Case No. 07-611 disqualifying petitioner Norlaine Mitmug Limbona from running for office of the Mayor of Pantar, Lanao del Norte, and the January 9, 2008 Resolution denying the motion for reconsideration, are **AFFIRMED**. In view of the permanent vacancy in the Office of the Mayor, the proclaimed Vice-Mayor shall **SUCCEED** as Mayor. The temporary restraining order issued on January 29, 2008 is ordered **LIFTED**.

SO ORDERED.^[23]

The Court found that petitioner failed to satisfy the one-year residency requirement. It held:

The Comelec correctly found that petitioner failed to satisfy the one-year residency requirement. The term "residence" as used in the election law is synonymous with "domicile," which imports not only intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention. The manifest intent of the law in fixing a residence qualification is to exclude a stranger or newcomer, unacquainted with the conditions and needs of a community and not identified with the latter, from an elective office to serve that community.

For purposes of election law, the question of residence is mainly one of intention. There is no hard and fast rule by which to determine where a