EN BANC

[G.R. NO. 170702, June 16, 2006]

INGATUN G. ISTARUL, PETITIONER, VS. COMMISSION ON ELECTIONS AND PAMARAN T. MATURAN, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

This resolves the petition for *certiorari* seeking to set aside the Resolution[1] of the First Division of the Commission on Elections (COMELEC 1st Division) dated October 21, 2005 granting private respondent's petition for *certiorari* and prohibition, and the Resolution[2] of the Commission on Elections *En Banc* (COMELEC *En Banc*) dated December 12, 2005 affirming the aforementioned Resolution of the COMELEC 1st Division.

A thorough scrutiny of the records reveals that the narration of the antecedent facts set forth in the COMELEC 1st Division Resolution dated October 21, 2005 is undisputed; hence, the pertinent portions thereof are reproduced hereunder:

> During the 2004 elections, Maturan [herein private respondent], Istarul [herein petitioner] as well Munap H. Pacio and Ahmad Atahal ran for the position of mayor of the municipality of Tipo-Tipo, Basilan.
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> Maturan was eventually proclaimed by the Municipal Board of Canvassers as the duly elected mayor of Tipo-Tipo. Thereafter, private respondent Istarul filed an election protest [3] case docketed Election Case No. 01-04. Pacio, another losing candidate, also filed his protest case docketed as Election Case No. 26-04. Both cases were assigned to the public respondent [4] who, for reason of consistency, decided them jointly. The dispositive portion of the joint decision dated August 10, 2005 is quoted as follows:
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>> "WHEREFORE, in view of all the foregoing, the court hereby ANNULS the proclamation of protestee dated May 15, 2004, and DECLARES protestant Ingatun G. Istarul as the duly elected Mayor of the Municipality of Tipo-Tipo, Basilan, having obtained the highest number of votes for the said office in the election held on May 10, 2004."
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> On the same date, August 10, 2005, petitioner filed his Notice of Appeal. The following day, August 11, 2004, private respondent filed his Motion for Execution Pending Appeal. On August 17, 2005, petitioner filed his Opposition thereto. After the hearing, specifically on August 22, 2005, public respondent issued its Special Order granting private respondent's Motion. He also issued a Writ of Execution on the same day.

On August 23, 2005, the instant petition was filed. On the same day, this Commission (First Division) issued a Temporary Restraining/Status Quo Ante Order.

After the hearing, both parties filed their respective memoranda. Thereafter, the case was deemed submitted for resolution.[5]

On October 21, 2005, the COMELEC 1st Division issued a Resolution holding that there are no good reasons to justify the issuance of the Special Order granting execution pending appeal. The COMELEC 1st Division ruled that Judge Danilo Bucoy's failure to establish that public interest would be served; and that a mere statement about the length of time that the case had been pending in the trial court do not support the issuance of said Order.

The COMELEC 1st Division further noted in its Resolution that Judge Bucoy failed to state in the Joint Decision dated August 10, 2005 his explanation for crediting certain ballots in favor of either of the parties, thus, violating the principle that a decision should clearly show the basis for the judge's rulings. It then concluded that the decision is seriously impaired and cannot be the source of a valid execution pending appeal.

The dispositive portion of the Resolution of the COMELEC 1st Division dated October 21, 2005 reads as follows:

WHEREFORE, premises considered, the petition is hereby GRANTED. Accordingly, the Special Order and the Writ of Execution issued by the public respondent, the Honorable Danilo Bucoy, dated August 22, 2005 are hereby REVERSED and SET ASIDE. Private Respondent INGATARUN G. ISTARUL is directed to immediately cease and desist from performing his functions as mayor of the municipality of Tipo-Tipo, Basilan. Petitioner PAMARAN MATURAN is restored to his position as Mayor of the same municipality and instructed to perform his functions as such until the final determination of the appeal case he filed.

SO ORDERED.[6]

Petitioner then filed a motion for reconsideration which was referred to the COMELEC *En Banc*. On December 12, 2005, it issued a Resolution affirming the Resolution of the COMELEC 1st Division. The COMELEC En Banc reiterated that there were no good reasons for the issuance of execution pending appeal because a final determination of the true will of the people would be had only after the resolution of the appeal pending with the COMELEC 1st Division.

Aggrieved by the actions of the COMELEC 1st Division and the *En Banc*, petitioner then filed the present petition for *certiorari* assailing said Tribunal's Resolutions.

Petitioner prayed for the issuance of a temporary restraining order which this Court granted in its Resolution dated January 17, 2006. Thereafter, private respondent filed a motion to lift the temporary restraining order. On February 28, 2006, the Court issued a Resolution dissolving the temporary restraining order because private

respondent was able to prove that, at the time of the filing of the petition, he was the one acting as Mayor of Tipo-Tipo, Basilan.

As grounds for allowance of the petition, it is alleged that:

> 5.1.1.   The Comelec seriously erred in wantonly disregarding the jurisprudential rule on execution pending appeal.
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> 5.1.2. The Comelec seriously erred in ignoring that rule that, as between two presumptive winners, the proclamation made by the court prevails over that of the board of canvassers.
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> 5.1.3.   The Comelec seriously erred in not considering the fact that petitioner never filed a motion for reconsideration with the trial court.
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> 5.1.4.   The assailed Resolution violated the right of the petitioner to procedural due process and the equal protection clause since it never considered the basic issues raised by petitioner in his pleadings.[7]

Private respondent, on the other hand, counters that the Joint Decision of Judge Bucoy dated August 10, 2005 is null and void for failure of the trial court to state particular reasons for rejecting certain ballots and, as such, it should not be executed pending appeal. He further argues that in this case, the filing of a motion for reconsideration with the trial court before filing his petition for *certiorari* with the COMELEC could be dispensed with considering that the need for relief is extremely urgent.

It should be borne in mind that "unless the COMELEC is shown to have committed grave abuse of discretion, its decision will not be interfered with by this Court."[8] In this case, petitioner fails to convince the Court that the COMELEC 1st Division and *En Banc* committed grave abuse of discretion amounting to lack of jurisdiction.

It is clear from the discussion in the petition that what are assigned as errors of the COMELEC 1st Division and *En Banc* - i.e., that the COMELEC erred in wantonly disregarding the jurisprudential rule on execution pending appeal; in ignoring that rule that, as between two presumptive winners, the proclamation made by the court prevails over that of the board of canvassers; in not considering the fact that private respondent did not file a motion for reconsideration before the trial court; and in not considering the issues raised by petitioner in his pleadings - are merely alleged errors of judgment as they question the wisdom and legal soundness of the COMELEC's resolutions and not the jurisdiction of said body. In *People v. Court of Appeals*,[9] the Court expounded on the function of the remedy of *certiorari* as follows:

> As observed in *Land Bank of the Philippines v. Court of Appeals, et al.* "the special civil action for certiorari is a remedy designed for the correction of errors of jurisdiction and not errors of judgment. The *raison d'etre* for the rule is **when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed**. If it did,