

THIRD DIVISION

[G.R. No. 139813, January 31, 2001]

JOELBITO-ONON, PETITIONER, VS. HON. JUDGE NELIA YAP FERNANDEZ, R.T.C. BR. 50 - PUERTO PRINCESA CITY AND PALAWAN, AND ELEGIO QUEJANO, JR., RESPONDENTS.

D E C I S I O N

GONZAGA-REYES, J.:

This Petition for *Certiorari* and Prohibition with prayer for the issuance of a temporary restraining order and writ of injunction seeks the reversal of the Order of the Regional Trial Court of Palawan and Puerto Princesa City,^[1] Branch 50 in SPL. PROC. NO. 1056 entitled "Elegio F. Quejano, Jr., petitioner vs. Joel Bito-Onon, et. al., respondents" which denied herein petitioner's motion to dismiss the Petition for Review of the Resolution of the Board of Election Supervisors dated August 25, 1997 in case number L-10-97 filed by herein private respondent with said court.

It appears from the records that the petitioner, Joel Bito-Onon is the duly elected Barangay Chairman of Barangay Tacras, Narra, Palawan and is the Municipal Liga Chapter President for the Municipality of Narra, Palawan. The private respondent, Elegio Quejano, Jr. on the other hand, is the duly elected Barangay Chairman of Barangay Rizal, Magsaysay, Palawan and is the Municipal Liga Chapter President for the Municipality of Magsaysay, Palawan. Both Onon and Quejano were candidates for the position of Executive Vice-President in the August 23, 1997 election for the Liga ng Barangay Provincial Chapter of the province of Palawan. Onon was proclaimed the winning candidate in the said election prompting Quejano to file a post proclamation protest with the Board of Election Supervisors (BES), which was decided against him on August 25, 1997.

Not satisfied with the decision of the BES, Quejano filed a Petition for Review of the decision of the BES with the Regional Trial Court of Palawan and Puerto Princesa City (RTC). On April 26, 1999, Onon filed a motion to dismiss the Petition for Review raising the issue of jurisdiction. Onon claimed that the RTC had no jurisdiction to review the decisions rendered by the BES in any post proclamation electoral protest in connection with the 1997 Liga ng mga Barangay election of officers and directors. In his motion to dismiss, Onon claimed that the Supplemental Guidelines for the 1997 Liga ng mga Barangay election issued by the DILG on August 11, 1997 in its Memorandum Circular No. 97-193, providing for review of decisions or resolutions of the BES by the regular courts of law is an *ultra vires* act and is void for being issued without or in excess of jurisdiction, as its issuance is not a mere act of supervision but rather an exercise of control over the Liga's internal organization.

On June 22, 1999, the RTC denied Onon's motion to dismiss. In its order, the RTC ratiocinated that the Secretary of the Department of Interior and Local Government^[2] is vested with the power "to establish and prescribe rules,

regulations and other issuances and implementing laws on the general supervision of local government units and the promotion of local autonomy and monitor compliance thereof by said units."^[3] The RTC added that DILG Circular No. 97-193 was issued by the DILG Secretary pursuant to his rule-making power as provided for under Section 7, Chapter II, Book IV of the Administrative Code.^[4] Consequently, the RTC ruled that it had jurisdiction over the petition for review filed by Quejada.^[5]

Motion for reconsideration of the aforesaid Order was denied^[6] prompting the petitioner to file the present petition wherein the following issues are raised:

- A. WHETHER OR NOT THE QUESTIONED PROVISION IN MEMORANDUM CIRCULAR 97-193 WAS ISSUED BY THE DILG SECRETARY IN EXCESS OF HIS AUTHORITY.**
- B. WHETHER OR NOT THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING THE QUESTIONED ORDERS.**^[7]

In support of his petition, Onon argues that the "Supplemental Guidelines for the 1997 Synchronized Election of the Provincial and Metropolitan Chapters and for the Election of the National Chapter of the Liga ng mga Barangay" contradicts the "Implementing Rules and Guidelines for the 1997 General Elections of the Liga ng mga Barangay Officers and Directors" and is therefore invalid. Onon alleges that the Liga ng mga Barangay (LIGA) is not a local government unit considering that a local government unit must have its own source of income, a certain number of population, and a specific land area in order to exist or be created as such. Consequently, the DILG only has a limited supervisory authority over the LIGA. Moreover, Onon argues that even if the DILG has supervisory authority over the LIGA, the act of the DILG in issuing Memorandum Circular No. 97-193 or the supplemental rules and guidelines for the conduct of the 1997 LIGA elections had the effect of modifying, altering and nullifying the rules prescribed by the National Liga Board. Onon posits that the issuance of said guidelines allowing an appeal of the decision of the BES to the regular courts rather than to the National Liga Board is no longer an exercise of supervision but an exercise of control.^[8]

In his comment to the petition, private respondent Quejano argues that the Secretary of the DILG has competent authority to issue rules and regulations like Memorandum Circular No. 97-893. The Secretary of DILG's rule-making power is conferred by the Administrative Code. Considering that the Memorandum Circular was issued pursuant to his rule making power, Quejano insists that the lower court did not commit any reversible error when it denied Onon's motion to dismiss.^[9]

On the other hand, the public respondent represented herein by the Solicitor General, filed a separate Manifestation and Motion in Lieu of Comment agreeing with the position of petitioner Onon. The Solicitor General affirms Onon's claim that in issuing the questioned Memorandum Circular, the Secretary of the DILG effectively amended the rules and guidelines promulgated by National Liga Board. This act was no longer a mere act of supervision but one of control. The Solicitor General submits that the RTC committed grave abuse of discretion in not dismissing the petition for review of the BES decision filed before it for failure of the petitioner to exhaust the

rightful remedy which was to appeal to the National Liga Board.^[10]

On October 27, 1999, this Court denied petitioner Onon's motion for the issuance of restraining order for lack of merit.

After a careful review of the case, we sustain the position of the petitioner.

The resolution of the present controversy requires an examination of the questioned provision of Memorandum Circular No. 97-193 and the Implementing Rules and Guidelines for the 1997 General Elections of the Liga ng mga Barangay Officers and Directors (GUIDELINES). The memorandum circular reads, insofar as pertinent, as follows:

"Any post-proclamation protest must be filed with the BES within twenty-four (24) hours from the closing of the election. The BES shall decide the same within forty-eight (48) hours from receipt thereof. The decision of the BES shall be final and immediately executory *without prejudice to the filing of a Petition for Review with the regular courts of law.*"^[11]
(emphasis supplied)

On the other hand, the GUIDELINES provides that the BES shall have the following among its duties:

"To resolve any post-proclamation electoral protest which must be submitted in writing to this Board within twenty-four (24) hours from the close of election; provided said Board shall render its decision within forty-eight (48) hours from receipt hereof; and provided further that the decision must be submitted to the National Liga Headquarters within twenty-four (24) hours from the said decision. The decision of the Board of Election Supervisors in this respect *shall be subject to review by the National Liga Board the decision of which shall be final and executory.*"
^[12] (emphasis supplied)

Memorandum Circular No. 97-193 was issued by the DILG Secretary pursuant to the power of general supervision of the President over all local government units which was delegated to the DILG Secretary by virtue of Administrative Order No. 267 dated February 18, 1992.^[13] The President's power of general supervision over local government units is conferred upon him by the Constitution.^[14] The power of supervision is defined as "the power of a superior officer to see to it that lower officers perform their functions in accordance with law."^[15] This is distinguished from the power of control or "the power of an officer to alter or modify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for the latter."^[16]

On many occasions in the past, this court has had the opportunity to distinguish the power of supervision from the power of control. In *Taule vs. Santos*,^[17] we held that the Chief Executive wielded no more authority than that of checking whether a local government or the officers thereof perform their duties as provided by statutory enactments. He cannot interfere with local governments provided that the same or its officers act within the scope of their authority. Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does