

EN BANC

[G.R. No. 140158, January 29, 2001]

FERNANDO T. BALTAZAR, PETITIONER, VS. COMMISSION ON ELECTIONS, HON. ISAGANI PALAD, PRESIDING JUDGE, BRANCH 53, RTC, GUAGUA, PAMPANGA, AND CATALINA BAGASINA, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

In this petition for *certiorari*, petitioner seeks the reversal of the Resolution of the Commission on Elections (COMELEC) *En Banc* dated September 14, 1999 in SPR No. 46-98 claiming that it "is arbitrary, whimsical, capricious and constitutes an oppressive exercise of legal authority."^[1]

The pertinent facts are simple.

Petitioner Fernando Baltazar and private respondent Catalina Bagasina were both candidates for the position of municipal mayor of Sasmuan, Pampanga during the May 11, 1998 local elections. After the canvassing of votes, the Municipal Board of Canvassers declared petitioner as the duly elected mayor of the municipality.

On June 29, 1998, private respondent filed with the Regional Trial Court of Guagua, Pampanga, an election protest which was docketed as Election Case No. G-898. Summons was served on petitioner on July 7, 1998. Thereafter, petitioner filed with the trial court his Answer with Counter-Protest.^[2]

Private respondent filed a Motion To Expunge From The Records Of this Case Protestee's Answer And Counter-Protest on the ground that the same was filed out of time or three (3) days beyond the five-day reglementary period.^[3]

The trial court granted private respondent's motion and declared that it has no jurisdiction to entertain the belatedly filed Answer with Counter-Protest.^[4]

Petitioner's motion for reconsideration was denied by the trial court in an Order dated September 16, 1998.^[5]

Dissatisfied, petitioner filed on October 15, 1998 a petition for *certiorari* with the COMELEC.^[6] He alleged that his Answer with Counter-Protest was actually filed on July 13, 1998 as evidenced by a certification; and that the registry receipt was stamped the date July 14, 1998 because it was posted past two o'clock in the afternoon of July 13, 1998. The envelope, however, which contained the answer was postmarked July 15, 1998.

On September 14, 1999 public respondent COMELEC issued the challenged Resolution dismissing the petition reasoning, *inter alia*, that the date postmarked on the envelope is conclusively presumed to be the date of mailing, and the same cannot be overcome by a mere certification by the Operations Manager that the same was actually received on July 13, 1998, sent on July 14, 1998 but postmarked July 15, 1998.

Unfazed, petitioner elevated his cause to this Court on the grounds that -

1. THE PETITIONER WAS DENIED DUE PROCESS OF LAW. THE REGIONAL TRIAL COURT GRANTED THE MOTION STRIKING OUT THE ANSWER WITH COUNTER PROTEST WITHOUT PRIOR NOTICE AND HEARING.
2. THE ANSWER WITH COUNTER PROTEST WAS FILED WITHIN THE REGLEMENTARY PERIOD OF FIVE (5) DAYS. IT WAS FILED BY REGISTERED MAIL WITH RETURN CARD ON JULY 13, 1998 UNDER REGISTRY RECEIPT NO. 364. THE COMELEC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT RULED THAT IT WAS FILED ON JULY 14, 1998.
3. THE COMELEC AND THE RESPONDENT REGIONAL TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT RULED THAT THE ANSWER WITH COUNTER PROTEST WAS MAILED ON JULY 14, 1998 DESPITE THE CERTIFICATION OF THE OPERATIONS MANAGER OF THE PHILPOST MAIL MANAGEMENT CORPORATION WHERE THE ANSWER WITH COUNTER PROTEST WAS POSTED AND REGISTERED.

The foregoing questions raised by petitioner can be reduced to the primordial issue of whether or not the COMELEC gravely abused its discretion when it sustained the trial court's ruling to strike out petitioner's Answer with Counter-Protest on the ground that the same was filed out of time.

Petitioner argues, in sum, that since summons was served on him on July 7, 1998, his Answer with Counter-Protest filed on July 13, 1998 was within the reglementary period of five (5) days as shown by the Certification issued by the Philpost Mail Management Corporation.

On the other hand, private respondent contends that petitioner's allegations are belied by the Registry Receipt covering his Answer with Counter-Protest dated July 14, 1998 but with the date July 15, 1998 appearing on its covering envelope.

A long line of cases establish the basic rule that the courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under their special technical knowledge and training.^[7] However, when an administrative agency renders an opinion or issues a statement of policy, it merely interprets a pre-existing law and the administrative interpretation is at best advisory for it is the courts that finally determine what the law means.^[8] Thus an action by an administrative agency may be set aside by the judicial department if there is an error of law, abuse of power, lack of jurisdiction or grave abuse of discretion clearly conflicting with the letter and

spirit of the law.^[9]

In the case at bar, there is no cogent reason to depart from the general rule because the findings of the COMELEC conforms rather than conflicts with the governing statute, implementing rules and controlling case law on the matter.

Rule 35, Section 7, sub-paragraphs (a), (b) and (e) of the COMELEC Rules of Procedure state that:

SECTION 7. *Answer, Reply, Counter-Protest and Intervention.* - (a) Within five (5) days after receipt of the notice of the filing of the petition and a copy of the petition, the respondent shall file his answer thereto specifying the nature of his defense and serve a copy upon the protestant. The answer shall deal only with the election in the precincts which are covered by the allegations of the protest.

(b) Should the protestee desire to impugn the votes received by the protestant in other precincts, he shall file a counter-protest within the same period fixed for the filing of the answer, serving a copy thereof upon the protestant by registered mail or by personal delivery. In such a case, the counter-protest shall be verified.

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(e) If no answer shall be filed to the protest, counter-protest or protest in intervention within the time limits respectively fixed, a general denial shall be deemed to have been entered.

A close scrutiny of the record shows that the envelope which contained petitioner's Answer with Counter-Protest was filed postmarked July 15, 1998. It is, therefore, clear that the pleading was filed three (3) days beyond the five-day reglementary period within which to file the same, considering that summons was served on him on July 7, 1998.

Petitioner places much reliance on the certification issued by the Operations Manager of the Philpost Mail Management Corporation, that a mail matter addressed to the Branch Clerk of Court of the Regional Trial Court, Branch 50, Guagua, Pampanga, was posted on July 13, 1998, but the registry receipt was dated July 14 because the posting was made after the cut-off time of 2:00 p.m. This, however, can not subvert the legal and conclusive presumption that the date postmarked on the envelope, *i.e.*, July 15, 1998, was the date of mailing. Petitioner did not present the Operations Manager who issued the certification to testify on the document and overcome the presumption, despite being given the opportunity to do so.

It would be a legal absurdity for the Court to allow a mere certification, whose author has not been presented to testify on its veracity, to overthrow the evidentiary value of an uncontroverted documentary exhibit such as the Registry Receipt and the postmark actually stamped on the envelope itself to prove the actual date of mailing of the pleading. Indeed, if the Court has ruled that affidavits adduced to support charges of fraud and irregularities in election returns and the canvass thereof do not deserve credence,^[10] how much more an unsworn certification whose author was not presented to attest to its truthfulness?