

## EN BANC

[ G.R. No. 127318, August 25, 1999 ]

**FRANCIS KING L. MARQUEZ, PETITIONER, VS. HON. COMMISSION ON ELECTIONS, HON. NOLI C. DIAZ, PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 80, MUNTINLUPA CITY, AND LIBERTY SANTOS, RESPONDENTS.**

### D E C I S I O N

**PURISIMA, J.:**

Before the Court is a Petition for *Certiorari* and Prohibition filed by Francis King L. Marquez, assailing the 19 November 1996 Resolution<sup>[1]</sup> of the COMELEC *En Banc*<sup>[2]</sup> in SPR No. 15-96, entitled "Francis King L. Marquez vs. Noli C. Diaz, Presiding Judge of the Metropolitan Trial Court, Branch 80, Muntinlupa City, and Liberty Santos", which Resolution upheld the jurisdiction of respondent Metropolitan Trial Court (*MeTC*) to hear and decide the case of disqualification by reason of age against the herein petitioner.

The COMELEC Resolution sets forth the relevant facts as follows:

*"During the May 6, 1996 SK elections, Francis King L. Marquez and Liberty Santos ran as candidates for the position of SK Chairman of Barangay Putatan, Muntinlupa City. Marquez garnered the highest number of votes and was proclaimed SK Chairman on election day, May 6, 1996.*

*On May 16, 1996, private respondent filed an election protest before the Metropolitan Trial Court, Br. 80, Muntinlupa City, which protest was docketed as Civil Case No. SP 3255. Private respondent (then protestant) impugned the election of petitioner (then protestee) on the ground that the latter is disqualified by age to the office of SK Chairman.*

*In its order of May 24, 1996, the trial court found the protest sufficient in form and substance. It issued a Temporary Restraining Order commanding petitioner to refrain from taking his oath of office as SK Chairman of Barangay Putatan, Muntinlupa City. However, on May 27, 1996, petitioner filed a Motion to Dismiss the election protest with prayer for the cancellation of hearing. He stated that the averments in the election protest are limited only on the issue of whether or not Marquez is eligible or qualified to assume the office of SK Chairman such that private respondent's right of action is a quo warranto proceeding although captioned as election protest. He sought the dismissal of the election protest on the ground that the trial court has no jurisdiction over the subject of the action and that protestant failed to comply with SC Administrative Circular No. 04-94.*

*As to his first assignment of error, he contended that the May 6, 1996 SK elections are primarily governed by COMELEC Resolution No. 2824 to the effect that the trial court's jurisdiction is confined only to frauds, irregularities and anomalies in the conduct of the SK elections and that the determination of eligibility or qualification of a candidate for SK elections is vested with the election officer concerned under Section 6 of COMELEC Resolution No. 2824. And as to the second assignment of error, petitioner alleged that private respondent did not mention that she had previously filed a petition involving the same issue and parties with the Election Officer of Muntinlupa whose office according to petitioner, is considered a quasi-judicial agency of the government.*

*In his (sic) opposition, private respondent argued that the term "election protest" should not be taken in such restrictive sense as to limit its definition to only such acts pertaining to the manner or conduct of the election and the attending circumstances surrounding the casting and counting of ballots. Such term, according to her, should be given the widest possible scope as to include all such questions arising from or relative to the election held. On the question of non-compliance with the Supreme Court Administrative Circular No. 04-94, she stated that the failure of the election officer of Muntinlupa to resolve the question of qualification of Marquez prompted her to file an election protest such that upon the filing of the same, there is no pending action over the same issue lodged with any tribunal or agency to speak of.*

*On June 4, 1996, respondent judge issued an order dismissing the Motion to Dismiss and set the hearing of the case accordingly. The trial court interpreted the provision of Sec. 6 of Comelec Resolution No. 2824 as referring to those cases filed before the SK elections and do not cover those cases filed after the election of candidates. It ruled that quo warranto proceedings fall under its jurisdiction within the purview of Sec. 253, par. 2 of the Omnibus Election Code, and that the failure of the Election Officer of Muntinlupa to act on the complaint warranted the filing by the protestant Liberty Santos) of a petition for quo warranto with the Metropolitan Trial Court o Muntinlupa under the principle of exhaustion of administrative remedies."*<sup>[3]</sup>

Dissatisfied with the aforesaid Resolution, petitioner filed the present Petition for *Certiorari* and Prohibition alleging that:

THE PUBLIC RESPONDENT COMELEC GRAVELY ERRED IN HOLDING THAT THE METROPOLITAN TRIAL COURT, BRANCH 80, MUNTINLUPA CITY, PRESIDED BY PUBLIC RESPONDENT JUDGE, HAS JURISDICTION TO HEAR AND DECIDE A DISQUALIFICATION CASE, BY REASON OF AGE IN RELATION TO THE MAY 6, 1996 SANGGUNIANG KABATAAN (SK) ELECTIONS.

Petitioner contends that Section 6 of COMELEC Resolution No. 2824 is controlling.

Section 6 of COMELEC Resolution No. 2824<sup>[4]</sup> provides:

*"Qualifications of Elective Members - An elective official of the SK must be:*

*(a) a registered voter;*

*(b) a resident in the barangay for at least one (1) year immediately prior to the elections; and*

*(c) able to read and write Filipino, any Philippine language or dialect or English.*

*Cases involving the eligibility or qualification of candidates shall be decided by the city/municipal Election Officer (EO), whose decision shall be final."*

On the other hand, Section 253 of the Omnibus Election Code reads:

*"Petition for Quo Warranto - Any voter contesting the election of any municipal or barangay officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall file a sworn petition for quo warranto with the Regional Trial Court or Metropolitan or Municipal Trial Court, respectively, within ten days after the proclamation of the results of the election."*

We hold that Section 253 of the Omnibus Election Code applies. R. A. 7808, which took effect on September 2, 1994 provides that "the Omnibus Election Code shall govern the elections of the Sangguniang Kabataan." This means that the election of Sangguniang Kabataan shall be governed by the following provisions of the OEC:

**Sec. 252.** *Election contest for barangay offices.* - A sworn petition contesting the election of a barangay officer shall be filed with the proper municipal or metropolitan trial court by any candidate who has duly filed a certificate of candidacy and has been voted for the same office, within ten days after the proclamation of the results of the election. The trial court shall decide the election protest within fifteen days after the filing thereof. The decision of the municipal or metropolitan trial court may be appealed within ten days from receipt of a copy thereof by the aggrieved party to the regional trial court which shall decide the case within thirty days from its submission, and whose decisions shall be final.

**Sec. 253.** *Petition for quo warranto.* - Any voter contesting the election of any Member of the Batasang Pambansa, regional, provincial, or city officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall file a sworn petition for quo warranto with the Commission within ten days after the proclamation of the results of the election.

It was pursuant to this provision of R.A. 7808 in relation to Arts. 252-253 of the OEC that in its Resolution No. 2824, promulgated on February 6, 1996, the COMELEC provided in Section 49 as follows:

*"Finality of Proclamation - The proclamation of the winning candidates shall be final. However, the Metropolitan Trial Courts/Municipal Trial*