

EN BANC

[G.R. No. 135869, September 22, 1999]

RUSTICO H. ANTONIO, PETITIONER, VS. COMMISSION ON ELECTIONS AND VICENTE T. MIRANDA, JR., RESPONDENTS.

DECISION

GONZAGA_REYES, J.:

Is the period to appeal a decision of a municipal trial court to the Commission on Elections ("COMELEC") in an election protest involving a barangay position five (5) days per COMELEC Rules of Procedure or ten (10) days as provided for in Republic Act 6679^[1] and the Omnibus Election Code? This is the sole issue posed in the instant petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure seeking to annul the order dated August 3, 1998 of the Second Division of the COMELEC,^[2] dismissing the appeal of petitioner Rustico Antonio for having been filed out of time pursuant to COMELEC Rules of Procedure, and the order promulgated on October 14, 1998 of the COMELEC en banc, denying petitioner's motion for reconsideration.

The antecedents as found by the COMELEC in the order dated October 14, 1998 are:

"The parties in this case were rival candidates for the Punong Barangay of Barangay Ilaya, Las Piñas City, Metro Manila. After the board of canvassers proclaimed protestee-appellant Rustico Antonio, protestant-appellee Vicente T. Miranda, Jr. filed an election protest docketed as Election Protest Case No. 97-0017 against Antonio before the Metropolitan Trial Court of Las Piñas City (Branch LXXIX). The trial court rendered a Decision dated 9 March 1998, the dispositive portion of which states:

WHEREFORE, the Court declares the protestant Vicente Miranda as the duly elected Barangay Chairman of Barangay Ilaya, Las Piñas City, Metro Manila.

Antonio admitted receipt of the above-quoted decision on 18 March 1998. Subsequently, Antonio filed a Notice of Appeal with the trial court on 27 March 1998 or nine (9) days after receipt thereof. Meanwhile, Miranda moved to execute the trial court's decision. Rustico, in his *Opposition to the Motion for Execution or Execution Pending Appeal*, argued against Miranda's motion for execution. After the trial court denied the motion for execution, the records of this case was forwarded to the Commission (Second Division).

On 10 August 1998, protestee-appellant Rustico Antonio received from this Commission (Second Division) an *Order* dated 3 August 1998 stating as follows:

In the light of the aforequoted rules, protestee RUSTICO ANTONIO, failed to perfect his appeal within the five (5) days period prescribed for perfecting his appeal, as he filed his Notice of Appeal only on March 27, 1998 or nine (9) days after receipt of the decision sought to be appealed.

The Period aforestated is jurisdictional and failure of the protestee to perfect his appeal within the said period deprives the Commission of its appellate jurisdiction.

ACCORDINGLY, the instant appeal is hereby DISMISSED for lack of jurisdiction."

Hence, this motion for reconsideration.

The instant *Motion for Reconsideration* is DENIED and We AFFIRM the Order dated 3 August 1998 of this Commission (Second Division)."^[3]

In the instant petition for certiorari, petitioner argues that the COMELEC committed grave abuse of discretion amounting to lack of jurisdiction when it dismissed the appeal for the following reasons:

- "(a) In barangay electoral protest cases, the period of appeal is ten (10) days from receipt of the decision of the Metropolitan or Municipal Trial Court. This is provided for by Sec. 9 of R.A. 6679 and Sec. 252 of the Omnibus Election Code
- (b) The provisions of Sec. 21, Rule 37 of the COMELEC Rules of Procedure providing for a five-day period within which to appeal from the decision of the Metropolitan or Municipal Trial Court could not prevail upon the express provisions of Rep. Act No. 6679 and Sec. 252 of the Omnibus Election Code;
- (c) Moreover, the COMELEC committed an error of jurisdiction when it disregarded the provisions of Sections 5,6 & 7, Rule 22 of the COMELEC Rules of Procedure requiring the filing of briefs by the appellant and the appellee. The questioned resolution of August 3, 1998 was issued *motu proprio* and without prior notice and hearing. **The petitioner was fast tracked;**
- (d) The alleged winning margin of the private respondent over the petitioner as found by the Metropolitan Trial Court of Las Piñas is only four (4) votes the results being MIRANDA – 1,171; ANTONIO – 1,167. The people's will must not go on procedural points. "An election protest involves public interest, and technicalities should not be sanctioned when it will be an obstacle in the determination of the true will of the electorate in the choice of its public officials." [*Macasundig vs. Macalanagan*, 13 SCRA 577; *Vda. De Mesa vs. Mensias*, 18 SCRA 533; *Juliano vs. Court of Appeals*, 20 SCRA 808; *Genete vs. Archangel*, 21 SCRA 1178; *Maliwanag vs. Herrera*, 25 SCRA 175; *De Castro vs. Genete*, 27 SCRA 623]
- (e) The questioned resolutions violated the above principle

because the COMELEC did not appreciate the contested ballots.”^[4]

In dismissing the appeal, the COMELEC relied on Section 21, Rule 35 of the COMELEC Rules of Procedure which reads:

“SEC. 21. *Appeal* – From any decision rendered by the court, the aggrieved party may appeal to the Commission on Elections within five (5) days after the promulgation of the decision.”

On the other hand, petitioner contends that the period of appeal from decisions of the Municipal Trial Courts or Metropolitan Trial Courts involving barangay officials is governed by Section 9 of Republic Act 6679 and Section 252 of the Omnibus Election Code.

Section 9 of Republic Act 6679 reads:

“SEC. 9. A sworn petition contesting the election of a barangay official may 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 a barangay office within ten (10) days after the proclamation of the results of the election. The trial court shall decide the election protest within thirty (30) days after the filing thereof. The decision of the municipal or metropolitan trial court may be appealed within ten (10) days from receipt of a copy thereof by the aggrieved party to the regional trial court which shall decide the issue within thirty (30) days from receipt of the appeal and whose decision on questions of fact shall be final and non-appealable. For purposes of the barangay elections, no pre-proclamation cases shall be allowed.”

Similarly, Section 252 of the Omnibus Election Code provides:

“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.”

In applying Section 21 of the COMELEC Rules of Procedure rather than Section 9 of Republic Act 6779 and Section 252 of the Omnibus Election Code, the COMELEC rationalized thus:

“Antonio asserts that Section 9 of Republic Act 6679 and Section 252 of the Omnibus Election Code providing for a ten-day period to appeal prevails over the provisions of the COMELEC Rules of Procedure. According to Antonio, quasi-judicial bodies, including this Commission, cannot amend an act of Congress and in case of discrepancy between the basic law and an interpretative or administrative ruling, the former

prevails. Generally, yes. But the situation herein does not fall within the generic situation contemplated therein.

No less than the 1987 Constitution (Article IX-A, Section 6 and Article IX-C, Section 3) grants and authorizes this Commission to promulgate its own rules of procedure as long as *such rules concerning pleadings and practice do not diminish, increase or modify substantive rights*. Hence, the COMELEC Rules of Procedure promulgated in 1993 as amended in 1994 is no ordinary interpretative or administrative ruling. It is promulgated by this Commission pursuant to a constitutionally mandated authority which no legislative enactment can amend, revise or repeal.

The COMELEC Rules of Procedure (Rule 37 Section 21) provides that *from the decision rendered by the court, the aggrieved party may appeal to the Commission on Elections **within five (5) days after the promulgation of the decision***. Rule 22 Section 9 (d) of Our Rules of Procedure further provides that an appeal from decisions of courts in election protest cases ***may be dismissed at the instance of the Commission for failure to file the required notice of appeal within the prescribed period***.

In case at bar, Antonio filed his notice of appeal before the trial court on the ninth (9) day from receipt of the decision appealed from or four (4) days after the five-day prescribed period to appeal lapsed. Therefore, the present appeal must be dismissed. For it is axiomatic that the perfection of an appeal in the manner and within the period laid down by the COMELEC Rules of Procedure is not only mandatory but also jurisdictional. As a consequence, the failure to perfect an appeal within the prescribed period as required by the Rules has *the* effect of defeating the right of appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. So the High Court rules in *Villanueva vs. Court of Appeals, et.al.* (205 SCRA 537). And so, it should also be in the case at bar.

Worth noting is that Our Rules of Procedure may be amended, revised or repealed pursuant to the 1987 Constitution (Article VIII Section 5^[5]) providing that *rules of procedure of ... quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court*. But far from being disapproved the COMELEC Rules of Procedure received approbation and has constantly been cited by the Supreme Court in a number of decisions such as in the case of *Pahilan vs. Tabalba* (230 SCRA 205, at 211) and *Rodillas vs. Commission on Elections* (245 SCRA 702, at 704). In the more recent case of *Calucag vs. Commission on Elections* promulgated on 19 June 1997 (G.R. N.o 123673), the Supreme Court stated that:

*Therefore, the COMELEC is the proper appellate court clothed with jurisdiction to hear the appeal **WHICH APPEAL MUST BE FILED WITHIN FIVE DAYS AFTER THE PROMULGATION OF THE MTC DECISION...**(page 4-5).*

The repeated recognition given by the Supreme Court of this five-day

rule within which to file the required notice of appeal will make questionable the legislative enactment providing for a ten-day period.”^[5]

Without adopting the foregoing ratiocination of the COMELEC, we nonetheless find the instant petition devoid of merit.

It is beyond cavil that legislative enactments prevail over rules of procedure promulgated by administrative or quasi-judicial bodies and that rules of procedure should be consistent with standing legislative enactments. In relation to the above-quoted Section 9 of Republic Act 6679 and Section 252 of the Omnibus Election Code, petitioner points out that in *Flores vs. Commission on Elections*^[6], this Court had declared that decisions of the Metropolitan or Municipal Court in election protest cases involving barangay officials are no longer appealable to the Regional Trial Court but to the COMELEC pursuant to Section 2(2) of Article IX-C of the 1987 Constitution.^[7] Petitioner submits that the dispositive portion in the *Flores* case only declared unconstitutional that portion of Section 9 of Republic Act 6679 providing for appeal to the Regional Trial Court but not the ten (10) day period of appeal. The dispositive portion of the *Flores* case reads:

“1. Declaring Section 9 of Rep. Act No. 6679 UNCONSTITUTIONAL insofar as it provides that barangay election contests decided by the municipal or metropolitan trial court shall be appealable to the regional trial court:”

Petitioner admits that the provisions in Republic Act No. 6679 and for that matter the Omnibus Election Code providing for appellate jurisdiction to the Regional Trial Court had been declared unconstitutional in the aforecited *Flores* case. A verbatim comparison of both provisions reveals that they provide the same remedy, that is, appeal from a decision of the municipal or metropolitan trial court in barangay election cases to the regional trial court. Both provisions provide that (1) results of a barangay election may be contested by filing a sworn petition with the municipal trial court within ten days from proclamation; (2) the MTC shall decide within thirty days per Republic Act No. 6679 or fifteen days per Omnibus Election Code; and (3) the decision of the municipal trial court may be appealed to the regional trial court within ten days from receipt by the aggrieved party, which decision is final and non-appealable. There is no appreciable basis to make a distinction between the two provisions, except for their different numbers, to advance that they provide for two different remedies. It would be superfluous to insist on a categorical declaration of the unconstitutionality of the appeal provided for in Sec. 252 of the Omnibus Election Code, as the same appeal in Sec. 9, Republic Act No. 6679 had already been categorically declared unconstitutional. Further, Sec. 252 of the Omnibus Election Code^[8] as amended by the new law, Republic Act No. 6679^[9], has in effect, been superseded by the latter. While the appellate procedure has been retained by the amendatory act, Republic Act No. 6679 nonetheless supersedes the verbatim provision in the Omnibus Election Code. Hence, it was not necessary for *Flores* to mention Sec. 252 of the Omnibus Election Code, considering that as aforestated, Section 9 of Republic Act No. 6679 was a mere reenactment of the former law.

Petitioner is of the opinion, though, that the unconstitutionality extended only as to which court has appellate jurisdiction without affecting the period within which to appeal. According to petitioner, only the portion providing for the appellate jurisdiction of the Regional Trial Court in said cases should be deemed