

## EN BANC

**[ G.R. No. 174668, September 12, 2007 ]**

**MARLON T. SALES, PETITIONER, VS. COMMISSION ON ELECTIONS, HON. CONRADO A. RAGUCOS, IN HIS CAPACITY AS THE PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 19, BANGUI, ILOCOS NORTE, AND THELMA BENEMERITO, RESPONDENTS.**

### RESOLUTION

**CHICO-NAZARIO, J.:**

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court, challenging the (1) Resolution,<sup>[1]</sup> dated 7 June 2006 of the Commission on Elections (COMELEC), which affirmed the Orders dated 27 July 2005<sup>[2]</sup> and 16 August 2005<sup>[3]</sup> of the Regional Trial Court (RTC) of Bangui, Ilocos Norte, Branch 19; and (2) Resolution,<sup>[4]</sup> dated 18 September 2006, also rendered by the COMELEC, denying herein petitioner Marlon T. Sales's (Sales) motion for reconsideration of its earlier Resolution. The 27 July 2005 Order of the RTC set the holding of a hearing for the reception of evidence to establish that literate voters were allowed to vote as illiterates in the 10 May 2004 local elections; while the 16 August 2005 Order denied the Motion for Reconsideration of the 27 July 2005 Order.

Petitioner Sales and respondent Thelma Benemerito (Benemerito) were both candidates for Mayor in Pagudpud, Ilocos Norte, in the 10 May 2004 local elections. The Municipal Board of Canvassers proclaimed Sales as the duly elected Mayor of Pagudpud, Ilocos Norte. Aggrieved, Benemerito filed an election protest before the RTC questioning the results in 54 precincts in Pagudpud, Ilocos Norte, on the ground that literate voters were allowed to vote as illiterates. In his Answer to the protest, Sales claimed that Benemerito's allegations were misplaced and unsubstantiated, and he instituted a counter-protest also assailing the results of the 10 May 2004 local elections.

Following the filing of the protest and the counter-protest, the RTC issued an Order creating two revision committees. The RTC declared on 7 April 2005 that the revision of ballots in all the precincts subject of Benemerito's protest and Sales's counter-protest was already terminated.

Subsequently, Benemerito prayed for the verification of the Voter's Registration Record, which Sales opposed. The RTC denied Sales's opposition and proceeded with the verification of the Voter's Registration Record.

On 17 May 2005, Benemerito filed with the RTC a Motion for Matching of Ballots Cast with Lower Detachable Coupons with the prayer that the matching of ballots be conducted within the premises and under the supervision of the court. The Motion was denied by the RTC in an Order,<sup>[5]</sup> dated 22 June 2005, ratiocinating that before

the motion could be granted, Benemerito must first show, by competent evidence after due hearing, that literate voters were allowed to vote as illiterates in the contested elections. Furthermore, inasmuch as this would violate the sanctity of the ballots, a waiver on the part of the voters had to be shown.

Benemerito filed a Motion for Partial Reconsideration with the RTC, seeking the following: (1) the setting aside of the 22 June 2005 Order insofar as it required the presentation of waiver of the literate voters; (2) the setting of a hearing for the presentation of evidence to prove that many literate voters were allowed to vote as illiterates; and (3) and the issuance of another Order granting the relief prayed for in her Motion for Matching of Ballots. The RTC granted Benemerito's Motion for Partial Reconsideration on 27 July 2005.

Then it was Sales's turn to file a Motion for Reconsideration of the 27 July 2005 Order of the RTC, but the same was denied in an Order dated 16 August 2005.

Sales appealed to the COMELEC *via* a Petition for *Certiorari*, alleging that the RTC committed grave abuse of discretion, amounting to lack or excess of jurisdiction, when it issued its Orders dated 27 July 2005 and 16 August 2005. On 7 June 2006, the COMELEC issued a Resolution, dismissing Sales' Petition for lack of merit, the dispositive portion of which reads:

WHEREFORE, the petition is DISMISSED for lack of merit.

ACCORDINGLY, the court a quo is DIRECTED to proceed with dispatch with the hearing and disposition of Election Protest No. 01-04.<sup>[6]</sup>

Sales's Motion for Reconsideration of the foregoing was denied in a Resolution<sup>[7]</sup> dated 18 September 2006.

Hence, this Petition<sup>[8]</sup> in which Sales imputes grave abuse of discretion, amounting to lack or excess of jurisdiction, on the part of the COMELEC in affirming the questionable Orders of the RTC.

In the meantime, while the Petition at bar was still pending before this Court, national and local elections were held on 14 May 2007, and winners therein assumed office by 1 July 2007.

In light of this development, the Court dismisses the Petition.

Sales's term as mayor of Pagudpud, Ilocos Norte, as a result of the 10 May 2004 elections expired on 30 June 2007, thus, the present Petition has been rendered moot and academic. Such legal consequence resulting from the expiration of Sales's contested term of office was first alleged by Benemerito,<sup>[9]</sup> and later admitted by Sales himself.<sup>[10]</sup>

With the expiration of the tenure of the contested mayoralty position subject of this Petition on 30 June 2007, no practical or useful purpose would be served by passing on the merits of Sales's contentions. Courts will not determine a moot question in a case in which no practical relief can be granted.<sup>[11]</sup> It is unnecessary to indulge in academic discussion of a case presenting a moot question,<sup>[12]</sup> as a judgment thereon cannot have any practical legal effect or, in the nature of things, cannot be