

## EN BANC

**[ G.R. No. 231643, January 15, 2019 ]**

**CHRISTIAN C. HALILI, PETITIONER, VS. COMMISSION ON ELECTIONS, PYRA LUCAS, AND CRISOSTOMO GARBO, RESPONDENTS.**

**[G.R. No. 231657]**

**MARINO P. MORALES, PETITIONER, VS. PYRA LUCAS AND THE COMMISSION ON ELECTIONS, RESPONDENTS.**

**CHRISTIAN C. HALILI AND CRISOSTOMO GARBO, RESPONDENTS-INTERVENORS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

These two consolidated<sup>[1]</sup> petitions<sup>[2]</sup> seek to nullify and set aside the Resolution<sup>[3]</sup> dated 3 August 2016 of the Commission on Elections (COMELEC) First Division and the Resolution<sup>[4]</sup> dated 26 May 2017 of the COMELEC En Banc.

#### The Facts

Petitioner Marino P. Morales (Morales) was elected and served as Mayor of the Municipality of Mabalacat, Pampanga from 1 July 2007 to 30 June 2010. He was elected again as mayor during the 2010 elections. On 15 May 2012, or during Morales' second term, Congress passed Republic Act No. (RA) 10164,<sup>[5]</sup> converting the Municipality of Mabalacat into a component city. Thereafter a plebiscite was held. In the 2013 elections, Morales ran again and was elected as mayor of the new Mabalacat City. On 8 December 2015, Morales filed his Certificate of Candidacy<sup>[6]</sup> (COC) for the 2016 elections for the position of mayor of Mabalacat City, as substitute candidate for Wilfredo Feliciano of *Aksyon Demokratiko* Party.

On 4 January 2016, respondent Pyra Lucas (Lucas), also a candidate for the position of mayor of Mabalacat City, filed a Petition for Cancellation of the COC and/or Disqualification of Morales for the Mayoral Position of Mabalacat City,<sup>[7]</sup> docketed as SPA No. 16-001 (DC), before the COMELEC. Lucas alleged that Morales was disqualified to run for mayor, since he was elected and had served three consecutive terms prior to the 2016 elections. Lucas also alleged that the conversion of the Municipality of Mabalacat into Mabalacat City did not interrupt Morales' service for the full term for which he was elected.

On 25 January 2016, Morales filed his Verified Answer<sup>[8]</sup> alleging that Lucas' petition should be summarily dismissed for lack of certification against forum shopping, for being filed out of time, and for lack of jurisdiction and/or cause of action. Morales claimed that his candidacy did not violate the three-term limit rule, because the conversion of the Municipality of Mabalacat into Mabalacat City interrupted his term. According to him, his term as mayor of Mabalacat City is not a continuation of his term as mayor of the Municipality of Mabalacat.

On 10 May 2016, following the canvass of all election returns, the City Board of Canvassers of Mabalacat City proclaimed Morales as elected city mayor, and petitioner Christian C. Halili (Halili) as elected city vice mayor.

On 20 May 2016, respondent Crisostomo Garbo (Garbo), another candidate for the position of mayor of Mabalacat City, filed a Motion for Leave To Intervene and To Admit Attached Petition-in-Intervention<sup>[9]</sup> alleging that he was interested in the outcome of the case, since he obtained the second highest number of votes and he should be proclaimed as mayor of Mabalacat City should Morales' COC be cancelled.

On 28 June 2016, Halili also filed a Verified Motion for Leave to Intervene (as Respondent) and Admit Attached Answer-in-Intervention<sup>[10]</sup> alleging that, as incumbent vice mayor of Mabalacat City, he should be proclaimed as mayor of Mabalacat City should Morales' COC be cancelled pursuant to the rule on succession under Section 44 of RA 7160, or the Local Government Code.

On 16 December 2016, Morales filed an Opposition<sup>[11]</sup> to Garbo's Petition-in-Intervention and a Comment<sup>[12]</sup> to Halili's Answer-in-Intervention before the COMELEC, alleging that both pleadings are premature.

### **The Ruling of the COMELEC**

In a Resolution dated 3 August 2016, the COMELEC First Division granted the petition, cancelled Morales' COC, and ordered the proclamation of the qualified mayoralty candidate with the next higher number of votes. The dispositive portion states:

WHEREFORE, the Petition is GRANTED. Accordingly, the Certificate of Candidacy of MARINO P. MORALES is hereby CANCELLED. All votes cast in his favor are declared stray.

The City Board of Canvassers of Mabalacat, Parnpanga is hereby ORDERED to RECONVENE, ANNUL the proclamation of MARINO P. MORALES, PROCLAIM the qualified candidate with the next highest number of votes, and EFFECT the necessary corrections in the Certificate of Canvass and Proclamation.

SO ORDERED.<sup>[13]</sup>

The COMELEC First Division ruled that Lucas' petition was a petition for cancellation of COC under Section 78 of the Omnibus Election Code (OEC), and it was timely filed. The COMELEC First Division likewise held that Morales committed a material misrepresentation in his COC in stating that he is eligible to run as mayor of

Mabalacat City, when in fact he is not eligible, because he violated the three-term limit rule after having served for the same local government post for three consecutive terms prior to the 2016 elections.

On 27 January 2017, the COMELEC En Banc granted the motions for leave to intervene filed by Garbo and Halili.

In a Resolution dated 26 May 2017, the COMELEC En Banc denied the motion for reconsideration filed by Morales for lack of merit, and affirmed the Resolution dated 3 August 2016 of the COMELEC First Division.<sup>[14]</sup> The COMELEC En Banc declared that Garbo, being the qualified mayoralty candidate with the highest number of votes, should be proclaimed.

On 1 June 2017, Lucas filed a Motion for Execution, and a subsequent Manifestation alleging the finality of the COMELEC En Banc Resolution dated 26 May 2017. Thereafter, Morales filed an Opposition to the Motion for Execution.

On 2 June 2017, Halili filed a Petition for Certiorari and Prohibition With Application for Temporary Restraining Order and/or Status Quo Ante Order<sup>[15]</sup> before us, docketed as G.R. No. 231643.

On 5 June 2017, Morales filed a Petition for Certiorari and Prohibition with Urgent Prayer for Issuance of Temporary Restraining Order and/or *Status Quo Ante* Order and/or Writ of Preliminary Injunction with Motion for Special Raffle<sup>[16]</sup> before us, docketed as G.R. No. 231657.

On 8 June 2017, the COMELEC En Banc issued a Writ of Execution: (1) ordering Morales to cease and desist from performing the functions of mayor of Mabalacat City, Pampanga; (2) directing, after due notice to the parties, the Special City Board of Canvassers of Mabalacat City, Pampanga to convene on 27 June 2017, 3:00 p.m., at the COMELEC Session Hall, 8<sup>th</sup> Floor, Palacio del Gobernador Building, Intramuros, Manila and to proclaim Garbo, who garnered the highest number of votes of Seventeen Thousand Seven Hundred Ten (17,710) votes, as the duly elected mayor of Mabalacat City, Pampanga; and (3) directing the Special City Board of Canvassers of Mabalacat City, Pampanga to furnish a copy of the Certificate of Proclamation to the Department of Interior and Local Government, Secretary of the Sangguniang Panlungsod of Mabalacat City and affected parties.<sup>[17]</sup>

In two Resolutions both dated 11 July 2017, the Court *En Banc* resolved to consolidate G.R. No. 231643 with G.R. No. 231657, and to deny for lack of merit: (a) the Very Urgent Motion Reiterating the Issuance of Temporary Restraining Order and/or *Status Quo Ante* Order and Writ of Preliminary Injunction (as Respondent COMELEC Issued a Writ of Execution to Implement the Assailed Resolutions) dated 9 June 2017 filed by Morales;<sup>[18]</sup> (b) the Second Very Urgent Motion to Resolve Application for TRO and/or *Status Quo Ante* Order dated 21 June 2017 filed by Morales;<sup>[19]</sup> and (c) the Urgent Motion to Resolve Application for TRO/*Status Quo Ante* Order and/or Writ of Preliminary Injunction dated 9 June 2017 filed by Halili.<sup>[20]</sup>

### **The Issues**

In G.R. No. 231643, Halili raised the following issues:

- A. Whether or not the Honorable Commission on Elections committed grave abuse of discretion amounting to lack or excess of jurisdiction in considering the application of Aratea vs. Comelec case as basis in declaring that "the Petitioner-Intervenor [Crisostomo Garbo] being the qualified mayoral candidate with the highest number of votes should be proclaimed?"
- B. Whether or not the Honorable Commission on Elections committed grave abuse of discretion amounting to lack or excess of jurisdiction in not declaring a permanent vacancy in the office of the Mayor of Mabalacat City pursuant to Section 4, R.A. 716[0] [Local Government Code of 1991] after it cancelled the COC of Marino P. Morales?
- C. Whether or not the Honorable Commission on Elections committed grave abuse of discretion amounting to lack or excess of jurisdiction in ordering the reconvening of the 2016 Elections City Board of Canvassers of Mabalacat City to proclaim the qualified candidate with the next highest number of votes?<sup>[21]</sup>

In G.R. No. 231657, Morales raised the following issues:

- a. Whether public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in arbitrarily treating the *VERY VAGUE Lucas Petition* as a Petition to Deny Due Course despite the fact that there is NOT a single statement or allegation in said Petition that petitioner committed "deliberate material misrepresentation";
  - a.1. Whether public respondent should have DISMISSED the *Lucas Petition* OUTRIGHT for being defective because it is a Petition for Disqualification invoking a ground proper for a Petition to Deny Due Course, in violation of Section 1, Rule 25, COMELEC Resolution No. 9523;
- b. Assuming *arguendo* that the *Lucas Petition* can be treated as a Petition to Deny Due Course, whether public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when it failed to DISMISS OUTRIGHT the *Lucas Petition* for being filed out of time and for failure of private respondent to attach to said Petition a Certificat[ion] of Non-Forum Shopping, as required by the Rules;
- c. Assuming *arguendo* that the *Lucas Petition* can be treated as a Petition to Deny Due Course, whether public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when it did NOT dismiss the *Lucas Petition* despite the fact that there is no prior "authoritative ruling" yet on petitioner's eligibility by any competent court or tribunal, following the doctrine laid down by this Court in the case of *Poe vs. Comelec*. In a word, whether or not petitioner violated the three-term limit rule when he ran for Mayor of the newly created Mabalacat City in the May 9, 2016 elections;

- d. Assuming *arguendo* that the *Lucas Petition* can be treated as a Petition to Deny Due Course, whether public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when [it] refused to dismiss the *Lucas Petition* on the basis of its Resolution in the *Castro Petition* with practically the same issues herein, which had already attained finality pending resolution of the *Lucas Petition*;
- e. Whether public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when it refused to dismiss the *Lucas Petition* despite the fact that it had already lost jurisdiction over the case since the petitioner had already been proclaimed and assumed office, similar or analogous to the ruling of this Court in various cases that "after the proclamation of the winning candidate, disputes as to his CoC become moot (and are taken out of COMELEC's jurisdiction) and the proper remedy is to file a *quo warranto* proceeding questioning the candidate's eligibility"; and
- f. Public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that the second placer in the subject contest should replace petitioner.<sup>[22]</sup>

### **The Ruling of the Court**

The primordial issue to be resolved is whether or not the COMELEC gravely abused its discretion amounting to lack or excess of jurisdiction: (1) in finding that Morales committed a false material representation in his COC when he declared that he was eligible to run as mayor of Mabalacat City for the 2016 elections despite his violation of the three-term limit rule; and (2) in proclaiming Garbo as the duly elected mayor of Mabalacat City for being the qualified candidate with the highest number of votes.

We do not find merit in both petitions.

The three-term limit rule is embodied in Section 8, Article X of the 1987 Constitution, to wit:

Section 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

It is restated in Section 43 of the Local Government Code, thus:

Section 43. Term of Office. - (a) x x x.

b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

x x x x