

EN BANC

[G.R. No. 192249, April 02, 2013]

SALIC DUMARPA, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

D E C I S I O N

PEREZ, J.:

Challenged in this petition for prohibition and *mandamus* with prayer for issuance of temporary restraining order and/or writ of preliminary injunction under Rule 64, in relation to Rule 65, of the Rules of Court is Resolution No. 8965^[1] issued by respondent Commission on Elections (COMELEC) *en banc* and entitled Guidelines and Procedures in the Conduct of Special Elections in Some Areas Where There are Failure of Elections during the Conduct of the [10 May 2010] National Elections. Petitioner Salic Dumarpa (Dumarpa) seeks to annul or declare illegal Sections 4^[2] and 12^[3] of COMELEC Resolution No. 8965 for having been issued with grave abuse of discretion.

Dumarpa was a congressional candidate for the 1st District of Lanao del Sur at the 10 May 2010 elections. The COMELEC declared a total failure of elections in seven (7) municipalities, including the three (3) Municipalities of Masiu, Lumba Bayabao and Kapai, which are situated in the 1st Congressional District of Province of Lanao del Sur. The conduct of special elections in the seven (7) Lanao del Sur municipalities was originally scheduled for 29 May 2010.

On 25 May 2010, COMELEC issued Resolution No. 8946,^[4] resetting the special elections to 3 June 2010 for the following reasons:

x x x x

1. Aside from the reported seven (7) municipalities where there are total failure of elections, there are precincts in eight (8) other municipalities where there were failure of elections, namely:

x x x x

2. The results of elections in the said municipalities will affect the elections not only in the provincial level (Congressman, Vice-Governor and *Sangguniang Panlalawigan*) but also in the municipal level.

3. There are missing ballots in the following precincts more particularly in:

- a. *Brgy. Picotaan*, Lumbatan with 682 registered voters[.]
- b. *Brgy. Pagalamatan*, Tugaya with 397 registered voters.

4. Based on reports some of the BEIs are not willing to serve or are disqualified due to relationship;

5. The Precinct Count Optical Scan (PCOS) assigned in the said municipalities were already pulled out by *Smartmatic*;

6. There is a need for the newly constituted BEIs to undergo training and certification as required under R.A. 9369.

7. There is a need to review the manning of Comelec personnel in the municipal level and assess their capabilities to discharge their duties and functions not only as an Election Officer but also as Chairman of the Board of Canvassers.

x x x x

Considering the foregoing, the Commission RESOLVED, as it hereby RESOLVES as follows:

1. to reset the special elections scheduled on 29 May 2010 pursuant to the Commission En Banc Resolution promulgated May 21, 2010 in the following areas:

x x x x

and to reschedule the same on June 3, 2010;

2. to prepare the logistical, manpower and security requirements in connection with the conduct of said special elections;

3. to direct the Regional Election Director and the Provincial Election Supervisor to notify the candidates/interested parties thereat; and

4. to hear the petitions/report/s on the failure of elections on the eight (8) other municipalities in Lanao del Sur, to wit:

x x x x

Let the Executive Director implement this resolution and the Education and Information Department publish this resolution in two (2) newspapers of general circulation.^[5]

Subsequently, COMELEC issued the herein assailed resolution which provided, among others, the constitution of Special Board of Election Inspectors (SBEI) in Section 4 and Clustering of Precincts in Section 12.

On the same date COMELEC Resolution No. 8965 was issued, on 28 May 2010, Dumarpa filed a Motion for Reconsideration concerning only Sections 4 and 12

thereof as it may apply to the Municipality of Masiu, Lanao del Sur. The COMELEC did not act on Dumarpa's motion.

A day before the scheduled special elections, on 2 June 2010, Dumarpa filed the instant petition alleging that "both provisions on Re-clustering of Precincts (Section 12) and constitution of SBEIs [Special Board of Election Inspectors] (Section 4) affect the Municipality of Masiu, Lanao del Sur, and will definitely doom petitioner to certain defeat, if its implementation is not restrained or prohibited by the Honorable Supreme Court."

Parenthetically, at the time of the filing of this petition, Dumarpa was leading by a slim margin over his opponent Hussin Pangandaman in the canvassed votes for the areas which are part of the 1st Congressional District of Lanao del Sur where there was no failure of elections.^[6]

We did not issue a temporary restraining order or a writ of preliminary injunction. Thus, the special elections on 3 June 2010 proceeded as scheduled.

Petitioner is adamant that:

1. x x x SECTION 12 OF COMELEC RESOLUTION NO. 8965 x x x IS ILLEGAL OR VOID, BEING CONTRARY TO LAW, AND ARE ISSUED OR EMBODIED IN SAID RESOLUTION WITHOUT NOTICE TO CANDIDATES AND STAKEHOLDERS AND WITHOUT HEARING;
2. x x x SECTION 4 OF COMELEC RESOLUTION NO. 8965 x x x IS ILLEGAL OR VOID, BEING CONTRARY TO LAW, AND ARE ISSUED OR EMBODIED IN SAID RESOLUTION WITHOUT NOTICE TO CANDIDATES AND STAKEHOLDERS AND WITHOUT HEARING;
3. PUBLIC RESPONDENT, THE HONORABLE COMMISSION ON ELECTIONS, ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN INCORPORATING, PROVIDING, OR ISSUING SECTION 12 AND SECTION 4 IN SAID RESOLUTION NO. 8965[.]^[7]

The Office of the Solicitor General (OSG), however, in its sparse Comment counters that the issues have been mooted by the holding of the special elections as scheduled on 3 June 2010. As a catch-all refutation, the OSG maintains that COMELEC Resolution No. 8965 is not tainted with grave abuse of discretion.

We dismiss the petition.

Indeed, the special elections held on 3 June 2010 mooted the issues posed by Dumarpa. The opponent of Dumarpa, Hussin Pangandaman, was proclaimed winner in the 1st Congressional District of Lanao del Sur. We see this as a supervening event which, additionally, mooted the present petition as the issues raised herein are resolvable in the election protest.^[8]

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.^[9]

In any event, the petition is unmeritorious.

COMELEC issued Resolution No. 8965, in the exercise of its plenary powers in the conduct of elections enshrined in the Constitution^[10] and statute.^[11]

Thus, it brooks no argument that the COMELEC's broad power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall,"^[12] carries with it all *necessary* and *incidental* powers for it to achieve the objective of holding free, orderly, honest, peaceful and credible elections.^[13]

As stated in *Sumulong v. COMELEC*:

Politics is a practical matter, and political questions must be dealt with realistically - not from the standpoint of pure theory. The Commission on Elections, because of its fact-finding facilities, its contacts with political strategists, and its knowledge derived from actual experience in dealing with political controversies, is in a peculiarly advantageous position to decide complex political questions.

x x x x

There are no ready-made formulas for solving public problems. Time and experience are necessary to evolve patterns that will serve the ends of good government. In the matter of the administration of the laws relative to the conduct of elections x x x, we must not by any excessive zeal take away from the Commission on Elections that initiative which by constitutional and legal mandates properly belongs to it.^[14]

Cauton v. COMELEC^[15] emphasized the COMELEC's latitude of authority:

[The purpose of the governing statutes on the conduct of elections] is to protect the integrity of elections to suppress all evils that may violate its purity and defeat the will of the voters [citation omitted]. The purity of the elections is one of the most fundamental requisites of popular government [citation omitted]. The Commission on Elections, by constitutional mandate, must do everything in its power to secure a fair and honest canvass of the votes cast in the elections. In the performance of its duties, *the Commission must be given a considerable latitude in adopting means and methods that will insure the accomplishment of the great objective for which it was created - to promote free, orderly, and honest elections. **The choice of means taken by the Commission on Elections, unless they are clearly illegal or constitute grave abuse***

of discretion, should not be interfered with^[16] [citation omitted].
(Emphasis supplied).

Viewed against the foregoing spectrum of the COMELEC's plenary powers and the *raison d'etre* for the statutes on the conduct of elections, we dismiss Dumarpa's objections about Sections 4 and 12 of COMELEC Resolution No. 8965.

Dumarpa objects to the re-clustering of precincts, only for the Municipality of Masiu, because it was undertaken: (1) without notice and hearing to the candidates affected; (2) in less than thirty days before the conduct of the special elections; and (3) the polling place was reduced from 21 to only 3 voting centers which Dumarpa's opponent, Representative Hussin Pangandaman, controls. As regards the designation of SBEIs, Dumarpa points out that "public school teachers who are members of the board of election inspectors shall not be relieved nor disqualified from acting as such members, except for cause and after due hearing."^[17]

Dumarpa's objections conveniently fail to take into account that COMELEC Resolution No. 8965, containing the assailed provisions on re-clustering of the precincts and the designation of special board of election inspectors, was issued precisely because of the total failure of elections in seven (7) Municipalities^[18] in the Province of Lanao del Sur, a total of fifteen (15) Municipalities where there was a failure of elections. Notably, the COMELEC's declaration of a failure of elections is not being questioned by Dumarpa. In fact, he confines his objections on the re-clustering of precincts, and only as regards the Municipality of Masiu.

Plainly, it is precisely to prevent another occurrence of a failure of elections in the fifteen (15) municipalities in the province of Lanao del Sur that the COMELEC issued the assailed Resolution No. 8965. The COMELEC, through its deputized officials in the field, is in the best position to assess the actual condition prevailing in that area and to make judgment calls based thereon. Too often, COMELEC has to make snap judgments to meet unforeseen circumstances that threaten to subvert the will of our voters. In the process, the actions of COMELEC may not be impeccable, indeed, may even be debatable. We cannot, however, engage in an academic criticism of these actions often taken under very difficult circumstances.^[19]

The COMELEC actually closely followed Section 6 of the Omnibus Election Code by scheduling the special election not later than thirty (30) days after the cessation of the cause of the failure to elect. Moreover, the COMELEC sought to foreclose the possibility that the Board of Election Inspectors may not report to the polling place, as what occurred in the Municipality of Masiu, resulting in another failure of election.

Of course the case cannot preempt the decision in the election protest filed by Dumarpa before the House of Representative Electoral Tribunal, or our action should the matter reach us on petition for *certiorari*.^[20] Our ruling herein is confined to the issues raised by Dumarpa relative to COMELEC Resolution No. 8965.

WHEREFORE, the petition is **DISMISSED**. Costs against petitioner Salic Dumarpa.

SO ORDERED.