EN BANC

[G.R. No. 201672, August 13, 2013]

CESAR G. MANALO, PETITIONER, VS. COMMISSION ON ELECTIONS, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT AND ERNESTO M. MIRANDA, RESPONDENTS.

D E C I S I O N

PEREZ, J.:

The Case

This Petition for *Certiorari*[1] seeks to reverse, nullify and set aside the Resolutions of Commission on Elections (COMELEC) Second Division dated 22 December 2011[2] and COMELEC En Banc dated 17 April 2012[3] which granted respondent Ernesto M. Miranda's Petition for *Certiorari* and Prohibition with Prayer for *Status Quo* or Restraining Order.

The Antecedents

Petitioner Cesar G. Manalo (Manalo) and private respondent Ernesto M. Miranda (Miranda) were among the three candidates for *Punong Barangay* of Sta. Maria, Mabalacat, Pampanga during the 2010 *Barangay* and *Sangguniang Kabataan* Synchronized Elections on 25 October 2010. As per records, there were six (6) precincts in *Barangay* Sta. Maria, with a total of 2,302 registered voters, but only 1,605 among them actually voted. After the canvass of votes, the *Barangay* Board of Canvassers of Sta. Maria proclaimed Miranda as the winner and duly elected *Punong Barangay* obtaining 344 votes as against 343 votes obtained by Manalo.[4]

On 4 November 2010, Manalo filed an election protest before the 6th Municipal Circuit Trial Court (MCTC) of Mabalacat and Magalang, Pampanga, contesting the proclamation of Miranda as the winner for *Punong Barangay* on the following grounds: (1) misreading or misappreciation of the ballots; (2) the number of votes reflected in the tally sheet did not reflect the same number of votes-one of the members of the Board of Tellers merely copied what was stated in the tally sheet; (3) the watchers of Manalo were deprived of their right to have an unimpeded view of the ballot being read by the Chairman, of the election return and the tally board being simultaneously accomplished by the poll clerk and the third member, respectively, without touching any of these election documents as mandated in Resolution No. 9030.[5]

Miranda, in his Answer with Counterclaim and Motion to Dismiss filed on 15 November 2010, denied any irregularities and maintained the credibility and regularity of the conduct of the *Barangay* Election under the strict supervision of the COMELEC. In his special and affirmative defense, as well as his motion for dismissal,

he asserted that the petition of Manalo was insufficient in form and substance as it failed to allege the specific votes by precinct of the parties. Finally in his counterclaim, Miranda prayed for payment of P100,000.00 by way of attorney's fees.

As Manalo failed to prove any election irregularities in the conduct of election committed by the Board of Tellers, the trial court proceeded with the appreciation of the ballots. Upon tabulation, the results showed that Manalo was the winner of the election having garnered Three Hundred Forty-Four (344) votes, up from 343 votes while herein Miranda got three hundred thirty-three (333) votes, down from 344 votes, or a plurality of 11 votes. On 24 May 2011, the trial court rendered a decision in favor of Manalo and declared him as the true choice for *Punong Barangay* of Sta. Maria, Mabalacat, Pampanga. The dispositive[6] of the decision reads:

> **WHEREFORE**, in view of the foregoing, the Court hereby renders the following judgment:
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> 1. Declaring null and void and thus set aside the proclamation of protestee Ernesto M. Miranda as the elected Punong Barangay of Sta. Maria, Mabalacat, Pampanga made by the Barangay Board of Canvassers on October 25, 2010;
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> 2. Declaring protestant **CESAR MANALO** as the duly elected **PUNONG BARANGAY of Sta. Maria, Mabalacat, Pampanga** on the recent concluded October 25, 2010 Barangay Elections;
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> 3. Protestee Ernesto Miranda is hereby ordered to vacate his seat and to cease and desist from further discharging the duties and functions officially vested in the Office of Punong Barangay of Sta. Maria, Mabalacat, Pampanga which is now and henceforth, unless otherwise disqualified by law, are conferred unto the declared winner and herein protestant CESAR MANALO, who is hereby ordered to act, perform and discharge the duties, functions and responsibilities and all incidents appertaining to and in connection with the office of the Punong Barangay of Barangay Sta. Maria, Mabalacat, Pampanga immediately after he shall have taken his oath of office.
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> No pronouncement as to damages and attorney's fees for failure of the protestant to adduce evidence relative thereto during the trial.
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> As mandated under Section 7, Rule 14 of A.M. No. 07-4-15-SC, otherwise known as the "Rules of Procedure in Election Contests Before the Court Involving Elective Municipal and Barangay Officials" as soon as the decision becomes final, the clerk of court shall send notices to the Commission on Elections, the Department of Interior and Local Government and the Commission on Audit.
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> FINALLY, the ballot boxes kept under the Court's custody are hereby ordered for transmittal to the Treasurer's Office of Mabalacat, Pampanga as depository of the election paraphernalia and corresponding keys to the ballot boxes be returned to the designated authorized officers. The

protestant is hereby ordered to transmit the same as soon as the decision becomes final and executory.

Immediately on the same day, Miranda filed a Notice of Appeal[7] appealing the Decision of the lower court to the COMELEC.

On 25 May 2011, Manalo filed a Motion for Immediate Execution of Decision Pending Appeal[8] before the lower court citing good reasons[9] to justify immediate execution.

On 2 June 2011, Miranda protested the Motion for Immediate Execution Pending Appeal of Manalo mainly on the basis that no good reason was shown for its immediate execution, as the defeat of the protestee and the victory of the protestant had been clearly established as required under paragraph (2), Section 11, Rule 14 of A.M. No. 07-4-15-SC.[10]

Eventually on 3 June 2011, the trial court issued a Special Order[11] granting Manalo's Motion for Immediate Execution Pending Appeal on the following grounds:

1. The victory of the protestant was clearly established;

2. Public interest demands that the true choice of the electorate must be respected and given meaning; and

3. Public policy underlies it as something had to be done to strike the death blow at the pernicious grab-the–proclamation-prolong-the protest technique often, if not invariably resorted to by unscrupulous politicians.[12]

On 22 June 2011, Miranda before the COMELEC filed a Petition for *Certiorari* and Prohibition with Prayer for *Status Quo Ante* or Restraining Order.[13]

The next day on 23 June 2011, the trial court denied the Motion for Reconsideration filed by Miranda to the Special Order granting the execution pending appeal.[14] On 25 June 2011, the trial court issued the contested writ of execution.[15]

On 8 July 2011, COMELEC Second Division, acting on the petition filed by Miranda, issued a Temporary Restraining Order (TRO) against the 24 May 2011 Decision and 3 June 2011 Special Order of the trial court as well as all other acts/incidents relating thereto. A *status quo ante* order was also issued "to restrain any acts that had already been done prior to the filing of petition." [16]

The Motion for Reconsideration[17] filed by Manalo was denied by COMELEC Second Division in an Order dated 9 August 2011.[18]

On 28 October 2011, a Very Urgent Ex Parte Motion for Clarification[19] was filed by Manalo praying that the COMELEC Second Division clarify the phrase, "*In the event that the above acts supposed to be restrained had already been done, the parties herein are hereby ordered to maintain the status quo ante prior to the filing of the instant petition*," in the 8 July 2011 Order.

On 22 December 2011, the COMELEC Second Division granted the Petition for *Certiorari* and Prohibition filed by Miranda. Notably, in its Resolution, the COMELEC Second Division ruled that the trial court's Decision showed Miranda's defeat and herein Manalo's victory. It said that the trial court complied with rules provided by Section 2, Rule 14 of A.M. No. 07-4-15-SC prescribing specific forms which must be followed in election protests. It was observed that the decision even provided for a tabulation and summary of the total number of votes and those validated, nullified and voided; and computed the total valid votes obtained by each candidate.

However, the Division also invalidated both the Special Order and Writ of Execution. [20] It was explained that the Special Order did not comply with the ruling in *Lim v. COMELEC*[21] which enumerated the instances considered as good reasons to allow execution pending appeal. It ruled further that the writ of execution issued by the trial court violated paragraph (b), Section 11, Rule 14 of A.M. No. 07-4-15-SC which specifies that a writ of execution shall be issued after 20 working days from notice of the special order granting the execution pending appeal. The COMELEC noted that in the case before it, from the time of service of the special order, only 14 workings had passed which rendered the execution of the decision premature.

On 29 December 2011, Manalo filed a Motion for Reconsideration which was denied in a COMELEC En Banc Resolution dated 17 April 2012. The COMELEC En Banc agreed with the findings that the Special Order is invalid as it failed to specify superior circumstances justifying execution pending appeal and merely lifted the reasons cited in jurisprudence without any explanation as to its applicability to the present case.[22]

Hence, this petition.

The Issues

Petitioner Manalo prays for the reversal of the resolutions on the following grounds:

I.

> THE HONORABLE COMMISSION ON ELECTIONS GRAVELY ERRED IN ISSUING A SIXTY (60) DAYS TEMPORARY RESTRAINING ORDER AND/OR STATUS QUO ANTE ORDER ON JULY 8, 2011 WHEN THE ACT SOUGHT TO BE ENJOINED HAS ALREADY BEEN DONE BY THE FACT THAT HEREIN PETITIONER MANALO HAS ALREADY ASSUMED THE POSITION OF PUNONG BARANGAY OF STA. MARIA, MABALACAT, PAMPANGA ON JUNE 24, 2011.

II.

> THE HONORABLE COMMISSION ON ELECTIONS GRAVELY AND SERIOUSLY ERRED IN RULING THAT THE LOWER COURT FAILED TO SPECIFY IN ITS SPECIAL ORDER DATED JUNE 3, 2011 SUPERIOR CIRCUMSTANCES JUSTIFYING EXECUTION PENDING APPEAL.

III.

> THE HONORABLE COMMISSION ON ELECTIONS GRAVELY AND SERIOUSLY ERRED IN RULING THAT THE PERIOD OF TWENTY (20) DAYS AS ENUNCIATED IN SECTION 11 (B), RULE 14 OF A.M. NO. 07-4-15-SC REFERS TO WORKING DAYS AND NOT CALENDAR DAYS.
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> IV.
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> THE HONORABLE COMMISSION ON ELECTIONS SERIOUSLY AND GRAVELY ERRED IN GRANTING RESPONDENT MIRANDA'S PRAYER FOR STATUS QUO ANTE ORDER OR RESTRAINING ORDER WITHOUT REQUIRING HEREIN RESPONDENT MIRANDA TO POST A BOND.[23]

An insight into the consequences of the case antecedents could have predicted for petitioner a course other than the present petition. Time and effort could have been saved, for better purposes, for all parties including specially this Court.

The *Punong Barangay* Election Protest filed by Manalo against Miranda was clearly decided in Manalo's favor. The trial court stated:

> To recapitulate, out of the total number of protested ballots by the protestant of ONE HUNDRED TWENTY-TWO (122) covering six (6) protested precints in Barangay Sta. Maria, Mabalacat, Pampanga, the total number of ballots that have been voided or nullified as per Court's findings is ELEVEN (11) to be deducted from the total number of votes obtained by the protestee and from the two (2) ballots claimed by the protestant only one (1) ballot is found to be valid claim which will be added to the votes obtained by the protestant during the October 25, 2010 Barangay Election.
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> Thus as shown from the final tally of the result of the Court's appreciation of ballots, protestant **CESAR MANALO** is the true choice for Punong Barangay of Sta. Maria, Mabalacat, Pampanga having garnered THREE HUNDRED FORTY-FOUR (344) votes from 343 votes while herein protestee ERNESTO M. MIRANDA got THREE HUNDRED THIRTY-THREE (333) votes from 344 votes or a plurality of 11 votes in favor of the protestant.[24]

This ruling was pushed into the background when, acting on Manalo's motion for immediate execution of decision pending appeal, the trial court issued a Special Order granting Manalo's prayer for the issuance of a writ of execution pending appeal. While Miranda's motion for reconsideration of the special order was yet pending, he filed with the Comelec a Petition for *Certiorari* and Prohibitions with Prayer for a *Status Quo Ante* or Retraining Order. A day after, Miranda's motion for reconsideration was eventually denied, the trial court petinently stating that:

> The Court believes that [Manalo] has won in the barangay election of October 25, 2010 <u>even if</u> the Court had included in the appreciation of ballots those which were claimed by the [Miranda].[25] (Underlining supplied)

This ruling squarely addressed the argument of Miranda that: