

EN BANC

[G.R. No. 195229, October 09, 2012]

EFREN RACEL ARATEA, PETITIONER, VS. COMMISSION ON ELECTIONS AND ESTELA D. ANTIPOLLO, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

This is a special civil action for *certiorari*^[1] seeking to review and nullify the Resolution^[2] dated 2 February 2011 and the Order^[3] dated 12 January 2011 of the Commission on Elections (COMELEC) En Banc in *Dra. Sigrid S. Rodolfo v. Romeo D. Lonzanida*, docketed as SPA No. 09-158 (DC). The petition asserts that the COMELEC issued the Resolution and Order with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Facts

Romeo D. Lonzanida (Lonzanida) and Estela D. Antipollo (Antipollo) were candidates for Mayor of San Antonio, Zambales in the May 2010 National and Local Elections. Lonzanida filed his certificate of candidacy on 1 December 2009.^[4] On 8 December 2009, Dra. Sigrid S. Rodolfo (Rodolfo) filed a petition under Section 78 of the Omnibus Election Code to disqualify Lonzanida and to deny due course or to cancel Lonzanida's certificate of candidacy on the ground that Lonzanida was elected, and had served, as mayor of San Antonio, Zambales for four (4) consecutive terms immediately prior to the term for the May 2010 elections. Rodolfo asserted that Lonzanida made a false material representation in his certificate of candidacy when Lonzanida certified under oath that he was eligible for the office he sought election. Section 8, Article X of the 1987 Constitution^[5] and Section 43(b) of the Local Government Code^[6] both prohibit a local elective official from being elected and serving for more than three consecutive terms for the same position.

The COMELEC Second Division rendered a Resolution^[7] on 18 February 2010 cancelling Lonzanida's certificate of candidacy. Pertinent portions of the 18 February 2010 Resolution read:

Respondent Lonzanida never denied having held the office of mayor of San Antonio, Zambales for more than nine consecutive years. Instead he raised arguments to forestall or dismiss the petition on the grounds other than the main issue itself. We find such arguments wanting. Respondent Lonzanida, for holding the office of mayor for more than three consecutive terms, went against the three-term limit rule; therefore, he could not be allowed to run anew in the 2010 elections. It is time to infuse new blood in

the political arena of San Antonio.

WHEREFORE, premises considered, the instant petition is hereby GRANTED. The Certificate of Candidacy of Respondent Romeo D. Lonzanida for the position of mayor in the municipality of San Antonio, Zambales is hereby CANCELLED. His name is hereby ordered STRICKEN OFF the list of Official Candidates for the position of Mayor of San Antonio, Zambales in May 10, 2010 elections.

SO ORDERED.^[8]

Lonzanida's motion for reconsideration before the COMELEC En Banc remained pending during the May 2010 elections, Lonzanida and Efren Racel Aratea (Aratea) garnered the highest number of votes and were respectively proclaimed Mayor and Vice-Mayor.

Aratea took his oath of office as Acting Mayor before Regional Trial Court (RTC) Judge Raymond C. Viray of Branch 75, Olongapo City on 5 July 2010.^[9] On the same date, Aratea wrote the Department of Interior and Local Government (DILG) and requested for an opinion on whether, as Vice-Mayor, he was legally required to assume the Office of the Mayor in view of Lonzanida's disqualification. DILG Legal Opinion No. 117, S. 2010^[10] stated that Lonzanida was disqualified to hold office by reason of his criminal conviction. As a consequence of Lonzanida's disqualification, the Office of the Mayor was deemed permanently vacant. Thus, Aratea should assume the Office of the Mayor in an acting capacity without prejudice to the COMELEC's resolution of Lonzanida's motion for reconsideration. In another letter dated 6 August 2010, Aratea requested the DILG to allow him to take the oath of office as Mayor of San Antonio, Zambales. In his response dated 24 August 2010, then Secretary Jesse M. Robredo allowed Aratea to take an oath of office as "the permanent Municipal Mayor of San Antonio, Zambales without prejudice however to the outcome of the cases pending before the [COMELEC]."^[11]

On 11 August 2010, the COMELEC En Banc Issued a Resolution^[12] disqualifying Lonzanida from running for Mayor in the May 2010 elections. The COMELEC En Banc's resolution was based on two grounds: *first*, Lonzanida had been elected and had served as Mayor for more than three consecutive terms without interruption; and *second*, Lonzanida had been, convicted by final judgment often (10) counts of falsification under the Revised Penal Code. Lonzanida was sentenced for each count of falsification to imprisonment of four (4) years and one (1) day of *prisión correccional* as minimum, to eight (8) years and one (1) day of *prisión mayor* as maximum. The judgment of conviction became final on 23 October 2009 in the Decision of this Court in *Lonzanida v. People*,^[13] before. Lonzanida filed his certificate of candidacy on 1 December Pertinent portions of the 11 August 2010 Resolution read:

Prescinding from the foregoing premises, Lonzanida, for having served as Mayor of San Antonio, Zambales for more than three (3) consecutive terms and for having been convicted by a final judgment of a crime punishable by more than one (1) year of imprisonment, is clearly disqualified to run for the same position in the May 2010 Elections.

WHEREFORE, in view of the foregoing, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.^[14]

On 25 August 2010, Antipolo filed a Motion for Leave to Intervene and to Admit Attached Petition-in-Intervention.^[15] She claimed her right to be proclaimed as Mayor of San Antonio, Zambales because Lonzanida ceased to be a candidate when the COMELEC Second Division, through its 18 February 2010 Resolution, ordered the cancellation of his certificate of candidacy and the striking out of his name from the list of official candidates for the position of Mayor of San Antonio, Zambales in the May 2010 elections.

In his Comment filed on 26 January 2011, Aratea asserted that Antipolo, as the candidate who received the second highest number of votes, could not be proclaimed as the winning candidate. Since Lonzanida's disqualification was not yet final during election day, the votes cast in his favor could not be declared stray. Lonzanida's subsequent disqualification resulted in a permanent vacancy in the Office of Mayor and Aratea, as the duly-elected Vice-Mayor, was mandated by Section 44^[16] of the Local Government Code to succeed as Mayor.

The COMELEC's Rulings

The COMELEC En Bane issued an Order dated 12 January 2011, stating:

Acting on the "Motion for Leave to Intervene and to Admit Attached Petition-in-Intervention" filed by Eslela D. Aniipolo (Antipolo) and pursuant to the power of this Commission to suspend its Rules or any portion thereof in the interest of justice, this Commission hereby RESOLVES to:

1. GRANT the aforesaid Motion;
2. ADMIT the Petition-in-Intervention filed by Antipolo;
3. REQUIRE the Respondent, ROMEO DURLAO LONZANIDA, as well as EFREN RACEL ARATEA, proclaimed Vice-Mayor of San Antonio, Zambales, to file their respective Comments on the Petition-in- Intervention within a non-extendible period of five (5) days from receipt thereof;
4. SET the above mentioned Petition-in-Intervention for hearing on January 26, 2011 at 10:00 a.m. COMELEC Session Hall, 8th Floor, Palacio del Gobernador, Intramuros, Manila.

WHEREFORE, furnish copies hereof to the parties for their information and compliance.

SO ORDERED.^[17]

In its Resolution dated 2 February 2011, the COMELEC En Banc no longer considered Lonzanida's qualification as an issue: "It is beyond cavil that Lonzanida is not eligible to hold and discharge the functions of the Office of the Mayor of San Antonio, Zambales. The sole issue to be resolved at this juncture is how to fill the vacancy resulting from Lonzanida's disqualification."^[18] The Resolution further stated:

We cannot sustain the submission of Oppositor Aratea that Intervenor Aniipolo could never be proclaimed as the duly elected Mayor of Antipolo [sic] for being a second placer in the elections. The teachings in the cases of Codilla vs. De Venecia and Nazareno and Domino vs. COMELEC, et al., while they remain sound jurisprudence find no application in the case at bar. What sets this case apart from the cited jurisprudence is that the notoriety of Lonzanida's disqualification and ineligibility to hold public office is established both in fact and in law on election day itself. Hence, Lonzanida's name, as already ordered by the Commission on February 18, 2010 should have been stricken off from the list of official candidates for Mayor of San Antonio, Zambales.

WHEREFORE, in view of the foregoing, the Commission hereby:

1. Declares NULL and VOID the proclamation of respondent ROMEO D. LONZANIDA;
2. GRANTS the Petition for Intervention of Estela D. Antipolo;
3. Orders the immediate CONSTITUTION of a Special Municipal Board of Canvassers to PROCLAIM Intervenor Estela D. Antipolo as the duly elected Mayor of San Antonio, Zambales;
4. Orders Vice-Mayor Efren Racel Aratea to cease and desist from discharging the functions of the Office of the Mayor, and to cause a peaceful turn-over of the said office to Antipolo upon her proclamation; and
5. Orders the Office of the Executive Director as well as the Regional Election Director of Region HI to cause the implementation of this Resolution and disseminate it to the Department of Interior and Local Government.

SO ORDERED.^[19]

Aratea filed the present petition on 9 February 2011.

The Issues

The manner of filling up the permanent vacancy in the Office of the Mayor of San Antonio, Zambales is dependent upon the determination of Lonzanida's removal. Whether Lonzanida was disqualified under Section 68 of the Omnibus Election Code, or made a false material representation under Section 78 of the same Code **that resulted in his certificate of candidacy being void *ab initio***, is determinative of

whether Aratea or Antipolo is The rightful occupant to the Office of the Mayor of San Antonio, Zambales.

The dissenting opinions reverse the COMELEC's 2 February 2011 Resolution and 12 January 2011 Order. They hold that Aratea, the duly elected Vice-Mayor of San Antonio, Zambales, should be declared Mayor pursuant to the Local Government Code's rule on succession.

The dissenting opinions make three grave errors: *first*, they ignore prevailing jurisprudence that a false representation in the certificate of candidacy as to eligibility in the number of terms elected and served is a material fact that is a ground for a petition to cancel a certificate of candidacy under Section 78; *second*, they ignore that a false representation as to eligibility to run for public office due to the fact that the candidate suffers from perpetual *special disqualification* is a material fact that is a ground for a petition to cancel a certificate of candidacy under Section 78; and *third*, they resort to a strained statutory construction to conclude that the violation of the three-term limit rule cannot be a ground for cancellation of a certificate of candidacy under Section 78, even when it is clear and plain that violation of the three-term limit rule is an ineligibility affecting the qualification of a candidate to elective office.

The dissenting opinions tread on dangerous ground when they assert that a candidate's eligibility to the office he seeks election must be strictly construed to refer **only** to the details, i.e., age, citizenship, or residency, among others, which the law requires him to slate in his COC, and which he must swear under oath to possess. The dissenting opinions choose to view a false certification of a candidate's eligibility on the three-term limit rule not as a ground for false material representation under Section 78 but as a ground for disqualification under Section 68 of the same Code. This is clearly contrary to well-established jurisprudence.

The Court's Ruling

We hold that Antipolo, the alleged "second placer," should be proclaimed Mayor because Lonzanida's certificate of candidacy was void *ab initio*. In short, Lonzanida was never a candidate at all. All votes for Lonzanida were stray votes. Thus, Antipolo, the only qualified candidate, actually garnered the highest number of votes for the position of Mayor.

Qualifications and Disqualifications

Section 65 of the Omnibus Election Code points to the Local Government Code for the qualifications of elective local officials. Paragraphs (a) and (c) of Section 39 and Section 40 of the Local Government Code provide in pertinent part:

Sec. 39. *Qualifications*, (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city or province x x x; a resident therein for at least one (i) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

x x x x

(c) Candidates for the position of mayor or vice-mayor of independent