

## EN BANC

[ G.R. No. 190156, February 12, 2010 ]

**LEONOR DANGAN-CORRAL, PETITIONER, VS. COMMISSION ON ELECTIONS AND ERNESTO ENERO FERNANDEZ, RESPONDENTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Does the allowance of execution pending appeal of a Decision of a Regional Trial Court (RTC) in an election protest case constitute grave abuse of discretion amounting to lack or excess of jurisdiction when the said RTC Decision does not contain the specific matters required by the Rules of Procedure in Election Contests? This is the question directly involved in the present case.

In the present Petition for *Certiorari*, petitioner assails the December 17, 2008 and November 10, 2009 Resolutions of the Commission on Elections (Comelec) in Comelec Special Relief Case, SPR No. 51-2008 dismissing petitioner's petition for *certiorari* and denying her motion for reconsideration, respectively. The Comelec found that the RTC substantially complied with the rules on execution pending appeal and did not gravely abuse its discretion amounting to lack or excess of jurisdiction.

#### ***Antecedents***

Petitioner Leonor Dangan-Corral (Corral) and private respondent Ernesto Enero Fernandez (Fernandez) were candidates for the position of mayor of the Municipality of El Nido, Palawan during the May 14, 2007 elections. Corral was eventually proclaimed the winner with 5,113 votes as against Fernandez's 3,807. The latter, thereafter, filed an election protest docketed as Special Proceedings Case No. 1870 which was raffled to Branch 95 of the RTC of Puerto Princesa City, Palawan.

#### ***Ruling of the Regional Trial Court***

On February 22, 2008, the RTC promulgated its Decision,<sup>[1]</sup> the dispositive portion of which reads:

WHEREFORE, premises considered, the Court rules that, in view of the invalidation of the ballots judicially declared as written by one (1) or two (2) persons, the Protestant is hereby declared the duly elected Mayor of El Nido, Palawan by a vote of 1,701, x x x winning over protestee whose final tally of votes after above deduction is 1,236 votes, the Protestant winning by a margin of 465 votes.<sup>[2]</sup>

On the same day that the decision was promulgated, Corral filed her formal Notice of Appeal simultaneously paying the required amount of docket/appeal fees. Fernandez, on the other hand, filed a Motion for Execution Pending Appeal and set the same for hearing on February 27, 2008.

On the said date of hearing, Corral filed her written opposition to the motion; nevertheless, the hearing was held. After the hearing, the RTC judge issued the Order<sup>[3]</sup> granting the motion for execution of his Decision pending its appeal. The dispositive part of the Order states:

WHEREFORE, premises considered, in view of the circumstances cited above surrounding the execution of the above questioned ballots, there exists a cloud of doubt on the earlier pronouncement of the Board of Election Canvassers declaring Protestee as winner of the election contest and should not continue in office as Protestee has no mandate of the people of El Nido at this point in time and in lieu thereof, the Court hereby GRANTS the execution pending appeal of its Decision dated February 22, 2008.

IT IS SO ORDERED.<sup>[4]</sup>

On March 5, 2008, Corral filed a Motion for Reconsideration of the said Order, but the motion was denied. Thus, Corral filed on March 12, 2008 a petition for *certiorari* before the Comelec imputing grave abuse of discretion to the RTC for granting Fernandez's motion for execution pending appeal despite the absence of good and special reasons or superior circumstances as expressly required by existing rules.

### ***Ruling of the Comelec First Division***

The Comelec First Division issued a 60-day Temporary Restraining Order (TRO) on March 26, 2008 enjoining the enforcement and implementation of the February 27, 2008 Order of the RTC. Thereafter, as the TRO was about to expire, it issued an order dated May 22, 2008 granting the preliminary injunction prayed for by the petitioner. Then on December 17, 2008, it resolved the petition and issued the assailed Resolution, the dispositive portion of which states:

WHEREFORE, premises considered, the instant petition for *certiorari* is hereby DISMISSED. The orders of the respondent court dated February 27, 2008 and March 7, 2008 are consequently affirmed.

SO ORDERED.<sup>[5]</sup>

### ***Ruling of the Comelec En Banc***

Petitioner moved for a reconsideration before the Comelec *En Banc* which resolved the matter on November 10, 2009 as follows:

WHEREFORE, premises considered, the Commission en banc RESOVLED, as it hereby RESOLVES, to:

1. DISMISS petitioner LEONOR DANGAN-CORRAL'S Motion for Reconsideration for lack of merit;
2. AFFIRM the dismissal of the herein Petition by the First Division of this Commission, hereby giving way to the implementation of the execution pending appeal issued by the court *a quo* in favor of private respondent Ernesto Enero Fernandez, and hereby ordering petitioner Leonor Dangan-Corral to vacate the position of Municipal Mayor of El Nido, Province of Palawan; and the Electoral Contests Adjudication Department is hereby directed to furnish the Department of Interior and Local Government a copy of this Resolution for proper implementation;
3. DENY public respondent RTC Judge Bienvenido Blancaflor's motion to dismiss (addressed to his own court) the charge of contempt filed against him, and instead, he is hereby found GUILTY of CONTEMPT OF THIS COMMISSION and sentenced to pay a fine in the amount of ONE THOUSAND (P1,000.00) PESOS;
4. DIRECT private respondent Ernesto Enero Fernandez to explain within ten (10) days from receipt of this Resolution why he should not be cited for contempt of this Commission for assuming the herein controverted position of Municipal Mayor of El Nido, Province of Palawan, while the Writ of Preliminary Injunction earlier issued was still in full force and effect.

SO ORDERED.<sup>[6]</sup>

### **Issues**

Hence, this petition, which alleges palpable grave abuse of discretion, to wit:

The respondent Comelec committed not only a reversible error but gravely abused its discretion when it ignored the mandatory requirements of the SUPREME COURT duly promulgated Rule on the matter of FORM of Decision of trial court in protest cases.

The respondent Comelec likewise committed grave abuse of discretion when it disregarded the mandatory requirements of the SUPREME COURT duly promulgated Rule, specifically Rule 14, Section 11 of the Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials by simplistically relying on the dispositive portion of the decision of the trial court and refusing to examine the substantial portion of the said grossly defective trial court decision so as to determine whether the victory of the protestant and the defeat of protestee was clearly established.

The respondent Comelec committed grave abuse of discretion when it sustained the validity of the Special Order granting private respondent's

Motion for Execution Pending Appeal notwithstanding the clear absence of the requisite two <sup>[2]</sup> good reasons to support such grant.

The respondent Comelec committed grave abuse of discretion when it stubbornly insisted on merely applying in this case the general principles of *Certiorari* Petitions and refused to apply and correlate therewith the provisions of the New Rules on Protest Cases Applicable to the Trial Courts most especially on the subject of Execution Pending Appeal.

In sum, the issue is whether the Comelec gravely abused its discretion amounting to lack or excess of jurisdiction in affirming the execution pending appeal of the decision of the RTC.

### ***Petitioner's Arguments***

Petitioner contends that the RTC Decision sought to be executed pending appeal violates the mandatory required form of decisions in election cases and thus should not be executed. She further contends that the determination of whether the victory of the protestant was clearly established should be made from the entire decision and not, as what the Comelec did, merely from the dispositive portion. She insists that the RTC Decision readily shows the inconclusive, defective and infirmed nature of protestant's alleged victory. Petitioner also posits that there was no valid or good reason given for granting the execution pending appeal. She also contends that the Comelec refused to apply the new rules on protest cases and is thus guilty of grave abuse of discretion.

### ***Private Respondent's Arguments***

On the other hand, Fernandez contends that the Decision of the RTC is well grounded based on the evidence presented and it clearly establishes his victory over Corral by a margin of 465 votes. Fernandez also contends that there are good reasons to allow execution pending appeal, like giving substance to the voice of the people of El Nido. Hence, he maintains that the decision may properly be the subject of a writ of execution pending appeal.

### **Our Ruling**

There are clear cut requirements on when RTC decisions may be executed pending appeal. Rule 14 of the Rules of Procedure in Election Contests states:

Sec. 11. *Execution pending appeal.* - On motion of the prevailing party with notice to the adverse party, the court, while still in possession of the original records, may, at its discretion, order the execution of the decision in an election contest before the expiration of the period to appeal, subject to the following rules:

(a) There must be a motion by the prevailing party with three-day notice to the adverse party. Execution pending appeal shall not issue without prior notice and hearing. There must be good reasons for the execution pending appeal. The court, in a special order, must state the good or