

EN BANC

[G. R. No. 159117, March 10, 2010]

HON. HECTOR B. BARILLO, ACTING PRESIDING JUDGE, MTC GUIHULNGAN, NEGROS ORIENTAL, PETITIONER, VS. HON. RALPH LANTION, HON. MEHOL K. SADAIN AND HON. FLORENTINO A. TUASON, JR., THE COMMISSIONERS OF THE SECOND DIVISION, COMMISSION ON ELECTIONS, MANILA; AND WALTER J. ARAGONES, RESPONDENTS.

[A.M. No. MTJ-10-1752 (Formerly OCA IPI No. 03-1353-MTJ)]

WALTER J. ARAGONES, COMPLAINANT, VS. HON. HECTOR B. BARILLO, MUNICIPAL TRIAL COURT, GUIHULNGAN, NEGROS ORIENTAL, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This treats of the two consolidated cases now before this Court, which are offshoots of an election protest case first filed before the Municipal Trial Court (MTC) of Guihulngan, Negros Oriental.

G.R. No. 159117 is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court, wherein petitioner Judge Hector B. Barillo (Judge Barillo) seeks the annulment of the Resolution^[2] dated June 11, 2003 of the Second Division of the Commission on Elections (COMELEC) in SPR No. 2-2003, finding Judge Barillo, then Acting Presiding Judge at the MTC of Guihulngan, Negros Oriental, guilty of grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the Decision^[3] dated November 27, 2002 and the Resolution^[4] dated December 9, 2002 in Election Case No. 7-2002.

A.M. No. MTJ-10-1752, on the other hand, is an administrative case, which arose from a Complaint^[5] filed with this Court by the private respondent in G.R. No. 159117, Walter J. Aragon (Aragones), charging Judge Barillo with violation of Aragon's constitutional rights, violation of the Code of Judicial Conduct, manifest bias and partiality, gross ignorance of the law and abuse of authority.

The factual and procedural antecedents of the cases are as follows:

Aragones and Oscar C. Lasola (Lasola) vied for the position of Punong Barangay of Poblacion, Guihulngan, Negros Oriental in the July 15, 2002 Barangay Elections. After the votes were canvassed during the day of the elections, Aragon was proclaimed the winning candidate, having obtained a total of 1,614 votes, as compared to the 1,593 votes garnered by Lasola.

On July 24, 2002, Lasola duly filed an election protest^[6] before the MTC of Guihulngan, which was docketed as **Election Case No. 7-2002**. Lasola accused the Board of Election Tellers in the various election precincts of Barangay Poblacion of illegally adopting their own procedures in the counting and appreciation of ballots, which led to his defeat. Lasola claimed that the alleged anomalous acts were committed upon the instructions of an election officer who was a nephew of Aragones. Lasola prayed, *inter alia*, for the appointment of as many Committees on Revision as may be necessary that will undertake a recount of the votes, in order that the true will of the electorate of Barangay Poblacion, Guihulngan, Negros Oriental may be finally determined.

On July 25, 2002, Judge Barillo, of the MTC of Guihulngan, issued an Order,^[7] directing the Clerk of Court of the MTC to issue summonses to Aragones, the Acting Election Officer Raytheon Roy C. Aragones, the Board of Canvassers and the Board of Election Tellers of Barangay Poblacion, Guihulngan, Negros Oriental, requiring the aforesaid individuals to file their respective answers within five days from receipt of the notice of the above Order. In accordance with Section 12, Rule 35^[8] of the COMELEC Rules of Procedure, Judge Barillo likewise directed the Acting Election Officer and the Municipal Treasurer of Guihulngan, Negros Oriental to surrender to the custody of the MTC Clerk of Court all ballot boxes containing ballots and their keys, list of voters with voting records, book of voters, and other documents used in the July 15, 2002 Barangay Elections of Barangay Poblacion, Guihulngan, Negros Oriental.

Thereafter, Judge Barillo issued another Order on July 29, 2002,^[9] which stated that there was a need for the revision of ballots in consonance with Sections 12, 13, 15 and 16 of Rule 35^[10] of the COMELEC Rules of Procedure. The protestant was, thus, ordered to deposit in cash the amount of P150.00 for every ballot box for the compensation of the revisors in an amount to be fixed by the MTC. Judge Barillo also created a Revision Committee composed of the Provincial Election Officer of Negros Oriental, Atty. Rogelio S. Benjamin, as Chairman, with the Protestant (Lasola) and/or his counsel, the Protestee (Aragones) and/or his counsel, and the MTC Clerk of Court as members.

On July 31, 2002, the counsel of Aragones, Atty. Francisco D. Yap, filed an Entry of Appearance with Motion to Disqualify Counsel for Protestant^[11] (Lasola) in **Election Case No. 7-2002**. Atty. Yap manifested before the MTC that Lasola's counsel, Atty. Justo J. Paras, was suspended from the practice of law by this Court in an administrative case docketed as A.C. No. 5333^[12] and the latter has filed a Motion to Lift Suspension, which was yet to be acted upon. Pending a reinstatement, Atty. Yap asserted that Atty. Paras was not legally permitted to appear as counsel in any court in the Philippines. Furthermore, the law firm of Paras and Associates, of which Atty. Paras was a partner, was allegedly owned by the then incumbent Congressman Jacinto V. Paras, such that the law firm was disqualified to appear as counsel, in view of the prohibition found in Section 14, Article VI of the Constitution that "[n]o Senator or Member of the House of Representatives may personally appear as counsel before any court of justice."^[13]

On even date, Aragones also filed an Answer with Affirmative Defenses and

Counterclaim,^[14] which denied the material averments in Lasola's Petition. Aragonés argued that the same was based merely on the speculations, surmises and conclusions of a losing candidate, without any supporting affidavits attached thereto. Aragonés pointed out that the Petition was not even based on Lasola's personal knowledge. As special and affirmative defenses, Aragonés also claimed that Lasola failed to comply with the requisites for a proper petition for a recount of votes and that there was no allegation that the election returns involved would affect the results of the elections. Aragonés prayed for the dismissal of the Petition and, by way of counterclaim, sought damages and attorney's fees.

On August 2, 2002, Judge Barillo issued an Order^[15] in **Election Case No. 7-2002**, setting the hearing on the revision of official ballots on August 9, 2002. Likewise, the Order stated that:

In order not to delay the speedy administration of justice, **Atty. Justo J. Paras (unless this court has received copy of the Supreme Court's Resolution for his suspension or disbarment from the practice of law)**, and/or his associates or any authorized counsel for Protestant Oscar C. Lasola are **directed to appear during the hearing on August 9, 2002 at 8:30 o'clock in the morning and until such time that this case is terminated**. Likewise, said Protestant's counsel and/or his associate are directed to appear on the above date and time of hearing. (Emphases ours.)

On August 7, 2002, Aragonés filed a Motion for Reconsideration^[16] of the Orders dated July 25, 2002 and July 29, 2002, as well as an Urgent Motion for Reconsideration of the Order dated August 2, 2002.

In an Order dated August 7, 2002, Judge Barillo resolved^[17] to deny the above-stated motions of Aragonés. As regards the suspension of Lasola's counsel, Atty. Paras, Judge Barillo quoted in his Order the *fallo* of the Decision of the Court dated October 18, 2000 in A.C. No. 5333, which reads:

In the light of the foregoing, **respondent [Atty. Paras] is hereby SUSPENDED from the practice of law for SIX (6) MONTHS on the charge of falsifying his wife's signature in bank documents and other related loan instruments; and for ONE (1) YEAR from the practice of law on the charges of immorality and abandonment of his own family, the penalties to be served simultaneously**. Let notice of this decision be spread in respondent's record as an attorney, and notice of the same served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all the courts concerned. (Emphasis ours.)

Thereafter, Judge Barillo referred to what he described as a self-explanatory letter by then Acting Bar Confidant Atty. Ma. Cristina B. Layusa addressed to Judge Romeo L. Anasario, Acting Municipal Circuit Trial Judge in Bindoy, Negros Oriental. The

letter reads:

Per Court resolution dated October 18, 2000, in Adm. Case No. 5333 (formerly CBD No. 371), Atty. Justo de Jesus Paras was ordered suspended from the practice of law for six (6) months on the charge of falsification and for one (1) year on the charge of immorality and abandonment. **The said order of suspension [became] effective on May 23, 2001**, when Atty. Paras received a copy of the resolution dated March 5, 2001, denying with finality his motion for reconsideration of the October 18, 2000 resolution. (Emphasis ours.)

Judge Barillo, however, did not elaborate any further. In quoting the above dispositive portion and letter, Judge Barillo appeared to rely on the fact that more than one year had already lapsed since the effectivity of the suspension order against Atty. Paras on May 23, 2001. Since the two periods of suspension imposed were ordered to be served simultaneously, Judge Barillo seemed to consider the suspension of Atty. Paras to have already been served out by the end of May 2002; and thus, when the election protest was instituted in the MTC by Lasola through Atty. Paras on July 24, 2002, said counsel was supposedly no longer suspended.

Concerning the Motion for Reconsideration questioning the Orders dated July 25, 2002 and July 29, 2002, Judge Barillo ruled that said Orders were consistent with the applicable provisions of the COMELEC Rules of Procedure. Judge Barillo apparently referred to the various sections of Rule 37 of the 1988 COMELEC Rules of Procedure, which were still in force at that time. Finally, Judge Barillo again directed all the parties and their respective counsels to appear before the MTC on August 9, 2002 for the revision of the official ballots.

Aggrieved by the above Resolution, Aragonés instituted a Petition for *Certiorari*, Prohibition, (and) *Mandamus*, with Temporary Restraining Order and/or Preliminary Mandatory Injunction^[18] under Rule 65 of the Rules of Court before the Regional Trial Court (RTC) of Negros Oriental, which was docketed as **Special Civil Action No. 02-01-G**. Judge Barillo and Lasola were named as respondents in the petition. Aragonés insisted that Judge Barillo committed grave abuse of discretion amounting to lack or excess of jurisdiction when: 1) he allowed a suspended lawyer to appear as counsel; and 2) he denied the Motion for Reconsideration filed by Aragonés without any hearing and immediately upon receipt thereof on the same date, August 7, 2002. Aragonés prayed that a writ of preliminary injunction be issued, directing Judge Barillo to cease and desist from hearing Election Case No. 7-2002 until further orders from the RTC; that the MTC Order dated August 7, 2002 be set aside; that an order be issued directing the MTC to disqualify Atty. Paras from appearing until the lifting of his suspension by the Court; and that Judge Barillo be ordered to voluntarily inhibit himself from handling the case.

On August 8, 2002, Atty. Paras filed a Comment on Atty. Francisco D. Yap's Motion to Disqualify Protestant's (Lasola) Counsel in **Election Case No. 7-2002**.^[19] Therein, Atty. Paras admitted that he was indeed suspended by the Court for a period of one year, which commenced on May 23, 2001 and ended on May 22, 2002. Upon the expiration of the period of his suspension, Atty. Paras confirmed that he also filed a motion to lift the order of suspension, as advised by the Office of the Bar Confidant.

Atty. Paras, however, disagreed with the theory of Atty. Yap that a formal reinstatement by the Court was necessary before he could resume his practice of law. Atty. Paras alleged that the jurisprudence^[20] cited by Atty. Yap, in support of the latter's Motion, were applicable only to cases where the penalty imposed upon an erring lawyer was either indefinite suspension or disbarment. Atty. Paras insisted that the cases cited were impertinent where the penalty meted out by the Court has a fixed and definite period of effectivity.

On August 9, 2002, Aragonés filed a Motion for Inhibition^[21] in **Election Case No. 7-2002** against Judge Barillo on the ground that the latter's demeanor, ruling and pronouncements demonstrated his bias and partiality towards Lasola, thereby violating the rights of Aragonés to due process and an impartial tribunal. Aragonés further ascribed grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Barillo, when the latter gave due course to the Petition filed by Lasola despite the deficiency of the cash deposit per ballot box and allowed a suspended lawyer to appear before the MTC.

Aragonés also filed on August 9, 2002 a Motion/Manifestation^[22] in **Election Case No. 7-2002**, asserting that the Motion for Reconsideration that he filed on August 7, 2002 was set for hearing on August 16, 2002 and yet Judge Barillo promptly denied the motion on the same day it was filed. Aragonés stressed that the Order^[23] dated August 7, 2002 revealed the manifest bias and partiality of Judge Barillo and denied the parties the chance to elevate to a higher court the issues raised in the motion. Aragonés pointed to the lack of jurisdiction of the MTC in view of the nonpayment of the proper docket fees and required expenses, as well as Judge Barillo's alleged act of contempt against this Court for allowing the appearance of Atty. Paras despite his suspension. Lastly, Aragonés disclosed that he also found out that Judge Barillo was a close relative of Atty. Paras.

In a Resolution^[24] dated August 9, 2002, Judge Barillo denied the Motion for Inhibition in **Election Case No. 7-2002**, holding that the period of suspension of Atty. Paras had already expired; and that Lasola was, nevertheless, represented by two other counsels, Atty. Jose M. Estacion, Jr. and Atty. Carlos M. Cainglet. Judge Barillo likewise declared that he was not related to Atty. Paras, either by affinity or consanguinity, and that the applicable provisions of the COMELEC Rules of Procedure had been sufficiently complied with. On August 10, 2002, Judge Barillo issued an Order^[25] stating that the Revision Committee was able to finish its duties and it was, thus, directed to submit its Revision Report. After such submission, the case was deemed submitted for decision.

On August 12, 2002, the RTC of Negros Oriental, Branch 64, through Judge Felix G. Gaudiél, Jr. issued an *Ex-Parte* Order^[26] in **Special Civil Action No. 02-01-G**, which required the respondents therein, Judge Barillo and Lasola, to comment on the Petition within ten days from receipt of a copy of the said order. The RTC stated that the Entry of Appearance with Motion to Disqualify Counsel for Protestant (Lasola) filed by Atty. Yap was a motion that was litigious; hence, it should have been heard and not denied outright. Furthermore, Judge Barillo was directed to cease and desist from proceeding with the hearing of Election Case No. 7-2002 within a period of 20 days from receipt of the order, given the perception of the RTC that the continuance of the acts of Judge Barillo complained of would probably work