

EN BANC

[G.R. No. 187231, June 22, 2010]

MINERVA GOMEZ-CASTILLO PETITIONER, VS. COMISSION ON ELECTIONS AND STRIKE B. REVILLA, RESPONDENTS.

DECISION

BERSAMIN, J.:

Petitioner Minerva Gomez-Castillo (Castillo) hereby seeks to nullify the orders dated January 30, 2009 and March 11, 2009^[1] issued in EAC No. A-01-2009 by the Commission on Elections (COMELEC).

Antecedents

Castillo and respondent Strike P. Revilla ran for Municipal Mayor of Bacoor, Cavite during the May 14, 2007 local elections. After the Municipal Board of Canvassers proclaimed Revilla as the elected Municipal Mayor of Bacoor, Cavite, Castillo filed an Election Protest *Ad Cautelam*^[2] in the Regional Trial Court (RTC) in Bacoor, Cavite, which was eventually raffled to Branch 19.

Through his Answer, Revilla sought the dismissal of the election protest, alleging that it was filed in the wrong Branch of the RTC. He pointed out that Supreme Court Administrative Order (SCAO) No. 54-2007 designated Branch 22 of the RTC in Imus, Cavite and Branch 88 of the RTC in Cavite City to hear, try and decide election contests involving municipal officials in Cavite; and that contrary to SCAO No. 54-2007, Castillo filed his protest in the RTC in Bacoor, Cavite, which was not the proper court.

On November 21, 2008, Branch 19 dismissed Castillo's election protest for being violative of SCAO No. 54-2007.

On December 23, 2008, Castillo presented a *notice of appeal*.^[3] Thereupon, the RTC ordered that the complete records of the protest be forwarded to the Election Contests Adjudication Department (ECAD) of the COMELEC.^[4]

The First Division of the COMELEC dismissed the appeal for being brought beyond the five-day reglementary period, noting that although Castillo had received the November 21, 2008 order of the RTC on December 15, 2008, she filed her *notice of appeal* on December 23, 2008, a day too late to appeal, to wit:

Pursuant to Section 3, Rule 22 of the COMELEC Rules of Procedure which requires the appellant to file her notice of appeal "within five (5) days after promulgation of the decision of the court xxx" and considering further that jurisprudence holds that perfection of an appeal in the

manner and within the period laid down by law is not only mandatory but JURISDICTIONAL, this Commission, First Division, RESOLVES to DISMISS the instant appeal for appellant's failure to file her Notice of Appeal within the five (5) day reglementary period.

SO ORDERED.^[5]

Castillo moved for the reconsideration of the dismissal of her appeal, but the COMELEC denied the motion because she did not pay the motion fees required under Sec. 7(f), Rule 40 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 02-0130, viz:

The "Motion for Reconsideration" filed by protestant-appellant Minerva G. Castillo, thru registered mail on 13 February 2009 and received by this Commission on 4 March 2009, seeking reconsideration of the Commission's (First Division) Order dated 30 January 2009, is hereby DENIED for failure of the movant to pay the necessary motion fees under Sec. 7(f), Rule 40 of the Comelec Rules of Procedure^[6] as amended by Comelec Resolution no. 02-0130.^[7]

Castillo has brought the present recourse, contending that the COMELEC's orders dismissing her appeal and denying her *motion for reconsideration* were issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

Parties' Arguments

Castillo insists that her *notice of appeal* was seasonably filed; otherwise, the RTC would not have given due course to his appeal; that Section 3, Rule 22 of the COMELEC Rules of Procedure, cited in the assailed order dated January 30, 2009, did not apply to her case, because Section 2 of Rule I of the COMELEC Rules of Procedure provides that:

Sec. 2. *Applicability*.- These rules, except Part VI, shall apply to all actions and proceedings brought before the Commission. Part VI shall apply to election contests and *Quo Warranto* cases cognizable by courts of general jurisdiction.

that the COMELEC Rules of Procedure applied only to actions and proceedings brought before the COMELEC, not to actions or proceedings originating in courts of general jurisdiction; that even assuming that the appeal was belatedly filed, the rules on election contests should be liberally construed to the end that mere technical objections would not defeat the will of the people in the choice of public officers; that the Court relaxed on numerous occasions the application of the rules in order to give due course to belated appeals upon strong and compelling reasons; that an electoral contest like hers was imbued with public interest, because it involved the paramount need to clarify the real choice of the electorate; that Section 4 of Rule I of the COMELEC Rules of Procedure even allows the COMELEC to suspend its own rules of procedure in order to obtain a speedy disposition of all matters

pending before the COMELEC; and that the COMELEC should not have dismissed her *motion for reconsideration* for her mere failure to pay the corresponding filing fee, but should have considered the soundness of her argument to the effect that SCAO No. 54-2007 continued to vest jurisdiction to try and decide election contest involving elective municipal officials in the RTC as a whole, rendering the designation of the RTC branches to handle election protests akin to a designation of venue.

Castillo further insists that Section 12 of Rule 2 of the COMELEC Rules of Procedure provides that assignment of cases to the specially designated courts should be done exclusively by raffle conducted by the executive judge or by the judges designated by the Supreme Court; and that her protest was thus duly raffled to the RTC in Bacoor, Cavite, considering that SCAO 54-2007 should be construed as a permissive rule that cannot supersede the general rule that jurisdiction over election contests is vested in the RTC.

In his *comment*,^[8] Revilla submits that the COMELEC correctly dismissed Castillo's appeal for being filed beyond the five-day reglementary period prescribed in Section 3 of Rule 22 of the COMELEC Rules of Procedure, thus:

Section 3. *Notice of Appeal.* - Within five (5) days after promulgation of the decision of the court, the aggrieved party may filed with said court a notice of appeal, and serve a copy thereof upon the attorney of record of the adverse party.

that A.M. No. 07-4-15-SC, otherwise known as *The Rules of Procedure in Election Contests Involving Elective Municipal and Barangay Officials*, clearly and categorically directed:

Section 8. *Appeal.* - An aggrieved party may appeal the decision to the commission on Elections, within five days after promulgation, by filing a notice of appeal with the court that rendered the decision, with copy served on the adverse counsel or party if not represented by counsel.

that the period for filing an appeal is not a mere technicality of law or procedure and the right to appeal is merely a statutory privilege that may be exercised only in the manner prescribed by the law; that the *notice of appeal*, even on the assumption that it was filed on time, still remained futile due to the petitioner's failure to pay the corresponding fee for the *motion for reconsideration*; that the failure to pay the filing fee rendered the *motion for reconsideration* a mere scrap of paper, because it prevented the COMELEC from acquiring jurisdiction over the protest; and that the COMELEC could not be faulted for applying its procedural rules to achieve a just and expeditious determination of every proceeding brought before it.

Issues

Does Section 13 of Rule 2 of A.M. No. 07-4-15-SC designate the RTC Branch that has jurisdiction over an election contest, or does it merely designate the proper *venue* for filing?