

EN BANC

[G.R. No. 191988, August 31, 2010]

**ATTY. EVILLO C. PORMENTO, PETITIONER, VS. JOSEPH "ERAP"
EJERCITO ESTRADA AND COMMISSION ON ELECTIONS,
RESPONDENTS.**

R E S O L U T I O N

CORONA, J.:

What is the proper interpretation of the following provision of Section 4, Article VII of the Constitution: "[t]he President shall not be eligible for any reelection?"

The novelty and complexity of the constitutional issue involved in this case present a temptation that magistrates, lawyers, legal scholars and law students alike would find hard to resist. However, prudence dictates that this Court exercise judicial restraint where the issue before it has already been mooted by subsequent events. More importantly, the constitutional requirement of the existence of a "case" or an "actual controversy" for the proper exercise of the power of judicial review constrains us to refuse the allure of making a grand pronouncement that, in the end, will amount to nothing but a non-binding opinion.

The petition asks whether private respondent Joseph Ejercito Estrada is covered by the ban on the President from "any reelection." Private respondent was elected President of the Republic of the Philippines in the general elections held on May 11, 1998. He sought the presidency again in the general elections held on May 10, 2010. Petitioner Atty. Evillo C. Pormento opposed private respondent's candidacy and filed a petition for disqualification. However, his petition was denied by the Second Division of public respondent Commission on Elections (COMELEC).^[1] His motion for reconsideration was subsequently denied by the COMELEC *en banc*.^[2]

Petitioner filed the instant petition for certiorari^[3] on May 7, 2010. However, under the Rules of Court, the filing of such petition would not stay the execution of the judgment, final order or resolution of the COMELEC that is sought to be reviewed.^[4] Besides, petitioner did not even pray for the issuance of a temporary restraining order or writ of preliminary injunction. Hence, private respondent was able to participate as a candidate for the position of President in the May 10, 2010 elections where he garnered the second highest number of votes.^[5]

Private respondent was not elected President the second time he ran. Since the issue on the proper interpretation of the phrase "any reelection" will be premised on a person's second (whether immediate or not) election as President, there is no case or controversy to be resolved in this case. No live conflict of legal rights exists.^[6] There is in this case no definite, concrete, real or substantial controversy that touches on the legal relations of parties having adverse legal interests.^[7] No specific