

EN BANC

[G.R. No. 184935, December 21, 2009]

DESEDERIO O. MONREAL, PETITIONER, VS. COMMISSION ON ELECTIONS AND FELIPE M. ALDAY, RESPONDENTS.

[G.R. No. 184938]

NESTOR RACIMO FORONDA, PETITIONER, VS. COMMISSION ON ELECTIONS AND LEOPOLDO CRUZ MANALILI, RESPONDENTS.

D E C I S I O N

ABAD, J.:

This case is about the application of the rule of prejudicial question to an election case and the applicability of the three-term limit rule on elective *barangay* officials.

The Facts and the Case

In G.R. No. 184935

Petitioner Desederio Monreal (Monreal) filed his certificate of candidacy for *Punong Barangay* of *Barangay* 178, District I, Caloocan City, in the October 29, 2007 *barangay* elections. But respondent Felipe M. Alday sought his disqualification by the Commission on Elections (COMELEC) in SPA 08-072 (BRGY.) under the three-term limit rule for *barangay* officials embodied in Section 2 of Republic Act (R.A.) 9164. Monreal moved to suspend the hearing of this case on the ground of the pendency before the Regional Trial Court (RTC) of Caloocan City in SCA C-914 (*Conrado Cruz v. Commission on Elections*) of the issue of whether or not the cited law is unconstitutional.

Meantime, petitioner Monreal was declared by the Caloocan City Metropolitan Trial Court as the duly elected *Punong Barangay* in the election protest case he filed against respondent Alday. On May 9, 2008, however, the COMELEC rendered a decision, disqualifying Monreal from seeking election to a fourth term as *Punong Barangay* and canceling his certificate of candidacy. But, invoking the decision rendered on July 30, 2008 by the Caloocan City RTC in SCA C-914, which annulled as unconstitutional the second paragraph of Section 2 of R.A. 9164, he filed a motion for reconsideration in the disqualification case but the COMELEC *En Banc* denied the same on October 2, 2008.

In a parallel development, respondent Alday appealed the decision of the RTC. But the COMELEC, a party to that case, filed a motion for its reconsideration. The parties have not updated the Court regarding the RTC's action on that motion.

In G.R. No. 184938

The essential facts of the case of petitioner Nestor Racimo Foronda (Foronda) are the same as those of petitioner Monreal. Respondent Leopoldo Cruz Manalili sought the cancellation of Foronda's certificate of candidacy for Chairman of *Barangay* 102, District II, Caloocan City, before the COMELEC in SPA 08-078 (BRGY.) for violation of the three-term limit rule. Foronda also sought the suspension of the proceedings in the case in view of the pendency of the issue of unconstitutionality of Section 2 of R.A. 9164 before the Caloocan City RTC in SCA C-914. Meanwhile, Foronda won the election and assumed office.

On May 19, 2008, however, the COMELEC disqualified Foronda and annulled his proclamation as *Barangay* Chairman. He filed a motion for reconsideration, invoking the RTC decision in SCA C-914, but the COMELEC *En Banc* denied the same on September 25, 2008.

Petitioners Monreal and Foronda filed separate petitions for *certiorari* before this Court questioning the identical ruling of the COMELEC against them. Upon their motion, the Court caused the consolidation of their cases.

The Issue Presented

The petitions identically raise the core issue of whether or not the pendency in court of the issue of unconstitutionality of the second paragraph of Section 2 of R.A. 9164, which provides for a three-term limit for *barangay* officials reckoned from 1994, constitutes a prejudicial question to the disqualification cases based on that law against petitioners Monreal and Foronda.

The Ruling of the Court

Petitioners point out that respondent COMELEC gravely abused its discretion when it refused to suspend further proceedings in the disqualification cases against them in view of the prejudicial question they raised. That question—the unconstitutionality of the second paragraph of Section 2 of R.A. 9164, which sets a three-term limit for *barangay* officials—is still pending in court.

Section 2 of R.A. 9164 provides:

Sec. 2. Term of Office – The term of office of all *barangay* and *sangguniang kabataan* officials after the effectivity of this Act shall be three (3) years.

No *barangay* elective official shall serve for more than three (3) consecutive terms in the same position: *Provided, however, That the term of office shall be reckoned from the 1994 barangay elections. Voluntary renunciation of office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official was elected.* (Emphasis supplied)

The RTC of Caloocan City held in SCA C-914 that the retroactive reckoning of the three-term limit rule to the year 1994, before the passage of the law on March 19, 2002 is unconstitutional for having violated a) the principle of prospective application of statutes, b) the equal protection clause, and c) the one-act one-subject rule of the Constitution. But, as already stated, the RTC decision has not yet become final, the same having been appealed by respondent Alday or has been the subject of a motion for reconsideration filed by the COMELEC.