

EN BANC

[**A.M. No. RTJ-08-2100 (Formerly A.M. OCA IPI No. 03-1689-RTJ), January 31, 2008**]

MAYOR SHIRLEY M. PANGILINAN, COMPLAINANT, VS. JUDGE INOCENCIO M. JAURIGUE, PRESIDING JUDGE AND ATTY. CIRILO Q. TEJOSO, JR., BRANCH CLERK OF COURT, BOTH OF BRANCH 44, REGIONAL TRIAL COURT, MAMBURAO, OCCIDENTAL MINDORO RESPONDENTS. PROMULGATED:

AZCUNA, J.:

This case concerns an administrative complaint for "gross ignorance of the law, abuse of authority and disobedience to a superior order"^[1] filed by complainant Shirley M. Pangilinan (then Mayor of the Municipality of Paluan, Occidental Mindoro) against respondents Judge Inocencio M. Jaurigue and Branch Clerk of Court Cirilo Q. Tejoso, Jr. (both of Branch 44, Regional Trial Court, Mamburao, Occidental Mindoro).

In an Order dated May 14, 2004, Justice Fernanda Lampas Peralta^[2] directed the parties to appear for a preliminary conference on June 3, 2004.^[3] Only the complainant and her counsel appeared on the scheduled preliminary conference, as both respondents merely filed a manifestation dated May 21, 2004, stating that "they are waiving their appearance in the preliminary conference x x x due to heavy workload in their official station that needs immediate attention, but rather move and pray that in lieu thereof, they be allowed to submit position paper and submit this case on the basis of the pleadings filed."^[4] Complainant did not oppose the manifestation. The preliminary conference was deemed terminated and the parties were directed to submit their position papers and all pertinent documents. A hearing was scheduled on June 22, 2004 for the presentation of the parties' evidence.^[5]

On June 22, 2004, respondents again did not appear and merely filed their position paper, stating that they were waiving their appearance and were willing to submit their case on the basis of their position papers, pleadings and documents submitted.^[6] Complainant, through counsel, manifested that she was submitting affidavits of witnesses. In view of respondents' waiver of appearance and to expedite the proceedings, the Investigating Justice allowed the complainant to submit the affidavits of witnesses, together with her position paper and other pertinent documents, after which the case was deemed submitted for report and recommendation, unless a hearing would be necessary to clarify the positions of the parties.^[7]

Complainant submitted her position paper dated June 21, 2004,^[8] an affidavit dated June 21, 2004^[9] of Ma. Cristina Leido and other documents. Respondents submitted their position paper dated June 17, 2004^[10] and other documents. Subsequently, respondent Judge submitted an "Addendum to Respondents' Position Paper" dated

July 14, 2004, attaching thereto an affidavit dated July 14, 2004 of Atty. Ulysses D. Delgado.

As stated by the Investigating Justice, the facts are as follows:

The controversy started when the questioned Order dated June 5, 2002 was issued in Election Case (EC) No. 19, directing the resumption of revision of ballots on June 10, 2002, which Order was merely stamped "Original Signed" by respondent Clerk of Court upon the alleged instruction of respondent Judge.

Prior to the issuance of the Order dated June 5, 2002, the following facts, as narrated in complainant's position paper, are undisputed:

Complainant [was] the incumbent Mayor of the Municipality of Paluan, Occidental Mindoro, having been elected in the local election of May 2001;

That sometime in May 2001, the losing mayoralty candidate Pablo T. De Ocampo, filed an election protest against Shirley M. Pangilinan, docketed as Election Case No. 19, before the Regional Trial Court - Mamburao, Occidental Mindoro, Branch 44, presided by Hon. Inocencio M. Jaurigue with Atty. Cirilo Q. Tejoso, as the Branch Clerk of Court;

That the Revision Committee was created with respondent Atty. Cirilo Q. Tejoso, as the Head Revisor;

That sometime July 25, 2002, complainant Shirley Pangilinan filed a Petition for Certiorari before the Comelec, docketed as SPC. No. 31-2002; (sic)^[11]

That conformably with the Petition for Certiorari, the Commission on Election issued an Order dated November 13, 2001, the dispositive portion of which reads as follows:

"In the meantime, considering that the twenty (20) day temporary restraining order issued in this case on November 23, 2001 (sic)^[12] would soon expire, it was the consensus of the members of the Commission present that the parties follow the *status quo*, so as not to render this case moot and academic. Hence, the Commission issued a *status quo* order in open court enjoining the parties to maintain the *status quo* in this case, until further orders from the Second Division."

x x x

That in the said Order, the COMELEC directed the parties to maintain the *status quo* until further notice from the Second Division considering that the twenty (20) day restraining order issued in the case on November 13, 2001 (sic)^[13] would soon expire and in order not to render the case moot and academic;

That conformably with the said Order, the Presiding Judge on December 11, 2001, issued an Order, the dispositive portion of which reads:

"ACCORDINGLY, the Court has nothing to do but to defer the revision of ballots in the remaining precincts of the above-entitled case, and instead let this case be held in abeyance until receipt of the Order from the Second Division, Commission on Election."

From the time that the questioned Order dated June 5, 2002 was issued by respondent Judge directing the revision of ballots in ECC No. 19, the parties presented their respective versions, as follows:

COMPLAINANT'S VERSION

That on June 5, 2002, the Presiding Judge issued an Order directing the revision of the ballot for the remaining precincts to commence on June 10, 2002 at 9:00 o'clock in the morning and 2:00 o'clock in the afternoon, pursuant to the Order of the Commission on Elections dated May 24, 2002 thru Commissioner Mehol K. Sadain issued in Comelec Case No. ERPC No. 2001-34 - entitled "Ricardo Quintos, protestee vs. Jose Villarosa, protestant," x x x;

That on June 10, 2002, complainant filed an Urgent motion for Postponement with Clarification and Manifestation, x x x;

That despite the said Urgent Motion for Postponement with Manifestation and Clarification, the Branch Clerk of Court, Atty. Cirilo Q. Tejoso, Jr., proceeded with the revision, in clear defiance of the *status quo* Order dated November 13, 2001.

That in [the] absence of the Presiding Judge, Atty. Tejoso proceeded with [the] revision. In the two (2) day revision, i.e., on June 10 and 11, 2002, the committee was able to revise the following:

<u>Revision Date</u>	<u>Precincts</u>
June 10, 2002	26A1
June 10, 2002	46A, Tubili
June 10, 2002	10A, Harrison
June 11, 2002	15A, Mananaw
June 11, 2002	16A, 17A, Mananaw
June 11, 2002	5A, Harrison

Clearly, under the Order of the Comelec dated May 24, 2002, in the case of *Quintos v. Villarosa* (EPC No. 2001-34), only the following ballots were to be revised to wit:

Precincts Nos. 13A/14A, 23A, 25A, 24A, 3A, 47A1/48A, 29A/30/A, 35A, 27A/28A, 7A/8A, 26A1, 9A, 36A and 47A,

That prior thereto, from October 17, 2001 to October 24, 2001, the Revision Committee was able to revise twenty one (21) precincts,

consisting of the following:

Revision Date Precincts

October 17, 2001	44A
October 17, 2001	13A/14A
October 18, 2001	23A, Brgy. I
October 18, 2001	24A, Brgy. I
October 19, 2001	29A/30A
October 19, 2001	25A, Brgy. I
October 22, 2001	9A, Brgy. Harrison
October 22, 2001	3A, Alipaoy
October 23, 2001	27A/28A, Brgy. II
October 23, 2001	36A/37A, Brgy. 4
October 23, 2001	47A, Tubili
October 24, 2001	26A, Brgy. I
October 24, 2001	35A, Brgy. 4
October 24, 2001	47A1/48, Tubili
October 24, 2001	7A/8A

That clearly, respondent's Order dated June 5, 2002 directing the resumption of the revision on June 10, 2002, was not in accordance with the Order, dated May 24, 2002 of the Comelec (Second Division in EPC No. 2001-34 Quintos v. Villarosa).

Only precinct 26A1 should have been revised pursuant to the said Order. However, the committee was able to revise also the following precincts:

Revision Date Precincts

June 10, 2002	46A, Tubili
June 10, 2002	10A, Harrison
June 11, 2002	15A, Mananaw
June 11, 2002	16A, 17A Mananaw
June 11, 2002	5A, Harrison

That the COMELEC issued an Order dated 11 June 2002 which effectively restrained the Presiding Judge in hearing the case. x x x That it was only on account of the issuance of the said Order that the respondents stopped the revision of the ballot boxes.^[14]

RESPONDENT'S VERSION

On June 05, 2002, the respondent judge, while holding trial of several cases pending before his sala, received an important and urgent call asking him to come to San Jose, Occidental Mindoro, which is more or less 173 kilometers far from Mamburao, his official station, on the same date to attend to some important official business, i.e. dialogue with IBP-Occidental Mindoro Chapter, but taking into account the Order dated May 24, 2002 issued by the Commission on Elections and the policy of preferential disposition of election cases because the term of local officials is only three (3) years, he immediately instructed respondent Clerk of Court to prepare for him and issue an Order for the resumption

of revision of ballots commencing on June 10, 2002, giving the latter an authority to do the signing by using the stamped "original signed" since the respondent judge had to leave and could not wait to sign the Order by virtue of the above-mentioned important calling;

In compliance with such Order dated June 05, 2002, the Revision Committee resumed their duties in the revision of ballots on June 10, 2002 despite the "Urgent Motion for Postponement with Clarification and Manifestation" filed by Protestee, Shirley Pangilinan, thru counsel, on the same date at 8:45 in the morning;

When respondent judge reported back to office on June 11, 2002, he immediately signed the challenged order while the Revision Committee was conducting revision of ballots in the Session Hall of the Court, x x x;

The revision of ballots last[ed] until June 11, 2002 when the Commission on Elections, Second Division issued an Order dated June 11, 2002, enjoining the parties to maintain the *status quo* in the case, as directed in [the] November 13, 2001 Order of the Commission, until further orders from the Second Division, x x x;

To formally suspended (sic) the revision of ballots, the Court issued an Order on June 13, 2002 ordering the Revision Committee to cease and desist from opening the ballot boxes involved in the protest, x x x;^[15]

x x x

Respondent Clerk of Court followed the instructions of the respondent judge, bearing in mind that he is always subject to the control and supervision of the Presiding Judge, and only performs and discharges duties as may be assigned by the Presiding Judge aside from the duties imposed under the Manual for Clerks of Court. He never exercised judicial functions but merely ministerial ones. x x x;

x x x

Respondent Judge x x x unwittingly construed or interpreted differently the Order dated May 24, 2002 issued by the Second Division, Commission on Elections in EPC No. 2001-34, involving the case of Quintos vs. Villarosa, as to be applied in the election protest pending before the court, but considering that the said controversy is imbued with public interest; x x x.^[16]

Accordingly, the issues are:

1. WHETHER OR NOT THE ORDER DATED JUNE 5, 2002 OF RESPONDENT JUDGE DIRECTING THE REVISION OF BALLOTS TO COMMENCE ON JUNE 10, 2002 WAS ISSUED WITH GROSS IGNORANCE OF THE LAW TANTAMOUNT TO GROSS INEFFICIENCY. COROLLARILLY, WHETHER OR NOT THE VARIOUS COMELEC ORDERS WERE INCONSISTENT OR AMBIGUOUS WHICH PROVIDED REASONABLE BASIS FOR THE ISSUANCE OF THE JUNE 5, 2002