

EN BANC

[G.R. No. 176296, June 30, 2008]

INDIRA R. FERNANDEZ, PETITIONER, VS. HON. COMMISSION ON ELECTIONS (FIRST DIVISION) AND MARK ANTHONY B. RODRIGUEZ, RESPONDENTS.

DECISION

NACHURA, J.:

For the resolution of the Court is a petition for *certiorari* and prohibition filed under Rules 64 and 65 of the Rules of Court assailing the December 4, 2006 Resolution^[1] and the January 31, 2007 Order^[2] of the Commission on Elections (COMELEC) First Division in EAC No. 14-2004.

The records disclose that, in the July 15, 2002 synchronized *barangay* and *Sangguniang Kabataan* (SK) Elections, respondent Rodriguez, who had obtained 27 votes, emerged as the winning candidate for SK chairman of *Barangay* Pandan del Sur, Pandan, Catanduanes, over his opponent, petitioner Fernandez, who had garnered only 25 votes. Discontented with the results, petitioner instituted an election protest docketed as Election Case No. P-192 with the 4th Municipal Circuit Trial Court (MCTC) of Pandan-Caramoran.^[3]

After the conduct of appropriate proceedings, the MCTC rendered its Decision^[4] on January 12, 2004, declaring petitioner the duly elected SK chairman of the said *barangay* and ordering her proclamation as such. The decision was premised on the results of the revision which showed that petitioner obtained 29 votes and respondent, 24.^[5]

Adversely affected, respondent appealed the case to the COMELEC. On December 4, 2006, the COMELEC First Division rendered the assailed Resolution^[6] nullifying the MCTC's decision. It ruled that 3 ballots marked as Exhibits "1", "4" and "5" should not have been credited to the petitioner, given that they were tampered to show that they represented votes for Fernandez, when in truth they were for Rodriguez. It ruled that where a person other than the voter crossed out the originally written name of a candidate and replaced it with that of another, the vote should be admitted for the original candidate and rejected for the second. Thus, deducting the 3 votes from the 29 votes of the petitioner and adding the same to the 24 votes of the respondent, the result would be 26 for the petitioner and 27 for the respondent, with the latter winning by a single vote.^[7]

On January 31, 2007, the COMELEC First Division, in the other assailed Order,^[8] denied petitioner's motion for reconsideration for having been filed out of time and found no necessity to refer the same to the COMELEC *en banc*.

Petitioner, then, on February 6, 2007, filed the instant petition arguing in the main, as she had strongly argued before the COMELEC, that the latter has no appellate jurisdiction over contests involving SK officials decided by trial courts of limited jurisdiction. Even granting that it does, she claimed that the COMELEC gravely abused its discretion in nullifying the decision of the trial court.^[9]

The Court dismisses the instant petition.

Considering that the term of the contested office has already expired, the petition has been rendered moot and academic.^[10] Republic Act (R.A.) No. 9164^[11] provides that the term of the SK officials elected in the July 15, 2002 synchronized *barangay* and SK elections shall be 3 years, commencing on August 15, 2002, and ending at noon on November 30, 2005.^[12] R.A. 9340,^[13] however, amended the aforesaid law and reset the *barangay* and SK elections to October 2007, thereby extending the term of those elected in 2002 up to noon of November 30, 2007.^[14] On the latter date, therefore, the term of the *barangay* and SK officials elected in 2002 expired. It is thus an exercise in futility for the Court to indulge itself in a review of the records and in an academic discussion of the applicable legal principles to determine who really won the said elections, because whatever judgment is reached, the same can no longer have any practical legal effect or, in the nature of things, can no longer be enforced.^[15]

Be that as it may, we deem it necessary to discuss the issue of jurisdiction raised in the petition for the guidance of the bench and the bar.^[16]

The 1987 Constitution vests in the COMELEC appellate jurisdiction over all contests involving elective *barangay* officials decided by trial courts of limited jurisdiction.^[17] Construed in relation to the provision in R.A. No. 7160^[18] that includes in the enumeration of *barangay* officials the SK chairman,^[19] the constitutional provision indeed sanctions the appellate review by the COMELEC of election protests involving the position of SK chairman, as in the instant case. Hence, we find nothing improper in the COMELEC's assumption of jurisdiction over respondent's appeal.

Petitioner's reliance on our ruling in *Mercado v. Board of Election Supervisors*^[20] that contests involving the SK chairman do not fall within Section 252 of the Omnibus Election Code^[21] and paragraph 2, Section 2, Article IX-C of the Constitution, is misplaced. The doctrine therein, as we explained in the much later *Marquez v. Commission on Elections*,^[22] is no longer controlling. Thus, the rule at the present is that trial courts of limited jurisdiction have exclusive original jurisdiction over election protests involving *barangay* officials, which include the SK chairman, and that the COMELEC has the exclusive appellate jurisdiction over such protests.^[23]

WHEREFORE, premises considered, the petition for *certiorari* and prohibition is **DISMISSED**.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio

[1] *Rollo*, pp. 25-30.

[2] *Id.* at 32.

[3] *Id.* at 26.

[4] *Id.* at 59-64.

[5] *Id.* at 27, 63.

[6] *Supra* note 1.

[7] *Rollo*, pp. 28-30. The COMELEC First Division disposed of the case as follows:

WHEREFORE, premises considered, the Commission (First Division) RESOLVED, as it hereby RESOLVES, to GIVE DUE COURSE to the instant APPEAL finding it imbued with MERIT.

ACCORDINGLY, protestee-appellant Mark Anthony B. Rodriguez is hereby DECLARED as the DULY ELECTED Sangguniang Kabataan Chairman of Barangay Pandan del Sur, in the July 15, 2002 Synchronized Barangay and Sangguniang [Kabataan] (SK) Elections. The January 12, 2004 Decision of the 4th Municipal Circuit Trial Court of Pandan-[Caramoran] is hereby ORDERED SET ASIDE and the proclamation of protestant-appellee Indira R. Fernandez as Sangguniang Kabataan Chairman of said Barangay is hereby DECLARED NULL and VOID. CONSEQUENTLY, protestant-appellee Indira R. Fernandez is hereby ORDERED to immediately VACATE and RELINQUISH the duties and functions of the Office of Sanggunian Kabataan Chairman, to protestee-appellant Mark Anthony B. Rodriguez.

Let the Office of the Deputy Executive Director on Operations (ODEDO), this Commission, implement and furnish a copy of this Resolution to the Office of the President, Secretary of the Department of Interior and Local Government, Chairman of the Commission on Audit and the Barangay Secretary of Pandan del Sur, Pandan, Catanduanes, upon its finality.

SO ORDERED.

[8] *Supra* note 2.

[9] *Rollo*, pp. 135-148. The issues submitted by petitioner for our resolution are the following:

I - WHETHER OR NOT THE RESPONDENT COMELEC (FIRST DIVISION) HAS APPELLATE JURISDICTION TO ENTERTAIN APPEALS FROM DECISIONS OF THE METROPOLITAN TRIAL COURTS/MUNICIPAL TRIAL COURTS/MUNICIPAL CIRCUIT