

EN BANC

[G.R. No. 176724, October 06, 2008]

MAYOR KENNEDY B. BASMALA, PETITIONER, VS. COMMISSION ON ELECTIONS AND AMENODIN U. SUMAGAYAN, RESPONDENTS.

R E S O L U T I O N

NACHURA, J.:

For the resolution of the Court is a petition for *certiorari* under Rule 64 of the Rules of Court assailing the October 13, 2006 Resolution^[1] of the Commission on Elections (COMELEC) Second Division and the March 1, 2007 Resolution^[2] of the COMELEC *en banc* in EAC No. A-11-2006.

The petitioner Kennedy B. Basmala (Basmala) and the private respondent Amenodin U. Sumagayan (Sumagayan) were candidates for mayor in Taraka, Lanao del Sur during the May 10, 2004 National and Local Elections. After the counting and canvassing of votes, Sumagayan emerged as the winner with 2,103 votes as opposed to Basmala's 1,866 votes.^[3] Contesting the results in 21 out of the 43 precincts that functioned in Taraka, Basmala filed an election protest docketed as Election Case No. 1415-04 with the Regional Trial Court (RTC) of Marawi City, Lanao del Sur, Branch 9.^[4]

On March 20, 2006, the trial court rendered its Decision^[5] declaring petitioner as the duly elected municipal mayor of Taraka. The RTC arrived at this ruling by tallying the results in 38 precincts^[6] after rejecting the results in the election returns of precincts 2-A, 19-A, 28-A, 30-A and 39-A.^[7] Accordingly, the results were 1,831 votes for Basmala and 1,662 for Sumagayan.^[8]

Aggrieved, private respondent interposed an appeal with the COMELEC. On October 13, 2006, the Commission's Second Division rendered the aforesaid assailed Resolution^[9] reversing and setting aside the trial court's decision. It ruled that the RTC was in error when it merely relied on the testimonies of Basmala's witnesses, who were his relatives and watchers, and discounted the testimonies of the Board of Election Inspectors (BEI) chairpersons that the conduct of elections in the contested precincts was generally orderly and peaceful. The COMELEC declared that the evidence adduced was not sufficient to justify the invalidation of the election results in the 5 contested precincts. Further, the watchers of the candidates for the other positions in both the national and local levels did not complain of any irregularity or fraud in the counting and canvassing of votes. In the absence of clear and convincing evidence that massive fraud attended the elections in the said 5 precincts, the election returns therein should be upheld. Thus, after a tabulation of the results in the COMELEC copy of the returns from the 43 precincts, the results were 2,103 votes for Sumagayan and 1,866 for Basmala.^[10]

Petitioner then moved for reconsideration. The COMELEC *en banc*, however, in its assailed March 1, 2007 Resolution,^[11] sustained the division ruling. It ruled that petitioner, by presenting only the self-serving testimonies of his witnesses, failed to discharge his burden of proving the truthfulness of his allegations. The authenticity and genuineness of the election returns could not be disregarded because the returns were not proven to be false, tainted or manufactured.^[12]

Discontented, petitioner instituted the instant petition for *certiorari* before the Court.

We dismiss the petition.

The issue of who was the duly elected mayor of Taraka, Lanao del Sur during the May 10, 2004 National and Local Elections has been rendered moot and academic by the expiration of the term of the contested office, and the election and proclamation of a new set of municipal officials after the May 14, 2007 National and Local Elections.^[13] It is an exercise in futility indeed for the Court to still indulge itself in a review of the records and in an academic discussion of the applicable legal principles to determine who really won the 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.^[14]

This notwithstanding, the Court finds that no grave abuse of discretion tainted the assailed COMELEC resolutions as to warrant the issuance of the extraordinary writ of *certiorari*. Grave abuse of discretion is such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave, as when it is exercised arbitrarily or despotically by reason of passion or personal hostility. The abuse must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.^[15]

The COMELEC, in resolving the case, examined the records of the protest, the evidence submitted by the parties, and the pertinent election documents. As it is the specialized agency tasked with the supervision of elections all over the country, its findings of fact when supported by substantial evidence are final, non-reviewable and binding upon the Court.^[16] Furthermore, the appreciation of election documents involves a question of fact best left to the determination of the COMELEC.^[17] Let it be reiterated that the Court is not a trier of facts^[18] and it will only step in if there is a showing that the COMELEC committed grave abuse of discretion.

ACCORDINGLY, the petition for *certiorari* is **DISMISSED**.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Reyes, Leonardo-De Castro, and Brion, JJ., concur.

Corona, J., on leave.