

EN BANC

[G.R. NO. 166032, February 28, 2005]

ELENITA I. BALAJONDA, PETITIONER, VS. COMMISSION ON ELECTIONS (FIRST DIVISION) AND MARICEL S. FRANCISCO, RESPONDENTS.

DECISION

TINGA, J.:

Whether or not the Commission on Elections has power to order the immediate execution of its judgment or final order involving a disputed barangay chairmanship is at the heart of the present *Petition for Certiorari*^[1] under Rule 65 of the 1997 Rules of Civil Procedure.

On 16 July 2002, petitioner Elenita I. Balajonda (Balajonda) was proclaimed as the duly elected Barangay Chairman (*Punong Barangay*), having won the office in the barangay elections held the previous day.^[2] Her margin of victory over private respondent Maricel Francisco (Francisco) was four-hundred twenty (420) votes.^[3] Francisco duly filed a petition for election protest, within ten (10) days from the date of proclamation, lodged with the Metropolitan Trial Court (MeTC) of Quezon City, Branch 35.^[4]

In answer to the protest, Balajonda alleged that Francisco's petition stated no cause of action and that the allegations of electoral fraud and irregularities were "baseless, conjectural, flimsy, frivolous, preposterous and mere figments of the latter's wild imagination." She also laid stress on the fact that although the grounds relied upon by Francisco were violations of election laws, not a single person had been prosecuted for violation of the same.^[5]

After the issues were joined, the MeTC ordered the revision of ballots in sixty-nine (69) ballot boxes, and eventually, the ballots in thirty-nine (39) precincts were revised.^[6] After trial, MeTC dismissed the protest with its finding that Balajonda still led Francisco by four hundred eighteen (418) votes.^[7] The dispositive part of its *Decision* reads as follows:

WHEREFORE, the Protest filed by Maricel Susano Francisco is hereby DENIED. The proclamation of Elenita I. Balajonda as the duly proclaimed Barangay Captain of Barangay Sta. Monica, Quezon City during the 15 July 2002 Barangay Election is hereby upheld.^[8]

Francisco appealed the MeTC *Decision* to the Commission on Elections (COMELEC). In a *Resolution*^[9] promulgated on 2 February 2004, the COMELEC First Division reversed the MeTC, finding that Francisco won over Balajonda by one hundred eleven (111) votes. The COMELEC First Division thus annulled the proclamation of

Balajonda, and declared in her stead Francisco as the duly elected Barangay Chairman. The dispositive portion of the *Resolution* reads:

WHEREFORE, in view of the foregoing, the Commission (FIRST DIVISION) GRANTS the Appeal. The decision of the Metropolitan Trial Court of Quezon City, Branch 35 is hereby SET ASIDE. The proclamation of ELENITA BALAJONDA as Punong Barangay of said Barangay is ANNULLED. Protestant MARICEL FRANCISCO is hereby declared the duly elected Punong Barangay of Barangay Sta. Monica, Novaliches City.

ACCORDINGLY, the Commission (FIRST DIVISION) hereby ORDERS:

1. Protestee ELENITA "Baby" BALAJONDA to VACATE the post of *Punong Barangay* of Sta. Monica, Novaliches City in favor of MARICEL SUSANO FRANCISCO and to CEASE and DESIST from performing the functions attached to said office.

No pronouncement as to costs.

SO ORDERED.^[10]

Balajonda seasonably filed a *Motion for Reconsideration*^[11] *Resolution*.^[12] In the meantime, Francisco filed a *Motion for Execution*^[13] dated 5 February 2004, praying for a writ of execution in accordance with Section 2(a) of Rule 39 of the Revised Rules of Court [Sec. 2(a), Rule 39], which allows discretionary execution of judgment upon good reasons to be stated in the order.^[14]

Balajonda duly opposed^[15] the *Motion for Execution*, arguing in the main that under Sec. 2(a), Rule 39, only the judgment or final order of a trial court may be the subject of discretionary execution pending appeal. However, in its *Order*^[16] dated 26 November 2004, the COMELEC First Division after due hearing granted the motion and directed the issuance of a *Writ of Execution*,^[17] ordering Balajonda to cease and desist from discharging her functions as Barangay Chairman and relinquish said office to Francisco. The *Order* states in part:

WHEREFORE, the Motion is hereby GRANTED. In order to implement the *Resolution* of the Commission (First Division) in the above entitled case, the Clerk of Commission (Director IV, ECAD) is hereby DIRECTED to issue a WRIT OF EXECUTION ordering ELENITA I. BALAJONDA to CEASE and DESIST from discharging the powers and duties of Barangay Captain of Sta. Monica, Novaliches, Quezon City and to relinquish the same to and in favor of MARICEL S. FRANCISCO who was declared duly elected to the post in the *Resolution* pending final disposition of the *Motion for Reconsideration* filed by Protestee in the above-entitled case. Protestant however is ordered to post a bond in the amount of FIFTY THOUSAND PESOS (P50,000.00) which shall answer for whatever damage protestee will sustain by reason of this execution if the final resolution of the protest would decide that the protestant is not entitled thereto. This Order is immediately executory.

SO ORDERED. ^[18]

This *Order* is the subject of the present petition.

In support of her thesis that the COMELEC First Division committed grave abuse of discretion in granting execution pending appeal, Balajonda in essence submits the following grounds, thus: (1) that the COMELEC may order the immediate execution only of the decision of the trial court but not its own decision; (2) that the order of execution which the COMELEC First Division issued is not founded on good reasons as it is a mere *pro forma* reproduction of the reasons enumerated in *Ramas v. COMELEC*;^[19] and (3) the COMELEC exhibited manifest partiality and bias in favor of Francisco when it transgressed its own rule.^[20] Balajonda invoked only the first ground in her opposition to the *Motion For Execution*, but definitely not the second and third. In any event, all the grounds are bereft of merit.

Early last year, the Court, through Mr. Justice Antonio T. Carpio in *Batul v. Bayron*,^[21] affirmed a similar order of the COMELEC First Division directing the immediate execution of its own judgment. Despite the silence of the COMELEC Rules of Procedure as to the procedure of the issuance of a writ of execution pending appeal, there is no reason to dispute the COMELEC's authority to do so, considering that the suppletory application of the Rules of Court is expressly authorized by Section 1, Rule 41 of the COMELEC Rules of Procedure which provides that absent any applicable provisions therein the pertinent provisions of the Rules of Court shall be applicable by analogy or in a suppletory character and effect.

Batul also clearly shows that the judgments which may be executed pending appeal need not be only those rendered by the trial court, but by the COMELEC as well. It stated, thus:

It is true that present election laws are silent on the remedy of execution pending appeal in election contests. However, neither *Ramas* nor *Santos* declared that such remedy is exclusive to election contests involving elective barangay and municipal officials as argued by *Batul*. Section 2 allowing execution pending appeal in the discretion of the court applies in a suppletory manner to election cases, including those involving city and provincial officials.^[22]

Batul is different from this case in that in *Batul* the decision subject of the order of immediate execution was rendered by the poll body in the exercise of its original jurisdiction^[23] while the decision in this case was promulgated in the exercise of its appellate jurisdiction. Still, there is no reason to dispose of this petition in a manner different from *Batul*. The public policy underlying the suppletory application of Sec. 2(a), Rule 39 is to obviate a hollow victory for the duly elected candidate as determined by either the courts or the COMELEC.^[24] Towards that end, we have consistently employed liberal construction of procedural rules in election cases to the end that the will of the people in the choice of public officers may not be defeated by mere technical objections.^[25] Balajonda's argument is anchored on a simplistic, literalist reading of Sec. 2(a), Rule 39 that barely makes sense, especially in the light of the COMELEC's specialized and expansive role in relation to election cases.

Anent the second ground, we find that the COMELEC First Division committed no grave abuse of discretion in ruling that: