

EN BANC

[G.R. No. 160465, April 28, 2004]

ROMEO M. ESTRELLA, PETITIONERS, VS. COMMISSION ON ELECTIONS, HON. COMMISSIONER RALPH C. LANTION AND ROLANDO F. SALVADOR, RESPONDENTS.

R E S O L U T I O N

CARPIO MORALES, J.:

Before this Court is a petition for certiorari under Rule 64 seeking to set aside and nullify the November 5, 2003 *Status Quo Ante* Order^[1] issued by the Commission on Elections (COMELEC) *En Banc* in **EAC No. A-10-2002**, "*Romeo F. Estrella v. Rolando F. Salvador.*"

Romeo M. Estrella (petitioner) and Rolando F. Salvador (respondent) were mayoralty candidates in Baliuag, Bulacan during the May 14, 2001 Elections.

The Municipal Board of Canvassers proclaimed respondent as winner. Petitioner thereafter filed before the Regional Trial Court (RTC) of Bulacan an election protest, docketed as EPC No. 10-M-2001, which was raffled to Branch 10 thereof.^[2]

By Decision of April 10, 2002, the RTC annulled respondent's proclamation and declared petitioner as the duly elected mayor of Baliuag.^[3]

Respondent appealed the RTC decision to the COMELEC where it was docketed as **EAC No. A-10-2002**, and raffled to the second Division thereof, while petitioner filed before the RTC a motion for execution of the decision pending appeal.^[4]

The RTC, by Order of April 16, 2002, granted petitioner's motion for execution pending appeal and accordingly issued a writ of execution.^[5]

Respondent thus assailed the April 16, 2002 Order of the RTC via petition for certiorari filed on April 24, 2002 before the COMELEC where it was docketed as **SPR No. 21-2002**, and raffled also to the Second Division thereof.^[6]

Petitioner later moved for the inhibition^[7] of Commissioner Ralph C. Lantion, a member of the COMELEC Second Division.

On May 30, 2002, the COMELEC Second Division issued a *Status Quo Ante* Order,^[8]

By Order of July 9, 2002, the motion for inhibition of Commissioner Lantion was denied by the COMELEC Second Division.

On July 11, 2002, petitioner filed before this Court a petition for certiorari

questioning the COMELEC Second Division May 20, 2002 *Status Quo Ante* Order, which petition was supplemented on July 30, 2002. The petition was docketed by this Court as G.R. No. 154041.

As no temporary restraining order was issued by this Court, the May 30, 2002 *Status Quo Ante* Order of the COMELEC Second Division was implemented on or about July 17, 2003, resulting in the ouster of petitioner from the mayoral post.

In the meantime, during the July 23, 2002 hearing of **SPR No. 21-2002**, COMELEC Commissioner Lantion inhibited himself.^[9] Commissioner Ressureccion Z. Borra was, by Order of August 25, 2002,^[10] thus designated in place of Commissioner Lantion.

During the pendency of G.R. No. 154041 before this Court, the COMELEC Second Division, by Order of January 16, 2003, nullified in **SPR No. 21-2002** the writ of execution^[11] issued by the RTC. Respondent filed a Motion for Reconsideration of the said Order which motion was duly certified to the COMELEC *En Banc*.

On September 16, 2003, this Court, by Resolution on even date, dismissed G.R. No. 154041 on the grounds that 1) the case had become moot and academic because of the COMELEC Second Division's resolution on the merits of **SPR No. 21-2002**, and (2) this Court has no jurisdiction over Division orders or rulings of the COMELEC.

On October 15, 2003, the COMELEC Second Division, issued in **EAC No. A-10-2002** an Order^[12] adopting the order of substitution in **SPR No. 21-2002** dated August 25, 2002 designating Commissioner Borra as substitute member thereof.

On October 20, 2003, the COMELEC Second Division issued in **EAC No. A-10-2002** a Resolution^[13] affirming with modifications the RTC decision and declaring petitioner as the duly elected mayor. On even date, respondent moved to reconsider^[14] the said October 20, 2003 Order.

Petitioner, in the meantime, filed on October 22, 2003 a motion for immediate execution^[15] of the COMELEC Second Division October 20, 2003 Resolution, which was set for hearing on October 28, 2003 but reset to November 4, 2003.

On October 29, 2003, respondent filed before the COMELEC Second Division a "very urgent motion to consider the instant case certified to the Commission *en banc*."^[16]

Respondent later filed on November 3, 2003 a "very urgent manifestation and motion to suspend proceedings."^[17]

Hearing of the incidents in **EAC No. A-10-2002** was conducted on November 4, 2003. The following day or on November 5, 2003, the COMELEC Second Division issued an Order^[18] denying respondent's plea for suspension of proceedings and granting petitioner's motion for execution pending appeal and accordingly directing the issuance of a writ of execution. On even date, the COMELEC *En Banc* issued the questioned November 5, 2003 *Status Quo Ante* Order. Five (5) members including Commissioner **Lantion** participated in this November 5, 2003 Order wherein Commissioner Lantion stated that "his previous voluntary inhibition is only in the