

EN BANC

[G.R. No. 155618, March 26, 2003]

**EDGAR Y. SANTOS, PETITIONER, VS. COMMISSION ON
ELECTIONS (FIRST DIVISION) AND PEDRO Q. PANULAYA,
RESPONDENTS.**

DECISION

YNARES-SANTIAGO, J.:

Petitioner Edgar Y. Santos and respondent Pedro Q. Panulaya were both candidates for Mayor of the Municipality of Balingoan, Misamis Oriental in the May 14, 2001 elections. On May 16, 2001, after the votes were counted and canvassed, the Municipal Board of Canvassers proclaimed respondent Panulaya as the duly elected Mayor.

Petitioner filed an election protest before the Regional Trial Court of Misamis Oriental, Branch 26, which was docketed as SPL Election Protest No. 1-M(2001). After trial and revision of the ballots, the trial court found that petitioner garnered 2,181 votes while respondent received only 2,105. Hence, on April 2, 2002, it rendered judgment as follows:

WHEREFORE, judgment is hereby rendered declaring and proclaiming protestant/petitioner Edgar Y. Santos as the duly elected Municipal Mayor of Balingoan, Misamis Oriental, in the mayoralty elections held on May 14, 2001 with the plurality of Seventy Six (76) votes over and above his protagonist-protestee Pedro Q. Panulaya setting aside as null and void the proclamation of protestee made by the Municipal Board of Canvassers on May 16, 2001, ordering to pay protestant/petitioner the costs and expenses that the latter incurred in this protest in accordance with Section 259 of the Omnibus Election Code of the Philippines (B.P. 881) and Section 7 of the COMELEC Resolution 1566, to wit:

xxx xxx xxx.

The Clerk of Court of this Court is hereby directed to furnish copy of the DECISION to the following: Office of the Commission on Elections (COMELEC); Office of the Commission on Audit; Office of the Department of Interior and Local Government; Office of the *Sangguniang Panlalawigan* of Misamis Oriental, in accordance with Section 15 of the COMELEC Resolution 1566.

SO ORDERED. ^[1]

Petitioner thereafter filed a motion for execution pending appeal. Meanwhile, before the trial court could act on petitioner's motion, respondent filed on April 22, 2002 with the Commission on Elections (COMELEC) a petition for certiorari, docketed as

SPR No. 20-2002, assailing the decision of the trial court.^[2] Likewise on April 22, 2002, respondent appealed the trial court's decision to the COMELEC, where it was docketed as EAC No. A-12-2002.

The COMELEC, in SPR No. 20-2002, issued a Writ of Preliminary Injunction, which effectively enjoined the trial court from acting on petitioner's motion for execution pending appeal. Subsequently, on August 19, 2002, the COMELEC dismissed SPR No. 20-2002 after finding that the trial court did not commit grave abuse of discretion in rendering the assailed judgment. Moreover, the COMELEC held that the remedy from the decision of the court *a quo* was to file a notice of appeal, which respondent precisely did in EAC No. A-12-2002. Hence, it directed the trial court to dispose of all pending incidents in SPL Election Protest No. 1-M(2001) with dispatch, to wit:

WHEREFORE, premises considered, the Commission (First Division) RESOLVED as it hereby RESOLVES to DISMISS the instant petition for lack of merit.

ACCORDINGLY, the Writ of Preliminary Injunction issued on 16 May 2002, as well as the Order issued on 27 April 2002 by the Commission (First Division), are hereby set aside and lifted, respectively. The Court *a quo* is hereby directed **to dispose with immediate dispatch all pending incidents in SPL Election Case No. 1-M (2001)** entitled "Edgar Y. Santos, Petitioner/Protestant versus Pedro Q. Panulaya, Respondent/Protestee."

No pronouncement as to cost.

SO ORDERED. (underscoring ours)^[3]

Thus, on August 20, 2002, the trial court issued an Order as follows:

WHEREFORE, premises considered, this Court hereby upholds and approves the Motion for Execution Pending Appeal. Further, finding good reasons therefor, the Court hereby directs and orders the immediate execution of the Decision promulgated on April 18, 2002, and as prayed for install protestant/petitioner EDGAR Y. SANTOS as the duly elected Mayor of Balingoan, Misamis Oriental, to take his oath of office and assume the functions and duties of Mayor after he shall have filed a bond of One Hundred Thousand Pesos (P100,000.00).

SO ORDERED.^[4]

After petitioner posted the required bond, the trial court issued the Writ of Execution,^[5] thereby installing petitioner as Municipal Mayor of Balingoan, Misamis Oriental. Accordingly, petitioner took his oath of office and thereafter assumed the duties and functions of his office.

On August 21, 2002, respondent filed with the COMELEC a motion for reconsideration of the dismissal of his petition in SPR No. 20-2002.^[6] After five days, or on August 26, 2002, he filed a supplemental petition in SPR No. 20-2002,^[7] wherein he prayed:

WHEREFORE, foregoing premises considered, petitioner [herein respondent] respectfully prays unto this Honorable Commission that the following Orders of the public respondent:

1. Resolution dated 20 August 2002;
2. Order dated 20 August 2002;
3. Writ of execution dated 21 August 2002;

Be nullified and set aside.

It is further prayed that in the event that the public respondent has carried out its Order of ousting petitioner [herein respondent] from his position as Mayor of Balingoan, Misamis Oriental, that the same be nullified and considered of no legal effect. It is likewise prayed that a *STATUS QUO ANTE ORDER* be issued by the Honorable Commission in order to reinstate the petitioner to his rightful position as Mayor of Balingoan, Misamis Oriental.

Other reliefs, just and equitable are likewise prayed for.^[8]

Barely two days later, on August 28, 2002, and while his motion for reconsideration and supplemental petition in SPR No. 20-2002 were pending, respondent filed another petition with the COMELEC, docketed as SPR No. 37-2002.^[9] The petition contained the same prayer as that in the supplemental petition filed in SPR 20-2002, viz:

WHEREFORE, foregoing premises considered, petitioner [herein respondent] respectfully prays unto this Honorable Commission that immediately upon the filing of the herein petition, the following Orders of the public respondent:

- 1. Resolution dated 20 August 2002;**
- 2. Order dated 20 August 2002;**
- 3. Writ of execution dated 21 August 2002;**

Be nullified and set aside.

Pending trial and final judgment, and soon after the issuance, but during the effectivity of the Temporary Restraining Order, a Writ of Preliminary Injunction be issued prohibiting, restraining and/or enjoining the public respondent from further implementing the highly unjust, irregular and oppressive Orders above-quoted;

It is further prayed that in the event that the public respondent has carried out its Order of ousting petitioner [herein respondent] from his position as Mayor of Balingoan, Misamis Oriental, that the same be nullified and considered of no legal effect. It is likewise prayed that a *STATUS QUO ANTE ORDER* be issued by the Honorable Commission in order to reinstate the

petitioner to his rightful position as Mayor of Balingoan, Misamis Oriental.

Upon due notice and hearing, judgment be rendered in favor of the petitioner [herein respondent] and against the respondent [herein petitioner] as follows:

1. Making the Writ of Preliminary Prohibitory Injunction permanent;
2. Declaring Resolution dated 20 August 2002, Order dated 20 August 2002, and Writ of Execution dated 21 August 2002; as null and void for being highly unjust, irregular and oppressively prepared in utter violation of the Constitutional provisions on equal protection of the laws and due process, and for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction.
3. A writ of Prohibition be issued specifically commanding public respondent to cease and desist from further implementing the highly unjust, irregular and oppressive Orders above-mentioned are concerned (*sic*); and
4. Ordering the respondents to pay the costs of suit.

Such other reliefs and remedies, as are just and equitable in the premises, are likewise prayed for.^[10]

On September 3, 2002, the COMELEC issued the assailed Order directing the parties to maintain the *status quo ante* and enjoining petitioner from assuming the functions of Mayor. Pertinent portion of the Order reads:

In the interest of justice and so as not to render moot and academic the issues raised in the petition, the Commission (First Division) hereby directs the parties to maintain the *status quo ante*, which is the condition prevailing before the issuance and implementation of the questioned Order of the court a quo dated August 20, 2002 and the Writ of Execution issued pursuant thereto dated August 21, 2002, in SPL. ELECTION CASE NO. 1-M (2001) entitled "EDGAR Y. SANTOS versus PEDRO Q. PANULAYA." Accordingly, effective immediately, private respondent EDGAR Y. SANTOS is hereby ordered to cease and desist from assuming the duties and functions of the office of Mayor of Balingoan, Misamis Oriental until further orders from this Commission.^[11]

Petitioner filed a motion for reconsideration of the above Order. However, the COMELEC First Division did not refer the said motion to the COMELEC En Banc. Hence, petitioner, citing our ruling in *Kho v. COMELEC*,^[12] brought the instant special civil action for certiorari with this Court.

Meanwhile, on September 9, 2002, petitioner filed an "Omnibus Motion (1) To Dissolve The Status Quo Order As It Was Based On An Unverified And Dismissed Petition With Pending Motion For Reconsideration; And (2) To Refer This Motion To The Commission En Banc Under Section 2, Rule 3 of the COMELEC Rules of

Procedure.”^[13] On October 14, 2002, the COMELEC issued a Resolution in SPR No. 37-2002, the dispositive portion of which states:

WHEREFORE, premises considered, the Petition is hereby **GRANTED**. Accordingly, the August 20, 2002 Resolution of the respondent judge granting the Motion for Execution Pending Appeal as well as his Order also dated August 20, 2002 directing the issuance of the Writ of Execution and his Writ of Execution dated August 21, 2002 are hereby set aside. Private Respondent Edgar Y. Santos is enjoined from assuming the function of mayor of Balingoan, Misamis Oriental until the final determination of the election appeal case.

This resolution shall be immediately executory.

The Department of Interior and Local Government (DILG) is hereby requested to assist in the peaceful and orderly implementation of this Resolution.

SO ORDERED.^[14]

The petition is impressed with merit.

It is at once apparent from the records, as shown above, that respondent was guilty of forum-shopping when he instituted SPR No. 37-2002 with the COMELEC. Forum-shopping is an act of a party against whom an adverse judgment or order has been rendered in one forum of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for certiorari. It may also be the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition. For it to exist, there should be (a) identity of parties, or at least such parties as would represent the same interest in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) identity of the two preceding particulars such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.^[15]

In the case at bar, respondent obtained an adverse decision when his petition in SPR No. 20-2002 was dismissed by the COMELEC. He thereafter filed a motion for reconsideration and a supplemental petition, praying for the nullification of the trial court’s order for the execution of its decision pending appeal. Two days after filing the supplemental petition, and while the same was very much pending before the COMELEC, he filed a wholly separate petition for certiorari, docketed as SPR No. 37-2002, wherein he pleaded the same reliefs prayed for in the supplemental petition. This is plainly evident from the respective prayers in the supplemental petition and the petition for certiorari as reproduced hereinabove. In doing so, respondent, before allowing the COMELEC to fully resolve the incidents in SPR No. 20-2002, both of which were at his own instance, sought to increase his chances of securing a favorable decision in another petition. He filed the second petition on the supposition that the COMELEC might look with favor upon his reliefs.

Forum-shopping is considered a pernicious evil; it adversely affects the efficient administration of justice since it clogs the court dockets, unduly burdens the