

## EN BANC

[ G.R. No. 158371, December 11, 2003 ]

**SONIA R. LORENZO, PETITIONER, VS. COMMISSION ON ELECTIONS, BENJAMIN S. ABALOS, SR., IN HIS CAPACITY AS CHAIRMAN, COMMISSION ON ELECTIONS, AND NESTOR B. MAGNO, RESPONDENTS.**

### *DECISION*

**YNARES-SANTIAGO, J.:**

Petitioner Sonia R. Lorenzo and respondent Nestor B. Magno were rival candidates for Mayor of San Isidro, Nueva Ecija in the local elections of May 14, 2001. A certain Carlos Montes, resident of San Isidro, filed with the Commission on Elections a petition, docketed as SPA 01-153, for the disqualification of respondent Magno as a candidate on the ground of his conviction by the Sandiganbayan of four counts of Direct Bribery. On May 7, 2001, the COMELEC Second Division issued a Resolution disqualifying respondent Magno. This was affirmed on appeal by the COMELEC En Banc on May 12, 2001.

The aforesaid Resolution was disseminated for implementation by the Municipal Board of Canvassers of San Isidro. Hence, on May 18, 2001, petitioner Lorenzo was proclaimed as the Mayor-elect of San Isidro.

Meanwhile, respondent Magno brought a petition for certiorari before this Court, assailing his disqualification by the COMELEC, which petition was docketed as G.R. No. 147904. On October 4, 2002, this Court rendered a Decision reversing and setting aside the two challenged Resolutions of the COMELEC dated May 7 and 12, 2001, and declaring that Magno was under no disqualification to run for mayor of San Isidro, Nueva Ecija in the May 14, 2001 elections. The relevant portion of the Decision reads:

[A]lthough [Magno's] crime of direct bribery involved moral turpitude, petitioner nonetheless could not be disqualified from running in the 2001 elections. Article 12 of the Omnibus Election Code (BP 881) must yield to Article 40 of the Local Government Code (RA 7160). [Magno]'s disqualification ceased as of March 5, 2000 and he was therefore under no such disqualification anymore when he ran for mayor of San Isidro, Nueva Ecija in the May 14, 2001 elections.

Unfortunately, however, neither this Court nor this case is the proper forum to rule on (1) the validity of Sonia Lorenzo's proclamation and (2) the declaration of petitioner as the rightful winner. Inasmuch as Sonia Lorenzo had already been proclaimed as the winning candidate, the legal remedy of petitioner would have been a timely election protest.

WHEREFORE, the instant petition is hereby PARTIALLY GRANTED. The

challenged resolutions of the Commission on Elections dated May 7, 2001 and May 12, 2001 are hereby reversed and set aside. The petitioner's prayer in his supplemental petition for his proclamation as the winner in the May 14, 2001 mayoralty elections in San Isidro, Nueva Ecija, not being within our jurisdiction, is hereby denied.

SO ORDERED.<sup>[1]</sup>

On October 21, 2002, respondent Magno filed an Omnibus Motion with the COMELEC in SPA 01-153, seeking: (a) that his name be reinstated in the certified list of candidates for municipal mayor of San Isidro, Nueva Ecija in the May 14, 2001 local election; (b) the nullification of the proclamation of Lorenzo as mayor of San Isidro, Nueva Ecija; (c) that a special board of canvassers be formed to continue the canvas of votes cast in favor of respondent Magno; and (d) after completion of the canvas, that Magno be proclaimed the winner.

The COMELEC En Banc thereafter issued a Resolution dated May 13, 2003, wherein it (a) ordered the creation of new Boards of Election Inspectors for all precincts in the municipality of San Isidro, for the purpose of counting the votes cast for Magno and preparing new election returns for submission to the Municipal Board of Canvassers of San Isidro; and (b) constituted a new Municipal Board of Canvassers for the purpose of canvassing said election returns and submitting the results to the COMELEC.

Subsequently, on May 22, 2003, the COMELEC partially modified the above Resolution to order the immediate constitution of a new Municipal Board of Canvassers, it appearing that the old Municipal Board of Canvassers of San Isidro, Nueva Ecija had already canvassed all the election returns for all precincts except the votes for Magno. The COMELEC reiterated the directive in an Order dated June 10, 2003, and ordered the immediate implementation and execution thereof.

Hence, the instant petition for certiorari and mandamus, assailing the validity of the Resolution dated May 13, 2003 and the Orders dated May 22, 2003 and June 10, 2003.

On June 17, 2003, this Court directed public respondents to observe the *status quo* prevailing before the filing of the petition.

Petitioner argues that the COMELEC's order for the canvass of votes defies this Court's ruling in G.R. No. 147904 that Magno should have filed an election protest.

We find in favor of the respondent.

Well settled is the doctrine that election contests involve public interest, and technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials.<sup>[2]</sup> Also settled is the rule that laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.<sup>[3]</sup> In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate.<sup>[4]</sup>