

EN BANC

[G.R. No. 147927, February 04, 2002]

RAYMUNDO M. ADORMEO, PETITIONER, VS. COMMISSION ON ELECTIONS AND RAMON Y. TALAGA, JR., RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

Before us is a petition for certiorari, with a prayer for a writ of preliminary injunction and/or temporary restraining order, to nullify and set aside the resolution dated May 9, 2001 of public respondent Commission on Elections in Comelec SPA No. 01-055, which granted the motion for reconsideration and declared private respondent Ramon Y. Talaga, Jr., qualified to run for Mayor in Lucena City for the May 14, 2001 election. Petitioner prays that votes cast in private respondent's favor should not be counted; and should it happen that private respondent had been already proclaimed the winner, his proclamation should be declared null and void.

The uncontroverted facts are as follows:

Petitioner and private respondent were the only candidates who filed their certificates of candidacy for mayor of Lucena City in the May 14, 2001 elections. Private respondent was then the incumbent mayor.

Private respondent Talaga, Jr. was elected mayor in May 1992. He served the full term. Again, he was re-elected in 1995-1998. In the election of 1998, he lost to Bernard G. Tagarao. In the recall election of May 12, 2000, he again won and served the unexpired term of Tagarao until June 30, 2001.

On March 2, 2001, petitioner filed with the Office of the Provincial Election Supervisor, Lucena City a Petition to Deny Due Course to or Cancel Certificate of Candidacy and/or Disqualification of Ramon Y. Talaga, Jr., on the ground that the latter was elected and had served as city mayor for three (3) consecutive terms as follows: (1) in the election of May 1992, where he served the full term; (2) in the election of May 1995, where he again served the full term; and, (3) in the recall election of May 12, 2000, where he served only the unexpired term of Tagarao after having lost to Tagarao in the 1998 election. Petitioner contended that Talaga's candidacy as Mayor constituted a violation of Section 8, Article X of the 1987 Constitution which provides:

Sec. 8. – The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

On March 9, 2001, private respondent responded that he was not elected City Mayor for three (3) consecutive terms but only for two (2) consecutive terms. He pointed to his defeat in the 1998 election by Tagarao. Because of his defeat the consecutiveness of his years as mayor was interrupted, and thus his mayorship was not for three consecutive terms of three years each. Respondent added that his service from May 12, 2001 until June 30, 2001 for 13 months and eighteen (18) days was not a full term, in the contemplation of the law and the Constitution. He cites *Lonzanida vs. COMELEC*, G.R. No. 135150, 311 SCRA 602, 611 (1999), as authority to the effect that to apply disqualification under Section 8, Article X of the Constitution, two (2) conditions must concur, to wit: (a) that the official concerned has been elected for three consecutive terms in the same local government post, and (b) that he has fully served three (3) consecutive terms.

On April 20, 2001, the COMELEC, through the First Division, found private respondent Ramon Y. Talaga, Jr. disqualified for the position of city mayor on the ground that he had already served three (3) consecutive terms, and his Certificate of Candidacy was ordered withdrawn and/or cancelled.

On April 27, 2001, private respondent filed a motion for reconsideration reiterating that "three (3) consecutive terms" means continuous service for nine (9) years and that the two (2) years service from 1998 to 2000 by Tagarao who defeated him in the election of 1998 prevented him from having three consecutive years of service. He added that Tagarao's tenure from 1998 to 2000 could not be considered as a continuation of his mayorship. He further alleged that the recall election was not a regular election, but a separate special election specifically to remove incompetent local officials.

On May 3, 2001, petitioner filed his Opposition to private respondent's Motion for Reconsideration stating therein that serving the unexpired term of office is considered as one (1) term.^[1] Petitioner further contended that Article 8 of the Constitution speaks of "term" and does not mention "tenure". The fact that private respondent was not elected in the May 1998 election to start a term that began on June 30, 1998 was of no moment, according to petitioner, and what matters is that respondent was elected to an unexpired term in the recall election which should be considered one full term from June 30, 1998 to June 30, 2001.

On May 9, 2001, the COMELEC *en banc* ruled in favor of private respondent Ramon Y. Talaga, Jr.. It reversed the First Division's ruling and held that 1) respondent was not elected for three (3) consecutive terms because he did not win in the May 11, 1998 elections; 2) that he was installed only as mayor by reason of his victory in the recall elections; 3) that his victory in the recall elections was not considered a term of office and is not included in the 3-term disqualification rule, and 4) that he did not fully serve the three (3) consecutive terms, and his loss in the May 11, 1998 elections is considered an interruption in the continuity of his service as Mayor of Lucena City.

On May 19, 2001, after canvassing, private respondent was proclaimed as the duly elected Mayor of Lucena City.

Petitioner is now before this Court, raising the sole issue: