

## **THIRD DIVISION**

**[ A.M. No. 01-1608-RTJ (FORMERLY OCA I.P.P No. 97-471-RTJ), January 16, 2001 ]**

**SANGGUNIANG BAYAN OF TAGUIG, M. MLA., COMPLAINANT, VS.  
JUDGE SANTIAGO G. ESTRELLA, RESPONDENT.**

### **R E S O L U T I O N**

**MELO, J.:**

At bar is a sworn letter-complaint dated October 20, 1997 filed by 10 members of the Sangguniang Bayan of Taguig, Metro Manila charging Judge Santiago G. Estrella of Branch 68 of the Regional Trial Court of the National Capital Judicial Region stationed in Pasig City with serious misconduct relative to Election Protest No. 144, entitled "Ricardo D. Papa, Jr. vs. Isidro B. Garcia".

The present controversy stems from an election protest filed by then mayoral candidate Ricardo D. Papa, Jr. against Isidro B. Garcia, the candidate proclaimed mayor of Taguig, Metro Manila in the May 8, 1995 elections. In his protest, Papa impugned the results of all 713 precincts in the municipality. This was filed with the Regional Trial Court of Pasig and eventually raffled to the sala of respondent wherein it was docketed as Election Protest No. 144.

Garcia filed his answer with counter-protest and after the rejoinder of issues, Papa filed a Motion to Withdraw First, Second, Fourth, and Fifth Causes of Action, thereby limiting his cause of action to only one: the determination of the number of the plain "Garcia" votes which should be considered stray and their number deducted from votes credited to protestee Garcia, there having been another candidate surnamed "Garcia".

The motion was granted and forthwith, the revision committee opened 712 questioned ballot boxes, examined the contents, and revised the ballots.

On March 14, 1996, after the revision of ballots was completed, Papa filed a "Motion for Technical Examination," wherein he objected to more than 5,000 ballots, the same allegedly having been "Written By One" (WBO) or "Written By Two (WBT)" persons. Respondent judge granted the motion. However, on March 25, 1996, Papa withdrew this motion.

On April 10, 1996, a final revision report was submitted to respondent judge by Atty. Katherine A. Go, the over-all chairperson of the Revision Committee. The report stated that Papa actually objected to a total of 11,290 ballots for Garcia, over 5,000 of which were objected to by reason of the same having been written by one person (WBO) or written by two (WBT). The said report also mentioned that Garcia had 3,049 plain "Garcia" votes.

Thereafter, both parties offered their respective exhibits, which were all admitted by respondent judge.

On February 11, 1997, respondent issued an order directing the National Bureau of Investigation (NBI) to examine the contested ballots in the presence of a representative of both parties. The pertinent portion of the order provided that so as to enable the court to get a complete overview of the matter, it was better to have a handwriting expert examine the questioned ballots to settle once and for all the questions and objections relative to the ballots.

After the NBI finished its examination of the contested ballots and upon the determination by respondent that he had no further need of the ballot boxes, he issued an order dated May 19, 1997 directing the removal of the ballot boxes and election paraphernalia from his courtroom. On May 27, 1997, respondent ordered the immediate transfer of all the ballot boxes and election paraphernalia to the sala of Judge Vivencio Baclig, Branch 157 of the Regional Trial Court of Pasig City, so that Judge Baclig may proceed with the trial of the vice-mayorality election protest of the same municipality. On June 5, 1997, all the ballot boxes which contained both contested and uncontested ballots were removed from the custody of respondent and transferred to RTC, Branch 157. On June 26, 1997, the NBI Report was submitted to respondent.

On July 22, 1997, Garcia filed a Manifestation and Formal Motion with Formal Query, praying that an order be issued to the Branch Clerk of Court to be furnished a copy of the NBI Reports and/or allow him to copy or review or at least to read said reports. Respondent judge denied the motion on the same day, proclaiming that the examination of contested ballots by the NBI was ordered, upon the instance of the court, and not by the parties, hence, only the court was given copies of the NBI Reports.

On the same day that Garcia's motion was denied, respondent also set the date of promulgation of judgment for July 31, 1997. This prompted Garcia to file a "Manifestation and Most Urgent Motion to Defer and/or Cancel Scheduled Promulgation of Judgment" premised on respondent's refusal to furnish him a copy of the NBI Reports, and Garcia's physical impossibility of examining the contested ballots because (a) the report was submitted on June 26, 1997, and (b) the contested ballots and other election paraphernalia had been transferred to the sala of Judge Vivencio Baclig in RTC, Branch 157. Respondent judge denied Garcia's motion on July 28, 1997, explaining that:

. . . To allow parties at this stage to secure copies of the NBI report and to comment on the same before promulgating the decision would be opening the floodgates for undue delay.

Thereafter, Garcia filed a petition for certiorari, prohibition, and mandamus, with a prayer for restraining order and preliminary injunction with the COMELEC on July 29, 1997. The very next day or on July 30, 1997, the COMELEC issued a Temporary Restraining Order (TRO) enjoining respondent judge from proceeding with the scheduled promulgation of judgment set on July 31, 1997.

On August 21, 1997, after the expiration of the TRO, Papa filed a Motion for Immediate Promulgation of Judgment, requesting that the same be heard on August

25, 1997. This was, however, granted by respondent judge the very next day, three days ahead of the date set for hearing of the motion, with respondent setting August 27, 1997 as the promulgation date. Forthwith, Garcia filed with the COMELEC an Urgent Manifestation and Motion Reiterating Prayer for Preliminary Injunction.

One day before the scheduled promulgation of judgment, or on August 26, 1997, the COMELEC issued an order directing respondent to allow both parties or their counsel to have access to the NBI reports and to give the parties copies thereof before the promulgation of the decision.

On the day of the promulgation of judgment (August 27, 1997), respondent gave Garcia's counsel 5 minutes to go over Questioned Documents Report No. 152-297 which consisted of 53 pages, and Questioned Document Report No. 152-297(A), which consisted of 17 pages.

Thereafter, judgment was promulgated, disposing:

WHEREFORE, and all the forgoing considered, the Court resolves to SUSTAIN as it hereby SUSTAINS the Protest lodged by Ricardo D. Papa, Jr., and accordingly renders judgment DECLARING the aforementioned Protestant the duly elected mayor of the Municipality of Taguig, Metro Manila.

The Counter-Protest filed by protestee Isidro B. Garcia is ordered DISMISSED.

No pronouncement as to damages as no proof was presented by either party.

Complainants further claim that it was only after the promulgation of judgment that Garcia was able to secure copies of the NBI Reports.

It must be noted that Papa filed an "Urgent Motion for Execution Pending Appeal" on August 26, 1997, a day before the scheduled promulgation of judgment lending credibility to the claim of Garcia that Papa had prior knowledge of respondent's decision. Despite Garcia's opposition, respondent granted said motion on September 2, 1997. That same day, respondent also issued the Writ of Execution.

Complainants now allege that respondent judge, together with Papa and the NBI officials concerned, violated Section 3(e) of Republic Act 3019 or the Anti-Graft and Corrupt Practices Act, which provides that:

Sec. 3. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officers and are hereby declared to be unlawful:

x x x

x x x

x x x

(e) Causing undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. . . .

Complainants claim that: respondent gave unwarranted benefits to Papa and caused, on the other hand, undue injury to Mayor Garcia as well as to the people of Taguig by depriving the latter of their duly elected mayor, and giving Papa unwarranted benefits; the decision and reports were prepared, issued, and executed with manifest partiality, evident bad faith, and gross inexcusable negligence; that respondent conspired, confederated, and confabulated with the NBI officials concerned and Papa to make the NBI Reports and the decision favorable to Papa; that respondent did not bother to check the figures and to analyze the data contained in the reports, allegedly because a careful perusal of said reports would have led to the discovery of flaws and mistakes; and that the hasty transfer of ballot boxes from respondent's sala to that of Judge Vivencio Baclig violated Section 255 of the Omnibus Election Code which requires the examination and appreciation of the ballots to be done by the judge himself rather than mere reliance on the work of the Revision Committee.

In his Comment dated December 10, 1997, respondent vehemently denied the allegations in the complaint by addressing complainant's two main issues: (1) whether it was proper for respondent to have designated the NBI to conduct the necessary handwriting examination and to submit reports on the results thereof to the court and not to the parties considering that said reports were the sole basis of the decision rendered by the court, and (2) whether it was proper for respondent to have granted the "Motion for Execution Pending Appeal" filed by the declared winner Ricardo D. Papa, Jr., allowing him to take his oath notwithstanding the pendency of an appeal filed with the Commission on Elections concerning the decision rendered by respondent.

In addressing the first issue, respondent claimed that the examination conducted by the NBI, which included the segregation, photocopying, and photographing of the contested ballots was in fact done in the presence of the court and the representatives of the parties. Respondent also alleged that the NBI gave one copy each of the reports only to the court since the request therefor did not emanate from the parties. He further claimed that the reports were made available to the parties as early as August 25, 1997, but that neither party took the time to reproduce the same.

Concerning the second issue, respondent asserted that he acted in accordance with the Rules of Civil Procedure which provide that upon motion of the prevailing party with notice to the adverse party, the court may, in its discretion and upon good reasons, order the execution of a judgment or final order even before the expiration of the period to appeal. Respondent further contended that Papa, the rightful winner of the May 1995 elections, had been deprived of his right to sit as the duly elected mayor of the Municipality of Taguig and that his constituents had been equally deprived of his services as their duly elected municipal head.

In the letter-reply dated August 12, 1998, complainants informed this Court that the COMELEC had promulgated an En Banc resolution in SPR No. 42-97 entitled, "Isidro