

EN BANC

[G.R. No. 142527, March 01, 2001]

ARSENIO ALVAREZ, PETITIONER, VS. COMMISSION ON ELECTIONS AND LA RAINNE ABAD-SARMIENTO, RESPONDENTS.

R E S O L U T I O N

QUISUMBING, J.:

This petition for *certiorari* assails the Resolution of the Commission on Elections *En Banc*, denying the Motion for Reconsideration of herein petitioner and affirming the Resolution of the Second Division of the COMELEC that modified the decision dated December 4, 1997 of the Metropolitan Trial Court, Br. 40, of Quezon City in Election Case No. 97-684. Said decision declared herein private respondent La Rainne Abad-Sarmiento the duly elected Punong Barangay of Barangay Doña Aurora, Quezon City during the May 12, 1997 elections; directed the herein petitioner to vacate and turnover the office of Punong Barangay to private respondent upon the finality of the resolution; and directed the Clerk of the COMELEC to notify the appropriate authorities of the resolution upon final disposition of this case, in consonance with the provisions of Section 260 of B.P. Blg. 881 otherwise known as the Omnibus Election Code, as amended.^[1]

The facts of the case are as follows:

On May 12, 1997, petitioner was proclaimed duly elected Punong Barangay of Doña Aurora, Quezon City. He received 590 votes while his opponent, private respondent Abad-Sarmiento, obtained 585 votes. Private respondent filed an election protest claiming irregularities, i.e. misreading and misappreciation of ballots by the Board of Election Inspectors. After petitioner answered and the issues were joined, the Metropolitan Trial Court ordered the reopening and recounting of the ballots in ten contested precincts. It subsequently rendered its decision that private respondent won the election. She garnered 596 votes while petitioner got 550 votes after the recount.^[2]

On appeal, the Second Division of the COMELEC ruled that private respondent won over petitioner. Private respondent, meanwhile, filed a Motion for Execution pending appeal which petitioner opposed. Both petitioner's Motion for Reconsideration and private respondent's Motion for Execution pending appeal were submitted for resolution. The COMELEC *En Banc* denied the Motion for Reconsideration and affirmed the decision of the Second Division.^[3] It granted the Motion for Execution pending appeal.

Petitioner brought before the Court this petition for *Certiorari* alleging grave abuse of discretion on the part of the COMELEC when:

- (1) it did not preferentially dispose of the case;

- (2) it prematurely acted on the Motion for Execution pending appeal; and
- (3) it misinterpreted the Constitutional provision that "decisions, final orders, or rulings of the Commission on Election contests involving municipal and barangay officials shall be final, executory and not appealable".

First, petitioner avers that the Commission violated its mandate on "preferential disposition of election contests" as mandated by Section 3, Article IX-C, 1987 Constitution as well as Section 257, Omnibus Election Code that the COMELEC shall decide all election cases brought before it within ninety days from the date of submission. He points out that the case was ordered submitted for resolution on November 15, 1999^[4] but the COMELEC *En Banc* promulgated its resolution only on April 4, 2000,^[5] four months and four days after November 14, 1999.

We are not unaware of the Constitutional provision cited by petitioner. We agree with him that election cases must be resolved justly, expeditiously and inexpensively. We are also not unaware of the requirement of Section 257 of the Omnibus Election Code that election cases brought before the Commission shall be decided within ninety days from the date of submission for decision.^[6] The records show that petitioner contested the results of ten (10) election precincts involving scrutiny of affirmation, reversal, validity, invalidity, legibility, misspelling, authenticity, and other irregularities in these ballots. The COMELEC has numerous cases before it where attention to minutiae is critical. Considering further the tribunal's manpower and logistic limitations, it is sensible to treat the procedural requirements on deadlines realistically. Overly strict adherence to deadlines might induce the Commission to resolve election contests hurriedly by reason of lack of material time. In our view this is not what the framers of the Code had intended since a very strict construction might allow procedural flaws to subvert the will of the electorate and would amount to disenfranchisement of voters in numerous cases.

Petitioner avers the COMELEC abused its discretion when it failed to treat the case preferentially. Petitioner misreads the provision in Section 258 of the Omnibus Election Code. It will be noted that the "preferential disposition" applies to cases before the courts^[7] and not those before the COMELEC, as a faithful reading of the section will readily show.

Further, we note that petitioner raises the alleged delay of the COMELEC for the first time. As private respondent pointed out, petitioner did not raise the issue before the COMELEC when the case was pending before it. In fact, private respondent points out that it was she who filed a Motion for Early Resolution of the case when it was before the COMELEC. The active participation of a party coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later impugning the court or the body's jurisdiction.^[8] On the matter of the assailed resolution, therefore, we find no grave abuse of discretion on this score by the COMELEC.