

## EN BANC

[ G.R. No. 142507, December 01, 2000 ]

### **ALFREDO U. MALABAGUIO, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND MIRALI MENDOZA-DURR, RESPONDENTS.**

## **D E C I S I O N**

### **YNARES-SANTIAGO, J.:**

This Court has repeatedly stressed that the importance of giving effect to the sovereign will of the people as expressed through the ballot must be given fullest effect. In case of doubt, political laws must be interpreted to give life and spirit to the popular mandate.<sup>[1]</sup> Thus, in *Pangandaman v. COMELEC, et al.*,<sup>[2]</sup> this Court emphatically stated that:

[U]pholding the sovereignty of the people is what democracy is all about. When the sovereignty of the people expressed thru the ballot is at stake, it is not enough for this Court to make a statement but it should do everything to have that sovereignty obeyed by all. Well done is always better than well said.<sup>[3]</sup> Corollarily, laws and statutes governing election contests especially the appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.<sup>[4]</sup>

These standards will be the legal yardsticks upon which this case will be judicially assayed.

The facts are not disputed and simple.

Petitioner and private respondent were both candidates for the position of Punong Barangay in Barangay 172, Kalookan City, during the May 12, 1997 Barangay Elections. Private respondent was proclaimed as the duly elected Punong Barangay having garnered One Thousand Two Hundred Sixty Three (1,263) votes as against One Thousand Ninety Five (1,095) votes obtained by petitioner.

Dissatisfied with the results of the canvass, petitioner filed an election protest case docketed as EPC No. 97-12 with the Metropolitan Trial Court of Kalookan City, which was initially heard by Judge Armando De Asa of Branch 51. Upon inhibition of Judge De Asa, the case was later re-raffled to Branch 49 of the same court presided by Judge Belen Ortiz. Petitioner-protestant prayed for the revision of the ballots and other election documents in all the fifteen (15) precincts of Barangay 172.

On April 3, 1998, Judge Ortiz rendered judgment<sup>[5]</sup> in the election protest case, declaring petitioner Alfredo U. Malabaguio as the winner in the barangay elections

held on May 12, 1997 in Barangay 172, Caloocan City.

Private respondent filed a notice of appeal upon receipt of the court's Decision on April 16, 1998.

Meanwhile, petitioner-protestant filed a motion for immediate execution pending appeal, which private respondent-protestee vigorously opposed. The Metropolitan Trial Court subsequently granted petitioner-protestant's motion in an Order dated May 4, 1998.<sup>[6]</sup> The said order directed private respondent-protestee to vacate the position of Punong Barangay and turn over the same peacefully to petitioner-protestant who would thenceforth assume the duties of the office pending the final determination of private respondent-protestee's appeal.

The granting of the motion for execution pending appeal prompted private respondent to file a petition for *Certiorari*, Prohibition and *Mandamus* with Prayer for Temporary Restraining Order and/or Preliminary Mandatory/Prohibitory Injunction with the COMELEC, docketed as SPR No. 22-98.

With regard to the present case, private respondent filed with the Commission on Election her appellant's brief on November 12, 1998,<sup>[7]</sup> while petitioner-protestant filed his appellee's brief on December 16, 1998.<sup>[8]</sup>

Thereafter, the COMELEC's Second Division, through Commissioner Julio F. Desamito, with Commissioners Japal Guiani and Abdul Gani M. Marohombsar Al Haj concurring, promulgated its challenged Resolution of March 11, 1999,<sup>[9]</sup> the dispositive portion of which reads:

WHEREFORE, premises considered judgment is hereby rendered:

- a) Setting aside the decision dated April 3, 1998 of the Metropolitan Trial Court, Branch 49 Kalookan City, Metro Manila;
- b) Declaring protestee-appellant **MIRALI MENDOZA-DURR** the duly elected Punong Barangay of Barangay 172, Kalookan City, in the May 12, 1997 barangay elections for having garnered the highest number of VALID votes of One Thousand One Hundred Eighty One (1,181) AS against protestant-appellee Alfredo U. Malabaguio who obtained One Thousand One Hundred Twenty Seven (1,127) VALID votes, or a margin of Fifty Four (54) votes over the latter.

**ACCORDINGLY**, the Clerk of the Commission (Second Division) is hereby directed to furnish copies of this **Resolution** to His Excellency, the President of the Philippines, the Secretary of Interior and Local Government, the Chairman of the Commission on Audit, and the Secretary of the Sangguniang Barangay of Barangay 172, District I, Kalookan City, conformably with the provisions of Section 11 (b), Rule 18 of the Comelec Rules of Procedure and Section 260 of B.P. Blg. 881,

otherwise known as the Omnibus Election Code, as amended, until finality hereof.

**SO ORDERED.**

Petitioner filed a Motion for Reconsideration on March 15, 1999,<sup>[10]</sup> on the grounds that:

A.

THE SECOND DIVISION ERRED AND VIOLATED MALABAGUIO'S CONSTITUTIONAL RIGHT TO DUE PROCESS WHEN IT INVALIDATED 24 BALLOTS IN PCT. NO. 760 AND 33 BALLOTS IN PCT. NO. 762-762-A WHICH WERE CAST IN FAVOR OF MALABAGUIO.

B.

MALABAGUIO WAS DENIED A FAIR HEARING BEFORE THE SECOND DIVISION.

On March 22, 1999, petitioner filed a Motion To Admit Additional Assigned Error And To Set Case For Hearing,<sup>[11]</sup> additionally pleading therein -

3. x x x the third assigned error is that the Second Division erred in not appreciating the unsigned ballots in favor of the protestant-appellee.

These twin motions were heard by the Commission *En Banc* which was denied, by a vote of four (4) to two (2), in the second assailed Resolution dated April 4, 2000,<sup>[12]</sup> to wit:

**WHEREFORE**, the instant motions are hereby **DENIED** for lack of merit and the assailed Resolution of the Commission (Second Division) promulgated on 11 March 1999 is hereby **AFFIRMED** in toto. Thus, the protestant-appellee is hereby **ORDERED**, upon finality of this Resolution to:

1. **Vacate** the office of Punong Barangay of Barangay 172, Kalookan City and to cease and desist from performing the functions of Punong Barangay; and
2. **Cause the smooth turn-over** of the Office of the Punong Barangay of Barangay 172, Kalookan City to protestee-appellant **Mirali-Mendoza Durr**, being the duly elected Punong Barangay of Barangay 172, Kalookan City.

Let copies of this Resolution be furnished the Office of the President, the Secretary of the Interior and Local Government, the Mayor of Kalookan City, the Secretary of the Sangguniang Panglunsod of Kalookan City, the Secretary of the Sangguniang Barangay of Barangay 172, Kalookan City and the Treasurer of the said City and Barangay.

SO ORDERED.

Hence, this recourse by petitioner on the ground that -

THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION IN INVALIDATING FIFTY SEVEN (57) BALLOTS CAST IN FAVOR OF MALABAGUIO WHICH DO NOT BEAR THE SIGNATURE OF THE CHAIRMAN OF THE BOARD OF INSPECTORS. IN VALIDATING THESE BALLOTS RESPONDENT COMELEC UTTERLY DISREGARDED THE FUNDAMENTAL AND STATUTORY RULE IN THE APPRECIATION OF BALLOTS THAT "ABSENCE OF THE SIGNATURE OF THE CHAIRMEN OF THE BEI AT THE BACK OF THE BALLOTS DOES NOT INVALIDATE IT".

The primordial issue to be resolved in this case is whether or not the Fifty-seven (57) ballots cast in favor of petitioner-protestant which do not bear the signatures of the chairmen of the board of election inspectors should be counted in his favor. The question assumes crucial importance considering that private respondent enjoys only a slim winning margin of Fifty-four (54) votes over petitioner.

In invalidating the Twenty-four (24) ballots in Precinct No. 760 and the Thirty-three (33) ballots in Precinct No. 762/762-A which were all cast in petitioner's favor, the majority opinion of the COMELEC relied mainly upon Section 14 of *Batas Pambansa Blg. 222* as applied in the case of *Bautista v. Castro*,<sup>[13]</sup> which states that:

The law (Sec. 14 of B.P. 222) and the rules implementing it (Sec. 36 of Comelec Res. No. 1539) leave no room for interpretation. The absence of the signature of the Chairman of the Board of Election Tellers in the ballot given to a voter as required by law and the rules as proof of the authenticity of said ballot is fatal. This requirement is mandatory for the validity of the said ballot. (underscoring supplied)

reasoning that the requirement for the authentication of the ballots by election officers is a requirement imposed by law exclusively for the barangay elections.

Aside from Section 14 of B. P. Blg. 222, otherwise known as the Barangay Election Act of 1982, the majority opinion also cited Article VI, Section 43 of *Batas Pambansa Blg. 881*, the Omnibus Election Code, which provides that:

Section 43. *Official Barangay Ballots* - The official barangay ballots shall be provided by the city or municipality concerned of a size and color to

be prescribed by the Commission.

Such official ballots shall, before they are handed to the voter at the polling place, be authenticated in the presence of the voter, by the authorized representatives of the candidates and the chairman and members of the board of election tellers who shall affix their signatures on the back thereof. *Any ballot which is not authenticated shall be deemed spurious.* (italics supplied).

and Section 6 of R.A. No. 6679 entitled *An Act To Amend Republic Act No. 6653 To Postpone The Barangay Elections to March 28, 1989, Prescribing Additional Rules Governing The Conduct Of Barangay Elections And For Other Purposes*, which provides:

Section 6. The official ballots for the barangay elections shall, before they are handed to the voters at the polling place, be authenticated by the Chairman and the poll clerk who shall affix their signatures at the back thereof. *Any ballot which is not authenticated shall be deemed spurious.* (italics supplied).

It is conceded that by reason of the special knowledge and expertise of an administrative agency like the COMELEC over matters falling under their jurisdiction, they are in a better position to pass judgment thereon. Thus, their findings of fact in that regard are generally accorded great respect, if not finality by the courts.<sup>[14]</sup> It bears emphasis, however, that even decisions of administrative agencies which are declared "final" by law are not exempt from judicial review when so warranted.<sup>[15]</sup> Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness,<sup>[16]</sup> or upon proof of gross abuse of discretion, fraud or error of law.<sup>[17]</sup>

While courts generally will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies, this Court, however, stressed in *Ruby Industrial Corporation v. Court of Appeals*<sup>[18]</sup> that:

The settled doctrine is that factual findings of an administrative agency are accorded respect and at times finality for they have acquired the expertise and inasmuch as their jurisdiction is confined to specific matters.<sup>[19]</sup> *Nonetheless, these doctrines do not apply when the board or official has gone beyond his statutory authority, exercised unconstitutional powers or **clearly acted arbitrarily without regard to his duty or with grave abuse of discretion.***<sup>[20]</sup> In *Leongson vs. Court of Appeals*,<sup>[21]</sup> we held: "**once the actuation of the administrative official or administrative board or agency is tainted by a failure to abide by the command of the law, then it is incumbent on the courts of justice to set matters right, with this Tribunal having the last say on the matter.**" (Emphasis provided)