



Republic of the Philippines
Supreme Court
Manila

EN BANC

**BARANGAY CHAIRMAN
HERBERT O. CHUA**

Petitioner,

G.R. No. 236573

Present:

CARPIO, *S.A.J.*
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
TIJAM,
A. REYES, JR.,
GESMUNDO, and
J. REYES, JR., *JJ.*

- versus -

**COMMISSION ON ELECTIONS,
HON. MARIANITO C. SANTOS, in
his capacity as the Presiding Judge of
METC, Branch 57, San Juan City, and
SOPHIA PATRICIA K. GIL,**

Respondents.

Promulgated:

August 14, 2018

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DECISION

REYES, JR., J.:

This is a petition for *certiorari* and prohibition filed by Herbert O. Chua (Chua), assailing the Resolutions dated April 7, 2017¹ and November 6, 2017² of the Commission on Elections in EAC (BRGY) No. 165-2014, which declared Sophia Patricia K. Gil (Gil) the duly-elected Punong

¹ Rollo, pp. 25-55.

² Id. at 56-65.

Barangay of Barangay Addition Hills, San Juan City in the October 28, 2013 Barangay Elections.

Factual Antecedents

Chua and Gil were candidates for the position of Punong Barangay of Addition Hills, San Juan City in the October 28, 2013 Barangay Elections. After the canvassing of the votes, Chua was proclaimed the winner after obtaining 465 votes as against Gil's 460 votes.³

On May 7, 2013, Gil filed an election protest with the Metropolitan Trial Court (MeTC) of San Juan City, alleging that fraud and illegal acts marred the voting and counting thereof in all the fifteen (15) precincts of Barangay Addition Hills, San Juan City, which was docketed as EAC (BRGY) No. 165-2014. Specifically, she questioned (1) the presence of voters who are not residents of the barangay; (2) that votes were erroneously counted in favor of Chua by the Chairmen of the Board of Election Tellers (BETs), and; (3) that ballots where the space provided for the Punong Barangay was left blank and her name was mistakenly written on the first line for Kagawad slots were not credited in her favor.⁴

In his Answer, Chua claimed that the Verification and Certification Against Forum Shopping attached to the election protest was defective thereby making the same a mere scrap of paper. He added that Gil's claims were based on mere hearsay and self-serving allegations.⁵

Ruling of the MeTC

On May 20, 2014, the MeTC rendered a Decision⁶, dismissing the election protest, the dispositive portion of which reads as follows:

WHEREFORE, in light of the foregoing, this Court Resolved to DISMISS the instant election protest, including the parties' mutual claims for damages and attorney's fee; AFFIRM the proclamation of Protestee HERBERT O. CHUA; and DECLARE him to be the duly elected Barangay Captain of Barangay Addition Hills, San Juan City, for having obtained a plurality of 468 votes over the second placer Sophia Patricia K. Gil.

³ Id. at 127.

⁴ Id.

⁵ Id. at 128.

⁶ Id. at 127-134.

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SO ORDERED.⁷

Ruling of the Comelec

Unyielding, Gil filed an appeal of the decision of the MeTC with the Comelec, and it was raffled off to the First Division. Subsequently, on April 7, 2017, the Comelec First Division issued a Resolution,⁸ reversing the Decision dated May 20, 2014 of the MeTC. The dispositive portion of the resolution reads, thus:

WHEREFORE, premises considered, the Commission (First Division) RESOLVED, as it hereby RESOLVES, to GRANT the appeal filed by Sophia Patricia K. Gil. The 20 May 2014 Decision of the Metropolitan Trial Court of San Juan City is hereby REVERSED and SET ASIDE. Sophia Patricia K. Gil is DECLARED to be the duly-elected Punong Barangay of Addition Hills, San Juan City in the 28 October 2013 Barangay Elections.

SO ORDERED.⁹

Dissatisfied, Chua filed a verified motion for reconsideration of the foregoing resolution to the Comelec *En Banc*. Thereafter, on November 6, 2017, the Comelec *En Banc* issued a Resolution,¹⁰ affirming the Resolution dated April 7, 2017 of the Comelec First Division, disposing thus:

WHEREFORE, the instant MOTION FOR RECONSIDERATION is DENIED. The 07 April 2017 Resolution of the Comelec (First Division) is hereby AFFIRMED.

SO ORDERED.¹¹

Thereafter, on November 10, 2017, Chua filed a Manifestation with Clarification and Motion to Stay Execution,¹² praying for the Comelec to hold in abeyance the entry of judgment and/or the issuance of a writ of execution on the ground that Gil has abandoned her election protest when

⁷ Id. at 134.

⁸ Id. at 25-55.

⁹ Id. at 55.

¹⁰ Id. at 56-64.

¹¹ Id. at 64.

¹² Id. at 135-138.

she filed a certificate of candidacy for the position of councilor for the second district of San Juan City on October 18, 2015.¹³

On January 19, 2018, the Comelec *En Banc* issued an Order,¹⁴ denying the Manifestation with Clarification and Motion to Stay Execution filed by Chua. It ruled that the said manifestation is in the nature of a motion for reconsideration of the Comelec *En Banc*'s resolution which is among the prohibited pleading enumerated in Section 1(d), Rule 13 of the Comelec Rules of Procedure.¹⁵

Meanwhile, pursuant to Section 13, paragraph (a) Rule 18 of the Comelec Rules of Procedure, the Electoral Contests Adjudication Department of the Comelec issued a Certificate of Finality¹⁶ and the Resolution dated November 6, 2017 of the Comelec *En Banc* was recorded in the Book of Entries of Judgments¹⁷ on January 23, 2018.

On January 31, 2018, Chua filed the instant Petition for *Certiorari* and Prohibition under Rule 64, in relation to Rule 65 of the Rules of Court, with an Urgent Application for Temporary Restraining Order (TRO) and/or Preliminary Injunction.¹⁸ He alleged that the Comelec gravely abused its discretion when it did not rule on the supposed mootness of Gil's election protest.

On March 5, 2018 and April 5, 2018, respectively, counsel for Gil filed his Entry of Appearance as Collaborating Counsel for Private Respondent with Comment,¹⁹ while the Office of the Solicitor General (OSG) filed its Comment²⁰ on the petition.

Ruling of this Court

The petition is dismissed.

At the outset, the petition was filed out of time. The Rules of Court and the Comelec Rules of Procedure are clear on the manner and period of

¹³ Id. at 136.

¹⁴ Id. at 22-24.

¹⁵ Id. at 23.

¹⁶ Id. at 78-80.

¹⁷ Id. at 81-82.

¹⁸ Id. at 3-16.

¹⁹ Id. at 94-105.

²⁰ Id. at 113-126.

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appealing or challenging the decisions, resolutions or orders of the Comelec *En Banc*. Section 3, Rule 64 of the Rules of Court states:

Section 3. *Time to file petition.* — The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.

Concomitantly, Section 13, paragraph (a), Rule 18 of the Comelec Rules of Procedure provides:

Sec. 13. *Finality of Decisions or Resolutions.* - (a) In ordinary actions, special proceedings, provisional remedies and special reliefs a decision or resolution of the Commission en banc shall become final and executory after thirty (30) days from its promulgation.

Appeals from decisions of the MeTC in election protest cases are classified as ordinary actions under the Comelec Rules of Procedure. As such, decisions or resolutions pertaining to the same shall become final and executory after thirty (30) days from promulgation. The concerned party, however, may file a petition for *certiorari* with this Court to interrupt the period and challenge the ruling on the ground of grave abuse of discretion.

The records bear out, however, that Chua failed to take the proper legal remedy in questioning the ruling of Comelec *En Banc* within the reglementary period. He received a copy of the Resolution dated April 7, 2017 of the Comelec First Division on April 11, 2017.²¹ Six (6) days thereafter, on April 17, 2017, he filed a motion for reconsideration which the Comelec *En Banc* denied in its Resolution dated November 6, 2017. He received a notice of the said denial on November 9, 2017, thereby giving him twenty-four (24) days to file a petition for *certiorari* with this Court. Instead of filing a petition for *certiorari*, however, Chua filed a Manifestation with Clarification and Motion to Stay Execution, alleging a matter that he failed to raise during the pendency of the proceedings. He particularly pointed out that Gil should be considered to have abandoned her election protest when she filed a certificate of candidacy for the position of councilor of the City of San Juan for the May 2016 elections and prayed that, in the meantime, the issuance of a writ of execution and entry of

²¹ Id. at 8.

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judgment be held in abeyance.²² A reading of the allegations in the manifestation shows that it is in the nature of a motion for reconsideration which is a prohibited pleading under Section 1(d), Rule 13 of the Comelec Rules of Procedure which states, thus:

Section 1. *What Pleadings are not Allowed.* - The following pleadings are not allowed:

- (a) motion to dismiss;
- (b) motion for a bill of particulars;
- (c) motion for extension of time to file memorandum or brief;
- (d) motion for reconsideration of an en banc ruling, resolution, order or decision except in election offense cases;**
- (e) motion for re-opening or re-hearing of a case;
- (f) reply in special actions and in special cases; and
- (g) supplemental pleadings in special actions and in special cases.

“Under the COMELEC Rules of Procedure, a motion for reconsideration of its *en banc* ruling is prohibited except in a case involving an election offense.”²³ A prohibited pleading does not produce any legal effect and may be deemed not filed at all. In *Landbank of the Philippines vs. Ascot Holdings and Equities, Inc.*,²⁴ the Court emphasized that “a prohibited pleading cannot toll the running of the period to appeal since such pleading cannot be given any legal effect precisely because of its being prohibited.”²⁵

In *Angelia vs. Commission on Elections*,²⁶ the Court stressed that the resolution of Comelec *En Banc* “is not subject to reconsideration and, therefore, any party who disagreed with it had only one recourse, and that is to file a petition for *certiorari* under Rule 65 of the Rules of Civil Procedure.”²⁷ Even supposing that a motion for reconsideration was filed, the concerned party need not wait for the resolution of the same and may nonetheless proceed to file a petition for *certiorari* with this Court within the reglementary period. Thus, in *Angelia*, the Court further elaborated, *viz.*:

As the case before the COMELEC did not involve an election offense, reconsideration of the COMELEC resolution was not possible and petitioner had no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. For him to wait until the COMELEC denied his

²² Id. at 137.

²³ *Ferdinand Thomas M. Soller v. Commission on Elections*, 394 Phil. 197, 206 (2000).
²⁴ 562 Phil. 974 (2007).

²⁵ Id. at 983

²⁶ 388 Phil. 560 (2000).

²⁷ Id. at 566.

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motion would be to allow the reglementary period for filing a petition for *certiorari* with this Court to run and expire.²⁸

The Manifestation with Clarification and Motion to Stay Execution filed by Chua, being a prohibited pleading, did not toll the running of the 30-day period stated in Section 3, Rule 64 of the Rules of Court. The period expired on December 3, 2017 and by the time Chua filed the instant petition for *certiorari* before this Court on January 31, 2018, the Resolution dated November 6, 2017 of the Comelec *En Banc* had long attained finality. Correspondingly, a certificate of finality was issued and the same was entered in the book of entries of judgments on January 23, 2018.

It bears stressing that the finality of a decision comes by operation of law which means that the effects of a final and executory decision take place as a matter of course unless interrupted by the filing of the appropriate legal remedy within the period stated in the rules. In *Testate Estate of Maria Manuel vs. Biascan*,²⁹ the Court elaborated on this matter, thus:

It is well-settled that judgment or orders become final and executory by operation of law and not by judicial declaration. Thus, finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or motion for reconsideration or new trial is filed. The trial court need not even pronounce the finality of the order as the same becomes final by operation of law.³⁰

It is axiomatic that when a decision attains finality, it “becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land.”³¹ While there are recognized exceptions³² to this rule, Chua failed to demonstrate that the instant case falls under any of the instances.

Moreover, “it must be stressed that *certiorari*, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law.”³³ To reiterate, a petition for *certiorari* under Rule 64 must be filed within thirty (30) days from notice of judgment, final order or resolution sought to be reviewed. If a motion for reconsideration is filed

²⁸ Id.

²⁹ 401 Phil. 49 (2000).

³⁰ Id. at 59.

³¹ *Spouses Jorge Navarra and Carmelita Navarra v. Yolanda Liongson*, 784 Phil. 942, 953 (2016).

³² Id. at 954.

³³ *Macapanton B. Batugan v. Hon. Rasad G. Balindong*, 600 Phil. 518, 527 (2009).

and eventually denied, the aggrieved party may file the petition within the remaining period, which shall not be less than five (5) days in any event, reckoned from notice of denial. Here, from the date of receipt of notice of denial of his motion for reconsideration by the Comelec *En Banc* on November 9, 2017, Chua still had 24 days or until December 3, 2017 to file a petition for *certiorari*. He, however, gambled on his chances by filing a prohibited pleading and allowed the period to lapse.

Even assuming that the petition for *certiorari* was properly filed, the same must still be dismissed on the ground of mootness. The issue of whether who between Chua and Gil won the seat for Punong Barangay in the 2013 Barangay Elections had been rendered moot and academic by the recently-concluded Barangay and SK Elections held on May 14, 2018. “An issue is said to become moot and academic when it ceases to present a justiciable controversy, so that a declaration on the issue would be of no practical use or value.”³⁴ There is no actual substantial relief to which petitioners would be entitled and which would be negated by the dismissal of the petition.³⁵ Deliberating on the merits of the petition would be an exercise in futility as whatever may be the outcome thereof may no longer be enforced. Thus, in the similar case of *Baldo, Jr. vs. Comelec, et al.*,³⁶ the Court ratiocinated, thus:

Since the present Petition is grounded on petitioner Baldo’s specific objections to the 26 ERs in the previous local elections, no practical or useful purpose would be served by still passing on the merits thereof. Even if the Court sets aside the assailed COMELEC Resolutions and orders the exclusion of the disputed ERs from the canvass of votes, and as a result thereof, petitioner Baldo would emerge as the winning candidate for municipal mayor of Camalig, Albay, in the 10 May 2004 local elections, it would be an empty victory. It is already impossible for petitioner Baldo to still assume office as municipal mayor of Camalig, Albay, elected in the 10 May 2004 local elections, since his tenure as such had ended on 30 June 2007. Petitioner Baldo himself is currently occupying the very same office as the winning candidate in the 14 May 2007 local elections. Irrefragably, the Court can no longer grant to petitioner Baldo any practical relief capable of enforcement.³⁷

The Court also takes judicial notice of the fact that Chua won the 2018 Barangay Elections in Barangay Addition Hills, San Juan City as Punong Barangay, the very same office which was the subject of his election protest albeit in the immediately preceding barangay elections in 2013. Considering

³⁴ *Landbank of the Philippines v. Federico Suntay*, 678 Phil. 879, 905 (2011).

³⁵ *Teofisto C. Gancho-on v. Secretary of Labor and Employment*, 337 Phil. 654, 658 (1997).

³⁶ 607 Phil. 281 (2009).

³⁷ *Id.* at 287.




that there is no longer any post to vacate or assume, the petition must be dismissed on the ground of mootness.

WHEREFORE, in view of the foregoing, the petition is **DISMISSED**.


SO ORDERED.



ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

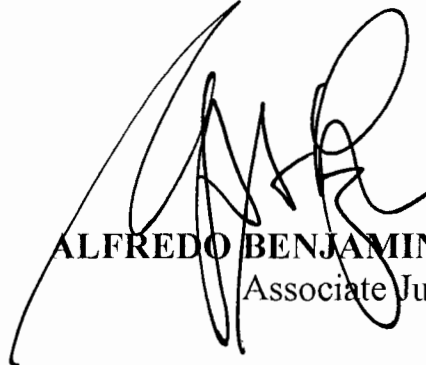

MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice



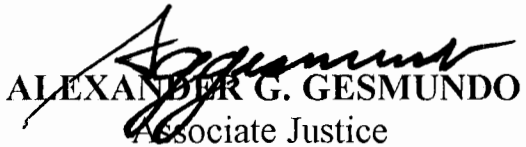
FRANCIS H. JARDELEZA
Associate Justice



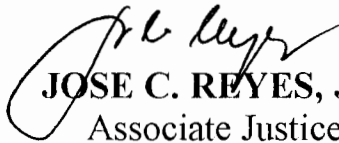
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



NOEL GIMENEZ TIJAM
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



JOSE C. REYES, JR.
Associate Justice

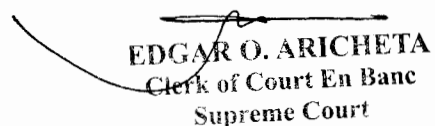
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. No. 296 The
Judiciary Act of 1948, as amended)

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court