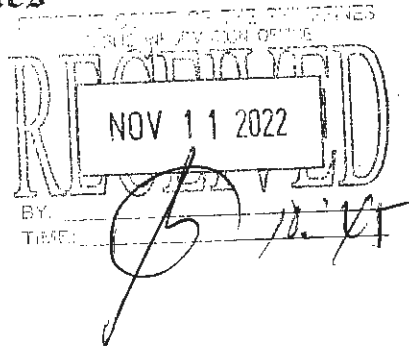




Republic of the Philippines
Supreme Court
Manila
EN BANC
NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated MARCH 29, 2022, which reads as follows:

“G.R. No. 255307 (*Antonio Prospero Esquivel, in his capacity as the duly-elected Municipal Mayor of Jaen, Nueva Ecija, vs. Commission on Elections [Second Division], presided by Hon. Socorro B. Inting, Department of the Interior and Local Government, Region III Regional Director Julie J. Daquioag, Ph.D., CESO III, and Sylvia C. Austria*). – Before the Court is a Petition for *Certiorari* and Prohibition with prayer for the Issuance of a Temporary Restraining Order and/or Writ of Prohibitory Injunction dated 08 February 2021,¹ alleging that the Commission on Elections (COMELEC) Second Division has no jurisdiction to hear and decide a petition assailing a final and executory decision of the Regional Trial Court in an election contest and issue injunctive reliefs thereon.

Petitioner Antonio Prospero Esquivel (Esquivel) and respondent Sylvia C. Austria (Austria) were candidates for Mayor in Jaen, Nueva Ecija during the 2019 local elections. The Municipal Board of Canvassers proclaimed Austria as the winner, prompting petitioner to file an election Protest.² On 07 December 2020, Branch 87, Regional Trial Court, Gapan City (RTC), granted the election protest of petitioner Esquivel and ordered him to assume office as the duly-elected Mayor.³

Austria filed a Petition for *Certiorari* and Prohibition⁴ with the COMELEC. The COMELEC Second Division took cognizance of the petition and issued injunctive reliefs through its Orders dated 12 January 2021,⁵ 03 February 2021,⁶ and 08 March 2021,⁷ which are now being assailed in the instant petition under Rule 65, Rules of Court.

¹ *Rollo*, pp. 3-31; on 17 March 2021, petitioner filed an Amended Petition, id. at 290-318.

² Id. at 49-61.

³ Id. at 62-194.

⁴ SPR No. 012-2020, titled ‘*Sylvia C. Austria vs. Regional Trial Court (Branch 87, Gapan City), Presided by Designated Judge Angelo C. Perez, and Antonio Prospero Esquivel*,’ for *Certiorari* and Prohibition (with Extremely Urgent Prayer for Issuance of Temporary Restraining Order and/or Status Quo Ante Order and/or Preliminary Injunction and/or Prohibitory Injunction), id. at 710-744.

⁵ *Rollo*, pp. 39-41.

⁶ Id. at 44-48.

The petition is dismissed.

Section 2(2), Article IX-C, the Constitution, vests appellate jurisdiction in the COMELEC over all contests involving elective municipal officials decided by trial courts of general jurisdiction, thus:

‘SECTION 2. The Commission on Elections shall exercise the following powers and functions:

x x x x

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable. x x x’⁸

The Rules of Court likewise provides that a petition for *certiorari* in election cases involving an act or an omission of a municipal or regional trial court shall be filed exclusively with the COMELEC in aid of its appellate jurisdiction.⁹ Corollarily, the COMELEC Rules of Procedure states that the COMELEC may hear and decide petitions for *certiorari* and prohibition or *mandamus* in aid of its appellate jurisdiction,¹⁰ and allows the COMELEC, through its Divisions, to issue injunctive reliefs,¹¹ and exercise contempt powers.¹²

Austria’s petition for *certiorari* and prohibition seeking the nullification of the order of execution, writ of execution, notice of finality, and certificate of finality before the COMELEC is rooted in the Decision of the RTC dated 07 December 2020. Thus, the petition not only invokes the COMELEC’s appellate jurisdiction as provided by the Constitution, but also observes the procedure laid down in the Rules of Court and in the COMELEC Rules of Procedure. Verily, the COMELEC may take cognizance of Austria’s petition and issue the injunctive reliefs prayed for.

Esquivel’s argument that the Decision of the RTC has already attained finality since Austria failed to timely file an appeal is a factual matter that should be resolved by the COMELEC when it decides the petition in SPR No. 012-2020 on the merits, especially since Austria alleged in the petition

⁷ Id. at 329-334.

⁸ Underscoring supplied.

⁹ RULES OF COURT, Rule 65, Sec. 4, as amended by A.M. No. 07-7-12-SC, 04 December 2007; see 2010 Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal Officials, A.M. No.10-4-1-SC, 27 April 2010.

¹⁰ COMELEC Rules of Procedure, Rule 28, Secs. 1 and 2.

¹¹ Id., Rule 30, Secs. 1, 2, 3 and 5.

¹² Id., Rule 29, Secs. 1 and 2.

that the RTC decision could not have been final and executory because it was not served upon her or her counsel.

Finding no such grave abuse of discretion on the part of the COMELEC Second Division in assuming jurisdiction in the said case, the instant petition must be dismissed.

ACCORDINGLY, the Court resolves to **DISMISS** the instant Petition for failure to show that respondent COMELEC Second Division committed grave abuse of discretion when it took cognizance of the petition before it and issued injunctive reliefs in the assailed 12 January 2021, 03 February 2021, and 08 March 2021 Orders in SPR No. 012-2020." Gesmundo, C.J., Inting and Kho, Jr., JJ., no part. (36)

By authority of the Court:


MARIFE M. LOMIBAO-CUEVAS
Clerk of Court

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G.R. No. 255307
Sarah 032922 (URes36) 111022

DIVISION CLERK OF COURT (x)
Second Division
Commission on Elections
Intramuros, Manila

HON. ANGELO C. PEREZ (reg)
Presiding Judge
Regional Trial Court, Branch 87
Gapan City, Nueva Ecija

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Regional Director
Department of the Interior and Local Government,
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