

PANTALEON PACIS, PETITIONER, VS. THE COMMISSION ON ELECTIONS, ATANACIO NEGRE AND MUNICIPAL BOARD OF CANVASSERS OF SANCHEZ MIRA, CAGAYAN, RESPONDENTS.

G.R. No. L-29026. September 28, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Primarily to be tested in this, the second Pacis case,[1] the validity of the last canvass in Precincts 19, 21 and 22 and the subsequent proclamation of Atanacio Negre as Mayor-elect of Sanchez Mira, Cagayan.

The returns in the above-mentioned precincts were contested as a result of the shooting incident on November 15, 1967 in the vicinity of polling places Nos. 18, 19, 21 and 22 located in schoolbuilding at Namuac barrio where then Vice Mayor Manuel Franco was killed. The inspectors had fled and left open and unsealed some of the election documents, ballot boxes and election paraphernalia. It was discovered the following day that some election returns were either tampered or sealed or placed inside the envelopes, and the tally sheets and tally boards were all missing.

The Commission on Elections (Comelec) in the first Pacis case had ordered that canvassing be held at the Comelec office in Manila. Proceedings there were however stopped as a result of the institution of the first case before this Court which raised issues different from those to be discussed in the present case. In this Court's decision in the first Pacis case, we issued the following directives to Comelec, inter alia "(2) to conduct an investigation to ascertain the true returns from Precincts 18, 19, 21 and 22 of Sanchez Mira; and thereafter the board of canvassers [to be constituted by Comelec] to use the true returns for purposes of canvass in said precincts; and (3) to order the board of canvassers to canvass the election returns from all the precincts of Sanchez Mira, and thereafter, to proclaim the winning candidate for the office of Mayor of said municipality".

It was thus in pursuance of the above orders that Comelec initiated an investigation - Case No. RR-607 - to ascertain the true returns from Precincts 18, 19, 21 and 22.

Elicited during the investigation and included in Comelec's report of May 11, 1968, the following facts relating to the election returns of the respective precincts are quite revealing, viz:

"Precinct No. 18: - Here, the copies of the election returns for the Commission on Elections, the provincial treasurer, and the municipal treasurer contain erasures and superimpositions with respect to the votes for mayor while the copy pertaining to the ballot box was clean and without any alteration. It has been observed that said ballots box copy was placed inside the proper envelope (CE Form 58, bearing SN 47118), closed with paper seal No. 516360, properly signed by all the board members; and that the election return itself (CE Form 42) was intact or duly sealed, bearing paper seal No. 516352, and legibly signed by all the board members. For votes of mayor, this clean copy reads as follows: Negre, Atanacio - 39 (in words and figures); and Pacis, Pantaleon - 110 (in words and figures).

It was elicited from the chairman of Precinct 18, Rizal Lagodon, upon intensive questioning by all the

Commissioners and counsels for both parties, that the board was able to finish and to sign the election returns; that the copy for the ballot box was duly sealed and placed inside the envelope, then deposited in the ballot box; that after the shooting, the board left the other election returns unsealed; that when they returned on the 16th of November, they placed all the election documents inside the ballot box, and the following day they retrieved the election returns and distributed them to the proper offices.

The foregoing testimony of the chairman explains why the ballot box copy of the election return was not altered, whereas the three other copies were tampered. The Commission, therefore, believes that said ballot box copy reflects the true result of the election in Precinct 18, Sanchez Mira, Cagayan, as regards the mayoralty votes.

Precinct No. 19: - The election returns for this precinct, copies for the Commission on Elections, the provincial treasurer, and the municipal treasurer, all contain erasures and superimpositions with respect to the mayoralty votes only. Although the ballot box copy appears to be clean, yet the entries of votes are very blurred or illegible not only with respect to the votes for mayor but also for all other offices. In short, not one of the four copies of the election return for Precinct 19 can be of service in the canvassing. The tally sheets and tally boards no longer exist.

The chairman of this precinct, Violeta Barase, declared under oath that as far as she could remember Negre obtained 73 votes, while Pacis got 89 votes; that one of the copies of the returns they prepared was erased by an armed man who entered the polling place on November 15, 1967 and this was placed inside the ballot box; that when shown the ballot box copy she could hardly read the votes for mayor, claiming there are erasures. She also identified a certificate of votes issued and signed by all the board members of Precinct 19, stating that Negre obtained 73 votes.

The poll clerk of this precinct, William Valdez, corroborated the testimony of the aforesaid chairman as regards the erased copy of the election returns placed in the ballot box, which he could not also read when shown to him. He also admitted having written the figure '9' on the vote for Pacis appearing in the Commission copy; and made a conclusion that if the certificate of votes issued the board shows that '73' votes were obtained by Negre and because 164 voters actually voted in that precinct, then Pacis could obtain only around '89' votes and not '159' as appearing in the tampered copies of the election returns.

When all the copies of the election return for Precinct 19 were submitted to the NBI for examination, the opinion of its Questioned Documents Division as regards the entries of votes for Pacis is as follows:

'With regards to the entries opposite the name reading as PACIS, Pantaleon of Exhs. 'HH-6', 'EE-5' and 'BB2-b', the original erased words and figures that could (be) deciphered thereon are 'eighty-nine' and '89' correspondingly. The now appearing words and figures are 'one fifty nine' and '159'.'

On the strength of the testimonies of the chairman and poll clerk of this precinct, after rigid questioning by the Commissioners and counsels for both parties, plus the certificate of votes issued and signed by all the board members with respect to the votes of Negre and also the NBI report as regards the votes of Pacis, the Commission believes that in the absence of any serviceable copy of the election return for Precinct 19, the correct votes for the mayoralty candidates are: Negre, Atanacio - 73 votes; and Pacis, Pantaleon - 89 votes.

Precinct No. 21: - The entries of votes for Mayor in the different copies of the election returns are as follows:[2]

1. Commission on Elections copy:

Words

Figures

NEGRE, ATANACIO:

NINE (preceded by erased word SIXTY)

9 (with erased figure preceding)

PACIS, PANTALEON:

ONE HUNDRED (followed by erased word NINETEEN)

179 (superimposed

on erased figure)

2. Provincial Treasurer copy:

NEGRE, ATANACIO

SIXTY NINE

9 (superimposed

on erased figure)

PACIS, PANTALEON:

ONE HUNDRED NINETEEN

179 (superimposed

on erased figure)

3. Municipal Treasurer copy:

NEGRE, ATANACIO:

NINE (preceded

by erased word

SIXTY)

9 (superimposed

on erased figure)

PACIS, PANTALEON:

ONE HUNDRED (followed by erased word NINETEEN)

179 (superimposed

on erased figure)

4. Ballot Box copy:

NEGRE, ATANACIO:

NINE (preceded

by erased word

SIXTY)

9 (superimposed

on erased figure)

PACIS, PANTALEON:

ONE HUNDRED NINETEEN)

179 (superimposed

on erased figure)

The chairman of this precinct, Geminia Sumawang, testified that after the board had completed the entries of votes and signed the election returns, armed men entered the polling place and told them to change the votes of Negre by removing '60' votes and giving him only '9' votes, while Pacis votes were increased from '119' to '179' votes. This explains the discrepancy of entries between the words and the figures among the different copies of the election returns for Precinct 21.

From the foregoing election returns and declarations, the Commission finds that the correct votes for the mayor-alty candidates are: NEGRE, ATANACIO - '69' votes; and PACIS, PANTALECN - '119' votes.

Precinct No. 22: - All the four copies of the election returns for this precinct are clean in all respects. Negre got '3' votes in words and figures; while Pacis had '174' in words and figures. All the board members signed it.

On the witness stand, the chairman of this precinct, Romulo Agadon, declared that said election return was prepared by the Poll Clerk but before they could finish it, two strangers entered the polling place and told the poll clerk to change the votes for the mayor, which are not reflected on the tally board; that one of the strangers called the chairman and told him to sign said election return, which he did and then the strangers left; that he signed the certificate of votes issued to the LP watcher and found that it tallies with the correct votes shown by the tally board, which is '83' for Negre; and when they returned on November 16, after the shooting the day before, they placed all the documents in the ballot box except the tally sheet which was missing. The LP inspector, Santiago Udaundo, corroborated the testimony of the chairman as regards the votes for mayor, which he further declared in his affidavit dated November 22, 1967, that the tally board of said precinct shows that Negre obtained 83 votes and Pacis got 94 votes. He reaffirmed all the statements appearing in said affidavit.

On the other hand, the poll clerk, Juan Holnagan, and the NP Inspector, Alberto Lagadon, disclaimed the testimonies of the chairman and LP Inspector. The former insisted that Negre really obtained '3' votes as it appears in the tally sheet and tally board, yet when told to explain why he signed the certificate of votes showing that Negre got '83' votes, he explained that they were rushing at that time and that the entry of votes therein was not made by him but the LP watcher. The NP Inspector, when shown the same certificate of votes, stated that he did not look at the figure for mayor when he signed it, as they were then rushing because of the gunfire, and further declared that he was not the one who placed the votes for Negre in said certificate, and he insisted that the election return reflects the votes on the tally sheet and tally board.

The Commission, however, finds, that there is more reason to believe that the chairman and the LP inspector are telling the truth in that the election return for Precinct 22 is no return at all with respect to the office of mayor, for not only was it prepared at the point of a gun but also other surrounding circumstances belie its authenticity. It has been observed that this is the only clean copy, in all respects, among the four precincts situated in the Namuac Elementary School; that the disparity of votes between the two mayoralty candidates, i.e. '3' against '174' is too big and follows the same trend of tampering as in Precincts 18, 19 and 21; that the tally sheet and tally board in this precinct are also missing although no tampering appears on the return; that as early as November 22, 1967, the LP inspector, in a sworn statement declared, that the election return in

Precinct 22 does not reflect the result of the election as appearing in the tally sheet and tally board; and that the certificate of votes issued in behalf of the LP watcher, signed by all the board members, shows a different number of votes for candidate Negre, than what appears in the election return.

Neither would it be of any help if the ballot box will be opened and we were to look for other election documents, since the tally sheet and tally board are missing and the ballot box itself was left open from the morning of November 15, 1967 up to the afternoon of November 16, 1967".

Comelec, in the same report, resolved as follows:

"1. To declare:

a) The copies of the election return for the Com-mission on Elections, the municipal treasurer and the provincial treasurer of Precinct No. 18 were all falsified; the copy of the election return for the ballot box of the same precinct which gives 39 votes to Atanacio Negre and 110 votes to Pantaleon Pacis as the true and correct copy of the election return for said precinct and, consequently, the copy to be used in the canvass of votes for the office of mayor;

b) The copies of the election returns for the Com-mission on Elections, the provincial treasurer and the municipal treasurer of Precinct No. 19 were all falsified while the copy for the ballot box is not legible; that the true and correct votes for mayor in this precinct is as originally written by the board of inspectors in the election returns before their alteration, namely 73 votes for Negre and 89 votes for Pacis which votes shall be counted by the municipal board of canvassers;

c) The copies of the election return for the Com-mission on Elections, the municipal treasurer and the ballot box for Precinct No. 21 were all falsified; as to the copy for the provincial treasurer, the votes written in words which give Atanacio Negre 69 votes and Pantaleon Pacis 119 votes are the true and correct return of the votes cast for mayor in said precinct while the votes written in figures were falsified, so that the said copy of the election return shall be used in the canvass of the votes for the office of mayor, municipal board of canvassers to the votes written in words as indicated herein;

d) There is no valid for the office of mayor for Precinct No. 22 and no vote shall be counted for said precinct in the canvass of votes cast for mayor municipal board of canvassers; and

2. To order the Municipal Board of Canvassers of Sanchez Mira, Cagayan, to convene at the Commis-sion on Elections, Manila on a date to be fixed by the supervising attorney of the Commission, and to can-vass anew all the votes cast for the office of mayor of said municipality in the November 14, 1967 elections and to proclaim the municipal mayor elected in accordance with said canvass."[3]

Consequently, on May 18, 1968, at 10:00 o'clock in the morning, the supervising attorney of Comelec convened the board of canvassers at Comelec office in Manila. All the members were present and took their respective oaths of office. Before the canvassing started, petitioner moved for the suspension of the proceedings so as to enable him to perfect an appeal to the Supreme Court and to question the May 11, 1968 resolution of Comelec. The motion was denied by the Supervising Attorney. But petitioner was able to secure an order from the Comelec Chairman to con-tinue with the canvass and to hold the proclamation in abeyance pending further orders.

Canvassing proceeded. The election returns used at first were advance copies, not the copies for the municipal treasurer, with the exception of Precincts 18, 19, 20 and 21. Later, at about 4:00 p.m., the municipal treasurer himself arrived with his copier of the election returns. A recanvass was made. This time the copies used were those for the municipal treasurer except those for Precincts 18, 19, 21 and 22. With respect to the returns of Precinct 18, the board used the ballot box copy. For Precinct 19, the board merely read Comelec's resolution indicating what vote should be entered. Pursuant to the same resolution, the board tallied the votes written in words as indicated in the copy of the provincial treasurer for Precinct 21. For Precinct 22, the board did not count

any votes as there was no valid return for that precinct.

After the tally, a statement of votes was signed by all the members of the board of canvassers. The votes obtained by the candidates for Mayor are as follows: Pacis - 2,102; Negre - 2,342. The board then adjourned.

It was two days later, May 20, 1968, when the municipal treasurer started notifying the members of the board of canvassers that the proclamation will be held on May 21, 1968 at 4:00 p.m. at the Comelec office in Manila.

In the meantime, on May 21, 1968, petitioner filed his notice of appeal before Comelec and the present petition for certiorari before this Court. Impugning the validity of the canvass, petitioner prays for the following reliefs: (1) to set aside and reverse the May 11, 1968 resolution of Comelec; (2) to declare the returns for Precincts 19 and 21 as falsified; (3) to annul the canvass made on May 18, 1968; (4) to order the board of canvassers to file a petition for recount of votes in Precincts 19, 21 and 22; and (5) pending the final determination of the case, to issue a preliminary injunction restraining the proclamation of the Mayor-elect of Sanchez Mira.

Before this Court could act on the preliminary injunction sought, the board convened at 5:00 in the afternoon of May 21 at the Comelec office in Manila for the proclamation of the candidate elected to the office of Mayor of Sanchez Mira, Cagayan. The supervising attorney called the roll. The following members were present:

- (1) Eleuterio Matta,
- (2) Esteban Eclarin,
- (3) Victor de Ocampo,
- (4) Dominador Seludares,
- (5) Jose Cack, and
- (6) Rolanda Cabulisan.

The following members were found absent:

- (1) Carmelita Calon,
- (2) Jose Cack, Jr.,
- (3) Segundo Acdal, and
- (4) Rafael Pacis.

Carmelita Calon was personally served notice but she refused to receive the same. With respect to Jose Cack, Jr., notice was received by his brother in his residence on May 21, 1968. Dominador Saludares declared in his affidavit^[4] that he fetched Jose Cack, Jr. from his classes at the Far Eastern University; but that while they were already in Comelec premises, Jose Cack, Jr. was accosted by Hilario Agdeppa who prevailed upon him (Cack, Jr.) not to attend the meeting. The notice to Segundo Acdal was served on May 21, 1968 through Juliet Baccud in the place where he is known to be residing in Manila. As to Rafael Pacis, the municipal treasurer could not locate him in his known residence, 931-A Dos Castillas, Sampaloc, Manila.

A quorum being present, the supervising attorney thereupon asked the chairman of the board to read the tabulation and fill up a certificate of proclamation. Thereafter, all the members present signed the certificate of canvass and proclamation at 6:25 p.m. The board adjourned at 6:40 p.m. Atanacio Negre was thus pro-claimed Mayor-elect of Sanchez Mira.

On May 29, 1968, petitioner filed a supplemental petition^[5] interposing the illegality of the proclamation because

Segundo Acda and Rafael Pacis were not properly served with notice. Pending final disposition of the case, petitioner prayed that preliminary mandatory injunction issue to suspend the effect of the proclamation, and respondent Negre to desist from performing the duties of the office of Mayor. We issued, on June 11, 1968, the injunctive writ sought upon all, P1,000-cash bond.

Meanwhile, on June 3, 1968, petitioner Pantaleon Pacis lodged with the Court of First Instance of Cagayan an election protest (No. 68-5) ex abundancia cautela pending the final determination of the present petition for review alleging, in addition to the illegality of the canvass and proclamation, acts of terrorism, frauds, anomalies and other irregularities which marred the elections held in a number of precincts.

On June 14, 1968, counsel for respondent Negre filed an urgent motion to dismiss the present petition for lack of appellate jurisdiction of this Court. His ground was that the petition was not properly served upon respondent within the ten-day period to perfect an appeal as provided in Rule 43 of the Rules of Court.

This Court, on June 19, 1968, resolved to deny the motion to dismiss, in a resolution which reads:

"Upon consideration of the urgent motion of counsel for respondent Atanacio Negre praying that the petition be dismissed, or, in the alternative, petitioner be ordered to serve copies of the pleadings filed at counsel's present address, x x x and it appearing upon the petition filed herein that copy thereof was forwarded by registered mail to Atty. Maximo A. Savellano, Jr., counsel for said respondent, at Room 709 Bank of P.I. Bldg., Plaza Cervantes, Manila, and that the amended [supplemental] petition was forwarded to the same counsel c/o respondent himself, Atanacio Negre, Sanchez Mira, Cagayan, by registered mail posted on May 29, 1968, the Court RESOLVED (1) to deny the motion to dismiss; (2) to require petitioner's counsel to serve x x x a copy each of the petition and the amended [supplemental] petition together with the annexes thereof on Atty. Maximo A. Savellano, Jr., counsel for respondent Negre, at Suite 208 Consolacion Bldg., Cubao, Quezon City; and (3) to require said respondent to answer x x x within ten (10) days from notice hereof."

On June 21, 1968, Comelec answered, Respondent Negre, in his answers filed on July 1 and July 3, 1968, reiterated his averment of lack of appellate jurisdiction in this Court; that petitioner has no cause of action because if the votes in Precincts 19, 21 and 22 were disregarded for being falsified, it would result in a bigger margin of victory for respondent Negre; and that judicial recount is not proper where all the copies of the election returns are tampered with and especially because the ballot boxes were left open for more than 24 hours.

From the petition, the returns thereto, and the memoranda of the parties, the problems appear in the following sequence:

I. May Comelec validly order the municipal board of canvassers to use, other than the copy for the municipal treasurer, (a) Comelec's own finding of correct votes obtained, and (b) the votes written in words as indicated in the provincial treasurer's copy?

II. Is judicial recount proper when all the copies of election returns are tampered?

III. Would the alleged failure of two members of the municipal board of canvassers to receive notice of meeting bar a valid proclamation?

1. Comelec's broad power under the Constitution and the statutes has gained judicial approval. The rationale is that Comelec is entrusted with the "enforcement and administration of all laws relative to the conduct of elections" and the authority to decide "all administrative questions, affecting elections" – all of which rest upon the purpose of Comelec: to insure free, orderly and honest elections[6] Indeed, the diversity of election frauds and anomalies that have been concocted by rival parties, surpassing legislative anticipation and scuttling the prescribed manner of conducting elections, necessitate resort to Comelec's general power of administration and supervision.

This Court has set down the rule that when returns are obviously manufactured or palpably irregular, the canvassing board may reject them.[7] The board's decision is open to review by Comelec which has the power to investigate irregularities and to act upon the propriety or legality of the canvass made by the board.[8] But, it is to be emphasized, this power to reject returns must be exercised with "extreme caution".[9] Popular will must not be suppressed at the slightest cause.

"Clean elections", we have said in the first Pacis case, "control the appropriateness of the remedy". This we will have to underscore once again. Because acts of terrorism or fraud the purpose of which is to destroy the integrity of election returns must have to be discouraged. For, they may eventually defeat the will of the majority and, as Chief Justice Concepcion has emphasized, would "undermine the foundation of our democracy".[10] The purpose of the Election Code "to protect the integrity of elections and to suppress all evils that may vitiate its purity and defeat the will of the voters"[11] gives Comelec authority to ascertain whether the genuineness of a given election return may yet be salvaged by an examination of the said return.

Indeed, hindsight has long confirmed our view that the unscrupulous finds illegal doctoring of election returns as an effective short cut to prevent the proclamation of the true winner and leave him to the long tedious task of an election protest – if the aggrieved party still has the means to undergo the same. Which, as well observed by Chief justice Bengzon, could only result in a pyrrhic victory.[12] Comelec then must strain every effort to ascertain the true returns to be used in the proclamation, a possible alternative being that the victor will be cheated of his victory; the seat that is justly his will be occupied by one rejected at the polls; our democratic institutions will suffer in integrity.

With these thoughts to guide us, we first look into Pre-cinct 19.[13]

Comelec made a thorough investigation concerning the alleged irregularities. It even made use of the services of the NBI to deter-mine the original erased entry for Pacis and the testimony of the chairman and poll clerk of the precinct. It was there ascertained that Negre obtained 73 votes, to Pacis' 89. This is no abuse of discretion on the part of Comelec. If the true result of the voting in Precinct 19 could still be determined, it is within Comelec's power to direct that they be used in the canvass. And this was done.

With respect to Precinct 21, Comelec directed the board to use the untampered portion of the copy for the provincial treasurer which is the entry written in words. The entry being by long hand was harder to change and any tampering here would have been easier to detect. The tamperers in their rush must have left it as it is.

As deserving of serious consideration is the directive of Comelec rejecting the entries for Mayor in all election return copies for Precinct 22. It will be recalled that in Comelec's resolution of May 11, 1968, it was found that all the four copies of the election returns for this precinct are clean in all respects. Negre got "3" votes in words and figures, while Pacis had "174", also in words and figures. They all bear the signatures of all the board members. But then, Comelec found that it was prepared "at the point of a gun" and that "other surrounding circumstances belie its authenticity". These circumstances we need not repeat. Reference to the quoted portion of the resolution of May 11 heretofore transcribed will suffice.

We must now say that an election return prepared at the point of a gun is no return at all; it is not one notch above a falsified or spurious return. Comelec was correct in ruling that there was no valid return for the office of Mayor at Precinct 22 and that no vote should be counted for said precinct in the canvass of votes for Mayor.

2. One of the prayers of the petition herein is that this Court order the board of canvassers to file a petition for the recount of votes as far as Precincts 19, 21 and 22 are concerned. We find this wholly unacceptable.

Nothing in the election code would give the court power to compel the board of canvassers to file a petition for

recount. It would seem thus that such a petition for recount should be a voluntary act. For indeed, Section 163 of the Code says that such a petition may be submitted either by the board or by "any candidate affected".

But we are confronted with tampered returns from Precinct 19 and 21. Petitioner himself here asked that the returns for these two precincts be declared "as falsified. As to Precinct 22, we have said, and so did Comelec say, that the return for that precinct is no return at all; all the copies thereof were made at the point of a gun. These are the circumstances which would deter us from stamping our approval to the petition under Section 163 of the Code. Because, there is no discrepancy between the different copies of the election returns.

Furthermore, we find no reason why we should break away from our ruling in *Espino vs. Zaldivar*[14] and *Ong vs. Commission on Elections*,[15] that where election returns have been tampered with, the remedy is before the Comelec - which was done here not with the court of first instance.

3. Petitioner finally quibbles over the issue that two members of the canvassing board, Rafael Pacis and Segundo Acdal, were unable to attend the proclamation because of improper service of notice.

Surrounding facts press for recognition. They reflect in petitioner's appeal an intention to unduly delay the proclamation his rival. The notices were served on them by the municipal treasurer of Sanchez Mira, in their known addresses in Manila.[16] The municipal treasurer cannot be expected to do more. There was a diligent attempt to notify them. If the two members of the canvassing board aforesaid were able to attend the canvass, which was also held in Manila, it is surprising that they could no longer be located for the purpose of proclaiming Negre.

Petitioner's pose lacks credulity. All the ten members were notified in the same manner by the municipal treasurer. Six of those who receive their notices attended the proclamation together with the attorney for petitioner Pacis. Of the four members who were absent, one, Carmelita Calon, refused the notice served on her personally; and the other Jose Cack, Jr., whose notice was received by his brother, was already inside the Comelec premises but deliberately stayed away from the meeting. It is apparent from the actuations of the latter two that there was an intention to delay further the proclamation meeting. The absence of Acdal and Rafael Pacis strikes one as a similar maneuver. Discernible is a pattern to frustrate Negre's proclamation.

Noteworthy too is that the canvass was finished on May 18, 1968 where Negre won. All the members of the board were then present. All of them signed the statement of votes.[17] The absence or presence of Rafael Pacis and Segundo Acdal during the subsequent meeting to proclaim the winner cannot change the result of the canvass. Negre would still be proclaimed. Pacis and Acdal knew this.

Finally, the meeting was held with a quorum of six members out of the membership of ten. It is elementary that a quorum may act for the entire body. The proclamation is therefore valid.[18]

At any rate, the proclamation is but a formal act to confirm the canvass previously held. It is just a ceremony which follows canvass as a matter of course. Petitioner's complaint on this point - considering the result we have heretofore reached - would lead nowhere. New proclamation would be an idle ritual. It would not change the result; it would only work delay in the already long delayed proclamation.

For the reasons given, the resolution of the Commission on Elections of May 11, 1968 is hereby confirmed; the preliminary mandatory injunction heretofore issued is hereby dissolved; and the canvass of May 18, 1968, and the proclamation of May 21, 1968 declaring respondent Atanacio Negre as Mayor-elect of the Municipality of Sanchez Mira, Province of Cagayan, are both declared valid and subsisting and of full force and effect.

Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Angeles, Fernando, and Capistrano, JJ., concur.

[1] The first Pacis case: L-28455, "Pantaleon Pacis, Petitioner versus Commission on Elections, et al., Respondents", by this Court on February 10, 1968.

[2] Record, p. 146.

[3] Record, pp. 148-149.

[4] Record, p. 179.

[5] Rollo, p. 39.

[6] Sec. 2, Article X, Constitution.

[7] Tagoranao vs. Commission on Elections, L-28590 and Cota Cornell vs. Commission on Elections, L-28598, March 2, 1968, 1968A Phil. 806, 813; Ong vs. Commission on Elections, L-28415, January 29, 1968, 1968A Phil. 248, 254, citing Nacionalista Party vs. Commission on Elections, 85 Phil. 149, 157, 158 and Lagumbay vs. Climaco, L-25444, January 31, 1966.

[8] Espino vs. Zaldivar, L-22325, December 11, 1967, 1967D Phil. 670, 681, 684, and citations therein.

[9] Tagoranao vs. Commission on Elections, *supra*.

[10] Ututalum vs. Commission on Elections, L-25349, December 3, 1965 cited in Janairo vs. Commission on Elections, L-28315, December 8, 1967 and Abes vs. Commission on Elections, L-28348, December 15, 1967.

[11] Cauton vs. Commission on Elections, L-25467, April 27, 1967.

[12] Lagumbay vs. Climaco, *supra*.

[13] Precinct 18 is no problem.

[14] *Supra*.

[15] *Supra*.

[16] Annex "A" of the original petition, p. 44.

[17] Annex "I", respondent Negre's Answer, Record, p. 173.

[18] See: Espino vs. Zaldivar, *supra*, citing Santos vs. Commission on Elections, *supra*.

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