

ROGELIO O. TIGLAO, PETITIONER, VS. THE COMMISSION ON ELECTIONS, CORNELIO SANGA AND BOARD OF CAN-VASSERS OF PAMPANGA, RESPONDENTS.

G.R. No. L-31566. February 18, 1970

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/79ee6b987c73/>

SANCHEZ, J.:

Amongst the candidates for Congressman for the second district of Pampanga in the November 1969 elections were petitioner Rogelio O. Tiglao and respondent Cornelio Sanga, both of the Liberal Party.

Factual background of the dispute is the following:

On December 11, 1969, the Provincial Board of Canvassers of Pampanga started the canvass of votes cast for the office of Congressman, second district of Pampanga. Canvass terminated on December 17, 1969, except with respect to the returns from sixteen precincts of San Luis, which were found to be "not authentic". Through a referral made on December 18, 1969, the canvassing board elevated the matter to the Commission on Elections (Comelec).

On December 23, 1969, petitioner Tiglao petitioned Comelec[1] for a review of the action taken by the canvassing board on various returns: from all precincts in Apalit and from some precincts in Candaba, Mexico, San Fernando, San Luis, San Simon, and Sto. Tomas. He specifically questioned the returns from Precincts 35-A and 36 of Apalit where his (Tiglao's) name and votes were said to have been deliberately omitted from the returns.

Having heard both the referral and Tiglao's petition, Comelec, on December 27, 1969, directed the board to use the Comelec copies of the returns from the questioned sixteen pre-cincts of San Luis, required petitioner to submit a bill of particulars on the 76 disputed returns from Apalit allegedly prepared at gunpoint. Comelec also resolved the questions raised as to some returns and directed further investigation as to others. Hearing was continued on December 31, 1969.

On December 29, 1969, however, petitioner moved to reconsider the December 27 resolution of Comelec. Averment was made that, although the Comelec copies of the returns from sixteen precincts of San Luis appeared to be clean, they were prepared at gunpoint - armed men had forced the inspectors to increase the votes of another candidate, Federico Taruc, and reduce the votes of Tiglao but leaving untouched the votes of Sanga. It was thus prayed that the ballot boxes of said precincts be opened, the ballots therein counted, and new returns therefor prepared.

On December 31, 1969, Comelec reconsidered its December 27 resolution as to Precincts 16, 20, 21 and 23 of San Luis, the reason being that petitioner had presented affidavits with respect to said precincts tending to show that the returns therefrom were prepared at gunpoint. Respondent Sanga was ordered to answer said averment. Comelec also decided that in Precinct 38, Candaba, where Tiglao's votes were "6" in figure but "zero" in word, the latter should be made to prevail without prejudice to a judicial recount if the result will be affected thereby. As

to the precincts of Apalit, Comelec gave petitioner until January 2, 1970 to file a bill of particulars with supporting affidavits. Hearing was continued to January 5, 1970.

On January 2 and 5, 1970, petitioner Tiglao filed his bill of particulars and supplemental bill of particulars. Supporting affidavits by members of the board of inspectors, alleging that the returns were made at gunpoint, were presented for 11 precincts of San Luis, namely, Precincts 3, 4, 8, 9, 15, 16, 18, 19, 20, 21 and 23. According to petitioner, these 11 precincts involved about 2,000 votes. As to the 76 precincts of Apalit, an affidavit of an OQC-CNEA rep-resentative was submitted. Tiglao's averment in a general way is that the "[e]lection returns were prepared at gun point." Tiglao further made observations on the Comelec copies of the returns from Apalit, to wit: that the entries of votes therein were different from those appearing in the provincial treasurer's copies; that the Comelec copies had tamperings and erasures; and that the Com-elec copies, on the one hand, and the provincial treasurer's copies, on the other, were prepared by two different hands on two different occasions.

On January 8, 1970, Comelec resolved, in reference to the 11 contested precincts of San Luis (Precincts 3, 4, 8, 9, 15, 16, 18, 19, 20, 21 and 23), that it has no power to open the ballot boxes thereof, count the votes therein and prepare new returns therefor. Comelec likewise took the view that it would serve no purpose to decide the question of whether or not the returns from those precincts were prepared at gunpoint. And this, because, so Comelec says, although it can exclude from the canvass gun point returns as held in the second Pacis case,[2] "[t]he cause for Petitioner would not be benefited by such ruling for thereby the margin of respondent Cornelio Sanga over him would be in-creased because in said returns Petitioner had appeared to have garnered more votes than respondent Cornelio Sanga." Comelec also ruled that no evidence there is to support the claim that the 76 election returns from Apalit were made at the point of a gun.

On January 9, 1970, Comelec declared that as to the returns from Apalit, there is no necessity to make a comparison between the Comelec copies and the provincial treasurer's copies because the latter have been found by the canvassing board to be authentic. Comelec also ruled that all copies of the return from Precinct 8, San Luis, were tampered but that, however, the tally sheet retrieved from the ballot box was found clean wherein Sanga obtained "1" and Tiglao "5". Comelec confirmed the action of the canvassing board - which read the same number of votes for the two candidates - with prejudice to a judicial recount if the result will be affected.

On January 26, 1970, Comelec, resolving the remaining issues, found, inter alia, that the returns for some precincts of Apalit were clean and regular on their faces. As for Precincts 35-A and 36, Apalit, Comelec noted the omission of Tiglao's name in the returns therefor due to honest mistake, but that judicial correction which is the proper remedy can no longer be availed of because of the testimony of the chairmen and poll clerks of said precincts that they could not remember whether Tiglao actually received votes in said precincts. With respect to Precinct 6, San Simon, Comelec gave 75 votes to respondent Sanga because of the testimony of the poll clerk that the superimposition of "75" over "0" opposite Sanga's name was made by the chairman of the board of inspectors but was not initialed by him due to oversight. Comelec thus ordered the provincial board of canvassers to reconvene and recanvass the votes in accordance with its resolutions and "to proclaim the presumptive winner for Member of the House of Representatives for the 2nd District of Pampanga at 5:00 P.M., Friday, January 30, 1970 unless restrained by the Supreme Court."

It would appear, based on the Comelec resolutions, that petitioner Tiglao would receive 13,794 votes as against respondent Sanga's 14, 041 votes, a difference of 247 votes in favor of the latter.

On January 30, 1970, petitioner Tiglao came to this Court on appeal by way of certiorari asking for the following reliefs: (1) upon petitioner's averment that the returns from Precincts 3, 4, 8, 9, 15, 16, 18, 19, 20, 21 and 23 of San Luis, Pampanga, in-volving about 2,000 votes, were prepared at gunpoint, to direct Comelec to order under

its supervision the boards of inspectors of said precincts to reconvene, open the ballot boxes of these pre-cincts in the presence of all parties concerned, count and tally the votes and, on the basis thereof, prepare authentic returns; (2) to direct a comparison amongst the Comelec copies, the provincial treasurer's copies, and the ballot box copies of the election returns from all the 76 precincts of Apalit, Pampanga, to determine whether or not the entries thereon were made by one hand or two hands; (3) to reject the election return from Precinct 6 of San Simon, Pampanga, for being tampered and correspondingly deduct seventy-five (75) votes credited to respondent Sanga on the basis thereof; (4) upon the averment that petitioner Tiglao's name and corresponding votes were omitted from the returns a Precincts 35-A and 36 of Apalit, to order Comelec to recount the votes cast therein for petitioner Tiglao and complete the returns; and (5) pending the result of the petitions for judicial recount and for correction of returns for some precincts, to direct that no proclamation be made of any candidate for Congressman-elect.

We stopped the proclamation.

But the facts do not end here. For, before petitioner came to this Court, or more precisely, on January 27, 1970, petitions for judicial correction of election returns under Section 154 of the Revised Election Code^[3] were brought by the corresponding boards of election inspectors in the Court of First Instance of Pampanga (Election Cases 3653, 3654, 3655, 3656, 3657, 3658 and 3659). It was there uniformly alleged that after the close of the polls on election day and the inspectors were about to prepare the returns, a group of fully armed men entered their respective polling places, fired shots in the air and people scampered for safety; that in the course of the confusion and commotion, the inspectors made mistakes in crediting Tiglao with less number of votes,

On January 28, 1970, the Pampanga court authorized the correction of the election returns with the result that petitioner Tiglao received an additional number of votes - 336 votes in all.

However, on January 29, 1970, respondent Sanga filed with the Pampanga court a petition for intervention and alternative motion for reconsideration asking the court to reconsider its previous decision of January 28. On the same day, January 29, the Pampanga court modified its order setting aside its January 28 decision insofar as Precincts 15, 16, 18, 20 and 21 are concerned because, so the court said, It had no jurisdiction thereon since Comelec had already acted on these precincts. However, the court reaffirmed its action in connection with Precincts 9 and 19 on the given ground that Comelec did not pass any resolution over said precincts.

On February 4, 1970, petitioners, in the cases for judicial correction, asked the Pampanga court to reconsider its January 29 order. It was there brought out that a petition for correction is perfectly compatible with a previous finding by Comelec that the returns sought to be corrected are authentic and/or clear returns.

On February 7, 1970, the Pampanga court ruled that the foregoing motion for reconsideration was meritorious and the inspectors were authorized to correct the returns from the different precincts concerned (Precincts 9, 21, 20, 19, 16 and 15) except as to Precinct 18 covered by Election Case 3658. And this, because, according to the court, Comelec had already definitely ruled that in Precinct 18 petitioner Tiglao should be credited with 36 votes instead of zero.^[4]

Thus it is, that as it now develops, petitioner Tiglao would be credited with 292 additional votes in the following manner:

Election Case No.

Precinct No.

As Per Uncorrected Return

Correction Authorized

Additional Votes

3653

9

7

60

53

3654

21

5

50

45

3655

20

9

49

40

3656

19

0

100

100

3657

16

0

25

25

3659

15

0

29

Total -

292 votes

Respondent Sanga, however, has moved to reconsider the February 7, 1970 order of the Pampanga court.

It must be also stated here that petitioner Tiglao filed, on January 16, 1970, a petition for judicial recount in the Pampanga court with respect to Precinct No. 38, Candaba, Precincts 8 and 18, San Luis, and Precincts 35-A and 36, Apalit,[5] although as to Precincts 35-A and 36, Apalit, petitioner Tiglao had on January 22, 1970 withdrawn his petition for recount.[6]

1. As prayed for by petitioner Tiglao, proclamation really cannot be had under the circumstances. There are still questions pending before the Court of First Instance of Pampanga involving the election returns. Specifically, there is the petition to recount the votes in Precinct 38, Candaba, and Precincts 8 and 18, San Luis. And the February 7, 1970 order of the Pampanga court authorizing the correction of returns from Precincts 9, 21, 20, 19, 16 and 15, San Luis, is the subject of a motion for reconsideration by respondent Sanga.

We believe it to be the duty of the Court of First Instance of Pampanga to act on this pending motion promptly to the end that canvass may be completed without delay.

The remedy as to the remaining precincts (Precincts 3 and 4) of San Luis may not be had in Comelec. Because, following the course of action in the six precincts just mentioned (Precincts 9, 21, 20, 19, 16 and 15), their respective boards of inspectors should have petitioned the court for correction of the returns.

2. We next address ourselves to petitioner's averment that Comelec should have ordered a comparison between the Comelec copies and the provincial treasurer's copies of the returns from the 76 precincts of Apalit to prove that the returns were made by different hands on different occasions.

There is not much to this point. No need there is to require Comelec to make a comparison between different copies if the purpose is to ascertain whether said copies were prepared by different hands. The canvassing board has found the provincial treasurer's copies to be authentic, clean and regular on their face. Petitioner himself concedes that the Comelec copies were tampered. No more logical deduction there could be than that what should be used in the canvass are the provincial treasurer's untampered copies. We discern no error here on the part of Comelec.

3. We now take up the question raised as to Precinct 6, San Simon. There, it will be recalled that all copies of the returns bear a superimposition as to the votes of respondent Sanga. The figures "75" were clearly written over the figure "0". So it is, that instead of Sanga appearing to have received no vote in said precinct, he is now credited with 75 votes in the return therefrom. The tally sheet retrieved from the ballot box is no help because it is not now before us, aside from the fact that averment is made that it is unsigned.

There is testimony before Comelec that it was the chairman of the board of inspectors who wrote in the 75 votes but who forgot to initial the change. It was because of this that Comelec ruled that such change was not a tampering but simply a correction. Thus did Comelec give Sanga the 75 votes.

This brings to mind the case of *Balindong vs. Commission on Elections*, L-29610, March 28, 1969, 27 SCRA 567, 584, 585.

The following pertinent passages therein are significant:

"Even conceding that the alteration of '13' to '8' was done by the election inspectors, yet such act was unauthorized by, and contrary to, the provisions of Section 154 of the election code. The inspectors could not plead ignorance to this, on the assumption that they really discovered the 'mis-take'. Such is a stratagem we are not prepared to legitimize. For, the dispiriting lesson in past elections is that election returns are tampered to favor a candidate. x x x.

x x x

Election returns should be maintained inviolate. Once the return is made and the certificates of votes of candidates are issued, no one, not even the inspectors themselves, may make any change without authority. We should not place at the whim of the inspectors, or any person for that matter, the fortunes of the candidates for a given position. Because, the candidates' fate depends in a great measure upon the election return preserved and unsullied, and unspoiled by hands of man. Tampering, falsification, spoliation of returns or making spurious returns must have to be discouraged."

Hewing to the line drawn by *Balindong*, we cannot give our imprimatur to Comelec's view. The correction having been made without the positive authority of the other members of the board and such correction not having been initialed by them, the original entry for Sanga may not be considered as altered. [7]

The foregoing thus funnels us down to the conclusion that as to Precinct 6, San Simon, respondent Sanga should not be favored with 75 votes. The return for him should remain as it originally was - zero.

4. Let us turn our attention to Precincts 35-A and 36, Apalit. Concededly, the name of petitioner Tiglao does not appear on the face of the returns for these precincts. Comelec's view is that this could be a proper case for judicial correction, but that such remedy is no longer availing because the members of the board of inspectors, in the words of Comelec, "could not remember whether petitioner received any votes" in said precincts.[8]

It would seem to us that the fact that the boards of inspectors of said precincts forgot to write the name of candidate Tiglao on the returns makes the same incomplete. It is our belief that they have not done their duty under the law. Section 150 of the Revised Election Code specifically states that "[i]mmediately after the count, the board of inspectors shall make, complete and sign a written statement thereof in quadruplicate." [9] Because of the incompleteness of the returns, no complete canvass of the votes can be had. A precept that has by now taken roots is that an incomplete canvass of votes is illegal and cannot be the basis of a subsequent proclamation.[10]

The foregoing lead us to the conclusion that under the broad powers of Comelec which should be exercised with the end in view of insuring free, orderly and honest elections,[11] Comelec should have ordered the boards of inspectors of Precincts 35-A and 36, Apalit, to open the ballot boxes, count the votes for petitioner Tiglao, if any, and make new returns. This procedure has been clearly outlined by this Court in *Mutuc vs. Commission on Elections*, supra, where we said that "Comelec should direct the opening of the ballot box x x x for the purpose of retrieving the copy of the election return deposited therein so that it may be used in canvassing anew the votes cast, x x x and, should it be found that the ballot box copy is likewise blank or incomplete, the Commission should order a count of the ballots, giving notice, for this purpose, to all the candidates." [12]

For the reasons given, the petition for certiorari is hereby granted; the temporary restraining order issued by this Court is hereby superseded; the resolution of respondent Commission on Elections of January 26, 1970 ordering the proclamation of "the presumptive winner for Member of the House of Representatives for the 2nd District of

Pampanga" is hereby set aside; the proclamation of the winning candidate shall be held in abeyance until after the questions affecting the same as hereinabove discussed, pending in the Pampanga court, are determined with finality; and respondent Commission on Elections is hereby directed to credit no vote for respondent Cornelio Sanga in Precinct 6, San Simon, and to order the boards of inspectors of Precincts 35-A and 36, Apalit, to open, in the presence of all parties concerned, the ballot boxes for said precincts, count the votes therein, and make new returns therefor. No costs allowed.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Case No. RR-695.

[2] Pacis vs. Commission on Elections, L-29026, September 28, 1968, 25 SCRA 377, 390-391.

[3] "SEC. 154. Alterations in the statement. – After the announcement of the result of the election in the polling place, the board of inspectors shall not make any alteration or amendment in any of its statements, unless it be so ordered by a competent court."

[4] The petition for judicial correction as to Precinct 18 prayed that Tiglao's votes be corrected to read "eighty (80)."

[5] Election Case 3644. See Rollo, p. 300.

[6] Rollo, p. 318. Precincts 35 -A and 36 are included in the present petition before this Court.

[7] See: Section 154, Revised Election Code, supra.

[8] Resolution of January 21, 1970.

[9] Emphasis supplied

[10] Mutuc vs. Commission on Elections, L-28517, February 21, 1968, 22 SCRA 662, 666, citing cases.

[11] Section 2, Article X of the Constitution.

[12] At p. 669.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.