

BENJAMIN T. LIGOT, PETITIONER, VS. COMMISSION ON ELECTIONS, PROVINCIAL BOARD OF CANVASSERS OF CAGAYAN AND DAVID PUZON, RESPONDENTS.

G.R. No. L-31380. January 21, 1970

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PER CURIAM:

After considering the petition for certiorari and prohibition and the answer thereto, as well as the arguments adduced by the parties at the hearing on January 13, 1970 and in their respective memoranda, and it appearing –

1. That on November 13, 1969 the petitioner Benjamin T. Ligot, Nacionalista Party independent candidate for the second congressional district of the province of Cagayan in the elections held on November 11, 1969, filed a petition with the Commission on Elections (hereafter called COMELEC) for the annulment of all the election returns from the four municipalities of Ballesteros, Allacapan, Abuyog and Pamplona, all of that province, upon the principal allegation that armed men, employed by the respondent David Puzon, official candidate of the Nacionalista Party, dictated at gunpoint to the boards of inspectors of the said municipalities the contents of the said election returns without the benefit of actual tally and count of the ballots cast, in order to give the respondent Puzon plurality over him;
2. That although in his fifth supplemental petition dated November 28, 1969 the petitioner asked the COMELEC "to receive evidence and conduct [an] investigation to determine and decide the factuality of petitioner's allegations of force, falsity and/or fraud vitiating [the] returns from the aforementioned four towns," he agreed on the same day to have the matter heard and decided on affidavits and counter-affidavits and after submission by the parties of their respective memoranda to the COMELEC;
3. That in accordance with this agreed procedure the COMELEC required the submission of affidavits and gave the petitioner opportunity to present rebuttal affidavits, after which it issued its questioned resolution, dated December 19, 1969, dismissing Ligot's petition and directing the provincial board of canvassers to proceed with the proclamation of the presumptive winner on the basis of the returns from all the municipalities of the second district of Cagayan, including the four municipalities mentioned in the petition for annulment, the COMELEC having found the election returns from these four municipalities to be regular and genuine, contrary to the petitioner's allegations;
4. That by agreeing to have the matter heard and decided on affidavits, counter-affidavits and rebuttal affidavits, the petitioner in effect waived his right, if any, to examine the affiants, with the result that his subsequent demand of December 2, 1969 that the COMELEC "summon all the election inspectors and poll clerks, interrogate them and let the parties cross-examine them" was unavailing;
5. That petitioner Ligot's claim that he could not secure rebuttal affidavits as his prospective witnesses were under threat of reprisal by respondent Puzon's armed partisans but that these witnesses were willing to testify before the COMELEC, was duly considered and thereafter rejected by that body;

6. That aside from making a general allegation, the petitioner has not shown that in hearing and deciding the matter on affidavits alone, without requiring the oral testimony of witnesses, the COMELEC committed such a capricious and whimsical exercise of discretion as to amount to lack of jurisdiction or to grave abuse of discretion;

7. That in the performance of its constitutional duty of insuring free, orderly and honest elections the COMELEC possesses a wide latitude of discretion which, unless shown to have been exercised in an arbitrary or improvident manner, will not be interfered with by this Court;

1. That the petitioner's allegations of fraud, terrorism and vote-buying in the elections held in the second district of Cagayan on November 11, 1969 are normally proper grounds for an election protest and not for an action to annul election returns;

The Court Resolved to dismiss the petition and to lift the restraining order issued on December 22, 1969. The Commission on Elections and the provincial board of canvassers of the province of Cagayan may therefore forthwith proceed accordingly.

This Resolution shall be executory upon promulgation.

No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Teehankee, and Barredo, JJ., concur.
Zaldivar, Ruiz Castro, and Fernando, JJ., reserve their votes.

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