

ABDULLAH SANGKI, PETITIONER, VS. THE COMMISSION ON ELECTIONS, THE PROVINCIAL BOARD OF CANVASSERS OF NORTHERN COTABATO, AND SALIPADA K. PENDATUN, RESPONDENTS. CONSTANCIA SALUDO, ...*G.R. No. L-28359. December 26, 1967*

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f469dd67fcb6/>**SANCHEZ, J.:**

The original jurisdiction of this Court is invoked on certiorari. Petitioner Abdullah Sangki, official candidate of the Nacionalista Party for Governor, and intervenors Constancia Saludo and Jose Torres, official candidates of the same party for Vice-Governor and Board Member, respectively, all of the province of Northern Cotabato, seek the rejection of the election returns from all the eighteen (18) precincts of the municipality of Pagalungan and eleven (11) precincts (Nos. 9, 10, 11, 12, 15, 22, 24, 32, 35, 45 and 51) of the fifty-three (53) precincts of the municipality of Pikit, both of the said province of Northern Cotabato.

Petitioner prays that a writ of preliminary injunction issue to restrain respondent provincial board of canvassers (a) from including in its canvass the election returns from all the questioned precincts; and (b) from proclaiming respondent Salipada K. Pendatun, official candidate of the Liberal Party for Governor, from being proclaimed Governor-elect.

On December 7, 1967, we issued the corresponding restraining order in petitioner's favor.

Intervenors Constancia Saludo and Jose Torres also sought pre-liminary injunction. Their petition came late. For, the winning candidates (except for Governor) were proclaimed before respondent board of canvassers could be restrained.

The case is now before us for resolution, after hearing, on the preliminary injunction issue.

The arguments center, and in fact the merits of the controversy as tendered by the petition and the returns, rest, upon the relevance to this case of the doctrine of statistical improbabilities judicially forged in *Lagumbay vs. Climaco* L-25444, January 31, 1966.

Petitioner's trenchant claim is that in all the eighteen precincts of Pagalungan, the election returns reported zero votes for him at the same time that these returns showed that all the votes counted were in favor of respondent Salipada K. Pendatun; that in twelve of these eighteen precincts, all the votes actually cast were tallied in favor of respondent Pendatun; that in the eleven precincts of Pikit heretofore enumerated, petitioner likewise received identical zero votes while all the voters actually voting unanimously cast their votes for Pendatun; and that in six of these eleven precincts, the total number of registered voters equals the number of ballots given to respondent Pendatun. Inter-venor-co-petitioner Constancia Saludo had allegedly obtained zero votes in all the precincts above-mentioned, except one in Pagalungan, where she was credited with two votes. Intervenor-co-petitioner Jose Torres, candidate for board member, appeared to have received zero votes, too, in the same precincts except in

one precinct in Pikit, where he garnered 100 votes.

The present proceedings, commenced on December 5, 1967, came about because, on December 2, 1967, the Commission on Elections [Comelec] by a two-to-one vote declined to review the November 30, 1967 resolution of the respondent board of canvassers. That resolution denied the petition to reject the aforesaid returns, upon the ground of lack of jurisdiction. In refusing review thereof, Comelec's majority opinion, Commissioner Manuel Arranz dissenting, adhered to the view that it has no power to direct the board of canvassers to reject said returns as its authority "in matters of the provincial and local canvass is only supervisory in character."

As we go into the bases for the statistically improbable doctrine hammered out in *Lagumbay vs. Climaco*, supra, and assess the merits of petitioner's and intervenors' position, we readily read meaningful differences in factual setting between this case and that of *Lagumbay*.

In *Lagumbay*, the declaration that the election returns therein questioned were "utterly improbable and clearly incredible," and thus, should be rejected, emphasized that the number of registered voters in about fifty precincts equal the number of ballots reportedly cast and tallied for each and every candidate of one party only - the Liberal Party. Here, respondent Pendatun points out, which is not denied by petitioner nor intervenors, that the number of registered voters in the questioned precincts of Pagalungan and Pikit is not the same as the number of ballots cast and tallied for the position of Governor, Vice-Governor, and other candidates of the Liberal Party.

In *Lagumbay*, too, all the Liberal Party candidates were credited with exactly the same number of votes while all the Nacionalista Party candidates received nothing. Here, only candidates Abdullah Sangki and Constancia Saludo were shown to have received zero votes; other candidates of the Nacionalista Party for other positions voted upon were not blanked in the disputed returns. A fact which stands in bold relief is that candidate Magnolia Antonino for Senator - who is not of the Liberal Party - received in all the questioned precincts a liberal share of the votes.

In *Lagumbay*, there was uncertainty as to what happened to the vote of the Nacionalista Party inspector in the disputed precincts, because the absence of his vote was unexplained. Here, respondent Pendatun explained, through affidavits of a good number of the Nacionalista Party inspectors themselves attached to his answer, that some did not vote because they were not able to register as voters; that two Nacionalista Party inspectors in Pagalungan did not vote for candidates Sangki and Saludo but for the Liberal Party candidates for Governor and Vice-Governor because they "are more qualified than the former two who are foreign to our Municipality;" and that other Nacionalista Party inspectors believed that the Liberal Party candidates "are more qualified than the Nacionalista Party candidates. These averments, we are constrained to say, reduce this particular point to a question of fact.

To support their prayer for the issuance of a writ of preliminary injunction, petitioner and intervenors concede that their right to the relief demanded must be "clear and unmistakable." But the foregoing would suffice to demonstrate that the right of petitioner to the issuance of a writ of preliminary injunction is, after all, far from being "clear and unmistakable." Indeed, the bare fact that candidates for public office had received zero votes is not enough to make the returns statistically improbable. In the *Lagumbay* decision itself, Chief Justice Cesar Bengzon, who delivered the majority opinion, did not say that when one candidate receives nothing in an election return, such a circumstance alone will make said return statistically improbable. For, in stressing the factual premise, this Court there took note of the fact that "this is not an instance wherein one return gives to one candidate all the votes in the precinct, even as it gives exactly zero to the other." Rather, the fact accentuated is that all the eight candidates for Senators of one party garnered all the votes, each of them receiving exactly the same number; whereas all the eight candidates of the other party got precisely nothing.

Also, the Lagumbay decision did not really foreclose the possibility that a party inspector might vote for a candidate of an opposing party. This may be read directly from the following statement therein: "It is, of course, 'possible' that such inspector did not like his party's senatorial line-up; but it is not probable that he disliked all of such candidates, and it is not likely that he favored all the eight candidates of the Liberal Party." Deducible from this is that a no-vote for a particular candidate in election returns is but one strand in the web of circumstantial evidence that those election returns are "obviously manufactured." In Lagumbay, that circumstantial evidence was over-whelming. The same does not hold true in this case; we cannot, with certainty, conclude from the facts before us that the returns questioned were "not true returns of legal votes actually cast, but simply manufactured evidences of an attempt to defeat the popular will." [1]

To be sure, it cannot be said here - as this Court did intimate in Lagumbay - that respondent board of canvassers may legally deny "prima facie recognition to such returns on the ground that they are manifestly fabricated or falsified;" or that "the fraud is so palpable from the return itself (*res ipsa loquitur* - the thing speaks for itself)", such that "there is no reason to accept it and give it prima facie value."

The factual background of this case suggests that we should not unduly expand the reach of the statistically improbable doctrine carved out of the facts obtaining in Lagumbay. Rather, we should say that respondent board of canvassers - sustained by Comelec - in refusing to reject canvass of the returns from the disputed precincts, properly performed the functions allocated to it by law. It did well in not over-stepping its authority. The following from *Dizon vs. Provincial Board of Canvassers*, is worth remembering:

"The board of official canvassers to whom the 'boards of election of the several divisions return their certificate showing the number of votes cast for each candidate, is liable to err in overestimating its powers. Whenever it is suggested that illegal votes have been received or that there were other fraudulent practices at the election, it is apt to imagine that it is its duty to inquire into these alleged frauds and to decide on the legality of the votes. Its duty, however, is almost wholly ministerial to take the returns as made from the different voting precincts, add them up, and declare the result. Questions of illegal voting and fraudulent practices are passed on by another tribunal. The canvassers are to be satisfied of the genuineness of the returns, that is that the papers presented to them are not forged and spurious, that they are returns, and are signed by the proper officers; but when so satisfied they may not reject any returns because of informalities in them or because of illegal and fraudulent practices in the election. The simple purpose and duty of the canvassing board is to ascertain and declare the apparent result of the voting. All other questions are to be tried before the court or other tribunal for contesting elections or in quo warranto proceedings." [2]

Aptly then does the Lagumbay decision itself indicate to petitioner and intervenors the remedy in law - the corresponding protest in the proper forum, in this case, the courts of justice.

We are thus totally unprepared to grant the injunctive relief herein prayed for.

For the reasons given, we vote to lift the restraining order heretofore issued herein, and to deny the petition for the issuance of a writ of preliminary injunction.

SO ORDERED.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Angeles, and Fernando, JJ., concur.
Ruiz Castro, J., did not take part.

[1] *Mitchell vs. Steven*, 33 Am. Rep., 175, 176 cited in the Lagumbay case, *supra*.

2 52 Phil. 47, 57-58, citing 9 R.C.L., p. 1110.)

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.