

LEOPOLDO DIAZ, PETITIONER, VS. HON. SALVADOR C. REYES, ET AL., RESPONDENTS.*G.R. No. L-25502. February 28, 1966*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f586f1a5a5dd/>**BAUTISTA ANGELO, J.:**

In the course of the canvass of the votes for the position of Congressman of the First District of Nueva Ecija by the provincial board of canvassers it was brought to its attention that the copy of the election return for the provincial treasurer for Precinct No. IX of the Municipality of Quezon showed that candidate Leopoldo D. Diaz obtained 20 votes in words and figures while the copy of the Commission on Elections showed 29 in words and 20 in figures. Likewise, in the copy for the provincial treasurer of the election return for Precinct No. 14 for the same municipality the same candidate had 7 votes in words and figures while in the copy for the Commission on Elections he had 17.

In view of the above discrepancies, candidate Diaz secured a suspension of the canvass to enable him to file a petition for recount with the proper court of first instance under Section 163 of the Revised Election Code, which he presently did upon the allegation that the difference of 20 votes above indicated would materially alter the result.

To the petition candidate Eugenio Baltao filed an opposition alleging that the "nine" in the "twenty-nine" in the Commission on Elections 'copy of the return for Precinct No. 13 and the "teen" in the "seventeen" in the Commission on Elections 'copy of the return for Precinct No. 14 are intercalations or falsifications and so said returns had been tampered and falsified and could not be the basis of a recount.

The court at first overruled the opposition and set a date for recount, but upon a motion for reconsideration of candidate Baltao the court issued another order setting aside its previous order and directing that the case be reopened in order that evidence may be received on the merits of the petition regarding the alleged tampering or falsification. It then became the turn of candidate Diaz to have the last order reconsidered pointing out that under Section 163 of the Revised Election Code the court has no power to receive such evidence since its sole function under said section is merely to recount the ballot. This motion having been denied, and as the court proceeded to receive evidence on the matter of tampering or falsification, candidate Diaz interposed the present petition before this Court with the end in view of restraining respondent court from enforcing its order allowing the presentation of evidence on the matter of tampering or falsification while ordering instead that it proceed with the judicial recount as directed in its previous order.

The issue posed in this petition is: When in a proceeding for judicial recount a discrepancy appears between the entry of the number of votes for a certain candidate in the copy of an election return for the provincial treasurer on the one hand, and the same entry in the copy of the Commission on Elections on the other, and it is alleged that the latter copy is falsified or tampered, may the court hearing said proceeding receive evidence on said allegation before it may proceed to recount the ballots?

Our answer is in the affirmative not only because it is in line with reason and logic but also because it is clearly implied from the pertinent provisions of the Revised Election Code. Thus, Section 163 of said Code, which deals with the case where some copies of official statements appear to be contradictory, provides:

"When statements of a precinct are contradictory.—In case it appears to the provincial board of canvassers that another copy or other authentic copies of the statement from an election precinct submitted to the board give to a candidate a different number of votes and the difference affects the result of the election, the Court of First Instance of the province, upon motion of the board or of any candidate affected, may proceed to recount the votes cast in the precinct for the sole purpose of determining which is the true statement or which is the true result of the count of the votes cast in said precinct for the office in question. Notice of such proceeding- shall be given to all candidates affected."

It would appear that when a copy or other authentic copies of a statement from an election precinct submitted to a provincial board of canvassers for purposes of a recount shows on their faces certain discrepancies or contradictions, the proper court, upon motion of any candidate affected, may proceed to recount the votes to determine which is the true statement or which is the true result of the voting in a particular precinct. Note that the section speaks of authentic copies in order that a recount may be authorized. And the law could not have provided otherwise for, indeed, if the alleged copy containing the discrepancy is not authentic, or is tampered or falsified, there could be no basis for recount for the claim of discrepancy becomes a nullity. The presentation of evidence concerning such claim of tampering or falsification becomes, therefore, necessary and imperative before the court could proceed with the requested recount, as correctly ordered by respondent court.

The fear entertained by petitioner that if the request for presentation of evidence on the claim of tampering or falsification be allowed the proceeding may be long and in the process defeat the real purpose of the law which is to pave the way for the expeditious and early proclamation of the winning candidate is more fancied than real, since the court to which the proceeding is addressed can always bear in mind that that proceeding is summary in nature and should, therefore, act accordingly. There cannot be much difference in point of expediency between a proceeding for recount and that which may require the presentation of evidence on an alleged tampering or falsification. Both come within the framework of the requirement which demands priority and early disposal.

One case in point is *Municipal Board of Canvassers of Bansud, et al. vs. Commission on Elections, et al.*, 116 Phil. 307, promulgated on August 31, 1962, wherein this Court said:

"Our answer is in the affirmative, it appearing that the petition for recount was dismissed and the writ of preliminary injunction was dissolved because of the main reason that the court found itself bereft of jurisdiction to act thereon in view of the ruling of the Commission on Elections regarding, the futility of said recount because of its finding that one of the returns was found to be falsified which was impliedly upheld by the Supreme Court."

Wherefore, petition is denied. The restraining order issued by this Court is hereby set aside. No costs.

Bengzon, C. J., Concepcion, Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur.

Petition denied.

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.