

**FRANCIS PANC RATIUS N. PANGILINAN, PETITIONER, VS.
COMMISSION ON ELECTIONS, BOARD OF CANVASSERS OF QUEZON
CITY, 4TH LEGISLATIVE DISTRICT, AND FELICIANO BELMONTE, JR.,
RESPONDENTS.**

G.R. No. 105278. November 18, 1993

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-105278/>

PADILLA, J.:

This is a petition for certiorari, prohibition and mandamus with a prayer for the issuance of a temporary restraining order to: (1) compel the Commission on Elections (COMELEC) to hear and decide the petition for disqualifi-cation of private respondent in SPA No. 92-127; (2) declare unconstitutional Section 15 of R.A. No. 7166 disallowing pre-proclamation controversies in the election of members of the House of Representatives; (3) compel the Board of Canvassers in the fourth legislative district of Quezon City to give due course to petitioner's objections to 120 election returns; and (3) prohibit and enjoin said Board of Canvassers from making further canvass of the returns and to suspend the proclamation of the winning candidate or to nullify the canvass and set aside said proclamation.

The antecedents are as follows:

The petitioner Francis Pancratius N. Pangilinan and private respondent Feliciano Belmonte, Jr. were both candidates for congressman in the fourth legislative district of Quezon City in the 11 May 1992 elections.

On 23 April 1992, Elmer Candano and Jose Umali, Jr. as registered voters of the fourth legislative district of Quezon City, filed with the COMELEC a petition for disqualification[1] against the private respondent for violation of Section 68 of the Omnibus Election Code of the Philippines (B.P. Blg. 881), docketed therein as SPA Case No. 92-127, alleging inter alia that: (a) during a rally held on 1 April 1992 at Agno Street, Barangay Tatalon, Quezon City, private respondent boasted and acknowledged that he gave one (1) sack of rice, P5,000.00 and medicines to the community and had made available to them the services of a lawyer, (b) similarly, in Barangay San Vicente, during the coronation night on 4 April 1992 of the winner of the Miss San Vicente pageant, private respondent gave tickets for two to Hongkong to the winner, Miss Ana Marie Debil.[2]

Acting upon the said petition, the respondent COMELEC referred the same to its Law Department (Investigation and Prosecution Division) for preliminary investigation.[3]

On 20 May 1992, the petitioner herein together with the petitioners/complainants in SPA Case No. 92-127 filed in the said case an Urgent Motion to Suspend Canvass and/or Procla-mation,[4] alleging therein that the election returns for the fourth district of Quezon City were being canvassed by the City Board of Canvassers and that in order that the petition for disqualification against private respondent may not become moot and academic, there was need for an immediate order directing the City Board of Canvassers of Quezon City to suspend at once the canvassing of the election returns and the proclamation of the winning candidate for Representative of the fourth

district of Quezon City. The COMELEC, however, failed to act on the said motion.

On 22 May 1992, five (5) other petitions for disqualification against private respondent were filed with the COMELEC,[5] for violation of Section 68 of the Omnibus Election Code outlawing the giving of money or other material consideration to influence, induce or corrupt the voters and Section 261(k) of the same Code making it unlawful to solicit votes during the day of the election.

During the canvass of the returns, the petitioner, thru his counsel, objected to over 120 election returns being canvassed by the City Board of Canvassers on the ground that they were tampered, altered or spurious. The City Board of Canvassers, however, overruled petitioner's objections on the ground that under Section 15 of R.A. No. 7166 and Section 23 of COMELEC Resolution No. 2413, entitled "General Instructions for the Provincial/City/District and Municipal Board of Canvassers" pre-proclamation controversies are not allowed in the election of members of the House of Representatives.

On 21 May 1992, the Board of Canvassers created canvassing committees to canvass the returns. The petitioner objected to the creation of such committees on the ground that he was not duly informed thereof and was not given the opportunity to appoint watchers and/or counsel before the said committees.

The Board of Canvassers, however, ignored the petitioner's objections and proceeded to canvass the returns.

The petitioner, therefore, filed the present petition, claiming that public respondents acted with grave abuse of discretion and/or exceeded their respective jurisdictions and/or unlawfully neglected to perform acts that the law requires them to do, and that there was no plain, speedy and adequate remedy in the ordinary course of law other than the present petition, and in support thereof, the petitioner argues that:

1. Private respondent violated the penal provisions of the Omnibus Election Code, which is a ground for his disqualification to run for Congressman in accordance with Sec. 68 of the said Code and which justifies the suspension of the canvass and proclamation of private respondent pursuant to Sec. 6 of R.A. No. 6646.
2. Section 15 of R.A. No. 7166 and Section 23 of COMELEC Resolution No. 2413 disallowing pre-proclamation controversies in the election of members of the House of Representatives are unconstitutional.
3. Petitioner was denied his right to due process when canvass committees were formed without prior notice to him and without affording him the opportunity to appoint watchers therein.

We will first discuss the constitutional issue raised in the petition. Section 15 of R.A. 7166 provides:

"Sec. 15. Pre-Proclamation Cases Not Allowed in Elections for President, Vice-President, Senator, and Members of the House of Representatives. -- For purposes of the elections for President, Vice-President, Senator and Members of the House of Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of the election returns or the certificates of canvass, as the case may be. However, this does not preclude the authority of the appropriate canvassing body *motu proprio* or upon written complaint of an interested person to correct manifest errors in the certificate of canvass or election returns before it."

Petitioner contends that the above-quoted provision is unconstitutional, insofar as it disallows pre-proclamation controversies in the election of members of the House of Representatives because it violates Sec. 3, Article IX-C of the 1987 Constitution which provides that:

"Sec. 3. -- The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions

shall be decided by the Commission en banc."

The petitioner claims that the Constitution vests in the COMELEC the power to hear and decide pre-proclamation controversies without distinction as to whether the pre-proclamation controversy involves the election of Members of the House of Representatives or provincial or local elective officials. Hence, the petitioner concludes, the phrase "pre-proclamation controversies" in Sec. 3, Article IX-C of the 1987 Constitution embraces all pre-proclamation controversies, including pre-proclamation controversies involving the election of Members of the House of Representatives.

We do not accept petitioner's contention, Sec. 3, Article IX-C of the 1987 Constitution should be read in relation to Sec. 2, Article IX-C of the same Constitution which provides, among others, as follows:

"Sec. 2 The Commission on Elections shall exercise the following powers and functions:

xxx xxx xxx

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction."

xxx xxx xxx

It will be noted that the aforequoted provision of the Constitution vests in the COMELEC "exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial and city officials." It has no jurisdiction over contests relating to the election, returns, and qualifications of Members of the House of Representatives. On the other hand, under Sec. 17, Article VI of the 1987 Constitution, the Electoral Tribunal of the House of Representatives is the "sole judge of all contests relating to the election, returns, and qualifications" of its members. Consequently, the phrase "including pre-proclamation controversies" used in Sec. 3, Article IX-C of the Constitution should be construed as referring only to "pre-proclamation controversies" in election cases that fall within the exclusive original jurisdiction of the COMELEC, i.e., election cases pertaining to the election of regional, provincial and city officials.

The petitioner's reliance on the case of *Olfato, et al. vs. COMELEC, et al.*[6] wherein this Court held that the word "all" in Section 242 of the Omnibus Election Code covers all pre-proclamation controversies involving elections of Batasan, provincial, city and municipal officials, is misplaced. The *Olfato* case was decided under the regime of the 1973 Constitution. Under the said Constitution, the Commission on Elections was "the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa and elective provincial and city officials." [7] Since the COMELEC had jurisdiction over election contests pertaining to the election of Members of the Batasang Pambansa, it had, likewise, as held in the *Olfato* case, the power and authority to hear and decide pre-proclamation controversies involving the election of Members of the Batasang Pambansa.

Since the 1973 Constitution has been replaced by the 1987 Constitution, the Batasang Pambansa stands abolished and the legislative power is now vested in the Congress of the Philippines consisting of the Senate and the House of Representatives.[8] The Senate and the House of Representatives now have their respective Electoral Tribunals which are the "sole judge of all contests relating to the election, returns, and qualifications of their respective Members,"[9] thereby divesting the Commission on Elections of its jurisdiction under the 1973 Constitution over election cases pertaining to the election of the Members of the Batasang Pambansa (Congress). It follows that the COMELEC is now bereft of jurisdiction to hear and decide pre-proclamation controversies

against members of the House of Representatives as well as of the Senate.

Section 15 of R.A. 7166 is not, therefore, unconstitutional. On the contrary, it is in harmony with the 1987 Constitution. As aptly observed by the Solicitor General in his Comment -?

"The petitioner's arguments are totally misplaced. In fact, Section 15, R.A. 7166 is consistent with Section 17, Article VI which makes the Electoral Tribunal of the Senate and the House of Representatives the sole judge of all contests relating to the election, returns, and qualifications of their respective members. Petitioner's objection relating to the preparation, transmission and appreciation of the election returns or certificates of canvass falls within the sole jurisdiction of the (House) Electoral Tribunal." [10]

Finally, the private respondent Feliciano Belmonte, Jr. has already been proclaimed as the winner in the congressional elections in the fourth district of Quezon City. He has taken his oath of office and assumed his duties as representative; hence, the remedy open to the petitioner was to have filed an electoral protest with the Electoral Tribunal of the House of Representatives.

Having arrived at the above conclusion, We find it unnecessary to pass upon the other issues raised in the petition.

WHEREFORE, the petition should be, as it is, hereby DISMISSED.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.

Bellosillo, J., on leave.

[1] Rollo. p. 29

[2] Rollo, pp. 30-33

[3] Ibid., p. 122

[4] Ibid., p. 91

[5] Ibid., pp. 49, 59, 65, 73, 78

[6] 103 SCRA 741

[7] Sec. 2(2), Article XII-C, 1973 Constitution

[8] Sec. 1, Article VI, 1987 Constitution

[9] Sec. 17, Article VI, 1987 Constitution

[10] Rollo, p. 135

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.