

ABDULLAH A. JAMIL, PETITIONER, VS. THE COMMISSION ON ELECTIONS, (NEW) MUNICIPAL BOARD OF CANVASSERS OF SULTAN GUMANDER AND ALINADER BALINDONG, RESPONDENTS.

G.R. No. 123648. December 15, 1997

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-123648/>

KAPUNAN, J.:

Petitioner Abdullah A. Jamil and private respondent Alinader Balindong were among the mayoralty candidates in the municipality of Sultan Gumander, Lanao del Sur, during the May 8, 1995 elections. Said municipality had a total of thirty-two (32) precincts.

On May 20, 1995, during the canvassing of the election returns by the Municipal Board of Canvassers (MBC) headed by Saadia Sansarona, private respondent objected to the inclusion of four (4) election returns from Precinct Nos. 5, 10-1, 20-1 and 20 on the following grounds: a) Precinct Nos. 5 and 10-1 - the election returns were prepared under duress; b) Precinct No. 20-1 - the election return was spurious, the Chairman, Poll Clerk and Third Member of the Board of Election Inspectors did not sign the election return; c) Precinct No. 20 - the canvassed election return was not an authentic copy as the original was missing.

On May 23, 1995, the Sansarona MBC issued its “rulings” on three (3) of the said objections, thus:

WE, the undersigned Chairman and Members of the Board of Canvassers of Sultan Gumander, after deliberating on the objection to the inclusion/exclusion of

ELECTION RETURN(S) NUMBER 661229

OF PRECINCT NUMBER 5

of the City/Municipality of Sultan Gumander, and admitting the supporting evidence consisting of

EXHIBIT ‘A’ Affidavit of Basir Sarip for petitioner; and

EXHIBIT ‘1’ Affidavit of Basir Sarip withdrawing his previous affidavit

‘2.’ Affidavit of Malic Solaiman for oppositor,

hereby RULE as follows:

It created confusion on the part of the Board on whom to rely on the two (2) contradicting affidavits of Basir Sarip, Chairman of Prec. No. 5, hence the election return is hereby set aside pursuant to paragraph E, Sec. 33 Comelec Res. No. 2756 for further investigation.[1]

WE, the undersigned Chairman and Members of the Board of Canvassers of Sultan Gumander, after deliberating on the objection to the inclusion/exclusion of

ELECTION RETURN(S) NUMBER 661236

OF PRECINCT NUMBER 10-1

of the City/Municipality of Sultan Gumander, and admitting the supporting evidence consisting of

EXHIBIT 'A-' Affidavit of Monaintan Maruhom

B- ER661236

C- List of BEIs for petitioner; and

EXHIBIT '1-' ER 661236

2- Affidavit of Liling Adapun

3- Affidavit of Farida Jamil for oppositor,

hereby RULE as follows:

The election Return is hereby set aside to go deeper into the contradicting testimonies of the Chairman of Prec. No. 10-1 and watchers of the respondent. [2]

WE, the undersigned Chairman and Members of the Board of Canvassers of Sultan Gumander, after deliberating on the objection to the inclusion/exclusion of

ELECTION RETURN(S) NUMBER 661251

OF PRECINCT NUMBER 20-1

of the City/Municipality of Sultan Gumander Lanao Del Sur, and admitting the supporting evidence consisting of

EXHIBIT 'A-' Affidavit of Basher Randa

B- Appointment of Basher Randa

C- ER No. 661251 for petitioner; and

EXHIBIT '1-' ER 661251

2- Affidavit of Baingcong Mandagla

3- Affidavit of Azisa Abdullah for oppositor,

hereby RULE as follows:

This Election returns is set aside and summons will be issued for the two (2) BEIS who failed to affix their signatures and explain the alleged increase of votes of a candidate and the use of unauthorized envelope without seal containing ER and thereafter a ruling on the matter shall be rendered.[3]

No ruling was made with respect to Election Return No. 661252 of Precinct 20.

On May 25, 1995, the composition of the MBC was changed. Saadia Sansarona was replaced by Casan T. Macadato as Chairman of the Board.

On May 30, 1995, the Macadato MBC issued its ruling anent Election Return No. 661252 of Precinct No. 20 as follows:

WE, the undersigned Chairman and Members of the Board of Canvassers of Sultan Gumander, after deliberating on the objection to the inclusion/exclusion of

ELECTION RETURN(S) NUMBER 661252

OF PRECINCT NUMBER 20

of the City/Municipality of Sultan Gumander , and admitting the supporting evidence consisting of

EXHIBIT ‘ __ ’ _____

_____ for petitioner; and

EXHIBIT ‘ __ ’

_____ for oppositor,

hereby RULE as follows:

To deny the petition for the exclusion of Election Return No. 661252 for being without any factual and legal basis. And that Comelec Resolution No. 2756, Sec. 24, says that when an Election Return is lost and destroyed, The Board of Canvassers upon prior authority from the Commission may use any of the authentic copies of said return. [4]

On June 1, 1995, the Macadato Board convened and resumed its canvass using the Municipal Treasurer’s copy of the election return from Precinct No. 20.

Said board, likewise, conducted its investigation with respect to the returns from Precinct Nos. 5, 10-1 and 20-1. Said investigation yielded the report dated June 5, 1995, to wit:

MEMORANDUM FOR: The Honorable Chairman

Commission on Elections

Manila

FROM: Acting Election Officer

Sultan Gumander, Lanao del Sur

DATE: June 5, 1995

S U B J E C T : INVESTIGATION REPORT

Respectfully forwarded to the Honorable Chairman, Commission on Elections the result of investigation in connection with Precinct Nos. 5, 10-1, 20 and 20-1.

The previous Municipal Board of Canvasser composed of Saadia Sansarona, Saripali Benito and Ismael Maulay rendered rulings in the election returns in Precinct Nos. 5, 10-1 and 20-1 as follows:

Precinct No. 5, ER No. 661229: SET ASIDE

a) Mr. Basir Sarip, Chairman, BEI executed two affidavits. In first affidavit executed before Atty. Disalo, Mr. Sarip said that he was instructed to accomplish the election return to make sure that Mayor Abdullah Amatonding will win in the precinct. In second affidavit executed before Atty. Mortaba, Mr. Sarip stated that he was forced to

sign the first affidavit so he disown and withdraw the first affidavit. Mr. Sarip also stated in the second affidavit that the election in Precinct No. 5 is clean and the election return is the true result of the election.

b) On June 3, 1995, Mr. Sarip personally appeared BEFORE me and executed sworn statement stating that he was forced by Taratingan Balindong to sign the first affidavit at Banday, Malabang, Lanao del Sur and was not allowed to read it. Mr. Sarip totally disowned the contents of the first affidavit. Mr. Sarip also requested that his second affidavit contains the truth that is that the election in Precinct 5 is clean and orderly and the election returns contains the true result of election in Precinct No. 5 and said election returns should be included in the canvass.

Recommendation: INCLUDE ER NO. 661229 IN THE CANVASS OF VOTES IN SULTAN GUMANDER.

Precinct No. 10-1, ER No. 661236: SET ASIDE

a) Mrs. Monaintan Marohom, Chairman, BEI executed an affidavit that they were ordered by Radia Balindong, Election Assistant to make sure Mayor Abdullah Amatonding win in our precinct with threat that something will happen if they do not follow.

b) A representative of Mayor Jamil submitted to me copy of another affidavit of Mrs. Monaintan Marohom stating that she was forced to sign an affidavit at the house of Mida Balindong at Campo Muslim, Malabang by her cousin Yasser Macadato and she was not able to read it. Mrs. Marohom stated that her first affidavit which she signed out of fear because of the threat of Yasser Macadato is false because the truth is that the election in Precinct 10-1 is clean, orderly and honest.

c) The signature of Mrs. Marohom in her first affidavit is different from her signature found in the election returns, while her signature in the second affidavit executed before Atty. Mortaba is similar or identical with her signature in the election returns.

Recommendation: INCLUDE ER NO. 661236 IN THE CANVASS OF VOTES IN SULTAN GUMANDER.
NO LEGAL BASIS TO EXCLUDE THE ELECTION RETURNS WITH MERE AFFIDAVIT OF ONE OF THE THREE MEMBERS OF THE BEI.

Precinct No. 20-1, ER No. 661251: SET ASIDE RULING TO BE RENDERED AFTER BEI ARE SUMMONED.

a) Mr. Basher Randa executed an affidavit that he is the Chairman of the BEI in Precinct No. 20-1 but that when he went to the MSU Grandstand, the election return is already being prepared by unauthorized persons.

b) Mrs. Baingcong Mandagla who appeared in the election returns to be the Chairman of the BEI executed an affidavit that she is the Poll Clerk but that Mr. Basir Randa did not show up when the election returns was to be prepared so she was designated by the COMELEC Office to act as Chairman. The appointment of Mrs. Mandagla shows the notation for her to serve as Chairman;

c) The Poll Clerk, Monette Saripada and the third member, Azisa Abdullah did not sign the election returns;

d) On May 26, 1995, Monette Saripada and Azisa Abdullah appeared before the MBC and signed the election returns in the presence of the watchers of various candidates and nobody objected to the signing of the election returns which affirm that they are the persons who appeared in the election returns to be the Poll Clerk and Third Member. The signing was photographed by the representatives of Mayor Jamil.

Recommendation: INCLUDE ER NO. 661251 IN THE CANVASS OF VOTES IN SULTAN GUMANDER.

The investigation was conducted because the previous MBC merely SET ASIDE the three election returns for

further investigation. The newly constituted MBC has to investigate for the guidance of higher authorities.

(Sgd.) CASAN T. MACADATO

Chairman, Municipal Board of Canvassers [5]

On June 8, 1995, private respondent filed an appeal to the Commission on Elections (COMELEC) from the ruling dated May 30, 1995 of the Macadato Board denying his petition for exclusion of Election Return No. 661252 of Precinct No. 20. The case was docketed as SPC No. 95-271.[6]

On the same day, petitioner filed an appeal to the COMELEC challenging the “rulings” dated May 23, 1995 of the Sansarona MBC setting aside for further investigation or action with respect to the election returns from Precinct Nos. 5, 10-1 and 20-1. Petitioner maintained that the contested election returns reflect the true will of the electorate. This case was docketed as SPC No. 95-272. [7]

On June 26, 1995, while the two (2) cases were still pending in the COMELEC, the Macadato Board proclaimed petitioner Abdullah Jamil and other winning candidates as the candidates obtaining the highest number of votes in the preceding election. [8]

On July 11, 1995, the Second Division of the COMELEC issued the following order, viz:

Considering the Omnibus Resolution on Pending Cases of the Commission en banc promulgated on June 29, 1995, items 2 and 3 of which read:

2. All cases which were filed beyond the reglementary period or not in the form prescribed under appropriate provisions of the Omnibus Election Code, Republic Acts No. 6646 and 7166 are hereby likewise dismissed;
3. All other pre-proclamation cases which do not fall within the class of cases specified in paragraphs (1) and (2) immediately preceding shall be deemed terminated pursuant to Sec. 16, R.A. 7166. Hence, all the rulings of board of canvassers concerned are deemed affirmed. Such board of canvassers are directed to reconvene forthwith, continue their respective canvass and proclaim the winning candidates accordingly, if the proceedings were suspended by virtue of pending pre-proclamation cases;

the Commission (Second Division), hereby ORDERS to note the report of the acting Election Officer contained in SPC No. 95-271 and to consider SPC No. 95-272 TERMINATED.

WHEREFORE, the Municipal Board of Canvassers of Sultan Gumander, Lanao del Sur is hereby DIRECTED to reconvene and proclaim the winning candidate for mayor of the municipality of Sultan Gumander, Lanao del Sur.

SO ORDERED. [9]

On July 17, 1995, the Macadato Board submitted its report implementing the July 11, 1995 order of the Second Division of the COMELEC. Said report reads:

Respectfully forwarded to the Honorable Chairman, Commission on Elections, Manila, thru the Honorable Commissioner In Charge, Region XII, the compliance of the board of canvassers with the Order dated July 11, 1995 of the Honorable Second Division, Commission on Elections in SPC Nos. 95-271 and 95-272 directing the board of canvassers to reconvene and proclaim the winning candidate for Mayor of Sultan Gumander, Lanao del Sur:

A. The previous board of canvasser headed by Saadia Sansarona SET ASIDE FOR FURTHER INVESTIGATION the election returns in Prec. Nos. 5, 10-1 and 20-a of Sultan Gumander, Lanao del Sur. The reconstituted board of canvassers conducted an investigation and found no defect in the election returns in the

three precincts and submitted its INVESTIGATION REPORT dated June 5, 1995 recommending the INCLUSION OF THE ELECTION RETURNS IN PREC. NOS. 5 (661229), 10-1 (661236) and 20-1 (661252) in the canvass, copies of the investigation report are attached as ANNEXES 'A' to 'A-1' hereof.

B. In addition to its report, the board of canvassers as respondent in SPC No. 95-272 submitted its ANSWER dated June 9, 1995 indicating its findings in the investigation as shown by the INVESTIGATION REPORT, and also submitted as part of its answer the SWORN STATEMENT dated June 6, 1995 of MS. MONAINTAN MAROHOM, chairman of Prec. No. 10-1 executed before the Chairman of the board of canvassers stating under oath that the election returns in said precinct is genuine and authentic and contains the true and correct votes of the candidates, copies of the Answer are attached as ANNEXES "B" to "B-3" hereof and the sworn statement of Ms. Morohom as ANNEXES "C" to "C-1" hereof.

C. On June 12, 1995, MR. BASIR SARIP, Chairman of Prec. No. 5 and MS. MONAINTAN MAROHOM, Chairman of Prec. No. 10-1 personally appeared before the HON. REMEDIOS SALAZAR-FERNANDO, Presiding Commissioner of the Second Division, COMELEC and in their SWORN STATEMENTS dated June 13, 1995 affirmed before the Presiding Commissioner, in the presence of Atty. Alioden Dalaig and Atty. Jacob Malik, that the election returns in Prec. Nos. 5 and 10-1 respectively were genuine and authentic and contain the true and correct votes of the candidates, that their affidavits that were submitted by candidate Balindong to the board of canvassers was signed by them against their will for fear of their lives and they DISOWNED or WITHDRAW all statements contained therein the same being false, and the board was furnished with copies of said sworn statements, copies thereof are attached as ANNEXES "D" to "D-1" (SS of Basir) and "E" to "E-1" (SS of Marohom) hereof.

D. In the case of Prec. No. 20-1, the two members of the BEI who failed to sign the election returns although they have thumbmarked the same, appeared before the board of canvassers and signed the election returns in the presence of the watchers of the candidates, photographs of the signing was submitted to the Honorable Commission through SPC No. 95-272 as part of the evidence therein.

E. Due to the above developments, particularly the fact that Mr. Basir Sarip, Chairman of Prec. No. 5 and Ms. Monaintan Marohom, Chairman of Prec. No. 10-1, appeared before the Honorable Presiding Commissioner of the Second Division and affirmed before her the authenticity, genuineness and accuracy of the election returns in Prec. Nos. 5 and 10-1, the fact that the two members of the BEI in Prec. No. 20-1, signed the election returns, and that the investigation of the board of canvassers shows that the election returns in the three precincts has no defect, the board of canvassers in accordance with its sworn duty has to include in the canvass the election returns in Prec. Nos. 5, 10-1 and 20-1.

F. After including in the canvass the election returns in Prec. Nos. 5, 10-1 and 20-1, it shows that the votes in Prec. No. 10 (should be 20) which is the subject of appeal in SPC No. 95-271 will no longer affect the results of the elections in Sultan Gumander, Lanao del Sur. Accordingly, the board of canvassers PROCLAIMED CANDIDATE ABDULLAH AL JAMIL ON JUNE 26, 1995 AS THE DULY ELECTED MAYOR of Sultan Gumander, Lanao del Sur, copies of the Certificate of Canvass of Votes and Proclamation and the MINUTES OF THE PROCEEDINGS OF THE BOARD are attached as ANNEXES "F" and "G" to "G-1" respectively.

G. The certificate of canvass of votes and proclamation duly signed, thumbmarked and sealed in the prescribed envelope was submitted to the Records and Statistics Division, COMELEC on July 5, 1995, copy of the certificate of appearance of Casan Macadato, Chairman of the board when he submitted the proclamation paper is attached as ANNEX "H" hereof.

In view of the above, the board of canvassers have complied with its duty to proclaim the winning candidate for Mayor of Sultan Gumander in accordance with the Order dated July 11, 1995.

(SGD.) CASAN T. MACADATO (SGD.) SARIPALI BENITO

Chairman Vice-Chairman

(SGD.) ESMAIL MAULAY

Secretary [10]

On July 24, 1995, private respondent filed an urgent motion before the COMELEC to annul the proclamation of petitioner as the winning candidate for mayor on the ground that the proclamation was without the authority of the COMELEC, and to constitute a new Board of Canvassers.[11]

On August 24, 1995, the Second Division of the COMELEC, proceeding from the premise that the election returns from Precincts Nos. 5, 10-1 and 20-1 were excluded by the Sansarona MBC applying the Omnibus Resolution of the COMELEC dated June 29, 1995, [12] issued an order disposing thereby:

xxx the Commission (Second Division) RESOLVED, as it hereby RESOLVES to ANNUL the proclamation of petitioner Abdullah A. Jamil made by the Municipal Board of Canvassers of Sultan Gumander, Lanao del Sur on June 10, 1995 and June 26, 1995, respectively, it being contrary to law and jurisprudence; and, to RELIEVE the Municipal Board of Canvassers of Sultan Gumander, Lanao del Sur, chaired by Mr. Casan Macadato of its duties and functions as such.

ACCORDINGLY, the Regional Election Director, Region XII, Cotabato City, is hereby DIRECTED to constitute a new Municipal Board of Canvassers for the Municipality of Sultan Gumander, Lanao del Sur, which shall forthwith RECONVENE and PROCLAIM candidate ALINADER ALINDONG as the lawfully elected Mayor of the Municipality of Sultan Gumander, Lanao del Sur.

SO ORDERED.[13]

On August 31, 1995, petitioner filed an Urgent Ex-Parte Motion to Suspend Implementation of the Order dated August 24, 1995.[14]

On the same day, petitioner likewise filed his Motion for Reconsideration (With Prayer to Suspend Implementation of the Order dated August 24, 1995).[15]

On September 5, 1995, pursuant to the August 24, 1995 order of the COMELEC, the newly constituted Municipal Board of Canvassers, this time headed by Darangina Cariga, proclaimed private respondent Alinader Balindong winner in the election after having obtained a total of 2,499 votes. [16]

On September 7, 1995, the COMELEC en banc issued the following order, viz:

Acting on the URGENT EX-PARTE MOTION filed on August 31, 1995 by petitioner-appellant through counsel praying that an order be immediately issued, directing the newly constituted Municipal Board of Canvassers to suspend the implementation of the Order of August 24, 1995, the Commission en banc, considering that a motion for reconsideration was filed and that the entire records of these cases were already elevated to it, hereby orders the newly constituted Municipal Board of Canvassers of Sultan Gumander, Lanao del Sur to suspend the implementation of the order of the Second Division dated August 24, 1995 until further orders.

SO ORDERED. [17]

On February 12, 1996, the COMELEC en banc by a vote of 3 - 3, issued a Resolution which reads in full:

The record shows that the Commission deliberated on the motion for reconsideration that petitioner appellant Abdullah A. Jamil (In SPC No. 95-272) filed on August 31, 1995, seeking to set aside the resolution of the Second Division promulgated on August 24, 1995, authorizing the reconstituted municipal board of canvassers, Sultan Gumander, Lanao del Sur, to proclaim candidate Alinader Balindong as the lawfully elected

mayor of the said municipality.

Resolving the motion, the Commission members reached a consensus to deny the petitioner Jamil's motion for reconsideration and to affirm the appealed order of the Second Division, dated August 24, 1995.

Accordingly, the Commission assigned Commissioner Gorospe to prepare the corresponding resolution, which he did, and to which six (6) Commissioners had affixed their signatures. When the resolution was referred to Commissioner Maambong, he asked for time to study the same and to prepare his dissent, without asking for a reconsultation. He prepared a dissenting opinion that he circulated to all the Commissioners.

Before the Commission could promulgate the majority resolution, four (4) Commissioners, namely Commissioners Remedios A. Salazar-Fernando, Graduacion A. Reyes Claravall, Julio F. Desamito and Teresita Dy-Liacco Flores, indicated their desire to re-study the case. Thereafter, Commissioners Fernando and Flores indicated that they would vote to set aside the resolution of the second division and would join in the opinion of Commissioner Maambong. However, Commissioner Fernando prepared her own separate opinion. When the case was referred to Commissioner Gorospe, he voted to affirm the appealed resolution and to maintain his ponencia. Chairman Pardo and Commissioner Desamito voted to continue their concurrence to the ponencia. Unfortunately, before Commissioner Claravall could enter her final vote, she suffered a stroke from which she did not recover and passed away on January 14, 1996.

Consequently, at this point, the members of the Commission are evenly divided in their opinion, and pursuant to the Comelec Rules of Procedure, the Commission re-heard the case and deliberated anew thereon. After such re-hearing and deliberation, the members was still evenly divided in opinion.

WHEREFORE, the Chairman hereby certifies that the members of the Commission were evenly divided in their opinion on petitioner-appellant Jamil's motion for reconsideration and pursuant to Rule 18, Section 6, Comelec Rules of Procedure, the motion shall be DENIED.

ACCORDINGLY, the Commission hereby DENIES the motion for reconsideration that petitioner-appellant Abdullah A. Jamil filed on August 31, 1995, and AFFIRMS the resolution of the Second Division, promulgated on August 24, 1995.

This resolves all the pending incidents in the above cases.

SO ORDERED.[18]

Hence, the present petition for certiorari brought before us contending that the COMELEC en banc committed grave abuse of discretion in issuing its February 12, 1996 Order because:

- (a) Majority of the Commissioners-Members of the Second Division had already decided to reverse their August 24, 1995 Order. [19]
- (b) Petitioner's proclamation was based on complete canvass of returns while the proclamation of private respondent was based on incomplete returns. Thus, the proclamation of the petitioner should be sustained and the proclamation of the private respondent must be annulled. [20]
- (c) The vote of Commissioner Claravall should have been considered in favor of the petitioner considering that, before she died, she had already expressed her opinion in favor of the petitioner. [21]

From the foregoing enumeration of alleged errors committed by respondent COMELEC, we are to resolve two issues, namely: First, which of the two (2) proclamations made by two (2) different MBCs in Sultan Gumander, Lanao del Sur is valid - the proclamation of petitioner Abdullah Jamil dated June 26, 1995 by the Macadato Board or the proclamation of private respondent Alinader Balindong dated September 5, 1995 by the Cariga Board; Second, whether the manner and procedure by which the members of respondent COMELEC voted in the instant

case was in accord with their own Rules of Procedure.

I

Petitioner Jamil insists that his proclamation by the Macadato Board as winner in the mayoralty race of the said municipality was based on a complete canvass, all election returns having been included therein, while the proclamation of private respondent Balindong by the Cariga Board was based merely on an incomplete canvass, as the three (3) election returns from Precinct Nos. 5, 10-1 and 20-1 were excluded from the canvass. [22]

We are not persuaded.

It may be recalled that after the May 8, 1995 elections, and during the canvass of the election returns by the MBC of Sultan Gumander, Lanao del Sur headed by Saadia Sansarona, private respondent Balindong objected to the inclusion of four (4) election returns from Precinct Nos. 5, 10-1, 20-1 and 20 for various reasons already stated. Acting on the objections, the Sansarona MBC issued its “rulings” on May 23, 1995 as follows: “setting aside” the election returns from Precinct No. 5 for “further investigation;” “setting aside” the returns from Precinct No. 10-1 “to go deeper into the contradicting testimonies of the Chairman of Precinct No. 10-1 and the watchers of the respondent;” and “setting aside” the election returns from Precinct No. 20-1 in order to “summon the two BEIs who failed to affix their signatures and explain the alleged increase of votes of a candidate and the use of unauthorized envelope without seal containing the Election Returns and thereafter a ruling on the matter shall be rendered.” [23] No ruling was made on the questioned election return from Precinct No. 20.

It is readily observed that the May 23, 1995 issuances cannot be considered as “rulings” within the contemplation of law; [24] they are not definitive rulings of exclusion by the MBC because they merely deferred the inclusion of the election returns pending “further investigation.” Hence, they are not “rulings” of the board of canvassers that are deemed affirmed within the purview of Comelec’s Omnibus Resolution on pending cases dated June 29, 1995. [25]

A few days later, Saadia Sansarona was replaced by Casan Macadato as chairman of the MBC. Macadato, after discovering that there were no rulings made on the disputed election returns, decided to conduct further investigation or action as recommended in the Sansarona MBC “rulings.” On May 30, 1995, the Macadato MBC issued a ruling denying the exclusion of the election returns from Precinct No. 20. Thereafter, Macadato submitted his investigation report dated June 5, 1995, which he alone signed, to the COMELEC simply recommending the inclusion of the election returns from Precincts 5, 10-1 and 20-1 without issuing a positive ruling thereon as the facts and circumstances would warrant.

As a consequence of the foregoing, private respondent Balindong appealed to the COMELEC the ruling of the Macadato MBC denying the exclusion of the election returns from Precinct No. 20, docketed as SPC No. 95-271. On his part, petitioner Jamil appealed to the COMELEC the “rulings” of the Sansarona MBC deferring action on the returns from Precincts 5, 10-1 and 20-1, docketed as SPC No. 95-272.

Meanwhile, on the basis of Macadato’s investigation report to the COMELEC dated June 5, 1995 which was apparently mistaken as a “ruling” for the inclusion of the election returns from Precincts 5, 10-1 and 20-1, the Macadato MBC on June 26, 1995 proclaimed petitioner Jamil as winner of the mayoralty race. The proclamation was made during the pendency of the two (2) cases before the COMELEC.

On August 24, 1995, the Second Division of the COMELEC upon private respondent’s motion, issued an order annulling the proclamation of petitioner Jamil and directing the constitution of new MBC to proclaim private respondent Balindong as the lawfully elected mayor of Sultan Gumander. Against petitioner’s protest, a new MBC headed by Darangina Cariga reconvened and proclaimed private respondent Balindong winner of the May

8, 1995 elections in compliance with the COMELEC resolution of August 24, 1995. Thus, on February 12, 1996, the COMELEC en banc, in an evenly divided (3-3) vote, resolved to deny petitioner Jamil's motion for reconsideration.

It is our considered view that both proclamations of petitioner and private respondent are invalid.

Clear it is that petitioner Jamil was proclaimed on June 26, 1995 after Casan Macadato, chairman of the second MBC, conducted an investigation with respect to the inclusion or exclusion of the returns from Precinct Nos. 5, 10-1 and 20-1 and after he submitted his investigation report, which he alone signed, to the COMELEC on June 5, 1995 merely recommending the inclusion of the three (3) returns in the canvass. As we have mentioned above, said investigation report was not in form or substance a ruling of the MBC because it did not make a definitive pronouncement or disposition resolving the issues regarding the questioned returns but only a recommendation to the COMELEC. There being no ruling on the inclusion or exclusion of the disputed returns, there could have been no complete and valid canvass which is a prerequisite to a valid proclamation.

Another fatal infirmity that vitiated petitioner's proclamation was the violation of Section 245 of the Omnibus Election Code which prohibits the proclamation by the Board of Canvassers of a candidate as winner where returns are contested, unless authorized by the COMELEC.[26] No authority had been given by the COMELEC to the MBC for the proclamation of petitioner Jamil.

The proclamation of private respondent Balindong for the same reason was null and void, as it was not predicated on a complete and valid canvass, but on supposed "rulings" of the Sansarona MBC which merely "set aside for further investigation" the three (3) challenged election returns from Precinct Nos. 5, 10-1 and 20-1. Said proclamation had clearly no basis in fact and in law. It is a settled rule that an incomplete canvass of votes is illegal and cannot be the basis of a valid proclamation. [27] All of the votes cast in the election must be counted and all the returns presented to the board must be considered as the disregard of the same would in effect disenfranchise the voters affected. [28] A canvass cannot be reflective as the true vote of the electorate unless all the returns are considered. [29]

II

On the matter of procedure, the vote of Commissioner Graduacion Claravall could not have been considered when the COMELEC took evenly divided (3-3) vote in its February 12, 1996 Resolution. Rule 18, Section 6 of the 1993 COMELEC Rules of Procedure clearly provides:

SEC. 6. Procedure if Opinion is Equally Divided.--When the Commission en banc is equally divided in opinion; or the necessary majority cannot be had, the case shall be reheard, and if rehearing no decision is reached, the action or proceeding shall be dismissed if originally commenced in the Commission; in appealed cases, the judgment or order appealed from shall stand affirmed; and in all incidental matters, the petition or motion shall be denied.

So that when COMELEC Chairman Bernardo Pardo and Commissioners Manolo Gorospe and Julio Desamito voted to affirm the August 24, 1995 resolution of the Second Division as against the dissent of Commissioners Regalado Maambong, Remedios Salazar-Fernando and Teresita Dy-Liacco Flores, no rules were breached as the motion for reconsideration was deemed denied for having failed to get a majority vote in accordance with the foregoing rule.

Moreover, it is immaterial whether Commissioner Claravall allegedly expressed or signified her intention to vote for the granting of the motion for reconsideration and thereafter affixed her signature on the questioned resolutions. We take judicial notice of the fact that Commissioner Claravall passed away on January 14, 1996,

clearly twenty-nine (29) days prior to the promulgation of the questioned resolution on February 12, 1996. A public official ceases to hold office upon his death and all his rights, duties and obligations pertinent to the office are extinguished thereby. A decision becomes binding only after it is validly promulgated. Consequently, if at the time of the promulgation of a decision or resolution, a judge or a member of the collegiate court who had earlier signed or registered his vote, has vacated his office, his vote is automatically withdrawn or cancelled.

The reason for the rule, which is logically applicable to decisions of constitutional commissions and administrative bodies or agencies, is cogently expressed in the case of *Consolidated Bank and Trust Corporation v. Intermediate Appellate Court*: [30]

A decision becomes binding only after it is validly promulgated and not before. As we said only recently in *In re Emiliano Jurado*, 'a decision or resolution of the Court becomes such, for all legal intents and purposes, only from the moment of its promulgation.' According to Chief Justice Moran in the landmark case of *Araneta v. Dinglasan*:

Accordingly, one who is no longer a member of this Court at the time a decision is signed and promulgated, cannot validly take part in that decision. As above indicated, the true decision of the Court is the decision signed by the Justices and duly promulgated. Before that decision is so signed and promulgated, there is no decision of the Court to speak of. The vote cast by a member of the Court after the deliberation is always understood to be subject to confirmation at the time he has to sign the decision that is to be promulgated. That vote is of no value if it is not thus confirmed by the Justice casting it. The purpose of this practice is apparent. Members of this Court, even after they have cast their votes, wish to preserve their freedom of action till the last moment when they have to sign the decision, so that they may take full advantage of what they may believe to be the best fruit of their most mature reflection and deliberation. In consonance with this practice, before a decision is signed and promulgated, all opinions and conclusions stated during and after the deliberation of the Court, remain in the breasts of the Justices, binding upon no one, not even upon the Justice themselves. Of course, they may serve for determining what the opinion of the majority provisionally is and for designating a member to prepare the decision of the Court, but in no way is that decision binding unless and until signed and promulgated.

We add that at any time before promulgation, the ponencia may be changed by the ponente. Indeed, if any member of the court who may have already signed it so desires, he may still withdraw his concurrence and register a qualification or dissent as long as the decision has not yet been promulgated. A promulgation signifies that on the date it was made the judge or judges who signed the decision continued to support it.

If at the time of the promulgation, a judge or a member of a collegiate court has already vacated his office, his vote is automatically withdrawn. This was that happened in the *Araneta* case, where Justice Gregorio Perfecto's signature on the original decision was disregarded when he died before it could be promulgated. The decision remained valid, however, because it was still supported by a majority of the Supreme Court then, and, no less importantly, Justice Perfecto was not the ponente.

xxx. [31]

In fine, while it was correct for the COMELEC in its Order of August 24, 1995 (1) to annul the proclamation of petitioner Jamil for being null and void [32] and (2) to order the constitution of a new board of canvassers, it committed grave abuse of discretion in directing the proclamation of private respondent Balindong for the reasons abovestated.

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1.) Sustaining the Order of the COMELEC dated August 24, 1995 annulling the proclamation of petitioner

Abdullah A. Jamil as Mayor of Sultan Gumander, Lanao del Sur;

2.) Declaring the proclamation of private respondent Alinader Balindong as Mayor of Sultan Gumander, Lanao del Sur, null and void;

3.) Ordering the COMELEC to resolve with dispatch the pending incidents in SPC No. 95-271 and SPC No. 95-272, i.e., rule on the objection of inclusion and/or exclusion brought to it on appeal and immediately thereafter, to create a Special Municipal Board of Canvassers to proclaim, after proper canvass, the mayor-elect of Sultan Gumander, Lanao del Sur.

The temporary restraining order issued by this Court on February 20, 1996 is ordered LIFTED.
SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Mendoza, Francisco, Panganiban, and Martinez, JJ., concur.

[1] Rollo, p. 81.

[2] Id., at 82.

[3] Id., at 83.

[4] Id., at 84.

[5] Id., at 108-109.

[6] Id., at 85-95.

[7] Id., at 96-107.

[8] Id., at 114.

[9] Id., at 115-116.

[10] Id., at 117-118.

[11] Id., at 119-126.

[12] See Notes 9 and 23.

[13] Id., at 29.

[14] Id., at 127-129.

[15] Id., at 130-146.

[16] Id., at 152.

[17] Id., at 153-154.

[18] Id., at 30-32.

[19] Id., at 16.

[20] Id., at 20.

[21] Id., at 22.

[22] The records are bereft of figures as to the number of votes each of the candidates garnered in Precincts No. 5, 10-1 and 20-1. The data merely show that the whole Municipality of Sultan Gumander, Jamil obtained 2,804 votes while Balindong got 2,622 votes, or a difference of 182 votes in favor of Jamil. If the returns in Precincts No. 5, 10-1 and 20-1 are excluded, Balindong would win by a margin of 107 votes (Rollo, p. 58).

[23] See notes 1 to 3.

[24] "Ruling" is "a judicial or administrative interpretation of a provision of a statute, order, regulation or ordinance." [BLACK'S LAW DICTIONARY, p. 1197]. "Rulings" means exposition of law or legal reasons upon which the courts rest their judgment. [WORDS & PHRASES, Vol. 37A, p. 568]

[25] The pertinent provisions thereof state:

1. All cases which were filed by private parties without timely payment of the proper filing fee are hereby dismissed;
2. All cases which were filed beyond the reglementary period or not in the form prescribed under appropriate provision of the Omnibus Election Code, Republic Act No. 6646 and 7166 are hereby likewise dismissed;
3. All other pre-proclamation cases which do not fall within the class of cases specified under paragraphs (1) and (2) immediately preceding shall be deemed terminated pursuant to Section 16, RA 7166. Hence, all the rulings of boards of canvassers concerned are deemed affirmed. Such boards of canvassers are directed to reconvene forthwith, continue their respective canvass and proclaim the winning candidates accordingly, if the proceedings were suspended by virtue of pending pre-proclamation cases;
4. All petitions for disqualification, failure of elections or analogous cases, not being pre-proclamation controversies and, therefore, not governed by Sections 17, 18, 19, 20, 21, and particularly, by the second paragraph of Sec. 16, Republic Act No. 7166, shall remain active cases, the proceedings to continue beyond June 30, 1995, until the issues therein finally resolved by the Commission, and
5. All remaining pre-proclamation cases, which on the basis of the evidence thus far presented, appear meritorious and/or are subject of orders by the Supreme Court or this Commission in petitions for certiorari brought respectively to them thereby requiring the proceedings therein to continue beyond 30 June 1995, until they are finally resolved.

[26] SEC. 245. Contested election returns.--Any candidate, political party or coalition of political parties, contesting the inclusion or exclusion of the canvass of any election returns on any of the ground authorized under this article or in Sections 234, 235 and 236 of Article XIX shall submit their verbal objections to the chairman of the board of canvassers at the time the questioned return is presented for inclusion or exclusion, which objections shall be noted in the minutes of the canvassing.

The board of canvassers upon receipt of any such objections shall automatically defer the canvass of the contested returns and shall proceed to canvass the rest of the returns which are not contested by any party.

Within twenty-four hours from and after the presentation of a verbal objection, the same shall be submitted in written form to the board of canvassers. Thereafter, the board of canvassers shall take up each contested return, consider the written objections thereto and summarily rule thereon. Said ruling shall be made oral initially and then reduced to writing by the board within twenty-four hours from the time the oral ruling is made.

Any party adversely affected by an oral ruling on its/his objection shall immediately state orally whether it/he intends to appeal said ruling. The said intent to appeal shall be stated in the minutes of the canvassing. If a party manifests its intent to appeal, the board of canvassers shall set aside the return and proceed to rule on the

other contested returns. When all the contested returns have been ruled upon by it, the board of canvassers shall suspend the canvass shall made an appropriate report to the Commission, copy furnished the parties.

The board of canvassers shall not proclaim any candidate as winner unless authorized by the Commission after the latter has ruled on the objections brought to it on appeal by the losing party and any proclamation made in violation hereof shall be void ab initio, unless the contested returns will not adversely affect the results of the election.

[27] Samad v. COMELEC, 224 SCRA 631, 642 (1993); Mutuc v. COMELEC, 22 SCRA 662 (1968) citing Demafiles v. COMELEC, 21 SCRA 1462 (1967); Abes v. COMELEC, 21 SCRA 1252 (1967); Abendante v. Relato, 94 Phil. 8 (1953).

[28] Mutuc v. COMELEC, supra, citing Estrada v. Navarro, 21 SCRA 1514 (1967).

[29] Agbayani v. COMELEC, 186 SCRA 484 (1990); Duremdes v. COMELEC, 178 SCRA 748 (1989).

[30] 189 SCRA 433 (1990).

[31] Id., at 438-439.

[32] Where as in this case, the proclamation is null and void, the same is no proclamation at all and the proclaimed candidates' assumption of office does not deprive the COMELEC of the power to declare such a nullity and annul the proclamation. (Benito v. COMELEC, 235 SCRA 436, 443 [1994].)

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.