

SANTANINA TILLAH RASUL, PETITIONER, VS. COMMISSION ON ELECTIONS, AND TERESA AQUINO-ORETA, RESPONDENTS.*G.R. No. 134142. August 24, 1999*

Ponente: GONZAGA-REYES, J.

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Before us is a petition for certiorari under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure seeking to set aside Resolution No. 3047-A promulgated on May 29, 1998 of the Commission on Elections ("the Commission") en banc^[1] proclaiming the twelve (12) winning senatorial candidates, particularly, the proclamation of private respondent Teresa Aquino-Oreta who is the twelfth (12th) winning candidate. Further, the instant petition prays for the issuance of a writ of mandamus against the respondent Commission to compel it to canvass the remaining certificates of canvass and to conduct special elections in the areas where no elections were held on May 11, 1998. The assailed resolution reads in full:

"RESOLUTION NO. 3047-A

WHEREAS, the Commission on Elections, sitting en banc as the National Board of Canvassers for the election of senators of the Philippines, officially canvassed in open and public proceedings the certificates of canvass of votes cast nationwide for senators in the national and local elections conducted on May 11, 1998.

NOW, THEREFORE, on the basis of the canvass of the Certificates of Canvass submitted by seventy-eight (78) Provincial Boards of Canvassers, eighteen (18) City Boards of Canvassers of cities comprising one or more legislative districts, four (4) District Boards of Canvassers of Metro Manila, and one on absentee voting, the remaining uncanvassed certificates no longer affecting the results, the Commission on Elections sitting en banc as the National Board of Canvassers finds that the following twelve (12) registered candidates for senator in said elections obtained the highest number of votes set out after their respective names, as follows:

NAME

NUMBER OF VOTES

1. LOREN B. LEGARDA-LEVISTE

14,996,764

2. RENATO L. CAYETANO

13,231,222

3. VICENTE C. SOTTO III

11,578,572

4. AQUILINO Q. PIMENTEL, JR

10,267,969

5. ROBERT Z. BARBERS

9,805,188

6. RODOLFO G. BIAZON

9,395,603

7. BLAS F. OPLE

9,326,183

8. JOHN RENNER OSMEÑA

9,278,600

9. ROBERT S. JAWORSKI

8,955,002

10. RAMON B. REVILLA

8,707,391

11. TEOFISTO T. GUINGONA, JR.

7,349,873

12. TERESA AQUINO-ORETA

7,238,086

AND, by virtue of the powers vested in it under the Constitution, the Omnibus Election Code (Batas Pambansa Blg. 881), Republic Act Nos. 6646 and 7166, and other election laws, the Commission on Elections sitting en banc as the National Board of Canvassers hereby PROCLAIMS the above-named twelve (12) candidates the duly elected Senators of the Philippines in the May 11, 1998, elections to serve for a term of six (6) years, beginning on June 30, 1998, in accordance with Article VI, Section 4 of the Constitution.

x x x x x x x x."[2]

Petitioner argues that the Commission acted with grave abuse of discretion amounting to lack of or in excess of jurisdiction when, acting as a National Board of Canvassers, it declared that the remaining uncanvassed certificates would no longer affect the results and proceeded to proclaim the twelve (12) winning senatorial candidates. Petitioner contends that due to the indefinite suspension of special elections in some areas[3], the total population of registered voters affected number about 268,282; and that at the time of the proclamation of the 'twelve (12) winning candidates', 150,334 votes were not yet canvassed. Thus, the 268,686 registered voters who have yet to cast their votes where special elections have been suspended, combined with the uncanvassed votes of 150,334 from other areas of the country total 419,020. Consequently, petitioner submits that there is a possibility that 12th ranking senatorial candidate, Teresa Aquino-Oreta, who had a total number of votes of 7,269,444 or a lead of 280,012 votes over the 13th placer, Roberto Pagdanganan, who had a total of 6,989,432, could be dislodged by the latter, if the aforestated uncanvassed votes plus the number of registered voters of the deferred

special elections totaling 419,020 were considered. According to petitioner, the number of votes is sufficient to affect the final result with respect to the 12th and last winning position. In other words, petitioner submits that the inclusion of respondent Teresa Aquino-Oreta who was ranked number 12 among the "winning" candidates was premature and based on incomplete canvass.[4]

In her comment, private respondent Teresa Aquino-Oreta alleged that the instant petition should be dismissed for being moot and academic considering, among others, that the Commission had already completed the canvass of all the votes for the senatorial candidates; that it has already conducted all the special elections prayed for by the petitioner; and the results of the special elections conducted by the Commission did not affect the proclamation of all the 12 winning senatorial candidates.[5]

Without necessarily going into the veracity of the proofs submitted by private respondent to substantiate the foregoing allegations, we find the instant petition devoid of merit.

In *Pangilinan vs. Commission on Elections*[6], this Court has ruled that "where the candidate has already been proclaimed winner in the congressional elections, the remedy of petitioner is to file an electoral protest with the Electoral Tribunal of the House of Representatives." In like manner, where as in the case at bar, petitioner assails the Commission's resolution proclaiming the twelfth (12th) winning senatorial candidate, petitioner's proper recourse was to file a regular election protest which under the Constitution and the Omnibus Election Code exclusively pertains to the Senate Electoral Tribunal.

Section 17, Article VI of the 1987 Constitution as well as Section 250 of the Omnibus Election Code provide that "(t)he Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. x x x." [7] In *Javier vs. Comelec*[8], this Court interpreted the phrase "election, returns and qualifications" as follows:

"The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that "election" referred to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" to matters that could be raised in a quo warranto proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his certificate of candidacy." [9]

The word "sole" in Section 17, Article VI of the 1987 Constitution and Section 250 of the Omnibus Election Code underscore the exclusivity of the Tribunal's jurisdiction over election contests relating to its members.[10] Inasmuch as petitioner contests the proclamation of herein respondent Teresa Aquino-Oreta as the 12th winning senatorial candidate, it is the Senate Electoral Tribunal which has exclusive jurisdiction to act on the complaint of petitioner. Rule 14 of the Revised Rules of the Senate Electoral Tribunal provides that an election protest must be filed by any candidate who has filed a certificate of candidacy and has been voted upon for the same office. It reads in full:

"RULE 14. Election Protest. - A verified petition contesting the election of any Member of the Senate shall be filed by any candidate who has duly filed a certificate of candidacy and been voted for the Office of Senator within fifteen (15) days after the proclamation of the protestee. No joint election protest shall be admitted, but the Tribunal, for good and sufficient reasons, may consolidate individual protests and hear and decide them jointly.

The Office of the Solicitor General in its 'Manifestation in Lieu of Comment' filed before this Court had pointed out that in a Resolution dated October 6, 1998[11], this Court dismissed the petition for certiorari filed by Roberto

M. Pagdanganan involving the same issues as the case at bar for being moot and academic as Pagdanganan had already filed a case with the Senate Electoral Tribunal. Had petitioner properly filed her election protest before the Senate Electoral Tribunal in accordance with the Revised Rules of the Senate Electoral Tribunal, the same may have been consolidated with the protest of Roberto Pagdanganan "for good and sufficient reasons" as required by said rules.

In fine, this Court may not take cognizance of this case.

WHEREFORE, the instant petition is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Purisima, Buena, and Ynares-Santiago, JJ., concur.

Panganiban, and Pardo, JJ., no part.

[1]Composed of Chairman Bernardo P. Pardo, Commissioners Manolo B. Gorospe, Julio F. Desamito, Japal M. Guiani and Teresita Dy-Liacó Flores, rollo, p.22.

[2]Ibid., pp. 21-22.

[3] Lanao del Sur (Municipalities of Lumbabayabao, Lumbatan, Madalum, Masiu, Rubaran, Lumbayanague, Sultan Dumalundong, Kapatagan, Marantao, Malabang, Pagayawan, Taraka, Ditsaan-Ramain, Bayang, Tamparan, Ganassi, Balindong, Sultan Gumander, Butig, Tugaya, Maguin and Marawi City); Lanao del Norte (some precincts of Barangay Cayuntor, Kauswagan and Magsaysay); Maguindanao (Municipalities of Shariff Aguak, Datu Piang, Amapatuan, Bubluan, South Upi, portions of SS Barongis and Cotabato City); Malalag, Davao del Sur; Matnog, Sorsogon (Barangays Culasi and Calintaan); Bula, Camarines Sur (Barangay Itongon), Rollo, p. 6.

[4]Rollo, pp. 6-8.

[5]Ibid., pp. 39-42.

[6]228 SCRA 36.

[7]Italics supplied.

[8]144 SCRA 194.

[9]Underscoring supplied.

[10]Co vs. Electoral Tribunal of the House of Representatives, 199 SCRA 692, Lazatin vs. House of Representatives Electoral Tribunal, 168 SCRA 391, Angara vs. Electoral Commission, 63 Phil. 139, cited in Chavez vs. Commission on Elections, 211 SCRA 315.

[11] G.R. No. 133751 (Roberto M. Pagdanganan vs. Commission on Elections, et al.).

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