

ARIEL G. DE GUZMAN, PETITIONER, VS. COMMISSION ON ELECTIONS AND NESTOR B. PULIDO, RESPONDENTS.

G.R. No. 159713. March 31, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for certiorari under Rule 64 in relation to Rule 65 of the Rules of Court assailing the Resolution, dated September 11, 2003 of the Commission on Elections (COMELEC) en banc[1] in EPC No. 2001-11 which affirmed the Resolution, dated April 2, 2003, of the COMELEC First Division[2] declaring respondent Nestor B. Pulido as the duly elected Number 2 Provincial Board Member of the First District of Pangasinan.

The facts are as follows:

On May 19, 2001, petitioner Ariel G. De Guzman was proclaimed winner of the second of two Provincial Board seats allocated for the First District of Pangasinan with 40,441 votes. Respondent Nestor B. Pulido, a candidate for the same position, garnered 40,383 votes or 58 votes less than De Guzman.[3]

On May 28, 2001, Pulido filed with the COMELEC an election protest against De Guzman, docketed as EPC No. 2001-11.[4] He alleged that:

- In the Municipality of Mabini, Province of Pangasinan, where the PROTESTEE is the incumbent Mayor, more than one thousand (1,000) votes were padded in his favor. On the other hand, more than one hundred (100) votes of the PROTESTANT were deliberately not read and counted;
- The PROTESTEE obviously orchestrated the tempo in the canvassing of votes in the Municipality of Mabini, Province of Pangasinan. He has the power and clout to do so being the immediate past third term Mayor of that town. It must be told with regrets that the Municipal Board of Canvassers of Mabini, Pangasinan, without justifiable reasons, deliberately suspended the canvassing of votes for more than eight hours, from five o'clock in the afternoon of May 15, 2001 to 2:00 o'clock in the early morning of May 16, 2001, without proper notice to the watchers and to the public. The idea behind the suspension of canvassing for more than eight hours was to give the PROTESTEE enough time to know the results of the elections in the other municipalities and in case he loses in the quick count, he would still have time to pad his votes. Indeed, when he knew he was losing, the PROTESTEE padded more than one thousand votes to his name in order to win;
- Thus, a recount of the votes cast in the various[5] precincts in the Municipality of Mabini, Province of Pangasinan, is necessary to ascertain the number of votes the PROTESTEE and the PROTESTANT actually garnered.[6]

The following day, Pulido amended his protest by also claiming that in the town of Mabini 500 ballots cast in his favor were misappreciated in favor of De Guzman.[7]

On June 18, 2001, De Guzman filed his Amended Answer with Counter Protest denying Pulido's allegations.[8]

As counter-protest, he alleged misappreciation of ballots cast in all the precincts in the town of Anda.[9] In addition, he alleged that:

- In precinct 10A1 in Barangay Gais-Guipe, Dasol, Pangasinan, in CE Form No. 9 Sheet No. 67180016, the PROTESTEE garnered seventy (70) votes; that apparently when the result was transferred in CE Form No. 20-A, Sheet No. 2113885, the PROTESTEE was credited with only seventeen (17) votes, thus depriving the PROTESTEE of fifty three (53) votes. A photocopy from the copy for the Majority Party each of CE Form No. 9 Sheet 67180016 and CE Form No. 20-A, Sheet No. 2113885 are hereto attached as Annexes "A" and "B" respectively, and made parts hereof; A recount of the votes in said precinct No. 10A1 of Barangay Gais-Guipe, Dasol, Pangasinan is therefore, necessary to ascertain the correct numbers of votes of the PROTESTANT and PROTESTEE in said precinct;
- In precinct No. 27A1 and 27A2, Barangay Bued, Alaminos, Pangasinan, it is made to appear in CE Form 9, Sheet 67030051, that the PROTESTANT obtained twenty four (24) votes when per the tally he received only nineteen (19) votes thereby adding five (5) votes for the PROTESTANT which should be deducted from his total votes. A copy of CE Form 9, Sheet 67030051 is hereto attached as Annex "C" and made a part hereto. A recount of the votes in said precincts 27A1 and 27A2 is therefore, necessary to ascertain the correct number of votes of the PROTESTANT and the PROTESTEE in said precincts;
- In precinct No. 22A2 of Bamban, Infanta, Pangasinan, it is made to appear in CE Form No. 9, Sheet No. 67190050, that the PROTESTEE obtained twenty eight (28) votes when per tally he received thirty three (33) votes thus five (5) votes should be added to the total votes of the PROTESTEE. A photocopy of CE Form No. 9, Sheet No. 67190050 is hereto attached as Annex "D" and made a part hereof;
- In the Statement of Votes By Precinct, CE Form 20A, Sheet Nos. 2113889, 2113890 and 2113891 there is an error in the addition of the number of votes for the PROTESTEE, more particularly in Sheet No. 2113891 where it is made to appear in the sub-total that the PROTESTEE received three hundred forty two (342) votes instead of the correct one which is three hundred eighty nine (389) thus from this erroneous addition he was deprived of 47 votes. This 47 votes should be added to the PROTESTEE's total votes in Infanta, Pangasinan. A copy each of the Statement of Votes By Precinct, CE Form No. 20-A, Sheet Nos. 2113889, 2113890 and 2113891 are hereto attached as Annexes "E", "F" and "G" respectively, and made parts hereof.[10]

On July 31, 2001, the COMELEC First Division directed the parties to deposit money to defray the expenses to be incurred in the revision of the ballots.

On September 10, 2001, the revision of the contested ballots commenced. Thereafter, both parties presented their evidence. After both parties formally offered their respective evidence, the case was submitted for decision.

Meanwhile, on March 20, 2002, the COMELEC en banc received three letter-petitions separately filed by the Municipal Board of Canvassers of the towns of Infanta and Dasol and the Board of Election Inspectors of Precincts 27A1 and 27A2 of Alaminos City. The letter-petitions, docketed as SPC Nos. 02-001, 02-002 and 02-003, requested authority to correct mistakes or errors in tabulation reflected in the Election Returns and Statement of Votes by Precinct which were also the subject of De Guzman's counter-protest.

On September 19, 2002, the COMELEC en banc jointly dismissed the letter-petitions in SPC Nos. 02-002 and 02-003 of the Municipal Board of Canvassers of Infanta and the Board of Election Inspectors of Precincts 27A1 and 27A2 of Alaminos City.[11] The COMELEC en banc reasoned:

xxx [A]ll the matters raised in the letters-petitions are included in the issues to be resolved in EPC No. 2001-11 pending before the First Division which was initiated more than 9 months before the instant petitions. The election protest case is more extensive and appropriate in closely looking into the parties' allegations and supporting documents. Such proceedings are in fact consistent with Mr. De Guzman's call for a recount of

votes in the subject clustered precincts, which we cannot undertake in a petition for correction of mistake. Hence, the First Division is in a better position to rule upon the issues and make the necessary conclusions especially on the allegations of fact that we find insufficient herein.[12]

Subsequently, on April 2, 2003, the COMELEC First Division issued a Resolution in EPC No. 2001-11 annulling the proclamation of De Guzman. It declared Pulido as the duly elected Number 2 Provincial Board Member of the First District of Pangasinan having garnered a total of 40,336 votes as against De Guzman who obtained 40,263 votes or a plurality of 73 votes.[13]

Dissatisfied, De Guzman sought reconsideration with the COMELEC en banc.[14]

De Guzman alleged that the base figures adopted by the COMELEC First Division, that is, 40,441 votes cast for De Guzman and 40,383 votes cast for Pulido, are the original figures as provided in the original canvass or statements of votes. He assailed that the use thereof as base figures, before imputing the rejected and admitted votes on appreciation, is erroneous because the manifest errors of tabulation complained of by De Guzman in his counter-protest were not considered. He claimed that the original statement of total votes for the candidates should have been first rectified to reflect the manifest errors of computation or tabulation, citing that the COMELEC en banc itself declared that the alleged errors in tabulation, which were also subject of the letter-petitions in SPC Nos. 02-002 and 02-003, are best reviewed in the election protest proper. De Guzman argued further that the COMELEC First Division misappreciated 7 ballots for De Guzman as written-by-one in Precinct 47A, Mabini, with recorded data and evidence of assistory voting and 37 more ballots for De Guzman as marked ballots with noted pattern marks.

Following hearing on the motion for reconsideration[15] and submission of memoranda,[16] the COMELEC en banc[17] issued a Resolution dated September 11, 2003 denying De Guzman's motion for reconsideration. The COMELEC en banc ratiocinated:

Admittedly, however, the First Division has not addressed the subject in its 02 April 2003 Resolution. Thus it is now incumbent upon us to pass upon the same to finally settle the matter.

Even a cursory reading of De Guzman's counter-protest reveals that only photocopies of the involved election returns and Statements of Votes by Precinct were submitted in evidence, with the exception of the Statement of Votes to support the mistake in addition of De Guzman's total number of Votes in Infanta, Pangasinan, which was a certified true copy. Being mere photocopies, the same does not have any probative value. These would not warrant a recount of the votes in precinct numbers 101A of Brgy. Gais-Gaipe, Dasol, 27A1 and 27A2 of Brgy. Bued, Alaminos and 22A2 of Brgy. Bamban, Infanta, all in the province of Pangasinan.

...

Moreover, the photocopy of the Statement of Votes by Precinct from Brgy. Gais-Gaipe, Dasol does not clearly show that only seventeen (17) votes, instead of seventy, were credited to protestee De Guzman, thereby depriving him of fifty three (53) votes. Aside from the fact that the figures in said photocopy did not clearly show the votes credited, the entries under the column for sub/grand total votes received were not legible at all.

During the pendency of this case, protestee had every opportunity to offer competent evidence to support his contentions. He, however, failed to do the same.

Though a certified true copy of the Statement of Votes for Infanta, Pangasinan was submitted in evidence, such, on its own, is not sufficient to effect a correction. Protestee De Guzman did not even offer in evidence the election returns for the votes reflected in the Statement of Votes where error in addition has been alleged. Not even after careful perusal of the subject Statement of Votes by Precinct can this Commission ascertain the individual entries therein. Naturally, the Commission can, and should, only consider the documents formally

offered in evidence pursuant to Section 34 of the Rules of Court, finding suppletory application in this case.

...

With respect to the alleged misappreciation of ballots, the First Division already painstakingly examined the ballots and ruled upon their validity. Guided by pertinent rules and Supreme Court doctrines, the Division found that protestant Nestor Pulido won over protestee Ariel De Guzman with a margin of seventy (73) votes. Such finding by the First Division must be accorded great weight in the absence of substantial showing that it was made from an erroneous estimation of the evidence presented. (Emphasis supplied)[18]

On September 18, 2003, De Guzman filed the present petition with prayer for the issuance of a temporary restraining and/or writ of preliminary injunction.[19] The present petition is anchored on the following grounds:

THE COMELEC EN BANC GRAVELY ABUSED ITS DICRETION AMOUNTING TO EXCESS OF JURISDICTION WHEN IT FAILED AND REFUSED TO CORRECT THE PLAIN AND MANIFEST ERRORS OF TABULATION, DULY PROVEN BY COMPETENT EVIDENCE AND CONFIRMED ON (SIC) PHYSICAL COUNT, AND, CONSEQUENTLY FAILED AND REFUSED TO CORRECT THE WRONG BASE FIGURES USED IN THE COMPUTATION OF THE FINAL VOTES. THE COMELEC'S JUDGMENT UNSEATING DE GUZMAN WAS THE DIRECT AND NECESSARY CONSEQUENCE OF THE PATENTLY ERRONEOUS FIGURES IN THE FIRST DIVISION'S RESOLUTION.

THE COMELEC EN BANC LIKewise ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT SUSTAINED IN TOTO THE FIRST DIVISION'S APPRECIATION FINDINGS WITHOUT RECTIFYING OR REVERSING THE MANIFESTLY ERRONEOUS INVALIDATION OF 7 BALLOTS FOR DE GUZMAN AS WRITTEN-BY-ONE IN PREC. 47A, MABINI, WITH RECORDED DATA AND EVIDENCE OF ASSISTORY VOTING AND 37 MORE BALLOTS FOR DE GUZMAN AS MARKED BALLOTS WITH NOTED PATTERN MARKS SANS ANY EVIDENCE ALIUNDE OF THE VOTER'S DESIGN TO MARK.[20]

De Guzman claims that the COMELEC en banc gravely abused its discretion when it sustained the factual findings of the First Division notwithstanding that the base figures adopted by the latter was erroneous because it did not consider the manifest errors of tabulation challenged in his counter-protest. He submits that the COMELEC en banc erred grievously when it declared that "only photocopies of the involved Election Returns and Statements of Votes by Precinct were submitted in evidence" since he formally offered in evidence certified true copies of the documents involved.

As regards the appreciation of ballots, De Guzman claims the patent failure of the COMELEC en banc to consider the existence of assistory voting and the absence of evidence on the alleged pattern marking constitutes grave abuse of discretion.

On September 30, 2003, this Court required the COMELEC and Pulido to comment on the petition and, upon the posting of a bond by De Guzman in the amount of P25,000.00, issued a temporary restraining order enjoining the COMELEC from implementing its resolutions of April 2, 2003 and September 11, 2003.[21]

In his Urgent Motion to Lift the TRO/Comment, Pulido points out that the issues raised in the petition are factual and cannot be subject of a petition for certiorari. He maintains that the rulings of the COMELEC are amply justified and the alleged errors were already corrected on physical count and reviewed or considered by the COMELEC.[22]

On January 7, 2004, the Office of the Solicitor General (OSG) filed a Manifestation In Lieu of Comment, essentially recommending that this Court grant the present petition. It contends that the COMELEC gravely abused its discretion by totally ignoring not only competent and relevant documents but obviously material pieces

of evidence earlier presented before it by De Guzman; consequently, its assailed Resolution becomes grossly not in accord with the facts and the law.[23]

In view of the OSG's manifestation, the COMELEC filed its Comment. The COMELEC submits that the setting aside of the alleged correct base figures, having been unsubstantiated by De Guzman despite extensive time the protest case lasted, was in order and deserves credence. With regards to the appreciation of ballots, it contends that the COMELEC's appreciation of ballots must be accorded great weight and presumption of regularity, in the absence of substantial showing that it was made from an erroneous estimation of the evidence presented.[24]

In his Consolidated Reply, De Guzman staunchly insists that the base figures utilized by the COMELEC are the original unrectified statement of votes without regard to the physical count results in the protested and counter-protested precincts. He vigorously maintains that he presented competent evidence, all certified true copies and not mere photocopies of the documents involved, which proved the clear and manifest tabulation errors. Anent the appreciation errors, he emphatically argues that the COMELEC's patent failure to apply the very fundamental rules of appreciation in respect of the 7 ballots rejected as written-by-one in Precinct 47A, Mabini and 37 ballots rejected as marked in seven other revised precincts, constitutes grave abuse of discretion correctible by the present petition for certiorari.

Well recognized is the rule that the appreciation of the contested ballots and election documents involves a question of fact best left to the determination of the COMELEC. It is the constitutional commission vested with the exclusive original jurisdiction over election contests involving regional, provincial and city officials, as well as appellate jurisdiction over election protests involving elective municipal and barangay officials.[25] By reason of the special knowledge and expertise of an administrative agency like the COMELEC over matters falling under their jurisdiction, they are in a better position to pass judgment thereon. Thus, their findings of fact in that regard are generally accorded great respect, if not finality by the courts.[26]

Nonetheless, it must be emphasized that even decisions of administrative agencies which are declared "final" by law are not exempt from judicial review when so warranted.[27] Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness, or upon proof of gross abuse of discretion, fraud or error of law.[28] Otherwise stated, in the absence of grave abuse of discretion or any jurisdictional infirmity or error of law, the factual findings, conclusions, rulings and decisions rendered by the said Commission on matters falling within its competence shall not be interfered with by this Court.[29] Thus, when it can be shown that administrative bodies grossly misappreciated evidence of such nature as to compel a contrary conclusion, this Court will not hesitate to reverse their factual findings.

In this case, the Court finds that the COMELEC en banc acted whimsically, capriciously and without any rational basis in upholding the factual findings of the First Division which disregarded manifest errors in tabulation. It was remiss in its duties to properly resolve the Motion for Reconsideration before it and it should have given a close scrutiny of the evidence on hand. Its conclusion that only photocopies of the documents involved are in evidence is contradicted by the records. Its observation that De Guzman failed to present competent evidence to support his allegations is a glaringly erroneous estimation of the evidence presented. Admittedly, De Guzman attached only photocopies of documents in his counter-protest, but he formally offered certified true copies thereof in the presentation of his evidence.[30] As such, the COMELEC should have delved into the alleged manifest errors of tabulation.

The Court notes that the COMELEC en banc itself noted that it "can, and should, only consider the documents formally offered in evidence" but it entirely glossed over the formally offered certified true copies of the Election Returns and Statement of Votes by Precinct, as well as the COMELEC's own Minutes of the Proceedings in the

Revision and the Revision Reports of the contested precincts which confirms the manifest errors committed in the counting of votes. Needless to stress, in an election contest where the correctness of the number of votes is involved, the best and most conclusive evidence are the ballots themselves; where the ballots can not be produced or are not available, the election returns would be the best evidence.[31]

For Precinct No. 10A1 of Brgy. Gais-Guipe, Dasol, the Election Returns shows that De Guzman obtained 70 votes, while Pulido got 36 votes,[32] but the Statement of Votes by Precinct indicates only 17 votes credited to De Guzman as against the 36 votes of Pulido.[33] The Revision Report for Precinct No. 10A1 of Brgy. Gais-Guipe, Dasol confirms that De Guzman obtained 70 votes, to wit:

DATA PER ELECTION RETURN:

Total Number of Registered Voters 199

Total Number of Voters who Actually Voted 185

Votes obtained by Protestant 36

Votes obtained by Protestee 70

Others 150

PER PHYSICAL COUNT:

Votes for Protestant $25 + 11 = 36$

Votes for Protestee $59 + 11 = 70$

Others 62

Blank 28

Stray 0

TOTAL $196 (-11 = 185)$ [34]

Thus, 53 votes were not credited to De Guzman.

For Precinct No. 27A1/27A2 of Brgy. Bued, Alaminos, the Election Returns shows that Pulido obtained 24 votes in figures but the taras count only 19.[35] The Revision Report for Precinct No. 27A1/27A2 of Brgy. Bued, Alaminos disclosed the following discrepancy:

DATA PER ELECTION RETURN:

Total Number of Registered Voters 218

Total Number of Voters who Actually Voted 164

Votes obtained by Protestant word & fig. 24 & taras – 19

Votes obtained by Protestee 25

Others 188

PER PHYSICAL COUNT:

Votes for Protestant 20

Votes for Protestee 25

Others 107

Blank 12

Stray 1

TOTAL 165[36]

Per physical count of the ballots, 4 votes should be deducted from Pulido.

For Precinct No. 14A1 of Infanta, the Election Returns shows that De Guzman obtained 47 votes,[37] but the Statement of Votes by Precinct clearly discloses that a manifest error in computation was made since the total figure reads only 342 for De Guzman when it should be 389.[38] Thus, 47 votes should be credited to De Guzman.

For Precinct No. 22A-2 of Bamban, Infanta, the Revision Report shows the following data:

DATA PER ELECTION RETURN:

Total Number of Registered Voters 198

Total Number of Voters who Actually Voted 159

Votes obtained by Protestant 81 in taras & figure

Votes obtained by Protestee 28 in figure

Others 33 taras

PER PHYSICAL COUNT:

Votes for Protestant $70 + 10 = 80$

Votes for Protestee $24 + 10 = 34$

Others 8

Blank 41

Stray 6

Common Ballots 10

TOTAL 159[39]

Per physical count of the ballots, 6 votes should be credited to De Guzman, while 1 vote should be deducted from

Pulido.

The original figures as provided in the original canvass or statements of votes, that is, 40,441 votes cast for De Guzman and 40,383 votes cast for Pulido, should be rectified to reflect the correct tabulation based on the foregoing. As corrected, De Guzman has 40,547 votes as against 40,378 votes for Pulido. From these figures shall be deducted the invalidated ballots and valid claimed ballots for each, thus:

DE GUZMAN

PULIDO

Rectified Base Figures

40,547

40,378

Less: Total Number of Invalidated Ballots

183

71

Add: Total No. of Valid Claim

5

24

TOTAL

40,369

40,331

Based on the foregoing, De Guzman has 40,369 votes as against Pulido's 40,331 votes or a plurality of 38 votes.

As regards the 7 ballots cast in favor of De Guzman which were rejected as written-by-one in Precinct 27A Mabini,[40] the COMELEC should have considered the data reflected in the Minutes of Voting Precinct No. 47A Mabini.[41] It shows the existence of 24 illiterate or physically disabled voters which necessitated voting by assistors pursuant to Section 196 of B.P. Blg. 881[42] which does not allow an assistor to assist more than three times except the non-party members of the board of election inspectors. There is no showing that the 7 rejected ballots as having been written-by-one falls under the exception. The handwriting of the assistor in the 7 rejected ballots is the same as that appearing in the Minutes of Voting. All of the 7 assailed ballots were cast in favor of De Guzman. Consequently, four ballots should be appreciated in his favor it being reasonably presumed that the identically written ballots were prepared by the assistor, not only for three illiterate or physically disabled voters but also for himself. Hence, added to the 38 votes, de Guzman won the election by 42 votes.

It is well to remember the basic principle that the cardinal objective of ballot appreciation is to discover and give effect to, rather than frustrate the intention of the voters, thus, every ballot shall be presumed valid unless clear and good reasons justify its rejection.[43] Extreme caution should be observed before any ballot is invalidated and doubts in the appreciation of ballots are resolved in favor of their validity.[44] Thus, it is a well-founded rule enshrined in our jurisprudence that laws and statutes governing election contests especially appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.[45]

With respect to the 37 ballots rejected as marked in seven other revised precincts, we find that petitioner has offered insufficient justification to reverse the COMELEC's appreciation of the same.

All told, we rule in favor of petitioner De Guzman. Consequently, petitioner De Guzman is the rightful winner of the second seat for the Provincial Board Member of the First District of Pangasinan, with a plurality of 42 votes over respondent Pulido.

In closing, the Court finds it worthy to echo our emphatic statement in *Pangandaman vs. COMELEC*,[46] thus:

[U]pholding the sovereignty of the people is what democracy is all about. When the sovereignty of the people expressed thru the ballot is at stake, it is not enough for this Court to make a statement but it should do everything to have that sovereignty obeyed by all. Well done is always better than well said. Corollarily, laws and statutes governing election contests especially the appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.

WHEREFORE, the petition is GRANTED and the assailed Resolution of the COMELEC en banc, dated September 11, 2003, in EPC No. 2001-11 affirming the Resolution of the COMELEC First Division, dated April 2, 2003, which annulled the proclamation of petitioner Ariel G. De Guzman and declared respondent Nestor B. Pulido as the duly elected Number 2 Provincial Board Member of the First District of Pangasinan is ANNULLED and SET ASIDE. The temporary restraining order heretofore issued is made PERMANENT.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Vitug, J., on official leave.

[1] Composed of Chairman Benjamin S. Abalos and Commissioners Luzviminda G. Tancangco, Rufino S.B. Javier, Ralph C. Lantion, Mehol K. Sadain, Resurreccion Z. Borra and Florentino A. Tuason, Jr.

[2] Composed of Commissioners Rufino S.B. Javier, Luzviminda G. Tancangco and Resurreccion Z. Borra.

[3] Rollo, p. 110.

[4] *Id.*, p. 92.

[5] In the copy of the Election Protest attached to the Petition, the word "various" was stricken-out and replaced with the word "all", while the copy of the Amended Protest contains the word "all", *id.*, pp. 95, 103.

[6] *Id.*, pp. 94-95.

[7] *Id.*, pp. 101, 103.

[8] *Id.*, p. 111.

[9] Id., p. 118.

[10] Id., pp. 113-114.

[11] Id., p. 116. De Guzman claims that the COMELEC en banc did not act on the letter-petition on the error in the recording in the Statement of Votes in Precinct 10A1 of Dasol which is the subject of SPC No. 02-001, id., p. 15.

[12] Id., p. 120.

[13] Id., p. 56.

[14] Id., p. 191.

[15] Id., p. 226.

[16] Copy of De Guzman's Memorandum, id., p. 227.

[17] Chairman Benjamin S. Abalos did not participate in the deliberations on the questioned Resolution, id., p. 55.

[18] Id., pp. 52-54.

[19] Id., p. 3.

[20] Id., pp. 22-23.

[21] Id., p. 287.

[22] Id., p. 294.

[23] Id., p. 339.

[24] Id., p. 360.

[25] Punzalan vs. COMELEC, 289 SCRA 702, 716 (1998)

[26] Malabaguio vs. COMELEC, 346 SCRA 699, 706 (2000) citing PMMI vs. Court of Appeals, 244 SCRA 770 (1995); Casa Filipina Realty Corp. vs. Office of the President 241 SCRA 165 (1995); and, COCOFED vs. Trajano, 241 SCRA 363 (1995).

[27] Malabaguio vs. COMELEC, supra at 706-707, citing Cosep vs. NLRC, 290 SCRA 704 (1998); Food Mine, Inc. vs. NLRC, 188 SCRA 748 (1990); Artex Development Co., Inc. vs. NLRC. 187 SCRA 611 (1990); Tiu vs. NLRC, 215 SCRA 469 (1992).

[28] Malabaguio vs. COMELEC, supra citing PAL vs. NLRC, 279 SCRA 445 (1997), Zarate vs. Olegario, 263 SCRA 1 (1996); Itogon-Suyoc Mines, Inc. vs. Office of the President, 270 SCRA 63 (1997); Apex Mining Co. vs. Garcia, 199 SCRA 278 (1991); and, Assistant Executive Secretary vs. Court of Appeals, 169 SCRA 27 (1989).

[29] Punzalan vs. COMELEC, supra; Mastura vs. COMELEC, 285 SCRA 493, 499 (1998); Bulaong vs. COMELEC, 241 SCRA 180 (1995); Navarro vs. COMELEC, 228 SCRA 596 (1993); Lozano vs. Yorac, 203 SCRA 256 (1991); Pimping vs. COMELEC, 140 SCRA 192 (1985).

[30] Rollo, pp. 122-184.

[31] Maruhom vs. COMELEC, 331 SCRA 473, 490 (2000); Lerias vs. HRET, 202 SCRA 808 (1991).

[32] Rollo, p. 178.

[33] Id., p. 179.

[34] Id., p. 170.

[35] Id., p. 190.

[36] Id., p. 163.

[37] Id., p. 183.

[38] Id., p. 182.

[39] Id., p. 156.

[40] Id., p. 68.

[41] Id., pp. 188-189.

[42] SEC. 196. Preparation of ballots for illiterate and disabled persons. – A voter who is illiterate or physically unable to prepare the ballot by himself may be assisted in the preparation of his ballot by a relative, by affinity or consanguinity within the fourth civil degree or if he has none, by any person of his confidence who belong to the same household or any member of the board of election inspectors, except the two party members: Provided, That no voter shall be allowed to vote as illiterate or physically disabled unless it is so indicated in his registration record: Provided, further, That in no case shall an assistor assist more than three times except the non-party members of the board of election inspectors. The person thus chosen shall prepare the ballot for the illiterate or disabled voter inside the voting booth. The person assisting shall bind himself in a formal document under oath to fill out the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot prepared by him. Violation of this provision shall constitute an election offense. (Emphasis supplied)

[43] Section 211 of B.P. Blg. 881; *Torres vs. HRET*, 351 SCRA 312, 327 (2001).

[44] *Bautista vs. COMELEC*, 298 SCRA 480, 490 (1998); *Silverio vs. Castro*, 19 SCRA 521 (1967).

[45] *Bince, Jr. vs. COMELEC*, 242 SCRA 273 (1995); *Benito vs. COMELEC*, 235 SCRA 436 (1994); *Pahilan vs. Tabalba*, 230 SCRA 205 (1994); *Aruelo, Jr. vs. Court of Appeals*, 227 SCRA 311 (1993); *Tatlonghari vs. COMELEC*, 199 SCRA 849 (1991); *Unda vs. COMELEC*, 190 SCRA 827 (1990); and, *De Leon vs. Guadiz, Jr.*, 104 SCRA 591 (1981).

[46] *Pangandaman vs. COMELEC*, 319 SCRA 287, 288 (1999); *Loong vs. COMELEC*, 305 SCRA 832, 871 (1999); and *Punzalan vs. COMELEC*, 289 SCRA 702 (1998).

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