

**ISIDRO IDULZA AND GODOFREDO CABANA, PETITIONERS, VS.
COMMISSION ON ELECTIONS AND TERESITA A. BOLLOZOS, REY L.
MORTIZ, MIGUEL P. PADERANGA, JOJAC Q. ASUNCION AND
CIFERINO L. GARC...***G.R. No. 160130. April 14, 2004*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-160130/>**TINGA, J.:**

An election protest was filed by three unsuccessful candidates for seats in the Sangguniang Panglungsod of Gingoog City, directed at three proclaimed candidates. The COMELEC found merit in the protest and ordered the protestees to vacate their posts. In reviewing the COMELEC's actions, the Court is guided by two principles particular to election cases: the recognition of the COMELEC's specialized role in the supervision of elections, and the liberal construction of election laws to the end that the will of the people may not be defeated by mere technical objections.

On 17 May 2001, petitioners Isidro Idulza ("Idulza") and Godofredo Cabana ("Cabana") were proclaimed as the seventh (7th) and eighth (8th) winning candidates for the office of members of the Sangguniang Panglungsod of Gingoog City. Private respondents Miguel Paderanga ("Paderanga"), Jojac Asuncion ("Asuncion"), and Ciferino L. Garcia, Jr. ("Garcia"), all losing candidates for the same office, filed an election protest with the COMELEC on 25 May 2001, against the two petitioners therein and Besben Maquiso ("Maquiso"), who had placed ninth (9th) in the canvass results. The election protest was docketed as COMELEC Case No. EPC 2001-3. After conducting the revision of ballots, the COMELEC Second Division ("Second Division") on 16 January 2003 promulgated a Resolution that settled the election protest at that point. It determined that the parties garnered the following number of votes:

PROTESTANTS:

Paderanga

-

17,260

Asuncion

-

16,567

Garcia

-

16,502

PROTESTEES:

Idulsa

-

16,013

Maquiso

-

16,266

Cabana

-

16,266[1]

At the same time, the Second Division determined that one Rey Y. Mortiz (“Mortiz”), who was not a party to the election protest, had garnered more votes than the three protestants. Apparently, per the Certificate of Canvass, Mortiz had placed tenth (10th) in the city council election, though he had not been impleaded in the protest as he was a party-mate of the protestants.[2]

Consequently, the Second Division disposed of the election protest in this wise:

WHEREFORE, the instant protest is hereby GRANTED.

Protestants Paderanga, Asuncion and Garcia are hereby declared winners and councilors-elect of Gingoog City, in the following order:

- 8th place – Miguel P. Paderanga

- 9th place – Jojac Q. Asuncion

- 10th place – Ceferino (sic) L. Garcia, Jr.

As a consequence of the final numerical results of the votes obtained by the winning candidates vis-à-vis the number of those authorized to be elected, Rey Y. Mortiz, who garnered more votes than the three Protestants herein, wins the seventh (7th) rank in the City Council.

Protestees Isidro Idulsa, Besben Maquiso, and Godofredo Cabana are hereby ordered to vacate their positions as Councilors No. 7, 8 and 9 in the City Council, Gingoog City.

SO ORDERED.[3]

Obviously aggrieved, the protestees, filed a Motion for Reconsideration before the COMELEC En Banc on 21 January 2003. Aside from contesting the Second Division’s appreciation of the contested ballots, the petitioners also specifically questioned the proclamation of Mortiz, who was not a party to the election protest. Petitioners also noted therein that Asuncion and Garcia had filed certificates of candidacy for Punong Barangay and Barangay Kagawad respectively in the 15 July 2002 barangay elections, and Asuncion was elected. As a result, it was argued, Asuncion and Garcia should be deemed to have abandoned their election protest.[4]

On 17 February 2003, before the COMELEC En Banc had resolved the Motion for Reconsideration, private respondent Teresita A. Bollozos (“Bollozos”), who was not a party to the election protest, filed a Motion for Leave to Intervene in `COMELEC Case No. EPC 2001-3, with her Motion for Intervention appended thereto. She

alleged therein that she too was a losing candidate for the Gingoog City Sanggunian, yet her vote total according to the records had surpassed the number of votes ascribed to Asuncion and Garcia.[5] She therefore asserted that she should have been proclaimed as the ninth (9th) winning candidate in lieu of Asuncion, who should have placed tenth (10th) instead.

On 18 September 2003, the COMELEC En Banc issued a Resolution partially affirming the Second Division's Resolution. It held that the Second Division committed no reversible error as to the appreciation of the contested ballots, and in declaring Mortiz as the seventh (7th) place councilor. However, the COMELEC also considered Bollozos' claim as meritorious, as according to it, "[r]ecords reveal that Bollozos garnered a total of seventeen thousand twenty-three (17,023) votes..., clearly outnumbering [Asuncion's] 16,567 votes and [Garcia's] 16,502 votes." [6] Bollozos' Motion for Intervention was thus granted, and Bollozos was proclaimed as the ninth (9th) place candidate. At the same time, the COMELEC En Banc also ruled that Asuncion should not be proclaimed, as he has been deemed to have abandoned his protest due to his successful candidacy for Punong Barangay in the 15 July 2002 elections. Accordingly, the tenth (10th) place was declared vacant.

Petitioners now come before this Court on a Petition for Certiorari, assailing the Resolutions of the COMELEC. They assert that the COMELEC committed grave abuse of discretion in proclaiming Mortiz and Bollozos, the former having no participation in the election protest, while the latter having filed her motion for intervention beyond the period provided by law.[7] They also question the manner of appreciation by the COMELEC of the contested ballots.[8] Finally, they applied for a Temporary Restraining Order, which the Court has not granted.

The appreciation of contested ballots and election documents involves a question of fact best left to the determination of the COMELEC, a specialized agency tasked with the supervision of elections all over the country.[9] The findings of fact of the COMELEC when supported by substantial evidence are final and non-reviewable.[10] Petitioners want this Court to review the specific appreciation by the Second Division of ballots cast in forty-eight (48) precincts in Gingoog City. The bar for this manner of review is quite high, considering that the Court is not a trier of facts. Yet before this Court, petitioners merely direct us to examine the contrary conclusions made by Commissioner Florentino Tuason in his dissenting opinion, without particularly explaining why we should substitute the findings of one commissioner in lieu of those of the COMELEC speaking as a collegial body.

An examination of the Tuason dissent reveals that it is predicated not on any broad question of law, but on the specific application of principles of election law vis-à-vis particular ballots. His disagreement with the majority is purely factual in basis, too detailed to the point of being picky. On the other hand, the thirty (30)-page majority opinion is just as detailed in providing for the general principles applicable in appreciating the ballots, and in explaining why each particular contested ballot was interpreted in the particular way that it was. Petitioners are unable to point out why the COMELEC committed grave abuse of discretion in the appreciation of the contested ballots. Notwithstanding the dissenting opinion, the Second Division's factual findings, as affirmed by the COMELEC En Banc, are supported by substantial evidence and thus beyond the ken of review by the Court.

Thus, the Court is bound by the findings of the COMELEC as to how many votes the parties had obtained in the city council election. The COMELEC had also noted that Mortiz, who had originally placed tenth (10th), has become the seventh (7th) placer, considering that his original vote total still surpassed that of the protestants. We are unable to see how such declaration by the COMELEC could constitute grave abuse of discretion, even if Mortiz had not been a party to the election protest. He was not a losing candidate elevated into victory, as he apparently was already proclaimed a duly elected city councilor in May of 2001.[11] The petitioners were dislodged from their respective seats because the private respondents garnered more votes than them. Mortiz's vote total remained unchanged despite the protest. His elevation to seventh (7th) place is but a necessary

consequence of the finding of the COMELEC that the petitioners had actually obtained less number of votes than as reflected in the first canvass results. It would be patently ridiculous for the Court or the COMELEC to hold that he should still be deemed as the tenth (10th) placer when the amended vote totals reveal that he had garnered more votes than the new eighth (8th) placer. Presumptively, the vote totals as amended after the revision more accurately reflect the true will of the voters of Gingoog City, and the elevation of councilor Mortiz from tenth (10th) to seventh (7th) place is in consonance with the electoral mandate.

Election protests are guided by an extra-ordinary rule of interpretation that statutes providing for election contests are to be liberally construed to the end that the will of the people in the choice of public officers may not be defeated by mere technical objections.[12] For that reason, the Court sustains the allowance by the COMELEC of Bollozos Intervention. It would have been explicitly anomalous had Bollozos not been seated in the City Council, considering that her uncontested vote total had exceeded that of Asuncion, the ninth (9th) placer according to the Second Division. The people of Gingoog City had chosen Bollozos to serve as their councilor, and it was but proper for the COMELEC to recognize that electoral will and accordingly amend the Second Division's Resolution.

Besides, in allowing the Bollozos Intervention, the COMELEC did not stretch itself by applying an overarching equitable principle that would have disturbed the judicially sedate. Statutory prescription on the right to intervene in an election protest is provided only by the COMELEC Rules of Procedure, particularly Rule 8, Section 1. The aforementioned rule does state that the motion for intervention be filed before or during the trial of an action or proceeding.[13] At the same time, the COMELEC Rules of Procedure are to be construed liberally "in order to promote the effective and efficient implementation of the objectives of ensuring the holding of free, orderly, honest, peaceful and credible elections and to achieve just, expeditious and inexpensive determination and disposition of every action and proceeding" before the COMELEC.[14] The allowance of the motion for intervention was clearly geared towards fostering honest, credible elections and a just outcome centered around the proper proclamation of a candidate whom the voters have chosen to serve as their councilor.

Admittedly, the Rules of Court provides that a motion to intervene be filed at any time before rendition of judgment of the trial court.[15] However, the suppletory role of the Rules of Court in this case must be dispensed with if its application would frustrate the electoral will. Further, as the Solicitor General points out in his Comment filed in behalf of the COMELEC, the Court has, in exceptional cases, allowed intervention notwithstanding the rendition of judgment by the trial court[16], or even after the case had become final and executory.[17] The Court is not ordinarily predisposed, on account of broad claims of equity, to disregard infractions of procedural rules. Yet election cases are of such an exceptional character that the supervening State interest is to ensure that the true results of its elections are given efficacy. We find that the COMELEC's grant of the Bollozos Intervention is in accord with this superior principle which is grounded on the imperative to seek and make the sovereign will of the people prevail.

Finally, none of the parties question the COMELEC En Banc's declaration of vacancy of the tenth (10th) seat in the Sangguniang Panglungsod of Gingoog City on the premise that the tenth (10th) placer Asuncion's subsequent active candidacy and election as Punong Barangay should be deemed an abandonment of his protest. In so holding, the COMELEC En Banc cited the Court's majority opinion in the case of Defensor-Santiago v. Ramos.[18] The parties adduced no compelling reason for the Court to disturb this conclusion of the COMELEC. At the same time, the eleventh (11th) placer Garcia cannot be elevated to the tenth (10th) spot, for the simple reason that the electorate of Gingoog City did not elect him as one of the ten (10) city councilors.[19]

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

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

[1] See Rollo, p. 54.

[2] Per Comment of Private Respondents dated 2 February 2004, page 3, Footnote Number 4, Rollo, p. 176.

[3] Rollo, p. 55. The Resolution was signed by Commissioners Ralph C. Lantion and Mehol K. Sadain. Commissioner Florentino A. Tuason, Jr. filed a 19-page dissenting opinion, which took issue with the majority's appreciation of particular ballots after revision. Based on Commissioner Tuason's own Summary of Votes, the protestees would have still obtained a higher vote total than that of the protestants. See Rollo, pp. 56-74.

[4] See Rollo, p. 77.

[5] Id. at 78.

[6] Id. at 79.

[7] Id. at 13-17.

[8] Id. at 17-19.

[9] Punzalan v. COMELEC, 289 SCRA 702, 716 (1998).

[10] Section 5, Rule 64, 1997 Rules of Civil Procedure.

[11] Supra note 2.

[12] Punzalan v. COMELEC, supra note 7, citing Bince, Jr. v. COMELEC, 242 SCRA 273 (1995); Benito v. COMELEC, 235 SCRA 436 (1994); Pahilan v. Tabalba, 230 SCRA 205 (1994); Aruelo, Jr. v. Court of Appeals, 227 SCRA 311 (1993); Tatlonghari v. COMELEC, 199 SCRA 849 (1991); Unda v. COMELEC, 190 SCRA 827 (1990); De Leon v. Guadiz, Jr., 104 SCRA 591 (1981).

[13] See Section 1, Rule 8, COMELEC Rules of Procedure.

[14] Section 3, Rule 1, COMELEC Rules of Procedure.

[15] Section 2, Rule 19, 1997 Rules of Civil Procedure.

[16] See Director of Lands v. Court of Appeals, 93 SCRA 238 (1979).

[17] See Mago v. Court of Appeals, 303 SCRA 600 (1999).

[18] See Defensor-Santiago v. Ramos, 253 SCRA 559, 573 (1996).

[19] "The fact that the candidate who obtained the highest number of votes is later declared to be disqualified or not eligible for the office to which he was elected does not necessarily entitle the candidate who obtained the second highest number of votes to be declared the winner of the elective office." Labo, Jr. v. COMELEC, 176 SCRA 1, 21 (1989).

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