ROBERT Z. BARBERS, PETITIONER, VS. COMMISSION ON ELECTIONS, NATIONAL BOARD OF CANVASSERS FOR SENATORS AND PARTY-LIST REPRESENTATIVES, AND RODOLFO G. BIAZON, RESPONDENTS.

G.R. No. 165691. June 22, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for certiorari[1] and prohibition with prayer for temporary restraining order and preliminary injunction to nullify the Resolution dated 6 July 2004 of the Special Division of the Commission on Elections ("COMELEC"),[2]as well as the Resolution dated 25 October 2004 of the COMELEC en banc.[3] The Resolutions affirmed the proclamation of the COMELEC sitting en banc as the National Board of Canvassers ("NBC") declaring Rodolfo G. Biazon ("Biazon") as the duly elected 12th Senator in the 10 May 2004 National and Local Elections.

The Facts

Robert Z. Barbers ("Barbers") and Biazon were candidates for re-election to the Senate of the Philippines in the 10 May 2004 Synchronized National and Local Elections ("elections").

On 24 May 2004, the COMELEC sitting en banc as the NBC for the election of Senators promulgated Resolution No. NBC 04-002 proclaiming the first 11 duly elected Senators in the elections. The COMELEC as the NBC promulgated the Resolution based on the Certificates of Canvass ("COCs") submitted by the following: (a) 78 Provincial Boards of Canvassers; (b) 7 City Boards of Canvassers of cities comprising one or more legislative districts; (c) 13 City Board of Canvassers from the National Capital Region; (d) 2 District Boards of Canvassers from Metro Manila; (e) 74 Special Boards of Canvassers for Overseas Absentee Voting; and (f) 1 Board of Canvassers for Local Absentee Voting. The COMELEC declared that it would proclaim the remaining 12th winning candidate for Senator after canvassing the remaining unsubmitted COCs.[4]

On 2 June 2004, the COMELEC promulgated Resolution No. NBC 04-005 proclaiming Biazon as "the 12[th] ranking duly elected 12th Senator of the Republic of the Philippines in the May 10, 2004 national and local elections, to serve for a term of 6 years, beginning on June 30, 2004 in accordance with Article VI, Section IV of the Constitution of the Philippines." The COMELEC stated that after the canvass of the supplemental Provincial COCs from Maguindanao (Cotabato City), Lanao del Sur and one barangay in Nueva Vizcaya, Biazon obtained 10,635,270 votes nationwide. On the other hand, Barbers obtained 10,624,585 votes. Thus, Biazon obtained 10,685 more votes than Barbers. The COMELEC stated that this "difference will not materially be affected by the votes in certain precincts where there was failure of elections."[5]

Claiming that Biazon's proclamation was void, Barbers filed a petition to annul the proclamation of Biazon as

Senator of the Republic of the Philippines with the COMELEC on 7 June 2004. The petition, docketed as SPC Case No. 04-258, was assigned to a Special Division of the COMELEC.[6]

In his petition, Barbers asserted that the proclamation of Biazon was "illegal and premature being based on an incomplete canvass." Barbers asserted that the remaining uncanvassed COCs and votes and the results of the special elections, which were still to be conducted, would undoubtedly affect the results of the elections.[7]

In his Comment/Answer, Biazon asserted that: (1) the First Division of the COMELEC has no jurisdiction to review, modify, or set aside what the COMELEC sitting en banc as the NBC for Senators has officially performed, which is the promulgation of Resolution No. NBC 04-005; (2) since the COMELEC has proclaimed Biazon on 2 June 2004 in Resolution No. NBC 04-005 as the duly elected 12[th] Senator and Biazon has taken his oath of office on 30 June 2004, the Senate Electoral Tribunal, not the COMELEC, has jurisdiction to entertain the present petition; (3) with Biazon's admitted and established margin of 10,685 votes, the votes from the alleged uncanvassed COCs and the votes still to be cast in the special elections which were still to be conducted would not substantially affect the results of the election for the 12th and last slot for Senator; and (4) the NBC committed a manifest error in crediting to Barbers a total of 34,711 votes from the province of Lanao del Sur while crediting to Biazon only 1,428 votes from the supplemental Provincial COCs for Lanao del Sur despite the existence and availability of the Municipal COCs for Balabagan and Tagoloan, Lanao del Sur.[8]

On 9 June 2004, Barbers filed an Omnibus Motion for Immediate Service of Summons, for Suspension of the Effects of Proclamation, and to Set Case for Hearing. Barbers asserted that an immediate resolution of the present case was necessary because the term of office of Senators would commence on 30 June 2004. Barbers further claimed that there were Municipal COCs still to be included in the senatorial canvass and special elections still to be held in certain municipalities involving a total of 29,219 votes. Thus, Barbers insisted that "suspension of the effects of the proclamation" of Biazon was necessary. Barbers stressed that there could be no valid proclamation based on an incomplete canvass.[9]

On 6 July 2004, the COMELEC issued the first assailed Resolution, disposing as follows:

> WHEREFORE, premises considered, the Commission (Special Division) hereby DENIES the petition to annul the proclamation of respondent RODOLFO G. BIAZON for LACK OF MERIT.
>
> ACCORDINGLY, the Special Division RESTATES the proclamation of the Commission on Elections sitting en banc as the National Board of Canvassers declaring RODOLFO G. BIAZON as the duly elected 12[th] Senator of the Republic of Philippines in the May 10, 2004 National and Local Elections.
>
> SO ORDERED.[10]

Barbers filed a motion for reconsideration[11] which the COMELEC en banc denied in the second assailed 25 October 2004 Resolution.

The COMELEC's Ruling

In its 6 July 2004 Resolution, the COMELEC (Special Division) denied Barbers' petition, thus:

> The instant petition is not a pre-proclamation case as the issues raised herein clearly are not among those enumerated under Section 34 of COMELEC Resolution No. 6669. Neither is it a protest case because the ground cited in the petition is not proper for protest although a proclamation has already been made. It is a petition, as entitled, to annul proclamation based on alleged incomplete canvass.
>
> The power to annul proclamation is an exclusive power of the Commission vested upon it by the Constitution, which states that the Commission shall exercise the power to "Decide except those involving the right to vote,

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all questions affecting elections xxx" (Article IX-C, Section 2 (3).

As held in the Case of Aguam vs. COMELEC, the COMELEC shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. The Constitution enjoins the COMELEC to decide, saving those involving the right to vote, all administrative questions, affecting elections. Corollary thereto, the court has given its imprimatur on the principle that COMELEC is with authority to annul any canvass and proclamation illegally made.

Records reveal that on June 2, 2004, the National Board of Canvassers (NBC), on the basis of the Certificates of Canvass submitted by seventy-eight (78) Provincial Board of Canvassers; seven (7) City Boards of Canvassers of cities comprising one or more legislative districts; thirteen (13) from the National Capital Region (NCR); two (2) from the District Boards of Canvassers of Metro Manila; seventy-four (74) from the Special Board of Canvassers for Overseas Absentee Voting; and one (1) from the Board of Canvassers for Local Absentee Voting, including the supplemental Provincial Certificates of Canvass from Maguindanao (Cotabato City), Lanao del Sur and Nueva Vizcaya (one barangay), declared that private respondent obtained ten million six hundred thirty-five thousand two hundred seventy (10,635,270) votes as against the ten million six hundred twenty-four thousand five hundred eighty-five (10,624,585) votes garnered by petitioner.

On the basis of the number of votes garnered by private respondent, he was proclaimed on June 2, 2004 as the duly elected Senator in the recently concluded May 10, 2004 National and Local Elections.

However, after his proclamation, the Commission received Certificates of Canvass from the aforementioned provinces. The results of the votes for petitioner and private respondent, showed the following figures, to wit:

PROVINCE

NO. OF PRECINCTS

VOTES OBTAINED

BARBERS

BIAZON

1. Maguindanao

a. South Upi

35

4,068

997

b. Talitay

32

116

138

2. Sultan Kudarat

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a. Columbio

21

831

656

3. Northern Samar

a. Silvino Lobos

31

62

372

4. Albay

a. Ligao City

12

1,259

100

Total

6,736

2,263

Although special elections in Tinglayan, Kalinga were conducted on June 7, 2004, no voters voted, thus, there was no COC to canvass.

On the other hand, special elections for the remaining places are yet to be conducted, namely:

1. Lanao del Sur

a. Bayang 259 votes (3 precincts)

b. Balabagan 375 votes (2 precincts)

c. Madalum 537 votes (4 precincts)

d. Kapai 197 votes (1 precinct)

2. Maguindanao

a. Kabuntalan
263 votes (1 precinct)

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3. Northern Samar

a. Silvino Lobos 1,300 votes (8 precincts)

_____

Total 2,931 votes

From the foregoing data, petitioner and private respondent should be credited with the following number of votes, to wit:

As canvassed by the NBC Not included in the PCOC where special elections were conducted

Total

BIAZON 10,635,270

2,263

10,637,533

BARBERS 10,624,585

6,736

10,631,321

From the above summation, the lead of private respondent over petitioner undoubtedly was reduced to six thousand two hundred twelve (6,212). Assuming that the remaining uncanvassed votes of two thousand nine hundred thirty-one (2,931) in places where special elections are yet to be held were all votes in favor of petitioner Barbers, nevertheless, this will not materially affect the results of the election. To say the least, even if private respondent's lead was decreased to three thousand two hundred ninety-nine (3,299) votes, he remains to be the winner and therefore the lawful occupant of the 12th slot for the senatorial position.[12]

In its 25 October 2004 Resolution, the COMELEC en banc denied Barbers' motion for reconsideration, thus:

We maintain Our declaration and findings as established by the Special Division. After a judicious and thorough scrutiny of the records, We are more than convinced that respondent's proclamation was indeed, valid and operative. In the questioned resolution issued by the Special Division, We based our ruling on the official Comelec records, revealing that respondent's lead over petitioner was insurmountable regardless of the results from the delayed certificates of canvass and from the uncanvassed votes for the special elections. This ratiocination was very well explained in the assailed resolution and need not be reiterated herein. Unfortunately for petitioner, he failed in this motion to adduce evidence sufficient to overturn Our ruling and justify the prayer for reliefs.

It must be noted that, in a pleading, petitioner has raised the Report/Recommendation of the Supervisory Committee to buttress his claim that, indeed, there was incomplete canvass. Petitioner is invited to examine the said report closer, for the same shows the extent of irregularities that transpired in the subject towns and provinces such as Columbio, Sultan Kudarat, and Talitay, Maguindanao, rendering the supplemental provincial certificates of canvass dubious at the very least.

For the town of Columbio, the Committee reported that:
... Records with the ERSD show that the MCOC and corresponding SOV dated June 18 and 17, 2004, respectively, for the twenty-one (21) precincts used as basis for the supplemental PCOC are unsigned by the chairman of the municipal board of canvassers, but signed by the two other members. Please note that the two

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> other members of the MBC who signed the SOV and MCOC used as basis of the supplemental PCOC are the members of the Pangamadun board all of whom were replaced by the Radam board as early as May 20, 2004. (emphasis supplied)

On the other hand, the Committee noted that for the town of Talitay, thus:

> Atty. Wyne Asdala, Chairman of the Provincial Board of Canvassers for the Province of Maguindanao then submitted a supplemental provincial certificate of canvass dated June 16, 2004 containing the results from the municipalities of South Upi and Talitay. Per SOV attached to the supplemental PCOC, Barbers obtained 4,472 votes and Biazon, 455 votes for the municipality of Talitay. Records do not show which MCOC was used as basis by the Asdala board for the preparation of the supplemental PCOC. (emphasis supplied)

And by exercising its prerogative and discretion, the Commission duly noted the said Committee's recommendation to "use only the MCOCs prepared by the duly constituted municipal boards of canvassers as basis for the provincial canvass in Sultan Kudarat and Maguindanao."

At any rate, We likewise confirm the opinion of Commissioner Florentino A. Tuason, Jr., on the nature and ramifications of herein SPC Case for Annulment of Proclamation.

Citing the case of Rasul vs. Comelec, the Honorable Supreme Court declared that – In Pangilinan vs. Commission on Elections, 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 this case, 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.

Under the Omnibus Election Code (OEC), following the clear enunciation of Section 242 and the immediately succeeding sections, it is clear that annulment of proclamation, be it partial or total, arises from the Commission's jurisdiction over pre-proclamation controversies. Republic Act (RA) No. 7166, qualifies such power of the Commission by so stating that a pre-proclamation contest may only apply in cases where there are "manifest errors" in the election returns or certificates of canvass, with respect to national elective positions such as herein case.

To prove that the same is manifest, the errors must appear on the certificates of canvass or election returns sought to be corrected and/or objections thereto must have been made before the board of canvassers and specifically noted in the minutes of their administrative proceedings. (Chavez vs. Comelec, GR No. 150799, 03 February 2004)

Parties, therefore, ought to be careful in availing themselves of remedies lest they fall into a trap of their own making – one that they cannot escape from.

Nevertheless, granting arguendo that the present case is not a pre-proclamation case, as so painstakingly pointed out by petitioner, but one that is due to an incomplete canvass, and the relief sought emanates from the plenary power of the Commission, herein petitioner, sadly, failed to present convincing and legitimate evidence in support of his petition (including this motion for reconsideration).[13]

Hence, this petition.

The Issues

Barbers raises the following issues for resolution:

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> Whether or not public respondent COMELEC gravely abused its discretion, amounting to lack or excess of jurisdiction when it deliberately insisted in resorting to and in using and considering, for purposes of tallying/tabulation of the still uncanvassed election results, MERE improvised Municipal COCs, which are NON-CANVASSED election documents, unauthentic, unreliable and dubious on their faces which documents were submitted, not to the NBC, but to a mere Comelec Department [ERSD]; instead of availing and relying on official CANVASS documents – PROVINCIAL COCs submitted to COMELEC, as the National Board of Canvassers for Senators.
>
> Whether or not the public respondent COMELEC gravely abused its discretion amounting to lack or excess of jurisdiction when it first correctly recognized the undisputed fact that there was an INCOMPLETE CANVASS at the time that respondent Biazon was initially "proclaimed" PREMATURELY on June 2, 2004, but adamantly refused to rectify its VOID premature proclamation when it opted to reinstate the said sham proclamation of respondent Biazon, by anomalously resorting to and relying on, unauthentic, dubious and non-canvassed documents [Municipal COCs], rather than on the legal and lawful canvassed documents [PROVINCIAL COCs].[14]

The Court's Ruling

The petition must fail.

To our mind, the basic issue for resolution is whether this Court can take cognizance of this petition.

Certiorari as a special civil action is available only if there is concurrence of the essential requisites, to wit: (a) the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack of jurisdiction, and (b) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law to annul or modify the proceeding. There must be capricious, arbitrary and whimsical exercise of power for certiorari to prosper.[15]

On the other hand, prohibition as a special civil action is available only if the following essential requisites concur: (a) the proceedings of the tribunal, corporation, board, officer or person exercising judicial, quasi-judicial or ministerial functions are without or in excess of its or his jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction, and (b) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law to compel the respondent to desist from further proceedings in the action.[16]

Article VI, Section 17 of the 1987 Constitution provides:

> Sec. 17. The 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. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organization registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (Emphasis and underscoring supplied)

Rule 12 of the Revised Rules of the Senate Electoral Tribunal provides:

> RULE 12. Jurisdiction. – The Senate Electoral Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the Senate. (Emphasis and underscoring supplied)

In Pangilinan v. Commission on Elections,[17] we ruled that:

The Senate and the House of Representatives now have their respective Electoral Tribunals which are the "sole

judge of all contests relating to the election, returns, and qualifications of their respective Members," thereby divesting the Commission on Elections of its jurisdiction under the 1973 Constitution over election cases pertaining to the election of the Members of the Batasang Pambansa (Congress).

In Javier v. COMELEC,[18] we 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. (Emphasis supplied)

The word "sole" in Section 17, Article VI of the 1987 Constitution and Rule 12 of the Revised Rules of the Senate Electoral Tribunal ("SET") underscores the exclusivity of the SET's jurisdiction over election contests relating to members of the Senate. The authority conferred upon the SET is categorical and complete. It is therefore clear that this Court has no jurisdiction to entertain the instant petition.[19] Since Barbers contests Biazon's proclamation as the 12th winning senatorial candidate, it is the SET which has exclusive jurisdiction to act on Barbers' complaint.[20]

In Pangilinan,[21] we 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."[22] In like manner, where as in the present case, Barbers assails Biazon's proclamation as the 12th duly elected Senator, Barbers' proper recourse is to file a regular election protest with the SET.[23]

Certiorari and prohibition will not lie in this case considering that there is an available and adequate remedy in the ordinary course of law to annul the COMELEC's assailed proceedings. We take pains to emphasize that after the proclamation, Barbers should have filed an electoral protest before the SET.

While the resolution of the issues presented in this petition falls within the sole jurisdiction of the SET, still we opt to discuss them to show the absence of grave abuse of discretion on the part of COMELEC.

Barbers claims that Biazon's 2 June 2004 proclamation as the 12th winning senatorial candidate is a nullity because it was based on an incomplete canvass. Barbers asserts that the COMELEC's act of making such premature proclamation constituted grave abuse of discretion amounting to lack or excess of jurisdiction. Barbers also claims that the COMELEC gravely abused its discretion when, after having used Provincial Certificates of Canvass ("PCOCs") in the canvass of election results for Senators up to 2 June 2004, the COMELEC used the Municipal Certificates of Canvass ("MCOCs") in the "final tabulation of the uncanvassed results and that of the special elections yet to be held in certain parts of the country."[24]

Barbers' arguments are specious.

An incomplete canvass of votes is illegal and cannot be the basis of a subsequent proclamation. A canvass is not reflective of the true vote of the electorate unless the board of canvassers considers all returns and omits none. However, this is true only where the election returns missing or not counted will affect the results of the election.[25]

The COMELEC, in promulgating its 2 June 2004 Resolution No. NBC 04-005 proclaiming Biazon as the 12th duly elected Senator, observed the following provisions of the Omnibus Election Code:

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> SEC. 233. When the election returns are delayed, lost or destroyed. – In case its copy of the election returns is missing, the board of canvassers shall, by messenger or otherwise, obtain such missing election returns from the board of election inspectors concerned, or if said returns have been lost or destroyed, the board of canvassers, upon prior authority of the Commission, may use any of the authentic copies of said election returns or certified copy of said election returns issued by the Commission, and forthwith direct its representative to investigate the case and immediately report the matter to the Commission.
>
> The board of canvassers, notwithstanding the fact that not all the election returns have been received by it, may terminate the canvass and proclaim the candidates elected on the basis of the available election returns if the missing election returns will not affect the results of the election. (Emphasis and underscoring supplied)

On 5 May 2004, the COMELEC promulgated Resolution No. 6749, i.e., "General Instructions for the Canvass of Votes and Proclamation of the Results for Senators and Party List in the May 10, 2004 National and Local Elections." Section 9 of the Resolution provides:

> SEC. 9. Proclamation of results. – Upon completion of the canvass, the Supervisory Committee and the watchers if available shall certify the final printout of results as canvassed. On the basis of the certified final printout, the NBC shall cause the preparation of, sign and approve the Certificate of Canvass and Proclamation, and proclaim the winning candidates for senators, certify the results of the election of the party-list system and proclaim the nominees of the parties which obtained the required percentage of votes.
>
> Notwithstanding the fact that not all of the COCs have been received or canvassed, the NBC may terminate the canvass if the missing COCs would no longer affect the results of the elections. (Emphasis and underscoring supplied)

In the present case, the report which the COMELEC Supervisory Committee submitted on 29 June 2004 shows that Barbers obtained 6,736 votes in areas where results were not included in the national canvass. As for Biazon, he garnered 2,263 votes.[26] Also, the Supervisory Committee's report shows that the total number of registered voters in areas where special elections were still to be conducted was only 2,931, covering only 19 precincts in three municipalities.[27]

As correctly stated by the COMELEC:

> From the above summation, the lead of private respondent over petitioner undoubtedly was reduced to six thousand two hundred twelve (6,212). Assuming that the remaining uncanvassed votes of two thousand nine hundred thirty-one (2,931) in places where special elections are yet to be held were all votes in favor of petitioner Barbers, nevertheless, this will not materially affect the results of the election. To say the least, even if private respondent's lead was decreased to three thousand two hundred ninety-nine (3,299) votes, he remains to be the winner and therefore the lawful occupant of the 12th slot for the senatorial position.[28]

It suffices to say that the COMELEC based its ruling in the assailed Resolutions on official COMELEC records. The COMELEC enjoys the presumption of good faith and regularity in the performance of official duty.[29]

Since the election returns not included in the national canvass as well as the results of the special elections to be held would not materially affect the results of the elections, it is immaterial whether the COMELEC used PCOCs or MCOCs in the subsequent canvass.

The alleged invalidity of Biazon's proclamation involves a dispute or contest relating to the election returns of members of the Senate. Indisputably, the resolution of such dispute falls within the sole jurisdiction of the SET. For this Court to take cognizance of the electoral protest against Biazon would usurp the constitutional functions of the SET. In addition, the COMELEC did not commit any grave abuse of discretion in issuing the assailed Resolutions affirming Biazon's proclamation since the uncanvassed returns and the results of the special elections

to be held would not materially affect the results of the elections.

WHEREFORE, we DISMISS the instant petition. No pronouncement as to costs.

SO ORDERED.

Panganiban, Quisumbing, Corona, Carpio-Morales, Azcuna, Chico-Nazario, and Garcia, JJ., concur.

Davide, Jr., C.J., Puno, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur on the ground of lack of jurisdiction.

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[1] Under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure.

[2] Composed of Rufino S.B. Javier as Presiding Commissioner, with Commissioners Resurreccion Z. Borra and Florentino A. Tuason, Jr.

[3] Composed of Benjamin S. Abalos, Sr. as Chairman, with Commissioners Rufino S.B. Javier, Mehol K. Sadain, Resurreccion Z. Borra, Florentino A. Tuason, Jr., Virgilio O. Garcillano and Manuel A. Barcelona, Jr.

[4] Rollo, p. 95.

[5] Ibid., pp. 94-96.

[6] Ibid., pp. 97-109.

[7] Ibid., p. 100.

[8] Ibid., pp. 131-143.

[9] Ibid., pp. 167-171.

[10] Ibid., p. 70.

[11] Ibid., pp. 259-282.

[12] Rollo, pp. 66-70.

[13] Rollo, pp. 76-78.

[14] Ibid., p. 17.

[15] Section 1, Rule 65, 1997 Rules of Civil Procedure; Aggabao v. COMELEC, G.R. No. 163756, 26 January 2005; Garcia v. House of Representatives Electoral Tribunal, 371 Phil. 280 (1999).

[16] Section 2, Rule 65, 1997 Rules of Civil Procedure.

[17] G.R. No. 105278, 18 November 1993, 228 SCRA 36.

[18] 228 Phil. 193 (1986).

[19] Chavez v. Commission on Elections, G.R. No. 105323, 3 July 1992, 211 SCRA 315; Co v. Electoral Tribunal of the House of Representatives, G.R. Nos. 92191-92, 92202-03, 30 July 1991, 199 SCRA 692; Lazatin v. House Electoral Tribunal, No. L-84297, 8 December 1988, 168 SCRA 391.

[20] Rasul v. Commission on Elections, 371 Phil. 760 (1999); Comments on the Omnibus Election Code, Ruben E. Agpalo, p. 523, Revised Edition, 2004.

[21] Supra note 17.

[22] See Magno v. COMELEC, 439 Phil. 339 (2002); Guerrero v. COMELEC, 391 Phil. 344 (2000); Caruncho III v. Commission on Elections, 374 Phil. 308 (1999); Lazatin v. Commission on Elections, No. L-80007, 25 January 1988, 157 SCRA 337.

[23] Supra note 20.

[24] Rollo, pp. 4, 5, 18, and 27.

[25] Nasser Immam v. Commission on Elections, 379 Phil. 953 (2000); Caruncho III v. Commission on Elections, supra note 22.

[26] Rollo, p. 177.

[27] Ibid., p. 176.

[28] Ibid., p. 70.

[29] Nasser Immam v. Commission on Elections, supra note 25.

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