

**ANTONIO O. SINGCO, PETITIONER, VS. COMMISSION ON ELECTIONS, AND FRANKLIN ONG, RESPONDENTS.***G.R. No. 52830. November 28, 1980*

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-52830/>**DE CASTRO, J.:**

Petitioner Antonio O. Singco seeks the reversal of the COMELEC's Resolution No. 9310 dated February 26, 1980 which resolved:

"x x x not to give due course to the Certificate of candidacy of respondent Antonio O. Singco for being a disqualified candidate and hereby orders the Municipal Board of Canvassers of Ginatilan, Cebu, to consider all votes cast in favor of respondent Singco as stray votes and consequently, hereby orders the Municipal Board of Canvassers of Ginatilan, Cebu, to proclaim the remaining candidate who obtained the highest number of votes as the duly elected Municipal Mayor of Ginatilan, Cebu."[1]

Petitioner was a candidate for Mayor in Ginatilan, Cebu, in the elections of January 30, 1980 under the banner of the National Union for Liberation (NUL). Private respondent was also a candidate for the same post under the Kilusang Bagong Lipunan (KBL). Before the elections, on January 16, 1980, private respondent filed a petition to disqualify petitioner on ground of turncoatism, attaching thereto three identical affidavits and other documentary evidence to support his allegations. In due time, petitioner filed his answer. Since the petition was not acted before the election day, Antonio O. Singco was voted for and elected Mayor of the Municipality, having obtained the highest number of votes. Considering the pendency of the disqualification suit against petitioner, the COMELEC on January 31, 1980 sent a telegram order to the Municipal Board of Canvassers of Ginatilan ordering the latter to suspend the proclamation with respect to petitioner, pursuant to the COMELEC's earlier Resolution No. 8584,[2] holding in abeyance the proclamation of any candidate that has any disqualification suit. Despite said order, however, the Municipal Board of Canvassers proceeded to proclaim petitioner as Mayor of Ginatilan, Cebu, prompting private respondent to immediately inform the COMELEC of the proclamation of Singco and pray in his motion for the setting aside of the proclamation of Singco. Acting on the motion, the COMELEC, on February 2, 1980, set aside petitioner's proclamation and required the Board of Canvassers to explain why no disciplinary action should be taken against it.[3]

On February 26, 1980, COMELEC issued the above-quoted Resolution No. 9310 declaring Antonio O. Singco a disqualified candidate. Chairman Leonardo B. Perez dissented as he was "for allowing the winner to be proclaimed, without prejudice to disqualification case being heard and decided, following (the) ruling in the case of Pimentel vs. COMELEC."[4] Pursuant to said resolution, respondent Franklin Ong was proclaimed Mayor of Ginatilan, Cebu. After taking his oath of office as the duly elected Municipal Mayor of Ginatilan, Cebu, private respondent immediately discharged the duties and functions of said office.

On March 6, 1980, this Court, acting on the petition for certiorari with prayer for a writ of preliminary injunction or restraining order, issued a temporary restraining order enjoining both the COMELEC from implementing its resolution of February 26, 1980 and private respondent from assuming the position of Mayor of the Municipality

of Ginatilan.[5] Before said writ could be implemented, however, private respondent designated Jaime Calunsod, a new elected member of the Sangguniang Bayan who received the second most number of votes for Sangguniang Bayan of the municipality, as officer-in-charge of the Municipality of Ginatilan, Cebu.[6]

Invoking Our ruling in *Renato Reyes vs. Comelec*,[7] petitioner seeks the nullification of the challenged resolution on ground of denial of due process, alleging that said resolution was issued without benefit of hearing and the same was not supported by substantial evidence. He pointed out that when private respondent prayed in his manifestation and motion dated February 2, 1980 that the case be calendared for hearing or in the alternative, the decision be rendered based on documentary evidence attached to the petition,[8] petitioner vehemently objected to the alternative prayer, inviting the attention of the COMELEC to the fact that to admit such evidence consisting of affidavits and to decide the petition on the basis thereof would be violative of due process of law, for one of the affidavits attached to the petition was secured thru coercion, as shown in the subsequent affidavit of the coerced affiant.[9]

Petitioner also claims denial of due process in the annulment of his proclamation which was ordered by the COMELEC without any hearing. He disputes the applicability of the cases of *Pedido vs. Commission on Elections*[10] and *Agum vs. Commission on Elections*[11] upon which private respondent relies to justify the annulment, alleging that the decisions therein would show that the authority to annul the proclamation exists where the basis of the proclamation is illegal canvass. He maintains that the case particularly apt to the case at bar is the case of *Pimentel vs. COMELEC*[12] where this Court ordered the proclamation of the winning candidates without prejudice to the disqualification suit.

Petitioner also contends that the questioned resolution was not supported by substantial evidence and insists that since he had disclaimed and refuted the documents which supposedly showed his affiliation with the KBL, alleging that his signature appearing in the document was forged, and that the identical affidavits were either coerced or of doubtful credibility, the COMELEC should have accepted them with circumspection.

In separate comments, respondents COMELEC and Ong do not deny the lack of formal hearing in this case, but they would defend the assailed resolution by insisting that since petitioner was informed of the disqualification suit as well as the documentary evidence to support the petition to which he was given the opportunity to answer, and in view of the time constraints imposed upon the COMELEC in resolving the controversy, it cannot be said that petitioner was denied due process. They also contend that even assuming that there was denial of due process, there is nothing in petitioner's petition which would give the remotest hint that if he was thus heard, the stand taken by the COMELEC would have been different.

In several cases brought to this Court on certiorari, We have always expressed Our disapproval to the summary proceedings taken by the respondent COMELEC, and stressed the need of complying with the essential requirement of procedural due process.[13] In the latest case of *Renato Reyes vs. COMELEC* where the questioned resolution was based merely on the pleadings and no formal hearing was ever conducted, this Court thru Mr. Chief Justice Enrique M. Fernando, set aside the resolution and ordered the remand of the case to the COMELEC for further proceedings in accordance with the cardinal requirements of due process, guided by the authoritative command in *Ang Tibay vs. CIR*[14] as to the observance by the administrative agencies, exercising quasi-judicial functions of the cardinal requirements of due process, the most prominent of which, according to Mr. Chief Justice, are the right to be heard and the necessity of substantial evidence to support its decision, and Our ruling in *Pimentel vs. COMELEC* where this Court, not satisfied that petitioner was fully heard, remanded the case to the COMELEC also for the observance of the cardinal requirements of due process. In both cases, We ordered the COMELEC to proclaim the winning candidates.

There is thus no proper course to take in the premises other than to remand also the present case and give full force and effect to Singco's proclamation without prejudice to the disqualification suit with the directive that COMELEC should hold a full dress hearing in accordance with the requirements of due process, and the parties given full opportunity to present all evidence relevant to the issue of turncoatism. Unquestionably, the challenged resolution in the present case was based merely on pleadings without petitioner having been accorded the right to be fully heard as he demanded, clearly in disregard to his right to due process. For it is not enough that petitioner was given the opportunity to answer the petition for disqualification. Petitioner disowned the documents attached to the petition which allegedly were submitted by him as Chairman of the KBL, alleging that his signature was forged. He also refuted the affidavit by the supposed witness to his attendance to a KBL meeting by submitting another affidavit of the same witness who claimed that the first affidavit was secured thru coercion. These allegations raise questions of fact that could have been threshed out fully by the COMELEC through an actual hearing.

Private respondent's averment that the proliferation of cases in the COMELEC and the time constraints could neither justify the summary resolution under question. The demands of due process cannot be sacrificed in the face of a good and substantial defense. Same must be applied at all times, for "while an administrative tribunal possessed of quasi-judicial powers is free from the rigidity of certain procedural requirements, it does not mean that it can in justiciable cases coming before it entirely ignore or disregard the fundamental and essential requirements of due process." [15] Significantly, by its own Resolution No. 1428, which provides the guidelines on the filing of petition to disqualify candidates in the January 30, 1980 elections, Sections 1 and 6 thereof expressly provide for hearing of said petitions. Thus -

"Section 1. Special Disqualifications of Candidates. - The Commission on Election shall, motu proprio, of upon petition of any voter, political party or candidate, after due notice and hearing, refuse to give due course to a certificate of candidacy if it is shown that the person filing the same does not possess all the necessary qualifications for the office concerned or is disqualified from running for said office as provided by law.

"Section 6. Hearing. - The Commission sitting en banc or by division shall conduct a hearing after due notice to all parties concerned."

Section 185 of the Election Code which provides the powers of the COMELEC states:

"Section 185. - The Commission shall, in addition to the powers and functions conferred upon it by the Constitution, have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of insuring free, orderly and honest elections, and shall:

x x x

"(1) Summons the parties to a controversies pending before it, issue subpoena and subpoena duces tecum, and take testimony in any investigation or hearing before it x x x. In case of failure of a witness to attend, the Commission, upon proof of service of the subpoena to said witness, may issue a warrant to arrest the witness and bring him before the Commission or the officer before whom his attendance is required. x x x Any controversy submitted to the Commission, shall after compliance with the requirements of due process, be heard and decided by it within the reglementary period provided by law."

Section 7 of the Batas Pambansa Blg. 52 provides:

x x x

"The Commission on Elections shall motu proprio or upon sworn petition of any voter, political party or candidate, after due notice and hearing, refuse to give due course to a certificate of candidacy if it is shown that the person filing the same does not possess all the necessary qualifications for the office concerned or is

disqualified from running for said office as provided by law."

Accordingly, We hold that, COMELEC Resolution No. 9310 dated February 26, 1980, disqualifying petitioner produced no legal effect, petitioner's candidacy was, consequently, valid and subsisting when he was voted for during the election, and his proclamation as the winner, having obtained the highest number of votes, was perfectly in order and legal. The mere pendency of the disqualification case against petitioner without the COMELEC having resolved the same before the election and even before the canvass, does not justify the suspension of his proclamation after winning in the election, as was done pursuant to COMELEC Resolution No. 8584. To so hold would unduly encourage the filing of even an entirely baseless petition for disqualification just to effect the suspension of the proclamation of the winning candidate, not only to his damage and prejudice but also to the frustration of the sovereign will of the electorate, and for the undue benefit of undeserving third party or parties. Such an ulterior motive can easily be accomplished by a late filing of the petition to assure that no action thereon by COMELEC can be taken before the election and the canvassing, and thereby bring into operation Resolution No. 8584.

As happened in this case, the losing candidate respondent Ong was proclaimed, and he would have assumed the position without perhaps having any right thereto under a previous ruling of this Court<sup>[16]</sup> had he not been restrained.<sup>[17]</sup> If by the uncalled for inducement of the aforementioned Resolution, a petition for disqualification of private respondent Ong had also been filed against him, then no candidate for the position of Mayor could have been proclaimed, by the application of said Resolution in utter disregard of the will of the electorate. Hence, at least insofar as Resolution No. 8584 was applied by COMELEC in this case, We declare the said Resolution without effect.<sup>[18]</sup>

WHEREFORE, the writ of certiorari is granted. The Resolution No. 9310 of respondent Commission on Elections of February 26, 1980 declaring petitioner Antonio O. Singco, a disqualified candidate, and the proclamation of respondent Board of Canvassers declaring Franklin Ong as Mayor-elect of Ginatilan, Cebu, are hereby nullified, set aside and declared to be without force and effect. The proclamation of petitioner as the Mayor-elect of Ginatilan, Cebu, on January 31, 1980 is hereby given full force and effect, without prejudice to the ruling thereafter on the question of disqualification of petitioner Singco after a hearing to be conducted in accordance with the cardinal requirements of procedural due process.

### **SO ORDERED.**

Makasiar, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, and Melencio-Herrera, JJ., concur.

Barredo, J., considering that the electorate was erroneous of the disqualification proceeding on election day, I concur.

Fernando, C.J., in the result and with a brief concurrence to indicate how far he is in agreement.

Aquino, J., took no part.

---

[1] p. 31, Rollo.

[2] p. 85, Id.

[3] p. 85, COMELEC Resolution, Item 8710, Id.

[4] G.R. No. 52428, Resolution of February 21, 1980.

[5] p. 35, Rollo.

[6] p. 53, Id.

[7] G.R. No. 52699, promulgated May 15, 1980.

[8] p. 28, Rollo.

[9] Ibid.

**[10] L-28538, 22 SCRA 1403.**

**[11] L-28955, 23 SCRA 883.**

[12] Supra.

[13] G.R. Nos. 52427 & 52506, Cesar E. Nepomuceno, Leon C. Arcillas and Ruben C. Avenido vs. Commission on Elections, Resolution of May 15, 1980; Pimentel vs. Commission on Elections, supra; Renato Reyes vs. Commission on Elections, supra.

[14] 69 Phil. 635 (1940).

[15] Serrano vs. PSC, August 30, 1968, 24 SCRA 867.

[16] Topacio v. Paredes, 23 Phil. 238.

[17] See fn. 5.

[18] See also Pimentel v. Comelec, supra.

---

### CONCURRING OPINION

#### **FERNANDO, J.:**

In dismissing the challenged Resolution dated February 26, 1980, this Court as set forth in the very able opinion of Justice De Castro, followed the recent cases of *Venezuela v. Commission on Elections*,<sup>[1]</sup> *Villegas v. Commission on Elections*,<sup>[2]</sup> and *Potencion v. Commission on Elections*.<sup>[3]</sup> *Arcenas v. Commission on Elections*,<sup>[4]</sup> decided today, states: "It is now the prevailing doctrine that after an election duly held and a proclamation thereafter made, a pre-proclamation controversy should no longer be viable."<sup>[5]</sup> Such affirmation should be viewed in the light of the relevant facts in each of the above cases. In *Venezuela*, it was not until February 6, 1980 that the issue of disqualification was raised, after the January 30 election and on the very same day the proclamation of private respondent Artemio R. Saldivar was made.<sup>[6]</sup> In *Potencion*, the petition to this Court was filed on February 11, 1980 after the proclamation, the victor Luis S. Etcubañez having been proclaimed on February 4, 1980.<sup>[7]</sup> In *Villegas*, the assailed resolution of the Commission on Elections was issued on February 2, 1980 after the election and on grounds more proper for election protest.<sup>[8]</sup> In *Arcenas*, the assailed resolution of respondent Commission on Elections was issued on February 22, 1980, a motion for reconsideration thereafter denied on May 9, 1980, and the petition itself was filed with this Court on June 13, 1980.<sup>[9]</sup> It is clear that in all of the above cases, therefore, there was no pending petition before this Court as of the date of the election on January 30, 1980. That, for me, and as ponente, was the decisive consideration for the enunciation of the doctrine that "after an election duly held and a proclamation thereafter made, a pre-proclamation controversy should no longer be viable." It should be noted that, as far back as *Reyes v. Commission on Elections*,<sup>[10]</sup> promulgated May 15, 1980, again as ponente, after referring to the provision on disqualification as "both innovative and mandatory" I stated further that where it had been seasonably invoked and a ruling issued by the Commission on Elections before the January 30, 1980 election with the cases thereafter being filed with us, this

Court is called upon to decide with finality the question raised. The principle to be followed obtaining in such petitions before us is that where there is substantial evidence to support the challenged resolution of the Commission on Elections with due observance of the mandate of procedural due process, it must be sustained.[11]

There was no hesitancy on my part, therefore, to concur with the result arrived at by my brethren. For the sake of clarity, I would emphasize, however, that conformably to our previous decisions cited, the issue of disqualification should be passed upon in an appropriate election protest or quo warranto petition, which ever may be filed by petitioner, if so minded.

---

[1] G.R. No. 53532, July 25, 1980.

[2] G.R. No. 52463, September 4, 1980.

[3] G.R. No. 52527, September 4, 1980.

[4] G.R. No. 54039, November 28, 1980.

[5] Ibid., 3.

[6] July 25, 1980 Decision, 3.

[7] September 4, 1980 Decision, 3.

[8] September 4, 1980 Decision, 4.

[9] November 28, 1980 Decision, 2.

[10] G.R. No. 52699.

[11] Cf. *Amante v. Commission on Elections*, G.R. No. 52375, January 25, 1980; *Gabatan v. Commission on Elections*, G.R. No. 52381, January 26, 1980; and *Evasco v. Commission on Elections*, G.R. No. 52401, January 28, 1980.

---

### SEPARATE OPINION

#### TEEHANKEE, J.:

I concur with the Court's decision insofar as it sets aside the Comelec Resolution of February 26, 1980 arbitrarily and without hearing declaring petitioner-winner Antonio O. Singco a disqualified candidate (for alleged turncoatism) for the mayoralty of the municipality of Ginatilan, Cebu and upholds his proclamation and assumption of said office as against the Comelec's proclamation of the loser, respondent Franklin A. Ong by the unjust and unfair device of simply declaring all of petitioner-winner's votes as "stray votes" - "to the frustration of the sovereign will of the electorate and for the undue benefit of undeserving third party or parties" and "in utter disregard of the will of the electorate," to quote from the Court's decision penned by Mr. Justice de Castro.[1]

It is undisputed that petitioner (with 2,645 votes) defeated respondent (with 1,877 votes) by a decisive margin of 768 votes or 58% of the votes cast by the electorate. Yet, the Comelec discriminatorily plucked out his case on the eve of his scheduled assumption of office on March 3, 1980 to summarily disqualify him as against its own chairman's (Leonardo B. Perez) dissent who voted "for allowing the winner to be proclaimed, without prejudice to the disqualification case being heard and decided, following Supreme Court ruling in the Pimentel case," and against its own General Resolution No. 9434 of March 1, 1980 "in order not to precipitate problems in certain

localities where the winning candidates have pending pre-proclamation cases . . . . Resolving . . . . to temporarily proclaim these winning candidates notwithstanding the pendency of the pre-proclamation cases" so as to allow them to assume office on March 3, 1980 as provided by B.P. Blg. 51. Worse, the Comelec had the canvassing board proclaim respondent-loser proclaimed as mayor-elect in disregard of the prevailing doctrine since *Topacio vs. Paredes*[2] that the repudiated loser who succeeds in disqualifying the winner of the election is not entitled to be proclaimed and assume office in lieu of the winner, since he has not received the plurality of the votes cast in the election.

The Court has now set things aright by annulling the Comelec resolution at bar and respondent's proclamation. With the Court's judgment, petitioner should finally assume the office denied him all this time and respondents should accept the Court's verdict in good grace and place no further obstacle in a spirit of fair play.

The Court's judgment directs that there be a "ruling thereafter on the question of disqualification after a hearing to be conducted in accordance with the cardinal requirements of procedural due process." Such hearing, following the latest rulings of the Court, should no longer be in the pre-proclamation controversy. As stressed by the Chief Justice in *Arcenas vs. Comelec*[3] promulgated on this same date, "It is now the prevailing doctrine that after an election duly held and a proclamation thereafter made [of the winning candidate], a pre-proclamation controversy should no longer be viable." Cited therein were the precedents in the recent election cases of *Venezuela*,[4] *Villegas*,[5] and *Potencion*,[6] all filed against the Comelec.

Citing the Court's pronouncement in *Venezuela* that "it would save the time and energy of the litigants as well as respondent Commission, and eventually this Court in review of its appellate jurisdiction, if the matter were passed upon in an election protest or quo warranto petition in the proper court or agency, the office involved being that of municipal mayor," and "the ratio decidendi is broad enough to cover the present situation for it would be time-consuming and in the end self-defeating if at this stage the pre-proclamation controversy is not laid to rest. The better view, as noted in *Venezuela*, is that resort be had to the remedy of an election protest or a quo warranto, which ever is proper," the Chief Justice has now clearly laid down in *Arcenas* the rule that "as should be clear, the issue of disqualification has not been rendered moot and academic, only the remedy to be pursued is no longer the pre-proclamation controversy.

Respondent's remedy, if he wishes to pursue it, is to file within the ten-day grace period from notice hereof (termination of the pre-proclamation controversy) granted in the above-quoted Comelec Resolution No. 9434 either an election protest or quo warranto in the court of first instance (since a municipal office is involved); otherwise, the controversy shall finally be set at rest.

The ruling of *Arcenas* signifies that all such pending pre-election cases seeking to disqualify the winner and the electorate's choice on the ground of alleged turncoatism should now be ordered dismissed after the elections held on January 30, 1980, subject to the filing of a quo warranto proceeding or election protest against the winner in the proper forum. Thereby, the people's will and undeniable right to have officials of their unfettered choice will thus be respected pending the final determination of such cases (election protest or quo warranto) as may be timely filed within the ten-day grace period in the Comelec (for provincial and city officials) or in the proper court of first instance (for municipal officials, as in this case), whose decisions are of course subject to final review by this Court at the instance of either party, with the Comelec exercising appellate jurisdiction over the decisions of the court of first instance.[7]

In this wise, this Court's dockets would be cleared of all such pending pre-proclamation or post-election cases seeking to disqualify the winners or to prevent or annul their proclamation (even at this late stage, 10 months after the holding of the elections!), in line with the President's own view as reported in the February 27, 1980

newspapers whereby he "ordered the lawyers of the KBL [Kilusang Bagong Lipunan] to withdraw all disqualification charges to allow already proclaimed opposition candidates involved in such cases to assume office, reserving the right to file an election protest" (although such Presidential orders seem to have been ignored since I am not aware of any disqualification case before us that has been so withdrawn).

A full-dress hearing in the appropriate forum on the ground of alleged turncoatism in accordance with due process would provide the parties full opportunity to present all relevant evidence (with confrontation and examination of the witnesses) on the vital factual and legal issues as specified in my separate opinion in *Reyes vs. Comelec*.<sup>[8]</sup>

---

[1] At page 6, decision.

[2] 23 Phil. 238 (1912).

[3] G.R. No. 54039, note in brackets supplied.

[4] G.R. No. 53532, July 25, 1980.

[5] G.R. No. 52563, Sept. 4, 1980.

[6] G.R. No. 52527, Sept. 4, 1980.

[7] Sections 190 and 196, P.D. 1296, 1978 Election code.

[8] G.R. No. 52699, May 15, 1980.

**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.