

MODESTA R. SABENIANO, ALEJANDRO S. DECANO, CARLOS U. MEÑEZ, MANUEL M. MEJIA, JOSE S. FAMA, GAUDENCIO S. SIAPNO, GUILLERMO C. LAZO, CECILIA I. FRANCISCO, LUCRECIA H. GUINTO AND I...

G.R. No. 53619. November 21, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petitioners were the Nacionalista Party official candidates for Mayor, Vice-Mayor and Sangguniang Panglunsod members of the City of Dagupan, while private respondents were the Kilusan ng Bagong Lipunan official candidates in the last January 30, 1980 local elections.

Respondent City Board of Canvassers completed its canvass of the election returns at 2:35 o'clock in the afternoon of February 1, 1980; and immediately thereafter, proclaimed all the private respondents as the duly elected candidates to the various positions above-mentioned: The "Certificate of Canvass of the Votes Cast and Proclamation of the Winning Candidates for City Officers by the City Board of Canvassers" dated February 1, 1980 shows the number of votes received by the winning candidates, thus: (1) Mayor: C.P. Manaois - 20,981; (2) Vice-Mayor: F.C. Siapno - 20,194; and (3) Members of the Sangguniang Panglunsod: L.C. Reyes, Jr. - 26,115, C.L. Guadiz - 25,009, R.C. Villamil, Jr. - 23,839, P.T. Torio, Jr. - 23,409, A.D. Sta. Maria - 22,771, R. R. Ravanzo, Jr. - 22,308, C.S. Villamil - 21,508, and C.C. Fernandez - 20,246 [p. 99, rec.].

A canvass sheet also dated February 6, 1980 prepared by the respondent City Board of Canvassers contains the names and votes of all the candidates, winners and losers, thus:

"I. MAYOR

GRAND TOTAL

TOTAL VOTES

1. Manaois, Cipriano M.

(KBL)

20,981

2. Sabeniano, Modesta R.

(NP)

10,387

3. Llamas, Victor T. Jr.

(Ind)

727

4. Reyna, Jesus C.

(Ind)

7,240

5. Ruth-Mortel, Amsehel Noel

(Ind)

3

"II. VICE MAYOR

1. Siapno, Felipe

(KBL)

20,194

2. Decano, Alejandro

(NP)

17,943

"III. SANGGUNIANG PANGLUSOD :

1. Fernandez, Corazon C.

(KBL)

20,246

2. Guadiz, Conrado L.

(KBL)

25,009

3. Ravanzo, Regino R.

(KBL)

22,308

4. Reyna, Liberato C. Jr.

(KBL)

26,115

5. Sta. Maria, Alfredo D.

(KBL)

22,771

6. Torio, Pedro T. Jr.

(KBL)

23,409

7. Villamil, Cesario S.

(KBL)

21,508

8. Villamil, Ricardo C. Jr.

(KBL)

23,839

9. Fama, Jose S.

(KBL)

16,265

10. Francisco, Cecilia Ico

(NP)

6,979

11. Guinto, Lucrecia H.

(NP)

6,950

12. Lazo, Guillermo C.

(NP)

8,543

13. Mejia, Manuel M.

(NP)

17,640

14. Melecio, Ildefonso

(NP)

8,998

15. Muñoz, Carlos U.

(NP)

10,018

16. Siapno, Gaudencio S.

(NP)

13,417

17. Ayson, Marciano C.

(IND)

742

18. Villamil, Victoriano T.

(IND)

239

(p. 98, rec.).

On February 5, 1980, petitioners filed a petition dated February 4, 1980 with the respondent Commission on Elections, docketed as Election Case No. 238, praying among other things for the annulment of the election, ex-parte canvassing and the proclamation of the private respondents, on the grounds of lack of notice and undue haste in the canvass and proclamation of the private respondents, tampering with, alterations and falsification of election returns, as well as other irregularities committed before, during and after the elections (pp. 38-45, rec.).

On February 8, 1980, the respondent Commission on Elections, acting on the aforesaid petition, resolved to suspend the effects of the proclamation of the private respondents (p. 46, rec.).

On February 11, 1980, petitioners filed a supplementary petition dated February 9, 1980, wherein they alleged additional and specific grounds in support of their petition (pp. 47-66, rec.).

On February 13, 1980, private respondents filed a motion for reconsideration and/or annulment of resolution dated February 8, 1980, contending that "x x x the Commission on Elections is without jurisdiction in issuing the questioned resolution x x x" and "x x x that the grounds cited as basis for the questioned resolution were products of gross and deliberate misrepresentation by petitioners" (pp. 67--99, rec.).

On February 14, 1980, the respondent Commission on Elections, acting on the February 11, 1980 supplemental petition of petitioners and the February 13, 1980 motion of private respondents, issued Resolution No. 9102, the pertinent part of which reads:

"Movant had submitted documents to show that notices were sent to herein respondents as early as January 24, 1980 and which was signed by the Election Registrar of Dagupan City. Attached as one of the annexes of his motion for reconsideration is the Minutes of the Proceedings of the City Board of Canvassers which does not show that petitioners or his watchers during the proceedings of the election returns were objected to by any candidate. Petitioners, either in the main petition, as well as in the supplemental petition, has not alleged grounds which are proper for a pre-proclamation controversy. On the other hand, the grounds are those for election protests and/or grounds under Section 186 of the Election Code to cancel a certificate of candidacy.

"In view of the foregoing, the Commission, upon recommendation of the Law Department and on proper motion, duly seconded, RESOLVED as follows: To grant movant's prayer for reconsideration, thereby reinstating the original proclamation made by the City Board of Canvassers, without prejudice, however, for petitioners to pursue other remedies either in an election protest or quo warranto proceedings which are still available to them" (italics supplied; pp. 100--102, rec.).

Petitioners received through their counsel, notice of the aforesaid resolution of the respondent Commission on Elections on February 17, 1980; but earlier or on February 15, 1980, they had filed with the respondent Commission on Elections a second supplemental petition wherein they added more grounds in support of their main petition (pp. 104-119, rec.). In paragraph 6 thereof, petitioners claimed that "in the alleged certificate of canvass or statement of the votes received by each candidate in each voting center, x x x the election returns, if one is made or not tampered, of voting centers or precincts Nos. 57-A (Calmay Ilocano), 113 (Pantal District), 176[*] and 215 (Bonuan Boquig) where petitioners lead, do not appear and/or missing; x x x" (p. 105, rec.).

Petitioner Sabeniano herself filed on February 15, 1980 an urgent motion and prayed for a reconsideration of the aforesaid February 14, 1980 resolution No. 9102 of the respondent Commission on Elections and for the issuance of a permanent restraining order to suspend the effects of the proclamation of private respondents until after a hearing is conducted on her pending pleadings (p. 120, rec.). Apparently, petitioner Sabeniano received notice of the questioned resolution ahead of her counsel. And on February 18, 1980, a supplemental urgent motion for reconsideration was filed by petitioners through their counsel (pp. 121--129, rec.).

On February 16, 1980, respondent Commission on Elections adversely resolved petitioner Sabeniano's February 15, 1980 motion for reconsideration, thus: "Resolution No. 9153 x x x Considering that the issues raised by movant Mrs. Sabeniano are grounds for protest, the Commission, on proper motion, duly seconded, RESOLVED to reiterate its previous order for the proclamation of the winning candidates for Mayor, Vice-Mayor and members of Sangguniang Panglunsod of Dagupan City, and to refer the various pleadings filed by Mrs. Sabeniano to the Joint Task Force of the Commission on Elections and the Ministry of Justice on Electoral Cases for criminal investigation and/or prosecution " (pp. 130--131, rec.).

On February 21, 1980, petitioners filed an Ex-Parte Motion, praying that the Honorable Commission consider petitioners' February 18, 1980 supplemental urgent motion for reconsideration" so as to include a reconsideration of the February 16, 1980 resolution of the respondent Commission on Elections and prayed further for the consolidation of PP No. 238 with PDC No. 68 --- for disqualification of private respondents (pp. 132-133, rec.).

On March 25, 1980, respondent Commission on Elections issued its Resolution No. 9591 which reads:

"This is a verified petition filed by MODESTA R. SABENIANO, petitioner, with the Commission on February 4, 1980, seeking to annul the results of the January 30, 1980 Local elections in Dagupan City for the Office of the Mayor alleging among others the following grounds:

"1) 'Serious irregularities were committed in the elections which included among others, massive vote-buying and vote-selling resorted by KBL candidates, widespread terrorism and goons employed to compel, coerce or intimidate voters or induce them to vote for KBL and/or threats voters to refrain from voting NP candidates or hinder and obstruct them from voting NP;

"2) 'The City Election Registrar and the Comelec Provincial Supervisor, in connivance with the Mayor, placed, inserted and/or otherwise included as approved applications for registration in Book of Voters the night time application of flying voters or fictitious voters, during the period of registration, said officials turned away or disapproved the application of known NP sympathizers who possess all the qualifications and none of the dis-qualification;

"3) 'That the City Election Registrar and the Comelec Provincial Supervisor, without lawful order from the Commission, originally cancelled or removed from or otherwise took out voters applications duly approved and/or cancelled voters registration resulting in the disenfranchisement of about 15,000 voters most of which are NP who were not able to cast their votes as their names did not appear in the list of registered voters and/or their names were juggled and transferred to remote places.'

"On February 15, 1980, the same petitioner filed a second supplemental petition alleging among other things, particularly paragraphs 1 and 4 and we quote:

"Paragraph 1 - that from the data furnished by the City Election Registrar, the total registered voters in the City of Dagupan as of January 30, 1980 is 52,189 and yet in Paragraph 4, it states 'that by simple mathematical computation adding all the sub-total of the votes received (see last column of each sheet) we have a grand total of votes cast for the Office of the Mayor as SEVENTY EIGHT THOUSAND TWO HUNDRED SIXTY NINE (78,269) excluding about 15,000 disenfranchised voters and those who did not vote in the January 30, 1980 local elections. It is broken down as follows:

MANAOIS, Cipriano 48,981

SABENIANO, Modesta 20,387

REYNA, Jesus 7,240

LLAMAS, Victor 1,654[*]

RUTH MORTEL,

Arnachel Noel

4[**]

LAFORTEZA, Camilo 3[***]

TOTAL

78,269

on paragraph 5 thereof, petitioner alleges that:

"To underscore the obviously impossible tampering, alteration or falsification, we have on the other hand the certificate of proclamation attached to said supplemental petition dated February 9, 1980 as ANNEX 'C' issued by the City Canvassers under which respondent Cipriano Manaois allegedly received 20,891 votes x x x. In other words, the total votes cast for the Office of the Mayor alone is almost twice the total number of registered voters in Dagupan City.'

"After the issues have been joined, the Commission set the case for hearing and after all evidences were offered and accepted, the parties submitted the case for decision.

"On the first two grounds relied upon by the petitioner, namely, fraud and terrorism, the Commission is of the opinion that they are not proper in a pre-proclamation contest. Pre-proclamation contest by its very nature is summary and therefore this issue can be very well ventilated in a formal protest which the petitioner can avail of within two days after proclamation.

"On the third ground, the petitioner alleged that 15,000 registered voters were disenfranchised. As per record of this Commission, the total number of registered voters in Dagupan City is 53,268[*] of which only 43,092 were able to cast their votes in the January 30, 1980 elections. Consequently, therefore, only 9,176 voters were not able to vote and not 15,000 as alleged by the petitioner. Under any situation, the Commission believes that a turn out of 83% as in the case of Dagupan City, is justified. In fact in other countries, a turn out of 51% is considered sufficient.

"Regarding the petitioner's allegation in her supplemental petition, particularly paragraphs 1 and 4 thereof where she pointed out the supposed variance in the number of registered voters (52,107)[*] and the alleged total number of voters who actually voted (78,286), the same has no legal and factual basis. It was indubitably shown and explained by the counsel for the petitioner(s) during the hearing that Comelec Form No. 25-A (Exhibit 'B', page 3) STATEMENT OF VOTE BY VOTING CENTER IN THE ELECTIONS FOR CITY/MUNICIPAL DISTRICT/MAYOR/VICE MAYOR/AND MEMBERS OF THE SANGGUNIANG PANG-LUNSOD BAYAN

respondent Manaois was mistakenly credited with 31,789 votes and petitioner Sabeniano was likewise credited with 11,092. These represent the votes obtained by both parties from 30 voting centers in Dagupan City broken down as follows:

MANAOIS

SABENIANO

87 30

96 41

105 46

104 65

77 53

37 25

71 41

83 68

102 53

127 25

121 44

171 42

120 44

137 39

167 23

127 27

65 48

100 12

135 31

238 26

143 10

137 15

165 12

114 7

260 12

252 13

159 21

102 74

131 97

56 49

 TOTAL

31,789 11,093

(3,789) (1,093)

"A perusal of the above data as shown in Comelec Form No. 25-A, page 3 will indubitably show that there was in fact a mistake in the addition. The total number of votes garnered by respondent Manaois per Comelec Form No. 25-A is 31,789 when in truth and in fact it should only be 3,789. The figure (1) between figures 3 and 7 should have been a comma (.). In like manner, a mistake was committed in the votes cast in favor of petitioner Sabeniano. As reflected in the Comelec Form No. 25-A, Sabeniano obtained 11,093 votes. The figure (1) between figures (1) and (0) should have been a comma (.) making the total number of votes cast in favor of petitioner Sabeniano as 1,093 and not 11,093. Had the petitioner taken the pain of adding correctly the votes obtained by them per above tabulation, she would have discovered such discrepancy very easily. In fact these alleged discrepancies were rectified by the Board of Canvassers when in its minutes of the proceedings of the Board (Annex 1), respondent Manaois was shown to have obtained 20,981 votes only.

"Premises considered, the Commission on Elections on motion duly seconded RESOLVED to dismiss the petition as without merit and declare respondent Manaois as the duly elected Mayor of Dagupan City in the January 30, 1980 elections and his temporary proclamation under Resolution No. 9434 be made permanent" (pp. 134-137, rec.).

Hence, this recourse.

Petition has no merit.

I

1. The charge that petitioners were denied due process in the canvassing of the election returns from January 30, 1980 to February 1, 1980 which was held without the presence of their watchers and represent-atives as they were not notified of the same, was not sufficiently shown. The respondent Commission on Elections in ruling otherwise gave due weight and con-sideration to the documents (pp. 91-92, rec.) submitted by the private respondents during the hearing before it, showing that a notice-telegram signed by the Election Registrar of Dagupan City was sent to the petitioners as early as January 24, 1980.

2. Indeed, it is patent from the records that the City Board of Canvassers of Dagupan City transmitted as early as January 24, 1980 to the Bureau of Telecom-munications, Dagupan City a telegram-notice, signed by the Election Registrar of Dagupan City duly addressed to all parties concerned, including the Nacionalista Party Chairman of Dagupan City that the Board "SHALL CONDUCT CITY CANVASS AT SESSION HALL SANGGUNIAN PANG-LUNSOD DAGUPAN CITY ON JANUARY 30, 1980 STARTING SEVEN O'CLOCK EVENING AND SHALL MEET CONTINUOUSLY INCLUDING SUNDAYS AND HOLIDAYS UNTIL CANVASS COMPLETED AND WINNERS PROCLAIMED" and further advised them to submit to the said Board names of their duly authorized watchers (p. 92, rec.). Consequently, there arises the presumption that the said telegram-notice was duly received by the addressees (Sec. 5[v], Rule 131, Rules of Court). Mr. Justice Finch of

the Court of Appeals of New York stated that according to the weight of authority, "a similar presumption of fact follows the delivery of a message properly addressed to the telegraph company for transmission, to that which follows the delivery of a letter to the post office" (6 Moran, Revised Rules of Court 56 [1970 ed.], citing *Oregon Steamship Co. vs. Otis*, 100 NY, 446, 53 Am. Rep. 221, 3 N.E. 485). That being so, there is no need on the part of the respondent City Board of Canvassers to still show by evidence that the petitioners actually received said telegram-notice. With that legal presumption, it is incumbent upon petitioners to destroy it. Petitioners failed to do so either in the proceedings before the respondent Commission on Elections or even at this late stage; by reason of which, the presumption becomes conclusive.

Moreover, the Bureau of Telecommunications of Dagupan City issued a certification to the effect that the said telegram-notice duly addressed to the Chairman, Nacionalista Party Dagupan City Chapter, Dagupan City, was duly delivered on the same date of filing, receipt of which was acknowledged by a certain Melecio whose first initial was not legible as it appeared on the delivery record kept by it (p. 91, rec.).

Furthermore, Section 150 of the 1978 Election Code expressly provides that "As soon as the voting is finished the election committee shall publicly count in the voting centers the votes cast and ascertain the results. x x x"; and Section 169 of the same Code requires the board of canvassers to "meet not later than seven o'clock in the evening of election day to canvass the election returns that may have already been received. It shall meet continuously from day to day until the canvass is completed, and may adjourn but only for the purpose of awaiting the other election returns from other voting centers within its jurisdiction. x x x." And Resolution No. 1418 of the respondent Commission on Elections provided for the general instructions on the canvassing of votes, including the date, place and time thereof (p. 76, rec.). Petitioners may not claim ignorance of the aforesaid provisions as these are matters directly affecting their political fortunes. Consequently, with or without notice, it was the duty of the petitioners, and all candidates for that matter, to assign their watchers or representatives in the counting of votes and canvassing of election returns in order to insure the sanctity and purity of the ballots. It is a matter of judicial notice, that the candidates, their represent-atives and watchers station or deploy themselves among the various voting and canvassing centers to watch the proceedings from the first hour of voting through the counting of votes in the voting centers until the completion of the canvassing of election returns so that they can make of record in the minutes of the election committee and canvassing board their objections or remarks regarding the conduct of the proceedings.

II

Relative to the charge raised in petitioners' second supplemental petition in paragraph 6 thereof that in the Certificate of Canvass or Statement of the Votes received by each candidate in each voting center, the election returns if made or not tampered, in the voting centers of precincts Nos. 57-A (Clamay-Ilocano), 113 (Pantal District), 195 and 215 (Bonuan Boquig) where they allegedly led, do not appear and/or are missing and therefore there was an incomplete canvass thus resulting in the nullity of the proclamation made by the City Board of Canvassers (p. 20, rec.), the same is likewise devoid of merit.

It must be stated that the questioned resolutions of the respondent Commission on Elections did not touch on this charge, which is indicative of the failure of the petitioners to present the charge properly and/or to substantiate the same in the proceedings before the respondent Commission on Elections. Otherwise, the charge should have merited a word from the respondent Commission on Elections in its questioned resolutions.

At any rate, even at this stage, petitioners had not presented a clear picture of this charge.

On the other hand, the explanations of the respondent City Board of Canvassers and the private respondents that the election returns in the aforesaid four (4) voting centers were actually included in the canvass, appear

indubitable, thus.

"ON VOTING CENTER 57-A

"Voting Center '57-A' was erroneously typewritten as '52-A' on Sheet No. 6 (Annex '8-e' hereof) of an 8-page COMELEC Form No. 28-A hereto attached and marked as Annexes '8' to '8-g', inclusive, of this Compliance. There is no voting center '52-A' in the City of Dagupan during the local elections of January 30, 1980. (Note: We could have adopted Annex 'A' of Petitioner were it not for the fact that this Annex in the copy furnished us by Petitioners, which was made to appear as consisting of 8 pages, is actually a seven-page document with one page duplicated. Such duplication, if not pointed to, will materially affect the ultimate tally of votes. Further, it is regrettable to observe that the fundamental rule on marking had been overlooked by Petitioners when they marked their 8-page annex only with "A" when it should have been marked 'A', 'A-1' and series).

"On page 13 of the Minutes of the Proceedings of the Board of Canvassers (Annex '1-L' of Annex 'H', Petition), however, Voting Center '52-A' appears as item No. 180. This means that the votes cast in Voting Center '57-A' were duly counted and credited to the candidates concerned including all the Petitioners, with Petitioner Modesta Sabeniano credited with forty nine (49) votes and Petitioner Alejandro Decano credited with 56 votes. (Respondents Manaois and Siapno obtained 56 and 54 votes, respectively). [See also 240, rec.]

"VOTING CENTER 215

"Voting Center '215' was erroneously typewritten as '213' on Annex '8-g' hereof. Actually Voting Center No. '213' was merged with Voting Center No. '214' per Directive dated December 17, 1977 of Hon. Constante B. Leones, Policy Adviser, Commission on Elections, such that Voting Center No. 213 does not exist any more. Said directive is hereto attached and marked as Annex '9' of this Compliance.

"On Page 15 of the Minutes of the Proceedings of the Board of Canvassers (Annex '1-n' of Annex 'H', Petition), Voting Center 215 appears as Item No. 222, which means that the votes cast in Voting Center '215' were duly counted and credited to the candidates concerned, including all the petitioners, with petitioner Sabeniano credited with eleven (11) votes and Petitioner Decano credited with 24 votes [Respondents Manaois and Siapno garnered 155 and 141 votes, respectively] (p. 242, rec.).

"VOTING CENTER 113

"According to said directive (Annex '9'), Voting Center '112' was already merged with Voting Center '113' and therefore it (VC-112) should have been known as VC-113 as of the merger but due to oversigned it was made to remain as Voting Center '112'.

"Voting Center '113' is reflected as Voting Center '112' on Annex '8-d' of this Compliance and that Voting Center '112' appears as Item No. 146 on page eleven (11) of the Minutes of the Proceedings of the Board of Canvassers (Annex '1-J' of Annex 'H' of Petition), which means that the votes cast in Voting Center '113' still appearing as Voting Center '112' have been duly accounted and credited to the candidates concerned, including all the Petitioners, with Petitioner Sabeniano credited with nine (9) votes and Petitioner Decano credited with 85 votes [respondents Manaois and Siapno received 43 and 49 votes, respectively] (p. 239, rec.).

"VOTING CENTER 195

"Voting Center '195' was also erroneously typewritten as Voting Center '191' on Annex '8-e' hereof.

"The correct Voting Center '191' is that one found on Annex '8-g' of this Compliance.

"There are two (2) Voting Centers Nos. '191'. One appears on Annex '8-c' and the other on Annex '8-g'.

"But Voting Center '191' on Annex '8-c' is actually Voting Center 195 of Barangay Bonuan Gueset as there is no Voting Center No. 191 in said Barangay. Voting Center No. 191 on Annex '8-g' is situated in Barangay

Tobeng.

"On page 9 of the Minutes of the Board of Canvassers (Annex '1-H' of Annex 'H' of the Petition), Voting Center '191' appears as Item No. 116, which means that the votes cast in Voting Center '191' (actually VC 195 in Barangay Bonuan Gueset) were duly counted and credited to the candidates concerned, including all the Petitioners with Petitioner Sabeniano credited with twenty-one (21) votes and Petitioner Decano credited with 57 votes" [Respondents Manaois and Siapno got 154 and 132 votes respectively, p. 238, rec.] (pp. 154--157, rec.).

Moreover, the above explanation which clearly accounted for the four (4) voting centers allegedly excluded by the respondent City Board of Canvassers in the canvass of election returns were not seriously disputed by the petitioners in their reply (pp. 307--308, rec.).

III

Petitioners insist that there were tampering with, alteration and falsification of the election returns upon which the respondent City Board of Canvassers based its proclamation of herein private respondents.

1. It appears that the entry in the Sub-Total/Total Votes Received by respondent Manaois in the thirty (30) voting centers stated in Annex "8-e" (Statement of Votes by Voting Centers, Comelec Form No. 28-A) was 31789, despite the fact that the correct sum thereof was only 3,789; while in the entry for petitioner Sabeniano, it was listed as 11093, notwithstanding the fact that her correct total number of votes was only 1,093. The entries in the Sub-Total/Total Votes Received in the other seven (7) Statements of Votes by Voting Centers, Comelec Form No. 28-A (Annexes "8", "8-a", "8-b", "8-c", "8-d", "8-f" and "8-g", pp. 235, 236, 237, 239, 241, and 242, rec.) were the correct sums of the votes listed therein.

In adding the total number of votes for the mayoralty candidates as contained in the 230 voting centers listed in the eight (8) statements of votes by voting centers (Annexes "8" to "8-g", pp. 235-242 rec.), petitioners considered the aforestated erroneous sums of votes for petitioner Sabeniano and respondent Manaois, resulting thus in a total of 48,981 votes for Manaois and 20,387 votes for Sabeniano, which if added to the total votes received by the other candidates -- Reyna, 7,240; Llamas, 1,654; Roth-Mortel, 4; and Laforteza, 3 -- would sum up to 78,269, hence, exceeding not only the number of voters who actually cast their votes in, but also the number of registered voters for the January 30, 1980 local elections.

The petitioners did not directly question the correctness of the number of votes in each of the thirty (30) voting centers contained in Annex "8-e" credited to petitioner Sabeniano and respondent Manaois, the correct totals of which were 1,093 and 3,789, respectively.

In fact, respondent City Board of Canvassers was not misled with the erroneous entry made in the sub-total/total votes received in Annex "8-e" for in its minutes of the proceedings and in the canvass sheet officially released by it, the number of votes credited to respondent Manaois was only 20,981 and to petitioner Sabeniano, 10,387, which indicate that respondent City Board of Canvassers credited to respondent Manaois and to petitioner Sabeniano their correct sums of votes in the voting centers specified in Annex "8-e" or 3,789, not 31789, and 1,093, not 11093, respectively.

Consequently, the total number of votes cast for all the mayoralty candidates did not exceed the number of voters who actually cast their votes during the January 30, 1980 elections.

It is clear therefore, that the charge of petitioners of tampering with, alteration and falsification of the election returns anchored mainly on the alleged excess votes, is without basis. For as correctly observed by the respondent Commission on Elections: "A perusal of the x x x data as shown in Comelec Form No. 25-A, page 3, will

indubitably show that there was in fact a mistake in addition. The total number of votes garnered by respondent Manaois per Comelec Form No. 25-A is 31,789 when in truth and in fact it should only be 3,789. The figure 1 between figures 3 and 7 should have been a comma (.). In like manner, a mistake was committed in the votes cast in favor of petitioner Sabeniano. As reflected in the Comelec Form No. 25-A, Sabeniano obtained 11093 votes. The figure 1 between figures 1 and 0 should have been a comma (.) making the total number of votes cast in favor of petitioner Sabeniano as 1,093 and not 11,093. Had the petitioner taken the pain of adding correctly the votes obtained by them per x x x tabulation, she would have discovered such discrepancy very easily. x x x" The difference between the total number of votes of all the mayoralty candidates and the number of voters who actually voted in the January 30, 1980 local elections as pointed out by petitioners was but the result of the innocent mistake in the addition of the number of votes cast for Manaois and Sabeniano in the thirty (30) voting centers specified in Annex "8-e", crediting them with 31789 and 11093 votes, respectively, and/or a typo-graphical error as above illustrated, which erroneous figures of 31789 and 11093 were the ones considered by petitioners in their computation of the total votes received in all the voting centers by respondent Manaois and petitioner Sabeniano.

Their alternative solution is absurd not only because it proceeds on a wrong basis as aforestated, but also because it is bereft of any supporting facts. Thus:

"The controversy, the confusion and the quibblings arising from the January 30, 1980 election of local officials in Dagupan City can actually be categorically settled by simply removing from the score of respondent Manaois the more than 35,000 excess votes that were wrongfully credited to him.

"For the result of the removal of the excess votes from respondent Manaois' score would not only exactly dovetail with the number of voters who actually voted, but would also categorically establish that petitioner Sabeniano won the election -- as she in fact did -- -by a clear majority.

"To illustrate:

"Total number of votes cast for the candidates of mayor as canvassed and reflected on the statement of votes prepared, certified and duly signed by the City Board of Canvassers:

MANAOIS -----

48,981

SABENIANO -----

20,387

REYNA -----

7,240

LLAMAS -----

1,654

MORTEL -----

4

LAFORTEZA -----

3

TOTAL

78,269

78,269

"Total number of registered voters as certified by the COMELEC -----52,268

"Total number of voters who actually voted as Certified by the COMELEC -----43,092

43,092

"Total number of EXCESS votes (i.e., Number of votes canvassed less number of voters who actually voted) -----35,177

35,177

"Thus --

Total number of votes cast for Manaois -----

48,981

"Less: Excess number of votes -----

35,177

"RESUME

Actual and honest votes Cast for the office of mayor:

SABENIANO -----

20,387

MANAOIS -----

13,804

REYNA -----

7,240

LLAMAS -----

1,654

MORTEL -----

4

LAFORTEZA -----

3

TOTAL -----

43,092

43,092

Total number of voters who actually voted as
Certified by COMELEC -----

43,092

"It is clear from the above that petitioner beat respondent Manaois for the office of mayor by 6,583 votes; by the same token and in varying degrees, the rest of the petitioners who run under the ticket of Modesta Sabeniano also won because their respective opponents under the slate of Manaois were also wrongfully credited with excess votes.

"The foregoing unequivocally shows that by simply deducting the proven excess votes illegally credited to respondent Manaois -- which is the only logical, precise and fairest way, to redress the hopeless discrepancy obtaining between the number of votes canvassed (78,269) and the number of voters who actually voted (43,092) -- completely rationalize the otherwise unresolvable outcome of the January 30, 1980 election in Dagupan City.

"In stark contrast, the very much labored, painfully strained and repetitious 'typing-error; comma-instead--of-one' explanation of respondents, as well as their subsequent submission of a mere canvass sheet dated February 1, 1980 (please see Annex 'B' of the Petition) showing that Manaois obtained 20,981 votes; Sabeniano 10,387; Llamas 272; Reyna 7,240 and Mortel 3, is not consistent with reason and only adds to the confusion.

"For the number of votes cast for the office of mayor, as reflected in the aforesaid canvass sheet belatedly submitted by the respondents, would total only 39,338, whereas the certified number of votes cast was 43,092.

This definitely leaves an unaccounted or missing votes numbering 3,654. Whatever happened to these votes neither of the respondents had any answer. Which demonstrates all the more clearly the anomaly and untenability of respondents' belated tabulation.

"What is more, the unilateral, arbitrary and ex-parte reduction by the respondents of the votes cast for petitioner Sabeniano from 20,387 (as canvassed and reflected in the Statement of Votes) to 10,387 (as reflected in the canvass sheets subsequently submitted by respondents) is highly and oppressively illegal. This is so because the votes cast for Sabeniano (20,387) as appearing in the Statement of Votes, has never been in dispute, much less questioned by any of the respondents. And there was never any petition from any party to correct the same for being erroneous or inaccurate. So for what reason and by what authority did the respondents base their unilateral, arbitrary and ex-parte reduction thereof to 10,387?" (pp. 312-315, rec.).

2. Petitioners likewise alleged glaring discrepancies in the votes of the candidates appearing in some of the allegedly certified election returns in their possession and those appearing in the certificate of canvass and tally sheets, particularly in Voting Centers Nos. 26, 30, 39, 52, 56, 59-A, 125, 150, 151-A, 175 and 216 (pp. 13, 14, 20, 21, 105 and 106, rec.). But the respondent City Board of Canvassers had questioned the source and authenticity of the election returns relied upon by the petitioners, thus:

"xx xx xx xx.

"Obviously, the petitioners do not know or have never before seen a copy of an official Election Return (known for purposes of the January 30, 1980 election as C.E. Form No. 9). Very clearly from the petitioners' allegations, what they would want this Honorable Supreme Court to examine are mere ordinary coupon bond and legal size papers on which are mimeographed the heading of: 'ELECTION RETURNS' containing thereunder statements or letters which are usually printed on the official return form (Please refer to Annexes 'B', 'C', 'D', 'E', 'G', 'H', 'I', 'J', 'K', and 'L' of Annex 'J' of the petition). The size alone of the above annexes, purportedly election returns on which were based the canvassing and proclamation of the winning candidates, which is that of a legal size coupon bond or white paper is too much different from Comelec Form No. 9 which measures 2 feet and 2 inches in length/by 2 feet in width. This form comes in a set of four (4) copies and is made of specially-treated paper which makes it practically impossible to alter, tamper or falsify, as imputed by petitioners.

"Comelec Form No. 9 were distributed as follows, to wit: (1) one copy for the Commission on Elections; (2) another copy for the Provincial Election Supervisor; (3) the third copy to be placed inside the ballot box; and (4) the fourth copy is for the City Board of Canvassers.

"How then could petitioners honestly claim that the election returns used in the canvassing were 'tampered, altered, falsified with uninitialed erasures' when apparently it was the petitioners themselves who must have manufactured, printed and/or falsified the alleged election returns?

"How still could petitioners honestly and authoritatively argue on authentic copies of the election returns when they have presumably never seen one as the four (4) copies of Comelec Form No. 9 were distributed simultaneously to the officials and offices concerned immediately upon adjournment by the different citizens election committees, and that neither petitioners nor private respondents and other unauthorized persons could get hold of such delicate form or document?" (pp. 274-275, rec.).

Petitioners did not refute in their reply these allegations of the respondent City Board of Canvassers. This indicates that petitioners' position is devoid of any factual basis.

There is therefore no merit in petitioners' claim that respondent Commission on Elections gravely abused its discretion in issuing its questioned resolutions. As above shown, said resolutions are supported by substantial evidence. As further observed by the Solicitor General, "both parties were given full opportunity, which they

indeed availed of, ventilating their opposing claims and submitting evidence in support thereof. They were accorded due process by the COMELEC, despite the summary character thereof as sanctioned by Section 175 of the Election Code and as dictated by time constraint" (pp. 299-300, rec.).

This Court had ruled that ITS certiorari jurisdiction over orders, rulings and decisions of the Commission on Elections is no longer as broad as it was under the 1935 Constitution and should therefore be confined to instances of grave abuse of discretion amounting to patent and substantial denial of due process (*Aratuc vs. Commission on Elections*, 88 SCRA 251, 252, 269-272 [1979]).

It appears that on February 29, 1980 and March 3, 1980, petitioners filed with the Commission on Elections protests docketed as EPC No. 80-31 (*Sabeniano vs. Manaois*), EPC 80-33 (*Decano vs. Siapno*) and EPC No. 80-34 (*Muñoz, et al. vs. Reyna, et al.*), all captioned PETITION PROTEST EX ABUNDANTE CAUTELA (pp. 166-191, rec.). Respondents had filed their respective answers (pp. 200-234, rec.).

WHEREFORE, THE PETITION IS HEREBY DISMISSED FOR LACK OF MERIT, WITHOUT PREJUDICE TO THE CONTINUANCE OF THE AFORESAID ELECTION PROTESTS.

Fernando, C.J., Barredo, Concepcion, Jr., Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Aquino, J., in the result.

Teehankee and Abad Santos, JJ., no part.

[*] Should be 195 for 176 appears on Annex A, p. 29, rec. and on Annex 8-f, p. 241, rec.).

[*] Per Canvass Sheet of the respondent Comelec, Llamas received only 727 votes (p. 98, rec.).

[**] - 3

[***] - do not appear with canvass sheets

[*] Should be 52,268

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