

CIRILO M. QUILALA, PETITIONER, VS. THE HONORABLE COMMISSION ON ELECTIONS (SECOND DIVISION), THE MUNICIPAL BOARD OF CANVASERS OF CURRIMAO, ILOCOS NORTE, AND WILBUR GO, RESPONDENTS.

G.R. No. 82726. August 13, 1990

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-82726/>

PARAS, J.:

Petitioner Cirilo M. Quilala was the KBL candidate for Mayor in the Municipality of Currimao, Ilocos Norte while private respondent Wilbur Go was the official administration candidate for the same position in the January 18, 1988 elections.

The Municipal Board of Canvassers of Currimao, Ilocos Norte completed its canvass of the election returns in the afternoon of January 19, 1988, and immediately thereafter proclaimed the winning candidates. The “Certificate of Canvass of Votes etc.” (Annex C, p. 31, Rollo) dated January 19, 1988 states “that after such canvass, it appears that Wilbur C. Go received 2,594 votes for the Office of Mayor of the aforesaid Municipality, the same being a plurality of the votes legally cast for the said office.”

On January 21, 1988, petitioner filed a petition with the respondent Commission on Elections, docketed as SPC No. 88-214. The petition is principally anchored on the allegation that petitioner was not represented in the canvassing of the election returns, firstly, because the canvass was conducted only in the morning of January 19, 1988 in gross and palpable violation of the provisions of the Omnibus Election Code which requires the Board to immediately meet and canvass the election returns not later than six o’clock in the afternoon of election day; secondly, because petitioner was not notified of the resetting of the canvassing and the time, place and date when the same would take place; and thirdly, because petitioner’s representative was prevented from witnessing the canvass, by elements of the Philippine Marines. Such absence of representation, petitioner claims can be gleaned from the fact that the Certificate of Canvass of Votes and Proclamation for the municipality does not contain the signature of the representative of the KBL.

On the basis of the above allegations, petitioner prays for a declaration of nullity of the canvass and the proclamation of respondent Wilbur Go and for an order directing the Board of Canvassers to conduct a proper canvass.

On April 6, 1988, respondent Commission on Elections (Second Division) issued its now assailed Decision dismissing SPC No. 88--214 and confirming the validity of the proceeding of the Board of Canvassers of Currimao, Ilocos Norte. The pertinent portion of the said Decision reads -

“There is no dispute that petitioner was notified that the Board of Canvassers would convene to canvass the election returns for Currimao at 6:00 p.m. on January 18, 1988 at the Municipal Hall of the town. There is no dispute either that petitioner was not represented in the canvass until the proclamation of private respondent Wilbur Go as winning candidate for Mayor. The disagreement is as to the circumstances which brought about

such absence of representation.” (p. 19, Rollo)

xxx xxx xxx

“The resolution of the issue regarding the non-representation of petitioner in the canvassing hinges upon the credence that must be extended to the testimonies of the witnesses for petitioner and respondent.

“Petitioner would stress the admission of Mr. Anolin that he left the Municipal Hall around 6:00 p.m. and conclude on that basis that he cannot claim that the Board convened at 6:00 p.m. In fact there is not necessarily any inconsistency. It is possible, and the Commission believes, that the Board met briefly at 6:00 p.m. and called for representatives of the political parties and when it appeared that no election returns were available for canvass, Mr. Anolin left for his office and returned at 10:00 p.m.

“But the meeting at 6:00 p.m. is important only in relation to the subsequent absence of the KBL representative at 10:00 p.m. when the Board commenced actual canvass as the election returns arrived.

“While the presence of a candidate’s or a party’s watcher is a right under the law, Sec. 239, B.P. Blg. 881, Sec. 25, R. A. 6646, Sec. 12, Res. No. 1965, there is no compulsion on the part of such candidate or party to send such representative. The presence of such watchers may be waived, or such watchers may deliberately or by mishap, fail to attend the canvassing. Such absence does not affect the proceedings of the Board so long as notice of the proceedings had been properly served and an opportunity to send a watcher was given. The duty to protect one’s interest lies with the candidate or the party.

“The question that arises in this is whether the Board was required to serve another notice after it recessed at 6:00 p.m.

“We hold that there was no such necessity. It was the responsibility of petitioner or his watcher to verify when actual canvass of the returns were going to be made. Such verification could have been readily made notwithstanding the transfer of the venue of the canvass to another office in the Municipal Building, firstly, because, the actual canvass was in the same municipal building, and, secondly, because notwithstanding the temporary absence of the poll clerk, the two other members of the board, the Chairman and the Vice-Chairman, remained in said building throughout the night from 6:00 p.m. of January 18 until the termination of the canvass at 6:17 a.m. January 19, 1988.

“We reject as unreliable the testimony of Ms. Laed that she checked all the rooms of the Municipal Building after 6:00 p.m. when she could not locate the meeting of the Board because this is belied even by the witness for the petitioner Mr. Sevilla who stated that he remained in his office from 6:00 p.m. onwards.

“Witness also said on cross examination that she returned to the Municipal Building only at around 3:00 a.m. of January 19, 1988 at which time she was allegedly prevented by Marines from entering. If this were true, and considering that this was not the first election where Ms. Laed served as watcher, this demonstrated the extent of the interest of petitioner and his watcher in the proceedings.

“The rest of her testimony must likewise be rejected for want of credibility. Her claim, that she was prevented by military men from entering the Municipal Building is belied by her admission that teachers who were members of the Board of Election Inspectors came and went as they delivered election returns. Her allegation that she simply stayed in the vicinity of the Municipal Building after being barred from entering the same is not worthy of belief because this is not a natural reaction of a watcher who is keenly interested in protecting the interests of her candidate.

“Mr. Sevilla’s own testimony is full of contradictions on material points. In his affidavit of January 21, 1988 he stated when the Board deliberated and canvassed the results of the election in the morning of January 19, 1988, that he noticed no representative for the KBL was present. (par. 2)

“In his affidavit of January 24, 1988, on the other hand he asserts that at about 10:00 p.m of January 18, 1988

Mr. Balbuena (the Chairman) called him for the start of the canvass and he called the attention of the latter to the absence of representatives of parties. Such inconsistency on so important a matter must taint the whole of the testimony which must therefore altogether be rejected.

“It must also be pointed out here that nowhere in the affidavit of Mr. Sevilla is there any indication that there were defects in the election returns which could have been bases for objections.

“On the while, we find the evidence for the respondent the more credible version of what happened in the canvassing in Currimao between January 18 to 19, 1988.

“The rest of petitioner’s objections do not relate to pre-proclamation controversies and need not be considered here.” (pp. 21-24, Rollo)

Claiming grave abuse of discretion on the part of respondent Commission on Elections, petitioner came to Us on a petition for certiorari.

The thrust of petitioner’s argument is that he was notified that the Board of Canvassers would convene to canvass the election returns for Currimao at 6:00 p.m. on January 18, 1988 at the Session Hall of the Sangguniang Bayan of Currimao. But he was not notified of the subsequent canvass which was held on January 19, 1988 at the Treasurer’s Office of the same Sangguniang Bayan. This according to petitioner violated his right to due process.

In this regard, We agree with respondent Commission that there was no necessity to send another notice to petitioner when the Board of Canvassers recessed at 6:00 o’clock in the afternoon of January 18, 1988 because “it was the responsibility of petitioner or his watcher to verify when actual canvass of the returns were going to be made.” (pp. 22-23, Rollo)

Indeed, the notice demanded by petitioner is not necessary because there was no subsequent meeting of the Board of Canvassers to speak of. It merely recessed after it convened at 6:00 p.m. on January 18, 1988 because there were no returns to canvass yet. However, it resumed its proceedings as soon as the returns arrived.

It should be noted that the law requires the Board of Canvasser to “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 polling places within its jurisdiction” and “as soon as the other election returns are delivered, the board shall immediately resume canvassing until all the returns have been canvassed” (Section 231, B. P. 881). The Board of Canvassers must complete their canvass within thirty-six hours. (ibid.)

Petitioner may not claim ignorance of the aforesid provisions as these are matters directly affecting his political fortune. Consequently, with or without notice, it was the duty of the petitioner 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. (Sabeniano vs. Comelec, 101 SCRA 289, 301)

It is a matter of judicial notice that the candidates, their representatives 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.

The alleged defect in the notice is only one of form, not substance. Petitioner is making a big issue of the discrepancy between the specific place in the Sangguniang Bayan stated in the notice as the site of the canvassing and the place in the same building where the canvassing was actually held, but does not explain why his watcher, with just a modicum of diligence and resourcefulness, failed to find the place of the canvassing. The Sangguniang Bayan is not a cavernous structure and canvassing is not a very quiet affair.

Another matter which militates against the cause of petitioner is that he has not shown that he suffered prejudice because of the failure of his watcher to attend the canvassing. Had the watcher been present, what substantive issues would he have raised? Petitioner does not disclose. Could it be that even if the watcher was present, the result of the canvassing would have been the same?

There is therefore no merit in petitioner's claim that respondent Commission on Elections gravely abused its discretion in issuing its questioned decision. And, as emphatically stated in *Sidro v. Comelec*, 102 SCRA 853, this Court has invariably followed the principle that "in the absence of any jurisdictional infirmity or an error of law of the utmost gravity, the conclusion reached by the respondent Commission on matter that falls within its competence is entitled to the utmost respect x x x x." There is justification in this case to reiterate this principle.

WHEREFORE, the instant petition is DISMISSED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Cortes, Grino-Aquino, Medialdea, and Regalado, JJ., concur.

Bidin and Sarmiento, JJ., on leave.

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.