

ALFONSO C. BINCE, JR., PETITIONER, VS. COMMISSION ON ELECTIONS, PROVINCIAL BOARD OF CANVASSERS OF PANGASINAN, MUNICIPAL BOARDS OF CANVASSERS OF TAYUG AND SAN MANUEL, PANGASINAN,...

G.R. Nos. 111624-25. March 09, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Petitioner Alfonso C. Bince, Jr. and private respondent Emiliano S. Micu were among the candidates in the synchronized elections of May 11, 1992 for a seat in the Sangguniang Panlalawigan of the Province of Pangasinan allotted to its Sixth Legislative District.

Ten (10) municipalities, including San Quintin, Tayug and San Manuel, comprise the said district.

During the canvassing of the Certificates of Canvass (COCs) for these ten (10) municipalities by respondent Provincial Board of Canvassers (PBC) on May 20, 1992, private respondent Micu objected to the inclusion of the COC for San Quintin on the ground that it contained false statements. Accordingly, the COCs for the remaining nine (9) municipalities were included in the canvass. On May 21, 1992, the PBC ruled against the objection of private respondent. [1] From the said ruling, private respondent Micu appealed to the Commission on Elections (COMELEC), which docketed the case as SPC No. 92-208.

On June 6, 1992, the COMELEC en banc promulgated a resolution which reads:

Acting on the appeal filed by petitioner/appellant Atty. Emiliano S. Micu to the ruling of the Provincial Board of Canvassers of Pangasinan, dated May 21, 1992, the Commission en banc tabulated the votes obtained by candidates Atty. Emiliano S. Micu and Atty. Alfonso C. Bince for the position of Sangguniang Panlalawigan member of the province of Pangasinan, using as basis thereof the statement of votes by precinct submitted by the municipality of San Quintin, Pangasinan, as (sic) a result of said examination, the Commission rules, as follows:

1. That the actual number of votes obtained by candidate Alfonso C. Bince in the municipality of San Quintin, Pangasinan is 1,055 votes whereas petitioner/appellant Atty. Emiliano S. Micu obtained 1,535 votes for the same municipality.

Accordingly, the Provincial Board of Canvassers for the province of Pangasinan is directed to CREDIT in favor of petitioner/appellant Atty. Emiliano S. Micu with 1,535 votes and candidate Alfonso C. Bince with 1,055 votes in the municipality of San Quintin, Pangasinan. [2]

Twenty-one (21) days after the canvass of the COCs for the nine (9) municipalities was completed on May 20, 1992, private respondent Micu together with the Municipal Boards of Canvassers (MBCs) of Tayug and San Manuel filed with the PBC petitions for correction of the Statements of Votes (SOVs) earlier prepared for alleged manifest errors committed in the computation thereof.

In view of the motion of herein petitioner to implement the Resolution of June 6, 1992 which was alleged to have become final, the PBC, on June 18, 1992, credited in favor of the petitioner and private respondent the votes for each as indicated in the said resolution and on the basis of the COCs for San Quintin and the other nine (9) municipalities, petitioner had a total of 27,370 votes while the private respondent had 27,369 votes. Petitioner who won by a margin of 1 vote was not, however, proclaimed winner because of the absence of authority from the COMELEC.

Accordingly, petitioner filed a formal motion for such authority.

On June 29, 1992, the COMELEC en banc promulgated a Supplemental Order [3] directing the PBC “to reconvene, continue with the provincial canvass and proclaim the winning candidates for Sangguniang Panlalawigan for the Province of Pangasinan, and other candidates for provincial offices who have not been proclaimed” [4] as of that date.

In the meantime, on June 24, 1992, the PBC, acting on the petitions for correction of the SOVs of Tayug and San Manuel filed by private respondent and the MBCs of the said municipalities, ruled “to allow the Municipal Boards of Canvassers of the municipalities of Tayug and San Manuel, Pangasinan to correct the Statement of Votes and Certificates of Canvass and on the basis of the corrected documents, the Board (PBC) will continue the canvass and thereafter proclaim the winning candidate.” [5]

On June 25, 1992, petitioner Bince appealed from the above ruling allowing the correction alleging that the PBC had no jurisdiction to entertain the petition. The appeal was docketed as SPC No. 92-384.

On July 8, 1992, private respondent Micu filed before the COMELEC an urgent motion for the issuance of an order directing the PBC to reconvene and proceed with the canvass. He alleged that the promulgation of COMELEC Resolution No. 2489 on June 29, 1992 affirmed the ruling of the PBC dated June 24, 1992. Similarly, petitioner Bince filed an urgent petition to cite Atty. Felimon Asperin and Supt. Primo A. Mina, Chairman and Member, respectively, of the PBC, for Contempt with alternative prayer for proclamation as winner and Injunction with prayer for the issuance of a Temporary Restraining Order (TRO).

On July 9, 1992, the PBC Chairman, Atty. Felimon Asperin, filed a petition with the COMELEC seeking a “definitive ruling and a clear directive or order as to who of the two (2) contending parties should be proclaimed” [6] averring that “there were corrections already made in a separate sheet of paper of the Statements of Votes and Certificates of Canvass of Tayug and San Manuel, Pangasinan which corrections if to be considered by the Board in its canvass and proclamation, candidate Emiliano Micu will win by 72 votes. On the other hand, if these corrections will not be considered, candidate Alfonso Bince, Jr. will win by one (1) vote. [7] On even date, the COMELEC promulgated its resolution, the dispositive portion of which reads:

(1) To RECONVENE immediately and complete the canvass of the Certificates of Votes, as corrected, of the Municipal Boards of Canvassers of the municipalities comprising the 6th District of Pangasinan;

(2) To PROCLAIM the winning candidate for Member of the Provincial Board, 6th District of Pangasinan, on the basis of the completed and corrected Certificates of Canvass, aforesaid; in accordance with the law, the rules and guidelines on canvassing and proclamation. [8]

As directed therein, the PBC on July 21, 1992, by a vote of 2-1 with its Chairman Atty. Felimon Asperin dissenting, proclaimed candidate Bince as the duly elected member of the Sangguniang Panlalawigan of Pangasinan. Assailing the proclamation of Bince, private respondent Micu filed an Urgent Motion for Contempt and to Annul Proclamation and Amended Urgent Petition for Contempt and to Annul Proclamation on July 22 and 29, 1992, respectively, alleging that the PBC defied the directive of the COMELEC in its resolution of July 9,

1992. Acting thereon, the COMELEC promulgated a resolution on July 29, 1992, the decretal portion of which reads:

The Commission RESOLVED, as it hereby RESOLVES:

1. To direct Prosecutor Jose Antonio Guillermo and Supt. Primo Mina, vice-chairman and secretary, respectively, of the Provincial Board of Canvassers of Pangasinan, to show cause why they should not be declared in contempt for defying and disobeying the Resolution of this Commission dated 09 July 1992, directing them to RECONVENE immediately and complete the canvass of the Certificates of Votes as corrected, of the Municipal Boards of Canvassers of the Municipalities comprising the 6th District of Pangasinan; and to PROCLAIM the winning candidate of the Provincial Board, 6th District of Pangasinan, on the basis of the completed and corrected Certificates of Canvass, aforesaid; instead they excluded the corrected Certificates of Canvass of the Municipal Boards of Canvassers of Tayug and San Manuel, Pangasinan;
2. To ANNUL the proclamation dated 21 July 1992, by the said Provincial Board of Canvassers (dissented by Chairman Felimon Asperin), of candidate Alfonso Bince;
3. To DIRECT the Provincial Board of Canvassers to reconvene immediately and proclaim the winning candidate for the second position of the Provincial Board, 6th District of Pangasinan, on the basis of the completed and corrected Certificates of Canvass submitted by the Municipal Boards of Canvassers of all the municipalities in the 6th District of Pangasinan, in accordance with law. [9]

Consequently, petitioner filed a special civil action for certiorari before this Court seeking to set aside the foregoing resolution of the COMELEC, contending that the same was promulgated without prior notice and hearing with respect to SPC No. 92-208 and SPC No. 92-384. The case was docketed as G.R. No. 106291.

On February 9, 1993, the Court en banc [10] granted the petition ratiocinating that:

Respondent COMELEC acted without jurisdiction or with grave abuse of discretion in annulling the petitioner's proclamation without the requisite due notice and hearing, thereby depriving the latter of due process. Moreover, there was no valid correction of the SOVs and COCs for the municipalities of Tayug and San Manuel to warrant the annulment of the petitioner's proclamation.

1. Petitioner had been proclaimed, had taken his oath of office and had assumed the position of the second elected member of the Sangguniang Panlalawigan of the Province of Pangasinan for its Sixth Legislative District. Such proclamation enjoys the presumption of regularity and validity. The ruling of the majority of the PBC to proclaim the petitioner is based on its interpretation of the 9 July 1992 Resolution of respondent COMELEC which does not expressly single out the corrected COCs of Tayug and San Manuel; since, as of that time, the only corrected COC which existed was that for San Quintin, which was made by the PBC on 18 June 1992, the majority of the PBC cannot be faulted for ruling the way it did. The 9 July 1992 Resolution (Rollo , p. 51) merely directed it:

- (1) To RECONVENE immediately and complete the canvass of the Certificates of Votes, as corrected, of the Municipal Boards of Canvassers of the municipalities comprising the 6th District of Pangasinan;
- (2) To PROCLAIM the winning candidate for Member of the Provincial Board, 6th District of Pangasinan, on the basis of the completed and corrected Certificates of Canvass, aforesaid; in accordance with the law, the rules and guidelines on canvassing and proclamation. (Emphasis supplied)

The PBC thus had every reason to believe that the phrase 'completed and corrected' COCs could only refer to the nine (9) COCs for the nine municipalities, the canvass for which was completed on 21 May 1992, and that of San Quintin, respectively. Verily, the above resolution is vague and ambiguous.

Petitioner cannot be deprived of his office without due process of law. Although public office is not property under Section 1 of the Bill of Rights of the Constitution (Article III, 1987 Constitution), and one cannot acquire a vested right to public office (CRUZ, I.A., Constitutional Law, 1991 ed., 101), it is, nevertheless, a protected right (BERNAS, J., The Constitution of the Republic of the Philippines, vol. I, 1987 ed., 40, citing *Segovia vs. Noel*, 47 Phil. 543 [1925] and *Borja vs. Agoncillo*, 46 Phil. 432 [1924]). Due process in proceedings before the respondent COMELEC, exercising its quasi-judicial functions, requires due notice and hearing, among others. Thus, although the COMELEC possesses, in appropriate cases, the power to annul or suspend the proclamation of any candidate (Section 248, Omnibus Election Code [B.P. Blg. 881]), We had ruled in *Farinas vs. Commission on Elections* (G.R. No. 81763, 3 March 1988), *Reyes vs. Commission on Elections* (G.R. No. 81856, 3 March 1988) and *Gallardo vs. Commission on Elections* (G.R. No. 85974, 2 May 1989) that the COMELEC is without power to partially or totally annul a proclamation or suspend the effects of a proclamation without notice and hearing.

xxx xxx xxx

Furthermore, the said motion to annul proclamation was treated by the respondent COMELEC as a Special Case (SPC) because its ruling therein was made in connection with SPC No. 92-208 and SPC No. 92-384. Special Cases under the COMELEC RULES OF PROCEDURE involve the pre-proclamation controversies (Rule 27 in relation to Section 4(h), Rule 1, and Section 4, Rule 7). We have categorically declared in *Sarmiento vs. Commission on Elections* (G.R. No. 105628, and companion cases, 6 August 1992) that pursuant to Section 3, Article IX-C of the 1987 Constitution, xxx the commission en banc does not have jurisdiction to hear and decide pre-proclamation cases at the first instance. Such cases should first be referred to a division.

Hence, the COMELEC en banc had no jurisdiction to decide on the aforesaid motion to annul the proclamation; consequently, its 29 July 1992 Resolution is null and void. For this reason too, the COMELEC en banc Resolution of 6 June 1992 in SPC No. 92-208 resolving the private respondent's appeal from the ruling of the PBC with respect to the COC of San Quintin is similarly void.

2. It is to be noted, as correctly stressed by the petitioner, that there are no valid corrected Statements of Votes and Certificates of Canvass for Tayug and San Manuel; thus, any reference to such would be clearly unfounded. While it may be true that on 24 June 1992, the PBC, acting on simultaneous petitions to correct the SOVs and COCs for Tayug and San Manuel, ordered the MBCs for these two (2) municipalities to make the appropriate corrections in the said SOVs and their corresponding COCs, none of the members of said Boards convened to actually implement the order. Such failure could have been due to the appeal seasonably interposed by the petitioner to the COMELEC or the fact that said members simply chose not to act thereon. As already adverted to, the so-called 'corrected' Statements of Votes and Certificates of Canvass consist of sheets of paper signed by the respective Election Registrars of Tayug (Annex "F-1" of Comment of private respondent; Annex "A" of Consolidated Reply of petitioner) and San Manuel (Annex "F-2", Id.; Annex "B", Id.). These are not valid corrections because the Election Registrars, as Chairmen of the MBCs cannot, by themselves, act for their respective Boards. Section 225 of the Omnibus Election Code (B.P. Blg. 881) provides that '[A] majority vote of all the members of the board of canvassers shall be necessary to render a decision.' That majority means at least two (2) of the three (3) members constituting the Board (Section 20(c) of the Electoral Reforms Law of 1987 (R.A. No. 6646) provides that the 'municipal board of canvassers shall be composed of the election registrar or a representative of the Commission, as chairman, the municipal treasurer, as vice-chairman, and the most senior district school supervisor or in his absence a principal of the school district or the elementary school, as members'). As to why the Election Registrars, in their capacities as Chairmen, were the only ones who prepared the so-called correction sheets, is beyond Us. There is no showing that the other members of the Boards were no longer available. Since they are from the Province of Pangasinan, they could have been easily summoned by the

PBC to appear before it and effect the corrections on the Statements of Votes and Certificates of Canvass.

Besides, by no stretch of the imagination can these sheets of paper be considered as the corrected SOVs and COCs. Corrections in a Statement of Vote and a Certificate of Canvass could only be accomplished either by inserting the authorized corrections into the SOV and COC which were originally prepared and submitted by the MBC or by preparing a new SOV and COC incorporating therein the authorized corrections. Thus, the statement in the 29 July 1992 Resolution of the respondent COMELEC referring to 'the corrected Certificates of Canvass of the Municipal Boards of Canvassers of Tayug and San Manuel' (Last clause, paragraph 1 of the dispositive portion, Annex "A" of Petition; Rollo 15), is palpably unfounded. The Commission could have been misled by Atty. Asperin's ambiguous reference to 'corrections already made in separate sheets of paper of the Statements of Votes and Certificate of Canvass of Tayug and San Manuel, Pangasinan' (Quoted in the Resolution of 9 July 1992; Id., 50-51), in his petition asking the COMELEC to rule on who shall be proclaimed. However, if it only took the trouble to carefully examine what was held out to be as the corrected documents, respondent COMELEC should not have been misled.

Even if We are to assume for the sake of argument that these sheets of paper constitute sufficient corrections, they are, nevertheless, void and of no effect. At the time the Election Registrars prepared them - on 6 July 1992 - respondent COMELEC had not yet acted on the petitioner's appeal (SPC No. 92-384) from the 24 June 1992 ruling of the PBC authorizing the corrections. Petitioner maintains that until now, his appeal has not been resolved. The public respondent, on the other hand, through the Office of the Solicitor General, claims that the same had been:

x x x resolved in the questioned resolution of July 29, 1992, where COMELEC affirmed respondents (sic) Board's correction that petitioner only received 2,415 votes in Tayug and 2,179 in San Manuel (see p. 2, Annex "A", Petition) (Rollo , p. 71).

On the same matter, the private respondent asserts that:

This SPC-92-384, is however, deemed terminated and the ruling of the PBC is likewise deemed affirmed by virtue of the 2nd par., Sec. 16, R.A. No. 7166, supra and Comelec en banc Resolution No. 2489, supra, dated June 29, 1992 (Id., 36);

If We follow the respondent COMELEC's contention to its logical conclusion, it was only on 29 July 1992 that SPC No. 92-384 was resolved; consequently, the so-called 'correction sheets' were still prematurely prepared. In any event, the COMELEC could not have validly ruled on such appeal in its 29 July 1992 Resolution because the same was promulgated to resolve the Urgent Motion For Contempt and to Annul Proclamation filed by the private respondent. Furthermore, before the resolution of SPC No. 92-384 on the abovementioned date, no hearing was set or conducted to resolve the pending motion. Therefore, on this ground alone, the 29 July 1992 Resolution, even if it was meant to resolve the appeal, is a patent nullity for having been issued in gross violation of the requirement of notice and hearing mandated by Section 246 of the Omnibus Election Code, in relation to Section 18 of R.A. No. 7166 and Section 6, Rule 27 of the COMELEC Rules of Procedure, and for having been resolved by the COMELEC en banc at the first instance. The case should have been referred first to a division pursuant to Section 3, Article IX-C of the 1987 constitution and Our ruling in *Sarmiento vs. Commission on Elections*. Moreover, the COMELEC's claim that the questioned resolution affirmed the correction made by the Board is totally baseless. The PBC did not make any corrections. It merely ordered the Municipal Boards of Canvassers of Tayug and San Manuel to make such corrections. As earlier stated, however, the said MBCs did not convene to make these corrections. It was the Chairmen alone who signed the sheets of paper purporting to be corrections.

For being clearly inconsistent with the intention and official stand of respondent COMELEC, private respondent's

theory of termination under the second paragraph of Section 16 of R.A. No. 7166, and the consequent affirmance of the ruling of the PBC ordering the correction of the number of votes, must necessarily fail.

The foregoing considered, the proclamation of the private respondent on 13 August 1992 by the Provincial Board of Canvassers of Pangasinan is null and void.

WHEREFORE, the instant petition is GRANTED. The challenged resolution of the respondent Commission on Elections of 29 July 1992 and the proclamation of the private respondent on 13 August 1992 as the second Member of the Sangguniang Panlalawigan of the Province of Pangasinan, representing its Sixth Legislative District, are hereby ANNULLED and SET ASIDE and respondent Commission on Elections is DIRECTED to resolve the pending incidents conformably with the foregoing disquisitions and pronouncements.

No costs.

SO ORDERED. [11]

On February 23, 1993, private respondent Micu filed an Urgent Omnibus Motion before the COMELEC praying that the latter hear and resolve the pending incidents referred to by this Court. Private respondent was obviously referring to SPC No. 92-208 and SPC No. 92-384, both cases left unresolved by the COMELEC.

Consequently, the First Division of the COMELEC set the cases for hearing on March 8, 1993. During the hearing, both Micu and Bince orally manifested the withdrawal of their respective appeals. Also withdrawn were the petitions to disqualify Atty. Asperin and to cite the Board for contempt. The parties agreed to file their respective memoranda/position papers by March 15, 1993.

Petitioner Bince filed his Position Paper on March 12, 1993 arguing that the withdrawal of SPC No. 92-208 affirmed the ruling of the PBC dated May 21, 1992 and even if it were not withdrawn, Section 16 of R.A. 7166 would have worked to terminate the appeal. Bince likewise asserts that his appeal in SPC No. 92-384 became moot and academic in view of this Court's ruling nullifying the June 24, 1992 order of the PBC granting the petitions for correction of the SOVs and COCs of Tayug and San Manuel aside from being superseded by the PBC ruling proclaiming him on July 21, 1992.

On the other hand, private respondent Micu, in his Position Paper filed on March 15, 1993 postulated that the petitions filed on June 11, 1992 for the correction of the SOVs and COCs of Tayug and San Manuel under Section 6 of Rule 27 of the Comelec Rules of Procedure, as well as the ruling of the PBC of June 24, 1992 granting the same were valid so that the withdrawal of Bince's appeal in SPC No. 92-384 firmly affirmed the PBC ruling of June 24, 1992 allowing the corrections.

On July 15, 1993, the First Division of the COMELEC promulgated a Resolution, the dispositive portion of which reads:

Viewed from the foregoing considerations, the Commission (First Division) holds that the petitioner Alfonso C. Bince Jr. is entitled to sit as Member of the Sangguniang Panlalawigan, Sixth District of Pangasinan.

ACCORDINGLY, the Commission (First Division) RESOLVED, as it hereby RESOLVES, to AFFIRM the proclamation of petitioner Alfonso C. Bince, Jr. by the Provincial Board of Canvassers of Pangasinan on 21 July 1992 as the duly elected member of the Sangguniang Panlalawigan of the Sixth District of the Province of Pangasinan. [12]

On July 20, 1993, private respondent Micu filed a Motion for Reconsideration of the above-quoted resolution.

On September 9, 1993, the COMELEC en banc granted the private respondent's motion for reconsideration in a

resolution which dispositively reads as follows:

WHEREFORE, premises considered, the Motion for Reconsideration filed by respondent Emiliano S. Micu is granted. The Resolution of the Commission First Division is hereby SET ASIDE. The proclamation of petitioner Alfonso Bince, Jr. on July 21, 1992 is hereby declared null and void. Accordingly, the Provincial Board of Canvassers is hereby directed to reconvene, with proper notices, and to order the Municipal Board of Canvassers of San Manuel and Tayug to make the necessary corrections in the SOVs and COCs in the said municipalities. Thereafter, the Provincial Board of Canvassers is directed to include the results in the said municipalities in its canvass.

The PBC is likewise ordered to proclaim the second elected member of the Sangguniang Panlalawigan of the Sixth Legislative District of Pangasinan.

SO ORDERED. [13]

This is the resolution assailed in the instant petition for certiorari.

We do not find merit in this petition and accordingly rule against petitioner.

Respondent COMELEC did not act without jurisdiction or with grave abuse of discretion in annulling the proclamation of petitioner Alfonso Bince, Jr. and in directing the Provincial Board of Canvassers of Pangasinan to order the Municipal Boards of Canvassers of Tayug and San Manuel to make the necessary corrections in the SOVs and COCs in said municipalities and to proclaim the winner in the sixth legislative district of Pangasinan.

At the outset, it is worthy to observe that no error was committed by respondent COMELEC when it resolved the “pending incidents” of the instant case pursuant to the decision of this Court in the aforesaid case of Bince, Jr. v. COMELEC on February 9, 1993. Petitioner's contention that his proclamation has long been affirmed and confirmed by this Court in the aforesaid case is baseless. In Bince, we nullified the proclamation of private respondent because the same was done without the requisite due notice and hearing, thereby depriving the petitioner of his right to due process. In so doing, however, we did not affirm nor confirm the proclamation of petitioner, hence, our directive to respondent COMELEC to resolve the pending incidents of the case so as to ascertain the true and lawful winner of the said elections. In effect, petitioner's proclamation only enjoyed the presumption of regularity and validity of an official act. It was not categorically declared valid.

Neither can the COMELEC be faulted for subsequently annulling the proclamation of petitioner Bince on account of a mathematical error in addition committed by respondent MBCs in the computation of the votes received by both petitioner and private respondent.

The petitions to correct manifest errors were filed on time, that is, before the petitioner's proclamation on July 21, 1992. The petition of the MBC of San Manuel was filed on June 4, 1992 while that of the MBC of Tayug was filed on June 5, 1992. Still, private respondent's petition was filed with the MBCs of Tayug and San Manuel on June 10, 1992 and June 11, 1992, respectively, definitely well within the period required by Section 6 (now Section 7), Rule 27 of the COMELEC Rules of Procedure. Section 6 clearly provides that the petition for correction may be filed at any time before proclamation of a winner, thus:

SEC. 6. Correction of errors in tabulation or tallying of results by the board of canvassers.- (a) Where it is clearly shown before proclamation that manifest errors were committed in the tabulation or tallying of election returns, or certificates of canvass, during the canvassing as where (1) a copy of the election returns of one precinct or two or more copies of a certificate of canvass was tabulated more than once, (2) two copies of the election returns or certificate of canvass were tabulated separately, (3) there had been a mistake in the adding or copying of the

figures into the certificate of canvass or into the statement of votes, or (4) so-called election returns from non-existent precincts were included in the canvass, the board may, *motu proprio*, or upon verified petition by any candidate, political party, organization or coalition of political parties, after due notice and hearing, correct the errors committed.

(b) The order for correction must be in writing and must be promulgated.

(c) Any candidate, political party, organization or coalition of political parties aggrieved by said order may appeal therefrom to the Commission within twenty-four (24) hours from the promulgation.

(d) Once an appeal is made, the board of canvassers shall not proclaim the winning candidates, unless their votes are not affected by the appeal.

(e) The appeal must implead as respondents all parties who may be adversely affected thereby.

(f) Upon receipt of the appeal, the Clerk of Court concerned shall forthwith issue summons, together with a copy of the appeal, to the respondents.

(g) The Clerk of Court concerned shall immediately set the appeal for hearing.

(h) The appeal shall be heard and decided by the Commission *en banc*. (Underscoring ours).

The rule is plain and simple. It needs no other interpretation contrary to petitioner's protestation.

Assuming for the sake of argument that the petition was filed out of time, this incident alone will not thwart the proper determination and resolution of the instant case on substantial grounds. Adherence to a technicality that would put a stamp of validity on a palpably void proclamation, with the inevitable result of frustrating the people's will cannot be countenanced. In *Benito v. COMELEC*, [14] we categorically declared that:

x x x Adjudication of cases on substantive merits and not on technicalities has been consistently observed by this Court. In the case of *Juliano vs. Court of Appeals* (20 SCRA 808) cited in *Duremdes vs. Commission on Elections* (178 SCRA 746), this Court had the occasion to declare that:

Well-settled is the doctrine that election contests involve public interest, and technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. And also settled is the rule that laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections (*Gardiner v. Romulo*, 26 Phil. 521; *Galang v. Miranda*, 35 Phil. 269; *Jalandoni v. Sarcon*, G.R. No. L-6496, January 27, 1962; *Macasunding v. Macalanang*, G.R. No. L-22779, March 31, 1965; *Cauton v. Commission on Elections*, G.R. No. L-25467, April 27, 1967). In an election case the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate (*Ibasco v. Ilao*, G.R. No. L-17512, December 29, 1960). xxx (*Juliano vs. Court of Appeals*, *supra*, pp. 818-819). (Underscoring ours)

In the later case of *Rodriguez vs. Commission on Elections* (119 SCRA 465), this doctrine was reiterated and the Court went on to state that:

Since the early case of *Gardiner v. Romulo* (26 Phil. 521), this Court has made it clear that it frowns upon any interpretation of the law or the rules that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results. This bent or disposition continues to the present. (*Id.*, at p. 474).

The same principle still holds true today. Technicalities of the legal rules enunciated in the election laws should not frustrate the determination of the popular will.

Undoubtedly therefore, the only issue that remains unresolved is the allowance of the correction of what are purely mathematical and/or mechanical errors in the addition of the votes received by both candidates. It does not involve the opening of ballot boxes; neither does it involve the examination and/or appreciation of ballots. The correction sought by private respondent and respondent MBCs of Tayug and San Manuel is correction of manifest mistakes in mathematical addition. Certainly, this only calls for a mere clerical act of reflecting the true and correct votes received by the candidates by the MBCs involved. In this case, the manifest errors sought to be corrected involve the proper and diligent addition of the votes in the municipalities of Tayug and San Manuel, Pangasinan.

In Tayug, the total votes received by petitioner Bince was erroneously recorded as 2,486 when it should only have been 2,415. Petitioner Bince, in effect, was credited by 71 votes more.

In San Manuel, petitioner Bince received 2,179 votes but was credited with 6 votes more, hence, the SOV reflected the total number of votes as 2,185. On the other hand, the same SOV indicated that private respondent Micu garnered 2,892 votes but he actually received only 2,888, hence was credited in excess of 4 votes.

Consequently, by margin of 72 votes, private respondent indisputably won the challenged seat in the Sangguniang Panlalawigan of the sixth district of Pangasinan. Petitioner's proclamation and assumption into public office was therefore flawed from the beginning, the same having been based on a faulty tabulation. Hence, respondent COMELEC did not commit grave abuse of discretion in setting aside the illegal proclamation.

As a parting note, we reiterate our concern with respect to insignificant disputes plaguing this Court. Trifles such as the one at issue should not, as much as possible, reach this Court, clog its docket, demand precious judicial time and waste valuable taxpayers' money, if they can be settled below without prejudice to any party or to the ends of justice.

WHEREFORE, the instant petition is hereby DISMISSED with costs against petitioner.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Romero, Bellosillo, Melo, Quason, Puno, Vitug, Mendoza, and Francisco, JJ., concur.

Davide, Jr., J., in the result.

[1] Original Records of SPC No. 92-208, Volume I, pp. 19-20.

[2] *Id.*, at pp. 44-45.

[3] Supplemental to the resolution of June 6, 1992.

[4] *Id.*, at p. 58.

[5] Original Records, Volume III, p. 10.

[6] See Note 1, pp. 83-84.

[7] *Ibid.*

[8] *Id.*, at p. 111.

[9] *Id.*, at pp. 138-139.

[10] Through Justice Hilario Davide, Jr.

[11] Bince, Jr. vs. COMELEC, 218 SCRA 782, 791-797.

[12] See Note 1, p. 259.

[13] Id., at p. 381.

[14] G.R. No. 106053, August 17, 1994.

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