

ANWAR BERUA BALINDONG, PETITIONER, VS. COMMISSION ON ELECTIONS, MUNICIPAL BOARD OF CANVASSERS OF THE MUNICIPALITY OF MALABANG AND AKLIMA JAAFAR BALINDONG, RESPONDENTS.

G.R. Nos. 153991-92. October 16, 2003

Ponente: TINGA, J.

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TINGA, J.:

Before us is a petition where the petitioner, Anwar Balindong ("Anwar"), a candidate for Mayor of Malabang, Lanao del Sur, seeks to set aside the Resolution[1] dated July 4, 2002 of the Commission on Elections (COMELEC) en banc[2] ordering the Municipal Board of Canvassers (MBC) to immediately reconvene, totally exclude from canvass the election return for a certain precinct and count eighty-eight (88) votes in the election return for another precinct, not in favor of Anwar but another mayoralty candidate by the name of Amir-Oden Balindong.

Petitioner, private respondent Aklima Jaafar Balindong ("Aklima"), and Amir-Oden Balindong are half brothers.[3] They were three (3) of the nine (9) candidates for the position of Mayor of the Municipality of Malabang in the May 14, 2001 elections.[4]

On May 17, 2001, the MBC convened "with all parties represented by their lawyers and/or authorized representative," so it stated.[5] Before the start of the canvassing, the lawyers of the candidates and political parties who were present agreed that all election returns[6] should be opened and appreciated immediately so that they could determine the genuineness and authenticity thereof. They stressed that they had to complete the canvass at the soonest possible time because they had to attend the canvassing in the other municipalities of Lanao del Sur, there being a shortage of lawyers in the province.[7]

During the canvassing on the same day, Aklima, through his representative, Bassit Balindong ("Bassit"), filed an objection[8] to the inclusion of the election return for Precinct 127A/128A due to "fraud and irregularity in the conduct of election, being voted upon by those who are not registered thereof (sic)" and "violence, threat and intimidation against watchers of our (their) party and the registered voters thereof." Bassit also objected to the inclusion of the election return for Precinct 18A "for being voted upon by non-registered person (sic)" and "non-existent Barangay, all the registered voters are non-existent." [9] Also on the same day, Aklima filed a Petition[10] to disqualify the chairman of the MBC, Parok P. Asira, for alleged bias and partiality, but the same was denied for lack of merit in the Order/Ruling of the MBC of even date. [11]

When the MBC reconvened on May 18, 2001, Atty. Badelles Macaan, acting as counsel for Aklima, filed an objection to the inclusion[12] of all the election returns, invoking as grounds the "illegal proceedings of the Board of Canvassers" and violation of Section 25(l) of COMELEC Resolution No. 3848.[13] The MBC denied the objection, noting that Aklima as petitioner therein was estopped from questioning the proceedings of the MBC since he expressly agreed to and voluntarily participated in the proceedings and that he did not assail the

genuineness and accuracy of the election returns and the votes reflected therein.[14]

On the same day, Aklima filed before the MBC his Offer and Admission of Evidence,[15] attaching thereto the minutes of the MBC proceedings on May 17, 2001 to prove the illegality thereof, and a Notice of Appeal.[16] Nevertheless, the MBC proceeded with the canvassing of returns. Apparently, this prompted Aklima to file before the COMELEC on May 21, 2001 an Appeal,[17] urging that the proceedings of the MBC be declared illegal and a new board of canvassers constituted to canvass the election returns for the "various" precincts of Malabang. This was docketed as SPC No. 01-063.

On May 24, 2001, the MBC proclaimed the winning municipal candidates,[18] with Anwar winning as Mayor by a margin of fifty-two (52) votes over Aklima. [19]

Aklima filed another Petition[20] on May 28, 2001, praying that the MBC be ordered to reconvene and re-canvass, this time, the election returns in 38 precincts only, without stating, however, their specific precinct numbers; the proceedings of the MBC declared illegal; the municipal canvass transferred to a "safer venue"; and, the proclamation of any municipal candidate suspended or annulled. The petition was docketed as SPC No. 01-175.

In a bid to amend his petition in SPC No. 01-175, Aklima filed the corresponding motion for leave.[21] In his Amended Petition,[22] Aklima further whittled down the number of contested election returns, this time seeking the annulment of the election results in five (5) precincts only, namely: Precincts 18A, 80A, 127A/128A, 133A/134A and 47A/48A. According to him, the election returns in the five (5) precincts were "products of fraud, forgery, terrorism and other forms of irregularities." He likewise sought the annulment of the proclamation of Anwar.

At the hearing on June 29, 2001, the COMELEC ordered the consolidation of SPC No. 01-063 and 01-175.

Stressing that the petitions questioned the regularity of the canvassing and the genuineness of the election returns for Precincts 80A and 47A/48A, the COMELEC per the Order[23] of October 15, 2001 concluded that the petitions presented pre-proclamation controversies. Accordingly, the poll body ordered that the cases be heard and directed the appearance of the chairmen of the boards of election inspectors (BEIs) of the two precincts and the presentation of the ballot box containing the copies of the election returns used by the MBC. The COMELEC also ordered Aklima to amend his petition in SPC No. 01-175 to include the other proclaimed election winners as respondents.

At the scheduled hearing on December 13, 2001 before the COMELEC, Anwar argued that since Aklima failed to object to the inclusion of the returns for Precincts 80A and 47A/48A at the MBC, much less appeal the MBC ruling to the COMELEC, which failure was fatal according to him, the COMELEC could no longer exclude the returns.[24] After the oral arguments, the COMELEC examined the canvassing copies of the election returns for Precincts 80A and 47A/48A which were used by the MBC.[25] Thereafter, it declared the cases submitted for resolution. [26]

Nonetheless, Anwar filed an Opposition and Memorandum[27] where he posited that the COMELEC en banc had no jurisdiction over the petitions which both involved pre-proclamation controversies in view of the provision[28] of the Constitution on the matter. He also reiterated his position that the inclusion for canvass of the returns for Precincts 80A and 47A/48A could no longer be assailed.

On July 4, 2002, the COMELEC promulgated the challenged Resolution,[29] totally excluding the election return for Precinct 80A with Serial No. 68210015 and awarding to candidate Amir-Oden Balindong all the 88 votes in the election return for Precinct 47A/48A with Serial No. 6821008, which were earlier credited by the MBC to

Anwar. The Resolution is anchored on the following findings:

"An examination of the Election Return with Serial No. 68210008 from Precinct No. 47A/48A reveals that it contains erasures with respect to the votes of private respondent mayoralty candidate Amir-Oden S. Balindong ('Amir-Oden'). The number of votes for him in taras and in figures and words was crossed-out while the zero (0) vote for private respondent Anwar Balindong was superimposed and changed to eighty-eight (88) in words and figures. Also, on the first column adjacent to the name of Anwar Balindong, it is apparent that the figure zero (0) was superimposed by five (5) bars. The members of the Board of Election Inspectors (BEI) should have countersigned these alterations, assuming they were made for the purpose of correction.

On the other hand, a perusal of the election return for Precinct No. 80A with Serial No. 68210015 gives the impression that the votes obtained by private respondent Amir-Oden Balindong as well as the signature of the member of the BEI reflected in the columns were erased by a white substance. The same holds true even with respect to the votes garnered by vice-mayoralty candidates Kamar Mauyag and Maongca Paramata." [30]

Thus, the COMELEC ordered the MBC to reconvene, take into account its directives with respect to the two (2) returns and thereafter proclaim the winning mayoralty candidate.[31]

Not satisfied with the COMELEC Resolution, Anwar filed the present petition. He faults the COMELEC for having acted with grave abuse of discretion amounting to lack or excess of jurisdiction, firstly, in taking cognizance of the consolidated cases in the first instance without referring them to either one of its divisions, in violation of the Constitution; and secondly, in taking action on the returns for Precincts 80A and 47A/48A although Aklima did not object to their inclusion for canvass at the MBC level, thereby violating Republic Act No. 7166 (R.A. No. 7166), aggravated at that by its selective or disparate treatment of the two (2) returns. He adds that even assuming that the COMELEC could take cognizance of the returns despite Aklima's failure to object thereto at the MBC level, the proper course of action was to order the BEIs to recount the votes in consonance with Section 235 of the Omnibus Election Code (OEC).[32]

In his Comment[33] dated August 19, 2002, Aklima insists that the COMELEC en banc had jurisdiction to hear and decide the consolidated cases by virtue of COMELEC Resolution No. 0046[34] dated January 19, 2000. Asserting that the COMELEC en banc did not commit grave abuse of discretion for not ordering a recount of the ballots in Precincts 80A and 47A/48A, he posits that it is beyond the authority of the COMELEC to order *motu proprio* a recount of the ballots since under the law it is incumbent upon the board of canvassers or any affected candidate to initiate the ballot recount.

Subsequent to the filing of the present petition before this Court, on August 21, 2002, the COMELEC issued an Order[35] constituting a new MBC. Anwar filed a motion[36] to hold the implementation of the Order in abeyance, which the COMELEC granted in its Order[37] dated September 18, 2002.

The issues in this case are the following:

1)

Whether the COMELEC en banc had jurisdiction over pre-proclamation controversies at the first instance;

2)

Whether the COMELEC had authority to pass upon the validity of the two (2) election returns which were not objected to before the canvassing board; and

3)

Whether the COMELEC in this instance acted properly in declaring the two (2) returns tampered and thereafter

totally excluding the first return, on one hand, and ordering the votes in the second return credited from Anwar to another candidate, on the other, without examining the other copies of the returns or ordering a recount of the ballots by the BEIs concerned.

The first issue is both constitutional and jurisdictional.

The 1987 Constitution, in Section 3, Article IX-C thereof, has established the two-tiered organizational and functional structure of the COMELEC. The provision requires that election cases, including pre-proclamation controversies, should be heard and decided first at the division level. It reads, thus:

"SEC. 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc." [Emphasis supplied]

This Court has consistently ruled that the requirement mandating the hearing and decision of election cases, including pre-proclamation controversies, at the first instance by a division of the COMELEC, and not by the poll body as a whole, is mandatory and jurisdictional. Indeed, as the above-quoted Constitutional provision is couched in simple language and yields to no other interpretation than what its plain meaning presents, it is imperative for this Court to enforce its indelible import and spirit to the fullest, any decision, resolution or proceeding of the COMELEC which runs counter to it notwithstanding.

In the definitive case of *Sarmiento v. COMELEC*,^[38] this Court explicitly held that the COMELEC en banc does not have the requisite authority to hear and decide pre-proclamation controversies at the first instance. The Court declared:

"It is clear from the abovequoted provision of the 1987 Constitution that election cases include pre-proclamation controversies, and all such cases must first be heard and decided by a Division of the Commission. The Commission sitting en banc, does not have the authority to hear and decide the same at the first instance.

...

Indisputably then, the COMELEC en banc acted without jurisdiction, or with grave abuse of discretion, when it resolved the appeals of petitioners in the abovementioned Special Cases without first referring them to any of its Divisions. Said resolutions are, therefore, null and void and must be set aside. Consequently, the appeals are deemed pending before the Commission for proper referral to a Division."^[39]

The *Sarmiento* ruling has been reiterated in several cases.^[40] For instance, in *Abad v. COMELEC*,^[41] the Court ruled that COMELEC Resolution No. 2824, which allows direct recourse to the COMELEC en banc from decisions of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, is not in accord but in conflict with Section 3, Article IX-C of the 1987 Constitution. Hence, the Court set aside the Resolution of the COMELEC en banc and ordered the Commission to assign the case to one of its divisions. Likewise, in *Soller v. COMELEC*,^[42] this Court held that the power to hear and decide election cases, including pre-proclamation controversies, at the first instance pertains to the divisions of the Commission and any decision by the Commission en banc as regards election cases, including pre-proclamation controversies, and incidents thereof decided or resolved by it at the first instance is null and void.

Simply put, the Commission en banc does not have jurisdiction in the first instance, whether original or appellate, over election cases, pre-proclamation controversies and incidents thereof. When such disputes are filed before or elevated to the Commission, they have to be heard and adjudicated first at the division level.

Doubtless, SPC No. 01-063 and 01-175 are pre-proclamation controversies, involving as they do the alleged illegality of the canvassing proceedings and the purported tampering of certain election returns. This is clear from the OEC.[43]

The COMELEC itself characterized the consolidated cases as pre-proclamation controversies in its Order[44] of October 15, 2001 and in the assailed Resolution.[45]

Apparently, in assuming jurisdiction over the consolidated cases, the COMELEC relied on its Resolution No. 00-0046[46] dated January 19, 2000, which states, citing *Laodenio v. COMELEC*,[47] that the COMELEC en banc may directly assume jurisdiction over petitions to declare illegal the composition or proceedings of the board of canvassers.

Significantly, however, in *Laodenio* the jurisdiction of the COMELEC en banc to decide pre-proclamation controversies at the first instance was not raised as an issue. In fact, the Court did not declare that the COMELEC en banc has jurisdiction to hear and decide at the first instance pre-proclamation controversies, including controversies relating to the illegal proceedings of the board of canvassers. Thus, the reference to *Laodenio* in COMELEC Resolution No. 00-0046 is utterly misplaced.

Moreover, it is worthy of note that Aklima has abandoned the alleged illegality of the MBC proceedings as a ground for its invalidation. He filed an amended petition in SPC No. 01-175, seeking at that time the exclusion of the returns in five (5) precincts[48] on the ground of electoral frauds and terrorism, and deleting his earlier prayer for the annulment of the MBC proceedings. At the hearing on December 13, 2001 before the COMELEC, Aklima's counsel confirmed that their focus is on the returns for Precincts 80A and 47A/48A.[49] He even attributed his failure to implead the other affected winning candidates by way of amendment to the petition, as directed in the Order of October 15, 2001, to the elimination of the issue of whether the MBC proceedings were illegal.[50]

On its part, the COMELEC per the assailed Resolution in essence similarly recognized that Aklima's petitions had metamorphosed into a simple petition questioning the two (2) returns on the ground of fraud. In the same breath, it declared that the procedure adopted by the MBC was not illegal per se.[51]

Nevertheless, the consolidated cases retained their pre-proclamation character. As noted earlier, tampered or falsified election returns are among the issues that may be raised in a pre-proclamation controversy.[52] The COMELEC itself confirmed this characterization.[53]

Conformably with the *Sarmiento* ruling, it was incumbent upon the COMELEC to refer the consolidated cases to a division thereof. As the COMELEC failed to do so, we hold that it acted without jurisdiction in taking cognizance of the consolidated cases at the first instance. Thus, the assailed Resolution is null and void.

An order directing the COMELEC to assign the consolidated cases to either one of its divisions for further proceedings is unmistakably in order. This makes it relevant still, despite the earlier pronouncement herein that the assailed COMELEC Resolution is void, to discuss the remaining issues for they relate to the proper treatment which should be accorded to the questioned returns at the COMELEC division level and the appropriate course of action which should be taken at the canvassing board level or at the BEI, if need be.

Under R.A. No. 7166, matters raised under Sections 233, 234, 235 and 236 of the OEC in relation to the preparation, transmission, receipt, custody and appreciation of the election returns shall be brought in the first instance before the board of canvassers only.[54] Thus, in *Siquian vs. COMELEC*[55] this Court held:

"... Section 20 of R.A. No. 7166 and Section 36 of COMELEC Resolution 2962 require that an oral objection to the inclusion or exclusion of election returns in the canvassing shall be submitted to the Chairman of the

Board of Canvassers at the time the questioned return is presented for inclusion in the canvass. It is not denied by petitioner that the objections interposed were made after the election returns in certain precincts were included in the canvass. Such belated objections are fatal to petitioner's cause. Compliance with the period set for objections on exclusion and inclusion of election returns is mandatory. Otherwise, to allow objections after the canvassing would be to open the floodgates to schemes designed to delay the proclamation and frustrate the electorate's will by some candidates who feel that the only way to fight for a lost cause is to delay the proclamation of the winner. It should be noted that proceedings before the Board of Canvassers is summary in nature which is why the law grants the parties a short period to submit objections and the Board a short period to rule on matters brought to them..."[56]

In the case at bar, at no instance did Aklima claim that he specifically objected to the inclusion of the returns for Precincts 80A and 47A/48A at the MBC level. Neither did he even dispute Anwar's assertion that he failed to make such claim before the canvassing board. In fact, it was only in the amended petition in SPC No. 01-175 that he alleged that the election returns for the two (2) precincts were falsified. Thus, it was beyond the authority of the COMELEC to entertain the belated objections to the election returns.

Moreover, based on Section 235 of the OEC which this Court elucidated on along with Section 236 in *Patoray v. COMELEC*,^[57] in cases where the election returns appear to have been tampered with, altered or falsified, the prescribed modality is for the COMELEC to examine the other copies of the questioned returns and if the other copies are likewise tampered with, altered, falsified, or otherwise spurious, after having given notice to all candidates and satisfied itself that the integrity of the ballot box and of the ballots therein have been duly preserved, to order a recount of the votes cast, prepare a new return which shall be used by the board of canvassers as basis for the canvass, and direct the proclamation of the winner accordingly.

The COMELEC failed to observe the foregoing procedure. As admitted in its Order dated December 13, 2001,^[58] it examined only the election returns used by the MBC, omitting to take a look at the other copies of the questioned returns or ordering a pre-proclamation recount of the votes of the candidates affected. The failure to take either step renders the poll body's action consisting of the outright exclusion of the return for Precinct 80A and the award of 88 votes in the return for Precinct 47A/48A highly questionable.

The precipitate exclusion from canvass of the return for Precinct 80A resulted in the unjustified disenfranchisement of the voters thereof. This could have been avoided had the COMELEC availed of the other courses of action mentioned in the law, namely: the examination of the other copies of the return and the recount of the votes by the BEI.

As for the return for Precinct 47A/48A, the COMELEC's move unceremoniously deprived Anwar of 88 precious votes which were credited to a non-contender, Amir-Oden Balindong. On record is the Joint Affidavit^[59] of the members of the BEI of the precinct attesting to the fact that since it was Anwar, not Amir-Oden Balindong, who garnered 88 votes they had to rectify the mistaken entries they made on the lines in the return opposite the names of Anwar and Amir-Oden Balindong and initial the corresponding corrections, which they did. Also on record are the Statement of Votes^[60] covering the canvass of the 84 election precincts of Malabang which show that Amir-Oden Balindong garnered a total of 11 votes only in eight (8) precincts, receiving zero (0) vote or no vote at all in the other 76 precincts, while Anwar garnered votes in all the precincts, receiving as many as 125 votes in a single precinct. All these should have prompted the COMELEC to examine the other copies of the returns or order a vote recount, as ordained in Section 235 of the OEC.

The COMELEC chose, however, to pursue a selective or disparate approach to the two (2) returns. It excluded the return for Precinct 80A outright but opted to deny Anwar all of the 88 votes in the return for Precinct 47A/48A. Obviously, the twin but divergent moves unless set aside could make Aklima "win" according to the COMELEC's

abbreviated count.

In sum, the COMELEC acted without jurisdiction, exceeded its jurisdiction and committed grave abuse of discretion in promulgating the assailed Resolution.

WHEREFORE, the Petition is GRANTED. The Resolution of the Commission on Elections dated July 4, 2002 is SET ASIDE. The Commission is ordered to assign SPC No. 01-063 and SPC No. 01-175 to one of its divisions, which is hereby directed to resolve the same with deliberate dispatch in accordance with this Decision.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.
Ynares-Santiago and Corona, JJ., on leave.

[1] Rollo, p. 42. Fully concurred in by Commissioners Luzviminda G. Tancangco, Rufino S.B. Javier, Ralph C. Lantion, Mehol K. Sadain and Resureccion Z. Borra, with Commissioner Florentino A. Tuason, Jr. concurring in all aspects except that Sec. 235 of the Omnibus Election Code should have been applied, and Chairman Benjamin S. Abalos, Sr. taking no part.

[2] The proceedings and resolutions subject of this case were held at or issued by the COMELEC en banc, as the case may be.

[3] Supra, note 1 at 90. There is a statement in the Order dated October 15, 2001 that Anwar is the father of Amir-Oden Balindong.

[4] Id. at 85-86

[5] Id. at 176.

[6] Id. at 86. There were 84 election precincts in Malabang.

[7] Id. at 176.

[8] Id. at 186.

[9] Id. at 187.

[10] Id. at 188.

[11] Id. at 189.

[12] Id. at 51.

[13] The Resolution contains the "GENERAL INSTRUCTIONS FOR MUNICIPAL/CITY/PROVINCIAL AND DISTRICT BOARDS OF CANVASSERS IN CONNECTION WITH THE MAY 14, 2001 NATIONAL AND LOCAL ELECTIONS." Section 25(l) details the procedure in making entries in the Statement of Votes for every canvassed election return.

[14] Supra, note 1 at 123.

[15] Id. at 52.

[16] Id. at 53.

[17] Id. at 44-49.

[18] Id. at 88.

[19] Id. at 89 and 169. The Order of October 15, 2001 states that Anwar's lead over Aklima was 54 votes. However, the Statement of Votes by Precinct indicates that Anwar garnered 3,574 votes over Aklima's 3,522, or a lead of 52 votes.

[20] Id. at 64-68.

[21] Id. at 32.

[22] Id. at 96-105.

[23] Id. at 85-91.

[24] TSN, December 13, 2001, p. 40.

[25] Vide Order dated December 13, 2001, Records, SPC No. 01-063, pp. 91-92; TSN, December 13, 2001, p. 58.

[26] Records, SPC No. 01-063, pp. 91-92.

[27] Supra, note 1 at 138-158.

[28] Sec. 3, Art. IX-C, 1987 Const.

[29] Supra, note 1 at 29-42.

[30] Id. at 35-36.

[31] Id. at 42.

[32] "Sec. 235. When election returns appear to be tampered with or falsified.--If the election returns submitted to the board of canvassers appear to be tampered with, altered or falsified after they have left the hands of the board of election inspectors, otherwise not authentic, or were prepared by the board of election inspectors under duress, force, intimidation, or prepared by persons other than the member of the board of election inspectors, the board of canvassers shall use the other copies of said election returns and, if necessary, the copy inside the ballot box which upon previous authority given by the Commission may be retrieved in accordance with Section 220 hereof. If the other copies of the returns are likewise tampered with, altered, falsified, not authentic, prepared under duress, force, intimidation, or prepared by persons other than the members of the board of election inspectors, the board of canvassers or any candidate affected shall bring the matter to the attention of the Commission. The Commission shall then, after giving notice to all candidates concerned and after satisfying itself that nothing in the ballot box indicate that its identity and integrity have been violated, order the opening of the ballot box and, likewise after satisfying itself that the integrity of the ballots therein has been duly preserved shall order the board of election inspectors to recount the votes of the candidates affected and prepare a new return which shall then be used by the board of canvassers as basis of the canvass." (Omnibus Election Code)

[33] Supra, note 1 at 211-240.

[34] Id. at 243-256.

[35] Supra, note 26 at 175-176.

[36] Id. at 177.

[37] Id. at 197-199.

[38] G.R. No. 105628, 6 August 1992, 212 SCRA 307.

[39] Id. at 313-314.

[40] *Abad v. COMELEC*, 378 Phil 253; *Villarosa v. COMELEC*, 377 Phil 497; *Zarate v. COMELEC*, 376 Phil 722; *Soller v. COMELEC*, G.R. No. 139853, 5 September 2000, 339 SCRA 685; *Milla v. Balmores-Laxa*, G.R. No. 151216, 18 July 2003.

[41] *Supra*, note 40.

[42] *Supra*, note 40 at 690.

[43] "Sec. 241. Definition.-- A pre-proclamation controversy to any question pertaining to or affecting the proceeding of the board of canvassers which may be raised by any candidate or by any registered political party or coalition of political parties before the board or directly with the Commission, or any matter raised under Sections 233, 234, 235 and 236 in relation to the preparation, transmission, receipt, custody and appearance of the election returns."

...

"Sec. 243. Issues that may be raised in a pre-proclamation controversy.-- The following shall be proper issues that may be raised in a pre-proclamation controversy:

(a)

Illegal composition or proceedings of the board of canvassers;

(b)

The canvassed election returns are incomplete, contain material defects, appear to be tampered with or falsified, or contain discrepancies in the same returns or in other authentic copies thereof as mentioned in Sections 233, 234, 235 and 236 of this Code;

(c)

The election returns were prepared under duress, threats, coercion, or intimidation, or they are obviously manufactured or not authentic, and

(d)

When substitute or fraudulent returns in controverted polling places were canvassed, the results of which materially affected the standing of the aggrieved candidate or candidates." (Omnibus Election Code)

[44] *Supra*, note 23.

[45] *Supra*, note 1 at 34.

[46] *Supra*, note 34.

[47] 342 Phil 676.

[48] Precincts 18A, 127A/128A, 133A/134A, 47A/48A and 80A.

[49] *Supra*, note 24 at 24.

[50] Id. at 22-27.

[51] *Supra*, note 1 at 34-35.

[52] Sec. 243, Art. XX, OEC.

[53] Supra, note 1 at 34.

[54] Section 17.

[55] 378 Phil 182.

[56] Id. at 442-443.

[57] 319 Phil 564. See also Lee v. COMELEC, G.R. No. 157004, 4 July 2003.

[58] Supra note 26.

[59] Supra, note 1 at 161-162.

[60] Id. at 166-169.

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