

EN BANC

[G.R. No. 174620, March 04, 2009]

**ALDO B. CORDIA, PETITIONER, VS. JOEL G. MONFORTE AND
COMMISSION ON ELECTIONS, RESPONDENTS.**

D E C I S I O N**CARPIO MORALES, J.:**

Aldo B. Cordia (petitioner) and Joel G. Monforte (respondent) were official candidates for the position of *Punong Barangay* of Barangay 16 (East Washington) in Legazpi City, Albay during the July 15, 2002 synchronized *Barangay* and *Sangguniang Kabataan* elections.

After the canvassing of votes, the *Barangay* Board of Canvassers proclaimed petitioner as the winning candidate, having obtained 614 votes against the 609 votes obtained by respondent.

On July 18, 2002, respondent filed an Election Protest before the Municipal Trial Court in Cities (MTCC) of Legazpi City, alleging that "(f)or lack of familiarity with the Rules on Appreciation of ballot[s] under Sec. 49 of COMELEC Resolution No. 4846 dated June 13, 2002, the Board of Election Teller failed to credit [him]with as many as ten (10) votes."^[1]

The MTCC ordered a recount of the votes which yielded the following results:^[2]

	JOEL MONFORTE [respondent]	ALDO CORDIA [petitioner]
UNCONTESTED VOTES	591	440
ADD: CONTESTED/OBJECTED But Credited Votes	18	174
ADD: CLAIMED and ADMITTED VOTES	7	0
TOTAL:	616	614

The MTCC thereupon rendered judgment in favor of respondent, accordingly annulling and setting aside the proclamation of petitioner, declaring respondent as the lawful and duly elected *Punong Barangay*, directing petitioner to vacate the Office of the *Punong Barangay* and to relinquish said position to respondent, and ordering petitioner to pay the total amount of P6,350.00 representing the honoraria of the members of the Revision Committee and its support staff and other miscellaneous expenses.^[3]

On appeal, the Second Division of the COMELEC affirmed the MTCC Decision by Resolution^[4] of August 14, 2003.

On Motion for Reconsideration, the COMELEC En Banc affirmed^[5] the decision of the Second Division by a 5-1 vote with Commissioner Rene V. Sarmiento dissenting.^[6]

Hence, petitioner's present Petition for Certiorari (With Urgent Application for Temporary Restraining Order),^[7] alleging that the COMELEC committed grave abuse of discretion

(I)

x x x in applying the neighborhood rule when it disregarded judicial precedents and credited as votes in favor of respondent, a candidate for *punong barangay*, the questioned ballots marked as Exhibits A, D, E, F, H, and K on the mere basis that his name was written on the first space or line intended for the position of kagawad

(II)

x x x in applying the principle of *idem sonans* when it counted in favor of private respondent the vote "Mantete" appearing in the questioned ballot marked as Exhibit "A" and worse, written not on the line or space for *punong barangay* but *kagawad*.

(III)

x x x when it ruled that the circle mark on the ballot marked as Exhibit C-17 xxx is but an ink smudge which is not a marking of the ballot.^[8] (Emphasis supplied)

In the meantime, the MTCC issued on October 31, 2006 a writ of execution.^[9] In view of petitioner's filing before this Court of an Extremely Urgent Motion Reiterating the Application for Issuance of Temporary Restraining Order,^[10] the MTCC recalled and set aside the Writ of Execution.^[11] And, on respondent's Motion for Execution of Judgment,^[12] the COMELEC declared its Resolution final and executory,^[13] and entered its judgment.^[14] On January 15, 2007, respondent took his oath of office.^[15]

The Court finds the petition bereft of merit.

The object of the appreciation of ballots is to ascertain and carry into effect the intention of the voter, if it can be determined with reasonable certainty.^[16] When placed in issue, the appreciation of contested ballots and election documents, which involves a question of fact, is best left to the determination of the COMELEC.^[17]

The COMELEC, in crediting to respondent the vote for "Mantete" in Exhibit "A," following the *idem sonans* rule, the Court finds no grave abuse discretion.

Petitioner posits that "Mantete" could refer to Pedro Andes, a candidate for *kagawad* who, according to him, was fondly called "Pete" or "Mang Pete" in the *barangay*.^[18]