

EN BANC

[G.R. No. 176135, June 16, 2009]

CARLOS IRWIN G. BALDO, JR., PETITIONER, VS. COMMISSION ON ELECTIONS, THE MUNICIPAL BOARD OF CANVASSERS OF CAMALIG, ALBAY AND ROMMEL MUÑOZ, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Availing grave abuse of discretion in its issuance, the instant Petition for *Certiorari*, under Rule 65 of the Revised Rules of Court, seeks the review of the Resolution dated 8 January 2007 of the Commission on Elections (COMELEC) *En Banc*, affirming the Resolution dated 12 September 2006 of the COMELEC First Division in SPC Case No. 04-087, which dismissed the appeal, filed by petitioner Carlos Irwin G. Baldo, Jr. (Baldo), of the ruling of the Municipal Board of Canvassers (MBOC) of Camalig, Albay, to include in the canvassing of votes the election returns (ERs) objected to by petitioner Baldo.

Petitioner Baldo and respondent Rommel Muñoz (Muñoz) were candidates for the position of municipal mayor of Camalig, Albay in the 10 May 2004 local elections. At 6 p.m. of 10 May 2004, the MBOC convened to begin the canvass of the ERs.

During the canvass proceedings on 11 May 2004, petitioner Baldo objected to the inclusion of 26 ERs from various precincts based on the following grounds: (1) eight ERs lack inner seal; (2) seven ERs lack material data; (3) one ER lacks signatures; (4) four ERs lack signatures and thumbmarks of the members of the Board of Election Inspectors (BEIs) on the envelope containing them; (5) one ER lacks the name and signature of the poll clerk on the second page thereof; (6) one ER lacks the number of votes in words and figures; and (7) four ERs were prepared under duress and intimidation.

On 13 May 2004, the MBOC overruled petitioner Baldo's objections and included the disputed ERs in the canvassing of votes. Petitioner Baldo appealed to the COMELEC the unfavorable ruling of the MBOC on his objections to the ERs in question. His appeal was docketed as SPC Case No. 04-087 and was raffled to the COMELEC First Division.

Despite the pendency of SPC Case No. 04-087 with the COMELEC First Division, the MBOC proclaimed respondent Muñoz as the winning candidate for municipal mayor of Camalig, Albay, on 19 May 2004.

On 21 May 2004, petitioner Baldo filed with the COMELEC a Petition seeking to annul, for being premature, the proclamation of respondent Muñoz as the municipal mayor of Camalig, Albay. The Petition was docketed as SPC No. 04-124 and was again raffled to the COMELEC First Division.

On 12 September 2006, the COMELEC First Division issued its Resolution in SPC No. 04-087, dismissing petitioner Baldo's appeal. The COMELEC First Division decreed thus:

WHEREFORE, in view of the foregoing, the appeal is hereby DISMISSED for lack of merit. Accordingly, the election returns for Precinct Nos. 127B, 40A/41A, 24A, 8A, 57A, 6A/6B, 54A/54B, 141A, 71A/71B, 72A, 19A, 44A, 154A, 47A, 86A, 132A, 145A, 171A,/171B, 39A, 112A, 137A/133A, 99A, 93A, 175A, 106A, 95A, which were either not included or which were temporarily tallied in a separate statement of votes and are hereby DIRECTED to be INCLUDED into the OFFICIAL TALLY in order to determine the total number of votes actually received by the candidates for mayor in the municipality.

The Municipal Board of Canvassers of Camalig, Albay is ORDERED to immediately convene with proper notice to the parties, for the purpose of including in the official canvass the contested election returns and/or transferring into the official tally the results of the precincts which were temporarily tallied, compute the complete results from ALL the 134 precincts which functioned in Camalig, Albay, in the May 10, 2004 elections and forthwith PROCLAIM the winning candidate for mayor of Camalig, Albay.^[1]

Petitioner Baldo sought reconsideration of the foregoing, but on 8 January 2007, the COMELEC *En Banc* issued a Resolution affirming the judgment of the COMELEC First Division. The dispositive portion of the said Resolution reads:

WHEREFORE, premises considered, the Commission RESOLVED, as it hereby RESOLVES to AFFIRM the Resolution of the Commission (First Division) with the MODIFICATION that the board of election inspectors concerned in Precinct No. 127B be summoned by the Municipal Board of Canvassers of Camalig, Albay, to complete the necessary data in the election returns of the said precinct.^[2]

Petitioner Baldo filed the instant Petition for *Certiorari* based on the following grounds:

- A. THE COMELEC GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK AND EXCESS OF ITS JURISDICTION WHEN IT AFFIRMED THE ASSAILED RULINGS OF PUBLIC RESPONDENT MBOC IN THE 26 CONTESTED ELECTION RETURNS FOR PRECINCT NOS. 99A, 93A, 175A, 106A, 95A, 127B, 40A/41A, 24A, 8A, 57A, 6A/6B, 54A/54B, 141A, 71A/71B, 72A, 132A, 145A, 171A/171B, 39A, 112A, 137A,/133A, 19A, 44A, 154A, 47A, 86A; AND
- B. THE COMELEC GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK AND EXCESS OF ITS JURISDICTION WHEN IT ORDERED THE