

EN BANC

[G.R. No. 155087, November 28, 2003]

**EDUARDO T. SAYA-ANG, SR., AND RICARDO T. LARA,
PETITIONERS, VS. HON. COMMISSION ON ELECTIONS,
HONORABLE PIO JOSE S. JOSON, HONORABLE JOSE P.
BALBUENA, HONORABLE LIRIO T. JOQUINO AND MANTIL D. LIM,
RESPONDENTS.**

D E C I S I O N

AZCUNA, J.:

Petitioners herein, Eduardo T. Saya-ang, Sr. and Ricardo T. Lara, were candidates for the Office of Barangay Captain of Barangays Congan and New Aklan respectively for the July 15, 2002 Synchronized Sangguniang Kabataan (SK) and Barangay Elections. Petitioner Saya-ang filed his certificate of candidacy in Barangay Congan on June 6, 2002. On the other hand, petitioner Lara filed his own certificate of candidacy in Barangay New Aklan on June 8, 2002. On July 19, 2002, a letter-report was submitted by Acting Election Officer Alim to the Law Department of the Comelec which stated that petitioners herein are not residents of the barangays they wish to be elected in. In turn, the Law Department of the Commission on Elections (Comelec) submitted its study to the Comelec *en banc* on July 9, 2002 recommending the denial of due course to the certificates of candidacy of petitioners. On the day of the elections or on July 15, 2002, the Comelec, issued En Banc Resolution No. 5393, which essentially denied due course to the certificates of candidacy of petitioners herein.

The pertinent portion of the assailed Resolution states:

Considering the foregoing, the Commission **RESOLVED**, as it hereby **RESOLVES**, to approve the recommendation of the Law Department as follows:

1. To deny due course to the Certificates of Candidacy of Romeo P. Sumayog, Sandigan Damie, James Ceasar I. Young, Eduardo T. Saya-ang, Sr., and Ricardo L. Lara; and
2. To direct the Election Officer of Glan, Sarangani to delete their names from the Certified List of Candidates for Barangay Kagawad and Punong Barangay of Barangays E. Alegado, Baliton, Cross, Congan, and New Aklan, respectively.

Without prejudice to the filing of criminal cases against them as the evidence so warrants under the circumstances.

Let the Law Department implement this resolution.

SO ORDERED.

Despite the abovementioned Resolution, petitioners were still proclaimed as winners on July 16, 2002, having garnered the most number of votes in their respective barangays. On July 31, 2002, petitioners took their oath of office before Alfredo L. Barcelona, Jr., the First Assistant Provincial Prosecutor of Sarangani Province.

On August 9, 2002, Pio Jose S. Joson, Deputy Executive Director for Operations of the Comelec, issued a Memorandum for all Regional Election Directors, Provincial Election Supervisors and City/Municipal Election Officers. This memorandum directed all election officers to delete the names of those candidates whose certificates of candidacy were denied due course despite the fact that said denial did not arrive on time. It also ordered the candidates concerned to desist from taking their oaths and from assuming the positions to which they have been elected, unless the Supreme Court issued a temporary restraining order. Lastly, the said memorandum ordered the Board of Canvassers to reconvene for the purpose of proclaiming the duly-elected candidates and correcting the certificates of canvass and proclamation.

On August 10, 2002, the Comelec *en banc* promulgated Resolution No. 5584, entitled "In the Matter of the Policy of the Commission on Proclaimed Candidates Found to be Ineligible for Being Not Registered Voters in the Place Where They Were Elected and on the Failure/ Omission of the Board of Canvassers to Include Certain Election Returns in the Canvass." [1]

On August 14, 2002, Acting Election Officer Alim, invoking and acting pursuant to Comelec Resolution No. 5393 and Resolution No. 5584, issued a directive commanding petitioners to cease and desist from taking their oath of office and from assuming the position to which they were elected. He also directed the Barangay Board of Canvassers for Barangays Congan and New Aklan to reconvene immediately and proclaim the duly-elected candidates and to correct the certificates of canvass and proclamation.

Petitioners received the aforementioned directive on August 19, 2002. On August 21, 2002, the Comelec *en banc* promulgated Resolution No. 5666 amending its Resolution No. 5584 on the basis of the approved recommendations of Commissioner Sadain. Pertinent portions of the amended resolution state:

I.

ON PROCLAIMED CANDIDATES FOUND TO BE INELIGIBLE FOR BEING NOT REGISTERED VOTERS IN THE PLACE WHERE THEY WERE ELECTED

x x x

- (d) For both (a) and (b), in the event that the disqualified candidate is proclaimed the winner despite his disqualification or despite the pending disqualification case filed before his proclamation, but which is subsequently resolved against him, the proclamation of said disqualified candidate is hereby declared void from the beginning, with notice to the candidate concerned, even if the dispositive