

EN BANC

[G.R. No. 157249, November 28, 2003]

HOMER T. SAQUILAYAN, PETITIONER, VS. COMMISSION ON ELECTIONS AND OSCAR JARO, RESPONDENTS.

DECISION

AZCUNA, J.:

The present petition for *certiorari*, under Rule 65 of the Rules of Court, seeks a reversal of the resolution of Commission on Elections (Comelec) *en banc*, which ordered the Presiding Judge of the Regional Trial Court (RTC) of Imus, Cavite^[1] to proceed with the hearing of the election protest filed by Oscar Jaro (Jaro) against Homer T. Saquilayan (Saquilayan).

The facts are not disputed.

Petitioner Saquilayan and respondent Jaro were candidates for the Office of Municipal Mayor of Imus, Cavite in the May 14, 2001 local elections. After the votes were canvassed, Saquilayan was proclaimed the winner for having received 27,494 votes against Jaro's 26,746 votes.

On May 28, 2001, Jaro instituted an Election Protest Case (EPC No. 01-02) before the RTC of Imus, Cavite contesting the results in all 453 election precincts in the Municipality of Imus. Saquilayan filed his Answer with Motion to Dismiss contending, among other things, that the election protest failed to state a cause of action. The Motion to Dismiss was denied by the RTC in an Order dated July 31, 2001.

Saquilayan questioned the denial before the Comelec's Second Division through a petition for *certiorari* and prohibition, which was docketed as SPR No. 19-2001. On January 22, 2002, the Second Division ruled in favor of Saquilayan and ordered the dismissal of the election protest.

Jaro sought a reconsideration of the order of dismissal and the case was elevated to the Comelec *en banc*. On February 26, 2003, the Comelec *en banc* issued the questioned resolution granting Jaro's Motion for Reconsideration. Saquilayan's petition was thereunder dismissed and EPC No. 01-02 was ordered to proceed.

Aggrieved, Saquilayan filed the present petition.

The whole controversy revolves around the following averments contained in Jaro's election protest:

Grounds for the Protest

6. Protestant hereby impugns the correctness of the results reflected in

the election returns in ALL the 453 protested precincts of the Municipality of Imus, Cavite on the following grounds:

- 7.1. Votes in the ballots lawfully and validly cast in favor of protestant were deliberately misread and/or misappreciated by various chairmen of the different boards of election inspectors;
- 7.2. Valid votes of protestant were intentionally or erroneously counted or tallied in the election returns as votes of protestee;
- 7.3. Valid votes legally cast in favor of protestant were considered stray;
- 7.4. Ballots containing valid votes for protestant were intentionally and erroneously misappreciated or considered as marked and declared as null and void;
- 7.5. Ballots with blank spaces in the line for Mayor were just read and counted in favor of protestee;
- 7.6. Ballots prepared by persons other than the voters themselves, and fake or unofficial ballots wherein the name of protestee was written, were illegally read and counted in favor of protestee;
- 7.7. Groups of ballots prepared by one (1) person and/or individual ballots prepared by two (2) persons were purposely considered as valid ballots and counted in favor of protestee;
- 7.8. Votes that were void, because the ballots containing them were posted with stickers or because of pattern markings appearing in them or because of other frauds and election anomalies, were unlawfully read and counted in favor of protestee; and
- 7.9. Votes reported in some election returns were unlawfully increased in favor of protestee, such that protestee appeared to have obtained more votes than those actually cast in his favor.

The Second Division of the Comelec unanimously ruled that the above allegations failed to state a cause of action, citing as a basis the Court's ruling in *Peña v. House of Representatives Electoral Tribunal*.^[2]

In said case, petitioner Teodoro Peña, the losing party in the congressional elections, contested 700 out of 742 election precincts without specifying the precincts where the anomalies allegedly occurred. Furthermore, Peña made only general allegations, to wit: ^[3]

7. The elections in the precincts of the Second District of Palawan were tainted with massive fraud, widespread vote-buying, intimidation and terrorism and other serious irregularities committed before, during and after the voting, and during the counting of votes and the preparation of election returns and certificates of canvass which affected the results of the election. Among the fraudulent acts committed were the massive vote-buying and intimidation of voters, disenfranchisement of petitioner's known supporters through systematic deletion of names from the list of voters, allowing persons to vote in excess of the number of registered