

**EN BANC**

**[ G.R. No. 134142, August 24, 1999 ]**

**SANTANINA TILLAH RASUL, PETITIONER, VS. COMMISSION ON ELECTIONS, AND TERESA AQUINO-ORETA, RESPONDENTS.**

**R E S O L U T I O N****GONZAGA-REYES, J.:**

Before us is a petition for certiorari under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure seeking to set aside Resolution No. 3047-A promulgated on May 29, 1998 of the Commission on Elections ("the Commission") *en banc*<sup>[1]</sup> proclaiming the twelve (12) winning senatorial candidates, particularly, the proclamation of private respondent Teresa Aquino-Oreta who is the twelfth (12th) winning candidate. Further, the instant petition prays for the issuance of a writ of mandamus against the respondent Commission to compel it to canvass the remaining certificates of canvass and to conduct special elections in the areas where no elections were held on May 11, 1998. The assailed resolution reads in full:

**"RESOLUTION NO. 3047-A**

**WHEREAS**, the Commission on Elections, sitting *en banc* as the National Board of Canvassers for the election of senators of the Philippines, officially canvassed in open and public proceedings the certificates of canvass of votes cast nationwide for senators in the national and local elections conducted on May 11, 1998.

**NOW, THEREFORE**, on the basis of the canvass of the Certificates of Canvass submitted by seventy-eight (78) Provincial Boards of Canvassers, eighteen (18) City Boards of Canvassers of cities comprising one or more legislative districts, four (4) District Boards of Canvassers of Metro Manila, and one on absentee voting, the remaining uncanvassed certificates no longer affecting the results, the Commission on Elections sitting *en banc* as the National Board of Canvassers finds that the following twelve (12) registered candidates for senator in said elections obtained the highest number of votes set out after their respective names, as follows:

<b>NAME</b>	<b>NUMBER OF VOTES</b>
1. LOREN B. LEGARDA-LEVISTE	14,996,764
2. RENATO L. CAYETANO	13,231,222
3. VICENTE C. SOTTO III	11,578,572
4. AQUILINO Q. PIMENTEL, JR	10,267,969
5. ROBERT Z. BARBERS	9,805,188
6. RODOLFO G. BIAZON	9,395,603
7. BLAS F. OPLE	9,326,183

8. JOHN RENNER OSMEÑA	9,278,600
9. ROBERT S. JAWORSKI	8,955,002
10. RAMON B. REVILLA	8,707,391
11. TEOFISTO T. GUINGONA, JR.	7,349,873
12. TERESA AQUINO-ORETA	7,238,086

**AND**, by virtue of the powers vested in it under the Constitution, the Omnibus Election Code (Batas Pambansa Blg. 881), Republic Act Nos. 6646 and 7166, and other election laws, the Commission on Elections sitting **en banc** as the National Board of Canvassers hereby **PROCLAIMS** the above-named twelve (12) candidates the duly elected Senators of the Philippines in the May 11, 1998, elections to serve for a term of six (6) years, beginning on June 30, 1998, in accordance with Article VI, Section 4 of the Constitution.

x x x x x x x x."[2]

Petitioner argues that the Commission acted with grave abuse of discretion amounting to lack of or in excess of jurisdiction when, acting as a National Board of Canvassers, it declared that the remaining uncanvassed certificates would no longer affect the results and proceeded to proclaim the twelve (12) winning senatorial candidates. Petitioner contends that due to the indefinite suspension of special elections in some areas<sup>[3]</sup>, the total population of registered voters affected number about 268,282; and that at the time of the proclamation of the 'twelve (12) winning candidates', 150,334 votes were not yet canvassed. Thus, the 268,686 registered voters who have yet to cast their votes where special elections have been suspended, combined with the uncanvassed votes of 150,334 from other areas of the country total 419,020. Consequently, petitioner submits that there is a possibility that 12th ranking senatorial candidate, Teresa Aquino-Oreta, who had a total number of votes of 7,269,444 or a lead of 280,012 votes over the 13th placer, Roberto Pagdanganan, who had a total of 6,989,432, could be dislodged by the latter, if the aforestated uncanvassed votes plus the number of registered voters of the deferred special elections totaling 419,020 were considered. According to petitioner, the number of votes is sufficient to affect the final result with respect to the 12th and last winning position. In other words, petitioner submits that the inclusion of respondent Teresa Aquino-Oreta who was ranked number 12 among the "winning" candidates was premature and based on incomplete canvass.<sup>[4]</sup>

In her comment, private respondent Teresa Aquino-Oreta alleged that the instant petition should be dismissed for being moot and academic considering, among others, that the Commission had already completed the canvass of all the votes for the senatorial candidates; that it has already conducted all the special elections prayed for by the petitioner; and the results of the special elections conducted by the Commission did not affect the proclamation of all the 12 winning senatorial candidates.<sup>[5]</sup>

Without necessarily going into the veracity of the proofs submitted by private respondent to substantiate the foregoing allegations, we find the instant petition devoid of merit.

In *Pangilinan vs. Commission on Elections*<sup>[6]</sup>, this Court has ruled that "where the