

EN BANC

[G.R. No. 135627, December 09, 1999]

ROGELIO G. SIQUIAN, JR., PETITIONER, VS. COMMISSION ON ELECTIONS AND FELICITAS P. ONG, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J.:

Petitioner and private respondent were candidates for mayor in Angadanan, Isabela in the May 11, 1998 elections. In the canvassing of votes, petitioner interposed no objections to the inclusion of election returns from several precincts. It was only on May 16, 1998 that he presented objections to the inclusion of certain returns on various grounds such as the presence of the Barangay Captain in the polling areas, that the latter was influencing his constituents to vote for a certain candidate, and the election returns were accomplished in areas outside of the polling centers. On the same date, private respondent was proclaimed winner but the same was annulled by the COMELEC (First Division) in a resolution dated June 15, 1998. The COMELEC also enjoined the proclaimed candidates from assuming their posts and ordered the Municipal Board of Canvassers to reconvene and to finish the canvassing.

After proceeding with the canvassing, the Board denied the petition for exclusion of the election returns in some precincts filed by the petitioner (Nos. 65A, 16A/16A1) and granted the exclusion sought for with respect to those in other precincts (Nos. 95A, 93-A/93A1, 94-A1, 81A, 58A). Both parties appealed to the COMELEC (First Division), which affirmed the rulings issued by the Board on the grant and denial of exclusion of the aforementioned election returns. It also ordered the Board to continue the canvassing and proclaim the winner. Private respondent filed a motion for reconsideration with the Commission *en banc* which on October 6, 1998 ruled that all the election returns which petitioner initially sought to exclude be included in the canvassing. Thereafter, private respondent was proclaimed winner on October 12, 1998. In a petition for *certiorari* before this Court, petitioner imputes grave abuse of discretion to respondent COMELEC in allowing the inclusion of the election returns from the precincts which were ordered excluded by the Board of Canvassers.

The Court finds that the charge of grave abuse of discretion is more apparent than real. Section 20 of R.A 7166 and Section 36 of COMELEC Resolution 2962 requires that an oral objection to the inclusion or exclusion of election returns in the canvassing shall be submitted to the Chairman of the Board of Canvassers at the time the questioned return is presented for inclusion in the canvass. It is not denied by petitioner that the objections interposed were made after the election returns in certain precincts were included in the canvass. Such belated objections are fatal to petitioner's cause. Compliance with the period set for objections on exclusion and inclusion of election returns is mandatory.^[1] Otherwise, to allow objections after the canvassing would be to open the floodgates to schemes designed to delay the