



Republic of the Philippines
Supreme Court
Manila

EN BANC

**GOVERNOR SADIKUL A. SAHALI
and VICE-GOVERNOR RUBY M.
SAHALI,**

Petitioners,

- versus -

**COMMISSION ON ELECTIONS
(FIRST DIVISION), RASHIDIN H.
MATBA and JILKASI J. USMAN,**
Respondents.

G.R. No. 201796

Present:

SERENO, *CJ.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ.*

Promulgated:

JANUARY 15, 2013

X-----X

RESOLUTION

REYES, J.:

This is a Petition for *Certiorari* under Rule 65 in relation to Rule 64 of the Rules of Court filed by Sadikul A. Sahali (Sadikul) and Ruby M. Sahali

(Ruby), assailing the Order¹ dated May 3, 2012 issued by the First Division of the Commission on Elections (COMELEC) in EPC Nos. 2010-76 and 2010-77.

During the May 10, 2010 elections, Sadikul and private respondent Rashidin H. Matba (Matba) were two of the four candidates who ran for the position of governor in the Province of Tawi-Tawi while Ruby and private respondent Jilkasi J. Usman (Usman) ran for the position of Vice-Governor.²

On May 14, 2010, the Provincial Board of Canvassers (PBOC) proclaimed petitioners Sadikul and Ruby as the duly elected governor and vice-governor, respectively, of the province of Tawi-Tawi. In the statement of votes issued by the PBOC, petitioner Sadikul garnered a total of 59,417 as against private respondent Matba's 56,013,³ while petitioner Ruby prevailed over private respondent Usman, with votes of 61,005 and 45,127, respectively.⁴

Alleging that the said elections in the Province of Tawi-Tawi were attended by massive and wide-scale irregularities, Matba filed an Election Protest *Ad Cautelam*⁵ with the COMELEC. Matba contested the results in 39 out of 282 clustered precincts that functioned in the province of Tawi-Tawi. The said election protest filed by Matba was raffled to the First Division of the COMELEC and was docketed as EPC No. 2010-76.

Usman also filed an Election Protest *Ad Cautelam*⁶ with the COMELEC, contesting the results in 39 out of the 282 clustered precincts in the Province of Tawi-Tawi. Usman's election protest was likewise raffled to the First Division of the COMELEC and was docketed as EPC No. 2010-77.

¹ Rollo, pp. 32-34. Signed by Presiding Commissioner Rene V. Sarmiento and Commissioners Armando A. Velasco and Christian Robert S. Lim.

² Id. at 12.

³ Id. at 38.

⁴ Id. at 58.

⁵ Id. at 36-52.

⁶ Id. at 57-71.

The respective election protests filed by private respondents Matba and Usman prayed, *inter alia*, for the technical examination of the ballots, Election Day Computerized Voters List (EDCVL), the Voters Registration Record (VRR), and the Book of Voters in all the protested precincts of the province of Tawi-Tawi.⁷

After Sadikul filed his Answer⁸ with counter-protest, a preliminary conference was conducted by the COMELEC in EPC No. 2010-76. On November 24, 2011, the COMELEC issued a Preliminary Conference Order⁹ in EPC No. 2010-76. Thereafter, the COMELEC issued an Order¹⁰ dated November 23, 2011 which directed the retrieval and delivery of the 39 ballot boxes containing the ballots in the 39 protested clustered precincts as well as the election paraphernalia therein.

Meanwhile, in EPC No. 2010-77, the COMELEC, after Ruby's filing of her Answer¹¹ with counter-protest, conducted a preliminary conference on January 4, 2012. On January 20, 2012, the COMELEC issued its Preliminary Conference Order¹² in the said case.

On January 17, 2012, the COMELEC resolved to consolidate EPC No. 2010-76 and EPC No. 2010-77.

On February 9, 2012, the retrieval and delivery of the ballot boxes and other election documents from the 39 protested precincts were completed. On February 20, 2012, the COMELEC First Division ordered the recount of the contested ballots, directing the creation of five recount committees for the said purpose.¹³

⁷ Id. at 51, 70.

⁸ Id. at 72-99.

⁹ Id. at 129-157.

¹⁰ Id. at 159-163.

¹¹ Id. at 100-127.

¹² Id. at 164-190.

¹³ Id. at 191-195.

On February 24, 2012, Matba and Usman filed a Manifestation and *Ex-Parte* Motion (Re: Order Dated 20 February 2012), requesting that they be allowed to secure photocopies of the contested ballots. Further, they moved for a technical examination of the EDCVL, the VRR and the Book of Voters for the contested precincts in the province of Tawi-Tawi by comparing the signature and the thumbmarks appearing on the EDCVL as against those appearing on the VRRs and the Book of Voters.¹⁴

Private respondents Matba and Usman averred that, instead of recounting the ballots in the pilot precincts constituting 20% of the protested precincts, the COMELEC First Division should order the technical examination of the said election paraphernalia from the 38 clustered precincts that are the subject of both election protests filed by them.

On March 5, 2012, the COMELEC First Division issued an Order¹⁵ which granted the said *ex-parte* motion filed by Matba and Usman. Thus, the COMELEC First Division directed its Election Records and Statistics Department (ERSD) to conduct a technical examination of the said election paraphernalia by comparing the signature and thumbmarks appearing on the EDCVL as against those appearing on the VRRs and the Book of Voters.

On March 9, 2012, Sadikul and Ruby jointly filed with the COMELEC First Division a Strong Manifestation of Grave Concern and Motion for Reconsideration (Of the Order Dated March 5, 2012)¹⁶. They asserted that the March 5, 2012 Order issued by the COMELEC First Division, insofar as it directed the technical examination of the EDCVL, the VRR and the Book of Voters, should be reversed on account of the following: *first*, the said Order was issued without due process since the COMELEC First Division did not allow them to oppose the said *ex-parte* motion; *second*, the COMELEC First Division cannot just order a technical

¹⁴ Id. at 35.

¹⁵ Id.

¹⁶ Id. at 196-205.

examination in the absence of published rules on the matter; and *third*, the COMELEC First Division could not just examine the said election paraphernalia without violating the Precautionary Protection Order issued by the Presidential Electoral Tribunal in the protest case between Manuel Roxas and Jejomar Binay.

On March 15, 2012, Matba and Usman filed with the COMELEC First Division their counter-manifestation¹⁷ to the said manifestation and motion for reconsideration filed by Sadikul and Ruby. They asserted therein that Sadikul and Ruby were not deprived of due process when the COMELEC First Division issued its March 15, 2012 Order. They averred that their respective election protests and the Preliminary Conference Orders issued by the COMELEC First Division all indicated that they would move for the technical examination of the said election paraphernalia. Nonetheless, they pointed out that Sadikul and Ruby failed to express any objection to their intended motion for technical examination of the said election paraphernalia.

Further, Matba and Usman claimed that said motion for technical examination is not a contentious motion since the intended technical examination would not prejudice the rights of Sadikul and Ruby considering that the same only included the EDCVL, the VRR and the Book of Voters, and not the ballots.

On March 23, 2012, Sadikul and Ruby then filed with the COMELEC First Division their Reply¹⁸ to the counter-manifestation filed by Matba and Usman. In turn, Matba and Usman filed with the COMELEC First Division their Rejoinder¹⁹ on March 30, 2012.

¹⁷ Id. at 206-216.

¹⁸ Id. at 217-225.

¹⁹ Id. at 226-235.

On May 3, 2012, the COMELEC First Division issued the herein assailed Order²⁰ which denied the said motion for reconsideration of the March 5, 2012 Order filed by Sadikul and Ruby. The COMELEC First Division maintained that Sadikul and Ruby were not deprived of due process. It pointed out that the intention of Matba and Usman to ask for the technical examination of the said election documents had always been apparent from the filing of their separate election protests, preliminary conference briefs and their intention to offer as evidence all election documents and paraphernalia such as the EDCVL, VRRs and Book of Voters on the protested precincts.

Further, the COMELEC First Division opined that the insinuation asserted by Sadikul and Ruby that there are no published rules governing the technical examination of election paraphernalia is untenable. It pointed out that the technical examination of election paraphernalia is governed by Section 1, Rule 18 of COMELEC Resolution No. 8804. As to the Precautionary Protection Order issued in the protest case between Manuel Roxas and Jejomar Binay, the COMELEC First Division averred that it would request a clearance from the Presidential Electoral Tribunal for the conduct of said technical examination.

Hence, petitioners Sadikul and Ruby filed the instant petition with this Court essentially asserting that the COMELEC First Division committed grave abuse of discretion amounting to lack or excess of jurisdiction when: *first*, it did not give them the opportunity to oppose the motion for technical examination filed by Matba and Usman; and *second*, it ordered the technical examination of the said election paraphernalia despite the lack of sanction and published rules governing such examination.

The petition is denied.

²⁰

Supra note 1.

The petitioners' resort to the extraordinary remedy of *certiorari* to assail an interlocutory order issued by the COMELEC First Division is amiss. "A party aggrieved by an interlocutory order issued by a Division of the COMELEC in an election protest may not directly assail the order in this Court through a special civil action for *certiorari*. The remedy is to seek the review of the interlocutory order during the appeal of the decision of the Division in due course."²¹

Under the Constitution, the power of this Court to review election cases falling within the original exclusive jurisdiction of the COMELEC only extends to final decisions or resolutions of the COMELEC *en banc*, not to interlocutory orders issued by a Division thereof. Section 7, Article IX of the Constitution mandates:

Sec. 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. **Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.** (Emphasis ours)

In *Ambil, Jr. v. COMELEC*,²² this Court elucidated on the import of the said provision in this wise:

We have interpreted this provision to mean **final orders, rulings and decisions** of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers." This decision must be a **final decision or resolution** of the Comelec *en banc*, **not of a division**, certainly not an interlocutory order **of a division**. The Supreme Court has no power to review *via certiorari*, an interlocutory order or even a final resolution of a Division of the Commission on Elections.

The mode by which a decision, order or ruling of the Comelec *en banc* may be elevated to the Supreme Court is by the special civil action of *certiorari* under Rule 65 of the 1964 Revised Rules of Court, now

²¹ *Cagas v. Commission on Elections*, G.R. No. 194139, January 24, 2012, 663 SCRA 644, 645.
²² 398 Phil. 257 (2000).

expressly provided in Rule 64, 1997 Rules of Civil Procedure, as amended.

Rule 65, Section 1, 1997 Rules of Civil Procedure, as amended, requires that there be no **appeal, or any plain, speedy and adequate remedy** in the ordinary course of law. A motion for reconsideration **is a plain and adequate remedy provided by law. Failure to abide by this procedural requirement constitutes a ground for dismissal of the petition.**

In like manner, a decision, order or resolution of a division of the Comelec must be reviewed by the Comelec *en banc* via a motion for reconsideration before the final *en banc* decision may be brought to the Supreme Court on *certiorari*. The pre-requisite filing of a motion for reconsideration is mandatory. x x x²³ (Citations omitted and emphasis supplied)

Here, the Orders dated March 5, 2012 and May 3, 2012 issued by the First Division of the COMELEC were merely interlocutory orders since they only disposed of an incident in the main case *i.e.* the propriety of the technical examination of the said election paraphernalia. Thus, the proper recourse for the petitioners is to await the decision of the COMELEC First Division in the election protests filed by Matba and Usman, and should they be aggrieved thereby, to appeal the same to the COMELEC *en banc* by filing a motion for reconsideration.²⁴

The petitioners, citing the case of *Kho v. COMELEC*,²⁵ nevertheless insist that this Court may take cognizance of the instant Petition for *Certiorari* since the COMELEC *en banc* is not the proper forum in which the said interlocutory orders issued by the COMELEC First Division can be reviewed.

The petitioners' reliance on *Kho* is misplaced. In *Kho*, the issue was whether a Division of the COMELEC may admit an answer with

²³ Id. at 274-275.

²⁴ Section 3, Article IX-C of the Constitution provides that:

Section 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rule of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.

²⁵ 344 Phil. 878 (1997).

counter-protest which was filed beyond the reglementary period. This Court held that the COMELEC First Division gravely abused its discretion when it admitted the answer with counter-protest that was belatedly filed.

On the propriety of a filing a Petition for *Certiorari* with this Court *sans* any motion for reconsideration having been filed with the COMELEC *en banc*, it was held therein that, as an exception, direct resort to this Court *via certiorari* assailing an interlocutory order may be allowed when a Division of the COMELEC commits grave abuse of discretion tantamount to lack of jurisdiction. Thus:

As to the issue of whether or not the case should be referred to the COMELEC *en banc*, this Court finds the respondent COMELEC First Division correct when it held in its order dated February 28, 1996 that no final decision, resolution or order has yet been made which will necessitate the elevation of the case and its records to the Commission *en banc*. No less than the Constitution requires that the election cases must be heard and decided first in division and any motion for reconsideration of decisions shall be decided by the commission *en banc*. Apparently, the orders dated July 26, 1995, November 15 1995 and February 28, 1996 and the other orders relating to the admission of the answer with counter-protest are issuances of a Commission in division and are all interlocutory orders because they merely rule upon an incidental issue regarding the admission of Espinosa's answer with counter-protest and do not terminate or finally dispose of the case as they leave something to be done before it is finally decided on the merits. **In such a situation, the rule is clear that the authority to resolve incidental matters of a case pending in a division, like the questioned interlocutory orders, falls on the division itself, and not on the Commission en banc.** x x x

x x x x

Furthermore, a look at Section 2, Rule 3 of the COMELEC Rules of Procedure confirms that the subject case does not fall on any of the instances over which the Commission *en banc* can take cognizance of. It reads as follows:

“Section 2. The Commission en banc. - The Commission shall sit en banc in cases hereinafter specifically provided, or in pre-proclamation cases upon a vote of a majority of the members of a Commission, or in all other cases where a division is not authorized to act, or where, upon a unanimous vote of all the members of a Division, an interlocutory matter or issue relative to an action or proceeding before it is decided to be referred to the Commission en banc.”

In the instant case, it does not appear that the subject controversy is one of the cases specifically provided under the COMELEC Rules of Procedure in which the Commission may sit *en banc*. Neither is it shown that the present controversy a case where a division is not authorized to act nor a situation wherein the members of the First Division unanimously voted to refer the subject case to the Commission *en banc*. Clearly, the Commission *en banc*, under the circumstances shown above, can not be the proper forum which the matter concerning the assailed interlocutory orders can be referred to.

In a situation such as this where the Commission in division committed grave abuse of discretion or acted without or in excess of jurisdiction in issuing interlocutory orders relative to an action pending before it and the controversy did not fall under any of the instances mentioned in section 2, Rule 3 of the COMELEC Rules of Procedure, the remedy of the aggrieved party is not to refer the controversy to the Commission *en banc* as this is not permissible under its present rules but to elevate it to this Court via a petition for certiorari under Rule 65 of the Rules of Court.²⁶ (Citations omitted and emphasis ours)

Thus, exceptionally, this Court may take cognizance of a *certiorari* action directed against an interlocutory order issued by a Division of the COMELEC when the following circumstances are present: *first*, the order was issued without jurisdiction or in excess of jurisdiction or with grave abuse of discretion tantamount to lack or excess of jurisdiction; and *second*, under the COMELEC Rules of Procedure, the subject of the controversy is a matter which (1) the COMELEC *en banc* may not sit and consider or (2) a Division is not authorized to act or (3) the members of the Division unanimously vote to refer to the COMELEC *en banc*.²⁷

The exception in *Kho* does not apply in the instant case since the COMELEC First Division is authorized to act on the *ex-parte* motion for the technical examination of the said election paraphernalia. The COMELEC First Division has already acquired jurisdiction over the election protests filed by Matba and Usman. Concomitant with such acquisition of jurisdiction is the authority of the COMELEC First Division to rule on the issues raised by the parties and all incidents arising therefrom, including the

²⁶

Id. at 886-888.

²⁷See *Cagas*, supra note 21, at 656.

authority to act on the *ex-parte* motion for technical examination of said election paraphernalia.

In *Kho*, the COMELEC First Division did not acquire jurisdiction on the answer with counter-protest since it was filed beyond the reglementary period and, consequently, did not have any authority to act on the issues raised therein and all incidents arising therefrom. Thus:

It is worthy to note that as early as in the case of *Arrieta vs. Rodriguez*, this Court had firmly settled the rule that the counter-protest must be filed within the period provided by law, otherwise, the forum loses its jurisdiction to entertain the belatedly filed counter-protest. In the case at bar, there is no question that the answer with counter-protest of Espinosa was filed outside the reglementary period provided for by law. **As such, the COMELEC First Division has no jurisdictional authority to entertain the belated answer with counter-protest much less pass upon and decide the issues raised therein. It follows therefore that the order of July 26, 1995 which pertains to the admission of the answer with counter[-]protest of Espinosa as well as the other consequent orders implementing the order of admission issued by the COMELEC First Division are void for having been issued without jurisdiction.** Even if petitioner Kho did not file a motion for reconsideration of the order dated July 26, 1995 admitting the answer with counter-protest, the jurisdictional infirmity, brought about by the late filing of the answer to the protest, persist and can not be cured by the omission on the part of the protestee-petitioner to seek a reconsideration of the order dated July 26, 1995.²⁸ (Citation omitted and emphasis ours)

Even if this Court is to disregard the procedural lapse committed by the petitioners and rule on the issues raised, the instant petition would still be denied.

The petitioners claim that they were denied due process when the COMELEC granted the motion for technical examination filed by Matba and Usman without giving them the opportunity to oppose the said motion.

This Court does not agree.

²⁸

Supra note 25, at 885-886.

It bears stressing that the COMELEC, in election disputes, is not duty-bound to notify and direct a party therein to file an opposition to a motion filed by the other party. It is incumbent upon the party concerned, if he/she deems it necessary, to file an opposition to a motion within five days from receipt of a copy of the same without awaiting for the COMELEC's directive to do so. On this score, Section 3, Rule 9 of COMELEC Resolution No. 8804²⁹ clearly provides that:

Sec. 3. No hearings on motions. – Motions shall not be set for hearing unless the Commission directs otherwise. Oral argument in support thereof shall be allowed only upon the discretion of the Commission. **The adverse party may file opposition five days from receipt of the motion, upon the expiration of which such motion is deemed submitted for resolution.** The Commission shall resolve the motion within five days. (Emphasis ours)

If the party concerned, despite receipt of a copy of the motion that was filed with the COMELEC, did not file an opposition to the said motion, the motion would be deemed submitted for resolution upon the expiration of the period to file an opposition thereto.

It should be stressed that one of the factors that should be considered in election protests is expediency. Proceedings in election protests are special and expeditious and the early resolution of such cases should not be hampered by any unnecessary observance of procedural rules.³⁰ “The proceedings should not be encumbered by delays. All of these are because the term of elective office is likewise short. There is the personal stake of the contestants which generates feuds and discords. Above all is the public interest. Title to public elective office must not be left long under cloud. Efficiency of public administration should not be impaired. It is thus understandable that pitfalls which may retard the determination of election contests should be avoided.”³¹

²⁹ In re: COMELEC Rules of Procedure on Disputes in an Automated Election System in Connection with the May 10, 2010 Elections, approved on March 22, 2010.

³⁰ See *Gementiza v. Commission on Elections*, 406 Phil. 292, 301 (2001).

³¹ *Estrada, et al. v. Sto. Domingo, et al.*, 139 Phil. 158, 176-177 (1969).

Here, the petitioners did not file an opposition to the said motion for technical examination that was filed by Matba and Usman on February 24, 2012. It was only after the COMELEC First Division issued its March 5, 2012 Order that the petitioners decided to register their opposition to the intended technical examination, albeit in the form of a motion for reconsideration of the said Order. Contrary to the petitioners' claim, Section 3, Rule 9 of COMELEC Resolution No. 8804 gave them the opportunity to raise their objections to the said motion for technical examination. However, for reasons known only to them, petitioners did not file any opposition to the said motion. Accordingly, it is the petitioners themselves and not the COMELEC First Division who should be faulted for their predicament.

Further, this Court cannot see how due process was denied to the petitioners in the issuance of the COMELEC First Division's March 5, 2012 Order. The petitioners were able to present their opposition to the said motion for technical examination in their manifestation and motion for reconsideration which they filed with the COMELEC First Division on March 9, 2012. Indeed, the petitioners' objections to the technical examination of the said election paraphernalia were exhaustively discussed by the COMELEC First Division in its May 3, 2012 Resolution. Having filed a motion for reconsideration of the COMELEC First Division's March 5, 2012 Order, the petitioners' claim of denial of due process is clearly unfounded.

The petitioners should be reminded that due process does not necessarily mean or require a hearing, but simply an opportunity or right to be heard. One may be heard, not solely by verbal presentation but also, and perhaps many times more creditably and predictable than oral argument, through pleadings. In administrative proceedings moreover, technical rules of procedure and evidence are not strictly applied; administrative process cannot be fully equated with due process in its strict judicial sense. Indeed,

deprivation of due process cannot be successfully invoked where a party was given the chance to be heard on his motion for reconsideration.³²

Anent the issue on the technical examination of election paraphernalia, the petitioners contend that the COMELEC First Division cannot order a technical examination of the said election paraphernalia since there is as yet no published rule therefor. They assert that Section 1, Rule 18 of COMELEC Resolution No. 8804, the rule relied upon by the COMELEC First Division in ordering a technical examination, is vague as it failed to provide the documents that should be subjected to technical examination in election protest cases.

At the core of the petitioners' assertion is the power of the COMELEC First Division to order the technical examination of the said election paraphernalia. This Court agrees with the petitioners that Section 1, Rule 18 of COMELEC Resolution No. 8804 does not expressly authorize the conduct of technical examination of election paraphernalia as it merely provides for the procedure to be followed in the presentation and reception of evidence in election protest cases.

Section 1, Rule 18 of COMELEC Resolution No. 8804, in part, reads:

Sec. 1. Presentation and reception of evidence; order of hearing. - The reception of evidence on all matters or issues raised in the protest and counter-protests shall be presented and offered in a hearing upon completion of (a) the recount of ballots, or re-tabulation of election documents, or (b) the technical examination, if warranted.

X X X X

While Section 1, Rule 18 of COMELEC Resolution No. 8804 does not explicitly provide for the rule on the technical examination of election

³²

Paat v. CA, 334 Phil. 146, 155 (1997); citations omitted.

paraphernalia, it does not mean, however, that the COMELEC First Division does not have the power to order the conduct of such technical examination.

The absence of a rule which specifically mandates the technical examination of the said election paraphernalia does not mean that the COMELEC First Division is barred from issuing an order for the conduct thereof. The power of the COMELEC First Division to order the technical examination election paraphernalia in election protest cases stems from its “exclusive original jurisdiction over all contest relating to the elections, returns and qualifications of all elective regional, provincial and city officials”.³³

Otherwise stated, the express grant of power to the COMELEC to resolve election protests carries with it the grant of all other powers necessary, proper, or incidental to the effective and efficient exercise of the power expressly granted. Verily, the exclusive original jurisdiction conferred by the constitution to the COMELEC to settle said election protests includes the authority to order a technical examination of relevant election paraphernalia, election returns and ballots in order to determine whether fraud and irregularities attended the canvass of the votes.

There is no gainsaying that the COMELEC is mandated by law to resolve election cases expeditiously and promptly. “For in this specie of controversies involving the determination of the true will of the electorate, time indeed is of paramount importance – second to none perhaps, except for the genuine will of the majority. To be sure, an election controversy which by its very nature touches upon the ascertainment of the people’s choice, as gleaned from the medium of the ballot, should be resolved with utmost dispatch, precedence and regard to due process.”³⁴

³³ CONSTITUTION, Article IX-C, Section 2 (2).

³⁴ *Miguel v. Commission on Elections*, 390 Phil. 478, 488 (2000).

Concomitant to the COMELEC's duty to expeditiously resolve election cases is the authority to resort to every reasonable and efficient means available to it to settle the controversy. The COMELEC is thus enjoined, "not only to maintain its sense of urgency in resolving these cases, but also to explore every reasonable and feasible means of ascertaining which candidate was duly elected."³⁵ Thus, this Court has declared:

An election contest, unlike an ordinary civil action, is clothed with a public interest. The purpose of an election protest is to ascertain whether the candidate proclaimed by the board of canvassers is the lawful choice of the people. What is sought is the correction of the canvass of votes, which was the basis of proclamation of the winning candidate. **An election contest therefore involves not only the adjudication of private and pecuniary interests of rival candidates but paramount to their claims is the deep public concern involved and the need of dispelling the uncertainty over the real choice of the electorate. And the court has the corresponding duty to ascertain by all means within its command who is the real candidate elected by the people.**³⁶ (Emphasis ours)

Here, the technical examination ordered by the COMELEC First Division, by comparing the signature and the thumbmarks appearing on the EDCVL as against those appearing on the VRRs and the Book of Voters, is a reasonable, efficient and expeditious means of determining the truth or falsity of the allegations of fraud and irregularities in the canvass of the votes in the province of Tawi-Tawi. Accordingly, the COMELEC First Division did not commit any abuse of discretion when it allowed the technical examination of the said election paraphernalia.

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **DENIED**. The assailed Order dated May 3, 2012 issued by the First Division of the Commission on Elections in EPC Nos. 2010-76 and 2010-77 is **AFFIRMED**.


³⁵ See *Alberto v. COMELEC*, 370 Phil. 230, 239 (1999).

³⁶ *Pacanan, Jr. v. Commission on Elections*, G.R. No. 186224, August 25, 2009, 597 SCRA 189, 203.

SO ORDERED.

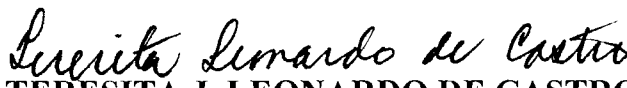

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

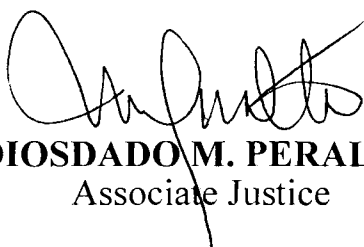

MARIA LOURDES P.A. SERENO
Chief Justice

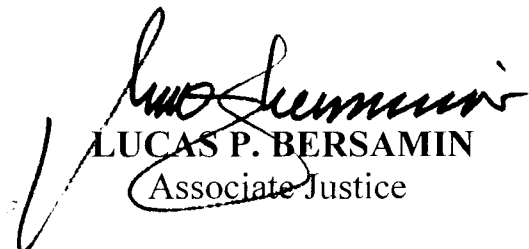

ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO DE CASTRO
Associate Justice

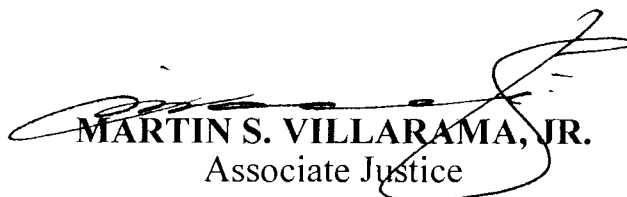
(on leave)
ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice

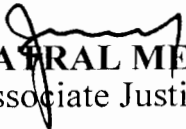

LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


MARIA LOURDES P. A. SERENO
Chief Justice