



Republic of the Philippines
Supreme Court
Manila

EN BANC

MARIA LOURDES B. LOCSIN,
Petitioner,

G.R. No. 204123

Present:

SERENO, C.J.
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, J.J.

- versus -

HOUSE OF REPRESENTATIVES
ELECTORAL TRIBUNAL and
MONIQUE YAZMIN MARIA Q.
LAGDAMEO,

Respondents.

Promulgated:

March 19, 2013

[Handwritten signature]

X-----X

DECISION

LEONEN, J.:

The Constitution provides that public respondent House of Representatives Electoral Tribunal (HRET) is the *sole judge* of all contests relating to the election, returns, and qualifications of their members.¹ This Court's jurisdiction to review HRET's decisions and orders is exercised only upon showing that HRET acted with grave abuse of discretion amounting to lack or excess of jurisdiction. Otherwise, this Court will not interfere with an electoral tribunal's exercise of its discretion or jurisdiction.²

This is a *Petition for Certiorari and Prohibition* under Rule 65 of the Rules of Court filed by petitioner Locsin praying:

- i. for the WRIT OF CERTIORARI declaring the assailed *Decision* promulgated on 17 September 2012 and *HRET Resolution No. 12-209* dated 15 October 2012 as NULL AND VOID and/or to REVERSE OR SET ASIDE the issuances for having been issued with grave abuse of discretion amounting to lack of or in excess of jurisdiction;
- ii. for the WRIT OF PROHIBITION to enjoin and prohibit the Public Respondent HRET from implementing the assailed *Decision* promulgated on 17 September 2012 and *HRET Resolution No. 12-209* dated 15 October 2012;
- iii. to NULLIFY the proclamation of private respondent Lagdameo;
- iv. to DECLARE and PROCLAIM petitioner Locsin as the duly elected Representative of the First District of Makati City having received the HIGHEST NUMBER OF VALID VOTES during the May 10, 2010 elections.³

Petitioner Locsin and private respondent Lagdameo, along with three other candidates, vied for the position to represent the First Legislative District of Makati in the 2010 national elections. Respondent Lagdameo was proclaimed winner by the City Board of Canvassers on 11 May 2010 garnering 42,102 votes. Petitioner came in second with 41,860 votes or a losing margin of 242 votes.⁴

¹ CONSTITUTION, Art. VI, Sec. 17. Emphasis supplied.

² *Dueñas v. HRET*, G.R. No. 191550, May 4, 2010, 620 SCRA 78, 80.

³ *Rollo*, pp. 63 – 64.

⁴ *Id.* at 69.

On 21 May 2010, petitioner Locsin instituted an election protest before the HRET impugning the election results in all 233 clustered precincts in Makati's First District.⁵ Petitioner alleged that the results were tainted by election fraud, anomalies, and irregularities. On 2 July 2010, Lagdameo filed her *Answer with Counter-Protest* questioning the results in 123 clustered precincts.

During the preliminary conference, Locsin designated 59 clustered precincts as the pilot precincts for her protest while Lagdameo designated 31 clustered precincts as the pilot precincts for her counter-protest. The revision/recount proceedings for 59 clustered precincts covering 25% of the pilot protested precincts were conducted from 14 April 2011 to 19 April 2011. Thereafter, petitioner presented her documentary evidence. By *Resolution No. 11-268*, the HRET admitted in evidence all documentary exhibits offered by petitioner subject to the Comment/Objections of private respondent.

Lagdameo's winning margin increased from 242 to 265 votes after the revision and appreciation of ballots in 25% of the pilot protested precincts.⁶ Nevertheless, HRET through the 1 December 2011 Resolution continued the revision proceedings to clear all doubts surrounding the victory of private respondent. Revision proceedings covered the remaining 174 clustered precincts from 18 January 2012 to 31 January 2012.

Petitioner Locsin continued her presentation of additional documentary exhibits. By *Resolution No. 12-061* dated 8 March 2012, the HRET admitted the exhibits subject to private respondent's Comment/Opposition filed on 27 February 2012.

Private respondent Lagdameo presented her evidence for the counter-protested precincts. By *Order* dated 27 April 2012, the HRET admitted all exhibits subject to the Comment/Opposition filed by petitioner on 24 April 2012.

After the parties filed their respective memoranda, the HRET promulgated on 17 September 2012 the assailed *Decision*⁷ dismissing petitioner's election protest, the dispositive portion of which reads:

WHEREFORE, for failure to show a reasonable recovery of votes, this election protest is **DISMISSED** and the proclamation of protestee Monique Yazmin Maria Q. Lagdameo as the duly elected

⁵ Id. at 114-135.

⁶ Id. at 109 and 575.

⁷ HRET Decision dated September 17, 2012. *Rollo*, pp. 68-110.

Representative of the First Legislative District of Makati City in the May 10, 2010 Automated National and Local Elections is **AFFIRMED**.⁸

The HRET discussed in detail the results of the recount and its appreciation of the contested ballots.⁹ The results showed that Lagdameo's proclamation margin of 242 votes increased to 265 votes after revision proceedings in the 25% pilot protested clustered precincts. The margin rose to 335 votes after the revision and appreciation of ballots in the remaining precincts.¹⁰ On the allegations of fraud and election irregularities, respondent tribunal found no compelling evidence that may cast doubt on the credibility of the results generated by the Precinct Count Optical Scan (PCOS) electronic system.¹¹

The HRET also denied with finality petitioner's motion for reconsideration by *Resolution No. 12-209* dated 15 October 2012.¹²

On 16 November 2012, Locsin filed the present petition on the ground that public respondent HRET committed grave abuse of discretion amounting to lack or excess of jurisdiction when:

1. it promulgated the assailed *Decision* on 17 September 2012 dismissing the election protest filed by the petitioner on the basis of the erroneous appreciation of the petitioner's contested and claimed ballots.
2. it issued the assailed *Resolution No. 12-209* dated 15 October 2012 denying with finality the motion for reconsideration filed by the petitioner despite the presence of substantial grounds for the reconsideration of the assailed 17 September 2012 *Decision*.
3. it resolved to admit the 2,455 ballots of the private respondent despite the valid, legitimate and substantial objections of the petitioner.
4. it resolved to deny the 471 claimed ballots of the petitioner despite the existence of bona fide and compelling grounds for their admission.¹³

⁸ Id. at 110.

⁹ Id. at 89 – 106.

¹⁰ Id. at 109.

¹¹ Id.

¹² Id. at 113.

¹³ *Rollo*, pp. 12-13.

Locsin alleged that the HRET committed grave abuse of discretion when it ignored the presence of 2,457 invalid, irregular, and rejectible ballots for Lagdameo and 663 bona fide claimed ballots for petitioner.¹⁴ Specifically, only two of the 2,457 contested ballots were rejected by the HRET, and only 192 of the 663 ballots claimed by petitioner were admitted by the HRET.¹⁵ Petitioner argued that a re-examination of the private respondent's ballots would show that markings were placed intentionally for identification, and the ballots should have been rejected. Those which contained shadings below the 50% threshold should have been rejected also.

In its Comment, public respondent argued that under the Constitution, the HRET alone shall have the authority to determine the form, manner, and conduct by which an election controversy is settled and decided with no further appeal.

For its part, private respondent Lagdameo argued that the HRET's rulings on the recount, revision and appreciation of objected and claimed ballots are in accord with law and evidence.¹⁶

The sole issue in the present petition is whether the HRET committed grave abuse of discretion in dismissing petitioner's election protest.

Article VI, Section 17 of the Constitution provides that the HRET shall be the "*sole judge* of all contests relating to the election, returns, and qualifications of their respective members."¹⁷ As this Court held in *Lazatin v. House of Representatives Electoral Tribunal*¹⁸:

The use of the word "sole" emphasizes the exclusive character of the jurisdiction conferred. The exercise of the power by the Electoral Commission under the 1935 Constitution has been described as "intended to be as complete and unimpaired as if it had remained originally in the legislature." Earlier, this grant of power to the legislature was characterized by Justice Malcolm "as full, clear and complete." Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution.¹⁹

Thus, this Court's jurisdiction to review HRET's decisions and orders is exercised only upon showing that the HRET acted with grave abuse of

¹⁴ Id. at 14.

¹⁵ Id. at 15.

¹⁶ Id. at 538.

¹⁷ Emphasis supplied.

¹⁸ 250 Phil. 390 (1988).

¹⁹ Id. at 399-340, citing *Angara v. Electoral Commission*, 63 Phil. 139 (1936).

discretion amounting to lack or excess of jurisdiction.²⁰ Otherwise, this Court shall not interfere with the HRET's exercise of its discretion or jurisdiction.²¹ "Grave abuse of discretion" has been defined as the capricious and whimsical exercise of judgment, the exercise of power in an arbitrary manner, where the abuse is so patent and gross as to amount to an evasion of positive duty.²²

Time and again, this Court has held that mere abuse of discretion is not enough.²³ It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.²⁴

In the present case, we find no grave abuse of discretion on the part of public respondent HRET when it dismissed petitioner's election protest.

Public respondent HRET conducted a revision and appreciation of all the ballots from all the precincts. This was done despite the fact that results of initial revision proceedings in 25% of the precincts increased the winning margin of private respondent from 242 to 265 votes. Out of due diligence and to remove all doubts on the victory of private respondent, the HRET directed continuation of revision proceedings. This was done despite the dissent of three of its members, representatives Franklin P. Bautista, Rufus B. Rodriguez, and Joselito Andrew R. Mendoza. The three voted "for the dismissal of the instant election protest without further proceedings for lack of reasonable recovery of votes in the pilot protested clustered precincts."²⁵

Thus, in reaching the assailed decision, the HRET took pains in reviewing the validity or invalidity of each contested ballot with prudence. This is evident from the decision's ballot enumeration specifying with concrete basis and clarity the reason for its denial or admittance.²⁶ The results, as well as the objections, claims, admissions, and rejections of ballots were explained sufficiently and addressed by the HRET in its *Decision*.

²⁰ CONSTITUTION, Art. VIII, Sec. 1.

²¹ *Dueñas v. HRET*, supra note 2.

²² *Id.* at 80.

²³ *Tañada v. Angara*, 338 Phil. 546, 604 (1997), citing *San Sebastian College v. CA*, 197 SCRA 138 (1991); *Commissioner of Internal Revenue v. CTA*, 195 SCRA 444, 458 (1991); *Simon v. Civil Service Commission*, 215 SCRA 410, (1992); and *Bustamante v. Commissioner on Audit*, 216 SCRA 134, 136, (1992).

²⁴ *Id.* at 604.

²⁵ HRET Resolution dated 1 December 2011. *Rollo*, p. 597.

²⁶ HRET Decision dated 17 September 2012. *Rollo*, pp. 88 – 106.

In essence, this petition under Rule 65 seeks a re-examination by this Court of the contested ballots.

An inquiry as to the correctness of the evaluation of evidence is not within the ambit of the extraordinary remedy of *certiorari*.²⁷ “Where the court has jurisdiction over the subject matter, its orders upon all questions pertaining to the cause are orders within its jurisdiction, and however erroneous they may be, they cannot be corrected by *certiorari*.”²⁸ This rule applies to decisions by the HRET whose independence as a constitutional body has consistently been upheld by this Court.²⁹

Well settled also is the rule that the Supreme Court is not a trier of facts, and factual issues are beyond its authority to review.³⁰

In the absence of any showing of grave abuse of discretion by the HRET, there is no reason for this Court to annul respondent tribunal's decision or to substitute it with its own. As held by this Court in *Garcia vs. House of Representatives Electoral Tribunal*.³¹

[T]he Court has ruled that the power of the Electoral Commission ‘is beyond judicial interference except, in any event, upon a clear showing of arbitrary and improvident use of power as will constitute a denial of due process.’ The Court does not, to paraphrase it in *Co vs. HRET*,³² venture into the perilous area of correcting perceived errors of independent branches of the Government; it comes in only when it has to vindicate a denial of due process or correct an abuse of discretion so grave or glaring that no less than the Constitution itself calls for remedial action.³³

Petitioner's bare assertions of grave abuse of discretion by public respondent were not substantiated. Neither was there arbitrariness or use of power as to constitute denial of due process. In fact, petitioner was given several opportunities to present its evidence and raise its arguments. These were considered by public respondent that discussed meticulously its factual and legal bases in reaching its decision.³⁴

But still, to erase all lingering doubts, this Court looked into the contested ballots as summarized by Locsin in the petition.

²⁷ See *Garcia v. House of Representatives Electoral Tribunal*, 371 Phil. 280, 292 (1999)

²⁸ *Robles v. HRET*, 260 Phil. 831, 836 (1990).

²⁹ *Id.*

³⁰ *Sema v. HRET*, G.R. No. 190734, 616 SCRA 670, 681, March 26, 2010.

³¹ *Supra* note 28.

³² 199 SCRA 692 (1991).

³³ *Supra* note 28 at 287.

³⁴ *Rollo*, pp. 88 – 106.

I. Objected Ballots

Petitioner alleges that the HRET acted with grave abuse of discretion in rejecting only two (2) out of the 2,457 Lagdameo-identified ballots which were contested timely by petitioner during the judicial recount and revision proceedings. Petitioner claims that these ballots were marked ballots (MB), spurious ballots (SB), and miscellaneous/stray ballots (MISC/STRAY) which should have been rejected. The petition included tables enumerating the contested ballots, ground for their rejection and findings, and organized by *barangay* and clustered precinct number.³⁵ Petitioner’s findings are consolidated and summarized as follows:

No. of Ballots	Findings	Grounds
446	No BEI signature	SB
30	- No BEI signature - Signature affixed on lower left portion of the ballot deliberately done to mark the ballot	SB MB
13	No signature on the BEI Chairman’s signature box / No BEI Chairman’s signature	SB
3	The signature on the BEI Chairman’s signature box is different from the signature on the other election documents.	SB
1	Two different signatures written inside rectangle intended for BEI Chairman slot	MB
575	Different BEI signature	SB
1	-Different BEI signature - With distinctive “C” voting mark beside oval shape on candidate number “128” partylist deliberately	SB MB

³⁵ Id. at 16-28.

No. of Ballots	Findings	Grounds
	done to mark the ballot	
2	The signatures of these ballots are different from the rest of the ballots and from the signatures on the election documents.	SB
5	Different BEI signature affixed on the upper right portion of the ballot	MB
1	BEI signature affixed on president slot portion of ballot deliberately done to mark the ballot	MB
49	With distinctive voting marks written... deliberately done to mark the ballot	MB
1	Thumb print on the slot for <i>sangguniang panglungsod</i> no. 27 which serves no purpose other than to mark the ballot for identification.	MB
4	“X” mark drawn over the oval shape beside the pre-printed name “[different candidate],” which serves no purpose other than to mark the ballot for identification.	MB
5	Voter’s signature affixed ... deliberately done to mark the ballot.	MB
17	Oval shape beside pre-printed name “LAGDAMEO” are only shaded below 50% threshold required by the rules, hence, it should be stray.	MISC/STRAY
10	Oval shape beside pre-printed name “[different candidate],” [different	MISC/STRAY

No. of Ballots	Findings	Grounds
	<i>position</i>], is only shaded below 50% threshold required by the rules, hence, it should be stray.	
1	Oval shape beside pre-printed name of Lagdameo was crossed out, hence, it should be stray.	MISC/STRAY
1	Oval shape beside “[<i>different candidate</i>],” [<i>different position</i>], was slashed, hence, it should be stray.	MISC/STRAY

Petitioner argues that in election law, irrelevant expressions, impertinent figures, words or phrases, and unnecessary and identifying expressions nullify ballots. Petitioner cites Section 195 of the Omnibus Election Code which states that it shall be unlawful to apply “any distinguishing mark” or “make use of any other means to identify the vote of the voter.”³⁶ Petitioner also cites *Alfelor v. Fuentebella*,³⁷ which states that it is illegitimate practice to include in the ballot unnecessary writings that detract from the solemnity of the exercise of suffrage. The 1935 case of *Cecilio v. Tomacruz*³⁸ and the 1958 case of *Amurao v. Calangi*³⁹ were also cited saying that ballots containing impertinent, irrelevant, unnecessary words or expressions are null ballots with these markings serving no other purpose than to identify the ballot. Finally, petitioner cites the 1962 case of *Tajanlangit v. Cazen*⁴⁰ indicating that ballots containing the signature of voters shall be invalidated.⁴¹

The cardinal objective in ballot appreciation is to discover and give effect to, rather than frustrate, the intention of the voter.⁴² Extreme caution is observed before any ballot is invalidated and doubts are resolved in favor of the ballot’s validity.⁴³ Public respondent HRET was guided by this principle and the existing rules and rulings in its appreciation of the contested ballots.⁴⁴

³⁶ *Rollo*, p. 29.
³⁷ HRET Case No. 194 (1969).
³⁸ 62 Phil 689 (1935).
³⁹ 104 Phil 347 (1958).
⁴⁰ G.R. No. L-18894, 30 June 1962, 5 SCRA 567.
⁴¹ *Rollo*, p. 29.
⁴² *See Torres vs. House of Representatives Electoral Tribunal*, 404 Phil. 125, 142 (2001).
⁴³ *Silverio v. Castro*, 125 Phil. 917, 925 (1967).
⁴⁴ HRET Decision, *Rollo*, p 91.

Ballots with an *Ambiguous Vote* have a mark that is allegedly neither a definite vote nor a non-vote. This may happen if the mark is too light or the voter inadvertently made a small mark inside the oval or other similar cases. The tribunal determined whether the voter clearly intended to draw the mark or if this was made inadvertently. On this ground, the HRET admitted all 250 ballots objected by petitioner in favor of Lagdameo. On the other hand, the HRET admitted all 439 ballots objected by Lagdameo and containing a definite vote for petitioner.

Marked Ballots contain a mark intentionally written or placed by the voter for the purpose of identifying the ballot or the voter. In *Cailles v. Gomez*,⁴⁵

The distinguishing mark which the law forbids to be placed in the ballots is that which the elector may have placed with the intention of facilitating the means of identifying said ballot, for the purpose of defeating the secrecy of the suffrage which the law establishes. As this is a question of fact, it should be resolved with the ballot itself in view.⁴⁶

Marks made by the voter unintentionally do not invalidate the ballot.⁴⁷ Neither do marks made by some person other than the voter.⁴⁸

Moreover, the Omnibus Election Code provides explicitly that every ballot shall be presumed valid unless there is clear and good reason to justify its rejection.⁴⁹ Unless it should clearly appear that they have been deliberately put by the voter to serve as identification marks, commas, dots, lines, or hyphens between the first name and surname of a candidate, or in other parts of the ballot, traces of the letter "T", "J", and other similar ones, the first letters or syllables of names which the voter does not continue, the use of two or more kinds of writing and unintentional or accidental flourishes, strokes, or strains, shall not invalidate the ballot.⁵⁰

On the premise that the alleged markings in the ballots, i.e., “/” “)” and other similar marks do not qualify to identify the ballot, the HRET admitted as not marked the 381 ballots objected by petitioner in favor of Lagdameo. On the other hand, the HRET admitted as not marked 4,562 ballots objected by Lagdameo in favor of petitioner. Only one (1) ballot for petitioner was rejected while only two (2) ballots for Lagdameo were rejected for being marked.

⁴⁵ 42 Phil. 496 (1921).

⁴⁶ Id. at 533.

⁴⁷ Id.

⁴⁸ *Tajanlangit v. Cazeñas*, 5 SCRA 567, 579 (1962).

⁴⁹ Omnibus Election Code, Sec. 211.

⁵⁰ Id. at Sec. 211 (22).

Petitioner objected to most of the ballots on the ground that these were *Spurious* or *Substituted* ballots. These are ballots that allegedly do not contain the signature of the Chairperson of the Board of Election Inspectors (BEI) at the designated space or the signature is allegedly different from the BEI Chairperson's signature appearing on other election documents.

In *Punzalan v. Comelec*,⁵¹ this Court held that "[i]t is a well-settled rule that the failure of the BEI chairman or any of the members of the board to comply with their mandated administrative responsibility, *i.e.*, signing, authenticating and thumbmarking of ballots, should not penalize the voter with disenfranchisement, thereby frustrating the will of the people."⁵² The consistent rule is that a ballot is considered valid and genuine when it bears any one of the following authenticating marks: (a) the COMELEC watermark or (b) the signature or initials or thumbprint of the Chairman of the BEI; and (c) in those cases where the COMELEC watermarks are blurred or not readily apparent to the naked eye, the presence of red and blue fibers in the ballots.⁵³

In this case, ultra-violet (UV) lamps were used to confirm the presence of the UV code or seal placed as security markings at the upper center of the automated ballots.⁵⁴ This UV code or seal was inserted to identify ballots that were cast and fed to the PCOS machines. The HRET found these ballots authentic and admitted as valid the 1,808 ballots objected by petitioner and favoring Lagdameo. On the other hand, the HRET admitted 1,905 ballots objected by Lagdameo and favoring Locsin.

Ballots with an *Over-Voting* count occur when a voter shaded more than two or more ovals pertaining to two or more candidates for representative. The HRET admitted 10 ballots in favor of Lagdameo owing to the untenability of the objections raised. On the other hand, all 597 ballots in favor of petitioner Locsin were admitted.

Lastly, the HRET found without merit objections made on miscellaneous grounds and admitted one (1) ballot for petitioner and four (4) ballots for Lagdameo.⁵⁵

This Court finds no grave abuse of discretion by the HRET in its findings after HRET's careful review of the objected ballots and guided by existing principles, rules and rulings on its appreciation.

⁵¹ 352 Phil. 538 (1998).

⁵² Id. at 551.

⁵³ *Libanan v. HRET*, 347 Phil. 797, 813 (1997).

⁵⁴ *Rollo*, p. 98.

⁵⁵ Id. at 101.

II. Claimed Ballots

Petitioner also alleged that the HRET acted with grave abuse of discretion in admitting only 192 out of the 663 stray, common or PCOS-rejected ballots claimed timely and duly by the petitioner during the judicial recount and revision proceedings. The petition included tables enumerating the contested ballots, ground for their rejection and findings, organized by *barangay* and clustered precinct number.⁵⁶ Petitioner’s findings are consolidated and summarized as follows:

Number of Ballots	Findings
1	The names of LAGDAMEO and LOCSIN are both shaded but the shading for LAGDAMEO is more prominent.
3	Oval shape beside pre-printed name “LOCSIN, LAGDAMEO” was shaded, the voter’s intention is to vote for “LOCSIN” as Congressman.
17	The shaded oval beside the name “LOCSIN MARIA LOURDES” is clear and more pertinent as compared to the other candidate. The intention of the voter is clear to vote for “LOCSIN” for representative.
427	Oval shape beside pre-printed name “LOCSIN...” was shaded, the intention of the voter is to vote for LOCSIN as Congressman.
15	Oval shape beside pre-printed name “LOCSIN” was shaded, the intention of the voter is to vote for “LOUIE LOCSIN” as Congressman.
2	Oval shape beside pre-printed name “BARBERS, IBAY, LOCSIN” was shaded, the intention of the voter is to vote for “LOCSIN” for Congressman.
1	Oval shape beside pre-printed name “BARBERS, LOCSIN” was shaded, the intention of the voter is to vote for “LOCSIN” as Congressman.
4	Oval shape beside pre-printed name “BARBERS, IBAY, CARBONFIL, LAGDAMEO, LOCSIN” was shaded, the intention of the voter is to vote for “LOCSIN” as Congressman.
1	Oval shape beside pre-printed name “LOCSIN, MARIA LOURDES B. “LOUIE” was shaded 60% by semi-illiterate voter, other entries shaded on the ballot done by another person, the intention of voter to vote for

⁵⁶ Rollo, pp. 31-61.

Number of Ballots	Findings
	“LOCSIN”.
2	Ballot is clean and no reported incident in the MOV. Therefore, the voter’s intention to vote for “LOCSIN MARIA LOURDES” for representative of the 1 st district of Makati should not be disenfranchised.
1	Oval shape beside pre-printed name “LOCSIN” was shaded, the voter’s intention is to vote for LOCSIN as Congressman. (“One and more ambiguous mark” was written on the ballot.)
2	Oval shape beside pre-printed name “LOCSIN” was shaded, the intent of voter is to vote for LOCSIN as Congressman. (The ballots were marked “Rejected” signed by the BEI Chairman.)

The HRET discussed in the assailed decision that under the 2010 automated election system, parties’ claims are now limited to the applicability of the intent rule. This requires compliance with the following conditions: (a) only the oval beside the name of the claimant is shaded or marked; (b) the ballot belongs to the clustered precinct concerned; (c) the ballot is not marked; and (d) the ballot is authentic.⁵⁷

The HRET applied this rule on its appreciation of the claimed ballots. For *Stray* ballots, the tribunal admitted two (2) ballots out of the 451 stray ballots claimed by petitioner and in fact admitted only one (1) out of the 606 stray ballots claimed by Lagdameo. For *PCOS Machine-Rejected* ballots, these may still be admissible for the claimant provided that upon physical examination, the four requisites for the applicability of the intent rule are present. The HRET admitted 190 claimed ballots in favor of petitioner and 191 in favor of Lagdameo.

The final results of the appreciation of contested ballots were summarized by respondent tribunal as follows:⁵⁸

Objected Ballots				
OBJECTION BASIS	LOCSIN		LAGDAMEO	
	Admitted	Rejected	Admitted	Rejected
Ballots with an Ambiguous	439	0	250	0

⁵⁷ Rollo, p. 102.
⁵⁸ Id. at 106.

Vote				
Ballots Shaded by More than One Person	1,118	0	0	0
Ballots Objected as Marked	4,562	(1)	381	(2)
Ballots with Pattern Voting	10,625	0	0	0
Spurious / Substituted Ballots	1,905	0	1,808	0
Ballots with an Over-Voting Count	597	0	10	0
Combination of Grounds	0	0	2	0
Miscellaneous Grounds	1	(1)	4	0
No Stated Objection	1	0	0	0
TOTAL	19,248	(2)	2,455	(2)

Claimed Ballots				
CLAIM BASIS	LOCSIN		LAGDAMEO	
	Admitted	Denied	Admitted	Denied
Stray Ballots	2	(449)	1	(605)
PCOS Machine-Rejected Ballots	190	(22)	191	(11)
TOTAL	192	(471)	192	(616)

The HRET did not act with grave abuse of discretion when it in fact applied meticulously the existing rules and rulings on the ballot appreciation for the objected and claimed ballots made by both parties.

Clearly, Lagdameo received 42,484 votes. Locsin, on the other hand, received 42,149 votes.

WHEREFORE, the instant petition is **DISMISSED** for lack of merit. The *Decision* promulgated on 17 September 2012 and *HRET Resolution No. 12-209* dated 15 October 2012 are **AFFIRMED**.

SO ORDERED.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



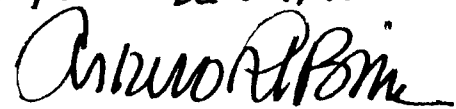
ANTONIO T. CARPIO
Associate Justice

(no part due to HRET participation)
PRESBITERO J. VELASCO, JR.
Associate Justice

No part due to HRET participation



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



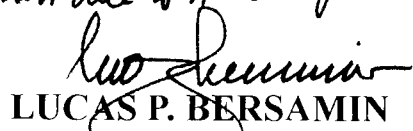
ARTURO D. BRION
Associate Justice

No part due to HRET participation



DIOSDADO M. PERALTA
Associate Justice

No part due to HRET participation



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



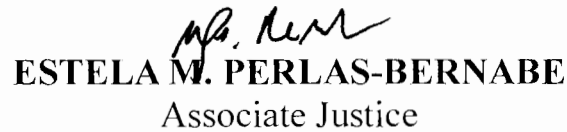
ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

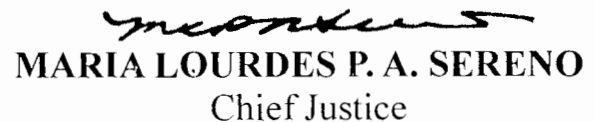

JOSE CATRAL MENDOZA
Associate Justice

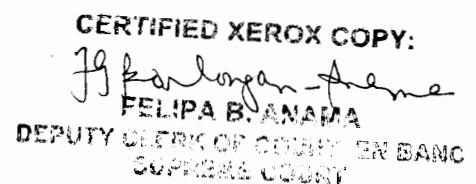

BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision 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

CERTIFIED XEROX COPY:

FELIPA B. ANAMA
DEPUTY CLERK OF COURT EN BANC
SUPREME COURT