



**Republic of the Philippines
Supreme Court
Manila**

EN BANC

**VICE-MAYOR MARCELINA S.
ENGLE,**

Petitioner,

G.R. No. 215995

Present:

SERENO, C.J.,
CARPIO,
VELASCO,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.

- versus -

**COMMISSION ON ELECTIONS
EN BANC and WINSTON B.
MENZON,**

Respondents.

Promulgated:

January 19, 2016

X-----*[Signature]*-----X

DECISION

LEONARDO-DE CASTRO, J.:

Challenged in this petition for *certiorari* and prohibition under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure is the Resolution¹ of the Commission on Elections (COMELEC) *En Banc* dated January 20, 2015 which upheld the Resolution² of the COMELEC Second Division dated July 5, 2013, denying due course to and/or cancelling petitioner's certificate of candidacy; annulling her proclamation as the duly-elected Vice-Mayor of Babatngon, Leyte; and proclaiming private respondent in her stead.

Petitioner and private respondent vied for the position of Vice-Mayor of the Municipality of Babatngon, Province of Leyte in the May 13, 2013

* On leave.
1 Rollo, pp. 42-54.
2 Id. at 55-68.

[Handwritten initials]

Automated Synchronized National, Local and ARMM Regional Elections (the May 13, 2013 Elections, for brevity). Petitioner's late husband, James L. Engle, was originally a candidate for said contested position; however, he died of cardiogenic shock on February 2, 2013.³ Due to this development, petitioner filed her certificate of candidacy⁴ on February 22, 2013 as a substitute candidate for her deceased spouse.

In response, private respondent filed, on February 25, 2013, a Petition to Deny Due Course and/or Cancel the Certificate of Candidacy⁵ (COC) of petitioner arguing in the main that the latter misrepresented that she is qualified to substitute her husband, who was declared an independent candidate by the COMELEC. It would appear that James L. Engle's Certificate of Nomination and Acceptance (CONA) was signed by Lakas Christian Muslim Democrats (Lakas-CMD) Leyte Chapter President, Ferdinand Martin G. Romualdez (Romualdez). However, Lakas-CMD failed to submit to the COMELEC Law Department the authorization of Romualdez to sign the CONAs of Lakas-CMD candidates in Babatngon as prescribed by Section 6(3) of COMELEC Resolution No. 9518. Thus, the COMELEC Law Department considered all Lakas-CMD candidates whose CONAs were signed by Romualdez as independent candidates.⁶ For this reason, private respondent charged petitioner with violation of Section 15, COMELEC Resolution No. 9518 which disallows the substitution of an independent candidate. He argued that petitioner's declaration that she was a member of the political party, Lakas-CMD, was intended to deceive the electorate that she was qualified to substitute her husband. Additionally, private respondent claimed that "[t]he false representation of the [petitioner] that she is qualified for public office consisted of a deliberate attempt to mislead, misinform, or hide a fact that would otherwise render a candidate ineligible."⁷

In petitioner's Verified Answer,⁸ she countered that: (1) the ground relied upon in private respondent's petition was not the ground contemplated by Section 1, Rule 23 of COMELEC Resolution No. 9523; (2) the COMELEC did not issue an official declaration that petitioner's husband was an independent candidate; and (3) James L. Engle's CONA was signed by an authorized person acting on behalf of LAKAS-CMD.

With regard to her first counter-argument, petitioner posited that, under Section 1, Rule 23 of COMELEC Resolution No. 9523, the exclusive ground for denial or cancellation of a COC is the falsity of a material representation contained therein that is required by law. Private respondent's assertion that petitioner's statement in her COC regarding her affiliation with a political party was such a false representation is "absurd" considering

³ Id. at 78-79.

⁴ Id. at 81.

⁵ Id. at 69-76.

⁶ Id. at 145-146.

⁷ Id. at 72.

⁸ Id. at 86-96.

that her CONA was signed by Senator Ramon “Bong” Revilla, Jr. and Mr. Raul L. Lambino, President and Senior Deputy Secretary-General of Lakas-CMD, respectively. Assuming the veracity of private respondent’s allegations, his contention that petitioner is disqualified to run as a substitute is not a proper subject of a petition to deny due course or to cancel a COC. The qualification or disqualification of a candidate is allegedly covered by Sections 12, 68, 69 and 78 of the Omnibus Election Code. In petitioner’s view, the petition to cancel her COC is dismissible according to the second paragraph of Section 1 of COMELEC Resolution No. 9523 which provides that “[a] petition to Deny Due Course to or Cancel Certificate of Candidacy invoking grounds other than those stated above or grounds for disqualification, or combining grounds for a separate remedy, shall be summarily dismissed.”

As for petitioner’s counter-arguments on the substantive issues, she contended that there was no official declaration from the COMELEC that her deceased husband was an independent candidate. Private respondent’s reliance on a mere print out of the COMELEC website listing her husband as an independent candidate was misplaced as the same cannot be considered authoritative as opposed to official documents that showed James L. Engle’s nomination by Lakas-CMD and his acceptance of said nomination to run for the position of Vice-Mayor of Babatngon, Leyte under the banner of Lakas-CMD. Moreover, petitioner stressed that Romualdez was authorized to sign James L. Engle’s CONA. She attached to her Verified Answer a copy of the Authority to Sign Certificates of Nomination and Acceptance dated September 11, 2012 which was signed by Ramon “Bong” Revilla, Jr. (National President) and Jose S. Aquino II (Secretary-General) of Lakas-CMD in favor of Romualdez.

The petition to deny due course or cancel petitioner’s COC was still pending with the COMELEC Second Division when the May 13, 2013 Elections were held. James L. Engle’s name remained on the ballot. On May 15, 2013, the Municipal Board of Canvassers issued a certificate of canvass of votes and proclamation of winning candidates for Babatngon Mayor and Vice-Mayor⁹ wherein petitioner was declared as the duly-elected Vice-Mayor of Babatngon, Leyte. Petitioner was credited with the Six Thousand Six Hundred Fifty Seven (6,657) votes cast for her husband as against private respondent’s Three Thousand Five Hundred Fifteen (3,515) votes.¹⁰

It was only on July 5, 2013 did the COMELEC Second Division promulgate the assailed Resolution which denied due course to and cancelled petitioner’s COC resulting in the annulment of petitioner’s previous proclamation as duly-elected Vice-Mayor of Babatngon, Leyte and the declaration of private respondent as winner of the contested position. The dispositive portion of the July 5, 2013 Resolution is reproduced here:

⁹ Records, p. 134.

¹⁰ *Rollo*, p. 44.

WHEREFORE, premises considered, this Commission hereby **RESOLVES** to **DENY DUE COURSE** to and/or **CANCEL** the Certificate of Candidacy filed by Respondent **MARCELINA S. ENGLE** for the position of Vice-Mayor of Babatngon, Leyte, for the 13 May 2013 National and Local Elections. Moreover, Respondent **MARCELINA S. ENGLE**'s proclamation as the duly-elected Vice-Mayor of Babatngon, Leyte is hereby **ANNULLED**. Accordingly:

1. The Executive Director is ordered to constitute a Special Municipal Board of Canvassers for the municipality of Babatngon, Leyte; and
2. The Special Municipal Board of Canvassers is ordered to immediately notify the parties, reconvene and proclaim Petitioner **WINSTON B. MENZON** as the duly-elected Vice-Mayor of Babatngon, Leyte.

Let the Executive Director implement this Resolution.¹¹

According to the COMELEC Second Division, the substitution of petitioner as a candidate in place of her deceased husband for the position of Vice-Mayor of Babatngon, Leyte was not a material misrepresentation which may be a ground for cancellation of her COC under Section 78, in relation to Section 74, of the Omnibus Election Code (OEC). Citing jurisprudence, the COMELEC Second Division ruled that the false representation contemplated under the law refers to a material fact affecting a candidate's qualification for office such as citizenship or residence.

Despite the foregoing finding, the COMELEC Second Division nonetheless found sufficient basis to cancel petitioner's COC on the ground that she could not have validly substituted her husband, who was deemed an independent candidate for failure of Lakas-CMD to submit to the COMELEC Law Department Romualdez's authority to sign CONAs for and on behalf of the party on or before October 1, 2012 in violation of Section 6 (3) of COMELEC Resolution No. 9518. The COMELEC Second Division noted that the purported authorization of Romualdez to sign CONAs for Lakas-CMD candidates in Leyte was belatedly submitted in connection with the proceedings on the petition to deny due course to, or cancel petitioner's COC.

Finally, on the point on who should be declared the winning candidate for the position of Vice-Mayor of Babatngon, the COMELEC Second Division held that private respondent, the second placer, should be declared the winner in line with jurisprudence stating that if the COC of the winning candidate is void *ab initio* then the votes of the disqualified or ineligible candidate should be considered stray.

¹¹ Id. at 63-64.

Aggrieved, petitioner moved for reconsideration of the aforementioned ruling of the COMELEC Second Division with the COMELEC *En Banc*. However, the latter tribunal denied petitioner's plea in the assailed January 20, 2015 Resolution, the dispositive portion of which reads:

WHEREFORE, premises considered, the Motion for Reconsideration is **DENIED** for **LACK OF MERIT**. The Resolution of the Commission (*Second Division*) is **AFFIRMED**.¹²

Appealing now to this Court for relief, petitioner offers the following arguments in support of her petition:

I

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED THE PETITION FILED BY MENZON DESPITE ITS FINDING THAT ENGLE DID NOT COMMIT ANY MATERIAL MISREPRESENTATION IN HER CERTIFICATE OF CANDIDACY.

II

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED THE PETITION FILED BY MENZON EVEN THOUGH NO LEGAL GROUND EXISTS TO DENY DUE COURSE TO OR CANCEL ENGLE'S CERTIFICATE OF CANDIDACY GIVEN THE ABSENCE OF MATERIAL MISREPRESENTATION IN THIS CASE.

III

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED DUE COURSE TO AND CANCELLED PETITIONER'S CERTIFICATE OF CANDIDACY EVEN THOUGH THE PETITION FILED BY MENZON IS CLEARLY THE WRONG LEGAL REMEDY TO ASSAIL THE SUPPOSED INVALIDITY OF PETITIONER'S SUBSTITUTION THUS VIOLATING ENGLE'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

IV

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DECLARED THAT ROMUALDEZ HAS NO AUTHORITY TO SIGN THE CONA OF LAKAS-CMD'S CANDIDATES IN LEYTE.

¹² Id. at 53.

V

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED THE PETITION FILED BY MENZON AND PENALIZED THE PETITIONER FOR AN OMISSION DONE BY ANOTHER PARTY AS THIS RUN CONTRARY TO THE PRINCIPLE OF *RES INTER ALIOS ACTA*.

VI

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DECLARED THAT PETITIONER ENGLE CANNOT VALIDLY SUBSTITUTE HER DECEASED HUSBAND, JAMES L. ENGLE, AS THE LAKAS-CMD CANDIDATE FOR THE POSITION OF VICE-MAYOR OF BABATNGON, LEYTE.

VII

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISREGARDED AND BYPASSED THE WILL OF THE ELECTORATE BY IGNORING THE OVERWHELMING AND PROMINENT NUMBER OF VOTES OBTAINED BY ENGLE DURING THE RECENTLY CONCLUDED MAY 13, 2013 NATIONAL AND LOCAL ELECTIONS.

VIII

PUBLIC RESPONDENT COMELEC *EN BANC* AND ITS *SECOND DIVISION* ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ORDERED THE PROCLAMATION OF MENZON, THE CANDIDATE WHO OBTAINED THE SECOND HIGHEST NUMBER OF VOTES, FOR THE POSITION OF VICE-MAYOR OF BABATNGON, LEYTE.¹³

During the pendency of this petition, the COMELEC *En Banc* issued on February 3, 2015 a Writ of Execution¹⁴ in SPA Case No. 13-232 (DC) (F) in response to a motion filed by private respondent which set the stage for the immediate implementation of the assailed COMELEC Resolutions which are the subject matter of this case.

On February 26, 2015, the COMELEC filed its Comment¹⁵ wherein it raised the following counter-arguments:

¹³ Id. at 14-16.

¹⁴ Id. at 190-193.

¹⁵ Id. at 207-225.

I.

THE NAME AND SPECIMEN SIGNATURES OF THE PARTY OFFICIAL AUTHORIZED TO SIGN THE CONA SHOULD BE TRANSMITTED TO THE COMELEC WITHIN THE PERIOD PROVIDED IN RESOLUTION NO. [9518].

II.

POLITICAL PARTIES AND THE CANDIDATES THEMSELVES KNEW OF RESOLUTION NO. 9518 AS IT WAS THE GUIDELINES PROMULGATED FOR THE CONDUCT OF THE MAY 2013 NATIONAL AND LOCAL ELECTIONS.

III.

OTHER CANDIDATES WERE SIMILARLY DEEMED INDEPENDENT CANDIDATES FOR FAILURE TO COMPLY WITH RESOLUTION NO. 9518.

IV.

THE PROSCRIPTION AGAINST THE SUBSTITUTION OF AN INDEPENDENT CANDIDATE WHO DIES PRIOR TO THE ELECTION IS A LEGAL PRINCIPLE.

V.

PETITIONER COULD NOT BE VOTED FOR IN THE MAY 2013 NATIONAL AND LOCAL ELECTIONS.

VI.

PETITIONER WAS NOT DENIED DUE PROCESS WHEN HER COC WAS CANCELLED BY THE COMELEC.

VII.

NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY COMELEC IN CANCELLING PETITIONER'S COC.¹⁶

Private respondent likewise filed his Comment/Opposition¹⁷ on March 17, 2015. In his pleading, private respondent identified the following issues that should be resolved in this case:

- I. Whether or not petitioner Engle can validly substitute for her late husband James Engle who was an independent candidate for Vice-Mayor of Babatngon, Leyte;
- II. Whether or not private respondent (sic) the Commission En Banc erred in ordering the proclamation of private respondent Menzon as the candidate who obtained the second highest number of votes, for the position of Vice-Mayor of Babatngon, Leyte;

¹⁶ Id. at 212-213.

¹⁷ Id. at 228-244.

- III. Whether or not the Commission En Banc erred in granting private respondent's Petition in the absence of a finding of material misrepresentation of this case; [and]
- IV. Whether or not petitioner's prayer for issuance of temporary restraining order and/or status quo ante order and/or preliminary injunction is meritorious.¹⁸

From the parties' submissions, it is apparent that this case rests upon the resolution of the following core issues:

I

WHETHER OR NOT PETITIONER'S COC WAS VALIDLY CANCELLED BY THE COMELEC

II

WHETHER OR NOT PETITIONER CAN VALIDLY SUBSTITUTE HER HUSBAND JAMES L. ENGLE AFTER HIS UNEXPECTED DEMISE

III

WHETHER OR NOT PRIVATE RESPONDENT CAN BE VALIDLY PROCLAIMED AS VICE-MAYOR OF BABATNGON, LEYTE DESPITE HAVING PLACED ONLY SECOND IN THE MAY 13, 2013 ELECTIONS

We grant the petition.

Under Section 78 of the OEC, a petition to deny due course to, or cancel a COC may be filed on the exclusive ground of false material representation in said COC. For reference, we quote the full provision here:

Section 78. Petition to deny due course to or cancel a certificate of candidacy. – A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

Section 74 of the OEC in turn enumerates the items that should be stated in a COC, to wit:

Section 74. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component

¹⁸ Id. at 232.

cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.

Unless a candidate has officially changed his name through a court approved proceeding, a [candidate] shall use in a certificate of candidacy the name by which he has been baptized, or if has not been baptized in any church or religion, the name registered in the office of the local civil registrar or any other name allowed under the provisions of existing law or, in the case of a Muslim, his Hadji name after performing the prescribed religious pilgrimage: Provided, That when there are two or more candidates for an office with the same name and surname, each candidate, upon being made aware of such fact, shall state his paternal and maternal surname, except the incumbent who may continue to use the name and surname stated in his certificate of candidacy when he was elected. He may also include one nickname or stage name by which he is generally or popularly known in the locality.

The person filing a certificate of candidacy shall also affix his latest photograph, passport size; a statement in duplicate containing his bio-data and program of government not exceeding one hundred words, if he so desires.

Based on the letter of the foregoing provisions, we agree with the COMELEC Second Division finding, implicitly affirmed by the COMELEC *En Banc*, that there was no false material representation in petitioner's COC under Section 78, in relation to Section 74, of the OEC.

We quote with approval the following disquisition in the COMELEC Second Division's Resolution dated July 5, 2013:

The false representation which is a ground for a denial of due course to and/or cancellation of a candidate's COC refers to a material fact relating to the candidate's qualification for office such as one's citizenship or residence. Thus, citing *Salcedo II v. COMELEC* and *Lluz v. COMELEC*, the Supreme Court, in the case of [*Ugdoracion*], *Jr. v. COMELEC, et al.*, ruled as follows:

In case there is a material misrepresentation in the certificate of candidacy, the Comelec is authorized to deny due course to or cancel such certificate upon the filing of a petition by any person pursuant to Section 78. x x x.

x x x x

As stated in the law, in order to justify the cancellation of the certificate of candidacy under Section 78, it is essential that **the false representation mentioned therein pertain[s] to a material matter** for the sanction imposed by this provision would affect the substantive rights of a candidate the right to run for the elective post for which he filed the certificate of candidacy. Although the law does not specify what would be considered as a material representation, the court has interpreted this phrase in a line of decisions applying Section 78 of [B.P. 881].

X X X X

Therefore, it may be concluded that the material misrepresentation contemplated by Section 78 of the Code **refer[s] to qualifications for elective office**. This conclusion is strengthened by the fact that the consequences imposed upon a candidate guilty of having made a false representation in [the] certificate of candidacy are grave to prevent the candidate from running or, if elected, from serving, or to prosecute him for violation of the election laws. It could not have been the intention of the law to deprive a person of such a basic and substantive political right to be voted for a public office upon just any innocuous mistake.¹⁹

Undeniably, private respondent failed to demonstrate that petitioner made a false statement regarding her qualifications or concealed any disqualification for the office to which she sought to be elected in her COC to warrant its cancellation under Section 78.

The records also show that when petitioner's husband filed his certificate of candidacy on October 4, 2012 with the Office of the Election Officer in Babatngon, Leyte he clearly indicated therein that he was a nominee of Lakas-CMD and attached thereto not only the CONA signed by Romualdez but also the Authority to Sign Certificates of Nomination and Acceptance dated September 12, 2012 in favor of Romualdez signed by Lakas-CMD President Revilla and Lakas-CMD Secretary-General Aquino. In *Sinaca v. Mula*,²⁰ we held:

A certificate of candidacy is in the nature of a formal manifestation to the whole world of the candidate's political creed or lack of political creed. It is a statement of a person seeking to run for a public office certifying that he announces his candidacy for the office mentioned and that he is eligible for the office, the name of the political party to which he belongs, if he belongs to any, and his post-office address for all election purposes being as well stated.

¹⁹ Id. at 59.

²⁰ 373 Phil. 896, 908 (1999).

Verily, it was publicly known that James L. Engle was a member of Lakas-CMD. As far as the party and his wife were concerned, James L. Engle, as a member of Lakas-CMD, may be substituted as a candidate upon his death. There was no evidence on record that the party or petitioner had notice or knowledge of the COMELEC's classification of James L. Engle as an independent candidate prior to February 22, 2013 when petitioner filed her COC as a substitute for her deceased husband. The only document in the record indicating that Lakas-CMD had been notified of James L. Engle's designation as an independent candidate is the Letter dated March 21, 2013 sent by the COMELEC Law Department to Romualdez²¹ stating that James L. Engle was declared an independent candidate due to the failure of Lakas-CMD to submit the authority of Romualdez to sign James L. Engle's CONA to the Law Department as required under Section 6(3) of COMELEC Resolution No. 9518 and in view thereof petitioner's COC as her husband's substitute was denied due course.

First, the COMELEC Law Department's "ruling" was issued only after the filing of petitioner's COC. Second, with respect to the denial of due course to James L. Engle's COC as a nominee of Lakas-CMD and to petitioner's COC as his substitute, the COMELEC Law Department's letter is not binding and at most, recommendatory. It is settled in jurisprudence that the denial of due course or cancellation of one's COC is not within the administrative powers of the COMELEC, but rather calls for the exercise of its quasi-judicial functions.²² We have also previously held that the COMELEC, in the exercise of its adjudicatory or quasi-judicial powers, is mandated by the Constitution to hear and decide such cases first by Division and, upon motion for reconsideration, by the *En Banc*.²³ In resolving cases to deny due course to or cancel certificates of candidacy, the COMELEC cannot merely rely on the recommendations of its Law Department but must conduct due proceedings through one of its divisions.²⁴ Returning to the case at bar, the COMELEC Second Division only formally ruled on the status of James L. Engle as an independent candidate and the invalidity of petitioner's substitution on July 5, 2013, months after the May 13, 2013 Elections.

Under these premises, the COMELEC correctly did not cancel petitioner's COC on the ground of false material representation as there was none.

This brings us to the second issue. Despite finding that there was no false material representation in petitioner's COC, the COMELEC nonetheless cancelled the same on the ground of invalidity of petitioner's

²¹ Romualdez had previously sent a letter to the Municipal Election Officer of Babatngon, Leyte informing the latter of the death of James L. Engle and submitting the certificate of candidacy of petitioner as a substitute candidate. Romualdez's letter was forwarded by the Municipal Election Officer to the COMELEC Law Department.

²² *Cipriano v. Commission on Elections*, 479 Phil. 677, 690 (2004).

²³ *Cerafica v. Commission on Elections*, G.R. No. 205136, December 2, 2014.

²⁴ *Id.*

substitution for her husband as candidate for Vice-Mayor of Babatngon, Leyte. The COMELEC anchored its action on the fact that Romualdez's authority to sign James L. Engle's CONA was belatedly submitted and thus, the latter should be considered an independent candidate who cannot be substituted under Section 77²⁵ of the OEC and Section 15 of COMELEC Resolution No. 9518.²⁶

It is on this point that the Court sees fit to overturn the COMELEC's disposition of the present case.

The COMELEC relies heavily on Section 6 of COMELEC Resolution No. 9518, which reads:

Section 6. Filing of Certificate of Nomination and Acceptance of Official Candidates of a Political Party / Coalition of Political Parties. - The Certificate of Nomination and Acceptance (CONA) of the official candidates of the duly registered political party or coalition of political parties shall be, in five (5) legible copies, attached to and filed simultaneously with the Certificate of Candidacy. The CONA shall also be stamped received in the same manner as the Certificate of Candidacy.

The CONA, sample form attached, shall be duly signed and attested to under oath, either by the Party President, Chairman, Secretary-General or any other duly authorized officer of the

²⁵ Section 77 provides:

Sec. 77. Candidates in case of death, disqualification or withdrawal of another.
– If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, **only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died**, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate may be filed with any board of election inspectors in the political subdivision where he is a candidate, or, in the case of candidates to be voted for by the entire electorate of the country, with the Commission. (Emphasis supplied.)

²⁶ Section 15 of COMELEC Resolution No. 9518 provides:

Sec. 15. Substitution of Candidates in case of death, disqualification or withdrawal of another. - If after the last day for the filing of Certificates of Candidacy, an official candidate of a duly registered political party or coalition of political parties dies, withdraws or is disqualified for any cause, he may be substituted by a candidate belonging to, and nominated by, the same political party. **No substitute shall be allowed for any independent candidate.**

The substitute of a candidate who has withdrawn on or before December 21, 2012 may file his Certificate of Candidacy for the office affected not later than December 21, 2012, so that the name of the substitute will be reflected on the official ballots.

No substitution due to withdrawal shall be allowed after December 21, 2012.

The substitute for a candidate who died or is disqualified by final judgment, may file his Certificate of Candidacy up to mid-day of election day, provided that the substitute and the substituted have the same surnames.

If the death or disqualification should occur between the day before the election and mid-day of election day, the substitute candidate may file his Certificate of Candidacy with any Board of Election Inspectors in the political subdivision where he is a candidate, or in the case of a candidate for Senator, with the Law Department of the Commission on Elections in Manila, provided that the substitute and the substituted candidate have the same surnames. (Emphasis supplied.)

nominating party and shall bear the acceptance of the nominee as shown by his signature in the space provided therein.

For this purpose, all duly registered political parties or coalition of political parties shall, not later than October 1, 2012, submit to the Law Department, the names and specimen signatures of the authorized signatories of their official party nominations.

No duly registered political party or coalition of political parties shall be allowed to nominate more than the number of candidates required to be voted for in a particular elective position; otherwise, in such a situation, all of the nominations shall be denied due course by the Commission. (Emphases supplied.)

The Commission stressed that the belated filing of Romualdez's authority to sign James L. Engle's COC only in connection with the proceedings for cancellation of petitioner's own COC is fatal to petitioner's cause in view of the categorical directive in the above provision that said authority must be submitted to its Law Department on or before October 1, 2012.

This Court recognizes that the COMELEC is empowered by law to prescribe such rules so as to make efficacious and successful the conduct of elections.²⁷ However, it is a long standing principle in jurisprudence that rules and regulations for the conduct of elections are mandatory before the election, but when they are sought to be enforced after the election they are held to be directory only, if that is possible, especially where, if they are held to be mandatory, innocent voters will be deprived of their votes without any fault on their part.²⁸ Over time, we have qualified this doctrine to refer only to **matters of form** and cannot be applied to the substantial qualifications of candidates. This was discussed at length in *Mitra v. Commission on Elections*,²⁹ thus:

We have applied in past cases the principle that the manifest will of the people as expressed through the ballot must be given fullest effect; in case of doubt, political laws must be interpreted to give life and spirit to the popular mandate. Thus, we have held that *while provisions relating to certificates of candidacy are in mandatory terms, it is an established rule of interpretation as regards election laws, that mandatory provisions, requiring certain steps before elections, will be construed as directory after the elections, to give effect to the will of the people.*

Quite recently, however, we warned against a blanket and unqualified reading and application of this ruling, as it may carry dangerous significance to the rule of law and the integrity of our elections. For one, such blanket/unqualified reading may provide a way around the law that effectively negates election requirements aimed at providing the electorate with the basic information for an informed choice about a

²⁷ *Federico v. Commission on Elections*, G.R. No. 199612, January 22, 2013, 689 SCRA 134, 148.

²⁸ *Luna v. Rodriguez*, 39 Phil. 208, 214 (1918).

²⁹ 636 Phil. 753, 792-793 (2010); reiterated in *Jalover v. Osmeña*, G.R. No. 209286, September 23, 2014, 736 SCRA 267, 288.

candidate's eligibility and fitness for office. Short of adopting a clear cut standard, we thus made the following clarification:

We distinguish our ruling in this case from others that we have made in the past by the clarification that COC defects beyond matters of form and that involve material misrepresentations cannot avail of the benefit of our ruling that COC mandatory requirements before elections are considered merely directory after the people shall have spoken. A mandatory and material election law requirement involves more than the will of the people in any given locality. Where a *material COC misrepresentation under oath* is made, thereby violating both our election and criminal laws, we are faced as well with an assault on the will of the people of the Philippines as expressed in our laws. In a choice between provisions on material qualifications of elected officials, on the one hand, and the will of the electorate in any given locality, on the other, we believe and so hold that we cannot choose the electorate will.

Earlier, *Frialdo v. COMELEC* provided the following test:

[T]his Court has repeatedly stressed the importance of giving effect to the sovereign will in order to ensure the survival of our democracy. In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. **To successfully challenge a winning candidate's qualifications, the petitioner must clearly demonstrate that the ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote.** (Citations omitted, underscoring supplied.)

As may be recalled, petitioner's deceased husband's name remained on the ballot notwithstanding his death even before the campaign period for the local elections began on March 29, 2013.³⁰ Yet, he received almost twice the number of votes as the second placer, private respondent, in a decisive victory. Since the people of Babatngon, Leyte could not have possibly meant to waste their votes on a deceased candidate, we conclude that petitioner was the undisputed choice of the electorate as Vice-Mayor on the apparent belief that she may validly substitute her husband. That belief was not contradicted by any official or formal ruling by the COMELEC *prior* to the elections.

³⁰ COMELEC Resolution No. 9385 issued on April 3, 2012.

We held in *Rulloda v. Commission on Elections*³¹ that:

Technicalities and procedural niceties in election cases should not be made to stand in the way of the true will of the electorate. Laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.

Election contests involve public interest, and technicalities and procedural barriers must yield if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. The Court frowns upon any interpretation of the law that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results.

We had the occasion to rule in *Sinaca* that “an election in which the voters have fully, fairly, and honestly expressed their will is not invalid even though an improper method is followed in the nomination of candidates.”³² In the same case, we proceeded to enumerate examples of formal defects in a COC that may be treated with liberality once the electorate has spoken in an election, to wit:

It has been held that the provisions of the election law regarding certificates of candidacy, such as signing and swearing on the same, as well as the information required to be stated therein, are considered mandatory prior to the elections. Thereafter, they are regarded as merely directory. With respect to election laws, it is an established rule of interpretation that mandatory provisions requiring certain steps before election will be construed as directory after the elections, to give effect to the will of the electorate. Thus, even if the certificate of candidacy was not duly signed or if it does not contain the required data, the proclamation of the candidate as winner may not be nullified on such ground. The defects in the certificate should have been questioned before the election; they may not be questioned after the election without invalidating the will of the electorate, which should not be done. In *Guzman v. Board of Canvassers*, the Court held that the “will of the people cannot be frustrated by a technicality that the certificate of candidacy had not been properly sworn to. This legal provision is mandatory and non-compliance therewith before the election would be fatal to the status of the candidate before the [election], but after the people have expressed their will, the result of the election cannot be defeated by the fact that the candidate has not sworn to his certificate of candidacy.”³³

Applying these jurisprudential precedents, we find that the late submission of Romualdez’s authority to sign the CONA of James L. Engle to the COMELEC was a mere technicality that cannot be used to defeat the will of the electorate in a fair and honest election.

³¹ 443 Phil. 649, 655-656 (2003).

³² *Sinaca v. Mula*, supra note 20 at 912.

³³ *Id.* at 913-914.

The Court has likewise ruled in the past that non-compliance with formal requirements laid down in election laws when not used as a means for fraudulent practice will be considered a harmless irregularity.³⁴ Allowing the belated submission of Romualdez's authority to sign CONAs will not result in the situation proscribed by Section 77 of the OEC – that an independent candidate will be invalidly substituted. In the case at bar, neither the COMELEC nor private respondent contended that James L. Engle was not in fact a *bona fide* member of Lakas-CMD. The record is bereft of any allegation that the authority in favor of Romualdez was inexistent, forged or in any way defective. The only issue was that it was not submitted within the prescribed deadline. Nonetheless, said authority was submitted as early as October 4, 2012 to the local election officer and subsequently to the COMELEC itself in the course of the proceedings on private respondent's petition to deny due course to, or cancel petitioner's COC, thereby putting election officials on notice that such authority exists even before the conduct of the May 13, 2013 Elections.

We distinguish this case from *Federico v. Commission on Elections*,³⁵ wherein we strictly applied election rules on substitution, particularly the deadline to file certificates of candidacy for substitutes of candidates who voluntarily withdraw from the electoral race. In *Federico*, a liberal interpretation of the rule would have led to a violation of the clear policy that no substitution for a voluntarily withdrawing candidate can be made beyond the mandated deadline. In the case at bar, the intention behind setting a deadline for the filing by political parties of an authority to sign CONAs was to give the COMELEC reasonable opportunity to determine who are members of political parties and who are independent candidates. This is so the COMELEC may prevent a violation of Section 77 of the OEC which reserves the right to field a substitute candidate to duly registered political parties. A relaxation of the rules in the present case would not result in the evil sought to be prevented. On the contrary, it is the strict application of the rules that would lead to the iniquitous situation that a candidate who was in fact a member of a political party would be considered an independent, thus infringing the right of the nominating political party to replace him in the event of death, withdrawal or disqualification pursuant to election laws.

To be sure, we have held that a political party has the right to identify who its members are.³⁶ From the evidence it can be concluded that James L. Engle was not an independent candidate but indeed a nominee of Lakas-CMD and he may be validly substituted by his wife, who was nominated by the same political party, in light of his unexpected demise prior to the elections.

³⁴ See, for example, *Alialy v. Commission on Elections*, 112 Phil. 856, 860 (1961).

³⁵ *Supra* note 27.

³⁶ *Sinaca v. Mula*, *supra* note 20 at 912.

The COMELEC *En Banc* in its Resolution dated January 20, 2015 asserted that it cannot ignore Lakas-CMD's non-compliance with Section 6 of COMELEC Resolution No. 9518 since the COMELEC *En Banc* issued Minute Resolution No. 12-1133 dated December 11, 2012 applying said provision strictly against the Liberal Party in the case of its local candidates for Camiguin who were similarly declared independent candidates for failure to submit the authority to sign CONAs before October 1, 2012. While we laud the COMELEC's attempt to apply the rule equally among the political parties, it has only itself to blame for the present situation. It bears stressing here that election rules regarding formal matters are deemed mandatory before the elections and only directory after the elections. In the case of the Liberal Party candidates in Camiguin, the COMELEC *En Banc* rendered a formal ruling on their status as independent candidates, months before the election, such that the Liberal Party was officially notified that its candidates in Camiguin can no longer be substituted in the event of their death, withdrawal or disqualification. Thus, the mandatory application of the rules was justified. In petitioner's case, no official pronouncement was made by the COMELEC regarding her husband's status as an independent candidate and the validity of her filing a COC as his substitute until July 5, 2013, long after the elections were held. Indeed, it behooved the COMELEC to similarly resolve petitioner's case prior to the elections had it wanted to treat all political parties equally.

In light of the foregoing discussion that petitioner may validly substitute her husband in the May 13, 2013 Elections, it is no longer necessary to resolve the third issue on whether the COMELEC properly proclaimed private respondent, the second-placer in the vice-mayoral race of Babatngon, in place of petitioner, as well as the rest of the issues raised in the pleadings.

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed Resolution dated July 5, 2013 of the COMELEC Second Division and the Resolution dated January 20, 2015 of the COMELEC *En Banc* in SPA 13-232 (DC) (F) are **REVERSED and SET ASIDE**. Petitioner Marcelina S. Engle is declared the duly-elected Vice-Mayor of Babatngon, Leyte during the May 13, 2013 Elections.

SO ORDERED.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

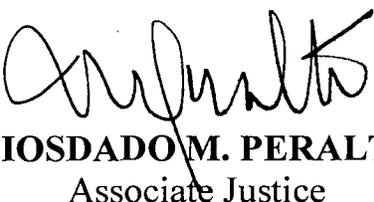


ANTONIO T. CARPIO
Associate Justice

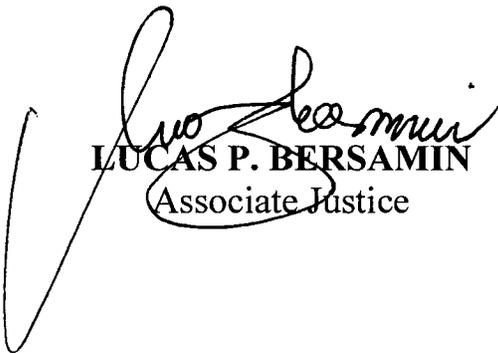


PRESBITERO J. VELASCO, JR.
Associate Justice

On leave
ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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. JANAMA
 CLERK OF COURT, EN BANC
 SUPREME COURT