



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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EN BANC

SARIPODEN ARIMAN GURO,
 Petitioner,

G.R. No. 234345

Present:

- versus -

**COMMISSION ON ELECTIONS
 and SOMERADO MALOMALO
 GURO,**

Respondents.

GESMUNDO, C.J.,
 PERLAS-BERNABE,
 LEONEN,*
 CAGUIOA,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M.,
 DELOS SANTOS,
 GAERLAN,
 ROSARIO, and
 LOPEZ, J., JJ

Promulgated:

June 22, 2021

X -----  ----- X

DECISION

ROSARIO, J.:

Petitioner assails on *certiorari*, under Rule 64 in relation to Rule 65 of the Rules of Court, the Resolution¹ dated September 25, 2017 of public respondent Commission on Elections (COMELEC) *En Banc* in SPA No. 16-086 (DC) which affirmed the Order dated October 19, 2016 of the COMELEC

* On official leave.

¹ Rollo, pp. 42-50.

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First Division denying his petition to disqualify private respondent on account of his alleged ineligibility to run as municipal mayor during the May 2016 National and Local Elections (NLE).

I

The factual antecedents are as follows:

On October 16, 2015, private respondent filed his Certificate of Candidacy (COC) for Municipal Mayor of Lumbaca-Unayan, Lanao del Sur in connection with the then forthcoming May 2016 NLE, indicating therein under oath that he is a registered voter of Barangay Poblacion Dilausan, Lumbaca-Unayan, Lanao Del Sur and that he is eligible to run for the office he seeks to be elected to.²

Petitioner, who was the erstwhile municipal mayor of Lumbaca-Unayan, running for re-election, challenged private respondent's candidacy via a Petition for Disqualification on April 29, 2016. He alleged that based on the posted certified voters' list, private respondent is not a registered voter of the municipality; hence, not qualified to be a candidate for the contested position.³

On June 13, 2016, private respondent filed his Verified Answer (With Special and Affirmative Defenses), denying the material allegations in the petition and arguing that the same had been rendered moot and academic by the COMELEC's resolution approving the recommendation of Director Teopisto R. Elnas, Jr. of the Election and Barangay Affairs Department (EBAD), for inclusion of respondent's name in the supplemental list of voters. He likewise averred that he was able to cast his vote on Election Day, and that he won and was proclaimed as the Mayor of Lumbaca-Unayan in the May 2016 NLE.⁴

The COMELEC First Division rendered the first assailed order dismissing the petition on the ground that petitioner filed the same beyond the prescriptive period of twenty-five (25) days for filing a Petition under Section 78 of the Omnibus Election Code (OEC). In denying his verified motion for reconsideration of the order of the First Division, the COMELEC *En Banc* affirmed said order and found that the petition was filed way beyond the reglementary period. Accordingly, it found it unnecessary to tackle the other substantive issues raised by petitioner.⁵

² Id. at 56.

³ Id. at 51-53.

⁴ Id. at 62-66.

⁵ Id. at 27-28.

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Aggrieved, petitioner comes before this Court, attributing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the COMELEC for having dismissed the petition on mere technical grounds instead of deciding the case on the merits in view of the alleged grave violation of election laws by private respondent.

II

As correctly held by the COMELEC, since the petition is anchored on the alleged ineligibility of private respondent, the same is in the nature of a petition to deny due course or to cancel the latter's COC which falls under Section 78 of the OEC. Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, provides the following reglementary period for filing such a petition:

Rule 23

Section 1. *Grounds.* - A verified Petition to Deny Due Course to or Cancel a Certificate of Candidacy for any elective office may be filed by any registered voter or a duly registered political party, organization or coalition of political parties on the exclusive ground that any material representation contained therein as required by law is false.

A Petition to Deny Due Course to or Cancel a 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.

Section 2. *Period to File Petition.* - **The Petition must be filed within five (5) days from the last day for filing of certificate of candidacy; but not later than twenty-five (25) days from the time of filing of the certificate of candidacy subject of the Petition.** In case of a substitute candidate, the Petition must be filed within five (5) days from the time the substitute candidate filed his certificate of candidacy. (Emphasis ours)

It bears noting that private respondent filed his COC on October 16, 2015 while petitioner filed his petition before the COMELEC on April 29, 2016, or after the lapse of a whopping one hundred ninety-six (196) days.

In *Aznar v. Commission on Elections (Aznar)*,⁶ although the petitioner therein also filed his petition for disqualification more than two months after the filing by the private respondent therein of the questioned COC, *i.e.*, beyond the reglementary period of twenty-five (25) days under Section 78 of the OEC, We ruled on the merits of the case as a matter of public interest

⁶ 264 Phil. 307-331(1990).

because the issue therein involved the private respondent's citizenship and qualification to hold the public office to which he had been proclaimed elected.

In *Loong v. Commission on Elections*,⁷ where the ground for the disqualification sought was misrepresentation as to the required age of the candidate, We held that such ground is not on the same level as that in *Frivaldo v. Commission on Elections (Frivaldo)*⁸ and in *Aznar* which involved lack of Philippine citizenship — “an overriding and fundamental desideratum matched perhaps only by disloyalty to the Republic of the Philippines.” We likewise cited the concurring opinion of Mr. Justice Gutierrez, Jr. in *Frivaldo* where he emphasized that while the public good should supersede any procedural infirmities which may affect a petition filed with the COMELEC, the same should be limited to a clear case of an alien holding elective public office, and perhaps, a clear case of disloyalty to the Republic. Where the disqualification is based on age, residence, or any of the many grounds for ineligibility, the reglementary period provided by law should be applied **strictly**.

On the ground that herein private respondent allegedly misrepresented himself as being a registered voter, We see no reason to depart from settled jurisprudence and accordingly rule that the reglementary period provided by law should likewise be strictly applied to such a disqualification.

True, in *Hayudini v. Commission on Elections*,⁹ We favored a liberal construction of the COMELEC Rules of Procedure despite the fact that therein respondent Omar filed his petition to deny due course or cancel therein petitioner Hayudini's COC one hundred seventy-two (172) days after the filing of said COC, but only because of a supervening event in said case. Omar had already previously filed a petition to deny due course or cancel Hayudini's COC but the COMELEC dismissed the same on the same day that the MCTC granted Hayudini's petition to be included in the list of voters. However, the RTC reversed the MCTC ruling and the deletion of Hayudini's name from the list of voters became final and executory. We treated the RTC ruling as a supervening event which affected the substance of the COMELEC decision and rendered the execution thereof inequitable since the ruling adequately equipped Omar with the necessary ground to successfully challenge Hayudini's COC.

Likewise, in *Caballero v. Commission on Elections*,¹⁰ We found the COMELEC's suspension of its own rules in order because the issue therein raised, *i.e.*, whether petitioner had been a resident in the place where he seeks

⁷ 290-A Phil. 559 (1992).

⁸ 327 Phil. 521 (1996).

⁹ 733 Phil. 822 (2014).

¹⁰ 770 Phil 94 (2015).

to be elected at least one (1) year before the elections as he represented in his COC, pertains to his qualification and eligibility to run for public office and, therefore, imbued with public interest, and also because of the peculiar circumstances in said case. Despite therein petitioner's failure to serve a copy of the petition to therein respondent prior to its filing, We adopted the COMELEC's ratiocination to the effect that petitioner exerted efforts in serving a copy of his petition to respondent after being made aware that such service is necessary, and that it was impossible for petitioner to personally serve a copy since he was in Canada at the time of its filing.

In *Ocate v. Commission on Elections*,¹¹ We took a liberal stance in treating therein respondent's one-day filing delay because he exerted due diligence in filing his election protest within the period provided by law and only failed to do so on account of a typhoon as there were no court employees to receive and docket his pleading.

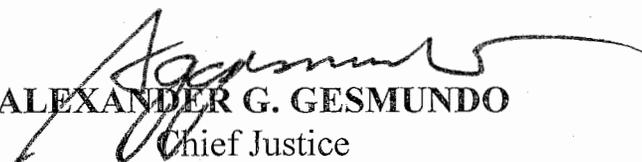
We find no circumstance in the case at bench analogous to those in the above cases to warrant a relaxation of the COMELEC Rules of Procedure. Accordingly, no grave abuse of discretion can be attributed to the COMELEC in denying petitioner's petition on technical grounds.

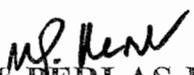
WHEREFORE, premises considered, the petition is hereby **DISMISSED**. The Resolution dated September 25, 2017 of the COMELEC En Banc in SPA No. 16-086 (DC), which affirmed the Order dated October 19, 2016 of the COMELEC First Division, is **AFFIRMED**.

SO ORDERED.


RICARDO R. ROSARIO
Associate Justice

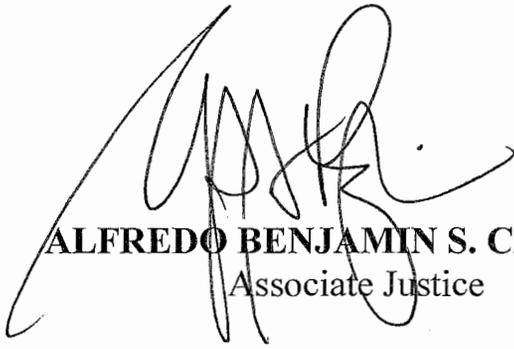
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


ESTELA M. BERLAS-BERNABE
Associate Justice

on official leave
MARVIC M. V. F. LEONEN
Associate Justice

¹¹ 537 Phil. 584 (2006).



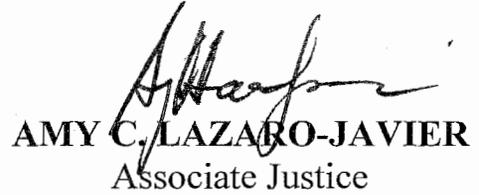
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



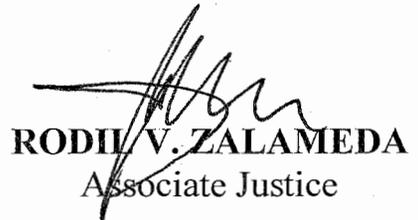
ROSMARIE D. CARANDANG
Associate Justice



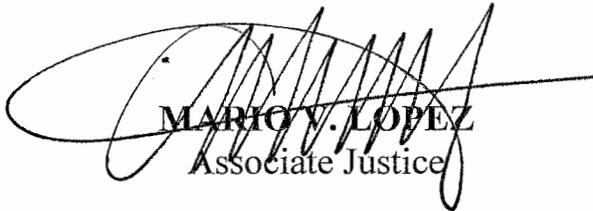
AMY C. LAZARO-JAVIER
Associate Justice



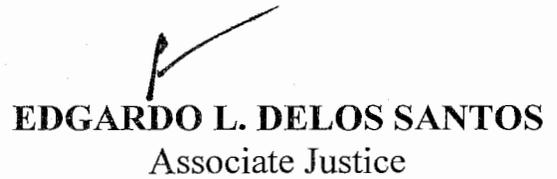
HENRI JEAN PAUL B. INTING
Associate Justice



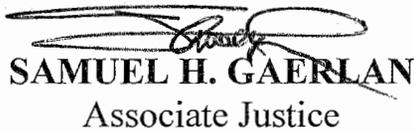
RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice



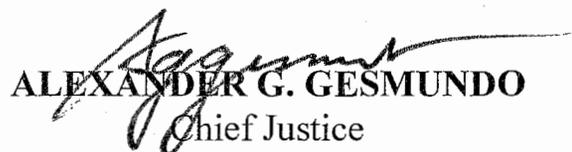
SAMUEL H. GAERLAN
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice