



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

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EN BANC

VLADIMIR ALARIQUE T. G.R. No. 247806
CABIGAO, YEN MAKABENTA,
MARY WENDY A. DURAN, Present:
MANOLITO CORONADO,
SOCORRO MARICEL NAMIA
NEPOMUCENO, JEF NALUS
AQUINO ANTONIO SANTOS,
AND CESAR EVANGELISTA,
Petitioners,

GESMUNDO, *Chief Justice*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO.
LOPEZ, J., and
DIMAAMPAO, *JJ*.

-versus-

COMMISSION ON ELECTIONS,
Respondent.

Promulgated:
November 9, 2021

[Signature]

X-----X

RESOLUTION

LEONEN, *J*:

This is a special civil action for mandamus seeking to compel the Commission on Elections to enforce the term limits of elective officials in the Senate and House of Representatives, to declare as unconstitutional the reelection of termed out Senators and Representatives, and to deny due course to certificates of candidacy of those who will seek reelection in May

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2022.¹

Article VI, Sections 4 and 7 of the Constitution state that Senators and Members of the House of Representatives cannot serve more than two and three consecutive terms, respectively. The provisions read:

SECTION 4. The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

No Senator shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

SECTION 7. The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

No member of the House of Representatives shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected. (Emphasis supplied)

Petitioners Vladimir Alarique T. Cabigao, Yen Makabenta, Mary Wendy A. Duran, Manolito Coronado, Socorro Maricel Namia Nepomuceno, Jef Nalus Aquino Antonio Santos, and Cesar Evangelista contend that many Senators and Members of the Congress circumvented these provisions by running for office after taking a hiatus or rest period once they maxed out the term limits.²

They submit a list of members of the Senate³ and House of Representatives⁴ who have served more than two terms and three terms,

¹ *Rollo*, pp. 3 and 20.

² *Id.* at 10.

³ *Id.* at 4–5. Petitioners cite the following senators and the years they were elected in office: (1) Edgardo J. Angara, served in 1987, 1992, 2001, and 2007; (2) Juan Ponce Enrile, served in 1987, 1995, 2004, and 2010; (3) Aquilino Pimentel, Jr, served in 1987, 1998, and 2004; (4) Teofisto Guingona, Jr., served as senator in 1987, 1992, and 1998; (5) Miriam Defensor-Santiago, served as senator in 1995, 2004, and 2010; (6) Gregorio Honasan, served in 1995, 2007, and 2013; (7) Rodolfo Biazon, served in 1992, 1998, and 2010; (8) Loren Legarda, served in 1998, 2007, and 2013; (9) Vicente Sotto III, served in 1992, 1998, 2010, and 2016; (10) Franklin Drilon, served in 1995, 2001, 2010, and 2016; (11) Panfilo Lacson, served in 2001, 2007, and 2016; (12) Francis Pangilinan, served in 2001, 2007, and 2016; (13) Lito Lapid, served in 2004, 2010, and 2019; (14) Ramon Bong Revilla, Jr., served in 2004, 2010, and 2019; (15) Pia Cayetano, served in 2004, 2010, and 2019; (16) Aquilino “Koko” Pimentel III, served in 2007, 2013, and 2019.

⁴ *Id.* at 8–9. Petitioners cite the following representatives and the years they were elected in office: (1) Jaime C. Lopez, served the second district of City of Manila in 1987, 1992, 1995, 2001, 2004, and 2007; (2) Amado S. Bagatsing, served the fifth district of City of Manila in 1987, 1992, 1995, 2007, 2010, and 2013; (3) Rosenda Ann M. Ocampo, served the sixth district of City of Manila in 1992, 1995, 1998, 2010, 2013, and 2016; (4) Ma. Elenita R. Ermita-Buhain, served the first district of Batangas in 2001, 2004, 2007, 2013, 2016, and 2019; (5) Pedro M. Pancho, served the second district

respectively. The interruption in the continuity of their service allowed them to run for more than two or three terms.⁵

Petitioners assert that respondent Commission on Elections failed to enforce these provisions when it allowed senators and members of the House of Representatives to run for the same office after exceeding the two- and three-term limits.⁶ They conclude that respondent tolerated this scheme by allowing the elective officials to run for reelection.⁷ Thus, petitioners filed this Petition for Mandamus before this Court, citing the Commission on Elections' ministerial duty under Article IX-C, Section 2(1) of the Constitution to "[e]nforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall."⁸

Petitioners argue that senators and members of the House of Representatives should not be permitted to run for office after maxing out the term limit.⁹ They assert that the Constitution does not allow termed out officials to run for office again after having respite or "hiatus."¹⁰ The Constitution does not permit a third and fourth term for Senators and Representatives, respectively.¹¹

They assert that this Court should adhere to a *verba legis* reading of the provisions. They submit that the word "hibernation" or allowing a third

of Bulacan in 1992, 1995, 1998, 2004, 2007, and 2010; (6) Lorna C. Silverio, served the third district of Bulacan in 2001, 2004, 2007, 2016, and 2019; (7) Juan C. Ponce Enrile, Jr., served the first district of Cagayan in 1998, 2001, 2004, and 2010; (8) Ferdinand Martin G. Romualdez, served the first district of Leyte in 2007, 2010, 2013, and 2019; (9) Sergio Antonio F. Apostol, served the second district of Leyte in 1992, 1995, 1998, 2010, and 2013; (10) Jose C. De Venecia, Jr, served the fourth district of Pangasinan in 1987, 1992, 1995, 2001, 2004, and 2007; (11) Conrado M. Estrella III, served the sixth district of Pangasinan in 1987, 1992, 2001, 2004, and 2007; (12) Rodolfo B. Albano, Jr., served the first district of Isabela in 1987, 1992, 1995, 2001, and 2010; (13) Carlos M. Padilla, served the lone district of Nueva Vizcaya in 1987, 1995, 1998, 2001, 2007, 2010, and 2013; (14) Rodolfo G. Valencia, served the first district of Oriental Mindoro in 1987, 2004, 2007, and 2010; (15) Carmelo F. Lazatin, served the first district of Pampanga in 1987, 1992, 1995, 2007, and 2010; (16) Oscar Rodriguez, served the third district of Pampanga in 1987, 1995, 1998, 2001, and 2013; (17) Roman T. Romulo, served the lone district of Pasig in 2007, 2010, 2013, and 2019; (18) Danilo E. Suarez, served the third district of Quezon in 1992, 1995, 1998, 2004, 2007, 2010, and 2016 ; (19) Vincent P. Crisolago, served the first district of Quezon City in 2004, 2007, 2010, and 2016; (20) Feliciano R. Belmonte, Jr., served the fourth district of Quezon City in 1992, 1995, 1998, 2010, 2013, and 2016; (21) Junie E. Cua, served the lone district of Quirino in 1987, 1992, 1995, 2001, 2004, and 2007; (22) Michael John R. Duavit, served the first district of Rizal in 2001, 2004, 2007, and 2016; (23) Isidro S. Rodriguez, served the second district in Rizal in 1998, 2001, 2004, 2010, 2013, and 2016; (24) Ronaldo B. Zamora, served the lone district of San Juan in 1995, 2001, 2004, 2007, 2013, 2016, and 2019; (25) Salvador H. Escudero III, served the first district of Sorsogon in 1987, 1992, 1995, 2007, and 2010; (26) Jose V. Yap, served the second district of Tarlac in 1987, 1992, 1995, and 2007; (27) Magtanggol T. Gunigundo, served the second district of Valenzuela in 2001, 2007, 2010, and 2013; (28) Antonio M. Diaz, served the second district of Zambales in 1992, 1995, 1998, 2004, 2007, and 2010; (29) Rodolfo C. Fariñas, served the first district of Ilocos Norte in 1998, 2010, 2013, and 2016; (30) Raul V. Del Mar, served the first district of Cebu in 1987, 1992, 1995, 2004, 2007, 2013, 2016, and 2019; and (31) Antonio V. Cuenco, served the second district of Cebu City in 1987, 1992, 1995, 2001, 2004, and 2007.

⁵ Id. at 11.

⁶ Id. at 9–10.

⁷ Id. at 11.

⁸ Id. at 4.

⁹ Id. at 8–10.

¹⁰ Id.

¹¹ Id. at 10.

or fourth term on the contingency of a respite after maxing out the term limit is not textually expressed in the Constitution.¹² While the framers of the Constitution did not preclude reelection after maxing out the term limit, the textual reading of the Constitution must still prevail over the framers' discussions.¹³

Further, petitioners aver that the regulatory purpose of Article VI, Sections 4 and 7 is to "guarantee equal access to opportunities for public service" as provided in Article II, Section 26 of the Constitution.¹⁴ Allowing termed out officials to seek reelection denies public service opportunity from other equally deserving candidates, who are marginalized by their lack of campaign resources to parallel those of their termed out rivals.¹⁵

Moreover, petitioners posit that Sections 4 and 7 should be narrowly and restrictively construed because they limit the grant of power.¹⁶ Accordingly, petitioners maintain that the ruling in *Socrates v. Commission on Elections*,¹⁷ which raised issues analogous to those raised in this petition, should be abandoned. Petitioners argue that this Court erred in favoring the original intent of the 1987 Constitution drafters in *Socrates* and interpreting that an interruption in the continuity of service is the start of a new term which allows an official to bid again for office.¹⁸

Ultimately, petitioners pray that this Court order the respondent "to deny giving due course to the certificates of candidacy of termed out senators, members of the House of Representatives and local elective officials" beginning in the upcoming elections in May 2022 and in the future elections. Moreover, petitioners ask that the election of the termed out legislators who are presently serving their term be declared unconstitutional.¹⁹

Petitioners claim that they have the legal standing and that they are real parties in interest considering that "the proceeding concerns a public right and its object is to compel a public duty."²⁰

On the propriety of the Petition for Mandamus, they allege that respondent failed to perform a mandated ministerial function after failing to deny due course to the legislators' certificates of candidacy. Petitioners allege that they have no other plain, speedy, and adequate remedy in the

¹² Id. at 10.

¹³ Id. at 11.

¹⁴ Id. at 11. CONST., art. II, sec. 26 provides:

The state shall guarantee equal access to opportunities for public service and prohibit political dynasties as may be defined by law.

¹⁵ Id. at 12.

¹⁶ Id. at 12.

¹⁷ 440 Phil. 106 (2002) [Per J. Carpio, En Banc].

¹⁸ *Rollo*, pp. 17–18.

¹⁹ Id. at 20.

²⁰ Id. at 7.

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ordinary course of law because recourse to the Senate Electoral Tribunal and the House of Representatives Electoral Tribunal, or a Petition to Deny Due Course to or Cancel Certificates of Candidacy is futile. They reason that the determination of these bodies is ultimately subject to review by this Court; hence, once a dissatisfied party appealed, the remedy becomes dilatory and inadequate.²¹

In any case, petitioners submit that this case raises a novel legal question of transcendental significance that is ripe for adjudication; hence, procedural infirmities suffered by this petition should be brushed aside.²²

In its Comment, respondent argues that mandamus is not the proper remedy.²³ While respondent's duty to receive and acknowledge receipt of certificates of candidacy is ministerial, resolving questions on a candidate's eligibility to run for public office is not.²⁴

As respondent's duty to give due course to certificates of candidacy is ministerial, it may only look into patent defects appearing on the certificate's face.²⁵ However, petitioners' questions based on the terms of office the candidates have served goes into the candidates' eligibility for election.²⁶ Term limits of senators and members of the House of Representatives are not defects immediately apparent on the face of certificates of candidacy.²⁷ Thus, petitioners' remedy should not be a petition for mandamus but a petition to deny due course or to cancel a certificate of candidacy under Section 78 of the Omnibus Election Code.²⁸

In any event, respondent argues that even a petition for mandamus compelling it to cancel a certificate of candidacy under Section 78 must fail because denial or cancellation involves a quasi-judicial function.²⁹ Hence, petitioners need to first file a petition to deny due course or cancel before respondent can act.³⁰

²¹ Id. at 5–6.

²² Id. at 6.

²³ Id. at 55.

²⁴ Id. at 57.

²⁵ Id. citing *Cerafica v. Commission on Elections*, 749 Phil. 80, 87 (2014) [Per J. Perez, En Banc].

²⁶ Id. at 58, citing *Albania v. Commission on Elections*, 810 Phil. 470, 481 (2017) [Per J. Peralta, En Banc].

²⁷ Id. at 58.

²⁸ Id.

ELECTION CODE, sec. 78 provides:

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 the 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.

²⁹ Id. at 59, citing *Quizon v. Commission on Elections*, 569 Phil. 323, 329 (2008) [Per J. Ynares-Santiago, En Banc].

³⁰ Id. at 60.

Respondent further argues that there is no actual case and petitioners do not possess the legal standing to file the petition.³¹ It asserts that petitioners failed to show what legally demandable and enforceable rights and actual and conflicting claims their petition is hinged on.³² They are merely asking for an academic discussion on the interpretation of Constitution.³³ Moreover, petitioners' bare claim of transcendental importance cannot overcome the procedural infirmities that marred the petition.³⁴

As to the substantive issues, respondent maintains that senators and representatives may run for reelection after a "rest period" after maxing out their terms.³⁵ A plain reading of the provisions shows that what is proscribed is the continuous holding of the position; thus, the term "consecutive."³⁶ In other words, if a senator has served for two consecutive terms, they are not allowed to subsequently run for a third term only for the immediate election.³⁷

Respondent argues that the Constitution used plain terms and petitioners should not resort to an extra-textual reading and interpretation.³⁸

Even assuming that there is ambiguity in the provision, the present interpretation is consistent with the framers' intent.³⁹ The speeches of the Constitutional Commissioners made it clear that they only opted to preclude consecutive terms.⁴⁰ Should a termed out senator or representative run for reelection after a break, the electorate should decide whether to vote for the candidate.⁴¹ The framers did not want to arrogate upon themselves the power to limit the right of the electorate to choose their representatives.⁴²

Respondent further avers that a holistic approach leads to the same interpretation.⁴³ It highlights other provisions in the Constitution which expressly barred reelection, such as Article VII, which precluded the President's reelection.⁴⁴ It contends that had it been the real spirit of the Constitution to deny reelection to termed out senators and representatives, the provisions should have clearly incorporated this limit similar to the term of the President.⁴⁵

³¹ Id. at 61.

³² Id. at 62.

³³ Id.

³⁴ Id. at 63.

³⁵ Id. at 65.

³⁶ Id. at 67.

³⁷ Id.

³⁸ Id. at 68.

³⁹ Id. at 70.

⁴⁰ Id. at 70-71.

⁴¹ Id. at 71-72.

⁴² Id.

⁴³ Id. at 73.

⁴⁴ Id. at 75-76.

⁴⁵ Id. at 75.

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Moreover, respondent argues that there is no compelling reason to disturb jurisprudence on the interpretation of Article VI, Sections 4 and 7.⁴⁶ There are no new circumstances to justify the reversal of the doctrine.⁴⁷

In their Reply,⁴⁸ petitioners maintain that the proper remedy is a petition for mandamus because the subject of the petition is the enforcement of Article VI, Sections 4 and 7, and not the lack of qualification of the senators and representatives.⁴⁹ Assuming that the proper remedy is a petition for disqualification of the incumbent officials under the Omnibus Election Code, the petition will not prosper precisely because respondent is not enforcing the term limits.⁵⁰ For these reasons, petitioners have no other plain, speedy, and adequate remedy except to file a petition for mandamus.⁵¹

Petitioners further reiterate that they possess the legal standing for being citizens.⁵² They aver that the requirement of personal interest is satisfied by the mere fact that they are citizens and there is no need to show any special and specific interest in the case.⁵³

Moreover, petitioners add that reelection after maxing out the term limit may be treated as a patent and apparent defect appearing on the face of the certificate of candidacy.⁵⁴

Regarding the interpretation of the Constitution, petitioners reiterate that the textual reading of the provisions support their interpretation.⁵⁵ There is no ambiguity in the text so there is no reason for the respondent to go into the intent of the framers.⁵⁶

The issues for this Court's resolution are the following:

- (1) Whether or not the Petition for Mandamus is justiciable.
Subsumed under this issue:
 - a. Whether or not there is an actual case or controversy;
and
 - b. Whether or not the petitioners have a legal standing to file the petition;

⁴⁶ Id. at 76–77.

⁴⁷ Id. at 78.

⁴⁸ Id. at 124–138. Petitioners' Opposition to the Comment was treated by this Court as a Reply.

⁴⁹ Id. at 125.

⁵⁰ Id.

⁵¹ Id. at 126.

⁵² Id.

⁵³ Id. citing *Guingona, Jr. v. Commission on Elections*, 634 Phil. 516, 527 (2010) [Per J. Carpio, En Banc].

⁵⁴ Id. at 128.

⁵⁵ Id. at 130–131.

⁵⁶ Id. at 131.

- (2) Whether or not the petition for mandamus is proper. Subsumed under this issue:
- a. Whether or not the petitioners have no other plain, speedy and adequate remedy; and
 - b. Whether or not the function of respondent to deny the Certificates of Candidacy is a ministerial duty;
- (3) Whether or not Article VI, Sections 4 and 7 preclude a third and fourth term for senators and members of the House of Representative?

I

This Court's power of judicial review is outlined in Article VIII, Section 1 of the Constitution. It reads:

ARTICLE VIII Judicial Department

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.⁵⁷

The exercise of judicial review requires the following:

(1) there must be an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.⁵⁸ (Citation omitted)

To have an actual case or controversy, there must be conflicting or opposite legal rights that may be settled in a judicial proceeding. In *David v. Macapagal-Arroyo*,⁵⁹

An actual case or controversy involves a conflict of legal right, an opposite legal claims susceptible of judicial resolution. It is "definite and concrete, touching the legal relations of parties having adverse legal

⁵⁷ CONST., art. VIII, sec. 1.

⁵⁸ *Senate of the Phils. v. Ermita*, 522 Phil. 1, 27 (2006) [Per J. Carpio-Morales, En Banc].

⁵⁹ 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, En Banc].

interest;" a real and substantial controversy admitting of specific relief.⁶⁰
(Citation omitted)

There is an actual case or controversy when the issues are ripe for adjudication and when the challenged act has had a direct adverse effect on the petitioners.⁶¹ The conflict must not be merely conjectural or anticipatory; otherwise, this Court's decision will amount to an advisory opinion.⁶² In *Falcis III v. Civil Registrar General*,⁶³

This Court's constitutional mandate does not include the duty to answer all of life's questions. No question, no matter how interesting or compelling, can be answered by this Court if it cannot be shown that there is an "actual and an antagonistic assertion of rights by one party against the other in a controversy wherein judicial intervention is unavoidable."

This Court does not issue advisory opinions. We do not act to satisfy academic questions or dabble in thought experiments. We do not decide hypothetical, feigned, or abstract disputes, or those collusively arranged by parties without real adverse interests. If this Court were to do otherwise and jump headlong into ruling on every matter brought before us, we may close off avenues for opportune, future litigation. We may forestall proper adjudication for when there are actual, concrete, adversarial positions, rather than mere conjectural posturing[.]⁶⁴ (Citations omitted)

The rulings issued by this Court are final constructions of law and are binding upon actual persons, places, and things. Thus, issuance of advisory opinions based on hypothetical scenarios weakens the exercise of judicial review.⁶⁵

On the other hand, standing "requires a personal and substantial interest manifested through a direct injury that the petitioner has or will sustain as a result of the questioned act."⁶⁶

In *Francisco, Jr. v. House of Representatives*,⁶⁷

Locus standi or legal standing or has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges

⁶⁰ Id. at 753.

⁶¹ *The Diocese of Bacolod v. Commission on Elections*, 705 Phil. 301, 419 (2015) [Per J. Leonen, En Banc].

⁶² *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 245 (2018) [Per J. Leonen, En Banc].

⁶³ G.R. No. 217910, September 3, 2019, 917 SCRA 197 [Per J. Leonen, En Banc].

⁶⁴ Id. at 251–252.

⁶⁵ Id. at 252.

⁶⁶ J. Brion, Dissenting Opinion in *Diocese of Bacolod v. COMELEC*, 751 Phil. 301, 419 (2015) [Per J. Leonen, En Banc].

⁶⁷ 460 Phil. 830 (2003) [Per J. Carpio-Morales, En Banc].

such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.⁶⁸ (Citation omitted)

Jurisprudence shows a liberal approach to determining legal standing, which allowed “ordinary citizens, members of Congress, and civic organizations to prosecute actions involving the constitutionality or validity of laws, regulations, and rulings.”⁶⁹ However, even for these exceptional cases, the petitioner must still claim an injury-in-fact.⁷⁰ If a party is filing as a concerned citizen, there must be an “allegation that the continuing enforcement of a law or any government act has denied the party some right or privilege to which they are entitled, or that the party will be subjected to some burden or penalty because of the law or act being complained of.”⁷¹

Here, there is no actual case or controversy because the Petition for Mandamus does not present any conflict of legal right or adverse legal interest which we can resolve based on a real and concrete set of facts. It is anchored on a speculation that the mentioned members of both houses will file their Certificates of Candidacy for the 2022 Elections. Thus, a ruling on this case will be nothing but an advisory opinion on future elections.

Moreover, the petitioners do not possess the legal standing to file the suit. To support their claim that they have legal standing, petitioners submit that they are citizens and that this petition involves a public right; thus, there is no need to prove their specific interest in the case. This is untenable.

Petitioners failed to show how the acts of the respondent had a direct adverse effect on them. There is no allegation that they personally suffered an actual injury or that they were threatened injury as a result of respondent’s actions. Even their claim that this is an exceptional suit due to transcendental importance fails. Transcendental importance still requires that petitioners suffered an injury-in-fact.

To reiterate, parties filing on the basis that they are citizens must show that they are denied some right or privilege to which they are entitled or that they are subject to a form of burden or penalty. Here, none of the petitioners claimed that they ran as member of either house and have lost to any of the senators or representatives that they mentioned. There are no allegations showing that they are denied some right or privilege due to the reelection of the senators or representatives.

⁶⁸ Id. at 893.

⁶⁹ *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019, 899 SCRA 492, 538 [Per J. Leonen, En Banc].

⁷⁰ *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019, 917 SCRA 197, 356 [Per J. Leonen, En Banc].

⁷¹ Id.

In any case, even if we allow this petition on the ground of transcendental importance, it must still fail.

II

Under Rule 65, Section 3 of the Rules of Court, a writ of mandamus may be issued when “[w]hen any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station[.]”

It is an extraordinary writ “commanding a tribunal, corporation, board, officer or person, immediately or at some other specified time, to do the act required to be done[.]”⁷² It may be granted only if the duty involved is ministerial. In *Akbayan Youth v. Commission on Elections*,⁷³

As an extraordinary writ, the remedy of mandamus lies only to compel an officer to perform a ministerial duty, not a discretionary one; mandamus will not issue to control the exercise of discretion of a public officer where the law imposes upon him the duty to exercise his judgment in reference to any manner in which he is required to act, because it is his judgment that is to be exercised and not that of the court.⁷⁴ (Citation omitted)

The rules further provide that a writ of mandamus shall be issued only upon a showing that “there is no other plain, speedy, and adequate remedy in the ordinary course of law.”⁷⁵ A writ of mandamus is an “extraordinary remedy that is issued only in extreme necessity, and the ordinary course of procedure is powerless to afford an adequate and speedy relief to one who has a clear legal right to the performance of the act to be compelled.”⁷⁶

As admitted by the petitioners, they have alternative and prompt remedies before the Commission on Elections, Senate Electoral Tribunal, or House of Representative Electoral Tribunal. Failing to avail these remedies operates against them. Recourse to these agencies are plain, speedy, and adequate remedies. Moreover, it does not escape our attention that petitioners violated the doctrine of hierarchy of courts in directly filing their petition before this Court. This Court’s original jurisdiction over petitions for mandamus is not a license to immediately file a petition before this Court. The Court of Appeals and the Regional Trial Courts are similarly given the jurisdiction over petitions for mandamus.⁷⁷

⁷² *Hipos, Sr. v. Bay*, 600 Phil. 720, 727 (2009) [Per J. Chico-Nazario, Third Division].

⁷³ 407 Phil. 618 (2001) [Per J. Buena, En Banc].

⁷⁴ Id. at 646.

⁷⁵ *Ha Datu Tawahig v. Lapinid*, 850 Phil. 137, 150 (2019) [Per J. Leonen, Third Division].

⁷⁶ *Special People, Inc. Foundation v. Canda*, 701 Phil. 365, 369 (2013) [Per J. Bersamin, First Division].

⁷⁷ *Ha Datu Tawahig v. Lapinid*, G.R. No. 221139, March 20, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65145>> [Per J. Leonen, Third Division];

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Respondent's duty to give due course to certificates of candidacy is a ministerial duty. However, in this case, respondent did not unlawfully neglect its duty precisely because it gave due course to the certificates of candidacy.

Under Section 76 of the Omnibus Election Code, respondent has the "ministerial duty to receive and acknowledge receipt of the certificate of candidacy."⁷⁸ It cannot, by itself, deny due course or cancel a certificate if it was filed in due form. In *Cipriano v. Commission on Elections*,⁷⁹

The Commission may not, by itself, without the proper proceedings, deny due course to or cancel a certificate of candidacy filed in due form. When a candidate files his certificate of candidacy, the COMELEC has a ministerial duty to receive and acknowledge its receipt. This is provided in Sec. 76 of the Omnibus Election Code[.]

....

The Court has ruled that the Commission has no discretion to give or not to give due course to petitioner's certificate of candidacy. The duty of the COMELEC to give due course to certificates of candidacy filed in due form is ministerial in character. While the Commission may look into patent defects in the certificates, it may not go into matters not appearing on their face. The question of eligibility or ineligibility of a candidate is thus beyond the usual and proper cognizance of said body.⁸⁰ (Citations omitted)

Respondent may only deny the certificate if there are apparent or patent defects on the face of the certificate of candidacy.⁸¹ The information apparent on the certificate of candidacy are provided in Section 74 of the Omnibus Election Code. The Section reads:

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 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

Gios-Samar, Inc. v. Department of Transportation and Communications, G.R. No. 217158, March 12, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970>> [Per J. Jardeleza, En Banc].

⁷⁸ ELECTION CODE, sec. 76 provides:

SECTION 76. Ministerial duty of receiving and acknowledging receipt. – The Commission, provincial election supervisor, election registrar or officer designated by the Commission or the board of election inspectors under the succeeding section shall have the ministerial duty to receive and acknowledge receipt of the certificate of candidacy.

⁷⁹ 479 Phil. 677 (2004) [Per J. Puno, En Banc].

⁸⁰ *Id.* at 689.

⁸¹ *Cerafica v. Commission on Elections*, 749 Phil. 80, 87 (2014) [Per J. Perez, En Banc].

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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 certificate 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.

Respondent may not *motu proprio* look into the eligibility or ineligibility of a candidate.⁸² The certificate of candidacy may be denied due course or cancelled through a verified petition filed under Section 78 of the Omnibus Election Code “exclusively on the ground that any material representation contained therein as required under Section 74. . . is false.”⁸³

Material representation involves the eligibility or qualification for the office sought by the candidate. These eligibilities or qualifications are those provided under the constitutional and statutory provisions.⁸⁴

Here, respondent cannot be compelled through a writ of mandamus to deny due course to certificates of candidacy precisely because the duty of respondent is to give due course to the certificates if they are filled out in due form. The petitioners’ prayer to *motu proprio* deny due course to the certificates of candidates is contrary to the mandate of the respondent.

⁸² Id.

⁸³ ELECTION CODE, sec. 78 provides:

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 the 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.

⁸⁴ See *Chua v. Commission on Elections*, 783 Phil. 876, 892–893 (2016) [Per J. Leonen, En Banc].

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The immediate and appropriate remedy available to the petitioners is to file a Petition to Deny Due Course To or Cancel a Certificate of Candidacy once the certificates of candidacy are filed.⁸⁵

The eligibility of the candidates based on the term limits is based on a constitutional provision which is not apparent on the face of the certificate of candidacy. The number of terms and the corresponding period already served by the candidate are not contents of a certificate of candidacy. If the petitioners believe that there are candidates in the next elections who are ineligible based on the constitutional term limits, their recourse is to file a petition under Section 78.

III

Petitioners question the ruling in *Socrates v. Commission on Elections*,⁸⁶ alleging that this Court erred in adhering to the original intent of the Constitution drafters, instead of interpreting it in *verba legis*. Petitioners maintain that the provisions do not mention the words “hibernation, hiatus, or rest period” that can defeat the term limit.

In *Socrates*, this Court held that what the Constitution prohibits is the *immediate reelection* for a fourth term following three consecutive terms for members of the House of Representatives or third term following two consecutive terms for senators. Thus:

The Constitution. . . does not prohibit a subsequent reelection for a fourth term as long as the reelection is not immediately after the end of the third consecutive term. . . .

....

Neither does the Constitution prohibit one barred from seeking immediate reelection to run in any other subsequent election involving the same term of office. What the Constitution prohibits is a *consecutive* fourth term. The debates in the Constitutional Commission evidently show that the prohibited election referred to by the framers of the Constitution is the immediate reelection after the third term, not any other subsequent election.

If the prohibition on elective local officials is applied to any election within the three-year full term following the three-term limit, then Senators should also be prohibited from running in any election within the six-year full term following their two-term limit. The constitutional provision on the term limit of Senators is worded exactly like the term limit of elective local officials, thus:

⁸⁵ ELECTION CODE, sec. 78.

⁸⁶ 440 Phil. 106 (2002) [Per J. Carpio, En Banc].

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“No Senator shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.”

In the debates on the term limit of Senators, the following exchange in the Constitutional Convention is instructive:

GASCON: I would like to ask a question with regard to the issue after the second term. We will allow the Senator to rest for a period of time before he can run again?

DAVIDE: That is correct.

GASCON: And the question that we left behind before — if the Gentleman will remember — was: How long will that period of rest be? Will it be one election which is three years or one term which is six years?

DAVIDE: If the Gentleman will remember, Commissioner Rodrigo expressed the view that during the election following the expiration of the first 12 years, whether such election will be on the third or on the sixth year thereafter, this particular member of the Senate can run. So, it is not really a period of hibernation for six years. That was the Committee's stand.

GASCON: So, effectively, the period of rest would be three years at the least.⁸⁷ (Citations omitted)

While this Court interpreted the provisions by looking into the deliberations of the drafters, a *verba legis* interpretation will not alter the meaning of the disputed provisions.

Clearly, the prohibition and term limit refers to *consecutive* terms. While the provisions do not textually provide the terms “hibernation, hiatus, or rest period,” the usage of the word “consecutive” indicates that the term limit and prohibition only applies to reelection for an immediately subsequent term. The interpretation of petitioners is an extra-textual reading of the Constitution.

What the Constitution clearly prohibits is the reelection for more than two or three consecutive terms of Senators and Members of the House of Representatives.

In all, respondent did not unlawfully neglect its duty in giving due course to the elective officials' certificates of candidacy in the past elections; neither will this Court decide on certificates that are yet to be filed.

⁸⁷ Id. at 127–128.

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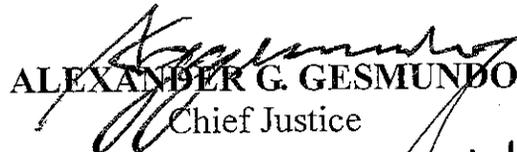
WHEREFORE, the Petition for Mandamus is **DISMISSED**.

SO ORDERED.

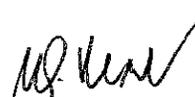


MARVIC M.V.F. LEONEN
Associate Justice

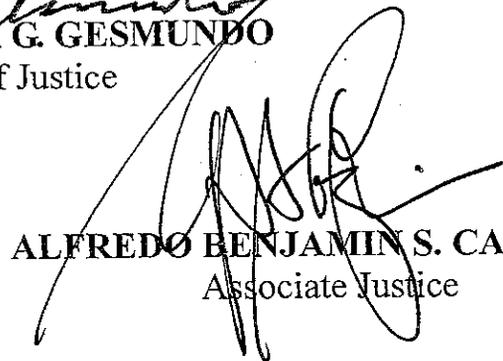
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



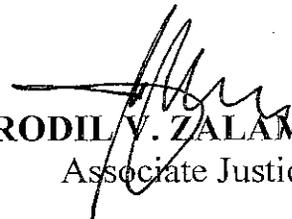
ROSMAR D. CARANDANG
Associate Justice



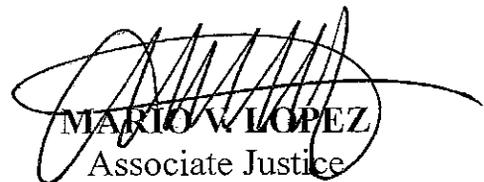
AMY C. LAZARO-JAVIER
Associate Justice



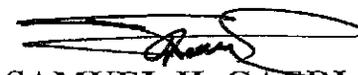
HENRI JEAN PAUL B. INTING
Associate Justice



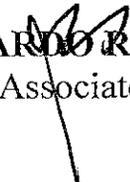
RODIL V. ZALAMEDA
Associate Justice



MARIO W. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



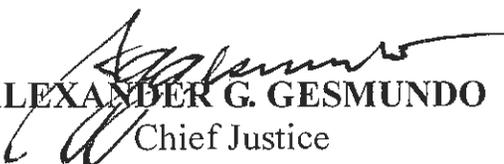
RICARDO R. ROSARIO
Associate Justice

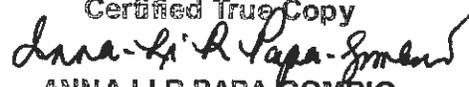

JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
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.


ALEXANDER G. GASMUNDO
Chief Justice

Certified True Copy

ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court

