



SUPREME COURT OF THE PHILIPPINES
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OCT 18 2023

Republic of the Philippines
Supreme Court
Manila

EN BANC

**ROBERTO "PINPIN" T. UY,
JR.,**

G.R. No. 260650

Petitioner,

— *versus* —

**COMMISSION ON
ELECTIONS, VERLY
TABANCURA-ADANZA, in
her capacity as PROVINCIAL
ELECTION SUPERVISOR
and CHAIRPERSON of the
Provincial Board of
Canvassers for the Province of
Zamboanga del Norte,
PROVINCIAL BOARD OF
CANVASSERS FOR THE
PROVINCE OF
ZAMBOANGA DEL NORTE,
and ROMEO M. JALOSJOS,
JR.,**

Respondents.

X-----

X

FREDERICO P. JALOSJOS,
Petitioner,

G.R. No. 260952

Present:

— *versus* —

**ROMEO M. JALOSJOS, JR.,
and the COMMISSION ON
ELECTIONS,**

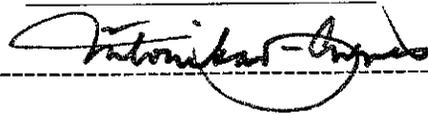
**GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,**

Respondents.

INTING,*
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,**
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

August 8, 2023



X-----X

DECISION

LOPEZ, M., J.:

At the core of these consolidated Petitions¹ is the propriety of the suspension of proclamation of the winning candidate and the cancellation of Certificate of Candidacy (CoC) on the grounds of lack of *bona fide* intention to run for public office and voter confusion because of similarity in surnames.

ANTECEDENTS

In the 2022 elections, four candidates, namely, Roberto “*Pinpin*” T. Uy, Jr. (Roberto), Romeo “*Kuya Jonjon*” M. Jalosjos, Jr. (Romeo), Frederico “*Kuya Jan*” P. Jalosjos (Frederico), and Richard Amazon, vied for the position of Zamboanga del Norte’s first district representative.

On November 16, 2021, Romeo filed a Verified Petition² to declare Frederico a nuisance candidate and to cancel his CoC before the Commission on Elections (Comelec) docketed as SPA No. 21-224 (DC).³ Romeo alleged that Frederico has no *bona fide* intention to run for public office. Frederico indicated “*Jalosjos*” as his surname in his application for late registration of birth on April 26, 2021, and transferred his voter registration record only on May 20, 2021.⁴ Moreover, Frederico was not known as “*Kuya Jan*” which is

* No part.

** On leave.

¹ See Petition for *Certiorari*, Prohibition and *Mandamus Ex Abundanti Ad Cautela*; rollo (G.R. No. 260650), pp. 10–34; and Petition for *Certiorari*; rollo (G.R. No. 260952), pp. 3–49.

² Rollo (G.R. No. 260952), pp. 105–114.

³ *Id.* at 242.

⁴ *Id.* at 106–108.



confusingly like Romeo's nickname "*Kuya Jonjon*."⁵ Lastly, Frederico has no prior political experience.⁶ On the other hand, Frederico countered⁷ that he has a *bona fide* intention to run for public office given his government platforms. Frederico was the official candidate of the National Unity Party (NUP). Frederico likewise incurred expenses for his candidacy and extended aid to people affected during the pandemic which are ample proof of his financial capacity to wage a campaign. Ultimately, there was a remote possibility of voter confusion because the names appearing on the ballots are not identical.⁸

In a Resolution⁹ dated April 19, 2022, the Comelec Second Division declared Frederico a nuisance candidate. The Comelec explained that a candidate intending to win the elections would take steps to distinguish themselves from the other candidates. Any similarity in the names would produce the opposite effect and dilute the candidate's voter base. Here, the nicknames "*Kuya Jonjon*" and "*Kuya Jan*" are phonetically identical. Frederico's membership in a political party also does not automatically equate to a *bona fide* intention to run for public office,¹⁰ thus:

WHEREFORE, premises considered, the Commission (Second Division) RESOLVED, as it hereby RESOLVES, to GRANT the instant Petition. FREDERICO P. JALOSJOS is declared a Nuisance Candidate. His Certificate of Candidacy for the position of Member, House of Representatives in connection with the 2022 NLE is hereby DENIED DUE COURSE/CANCELLED.

SO ORDERED.¹¹

Frederico sought reconsideration.¹² Meantime, the elections were held on May 9, 2022. The following day, Romeo filed a Motion¹³ in SPA No. 21-224 (DC) asking to suspend the proclamation of the leading candidate Roberto based on the partial and unofficial results.¹⁴ Romeo asserted that he won the elections since the votes of Frederico must be credited to him.¹⁵ On May 11,

⁵ *Id.* at 111–112 and 243.

⁶ *Id.* at 112–113.

⁷ See Verified Answer; *id.* at 195–207.

⁸ *Id.* at 199–204.

⁹ *Id.* at 241–250. Signed by Presiding Commissioner Marlon S. Casquejo and Commissioner Rey E. Bulay. Commissioner Geroge Erwin M. Garcia inhibited.

¹⁰ *Id.* at 247–249.

¹¹ *Id.* at 249–250.

¹² See Motion for Reconsideration dated April 25, 2022; *id.* at 252–263.

¹³ See Urgent Motion to Suspend Proclamation of Roberto "Pinpin" Uy, Jr. as the Representative of the 1st Congressional District of Zamboanga del Norte dated May 10, 2022; *rollo* (G.R. No. 260650), pp. 58–61.

¹⁴ *Id.* at 42 and 59–60.

¹⁵ *Id.* at 59–60. The pertinent portions of the Motion reads:

8. That during the canvassing of votes, [Frederico] was able to garner the partial and unofficial ballot of 5244, as of this writing;

9. That the general public could not have intended to vote for Respondent Frederico Jalosjos as he is virtually unknown in the 1st District of Zamboanga del Norte;

2022, the Provincial Board of Canvassers (PBOC) reported the final election results,¹⁶ to wit:

Candidates	Votes	Rank
Roberto “Pinpin” Uy, Jr.	69,591	1
Romeo M. Jalosjos, Jr.	69,109	2
Frederico P. Jalosjos	5,424	3
Richard Amazon	288	4 ¹⁷

Thereafter, the PBOC received through electronic mail an “*advanced copy*” of the Comelec *En Banc* Order in SPA No. 21-224 (DC) directing to suspend Roberto’s proclamation. Immediately, Roberto’s counsel pointed out that the Order was undated and does not contain the complete signatures of the members, a certification, and a notice signed by the Comelec’s Clerk of Court.¹⁸ In due course, the majority of PBOC members ruled that the “*advanced copy*” of the Order was irregular. However, the PBOC Chairperson dissented and called for a ten-minute recess. Meanwhile, the Comelec Chairperson confirmed the authenticity of the Order through a phone call. On May 12, 2022, at 2:05 a.m.,¹⁹ the PBOC resolved to suspend Roberto’s proclamation,²⁰ viz.:

Inasmuch as the Provincial Board of Canvassers (PBOC) of the Province of Zamboanga del Norte, through the chairperson of this PBOC, received by way of email from the Chair[person] of the Commission on Election (COMELEC) a copy of an Order to suspend the proclamation of candidate Roberto “Pinpin” Uy, Jr. x x x this board hereby resolve (sic) to suspend the proclamation of the said Roberto “Pinpin” Uy, Jr. consonance to the provision of COMELEC Resolution No. 10731.²¹

On the same day, the Comelec *En Banc* suspended Roberto’s proclamation.²² Yet, the Comelec was not unanimous. The dissenting members noted that Roberto’s right to due process was violated because he is

10. That, the current number of partial and unofficial votes garnered by petitioner Romeo Jalosjos, Jr. is 66,622 as of this writing. While the leading candidate Roberto “Pinpin” Uy, Jr. has a partial and unofficial 67,003 votes as of this writing;

11. That, if we add the number of votes of the nuisance candidate Respondent Frederico Jalosjos to the number of votes of Petitioner Romeo Jalosjos, Jr., the latter would have garnered 71,886 votes, as a partial and unofficial result. Thus, placing herein Petitioner as the leading candidate for the disputed petition.

¹⁶ See Provincial/District Certificate of Canvass; *rollo* (G.R. No. 260952), pp. 271–272.

¹⁷ *Id.* at 271.

¹⁸ *Rollo* (G.R. No. 260650), pp. 74–75 and 77. The Order bore the signatures of Chairperson Saidamen B. Pangarungan, and Commissioners Socorro B. Inting, Rey E. Bulay, and Aimee T. Neri. Commissioners Marlon S. Casquejo, Aimee P. Ferolino, and George Erwin M. Garcia had no signatures.

¹⁹ *Id.* at 333.

²⁰ *Id.* at 78. The Resolution was signed by the PBOC composed of Chairperson Verly M. Tabangcura-Adanza, Vice-Chairperson Gabino S. Saavaedra II, and Member-Secretary Virgilio Batan, Jr.

²¹ *Id.*

²² See Order dated May 12, 2002; *id.* at 42–44. Signed by Chairperson Saidamen B. Pangarungan and Commissioners Socorro B. Inting, Rey E. Bulay, and Aimee P. Ferolino. Commissioners Marlon S. Casquejo and Aimee T. Neri with Dissenting Opinions. Commissioner George Erwin M. Garcia took no part.

not a party in SPA No. 21-224 (DC) and that the rules on suspension of proclamation is inapplicable in a proceeding to declare a nuisance candidate,²³ thus:

IN VIEW OF THE FOREGOING, the Commission (*En Banc*) hereby ORDERS the SUSPENSION OF PROCLAMATION of ROBERTO “PINPIN” UY, JR. as the Representative of the 1st Congressional District of Zamboanga del Norte. The suspension of the proclamation shall be effective until further orders from this Commission.

X X X X

SO ORDERED.

Given this May 12, 2022, in Manila, Philippines.²⁴ (Emphasis supplied)

Aggrieved, Roberto filed before the Comelec an *Extremely Urgent Petition*²⁵ to direct the PBOC to proclaim him as the winning candidate having received the highest number of votes based on the complete transmission of election results.²⁶ Roberto likewise filed a *Special Entry of Appearance with Extremely Urgent Motion for Reconsideration Ad Cautelam*²⁷ in SPA No. 21-224 (DC) solely to lift the Order suspending his proclamation.²⁸ Subsequently, Roberto withdrew the Petition and the entry of special appearance with Motion for Reconsideration.²⁹

On May 31, 2022, Roberto filed a *Petition for Certiorari, Prohibition, and Mandamus Ex Abudanti Ad Cautela*³⁰ before this Court docketed as G.R. No. 260650. Roberto questioned the suspension of his proclamation based on the “advanced copy” of the Comelec *En Banc* Order in SPA No. 21-224 (DC) where he is not even a party. Roberto added that PBOC has the ministerial duty to proclaim the candidate with the highest votes. Roberto prayed for a Temporary Restraining Order against the Comelec Order dated May 12, 2022, and a mandatory injunction for the PBOC to reconvene and proclaim him as the winning candidate.³¹

In a Resolution³² dated June 7, 2022, the Comelec *En Banc* denied Frederico’s Motion for Reconsideration in SPA No. 21-224 (DC) because it was filed a day late. The Comelec noted that the Motion was sent through

²³ *Id.* at 45–50.

²⁴ *Id.* at 43–44.

²⁵ *Id.* at 62–69.

²⁶ *Id.* at 63–64 and 68.

²⁷ *Id.* at 80–88.

²⁸ *Id.* at 80.

²⁹ See Voluntary Withdrawal of Petition dated May 20, 2022; *id.* at 140–141; and Voluntary Withdrawal dated May 20, 2022; *id.* at 142–143.

³⁰ *Id.* at 10–34.

³¹ *Id.* at 32.

³² *Rollo* (G.R. No. 260952), pp. 285–296. Signed by Acting Chairperson Socorro B. Inting and Commissioners Marlon S. Casquejo, Aimee P. Ferolino, and Rey E. Bulay.

electronic mail beyond 5:00 p.m. on April 25, 2022, and is deemed filed the following day.³³ At any rate, the Comelec affirmed the finding that Frederico is a nuisance candidate. The Comelec then directed that the votes of Frederico be credited to Romeo pursuant to the ruling in *Dela Cruz v. Comelec*³⁴ that the votes received by a nuisance candidate should be credited to the legitimate candidate with the same surname,³⁵ to wit:

WHEREFORE, premises considered, the *Motion for Reconsideration* is hereby DENIED.

Further, the Commission (*En Banc*) hereby ORDERS that the votes obtained by Respondent-Movant FREDERICO P. JALOSJOS be credited in favor of Petitioner ROMEO M. JALOSJOS, JR. In accordance with the result thereof, the candidate who obtained the highest number of votes shall be PROCLAIMED as the duly elected Representative of the 1st Congressional District of Zamboanga del Norte.

SO ORDERED.³⁶

Dissatisfied, Frederico filed a *Petition for Certiorari*³⁷ before this Court docketed as G.R. No. 260952. Frederico assailed the Comelec *En Banc* Resolution dated June 7, 2022, finding that he is a nuisance candidate. Frederico claimed that the Comelec erred in applying the *Dela Cruz* ruling and countered that the votes of a nuisance candidate whose CoC was cancelled should be declared stray and must not be credited to the other candidate. Frederico also prayed for a Temporary Restraining Order or a *Status Quo Ante* Order against the Comelec's directive to credit his votes to Romeo.³⁸ Similarly, Roberto asked in G.R. No. 260650 for a *Status Quo Ante* Order to observe the prevailing conditions before the denial of Frederico's Motion for Reconsideration.³⁹

On June 15, 2022, the Comelec *En Banc* issued a Writ of Execution⁴⁰ in SPA No. 21-224 (DC) ordering the PBOC to reconvene, credit the votes of Frederico to Romeo, and proclaim the winning candidate.⁴¹ On June 23, 2022, the PBOC convened and proclaimed Romeo as Zamboanga del Norte's first district representative.⁴² The Petitions in G.R. No. 260650 and G.R. No. 260952 were then consolidated.⁴³ Later, the Court granted the prayers for a *Status Quo Ante* Order and required the parties to observe the prevailing

³³ *Id.* at 290.

³⁴ 698 Phil. 548 (2012) [Per J. Villarama, Jr., *En Banc*].

³⁵ *Rollo* (G.R. No. 260952), pp. 291-295.

³⁶ *Id.* at 295.

³⁷ *Id.* at 3-49.

³⁸ *Id.* at 35-47.

³⁹ *Rollo* (G.R. No. 260650), pp. 158-159.

⁴⁰ *Rollo* (G.R. No. 260952), pp. 447-450. Signed by Acting Chairperson Socorro B. Inting.

⁴¹ *Id.* at 449-450.

⁴² See Certificate of Canvass of Votes and Proclamation of Winning Candidate for Member, House of Representatives; *id.* at 507-508.

⁴³ See the Court's Resolution dated June 21, 2022; *id.* at 465-A-465-B.

conditions before the issuance of the Comelec *En Banc* Order dated May 12, 2022, and Resolution dated June 7, 2022.⁴⁴

In its Comment,⁴⁵ the Office of the Solicitor General (OSG) pointed out that the Comelec already proclaimed that Romeo won as district representative. As such, the issues raised in the Petitions partake the nature of an election contest within the exclusive jurisdiction of the House of Representatives Electoral Tribunal (HRET). Assuming the Court may decide the case, the OSG maintained that there was no violation of due process because Roberto is not a real party in interest in SPA No. 21-224 (DC).⁴⁶ Also, the OSG asserted that the Comelec aptly denied Frederico's Motion for Reconsideration because it was filed out of time. The Comelec rules provide that a pleading sent via electronic mail beyond 5:00 p.m. is deemed filed the following day. Yet, Frederico submitted his Motion through electronic mail at 6:23 p.m. On the merits, the OSG argued that the Comelec correctly held that Frederico is a nuisance candidate because his choice of the moniker "Kuya Jan" is confusingly similar to Romeo's nickname "Kuya Jonjon" and has the potential to mislead the voters.⁴⁷ Thus, the Comelec properly applied the *Dela Cruz* ruling that the votes received by a nuisance candidate should be credited to the legitimate candidate with the same surname.⁴⁸ In his Comment,⁴⁹ Romeo essentially reiterated the OSG's arguments and prayed to lift the *Status Quo Ante* Order.⁵⁰

RULING

***The Court has jurisdiction to review
the decisions and orders of the
Commission on Elections***

The 1987 Constitution is explicit that the Court has the power to review any decision, order, or ruling of the Comelec through a petition for *certiorari*. Apropos is Article IX (A), Section 7 of the Constitution, to wit:

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

⁴⁴ See the Court's Resolution dated July 12, 2022; *id.* at 467-470.

⁴⁵ *Rollo* (G.R. No. 260650), pp. 447-487.

⁴⁶ *Id.* at 460-464.

⁴⁷ *Id.* at 470-475.

⁴⁸ *Id.* at 477-484.

⁴⁹ *Id.* at 368-398.

⁵⁰ *Id.* at 372-397.

The Court interpreted the constitutional provision as limited to final orders, rulings, and decisions of the Comelec *En Banc* in the exercise of its adjudicatory or quasi-judicial powers.⁵¹ Verily, the Court has jurisdiction over the Petitions assailing the Comelec *En Banc* Order dated May 12, 2022, that suspended Roberto's proclamation, and its Resolution dated June 7, 2022, which affirmed Federico's declaration as a nuisance candidate. Contrary to the OSG and Romeo's theory, the HRET has no appellate jurisdiction over rulings of the Comelec *En Banc*. The HRET lacks authority to decide on whether Federico is a nuisance candidate, and the proper recourse is to timely file a petition for *certiorari* before this Court, thus:

The HRET did not commit any grave abuse of discretion in declaring that it has no jurisdiction to determine whether Alvin John was a nuisance candidate. If Wigberto timely filed a petition before this Court within the period allotted for special actions and questioned Alvin John's nuisance candidacy, then it is proper for this Court to assume jurisdiction and rule on the matter. As things stand, the COMELEC *En Banc*'s ruling on Alvin John's nuisance candidacy had long become final and executory.⁵² (Emphasis supplied)

True, the Court in *Limkaichong v. Comelec*⁵³ held that the proclamation of a winning candidate divests the Comelec of its "*jurisdiction over matters pending before it at the time of the proclamation.*"⁵⁴ However, this statement must be read in the context of a pending case and not to final orders, rulings, and decisions of the Comelec *En Banc* in the exercise of its adjudicatory or quasi-judicial powers. Again, these matters may be reviewed only through a petition for *certiorari* before this Court. Otherwise, it would serve as a license to relitigate all issues already resolved by the Comelec on the unqualified interpretation that the HRET's jurisdiction should be full and complete. In this case, it must be pointed out that Romeo's proclamation as the winner is dependent on Comelec's declaration of Federico as a nuisance candidate. Unless the Comelec resolution is set aside, Romeo will be considered the winner because the votes of Federico are presumed to be votes for Romeo. It is the Court, not the HRET, that is the proper body to review a Comelec Resolution. The HRET cannot declare a nuisance candidate and cancel a candidate's CoC. This remedial vehicle is instituted in the Omnibus Election Code⁵⁵ (OEC) and the Comelec Rules of Procedure⁵⁶ and logically filed before elections. In other words, the OSG and Romeo's argument that the HRET should take cognizance of the case would deprive Roberto of any remedy to challenge the election results.

⁵¹ *Ambil, Jr. v. Comelec*, 398 Phil. 257, 274 (2000) [Per J. Pardo, *En Banc*].

⁵² *Tañada, Jr. v. HRET*, 782 Phil. 12, 27 (2016) [Per J. Carpio, *En Banc*].

⁵³ 611 Phil. 817 (2009) [Per J. Peralta, *En Banc*].

⁵⁴ *Id.* at 827.

⁵⁵ See Batas Pambansa Blg. 881, approved on December 8, 1985.

⁵⁶ *Limkaichong v. Comelec*, 611 Phil. 817, 827-828 (2009) [Per J. Peralta, *En Banc*]. See also J. Perez, Separate Opinion in *Tañada, Jr. v. HRET*, 782 Phil. 12, 30-32 (2016) [Per J. Carpio, *En Banc*]; and *Lokin, Jr. v. Comelec*, 635 Phil. 372, 388-389 (2010) [Per J. Bersamin, *En Banc*].

The HRET has no jurisdiction over a proclaimed winner who has not yet taken a proper oath and assumed office

The HRET's jurisdiction is limited to the election, returns, and qualification of the "*Members*" of the House of Representatives.⁵⁷ The HRET has no jurisdiction over a proclaimed district representative winner unless the following requisites concur: (1) a valid proclamation, (2) a proper oath, and (3) assumption of office. There must also be a petition duly filed with the electoral tribunal. In some cases, this Court held that once a proclamation has been made, Comelec's jurisdiction is already lost, and the HRET's own jurisdiction begins. However, it must be noted that in those cases, the doctrinal pronouncement was made in the context of a proclaimed candidate who had not only taken an oath of office but who had also assumed office,⁵⁸ thus:

Contrary to petitioner's claim, however, the COMELEC retains jurisdiction for the following reasons:

First, the HRET does not acquire jurisdiction over the issue of petitioner's qualifications, as well as over the assailed COMELEC Resolutions, unless a petition is duly filed with said tribunal. Petitioner has not averred that she has filed such action.

Second, the jurisdiction of the HRET begins only after the candidate is considered a Member of the House of Representatives, x x x

From the foregoing, it is then clear that to be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: **(1) a valid proclamation, (2) a proper oath, and (3) assumption of office.**

x x x x

Consequently, before there is a valid or official taking of the oath it must be made (1) before the Speaker of the House of Representatives, and (2) in open session. Here, although she made the oath before Speaker Belmonte, there is no indication that it was made during plenary or in open session and, thus, it remains unclear whether the required oath of office was indeed complied with.

More importantly, we cannot disregard a fact basic in this controversy — that before the proclamation of petitioner on 18 May 2013, the COMELEC *En Banc* had already finally disposed of the issue of petitioner's lack of Filipino citizenship and residency via its Resolution dated 14 May 2013. **After 14 May 2013, there was, before the COMELEC, no longer any pending case on petitioner's qualifications**

⁵⁷ See Article VI, Section 17 of the Constitution.

⁵⁸ *Reyes v. Comelec*, 712 Phil. 192, 212 (2013) [Per I. Perez, *En Banc*].

to run for the position of Member of the House of Representatives.⁵⁹ (Emphasis supplied)

Here, Romeo had not satisfied the requisite of a proper oath of office. The Rules of the House of Representatives require its members to take their oath or affirmation collectively or individually before the Speaker in open session. The oath enables the members to enter into the performance of their functions and participate in the House deliberations and other proceedings.⁶⁰ The Office of the Deputy Secretary-General and Chief Counsel of the Legal Affairs Department informed this Court that the Office of the House of Representatives for the First District of Zamboanga del Norte remains vacant,⁶¹ to wit:

In Compliance with the Honorable Court's Resolution dated March 8, 2023 in the above-captioned cases, I hereby certify that Mr. Romeo Jalosjos, Jr. has **not** taken an oath or affirmation of office with the Honorable Speaker of the House of Representatives in open session.

Further, I certify that the Office of the Representative for the First District of Zamboanga Del Norte remains **vacant** due to the *Status Quo Ante Order* issued in these cases. However, in the interest of the people of the First District of Zamboanga Del Norte, the House of Representatives in its plenary session on November 7, 2022, designated Majority Leader Manuel Jose "Mannix" M. Dalipe as legislative caretaker. Hereto, attached for your reference is a [certified true] copy of page 52, House Journal No. 24 dated November 7, 2022.⁶² (Emphasis in the original)

The "*oath or affirmation*" before the Speaker of the House in open session is not an empty ritual. To be sure, the third sentence of Rule II, Section 6 of the Rules of the House of Representatives provides for the significant consequential effects of the oath or affirmation before the Speaker in open session, *viz.*:

⁵⁹ *Id.* at 210–214.

⁶⁰ See Rule II, Section 6 of the Rules of the House of Representatives (18th Congress), which provides:
Section 6. *Oath or Affirmation of Members.* – Members shall take their oath or affirmation collectively or individually before the Speaker in open session. The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers. Following parliamentary precedents, Members take their oath before the Speaker in open session to enable them to enter into the performance of their functions and participate in the deliberations of the House.

See also I Journal, House, 19th Congress, 1st Session (July 25, 2022), where the 19th Congress provisionally adopted the rules of the 18th Congress until the adoption of the rules of the 19th Congress.

⁶¹ *Rollo* (G.R. No. 260650), p. 923.

⁶² *Id.*

RULE II
Membership

Section 6. *Oath or Affirmation of Members.* – Members shall take their oath or affirmation collectively or individually before the Speaker in open session. The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers. **Following parliamentary precedents, Members take their oath before the Speaker in open session to enable them to enter into the performance of their functions and participate in the deliberations and other proceedings of the House.** (Emphasis supplied)

The rule has two scenarios – (1) oath before the Speaker of the House; and (2) oath before duly authorized public officers. In the first scenario, only an oath is required before the Speaker of the House and not an affirmation. In the second scenario, the oath of office before the Speaker of the House in open session is a ceremonial affirmation of a prior and valid oath before duly authorized public officers. In both cases, the oath before the Speaker of the House in open session will enable the members to “*enter into the performance of their functions and participate in the deliberations and other proceedings of the House.*” Here, Romeo did not take an oath before the Speaker of the House in open session which bars him from performing his functions and participating in the congressional deliberation. Thus, the required oath, as a ceremonial affirmation of a previous valid oath before duly authorized public officers, is not present.

Moreover, Romeo had not yet assumed office. It cannot be said that Romeo became a member of the House of Representatives by “*operation of law*” pursuant to Article VI, Section 7 of the 1987 Constitution. The theory on “*assumption by operation of law*” which coincides on June 30 following the election is an over-stretched interpretation of the constitutional provision. The language of the provision is about the commencement of the term of office of “*Members*” which shall begin “*at noon on the thirtieth day of June next following their elections.*” This provision likewise sets the rule on term limitation such that “[*n*]o member of the House of Representatives shall serve for more than three consecutive terms.” However, the term of office refers to a fixed duration which is not analogous to assumption of office that pertains to overt acts in the discharge of one’s duties. Also, the term of office commences on June 30 following the elections, unlike the assumption of office which may transpire at a different time. Verily, assumption of office cannot be constructive but must involve actual discharge of duties. As discussed above, Romeo’s failure to take an oath before the Speaker of the House bars him from performing his functions and participating in the deliberations. The proposed theory on “*assumption by operation of law*” will also effectively remove Article 234 of the Revised Penal Code which punishes the crime of refusal to discharge elective office which states that “[*t*]he penalty of *arresto mayor* or a fine not exceeding 1,000 pesos, or both, shall be imposed upon any person who, having been elected by popular election to



a public office, shall refuse without legal motive to be sworn in or to discharge the duties of said office.” Differently stated, no person elected by popular election to public office may be charged and convicted of this crime after June 30 following the election since he or she is deemed to have assumed office by operation of law. Again, it is basic in statutory construction that every statute must be so interpreted and brought in accord with other laws as to form a uniform system of jurisprudence – *interpretare et concordare legibus est optimus interpretandi*.

In addition, Romeo had not yet assumed office in view of the *Status Quo Ante* Order requiring the parties to observe the last, actual, peaceable, and uncontested state of things before the issuance of the assailed Comelec *En Banc* Order dated May 12, 2022 and Resolution dated June 7, 2022.⁶³ The Court must stress that the controversy arose when the Comelec ordered the suspension of Roberto’s proclamation without allowing him to be heard (G.R. No. 260650) and is inextricably linked with Frederico’s declaration as a nuisance candidate and its consequences (G.R. No. 260952). The consolidated Petitions before this Court call for the determination of who should be proclaimed. In other words, the *status quo* to be maintained refers to the situation when neither Roberto nor Romeo was proclaimed. To hold that Roberto should be proclaimed in the interim is to defeat the very purpose of issuing the *Status Quo Ante* Order without the Court resolving the issues raised in these Petitions. The *Status Quo Ante* Order does not authorize any proclamation while the case is pending and renders any proclamation ineffective.⁶⁴ In *Garcia v. Mojica*,⁶⁵ the Court described a *Status Quo Ante* Order as follows:

As explained by Justice Florenz D. Regalado, an authority on remedial law:

“There have been instances when the Supreme Court has issued a *status quo* order which, as the very term connotes, is merely **intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. This was resorted to when the projected proceedings in the case made the conservation of the *status quo* desirable or essential**, but the affected party neither sought such relief or the allegations in his pleading did not sufficiently make out a case for a temporary restraining order. **The *status quo* order was thus issued *motu proprio* on equitable considerations.** Also, unlike a temporary restraining order or a preliminary injunction, a *status quo* order is more in the nature of a cease and desist order, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief. The further distinction is provided by the present amendment in the sense that, unlike

⁶³ See *Garcia v. Mojica*, 372 Phil. 892, 900 (1999) [Per J. Quisumbing, Second Division].

⁶⁴ See *Pacis v. Comelec*, 130 Phil. 545, 548 and 566 (1968) [Per J. Sanchez, *En Banc*], where the Court issued a *Status Quo Ante* Order and addressed the problem of “‘grab-the-proclamation,’ and let the victimized candidate face the hurdle of a long drawn expensive election protest which may prove insuperable, if not useless.” The Court held “[t]o be accentuated now is that the proclamation of *Pacis*, as well as the subsequent proclamation of *Negre*, are both null and void. The case stands as if no proclamation has ever been made at all. And *Pacis* and *Negre* return to *status quo ante* – neither is proclaimed.”

⁶⁵ 372 Phil. 892 (1999) [Per J. Quisumbing, Second Division].

the amended rule on restraining orders, a *status quo* order does not require the posting of a bond.”⁶⁶ (Emphasis supplied)

In issuing a *Status Quo Ante* Order, the Court considers several factors like justice and equity and the desirability of conserving the *status quo* or the last, actual, peaceable, and uncontested state of things which preceded the controversy.⁶⁷ As explained in *Garcia*, a *Status Quo Ante* Order differs from a Temporary Restraining Order and may be issued on equitable considerations. The determination of who should be proclaimed the winner is a sufficient equitable consideration. It cannot be overemphasized that an election case is imbued with the public interest.⁶⁸ It involves not only the adjudication of the private interests of rival candidates but also the paramount need to dispel the uncertainty which beclouds the real choice of the electorate with respect to who shall discharge the prerogatives of the office within their gift.⁶⁹

In *Codilla, Sr. v. Hon. De Venecia*,⁷⁰ the Court rejected the view that the proclamation and oath of office of an “elected” member of the House of Representatives automatically vest jurisdiction to the HRET without examining the context of the case. The nature of the pending case must still be scrutinized to determine the proper body to resolve or review the issues raised. When the validity of the proclamation rests on the questioned Comelec resolutions, the HRET cannot deprive the appropriate bodies, such as the Comelec or this Court, from exercising jurisdiction, thus:

Respondent Loecin submits that the COMELEC *en banc* has no jurisdiction to annul her proclamation. She maintains that the COMELEC *en banc* has been divested of jurisdiction to review the validity of her proclamation because she has become a member of the House of Representatives. Thus, she contends that the proper forum to question her membership to the House of Representatives is the House of Representatives Electoral Tribunal (HRET).

We find no merit in these contentions.

First. The validity of the respondent’s proclamation was a core issue in the Motion for Reconsideration seasonably filed by the petitioner.

x x x x

Second. It is the House of Representatives Electoral Tribunal (HRET) which has no jurisdiction in the instant case.

⁶⁶ *Id.* at 900; citation omitted.

⁶⁷ J. Leonen, Separate Opinion in *ABS-CBN Corporation v. National Telecommunications Commission*, G.R. No. 252119, August 25, 2020, 946 SCRA 495, 548–549 [Per J. Perlas-Bernabe, *En Banc*].

⁶⁸ *Caballero v. Comelec*, 770 Phil. 94, 110–111 (2015) [Per J. Peralta, *En Banc*].

⁶⁹ *Unda v. Comelec*, 268 Phil. 877, 881–882 (1990) [Per J. Regalado, *En Banc*].

⁷⁰ *Codilla, Sr. v. De Venecia*, 442 Phil. 139 (2002) [Per J. Puno, *En Banc*].

Respondent contends that having been proclaimed and having taken oath as representative of the 4th legislative district of Leyte, any question relative to her election and eligibility should be brought before the HRET pursuant to Section 17 of Article VI of the 1987 Constitution.

We reject respondent's contention.

- (a) The issue on the validity of the Resolution of the COMELEC Second Division has not yet been resolved by the COMELEC *en banc*.

To stress again, at the time of the proclamation of respondent Locsin, the validity of the Resolution of the COMELEC Second Division was seasonably challenged by the petitioner in his Motion for Reconsideration. The issue was still within the exclusive jurisdiction of the COMELEC *en banc* to resolve. Hence, the HRET cannot assume jurisdiction over the matter.

In *Puzon vs. Cua*, even the HRET ruled that the “doctrinal ruling that once a proclamation has been made and a candidate-elect has assumed office, it is this Tribunal that has jurisdiction over an election contest involving members of the House of Representatives, could not have been immediately applicable due to the issue regarding the validity of the very COMELEC pronouncements themselves.” This is because the HRET has no jurisdiction to review resolutions or decisions of the COMELEC, whether issued by a division or *en banc*.

- (b) The instant case does not involve the election and qualification of respondent Locsin.

Respondent Locsin maintains that the proper recourse of the petitioner is to file a petition for *quo warranto* with the HRET.

A petition for *quo warranto* may be filed only on the grounds of ineligibility and disloyalty to the Republic of the Philippines. In the case at bar, neither the eligibility of the respondent Locsin nor her loyalty to the Republic of the Philippines is in question. There is no issue that she was qualified to run, and if she won, to assume office.

A petition for *quo warranto* in the HRET is directed against one who has been duly elected and proclaimed for having *obtained the highest number of votes but whose eligibility is in question at the time of such proclamation*. **It is evident that respondent Locsin cannot be the subject of [a] *quo warranto* proceeding in the HRET. She lost the elections to the petitioner by a wide margin. Her proclamation was a patent nullity. Her premature assumption to office as Representative of the 4th legislative district of Leyte was void from the beginning.** It is the height of absurdity for the respondent, as a loser, to tell petitioner Codilla, Sr., the winner, to unseat her via a *quo warranto* proceeding.⁷¹ (Emphasis supplied)

The Decision in *Codilla, Sr.* involved an electoral case for membership in the House of Representatives for the 4th district of Leyte. Eufrocino Codilla,

⁷¹ *Id.* at 184–188; citations omitted.



Sr. (Codilla, Sr.) should have been proclaimed the winner but because of the Comelec Division's non-observance of due process, Ma. Victoria Locsin was instead proclaimed. Codilla, Sr. received the highest number of votes, but the Comelec Division suspended his proclamation without informing him and without strong evidence to support the suspension. Subsequently, the Comelec Division disqualified Codilla, Sr. and ordered the immediate proclamation of the second placer Ma. Victoria Locsin (Locsin). By the time the Comelec *En Banc* reversed the Comelec Division and resolved that Codilla, Sr. was not disqualified and that Locsin's proclamation should be annulled, Locsin had already taken an oath and assumed office. Locsin then invoked the HRET's jurisdiction to disregard the Comelec *En Banc* Resolution. The Court ruled that the HRET cannot automatically oust the Comelec of its jurisdiction in determining who should be proclaimed. The Court also held that Locsin's proclamation is void because Codilla, Sr. was deprived of due process and was erroneously disqualified.⁷²

Similarly, the present Petitions involved a question on the validity of the proclamation. The Comelec proclaimed Romeo as the winner after it credited the votes of Frederico to him and earlier suspended Roberto's proclamation. Absent the assailed Comelec Resolution and Order, Roberto should have been proclaimed because he garnered the highest number of votes after the election results were canvassed. Romeo is merely a second placer. Thus, it is incumbent upon the Court to determine the validity of Romeo's proclamation before dismissing the case on jurisdictional grounds. This is consistent with the principle of adherence to jurisdiction – that once it is attached, it cannot be ousted by subsequent happenings or events, although a character of which would have prevented jurisdiction from attaching in the first instance, and it retains jurisdiction until it finally disposes of the case.⁷³ This approach would recognize the importance of proceedings with the Comelec subject to the review of this Court if there were grave abuse of discretion.

To reiterate, this Court has the constitutional duty to review the decision, order, or ruling of the Comelec through a petition for *certiorari*. Moreover, the nature of the issues involved in the petitions concerning the suspension of proclamation and nuisance candidacy preclude the HRET from taking cognizance of the case. More importantly, the HRET has no jurisdiction over the petitions that were filed with this Court before any proclamation, oath, and assumption of office of any of the parties. Given that this Court has jurisdiction over the petitions, we now examine the propriety of the Comelec *En Banc* Order dated May 12, 2022 and Resolution dated June 7, 2022.

⁷² *Id.* at 165–179.

⁷³ See *Aruego, Jr. v. Court of Appeals*, 325 Phil. 191, 201 (1996) [Per J. Hermosisima, Jr., First Division]

The Comelec En Banc Order dated May 12, 2022, which suspended Roberto's proclamation, is tainted with grave abuse of discretion and violation of the right to due process

Pursuant to Sections 6 and 7 of Republic Act (RA) No. 6646⁷⁴ or “[t]he Electoral Reforms Law of 1987,” the Comelec’s authority to suspend the proclamation of a candidate who receives the highest number of votes with a pending case for disqualification applies also to a petition to deny due course to or cancel a CoC under Section 78 of the OEC based “*exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false,*” thus:

RA No. 6646

Section 6. *Effect of Disqualification Case.* — Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. **If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court or Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong.**

Section 7. *Petition to Deny Due Course to or Cancel a Certificate of Candidacy.* — The procedure hereinabove provided shall apply to petitions to deny due course to or cancel a certificate of candidacy as provided in **Section 78 of Batas Pambansa Blg. 881.** (Emphasis supplied)

OEC

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.

Yet, a similar power to suspend the proclamation of a winning candidate is not available in proceedings filed under Section 69 of the OEC or a petition to refuse to give due course to or cancel a CoC against an alleged nuisance candidate. Hence, the Comelec gravely abused its discretion when it suspended Roberto’s proclamation in a pending proceeding under Section 69

⁷⁴ Entitled “AN ACT INTRODUCING ADDITIONAL REFORMS IN THE ELECTORAL SYSTEM AND FOR OTHER PURPOSES,” approved on January 5, 1988.

of the OEC against Frederico. Further, public policy dictates that candidates receiving the highest votes should be proclaimed without unnecessary delay. The laws mandate the board of canvassers to receive the election returns and immediately canvass those that may have been received. The board of canvassers must continuously meet from day to day until the canvass is completed and may adjourn only to await the other election returns.⁷⁵ The board of canvassers is a ministerial body and its power is generally limited to the mechanical function of adding or compiling the votes cast for each candidate as shown on the face of the returns before it and declaring the result.⁷⁶ The purpose of the board of canvassers is to ascertain and declare the apparent result of the voting while all other questions are tried before the court or tribunal contesting the elections.⁷⁷ The suspension of proclamation of a winning candidate is not a matter which the Comelec can dispose of *motu proprio*.⁷⁸

In this case, the PBOC received the complete election results on May 11, 2022, and had clear basis to proclaim Roberto as the winning candidate for having garnered the highest number of votes. There is no reason to postpone the proclamation until the PBOC received through electronic mail an “*advanced copy*” of the Comelec *En Banc* Order in SPA No. 21-224 (DC) directing to suspend Roberto’s proclamation. Yet, the Order was undated and did not contain the complete signatures of the members, a certification, and a notice signed by the Comelec’s Clerk of Court. Interestingly, the minutes reveal that the Comelec Chairperson gave the PBOC the discretion to act on the “*advanced copy*” of the suspension order and decide how to proceed with the proclamation. In due course, the majority of PBOC members ignored the suspension order because of its patent irregularities, thus:

[PBOC] VICE-CHAIR[PERSON]: x x x I listened to the arguments of both parties. I was also informed by the Chairperson of the outcome, of this brief talk with some representative of the Office of the CHAIR[PERSON]. **Accordingly, she was assured that an official order will be released soon until sometime tonight. Otherwise, we are advised to proceed whatever course of action we deem right under the circumstance. I was also aware per information relayed to me from the Chairperson that they still have to procure the signatures of some Commissioners, whether he or she will assent or conform to this order, or dissent, we do not know.**

⁷⁵ Section 231 of the OEC. See also Section 28 of RA No. 7166, entitled “AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES,” approved on November 26, 1991; and Section 21 of RA No. 8346, entitled “AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES,” approved on December 2, 1997, as amended by RA No. 9369, entitled “AN ACT AMENDING REPUBLIC ACT NO. 8436, ENTITLED ‘AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, TO ENCOURAGE TRANSPARENCY, CREDIBILITY, FAIRNESS AND ACCURACY OF ELECTIONS, AMENDING FOR THE PURPOSE BATAS PAMPANSA BLG. 881, AS AMEMDED, REPUBLIC ACT NO. 7166 AND OTHER RELATED ELECTIONS LAWS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES,’” approved on January 23, 2007.

⁷⁶ *Mastura v. Comelec*, 349 Phil. 423, 430 (1998) [Per Bellosillo, *En Banc*]; citation omitted.

⁷⁷ *Ibrahim v. Comelec*, 701 Phil. 116, 133 (2013) [Per J. Reyes, *En Banc*].

⁷⁸ *Codilla, Sr. v. De Venecia*, 442 Phil. 139, 170 (2002) [Per J. Puno, *En Banc*].

We also do not know if such order is forthcoming. x x x In a sense this is not an official copy of the order. x x x [T]his is a mere scrap of paper. Also the CHAIR[PERSON] acknowledges such fact because x x x if they cannot send the copy today, we will proceed with whatever action is right under the premises. x x x I vote to proceed with the proclamation of the winning candidate of the first district.⁷⁹ (Emphasis supplied)

However, the PBOC Chairperson dissented from the majority decision to proceed with the proclamation and called for a recess. Meanwhile, the Comelec Chairperson confirmed the authenticity of the suspension order through a phone call. The PBOC heeded the directive, resumed the canvassing proceedings, and resolved to suspend the proclamation, to wit:

[PBOC] CHAIR[PERSON]: Let's resume. After I talked with the CHAIR[PERSON] of the Commission, he informed us, the members of the Board, that this copy is an official copy. And we are directed to implement the order.

x x x x

[PBOC] VICE CHAIR[PERSON]: If I may explain, I talked with the CHAIR[PERSON] and I confronted him whether this order is an official order of the Commission and he answered me that it is an official order of the Commission. **So, I changed my earlier ruling and I vote for the suspension of the proclamation.**

x x x x

[PBOC] CHAIR[PERSON]: So, the PBOC already ruled with finality that we will follow the order of the Commission *En Banc* not to proclaim Roberto Uy[,] Jr[.] and hence we will proceed with the proclamation of the 2nd district Member of the House of Representatives.⁸⁰ (Emphasis supplied)

In these circumstances, the Court finds it odd for the Comelec Chairperson to intervene in the proclamation absent a duly issued suspension order. The Comelec Chairperson should have ensured that the suspension order was urgently released pursuant to the rules instead of contacting the PBOC members. Similarly, it would be prudent if the PBOC inquired about the veracity of the “*advanced copy*” of the suspension order with the Comelec Clerk of Court who is tasked to “*execute orders, resolutions, decisions and processes issued by the Commission.*”⁸¹ Indeed, the guidelines in the proclamation of winning candidates allow the “*fastest means available such as, but not limited to phone call, sending of electronic mail, etc.*”⁸² of the Comelec’s action over petitions to disqualify or cancel the CoC of a candidate.

⁷⁹ *Rollo* (G.R. No. 260650), pp. 299–300.

⁸⁰ *Id.* at 309–312.

⁸¹ See Rule 38, Section 2(f) of the 1993 Comelec Rules of Procedure.

⁸² See Article III, Section 33 (IV) (K) in Comelec Resolution No. 10731, entitled “General Instructions for the Board of Canvassers on the Constitution, Composition and Appointment; Consolidation/Canvass; and Transmission of Votes/Canvass in Connection with the 09 May 2022 National and Local Elections,” approved on November 17, 2021.

But this quick measure is premised on the fact that the Comelec had duly acted on the matter. In this case, however, the Comelec *En Banc Order* dated May 12, 2022, came after the PBOC suspended the proclamation. Obviously, the Comelec and the PBOC unnecessarily deferred the proclamation and went against the policy that winning candidates should be proclaimed without delay. The PBOC suspended the proclamation *motu proprio* when it gave effect to the “*advanced copy*” of the suspension order despite the glaring irregularities. In issuing the suspension order, the Comelec relied on its Resolution No. 9523,⁸³ to wit:

Rule 23 - Petition to Deny Due Course to or
Cancel Certificates of Candidacy

x x x x

Section 8. *Effect if Petition Unresolved.* - If a Petition to Deny Due Course to or Cancel a Certificate of Candidacy is unresolved by final judgment on the day of elections, the petitioner may file a motion with the Division or Commission *En Banc*, as may be applicable, to suspend the proclamation of the candidate concerned, **provided that the evidence for the grounds for denial to or cancel certificate of candidacy is strong.** For this purpose, at least three (3) days prior to any election, the Clerk of the Commission shall prepare a list of pending cases and furnish all Commissioners copies of the said list.

x x x x

Rule 24 - Proceedings Against Nuisance Candidates

x x x x

Section 5. *Applicability of Rule 23.* - Except for *motu proprio* cases, Sections x x x 8 x x x of Rule 23 shall apply in proceedings against nuisance candidates. (Emphasis and underscoring supplied)

Verily, the pertinent election laws and rules require strong evidence to deny or cancel CoC as basis to suspend the proclamation of a winning candidate.⁸⁴ The suspension of Roberto’s proclamation depends not only on whether Frederico is a nuisance candidate but also on the statistical probability of affecting the outcome of the elections. However, the Comelec *En Banc* issued the suspension order based on Romeo’s bare allegation. Here, Romeo failed to allege the percentage of election returns received and canvassed when he moved to suspend the proclamation of the leading candidate. Romeo did not even submit any document or certification from PBOC to support his prayer to suspend the proclamation.⁸⁵

⁸³ Entitled “IN THE MATTER OF THE AMENDMENT TO RULES 23, 24, AND 25 OF THE COMELEC RULES OF PROCEDURE FOR PURPOSES OF THE 13 MAY 2013 NATIONAL, LOCAL, AND ARMM ELECTIONS AND SUBSEQUENT ELECTIONS,” promulgated on September 25, 2012.

⁸⁴ See Rule 23, Section 8 in relation to Rule 24, Section 5 of the 1993 Comelec Rules of Procedure. See also Section 6 of RA No. 6646.

⁸⁵ See Dissenting Opinion of Commissioner Marlon S. Casquejo; rollo (G.R. No. 260650), pp. 45–48, where he stated “[i]t is the opinion of the Undersigned that it would be a folly to give weight and credence to the same – as the Order apparently did – when the Petitioner was very careful in adding the phrase

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Here, the *motu proprio* suspension of proclamation denied Roberto his opportunity to be heard, which must be construed as a chance to explain one's side or an occasion to seek a reconsideration of the complained action or ruling. Yet, the proclamation of Roberto was ordered suspended in a proceeding where he is not a party. In election cases, the requirement of due process is satisfied if the parties are given a fair and reasonable opportunity to clarify their respective positions. In *Santos v. Comelec*,⁸⁶ the Court held that candidates who have no similarity in the name of the nuisance candidate are not real parties in interest and are mere "silent observers" in the nuisance case.⁸⁷ However, nothing in *Santos* allows the suspension of proclamation of these silent observers without observance of due process of law. Evidently, the suspension order directly affected Roberto being the candidate who garnered the highest number of votes and who must be proclaimed without delay. As such, the Comelec should have at the very least notified and heard Roberto. Otherwise, the proclamation of a candidate may be unjustly suspended simply because of the pendency of the nuisance case. Worse, the manner of informing the PBOC of the advance copy of the suspension order led it to *motu proprio* suspend Roberto's proclamation. Taken together, the Comelec gravely abused its power and violated the rules on basic fairness when it suspended the proclamation of Roberto without giving him the opportunity to be heard.

The Comelec En Banc Resolution dated June 7, 2022, which affirmed Frederico's declaration as a nuisance candidate, is tainted with grave abuse of discretion

On April 19, 2022, Frederico received via electronic mail the Comelec Second Division's Resolution declaring him a nuisance candidate. Frederico had five days from notice to move for reconsideration or until April 24, 2022. Considering that the last day fell on a Sunday, the time shall not run until the next working day. Accordingly, Frederico sent the Motion for Reconsideration through electronic mail on April 25, 2022, at 6:23 p.m. The Comelec *En Banc* denied the Motion for being filed a day late following the rule that any pleading sent through electronic mail beyond 5:00 p.m. is

'as of this writing' in every recitation of the votes garnered by the parties concerned. The Order should have realized that the Petitioner failed to even allege what percentage of the election returns for the said locality has already been received and canvassed. There was not even any document or certification from the Board of Canvassers attached to the Motion to substantiate said allegations." (Emphasis supplied)

⁸⁶ 839 Phil. 672 (2018) [Per J. Gesmundo, *En Banc*].

⁸⁷ *Id.* at 696, where the Court held: "Glaringly, there was nothing discussed in *Timbol* that other candidates, who do not have any similarity with the name of the alleged nuisance candidate, are real parties-in-interest or have the opportunity to be heard in a nuisance petition. Obviously, these other candidates are not affected by the nuisance case because their names are not related with the alleged nuisance candidate. **Regardless of whether the nuisance petition is granted or not, the votes of the unaffected candidates shall be completely the same.** Thus, they are mere silent observers in the nuisance case." (Emphasis supplied)

deemed filed the following day. Nonetheless, the Comelec affirmed the finding that Frederico is a nuisance candidate.

On this point, we cannot overemphasize that courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just disposition of his cause.⁸⁸ The Court has allowed several cases to proceed in the broader interest of justice despite procedural defects and lapses.⁸⁹ These rulings are in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice.⁹⁰ Specifically, the Comelec Rules of Procedure provides that “[i]n the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules and any portion thereof may be suspended by the Commission.”⁹¹ Here, the Comelec *En Banc* is deemed to have relaxed its procedures when it resolved the merits of the motion for reconsideration. In any event, the circumstances of the case merit the liberal application of the rules in the interest of substantial justice. The Comelec received Frederico’s Motion only more than an hour past 5:00 p.m. More importantly, the issue of whether Frederico is a nuisance candidate is determinative not only of the proper treatment of his votes but also as to the outcome of the elections. The grave injustice to Frederico is likewise not commensurate with his failure to comply with the rules. Thus, compelling reasons exist for the Court to finally settle the question of whether Frederico is a nuisance candidate.

Section 69 of the OEC provides the remedy and the instances when candidates may be considered nuisance, thus:

Section 69. *Nuisance candidates.* — The Commission may, *motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

Clearly, nuisance candidates are those who filed their CoCs: (1) to put the election process in mockery or disrepute; (2) to cause confusion among

⁸⁸ *Tanenglian v. Lorenzo*, 573 Phil. 472, 485 (2008) [Per J. Chico-Nazario, Third Division], citing *Neypes v. Court of Appeals*, 506 Phil. 613, 626 (2005) [Per J. Corona, *En Banc*].

⁸⁹ *Malixi v. Baltazar*, 821 Phil. 423, 440–441 (2017) [Per J. Leonen, Third Division], citing *Paras v. Judge Baldado*, 406 Phil. 589, 596 (2001) [Per J. Gonzaga-Reyes, Third Division]; *Doble v. ABB, Inc.*, 810 Phil. 210, 228 (2017) [Per J. Peralta, Second Division]; *Trajano v. Uniwide Sales Warehouse Club*, 736 Phil. 264, 274 (2014) [Per J. Brion, Second Division]; *Heirs of Amada Zaulda v. Zaulda*, 729 Phil. 639, 648–649 (2014) [Per J. Mendoza, Third Division]; *Manila Electric Company v. Gala*, 683 Phil. 356, 364 (2012) [Per J. Brion, Second Division]; and *Durban Apartments Corporation v. Catacutan*, 514 Phil. 187, 195 (2005) [Per J. Ynares-Santiago, First Division].

⁹⁰ *Philippine Bank of Communications v. Court of Appeals*, 805 Phil. 964, 972 (2017) [Per J. Caguica, First Division].

⁹¹ See Rule 1, Section 4 of the 1993 Comelec Rules of Procedure.

the voters by the similarity of the names of the registered candidates; or (3) under circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the CoC has been filed. The common thread of the three instances is that nuisance candidates filed their CoCs not to aspire or seek public office but to prevent “*a faithful determination of the true will of the electorate.*” In *De Alban v. Comelec*,⁹² the Court upheld the constitutionality of Section 69 of the OEC and expounded on the Comelec’s power to refuse to give due course to or cancel the CoCs of nuisance candidates, *viz.*:

Remarkably, even before the enactment of Section 69 of the OEC, the Court already acknowledged the Comelec’s authority to refuse due course to CoCs filed in bad faith pursuant to its mandate to ensure free, orderly, and honest elections. In subsequent cases, the Court held that limiting the names of candidates appearing on the ballots for those with “*bona fide*” intention to run for office is permissible. **The Court observed that the greater the number of candidates, the greater opportunities for logistical confusion, not to mention the increased allocation of time and resources in preparation for election.** As such, remedial actions should be available to alleviate the logistical hardships in the preparation and conduct of elections, whenever necessary and proper. **Moreover, the Court stressed that the importance of barring nuisance candidates from participating in the electoral exercise is the avoidance of confusion and frustration in the democratic process by preventing a faithful determination of the true will of the electorate. It seeks to address the “dirty trick” employed by political rival operators to reduce the votes of the legitimate candidates due to the similarity of names and particularly benefitting from Comelec’s “slow-moving decision-making.”**⁹³ (Emphasis supplied)

In this case, the Comelec declared Frederico a nuisance candidate because he has no *bona fide* intention to run for public office, and his surname and nickname can cause confusion among voters. On this score, we reiterate that the Comelec has the ministerial duty to receive and acknowledge a CoC submitted within the filing period using the prescribed form. The candidate’s name will be on the ballot unless the CoC is withdrawn or canceled. Corollary, the question of who may be considered a nuisance candidate is a factual issue that should be decided minutely and wisely. It is also incumbent upon Romeo to establish the acts or circumstances showing that Frederico is a nuisance candidate, with the objective to prevent a faithful determination of the true will of the electorate. Yet, Romeo heavily relied on Frederico’s lack of political experience, and the similarity of their surnames and nicknames.

Foremost, Frederico’s membership in NUP is not trivial and weighs heavily against a finding of nuisance candidacy. The law defines a political party as “*an organized group of persons pursuing the same ideology, political*

⁹² G.R. No. 243968, March 22, 2022, <<https://sc.judiciary.gov.ph/243968-angelo-castro-de-alban-vs-commission-on-elections-comelec-comelec-law-department-and-comelec-education-and-information-department/>> [Per J. M. Lopez, *En Banc*].

⁹³ *Id.*

ideas or platforms of government.” Here, NUP’s registration as a political party means it has met all the criteria under the law. The Comelec even verified NUP’s government programs and extent of constituency.⁹⁴ Corollarily, the nomination of Frederico and his acceptance as NUP’s official candidate meant that he embodies the party’s ideals and principles which he is obliged to carry out and represent to the electorates.⁹⁵ Indeed, Frederico enjoyed NUP’s full logistical, financial, and organizational support in his candidacy. Frederico’s lack of political experience also does not undermine his seriousness in running for public office. Absent contrary evidence, Frederico’s candidacy can hardly be considered a sham since bad faith is a factual issue that is never presumed.⁹⁶ In any case, the Court had ruled that the candidate’s *bona fide* intention to run for public office is neither subject to any property qualifications nor dependent upon membership in a political party, popularity, or degree of success in the elections, to wit:

In the same vein, the Court finds that non-membership in a political party or being unknown nationwide, or the low probability of success do not by themselves equate to the absence of *bona fide* intention to run for public office under Section 69 of the OEC. **Membership in a political party is not a requirement to run for senator under the current electoral framework while non-membership does not prevent a faithful determination of the will of the electorate. Also, the candidate’s degree of success is irrelevant to *bona fide* intention to run for public office. A candidate “has no less a right to run when he faces prospects of defeat as when he expected to win.” Neither the candidate’s act of participating for the first time in elections be equated with the absence of good faith.** The Court had overruled the Comelec’s postulation that a *bona fide* intention to run for public office is absent if there is no “*tiniest chance to obtain the favorable endorsement of a substantial portion of the electorate.*” Again, it appears that the Comelec Law Department initiated actions only against De Alban and other unknown candidates without a political party, or those with low chances of winning. The Comelec did not bother to substantiate its conclusion that De Alban’s CoC was filed without *bona fide* intention to run for public office when it remarked that “[t]he Commission is not duty-bound to adduce evidence for any party or for [De Alban] in this case. x x x” Worse, the burden of evidence improperly shifted to De Alban to convince the Comelec why his CoC should be given due course. To reiterate, the Comelec has the ministerial duty to receive and acknowledge a duly filed CoC. The candidate’s name will be on the ballot unless the CoC is withdrawn or canceled.⁹⁷ (Emphasis supplied)

⁹⁴ Under Rule 32 of the 1993 Comelec Rules of Procedure, the Comelec is required to verify the status, capacity, and the allegations in a petition for registration as a political party. Among those verified are the program of government, extent of constituency, and the headquarters of the political party.

⁹⁵ *Sinaca v. Mula*, 373 Phil. 896, 909 (1999) [Per J. Davide, Jr., *En Banc*].

⁹⁶ See *Principio v. Barrientos*, 514 Phil. 799, 811 (2005) [Per J. Ynares-Santiago, First Division].

⁹⁷ *De Alban v. Comelec*, G.R. No. 243968, March 22, 2022, <<https://sc.judiciary.gov.ph/243968-angelo-castro-de-alban-vs-commission-on-elections-comelec-comelec-law-department-and-comelec-education-and-information-department/>> [Per J. M. Lopez, *En Banc*].

In contrast, the Comelec Second Division failed to explain its findings that Frederico lacks the support and capacity to launch a credible and serious campaign,⁹⁸ to wit:

Other circumstances exist that belie *bona fide* intent. As **correctly alleged by [Romeo]**, [Frederico] **does not appear** to have the support and capacity required to launch a credible campaign. The bare reliance on the support of his political party is insufficient.⁹⁹ (Emphasis supplied)

The Comelec's observation begs the following questions: (1) *what then was the basis to consider Frederico's membership in the political party as insignificant?* (2) *are the allegations of Romeo sufficient to conclude lack of bona fide intent?* Notably, the use of the phrase "*does not appear*" in the assailed Resolution and the absence of particular evidence showing that Frederico's political party will not support him show that the Comelec's ruling is speculative. The finding of the Comelec Second Division that Frederico is not a registered voter is likewise erroneous because the decision of the first-level court denying Frederico's Petition to be included in the list of voters has not yet attained finality. Indeed, the Regional Trial Court subsequently reversed the decision and ordered the registration of Frederico as a voter.¹⁰⁰ Accordingly, the Court should not allow the Comelec to perfunctorily invoke the evil caused by nuisance candidates without adequate proof to support a conclusion that a candidate is a nuisance in the first place.¹⁰¹

Likewise, there is a distant possibility of voter confusion because the entries appearing on the ballots are not indistinguishable. The automated elections system (AES) ensured sufficient identifiers on the entries appearing on the ballots. The candidates' complete names and political parties are now printed on the ballots. The Comelec guidelines even allow the candidates to choose the names appearing on the ballots, including the political parties that nominated them, if any. Here, Frederico and Romeo preferred that their names be printed on the ballots as "*Jalosjos, Kuya Jan (NUP)*"¹⁰² and "*Jalosjos, Jr. Romeo (NP)*,"¹⁰³ respectively, to wit:

⁹⁸ See J. Caguioa, Dissenting Opinion, p. 27.

⁹⁹ Rollo (G.R. No. 260952), p. 249.

¹⁰⁰ *Id.* at 268. The dispositive portion reads:

WHEREFORE, this appeal is GRANTED. The Resolution x x x of the lower court is hereby REVERSED and SET ASIDE.

Accordingly, the Election Registration Board of Dapitan City is directed to include FREDERICO PERIGO JALOSJOS in the list of voters in Barangay San Francisco, Dapitan City.

SO ORDERED.

¹⁰¹ *Marquez v. Comelec*, G.R. No. 258435, June 28, 2022, <<https://sc.judiciary.gov.ph/258435-norman-cordero-marquez-vs-commission-on-elections/>> [Per J. Lazaro-Javier, *En Banc*].

¹⁰² *Rollo* (G.R. No. 260952), p. 242.

¹⁰³ *Id.* at 119 and 241–242.

MEMBER, HOUSE OF REPRESENTATIVES / Vote for 1			
x x x	○ 2. JALOSJOS, KUYA JAN (NUP)	○ 3. JALOSJOS, ROMEO JR. (NP)	x x x ¹⁰⁴

The striking difference in their names appearing on the ballots are more than enough for the voters to distinguish the entries in the ballots despite the similarity in the surnames. Apparently, “*Kuya Jan*” and “*Romeo*” are distinct from each other. Also, with AES, the Comelec’s observation that the nicknames “*Kuya Jonjon*” and “*Kuya Jan*” are phonetically identical becomes inconsequential. The principle of “*idem sonans*” or the similarity in the pronunciation is irrelevant because the voters only need to shade the oval beside their chosen candidate. The claim that the voters would be confused with the candidates’ nicknames is a product of too much inference without adequate proof. To be sure, the only evidence that Romeo was known to his constituents as “*Jonjon*” is his COC in the 2019 elections.¹⁰⁵ Yet, Romeo did not choose such nickname to appear on the ballots. Romeo consistently preferred “*Romeo Jalosjos, Jr.*” both in the 2019 and 2022 elections. This shows that Romeo presents himself to the voter as “*Romeo*” more than “*Jonjon.*” Besides, Romeo claimed that the nickname “*Jonjon*” underscores that he has the same name as his father.¹⁰⁶ Thus, the voters would readily recognize “*Romeo*” as referring to “*Jalosjos, Romeo Jr.*” and not to “*Jalosjos, Kuya Jan.*” Further, the filing of CoCs is an integral process in the elections that permits the placing of the names of the candidates before the electorates. The CoC is an authorized badge that the voters could scrutinize details relating to the candidates before casting their ballots.¹⁰⁷ In this case, the voters are deemed able to distinguish between “*Romeo*” and “*Kuya Jan*” with the filing of their CoCs. It is more prudent to conclude that the voters know whom they are voting for before casting their ballots. To hold otherwise absent proof is to speculate. Moreover, a campaign precedes the elections where the candidates can promote themselves and remove any bemusement with other contenders because of perceived similarity in their first names, nicknames, or surnames.

Finally, in *Bautista v. Comelec*,¹⁰⁸ a case decided under the manual elections system, the Court upheld the Comelec’s finding that similarity in the names would prevent a faithful determination of the will of the people because a vote containing only the nickname or surname of a candidate would render that vote worthless, thus: “*Two ‘EFRENS’ and two ‘BAUTISTAS’ — will necessarily confuse the voters and render worthless a vote for an ‘Efren’ or ‘Bautista’ during the appreciation of ballots, thus preventing the*

¹⁰⁴ Comelec, *Zamboanga del Norte Ballot Face Template*, available at <https://comelec.gov.ph/php-tp/attachments/2022NLE/BallotTemplates/REGION_IX/ZAMBOANGA_DEL_NORTE/RIZAL.pdf> (last accessed on August 8, 2023).

¹⁰⁵ *Rollo* (G.R. No. 260952), p. 117.

¹⁰⁶ *Id.* at 106–107.

¹⁰⁷ *Sinaca v. Mula*, 373 Phil. 896, 908 (1999) [Per C.J. Davide, *En Banc*].

¹⁰⁸ *Bautista v. Comelec*, 359 Phil. 1 (1998) [Per J. Melo, *En Banc*].

determination of the choice and true will of the electorate."¹⁰⁹ Under a manual election system, a vote is deemed stray if the voters only wrote the first name or surname of a candidate if at least two candidates have the same first name or surname, to wit: "*Section 211. Rules for the appreciation of ballots. x x x 1. Where only the first name of a candidate or only his surname is written, the vote for such a candidate is valid, if there is no other candidate with the same first name or surname for the same office.*"

Here, the Comelec (Second Division) did not discuss how the inclusion of Frederico's name in the ballots would prevent the faithful determination of the will of the electorate. The Comelec's observation of an "*inversely proportional relationship between identity of names and the required proof showing the absence of bona fide intent*" is erroneous. The opinion is based on a misreading of the cited cases and does not excuse the Comelec from identifying why a particular candidacy would prevent the determination of the will of the people, *viz.* :

In identifying confusing similarity of names, this Commission (Second Division) is guided by a catena of cases resolved by the Supreme Court. **A review of these cases shows that there is no hard-and-fast rule in determining whether or not a candidate filed their COC to cause confusion among the voters.** Instead, a broad range of circumstances has been deemed sufficient to cause confusion.

On one end of this range are the cases of *Bautista v. COMELEC* and *Zapanta v. COMELEC*, **where the candidates' intended names on the ballots were totally identical** save for their ballot number and party designation. In these decisions, the fact that the candidates were not publicly known by the name they sought to have in the ballot, when taken with **even the slightest indicia that there was no bona fide intent to run**, was deemed insufficient to declare them as nuisance candidates.

In the "middle" of the spectrum are the cases where identical surnames and similar-sounding given names on the ballot adjudged as sufficient to constitute confusing similarity, such as *Santos v. COMELEC*. There, the fact that a candidate intentionally chose a similar sounding stage-name to appear on the ballot, despite never having used that name before, **when taken with an apparent lack of support, was deemed sufficient to declare her a nuisance candidate.**

Closer to the other end of this range is the case of *Dela Cruz v. COMELEC*, where only the identity in surnames were present. **In this case, it was found that the identical nature of the surnames, when taken together with proof that the nuisance candidate was a retiree with no source of income, no prior political experience, and other circumstances that belied bona fide intent to run, was sufficient to declare him a nuisance candidate.**

Clearly, each case must be reviewed on its individual facts and circumstances, **but it appears from the foregoing that there is an inversely proportional relationship between identity of names and the**

¹⁰⁹ *Id.* at 11.

required proof showing the absence of *bona fide* intent. Thus, the greater the similarity between the names of the candidates, the less indications of a lack of *bona fide* intent to run must be apparent, and vice-versa.¹¹⁰ (Emphasis supplied)

As discussed above, the case of *Bautista* held that a vote containing only the first name, nickname, or surname of a candidate would render that vote worthless in case at least two candidates have the same first name, nickname, or surname. In *Zapanta v. Comelec*,¹¹¹ the identical names of two candidates appearing on the ballots made it difficult for voters to distinguish them and would prevent the faithful determination of the will of the people.¹¹² On the other hand, *Dela Cruz v. Comelec*¹¹³ did not rule that mere identity in surnames of candidates is enough to declare a candidate as a nuisance. The case deals with the issue of how the votes of nuisance candidates should be treated and not the Comelec's finding of nuisance candidacy. Also, the ruling tackles the validity of Resolution No. 8844 regarding the proper treatment of votes of all candidates who were disqualified or whose CoCs were cancelled but their names remained in the ballots.¹¹⁴ Whereas *Santos v. Comelec*¹¹⁵ did not authorize the declaration of a nuisance candidate because of a similar-sounding stage name. The issue is whether the Comelec may automatically credit the votes of nuisance candidates to the legitimate candidate in a multi-slot office. The writ of execution was questioned and not the declaration of nuisance candidacy.¹¹⁶

More importantly, the statement in *Dela Cruz* and *Santos* that “*the possibility of confusion in names of candidates if the names of the nuisance candidates remained on election day, cannot be discounted or eliminated, even under the automated voting system*”¹¹⁷ does not authorize the Comelec to automatically declare a candidate a nuisance “*even with the slightest indicia that there was no bona fide intent to run.*”¹¹⁸ The Comelec must clearly state in its resolution why a candidate falls under the definition of a nuisance candidate under Section 69 of the OEC. In this case, the Comelec rendered the determination of the *bona fide* intent to run for public office insignificant. The Comelec solely based its ruling on the alleged erroneous use of a nickname in declaring Frederico a nuisance without considering his membership in the political party, the importance of a CoC, the preceding campaign period, and the dissimilarities in the names appearing on the ballots.

At any rate, the erroneous use of a nickname registered in the CoC is not enough to declare a candidate nuisance. The proper recourse is to bring this to

¹¹⁰ *Rollo* (G.R. No. 260952), pp. 247–248.

¹¹¹ 848 Phil. 342 (2019) [Per J. Leonen, *En Banc*].

¹¹² *Id.* at 359–361.

¹¹³ 698 Phil. 548 (2012) [Per J. Villarama, Jr., *En Banc*].

¹¹⁴ *Id.* at 559–569.

¹¹⁵ 839 Phil. 672 (2018) [Per J. Gesmundo, *En Banc*].

¹¹⁶ *Id.* at 703–705.

¹¹⁷ *Id.* at 692; and *Dela Cruz v. Comelec*, 698 Phil. 548, 568 (2012) [Per J. Villarama, Jr., *En Banc*].

¹¹⁸ *Rollo* (G.R. No. 260952), p. 247.

the attention of the Comelec as a defect of an entry in the CoC to disallow a candidate from using that nickname. The 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 fault on their part.¹¹⁹ Thus, even if the CoC was not duly signed or does not contain the required data, the proclamation of the candidate as the winner may not be nullified on such grounds. 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.¹²⁰ To uphold the cancellation of Frederico's CoC due to an erroneous use of nickname after the votes were cast would render the electorates' votes for Frederico worthless.

The Court reminds that the use of wrong, irrelevant, and insufficient considerations in deciding an issue taints a decision maker's action with grave abuse of discretion.¹²¹ A judgment rendered with grave abuse of discretion is void and cannot be the source of any right or obligation. All acts pursuant to such decision and all claims emanating from it have no legal effect. A void judgment can never become final and any writ of execution based on it is likewise void.¹²² In sum, the Comelec committed grave abuse of discretion in canceling Frederico's CoC absent supporting substantial evidence that he is a nuisance candidate. Frederico is a legitimate candidate and the votes he received are all valid. There is no more question as to the proper treatment of his votes. Consequently, these findings rendered moot the issue of whether the votes in favor of a nuisance candidate should be declared stray or must be credited to the legitimate candidate with the same surname.

ACCORDINGLY, the consolidated Petitions are **GRANTED**. The Order dated May 12, 2022 and the Resolution dated June 7, 2022 of the Commission on Elections *En Banc* in SPA No. 21-224 (DC) are **SET ASIDE** on the ground of grave abuse of discretion. The proclamation of Romeo M. Jalosjos, Jr. arising from the execution of the assailed Order and Resolution is **ANNULLED**. The Commission on Elections is **DIRECTED** to proclaim Roberto T. Uy, Jr. as winner in the 2022 elections for the position of Zamboanga del Norte's first district representative. The *Status Quo Ante* Order is **LIFTED**.

The Decision shall be immediately executory.

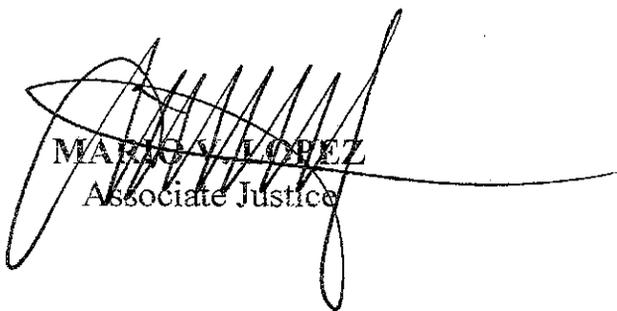
¹¹⁹ *Luna v. Rodriguez*, 39 Phil. 208, 214-217 (1918) [Per J. Jhonson, *En Banc*].

¹²⁰ *Sinaca v. Mula*, 373 Phil. 896, 913-914 (1999) [Per C.J. Davide, Jr., *En Banc*].

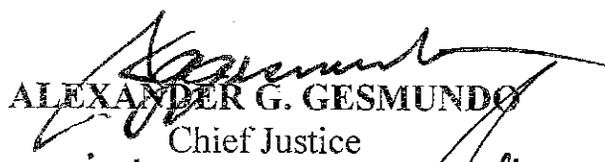
¹²¹ *Varias v. Comelec*, 626 Phil. 292, 314 (2010) [Per J. Brion, *En Banc*].

¹²² *Pascual v. Pascual*, 622 Phil. 307, 327-328 (2009) [Per J. Peralta, *En Banc*]; citations omitted.

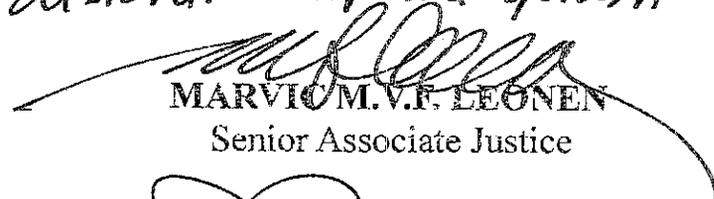
SO ORDERED.

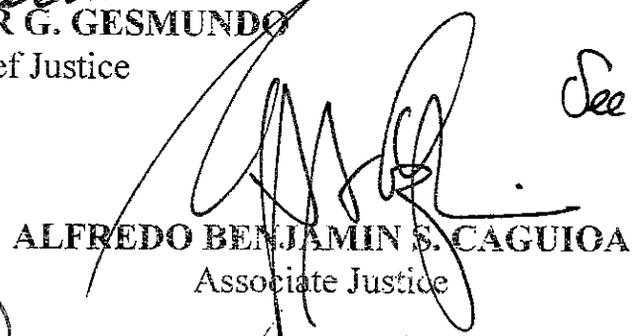

MARIO V. LOPEZ
Associate Justice

WE CONCUR:

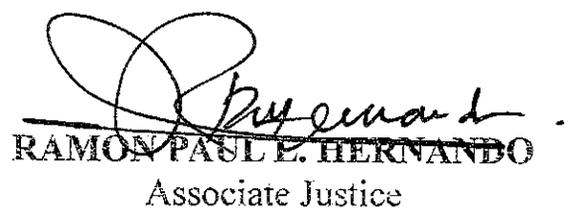

ALEXANDER G. GESMUNDO
Chief Justice

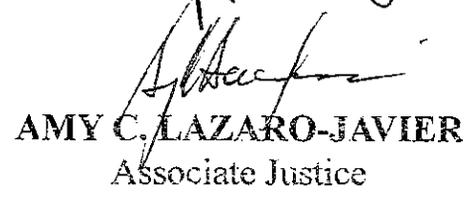
7 dissent. See separate opinion


MARVIC M. V. F. LEONEN
Senior Associate Justice

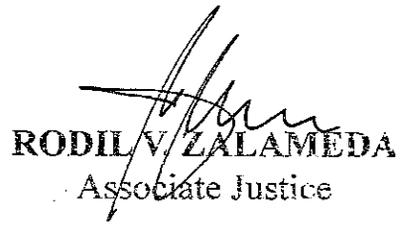

ALFREDO BENJAMIN S. CAGUIGA
Associate Justice

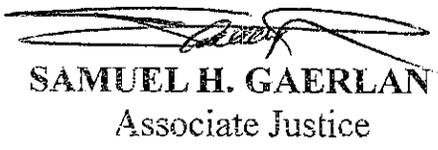
See Dissent


RAMON PAUL E. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

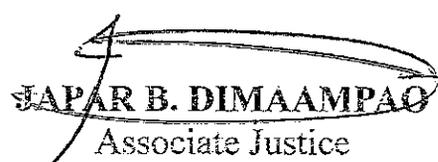
No part
HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

On leave
RICARDO R. ROSARIO
Associate Justice


JHOSEP V. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.



ALEXANDER G. GESMUNDO
Chief Justice