



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

MAYOR AGNES VILLANUEVA,
 Now Incumbent Member of the
 Sangguniang Panlalawigan of
 Misamis Occidental,

Petitioner,

G.R. No. 260116

Present:

GESMUNDO, C.J.,
 LEONEN,
 CAGUIOA,
 HERNANDO,
 LAZARO-JAVIER,
 INTING,*
 ZALAMEDA,
 LOPEZ, M.V.,
 GAERLAN,
 ROSARIO,
 LOPEZ, J.Y.,
 DIMAAMPAO,
 MARQUEZ,
 KHO, JR.,* and
 SINGH, JJ.

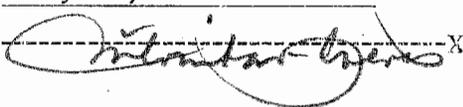
- versus -

HONORABLE COMMISSION
 ON ELECTIONS, *En Banc*, and
 THE LAW DEPARTMENT OF
 THE COMELEC, MANILA,

Respondents.

Promulgated:

July 11, 2023

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DECISION

GAERLAN, J.:

The present petition for *certiorari*¹ seeks to nullify the December 11, 2015² and January 21, 2022³ Resolutions of the Commission on Elections (COMELEC) in E.O. Case No. 11-092. The assailed Resolutions found

* No part.

¹ *Rollo*, pp. 3-13.

² *Id.* at 34-38. Signed by Chairperson J. Andres D. Bautista and Commissioners Christian Robert S. Lim, Al A. Parreno, Luie Tito F. Guia (with separate opinion), Arthur D. Lim, Ma. Rowena Amelia V. Guanzon and Sheriff M. Abas.

³ *Id.* at 43-50. Signed by Chairperson Sheriff M. Abas and Commissioners Ma. Rowena Amelia V. Guanzon, Socorro B. Inting, Marlon S. Casquejo, Antonio T. Kho, Jr. (now a Member of this Court), and Aimee P. Ferolino.

probable cause to indict petitioner Agnes C. Villanueva (Villanueva) for violation of Section 261(f) of the Omnibus Election Code (OEC), and directed the COMELEC Law Department (CLD) to file the necessary information before the proper court.⁴

Villanueva was mayor of the municipality of Plaridel, Misamis Occidental from 2010 until her election to the *Sangguniang Panlalawigan* of said province in 2019.⁵

In a letter dated October 29, 2010, Villanueva formally requested the COMELEC provincial office to reassign the Plaridel municipal election officer, Amado B. Quiza (Quiza), on the following grounds: disregard of voter registration procedures and neglect in screening voter registrants, resulting in the proliferation of flying voters during the 2010 national and local elections; and alleged abuse of authority in demoting a Board of Election Inspectors (BEI) chairperson who reported threats and harassment during the 2010 barangay and *Sangguniang Kabataan* elections. In the same missive, Villanueva further manifested that Quiza will only be accommodated within Plaridel Local Government Unit (LGU) premises until November 15, 2010.⁶ On said date, Villanueva ordered the Office of the Municipal Engineer to close the municipal election office.⁷ However, in a subsequent letter to the COMELEC regional director, Villanueva manifested that Quiza will be allowed to hold office within Plaridel LGU premises until December 31, 2010, and that the LGU is willing to shoulder monthly rentals up to ₱2,000.00 for a new municipal election office.⁸

On January 26, 2011, Villanueva wrote to COMELEC Regional Director 10 Renato A. Magbutay (Director Magbutay) that Quiza will no longer be accommodated within Plaridel LGU premises, and that the LGU will shoulder the rentals for a new office space to be leased by the COMELEC, pursuant to Section 55 of the OEC. She argued that the responsibility to provide office space for election officers rests primarily with the COMELEC and reiterated the election body's inaction on her request for Quiza's reassignment.⁹

⁴ Id. at 38, 49.

⁵ Id. at 3-4, Verified Petition for *Certiorari*.

⁶ Id. at 17, Letter dated October 29, 2010 from Mayor Agnes Villanueva to Provincial Election Officer Roslyn Smith.

⁷ Id. at 51, July 27, 2012 Decision of the Office of the Ombudsman-Mindanao in Case No. OMB-M-A-11-114-C (*COMELEC X, Cagayan de Oro City v. Agnes Carabal Villanueva*).

⁸ Id. at 18, Letter dated November 25, 2010 from Mayor Agnes Villanueva to Regional Election Director 10 Renato A. Magbutay, through Provincial Election Officer Roslyn J. Smith.

⁹ Id. at 20, Letter dated January 26, 2011 from Mayor Agnes Villanueva to Regional Election Director 10 Renato A. Magbutay.

On January 28, 2011, Director Magbutay replied that he has already directed Quiza to look for a new office location, in accordance with Villanueva's decision to close down the existing municipal election office.¹⁰

On February 15, 2011, the CLD instituted the present complaint for violation of Section 261(f) against Villanueva.¹¹ In her Answer, Villanueva reiterated her stance that Quiza was guilty of neglect of duty and abuse of authority in connection with the unprocedural registration of voters prior to the 2010 national and local elections and the unjustified demotion of a BEI chairperson during the 2010 barangay and *Sangguniang Kabataan* elections.¹² She reasoned that the closure order was not permanent and was resorted to only because of the COMELEC's inaction on her request for Quiza's reassignment.¹³ Villanueva further argued that Section 55 of the OEC allows the COMELEC to provide office space for election officers if the LGU fails to do so.¹⁴ Finally, she argued that she cannot be charged with an election offense, for the closure of the municipal election office was made after the election period for the 2010 barangay and *Sangguniang Kabataan* elections.¹⁵

On March 17, 2011, the CLD issued an order giving Villanueva time to file a Supplemental Answer; but Villanueva instead filed a "Motion to Dismiss and Additional Evidence" on April 15, 2011.¹⁶

On April 27, 2015, the CLD recommended the filing of charges against Villanueva. The CLD held that the closure of the Plaridel municipal election office, as ordered by Villanueva, "*disrupted, if not totally prevented, the performance of official duties and functions of Quiza and his staff.*" Villanueva's admission that she ordered the closure in response to the COMELEC's inaction on her request betrays her intention to coerce the COMELEC into reassigning Quiza by depriving him of office space and thereby disrupting the work of the municipal election personnel. Rather than unilaterally closing the municipal election office, Villanueva should have resorted to legal remedies to compel the action of the COMELEC, for Section 55 of the OEC mandates the LGU to provide space for the municipal election office.¹⁷

Through the first assailed resolution, the COMELEC *en banc* adopted and approved the recommendation of the CLD and directed the filing of an

¹⁰ Id. at 21, Letter dated January 28, 2011 from Regional Election Director 10 Renato A. Magbutay to Mayor Agnes Villanueva.

¹¹ Id. at 79, Comment on the Petition.

¹² Id. at 23-26, Answer of Mayor Agnes Villanueva in E.O. Case No. 11-092.

¹³ Id. at 25.

¹⁴ Id. at 26.

¹⁵ Id.

¹⁶ Id. at 80, Comment on the Petition.

¹⁷ Id. at 36-37, December 11, 2015 COMELEC Resolution in E.O. Case No. 11-092.

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information against Villanueva. The COMELEC rejected Villanueva's defenses and held that the offense of coercion of election officers as defined and penalized in Section 261(f) of the OEC can be committed at any time, even outside an election period.¹⁸ In a separate opinion, Commissioner Luie Tito F. Guia recommended that the COMELEC also investigate Villanueva's accusations against Quiza.¹⁹

The second assailed resolution denied Villanueva's motion for reconsideration on the ground that it merely rehashed the arguments passed upon by the CLD and the national poll body *en banc* in the first assailed resolution.²⁰

On April 28, 2022, Villanueva filed the present Verified Petition praying for the nullification of the proceedings *a quo* and the issuance of a preliminary injunctive writ to stop the CLD from filing an information against her.²¹

On June 14, 2022, this Court denied Villanueva's prayer for preliminary injunctive relief for lack of merit, and directed the COMELEC to comment on Villanueva's petition within ten (10) days from receipt thereof.²² On July 19, 2022, this Court granted the COMELEC's request for an additional ten (10) days to file a comment.²³ On July 15, 2022, the final day of the extended period, the Solicitor General (OSG) filed the required comment on the COMELEC's behalf.²⁴ On November 23, 2022, Villanueva filed her Reply.²⁵

Villanueva argues before Us that: 1) the offense contemplated by Section 261(f) of the OEC can only be committed during an election period;²⁶ 2) assuming that there was probable cause for violation of Section 261(f), the filing of charges against her is already barred by prescription;²⁷ 3) there was inordinate delay in resolving E.O. Case No. 11-092, considering that the COMELEC only acted upon the CLD's recommendation five (5) years after the submission thereof, and it took a further six (6) years for the COMELEC to act on Villanueva's motion for reconsideration from said action;²⁸ 4) her good faith in ordering the closure of the municipal election office on the basis

¹⁸ Id. at 37.

¹⁹ Id. at 39.

²⁰ Id. at 48. January 21, 2022 COMELEC Resolution in E.O. Case No. 11-092.

²¹ Id. at 1, 3, 106-107.

²² Id. at 70-71, Resolution dated June 14, 2022.

²³ Id. at 76A-76B, Resolution dated July 19, 2022.

²⁴ Id. at 72, Comment on the Petition.

²⁵ Affidavit of Proof of Service attached to Reply, temporary *rollo*, unpaginated.

²⁶ *Rollo*, pp. 8-9, Verified Petition.

²⁷ Id. at 10.

²⁸ Id. at 10-11.

of legitimate grievances against Quiza was upheld by the Office of the Ombudsman when it dismissed the other administrative and criminal complaints filed against her by the COMELEC in connection with the same case;²⁹ and 5) her petition was timely filed.³⁰

The OSG, on behalf of the COMELEC, argues that: 1) Villanueva's petition was filed out of time and must therefore be dismissed outright;³¹ 2) unlike other election offenses defined in Section 261 of the OEC, the offense defined in Section 261(f) has no time delimitation and may therefore be committed at any time;³² 3) the COMELEC's prosecutorial discretion in election offenses must be respected absent a showing of grave abuse of discretion;³³ and 4) Villanueva's failure to raise the defense of inordinate delay during the preliminary investigation phase should be deemed a waiver thereof.³⁴

The petition is meritorious. Apart from the difference in the offense charged, Villanueva's predicament is essentially the same as that faced by the petitioner in *Peñas v. COMELEC*³⁵ (*Peñas*).

Timeliness of the petition

Recourse to the Supreme Court from the COMELEC's prosecutorial and quasi-judicial adjudications is regulated by no less than the Constitution itself. Article IX-A, Section 7 thereof states that rulings of the COMELEC may be elevated to this Court by petition for *certiorari* within thirty days from receipt thereof. Rule 64, Section 3 of the Rules of Court, as amended, further provides that the filing of a motion for new trial or reconsideration shall interrupt the thirty-day period, and if such motion is denied, the aggrieved party may file the petition within the remaining period, which shall not be less than five (5) days in any event, reckoned from notice of denial.

²⁹ Aside from the present election offense charge, the COMELEC also filed an administrative case against Villanueva for violation of Republic Act No. 7160, Section 4, Republic Act No. 6713, abuse of authority and oppression, and a criminal complaint for graft under Section 3(e) of Republic Act No. 3019. *Id.* at 11-12, Verified Petition for *Certiorari*; 51-59, July 27, 2012 Decision of the Office of the Ombudsman-Mindanao in Case No. OMB-M-A-11-114-C (*COMELEC X, Cagayan de Oro City v. Agnes Carabal Villanueva*), and 61-64, Resolution dated September 20, 2016 in Case No. OMB-M-C-11-0100-C (*Commission on Elections Region X v. Agnes C. Villanueva*).

³⁰ *Id.* at 118-123.

³¹ *Rollo*, pp. 83-86, Comment on the Petition.

³² *Id.* at 86-88.

³³ *Id.* at 89-90.

³⁴ *Id.* at 90-91.

³⁵ G.R. No. UDK-16915, February 15, 2022. Copy uploaded to the Supreme Court E-Library website at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67912>.

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The OSG correctly points out that the fresh-period rule does not apply to petitions for *certiorari* under Rule 64 of the Rules of Court.³⁶ *Pates v. COMELEC*³⁷ explains:

Section 7, Article IX-A of the Constitution provides that unless otherwise provided by the Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Court on certiorari by the aggrieved party within 30 days from receipt of a copy thereof. For this reason, the Rules of Court provide for a separate rule (Rule 64) specifically applicable only to decisions of the COMELEC and the Commission on Audit. This Rule expressly refers to the application of Rule 65 in the filing of a petition for certiorari, subject to the exception clause — “except as hereinafter provided”.

Even a superficial reading of the motion for reconsideration shows that the petitioner has not challenged our conclusion that his petition was filed outside the period required by Section 3, Rule 64; he merely insists that the fresh period rule applicable to a petition for certiorari under Rule 65 should likewise apply to petitions for certiorari of COMELEC rulings filed under Rule 64.

Rule 64, however, cannot simply be equated to Rule 65 even if it expressly refers to the latter rule. They exist as separate rules for substantive reasons as discussed below. Procedurally, the most patent difference between the two — i.e., the exception that Section 2, Rule 64 refers to — is Section 3 which provides for a special period for the filing of petitions for certiorari from decisions or rulings of the COMELEC en banc. The period is 30 days from notice of the decision or ruling (instead of the 60 days that Rule 65 provides), with the intervening period used for the filing of any motion for reconsideration deductible from the originally-granted 30 days (instead of the fresh period of 60 days that Rule 65 provides).³⁸

Here, the OSG summarizes the timeline of material dates as follows:

1. December 11, 2015 – [COMELEC] issued the [first] Assailed Resolution.
2. February 1, 2016 – [Villanueva] received a copy of [the first assailed] Resolution dated December 11, 2015.
3. February 9, 2016 – [Villanueva] filed a Motion for Reconsideration of the [first Assailed] Resolution dated December 11, 2015. (Eight days after receipt [thereof].)
4. January 21, 2022 – [COMELEC] issued the [second assailed] Resolution denying [Villanueva]’s Motion for Reconsideration of the [first] assailed Resolution dated December 11, 2015.

³⁶ *Abrenica v. Commission on Audit*, G.R. No. 218185, September 14, 2021; *Atty. Francisco v. COMELEC, et al.*, 831 Phil. 106, 115-116 (2018).

³⁷ 609 Phil. 260 (2009).

³⁸ *id.* at 265-266.

5. March 21, 2022 – [Villanueva] received a copy of [the second assailed] Resolution dated January 21, 2022.

6. April 19, 2022 - [Villanueva] filed the instant Petition for Certiorari.³⁹

The OSG correctly reasons that the petition was filed out of time because it was filed after the lapse of the thirty-day period from Villanueva's receipt of the first assailed resolution on February 1, 2016. Applying Rule 64, Section 3 to the timeline above, Villanueva filed her motion for reconsideration on the eighth day of the period, thus, she only had twenty-two days from notice of the COMELEC action on said motion to file her petition for *certiorari*. Since Villanueva was notified of the second assailed resolution upon her receipt thereof on March 21, 2022, she only had twenty-two (22) days from that date, or until April 12, 2022, to elevate the matter to this Court. Consequently, the present petition, which was filed on April 19, 2022, was filed out of time. Villanueva erroneously reckoned the thirty-day period from the date of notice of the **second assailed resolution**, instead of reckoning it from the date of notice of the **first assailed resolution**. The period cannot be reckoned from the date of notice of the second assailed resolution as this is merely a denial of the preliminary recourse (identified in Rule 64, Section 3 as the "*motion for new trial or reconsideration*") from the initial ruling, which is the "*decision, order, or ruling*" contemplated by the Constitution. This is precisely the reason why Rule 64, Section 3 suspends the running of the thirty-day period upon the filing of such preliminary recourse, and restarts the period once the aggrieved party is notified of the action thereon.

Nevertheless, this procedural oversight deserves to be excused because of the petition's substantive merit. Noteworthy is the fact that the COMELEC took almost **six (6) years** to rule on Villanueva's motion for reconsideration. In effect, the thirty-day period given to Villanueva was suspended for almost six (6) years for reasons which the national election agency never bothered to explain in the assailed resolutions or in its Comment before this Court. In *Peñas*, we held:

In setting aside technical infirmities and thereby giving due course to tardy appeals, the Court has not been oblivious to, or unmindful of, the extraordinary situations that merit liberal application of the Rules. In those situations where technicalities were dispensed with, this Court's decisions were not meant to undermine the force and effectivity of the periods set by law. The Court hastens to add though that in those rare cases where procedural rules were not stringently applied, there always existed a clear need to prevent the commission of a grave injustice. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant

³⁹ *Rollo*, p. 85. Comment on the Petition. The petition was mailed through private courier on April 19, 2022, and was received by this Court on April 28, 2022. Processor's checklist, *id.* at 1; Verified Petition, *id.* at 3.

be given the full opportunity for the just and proper disposition of his cause. Here, the Court finds a compelling reason to relax the strict application of procedural rules -- the COMELEC's assailed actions were tainted with grave abuse of discretion which is correctible through the extraordinary writ of *certiorari*, as will be further discussed below. To rule otherwise would unnecessarily expose petitioner to the expense and rigors of a public trial when records indubitably show that his plea for relief is based on meritorious grounds. The Court, thus, deems the relaxation of procedural rules warranted in this case as the ultimate purpose of substantial justice so requires.⁴⁰

Section 261(f) not limited to election period

Section 261(f) of the OEC reads as follows:

SECTION 261. Prohibited Acts. — The following shall be guilty of an election offense:

(f) Coercion of election officials and employees. — Any person who, directly or indirectly, threatens, intimidates, terrorizes or coerces any election official or employee in the performance of his election functions or duties.

Villanueva construes the provision to mean that the offense of coercion of election officials and employees can only be committed during an election period because the phrase “*functions and duties*” is preceded by the modifying word “*election*”. In support of this thesis, she points out that the other offenses defined in Section 261 refer to adjacent election-related terms such as “*candidates*,” “*campaign*,” “*vote*,” and “*voter*.” She further construes Sections 2 and 3 of the OEC to mean that Code should apply only during election periods, since, in her words, “*Section 2 [of the OEC] pertains to applicability which states, “This Code shall govern all elections of public officers and, to the extent appropriate, all referenda and plebiscites;” And that Section 3 thereof pertains to election and campaign periods.*”⁴¹

The OSG maintains that the text of Section 261(f) simply contains no time delimitation. The State Tribune further asserts that “*the performance of functions or duties of election officials does not cease after the election period.*”⁴² It points Us to certain duties and mandates of election officers which must be discharged even when there is no election period, such as the reception of voter registration applications,⁴³ and the

⁴⁰ *Peñas v. COMELEC*, supra note 35.

⁴¹ *Rollo*, pp. 9 and 21.

⁴² *Id.* at 87, Comment on the Petition.

⁴³ As mandated by Republic Act No. 8189, Section 8. *Id.*

validation of all registered voters whose biometric data have not been captured.⁴⁴

We sustain the position of the OSG. The offense of coercion of election officials and employees, as defined and penalized in Section 261(f) of the OEC, can be committed even outside of an election period.

Section 261(f) criminalizes any threat, intimidation, terrorism, or coercion against election officials or employees in the performance of their *election functions and duties*. The use of the modifier “*election*” signifies that the provision does not cover any and all functions and duties that election workers may perform; rather, the threat or coercion must be made in the **performance of election functions and duties**. The term “*election*” has a specific meaning in our law:

In this jurisdiction, an election means “the choice or selection of candidates to public office by popular vote” through the use of the ballot, and the elected officials of which are determined through the will of the electorate. “An election is the embodiment of the popular will, the expression of the sovereign power of the people.” “Specifically, the term ‘election,’ in the context of the Constitution, may refer to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of votes.”⁴⁵

Thus, the phrase “*election functions and duties*” in Section 261(f) should be construed as referring to those functions which directly relate to the conduct of an election as contemplated in our laws. However, as the OSG correctly points out, the discharge of these functions and duties is not temporally limited to the election period. Functions such as voter registration, the validation of registration data, and the preparation of voter’s lists are all directly related to the conduct of an election, and are all continuing tasks which are done months or even years prior to the actual casting and counting of votes in particular election.

Furthermore, in *Tolentino v. COMELEC, et al.*⁴⁶ we issued a warning to a lawyer who threatened an election officer with a contempt charge for refusing to implement a writ of execution pending appeal in an election protest case:

⁴⁴ As mandated by Republic Act No. 10367, Section 4. Id. at 87-88.

⁴⁵ *Carlos v. Hon. Angeles*, 400 Phil. 405, 419-420 (2000), citing *Gonzales v. COMELEC*, 129 Phil. 7, 33 (1967), *Taule v. Sec. Santos*, 277 Phil. 584, 595 (1991) and *Hontiveros v. Altavas*, 26 Phil. 213 (1913).

⁴⁶ 779 Phil. 253 (2016).

During the 2013 barangay elections, Tolentino and respondent Henry Manalo both ran for the position of Barangay Captain in Barangay Calingcuan, Tarlac City. The election was held on October 28, 2013.

x x x x

x x x [O]n April 10, 2015, Tolentino wrote the MTCC requesting the implementation of the writ of execution pending appeal. Tolentino also wrote to the City Election Officer of Tarlac requesting the implementation of the writ of execution pending appeal.

On April 27, 2015, the MTCC denied Tolentino's request/motion because it no longer had jurisdiction to entertain any further motions after it had transmitted the records of the case to the [COMELEC].

Despite the MTCC's denial, Tolentino, through Atty. Ramon D. Facun, wrote a "Final Request" to the COMELEC City Election Office demanding the implementation of the writ of execution pending appeal with an accompanying threat that he would file contempt charges if immediate implementation would not take place[.]

x x x x

As a final word, this Court deems it necessary to admonish the petitioner and his counsel for their thinly veiled threat against the respondent City Election Officer Atty. Guiao-Garcia. Section 261 (f) of the Omnibus Election Code provides:

x x x x

Atty. Ramon D. Facun already knew that the MTCC refused to enforce the writ of execution pending appeal after having lost jurisdiction over the case. The matter, too, was already before the Commission, in Division. Yet in his zeal to advance the interests of his client, Atty. Facun threatened an election officer with the filing of a baseless contempt charge in violation of Canon 19.01 of the Code of Professional Responsibility in relation with Section 261 (f) of the Omnibus Election Code.

While we cannot usurp the Commission's prerogative of prosecuting election offenses, this Court retains disciplinary authority over all members of the Bar. x x x

x x x x

Canon 19 of the Code of Professional Responsibility demands that a lawyer represent his client with zeal; but the same Canon provides that a lawyer's performance of his duties towards his client must be within the bounds of the law. Rule 19.01 of the same Canon requires, among others, that a lawyer shall employ only fair and honest means to attain the lawful objectives of his client. Canon 15, Rule 15.07 also obliges lawyers to impress upon their clients compliance with the laws and the principle of fairness.⁴⁷

⁴⁷ Id. at 257-267. Citations and emphases omitted.

The Court flagged Atty. Facun's threat as a possible violation of Section 261(f), even if it was made almost two years after the election in question, and way beyond the election period prescribed by Section 3 of the OEC. Although this Court deferred to the COMELEC's inquisitorial authority, it nevertheless used Section 261(f) as basis to exercise its disciplinary jurisdiction over Atty. Facun for an act of coercion committed outside an election period, against an election officer who was implementing court orders in an *election protest*. The applicable statutory and case law thus make it clear that Section 261(f) does not contain a temporal limitation. Villanueva may therefore be charged with violating Section 261(f) in connection with her directive to close the Plaridel municipal election office, even if said directive was issued and implemented outside an election period.

Inordinate delay

Article III of the Constitution contains the Bill of Rights of the Filipino people. Said constitutional provisions enshrine fundamental rights which an individual can invoke against the all-encompassing, ever-pervasive reach of the government. One of these fundamental rights is the right to a speedy disposition of cases:

Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

The landmark case of *Cagang v. Sandiganbayan, Fifth Division, Quezon City, et al.*⁴⁸ (*Cagang*) applies the right to speedy disposition to preliminary investigations by the State's specialized agencies:

[I]nordinate delay in the resolution and termination of a preliminary investigation violates the accused's right to due process and the speedy disposition of cases, and may result in the dismissal of the case against the accused. The burden of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.

The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case. Courts should appraise a reasonable period from the point of view of how much time a competent and

⁴⁸ 837 Phil. 815 (2018).

independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis.

x x x x

First, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.

Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.

Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, 171 and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.

x x x x

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

x x x x

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

Fifth, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.⁴⁹

Deprivation of the right to speedy disposition of cases as a ground for the dismissal of a criminal investigation was applied to COMELEC

⁴⁹ Id. at 876-882.

investigations for the first time in *Peñas*, which involved a prosecution for election campaign overspending:

[Article III, Section 16 of the Constitution] expanded the speedy trial guarantee afforded to the accused in a criminal proceeding under the 1935 Constitution:

x x x Though both concepts are subsumed under the more basic tenet of procedural due process, the right to speedy disposition of cases, to contrast with the right to speedy trial, sweeps more broadly as it is not confined with criminal cases; it extends even to other adversarial proceedings before any judicial, quasi-judicial, and administrative tribunals. No branch of government is, therefore, exempt from duty observing the constitutional safeguard and the right confirms immunity from arbitrary delay. x x x

Hence, any party to a case may demand expeditious action from all officials who are tasked with the administration of justice, including herein respondent COMELEC.⁵⁰

Peñas was reiterated in *Ecleo v. COMELEC*⁵¹ (*Ecleo*), another prosecution for election campaign overspending. In both of those cases, we found the COMELEC guilty of inordinate delay in the determination of probable cause against the petitioning parties, considering the nature of their offense as well as the nature and amount of evidence necessary to determine probable cause:

An adverse finding during preliminary investigation would give rise to a criminal charge for an election offense. If found guilty thereof, [Peñas] would have been disqualified from running for public office let alone sit as mayor of Digos City. Surely, the fact that [Peñas] was an incumbent elected official who was set to run for re-election if not higher office during the 2016 and 2019 NLEs should have prompted the COMELEC to conclude its investigation with utmost dispatch. Otherwise, those who intended to vote for [Peñas] could have ended up wasting their vote for a disqualified candidate.

For another, [Peñas'] case did not at all involve complex or intricate issues which require voluminous records or evidence. The lone issue needed to be resolved was whether [Peñas] went beyond the prescribed campaign expenditure limit. To determine if there had indeed been an excess, a simple mathematical equation is all that is required: multiply the number of registered voters in Digos City by three pesos (P3.00). The product must then be parried with the amount actually spent by [Peñas]. If the amount spent was greater than the product, then there is probable cause to charge [Peñas] with election overspending, subject to any valid defense which [Peñas] may raise in his counter-affidavit.⁵²

⁵⁰ *Peñas v. COMELEC*, supra note 35, quoting *Magante v. Sandiganbayan*, 836 Phil. 1108, 1118 (2018).

⁵¹ G.R. No. 263061. January 10, 2023, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68694>.

⁵² *Peñas v. COMELEC*, supra note 35. Citations omitted.

To recall, the COMELEC, as represented by the CFU, initiated the filing of a complaint against Ecleo in 2014. However, it was only in 2021 that the COMELEC issued a Resolution directing the Law Department to file the appropriate Information against Ecleo for violation of the Omnibus Election Code, in flagrant violation of its own internal rules of procedure.

x x x x

In stark contrast to its self-prescribed timelines, the COMELEC took seven long years to determine probable cause on the part of Ecleo for violation of an election offense. Much had already transpired in the span of time between the filing of the complaint and the issuance of the assailed Resolution. Not only did Ecleo complete her term as Governor of Dinagat Islands, she had even been re-elected to the same post and had already completed her second term. Yet, preliminary investigation for an election-related charge filed during her first term was still ongoing.

The Supreme Court ruling in *Peñas v. COMELEC* (Peñas) squarely applies in this case. There, the Court held that there was inordinate delay on the part of the COMELEC for issuing a Resolution directing that an Information be filed against Mayor Peñas, more than six years after the filing of a complaint for violation of Section 100, in relation to Section 262, of the Omnibus Election Code. the very same violation for which Ecleo is presently charged.

Moreover, the ruling in Peñas provided that the issue of whether there was election overspending was not complex nor intricate, as it can be solved by a “simple mathematical equation.” The Court elaborated:

Petitioner’s case did not at all involve complex or intricate issues which require voluminous records or evidence. The lone issue needed to be resolved was whether petitioner went beyond the prescribed campaign expenditure limit. To determine if there had indeed been an excess, a simple mathematical equation is all that is required: multiply the number of registered voters in Digos City by three pesos (P3.00). The product must then be parried with the amount actually spent by petitioner. If the amount spent was greater than the product, then there is probable cause to charge petitioner with election overspending, subject to any valid defense which petitioner may raise in his counter-affidavit.⁵³

While the determination of probable cause in the case at bar cannot be made by mere mathematical computation as in *Peñas* and *Ecleo*, we still find the COMELEC guilty of inordinate delay in resolving Villanueva’s case. To reiterate, the CLD initiated proceedings against Villanueva in February 2011. The CLD submitted its recommendation to the COMELEC *en banc* in April 2015, almost four (4) years after the filing of Villanueva’s last pleading.⁵⁴ The COMELEC *en banc* then acted on the recommendation of its Law Department eight (8) months after the submission thereof. Thereafter, it took the COMELEC six (6) more years to rule on Villanueva’s motion for reconsideration, which was mostly a rehash of the arguments

⁵³ *Ecleo v. COMELEC*, supra note 51. Citations omitted.

⁵⁴ *Rollo*, p. 36, first assailed resolution, and p. 80, Comment on the Petition.

raised in her answer. In the interim, Villanueva was able to serve three full terms as mayor of Plaridel; and by the time the COMELEC finally ordered the filing of charges against her, she had been elected to the Misamis Occidental provincial board. Like in *Peñas* and *Ecleo*, the facts of Villanueva's case are not complicated and do not involve voluminous records. It is a simple case of a local chief executive closing down the municipal election office in response to the COMELEC's inaction on her request for a new municipal election officer. The COMELEC cannot seek refuge in the novelty of the issue involving the construction of Section 261(f), for it is the constitutionally-designated implementor and frontline interpreter of the OEC and other election laws.⁵⁵ On this score, it bears emphasizing that the COMELEC also filed administrative and graft complaints against Villanueva before the Ombudsman for ordering the closure of the Plaridel municipal election office. The Ombudsman dismissed the administrative charge in a Resolution⁵⁶ dated July 27, 2012; while the graft complaint was dismissed in a Resolution⁵⁷ dated September 20, 2016.

Moreover, the COMELEC and the OSG provide absolutely no explanation for the delay.⁵⁸ Instead, they blame Villanueva for not raising the matter during the preliminary investigation:⁵⁹ an argument which has already been addressed in *Peñas*:

Finally. Petitioner cannot be deemed to have waived his right to a speedy disposition of his case and against inordinate delay.

x x x x

x x x [T]he Court cannot fault petitioner herein for only invoking his right to a speedy disposition of his case in the present petition. As held, a respondent in a criminal prosecution or investigation is not duty bound to follow up on his or her case; it is the governing agency that is tasked to promptly resolve it. As held in *Cervantes v. Sandiganbayan*, “[i]t is the duty of the prosecutor to speedily resolve the complaint, as mandated by the Constitution, regardless of whether the petitioner did not object to the delay or that the delay was with his acquiescence provided that it was not due to causes directly attributable to him.”

Further, the Court observes that similar to the Rules of Procedure before the Ombudsman, [Section 1 (a), Rule 13] of the COMELEC Rules of Procedure likewise prohibits the filing of motions to dismiss. x x x

x x x x

⁵⁵ CONSTITUTION, Article IX-C, Section 2.

⁵⁶ *Rollo*, pp. 51-60.

⁵⁷ *Id.* at 61-65.

⁵⁸ *Id.* at 34-39, 43-50. The issue of delay is not addressed in either of the assailed resolutions.

⁵⁹ *Id.* at 90-91, Comment on the Petition.

In other words, there is also no legitimate avenue to invoke one's right to a speedy disposition of his case before the COMELEC. Petitioner's failure to do so should not therefore be taken against him.

At any rate, petitioner timely asserted his right to a speedy disposition of his case since he filed this petition immediately after the COMELEC directed the filing of an information against him. As held in *Javier* [*v. Sandiganbayan*], it is sufficient that the right is asserted before entering a plea during arraignment.⁶⁰

In the absence of any explanation or justification for the eleven-year pendency of Villanueva's case, we must resort to the COMELEC's own procedural rules. Rule 34, Section 8 of the COMELEC Rules of Procedure states in part:

Section 8. Duty of Investigating Officer. — The preliminary investigation must be terminated within twenty (20) days after receipt of the counter-affidavits and other evidence of the respondents, and resolution thereof shall be made within five (5) days thereafter.

We reiterate that the COMELEC took *eleven (11) years* just to find probable cause against Villanueva, in flagrant contravention of its own procedural timelines, without providing even an iota of justification for the delay, and thereby violating Villanueva's right to the speedy disposition of her case. We therefore rule that the COMELEC committed grave abuse of discretion in issuing the assailed resolutions in E.O. Case No. 11-092.

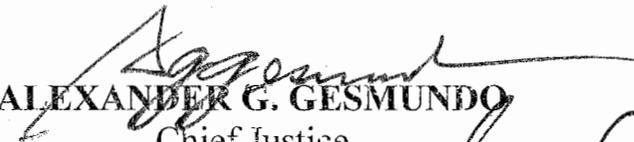
CONSEQUENTLY, the present petition is **GRANTED**. The December 11, 2015 and January 21, 2022 Resolutions of the Commission on Elections in E.O. Case No. 11-092 are hereby **NULLIFIED** and **SET ASIDE**. E.O. Case No. 11-092 against petitioner Agnes C. Villanueva is hereby **DISMISSED**.

SO ORDERED.

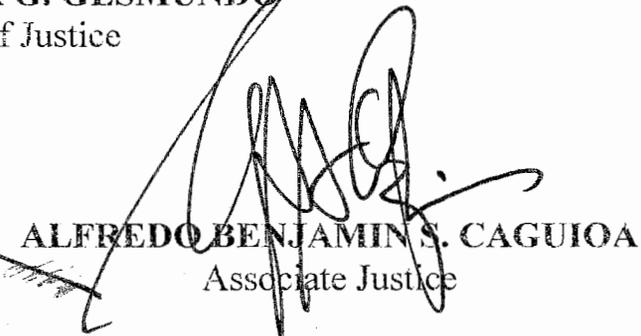

SAMUEL H. GAERLAN
Associate Justice

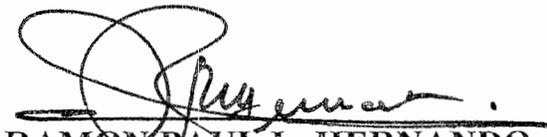
⁶⁰ *Peñas v. COMELEC*, supra note 35. Citations and emphases omitted.

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

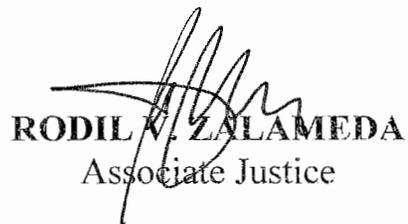

MARVIC M.V.F. LEONEN
Associate Justice

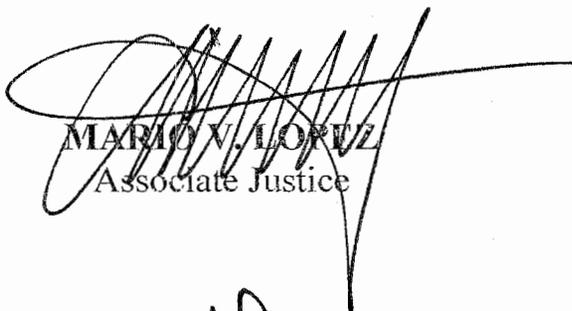

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

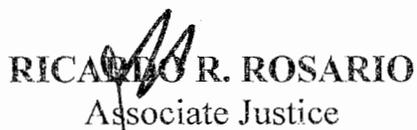

RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

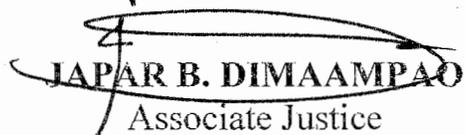
(No part)
HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

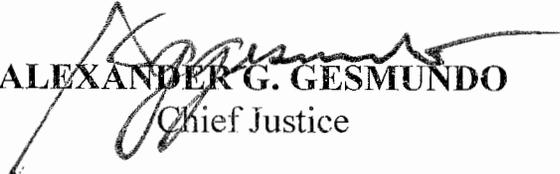

JOSE MIDAS P. MARQUEZ
Associate Justice

(No part)
ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice