

G.R. No. 261123 (DUTY TO ENERGIZE THE REPUBLIC THROUGH THE ENLIGHTENMENT OF THE YOUTH [DUTERTE YOUTH] PARTY-LIST, represented by CHAIRPERSON RONALD GIAN L. CARDEMA and REPRESENTATIVE DUCIELLE MARIE S. CARDEMA, Petitioner, v. COMMISSION ON ELECTIONS, HOUSE OF REPRESENTATIVES, KOMUNIDAD NG PAMILYA, PASYENTE AT PERSONS WITH DISABILITIES [P3PWD] PARTY-LIST and its nominees led by MA. ROWENA AMELIA V. GUANZON, Respondents);

G.R. No. 261876 (DUTY TO ENERGIZE THE REPUBLIC THROUGH THE ENLIGHTENMENT OF THE YOUTH [DUTERTE-YOUTH] PARTY-LIST, represented by CHAIRMAN RONALD GIAN CARLO L. CARDEMA and REPRESENTATIVE DUCIELLE MARIE S. CARDEMA, Petitioner, v. MARIA ROWENA AMELIA V. GUANZON, Respondent).

Promulgated:

August 20, 2024

x-----x

#### DISSENTING OPINION

**LOPEZ, J., J.:**

During the May 2022 National and Local Elections, Komunidad ng Pamilya, Pasyente at Persons with Disabilities (P3PWD) Party-List earned a seat in the House of Representatives. On June 2, 2022, P3PWD first nominee Grace S. Yeneza (Yeneza) took her Oath of Office before Makati Regional Trial Court Judge Jose Y. Arreza. However, on June 14, 2022, all five original nominees of P3PWD filed with the Commission on Elections (COMELEC) Law Department a request to withdraw their respective Certificates of Nomination and Certificates of Acceptance of Nomination.<sup>1</sup> On the same day, P3PWD submitted a new list of nominees led by Ma. Rowena Amelia V. Guanzon (Guanzon), who was a sitting commissioner of COMELEC until her retirement on February 2, 2022.

On June 15, 2022, COMELEC *En Banc*, by a vote of 3-1, issued Minute Resolution No. 22-0774,<sup>2</sup> which approved the withdrawal and substitution of P3PWD's nominees, subject to compliance with the requirement to publish its new list of nominees. The dispositive portion of the Minute Resolution states that:

<sup>1</sup> Comment for P3PWD (G.R. No. 261123), p. 3.

<sup>2</sup> Comment for COMELEC (G.R. No. 261123), "In the Matter of Komunidad ng Pamilya, Pasyente, at Persons with Disabilities," pp. 21-28.

**WHEREFORE**, considering the foregoing, the Commission **RESOLVED**, as it hereby **RESOLVES**, to **ADOPT**, the recommendation of Atty. Maria Norina S. Tangaro-Casingal, Law, Law Department, to **APPROVE**, the following, subject to the compliance of the publication requirement, to wit:

1. To **GRANT** the respective Withdrawal of Nomination of Grace S. Yeneza as Nominee No. 1; Ira Paulo A. Pozon as Nominee No 2; Marianne Heidi C. Fullon as Nominee No. 3; Peter Jonas R. David as Nominee No. 4; and Lily Grace A. Tianco as Nominee No. 5; and
2. To **GIVE DUE COURSE** the New List of Nominees as follows:
  1. Ma. Rowena Amelia V. Guanzon
  2. Rosalie J. Garcia
  3. Cherrie B. Belmonte-Lim
  4. Donnabel C. Tenorio
  5. Rodolfo B. Villar, Jr.

Let the Law Department implement this Resolution.

**SO ORDERED.** (Emphasis in the original)

Commissioner Aimee P. Ferolino (Commissioner Ferolino) concurred in approving the withdrawal of P3PWD's original nominees but voted to defer the consideration of the new nominees. According to her, the most prudent action would have been to note the submission; await the party-list's compliance with the publication requirement; hear any opposition, if any; and then give or deny due course to the new list of nominees.<sup>3</sup>

On June 17, 2022, Duty to Energize the Republic through the Enlightenment of the Youth (Duterte Youth) Party-List filed its Verified Opposition to the substitution of P3PWD's nominees, arguing that COMELEC Resolution No. 10717 explicitly stated that the deadline for the substitution of party-list nominees is November 15, 2021. However, it must be pointed out that Duterte Youth, at this point, had not received a copy of Minute Resolution No 22-0774.<sup>4</sup>

Meanwhile, P3PWD filed a Manifestation before the COMELEC Law Department submitting proof of publication of its New List of Nominees in two national newspapers of general circulation.<sup>5</sup>

On June 21, 2022, without waiting for the resolution of its Opposition and knowing the actual contents of Minute Resolution No. 22-0774, Duterte Youth filed an *Urgent Petition for Certiorari with Prayer for Preliminary*

<sup>3</sup> *Id.* at 27–28.

<sup>4</sup> *Id.* at 6.

<sup>5</sup> *Id.*

*Injunction and/or Temporary Restraining Order and Motion for Conduct of Special Raffle*, docketed as G.R. No. 261123, alleging that COMELEC committed grave abuse of discretion in promulgating the assailed Minute Resolutions, which allowed the substitution of P3PWD's representative in the House of Representatives. Duterte Youth claims that the substitution was invalid on account of: (1) the nullity of COMELEC Resolutions approving the same for lack of the required number of votes; and (2) its noncompliance with the procedures under Republic Act No. 7941,<sup>6</sup> otherwise known as the Party-List System Act, and COMELEC Resolution No. 9366, as amended by Resolution No. 10690.

On June 22, 2022, COMELEC *En Banc* promulgated Minute Resolution No. 22-0810,<sup>7</sup> which denied the Opposition of Duterte Youth for lack of merit. In addition, it issued Minute Resolution No. 22-0798,<sup>8</sup> which noted the Manifestation filed by P3PWD and considered the same as satisfactory compliance with Minute Resolution No. 22-0774. For both Minute Resolution Nos. 22-0798 and 22-0810, Commissioner Ferolino voted to defer consideration of these matters, considering that her office was not furnished a copy of P3PWD's Manifestation and all relevant attachments relating to the Verified Opposition.<sup>9</sup> Accordingly, only three commissioners signed the assailed Minute Resolutions.

Subsequently, COMELEC, acting as the National Board of Canvassers, proclaimed Guanzon as the qualified nominee of P3PWD in the 19<sup>th</sup> Congress.<sup>10</sup>

On June 23, 2022, Guanzon took her Oath of Office before Associate Justice Edwin D. Sorongon of the Court of the Appeals.<sup>11</sup>

On June 29, 2022, this Court issued a Temporary Restraining Order (TRO) enjoining: (1) COMELEC, its agents, representatives, or persons acting in its place or stead, from implementing its assailed Resolution approving the substitution of the original nominees of P3PWD Party-List with five new nominees; and (2) the House of Representatives from allowing Guanzon and the other substituting nominees to assume office as Member of the House of Representatives during the pendency of this case.

<sup>6</sup> Republic Act No. 7941, An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds therefor (1995).

<sup>7</sup> Comment for COMELEC (G.R. No. 261123), Annex "C," "In the Matter of the Comment and Recommendation of the Law Department on the Verified Opposition to the Substitution of P3PWD Party-List Nominees," pp. 36–41.

<sup>8</sup> *Id.* at pp. 32–34. "In the Matter of Compliance of *Komunidad ng Pamilya, Pasyente*, at Persons with Disabilities."

<sup>9</sup> *Id.* at 35.

<sup>10</sup> Comment for P3PWD (G.R. No. 261123), p. 4.

<sup>11</sup> *Id.*

On June 30, 2022, Guanzon, as the qualified nominee of P3PWD, claimed to have assumed office and commenced with the performance of the functions of a party-list representative.

During the pendency of the case, this Court issued a Show Cause Order against P3PWD's nominee, Guanzon, in view of reports that she has been commenting on the merits of the Petition in her public appearances.

Guanzon filed her Compliance in which she claimed, among others, that it was Duterte Youth's counsel, Atty. Ferdinand Topacio (Atty. Topacio), and its Chairperson Ronald Gian Carlo L. Cardema (Cardema), who have been issuing public comments regarding the merits of the case and thus, should be cited for indirect contempt.

Meanwhile, on August 1, 2022, Duterte Youth filed a Petition docketed as G.R. No. 261876 seeking to cite Guanzon for indirect contempt. Duterte Youth maintains that through her acts and statements made to the media, she defied the TRO issued by this Court in G.R. No. 261123.

Through the *ponencia*, the *Majority* granted the Petition in G.R. No. 261123 and declared Minute Resolution No. 22-0774 null and void for having been issued with grave abuse of discretion for approving the substitution of the nominees of P3PWD. The party-list was directed to submit additional nominees pursuant to Section 16 of Republic Act No. 7941 but was strictly enjoined from renominating for the duration of the Nineteenth Congress the nominees whose substitutions were declared null and void.

**I dissent.**

I respectfully offer my views on two pivotal issues: (1) the validity of the assailed Minute Resolutions which Duterte Youth claims are void for not being approved by at least four members, i.e., the required minimum number of votes under Article IX-A, Section 7 of the Constitution; and (2) the declaration in the *ponencia* that COMELEC committed grave abuse of discretion in approving the post-election substitution of nominees.

*The assailed Minute Resolutions were issued in the exercise of its administrative function and with the approval of a majority of all the members of COMELEC present at a meeting at which there was a quorum*

As astutely pointed out by Justice Mario V. Lopez in his August 21, 2023 Letter, to resolve the issue on the validity of the assailed Minute Resolutions, there is a need to determine the nature of these issuances and the authority of COMELEC *En Banc* to pass upon the issues. Thus, it is imperative to address whether COMELEC issued the assailed Minute Resolutions in the exercise of its administrative function or quasi-judicial function to determine whether COMELEC *En Banc* had authority to resolve matters presented before it without first resorting to COMELEC Division.

Article IX-C, Section 2 of the Constitution enumerates the powers and functions vested in COMELEC. These include:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

(3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

(4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

(6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate,

9

prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

(7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.

(8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.

(9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

The foregoing constitutionally vested powers of COMELEC are classified in this wise:

Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC's administrative powers are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether *en banc* or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit *en banc* or in two divisions." Clearly, the COMELEC *en banc* can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions.<sup>12</sup>

In *Bedol v. COMELEC*,<sup>13</sup> this Court expounded:

The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial. The *quasi-judicial* power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications. Its *quasi-legislative power* refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. Its *administrative function* refers to the enforcement and administration of election laws. In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52 [c]) authorize the COMELEC to issue rules and regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code.

*The quasi-judicial or administrative adjudicatory power is the power to hear and determine questions of fact to which the legislative policy*

<sup>12</sup> *Baytan v. COMELEC*, 444 Phil. 812, 824-825 (2003) [Per J. Carpio, *En Banc*].

<sup>13</sup> 621 Phil. 498 (2009) [Per J. Leonardo-De Castro, *En Banc*].

*is to apply, and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law[.]*<sup>14</sup> (Emphasis supplied)

In the recent case of *Aggabao v. COMELEC*,<sup>15</sup> this Court reiterated that matters within the purview of the quasi-judicial power of COMELEC must first be heard and decided by Division and the motion for reconsideration, by COMELEC *En Banc*. COMELEC *En Banc* cannot circumvent proceedings by acting without prior action by a division because this deprives the candidate of due process. This Court further stressed that:

[W]here the situation calls for the power of the COMELEC to exercise its judgment or discretion involving a determination of fact, or resolution of controversies where parties adduce evidence in support of their contentions, the COMELEC ought to perform its quasi-judicial functions[.]<sup>16</sup> (Emphasis supplied)

Likewise, in *Baytan v. COMELEC*,<sup>17</sup> this Court echoed the rule that in the exercise of its quasi-judicial power, COMELEC should reckon with Article IX-C, Section 3 of the Constitution,<sup>18</sup> thus:

SECTION 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.<sup>19</sup>

On the contrary, the administrative powers of COMELEC, as enumerated under Article IX-C, Section 2(1), (3), (4), (5), (6), (7), (8), and (9) of the Constitution are exercised in this manner:

The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether *en banc* or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit *en banc* or in two divisions." *Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers.* Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions. (Emphasis supplied)

<sup>14</sup> *Id.* at 510.

<sup>15</sup> G.R. No. 258456, July 26, 2022 [Per J. Lazaro-Javier, *En Banc*].

<sup>16</sup> *Id.* at 16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>17</sup> 444 Phil. 812 (2003) [Per J. Carpio, *En Banc*].

<sup>18</sup> *Id.* at 826.

<sup>19</sup> CONST., art IX-C, sec. 3.

The foregoing must be harmonized with the COMELEC Rules of Procedure, which states that:

Section 2. The Commission *En Banc*. — The Commission shall sit *en banc* in cases hereinafter specifically provided, or in pre-proclamation cases upon a vote of a majority of the members of the Commission, or in all other cases where a division is not authorized to act, or where, upon a unanimous vote of all the Members of a Division, an interlocutory matter or issue relative to an action or proceeding before it is decided to be referred to the Commission *en banc*.

Section 3. The Commission Sitting in Divisions. — The Commission shall sit in two (2) Divisions to hear and decide protests or petitions in ordinary actions, special actions, special cases, provisional remedies, contempt, and special proceedings except in accreditation of citizen's arms of the Commission

Party-list registration, which necessarily includes the determination of party-membership and the nomination of party-list representatives, entails only the discharge of COMELEC's administrative power. This is supported by this Court's ruling in *COCOFED-Philippines Coconut Producers Federation, Inc. v. COMELEC*.<sup>20</sup> Citing the cases of *Baytan* and *Magdalo Para sa Pagbabago v. COMELEC*,<sup>21</sup> this Court explicitly stated that:

The Court had already ruled that the registration of party-list groups involves the exercise of the COMELEC's administrative power, particularly its power to enforce and administer all laws related to elections.<sup>22</sup> (Citation omitted)

Verily, the singular power to rule upon questions of party identity and leadership is exercised by COMELEC as an incident to its enforcement powers.<sup>23</sup> Thus, it is an exercise of administrative power.

Despite the vehement opposition of Duterte Youth on the substitution of P3PWD's nominees, COMELEC *En Banc*'s approval of the substitution did not cease to be an exercise of administrative power. It merely entailed the implementation of the governing election laws and regulations on withdrawal and substitution of party-list nominees. Accordingly, COMELEC *En Banc* did not act with grave abuse of discretion in taking cognizance and in approving the substitution of P3PWD's nominees.

<sup>20</sup> 716 Phil. 19 (2013) [Per J. Brion, *En Banc*].

<sup>21</sup> 688 Phil. 293 (2012) [Per J. Sereno, *En Banc*].

<sup>22</sup> 716 Phil. 19, 32 (2013) [Per J. Brion, *En Banc*].

<sup>23</sup> *Laban ng Demokratikong Pilipino v. COMELEC*, 468 Phil. 70, 84 (2004) [Per J. Tinga, *En Banc*].



Having settled that COMELEC *En Banc* had jurisdiction to rule on the substitution of P3PWD's nominees, I now offer my view on the validity of the assailed Minute Resolutions.

To recall, during the oral arguments, it was pointed out that Minute Resolution No. 22-0774, which was promulgated on June 14, 2022, was signed by only three commissioners, namely: Commissioner Socorro B. Inting (Commissioner Inting); Commissioner Marlon S. Casquejo (Commissioner Casquejo); and Commissioner Rey E. Bulay (Commissioner Bulay). Commissioner Ferolino concurred in approving the withdrawal of P3PWD's original nominees but voted to defer the consideration of its new nominees. Likewise, Minute Resolution Nos. 22-0798 and 22-0810, both issued on June 22, 2022, were approved by only three commissioners, the same commissioners who approved Minute Resolution No. 22-0774. The ponente concluded that "[t]he assailed Resolutions being issued in the exercise of administrative functions, a majority vote of all commissioners present at a meeting, at which there is a quorum, is valid[.]"<sup>24</sup>

The effect of the ruling in the cases of *Estrella v. COMELEC*<sup>25</sup> and *Marcoleta v. COMELEC*<sup>26</sup> were discussed at length during the oral arguments in concluding that a majority of all members of COMELEC means at least four votes. Notably, these cases referred to Article IX-A, Section 7 of the Constitution that requires the majority vote of all members of the Commission in deciding cases brought to it.

It is settled that the majority vote requirement in Article IX-C, Section 1 of the Constitution pertains only to decisions, orders, or rulings issued in the exercise of the Commission's quasi-judicial power. This Court explicitly stated in *Querubin v. COMELEC En Banc*<sup>27</sup> that:

Though the provision appears unambiguous and unequivocal, the Court has consistently held that the phrase "decision, order, or ruling" of constitutional commissions, the COMELEC included, that may be brought directly to the Supreme Court on *certiorari* is not all-encompassing, and that it only relates to those rendered in the commissions' exercise of **adjudicatory or quasi-judicial powers**. In the case of the COMELEC, this would limit the provision's coverage to the decisions, orders, or rulings issued pursuant to its authority to be the sole judge of generally all controversies and contests relating to the elections, returns, and qualifications of elective offices.<sup>28</sup> (Emphasis in the original; citations omitted)

---

<sup>24</sup> *Ponencia*, p. 27.

<sup>25</sup> 473 Phil 861 (2004) [Per J. Carpio Morales, *En Banc*].

<sup>26</sup> 604 Phil. 608 (2009) [Per J. Carpio Morales, *En Banc*].

<sup>27</sup> 774 Phil. 766 (2015) [Per J. Velasco, Jr., *En Banc*].

<sup>28</sup> *Id.* at 797.

A majority vote of the Commission is necessary for the pronouncement of a decision, resolution, or order. This applies whether a Commission is sitting *En Banc* or in Division.<sup>29</sup> Article IX-A, Section 7 of the Constitution explicitly requires the majority vote of all its members, and not only of those who participated in the deliberations.<sup>30</sup> In requiring the vote of at least four members, this Court explained in *Estrella* that:

Under the rules of statutory construction, it is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. Since the above-quoted constitutional provision states “all of its members,” without any qualification, it should be interpreted as such.<sup>31</sup>

Similarly, in *Sevilla*, this Court declared that:

[T]he vote of four (4) members must always be attained in order to decide, irrespective of the number of Commissioners in attendance. Thus, for all intents and purposes, the assailed October 6, 2012 Resolution of the Comelec *en banc* had no legal effect whatsoever except to convey that the Comelec failed to reach a decision and that further action is required.<sup>32</sup> (Emphasis in the original)

As have already been discussed, the assailed Minute Resolutions were issued in the exercise of COMELEC’s administrative function. Thus, the rulings in *Estrella* and *Marcoleta* cannot be applied to the present case. As such, the *ponencia* is correct in concluding that Section 2 of Resolution No. 9936, which requires approval by a majority of all the members of the Commission present at a meeting at which there is quorum, shall govern. Pursuant to Rule 3, Section 5 of the COMELEC Rules, quorum is determined as follows: “[w]hen sitting *en banc*, four Members of the Commission shall constitute a quorum for the purpose of transacting business.”<sup>33</sup> These provisions have been complied with when COMELEC issued the assailed Minute Resolutions.

Nevertheless, assuming that the assailed Minute Resolutions were issued in the exercise of COMELEC’s quasi-judicial power, their validity must still be upheld. It is an opportune time to address the underlying controversy surrounding the majority requirement in Article IX-A, Section 7 of the Constitution and clarify, once and for all, its true meaning.

The majority vote requirement in Article IX-A, Section 7 of the Constitution must be read in conjunction with Article IX-C, Section 1 that

<sup>29</sup> JOAQUIN BERNAS, CONSTITUTIONAL LAW 1039 (2009), citing *Cua v. COMELEC*, 240 Phil. 546, 548–549 (1987) [*Per Curiam, En Banc*].

<sup>30</sup> *Estrella v. COMELEC*, 473 Phil. 861 (2004) [*Per J. Carpio Morales, En Banc*].

<sup>31</sup> *Id.* at 865.

<sup>32</sup> 706 Phil. 578, 586 (2013) [*Per J. Brion, En Banc*].

<sup>33</sup> *Ponencia*, p. 30.

specifies the composition of COMELEC as having one Chairman and six commissioners. Necessarily, if there are seven sitting commissioners, the majority vote would be four votes.

It bears noting that at the time the assailed Minute Resolutions were promulgated, there were only four sitting commissioners in the Commission, namely: (1) Commissioner Inting; (2) Commissioner Casquejo; (3) Commissioner Ferolino; and (4) Commissioner Bulay. The critical fact that the entire composition of COMELEC had not yet been filled up must be taken into consideration.

The positions left by Chairperson Sheriff Abas, then Commissioner Guanzon, and then Commissioner, now Associate Justice, Antonio T. Kho, Jr., had later been filled by Chairperson George Erwin M. Garcia (Garcia), Commissioner Nelson Java Celis (Celis), and Commissioner Ernesto Ferdinand Maceda, Jr. (Commissioner Maceda). However, the nature of the appointments of their successors must be carefully scrutinized to determine when their respective terms began.

In examining the nature of the appointment of the sitting commissioners of COMELEC, this Court is guided by Article VII, Section 16 of the Constitution, which states:

SECTION 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until after disapproval by the Commission on Appointments or until the next adjournment of the Congress.

Based on the foregoing provision, presidential appointments may be classified into two categories based on the manner it is made. These are: (1) regular appointments or those made while Congress is in session; and (2) *ad interim* appointments or those made while Congress is in recess. In *Pacete v. Sec. of the Comm. on Appointments*,<sup>34</sup> this Court distinguished regular appointments from *ad interim* appointments as follows:

<sup>34</sup> 148-B Phil. 55 (1971) [Per J. Fernando, *En Banc*].

A distinction is thus made between the exercise of such presidential prerogative requiring confirmation by the Commission on Appointments when Congress is in session and when it is in recess. In the former[,] the President nominates, and only upon the consent of the Commission on Appointments may the person thus named assume office. It is not so with reference to *ad interim* appointments. It takes effect at once. The individual chosen may thus qualify and perform his function without loss of time. His title to such office is complete. In the language of the Constitution, the appointment is effective “until disapproval by the Commission on Appointments or until the next adjournment of the Congress.”<sup>35</sup> (Citation omitted)

It would be irrational to automatically equate the majority vote requirement under the Constitution to four votes. To demonstrate this absurdity, it is imperative to discuss the nature of the vacancies in the membership of COMELEC and the appointment of new commissioners in 2022. It must be clarified that then Commissioner Garcia was first appointed by President Rodrigo R. Duterte in March 2022 as commissioner of COMELEC, and this appointment was *ad interim* in nature.<sup>36</sup> His appointment took effect immediately without need of confirmation from the Commission on Appointments. However, since his appointment was not confirmed by the Commission on Appointments while Congress was in session, it expired at the next adjournment of Congress on June 1, 2022. It must be pointed out that the 19<sup>th</sup> Congress commenced its session only on July 25, 2022<sup>37</sup>

Consequently, as Commissioner Garcia’s *ad interim* appointment was not confirmed by the CA before the 18<sup>th</sup> Congress adjourned, he ceased to be an incumbent member of COMELEC at the time the assailed Minute Resolutions were issued in June 2022. As a matter of fact, with the failure of the CA to confirm his appointment, he had to be reappointed, this time, as COMELEC Chairperson on August 1, 2022<sup>38</sup> by President Ferdinand R. Marcos, Jr. He assumed office on August 3, 2022<sup>39</sup> and his regular

<sup>35</sup> *Id.* at 63.

<sup>36</sup> CONST., art. VII, sec. 16 states:

SECTION 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until after disapproval by the Commission on Appointments or until the next adjournment of the Congress.

<sup>37</sup> House sets schedule for 19<sup>th</sup> Congress’ first regular session, August 2, 2022, available at <https://newsinfo.inquirer.net/1639522/house-adopts-concurrent-reso-setting-calendar-for-19th-congress-first-regular-session> (last accessed on June 13, 2024).

<sup>38</sup> Marcos names George Garcia as new Comelec chair, August 1, 2022, available at <https://www.pna.gov.ph/articles/1180319> (last accessed on June 13, 2024).

<sup>39</sup> Commission on Elections, *Chairman George M. Garcia*, September 12, 2022, available at <https://comelec.gov.ph/?r=AboutCOMELEC/CommissionMembers/ChairGarciaProfile> (last accessed on June 13, 2024).

appointment was confirmed by the Commission on Appointments in September 2022.<sup>40</sup>

Meanwhile, in the case of Commissioner Celis, he was appointed on August 11, 2022 through a regular appointment or while Congress was in session. For such appointment, confirmation from the Commission on Appointments is necessary to assume office. As the 19<sup>th</sup> Congress First Regular Session adjourned without confirming Commissioner Celis,<sup>41</sup> he was reappointed by the President in October 2022 while Congress was in recess. His *ad interim* appointment was confirmed by the Commission on Appointments in December 2022.<sup>42</sup>

On the other hand, Commissioner Maceda was appointed while Congress was in recess in October 2022 and the Commission on Appointments only confirmed his *ad interim* appointment in December 2022.<sup>43</sup>

Hence, it is my position that the rulings in *Estrella* and *Marcoleta* should be appreciated in their proper context. The specific number of votes stated in *Marcoleta* should not be imposed when there are multiple vacancies in the membership of the Commission, as in this case. The ruling in *Estrella*, *Marcoleta*, and *Sevilla* presupposes that the positions for the six commissioners and one chairperson are filled.

In the present case, in issuing the assailed Minute Resolutions, the concurrence of at least three commissioners constitutes the majority vote required by Section 7, Article IX-A of the Constitution and Section 5, Rule 3 of the COMELEC Rules.

The interpretation of the majority vote requirement under Article IX-A, Section 7 of the Constitution and Rule 3, Section 5 of the COMELEC Rules must mean the majority of all members who have validly assumed office. This must be so because the Constitution does not exempt COMELEC Commissioners from the requirement of confirmation of the Commission on Appointments before they assume office if the appointment was made during congressional session, and in case of *ad interim* appointment, before the end

<sup>40</sup> CA confirms George Garcia as Comelec chair, September 7, 2022, available at <https://newsinfo.inquirer.net/1659723/ca-confirms-appointment-of-george-garcia-as-comelec-chair> (last accessed on June 13, 2024).

<sup>41</sup> Melvin Gascon, 14 Marcos picks bypassed, September 30, 2022, available at <https://newsinfo.inquirer.net/1672950/14-marcos-picks-bypassed> (last accessed on June 13, 2024).

<sup>42</sup> Comelec gets 2 new commissioners, October 6, 2022, available at <https://newsinfo.inquirer.net/1676325/comelec-gets-2-new-commissioners> (last accessed on June 13, 2024).

<sup>43</sup> Commission on Elections, Commissioner Ernesto Ferdinand P. Maceda, Jr., December 20, 2022, available at <https://comelec.gov.ph/?r=AboutCOMELEC/CommissionMembers/CommMacedaProfile> (last accessed on June 13, 2024).

of the congressional session.

For regular appointments, pending confirmation by the Commission on Appointments, any nomination by the President cannot ripen into an appointment for the nominee to be considered a member of the Commission. As a nominee is not yet considered a member of the Commission, he or she should not be considered in determining the “majority vote of all its Members” under Article XI, Section 7 of the Constitution. Thus, among the four sitting members of the Commission, at least three votes are necessary to constitute the majority vote in promulgating the June 14, 2022 Resolution. Though Commissioner Ferolino dissented, the three votes in favor of allowing the substitution is sufficient.

It is worthy to point out that this is not the first time that COMELEC continued to perform its constitutional mandate to resolve election controversies within its jurisdiction while there were multiple vacancies in the Commission. In *Dumayas, Jr. v. COMELEC*,<sup>44</sup> this Court upheld the validity of a decision of COMELEC *En Banc* even if there were only four incumbent commissioners and of the four, one dissented. This Court explained:

However, unless the withdrawal of the votes would materially affect the result insofar as votes for or against a party is concerned, we find no reason for declaring the decision a nullity. In the present case, with the cancellation of the votes of retired Commissioners Gorospe and Guiani, *the remaining votes among the four incumbent commissioners at the time of the resolution’s promulgation would still be 3 to 1 in favor of respondent*. Noteworthy, these remaining Commissioners still constituted a quorum. In our view, the defect cited by petitioner does not affect the substance or validity of respondent Commission’s disposition of the controversy. The nullification of the challenged resolution, in our view, would merely prolong the proceedings unnecessarily.<sup>45</sup> (Emphasis supplied)

To subscribe to the view that the concurrence of four votes is necessary under all circumstances, even if there were only four incumbent members of COMELEC, would prevent the Commission from carrying out its constitutional duties in the event of multiple vacancies in its membership. As the constitutional body vested with the task of ensuring that the will of the sovereign people will be upheld through the exercise of the right of suffrage, it should not be impeded from performing its function of resolving election controversies within its jurisdiction simply because there are multiple vacancies in its membership.

<sup>44</sup> 409 Phil 407 (2001) [Per J. Quisumbing, *En Banc*].

<sup>45</sup> *Id.* at 418–419.

*The assailed Minute Resolutions are  
valid*

In nullifying the assailed Minute Resolutions, the *ponencia* pointed out COMELEC's purported disregard of its own deadline and stressed the alleged speed at which the substitution of P3PWD's nominees were approved which was one day from P3PWD's physical filing.<sup>46</sup> The Memorandum of Commissioner Ferolino was likewise cited to illustrate the supposed pattern of whimsicality and arbitrariness in the approval of the substitution of the nominees.<sup>47</sup>

To recall, the *fallo* of the *ponencia* states:

Respondent P3PWD Party-List is **DIRECTED** to submit additional nominees pursuant to Section 16 of Republic Act No. 7941 but is **STRICTLY ENJOINED** from renominating for the duration of the Nineteenth Congress the nominees whose substitutions were declared null and void by this Decision, namely Ma. Rowena Amelia V. Guanzon, Rosalie J. Garcia, Cherrie B. Belmonte-Lim, Donnabel C. Tenorio, and Rodolfo B. Villar, Jr.<sup>48</sup> (Emphasis in the original)

Section 8 of Republic Act No. 7941 states:

Section 8. *Nomination of Party-List Representatives.* Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

Section 8 of Republic Act No. 7941 enumerates three instances in which the party-list can substitute another person in place of the nominee whose name has been submitted to COMELEC, namely: (a) when the nominee dies; (b) when the nominee withdraws in writing his nomination; and

<sup>46</sup> *Ponencia*, pp. 29–30.

<sup>47</sup> *Id.* at 30–31.

<sup>48</sup> *Id.* at 39.

(c) when the nominee becomes incapacitated. In *Lokin v. COMELEC*,<sup>49</sup> this Court ruled that the enumeration is exclusive.<sup>50</sup>

Meanwhile, Section 16 of Republic Act No. 7941 states:

Section 16. *Vacancy.* In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. *If the list is exhausted, the party, organization coalition concerned shall submit additional nominees.* (Emphasis supplied)

The *ponencia* construed Section 16 of Republic Act No. 7941 as a provision that applies to a vacancy in a party-list seat during its term, i.e., from noon of the thirtieth day of June following the election. The justification given is that the seat of P3PWD did not legally exist until the end of the Eighteenth Congress at noon of June 30, 2022.<sup>51</sup>

COMELEC Resolution No. 10717 was issued, mandating that all substitutions of party list nominees be made on or before November 15, 2021. Sections 11 and 12 of the said resolution states:

**SECTION 11. *Withdrawal of Nominations and Substitution of Party-list Nominees.*** — Withdrawal of nominations and substitution of nominees due to the withdrawal of the acceptance to the nomination shall be in writing and under oath, and filed with the Law Department not later than **November 15, 2021 (Monday)**. Provided that no substitution shall be valid unless the party files with the Law Department a list of its substitute nominees, the certificates of nomination and acceptance of the substitute nominees, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the substitute nominees possess all the qualifications and none of the disqualifications provided by law. The name of the substitute nominee shall be placed last in the list. The number of nominees in the new list shall be the same with the number of those previously submitted in the original list.

Within five (5) days from the filing of the list of substitute nominees, the party shall cause the publication of its new and complete list of nominees in two (2) national newspapers of general circulation. The party shall submit proof of publication of its new list of nominees with the Law Department within three (3) days from completion of the said publication. No substitution shall be valid without compliance with the requirements on publication and submission of proof thereof.

A nominee who withdraws his acceptance to the nomination shall not be eligible for re-nomination by the same party or nomination by other parties.

<sup>49</sup> 635 Phil. 372 (2010) [Per J. Bersamin, *En Banc*].

<sup>50</sup> *Id.* at 397.

<sup>51</sup> *Ponencia*, pp. 22–23.



**SECTION 12. *Substitution of Party-list Nominees Due to Death or Incapacity of the Substituted Nominees.*** — No substitution shall be valid if filed beyond November 15, 2021 unless the list of nominees originally submitted has been exhausted due to death and/ or incapacity of the nominees. The party, within ten (10) days from the exhaustion of the original list shall file with the Law Department a list of its substitute nominees, their certificates of nominations and acceptance, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the substitute nominees possess all the qualifications and none of the disqualifications provided by law. Provided that substitutions due to the death and/ or incapacity of the nominees under this paragraph shall be allowed only up to mid-day of election day.

The party shall cause the publication of its new and complete list of nominees in two (2) national newspapers of general circulation within five (5) days from the filing with the Law Department. The party shall submit proof of publication of its list of substitute nominees with the Law Department within three (3) days from completion of said publication. No substitution shall be valid without compliance with the requirements on publication and submission of proof thereof.

In all cases where a nominee dies or becomes incapacitated, the party shall file with the Law Department within ten (10) days from the fact thereof a notice and proof of such death or incapacity. (Emphasis in the original)

Sections 11 and 12 of COMELEC Resolution No. 10717 impose a period within which withdrawals and substitutions of nominees must be made in accordance with Section 8 of Republic Act No. 7941. On the other hand, Section 16 of Republic Act No. 7941, the provision from which the authority to withdraw and/or substitute party-list nominees in case of a vacancy emanates, does not provide for such deadline.

In *COCOFED-Philippine Producers Federation, Inc. v. COMELEC*,<sup>52</sup> this Court harmonized Sections 8 and 16 of Republic Act No. 7941 as follows:

While the law allows the submission of additional nominees once the list is exhausted, the exhaustion of the list *presupposes prior compliance with the requirement of Section 8 of RA No. 7941*. Since the exhaustion of the list is an event that can rarely happen under this interpretation, then the law effectively upholds the people's right to make informed electoral judgments.<sup>53</sup> (Emphasis supplied)

Noticeably, in harmonizing Sections 8 and 16 of Republic Act No. 7941 in *COCOFED*, this Court required “prior compliance with the requirement[s] of Section 8.”<sup>54</sup> It must be highlighted that Section 8 outlines the date and

<sup>52</sup> 716 Phil. 19 (2013) [Per J. Brion, *En Banc*].

<sup>53</sup> *Id.* at 35.

<sup>54</sup> *Id.*

manner of submission of the nominees of a party-list group as a condition precedent for the registration of a new party-list group or for the participation in the elections in the case of a previously registered party-list group.<sup>55</sup> Section 8 mandates the submission of five nominees of the party-list group at least 45 days prior to the date of the election. This Court explained the underlying principle behind the requirement as follows:

The publication of the list of nominees does not only serve as the reckoning period of certain remedies and procedures under the resolution. Most importantly, the required publication satisfies the people's constitutional right to information on matters of public concern. The need for submission of the complete list required by law becomes all the more important in a party-list election to apprise the electorate of the individuals behind the party they are voting for. If only to give meaning to the right of the people to elect their representatives on the basis of an informed judgment, then the party-list group must submit a complete list of five nominees because the identity of these five nominees carries critical bearing on the electorate's choice. A post-election completion of the list of nominees defeats this constitutional purpose.

....

[A] party is not allowed to simply refuse to submit a list containing "not less than five nominees" and consider the deficiency as a waiver on its part. Aside from colliding with the plain text of the law, this interpretation is not in harmony with the statutory policy of enhancing the party-list-groups' chances to compete for and win seats in the legislature, and therefore does not serve as incentive to Filipino citizens belonging to these groups to contribute to the formulation and enactment of appropriate legislation.<sup>56</sup> (Emphasis in the original)

Concededly, the ideal situation envisaged by the framers is that the representative/s of a winning party-list group will be chosen from the list of five nominees it submitted under Section 8. A party-list group cannot take part in the elections without submitting the requisite list of nominees within the period prescribed in Section 8. As the provision delineates the requirements that must be complied with for a party-list group to become a *bona fide* candidate, it necessarily follows that Section 8 covers only the pre-election phase. Compliance with the requirements is intended for the purpose of determining whether a party-list group may participate in the elections.

However, there are rare, but not impossible, situations that Section 8 does not cover and may only be resolved through the application of other provisions of Republic Act No. 7941. Section 8 does not cover situations in which a vacancy in the list of nominees occurs after a party-list group has been declared a winner, regardless of the reason/s for the vacancy. On this score,

<sup>55</sup> *Id.* at 31–32.

<sup>56</sup> *Id.* at 34–37.

the relevant provision is Section 16. While unusual, filling a vacancy that arises after an election does not defeat the constitutional objectives of transparency and informed judgment as mechanisms are put in place to ensure that these are observed, such as the publication requirement.

A closer scrutiny into the congressional deliberations reveals the intention of the framers of the law in introducing Section 16. The broad spectrum of causes that may give rise to a vacancy under the provision is evident from the excerpt of the deliberations quoted below:

MR. MENZON. Likewise, Your Honor, what kind of vacancy is contemplated under Section 11[sic]?

MR. ESPINOSA. *They are the normal vacancies like that of resignation, incapacity and other change of political party.*

MR. MENZON. Would Your Honor, sickness, for example, a Member of the House cannot attend all the sessions – in one year, can attend only two sessions. Can Congress declare his position vacant?

MR. ESPINOSA. Considering the rules of Congress that we have not expelled anybody by reason of absence, then I think that would also appropriately apply or properly apply to the situation connotated by the Gentleman, Madam speaker.<sup>57</sup> (Emphasis supplied)

Based on the foregoing, it is clear that Sections 8 and 16 supplement each other as they pertain to different but intrinsically related matters. Their differences are evident in at least two aspects: (1) the grounds that may be invoked for the substitution to become operative; and (2) the period when the substitution may be made.

As stated above, there are only three grounds for a substitution under Section 8 to be allowed. These are when a nominee “dies, or withdraws in writing his [or her] nomination, [or] becomes incapacitated.” Meanwhile, the language of Section 16 does not limit the causes or grounds that may give rise to a vacancy that a party-list group must fill. It is evident from the quoted congressional deliberations that the framers of the law envisioned a wide array of causes that could produce a vacancy that must be filled.

As regards the period when the substitution may be made, I cannot subscribe to the construction in the *ponencia* that Section 16 applies to a vacancy in a party-list seat during the term, which begins from noon of the thirtieth day of June after the election.<sup>58</sup>

<sup>57</sup> Journal, House of Representatives, 9th Congress, 1<sup>st</sup> Session (November 8, 1994), p. 84.

<sup>58</sup> *Ponencia*, pp. 22–23.


It bears stressing that in Section 16, the law used the phrases “[i]n case of vacancy in the seats reserved for party-list representatives” and “who shall serve for the unexpired term.” These phrases presuppose that COMELEC already identified the winning party-list groups and seats have been allocated for their respective representatives. Contrary to the construction in the *ponencia*, the language of the provision is clear in that it is applicable for vacancies occurring after the election. It is not confined only to vacancies starting from noon of June 30.

It is an elementary rule in statutory construction that where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. No distinction should be made in the application of the law where none has been indicated. Where the law did not indicate the reckoning point from which vacancies may be filled pursuant to Section 16, this Court should not distinguish between a vacancy occurring immediately after the elections and one happening on or after noon of the thirtieth day of June after the election. To insist that Section 16 may be invoked only beginning at noon of June 30 is to read into the law something that the framers did not intend.

It is my humble view that interpreting the reckoning point in applying Section 16 as immediately after the elections becomes even more relevant in a scenario where the vacancy arises after the elections but before a member of the House of Representatives commences his or her term of office. It must be pointed out that the provision did not explicitly state that it applies only when the vacancy occurs after the term of the party-list representative begins and the congressional session commences. A contrary interpretation would create an absurd situation in which a party-list is unduly deprived of its right to participate in Congress, despite having successfully hurdled the elections, when its list of nominees has been exhausted before noon of June 30 yet it may be allowed to make a substitution if the vacancy occurs after such period.

To stress, the objective of Republic Act No. 7941 is to:

. . . promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to marginalized and under-represented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing



their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

Harmonizing the noble objective of Republic Act No. 7941 with its provisions, it is more sensible to construe Section 16 as applicable to vacancies transpiring after the election, regardless of the cause of the vacancy. The period covered by the provision begins immediately from the moment a party-list group wins and is allocated its corresponding seat/s – not from noon of the thirtieth day of June after the elections.

In the *ponencia*, it was stated that “any perceived loophole or *lacuna* in the law which may result in the abuse and exploitation of the party-list system can only be remedied by the Legislature.”<sup>59</sup> However, given the construction of Section 16 discussed above, it is clear that there is no *lacuna* or gap in Republic Act No. 7941 as it addresses the case of P3PWD. The language of Section 16 does not prohibit the substitution of the nominees resigning or withdrawing from the party-list after the elections. Further, the provision even mandates that “[i]f the list is exhausted, the party, organization coalition concerned shall submit additional nominees.” By using the word “shall,” the law implies that this is a statutory duty that a winning party-list group must perform should the list be exhausted.

Since Section 16 of Republic Act No. 7941 provides a remedy in case the list has been exhausted after the elections, the assailed Minute Resolutions are valid. Thus, COMELEC did not commit grave abuse of discretion in approving the respective nominations of P3PWD’s nominees, namely, Guanzon, Rosalie J. Garcia (Garcia), Cherrie B. Belmonte-Lim (Belmonte-Lim), Donnabel C. Tenorio (Tenorio), and Rodolfo B. Villar (Villar).

*Given that the assailed Minute Resolutions are valid, there is no legal justification in enjoining the nomination or renomination of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar*

The *ponencia* declared that P3PWD is prohibited from renominating Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar for the duration of the Nineteenth Congress. It was explained that:

---

<sup>59</sup> *Id.* at 31.

A ruling tainted 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. *Ergo, the approval of the substitution of nominees of P3PWD is hereby declared null and void.*

Nevertheless, P3PW is not without recourse as Section 16 mandates the submission of additional nominees upon exhaustion of the list of nominees during the term of the party-list representative. Certainly, the misdeeds of a few cannot be invoked to disenfranchise a greater number of the electorate, nay, an entire sector. In keeping however with the elementary principle that what cannot be legally done directly cannot be done indirectly, P3PWD is enjoined from renominating the nominees whose substitutions were nullified by this Decision for the duration of the Nineteenth Congress.<sup>60</sup> (Emphasis in the original; citations omitted)

To emphasize, the assailed Minute Resolutions challenging the approval of the substitution of Yeneza, Pozon, Fullon, David, and Tiangco are valid. Likewise, they all have expressed their respective intentions to resign from P3PWD, as stated in their Letters summarized below:

NOMINEE	DATE OF RESIGNATION	REASON FOR WITHDRAWAL
Grace S. Yeneza	June 10, 2022	Last December, [her] daughter was diagnosed with Stage III, aggressive carcinoma and will need [her] personal care to battle the disease. [She] took [her] oath of office on May 30, 2022 as a member of the House of Representatives but thinking it over, it would not be fair to their party constituents to carry on sitting as their representative in Congress if [she] cannot give [her] full attention to the job at hand. <sup>61</sup>
Ira Paulo A. Pozon	June 7, 2022	Due to personal reasons
Marianne Heidi C. Fullon	June 9, 2022	No stated reason
Peter Jonas R. David	June 9, 2022	Due to personal reasons
Lily Grace A. Tiangco	June 9, 2022	To assist her husband in their businesses[.] <sup>62</sup>

At the risk of being repetitive, it must be underscored that this Court cannot recognize the recourse available under Section 16 of Republic Act No. 7941 of filling vacancies post-election and at the same time enjoin P3PWD from renominating the nominees whose substitutions were nullified

<sup>60</sup> *Id.*  
<sup>61</sup> Comment for P3PWD (G.R. No. 261123), Annex “3.”  
<sup>62</sup> Comment for COMELEC (G.R. No. 261123), pp. 22–23.

9

in the *ponencia*. Declaring the assailed issuances void yet using the invalidity of the same issuances to effectively disqualify Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar from being renominated is inconsistent with the principle that a void judgment does not produce any effect. Having been declared null and void, it cannot be the source of any right or obligation and should not give rise to restricting them from being renominated.

Further, the directive barring Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar from remaining as the nominees of P3PWD effectively imposes punishment on them for the perceived grave abuse of discretion that the *ponencia* attributes to COMELEC. However, the alleged grave abuse of discretion was not proven as Section 16 of Republic Act No 7941 permits their substitution. As discussed above, the assailed Minute Resolutions were validly issued. Such directive is a penalty that goes against the State's policy in establishing the party-list system in the country, as enshrined in Section 2 of Republic Act No. 7941:

Section 2. Declaration of Policy. — The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a *full, free and open party system* in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible. (Emphasis supplied)

It is inherent in the development of a “full, free and open party-list system” that aspiring party-list groups, including their respective nominees, be afforded their constitutional right to due process of law. A system is not “free” when restrictions are imposed on a winning party-list group that prevents them from selecting nominees it deems the effective representative who will champion its cause in Congress, within the parameters of Republic Act No. 7941. Imposing on a winning party-list group and its chosen nominees a penalty before they are given the opportunity to be heard to prove their competence and compliance with the qualifications provided in Republic Act No. 7941 contradicts the vision of its framers.

Singling out Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar by preventing P3PWD from nominating them is an unreasonable penalty when

there is no direct proof that they possess any ground for their disqualification. It is contrary to the principles of fairness and equity from which the concept of due process is anchored. To equate the alleged failure of P3PWD to timely comply with the requirements for substitution under Republic Act No. 7941 would be prejudicial to the affected nominees, especially when there is no showing that they have participated or caused the perceived violation of the party-list group.

The respective qualifications of the affected nominees should be assessed in the appropriate proceedings where interested parties may be properly given the opportunity to be heard. Whether the nominees under the new list submitted post-election are qualified and do not possess any ground for disqualification is the proper subject of a separate proceeding. Prohibiting them from being renominated, solely on the ground that their substitution was made after the deadline prescribed by COMELEC, and not for any reason directly attributable to their competence, is tantamount to an imposition of punishment without due process of law.

The disqualification of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar also poses serious ramifications on P3PWD's right to free association and its overarching interest of the party-list group to choose its own representative/s within the limitations provided by Republic Act No. 7941. It is settled that the basic tenets and principles that political parties observe also apply to party-list groups. In this regard, it is worth noting that:

[Po]litical parties are generally free to conduct its internal affairs pursuant to its constitutionally-protected right to free association. This includes the determination of the individuals who shall constitute the association and the officials who shall lead the party in attaining its goals. The political parties, through their members, are free to adopt their own constitution and by-laws that contain the terms governing the group in pursuing its goals. These terms, include the terms in choosing its leaders and members, among others. To the group belongs the power to adopt a constitution; to them likewise belongs the power to amend, modify or altogether scrap it.<sup>63</sup>

Similarly, in *Sinaca v. Mula*,<sup>64</sup> this Court recognized that:

A political party has the right to identify the people who constitute the association and to select a standard bearer who best represents the party's ideologies and preference. Political parties are generally free to conduct their internal affairs free from judicial supervision; this common-law principle of judicial restraint, rooted in the constitutionally protected right

<sup>63</sup> *Alcantara v. COMELEC*, 709 Phil. 523, 537 (2013) [Per J. Brion, *En Banc*].

<sup>64</sup> 373 Phil. 896 (1999) [Per C.J. Davide, Jr., *En Banc*].



of free association, serves the public interest by allowing the political processes to operate without undue interference. Thus, the rule is that the determination of disputes as to party nominations rests with the party, in the absence of statutes giving the court's jurisdiction.<sup>65</sup> (Citations omitted)

It would be an egregious error to recognize P3PWD's right to select its nominees and, at the same time, restrain its freedom of association by preventing the nomination of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar. To reiterate, this Court has not determined that they possess any of the grounds for their disqualification under Republic Act No. 7941.

**ACCORDINGLY**, I vote to declare Minute Resolution Nos. 22-0774, 22-0798, and 22-0810 **VALID**.

Likewise, I vote to **LIFT** the Temporary Restraining Order dated June 29, 2022.

Lastly, I vote to **DISMISS** the Petition docketed as G.R. Nos. 261123 and 261876.

  
**JOSEPH V. LOPEZ**  
Associate Justice

---

<sup>65</sup> *Id.* at 912.

9