

EN BANC

G.R. No. 265847 – MA. ZARAH ROSE DE GUZMAN-LARA, Petitioner,
v. COMMISSION ON ELECTIONS and MANUEL N. MAMBA,
Respondent.

Promulgated:

August 6, 2024



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SEPARATE OPINION

LOPEZ, M., J.:

I agree that the dismissal of the Commission of Elections (COMELEC) *En Banc* of the petition for disqualification is tainted with grave abuse of discretion. Thus, the case should be remanded for proper disposition. The COMELEC Rules of Procedure provide that it may suspend the rules in the interest of justice to obtain a speedy disposition of matters before it.¹ Here, several circumstances call for the suspension of the rules. It must be emphasized that the actual filing of the petition for disqualification preceded the actual proclamation and that the COMELEC Second Division gave due course and found the petition meritorious. **It would be contrary to the “interest of justice” for COMELEC *En Banc* to dismiss the case by demanding a strict application of its rules and consequently refusing to review the case’s merits after its Second Division found the petition meritorious.**

Nonetheless, I submit this separate opinion to qualify my concurrence. With respect, I differ from the majority’s view that a petition for disqualification may be filed even after the exact moment of the proclamation of a candidate, provided that the date of the proclamation and filing of the petition falls on the same day. The majority’s position ignores the distinction between pre-proclamation and post-proclamation remedies anchored under Section 68 of the Omnibus Election Code (OEC)² and fails to consider related law and constitutional provisions, as discussed below.

Briefly, petitioner Ma. Zarah Rose De Guzman-Lara and private respondent Manuel N. Mamba were gubernatorial candidates of the Province of Cagayan in the 2022 national and local elections. Mamba was the incumbent Governor seeking reelection. On May 10, 2022, at 6:21 p.m., De Guzman-Lara filed a petition for disqualification with the COMELEC via electronic mail against Mamba for violating Section 68 of the OEC. De Guzman-Lara claimed that Mamba committed massive vote-buying activities

¹ COMELEC Rules of Procedure (1993), sec. 4

² Batas Pambansa Blg. 881 (1985).



and disbursed public funds within the prohibitory period of 45 days before the elections. Mamba allegedly authorized the release and disbursement of cash assistance during the prohibitory period. On May 11, 2022, at 1:39 a.m., or a few hours after the petition for disqualification was filed, Mamba was proclaimed the duly elected Governor of Cagayan.

The COMELEC Second Division gave due course to the petition and disqualified Mamba as a candidate for unlawfully disbursing public funds within the prohibitory period. In its Resolution³ dated December 14, 2022, the COMELEC Second Division disposed the case as follows:

WHEREFORE, premises considered, the Petition is GRANTED. Respondent MANUEL N. MAMBA is DISQUALIFIED as a candidate for the position of Governor of the Province of Cagayan in the 09 May 2022 National and Local Elections.

Let the records of the case be forwarded to the Law Department of this Commission for the conduct of preliminary investigation relative to the election offense aspect of this case.

SO ORDERED.⁴

In his partial motion for reconsideration, Mamba focused on questioning the sufficiency of evidence against him. Curiously, he did not question why the Second Division gave due course to the petition.

In its Resolution⁵ dated March 6, 2023, the COMELEC *En Banc* reversed its Second Division without looking into the merits of the case. The COMELEC *En Banc* held that the petition for disqualification was belatedly filed after Mamba's proclamation. Based on the COMELEC rules governing electronic filing, a petition filed via e-mail should be made before 5:00 p.m. Otherwise, the petition would be considered filed the following day at 8:00 a.m. The petition was filed at 6:21 p.m. on May 10, 2022, while the proclamation was made at 1:39 a.m. on May 11, 2022. Following its rules, the petition is considered filed at 8:00 a.m. on May 11, 2022, or after the proclamation of Mamba. Thus, COMELEC may no longer entertain the petition due to lack of jurisdiction. The dispositive portion reads:

WHEREFORE, premises considered, the Commission *En Banc* RESOLVED, as it hereby RESOLVES, to DISMISS the *Petition* dated 11 May 2022 for LACK OF JURISDICTION. The criminal aspect of the case is hereby REFERRED to the Law Department for preliminary investigation.

SO ORDERED.⁶

³ *Rollo*, pp. 880–897; signed by Presiding Commissioner Marlon S. Casquejo and Commissioners Rey E. Bulay and Nelson J. Celis; Commissioner Nelson J. Celis concurred “on the results.”

⁴ *Id.* at 896.

⁵ *Id.* at 44–61; Signed by Chairperson George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, Ernesto Ferdinand P. Maceda, Jr., and Nelson J. Celis while Commissioner Rey E. Bulay took no part.

⁶ *Id.* at 60.

The COMELEC *En Banc* emphasized the evident philosophy underlying the dichotomy of remedies before and after the proclamation of a winning candidate—the prevention of confusion and conflict of authority.⁷ It then cited the cases of *Bagatsing v. COMELEC*⁸ and *Albaña v. COMELEC*,⁹ which upheld the dismissal of a petition for disqualification filed after the elections.¹⁰ Nonetheless, the COMELEC *En Banc* recognized that a petition for disqualification filed on time (before the proclamation of a winning candidate) may survive following Section 6¹¹ of Republic Act No. 6646.¹²

Aggrieved, De Guzman-Lara filed this Petition for *Certiorari* questioning the COMELEC *En Banc* Resolution for dismissing the case for lack of jurisdiction and not affirming Mamba's disqualification.

In granting the petition, the Court's majority emphasized two points. First, the COMELEC should have exercised liberality in applying its rules governing the electronic filing of pleadings. Second, Section 3, Rule 25 of the COMELEC Rules provides that a petition for disqualification may be filed "*not later than the date of proclamation.*" The "date of proclamation" should mean "*the full 24 hours of the day on which such proclamation takes place.*"¹³ The majority applied Article 13 of the Civil Code, which states that "days" should be understood as 24 hours.¹⁴ Applying this interpretation, the majority found that the petition for disqualification should be considered filed on time even if the COMELEC rules on electronic filing are applied. The petition for disqualification was filed on time because the date of the proclamation and filing of the petition falls on the same day. It is immaterial that the petition was filed after the exact time of proclamation as long as it was filed on the same day.

I.

The COMELEC should have liberally applied its rules

I agree with the first point. There are sufficient circumstances warranting the liberal application of the COMELEC Rules. First, the actual filing of the petition was made before the actual proclamation. It is undisputed

⁷ *Id.* at 49–50.

⁸ 378 Phil. 585 (1999) [Per J. Kapunan, *En Banc*].

⁹ 478 Phil. 941 (2004) [Per J. Callejo, Sr., *En Banc*].

¹⁰ *Rollo*, pp. 51–53.

¹¹ Republic Act No. 6646, sec. 6. *Effect of Disqualification Case.*—Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court or Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong.

¹² Entitled "An Act Introducing Additional Reforms in the Electoral System and for Other Purposes" (1988).

¹³ Draft Decision, p. 9.

¹⁴ *Id.*

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that the electronic filing was made at 6:21 p.m. on May 10, 2022, or a few hours before the actual proclamation on May 11, 2022. Second, the strict application of the rules is not commensurate with the tardiness of the petition, which was only one hour and 21 minutes. Third, the pleading was filed through e-mail, which may be accessed in real time and not limited by the physical structures of the agency.¹⁵ The ponente, echoing the observations of Chief Justice Alexander G. Gesmundo, is correct that the Court must hew to the practicable realities borne by technological advances.¹⁶ Fourth, the COMELEC Second Division already gave due course to the petition and found sufficient evidence to disqualify Mamba. Fifth, the case should not be resolved based on technicalities because election cases should be considered imbued with public interest.

Given these reasons, the COMELEC *En Banc* should have been mindful of its rules, which provide that “[i]n the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.”¹⁷ Verily, it is not in the interest of justice to strictly apply the rules by dismissing a case after its Division found the petition for disqualification meritorious. The COMELEC *En Banc* should have resolved the case on its merits rather than dismissed it by strictly adhering to its rules. I limit my concurrence up to this point.

II

The “date of proclamation” should be understood as the exact moment of the proclamation of the election results

I beg to differ on the second point that the “date of the proclamation” covers the hours after the proclamation. Indeed, the COMELEC Rules mentioned “*but not later than the date of proclamation*”¹⁸ as the deadline to file a petition for disqualification. The majority ruled that this phrase should mean the “*full 24 hours of the day on which such proclamation takes place*” after applying Article 13 of the Civil Code that “days” should be understood as 24 hours.¹⁹ Despite this interpretation, the majority would then quip that the last day to file the petition cannot extend beyond the date of the proclamation:

The Court now holds that a petition for disqualification of a candidate based on Section 68 of the OEC may be filed during the period beginning the whole day after the last day of filing of certificate of candidacy **until the end of the day of the date of proclamation, even after**

¹⁵ *Id.* at 10.

¹⁶ *Id.* at 10.

¹⁷ COMELEC Rules of Procedure (1993), sec. 4.

¹⁸ COMELEC Rules of Procedure (1993), sec. 3. Period to File Petition.—The Petition shall be filed any day after the last day for filing of certificates of candidacy, but not later than the date of proclamation.

¹⁹ Draft Decision, p. 9.

the exact time of the proclamation of the winning candidate.²⁰
(Emphasis supplied)

What would be the reckoning point for counting the 24 hours? If the reckoning point is the exact moment of proclamation, then an interpretation applying Article 13 of the Civil Code may not justify the majority's position that the last day to file a petition for disqualification should be "*until the end of day of the date of proclamation.*"²¹ An example of a scenario that may happen during the elections would best demonstrate the absurdity of the majority's position. Suppose a candidate was proclaimed at 11:49 p.m. on May 10, 2022. How does the 24-hour period come into play? Applying Article 13 of the Civil Code, the 24-hour period should extend beyond May 10, 2022. Also, what is the rationale for allowing the filing of a petition for disqualification after proclamation?

I submit that a better view should result from harmonizing Sections 68 and 253²² of the OEC, COMELEC Rules on election contests, and Section 6 of Republic Act No. 6646. The cut-off period should be the exact moment of the proclamation of election results—the same position that the COMELEC *En Banc* adopted.

Indeed, the majority is correct that Section 68 of the OEC is silent on the period to file a petition for disqualification, to wit:

Section 68. Disqualifications.—Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters ... or (e) violated any of Sections ... 261, paragraphs ... v ... shall be disqualified **from continuing as a candidate**, or if he has been elected, from holding the office[.] (Emphasis supplied)

The silence of Section 68 should not be understood as an unbridled discretion on the part of the COMELEC to set the deadline to file a petition for disqualification. The COMELEC must harmonize this section with other provisions of law. As worded, the grounds under this section may be used to bar a candidate (1) from continuing as a candidate or (2) from holding the office if elected. The difference in purpose reflects the dichotomy of the available remedies—a petition for disqualification or a petition for *quo warranto*.

On the one hand, a petition for disqualification is filed to prohibit a person from continuing as a candidate.²³ It may be filed once a person attains the status of a candidate. In *Fermin v. COMELEC*,²⁴ the Court held that a

²⁰ *Id.* at 11.

²¹ *Id.*

²² OMNIBUS ELECTION CODE, sec. 253. *Petition for quo warranto*.—Any voter contesting the election of any ... provincial ... officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall file a sworn petition for *quo warranto* with the Commission within [10] days after the proclamation of the results of the election.

²³ *Fermin v. COMELEC*, 595 Phil. 449, 469 (2008) [Per J. Nachura, *En Banc*].

²⁴ 595 Phil. 449 (2008) [Per J. Nachura, *En Banc*].

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petition for disqualification may be premised under Section 68 of the OEC. Under the COMELEC Rules, it may be filed “*not later than the date of proclamation.*”

On the other hand, a petition for *quo warranto* against elective provincial officials is filed within 10 days after the date of the proclamation. It may be anchored on the grounds of ineligibility or disloyalty to the Republic of the Philippines, to wit:

Section 253. *Petition for quo warranto.*—Any voter contesting the election of any ... provincial ... officer on the ground of **ineligibility** or of disloyalty to the Republic of the Philippines shall file a sworn petition for *quo warranto* with the Commission **within ten days after the proclamation of the results of the election.** (Emphasis supplied)

The COMELEC Rules²⁵ reiterate the period to file a petition for *quo warranto*.

I submit that the thrust of a petition for *quo warranto* is to bar a person from holding office from which he or she was elected. After the proclamation, a petition invoking Section 68 of the OEC against the winning candidate is essentially a question of the winning candidate’s ineligibility—the right to hold the elective office due to certain acts committed that bar him or her from holding office. **The reckoning point separating the proper remedy to be filed concerning elective provincial officers is the proclamation of a candidate, which formally declares a candidate to have garnered the highest number of votes.** At that point, he or she ceases to be merely a candidate. He or she has the expectant right to hold public office following the proclamation or results. Before the proclamation of a candidate, filing a petition for *quo warranto* is premature.²⁶

It is worth reiterating the Court’s observation in *Venezuela v. COMELEC*²⁷ as regards why pre-election cases, such as a petition for disqualification, filed after proclamation should be dismissed without prejudice to the filing of the necessary election protest or *quo warranto* petition. The dismissal would save time and energy for the litigants and the COMELEC:

It was not until February 6, 1980, as admitted in the very petition itself, that the issue of disqualification was raised. The view, therefore, that the present proceeding cannot with precision be described as a pre-proclamation controversy, considering that on the very same day, private respondent Saldivar had already been proclaimed, has much to commend it. **Moreover, it would save the time and energy of the litigants as well as respondent Commission, and eventually this Court in view of its**

²⁵ COMELEC Rules of Procedure on Disputes in an Automated Election System in Connection with the May 10, 2010 Elections, Resolution No. 8804 (2010), Rule 6, sec. 3. The rule provides: Section 3. How initiated.—An election protest or petition for *quo warranto* shall be filed ... within a non-extendible period of ten days following the date of proclamation[.]

²⁶ *Loong v. COMELEC*, 290-A Phil. 559, 574 (1992) [Per J. Padilla, *En Banc*].

²⁷ 187 Phil. 503 (1980) [Per J. Fernando, *En Banc*].

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appellate jurisdiction, if the matter were passed upon in an election protest or quo warranto petition in the lower court, the office involved being that of municipal mayor.²⁸ (Emphasis supplied)

In *Aguinaldo v. COMELEC*,²⁹ the Court reiterated *Venezuela* and explained that a petition for disqualification timely filed should be resolved on the merits:

Since *Venezuela v. Commission on Elections*, this Court has invariably adhered to the principle that after the holding of the January 30, 1980 election, and a proclamation thereafter made, a petition to disqualify a candidate based on a change of political party affiliation within six months immediately preceding or following an election, filed with this Court after January 30, 1980, arising from a pre-proclamation controversy, should be dismissed without prejudice to such ground being passed upon in a proper election protest or quo warranto proceeding. **Where, however, such constitutional provision had been seasonably invoked prior to that date with the Commission on Elections having acted on it and the matter then elevated to this Court before such election, the issue thus presented should be resolved.**³⁰ (Emphasis supplied)

By examining the related provisions and rules discussed above and the difference in objectives in filing a petition for disqualification or quo warranto, it becomes clear that the proclamation of the winning candidate delineates the available remedies.

III

COMELEC is duty-bound to resolve pending petitions for disqualification that were timely filed

While petitions filed out of time should be dismissed outright, the COMELEC is duty-bound to resolve pending petitions for disqualification filed on time. This duty is required by Section 6 of Republic Act No. 6646:

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

In *Sunga v. COMELEC*,³¹ the Court held that the COMELEC may not deviate from its duty to resolve the petitions for disqualification timely filed

²⁸ *Id.* at 505-506.

²⁹ 190 Phil. 1 (1981) [Per J. Fernando, *En Banc*].

³⁰ *Id.* at 1-2. Citations omitted.

³¹ 351 Phil. 310 (1998) [Per J. Bellosillo, *En Banc*].

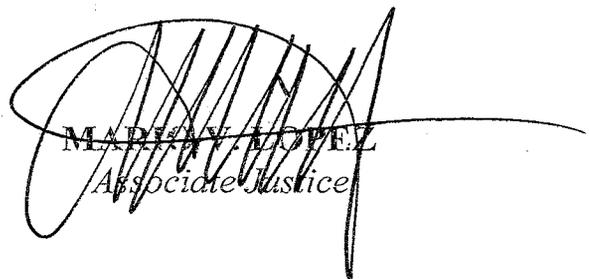
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because it would be contrary to the legislative intent of Republic Act No. 6646. Dismissing the petition for disqualification outright would also unduly reward erring candidates:

Clearly, the legislative intent is that the COMELEC should continue the trial and hearing of the disqualification case to its conclusion, i.e., until judgment is rendered thereon. The word "shall" signifies that this requirement of the law is mandatory, operating to impose a positive duty which must be enforced. The implication is that the COMELEC is left with no discretion but to proceed with the disqualification case even after the election. Thus, in providing for the outright dismissal of the disqualification case which remains unresolved after the election, *Silvestre v. Duavit* in effect disallows RA No. 6646 imperatively requires. This amounts to a quasi-judicial legislation by the COMELEC which cannot be countenanced and is invalid for having been issued beyond the scope of its authority. Interpretative rulings of quasi-judicial bodies or administrative agencies must always be in perfect harmony with statutes and should be for the sole purpose of carrying their general provisions into effect.

...
Besides, the deleterious effect of the *Silvestre* ruling is not difficult to foresee. A candidate guilty of election offenses would be undeservedly rewarded, instead of punished, by the dismissal of the disqualification case against him simply because the investigating body was unable, for any reason caused upon it, to determine before the election if the offenses were indeed committed by the candidate sought to be disqualified. All that the erring aspirant would need to do is to employ delaying tactics so that the disqualification case based on the commission of election offenses would not be decided before the election. This scenario is productive of more fraud which certainly is not the main intent and purpose of the law.³² (Emphasis supplied)

With these, subject to the qualification on the interpretation of the deadline to file a petition for disqualification, I concur with the results and vote to remand the case to COMELEC *En Banc* for proper disposition.


MARILYN LOPEZ
Associate Justice

³² *Id.* at 322-323. Citations omitted.