



Republic of the Philippines
Supreme Court
Manila

EN BANC

JUAN JUAN OLILA OLLESCA,
Petitioner,

G.R. No. 258449

Present:

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

-versus-

COMMISSION ON ELECTIONS,
Respondent.

Promulgated:

July 30, 2024

X-----X

DECISION

LEONEN, J.:

Financial capacity to sustain the rigors of waging a nationwide campaign, membership in a political party, being known nationwide, and the

* No part.

probability of success do not by themselves determine the existence of a *bona fide* intention to run for public office under Section 69 of the Omnibus Election Code, the lack of which may characterize an electoral candidate as a nuisance candidate.¹

For this Court's resolution is a Petition for *Certiorari*² (with Extremely Urgent Application for Temporary Restraining Order and/or Preliminary Injunction) under Rule 65 of the Rules of Court filed by Juan Juan Ollesca (Ollesca), assailing the December 13, 2021 Resolution³ and January 3, 2022 Order⁴ issued by the Commission on Elections (COMELEC). The Resolution ruled on the COMELEC Law Department's petition to cancel and/or deny due course of Ollesca's Certificate of Candidacy on the ground that Ollesca is a nuisance candidate, whereas the Order denied Ollesca's Motion for Reconsideration of the said Resolution.

On October 7, 2021, Ollesca filed his Certificate of Candidacy with the COMELEC for the position of president of the Philippines in the May 9, 2022 National and Local Elections.⁵ In his Certificate of Candidacy, Ollesca stated that he is running as an independent candidate and indicated that he is an entrepreneur.⁶

On October 21, 2021, the COMELEC Law Department filed, on its own initiative, a Petition⁷ to declare Ollesca as a nuisance candidate and asked that the COMELEC deny due course to or cancel Ollesca's Certificate of Candidacy. It asserted that considering that Ollesca filed his Certificate of Candidacy to run for president, he should be publicly known by numerous voters.⁸ However, he is running as an independent candidate and is "virtually unknown except possibly in the locality where he resides."⁹ As such, he has no capability to launch a nationwide campaign to enable him to be known nationally within the campaign period and to persuade a substantial number of voters from different parts of the country.¹⁰ Viewed in this light, he does

¹ See *Marquez v. COMELEC*, 861 Phil. 667 (2019) [Per J. Jardaleza, *En Banc*]. See *De Alban v. COMELEC*, G.R. No. 243968, March 22, 2022 [Per J. M. Lopez, *En Banc*], *Marquez v. COMELEC*, G.R. No. 258435, June 28, 2022 [Per J. Lazaro-Javier, *En Banc*].

² *Rollo*, pp. 6–48. On February 15, 2022, this Court denied petitioner's application for temporary restraining order and/or preliminary injunction. See *id.* at 186.

³ *Id.* at 49–58. The December 13, 2021 Resolution in SPA No. 21-140 (DC)(MP) was issued by Presiding Commissioner Socorro B. Inting and Commissioner Antonio T. Kho, Jr. (now a Member of this Court) of the Second Division, Commission on Elections.

⁴ *Id.* at 59–60. The January 3, 2022 Order in SPA No. 21-140 (DC)(MP) was issued by Presiding Chairman Sheriff M. Abas and concurred in by 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, of the *En Banc*, Commission on Elections.

⁵ *Id.* at 105.

⁶ *Id.*

⁷ *Id.* at 109–126. Petition filed in accordance with Section 4, Rule 24 of the Commission on Elections Rules of Procedure, as amended by Commission on Elections Resolution No. 9523.

⁸ *Id.* at 114.

⁹ *Id.*

¹⁰ *Id.*

not appear to have any *bona fide* intention to run and “put[s] the election process in mockery or disrepute.”¹¹

On October 21, 2021, Ollesca was directed by the COMELEC Second Division to file an answer to the Petition.¹² Thus, on November 2, 2021, Ollesca complied and filed his Answer *cum* Memorandum.¹³

Ollesca asserted that the COMELEC Law Department’s allegations are baseless conclusions of law,¹⁴ being mere speculations¹⁵ that lack factual basis to demonstrate Ollesca’s lack of *bona fide* intent to run or any other circumstance or act intended to cause confusion among the voters.¹⁶ He argued that the COMELEC’s petition was based on his alleged lack of financial capacity to wage a nationwide campaign, which effectively imposed a property qualification that is inconsistent with the Constitution¹⁷ and lacked legal basis.¹⁸

In its December 13, 2021 Resolution,¹⁹ the COMELEC Second Division granted the nuisance petition against Ollesca. It found that Ollesca, who was an independent with no political party, was unknown outside of the community he belonged to and failed to show that he had the financial capacity to “sustain a decent and viable nationwide campaign on his own.”²⁰ Thus, Ollesca allegedly filed his Certificate of Candidacy “to put the election process in mockery or disrepute and, by the said act or circumstance, he has no *bona fide* intention to run for President.”²¹ The dispositive portion of the Second Division’s Resolution reads:

WHEREFORE, premises considered, the Petition is hereby **GRANTED**.

Respondent **JUAN JUAN OLILA OLLESCA** is **DECLARED** a **NUISANCE CANDIDATE**.

Accordingly, his Certificate of Candidacy for President in the 09 May 2022 National and Local Elections is hereby **DENIED DUE COURSE** and/or **CANCELLED**.

SO ORDERED.²²

¹¹ *Id.*

¹² *Id.* at 127–128. The October 21, 2021 Order in SPA No. 21-140 (DC)(MP) was issued by Clerk of the Commission Atty. Genesis M. Gatdula of the Second Division, Commission on Elections.

¹³ *Id.* at 129–150.

¹⁴ *Id.* at 132.

¹⁵ *Id.* at 143.

¹⁶ *Id.* at 138.

¹⁷ *Id.* at 136–141.

¹⁸ *Id.* at 142, 145–146.

¹⁹ *Id.* at 49–58.

²⁰ *Id.* at 53–54.

²¹ *Id.* at 53.

²² *Id.* at 57.

Ollesca received a copy of the Resolution on December 15, 2021²³ and filed his Motion for Reconsideration²⁴ on December 20, 2021 via email.²⁵

On December 21, 2021, the Office of the Clerk of the Commission emailed Ollesca the assessed fees.²⁶ He paid the assessed fees on the same day and submitted an Official Receipt dated December 21, 2021 as proof of payment of the prescribed filing fee within the prescribed period.²⁷

Through its January 3, 2022 Order,²⁸ the COMELEC *En Banc* denied Ollesca's Motion for Reconsideration for being filed beyond the five-day reglementary period prescribed, as well as for being filed without paying the fees required by its Rules of Procedure. It held:

Records show that Respondent **JUAN JUAN OLILA OLLESCA** was served with the *Resolution* granting the *Petition* to declare him as nuisance candidate via electronic mail on 15 December 2021; Respondent filed his *Motion for Reconsideration* at 5:01 p.m. on 20 December 2021 and was acknowledged on 21 December 2021, past the five-day prescribed period. Also, there is no record that Respondent paid the prescribed filing fee for the *Motion* on time. Hence, the *Motion* was belatedly filed.

IN VIEW OF THE FOREGOING, the Commission (*En Banc*) hereby **DENIES** the Motion for Reconsideration for being filed out of time.

SO ORDERED.²⁹

Hence the present Petition.

Here, petitioner Ollesca asserts that the COMELEC *En Banc* committed grave abuse of discretion amounting to lack or excess of jurisdiction in declaring that his Motion for Reconsideration was filed out of time and declaring him as a nuisance candidate.³⁰ He stresses that he received a copy of the assailed Resolution on December 15, 2021 and timely filed his Motion for Reconsideration on December 20, 2021 at 5:00 p.m.³¹ That he failed to submit any proof of payment of filing fees is belied by the Office of the Clerk of the Commission's confirmation of receipt of the original receipt and the COMELEC Second Division's referral of his Motion to the *En Banc*.³²

²³ *Id.* at 61.

²⁴ *Id.* at 61-78.

²⁵ *Id.* at 59. *See also id.* at 184.

²⁶ *Id.* at 177-179.

²⁷ *Id.* at 59-60. *See also id.* at 183.

²⁸ *Id.*

²⁹ *Id.* at 60.

³⁰ *Id.* at 12-43.

³¹ *Id.* at 14.

³² *Id.* at 183.

Petitioner argues that the COMELEC Law Department had the burden of proof to support its assertion that he was a nuisance candidate. However, it failed to adduce evidence to establish the factual bases to declare him as a nuisance candidate under Section 69 of the Omnibus Election Code.³³ The only document that the COMELEC adduced into evidence was Ollesca's Certificate of Candidacy, which allegedly proves his *bona fide* intent to seek office.³⁴

Moreover, contrary to the COMELEC Law Department's argument, there is nothing in *Pamatong v. Commission on Elections*³⁵ that suggests that a candidate's capability to run a viable campaign can be determined by his financial capacity.³⁶ In the 2019 case of *Marquez v. Commission on Elections*,³⁷ this Court stated that the COMELEC cannot condition a person's privilege to be voted upon on his financial capacity to wage a nationwide campaign which is a property requirement.³⁸

Nonetheless, petitioner emphasizes that he had attached to his Answer proof of his financial capacity to mount a campaign and pledges from different groups that their members will support his presidency to prove that he had a *bona fide* intention to run as president and had a "significant modicum of support" for his candidacy.³⁹ Petitioner likewise asseverates that his supposed financial incapability to mount a decent and viable campaign is a prohibited property requirement.⁴⁰

In its Comment,⁴¹ respondent COMELEC counters that the Petition should be dismissed for being moot and academic because it had already issued a Certified List of Candidates for President and had begun printing official ballots for the elections.⁴² In any case, it allegedly did not act with grave abuse of discretion in denying petitioner's Motion for Reconsideration for being filed out of time (i.e., at 5:01 p.m. of December 20, 2021) because petitioner paid the prescribed filing fee beyond the reglementary period⁴³ and its Resolution declaring petitioner a nuisance candidate has become final.⁴⁴ Moreover, its finding that petitioner is a nuisance candidate was allegedly based on petitioner's own declarations in his Certificate of Candidacy and on

³³ *Id.* at 21.

³⁴ *Id.* at 22.

³⁵ 470 Phil. 711 (2004) [Per J. Tinga, *En Banc*].

³⁶ *Rollo*, p. 25.

³⁷ 861 Phil. 667 (2019) [Per J. Jardaleza, *En Banc*].

³⁸ *Rollo*, p. 26.

³⁹ *Id.* at 27, 33.

⁴⁰ *Id.* at 206.

⁴¹ *Id.* at 203–217.

⁴² *Id.* at 207–208.

⁴³ *Id.* at 210.

⁴⁴ *Id.* at 210–211.

respondent's own assessment which are allegedly based on evidence.⁴⁵ Petitioner's financial incapacity was "merely considered, together with other compelling circumstances, to determine whether petitioner has *bona fide* intention to run."⁴⁶

In his Reply,⁴⁷ while petitioner conceded that the case is moot and academic, he argues that this Court must still decide on it because it is capable of repetition yet evading review.⁴⁸ At any rate, his Motion for Reconsideration was timely filed⁴⁹ and the filing fees were paid on the same day they were assessed.⁵⁰ Contrary to the COMELEC's assertion, membership in, or nomination by, a political party is not an essential element of *bona fide* intention to run for public office.⁵¹ Moreover, the COMELEC did not point to any circumstance, aside from petitioner's financial capacity, to show petitioner's alleged lack of *bona fide* intention to run for public office.⁵²

For this Court's resolution are the issues of: (a) whether the Motion for Reconsideration was timely filed; and (b) whether the Commission on Elections acted with grave abuse of discretion in declaring respondent Juan Juan Olila Ollesca as a nuisance candidate.

It is imperative to recognize and uphold the fundamental democratic principle that a citizen has the right to participate in the electoral processes by running for public office. However, this right must be harmonized with the practical constraints faced by COMELEC, with respect to overseeing and ensuring a "free, orderly, honest, peaceful and credible elections."⁵³

The sheer volume of candidates poses logistical challenges, potentially leading to an unwieldy ballot and hampering the electorate's ability to make informed choices. COMELEC must streamline the electoral process while simultaneously allowing a fair and accessible competition among candidates by effectively managing its resources and reducing voter confusion through its ability to regulate a finite number of candidates and a manageable ballot.

In *Pamatong*,⁵⁴ this Court explained the rationale behind the prohibition against "candidates who have not evinced a *bona fide* intention to run for office" as follows:

⁴⁵ *Id.* at 216.

⁴⁶ *Id.*

⁴⁷ *Id.* at 223-231.

⁴⁸ *Id.* at 224.

⁴⁹ *Id.* at 226.

⁵⁰ *Id.*

⁵¹ *Id.* at 228.

⁵² *Id.* at 229.

⁵³ CONST., art. IX(C), sec. 2(4).

⁵⁴ 470 Phil. 711 (2004) [Per J. Tinga, *En Banc*]. See also *Albano v. COMELEC*, G.R. No. 257610 & UDK

The State has a compelling interest to ensure that its electoral exercises are rational, objective, and orderly. Towards this end, the State takes into account the practical considerations in conducting elections. Inevitably, the greater the number of candidates, the greater the opportunities for logistical confusion, not to mention the increased allocation of time and resources in preparation for the election. These practical difficulties should, of course, never exempt the State from the conduct of a mandated electoral exercise. At the same time, remedial actions should be available to alleviate these logistical hardships, whenever necessary and proper. Ultimately, a disorderly election is not merely a textbook example of inefficiency, but a rot that erodes faith in our democratic institutions. As the United States Supreme Court held:

[T]here is surely an important state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization and its candidates on the ballot — the interest, if no other, in avoiding confusion, deception and even frustration of the democratic [process].

There is a need to limit the number of candidates especially in the case of candidates for national positions because the election process becomes a mockery even if those who cannot clearly wage a national campaign are allowed to run. Their names would have to be printed in the Certified List of Candidates, Voters Information Sheet and the Official Ballots. These would entail additional costs to the government. For the official ballots in automated counting and canvassing of votes, an additional page would amount to more or less FOUR HUNDRED FIFTY MILLION PESOS (P450,000,000.00).

[I]t serves no practical purpose to allow those candidates to continue if they cannot wage a decent campaign enough to project the prospect of winning, no matter how slim.

The preparation of ballots is but one aspect that would be affected by allowance of “nuisance candidates” to run in the elections. Our election laws provide various entitlements for candidates for public office, such as watchers in every polling place, watchers in the board of canvassers, or even the receipt of electoral contributions. Moreover, there are election rules and regulations the formulations of which are dependent on the number of candidates in a given election.

Given these considerations, the ignominious nature of a nuisance candidacy becomes even more galling. The organization of an election with *bona fide* candidates standing is onerous enough. To add into the mix candidates with no serious intentions or capabilities to run a viable campaign would actually impair the electoral process.⁵⁵ (Citations omitted)

No. 17230, January 24, 2023 [Per J. J. Lopez, *En Banc*].

⁵⁵ *Id.* at 719–721.

It becomes more imperative for the State to prohibit nuisance candidates from participating in the electoral process because the interest and enthusiasm for the presidential candidacy continues to grow. In the 2022 National Presidential Elections, 10 aspirants were included in the final list of candidates.⁵⁶

In this regard, a significant increase in the number of aspirants poses a notable challenge in orchestrating fair and impartial debates because the sheer volume of candidates can potentially create logistical complexities, making it increasingly difficult to offer each participant adequate time and attention. With a surplus of candidates, there is an inherent risk of diluting the depth and substance of discussions, limiting the ability of candidates to articulate their positions thoroughly.

We now proceed to rule upon the issues.

Rule 19, Section 2 of the COMELEC Rules of Procedure provides:

Section 2. Period for Filing Motions for Reconsideration. – A motion to reconsider a decision, resolution, order or ruling of a Division shall be filed within five (5) days from the promulgation thereof. Such motion, if not proforma, suspends the execution or implementation of the decision, resolution, order or ruling.

In relation to this, Rule 2, Section 9 of COMELEC Resolution No. 10673 provides that “electronic service is complete at the time of the electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent.”⁵⁷ Furthermore, “proof shall be made by an affidavit of service executed by the person who sent the email . . . together with a printed proof of transmittal.”⁵⁸

In dismissing petitioner’s Motion for being filed out of time, the COMELEC *En Banc* seemed to tack the reckoning date on when the Motion was acknowledged by its Office of the Clerk of the Commission, and not on the time of electronic transmission.⁵⁹ This is erroneous as the date of actual filing—that is, the date of electronic transmission in case of transmission by

⁵⁶ See Rappler, It’s final: 10 names on the 2022 ballot for president, 9 for VP, *available at* <https://www.rappler.com/nation/elections/comelec-releases-final-list-candidates-national-local-polls-2022/> (last accessed on January 11, 2024).

⁵⁷ COMELEC Resolution No. 10673 (2020), Rule 2, sec. 9, In re: Guidelines on Electronic Filing, Conduct of Hearings/Investigations/Inquiries via Video Conference, and Service.

⁵⁸ COMELEC Rules of Procedure (1993), Rule 12, Section 3 in relation to 2019 Rules of Civil Procedure, Rule 13, sec. 17(d).

⁵⁹ *Rollo*, pp. 183–184.

electronic mail—is what must be taken note of, not the actual date when the COMELEC acknowledged a pleading.⁶⁰

Based on the email thread where the Office of the Clerk of the Commission acknowledged receipt of the Motion for Reconsideration, petitioner filed the said Motion via email on December 20, 2021 on 5:00 p.m.—well-within the five-day prescribed period.⁶¹

That being said, we note that the payment of PHP 1,000.00 for the motion for reconsideration fee, albeit belated, is also not a sufficient reason to deny petitioner's Motion outright. In *Lloren v. COMELEC*,⁶² the Court chided the COMELEC for outrightly denying a motion for reconsideration for the movant's failure to simultaneously pay the motion fee at the time the motion was filed, when it could have just refused to act on the motion until the fee was paid. *Lloren* stated:

As to the order issued on March 16, 2011 by the COMELEC *En Banc*, the Court finds that the COMELEC *En Banc* was capricious and arbitrary in thereby denying petitioner's motion for reconsideration on the ground that he did not simultaneously pay the motion fee of ₱300.00 prescribed by Section 7(f), Rule 40 of the 1993 Rules of Procedure.

The non-payment of the motion fee of ₱300.00 at the time of the filing of the motion for reconsideration did not warrant the outright denial of the motion for reconsideration, but might only justify the [Commission on Elections] to refuse to take action on the motion for reconsideration until the fees were paid, or to dismiss the action or proceeding when no full payment of the fees is ultimately made. The authority to dismiss is discretionary and permissive, not mandatory and exclusive, as expressly provided in Section 18, Rule 40 of the 1993 Rules of Procedure itself, to wit:

Section 18. *Non-payment of Prescribed Fees.* – If the fees above prescribed are not paid, the Commission may refuse to take action thereon until they are paid and may dismiss the action or the proceeding.

The evident intent of rendering Section 18, Rule 40 of the 1993 Rules of Procedure discretionary and permissive is to accord the movant an opportunity to pay the motion fee in full. *The dire outcome of denial of the motion for reconsideration should befall the movant only upon his deliberate or unreasonable failure to pay the fee in full.* It appears, however, that petitioner's failure to pay the motion fee simultaneously with his filing of the motion for reconsideration was neither deliberate nor unreasonable. He actually paid the fee by postal money order on March 3, 2011.⁶³ (Emphasis supplied, citation omitted)

⁶⁰ 2019 Rules of Civil Procedure, Rule 13, sec. 3(d).

⁶¹ COMELEC Rules of Procedure (1993), Rule 41, sec. 1. See *Rollo*, p. 13.

⁶² 695 Phil. 288 (2012) [Per J. Bersamin, *En Banc*].

⁶³ *Id.* at 299.

This Court notes that, in light of the conclusion of the 2022 National Presidential Elections, as well as the proclamation of the candidate receiving the highest number of votes as the president of the Philippines, the case is rendered moot and academic. In other words, the complained actions by petitioner, even if wrong, will not undo the outcome of the election.

Generally, our courts refuse to take cognizance over a case or dismiss it on the ground of mootness. In *Express Telecommunications Co., Inc. v. AZ Communications, Inc.*,⁶⁴ this Court explained that:

Courts have no power to act on a matter if there is no actual case or justiciable controversy. This Court shall not render advisory opinions or resolve theoretical issues. The rule holds true even when there had previously been a legal conflict or claim, but it has become moot because a supervening event has rendered the legal issue inexistent. When a case has become moot, there is no longer a conflict of rights that needs to be resolved by the courts.⁶⁵

However, even where supervening events had made a case moot, this Court did not hesitate to resolve the issues raised therein, if said case is capable of repetition, yet evading review.⁶⁶

Here, we take judicial notice of the fact that the question of the legality of the COMELEC's finding that a candidate has no *bona fide* intent to run for public office and therefore a nuisance candidate based on said candidate's financial status arises each election season. In recent years, multiple candidates have come before this Court for affirmative relief against the COMELEC's declaration that they are nuisance candidates.⁶⁷ The susceptibility of recurrence therefore compels the Court to resolve the issue at hand.

Having settled the procedural issues, we continue to rule on the issue of whether the COMELEC acted with grave abuse of discretion in declaring petitioner as a nuisance candidate.

It is settled that "there is grave abuse of discretion: (1) when an act is done contrary to the Constitution, the law or jurisprudence; or (2) when it is

⁶⁴ 877 Phil. 44 (2020) [Per. J. Leonen, Third Division].

⁶⁵ *Id.* at 56.

⁶⁶ *Gana-Carait v. COMELEC*, G.R. No. 257453, August 9, 2022 [Per J. Rosario, *En Banc*].

⁶⁷ See *Marquez v. COMELEC*, G.R. No. 258435, June 28, 2022 [Per J. Lazaro-Javier, *En Banc*]. See also *Marquez v. COMELEC*, 861 Phil. 667 (2019) [Per J. Jardaleza, *En Banc*]. See also *De Alban v. COMELEC*, G.R. No. 243968, March 22, 2022 [Per J. M. Lopez, *En Banc*].

executed whimsically, capriciously or arbitrarily out of malice, ill will or personal bias.”⁶⁸ Here, both elements are present.

A nuisance candidate is one whose candidacy was lodged merely to create confusion or whose candidacy mocks or causes disrepute to the election process, hence, there is patently no intention to run for office. A candidate without the machinery of a political party or the finances to mount a nationwide campaign “cannot be lumped together with another candidate who was found to have mocked or caused disrepute to the election process.”⁶⁹

In *Maquera v. Borra*,⁷⁰ this Court declared that property qualifications cannot be imposed on electoral candidates. Doing so goes against “social justice[,] [which] presupposes equal opportunity for all, rich and poor alike, and that, accordingly, no person shall, by reason of poverty, be denied the chance to be elected to public office[.]”⁷¹

In *Marquez* (2019), Norman Cordero Marquez (Marquez) filed his Certificate of Candidacy for the position of senator in the 2019 National Elections and declared that he was running as an independent candidate and was a real estate broker by profession. The COMELEC Law Department then filed a petition to declare Marquez as a nuisance candidate because he was “virtually unknown to the entire country except maybe in the locality where he resides” and “will not be able to sustain the financial rigors of a nationwide campaign.”⁷² The COMELEC First Division granted the petition and cancelled Marquez’s Certificate of Candidacy. Upon moving for reconsideration, the COMELEC *En Banc* sustained the cancellation of Marquez’s Certificate of Candidacy. Thus, Marquez filed a petition before this Court, ascribing grave abuse of discretion on the part of the COMELEC in declaring him a nuisance candidate for his alleged failure to prove financial capability to mount a nationwide campaign.

This Court granted Marquez’s petition and found that the COMELEC “committed grave abuse of discretion when it declared Marquez a nuisance candidate on the ground of lack of proof of his financial capacity to wage a nationwide campaign. By so doing, the COMELEC has effectively imposed a ‘property qualifications are inconsistent with the nature and essence of the Republican system ordained in our Constitution and the principle of social justice underlying the same.’”⁷³ We stated:

⁶⁸ *Marquez v. COMELEC*, 861 Phil. 667, 687 (2019) [Per J. Jardaleza, *En Banc*]. (Citation omitted)

⁶⁹ J. Leonen, Separate Opinion in *Marquez v. Commission on Elections*, 861 Phil. 667 (2019) [Per J. Jardaleza, *En Banc*].

⁷⁰ 122 Phil. 412 (1965) [*Per Curiam, En Banc*].

⁷¹ *Id.* at 415.

⁷² *Marquez v. Commission on Elections*, 861 Phil. 667, 673 (2019) [Per J. Jardaleza, *En Banc*].

⁷³ *Id.* at 686.

The COMELEC cannot conflate the *bona fide* intention to run with a financial capacity requirement.

A candidate's financial capacity to sustain the rigors of waging a nationwide campaign does not necessarily equate to a *bona fide* intention to run for public office. The COMELEC's burden is thus to show a reasonable correlation between proof of a *bona fide* intention to run, on the one hand, and proof of financial capacity to wage a nationwide campaign on the other.⁷⁴

Similarly, in *De Alban v. COMELEC*,⁷⁵ Angelo Castro De Alban (De Alban) filed his Certificate of Candidacy for senator in the 2019 National Elections as an independent candidate and indicated that he was a lawyer and teacher by profession. The COMELEC Law Department *motu proprio* filed a petition to declare De Alban a nuisance candidate, arguing that he had no *bona fide* intent to run for public office and that he will not be able to sustain the financial rigors of waging a nationwide campaign without clear proof of financial capacity. The COMELEC First Division declared him a nuisance candidate for the same reasons as it declared Marquez a nuisance candidate. Thereafter, De Alban filed a Petition for *Certiorari* before this Court, ascribing grave abuse of discretion on the COMELEC in declaring him a nuisance candidate.

In *De Alban*, this Court stated that it was incumbent upon the COMELEC Law Department to identify the factual bases that would clearly show De Alban's lack of *bona fide* intention to run for senator.⁷⁶ The COMELEC Law Department failed to adduce any evidence and heavily relied on a general allegation and conclusion—"anchored on flawed inferences"—that De Alban has no clear proof of financial capability to sustain the financial rigors of waging a nationwide campaign.⁷⁷ It further stated that "financial capacity to sustain the financial rigors of waging a nationwide campaign," "non-membership in a political party" or "being unknown nationwide," and "the low probability of success" do not by themselves equate to the absence of *bona fide* intention to run for public office under Section 69 of the Omnibus Election Code.⁷⁸

Notwithstanding the foregoing, in *Marquez v. COMELEC* (2022),⁷⁹ when Marquez ran as an independent candidate in the 2022 senatorial elections, the COMELEC Law Department again filed a petition to declare Marquez a nuisance candidate. It argued that Marquez, who was not nominated by a political party, was "virtually unknown" and "[did] not appear to have a genuine intention to run for public office" as he "does not have a

⁷⁴ *Id.* at 689.

⁷⁵ G.R. No. 243968, March 22, 2022 [Per J. M. Lopez, *En Banc*].

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ G.R. No. 258435, June 28, 2022 [Per J. Lazaro-Javier, *En Banc*].

nationwide network or organization of supporters to assist him during the campaign so that he may be known nationally within the short campaign period.”⁸⁰ Ruling on the petition, the COMELEC First Division declared Marquez a nuisance candidate and cancelled his Certificate of Candidacy. Thus, Marquez filed a petition for *certiorari* before this Court and argued that the COMELEC acted with grave abuse of discretion for declaring him a nuisance candidate.⁸¹

In *Marquez* (2022), this Court partly granted Marquez’s petition, noting that the COMELEC Law Department should have adduced substantial evidence in support of its petition.⁸² Moreover, the circumstances cited by the COMELEC as grounds to declare Marquez a nuisance candidate are closely intertwined with those it raised in *Marquez* (2019).⁸³ This Court added that although the nuisance status of Marquez apparently was grounded on a supposed lack of *bona fide* intent to run for public office, the COMELEC actually hinged his nuisance on his perceived lack of capacity to wage a successful election campaign—which ground is “in truth shrouded property qualifications” which are prohibited by the Constitution.⁸⁴ In any case, neither the law nor the rules require membership in a political party as proof of intent to run for public office.⁸⁵

In the present case, the COMELEC again repeated its general allegation of a candidate’s lack of financial capacity to wage a national campaign to shift the burden of proof upon the candidate. It pointed to the circumstances of Ollesca’s running as an independent candidate and his being an entrepreneur, arguing that Ollesca is virtually unknown and therefore has no capacity to persuade a substantial number of the electorate, thereby proving that he has no *bona fide* intention to run and puts the election process in mockery.⁸⁶

From the foregoing, it appears that the COMELEC has the propensity to employ a “cookie-cutter motion”⁸⁷ that generally alleges a candidate’s lack of financial capacity to wage a national campaign in an attempt to shift the burden of proving *bona fide* intent to run for public office upon said candidate.⁸⁸

We reiterate this Court’s rulings in *Marquez* (2019), *De Alban*, and *Marquez* (2022) that: (a) the COMELEC cannot conflate financial capacity requirement with the *bona fide* intention to run for public office; and (b) the

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Rollo*, p. 114.

⁸⁷ *Marquez v. COMELEC*, 861 Phil. 667, 689 (2019) [Per J. Jardaleza, *En Banc*].

⁸⁸ *Id.*

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imposition of having financial capacity to hit the campaign trail is a property qualification that is prohibited under the constitution and is likewise not a valid ground to characterize a candidate as a nuisance candidate.

To emphasize, the pivotal criterion that characterizes a nuisance candidate lies in the absence of a *bona fide* intent to run for public office and it is incumbent upon the COMELEC to identify and to adduce supporting evidence of acts or circumstances that show a candidate's lack of *bona fide* intent to run for public office, with the objective of "prevent[ing] a faithful determination of the true will of the electorate."⁸⁹ This determination is governed by the statutes, and the concept is satisfactorily defined by the Omnibus Election Code.⁹⁰

Needless to say, the COMELEC is not precluded from considering other factors in determining a candidate's lack of *bona fide* intention to run for public office, such as a candidate's inability to organize a campaign, whether it be manifested through the lack of a nomination by an established political party, a national organization or coalition, a labor union, or similar movements. In lieu or in addition to this non-nomination, the COMELEC may also consider checking for the absence of said candidate's past record of service.

On the other hand, while a mere expression of a candidate's desire to become an elected official does not suffice, this Court only requires a candidate to show "a significant modicum of support before his or her name is printed on the ballot."⁹¹

Unfortunately, in this case, in declaring petitioner as a nuisance candidate, the COMELEC simply relied on a general and sweeping allegation of petitioner's financial incapability to mount a decent and viable campaign, which is a prohibited property requirement. It failed to discuss, much less adduce evidence, showing how petitioner's inclusion in the ballots would prevent the faithful determination of the electorate's will. We, therefore, hold that the COMELEC acted with grave abuse of discretion in declaring petitioner as a nuisance candidate.

ACCORDINGLY, the Petition for *Certiorari* is **GRANTED**. The December 13, 2021 Resolution of the Commission on Elections Second Division and January 3, 2022 Order of the Commission on Elections *En Banc* in SPA No. 21-140 (DC)(MP) are **ANNULLED** and **SET ASIDE**.

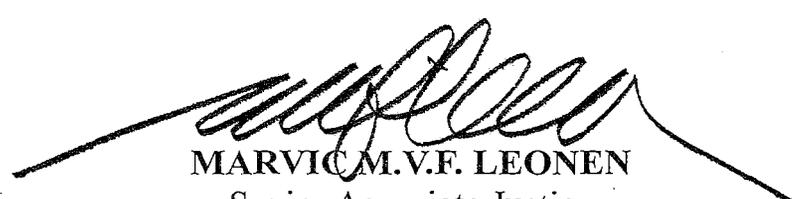
⁸⁹ *De Alban v. COMELEC*, G.R. No. 243968, March 22, 2022 [Per J. M. Lopez, *En Banc*].

⁹⁰ *Rev. Pamatong v. COMELEC*, 470 Phil. 711, 719-722 (2004) [Per J. Tinga, *En Banc*], citing Omnibus Election Code, sec. 69. *See also Albano v. COMELEC*, G.R. No. 257610 & UDK No. 17230, January 24, 2023 [Per J. J. Lopez, *En Banc*].

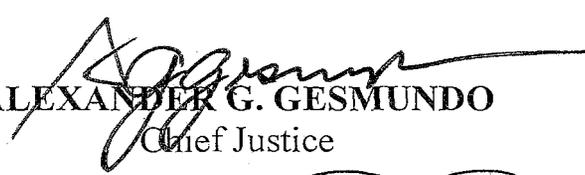
⁹¹ *Marquez v. COMELEC*, G.R. No. 258435, June 28, 2022 [Per J. Lazaro-Javier, *En Banc*].

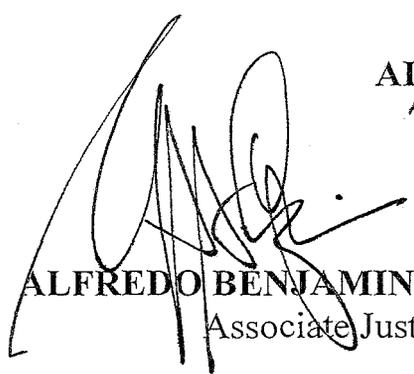
Accordingly, the Petition to Deny Due Course to or Cancel Certificate of Candidacy dated October 11, 2021, filed by the Commission on Elections Law Department against petitioner Juan Juan Olila Ollesca, docketed as SPA No. 21-140 (DC)(MP), is **DISMISSED**.

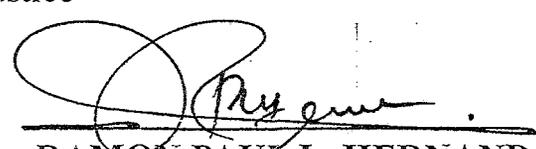
SO ORDERED.


MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:

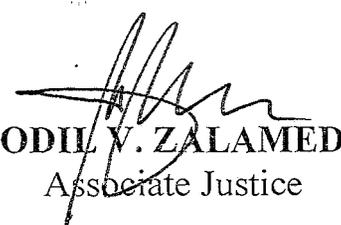

ALEXANDER G. GESMUNDO
Chief Justice

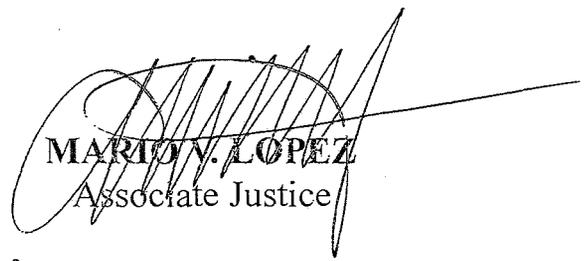

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

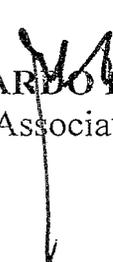

AMY C. LAZARO-JAVIER
Associate Justice

No Part
HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSE P. 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 Article VIII, Section 13 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