



Republic of the Philippines
Supreme Court
Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
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GERARDO "JERRY" A. NOVERAS,
Petitioner,

G.R. No. 268891

Present:

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

- versus -

COMMISSION ON ELECTIONS and
NARCISO DELA CRUZ AMANSEC,
Respondents.

Promulgated:
October 22, 2024

X-----X

DECISION

GAERLAN, J.:

This is a petition for *certiorari*¹ against the July 10, 2023 Resolution² of the Commission on Elections (COMELEC) First Division and the

* On official business.

** On official leave.

*** No part.

**** On leave but left his concurring vote.

¹ *Rollo*, pp. 6-34.

² *Id.* at 252-280. Signed by Commissioners Socorro B. Inting, Aimee P. Ferolino, and Ernesto Ferdinand P. Maceda, Jr. (with separate opinion).

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September 6, 2023 Resolution³ of the COMELEC *En Banc* in SPA No. 22-048 (DC).

On October 6, 2021, petitioner Gerardo “Jerry” A. Noveras (Noveras) filed a certificate of candidacy (COC) for the position of Vice-Governor of the province of Aurora in the May 9, 2022 general elections. At that time, Noveras was the incumbent governor of Aurora.

In the late afternoon of March 30, 2022, respondent Narciso Dela Cruz Amansec (Amansec) and his wife went to the Aurora Training Center (ATC) compound to visit a police officer friend who was stationed there. While walking towards the compound, which hosted facilities of the provincial government, Amansec saw a tarpaulin with a certain image and red background. When Amansec moved closer to the premises, he saw the same image and background being printed on tarpaulin sheets, which turned out to be materials for Noveras’s vice-gubernatorial campaign. Amansec also discovered that the tarpaulin printing machine was being run by Michael Tecuico (Tecuico), a casual employee of the Aurora Local Government Unit (LGU). Amansec approached Tecuico and asked him to explain why Noveras’s campaign materials were being printed on LGU premises. Amansec claimed that Tecuico got angry and defensive at the inquiry and forcibly removed him from the premises. Amansec thus filed a police report and applied for a search warrant of the ATC compound.⁴

On March 31, 2022, the executive judge of Branch 91, Regional Trial Court (RTC) of Baler, Aurora issued a search warrant for “*illegally printed election propaganda or campaign materials of Atty. Christian Noveras and Atty. Gerardo Noveras, Gubernatorial and Vice-Gubernatorial candidates for the Province of Aurora, respectively, which materials are deemed properties “subject of the offense” or “fruits of the offense”; and printing machines being used as a means of committing an offense which are kept inside the said Printing Room, also referred to as the “Extension Office of the Provincial Capitol” located at the Training Center (ATC), Sitio Setan, Barangay Calabuanan, Baler, Aurora.*”⁵ The search warrant was implemented on April 2, 2022. Recovered from the ATC premises were the following items: one tarpaulin eco solvent printer, one inkjet printer, a personal computer set and computer peripherals, a semi-automatic eyelet machine, and 41 pieces of tarpaulin campaign materials and/or tarpaulin design templates⁶ bearing the names of Noveras and other candidates for various provincial and municipal

³ *Id.* at 350–373. Signed by [Chairperson] George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo (no part), Aimee P. Ferolino, Rey E. Bulay (no part), Ernesto Ferdinand P. Maceda, Jr., and Nelson J. Celis.

⁴ *Id.* at 35–39, 72–73. Petition for Disqualification and Sinumpaang Salaysay of Merlinda M. Amansec.

⁵ *Id.* at 77. Search Warrant issued by Executive Judge Enrico Voltaire S. Rivera.

⁶ *Id.* at 88–100. Certificate of Orderly Search and Pinagsamang Sinumpaang Salaysay of PMSG Geoffrey M. Bolante and Pat Marvin E. Gonzales.

elective offices in Aurora.⁷ The implementation of the search warrant was witnessed by an elected barangay official and three media representatives.⁸ Amansec further alleged that one of the witnesses was able to take a photograph of the tarpaulin campaign materials showing that they were paid for by Christian Noveras, the incumbent vice-governor and Noveras's brother.

On April 20, 2022, Amansec filed a criminal complaint against Noveras, Tecuico, and other persons for violation of Section 261(o) of the Omnibus Election Code and Article 217 of the Revised Penal Code, in connection with the tarpaulin printing incident.⁹

On April 26, 2022, Amansec petitioned the COMELEC to disqualify Noveras from standing as a candidate, claiming that the tarpaulin printing incident was a violation of Section 261(o) ultimately attributable to Noveras, whose campaign materials were found on the scene.¹⁰

Noveras argued that the petition should be dismissed outright for Amansec's failure to appear in the preliminary conference.¹¹ Noveras denied the allegation that his campaign materials were being printed on LGU premises using LGU resources.¹² Furthermore, violation of Section 261(o) is not among the grounds for disqualification of a candidate under Sections 12 and 68 of the Omnibus Election Code or Section 40 of the Local Government Code (LGC).¹³ Finally, Noveras argued that a final judgment of conviction is necessary to disqualify a candidate whether under Section 12 of the Omnibus Election Code or Section 40 of the LGC.¹⁴

The May 9, 2022 national and local Elections were conducted as scheduled, with Noveras remaining on the ballot. He garnered the highest number of votes for the position of vice-governor.¹⁵

On March 8, 2023, the Aurora provincial prosecutor's office found probable cause to charge Noveras and five other individuals with violation of Section 261(o) of the Omnibus Election Code; but on June 16, 2023, the

⁷ *Id.* at 96–97.

⁸ *Id.* at 101–104, Pinagsama-samang Sinumpaang Salaysay of Punong Barangay David Orolfo, Jr., Media Representative Jason de Asis, Reynaldo Fernando, and Rommel Espinosa.

⁹ *Id.* at 128–149, Sinumpaang Salaysay ng Paghahabla.

¹⁰ *Id.* at 35–48. Petition for Disqualification.

¹¹ *Id.* at 231–232. Noveras's Memorandum before the COMELEC.

¹² *Id.* at 118–119. Noveras's Answer before the COMELEC.

¹³ *Id.* at 232–237. Noveras's Memorandum before the COMELEC.

¹⁴ *Id.* at 121. Noveras's Answer before the COMELEC.

¹⁵ *Id.* at 27. Petition for *Certiorari*.

Department of Justice (DOJ) modified the provincial prosecutor's ruling and dismissed the charge as against Noveras.¹⁶

On July 10, 2023, the COMELEC First Division resolved to grant Amansec's petition.

The First Division resolved the case on the merits despite Amansec's non-appearance in the preliminary conference, invoking the public interest in the resolution of election cases and the liberal interpretation of the COMELEC rules of procedure.¹⁷ The First Division stressed Noveras's failure "*to set forth the substance of the matters upon which he relies to support his denial of the factual allegations against him. He failed to controvert the pieces of evidence clearly establishing that tarpaulins for his campaign were being printed using provincial government resources by a casual plantilla employee under his control and supervision.*"¹⁸

Noveras was disqualified on the basis of Section 261(d)(1) of the Omnibus Election Code, as he influenced his subordinate, Tecuico, into doing acts beneficial to his campaign. The witness statements and search reports prove that Tecuico, a casual employee of the Aurora LGU, was caught in the act of printing Noveras's campaign materials using Aurora LGU equipment, inside Aurora LGU premises. It was also proven that Noveras appointed Tecuico to the LGU. As head of the Aurora LGU and the signatory of Tecuico's appointment, Noveras wielded not only moral and legal ascendancy over Tecuico, but also command and control prerogatives over the facilities and resources implicated in the tarpaulin printing incident. Given the circumstances, the First Division concluded that Tecuico would not have used Aurora LGU resources to print campaign materials in the ATC compound if not for the moral and legal ascendancy exercised over him by Noveras. Furthermore, any such use of provincial government resources and facilities would not have been possible without the knowledge or influence of Noveras, the incumbent provincial governor.¹⁹

Noveras may be disqualified on the basis of Section 261(d)(1) of the Omnibus Election Code despite its apparent repeal by Section 2 of Republic Act No. 7890. The effect of Republic Act No. 7890 on the treatment of acts of coercion affecting the right of suffrage is ambiguous, as it increased the penalty for such acts, but repealed the specific provisions defining and regulating such acts in Section 261(d)(1) and (2) of the Omnibus Election Code. The COMELEC First Division resolved the ambiguity by resorting to

¹⁶ *Id.* at 321–327. June 16, 2023 Resolution in NPS Docket No. IV-01- INV-22D-129, signed by Secretary Jesus Crispin C. Remulla.

¹⁷ *Id.* at 257. COMELEC First Division Resolution.

¹⁸ *Id.* at 267.

¹⁹ *Id.* at 260–267.

the legislative history of the statute, which shows that: 1) the scope of the original bill which became Republic Act No. 7890 was limited to removing bloc voting by religious groups from the enumeration of acts punished in Section 261(d); and 2) there was no discussion or intention to remove the prohibition against acts of coercion and undue influence affecting the right of suffrage by public officers. The poll body in division thus concluded that Section 2 of Republic Act No. 7890 should be read not as a blanket repeal of Section 261(d) of the Omnibus Election Code, but as a mere amendment to remove any reference to acts of coercion affecting the right of suffrage committed by leaders or officials of religious organizations, which means that Section 261(d) remains an available ground to disqualify public officers like Noveras.²⁰

In a separate opinion, Commissioner Ernesto Ferdinand P. Maceda, Jr. (Commissioner Maceda) echoed the reasoning of the First Division and further explained that *Javier v. COMELEC*,²¹ which construed Section 2 of Republic Act No. 7890 as an express and blanket repeal of Section 261(d) of the Omnibus Election Code, “*did not in any way diminish [the COMELEC’s] power to act in the face of situations where the coercion of voters on matters of suffrage is clearly apparent.*”²²

Commissioner Maceda also opined that Noveras may be disqualified and prosecuted under Section 261(e) of the Omnibus Election Code, as the tarpaulin printing incident amounts to a fraudulent scheme for the purpose of inducing participation in a campaign.²³ All the elements of said offense, as defined in Section 261(e), are present. First, the unlawful and unauthorized use of government property by public officers constitutes fraud; thus, Tecuico’s use of an Aurora LGU-owned printing machine within Aurora LGU premises to print campaign materials for the campaign of the incumbent governor is a fraudulent scheme.²⁴ Second, the moral and legal ascendancy Noveras had over Tecuico as local chief executive and appointing authority is a strong indicator of inducement, as “[i]t would be impossible for Tecuico to have performed such scale of illegal activity on his own and without the knowledge and consent of his superior officer. Further, it is without doubt that the commission of the illegal acts would ultimately redound to the benefit and advantage of [Noveras], not just indirectly but directly.”²⁵ Third, the printing of tarpaulin campaign banners is an act of participation in a campaign. The materials printed by Tecuico contain exhortations for voters to cast their votes for Noveras and the other candidates in his ticket.²⁶

²⁰ *Id.* at 269–279.

²¹ 777 Phil. 700 (2016) [Per J. Brion, *En Banc*].

²² *Rollo*, p. 288, Separate Opinion of Commissioner Maceda.

²³ *Id.* at 290–297.

²⁴ *Id.* at 295–296.

²⁵ *Id.* at 293–295.

²⁶ *Id.* at 292.

On September 6, 2023, the COMELEC *En Banc* resolved to deny Noveras's motion for reconsideration, sustaining the First Division's reasoning as to the effect of Republic Act No. 7890 on Section 261(d) of the Omnibus Election Code,²⁷ and adopting Commissioner Maceda's findings on the applicability of Section 261(e).²⁸

Noveras cannot be disqualified on the basis of Section 261(o) of the Omnibus Election Code without a final judgment of conviction because it is not one of the disqualificatory offenses mentioned in Section 68 of the Omnibus Election Code.²⁹ Nevertheless, the First Division did not err in disqualifying Noveras on the ground of Section 261(d)(1) and Section 261(e), which are both Section 68 disqualificatory offenses.

Noveras can be disqualified for the tarpaulin printing incident even if he was not personally involved therein, as Section 261(e) does not require that the acts of coercion or influence be done directly:

The material factors in the unlawful use of government resources are the following: (1) Mr. Tecuico – a provincial government casual worker, and (2) the ATC Compound – a provincial government-owned complex. These factors have a common denominator – [Noveras], as the then incumbent governor and Chief Executive Officer of the Province of Aurora, had direct authority over both the person of a provincial government casual worker and the provincial property.

This is not a mere coincidence but a strong indication that [Noveras] had coerced and induced Mr. Tecuico in performing the acts complained of. The clear language of Section 261(e) of the OEC states that the prohibited act need not to be proved to be undertaken by Respondent directly. Even the indirect act would render him liable.

[C]oercion can be implied, as either legal or constructive, where the relation of the parties is such that one is under subjection to the other, and is thereby constrained to do what his free will would refuse. Inducement is defined as an "act or process of enticing or persuading another person to take a certain course of action."

As exhaustively explained by the Resolution of the Commission (First Division), [Noveras], in view of the extensive powers granted to him as the Governor of the Province of Aurora, exercised authority and control over the hiring and termination of employees and appointees as well as over government premises.³⁰

²⁷ *Id.* at 361–365. COMELEC *En Banc* Resolution.

²⁸ *Id.* at 365–373.

²⁹ *Id.* at 360–361.

³⁰ *Id.* at 368–370. COMELEC *En Banc* Resolution.

Before Us, Noveras accuses the COMELEC of grave abuse of discretion in: 1) construing Republic Act No. 7890 as a mere amendment of Section 261(d) of the Omnibus Election Code, contrary to the ruling in *Javier*;³¹ 2) disqualifying him on the basis of Section 261(d) despite its repeal by Republic Act No. 7890;³² and 3) disqualifying him on the basis of Section 261(e) despite the absence of evidence showing that he actually coerced or influenced Tecuico.³³ Noveras also prayed for preliminary injunctive relief, arguing that the immediately executory character of the assailed rulings deprives him of the right to run for elective office, more so considering that he garnered the highest number of votes for vice-governor of Aurora in the May 9, 2022 local elections.³⁴

Commenting on the Petition on the COMELEC's behalf, the Office of the Solicitor General (OSG) argues that the poll body's ruling is supported by a preponderance of evidence showing that Noveras perpetrated a "*fraudulent scheme by unlawfully using government resources and premises... to compel and induce Mr. Tecuico, a provincial casual worker, to print materials for his campaign[:]*" . . . a prohibited act under Section 261(e) of the [Omnibus Election Code]."³⁵ The DOJ's dismissal of the Section 261(o) charge against Noveras is immaterial because the COMELEC retains jurisdiction over the electoral aspect of the offense, which only requires a "clear preponderance of evidence".³⁶

The State Tribune also asks Us to revisit the ruling in *Javier*, arguing that the construction of Section 2 of Republic Act No. 7890 as an express and blanket repeal of Section 261(d) of the Omnibus Election Code is not only inconsistent with the legislative history of Republic Act No. 7890, but also deprives the COMELEC of the power to act against clear cases of coercion and undue influence affecting the right of suffrage.³⁷

Finally, the OSG argues against the grant of preliminary injunctive relief, as Noveras failed to show any clear legal right protectible by a preliminary injunctive writ. His claimed rights to seek and hold public office are not rights at all, but mere privileges that are subject to legal regulation. Furthermore, Noveras can no longer invoke said rights as basis for preliminary injunctive relief, as he remained on the ballot and garnered the most votes for vice-governor of Aurora in the May 9, 2022 elections.³⁸

³¹ *Id.* at 13–22. Petition.

³² *Id.*

³³ *Id.* at 22–25.

³⁴ *Id.* at 25–27.

³⁵ *Id.* at 513. Comment.

³⁶ *Id.* at 513–514.

³⁷ *Id.* at 514–518.

³⁸ *Id.* at 518–520.

On January 19, 2024, the Court received a Motion for Leave to File and Admit Attached Comment and Notice of Death³⁹ from a certain Naryne Amansec (Naryne), who represented herself to be Amansec's daughter. Naryne alleged that her father passed away on October 3, 2022. She thus prayed to be: 1) allowed to substitute Amansec as a party in the present action; and 2) given leave to file a comment in substitution of Amansec. Noveras moved for the denial and expunction of Naryne's motion, on the ground that she is not a real party-in-interest.⁴⁰

The petition must be dismissed.

I. Amansec may be substituted in the disqualification proceeding

In *Lanot v. COMELEC*,⁴¹ Lanot and others filed a petition to disqualify Eusebio from standing as a candidate in the May 10, 2004 election for mayor of Pasig City. The COMELEC allowed the election and proclamation to proceed while the disqualification case was pending. Lanot assailed the COMELEC's action before the Supreme Court. In the meantime, the COMELEC referred the case to its Law Department without issuing a definitive ruling on the electoral aspect. While his case against Eusebio was pending before Us, Lanot was assassinated. Raymundo filed a motion to substitute Lanot; and the third placer in said election moved to intervene. We allowed both Lanot's substitution and the third-placer's intervention:

The law and the COMELEC rules [of procedure] have clear pronouncements that the electoral aspect of a disqualification case is not rendered inutile by the death of petitioner, provided that there is a proper substitution or intervention of parties while there is a pending case. On Raymundo's substitution, any citizen of voting age is competent to continue the action in Lanot's stead. On Benavides' intervention, Section 6 of Republic Act No. 6646, or the Electoral Reforms Law of 1987 ("Electoral Reforms Law of 1987"), allows intervention in proceedings for disqualification even after elections if no final judgment has been rendered. Although Eusebio was already proclaimed as Pasig City Mayor, Benavides could still intervene, as there was still no final judgment in the proceedings for disqualification.

The case for disqualification exists, and survives, the election and proclamation of the winning candidate because an outright dismissal will unduly reward the challenged candidate and may even encourage him to employ delaying tactics to impede the resolution of the disqualification case until after he has been proclaimed. The exception to the rule of retention of jurisdiction after proclamation applies when the challenged candidate

³⁹ *Id.* at 541–546. Motion for Leave to File and Admit Attached Comment and Notice of Death.

⁴⁰ *Id.* at 629–635. Motion to Expunge from Records.

⁴¹ 537 Phil. 332 (2006) [Per J. Carpio, *En Banc*].

becomes a member of the House of Representatives or of the Senate, where the appropriate electoral tribunal would have jurisdiction. There is no law or jurisprudence which says that intervention or substitution may only be done prior to the proclamation of the winning candidate. A substitution is not barred by prescription because the action was filed on time by the person who died and who is being substituted. The same rationale applies to a petition-in-intervention.⁴²

The facts in *Lanot* are on all fours with the present case. The election proceeded despite the pendency of Amansec's disqualification petition, with the party sought to be disqualified remaining on the ballot and garnering the highest number of votes. The final ruling on the electoral aspect came only after the election and proclamation,⁴³ and Amansec passed away before resolution of the case. Under Rule 25, Section 2 of the COMELEC Rules of Procedure, any voter or duly registered political organization has standing to file a petition for disqualification. In *Lanot*, since the Court allowed Raymundo to substitute for the assassinated Lanot, so too should We allow Naryne, Amansec's daughter and a registered voter in Ipil, Dipaculao, Aurora,⁴⁴ to substitute for Amansec.

II. Revisit of Javier v. COMELEC not necessary; Republic Act No. 7890 expressly repealed Section 261(d) of the Omnibus Election Code

The first rule of statutory construction is that one should not resort to statutory construction.⁴⁵ It is presumed that the legislature says what it means and means what it says when it passes laws.⁴⁶ Where the words of a statute are clear, plain, and unambiguous, there is no occasion for interpretation. The literal meaning of the statute must be followed without judicial addition or

⁴² *Id.* at 352–353.

⁴³ *Id.* at 356–377, the Court set aside the COMELEC *En Banc* order referring the case to the COMELEC Law Department upon a finding that Eusebio did not commit any disqualificatory act under Section 68 of the Omnibus Election Code.

⁴⁴ *Rollo*, pp. 541–546. Motion for Leave to File and Admit Attached Comment and Notice of Death.

⁴⁵ See *Daoang v. Municipal Judge, San Nicolas, Ilocos Norte*, 242 Phil. 774, 777 (1988) [Per J. Padilla, Second Division]; *Caltex (Philippines), Inc. v. Palomar*, 124 Phil. 763, 779–780 (1966) [Per J. Castro, *En Banc*]; *Government of the P.I. v. Monte de Piedad*, 35 Phil. 42, 48–49 (1916) [Per J. Moreland, Second Division]; see *Metropolitan Bank & Trust Co. v. Fortuna Paper Mill & Packaging Corp.*, 842 Phil. 819, 838 (2018) [Per J. Reyes, A., Jr., Second Division]. See also DANTE B. GATMAYTAN, LEGAL METHOD ESSENTIALS 2.0 214–216 (2014).

⁴⁶ “*Verba legis non est recedendum*, or, from the words of a statute there should be no departure. The rule is derived from the maxim *index animo sermo est* — meaning, speech is the index of intention — which rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent by the use of such words as are found in the statute.” *Federation of Jeepney Operators and Drivers Association of the Philippines v. Government of Manila City*, G.R. No. 209479, July 11, 2023 [Per J. Caguioa, *En Banc*] at 28. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website. See also *Ifurung v. Carpio-Morales*, 831 Phil. 135, 173–174 (2018) [Per J. Martires, *En Banc*]; *Globe-Mackay Cable and Radio Corp. v. NLRC*, 283 Phil. 649, 659 (1992) [Per J. Romero, *En Banc*].

subtraction.⁴⁷ “[L]egislative intent must be determined from the language of the statute itself especially when the words and phrases therein are clear and unequivocal. The statute in such a case must be taken to mean exactly what it says. Its literal meaning should be followed; to depart from the meaning expressed by the words is to alter the statute.”⁴⁸ “[L]egislative intent must be ascertained from a consideration of the statute as a whole, and not of an isolated part or a particular provision alone.”⁴⁹

With these rules in mind, We consider the text of Republic Act No. 7890:

AN ACT AMENDING ARTICLE 286, SECTION THREE, CHAPTER TWO, TITLE NINE OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

SECTION 1. Article 286, Section Three, Chapter Two, Title Nine of Act No. 3815, as amended, is hereby further amended to read as follows:

“Art. 286. Grave Coercion. — The penalty of prision correccional and a fine not exceeding Six thousand pesos shall be imposed upon any person who, without any authority of law, shall, by means of violence, threats or intimidation, prevent another from doing something not prohibited by law, or compel him to do something against his will, whether it be right or wrong.

“If the coercion be committed in violation of the exercise of the right of suffrage, or for the purpose of compelling another to perform any religious act, to prevent him from exercising such right or from so doing such act, the penalty next higher in degree shall be imposed.”

SECTION 2. Section 261, Paragraphs (d)(1) and (2), Article XXII of Batas Pambansa Blg. 881 is hereby repealed.

SECTION 3. All other election laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed.

SECTION 4. If, for any reason, any section or provision of this Act, or any portion thereof, the application of such section, provision or portion to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act or application of such section, provision or portion

⁴⁷ See *Soliman v. Santos*, G.R. Nos. 202417 & 203245, July 25, 2023 [Per J. Marquez, *En Banc*] at 9. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website. See *Nagaño v. Tanjangco*, 903 Phil. 1, 16 (2021) [Per J. Hernando, Third Division]; *Fagel Tabin Agricultural Corp. v. Judge Jacinto*, 280 Phil. 205, 210 (1991) [Per J. Bidin, Third Division]; *Insular Lumber Co. v. CTA, et al.*, 192 Phil. 221, 231 (1981) [Per J. De Castro, *En Banc*]; *Republic Flour Mills, Inc. v. CIR*, 142 Phil. 502, 508 (1970) [Per J. J.B.L. Reyes, *En Banc*].

⁴⁸ *Commissioner of Internal Revenue v. Central Luzon Drug Corp.*, 525 Phil. 644, 649 (2006) [Per J. Azcuna, Second Division].

⁴⁹ *Alpha Investigation and Security Agency, Inc. v. National Labor Relations Commission*, 339 Phil. 40, 47 (1997) [Per J. Romero, Second Division].

thereof to other persons, groups or circumstances shall not be affected by such declaration.

SECTION 5. This Act shall take effect upon its approval.

The statute is clear and categorical. Section 1 amends the definition of grave coercion by adding “threats or intimidation” as additional modes of committing said offense. It also increases the penalty for grave coercion from *arresto mayor* and a PHP 500.00 fine to *prision correccional* and a PHP 6,000.00 fine.⁵⁰ Finally, Section 1 increases the penalty for *coercions committed in violation of the exercise of the right of suffrage*. In turn, Section 2 repeals Section 261(d) of the Omnibus Election Code; and Section 3 repeals all election laws and regulations inconsistent with the statute. The sentence “*Section 261, Paragraphs (d)(1) and (2), Article XXII of Batas Pambansa Blg. 881 is hereby repealed*” can have no meaning other than the withdrawal of binding force and legal effect from Section 261, Paragraphs (d)(1) and (2), Article XXII of Batas Pambansa Blg. 881, and the removal of said provision from the corpus of statutory law. This is exactly how We ruled in *Javier*, which also involved an elective official who was disqualified from standing as a candidate on the basis of Section 261(d):

A repeal may be express or implied. An express repeal is one wherein a statute declares, usually in its repealing clause, that a particular and specific law, identified by its number or title, is repealed. An implied repeal, on the other hand, transpires when a substantial conflict exists between the new and the prior laws. In the absence of an express repeal, a subsequent law cannot be construed as repealing a prior law unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and the old laws.

In the present case, it is clear that R.A. No. 7890 expressly repealed Section 261, paragraphs (d)(1) and (2) of the Omnibus Election Code. The COMELEC Second Division’s October 3, 2014 resolution, however, treated this repeal as merely an implied one. Commissioner Yusoph reasoned out as follows:

Moreover, the general repealing clause in Section 3 of RA 7890 cannot impliedly repeal Section 68 because the latter is not absolutely and irreconcilably incompatible with Article 286, as amended by RA 7890. Meaning, a case for disqualification due to coercion under Section 68 can very well stand apart from the criminal case for coercion under Article 286, as amended. This is so because Section 68 involves an administrative proceeding intended to disqualify a candidate whereas Article 286, *supra*, involves a criminal proceeding intended to penalize coercion. Both laws, therefore, can be given effect without nullifying the other, hence the inapplicability of implied repeal.

⁵⁰ In 2017, the Legislature further increased the fine to PHP 100,000.00. Republic Act No. 10951 (2017), An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as “The Revised Penal Code”, As Amended, sec. 72.

To firm up our stance against implied repeal of coercion as a ground for disqualification, the following pronouncements of the Supreme Court are guiding:

“Implied repeal by irreconcilable inconsistency takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot be enforced without nullifying the other.”

“Well-settled is the rule is statutory construction that implied repeals are disfavored. In order to effect a repeal by implication, the latter statute must be so irreconcilably inconsistent and repugnant with the existing law that they cannot be made to reconcile and stand together. The clearest case possible must be made before the inference of implied repeal may be drawn, for inconsistency is never presumed. ...”

We point out that this resolution and the dissenting opinion of Commissioner Guia became the basis of the internal arrangement reached upon by the Commission *en banc* whereby the commissioners agreed to submit their respective opinions explaining their votes or their concurrence with either Commissioner Yusoph or Guia.

As earlier stated, the vote was 4-2-1 in favor of disqualification; in a *per curiam* order promulgated on January 12, 2015, the Commission *en banc* disqualified Gov. Javier and annulled his proclamation as the governor of Antique. Chairman Brillantes and Commissioner Arthur Lim wrote their own opinions concurring with the position of Commissioner Yusoph, while Commissioner Tagle submitted his vote concurring with the opinions of Commissioner Yusoph and Chairman Brillantes.

In his Separate Opinion, Chairman Brillantes agreed with Commissioner Yusoph that the repeal of Section 261(d) by R.A. No. 7890 was merely implied, and made the following disquisition:

....

The Supreme Court, in a long line of cases, has constantly disfavored and struck down the use of repeal by implication. Pursuant to jurisprudence, well entrenched is the rule that an implied repeal is disfavored. The apparently conflicting provisions of a law or two laws should be harmonized as much as possible, so that each shall be effective. For a law to operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable with the latter act. Stated plainly, a petition for disqualification on the ground of coercion shall be taken differently and distinctly from coercion punishable under the [Revised Penal Code] for the two can very well stand independently from each other. Therefore, unless proven that the two are inconsistent and would render futile the application and enforcement of the other, only then that a repeal by implication will be preferred.

A law that has been expressly repealed ceases to exist and becomes inoperative from the moment the repealing law becomes effective. The discussion on implied repeals by the Yusoph resolution, (and the concurring opinion of Chairman Brillantes, Jr.), including the concomitant discussions on the absence of irreconcilable provisions between the two laws, were thus misplaced. The harmonization of laws can only be had when the repeal is implied, not when it is express, as in this case.

The COMELEC's reasoning that coercion remains to be a ground for disqualification under Section 68 of the Election Code despite the passage of R.A. No. 7890 is erroneous. To the point of our being repetitive, R.A. No. 7890 expressly repealed Section 261d(1) and (2) of Batas Pambansa Blg. 881, rendering these provisions inoperative. The effect of this repeal is to *remove* Section 261(d) from among those listed as ground for disqualification under Section 68 of the Omnibus Election Code.⁵¹

The COMELEC ruled that *Javier* misconstrued the relationship between Republic Act No. 7890 and the Omnibus Election Code. According to the national poll body, the increased penalty for acts of coercion against the exercise of the right of suffrage is inconsistent with the repeal of Section 261(d) of the Omnibus Election Code:

A textual examination of the R.A. 7890 yields to ambiguity in its interpretation. The first portion of the law actually increased the penalty for acts of coercion that affect the exercise of the right to suffrage and as well as forms of coercion for the purpose of compelling another to perform any religious act, to prevent him from exercising such right or from so doing such act. This is suggestive that the legislative [sic] want[s] to punish and deter such forms of coercion.

However, in the second portion, it repealed Section 261(d)(1) and (d)(2). These sections enumerate in detail the different forms and manner of coercion by certain factors affecting the right of suffrage of the individuals coerced such as their decision to aid, campaign, and vote for or against any candidate. Reading the provisions of R. A. 7890 and Section 261(d)(1) and (d)(2) together do not provide certainty as to the real mandate of R.A. 7890.

The apparent ambiguity in the provisions of R. A. 7890 in relation to Section 261(d) of the OEC requires resort to the ascertainment of legislative intent in order for the Commission to properly enforce the same.⁵²

However, as the COMELEC points out, the ambiguity resulting from the correlation of Republic Act No. 7890 to Section 261(d) of the Omnibus Election Code is more apparent than real, because Section 2 of Republic Act No. 7890 clearly, expressly, and categorically erased Section 261(d) of the Omnibus Election Code from the statute books. Moreover, there is no inherent

⁵¹ *Javier v. Commission on Elections*, 777 Phil. 700, 725-727 (2016) [Per J. Brion, *En Banc*].

⁵² *Rollo*, pp. 271-272. COMELEC First Division Resolution.

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ambiguity or contradiction between Republic Act No. 7890's imposition of a higher penalty for coercions against the right of suffrage and the deletion of the "detailed enumeration" of specific forms of such coercions in Section 261(d). Republic Act No. 7890 merely reconciles and simplifies the treatment of coercion in the Omnibus Election Code and Revised Penal Code, as explained below.

Article 286 of the Revised Penal Code and Section 261(d) of the Omnibus Election Code share a common subject: coercion as a punishable act. Before the amendments introduced by Republic Act No. 7890, grave coercion under Article 286 of the Revised Penal Code had the following elements: (1) that any person be prevented by another from doing something not prohibited by law, or compelled to do something against his will, be it right or wrong; (2) that the prevention or compulsion be effected by violence, either by material force or such display of it as would produce intimidation and control the will of the offended party, and (3) that the person who restrained the will and liberty of another had no right to do so, or, in other words, that the restraint was not made under authority of law or in the exercise of a lawful right.⁵³ Courts and commentators have opined that grave coercion can be committed by moral pressure or intimidation, as these may be considered "displays of force."⁵⁴

In *Macalintal v. COMELEC*,⁵⁵ the Supreme Court *En Banc* held that the right of suffrage is a fundamental political right which stems from the right to liberty. The right of suffrage may therefore be curtailed only by the State through law or regulation, in accord with due process. Thus, as a general rule, any form of non-state interference on the right of suffrage, whether through intimidation, coercion, or influence, should be presumed to have been made without right or authority.

The acts mentioned in Section 261(d)(1) of the Omnibus Election Code, i.e., the direct or indirect coercion, intimidation, or compulsion of a subordinate, employee, member, or parishioner, to aid, campaign, or vote for or against any candidate or any aspirant for the nomination or selection of candidates, are clear-cut cases of compelling someone to do something against

⁵³ *Timoner v. People*, 211 Phil. 166, 169 (1983) [Per J. Escolin, Second Division].

⁵⁴ See *United States v. Cabanag*, 8 Phil. 64, 65 (1907) [Per J. Tracey, *En Banc*]; *United States v. Tupular*, 7 Phil. 8, 9–11 (1906) [Per J. Torres, *En Banc*]; 2 ANTONIO L. GREGORIO & LUIS R. FERIA, COMMENTS ON THE REVISED PENAL CODE 362 (1959), citing 2 CUELLO CALON 752, February 27, 1940 Decision of the Supreme Court of Spain, and *People v. Fernandez*, 43 O.G. 1717 (Court of Appeals); AMBROSIO PADILLA, CRIMINAL LAW: REVISED PENAL CODE ANNOTATED 286 (1951), citing *People v. Irlanda*, 40 O.G. (12 S, No. 18) 223 (Court of Appeals); MARIANO A. ALBERT, THE REVISED PENAL CODE (ACT NO. 3815) ANNOTATED 629-630 (1948); 3 RAMON C. AQUINO & CAROLINA C. GRIÑO-AQUINO, THE REVISED PENAL CODE 67-68 (2007); 2 LUIS B. REYES & RHODA REGINA REYES, THE REVISED PENAL CODE: CRIMINAL LAW 792, 796 (2021).

⁵⁵ *Macalintal v. Commission on Elections*, G.R. Nos. 263590 & 263673, June 27, 2023 [Per J. Kho, Jr., *En Banc*] at 19–24. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

their will by force or intimidation, without legal right or authority. The same is true for the acts mentioned in Section 261(d)(2) of the Omnibus Election Code, as threatened or actual reduction of salary, demotion, transfer, suspension, separation, excommunication, ejection, or vexation falls under either intimidation or force and violence in the form of moral or economic pressure. We therefore agree with the COMELEC that Section 261(d) of the Omnibus Election Code contains mere “detailed enumerations” of acts of coercion particularly affecting the right of suffrage which are already penalized by Article 286 of the Revised Penal Code.

By expressly including threats and intimidation as modes of committing grave coercion, Section 1 of Republic Act No. 7890 merely codified the above-discussed relation between the Omnibus Election Code and the Revised Penal Code. Since coercions against the right of suffrage are already penalized in Article 286 of the Revised Penal Code, Section 261(d) of the Omnibus Election Code is superfluous. Accordingly, Section 2 of Republic Act No. 7890 expressly repealed said superfluous provision. To reinforce such express repeal, Section 3 of Republic Act No. 7890 introduces an inconsistency clause directed at all other election laws and regulations. This inconsistency clause erases all other references to Section 261(d), not only in the Omnibus Election Code, but in all other election statutes and regulations.

The COMELEC makes much of the alleged original intent of the House Bill that became Republic Act No. 7890. However, the intent to decriminalize the enforcement of bloc-voting by officials of religious groups is easily reconcilable with the total repeal of the provision that the legislature actually enacted. The COMELEC itself admitted that *“the House Bill as originally worded was approved on First and Second Reading and was only amended [at the bicameral level] to include the provisions of the Revised Penal Code and the blanket repeal of Section 261(d)(1) and (d)(2) because the same was met with objections from various religious denominations and sects.”*⁵⁶ This makes it clear that the Legislature ultimately settled on a blanket repeal of Section 261(d) as the most satisfactory response to the objections of “various religious denominations and sects.”⁵⁷ At any rate, We again emphasize that resort to statutory construction aids such as legislative history is proper *only* when the meaning of the statute is not apparent from a plain reading:

[I]t is of course fundamental that the determination of the legislative intent is the primary consideration. However, it is equally fundamental that [] legislative intent must be determined from the language of the statute itself. This principle must be adhered to even though the court be convinced by extraneous circumstances that the Legislature intended to enact something very different from that which it did enact. An obscurity cannot be created

⁵⁶ *Rollo*, p. 276 (footnote 72 of the COMELEC First Division Resolution.) Emphasis supplied.

⁵⁷ *Id.* Parenthetically, these objections could have motivated the Legislature to remove Section 261(d) from the list of “predicate offenses” under Section 68 of the Omnibus Election Code.

to be cleared up by construction and hidden meanings at variance with the language used cannot be sought out. To attempt to do so is a perilous undertaking, and is quite apt to lead to an amendment of a law by judicial construction. To depart from the meaning expressed by the words is to alter the statute, is to legislate not to interpret.⁵⁸

In *Regalado v. Yulo*,⁵⁹ the Court further held, thus:

The intent of the Legislature to be ascertained and enforced is the intent expressed in the words of the statute. If legislative intent is not expressed in some appropriate manner, the courts cannot by interpretation speculate as to an intent and supply a meaning not found in the phraseology of the law. In other words, the courts cannot assume some purpose in no way expressed and then construe the statute to accomplish this supposed intention.⁶⁰

Here, the legislative history only confirms the plain meaning of Republic Act No. 7890: the legislature intended to abrogate Section 261(d) of the Omnibus Election Code and all references thereto in other statutes and regulations. The legislature and the apex court have decided thusly, and the national poll body must yield.

III. Section 261(e) remains a valid ground to disqualify candidates who resort to fraud, intimidation, undue influence or violence

The COMELEC argues that *Javier* did not “diminish its power to act in the face of situations where the coercion of voters on matters of suffrage is clearly apparent.”⁶¹ We agree with this statement only insofar as Section 261(e) subsists as a valid and lawful ground to disqualify a candidate who uses intimidation, undue influence, or violence to vitiate the free and informed exercise of the right of suffrage. As discussed above, the abrogatory provisions of Republic Act No. 7890 apply only to Section 261(d), leaving the other disqualificatory offenses in Section 68 of the Omnibus Election Code unaffected.

Section 261(e) of the Omnibus Election Code reads as follows:

(e) Threats, intimidation, terrorism, use of fraudulent device or other forms of coercion. — Any person who, directly or indirectly, threatens, intimidates or actually causes, inflicts or produces any violence, injury, punishment, damage, loss or disadvantage upon any person or persons or that of the

⁵⁸ *Tañada v. Yulo*, 61 Phil. 515, 518 (1935) [Per J. Malcolm, *En Banc*].

⁵⁹ *Regalado v. Yulo*, 61 Phil. 173 (1935) [Per J. Malcolm, *En Banc*].

⁶⁰ *Id.* at 179.

⁶¹ *Rollo*, p. 363. COMELEC *En Banc* Resolution.

immediate members of his family, his honor or property, or uses any fraudulent device or scheme to compel or induce the registration or refraining from registration of any voter, or the participation in a campaign or refraining or desistance from any campaign, or the casting of any vote or omission to vote, or any promise of such registration, campaign, vote, or omission therefrom.

The provision contemplates two general classes of acts: first, threats, intimidations, and actual violence; and second, fraudulent devices or schemes.

Under the first class fall the following acts: a) threats, b) intimidations, and c) actual causing, infliction, or production of violence, injury, punishment, damage, loss, or disadvantage upon any person or any person's immediate family, honor, or property, with the intent of compelling or inducing *any* of the following results: 1) registration or refraining from registration of any voter; 2) participation in a campaign; 3) refraining or desistance from any campaign; 4) casting of any vote; 5) omission to vote; and 6) any promise to do the following acts. The second class contemplates fraudulent devices or schemes intended to compel or induce any of the abovementioned results. Both classes of acts may be committed *directly or indirectly*.

IV. Finding of violation of Section 261(e), under both classes of acts defined therein, is supported by substantial evidence

Section 68 disqualification proceedings before the COMELEC are administrative in nature. In such proceedings, the subject of the inquiry is the electoral aspect of the election offense, i.e., whether the respondent should be disqualified from being a candidate for having committed any of the acts or offenses listed in Section 68; and the COMELEC's adjudication on said issue must be supported by a clear preponderance of evidence.⁶² However, if the grounds for disqualification are also defined and penalized as crimes, the COMELEC may also pursue the criminal aspect of the offense by referring the same to its Law Department.⁶³

Factual findings of the COMELEC are final and non-reviewable if supported by substantial evidence.⁶⁴ “[T]he [Supreme] Court does not review in a certiorari petition the COMELEC's appreciation and evaluation of the

⁶² *Ejercito v. Commission on Elections*, 748 Phil. 205, 224–225 (2014) [Per J. Peralta, *En Banc*]; *Lanot v. Commission on Elections*, 537 Phil. 332, 359–360 (2006) [Per J. Carpio, *En Banc*]; *Sunga v. COMELEC*, 351 Phil. 310, 324 (1998) [Per J. Bellosillo, *En Banc*].

⁶³ CONST., art. IX-C, sec. 2(6); OMNIBUS ELECTION CODE, sec. 265; *Albaña v. Commission on Elections*, 478 Phil. 941, 950–952 (2004) [Per J. Callejo, *En Banc*].

⁶⁴ RULES OF COURT, Rule 65, sec. 4; *Cawasa v. Commission on Elections*, 433 Phil. 312, 324 (2002) [Per J. Carpio, *En Banc*]; *Navarro v. Commission on Elections*, 298-A Phil. 588, 593 (1993) [Per J. Quason, *En Banc*].

*evidence, except to determine if these findings are supported by substantial evidence. If substantial evidence exists, the COMELEC's findings and conclusions, even if erroneous, are accorded respect; COMELEC action under these circumstances merely amount to an error of judgment. [W]hen factual conclusions are not based on substantial evidence or when the appreciation and conclusions of fact are attended by grave abuse of discretion, the resulting errors mutate from error of judgment to error of jurisdiction."*⁶⁵

Noveras put up a defense of general denial before the COMELEC. He simply disavowed any knowledge of the tarpaulin printing incident and presented no evidence to refute the allegations in the petition. The only defense he raised is the unsubstantiated allegation that Amansec's camp had seized control over the ATC compound prior to the implementation of the search warrant.⁶⁶ Notably, Noveras only raised this matter in the criminal complaint against him for violation of Section 261(o).⁶⁷ Thus, the COMELEC First Division correctly reasons that:

These bare allegations are not enough to contravene the clear and unequivocal statements of [Amansec] which include [affidavits of] law enforcement agents regularly performing their duties by virtue of a court-issued warrant of arrest. [Noveras's] claim that the ATC Compound was under the control of [Amansec] also runs counter ordinary logic and human experience as [Noveras] is the Chief Executive of the Province of Aurora and the compound is a property of the provincial government.⁶⁸

IV.A. The tarpaulin printing incident is a fraudulent scheme to induce voters to cast their votes in favor of Noveras

The COMELEC found Noveras guilty of using fraudulent devices or schemes to compel or induce Tecuico's participation in his vice-gubernatorial campaign, in violation of Section 261(e): a disqualificatory offense under Section 68 of the Omnibus Election Code. We sustain, to the extent that the tarpaulin printing incident is a fraudulent scheme to produce campaign materials inducing the Aurora electorate to vote for Noveras and his ticket.

As mentioned above, the election offense of use of fraudulent device has three elements:

⁶⁵ J. Brion, concurring opinion in *Dano v. Commission on Elections*, 794 Phil. 573, 603 (2016) [Per C.J. Sereno, *En Banc*]. See also *Aratuc v. Comelec*, 177 Phil. 205, 235–236 (1979) [Per J. Barredo, *En Banc*].

⁶⁶ *Rollo*, pp. 210–211. Sinumpaang Kontra-Salaysay of Gerardo Angala Noveras.

⁶⁷ *Id.* at 118–123, 229–236. Noveras's Answer and Memorandum before the COMELEC.

⁶⁸ *Id.* at 268. COMELEC First Division Resolution.

- 1) the existence of a fraudulent device or scheme;
- 2) the use of said fraudulent device or scheme for the purpose of inducement or compulsion; and
- 3) the inducement or compulsion is intended to produce, or actually produces, the following results:
 - a. registration or refraining from registration of any voter;
 - b. participation in a campaign;
 - c. refraining or desistance from any campaign;
 - d. casting of any vote;
 - e. omission to vote; or
 - f. any promise to do the following acts.

As to the first element, the disqualification petition and its attachments sufficiently establish that on March 30, 2022, Tecuico, a casual employee of the Aurora LGU, was caught operating a printing machine within Aurora LGU premises, for the purpose of printing out campaign materials which were later identified to be for the campaign of Noveras and his ticket. The parties do not dispute that the ATC Compound is a provincial government facility, and the search team had to liaise with an Aurora LGU employee to open the locked printing room. The printing incident itself was personally witnessed by Amansec and later recorded in the blotter of the Baler Municipal Police Station, as follows:

[A]t around 3:30 PM of [March 30, 2022], when [Amansec was] about [to] see and visit his friend (certain "Mariano"[.] a personnel [sic] of HPG based at ATC Compound Sitio Setan, Brgy. Calabuanan, Baler, Aurora) he accidentally saw/discovered the illegal printing of campaign materials, like tarpaulins, for candidates Christian Noveras and Gerardo Noveras, inside the ATC Compound by a certain Michael Tecuico. Further, that when he confronted Michael Tecuico. the latter got mad, choked him, and tried to push him outside. A commotion ensued between them and as a result thereof, he sustained injury on his right elbow. And accordingly, Mich[a]el Tecuico locked the accordion of the alleged printing room, with all the pieces of evidence left inside.⁶⁹

⁶⁹ *Rollo*, p. 76. Extract of Police Blotter Entry No. 2022-03-110. Page No. 0025 paragraph A.

The documentation and reports from the ensuing search establish that the printing machines and facilities used by Tecuico were found within Aurora LGU premises. The Certification of Orderly Search and the affidavits of the searching team show that the materials hurriedly left behind by Tecuico in the ATC compound printing room were campaign materials for Noveras and the other candidates on his ticket.⁷⁰ The photographic documentation of the seized items show the computers, printing equipment, printing supplies, and printed tarpaulins that were recovered during the search.⁷¹ Amansec also submitted the plantilla, service records, accomplishment reports, and daily time records proving Tecuico's employment with the Aurora LGU.⁷²

The unlawful and unauthorized use of government resources by public officers constitutes fraud. We so ruled in *Juan v. People*,⁷³ where three incumbent barangay officials were charged with violating Section 261(o) of the Omnibus Election Code for using barangay-owned radio equipment and vehicles in their election campaign. The trial court ordered their preventive suspension on the basis of Republic Act No. 3019. Before Us, the accused officials argued that preventive suspension under Republic Act No. 3019 does not apply when the public officer is charged with an election offense. We rejected this contention and ruled that preventive suspension under Republic Act No. 3019 applies to any form of fraud involving government funds or property:

Interestingly, prior to its amendment by BP 195, [Section 13 of Republic Act No. 3019] had applied to public officers who, under a valid information, were charged with violations of RA 3019 or with offenses covered by the Revised Penal Code provision on bribery. The amendatory law expanded the scope of the provision; now, public officers may likewise be suspended from office if, under a valid information, they are charged with an offense falling under Title 7 of Book II of the Revised Penal Code, or with any other form of fraud involving government funds or property.

True, the cases against petitioners involve violations of the Election Code; however, the charges are not unidimensional. Every law must be read together with the provisions of any other complementing law, unless both are otherwise irreconcilable. It must be emphasized that petitioners were incumbent public officers charged with the unauthorized and unlawful use of government property in their custody, in the pursuit of personal interests. The crime being imputed to them is akin to that committed by public officers as laid down in the Revised Penal Code. Certainly, petitioners' acts constitute fraud against the government; thus, the present case is covered by Section 13 of RA 3019.⁷⁴

⁷⁰ *Id.* at 88–100. Certificate of Orderly Search and *Pinagsamang Sinumpaang Salaysay* of PMSG Geoffrey M. Bolante and Pat. Marvin E. Gonzales; *id.* at 105–108, Photographs of seized tarpaulins bearing the names “Atty. Jerry A. Noveras” and “Christian M. Noveras.”

⁷¹ *Id.* at 78–84.

⁷² *Id.* at 56–71.

⁷³ 379 Phil. 125 (2000) [Per J. Panganiban, Third Division].

⁷⁴ *Id.* at 137.

Similarly, the printing of campaign materials for the election campaign of an incumbent public official by a government employee within government premises is a fraudulent device or scheme involving the diversion of government resources to unauthorized ends.

As to the second and third elements, the photographic evidence indubitably demonstrates that the campaign materials printed by Tecuico and subsequently found in the ATC printing room were calculated to induce the electorate of Aurora to cast their votes in favor of Noveras and his ticket.⁷⁵

Noveras can be disqualified under Section 261(e) even if the unauthorized printing of his campaign materials in Aurora LGU premises was done by someone else, because Section 261(e) does not distinguish between direct and indirect participation. What matters is that Noveras was the ultimate beneficiary of the acts committed by Tecuico, and that he exercised moral and legal ascendancy over the latter by virtue of his position as governor of Aurora and as appointing authority, as exhaustively explained in the assailed COMELEC resolutions.

IV.B. There was threat or intimidation of punishment, damage, loss or disadvantage upon Tecuico which induced him to print Noveras's campaign materials in LGU premises

The election offense of threats, intimidation or coercion under Section 261(e) has the following elements:

- 1) the offender, directly or indirectly, threatens, intimidates, or actually causes, inflicts, or produces violence, injury, punishment, damage, loss, or disadvantage;
- 2) the threat, intimidation, or actual causing, infliction or production of violence, injury, punishment, damage, loss, or disadvantage is directed at a person or a person's immediate family, honor, or property; and
- 3) the threat, intimidation, or actual causing, infliction or production of violence is intended to compel or induce any of the following results:

⁷⁵ Rollo, p. 371. COMELEC *En Banc* Resolution.

- a. registration or refraining from registration of any voter
- b. participation in a campaign
- c. refraining or desistance from any campaign
- d. casting of any vote
- e. omission to vote
- f. any promise to do the following acts.

As to the first and second elements, the COMELEC *En Banc* extensively discussed the prevailing power relation between Noveras and Tecuico in their respective capacities as Aurora provincial governor and Aurora LGU employee:

The material factors in the unlawful use of government resources are the following: (1) Mr. Tecuico - a Provincial government casual worker, and (2) the ATC Compound - a provincial government-owned complex. These factors have a common denominator - Respondent, as the then incumbent governor and Chief Executive Officer of the Province of Aurora, had direct authority over both the person of a provincial government casual worker and the propert[ies of the province].

This is not a mere coincidence but a strong indication that [Noveras] had coerced and induced Mr. Tecuico in performing the acts complained of. The clear language of Section 261 (e) of the OEC states that the prohibited act need not to be proved to be undertaken by Respondent directly. Even the indirect act would render him liable.

As defined in Black's Law Dictionary, coercion can be implied, as either legal or constructive, where the relation, of the parties is such that one is under subjection to the other, and is thereby constrained to do what his free will would refuse....

...[Noveras], in view of the extensive powers granted to him as the Governor of the Province of Aurora, exercised authority and control over the hiring and termination of employees and appointees as well as over government premises.

We underscore that [Noveras's] extensive power is evident in his authority to terminate the services of casual workers like Mr. Tecuico at will. Casual workers "may be laid-off any time before the expiration of the employment period when their services are no longer needed or funds are no longer available or the project has already been completed/finished."

Again, coercion is evident where the relation of the parties is such that one is under subjection to the other, and is thereby constrained to do what his free will would refuse. This is clearly the situation of Mr. Tecuico.

He could not have performed the acts complained of without any orders or authorization from [Noveras] who is the Chief Executive Officer of the Province of Aurora. A provincial casual worker would not be able to perform such a systematic and immense task without any inducement from a superior officer.

Further, it is without doubt that the commission of the illegal acts would ultimately redound to the benefit and advantage of [Noveras], not just indirectly but directly.⁷⁶

The first class of acts defined in Section 261(e) includes threats or intimidations of *punishment, damage, loss or disadvantage* upon any person. As discussed above, Noveras's position of power *vis-à-vis* Tecuico inevitably carried with it an element of intimidation, insofar as Tecuico would not have agreed to print Noveras's campaign materials in the ATC printing room if not for the moral and legal ascendancy relations between them; or in the words of the COMELEC First Division, "*Tecuico would not have exposed himself to criminal liability for election offenses and administrative sanctions for misuse of government resources to no benefit to himself, without the persuasive influence of [Noveras].*"⁷⁷ As provincial governor, Noveras exercised *disciplinary* authority over Tecuico. Stated differently, Noveras had the power and authority to deprive Tecuico of any rights, privileges, or benefits he enjoys as an employee of the Aurora LGU.⁷⁸ Case law puts it more bluntly: "*moral ascendancy substitutes for force and intimidation.*"⁷⁹

The circumstances and effects of the power relations of moral and legal ascendancy between employers and employees are not mere inferences or conjectures, but are fundamental factual pillars of statutory and case law.⁸⁰ In the words of the COMELEC First Division:

[T]he law recognizes that subtle forms of pressure or manipulation can also constitute coercion or influence. In this case, the governor's authority, control over resources, and position of power create a situation where the casual employee may feel compelled to comply with requests or expectations, even without explicit threats or intimidation.⁸¹

⁷⁶ *Rollo*, pp. 368–370, COMELEC *En Banc* Resolution.

⁷⁷ *Id.* at 267. COMELEC First Division Resolution.

⁷⁸ *Id.* at 265–266.

⁷⁹ *Dela Cruz v. People*, 903 Phil. 801, 818 (2021) [Per J. Lopez, J., Third Division]; *People v. Amoc*, 810 Phil. 253, 260 (2017) [Per J. Tijam, Third Division].

⁸⁰ See Republic Act No. 7877 (1995), sec. 3; Republic Act No. 11313 (2019), sec. 17; SC Administrative Matter No. 03-03-13-SC, December 14, 2004, Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary, sec. 3; *Cabatulan v. Buat*, 491 Phil. 421, 426 (2005) [Per J. Callejo, Sr., Second Division]; *People v. Ylanan*, 436 Phil. 407, 416–418 (2002) [Per J. Quisumbing, Second Division]; *Villarama v. National Labor Relations Commission*, 306 Phil. 310, 321 (1994) [Per J. Puno, Second Division]; *Castro v. Mayor*, A.M. No. RTJ-11-2268, November 25, 2014 (Unsigned Resolution, *En Banc*); *People v. XXX*, G.R. No. 258958, March 15, 2023 [Unsigned Resolution, First Division].

⁸¹ *Rollo*, p. 266. COMELEC First Division Resolution.

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While it may be that the statutory and judicial precedents in this area of law draw mostly from sexual harassment and rape cases, these cases nevertheless share a common element with the first class of acts defined in Section 261(e) of the Omnibus Election Code: the resort to threats, intimidation, or actual violence towards an illicit and immoral end. It may even be argued that the degree of ascendancy is higher with respect to elected government officials like Noveras, as they wield more powers and enjoy more prerogatives than private employers or other persons in authority.

The existence of intimidation upon Tecuico's person is further evinced by Amansec's averments in his disqualification petition and in his Complaint before the DOJ. In the latter document, Amansec made the following narration, which is based on his own personal knowledge and the cellphone video camera recording made by his wife, Merlinda:

42. Na nais ko rin pong sabihin na ang aking asawa ay nakakuha ng video ng insidente na naganap noong ika-30 [ng Marso] 2022 bilang dagdag ebidensya laban sa mga inihahabla: "Kalakip bilang Annex P ang CD kung saan nakalagay ang video na kinuha ni Gng., Amansec gamit ang kanyang cellphone"

43. Na mapapanood po sa naturang video na may tinawagang tao si Michael Tecuico na tinawag niyang boss. Ito po ay mapapanood sa ika 4:30 hanggang 4:58 na minuto ng video;

44. Na mapapansin po sa video na may tinetext o tinatawagan si Michael gamit ang kanyang cellphone. Di kalaunan ay kausap na po niya ang boss niya;

45. Na ang iba sa mga sinabi ni Michel Tecuico ay ang mga sumusunod;
a. "Tekang lang po Sir. Tatawagan ko boss ko."; at
b. "Sir, may problema... si Amansec..."

46. Na malinaw po na hindi siya nag-iisa sa ilegal na gawain sapagkat kinailangan pa niyang tawagan ang tinawag niyang boss upang humingi ng tulong noong maaktohan ko ang kaniyang ilegal na ginagawa;⁸²

Amansec's account of the incident passed un rebutted by Noveras. It shows that Tecuico got angry and defensive when Amansec caught him using the tarpaulin printing machine and asked him what he was printing. Tecuico tried to contact someone he called "boss" to notify him of a "problem" with Amansec. Eventually, Tecuico tried to forcibly remove Amansec from the premises, injuring the latter. Tecuico's hostile and seemingly confused response to Amansec's presence in the ATC Compound buttresses the COMELEC's finding that he would not have agreed to print Noveras's campaign materials in the ATC compound if not for the directive or

⁸² *Id.* at 141. Sinumpaang Salaysay ng Paghahabla by Narciso Dela Cruz Amansec.

inducement of a higher-up. The identity of this higher-up is immaterial for purposes of Section 261(e), because, at the risk of being repetitive, the threat or intimidation may be made indirectly. The intimidation of punishment, damage, loss or disadvantage is inherent in the LGU chief executive-employee relation between Noveras and Tecuico, and became manifest in the latter's behavior during the tarpaulin printing incident. Moreover, the ultimate beneficiary of Tecuico's acts was Noveras, whose name and face appear on the tarpaulins found by the search team.

As to the third element, it is indisputable that the printing or publishing of campaign materials constitutes participation in an election campaign.⁸³

V. Conclusion

While the COMELEC is the constitutionally-designated frontline interpreter of election laws and jurisprudence,⁸⁴ it must nevertheless yield to the clear and categorical directives of the great branches of the government. When the Legislature and the Judiciary speak, quasi-judicial agencies like the COMELEC should listen. The COMELEC cannot insist on its own reading of the law when such is clearly contrary to the intention of Congress and the interpretation of the Supreme Court, especially when the law itself provides for up-to-date and lawful means of addressing the numerous illegal and unethical electoral practices that the state election agency has to confront.

ACCORDINGLY, the present petition is **DISMISSED**. The September 6, 2023 Resolution of the Commission on Elections *En Banc* in SPA Case No. 22-048 (DC) is **AFFIRMED** insofar as it disqualified petitioner Gerardo "Jerry" A. Noveras from standing as a candidate in the May 9, 2022 National and Local Elections, on the basis of Section 261(e) of Batas Pambansa Blg. 881, as amended.

The December 11, 2023 Motion for Leave to File and Admit Attached Comment and Notice of Death filed by Naryne Amansec is **GRANTED**. The June 13, 2024 Motion to Expunge from Records filed by Gerardo "Jerry" A. Noveras is **NOTED WITHOUT ACTION**.

⁸³ OMNIBUS ELECTION CODE, sec. 79(b), in relation to par. (b)(4). *See also* COMELEC Resolution No. 10730 (2021), sec. 1, item 4; COMELEC Resolution No. 10049 (2016), sec. 1, item 4; COMELEC Resolution No. 6520 (2004), sec. 1, item 1; COMELEC Resolution No. 3636 (2001), sec. 1.

⁸⁴ *Villanueva v. Commission on Elections*, G.R. No. 260116, July 11, 2023 [Per J. Gaerlan, *En Banc*] at 15. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

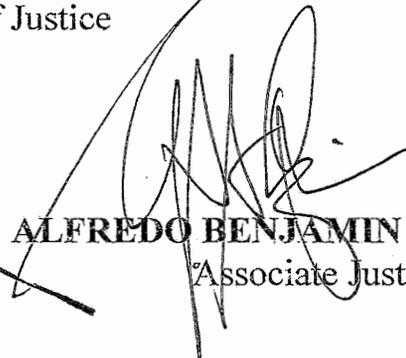
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
Senior Associate Justice



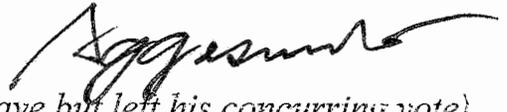
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

See Dissat

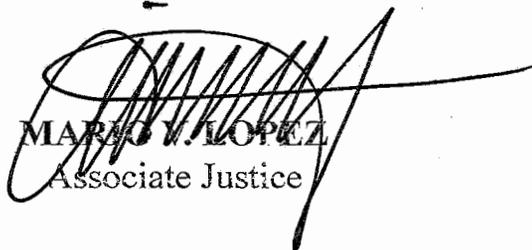
(On official business)
RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
AMY C. LAZARO-JAVIER
Associate Justice

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



(On leave but left his concurring vote)
RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice

(On official leave)
RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

Midas
JOSE MIDAS P. MARQUEZ
 Associate Justice

I join the dissent of Justice Caguioa.

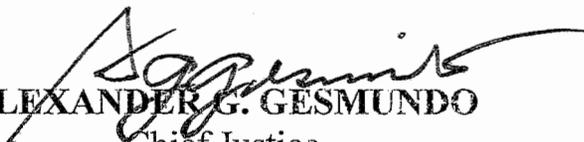
ANTONIO T. KHO, JR.
 Associate Justice

I dissent and join Justice Caguioa

MARIA FILOMENA D. SINGH
 Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
 Chief Justice