EN BANC

[G.R. No. 260650. August 08, 2023]

ROBERTO "PINPIN" T. UY, JR., PETITIONER, VS. COMMISSION ON ELECTIONS, VERLY TABANCURA-ADANZA, IN HER CAPACITY AS PROVINCIAL ELECTION SUPERVISOR AND CHAIRPERSON OF THE PROVINCIAL BOARD OF CANVASSERS FOR THE PROVINCE OF ZAMBOANGA DEL NORTE, PROVINCIAL BOARD OF CANVASSERS FOR THE PROVINCE OF ZAMBOANGA DEL NORTE, AND ROMEO M. JALOSJOS, JR., RESPONDENTS.

[G.R. No. 260952]

FREDERICO P. JALOSJOS, PETITIONER, VS. ROMEO M. JALOSJOS, JR., AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

D E C I S I O N

LOPEZ, M., J.:

At the core of these consolidated Petitions[1] is the propriety of the suspension of proclamation of the winning candidate and the cancellation of Certificate of Candidacy (CoC) on the grounds of lack of *bona fide* intention to run for public office and voter confusion because of similarity in surnames.

ANTECEDENTS

In the 2022 elections, four candidates, namely, Roberto "*Pinpin*" T. Uy, Jr. (Roberto), Romeo "*Kuya Jonjon*" M. Jalosjos, Jr. (Romeo), Frederico "*Kuya Jan*" P. Jalosjos (Frederico), and Richard Amazon, vied for the position of Zamboanga del Norte's first district representative.

On November 16, 2021, Romeo filed a Verified Petition[2] to declare Frederico a nuisance candidate and to cancel his CoC before the Commission on Elections (Comelec) docketed as SPA No. 21-224 (DC).[3] Romeo alleged that Frederico has no *bona fide* intention to run for public office. Frederico indicated "*Jalosjos*" as his surname in his application for late registration of birth on April 26, 2021, and transferred his voter registration record only on May 20, 2021.[4] Moreover, Frederico was not known as "*Kuya Jan*" which is confusingly like Romeo's nickname "*Kuya Jonjon*."[5] Lastly, Frederico has no prior political experience.[6] On the other hand, Frederico countered[7] that he has a *bona fide* intention to run for public

office given his government platforms. Frederico was the official candidate of the National Unity Party (NUP). Frederico likewise incurred expenses for his candidacy and extended aid to people affected during the pandemic which are ample proof of his financial capacity to wage a campaign. Ultimately, there was a remote possibility of voter confusion because the names appearing on the ballots are not identical.[8]

In a Resolution[9] dated April 19, 2022, the Comelec Second Division declared Frederico a nuisance candidate. The Comelec explained that a candidate intending to win the elections would take steps to distinguish themselves from the other candidates. Any similarity in the names would produce the opposite effect and dilute the candidate's voter base. Here, the nicknames "*Kuya Jonjon*" and "*Kuya Jan*" are phonetically identical. Frederico's membership in a political party also does not automatically equate to a *bona fide* intention to run for public office,[10] thus:

> WHEREFORE, premises considered, the Commission (Second Division) RESOLVED, as it hereby RESOLVES, to GRANT the instant Petition. FREDERICO P. JALOSJOS is declared a Nuisance Candidate. His Certificate of Candidacy for the position of Member, House of Representatives in connection with the 2022 NLE is hereby DENIED DUE COURSE/CANCELLED.
>
> SO ORDERED.[11]

Frederico sought reconsideration.[12] Meantime, the elections were held on May 9, 2022. The following day, Romeo filed a Motion[13] in SPA No. 21-224 (DC) asking to suspend the proclamation of the leading candidate Roberto based on the partial and unofficial results.[14] Romeo asserted that he won the elections since the votes of Frederico must be credited to him.[15] On May 11, 2022, the Provincial Board of Canvassers (PBOC) reported the final election results,[16] to wit:

Candidates	Votes	Rank
Roberto "Pinpin" Uy, Jr.	69,591	1
Romeo M. Jalosjos, Jr.	69,109	2
Frederico P. Jalosjos	5,424	3
Richard Amazon	288	4[17]

Thereafter, the PBOC received through electronic mail an "*advanced copy*" of the Comelec *En Banc* Order in SPA No. 21-224 (DC) directing to suspend Roberto's proclamation.

Immediately, Roberto's counsel pointed out that the Order was undated and does not contain the complete signatures of the members, a certification, and a notice signed by the Comelec's Clerk of Court.[18] In due course, the majority of PBOC members ruled that the "*advanced copy*" of the Order was irregular. However, the PBOC Chairperson dissented and called for a ten-minute recess. Meanwhile, the Comelec Chairperson confirmed the authenticity of the Order through a phone call. On May 12, 2022, at 2:05 a.m.,[19] the PBOC resolved to suspend Roberto's proclamation,[20] *viz*.:

> Inasmuch as the Provincial Board of Canvassers (PBOC) of the Province of Zamboanga del Norte, through the chairperson of this PBOC, received by way of email from the Chair[person] of the Commission on Election (COMELEC) a copy of an Order to suspend the proclamation of candidate Roberto "Pinpin" Uy, Jr. x x x this board hereby resolve (sic) to suspend the proclamation of the said Roberto "Pinpin" Uy, Jr. consonance to the provision of COMELEC Resolution No. 10731.[21]

On the same day, the Comelec *En Banc* suspended Roberto's proclamation.[22] Yet, the Comelec was not unanimous. The dissenting members noted that Roberto's right to due process was violated because he is not a party in SPA No. 21-224 (DC) and that the rules on suspension of proclamation is inapplicable in a proceeding to declare a nuisance candidate,[23] thus:

> **IN VIEW OF THE FOREGOING, the Commission (*En Banc*) hereby ORDERS the SUSPENSION OF PROCLAMATION of ROBERTO "PINPIN" UY, JR. as the Representative of the 1st Congressional District of Zamboanga del Norte.** The suspension of the proclamation shall be effective until further orders from this Commission.
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> x x x x
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> SO ORDERED.
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> **Given this May 12, 2022, in Manila, Philippines.**[24] (Emphasis supplied)

Aggrieved, Roberto filed before the Comelec an *Extremely Urgent Petition*[25] to direct the

PBOC to proclaim him as the winning candidate having received the highest number of votes based on the complete transmission of election results.[26] Roberto likewise filed a *Special Entry of Appearance with Extremely Urgent Motion for Reconsideration Ad Cautelam*[27] in SPA No. 21-224 (DC) solely to lift the Order suspending his proclamation.[28]Subsequently, Roberto withdrew the Petition and the entry of special appearance with Motion for Reconsideration.[29]

On May 31, 2022, Roberto filed a *Petition for Certiorari, Prohibition, and Mandamus Ex Abudanti Ad Cautela*[30] before this Court docketed as G.R. No. 260650. Roberto questioned the suspension of his proclamation based on the "*advanced copy*" of the Comelec *En Banc* Order in SPA No. 21-224 (DC) where he-is not even a party. Roberto added that PBOC has the ministerial duty to proclaim the candidate with the highest votes. Roberto prayed for a Temporary Restraining Order against the Comelec Order dated May 12, 2022, and a mandatory injunction for the PBOC to reconvene and proclaim him as the winning candidate.[31]

In a Resolution[32] elated June 7, 2022, the Comelec *En Banc* denied Frederico's Motion for Reconsideration in SPA No. 21-224 (DC) because it was filed a day late. The Comelec noted that the Motion was sent through electronic mail beyond 5:00 p.m. on April 25, 2022, and is deemed filed the following day.[33] At any rate, the Comelec affirmed the finding that Frederico is a nuisance candidate. The Comelec then directed that the votes of Frederico be credited to Romeo pursuant to the ruling in *Dela Cruz v. Comelec*[34] that the votes received by a nuisance candidate should be credited to the legitimate candidate with the same surname,[35] to wit:

> WHEREFORE, premises considered, the *Motion for Reconsideration* is hereby DENIED.
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> Further, the Commission (*En Banc*) hereby ORDERS that the votes obtained by Respondent-Movant FREDERICO P. JALOSJOS be credited in favor of Petitioner ROMEO M. JALOSJOS, JR. In accordance with the result thereof, the candidate who obtained the highest number of votes shall be PROCLAIMED as the duly elected Representative of the 1st Congressional District of Zamboanga del Norte.
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> SO ORDERED.[36]

Dissatisfied, Frederico filed a *Petition for Certiorari*[37] before this Court docketed as G.R. No. 260952. Frederico assailed the Comelec *En Banc* Resolution dated June 7, 2022, finding that he is a nuisance candidate. Frederico claimed that the Comelec erred in applying the *Dela Cruz* ruling and countered that the votes of a nuisance candidate whose CoC was cancelled should be declared stray and' must not be credited to the other candidate. Frederico also prayed for a Temporary Restraining Order or a *Status Quo Ante* Order against the Comelec's directive to credit his votes to Romeo.[38] Similarly, Roberto asked in G.R. No. 260650 for a *Status Quo Ante* Order to observe the prevailing conditions before the denial of Frederico's Motion for Reconsideration.[39]

On June 15, 2022, the Comelec *En Banc* issued a Writ of Execution[40] in SPA No. 21-224 (DC) ordering the PBOC to reconvene, credit the votes of Frederico to Romeo, and proclaim the winning candidate.[41] On June 23, 2022, the PBOC convened and proclaimed Romeo as Zamboanga del Norte's first district representative.[42] The Petitions in G.R. No. 260650 and G.R. No. 260952 were then consolidated.[43] Later, the Court granted the prayers for a *Status Quo Ante* Order and required the parties to observe the prevailing conditions before the issuance of the Comelec *En Banc* Order dated May 12, 2022, and Resolution dated June 7, 2022.[44]

In its Comment,[45] the Office of the Solicitor General (OSG) pointed out that the Comelec already proclaimed that Romeo won as district representative. As such, the issues raised in the Petitions partake the nature of an election contest within the exclusive jurisdiction of the House of Representatives Electoral Tribunal (HRET). Assuming the Court may decide the case, the OSG maintained that there was no violation of due process because Roberto is not a real party in interest in SPA No. 21-224 (DC).[46] Also, the OSG asserted that the Comelec aptly denied Frederico's Motion for Reconsideration because it was filed out of time. The Comelec rules provide that a pleading sent via electronic mail beyond 5:00 p.m. is deemed filed the following day. Yet, Frederico submitted his Motion through electronic mail at 6:23 p.m. On the merits, the OSG argued that the Comelec correctly held that Frederico is a nuisance candidate because his choice of the moniker "*Kuya Jan*" is confusingly similar to Romeo's nickname "*Kuya Jonjon*" and has the potential to mislead the voters.[47] Thus, the Comelec properly applied the *Dela Cruz* ruling that the votes received by a nuisance candidate should be credited to the legitimate candidate with the same surname.[48] In his Comment,[49] Romeo essentially reiterated the OSG's arguments and prayed to lift the *Status Quo Ante* Order.[50]

RULING

The Court has jurisdiction to review the decisions and orders of the Commission on Elections

The 1987 Constitution is explicit that the Court has the power to review any decision, order, or ruling of the Comelec through a petition for *certiorari*. Apropos is Article IX (A), Section 7 of the Constitution, to wit:

> Section 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.

The Court interpreted the constitutional provision as limited to final orders, rulings, and decisions of the Comelec *En Banc* in the exercise of its adjudicatory or quasi-judicial powers.[51] Verily, the Court has jurisdiction over the Petitions assailing the Comelec *En Banc* Order dated May 12, 2022, that suspended Roberto's proclamation, and its Resolution dated June 7, 2022, which affirmed Frederico's declaration as a nuisance candidate. Contrary to the OSG and Romeo's theory, the HRET has no appellate jurisdiction over rulings of the Comelec *En Banc*. The HRET lacks authority to decide on whether Frederico is a nuisance candidate, and the proper recourse is to timely file a petition for *certiorari* before this Court, thus:

> **The HRET did not commit any grave abuse of discretion in declaring that it has no jurisdiction to determine whether Alvin John was a nuisance candidate**. If Wigberto timely filed a petition before this Court within the period allotted for special actions and questioned Alvin John's nuisance candidacy, then it is proper for this Court to assume jurisdiction and rule on the matter. As things stand, the COMELEC *En Banc*'s ruling on Alvin John's nuisance candidacy had long become final and executory.[52] (Emphasis supplied)

True, the Court in *Limkaichong v. Comelec*[53] held that the proclamation of a winning candidate divests the Comelec of its "*jurisdiction over matters pending before it at the time of the proclamation.*"[54] However, this statement must be read in the context of a pending case and not to final orders, rulings, and decisions of the Comelec *En Banc* in the exercise of its adjudicatory or quasi-judicial powers. Again, these matters may be reviewed only through a petition for *certiorari* before this Court. Otherwise, it would serve as a license to relitigate all issues already resolved by the Comelec on the unqualified interpretation that the HRET's jurisdiction should be full and complete. In this case, it must be pointed out that Romeo's proclamation as the winner is dependent on Comelec's declaration of Frederico as a nuisance candidate. Unless the Comelec resolution is set aside, Romeo will be considered the winner because the votes of Frederico are presumed to be votes for Romeo. It is the Court, not the HRET, that is the proper body to review a Comelec Resolution. The HRET cannot declare a nuisance candidate and cancel a candidate's CoC. This remedial vehicle is instituted in the Omnibus Election Code[55] (OEC) and the Comelec Rules of Procedure[56] and logically filed before elections. In other words, the OSG and Romeo's argument that the HRET should take cognizance of the case would deprive Roberto of any remedy to challenge the election results.

The HRET has no jurisdiction over a proclaimed winner who has not yet taken a proper oath and assumed office

The HRET's jurisdiction is limited to the election, returns, and qualification of the "*Members*" of the House of Representatives.[57] The HRET has no jurisdiction over a proclaimed district representative winner unless the following requisites concur: (1) a valid proclamation, (2) a proper oath, and (3) assumption of office. There must also be a petition duly filed with the electoral tribunal. In some cases, this Court held that once a proclamation has been made, Comelec's jurisdiction is already lost, and the HRET's own jurisdiction begins. However, it must be noted that in those cases, the doctrinal pronouncement was made in the context of a proclaimed candidate who had not only taken an oath of office but who had also assumed office,[58] thus:

> Contrary to petitioner's claim, however, the COMELEC retains jurisdiction for the following reasons:
>
> *First*, **the HRET does not acquire jurisdiction over the issue of petitioner's**

qualifications, as well as over the assailed COMELEC Resolutions, unless a petition is duly filed with said tribunal. Petitioner has not averred that she has filed such action.

Second, the jurisdiction of the HRET begins only after the candidate is considered a Member of the House of Representatives, x x x

From the foregoing, it is then clear that to be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: **(1) a valid proclamation, (2) a proper oath, and (3) assumption of office.**

x x x x

Consequently, before there is a valid or official taking of the oath it must be made (1) before the Speaker of the House of Representatives, and (2) in open session. Here, although she made the oath before Speaker Belmonte, there is no indication that it was made during plenary or in open session and, thus, it remains unclear whether the required oath of office was indeed complied with.

More importantly, we cannot disregard a fact basic in this controversy — that before the proclamation of petitioner on 18 May 2013, the COMELEC *En Banc* had already finally disposed of the issue of petitioner's lack of Filipino citizenship and residency via its Resolution dated 14 May 2013. **After 14 May 2013, there was, before the COMELEC, no longer any pending case on petitioner's qualifications to run for the position of Member of the House of Representatives.**[59] (Emphasis supplied)

Here, Romeo had not satisfied the requisite of a proper oath of office. The Rules of the House of Representatives require its members to take their oath or affirmation collectively or individually before the Speaker in open session. The oath enables the members to enter into the performance of their functions and participate in the House deliberations and other proceedings.[60] The Office of the Deputy Secretary-General and Chief Counsel of the Legal Affairs Department informed this Court that the Office of the House of Representatives for the First District of Zamboanga del Norte remains vacant,[61] to wit:

In Compliance with the Honorable Court's Resolution dated March 8, 2023 in the

> above-captioned cases, I hereby certify that Mr. Romeo Jalosjos, Jr. has **not** taken an oath or affirmation of office with the Honorable Speaker of the House of Representatives in open session.
>
> Further, I certify that the Office of the Representative for the First District of Zamboanga Del Norte remains **vacant** due to the *Status Quo Ante Order* issued in these cases. However, in the interest of the people of the First District of Zamboanga Del Norte, the House of Representatives in its plenary session on November 7, 2022, designated Majority Leader Manuel Jose "Mannix" M. Dalipe as legislative caretaker. Hereto, attached for your reference is a [certified true] copy of page 52, House Journal No. 24 dated November 7, 2022.[62] (Emphasis in the original)

The "*oath or affirmation*" before the Speaker of the House in open session is not an empty ritual. To be sure, the third sentence of Rule II, Section 6 of the Rules of the House of Representatives provides for the significant consequential effects of the oath or affirmation before the Speaker in open session, *viz.*:

> RULE II
> Membership
>
> Section 6. *Oath or Affirmation of Members*. – Members shall take their oath or affirmation collectively or individually before the Speaker in open session. The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers. **Following parliamentary precedents, Members take their oath before the Speaker in open session to enable them to enter into the performance of their functions and participate in the deliberations and other proceedings of the House.** (Emphasis supplied)

The rule has two scenarios – (1) oath before the Speaker of the House; and (2) oath before duly authorized public officers. In the first scenario, only an oath is required before the Speaker of the House and not an affirmation. In the second scenario, the oath of office before the Speaker of the House in open session is a ceremonial affirmation of a prior and

valid oath before duly authorized public officers. In both cases, the oath before the Speaker of the House in open session will enable the members to "*enter into the performance of their functions and participate in the deliberations and other proceedings of the House*." Here, Romeo did not take an oath before the Speaker of the House in open session which bars him from performing his functions and participating in the congressional deliberation. Thus, the required oath, as a ceremonial affirmation of a previous valid oath before duly authorized public officers, is not present.

Moreover, Romeo had not yet assumed office. It cannot be said that Romeo became a member of the House of Representatives by "*operation of law*" pursuant to Article VI, Section 7 of the 1987 Constitution. The theory on "*assumption by operation of law*" which coincides on June 30 following the election is an over-stretched interpretation of the constitutional provision. The language of the provision is about the commencement of the term of office of "*Members*" which shall begin "*at noon on the thirtieth day of June next following their elections*." This provision likewise sets the rule on term limitation such that "*[n]o member of the House of Representatives shall serve for more than three consecutive terms*." However, the term of office refers to a fixed duration which is not analogous to assumption of office that pertains to overt acts in the discharge of one's duties. Also, the term of office commences on June 30 following the elections, unlike the assumption of office which may transpire at a different time. Verily, assumption of office cannot be constructive but must involve actual discharge of duties. As discussed above, Romeo's failure to take an oath before the Speaker of the House bars him from performing hit functions and participating in the deliberations. The proposed theory on "*assumption by operation of law*" will also effectively remove Article 234 of the Revised Penal Code which punishes the crime of refusal to discharge elective office which states that "*[t]he penalty of arresto mayor or a fine not exceeding 1,000 pesos, or both, shall be imposed upon any person who, having been elected by popular election to a public office, shall refuse without legal motive to be sworn in or to discharge the duties of said office*." Differently stated, no person elected by popular election to public office may be charged and convicted of this crime after June 30 following the election since he or she is deemed to have assumed office by operation of law. Again, it is basic in statutory construction that every statute must be so interpreted and brought in accord with other laws as to form a uniform system of jurisprudence – *interpretere et concordare legibus est optimus interpretendi*.

In addition, Romeo had not yet assumed office in view of the *Status Quo Ante* Order requiring the parties to observe the last, actual, peaceable, and uncontested state of things before the issuance of the assailed Comelec *En Banc* Order dated May 12, 2022 and

Resolution dated June 7, 2022.[63] The Court must stress that the controversy arose when the Comelec ordered the suspension of Roberto's proclamation without allowing him to be heard (G.R. No. 260650) and is inextricably linked with Frederico's declaration as a nuisance candidate and its consequences (G.R. No. 260952). The consolidated Petitions before this Court call for the determination of who should be proclaimed. In other words, the *status quo* to be maintained refers to the situation when neither Roberto nor Romeo was proclaimed. To hold that Roberto should be proclaimed in the interim is to defeat the very purpose of issuing the *Status Quo Ante* Order without the Court resolving the issues raised in these Petitions. The *Status Quo Ante* Order does not authorize any proclamation while the case is pending and renders any proclamation ineffective.[64] In *Garcia v. Mojica*,[65] the Court described a *Status Quo Ante* Order as follows:

> As explained by Justice Florenz D. Regalado, an authority on remedial law:
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> "There have been instances when the Supreme Court has issued a *status quo* order which, as the very term connotes, is merely **intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. This was resorted to when the projected proceedings in the case made the conservation of the *status quo* desirable or essential**, but the affected party neither sought such relief or the allegations in his pleading did not sufficiently make out a case for a temporary restraining order. **The *status quo* order was thus issued *motu proprio* on equitable considerations.** Also, unlike a temporary restraining order or a preliminary injunction, a *status quo* order is more in the nature of a cease and desist order, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief. The further distinction is provided by the present amendment in the sense that, unlike the amended rule on restraining orders, a *status quo* order does not require the posting of a bond."[66] (Emphasis supplied)

In issuing a *Status Quo Ante* Order, the Court considers several factors like justice and equity and the desirability of conserving the *status quo* or the last, actual, peaceable, and uncontested state of things which preceded the controversy.[67] As explained in Garcia, a *Status Quo Ante* Order differs from a Temporary Restraining Order and may be issued on equitable considerations. The determination of who should be proclaimed the winner is a sufficient equitable consideration. It cannot be overemphasized that an election case is

imbued with the public interest.[68] It involves not only the adjudication of the private interests of rival candidates but also the paramount need to dispel the uncertainty which beclouds the real choice of the electorate with respect to who shall discharge the prerogatives of the office within their gift.[69]

In *Codilla, Sr. v. Hon. De Venecia*,[70] the Court rejected the view that the proclamation and oath of office of an "elected" member of the House of Representatives automatically vest jurisdiction to the HRET without examining the context of the case. The nature of the pending case must still be scrutinized to determine the proper body to resolve or review the issues raised. When the validity of the proclamation rests on the questioned Comelec resolutions, the HRET cannot deprive the appropriate bodies, such as the Comelec or this Court, from exercising jurisdiction, thus:

> Respondent Locsin submits that the COMELEC *en banc* has no jurisdiction to annul her proclamation. She maintains that the COMELEC *en banc* has been divested of jurisdiction to review the validity of her proclamation because she has become a member of the House of Representatives. Thus, she contends that the proper forum to question her membership to the House of Representatives is the House or Representatives Electoral Tribunal (HRET).
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> **We find no merit in these contentions.**
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> **First. The validity of the respondent's proclamation was a core issue in the Motion for Reconsideration seasonably filed by the petitioner.**
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> x x x x
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> **Second. It is the House of Representatives Electoral Tribunal (HRET) which has no jurisdiction in the instant case.**
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> Respondent contends that having been proclaimed and having taken oath as representative of the 4th legislative district of Leyte, any question relative to her election and eligibility should be brought before the HRET pursuant to Section 17 of Article VI of the 1987 Constitution.
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> We reject respondent's contention.
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> (a) The issue on the validity of the Resolution of the COMELEC Second Division has not yet been resolved by the COMELEC *en banc*.

To stress again, at the time of the proclamation of respondent Locsin, the validity of the Resolution of the COMELEC Second Division was seasonably challenged by the petitioner in his Motion for Reconsideration. The issue was still within the exclusive jurisdiction of the COMELEC *en banc* to resolve. Hence, the HRET cannot assume jurisdiction over the matter.

In *Puzon vs. Cua* even the HRET ruled that the "doctrinal ruling that once a proclamation has been made and a candidate-elect has assumed office, it is this Tribunal that has jurisdiction over an election contest involving members of the House of Representatives, *could not have been immediately applicable due to the issue regarding the validity of the very COMELEC pronouncements themselves*." This is because the HRET has no jurisdiction to review resolutions or decisions of the COMELEC, whether issued by a division or *en banc*.

(b) The instant case does not involve the election and qualification of respondent Locsin.

Respondent Locsin maintains that the proper recourse of the petitioner is to file a petition for *quo warranto* with the HRET.

A petition for *quo warranto* may be filed only on the grounds of ineligibility and disloyalty to the Republic of the Philippines. In the case at bar, neither the eligibility of the respondent Locsin nor her loyalty to the Republic of the Philippines is in question. There is no issue that she was qualified to run, and if she won, to assume office.

A petition for *quo warranto* in the HRET is directed against one who has been duly elected and proclaimed for having *obtained the highest number of votes but whose eligibility is in question at the time of such proclamation*. **It is evident that respondent Locsin cannot be the subject of [a] *quo warranto* proceeding in the HRET. She lost the elections to the petitioner by a wide margin. Her proclamation was a patent nullity. Her premature assumption to office as Representative of the 4th legislative district of Leyte was void from the beginning.** It is the height of absurdity for the respondent, as a loser, to tell petitioner Codilla, Sr., the winner, to unseat her via a *quo warranto* proceeding.[71] (Emphasis supplied)

The Decision in *Codilla, Sr.* involved an electoral case for membership in the House of Representatives for the 4th district of Leyte. Eufrocino Codilla, Sr. (Codilla, Sr.) should have been proclaimed the winner but because of the Comelec Division's non-observance of due process, Ma. Victoria Locsin was instead proclaimed. Codilla, Sr. received the highest number of votes, but the Comelec Division suspended his proclamation without informing him and without strong evidence to support the suspension. Subsequently, the Comelec Division disqualified Codilla, Sr. and ordered the immediate proclamation of the second placer Ma. Victoria Locsin (Locsin). By the time the Comelec *En Banc* reversed the Comelec Division and resolved that Codilla, Sr. was not disqualified and that Locsin's proclamation should be annulled, Locsin had already taken an oath and assumed office. Locsin then invoked the HRET's jurisdiction to disregard the Comelec *En Banc* Resolution. The Court ruled that the HRET cannot automatically oust the Comelec of its jurisdiction in determining who should be proclaimed. The Court also held that Locsin's proclamation is void because Codilla, Sr. was deprived of due process and was erroneously disqualified.[72]

Similarly, the present Petitions involved a question on the validity of the proclamation. The Comelec proclaimed Romeo as the winner after it credited the votes of Frederico to him and earlier suspended Roberto's proclamation. Absent the assailed Comelec Resolution and Order, Roberto should have been proclaimed because he garnered the highest number of votes after the election results were canvassed. Romeo is merely a second placer. Thus, it is incumbent upon the Court to determine the validity of Romeo's proclamation before dismissing the case on jurisdictional grounds. This is consistent with the principle of adherence to jurisdiction – that once it is attached, it cannot be ousted by subsequent happenings or events, although a character of which would have prevented jurisdiction from attaching in the first instance, and it retains jurisdiction until it finally disposes of the case.[73] This approach would recognize the importance of proceedings with the Comelec subject to the review of this Court if there were grave abuse of discretion.

To reiterate, this Court has the constitutional duty to review the decision, order, or ruling of the Comelec through a petition for *certiorari*. Moreover, the nature of the issues involved in the petitions concerning the suspension of proclamation and nuisance candidacy preclude the HRET from taking cognizance of the case. More importantly, the HRET has no jurisdiction over the petitions that were filed with this Court before any proclamation, oath, and assumption of office of any of the parties. Given that this Court has jurisdiction over the petitions, we now examine the propriety of the Comelec *En Banc* Order dated May 12, 2022 and Resolution dated June 7, 2022.

The Comelec En Banc Order dated May 12, 2022, which suspended Roberto's proclamation, is tainted with grave abuse of discretion and violation of the right to due process

Pursuant to Sections 6 and 7 of Republic Act (RA) No. 6646[74] or "[t]he Electoral Reforms Law of 1987," the Comelec's authority to suspend the proclamation of a candidate who receives the highest number of votes with a pending case for disqualification applies also to a petition to deny due course to or cancel a CoC under Section 78 of the OEC based "*exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false*," thus:

> *RA No. 6646*
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> Section 6. *Effect of Disqualification Case.* — Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. **If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court or Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong.**
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> Section 7. *Petition to Deny Due Course to or Cancel a Certificate of Candidacy. — The procedure hereinabove provided shall apply to petitions to deny due course to or cancel a certificate of c*andidacy as provided in **Section 78 of Batas Pambansa Blg. 881.** (Emphasis supplied)
>
> *OEC*
>
> Section 78. *Petition to deny due course to or cancel a certificate of candidacy.* — A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false.

> The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

Yet, a similar power to suspend the proclamation of a winning candidate is not available in proceedings filed under Section 69 of the OEC or a petition to refuse to give due course to or cancel a CoC against an alleged nuisance candidate. Hence, the Comelec gravely abused its discretion when it suspended Roberto's proclamation in a pending proceeding under Section 69 of the OEC against Frederico. Further, public policy dictates that candidates receiving the highest votes should be proclaimed without unnecessary delay. The laws mandate the board of canvassers to receive the election returns and immediately canvass those that may have been received. The board of canvassers must continuously meet from day to day until the canvass is completed and may adjourn only to await the other election returns.[75] The board of canvassers is a ministerial body and its power is generally limited to the mechanical function of adding or compiling the votes cast for each candidate as shown on the face of the returns before it and declaring the result.[76] The purpose of the board of canvassers is to ascertain and declare the apparent result of the voting while all other questions are tried before the court or tribunal contesting the elections.[77] The suspension of proclamation of a winning candidate is not a matter which the Comelec can dispose of *motu proprio*.[78]

In this case, the PBOC received the complete election results on May 11, 2022, and had clear basis to proclaim Roberto as the winning candidate for having garnered the highest number of votes. There is no reason to postpone the proclamation until the PBOC received through electronic mail an "*advanced copy*" of the Comelec *En Banc* Order in SPA No. 21-224 (DC) directing to suspend Roberto's proclamation. Yet, the Order was undated and did not contain the complete signatures of the members, a certification, and a notice signed by the Comelec's Clerk of Court. Interestingly, the minutes reveal that the Comelec Chairperson gave the PBOC the discretion to act on the "*advanced copy*" of the suspension order and decide how to proceed with the proclamation. In due course, the majority of PBOC members ignored the suspension order because of its patent irregularities, thus:

> **[PBOC] VICE-CHAIR[PERSON]**: x x x I listened to the arguments of both parties. I was also informed by the Chairperson of the outcome, of this brief talk with some representative of the Office of the CHAIR[PERSON]. **Accordingly,**

> **she was assured that an official order will be released soon until sometime tonight. Otherwise, we are advised to proceed whatever course of action we deem right under the circumstance. I was also aware per information relayed to me from the Chairperson that they still have to procure the signatures of some Commissioners, whether he or she will assent or conform to this order, or dissent, we do not know.**
>
> We also do not know if such order is forthcoming. x x x In a sense this is not an official copy of the order. x x x [T]his is a mere scrap of paper. Also the CHAIR[PERSON] acknowledges such fact because x x x if they cannot send the copy today, we will proceed with whatever action is right under the premises. x x x I vote to proceed with the proclamation of the winning candidate of the first district.[79] (Emphasis supplied)

However, the PBOC Chairperson dissented from the majority decision to proceed with the proclamation and called for a recess. Meanwhile, the Comelec Chairperson confirmed the authenticity of the suspension order through a phone call. The PBOC heed the directive, resumed the canvassing proceedings, and resolved to suspend the proclamation, to wit:

> **[PBOC] CHAIR[PERSON]: Let's resume. After I talked with the CHAIR[PERSON] of the Commission, he informed us, the members of the Board, that this copy is an official copy. And we are directed to implement the order.**
>
> x x x x
>
> **[PBOC] VICE CHAIR[PERSON]:** If I may explain, I talked with the CHAIR[PERSON] and I confronted him whether this order is an official order of the Commission and he answered me that it is an official order of the Commission. **So, I changed my earlier ruling and I vote for the suspension of the proclamation.**
>
> x x x x
>
> **[PBOC] CHAIR[PERSON]: So, the PBOC already ruled with finality that we will follow the order of the Commission *En Banc* not to proclaim Roberto Uy[,] Jr[.]** and hence we will proceed with the proclamation of the 2nd

district Member of the House of Representatives.[80] (Emphasis supplied)

In these circumstances, the Court finds it odd for the Comelec Chairperson to intervene in the proclamation absent a duly issued suspension order. The Comelec Chairperson should have ensured that the suspension order was urgently released pursuant to the rules instead of contacting the PBOC members. Similarly, it would be prudent if the PBOC inquired about the veracity of the "*advanced copy*" of the suspension order with the Comelec Clerk of Court who is tasked to "*execute orders, resolutions, decisions and processes issued by the Commission*."[81] Indeed, the guidelines in the proclamation of winning candidates allow the "*fastest means available such as, but not limited to phone call, sending of electronic mail, etc*."[82] of the Comelec's action over petitions to disqualify or cancel the CoC of a candidate. But this quick measure is premised on the fact that the Comelec had duly acted on the matter. In this case, however, the Comelec *En Banc Order* dated May 12, 2022, came after the PBOC suspended the proclamation. Obviously, the Comelec and the PBOC unnecessarily deferred the proclamation and went against the policy that winning candidates should be proclaimed without delay. The PBOC suspended the proclamation *motu proprio* when it gave effect to the "*advanced copy*" of the suspension order despite the glaring irregularities. In issuing the suspension order, the Comelec relied on its Resolution No. 9523,[83] to wit:

Rule 23 – Petition to Deny Due Course to or
Cancel Certificates of Candidacy

x x x x

Section 8. *Effect if Petition Unresolved*. – If a Petition to Deny Due Course to or Cancel a Certificate of Candidacy is unresolved by final judgment on the day of elections, the petitioner may file a motion with the Division or Commission *En Banc*, as may be applicable, to suspend the proclamation of the candidate concerned, **provided that the evidence for the grounds for denial to or cancel certificate of candidacy is strong.** For this purpose, at least three (3) days prior to any election, the Clerk of the Commission shall prepare a list of pending cases and furnish all Commissioners copies of the said list.

x x x x

Rule 24 – Proceedings Against Nuisance Candidates

> x x x x
>
> Section 5. *Applicability of Rule 23*. – Except for *motu propio* cases, Sections x x x 8 x x x of Rule 23 shall apply in proceedings against nuisance candidates. (Emphasis and underscoring supplied)

Verily, the pertinent election laws and rules require strong evidence to deny or cancel CoC as basis to suspend the proclamation of a winning candidate.[84] The suspension of Roberto's proclamation depends not only on whether Frederico is a nuisance candidate but also on the statistical probability of affecting the outcome of the elections. However, the Comelec *En Banc* issued the suspension order based on Romeo's bare allegation. Here, Romeo failed to allege the percentage of election returns received and canvassed when be moved to suspend the proclamation of the leading candidate. Romeo did not even submit any document or certification from PBOC to support his prayer to suspend the proclamation.[85]

Here, the *motu proprio* suspension of proclamation denied Roberto his opportunity to be heard, which must be construed as a chance to explain one's side or an occasion to seek a reconsideration of the complained action or ruling. Yet, the proclamation of Roberto was ordered suspended in a proceeding where he is not a party. In election cases, the requirement of due process is satisfied if the parties are given a fair and reasonable opportunity to clarify their respective positions. In *Santos v. Comelec*,[86] the Court held that candidates who have no similarity in the name of the nuisance candidate are not real parties in interest and are mere "*silent observers*" in the nuisance case.[87] However, nothing in *Santos* allows the suspension of proclamation of these silent observers without observance of due process of law. Evidently, the suspension order directly affected Roberto being the candidate who garnered the highest number of votes and who must be proclaimed without delay. As such, the Comelec should have at the very least notified and heard Roberto. Otherwise, the proclamation of a candidate may be unjustly suspended simply because of the pendency of the nuisance case. Worse, the manner of informing the PBOC of the advance copy of the suspension order led it to *motu proprio* suspend Roberto's proclamation. Taken together, the Comelec gravely abused its power and violated the rules on basic fairness when it suspended the proclamation of Roberto without giving him the opportunity to be heard.

The Comelec En Banc Resolution dated June 7, 2022, which affirmed Frederico's declaration as a nuisance candidate, is tainted with grave abuse of discretion

On April 19, 2022, Frederico received via electronic mail the Comelec Second Division's Resolution declaring him a nuisance candidate. Frederico had five days from notice to move for reconsideration or until April 24, 2022. Considering that the last day fell on a Sunday, the time shall not run until the next working day. Accordingly, Frederico sent the Motion for Reconsideration through electronic mail on April 25, 2022, at 6:23 p.m. The Comelec *En Banc* denied the Motion for being filed a day late following the rule that any pleading sent through electronic mail beyond 5:00 p.m. is deemed filed the following day. Nonetheless, the Comelec affirmed the finding that Frederico is a nuisance candidate.

On this point, we cannot overemphasize that courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just disposition of his cause.[88] The Court has allowed several cases to proceed in the broader interest of justice despite procedural defects and lapses.[89] These rulings are in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice.[90] Specifically, the Comelec Rules of Procedure provides that "*[i]n the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules and any portion thereof may be suspended by the Commission*."[91] Here, the Comelec *En Banc* is deemed to have relaxed its procedures when it resolved the merits of the motion for reconsideration. In any event, the circumstances of the case merit the liberal application of the rules in the interest of substantial justice. The Comelec received Frederico's Motion only more than an hour past 5:00 p.m. More importantly, the issue of whether Frederico is a nuisance candidate is determinative not only of the proper treatment of his votes but also as to the outcome of the elections. The grave injustice to Frederico is likewise not commensurate with his failure to comply with the rules. Thus, compelling reasons exist for the Court to finally settle the question of whether Frederico is a nuisance candidate.

Section 69 of the OEC provides the remedy and the instances when candidates may be considered nuisance, thus:

> Section 69. *Nuisance candidates*. — The Commission may, *motu proprio* or upon

> a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

Clearly, nuisance candidates are those who filed their CoCs: (1) to put" the election process in mockery or disrepute; (2) to cause confusion among the voters by the similarity of the names of the registered candidates; or (3) under circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the CoC has been filed. The common thread of the three instances is that nuisance candidates filed their CoCs not to aspire or seek public office but to prevent "*a faithful determination of the true will of the electorate*." In *De Alban v. Comelec*,[92] the Court upheld the constitutionality of Section 69 of the OEC and expounded on the Comelec's power to refuse to give due course to or cancel the CoCs of nuisance candidates, *viz.*:

> Remarkably, even before the enactment of Section 69 of the OEC the Court already acknowledged the Comelec's authority to refuse due course to CoCs filed in bad faith pursuant to its mandate to ensure free, orderly, and honest elections. In subsequent cases, the Court held that limiting the names of candidates appearing on the ballots for those with "*bona fide*" intention to run for office is permissible. **The Court observed that the greater the number of candidates, the greater opportunities for logistical confusion, not to mention the increased allocation of time and resources in preparation for election.** As such, remedial actions should be available to alleviate the logistical hardships in the preparation and conduct of elections, whenever necessary and proper. **Moreover, the Court stressed that the importance of barring nuisance candidates from participating in the electoral exercise is the avoidance of confusion and frustration in the democratic process by preventing a faithful determination of the true will of the electorate. It seeks to address the "dirty trick" employed by political rival operators to reduce the votes of the legitimate candidates due to the similarity of names and particularly benefitting from Comelec's "slow-moving**

> **decision-making."**[93] (Emphasis supplied)

In this case, the Comelec declared Frederico a nuisance candidate because he has no *bona fide* intention to run for public office, and his surname and nickname can cause confusion among voters. On this score, we reiterate that the Comelec has the ministerial duty to receive and acknowledge a CoC submitted within the filing period using the prescribed form. The candidate's name will be on the ballot unless the CoC is withdrawn or canceled. Corollary, the question of who may be considered a nuisance candidate is a factual issue that should be decided minutely and wisely. It is also incumbent upon Romeo to establish the acts or circumstances showing that Frederico is a nuisance candidate, with the objective to prevent a faithful determination of the true will of the electorate. Yet, Romeo heavily relied on Frederico's lack of political experience, and the similarity of their surnames and nicknames.

Foremost, Frederico's membership in NUP is not trivial and weighs heavily against a finding of nuisance candidacy. The law defines a political party as *"an organized group of persons pursuing the same ideology, political ideas or platforms of government*." Here, NUP's registration as a political party means it has met all the criteria under the law. The Comelec even verified NUP's government programs and extent of constituency.[94] Corollarily, the nomination of Frederico and his acceptance as NUP's official candidate meant that he embodies the party's ideals and principles which he is obliged to carry out and represent to the electorates.[95] Indeed, Frederico enjoyed NUP's full logistical, financial; and organizational support in his candidacy. Frederico's lack of political experience also does not undermine his seriousness in running for public office. Absent contrary evidence, Frederico's candidacy can hardly be considered a sham since bad faith is a factual issue that is never presumed.[96] In any case, the Court had ruled that the candidate's *bona fide* intention to run for public office is neither subject to any property qualifications nor dependent upon membership in a political party, popularity, or degree of success in the elections, to wit:

> In the same vein, the Court finds that non-membership in a political party or being unknown nationwide, or 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 OEC. **Membership in a political party is not a requirement to run for senator under the current electoral framework**

> **while non-membership does not prevent a faithful determination of the will of the electorate. Also, the candidate's degree of success is irrelevant to *bona fide* intention to run for public office. A candidate "*has no less a right to run when he faces prospects of defeat as when he expected to win*." Neither the candidate's act of participating for the first time in elections be equated with the absence of good faith.** The Court had overruled the Comelec's postulation that a *bona fide* intention to run for public office is absent if there is no "*tiniest chance to obtain the favorable endorsement of a substantial portion of the electorate*." Again, it appears that the Comelec Law Department initiated actions only against De Alban and other unknown candidates without a political party, or those with low chances of winning. The Comelec did not bother to substantiate its conclusion that De Alban's CoC was filed without *bona fide* intention to run for public office when it remarked that "*[t]he Commission is not duty-bound to adduce evidence for any party or for [De Alban] in this case*. x x x" Worse, the burden of evidence improperly shifted to De Alban to convince the Comelec why his CoC should be given due course. To reiterate, the Comelec has the ministerial duty to receive and acknowledge a duly filed CoC. The candidate's name will be on the ballot unless the CoC is withdrawn or canceled.[97] (Emphasis supplied)

In contrast, the Comelec Second Division failed to explain its findings that Frederico lacks the support and capacity to launch a credible and serious campaign,[98] to wit:

> Other circumstances exist that belie *bona fide* intent. **As correctly alleged by [Romeo]**, [Frederico] **does not appear** to have the support and capacity required to launch a credible campaign. The bare reliance on the support of his political party is insufficient.[99] (Emphasis supplied)

The Comelec's observation begs the following questions: (1) *what then was the basis to consider Frederico's membership in the political party as insignificant?* (2) *are the allegations of Romeo sufficient to conclude lack of bona fide intent?* Notably, the use of the phrase "*does not appear*" in the assailed Resolution and the absence of particular evidence showing that Frederico's political party will not support him show that the Comelec's ruling is speculative. The finding of the Comelec Second Division that Frederico is not a registered voter is likewise erroneous because the decision of the first-level court denying Frederico's

Petition to be included in the list of voters has not yet attained finality. Indeed, the Regional Trial Court subsequently reversed the decision and ordered the registration of Frederico as a voter.[100] Accordingly, the Court should not allow the Comelec to perfunctorily invoke the evil caused by nuisance candidates without adequate proof to support a conclusion that a candidate is a nuisance in the first place.[101]

Likewise, there is a distant possibility of voter confusion because the entries appearing on the ballots are not indistinguishable. The automated elections system (AES) ensured sufficient identifiers on the entries appearing on the ballots. The candidates' complete names and political parties are now printed on the ballots. The Comelec guidelines even allow the candidates to choose the names appearing on the ballots, including the political parties that nominated them, if any. Here, Frederico and Romeo preferred that their names be printed on the ballots as "*Jalosjos, Kuya Jan (NUP)*"[102] and "*Jalosjos, Jr. Romeo (NP),*"[103] respectively, to wit:

MEMBER, HOUSE OF REPRESENTATIVES / Vote for 1			
x x x	2. JALOSJOS, KUYA JAN (NUP)	3. JALOSJOS, ROMEO JR. (NP)	x x x [104]

The striking difference in their names appearing on the ballots are more than enough for the voters to distinguish the entries in the ballots despite the similarity in the surnames. Apparently, "*Kuya Jan*" and "*Romeo*" are distinct from each other. Also, with AES, the Comelec's observation that the nicknames "*Kuya Jonjon*" and "*Kuya Jan*" are phonetically identical becomes inconsequential. The principle of "*idem sonans*" or the similarity in the pronunciation is irrelevant because the voters only need to shade the oval beside their chosen candidate. The claim that the voters would be confused with the candidates' nicknames is a product of too much inference without adequate proof. To be sure, the only evidence that Romeo was known to his constituents as "*Jonjon*" is his COC in the 2019 elections.[105] Yet, Romeo did not choose such nickname to appear on the ballots. Romeo consistently preferred "*Romeo Jalosjos, Jr.*" both in the 2019 and 2022 elections. This shows that Romeo presents himself to the voter as "*Romeo*" more than "*Jonjon*." Besides, Romeo claimed that the nickname "*Jonjon*" underscores that he has the same name as his father.[106] Thus, the voters would readily recognize "*Romeo*" as referring to "*Jalosjos, Romeo Jr.*" and not to "*Jalosjos, Kuya Jan*." Further, the filing of CoCs is an integral process in the elections that permits the placing of the names of the candidates before the electorates. The CoC is an authorized badge that the voters could scrutinize details relating to the candidates before casting their ballots.[107] In this case, the voters are deemed able to distinguish

between "*Romeo*" and "*Kuya Jan*" with the filing of their CoCs. It is more prudent to conclude that the voters know whom they are voting for before casting their ballots. To hold otherwise absent proof is to speculate. Moreover, a campaign precedes the elections where the candidates can promote themselves and remove any bemusement with other contenders because of perceived similarity in their first names, nicknames, or surnames.

Finally, in *Bautista v. Comelec*,[108] a case decided under the manual elections system, the Court upheld the Comelec's finding that similarity in the names would prevent a faithful determination of the will of the people because a vote containing only the nickname or surname of a candidate would render that vote worthless, thus: "*Two 'EFRENS' and two 'BAUTISTAS' — will necessarily confuse the voters and render worthless a vote for an 'Efren' or 'Bautista' during the appreciation of ballots, thus preventing the determination of the choice and true will of the electorate*."[109] Under a manual election system, a vote is deemed stray if the voters only wrote the first name or surname of a candidate if at least two candidates have the same first name or surname, to wit: "*Section 211. Rules for the appreciation of ballots. x x x 1. Where only the first name of a candidate or only his surname is written, the vote for such a candidate is valid, if there is no other candidate with the same first name or surname for the same office*."

Here, the Comelec (Second Division) did not discuss how the inclusion of Frederico's name in the ballots would prevent the faithful determination of the will of the electorate. The Comelec's observation of an "*inversely proportional relationship between identity of names and the required proof showing the absence of bona fide intent*" is erroneous. The opinion is based on a misreading of the cited cases and does not excuse the Comelec from identifying why a particular candidacy would prevent the determination of the will of the people, *viz.*:

> In identifying confusing similarity of names, this Commission (Second Division) is guided by a catena of cases resolved by the Supreme Court. **A review of these cases shows that there is no hard-and-fast rule in determining whether or not a candidate filed their COC to cause confusion among the voters.** Instead, a broad range of circumstances has been deemed sufficient to cause confusion.
>
> On one end of this range are the cases of *Bautista v. COMELEC* and *Zapanta v. COMELEC*, **where the candidates' intended names on the ballots were totally identical** save for their ballot number and party designation. In these

decisions, the fact that the candidates were not publicly known by the name they sought to have in the ballot, when taken with **even the slightest *indicia* that there was no *bona fide* intent to run**, was deemed insufficient to declare them as nuisance candidates.

In the "middle" of the spectrum are the cases where identical surnames and similar-sounding given names on the ballot adjudged as sufficient to constitute confusing similarity, such as *Santos v. COMELEC*. There, the fact that a candidate intentionally chose a similar sounding stage-name to appear on the ballot, despite never having used that name before, **when taken with an apparent lack of support, was deemed sufficient to declare her a nuisance candidate.**

Closer to the other end of this range is the case of *Dela Cruz v. COMELEC*, where only the identity in surnames were present. **In this case, it was found that the identical nature of the surnames, when taken together with proof that the nuisance candidate was a retiree with no source of income, no prior political experience, and other circumstances that belied *bona fide* intent to run, was sufficient to declare him a nuisance candidate.**

Clearly, each case must be reviewed on its individual facts and circumstances, **but it appears from the foregoing that there is an inversely proportional relationship between identity of names and the required proof showing the absence of *bona fide* intent.** Thus, the greater the similarity between the names of the candidates, the less indications of a lack of *bona fide* intent to run must be apparent, and vice-versa.[110] (Emphasis supplied)

As discussed above, the case of *Bautista* held that a vote containing only the first name, nickname, or surname of a candidate would render that vote worthless in case at least two candidates have the same first name, nickname, or surname. In *Zapanta v. Comelec*,[111] the identical names of two candidates appearing on the ballots made it difficult for voters to distinguish them and would prevent the faithful determination of the will of the people.[112] On the other hand, *Dela Cruz v. Comelec*[113] did not rule that mere identity in surnames of candidates is enough to declare a candidate as a nuisance. The case deals with the issue of how the votes of nuisance candidates should be treated and not the Comelec's finding of nuisance candidacy. Also, the ruling tackles the validity of Resolution No. 8844 regarding

the proper treatment of votes of all candidates who were disqualified or whose CoCs were cancelled but their names remained in the ballots.[114] Whereas *Santos v. Comelec*[115] did not authorize the declaration of a nuisance candidate because of a similar-sounding stage name. The issue is whether the Comelec may automatically credit the votes of nuisance candidates to the legitimate candidate in a multi-slot office. The writ of execution was questioned and not the declaration of nuisance candidacy.[116]

More importantly, the statement in *Dela Cruz* and *Santos* that "*the possibility of confusion in names of candidates if the names of the nuisance candidates remained on election day, cannot be discounted or eliminated, even under the automated voting system*"[117] does not authorize the Comelec to automatically declare a candidate a nuisance "*even with the slightest indicia that there was no bona fide intent to run.*"[118] The Comelec must clearly state in its resolution why a candidate falls under the definition of a nuisance candidate under Section 69 of the OEC. In this case, the Comelec rendered the determination of the *bona fide* intent to run for public office insignificant. The Comelec solely based its ruling on the alleged erroneous use of a nickname in declaring Frederico a nuisance without considering his membership in the political party, the importance of a CoC, the preceding campaign period, and the dissimilarities in the names appearing on the ballots.

At any rate, the erroneous use of a nickname registered in the CoC is not enough to declare a candidate nuisance. The proper recourse is to bring this to the attention of the Comelec as a defect of an entry in the CoC to disallow a candidate from using that nickname. The rules and regulations for the conduct of elections are mandatory before the election, but when they are sought to be enforced after the election, they are held to be directory only if that is possible, especially where, if they are held to be mandatory, innocent voters will be deprived of their votes without fault on their part.[119] Thus, even if the CoC was not duly signed or does not contain the required data, the proclamation of the candidate as the winner may not be nullified on such grounds. The defects in the certificate should have been questioned before the election; they may not be questioned after the election without invalidating the will of the electorate, which should not be done.[120] To uphold the cancellation of Frederico's CoC due to an erroneous use of nickname after the votes were cast would render the electorates' votes for Frederico worthless.

The Court reminds that the use of wrong, irrelevant, and insufficient considerations in deciding an issue taints a decision maker's action with grave abuse of discretion.[121] A judgment rendered with grave abuse of discretion is void and cannot be the source of any right or obligation. All acts pursuant to such decision and all claims .emanating from it have

no legal effect. A void judgment can never become final and any writ of execution based on it is likewise void.[122] In sum, the Comelec committed grave abuse of discretion in canceling Frederico's CoC absent supporting substantial evidence that he is a nuisance candidate. Frederico is a legitimate candidate and the votes he received are all valid. There is no more question as to the proper treatment of his votes. Consequently, these findings rendered moot the issue of whether the votes in favor of a nuisance candidate should be declared stray or must be credited to the legitimate candidate with the same surname.

ACCORDINGLY, the consolidated Petitions are **GRANTED**. The Order dated May 12, 2022 and the Resolution dated June 7, 2022 of the Commission on Elections *En Banc* in SPA No. 21-224 (DC) are **SET ASIDE** on the ground of grave abuse of discretion. The proclamation of Romeo M. Jalosjos, Jr. arising from the execution of the assailed Order and Resolution is **ANNULLED**. The Commission on Elections is **DIRECTED** to proclaim Roberto T. Uy, Jr. as winner in the 2022 elections for the position of Zamboanga del Norte's first district representative. The *Status Quo Ante* Order is **LIFTED**.

The Decision shall be immediately executory.

SO ORDERED.

Gesmundo, C.J., Hernando, Lazaro-Javier, Zalameda, Gaerlan, J. Lopez, Dimaampao, Marquez, Kho, Jr., and *Singh, JJ.*, concur.
Leonen, SAJ., dissent. See separate opinion.
Caguioa, J., see dissent.
Inting,[*] *J.*, no part.
Rosario,[**] *J.*, on leave.

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[*] No part.

[**] On leave.

[1] See Petition for *Certiorari*, Prohibition and *Mandamus Ex Abundanti Ad Cautela*; *rollo* (**G.R. No. 260650**), pp. 10-34; and Petition for *Certiorari*; *rollo* (**G.R. No. 260952**), pp. 3-49.

[2] *Rollo* (**G.R. No. 260952**), pp. 105-114.

[3] *Id.* at 242.

[4] *Id.* at 106-108.

[5] *Id.* at 111-112 and 243.

[6] *Id.* at 112-113.

[7] See Verified Answer; *id.* at 195-207.

[8] *Id.* at 199-204.

[9] *Id.* at 241-250. Signed by Presiding Commissioner Marlon S. Casquejo and Commissioner Rey E. Bulay. Commissioner George Erwin M. Garcia inhibited.

[10] *Id.* at 247-249.

[11] *Id.* at 249-250.

[12] See Motion for Reconsideration dated April 25, 2022; *id.* at 252-263.

[13] See Urgent Motion to Suspend Proclamation of Roberto "Pinpin" Uy, Jr. as the Representative of the 1st Congressional District of Zamboanga del Norte dated May 10, 2022; *rollo* (G.R. No. 260650), pp. 58-61.

[14] *Id.* at 42 and 59-60.

[15] *Id.* at 59-60. The pertinent positions of the Motion reads:

> 8. That during the canvassing of votes, [Frederico] was able to garner the partial and unofficial ballot of 5244, as of this writing;
> 9. That the general public could not have intended to vote for Respondent Frederico Jalosjos as he is virtually unknown in the 1st District of Zamboanga del Norte;
> 10. That, the current number of partial and unofficial votes garnered by petitioner Romeo Jalosjos, Jr. is 66,622 as of this writing. While the leading candidate Roberto "Pinpin" Uy, Jr. has a partial and unofficial 67,003 voles as of this writing;
> 11. That, if we add the number of votes of the nuisance candidate Respondent Frederico Jalosjos to the number of votes of Petitioner Romeo Jalosjos, Jr., the latter would have garnered 71,886 votes, as a partial and unofficial result. Thus,

placing herein Petitioner as the leading candidate for the disputed petition.

[16] See Provincial/District Certificate of Canvass; *rollo* (**G.R. No. 260952**), pp. 271-272.

[17] *Id.* at 271.

[18] *Rollo* (**G.R. No. 260650**), pp. 74-75 and 77. The Order bore the signatures of Chairperson Saidamen B. Pangarungan, and Commissioners Socorro B. Inting, Rey E. Bulay, and Aimee T. Neri. Commissioners Marlon S. Casquejo, Aimee P. Ferolino, and George Erwin M. Garcia had no signatures.

[19] *Id.* at 333.

[20] *Id.* at 78. The Resolution was signed by the PBOC composed of Chairperson Verly M. Tabangcura-Adanza, Vice-Chairperson Gabino S. Saavaedra II, and Member-Secretary Virgilio Batan, Jr.

[21] *Id.*

[22] See Order dated May 12, 2002; *id.* at 42-44. Signed by Chairperson Saidamen B. Pangarungan and Commissioners Socorro B. Inting, Rey E. Bulay, and Aimee P. Ferolino. Commissioners Marlon S. Casquejo and Aimee T. Neri with Dissenting Opinions. Commissioner George Erwin M. Garcia took no part.

[23] *Id.* at 45-50.

[24] *Id.* at 43-44.

[25] *Id.* at 62-69.

[26] *Id.* at 63-64 and 68.

[27] *Id.* at 80-88.

[28] *Id.* at 80.

[29] See Voluntary Withdrawal of Petition dated May 20, 2022; *id.* at 140-141; and Voluntary Withdrawal dated May 20, 2022; *id.* at 142-143.

[30] *Id.* at 10-34.

[31] *Id.* at 32.

[32] *Rollo* (**G.R. No. 260952**), pp. 285-296. Signed by Acting Chairperson Socorro B. Inting and Commissioners Marlon S. Casquejo, Aimee P. Ferolino, and Rey E. Bulay.

[33] *Id.* at 290.

[34] 698 Phil. 548 (2012) [Per J. Villarama, Jr., *En Banc*].

[35] *Rollo* (**G.R. No. 260952**), pp. 291-295.

[36] *Id.* at 295.

[37] *Id.* at 3-49.

[38] *Id.* at 35-47.

[39] *Rollo* (**G.R. No. 260650**), pp. 158-159.

[40] *Rollo* (**G.R. No. 260952**), pp. 447-450. Signed by Acting Chairperson Socorro B. Inting.

[41] *Id.* at 449-450.

[42] See Certificate of Canvass of Votes and Proclamation of Winning Candidate for Member, House of Representatives; *id.* at 507-508.

[43] See the Court's Resolution dated June 21, 1022; *id.* at 465-A-465-B.

[44] See the Court's Resolution dated July 12, 2022; *id.* at 467-470.

[45] *Rollo* (**G.R. No. 260650**), pp. 447-487.

[46] *Id.* at 460-464.

[47] *Id.* at 470-475.

[48] *Id.* at 477-484.

[49] *Id.* at 368-398.

[50] *Id.* at 372-397.

[51] **Ambil, Jr. v. Comelec**, 398 Phil. 257, 274 (2000) [Per J. Pardo, *En Banc*].

[52] **Tañada, Jr. v. HRET**, 782 Phil. 12, 27 (2016) [Per J. Carpio, *En Banc*].

[53] 611 Phil. 817 (2009) [Per J. Peralta, *En Banc*].

[54] *Id.* at 827.

[55] See Batas Pambansa Blg. 881, approved on December 8, 1985.

[56] **Limkaichong v. Comelec**, 611 Phil. 817, 827-828 (2009) [Per J. Peralta, *En Banc*]. See also J. Perez, Separate Opinion in **Tañada, Jr. v. HRET**, 782 Phil. 12, 30-32 (2016) [Per J. Carpio, *En Banc*]; and **Lokin, Jr. v. Comelec**, 635 Phil. 372, 383-389 (2010) [Per J. Bersamin, *En Banc*].

[57] See Article VI, Section 17 of the Constitution.

[58] **Reyes v. Comelec**, 712 Phil. 192, 212 (2013) [Per J. Perez, *En Banc*].

[59] *Id.* at 210-214.

[60] See Rule II, Section 6 of the Rules of the House of Representatives (18th Congress), which provides:

> Section 6. *Oath or Affirmation of Members*. – Members shall take their oath or affirmation collectively or individually before the Speaker in open session. The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers. Following parliamentary precedents, Members take their oath before the Speaker in open session to enable them to enter into the performance of their functions and participate in the deliberations of the House.

See also I Journal, House, 19th Congress, 1st Session (July 25, 2022), where the 19th Congress provisionally adopted the rules of the 18th Congress until the adoption of the rules of the 19th Congress.

[61] *Rollo* (G.R. No. 260650), p. 923.

[62] *Id.*

[63] See **Garcia v. Mojica**, 372 Phil. 892, 900 (1999) [Per J. Quisumbing, Second Division].

[64] See **Pacis v. Comelec**, 130 Phil. 545, 548 and 566 (1968) [Per J. Sanchez, *En Banc*], where the Court issued a *Status Quo Ante* Order and addressed the problem of '"*grab-the-proclamation,' and let the victimized candidate face the hurdle of a long drawn expensive election process which may prove insuperable, if not useless*." The Court held "*[t]o be accentuated now is that the proclamation of Pacis, as well as the subsequent proclamation of Negre, are both null and void. The case stands as if no proclamation has ever been made at all. And Pacis and Negre return to status quo ante – neither is proclaimed*."

[65] 372 Phil. 892 (1999) [Per J. Quisumbing, Second Division].

[66] *Id.* at 900; citation omitted.

[67] J. Leonen, Separate Opinion in **ABS-CBN Corporation v. National Telecommunications Commission, G.R. No. 252119**, August 25, 2020, 946 SCRA 495, 548-549 [Per J. Perlas-Bernabe, *En Banc*].

[68] **Caballero v. Comelec**, 770 Phil. 94, 110-111 (2015) [Per J. Peralta, *En Banc*].

[69] **Unda v. Comelec**, 268 Phil. 877, 881-882 (1990) [Per J. Regalado, *En Banc*].

[70] **Codilla, Sr. v. De Venecia**, 442 Phil. 139 (2002) [Per J. Puno, *En Banc*].

[71] *Id.* at 184-188; citations omitted.

[72] *Id.* at 165-179.

[73] See **Aruego, Jr. v. Court of Appeals**, 325 Phil. 191, 201 (1996) [Per J. Hermosisima, Jr., First Division]

[74] Entitled "AN ACT INTRODUCING ADDITIONAL REFORMS IN THE ELECTORAL SYSTEM AND FOR OTHER PURPOSES," approved on January 5, 1988.

[75] Section 231 of the OEC. See also Section 28 of RA No. 7166, entitled "AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES," approved on November 26, 1991; and Section 21 of RA No. 8346, entitled "AN

ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES," approved on December 2, 1997, as amended by RA No. 9369, entitled "AN ACT AMENDING REPUBLIC ACT No. 8436, ENTITLED 'AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, TO ENCOURAGE TRANSPARENCY, CREDIBILITY, FAIRNESS AND ACCURACY OF ELECTIONS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 881, AS AMENDED, REPUBLIC ACT No. 7166 AND OTHER RELATED ELECTIONS LAWS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES'," approved on January 23, 2007.

[76] **Mastura v. Comelec**, 349 Phil. 423, 430 (1998) [Per Bellosillo, *En Banc*]; citation omitted.

[77] **Ibrahim v. Comelec**, 701 Phil. 116, 133 (2013) [Per J. Reyes, *En Banc*].

[78] **Codilla, Sr. v. De Venecia**, 442 Phil. 139, 170 (2002) (Per J. Puno, *En Banc*].

[79] *Rollo* (**G.R. No. 260650**), pp. 299-300.

[80] *Id*. at 309-312.

[81] See Rule 38, Section 2(f) of the 1993 Comelec Rules of Procedure.

[82] See Article III, Section 33 (IV) (K) in Comelec Resolution No. 10731, entitled "General Instructions for the Board of Canvassers on the Constitution, Composition and Appointment; Consolidation/Canvass; and Transmission of Votes/Canvass in Connection with the 09 May 2022 National and Local Elections," approved on November 17, 2021.

[83] Entitled "IN THE MATTER OF THE AMENDMENT TO RULES 23, 24, AND 25 OF THE COMELEC RULES OF PROCEDURE FOR PURPOSES OF THE 13 MAY 2013 NATIONAL, LOCAL, AND ARMM ELECTIONS AND SUBSEQUENT ELECTIONS," promulgated on September 25, 2012.

[84] See Rule 23, Section 8 in relation to Rule 24, Section 5 of the 1993 Comelec Rules of Procedure. See also Section 6 of RA No. 6646.

[85] See Dissenting Opinion of Commissioner Marlon S. Casquejo; *rollo* (G.R. No. 260650), pp. 45-48, where he stated "*[i]t is the opinion of the Undersigned that it would be a folly to give weight and credence to the same – as the Order apparently did – when the Petitioner was very careful in adding the phrase 'as of this writing' in every recitation of the votes garnered by the parties concerned. **The Order should have realized that the Petitioner failed to even allege what percentage of the election returns for the said locality has already been received and canvassed. There was not even any document or certification from the Board of Canvassers attached to the Motion to substantiate said allegations.***" (Emphasis supplied)

[86] 839 Phil. 672 (2018) [Per J. Gesmundo, *En Banc*].

[87] *Id.* at 696, where the Court held: "Glaringly, there was nothing discussed in *Timbol* that other candidates, who do not have any similarity with the name of the alleged nuisance candidate, are real parties-in-interest or have the opportunity to be heard in a nuisance petition. Obviously, these other candidates are not affected by the nuisance case because their names are not related with the alleged nuisance candidate. **Regardless of whether the nuisance petition is granted or not, the votes of the unaffected candidates shall be completely the same.** Thus, they are mere silent observers in the nuisance case." (Emphasis supplied)

[88] **Tanenglian v. Lorenzo**, 573 Phil. 472, 485 (2008) [Per J. Chico-Nazario, Third Division], citing **Neypes v. Court of Appeals**, 506 Phil. 613, 626 (2005) [Per J. Corona, *En Banc*].

[89] **Malixi v. Baltazar**, 821 Phil. 423, 440-441 (2017) [Per J. Leonen, Third Division], citing **Paras v. Judge Baldado**, 406 Phil. 589, 596 (2001) [Per J. Gonzaga-Reyes, Third Division]; **Doble v. ABB, Inc.**, 810 Phil. 210, 228 (2017) [Per J. Peralta, Second Division]; **Trajano v. Uniwide Sales Warehouse Club**, 736 Phil. 264, 274 (2014) [Per J. Brion, Second Division]; **Heirs of Amada Zaulda v. Zaulda**, 729 Phil. 639, 648-649 (2014) [Per J. Mendoza, Third Division]; **Manila Electric Company v. Gala**, 683 Phil. 356, 364 (2012) [Per J. Brion, Second Division]; and **Durban Apartments Corporation v. Catacutan**, 514 Phil. 187, 195 (2005) [Per J. Ynares-Santiago, First Division].

[90] **Philippine Bank of Communications v. Court of Appeals**, 805 Phil. 964, 972 (2017) [Per J. Caguioa, First Division].

[91] See Rule 1, Section 4 of the 1993 Comelec Rules of Procedure.

[92] **G.R. No. 243968**, March 22, 2022, <https://sc.judiciary.gov.ph/241968-angelo-castro-de-alban-vs--commission-on-elections-comelec-comelec-law-department-and-comelec-education-and-information-department/> [Per J. M. Lopez, *En Banc*].

[93] *Id.*

[94] Under Rule 32 of the 1993 Comelec Rules of Procedure, the Comelec is required to verify the status, capacity, and the allegations in a petition for registration as a political party. Among those verified are the program of government, extent of constituency, and the headquarters of the political party.

[95] **Sinaca v. Mula**, 373 Phil. 896, 909 (1999) [Per J. Davide, Jr., *En Banc*].

[96] See **Principio v. Barrientos**, 514 Phil. 799, 811 (2005) [Per J. Ynares-Santiago, First Division].

[97] **De Alban v. Comelec, G.R. No. 243968**, March 22, 2022, <https://sc.judiciary.gov.ph/243968-angelo--castro-de-alban-vs-commission-on-elections-comelec-comelec-law-department-and-comelec-education-and-information-department/> [Per J. M. Lopez, *En Banc*].

[98] See J. Caguioa, Dissenting Opinion, p. 27.

[99] *Rollo* (**G.R. No. 260952**), p. 249.

[100] *Id.* at 268. The dispositive portion reads:

> WHEREFORE, this appeal is GRANTED. The Resolution x x x of the lower court is hereby REVERSED and SET ASIDE.
>
> Accordingly, the Election Registration Board of Dapitan City is directed to include FREDERICO PERIGO JALOSJOS in the list of voters in Barangay San Francisco, Dapitan City.
>
> SO ORDERED.

[101] **Marquez v. Comelec, G.R. No. 258435**, June 28, 2022,

<https://sc.judiciary.gov.ph/258435-norman-cordero-marquez-vs-commission-on-elections/> [Per J. Lazaro-Javier, *En Banc*].

[102] *Rollo* (**G.R. No. 260952**), p. 242.

[103] *Id*. at 119 and 241-242.

[104] Comelec, *Zamboanga del Norte Ballot Face Template, available at* <https://comelec.gov.ph/php-tpls-attachments/2022NLE/BallotTemplates/REGION_IX/ZAMBOANGA_DEL_NORTE/RIZAL.pdf> (last accessed on August 8, 2023).

[105] *Rollo* (**G.R. No. 260952**), p. 117.

[106] *Id*. at 106-107.

[107] **Sinaca v. Mula**, 373 Phil. 896, 908 (1999) [Per C.J. Davide, *En Banc*].

[108] **Bautista v. Comelec**, 359 Phil. 1 (1998) [Per J. Melo, *En Banc*].

[109] *Id*. at 11.

[110] *Rollo* (**G.R. No. 260952**), pp. 247-248.

[111] 848 Phil. 342 (2019) [Per J. Leonen, *En Banc*].

[112] *Id*. at 359-361.

[113] 698 Phil. 548 (2012) [Per J. Villarama, Jr., *En Banc*].

[114] *Id*. at 559-569.

[115] 839 Phil. 672 (2018) [Per J. Gesmundo, *En Banc*].

[116] *Id*. at 703-705.

[117] *Id*. at 692; and **Dela Cruz v. Comelec**, 698 Phil. 548, 568 (2012) [Per J. Villarama, Jr., *En Banc*].

[118] *Rollo* (**G.R. No. 260952**), p. 247.

[119] **Luna v. Rodriguez**, 39 Phil. 208, 214-217 (1918) [Per J. Jhonson, *En Banc*].

[120] **Sinaca v. Mula**, 373 Phil. 896, 913-914 (1999) [Per C.J. Davide, Jr., *En Banc*].

[121] **Varias v. Comelec**, 626 Phil. 292, 314 (2010) [Per J. Brion, *En Banc*].

[122] **Pascual v. Pascual**, 622 Phil. 307, 327-328 (2009) [Per J. Peralta, *En Banc*]; citations omitted.

DISSENTING OPINION

LEONEN, *SAJ.*:

On June 23, 2022, the Provincial Board of Canvassers reconvened and proclaimed respondent Romeo M. Jalosjos, Jr. (Romeo) as the winning candidate for Zamboanga del Norte's first district representative.[1] He took his oath of office before Senator Cynthia A. Villar[2] and assumed office at noon on June 30, 2022.[3]

With these developments, the Petitions should be dismissed for lack of jurisdiction.

I

I take exception to the majority's ruling that the concurrence of three requisites—a valid proclamation, taking of oath, and assumption of duties—vests the House of Representatives Electoral Tribunal with jurisdiction over election contests. It is time that we abandon *Reyes v. Commission on Elections*,[4] which the majority cited as legal basis, for being contrary to the Constitution and established jurisprudence.

Article VI, Section 17 of the Constitution provides: "The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the *sole judge* of all contests relating to the election, returns, and qualifications of their respective members."[5] In *Lazatin v. House of Representatives Electoral Tribunal*,[6] this Court stated that an electoral tribunal's jurisdiction is original and exclusive:

> The use of the word "*sole*" emphasizes the *exclusive* character of the jurisdiction conferred. The exercise of the power by the Electoral Commission under the

> 1935 Constitution has been described as "intended to be as *complete and unimpaired* as if it had remained originally in the legislature." Earlier, this grant of power to the legislature was characterized by Justice Malcolm as "*full, clear and complete*." Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution.[7] (Citations omitted)

Further, in *Rasul v. Commission on Elections*,[8] this Court defined the extent of the tribunal's jurisdiction and again stressed its exclusivity:

> Section 17, Article VI of the 1987 Constitution as well as Section 250 of the Omnibus Election Code prove that "(t)he Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the *sole judge of all contents relating to the election, returns, and qualifications of their respective Members. . . . .*" In *Javier vs. Comelec*, this Court interpreted the phrase "election, returns and qualifications" as follows:
>
> > "The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that "election" referred to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" to matters that could be raised in a *quo warranto* proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his certificate of candidacy."
>
> The word "sole" in Section 17, Article VI of the 1987 Constitution and Section 250 of the Omnibus Election Code underscore the exclusivity of the Tribunal's

> jurisdiction over election contests relating to its members. Inasmuch as petitioner contests the proclamation of herein respondent Teresa Aquino-Oreta as the 12th winning senatorial candidate, it is the Senate Electoral Tribunal which has exclusive jurisdiction to act on the complaint of petitioner.[9] (Citations omitted)

The Constitution grants the exclusive privilege to determine membership in the Senate and the House of Representatives through their respective electoral tribunals. The earliest moment when there can be members of each chamber is upon their proclamation as winners in the election.

Accordingly, this Court has consistently ruled that once the winning candidate is proclaimed, jurisdiction over any election contest against the proclaimed candidate is vested in the electoral tribunal.[10]

This doctrine was pronounced as early as in *Angara v. Electoral Commission*,[11] where this Court held that the grant of power to the Electoral Commission to judge all contests relating to the election, returns, and qualifications of members of the National Assembly would begin with the certification by the proper provincial board of canvasser of the member-elect:

> From another angle, Resolution No. 8 of the National Assembly confirming the election of members against whom no protests had been filed at the time of its passage on December 3, 1935, can not be construed as a limitation upon the time for the initiation of election contests. While there might have been good reason for the legislative practice of confirmation of the election of members of the legislature at the time when the power to decide election contests was still lodged in the legislature, confirmation alone by the legislature cannot be construed as depriving the Electoral Commission of the authority incidental to its constitutional power to be "the sole judge of all contests relating to the election, returns, and qualifications of the members of the National Assembly", to fix the time for the filing of said election protests. Confirmation by the National Assembly of the returns of its members against whose election no protests have been filed is, to all legal purposes, unnecessary. As contended by the Electoral Commission in its resolution of January 23, 1936, overruling the motion of the herein petitioner to dismiss the protest filed by the respondent Pedro Ynsua, confirmation of the election of any member is not required by the Constitution

> before he can discharge his duties as such member. As a matter of fact, *certification by the proper provincial board of canvassers is sufficient to entitle a member-elect to a seat in the National Assembly and to render him eligible to any office in said body*.[12] (Emphasis supplied, citation omitted)

Through the years, this was the prevailing doctrine. Thus, in *Vinzons-Chato v. Commission on Elections*:[13]

> The Court has invariably held that once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. Stated in another manner, *where the candidate has already been proclaimed winner in the congressional elections, the remedy of the petitioner is to file an electoral protest with the HRET*.[14] (Emphasis supplied, citations omitted)

And in *Jalosjos, Jr. v. Commission on Elections*:[15]

> The Court has already settled the question of when the jurisdiction of the COMELEC ends and when that of the HRET begins. *The proclamation of a congressional candidate following the election divests the COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed Representatives in favor of the HRET*.[16] (Emphasis supplied)

Proclamation is the operative act that removes jurisdiction from this Court or the Commission on Elections and vests it in the House of Representative Electoral Tribunal.[17] It is a validation by the Commission on Elections, to the best of its knowledge, that the winner is the choice of the people. By proclamation, the winner acquired a presumptively valid title to the office. As held in *Angara*, "certification by the proper provincial board of canvassers is sufficient to entitle a member-elect to a seat in the National Assembly and to render him eligible to any office in said body."[18]

Reyes did not change this doctrine. As pointed out in my dissenting opinion to the

Resolution[19] in that case, the *ratio decidendi* of *Reyes* was based ultimately on the pronouncement in *Guerrero v. Commission on Elections*,[20] which existing jurisprudence does not support. I opined:

> In *Guerrero*, this Court held that ". . . once a winning candidate has been *proclaimed, taken his oath*, and *assumed office* as a member of the House of Representatives, [the] COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins." The case cited *Aquino v. Commission on Elections* and *Romualdez-Marcos v. Commission on Elections* to support the statement.
>
> A closer reading of *Aquino* and *Romualdez-Marcos* will reveal that this Court did not rule that three requisites must concur so that one may be considered a "member" of the House of Representatives subject to the jurisdiction of the electoral tribunal. On the contrary, this Court held in *Aquino* that:
>
> > Petitioner conveniently confuses the distinction between an unproclaimed candidate to the House of Representatives and a member of the same. Obtaining the highest number of votes in an election does not automatically vest the position in the winning candidate.
> >
> > . . . .
> >
> > Under the above-stated provision, the electoral tribunal clearly assumes jurisdiction over all contests relative to the election, returns and qualifications of candidates for either the Senate or the House only when the latter become members of either the Senate or the House of Representatives. A candidate who has not been proclaimed and who has not taken his oath of office cannot be said to be a member of the House of Representatives subject to Section 17 of Article VI of the Constitution. While the proclamation of the winning candidate in an election is ministerial, B.P. 881 in conjunction with Sec. 6 of R.A. 6646 allows suspension of proclamation under circumstances mentioned therein. . . . .

In *Romualdez-Marcos*, this Court held that:

> As to the House of Representatives Electoral Tribunal's supposed assumption of jurisdiction over the issue of petitioner's qualifications after the May 8, 1995 elections, suffice it to say that HRET's jurisdiction as the sole judge of all contests relating to the elections, returns, and qualifications of members of Congress begins only after a candidate has become a member of the House of Representatives. Petitioner not being a member of the House of Representatives, it is obvious that the HRET at this point has no jurisdiction over the question.

To be sure, the petitioners who were the winning candidates in *Aquino* and *Romualdez-Marcos* invoked the jurisdiction of the House of Representatives Electoral Tribunal though they had not yet been proclaimed. Thus, this Court held that the Commission on Elections still had jurisdiction over the disqualification cases.

This Court did not create a new doctrine in *Aquino* as seen in the Concurring and Dissenting Opinion of Justice Francisco where he said:

> The operative acts necessary for an electoral candidate's rightful assumption of the office for which he ran are his proclamation and his taking an oath of office. Petitioner cannot in anyway be considered as a member of the House of Representatives for the purpose of divesting the Commission on Elections of jurisdiction to declare his disqualification and invoking instead HRET's jurisdiction, it indubitably appearing that he has yet to be proclaimed, much less has he taken an oath of office. Clearly, petitioner's reliance on the aforecited cases which when perused involved Congressional members, is totally misplaced, if not wholly inapplicable. That the jurisdiction conferred upon HRET extends only to Congressional members is further established by judicial notice of HRET Rules of Procedure, and HRET decisions consistently holding that the proclamation of a winner in the contested election is the essential

> requisite vesting jurisdiction on the HRET.

In fact, the Separate Opinion of Justice Mendoza in *Romualdez-Marcos* will tell us that he espoused a more radical approach to the jurisdiction of the electoral tribunals. Justice Mendoza is of the opinion that "the eligibility of a [candidate] for the office [in the House of Representatives] may only be inquired into by the [House of Representatives Electoral Tribunal]," even if the candidate in *Romualdez-Marcos* was not yet proclaimed. Justice Mendoza explained, thus:

> Three reasons may be cited to explain the absence of an authorized proceeding for determining before election the qualifications of a candidate.
>
> . . . .
>
> Third is the policy underlying the prohibition against pre-proclamation cases in elections for President, Vice President, Senators and members of the House of Representatives. (R.A. No. 7166, Section 15) The purpose is to preserve the prerogatives of the House of Representatives Electoral Tribunal and the other Tribunals as "sole judges" under the Constitution of the election, returns, and qualifications of members of Congress of the President and Vice President, as the case may be.

Thus, the pronouncement in *Guerrero* that is used in the main *ponencia* as the basis for its ruling is not supported by prior Decisions of this Court. More importantly, it cannot be considered to have changed the doctrine in *Angara v. Electoral Commission*. Instead it was only made in the context of the facts in *Guerrero* where the Decision of the Commission on Elections *En Banc* was issued only after the proclamation and the assumption of office of the winning candidate. In other words, the contention that there must be proclamation, taking of the oath, and assumption of office before the House of Representatives Electoral Tribunal takes over is not *ratio decidendi*.[21] (Citations omitted)

Parenthetically, in *Guerrero*, this Court stressed the importance of the mutually exclusive

jurisdiction of the Commission on Elections and the House of Representatives Electoral Tribunal:

> [I]n an electoral contest where the validity of the proclamation of a winning candidate who has taken his oath of office and assumed his post as Congressman is raised, that issue is best addressed to the HRET. The reason for this ruling is self-evident, for *it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate*.[22] (Emphasis supplied)

At any rate, Reyes was the "most unusual case"[23] considering the procedural actions taken by this Court. There, the majority[24] went beyond hastily dismissing the Petition outright. Without fully hearing the parties, it attempted to declare a new doctrine on the jurisdiction of the Commission of Elections vis-à-vis the House of Representatives Electoral Tribunal without any clear or special reason to do so. It proceeded to rule on the validity of the petitioner's proclamation without this even being raised as an issue, and without any comment required from and filed by the respondents.[25]

Reyes cannot be used as authority to depart from the time-honored doctrine first pronounced in *Angara*. It is an aberration that must be abandoned.

Here, the Commission on Elections *En Banc* issued a Resolution on June 7, 2022, affirming its Second Division's ruling that petitioner Frederico P. Jalosjos (Frederico) was a nuisance candidate and directing that his votes be credited to respondent Romeo.[26] The Resolution became final and executory, such that on June 15, 2022, the Commission *En Banc* issued a Writ of Execution[27] ordering the Provincial Board of Canvassers to reconvene, credit the votes of petitioner Frederico to respondent Romeo, and proclaim the winning candidate. Thus, the Provincial Board of Canvassers was well within its right and duty to proclaim Romeo as the winning candidate on June 23, 2022.

II

The *Status Quo Ante* Order is no longer within this Court's jurisdiction because June 30, 2022 had lapsed.

In G.R. No. 260650, petitioner Roberto T. Uy, Jr. (Roberto) prays for a temporary restraining

order and/or writ of preliminary injunction and/or *status quo ante* order against the implementation of the Commission *En Banc*'s May 12, 2022 Order suspending his proclamation and its subsequent June 7, 2022 Resolution.[28] On the other hand, petitioner Frederico in G.R. No. 260952 prays for a temporary restraining order, *status quo ante* order, and/or writ of preliminary injunction against its June 7, 2022 directive to credit his votes to Romeo.[29]

Events transpired after the filing of the Petitions, resulting in respondent Romeo's proclamation on June 23, 2022. By operation of the Constitution, Romeo's term of office began at noon of June 30, 2022.

Status quo ante, in its ordinary meaning, refers to "the state of affairs that existed previously."[30] Hence, "[a]n order of this nature is imposed to maintain the existing state of things before the controversy."[31]

In *Garcia v. Mojica*[32] and *Megaworld Properties and Holdings, Inc. v. Majestic Finance and Investment Company, Inc.*,[33] this Court distinguished between a *status quo ante* order and a temporary restraining order:

> There have been instances when the Supreme Court has issued a *status quo* order which, as the very term connotes, is merely intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. *This was resorted to when the projected proceedings in the case made the conservation of the status quo desirable or essential, but the affected party neither sought such relief or the allegations in his pleading did not sufficiently make out a case for a temporary restraining order*. The status quo order was thus issued *motu proprio* on equitable considerations. Also, *unlike a temporary restraining order or a preliminary injunction, a status quo order is more in the nature of a cease and desist order*, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief. The further distinction is provided by the present amendment in the sense that, unlike the amended rule on restraining orders, a status quo order does not require the posting of a bond.[34] (Emphasis supplied)

A *status quo ante* order is similar to a temporary restraining order or preliminary injunctive writ, as both are ancillary to the main action and aims to preserve the status quo until the

merits of the case are fully heard.[35] However, while a temporary restraining order or preliminary injunctive writ operates on unperformed or unexecuted acts,[36] a *status quo ante* order may be issued even when the event has happened or the act has been done. It restores or maintains the condition prior to the challenged act or event.[37]

However, there are instances when a *status quo ante* is deemed infeasible or improper. For instance, in *Remonte v. Bonto*,[38] this Court stated that a *status quo ante* cannot be restored because the acts complained of cannot be undone. In that case, the investigation conducted by agents of the National Bureau of Investigation, which the petitioner sought to restrain, had long since been concluded. It resulted in the filing of a criminal case against the petitioner's officials and its manager, although subsequently dismissed for reasons undisclosed.

In *Juan P. Pellicer & Company, Inc. v. Phil. Realty Corporation*,[39] this Court held that a return to the *status quo ante* would undo the consolidations of titles over the parcels of land and be a waste of time, effort, and money when there was still a pending action.

In *Repol v. Commission on Elections*,[40] this Court found that the Commission on Elections acted with grave abuse of discretion when it issued the *status quo ante* order, which effectively overturned the trial court's order allowing execution pending appeal in the petitioner's favor.[41] This Court held that it was well within the trial court's discretion to grant execution pending appeal of its judgment in the election protest case.[42] It further held that the *status quo ante* order—which was actually a temporary restraining order because it ordered the petitioner to desist from assuming the position of municipal mayor—exceeded the 20-day life span under the Rules of Court.[43]

Unlike a temporary restraining order, which is governed by Rule 58 of the Rules of Court, no specific rule governs a *status quo ante* order. Instead, this Court has been guided by the following considerations in issuing a *status quo ante* order: "justice and equity considerations, when conservation of the *status quo* is desirable or essential, [to prevent] any serious damage, and where constitutional issues are raised."[44]

These factors are wanting here. More important, this Court, through a *status quo ante* order, cannot undo or render inoperative Romeo's proclamation and assumption into office without violating the Constitution. Such power now lies only with the House of Representatives Electoral Tribunal, which has exclusive jurisdiction over contests relating to the election of respondent Romeo, now a member of the House.

There is no legal impediment to the proclamation. Allowing the *status quo ante* would effectively suppress the will of the electorate and create a vacuum in the congressional post, which is prejudicial to public interest. In *Limkaichong v. Commission on Elections*:[45]

> The unseating of a Member of the House of Representatives should be exercised with great caution and after the proper proceedings for the ouster has been validly completed. For to arbitrarily unseat someone, who obtained the highest number of votes in the elections, and during the pendency of the proceedings determining one's qualification or disqualification, would amount to disenfranchising the electorate in whom sovereignty resides.[46] (Citation omitted)

ACCORDINGLY, I vote to dismiss the Petitions on the ground of lack of jurisdiction. The *Status Quo Ante* Order dated July 17, 2022 must be lifted.

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[1] *Rollo* (**G.R. No. 260650**), pp. 399-400.

[2] *Id.* at 401.

[3] *Id.* at 402.

[4] 712 Phil. 192 (2013) [Per J. Perez, *En Banc*].

[5] (Emphasis supplied)

[6] 250 Phil. 390 (1988) [Per J. Cortes, *En Banc*].

[7] *Id.* at 399-400.

[8] 371 Phil. 760 (1999) [Per J. Gonzaga-Reyes, *En Banc*].

[9] *Id.* at 765-766.

[10] **Penson v. Commission on Elections Constituted as the National Board of Canvassers for Senators and Party-List Representatives, G.R. No. 211636**, September 28, 2021 [Per J. J. Lopez, *En Banc*]; **Limkaichong v. Commission on Elections**, 601 Phil. 751, 779-780 (2009) [Per J. Peralta, *En Banc*]; **Planas v. Commission on Elections**, 519 Phil. 506 (2006) [Per J. Carpio Morales, *En Banc*]; **Barbers v. Commission on Elections**,

499 Phil. 570, 581, 585 (2005) [Per J. Carpio, *En Banc*]; **Caruncho III v. Commission on Elections**, 374 Phil. 308 (1999) [Per J. Ynares-Santiago, *En Banc*]; **Perez v. Commission on Elections**, 375 Phil. 1106, 1115 (1999) [Per J. Mendoza, *En Banc*]; **Rasul v. Commission on Elections**, 371 Phil. 760, 765 (1999) [Per J. Gonzaga-Reyes, *En Banc*].

[11] 63 Phil. 139 (1936) [Per J. Laurel, *En Banc*].

[12] *Id.* at 179-180.

[13] 548 Phil. 712 (2007) (Per J. Callejo, Sr., *En Banc*].

[14] *Id.* at 725-726.

[15] 689 Phil. 192 (2012) [Per J. Abad, *En Banc*].

[16] *Id.* at 198.

[17] **Jalosjos, Jr. v. Commission on Elections**, 689 Phil. 192, 198 (2012) [Per J. Abad, *En Banc*]; **VinzonsChato v. Commission on Elections**, 548 Phil. 712, 726 (2007) [Per J. Callejo, Sr., *En Banc*]; **Barbers v. Commission on Elections**, 499 Phil. 570, 581, 585 (2005) [Per J. Carpio, *En Banc*]; **Aggabao v. Commission on Elections**, 490 Phil. 285, 291 [Per J. Ynares-Santiago, *En Banc*].

[18] **Angara v. Electoral Commission**, 63 Phil. 139, 180 (1936) [Per J. Laurel, *En Banc*].

[19] The Resolution of the Motion for Reconsideration in that case was supported by five justices, with four dissenting and five taking no part. One justice was on official leave.

[20] 391 Phil. 344 (2000) [Per J. Quisumbing, *En Banc*].

[21] J. Leonen, Dissenting Opinion in **Reyes v. Commission on Elections**, 720 Phil. 174, 299-302 (2013) [Per J. Perez, *En Banc*].

[22] **Guerrero v. Commission on Elections**, 391 Phil. 344, 354 (2000) [Per J. Quisumbing, *En Banc*].

[23] J. Brion, Dissenting Opinion in **Reyes v. Commission on Elections**, 712 Phil. 192, 222 (2013) [Per J. Perez, *En Banc*].

[24] The Resolution was supported by seven members of this Court, with four dissenting and

another three taking no part. One was on official leave.

[25] J. Leonen, Dissenting Opinion in **Reyes v. Commission on Elections**, 720 Phil. 174, 307-308 (2013) [Per J. Perez, *En Banc*].

[26] *Rollo* (**G.R. No. 260650**), pp. 167-178.

[27] *Id.* at 258-261.

[28] *Id.* at 159.

[29] *Rollo* (**G.R. No. 260952**), pp. 43-44.

[30] **Dynamic Builders & Construction Co. (Phil.), Inc. v. Presbitero, Jr.**, 757 Phil. 454, 481 (2015) [Per J. Leonen, *En Banc*]. (Citation omitted)

[31] **Remo v. Bueno**, 784 Phil. 344, 385 (2016) [Per J. Leonardo-De Castro, *En Banc*].

[32] **Garcia v. Mojica**, 372 Phil. 892 (1999) [Per J. Quisumbing, Second Division].

[33] 775 Phil. 34 (2015) [Per J. Bersamin, First Division].

[34] *Id.* at 52.

[35] *See* **Los Baños Rural Bank, Inc. v. Africa**, 433 Phil. 930 (2002) [Per J. Panganiban, Third Division].

[36] **Bernardez v. Commission on Elections**, 628 Phil. 720, 732 (2010) [Per J. Peralta, *En Banc*]; **Remonte v. Bonto**, 123 Phil. 63 (1966) [Per J. Sanchez, *En Banc*].

[37] *See* **Banzon v. Cruz**, 150-A Phil. 865 (1972) [Per J. Teehankee, *En Banc*].

[38] 123 Phil. 63 (1966) [Per J. Sanchez, *En Banc*].

[39] 87 Phil. 302, 308-309 (1950) [Per J. Tuason, *En Banc*].

[40] 472 Phil. 335 (2004) [Per J. Carpio, *En Banc*].

[41] *Id.* at 356.

[42] *Id.* at 355.

[43] *Id*. at 354.

[44] J. Leonen, Separate Concurring Opinion in **ABS-CBN Corp. v. National Telecommunications Commission**, 879 Phil. 507, 551 (2020) [Per J. Perlas-Bernabe, *En Banc*].

[45] 601 Phil. 751 (2009) [Per J. Peralta, *En Banc*].

[46] *Id*. at 791.

DISSENTING OPINION

CAGUIOA, *J.*:

I dissent. The consolidated petitions should be dismissed for lack of jurisdiction.

Having been previously proclaimed as winning candidate for Representative of the First District of Zamboanga del Norte (subject position) by the Commission on Elections (COMELEC), and having previously taken an oath of office before a duly authorized public official, respondent Romeo M. Jalosjos, Jr. (Romeo) assumed office as Member of the House of Representatives (House) by operation of law[1] on June 30, 2022.

On the same date, exclusive jurisdiction over contests relating to his election, returns and qualifications as Member attached to the House of Representatives Electoral Tribunal (HRET), pursuant to Section 17, Article VI of the Constitution.[2] As a consequence of the exclusivity of the HRET's jurisdiction, the Court was ousted on even date of jurisdiction over the case.

Thus, the Court's *Status Quo Ante* Order[3] (SQAO) issued on July 12, 2022 was issued without jurisdiction and is therefore null and void and cannot be given effect.

In maintaining the jurisdiction of the Court, the *ponencia* is setting jurisprudence that is against the Constitution, basic doctrines of law, and the letter of the Rules of the House of Representatives[4] (House Rules), as well as creating requirements for membership to the House that are legally impossible to observe.

Its ruling[5] that the SQAO issued by the Court reverted the parties to their status prior to

the controversy violates the basic legal doctrine that acts done without jurisdiction are null and void and cannot have any legal effect.[6]

Its ruling[7] that an oath of office administered by the Speaker of the House (Speaker) is an essential pre-requisite to becoming a Member is absurd and legally impossible to achieve. The winning candidates must have already assumed office as *bona fide* Members before they can elect a Speaker from among themselves by a majority of their votes as incumbent Members.

Its ruling[8] that assumption to office requires an overt act lacks legal basis. On the contrary, it goes against the clear and plain language of the Constitution and the House Rules which require that the beginning of the term and the assumption to office of winning congressional candidates ***shall*** be on June 30 following their elections.

Its reversal[9] of the COMELEC's judgment finding and declaring petitioner Frederico P. Jalosjos (Frederico) a nuisance candidate — which judgment had already become final and executory — violates the basic doctrine of immutability of judgments.

Exclusive jurisdiction of the HRET over contests relating to the election, returns and qualifications of Members of the House.

The HRET has exclusive jurisdiction over all contests relating to the election, returns, and qualifications of Members of the House, per the clear language of the Constitution:

> [ARTICLE VI] SECTION 17. The . . . House of Representatives shall . . . have an Electoral Tribunal which shall be the **sole judge of all contests relating to the election, returns, and qualifications of their respective Members**. (Emphasis supplied)

The use of the word "sole" in Section 17 underscores the exclusivity of the HRET's jurisdiction. Thus, when jurisdiction attaches to the HRET, the latter ousts all other bodies and tribunals, ***including this Court***, of any jurisdiction which may have attached upon the filing of the complaint.[10]

The HRET's exclusive jurisdiction is only over "Members" of the House — which

jurisprudence has consistently held as arising once three requisites concur respecting a winning congressional candidate — that he or she had: (1) been proclaimed, (2) taken his or her oath of office, and (3) assumed office as Member of the House.[11]

Romeo became a Member of the House on June 30, 2022.

The facts indubitably show that Romeo satisfied all the above three requisites and, thus, became a Member of the House on June 30, 2022.

First, on June 23, 2022, he was ***proclaimed*** by the Provincial Board of Canvassers (PBOC) as the winning candidate for the subject position with 74,533 votes.[12] The Certificate of Canvass of Votes and Proclamation of Winning Candidate for Member, House of Representatives,[13] unanimously signed by all the members of the PBOC, states:

> WE, THE UNDERSIGNED MEMBERS of the PROVINCIAL BOARD OF CANVASSERS do hereby certify under oath that we have duly canvassed the votes cast in **8** cities/municipalities for the Candidates therein for MEMBER, HOUSE OF REPRESENTATIVES in the elections held on May 9 2022. Attached hereto and forming part hereof is a Statement of Votes by City/Municipality (CEF No. 20-A-1) garnered by each candidate for the office of MEMBER, HOUSE OF REPRESENTATIVES.
>
> That after such canvass, it appears that **JALOSJOS, ROMEO JR. (NP) (NACIONALISTA PARTY)** garnered 74533 votes for the office of MEMBER, HOUSE OF REPRESENTATIVES, the same being the highest number of votes legally cast for said office.
>
> **ON THE BASIS OF THE FOREGOING**, we hereby proclaim the above-named winning candidate as the duly elected MEMBER, HOUSE OF REPRESENTATIVES, **ZAMBOANGA DEL NORTE-FIRST LEGDIST**.
>
> IN WITNESS WHEREOF, we affix our signatures and imprint our thumbmarks in the province/city of **COMELEC, SESSION HALL, 8th FLOOR, PALACIO DEL GOBERNADOR BUILDING, INTRAMUROS MANILA on JUNE 23, 2022**.[14]
> (Emphasis and underscoring in the original)

Second, on the same day of June 23, 2022, Romeo ***took his Oath of Office*** before Senator Cynthia A. Villar (Senator Villar)[15] — a duly authorized public officer to administer oaths:

OATH OF OFFICE

> I, **ROMEO M. JALOSJOS JR.** of Dapitan City, Zamboanga del Norte, having been elected as **Member, House of Representatives** representing the **First District of Zamboanga del Norte**, hereby solemnly swear, that I will faithfully discharge to the best of my ability, the duties of my present position and of all others that I may hereafter hold under the Republic of the Philippines; that I will bear true faith and allegiance to the same; that I will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities of the Republic of the Philippines; and that I impose this obligation upon myself voluntarily, without mental reservation or purpose of evasion.
>
> SO HELP ME GOD.
>
> [Signature]
> **ROMEO M. JALOSJOS JR.**[16]
> (Emphasis in the original)

Finally, on June 30, 2022, Romeo **assumed office** as a Member of the House. There having been a prior valid proclamation and oath-taking, no legal impediment existed to his consequent assumption to office at the start of his term on said date, following the clear mandate of the Constitution:

> [Article VI] SECTION 7. The Members of the House of Representatives shall be elected for **a term** of three years which **shall begin**, unless otherwise provided by law, **at noon on the thirtieth day of June next following their election**. (Emphasis supplied)

The ponencia's conclusion that Romeo never became a Member of the House goes against basic legal tenets and logic. In declaring as a pre-requisite to membership the oath of office administered by the Speaker, the ponencia sets a requirement that is legally impossible to comply with.

The *ponencia* rules that Romeo cannot be considered a Member of the House because, although he had taken an oath of office before Senator Villar — a public officer duly authorized to administer oaths, he nonetheless failed to take the same oath before the Speaker of the House in open session — which the *ponencia* makes as a supposed requisite before one can assume office as a Member of the House under Section 6, Rule II of the House Rules.[17]

This is egregious error. The oath before the Speaker is literally described in the *ponencia*'s cited rule as merely "a **ceremonial affirmation** of **prior and valid oaths of office** administered to [the Members] by duly authorized public officers".[18] The entire Section 6, Rule II of the House Rules reads:

RULE II
Membership

. . . .

> **Section 6. *Oath or Affirmation of Members*.** – **Members** shall take their oath or affirmation collectively or individually before the Speaker in open session. **The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers.** Following parliamentary precedents, **Members** take their oath before the Speaker in open session **to enable them to enter into the performance of their functions and participate in the deliberations and other proceedings of the House**. (Emphasis and underscoring supplied)

Dissecting Section 6, the following facts and rules become evident: (1) the Speaker-administered oath is merely ceremonial; (2) the persons required to take this ceremonial oath are already "Members," having taken prior and valid oaths before duly authorized public officers; (3) these previous oaths are "valid" and satisfy the requirement of the Constitution[19] in relation to Executive Order (EO) No. 292,[20] for officials to enter upon the discharge of public office. This explains why the said Section speaks of "Members" already; (4) the purpose of the ceremonial oath before the Speaker is to "enable [the Members] to enter into the performance of their functions and participate in the deliberations and other proceedings of the House"; and (5) the Speaker-administered oath is not a requirement for

number 4 but merely a "parliamentary precedent," or a ceremonial practice borne out of tradition.

Indeed, to add a second oath to the one taken before a duly authorized officer would appear to offend the language of the Constitution in mandating that public officers and employees must take "**an** oath or affirmation," *i.e.*, only **one** oath or affirmation.

Even outside the texts of the House Rules and the Constitution, requiring the Speaker-administered oath as a pre-requisite to becoming a Member of the House is simply absurd because it is legally impossible to observe. The Speaker is an official of the Congress elected from among the incumbent Members of the House, by a majority of such Members.[21] In short, a Speaker cannot exist — let alone administer oaths — unless there are already *bona fide* Members of the House, *i.e.*, the winning candidates have already satisfied the three requisites and have, thus, already assumed office as Members.

There is no contention that, pursuant to the Constitution[22] in relation to EO No. 292,[23] a ***valid*** *oath of office* is required before entering upon the discharge of public functions. However, the oath required here is the one administered by a duly authorized public officer, which, to stress, the House Rules itself categorically describes as "**valid**". There is no law whatsoever which requires the "valid oath" under the Constitution and EO No. 292 to be administered by the Speaker to be "valid".

On the other hand, the House Rules categorically declares as being merely ceremonial such an oath and that it affirms only the valid oath already previously taken before a duly authorized public officer.

To be sure, Section 4, Rule II of the House Rules unequivocally states that, with respect to the requisite of oath of office, all that is required is that the same be administered by a duly authorized public officer:

RULE II
Membership

> **Section 4. *Composition*.** – The membership of the House shall be composed of elected representatives of legislative districts and those elected through the party-list system. **Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the**

> **administration of an oath for the office by a duly authorized public officer and assumption of office on June 30 following the election.** (Emphasis and underscoring supplied)

The ruling that the assumption to office requires an overt act and must be preceded by an oath administered by the Speaker lacks legal basis and contradicts the Constitution and the House Rules.

Answering my position that Romeo had assumed office by operation of law, as specifically mandated by Section 7, Article VI of the Constitution, the *ponencia* rules this to be an overstretched interpretation of the law.[24] According to the *ponencia*, Section 7, Article VI of the Constitution provides only for when the term of office of Members commences, but *not* their assumption to office.[25] The *ponencia* tries to explain this by reasoning that the "term" refers to a fixed duration which commences on June 30 after the elections, while the assumption to office "pertains to overt acts in the discharge of one's duties . . . which may transpire at a different time."[26]

In other words, the *ponencia* completely fails to apprehend my position that a Member assumes office by operation of law as a submission that equates the term of office to the assumption to such office so that both will have to begin at the same time on June 30 following the elections. This is not what I am saying.

To clarify, the term of office is a fixed period that begins on June 30 after the elections, pursuant to the Constitution. On the other hand, while the assumption takes place by operation of law, it must still be preceded by a valid proclamation and a valid oath, so that without either or both these requisites, no assumption of office can take place. Thus, a scenario in which the assumption to office takes place later than the start of the term on June 30 is very much possible, such as when June 30 already passes and no valid proclamation had been made and/or no valid oath of office had been performed. Accordingly, when the valid proclamation and/or oath happens after June 30, the assumption by operation of law would have to be when the last requisite (*i.e.*, the oath of office) was observed. There is no confusion there.

Section 7, Article VI of the Constitution reads:

> SECTION 7. The Members of the House of Representatives shall be elected for a term of three years which **shall** begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.
>
> No member of the House of Representatives shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected. (Emphasis supplied)

Sections 4 and 5, Rule II of the House Rules provides:

RULE II
Membership

> **Section 4. *Composition*.** – The membership of the House shall be composed of elected representatives of legislative districts and those elected through the party-list system. Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and **assumption of office on June 30 following the election**.
>
> **Section 5. *Term*.** – The Members of the House shall be elected for a term of three (3) years which **shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election**. (Emphasis supplied)

Even as the *ponencia* maintains that Section 7, Article VI of the Constitution sets the start of the *term* and not the assumption to office of the winning candidate,[27] this reasoning is belied by the House Rules itself which categorically declares that the "assumption [to] office [happens] on June 30 following the elections."[28]

I also do not subscribe to the *ponencia*'s ruling that the assumption of office requires an overt act in the discharge of one's duties.[29] There is no law or rule to this effect. Precisely, the dilemma in the present case is that neither statute nor jurisprudence provides for a clear definition of "assumption to office." On the other hand, the Constitution fixes the start of the term of the elected Members at June 30 after each election, and the House Rules

categorically declares that the assumption to office takes place on the same day of June 30 following the elections.

Given the requirement to begin the term and the assumption to office of elected officials on June 30, treating as a pre-requisite to such assumption the oath administered by the Speaker renders the aforecited provisions useless. The *earliest* possible date that a Speaker may be elected is on the fourth Monday of July — the first convening of the newly-elected Congress per the Constitution,[30] unless a different date is fixed by law. Thus, this is the earliest date that Members may take their oath of office before the Speaker. If one were to follow the *ponencia*'s ruling, the elected officials can only assume office as Member from this date onwards. Clearly, this is violative of the mandate of the Constitution and the House Rules that the assumption to office must happen on June 30 following the elections.

With respect to the early affairs of the 19th Congress, including its membership and assumption of such Members to office, it is the Secretary-General (Sec-Gen) of the 18th Congress who has competence to certify. Thus, the statement of the 19th Congress Sec-Gen that the subject position "remains" vacant insofar as these early stages of the 19th Congress are concerned, is irrelevant. Moreover, the latter was issued solely to comply with the Court's SQAO.

Under the House Rules, the *Sec-Gen of the immediately preceding* Congress must preside over the inaugural session of the House until a Speaker is elected and had taken an oath of office. Thereafter, the Congress will proceed to elect the other officers, including the Sec-Gen for the current Congress:

RULE I

Convening and Organizing the House

> **Section 1. *First Meeting and Organization of the House.*** – The Members shall meet and proceed to the organization of the House on the fourth Monday of July immediately following their election at the place designated for the holding of their sessions.

> **The Secretary General of the immediately preceding Congress shall preside over the inaugural session of the House until the election of a new Speaker. As presiding officer, the Secretary General shall call the session to order, call the roll of Members by provinces, cities and municipalities comprising districts, and by party-lists in alphabetical order**, designate an acting Floor Leader, and preserve order and decorum.
>
> After the designation of an acting Floor Leader, the body shall proceed to the election of the Speaker. The Speaker shall be elected by a majority vote of all the Members through a roll call vote with Members casting their vote without explanation. The presiding officer shall record the vote of each Member in the Journal.
>
> After the oath-taking of the newly-elected Speaker, the body shall proceed to the adoption of the rules of the immediately preceding Congress to govern its proceedings until the approval and adoption of the rules of the current Congress.
>
> Thereafter, the body shall proceed to the election, in successive order, of the Deputy Speakers, the Secretary General and the Sergeant-at-Arms who shall be elected by a majority of the Members, there being a quorum. (Emphasis and underscoring supplied)

To recall, the House Sec-Gen of the immediately preceding Congress — the 18th Congress — was Mark Llandro L. Mendoza (Sec-Gen Mendoza), and it was he, precisely as Sec-Gen, who issued a Certification[31] dated July 13, 2022, stating that Romeo became a Member of the 19th Congress on June 30, 2022:

> **C E R T I F I C A T I O N**
>
> This is to certify that the **Honorable Romeo M. Jalosjos, Jr.** is a member of the House of Representatives, representing the **First District, Zamboanga del Norte** in the 19th Congress **(June 30, 2022 to present)**.[32] (Emphasis and underscoring supplied)

On the other hand, the incumbent Sec-Gen of the 19th Congress, Reginald Velasco (Sec-Gen Velasco), wrote the Court a Letter[33] dated March 16, 2023, stating that (1) Romeo has not

taken an oath of office before the House Speaker, and **(2) that the contested office remains vacant because of the SQAO of the Court**:

> Your Honors:
>
> In Compliance with the Honorable Court's *Resolution* dated March 8, 2023 in the above-captioned cases, I hereby certify that Mr. Romeo Jalosjos, Jr. has **not** taken an oath or affirmation of office with the Honorable Speaker of the House of Representatives in open session.
>
> Further, I certify that the Office of the Representative for the First District of Zamboanga Del Norte **remains vacant due to the *Status Quo Ante* Order issued in these cases**.[34] (Emphasis and underscoring supplied)

To stress, between Sec-Gen Mendoza and Sec-Gen Velasco, it is the former who has competence to attest to the affairs of the newly-elected 19th Congress at its inception, including its membership and the assumption to office of its Members, as the Presiding Officer and Officer-in-Charge (OIC) Sec-Gen until the election of a new Speaker and Sec-Gen. As such, Sec-Gen Mendoza called the sessions to order and called the roll of the Members.

The incumbent Sec-Gen Velasco was elected much later and, presumably, only after all of the Members have already assumed office. Thus, his letter to the Court, insofar as his statement that the subject position ***remains*** vacant, is not relevant and cannot be given any weight. To repeat, during the assumption of its Members on June 30, and at the inauguration of the 19th Congress until its officers are elected and had taken over, it was Sec-Gen Mendoza who had personal knowledge of its affairs.

That is not all. A simple reading of Sec-Gen Velasco's letter shows that his statement that the subject position is vacant was because the House had followed the Court's SQAO. To be sure, Sec-Gen Velasco categorically declares that the vacancy was "due to the [Court's SQAO]."[35]

Seen in another light, the statements of Sec-Gens Mendoza and Velasco actually do not conflict. Sec-Gen Mendoza competently certified on July 13, 2022 — when he was still OIC Sec-Gen and Presiding Officer of the 19th Congress — that Romeo was a Member of the House beginning June 30, 2022. On the other hand, Sec-Gen Velasco, on March 16, 2023 —

or after the Court had issued the SQAO — merely attested that the subject position was then vacant because of the said SQAO. In other words, based on the statements of these two officials, it can be inferred that Romeo assumed office as Member of the House on June 30, 2022 but was eventually illegally ousted therefrom as a result of the Court's SQAO dated July 12, 2022.

That the case involves the issue of validity of Romeo's proclamation does not prevent the HRET's sole jurisdiction from attaching.

The *ponencia* rules that as the case involves the issue of the validity of the proclamation of Romeo, the BRET cannot oust the Court of its jurisdiction over the same.[36]

This is just wrong. No less than the Constitution commands that any issue as regards his election, returns, and his qualifications already fell within the jurisdiction of the HRET the moment he became a Member of the House. The same attaches and remains, to the exclusion of other bodies and tribunals, even if his proclamation is also being challenged as invalid.

The House Rules are clearer on this particular subject of cases challenging the proclamation of the Member, thus:

RULE II
Membership

> **Section 4. *Composition*.** – . . . **In cases where a candidate has been proclaimed winner by the Commission on Elections, and the validity of the proclamation is put in question in any judicial or administrative body, such candidate who has been proclaimed winner and assumed office on June 30 following the election shall remain a Member of the House absent final and executory judgement on or resolution of the question over the proclamation of the Member by the appropriate judicial or administrative bodies.** (Emphasis and underscoring supplied)

It is clear from Section 4 that an elected official who had been validly proclaimed, taken his oath of office, and assumed office on June 30, does not lose his membership in the House by

the mere fact that the validity of his proclamation is challenged. Applying this, as the consolidated petitions involve the election, returns, or qualifications of Romeo — who remains to be a House Member until his proclamation is avoided with finality — the same must remain in the BRET' s jurisdiction.

Jurisprudence mimics this doctrine.

In *Vinzons-Chato v. Commission on Elections*,[37] the Court held that the HRET has jurisdiction over a case involving the election, returns, and qualifications of a House Member, even if the issues relate to the validity of such Member's proclamation. The moment a candidate becomes a Member, the HRET's jurisdiction begins and neither the COMELEC ***nor this Court*** can take cognizance of cases falling under the sole jurisdiction of the HRET without thereby violating the Constitution by usurping the powers it conferred to the tribunal:

> **The Court has invariably held that once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins.** Stated in another manner, where the candidate has already been proclaimed winner in the congressional elections, the remedy of the petitioner is to file an electoral protest with the HRET.
>
> In the present case, it is not disputed that respondent Unico has already been proclaimed and taken his oath of office as a Member of the House of Representatives (Thirteenth Congress); hence, the COMELEC correctly ruled that it had already lost jurisdiction over petitioner Chato's petition. **The issues raised by petitioner Chato essentially relate to the canvassing of returns and alleged invalidity of respondent Unico's proclamation. These are matters that are best addressed to the sound judgment and discretion of the HRET. Significantly, the allegation that respondent Unico's proclamation is null and void does not divest the HRET of its jurisdiction:**
>
> > . . . [I]n an electoral contest where the validity of the proclamation of a winning candidate who has taken his oath of office and assumed his post as Congressman is raised, **that issue is best addressed to the**

> **HRET.** The reason for this ruling is self-evident, for it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate.

Further, for the Court to take cognizance of petitioner Chato's election protest against respondent Unico would be to usurp the constitutionally mandated functions of the HRET. Petitioner Chato's remedy would have been to file an election protest before the said tribunal, not this petition for *certiorari*.

All told, the COMELEC *en banc* clearly did not commit grave abuse of discretion when it issued the assailed Resolution dated March 17, 2006 holding that it had lost jurisdiction upon respondent Unico's proclamation and oath-taking as a Member of the House of Representatives. On the contrary, it demonstrated fealty to the constitutional fiat that the HRET shall be the *sole* judge of all contests relating to the election, returns, and qualifications of its members.[38]
(Emphasis and underscoring supplied; citations omitted)

Similarly, in *Limkaichong v. COMELEC*,[39] the Court held that the HRET's jurisdiction which had attached cannot be defeated by the allegation that a Member's proclamation was invalid.[40]

The SQA dated July 12, 2022 was issued by the Court after Romeo had already become a Member of the House or after the exclusive jurisdiction of the HRET had already attached on June 30, 2022. As such, the same is void for having been issued without jurisdiction. It could not have had any effect whatsoever.

The *ponencia* maintains that Romeo never assumed as Member of the House because the SQAO issued by the Court on July 12, 2022 supposedly reverted the parties back to their conditions prior to the issuance of the assailed COMELEC orders.[41]

This is specious and completely illogical.

The SQAO was issued *after* Romeo had already assumed office in the House as Member, or

after exclusive jurisdiction had already attached to the HRET on June 30, 2022. Since the HRET's jurisdiction is exclusive, this means the Court was necessarily ***ousted*** of any jurisdiction to act on the petition that was filed before it. Thus, when the SQAO was issued on July 12, 2022, or after June 30, 2022, it was issued by a body that no longer had any jurisdiction to issue the same. The SQAO was null and void. Being so void, it could not have had any effect whatsoever. It could not have had the effect of reversing the proclamation, oath-taking and assumption to office of Romeo because not even the Supreme Court can re-assume jurisdiction that it had already lost, over a matter that no less than the Constitution has placed in the hands of the BRET as *sole judge*.

Settled is the rule that a judgment or ruling issued in the absence of jurisdiction is void and cannot be the source of any right or obligation as, in fact, it cannot have any legal effect at all.[42] In *Zacarias v. Anacay*,[43] the Court emphasized thus:

> It is well-settled that a court's jurisdiction may be raised at any stage of the proceedings, even on appeal. The reason is that jurisdiction is conferred by law, and **lack of it affects the very authority of the court to take cognizance of and to render judgment on the action. Indeed, a void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect.** Hence, it can never become final and any writ of execution based on it is void.[44] (Emphasis and underscoring supplied; citations omitted)

The issue of whether Frederico is a nuisance candidate had long been settled with finality by the COMELEC, thus, can no longer be resolved in this case. The issues remaining for resolution relates to the election and returns of Romeo, who is a sitting Member of the House; thus, jurisdiction is solely the HRET's.

The *ponencia* attempts to refute the HRET's jurisdiction to review the COMELEC's findings on the issue of whether a political aspirant is a nuisance candidate, which determines the proper treatment of votes and the proclamation of the winner.[45] To this point, I agree. The HRET's jurisdiction is limited to "contests relating to the election, returns, and

qualifications of . . . Members [of the House].”[46] Indeed, it cannot determine whether or not Frederico, a third party, is a nuisance candidate. Over such a question, it is the COMELEC which has jurisdiction as conferred by the Omnibus Election Code[47] (OEC). Its decision in the exercise of such jurisdiction is reviewable only by this Court.[48]

However, the issue of whether Frederico is a nuisance candidate was already settled with finality by the COMELEC. Frederico’s failure to file his motion for reconsideration on time in the nuisance candidate action[49] caused the COMELEC’s ruling declaring him as a nuisance candidate to become final and executory.[50]

Thus, what remains of the consolidated petitions is ***only*** the issue of the election and returns of Romeo as a Member of the House. This, in turn, depends on whether the votes of Frederico were properly counted in Romeo’s favor, and, if after such crediting, Romeo, indeed, obtained the highest number of votes. These issues clearly fall under the HRET’s jurisdiction.

Further, the Court cannot retain jurisdiction under the principle of adherence to jurisdiction, as ruled in the *ponencia*.[51] The same does not apply here. Under this principle, a court or tribunal acquiring jurisdiction over a case by the filing of the complaint, does not lose the same ***despite the passage of a later law*** transferring jurisdiction to another court or body.[52] A reading of related jurisprudence, indeed, shows that the Court has limited this doctrine to cases involving the passage of a new law transferring jurisdictions.[53]

But that is not what happened here. Here, there is no such subsequent Jaw which transferred jurisdiction over contests involving the election, returns, and qualifications of Members of the House from the Court to the HRET. To reiterate, such jurisdiction was conferred by the Constitution to the HRET upon the former’s passage in 1987. Hence, from the case’s inception, the HRET had always had such exclusive jurisdiction, which, again, it acquired the moment Romeo became a Member of the House. In other words, what intervened here is the change in the status of Romeo to a Member of the House, not the passage of a law which transferred jurisdiction over the case to another body.

The resolution of the COMELEC finding and declaring Frederico a nuisance candidate had attained finality and immutability by the failure to file a motion for reconsideration thereof on time.

Section 69 of the OEC provides for the COMELEC's power to refuse to give due course to or cancel the Certificate of Candidacy (CoC) of nuisance candidates — that is, those found to lack the *bona fide* intent to run for the office sought:

> SECTION 69. *Nuisance candidates*. – The Commission may, *motu proprio* or upon a verified petition of an interested party, refuse to give clue course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

Pursuant to Section 69, the COMELEC cancelled Frederico's CoC upon the finding that he was a nuisance candidate. And when this ruling became final and executory, it then proceeded to credit the votes cast for Frederico to Romeo's favor. That votes for a nuisance candidate will be credited to the other candidate is a well-established and well-reasoned result recognized by jurisprudence, such as *Santos v. COMELEC En Banc*.[54]

Section 5, Rule 24[55] in relation to Section 8, Rule 23[56] of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, states that "a [d]ecision or [r]esolution is **deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period**, or in cases of rulings of the Commission *En Banc*, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution."[57]

Applying the above-quoted provision to the case at hand, the COMELEC's Second Division Resolution[58] issued on April 19, 2022, which declared Frederico a nuisance candidate, became final and executory when Frederico failed to file his motion for reconsideration on time — that is, by 5:00 p.m. of April 25, 2022. Frederico e-mailed his motion for reconsideration at around 6:23 p.m. on April 25, 2022,[59] which, under Section 5, Rule 2 of COMELEC Resolution No. 10673,[60] is considered as filed on the next working day. Thus, Frederico's motion for reconsideration was filed beyond the last day of the prescribed period. **Consequently, this failure to file his motion for reconsideration within the prescribed period caused the April 19, 2022 Resolution of the COMELEC's Second Division declaring him as a nuisance candidate to become final and executory.**

Considering that the resolution declaring Frederico as a nuisance candidate had already become final and executory, it then became proper for the COMELEC *En Banc* to order that the votes of Frederico, as the nuisance candidate, be credited in favor of the legitimate candidate, Romeo. Accordingly, the COMELEC did not commit any grave abuse of discretion in issuing the assailed June 7, 2022 Resolution.

To stress, the final and executory finding of the COMELEC that Frederico is a nuisance candidate can no longer be reversed and amended, following the doctrine of finality and immutability of judgments. Under this doctrine, a decision that has acquired finality can no longer be modified in any respect or attacked directly or indirectly, ***even by the Highest Court of the land***.[61] In *National Housing Authority v. Court of Appeals*,[62] the Court explained this by saying:

> It is well-settled that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. This principle, commonly known as the doctrine of immutability of judgment, has a two-fold purpose, namely: (*a*) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business; and (*b*) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Verily, it fosters the judicious perception that the rights and obligations of every litigant must not hang in suspense for an indefinite period of time. As such, it is not regarded as a mere technicality to be easily brushed aside, but rather, a matter of public policy which must be faithfully complied.[63] (Citation omitted)

This doctrine was further emphasized in *People v. Alapan*,[64] in which it was ruled that the immutability of a final judgment precludes its modification, even if such amendment is meant to correct erroneous factual or legal conclusions:

> Finally, the time-honored doctrine of immutability of judgment precludes modification of a final and executory judgment:
>
> > A decision that has acquired finality becomes immutable and

> unalterable. **This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the [H]ighest [C]ourt in the land.** The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write finis to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred.[65] (Emphasis supplied)

In light of all the above, I vote that the consolidated petitions be **DISMISSED**.

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[1] Section 7, Article VI of the Constitution provides:

> SECTION 7. The Members of the House of Representatives shall be elected for a term of three years which **shall begin**, unless otherwise provided by law, **at noon on the thirtieth day of June next following their election.** (Emphasis supplied)

Section 4, Rule II of the Rules of the House of Representatives (House Rules) provides:

> **Section 4. *Composition*.** – The membership of the House shall be composed of elected representatives of legislative districts and those elected through the party-list system. **Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the**

> **administration of an oath for the office by a duly authorized public officer and assumption of office on June 30 following the election.** (Emphasis and underscoring supplied)

[2] Section 17, Article VI of the Constitution states:

> SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

[3] *Rollo* (**G.R. No. 260650**), pp. 424-428.

[4] The relevant Rules were those for the 18th Congress although the incumbent House of Representatives elected last 2022 elections is the 19th Congress; *see* <https://www.congress.gov.ph/download/docs/hrep.house.rules.pdf>.

[5] *See ponencia*, pp. 12-13.

[6] *See* **Bilag v. Ay-ay**, 809 Phil. 236, 243 and 248 (2017).

[7] *See ponencia*, pp. 10-11.

[8] *See id*. at 11.

[9] *See id*. at 20-28.

[10] *See* **Limkaichong v. COMELEC**, 611 Phil. 817, 827-828 (2009); *see also* **Lerias v. House of Representatives Electoral Tribunal, G.R. No. 97105**, October 15, 1991, 202 SCRA 808.

[11] **Vinzons-Chato v. Commission on Elections**, 548 Phil. 712, 725-726 (2007), *citing* **Aggabao v. Commission on Elections, G.R. No. 163756**, January 26, 2005, 449 SCRA 400, 404-405 and **Guerrero v. Commission on Elections**, 391 Phil. 344, 352 (2000).

[12] *Rollo* (**G.R. No. 260650**), p. 399, Certificate of Canvass of Votes and Proclamation of Winning Candidate for Member, House of Representatives dated June 23, 2022.

[13] *Id.* at 399-340.

[14] *Id.* at 399.

[15] *Id.* at 401, Oath of Office dated June 23, 2022 of Romeo M. Jalosjos, Jr.

[16] *Id.*

[17] *Ponencia*, pp. 10-12.

[18] Section 6, Rule II of the House Rules. Emphasis and underscoring supplied.

[19] Section 4, Article IX-8 of the Constitution states:

> SECTION 4. All public officers and employees shall take an oath or affirmation to uphold and defend this Constitution.

[20] INSTITUTING THE "ADMINISTRATIVE CODE OF 1987," July 25, 1987. Section 40, Chapter 10, Book I of EO No. 292 states:

> SECTION 40. *Oaths of Office for Public officers and Employees*. – All public officers and employees of the government including every member of the armed forces shall, before entering upon the discharge of his duties, take an oath or affirmation to uphold and defend the Constitution[.]

[21] Section 16(1), Article VI of the Constitution states:

> SECTION 16. (1) The Senate shall elect its President and the House of Representatives its Speaker, by a majority vote of all its respective Members.

[22] Section 4, Article IX-B of the Constitution states:

> SECTION 4. All public officers and employees shall take an oath or affirmation to uphold and defend this Constitution.

[23] Section 40, Chapter 10, Book I of EO No. 292 states:

> SECTION 40. *Oaths of Office for Public officers and Employees*. – All public officers and employees of the government including every member of the armed forces shall, before entering upon the discharge of his duties, take an oath or affirmation to uphold and defend the Constitution[.]

[24] *Ponencia*, p. 11.

[25] *Id.*

[26] *Id.* at 11-12.

[27] *Id.*

[28] Section 4, Rule II of the House Rules provides:

> Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and **assumption of office on June 30 following the election**. (Emphasis supplied)

[29] *Ponencia*, p. 11.

[30] Sections 15 and 16(1), Article VI of the Constitution provides:

> SECTION 15. The Congress shall convene once every year on the fourth Monday of July for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays,

Sundays, and legal holidays. The President may call a special session at any time.

SECTION 16. (1) The Senate shall elect its President and the House of Representatives its Speaker, by a majority vote of all its respective Members.

[31] *Rollo* (**G.R. No. 260650**), p. 402, Certification dated July 13, 2022 signed by Mark Llandro L. Mendoza.

[32] *Id.*

[33] *Id.* at 923.

[34] *Id.*

[35] *Id.*

[36] *Ponencia*, pp. 13-15.

[37] *Supra* note 11.

[38] *Id.* at 725-727.

[39] 601 Phil. 751 (2009).

[40] See *id.* at 757 and 782.

[41] See *ponencia*, pp. 12-13.

[42] *See* **Diaz v. Spouses Punzalan**, 783 Phil. 456, 465 (2016).

[43] 744 Phil. 201 (2014).

[44] *Id.* at 213-214.

[45] *Ponencia*, pp. 7-8.

[46] *See* CONSTITUTION, Art. VI, Sec. 17.

[47] Batas Pambansa Blg. 881, OMNIBUS ELECTION CODE OF THE PHILIPPINES, December 3, 1985. Section 69 of the OEC states:

> SECTION 69. *Nuisance candidates*. – The Commission may, *motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

[48] Section 7, Article IX-A (Constitutional Commissions – Common Provisions) of the Constitution provides:

> SECTION 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

[49] *See ponencia*, pp. 5-6.

[50] Section 5, Rule 24 in relation to Section 8, Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, states that "a [d]ecision or [r]esolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission *En Banc*, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution."

[51] *Ponencia*, p. 15.

[52] **Energy Regulatory Commission v. Therma Mobile, Inc., G.R. Nos. 244449 & 244455-56**, September 29, 2021 (Unsigned Resolution).

[53] *See* **Energy Regulatory Commission v. Therma Mobile, Inc.**, *id*.; **Aruego, Jr. v.**

Court of Appeals, 325 Phil. 191 (1996); **A' Prime Security Services, Inc. v. Drilon**, 316 Phil. 532 (1995); and **Ramos v. Central Bank of the Philippines**, 148-B Phil. 1047 (1971).

[54] 839 Phil. 672 (2018).

[55] Proceedings Against Nuisance Candidates.

[56] Petition to Deny Due Course to or Cancel Certificates of Candidacy.

[57] Emphasis supplied.

[58] *Rollo* (**G.R. No. 260952**), pp. 241-250.

[59] *Id.* at 278, COMELEC Resolution dated June 7, 2022.

[60] IN RE: GUIDELINES ON ELECTRONIC FILING, CONDUCT OF HEARINGS/INVESTIGATIONS/INQUIRIES VIA VIDEO CONFERENCE, AND SERVICE, June 25, 2020. Section 5, Rule 2 of COMELEC Resolution No. 10673 states:

> **Section 5. *Schedule of Filing through E-mail.*** — The schedule of filing of verified pleadings, memoranda, comments, briefs, and other submissions th[r]ough E-mail shall be from Monday to Friday, 8:00 am to 5:00 pm, excluding holidays. E-mails received beyond 5:00 pm shall be considered filed at 8:00 am of the next working day.
>
> Where a deadline falls on a Saturday, a Sunday, or a legal holiday, official transaction shall be done on the next working day. (*COMELEC Resolution 8665, 02 September 2009*)

[61] **Bernardo v. Court of Appeals**, 800 Phil. 50, 64 (2016).

[62] 731 Phil. 400 (2014).

[63] *Id*. at 405-406.

[64] 823 Phil. 272 (2018).

[65] *Id.* at 283.

Date created: November 15, 2023