

REV. FR. NARDO B. CAYAT, PETITIONER, VS. COMMISSION ON ELECTIONS (FIRST DIVISION), COMMISSION ON ELECTIONS (EN BANC), AND THOMAS R. PALILENG, SR., RESPONDENTS.*G.R. NO. 163776. April 24, 2007*

Ponente: CARPIO, J.

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For our resolution are two petitions for certiorari filed by Rev. Fr. Nardo B. Cayat (Cayat). G.R. No. 163776 is a petition for certiorari[1] of the Resolution dated 12 April 2004[2] and of the Order dated 9 May 2004[3] of the First Division of the Commission on Elections (COMELEC First Division) in SPA Case No. 04-152. The 12 April 2004 Resolution cancelled the certificate of candidacy of Cayat as mayoralty candidate of Buguias, Benguet in the 10 May 2004 local elections. The 9 May 2004 Order denied Cayat's motion for reconsideration for failure to pay the required filing fee.

G.R. No. 165736 is a petition for certiorari[4] of the Order dated 25 October 2004[5] of the COMELEC First Division also in SPA Case No. 04-152. The 25 October 2004 Order granted the motion for execution of judgment filed by Thomas R. Palileng, Sr. (Palileng) and annulled Cayat's proclamation. The 25 October 2004 Order also directed (1) the COMELEC Law Department to implement the dispositive portion of the 12 April 2004 Resolution; (2) the Regional Election Director of the Cordillera Autonomous Region (CAR) to create a new Municipal Board of Canvassers (MBOC); (3) the new MBOC to convene and prepare a new Certificate of Canvass for Mayor of Buguias, Benguet by deleting Cayat's name and to proclaim Palileng as the duly elected Mayor of Buguias, Benguet. Feliseo K. Bayacsan (Bayacsan), duly elected Vice-Mayor of Buguias, Benguet, filed a petition-in-intervention in G.R. No. 165736.

The Facts

Cayat and Palileng were the only candidates for the mayoralty post in Buguias, Benguet in the 10 May 2004 local elections. Cayat filed his certificate of candidacy on 5 January 2004. On 26 January 2004, Palileng filed a petition for disqualification against Cayat before the COMELEC Regional Election Office in Baguio City. Docketed as SPA (PES) No. C04-001, Palileng's petition alleged that:

- On January 05, 2004, [Cayat] filed his Certificate [of] Candidacy for Mayor for the Municipality of Buguias, Benguet, Philippines alleging among others as follows:

"I AM ELIGIBLE for the office [I] seek to [be] elected, x x x. I hereby certify that the facts stated herein are true and correct of my own personal knowledge."x x x (Underscoring supplied).

Copy of his Certificate of Candidacy is hereto attached and marked as ANNEX "A";

- The truth of the matter being that [Cayat] is not eligible to run as Mayor having been convicted by final judgment for a criminal offense by the Municipal Trial Court of Baguio City, Philippines, Branch 2, for the

Crime of Forcible Acts of Lasciviousness docketed as Criminal Case Number 110490. Copies of the Information and the Order of conviction dated October 03, 2003 is [sic] hereto attached and marked as ANNEX "B" and "C";

- In fact, [Cayat] is still under probation at the time he filed his Certificate of Candidacy on January 05, 2004 after the Honorable Court granted his application for probation on November 06, 2003. Copies of the Application for probation date[d] October 07, 2003 and the Order granting the probation is [sic] hereto attached and marked as ANNEXES "D" and "E";

- Despite assumption of obligation imposed by this oath that the facts stated in his Certificate of Candidacy are true to the best of his knowledge, [Cayat] made misrepresentations and committed acts of perjury when he declared that he is eligible for the said office while in truth and in fact, Respondent was convicted in the above-mentioned Criminal Complaint;

- At the time of filing his Certificate of Candidacy, [Cayat] is disqualified to [sic] said office as Mayor as he is still serving his sentence and/or disqualification was not yet removed or cured[.][6] (Emphasis in the original)

Atty. Julius D. Torres (Atty. Torres), COMELEC Provincial Election Supervisor for Baguio-Benguet, served summons on Cayat by telegram through the Telecommunications Office on 26 January 2004. However, Cayat did not personally receive the telegram. The Telecommunications Office of Abatan, Buguias delivered the telegram to Ferdinand Guinid (Guinid). Atty. Torres also instructed Mr. Francis Likigan, Election Officer of Buguias, Benguet, to personally inform Cayat to file his answer within three days from receipt of notice. Cayat did not file an answer.

The Ruling of the COMELEC

Despite Cayat's non-participation, Atty. Torres proceeded with SPA (PES) No. C04-001. Palileng filed his position paper on 16 February 2004. Atty. Torres then resolved the issues based on available records. Atty. Torres also submitted the entire record of the case together with his findings and recommendation to the Office of the Clerk of the COMELEC on 24 February 2004. Pertinent portions of Atty. Torres' report read:

It is important to note that based on the petition, [Palileng] seeks to disqualify [Cayat] for material misrepresentation in his certificate of candidacy. This can be deduced from the fact that the petitioner cited in his petition that the respondent declared that he is eligible for the office he is seeking to be elected where in fact, [Cayat] is not eligible due to his conviction of a criminal offense. This being [the case,] the petition should have been a petition to deny due course or to cancel certificate of candidacy which should have been filed within five (5) days from the last day of filing certificates of candidacy. Obviously, a petition to deny due course could no longer be filed at the time the petition was received.

However, it is important that the petition alleged the disqualification of the respondent by reason of his conviction of a criminal offense, which is the main reason why the petitioner filed this case. On this note, the applicable provision of law is now Sec. 40(a) of R.A. 7160 otherwise known as the Local Government Code. Said provision of law reads:

Sec. 40. Disqualifications. The following persons are disqualified from running fro [sic] any elective local position:

- (a) Those sentenced by final judgment for an offense involving moral turpitude for an offense punishable by one (1) year or more of imprisonment within [two] (2) years after serving sentence;
- (b) xxx xxx xxx

With this, the issue of disqualification rests on Sec. 40(a) of the Local Government Code and not on the material misrepresentation in the certificate of candidacy.

The issue now to be resolved is whether or not the crime of Forcible Acts of Lasciviousness, to which [Cayat] was convicted by final judgment, is a crime involving moral turpitude so as to bring the issue within the coverage of Section 40(a) of the Local Government Code.

The conviction of [Cayat] was never questioned. In fact [Cayat] accepted his conviction by applying for probation which was granted on November 6, 2003. It is already well settled that a judgment of conviction in a criminal case ipso facto attains finality when the accused applies for probation. This brings us to the issue of moral turpitude.

Based on the Information filed, [Cayat] was convicted of Forcible Acts of Lasciviousness when he, with lewd desire and/or with intention to obtain sexual gratification, did then and there willfully, unlawfully and feloniously hold the complainant's [AAA] arm which he placed on his crotch, grab[bed] and embraced her, as well as kiss[ed] her on the lips and mashed her breasts and performed similar acts of indecency, with force and intimidation and against the will of complainant.

Moral turpitude had been defined as everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general, contrary to justice, honesty, modesty or good morals. (IRRI vs[.] NLRC, May 12, 1993)

Moral turpitude implies something immoral in itself, regardless of the fact that it is punishable by law or not. It is not merely mala prohibita, but the act itself must be inherently immoral. The doing of the act itself, and not its prohibition by statute fixes the moral turpitude. Moral turpitude does not, however, include such acts as are not of themselves immoral but those initially lies in their being positively prohibited (Dela Torre vs[.] COMELEC and Marcial Villanueva, G.R. No. 121592, July 5, 1996).

From the definition of moral turpitude, it can be determined that the acts of [Cayat] involved moral turpitude. His acts fell short of his inherent duty of respecting his fellowmen and the society. This was aggravated by the fact that [Cayat] is a priest. The crime of acts of lasciviousness clearly involves moral turpitude.

Therefore, the respondent is convicted of a crime involving moral turpitude. Applying Sec. 40(a) of the Local Government Code, it is recommended that [Cayat] be disqualified from running as Mayor of the Municipality of Buguias, Benguet.[7]

In its Resolution of 12 April 2004 of the case docketed as SPA Case No. 04-152, the COMELEC First Division found no compelling reason to disturb Atty. Torres' findings and consequently cancelled Cayat's certificate of candidacy. The dispositive portion of the COMELEC First Division's Resolution reads:

WHEREFORE, premises considered, the Commission RESOLVED as it hereby RESOLVES to CANCEL the Certificate of Candidacy of Respondent REV. FATHER NARDO B. CAYAT.

The Law Department is directed to CANCEL the Certificate of Candidacy of REV. FR. NARDO B. CAYAT as mayoralty candidate in Buguias, Benguet in connection with the May 10, 2004 Elections.

SO ORDERED.[8]

On 13 April 2004, Cayat received a telegram from the Telecommunications Office through an unnamed person. Apparently, the Telecommunications Office asked the unnamed person to deliver the telegram to Cayat. In his affidavit, Cayat stated that on 13 April 2004, someone gave "me a telegram which I received. Said telegram which I read later, informed me that the COMELEC will promulgate its decision on April 12, 2004, at the Comelec Session Hall in Intramuros, Manila." [9]

The officer in charge of the Telecommunications Office in Buguias, Benguet, Mr. Rufino G. Cabato, certified that he delivered the telegram to Guinid. He further stated that Guinid, Cayat's cousin, voluntarily accepted to deliver

the telegram to Cayat.

Cayat filed a motion for reconsideration before the COMELEC En Banc on 16 April 2004. Cayat argued that the COMELEC First Division Resolution of 12 April 2004 is void because the COMELEC did not acquire jurisdiction over him. Cayat also argued that Section 5 of COMELEC Resolution No. 6452 (Resolution No. 6452) allowing service of summons by telegram is void.

In an order dated 9 May 2004, the COMELEC First Division dismissed Cayat's motion for reconsideration for failure to pay the required filing fee. In the local elections held on 10 May 2004, Cayat's name remained on the COMELEC's list of candidates. In the Certificate of Canvass of Votes dated 12 May 2004, Cayat received 8,164 votes.[10] Palileng, on the other hand, received 5,292 votes.[11] Cayat was thus proclaimed the duly elected Mayor of Buguias, Benguet. Cayat took his oath of office on 17 May 2004.

Meanwhile, on 13 May 2004, Cayat received a photocopy of the 9 May 2004 order of the COMELEC First Division denying his motion for reconsideration for his failure to pay the filing fee. On 26 May 2004, Cayat filed the petition docketed as G.R. No. 163776 before this Court.

On 29 July 2004, pending the resolution of G.R. No. 163776, Palileng filed a petition for annulment of proclamation with a prayer for the issuance of an injunctive relief, docketed as SPC No. 04-043, against the MBOC of Buguias and Cayat before the COMELEC Second Division. On 28 August 2004, the COMELEC Second Division dismissed Palileng's petition pursuant to COMELEC Omnibus Resolution No. 7257 (Resolution No. 7257). Resolution No. 7257 enumerated the cases which survived from among those filed before the Clerk of the COMELEC in the 10 May 2004 elections and which required proceedings beyond 30 June 2004.[12]

On 29 July 2004, pending resolution by the COMELEC of SPC No. 04-043, Palileng also filed a motion for execution of judgment in SPA Case No. 04-152. On 10 August 2004, the COMELEC First Division issued an order setting on 18 August 2004 the hearing on the motion for execution. Only Palileng's counsel appeared during the hearing. The parties were instructed to file their respective memoranda within five days. In an order dated 25 October 2004, the COMELEC First Division granted the motion for execution and disposed of the case as follows:

WHEREFORE, premises considered, the Commission (First Division) hereby GRANTS the instant Motion for Execution of Judgment and ANNULS the proclamation of Respondent Rev. Fr. Nardo B. Cayat. Accordingly, it directs as follows:

- For the Law Department to implement the disposition of this Commission (First Division) in its Resolution promulgated last April 12, 2004 and affirmed when it denied Respondent's Motion for Reconsideration in its Order of May 9, 2004, for it to "CANCEL the Certificate of Candidacy of Rev. Father Nardo B. Cayat as mayoralty candidate in Buguias, Benguet in connection with the May 10, 2004 Elections["];
- For the Regional Election Director of Cordillera Autonomous Region (CAR) to create a new Municipal Board of Canvassers;
- After due notice to the parties, for the Board to convene and prepare a new Certificate of Canvass for mayor of Buguias, Benguet deleting therefrom the name of disqualified candidate Rev. Fr. Nardo B. Cayat and immediately proclaim petitioner Thomas R. Palileng, Sr. as the duly elected mayor of Buguias, Benguet.[13]

Cayat filed an omnibus motion before the COMELEC First Division on 3 November 2004. Cayat prayed for the recall of the 25 October 2004 order and for the suspension of further proceedings while the resolution of G.R. No. 163776 remains pending before this Court. The hearing on the motion was set for 12 November 2004.[14]

However, on 4 November 2004, Atty. Armando Velasco, Regional Director for the CAR, sent a notice that the

new MBOC would convene on 12 November 2004 for the implementation of the COMELEC First Division's 25 October 2004 order. On 10 November 2004, Cayat filed a petition for certiorari before this Court which was docketed as G.R. No. 165736. Cayat prayed that (1) a temporary restraining order or a writ of preliminary injunction be issued to enjoin COMELEC and its agents from enforcing the 25 October 2004 order and the 4 November 2004 notice; (2) an order be issued reversing and setting aside the 25 October 2004 order and the 4 November 2004 notice; and (3) an order be issued directing the COMELEC to suspend proceedings in SPA Case No. 04-152 until G.R. No. 163776 is resolved by this Court with finality.

On 12 November 2004, the new MBOC executed the COMELEC First Division's order of 25 October 2004 and proclaimed Palileng as Mayor of Buguias, Benguet. Palileng took his oath of office on the same day.

Bayacsan, elected Vice-Mayor of Buguias, Benguet, filed his petition-in-intervention in G.R. No. 165736 on 17 November 2004 before this Court. For his part, Bayacsan prayed that the 25 October 2004 order and the 12 November 2004 proclamation be nullified and that he be declared as the rightful Mayor of Buguias, Benguet.

The Issues

The present petition seeks to determine the legality of the orders cancelling Cayat's Certificate of Candidacy, nullifying Cayat's proclamation as Mayor of Buguias, Benguet, and declaring Palileng as Mayor of Buguias, Benguet.

The Ruling of the Court

The petition has no merit.

On the Late Filing of Cayat's Motion for Reconsideration

Cayat learned about the promulgation of the COMELEC First Division Resolution of 12 April 2004 and its contents through two separate telegrams. He narrates the circumstances of his receipt of these telegrams as follows:

- On April 13, 2004, I took a jeepney ride to Loo, Buguias, to attend a farmers' congress. When the jeep I was riding in made a stop in front of the Lino's Grocery in Abatan, somebody (who was not an employee of the Telecom Office) came rushing to give me a telegram which I received. Said telegram, which I read later, informed me that the Comelec will promulgate its decision on April 12, 2004, at the Comelec Session Hall in Intramuros, Manila;

- I could not make a trip to my lawyer in Baguio City until April 15, 2004, because he was appearing with Attorneys Samson Alcantara and Rene Gorospe before the Supreme Court which was holding oral arguments in Baguio City;

- On April 15, 2004, at about 3:00 o'clock, I received a text message in the office of my lawyer that a telegram was served to Mr. Simon Guinid. The message was forwarded. It gave information that my Certificate of Candidacy (COC) had been canceled by the First Division of the Comelec;

x x x x[15]

On 16 April 2004, Cayat filed a motion for reconsideration of the Resolution of 12 April 2004 before the COMELEC en banc. Cayat alleged that although the Resolution was promulgated on 12 April 2004, he was notified by telegram only on 13 April 2004. Hence, Cayat posits, he had until 16 April 2004 to move for reconsideration.

Cayat claims that he was not served the advance notice of promulgation required in Section 7 of Resolution No.

6452,[16] stating:

Promulgation. — The promulgation of a decision or resolution of the Commission or a Division shall be made on a date previously fixed, of which notice shall be served in advance upon the parties or their attorneys personally or by registered mail or by telegram or fax.

The three-day period[17] from promulgation of the resolution in Section 8 of Resolution No. 6452, within which to file a motion for reconsideration, presupposes that the advance notice in Section 7 was served on Cayat.

The COMELEC sent the advance notice to Cayat by telegram to "Bayoyo, Buguias, Benguet," the address Cayat wrote on the blank space provided beside "RESIDENCE" in the Certificate of Candidacy he filed with the COMELEC.[18] The COMELEC sent the telegram to Cayat before the date of promulgation. Cayat, who was traveling throughout Buguias at the time, admitted in his affidavit that on 13 April 2004, someone gave "me a telegram which I received. Said telegram which I read later, informed me that the COMELEC will promulgate its decision on April 12, 2004, at the Comelec Session Hall in Intramuros, Manila." [19]

Clearly, by the wordings of the telegram, the COMELEC sent the telegram to the residence address of Cayat before 12 April 2004, the date of promulgation. It is immaterial if Cayat personally received the telegram after 12 April 2004 as long as the telegram was sent and delivered before 12 April 2004 to the residence address Cayat indicated in his Certificate of Candidacy.

However, there is no point belaboring this issue, which need not even be resolved. Whether the telegram reached the residence address of Cayat before or after the date of promulgation will not affect the outcome of this case. Cayat failed to pay the prescribed filing fee when he filed his motion for reconsideration on 16 April 2004. There is no dispute that the failure to pay the filing fee made the motion for reconsideration a mere scrap of paper, as if Cayat did not file any motion for reconsideration at all.

Thus, the disqualification of Cayat became final three days after 13 April 2004, based on Cayat's own allegation that he received the telegram only on 13 April 2004 and that he had until 16 April 2004 to file a motion for reconsideration. Clearly, the COMELEC First Division's Resolution of 12 April 2004 cancelling Cayat's Certificate of Candidacy due to disqualification became final on 17 April 2004, or 23 days before the 10 May 2004 elections.

On Cayat's Failure to Pay the Filing Fee for His Motion for Reconsideration

In an order dated 9 May 2004, the COMELEC First Division denied Cayat's motion for reconsideration for failure to pay the required filing fee. Cayat made a fatal error: he failed to pay the required filing fee for his motion for reconsideration.

Although there is nothing in Resolution No. 6452 which mentions the need to pay a fee for filing a motion for reconsideration, Section 7 of Rule 40 of the 1993 COMELEC Rules of Procedure imposes a fee of P300 for filing a motion for reconsideration of a decision, order, or resolution. The succeeding section further provides that the COMELEC may refuse to take action until it is paid.

Cayat's motion for reconsideration is merely pro forma because Cayat failed to pay the prescribed filing fee within the prescribed period.[20] This brings us to the conclusion that it is as if no motion for reconsideration had been filed, resulting in the 12 April 2004 Resolution of the COMELEC's First Division attaining finality. The COMELEC First Division's 12 April 2004 Resolution declaring Cayat's disqualification became final on 17 April 2004, long before the 10 May 2004 local elections.

On Palileng's Proclamation

There is no doubt as to the propriety of Palileng's proclamation for two basic reasons.

First, the COMELEC First Division's Resolution of 12 April 2004 cancelling Cayat's certificate of candidacy due to disqualification became final and executory on 17 April 2004[21] when Cayat failed to pay the prescribed filing fee. Thus, Palileng was the only candidate for Mayor of Buguias, Benguet in the 10 May 2004 elections. Twenty-three days before election day, Cayat was already disqualified by final judgment to run for Mayor in the 10 May 2004 elections. As the only candidate, Palileng was not a second placer. On the contrary, Palileng was the sole and only placer, second to none. The doctrine on the rejection of the second placer, which triggers the rule on succession, does not apply in the present case because Palileng is not a second-placer but the only placer. Consequently, Palileng's proclamation as Mayor of Buguias, Benguet is beyond question.

Second, there are specific requirements for the application of the doctrine on the rejection of the second placer. The doctrine will apply in Bayacsan's favor, regardless of his intervention in the present case, if two conditions concur: (1) the decision on Cayat's disqualification remained pending on election day, 10 May 2004, resulting in the presence of two mayoralty candidates for Buguias, Benguet in the elections; and (2) the decision on Cayat's disqualification became final only after the elections.

Labo, Jr. v. COMELEC,[22] which enunciates the doctrine on the rejection of the second placer, does not apply to the present case because in Labo there was no final judgment of disqualification before the elections. The doctrine on the rejection of the second placer was applied in Labo and a host of other cases[23] because the judgment declaring the candidate's disqualification in Labo and the other cases[24] had not become final before the elections. To repeat, Labo and the other cases applying the doctrine on the rejection of the second placer have one common essential condition — the disqualification of the candidate had not become final before the elections. This essential condition does not exist in the present case.

Thus, in Labo, Labo's disqualification became final only on 14 May 1992, three days after the 11 May 1992 elections. On election day itself, Labo was still legally a candidate. In the present case, Cayat was disqualified by final judgment 23 days before the 10 May 2004 elections. On election day, Cayat was no longer legally a candidate for mayor. In short, Cayat's candidacy for Mayor of Buguias, Benguet was legally non-existent in the 10 May 2004 elections.

The law expressly declares that a candidate disqualified by final judgment before an election cannot be voted for, and votes cast for him shall not be counted. This is a mandatory provision of law. Section 6 of Republic Act No. 6646, The Electoral Reforms Law of 1987, states:

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

Section 6 of the Electoral Reforms Law of 1987 covers two situations. The first is when the disqualification becomes final before the elections, which is the situation covered in the first sentence of Section 6. The second is when the disqualification becomes final after the elections, which is the situation covered in the second sentence of Section 6.

The present case falls under the first situation. Section 6 of the Electoral Reforms Law governing the first situation is categorical: a candidate disqualified by final judgment before an election cannot be voted for, and

votes cast for him shall not be counted. The Resolution disqualifying Cayat became final on 17 April 2004, way before the 10 May 2004 elections. Therefore, all the 8,164 votes cast in Cayat's favor are stray. Cayat was never a candidate in the 10 May 2004 elections. Palileng's proclamation is proper because he was the sole and only candidate, second to none.

Labo involved the second situation covered in the second sentence of Section 6 of the Electoral Reforms Law. In Labo, the Court applied the second sentence of Section 6, and even italicized the second sentence for emphasis, thus:

x x x In the first place, Sec. 72 of the Omnibus Election Code has already been repealed by Sec. 6 of RA No. 6646, to wit:

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

A perusal of the above provision would readily disclose that the Comelec can legally suspend the proclamation of petitioner Labo, his reception of the winning number of votes notwithstanding, especially so where, as in this case, Labo failed to present any evidence before the Comelec to support his claim of reacquisition of Philippine citizenship.[25] (*Italicization in the original*)

Cayat's proclamation on 12 May 2004 is void because the decision disqualifying Cayat had already become final on 17 April 2004. There is no longer any need to ascertain whether there was actual knowledge by the voters of Cayat's disqualification when they cast their votes on election day because the law mandates that Cayat's votes "shall not be counted." There is no disenfranchisement of the 8,164 voters. Rather, the 8,164 voters are deemed by law to have deliberately voted for a non-candidate, and thus their votes are stray and "shall not be counted."

To allow a candidate disqualified by final judgment 23 days before the elections to be voted for and have his votes counted is a blatant violation of a mandatory provision of the election law. It creates confusion in the results of the elections and invites needless new litigations from a candidate whose disqualification had long become final before the elections. The doctrine on the rejection of the second placer was never meant to apply to a situation where a candidate's disqualification had become final before the elections.

In short, the COMELEC First Division Resolution of 12 April 2004 cancelling Cayat's certificate of candidacy, on the ground that he is disqualified for having been sentenced by final judgment for an offense involving moral turpitude, became final on 17 April 2004. This constrains us to rule against Cayat's proclamation as Mayor of Buguias, Benguet. We also rule against Bayacsan's petition-in-intervention because the doctrine on the rejection of the second placer does not apply to this case.

WHEREFORE, we DISMISS Rev. Fr. Nardo B. Cayat's petitions and Feliseo K. Bayacsan's petition-in-intervention. We AFFIRM the Resolution of the First Division of the Commission on Elections dated 12 April 2004 and the Orders dated 9 May 2004 and 25 October 2004.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Garcia, and Velasco, Jr., JJ., concur.

Azcuna, Chico-Nazario, and Nachura, JJ., join, dissenting opinion of J. Tinga.

Tinga, J., please see dissent.

[1] Under Rule 64 of the 1997 Rules of Civil Procedure.

[2] Rollo (G.R. No. 163776), pp. 57-64. Penned by Commissioner Virgilio O. Garcillano, with Commissioners Rufino S.B. Javier and Resurreccion Z. Borra, concurring.

[3]Id. at 56. Signed by Commissioners Rufino S.B. Javier, Resurreccion Z. Borra, and Virgilio O. Garcillano.

[4] Under Rule 64 of the 1997 Rules of Civil Procedure.

[5] Rollo (G.R. No. 165736), pp. 26-34. Signed by Commissioners Rufino S.B. Javier, Resurreccion Z. Borra, and Virgilio O. Garcillano.

[6] Rollo (G.R. No. 163776), pp. 93-95.

[7] Id. at 59-61. Complainant's name is omitted per our decision in *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419. See also Section 44 of the Anti-Violence Against Women and their Children Act of 2004, Republic Act No. 9292 and Section 40 of the Rule on Violence Against Women and Children, Administrative Matter No. 04-10-11-SC.

[8] Id. at 64.

[9] Id. at 80.

[10] Id. at 107.

[11] Id. at 165.

[12] The COMELEC shall dismiss without need of hearing all other cases which are not found in the enumeration and which were disposed of according to the guidelines set forth under paragraphs one to five of the dispositive portion of Resolution No. 7257.

The dispositive portion of Resolution No. 7257 reads:

NOW, THEREFORE, by virtue of its powers under the Constitution, the Omnibus Election Code, Batas Pambansa Blg. 881, Republic Act Nos. 6646 and 7166, and other election laws, the Commission RESOLVED, as it hereby RESOLVES:

- All cases which were filed by private parties without timely payment of the proper filing fee are hereby dismissed;
- All cases which were filed beyond the reglementary period or not in the form prescribed under appropriate provisions of the Omnibus Election Code, Republic Act Nos. 6646 and 7166 are hereby likewise dismissed;
- All other pre-proclamation cases which do not fall within the class of cases specified under paragraphs (1) and (2) immediately preceding shall be deemed terminated pursuant to Section 16, R.A. 7166 except those mentioned in paragraph (4). Hence, all the rulings of boards of canvassers concerned are deemed affirmed. Such boards of canvassers are directed to reconvene forthwith, continue their respective canvass and proclaim the winning candidates accordingly, if the proceedings were suspended by virtue of pending pre-proclamation cases;
- All remaining pre-proclamation cases, which on the basis of the evidence thus far presented, appear meritorious and/or are subject of orders by the Supreme Court or this Commission in petitions for certiorari brought respectively to them shall likewise remain active cases, thereby requiring the proceedings therein to continue

beyond 30 June 2004, until they are finally resolved; and

- All petitions for disqualification, failure of elections or analogous cases, not being pre-proclamation controversies and, therefore, not governed by Sections 17, 18, 19, 20, 21, and particularly, by the second paragraph of Sec. 6, Republic Act No. 7166, shall remain active cases, the proceedings to continue beyond June 30, 2004, until the issues therein are finally resolved by the Commission.

ACCORDINGLY, it is hereby ordered that the proceedings in the cases appearing on the list annexed and made an integral part hereof, be continued to be heard and disposed of by the Commission.

This resolution shall take effect immediately.

[13] Rollo (G.R. No. 163776), pp. 161-162.

[14] Rollo (G.R. No. 165736), pp. 42-51.

[15] Rollo (G.R. No. 163776), p. 80.

[16] Rules Delegating to COMELEC Field Officials the Hearing and Reception of Evidence of Disqualification Cases Filed on connection with the May 10, 2004 National and Local Elections; Motu Proprio Actions and Dispositions of Disqualification Cases.

[17] Section 8 of Resolution No. 6452 provides:

SECTION 8. Motion for Reconsideration. — A motion to reconsider a decision, resolution, order or ruling of a division shall be filed within three (3) days from the promulgation thereof. Such motion, if not pro-forma suspends the execution for implementation of the decision, resolution, order and ruling.

Within twenty-four (24) hours from the filing thereof, the Clerk of the Commission shall notify the Presiding Commissioner. The latter shall, within two (2) days thereafter, certify the case to the Commission en banc.

The Clerk of the Commission shall calendar the motion for reconsideration for the resolution of the Commission en banc within three (3) days from the certification thereof.

[18] Rollo (G.R. No. 163776), pp. 97, 106.

[19] *Id.* at 80.

[20] See *Loyola v. COMELEC*, 337 Phil. 134 (1997).

[21] See note 17.

[22] G.R. No. 105111 and G.R. No. 105384, 3 July 1992, 211 SCRA 297.

[23] To name a few: *Ocampo v. House of Representatives Electoral Tribunal*, G.R. No. 158466, 15 June 2004, 432 SCRA 144; *Kare v. COMELEC*, G.R. No. 157526, 28 April 2004, 428 SCRA 264; *Codilla, Sr. v. De Venecia*, 442 Phil. 139 (2002); *Loreto v. Brion*, 370 Phil. 727 (1999); *Sunga v. COMELEC*, 351 Phil. 310 (1998); *Nolasco v. COMELEC*, 341 Phil. 761 (1997); *Reyes v. COMELEC*, 324 Phil. 813 (1996); *Abella v. COMELEC*, G.R. 100710, 3 September 1991, 201 SCRA 253; *Geronimo v. Ramos*, G.R. No. L-60504, 14 May 1985, 136 SCRA 435.

[24] *Id.*

[25] *Labo, Jr. v. COMELEC*, *supra* note 22, at 305.

DISSENTING OPINION

TINGA, J.:

The ponencia in this case is fraught with significant ramifications which are not adequately addressed because of its fastidious adherence to technical rules of procedure.

I choose to preface my dissent in this manner not to belittle the importance of procedural rules. I am all too aware of their value. However, I do believe that election cases are a special breed imbued as they are with public interest of the highest order and election rules of procedure should at all times be construed with liberality to the end that the true mandate of the people may be heard.

In separate petitions for certiorari, Rev. Fr. Nardo B. Cayat (Cayat) assails a Resolution and two orders all issued by the Comelec First Division, respectively canceling his certificate of candidacy, denying his motion for reconsideration for failure to pay the filing fee, annulling his proclamation, and subsequently proclaiming the second placer, private respondent Thomas R. Palileng, Sr., the duly elected mayor of Buguias, Benguet.

The ponencia affirms all three issuances declaring that Cayat belatedly filed his motion for reconsideration of the April 12, 2004 Resolution canceling his certificate of candidacy and failed to pay the required filing fee. As a consequence of the supposed procedural flaws in Cayat's motion, the ponencia holds that Cayat's disqualification became final as early as April 16, 2004— the very day he filed his motion for reconsideration of the April 12 Resolution—and the votes cast in his favor on election day were considered stray. The second placer was thus correctly declared the winner in the mayoralty race, the ponencia winds up.

I take strong exception to the ponencia on two main points: first, on the question of (1) whether Cayat's motion for reconsideration was defective for being filed late and for non-payment of filing fee and consequently, (2) whether his disqualification became final before election day; and second, on the question of (3) whether second placer Palileng ought to have been proclaimed the duly elected mayor.

Section 8 of Resolution No. 6452 provides that a motion to reconsider a decision, resolution, order or ruling of a division shall be filed within three (3) days from the promulgation thereof. This presupposes that, as required by Section 5, Rule 18 of the Comelec Rules of Procedure,[1] the date of promulgation of a decision or resolution has been previously fixed and notice has been served upon the concerned parties in advance. This procedure ensures that a party cannot feign ignorance of the date of promulgation of a decision or resolution and, by this means, extend the reglementary period for filing a motion for reconsideration.[2]

In this case, Cayat did not receive a notice of promulgation in advance of the actual promulgation of the Resolution dated April 12, 2004. In fact, he did not even receive the summons sent him through telegram by the Comelec telecommunications office, as a consequence of which he was completely unable to participate in the disqualification proceedings against him.

It was only on April 13, 2004 that he learned of the scheduled promulgation of the Resolution on April 12, 2004. He filed his motion for reconsideration on April 16, 2004, three (3) days from actual notice of the Resolution, precisely arguing that the Comelec did not validly acquire jurisdiction over him. Due process commands that in view of the factual antecedents of the case, the period to file a motion for reconsideration should be reckoned from the time Cayat actually received notice of the decision against him.[3]

At any rate, there is no need to further belabor this point because Cayat's motion for reconsideration was denied not because it was filed late but purportedly due to his failure to pay the prescribed filing fee.

The ponencia declares that Cayat's failure to pay the filing fee warranted the dismissal of his motion for reconsideration. The error in this conclusion lies in the equally flawed premise that Sec. 19, Rule 40 of the Comelec Rules of Procedure is analogous to Sec. 13, Rule 41 of the Rules of Court pertaining to the dismissal of appeals from the Regional Trial Court for, among others, non-payment of docket and other fees.

Election cases are not akin to ordinary civil actions. The rules which apply to ordinary civil actions may not necessarily serve the purpose of election cases especially since election laws are to be accorded utmost liberality in their interpretation and application bearing in mind that the will of the people must be upheld. While ordinary civil actions generally involve private interests, election cases are, at all times, invested with public interest which cannot be defeated by mere procedural or technical infirmities.^[4] Thus, while the non-payment of filing fees would suffice to dismiss an appeal in ordinary civil actions, such a rule is not necessarily applicable to election cases.

Under the Comelec Rules of Procedure, when the prescribed filing fee is not paid on the same day as the filing of the pleading or motion concerned, otherwise filed on time, such non-payment is not a mandatory ground for dismissing or denying the pleading or motion. The Comelec has discretion whether to accept the pleading or motion or reject it outright. In other words, the pleading or motion is not ipso facto converted into a scrap of paper.

Section 19, Rule 40 of the Comelec Rules of Procedure expressly provides that the Commission "may refuse to take action thereon [pleading or motion] until [the prescribed fees] are paid and may dismiss the action or proceeding."^[5] Hence, the filing fee need not be paid on the same date the motion for reconsideration is filed. Indeed, it may be paid at any time after filing of the motion at the discretion of the Commission as it may refuse or defer action until the fee is paid.

Regarding Cayat's motion for reconsideration, sound discretion precludes the poll body from treating it in such perfunctory fashion as to lead to its dismissal merely for non-payment of filing fee, as the First Division actually did, but on the contrary should have impelled it to grant him a reasonable period to pay the filing fee to precipitate the resolution of the motion on the merits as it is predicated on a jurisdictional ground.

The more important issue, one that has constitutional significance, is the fact that Cayat's motion for reconsideration should have been resolved by the Comelec en banc and not merely by a division thereof. Sec. 3, Article IX-C of the 1987 Constitution mandates that motions for reconsideration of final decisions shall be decided by the Comelec en banc, thus:

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

The 1993 Comelec Rules of Procedure also provides that "[U]pon the filing of a motion to reconsider a decision, resolution, order or ruling of a Division, the Clerk of Court concerned shall, within twenty-four (24) hours from the filing thereof, notify the Presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission en banc."^[6]

There is no doubt that the April 12 Resolution of the First Division was final in character. In accordance with the constitutional command and the Comelec's own Rules, Cayat's motion for reconsideration should have been resolved, not by the same division that issued the Order being assailed in the motion, but by the Comelec en banc, the non-payment of the filing fee for the motion for reconsideration notwithstanding.

To insist or require that the filing fee be paid before acting on the motion, or in the usual legal parlance "under pain of denial of the motion," is a definitive action properly carried out only by the Comelec en banc, not by a mere division thereof, conformably with the principle embodied in the Constitution[7] and the Comelec Rules of Procedure[8] that the Comelec en banc has sole jurisdiction to decide motions for reconsideration of final decisions as distinguished from interlocutory orders. The Comelec is mandated, in the exercise of its adjudicatory or quasi judicial powers, to hear and decide cases first by division and, upon motion for reconsideration, en banc.[9]

For this reason, the First Division should be considered to have acted without jurisdiction and its Order dated May 9, 2004, dismissing Cayat's motion for reconsideration, declared a nullity. In *Ambil v. Comelec*[10] we emphasized the rule that in election cases where the Comelec division renders a final decision or order, it is mandatory by constitutional fiat to elevate the case to the Comelec en banc, whose final decision is what is reviewable via certiorari before the Supreme Court.

Assuming that the First Division could have denied Cayat's motion for reconsideration, such denial did not occur and neither could it have occurred as a matter of course. A resolution denying the motion for non-payment of filing fee should have been issued still. In other words, there is need for a formal declaration that the motion is denied on the ground of absence of filing fee. If at all, this was accomplished through the May 9, 2004 Order. Thus, it is not only error but aberrancy for the ponencia to hold that the First Division's April 12 Resolution had become final on April 16, 2004, i.e., even before it actually acted on the motion for reconsideration.

In fact, even the May 9 Order could not have attained finality on the day it was promulgated as Cayat had to receive the Order yet and, after receiving it, he still had a recourse.[11] On the supposition that the May 9 Order was valid, it could be accorded finality, at the bare minimum, only after notice thereof had been received by the parties. But Cayat received a copy of the May 9 Order only on May 13, 2004 or after the May 10, 2004 elections.

To reiterate, the May 9 Order could not have become final and executory the following day or on the day of the elections because decisions or resolutions in special actions, such as petitions to deny due course to or cancel certificates of candidacy as in this case, become final and executory only after five (5) days from its promulgation unless restrained by the Supreme Court.[12] Necessarily, Cayat's candidacy remained active and unimpaired as of election day.

Further, with the timely filing of the instant consolidated petitions assailing the Comelec's orders, Cayat's disqualification would only become conclusive upon the final adjudication of this case in accordance with the Court's decision herein.

Still another important reason militates against the soundness of conclusion reached in the ponencia.

Sec. 12, Rule 18 of the Comelec Rules, requires the Comelec, "within twenty-four (24) hours from the promulgation of a decision in petitioners to deny due course to or cancel a certificate of candidacy, (to) declare a candidate a nuisance candidate or disqualify a candidate, disseminate its decision or the decision of the Supreme Court if the Commission's decision is brought by the aggrieved party to said Court, to the election registrars concerned, boards of election inspectors, and the general public in the political subdivision concerned through the fastest means available," the unstated purpose being to inform the electorate of the disqualification of certain candidates so that they may not be misled into voting for these aspirants and squandering their franchise.

In this case, the Comelec itself implicitly acknowledged that Cayat was still in the running in the May 10, 2004 elections. There is no evidence on record that it informed the election registrars, the board of election inspectors, and the general public of Cayat's disqualification. It did not even order the removal of his name from the ballot. In

fact, the Comelec allowed the elections to proceed with Cayat as a mayoralty candidate and even proclaimed him as the duly-elected mayor of Buguias, Benguet.

Even viewed on the assumption that the Comelec en banc had disqualified Cayat, Palileng would still not be entitled to the mayoralty seat. In *Labo, Jr. v. Comelec*,^[13] the Court was faced with the question of whether the disqualification of Labo entitled the candidate who received the next highest number of votes to be proclaimed as the winning candidate for mayor of Baguio City. The Court, citing the earlier case of *Labo, Jr. v. Comelec*, 176 SCRA 1, and reiterating the doctrine in *Topacio v. Paredes*, 23 Phil. 238, and *Geronimo v. Santos*, 136 SCRA 435, ruled that the fact that a candidate who obtained the highest number of votes is later declared to be disqualified or not eligible for the office to which he was elected does not necessarily entitle the candidate who obtained the second highest number of votes to be declared the winner of the elective office.

The Court had occasion to trace the development of this doctrine in the first *Labo* case. The Court held:

Finally, there is the question of whether or not the private respondent, who filed the quo warranto petition, can replace the petitioner as mayor. He cannot. The simple reason is that as he obtained only the second highest number of votes in the election, he was obviously not the choice of the people of Baguio City.

The latest ruling of the Court on this issue is *Santos v. Commission on Elections*, decided in 1985. In that case, the candidate who placed second was proclaimed elected after the votes for his winning rival, who was disqualified as a turncoat and considered a non-candidate, were all disregarded as stray. In effect, the second placer won by default. That decision was supported by eight members of the Court then, with three dissenting and another two reserving their vote. One was on official leave.

Re-examining that decision, the Court finds, and so holds, that it should be reversed in favor of the earlier case of *Geronimo v. Ramos*, which represents the more logical and democratic rule. That case, which reiterated the doctrine first announced in 1912 in *Topacio vs. Paredes*, was supported by ten members of the Court, without any dissent, although one reserved his vote, another took no part, and two others were on leave.^[14]

In *Abella v. Comelec*,^[15] the petition to deny due course to private respondent Larrazabal's certificate of candidacy was filed before the latter could be proclaimed the duly elected Governor of Leyte. Petitioner averred that pursuant to Section 6 of Republic Act No. 6646,^[16] the votes cast in favor of Larrazabal should not be counted and he, who obtained the second highest number of votes, should be proclaimed instead.

The Court rejected Abella's argument, ruling:

While it is true that SPC No. 88-546 was originally a petition to deny due course to the certificate of candidacy of Larrazabal and was filed before Larrazabal could be proclaimed the fact remains that the local elections of February 1, 1988 in the province of Leyte proceeded with Larrazabal considered as a bonafide candidate. The voters of the province voted for her in the sincere belief that she was a qualified candidate for the position of governor. Her votes were counted and she obtained the highest number of votes. The net effect is that the petitioner lost in the election. He was repudiated by the electorate.^[17]

These cases teach us that there is a need to look into whether the electorate knew of a candidate's disqualification at the time the ballots were cast. If it did, the electorate may be said to have waived the validity and efficacy of their votes by notoriously misapplying their franchise or throwing away their votes. The eligible candidate obtaining the next higher number of votes may then be deemed elected. Our pronouncement in *Labo* is instructive. We said:

The rule would have been different if the electorate fully aware in fact and in law of a candidate's disqualification so as to bring such awareness within the realm of notoriety, would nonetheless cast their votes in favor of the ineligible candidate...

But this is not the situation obtaining in the instant dispute. It has not been shown, and none was alleged, that petitioner Labo was notoriously known as an ineligible candidate, much less the electorate as having known of such fact...[18]

We should not forget, in resolving this case, that the electorate of Buguias, Benguet believed, at the time of the elections, that Cayat was a bona fide candidate qualified to run for the position of mayor. There is no indication at all that the voters knew of Cayat's disqualification for it is highly unlikely that the electorate of the bucolic town of Buguias, Benguet, would be acquainted with the technicalities and complexities of a disqualification case. They voted him into office giving him a wide margin of 2,872 votes over Palileng. This resounding rejection of Palileng is our cue that the Order dated October 25, 2004 of the Comelec First Division directing the proclamation of Palileng is objectionable.

These circumstances should lead us to conclude that the people of Buguias, Benguet elected Cayat as their Mayor without any intention to waste or misapply their franchise and in the honest belief that he was then qualified to run for elective office. To consider the votes cast for Cayat as null and void, and declare Palileng elected to office, is tantamount to disenfranchising the electorate.

I deem it important to point out a correlated matter entirely overlooked in the ponencia. On July 29, 2004, while G.R. No. 163776 was pending resolution by the Court, Palileng filed with the Comelec Second Division a petition[19] for annulment of proclamation with prayer for the issuance of injunctive relief against Cayat and the MBOC of Buguias.[20] He also filed on the same day a separate motion for execution of judgment in the disqualification case[21] against Cayat lodged with the Comelec First Division which resulted in the latter annulling Cayat's proclamation and proclaiming Palileng instead.[22] This practice falls short of forum-shopping in the technical sense but should nonetheless not be countenanced.

But what is more unpardonable is the fact that the Comelec favorably acted on Palileng's motion for execution despite knowledge of the pending petition with the Court. It behooved the Comelec First Division to deny or at least refuse to take action on Palileng's motion for execution because the validity of the Resolution and Order sought to be executed in the motion were precisely being assailed in the petition filed with the Court. The October 25, 2004 Order of the first Division is thus null and void for having been issued with grave abuse of discretion, without jurisdiction and in usurpation of this Court's prerogative and jurisdiction.[23]

The Order dated October 25, 2004 annulling Cayat's proclamation is hinged on the finality of the April 12, 2004 Resolution Canceling his certificate of candidacy. However, as explained in the foregoing disquisition, the April 12 Resolution is yet to become final as the motion for reconsideration filed by Cayat questioning this Resolution was incorrectly and precipitately acted upon by the First Division instead of the Comelec en banc, and the October 25, 2004 Order is itself void. The net result is that Cayat's proclamation should be considered effectual. His oath of office taken on May 17, 2004 operated as a full investiture on him of the rights of the office,[24] subject of course to the final outcome of his motion for reconsideration of the April 12, 2004 Resolution.

IN VIEW OF THE FOREGOING, I vote to GRANT the petition in G.R. No. 163776 insofar as it prays for the annulment of the May 9, 2004 Order of the Comelec First Division denying the motion for reconsideration filed by Rev. Fr. Nardo B. Cayat for failure to pay the required filing fee without prejudice to whatever action the Comelec en banc may take on Cayat's motion for reconsideration, and the petition in G.R. No. 165736 insofar as it prays for the nullification Of the October 25, 2004 Order of the Comelec First Division granting the motion for execution of judgment filed by Thomas R. Palileng, Sr. and annulling Cayat's proclamation. In the meantime, Cayat should be allowed to assume office in accordance with oath of office.

[1] Sec. 5. Promulgation.—The promulgation of a decision or resolution of the Commission or a Division shall be made on a date previously fixed, of which notice shall be served in advance upon the parties or their attorneys personally or by registered mail or by telegram. [Emphasis supplied]

[2] Velayo v. Comelec, G.R. No. 135613, March 9, 2000, 327 SCRA 713.

[3] Lee v. Comelec, G.R. No. 157004, July 4, 2003.

[4] Pahilan v. Tabalba, G.R. No. 110170, February 21, 1994, 230 SCRA 205.

[5] In contrast, RULES OF COURT, Rule 41, Sec. 13, provides:

SEC. 13. Dismissal of appeal. - Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may motu proprio or on motion, dismiss the appeal for having been taken out of time or for non-payment of the docket and other lawful fees within the reglementary period.

[6] 1993 COMELEC RULES OF PROCEDURE, Rule 19, Sec. 5.

[7] CONST., Art IX-C, Sec. 3.

[8] COMELEC RULES OF PROCEDURE, Rule 9, Sec. 5.

[9] Canicosa v. Comelec, 282 SCRA 512 (1997); Sarmiento v. Comelec, 212 SCRA 307 (1992); Zarate v. Comelec, 318 SCRA 608 (1999).

[10] G.R. No. 143398, October 25, 2000, 344 SCRA 358, 398 Phil. 257.

[11] In separate petitions presently before the Court, Cayat assails all three orders issued by the Comelec First Division, respectively canceling his certificate of candidacy, denying his motion for reconsideration for failure to pay the filing fee, annulling his proclamation, and subsequently proclaiming the second placer, private respondent Thomas R. Palileng, Sr., the duly elected mayor of Buguias, Benguet.

[12] COMELEC RULES OF PROCEDURE, Rule, 18, Sec. 13.

[13] G.R. No. 105000 and G.R. No. 105384, July 3, 1992, 211 SCRA 297.

[14] G.R. No. 86564, August 1, 1989, 176 SCRA 1, 20-21.

[15] G.R. No. 100710, G.R. No. 100739, September 3, 1991, 201 SCRA 253.

[16] 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.

[17] 201 SCRA 253, 275(1991).

[18] 211 SCRA 297, 312(1992).

[19] Docketed as SPC No. 04-043.

[20] Draft Decision, p. 8.

[21] Docketed as SPA No. 04-152.

[22] Id. at 9.

[23] Jainal v. Comelec, G.R. No. 174551, March 7, 2007.

[24]Mendoza, et al. v. Laxina, 453 Phil. 1013, 1026-1027 (2003).

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