

ARSENIO A. AGUSTIN, PETITIONER, VS. COMMISSION ON ELECTIONS AND SALVADOR S. PILLOS, RESPONDENTS.

G.R. No. 207105. November 10, 2015

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

A person of dual citizenship is disqualified from running for a public office in the Philippines.

The Case

The petitioner seeks to annul and set aside the adverse resolution issued on April 23, 2013 in SPA No. 13-023 (DC),[1] whereby the Commission on Elections (COMELEC) En Banc disposed:

WHEREFORE, premises considered, the Motion for Reconsideration of Petitioner Stewart D. De La Cruz in SPA No. 13-024 (DC) is denied for lack of merit. On the other hand, the Motion for Reconsideration of Petitioner Salvador S. Pillos in SPA No. 13-023 (DC) is granted; consequently, the Certificate of Candidacy of Respondent Arsenio A. Agustin is hereby CANCELLED and DENIED DUE COURSE.

SO ORDERED.[2]

Antecedents

In 1997, the petitioner was naturalized as a citizen of the United States of America (USA).[3] On October 5, 2012,[4] he filed his certificate of candidacy (CoC) for the position of Mayor of the Municipality of Marcos, Ilocos Norte to be contested in the May 13, 2013 local elections.[5] As the official candidate of the Nacionalista Party,[6] he declared in his CoC that he was eligible for the office he was seeking to be elected to; that he was a natural born Filipino citizen; and that he had been a resident of the Municipality of Marcos, Ilocos Norte for 25 years.[7]

On October 10, 2012, respondent Salvador S. Pillos, a rival mayoralty candidate, filed in the COMELEC a Petition To Deny Due Course and/or to Cancel the Certificate of Candidacy of Arsenio A. Agustin, docketed as SPA No. 13-023 (DC),[8] alleging that the petitioner had made a material misrepresentation in his CoC by stating that he had been a resident of the Municipality of Marcos for 25 years despite having registered as a voter therein only on May 31, 2012. The petition stated the sole ground thuswise:

THE DECLARATION UNDER OATH MADE BY THE RESPONDENT THAT HE IS ELIGIBLE FOR THE OFFICE OR SEEK TO BE ELECTED TO (sic) CONSTITUTES MATERIAL MISREPRESENTATION FOR THE TRUTH OF THE MATTER (sic) HE HAS NOT RESIDED AS REQUIRED BY LAW FOR A PERIOD OF ONE YEAR IN THE LOCALITY HE SEEKS TO BE ELECTED.[9]

and prayed, viz.:

WHEREFORE, it is respectfully prayed before this Honorable Commission, to issue an order to immediately deny due course and or to cancel the certificate of candidacy of respondent Arsenio A. Agustin.

Other reliefs just and equitable are likewise prayed of (sic).[10]

In his answer, the petitioner countered that the one-year requirement referred to residency, not to voter registration; that residency was not dependent on citizenship, such that his travel to Hawaii for business purposes did not violate the residency requirement pursuant to prevailing jurisprudence; and that as regards citizenship, he attached a copy of his Affidavit of Renunciation of U.S./American Citizenship executed on October 2, 2012.[11]

On January 28, 2013, the COMELEC Second Division issued its omnibus resolution,[12] pertinently holding:

As can be clearly gathered from the Velasco case, a candidate's status as a registered voter is a material fact which falls under the same classification as one's citizenship or residence. While they are under the same classification as referring to a candidate's qualification for elective office, the requirements are different. The requirement that a candidate must be a registered voter does not carry with it the requirement that he must be so one year before the elections because this refers to the residency qualification.

On this score, it could not be said that respondents falsely represented the length of their residence in the municipality simply because they became registered voters thereof only fairly recently. As far as registration as a voter is concerned, it should suffice that they are duly registered upon the filing of their COCs or within the period prescribed by law for such registration.

Anent petitioner['] allegations that respondents were unable to vote because they are residents of other countries, the records are bereft of any evidence that would substantiate this. It is a fundamental rule that he who alleges, not he who denies, must prove. Mere, petitioners have not adduced a single shred of competent evidence that respondents were actually residents or citizens of other countries that is why they were unable to vote.

WHEREFORE, in view of the foregoing, the petitions are hereby DENIED for lack of merit.

SO ORDERED.[13]

On February 12, 2013, Pillós moved for the reconsideration of the January 28, 2013 resolution with the COMELEC En Banc.[14] He underscored in his motion that the certification issued by the Bureau of Immigration reflected that the petitioner had voluntarily declared in his travel documents that he was a citizen of the USA; that when he travelled to Hawaii, USA on October 6, 2012, he still used his USA passport despite his renunciation of his USA citizenship on October 2, 2012 and after filing his CoC on October 5, 2012, in which he declared that he was a resident of the Municipality of Marcos, Ilocos Norte; and that the petitioner's declaration of his eligibility in his CoC constituted material misrepresentation because of his failure to meet the citizenship and residency requirements.

The petitioner opposed the motion for reconsideration.[15]

On April 23, 2013, the COMELEC En Banc issued its assailed resolution cancelling and denying due course to the petitioner's CoC, observing as follows:

Having admitted his dual citizenship, Agustin had the burden of proving through his evidence that he complied with the statutory requirements imposed upon dual citizens provided under Republic Act 9225, particularly Section 3 and 5(2) thereof, to wit:

x x x x

While Agustin presented a copy of his Affidavit of Renunciation, he failed to furnish this Commission a copy of his Oath of Allegiance. Noteworthy is the fact, that in Agustin's Affidavit of Renunciation, it was stated that his Oath of Allegiance is attached as Annex "B"; however, said attachment has not been made available for the perusal of this Commission. Having failed to sufficiently show that he complied with the provisions of RA

9225, Agustin's COC must be cancelled and/or denied due course. Consequently, the Motion for Reconsideration is only granted as against Respondent Agustin.[16]

On May 3, 2013, the petitioner filed a Verified Urgent Motion for Reconsideration with Leave of Court.[17] He attached thereto copies of the Order of Approval dated February 12, 2012[18] and his Oath of Allegiance dated March 9, 2012,[19] both issued by the Consulate General of the Philippines in Honolulu, Hawaii. He further attached certifications issued by Election Officers in Ilocos Norte attesting that the documents had been received by the COMELEC and retained in its files. He explained that the documents were not presented during the course of the proceedings because the sole issue raised by Pillos' Petition to Deny Due Course and/or to Cancel Certificate of Candidacy had involved only his (petitioner) compliance with the one-year residency requirement.

Pillos submitted a Motion for Issuance of Writ of Execution and Comment on the Verified Motion for Reconsideration with Leave of Court on May 8, 2013,[20] praying that a writ of execution be issued to implement the cancellation of the petitioner's COC.

On election day, May 13, 2013, the name of the petitioner remained in the ballot. He was later on proclaimed as the duly elected Municipal Mayor of Marcos, Ilocos Norte for obtaining 5,020 votes,[21] the highest among the contending parties.

Sensing that the 30-day period within which a petition for certiorari should be filed in the Supreme Court was about to expire, the petitioner filed on May 24, 2013 an Urgent Motion to Withdraw Verified Urgent Motion for Reconsideration with Leave of Court dated May 3, 2013.[22]

On May 28, 2013, the petitioner thus instituted this case, alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the COMELEC En Banc based on the following grounds:

- The assailed En Banc Resolution was promulgated in gross violation of Petitioner's guaranteed Constitutional Right to Due Process and to be informed of the facts and the law on which the same was based; and
- The grave erroneous appreciation of the facts, law, and the evidence of the case.[23]

Meanwhile, on June 18, 2013, the COMELEC En Banc, pointing out that the filing of a motion for reconsideration of an en banc resolution was not allowed under Rule 13 of the 1993 COMELEC Rules of Procedure; and that, accordingly, the April 23, 2013 resolution was deemed final and executory pursuant to Section 8, paragraph 2 of COMELEC Resolution No. 9523, issued the writ of execution.[24]

On July 16, 2013, the Court required the parties to observe the status quo prevailing before the issuance of the COMELEC En Banc resolution dated April 23, 2013.[25]

Issues

The core issue involves the eligibility of the petitioner as a candidate for the position of Mayor of the Municipality of Marcos, Ilocos Norte.

A secondary issue concerns the propriety of Pillos' claim as the rightful occupant of the contested elective position.

Ruling

The petition for certiorari lacks merit.

The Court finds and declares that the petitioner made no material misrepresentation in his CoC; hence, there is no legal or factual basis for the cancellation of the CoC. Even so, he was disqualified to run as Mayor of the

Municipality of Marcos, Ilocos Norte for being a dual citizen. With his disqualification having been determined and pronounced by final judgment before the elections, the votes cast in his favor should not be counted. Accordingly, his rival, respondent Pillos, should be proclaimed duly elected Mayor for obtaining the highest number of votes in the elections.

1.

Administrative due process was observed

Before anything more, let us deal with the petitioner's insistence that the COMELEC En Banc gravely abused its discretion in resolving Pillos' motion for reconsideration based on a ground that was neither the basis of nor raised in the Petition To Deny Due Course and/or to Cancel the Certificate of Candidacy of Arsenio A. Agustin; that the non-presentation of his Oath of Allegiance should not be fatal to his constitutional right to run for public office especially because the sole ground for Pillos' petition in the COMELEC had dealt only with the residency requirement; that Pillos could have included citizenship as a ground by the amendment of his petition, but he did not move for that purpose; that he duly complied with the requirements for the re-acquisition of his Philippine citizenship pursuant to Republic Act No. 9225, and the proof of the re-acquisition had been submitted to the Election Officers in Ilocos Norte; and that the COMELEC, by not at least holding a clarificatory hearing to ascertain and confirm such matters, violated his right to due process by denying to him the opportunity to prepare for his defense.

The petitioner's insistence lacks merit.

We note that the petitioner's citizenship came to the fore because he himself asserted his Philippine citizenship in his answer to Pillos' petition to cancel his CoC in order to bolster his allegation of compliance with the one-year residency requirement. As such, he could not credibly complain about being denied due process, especially considering that he had been able to file an opposition to Pillos' motion for reconsideration. It is worthy to state that the observance of due process in administrative proceedings does not always require or involve a trial-type proceeding, for the demand of due process is also met whenever a person, being notified, is afforded the opportunity to explain or defend himself. Also, due process is satisfied by giving the opportunity to seek the reconsideration of the action or ruling complained of.[26] The rule is the same in election cases.[27]

2.

The petitioner filed a valid CoC, but the use of his USA passport after his renunciation of foreign citizenship rendered him disqualified from continuing as a mayoralty candidate

A valid CoC arises upon the timely filing of a person's declaration of his intention to run for public office and his affirmation that he possesses the eligibility for the position he seeks to assume. The valid CoC renders the person making the declaration a valid or official candidate.[28]

There are two remedies available under existing laws to prevent a candidate from running in an electoral race. One is by petition for disqualification, and the other by petition to deny due course to or to cancel his certificate of candidacy. In *Fermin v. Commission on Elections*,[29] the Court has differentiated the two remedies thuswise:

[A] petition for disqualification, on the one hand, can be premised on Section 12 or 68 of the OEC, or Section 40 of the LGC. On the other hand, a petition to deny due course to or cancel a CoC can only be grounded on a statement of a material representation in the said certificate that is false. The petitions also have different effects. While a person who is disqualified under Section 68 is merely prohibited to continue as a candidate, the person whose certificate is cancelled or denied due course under Section 78 is not treated as a candidate at all, as if he/she never filed a CoC.[30]

Section 78 of the Omnibus Election Code states:

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.

The Court has described the nature of a Section 78 petition in *Fermin* thusly:

[t]he denial of due course to or the cancellation of the CoC is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which may relate to the qualifications required of the public office he/she is running for. It is noted that the candidate states in his/her CoC that he/she is eligible for the office he/she seeks. Section 78 of the OEC, therefore, is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office. If the candidate subsequently states a material representation in the CoC that is false, the COMELEC, following the law, is empowered to deny due course to or cancel such certificate. Indeed, the Court has already likened a proceeding under Section 78 to a quo warranto proceeding under Section 253 of the OEC since they both deal with the eligibility or qualification of a candidate, with the distinction mainly in the fact that a "Section 78" petition is filed before proclamation, while a petition for quo warranto is filed after proclamation of the winning candidate.[31]

The denial of due course to or the cancellation of the CoC under Section 78 of the Omnibus Election Code involves a finding not only that a person lacked a qualification for the office he is vying for but also that such he made a material representation in the CoC that was false. The Court has stressed in *Mitra v. Commission on Elections*[32] that in addition to materiality there must be a deliberate attempt to mislead, misinform, or hide a fact that would otherwise render the candidate ineligible, viz.:

The false representation under Section 78 must likewise be a "deliberate attempt to mislead, misinform, or hide a fact that would otherwise render a candidate ineligible." Given the purpose of the requirement, it must be made with the intention to deceive the electorate as to the would-be candidate's qualifications for public office. Thus, the misrepresentation that Section 78 addresses cannot be the result of a mere innocuous mistake, and cannot exist in a situation where the intent to deceive is patently absent, or where no deception on the electorate results. The deliberate character of the misrepresentation necessarily follows from a consideration of the consequences of any material falsity: a candidate who falsifies a material fact cannot run; if he runs and is elected, he cannot serve; in both cases, he can be prosecuted for violation of the election laws.[33]

A petition for the denial of due course to or cancellation of COC that falls short of the foregoing requirements should not be granted.

The petition of *Pillos* in SPA No. 13-023 (DC) was in the nature of the Section 78 petition to deny due course to or to cancel the CoC of the petitioner because it contained allegations pertaining to a Section 78 petition, namely: (a) the petitioner as a candidate made a representation in his CoC; (b) the representation referred to a material matter that would affect his substantive right as candidate (that is, the right to run for the position for which he filed his CoC); and (c) he made the false representation with the intention to deceive the electorate as to his qualification for public office, or he deliberately attempted to mislead, misinform, or hide a fact that would otherwise render him ineligible. *Pillos* further challenged the petitioner's eligibility for public office based on his failure to comply with the one-year residency requirement stated in the Local Government Code, and ultimately specifically prayed that the COMELEC "issue an order to immediately deny due course and or to cancel the certificate of candidacy of respondent Arsenio A. Agustin." [34]

Yet, the COMELEC En Banc canceled the petitioner's CoC not because of his failure to meet the residency requirement but because of his failure "to sufficiently show that he complied with the provisions of RA 9225." [35] In our view, such basis for cancellation was unwarranted considering that he became eligible to run for public office when he expressly renounced his USA citizenship, by which he fully complied with the requirements stated in Section 5(2) of Republic Act No. 9225, to wit:

Section 5. Civil and Political Rights and Liabilities - Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

x x x x

(2) Those seeking elective public in the Philippines shall meet the qualification for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath;

x x x x

More particularly, the petitioner took his Oath of Allegiance on March 9, 2012 and executed his Affidavit of Renunciation on October 2, 2012. By his Oath of Allegiance and his renunciation of his USA citizenship, he reverted to the status of an exclusively Filipino citizen. On October 5, 2012, the date he filed his CoC he was, therefore, exclusively a Filipino citizen, rendering him eligible to run for public office. His CoC was valid for all intents and purposes of the election laws because he did not make therein any material misrepresentation of his eligibility to run as Mayor of the Municipality of Marcos, Ilocos Norte.

Nonetheless, we uphold the declaration by the COMELEC En Banc that the petitioner was ineligible to run and be voted for as Mayor of the Municipality of Marcos, Ilocos Norte. It is not disputed that on October 6, 2012, [36] after having renounced his USA citizenship and having already filed his CoC, he travelled abroad using his USA passport, thereby representing himself as a citizen of the USA. He continued using his USA passport in his subsequent travels abroad [37] despite having been already issued his Philippine passport on August 23, 2012. [38] He thereby effectively repudiated his oath of renunciation on October 6, 2012, the first time he used his USA passport after renouncing his USA citizenship on October 2, 2012. Consequently, he could be considered an exclusively Filipino citizen only for the four days from October 2, 2012 until October 6, 2012.

The petitioner's continued exercise of his rights as a citizen of the USA through using his USA passport after the renunciation of his USA citizenship reverted him to his earlier status as a dual citizen. [39] Such reversion disqualified him from being elected to public office in the Philippines pursuant to Section 40(d) of the Local Government Code, viz.:

Section 40. Disqualifications. - The following persons are disqualified from running for any elective local position:

x x x x

(d) Those with dual citizenship;

x x x x (Emphasis supplied)

A candidate is ineligible if he is disqualified to be elected to office, and he is disqualified if he lacks any of the qualifications for elective office. [40] Even if it made no finding that the petitioner had deliberately attempted to mislead or to misinform as to warrant the cancellation of his CoC, the COMELEC could still declare him

disqualified for not meeting the requisite eligibility under the Local Government Code.

3.

The petitioner was declared disqualified by final judgment before election day; hence, the votes cast for him should not be counted.

Considering that the Section 78 petition to deny due course to or to cancel the CoC requires a finding that he made a material representation in the CoC that was false, the COMELEC En Banc, in granting Pillos' motion for reconsideration, expressly held the petitioner ineligible to participate in the elections or disqualified from the mayoralty race, which was the basis for the cancellation of his CoC. Such reason cancelling the petitioner's CoC despite the absence of the material misrepresentation at the time he filed his CoC might not be in order, but the undisputed fact is that the COMELEC En Banc expressly decreed his disqualification in the April 23, 2013 resolution.

The effect of the petitioner's disqualification under the April 23, 2013 resolution depended on when the disqualification attained finality. The distinction exists because of Section 6 of Republic Act No. 6646 (The Electoral Reforms Law of 1987), which states:

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.

In *Cayat v. Commission on Elections*,^[41] the Court has expounded on the effect of Section 6 of Republic Act No. 6646 thusly:

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.^[42]

Even if his disqualification did not subvert the validity of his CoC, the petitioner would be reduced to a non-candidate under the terms of Section 6, *supra*, should it be shown that the disqualification attained finality prior to the 2013 elections. The effect was to render the votes cast in his favor stray, resulting in Pillos being proclaimed the winning candidate.

It is crucial, therefore, to determine with certainty the time when the judgment declaring the petitioner disqualified from running for the local elective position attained finality.

Pillos submits that the April 23, 2013 resolution was already deemed final and executory as of May 4, 2013; hence, the writ of execution was issued on June 18, 2013; and that the petitioner's disqualification thus attained finality prior to the May 13, 2013 elections.

Pillos' submission is correct.

Although the petitioner filed his Verified Urgent Motion for Reconsideration with Leave of Court on May 3, 2013^[43] upon receiving the April 23, 2013 resolution granting Pillos' motion for reconsideration,^[44] such filing did not impede the April 23, 2013 resolution from being deemed final and executory because Section 1(d), Rule 13 of the 1993 COMELEC Rules of Procedure expressly disallowed the filing of the motion for reconsideration.^[45] Within the context of Section 13, Rule 18,^[46] and Section 3, Rule 37,^[47] both of the 1993 COMELEC Rules of Procedure, the April 23, 2013 resolution became final and executory as of May 4, 2013 upon the lapse of five days from its promulgation without a restraining order being issued by the Supreme Court.

Under the circumstances, the finality of the petitioner's disqualification pursuant to the April 23, 2013 resolution prior to the May 13, 2013 elections rendered him a non-candidate, and the votes cast for him should not have been counted.^[48] Pillos, being the qualified candidate obtaining the highest number of votes, should be proclaimed duly elected as Mayor of the Municipality of Marcos, Ilocos Norte in the 2013 elections.

WHEREFORE, the Court DISMISSES the petition for certiorari; AFFIRMS the resolution dated April 23, 2013 insofar as it disqualified petitioner Arsenio A. Agustin from running for any local elective position in the May 13, 2013 elections; DECLARES respondent Salvador S. Pillos the duly elected Mayor of the Municipality of Marcos, Ilocos Norte in the May 13, 2013 elections; ORDERS the Commission on Elections to cause the proclamation of respondent Salvador S. Pillos as the duly elected Mayor of the Municipality of Marcos, Ilocos Norte in the May 13, 2013 elections; and REQUIRES the petitioner to pay the costs of suit.

SO ORDERED.

Sereno, C.J. Carpio, Velasco, Jr., Leonardo-De Castro, Del Castillo, Villarama, Jr., Perez, Reyes, Perlas-Bernabe, and Leonen, JJ., concur.

Peralta and Jardeleza, JJ., no part.

Brion and Mendoza, JJ., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on November 10, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on January 6, 2016 at

3:00 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 195-201.

[2] Id. at 200.

[3] Id. at 65.

[4] Id. at 44.

[5] Id. at 34.

[6] Id. at 45.

[7] Supra at note 4.

[8] Id. at 32-36.

[9] Supra at note 5.

[10] Id. at 36.

[11] Id. at 52-54, 65.

[12] Id. at 162-166.

[13] Id. at 165-166.

[14] Id. at 167-184.

[15] Id. at 188-192.

[16] Id. at 199-200.

[17] Id. at 202-211.

[18] Id. at 216,

[19] Id. at 217.

[20] Id. at 249.

[21] Id. at 225.

[22] Id. at 226-229.

[23] Id. at 9.

[24] Id. at 250-251.

[25] Id. at 256-257.

[26] Office of the Ombudsman v. Reyes, G.R. No. 170512, October 5, 201 1, 658 SCRA 626, 640.

[27] Reyes v. Commission on Elections, G.R. No. 207264, June 25, 2013, 699 SCRA 522, 538-539. Talaga v. Commission on Elections, G.R. No. 196804 and G.R. No. 197015, October 9, 2012, 683 SCRA 197, 231.

[29] G.R. No. 179695 and G.R. No. 182369, December 18, 2008, 574 SCRA 782.

[30] Id. at 796.

[31] Id. at 792-794.

[32] G.R. No. 191938, July 2, 2010, 622 SCRA 744, 769.

[33] See also Fennin v. Commission on Elections, supra note 29, at 792; Salcedo II v. Commission on Elections, G.R. No. 135886, August 16, 1999, 312 SCRA 447, 455.

[34] Rollo, p. 36.

[35] Id. at 200.

[36] Rollo, p. 126.

[37] Id. at 126, 324-325.

[38] Id. at 238.

[39] Maquilmg v. Commission on Elections, G.R. No. 195649, April 16, 2013, 696 SCRA 420.

[40] Salcedo II v. Commission on Elections, supra, note 33, at 457.

[41] G.R. No. 163776 and G.R. No. 165736, April 24, 2007, 522 SCRA 23.

[42] Id. at 45.

[43] Rollo, pp. 202-212.

[44] Supra note 2. 45

[45] Section 1, What Pleadings are not Allowed. - The following pleadings are not allowed:

x x x x

(d) motion for reconsideration of an en banc ruling, resolution, order or decision except in election offense cases;

x x x

x x x x

[46] Section 13. Finality of Decisions or Resolutions. - x x x

(b) In Special Actions and Special Cases a decision or resolutions of the Commission en banc shall become final and executory after five (5) days from its promulgation unless restrained by the Supreme Court, xxx

x x x x

[47] Section 3. Decisions Final After Five Days. - Decisions in pre-proclamation cases and petitions to deny due course to or cancel certificates of candidacy, to declare a candidate as nuisance candidate or to disqualify a candidate, and to postpone or suspend elections shall become final and executory after the lapse of five (5) days from their promulgation, unless restrained by the Supreme Court.

[48] Cayat v. Commission on Elections, supra, note 41, at 45.

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