

**PARTIDO DEMOKRATIKO PILIPINO-LAKAS NG BAYAN (PDP-LABAN)
HEREIN REPRESENTED BY ITS SECRETARY-GENERAL, CONG.
PANTALEON “BEBOT” ALVAREZ, PETITIONER,**

G.R. No. 225152. October 05, 2021

Ponente: LOPEZ, M., J.

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LOPEZ, M., J.:

The core issue in this Petition for Certiorari[1] is whether the Commission on Elections (COMELEC) is guilty of grave abuse of discretion when it extended the deadline for the submission of Statements of Contributions and Expenditures (SOCes).

ANTECEDENTS

On October 2, 2015, the COMELEC issued Resolution No. 9991,[2] prescribing the guidelines for the submission of the SOCes for the May 9, 2016 national and local elections. The COMELEC reminded the candidates and the political parties to submit their SOCes not later than June 8, 2016. The deadline is "final and non-extendible" and any submission filed beyond such date will not be accepted.[3] This is pursuant to Section 14 of Republic Act (RA) No. 7166[4] which provides that the SOCes must be filed within 30 days after the day of the elections, to wit:

SEC. 14. Statement of Contributions and Expenditures: Effect of Failure to File Statement. — Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act.

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos ([P]1,000.00) to Thirty thousand pesos ([P]30,000.00), in the discretion of the Commission.

The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

It shall be the duty of every city or municipal election registrar to advise in writing, by personal delivery or registered mail, within five (5) days from the date of election all candidates residing in his jurisdiction to comply with their obligation to file their statements of contributions and expenditures.

For the commission of a second or subsequent offense under this section, the administrative fine shall be from

Two thousand pesos ([P]2,000.00) to Sixty thousand pesos ([P]60,000.00), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office. (Emphases supplied.)

On June 23, 2016, the COMELEC En Banc, through Resolution No. 10147,[5] extended the filing of SOCEs until June 30, 2016. The candidates and political parties who will submit their SOCEs on or before the new deadline will not incur any administrative liability.[6] The majority of the commissioners explained that the law in providing that "[n]o person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required" implies that the SOCEs may be submitted beyond the 30-day period. Moreover, the COMELEC previously allowed extension of time in filing the SOCEs due to legal necessity and to prevent vacuum in the public service,[7] thus:

WHEREAS, the Commission En Banc received several letter requests for extension of the deadline to file the required SOCE for the May 9, 2016 National and Local Elections (NLE);

WHEREAS, as records show, the deadlines for the filing of SOCE has been invariably and consistently extended by the Commission out of legal necessity and particularly in the 2010 and 2013 NLE wherein the Commission allowed the extension of the deadline for filing of SOCE;

x x x x

WHEREAS, it is clear from the express language of the above-quoted provision that the phrase, "until he has filed the statement of contributions and expenditures herein required", implies that the SOCE may be filed beyond the deadline of thirty (30) days from the date of the elections as fixed herein.

NOW, THEREFORE, the Commission En Banc, RESOLVED x x x, to EXTEND the deadline of filing the Statement of Contributions and Expenditures to 30 June 2016 x x x in order to: (a) enable candidates and parties who failed to submit their SOCEs or whose SOCEs do not comply with the RULES AND REGULATIONS GOVERNING CAMPAIGN FINANCE AND DISCLOSURE to submit or correct their campaign finance statements or reports; and (b) encourage disclosure by candidates and parties their campaign contributions and expenditures during the 2016 NLE and to enable the Commission to initiate the filing of administrative cases for the violation of Section 14 of Republic Act No. 7166 and election offenses related to campaign finance.

x x x x

We find it abhorrent to adopt the erroneous interpretation that our duly elected public officials cannot assume office simply because of the failure of the party treasurer to submit the party's SOCE within the 30-day period deadline. The resulting frustration of the people's mandate, the widespread vacuum in the public service, and the likelihood of a constitutional crisis, constitute an absurdity not contemplated by the law. These are risks that the Commission is not willing to take.[8] (Emphases supplied and citation omitted.)

On July 7, 2016, the Partido Demokratiko Pilipino-Lakas ng Bayan (PDP-Laban) filed a Petition for Certiorari[9] questioning COMELEC En Banc Resolution No. 10147. The PDP-Laban argues that the COMELEC exceeded the limits of its delegated rule-making authority and violated Section 14 of RA No. 7166 that the SOCEs must be filed within 30 days after the elections. The COMELEC should have retained the original deadline to avoid perceptions of partiality given that other candidates and political parties timely complied with the requirement. Lastly, PDP-Laban claims that it availed the proper remedy to assail the resolution considering that the issues involved are of transcendental importance.[10]

On the other hand, the COMELEC in its Comment[11] insists that the 30-day period to file SOCEs is extendible absent any prohibition from the language of the law. The COMELEC points out that the commas in the first

sentence of Section 14 of RA No. 7166 after the phrase "Every candidate and treasurer of the political party shall" and before the phrase "file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election" separated the phrase "within thirty (30) days after the day of the election." This suggests that only the act of filing the SOCEs is mandatory. The COMELEC reiterates that the phrase "until he has filed the statement of contributions and expenditures herein required" in the second sentence of Section 14 of RA No. 7166 means that the 30-day period is extendible. Indeed, the COMELEC even extended the deadline for submission of the SOCEs in the 2010 and 2013 elections for 15 days, and one year, respectively. Further, the COMELEC possessed broad law enforcement powers in the exigency of public service^[12] and issued the resolution not to favor any particular candidate or political party.^[13] More importantly, the submission of SOCEs strictly within the 30-day period will serve as an additional qualification to political candidates outside those enumerated under the Constitution and the Local Government Code. Finally, the COMELEC counters that PDP-Laban is not entitled to the remedy of certiorari because it did not suffer any injury.^[14]

In its Comment,^[15] the Office of the Solicitor General (OSG) disagrees with the COMELEC and opines that the filing of SOCEs within 30 days after the election is mandatory. The phrase "until he has filed the statement of contributions and expenditures herein required" contemplates the 30-day period and not ad infinitum. The COMELEC must implement the unambiguous language of Section 14 of RA No. 7166. Yet, the COMELEC usurped the legislative power when it extended the deadline and suspended the enforcement of election laws. Lastly, the OSG argues that the COMELEC's attack against the validity of Section 14 of RA No. 7166 on the ground that it creates additional qualifications to political candidates is not the *lis mota* of the case and need not be discussed.

Meantime, Leon Estrella Peralta, Melchor Gruela Magdamo, and Othello Estropigan Dalanon (Peralta, et al.), in their capacities as taxpayers, moved to intervene in the proceedings. Peralta, et al. reiterate the mandatory nature of the 30-day period and maintain that any delay will give the candidates and the political parties the opportunity to fabricate their SOCEs. Also, Peralta, et al. ask that the winning candidates who did not submit their SOCEs within the required period must be prohibited from entering their public duties, thus, allowing the rule on succession to operate. Lastly, Peralta, et al., insinuate that the commissioners who voted to extend the deadline should be held guilty of betrayal of public trust.^[16]

RULING

PDP-Laban and Peralta, et al. have legal standing to question COMELEC Resolution No. 10147 because the legal issue involved is of transcendental importance.

On procedural matters, it bears emphasis that judicial review may be exercised only when the party challenging the act has the requisite legal standing which refers to a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement.^[17] The party's interest must also be material as distinguished from mere interest in the question involved, or a mere incidental interest. It must be personal and not based on a desire to vindicate the constitutional right of some third and unrelated party.^[18] However, the Court has taken an increasingly liberal approach to the rule of *locus standi*, evolving from the stringent requirements of "personal injury" to the broader "transcendental importance" doctrine.^[19]

Here, the PDP-Laban and Peralta, et al. are able to craft an issue of transcendental importance. The matters raised in the petition and motion for intervention involved possible violation of the Constitution, specifically, the COMELEC's exercise of legislative power without proper delegation. The resolution of the case will also have

far-reaching consequences affecting all political candidates and their liabilities for non-compliance with the timely submission of their SOCEs. Moreover, the situation calls for review because it is capable of repetition. The Court takes judicial notice that electoral exercises are regularly held, and that the COMELEC had previously issued similar guidelines extending the period to file the SOCEs. Corollarily, direct recourse to this Court through a petition for certiorari is allowed. The petition and motion likewise concern a purely legal question.[20]

COMELEC committed grave abuse of discretion when it extended the deadline for filing of the SOCEs and exempted candidates and political parties from administrative liabilities in violation of the clear language of the law and legislative intent.

Anent the substantive issues, the Court rules that the COMELEC cannot validly extend the deadline for submission of the SOCEs and exempt the candidates and political parties from administrative liabilities. The Court agrees with the PDP-Laban and Peralta, et al. that the language of Section 14 of RA No. 7166 is unambiguous and that the required SOCEs must be filed within 30 days after the elections. Foremost, *verba legis non est recedendum* is a basic rule in statutory construction.[21] The maxim translates "from the words of a statute there should be no departure." Differently stated, a statute that is clear is not susceptible to interpretation and should be applied regardless of who may be affected, even if the law is harsh and onerous.[22] The remedy is with Congress to modify or even abandon the law.[23]

Contrary to the COMELEC'S interpretation, the commas separating the phrase "within thirty (30) days after the day of the election" from the rest of the first sentence of Section 14 of RA No. 7166 do not make the period to file SOCEs extendible. A comma is a punctuation mark used to divide a sentence, but it does not introduce a new idea.[24] As such, the separated phrase must relate to the same subject matter which precedes it.

Notably, the provisions "within thirty (30) days after the day of the election" is preceded by the phrase "Every candidate and treasurer of the political party shall" and followed by the phrase "file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election."

In *Pilar v. COMELEC*,[25] the Court explained that the word "shall" implies that the statute imposes a duty that may be enforced, particularly if public policy favors this meaning or where the public interest is involved.[26] In said case, the Court held that the word "shall" in the first sentence of Section 14 of RA No. 7166 which requires the filing of SOCEs is mandatory.[27] The Court recognized that the state is interested in seeing that the electoral process is clean and ultimately expressive of the true will of the electorate. This objective may be realized through legislation regulating and compelling the publication of the contributions and expenditures of candidates.

Moreover, these laws and regulations prescribe what contributions are prohibited and what expenditures are authorized. Corollarily, the mandatory nature of the word "shall" extends to the observance of the 30-day filing period. Otherwise, the phrase "within thirty (30) days after the day of elections" becomes useless and meaningless. Indeed, the prompt submission of the SOCEs favors public policy and interest in promoting a culture of compliance with the campaign finance provisions towards a clean and honest election.

Similarly, the COMELEC's interpretation that the 30-day period is extendible because of the phrase "until he has filed the statement of contributions and expenditures herein required" in the second sentence of Section 14 of RA No. 7166 is incorrect. The words "herein required" contemplates the two-fold duty of the candidates and political parties to submit their SOCEs and file it within the prescribed period.

Furthermore, the legislative deliberations reveal that winning candidates must submit the SOCEs before assumption of office. The intervening period from the expiration of 30 days to file SOCEs until assumption of office allows interested parties to inquire whether winning candidates submitted the required SOCEs and to prevent them from entering their official duties, if necessary.

Also, the Congress opted to retain the provision despite proposal to delete the proscription from assuming official duties against winning candidates who did not file the SOCEs, viz.:

MR. ALBANO. Well, Mr. Speaker, again a provision on Section 15 states, "That no person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required." Now, Mr. Speaker, how do we verify whether that candidate - - the elected candidate has filed his statement of contributions and expenditures? We are aware, Mr. Speaker, and based from the press reports of the COMELEC that even in this House there are many who did not comply with this provision. And yet, it is said here that he cannot assume his duties as such elected official if he has failed to file the statement of contributions and expenditures. So, Mr. Speaker, how do we verify this?

MR. PALACOL. Your Honor, there are offices where the statement of contributions and expenses are supposed to be filed. Now, 30 days after the election they are supposed to file that statement of expenses and their contributions. With this provision of law, any candidate or any interested party can go to the particular office where the supposed statement has to be filed. And from that they can verify whether or not this particular winning candidate had filed his statement of contribution and expenditures. Now, it says here that not until and unless this winning candidate has filed his statement of contribution and expenses he cannot assume office.

MR. ALBANO. It is very clear here, the provision that the elected one cannot enter upon the duties of his office. My question is, how can we verify this? What can stop the elected candidate or the elected one enter into his duties? As I said if we base from the press reports that there are many - - even who are Members of this Congress have not filed their statement of contributions and expenditures and the reason why they are now facing criminal charges.

x x x x

MR. PALACOL. ... Your Honor, as I was stating, these 30 days period is allotted to any person who runs for a public office.

Now if a winning candidate is really desirous of assuming his position, as a matter of fact, you will observe that our election is on May 11, 1992 and the assumption is on June 30, which is more than 30 days. You can easily determine whether or not he had filed the corresponding statement. He is going to assume his office afternoon of June 30, 1992, more than 30 days period. So, he could just simply go to the particular office and check there whether this particular winning candidate had filed his statement. This is the scenario that will happen.

MR. ALBANO. x x x. Why are we providing this, when this is only honored in breach than in compliance, Mr. Speaker? Is the Gentleman aware that there are even Members of Congress now facing criminal charges for failure to file statement of contributions and expenditures?

MR. PALACOL. I am aware of that situation, your Honor, but as I was telling, your Honor, there is sufficient time within which to verify whether or not this particular candidate - - of course when one assumes his office, in order that there will be no hindrance, I feel that he has to comply with the provision of law and that he file his statement of expenditure and contribution. Anyway, as I have stated a while ago, there are sufficient time. Our election is on May 11, 1992, and they are going to assume office only more than 30 days...[28]

x x x x

MR. ALBANO. Mr. Speaker, my last query was about the verification of how to comply with item (b) of Section 15 and I would like to get the reaction of our distinguished sponsor. How can this item (b) be fully implemented without being disregarded in the sense that an elected public office may enter into the duties of his office without complying with the filing of the statement of expenditures and contributions? Because even in this very halls of Congress according to the Commission on Elections, there were many or there are members of Congress who are new facing criminal charges for violation of the Election Code.

MR. PALACOL. Your Honor, we agree with you on the present situation that there are some winning candidates ... there are some winning candidates who up to the present have not yet filed their statement of expenditures and contributions. Well, in order to compel or hasten the filing of the certificate of expenditures and contributions, we inserted in this provision of the present measure that before [he enters] the assumption of the office to which he ran for and won, he has to file his certificate of expenditures and contributions. And you will observe, Your Honor, that is very explicit here: "No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required." In other words, it is the duty of the winning candidate to file his certificate of expenditures and contributions before he enters into assumption of his duties.

Now, anybody can question this winning candidate. And of course, we know that there are offices where a particular candidate has to file his certificate of statement of expenditures and contributions.

MR. ALBANO. For the sake of argument, Mr. Speaker, ...

MR. PALACOL. Although, of course, there is always that possibility that a candidate who had won may enter his duties without even filing his certificate of expenditures and contributions. But that is an exception to the general rule.

MR. ALBANO. Now, Mr. Speaker, for the sake of argument, suppose an elected person did not file his statement of contributions and expenditures as herein required, and then enters into an office, how is he going to be booted out of that office?

MR. PALACOL. I think, Your Honor, there is a proper remedy for that in our courts of law.

MR. ALBANO. So there is a need ...

MR. PALACOL. He could be enjoined from assuming the position to which he was elected.

MR. ALBANO. But he has taken his oath of office and actually performed - - does it mean therefore that one has to file a case in court before he can be ...

MR. PALACOL. He has to file before he takes his oath - - before he assumes the position he has to file his certificate of expenditures and contributions.

MR. ALBANO. Mr. Speaker, the elected official has already entered into his duties, and as a matter of fact, exercised his duties but has failed to file at the required day or the required period of time, how is he going to be stopped from assuming when he has already assumed office? Is there going to be a protest? And it seems there is no penal provision in this section?

MR. PALACOL. What is your suggestion, Your Honor?

MR. ALBANO. Well, my recommendation is we might as well be silent and allow the Revised Election Code provisions to prevail. After all those who have failed to file their statement of contributions and expenditures are now facing criminal charges. And so it is best that we delete this particular provision so that we do not carry a provision here that is honored more in breach than in compliance.

MR. PALACOL. Your Honor, you may formulate your proposed amendment and we are going to consider that

in the Period of Individual Amendments.[29] (Emphases supplied.)

The COMELEC's blanket extension of the period to file SOCEs likewise amounts to usurpation of legislative power. In *Loong v. COMELEC*,[30] the Court rejected the COMELEC's similar stance to extend the time to file a petition for cancellation of certificate of candidacy, to wit:

It is true that the discovery of false representation as to material facts required to be stated in a certificate of candidacy, under Section 74 of the Code, may be made only after the lapse of the 25-day period prescribed by Section 78 of the Code, through no fault of the person who discovers such misrepresentations and who would want the disqualification of the candidate committing the misrepresentation. It would seem, therefore, that there could indeed be a gap between the time of the discovery of the misrepresentation, (when the discovery is made after the 25-day period under Sec. 78 of the Code has lapsed) and the time when the proclamation of the results of the election is made. During this so-called "gap" the would-be petitioner (who would seek the disqualification of the candidate) is left with nothing to do except to wait for the proclamation of the results, so that he could avail of a remedy against the misrepresenting candidate, that is, by filing a petition for quo warranto against him. Respondent Commission sees this "gap" in what it, calls a procedural gap which, according to it, is unnecessary and should be remedied.

At the same time, it cannot be denied that it is the purpose and intent of the legislative branch of the government to fix a definite time within which petitions for protests related to eligibility of candidates for elective offices must be filed, as seen in Sections 78 and 253 of the Code. Respondent Commission may have seen the need to remedy this so-called "procedural gap", but it is not for it to prescribe what the law does not provide, its function not being legislative. The question of whether the time to file these petitions or protests is too short or ineffective is one for the Legislature to decide and remedy.[31] (Emphasis supplied)

As discussed earlier, the Congress fixed the period to file SOCEs "within thirty (30) days after the day of the election." Hence, the COMELEC cannot arbitrarily extend the deadline and substitute its own wisdom in defiance with the clear legislative intent. The COMELEC likewise cannot conveniently invoke the exigency of public service to justify its actions. The COMELEC's task is to administer and not to interpret the election laws. At most, the COMELEC can only provide details to implement the statute but not to supplant the expressed provisions of the law.

In *Maturan v. COMELEC*,[32] the Court recognized the Congress' absolute discretion to penalize with perpetual disqualification to hold public office those persons who repeatedly failed to submit their SOCEs. The Court stressed that the wisdom of Congress in enacting a law to ensure the sanctity of the electoral process should be respected unless adequately shown to be unconstitutional.[33] In this case, the arbitrary extension of the deadline to file SOCEs will render nugatory the Court's decision in *Maturan* and exempt non-compliant candidates and political parties from any liability and other legal consequences.

The Court reiterates that the filing of complete SOCEs within the 30-day period is mandatory. Yet, it bears emphasis that Section 14 of RA No. 7166 does not prohibit the COMELEC from receiving belatedly filed or tardy SOCEs. Specifically, the winning candidates can still enter the duties of their office once they submitted the required SOCEs. This is the clear import of the second sentence of Section 14 of RA No. 7166 which provides that no person elected to any public office shall enter upon the duties of his office "until he has filed the statement of contributions and expenditures herein required." The word "until" signifies that the prohibition to assume office is conditional and subject to the filing of the SOCEs.

A similar interpretation must be given to the third sentence of Section 14, RA No. 7166 which states that "[t]he same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act." This is because the third sentence explicitly

refers to "the same prohibition" mentioned in the second sentence. At most, the non-compliance with Section 14, RA No. 7166 will trigger only the imposition of administrative liabilities provided by law.

Further, the fourth sentence of Section 14, RA No. 7166 penalizes the failure to file SOCEs with administrative fines.

And, in case of repeated non-compliance, the seventh sentence of Section 14, RA No. 7166 provides a stiffer penalty of administrative fines plus perpetual disqualification to hold public office.

Clearly, the COMELEC committed grave abuse of discretion in issuing the assailed resolution. The arbitrary extension of the deadline for the submission of the SOCEs effectively condoned erring candidates and political parties from administrative liabilities even if the law does not provide any exempting circumstances.

However, the Court is not at liberty to discuss the COMELEC's argument that Section 14 of RA No. 7166 is unconstitutional allegedly because it prescribed additional qualifications to national and local elective positions. The power of judicial review is limited to an actual case or controversy involving a conflict of legal rights as distinguished from an abstract dispute.[34]

More importantly, the "rules of avoidance" calls for judicial restraint in passing upon constitutional questions if other grounds exist as bases for the decision, viz.:

The so-called "seven pillars of limitations of judicial review" or the "rules of avoidance" enunciated by US Supreme Court Justice Brandeis in his concurring opinion in *Ashwander v. Tennessee Valley Authority* teaches that:

1. The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary proceeding, declining because to decide such questions "is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy between individuals. It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act."

2. The Court will not "anticipate a question of constitutional law in advance of the necessity of deciding it." "It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case."

3. The Court will not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied."

4. The Court will not pass upon a constitutional question, although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. This rule has found most varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter. Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.

5. The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation. Among the many applications of this rule, none is more striking than the denial of the right of challenge to one who lacks a personal or property right. Thus, the challenge by a public official interested only in the performance of his official duty will not be entertained. In *Fairchild v. Hughes*, the Court affirmed the dismissal of a suit brought by a citizen who sought to have the Nineteenth Amendment declared unconstitutional. In *Massachusetts v. Mellon*, the challenge of the federal Maternity Act was not entertained although made by the Commonwealth on behalf of all its citizens.

6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself

of its benefits.

7. "When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided."

Meanwhile, in *Francisco, Jr. v. Nagmamalasakit na mga Manananggol ng mga Manggagawang Filipino, Inc.*, the Court summarized the foregoing "pillars" into six categories and adopted "parallel guidelines" in the exercise of its power of judicial review, to wit:

The foregoing "pillars" of limitation of judicial review, summarized in *Ashwander v. Tennessee Valley Authority* from different decisions of the United States Supreme Court, can be encapsulated into the following categories:

1. that there be absolute necessity of deciding a case
2. that rules of constitutional law shall be formulated only as required by the facts of the case
3. that judgment may not be sustained on some other ground
4. that there be actual injury sustained by the party by reason of the operation of the statute
5. that the parties are not in estoppel
6. that the Court upholds the presumption of constitutionality.

As stated previously, parallel guidelines have been adopted by this Court in the exercise of judicial review:

1. actual case or controversy calling for the exercise of judicial power;
2. the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
3. the question of constitutionality must be raised at the earliest possible opportunity;
4. the issue of constitutionality must be the very *lis mota* of the case.

Thus, the exercise of our power of judicial review is subject to these four requisites and the further requirement that we can only resolve pure questions of law. These limitations, when properly and strictly observed, should aid in the decongestion of the Court's workload.[35] (Citations omitted)

Here, there is no contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. The PDP-Laban, Peralta, et al., and the COMELEC are unanimous as to the mandatory filing of the SOCEs and the consequences of non-compliance. Further, the facts do not show that any winning candidate was prevented from assuming office. The dispute only pertains on whether the COMELEC can lawfully extend the deadline for submission of the SOCEs and exempt the erring candidates and political parties from administrative liabilities.

As the OSG aptly observed, the validity of the statutory provision itself is not the *lis mota* of the case. In this circumstance, the Court reserves the issue on constitutionality of a statute until the proper petition is filed between opposing parties and defers from rendering an advisory opinion because it serves no useful purpose and not binding upon the parties, thus:

Basic in litigation raising constitutional issues is the requirement that there must be an actual case or controversy. This Court cannot render an advisory opinion. We assume that the Constitution binds all other constitutional departments, instrumentalities, and organs. We are aware that in the exercise of their various

powers, they do interpret the text of the Constitution in the light of contemporary needs that they should address. A policy that reduces this Court to an adviser for official acts by the other departments that have not yet been done would unnecessarily tax our resources. It is inconsistent with our role as final arbiter and adjudicator and weakens the entire system of the Rule of Law. Our power of judicial review is a duty to make a final and binding construction of law. This power should generally be reserved when the departments have exhausted any and all acts that would remedy any perceived violation of right. The rationale that defines the extent of our doctrines laying down exceptions to our rules on justiciability are clear: Not only should the pleadings show a convincing violation of a right, but the impact should be shown to be so grave, imminent, and irreparable that any delayed exercise of judicial review or deference would undermine fundamental principles that should be enjoyed by the party complaining or the constituents that they legitimately represent.[36] (Emphases supplied)

Also, the Court declines to entertain Peralta, et al.'s prayer to hold the commissioners who voted in favor of Resolution No. 10147 guilty of betrayal of public trust. Suffice it to say that this proceeding is not the proper vehicle to decide the liability of the commissioners, if any. Verily, the betrayal of public trust is a ground for impeachment to remove from office members of the constitutional commissions.[37] However, an impeachment complaint is not filed before this Court and must be instituted and examined in the proper forum.[38]

Taken together, the COMELEC issued Resolution No. 10147 with grave abuse of discretion which is arbitrary, capricious, whimsical, or despotic exercise of judgment as when the assailed resolution is bereft of any factual and legal justification, or when the disputed act of the tribunal goes beyond the limits of discretion thus effecting an injustice.[39]

Applying, the doctrine of operative fact, the SOCEs submitted within the extended deadline set under Comelec Resolution No. 10147 are deemed timely filed.

It is undisputed that COMELEC Resolution No. 10147 is an administrative act and has the force of law. However, the COMELEC gravely abused its discretion in issuing the resolution and is invalid in so far as it extended the deadline for submission of SOCEs for the 2016 elections until June 30, 2016. Consequently, the administrative act cannot be a source of legal rights. Article 7 of the New Civil Code is explicit that "administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution." [40]

Nevertheless, equity and fair play call for the application of the doctrine of operative fact which recognizes the effects of the law or executive issuance prior to its invalidation when relied upon by the public in good faith.[41] In *Agbayani, de v. Phil. National Bank*, [42] the application of the doctrine of operative fact was extensively discussed as follows:

1. The decision now on appeal reflects the orthodox view that an unconstitutional act, for that matter an executive order or a municipal ordinance likewise suffering from that infirmity, cannot be the source of any legal rights or duties. Nor can it justify any official act taken under it. Its repugnancy to the fundamental law once judicially declared results in its being to all intents and purposes a mere scrap of paper. As the new Civil Code puts it: "When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern. Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution." It is understandable why it should be so, the Constitution being supreme and paramount. Any legislative or executive act contrary to its terms cannot survive.

Such a view has support in logic and possesses the merit of simplicity. It may not however be sufficiently realistic. It does not admit of doubt that prior to the declaration of nullity such challenged legislative or

executive act must have been in force and had to be complied with. This is so as until after the judiciary, in an appropriate case, declares its invalidity, it is entitled to obedience and respect. Parties may have acted under it and may have changed their positions. What could be more fitting than that in a subsequent litigation regard be had to what has been done while such legislative or executive act was in operation and presumed to be valid in all respects. It is now accepted as a doctrine that prior to its being nullified, its existence as a fact must be reckoned with. This is merely to reflect awareness that precisely because the judiciary is the governmental organ which has the final say on whether or not a legislative or executive measure is valid, a period of time may have elapsed before it can exercise the power of judicial review that may lead to a declaration of nullity. It would be to deprive the law of its quality of fairness and justice then, if there be no recognition of what had transpired prior to such adjudication.

In the language of an American Supreme Court decision: "The actual existence of a statute, prior to such a determination (of unconstitutionality), is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects, — with respect to particular relations, individual and corporate, and particular conduct, private and official." x x x.[43] (Emphases supplied.)

Here, the candidates and political parties that submitted their SOCEs following the extended deadline acted in good faith. They honestly believed on the resolution that was issued pursuant to the COMELEC's rule-making authority.[44] The COMELEC even previously extended the deadlines for the filing of SOCEs in the 2010 and 2013 national and local elections. The COMELEC's authority to extend the deadline was not questioned except now. Accordingly, the effects of accomplished acts prior to the invalidation of COMELEC Resolution No. 10147 should be allowed to stand. The SOCEs submitted within the extended period or until June 30, 2016 are deemed timely filed.

In sum, the Court acknowledges the COMELEC's indispensable role as an independent constitutional body in ensuring free, orderly, honest, peaceful, and credible elections. Yet, the COMELEC's zeal in administering election laws is still circumscribed by the law — the spring cannot rise higher than its source.[45]

FOR THESE REASONS, the Commission on Elections Resolution No. 10147 is declared void for being repugnant to the law. Applying the doctrine of operative fact, however, the Statements of Contributions and Expenditures for the May 9, 2016 national and local elections that were submitted on or before June 30, 2016 are deemed timely filed.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Perlas-Bernabe, Hernando, Carandang, Inting, Zalameda, Gaerlan, Rosario, J. Lopez, and Dimaampao, JJ., concur.

Leonen,[*] J., see separate concurring opinion. On official leave but left vote.

Caguioa, J., please see separate concurring.

Lazaro-Javier, J., see concurring opinion.

[*] On Official Leave.

[1] Rollo, pp. 3-28.

[2] OMNIBUS RULES & REGULATIONS GOVERNING CAMPAIGN FINANCE & DISCLOSURE IN CONNECTION WITH THE 09 MAY 2016 NATIONAL & LOCAL ELECTION AND ALL SUBSEQUENT NATIONAL, & LOCAL ELECTIONS THEREAFTER, dated October 2, 2015.

[3] COMELEC Resolution No. 9991, Rule 10, Section 2, provides:

SEC. 2. When and how to file the SOCE and its supporting document. – x x x

The 08 June 2016 deadline shall be final and non-extendible. Submissions beyond this period shall not be accepted. COMELEC Resolutions Nos. 9849 and 9873, Minute Resolutions Nos. 13-0775 and 13-0823 are hereby repealed, insofar as they allowed the belated submission, amendment and/or correction of campaign finance disclosure statements and reports and the imposition of late penalties for the 2013 National and Local Elections. (Emphasis supplied.)

[4] AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES. Approved, November 26, 1991.

[5] IN RE: SEVERAL REQUESTS FOR EXTENSION TO FILE STATEMENT OR CONTRIBUTIONS & EXPENDITURES BY CANDIDATES, POLITICAL PARTIES, AND PARTY-LISTS ORGANIZATIONS IN RELATION TO THE 2016 NATIONAL AND LOCAL ELECTIONS, promulgated on June 23, 2016.

[6] Rollo, p. 34. The resolution provides that "RESOLVED, FURTHER, as the COMMISSION hereby FURTHER RESOLVES, to impose administrative fines upon candidates and parties who fail to file their SOCEs on or before June 30, 2016 based on the Scale of Administrative Fines provided under Resolution No. 9939."

[7] Id. at 7, 29-46. Commissioners Al A. Parreño, Arthur D. Lim, Ma. Rowena Amelia V. Guanzon, and Sheriff M. Abas voted to extend the deadline to file SOCE until June 30, 2016. Chairman J. Andres D. Bautista, and Commissioners Christian Robert S. Lim and Luie Tito F. Guia registered their Separate Opinion (Id. at 36-37;) and Dissenting Opinions, respectively. (Id. at 39-40; and 45-46.)

[8] Id. at 29-34.

[9] Id. at 3-28.

[10] Id. at 11-24.

[11] Id. at 77-103.

[12] Id. at 85. The COMELEC claimed that Resolution No. 10147 was issued to achieve the following laudable and lawful objectives: (a) enable candidates and parties who failed to submit their SOCEs or whose SOCEs do not comply with the RULES AND REGULATIONS GOVERNING CAMPAIGN FINANCE AND DISCLOSURE to submit or correct their campaign finance statements or reports; (b) encourage disclosure by candidates and parties their campaign contributions and expenditures during the 2016 NLE and to enable the Commission to initiate the filing of administrative cases for the violation of Section 14 of Republic Act No. 7166 and election offenses related to campaign finance; (c) avoid a constitutional crisis by not impeding the assumption to office of the then Vice President-Elect; and (d) avoid a serious vacuum in governance by not barring 5 Senators, 115 Congressmen, 40 Governors, and a host of local officials from assuming office.

[13] Id. at 83-84. The COMELEC enumerated the following candidates, political parties, and party-lists who were allowed to file their SOCE within the extended period, namely: Roxas, Manuel Araneta (June 22, 2016); Drilon, Franklin Magtunao (June 9, 2016); Pangilinan, Francis Nepomuceno (June 29, 2016); Baligod, Levito Doniego (June 10, 2016); Liban, Dante Ventura (June 30, 2016); Aksyon Demokratiko (June 29, 2016); Liberal Party (June 14, 2016); Pwersa ng Masang Pilipino (June 30, 2016); PML (June 29, 2016); Movement of Women for Change and Reform (June 22, 2016); Kaisahan ng mga Maliliit na Magsasaka (June 15, 2016); LPG Marketers Association, Inc. (June 9, 2016); Union of Nationalist Democratic Filipino Organization (June 27, 2016); Talino

at Galing ng Pinoy (June 10, 2016); Piston Land Transport Coalition, Inc. (June 13, 2016); Tinderong Pinoy Party (June 21, 2016); Confederation of Savings and Loan Associations, Inc. (June 30, 2016); Barangay Natin (June 14, 2016); Aagapay sa Matatanda (June 10, 2016); and Ang Prolife (June 29, 2016).

[14] *Id.* at 77-99.

[15] *Id.* at 253-273.

[16] *Id.* at 311-321.

[17] Cruz, *Philippine Political Law*, 2002 Ed., p. 259. See also *Angara v. The Electoral Commission*, 63 Phil. 139 (1936); *Board of Optometry v. Hon. Colet*, 328 Phil. 1187, 1201-1203 (1996); *Police General Macasiano (Ret.) v. NHA*, 296 Phil. 56, 63-65 (1993); *Santos III v. Northwest Orient Airlines*, 285 Phil. 734, 742-743 (1992); and *Nat'l. Economic Protectionism Association v. Hon. Ongpin*, 253 Phil. 643, 649 (1989).

[18] *Hon. Aguinaldo v. Pres. Benigno Simeon C. Aquino III*, 801 Phil. 492, 522 (2016).

[19] *Pimentel v. Legal Education Board*, G.R. Nos. 230642, 242954, September 10, 2019. See also *Integrated Bar of the Phils. v. Hon. Zamora*, 392 Phil. 618, 632-634 (2000); *Kilosbayan, Inc. v. Morato*, 320 Phil. 171-184-186 (1995); and *Public Interest Center, Inc. v. Judge Roxas*, 542 Phil. 443, 455-456 (2007).

[20] *Gios-Samar, Inc. v. Department of Transportation and Communication*, G.R. No. 217158, March 12, 2019.

[21] *Bolos v. Bolos*, 648 Phil. 630, 637 (2010).

[22] *Nepomuceno v. Rehabilitation Finance Corporation*, 110 Phil. 42, 48 (1960).

[23] *Baking v. The Director of Prisons*, 139 Phil. 110, 122 (1969).

[24] *Agcaoili v. Suguitan*, 48 Phil. 676, 695-696 (1926).

[25] 315 Phil. 851 (1995).

[26] *Id.* at 857.

[27] *Id.* at 856-857.

[28] House of Representatives, Plenary Hearing, September 12, 1991, RA 7166, 782-793, pp. 782-786.

[29] House of Representatives, Plenary Hearing, September 12, 1991, RA 7166, 793-795, pp. 791-795.

[30] *Loong v. COMELEC*, 290-A Phil. 559 (1992).

[31] *Id.* at 571-572.

[32] 808 Phil. 86 (2017).

[33] *Id.* at 93-94.

[34] *Province of North Cotabato v. Gov't. of the Republic of the Phils. Peace Panel on Ancestral Domain (GRP)*, 589 Phil. 387, 480-481 (2008).

[35] *Supra* note 20.

[36] *Belgica v. Hon. Exec. Sec. Ochoa, Jr.*, 721 Phil. 416, 661 (2013), Concurring Opinion of J. Marvic M.V.F. Leonen.

[37] CONSTITUTION, Art. XI, Section 2, provides:

SEC. 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed office as provided by law, but not by impeachment.

[38] CONSTITUTION, Art. XI, Sec. 3, par. (2).

SEC. 3. x x x.

(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution or endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

[39] *The Senate Blue Ribbon Committee v. Hon. Majaducon*, 455 Phil. 61, 71 (2003).

[40] NEW CIVIL CODE, Article 7, paragraph 3.

[41] *Commissioner of Internal Revenue v. San Roque Power Corp.*, 719 Phil. 137, 161 (2013).

[42] 148 Phil. 443 (1971). See also *id.* at 157-158.

[43] *Agbayani, de v. Phil. National Bank*, *supra* note 41, at 447-448.

[44] Republic Act No. 7166, Section 35 Rules and Regulations. – The Commission shall issue rules and regulations to implement this Act. Said rules shall be published in at least two (2) national newspapers of general circulation.

[45] *Abakada Guro Partylist v. Hon. Exec. Sec. Ermita*, 506 Phil. 1, 207-208 (2005), Concurring and Dissenting Opinion of former Chief Justice Hon. Reynato S. Puno.

SEPARATE CONCURRING OPINION

LEONEN, J.:

I fervently believe that this case presents an opportune time for this Court En Banc to rule on the constitutionality of Commission on Elections Resolution No. 10147. I humbly submit that this Court must rule on this issue. Nonetheless, I concur in the result and add my reasons in supporting the declaration of illegality of Resolution No. 10147.

The validity of this issuance is being assailed insofar as it effectively creates additional qualifications to national and local elective candidates.[1]

Citing (*Gios-Samar*) v. Department of Transportation and Communications,[2] the ponencia states that this Court must exercise judicial restraint in passing upon constitutional questions if other grounds exist as bases for the Decision.[3]

In *Gios-Samar*, petitioner *Gios-Samar, Inc.* filed a petition for prohibition against respondents Department of Transportation and Communications and Civil Aviation Authority of the Philippines, assailing the constitutionality of the bundling of the invitation to prequalify and bid on airport development, operations, and

maintenance of multiple airports. At the time the petition was with this Court, there had been no bidding yet, as the filing was done months ahead of the submission of prequalification queries and qualification documents. During the proceedings, the Department of Transportation and Communications asserted that petitioner had no standing to sue and that the allegations of unconstitutionality of the assailed bundling were speculative and conjectural; thus, there was no justiciable controversy to speak of. The Civil Aviation Authority of the Philippines, meanwhile, pointed out that petitioner did not allege any special and compelling reason to justify its direct resort to this Court.[4]

Contrary to petitioner Gios-Samar's insistence that the issues presented were legal ones, this Court found that the issues involved were factual. It is in this context that this Court held that where a legal issue requires determination of a factual issue, such factual issue must first be brought before the trial court or the Court of Appeals.[5] Notwithstanding the transcendental importance of a case, this Court ruled that it is generally not clothed with power to tackle factual questions and play the role of a trial court.[6] In the process of ruling as such, this Court discussed the "rules of avoidance" and the need to exercise judicial restraint.

This case before us presents a purely legal issue. Therefore, the discussion on the rules of avoidance and exercise of judicial restraint is unsuitable.

While conceding that this case presents an issue of transcendental importance,[7] the ponencia nonetheless stated that this constitutional issue need not be discussed because no actual controversy exists and the constitutional issue is not the *lis mota* of the case.

With due respect, I believe that the constitutional issues presented in this case are justiciable. This Court should not avoid its constitutional duty to decide these issues in view of their transcendental importance. Where a controversy concerns fundamental constitutional issues, the threshold must be adjusted to allow judicial scrutiny, so that issues may be resolved at the earliest stage before anything irreversible is undertaken under cover of an unconstitutional act.[8]

In a recent case,[9] this Court En Banc explained:

An actual case exists "when the act being challenged has had a direct adverse effect on the individual challenging it." Thus, actual case means the presence of that concrete adverseness that can be drawn from the allegations raised by the parties in their pleadings:

Jurisprudence provides that an actual case or controversy is one which "involves a conflict of legal rights, an assertion of opposite hypothetical or abstract difference or dispute." In other words, "[t]here must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence." Related to the requirement of an actual case or controversy is the requirement of "ripeness," meaning that the questions raised for constitutional scrutiny are already ripe for adjudication." A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action."

....

Legal standing means "personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged." That the party must present a personal stake in the case ensures the presence of concrete adverseness:

In public or constitutional litigations, the Court is often burdened with the determination of the *locus standi* of the petitioners due to the ever-present need to regulate the invocation of the intervention of the Court to correct

any official action or policy in order to avoid obstructing the efficient functioning of public officials and offices involved in public service. It is required, therefore, that the petitioner must have a personal stake in the outcome of the controversy, for, as indicated in *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*:

The question on legal standing is whether such parties have "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." Accordingly, it has been held that the interest of a person assailing the constitutionality of a statute must be direct and personal. He must be able to show, not only that the law or any government act is invalid, but also that he sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way. It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.[10] (Emphasis supplied)

Here, there is a contrariety of legal rights that can resolved based on existing law and jurisprudence. On one hand, petitioner PDP-Laban insists that Resolution No. 10147 is allegedly void for being issued in excess of respondent's delegated rule-making power.[11] On the other hand, respondent Commission on Elections asserts that the 30-day period under Section 14 of Republic Act No. 7166 is extendible and therefore its Resolution No. 10147 is valid. Otherwise (i.e., if the 30-day period is non-extendible and if Resolution No. 10147 was not issued), respondent would have disallowed non-compliant officials from assuming office for violation of this filing requirement—which, in turn, would amount to prescribing an additional qualification for public office.[12] Verily, the constitutionality of Resolution No. 10147 is the *lis mota* of this case.

In its Petition, petitioner alleged the following:

21. Having addressed the procedural concerns in this case, petitioner PDP-Laban will now proceed to comprehensively discuss the substantive issue raised in this petition.

THE ASSAILED RESOLUTION NO. 10147, WHICH EXTENDED THE DEADLINE FOR THE FILING OF SOCE FROM JUNE 8 TO JUNE 30, 2016, IS CONTRARY TO SECTION 14 OF RA7166 WHICH MANDATES THAT THE THIRTY (30) DAY PERIOD FOR FILING OF SOCE IS NON-EXTENDIBLE.

....

24. ... all candidates and parties who participated in the May 9, 2016 National and Local Elections, regardless of whether or not they won or lost, must file their SOCEs and the relevant Schedules and supporting documents not later than thirty (30) days after the day of the election, or by June 8, 2016. Wednesday. This period for filing of SOCE is clearly and unarguably MANDATORY and NON-EXTENDIBLE.

25. That being the case, Public Respondent COMELEC En Banc cannot deny that it palpably violated that statutory mandate of Section 14 of RA7166 and purposely disregarded its own procedural rules, i.e., Section 2, Rule 10 of Resolution No. 9991, when it promulgated the questioned Resolution No. 10147.

....

27. As discussed in CFU's Memorandum dated June 15, 2016, a reading of Section 14 of RA7166 would easily reveal that there is NO DELEGATED AUTHORITY from Congress for the Public Respondent COMELEC En Banc to fix the period to file SOCEs.

....

PUBLIC RESPONDENT COMELEC EN BANC ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN PROMULGATING THE ASSAILED RESOLUTION NO. 10147 BECAUSE THE

ISSUANCE THEREOF EXCEEDED THE DELEGATED RULE-MAKING POWER OF THE PUBLIC RESPONDENT.

....

36. However, Section 6 of Article IS(A) of the 1987 Philippine Constitution reminded the constitutional commissions like Public Respondent COMELEC En Banc that:

Section 6. Each Commission en banc may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights. (Emphasis supplied)

....

37. Like all grants of powers, however, the grant to the Public Respondent COMELEC En Banc of its express-enforcement and administration, and rule-making and implied-interpretative- powers are not without limitations. The exercise of these powers should always be read in conjunction with, not in isolation from, the Constitution and the laws from where it draws the power.[13] (Emphasis supplied)

On the other hand, in its Comment, the Commission on Elections contended that:

67. Nothing in Resolution No. 10147 offends the constitutional limitation that the COMELEC's rule-making power "shall not diminish, increase, or modify substantive rights."

....

81. For COMELEC not to allow, in the name of SOCE, so many officials from assuming the offices to which they were validly elected will not only negate the sovereign people's mandate but will add a qualification for public office not heretofore prescribed under the Constitution for high officials or by the Local Government Code for local officials.

82. It requires no serious debate that COMELEC is devoid of such power.[14]

To determine whether respondent went beyond its delegated rule-making power in issuing Resolution No. 10147, which should therefore be nullified, I submit that this Court must first ascertain and interpret the pertinent portions of the Constitution (i.e., provisions on the powers granted to respondent as a constitutional commission vis-à-vis those providing the substantive qualifications of a political candidate).

The legal issue posed is ripe for adjudication, as the challenged resolution was allegedly issued and implemented to accommodate the pleas of a single political party who lamented about the filing requirement and requested for an extension of the 30-day period, to the prejudice of the petitioner who faithfully complied with the provisions of Section 14 of Republic Act No. 7166.[15]

The resolution on the constitutional issue in this case undoubtedly has far-reaching consequences. The ponencia itself states that the legal issue involved is of transcendental importance, as the resolution of this case will affect "all political candidates and their liabilities for non-compliance with the timely submission of their [Statement of Contributions and Expenditures]."[16] It also noted that this case "is capable of repetition" as respondent "had previously issued similar guidelines extending the period to file the [Statement of Contributions and Expenditures]."[17] As noted by Associate Justice Mario V. Lopez:

[T]he [Commission on Elections] previously allowed extension of time in filing the SOCEs due to legal necessity and to prevent vacuum in the public service, thus:

WHEREAS, the Commission [on Elections] En Banc received several letter requests for extension of the deadline to file the required [Statement of Contributions and Expenditures] for the May 9, 2016 National and

Local Elections (NLE);

WHEREAS, as records show, the deadlines for the filing of [Statements of Contributions and Expenses] has been invariably and consistently extended by the Commission out of legal necessity and particularly in the 2010 and 2013 NLE wherein the Commission allowed the extension of the deadline for filing of [Statements of Contributions and Expenses];

....

WHEREAS, it is clear from the express language of the above-quoted provision that the phrase, "until he has filed the statement of contributions and expenditures herein required", implies that the [Statements of Contributions and Expenses] may be filed beyond the deadline of thirty (30) days from the date of the elections as fixed herein.

NOW, THEREFORE, the Commission [on Elections] En [B]anc, RESOLVED ... to EXTEND the deadline of filing the Statement of Contributions and Expenditures to 30 June 2016 ... in order to: (a) enable candidates and parties who failed to submit their [Statements of Contributions and Expenses] or whose [Statements of Contributions and Expenses] do not comply with the RULES and REGULATIONS GOVERNING CAMPAIGN FINANCE AND DISCLOSURE to submit or correct their campaign finance statements or reports; and (b) encourage disclosure by candidates and parties their campaign contributions and expenditures during the 2016 NLE and to enable the Commission [on Elections] to initiate the filing of administrative cases for the violation of Section 14 of Republic Act No. 7166 and election offenses related to campaign finance.

....

We find it abhorrent to adopt the erroneous interpretation that our duly elected public officials cannot assume office simply because of the failure of the party treasurer to submit the party's [Statements of Contributions and Expenses] within the 30-day period deadline. The resulting frustration of the people's mandate, the widespread vacuum in the public service, and the likelihood of a constitutional crisis, constitute an absurdity not contemplated by the law. These are risks that the [Commission on Elections] is not willing to take.[18]

In this light, I this Court could have taken this opportunity to tackle the constitutionality of Commission on Elections Resolution No. 10147, especially where said issue is ripe for adjudication; is the *lis mota* of the case; and is capable of repetition.

In our jurisdiction, elections are envisioned to be fair and inclusive.[19] This can be surmised from various constitutional provisions which place importance on the equality of opportunity to proffer oneself for public office.[20] To this end, the Commission on Elections is empowered to enforce and administer all laws and regulations relative to the conduct of an election.[21] "No other body is granted such plenary powers regarding elections." [22] In view of this constitutional mandate, this Court has given the Commission on Elections wide latitude in devising means and methods that will ensure the accomplishment of the great objective for which it was created: free, orderly, honest, peaceful, and credible elections.[23] This wide latitude, however, is subject to the limitation that the Commission on Elections cannot, under the guise of enforcing and administering election laws, impose additional qualifications where the Constitution had already expressly prescribed substantive constitutional limitations on these qualifications. Yet, the Commission on Elections may regulate the exercise of the right to run for public office—and as in the enjoyment of all other rights, subject this right to procedural requirements in accordance with the Constitution and related laws.[24]

In *Akbayan v. Commission on Elections*, [25] this Court upheld the constitutionality of a resolution issued by the Commission on Elections which regulated the conduct of voter's registration. In the process, this Court likewise affirmed the law which the Commission on Elections sought to implement through the resolution, by stating that this law was issued pursuant to the State's police power. This Court explained:

In a representative democracy such as ours, the right of suffrage, although accorded a prime niche in the hierarchy of rights embodied in the fundamental law, ought to be exercised within the proper bounds and framework of the Constitution and must properly yield to pertinent laws skillfully enacted by the Legislature, which statutes for all intents and purposes, are crafted to effectively insulate such so cherished right from ravishment and preserve the democratic institutions our people have, for so long, guarded against the spoils of opportunism, debauchery and abuse.

To be sure, the right of suffrage ardently invoked by herein petitioners, is not at all absolute. Needless to say, the exercise of the right of suffrage, as in the enjoyment of all other rights, is subject to existing substantive and procedural requirements embodied in our Constitution, statute books and other repositories of law.

As to the procedural limitation, the right of a citizen to vote is necessarily conditioned upon certain procedural requirements he must undergo: among others, the process of registration. Specifically, a citizen in order to be qualified to exercise his right to vote, in addition to the minimum requirements set by the fundamental charter, is obliged by law to register, at present, under the provisions of Republic Act No. 8189, otherwise known as the "Voter's Registration Act of 1996."

Stated differently, the act of registration is an indispensable precondition to the right of suffrage. For registration is part and parcel of the right to vote and an indispensable element in the election process. Thus, contrary to petitioners' argument, registration cannot and should not be denigrated to the lowly stature of a mere statutory requirement. Proceeding from the significance of registration as a necessary requisite to the right to vote, the State undoubtedly, in the exercise of its inherent police power, may then enact laws to safeguard and regulate the act of voter's registration for the ultimate purpose of conducting honest, orderly and peaceful election, to the incidental yet generally important end, that even pre-election activities could be performed by the duly constituted authorities in a realistic and orderly manner — one which is not indifferent and so far removed from the pressing order of the day and the prevalent circumstances of the times.

Viewed broadly, existing legal proscription and pragmatic operational considerations bear great weight in the adjudication of the issues raised in the instant petitions.

....

It is an accepted doctrine in administrative law that the determination of administrative agency as to the operation, implementation and application of a law would be accorded great weight considering that these specialized government bodies are, by their nature and functions, in the best position to know what they can possibly do or not do, under prevailing circumstances.

....

Under these circumstances, we rule that the [Commission on Elections], in denying the request of petitioners to hold a special registration, acted within the bounds and confines of the applicable law on the matter — Section 8 of RA 8189. In issuing the assailed Resolution, respondent [Commission on Elections] simply performed its constitutional task to enforce and administer all laws and regulations relative to the conduct of an election, inter alia, questions relating to the registration of voters; evidently, respondent [Commission on Elections] merely exercised a prerogative that chiefly pertains to it and one which squarely falls within the proper sphere of its constitutionally-mandated powers. Hence, whatever action respondent takes in the exercise of its wide latitude of discretion, specifically on matters involving voters' registration, pertains to the wisdom rather than the legality of the act. Accordingly, in the absence of clear showing of grave abuse of power of discretion on the part of respondent [Commission on Elections], this Court may not validly conduct an incursion and meddle with affairs exclusively within the province of respondent [Commission on Elections]— a body accorded by no less than the fundamental law with independence.[26] (Emphasis supplied)

Similarly, in *Kabataan Party-List v. Commission on Elections*,[27] this Court overruled the contention that

biometrics validation requirement has risen to the level of an unconstitutional substantive requirement in the exercise of the right of suffrage. This Court held that a "qualified elector" must still comply with registration procedures in order to vote.[28]

There is a difference between qualifications[29] of candidates and procedural requirements[30] concerning elections. Qualification refers to "the possession of qualities, properties (such as fitness or capacity) inherently or legally necessary to make one eligible [to run] for a position or office, or to perform a public duty or function." [31] On the other hand, procedural requirements or rules of procedure refer to "provisions prescribing the method by which substantive rights may be enforced." [32]

Like the exercise of the right of suffrage, the exercise of the right to run for public office may be subject to existing substantive and procedural requirements embodied in our Constitution, as well as related laws, rules and regulations.[33] Similar to Akbayan, the assailed resolution in this case was issued pursuant to the constitutional duty of the Commission on Elections to ensure free, clean, and honest elections, and to ensure that there are no over expenditures. It did not provide additional qualifications of candidates.

I agree that the Commission on Elections committed grave abuse of discretion in issuing the assailed Resolution No. 10147 for being contrary to law. Contrary to the legal provision it seeks to implement (i.e., Section 14 of Republic Act No. 7166), Resolution No. 10147 not only extended the deadline within which candidates for the May 9, 2016 national and local elections may file their respective Statements of Contributions and Expenses, but also indiscriminately removed the administrative liability that arose for failure of a candidate to file a Statement of Contributions and Expenditures within the original 30-day period.[34]

Section 14 of Republic Act No. 7166 provides, among others, (a) a mandatory 30-day period when a Statement of Contributions and Expenditures must be filed by every candidate; (b) the effect of a failure to file a Statement of Contributions and Expenditures within the 30-day period (i.e., a candidate may be prevented from assuming office and may be held liable for an administrative offense); and (c) the effect of non-filing of a Statement of Contributions and Expenditures for a second or subsequent time.[35]

Notably, the requirement of filing a Statement of Contributions and Expenditures under Section 14 of Republic Act No. 7166 was previously found in Sections 107[36] and 111[37] of the Omnibus Election Code. While Republic Act No. 7166 expressly repealed Sections 107 and 111 of the Omnibus Election Code and no longer considers the failure to file a Statement of Contributions and Expenditures within the prescribed period as an election offense,[38] Republic Act No. 7166 reincorporated Sections 107 and 111 of the Omnibus Election Code, albeit with modification.

Under the Omnibus Election Code, every candidate was previously required to file a Statement of Contributions and Expenditures twice: first, within seven to ten days prior to the day of the election; and second, within 30 days after the elections.[39] At present, Republic Act No. 7166 requires only one filing of a Statement of Contributions and Expenditures, that is, within 30 days after the elections.

As noted by Associate Justice Amy Lazaro-Javier, while Republic Act No. 7166 expressly authorized the Commission on Elections to set the period for certain matters and to excuse noncompliance of other election offenses, Republic Act No. 7166 did not provide a similar leeway regarding the 30-day period for the filing of a Statement of Contributions and Expenditures.[40]

While the Legislature has had the occasion to modify the requirement of the filing of a Statement of Contributions and Expenditures and reclassified the noncompliance thereof from an election offense to an administrative offense, it nonetheless retained the word "shall" and the effect of failure to comply with this requirement.

It bears emphasizing that the use of the word "shall" signifies that the filing of the Statement of Contributions and Expenditures within 30 days from the day of the elections is mandatory.[41] In view of the peremptory nature of the provision of Section 14 of Republic Act No. 7166, the 30-day reglementary period provided is "final and non-extendible"[42]—as the Commission on Elections itself previously declared.

Every statute should be construed in connection with those of the same subject matter and should be able to stand together, if they can be done by any fair and reasonable interpretation.[43] Assuming that there was an ambiguity in Republic Act No. 7166 owing to a lack of express prohibition against extending the 30-day reglementary period, the Commission on Elections' position still cannot be countenanced; otherwise, it would render nugatory a remedial measure[44] provided by Congress, and more significantly, render inutile the Commission on Elections' constitutional mandate of ensuring free, orderly, honest, peaceful, and credible elections.[45] That being said, I respectfully disagree with the ponencia that winning candidates may belatedly file their respective Statements of Contributions and Expenses and can still enter the duties of their office upon submission of the required Statements.[46]

An administrative agency cannot amend an act of Congress.[47] Administrative acts shall be valid only when they are not contrary to the laws;[48] they must not override nor modify, but instead must remain consistent with the law they seek to apply and implement.[49] In extending the period provided by Section 14 of Republic Act No. 7166 and in effectively absolving the administratively liable arising for non-filing of the Statement of Contributions and Expenditures within the prescribed period, the Commission on Election supplanted the law it sought to implement and thus gravely abused its discretion. In the same vein, I join Associate Justice Amy Lazaro-Javier in saying that the repeated issuance of prior similar resolutions by the Commission on Elections (which extended the period within which Statements of Contributions and Expenses may be filed) cannot serve as precedent to justify the issuance of Resolution No. 10147.

Nonetheless, the effects of an administrative issuance from the promulgation until its invalidation by this Court may have to be recognized as valid when relied upon by the public in good faith.[50] Thus, I agree with the ponencia that the nullification of Resolution No. 10147 ought not to result in the reimposition of administrative liability upon the candidates of the May 2016 elections, who relied thereon in good faith.

ACCORDINGLY, I vote to GRANT the Petition.

[1] Ponencia, pp. 5 and 12.

[2] *Gios-Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970>> [Per J. Jardaleza, En Banc].

[3] Ponencia, pp. 12-14.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.* at 6.

[8] *J. Puno, Separate Opinion in Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, G.R. Nos. 183591, 183752, 183893, 183951, and 183962, 589 Phil. 387, 557 (2008) [Per J. Carpio Morales, En Banc].

[9] Confederation for Unity, Recognition and Advancement of Government Employees v. Abad, G.R. No. 200418, November 10, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67024>> [Per J. Leonen, En Banc].

[10] Id.

[11] Ponencia, p. 4.

[12] Id.

[13] Rollo, pp. 12-14.

[14] Id. at 94-99.

[15] Rollo, p. 41.

[16] Ponencia, p. 6.

[17] Id.

[18] Id. at 3-4.

[19] CONST., art. II, sec. 1.

[20] CONST., art. II, sec. 26; art. IX-C, sec. 4; art. XIII, sec. 1. See also *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 391 (2015) [Per J. Leonen, En Banc]; *Osmeña v. COMELEC*, 351 Phil. 692, 720 (1998) [Per J. Mendoza, En Banc]; *National Press Club v. Comelec*, 283 Phil. 795, 810 (1992) [Per J. Feliciano, En Banc].

[21] CONST., art. IX-C, sec. 2.

[22] J. Sereno, Concurring Opinion in *Capalla v. Commission on Elections*, 697 Phil. 644, 839 (2012) [Per J. Peralta, En Banc].

[23] Id.

[24] See *Akbayan v. Commission on Elections*, 407 Phil. 618, 635-636 (2001) [Per J. Buena, En Banc], where this Court upheld a resolution issued by the Commission on Elections, which regulated the process of voter's registration.

[26] Id.

[27] 775 Phil. 523 (2015) [Per J. Perlas-Bernabe, En Banc].

[28] Id. at 546.

[29] CONST., art. VI, sec. 3 and art. VII, sec. 3. See also Republic Act No. 7160 (1991), Title II, Chapter I, sec. 39.

[30] CONST., art. VI, secs. 2, 4, 8. See also CONST., art. VII, sec. 4; art. IX-A, sec. 6; art. IX-C, secs. 2(1), 2(5), 3, 4, and 9.

[31] 775 Phil. 523, 545 (2015) [Per J. Perlas-Bernabe, En Banc].

[32] *Primicias v. Ocampo*, 93 Phil. 446, 452 (1953) [Per J. Bautista Angelo, En Banc].

[33] See, for example, Section 6 of Republic Act No. 7941, otherwise known as the Party-List System Act which

provides that the Commission on Elections may refuse or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on the ground that it violates or fails to comply with the laws, rules or regulations relating to elections.

[34] Rollo, p. 34. Resolution No. 10147 dated June 23, 2016 entitled "In Re: Several Requests for Extension To File Statement of Contributions and Expenditures by Candidates, Political Parties, And Partylists Organizations in relation to the 2016 National and Local Elections". As noted by Justice Lopez, the resolution provides that "RESOLVED, FURTHER, as the COMMISSION hereby FURTHER RESOLVES, to impose administrative fines upon candidates and parties who fail to file their SOCEs on or before June 30, 2016 based on the Scale of Administrative Fines provided under Resolution No. 9939."

[35] Section 14 of Republic Act No. 7166 reads:

SECTION 14. Statement of Contributions and Expenditures: Effect of Failure to File Statement. — Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act.

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures are required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos (P1,000.00) to Thirty thousand pesos (P30,000.00), in the discretion of the Commission. The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender. (Emphasis supplied)

[36] Section 107 of the Batas Pambansa Blg. 881, otherwise known as Omnibus Election Code provides: Sec. 107. Statement of contributions and expenditures. – Every candidate and treasurer of the political party shall, not later than seven days, or earlier than ten days before the day of the election, file in duplicate with the office indicated in the following section, full, true and itemized, statement of all contributions and expenditures in connection with the election.

Within thirty days after the day of the election, said candidate and treasurer shall also file in duplicate a supplemental statement of all statement of contribution and expenditures not included in the statement filed prior to the day of the election.

[37] Section 111 of the Batas Pambansa Blg. 881 provides:

Sec. 111. Effect of failure to file statement. - In addition to other sanctions provided in this Code, no person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statements required herein within the period prescribed by this Code.

[38] See Section 39 of Republic Act No. 7166, which provides:

SECTION 39. Amending and Repealing Clause. —Section 107, 108 and 245 of the Omnibus Election Code are hereby repealed. Likewise, the inclusion in Section 262 of the Omnibus Election Code of the violations of Sections 105, 106, 107, 108, 109, 110, 111 and 112 as among election offenses is also hereby repealed. This repeal shall have retroactive effect.

Batas Pambansa Blg. 881, Republic Act No. 6646, Executive Order Nos. 144 and 157 and all other laws, orders, decrees, rules and regulations or other issuances, or any part thereof, inconsistent with the provisions of this Act are hereby amended or repealed accordingly.

In turn, Section 262 of the Batas Pambansa Blg. 881 provides:

Sec. 262. Other election offenses. - Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections 9, 18, 74, 75, 76, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 122, 123, 127, 128, 129, 132, 134, 135, 145, 148, 150, 152, 172, 173, 174, 178, 180, 182, 184, 185, 186, 189, 190, 191, 192, 194, 195, 196, 197, 198, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 223, 229, 230, 231, 233, 234, 235, 236, 239 and 240.

[39] Batas Pambansa Blg. 881 (1985), sec. 107.

[40] See Reflections of Associate Justice Amy Lazaro-Javier, p. 3.

[41] *Pilar v. COMELEC*, 315 Phil. 851-860, July 11, 1995, [J. Quason, En Banc]. See also *Perez v. Court of Appeals*, 325 Phil. 1014, 1022 (1996) [Per J. Romero, Second Division]. See also Ponencia, p. 4. See also Reflections of Associate Justice Amy Lazaro-Javier, p. 2.

[42] Ponencia, p. 2; citing the Commission on Elections' Resolution No. 9991, Rule 10, Section 2.

[43] *Akbayan v. Commission on Elections*, 407 Phil. 618, 639 (2001) [J. Buena, En Banc].

[44] See Reflections of Associate Justice Amy Lazaro-Javier, p. 9, which states:

Verily, a concerned citizen may file an injunctive suit to prevent a winning candidate from assuming office come noon of June 30 immediately following his or her election. Congress clarified, however, that such suit must be filed before said winning candidate has assumed office. It, too, must be filed after the lapse of the 30-day period under Section 14, otherwise the case would be premature. To illustrate, insofar as the 2016 elections is concerned, the injunctive suit should be filed from June 9, 2016 until before noon of June 30, 2016.

But when COMELEC extended here the filing of SOCEs to June 30, 2016, the deadline of filing the same coincided with the date of assumption of office. Thus, there was no more window for filing injunctive suits. The beginning, June 30, 2016, also marked the end, June 30, 2016. In other words, COMELEC effectively negated the remedy crafted by Congress against noncompliant officials when it issued Resolution No. 10147.

[45] CONST., art. IX-C, sec. 2. See also Section 6 of Republic Act No. 7941 which empowers the Commission on Elections to cancel the registration of a national, regional or sectoral party, organization or coalition for violation or failure to comply with laws, rules or regulations relating to elections. In turn, Section 14 of Republic Act No. 7166 provides that "[n]o person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required."

[46] CIVIL CODE, art. 7. See Ponencia, p. 11. See also Reflections of Associate Justice Amy Lazaro-Javier, p. 2.

[47] *Echegaray v. Secretary of Justice*, 358 Phil. 410, 448 (1998) [Per Curiam, En Banc].

[48] *Lagman v. Medialdea*, 812 Phil. 179, 290 (2017) [J. Del Castillo, En Banc].

[49] *Echegaray v. Secretary of Justice*, 358 Phil. 410, 447-148 (1998) [Per Curiam, En Banc].

[50] *Municipality of Tupi v. Faustino*, G.R. No. 231896, August 20, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65586>> [Per J. Lazaro-Javier, En Banc].

SEPARATE CONCURRING OPINION

CAGUIOA, J.:

The ponencia declares as void the Commission on Elections (COMELEC) Resolution No. 10147[1] which extended the deadline for filing of the statements of contributions and expenditures (SOCES) for the May 9, 2016 National and Local Elections, for being repugnant to Republic Act No. (R.A.) 7166.[2] Nevertheless, it applies the doctrine of operative fact, and deems as timely filed, the 2016 SOCES which were submitted during the extension set by Resolution No. 10147.[3]

I concur.

I write this Separate Concurring Opinion to stress: 1) that the mandatory character of the period for filing of SOCES set under Section 14, R.A. 7166 does not preclude tardy winning candidates from assuming their offices after such filing, and 2) the import and coverage of the penal provisions under Section 14.

While the period fixed in Section 14, R.A. 7166 is mandatory, the filing of SOCES beyond the same does not bar the assumption to office of candidates who won in the elections.

I agree with the ponencia's conclusion that the COMELEC committed grave abuse of discretion in issuing Resolution No. 10147 which extended the filing of the SOCES for the May 9, 2016 elections, beyond the 30-day period provided in Section 14 of R.A. 7166. That such period is mandatory is clear from the letter of the law, thus:

SEC. 14. Statement of Contributions and Expenditures: Effect of Failure to File Statement. – Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

x x x x (Emphasis supplied)

In *Pilar v. Commission on Elections*[4] (*Pilar*), the Court had interpreted this provision as mandatory, thus:

Furthermore, Section 14 of the law uses the word "shall." As a general rule, the use of the word "shall" in a statute implies that the statute is mandatory, and imposes a duty which may be enforced, particularly if public policy is in favor of this meaning or where public interest is involved. We apply the general rule (*Baranda v. Gustilo*, 165 SCRA 757 [1988]; *Diokno v. Rehabilitation Finance Corporation*, 91 Phil. 608 [1952]).[5]

Pilar likewise explained that the law's policy is to regulate expenditures of candidates by requiring the filing of SOCES and limiting the amount of money that a candidate may spend, for the ultimate objective of clean elections that is expressive of the true will of the people, thus:

The state has an interest in seeing that the electoral process is clean, and ultimately expressive of the true will of the electorate. One way of attaining such objective is to pass legislation regulating contributions and

expenditures of candidates, and compelling the publication of the same. Admittedly, contributions and expenditures are made for the purpose of influencing the results of the elections (B.P. Blg. 881, Sec. 94; Resolution No. 2348, Sec. 1). Thus, laws and regulations prescribe what contributions are prohibited (B.P. Blg. 881, Sec. 95; Resolution No. 2348, Sec. 4), or unlawful (B.P. Blg. 881, Sec. 96), and what expenditures are authorized (B.P. Blg. 881, Sec. 102; R.A. No. 7166, Sec. 13; Resolution No. 2348, Sec. 7) or lawful (Resolution No. 2348, Sec. 8).

Such statutes are not peculiar to the Philippines. In "corrupt and illegal practices acts" of several states in the United States, as well as in federal statutes, expenditures of candidates are regulated by requiring the filing of statements of expenses and by limiting the amount of money that may be spent by a candidate x x x.[6]

Hence, the mandatory nature of Section 14 is evident from its letter as well as its purpose. The COMELEC, as a mere administrative body tasked to enforce the law, cannot alter its provisions. Having done so by issuing Resolution No. 10147 which extended the deadline fixed in the law, the COMELEC exceeded its jurisdiction and committed grave abuse of discretion.

Further, it appears that the COMELEC, in issuing Resolution No. 10147, was impelled by an erroneous interpretation of the law, other than on its mandatory character. This is evident from some of its claimed objectives in issuing said resolution — to "avoid a constitutional crisis by not impeding the assumption to office of the then Vice President–Elect"[7] and to "avoid a serious vacuum in governance by not barring 5 Senators, 115 Congressmen, 40 Governors, and a host of local officials from assuming office." [8] Moreover, the facts reveal that the COMELEC had likewise extended the deadline for filing of SOCEs in the 2010 and 2013 elections, for 15 days and one year, respectively,[9] presumably for the same purposes as the subject extension.

From these, it appears that as early as in 2010, the COMELEC — the main government body tasked to execute R.A. 7166 — had been under the impression that winning candidates who file their SOCEs beyond that 30-day period in Section 14, are barred from assuming the offices to which they are elected. This appears to be the reason why the COMELEC saw the need to issue extensions to avert political vacuums. This construction is triggered by the second paragraph of Section 14 that prohibits such winning candidates from assuming office should they fail to file their SOCEs.

This is erroneous, and demonstrates the need to finally clarify and emphasize the real import of the law.

It is a basic statutory construction rule that particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts, and in order to produce a harmonious whole.[10] Here, Section 14 reads:

SEC. 14. Statement of Contributions and Expenditures: Effect of Failure to File Statement. – Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act.

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos ([P]1,000.00) to Thirty thousand pesos ([P]30,000.00), in the discretion of the Commission.

The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

It shall be the duty of every city or municipal election registrar to advise in writing, by personal delivery or registered mail, within five (5) days from the date of election all candidates residing in his jurisdiction to comply with their obligation to file their statements of contributions and expenditures.

For the commission of a second or subsequent offense under this section, the administrative fine shall be from Two thousand pesos ([P]2,000.00) to Sixty thousand pesos ([P]60,000.00), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office. (Emphasis and underscoring supplied)

A reading of the second paragraph above shows that it merely prevents a winning candidate from assuming the office to which he is elected until he has duly filed his SOCE. In other words, such filing of the SOCE is a condition precedent to the assumption of an elective office. This is regardless of whether the filing is made within or beyond the 30-day period fixed in paragraph 1. That said, what the belated filing triggers is paragraph 4, that is, such belated filing gives rise to an administrative offense for which the tardy candidate shall be liable to pay fines.

Hence, the Court's finding in the present case that Section 14's 30-day period is mandatory does not bar a winning candidate who filed beyond said period from assuming office. To stress, the 30-day period is mandatory only in the sense that a violation thereof — that is, the belated filing of a SOCE — constitutes an administrative offense penalized with the paying of fines. The tardy winning candidate shall still enter upon the duties of his or her office but only after he or she has duly filed his or her SOCE.

This reading is consistent with the deliberations of the lawmakers which, while showing the intention to make mandatory the twin requirements of Section 14 — the act of filing the SOCE and the period within which the same should be filed — does not show that the belated filing amounts to a forfeiture of the seat a winning candidate had won in the elections. The evident intention is that the candidate shall be deprived of such seat only until he files his SOCE, thus:

x x x x

MR. PALACOL. Your Honor, there are offices where the statement of contributions and expenses are supposed to be filed. Now, 30 days after the election they are supposed to file that statement of expenses and their contributions. With this provision of law, any candidate or interested party can go to the particular office where the supposed statement has to be filed. And from that they can verify whether or not this particular winning candidate had filed his statement of contribution and expenditures. Now, it says here that not until and unless this winning candidate has filed his statement of contributions and expenses he cannot assume office.

x x x x

Now if a winning candidate is really desirous of assuming his position, as a matter of fact, you will observe that our election is on May 11, 1992 and the assumption is on June 30, which is more than 30 days. You can easily determine whether or not he had filed the corresponding statement. He is going to assume his office afternoon of June 30, 1992, more than 30 days period. So, he could just simply go to the particular office and check there whether this particular winning candidate had filed his statement. This is the scenario that will happen.[11]

From the foregoing, it is evident that the lawmakers' intent in fixing a 30-day deadline from the day of the elections, which expires before the synchronized assumption of office of winning candidates on June 30 following such elections,[12] is to afford any interested party the opportunity to confirm if a winning candidate has duly filed the SOCE. This includes the winning candidate himself or herself, who may verify from the COMELEC his

or her compliance with Section 14, and who may still remedy any lapse therein before the scheduled assumption of his elected office, if he or she "is really desirous of assuming" the same.

Moreover, this construction of the law will prevent the frustration of the people's votes brought about by a mere tardiness on the part of their elected candidates. After all, election laws are liberally and equitably construed to give fullest effect to the manifest will of the people.[13] All doubts should be resolved in favor of the elected candidates' eligibility, because the determination of the true will of the electorate must prevail.[14] This liberal policy in favor of an elected official is further supported by the statutory construction rule that, with respect to election laws, mandatory provisions requiring certain steps before election will be construed as directory after the elections, to give effect to the will of the electorate.[15]

Hence, contrary to the impression of the COMELEC, the concerned candidates in the present case who filed their SOCEs beyond the 30-day deadline would not have been barred from assuming their offices, even in the absence of Resolution No. 10147 which extended the deadline for filing. Instead, the tardy candidates were only liable to pay the administrative fines under Section 14.

The penalties under Section 14 of R. A. 7166 apply to all persons who filed a Certificate of Candidacy (CoC) but failed to file a SOCE in accordance with the requirements of Section 14.

It bears noting that paragraph 4 speaks only of "failure[s] to file" SOCEs, lending the impression that it may not cover belated filings, thus:

SEC. 14. x x x

x x x x

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos ([P]1,000.00) to Thirty thousand pesos ([P]30,000.00), in the discretion of the Commission.

x x x x (Emphasis and underscoring supplied)

However, I submit that it likewise applies to SOCEs filed beyond the 30-day deadline fixed in the law. A careful reading of the law shows that it covers all failures to file SOCEs "as required herein." In other words, a SOCE which, although filed, failed to comply with the requirements of Section 14, still falls under paragraph 4. Such requirements include the 30-day period fixed in Section 14's paragraph 1. Hence, a person who files a SOCE in violation of the required 30-day period is liable for the administrative offense and fine set in paragraph 4.

Moreover, while a first offense of such failure to duly file a SOCE shall not deprive a winning candidate of his or her office, as it merely results in a liability to pay fines, a second or subsequent offense triggers the last paragraph of Section 14. Hence, the erring candidate shall suffer, not only to pay a larger amount of fine, but likewise a perpetual disqualification from holding public office.

At this juncture, it bears noting that the term "candidate," as used in Section 14, had been taken by the Court to include those who have filed and later withdrew their CoCs prior to the elections. Hence, in a case where the candidate withdrew his CoC three days after its filing, the Court affirmed the P10,000.00 fine that the COMELEC imposed upon him, and held:

Section 14 of R.A. No. 7166 states that "every candidate" has the obligation to file his statement of contributions and expenditures.

Well-recognized is the rule that where the law does not distinguish, courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemus* (Philippine British Assurance Co. Inc. v. Intermediate Appellate Court, 150 SCRA 520 [1987]; cf. *Olfato v. Commission on Elections*, 103 SCRA 741 [1981]). No distinction is to be made in the application of a law where none is indicated (*Lo Cham v. Ocampo*, 77 Phil. 636 [1946]).

In the case at bench, as the law makes no distinction or qualification as to whether the candidate pursued his candidacy or withdrew the same, the term "every candidate" must be deemed to refer not only to a candidate who pursued his campaign, but also to one who withdrew his candidacy.[16]

Likewise, a candidate who had failed to submit his SOCE twice although he withdrew his CoC prior to the last elections, is liable to suffer the exacting penalties of bigger fine and perpetual disqualification under the last paragraph of Section 14. In *Maturan v. COMELEC*,[17] the Court rejected said candidate's defense of good faith, and that, under the circumstances, the penalty was excessive, harsh and cruel, so as to be proscribed by the Constitution, thus:

Still, in a final attempt to evade liability, the petitioner describes the penalty of perpetual disqualification as excessive, harsh and cruel, and, consequently, unconstitutional pursuant to Section 19(1), Article III of the 1987 Constitution x x x.

x x x x

He contends that the failure to file the SOCE is an offense far less grave than the serious crimes under the Revised Penal Code and the grave offenses under the civil service laws. Accordingly, equating the non-filing of the SOCE with the latter offenses is irrational and unwarranted.

The petitioner's contention does not impress.

x x x x

We have already settled that the constitutional proscription under the Bill of Rights extends only to situations of extreme corporeal or psychological punishment that strips the individual of his humanity. The proscription is aimed more at the form or character of the punishment rather than at its severity x x x.[18]

Moreover, the law does not distinguish between those who have actually received contributions or made expenditures, and those who have/did not. In *Pilar*, the Court noted that COMELEC Resolution No. 2348 does not excuse from filing a SOCE those candidates who had not received contributions nor made expenditures, and, in fact, requires such candidate to reflect in the SOCE those facts.

At this juncture, it may also be well to clarify that Section 14's penalties are not applicable to election spending in excess of the limits fixed under Section 13[19] of R.A. 7166, which, the Court has ruled, amended Section 100 of *Batas Pambansa Bilang 881*, otherwise known as the "Omnibus Election Code" (OEC), and thus remains an election offense under Section 262[20] of the OEC.[21] The Court emphasized in *Cumigad v. People*,[22] that Section 14 refers only to non-filing of SOCEs. In other words, Section 262 of the OEC and Section 14 of R.A. 7166 punish different acts — election overspending in the former, and failure to duly file SOCE in the latter.

In the present case, everyone who filed a CoC with the COMELEC for the 2016 elections but failed to submit a SOCE in accordance with the law — regardless if such candidate withdrew his or her CoC before the elections, or lost or won therein, and regardless if he or she actually received contributions and expended — incurs the penalties provided under Section 14. Hence, they are all liable to pay the administrative fine under the fourth or last paragraph of Section 14, as the case may be, with the multiple offenders to suffer the additional penalty of

perpetual disqualification to hold public office under the last paragraph.

Nevertheless, I agree with the ponencia's application of the Operative Fact Doctrine, in light of the evident good faith of the concerned candidates who honestly relied on Resolution No. 10147, which was issued pursuant to the COMELEC's rule-making authority. Hence, I agree that the SOCEs filed during the extension under Resolution No. 10147, even though beyond the mandatory 30-day period under R.A. 7166, should be deemed timely filed.

However, to clarify, I submit that the ruling of the Court in the present case is without prejudice to the imposition of penalties for violation of R.A. 7166 or other applicable laws, on any ground other than the tardiness in the filing of the subject SOCEs.

[1] Entitled, "IN RE: SEVERAL REQUESTS FOR EXTENSION TO FILE STATEMENT OF CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES, POLITICAL PARTIES, AND PARTYLIST ORGANIZATIONS IN RELATION TO THE 2016 NATIONAL AND LOCAL ELECTIONS," promulgated on June 23, 2016.

[2] 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.

[3] Ponencia, pp. 16-17.

[4] G.R. No. 115245, July 11, 1995, 245 SCRA 759.

[5] *Id.* at 764.

[6] *Id.*

[7] As cited in the ponencia., pp. 4-5; footnote no. 12.

[8] *Id.*

[9] *Id.* at 4.

[10] *National Tobacco Administration v. Commission on Audit*, G.R. No. 119385, August 5, 1999, 311 SCRA 755, 769.

[11] Ponencia, pp. 8-9. Emphasis and underscoring supplied.

[12] As fixed in the CONSTITUTION, Sec. 4, Article VII; Secs. 4 and 7, Article VI and relevant laws (e.g., R.A. 7166 and LOCAL GOVERNMENT CODE, Sec. 43.)

[13] *Fernandez v. House of Representatives Electoral Tribunal*, G.R. No. 187478, December 21, 2009, 608 SCRA 733, 753.

[14] *Sinaca v. Mula*, G.R. No. 135691, September 27, 1999, 315 SCRA 266, 282.

[15] *Id.* at 281.

[16] *Pilar v. Commission on Elections*, *supra* note 4, at 763.

[17] G.R. No. 227155, March 28, 2017, 821 SCRA 587.

[18] *Id.* at 595-596.

[19] See Sec. 13 of R. A. 7166 that provides:

SEC. 13. Authorized Expenses of Candidates and Political Parties. — The aggregate amount that a candidate or registered political party may spend for election campaign shall be as follows:

(a)

For candidates. — Ten pesos ([P]10.00) for President and Vice-President; and for other candidates. Three pesos ([P]3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy: Provided, That, a candidate without any political party and without support from any political party may be allowed to spend Five pesos ([P]5.00) for every such voter; and

(b)

For political parties. — Five pesos ([P]15.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

x x x x

[20] OMNIBUS ELECTION CODE, Sec. 262 states:

Sec. 262. Other election offenses. – Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections x x x 100 x x x.

[21] Cumigad v. People, G.R. No. 245238, August 27, 2020 (Unsigned Resolution), accessed at <<https://sc.judiciary.gov.ph/15035/>>.

[22] Id.

CONCURRING OPINION

LAZARO-JAVIER, J.:

I concur with the erudite ponencia of Justice Mario V. Lopez that the Commission on Elections (COMELEC) committed grave abuse of discretion when it extended the deadline for filing of Statements of Contributions and Expenses (SOCs) in violation of the clear language of the law and the legislative intent behind it. Pertinently, Section 14 of Republic Act No. 7166[1] (RA 7166) or the Synchronized Elections Law of 1991 reads:

SECTION 14. Statement of Contributions and Expenditures: Effect of Failure to File Statement. — Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act. (Emphases supplied)

x x x x

Based on this provision, candidates and treasurers of political parties had until June 8, 2016 within which to file their respective SOCs relative to the May 9, 2016 elections. As it was, however, the COMELEC En Banc promulgated Resolution No. 10147[2] dated June 23, 2016, extending the filing of SOCs to June 30, 2016.

As stated, I agree with Justice Lopez that the COMELEC acted in grave abuse of discretion when it issued Resolution No. 10147.

First, Resolution No. 10147 obviously departed from the unequivocal language of the law. Section 14 of RA 7166 is clear — "[e]very candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election." As duly noted by Justice Lopez, the use of the word "shall" means that the period is mandatory. In fact, unless otherwise provided, all periods under RA 7166 are mandatory, viz.:

SECTION 4. Postponement, Failure of Election and Special Elections. — x x x

In case a permanent vacancy shall occur in the Senate or House of Representatives at least one (1) year before the expiration of the term, the Commission shall call and hold a special election to fill the vacancy not earlier than sixty (60) days nor longer than ninety (90) days after the occurrence of the vacancy. However, in case of such vacancy in the Senate, the special election shall be held simultaneously with the succeeding regular election.

x x x x

SECTION 6. Nomination and Selection of Official Candidates. — No political convention or meeting for the nomination or selection of the official candidates of any political party or organization or political groups or coalition thereof shall be held earlier than the following periods:

(a)

For President, Vice-President and Senators, one hundred sixty-five (165) days before the day of the election; and

(b)

For Members of the House of Representatives and elective provincial, city or municipal officials, seventy-five (75) days before the day of the election.

SECTION 10. Annulment of the List of Voters. — Any book of voters the preparation of which has been effected with fraud, bribery, forgery, impersonation, intimidation, force or any other similar irregularity or which is statistically improbable may be annulled, after due notice and hearing, by the Commission *motu proprio* or after the filing of a verified complaint: Provided, That, no order, ruling or decision annulling a book of voters shall be executed within sixty (60) days before an election.

SECTION 18. Summary Disposition of Pre-proclamation Controversies. — All pre-proclamation controversies on election returns or certificates of canvass shall, on the basis of the records and evidence elevated to it by the board of canvassers, be disposed of summarily by the Commission within seven (7) days from receipt thereof. Its decisions shall be executory after the lapse of seven (7) days from receipt by the losing party of the decision of the Commission.

SECTION 19. Contested Composition or Proceedings of the Board: Period to Appeal: Decision by the Commission. — Parties adversely affected by a ruling of the board of canvassers on questions affecting the composition or proceedings of the board may appeal the matter to the Commission within three (3) days from a ruling thereon. The Commission shall summarily decide the case within five (5) days from the filing thereof.

SECTION 22. Election Contests for Municipal Offices. — All election contests involving municipal offices filed with the Regional Trial Court shall be decided expeditiously. The decision may be appealed to the

Commission within five (5) days from promulgation or receipt of a copy thereof by the aggrieved party. The Commission shall decide the appeal within sixty (60) days after the filing of the appeal, which decision shall be final, unappealable and executory. (Emphases and underscoring added)

Notably, these provisions, along with Section 14, do not contain any clause authorizing the COMELEC to extend the mandatory periods contained therein. These provisions should be contrasted with those in the same law expressly allowing the COMELEC to fix a different date or otherwise excuse belated compliance, to wit:

Section 5. Election and Campaign Period. - Unless otherwise fixed by the Commission, the election period for the May 11, 1992 regular elections shall commence ninety (90) days before the day of the election and shall end thirty (30) days thereafter.

x x x x

Section 31. Per Diems of Election Inspectors and Other Officials. - The members of the board of election inspectors shall be paid a per diem of Two hundred pesos (P200.00) each for services on registration and revision days and Four hundred pesos (P400.00) each on the day of the election. Provincial, city and municipal treasurers, administrators and supervisors of the Department of Education, Culture and Sports assigned by the Commission to perform election duty shall receive a per diem of Four hundred pesos (P400.00) each on election day.

Said per diem shall be paid by the cashier or other finance officer of the Department of Education, Culture and Sports or of the Commission within fifteen (15) days after registration, revision and election days, respectively. There being funds actually available, any delay in said payments to any of the above mentioned personnel without justifiable reason shall constitute an election offense and all officials and other personnel responsible therefor, directly or indirectly, shall be liable under Sections 263 and 264 of the Omnibus Election Code. (Emphases and underscoring added)

Indeed, had Congress intended for a flexible period for compliance with the SOCE requirement, the law could have easily said so. Yet Congress deemed it proper to use the commanding word "shall" without carving any exception to the rule. This solidifies petitioner's position that the COMELEC had no authority to issue Resolution No. 10147 for being contrary to Section 14 of RA 7166.

Second. The extension cannot find justification under the rule-making power of the COMELEC either.

Despite its role as the implementing arm of the government in the enforcement and administration of all laws and regulations relative to the conduct of an election, the COMELEC has neither the authority nor the license to expand, extend, or add anything to the law it seeks to implement. The resolutions which the COMELEC issues for this purpose should always be in accord with the law to be implemented, and should not override, supplant, or modify the same.[3] Indeed, it is axiomatic that the clear letter of the law is controlling and cannot be amended by a mere administrative rule issued for its implementation; administrative or executive acts shall be valid only when they are not contrary to the laws or the Constitution.[4]

Here, the COMELEC arrogated unto itself the power to amend RA 7166, the very law it is mandated to implement, when it extended the filing of SOCEs contrary to the clear language of Section 14.

In *Lokin, Jr. v. Commission on Elections*[5], the Court partly nullified Resolution No. 7804 insofar as it established an entirely new ground when a party-list organization can substitute another person in place of the nominee whose name has been submitted to the COMELEC. The Court held:

Indeed, administrative [Implementing Rules and Regulations] adopted by a particular department of the Government under legislative authority must be in harmony with the provisions of the law, and should be for the sole purpose of carrying the law's general provisions into effect. The law itself cannot be expanded by such

IRRs, because an administrative agency cannot amend an act of Congress.

The COMELEC explains that Section 13 of Resolution No. 7804 has added nothing to Section 8 of R.A. No. 7941, because it has merely reworded and rephrased the statutory provision's phraseology.

The explanation does not persuade.

To reword means to alter the wording of or to restate in other words; to rephrase is to phrase anew or in a new form. Both terms signify that the meaning of the original word or phrase is not altered.

However, the COMELEC did not merely reword or rephrase the text of Section 8 of R.A. No. 7941, because it established an entirely new ground not found in the text of the provision. The new ground granted to the party-list organization the unilateral right to withdraw its nomination already submitted to the COMELEC, which Section 8 of R.A. No. 7941 did not allow to be done. Neither was the grant of the unilateral right contemplated by the drafters of the law, who precisely denied the right to withdraw the nomination (as the quoted record of the deliberations of the House of Representatives has indicated). The grant thus conflicted with the statutory intent to save the nominee from falling under the whim of the party-list organization once his name has been submitted to the COMELEC, and to spare the electorate from the capriciousness of the party-list organizations.

In other words, the COMELEC's exercise of its rule making power is not an excuse for it to do actual legislation. As a spring cannot rise higher than its source,[6] so must the COMELEC issuance not transcend the law it seeks to implement.

Third. In extending the period for compliance beyond 30 days, the COMELEC effectively condoned, if not exempted offenders from administrative liability for violating Section 14 of RA 7166 between June 9 to June 30, 2016.

To recall, the general rule is that an elected official's term of office begins every noon of June 30 immediately following his or her election.[7] Meanwhile, Section 14 of RA 7166 requires winning candidates to first file their respective SOCEs before they could assume office, thus:

No person elected to any public offices shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required. (Emphasis added)

Contrary to the COMELEC's interpretation, the clause "until he [or she] has filed the [SOCE]" does not authorize the COMELEC to extend the 30-day period for compliance. It merely underscores the fact that the filing of one's SOCE is a condition precedent to one's assumption of office which must be done before he or she assumes such office normally by noon of June 30. But even after noon of June 30, he or she must still comply with the filing of SOCE as condition precedent to his or her assumption of office, without prejudice to his or her administrative or criminal liability. Specifically, Section 14 of RA 7166 imposes a fine ranging from Php1,000.00 to Php60,000.00 and even perpetual disqualification from office:

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures are required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative line ranging from One thousand pesos (P1,000.00) to Thirty thousand pesos (P30,000.00), in the discretion of the Commission.

The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

It shall be the duty of every city or municipal election registrar to advise in writing, by personal delivery or registered mail, within five (5) days from the date of election all candidates residing in his jurisdiction to

comply with their obligation to file their statements of contributions and expenditures.

For the commission of a second or subsequent offense under this section, the administrative fine shall be from Two thousand pesos (P2,000.00) to Sixty thousand pesos (P60,000.00), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office.[8]

Thus, when the COMELEC extended the filing of SOCEs from June 8, 2016 to June 30, 2016, all those who filed their SOCEs in between these dates, though non-compliant with Section 14 of RA 7166, are nonetheless pardoned for their transgression.

But the law does not provide for any exempting circumstance for non-filing of SOCEs within the 30-day period. In fact, even those who withdrew their candidacies are still required to comply with Section 14 of RA 7166.[9] In other words, COMELEC Resolution No. 10147 crafted an exemption from Section 14, RA 7166; indubitably, this is nothing short of usurpation of legislative powers.

Fourth. In unilaterally extending the deadline for filing of SOCEs, the COMELEC supplanted the wisdom of the legislative branch with its own. As Justice Lopez aptly observed, the legislature intended to create window wherein concerned citizens may verify whether their local officials complied with Section 14 of RA 7166 and, consequently, file the necessary complaint or petition to prevent said officials from assuming office, thus:

MR. ALBANO. Well, Mr. Speaker, again a provision on Section 15 states, "That no person elected to any public office until he has filed the statement of contributions and expenditures herein required." Now, Mr. Speaker, how do we verify whether that candidate – the elected candidate has filed his statement of contributions and expenditures? We are aware, Mr. Speaker, and based from the press reports of the COMELEC that even in this House there are many who did not comply with this provision. And yet, it is said here that he cannot assume his duties as such elected official if he has failed to file the statement of contributions and expenditures. So, Mr. Speaker, how do we verify this?

MR. PALACOL. Your Honor, there are offices where the statement of contributions and expenses are supposed to be filed. Now, 30 days after the election they are supposed to file that statement of expenses and their contributions. With this provision of law, any candidate or interested party can go to the particular office where the supposed statement has to be filed. And from that they can verify whether or not this particular winning candidate had filed his statement of contribution and expenditures. Now, it says here that not until and unless this winning candidate has filed his statement of contribution and expenses he cannot assume office.

MR. ALBANO. It is very clear here, the provision that the elected one cannot enter upon the duties of his office. My question is, how can we verify this? What can stop the elected candidate or the elected one enter into his duties? As I said if we base from the press reports that there are many – even who are Members of this Congress have not filed their statement of contributions and expenditures and the reason why they are now facing criminal charges.

MR. PALACOL. Your Honor, as I was stating, these 30 days period is allotted to any person who runs for a public office.

Now if a winning candidate is really desirous of assuming his position, as a matter of fact, you will observe that our election is on May 11, 1992 and the assumption is on June 30, which is more than 30 days. You can easily determine whether or not he had filed the corresponding statement. He is going to assume his office afternoon of June 30, 1992, more than 30 days period. So, he could just simply go to the particular office and check there whether this particular winning candidate had filed his statement. This is the scenario that will happen.

MR. ALBANO. Mr. Speaker, as I said, basing from COMELEC records there are even Members of Congress now sitting here who have not filed their statement of contributions and expenditures and yet they have entered

into their duties. Why are we providing this, when this is honored in breach than in compliance, Mr. Speaker? Is the gentleman aware that there are even Members of Congress now facing criminal charges for failure to file statement of contributions and expenditures?

MR. PALACOL. I am aware of that situation, your Honor, but as I was telling, your Honor, there is sufficient time within which to verify whether or not this particular candidate – of course when one assumes office, in order there will be no hindrance. I feel that he has to comply with the provision of law and that he file his statement of expenditure and contribution. Anyway, as I have stated a while ago, there are sufficient time. Our election is on May 11, 1992, and they are going to assume office only more than 30 days...

x x x x

MR. ALBANO. Mr. Speaker, my last query was about the verification of how to comply with item (b) of Section 15 and I would like to get the reaction of our distinguished sponsor. How can this item (b) be fully implemented without being disregarded in the sense that an elected public office may enter into the duties of his office without complying with the filing of the statement of expenditures and contributions? Because even in this very halls of Congress according to the Commission on Elections, there were many or there are members of Congress who are now facing criminal charges for violation of the Election Code.

MR. PALACOL. Your Honor, we agree with you on the present situation that there are some winning candidates ... who up to the present have not yet filed their statement of expenditures and contributions. Well, in order to compel or hasten the filing of the certificate of expenditures and contributions, we inserted in this provision of the present measure that before [he enters] the assumption of the office to which he ran for and won, he has to file his certificate of expenditures and contributions. And you will observe, Your Honor, that is very explicit here: "No person elected to public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required." In other words, it is the duty of the winning candidate to file his certificate of expenditures and contributions before he enters into assumption of his duties.

Now anybody can question this winning candidate. And of course, we know that there are offices where a particular candidate has to file his certificate of statement of expenditures and contributions.

MR. ALBANO. For the sake of argument, Mr. Speaker, ...

MR. PALACOL. Although, of course, there is always that possibility that a candidate who had won may enter his duties without even filing his certificate of expenditures and contributions. But that is an exception to the general rule.

MR. ALBANO. Now, Mr. Speaker, for the sake of argument, suppose an elected person did not file his statement of contributions and expenditures as herein required, and then enters into an office, how is he going to be boot out of that office?

MR. PALACOL. I think, Your Honor, there is a proper remedy for that in our courts of law.

MR. ALBANO. So there is a need ...

MR. PALACOL. He could be enjoined from assuming the position to which he was elected. (emphasis added)

The subsequent portion which may have been inadvertently omitted in the draft ponencia is just as significant:

MR. ALBANO. But he has taken his oath of office and actually performed – does it mean therefore that one has to file a case in court before he can be...

MR. PALACOL. He has to file before he takes his oath – before he assumes the position he has to file his certificate of expenditures and contributions.

MR. ALBANO. Mr. Speaker, the elected official has already entered into his duties, and as a matter of fact

exercised his duties but failed to file at the required day or the required period of time, how is he going to be stopped from assuming when he has already assumed office? Is there going to be a protest? And it seems there is no penal provision in this section?

MR. PALACOL. What is your suggestion, Your Honor?

Mr. ALBANO. Well, my recommendation is we might as well be silent and allow the Revised Election Code provisions to prevail. After all, those who have failed to file their statement of contributions and expenditures are now facing criminal charges. And so it is best that we delete this particular provision so that we do not carry a provision here that is honored more in breach than in compliance. (emphasis added)

Verily, a concerned citizen may file an injunctive suit to prevent a winning candidate from assuming office come noon of June 30 immediately following his or her election. Congress clarified, however, that such suit must be filed before said winning candidate has assumed office. It, too, must be filed after the lapse of the 30-day period under Section 14, otherwise the case would be premature. To illustrate, insofar as the 2016 elections is concerned, the injunctive suit should be filed from June 9, 2016 until before noon of June 30, 2016.

But when COMELEC extended here the filing of SOCEs to June 30, 2016, the deadline of filing the same coincided with the date of assumption of office. Thus, there was no more window for filing injunctive suits. The beginning, June 30, 2016, also marked the end, June 30, 2016. In other words, COMELEC effectively negated the remedy crafted by Congress against non-compliant officials when it issued Resolution No. 10147.

The 30-day period in Section 14 of RA 7166 serves another practical purpose – to minimize the opportunity for tampering or manipulation of reported contributions and expenses. To recall, the provision does not simply require the filing of SOCEs. The law further requires that these SOCEs be full, true, and itemized statements of all contributions and expenditures. Extending the period for compliance, however, diminishes the transparency of the reports and trustworthiness of the data reported in the SOCEs.

Worse, the COMELEC may have unwittingly given the candidates sufficient elbow room to make sure that their SOCE conforms with the mandatory spending limits in Section 13 of RA 7166.[10] In *Cumigad v. People*[11] we recognized that Section 14 of RA 7166 decriminalizes the non-filing of SOCEs as the law now only prescribes the imposition of administrative fines. Yet we ruled that campaign overspending remains to be a criminal offense pursuant to Section 100 in relation to Sections 262 and 264 of Batas Pambansa 881 (BP 881)[12] or the Omnibus Election Code, as well as Section 13 of RA 7166.[13] Thus, if we allow Resolution No. 10147 to pass judicial scrutiny, we may have very well provided violators with the avenue to "correct" their mistakes.

Finally. The grant of extensions to file SOCEs relative to the 2010 and 2013 elections does not justify the issuance of Resolution No. 10147. Sans any legal basis, tradition will never justify any action devoid of authority. Indeed, no practice or tradition established by mere tolerance can ripen into a doctrine without judicial acquiescence[14]. In the absence of judicial confirmation of the validity of the challenged practice, the repeated but erroneous application thereof will not crystallize into law.

I therefore vote to GRANT the petition and NULLIFY COMELEC Resolution No. 10147 for having been issued in grave abuse of discretion. Considering, however, that a number of candidates relied in good faith on the extension granted under said resolution, it is only proper for the Court to apply our ruling prospectively in accordance with the doctrine of operative fact.

Thus, SOCEs submitted within the extended period or until June 30, 2016 are deemed timely filed.

[1] Synchronized Elections Law of 1991, Republic Act No. 7166, November 26, 1991.

[2] IN RE: SEVERAL REQUESTS FOR EXTENSION TO FILE STATEMENT OF CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES, POLITICAL PARTIES, AND PARTYLISTS ORGANIZATIONS IN RELATION TO THE 2016 NATIONAL AND LOCAL ELECTIONS, Resolution No. 10147, June 23, 2016.

[3] See *Lokin Jr. v. Commission on Elections*, 635 Phil. 372, 402 (2010).

[4] *Id.*

[5] *Id.*

[6] See *De Santos v. Intermediate Appellate Court*, 241 Phil. 300, 308 (1988).

[7] Article VII, Section 4 of the Constitution:

Section 4. The President and the Vice-President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the thirtieth day of June next following the day of the election and shall end at noon of the same date, six years thereafter. The President shall not be eligible for any re-election. No person who has succeeded as President and has served as such for more than four years shall be qualified for election to the same office at any time.

Section 43 of the Local Government Code:

Section 43. Term of Office. -

(a) The term of office of all local elective officials elected after the effectivity of this Code shall be three (3) years, starting from noon of June 30, 1992 or such date as may be provided for by law, except that of elective barangay officials: Provided, That all local officials first elected during the local elections immediately following the ratification of the 1987 Constitution shall serve until noon of June 30, 1992.[8] Section 14, RA 7166.

[9] See *Maturan v. COMELEC*, 808 Phil. 86, 92 (2017).

[10] Section 13. Authorized Expenses of Candidates and Political Parties. - The agreement amount that a candidate or registered political party may spend for election campaign shall be as follows:

(a) For candidates. - Ten pesos (P10.00) for President and Vice-President; and for other candidates Three Pesos (P3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy: Provided, That a candidate without any political party and without support from any political party may be allowed to spend Five Pesos (P5.00) for every such voter; and

(b) For political parties. - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

Any provision of law to the contrary notwithstanding any contribution in cash or in kind to any candidate or political party or coalition of parties for campaign purposes, duly reported to the Commission shall not be subject to the payment of any gift tax.

[11] *Cumigad v. People*, G.R. No. 245238, August 27, 2020.

[12] Section 100. Limitations upon expenses of candidates. - No candidate shall spend for his election campaign an aggregate amount exceeding one peso and fifty centavos for every voter currently registered in the constituency where he filed his candidacy: Provided, That the expenses herein referred to shall include those incurred or caused to be incurred by the candidate, whether in cash or in kind, including the use, rental or hire of land, water or aircraft, equipment, facilities, apparatus and paraphernalia used in the campaign: Provided, further. That where the land, water or aircraft, equipment, facilities, apparatus and paraphernalia used is owned by the

candidate, his contributor or supporter, the Commission is hereby empowered to assess the amount commensurate with the expenses for the use thereof, based on the prevailing rates in the locality and shall be included in the total expenses incurred by the candidate.

Section 262. Other election offenses. - Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections x x x 100 x x x

x x x

Section 264. Penalties. - Any person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be sentenced to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than ten thousand pesos, which shall be imposed upon such party after criminal action has been instituted in which their corresponding officials have been found guilty.

[13] Section 13. Authorized Expenses of Candidates and Political Parties. - The agreement amount that a candidate or registered political party may spend for election campaign shall be as follows:

(a) For candidates. - Ten pesos (P10.00) for President and Vice-President; and for other candidates Three Pesos (P3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy: Provided, That a candidate without any political party and without support from any political party may be allowed to spend Five Pesos (P5.00) for every such voter; and

(b) For political parties. - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

Any provision of law to the contrary notwithstanding any contribution in cash or in kind to any candidate or political party or coalition of parties for campaign purposes, duly reported to the Commission shall not be subject to the payment of any gift tax.

[14] See *Guingona v. Gonzales*, 292 Phil. 327, 335 (1993).

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