



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
 Supreme Court
 Manila

EN BANC

GIORGIDI B. AGGABAO
 and **AMELITA S.**
NAVARRO,

Petitioners,

G.R. No. 258456
[Formerly UDK 17252]

Members:

- versus -

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

COMMISSION ON
ELECTIONS (COMELEC)
 and **LAW DEPARTMENT,**
 Respondents.

Promulgated:

July 26, 2022

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DECISION

LAZARO-JAVIER, J.:

In this Petition for *Certiorari* under Rule 64 of the Rules of Court, Giorgidi B. Aggabao (Aggabao) and Amelita S. Navarro (Navarro) seek to nullify the following documents issued by respondent Commission on

* Not participating due to previous post as Commission on Elections Commissioner.

Elections (COMELEC) through its Law Department: a) **Document No. 21-3973¹ dated November 10, 2021**, declaring Navarro as an independent candidate; b) **Document No. 21-7467² dated December 22, 2021**, denying Aggabao's Certificate of Candidacy (COC) as substitute candidate for petitioner Navarro; and c) **Document No. 222-0176 dated January 5, 2022**, denying Aggabao's motion for reconsideration. Petitioners also pray that the Court restrain his exclusion from the ballot pending final resolution of the case.

On October 4, 2021, Navarro filed her COC³ for Mayor of Santiago City, Isabela for the May 9, 2022 National and Local Elections. She stated in her COC that she was officially nominated by the Partido para sa Demokratikong Reporma (Partido Reporma) for the mayoralty race. She attached to her COC a notarized copy of her Certificate of Nomination and Acceptance (CONA) dated September 23, 2021 signed by Senator Panfilo M. Lacson (Senator Lacson), the Chairperson of Partido Reporma.⁴

On October 8, 2021, one Christopher G. Ayson (Ayson) also filed a COC for Mayor of Santiago City, Isabela. He, too, declared in his COC that he was nominated by Partido Reporma.⁵ He submitted a CONA of even date which he claimed was also signed by Senator Lacson.⁶

When Senator Lacson learned of Ayson's aforesaid declaration, he sent COMELEC through its Law Department a Letter⁷ dated November 6, 2021, disclaiming that Partido Reporma issued any CONA in favor of Ayson. Senator Lacson emphasized that for purposes of the May 9, 2022 elections, Navarro was the official candidate of Partido Reporma for Mayor of Santiago City, Isabela, thus:⁸

ATTY. MARIA NORINA S. TANGARO-CASINGAL
Director, Law Department
Commission on Elections
Palacio Del Gobernador, Postigo Street
Intramuros Manila

Re: Official Candidate of Partido Reporma for Mayor in the City of
Santiago, Isabela

Dear Director Tangaro-Casingal,

On behalf of PARTIDO PARA SA DEMOKRATIKONG
REPORMA (PARTIDO REPORMA), I am writing to inform your good

¹ *Rollo*, p. 51.

² *Id.* at 38.

³ *Id.* at 41.

⁴ *Id.* at 42.

⁵ *Id.* at 43.

⁶ *Id.* at 44.

⁷ *Id.* at 45-46.

⁸ *Id.* at 15-16.

office and the Honorable Commission that **Partido Reporma has not issued any Certificate of Nomination and Acceptance (CONA) in favor of a certain CHRISTIAN GAMBOA [AY]SON supposedly nominating him as the party's purported candidate for the position of Mayor in Santiago City, Isabela.** A Certification issued by the undersigned is attached herein for your immediate reference.

It must be emphasized that for purposes of the May 9, 2022 National and Local Elections, **the official candidate of Partido Reporma for the aforementioned position is Ms. AMELITA S. NAVARRO.**

Considering the foregoing, Partido Reporma respectfully requests that the necessary correction/s be made in the Honorable Commission's Certified List of Candidates.

Kind consideration and immediate action regarding this matter is much appreciated. Thank you.⁹

Sincerely yours,
[original signed]
Sen. Panfilo "Ping" M. Lacson
Chairman, PARTIDO REPORMA

Attached to the letter was a notarized Certification of Senator Lacson, viz.:

CERTIFICATION

To Whom it may Concern:

This is to certify that our party, **PARTIDO PARA SA DEMOKRATIKONG REPORMA (Partido Reporma), has not issued any Certificate of Nomination and Acceptance (CONA) to a certain Christopher Gamboa [Ay]son who is purportedly running for Mayor in the City of Santiago, Province of Isabela under Partido Reporma.**

This Certification is being issued for any legal purpose it may serve.

Done this 6th day of November 2021, in Pasig City. (Emphasis supplied)

[original signed]
SEN. PANFILO LACSON
Chairman¹⁰

On November 9, 2021, Navarro withdrew her candidacy and opted to run for Vice-Mayor of Santiago City, Isabela instead. In her Statement of Withdrawal,¹¹ she declared that she would be substituted by Aggabao who is also a member of Partido Reporma. On even date, Aggabao filed his COC as

⁹ Emphases supplied.

¹⁰ *Id.*

¹¹ *Rollo*, p. 48.

Mayor of Santiago City, Isabela.¹² He stated in his COC that he was officially nominated by Partido Reporma as evidenced by his CONA dated November 8, 2021 signed by Senator Lacson.¹³

Dispositions of the COMELEC

By Document No. 21-3973¹⁴ dated November 10, 2021, respondent COMELEC through its Law Department Director Maria Norina Tangaro-Casingal informed Navarro that she was deemed to be an independent candidate pursuant to Section 15 of COMELEC Resolution No. 10717 because Partido Reporma nominated two (2) candidates for the same mayoralty post, more than the number allowed to be voted for the elective position (*i.e.*, one [1]). Section 15 reads:

Section 15. Allowed Number of Nominations. – No duly registered [Political Party] or Coalition shall be allowed to nominate more than the number of candidates required to be voted for in a particular elective position.

If the [Political Party] or Coalition nominated more than the number of candidates required to be voted for in a particular elective position, all of the nominations shall be denied due course by the Commission, and the aspirants shall be declared **independent candidates**.¹⁵

By Letter¹⁶ dated November 12, 2021 addressed to the COMELEC Law Department, Aggabao clarified that on November 9, 2021, Navarro already withdrew her COC for Mayor of Santiago City, Isabela. On even date, he filed his COC as substitute candidate. It was indicated in his CONA that he was the official candidate of Partido Reporma for the mayoralty post, in lieu of Navarro. He called the attention of the COMELEC to the Letter and Certification both dated November 6, 2021 of Senator Lacson, the Chairperson of Partido Reporma stating that the Partido Reporma never issued a CONA in favor of Ayson.

Thereafter, on December 2, 2021, Senator Lacson sent another Letter addressed to COMELEC Chairperson Sheriff Abas reiterating his November 6, 2021 Letter that: (a) for purposes of the May 9, 2022 elections, the official candidate of Partido Reporma for Mayor of Santiago City, Isabela was Navarro prior to her withdrawal; and (b) Partido Reporma never issued a CONA to Ayson. Senator Lacson stressed that Ayson was not even a member of Partido Reporma as confirmed by Partido Reporma Regional Chairperson Michael John C. Delmendo, thus:¹⁷

¹² *Id.* at 49.

¹³ *Id.* at 50.

¹⁴ *Id.* at 51.

¹⁵ Emphases in original.

¹⁶ *Rollo*, p. 52.

¹⁷ *Id.* at 61.

X X X X

xxx I, as Chairman of Partido Reporma, categorically declared and emphasized that **for purposes of the May 9, 2022 National and Local Elections, the official candidate of Partido Reporma for the position of Mayor of Santiago City is Ms. Amelita S. Navarro.** xxx the party has not issued any CONA to a certain Christopher Gamboa [Ay]son who is running for mayor of Santiago City.

I disowned Ayson's CONA as it is illogical, if not absurd for Partido Reporma to have issued a CONA to said Christopher Gamboa Ayson when **he is not even a member of Partido Reporma.** Attached hereto as Annex "F" is the Affidavit of Atty. Michael John C. Delmendo, **Regional Chairman of Partido Reporma, Region 2 where Santiago City belongs, stating that Christopher Gamboa Ayson, is not a member of the Party.**

Yet despite all the foregoing Party declaration and certification denying the genuineness and authenticity of Mr. Ayson's CONA, the Law Department issued the subject Document No. 21-3973, obviously without exercising due diligence, and declared Ms. Navarro as an independent candidate, using as an expedient basis the existence of two (2) candidates from the same party. To allow this to happen will set a dangerous precedent that any ill-motivated person can just file his candidacy and claim to have been nominated by a certain party to sow confusion, dislodge a viable candidate and make a mockery of the elections. I ask the C[OMELEC] to carefully consider this problem.

X X X X

[original signed]
PANFILO "PING LACSON"
Senator
Chairman, Partido Para sa Demokratikong Reporma¹⁸

On December 22, 2021, the COMELEC Law Department issued **Document No. 21-7467,**¹⁹ reflecting the following disposition of the COMELEC *En Banc*, thus:

Pursuant to Sections 39 and 40 of COMELEC Resolution No. 10717 promulgated on August 18, 2021, please be advised that the Certificate of Candidacy filed by Amelita Sison Navarro is hereby **WITHDRAWN** effective 09 November 2021. Consequently, her name will be deleted/removed/cancelled from the Official Ballot and the Certified List of Candidates for the May 9, 2022 National and Local Elections.

Please be informed that the COMELEC En Banc during the regular meeting held on 22 December 2021 has maintained that Amelita Sison Navarro as **INDEPENDENT** pursuant to Section 15 of the COMELEC Resolution No. 10717 because your political party nominated more than the number of candidates required to be voted for in a particular elective

¹⁸ *Id.* at 61, emphases supplied.

¹⁹ *Id.* at 38-39.

position. Hence, the COC of Giorgidi Buza Aggabao who filed as a substitute cannot be given due course.

For your information and guidance.²⁰

Meantime, on December 23, 2021, the COMELEC posted a Certified List of Candidates for the May 9, 2022 National and Local Elections. Navarro's name did not appear under the column "Mayor" but under the column "Vice Mayor." As for Ayson, his name was included as an Independent candidate for "Mayor." On the other hand, Aggabao's name was not included in the list of candidates for "Mayor" as seen in the list provided below:

Certified List of Candidates
(Municipal)
ISABELA – CITY OF SANTIAGO

ISABELA – CITY OF SANTIAGO

MAYOR				
#	NAME TO APPEAR ON THE BALLOT	SEX	NAME	POLITICAL PARTY
1	AYSON, CHRISTOPHER (IND)	MALE	AYSON, CHRISTOPHER GAMBOA	INDEPENDENT²¹
2	CORNEL, MAUI	MALE	CORNEL, MANUEL ESTARIJA	INDEPENDENT
3	LUCUDINE, MAR22 (IND)	MALE	LUCUDINE, MARCELINO ACOSTA	INDEPENDENT
4	MIGUEL, WALTER JAY (PFP)	MALE	MIGUEL, WALTER JAY AGGABAO	PARTIDO FEDERAL NG PILIPINAS
5	MIRANDA, OTEP (PROMDI)	MALE	MIRANDA, JOSEPH GUTIERREZ	PROGRESSIVE MOVEMENT FOR THE DEVOLUTION OF INITIATIVES
6	ROQUE, NAP (IND)	MALE	ROQUE, NAPOLEON HERMOSURA	INDEPENDENT
7	TAN, SHEENA (PDPLBN)	FEMALE	TAN, ALYSSA SHEENA PUA	PARTIDO DEMOKRATIKO PILIPINO LAKAS NG BAYAN
8	TESORO, GENALYN (LAKAS)	FEMALE	TESORO, GENALYN APOLTO	LAKAS CHRISTIAN MUSLIM DEMOCRATS

²⁰ *Id.*, emphases in the original.

²¹ *Id.* at 40, emphasis supplied.

9	VALDEZ, ARTHUR (IND)	MALE	VALDEZ, ARTHUR MERCADO	INDEPENDENT
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ISABELA – CITY OF SANTIAGO

VICE-MAYOR				
#	NAME TO APPEAR ON THE BALLOT	SEX	NAME	POLITICAL PARTY
1	ABAYA, ALVIN (PDPLBN)	MALE	ABAYA, ALVIN NAVARRO	PARTIDO DEMOKRATIKO PILIPINO LAKAS NG BAYAN
2	BARTOLOME, BONIFACIO (PDDS)	MALE	BARTOLOME, BONIFACIO PADIERNOS	FEDERALISMO NG DUGONG DAKILANG SAMAHAN
3	LIM, ANGELO (IND)	MALE	LIM, ANGELO MIRANDA	INDEPENDENT
4	NAVARRO, AMELITA (PDR)	FEMALE	NAVARRO, AMELITA SISON	PARTIDO PARA SA DEMOKRATIKONG REPORMA ²²
5	NAVARRO, SOC (PROMDI)	MALE	NAVARRO, SOCORRO BERMISA	PROGRESSIVE MOVEMENT FOR THE DEVOLUTION OF INITIATIVES

Consequently, Aggabao filed a motion for reconsideration which was denied under **Document No. 22-0176²³ dated January 5, 2022**. The COMELEC reiterated that both Ayson and Navarro were independent candidates, hence, Aggabao's COC as substitute of Navarro cannot be given due course. The COMELEC also held that Aggabao's motion for reconsideration was a prohibited pleading under Rule 13, Section 1(d) of the COMELEC Rules of Procedure.²⁴

The COMELEC though **admitted that it received the twin letters** from Senator Lacson dated November 6, 2021 and December 2, 2021, respectively, disowning the CONA of Ayson and requesting the immediate rectification of Document No. 21-3973 dated November 10, 2021.²⁵

The Present Petition

Aggabao and Navarro now charge the COMELEC and its Law Department with grave abuse of discretion in declaring Navarro as an independent candidate and in denying Aggabao's substitution of Navarro as

²² *Id.*, emphasis provided.

²³ *Id.* at 72-73.

²⁴ *Id.* at 73.

²⁵ *Id.* at 72.

the official candidate for Mayor of Santiago City, Isabela of Partido Reporma. They essentially assert:

First. The COMELEC violated their right to due process. Specifically, it denied Aggabao's COC as substitute of Navarro, without prior proceedings before any of its Divisions.²⁶

Second. Respondents incorrectly applied Section 15 of COMELEC Resolution No. 10717. Partido Reporma did not nominate more than one (1) candidate for Mayor of Santiago City, Isabela. Ayson's supposed CONA from Partido Reporma was fake as repeatedly disavowed by its Chairperson Senator Lacson himself.²⁷

Third. Since Navarro was the official candidate of Partido Reporma for Mayor of Santiago City, Isabela prior to her withdrawal, she could be validly substituted by Aggabao who has complied with all the legal requirements as substitute candidate.²⁸

Petitioners further seek the issuance of a temporary restraining order (TRO) and/or writ of status quo ante order against the implementation of Document No. 21-7467²⁹ dated December 22, 2021.³⁰

Under Order³¹ dated **January 25, 2022**, the Court, after due consideration, **issued a TRO**, enjoining COMELEC from enforcing **Document No. 21-7467**:

x x x x

NOW, THEREFORE, respondent COMELEC is hereby required to **COMMENT** on the petition within a **NON-EXTENDABLE** period of ten (10) days from notice hereof. Meanwhile, a **TEMPORARY RESTRAINING ORDER** is **ISSUED**, effective immediately and continuing until further orders from this Court, enjoining You, respondent COMELEC, your agents, representatives, or persons acting in your place or stead, from enforcing the assailed Doc. No. 21-7467 dated December 22, 2021.³²

x x x x

In its Comment³³ dated February 2, 2022, the COMELEC, through the Office of the Solicitor General (OSG) informed the Court that it had received

²⁶ *Rollo*, pp. 22-24.

²⁷ *Id.* at 25.

²⁸ *Id.* at 28.

²⁹ *Id.* at 38-39.

³⁰ *Rollo*, pp. 30-32.

³¹ *Id.* at 82-84.

³² *Id.*, emphases in the original.

³³ *Id.* at 121-139.

two (2) separate COCs with attached CONAs issued by Partido Reporma for the position of Mayor of Santiago City, Isabela, *i.e.*, one from petitioner Navarro and another from Ayson. Pursuant to Section 15 of the COMELEC Resolution No. 10717, both Navarro and Ayson were declared independent candidates.³⁴ The COMELEC, thus, argued that since Navarro was an independent candidate, Aggabao could not have substituted her for the mayoralty post pursuant to Section 77 of the Omnibus Election Code (OEC) in relation to Section 40 of COMELEC Resolution No. 10717, thus:

Section 77. Omnibus Election Code:

Candidates in case of death, disqualification or withdrawal of another. — If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate may be filed with any board of election inspectors in the political subdivision where he is candidate or, in case of candidates to be voted for by the entire electorate of the country, with the Commission.

Section 40, COMELEC Resolution No. 10717:

Substitution of Aspirants/Official Candidates in Case of Death, Disqualification or Withdrawal of Another. — An aspirant/official candidate of a duly registered PP or Coalition who dies, withdraws or is disqualified for any cause after the last day for the filing of COCs may be substituted by an aspirant/official candidate belonging to, and nominated by, the same PP or Coalition.

No substitute shall be allowed for any independent candidate.

The substitute of an aspirant who died, withdrew his candidacy, or was disqualified may file a COC for the Office affected on or before November 15, 2021 (Monday) so that the name of the substitute will be reflected on the official ballots.


No substitution due to withdrawal shall be allowed after November 15, 2021.

x x x x

The COMELEC underscored the provision of law which does not allow substitution where the original candidate is an independent candidate. It only allows substitution where the original candidate and the latter's substitute belong to and are certified by the same political party.³⁵

³⁴ *Id.* at 125.

³⁵ *Id.* at 129-130.



Too, the COMELEC asserted that it was merely exercising its ministerial duty when it received Ayson's COC and CONA both of which it had accorded the presumption of regularity *for having been notarized*.³⁶ It prayed that the TRO issued by the Court on January 25, 2022 be lifted.³⁷

On February 24, 2022, petitioners filed a *Manifestation with Grave Concern*³⁸ stating that they received a copy of Document No. 22-1924 (LAW 22-02663) dated February 16, 2022 from the COMELEC Law Department. This document reiterated the status of Navarro as an independent candidate. But the issuance of this document violated the TRO issued by the Court on January 25, 2022 enjoining the enforcement of Document No. 21-7467 which considered Navarro as an independent candidate.³⁹

By Resolution⁴⁰ dated April 19, 2022, the Court directed the COMELEC to explain why it did not comply with the TRO issued by the Court per Order dated January 25, 2022.⁴¹

In its *Manifestation*⁴² dated June 10, 2022, the COMELEC called the attention of the Court to its Minute Resolution⁴³ No. 22-0079 dated January 26, 2022 entitled "*In the Matter of the Temporary Restraining Orders (TROs) Issued by the Supreme Court on Various SPA and SPP Cases,*" viz.:

After due deliberation, the Commission **RESOLVED**, as it hereby **RESOLVES**, to adopt Minute Resolution 22-0019, wherein the Commission resolved to include in the publication and ballots the above-named party-lists groups who obtained temporary restraining orders (TROs) from the Supreme Court and the same was **received by the Commission prior to January 9, 2022 which is the date of the generation of the final ballot face for the 2022 NLE** as a judicial courtesy and recognition of the authority of the Supreme Court. However, TROs received after January 9, 2022 the date for the generation of the final ballot face is already technically impossible to comply as the process of generating another ballot face will leave little time for the Commission to complete the preparation for the 2022 NLE putting at much risk the holding thereof.⁴⁴

The COMELEC informed the Court that as early as January 9, 2022, it already initiated preparatory activities as regards the printing of the machine-readable official ballots. Thus, it had to comply with a very strict timeline,⁴⁵ thus:

³⁶ *Id.* at 128.

³⁷ *Id.* at 138.

³⁸ *Id.* at 113-115.

³⁹ *Id.* at 113.

⁴⁰ *Id.* at 145.

⁴¹ *Id.* at 82-84.

⁴² *Id.* at 162-171.

⁴³ *Id.* at 172-174.

⁴⁴ *Id.* at 173, emphases in the original.

⁴⁵ *Id.* at 163.

PREPARATORY ACTIVITY	DATE
Generation of the Final Ballot Face Templates	January 9, 2022
Loading of the Finalized List of Candidates in the Election Management System Database (EMS)	January 15, 2022
Generation of the Serialized Machine-Readable Official Ballots	January 15, 2022

The COMELEC further averred that the tedious processes involving the various preparatory activities and printing of the official machine-readable ballots compelled it to adopt a cut-off date within which to comply with the TROs issued by the Court. This meant that beyond this cut-off date, the act or acts sought to be restrained would have already become *fait accompli*.⁴⁶

The COMELEC then claimed that it received the subject TRO only on January 25, 2022 far beyond its cut-off date of January 9, 2022. Hence, the matters sought to be restrained – *the declaration of petitioner Navarro as an independent candidate and denial of due course to petitioner Aggabao's candidacy for Mayor of Isabela City as a substitute for petitioner Navarro* – had themselves become *fait accompli*. This meant that the final ballot face templates were already generated, and the machine-readable official ballots were already being printed. It gave notice that any adjustment, postponement, or suspension of these activities would prejudice the timely conduct of its constitutional duties.⁴⁷

Our Ruling

Mootness of the Petition

The conclusion of the May 9, 2022 National and Local Elections and the subsequent proclamation of one Sheena Tan as the Mayor-elect of Santiago City, Isabela⁴⁸ have undoubtedly rendered the petition moot insofar as it seeks to nullify the denial of Aggabao's COC as substitute of Navarro, the non-inclusion of Aggabao's name as a mayoralty candidate, and Navarro's declaration as an independent candidate. A case is moot when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.⁴⁹

Here, the election of Tan to the contested mayoralty post has put an end to the dispute, and none of the complained actions by COMELEC (*i.e.*, the

⁴⁶ *Id.* at 163-167.

⁴⁷ *Id.* at 167.

⁴⁸ Santiago City, Isabela 2022 Election Results. Accessed at <https://stgocity.com/city-of-santiago-election-results-2022/> on June 23, 2022.

⁴⁹ *Marquez v. Commission on Elections*, G.R. No. 238274 (Notice), November 9, 2021.

denial of Aggabao's COC as substitute of Navarro, the non-inclusion of Aggabao's name as a mayoralty candidate, and Navarro's declaration as an independent candidate) even if wrong will not undo the outcome of the election to this office.

Despite the mootness of a case, however, the Court may still render a decision if it finds that: (a) there is a grave violation of the *Constitution*; (b) the case involves a situation of exceptional character and is of paramount public interest; (c) **the issues raised require the formulation of controlling principles to guide the Bench, the Bar and the public**; and (4) the case is capable of repetition yet evading review.⁵⁰

As eruditely explained by Associate Justice Maria Filomena D. Singh during the deliberation, the third exception applies here. Left unchecked, the COMELEC may repeat the underlying questionable acts or omissions which resulted in the assailed dispositions, **albeit not necessarily against petitioners themselves** again but against some other individuals in elections to come. These **underlying questionable acts or omissions** include: (a) **ignoring the clear and repeated certifications and letters** of a particular political party about the identity of the candidate it seeks to endorse *and* the **falsity of a candidate's claim of endorsement** by that particular political party; (b) **failing to conduct a summary hearing** on the candidates' **conflicting claims** pertaining to their party membership and endorsement; and (c) **emasculating** the TRO issued by the Court by perpetuating the erroneous COC cancellation and improperly denying one's right to be substituted as a candidate.

As the final guardian and arbiter of the Constitution, the Court deems it necessary to lay down principles on the observance of the right to due process, particularly the right to hearing of candidates to whom conflicting CONAs have been issued, in view of the seeming vacuum in the COMELEC's rules.⁵¹

Powers and functions of the COMELEC

The Constitution and the Omnibus Election Code confer the powers and functions of the COMELEC which may be classified into administrative, quasi-legislative, and quasi-judicial.⁵² *Bedol v. COMELEC*⁵³ expounds:

The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial. The **quasi-judicial power of the COMELEC embraces the power to resolve controversies**

⁵⁰ *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines)*, 791 Phil. 243, 259 (2016), citing *Belgica v. Ochoa*, 721 Phil. 416 (2013).

⁵¹ Separate Opinion of Justice Caguioa, pp. 2-3.

⁵² *Bedol v. COMELEC*, 621 Phil. 498, 510 (2009).

⁵³ *Id.*

arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications. Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. **Its administrative function refers to the enforcement and administration of election laws. In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52 [c]) authorize the COMELEC to issue rules and regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code.**

The quasi-judicial or administrative adjudicatory power is the power to hear and determine questions of fact to which the legislative policy is to apply, and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law.⁵⁴ (Emphases supplied)

The administrative powers of the COMELEC are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C of the Constitution,⁵⁵ thus:

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

x x x x

(3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

(4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted,

⁵⁴ *Id.*

⁵⁵ *Baytan v. COMELEC*, 444 Phil. 812 (2003).

shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

(6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

(7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.

(8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.

(9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

As for its quasi-judicial powers, Section 2 (2) of Article IX-C ordains:⁵⁶

Section 2. The Commission on Elections shall exercise the following powers and functions:

xxx

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

When the COMELEC receives or acknowledges receipt of COCs and CONAs filed in due form, it performs the administrative function of enforcement and administration of all laws and regulations pertaining to the conduct of an election.⁵⁷ Section 76 of the Omnibus Election Code in relation to Section 32 of Resolution No. 10717 provides:

Omnibus Election Code, Section 76:

Sec. 76. Ministerial duty of receiving and acknowledging receipt. - The Commission, provincial election supervisor, election registrar or officer designated by the Commission or the board of election inspectors under the succeeding section shall have the ministerial duty to receive and acknowledge receipt of the certificate of candidacy.

⁵⁶ *Id.*

⁵⁷ 1987 Constitution, Article IX-C, Section 2(1); See *Cipriano v. COMELEC*, 479 Phil. 677, 688 (2004).

COMELEC Resolution No. 10717, Section 32:

Section 32. Ministerial Duty of Receiving and Acknowledging Receipt of Certificates of Candidacy/Nomination and Acceptance. – The Receiving Officer has the ministerial duty to receive and acknowledge the receipt of the COC and CONA; Provided that they are filed in conformity with the rules and regulations.⁵⁸

Based thereon, the COMELEC **must** receive COCs and CONAs provided they are filed in conformity with the rules and regulations. Thus, we agree with the COMELEC when it asserted that up to the point when it received Ayson's COC and CONA (which it accorded with the presumption of regularity for having been notarized), it merely performed its **ministerial function** under the foregoing provisions.

A ministerial act is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his or her own judgment upon the propriety or impropriety of the act done.⁵⁹

To repeat, because Ayson's COC and CONA appeared to be regular on their face, the COMELEC had no recourse but to accept them.⁶⁰ Up to that point, no grave abuse of discretion could be ascribed to the COMELEC simply because there was no occasion for the exercise of such discretion to come into play.⁶¹

But following the acceptance of Ayson's COC and CONA, supervening events took place which necessarily called for the COMELEC's exercise of its discretionary power *vis-à-vis* the performance of its quasi-judicial functions, *viz.*: Senator Lacson, Chairperson of Partido Reporma, disclaimed the CONA allegedly issued by Partido Reporma to Ayson; and he sought the COMELEC's "immediate action" and requested that "the necessary correction/s be made in the [COMELEC's] Certified List of Candidates."⁶² In fine, Senator Lacson was seeking a resolution of a controversy which affected the candidacy of Ayson and Navarro, and subsequently, Aggabao.

As astutely observed by Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) during our deliberation,⁶³ when Senator Lacson sent his letters to the COMELEC challenging the validity or authenticity of

⁵⁸ Emphasis omitted.

⁵⁹ *Department of Education v. Rizal Teachers Kilusang Bayan for Credit, Inc.*, G.R. No. 202097, July 3, 2019, citing *Umali v. Judicial and Bar Council*, 814 Phil. 253, 293-294 (2017).

⁶⁰ Omnibus Election Code, Section 76; COMELEC Resolution No. 10717, Section 32.

⁶¹ *See Department of Education v. Rizal Teachers Kilusang Bayan for Credit, Inc.*, G.R. No. 202097, July 3, 2019, citing *Umali v. Judicial and Bar Council*, *supra* at 294; *Sps. Espiridon. v. Court of Appeals*, 523 Phil. 664, 668 (2006).

⁶² *Rollo*, pp. 15-16.

⁶³ Separate Opinion of Justice Caguioa, p. 6.

the CONA of Ayson, **a legal controversy had then come to fore, i.e., which of the respective CONAs of Ayson and Navarro should prevail?** To be sure, this legal controversy required the COMELEC to look beyond the face of these CONAs. On this score, Section 2 of Article IX-C of the 1987 Constitution empowers the COMELEC to exercise jurisdiction over all contests relating to the elections, returns and qualifications of all elective officials, and to decide all questions affecting elections.⁶⁴ It is mandated to “investigate and, where appropriate, prosecute cases of violations of elections laws, including acts or omissions constituting election frauds, offenses and malpractices.”⁶⁵ Thus, even after its acceptance of Ayson’s CONA, which initially appeared to be regular, the COMELEC became duty bound to take cognizance of, and investigate, the material information coming from Senator Lacson that Partido Reporma had not issued any CONA in favor of Ayson.⁶⁶

In this regard, **where the situation calls for the power of the COMELEC to exercise its judgment or discretion involving a determination of fact, or resolution of controversies⁶⁷ where parties adduce evidence in support of their contentions,⁶⁸ the COMELEC ought to perform its quasi-judicial functions.⁶⁹ In *Francisco v. COMELEC*,⁷⁰ we pronounced:**

The COMELEC’s adjudicative function over election contests is quasi-judicial in character since the COMELEC is a governmental body, other than a court, that is vested with jurisdiction to decide the specific class of controversies it is charged with resolving. In adjudicating the rights of persons before it, **the COMELEC is not just empowered but is in fact required to investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature.** This is simply in congruence with the concept of due process that all administrative adjudicatory bodies are enjoined to observe.

The COMELEC is, thus, fully-clothed with authority to make factual determinations in relation to the election contests before it. This has been the thrust of the decades worth of constitutional revisions that transformed the COMELEC from a purely administrative body, whose scope of decision-making is limited to those incidental to its duty to enforce election laws, to a polling commission that also exercises original and exclusive, as well as appellate, jurisdiction over election contests. (Emphases and underscoring supplied)

*Baytan v. COMELEC*⁷¹ echoed the rule that in the exercise of its quasi-judicial power, the COMELEC should reckon with Section 3 of Article IX-

⁶⁴ 1987 Constitution, Article IX-C, SECTION 2(2) and (3).

⁶⁵ 1987 Constitution, Article IX-C, SECTION 2(6).

⁶⁶ *Rollo*, pp. 15-16.

⁶⁷ Emmanuel Tison and Artemio Tison, *Election Laws*. (2010), p. 95.

⁶⁸ *Cipriano v. COMELEC*, supra 57 at 691.

⁶⁹ *Sandoval v. COMELEC*, 380 Phil. 375, 392 (2000).

⁷⁰ *Francisco v. COMELEC*, 831 Phil. 106, 121 (2018).

⁷¹ Supra note 52 at 825.

C⁷² of the Constitution. This provision requires all election cases, including pre-proclamation controversies, **to be decided by the COMELEC in Division**; and the motion for reconsideration, by the COMELEC *En Banc*.

Again, as correctly pointed out by Justice Caguioa, the COMELEC *En Banc* had, in several instances, referred matters to its Divisions for hearing.⁷³ The COMELEC, therefore, should have similarly referred the administrative matter in this case to a Division and docketed the same as an election case, heard the parties thereon, and thereafter resolved the material issue as to who between Ayson and Navarro, and subsequently Aggabao was the real mayoralty candidate of Partido Reporma. **That the COMELEC rules may be silent on how these conflicting CONAS and the disavowals of the concerned political party may be resolved did not justify its inaction.**⁷⁴ All it needed to do was adhere to the due process requisites of notice and hearing attendant to every adjudication it does in the exercise of its quasi-judicial functions. In *Engle v. COMELEC*,⁷⁵ we held that in the exercise of its quasi-judicial functions, the COMELEC is mandated to hear and decide cases first by Division and, on motion for reconsideration, by the COMELEC *En Banc*. The Court further stressed that the opinion of the COMELEC Law Department is not binding and at most, is merely recommendatory.⁷⁶ The COMELEC *En Banc* cannot short cut proceedings by acting without prior action by a Division because this deprives the candidate of due process.⁷⁷

In *Cerafica v. COMELEC*,⁷⁸ which involved the cancellation of COCs *via* minute resolutions simply adopting the recommendations of the COMELEC Law Department, the Court ruled that the COMELEC gravely abused its discretion because such situations properly called for the referral of the case to a Division for summary hearing.⁷⁹

The COMELEC acted with grave abuse of discretion

Grave abuse of discretion is defined as arbitrary or despotic exercise of power due to passion, prejudice, or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.⁸⁰

⁷² 1987 Constitution, Article IX-C, SECTION 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *En Banc*.

⁷³ Separate Opinion of Justice Caguioa, p. 10.

⁷⁴ *Id.*

⁷⁵ 778 Phil. 568 (2016).

⁷⁶ *Id.* at 581.

⁷⁷ *Bautista v. COMELEC*, 460 Phil. 459, 477 (2003).

⁷⁸ 749 Phil. 80 (2014).

⁷⁹ *Id.* at 91.

⁸⁰ *Beluso v. COMELEC*, 635 Phil. 436, 443 (2010).

Going by the undisputed facts, the COMELEC effectively aided the winning mayoralty candidate by refusing to resolve the respective status of Ayson and Navarro, and later on of Aggabao, as candidates. It opted to rely solely on the recommendation of its Law Department, *sans* the benefit of its own independent confirmation which could have been done by referring the case to the COMELEC Division for a summary hearing. Had the COMELEC performed its adjudicative duty required under the Constitution and the law, Ayson or Aggabao could have given the winning candidate a run for her money. But as things turned out, both were denied the opportunity to run as the official mayoralty candidate of Partido Reporma. The party itself was deprived of the right to prove who its official mayoralty candidate was, and the electorate, consequently, was deprived of the opportunity to choose either of these two candidates as their duly elected leader.

The lack of hearing precludes the Court from resolving who between Ayson and Aggabao was the real official candidate of Partido Reporma

The Court once more agrees with the keen observation of Justice Caguioa that because the COMELEC failed to exercise its quasi-judicial functions, conduct hearings, weigh evidence, and draw conclusions therefrom,⁸¹ let alone, resolve once and for all the issue of party endorsement or representation between Ayson and Aggabao, the Court itself in this *certiorari* proceeding cannot do either one or the other. The Court is not a trier of facts.⁸² Nor can it draw conclusions or resolve the issue of party endorsement or representation where the facts had not been established on record before the COMELEC at the first instance.

But as for the assailed **Document No. 21-3973⁸³ dated November 10, 2021**, declaring Navarro as an independent candidate; (b) **Document No. 21-7467⁸⁴ dated December 22, 2021**, denying Aggabao's Certificate of Candidacy (COC) as substitute candidate for petitioner Navarro; and (c) **Document No. 222-0176 dated January 5, 2022**, denying Aggabao's motion for reconsideration, the Court nullifies and sets them aside for non-compliance with the due process requirements as discussed above.

The Court accepts the explanation of the COMELEC why it went ahead with the printing of ballots

⁸¹ Separate Opinion of Justice Caguioa, p. 11.

⁸² See *Cacho v. Manahan*, 823 Phil. 1011, 1021 (2018), citing *Maglana Rice and Corn Mill, Inc. v. Tan*, 673 Phil. 532, 539 (2011).

⁸³ *Rollo*, p. 51.

⁸⁴ *Id.* at 38.

despite the TRO issued by the Court.

Although we find the COMELEC to have acted with grave abuse of discretion when it failed to afford due process to the contending parties and rule on the controversy between Ayson, on one hand, and Navarro, Aggabao and Partido Reporma, on the other, it has sufficiently demonstrated that it was not impelled by a desire to disrespect the authority of the Court when it proceeded with the election preparations, which included the printing of ballots, despite the TRO issued by the Court. Rather, the COMELEC only sought to ensure that the May 9, 2022 National and Local Elections would take place on the second Monday of May as decreed in the *Constitution*:

After due deliberation, the Commission **RESOLVED**, as it hereby **RESOLVES**, to adopt Minute Resolution 22-0019, wherein the Commission resolved to include in the publication and ballots the above-named party-lists groups who obtained temporary restraining orders (TROs) from the Supreme Court and the same was **received by the Commission prior to January 9, 2022 which is the date of the generation of the final ballot face for the 2022 NLE** as a judicial courtesy and recognition of the authority of the Supreme Court. However, TROs received after January 9, 2022 the date for the generation of the final ballot face is already technically impossible to comply as the process of generating another ballot face will leave little time for the Commission to complete the preparation for the 2022 NLE putting at much risk the holding thereof.⁸⁵

The Court, therefore, accepts the explanation of the COMELEC on the matter. It defers to the wisdom of the COMELEC, after all, it is Constitutional body charged with the power of enforcement and administration of all laws and regulations relative to the conduct of an election.⁸⁶ It possesses indubitable expertise in the field of elections⁸⁷ and was in the best position to determine what preparations were needed to ensure that the 2022 national and local elections would promptly, as it did, take place.

Conclusion

As ordained in the recent case of *Marquez v. COMELEC*,⁸⁸ the Court recognizes that the COMELEC is time-pressed in its preparatory activities especially during an election year. Thus, we strongly urge the COMELEC to promptly resolve substitution cases and similar cases which may result in the inclusion or exclusion of candidates so that it can devote its time to ensuring the conduct of free, fair, and honest elections. A balanced policy which guarantees promptness, on one hand, and the fair exercise of discretion on the other, will not only aid in the noble mandate of the COMELEC but also prevent cases from becoming moot, as here.

⁸⁵ *Id.* at 173, emphases in the original.

⁸⁶ *Cayetano v. COMELEC*, 515 Phil. 485, 492-493 (2006), citing *Buac v. COMELEC*, 465 Phil. 800 (2004).

⁸⁷ *Id.*

⁸⁸ See *Marquez v. COMELEC*, G.R. No. 258435, June 28, 2022.

To avoid a recurrence of similar undesirable incidents in the future, the COMELEC is likewise strongly urged to adopt a practicable plan and timeline to ensure that all these cases are resolved at the earliest possible time. In formulating these measures and plans, the COMELEC should bear in mind that its dispositions are subject to review by the Court and that the Court also needs ample time to resolve these cases prior to election day. It should further consider that the aggrieved party will likely seek injunctive relief from the Court which might affect its pre-set timeline for necessary election preparations.

Whatever practicable measures or plans may be formulated by the COMELEC in this regard should ensure that election cases are promptly decided to prevent them from becoming moot as what happened here.

ACCORDINGLY, the petition is **PARTLY GRANTED**. Document No. 21-3973 dated November 10, 2021, Document No. 21-7467 dated December 22, 2021, and Document No. 22-0176 dated January 5, 2022 issued by respondent Commission on Elections are **NULLIFIED**.

As for petitioners' prayer to admit the Certificate of Candidacy of Giorgidi B. Aggabao as substitute candidate for Mayor of Santiago City and to include his name in the list of candidates for the post, the same is **DECLARED MOOT**.


The *Manifestation* dated June 10, 2022 of the Commission on Elections bearing its explanation why the Temporary Restraining Order under Order dated January 25, 2022 was not complied with is **NOTED and ACCEPTED**.

To avoid a recurrence of similar incidents in the future, the Commission on Elections is strongly urged to adopt a practicable plan and timeline to ensure that all cases which involve substitution cases or similar cases which may result in the inclusion or exclusion of a candidate from the ballot are resolved at the earliest possible time.

SO ORDERED.

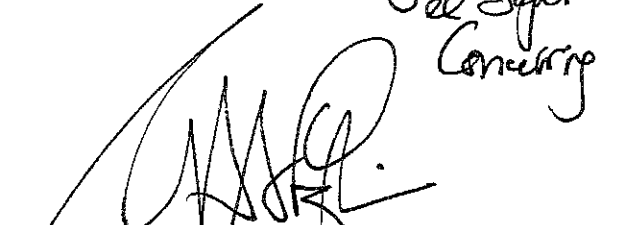

AMY C. LAZARO-JAVIER
Associate Justice


WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice


*See Separate
Concurring*



MARVIC M.V.F. LEONEN
Senior Associate Justice

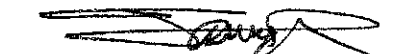

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

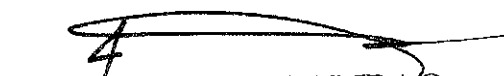

RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice

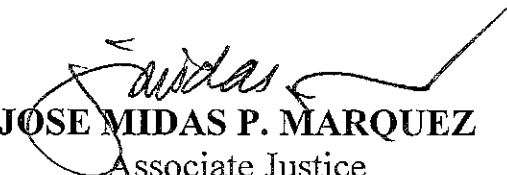

SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

[Handwritten mark]



JOSE MIDAS P. MARQUEZ
Associate Justice

(no part)
ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

