



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
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**PARTIDO DEMOKRATIKO
 PILIPINO-LAKAS NG
 BAYAN (PDP-LABAN) herein
 represented by its
 Secretary-General, CONG.
 PANTALEON “BEBOT”
 ALVAREZ,**

Petitioner,

**LEON ESTRELLA PERALTA,
 MELCHOR GRUELA
 MAGDAMO, and OTHELLO
 ESTROPIGAN DALANON,**

Intervenors,

– versus –

**COMMISSION ON
 ELECTIONS EN BANC,**
 Respondent.

G.R. No. 225152

Present:

**GESMUNDO, CJ., Chairperson,
 PERLAS-BERNABE,
 LEONEN,*
 CAGUIOA,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 M. LOPEZ,
 GAERLAN, and
 ROSARIO,
 J. LOPEZ,
 DIMAAMPAO, JJ.**

Promulgated:

October 5, 2021

x-----x

D E C I S I O N

M. LOPEZ, 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).

* On Official Leave.

¹ *Rollo*, pp. 3-28.

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. 7166⁴ 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.

² OMNIBUS RULES & REGULATIONS GOVERNING CAMPAIGN FINANCE & DISCLOSURE IN CONNECTION WITH THE 09 MAY 2016 NATIONAL & LOCAL ELECTION AND ALL SUBSEQUENT NATIONAL & LOCAL ELECTIONS THERAFTER, 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.

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.**

⁵ IN RE: SEVERAL REQUESTS FOR EXTENSION TO FILE STATEMENT OF 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.)

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 Comment¹¹ 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

⁸ Id. at 29-34.

⁹ Id. at 3-28

¹⁰ Id. at 11-24.

¹¹ Id. at 77-103.

elections for 15 days, and one year, respectively. Further, the COMELEC possessed broad law enforcement powers in the exigency of public service¹² 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,

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.

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

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.

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

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.

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 now facing criminal charges for violation of the Election Code.

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



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

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.

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.

³² 808 Phil. 86 (2017).

³³ Id. at 93-94.

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

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).

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. Nagmamalaskit na mga Manananggol ng mga Manggagawang Pilipino, 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)

³⁵ *Supra* note 20.



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

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.

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

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.

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

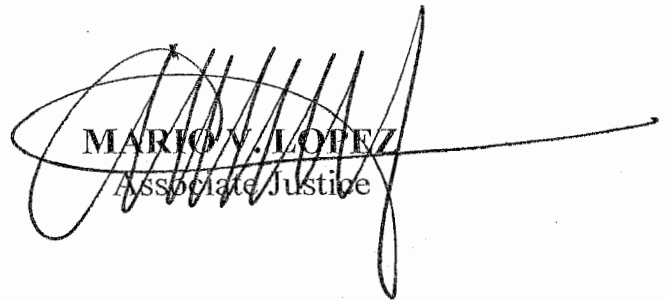
⁴³ *Agbayani, de v. Phil. National Bank*, *supra* note 41, at 447-448.

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.

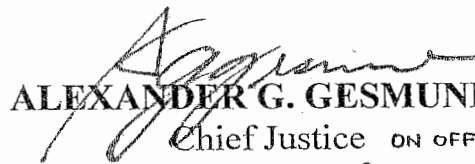
election laws is still circumscribed by the law – *the spring cannot rise higher than its source.*⁴⁵


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.

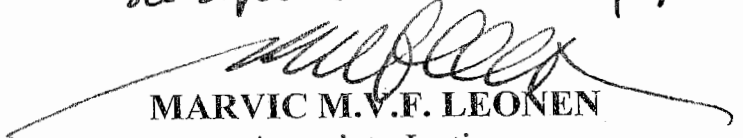
SO ORDERED.


MARIO V. LOPEZ
Associate Justice

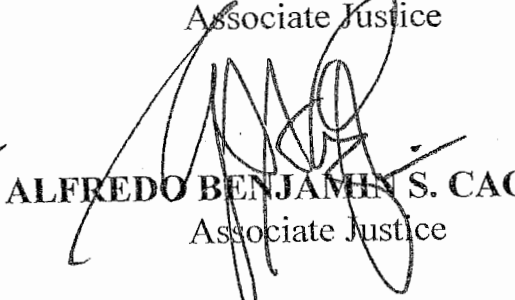
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice ON OFFICIAL LEAVE BUT LEFT VOTE
See separate concurring opinion



ESTELA M. PERLAS-BERNABE
Associate Justice

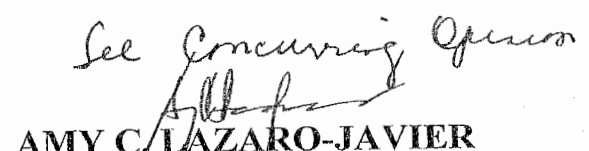

MARVIC M.V.F. LEONEN
Associate Justice


Pls. See separate concurring

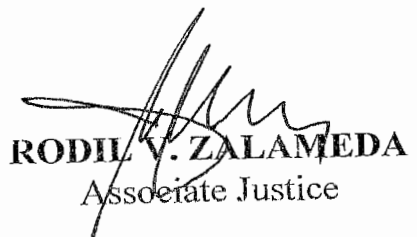

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice


See Concurring Opinion

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

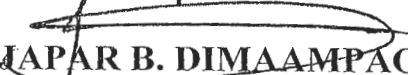

RODIL V. ZALAMEDA
Associate Justice

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.


SAMUEL H. GAERLAN
Associate Justice

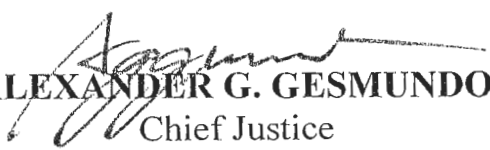

RICARDO R. ROSARIO
Associate Justice



JHOSEP V. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
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

CELESTINO T. DE VERA

I, CELESTINO T. DE VERA, CLERK OF THE COURT, DO HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED IN THE OFFICE OF THE CLERK OF THE COURT.