



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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EN BANC

FRANK ONG SIBUMA,

Petitioner,

G.R. No. 261344

Present:

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

- versus -

COMMISSION ON ELECTIONS,
 ALMA L. PANELO, and STEFANIE
 ANN ERIGUEL CALONGCAGON,

Respondents.

Promulgated:

January 24, 2023

X-----X

DECISION

INTING, J.:

Before the Court is a Petition for *Certiorari*¹ with prayer/application for the issuance of a temporary restraining order and/or writ of preliminary injunction assailing the following: (1) Resolution² dated May 13, 2022 of the Commission on Elections

* On official leave.

¹ *Rollo*, pp. 1-35. Filed under Rule 65 of the Rules of Court.

² *Id.* at 43-54. Signed by Presiding Commissioner Marlon S. Casquejo and Commissioner George Erwin M. Garcia, while Commissioner Rey E. Bulay took no part.

(COMELEC) Second Division ordering the cancellation of the Certificate of Candidacy³ of Frank Ong Sibuma (Sibuma) in SPA No. 21-172 (DC); (2) Certificate of Finality⁴ and Entry of Judgment,⁵ both dated May 24, 2022; and (3) Writ of Execution⁶ dated June 29, 2022 annulling Sibuma's proclamation as the duly elected Mayor of the Municipality of Agoo, La Union, and proclaiming private respondent Stefanie Ann Eriguel Calongcagon (Eriguel) in his stead.

The Antecedents

Sibuma and Eriguel vied for the mayoralty position of the Municipality of Agoo, La Union in the National and Local Elections of May 9, 2022 (May 9, 2022 Elections). Petitioner filed his Certificate of Candidacy (CoC) for the position on October 7, 2021.⁷

Alma L. Panelo (Panelo) filed a Petition to Deny Due Course [to] or Cancel [a] Certificate of Candidacy⁸ dated November 2, 2021 under Section 78 of the Omnibus Election Code of the Philippines⁹ (OEC) against Sibuma. Panelo averred that Sibuma committed a material misrepresentation when he stated in his CoC that "*he will be a resident of Brgy. Sta. Barbara, Agoo, La Union for 1 year and 3 months on the day before the May 9, 2022 Elections*"¹⁰ because "*in truth and in fact he is a resident of Zone 2, Purok 9, San Eugenio, Aringay, La Union.*"¹¹

To prove her claims, Panelo submitted in evidence two Certifications¹² dated October 29, 2021 issued by *Punong Barangay* Erwina C. Eriguel (*Punong Barangay* Eriguel) of Brgy. Sta. Barbara, Agoo—the *barangay* where Sibuma allegedly resides. The Certifications stated that Sibuma is not a resident of Brgy. Sta. Barbara. Panelo also submitted a Deed of Absolute Sale,¹³ Transfer Certificate of Title No.

³ Id. at 345.

⁴ Id. at 55-57. Issued by Atty. Genesis M. Gatdula.

⁵ Id. at 58-59.

⁶ Id. at 63-67. Signed by Presiding Commissioner Socorro B. Inting.

⁷ Id. at 44.

⁸ Id. at 346-361. Filed under Section 78, in relation to Section 74, of *Batas Pambansa* Blg. (BP) 881 or the Omnibus Election Code, and in consonance with Section 1, Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523.

⁹ BP 881, approved on December 3, 1985.

¹⁰ *Rollo*, p. 347

¹¹ Id.

¹² Id. at 459-460.

¹³ Id. at 449.

025-2020001551,¹⁴ and applications for building permits and licences covering a certain property.¹⁵ Panelo asserted that these documents show that the address alleged by Sibuma in his CoC belongs to a different person, a certain Eric Ong Sibuma. Panelo further invoked a Certification¹⁶ issued by the Municipal Engineer of Agoo attesting that no certificate of occupancy had been issued over the said property.¹⁷

For his part, Sibuma alleged that he had established his residency in the Municipality of Agoo, Province of La Union since his birth. He contended that while he may have been absent thereat for some time, his intention to return (*animus revertendi*) has always been shown. In support thereof, he submitted in evidence the following documents: (a) Certificate of Live Birth¹⁸ showing that he was born in Agoo, La Union; (b) Secondary Student's Record¹⁹ from the Don Mariano Marcos State University of Agoo, as well as a Certification²⁰ attesting that he completed his secondary education therein; (c) copies of his telephone bills and a Ledger Inquiry from the La Union Electric Company, all issued in his name, indicating Sta. Barbara, Agoo, La Union as his address;²¹ (d) a Tax Declaration of Real Property²² issued in his name and his spouse covering a property situated in Sta. Barbara, Agoo, La Union; and (e) Affidavit of Residency²³ dated November 29, 2021 signed by 41 residents of Brgy. Sta. Barbara, Agoo, attesting that he has resided in Agoo from January 2021.²⁴

Panelo offered as supplementary evidence affidavits dated December 3 and 4, 2021 individually executed by eight of the 41 affiants in Sibuma's Affidavit of Residency. The affidavits provided that the eight affiants recanted their participation in Sibuma's Affidavit of Residency.²⁵

During the pendency of Panelo's petition to deny due course to or

¹⁴ Id. at 450-452.

¹⁵ Id. at 454-457.

¹⁶ Id. at 458.

¹⁷ Id. at 350-351.

¹⁸ Id. at 98.

¹⁹ Id. at 115.

²⁰ Id. at 116.

²¹ Id. at 99-114.

²² Id. at 117.

²³ Id. at 153-156.

²⁴ Id. at 46.

²⁵ Id.

cancel Sibuma's CoC, Sibuma's name remained on the ballots when the May 9, 2022 Elections ensued. On May 10, 2022, the Municipal Board of Canvassers of Agoo, La Union issued a Certificate of Canvass of Votes and Proclamation of Winning Candidate for Municipal Mayor²⁶ proclaiming Sibuma as the duly elected Mayor of the Municipality of Agoo, La Union. Sibuma garnered 21,364 votes against Eriguel's 16,603 votes.

On May 13, 2022, the COMELEC Second Division issued the assailed Resolution²⁷ granting Panelo's petition to deny due course to or cancel Sibuma's CoC and ruled that Sibuma committed material misrepresentation in his CoC relating to his residency, *viz.*:

In conclusion, it is apparent that [Sibuma] committed a material misrepresentation under Section 78 of the OEC for *falsely* declaring his eligibility to run for a position for which he was not qualified.

In light of this fact, his Certificate of Candidacy must be deemed cancelled and all votes cast for [him] be considered stray.

Furthermore, material misrepresentation in a COC is an election offense under Section 262 in relation to Section 74 of the OEC. Thus, the election offense aspect of this case is now referred to the Law Department for the conduct of investigation.

WHEREFORE, premises considered, the Commission (*Second Division*) RESOLVED, as it hereby RESOLVES, to GRANT the instant Petition. The Certificate of Candidacy of Respondent FRANK ONG SIBUMA for the position of Mayor in connection with the 2022 NLE is hereby CANCELLED.

Let the records of the case be forwarded to the Law Department of this Commission for the proper conduct of preliminary investigation.

SO ORDERED.²⁸ (Emphases omitted.)

The COMELEC Second Division ruled that Sibuma's representation of residency in his CoC is material as it pertains to a

²⁶ Id. at 223-224.

²⁷ Id. at 43-54.

²⁸ Id. at 53.

qualification for local elective officials under Section 39(a)²⁹ of Republic Act No. 7160,³⁰ or the Local Government Code of 1991. Holding that residence, in contemplation of election laws, is synonymous to domicile, the COMELEC Second Division underscored that Sibuma must establish both his (a) physical presence in the Municipality of Agoo, La Union, and (b) intention to make it his domicile. In the case, it found that Sibuma failed to establish the required element of *actual physical* presence at the place where he sought to be elected as mayor.³¹

First, the COMELEC Second Division found disputable the veracity of Sibuma's Affidavit of Residency, noting that it was jointly signed on its face by affiants therein—all attesting to the same narration of facts, as follows:

“1. We personally know FRANK ONG SIBUMA, since childhood, he being our acquaintance and neighbor in Barangay Sta. Barbara, Agoo, La Union, Philippines.

2. We all know that said Frank Ong Sibuma was born in the above-said place, and we personally witnessed that he is presently residing and actually residing again in Sta. Barbara, Agoo, La Union, since January 2021 up to the present.”³²

The COMELEC Second Division found doubtful that all signatories in Sibuma's Affidavit of Residency would have personal knowledge that Sibuma was born in Sta. Barbara, Agoo, La Union, considering their declarations of being mere acquaintances with him. It also found difficult to believe that all of them were neighbors of Sibuma during his childhood. On the other hand, it gave weight to the separate affidavits subsequently executed by eight affiants who recanted their declarations in Sibuma's Affidavit of Residency. It noted that the eight affiants narrated in precise detail their different personal experiences of being asked to sign Sibuma's Affidavit of Residency under questionable

²⁹ Section 39 of Republic Act No. (RA) 7160 provides:

SEC. 39. *Qualifications.* – (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; *a resident therein for at least one (1) year immediately preceding the day of the election*; and able to read and write Filipino or any other local language or dialect.

x x x x (Italics supplied.)

³⁰ Approved on October 10, 1991.

³¹ *Rollo*, pp. 48-49.

³² As culled from the COMELEC Resolution dated May 13, 2022, *id.* at 50.

pretenses. It also gave significant weight to the Certifications dated October 29, 2021 issued by *Punong Barangay* Eriguel of Sta. Barbara, Agoo, La Union stating that Sibuma is not a resident of Brgy. Sta. Barbara.³³

Second, the COMELEC Second Division noted that Sibuma's telephone and electricity bills indicated that the installation of utilities and consumption of electricity occurred only from February 2021 onwards, thus belying his allegation that he resided at Sta. Barbara, Agoo, La Union since January 2021.³⁴

Third, the COMELEC Second Division ruled that Sibuma failed to establish his domicile in Agoo, La Union. It rejected his reliance on his Certificate of Live Birth and Secondary School Records to prove *animus revertendi* to Agoo, La Union. It particularly noted that the address indicated in his Secondary School Records is not Agoo, La Union, but "San Eugenio, Aringay, La Union." It added that Sibuma failed to provide any evidence of "well-publicized ties" to Agoo, La Union, political or otherwise, or any celebration of important personal milestones therein as would establish the element of *animus revertendi*.³⁵

On May 24, 2022, the Office of the Clerk of the Commission (OCOC) issued a Certificate of Finality³⁶ stating that the assailed Resolution dated May 13, 2022 had become final and executory on even date, and noting that "[Sibuma] has not filed any motion for reconsideration within the five-day reglementary period reckoned from the date of service;"³⁷ thus:

WHEREAS, the case records show that [Sibuma] was served a copy of the aforementioned Resolution on 16 May 2022 *via* e-mail and using the official e-mail address of the Clerk of the Commission. This is based on the proof of service or e-mail of the Clerk of the Commission.

WHEREAS, Section 7, Rule 23 of Resolution No. 9523, in relation to Section 14(c), Rule 18 of the 1993 COMELEC Rules of Procedure, as amended by Resolution No. 7808, provides that unless a motion for reconsideration is seasonably filed, the resolution or

³³ Id. at 49-51.

³⁴ Id. at 51.

³⁵ Id. at 51-53.

³⁶ Id. at 55-57.

³⁷ Id. at 56.

decision of a Division becomes final and executory five (5) days after receipt by the parties of the promulgated copy thereof.

WHEREAS, the records show that *[Sibuma]* has not filed any motion for reconsideration within the five-day reglementary period reckoned from the date of service.

NOW THEREFORE, in view of the foregoing, the Resolution of the Commission (*Second Division*) promulgated on 13 May 2022 is hereby declared FINAL and EXECUTORY.³⁸ (Emphases omitted; italics supplied)

On May 24, 2022, the OCOC issued an Entry of Judgment.³⁹

Thereafter, counsel for Panelo filed a Motion for Execution which was received by the OCOC *via* electronic mail (e-mail) on May 25, 2022. He also filed an Urgent Reiterative Motion for Execution *via* e-mail on May 27, 2022.⁴⁰

Meanwhile, Sibuma submitted the following: (a) Motion to Withdraw as Counsel filed on May 26, 2022; (b) Entry of Appearance filed on May 27, 2022; (c) Opposition to the Motion for Execution filed *via* e-mail on May 27, 2022; (d) Motion for Reconsideration (of the assailed Resolution dated May 13, 2022) filed on May 27, 2022; (e) Supplement to the Motion for Reconsideration (of the assailed Resolution dated May 13, 2022) received by the OCOC on May 30, 2022; and (f) Motion to Quash and/or Recall Certificate of Finality received by the OCOC on May 31, 2022.⁴¹

In his Motion for Reconsideration,⁴² Sibuma alleged that the assailed Resolution dated May 13, 2022 was received by his counsel electronically on May 22, 2022 and physically on May 25, 2022.⁴³

Sibuma argued that under Section 2,⁴⁴ Rule 23 of the COMELEC

³⁸ Id. at 56-67.

³⁹ Id. at 58-59.

⁴⁰ Id. at 65.

⁴¹ Id.

⁴² Id. at 68-79.

⁴³ Id. at 70.

⁴⁴ Section 2, Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523 provides:

Section 2. *Period to File Petition.* – The Petition must be filed *within five (5) days from*

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Rules of Procedure, as amended by COMELEC Resolution No. 9523, the petition must be filed within five days from the last day for the filing of CoC, which in the case fell on October 8, 2021. Sibuma pointed out that Panelo's petition should have been dismissed for having been belatedly filed on November 2, 2021.⁴⁵

On the merits, Sibuma maintained that his domicile remains to be Agoo, La Union, and that in any event, he is a *bona fide* resident thereof. He argued that while he may have been absent thereat for some time, his intention to return to Agoo, La Union has been established by the following circumstances: (1) he was born in Agoo, La Union on October 19, 1973 as evidenced by his Certificate of Live Birth; (2) he acquired properties in Agoo, La Union, declaring them for taxation purposes and paying real property taxes due thereon; (3) he studied and completed his Secondary Education at the Don Mariano Marcos Memorial State University Laboratory High School, Agoo, La Union; (4) he paid bills for utilities of his properties located at Brgy. Sta. Barbara, Agoo, La Union; (5) his neighbors and acquaintances confirmed and attested that he is a resident of Brgy. Sta. Barbara, Agoo, La Union; and (6) he is a registered voter of Agoo, La Union.⁴⁶

Invoking the will of the electorate of Agoo, La Union, Sibuma argued that for failure of the COMELEC Second Division to resolve Panelo's petition to deny due course to and/or cancel his CoC prior to the May 9, 2022 Elections and his proclamation, the cancellation of his CoC was no longer justified. He argued that Panelo's petition should have been dismissed.⁴⁷

On June 2, 2022, counsel for Panelo filed *via* e-mail the following: (a) Reply to [Sibuma's] Opposition to Motion for Execution; (b) Opposition to [Sibuma's] Motion to Quash and/or Recall Certificate of Finality; and (c) Opposition to [Sibuma's] Motion for Reconsideration.⁴⁸

the last day for filing of certificate of candidacy; but not later than twenty five (25) days from the time of filing of the certificate of candidacy subject of the Petition. In case of a substitute candidate, the Petition must be filed within five (5) days from the time the substitute candidate filed his certificate of candidacy. (Italics supplied.)

⁴⁵ *Rollo*, pp. 71-72.

⁴⁶ *Id.* at 74-75.

⁴⁷ *Id.* at 76-77.

⁴⁸ *Id.* at 51-53.

In a Writ of Execution⁴⁹ dated June 29, 2022, the COMELEC Special Second Division ordered the execution of the Resolution dated May 13, 2022 *annulling Sibuma's proclamation and ordering the proclamation of Eriguel in his stead*, thus:

ACCORDINGLY, the Commission (Special Second Division) hereby DIRECTS the Municipal Board of Canvassers (MBOC) of the Municipality of Agoo, La Union to RECONVENE at the Session Hall, 8th Floor, Palacio del Gobernador, General Luna St., Intramuros, Manila on Tuesday, 05 July 2022 at 2 o'clock in the afternoon and thereafter:

1. ANNUL the proclamation of Frank Ong Sibuma as the Municipal Mayor of the Municipality of Agoo, La Union;
2. AMEND/CORRECT, the Certificate of Canvas of Votes and Proclamation for the position of Mayor, in the Municipality of Agoo, La Union, based on the Amended Statement of Votes by Precint;
3. PROCLAIM STEPHANIE ANN ERIGUEL CALONGCAGON who garnered Sixteen Thousand Six Hundred Three (16,603) votes as the duly elected Municipal Mayor for the Municipality of Agoo, La Union; and
4. FURNISH a copy of the Certificate of Proclamation to the Department of Interior and Local Government (DILG), Secretary of the Sangguniang Bayan for the Municipality of Agoo, La Union and affected parties.

SO ORDERED.⁵⁰ (Emphases omitted.)

Notably, the COMELEC Special Second Division no longer acted on the respective filings of Sibuma and Panelo relative to the assailed Resolution dated May 13, 2022; and the Certificate of Finality and the Entry of Judgment both dated May 24, 2022.

Hence, the petition anchored on the following grounds:

⁴⁹ Id. at 63-67.

⁵⁰ Id. at 66-67.

I.

Respondent [COMELEC] committed grave abuse of discretion amounting to lack or excess of jurisdiction when it gave due course to the Petition to Deny Due Course and/or Cancel COC of [Sibuma], even if the said Petition was clearly filed out of time[;]

II.

Respondent [COMELEC] committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied [Sibuma's] right to appeal to the [COMELEC] En Banc the assailed Resolution even if [he] timely filed [his] Motion for Reconsideration[;]

III.

Respondent [COMELEC] committed grave abuse of discretion amounting to lack or excess of jurisdiction when it prematurely issued the assailed Writ of Execution.⁵¹

On July 4, 2022, Sibuma filed a Supplemental Petition for *Certiorari* (with Extremely Urgent Application for Temporary Restraining Order/*Status Quo Ante* Order and/or Writ of Preliminary Injunction and Motion for Conduct of Special Raffle).⁵²

On July 5, 2022, the Court granted the application for injunctive reliefs by issuing a Temporary Restraining Order and *Status Quo Ante* Order⁵³ (TRO and *SQA* Order), directing as follows:

NOW THEREFORE, effective immediately and continuing until further orders from this Court, You, respondents COMELEC, Alma L. Panelo and Stefanie Ann Eriguel Calongcagon, your agents, representatives, or persons acting in your place or stead, are hereby *ENJOINED from implementing the assailed COMELEC Resolution dated May 13, 2022 in SPA No. 21-172 (DC) and the corresponding Writ of Execution dated June 29, 2022. The COMELEC directive to the Municipal Board of Canvassers of the Municipality of Agoo, La Union to reconvene at the Session Hall, 8th Floor, Palacio del Gobernador, General Luna Street, Intramuros, Manila on Tuesday, July 5, 2022 at 2 o'clock in the afternoon and thereafter is restrained.*⁵⁴ (Italics and underscoring supplied)

⁵¹ Id. at 18.

⁵² Id. at 310-339.

⁵³ Id. at 378-380. See also Court Resolution dated July 5, 2022, id. at 376-377.

⁵⁴ Id. at 379.

Panelo, Eriguel, and the COMELEC, through the Office of the Solicitor General (OSG) (collectively, respondents), filed their respective Comments⁵⁵ on the petition maintaining that the assailed Resolution cancelling Sibuma's CoC had already attained finality and may no longer be disturbed. In any event, they insist that the cancellation of Sibuma's CoC has factual and legal bases.

All respondents pray that the TRO and *SQA* Order issued by the Court on July 5, 2022 be lifted on the ground that the acts sought to be enjoined from had already become *fait accompli*.⁵⁶ They aver that pursuant to the assailed Writ of Execution dated June 29, 2022, the Municipal Board of Canvassers of Agoo, La Union reconvened on July 5, 2022. On the same day, it annulled Sibuma's proclamation and, thereafter, proclaimed private respondent Eriguel in his stead as the duly elected Mayor of Agoo, La Union.

In his Comment/Opposition⁵⁷ dated August 23, 2022, Sibuma opposes respondents' prayer for the lifting of the TRO and *SQA* Order dated July 5, 2022.

On the basis of the parties' submissions, the Court deems the case ready for resolution.

The Issue

The case rests upon the resolution of the core issue: whether the COMELEC Second Division gravely abused its discretion when it ordered the cancellation of Sibuma's CoC and the nullification of his proclamation as the duly elected Mayor of Agoo, La Union.

The Ruling of the Court

The Court grants the petition.

Preliminarily, the Court addresses the following procedural issues

⁵⁵ Id. at 382-421; 528-571; 586-604.

⁵⁶ "An accomplished fact." Id. at 418-420; 559; 603.

⁵⁷ Id. at 639-649.

relating to the following: (a) timeliness of Panelo's petition, and (b) finality of the assailed Resolution dated May 13, 2022.

Panelo's Section 78 Petition was timely filed.

There is no merit in Sibuma's argument that Panelo's petition should have been dismissed for having been filed beyond the five-day reglementary period under the COMELEC Rules.

Section 78 of the OEC reads:

Section 78. Petition to deny due course to or cancel a certificate of candidacy. — A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election. (Italics in the original and supplied.)

Relatedly, Section 2, Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, provides:

Section 2. Period to File Petition. — The Petition must be filed within five (5) days from the last day for filing of certificate of candidacy; but not later than twenty five (25) days from the time of filing of the certificate of candidacy subject of the Petition. In case of a substitute candidate, the Petition must be filed within five (5) days from the time the substitute candidate filed his certificate of candidacy. (Italics in the original and supplied.)

Evidently, the filing of a petition to deny due course to or cancel a certificate of candidacy must be made not later than 25 days from the time of the filing of the certificate of candidacy.⁵⁸ Here, Sibuma filed his CoC on October 7, 2021. Counting 25 days therefrom, Panelo timely filed his petition on November 2, 2021.

On the issuance of Certificate of

⁵⁸ *Aznar v. Commission on Elections*, 264 Phil. 307, 318 (1990), citing Section 78 of BP 881.

Finality, Entry of Judgment, and Writ of Execution

The core argument against the petition is that the Resolution dated May 10, 2022 cancelling Sibuma's CoC had already become final and executory on the ground that he failed to timely file his motion for reconsideration thereof. The assailed Certificate of Finality dated May 24, 2022 pertinently states:

WHEREAS, the case records show that [Sibuma] was served a copy of the aforementioned Resolution on 16 May 2022 via e-mail and using the official e-mail address of the Clerk of Court of the Commission. This is based on the proof of service or e-mail of the Clerk of the Commission.

WHEREAS, Section 7, Rule 23 of Resolution No. 9523, in relation to Section 1[3](c), Rule 18 of the 1993 COMELEC Rules of Procedure, as amended by Resolution No. 7808, provides that unless a motion for reconsideration is seasonably filed, the resolution or decision of a Division becomes final and executory *five (5) day after receipt by the parties of the promulgated copy thereof.*

WHEREAS, the records show that [Sibuma] has not filed any motion for reconsideration within the five-day reglementary period *reckoned from the date of service.*⁵⁹ (Italics supplied and emphasis omitted.)

The COMELEC Second Division reckoned the running of the five-day reglementary period on May 16, 2022, treating it as the date of service of the assailed Resolution, as well as Sibuma's receipt thereof through his counsel.⁶⁰ It made reference to the e-mail⁶¹ sent by the OCOC to the parties on May 16, 2022 indicating therein the e-mail address of Sibuma's counsel as one of the addressees thereof. In treating the e-mail as proof of service, no regard was made whether receipt thereof was acknowledged by Sibuma's counsel or that the attached Resolution dated May 13, 2022 was opened by him. Notably, the records are wanting of any proof of service—by way of an affidavit of service executed by the COMELEC Clerk of Court who sent the assailed Resolution dated May 2022—as required under Section 9,⁶² Rule 2 of

⁵⁹ *Rollo*, p. 56.

⁶⁰ *Id.* at 541.

⁶¹ *Id.* at 257.

⁶² Section 9, Rule 2 of COMELEC Resolution No. 10673 provides:

COMELEC Resolution No. 10673.⁶³

On the other hand, Sibuma asserts that he timely filed his Motion for Reconsideration on May 27, 2022, reckoning the five-day period from May 22, 2022. He maintains that it was only on May 22, 2022 that his counsel “received, seen and read” the e-mail sent by the OCOC on May 16, 2022.⁶⁴

Without a doubt, the treatment of the subject electronic service of the assailed COMELEC Resolution raises a highly technical matter, the intricacies of which should have prompted the COMELEC Second Division to liberally apply its own rules in order to pave the way to the complete resolution of the case, the same being imbued with public interest, especially so that the people of Agoo had already elected Sibuma as their Mayor. Further, the records reveal that the OCOC indeed received *via* e-mail his Motion for Reconsideration on May 27, 2022. He even paid the filing fee thereof in the amount of ₱1,000.00 as evidenced by Official Receipt No. 13385505 issued by the COMELEC Cash Division.⁶⁵

Indeed, the COMELEC is empowered to suspend its own rules as provided under Section 4, Rule 1 of the COMELEC Rules of Procedure, thus:

Sec. 4. *Suspension of the Rules.* — In the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.

This authority enables the COMELEC “to cope with all situations without concerning itself about procedural niceties that do not square

SECTION 9. *Proof and Completeness of Service by a Party.* — Electronic service is complete at the time of the electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent. Electronic service is not effective or complete if the party serving the document learns that it did not reach the addressee or person to be served.

Proof shall be made by an affidavit of service executed by the person who sent the E-mail, together with a printed proof of transmittal, copies of which shall be attached to the verified pleadings, memoranda, comments, briefs, and other submissions filed pursuant to Section 1, Rule 2. (Italics in the original and supplied.)

⁶³ In re: Guidelines on Electronic Filing, Conduct of Hearings/Investigations/Inquiries via Video Conference, and Service, approved on June 25, 2020.

⁶⁴ *Rollo*, pp. 245-246.

⁶⁵ *Id.* at 264-265.

with the need to do justice, in any case without further loss of time, provided that the *right of the parties to a full day in court is not substantially impaired.*⁶⁶ In *Mayor Hayudini v. Commission on Elections*⁶⁷ (*Hayudini*), the Court instructs:

As a general rule, statutes providing for election contests are to be liberally construed in order that the will of the people in the choice of public officers may not be defeated by mere technical objections. Moreover, it is neither fair nor just to keep in office, for an indefinite period, one whose right to it is uncertain and under suspicion. It is imperative that his claim be immediately cleared, not only for the benefit of the winner but for the sake of public interest, which can only be achieved by brushing aside technicalities of procedure that protract and delay the trial of an ordinary action. This principle was reiterated in the cases of *Tolentino v. Commission on Elections* and *De Castro v. Commission on Elections*, where the Court held that “in exercising its powers and jurisdiction, as defined by its mandate to protect the integrity of elections, the COMELEC must not be straitjacketed by procedural rules in resolving election disputes.”

Settled is the rule that the COMELEC Rules of Procedure are subject to liberal construction. The COMELEC has the power to liberally interpret or even suspend its rules of procedure in the interest of justice, including obtaining a speedy disposition of all matters pending before it. This liberality is for the purpose of promoting the effective and efficient implementation of its objectives — ensuring the holding of free, orderly, honest, peaceful, and credible elections, as well as achieving just, expeditious, and inexpensive determination and disposition of every action and proceeding brought before the COMELEC. Unlike an ordinary civil action, an election contest is imbued with public interest. It involves not only the adjudication of private and pecuniary interests of rival candidates, but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate. And the tribunal has the corresponding duty to ascertain, by all means within its command, whom the people truly chose as their rightful leader.⁶⁸ (Italics in the original and underscoring supplied.)

Sections 5 and 6, Rule 19 of the COMELEC Rules of Procedure, outline the correct steps to be taken in the event motions for reconsideration are filed, *viz.*:

⁶⁶ *Caballero v. COMELEC*, 770 Phil. 94, 109-110 (2015), citing *Datu Mentang v. Commission on Elections*, 299 Phil. 711, 722 (1994).

⁶⁷ 733 Phil. 822 (2014).

⁶⁸ *Id.* at 840-841. Citations omitted.

Sec. 5. *How Motion for Reconsideration Disposed Of.* — Upon the filing of a motion to reconsider a decision, resolution, order or ruling of a Division, the Clerk of Court concerned shall, within twenty-four (24) hours from the filing thereof, notify the Presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission en banc.

Sec. 6. *Duty of Clerk of Court of Commission to Calendar Motion for Reconsideration.* — The Clerk of Court concerned shall calendar the motion for reconsideration for the resolution of the Commission en banc within ten (10) days from the certification thereof.

The foregoing notwithstanding, the Court does not find proper remanding Sibuma's Motion for Reconsideration for resolution by the COMELEC *En Banc*. Considering the urgency inherent in the resolution of election cases, the Court proceeds to resolve the propriety of the issuance of the assailed Entry of Judgment and Writ of Execution, as the issues relating to the cancellation of the CoC of Sibuma and the annulment of his proclamation have been raised by the parties before the Court. As underscored in the following discussion, the assailed issuances are tainted with grave abuse of discretion.

COMELEC Second Division's grave abuse of discretion

The provision on *false material representation* under Section 78 of the Omnibus Election Code relates to the contents of a certificate of candidacy under Section 74 of the same Code. Thus, where a candidate declares that he or she is eligible to run for public office when in truth he or she is not, such misrepresentation is a ground for a Section 78 petition.

Sections 74 and 78 read:

SECTION 74. *Contents of certificate of candidacy.* — The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation;

that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge. (Underscoring supplied.)

X X X X

SECTION 78. *Petition to deny due course to or cancel a certificate of candidacy.* — A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election. (Underscoring supplied.)

While the foregoing provisions are silent on the element of deceit, the Court in *Hayudini* underscored that aside from the requirement of materiality, it is essential that a false representation under Section 78 be committed with a “deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.”⁶⁹ In other words, the false material representation “must be made with a *malicious intent to deceive the electorate* as to the potential candidate’s qualifications for public office.”⁷⁰

Here, there is no substantial evidence that Sibuma committed a *deliberately* false and *deceptive* representation of his residence qualifications in his CoC. In fact, a thorough reading of the assailed Resolution cancelling his CoC reveals the paucity of such finding of *intent to deceive* essential in a Section 78 petition.

Ordinarily, the appreciation by the COMELEC of evidence before it is beyond the scrutiny of the Court, the former being an independent constitutional body of a level higher than statutory administrative bodies.⁷¹ However, upon showing that it issued findings not supported by evidence or are contrary to evidence, then it is deemed to have acted

⁶⁹ *Mayor Hayudini v. Commission on Elections*, supra note 67 at 844-845 (2014). Italics supplied.

⁷⁰ Id. at 845, citing *Velasco v. Commission on Elections*, 595 Phil. 1172, 1185 (2008).

⁷¹ *Sevilla v. Commission on Elections*, 843 Phil. 142, 156-157 (2018).

capriciously and whimsically.⁷² Resulting errors arising from grave abuse of discretion mutate from an error of judgment to one of jurisdiction;⁷³ in which case, the Court is constitutionally duty-bound to step in and correct the grave abuse of discretion committed by the COMELEC.⁷⁴

In *Mitra v. Commission on Elections*,⁷⁵ the Court, confronted with a similar issue on false representation on residence requirement in a CoC, set aside the cancellation of the CoC of petitioner therein for *failure* of the COMELEC “to critically consider whether [he] deliberately attempted to mislead, misinform or hide a fact that would otherwise render him ineligible for the position of Governor of Palawan.”⁷⁶ The Court underscored that without such finding, a cancellation of CoC cannot be sustained.

Indeed, the *lack of findings of intent* on the part of Sibuma *to deceive the electorate* of the Municipality of Agoo, La Union taints the issuance of the assailed Resolution cancelling his CoC, as well as the Writ of Execution nullifying his proclamation, with grave abuse of discretion amounting to lack or excess of jurisdiction.⁷⁷

It bears further underscoring, that the cancellation of a certificate of candidacy is “*not based on the lack of qualifications* but on a finding that the candidate made a material representation that is false, which may relate to the qualifications required of the public office he [or] she is running for.”⁷⁸ This reiterates the indispensability of the element of intent to deceive the electorate in a Section 78 petition, the lack of which gives rise to a presumption of good faith in favor of a candidate’s declaration in his or her CoC under oath. As Associate Justice Alfredo Benjamin S. Caguioa comprehensively underscored in his Dissenting Opinion in *Villamor v. Commission on Elections*,⁷⁹ Section 74 only requires that the facts declared in the CoC be true *to the best of the candidate’s knowledge*,⁸⁰ thus:

⁷² *Id.* at 157.

⁷³ *Id.*, *Delos Reyes v. Commission on Elections*, 545 Phil. 739, 748 (2007).

⁷⁴ *Mayor Varias v. COMELEC*, 626 Phil. 292, 315 (2010), citing *De Guzman v. COMELEC*, 470 Phil. 591 (2004).

⁷⁵ 636 Phil. 753 (2010).

⁷⁶ *Id.* at 78.

⁷⁷ *Dano v. COMELEC*, 794 Phil. 573, 595 (2016).

⁷⁸ *Fermin v. Commission on Elections*, 595 Phil. 449, 465 (2008). Italics in the original and omitted.

⁷⁹ G.R. No. 250370 (Notice), October 5, 2021.

⁸⁰ See Dissenting Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Villamor v.*

Section 74 requires the inclusion in the CoC of a declaration that the facts stated therein are true to the best of the candidate's knowledge. Evidently, this declaration qualifies all of the information that Section 74 requires. In other words, the law does not demand from candidates perfect accuracy and absolute certainty in the information that they supply in a CoC, but only such facts which they believe to be true to the best of their knowledge. This means that *a candidate who makes a representation which is subsequently found to be false, would still be compliant with Section 74 if he or she made such representation in good faith.* What is material is that at the time that he or she made such declaration, he or she believed said information to be true to the best of his or her knowledge.

Accordingly, the reference by Section 78 to Section 74 effectively limits the scope of Section 78 to only those *false material representations which were knowingly made, i.e., those which the candidate did not know to be true to the best of his or her knowledge or which he or she downright knew to be false.* A contrary interpretation of Section 78 would lead to the absurdity that a CoC of a candidate who had fully complied with the requirements under Section 74 can nonetheless be denied due course or cancelled under Section 78. To stress, Section 78 requires that the ground for the petition be the existence of a false material representation in the CoC *as required in Section 74* and Section 74 requires only facts which are true to the best of the candidate's knowledge.⁸¹ (Italics in the original and supplied.)

Maintaining that his domicile remains to be in Agoo, La Union, and that he is a *bona fide* actual resident thereof, Sibuma adduced documents seeking to establish the following: (1) he was born in Agoo, La Union on October 19, 1973 as evidenced by his Certificate of Live Birth;⁸² (2) he acquired properties in Agoo, La Union, declaring them for taxation purposes and paying real property taxes due thereon;⁸³ (3) he studied and completed his Secondary Education at the Don Mariano Marcos Memorial State University Laboratory High School, Agoo, La Union as evidenced by his Secondary Student's Record indicating his attendance for four complete school years, 1986-1987, 1987-1988, 1988-1989;⁸⁴ (4) he paid telephone and electricity bills in his name for his property located at Brgy. Sta. Barbara, Agoo, La Union;⁸⁵ (5) his

Commission on Elections, G.R. No. 250370 (Notice), October 5, 2021.

⁸¹ Id.

⁸² *Rollo*, p. 98.

⁸³ Id. at 117-120.

⁸⁴ Id. at 207-208.

⁸⁵ Id. at 99-114.

neighbors and acquaintances confirmed that he is a resident of Brgy. Santa Barbara, Agoo, La Union as attested to by them in his Affidavit of Residency;⁸⁶ and (6) he is a registered voter of Agoo, La Union as evidenced by his Voter's Certification⁸⁷ issued by the Office of Election Officer of the COMELEC, Agoo, La Union on August 9, 2021, stating that he is a registered voter of Agoo, La Union as of February 2, 2021 and a resident thereof for more than one year prior to the May 9, 2022 Elections.

The Court sees Sibuma's declaration of residency in his CoC as proceeding from his *good faith* and firm belief that he possesses the required residency for the position vied for—*i.e.*, his domicile remains to be in Agoo, La Union, and that he is a *bona fide* resident thereof—as confirmed by his documents in support thereof.

It is settled jurisprudence that a domicile of an individual is not lost by the mere fact that he or she has maintained residences in different places. In *Romualdez-Marcos v. Commission on Elections*,⁸⁸ the Court held:

[A]n individual does not lose his domicile even if he has lived and maintained residences in different places. Residence, it bears repeating, implies a *factual relationship to a given place for various purposes*. The absence from legal residence or domicile to pursue a profession, to study or to do other things of a temporary or semi-permanent nature does not constitute loss of residence.⁸⁹ (Italics supplied.)

More significantly, in *Faypon v. Quirino*,⁹⁰ the Court explained:

A citizen may leave the place of his birth to look for "greener pastures," as the saying goes, to improve his lot, and that, of course includes study in other places, practice of his avocation, or engaging in business. When an election is to be held, the citizen who left his birthplace to improve his lot may desire to return to his native town to cast his ballot but for professional or business reasons, or for any other reason, he may not absent himself from his professional or business activities; so there he registers himself as voter as he has the qualifications to be one and is not willing to give up or lose the

⁸⁶ Id. at 121-127.

⁸⁷ Id. at 97.

⁸⁸ 318 Phil. 329 (1995).

⁸⁹ Id. at 382.

⁹⁰ 96 Phil. 294 (1954).

opportunity to choose the officials who are to run the government especially in national elections. Despite such registration, the *animus revertendi* to his home, to his domicile or residence of origin has not forsaken him. This may be the explanation why the registration of a voter in a place other than his residence of origin has not been deemed sufficient to constitute abandonment or loss of such residence. It finds justification in the natural desire and longing of every person to return to his place of birth. This strong feeling of attachment to the place of one's birth must be overcome by positive proof of abandonment for another.⁹¹ (Underscoring supplied.)

Contrary to the conclusion of the COMELEC Second Division, the Court finds that Sibuma has more than sufficiently proven by substantial evidence not only his actual physical presence in Agoo, La Union for a period of one year prior to the May 9, 2022 Elections but also, more importantly, the intentions required by jurisprudence, *i.e.*, “*animus manendi*” and “*animus revertendi*” to establish Agoo, La Union as his domicile or *legal residence*, that is, “the place from which [he] could or might depart, or be absent temporarily for a certain purpose and to which he always intended to return.”⁹² *First*, Sibuma was born in Agoo, La Union and obtained his secondary education therein. *Second*, his evidence established his actual physical presence in Agoo, La Union and that he, together with his wife, owns a residential house and other real properties thereat. There being no positive proof that he abandoned his Agoo, La Union domicile for another, his domicile therein cannot be doubted.

COMELEC Second Division's grossly unreasonable appreciation and evaluation of evidence

Suffice it to state that Panelo carries the burden under Section 78 to prove that Sibuma falsely represented his residence qualifications in his CoC. One who alleges malice has the burden of proving it.⁹³ Indeed, “contentions must be proved by competent evidence, and reliance must be had on the strength of the party's own evidence and not upon the weakness of the opponent's defense.”⁹⁴ Placed in this evidentiary perspective, the COMELEC Second Division's grave abuse of discretion

⁹¹ *Id.* at 299-300.

⁹² *In re: Cezar v. Republic*, 112 Phil. 1102 (1961), citing *King v. Republic*, 89 Phil. 4, 6 (1951).

⁹³ See Separate Concurring Opinion of J. Austria-Martinez in *Tacson v. Commission on Elections*, 468 Phil. 421, 565 (2004).

⁹⁴ *Id.*

lay not only in shifting the burden of evidence upon Sibuma but also in making a *grossly unreasonable* appreciation and evaluation of the evidence that he, nevertheless, adduced.

First, the COMELEC Second Division faulted Sibuma in failing to establish his *bodily* physical presence in Agoo, La Union for a period of one year prior to the May 9, 2022 Elections. It found particularly convincing the Certification⁹⁵ dated October 29, 2021 issued by *Punong Barangay* Eriguel of Sta. Barbara, Agoo, La Union, stating that Sibuma is not a resident thereof.

However, while a *barangay*, through its secretary, is required by the Local Government Code to keep an updated record of all its inhabitants, certifications of residency issued by a *punong barangay* are not conclusive, as he or she is merely *presumed* to know who the residents are in his or her own *barangay*.⁹⁶ Needless to state, the Certification issued by *Punong Barangay* Eriguel, who is the paternal aunt of respondent Eriguel Calongcagon, makes no particular reference to a statement or like certification from the *barangay* secretary. Indeed, the certification's *pro forma* statement of *no record of residency* necessarily yields to Sibuma's positive evidence collectively establishing not only his physical presence but also his domicile in Agoo, La Union.

Second, the COMELEC Second Division gave more weight to the individual affidavits of recantation executed by eight of the original 41 affiants in Sibuma's Affidavit of Residency. In doing so, the COMELEC Second Division *could only surmise* on the supposed incredulity of the declarations of the 41 affiants in Sibuma's Affidavit of Residency on the *sole* premise that they jointly attested to the same narration of facts therein, as opposed to the separate and individual affidavits of the eight affiants repudiating their earlier declarations.

Considering that the contending affidavits are notarized documents upon which the presumption of regularity equally rests, motives for repudiation as well as the veracity of the statements made in the affidavits of recantation should be looked into with suspicion.⁹⁷ Notably, the subject affidavits of recantation were executed by seven

⁹⁵ *Rollo*, p. 459.

⁹⁶ *Mitra v. Commission on Elections*, supra note 75 at 783.

⁹⁷ *People v. P/Supt. Lamsen*, 721 Phil. 256, 259 (2013).

affiants on the same day, December 3, 2021, and by one affiant on December 4, 2021 before the same notary public. Their statements provided general statements of repudiation—*i.e.*, that they did not read or understand the contents of the Affidavit of Residency that they previously signed. Indeed, the same incredulity may be attributed to the subsequent statements of the recanting affiants made barely a week after they voluntarily and categorically signified personally knowing Sibuma as a resident of Sta. Barbara, Agoo, La Union. Ranged against the impending May 9, 2022 Elections, the general tenor of their repudiation is highly suspect. The fact that they executed their affidavits individually and separately is too trivial for the COMELEC Second Division to consider as this may be deliberately and conveniently resorted to by them. The COMELEC Second Division simply had no convincing basis to tilt the balance of credibility in favor of the repudiating affiants.

Third, the COMELEC Second Division faulted Sibuma with material misrepresentation when he declared in his CoC that “*he will be a resident of Brgy. Sta. Barbara, Agoo, La Union for 1 year and 3 months on the day before the May 9, 2022 Elections.*”⁹⁸ Reckoning such period from January 1, 2021, the COMELEC Second Division concluded that Sibuma was not being truthful in his declaration because this was belied by his utility bills indicating that the consumption of electricity and installation of utilities occurred only from February 2021 onwards.⁹⁹ Again, the discrepancy noted by the COMELEC Second Division is too trivial and inconsequential. The supposed discrepancy does not render him unable to fulfill the one-year residence requirement under the LGC for the position vied for.

As shown, the COMELEC Second Division gravely erred in cancelling Sibuma’s CoC on the basis of the foregoing hasty conclusion, surmises, and trivial matters. This egregious error proceeding from its *grossly unreasonable appreciation and evaluation of evidence* is constitutive of grave abuse of discretion.¹⁰⁰

Doubts, if at all, should have been resolved in favor of Sibuma’s residence qualification, in order to

⁹⁸ *Rollo*, 347.

⁹⁹ *Id.* at 51.

¹⁰⁰ See Concurring Opinion of Associate Justice Arturo D. Brion in *Dano v. Commission on Elections*, *supra* note 77 at 626.

give fullest effect to the manifest will of the people of Agoo electing him as their mayor.

Notably, the COMELEC Second Division failed to resolve the subject petition prior to the May 9, 2022 Elections, contrary to Section 78 of the OEC providing that a petition for cancellation of certificate of candidacy “shall be decided, after due notice and hearing, *not later than fifteen days before the election.*”¹⁰¹ The name of Sibuma remained on the ballots, and on the day of the elections, he was decisively elected by the people of Agoo as their Mayor. He prevailed with an overwhelming 21,364 votes against Eriguel’s 16,603 votes.

Under the situation, the COMELEC Second Division should have been guided by the jurisprudential directive that utmost efforts be exerted in resolving the case in a manner that would give effect to the will of the electorate. It should have accorded Sibuma “every possible protection, defense and refuge, in deference to the popular will.”¹⁰² It should have heeded the majority’s verdict by resolving all *doubts* in favor of Sibuma’s residence qualification.¹⁰³ Instructive on the matter is *Frivaldo v. Commission on Elections*,¹⁰⁴ thus:

In any action involving the possibility of a reversal of the popular electoral choice, this Court must *exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority*, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. To successfully challenge a winning candidate’s qualifications, the petitioner must clearly demonstrate that the *ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility* and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote.¹⁰⁵ (Italics supplied and citation omitted.)

Contrary to the foregoing, however, the COMELEC Second Division proceeded to cancel Sibuma’s CoC in its Resolution dated May

¹⁰¹ Section 78 of BP 881.

¹⁰² *Frivaldo v. Comelec*, 327 Phil. 521, 574 (1996).

¹⁰³ See Concurring Opinion of Associate Justice Arturo D. Brion in *Dano v. Commission on Elections*, supra note 77 at 627.

¹⁰⁴ 327 Phil. 521 (1996).

¹⁰⁵ *Id.* at 574-575.

13, 2022. Thereafter, it issued a Certificate of Finality and an Entry of Judgment, both dated May 24, 2022, noting that Sibuma failed to file a timely motion for reconsideration within five days from receipt thereof *via* e-mail. Eventually, the COMELEC Special Second Division issued a Writ of Execution on June 29, 2022 annulling Sibuma's proclamation as the duly elected Mayor of the Municipality of Agoo, La Union and proclaiming private respondent Eriguel in his stead.

It bears underscoring that prior to the issuance of the Writ of Execution, Sibuma filed the following: (a) Motion to Withdraw as Counsel filed on May 26, 2022; (b) Entry of Appearance filed on May 27, 2022; (c) Opposition to the Motion for Execution¹⁰⁶ filed *via* e-mail on May 27, 2022; (d) Motion for Reconsideration¹⁰⁷ (of the assailed Resolution dated May 13, 2022) filed on May 27, 2022; (e) Supplement to the Motion for Reconsideration¹⁰⁸ dated May 30, 2022 which was received by the OCOC on May 30, 2022;¹⁰⁹ (f) Motion to Quash and/or Recall Certificate of Finality¹¹⁰ dated May 31, 2022 which was received by the OCOC on May 31, 2022; (g) Omnibus Motion¹¹¹ dated June 14, 2022 seeking to: expunge Panelo's Motion for Execution, immediately resolve his Motion to Quash and/or Recall Certificate of Finality and Motion to Recall Entry of Judgment, and admit of his Supplemental Motion for Reconsideration) filed before the COMELEC *En Banc*; and (h) Extremely Urgent *Ex-Parte* Motion to Set for Status Hearing all Pending Motions¹¹² dated June 14, 2022.

On the other hand, Panelo filed the following: (a) Reply [to (Sibuma's) Opposition to Motion for Execution]¹¹³ dated June 2, 2022; (b) Opposition to [Sibuma's] Motion to Quash and/or Recall Certificate of Finality; and (c) Opposition to [Sibuma's] Motion for Reconsideration.

Considering that the Writ of Execution was issued *only* on June 29, 2022, or more than a month from the issuance of the assailed Resolution cancelling Sibuma's CoC, the COMELEC Second Division

¹⁰⁶ *Rollo*, pp. 486-496.

¹⁰⁷ *Id.* at 68-79.

¹⁰⁸ *Id.* at 226-249.

¹⁰⁹ *Id.* at 252-253.

¹¹⁰ *Id.* at 244-249.

¹¹¹ *Id.* at 283-299.

¹¹² *Id.* at 305-309.

¹¹³ *Id.* at 254-279.


could have reasonably acted on the respective filings of Sibuma and Panelo. Pursuant to the aforementioned jurisprudential directive and the principle on liberal application of COMELEC Rules of Procedure, Sibuma's case should have been certified to the COMELEC *En Banc* for resolution. Instead, the COMELEC Special Second Division merely contented itself on the supposed failure of Sibuma to timely file his Motion for Reconsideration of the assailed Resolution cancelling his CoC and conveniently noted his Motion for Reconsideration without action along with his other filings.

Conclusion


Sibuma has not committed any materially false and deceptive representation in his CoC relating to his residence qualifications. Panelo failed to prove this claim by substantial evidence. On the other hand, Sibuma clearly demonstrated his Agoo, La Union domicile. Therefore, the COMELEC Second Division had no factual and legal bases in cancelling his CoC, more so in annulling his proclamation as the duly elected Mayor of the Municipality of Agoo, La Union. It committed grave abuse of discretion amounting to lack or excess of jurisdiction in doing so on the basis of its *grossly unreasonable appreciation and evaluation of evidence* before it.

WHEREFORE, the petition is **GRANTED**. The assailed COMELEC Second Division Resolution dated May 13, 2022, the Certificate of Finality dated May 24, 2022, the Entry of Judgment dated May 24, 2022, and the Writ of Execution dated June 29, 2022, all in SPA No. 21-172 (DC), are **ANNULLED** and **SET ASIDE**. The petition to deny due course to or cancel the Certificate of Candidacy of petitioner Frank Ong Sibuma is **DENIED**.

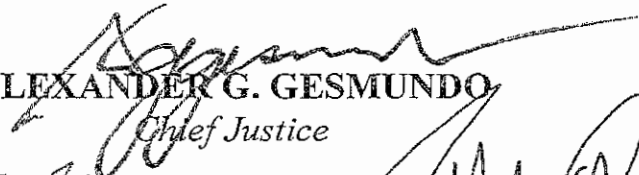
Accordingly, the Certificate of Canvass of Votes and Proclamation of Winning Candidate for Municipal Mayor dated May 10, 2022 proclaiming petitioner Frank Ong Sibuma as the duly elected Mayor of the Municipality of Agoo, La Union **STANDS**. The *Status Quo Ante* Order issued by the Court on July 5, 2022 is **MADE PERMANENT**.




SO ORDERED.

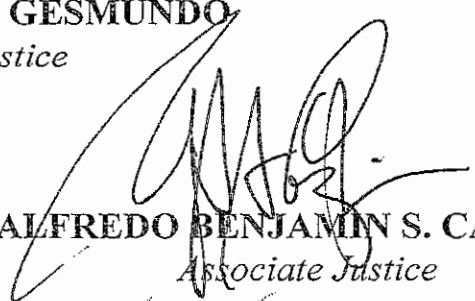

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

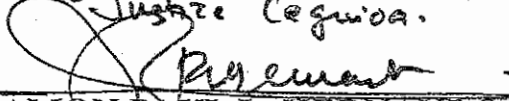
See Dissent

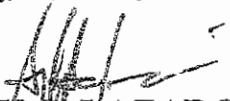

MARVIC M.V.F. LEONEN
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

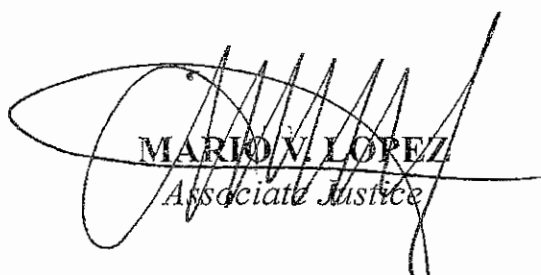
I join the dissent of Justice Caguioa.

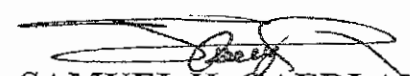
See Conurrence


RAMON PAUL L. HERNANDO
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

(On official leave)
RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

I join the Dissent of Justice Caguioa.


JAPAR B. DIMAAMPAO
Associate Justice

*I join the dissent of
Justice Caguioa*

Midas
JOSE MIDAS P. MARQUEZ
Associate Justice

[Signature]
ANTONIO T. KHO, JR.
Associate Justice

I join the Dissent of Justice ABCaguioa

[Signature]
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.

[Signature]
ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY

[Signature]
MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court