

Good afternoon, your Honors, respectfully appearing for private respondents, Komunidad ng Pamilya, Pasyente at Persons with Disabilities Party List or P3PWD for brevity and Ms. Ma. Rowena Amelia V. Guanzon, Attys. Christian Robert S. Lim and Kathryn May Deveza. We are ready.

OPENING STATEMENT

May it please the Honorable Court.

A plain reading of the Petition filed in G.R. No. 261123 would show there is no real substantive issue foisted by petitioners in opposing the substitution of the nominees of P3PWD. It bears emphasis that the petitioners are not questioning the qualifications of the nominees or the right of P3PWD to substitute its nominees. Petitioners are not assailing the proclamation by the Commission on Elections (“COMELEC”) that P3PWD is entitled to a seat in Congress. The only issue raised by petitioners is the absoluteness of the November 15, 2021 deadline for the substitution of nominees set by the COMELEC in its Resolution No. 10690. In other words, everything is just smoke and mirrors.

First, this is not a novel question. In fact, the very issue of substitution of nominees of a party-list group post elections has already been resolved by the Honorable Court in the case of *Angcos vs. COMELEC* (G.R. No. 253805, 03 November 2020) where it was ruled that **there was no grave abuse of discretion on the part of the COMELEC in allowing petitioner Ducielle Cardema to replace her husband, post elections, as representative of Duty to Energize the Republic through Enlightenment of the Youth Sectoral Party-List (“Duterte Youth”)** in the 18th Congress. This COMELEC Resolution, in the

words of the Honorable Court, “*appear to be in accord with the facts and the applicable law and jurisprudence.*”

Second, Section 8 of the Party-list System Act¹ clearly allows the alteration of nominees even after the same has been submitted and approved by the COMELEC in cases of death, incapacity, or withdrawal by nominees. Resolution No. 10690 cannot be interpreted to subvert or even modify the clear and unambiguous wording of Section 8 of the Party-List System Act. In the words of the Honorable Court though Honorable Justice M. Lopez in the case of *PDP Laban vs. Comelec* (G.R. No. 255152, 05 October 2021): “*Foremost, verba legis non est recedendum is a basic rule in statutory construction. 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. The remedy is with Congress to modify or even abandon the law.*”

Third, while the COMELEC is empowered to promulgate rules and regulations, these are mandatory only prior to elections. When sought to be enforced after the election, they are held to be merely directory, especially when, if they are held to be mandatory, innocent voters will be deprived of their votes without any fault on their part. This was ruling by the Honorable Court in the case of *Engle vs. COMELEC* (G.R. No. 215995, 19 January 2016).

¹ Republic Act No. 7941.

Furthermore, the Petition is not without procedural defect. The issuance of the assailed Resolution Nos. 22-0774 and 22-0798 (“Assailed Resolutions”), which approved the withdrawal and substitution of nominees of P3PWD, was an exercise of COMELEC’s administrative and/or executive functions. In the case of *Baytan vs. COMELEC*,² the Honorable Court found that the quasi-judicial powers of the COMELEC pertain only to Section 2 (2) of Article IX-C of the Constitution.

The COMELEC’s approval of substitute nominees is an incident of registration of party-list groups, which according to the Honorable Court in the case of *COCOFED vs. COMELEC*,³ “involve the exercise of the COMELEC’s administrative power, particularly its power to enforce and administer all laws related to elections.” The fact that petitioners assailed the said Resolutions through the use of Rule 64 of the Rules of Court has rendered the instant Petition dead-on-arrival. As the Honorable Court has ruled in *Querubin vs. COMELEC*,⁴ Rule 64 does not cover rulings of the COMELEC in the exercise of its administrative power.

In this connection, having been issued by the COMELEC in the exercise of its administrative functions, the Assailed Resolution cannot be declared infirm for the supposed failure to meet the prescribed quorum. In the Honorable Court, in the case of *Cagas vs. COMELEC* (G.R. No. 194139, 24 January 2012), qualified Section 7 of Article IX-A of the Constitution, requiring four (4) votes, to only apply to “*final orders, rulings, and decisions of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers.*” As earlier established, the issuance of the Assailed Resolutions were in exercise of the

² G.R. No. 153945, 04 February 2003.

³ G.R. No. 207026, 06 August 2013.

⁴ G.R. No. 218787, 08 December 2015.

administrative functions of the COMELEC; not adjudicatory or quasi-judicial functions, hence, the four vote requirement under Section 7 of Article IX-A of the Constitution should not apply.

What should apply is the COMELEC Resolution No. 9936⁵ which governs the enactment and promulgation of resolutions covering matters, issues, or concerns falling within the executive or administrative functions of the COMELEC. Section 2(1) and (2) thereof provides that “*A decision or resolution on an executive or administrative matter, issue, or concern shall be valid when the action taken is approved, ratified, confirmed, or concurred in by a majority of all the members of the Commission present at a meeting at which there is a quorum. A quorum is determined by the presence of the majority of the members of the Commission with existing and valid appointments.*” In the instant case, on June 15 and 22 of 2022, the COMELEC was composed of only four commissioners, namely, Commissioners Socorro Inting, Marlon Casquejo, Aimee Ferolino, and Rey Bulay, who all attended the *En Banc* Session and voted upon the matter. **Hence, three votes constituted a majority of all the members present at a meeting with a quorum.**

Finally, **all new nominees possess the requisite qualifications required** under Article VI of the Constitution and Section 9 of Party-List System Act. In fact, part of the documents scrutinized by the COMELEC Law Department in its recommendation to Commission En Banc, which is extensively quoted in Resolution No. 22-0774, on page 3 thereof as No. 7, is an Affidavit dated June 10, 2022 of Secretary-General Donnabel Tenorio and President Grace Yeneza, both of P3PWD, stating that “*the nominees/substitute nominees have*

⁵ 25 March 2015.

all the qualifications and none of the disqualifications provided by law. xxx”

Particularly, respondent Guanzon is eligible as a nominee notwithstanding the fact that she was a COMELEC Commissioner at the time the registration of P3PWD was approved. For one, the approval of the registration of P3PWD was by the Second Division of the COMELEC, which she was never a part of during her tenure. Second, she became a nominee only on June 10, 2022, after she had retired from the Commission on February 02, 2022. Section 3, Rule 4 of COMELEC Resolution No. 9366 allows nominees from appointive or elective offices to continue to hold office even after acceptance of their nomination, and the one-year prohibition from being hired or rehired in a public office after their party-list organizations fail to secure the needed votes to qualify them for a seat in the House of Representatives, shall not apply to them.

EPILOGUE

In closing, I am reminded of the words of Honorable Justice Lazaro-Javier in the case of *Angkla vs. COMELEC* (G.R. No. 246816, 15 September 2020), wherein the Honorable Court said:

“Justice Mario Victor “Marvic” F. Leonen shared his enlightening thoughts during the deliberation, viz.:

It does not help petitioner's position xxx that petitioners asserted an alternative method of allocating party-list seats only in the wake of their defeat in the 2019

elections, and that they never objected to the method currently in place when they benefitted from and, on the basis of it, proclaimed winners in previous elections. An electoral system is meant to be an objective and dispassionate means for determining winners in an election. For it to be upheld at one instance and assailed at another based on how one fares is to undermine an electoral system's requisite neutrality and to subvert meaningful democratic representation.

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The judicial process is sacred and is meant to protect only those who are innocent. It would certainly leave an indelible mark in the conscience to allow a party to challenge a doctrine after it has ceased to be beneficial to it.”

Your Honors, it has been one year, four months, and fourteen days since P3PWD has been divested of its seat in the House of Representatives. One year, four months, and fourteen days since the blind, hearing-impaired, persons with disabilities, the sick, and poor families have been deprived of their voice in Congress, of hope for an inclusive education, access to basic needs, broader work opportunities, and freedom from various forms of discrimination. Three Hundred Ninety-One Thousand One Hundred Seventy-Four (391,174) people came out on May 09, 2022 and shaded P3PWD in their ballots, reposing their trust and confidence upon P3PWD to pass

legislations for the welfare, rights, and interests of its constituents. I humbly implore this Honorable Court not to be misled by herein Petitioners who have cried foul after benefitting from the very ruling of the Honorable Court in *Angcos vs. COMELEC*, a ruling which Petitioners now seek to be reversed at the expense of the three hundred ninety-one thousand one hundred seventy-four (391,174) votes for P3PWD. I humbly implore this Honorable Court to uphold its ruling that the judicial process is sacred and protects the innocent; protect the proportional representation of the blind, hearing-impaired, persons with disabilities, the sick, and poor families in Congress.

Thank your Honors.