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Republic of the Philippines
Supreme Court
Manila

EN BANC

SILVERIO R. TAGOLINO,

Petitioner,

G.R. No. 202202

-versus-

Present:

HOUSE OF REPRESENTATIVES
ELECTORAL TRIBUNAL AND
LUCY MARIE TORRES-
GOMEZ,

Respondents.

SERENO, C.J.
CARPIO,
VELASCO, JR.,*
LEONARDO-DE CASTRO,
BRION,*
PERALTA,*
BERSAMIN,*
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES, and
PERLAS-BERNABE,
LEONEN, JJ.

Promulgated:

March 19, 2013

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DECISION

PERLAS-BERNABE, J.:

Assailed in this Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court is the March 22, 2012 Decision¹ of the House of

¹ No part.

Rollo, pp. 48-65. Signed by Supreme Court Associate Justices Presbitero J. Velasco, Jr., Diosdado M. Peralta, and Lucas P. Bersamin, Representatives Franklin P. Bautista, Joselito Andrew R. Mendoza; Justin Marc SB. Chipeco, Rufus B. Rodriguez (dissented), and Ma. Theresa B. Bonoan-David (abstained).

Representatives Electoral Tribunal (HRET) in HRET Case No. 10-031 (QW) which declared the validity of private respondent Lucy Marie Torres-Gomez's substitution as the Liberal Party's replacement candidate for the position of Leyte Representative (Fourth Legislative District) in lieu of Richard Gomez.

The Facts

On November 30, 2009, Richard Gomez (Richard) filed his certificate of candidacy² (CoC) with the Commission on Elections (COMELEC), seeking congressional office as Representative for the Fourth Legislative District of Leyte under the ticket of the Liberal Party. Subsequently, on December 6, 2009, one of the opposing candidates, Buenaventura Juntilla (Juntilla), filed a Verified Petition,³ alleging that Richard, who was actually a resident of Colgate Street, East Greenhills, San Juan City, Metro Manila, misrepresented in his CoC that he resided in 910 Carlota Hills, Can-adieng, Ormoc City. In this regard, Juntilla asserted that Richard failed to meet the one (1) year residency requirement under Section 6, Article VI⁴ of the 1987 Philippine Constitution (Constitution) and thus should be declared disqualified/ineligible to run for the said office. In addition, Juntilla prayed that Richard's CoC be denied due course and/or cancelled.⁵

On February 17, 2010, the COMELEC First Division rendered a Resolution⁶ granting Juntilla's petition without any qualification. The dispositive portion of which reads:

WHEREFORE, premises considered, the Commission **RESOLVED**, as it hereby **RESOLVES**, to **GRANT** the Petition to Disqualify Candidate for Lack of Qualification filed by **BUENAVENTURA O. JUNTILLA** against **RICHARD I. GOMEZ**. Accordingly, **RICHARD I. GOMEZ** is **DISQUALIFIED** as a candidate for the Office of Congressman, Fourth District of Leyte, for lack of residency requirement.

SO ORDERED.

² Id. at 257.

³ Id. at 246-253.

⁴ Sec. 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election. (Emphasis supplied)

⁵ *Rollo*, pp. 252-253.

⁶ Id. at 259-265. Signed by Presiding Commissioner Rene V. Sarmiento, Commissioners Armando C. Velasco and Gregorio Y. Larrazabal (no part).

Aggrieved, Richard moved for reconsideration but the same was denied by the COMELEC *En Banc* through a Resolution dated May 4, 2010.⁷ Thereafter, in a Manifestation of even date, Richard accepted the said resolution with finality “in order to enable his substitute to facilitate the filing of the necessary documents for substitution.”⁸

On May 5, 2010, Lucy Marie Torres-Gomez (private respondent) filed her CoC⁹ together with a Certificate of Nomination and Acceptance¹⁰ from the Liberal Party endorsing her as the party’s official substitute candidate vice her husband, Richard, for the same congressional post. In response to various letter-requests submitted to the COMELEC’s Law Department (Law Department), the COMELEC *En Banc*, in the exercise of its administrative functions, issued Resolution No. 8890¹¹ on May 8, 2010, approving, among others, the recommendation of the said department to allow the substitution of private respondent. The recommendation reads:

STUDY AND OBSERVATION

On the same date, this Department received an Opposition from Mr. Buenaventura O. Juntilla, thru his counsel, opposing the candidacy of Ms. Lucy Marie Torres Gomez, as a substitute candidate for Mr. Richard I. Gomez.

The crux of the opposition stemmed from the issue that there should be no substitution because there is no candidate to substitute for.

It must be stressed that the resolution of the First Division, this Commission, in SPA No. 09-059 speaks for disqualification of candidate Richard I. Gomez and **not of cancellation** of his Certificate of Candidacy:

‘Wherefore, premises considered, the Commission RESOLVED, as it hereby RESOLVES, to GRANT the Petition to Disqualify Candidate for Lack of Qualification filed x x x against RICHARD I. GOMEZ. Accordingly, RICHARD I. GOMEZ **is DISQUALIFIED** as a candidate for the Office of Congressman, Fourth District of Leyte, for lack of residency requirement.’

The said resolution was affirmed by the Commission En Banc on May 04, 2010.

The disqualification of a candidate does not automatically cancel one’s certificate of candidacy, especially when it is nominated by a political party. In effect, the political party is still allowed to substitute the

⁷ Id. at 266-277. Penned by Commissioner Elias R. Yusoph, with Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Nicodemo T. Ferrer, and Armando C. Velasco, concurring, Commissioners Jose A. R. Melo and Gregorio Y. Larrazabal, no part.

⁸ Id. at 278-280.

⁹ Id. at 297.

¹⁰ Id. at 298.

¹¹ Id. at 132-139.

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candidate whose candidacy was declared disqualified. After all, the right to substitute is a privilege given to a political party to exercise and not dependent totally to a candidate.

Nonetheless, in case of doubt, the same must always be resolved to the qualification of a candidate to run in the public office.

The substitution complied with the requirements provided under Section 12 in relation to Section 13 of Comelec Resolution No. 8678 dated October 6, 2009.

x x x x

In view of the foregoing, the Law Department RECOMMENDS the following:

x x x x

2. TO ALLOW CANDIDATE LUCY MARIE TORRES GOMEZ AS A SUBSTITUTE CANDIDATE FOR RICHARD GOMEZ; (Emphasis and underscoring supplied)

x x x x'

The following day, or on May 9, 2010, Juntilla filed an Extremely Urgent Motion for Reconsideration¹² (May 9, 2010 Motion) of the above-mentioned COMELEC *En Banc* resolution.

Pending resolution of Juntilla's May 9, 2010 Motion, the national and local elections were conducted as scheduled on May 10, 2010. During the elections, Richard, whose name remained on the ballots, garnered 101,250 votes while his opponents, namely, Eufrocino Codilla, Jr. and herein petitioner Silverio Tagolino, obtained 76,549 and 493 votes, respectively.¹³ In view of the aforementioned substitution, Richard's votes were credited in favor of private respondent and as a result, she was proclaimed the duly-elected Representative of the Fourth District of Leyte.

On May 11, 2010, Juntilla filed an Extremely Urgent Motion to resolve the pending May 9, 2010 Motion relative to Resolution No. 8890.¹⁴ The said motion, however, remained unacted.

On May 24, 2010, petitioner filed a Petition¹⁵ for *quo warranto* before the HRET in order to oust private respondent from her congressional seat, claiming that: (1) she failed to comply with the one (1) year residency requirement under Section 6, Article VI of the Constitution considering that

¹² Id. at 311-326.

¹³ Id. at 98.

¹⁴ See *Torres-Gomez v. Codilla*, G.R. No. 195191, March 20, 2012, 668 SCRA 600.

¹⁵ *Rollo*, pp. 85-93.

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the transfer of her voter registration from San Rafael, Bulacan¹⁶ to the Fourth District of Leyte was only applied for on July 23, 2009; (2) she did not validly substitute Richard as his CoC was void *ab initio*; and (3) private respondent's CoC was void due to her non-compliance with the prescribed notarial requirements *i.e.*, she failed to present valid and competent proof of her identity before the notarizing officer.¹⁷

In her Verified Answer,¹⁸ private respondent denied petitioner's allegations and claimed that she validly substituted her husband in the electoral process. She also averred that she was personally known to the notary public who notarized her CoC, one Atty. Edgardo Corden, and thus, she was not required to have presented any competent proof of identity during the notarization of the said document. Lastly, she asserted that despite her marriage to Richard and exercise of profession in Metro Manila, she continued to maintain her residency in Ormoc City which was the place where she was born and raised.

During the preliminary conference, and as shown in the Preliminary Conference Order dated September 2, 2010, the parties agreed on the following issues for resolution:

1. Whether or not the instant petition for *quo warranto* is meritorious;
2. Whether or not the substitution of respondent is valid;
3. Whether or not a petition for *quo warranto* can be used as a substitute for failure to file the necessary petition for disqualification with the COMELEC;
4. Whether or not respondent's COC was duly subscribed; and
5. Whether or not respondent is ineligible for the position of Representative of the Fourth District of Leyte for lack of residency requirement.¹⁹

Ruling of the HRET

After due proceedings, the HRET issued the assailed March 22, 2012 Decision²⁰ which dismissed the *quo warranto* petition and declared that private respondent was a qualified candidate for the position of Leyte Representative (Fourth Legislative District). It observed that the resolution denying Richard's candidacy *i.e.*, the COMELEC First Division's February 17, 2010 Resolution, spoke of disqualification and not of CoC cancellation. Hence, it held that the substitution of private respondent in lieu of Richard was legal and valid.²¹ Also, it upheld the validity of private respondent's

¹⁶ Registered in Precinct No. 0004A of San Rafael, Bulacan.

¹⁷ *Rollo*, pp. 87-92.

¹⁸ *Id.* at 102-119.

¹⁹ *Id.* at 54-55.

²⁰ *Id.* at 48-65.

²¹ *Id.* at 56.

CoC due to petitioner's failure to controvert her claim that she was personally known to the notary public who notarized her CoC.²² Finally, the HRET ruled that while it had been admitted that private respondent resides in Colgate Street, San Juan City and lived in San Rafael, Bulacan, the fact was she continued to retain her domicile in Ormoc City given that her absence therefrom was only temporary.

Hence, the instant petition.

Issues Before the Court

The crux of the present controversy is whether or not the HRET gravely abused its discretion in finding that Richard was validly substituted by private respondent as candidate for Leyte Representative (Fourth Legislative District) in view of the former's failure to meet the one (1) year residency requirement provided under Section 6, Article VI of the Constitution.

It is petitioner's submission that the HRET gravely abused its discretion when it upheld the validity of private respondent's substitution despite contrary jurisprudence holding that substitution is impermissible where the substituted candidate's CoC was denied due course to and/or cancelled, as in the case of Richard. On the other hand, respondents maintain that Richard's CoC was not denied due course to and/or cancelled by the COMELEC as he was only "disqualified" and therefore, was properly substituted by private respondent.

Ruling of the Court

The petition is meritorious.

A. Distinction between a petition for disqualification and a petition to deny due course to/cancel a certificate of candidacy

The Omnibus Election Code²³ (OEC) provides for certain remedies to assail a candidate's bid for public office. Among these which obtain particular significance to this case are: (1) a petition for disqualification

²² Id. at 58-59.

²³ BATAS PAMBANSA BILANG NO. 881, AS AMENDED.

under Section 68; and (2) a petition to deny due course to and/or cancel a certificate of candidacy under Section 78. The distinctions between the two are well-perceived.

Primarily, a disqualification case under Section 68 of the OEC is hinged on either: (a) a candidate's possession of a permanent resident status in a foreign country;²⁴ or (b) his or her commission of certain acts of disqualification. Anent the latter, the prohibited acts under Section 68 refer to election offenses under the OEC, and not to violations of other penal laws.²⁵ In particular, these are: (1) giving money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (2) committing acts of terrorism to enhance one's candidacy; (3) spending in one's election campaign an amount in excess of that allowed by the OEC; (4) soliciting, receiving or making any contribution prohibited under Sections 89, 95, 96, 97 and 104 of the OEC; and (5) violating Sections 80,²⁶ 83,²⁷ 85²⁸ 86²⁹ and 261, paragraphs d,³⁰ e,³¹ k,³² v,³³ and cc, sub-paragraph 6³⁴ of the OEC. Accordingly, the same provision (Section 68) states that any candidate who, in an action or protest in which he or she is a party, is declared by final decision of a competent court guilty of, or found by the COMELEC to have committed any of the foregoing acts shall be disqualified from continuing as a candidate for public office, or disallowed from holding the same, if he or she had already been elected.³⁵

It must be stressed that one who is disqualified under Section 68 is still technically considered to have been a candidate, albeit proscribed to continue as such only because of supervening infractions which do not, however, deny his or her statutory eligibility. In other words, while the candidate's compliance with the eligibility requirements as prescribed by law, such as age, residency, and citizenship, is not in question, he or she is, however, ordered to discontinue such candidacy as a form of penal sanction brought about by the commission of the above-mentioned election offenses.

²⁴ The exception to this is when the said status is waived. Sec. 68 of the OEC partly provides:
Sec. 68. Disqualifications. — x x x x Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

²⁵ *Aratea v. COMELEC*, G.R. No. 195229, October 9, 2012.

²⁶ Refers to election campaign or political activity outside the campaign period.

²⁷ Refers to the removal, destruction or defacement of lawful election propaganda.

²⁸ Refers to certain forms of election propaganda.

²⁹ Refers to violation of rules and regulations on election propaganda through mass media.

³⁰ Refers to coercion of subordinates.

³¹ Refers to threats, intimidation, terrorism, use of fraudulent device or other forms of coercion.

³² Refers to unlawful electioneering.

³³ Refers to the release, disbursement or expenditure of public funds.

³⁴ Refers to the solicitation of votes or undertaking any propaganda on the day of the election.

³⁵ See BATAS PAMBANSA BILANG NO. 881, AS AMENDED, Section 68.

On the other hand, a denial of due course to and/or cancellation of a CoC proceeding under Section 78 of the OEC³⁶ is premised on a person's misrepresentation of any of the material qualifications required for the elective office aspired for. It is not enough that a person lacks the relevant qualification; he or she must have also made a false representation of the same in the CoC.³⁷ The nature of a Section 78 petition was discussed in the case of *Fermin v. COMELEC*,³⁸ where the Court illumined:

Lest it be misunderstood, the denial of due course to or the cancellation of the CoC 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/she is running for. It is noted that the candidate states in his/her CoC that he/she is eligible for the office he/she seeks. **Section 78 of the OEC, therefore, is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office. If the candidate subsequently states a material representation in the CoC that is false, the COMELEC, following the law, is empowered to deny due course to or cancel such certificate.** Indeed, the Court has already likened a proceeding under Section 78 to a quo warranto proceeding under Section 253 of the OEC since they both deal with the eligibility or qualification of a candidate, with the distinction mainly in the fact that a "Section 78" petition is filed before proclamation, while a petition for quo warranto is filed after proclamation of the winning candidate. (Emphasis supplied)

Corollary thereto, it must be noted that the deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the CoC be false. In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's CoC should be deemed cancelled or not.³⁹ What remains material is that the petition essentially seeks to deny due course to and/or cancel the CoC on the basis of one's ineligibility and that the same be granted without any qualification.⁴⁰

Pertinently, while a disqualified candidate under Section 68 is still considered to have been a candidate for all intents and purposes, on the other hand, a person whose CoC had been denied due course to and/or cancelled

³⁶ Sec. 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 any person exclusively on the ground that any material misrepresentation 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 notice and hearing, not later than fifteen days before the election.

³⁷ *Talaga v. COMELEC*, G.R. Nos. 196804 and 197015, October 9, 2012, citing *Fermin v. COMELEC*, G.R. No. 179695, December 18, 2008, 574 SCRA 782.

³⁸ *Fermin v. COMELEC*, *id.*

³⁹ See *Miranda v. Abaya*, 370 Phil 642.

⁴⁰ *Id.*

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under Section 78 is deemed to have not been a candidate at all. The reason being is that a cancelled CoC is considered void *ab initio* and thus, cannot give rise to a valid candidacy and necessarily, to valid votes.⁴¹ In *Talaga v. COMELEC*⁴² (*Talaga*), the Court ruled that:

x x x x While a person who is disqualified under Section 68 is merely prohibited to continue as a candidate, a person whose certificate is cancelled or denied due course under Section 78 is not treated as a candidate at all, as if he/she never filed a CoC.

The foregoing variance gains utmost importance to the present case considering its implications on candidate substitution.

B. Valid CoC as a condition sine qua non for candidate substitution

Section 77 of the OEC provides that if an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, a person belonging to and certified by the same political party may file a CoC to replace the candidate who died, withdrew or was disqualified. It states that:

Sec. 77. Candidates in case of death, disqualification or withdrawal of another. - If after the last day for the filing of certificates of candidacy, an **official candidate** of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. (Emphasis supplied)

Evidently, Section 77 requires that there be an "official candidate" before candidate substitution proceeds. Thus, whether the ground for substitution is death, withdrawal or disqualification of a candidate, the said section unequivocally states that only an official candidate of a registered or accredited party may be substituted.⁴³

As defined under Section 79(a) of the OEC, the term "candidate" refers to any person aspiring for or seeking an elective public office **who has filed a certificate of candidacy** by himself or through an accredited political party, aggroupment, or coalition of parties. Clearly, the law requires that one must have validly filed a CoC in order to be considered a candidate. The requirement of having a CoC obtains even greater importance if one considers its nature. In particular, a CoC formalizes not only a person's

⁴¹ Supra note 25, citing *Bautista v. COMELEC*, 359 Phil. 1, 16 (1998).

⁴² Supra note 37.

⁴³ Id.

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public declaration to run for office but evidences as well his or her statutory eligibility to be elected for the said post. In *Sinaca v. Mula*,⁴⁴ the Court has illumined:

A certificate of candidacy is in the **nature of a formal manifestation** to the whole world of the candidate's political creed or lack of political creed. **It is a statement of a person seeking to run for a public office certifying that he announces his candidacy for the office mentioned and that he is eligible for the office**, the name of the political party to which he belongs, if he belongs to any, and his post-office address for all election purposes being as well stated. (Emphasis and underscoring supplied.)

In this regard, the CoC is the document which formally accords upon a person the status of a candidate. In other words, absent a valid CoC one is not considered a candidate under legal contemplation. As held in *Talaga*:⁴⁵

x x x a person's declaration of his intention to run for public office and his affirmation that he possesses the eligibility for the position he seeks to assume, followed by the timely filing of such declaration, constitute a **valid CoC that render the person making the declaration a valid or official candidate**. (Emphasis supplied)

Considering that Section 77 requires that there be a candidate in order for substitution to take place, as well as the precept that a person without a valid CoC is not considered as a candidate at all, it necessarily follows that if a person's CoC had been denied due course to and/or cancelled, he or she cannot be validly substituted in the electoral process. The existence of a valid CoC is therefore a condition *sine qua non* for a disqualified candidate to be validly substituted.⁴⁶

C. Divergent effects of disqualification and denial of due course to and/or cancellation of COC cases vis-à-vis candidate substitution

Proceeding from the foregoing discourse, it is evident that there lies a clear-cut distinction between a disqualification case under Section 68 and denial of due course to and/or cancellation of COC case under Section 78 vis-à-vis their respective effects on candidate substitution under Section 77.

⁴⁴ 373 Phil 896, 908, citing Ruperto G. Marting, The Revised Election Code with Annotations 41 (First Edition).

⁴⁵ Supra note 37.

⁴⁶ Supra notes 25 and 37.

As explained in the case of *Miranda v. Abaya*⁴⁷ (*Miranda*), a candidate who is disqualified under Section 68 can be validly substituted pursuant to Section 77 because he remains a candidate until disqualified; but a person whose CoC has been denied due course to and/or cancelled under Section 78 cannot be substituted because he is not considered a candidate.⁴⁸ Stated differently, since there would be no candidate to speak of under a denial of due course to and/or cancellation of a CoC case, then there would be no candidate to be substituted; the same does not obtain, however, in a disqualification case since there remains to be a candidate to be substituted, although his or her candidacy is discontinued.

On this note, it is equally revelatory that Section 77 expressly enumerates the instances where substitution is permissible, that is when an official candidate of a registered or accredited political party “**dies, withdraws or is disqualified for any cause.**” Noticeably, material misrepresentation cases are not included in the said section and therefore, cannot be a valid basis to proceed with candidate substitution.

D. Application to the case at bar

In this case, it is undisputed that Richard was disqualified to run in the May 10, 2010 elections due to his failure to comply with the one year residency requirement.⁴⁹ The confusion, however, stemmed from the use of the word “disqualified” in the February 17, 2010 Resolution of the COMELEC First Division, which was adopted by the COMELEC *En Banc* in granting the substitution of private respondent, and even further perpetuated by the HRET in denying the *quo warranto* petition. In short, a finding that Richard was merely disqualified – and not that his CoC was denied due course to and/or cancelled – would mean that he could have been validly substituted by private respondent, thereby legitimizing her candidacy.

Yet the fact that the COMELEC First Division’s February 17, 2010 Resolution did not explicitly decree the denial of due course to and/or cancellation of Richard’s CoC should not have obviated the COMELEC *En Banc* from declaring the invalidity of private respondent’s substitution. It should be stressed that the clear and unequivocal basis for Richard’s “disqualification” is his failure to comply with the residency requirement under Section 6, Article VI of the Constitution which is a ground for the denial of due course to and/or cancellation a CoC under Section 78 of the OEC, not for disqualification.⁵⁰ As earlier mentioned, the material misrepresentation contemplated under a Section 78 petition refers to

⁴⁷ Supra note 39.

⁴⁸ Id.

⁴⁹ *Rollo*, p. 264.

⁵⁰ *Fermin v. COMELEC*, supra note 37.

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statements affecting one's qualifications for elective office such as age, *residence* and citizenship or non-possession of natural-born Filipino status.⁵¹

There is therefore no legal basis to support a finding of disqualification within the ambit of election laws. Accordingly, given Richard's non-compliance with the one year residency requirement, it cannot be mistaken that the COMELEC First Division's unqualified grant of Juntilla's "Verified Petition to Disqualify Candidate for Lack of Qualification"⁵² – which prayed that the COMELEC declare Richard "DISQUALIFIED and INELIGIBLE from seeking the office of Member of the House of Representatives" and "x x **that [his] Certificate of Candidacy x x x be DENIED DUE COURSE and/or CANCELLED**"⁵³ – carried with it the denial of due course to and/or cancellation of Richard's CoC pursuant to Section 78.

Case law dictates that if a petition prays for the denial of due course to and/or cancellation of CoC and the same is granted by the COMELEC without any qualification, the cancellation of the candidate's CoC is in order. This is precisely the crux of the *Miranda* ruling wherein the Court, in upholding the COMELEC *En Banc*'s nullification of the substitution in that case, decreed that the COMELEC Division's unqualified grant of the petition necessarily included the denial of due course to and/or cancellation of the candidate's CoC, notwithstanding the use of the term "disqualified" in the COMELEC Division's resolution, as the foregoing was prayed for in the said petition:

The question to settle next is whether or not aside from Joel "Pempe" Miranda being disqualified by the COMELEC in its May 5, 1998 resolution, his certificate of candidacy had likewise been denied due course and cancelled.

The Court rules that it was.

Private respondent's petition in SPA No. 98-019 specifically prayed for the following:

WHEREFORE, it is respectfully prayed that the Certificate of Candidacy filed by respondent for the position of Mayor for the City of Santiago **be not given due course and/or cancelled.**

Other reliefs just and equitable in the premises are likewise prayed for.

In resolving the petition filed by private respondent specifying a very particular relief, the COMELEC ruled favorably in the following manner:

⁵¹ *Gonzalez v. COMELEC*, G.R. No. 192856, March 8, 2011, 644 SCRA 761, 775-776.

⁵² *Rollo*, p. 246.

⁵³ *Id.* at 252-253; emphasis and underscoring supplied.

WHEREFORE, in view of the foregoing, the Commission (FIRST DIVISION) **GRANTS the Petition**. Respondent JOSE "Pempe" MIRANDA is hereby **DISQUALIFIED** from running for the position of mayor of Santiago City, Isabela, in the May 11, 1998 national and local elections.

SO ORDERED.

From a plain reading of the dispositive portion of the COMELEC resolution of May 5, 1998 in SPA No. 98-019, **it is sufficiently clear that the prayer specifically and particularly sought in the petition was GRANTED, there being no qualification on the matter whatsoever**. The disqualification was simply ruled over and above the granting of the specific prayer for denial of due course and cancellation of the certificate of candidacy.

X X X X

There is no dispute that the complaint or petition filed by private respondent in SPA No. 98-019 is one to deny due course and to cancel the certificate of candidacy of Jose "Pempe" Miranda. There is likewise no question that the said petition was GRANTED without any qualification whatsoever. It is rather clear, therefore, that whether or not the COMELEC granted any further relief in SPA No. 98-019 by disqualifying the candidate, **the fact remains that the said petition was granted and that the certificate of candidacy of Jose "Pempe" Miranda was denied due course and cancelled.** (Emphasis and underscoring supplied)

The same rule was later discussed in the case of *Talaga*, viz:


3. Granting without any qualification of petition in SPA No. 09-029(DC) manifested COMELEC's intention to declare Ramon disqualified and to cancel his CoC

X X X X

In *Miranda v. Abaya*, the specific relief that the petition prayed for was that the CoC **"be not given due course and/or cancelled"**. The COMELEC categorically granted "the petition" and then pronounced – in apparent contradiction – that Joel Pempe Miranda was "disqualified." The Court held that the COMELEC, **by granting the petition without any qualification**, disqualified Joel Pempe Miranda and **at the same time cancelled Jose Pempe Miranda's CoC.**

X X X X

The crucial point of Miranda v. Abaya was that the COMELEC actually granted the particular relief of cancelling or denying due course to the CoC prayed for in the petition by not subjecting that relief to any qualification. (Emphasis and underscoring supplied)



In view of the foregoing rulings, the COMELEC *En Banc* direly misconstrued the COMELEC First Division's February 17, 2010 Resolution when it adopted the Law Department's finding that Richard was only "disqualified" and that his CoC was not denied due course to and/or cancelled, paving the way for the approval of private respondent's substitution. It overlooked the fact that the COMELEC First Division's ruling encompassed the cancellation of Richard's CoC and in consequence, disallowed the substitution of private respondent. It was therefore grave and serious error on the part of the COMELEC *En Banc* to have approved private respondent's substitution.

Consequently, in perpetuating the COMELEC *En Banc*'s error as above-discussed, the HRET committed a grave abuse of discretion, warranting the grant of the instant petition.

Fundamental is the rule that grave abuse of discretion arises when a lower court or tribunal patently violates the Constitution, the law or existing jurisprudence.⁵⁴ While it is well-recognized that the HRET has been empowered by the Constitution to be the "sole judge" of all contests relating to the election, returns, and qualifications of the members of the House, the Court maintains jurisdiction over it to check "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction" on the part of the latter.⁵⁵ In other words, when the HRET utterly disregards the law and settled precedents on the matter before it, it commits a grave abuse of discretion.

Records clearly show that: (1) Richard was held ineligible as a congressional candidate for the Fourth District of Leyte due to his failure to comply with the one year residency requirement; (2) Juntilla's petition prayed for the denial of due course to and/or cancellation of his CoC; and (3) the COMELEC First Division granted the foregoing petition without any qualification. By these undisputed and essential facts alone, the HRET should not have adopted the COMELEC *En Banc*'s erroneous finding that the COMELEC First Division's February 17, 2010 Resolution "speaks [only] of "disqualification and not of cancellation of [Richard's] CoC"⁵⁶ and thereby, sanctioned the substitution of private respondent.

Lest it be misunderstood, the HRET is not bound by previous COMELEC pronouncements relative to the qualifications of the Members of

⁵⁴ See *Fernandez v. COMELEC*, G.R. No. 171821, October 9, 2006, 504 SCRA 116.

⁵⁵ See *Bengson III v. HRET*, 409 Phil. 633 (2001); citations omitted.

⁵⁶ *Rollo*, p. 133.

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the House. Being the sole judge⁵⁷ of all contests relating to the election, returns, and *qualifications* of its respective members, the HRET cannot be tied down by COMELEC resolutions, else its constitutional mandate⁵⁸ be circumvented and rendered nugatory. Instructive on this point is the Court's disquisition in *Fernandez v. HRET*,⁵⁹ to wit:

Private respondent concludes from the above that petitioner had no legal basis to claim that the HRET, when reference to the qualification/s of Members of the House of Representatives is concerned, is "co-equal", to the COMELEC, such that the HRET cannot disregard any ruling of COMELEC respecting the matter of eligibility and qualification of a member of the House of Representatives. **The truth is the other way around, because the COMELEC is subservient to the HRET when the dispute or contest at issue refers to the eligibility and/or qualification of a Member of the House of Representatives.** A petition for *quo warranto* is within the exclusive jurisdiction of the HRET as sole judge, and cannot be considered forum shopping **even if another body may have passed upon in administrative or quasi-judicial proceedings the issue of the Member's qualification while the Member was still a candidate.** There is forum-shopping only where two cases involve the same parties and the same cause of action. The two cases here are distinct and dissimilar in their nature and character. (Emphasis and underscoring supplied)

Notably, the phrase "election, returns, and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. More particularly, the term "qualifications" refers to matters that could be raised in a *quo warranto* proceeding against the proclaimed winner, such as his disloyalty or ineligibility, or the inadequacy of his certificate of candidacy.⁶⁰ As used in Section 74 of the OEC, the word "eligible" means having the right to run for elective public office, that is, having all the qualifications and none of the ineligibilities to run for the public office.⁶¹ In this relation, private respondent's own qualification to run for public office – which was inextricably linked to her husband's own qualifications due to her substitution – was the proper subject of *quo warranto* pro-

⁵⁷ In the case of *Lazatin v. HRET*, 250 Phil. 390, 399-400 (1988), the Court stated that under the 1987 Philippine Constitution, the jurisdiction of the Electoral Tribunal is original and exclusive, viz:

The use of the word "sole" emphasizes the exclusive character of the jurisdiction conferred. The exercise of power by the Electoral Commission under the 1935 Constitution has been described as "intended to be as complete and unimpaired as if it had originally remained in the legislature." Earlier this grant of power to the legislature was characterized by Justice Malcolm as "full, clear and complete; Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the Legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunal under the 1987 Constitution. (Emphasis supplied; citations omitted)

⁵⁸ Art. 6, Sec. 17 of the Constitution states:

Sec. 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. (Emphasis supplied)

⁵⁹ G.R. No. 187478, December 21, 2009, 608 SCRA 733, 747-748.

⁶⁰ See *Liwayway Vinzons-Chato v. COMELEC*, G.R. No. 172131, April 2, 2007, 520 SCRA 166.

⁶¹ Supra note 25, citing the Oxford Dictionary of English (Oxford University Press 2010).

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ceedings falling within the exclusive jurisdiction of the HRET and independent from any previous proceedings before the COMELEC, lest the jurisdictional divide between the two be blurred.


Nonetheless, it must be pointed out that the HRET's independence is not without limitation. As earlier mentioned, the Court retains *certiorari* jurisdiction over the HRET if only to check whether or not it has gravely abused its discretion. In this regard, the Court does not endeavor to denigrate nor undermine the HRET's independence; rather, it merely fulfills its duty to ensure that the Constitution and the laws are upheld through the exercise of its power of judicial review.

In fine, the Court observes that the HRET wantonly disregarded the law by deliberately adopting the COMELEC *En Banc*'s flawed findings regarding private respondent's eligibility to run for public office which essentially stemmed from her substitution. In this light, it cannot be gainsaid that the HRET gravely abused its discretion.

Owing to the lack of proper substitution in this case, private respondent was therefore not a *bona fide* candidate for the position of Representative for the Fourth District of Leyte when she ran for office, which means that she could not have been elected. Considering this pronouncement, there exists no cogent reason to further dwell on the other issues respecting private respondent's own qualification to office.

WHEREFORE, the petition is **GRANTED**. Accordingly, the March 22, 2012 Decision rendered by the House of Representatives Electoral Tribunal in HRET Case No. 10-031 (QW) is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.


ESTELA M. BERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice

Please see dissenting opinion:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO

Associate Justice

No part incumbent member HRET

Diosdado M. Peralta
DIOSDADO M. PERALTA

Associate Justice

I join the dissent of J. Abad

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO

Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.

Associate Justice

I join Justice Abad in his dissenting opinion
JOSE CATRAL MENDOZA

Associate Justice

(no part due to participation in HRET)
PRESBITERO J. VELASCO, JR.

Associate Justice

NO PART due to previous participation in HRET

Arturo D. Brion
ARTURO D. BRION

Associate Justice

No part due to prior participation in the HRET

Lucas P. Bersamin
LUCAS P. BERSAMIN

Associate Justice

See dissenting opinion.

Roberto A. Abad
ROBERTO A. ABAD

Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ

Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES

Associate Justice

Marvic Mario Victor F. Leonen
MARVIC MARIO VICTOR F. LEONEN

Associate Justice

CERTIFICATION

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.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice