EN BANC

G.R. No. 207264 – REGINA ONGSIAKO REYES, Petitioner, **v. COMMISSION ON ELECTIONS AND JOSEPH SOCORRO B. TAN,** Respondents.

Promulgated:

OCTOBER 22, 2013

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DISSENTING OPINION

LEONEN, *J.*:

I join Justices Carpio and Brion in their Dissent, but I wish to clarify my reasons further.

I

In case of doubt, there are fundamental reasons for this Court to be cautious in exercising its jurisdiction to determine who the members are of the House of Representatives. We should maintain our consistent doctrine that proclamation is the operative act that removes jurisdiction from this Court or the Commission on Elections and vests it on the House of Representatives Electoral Tribunal (HRET).

The first reason is that the Constitution unequivocably grants this discretion to another constitutional body called the House of Representatives Electoral Tribunal. This is a separate organ from the Judiciary.

As early as the Act of Congress of August 29, 1916 known as the Jones Law, the Senate and the House of Representatives were granted the power to "be the sole judges of the elections, returns, and qualifications of their [respective] elective members."[1] Section 18 of this organic act provides:

> Section 18 – That the Senate and House of Representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members, and each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel an elective member. x x x.

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[1] *Veloso v. Provincial Board of Canvassers of the Province of Leyte,* 39 Phil. 886, 886-887 (1919).

The 1935 Constitution transferred the same power to an Electoral Commission which altered the composition of the electoral tribunal but still continued a membership that predominantly originated from the Legislature.

Thus, Section 4 of Article VI of the 1935 Constitution provided:

> Section 4 – There shall be an Electoral Commission composed of three Justices of the Supreme Court designated by the Chief Justice, and of six Members chosen by the National Assembly, three of whom shall be nominated by the party having the largest number of votes, and three by the party having the second largest number of votes therein. The senior Justice in the Commission shall be its Chairman. The Electoral Commission shall be the sole judge of all contests relating to the election, returns, and qualifications of the Members of the National Assembly.

In *Angara v. Electoral Commission*,[2] this Court noted the change in the composition of the electoral tribunal in the 1935 Constitution.[3] Nevertheless, the authority of the electoral tribunal remained the same as the **sole judge** of all contests relating to the election, returns, and qualifications of their members. The electoral tribunal in the 1935 Constitution was characterized as an independent tribunal, separate from the Legislative Department. However, "the grant of power to the Electoral Commission to judge all contests relating to the election, returns and qualifications of members of the National Assembly, is intended to be as **complete and unimpaired** as if it had remained originally in the legislature."[4]

The 1973 Constitution briefly transferred the authority of an electoral tribunal to the Commission on Elections.[5] The 1987 Constitution reverted this authority back to electoral tribunals. The present Section 17 of Article VI provides:

> Section 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

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2 63 Phil. 139 (1936).
3 Id. at 175.
4 Id.
5 Section 2 (2) of Article XII-C of the 1973 Constitution provides: "The Commission on Elections shall have the following powers and functions:

1. x x x
2. Be the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa and elective provincial and city officials.

x x x"

> their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

The authority of electoral tribunals as the sole judge of all contests relating to the election, returns, and qualifications of their members was described in *Roces v. House of Representatives Electoral Tribunal*:[6]

> The HRET is the **sole judge** of all contests relating to the election, returns, and qualifications of the members of the House of Representatives and has the power to promulgate procedural rules to govern proceedings brought before it. This exclusive jurisdiction includes the power to determine whether it has the authority to hear and determine the controversy presented, and the right to decide whether that state of facts exists which confers jurisdiction, as well as all other matters which arise in the case legitimately before it. Accordingly, **it has the power to hear and determine, or inquire into, the question of its own jurisdiction, both as to parties and as to subject matter, and to decide all questions, whether of law or fact, the decision of which is necessary to determine the question of jurisdiction**. One of the three essential elements of jurisdiction is that **proper parties** must be present. Consequently, **the HRET merely exercised its exclusive jurisdiction when it ruled that Mrs. Ang Ping was a proper party to contest the election of Roces.**[7] (Citations omitted)

Initially, our organic act envisioned both the House of Representatives and the Senate to determine their members by creating tribunals that would decide on contests relating to the election, returns and qualifications of its members. This was to maintain the integrity of the Legislature as a separate branch of government. The House of Representatives and the Senate act collectively, and the numbers that determine the outcome of their respective actions are sensitive to the composition of their memberships.

The 1935 Constitution enhanced this ability by altering the composition of the electoral tribunals. Introducing members from the Judiciary to participate in the tribunal provided the necessary objectivity from the partisan politics of each chamber. Both the 1935 and the 1987 Constitution, however, did not intend the Judiciary to take over the function

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6 506 Phil. 654 (2005).
7 Id. at 667.

of deciding contests of the election, returns, and qualification of a member of either the House of Representatives or the Senate.

The earliest moment when there can be members of the House of Representatives or the Senate is upon their proclamation as winners of an election. Necessarily, this proclamation happens even before they can actually assume their office as the elections happen in May, and their terms start "at noon on the thirtieth day of June next following their election."[8] Contests of elected representatives or senators can happen as soon as they are proclaimed. We should remain faithful to the intention of the Constitution. It is at the time of their proclamation that we should declare ourselves as without jurisdiction.

This is clear doctrine, and there are no reasons to modify it in the present case.

II

The jurisdiction of electoral tribunals as against other constitutional bodies has been put in issue in many cases.

In *Angara v. Electoral Commission,*[9] this Court held that the authority of the Electoral Commission as the "sole judge of all contests relating to the election, returns, and qualifications of the members of the National Assembly" begins from the certification by the proper provincial board of canvassers of the member-elect:[10]

> From another angle, Resolution No. 8 of the National Assembly confirming the election of members against whom no protests had been filed at the time of its passage on December 3, 1935, cannot be construed as a limitation upon the time for the initiation of election contests. While there might have been good reason for the legislative practice of confirmation of the election of members of the legislature at the time when the power to decide election contests was still lodged in the legislature, **confirmation alone by the legislature cannot be construed as depriving the Electoral Commission of the authority incidental to its constitutional power to be "the sole judge of all contest relating to the election, returns, and qualifications of the members of the National Assembly", to fix the time for the filing of said election protests.** Confirmation by the National Assembly of the returns of its members against whose election no protests have been filed is, to all legal purposes, unnecessary. As contended by

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8 1987 CONSTITUTION, Art. VI, Sec. 7.

9 *Angara v. Electoral Commission*, supra note 2.

10 Id. at 179-180.

> the Electoral Commission in its resolution of January 23, 1936, overruling the motion of the herein petitioner to dismiss the protest filed by the respondent Pedro Ynsua, confirmation of the election of any member is not required by the Constitution before he can discharge his duties as such member. As a matter of fact, **certification by the proper provincial board of canvassers is sufficient to entitle a member-elect to a seat in the national Assembly and to render him eligible to any office in said body** (No. 1, par. 1, Rules of the National Assembly, adopted December 6, 1935).[11] (Emphasis supplied)

Since then, more Petitions, including this one, have been filed in this Court invoking the jurisdiction of the electoral tribunals against the Commission on Elections. Time and again, this Court has been asked to resolve the issue when jurisdiction over election contests vests on electoral tribunals. In all these cases, this Court has consistently held that it is the proclamation of a candidate in the congressional elections that vests jurisdiction on the electoral tribunals of any election contest, even though the candidate has not yet assumed his or her office or the protest was filed before June 30.[12] Once the **winning** candidate vying for a position in Congress is proclaimed, election contests must be lodged with the electoral tribunals and not with the Commission on Elections. To repeat, "certification by the proper x x x board of canvassers is sufficient to entitle a member-elect to a seat in [Congress] and to render him eligible to any office in the said body."[13]

Conversely, if a candidate for Congress was elected but <u>was not proclaimed</u> due to a suspension order issued by the Commission on Elections, the latter retains jurisdiction over protests concerning the candidate's qualifications.[14] Thus, we stated:

> The rule then is that candidates who are disqualified by final judgment before the election shall not be voted for and the votes cast for them shall not be counted. But those against whom no final judgment of disqualification had been rendered may be voted for and proclaimed, unless, on motion of the complainant, the COMELEC suspends their proclamation because the grounds for their disqualification or cancellation of their certificates of candidacy are strong. Meanwhile, the proceedings for disqualification of candidates or for the cancellation or denial of certificates of candidacy, which have been begun before the elections, should continue even after such elections and

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11 Id.

12 *See Jalosjos, Jr. v. Commission on Elections*, G.R. No. 192474, June 26, 2012, 674 SCRA 530, 535; *Vinzons-Chato v. Commission on Elections*, 548 Phil. 712, 726 (2007); *Barbers v. Commission on Elections*, 499 Phil. 570, 585 (2005); *Aggabao v. Commission on Elections*, 490 Phil. 285, 291 (2005).

13 *Angara v. Electoral Commission*, supra note 2, at 180.

14 *Domino v. Commission on Elections*, 369 Phil. 798, 823 (1999).

proclamation of the winners.[15]

In this case, the Commission on Elections *En Banc* Resolution ordering the cancellation of the petitioner's Certificate of Candidacy was issued only *after* the elections. The Resolution did not yet attain finality when the petitioner was proclaimed, and no Order was issued by the Commission on Elections to suspend the proclamation of the petitioner after the votes had been counted. Thus, the Provincial Board of Canvassers was well within its right and duty to proclaim the petitioner as the winning candidate.[16]

III

It is my opinion that this Court did not, in any of the cases cited in the main *ponencia*, change the time-honored rule that "***where a candidate has already been proclaimed winner in the congressional elections, the remedy of the petitioner is to file an electoral protest [or a petition for quo warranto] with the [House of Representatives Electoral Tribunal].***"[17] The main *ponencia* cites several cases to support its *ratio decidendi* that three requisites must concur before a winning candidate is considered a "member" of the House of Representatives to vest jurisdiction on the electoral tribunal.

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[15] *Coquilla v. Commission on Elections*, 434 Phil. 861, 870-871 (2002).

[16] *See Ibrahim v. Commission on Elections,* G.R. No. 192289, January 8, 2013, 688 SCRA 129, 146-147. This Court held that:

> The MBOC has no authority to suspend Ibrahim's proclamation especially since the herein assailed resolutions, upon which the suspension was anchored, were issued by the COMELEC *en banc* outside the ambit of its jurisdiction.
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> *Mastura v. COMELEC* is emphatic that:
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> > (T)he board of canvassers is a ministerial body. It is enjoined by law to canvass all votes on election returns submitted to it in due form. It has been said, and properly, that its powers are limited generally to the mechanical or mathematical function of ascertaining and declaring the apparent result of the election by adding or compiling the votes cast for each candidate as shown on the face of the returns before them, and then declaring or certifying the result so ascertained. x x x.
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> The simple purpose and duty of the canvassing board is to ascertain and declare the apparent result of the voting while all other questions are to be tried before the court or other tribunal for contesting elections or in *quo warranto* proceedings.
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> In the case at bar, the MBOC *motu propio* suspended Ibrahim's proclamation when the issue of the latter's eligibility is a matter which the board has no authority to resolve. Further, under Section 6 of R.A. 6646, the COMELEC and not the MBOC has the authority to order the suspension of a winning candidate's proclamation. Such suspension can only be ordered upon the motion of a complainant or intervenor relative to a case for disqualification, or a petition to deny due course or cancel a certificate of candidacy pending before the COMELEC, and only when the evidence of the winning candidate's guilt is strong. Besides, the COMELEC *en banc* itself could not have properly ordered Ibrahim's disqualification because in taking cognizance of the matter, it had already exceeded its jurisdiction.

[17] *Vinzons-Chato v. Commission on Elections, et al.*, 548 Phil. 712, 726 (2007).

These cases appear to have originated from *Guerrero v. Commission on Elections.*[18]

In *Guerrero,* this Court held that "x x x once a winning candidate has been **proclaimed**, **taken his oath**, and **assumed office** as a member of the House of Representatives, [the] COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins."[19] The case cited *Aquino v. Commission on Elections*[20] and *Romualdez-Marcos v. Commission on Elections*[21] to support the statement.

A closer reading of *Aquino* and *Romualdez-Marcos* will reveal that this Court did not rule that three requisites must concur so that one may be considered a "member" of the House of Representatives subject to the jurisdiction of the electoral tribunal. On the contrary, this Court held in *Aquino* that:

> Petitioner conveniently confuses the distinction between an unproclaimed candidate to the House of Representatives and a member of the same. Obtaining the highest number of votes in an election does not automatically vest the position in the winning candidate.
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> x x x x
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> Under the above-stated provision, the electoral tribunal clearly assumes jurisdiction over all contests relative to the election, returns and qualifications of candidates for either the Senate or the House only when the latter become members of either the Senate or the House of Representatives. A candidate who has not been proclaimed and who has not taken his oath of office cannot be said to be a member of the House of Representatives subject to Section 17 of Article VI of the Constitution. While the proclamation of the winning candidate in an election is ministerial, B.P. 881 in conjunction with Sec. 6 of R.A. 6646 allows suspension of proclamation under circumstances mentioned therein. x x x.[22] (Citations omitted)

In *Romualdez-Marcos*, this Court held that:

> As to the House of Representatives Electoral Tribunal's supposed assumption of jurisdiction over the issue of petitioner's qualifications after the May 8, 1995 elections, suffice it to say that

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18 391 Phil. 344 (2000).
19 Id. at 352.
20 G.R. No. 120265, September 18, 1995, 248 SCRA 400, 417-418.
21 G.R. No. 119976, September 18, 1995, 248 SCRA 300, 340-341.
22 *Aquino v. Commission on Elections*, supra at 417-418.

> HRET's jurisdiction as the sole judge of all contests relating to the elections, returns, and qualifications of members of Congress begins only after a candidate has become a member of the House of Representatives. Petitioner not being a member of the House of Representatives, it is obvious that the HRET at this point has no jurisdiction over the question.[23] (Citations omitted)

To be sure, the petitioners who were the winning candidates in *Aquino* and *Romualdez-Marcos* invoked the jurisdiction of the House of Representatives Electoral Tribunal though they had not yet been proclaimed. Thus, this Court held that the Commission on Elections still had jurisdiction over the disqualification cases.[24]

This Court did not create a new doctrine in *Aquino* as seen in the Concurring and Dissenting Opinion of Justice Francisco where he said:

> The operative acts necessary for an electoral candidate's rightful assumption of the office for which he ran are his proclamation and his taking an oath of office. Petitioner cannot in anyway be considered as a member of the House of Representatives for the purpose of divesting the Commission on Elections of jurisdiction to declare his disqualification and invoking instead HRET's jurisdiction, it indubitably appearing that he has yet to be proclaimed, much less has he taken an oath of office. Clearly, petitioner's reliance on the aforecited cases which when perused involved Congressional members, is totally misplaced, if not wholly inapplicable. That the jurisdiction conferred upon HRET extends only to Congressional members is further established by judicial notice of HRET Rules of Procedure, and HRET decisions consistently holding that the proclamation of a winner in the contested election is the essential requisite vesting jurisdiction on the HRET.[25]

In fact, the Separate Opinion of Justice Mendoza in *Romualdez-Marcos* will tell us that he espoused a more radical approach to the jurisdiction of the electoral tribunals. Justice Mendoza is of the opinion that "the eligibility of a [candidate] for the office [in the House of Representatives] may only be inquired into by the [House of Representatives Electoral Tribunal],"[26] even if the candidate in *Romualdez-Marcos* was not yet proclaimed. Justice Mendoza explained, thus:

> Three reasons may be cited to explain the absence of an authorized proceeding for determining *before election* the

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23 *Romualdez-Marcos v. Commission on Elections*, supra at 340-341.

24 *Romualdez-Marcos v. Commission on Elections*, supra at 340, *Aquino v. Commission on Elections*, supra at 418.

25 *Aquino v. Commission on Elections*, supra at 434.

26 *Romualdez-Marcos v. Commission on Elections*, supra at 399.

qualifications of a candidate.

x x x x

> Third is the policy underlying the prohibition against pre-proclamation cases in elections for President, Vice President, Senators and members of the House of Representatives. (R.A. No. 7166, Section 15) The purpose is to preserve the prerogatives of the House of Representatives Electoral Tribunal and the other Tribunals as "sole judges" under the Constitution of the *election, returns,* and *qualifications* of members of Congress of the President and Vice President, as the case may be.[27]

Thus, the pronouncement in *Guerrero* that is used in the main *ponencia* as the basis for its ruling is **not** supported by prior Decisions of this Court. More importantly, it cannot be considered to have changed the doctrine in *Angara v. Electoral Commission*. Instead, it was only made in the context of the facts in *Guerrero* where the Decision of the Commission on Elections *En Banc* was issued only after the proclamation and the assumption of office of the winning candidate. In other words, the contention that there must be proclamation, taking of the oath, and assumption of office before the House of Representatives Electoral Tribunal takes over is not *ratio decidendi.*

The other rulings cited in the main *ponencia* support our view.

In *Vinzons-Chato v. Commission on Elections*,[28] this Court ruled that:

> x x x once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. **Stated in another manner, where the candidate has already been proclaimed winner in the congressional elections, the remedy of the petitioner is to file an electoral protest with the HRET.**[29] (Emphasis supplied)

In *Limkaichong v. Commission on Elections,*[30] this Court held that:

> x x x once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of

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27 Id. at 396-397.

28 *Vinzons-Chato v. Commission on Elections*, 548 Phil. 712 (2007).

29 Id. at 725-726. The last statement was inadvertently excluded in the main *ponencia.*

30 G.R. Nos. 178831-32, 179120, 179132-33, and 179240-41, July 30, 2009, 594 SCRA 434.

> Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. **It follows then that the proclamation of a winning candidate divests the COMELEC of its jurisdiction over matters pending before it at the time of the proclamation.**[31] (Emphasis supplied)

In *Gonzalez v. Commission on Elections*[32] the paragraph that contains the statement cited in the main *ponencia* is as follows:

> In any case, the point raised by the COMELEC is irrelevant in resolving the present controversy. It has long been settled that pursuant to Section 6 of R.A. No. 6646, a final judgment before the election is required for the votes of a disqualified candidate to be considered "stray." In the absence of any final judgment of disqualification against Gonzalez, the votes cast in his favor cannot be considered stray. **After proclamation, taking of oath and assumption of office by Gonzalez, jurisdiction over the matter of his qualifications, as well as questions regarding the conduct of election and contested returns – were transferred to the HRET as the constitutional body created to pass upon the same.** The Court thus does not concur with the COMELEC's flawed assertion of jurisdiction premised on its power to suspend the effects of proclamation in cases involving disqualification of candidates based on commission of prohibited acts and election offenses. As we held in *Limkaichong*, any allegations as to the invalidity of the proclamation will not prevent the HRET from assuming jurisdiction over all matters essential to a member's qualification to sit in the House of Representatives.[33] (Emphasis supplied)

The above discussion, including the statement cited in the main *ponencia*, is *obiter* because this Court already found that "the petition for disqualification and cancellation of the [Certificate of Candidacy] x x x was filed out of time. The [Commission on Elections] therefore erred in giving due course to the petition."[34] Further, the context of the statement cited in the main *ponencia* emphasized the doctrine that the votes for a candidate who is not yet disqualified by final judgement cannot be considered **stray** votes. In *Gonzalez*, this Court did not require the assumption of office of the candidate-elect before the electoral tribunal was vested with jurisdiction over electoral protests.

To reiterate, there is only **one** rule that this Court has consistently applied: It is the proclamation of the winning candidate vying for a seat in

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31 Id. at 444-445. The last statement was inadvertently excluded in the main *ponencia*.
32 G.R. No. 192856, March 8, 2011, 644 SCRA 761.
33 Id. at 798-799. The statement emphasized was the one cited in the main *ponencia*.
34 Id. at 786.

Congress that divests the Commission on Elections of jurisdiction over any electoral protest. This rule is consistent with the Constitution, the 2011 Rules of the House of Representatives Electoral Tribunal, the Omnibus Election Code, and jurisprudence.

An electoral protest that also assails the validity of the proclamation will not cause the Commission on Elections to regain jurisdiction over the protest.[35] Issues regarding the validity or invalidity of the proclamation may be threshed out before the electoral tribunals. As held in *Caruncho III v. Commission on Elections,*[36] the electoral tribunal has jurisdiction over a proclamation controversy involving a member of the House of Representatives:

> A crucial issue in this petition is what body has jurisdiction over a proclamation controversy involving a member of the House of Representatives. The 1987 Constitution cannot be more explicit in this regard. Article VI thereof states:
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> > 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. x x x.
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> The foregoing constitutional provision is reiterated in Rule 14 of the 1991 Revised Rules of the Electoral Tribunal of the House of Representatives, to wit:
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> > Rule 14. *Jurisdiction.* — The Tribunal shall be the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.
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> x x x x
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> In the same vein, considering that petitioner questions the proclamation of Henry Lanot as the winner in the congressional race for the sole district of Pasig City, his remedy should have been to file an electoral protest with the House of Representatives Electoral Tribunal (HRET).[37] (Citations omitted)

This Court may obtain jurisdiction over questions regarding the validity of the proclamation of a candidate vying for a seat in Congress without encroaching upon the jurisdiction of a constitutional body, the electoral tribunal. "[The remedies of] *certiorari* and prohibition will not lie

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35 *Aggabao v. Commission on Elections,* 490 Phil. 285, 291 (2005).
36 374 Phil. 308 (1999).
37 Id. at 321-322.

in this case [to annul the proclamation of a candidate] considering that there is an available and adequate remedy in the ordinary course of law; [that is, the filing of an electoral protest before the electoral tribunals]."[38] These remedies, however, may lie only after a ruling by the House of Representatives Electoral Tribunal or the Senate Electoral Tribunal.

We have said that "the proclamation of the petitioners enjoys the presumption of regularity and validity."[39] Unless it is annulled by the House of Representatives Electoral Tribunal after giving petitioner Reyes' due notice and hearing,[40] her proclamation as a member-elect in the House of Representatives must stand.

IV

The second fundamental reason for us to exercise caution in determining the composition of the House of Representatives is that this is required for a better administration of justice. Matters relating to factual findings on election, returns, and qualifications must first be vetted in the appropriate electoral tribunal before these are raised in the Supreme Court.

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I express some discomfort in terms of our procedural actions in this case.

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[38] *Barbers v. Commission on Elections,* 499 Phil. 570, 585 (2005).

[39] *Tan. v. Commission on Elections*, 463 Phil. 212, 235 (2003).

[40] *See Bince, Jr., v. The Commission on Elections*, G.R. No. 106291, February 9, 1993, 218 SCRA 782, 792-793 where this Court held:

> Petitioner cannot be deprived of his office without due process of law. Although public office is not *property* under Section 1 of the Bill of Rights of the Constitution, and one cannot acquire a vested right to public office, it is, nevertheless, a protected right. Due process in proceedings before the respondent COMELEC, exercising its quasi-judicial functions, requires due notice and hearing, among others. Thus, although the COMELEC possesses, in appropriate cases, the power to annul or suspend the proclamation of any candidate, we had ruled in *Fariñas vs. Commission on Elections*, *Reyes vs. Commission on Elections* and *Gallardo vs. Commission on Elections* that the COMELEC is without power to partially or totally annul a proclamation or suspend the effects of a proclamation without notice and hearing.

In *Fariñas vs. COMELEC*, this Court further stated that:

> As aptly pointed out by the Solicitor General, "to sanction the immediate annulment or even the suspension of the effects of a proclamation before the petition seeking such annulment or suspension of its effects shall have been heard would open the floodgates of [sic] unsubstantiated petitions after the results are known, considering the propensity of the losing candidate to put up all sorts of obstacles in an open display of unwillingness to accept defeat (*Guiao v. Comelec, supra*), or would encourage the filing of baseless petitions not only to the damage and prejudice of winning candidates but also to the frustration of the sovereign will of the electorate (*Singko v. Comelec*, 101 SCRA 420)."

Giving due course to a Petition for *Certiorari* is indeed discretionary before this Court. We do have the option to dismiss outright on the basis of the allegations in the Petition. In many cases, we have done so through Minute Resolutions. In other cases, this Court released Resolutions to state more fully its reasons why it dismissed the Petitions.

We have varied reasons for dismissing Petitions even without requiring a Comment from the respondent. We may find that the recital of facts and the procedure that was followed do not warrant a review of the interpretation and application of the relevant law. In other words, we may find that the allegations are insufficient to find grave abuse of discretion on the part of the respondents.

In appropriate cases, we dismiss without the need for a Comment from the respondent when we find that the Petition shows that a procedural prerequisite was not followed. We may also dismiss, without Comment, when we find that we do not have jurisdiction over the subject matter of the Petition or the remedy invoked.

The relief we grant for outright dismissals of Petitions without Comment ends with the dismissal of the Petition. It leaves the parties to where they were prior to the filing of the Petition. We grant no affirmative relief to the respondent simply because the basis for doing so has neither been pleaded nor argued with due process.

This case seems to have received a different treatment.

The main *ponencia* went beyond dismissal of the Petition. The initial resolution of this case supported by the majority attempted to declare new doctrine. It should just have simply dismissed the Petition and allowed the parties to litigate at the House of Representatives Electoral Tribunal. The better part of prudence should have been to require the respondent to file a Comment[41] assuming, without agreeing, that there may have been a need to revisit doctrine because of the unique facts of this case. In my view, the personalities in this case may have been different. However, the facts and circumstances were not unique to unsettle existing rational doctrine.

A Comment is required so that there may be a fuller exposition of the issues from the point of view of the respondent. It is also required to prevent

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[41] RULES OF COURT, Rule 65, Sec. 6.

any suspicion that judges and justices litigate, not decide. This Court has expressed its disfavor of some judges, thus:

> We cannot close this opinion without expressing our disapproval of the action taken by Judge Tomas V. Tadeo in filing his own motion for reconsideration of the decision of the respondent court. He should be admonished for his disregard of a well-known doctrine imposing upon the judge the duty of detachment in case where his decision is elevated to a higher court for its review. **The judge is not an active combatant in such proceeding and must leave it to the parties themselves to argue their respective positions and for the appellate court to rule on the matter without his participation.** The more circumspect policy is to recognize one's role in the scheme of things, remembering always that **the task of a judge is to decide and not to litigate.**[42] (Emphasis supplied)

The majority persisted in declaring that the petitioner's proclamation was "without any basis" despite the absence of a responsive pleading. This may not be cured by the Comment on the Motion for Reconsideration. In my view, the validity of the proclamation of petitioner Reyes was never raised as an issue. No responsive pleading exists to have sufficiently tendered it as an issue.

VI

Good faith must be presumed in the conduct of the petitioner unless evidence to the contrary is submitted to this Court. We have already ruled that:

> When a litigant exhausts all the remedies which the rules allow, in order to seek an impartial adjudication of his case, the dignity of the judge is not thereby assailed or affected in the least; otherwise, all remedies allowed litigants, such as appeals from judgments, petitions for reconsideration thereof or for the disqualification of judges, or motions questioning the jurisdiction of courts, would be deemed derogatory to the respect due a judge. These remedies may be availed of by any litigant freely, without being considered guilty of an act of disrespect to the court or the judge.[43]

Similarly, the same presumption of good faith must be accorded to all Members of this Court. We may not be on all fours in our opinions, but we must believe in the courage of each Member of the Court to vote with the objectivity his or her office demands, guided only by his or her conscience,

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[42] *La Campana Food Products, Inc. v. Court of Appeals*, G.R. No. 88246, June 4, 1993, 223 SCRA 151, 158.

[43] *The People of the Philippines v. Rivera*, 91 Phil 354, 358 (1952).

and our collective hope for a better future.

Our disagreement with the course taken by the majority neither endows us with the competence nor the entitlement to impute ill motives. However, motives notwithstanding, our people do have to live with the practical consequences of our words. That, definitely, is a formidable measure of what it is that we have done.

For these reasons, I vote to **GRANT** the petitioner's Motion for Reconsideration. The Petition should be dismissed. The House of Representatives Electoral Tribunal has jurisdiction after petitioner's proclamation.

MARVIC MARIO VICTOR F. LEONEN
Associate Justice