



Republic of the Philippines
Supreme Court
Manila

EN BANC

**LINA DELA PEÑA JALOVER,
GEORGIE A. HUIISO and VELVET
BARQUIN ZAMORA,**

Petitioners,

G.R. No. 209286

Present:

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

- versus -

**JOHN HENRY R. OSMEÑA and
COMMISSION ON ELECTIONS
(COMELEC),**

Respondents.

Promulgated:

SEPTEMBER 23, 2014

X-----X

DECISION

BRION, J.:

The minimum requirement under our Constitution¹ and election laws² for the candidates' residency in the political unit they seek to represent has

¹ Section 3, Article X of the 1987 CONSTITUTION pertinently provides: Section 3. The Congress shall enact a local government code provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

² Section 39 of the LOCAL GOVERNMENT CODE of 1991 states: 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 x x x where he intends to be elected; a resident therein for at least one (1) year

never been intended to be an empty formalistic condition; it carries with it a very specific purpose: to prevent “stranger[s] or newcomer[s] unacquainted with the conditions and needs of a community” from seeking elective offices in that community.³

The requirement is rooted in the recognition that officials of districts or localities should not only be acquainted with the metes and bounds of their constituencies; more importantly, they should know their constituencies and the unique circumstances of their constituents - their needs, difficulties, aspirations, potentials for growth and development, and all matters vital to their common welfare.⁴ Familiarity or the opportunity to be familiar with these circumstances can only come with residency in the constituency to be represented.⁵

The Case

Before us is the Petition for *Certiorari*⁶ under Rule 64 in relation with Rule 65 of the Rules of Court, seeking to annul the Resolutions dated April 3, 2013,⁷ and August 8, 2013,⁸ of the Commission on Elections (COMELEC) in SPA No. 13-079. The COMELEC resolutions denied the petitioners’ Petition to Cancel Certificate of Candidacy of the private respondent John Henry R. Osmeña.

This review, based on the nature of the petition and the petitioners’ objective, is based on a very limited ground - the jurisdictional issue of whether the COMELEC acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.⁹

Factual Antecedents

On October 3, 2012, Osmeña filed his Certificate of Candidacy (COC) for the position of mayor, Toledo City, Cebu.¹⁰ In his COC, Osmeña indicated that he had been a resident of Toledo City for fifteen (15) years prior to the May 2013 elections. Before running for the mayoralty position, Osmeña also served as the representative of the 3rd Congressional District of the Province of Cebu from 1995-1998, which incidentally includes the City of Toledo.¹¹

immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

³ *Torayno, Sr. v. COMELEC*, 392 Phil. 342, 352 (2000).

⁴ *Id.* at 355-356.

⁵ *Id.* at 356.

⁶ *Rollo*, pp. 16-46.

⁷ *Id.* at 50-58.

⁸ *Id.* at 60-63.

⁹ *Dela Cruz v. COMELEC*, G.R. No. 192221, November 13, 2012, 685 SCRA 347, 359.

¹⁰ *Records*, p. 9.

¹¹ http://en.wikipedia.org/wiki/Legislative_districts_of_Cebu, last accessed August 25, 2014.

Soon thereafter, the petitioners filed before the COMELEC a “Petition to Deny Due Course and to Cancel Certificate of Candidacy and to Disqualify a Candidate for Possessing Some Grounds for Disqualification,”¹² docketed as SPA No. 13-079.

The Parties’ Claims and Evidence

Citing Section 78¹³ in relation with Section 74¹⁴ of the Omnibus Election Code, the petitioners alleged before the COMELEC that Osmeña made material misrepresentations of fact in the latter’s COC and likewise failed to comply with the residency requirement under Section 39 of the Local Government Code.¹⁵ In particular, the petitioners claimed that Osmeña falsely declared under oath in his COC that he had already been a resident of Toledo City fifteen (15) years prior to the scheduled May 13, 2013 local elections.¹⁶

In support of their petition, the petitioners submitted the following: a) a certification from the Toledo City Assessor’s Office, dated October 5, 2012, showing that Osmeña does not own any real property in Toledo City;¹⁷ b) a tax declaration of Osmeña’s alleged residence at Ibo, Toledo City showing that it is owned by Osmeña’s son;¹⁸ c) photographs of Osmeña’s alleged dilapidated residence in *Barangay Ibo*, Toledo City, which the petitioners claim is not in keeping with Osmeña’s prominence, wealth and stature in society;¹⁹ d) a certification from the Business Permit and Licensing Office, that Osmeña never applied nor has he been issued any business permit by Toledo City;²⁰ and e) several affidavits,²¹ including that of the *barangay* captain of Ibo, Toledo City,²² attesting that Osmeña was never a

¹² Records, pp. 2-17.

¹³ 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 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.

¹⁴ SEC. 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 assumed 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.

¹⁵ Records, pp. 2-17.

¹⁶ Id.

¹⁷ Id. at 10.

¹⁸ Id. at 11.

¹⁹ Id. at 213-215; 222-225.

²⁰ Id. at 206

²¹ Id. at 207-209; 226-233.

²² Id. at 216.

resident of Toledo City and that he has only been **seen** in the city in September 2012 to conduct political meetings.

Osmeña denied the petitioners' allegations. In his defense, Osmeña argued that even prior to his actual transfer of residence to Ibo, Toledo City, in 2004, he had been able to establish ties with Toledo City in view of his family's business interests and his political linkages.²³ According to Osmeña, in 1995, he bought a piece of land in Ibo, Toledo City, where he built two (2) houses from 1998 to 2002²⁴ and became a permanent resident thereof in 2004.²⁵ Osmeña further averred that he became a registered voter of Toledo City in 2006²⁶ and that he leased at least two (2) properties in Toledo City for his headquarters.²⁷ In addition, he claimed that in December 2011, he bought a five (5) hectare parcel of land in Das, Toledo City.²⁸

In support of his allegations, Osmeña submitted the following pieces of evidence: a) certification from the House of Representatives that Osmeña was the duly elected representative of the 3rd District of Cebu in the 10th Congress from 1995 to 1998;²⁹ b) Tax Declaration No. 2001-149019-01028³⁰ and Deed of Absolute Sale between Dr. James Gaite and Osmeña's son concerning the Ibo, Toledo City property;³¹ c) photographs of the exterior and interior of the Ibo, Toledo City property;³² d) application for transfer of voter's registration record, dated April 24, 2006;³³ e) a certification from Mantuhac Construction stating that it was Osmeña who paid for the construction of the Ibo, Toledo City property;³⁴ f) utility bills to prove that the house in Ibo, Toledo City, has continually been occupied by Osmeña;³⁵ g) Contract of Lease covering a house and lot in Poblacion, Toledo City;³⁶ h) a Deed of Extrajudicial Settlement with Sale covering the 5 hectare property in Das, Toledo City;³⁷ and i) several affidavits attesting to the fact that Osmeña actually resides³⁸ and has profound socio-civic and political linkages in Toledo City.³⁹

²³ Id. at 27-74.

²⁴ Id. at 27-33.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id. at 137-139.

²⁹ Id. at 108.

³⁰ Id. at 109.

³¹ Id. at 110-111.

³² Id. at 115-117.

³³ Id. at 118.

³⁴ Id. at 147.

³⁵ Id. at 122.

³⁶ Id. at 143.

³⁷ Id. at 137-139.

³⁸ Id. at 119-121 and 126-127.

³⁹ Id. at 123-127.

The Ruling of the COMELEC's Second Division

The COMELEC Second Division dismissed the petition on the ground that Osmeña did not commit any material misrepresentation in his COC.⁴⁰ Citing *Velasco v. COMELEC*,⁴¹ the Second Division found that Osmeña was able to explain why he indicated in his COC that the period of his residence in Toledo City prior to the May 23, 2013 elections is 15 years.⁴² This was his belief, as according to him, he has ties with Toledo City since childhood and that even as a Senator, he continued to bring projects to Toledo City.⁴³ The Second Division further found that Osmeña complied with the residency requirement.⁴⁴

The petitioners timely moved for a reconsideration of the April 3, 2013 Resolution of the COMELEC.⁴⁵ Before the COMELEC resolved the motion, however, the Board of Canvassers of Toledo City proclaimed Osmeña as the winning candidate for the mayoralty seat.⁴⁶

The COMELEC *En Banc* Ruling

The COMELEC *en banc* subsequently denied the petitioners' motion for reconsideration.⁴⁷ Citing *Sabili v. COMELEC and Librea*,⁴⁸ the COMELEC *en banc* stated that it is not required that a candidate should have his own house in order to establish his residence or domicile in a place.⁴⁹ It is enough that he should live in the locality even in a rented house or that of a friend or a relative.⁵⁰

The Petition and Comments

The petition is based on the following grounds/arguments:⁵¹

- 1. The August 8, 2013 Resolution of the COMELEC *en banc*, which affirmed its Second Division's Resolution finding that Osmeña had not committed any false material representation in his COC, is null and void since Osmeña is not a resident of Toledo City, contrary to what he stated in his COC;**

⁴⁰ Id. at 50-63.

⁴¹ G.R. No. 180051, December 24, 2008, 575 SCRA 590.

⁴² Records, pp. 50-63.

⁴³ Id. at 56-63.

⁴⁴ Id.

⁴⁵ Records, pp. 314-321.

⁴⁶ Id. at 330.

⁴⁷ Id. at 333-336.

⁴⁸ G.R. No. 193261, April 24, 2012, 670 SCRA 664.

⁴⁹ Records, p. 334.

⁵⁰ Id.

⁵¹ *Rollo*, pp. 24-25.

- 2. Osmeña has not established by substantial evidence that he is a resident of Barangay Ibo of Toledo City and thus, should not be allowed to serve as Mayor of Toledo City;**
- 3. Osmeña's Certificate of Candidacy should have been cancelled and it is as if there was no one who challenged the candidacy of then incumbent Toledo City Mayor Aurelio P. Espinosa;**
- 4. The fact that Osmeña prevailed during the May 13, 2013 elections does not make him eligible for the position. To rule in favor of the apparent will of the people would ultimately create greater prejudice to democratic institutions and juristic traditions of the Constitution;**
- 5. The petitioner's evidence of Osmeña's lack of residence is not inconclusive. The purpose of the election law would be thwarted by upholding Osmeña's right to the office;**
- 6. The COMELEC showed partiality to Osmeña by admitting his belatedly filed Answer to the Petition, and his Amended Memorandum and Supplemental Amended Memorandum.**

In his Comment, Osmeña asserts that: 1) the COMELEC's findings of fact are supported by substantial evidence, and as such, are final and non-reviewable; 2) there was no material misrepresentation in his COC; 3) there was no deliberate attempt to mislead, misinform or hide a fact on the part of Osmeña; 4) the purpose of the minimum residency requirement is served because Osmeña has a significant relationship with, and intimate knowledge of, the City of Toledo; and 5) Osmeña has the mandate of the City of Toledo.⁵²

The Office of the Solicitor General (*OSG*) likewise filed a Comment on behalf of the COMELEC. The *OSG* argues that the COMELEC did not commit any grave abuse of discretion since Osmeña was able to adduce substantial evidence to prove that he was a resident of Toledo City at least one (1) year before the May 2013 elections.

The Court's Ruling

We dismiss the petition for lack of merit.

⁵²

Rollo, pp. 115-141.

Limited Review in Certiorari Petitions

“Grave abuse of discretion” defies exact definition; generally, it refers to “capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction;” the abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.⁵³ Mere abuse of discretion is not enough; it must be grave.⁵⁴ We have held, too, that the use of *wrong or irrelevant considerations* in deciding an issue is sufficient to taint a decision-maker's action with grave abuse of discretion.⁵⁵

Closely related with the limited focus of the present petition is the condition, under Section 5, Rule 64 of the Rules of Court, that *findings of fact of the COMELEC, supported by substantial evidence, shall be final and non-reviewable*. Substantial evidence is that degree of evidence that *a reasonable mind* might accept to support a conclusion.⁵⁶ In light of our limited authority to review findings of fact, we do not *ordinarily* review in a *certiorari* case the COMELEC's appreciation and evaluation of evidence. Any misstep by the COMELEC in this regard generally involves an error of judgment, not of jurisdiction.

In exceptional cases, however, when the COMELEC's action on the appreciation and evaluation of evidence oversteps the limits of its discretion to the point of being grossly unreasonable, the Court is not only obliged, but has the constitutional duty to intervene.⁵⁷ When grave abuse of discretion is present, resulting errors arising from the grave abuse *mutate* from error of judgment to one of jurisdiction.⁵⁸

Nature of the Case Subject of the Petition

The present petition arose from a *petition to deny due course or to cancel Osmeña's COC*.

Section 74, in relation with Section 78 of the Omnibus Election Code governs the cancellation of, and grant or denial of due course to, the COCs. The combined application of these sections requires that the facts stated in

⁵³ *Quintos v. COMELEC*, 440 Phil. 1045 (2002).

⁵⁴ *Cabrera v. Lapid*, 539 Phil. 114, 124 (2006).

⁵⁵ *Varias v. COMELEC*, G.R. No. 189078, February 11, 2010, 612 SCRA 386, 405.

⁵⁶ *Hon. Primo C. Miro v. Reynaldo M. Dosono*, G.R. No. 170697, April 30, 2010, 619 SCRA 653, 660.

⁵⁷ *Mitra v. Commission on Elections*, G.R. No. 191938, October 19, 2010, 633 SCRA 580.

⁵⁸ *Varias v. COMELEC*, *supra* note 55.

the COC by the would-be candidate be true, as any false representation of a material fact is a ground for the COC's cancellation or the withholding of due course. To quote these provisions:

SEC. 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 assumed 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.** (Emphasis ours)

X X X X

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 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.

The false representation that these provisions mention pertains to a material fact, not to a mere innocuous mistake.⁵⁹ This is emphasized by the consequences of any material falsity: a candidate who falsifies a material fact cannot run; if he runs and is elected, cannot serve; in both cases, he or she can be prosecuted for violation of the election laws.⁶⁰ Obviously, these facts are those that refer to a candidate's qualifications for elective office, such as his or her citizenship and residence.⁶¹

Separate from the requirement of materiality, a false representation under Section 78 must consist of a "deliberate attempt to mislead, misinform, or hide a fact, which would otherwise render a candidate ineligible."⁶² In other words, it must be made with the intention to deceive the electorate as to the would-be candidate's qualifications for public office. In *Mitra v. COMELEC*,⁶³ we held that the misrepresentation that Section 78

⁵⁹ *Velasco v. COMELEC*, *supra* note 41, at 603.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* citing *Ugdoracion, Jr. v. Commission on Elections*, G.R. No. 179851, April 18, 2008, 552 SCRA 231.

⁶³ G.R. No. 191938, July 2, 2010, 622 SCRA 744.

addresses cannot be the result of a mere innocuous mistake, and cannot exist in a situation where the intent to deceive is patently absent, or where no deception of the electorate results. The deliberate character of the misrepresentation necessarily follows from a consideration of the consequences of any material falsity: a candidate who falsifies a material fact cannot run.⁶⁴

No grave abuse of discretion on the part of COMELEC

To establish a new domicile of choice, personal presence in the place must be coupled with conduct indicative of this intention. It requires not only such bodily presence in that place but also a declared and probable intent to make it one's fixed and permanent place of abode.⁶⁵

The critical issue, however, pertains to Osmeña's bodily presence in Toledo City and the declaration he made in his COC on this point. The petitioners claim that Osmeña was only seen in Toledo City in the month of September 2012 to conduct political meetings. They also stress that the dilapidated property in Ibo, Toledo City is not even owned by Osmeña, and is not in keeping with the latter's stature — a former Senator and a member of a political clan.

In support of their contention, the petitioners submitted various affidavits of Toledo City residents claiming that Osmeña was never seen in Toledo⁶⁶ and pictures of the dilapidated Ibo, Toledo City property. Osmeña, meanwhile submitted photographs of the Ibo, Toledo City property, and various affidavits confirming his residence for more than one year in Toledo City.⁶⁷ Under these seemingly directly contradictory evidence, we find that the COMELEC did not commit any grave abuse of discretion in upholding the residency of Osmeña.

As the COMELEC aptly found, Osmeña had sufficiently established by substantial evidence his residence in Toledo City, Cebu.⁶⁸ As early as April 24, 2006,⁶⁹ Osmeña applied for the transfer of his voter's registration record to Toledo City, which was granted on April 24, 2012.⁷⁰ Osmeña likewise purchased a parcel of land in Ibo, Toledo City in 1995 and commenced the construction of an improvement, which would eventually serve as his residence since 2004.⁷¹ Osmeña even acquired another parcel of

⁶⁴ Id.

⁶⁵ *Domino v. Commission on Elections*, 369 Phil. 798, 819 (1999).

⁶⁶ Records, pp. 204-205, 207-209, 216-217 and 226-233.

⁶⁷ Id. at 119-121 and 126 to 127.

⁶⁸ Id. at 334.

⁶⁹ Id. at 118

⁷⁰ Id. at 141.

⁷¹ Id. at 146-147. In particular, James Y. Gaite, the previous owner of the Ibo, Toledo City, property, stated in his affidavit that it was Osmeña who personally transacted and negotiated with the former

land⁷² in Das, Toledo City in December 2011⁷³ and transferred his headquarters to Poblacion⁷⁴ and Bato, Toledo City as early as 2011. **The existence of Osmeña’s headquarters in Bato, Toledo City, was even confirmed by the Mr. Orlando Pama Casia, witness for the petitioners.**⁷⁵ Finally, Osmeña has always maintained profound political and socio-civic linkages in Toledo City—a fact that the petitioners never disputed.

The petitioners, in the present case, largely rely on statements that Osmeña was “hardly seen” in Toledo City, Cebu to support their claim of error of jurisdiction. These affidavits, however, deserve little consideration and loudly speak of their inherent weakness as evidence.

The law does not require a person to be in his home twenty-four (24) hours a day, seven (7) days a week, to fulfill the residency requirement.⁷⁶ In *Fernandez v. House Electoral Tribunal*,⁷⁷ we ruled that the “fact that a few barangay health workers attested that they had failed to see petitioner whenever they allegedly made the rounds in Villa de Toledo is of no moment, especially considering that there were witnesses (including petitioner's neighbors in Villa de Toledo) that were in turn presented by petitioner to prove that he was actually a resident of Villa de Toledo, in the address he stated in his COC. x x x It may be that whenever these health workers do their rounds petitioner was out of the house to attend to his own employment or business.”

Under the circumstances, the evidence submitted by the petitioners do not conclusively prove that Osmeña did not in fact reside in Toledo City for at least the year before election day; most especially since the sworn statements of some Toledo City residents attesting that they never saw Osmeña in Toledo City were controverted by similar sworn statements by other Toledo City residents who claimed that Osmeña resided in Toledo City.

Similarly, the fact that Osmeña has no registered property under his name does not belie his actual residence in Toledo City because property ownership is not among the qualifications required of candidates for local election.⁷⁸ It is enough that he should live in the locality, even in a rented house or that of a friend or relative.⁷⁹ To use ownership of property in the district as the determinative indicium of permanence of domicile or

regarding the sale of the parcel of land. See also the certification from Mantuhac Construction confirming that it was Osmeña who funded the construction of the buildings in the Ibo, Toledo City, property.

⁷² Id. at 143.

⁷³ Id. at 137-139.

⁷⁴ Id. at 233.

⁷⁵ Id.

⁷⁶ *Fernandez v. HRET*, G. R. No. 187478, December 21, 2009, 608 SCRA 733.

⁷⁷ Id.

⁷⁸ *Sabili v. COMELEC*, *supra* note 48, at 686.

⁷⁹ Id.

residence implies that only the landed can establish compliance with the residency requirement.⁸⁰ In *Perez v. COMELEC*,⁸¹ we sustained the COMELEC when it considered as evidence tending to establish a candidate's domicile of choice the mere lease (rather than ownership) of an apartment by a candidate in the same province where he ran for the position of governor.

We cannot accord credence either to the petitioners' contention that the dilapidated house in Ibo, Toledo City, could not serve as Osmeña's residence in view of the latter's stature. At the outset, the photographs submitted by Osmeña in evidence show that **the house is modestly furnished and contains the comforts of a simple abode**. Moreover, the petitioners' **speculation involves the use of subjective non-legal standards, which we previously condemned** in the case of *Mitra v. Commission on Elections*.⁸² In *Mitra*,⁸³ we pronounced:

The respondents significantly ask us in this case to adopt the same faulty approach of using subjective norms, as they now argue that given his stature as a member of the prominent Mitra clan of Palawan, and as a three term congressman, it is highly incredible that a small room in a feed mill has served as his residence since 2008.

We reject this suggested approach outright for the same reason we condemned the COMELEC's use of subjective non-legal standards. **Mitra's feed mill dwelling cannot be considered in isolation and separately from the circumstances of his transfer of residence, specifically, his expressed intent to transfer to a residence outside of Puerto Princesa City to make him eligible to run for a provincial position; his preparatory moves starting in early 2008; his initial transfer through a leased dwelling; the purchase of a lot for his permanent home; and the construction of a house in this lot that, parenthetically, is adjacent to the premises he leased pending the completion of his house.** These incremental moves do not offend reason at all, in the way that the COMELEC's highly subjective non-legal standards do. (Emphasis ours)

Osmeña's actual physical presence in Toledo City is established not only by the presence of a place (Ibo, Toledo City, house and lot) he can actually live in, but also the affidavits of various persons in Toledo City. Osmeña's substantial and real interest in establishing his domicile of choice in Toledo City is also sufficiently shown not only by the acquisition of additional property in the area and the transfer of his voter registration and headquarters, but also his participation in the community's socio-civic and political activities.

⁸⁰ *Fernandez v. HRET*, *supra* note 76, at 759.

⁸¹ G.R. No. 133944, 375 Phil. 1106, 1117-1118 (1999).

⁸² *Supra* note 57.

⁸³ *Id.*

Osmeña has been proclaimed winner in the electoral contest and has therefore the mandate of the electorate

Before his transfer of residence, Osmeña already had intimate knowledge of Toledo City, particularly of the whole 3rd legislative district that he represented for one term. Thus, he manifests a significant level of knowledge of and sensitivity to the needs of the said community. Moreover, Osmeña won the mayoralty position as the choice of the people of Toledo City.

We find it apt to reiterate in this regard the principle enunciated in the case of *Frivaldo v. Comelec*,⁸⁴ that “[i]n 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.”⁸⁵

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.⁸⁶ The reason for such liberality stems from the recognition that laws governing election contests must be construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.⁸⁷

Nonetheless, we wish to remind that COC defects *beyond matters of form* and that involve *material misrepresentations* cannot avail of the benefit of our ruling that COC mandatory requirements before elections are considered merely directory after the people shall have spoken.⁸⁸ Where a *material COC misrepresentation under oath* is made, thereby violating both our election and criminal laws, we are faced as well with an assault on the will of the people of the Philippines as expressed in our laws.⁸⁹ In a choice between provisions on material qualifications of elected officials, on the one hand, and the will of the electorate in any given locality, on the other, we believe and so hold that we cannot choose the electorate’s will.⁹⁰

⁸⁴ G.R. Nos. 120295 and 123755, 327 Phil. 521 (1996).

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ *Alberto v. COMELEC*, G.R. No. 132242, July 27, 1999, 311 SCRA 215, 222.

⁸⁸ *Mitra*, *supra* note 57 at 783.

⁸⁹ Id.

⁹⁰ Id.

With the conclusion that Osmeña did not commit any material misrepresentation in his COC, we see no reason in this case to appeal to the primacy of the electorate's will. We cannot deny, however, that the people of Toledo City have spoken in an election where residency qualification had been squarely raised and their voice has erased any doubt about their verdict on Osmeña's qualifications.

***The petitioners failed to substantiate
their claim of partiality on the part
of the COMELEC in admitting Osmeña's
Answer, Amended Memorandum***

Lastly, the petitioners insist that the COMELEC committed grave abuse of discretion in admitting Osmeña's belatedly filed Answer, Amended Memorandum and Supplemental Memorandum. The petitioners, however, failed to substantiate this allegation in their petition. In fact, the petitioners admitted that they **do not exactly know when Osmeña was served with summons by the clerk or commission.**⁹¹ They only **speculated** that Osmeña's Answer was filed one day delayed.

Similarly, we do not find any error on the part of the COMELEC in allowing the filing of Osmeña's amended memorandum, after obtaining leave from the COMELEC. As Osmeña aptly pleaded in his motion for leave, the **amendments** consisted of mere **technical errors**; the lower portions and the most crucial parts of the Memorandum **were omitted in its final printing**⁹² **because the printer was inadvertently configured to use an incorrect paper size.**

Moreover, amendments are actually favored in order to allow the complete presentation of the real controversies. We had this to say in this regard in *Contech Construction Technology and Dev't Corp. v. Court of Appeals*:⁹³

"It is a recognized rule of procedure that pleadings shall be construed liberally so as to render substantial justice to the parties and in order that actual merits of the controversy may speedily be determined without regard to technicalities and in the most expeditious and inexpensive manner. The judicial attitude has always been favorable and liberal in allowing amendments to a pleading. The rationale behind the rule is to avoid multiplicity of suits and in order that the real controversies between the parties are presented, their rights are determined and the case decided on the

⁹¹ *Rollo*, p. 40.

⁹² *Records*, pp. 234-235.

⁹³ G.R. No. 79903, July 23, 1992, 211 SCRA 692, 696-697.

merits without unnecessary delay. When the situation is such that if the proposed amendment is not allowed, another action would be instituted, thus making two actions, two trials, and two appeals possible and probable, the said amendment should be admitted. Hence, should the trial court find the allegations in the pleadings to be inadequate, it should allow the party concerned to file proper amendments to pleadings in accordance with the mandate of the Rules of Court that amendments to pleadings are favored and should be liberally allowed.”


In these lights, we can only conclude, in the context of the cancellation proceeding before us, that the petitioners have not presented a convincing case sufficient to show that the COMELEC committed an error of jurisdiction in upholding the residency of Osmeña in Toledo City and the validity of his representation on this point in his COC.


WHEREFORE, premises considered, we hereby **DISMISS** the petition for lack of merit. No costs.

SO ORDERED.


ARTURO D. BRION
Associate Justice


WE CONCUR:

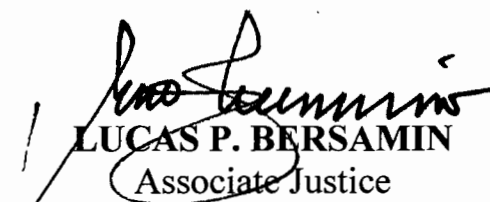

MARIA LOURDES P. A. SERRENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

(No Part)
FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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. SERRENO
Chief Justice