



Republic of the Philippines
SUPREME COURT
Manila

EN BANC

MARIA ANGELA S. GARCIA,
Petitioner,

G.R. No. 216691

Present:

- versus -

**COMMISSION ON
ELECTIONS and JOSE
ALEJANDRE P. PAYUMO III,**
Respondents.

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

Promulgated:

July 21, 2015

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DECISION

VELASCO, JR., J.:

Nature of the Case

Before us is a petition for certiorari under Rule 65 in conjunction with Rule 64 of the Rules of Court, praying for the annulment of the September 10, 2014¹ and January 29, 2015² Resolutions of public respondent Commission on Elections (Comelec), acting through its First Division and *En Banc*, respectively, in Case No. EAC [AEL] 11-2014. The assailed rulings reinstated the election protest of private respondent Jose Alejandro

* On official leave.

** Acting Chief Justice per Special Order No. 2101 dated July 13, 2015.

¹ Concurred into by Presiding Commissioner Lucenito N. Tagle (now retired) and by Commissioners Christian Robert S. Lim and Al A. Pareño; *rollo*, pp. 20-24.

² *Id.* at 25-31.

Payumo III (Payumo) and effectively reversed the trial court's ruling that it was filed out of time.

The Facts

Petitioner Maria Angela S. Garcia (Garcia) and Payumo were candidates for the mayoralty race of Dinalupihan, Bataan during the May 13, 2013 national and local elections. In the poll's conclusion, Garcia was proclaimed winner for having garnered 31,138 votes as against Payumo's 13,202. The Office of the Election Officer of Dinalupihan then released to Payumo a certified copy of the *printed* Certificate of Canvass of Votes and Proclamation (*printed* COCP), bearing May 15, 2013 as the date of proclamation of the winning mayoralty candidate. As per the records, the *printed* COCP reflected the signatures and thumbprints of the members of the Municipal Board of Canvassers (MBOC).³

On May 27, 2013, Payumo lodged an election protest⁴ with the Regional Trial Court, Branch 5 in Balanga, Bataan (RTC), docketed as Election Protest No. DH-001-13, citing the alleged prevalence of fraud and irregularities in all the clustered precincts of Dinalupihan, heightened by the Precinct Count Optical Scan (PCOS) machines' unreliability, casting doubt on the results of the counting and canvassing of votes.⁵ Anent the timeliness of the recourse, Payumo claimed that from May 15, 2013, the proclamation date appearing on the *printed* COCP, he had ten (10) days, or until May 25, 2013, within which to challenge the election results. He added that since May 25, 2013 falls on a Saturday, he filed his protest on the immediately succeeding working day, Monday, May 27, 2013.⁶

In answer,⁷ Garcia belied the allegations of fraud and urgently moved for the dismissal of Payumo's protest. She claimed that she was proclaimed mayor on May 14, not May 15, 2013, as indicated in the *manual* Certificate of Canvass of Votes and Proclamation (*manual* COCP)⁸ issued by Dinalupihan's MBOC. She, thus, argued that the election protest was filed beyond the mandatory ten-day (10-day) reglementary period for filing an election protest, which, as she claimed in this case, lasted only until May 24, 2013, a Friday. On the ground of belated filing, Garcia urged the RTC to dismiss the election protest outright.⁹

On July 1, 2013, the RTC heard the motion for preliminary determination of the affirmative defense of prescription. Members of the

³ Id. at 25-26.

⁴ Id. at 32-42.

⁵ Id. at 33.

⁶ Id.

⁷ Answer with Affirmative Defense and Compulsory Counterclaim with Urgent Motion for Preliminary Determination of the Affirmative Defense on the Ground that the Petition is Filed Out of Time; id. at 43-48.

⁸ Id. at 49.

⁹ Id. at 47.

MBOC of Dinalupihan took the witness stand and testified that Garcia was proclaimed on May 14, 2013 at around 5:00PM.

Ruling of the Regional Trial Court

Giving credence to petitioner's assertion, the RTC, through its Order¹⁰ dated February 17, 2014, dismissed Payumo's protest for being barred by the statute of limitations. The *fallo* of the Order reads:¹¹

IN VIEW OF THE FOREGOING, the election protest filed by protestant Jose Alejandro P. Payumo III on May 27, 2013 is hereby DISMISSED for having been filed one day beyond the non-extendible period provided under Rule 2, Section 7, in relation to Rule 2, Section 12 (c), of A.M. No. 10-4-1-SC, the 2010 Rules of Procedure in Election Contests before the Courts Involving Elective Municipal Officials.

SO ORDERED.

In disposing the case, the trial court cited and relied on the individual declarations of the Chairman and the two members of the MBOC of Dinalupihan, Bataan, as well as on the *manual* COCP, as sufficient proof that Garcia's proclamation took place on May 14, 2013.¹²

Undaunted, Payumo appealed the dismissal with the Comelec, docketed as EAC (AEL) No. 11-2014, alleging that he cannot be faulted for relying on the May 15, 2013 date indicated in the *printed* COCP since it was the official Comelec document signed by all the members of Dinalupihan's MBOC; that the *manual* COCP was only received by Garcia, and no one else; and that he had no representative when Garcia was allegedly proclaimed the winner.

Rulings of the COMELEC

The Comelec First Division, by its September 10, 2014 Resolution, granted Payumo's appeal thusly:¹³

WHEREFORE, premises considered, the Appeal is **GRANTED**. The Order dated February 17, 2014 is **REVERSED** and **SET ASIDE**. Accordingly, the Regional Trial Court of Balanga, Bataan, Branch 5 is hereby ordered to proceed with the adjudication of RTC-EP Case No. DH-001-13 and resolve the same with dispatch.

SO ORDERED.

Ratiocinating in the following wise:¹⁴

¹⁰ Penned by Judge Merideth D. Delos Santos-Malig; id. at 51-57.

¹¹ Id. at 57.

¹² Id. at 56.

¹³ Id. at 55.

¹⁴ Id. at 22-23.

Evidently, appellant could not be faulted for not relying on the COCP dated May 15, 2013 because that was the only document officially furnished him. He was unaware of the alleged Manual COCP dated May 14, 2013. The election officer himself admitted to the trial court that he could not remember if he had posted a copy of the May 14, 2013 Manual COCP on the bulletin board of the Sangguniang Bayan as required by Comelec Resolution No. 9648. Neither did he furnish a copy thereof to the secretary of the Sangguniang Bayan and the Municipal Treasurer.

Additionally, the Comelec First Division relied on the case of *Federico v. Comelec*¹⁵ (*Federico*) and held that the 10-day reglementary period ought to be reckoned from the time a party became aware in good faith of the issuance of the COCP, which in this case, according to public respondent, is May 15, 2013, as indicated in the *printed* COCP Payumo received.¹⁶

On reconsideration, the Comelec *En Banc*, by its assailed Resolution dated January 29, 2015, affirmed the holding of the First Division and disposed Garcia's motion in the following wise:¹⁷

WHEREFORE, premises considered, the Commission En Banc **RESOLVES to DENY** the Motion for Reconsideration filed by Protestee-Appellee **MARIA ANGELA S. GARCIA** for failing to show any reversible error on the part of the First Division and **UPHOLD** its Resolution dated 10 September 2014 granting Protestant-Appellant Payumo's Appeal.

SO ORDERED.

As held by the *En Banc*:

It would be tantamount to injustice should the 10-day period to file the Election Protest in this case be reckoned or counted from May 14, 2013, the date indicated in the Manual COCP as Protestee-Appellee Garcia's proclamation as winner since its copy was not even furnished to Protestant-Appellant Payumo. Clearly, Protestant-Appellant Payumo's only source of information as to the date of the proclamation of Protestee-Appellee Garcia was the printed COCP. It indicated 15 May 2013 as the date of Protestee-Appellee Garcia's proclamation as winner. Thus, his reliance on 15 May 2013, as the reckoning date of the 10-day period to file his *Election Protest* was in good faith.¹⁸

Hence, the instant recourse.

The Issue

Succinctly put, the issue in extant case boils down to whether or not Payumo's election protest was filed out of time. On the main, Garcia contends that the reckoning date of the 10-day reglementary period is from

¹⁵ G.R. No. 166912, January 22, 2013, 689 SCRA 134

¹⁶ *Rollo*, p. 23.

¹⁷ *Id.* at 30.

¹⁸ *Id.*

the actual date of proclamation, which is May 14, 2013. Meanwhile, Payumo counters that Garcia was proclaimed on May 15, 2013, and assuming *arguendo* that it was done on May 14, 2013, as Garcia insists the proclamation date to be, he cannot be faulted for relying on the date appearing on the *printed* COCP he received.

Respondent Comelec's Consolidated Comment, filed by the Office of the Solicitor General, echoes the sentiment of Payumo that the latter could not have known that Garcia was proclaimed on May 14, 2015 because the printed COCP, which was furnished him, stated otherwise. The Comelec likewise alleged that Garcia failed to establish that Payumo had a representative present at the exact moment Garcia was proclaimed winner and, thus, assuming that it were true, he could not have known that Garcia was already declared winner on May 14, 2015.

The Court's Ruling

We grant the petition.

Garcia's Proclamation Date

Pivotal in resolving whether or not Payumo's election protest is barred by the statute of limitations is ascertaining when the MBOC proclaimed Garcia as the winning mayoralty candidate. The significance of verifying this proclamation date is underscored by Rule 2, Section 12 (c), in relation to Sec. 7 of the same rule, A.M. No. 10-4-1-SC,¹⁹ otherwise known as the 2010 Rules of Procedure in Election Contests before the Courts Involving Elective Municipal Officials, which provisions pertinently state:

Section 12. Summary dismissal of election contests. – The court shall summarily dismiss, motu proprio, an election protest, counter-protest or petition for quo warranto on any of the following grounds:

- (a) The court has no jurisdiction over the subject matter;
- (b) The petition is insufficient in form and content as required under Section 10;
- (c) The petition is filed beyond the period prescribed in these Rules;**
- (d) The filing fee is not paid within the period for filing the election protest or petition for quo warranto; and
- (e) In a protest case where cash deposit is required, the deposit is not paid within five (5) days from the filing of the protest.

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Section 7. Period to file protest or petition; non-extendible. – The election protest or petition for quo warranto shall be filed within a non-extendible period of ten (10) days counted from the date of proclamation. (emphasis added)

¹⁹ Promulgated on April 27, 2010.

Jurisprudence teaches that the rule prescribing the 10-day reglementary period is mandatory and jurisdictional, and that the filing of an election protest beyond the period deprives the court of jurisdiction over the protest. Violation of this rule should neither be taken lightly nor brushed aside as a mere procedural lapse that can be overlooked. The rule is not a mere technicality but an essential requirement, the non-compliance of which would oust the court of jurisdiction over the case.²⁰

Aware of the repercussions that befall an election protest belatedly filed, the private parties herein advance two conflicting dates whence the reglementary period should reckon. But between the two proposed reckoning dates, May 14, 2013, as claimed by petitioner, appears to be the correct date of proclamation.

As can be recalled, the RTC, on July 1, 2013, conducted a motion hearing to determine the timeliness of the election protest. Records reveal that during the said proceeding, the members of the MBOC testified in the following manner:²¹

Court:

Please take your seats. So, Election Officer Leonilo Miguel, Municipal Treasurer Lani Peñaflor, Ms. Socorro Sacdalan, the resolution of the Motion to Resolve Affirmative Defense on the ground that the protest was filed out of time will be resolved based on the answers that you will give this afternoon. xxx So, the first question of the Court is that, **when did you officially proclaim the winning candidate, the protestee, Maria Angela S. Garcia?** You give your answers one by one. So, for Election Officer Mr. Miguel, what is your answer?

Leonilo Miguel:

Sir, we proclaimed Maria Angela Garcia on May 14.

Court:

What time?

Leonilo Miguel:

At almost 5:00 o'clock, sir.

Court:

So, take your seat first. And then Municipal Treasurer Lani Peñaflor, as part of the members of the [MBOC] of Dinalupihan, when did you officially proclaim Maria Angela Garcia as the winning mayor of Dinalupihan, Bataan?

Lani Peñaflor:

Can I give my statement, sir?

²⁰ *Roquero v. Comelec*, G.R. No. 1281658, April 15, 1998, 289 SCRA 150; citing *Asuncion v. Segundo*, No. L-59593, September 24, 1983, 124 SCRA 729; *Robes v. Comelec*, No. L-63130, June 28, 1983, 123 SCRA 193, and *Conui-Omega v. Samson*, No. L-21910, November 11, 1963, 9 SCRA 493; see also *Lim v. Comelec*, G.R. No. 129040, November 17, 1997, 282 SCRA 53; *Kho v. Comelec*, G.R. No. 124033, September 25, 1997, 279 SCRA 463;

²¹ TSN, July 1, 2013, pp. 5-8; *rollo*, pp. 112-115.

Court:

Please give up (sic).

Lani Peñaflor:

I, Lani Peñaflor, vice-chairman of the [MBOC], do hereby certify that our functions based on general instructions and minutes on the consolidation, canvass and transmission of votes cannot proceed on the second step due to the problem occurred on the memory card of precinct No. 15 of Brgy. Bangal, we resulted to only 98.75% of votes canvass as of May 14, 2013. Due to this situation, the legal counsel of candidates Herminia Roman and Renato Matawaran cited Resolution 9700 and used it as basis to proclaim the winner since votes cast on precinct no. 15, Brgy, Bangal, will not affect the result and ranking of local candidates. The members who waited for the instructions of Atty. Rafael Olano, Regional Election Director who will proceed to the process of Resolution 9700 and request threshold that this group canvass to be used for the preparation of Manual Certificate of Canvass of Votes and Proclamation of the winning candidates. **I do also certify that I signed last May 14, 2013 the Manual Certificate of Canvass and Proclamation of the winning candidates pursuant to Comelec Resolution No. 9700.** On May 15, 2013 the password has been received and the CCS will then proceed to the second step of the general instruction and steps presented on the CCS laptop, afterwhich the CCS then automatically proceed on the generation and printing of CEF No. 29, COCP and other documents related thereto. I again certify that last May 15, 2013, signed the generated reports by the CCS, one of which is CEF No. 29, Certificate of Canvass and Proclamation of winning candidates in compliance with the general instruction. Then we proceed on electronically transmitting the result after signing all the documents as prescribed by the GI and generated by the CCS. I assumed that our Election Officer strictly follows the rules on the investigation of Comelec election forms and reports set forth by the Commission on Elections. Thank you.

Court:

Okay, thank you. Ms. Socorro Sacdalan, again, as a member of the [MBOC], Dinalupihan, Bataan, when did you proclaim Maria Angela Garcia as the winning mayor for Dinalupihan, Bataan?

Socorro Sacdalan:

We proclaimed the winning candidate, Maria Angela S. Garcia, on **May 14, 2013**, sir.

Court:

What time, if you recall?

Socorro Sacdalan:

At around 5:00 o'clock p.m., sir.

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(words in brackets and emphasis added)

As the members of the MBOC individually declared, Garcia was proclaimed winner of the mayoralty race on May 14, 2013, not on May 15, 2013 as what erroneously appears on the *printed* COCP.

What is more, the testimony of municipal treasurer Lani Peñaflor (Peñaflor), vice-chairperson of the MBOC, conveys an explanation for the discrepancy between the dates appearing on the *manual* and *printed* COCPs— that on May 14, 2013, at around 5:00 o'clock in the afternoon, Garcia was proclaimed the winner after 98.75% of votes were already canvassed; that the proclamation was done in light of the fact that the number of voters in the unaccounted clustered precinct could no longer affect the result of the recently concluded polls; that the lowering of the threshold was approved by the Regional Election Director; and that the *manual* COCP was prepared reflecting the result of the elections.

The procedure followed by the MBOC, as outlined by Peñaflor, is consistent with Comelec Resolution No. 9700,²² wherein the Commission resolved, among others, that:

1. The Municipal, City, Provincial, District, and Regional Boards of Canvassers shall **proclaim the winning candidates** on the basis of the last "Grouped Canvass Report" generated by the CCS, **by manually preparing a Certificate of Canvass and Proclamation of Winning Candidates**, supported by a copy of the last generated "Grouped Canvass Report", **even if not all results are received by their respective CCS**; Provided, That, the standing of the candidates will not be affected by the results not yet transmitted to, and received by, the CCS, without prejudice to the ranking of the winning candidates. For this purpose, attached as Annex "A" is the format of the Certificate of Canvass and Proclamation to be manually prepared by the boards of canvassers;
2. The Regional Election Directors are authorized to approve requests of boards of canvassers in their respective regions to lower the canvassing threshold to enable said boards to **generate the certificate of canvass for transmission to the next level of canvassing**. For this purpose, the National Support Center shall provide all Regional Election Directors with the "ADMIN USERNAME" and corresponding "PASSWORD" needed to lower canvassing threshold, and the appropriate instructions on how to set the lowered coming from the said board; xxx (emphasis added)

Apparently, contrary to Payumo's assertion, the *manual* COCP is the official Comelec document in cases wherein the canvassing threshold is lowered. In fact, clear from the language of the Resolution is that the winners, in such instances, are proclaimed "by **manually** preparing a Certificate of Canvass and Proclamation of Winning Candidates," the format for which is appended to Comelec Resolution No. 9700. It is incorrect to state, therefore, that only the *printed* COCP can serve as basis for ascertaining the date of Garcia's proclamation. As in this case, it is the

²² In the Matter of Lowering the Threshold of the Canvassing and Consolidation System in Connection with the May 13, 2013 National and Local Elections; promulgated on May 14, 2013.

manual COCP which contains the true and exact date of Garcia's proclamation – May 14, 2013, not the *printed* COCP.

Payumo's reliance on the date appearing on the *printed* COCP is misplaced. To be sure, Comelec Resolution No. 9700 is explicit that the *printed* COCP becomes necessary only for purposes of transmitting the results to the next level of canvassing, and not for proclaiming the winning candidates, insofar as local government units whose canvassing thresholds have been lowered are concerned. The *manual* COCP, in such cases, are more controlling. Furthermore, it appears that May 15, 2013 is the date the *printed* COCP was generated, which, as the members of the MBOC claimed, the Comelec-issued laptop does not allow to be modified.²³ And as justified by the MBOC, they were only able to produce the *printed* COCP on May 15, 2013, the day after the actual proclamation, because that was only when they were able to retrieve from the Regional Election Director the username and password for generating the document, denominated as CEF 29.²⁴

As aptly concluded by the RTC:²⁵

The declaration made by the individual members of the MBOC that the proclamation of protestee [herein private respondent] was done on May 14, 2013, coupled with the issuance of the manual certificate of canvass and proclamation on the same date, is sufficient proof that protestee's proclamation was in fact done on May 14, 2013 and not on May 15, 2013. The printed certificate of canvass and proclamation issued on May 15, 2013 was not meant to supersede the proclamation already been done on May 14, 2013, but only to comply with the "official format" of the COMELEC, according to Municipal Election Officer Miguel. The printed document merely affirmed what had already been accomplished with the manually written document.

Having established that Garcia was proclaimed the winning mayoralty candidate on May 14, 2013, it is then plain to see that Payumo's election protest, dated May 27, 2013, was filed beyond the 10-day reglementary period and ought to be dismissed outright.

The ruling in Federico v. Comelec is not a precedent to the instant case

Payumo next seeks refuge under the case of *Federico*, in which the Court indeed nullified the proclamation of therein petitioner Renato Federico (Federico) as mayor of Santo Tomas, Batangas even though private respondent Osmundo Maligaya (Maligaya) filed the election protest more than ten (10) days after such fact. There, the Court reckoned the 10-day prescriptive period not from the date of proclamation but from the date Maligaya received notice of the event, rendering the actual date of

²³ TSN, July 1, 2013, p. 32; *rollo*, p. 139.

²⁴ TSN, July 1, 2013, pp. 30-31; *rollo*, pp. 137-138.

²⁵ *Rollo*, p. 55.

proclamation immaterial. It is this holding in *Federico* that Payumo adamantly urges that We apply.

The argument is specious.

Guilty of reiteration, Rule 2, Sec. 7 of A.M. No. 10-4-1-SC provides:

Section 7. Period to file protest or petition; non-extendible. – The election protest or petition for quo warranto shall be filed within a non-extendible period of ten (10) days **counted from the date of proclamation.** (emphasis added)

The above provision is the procedural equivalent of Sec. 251 of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code, which states:

Sec. 251. Election contests for municipal offices. - A sworn petition contesting the election of a municipal officer shall be filed with the proper regional trial court by any candidate who has duly filed a certificate of candidacy and has been voted for the same office, **within ten days after proclamation of the results of the election.** (emphasis added)

As can be gleaned, Sec. 251 of the Omnibus Election Code provides that the 10-day period ought to be reckoned from the date of proclamation and not from the date of notice. As the elementary rule in statutory construction goes, when the words and phrases of a statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says.²⁶ This is known as the plain-meaning or *verba legis* rule, expressed in the Latin maxim “*verba legis non est recedendum*,” or “from the words of a statute there should be no departure.”²⁷ Since the afore-quoted provision, as couched, is clear and free from ambiguity, its literal meaning must be applied without attempted interpretation.²⁸

The rationale behind the non-extendible 10-day prescriptive period is not difficult to deduce – every candidate interested in the outcome of the election is expected to be vigilant enough in protecting his or her votes and would, therefore, enlist the aid of volunteer poll watchers in every clustered precinct to guard against or document possible irregularities, or that the candidate would personally be present at or, at the very least, would send representatives to the canvassing areas to ensure the proper tallying of votes and to monitor the real-time results of the elections as they are electronically transmitted. Consequently, they are expected to know of the exact moment the winning candidate is proclaimed by the board of canvassers concerned.

True, *Federico* appears to have deviated from the wording of Sec. 251 of the Omnibus Election Code but that is only due to the peculiarities of the

²⁶ *Baranda v. Gustilo*, G.R. No. 81163, September 26, 1988, 165 SCRA 757, 770.

²⁷ *Bolos v. Bolos*, G.R. No. 186400, October 20, 2010, 634 SCRA 429, 437.

²⁸ *Id.*

said case. It must be stressed that Our ruling in *Federico* was based on considerations not in all fours with the case at bar.

Recapitulating *Federico*, the MBOC of Santo Tomas, Batangas, on May 11, 2010, printed a COCP showing "SANCHEZ Edna P." (Edna) as the winning mayoralty candidate. This prompted Maligaya to file a Petition to Annul Proclamation against Edna Sanchez on May 20, 2010. However, the petition was later withdrawn, as agreed upon by the parties, leading to the case's dismissal. Unknown to Maligaya, a second print-out of the COCP was then issued by the MBOC, bearing the same date "May 11, 2010," crediting the same number of votes garnered by Edna to Federico after the latter allegedly **substituted** Edna as mayoralty candidate. Federico, through the second print-out, was then declared the winning mayoralty candidate. Claiming that Maligaya only found out this fact on May 27, 2010, he filed an election protest against Federico on June 1, 2010.

Affirming the Comelec's ruling that the election protest against Federico was timely filed, the Court ratiocinated thusly:²⁹

It has been argued that **there is no evidence that Maligaya became aware of the issuance of the second COCP in favor of Federico only on May 27, 2010. In this regard, the Court believes that the actions taken by Maligaya after the elections and the separate proclamations of Edna and Federico strongly indicate that he was telling the truth.** Indeed, there is no rhyme or reason why he should file a petition questioning the proclamation of Edna if he had knowledge of the subsequent proclamation of Federico. The Court adopts with approbation his reasoning on the matter. Thus:

5.35. Private respondent pursued and prosecuted this case with the knowledge that it was Edna Sanchez who was proclaimed, until he came to know of the alleged proclamation of respondent Federico on May 27, 2010. Consequently, he filed another petition on June 1, 2010, this time against Federico, to annul his proclamation. The June 1, 2010 petition was filed within ten days from the knowledge of the alleged proclamation of Federico.

5.36. The filing of SPC NO. 10-022 demonstrates that private respondent **Maligaya believed in good faith that it was Edna Sanchez that was proclaimed and that he did not initially know that there was a COCP in the name of Federico.** SPC No. 10-022 is also a proof that petitioner did not dilly dally in protecting his rights. There simply is no reason and it runs counter to human conduct for Maligaya to file a petition for annulment of proclamation of Edna Sanchez if he knew all along that it was Federico who was proclaimed.

5.37. In the same manner, **the filing of the present petition against Federico shows that the proclamation of Federico was fraudulent or at least made surreptitiously.** Had Maligaya

²⁹ *Federico v. Commission on Elections*, G.R. No. 166912, January 22, 2013, 689 SCRA 134, 154-156.

known of the proclamation of Federico, he should have outrightly filed the petition for annulment of proclamation against Federico. **But because it was made without any notice to the herein private respondent, he only knew of it on May 27, 2010, thus, the petition on June 1, 2010.** Private respondent did not certainly sleep on his rights as he filed the proper petition within the prescribed period. He could not be penalized for belated filing when, as shown above, the COCVP of Federico was surreptitiously accomplished. Thus, the Comelec En Banc did not commit grave abuse of discretion in upholding the interest of herein private respondent Maligaya. (emphasis added)

To begin with, we have considered in *Federico* the fact that petitioner Federico therein could not have validly substituted Edna as mayoralty candidate in Santo Tomas, Batangas, and that as a non-candidate in the mayoralty race, he cannot legally be declared and proclaimed the winner. Thus, the nullity of the substitution consequently led to the nullity of the proclamation.³⁰ Here lies the difference.

More importantly, the circumstances in *Federico* that (1) there were actually two different proclamations made by the MBOC, and (2) that the second proclamation was surreptitiously made were essential in Our ruling therein. **This is in stark contrast with the case at bench where there was only one proclamation, which was, by no means, clandestinely made.** Here, there is no dispute that there was only one mayoralty candidate proclaimed winner. Thus, the only issues pertain to when such proclamation was done, and which document accurately reported the same.

In addition, there was no allegation whatsoever of a surreptitious proclamation for Garcia's proclamation was, in fact, publicly announced. As culled from the records, the members of the MBOC testified that Garcia was proclaimed on May 14, 2013 in a well-attended ceremony:³¹

Atty. Pomer:

When you said you raised the hand of the winning candidate, protestee, Maria Angela Garcia, at 5:00 o'clock in the afternoon of May 14, 2013, **were there persons present?**

Leonilo Miguel:

Yes, sir.

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³⁰ "When Batangas Governor Armando Sanchez died on April 27, 2010, Edna withdrew her candidacy as mayor and substituted her late husband as gubernatorial candidate for the province on April 29, 2010. The party actually had the option to substitute another candidate for Governor aside from Edna. By fielding Edna as their substitute candidate for Governor, the party knew that she had to withdraw her candidacy for Mayor. Considering that the deadline for substitution in case of withdrawal had already lapsed, no person could substitute her as mayoralty candidate. The sudden death of then Governor Armando Sanchez and the substitution by his widow in the gubernatorial race could not justify a belated substitution in the mayoralty race." See *Federico v. Comelec*, G.R. No. 166912, January 22, 2013, 689 SCRA 134, 151.

³¹ TSN, July 1, 2013, pp. 10-13; *rollo*, pp. 117-120.

Atty. Pomer:

Would you know if among those who were present there was a representative from the protestant, Payumo?

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Socorro Sacdalan:

I am not aware if there are representatives of the protestant because **there were many persons, people inside the center.**

Court:

Question from the Court. Which exact place you said you proclaimed Maria Angela Garica at 5:00p.m. on May 14?

Leonilo Miguel:

At the session hall of the Sangguniang Bayan of Dinalupihan, Bataan.

Court:

So, Atty. Pomer, do you have any other questions?

Atty. Pomer:

Yes, Your Honor. Were there other winning candidates that you proclaimed on that occasion aside from the protestee?

Leonilo Miguel:

Yes, sir. We proclaimed the vice-mayor and the eight (8) councilors.

Court:

Same, May 14, 5:00 o'clock?

Leonilo Miguel:

Yes, sir.

Atty. Pomer:

So, the proclamation took place (*sic*) in the session hall. Was that in the same place the canvassing took place (*sic*)?

Leonilo Miguel:

Yes, sir.

Atty. Pomer:

And that during the canvassing, there were watchers and lawyers of the candidates present, is it not?

Leonilo Miguel:

Yes, sir.

(emphasis added)

Indeed, there is a substantial distinction between the extant case and *Federico* which, in the latter, prevented Maligaya, through no fault of his own, from filing an election protest within the period prescribed.

***Petitioner Payumo cannot be deemed
to have acted in good faith***

Further contrasting the case at bar with *Federico*, herein petitioner Payumo’s claim of good faith in relying on the *printed* COCP fails to persuade.

“Good faith” is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry.³²

Here, knowledge of Garcia’s May 14, 2013 proclamation is attributable to Payumo since he was represented by one Fernando Manalili (Manalili) during the canvassing proceeding, as per the minutes prepared by the MBOC.³³ Hornbook doctrine is that notice to the agent is notice to the principal.³⁴ And as appearing in the minutes, several representatives were fielded by the Liberal Party, the political banner under which Payumo filed his candidacy, to monitor the results real-time.³⁵

May 13-14, 2013

1. Atty. Mary Kristine Reyes Chu	NUP/Ma. Angela Garcia – Albert Garcia
2. Atty. Lowell John J. Fetizanan	Nationalist Peoples Coalition Party
3. Atty. Norby Caparas	Herminia B. Roman
4. Atty. Honey Lynco	Liberal Party
5. Fernando P. Manalili	Liberal Party (Jojo Payumo)
6. Ramon Alfonso T. Munez	Liberal Party
7. Bohjee Bobby A. Yap	Liberal Party
8. Bro. Roy Quiambao	PPCRV
9. Reymond Fontanilla	Paralegal
10. Janette Oftana	Watcher
11. Harold Cacacho	Watcher
12. Carlos Caringal	Lawyer

Noteworthy is that apart from Manalili, Payumo had other representatives present during the canvassing on May 13-14, 2013. Thus, even if we entertain Payumo’s postulation that Manalili did not stay long enough to witness the canvassing proceedings from start to finish, and that he was allegedly not present at least during Garcia’s proclamation, We, nevertheless, still cannot give credence to petitioner’s claim of good faith. Payumo cannot plausibly feign ignorance of Garcia’s proclamation since knowledge of such fact is attributable to him not only through Manalili, but also through the other party representatives. Consequently, Payumo is then

³² *Ochoa v. Apeta*, G.R. No. 146259, September 13, 2007, 533 SCRA 235, 240.

³³ Minutes of Canvassing, Consolidation, and Transmission of Votes; *rollo*, p. 50.

³⁴ *Roxas v. Court of Appeals*, G.R. No. 100480, May 1, 1993, 221 SCRA 729.

³⁵ *Rollo*, p. 50.

barred from otherwise claiming that Garcia was proclaimed mayor on May 14, 2013.

Moreover, the fact that Payumo only received a copy of the *printed*, and not the *manual* COCP, is of no moment. For **as the losing candidate, he is not, under the Comelec rules, even entitled to be furnished a copy of the COCP.** Section 30 of Comelec Resolution No. 9648³⁶ provides that insofar as the electoral candidates are concerned, only the winners are entitled to a copy of the COCP, *viz*:

Sec. 30. Distribution of COCP and SOVs. - The Board shall generate and print sufficient copies of the COCP and one (1) copy of the SOV to be distributed as follows:

a. **MBOC/CBOC**

1. To the Election Records and Statistics Department (ERSD) of the Commission;
2. To be posted on the bulletin board of the municipal hall, supported by SOVP;
3. To the Chairman, MBOC/CBOC;
4. To the Secretary, Sangguniang Bayan/ Panlungsod;
5. To the Municipal Treasurer;
6. To a **winning Candidate** for Mayor; **Winning Candidate** for Vice-Mayor; and
7. To each **winning Candidate** for members of the Sangguniang Bayan/Panlungsod. (emphasis added)

The wording of the afore-quoted rule is pregnant with meaning. *First*, its literal interpretation is that only the winning candidates have the demandable right to be furnished a copy of the COCP. *Second*, it amplifies the general rule that the prescriptive period ought to be reckoned from the actual date of proclamation, not from notice through service of a COCP, since the losing candidates are not even required to be served a copy of the COCP in the first place. *Lastly*, it warns the candidates to be more vigilant in monitoring the results of the elections for them to be conscious of the deadline for filing an election protest, should they opt to contest the results.

In sum, the Court maintains the general rule that the reglementary period for instituting an election period should be reckoned from the actual date of proclamation, not from the date of notice. Absent any circumstances analogous to the factual milieu of *Federico*, a relaxation of the rules will not be warranted.


Finally, as regards the MBOC's alleged disregard of the requirement under Comelec Resolution No. 9648 to post copies of the COCP in the designated areas, and to serve them to the other winning candidates, needless to say that they do not and could not invalidate Garcia's proclamation. Neither do they toll the 10-day period to file an election protest in this case

³⁶ General Instructions for the Board of Canvassers on the Consolidation/Canvass and Transmission of Votes in Connection with the May 13, 2013 National and Local Elections; promulgated on February 22, 2013.

since Payumo is still deemed aware of the results by way of notice to his agent or agents. Instead, these alleged omissions merely expose the members of the MBOC to possible liability should it be proven that they deviated from procedure, which issue is not yet ripe for Us to decide.

WHEREFORE, in view of the foregoing, the petition is hereby **GRANTED**. The assailed September 10, 2014 and January 29, 2015 Resolutions of the Commission on Elections in Case No. EAC [AEL] 11-2014 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the February 17, 2014 Order of the Regional Trial Court, Branch 5 in Balanga, Bataan, dismissing Petitioner Jose Alejandro Payumo III's election protest for being barred by the statute of limitations is hereby **REINSTATED**.


SO ORDERED.




PRESBITERO J. VELASCO, JR.
Associate Justice


WE CONCUR:

(On Official Leave)
MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Acting Chief Justice

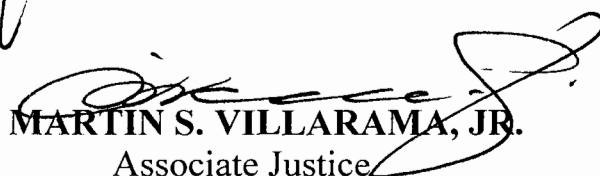

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice

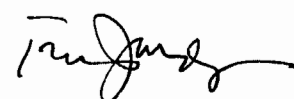

JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

(On Official Leave)
BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


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.



ANTONIO T. CARPIO
Acting Chief Justice

