

EN BANC

G.R. No. 225152 — PARTIDO DEMOKRATIKO PILIPINO-LAKAS NG BAYAN (PDP-LABAN) herein represented by its Secretary-General, CONG. PANTALEON “BEBOT” ALVAREZ, *petitioner*; LEON ESTRELLA PERALTA, MELCHOR GRUELA MAGDAMO, and OTHELLO ESTROPIGAN DALANON, *intervenors*, versus COMMISSION ON ELECTIONS *EN BANC*, *respondent*.

Promulgated:

October 5, 2021

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SEPARATE CONCURRING OPINION

CAGUIOA, J.:

The *ponencia* declares as void the Commission on Elections (COMELEC) Resolution No. 10147¹ which extended the deadline for filing of the statements of contributions and expenditures (SOCEs) for the May 9, 2016 National and Local Elections, for being repugnant to Republic Act No. (R.A.) 7166.² Nevertheless, it applies the doctrine of operative fact, and deems as timely filed, the 2016 SOCEs which were submitted during the extension set by Resolution No. 10147.³

I concur.

I write this Separate Concurring Opinion to stress: 1) that the mandatory character of the period for filing of SOCEs set under Section 14, R.A. 7166 does not preclude tardy winning candidates from assuming their offices after such filing, and 2) the import and coverage of the penal provisions under Section 14.

While the period fixed in Section 14, R.A. 7166 is mandatory, the filing of SOCEs beyond the same does not bar the assumption to office of candidates who won in the elections.

I agree with the *ponencia*'s conclusion that the COMELEC committed grave abuse of discretion in issuing Resolution No. 10147 which extended the filing of the SOCEs for the May 9, 2016 elections, beyond the 30-day period

¹ Entitled, “IN RE: SEVERAL REQUESTS FOR EXTENSION TO FILE STATEMENT OF CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES, POLITICAL PARTIES, AND PARTYLIST ORGANIZATIONS IN RELATION TO THE 2016 NATIONAL AND LOCAL ELECTIONS,” promulgated on June 23, 2016.

² Entitled, “AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES,” approved on November 26, 1991.

³ *Ponencia*, pp. 16-17.

provided in Section 14 of R.A. 7166. That such period is mandatory is clear from the letter of the law, thus:

SEC. 14. *Statement of Contributions and Expenditures: Effect of Failure to File Statement.* – Every candidate and treasurer of the political party **shall, within thirty (30) days after the day of the election**, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

x x x x (Emphasis supplied)

In *Pilar v. Commission on Elections*⁴ (*Pilar*), the Court had interpreted this provision as mandatory, thus:

Furthermore, Section 14 of the law uses the word “shall.” As a general rule, the use of the word “shall” in a statute implies that the statute is mandatory, and imposes a duty which may be enforced, particularly if public policy is in favor of this meaning or where public interest is involved. We apply the general rule (*Baranda v. Gustilo*, 165 SCRA 757 [1988]; *Diokno v. Rehabilitation Finance Corporation*, 91 Phil. 608 [1952]).⁵

Pilar likewise explained that the law’s policy is to regulate expenditures of candidates by requiring the filing of SOCEs and limiting the amount of money that a candidate may spend, for the ultimate objective of clean elections that is expressive of the true will of the people, thus:

The state has an interest in seeing that the electoral process is clean, and ultimately expressive of the true will of the electorate. One way of attaining such objective is to pass legislation regulating contributions and expenditures of candidates, and compelling the publication of the same. Admittedly, contributions and expenditures are made for the purpose of influencing the results of the elections (B.P. Blg. 881, Sec. 94; Resolution No. 2348, Sec. 1). Thus, laws and regulations prescribe what contributions are prohibited (B.P. Blg. 881, Sec. 95; Resolution No. 2348, Sec. 4), or unlawful (B.P. Blg. 881, Sec. 96), and what expenditures are authorized (B.P. Blg. 881, Sec. 102; R.A. No. 7166, Sec. 13; Resolution No. 2348, Sec. 7) or lawful (Resolution No. 2348, Sec. 8).

Such statutes are not peculiar to the Philippines. In “corrupt and illegal practices acts” of several states in the United States, as well as in federal statutes, expenditures of candidates are regulated by requiring the filing of statements of expenses and by limiting the amount of money that may be spent by a candidate x x x.⁶

Hence, the mandatory nature of Section 14 is evident from its letter as well as its purpose. The COMELEC, as a mere administrative body tasked to enforce the law, cannot alter its provisions. Having done so by issuing

⁴ G.R. No. 115245, July 11, 1995, 245 SCRA 759.

⁵ Id. at 764.

⁶ Id.

Resolution No. 10147 which extended the deadline fixed in the law, the COMELEC exceeded its jurisdiction and committed grave abuse of discretion.

Further, it appears that the COMELEC, in issuing Resolution No. 10147, was impelled by an erroneous interpretation of the law, other than on its mandatory character. This is evident from some of its claimed objectives in issuing said resolution — to “avoid a constitutional crisis by not impeding the assumption to office of the then Vice President–Elect”⁷ and to “avoid a serious vacuum in governance by not barring 5 Senators, 115 Congressmen, 40 Governors, and a host of local officials from assuming office.”⁸ Moreover, the facts reveal that the COMELEC had likewise extended the deadline for filing of SOCEs in the 2010 and 2013 elections, for 15 days and one year, respectively,⁹ presumably for the same purposes as the subject extension.

From these, it appears that as early as in 2010, the COMELEC — the main government body tasked to execute R.A. 7166 — had been under the impression that winning candidates who file their SOCEs beyond that 30-day period in Section 14, are barred from assuming the offices to which they are elected. This appears to be the reason why the COMELEC saw the need to issue extensions to avert political vacuums. This construction is triggered by the second paragraph of Section 14 that prohibits such winning candidates from assuming office should they fail to file their SOCEs.

This is erroneous, and demonstrates the need to finally clarify and emphasize the real import of the law.

It is a basic statutory construction rule that particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts, and in order to produce a harmonious whole.¹⁰ Here, Section 14 reads:

SEC. 14. *Statement of Contributions and Expenditures: Effect of Failure to File Statement.* – Every candidate and treasurer of the political party shall, **within thirty (30) days after the day of the election**, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

⁷ As cited in the *ponencia*, pp. 4-5; footnote no. 12.

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *National Tobacco Administration v. Commission on Audit*, G.R. No. 119385, August 5, 1999, 311 SCRA 755, 769.



The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act.

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos ([P]1,000.00) to Thirty thousand pesos ([P]30,000.00), in the discretion of the Commission.

The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

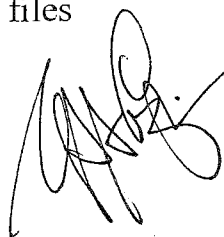
It shall be the duty of every city or municipal election registrar to advise in writing, by personal delivery or registered mail, within five (5) days from the date of election all candidates residing in his jurisdiction to comply with their obligation to file their statements of contributions and expenditures.

For the commission of a second or subsequent offense under this section, the administrative fine shall be from Two thousand pesos ([P]2,000.00) to Sixty thousand pesos ([P]60,000.00), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office. (Emphasis and underscoring supplied)

A reading of the second paragraph above shows that it merely prevents a winning candidate from assuming the office to which he is elected **until** he has duly filed his SOCE. In other words, such filing of the SOCE is a *condition precedent* to the assumption of an elective office. This is regardless of whether the filing is made within or beyond the 30-day period fixed in paragraph 1. That said, what the belated filing triggers is paragraph 4, that is, such belated filing gives rise to an administrative offense for which the tardy candidate shall be liable to pay fines.

Hence, the Court's finding in the present case that Section 14's 30-day period is mandatory does not bar a winning candidate who filed beyond said period from assuming office. To stress, the 30-day period is mandatory only in the sense that a violation thereof — that is, the belated filing of a SOCE — constitutes an administrative offense penalized with the paying of fines. The tardy winning candidate shall still enter upon the duties of his or her office but only after he or she has duly filed his or her SOCE.

This reading is consistent with the deliberations of the lawmakers which, while showing the intention to make mandatory the twin requirements of Section 14 — the act of filing the SOCE and the period within which the same should be filed — does not show that the belated filing amounts to a forfeiture of the seat a winning candidate had won in the elections. The evident intention is that the candidate shall be deprived of such seat only **until** he files his SOCE, thus:



x x x x

MR. PALACOL. Your Honor, there are offices where the statement of contributions and expenses are supposed to be filed. **Now, 30 days after the election they are supposed to file that statement of expenses and their contributions. With this provision of law, any candidate or interested party can go to the particular office where the supposed statement has to be filed.** And from that they can verify whether or not this particular winning candidate had filed his statement of contribution and expenditures. **Now, it says here that not until and unless this winning candidate has filed his statement of contributions and expenses he cannot assume office.**

x x x x

Now if a winning candidate is really desirous of assuming his position, as a matter of fact, you will observe that our election is on May 11, 1992 and the assumption is on June 30, which is more than 30 days. You can easily determine whether or not he had filed the corresponding statement. He is going to assume his office afternoon of June 30, 1992, more than 30 days period. So, he could just simply go to the particular office and check there whether this particular winning candidate had filed his statement. This is the scenario that will happen.¹¹

From the foregoing, it is evident that the lawmakers' intent in fixing a 30-day deadline from the day of the elections, which expires before the synchronized assumption of office of winning candidates on June 30 following such elections,¹² is to afford any interested party the opportunity to confirm if a winning candidate has duly filed the SOCE. This includes the winning candidate himself or herself, who may verify from the COMELEC his or her compliance with Section 14, and who may still remedy any lapse therein before the scheduled assumption of his elected office, if he or she "is really desirous of assuming" the same.

Moreover, this construction of the law will prevent the frustration of the people's votes brought about by a mere tardiness on the part of their elected candidates. After all, election laws are liberally and equitably construed to give fullest effect to the manifest will of the people.¹³ All doubts should be resolved in favor of the elected candidates' eligibility, because the determination of the true will of the electorate must prevail.¹⁴ This liberal policy in favor of an elected official is further supported by the statutory construction rule that, with respect to election laws, mandatory provisions requiring certain steps before election will be construed as directory after the elections, to give effect to the will of the electorate.¹⁵

¹¹ *Ponencia*, pp. 8-9. Emphasis and underscoring supplied.

¹² As fixed in the CONSTITUTION, Sec. 4, Article VII; Secs. 4 and 7, Article VI and relevant laws (e.g., R.A. 7166 and LOCAL GOVERNMENT CODE, Sec. 43.)

¹³ *Fernandez v. House of Representatives Electoral Tribunal*, G.R. No. 187478, December 21, 2009, 608 SCRA 733, 753.

¹⁴ *Sinaca v. Mula*, G.R. No. 135691, September 27, 1999, 315 SCRA 266, 282.

¹⁵ *Id.* at 281.

Hence, contrary to the impression of the COMELEC, the concerned candidates in the present case who filed their SOCEs beyond the 30-day deadline would not have been barred from assuming their offices, even in the absence of Resolution No. 10147 which extended the deadline for filing. Instead, the tardy candidates were only liable to pay the administrative fines under Section 14.

The penalties under Section 14 of R.A. 7166 apply to all persons who filed a Certificate of Candidacy (CoC) but failed to file a SOCE in accordance with the requirements of Section 14.

It bears noting that paragraph 4 speaks only of “failure[s] to file” SOCEs, lending the impression that it may not cover belated filings, thus:

SEC. 14. x x x

x x x x

Except candidates for elective barangay office, **failure to file the statements or reports in connection with electoral contributions and expenditures as required herein** shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos ([P]1,000.00) to Thirty thousand pesos ([P]30,000.00), in the discretion of the Commission.

x x x x (Emphasis and underscoring supplied)

However, I submit that it likewise applies to SOCEs filed beyond the 30-day deadline fixed in the law. A careful reading of the law shows that it covers all failures to file SOCEs “as required herein.” In other words, a SOCE which, although filed, failed to comply with the requirements of Section 14, still falls under paragraph 4. Such requirements include the 30-day period fixed in Section 14’s paragraph 1. Hence, a person who files a SOCE in violation of the required 30-day period is liable for the administrative offense and fine set in paragraph 4.

Moreover, while a first offense of such failure to duly file a SOCE shall not deprive a winning candidate of his or her office, as it merely results in a liability to pay fines, a second or subsequent offense triggers the last paragraph of Section 14. Hence, the erring candidate shall suffer, not only to pay a larger amount of fine, but likewise a perpetual disqualification from holding public office.

At this juncture, it bears noting that the term “candidate,” as used in Section 14, had been taken by the Court to include those who have filed and later withdrew their CoCs prior to the elections. Hence, in a case where the



candidate withdrew his CoC three days after its filing, the Court affirmed the ₱10,000.00 fine that the COMELEC imposed upon him, and held:

Section 14 of R.A. No. 7166 states that “every candidate” has the obligation to file his statement of contributions and expenditures.

Well-recognized is the rule that where the law does not distinguish, courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos* (Philippine British Assurance Co. Inc. v. Intermediate Appellate Court, 150 SCRA 520 [1987]; cf. *Olfato v. Commission on Elections*, 103 SCRA 741 [1981]). No distinction is to be made in the application of a law where none is indicated (*Lo Cham v. Ocampo*, 77 Phil. 636 [1946]).

In the case at bench, as the law makes no distinction or qualification as to whether the candidate pursued his candidacy or withdrew the same, the term “every candidate” must be deemed to refer not only to a candidate who pursued his campaign, but also to one who withdrew his candidacy.¹⁶

Likewise, a candidate who had failed to submit his SOCE twice although he withdrew his CoC prior to the last elections, is liable to suffer the exacting penalties of bigger fine and perpetual disqualification under the last paragraph of Section 14. In *Maturan v. COMELEC*,¹⁷ the Court rejected said candidate’s defense of good faith, and that, under the circumstances, the penalty was excessive, harsh and cruel, so as to be proscribed by the Constitution, thus:

Still, in a final attempt to evade liability, the petitioner describes the penalty of perpetual disqualification as excessive, harsh and cruel, and, consequently, unconstitutional pursuant to Section 19(1), Article III of the 1987 Constitution x x x.

x x x x

He contends that the failure to file the SOCE is an offense far less grave than the serious crimes under the *Revised Penal Code* and the grave offenses under the civil service laws. Accordingly, equating the non-filing of the SOCE with the latter offenses is irrational and unwarranted.

The petitioner’s contention does not impress.

x x x x

We have already settled that the constitutional proscription under the Bill of Rights extends only to situations of extreme corporeal or psychological punishment that strips the individual of his humanity. The proscription is aimed more at the form or character of the punishment rather than at its severity x x x.¹⁸

Moreover, the law does not distinguish between those who have actually received contributions or made expenditures, and those who have/did

¹⁶ *Pilar v. Commission on Elections*, supra note 4, at 763.

¹⁷ G.R. No. 227155, March 28, 2017, 821 SCRA 587.

¹⁸ *Id.* at 595-596.



not. In *Pilar*, the Court noted that COMELEC Resolution No. 2348 does not excuse from filing a SOCE those candidates who had not received contributions nor made expenditures, and, in fact, requires such candidate to reflect in the SOCE those facts.

At this juncture, it may also be well to clarify that Section 14's penalties are not applicable to election spending in excess of the limits fixed under Section 13¹⁹ of R.A. 7166, which, the Court has ruled, amended Section 100 of Batas Pambansa Bilang 881, otherwise known as the "Omnibus Election Code" (OEC), and thus remains an election offense under Section 262²⁰ of the OEC.²¹ The Court emphasized in *Cumigad v. People*,²² that Section 14 refers only to *non-filing of SOCEs*. In other words, Section 262 of the OEC and Section 14 of R.A. 7166 punish different acts — election overspending in the former, and failure to duly file SOCE in the latter.

In the present case, everyone who filed a CoC with the COMELEC for the 2016 elections but failed to submit a SOCE in accordance with the law — regardless if such candidate withdrew his or her CoC before the elections, or lost or won therein, and regardless if he or she actually received contributions and expended — incurs the penalties provided under Section 14. Hence, they are all liable to pay the administrative fine under the fourth or last paragraph of Section 14, as the case may be, with the multiple offenders to suffer the additional penalty of perpetual disqualification to hold public office under the last paragraph.

Nevertheless, I agree with the *ponencia's* application of the Operative Fact Doctrine, in light of the evident good faith of the concerned candidates who honestly relied on Resolution No. 10147, which was issued pursuant to the COMELEC's rule-making authority. Hence, I agree that the SOCEs filed during the extension under Resolution No. 10147, even though beyond the mandatory 30-day period under R.A. 7166, should be deemed timely filed.

¹⁹ See Sec. 13 of R.A. 7166 that provides:

SEC. 13. *Authorized Expenses of Candidates and Political Parties.* — The aggregate amount that a candidate or registered political party may spend for election campaign shall be as follows:

- (a) *For candidates.* — Ten pesos ([P]10.00) for President and Vice-President; and for other candidates, Three pesos ([P]3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy: *Provided*, That, a candidate without any political party and without support from any political party may be allowed to spend Five pesos ([P]5.00) for every such voter; and
- (b) *For political parties.* — Five pesos ([P]5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

x x x x

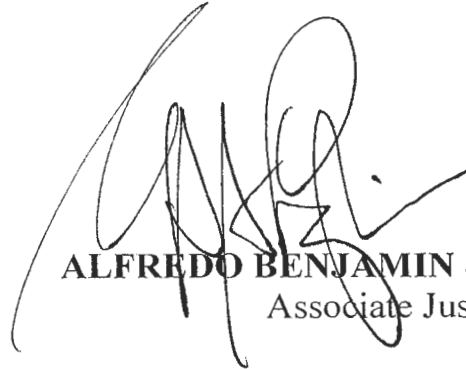
²⁰ OMNIBUS ELECTION CODE, Sec. 262 states:

Sec. 262. *Other election offenses.* — Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections x x x 100 x x x.

²¹ *Cumigad v. People*, G.R. No. 245238, August 27, 2020 (Unsigned Resolution), accessed at <<https://sc.judiciary.gov.ph/15035/>>.

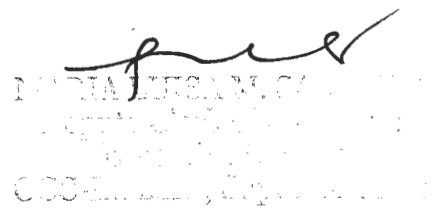
²² *Id.*

However, to clarify, I submit that the ruling of the Court in the present case is without prejudice to the imposition of penalties for violation of R.A. 7166 or other applicable laws, on any ground other than the tardiness in the filing of the subject SOCEs.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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