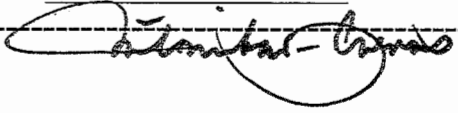


EN BANC

G.R. No. 265847 – MA. ZARAH ROSE DE GUZMAN-LARA, Petitioner,
v. COMMISSION ON ELECTIONS and MANUEL N. MAMBA,
Respondents.

Promulgated:

August 6, 2024

X----------X

CONCURRING OPINION

GESMUNDO, C.J.:

I concur in the *ponencia* of the esteemed Associate Justice Jhosep Y. Lopez. In particular, it is my position that it was error for the Commission on Elections (COMELEC) *En Banc* to rule (a) that it lacked jurisdiction over the Petition for Disqualification, and (b) that the Petition for Disqualification was filed out of time.

To recall, in this case, petitioner Ma. Zarah Rose De Guzman-Lara (Lara) filed a Petition seeking the disqualification of private respondent Manuel N. Mamba (Mamba) as a candidate for the position of governor of the Province of Cagayan in the May 2022 National and Local Elections.¹ The Petition, filed pursuant to Section 68 of Batas Pambansa Blg. 881 or the Omnibus Election Code (OEC), was grounded on the alleged commission by Mamba of massive vote-buying activities and unlawful disbursement of public funds.² The Petition was sent to the COMELEC by email, at 6:21 p.m. on May 10, 2022.³ A few hours later, or at 1:39 a.m. on May 11, 2022, Mamba was proclaimed the winner of the elections.⁴

The COMELEC *En Banc* dismissed the Petition on the ground of lack of jurisdiction.⁵ It cited COMELEC Resolution No. 10673, which provides that pleadings filed by email and received by the COMELEC beyond 5:00 p.m. shall be considered filed at 8:00 a.m. of the next working day.⁶ Applying COMELEC Resolution No. 10673, the COMELEC *En Banc* held that the Petition should be considered filed at 8:00 a.m. on May 11, 2022, or after

¹ *Ponencia*, p. 2.

² *Id.*

³ *Id.* at 4.

⁴ *Id.*

⁵ *Id.* at 4–5.

⁶ *Id.* at 4; COMELEC Resolution No. 10673, sec. 5.



Mamba's proclamation.⁷ Thus, according to COMELEC, the Petition was filed out of time and Mamba's proclamation "divested the Commission of any authority to hear and decide [the disqualification case]."⁸

Contrary to the conclusions of the COMELEC *En Banc*, I submit that (a) the COMELEC retained jurisdiction over the Petition even after Mamba's proclamation, and (b) the Petition was filed on time.

*Jurisdiction of the COMELEC
over petitions for
disqualification involving
elective provincial officials*

Under the Constitution, the COMELEC exercises exclusive original jurisdiction over all contests relating to the elections and qualifications of elective provincial officials. Article IX-C, Section 2(2) of the Constitution states:

The Commission on Elections shall exercise the following powers and functions:

.....

(2) *Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. (Emphasis supplied)*

In this case, the Petition seeks the disqualification of Mamba as a candidate for the position of governor of the Province of Cagayan. Following Article IX-C, Section 2(2) of the Constitution, jurisdiction over the Petition lies with the COMELEC.

It should be emphasized that there is no constitutional provision or law which divests the COMELEC of jurisdiction over cases involving the qualifications of elective provincial officials after a candidate has been proclaimed. This is to be distinguished from the COMELEC's jurisdiction over cases involving candidates for the positions of president, vice-president, and members of the Senate and House of Representatives, where a valid proclamation, among others, has the effect of transferring jurisdiction over the

⁷ *Id.* at 4.

⁸ *Id.*

case to the Presidential Electoral Tribunal, Senate Electoral Tribunal, or House of Representatives Electoral Tribunal, as the case may be.⁹ To stress, in cases involving the disqualification of elective provincial officials, the COMELEC retains jurisdiction even after the proclamation of a winning candidate.

In dismissing the Petition on the ground of lack of jurisdiction, the COMELEC *En Banc* invoked its own rules of procedure, citing a provision in COMELEC Resolution No. 10673 regarding the time of filing of emails. However, the COMELEC cannot use its own rules of procedure to oust itself of jurisdiction over the case. Jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of procedure yield to substantive law.¹⁰ Jurisdiction cannot be taken away from an otherwise competent tribunal for purely procedural reasons.¹¹

Period for filing of petitions for disqualification

Although, based on substantive law, the COMELEC retains jurisdiction over contests relating to the elections and qualifications of elective provincial officials even after the proclamation of a winning candidate, it is true that a petition can still be dismissed on other grounds, such as failure to comply with procedural rules. As held by the Court in *Agravante v. Commission on Elections*,¹² adherence to rules of procedure is necessary to ensure the orderly administration of justice and the protection of substantive rights.¹³ Any party seeking a liberal application of the rules is required to present strong and compelling reasons to warrant their suspension.¹⁴ Consequently, in the absence of compelling reasons to justify a relaxation of the rules, a petition which is filed out of time violates rules of procedure and is dismissible on that ground.

That being said, I agree in the *ponencia* that the Petition in this case was filed on time, well within the period provided for the filing of petitions for disqualification under the COMELEC Rules of Procedure. That is, the Petition passes muster even with a strict application of procedural rules.

⁹ See CONST., art. VI, sec. 17 and art. VII, sec. 4; *Macalintal v. Presidential Electoral Tribunal*, 650 Phil. 326, 339 (2010) [Per J. Nachura, *En Banc*], citing J. Austria-Martinez, Separate Opinion in *Tecson v. Commission on Elections*, 468 Phil. 421, 562 (2004) [Per J. Vitug, *En Banc*].

¹⁰ *Non v. Office of the Ombudsman*, 882 Phil. 962, 979 (2020) [Per J. Reyes, J. Jr., *En Banc*].

¹¹ *Gomez v. People*, 889 Phil. 915, 980 (2020) [Per J. Gesmundo, *En Banc*].

¹² G.R. No. 264029, August 8, 2023 [Per C.J. Gesmundo, *En Banc*].

¹³ *Id.* at 12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹⁴ *Id.* at 8–9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

The Petition filed before the COMELEC seeking Mamba's disqualification was based on Section 68 of the OEC, which states:

Section 68. *Disqualifications.* — Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

The OEC does not provide the period within which petitions based on Section 68 may be filed. Instead, the applicable period is found in the COMELEC Rules of Procedure, as follows:

RULE 25
Disqualification of Candidates

Section 1. *Grounds for Disqualification.* — Any candidate who does not possess all the qualifications of a candidate as provided for by the Constitution or by existing law or who commits any act declared by law to be grounds for disqualification may be disqualified from continuing as a candidate.

....

Section 3. *Period to File Petition.* — The petition shall be filed any day after the last day for filing of certificates of candidacy but *not later than the date of proclamation.* (Emphasis supplied)

Otherwise stated, Rule 25, Section 3 of the COMELEC Rules of Procedure declares that the deadline for filing of petitions for disqualification is *the date* of proclamation. From a plain reading of the rule, it would appear that a petition for disqualification can be filed even after the exact time a candidate is proclaimed, as long as it is still filed within the same day.



This interpretation finds further support in the Civil Code provision directing that “days” shall be understood to mean 24 hours.¹⁵ Thus, the date or day of the proclamation should be understood to mean the full 24 hours of the day on which the proclamation takes place. The COMELEC Rules of Procedure, being procedural law, should yield to the interpretation directed by the Civil Code, a substantive law.

To my mind, moreover, the Court should construe the phrase “date of proclamation” to include the full 24 hours of the day because this is the more reasonable and practical interpretation of Rule 25, Section 3 of the COMELEC Rules of Procedure. The Court may take notice of the fact that the proclamation of a winning electoral candidate can take place at any time of the day, even beyond regular office hours and into the late hours of the night. If it was counted from the exact time of the proclamation, then the deadline of the filing of petitions for disqualification, from the point of view of the petitioner, can be extremely difficult to predict. To construe the phrase “date of proclamation” to include the full 24 hours of the day facilitates order and predictability, in accord with the purpose of procedural rules to ensure the effective enforcement of substantive rights.¹⁶

Thus, the Petition, which was deemed by the COMELEC to be filed at 8:00 a.m. on the day of Mamba’s proclamation, was still filed on time.

Finally, even assuming that the deadline for the filing of petitions for disqualification is the exact hour, minute, or second that the proclamation of the winning candidate takes place, it must be remembered that the Petition in this case was actually filed by email at **6:21 p.m.** on May 10, 2022, a day before Mamba’s proclamation. It is only because of the application of Section 5 of COMELEC Resolution No. 10673, which provides that emails received beyond 5:00 p.m. shall be considered filed at 8:00 a.m. of the next working day, that the Petition was deemed filed after Mamba’s proclamation took place.

While the sensibility of rules adjusting the date of filing by electronic mail is recognized, it is submitted that Section 5 of COMELEC Resolution No. 10673 should not be strictly applied when the deadline is based on the proclamation of an electoral candidate. Again, the proclamation of a winning candidate can take place at any time of the day or night. In this case, for example, Mamba’s proclamation took place at **1:39 a.m.** on May 11, 2022. A peculiar situation, thus, arises where, applying COMELEC Resolution No. 10673 and presumably to respect office hours, pleadings filed by email beyond 5:00 p.m. are considered filed at 8:00 a.m. of the next working day, and

¹⁵ Republic Act No. 386 (1949), art. 13, The Civil Code of the Philippines.

¹⁶ *Gomez v. People*, 889 Phil. 915, 978 (2020) [Per J. Gesmundo, *En Banc*].

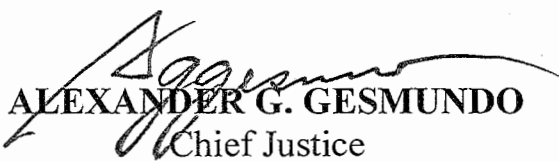


yet the proclamation of the candidate—on which the deadline of the petition for disqualification depends—can happen at any time. Considering thus, it behooves the Court to consider that petitions for disqualification may be filed even beyond office hours. That is, in the specific case where deadlines are based on the proclamation of electoral candidates, there may be compelling reasons to relax the application of Section 5 of COMELEC Resolution No. 10673 regarding the time of electronic filings.

It may also be borne in mind that email filings can, in reality, be done at any time of the day. This is in contrast to personal filings or filings via registered mail, where the pleading in question can only be received by an agency during office hours, after which the agency will be physically closed. On the other hand, emails can be sent and received at any time. Access to the email is not anymore hindered by the physical structure and office hours of the concerned agencies. To stress, as in this case, a pleading can be actually filed by email and considered received by the COMELEC in real time before the proclamation.

Taking the foregoing into consideration, and considering further that the COMELEC Second Division found merit in the charges contained in the Petition for Disqualification,¹⁷ I agree that the Petition for *Certiorari* filed by Lara before this Court should be granted, and that the case be remanded to the COMELEC *En Banc* for proper disposition.

ACCORDINGLY, I CONCUR in the *ponencia* and vote to **GRANT** the Petition.


ALEXANDER G. GESMUNDO
Chief Justice

¹⁷ *Ponencia*, p. 3.