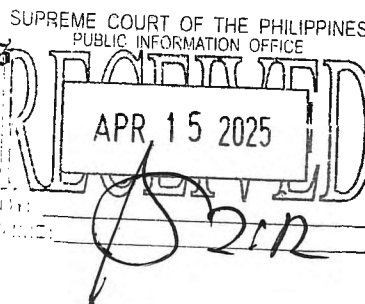




Republic of the Philippines
Supreme Court
Manila



SECOND DIVISION

RENATO
ROBLES,

GUEVARRA y

G.R. No. 276682

Petitioner,

Present:

LEONEN, S.A.J., Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,**
LOPEZ, J., and
KHO, JR., JJ.

- versus -

HONORABLE COURT OF
APPEALS and PEOPLE OF
THE PHILIPPINES,
Respondents.

Promulgated:

FEB 10 2025

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DECISION

KHO, JR., J.:

Before the Court is a Petition for *Certiorari*¹ with an application for the issuance of a Temporary Restraining Order (TRO) and/or a Writ of Preliminary Injunction² assailing the Decision³ dated January 18, 2024 and the Resolution⁴ dated March 25, 2024 of the Court of Appeals (CA) in CA-G.R. CR No. 02428-MIN, which affirmed the Decision⁵ dated January 20, 2023 of Branch 33, Regional Trial Court, Butuan City (RTC). The RTC convicted petitioner Renato Guevarra y Robles (Guevarra) of violation of

* Designated Acting Chief Justice per Special Order No. 3160 dated February 6, 2025.

** On official business

¹ *Rollo*, pp. 4-34.

² *Id.* at 93-104.

³ *Id.* at 60-69. Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Richard D. Mordeno and Jill Rose S. Jaugan-Lo of the Twenty-First Division, Court of Appeals, Cagayan de Oro City.

⁴ *Id.* at 81-83.

⁵ *Id.* at 37-43. Penned by Presiding Judge Isah J. Echem-Tangonan.

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Section 34 of Commission on Elections (COMELEC) Resolution No. 10049,⁶ in relation to Section 13 of Republic Act No. 9006⁷ and Section 264 of Batas Pambansa Blg. 881.⁸

The Facts

Guevarra was a candidate for councilor of Butuan City during the May 9, 2016 National and Local Elections. In an Information⁹ dated January 7, 2019, he was charged with violating Section 34 of COMELEC Resolution No. 10049:

That on or about April 12, 2016 and April 23, 2016, between 4:30 to 5:00 o'clock in the afternoon in Butuan City, Philippines and within the jurisdiction of this Honorable Court, during the campaign period for the May 9, 2016 Local and National Elections, the above-named accused, being then a candidate for City Councilor of Butuan City under Action (sic) Demokratiko Party, taking advantage of his profession as a radio commentator, did then and there willfully, unlawfully, and feloniously, engaged (sic) in partisan political activity by uttering and broadcasting on the air during his radio program: "Batang Butuan: Oras Na! Raon na" with the Radyo Trumpeta FM radio station, thereby attacking the candidacy of incumbent Congressman Laurence Lemuel "Law" A. Fortun of the Congressional District of Butuan City and the Municipality of Las Nieves and then candidate for re-election for the same office, whom he named, among others, as "Lawig Traydor", ignorant, liar, power and wealth hungry, corrupt, drug user and a traitor, to the damage and prejudice of said Congressman Laurence Lemuel "Law" A. Fortun, herein represented by Eldie N. David in such amount as may be proved by the court.

CONTRARY TO LAW: (Violation of Section 34 of COMELEC Resolution No. 10049 in relation to Section 264 of the Omnibus Election Code).¹⁰

Upon arraignment, Guevarra pleaded not guilty.¹¹

The prosecution's evidence sought to establish that at the time of the broadcast, Guevarra was a radio commentator for the program *Batang Butuan: Oras Na! Raon Na* aired in the station *Radyo Trumpeta*. On April 12 and 23, 2016, three witnesses, who were working for the campaign of another candidate, recorded the radio program, where Guevarra was heard promoting his own candidacy and that of his party-mates. He also maligned other candidates, such as Laurence Lemuel A. Fortun.¹²

⁶ Rules and Regulations Implementing Republic Act No. 9006, Otherwise Known as the "Fair Elections Act," In Connection with the 09 May 2016 National and Local Elections (2016).

⁷ An Act to Enhance the Holding of Free, Orderly, Honest, Peaceful, and Credible Elections Through Fair Election Practices (2001).

⁸ OMNIBUS ELECTION CODE (1985).

⁹ See rollo, p. 61.

¹⁰ Id. at 61-62.

¹¹ Id.

¹² Id. at 62-63.

For his part, Guevarra denied the charge. He argued that as early as 2012, he had resigned from his position as a radio commentator in *Radyo Trumpeta*. He presented a copy of the resignation letter he sent to *Radyo Trumpeta*'s acting manager, Elmer Maboloc (Maboloc). He claimed that he went on to teach at an educational institution after his resignation. He averred that his appearance in the radio program on April 12 and 23, 2016 was only as a guest and not a commentator.¹³

In support of Guevarra's claim, Maboloc testified as to the former's resignation as commentator. Amihan J. Bayer (Bayer), another radio commentator and Guevarra's former colleague, also testified that she interviewed Guevarra in April 2016. She clarified that Guevarra was only a guest in the radio program and is not considered a commentator or a block-timer.¹⁴

The prosecution then presented a rebuttal witness who testified that contrary to Bayer's testimony, Guevarra was not merely a guest, but was the program's anchorman, who did the interviewing of the guests. She also identified Guevarra as among the block-timers who were consistently against Mayor Ronnie Lagnada.¹⁵

The RTC Ruling

In a Decision¹⁶ dated January 20, 2023, the RTC found Guevarra guilty beyond reasonable doubt of violation of Section 34 of COMELEC Resolution No. 10049, in relation to Section 13 of Republic Act No. 9006 and Section 264 of Batas Pambansa Blg. 881. Accordingly, Guevarra was sentenced to suffer the straight penalty of imprisonment for a period of one year.¹⁷

In finding guilt, the RTC listened to the broadcast recordings and concluded that far from being a guest in the radio program, Guevarra was its anchorman and commentator. He was the one who directed the flow of the program; introduced the guests of the program, consisting of his fellow candidates; and even introduced a certain Vic dela Victoria as his "co-anchor." Further, the RTC noted that Guevarra was alone for most of the program, belying the defense that he was a mere guest. To the RTC, this meant that Guevarra was a radio commentator. Thus, following Section 34 of COMELEC Resolution No. 10049, he should have been deemed resigned or taken a leave of absence from the practice of his profession.¹⁸

¹³ *Id.* at 64–66.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 37–43.

¹⁷ *Id.* at 43.

¹⁸ *Id.* at 41–43.

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Given Guevarra's involvement in the radio program, the RTC gave little credence to his defense of resignation, ruling that even if it were true, media practitioners who are not employed by any media entity, such as talents or block-timers, are still prohibited by Section 34 from using their time to favor any candidate or party.¹⁹

Aggrieved, Guevarra appealed²⁰ to the CA.

The CA Ruling

In a Decision²¹ dated January 18, 2024, the CA affirmed the RTC's decision *in toto*.²²

The CA rejected Guevarra's argument that the prosecution failed to prove the actual date of broadcast, affirming the RTC's finding that the broadcast mentioned the date of the broadcast and that Guevarra even thanked people who greeted him on his birthday, April 23. Further, the CA also found that Guevarra steered the radio program on his own and was not a mere guest. Following Section 34 of COMELEC Resolution No. 10049, he was a media practitioner who used his airtime to favor certain candidates and political parties.²³

Guevarra moved for reconsideration,²⁴ which the CA denied in a Resolution²⁵ dated March 25, 2024.

According to Guevarra, on March 5, 2024, he sent a Letter²⁶ to Atty. Joy Marie Badal-Pamisa, Executive Clerk of Court III of the Twenty-Third Division of the CA, to inform her that he has severed his attorney-client relations with his then-counsel, Atty. Cyril Francis S. Casiño (Atty. Casiño). He also requested that subsequent decisions, resolutions, and orders be sent to his address in Butuan City. In its March 25, 2024 Resolution, the CA noted Guevarra's Letter,²⁷ even listing his new address in Butuan City; nevertheless, the same Resolution was sent to Guevarra's old address in Cavite.²⁸ When the CA's Resolution reached Guevarra in Butuan City, the time to file a petition for review on *certiorari* with the Court had passed. Consequently, the CA

¹⁹ *Id.*

²⁰ *See* Appellant's Brief; *id.* at 46–59.

²¹ *Id.* at 60–69.

²² *Id.* at 69.

²³ *Id.* at 66–68.

²⁴ *Id.* at 70–77.

²⁵ *Id.* at 82–83.

²⁶ *Id.* at 80.

²⁷ *Id.* at 82.

²⁸ *Id.* at 81.

judgment had been entered on August 16, 2024.²⁹

This prompted Guevarra to file the present Petition for *Certiorari*, claiming that the CA gravely abused its discretion in failing to send its Resolution to his proper address. Further, he claims that the courts *a quo* erred in finding him guilty of violating Section 34 of COMELEC Resolution No. 10049. He claims that the courts should have considered his evidence of having resigned as a commentator as sufficient. Finally, he claims that his actions during the campaign period did not violate Section 34 of COMELEC Resolution No. 10049.³⁰

The Issue Before the Court

The Court resolves whether the CA gravely abused its discretion in affirming Guevarra's conviction and issuing an Entry of Judgment despite not sending its Resolution to Guevarra's proper address.

The Court's Ruling

The Petition is denied.

Once the time to file an appeal has lapsed with no appeal or other suitable remedy being taken, the rule respecting the immutability of final judgments takes effect. It ordains that a decision that has acquired finality may no longer be modified in any respect.³¹ Nevertheless, the Court has recognized exceptions to the rule. In *Bernardo vs. Court of Appeals*,³² the Court held:

It is only in rare cases that this Court resolves to recall an entry of judgment such as for instance, to prevent a miscarriage of justice. We relax the rules of procedure in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby. . . .³³

Here, the Court recognizes that through a Letter he submitted to the CA, Guevarra had claimed that he had severed ties with his counsel, Atty. Casiño, and that he had changed his address. In its March 25, 2024 Resolution, the CA

²⁹ *Id.* at 85.

³⁰ *Id.* at 11–12.

³¹ *Denila v. Republic*, 877 Phil. 380, 438–439 (2020) [Per J. Gesmundo, Third Division].

³² 800 Phil. 50 (2016) [Per J. Jardeleza, Third Division].

³³ *Id.* at 64.

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acknowledged Guevarra's Letter containing his new address.³⁴ Nevertheless, the Resolution was sent to Guevarra's old address and to Atty. Casiño. While the Court finds that the CA had been remiss in failing to acknowledge Guevarra's new address, it had not erred in sending its Resolution to Atty. Casiño. Despite Guevarra's Letter, Atty. Casiño remained his counsel of record. True, the termination of an attorney-client relation is the client's absolute right; however, the duty of informing the court of such termination falls to the counsel and not the client.³⁵ The appropriate measures for the proper withdrawal of counsel are among the duties of counsel and not the client.

Thus, notwithstanding whatever had been agreed upon by Guevarra and Atty. Casiño, without a proper notice from counsel, the Court cannot fault the CA for considering the latter as Guevarra's counsel. Service of the CA Resolution to Atty. Casiño, therefore, is notice to Guevarra himself. It was, then, incumbent on Atty. Casiño, upon receipt of the CA Resolution, to immediately inform Guevarra of the CA's issuance for the latter to confer with his new counsel.

There being proper service of the Resolution, the lapse of the period to file the proper pleading to assail the CA's decision has resulted in its finality.

More importantly, even if the Court were to relax the rule on finality of judgments in this case, the Court finds no reversible error in the assailed CA Decision and Resolution that found Guevarra guilty of violating Section 34 of COMELEC Resolution No. 10049. This section implements Section 6.6 of Republic Act No. 9006, which states:

6.6. Any mass media columnist, commentator, announcer, reporter, on-air correspondent or personality who is a candidate for any elective public office or is a campaign volunteer for or employed or retained in any capacity by any candidate or political party shall be deemed resigned, if so required by their employer, or shall take a leave of absence from his/her work as such during the campaign period: Provided, That any media practitioner who is an official of a political party or a member of the campaign staff of a candidate or political party shall not use his/her time or space to favor any candidate or political party.

Section 34 of COMELEC Resolution No. 10049, on the other hand, provides:

SECTION 34. *Mass Media Columnist, Announcer or Personality Running for Public Office or is a Campaign Volunteer.* – Any mass media columnist, commentator, announcer, or reporter, who is a candidate for any elective public office, a party-list nominee, or is a campaign volunteer for

³⁴ Rollo, p. 82.

³⁵ See *Francisco v. Portugal*, 519 Phil. 547, 555–557 (2006) [Per J. Tinga, Third Division].

or employed or retained in any capacity by any candidate or party shall be deemed resigned, if so required by their employer, or shall take a leave of absence from [their] work as such during the campaign period; Provided, that after [they have] filed [their] certificate of candidacy but before the campaign period, it shall be [their] obligation not to use [their] media work for premature election campaign or partisan political activity; Provided, finally, that any media practitioner who, while not [themselves] a candidate, is an official of a political party or a member of the campaign staff of a candidate or party shall not use [their] time or space to favor any candidate or party.

A close reading of these provisions shows that they contemplate two classes of offenders committing several unlawful acts.

The first is a *mass media columnist, commentator, announcer, or reporter who is (1) a candidate for any elective public office, (2) a party-list nominee, or (3) a campaign volunteer for or employed in any capacity by any candidate or party*. This sort of offender shall be deemed resigned if required by their employer or shall take a leave of absence from their work during the campaign period. These provisions make it unlawful for this kind of offender to fail to take a leave of absence or be deemed resigned from his profession during the campaign period. Put another way, these provisions prohibit the candidate from practicing their media-related profession during the campaign period.

The second kind of offender is a *media practitioner* who is an official of a political party or a member of the campaign staff of a candidate or political party. This sort of offender, *while not deemed resigned or ordered to take a leave of absence*, is nevertheless ordered by law not to use their time or space to favor any candidate or political party.

Both the RTC and CA found that the offense was committed on two dates, April 12 and April 23, 2016, which were within the campaign period for the 2016 National and Local Elections.³⁶ Despite Guevarra's claim of being resigned, both courts found, after listening to the recordings of the radio program, that Guevarra was the program's actual host. Instead of being interviewed, he was the one doing the interviewing. His active role in the radio program included directing its flow and introducing its guests. Thus, the courts *a quo* found that far from having resigned or taken a leave of absence, Guevarra was actively practicing his profession. To the courts, Guevarra's claim of merely guesting on the show remained a weak denial in the face of the actual recordings.³⁷ This Court finds no reason to overturn this legal conclusion. In criminal cases, the Court respects the factual findings of the

³⁶ The campaign period for candidates of elective regional, provincial, city, and municipal officials was from March 25, 2016 to May 7, 2016. See COMELEC Resolution No. 9981 entitled, "In the Matter of **Prescribing the Calendar** of Activities and Periods of Certain Prohibited Acts in Connection with the May 09, 2016 National and Local Elections," (2015).

³⁷ *Rollo*, pp. 42-43, 67-69.


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trial court. When these findings are affirmed on appeal, they are accorded even greater respect, if not conclusive effect. The Court recognizes that the trial court had the unique opportunity to calibrate the evidence as they were presented and to observe the demeanor of witnesses as they testified.³⁸

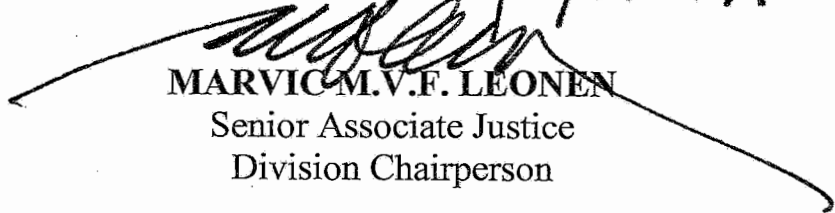
ACCORDINGLY, the Petition is **DISMISSED**. The Decision dated January 18, 2024 and the Resolution dated March 25, 2024 of the Court of Appeals in CA-G.R. CR No. 02428-MIN affirming the Decision dated January 20, 2023 of Branch 33, Regional Trial Court, Butuan City are hereby **AFFIRMED**.

In light of the dismissal of the main petition, the application for issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction is **DENIED** for lack of merit.

SO ORDERED.



ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:

See concurring opinion

MARVIC M.V.F. LEONEN
Senior Associate Justice
Division Chairperson


AMY C. LAZARO-JAVIER
Associate Justice

On official business
MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

³⁸ See *People v. Sota*, 821 Phil. 887, 899 (2017) [Per J. Martires, Third Division].

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify 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's Division.



MARVIC M.V.F. LEONEN
Acting Chief Justice