EN BANC

G.R. No. 278353 – SARA Z. DUTERTE, in her capacity as the vice president of the Philippines, Petitioner, **v. HOUSE OF REPRESENTATIVES OF THE PHILIPPINES, represented by FERDINAND MARTIN G. ROMUALDEZ, in his capacity as the speaker of the House of Representatives, REGINALD S. VELASCO, in his capacity as the secretary general of the House of Representatives, THE SENATE OF THE PHILIPPINES, represented by FRANCIS G. ESCUDERO, in his capacity as president of the Senate,** Respondents.

G.R. No. 278359 – ATTY. ISRAELITO P. TORREON, MARTIN DELGRA III, ATTY. JAMES T. RESERVA, ATTY. HILLARY OLGA M. RESERVA, J. MELCHOR QUITAIN, JR., LUNA MARIA DOMINIQUE S. ACOSTA, BAI HUNDRA CASSANDRA DOMINIQUE N. ADVINCULA, AL RYAN S. ALEJANDRE, DANTE L. APOSTOL, SR., CONRADO C. BALURAN, JESSICA M. BONGUYAN, LOUIE JOHN J. BONGUYAN, PILAR C. BRAGA, JONARD C. DAYAP, EDGAR P. IBUYAN, JR., RICHLYN N. JUSTOL-BAGUILOD, MYRNA G. DALODO-ORTIZ, DIOSDADO ANGELO JUNIOR R. MAHIPUS, BONZ ANDRE A. MILITAR, ALBERTO T. UNGAB, TRISHA ANN J. VILLAFUERTE, LORENZO BENJAMIN D. VILLAFUERTE, JESUS JOSEPH P. ZOZOBRADO III, DARWIN G. SALCEDO, RODOLOFO MANDE, KRISTINE MAY JOHN ABDUL MERCADO, LORD OLIVER RAYMUND MONFERO CRISTOBAL, and LORD BYRON MONFERO CRISTOBAL, Petitioners, **v. HOUSE OF REPRESENTATIVES, represented by House Speaker FERDINAND MARTIN G. ROMUALDEZ, SENATE OF THE PHILIPPINES, represented by Senate President FRANCIS JOSEPH G. ESCUDERO,** Respondents.

Promulgated:

January 28, 2026

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SEPARATE CONCURRING OPINION

HERNANDO, *J.*:

I join the *ponencia* in denying the Motion for Reconsideration of the House of Representatives[1] (respondent House) concerning the issue on the viability of the fourth impeachment complaint. I reiterate that the fourth impeachment complaint is constitutionally proscribed by the one-year bar rule,

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[1] August 4, 2025 Motion for Reconsideration filed by respondent House of Representatives through the Office of the Solicitor General (Motion for Reconsideration of the House).

albeit based on different reasons. The orchestrated and synchronized actions of respondent House and former Secretary General Reginald S. Velasco (respondent Secretary General Velasco) unveil a clear attempt to circumvent the one-year bar rule under Article XI, Section 3(5) of the Constitution.[2] Their deliberate and unjustified inaction on the first three impeachment complaints[3] lodged against petitioner Vice President Sarah Z. Duterte thus amounts to a grave abuse of discretion and constitutes more than a sufficient ground to bar the fourth impeachment complaint.[4]

The one-year bar rule was violated in principle

Respondent House maintains that the one-year bar rule was never violated, and that based on the records, the referral of the fourth impeachment complaint happened first, while the archiving of the first three impeachment complaints only came afterwards.[5] It insists that its actions are hinged upon a faithful adherence to the rulings[6] in *Francisco, Jr. v. House of Representatives*[7] and *Gutierrez v. House of Representatives Committee on Justice*.[8]

I disagree.

As extensively discussed in my main Separate Concurring Opinion,[9] the one-year bar rule was put in place to strike a balance between accountability and stability. It is a constitutional limitation installed mainly to protect impeachable officials—like the vice president of the Republic—from harassment, and at the same time, to enable Congress to focus on its principal task of legislation. Thus, whenever interpretation of the rule is necessary, this is the mindset that must be kept.

In the present case, the totality of circumstances reveals without a doubt the intent of the respondent House to sidestep this rule: Consider these: (a) the inclusion of the first three impeachment complaints in respondent House's order of business only on February 5, 2025 despite having been filed as early as

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2 CONST., art. XI, sec. 3(5) states: "(5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year."

3 The first three impeachment complaints are: (1) Verified Complaint for Impeachment endorsed by Representative Percival V. Cendaña and filed on December 2, 2024; (2) Verified Impeachment Complaint endorsed by Representatives France L. Castro, Arlene D. Brosas and Raoul Danniel A. Manuel, and filed on December 4, 2024; and (3) Impeachment Complaint endorsed by Representatives Gabriel Bordado, Jr. and Lex Anthony Cris A. Colada, and filed on December 19, 2024.

4 The fourth impeachment complaint refers to the Verified Complaint for Impeachment filed by 215 members, or more than one-third of all the members, of the House of Representatives on February 5, 2025, and endorsed to the Senate during the February 5, 2025 plenary session of the House of Representatives. III Record, House, 19th Congress, 3rd Session (February 5, 2025).

5 Motion for Reconsideration of the House, pp. 19, 52.

6 Motion for Reconsideration of the House, pp. 30–31.

7 460 Phil. 830 (2003) [Per J. Carpio-Morales, *En Banc*].

8 660 Phil. 271 (2011) [Per J. Carpio-Morales, *En Banc*].

9 J. Hernando, Separate Concurring Opinion in *Duterte v. House of Representatives*, G.R. Nos. 278353 and 278359, July 25, 2025 [Per S.A.J. Leonen, *En Banc*].

December 2024, without any plausible explanation; (b) the admission of respondent Secretary General Velasco in public interviews that certain members of respondent House asked him to withhold action on the first three impeachment complaints; and (c) the refusal of respondent House to immediately refer the first three impeachment complaints to the Speaker of the House, thereby violating its own impeachment rules. Only an impulsive adherence to the rulings in *Francisco* and *Gutierrez*, would show that respondent House was able to hurdle every loophole, achieve its purpose of preventing the operation of the one-year bar rule, and push through with the fourth impeachment complaint. However, an in-depth and rigorous review of *Francisco* and *Gutierrez* would reveal that the purpose of the one-year bar rule was not attained.

I stress that with the respondent House's machinations, the one-year bar rule was not only corrupted but veered away from its purpose. ***It was circumvented***. A mechanism, crafted to foster balance between stability and accountability, and given life through jurisprudence in order to achieve those ends, ***was instead handled in a manner comparable to any other procedural hurdle or technicality*** that must be overcome. As guardians of the Constitution, the Court cannot allow this degradation.

Respondent House treated the one-year bar rule as a mere formality or technicality that it only needs to follow, unconcerned whether the intent behind it is fulfilled or not. It lost sight of the rule's significant purpose, and instead viewed it as a shallow, cursory decree. But this should not be the case. We must remember that the Constitution and its provisions are sacred; it must be distinguished and treated differently from the normal, everyday rules and regulations we encounter.

To emphasize, the one-year bar rule is installed as a mechanism to balance extracting accountability from public officers, and stability of government operations. We can neither court impeachment too much, nor excessively avoid it. Drift too much to one side, and disorder ensues. As one of the three major branches of the government, I would like to think that Our interpretation, application, and obedience to laws—more so, to constitutional provisions—should not stop at mere cursory compliance. A deeper contemplation must be made, anchored to the avowed intent and purpose of every regulation.

Triggering the one-year bar rule and averting the progress of the fourth impeachment complaint on the basis of these circumstances is the only course of action that is fair, just, and faithful to the intended purpose of the relevant constitutional provisions. Otherwise, these great systems—which deserve respect and reverence—will lose their power and will be relegated to but mere nuisances that must be overcome to satisfy one's aims.

The impeachment proceedings and the pending fourth impeachment case before the House and Senate, respectively, of the 19th Congress, cannot crossover to the 20th Congress.

I reiterate my position that the 20th Congress cannot continue the business of the 19th Congress.

Having already discussed all the rules, jurisprudence, and statutes relevant to this view, I wish however to emphasize the higher reason for this: the newly elected Congress could not be bound by the acts of the previous Congress. The people exercise government authority through the election of representatives. Binding the succeeding Congress to the acts of the previous one would be tantamount to restricting or even disregarding the will of the people which was expressed anew in the conduct of elections. Casting a vote is the representation of the change or reaffirmation of the people's will.

The foregoing principles should be applied to impeachment proceedings. The reason is that only the House can impeach, and only the Senate can try and decide impeachment cases. There is no reason for impeachment proceedings to be classified differently from the other constitutional powers and duties that only the House and Senate can exercise. Thus, the phrase "all unfinished business" in the last statement, second paragraph of Rule XI, Section 80(a) of the House Rules (pertaining to the end of term of a Congress), as well as the phrase "All pending matters and proceedings" in the second paragraph of Rule 123 of the Senate Rules, shall cover impeachment proceedings and pending impeachment cases, respectively.

However, as before, with due consideration of public accountability, the 20th Congress is by no means precluded from initiating a fresh impeachment complaint, subject to relevant constitutional limitations, such as the one-year bar rule under Article XI, Section 3(5) of the Constitution.

Respondent House should not be allowed to use the doctrine of operative fact as a defense

According to respondent House, it faithfully relied on the rulings in *Francisco* and *Gutierrez*; thus, its actions must be sustained on the basis of the doctrine of operative fact:

> 92. ***The House acted within the bounds of existing jurisprudence*** when it acted on the fourth impeachment complaint and transmitted the Articles of Impeachment to the Senate. However, in its recent pronouncement, the Honorable Court appears to have adopted a substantially different meaning of the

> term "initiate," thereby holding that even impeachment complaints that have not been endorsed or acted upon by the House, even if compliant within the periods mandated by the Constitution, may nonetheless be considered "initiated" for purposes of applying the [one]-year constitutional proscription on the initiation of impeachment proceedings.
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> 94. In view of this sudden doctrinal shift, it is respectfully submitted that respondent House should clearly not be found to have acted with grave abuse of discretion ***for having faithfully and judiciously adhered*** to the prevailing interpretation of the Constitution at the time it acted upon the fourth complaint, particularly given that such interpretation was established by no less than the Honorable Court itself.[10] (Emphasis supplied)

I cannot agree with respondent House's claims. The rulings in *Francisco* and *Gutierrez* were never meant to allow the skirting of the one-year bar rule.

Looking back at *Francisco*, the Court laid down the proper interpretation of the word "initiate" as used in the context of impeachment proceedings:

> Having concluded that the initiation takes place by the act of filing and referral or endorsement of the impeachment complaint to the House Committee on Justice or, by the filing by at least one-third of the members of the House of Representatives with the Secretary General of the House, the meaning of Section 3 (5) of Article XI becomes clear. Once an impeachment complaint has been initiated, another impeachment complaint may not be filed against the same official within a one year period.[11]

Meanwhile, in *Gutierrez*, the Court discussed the dangers prevented by the *Francisco* interpretation of the word "initiate":

> Contrary to petitioner's emphasis on impeachment complaint, what the Constitution mentions is impeachment "*proceedings*." **Her reliance on the singular tense of the word "complaint" to denote the limit prescribed by the Constitution goes against the basic rule of statutory construction that a word covers its enlarged and plural sense.**
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> The Court, of course, does not downplay the importance of an impeachment complaint, for it is the matchstick that kindles the candle of impeachment proceedings. The filing of an impeachment complaint is like the lighting of a matchstick. Lighting the matchstick alone, however, cannot light up the candle, unless the lighted matchstick reaches or torches the candle wick. Referring the complaint to the proper committee ignites the impeachment proceeding. With a *simultaneous* referral of multiple complaints filed, more than one lighted matchsticks light the candle at the same time. . .
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> A restrictive interpretation renders the impeachment mechanism both illusive and illusory.

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[10] Motion for Reconsideration of the House, pp. 33–34.

[11] *Francisco, Jr. v. House of* Representatives, 460 Phil. 830, 932–933 (2003) [Per J. Carpio-Morales, *En Banc*].

> For one, it puts premium on senseless haste. Petitioner's stance suggests that whoever files the first impeachment complaint exclusively gets the attention of Congress which sets in motion an exceptional once-a-year mechanism wherein government resources are devoted. A prospective complainant, regardless of ill motives or best intentions, can wittingly or unwittingly desecrate the entire process by the expediency of submitting a haphazard complaint out of sheer hope to be the first in line. It also puts to naught the effort of other prospective complainants who, after diligently gathering evidence first to buttress the case, would be barred days or even hours later from filing an impeachment complaint.
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> Placing an exceedingly narrow gateway to the avenue of impeachment proceedings turns its laudable purpose into a laughable matter. One needs only to be an early bird even without seriously intending to catch the worm, when the process is precisely intended to effectively weed out "worms" in high offices which could otherwise be ably caught by other prompt birds within the ultra-limited season.
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> Moreover, the first-to-file scheme places undue strain on the part of the actual complainants, injured party or principal witnesses who, by mere happenstance of an almost always unforeseeable filing of a first impeachment complaint, would be brushed aside and restricted from directly participating in the impeachment process.[12] (Emphasis in the original, citations omitted)

In *Gutierrez*, what was sought to be avoided was the possibility of upsetting the entire impeachment mechanism through the triggering of the one-year bar rule, by a sham baseless complaint that was filed hastily. In other words, the *Francisco* interpretation aims to prevent the "first-to-file" scheme. The rulings were never meant to allow an avenue where the one-year bar rule is to be avoided by unreasonably sitting on an impeachment complaint while contemplating the filing of another one.

Was this also the objective of respondent House behind its actions? I do not think so, for the many reasons already discussed above.

Given this, I cannot accept respondent House's claim that it "acted within the bounds of existing jurisprudence," or that it "faithfully and judiciously adhered to the prevailing interpretation of the Constitution"[13] when in the same breath, it effectively admitted, through respondent Secretary General Velasco, that it was merely avoiding the one-year bar rule. Respondent Secretary General Velasco's statement in a public interview on January 7, 2025 is illuminating:

> Karen Davila: Now the three impeachment complaints are now in your office. And your office has been under pressure to already act on these three complaints. Take us through the process. Upon receiving the three complaints, should you have already reported to the [O]ffice of the Speaker? What made you not to?

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12 *Gutierrez v. House of Representatives Committee on Justice*, 660 Phil. 271, 393–395 (2011) [Per J. Carpio-Morales, *En Banc*].

13 Motion for Reconsideration of the House, pp. 33–34.

> Secretary General Velasco: It's really the request of the House [m]embers. There will be complications if I will refer for instance the three impeachment complaints. Because this is one of the rare times where there [is] more than one complaint. So, if I will transmit the three complaints filed so far then that [sic] would be the only complaints that will be studied by the [O]ffice of the [S]peaker for referring to the [C]ommittee on [R]ules, plenary, then from the plenary to the [C]ommittee on [J]ustice. So, the House [m]embers that whatever complaints they will file[,] or they will endorse will be referred to the Speaker at the same time, one package, instead of just referring the first, the second, and the third, and then the fourth will not be referred or transmitted to the [O]ffice of the Speaker.[14]

Meanwhile, in another public interview on January 20, 2025, respondent Secretary General Velasco made the following statements:

> Secretary General Velasco: *Ang problem, alam mo na* Christmas break, *karamihan sa kanila nasa districts nila or nagbabakasyon* with the family or loved ones, *so wala, kailangan pagbigyan natin sila. . .* Anyway, *sila boss ko eh, 'di naman ako 'yong boss.*
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> Secretary General Velasco: *Well kasi nga,* in my case, *wala kasing nakalagay na naka specify. . . Unfortunately, 'yun 'yung rules natin na it's really up to me to decide. Walang time na nakalagay.* Unlike Speaker has 10 session days [sic], the Committee on Rules has three session days, Committee on Justice has 60 session days. *Sa akin kasi wala eh.* So it's my decision.[15]

Evidently, respondent Secretary General Velasco's answers were vague and avoidant at best. There really was no meaningful response to the question as to why he refused to act on the first three impeachment complaints. What is more surprising is his claim, albeit false, that he is not bound by any period within which to act, when respondent House's own impeachment rules[16] require him to ***immediately*** refer a complaint to the Speaker:

> Section 3. *Filing and Referral of Verified Complaints.* A verified complaint for impeachment by a Member of the House or by any citizen upon a resolution of endorsement by any Member thereof shall be filed with the office of the Secretary General and ***immediately*** referred to the Speaker. (Emphasis supplied)

In light of all these findings, it would be unreasonable to allow respondent House to use the doctrine of operative fact as a defense. In *Film Development*

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14 Petition (G.R. No. 278353) p. 10, *citing* ANC 24/7, *Headstart: House Secretary General Velasco on status of impeachment raps vs VP Duterte, available at* https://www.youtube.com/watch?v=gxKiv87iugE (last accessed on August 22, 2025).

15 Petition (G.R. No. 278353) pp. 11–13, *citing* ANC 24/7, *WATCH: House Sec. General Reginald Velasco gives updates on impeachment raps vs VP Duterte, available at* https://www.youtube.com/watch?v=CxzIbKeCyZU (last accessed on August 22, 2025).

16 Rules of Procedure in Impeachment Proceedings of the House of Representatives (19th Congress).

Council of the Philippines v. Colon Heritage Realty Corporation,[17] the doctrine is discussed:

> The operative fact doctrine recognizes the existence and validity of a legal provision prior to its being declared as unconstitutional and hence, legitimizes otherwise invalid acts done pursuant thereto ***because of considerations of practicality and fairness***. In this regard, certain acts done pursuant to a legal provision which was just recently declared as unconstitutional by the Court cannot be anymore undone because not only would it be highly impractical to do so, but more so, ***unfair to those who have relied on the said legal provision prior to the time it was struck down.***
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> Therefore, in applying the doctrine of operative fact, courts ought to examine with particularity the effects of the already accomplished acts arising from the unconstitutional statute, and determine, ***on the basis of equity and fair play***, if such effects should be allowed to stand. It should not operate to give any unwarranted advantage to parties, ***but merely seeks to protect those who, in good faith, relied on the invalid law.***[18] (Emphasis supplied, citation omitted)

As can be seen, this doctrine first and foremost, was borne out of considerations of justice and fair play—qualities both lacking in respondent House's actions. Its invocation requires reliance in ***good faith*** on an otherwise invalid law. Here, however, there was neither a genuine reliance nor a faithful adherence; instead, what happened was a narrow legal and technical approach. Thus, it would be unfair to allow respondent House to invoke the doctrine of operative fact as a defense, when there is failure to fully observe—in word and in spirit—the principal case law it relies upon.

ACCORDINGLY, I vote to deny the motion for reconsideration.

RAMON PAUL L. HERNANDO
Associate Justice

17 865 Phil. 384 (2019) [Per J. Perlas-Bernabe, *En Banc*].
18 *Id.* at 394–395.