

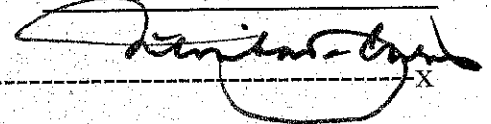
EN BANC

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*; and

G.R. No. 278359 – ATTY. ISRAELITO P. TORREON, MARTIN DELGRA III, ATTY. JAMES T. RESERVA, ATTY. HILARY 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, RODOLFO MANDE, KRISTINE MAY JOHN ABDUL MERCADO, LORD OLIVER RAYMUND MONFREDO CRISTOBAL, and LORD BYRON MONFERO CRISTOBAL, *Petitioners*, v. HOUSE OF REPRESENTATIVES OF THE PHILIPPINES, REPRESENTED BY HOUSE SPEAKER FERDINAND MARTIN G. ROMUALDEZ, SENATE OF THE PHILIPPINES REPRESENTED BY SENATE PRESIDENT FRANCIS G. ESCUDERO, *Respondents*.

Promulgated:

January 28, 2026



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SEPARATE CONCURRING OPINION

INTING, J.:

I concur in the *ponencia*'s denial of respondents' Motion for Reconsideration. The Verified Complaint for Impeachment (subject Impeachment Complaint) filed against Vice-President Sara Z. Duterte (VP Duterte) on February 5, 2025, is void and unconstitutional for being violative



of Article XI, Section 3, paragraphs 2¹ and 5² of the 1987 Constitution. Further, the subject Impeachment Complaint was deemed terminated upon the expiration of the term of the Nineteenth (19th) Congress on June 30, 2025.

There is no dispute that at the time of the filing of the subject Impeachment Complaint on February 5, 2025, three impeachment complaints (collectively, the 2024 Impeachment Complaints) had been previously filed against VP Duterte, to wit: (1) the First Impeachment Complaint endorsed by Akbayan Citizen's Action Party Representative Percival Cendaña filed on **December 2, 2024**; (2) the Second Impeachment Complaint endorsed by ACT Teachers Party Representative France L. Castro, Gabriela Women's Party Representative Arlene D. Brosas, and Kabataan Party Representative Raoul Danniell A. Manuel filed on **December 4, 2024**; and (3) the Third Impeachment Complaint endorsed by Camarines Sur Representative Gabriel Bordado, Jr. and Ang Asosasyon Sang Mangunguma Nga Bisaya-Owa Mangunguma, Inc. Representative Lex Colada filed on **December 19, 2024**.

In relation thereto, Article XI, Section 3(2) of the 1987 Constitution states that a verified impeachment complaint filed by a House member, or by any citizen upon a resolution of endorsement by a House member, "shall be included in the Order of Business **within ten session days**, and referred to the proper Committee **within three session days** thereafter." Article XI, Section 3(2) sets a *mandatory timeframe* within which the House must act upon an impeachment complaint. Indeed, in *Gutierrez v. House of Representatives Committee on Justice*,³ the Court unequivocally ruled that the House, in deciding to initiate an impeachment proceeding, is *limited* by this timeframe. The resolution of the motion for reconsideration in *Gutierrez*⁴ further teaches that absent a subsisting bar, the House *cannot* refuse to refer an impeachment complaint to its Committee on Justice within three session days.

Indubitably, the House should have observed the constitutional timeframe in Article XI, Section 3(2) in acting upon the 2024 Impeachment Complaints. However, the records show that the complaints were included in the House's order of business only on February 5, 2025, *beyond* the 10-session day period set forth in the constitution. Based on the Compliance submitted by the Office of the Solicitor General, the session days that lapsed from the filing date of the 2024 Impeachment Complaints are as follows:

- ¹ (2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.
- ² (5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year.
- ³ 658 Phil. 322 (2011) [Per J. Carpio Morales, *En Banc*].
- ⁴ *Gutierrez v. House of Representatives Committee on Justice*, 660 Phil. 271 (2011) [Per J. Carpio Morales, *En Banc*].

Impeachment Complaints	Filing Date	Session days lapsed ⁵
First Impeachment Complaint	December 2, 2024	19 Session days: December 3, 4, 9, 10, 11, 16, 17, and 18, 2024; January 13, 14, 15, 20, 21, 22, 27, and 28, 2025; February 3, 4, and 5, 2025
Second Impeachment Complaint	December 4, 2024	17 Session days: December 9, 10, 11, 16, 17, and 18, 2024; January 13, 14, 15, 20, 21, 22, 27, and 28, 2025; February 3, 4, and 5, 2025
Third Impeachment Complaint	December 19, 2024	11 Session days: January 13, 14, 15, 20, 21, 22, 27, and 28, 2025; February 3, 4, and 5, 2025

Evidently, the House violated the constitutional timeframe within which the 2024 Impeachment Complaints should have been included in the House's order of business. Had Article XI, Section 3(2) been observed, both the first and second impeachment complaints would have already triggered the one-year bar by the time that the subject Impeachment Complaint was filed on February 5, 2025. Specifically, the First Impeachment Complaint should have been included in the House's Order of Business for January 14, 2025, at the latest, and then referred to the House's Committee on Justice on **January 21, 2025**, at the latest. As to the Second Impeachment Complaint, it should have been included in the House's Order of Business for January 20, 2025, at the latest, and then referred to the House's Committee on Justice on **January 27, 2025**, at the latest.

The House attempted to skirt the foregoing constitutional timeframe by construing a "session day" as a "legislative day," which is a *technical* term in legislation—it refers to that period of time when Congress begins its session up to its adjournment. However, the term "session day" should be interpreted in its plain and ordinary meaning because the 1987 Constitution, as the fundamental law of the land, "is not primarily a lawyer's document but essentially that of the people, in whose consciousness it should ever be present as an important condition for the rule of law to prevail."⁶

In my view, a "session day" under Article XI, Section 3(2) of the 1987 Constitution simply refers to each calendar day when the Congress is in session, but not when it is in adjournment. This is more consistent with the language of Article XI, Section 3(2), which clearly relates a "session day" to

⁵ Rules of Court, Rule 22, Section 1, states:

Section 1. *How to compute time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

⁶ *Spouses Imbong v. Ochoa, Jr.*, 732 Phil. 1 (2014) [Per J. Mendoza, *En Banc*].

the House's Order of Business. Even the House recognizes this because under Section 72⁷ of the Rules of the House of the 19th Congress, a *daily* order of business must be prepared.

Further, for each calendar day when the House is in session, it could incorporate matters for deliberation through an Additional Reference of Business. In fact, the House's Journal and Record show that the four impeachment complaints against VP Duterte were included in the House's Order of Business on February 5, 2025, through an Additional Reference of Business. Besides, had the framers of the 1987 Constitution intended to refer to a "legislative day" in Article XI, Section 3(2), then they would have used the technical term in the provision itself, yet they did not.

Given that the House violated Article XI, Section 3(2) of the 1987 Constitution, the subject Impeachment Complaint must be struck down for being void and unconstitutional. To rule otherwise is tantamount to holding that the House's flagrant violation of the Constitution is inconsequential. The House cannot be allowed to disregard the clear timeframe espoused in Article XI, Section 3(2) and effectively circumvent the one-year bar rule.

I again emphasize that the requirement for a verified impeachment complaint to be included in the House's order of business within 10 session days from filing was deliberately included by the framers of the 1987 Constitution to avoid the situation during the regime of former President Ferdinand Marcos, Sr. At that time, impeachment complaints against the president were immediately quashed without even being referred to the then Batasang Pambansa, as a *collective* political body, for its consideration.⁸

To my mind, the definition of "session day" adopted by the House denigrates the purpose behind the constitutional requirement for an impeachment complaint to be submitted to the House, as a plenary body, for consideration, within a certain and definite period. The House could very well construe a "session day" into any number of calendar days until the mandatory yearly adjournment of Congress. This could then prevent the inclusion of an

⁷ Sec. 72. *Order of Business.* – The daily Order of Business shall be as follows:

- a. Roll call;
- b. Approval of the Journal of the previous session;
- c. First Reading of bills and resolutions;
- d. Referral of committee reports, messages, communications, petitions and memorials;
- e. Unfinished Business;
- f. Business for the Day;
- g. Business for a Certain Date;
- h. Business for Thursday and Friday;
- i. Bills and Joint Resolutions for Third Reading; and
- j. Unassigned Business.

The daily Order of Business shall be posted in the House website and, as far as practicable, sent through electronic mail to the Members one (1) hour before the commencement of session.

⁸ Records of the 1986 Constitutional Commission, October 12, 1986 [R.C.C. No. 106].

impeachment complaint in the House's order of business until the expiration of one Congress.

To be sure, the interpretation and construction of the term "session day" as it appears in Article XI, Section 3(2) of the 1987 Constitution is the function of the Court, not the Congress. "Once a controversy as to the application or *interpretation* of a constitutional provision is raised before the Court, it becomes a legal issue which the Court is bound by Constitutional mandate to decide."⁹ Stated otherwise, the interpretation of the 1987 Constitution is vested in the Court and is *outside* the sphere of the Legislature.¹⁰ To hold otherwise would not only breach the fundamental principle of separation of powers but also cause confusion and instability in our system of government.¹¹

At any rate, as I stated in my Separate Concurring Opinion dated July 25, 2025, the impeachment proceedings against VP Duterte based on the subject Impeachment Complaint were *deemed terminated* with the expiration of the term of the 19th Congress on June 30, 2025.

I reiterate that under the 1987 Constitution, the House and the Senate are *not* continuing bodies. Rather, pursuant to Article VI, Sections 4¹² and 7¹³ in relation to Article VI, Section 1¹⁴ of the 1987 Constitution, the term of every Congress is only for three years. At the end of the term of one Congress, the House and the Senate of that Congress cease to exist.

Particularly with regard to the Senate, the Court has explained in *Garcillano v. House of Representatives Committees on Public Information*¹⁵ that the Senate is *not* a continuing body because under our present system of government, the term of 12 out of the 24 senators, or one-half of the Senate, expires every three years. The remaining 12 senators cannot constitute a quorum,¹⁶ which, in turn, means that they can no longer do any business that could continue into the next Congress.

The inability of the Senate to continue with an impeachment trial beyond the term of one Congress is emphasized by the fact that under Article

⁹ *Guingona, Jr. v. Gonzales*, G.R. No. 106971, March 1, 1993 [Per J. Campos, Jr. *En Banc*].

¹⁰ *Republic v. Prieto*, 117 Phil. 1021 (1963) [J. Barrera, *En Banc*].

¹¹ *Araullo v. Aquino III*, G.R. No. 209287, February 3, 2015 [Per J. Bersamin, *En Banc*].

¹² Sec. 4. The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon on the thirtieth day of June next following their election[.]

¹³ Sec. 7. The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election[.]

¹⁴ Sec. 1. The legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum.

¹⁵ 595 Phil. 775 (2008) [Per J. Nachura, *En Banc*].

¹⁶ See 1987 Constitution, Article VI, Section 16(2), which states:

(2) A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent Members in such manner, and under such penalties, as such House may provide.

XI, Section 3(6)¹⁷ of the 1987 Constitution, conviction in an impeachment case requires the concurrence of *two-thirds* of all the members of the Senate. With the expiration of one Congress, only *one-half* of the sitting members of the Senate continue to the next Congress. The remaining members are *less* than a majority of the Senate and, hence, cannot constitute a quorum, much less render a judgment of conviction in an impeachment case.

In addition, impeachment is a *political exercise*¹⁸ that is “undertaken by the legislature to determine whether the public officer concerned committed any of the impeachable offenses.”¹⁹ A resolution by a House of one Congress to pass the articles of impeachment against an impeachable officer is therefore an expression of the *political will* of the members of that specific House. Necessarily, such expression of political will terminates upon the expiration of that House and cannot continue beyond the term of the members who manifested it. The articles of impeachment by a sitting House cannot bind the political will of the next House, which is composed of members who are distinct and different from those of the previous House.

Moreover, in an impeachment case, the House accuses or acts as the *prosecutor*.²⁰ This is confirmed by Rule VI, Section 16 of the Rules of Procedure in Impeachment Proceedings of the House of Representatives of the 19th Congress, in relation to Part I of the Rules of Procedure on Impeachment Trials of the Senate of the 19th Congress, viz.:

Rules of Procedure in Impeachment Proceedings of the House of the 19th
Congress

Rule VI

Prosecutor in All Impeachment Proceedings

Section 16. Impeachment Prosecutor. – The House of Representatives shall act as the prosecutor at the trial in the Senate through a committee of eleven (11) Members thereof to be elected by a majority vote of the Members present, there being a quorum.

Rules of Procedure on Impeachment Trials of the Senate of the 19th
Congress

- I. When the Senate receives articles of impeachment pursuant to Article XI, Sections 2 and 3 of the Constitution, the President of the Senate shall inform the House of Representatives that the Senate shall take proper order on the subject of impeachment and shall be ready to receive the prosecutors on such time and date as the Senate may specify.

¹⁷ (6) The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

¹⁸ *Gutierrez v. House of Representatives Committee on Justice*, 660 Phil. 271 (2011) [Per J. Carpio Morales, *En Banc*].

¹⁹ *Republic v. Sereno*, G.R. No. 237428, June 19, 2018 [Per J. Tijam, *En Banc*].

²⁰ *Re: Ma. Cristina Roco Corona*, A.M. No. 20-07-10-SC, January 12, 2021 [Per J. Hernando, *En Banc*].

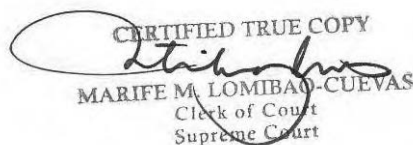
If an impeachment trial is allowed to proceed beyond the term of the House that created the articles of impeachment, it would result in an absurd situation where a previous House is able to bind the will of the present House. The incumbent House would be obligated to act as a prosecutor based on the articles of impeachment that it did not pass but instead originated from the previous House, regardless of whether its present members share the same political will as the previous House.

The resolution to impeach VP Duterte, while certainly the will of the 19th House, is not necessarily reflective of the will of the 20th House, whose members are distinct and different from the 19th House. Should the 20th Senate proceed with the impeachment trial of VP Duterte, it would have to do so based on the Articles of Impeachment by the House of the 19th Congress that no longer exists. The 20th House must also constitute a committee for the appointment of prosecutors, even though it was not the one that voted on the Articles of Impeachment and the latter may not necessarily be reflective of the political will of its incumbent members.

I stress that the Philippines is a democratic and republican State.²¹ Under the essential principles of democracy, each Congress must be considered as *equal*.²² It would be more in line with the foundations of our democratic State to hold that the Articles of Impeachment that were transmitted by the 19th House to the 19th Senate were *terminated* and rendered *inefficacious* with the expiration of the term of the 19th Congress on June 30, 2025. Because the 19th Congress is on equal footing with the 20th Congress, the latter should not be bound by the previous will or opinion of the House of the 19th Congress.

In my humble view, the charges of impeachable offenses against VP Duterte during the 19th Congress, at most, could only be presented *anew* to the House of the 20th Congress. It is up to the incumbent members of 20th House to consider the subject Impeachment Complaint, as well as any evidence gathered in relation thereto, and to ascertain whether an impeachment proceeding should be initiated against VP Duterte during their term.

In view of the foregoing, I vote to **DENY** the Motion for Reconsideration with finality.

CERTIFIED TRUE COPY

MARIFE M. LOMBABO-CUEVAS
Clerk of Court
Supreme Court


HENRIJEAN PAUL B. INTING
Associate Justice

²¹ 1987 Constitution, Article II, Section 1.

²² *City of Davao v. Regional Trial Court*, 504 Phil. 543 (2005) [Per J. Tinga, Second Division].