



Republic of the Philippines
Supreme Court
Manila

EN BANC

ROGELIO BATIN CABALLERO,
Petitioner,

G.R. No. 209835

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,*
REYES,**
PERLAS-BERNABE,*
LEONEN, and
JARDELEZA,*** JJ.

- versus -

COMMISSION ON ELECTIONS
and JONATHAN ENRIQUE V.
NANUD, JR.,

Promulgated:

Respondents.

September 22, 2015

X-----Agustin-Frame-----X

DECISION

PERALTA, J.:

Before us is a petition for *certiorari* with prayer for issuance of a temporary restraining order seeking to set aside the Resolution¹ dated November 6, 2013 of the Commission on Elections (COMELEC) En Banc

* On official leave.

** On leave.

*** No part.

¹ Rollo, pp. 23-28.

which affirmed *in toto* the Resolution² dated May 3, 2013 of the COMELEC First Division canceling the Certificate of Candidacy (COC) of petitioner Rogelio Batin Caballero.

Petitioner³ and private respondent Jonathan Enrique V. Nanud, Jr.⁴ were both candidates for the mayoralty position of the Municipality of Uyugan, Province of Batanes in the May 13, 2013 elections. Private respondent filed a Petition⁵ to deny due course to or cancellation of petitioner's certificate of candidacy alleging that the latter made a false representation when he declared in his COC that he was eligible to run for Mayor of Uyugan, Batanes despite being a Canadian citizen and a non-resident thereof.

During the December 10, 2012 conference, petitioner, through counsel, manifested that he was not properly served with a copy of the petition and the petition was served by registered mail not in his address in Barangay Innajbu, Uyugan, Batanes. He, however, received a copy of the petition during the conference. Petitioner did not file an Answer but filed a Memorandum controverting private respondent's substantial allegations in his petition.

Petitioner argued that prior to the filing of his COC on October 3, 2012, he took an Oath of Allegiance to the Republic of the Philippines before the Philippine Consul General in Toronto, Canada on September 13, 2012 and became a dual Filipino and Canadian citizen pursuant to Republic Act (RA) No. 9225, otherwise known as the *Citizenship Retention and Reacquisition Act of 2003*. Thereafter, he renounced his Canadian citizenship and executed an Affidavit of Renunciation before a Notary Public in Batanes on October 1, 2012 to conform with Section 5(2) of RA No. 9225.⁶ He claimed that he did not lose his domicile of origin in Uyugan, Batanes despite becoming a Canadian citizen as he merely left Uyugan temporarily to pursue a brighter future for him and his family; and that he went back to Uyugan during his vacation while working in Nigeria, California, and finally in Canada.

² Composed of Presiding Commissioner Lucenito N. Tagle, Commissioner Christian Robert S. Lim and Commissioner Al A. Parreño; Docketed as SPA No. 13-196 (DC) (F); *id.* at 67-72.

³ *Rollo*, p. 146.

⁴ *Id.* at 144.

⁵ *Id.* at 117-121.

⁶ **Section 5. *Civil and Political Rights and Liabilities*** - Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

x x x x.

(2) Those seeking elective public in the Philippines shall meet the qualification for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath;

On May 3, 2013, the COMELEC First Division issued a Resolution finding that petitioner made a material misrepresentation in his COC when he declared that he is a resident of Barangay Imnajbu, Uyugan, Batanes within one year prior to the election. The decretal portion of the resolution reads:

WHEREFORE, premises considered, this Commission RESOLVED, as it hereby RESOLVES to GRANT the instant Petition. The Certificate of Candidacy of respondent Caballero is hereby CANCELLED.⁷

The COMELEC First Division did not discuss the procedural deficiency raised by petitioner as he was already given a copy of the petition and also in consonance with the Commission's constitutional duty of determining the qualifications of petitioner to run for elective office. It found that while petitioner complied with the requirements of RA No. 9225 since he had taken his Oath of Allegiance to the Philippines and had validly renounced his Canadian citizenship, he failed to comply with the other requirements provided under RA No. 9225 for those seeking elective office, *i.e.*, persons who renounced their foreign citizenship must still comply with the one year residency requirement provided for under Section 39 of the Local Government Code. Petitioner's naturalization as a Canadian citizen resulted in the abandonment of his domicile of origin in Uyugan, Batanes; thus, having abandoned his domicile of origin, it is incumbent upon him to prove that he was able to reestablish his domicile in Uyugan for him to be eligible to run for elective office in said locality which he failed to do.

Elections were subsequently held on May 13, 2013 and the election returns showed that petitioner won over private respondent.⁸ Private respondent filed an Urgent *Ex-parte* Motion to Defer Proclamation.⁹

On May 14, 2013, petitioner was proclaimed Mayor of Uyugan, Batanes.

On May 16, 2013, petitioner filed a Motion for Reconsideration with the COMELEC En Banc assailing the May 3, 2013 Resolution issued by the COMELEC's First Division canceling his COC.

On May 17, 2013, private respondent filed a Petition to Annul Proclamation.¹⁰

⁷ *Rollo*, p. 72.

⁸ *Id.* at 128-129.

⁹ *Id.* at 130-133.

¹⁰ *Id.* at 135-142.

On November 6, 2013, the COMELEC En Banc issued its assailed Resolution denying petitioner's motion for reconsideration.

Petitioner filed with us the instant petition for *certiorari* with prayer for the issuance of a temporary restraining order.

In the meantime, private respondent filed a Motion for Execution¹¹ of the May 3, 2013 Resolution of the COMELEC First Division as affirmed by the En Banc and prayed for the cancellation of petitioner's COC, the appropriate correction of the certificate of canvas to reflect that all votes in favor of petitioner are stray votes, declaration of nullity of petitioner's proclamation and proclamation of private respondent as the duly-elected Mayor of Uyugan, Batanes in the May 13, 2013 elections.

On December 12, 2013, COMELEC Chairman Sixto S. Brillantes, Jr. issued a Writ of Execution.¹² Private respondent took his Oath of Office¹³ on December 20, 2013.

In the instant petition for *certiorari*, petitioner raises the following assignment of errors, to wit:

THE COMELEC EN BANC GRAVELY ERRED IN DISREGARDING THE CLEAR IMPORT OF PROCEDURAL RULES PROVIDED FOR UNDER COMELEC RESOLUTION NO. 9523 PROMULGATED ON 25 SEPTEMBER 2012.

THE COMELEC EN BANC GRAVELY ERRED IN FINDING THAT PETITIONER ABANDONED HIS PHILIPPINE DOMICILE WHEN HE WORKED IN SEVERAL FOREIGN COUNTRIES FOR "GREENER PASTURE."

EVEN ASSUMING THAT PETITIONER HAS ABANDONED HIS PHILIPPINE DOMICILE WHEN HE BECAME A CANADIAN CITIZEN, HIS REACQUISITION OF HIS FILIPINO CITIZENSHIP, TAKING OATH OF ALLEGIANCE TO THE PHILIPPINE GOVERNMENT NINE (9) MONTHS PRIOR TO HIS ELECTION ON 13 MAY 2013, IS A SUBSTANTIAL COMPLIANCE WITH THE LAW ON RESIDENCY.¹⁴

Petitioner contends that when private respondent filed a petition to deny due course or to cancel his COC with the Office of the Municipal Election Officer of Uyugan, Batanes, a copy thereof was not personally served on him; that private respondent later sent a copy of the petition to him

¹¹ *Id.* at 181-187.

¹² *Id.* at 204-207.

¹³ *Id.* at 209.

¹⁴ *Id.* at 8.

by registered mail without an attached affidavit stating the reason on why registered mail as a mode of service was resorted to. Petitioner argues that private respondent violated Section 4, paragraphs (1)¹⁵ and (4),¹⁶ Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, thus, his petition to deny due course or cancel petitioner's certificate of candidacy should have been denied outright.

We are not convinced.

While private respondent failed to comply with the above-mentioned requirements, the settled rule, however, is that the COMELEC Rules of Procedure are subject to liberal construction. Moreover, the COMELEC may exercise its power to suspend its own rules as provided under Section 4, Rule 1 of their Rules of Procedure.

Sec. 4. Suspension of the Rules. - In the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.

Under this authority, the Commission is similarly enabled to cope with all situations without concerning itself about procedural niceties that do not square with the need to do justice, in any case without further loss of time, provided that the right of the parties to a full day in court is not substantially impaired.¹⁷

In *Hayudini v. COMELEC*,¹⁸ we sustained the COMELEC's liberal treatment of respondent's petition to deny due course or cancel petitioner's COC despite its failure to comply with Sections 2 and 4 of Rule 23 of the COMELEC Rules of Procedure, as amended by Resolution No. 9523, *i.e.*, pertaining to the period to file petition and to provide sufficient explanation as to why his petition was not served personally on petitioner, respectively, and held that:

¹⁵ Section 4. *Procedure to be observed.* — Both parties shall observe the following procedure:

1. The petitioner shall, before filing of the Petition, furnish a copy of the Petition, through personal service to the respondent. In cases where personal service is not feasible, or the respondent refuses to receive the Petition, or the respondents' whereabouts cannot be ascertained, the petitioner shall execute an affidavit stating the reason or circumstances therefor and resort to registered mail as a mode of service. The proof of service or the affidavit shall be attached to the Petition to be filed.

¹⁶ 4. No Petition shall be docketed unless the requirements in the preceding paragraphs have been complied with.

¹⁷ See *Mentang v. Commission on Elections*, G.R. No. 110347, February 4, 1994, 229 SCRA 666, 675.

¹⁸ G.R. No. 207900, April 22, 2014, 723 SCRA 223.

As a general rule, statutes providing for election contests are to be liberally construed in order that the will of the people in the choice of public officers may not be defeated by mere technical objections. Moreover, it is neither fair nor just to keep in office, for an indefinite period, one whose right to it is uncertain and under suspicion. It is imperative that his claim be immediately cleared, not only for the benefit of the winner but for the sake of public interest, which can only be achieved by brushing aside technicalities of procedure that protract and delay the trial of an ordinary action. This principle was reiterated in the cases of *Tolentino v. Commission on Elections* and *De Castro v. Commission on Elections*, where the Court held that "in exercising its powers and jurisdiction, as defined by its mandate to protect the integrity of elections, the COMELEC must not be straitjacketed by procedural rules in resolving election disputes."

Settled is the rule that the COMELEC Rules of Procedure are subject to liberal construction. The COMELEC has the power to liberally interpret or even suspend its rules of procedure in the interest of justice, including obtaining a speedy disposition of all matters pending before it. This liberality is for the purpose of promoting the effective and efficient implementation of its objectives – ensuring the holding of free, orderly, honest, peaceful, and credible elections, as well as achieving just, expeditious, and inexpensive determination and disposition of every action and proceeding brought before the COMELEC. Unlike an ordinary civil action, an election contest is imbued with public interest. It involves not only the adjudication of private and pecuniary interests of rival candidates, but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate. And the tribunal has the corresponding duty to ascertain, by all means within its command, whom the people truly chose as their rightful leader.¹⁹

Here, we find that the issue raised, *i.e.*, whether petitioner had been a resident of Uyugan, Batanes at least one (1) year before the elections held on May 13, 2013 as he represented in his COC, pertains to his qualification and eligibility to run for public office, therefore imbued with public interest, which justified the COMELEC's suspension of its own rules. We adopt the COMELEC's s ratiocination in accepting the petition, to wit:

This Commission recognizes the failure of petitioner to comply strictly with the procedure for filing a petition to deny due course to or cancel certificate of candidacy set forth in Section 4, Rule 23 of the COMELEC Rules of Procedure as amended by COMELEC Resolution No. 9523, which requires service of a copy of the petition to respondent prior to its filing. But then, we should also consider the efforts exerted by petitioner in serving a copy of his petition to respondent after being made aware that such service is necessary. We should also take note of the impossibility for petitioner to personally serve a copy of the petition to respondent since he was in Canada at the time of its filing as shown in respondent's travel records.

¹⁹ *Hayudini v. COMELEC, supra*, at 242-243.

The very purpose of prior service of the petition to respondent is to afford the latter an opportunity to answer the allegations contained in the petition even prior to the service of summons by the Commission to him. In this case, respondent was given a copy of the petition during the conference held on 10 December 2012 and was ultimately accorded the occasion to rebut all the allegations against him. He even filed a Memorandum containing his defenses to petitioner's allegations. For all intents and purposes, therefore, respondent was never deprived of due process which is the very essence of this Commission's Rules of Procedure.

Even the Supreme Court acknowledges the need for procedural rules to bow to substantive considerations “through a liberal construction aimed at promoting their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. x x x

x x x x

When a case is impressed with public interest, a relaxation of the application of the rules is in order. x x x.

Unquestionably, the instant case is impressed with public interest which warrants the relaxation of the application of the [R]ules of [P]rocedure, consistent with the ruling of the Supreme Court in several cases.²⁰

Petitioner next claims that he did not abandon his Philippine domicile. He argues that he was born and baptized in Uyugan, Batanes; studied and had worked therein for a couple of years, and had paid his community tax certificate; and, that he was a registered voter and had exercised his right of suffrage and even built his house therein. He also contends that he usually comes back to Uyugan, Batanes during his vacations from work abroad, thus, his domicile had not been lost. Petitioner avers that the requirement of the law in fixing the residence qualification of a candidate running for public office is not strictly on the period of residence in the place where he seeks to be elected but on the acquaintance by the candidate on his constituents' vital needs for their common welfare; and that his nine months of actual stay in Uyugan, Batanes prior to his election is a substantial compliance with the law. Petitioner insists that the COMELEC gravely abused its discretion in canceling his COC.

We are not persuaded.

RA No. 9225, which is known as the *Citizenship Retention and Reacquisition Act of 2003*, declares that natural-born citizens of the Philippines, who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country, can re-acquire or retain his

²⁰ Rollo, pp. 25-26. (Citations omitted)

Philippine citizenship under the conditions of the law.²¹ The law does not provide for residency requirement for the reacquisition or retention of Philippine citizenship; nor does it mention any effect of such reacquisition or retention of Philippine citizenship on the current residence of the concerned natural-born Filipino.²²

RA No. 9225 treats citizenship independently of residence.²³ This is only logical and consistent with the general intent of the law to allow for dual citizenship. Since a natural-born Filipino may hold, at the same time, both Philippine and foreign citizenships, he may establish residence either in the Philippines or in the foreign country of which he is also a citizen.²⁴ However, when a natural-born Filipino with dual citizenship seeks for an elective public office, residency in the Philippines becomes material. Section 5(2) of RA No. 9225 provides:

SEC. 5. *Civil and Political Rights and Liabilities.* - Those who retain or reacquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

x x x x

(2) Those seeking elective public office in the Philippines shall meet the qualifications for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath.

Republic Act No. 7160, which is known as the *Local Government Code of 1991*, provides, among others, for the qualifications of an elective local official. Section 39 thereof states:

SEC. 39. *Qualifications.* - (a) An elective local official must be a citizen of the Philippines; a registered voter in the *barangay*, municipality, city or province or, in the case of a member of the *sangguniang panlalawigan*, *sangguniang panlungsod*, or *sanggunian bayan*, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

²¹ Secs. 2 and 3.

²² *Japzon v. Commission on Elections*, 596 Phil. 354, 367 (2009).

²³ *Id.*

²⁴ *Id.*

Clearly, the Local Government Code requires that the candidate must be a resident of the place where he seeks to be elected at least one year immediately preceding the election day. Respondent filed the petition for cancellation of petitioner's COC on the ground that the latter made material misrepresentation when he declared therein that he is a resident of Uyugan, Batanes for at least one year immediately preceding the day of elections.

The term "residence" is to be understood not in its common acceptance as referring to "dwelling" or "habitation," but rather to "domicile" or legal residence,²⁵ that is, "the place where a party actually or constructively has his permanent home, where he, no matter where he may be found at any given time, eventually intends to return and remain (*animus manendi*)."²⁶ A domicile of origin is acquired by every person at birth. It is usually the place where the child's parents reside and continues until the same is abandoned by acquisition of new domicile (*domicile of choice*). It consists not only in the intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention.²⁷

Petitioner was a natural born Filipino who was born and raised in Uyugan, Batanes. Thus, it could be said that he had his domicile of origin in Uyugan, Batanes. However, he later worked in Canada and became a Canadian citizen. *In Coquilla v. COMELEC*,²⁸ we ruled that naturalization in a foreign country may result in an abandonment of domicile in the Philippines. This holds true in petitioner's case as permanent resident status in Canada is required for the acquisition of Canadian citizenship.²⁹ Hence, petitioner had effectively abandoned his domicile in the Philippines and transferred his domicile of choice in Canada. His frequent visits to Uyugan, Batanes during his vacation from work in Canada cannot be considered as waiver of such abandonment.

²⁵ *Coquilla v. Commission on Elections*, 434 Phil. 861, 871-872 (2002), citing *Nuval v. Guray*, 52 Phil. 645 (1928); *Gallego v. Verra*, 73 Phil. 453 (1941); *Romualdez v. RTC, Br. 7, Tacloban City*, G.R. No. 104960, September 14, 1993, 226 SCRA 408.

²⁶ *Id.* at 872, citing *Aquino v. COMELEC*, G.R. No. 120265, September 18, 1965, 248 SCRA 400, 420.

²⁷ *Id.*, citing 25 Am. Jur. 2d, §11.

²⁸ *Id.* at 873.

²⁹ Citizenship Act (Canada)

Section 5. (1) The Minister shall grant citizenship to any person who

- (a) makes application for citizenship;
- (b) is eighteen years of age or over;
- (c) is a permanent resident within the meaning of subsection 2(1) of the [Immigration and Refugee Protection Act](#), has, within the four years immediately preceding the date of his or her application, accumulated at least three years of residence in Canada calculated in the following manner:
 - (i) for every day during which the person was resident in Canada before his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one-half of a day of residence, and
 - (ii) for every day during which the person was resident in Canada after his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one day of residence;

The next question is what is the effect of petitioner's retention of his Philippine citizenship under RA No. 9225 on his residence or domicile?

In *Japzon v. COMELEC*,³⁰ wherein respondent Ty reacquired his Philippine citizenship under RA No. 9225 and run for Mayor of General Macarthur, Eastern Samar and whose residency in the said place was put in issue, we had the occasion to state, thus:

[Petitioner's] reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence/domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth.³¹

Hence, petitioner's retention of his Philippine citizenship under RA No. 9225 did not automatically make him regain his residence in Uyugan, Batanes. He must still prove that after becoming a Philippine citizen on September 13, 2012, he had reestablished Uyugan, Batanes as his new domicile of choice which is reckoned from the time he made it as such.

The COMELEC found that petitioner failed to present competent evidence to prove that he was able to reestablish his residence in Uyugan within a period of one year immediately preceding the May 13, 2013 elections. It found that it was only after reacquiring his Filipino citizenship by virtue of RA No. 9225 on September 13, 2012 that petitioner can rightfully claim that he re-established his domicile in Uyugan, Batanes, if such was accompanied by physical presence thereat, coupled with an actual intent to reestablish his domicile there. However, the period from September 13, 2012 to May 12, 2013 was even less than the one year residency required by law.

Doctrinally entrenched is the rule that in a petition for *certiorari*, findings of fact of administrative bodies, such as respondent COMELEC in the instant case, are final unless grave abuse of discretion has marred such factual determinations.³² Clearly, where there is no proof of grave abuse of discretion, arbitrariness, fraud or error of law in the questioned Resolutions,

³⁰ *Japzon v. Commission on Elections*, *supra* note 22, at 367.

³¹ *Id.* at 347. (Emphasis supplied)

³² *Pangkat Laguna v. Commission on Elections*, 426 Phil. 480, 486 (2002).

we may not review the factual findings of COMELEC, nor substitute its own findings on the sufficiency of evidence.³³

Records indeed showed that petitioner failed to prove that he had been a resident of Uyugan, Batanes for at least one year immediately preceding the day of elections as required under Section 39 of the Local Government Code.

Petitioner's argument that his nine (9) months of actual stay in Uyugan, Batanes, prior to the May 13, 2013 local elections is a substantial compliance with the law, is not persuasive. In *Aquino v. Commission on Elections*,³⁴ we held:

x x x A democratic government is necessarily a government of laws. In a republican government those laws are themselves ordained by the people. Through their representatives, they dictate the qualifications necessary for service in government positions. And as petitioner clearly lacks one of the essential qualifications for running for membership in the House of Representatives, not even the will of a majority or plurality of the voters of the Second District of Makati City would substitute for a requirement mandated by the fundamental law itself.³⁵

Petitioner had made a material misrepresentation by stating in his COC that he is a resident of Uyugan, Batanes for at least one (1) year immediately proceeding the day of the election, thus, a ground for a petition under Section 78 of the Omnibus Election Code. Section 74, in relation to Section 78, of the OEC governs the cancellation of, and grant or denial of due course to COCs, to wit:

SEC. 74. *Contents of certificate of candidacy.* – The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.

³³ *Domingo, Jr. v. Commission on Elections*, 372 Phil. 188, 202 (1999), citing *Nolasco v. Commission on Elections*, 341 Phil. 761 (1997); *Lozano v. Yorac*, G.R. No. 94521, October 28, 1991, 203 SCRA 256; *Apex Mining Co., Inc. v. Garcia*, 276 Phil. 301 (1991).

³⁴ 318 Phil. 467 (1995).

³⁵ *Aquino v. Commission on Elections*, *supra*, at 509.


x x x x

SEC. 78. *Petition to deny due course to or cancel a certificate of candidacy.* – A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.


We have held that in order to justify the cancellation of COC under Section 78, it is essential that the false representation mentioned therein pertains to a material matter for the sanction imposed by this provision would affect the substantive rights of a candidate – the right to run for the elective post for which he filed the certificate of candidacy.³⁶ We concluded that material representation contemplated by Section 78 refers to qualifications for elective office, such as the requisite residency, age, citizenship or any other legal qualification necessary to run for a local elective office as provided for in the Local Government Code.³⁷ Furthermore, aside from the requirement of materiality, the misrepresentation must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.³⁸ We, therefore, find no grave abuse of discretion committed by the COMELEC in canceling petitioner's COC for material misrepresentation.

WHEREFORE, the petition for *certiorari* is **DISMISSED**. The Resolution dated May 3, 2013 of the COMELEC First Division and the Resolution dated November 6, 2013 of the COMELEC En Banc and are hereby **AFFIRMED**.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

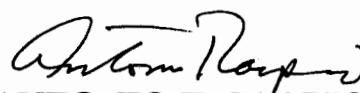
WE CONCUR:

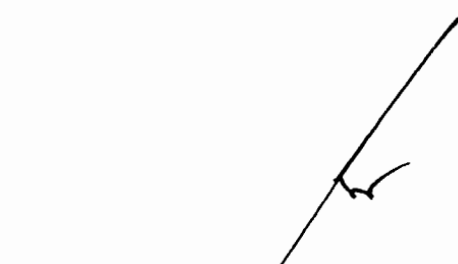
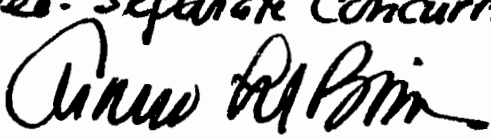

MARIA LOURDES P. A. SERENO
Chief Justice

³⁶ *Salcedo II v. COMELEC*, 371 Phil. 377, 386 (1999).

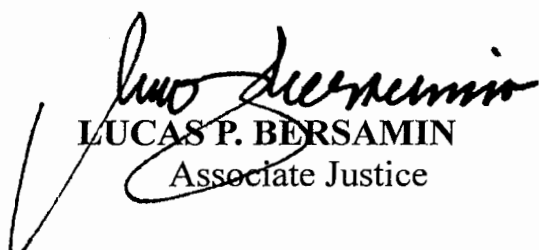
³⁷ *Villafuerte v. Commission on Elections*, G.R. No. 206698, February 25, 2014, 717 SCRA 312, 323, citing *Salcedo II v. Commission on Elections*, *supra*, at 389, citing RA 7160, Section 39 on qualifications.

³⁸ *Id.* at 323.

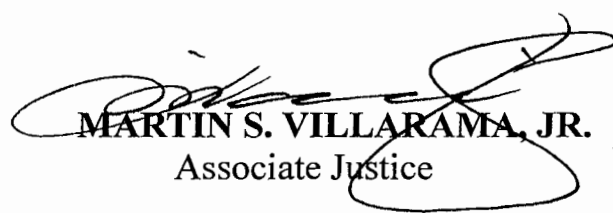

ANTONIO T. CARPIO
Associate Justice

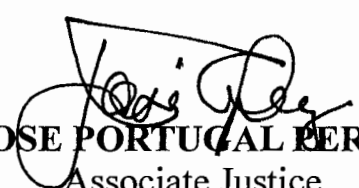

PRESBITERO J. VELASCO, JR.
Associate Justice
See: Separate Concurring Opinion

ARTURO D. BRION
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

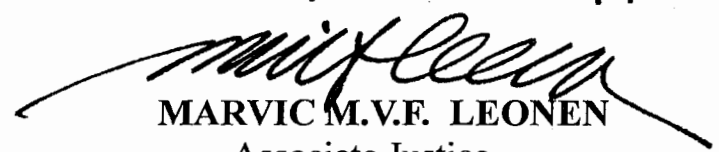

MARTIN S. VILLARAMA, JR.
Associate Justice

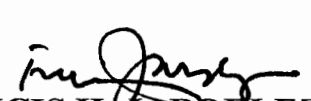

JOSE PORTUGAL PEREZ
Associate Justice

On official leave
JOSE CATRAL MENDOZA
Associate Justice

On leave
BIENVENIDO L. REYES
Associate Justice

On official leave
ESTELA M. PERLAS-BERNABE
Associate Justice

with separate concurring opinion

MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice
*No part
OSG
action*

CERTIFICATION

Pursuant to Section 13, Article VIII 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.



MARIA LOURDES P. A. SERENO
Chief Justice