



Republic of the Philippines
Supreme Court
Manila

EN BANC

MARY ELIZABETH TY-DELGADO,
Petitioner,

G.R. No. 219603

Present:

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

- versus -

HOUSE OF REPRESENTATIVES
ELECTORAL TRIBUNAL and
PHILIP ARREZA PICHAY,

Respondents.

Promulgated:

January 26, 2016

x-----
[Signature]

DECISION

CARPIO, J.:

The Case

This special civil action for certiorari¹ assails the Decision dated 18 March 2015² and Resolution dated 3 August 2015³ of the House of

* No part.
* No part.
* No part.

¹ Under Rule 65 of the 1997 Rules of Civil Procedure. *Rollo*, pp. 3-49.

² Signed by Supreme Court Associate Justices Presbitero J. Velasco, Jr., (took no part for being the *ponente* of *Tulfo v. People of the Philippines*), Diosdado M. Peralta (dissented) and Lucas P. Bersamin (dissented), Representatives Franklin P. Bautista, Joselito Andrew R. Mendoza, Ma. Theresa B. Bonoan, Wilfrido Mark M. Enverga, Jerry P. Treñas, and Luzviminda C. Ilagan. *Id.* at 51-69.

³ *Id.* at 79. Notice issued by the House of Representatives Electoral Tribunal.

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Representatives Electoral Tribunal (HRET), in HRET Case No. 13-022, declaring respondent Philip A. Pichay (Pichay) eligible to hold and serve the office of Member of the House of Representatives for the First Legislative District of Surigao del Sur.

The Facts

On 16 September 2008, the Court promulgated its Decision in G.R. Nos. 161032 and 161176, entitled "*Tulfo v. People of the Philippines*," convicting Pichay by final judgment of four counts of libel.⁴ In lieu of imprisonment, he was sentenced to pay a fine in the amount of Six Thousand Pesos (₱6,000.00) for each count of libel and One Million Pesos (₱1,000,000.00) as moral damages. This Decision became final and executory on 1 June 2009. On 17 February 2011, Pichay paid One Million Pesos (₱1,000,000.00) as moral damages and Six Thousand Pesos (₱6,000.00) as fine for each count of libel.

On 9 October 2012, Pichay filed his certificate of candidacy for the position of Member of the House of Representatives for the First Legislative District of Surigao del Sur for the 13 May 2013 elections.

On 18 February 2013, petitioner Mary Elizabeth Ty-Delgado (Ty-Delgado) filed a petition for disqualification under Section 12 of the Omnibus Election Code against Pichay before the Commission on Elections (Comelec), on the ground that Pichay was convicted of libel, a crime involving moral turpitude. Ty-Delgado argued that when Pichay paid the fine on 17 February 2011, the five-year period barring him to be a candidate had yet to lapse.

⁴ 587 Phil. 64, 99-100 (2008). The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, the petitions in G.R. Nos. 161032 and 161176 are DISMISSED. The CA Decision dated June 17, 2003 in CA-G.R. CR No. 25318 is hereby AFFIRMED with the MODIFICATIONS that in lieu of imprisonment, the penalty to be imposed upon petitioners shall be a fine of six thousand pesos (PhP 6,000) for each count of libel, with subsidiary imprisonment in case of insolvency, while the award of actual damages and exemplary damages is DELETED. The Decision dated November 17, 2000 of the RTC, Branch 112 in Pasay City in Criminal Case Nos. 99-1597 to 99-1600 is modified to read as follows:

WHEREFORE, the Court finds the accused ERWIN TULFO, SUSAN CAMBRI, REY SALAO, JOCELYN BARLIZO, and **PHILIP PICHAY guilty beyond reasonable doubt of four (4) counts of the crime of LIBEL**, as defined in Article 353 of the Revised Penal Code, and sentences EACH of the accused to pay a fine of SIX THOUSAND PESOS (PhP 6,000) per count of libel with subsidiary imprisonment, in case of insolvency.

Considering that the accused Erwin Tulfo, Susan Cambri, Rey Salao, Jocelyn Barlizo, and **Philip Pichay wrote and published the four (4) defamatory articles with reckless disregard whether it was false or not, the said articles being libelous per se, they are hereby ordered to pay complainant Atty. Carlos T. So, jointly and severally, the sum of ONE MILLION PESOS (PhP 1,000,000) as moral damages**. The claim of actual and exemplary damages is denied for lack of merit.

Costs against petitioners.
SO ORDERED. (Emphasis supplied)

In his Answer dated 4 March 2013, Pichay, through his counsel, alleged that the petition for disqualification was actually a petition to deny due course to or cancel certificate of candidacy under Section 78, in relation to Section 74, of the Omnibus Election Code, and it was filed out of time. He admitted his conviction by final judgment for four counts of libel, but claimed that libel does not necessarily involve moral turpitude. He argued that he did not personally perform the acts prohibited and his conviction for libel was only because of his presumed responsibility as president of the publishing company.

On 14 May 2013, Ty-Delgado filed a motion to suspend the proclamation of Pichay before the Comelec.

On 16 May 2013, the Provincial Board of Canvassers of Surigao del Sur proclaimed Pichay as the duly elected Member of the House of Representatives for the First Legislative District of Surigao del Sur, obtaining a total of seventy-six thousand eight hundred seventy (76,870) votes.

On 31 May 2013, Ty-Delgado filed an *ad cautelam* petition for *quo warranto* before the HRET reiterating that Pichay is ineligible to serve as Member of the House of Representatives because: (1) he was convicted by final judgment of four counts of libel, a crime involving moral turpitude; and (2) only two years have passed since he served his sentence or paid on 17 February 2011 the penalty imposed on him. In his Answer, Pichay claimed that his conviction for the crime of libel did not make him ineligible because ineligibility only pertained to lack of the qualifications under the Constitution.

In its Resolution dated 4 June 2013, the Comelec First Division dismissed the petition for disqualification filed against Pichay because of lack of jurisdiction.

On 16 July 2013, Ty-Delgado manifested her amenability to convert the *ad cautelam* petition into a regular petition for *quo warranto*.

On 22 October 2013, the preliminary conference took place and the parties waived the presentation of their evidence upon agreement that their case only involved legal issues.

The HRET Decision

In a Decision dated 18 March 2015, the HRET held that it had jurisdiction over the present *quo warranto* petition since it involved the eligibility of a Member of the House of Representatives due to a disqualification under Section 12 of the Omnibus Election Code. However, the HRET held that there is nothing in *Tulfo v. People of the Philippines* which found that Pichay directly participated in any way in writing the libelous articles, aside from being the president of the publishing company.



Thus, the HRET concluded that the circumstances surrounding Pichay's conviction for libel showed that the crime did not involve moral turpitude.

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant Petition (for Quo Warranto) is DISMISSED, and respondent Philip A. Pichay is DECLARED ELIGIBLE to hold and serve the office of Member of the House of Representatives for the First Legislative District of Surigao del Sur.

No pronouncement as to costs.

SO ORDERED.⁵

In Resolution No. 15-031 dated 3 August 2015, the HRET denied Ty-Delgado's motion for reconsideration for lack of merit considering that no new matter was raised which justified the reversal or modification of the Decision.

Hence, this petition.

The Issues

Ty-Delgado raises the following issues for resolution:

[I]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION WHEN IT RULED THAT THE CIRCUMSTANCES SURROUNDING RESPONDENT PICHAY'S CONVICTION OF LIBEL DID NOT SHOW THAT MORAL TURPITUDE IS INVOLVED, WHICH IS CONTRARY TO THE FACTUAL AND LEGAL FINDINGS OF THE SUPREME COURT IN G.R. NO. 161032 ENTITLED "*ERWIN TULFO V. PEOPLE AND ATTY. CARLOS T. SO*" AND IN G.R. NO. 161176 ENTITLED "*SUSAN CAMBRI, ET. AL. V. COURT OF APPEALS, ET. AL.*"

[II]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE RESPONDENT PICHAY INELIGIBLE OR DISQUALIFIED FROM HOLDING THE POSITION OF MEMBER OF THE HOUSE OF REPRESENTANTIVES BY REASON OF HIS CONVICTION OF LIBEL, A CRIME INVOLVING MORAL TURPITUDE.

[III]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE THAT RESPONDENT PICHAY FALSELY REPRESENTED IN HIS CERTIFICATE OF CANDIDACY THAT HE IS ELIGIBLE TO RUN FOR CONGRESSMAN BECAUSE HIS CONVICTION OF A CRIME

⁵ Rollo, p. 67.

INVOLVING MORAL TURPITUDE RENDERED HIM INELIGIBLE OR DISQUALIFIED.

[IV]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE THAT RESPONDENT PICHAY SHOULD BE DEEMED TO HAVE NEVER BECOME A CANDIDATE SINCE HIS CERTIFICATE OF CANDIDACY IS VOID AB INITIO.

[V]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE THAT SINCE THE PETITION FOR QUO WARRANTO QUESTIONED THE VALIDITY OF RESPONDENT PICHAY'S CANDIDACY, THE JURISPRUDENCE ON A "SECOND PLACER" BEING PROCLAIMED AS WINNER SHOULD THE CERTIFICATE OF CANDIDACY OF A "FIRST PLACER" IS CANCELLED, SHOULD APPLY.

[VI]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION BY FAILING TO DECLARE THAT PETITIONER DELGADO WAS THE SOLE LEGITIMATE CANDIDATE FOR MEMBER, HOUSE OF REPRESENTANTIVES OF THE FIRST LEGISLATIVE DISTRICT OF SURIGAO DEL SUR, THUS SHE MUST BE DECLARED THE RIGHTFUL WINNER IN THE 2013 ELECTIONS AND MUST BE MADE TO ASSUME THE SAID POSITION.⁶

The Ruling of the Court

We find merit in the petition.

A sentence by final judgment for a crime involving moral turpitude is a ground for disqualification under Section 12 of the Omnibus Election Code:

Sec. 12. *Disqualifications.* — Any person who has been declared by competent authority insane or incompetent, or has been **sentenced by final judgment** for subversion, insurrection, rebellion or for any offense for which he was sentenced to a penalty of more than eighteen months or **for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office**, unless he has been given plenary pardon or granted amnesty.

⁶ Id. at 11-13.



The disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified. (Emphasis supplied)

Moral turpitude is defined as everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general.⁷ Although not every criminal act involves moral turpitude, the Court is guided by one of the general rules that crimes *mala in se* involve moral turpitude while crimes *mala prohibita* do not.⁸

In *Villaber v. Commission on Elections*,⁹ we held that violation of *Batas Pambansa Blg. 22* is a crime involving moral turpitude because a drawer who issues an unfunded check deliberately reneges on the private duties he owes his fellow men or society in a manner contrary to accepted and customary rule of right and duty, justice, honesty or good morals. In *Dela Torre v. Commission on Elections*,¹⁰ we held that the crime of fencing involves moral turpitude because actual knowledge by the “fence” that property received is stolen displays the same degree of malicious deprivation of one’s rightful property as that which animated the robbery or theft which, by their very nature, are crimes of moral turpitude. In *Magno v. Commission on Elections*,¹¹ we ruled that direct bribery involves moral turpitude, because the fact that the offender agrees to accept a promise or gift and deliberately commits an unjust act or refrains from performing an official duty in exchange for some favors denotes a malicious intent on the part of the offender to renege on the duties which he owes his fellowmen and society in general.

In *Zari v. Flores*,¹² we likewise listed libel as one of the crimes involving moral turpitude. The Revised Penal Code defines libel as a “public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.”¹³ The law recognizes that the enjoyment of a private reputation is as much a constitutional right as the possession of life, liberty or property.¹⁴

⁷ *Teves v. Commission on Elections*, 604 Phil. 717 (2009); *Villaber v. Commission on Elections*, 420 Phil. 930 (2001); *Dela Torre v. Commission on Elections*, 327 Phil. 1144 (1996) citing *Zari v. Flores*, 183 Phil. 27 (1979); *International Rice Research Institute v. NLRC*, G.R. No. 97239, 12 May 1993, 221 SCRA 760.

⁸ Id.

⁹ *Villaber v. Commission on Elections*, supra.

¹⁰ *Dela Torre v. Commission on Elections*, supra.

¹¹ 439 Phil. 339 (2002).

¹² 183 Phil. 27 (1979).

¹³ THE REVISED PENAL CODE, Article 353.

¹⁴ *Worcester v. Ocampo*, 22 Phil. 42 (1912).



To be liable for libel, the following elements must be shown to exist: (a) the allegation of a discreditable act or condition concerning another; (b) publication of the charge; (c) identity of the person defamed; and (d) existence of malice.¹⁵ Malice connotes ill will or spite and speaks not in response to duty but merely to injure the reputation of the person defamed, and implies an intention to do ulterior and unjustifiable harm.¹⁶ Malice is bad faith or bad motive and it is the essence of the crime of libel.¹⁷ To determine actual malice, a libelous statement must be shown to have been written or published with the knowledge that it is false or in reckless disregard of whether it is false or not.¹⁸ Reckless disregard of what is false or not means that the defendant entertains serious doubt as to the truth of the publication or possesses a high degree of awareness of its probable falsity.¹⁹

In the present case, Pichay admits his conviction for four counts of libel. In *Tulfo v. People of the Philippines*,²⁰ the Court found Pichay liable for publishing the four defamatory articles, which are libelous *per se*, with reckless disregard of whether they were false or not. The fact that another libelous article was published after the filing of the complaint can be considered as further evidence of malice.²¹ Thus, Pichay clearly acted with actual malice, and intention to do ulterior and unjustifiable harm. He committed an “act of baseness, vileness, or depravity in the private duties which he owes his fellow men, or society in general,” and an act which is “contrary to justice, honesty, or good morals.”

The dissenting opinion before the HRET even considered it “significant that [Pichay] has raised no issue against libel being a crime involving moral turpitude, and has taken issue only against ascribing moral turpitude to him despite his being only the President of the publishing company.”²² Thus, Pichay insists that, since he was only the publisher of the libelous articles and the penalty for his conviction was reduced to payment of fine, the circumstances of his conviction for libel did not amount to moral turpitude.

The Revised Penal Code provides that: “Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same. The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the **same extent** as if he were the author

¹⁵ *Brillante v. Court of Appeals*, 483 Phil. 568 (2004)

¹⁶ *Borjal v. Court of Appeals*, 361 Phil. 1 (1999).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Tulfo v. People of the Philippines*, *supra* note 4.

²¹ *Id.* citing *United States v. Montalvo*, 29 Phil. 595 (1915).

²² *Rollo*, p. 76. Justice Lucas P. Bersamin penned the dissenting opinion in the HRET and Justice Diosdado M. Peralta joined the dissent.

thereof.”²³

The provision did not distinguish or graduate the penalty according to the nature or degree of the participation of the persons involved in the crime of libel. It is basic in statutory construction that where the law does not distinguish, we should not distinguish. Accordingly, we cannot distinguish Pichay’s criminal liability from the others’ criminal liability only because he was the president of the company that published the libelous articles instead of being their author. Pichay’s criminal liability was the same as that of the others, such that he was even meted the same penalty as that imposed on the author of the libelous articles.

The crime of libel would not even be consummated without his participation as publisher of the libelous articles. One who furnishes the means for carrying on the publication of a newspaper and entrusts its management to servants or employees whom he selects and controls may be said to cause to be published what actually appears, and should be held responsible therefor, whether he was individually concerned in the publication or not.²⁴

Although the participation of each felon in the crime of libel differs in point in time and in degree, both author and publisher reneged on the private duties they owe their fellow men or society in a manner contrary to the accepted and customary rule of right and duty, justice, honesty, or good morals.

Contrary to Pichay’s argument, the imposition of a fine does not determine whether the crime involves moral turpitude or not. In *Villaber v. Commission on Elections*,²⁵ we held that a crime still involves moral turpitude even if the penalty of imprisonment imposed is reduced to a fine. In *Tulfo v. People of the Philippines*,²⁶ we explained that a fine was imposed on the accused since they were first time offenders.

Having been convicted of the crime of libel, Pichay is disqualified under Section 12 of the Omnibus Election Code for his conviction for a crime involving moral turpitude.

Under Section 12, the disqualification shall be removed after the expiration of a period of five years from his service of sentence. In *Teves v. Comelec*,²⁷ we held that the five-year period of disqualification would end only on 25 May 2010 or five years from 24 May 2005, the day petitioner paid the fine he was sentenced to pay in *Teves v. Sandiganbayan*. In this case, since Pichay served his sentence when he paid the fine on 17 February

²³ THE REVISED PENAL CODE, Article 360.

²⁴ *United States v. Ocampo*, 18 Phil. 1 (1910).

²⁵ *Villaber v. Commission on Elections*, supra note 7.

²⁶ *Tulfo v. People of the Philippines*, supra note 4.

²⁷ *Teves v. Commission on Elections*, supra note 7.



2011, the five-year period shall end only on 16 February 2016. Thus, Pichay is disqualified to become a Member of the House of Representatives until then.

Considering his ineligibility due to his disqualification under Section 12, which became final on 1 June 2009, Pichay made a false material representation as to his eligibility when he filed his certificate of candidacy on 9 October 2012 for the 2013 elections. Pichay's disqualification under Section 12 is a material fact involving the eligibility of a candidate under Sections 74 and 78 of the Omnibus Election Code. The pertinent provisions read:

*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.*

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 the 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. (Emphases supplied)*

In *Fermin v. Comelec*,²⁸ we likened a proceeding under Section 78 to a *quo warranto* proceeding under Section 253 of the Omnibus Election Code since they both deal with the eligibility or qualification of a candidate, with the distinction mainly in the fact that a Section 78 petition is filed before proclamation, while a petition for *quo warranto* is filed after proclamation of the winning candidate. This is also similar to a *quo warranto* petition contesting the election of a Member of the House of Representatives on the ground of ineligibility or disloyalty to the Republic of the Philippines filed before the HRET.²⁹

²⁸ 595 Phil. 449 (2008).



Under Section 78, a proceeding to deny due course to and/or cancel a certificate of candidacy is premised on a person's misrepresentation of any of the material qualifications required for the elective office.³⁰ This is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office.³¹ In *Jalosjos v. Commission on Elections*,³² we held that if a candidate is not actually eligible because he is barred by final judgment in a criminal case from running for public office, and he still states under oath in his certificate of candidacy that he is eligible to run for public office, then the candidate clearly makes a false material representation that is a ground for a petition under Section 78.

In the present case, Pichay misrepresented his eligibility in his certificate of candidacy because he knew that he had been convicted by final judgment for a crime involving moral turpitude. Thus, his representation that he was eligible for elective public office constitutes false material representation as to his qualification or eligibility for the office.

A person whose certificate of candidacy had been denied due course and/or cancelled under Section 78 is deemed to have not been a candidate at all, because his certificate of candidacy is considered void *ab initio* and thus, cannot give rise to a valid candidacy and necessarily to valid votes.³³ In both *Jalosjos, Jr. v. Commission on Elections*³⁴ and *Aratea v. Commission on Elections*,³⁵ we proclaimed the second placer, the only qualified candidate who actually garnered the highest number of votes, for the position of Mayor. We found that since the certificate of candidacy of the candidate with the highest number of votes was void *ab initio*, he was never a candidate at all, and all his votes were considered stray votes.

Accordingly, we find that the HRET committed grave abuse of discretion amounting to lack of or excess of jurisdiction when it failed to disqualify Pichay for his conviction for libel, a crime involving moral turpitude. Since Pichay's ineligibility existed on the day he filed his certificate of candidacy and he was never a valid candidate for the position of Member of the House of Representatives, the votes cast for him were considered stray votes. Thus, the qualified candidate for the position of

²⁹ Rule 17 of the 2011 HRET Rules provides: "RULE 17. *Quo Warranto*. – A verified petition for quo warranto contesting the election of a Member of the House of Representatives on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall be filed by any registered voter of the district concerned within fifteen (15) days from the date of the proclamation of the winner. The party filing the petition shall be designated as the petitioner while the adverse party shall be known as the respondent.

The provisions of the preceding paragraph to the contrary notwithstanding, a petition for quo warranto may be filed by any registered voter of the district concerned against a member of the House of Representatives, on the ground of citizenship, at any time during his tenure."

³⁰ *Tagolino v. House of Representatives Electoral Tribunal*, 706 Phil. 534 (2013); *Fermin v. Comelec*, supra.

³¹ *Fermin v. Comelec*, supra.

³² 696 Phil. 601 (2012).

³³ *Id.*; *Aratea v. Commission on Elections*, 696 Phil. 700 (2012).

³⁴ *Supra*.


³⁵ *Aratea v. Commission on Elections*, supra.

Member of the House of Representatives for the First Legislative District of Surigao del Sur in the 13 May 2013 elections who received the highest number of valid votes shall be declared the winner. Based on the Provincial Canvass Report, the qualified candidate for the position of Member of the House of Representatives for the First Legislative District of Surigao del Sur in the 13 May 2013 elections who received the highest number of valid votes is petitioner Mary Elizabeth Ty-Delgado.³⁶

Fundamental is the rule that grave abuse of discretion arises when a lower court or tribunal patently violates the Constitution, the law or existing jurisprudence. While it is well-recognized that the HRET has been empowered by the Constitution to be the “sole judge” of all contests relating to the election, returns, and qualifications of the members of the House of Representatives, the Court maintains jurisdiction over it to check “whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction” on the part of the latter. In other words, when the HRET utterly disregards the law and settled precedents on the matter before it, it commits grave abuse of discretion.³⁷

WHEREFORE, we **GRANT** the petition. We **REVERSE** and **SET ASIDE** the Decision dated 18 March 2015 and Resolution dated 3 August 2015 of the House of Representatives Electoral Tribunal in HRET Case No. 13-022. Respondent Philip A. Pichay is ineligible to hold and serve the office of Member of the House of Representatives for the First Legislative District of Surigao del Sur. Petitioner Mary Elizabeth Ty-Delgado is **DECLARED** the winner for the position of Member of the House of Representatives for the First Legislative District of Surigao del Sur in the 13 May 2013 elections. Considering that the term of the present House of Representatives will end on 30 June 2016, this Decision is immediately executory.

SO ORDERED.


ANTONIO T. CARPIO
Associate Justice

³⁶ *Rollo*, p. 183. The candidates for the position of Member of the House of Representatives for the First Legislative District of Surigao del Sur for the 13 May 2013 elections are the following: (1) Mary Elizabeth Ty-Delgado, who garnered a total of 55,489 votes; (2) Victor T. Murillo, who garnered a total of 1,777 votes; and (3) Philip A. Pichay, who garnered a total of 76,870 votes.

³⁷ *Tagolino v. House of Representatives Electoral Tribunal*, *supra*.

WE CONCUR:



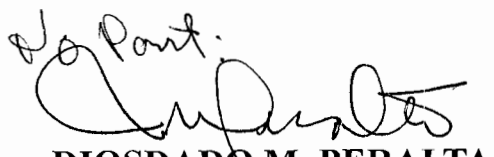
MARIA LOURDES P. A. SERENO
Chief Justice

(no part)

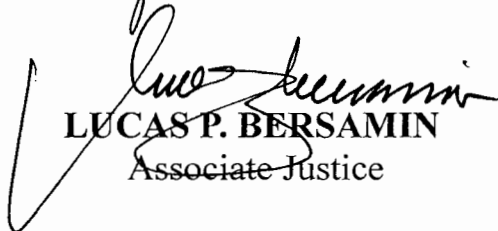
PRESBITERO J. VELASCO, JR.
Associate Justice

Terisita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice

No part.

DIOSDADO M. PERALTA
Associate Justice


No part:


LUCAS P. BERSAMIN
Associate Justice


Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice

UP. Reyes
ESTELA M. PERLAS-BERNABE
Associate Justice




MARVIC M. V. F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

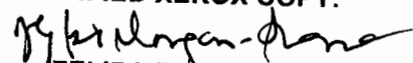
CERTIFICATION

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

CERTIFIED XEROX COPY:



FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT