



**Republic of the Philippines
Supreme Court
Manila**

EN BANC

**JOCELYN “JOY” LIM- G.R. Nos. 209415-17
BUNGCARAS,**
Petitioner,

- versus -

**COMMISSION ON ELECTIONS
(COMELEC) and RICO RENTUZA,**
Respondents.

X ----- X
HERMENEGILDO S. CASTIL,
Petitioner,

- versus -

**COMMISSION ON ELECTIONS
(COMELEC) and RACHEL B.
AVENDULA,**
Respondents.

X ----- X
**JESUS AVENDULA, JR.,
DOMINGO RAMADA, JR. and
VICTOR RAMADA,**
Petitioners,

- versus -

**COMMISSION ON ELECTIONS
(COMELEC), MANUEL O.
CALAPRE, SATURNINO V.
CINCO, FERNAN V. SALAS,
ANTONIO DALUGDUGAN,
FEDERICO C. JAPON, SANTIAGO
M. SANTIAGO, JACINTA O.**

MM

**MALUBAY and BELEN G.
BUNGCAG,**

Respondents.

X ----- X

ALDRIN B. PAMAOS,
Petitioner,

G.R. No. 210002

Present:

SERENO,^{*} *CJ.*,
CARPIO,^{**}
Acting Chief Justice,
VELASCO, JR.,^{***}
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,^{***}
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,^{****} and
CAGUIOA,^{*} *JJ.*

- versus -

**COMMISSION ON ELECTIONS,
MANUEL O. CALAPRE,
SATURNINO V. CINCO, FERNAN
V. SALAS, ANTONIO
DALUGDUGAN, FEDERICO C.
JAPON, SANTIAGO M.
SANTIAGO, JACINTA O.
MALUBAY and BELEN G.
BUNGCAG,**

Respondents.

Promulgated:

November 15, 2016

X ----- X
Armando Sarmiento

DECISION

LEONARDO-DE CASTRO, J.:

The consolidated petitions before this Court are offshoots of related election protest cases first instituted before the Regional Trial Court (RTC) of San Juan, Southern Leyte, Branch 26.

These petitions for *certiorari*¹ were filed under Rule 64 in relation to Rule 65 of the Rules of Court, assailing (a) the three Orders² dated February 1, 2011 of the Commission on Elections (COMELEC) First Division; and

* On leave.

** Per Special Order No. 2401 dated November 15, 2016.

*** On official leave.

**** No part.

¹ *Rollo* (G.R. Nos. 209415-17), Vol. I, pp. 8-31; *Rollo* (G.R. No. 210002), pp. 3-27.

² Id. at 32-35; signed by Presiding Commissioner Rene V. Sarmiento and Commissioners Armando C. Velasco and Gregorio Y. Larrazabal.

mm

(b) the Resolution³ dated September 6, 2013 of the COMELEC *En Banc* in EAC (AE) Nos. A-57-2010, A-58-2010, and A-59-2010.

In **G.R. Nos. 209415-17**, the petitioners are Jocelyn “Joy” Lim-Bungcaras, Hermenegildo S. Castil, Jesus Avendula, Jr., Domingo Ramada, Jr., and Victor Ramada. The private respondents therein are Rico C. Rentuza, Rachel B. Avendula, Manuel O. Calapre, Saturnino V. Cinco, Fernan V. Salas, Antonio Dalugdugan, Federico C. Japon, Santiago M. Santiago, Jacinta O. Malubay, and Belen G. Bungcag. In **G.R. No. 210002**, Aldrin B. Pamaos is the lone petitioner against private respondents Calapre, Cinco, Salas, Dalugdugan, Japon, Santiago, Malubay, and Bungcag.

During the May 10, 2010 Automated Elections, the petitioners and private respondents vied for the local elective positions in the municipality of Saint Bernard, Southern Leyte.

Respondent Rentuza was proclaimed the winner for the mayoralty position over petitioner Lim-Bungcaras; while for the position of Vice Mayor, respondent Avendula was proclaimed the winner over petitioner Castil. For the members of the Sangguniang Bayan, private respondents Calapre, Cinco, Salas, Dalugdugan, Japon, Santiago, Malubay, and Bungcag were declared winners as they received the eight highest numbers of votes. Petitioners Pamaos, Avendula, Domingo Ramada, Jr. and Victor Ramada, were candidates for positions in the Sangguniang Bayan who got the lower numbers of votes.

The petitioners contested the election results before the RTC of San Juan, Southern Leyte. The election protest of petitioner Lim-Bungcaras was docketed as **Election Protest No. 2010-01**,⁴ while the election protest of petitioner Castil was docketed as **Election Protest No. 2010-02**.⁵ The joint election protest of petitioners Pamaos, Avendula, Domingo Ramada, Jr., and Victor Ramada was docketed as **Election Protest No. 2010-03**.⁶

The Judgment of the RTC

After the submission of the private respondents’ Verified Answer with Compulsory Counterclaim,⁷ the conduct of a preliminary conference and trial on the merits of the case, the RTC rendered a **Consolidated Decision**⁸ dated **November 17, 2010**, whereby it decreed:

WHEREFORE, in light of all the foregoing findings, **JUDGMENT** is hereby rendered **DECLARING**:

³ Id. at 54-58.

⁴ Id. at 59-77.

⁵ Id. at 183-200.

⁶ Id. at 296-318.

⁷ Id. at 417-446, 450-479, 483-511.

⁸ *Rollo* (G.R. Nos. 209415-17), Vol. II, pp. 601-657; penned by Acting Judge Rolando L. Gonzalez.



1. Protestee, Rico C. Rentuza, winner over Protestant, Jocelyn Lim-B[u]ngcaras, for the position of Municipal Mayor of St. Bernard, Southern Leyte;
2. Protestee, Rachel B. Avendula winner over Protestant Hermenegildo S. Castil for the position of Vice-Mayor of the same Municipality;
3. Protestees, Manu[e]l O. Calapre, Saturnino V. Cinco, Fernan V. Salas, Antonio C. Dalugdugan, Federico C. Japon, Santiago M. Santiago, Jacinta O. Malubay and Belen G. Bungcag winners over Protestants Adrin B. Pamaos, Jesus R. Avendula, Jr., Domingo G. Ramada, Jr., and Victor C. Ramada for the positions of Sangguniang Bayan Members of the same Municipality.

Consequently, the three (3) election protests are all **DISMISSED** with costs against the protestants.

ACCORDINGLY, the counterclaims of the protestees are **GRANTED** by **ORDERING**:

1. Protestant, **JOCELYN "JOY" LIM-BUNGCARAS** to pay **RICO C. RENTUZA** moral damages in the amount of **Php400,000.00** and attorney's fees of **Php150,000.00**;
2. Protestant, **HERMENEGILDO S. CASTIL** to pay Protestee, **RACHEL V. AVENDULA** moral damages in the amount of **Php400,000.00** and attorney's fees of **Php150,000.00**; and
3. Protestants, **JESUS R. AVENDULA, JR., ALDRIN B. PAMAOS, DOMINGO RAMADA, JR.,** and **VICTOR RAMADA** to pay jointly and severally (in solidum) Protestees, **MANUEL O. CALAPRE, SATURNINO V. CINCO, FERNAN V. SALAS, ANTONIO C. DALUGDUGAN, FEDERICO C. JAPON, SANTIAGO M. SANTIAGO, JACINTA O. MALUBAY,** and **BELEN G. BUNGCAG** moral damages of **Php400,000.00** for each of them and attorney's fees of **Php150,000.00**.⁹

Having received the above decision on the same day of its promulgation, petitioners Lim-Bungcaras, Castil, Avendula, Domingo Ramada, Jr., and Victor Ramada jointly filed a Notice of Appeal¹⁰ before the RTC and paid the appeal fee on November 22, 2010.

Petitioner Pamaos filed his Notice of Appeal and paid ₱1,020.00 as appeal fee to the RTC on November 23, 2010 as he allegedly received the trial court's judgment only on November 18, 2010.¹¹

The RTC granted due course to the petitioners' appeals.¹²

⁹ Id. at 655-657.

¹⁰ Id. at 658-660.

¹¹ COMELEC records, EAC (AE) No. A-59-2010, pp. 19-23 and 28-29.

¹² Id. at 24-25; RTC records, pp. 971-972.

mn

The Rulings of the COMELEC

Before the COMELEC First Division, the appeal of petitioner Lim-Bungcaras was docketed as **EAC (AE) No. A-57-2010**, while the appeal of petitioner Castil was docketed as **EAC (AE) No. A-58-2010**. The appeal of petitioners Pamaos, Avendula, Domingo Ramada, Jr., and Victor Ramada, was docketed as **EAC (AE) No. A-59-2010**.

On December 7, 2010, all the petitioners manifested that they paid an appeal fee of ₱3,550.00 to the COMELEC Electoral Contests Adjudication Department (ECAD) by postal money order.¹³

On February 1, 2011, the COMELEC First Division issued three separate but similarly worded **Orders**¹⁴ in EAC (AE) Nos. A-57-2010, A-58-2010, and A-59-2010 that dismissed the petitioners' appeals for failure to pay the appeal fee payable to the COMELEC within the reglementary period. The COMELEC reasoned that:

Section 4, Rule 40 of the Comelec Rules of Procedure mandates the payment of the appeal fee within the period to file the notice of appeal or five (5) days from receipt of the decision sought to be appealed, while Sec. 9, Rule 22 of the same Rules provides that failure to pay the appeal fee is a ground for the dismissal of the appeal. These provisions were reinforced by the ruling of the Supreme Court in the case of *Divinagracia vs. Comelec* (G.R. Nos. 186007 & 186016) promulgated on 27 July 2009. The Ruling declared that for notices of appeal filed after its promulgation, errors in the matters of non-payment or incomplete payment of appeal fees in the court *a quo* and the Commission on Elections are no longer excusable. (Emphasis supplied.)

In **EAC (AE) No. A-57-2010**, the COMELEC First Division noted that petitioner Lim-Bungcaras timely filed a Notice of Appeal and paid the required appeal fee to the RTC on November 22, 2010. Anent the appeal fee payable to the COMELEC, the First Division found that Lim-Bungcaras paid the same through postal money order on December 7, 2010 but the payment was said to be fifteen (15) days late from the last day of the reglementary period for the filing of the appeal.¹⁵

In **EAC (AE) No. A-58-2010**, the COMELEC First Division observed that petitioner Castil also timely filed a Notice of Appeal and paid the appeal fee to the RTC on November 22, 2010; however, he failed to tender to the COMELEC the appeal fee.¹⁶

Lastly, in **EAC (AE) No. A-59-2010**, the COMELEC First Division ruled that petitioners Pamaos, Avendula, Domingo Ramada, Jr. and Victor

¹³ *Rollo* (G.R. No. 210002), pp. 134-139.

¹⁴ *Rollo* (G.R. Nos. 209415-17), Vol. I, pp. 32-35.

¹⁵ Id. at 32; *see* footnote 1 of the Order.

¹⁶ Id. at 33; *see* footnote 1 of the Order.

hmr

Ramada likewise timely filed their notices of appeal and paid the appeal fee to the RTC. As to their payment of the COMELEC appeal fee, the First Division noted that only petitioner Pamaos paid the same on December 7, 2010, which payment, however, was beyond the reglementary period. Petitioners Avendula, Domingo Ramada, Jr. and Victor Ramada allegedly failed to pay the said fee to the COMELEC.¹⁷

Seeking the reversal of the above orders before the COMELEC *En Banc*, petitioners Lim-Bungcaras, Castil, Avendula, Domingo Ramada, Jr., and Victor Ramada filed their Joint Motion for Reconsideration,¹⁸ while petitioner Pamaos filed his own Motion for Reconsideration.¹⁹

The motions were, however, denied by the COMELEC *En Banc* in its assailed **Resolution dated September 6, 2013**. The COMELEC *En Banc* ruled that the motions had been rendered moot given that the terms of the contested offices already expired on June 30, 2013. As such, a decision on the motions would no longer serve any useful purpose.²⁰

On September 9, 2013, the COMELEC ECAD issued an Entry of Judgment²¹ pursuant to the above resolution.

The Petitions

Still not conceding their defeat, petitioners Lim-Bungcaras, Castil, Avendula, Domingo Ramada, Jr., and Victor Ramada filed a petition for *certiorari* with this Court, which was docketed as **G.R. Nos. 209415-17**. Petitioner Pamaos filed his own petition for *certiorari*, which was docketed as **G.R. No. 210002**.²² Subsequently, the Court ordered the consolidation of the instant petitions in a Resolution dated February 24, 2015.²³

Essentially, the consolidated petitions assail the Orders dated February 1, 2011 of the COMELEC First Division as the petitioners herein insist that they duly perfected their appeals within the reglementary periods required by law. They alleged that they paid the appeal fee of ₱3,550.00 to the COMELEC through postal money order on December 7, 2010 – well within fifteen (15) days from the filing of their notices of appeal to the RTC pursuant to COMELEC Resolution No. 8486. Similarly, the petitioners impugn the Resolution dated September 6, 2013 of the COMELEC *En Banc*,

¹⁷ Id. at 34; see footnote 1 of the Order.

¹⁸ Id. at 36-53.

¹⁹ *Rollo* (G.R. No. 210002), pp. 140-154.

²⁰ *Rollo* (G.R. Nos. 209415-17), Vol. I, pp. 56-57.

²¹ Id., Vol. II, pp. 661-662.

²² In a Resolution dated December 10, 2013, the Court initially dismissed the petition of Aldrin B. Pamaos in G.R. No. 210002 for failure to simultaneously submit soft copies of the petition and its annexes; failure to submit clearly legible duplicate original or certified true copies of the assailed judgments; and the petition having become moot in light of the May 13, 2013 local elections [*Rollo* (G.R. No. 210002), pp. 156-157]. However, in a Resolution dated March 17, 2015, the Court ordered the reinstatement of the said petition [*Rollo* (G.R. No. 210002), pp. 391-393].

²³ *Rollo* (G.R. No. 210002), pp. 386A-386C.

Amw

which declared their appeal moot. They argue that the tribunal overlooked the fact that petitioners also challenged in their appeal before the RTC the imposition of allegedly exorbitant damages in favor of private respondents without any factual or legal basis.²⁴

On the other hand, private respondents averred that the COMELEC *En Banc* did not commit grave abuse of discretion in denying petitioners' motion for reconsideration as the reliefs prayed for by petitioners lacked merit. Said reliefs were allegedly anchored on the petitioners' rights to the respective positions of Mayor, Vice-Mayor and Sangguniang Bayan of Saint Bernard, Southern Leyte and the same can no longer be granted in view of the expiration of the terms of office of the private respondents on June 30, 2013. Moreover, the petitioners' allegations of fraud and irregularities were said to be mere fabrications, which makes them liable for moral damages and attorney's fees.

In both petitions, the COMELEC countered that the petitioners paid the COMELEC appeal fee beyond the reglementary period for doing so. According to the COMELEC, a party who desires to appeal the trial court's decision in an election contest must file a notice of appeal and pay the appeal fee of ₱1,000.00 with said court within five days from the promulgation of the decision. Also, the aggrieved party is mandated to pay the COMELEC appeal fee of ₱3,000.00 under Section 3, Rule 40 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 02-130. The COMELEC points out that this fee shall be deposited with the COMELEC Cash Division within the period to file the notice of appeal, *i.e.*, within five days after the promulgation of the RTC decision, pursuant to Section 4, Rule 40 of the COMELEC Rules of Procedure.²⁵

The COMELEC argued that the petitioners erroneously relied on COMELEC Resolution No. 8486, which provided that an appellant has a period of 15 days from the filing of the notice of appeal with the trial court within which to pay the COMELEC appeal fee. The COMELEC pointed out that the applicability of said resolution had been clarified in *Divinagracia v. Commission on Elections*,²⁶ where the Court supposedly ruled that COMELEC Resolution No. 8486 applies only to notices of appeal filed **on or before** July 27, 2009, which is the date of promulgation of the said case. The COMELEC insists that for notices of appeal filed **after** July 27, 2009, the applicable law is Section 4, Rule 40 in relation to Section 3, Rule 22 of the COMELEC Rules of Procedure. Thus, the petitioners should have paid the COMELEC appeal fee within five days from the promulgation of the RTC Consolidated Decision dated November 17, 2010.²⁷

²⁴ *Rollo* (G.R. Nos. 209415-17), Vol. II, pp. 819-827; *Rollo* (G.R. No. 210002), pp. 11-20.

²⁵ *Id.* at 792-793; *id.* at 399-401.

²⁶ 611 Phil. 538-558 (2009).

²⁷ *Rollo* (G.R. Nos. 209415-17), Vol. II, pp. 795-796; *Rollo* (G.R. No. 210002), pp. 402-403.

mm

Additionally, in G.R. No. 210002, the COMELEC alleged that the expiration of the term of the contested positions renders an election protest moot and academic.²⁸

The resolution of the instant case, therefore, hinges on the determination of the following issues: *first*, whether the petitioners perfected their appeals by timely paying the required appeal fees; and *second*, whether the issues raised by the petitioners in their motions for reconsideration before the COMELEC *En Banc* had already been rendered moot by the expiration of the terms of the contested offices.

The Decision of the Court

The petitions are meritorious. The COMELEC First Division erred in dismissing the petitioners' appeals, while the COMELEC *En Banc* erred in denying the petitioners' motions for reconsideration.

I. The Perfection of the Petitioners' Appeals

At the outset, the Court notes that the COMELEC erroneously cited **A.M. No. 07-4-15-SC**²⁹ as the applicable rules in the instant cases. Said rules, which took effect on May 15, 2007, laid down the procedure for election contests and *quo warranto* cases involving **municipal** and **barangay officials** that are initiated in the trial courts. The same supplanted Rule 35 ("*Election Contests Before Courts of General Jurisdiction*") and Rule 36 ("*Quo Warranto Case Before Courts of General Jurisdiction*") of the 1993 COMELEC Rules of Procedure.³⁰

However, for the May 10, 2010 Automated Elections, the Court approved on April 27, 2010 **A.M. No. 10-4-1-SC**, the *2010 Rules of Procedure in Election Contests before the Courts Involving Elective Municipal Officials*. For **municipal election contests**, **A.M. No. 10-4-1-SC** superseded **A.M. No. 07-4-15-SC**.³¹

To appeal the trial court's decision in a municipal election contest, **Sections 8 and 9, Rule 14 of A.M. No. 10-4-1-SC** require the filing of a notice of appeal and the simultaneous payment of a ₱1,000.00 appeal fee to the trial court that rendered judgment. Thus –

SEC. 8. Appeal. - An aggrieved party may appeal the decision to the COMELEC **within five (5) days after promulgation**, by filing a **notice of appeal** with the court that rendered the decision, with copy

²⁸ *Rollo* (G.R. No. 210002), pp. 403-407.

²⁹ Entitled "The Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and *Barangay* Officials."

³⁰ Section 1, second paragraph, Rule 17 of A.M. No. 07-4-15-SC.

³¹ Section 1, Rule 18 of A.M. No. 10-4-1-SC.

served on the adverse counsel or on the adverse party who is not represented by counsel.

SEC. 9. *Appeal fee.* - The appellant in an election contest shall pay to the court that rendered the decision an **appeal fee of One Thousand Pesos (₱1,000.00)**, simultaneously with the filing of the notice of appeal. (Emphasis supplied.)

With respect to the payment of the COMELEC appeal fee, an appellant is also required to pay an additional amount of ₱3,200.00 under **Section 3, Rule 40 of the COMELEC Rules of Procedure**, as amended by COMELEC Minute Resolution No. 02-0130,³² to wit:

SEC. 3. Appeal Fees. - The appellant in election cases shall pay an appeal fee as follows:

- (a) For election cases appealed from Regional Trial Courts.....₱3,000.00 (per appellant)
- (b) For election cases appealed from courts of limited jurisdiction.....₱3,000.00 (per appellant)

Formerly, under **Section 4, Rule 40 of the COMELEC Rules of Procedure**, the appeal fee payable to the COMELEC “shall be paid to, and deposited with, the Cash Division of the Commission within a period to file the notice of appeal.” Said period refers to the period stated in Section 3, Rule 22³³ of the aforesaid Rules, which is within five days after the promulgation of the decision of the court. The promulgation of the decision is understood to mean the receipt by a party of a copy of the decision.³⁴

Thereafter, on July 15, 2008, the COMELEC promulgated **COMELEC Resolution No. 8486** in order to clarify the implementation of the rules on the required appeal fees for the perfection of the appeals of election cases decided by the trial courts. Said resolution states:

WHEREAS, the Commission on Elections is vested with appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, and those involving elective barangay officials, decided by trial courts of limited jurisdiction;

WHEREAS, Supreme Court Administrative Order No. 07-4-15 (Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials) promulgated on May 15, 2007 provides in Sections 8 and 9, Rule 14 thereof the procedure for instituting

³² COMELEC Minute Resolution No. 02-0130 prescribes an amount of ₱3,000.00 as appeal fee, plus ₱150.00 for bailiff's fee and ₱50.00 for legal research fee. (*See Pacanan, Jr. v. Commission on Elections*, 613 Phil. 549, 556 [2009].)

³³ Section 3, Rule 22 of the COMELEC Rules of Procedure states:

SEC. 3. *Notice of Appeal.* - Within five (5) days after promulgation of the decision of the court, the aggrieved party may file with said court a notice of appeal, and serve a copy thereof upon the attorney of record of the adverse party.

³⁴ *Batalla v. Commission on Elections*, 615 Phil. 805, 819 (2009).

mmk

the appeal and the required appeal fees to be paid for the appeal to be given due course, to wit:

“Section 8. *Appeal*. – An aggrieved party may appeal the decision to the Commission on Elections, within five days after promulgation, by filing a notice of appeal with the court that rendered the decision, with copy served on the adverse counsel or party if not represented by counsel.”

“Section 9. *Appeal Fee*. – The appellant in an election contest shall pay to the court that rendered the decision an appeal fee of One Thousand Pesos (₱1,000.00), simultaneously with the filing of the notice of appeal.”

WHEREAS, **payment of appeal fees in appealed election protest cases is also required in Section 3, Rule 40 of the COMELEC Rules of Procedure the amended amount of which was set at ₱3,200.00 in COMELEC Minute Resolution No. 02-0130 made effective on September 18, 2002.**

WHEREAS, the requirement of these two appeal fees by two different jurisdictions had caused confusion in the implementation by the Commission on Elections of its procedural rules on payment of appeal fees for the perfection of appeals of cases brought before it from the Courts of General and Limited Jurisdictions.

WHEREAS, there is a need to clarify the rules on compliance with the required appeal fees for the proper and judicious exercise of the Commission’s appellate jurisdiction over election protest cases.

WHEREFORE, in view of the foregoing, the Commission hereby RESOLVES to DIRECT as follows:

1. That if the appellant had already paid the amount of **₱1,000.00** before the Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court or lower courts within the five-day period, pursuant to Section 9, Rule 14 of the Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials (Supreme Court Administrative Order No. 07-4-15) and his Appeal was given due course by the Court, **said appellant is required to pay the Comelec appeal fee of ₱3,200.00** at the Commission’s Cash Division through the Electoral Contests Adjudication Department (ECAD) or by postal money order payable to the Commission on Elections through ECAD, **within a period of fifteen days (15) from the time of the filing of the Notice of Appeal with the lower court.** If no payment is made within the prescribed period, the appeal shall be dismissed pursuant to Section 9(a) of Rule 22 of the COMELEC Rules of Procedure, which provides:

“Sec. 9. *Grounds for Dismissal of Appeal*. The appeal may be dismissed upon motion of either party or at the instance of the Commission on any of the following grounds:

(a) Failure of the appellant to pay the correct appeal fee; x x x”

2. That if the appellant failed to pay the ₱1,000.00 appeal fee with the lower court within the five (5) day period as prescribed by the Supreme Court New Rules of Procedure but the case was nonetheless elevated to the Commission, the appeal shall be dismissed outright by the Commission, in accordance with the aforesated Section 9(a) of Rule 22 of the Comelec Rules of Procedure. (Emphases supplied.)

Plainly, COMELEC Resolution No. 8486 allows an appellant to pay the COMELEC appeal fee at the COMELEC's Cash Division through the ECAD or by postal money order payable to the COMELEC within a period of **15 days from the time of the filing of the notice of appeal in the trial court.** COMELEC Resolution No. 8486, for all intents and purposes, **extended** the period provided for the filing of the COMELEC appeal fee under Section 4, Rule 40 in relation to Section 3, Rule 22 of the COMELEC Rules of Procedure. Thus, in *Batalla v. Commission on Elections*,³⁵ the Court confirmed that COMELEC Resolution No. 8486 effectively amended Section 4, Rule 40 of the COMELEC Rules of Procedure.

Incidentally, although COMELEC Resolution No. 8486 specifically mentions Sections 8 and 9, Rule 14 of A.M. No. 07-4-15-SC as the applicable provisions on the procedure for instituting an appeal before the courts in election cases involving elective municipal and *barangay* officials, the same does not materially affect the application of the said resolution in this case as Sections 8 and 9, Rule 14 of A.M. No. 07-4-15-SC are substantially similar to Sections 8 and 9, Rule 14 of A.M. No. 10-4-1-SC. To repeat, A.M. No. 10-4-1-SC superseded A.M. No. 07-4-15-SC insofar as municipal elections are concerned.

The Court finds that the COMELEC First Division erred in disregarding COMELEC Resolution No. 8486. The justification of the COMELEC therefor is illogical and uncalled for. In *Divinagracia, Jr. v. Commission on Elections*,³⁶ which was promulgated on July 27, 2009, the Court made the following pronouncements:

That Comelec Resolution No. 8486 took effect on July 24, 2008 or after a party had filed a notice of appeal, as in the case of petitioner, does not exempt it from paying the Comelec-prescribed appeal fees. The Comelec merely clarified the **existing** rules on the payment of such appeal fees, and allowed the payment thereof within 15 days from filing the notice of appeal.

In the recent case of *Aguilar v. Comelec*, the Court harmonized the rules with the following ratiocination:

The foregoing resolution is consistent with A.M. No. 07-4-15-SC and the COMELEC Rules of Procedure, as amended. The appeal to the COMELEC of the trial court's decision in election contests involving municipal and *barangay* officials is **perfected** upon the filing of the notice

³⁵ Id. at 819-820.

³⁶ 611 Phil. 538, 550-552 (2009).

of appeal and the payment of the ₱1,000.00 appeal fee to the court that rendered the decision within the five-day reglementary period. **The non-payment or the insufficient payment of the additional appeal fee of ₱3,200.00 to the COMELEC Cash Division, in accordance with Rule 40, Section 3 of the COMELEC Rules of Procedure, as amended, does not affect the perfection of the appeal and does not result in outright or ipso facto dismissal of the appeal.** Following, Rule 22, Section 9(a) of the COMELEC Rules, the appeal *may* be dismissed. And pursuant to Rule 40, Section 18 of the same rules, if the fees are not paid, the COMELEC *may* refuse to take action thereon until they are paid and *may* dismiss the action or the proceeding. In such a situation, the COMELEC is merely given the discretion to dismiss the appeal or not. x x x.

x x x x

Aguilar has not, however, diluted the force of Comelec Resolution No. 8486 on the matter of compliance with the Comelec-required appeal fees. To reiterate, Resolution No. 8486 merely *clarified* the rules on Comelec appeal fees which have been existing as early as 1993, the amount of which was last fixed in 2002. The Comelec even went one step backward and extended the period of payment to 15 days from the filing of the notice of appeal.

Considering that a year has elapsed after the issuance on July 15, 2008 of Comelec Resolution No. 8486, and to further affirm the discretion granted to the Comelec which it precisely articulated through the specific guidelines contained in said Resolution, the Court NOW DECLARES, for the guidance of the Bench and Bar, that for notices of appeal filed after the promulgation of this decision, errors in the matter of non-payment or incomplete payment of the two appeal fees in election cases are no longer excusable. (Citations omitted.)

A careful reading of our ruling in *Divinagracia* reveals that there is nothing therein that would even slightly suggest that the provisions of COMELEC Resolution No. 8486 apply only to notices of appeal filed on or before July 27, 2009, the date of promulgation of the said case. What the Court emphatically declared in *Divinagracia* is that, after the extensive discussion made therein regarding the payment of the two appeal fees in election cases in accordance with COMELEC Resolution No. 8486, errors in the matter of nonpayment or incomplete payment of said fees will no longer be tolerated or excused. Thus, COMELEC Resolution No. 8486 remains applicable to this day and until the same is repealed or modified accordingly. To be sure, in *Batalla*, the Court categorically stated that the additional ₱3,200.00 appeal fee may be paid to the COMELEC Cash Division within 15 days from the filing of the notice of appeal pursuant to COMELEC Resolution No. 8486 notwithstanding the promulgation of *Divinagracia*.

The COMELEC First Division, thus, erred in issuing the three February 1, 2011 Orders in EAC (AE) Nos. A-57-2010, A-58-2010, and A-57-2010 in accordance with Section 4, Rule 40 of the COMELEC Rules of Procedure without taking into consideration the provisions of COMELEC Resolution No. 8486 in connection with A.M. No. 10-4-1-SC. Nevertheless,

mlw

the Court finds that **not all** the petitioners in this case properly complied with COMELEC Resolution No. 8486 regarding the payment of the appeal fee payable to the COMELEC.

To reiterate, petitioners Lim-Bungcaras, Castil, Avendula, Domingo Ramada, Jr., and Victor Ramada received the Consolidated Decision dated November 17, 2010 of the RTC on the same day of its promulgation. They jointly filed a notice of appeal and paid the appeal fee of ₱1,000.00 to the RTC on **November 22, 2010**, which was within the five-day reglementary period. In like manner, petitioner Pamaos received the trial court's judgment on November 18, 2010. He filed his notice of appeal and paid ₱1,020.00 as appeal fee to the RTC on **November 23, 2010**. Clearly, the petitioners' filing of their notices of appeal and the payment of the appeal fees to the RTC complied with Sections 8 and 9, Rule 14 of A.M. No. 10-4-1-SC.

Anent the filing of the appeal fee payable to the COMELEC, the records of this case support the factual findings of the COMELEC First Division that only petitioners Lim-Bungcaras and Pamaos paid the said fee.

With respect to the appeal of petitioner Lim-Bungcaras in EAC (AE) No. A-57-2010, she paid the COMELEC appeal fee on **December 7, 2010**, *i.e.*, the fifteenth day from the filing of the joint notice of appeal with the RTC. Said payment was evidenced by postal money orders issued in her name amounting to ₱3,550.00³⁷ and the official receipt³⁸ issued therefor. As to the appeal of petitioner Pamaos in EAC (AE) No. A-59-2010, he likewise paid the COMELEC appeal fee on **December 7, 2010**, which was the fourteenth day from the filing of his notice of appeal to the trial court. His payment was likewise evidenced by postal money orders issued in his name amounting to ₱3,550.00³⁹ and the official receipt issued therefor.⁴⁰ Clearly, the aforesaid payments complied with COMELEC Resolution No. 8486.

As regards the appeals of petitioners Castil, Avendula, Domingo Ramada, Jr., and Victor Ramada, however, the Court finds that they indeed failed to remit the appeal fee payable to the COMELEC. In said petitioners' Manifestations/Notice of Appeal⁴¹ before the COMELEC, they merely attached the photocopies of the postal money orders issued in the names of petitioners Lim-Bungcaras and Pamaos as proof of payment. Unfortunately, this is insufficient as Section 3, Rule 40 of the COMELEC Rules of Procedure, as amended by COMELEC Minute Resolution No. 02-0130, expressly requires that each individual appellant must pay the appeal fee

³⁷ *Rollo* (G.R. No. 210002), p. 139.

³⁸ *See* first page of COMELEC records, EAC (AE) No. A-57-2010. The ₱3,550.00 was composed of the ₱3,000.00 appeal fee, ₱50.00 as legal research fee, and ₱500.00 as bailiff's fee.

³⁹ *Rollo* (G.R. No. 210002), p. 138.

⁴⁰ *See* first page of COMELEC records, EAC (AE) No. A-59-2010. The ₱3,550.00 was composed of the ₱3,000.00 appeal fee, ₱50.00 as legal research fee, and ₱500.00 as bailiff's fee.

⁴¹ COMELEC records, EAC (AE) No. A-58-2010, pp. 2-6; COMELEC records, EAC (AE) No. A-59-2010, pp. 2-6.

payable to the COMELEC. The failure of petitioners Castil, Avendula, Domingo Ramada, Jr., and Victor Ramada to remit their respective payments of the COMELEC appeal fee was a valid ground for the dismissal of their appeals.

Accordingly, the assailed COMELEC Order dated February 1, 2011 in **EAC (AE) No. A-57-2010**, which involved the appeal of petitioner Lim-Bungcaras, and the COMELEC Order of even date in **EAC (AE) No. A-59-2010**, insofar as it involved the appeal of petitioner Pamaos, had been issued with grave abuse of discretion such that the same should have been given due course.

As for the appeal of petitioner Castil docketed as **EAC (AE) No. A-58-2010** and the appeals of petitioners Avendula, Domingo Ramada, Jr., and Victor Ramada in **EAC (AE) No. A-59-2010** that were not duly perfected in accordance with COMELEC Resolution No. 8486, the particular circumstances of this case compels this Court to likewise take cognizance of the same.

II. The Mootness of the Issues Raised by the Petitioners

Instead of ruling on the merits of the petitioners' appeals, the COMELEC *En Banc* denied the same outright in its assailed Resolution dated September 6, 2013 in view of the expiration of the terms of the contested offices on June 30, 2013.

We find the dismissal of the appeals on this ground erroneous.

In *Malaluan v. Commission on Elections*,⁴² the Court ruled that when a decision in an election protest includes a monetary award for damages, the issue of the said award is not rendered moot upon the expiration of the term of office that is contested in the election protest. We held in *Malaluan* that:

When the appeal from a decision in an election case has already become moot, the case being an election protest involving the office of mayor the term of which had expired, the appeal is dismissible on that ground, unless the rendering of a decision on the merits would be of practical value. This rule we established in the case of *Yorac vs. Magalona* which we dismissed because it had been mooted by the expiration of the term of office of the Municipal Mayor of Saravia, Negros Occidental. This was the object of contention between the parties therein. The recent case of *Atienza vs. Commission on Elections*, however, squarely presented the situation that is the exception to that rule.

Comparing the scenarios in those two cases, we explained:

⁴² 324 Phil. 676, 683-684 (1996).

“Second, petitioner’s citation of *Yorac vs. Magalona* as authority for his main proposition is grossly inappropriate and misses the point in issue. The sole question in that case centered on an election protest involving the mayoralty post in Saravia, Negros Occidental in the general elections of 1955, which was rendered moot and academic by the expiration of the term of office in December, 1959. It did not involve a monetary award for damages and other expenses incurred as a result of the election protest. x x x That is not the case here. In contradistinction to *Yorac*, a decision on the merits in the case at bench would clearly have the practical value of either sustaining the monetary award for damages or relieving the private respondent from having to pay the amount thus awarded.”

Indeed, this petition appears now to be moot and academic because the herein parties are contesting an elective post to which their right to the office no longer exists. **However, the question as to damages remains ripe for adjudication.** x x x. (Emphasis supplied; citations omitted.)

In the instant case, while the terms of the contested offices already expired on June 30, 2013, the trial court, nonetheless, awarded in favor of each of the private respondents moral damages in the amount of ₱450,000.00 and ₱150,000.00 as attorney’s fees. In accordance with *Malaluan*, the question of whether the petitioners are liable for the payment of the monetary awards in this case remains ripe for adjudication.

In order to obviate any further delay in the disposition of this case, however, the Court deems it proper to rule on the merits of the appeals in these petitions with respect to the aforesaid monetary awards instead of remanding the same to the COMELEC.

A. The award of moral damages

We find that the trial court gravely erred in awarding moral damages of ₱450,000.00 in favor of each of the private respondents. The award is improper as the same is not sanctioned under our current election law.

As the Court explained in *Atienza v. Commission on Elections*⁴³:

The country’s early election laws contained provisions requiring the furnishing of a bond or cash deposit for purposes of payment of expenses and costs incidental to election contests and appeals. The Administrative Code of 1917 for instance provides:

Sec. 482. *Bond or Cash Deposit Required of Contestants.* Before the Court shall entertain any such contest or counter-contest or admit an appeal, the party filing the contest, counter-contest or appeal shall give bond

⁴³

G.R. No. 108533, December 20, 1994, 239 SCRA 298, 306-307.

in an amount fixed by the court with two sureties satisfactory to it, conditioned that he will pay all expenses and costs incident to such motion or appeal, or shall deposit cash in court in lieu of such bond. If the party paying such expenses and costs shall be successful, they shall be taxed by the court and entered and be collectible as a judgment against the defeated party.

The Election Law of 1938 (Commonwealth Act No. 357) contained the same provision with a minor modification providing for increasing or decreasing the bond or cash deposit "as the course of the contest may require." This provision was repeated *in toto* in the Revised Election Code of 1947. [The Election Code of 1971 (Republic Act No. 6388) and the 1978 Election Code (Presidential Decree No. 1296)] contained provisions allowing awards for **moral and exemplary damages** "as the Commission may deem just if the aggrieved party has included (such) in his pleadings," but left out the provision for bond and cash deposits found in the earlier election codes. **The provisions for moral and exemplary damages as well as the early provisions requiring the furnishing of a bond to cover expenses related to election contests have all but disappeared in the current Omnibus Election Code.** (Emphasis supplied; citations omitted.)

Indeed, Sections 223, 225, and 226 of the Election Code of 1971 (Republic Act No. 6388) explicitly provided for the award of moral and exemplary damages in election contests in this wise:

SECTION 223. *Bond or Cash Deposit.* — Before the court shall take cognizance of a protest, or a counter-protest, or a protest-in-intervention, or admit an appeal, the party who has filed the pleading or interposed the appeal shall file a bond with two sureties satisfactory to the court and for such amount as it may fix, to answer for the payment of all expenses and costs incidental to said protest or appeal **including any amount for moral and exemplary damages** that may be adjudicated by the court, or shall deposit with the court cash in lieu of the bond or both as the court may order. x x x.

SECTION 225. *Moral and Exemplary Damages in Election Contests and Quo Warranto Proceedings.* — In all election protests or in *quo warranto* proceedings, the court or the Electoral Tribunals of both Houses of Congress may adjudicate in the same case, **moral and exemplary damages** as it may deem just if the aggrieved party has included in his pleadings such claims.

In no case shall moral and/or exemplary damages exceed the amount equivalent to the total emoluments attached to the office concerned.

SECTION 226. *Adjudication of Moral and Exemplary Damages.* — The **moral and/or exemplary damages** shall be adjudicated and shall form part of the decision of the same case, and may be executed after the decision in the same case becomes final and executory. (Emphasis supplied.)

MAC

In like manner, Sections 194 and 195 of the 1978 Election Code (Presidential Decree No. 1296) state:

SECTION 194. *Moral and exemplary damages in election contests and quo warranto proceedings.* — In all election contests or in *quo warranto* proceedings the Commission or court may adjudicate in the same case, **moral and exemplary damages** as it may deem just if the aggrieved party has included in his pleadings such claims.

In no case shall moral and/or exemplary damages exceed the amount equivalent to the total emoluments attached to the office concerned.

SECTION 195. *Adjudication of moral and exemplary damages.* — The **moral and/or exemplary damages** shall be adjudicated and shall form part of the decision of the same case, and may be executed after the decision in the same case becomes final and executory.

Presently, the award of damages in election contests is provided under Section 259 of the Omnibus Election Code, which states:

SEC. 259. Actual or compensatory damages. - **Actual or compensatory damages** may be granted in all election contests or in *quo warranto* proceedings in accordance with law. (Emphasis supplied.)

What is patently clear from Section 259 of the Omnibus Election Code is that only actual or compensatory damages may be awarded in election contests. The above provision is a stark contrast to the aforesaid provisions in the past election codes that expressly permit the award of moral and exemplary damages. As the Court concluded in *Atienza*, the omission of the provisions allowing for moral and exemplary damages in the current Omnibus Election Code clearly underscores the legislative intent to do away with the award of damages other than those specified in Section 259 of the Omnibus Election Code, *i.e.*, actual or compensatory damages.⁴⁴

B. The award of attorney's fees

Concerning the trial court's award of attorney's fees of ₱150,000.00 in favor of each of the private respondents, the same is likewise unwarranted.

Section 2, Rule 15 of A.M. No. 10-4-1-SC mandates that:

SEC. 2. *Damages and attorney's fees.* — In all election contests, the court may adjudicate damages and attorney's fees as it may deem just and as established by the evidence, if the aggrieved party has included these claims in the pleadings.

⁴⁴ Id. at 308-309.

Thus, for the trial court to award attorney's fees, the same must be just and borne out by the pleadings and evidence of the party concerned.

Furthermore, Article 2208 of the Civil Code⁴⁵ enumerates the specific instances when attorney's fees may be awarded, among which is when the defendant's act or omission has compelled the plaintiff to litigate or to incur expenses to protect the latter's interest.

Verily, the trial court used the aforementioned ground when it justified the award of attorney's fees as follows:

Finally, the [private respondents] are entitled to an award of attorney's fees in the amount of Php150,000.00 each. The Supreme Court in *Industrial Insurance Company, Inc. vs. Bondad* (330 SCRA 706) held that attorney's fees may be awarded by a court if one who claims it is compelled to litigate or to incur expenses to protect one's interest by reason of an unjust act or omission on the part of the party from whom it is sought.⁴⁶

In the case at bar, while the private respondents did include their claim for attorney's fees in their memorandum before the trial court,⁴⁷ the Court finds that they did not adduce sufficient evidence to substantiate their entitlement to said claim. Moreover, the fact that the private respondents were compelled to litigate does not, by itself, merit the award of attorney's fees. The Court explained this concept in *Mindex Resources Development v. Morillo*⁴⁸ thusly:

We find the award of attorney's fees to be improper. The reason which the RTC gave — because petitioner had compelled respondent to file an action against it — falls short of our requirement in *Scott Consultants and Resource Development v. CA*, from which we quote:

⁴⁵ Article 2208 of the Civil Code states that:
ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:
(1) When exemplary damages are awarded;
(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
(3) In criminal cases of malicious prosecution against the plaintiff;
(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
(6) In actions for legal support;
(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
(8) In actions for indemnity under workmen's compensation and employer's liability laws;
(9) In a separate civil action to recover civil liability arising from a crime;
(10) When at least double judicial costs are awarded;
(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

⁴⁶ In all cases, the attorney's fees and expenses of litigation must be reasonable.

⁴⁷ *Rollo* (G.R. Nos. 209415-17), Vol. II, p. 656.

⁴⁸ *Id.* at 595-599.

⁴⁸ 428 Phil. 934, 948-949 (2002).

mmk

“It is settled that the award of attorney’s fees is the exception rather than the rule and counsel’s fees are not to be awarded every time a party wins suit. **The power of the court to award attorney’s fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification; its basis cannot be left to speculation or conjecture.** Where granted, the court must explicitly state in the body of the decision, and not only in the dispositive portion thereof, the legal reason for the award of attorney’s fees.”

Moreover, a recent case ruled that “in the absence of stipulation, a winning party may be awarded attorney’s fees only in case plaintiff’s action or defendant’s stand is so untenable as to amount to gross and evident bad faith.”

Indeed, respondent was compelled to file this suit to vindicate his rights. However, such fact by itself will not justify an award of attorney’s fees, when there is no sufficient showing of petitioner’s bad faith in refusing to pay the said rentals as well as the repair and overhaul costs. (Citations omitted; emphasis supplied.)

The RTC ruled that the petitioners were guilty of bad faith in filing their respective election protests against the private respondents, which protests were brushed aside as “a product or figment of [the petitioners’] fertile and wild imaginations to make it appear that there were fraud, irregularities and flagrant violations committed during the conduct of elections.”⁴⁹ Essentially, the trial court arrived at the above conclusion in view of the apparent failure of the petitioners to adduce adequate evidence to prove their claims.

The Court, however, is not convinced.

The failure of the petitioners to adduce substantial evidence to sustain their election protests does not necessarily lead to a conclusion that they were guilty of bad faith in the filing of said cases. Such a conclusion is conjectural and unjustified under the circumstances. As held in *Andrade v. Court of Appeals*,⁵⁰ the entrenched rule is that bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.

We reiterated in *BPI Family Savings Bank, Inc. v. Manikan, Inc.*⁵¹ that:

Such an award, in the concept of damages under Article 2208 of the Civil Code, demands factual and legal justifications. While the law allows some degree of discretion on the part of the courts in awarding attorney’s fees

⁴⁹ *Rollo* (G.R. Nos. 209415-17), Vol. II, p. 656.

⁵⁰ 423 Phil. 30, 43 (2001).

⁵¹ 443 Phil. 463, 468 (2003).

mm

and expenses of litigation, the use of that judgment, however, must be done with great care approximating as closely as possible the instances exemplified by the law. Attorney's fees in the concept of damages are not recoverable against a party just because of an unfavorable judgment. Repeatedly, it has been said that no premium should be placed on the right to litigate. (Citations omitted.)

Accordingly, we nullify the award of attorney's fees.

Finally, we address the effect of this Decision on the parties who failed to perfect their appeal from the RTC judgment. In *First Leverage and Services Group, Inc. v. Solid Builders, Inc.*,⁵² we had the occasion to state that:

This Court has always recognized the general rule that in appellate proceedings, the reversal of the judgment on appeal is binding only on the parties in the appealed case and does not affect or inure to the benefit of those who did not join or were not made parties to the appeal. An exception to the rule exists, however, where a judgment cannot be reversed as to the party appealing without affecting the rights of his co-debtor, or where the rights and liabilities of the parties are so interwoven and dependent on each other as to be inseparable, in which case a reversal as to one operates as a reversal as to all. This exception, which is based on a communality of interest of said parties, is recognized in this jurisdiction. x x x. (Citations omitted.)

To illustrate, in *Unsay v. Palma*,⁵³ we allowed the appeal of one defendant to benefit his non-appealing co-defendants where the defense upon which the reversal of the trial court's judgment was based was not personal to any or some of the defendants but applied to all.

Persuasively, in American jurisprudence, the exception to the general rule on non-appealing parties is stated, thus:

Where the judgment is entire and jointly binding on or in favor of several coparties, or the cause of action is of such a nature that the rights and issues are interdependent and injustice might result from a reversal as to less than all the parties, the appellate court will reverse the judgment as to all.⁵⁴

Considering our determination that the trial court's award of moral damages and attorney's fees in these consolidated election cases had no justification in fact or law and this ground for reversal applies to all the

⁵² 690 Phil. 1, 15-16 (2012).

⁵³ 121 Phil. 932, 936 (1965).


⁵⁴ 5 C.J.S. Appeal and Error § 1078 (September 2016 Update), citing *J.A.P. v. L.W.A.*, 910 So. 2d 115 (Ala. Civ. App. 2004); *Shearman Concrete Pipe Co. v. Wooldridge*, 218 Ark. 16, 234 S.W. 2d 384 (1950); *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 296 Ill. Dec. 448, 835 N.E. 2d 801 (2005); and *Smith v. Flannery*, 383 Pa. 526, 119 A. 2d 224 (1956).

petitioners, it would be grossly unjust to limit our ruling only to those who perfected their appeals.

WHEREFORE, the petitions for *certiorari* are **GRANTED**. The three Orders dated February 1, 2011 of the COMELEC First Division and the Resolution dated September 6, 2013 of the COMELEC *En Banc* in EAC (AE) Nos. A-57-2010, A-58-2010, and A-59-2010 are **REVERSED** and **SET ASIDE**.

The Consolidated Decision dated November 17, 2010 of the Regional Trial Court of San Juan, Southern Leyte in Election Protest Nos. 2010-01, 2010-02, and 2010-03 is hereby **REVERSED** insofar as the award of moral damages and attorney's fees is concerned. The Court takes no action on the portion of the Consolidated Decision that declared the private respondents Rico C. Rentuza, Rachel B. Avendula, Manuel O. Calapre, Saturnino V. Cinco, Fernan V. Salas, Antonio Dalugdugan, Federico C. Japon, Santiago M. Santiago, Jacinta O. Malubay, and Belen G. Bungcag as the respective winners for the local elective positions of the municipality of Saint Bernard, Southern Leyte in the May 10, 2010 Automated Elections as the said matter had been rendered moot and academic in view of the expiration of the terms of office of the local elective positions.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

On leave
MARIA LOURDES P. A. SERENO
Chief Justice



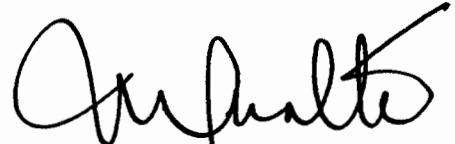
ANTONIO T. CARPIO
Acting Chief Justice

ON LEAVE (OFFICIAL)

PRESBITERO J. VELASCO, JR.
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

ON LEAVE (OFFICIAL)

JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



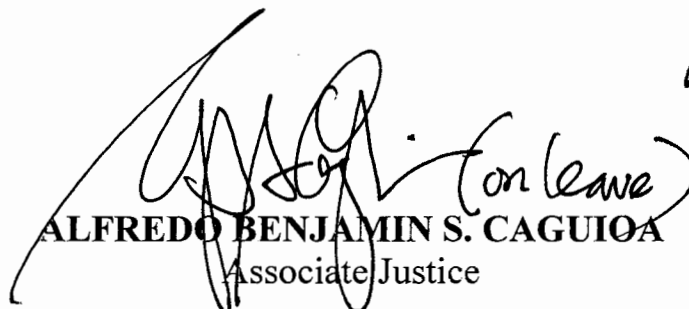
MARVIC M.V.F. LEONEN
Associate Justice



No part

FRANCIS H. JARDELEZA
Associate Justice

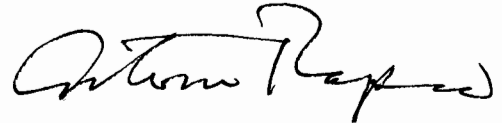
*no part
prior OSG
action*



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio". The signature is fluid and cursive, with a large initial "A" and "C".

ANTONIO T. CARPIO
Acting Chief Justice