**EN BANC**

**G.R. No. 260650 – ROBERTO "PINPIN" T. UY, JR.,** petitioner, **v. COMMISSION ON ELECTIONS, VERLY TABANCURA-ADANZA, in her capacity as the PROVINCIAL ELECTION SUPERVISOR and CHAIRPERSON of the Provincial Board of Canvassers for the Province of Zamboanga del Norte, THE PROVINCIAL BOARD OF CANVASSERS FOR THE PROVINCE OF ZAMBOANGA DEL NORTE, AND ROMEO M. JALOSJOS, JR.,** respondents.

**G.R. No. 260952 – FREDERICO P. JALOSJOS,** petitioner, **v. ROMEO M. JALOSJOS, JR. and the COMMISSION ON ELECTIONS,** respondents.

Promulgated:

August 8, 2023

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**DISSENTING OPINION**

**CAGUIOA, *J.*:**

I dissent. The consolidated petitions should be dismissed for lack of jurisdiction.

Having been previously proclaimed as winning candidate for Representative of the First District of Zamboanga del Norte (subject position) by the Commission on Elections (COMELEC), and having previously taken an oath of office before a duly authorized public official, respondent Romeo M. Jalosjos, Jr. (Romeo) assumed office as Member of the House of Representatives (House) by operation of law[1] on June 30, 2022.

On the same date, exclusive jurisdiction over contests relating to his election, returns and qualifications as Member attached to the House of Representatives Electoral Tribunal (HRET), pursuant to Section 17, Article VI of the Constitution.[2] As a consequence of the exclusivity of the HRET's jurisdiction, the Court was ousted on even date of jurisdiction over the case.

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[1] Section 7, Article VI of the Constitution provides:

> SECTION 7. The Members of the House of Representatives shall be elected for a term of three years which **shall begin**, unless otherwise provided by law, **at noon on the thirtieth day of June next following their election.** (Emphasis supplied)

Section 4, Rule II of the Rules of the House of Representatives (House Rules) provides:

> **Section 4. *Composition.*** – The membership of the House shall be composed of elected representatives of legislative districts and those elected through the party-list system. **Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and assumption of office on June 30 following the election.** (Emphasis and underscoring supplied)

[2] Section 17, Article VI of the Constitution states:

> SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election,

Thus, the Court's *Status Quo Ante* Order[3] (SQAO) issued on July 12, 2022 was issued without jurisdiction and is therefore null and void and cannot be given effect.

In maintaining the jurisdiction of the Court, the *ponencia* is setting jurisprudence that is against the Constitution, basic doctrines of law, and the letter of the Rules of the House of Representatives[4] (House Rules), as well as creating requirements for membership to the House that are legally impossible to observe.

Its ruling[5] that the SQAO issued by the Court reverted the parties to their status prior to the controversy violates the basic legal doctrine that acts done without jurisdiction are null and void and cannot have any legal effect.[6]

Its ruling[7] that an oath of office administered by the Speaker of the House (Speaker) is an essential pre-requisite to becoming a Member is absurd and legally impossible to achieve. The winning candidates must have already assumed office as *bona fide* Members before they can elect a Speaker from among themselves by a majority of their votes as incumbent Members.

Its ruling[8] that assumption to office requires an overt act lacks legal basis. On the contrary, it goes against the clear and plain language of the Constitution and the House Rules which require that the beginning of the term and the assumption to office of winning congressional candidates ***shall*** be on June 30 following their elections.

Its reversal[9] of the COMELEC's judgment finding and declaring petitioner Frederico P. Jalosjos (Frederico) a nuisance candidate — which judgment had already become final and executory — violates the basic doctrine of immutability of judgments.

***Exclusive jurisdiction of the HRET over contests relating to the election, returns and qualifications of Members of the House.***

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returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

3 *Rollo* (G.R. No. 260650), pp. 424–428.

4 The relevant Rules were those for the 18th Congress although the incumbent House of Representatives elected last 2022 elections is the 19th Congress; *see* <https://www.congress.gov.ph/download/docs/hrep.house.rules.pdf>.

5 *See ponencia*, pp. 12–13.

6 *See Bilag v. Ay-ay*, 809 Phil. 236, 243 and 248 (2017).

7 *See ponencia*, pp. 10–11.

8 *See id.* at 11.

9 *See id.* at 20–28.

The HRET has exclusive jurisdiction over all contests relating to the election, returns, and qualifications of Members of the House, per the clear language of the Constitution:

> [ARTICLE VI] SECTION 17. The . . . House of Representatives shall . . . have an Electoral Tribunal which shall be the **sole judge of all contests relating to the election, returns, and qualifications of their respective Members**. (Emphasis supplied)

The use of the word "sole" in Section 17 underscores the exclusivity of the HRET's jurisdiction. Thus, when jurisdiction attaches to the HRET, the latter ousts all other bodies and tribunals, ***including this Court***, of any jurisdiction which may have attached upon the filing of the complaint.[10]

The HRET's exclusive jurisdiction is only over "Members" of the House — which jurisprudence has consistently held as arising once three requisites concur respecting a winning congressional candidate — that he or she had: (1) been proclaimed, (2) taken his or her oath of office, and (3) assumed office as Member of the House.[11]

***Romeo became a Member of the House on June 30, 2022.***

The facts indubitably show that Romeo satisfied all the above three requisites and, thus, became a Member of the House on June 30, 2022.

*First*, on June 23, 2022, he was ***proclaimed*** by the Provincial Board of Canvassers (PBOC) as the winning candidate for the subject position with 74,533 votes.[12] The Certificate of Canvass of Votes and Proclamation of Winning Candidate for Member, House of Representatives,[13] unanimously signed by all the members of the PBOC, states:

> WE, THE UNDERSIGNED MEMBERS of the PROVINCIAL BOARD OF CANVASSERS do hereby certify under oath that we have duly canvassed the votes cast in **8** cities/municipalities for the Candidates therein for MEMBER, HOUSE OF REPRESENTATIVES in the elections held on May 9 2022. Attached hereto and forming part hereof is a Statement of Votes by City/Municipality (CEF No. 20-A-1) garnered by each candidate for the office of MEMBER, HOUSE OF REPRESENTATIVES.
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> That after such canvass, it appears that **JALOSJOS, ROMEO JR. (NP) (NACIONALISTA PARTY)** garnered 74533 votes for the office of

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[10] *See Limkaichong v. COMELEC*, 611 Phil. 817, 827–828 (2009); *see also Lerias v. House of Representatives Electoral Tribunal*, G.R. No. 97105, October 15, 1991, 202 SCRA 808.

[11] *Vinzons-Chato v. Commission on Elections*, 548 Phil. 712, 725-726 (2007), *citing Aggabao v. Commission on Elections*, G.R. No. 163756, January 26, 2005, 449 SCRA 400, 404–405 and *Guerrero v. Commission on Elections*, 391 Phil. 344, 352 (2000).

[12] *Rollo* (G.R. No. 260650), p. 399, Certificate of Canvass of Votes and Proclamation of Winning Candidate for Member, House of Representatives dated June 23, 2022.

[13] *Id.* at 399–340.

MEMBER, HOUSE OF REPRESENTATIVES, the same being the highest number of votes legally cast for said office.

**ON THE BASIS OF THE FOREGOING**, we hereby proclaim the above-named winning candidate as the duly elected MEMBER, HOUSE OF REPRESENTATIVES, **ZAMBOANGA DEL NORTE-FIRST LEGDIST.**

IN WITNESS WHEREOF, we affix our signatures and imprint our thumbmarks in the province/city of **COMELEC, SESSION HALL, 8th FLOOR, PALACIO DEL GOBERNADOR BUILDING, INTRAMUROS MANILA on JUNE 23, 2022.**[14] (Emphasis and underscoring in the original)

*Second*, on the same day of June 23, 2022, Romeo ***took his Oath of Office*** before Senator Cynthia A. Villar (Senator Villar)[15] — a duly authorized public officer to administer oaths:

**OATH OF OFFICE**

I, **ROMEO M. JALOSJOS JR.** of Dapitan City, Zamboanga del Norte, having been elected as **Member, House of Representatives** representing the **First District of Zamboanga del Norte,** hereby solemnly swear, that I will faithfully discharge to the best of my ability, the duties of my present position and of all others that I may hereafter hold under the Republic of the Philippines; that I will bear true faith and allegiance to the same; that I will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities of the Republic of the Philippines; and that I iinpose this obligation upon myself voluntarily, without mental reservation or purpose of evasion.

SO HELP ME GOD.

[Signature]
**ROMEO M. JALOSJOS JR.**[16]
(Emphasis in the original)

*Finally*, on June 30, 2022, Romeo **assumed office** as a Member of the House. There having been a prior valid proclamation and oath-taking, no legal impediment existed to his consequent assumption to office at the start of his term on said date, following the clear mandate of the Constitution:

[Article VI] SECTION 7. The Members of the House of Representatives shall be elected for **a term** of three years which **shall begin,** unless otherwise provided by law, **at noon on the thirtieth day of June next following their election**. (Emphasis supplied)

***The ponencia's conclusion that Romeo never became a Member of the House goes against basic legal tenets and logic.***

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14 *Id.* at 399.
15 *Id.* at 401, Oath of Office dated June 23, 2022 of Romeo M. Jalosjos, Jr.
16 *Id.*

***In declaring as a pre-requisite to membership the oath of office administered by the Speaker, the ponencia sets a requirement that is legally impossible to comply with.***

The *ponencia* rules that Romeo cannot be considered a Member of the House because, although he had taken an oath of office before Senator Villar — a public officer duly authorized to administer oaths, he nonetheless failed to take the same oath before the Speaker of the House in open session — which the *ponencia* makes as a supposed requisite before one can assume office as a Member of the House under Section 6, Rule II of the House Rules.[17]

This is egregious error. The oath before the Speaker is literally described in the *ponencia*'s cited rule as merely "a **ceremonial affirmation** of **prior and valid oaths of office** administered to [the Members] by duly authorized public officers".[18] The entire Section 6, Rule II of the House Rules reads:

**RULE II**
***Membership***

. . . .

> **Section 6.** ***Oath or Affirmation of Members.*** – **Members** shall take their oath or affirmation collectively or individually before the Speaker in open session. **The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers.** Following parliamentary precedents, **Members** take their oath before the Speaker in open session **to enable them to enter into the performance of their functions and participate in the deliberations and other proceedings of the House.** (Emphasis and underscoring supplied)

Dissecting Section 6, the following facts and rules become evident: (1) the Speaker-administered oath is merely ceremonial; (2) the persons required to take this ceremonial oath are already "Members," having taken prior and valid oaths before duly authorized public officers; (3) these previous oaths are "valid" and satisfy the requirement of the Constitution[19] in relation to Executive Order (EO) No. 292,[20] for officials to enter upon the discharge of public office. This explains why the said Section speaks of "Members" already; (4) the purpose of the ceremonial oath before the Speaker is to

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17 *Ponencia*, pp. 10–12.

18 Section 6, Rule II of the House Rules. Emphasis and underscoring supplied.

19 Section 4, Article IX-B of the Constitution states:

> SECTION 4. All public officers and employees shall take an oath or affirmation to uphold and defend this Constitution.

20 INSTITUTING THE "ADMINISTRATIVE CODE OF 1987," July 25, 1987. Section 40, Chapter 10, Book I of EO No. 292 states:

> SECTION 40. *Oaths of Office for Public officers and Employees.* – All public officers and employees of the government including every member of the armed forces shall, before entering upon the discharge of his duties, take an oath or affirmation to uphold and defend the Constitution[.]

"enable [the Members] to enter into the performance of their functions and participate in the deliberations and other proceedings of the House"; and (5) the Speaker-administered oath is not a requirement for number 4 but merely a "parliamentary precedent," or a ceremonial practice borne out of tradition.

Indeed, to add a second oath to the one taken before a duly authorized officer would appear to offend the language of the Constitution in mandating that public officers and employees must take "**an** oath or affirmation," *i.e.*, only **one** oath or affirmation.

Even outside the texts of the House Rules and the Constitution, requiring the Speaker-administered oath as a pre-requisite to becoming a Member of the House is simply absurd because it is legally impossible to observe. The Speaker is an official of the Congress elected from among the incumbent Members of the House, by a majority of such Members.[21] In short, a Speaker cannot exist — let alone administer oaths — unless there are already *bona fide* Members of the House, *i.e.*, the winning candidates have already satisfied the three requisites and have, thus, already assumed office as Members.

There is no contention that, pursuant to the Constitution[22] in relation to EO No. 292,[23] a ***valid*** *oath of office* is required before entering upon the discharge of public functions. However, the oath required here is the one administered by a duly authorized public officer, which, to stress, the House Rules itself categorically describes as "**valid**". There is no law whatsoever which requires the "valid oath" under the Constitution and EO No. 292 to be administered by the Speaker to be "valid".

On the other hand, the House Rules categorically declares as being merely ceremonial such an oath and that it affirms only the valid oath already previously taken before a duly authorized public officer.

To be sure, Section 4, Rule II of the House Rules unequivocally states that, with respect to the requisite of oath of office, all that is required is that the same be administered by a duly authorized public officer:

**RULE II**
***Membership***

**Section 4.** ***Composition.*** – The membership of the House shall be composed of elected representatives of legislative districts and those elected through

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21 Section 16(1), Article VI of the Constitution states:

SECTION 16. (1) The Senate shall elect its President and the House of Representatives its Speaker, by a majority vote of all its respective Members.

22 Section 4, Article IX-B of the Constitution states:

SECTION 4. All public officers and employees shall take an oath or affirmation to uphold and defend this Constitution.

23 Section 40, Chapter 10, Book I of EO No. 292 states:

SECTION 40. *Oaths of Office for Public officers and Employees.* – All public officers and employees of the government including every member of the armed forces shall, before entering upon the discharge of his duties, take an oath or affirmation to uphold and defend the Constitution[.]

> the party-list system. **Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and assumption of office on June 30 following the election.** (Emphasis and underscoring supplied)

***The ruling that the assumption to office requires an overt act and must be preceded by an oath administered by the Speaker lacks legal basis and contradicts the Constitution and the House Rules.***

Answering my position that Romeo had assumed office by operation of law, as specifically mandated by Section 7, Article VI of the Constitution, the *ponencia* rules this to be an overstretched interpretation of the law.[24] According to the *ponencia*, Section 7, Article VI of the Constitution provides only for when the term of office of Members commences, but *not* their assumption to office.[25] The *ponencia* tries to explain this by reasoning that the "term" refers to a fixed duration which commences on June 30 after the elections, while the assumption to office "pertains to overt acts in the discharge of one's duties . . . which may transpire at a different time."[26]

In other words, the *ponencia* completely fails to apprehend my position that a Member assumes office by operation of law as a submission that equates the term of office to the assumption to such office so that both will have to begin at the same time on June 30 following the elections. This is not what I am saying.

To clarify, the term of office is a fixed period that begins on June 30 after the elections, pursuant to the Constitution. On the other hand, while the assumption takes place by operation of law, it must still be preceded by a valid proclamation and a valid oath, so that without either or both these requisites, no assumption of office can take place. Thus, a scenario in which the assumption to office takes place later than the start of the term on June 30 is very much possible, such as when June 30 already passes and no valid proclamation had been made and/or no valid oath of office had been performed. Accordingly, when the valid proclamation and/or oath happens after June 30, the assumption by operation of law would have to be when the last requisite (*i.e.*, the oath of office) was observed. There is no confusion there.

Section 7, Article VI of the Constitution reads:

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

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24 *Ponencia*, p. 11.
25 *Id.*
26 *Id.* at 11–12.

> No member of the House of Representatives shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected. (Emphasis supplied)

Sections 4 and 5, Rule II of the House Rules provides:

> **RULE II**
> ***Membership***
>
> **Section 4. *Composition.*** – The membership of the House shall be composed of elected representatives of legislative districts and those elected through the party-list system. Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and **assumption of office on June 30 following the election.**
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> **Section 5. *Term.*** – The Members of the House shall be elected for a term of three (3) years which **shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.** (Emphasis supplied)

Even as the *ponencia* maintains that Section 7, Article VI of the Constitution sets the start of the *term* and not the assumption to office of the winning candidate,[27] this reasoning is belied by the House Rules itself which categorically declares that the "assumption [to] office [happens] on June 30 following the elections."[28]

I also do not subscribe to the *ponencia*'s ruling that the assumption of office requires an overt act in the discharge of one's duties.[29] There is no law or rule to this effect. Precisely, the dilemma in the present case is that neither statute nor jurisprudence provides for a clear definition of "assumption to office." On the other hand, the Constitution fixes the start of the term of the elected Members at June 30 after each election, and the House Rules categorically declares that the assumption to office takes place on the same day of June 30 following the elections.

Given the requirement to begin the term and the assumption to office of elected officials on June 30, treating as a pre-requisite to such assumption the oath administered by the Speaker renders the aforecited provisions useless. The *earliest* possible date that a Speaker may be elected is on the fourth Monday of July — the first convening of the newly-elected Congress per the Constitution,[30] unless a different date is fixed by law. Thus, this is the earliest

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27 *Id.*

28 Section 4, Rule II of the House Rules provides:
> Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and **assumption of office on June 30 following the election**. (Emphasis supplied)

29 *Ponencia*, p. 11.

30 Sections 15 and 16(1), Article VI of the Constitution provides:
> SECTION 15. The Congress shall convene once every year on the fourth Monday of July for its regular session, unless a different date is fixed by law, and shall continue to

date that Members may take their oath of office before the Speaker. If one were to follow the *ponencia*'s ruling, the elected officials can only assume office as Member from this date onwards. Clearly, this is violative of the mandate of the Constitution and the House Rules that the assumption to office must happen on June 30 following the elections.

***With respect to the early affairs of the 19th Congress, including its membership and assumption of such Members to office, it is the Secretary-General (Sec-Gen) of the 18th Congress who has competence to certify. Thus, the statement of the 19th Congress Sec-Gen that the subject position "remains" vacant insofar as these early stages of the 19th Congress are concerned, is irrelevant. Moreover, the latter was issued solely to comply with the Court's SQAO.***

Under the House Rules, the *Sec-Gen of the immediately preceding* Congress must preside over the inaugural session of the House until a Speaker is elected and had taken an oath of office. Thereafter, the Congress will proceed to elect the other officers, including the Sec-Gen for the current Congress:

> **RULE I**
> ***Convening and Organizing the House***
>
> **Section 1.** ***First Meeting and Organization of the House.*** – The Members shall meet and proceed to the organization of the House on the fourth Monday of July immediately following their election at the place designated for the holding of their sessions.
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> **The Secretary General of the immediately preceding Congress shall preside over the inaugural session of the House until the election of a new Speaker. As presiding officer, the Secretary General shall call the session to order, call the roll of Members by provinces, cities and municipalities comprising districts, and by party-lists in alphabetical order**, designate an acting Floor Leader, and preserve order and decorum.
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> After the designation of an acting Floor Leader, the body shall proceed to the election of the Speaker. The Speaker shall be elected by a majority vote of all the Members through a roll call vote with Members casting their vote without explanation. The presiding officer shall record the vote of each Member in the Journal.

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be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays, Sundays, and legal holidays. The President may call a special session at any time.

SECTION 16. (1) The Senate shall elect its President and the House of Representatives its Speaker, by a majority vote of all its respective Members.

> After the oath-taking of the newly-elected Speaker, the body shall proceed to the adoption of the rules of the immediately preceding Congress to govern its proceedings until the approval and adoption of the rules of the current Congress.
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> Thereafter, the body shall proceed to the election, in successive order, of the Deputy Speakers, the Secretary General and the Sergeant-at-Arms who shall be elected by a majority of the Members, there being a quorum. (Emphasis and underscoring supplied)

To recall, the House Sec-Gen of the immediately preceding Congress — the 18th Congress — was Mark Llandro L. Mendoza (Sec-Gen Mendoza), and it was he, precisely as Sec-Gen, who issued a Certification[31] dated July 13, 2022, stating that Romeo became a Member of the 19th Congress on June 30, 2022:

**CERTIFICATION**

> This is to certify that the **Honorable Romeo M. Jalosjos, Jr.** is a member of the House of Representatives, representing the **First District, Zamboanga del Norte** in the 19th Congress **(June 30, 2022 to present)**.[32] (Emphasis and underscoring supplied)

On the other hand, the incumbent Sec-Gen of the 19th Congress, Reginald Velasco (Sec-Gen Velasco), wrote the Court a Letter[33] dated March 16, 2023, stating that (1) Romeo has not taken an oath of office before the House Speaker, and **(2) that the contested office remains vacant because of the SQAO of the Court**:

> Your Honors:
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> In Compliance with the Honorable Court's *Resolution* dated March 8, 2023 in the above-captioned cases, I hereby certify that Mr. Romeo Jalosjos, Jr. has **not** taken an oath or affirmation of office with the Honorable Speaker of the House of Representatives in open session.
>
> Further, I certify that the Office of the Representative for the First District of Zamboanga Del Norte **remains vacant due to the *Status Quo Ante Order* issued in these cases**.[34] (Emphasis and underscoring supplied)

To stress, between Sec-Gen Mendoza and Sec-Gen Velasco, it is the former who has competence to attest to the affairs of the newly-elected 19th Congress at its inception, including its membership and the assumption to office of its Members, as the Presiding Officer and Officer-in-Charge (OIC) Sec-Gen until the election of a new Speaker and Sec-Gen. As such, Sec-Gen Mendoza called the sessions to order and called the roll of the Members.

The incumbent Sec-Gen Velasco was elected much later and, presumably, only after all of the Members have already assumed office. Thus,

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31 *Rollo* (G.R. No. 260650), p. 402, Certification dated July 13, 2022 signed by Mark Llandro L. Mendoza.
32 *Id.*
33 *Id.* at 923.
34 *Id.*

his letter to the Court, insofar as his statement that the subject position ***remains*** vacant, is not relevant and cannot be given any weight. To repeat, during the assumption of its Members on June 30, and at the inauguration of the 19th Congress until its officers are elected and had taken over, it was Sec-Gen Mendoza who had personal knowledge of its affairs.

That is not all. A simple reading of Sec-Gen Velasco's letter shows that his statement that the subject position is vacant was because the House had followed the Court's SQAO. To be sure, Sec-Gen Velasco categorically declares that the vacancy was "due to the [Court's SQAO]."[35]

Seen in another light, the statements of Sec-Gens Mendoza and Velasco actually do not conflict. Sec-Gen Mendoza competently certified on July 13, 2022 — when he was still OIC Sec-Gen and Presiding Officer of the 19th Congress — that Romeo was a Member of the House beginning June 30, 2022. On the other hand, Sec-Gen Velasco, on March 16, 2023 — or after the Court had issued the SQAO — merely attested that the subject position was then vacant because of the said SQAO. In other words, based on the statements of these two officials, it can be inferred that Romeo assumed office as Member of the House on June 30, 2022 but was eventually illegally ousted therefrom as a result of the Court's SQAO dated July 12, 2022.

***That the case involves the issue of validity of Romeo's proclamation does not prevent the HRET's sole jurisdiction from attaching.***

The *ponencia* rules that as the case involves the issue of the validity of the proclamation of Romeo, the HRET cannot oust the Court of its jurisdiction over the same.[36]

This is just wrong. No less than the Constitution commands that any issue as regards his election, returns, and his qualifications already fell within the jurisdiction of the HRET the moment he became a Member of the House. The same attaches and remains, to the exclusion of other bodies and tribunals, even if his proclamation is also being challenged as invalid.

The House Rules are clearer on this particular subject of cases challenging the proclamation of the Member, thus:

**RULE II**
***Membership***

**Section 4. *Composition.* – . . . <u>In cases where a candidate has been proclaimed winner by the Commission on Elections, and the validity of the proclamation is put in question in any judicial or administrative</u>**

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35 *Id.*

36 *Ponencia*, pp. 13–15.

> **body, such candidate who has been proclaimed winner and assumed office on June 30 following the election shall remain a Member of the House absent final and executory judgement on or resolution of the question over the proclamation of the Member by the appropriate judicial or administrative bodies.** (Emphasis and underscoring supplied)

It is clear from Section 4 that an elected official who had been validly proclaimed, taken his oath of office, and assumed office on June 30, does not lose his membership in the House by the mere fact that the validity of his proclamation is challenged. Applying this, as the consolidated petitions involve the election, returns, or qualifications of Romeo — who remains to be a House Member until his proclamation is avoided with finality — the same must remain in the HRET's jurisdiction.

Jurisprudence mimics this doctrine.

In *Vinzons-Chato v. Commission on Elections*,[37] the Court held that the HRET has jurisdiction over a case involving the election, returns, and qualifications of a House Member, even if the issues relate to the validity of such Member's proclamation. The moment a candidate becomes a Member, the HRET's jurisdiction begins and neither the COMELEC ***nor this Court*** can take cognizance of cases falling under the sole jurisdiction of the HRET without thereby violating the Constitution by usurping the powers it conferred to the tribunal:

> **The Court has invariably held that once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins.** Stated in another manner, where the candidate has already been proclaimed winner in the congressional elections, the remedy of the petitioner is to file an electoral protest with the HRET.
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> In the present case, it is not disputed that respondent Unico has already been proclaimed and taken his oath of office as a Member of the House of Representatives (Thirteenth Congress); hence, the COMELEC correctly ruled that it had already lost jurisdiction over petitioner Chato's petition. **The issues raised by petitioner Chato essentially relate to the canvassing of returns and alleged invalidity of respondent Unico's proclamation. These are matters that are best addressed to the sound judgment and discretion of the HRET. Significantly, the allegation that respondent Unico's proclamation is null and void does not divest the HRET of its jurisdiction:**
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> > . . . [I]n an electoral contest where the validity of the proclamation of a winning candidate who has taken his oath of office and assumed his post as Congressman is raised, **that issue is best addressed to the HRET.** The reason for this ruling is self-evident, for it avoids duplicity of proceedings

[37] *Supra* note 11.

> and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate.
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> Further, for the Court to take cognizance of petitioner Chato's election protest against respondent Unico would be to usurp the constitutionally mandated functions of the HRET. Petitioner Chato's remedy would have been to file an election protest before the said tribunal, not this petition for *certiorari*.
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> **All told, the COMELEC *en banc* clearly did not commit grave abuse of discretion when it issued the assailed Resolution dated March 17, 2006 holding that it had lost jurisdiction upon respondent Unico's proclamation and oath-taking as a Member of the House of Representatives. On the contrary, it demonstrated fealty to the constitutional fiat that the HRET shall be the *sole* judge of all contests relating to the election, returns, and qualifications of its members.**[38] (Emphasis and underscoring supplied; citations omitted)

Similarly, in *Limkaichong v. COMELEC*,[39] the Court held that the HRET's jurisdiction which had attached cannot be defeated by the allegation that a Member's proclamation was invalid.[40]

***The SQAO dated July 12, 2022 was issued by the Court after Romeo had already become a Member of the House or after the exclusive jurisdiction of the HRET had already attached on June 30, 2022. As such, the same is void for having been issued without jurisdiction. It could not have had any effect whatsoever.***

The *ponencia* maintains that Romeo never assumed as Member of the House because the SQAO issued by the Court on July 12, 2022 supposedly reverted the parties back to their conditions prior to the issuance of the assailed COMELEC orders.[41]

This is specious and completely illogical.

The SQAO was issued *after* Romeo had already assumed office in the House as Member, or *after* exclusive jurisdiction had already attached to the HRET on June 30, 2022. Since the HRET's jurisdiction is exclusive, this means the Court was necessarily ***ousted*** of any jurisdiction to act on the petition that was filed before it. Thus, when the SQAO was issued on July 12, 2022, or after June 30, 2022, it was issued by a body that no longer had any jurisdiction to issue the same. The SQAO was null and void. Being so void, it could not have had any effect whatsoever. It could not have had the

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38 *Id.* at 725–727.
39 601 Phil. 751 (2009).
40 *See id.* at 757 and 782.
41 *See ponencia*, pp. 12–13.

effect of reversing the proclamation, oath-taking and assumption to office of Romeo because not even the Supreme Court can re-assume jurisdiction that it had already lost, over a matter that no less than the Constitution has placed in the hands of the HRET as *sole judge.*

Settled is the rule that a judgment or ruling issued in the absence of jurisdiction is void and cannot be the source of any right or obligation as, in fact, it cannot have any legal effect at all.[42] In *Zacarias v. Anacay*,[43] the Court emphasized thus:

> It is well-settled that a court's jurisdiction may be raised at any stage of the proceedings, even on appeal. The reason is that jurisdiction is conferred by law, and **lack of it affects the very authority of the court to take cognizance of and to render judgment on the action. Indeed, a void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect.** Hence, it can never become final and any writ of execution based on it is void.[44] (Emphasis and underscoring supplied; citations omitted)

***The issue of whether Frederico is a nuisance candidate had long been settled with finality by the COMELEC, thus, can no longer be resolved in this case. The issues remaining for resolution relates to the election and returns of Romeo, who is a sitting Member of the House; thus, jurisdiction is solely the HRET's.***

The *ponencia* attempts to refute the HRET's jurisdiction to review the COMELEC's findings on the issue of whether a political aspirant is a nuisance candidate, which determines the proper treatment of votes and the proclamation of the winner.[45] To this point, I agree. The HRET's jurisdiction is limited to "contests relating to the election, returns, and qualifications of . . . Members [of the House]."[46] Indeed, it cannot determine whether or not Frederico, a third party, is a nuisance candidate. Over such a question, it is the COMELEC which has jurisdiction as conferred by the Omnibus Election

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42 *See Diaz v. Spouses Punzalan*, 783 Phil. 456, 465 (2016).
43 744 Phil. 201 (2014).
44 *Id.* at 213–214.
45 *Ponencia*, pp. 7–8.
46 *See* CONSTITUTION, Art. VI, Sec. 17.

Code[47] (OEC). Its decision in the exercise of such jurisdiction is reviewable only by this Court.[48]

***However***, the issue of whether Frederico is a nuisance candidate was already settled with finality by the COMELEC. Frederico's failure to file his motion for reconsideration on time in the nuisance candidate action[49] caused the COMELEC's ruling declaring him as a nuisance candidate to become final and executory.[50]

Thus, what remains of the consolidated petitions is ***only*** the issue of the election and returns of Romeo as a Member of the House. This, in turn, depends on whether the votes of Frederico were properly counted in Romeo's favor, and, if after such crediting, Romeo, indeed, obtained the highest number of votes. These issues clearly fall under the HRET's jurisdiction.

Further, the Court cannot retain jurisdiction under the principle of adherence to jurisdiction, as ruled in the *ponencia*.[51] The same does not apply here. Under this principle, a court or tribunal acquiring jurisdiction over a case by the filing of the complaint, does not lose the same ***despite the passage of a later law*** transferring jurisdiction to another court or body.[52] A reading of related jurisprudence, indeed, shows that the Court has limited this doctrine to cases involving the passage of a new law transferring jurisdictions.[53]

But that is not what happened here. Here, there is no such subsequent law which transferred jurisdiction over contests involving the election,

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47 Batas Pambansa Blg. 881, OMNIBUS ELECTION CODE OF THE PHILIPPINES, December 3, 1985. Section 69 of the OEC states:

> SECTION 69. *Nuisance candidates.* – The Commission may, *motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

48 Section 7, Article IX-A (Constitutional Commissions – Common Provisions) of the Constitution provides:

> SECTION 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

49 *See ponencia*, pp. 5–6.

50 Section 5, Rule 24 in relation to Section 8, Rule 23 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, states that "a [d]ecision or [r]esolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission *En Banc*, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution."

51 *Ponencia*, p. 15.

52 *Energy Regulatory Commission v. Therma Mobile, Inc.*, G.R. Nos. 244449 & 244455-56, September 29, 2021 (Unsigned Resolution).

53 *See Energy Regulatory Commission v. Therma Mobile, Inc., id.*; *Aruego, Jr. v. Court of Appeals*, 325 Phil. 191 (1996); *A' Prime Security Services, Inc. v. Drilon*, 316 Phil. 532 (1995); and *Ramos v. Central Bank of the Philippines*, 148-B Phil. 1047 (1971).

returns, and qualifications of Members of the House from the Court to the HRET. To reiterate, such jurisdiction was conferred by the Constitution to the HRET upon the former's passage in 1987. Hence, from the case's inception, the HRET had always had such exclusive jurisdiction, which, again, it acquired the moment Romeo became a Member of the House. In other words, what intervened here is the change in the status of Romeo to a Member of the House, not the passage of a law which transferred jurisdiction over the case to another body.

***The resolution of the COMELEC finding and declaring Frederico a nuisance candidate had attained finality and immutability by the failure to file a motion for reconsideration thereof on time.***

Section 69 of the OEC provides for the COMELEC's power to refuse to give due course to or cancel the Certificate of Candidacy (CoC) of nuisance candidates — that is, those found to lack the *bona fide* intent to run for the office sought:

> SECTION 69. *Nuisance candidates*. – The Commission may, *motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

Pursuant to Section 69, the COMELEC cancelled Frederico's CoC upon the finding that he was a nuisance candidate. And when this ruling became final and executory, it then proceeded to credit the votes cast for Frederico to Romeo's favor. That votes for a nuisance candidate will be credited to the other candidate is a well-established and well-reasoned result recognized by jurisprudence, such as *Santos v. COMELEC En Banc.*[54]

Section 5, Rule 24[55] in relation to Section 8, Rule 23[56] of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523, states that "a [d]ecision or [r]esolution is **deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period**, or in cases of rulings of the Commission *En Banc*, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution."[57]

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54 839 Phil. 672 (2018).
55 Proceedings Against Nuisance Candidates.
56 Petition to Deny Due Course to or Cancel Certificates of Candidacy.
57 Emphasis supplied.

Applying the above-quoted provision to the case at hand, the COMELEC's Second Division Resolution[58] issued on April 19, 2022, which declared Frederico a nuisance candidate, became final and executory when Frederico failed to file his motion for reconsideration on time — that is, by 5:00 p.m. of April 25, 2022. Frederico e-mailed his motion for reconsideration at around 6:23 p.m. on April 25, 2022,[59] which, under Section 5, Rule 2 of COMELEC Resolution No. 10673,[60] is considered as filed on the next working day. Thus, Frederico's motion for reconsideration was filed beyond the last day of the prescribed period. **Consequently, this failure to file his motion for reconsideration within the prescribed period caused the April 19, 2022 Resolution of the COMELEC's Second Division declaring him as a nuisance candidate to become final and executory.**

Considering that the resolution declaring Frederico as a nuisance candidate had already become final and executory, it then became proper for the COMELEC *En Banc* to order that the votes of Frederico, as the nuisance candidate, be credited in favor of the legitimate candidate, Romeo. Accordingly, the COMELEC did not commit any grave abuse of discretion in issuing the assailed June 7, 2022 Resolution.

To stress, the final and executory finding of the COMELEC that Frederico is a nuisance candidate can no longer be reversed and amended, following the doctrine of finality and immutability of judgments. Under this doctrine, a decision that has acquired finality can no longer be modified in any respect or attacked directly or indirectly, ***even by the Highest Court of the land***.[61] In *National Housing Authority v. Court of Appeals*,[62] the Court explained this by saying:

> It is well-settled that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. This principle, commonly known as the doctrine of immutability of judgment, has a two-fold purpose, namely: *(a)* to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business; and *(b)* to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Verily, it fosters the judicious perception that the rights and obligations of every litigant must not hang in suspense for an indefinite

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58 *Rollo* (G.R. No. 260952), pp. 241–250.

59 *Id.* at 278, COMELEC Resolution dated June 7, 2022.

60 IN RE: GUIDELINES ON ELECTRONIC FILING, CONDUCT OF HEARINGS/INVESTIGATIONS/INQUIRIES VIA VIDEO CONFERENCE, AND SERVICE, June 25, 2020. Section 5, Rule 2 of COMELEC Resolution No. 10673 states:

> **Section 5. *Schedule of Filing through E-mail.*** -- The schedule of filing of verified pleadings, memoranda, comments, briefs, and other submissions th[r]ough E-mail shall be from Monday to Friday, 8:00 am to 5:00 pm, excluding holidays. E-mails received beyond 5:00 pm shall be considered filed at 8:00 am of the next working day.
>
> Where a deadline falls on a Saturday, a Sunday, or a legal holiday, official transaction shall be done on the next working day. (*COMELEC Resolution 8665, 02 September 2009*)

61 *Bernardo v. Court of Appeals*, 800 Phil. 50, 64 (2016).

62 731 Phil. 400 (2014).

> period of time. As such, it is not regarded as a mere technicality to be easily brushed aside, but rather, a matter of public policy which must be faithfully complied.[63] (Citation omitted)

This doctrine was further emphasized in *People v. Alapan*,[64] in which it was ruled that the immutability of a final judgment precludes its modification, even if such amendment is meant to correct erroneous factual or legal conclusions:

> Finally, the time-honored doctrine of immutability of judgment precludes modification of a final and executory judgment:
>
> > A decision that has acquired finality becomes immutable and unalterable. **This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the [H]ighest [C]ourt in the land.** The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write finis to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred.[65] (Emphasis supplied)

In light of all the above, I vote that the consolidated petitions be **DISMISSED**.

**ALFREDO BENJAMIN S. CAGUIOA**
Associate Justice

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63 *Id.* at 405–406.
64 823 Phil. 272 (2018).
65 *Id.* at 283.