Republic of the Philippines
Supreme Court
Baguio City

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **APRIL 21, 2015**, *which reads as follows:*

"G.R. No. 210303 – BERTRAND A. BATERINA, Petitioner, v. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, COMMISSION ON ELECTIONS, and RONALD SINGSON, Respondents.

In this Petition for *Certiorari*, petitioner Bertrand A. Baterina assails the August 15, 2013 and October 24, 2013 Resolutions of the House of Representatives Electoral Tribunal (HRET) which respectively dismissed Baterina's petition for *Quo Warranto* for having been filed out of time and denied his subsequent Motion for Reconsideration. Baterina likewise assails the August 13, 2013 Resolution of the Commission on Elections (COMELEC) dismissing the Petition for Disqualification he filed against private respondent Ronald V. Singson.

In the May 13, 2013 local elections, petitioner Baterina and Singson contended for the position of Representative of the First District of Ilocos Sur. However, shortly before the election, on April 24, 2013, Baterina filed with the COMELEC a Petition for Disqualification with Motion to Suspend Proclamation *Ad Cautelam* against Singson on the ground that the latter was disqualified as a candidate for having been convicted by final judgment of drug trafficking, which is allegedly an offense involving moral turpitude.

The day after the elections, on May 14, 2013, with Singson garnering 83,910 votes as against 40,135 for Baterina, the former was proclaimed the winning candidate.

On June 27, 2013, while Baterina's Petition for Disqualification was pending with the COMELEC, he filed a Petition for *Quo Warranto Ad Cautelam* (On the Eligibility of Ronald V. Singson as Member of the House of Representatives) with the HRET, wherein he again alleged that Singson was disqualified to run for public office on account of his final conviction of a crime involving moral turpitude.

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On August 13, 2013, the COMELEC issued the first assailed Resolution dismissing the disqualification case for lack of jurisdiction. The pertinent portions of the resolution read:

> However, the instant case has been overtaken by the 13 May 2013 Elections wherein Respondent was proclaimed as the winning candidate for Member of the House of Representatives for the First District of Ilocos Sur. For lack of jurisdiction, the Commission is precluded from taking cognizance of the instant case.
>
> In view of the fact that Respondent is now a *bona fide* Member of the House of Representatives, the jurisdiction to try this electoral case is not anymore with the Commission but with the HRET.[1]

On August 27, 2013, Baterina, claiming that "to date, and despite the lapse of the period to decide, this Honorable Commission has yet to issue a Decision/Resolution on the Petition filed by the Petitioner,"[2] withdrew his Petition for Disqualification with the COMELEC. Baterina received the assailed Resolution by the COMELEC on August 28, 2013.

In the meantime, on August 15, 2013, the HRET issued the second assailed Resolution dismissing Baterina's petition for *quo warranto*. The HRET, noting that Singson was proclaimed on May 14, 2013, ruled that the filing of the petition on June 27, 2013 was beyond the reglementary period of 15 days from the proclamation of the winner.

On September 19, 2013, Baterina filed a Motion for Reconsideration, alleging that there is a need to revisit the HRET Rules with respect to the period for filing a petition for *quo warranto* in light of the pronouncement of this Court in *Reyes v. COMELEC*[3] that the jurisdiction of the HRET begins once the winning candidate has been proclaimed, taken his oath, and assumed office.

On October 24, 2013, the HRET issued the third assailed Resolution denying Baterina's Motion for Reconsideration. According to the HRET, the argument of Baterina that the jurisdiction of the HRET began only at noon of June 30, 2013 is inconsistent with his filing of the petition for *quo warranto* on June 27, 2013.

On December 26, 2013, Baterina filed the present petition for *Certiorari* assailing the August 13, 2013 Resolution of the COMELEC and the August 15, 2013 and October 24, 2013 Resolutions of the HRET on the following grounds:

I.

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1 *Rollo* (Vol. I), p. 60.
2 Id. at 291.
3 G.R. No. 207264, June 25, 2013, 699 SCRA 522, 533-534.

THE HONORABLE COMELEC AND THE HONORABLE HRET ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY DID NOT TAKE JUDICIAL NOTICE OF THE CONVICTION OF RESPONDENT SINGSON FOR DRUG TRAFFICKING IN HONG KONG, WHICH WOULD WARRANT HIS DISQUALIFICATION AND/OR INELIGIBILITY AS MEMBER OF THE HOUSE OF REPRESENTATIVES OF THE FIRST DISTRICT OF ILOCOS SUR.

II.

THE HONORABLE COMELEC AND THE HONORABLE HRET ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN UPHOLDING THE CANDIDACY OF RESPONDENT SINGSON AS A MEMBER OF THE HOUSE OF REPRESENTATIVES OF THE FIRST DISTRICT OF ILOCOS SUR IN THE 13 MAY 2013 ELECTIONS.

III.

THE HONORABLE COMELEC AND THE HONORABLE HRET ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT PROCLAIMING THE PETITIONER AS THE LONE AND WINNING CANDIDATE FOR MEMBER OF THE HOUSE OF REPRESENTATIVES OF THE FIRST DISTRICT OF ILOCOS SUR IN THE 13 MAY 2013 ELECTIONS DUE TO THE APPARENT DISQUALIFICATION OF RESPONDENT SINGSON.

IV.

THE HONORABLE COMELEC AND HONORABLE HRET ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISREGARDING THE FACT THAT RESPONDENT SINGSON FILED AN INVALID "COC" AND WAS THEREFORE NOT A CANDIDATE FOR MEMBER OF THE HOUSE OF REPRESENTATIVES OF THE FIRST DISTRICT OF ILOCOS SUR FOR THE 13 MAY 2013 ELECTIONS.

V.

THE HONORABLE COMELEC ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DID NOT RESOLVE THE PETITION FOR DISQUALIFICATION OF THE PETITIONER WITHIN THE MANDATORY PERIOD OF RESOLVING IT FROM THE TIME IT WAS SUBMITTED FOR RESOLUTION.

VI.

THE HONORABLE HRET ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITION FOR QUO WARRANTO DESPITE HAVING BEEN TIMELY FILED.[4]

Whether there was grave abuse of discretion in the August 13, 2013 resolution of the Comelec

As previously discussed, Baterina moved to withdraw the Petition for Disqualification he filed with the COMELEC in a Manifestation filed on August 27, 2013. Baterina, who received the assailed August 13, 2013 Resolution on August 28, 2013, claimed in his Manifestation that "to date, and despite the lapse of the period to decide, this Honorable Commission has yet to issue a Decision/Resolution on the Petition filed by the Petitioner."[5] With his withdrawal of the petition for disqualification, Baterina is deemed to have waived his right to assail the same.

Baterina may have also overlooked that it is Rule 64 of the Rules of Court, in relation to Rule 65 thereof, which governs the review of judgments and final orders or resolutions of the COMELEC. Under said rule, particularly Section 3 thereof, the period within which to file a petition for *certiorari* is 30 days, starting from notice of the judgment and final order or resolution sought to be reviewed. In this case, the Petition for *Certiorari* was filed on December 26, 2013, or 120 days after notice, thus, way beyond the reglementary period of just 30 days, and should be dismissed with respect to its prayer to declare the COMELEC Resolution void.

Whether there was grave abuse of discretion in the resolutions of the HRET

Singson was proclaimed on May 14, 2013. Baterina filed with the HRET his Petition for *Quo Warranto Ad Cautelam* on June 27, 2013, way beyond the period provided for in Rule 17 of the 2011 Rules of the HRET, which provides:

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

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4 *Rollo* (Vol. I), pp. 19-21.
5 Id. at 290-291.

On Motion for Reconsideration, Baterina alleged that there is a need to revisit the HRET Rules with respect to the period for filing a petition for *quo warranto* in light with the pronouncement of this Court in *Reyes v. COMELEC*[6] that the jurisdiction of the HRET begins once the winning candidate has been proclaimed, taken his oath, and assumed office. However, as correctly discussed in the assailed resolution, the argument of Baterina that the jurisdiction of the HRET began only at noon of June 30, 2013 is inconsistent with his invocation of the jurisdiction of the HRET on June 27, 2013.

The HRET, therefore, was not in error, much less in grave abuse of discretion, when it dismissed Baterina's Petition for *Quo Warranto*.

Nevertheless, even if we assume for the sake of argument that the HRET had jurisdiction over the petition, the same would still fail even when adjudged on the merits.

Baterina claims that Singson's alleged conviction in Hong Kong, which he asserts to be a crime involving moral turpitude, warrants Singson's disqualification and ineligibility as a Member of the House of Representatives. Baterina contends that the fact of his conviction is of notorious public knowledge and subject to mandatory judicial notice on account of the extensive media coverage.

Contrary to Baterina's argument, it is well-settled that our courts do not take judicial notice of foreign laws and judgments; hence, foreign judgments must be alleged and proven according to our law on evidence.[7] The printout[8] of the downloaded copy of the Hong Kong decision from an unverified website cannot therefore be considered in evidence.

However, even if we assume for the sake of argument that the HRET can take judicial notice of the conviction of Singson in a Hong Kong court, and consider the printout submitted by Baterina as authentic, we nevertheless find that such judgment would not warrant his disqualification based on Section 12 of the Omnibus Election Code, which provides:

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

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6 Supra note 3.

7 *Noveras v. Noveras*, G.R. No. 188289, August 20, 2014; *Corpuz v. Sto. Tomas*, G.R. No. 186571, August 11, 2010, 628 SCRA 266, 281; *Garcia v. Recio*, 418 Phil. 723, 732 (2001).

8 *Rollo* (Vol. I), pp. 347-352.

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

The printout of the Hong Kong judgment provides that Singson, while charged for the offense of trafficking in dangerous drugs, pleaded guilty to and was found to have merely possessed the illegal drugs for his own consumption.[9]

We have held that moral turpitude implies something "immoral in itself, regardless of the fact that it is punishable by law or not. It must not merely be *mala prohibita*, but the act itself must be inherently immoral. The doing of the act itself, and not its prohibition by statute fixes the moral turpitude. Moral turpitude does not, however, include such acts as are not of themselves immoral but whose illegality lies in the fact of their being positively prohibited."[10] Mere possession of a prohibited drug cannot be considered immoral by itself if it were not punishable by law, much like illegal possession of a deadly weapon[11] and incidental participation in illegal recruitment.[12] This, however, should be distinguished from the act of pushing said prohibited drugs. In *Office of the Court Administrator v. Librado,*[13] the case cited by Baterina in order to prove that possession of a prohibited drug is a crime involving moral turpitude, the respondent therein was held guilty of **both** selling and possession of said drugs. A careful examination of the discussion by this Court shows that it is the pushing or selling of said prohibited drugs, and not the mere possession thereof, that is considered a crime involving moral turpitude:

> This case involves a conviction of a crime involving moral turpitude as a ground for disciplinary action under the Civil Service Law. Under the rules of the Civil Service Commission, conviction of a crime involving moral turpitude is considered a grave offense punishable, upon first commission, by dismissal. As this Court has held, it alone suffices as a ground for the dismissal of a civil service employee.
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> Drug-pushing, as a crime, has been variously condemned as "an especially vicious crime," "one of the most pernicious evils that has ever crept into our society." For those who become addicted to it "not only slide into the ranks of the living dead, what is worse, they become a grave menace to the safety of law-abiding members of society," while "peddlers of drugs are actually agents of destruction. They deserve no less than the maximum penalty [of death]."
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> There is no doubt that drug-pushing is a crime which involves moral turpitude and implies "everything which is done contrary to justice,

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9 Id. at 352.
10 *Zari v. Flores*, 183 Phil. 27, 33 (1979).
11 *People v. Yambot*, 397 Phil. 23, 38 (2000).
12 *The Court Administrator v. San Andres*, 274 Phil. 990, 997 (1991).
13 329 Phil. 432, 435-436 (1996).

> honesty, modesty or good morals" including "acts of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowmen or to society in general, contrary to the accepted rule of right and duty between man and man." Indeed nothing is more depraved than for anyone to be a merchant of death by selling prohibited drugs, an act which, as this Court said in one case, often breeds other crimes. It is not what we might call a 'contained' crime whose consequences are limited to that crime alone, like swindling and bigamy. Court and police records show that a significant number of murders, rapes, and similar offenses have been committed by persons under the influence of dangerous drugs, or while they are 'high.' While spreading such drugs, the drug-pusher is also abetting, through his greed and irresponsibility, the commission of other crimes.

In all, we find that Baterina has presented insufficient basis for his charge that the COMELEC and the HRET committed grave abuse of discretion in dismissing his Petitions for Disqualification and *Quo Warranto,* respectively.

WHEREFORE, the Petition for *Certiorari* is hereby **DISMISSED.**" Velasco, Jr., Peralta and Bersamin, JJ., no part. (adv52)

Very truly yours,

ENRIQUETA E. VIDAL
Clerk of Court

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