

EN BANC

[G.R. Nos. 207199-200, October 22, 2013]

WIGBERTO R. TAÑADA, JR., PETITIONER, VS. COMMISSION ON ELECTIONS, ANGELINA D. TAN, AND ALVIN JOHN S. TAÑADA, RESPONDENTS.

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*^[1] under Rule 65 in relation to Rule 64 of the Rules of Court is the Resolution^[2] dated April 25, 2013 of the Commission on Elections (COMELEC) *En Banc* declaring respondent Alvin John S. Tañada not a nuisance candidate.

The Facts

Petitioner Wigberto R. Tañada, Jr., (Wigberto) and respondents Angelina D. Tan (Angelina) and Alvin John S. Tañada (Alvin John) were contenders for the position of Member of the House of Representatives for the 4th District of Quezon Province in the just concluded May 13, 2013 National Elections.^[3] Wigberto ran under the banner of the Liberal Party; Alvin John was the official congressional candidate of Lapiang Manggagawa; while Angelina was fielded by the National People's Coalition.^[4]

On October 10, 2012, Wigberto filed before the COMELEC two separate petitions: first, to cancel Alvin John's CoC;^[5] and, second, to declare him as a nuisance candidate.^[6] The said petitions were docketed as SPA Nos. 13-056 (DC) and 13-057 (DC), respectively.

In a Resolution^[7] dated January 29, 2013, the COMELEC First Division dismissed both petitions for lack of merit. On Wigberto's motion for reconsideration,^[8] the COMELEC *En Banc*, in a Resolution^[9] dated April 25, 2013, upheld the COMELEC First Division's ruling in SPA No. 13-057 (DC) that Alvin John was not a nuisance candidate as defined under Section 69^[10] of Batas Pambansa Bilang 881, as amended, otherwise known as the "Omnibus Election Code of the Philippines" (OEC).^[11] However, in SPA No. 13-056 (DC), it granted the motion for reconsideration and cancelled Alvin John's CoC for having committed false material representations concerning his residency in accordance with Section 78^[12] of the OEC.^[13]

On May 15, 2013, Wigberto filed a 2nd Motion for Partial Reconsideration^[14] of the COMELEC *En Banc's* ruling in SPA No. 13-057 (DC) on the ground of newly discovered evidence. He alleged that Alvin John's candidacy was not *bona fide*

because: (a) Alvin John was merely forced by his father to file his CoC; (b) he had no election paraphernalia posted in official COMELEC posting areas in several barangays of Gumaca, Quezon Province; (c) he did not even vote during the May 13, 2013 National Elections; and (d) his legal representation appeared to have been in collusion with the lawyers of Angelina.^[15]

On May 15 and 16, 2013, Wigberto filed with the COMELEC *En Banc* an Extremely Urgent Motion to Admit Additional and Newly Discovered Evidence and to Urgently Resolve Motion for Reconsideration^[16] and an Urgent Manifestation and Supplemental^[17] thereto. These motions, however, remained un-acted upon until the filing of the present petition before the Court on May 27, 2013. Thus, in order to avoid charges of forum-shopping, said motions were withdrawn by Wigberto.

In a related development, despite the cancellation of Alvin John's CoC due to his material misrepresentations therein, his name was not deleted from – and thus, remained printed on – the ballot, prompting Wigberto to file a motion^[18] with the Provincial Board of Canvassers of Quezon Province (PBOC) asking that the votes cast in the name of Alvin John be credited to him instead in accordance with the Court's ruling in *Dela Cruz v. COMELEC*^[19] and COMELEC Resolution No. 9599.^[20] The PBOC, however, denied Wigberto's motion in a Resolution^[21] dated May 16, 2013, holding that the votes of Alvin John could not be counted in favor of Wigberto because the cancellation of the former's CoC was on the basis of his material misrepresentations under Section 78 of the OEC and not on being a nuisance candidate under Section 69 of the same law. Consequently, the PBOC canvassed the votes of all three contenders separately, and thereafter, on May 16, 2013, proclaimed Angelina as the winning candidate for the position of Member of the House of Representatives for the 4th District of Quezon Province.^[22] According to Wigberto, it was for the foregoing reason that he impleaded Angelina as a party-respondent in the instant petition for *certiorari*.^[23]

It appears, however, that Wigberto had already filed with the COMELEC a Petition to Annul the Proclamation of Angelina (Petition to Annul) under SPC No. 13-013, asserting that had the PBOC followed pertinent rulings,^[24] the votes cast for Alvin John would have been counted in his favor which could have resulted in his victory.^[25] While the Petition to Annul was still pending resolution, Wigberto initiated the instant *certiorari* case against the COMELEC *En Banc* Resolution dated April 25, 2013 declaring Alvin John not a nuisance candidate.

On July 3, 2013, Wigberto filed a Manifestation^[26] informing the Court that he had caused the filing of an Election Protest *Ad Cautelam* entitled "*Wigberto R. Tañada, Jr. v. Angelina 'Helen' D. Tan*," before the House of Representatives Electoral Tribunal (HRET), which was docketed as Electoral Protest Case No. 13-018.

The Office of the Solicitor General (OSG), on behalf of public respondent COMELEC, affirmed in its Comment dated August 18, 2013,^[27] that an Election Protest *Ad Cautelam* had, indeed, been filed by Wigberto against Angelina before the HRET, praying that he be declared the winner in the 2013 congressional race in the 4th District of Quezon Province. It also alleged that on June 28, 2013, the COMELEC Second Division issued a Resolution annulling the proclamation of Angelina as

Member of the House of Representatives for the 4th District of Quezon Province. The propriety of this ruling is now pending resolution before the COMELEC *En Banc*.^[28]

The Issues Before the Court

Wigberto assails the COMELEC *En Banc* Resolution dated April 25, 2013 declaring that Alvin John was not a nuisance candidate as defined under Section 69 of the OEC. In consequence, he seeks that the votes cast in favor of Alvin John be credited to him and, thereafter, to be declared the winning candidate for the congressional post.

The Court's Ruling

The petition must fail.

Section 17, Article VI of the 1987 Philippine Constitution provides that the HRET is the sole judge of all contests relating to the election, returns, and qualifications of its respective members:

Sec. 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, 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. (Emphasis and underscoring supplied)

Case law states that the proclamation of a congressional candidate following the election divests the COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed representative in favor of the HRET.^[29] The phrase "election, returns and qualifications" refers to all matters affecting the validity of the contestee's title. ^[30] In particular, the term "election" refers to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" refers to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" refers to matters that could be raised in a *quo warranto* proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his CoC.^[31]

In the foregoing light, considering that Angelina had already been proclaimed as Member of the House of Representatives for the 4th District of Quezon Province on May 16, 2013, as she has in fact taken her oath and assumed office past noon time of June 30, 2013,^[32] the Court is now without jurisdiction to resolve the case at bar. As they stand, the issues concerning the conduct of the canvass and the resulting