

ELECTION CASE LAW COMPENDIUM

Supreme Court Cases up to December 16, 2015

Alberto C. Agra
Clarisse Aeaea B. Mallari

Vincent Noel Aureus
Nelson Kevin Baldonado
Maria Gracia Dyoco
Virlynn Rose Ramirez
Ruth Ricardo
Loris Marriel Villar

ABANDONMENT OF PROTEST

LEGARDA v. DE CASTRO, PET Case No. 003 (January 18, 2008) PET By assuming office in another position, whose term of office conflicts with that of the protested position during the pendency of the election protest, and discharging his/her duties as such, the protestant has effectively abandoned or withdrawn his/her protest, or abandoned his/her determination to protect and pursue the public interest involved in the matter of who is the real choice of the electorate.

HOFER v. HRET, G.R. No. 158833 (May 12, 2004) EN BANC The inaction and lack of interest of the protestant to prosecute the election protest can lead to the dismissal of the protest before the HRET.

IDULZA v. COMELEC, G.R. No. 160130 (April 14, 2004) EN BANC A protestant who runs for another office is deemed to have abandoned his/her protest.

DEFENSOR-SANTIAGO v. RAMOS, PET Case No. 001 (February 13, 1996) EN BANC An election protest for the position of President is rendered moot and academic by virtue of the Protestant's assumption of the office of Senator and the discharge of the function and duties thereof. A protestant effectively abandons or withdraws his/her protest after filing, campaigning and submitting him/herself to be voted upon. In so doing, s/he entered into a political contract with the electorate that if elected, s/he would assume the office of Senator, discharge its functions and serve his/her constituency as such for the term for which s/he was elected.

ANNULMENT OF PROCLAMATION

MUÑOZ v. COMELEC, G.R. No. 170678 (July 17, 2006) EN BANC By ordering the re-canvass of all the election returns, the COMELEC En Banc in effect rendered a decision on the merits of a case which was still pending before its First Division. This is in violation of the rule that it does not have the authority to decide and hear election cases, including pre-proclamation controversies, at the first instance. Election cases must first be heard and decided by a Division of the COMELEC. COMELEC, sitting En Banc, does not have authority to hear and decide the same at the first instance. COMELEC has no authority to decide cases: one involving a pre-proclamation controversy on the preparation of election returns, and the other an annulment of proclamation

since proclamation was made by the BOC without COMELEC authority – when the cases do not involve similar questions of law and fact.

SANDOVAL v. COMELEC, G.R. No. 133842 (January 26, 2000) EN BANC The phrase "motu proprio" does not refer to the annulment of proclamation but to the manner of initiating the proceedings to annul a proclamation made by the BOC. In observance of due process, the law requires that hearing be held before the COMELEC rules on the petition to annul the proclamation. In ruling on the question of the existence of a manifest error in a certificate of canvass, the COMELEC is required to act as an arbiter exercising its quasi-judicial power.

CASTROMAYOR v. COMELEC, G.R. No. 120426 (November 23, 1995) EN BANC In *Bince, Jr. v. COMELEC*, the Supreme Court held that the COMELEC has no authority to partially or totally annul a proclamation without notice and hearing; however, the resolution in question contemplates a hearing before the Municipal BOC at which petitioner will be heard on his/her objections and that only if warranted will the Board be authorized to set aside the proclamation. This is in conjunction with the principle that proceedings before the Municipal BOC must be summary. Any party aggrieved by a decision of the Municipal BOC may appeal to the COMELEC En Banc.

APPEALS

GOMEZ-CASTILLO v. COMELEC, G.R. No. 187231 (June 22, 2010) EN BANC The period of appeal and the perfection of the appeal are not mere technicalities. They are essential to the finality of judgments. The short period of five days as the short period to appeal recognizes the essentiality of time in election protests, in order that the will of the electorate is ascertained as soon as possible so that the winning candidate is not deprived of the right to assume office, and so that any doubt that can cloud the incumbency of the truly deserving winning candidate is quickly removed.

NOLLEN, JR. v. COMELEC, G.R. No. 187635 (January 11, 2009) EN BANC A.M. No. 07-4-15-SC required the payment of Php 1,000 appeal fee upon the filing of a notice of appeal. The payment of Php 1,000 appeal fee within five days from the promulgation of the RTC or MTC decision technically “perfects” the appeal from the trial court’s decision. Thus, such appeal is not dismissible on account alone of inadequate payment or non-payment of filing fees. The payment of appeal fee for an election contest involving elective municipal and barangay officials is necessary. Resolution No. 8486 was issued to clarify existing rules and address the resulting confusion caused by two appeal fees required, for the perfection of appeals, by two different jurisdictions: the court and COMELEC. Failure to pay the appeal fee within the reglementary period will result in the outright dismissal of the appeal. For a notice of appeal filed after the promulgation of the decision in *Divinagracia* (G.R. No. 186007 & 186016, July 27, 2009) errors in the matter of non-payment or incomplete payment of the two appeal fees in election cases are no longer excusable.

AUTOMATED ELECTIONS

PABILLO v. COMELEC, G.R. No. 216098 & G.R. No. 216562 (April 21, 2015) EN BANC COMELEC has failed to justify its reasons for directly contracting with Smartmatic-TIM: it had not shown that any of the conditions under Section 50, Article XVI of the GPRA exists; its claims of impracticality were not supported by independently verified and competent data; and lastly, its perceived “warranty extension” is, in reality, just a circumvention of the procurement law. For all these counts, the conclusion thus reached is that the COMELEC had committed grave abuse of discretion amounting to lack or excess of jurisdiction. While this Court

recognizes that the COMELEC should be given sufficient leeway in exercising its constitutional mandate to enforce and administer all election laws, it demands equal recognition that it is the Court's constitutional duty to see to it that all governmental actions are legally permissible. In so doing, the Court decides not only with pragmatism in mind, but pragmatism within the fair bounds of law. Such is the case in examining the COMELEC's apprehensions under the lens of the procurement law, with heightened considerations of public accountability and transparency put to the fore.

CAPALLA, ET. AL. v. COMELEC, GR No. 201121/201127/201413 (June 13, 2012) As COMELEC is confronted with time and budget constraints, and in view of the COMELEC's mandate to ensure free, honest, and credible elections, the acceptance of the extension of the option period, the exercise of the option, and the execution of the Deed of Sale, are the more prudent choices available to the COMELEC for a successful 2013 automated elections.

CENTER FOR PEOPLE EMPOWERMENT IN GOVERNANCE v. COMELEC, G.R. No. 189546 (September 21, 2010) EN BANC The source code is the "human readable instructions that define what the computer equipment will do." It is the master blueprint that reveals and determines how the machine will behave. These are analogous to the procedures provided to election workers. The review of the source code that any interested political party or group may conduct is for security reasons and must be conducted "under a controlled environment" to determine the presence of any error and claims of fraud. Section 12 of R.A. No. 9369 states that, "once an Automated Election System (AES) technology is selected for implementation, the Commission shall promptly make the source code of that technology available and open to any interested political party or groups which may conduct their own review thereof." The only excusable reason not to comply with the said requirement is that the said source code was not yet available when an interested party asked for it.

ROQUE, JR. v. COMELEC, G.R. No. 188456 (September 10, 2009) EN BANC Pilot testing is not a mandatory requirement for the enactment of a fully automated election system. The mechanism of the machines does not infringe on the constitutional right of the people to secrecy of the ballot enshrined in Article V, Section II of the Constitution.

INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES v. COMELEC, G.R. No. 159139 (January 13, 2004) EN BANC COMELEC may not use automated counting machines in the 2004 Synchronized Elections when the purchase contract was in violation of laws, jurisprudence and its bidding rules, and the hardware and software failed to pass legally mandated technical requirements. Further, COMELEC may not use the automated counting machines intended for the 2004 elections for the August 8, 2005 elections in the Autonomous Region of Muslim Mindanao (ARMM) since the Supreme Court has already voided the supply contract. The Court cannot grant the Motion since this would [a] illegally reverse and subvert a final decision of the Court, moreso since the COMELEC did nothing to abide by and enforce the Court's earlier Decision; [b] bar or jeopardize the recovery of government funds improvidently paid to suppliers; and [c] expose the ARMM elections to the same electoral ills pointed out in the final and executory decision. The ARMM elections could proceed using the manual system.

MARUHOM v. COMELEC, G.R. No. 139357 (May 5, 2000) EN BANC Although R.A. No. 8436 prescribes the adoption of an automated election system, the COMELEC is nevertheless not precluded from conducting a manual count when the automated system fails.

LOONG v. COMELEC, G.R. No. 133676 (April 14, 1999) EN BANC The OEC rules on appreciation of ballots cannot apply to the ballots used for automated elections for they only apply to elections where the names of candidates are handwritten in the ballots. The rules are spelled out in the COMELEC's Minute Resolution. When the sovereignty of the people expressed thru the ballot is at stake, it is not enough for the Supreme Court to make a statement but it should do everything to have that sovereignty obeyed by all. When the original case

was filed because of a discrepancy between the votes written in words and in figures, the recount of the votes is in order.

BALLOTS

VINZONS-CHATO v. COMELEC, G.R. NO. 199149 (January 22, 2013) EN BANC The picture images of the ballots, as scanned and recorded by the PCOS, are likewise “official ballots” that faithfully captures in electronic form the votes cast by the voter, as defined by Section 2 (3) of R.A. No. 9369. The printouts of the picture images of the ballots are the functional equivalent of the ballots and may be used for revision of votes in the electoral protest.

TORRES v. COMELEC, G.R. No. 187956 (November 19, 2009) EN BANC A person uses his/her own style for forming letters, technically called personal characteristics. Whatever features two specimens of handwriting may have in common, they cannot be regarded as written by one person if they show even but one consistent dissimilarity in any feature, which is fundamental to the structure of the handwriting. Ballots even when written similarly, if proven to have a consistent dissimilarity, should not be excluded.

CORDIA v. MONFORTE, G.R. No. 174620 (March 4, 2009) EN BANC A hole burned by a lighted cigarette in the ballot does not constitute marking as to invalidate the ballot unless such was done deliberately to identify the voter.

PEOPLE v. HERNANDEZ, G.R. No. 154218 & 154372 (August 28, 2006) SECOND DIVISION The sovereignty of the people is expressed through their choice on who will represent them in the government. This decision is made through an election ballot where they decided without any restraint on their freedom to choose. Thus, the ballot is considered sacred, and its desecration unpardonable.

DOJILLO v. COMELEC, G.R. No. 166542 (July 25, 2006) EN BANC A ballot indicates the voter’s will. There is no requirement that the entries in the ballot be written nicely or that the name of the candidate be spelled accurately. In the reading and appreciation of ballots, every ballot is presumed valid unless there is a clear reason to justify its rejection. The object in the appreciation of ballots is to ascertain and carry into effect the intention of the voter, if it can be determined with reasonable certainty.

SINSUAT v. COMELEC, G.R. No. 169106 (June 23, 2006) EN BANC The appreciation of ballots is a task given to the BEI, not the BOC. The questions raised related thereto are to be determined in election protests. Thus, they cannot be raised in a pre-proclamation controversy.

PARTIDO NG MANGGAGAWA v. COMELEC, G.R. No. 164702 (March 15, 2006) EN BANC In *Labo v. COMELEC*, the SC ruled that the votes cast for an ineligible or disqualified candidate cannot be considered “stray.” But said doctrine cannot be applied to the party-list system in view of Section 10 of R.A. No. 7941 which expressly provides that the votes cast for a party, sectoral organization or coalition “not entitled to be voted for shall not be counted.”

CANTORIA v. COMELEC, G.R. No. 162035 (November 26, 2004) EN BANC A vote for ‘Adong’ should be considered a vote for ‘Acong’ the registered nickname of a candidate under the *idem sonans* rule.

DAGLOC v. COMELEC, G.R. No. 154442-47 (December 10, 2003) EN BANC Outright exclusion of election returns on the ground that they were fraudulently prepared by some members or non-members of the BEI disenfranchises the voters. Hence, when election returns are found to be spurious or falsified, Section 235 of the OEC provides the procedure which enables the COMELEC to ascertain the will of the electorate.

Nevertheless, if the integrity of the ballots has been violated, the COMELEC need not recount the ballots but should seal the ballot box and order its safekeeping in accordance with Section 237 of the OEC. COMELEC, after ascertaining the integrity of the ballot box and of the ballots, can order a recount if the integrity of the ballots is intact. After which, new election returns should be prepared.

QUINTOS v. COMELEC, G.R. No. 149800 (November 21, 2002) EN BANC COMELEC Resolution No. 2812 addresses "the matter of impounding, transfer and control of ballot boxes, election documents and paraphernalia which are subject of simultaneous protests before the Electoral Tribunals, the Commission and RTCs." Section 2 of the Resolution provides as follows: "Section 2. The following order of preference in the custody and revision of ballots and other documents contained in the ballot boxes shall be: 2.1 Presidential Electoral Tribunal (PET); 2.2 Senate Electoral Tribunal (SET); 2.3 House of Representatives Electoral Tribunal (HRET); 2.4 Commission on Elections (Commission); 2.5 Regional Trial Court (RTC)." In giving the RTC first access to the Contested Ballot Boxes, COMELEC sought to prevent delay in the resolution of the two protest cases pending before the trial court. However, first access by the RTC is only limited to the period of time when the COMELEC is still revising other protested ballot boxes. The primary concern for such arrangement is the expeditious disposition of protest cases, which is underscored in Section 3 of COMELEC Resolution No. 2812.

DE GUZMAN JR. v. SISON, A.M. No. RTJ-01-1629 (Formerly A.M. No. 99-731-RTJ) (March 26, 2001) EN BANC A ballot should be counted even if it was not signed at the back by the chairperson of the BEI. Ballots with detachable coupons (lower portion) used in elections deposited in the compartment for valid ballots are valid. The rule is that no ballot should be discarded as marked unless its character as such is unmistakable. In the absence of any circumstance showing that the intention of the voter to mark the ballot is unmistakable, or any evidence aliunde to show that the words or marks were deliberately written or put therein to identify the ballots, the ballot should not be rejected. In other words, the ballots should be read with reasonable liberality, so that the reading thereof is in favor of the will of the voter, rather than in favor of the inefficiency of the ballot by reason of technical causes.

ONG v. COMELEC, G.R. No. 144197 (December 13, 2000) EN BANC The appearance of print and script writings in a single ballot does not necessarily imply that two persons wrote the ballot. The use of two or more kinds of writing cannot have the effect of invalidating the ballot unless it clearly appears that they had been deliberately put by the voter to serve as identification marks. Further, appellations of affection and friendship (e.g. 'Pare ko') do not invalidate a ballot.

PACRIS v. PAGALILAWAN, A.M. No. RTJ-98-1403 (August 14, 2000) THIRD DIVISION Ballots with the upper stubs deposited in the compartment for valid ballots are valid.

DE GUZMAN, JR. v. COMELEC, G.R. No. 129118 (July 19, 2000) EN BANC The minutes of voting will show the existence of illiterate or physically disabled voters which necessitated voting by assistors. Thus, several ballots could be prepared by one person who is the assistor.

BAUTISTA v. COMELEC, G.R. No. 133840 (November 13, 1998) EN BANC A stray vote is invalidated because there is no way of determining the real intention of the voter.

COMELEC v. ROMILLO JR., G.R. No. 36388 (March 16, 1988) SECOND DIVISION The secrecy and sanctity of the ballot must always be protected. Section 172 of the Election Code of 1971 states the persons allowed in and around the polling place. The provision tells us that only the members of the board of inspectors, their substitutes, watchers, representatives of COMELEC, the voters casting their votes, the voters waiting for their turn to vote are the only people allowed inside the polling place. Watchers have a reserved space for them and it shall be illegal for them to enter the places reserved for the voters. If found guilty under Section 172, the offender shall suffer imprisonment ranging from six years and one day but shall not exceed twelve years.

BALLOTS AS EVIDENCE

SEMA v. HRET, G.R. No. 190734 (March 26, 2010) EN BANC The ballots are the best and most conclusive evidence of the correctness of the number of votes for each candidate, if such are being questioned. They should be available and their integrity preserved from the day of election until revision for the rule to apply. In cases where such ballots are unavailable or cannot be produced, the untampered and unaltered election returns or other election documents may be used as evidence. No evidentiary value can be given to the ballots where a ballot box is found in such a condition as would raise a reasonable suspicion that unauthorized persons could have gained unlawful access to its contents. The official count reflected in the election return must be upheld as the better and more reliable account of how and for whom the electorate voted. However, if there are hardly any authentic ballots upon which the HRET may base its determination of the number of votes cast for each of the parties, it may resort to the untampered and/or unaltered election returns or other documents.

ABUBAKAR v. HRET, G.R. No. 173310 (March 7, 2007) EN BANC In an election contest where what is involved is the correctness of the number of votes of each candidate, the best and most conclusive evidence are the ballots themselves. It is only when the ballots cannot be produced or are not available that recourse is made to the election returns as evidence, as long as the integrity of the ballots are unquestioned.

DELOS REYES v. COMELEC, G.R. No. 170070 (February 28, 2007) EN BANC In cases wherein the ballots cannot be produced, the election returns would be the best evidence. However, in contests involving the issue of whether multiple ballots were written by one person, it is not enough for the COMELEC to merely rely on the ballots. Voting by assistants under Section 196 of B.P. Blg. 881 is a reality which must be recognized and given effect.

TORRES v. HRET, G.R. No. 144491 (February 6, 2001) EN BANC When authentic ballots have been replaced by fake ones, the physical count of votes in the precincts as determined during the revision of the ballots cannot be considered the correct number of votes cast. The election returns shall be basis of the votes.

RECABO, JR. v. COMELEC, G.R. No. 134293 (June 21, 1999) EN BANC A certificate of votes can only serve as evidence to prove tampering or falsification of election returns. It does not constitute sufficient evidence of the results of the election. Only election returns are. Neither is the certified list of winning candidates sufficient evidence of the results of the elections.

LERIAS v. HRET, G.R. No. 97105 (October 15, 1991) EN BANC The best and most conclusive evidence to show the correctness of the number of votes involved are the ballots themselves. If the ballots are unavailable, the election returns are the next best evidence. Caution must be observed in rejecting election returns. Canvassing boards, the COMELEC and HRET must only do so in cases wherein there is convincing proof that the returns are obviously manufactured or fake.

BOCOBO v. COMELEC G.R. No. 94173 (November 21, 1990) EN BANC Ballots are the best evidence. Handwriting experts are not indispensable in examining and comparing handwritings for this can be done by the COMELEC. Evidence aliunde is not allowed to prove that a ballot is marked. It is sufficient to look at the marked ballots. COMELEC is the best authority to determine the authenticity of the ballots.

BOARD OF CANVASSERS

PIMENTEL, JR. v. FABROS, A.C. No. 4517 (September 11, 2006) SECOND DIVISION Invoking the defenses of honest mistake, oversight due to fatigue, even simple negligence is tantamount to admission of the existence of discrepancies in the number of votes reflected in the certificates of canvass. The anomalous tampering in the statement of votes, as evidenced by the discrepancy in records of the certificate of canvass and the statement of votes and admission of the candidate is a violation. A disciplinary action is imposed for certifying the false figures in the questioned documents.

MUÑOZ v. COMELEC, G.R. No. 170678 (July 17, 2006) EN BANC An incomplete canvass of votes is illegal and cannot be the basis of a subsequent proclamation. A canvass is not reflective of the true vote of electorate unless the BOC considered all the returns and omits none.

SALIC v. COMELEC, G.R. No. 157019 (March 17, 2004) EN BANC An elementary school teacher cannot be a member of the BOC even if designated by the Department of Education, Culture and Sports district in charge s/he must have been at least a principal of the school district. If the law prescribes qualifications for appointment to a public office, the appointee must possess such statutory qualifications to make the appointment valid.

O'HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC Reliance on the Statement of Votes per precinct would have been proper had the COMELEC determined if the members of the Municipal BOC did not commit any other mistake in the tabulation or preparation of the Statements of Votes.

DOMALANTA v. COMELEC, G.R. No. 125586 (June 29, 2000) EN BANC The unauthorized alteration of statement of votes by members of BOC is an election offense.

MASTURA v. COMELEC, G.R. No. 124521 (January 29, 2000) EN BANC It is settled that the COMELEC has the authority to suspend that canvass of votes pending its inquiry on whether there exists a discrepancy between the various copies of the returns from the disputes voting centers.

LAODENIO v. COMELEC, ET. AL., G.R. No. 122391 (August 7, 1997) EN BANC A petition involving the issue of illegal composition of the BOC must be filed immediately when the Board begins to act as such, or at the time of the appointment of the member whose capacity to sit as such is objected to, if it comes after the canvassing of the Board, or immediately at the point where the proceedings are or begin to be illegal. In addition, the composition of the Board cannot be disputed after having actively participated in the proceedings before such Board.

RAMIREZ v. COMELEC, ET. AL., G.R. No. 122013 (March 26, 1997) EN BANC A certification which declares the correction of errors in the Statements of Votes based on the Certificate of Votes, issued by the BOC is not the proper way to correct manifest errors in the Statement of Votes. Corrections in the Statements of Votes should be made either by inserting corrections in the Statement of Votes, which was originally prepared and submitted by the BOC, or by preparing an entirely new Statement of Votes incorporating therein the corrections. Moreover, the Statement of Votes is a tabulation per precinct of votes garnered by the candidates as reflected in the election returns. Therefore, the BOC should have based its corrections on the election returns instead of on the Certificate of Votes.

AGUJETAS and BIJIS v. COURT OF APPEALS, G.R. No. 106560 (August 23, 1996) EN BANC The Members of the Provincial BOC are guilty of violating Section 231 of the OEC for the preparation of an incorrect certificate of canvass and the erroneous proclamation of a winning candidate. The explanation that the provision merely punishes the preparation of a certificate of canvass and failing to make the corresponding proclamation on the basis thereof would be tantamount to tolerating and licensing BOCs to make an erroneous proclamation.

CASTROMAYOR v. COMELEC, G.R. No. 120426 (November 23, 1995) EN BANC In *Bince, Jr. v. COMELEC*, the Supreme Court held that COMELEC has no authority to partially or totally annul a proclamation without notice and hearing; however, the resolution in question contemplates a hearing before the Municipal BOC at which petitioner will be heard on his/her objections and that only if warranted will the Board be authorized to set aside the proclamation. This is in conjunction with the principle that proceedings before the Municipal BOC must be summary. Any party aggrieved by a decision of the Municipal BOC may appeal to the COMELEC En Banc.

TAN v. COMELEC, ET. AL., G.R. No. 112093 (October 4, 1994) EN BANC An administrative charge instituted against a City Prosecutor as a member of the City BOC for "Misconduct, Neglect of Duty, Gross Incompetence and Acts Inimical to the Service" is within the jurisdiction of the COMELEC. The authority of the COMELEC under Section 2(6-8), Article IX of the Constitution is virtually all-encompassing when it comes to election matters; consequently, it may recommend to the President the removal of any officer of employee it has deputized or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision. The administrative case against the petitioner is in relation to the performance of his/her duties as an election canvasser and not as a city prosecutor. Therefore, the COMELEC may issue a recommendation for disciplinary action but that it is the executive department to which the charged official or employee belongs which has the ultimate authority to impose the disciplinary penalty.

RE: COMELEC RESOLUTION No. 2521, A.M. No. 92-12-916-RTC (July 8, 1994) EN BANC The Municipal BOC is authorized to make a partial proclamation pending resolution of the petition for official proclamation of the other candidates for vice-mayor and councilors. According to Section 247 of the OEC, the COMELEC may, *motu proprio* or upon filing of a verified petition and after due notice and hearing, order the proclamation of other winning candidates whose election will not be affected by the outcome of the controversy. Members of the BOC were well within the authority vested upon them by Section 241 of the OEC, which mandates that pre-proclamation controversies, such as in the instant case, may be raised before the Board or directly with the COMELEC.

NAVARRO v. COMELEC and MIRANDA, G.R. No. 106019 (December 17, 1993) EN BANC Section 245 of the OEC provides, "the party contesting the inclusion or exclusion of any election returns should interpose his/her verbal objections to the Chairperson of the BOC at the time the questioned return is presented for inclusion or exclusion.

ABELLA v. LARRAZABAL, G.R. No. 87721-30 (December 21, 1989) EN BANC It is the obligation of the BOC to make a written ruling on the formal objections raised by any party. The refusal of the BOC to make such ruling should not bar the parties from elevating it to the COMELEC. The accepted rule is that as long as the election returns, on their face, appear to be authentic and genuine, the BOC cannot look beyond them to verify the allegations of irregularities. The duty of the BOC is only ministerial and cannot exercise judicial powers of deciding and election contest.

DUREMDES v. COMELEC, G.R. No. 86362-63 (October 27, 1989) EN BANC The tabulation of the votes is a purely mechanical act by the BOC over which the COMELEC has direct control or supervision. Questions pertaining to the proceedings of the BOC may be raised directly with COMELEC as a pre-proclamation controversy. Section 243 of the OEC is silent as to when errors in the statement of votes may be raised. The court held that since the statement of votes supports the certificate of canvass and shall be the basis of the proclamation, errors in Statement of Votes would affect the true will of the electorate. The COMELEC did not commit grave abuse of discretion in ordering the BOC to reconvene and prepare a new Statement of Votes. The tabulation of the votes is a purely mechanical act by the BOC, over which the COMELEC has direct control or supervision. The decision of COMELEC must be upheld. All returns must be considered for a canvass to be reflective of the true will of the electorate. Public interest is involved in an election contest. If technicalities

obstruct the determination of the true will of the electorate, then it must not be allowed. Laws governing election contests must be liberally construed as not to defeat the true reflection of the will of the electorate.

CASIMIRO v. COMELEC, G.R. No. 84462-63 (March 29, 1989) EN BANC The BOC has an obligation to declare the elected candidates after canvassing. The duty of the board to declare the winners is ministerial after its mechanical or mathematical act of counting the votes. The proclamation made by the board is one of the other duties of the board such as to reconvene and complete the canvass if not yet completed.

BOARD OF ELECTION INSPECTORS

PANLILIO v. COMELEC, G.R. No. 181478 (July 15, 2009) EN BANC The filing of a protest before the BEI is not required before the COMELEC acquires jurisdiction over the present election protest. Jurisdiction is conferred only by law and cannot be acquired through, or waived by, any act or omission of the parties.

JUAN v. COMELEC, G.R. No. 166639 (April 24, 2007) EN BANC The testimonies of the 107 teachers of the BEI does not sufficiently establish the claim of post-election operations of the questioned ballots since it was shown that the affidavit was a prepared form.

SINSUAT v. COMELEC, G.R. No. 169106 (June 23, 2006) EN BANC The appreciation of ballots is a task given to the BEI, not the BOC. The questions raised related thereto are to be determined in election protests. Thus, they cannot be raised in a pre-proclamation controversy.

PASANDALAN v. COMELEC, G.R. No. 150312 (July 18, 2002) EN BANC There is no failure of elections on the grounds that there was ballot box-snatching, that ballots were filled up with the name of another, and that ballots were not signed at the back by members of the BEI.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC The appointment of military personnel as members of the BEI is a grave electoral irregularity.

HERRERA v. COURT OF APPEALS, G.R. No. 140651 (February 19, 2002) SECOND DIVISION Upon termination of the counting, the ballot boxes must be forwarded directly to the local treasurer. A chairperson of a BEI is liable for an election offense when s/he brought home the election paraphernalia.

DE GUZMAN JR. v. SISON, A.M. No. RTJ-01-1629 (Formerly A.M. No. 99-731-RTJ) (March 26, 2001) EN BANC A ballot should be counted even if it was not signed at the back by the chairperson of the BEI.

MALABAGUIO v. COMELEC, G.R. No. 142507 (December 1, 2000) EN BANC COMELEC issued a resolution to implement the election rules for the 1997 Barangay Election, and under said rules, the failure by the BEI to authenticate the ballots shall no longer be a ground for the invalidation thereof.

PANGANDAMAN v. COMELEC, G.R. No. 134340 (November 25, 1999) EN BANC COMELEC may order elements of the Armed Forces of the Philippines and the Philippine National Police who are not assigned to the affected areas to act as members of the BEI.

PUNZALAN v. COMELEC, G.R. No. 126669 (April 27, 1998) EN BANC Section 24 of R.A. No. 7166 requires the BEI chairperson to affix his/her signature at the back of the ballot. However, the mere failure to do so does not invalidate the same. As a rule, the failure of the BEI inspectors or any member of the board to comply with his/her mandated administrative responsibility, i.e. signing, authenticating and thumb marking of ballots, should not penalize the voter with disenfranchisement.

LIBANAN v. HRET and RAMIREZ, G.R. No. 129783 (December 22, 1997) EN BANC The HRET did not commit grave abuse of discretion in ruling that the absence of the signature of the Chairperson of the BEI in the ballots did not render the ballots spurious because all the ballots examined had the COMELEC watermarks.

BORJA, JR. v. COMELEC, ET. AL., G.R. No. 120140 (August 21, 1996) EN BANC The allegations of lack of notice of the date and time of canvass; fraud, violence, terrorism and analogous cases; disenfranchisement of voters; presence of flying voters; and unqualified members of the BEI as constituting the failure of elections are proper only in an election contest.

SANCHEZ v. COMELEC, G.R. No. 79146 (August 12, 1987) EN BANC The appreciation of ballots cast in the precincts is a proceeding by the BEI. It is not a proceeding of the BOC for the purpose of pre-proclamation proceedings. The BEI is called upon to count and appreciate the votes in accordance with the rules of appreciation.

CAMPAIGNING

1-UNITED TRANSPORT KOALISYON (1-UTAK) vs. COMELEC, G.R. No. 206020 (April 14, 2015) EN BANC The posting of election campaign material on vehicles used for public transport or on transport terminals is not only a form of political expression, but also an act of ownership – it has nothing to do with the franchise or permit to operate the PUV or transport terminal. Section 7(g) items (5) and (6), in relation to Section 7(f), of Resolution No. 9615 unduly infringe on the fundamental right of the people to freedom of speech. Central to the prohibition is the freedom of individuals, i.e., the owners of PUVs and private transport terminals, to express their preference, through the posting of election campaign material in their property, and convince others to agree with them.

AQUINO v. COMELEC, G.R. NOS. 211789-90 (March 17, 2015) EN BANC As a general rule, the period of election starts at ninety (90) days before and ends thirty (30) days after the election date pursuant to Section 9, Article IX-C of the Constitution and Section 3 of BP 881. This rule, however, is not without exception. Under these same provisions, the COMELEC is not precluded from setting a period different from that provided thereunder.

EJERCITO v. COMELEC, G.R. NO. 212398 (November 25, 2014) EN BANC The phrase “those incurred or caused to be incurred by the candidate” is sufficiently adequate to cover those expenses which are contributed or donated in the candidate’s behalf. By virtue of the legal requirement that a contribution or donation should bear the written conformity of the candidate, a contributor/supporter/donor certainly qualifies as “any person authorized by such candidate or treasurer.”

PENERA v. COMELEC, G.R. No. 181613 (September 11, 2009) EN BANC Motorcades conducted after filing of the certificate of candidacy prior to the campaign period constitute premature campaigning. When the campaign period starts and a person proceeds with his/her candidacy, his/her acts, after the filing of his/her certificate of candidacy and prior to the campaign period, as the promotion of his/her election as a candidate, constitute premature campaigning, for which s/he may be disqualified.

LANOT v. COMELEC, G.R. No. 164858 (November 16, 2006) EN BANC The essential elements for violating Section 80 of the OEC are: first, a person engages in an election campaign or partisan political activity; second, the act is designed to promote the election or defeat of a particular candidate or candidates; and third, the act is done outside the campaign period. However, a certificate of candidacy must first be filed. Otherwise, one is not considered a candidate. Acts committed by a person prior to his/her being a “candidate” even if

constituting election campaigning or partisan political activities are not punishable under Section 80 and are considered to be protected as part of freedom of expression of a citizen before s/he becomes a candidate for elective public office.

ABELLO v. COMMISSIONER OF INTERNAL REVENUE, G.R. No. 120721 (February 23, 2005) FIRST DIVISION Electoral contributions are exempt from payment of gift tax under R.A. No. 7166 provided the same are reported to the COMELEC. However, contributions made prior to the effectivity of such law are not exempt.

CHAVEZ v. COMELEC G.R. No. 162777 (August 31, 2004) EN BANC When a person enters into contracts or agreements to endorse certain products, s/he acts as a private individual and has all the right to lend his/her name and image to these products. However, when s/he files his/her certificate of candidacy, the billboards featuring his/her name and image assumed partisan political character because the same indirectly promoted his/her/ her candidacy. Non-removal of the billboards would result in candidates for public office whose name and image are used to advertise commercial products having more opportunity to make themselves known to the electorate, to the disadvantage of other candidates who do not have the same chance of lending their faces and names to endorse popular commercial products as image model. COMELEC can disallow the continued display of advertisements after a person has already filed his/her certificate of candidacy and before the start of the campaign period in order to prevent premature campaigning.

PANGKAT LAGUNA v. COMELEC, G.R. No. 148075 (February 4, 2002) EN BANC Not every act of beneficence from a candidate may be considered "campaigning." The term "campaigning" should not be made to apply to any and every act which may influence a person to vote for a candidate, for that would stretching too far the meaning of the term. Only those acts which are primarily designed to solicit votes will be covered by the definition and enumeration of election campaign and partisan political activity found in COMELEC Resolution No. 3636. The distribution of sports items in line with the sports and education program of the province does not constitute election campaigning since what is prohibited is the release of public funds within the 45-day period before election.

SOCIAL WEATHER STATIONS v. COMELEC, G.R. No. 147571 (May 5, 2001) SECOND DIVISION The provision in the Fair Election Act which bars publication of election survey results within a certain period before election is unconstitutional for violation of the right to freedom of speech.

ADIONG v. COMELEC, G.R. No. 103956 (March 31, 1992) EN BANC The Court ruled that the prohibition on the posting of decals and stickers in "mobile" places whether public or private is null and void for being unconstitutional and violative of the fundamental right of free speech. The COMELEC resolution which prohibits the posting of stickers and decals in mobile places also failed to distinguish between privately-owned and publicly-owned vehicles. Thus, it should be struck down for being too broad. The fact that the prohibition on stickers and decals contained in the assailed COMELEC resolution amounts to an outright prohibition without regard to the paraphernalia's content, the same amounts to censorship which cannot be justified by the Constitution.

CANVASSING BY CONGRESS

PIMENTEL v. JOINT COMMITTEE OF CONGRESS, G.R. No. 163783 (June 22, 2004) EN BANC The legislative function of the 12th Congress may come to a close upon the final adjournment of the regular session but this did not affect its non-legislative functions, such as that of being the National BOC.

LOPEZ v. SENATE AND HOUSE OF REPRESENTATIVES, G.R. No. 163556 (June 8, 2004) EN BANC The creation of Joint Committee by Congress to conduct a preliminary canvass of the votes for President and Vice-President is

proper since Congress is empowered to promulgate its own rules for the canvass. The creation of the Joint Committee did not deprive the members of the Congress of their prerogatives because the decisions and report of the Joint Committee is subject to the approval of the Joint Session of both Houses of Congress voting separately.

CERTIFICATE OF CANDIDACY

CERAFICA v. COMELEC, G.R. NO. 205136 (December 2, 2014) EN BANC The duty of the Comelec to give due course to COCs filed in due form is ministerial in character, and that while the Comelec may look into patent defects in the COCs, it may not go into matters not appearing on their face. The question of eligibility or ineligibility of a candidate is thus beyond the usual and proper cognizance of the COMELEC.

VILLAFUERTE v. COMELEC, GR No. 206698 (February 25, 2014) EN BANC A claim that a candidate's use of a particular name in order to appear first in an alphabetical list of candidates would lead to confusion as to put him to undue disadvantage, is merely speculative and without basis as the voters can identify the candidate they want to vote for. By using other nicknames to differentiate one candidate from another person, there is sufficient differentiation which negates any intention to mislead or misinform or hide a fact which would otherwise render him ineligible.

VILLAROSA v. HRET, G.R. No. 143351 (September 14, 2000) EN BANC A candidate must use his/her own nickname and not the nickname of any other person. Such nickname must be indicated in the certificate of candidacy. Any vote bearing the incorrect nickname will not be counted for such candidate.

VILLAROSA v. COMELEC, G.R. No. 133927 (November 29, 1999) EN BANC When COMELEC draws its conclusion that a particular nickname is not one by which a candidate is generally or popularly known based solely on allegations in a letter-petition without first affording a candidate the opportunity to explain his/her side, it is acting in excess of its jurisdiction. Indubitably, since it involved the application of law or rules to an ascertained set of facts, it called for COMELEC's exercise of its adjudicatory powers and falls within the concept of an "election contest."

CERTIORARI

VILLAROSA v. FESTIN, G.R. No. 212953 (August 05, 2014) EN BANC Certiorari will not generally lie against an order, ruling, or decision of a COMELEC division for being premature, taking into account the availability of the plain, speedy and adequate remedy of a motion for reconsideration.

BELUSO v. COMELEC, G.R. No. 180711 (June 22, 2010) EN BANC Where the real issue involves the wisdom or legal soundness of the decision and not the jurisdiction of the court to render said decision, the same is beyond the province of a petition for certiorari under rule 65. A writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. It is not the Court's function to re-evaluate the findings of fact of the COMELEC.

LOKIN, JR. v. COMELEC, G.R. No. 179431-32 (June 22, 2010) EN BANC Certiorari, not an election protest or quo warranto, is the proper recourse to review a COMELEC resolution approving the withdrawal of the nomination of its original nominees and substituting them with others even if the substitute nominees have already been proclaimed and have taken their oath of office.

SEMA v. HRET, G.R. No. 190734 (March 26, 2010) EN BANC The Supreme Court is not a trier of facts and its jurisdiction to review decisions and orders of electoral tribunals is exercised only upon a showing of grave abuse of discretion committed by the tribunal. Grave abuse of discretion arises when a lower court of tribunal violates the Constitution, the law or existing jurisprudence. Absent such grave abuse of discretion, the Court cannot interfere with the tribunal's exercise of discretion.

SANDOVAL v. HRET, G.R. No. 190067 (March 9, 2010) EN BANC It is hornbook doctrine that the Court's jurisdiction to review decisions and orders of electoral tribunals is exercised only upon a showing of grave abuse of discretion committed by the tribunal. Absent such grave abuse of discretion, the Supreme Court shall not interfere with the electoral tribunal's exercise of its discretion or jurisdiction. The abuse in discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.

GARCIA v. COMELEC, G.R. No. 170256 (January 25, 2010) EN BANC Generally, the Court will not interfere with the finding of probable cause by the COMELEC absent a clear showing of grave abuse of discretion. The abuse of discretion must be so patent and gross as to amount to an evasion or refusal to perform a duty enjoined by law or to act in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.

ISTARUL v. COMELEC, G.R. No. 170702 (June 16, 2006) EN BANC If the issues raised were merely questions of the correctness of the COMELEC's rulings which involves the wisdom or legal soundness of the decision, the petitioner cannot avail of the writ of certiorari. The remedy of a special civil action for certiorari is designed for the correction of errors of jurisdiction and not errors of judgment. An error committed while the court exercises its jurisdiction does not deprive it of the jurisdiction being exercised. However, there are some exceptions to the general rule is that a motion for reconsideration must first be filed before resorting to certiorari and these are: first, when public interest is involved; second, the matter is one of urgency; and third, the order is a patent nullity.

CHECKPOINTS AND GUN BAN

ORCEO v. COMELEC, G.R. No. 190779 (March 26, 2010) EN BANC A license to possess an airsoft gun, just like ordinary licenses in other regulated fields, does not confer an absolute right but only a personal privilege to be exercised under existing restrictions, and such as may thereafter be reasonably imposed. There is a regulation that governs the possession and carriage of airsoft rifles. Any person who desires to possess an airsoft/rifle pistol needs a license from Philippine National Police (PNP), and s/he shall file his/her application in accordance with PNP Standard Operating Procedure No. 13, which prescribes the procedure to be followed in the licensing of firearms.

RIMANDO v. COMELEC, G.R. No. 176364 (September 18, 2009) SECOND DIVISION Under Section 261 (s) of the OEC, the punishable act is the bearing of arms outside the immediate vicinity of one's place of work during the election period and not the failure of the head or responsible officer of the security agency to obtain prior written COMELEC approval. The failure of the President or General Manager of the security agency to secure approval of the COMELEC for his/her security guards to bear arms outside the immediate vicinity of his/her place of work during the election period, except under certain circumstances is not itself defined as an election offense.

ABENES v. COURT OF APPEALS, G.R. No. 156320 (February 14, 2007) THIRD DIVISION The burden of proof to adduce evidence that one is exempt from the COMELEC gun ban lies with the accused. While it is well-settled that under P.D. No. 1866, as amended, the burden to prove the negative allegation that the accused has no license

or permit to carry a firearm lies with the prosecution. Under the Omnibus Election, however, the burden to adduce evidence that accused is exempt from the COMELEC Gun Ban, lies with him/her. Failure to present any form of authority, his/her conviction must be affirmed. Section 32 of R.A. No. 7166 is clear and unequivocal that the prohibited act to which this provision refers is made up of the following elements: (1) the person is bearing, carrying, or transporting firearms or other deadly weapons, (2) such possession occurs during the election period, and, (3) the weapon is carried on in a public place. Even if the accused is holding a valid license to possess such firearm, the circumstance by itself cannot exculpate him/her from criminal liability.

PEOPLE v. USANA, G.R. No. 129756-58 (January 28, 2000) FIRST DIVISION Defendant were caught in possession of hashish and ammunitions during the gun ban. They assail the legality of the search and check point conducted pursuant to the gun ban enforced by the COMELEC. The Court upheld the legality of the checkpoint and opined that the COMELEC would be hard to put to implement the gun ban if its deputized agents were limited to a visual search of pedestrians. Not all checkpoints are illegal. They need not be announced either because this would forewarn those who intend to violate the gun ban. Badges of legitimacy of the checkpoints may be inferred from their fixed location and the regularized manner in which they are conducted.

CITIZENSHIP

AGUSTIN vs. COMELEC, G.R. No. 207105 (November 10, 2015) EN BANC The petitioner's continued exercise of his rights as a citizen of the USA through using his USA passport after the renunciation of his USA citizenship reverted him to his earlier status as a dual citizen. Such reversion disqualified him from being elected to public office. A candidate is ineligible if he is disqualified to be elected to office, and he is disqualified if he lacks any of the qualifications for elective office. Even if the COMELEC made no finding that the petitioner had deliberately attempted to mislead or to misinform as to warrant the cancellation of his CoC, the COMELEC could still declare him disqualified for not meeting the requisite eligibility under the Local Government Code.

ARNADO vs. COMELEC, G.R. No. 210164 (August 18, 2015) EN BANC The use of a foreign passport amounts to repudiation or recantation of the oath of renunciation. Matters dealing with qualifications for public elective office must be strictly complied with. A candidate cannot simply be allowed to correct the deficiency in his qualification by submitting another oath of renunciation.

COMMISSION ON ELECTIONS

GOH v. BAYRON, G.R. NO. 212584 (November 25, 2014) EN BANC The 1987 Constitution not only guaranteed the COMELEC's fiscal autonomy, but also granted to its head, as authorized by law (as in the 2014 General Appropriations Act, to its Chairman), to augment items in its appropriations from its savings. When the COMELEC receives a budgetary appropriation for its "Current Operating Expenditures," such appropriation includes expenditures to carry out its constitutional functions, including the conduct of recall elections. To be valid, an appropriation must indicate a specific amount and a specific purpose. However, the purpose may be specific even if it is broken down into different related sub-categories of the same nature. The purpose of the appropriation is still specific – to fund elections, which naturally and logically include, even if not expressly stated, not only regular but also special or recall elections.

VILLAROSA v. FESTIN, G.R. No. 212953 (August 05, 2014) EN BANC No fault, let alone grave abuse of discretion, can be ascribed to the COMELEC when the Special First Division issued the questioned writ of preliminary injunction. Contrary to petitioner's claim, it cannot be said that the First Division and the Special First Division are two distinct bodies and that there has been consequent transfers of the case between the

two. Strictly speaking, the COMELEC did not create a separate Division but merely and temporarily filled in the vacancies in both of its Divisions. The additional term “special,” in this case, merely indicates that the commissioners sitting therein may only be doing so in a temporary capacity or via substitution. Under the 1993 COMELEC Rules, the COMELEC En Banc is strictly prohibited from entertaining motions for reconsideration of interlocutory orders unless unanimously referred to the En Banc by the members of the division that issued the same, whereas under COMELEC Resolution No. 8804, all motions for reconsideration filed with regard to decisions, resolutions, orders and rulings of the COMELEC divisions are automatically referred to the COMELEC En Banc. Thus, in view of COMELEC Resolution No. 8804’s applicability in the instant petition, a motion for reconsideration before the COMELEC En Banc is now available.

SEVILLA v. COMELEC, G.R. No. 203833 (March 19, 2013) EN BANC Under Section 7, Article IX-A of the Constitution, a majority vote of all the members of the COMELEC *En Banc* is necessary to arrive at a ruling. In other words, the vote of four (4) members must always be attained in order to decide, irrespective of the number of Commissioners in attendance. Failing this, the case must be re-heard pursuant to Sec. 6, Rule 18 of the COMELEC Rules of Procedure.

DIBARATUN v. COMELEC, G.R. No. 170365 (February 2, 2010) EN BANC COMELEC is vested with broad power to enforce all the laws and regulations relative to the conduct of elections as well as the plenary authority to decide all questions affecting elections except the question as to the right to vote.

GARCIA v. COMELEC, G.R. No. 170256 (January 25, 2010) EN BANC COMELEC is empowered to investigate and where appropriate, prosecute cases for violation for election laws, including acts or omissions constituting election frauds, offenses and malpractices. The finding of probable cause in the prosecution of election offenses rests in the COMELEC’s sound discretion.

BEDOL v. COMELEC G.R. No. 179830 (G.R. No. 179830) EN BANC The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the OEC, may be classified into administrative, quasi-legislative, and quasi-judicial. The COMELEC has the power to create fact-finding investigation to probe into the veracity of the alleged fraud in elections. The COMELEC also has the power to punish individuals for contempt for failure to appear in a fact-finding investigation. The language of the OEC and the COMELEC Rules of Procedure allows the COMELEC to initiate indirect contempt proceedings *motu proprio*.

FLAUTA, JR. v. COMELEC, G.R. No. 184586 (July 22, 2009) EN BANC COMELEC has the authority to initiate *motu proprio* such steps or actions as may be required pursuant to law. Under the COMELEC Rules of Procedure, the loss of a padlocked ballot box containing tabulated Statements of Votes by Precinct Constitutes an election offense as to render a motion for reconsideration a valid pleading. Where the BOC, with knowledge that the return from one precinct is undoubtedly vitiated by clerical mistake, continued the canvass and proclaimed a winner based on the result of such canvass, the proclamation cannot be said to have been in faithful discharge of its ministerial duty under the law.

MARCOLETA v. COMELEC G.R. No. 181377 (April 24, 2009) EN BANC A majority vote of all the members of the COMELEC, and not only those who participated and took part in the deliberations, is necessary for the pronouncement of a decision, resolution, order or ruling. COMELEC has discretion to order a rehearing. COMELEC has the inherent power to amend or control its processes and orders before these become final and executory. It can even proceed to issue an order *motu proprio* to reconsider, recall or set aside an earlier resolution which is still under its control.

PACIFICADOR v. COMELEC, G.R. No. 178259 (March 13, 2009) EN BANC Decisions and resolutions of any division of the COMELEC in special cases become final and executory after the lapse of five days. Members of

BOCs can be filled up by the COMELEC not only from those expressly mentioned under Section 21 of R.A. No. 6646 but from others outside if the former are not available.

ABAINZA v. COMELEC, G.R. No. 181644 (December 8, 2008) EN BANC COMELEC is empowered by the Constitution to enforce and administer all laws and regulations relative to the conduct of an election. It exercises exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials. In relation thereto, it is empowered to promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies.

SEMA v. COMELEC, G.R. No. 177597 (July 16, 2008) EN BANC COMELEC does not have the requisite power to call elections, as the same is part of plenary legislative power. Only Congress has the power to set congressional elections. Assuming that the Congress was impleaded in the case, it would then be improper for the Court to compel Congress by judicial fiat to pass a law or resolution for the holding of such elections.

ROMUALDEZ v. COMELEC, G.R. No. 167011 (April 30, 2008) EN BANC The constitutional grant of prosecutorial power in the COMELEC finds statutory expression under 265 of B.P. Blg. 881, otherwise known as the OEC. It is succinct that courts will not substitute the finding of probable cause by the COMELEC in the absence of grave abuse of discretion. The power to prosecute necessarily involves the power to determine who shall be prosecuted, and the corollary right to decide whom not to prosecute. The power to prosecute also includes the right to determine under which laws prosecution will be pursued.

FERMIN v. COMELEC, G.R. No. 172563 (April 27, 2007) EN BANC The COMELEC did not commit grave abuse of discretion when it took cognizance of a complaint on an omnibus motion although the matters raised therein did not constitute that of a pre-proclamation controversy, but should have been a subject of a separate criminal prosecution of election offenses. Under Section 227 of the OEC, the COMELEC is vested with the power of direct control and supervision over the BOC. The COMELEC cannot just ignore the allegations of electoral fraud and violence in the second special elections held.

PROVINCE OF AGUSAN DEL NORTE v. COMELEC, G.R. No. 165080 (April 24, 2007) EN BANC COMELEC should be accorded by the Court the greatest measure of presumption of regularity in the course of action and choice of means in performing its duties, to the end that it may achieve its designated place in the democratic fabric of our government. It is the effective instrument to preserve the sanctity of popular suffrage, endowed with independence and all the needed concomitant powers. In the discharge of its legal duties, the COMELEC is provided by the law with tools, ample wherewithal, and considerable latitude in adopting means that will ensure the accomplishment of the great objectives for which it was created, i.e., to promote free, orderly and honest elections. COMELEC had to make snap judgments to meet unforeseen circumstances that threaten to subvert the will of our voters. In the process, the actions of the COMELEC may not be impeccable, indeed may even be debatable, but the Court cannot engage in a swivel chair criticism of these actions often taken under very difficult circumstances. Thus, the action of the COMELEC in constituting a new Provincial BOC is justified under the circumstances that the former members are unavailable. The COMELEC has broad powers to enforce and administer all election laws. It has the power of supervision and control over the BEIs or BOCs. This includes the authority to relieve any member thereof for cause or to appoint a substitute.

SORIANO, JR. v. COMELEC, G.R. No. 164496-505 (April 2, 2007) EN BANC In general, interlocutory orders of the COMELEC Division are not appealable, nor can they be proper subject of a petition for certiorari. However, when the interlocutory order of a COMELEC Division is a patent nullity because of absence of jurisdiction to issue the interlocutory order, as where a COMELEC Division issued a temporary restraining order without a time limit, the aggrieved party can still assign as error the interlocutory order if in the course of the proceedings s/he decides to appeal the main case to the COMELEC En Banc.

OCTAVA v. COMELEC, G.R. No. 166105 (March 22, 2007) EN BANC The COMELEC has the power to suspend its rules and the mandate to determine the true victor in an electorate contest. It has the primary duty to ascertain by all feasible means the will of the electorate in an election case. The will of the people in the choice of public officers may not be defeated by mere technical objections. In line with this, the Supreme Court has consistently employed liberal construction of procedural rules in election cases.

CERBO, JR. v. COMELEC, G.R. No. 168411 (February 15, 2007) EN BANC A petition for correction of manifest errors filed directly with the COMELEC should pertain to errors that could have not been discovered during the canvassing, despite the exercise of due diligence. The initial filing of a petition for Correction of Manifest Errors with the Provincial BOC evidently showed that the errors sought to be corrected were discovered during the canvassing.

BALINGIT v. COMELEC, G.R. No. 170300 (February 9, 2007) EN BANC The issuance of the COMELEC of the immediate execution of its assailed resolution due to the proximity of the end of the term of the contested office is not tainted with any abuse of discretion. COMELEC, being the specialized agency tasked with the supervision of elections, is presumed to be aware of the passage of R.A. No. 9340 which extended the term of the barangay and SK. The COMELEC need not justify the immediate execution of its decision with such proximity of elections.

TORRES v. ABUNDO, SR., G.R. No. 174263 (January 24, 2007) EN BANC A preliminary injunction is a provisional remedy, an adjunct to the main case subject to the latter's outcome. The sole objective is to preserve the status quo and protect the rights of the litigants until the trial court until the trial court hears fully the merits of the case.

TAN v. COMELEC, G.R. No. 166143-47 (November 20, 2006) EN BANC A resolution or decision of the COMELEC is considered complete and validly rendered or issued when there is concurrence by the required majority of the Commissioners. The Constitution and the COMELEC Rules of Procedure are silent as to what constitutes a decision, whether it is solely the majority opinion or whether the separate concurring or dissenting opinions are considered integral parts of it.

PEDRAGOZA v. COMELEC, G.R. No. 169885 (July 25, 2006) EN BANC The failure of a COMELEC Commissioner to state the reason why s/he took no part in the resolution of a case does not annul the ruling of the COMELEC.

MUÑOZ v. COMELEC, G.R. No. 170678 (July 17, 2006) EN BANC By ordering the re-canvass of all the election returns, the COMELEC En Banc in effect rendered a decision on the merits of a case which was still pending before its First Division. This is in violation of the rule that it does not have the authority to decide and hear election cases, including pre-proclamation controversies, at the first instance. Election cases must first be heard and decided by a Division of the COMELEC. COMELEC, sitting En Banc, does not have authority to hear and decide the same at the first instance. COMELEC has no authority to decide cases: one involving a pre-proclamation controversy on the preparation of election returns, and the other an annulment of proclamation since proclamation was made by the BOC without COMELEC authority – when the cases do not involve similar questions of law and fact.

SULIGUIN v. COMELEC, G.R. No. 166046 (March 23, 2006) EN BANC The COMELEC has the discretion to liberally construe its rules and, at the same time, suspend the rules or any portion thereof in the interest of justice. Disputes in the outcome of elections involve public interest; as such, technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. Laws governing such disputes must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.

BENWAREN v. COMELEC, G.R. No. 169393 (April 7, 2006) EN BANC If at the time of the promulgation of a decision or resolution, a member of the collegiate court who had earlier signed or registered his/her vote has vacated his/her office, his/her vote is automatically withdrawn or cancelled. The Resolution remains valid when it is still supported by a majority of the COMELEC En Banc.

DUMPIT-MICHELANA v. BOADO, G.R. No. 163619-20 (November 17, 2005) EN BANC The hearing officer is only designated to hear and receive evidence. His/her conclusions are merely recommendatory upon the COMELEC.

ROCES v. HRET, G.R. No. 167499 (September 15, 2005) EN BANC Motions for reconsideration of the COMELEC division's decisions, resolutions, orders or rulings must first be filed in the Divisions before the COMELEC En Banc may take cognizance thereof.

BARBERS v. COMELEC, G.R. No. 165691 (June 15, 2005) EN BANC The COMELEC enjoys the presumption of good faith and regularity in the performance of official duty. The COMELEC can base its ruling on official COMELEC records.

OLANOLAN v. COMELEC, G.R. No. 165491 (March 31, 2005) EN BANC The COMELEC has been given the discretion, in a case where the prescribed fees are not paid, to either refuse to take action until the fees are paid, or to dismiss the action or proceeding. There is no grave abuse of discretion on the part of COMELEC if it dismisses the case.

ESTRELLA v. COMELEC, G.R. No. 160465 (May 27, 2004) EN BANC The COMELEC En Banc shall decide a case or matter brought before it by a majority vote of all its members, and not by majority of the members who deliberated and voted thereon. The doctrine held in Cua v. COMELEC wherein three (3) votes would be sufficient to constitute a majority to carry the decision of the COMELEC En Banc is overturned. A commissioner who inhibited him/herself from participating in a case pending before the COMELEC division is likewise inhibited when the matter reaches the COMELEC En Banc.

REPOL v. COMELEC, G.R. No. 161418 (April 28, 2004) EN BANC The COMELEC En Banc shall decide motions for reconsideration only for "decisions" of a Division, meaning final orders, rulings and decisions of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers. The Supreme Court has no power to review via certiorari, an interlocutory order or even a final resolution of a Division of the COMELEC. The aggrieved party can still assign as error the interlocutory order before the COMELEC En Banc.

ARADAIS v. COMELEC, G.R. No. 157863 (April 28, 2004) EN BANC There is no violation of the non-delegability clause when the COMELEC created an advisory committee to look into the double proclamation of candidates. The findings and recommendations of an Ad Hoc Committee are merely advisory in nature and do not bind the COMELEC. The COMELEC has broad powers to ascertain the true results of an election by means available to it. It is within the COMELEC's discretion to avail of the means it deemed effective, such as requiring the parties to present their side through position papers and memoranda and conducting a clarificatory hearing.

IDULZA v. COMELEC, G.R. No. 160130 (April 14, 2004) EN BANC Findings of fact of the COMELEC when supported by substantial evidence are final and non-reviewable. Contrary conclusions made by a Commissioner cannot overthrow the majority opinion if both are supported by substantial evidence as such they are beyond the keen review of the court. COMELEC can rule that candidates who are not parties to an election protest obtained more votes than the protestees and the protestants.

INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES v. COMELEC, G.R. NO. 159139 (JANUARY 13, 2004) EN BANC For entering into a void contract, COMELEC and its officials concerned must bear full

responsibility for the failed bidding and award relative to the planned computerization of elections, and must be held accountable for the electoral mess wrought by their grave abuse of discretion in the performance of their functions. The State is not bound by the mistakes and illegalities of its agents and servants.

BATUL v. BAYRON, G.R. No. 157687 (February 26, 2004) EN BANC Section 2, Rule 17 of the COMELEC Rules of Procedure, is merely directory and confers upon COMELEC the discretion to change the order of hearing for special reasons as election contests unlike ordinary civil actions are clothed with public interest. A formal trial-type hearing is not at all times and in all situations essential to due process. It is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to present evidence on which a fair decision can be based. COMELEC may validly refuse the presentation of chairpersons of the various BEIs to testify on the genuineness of their signatures on the ballots. Evidence aliunde is not necessary to prove fake ballots.

TAN v. COMELEC, G.R. No. 148575-76 (December 10, 2003) EN BANC In *Loong v. COMELEC*, we held that “the COMELEC is duty-bound to investigate allegations of fraud, terrorism, violence and other analogous causes in actions for annulment of election results or for declaration of failure of elections, as the OEC denominates the same. Thus, COMELEC, in the case of actions for annulment of election results or declaration of failure of elections, may conduct a technical examination of election documents and compare and analyze voters’ signatures and fingerprints in order to determine whether or not the elections had indeed been free, honest and clean.” However, the exercise of this authority presupposes that the petition has properly been acted upon on account of the existence of any of the grounds provided under Section 6 of the OEC. Where, as in this case, elections had been held and winners had been duly proclaimed, the proper recourse should have been to file regular election protest cases to ventilate the veracity of the alleged election fraud and irregularities of the election in the subject precincts with the consequent determination and declaration of the real winners in the elections.

COMELEC v. ESPAÑOL, G.R. No. 149164-73 (December 10, 2003) EN BANC Under Section 265 of the OEC, COMELEC is mandated to conduct a preliminary investigation of all election offenses and to prosecute the same. A joint preliminary investigation thereof must be conducted and the appropriate Information filed in court against all the offenders. COMELEC may avail of the assistance of the prosecuting arms of the government. The complaints may be filed directly with them or may be indorsed to them by the COMELEC or its duly authorized representatives. Until revoked, the continuing authority of the Provincial or City Prosecutors stays. To enable the COMELEC to comply with its mandate to investigate and prosecute those committing election offenses, it has been vested with authority under the last paragraph of Section 28 of R.A. No. 6648 to exempt those who have committed election offenses under Section 261 (a) and (b) but volunteer to give information and testify on any violation of said law in any official investigation or proceeding with reference to which his/her information and testimony is given. The power to grant exemptions is vested solely on COMELEC. This power is concomitant with its authority to enforce election laws, investigate election offenses and prosecute those committing the same. The exercise of such power should not be interfered with by the trial court. Neither may the Supreme Court interfere with the COMELEC’s exercise of its discretion in denying or granting exemptions under the law, unless COMELEC commits a grave abuse of its discretion amounting to excess or lack of jurisdiction.

SAYA-ANG, SR v. COMELEC, G.R. No. 155087 (November 28, 2003) EN BANC COMELEC has jurisdiction to deny due course to or cancel a certificate of candidacy. Such jurisdiction continues even after the elections, if for any reason no final judgment of disqualification is rendered before the elections, and the candidate facing disqualification is voted for and receives the highest number of votes, and provided further that the winning candidate has not been proclaimed or taken his/her oath of office. Furthermore, a decision by the COMELEC to disqualify a candidate shall become final and executory only after a period of five days.

DELA LLANA v. COMELEC, G.R. No. 152080 (November 28, 2003) EN BANC The Constitution has vested to the COMELEC broad powers, involving not only the enforcement and administration of all laws and regulations relative to the conduct of elections, but also the resolution and determination of election controversies. It also granted the COMELEC the power and authority to promulgate its rules of procedure, with the primary objective of ensuring the expeditious disposition of election cases. Concomitant to such powers is the authority of the COMELEC to determine the true nature of the cases filed before it. Thus, it examines the allegations of every pleading filed, obviously aware that in determining the nature of the complaint or petition, its averments, rather than its title/caption, are the proper gauges.

JARAMILLA v. COMELEC, G.R. No. 155717 (October 23, 2003) EN BANC Election cases including pre-proclamation controversies should first be heard and decided by a division of the COMELEC, and then by COMELEC En Banc if a motion for reconsideration of the division is filed. It must be noted however that this provision applies only in cases where the COMELEC exercises its adjudicatory or quasi-judicial powers, and not when it merely exercises purely administrative functions. Accordingly, when the case demands only the exercise by the COMELEC of its administrative functions, such as the correction of a manifest mistake in the addition of votes or an erroneous tabulation in the statement of votes, the COMELEC En Banc can directly act on it in the exercise of its constitutional function to decide questions affecting elections. In this case, the Petition for Correction of Manifest Errors in the case at bar alleges an erroneous copying of figures from the election return to the Statement of Votes by Precinct. Such an error in the tabulation of the results, which merely requires a clerical correction without the necessity of opening ballot boxes or examining ballots, demands only the exercise of the administrative power of the COMELEC. Hence, COMELEC En Banc properly assumed original jurisdiction over the aforesaid petition.

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC In this case, the Election Officer reported to the COMELEC Law Department Bautista's ineligibility for being a non-registered voter. The COMELEC Law Department recommended to the COMELEC En Banc to deny due course or to cancel Bautista's certificate of candidacy. COMELEC En Banc approved the recommendation in Resolution No. 5404 dated 23 July 2002. A division of the COMELEC should have first heard this case. COMELEC En Banc can only act on the case if there is a motion for reconsideration of the decision of the COMELEC division. Hence, the COMELEC En Banc acted without jurisdiction when it ordered the cancellation of Bautista's certificate of candidacy without first referring the case to a division for summary hearing. The proceeding on the cancellation of a certificate of candidacy does not merely pertain to the administrative functions of the COMELEC. Cancellation proceedings involve the COMELEC's quasi-judicial functions.

MUNICIPAL BOC OF GLAN v. COMELEC and BENZONAN, G.R. No. 150946 (October 23, 2003) EN BANC The Court has upheld this constitutional mandate and consistently ruled that the COMELEC sitting En Banc does not have the requisite authority to hear and decide election cases in the first instance. This power pertains to the divisions of COMELEC and any decision by COMELEC En Banc as regards election cases decided by it in the first instance is null and void for lack of jurisdiction. It is important to clarify, however, that not all cases relating to election laws filed before the COMELEC are required to be first heard by a division. Under the Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC En Banc can act directly on matters falling within its administrative powers. It is only when the exercise of quasi-judicial powers are involved that the COMELEC is mandated to decide cases first in division, and then, upon motion for reconsideration, En Banc. It is clear that SPC No. 01-032 is one that involves a pre-proclamation controversy that requires the exercise of the COMELEC's quasi-judicial powers, as the illegality of the composition and proceedings of the Municipal BOC, including the falsification of election returns and certificate of canvass, were alleged to be in issue.

BALINDONG v. COMELEC, G.R. No. 153991-92 (October 16, 2003) EN BANC The Supreme Court has consistently ruled that the requirement mandating the hearing and decision of election cases, including pre-

proclamation controversies, at the first instance by a division of the COMELEC, and not by the poll body as a whole, is mandatory and jurisdictional. Indeed, as the above-quoted Constitutional provision is couched in simple language and yields to no other interpretation than what its plain meaning presents, it is imperative for the Supreme Court to enforce its indelible import and spirit to the fullest, any decision, resolution or proceeding of the COMELEC which runs counter to it notwithstanding. In the definitive case of *Sarmiento v. COMELEC*, the Supreme Court explicitly held that the COMELEC En Banc does not have the requisite authority to hear and decide pre-proclamation controversies at the first instance.

MACALINTAL v. COMELEC, G.R. No. 157013 (July 10, 2003) EN BANC The COMELEC cannot, even if authorized by law, proclaim winning candidates for President and Vice-President since under the Constitution, such power lies with Congress. Further, a Joint Congressional Oversight Committee, being a purely legislative body has no authority to review, revise and approve rules issued by the COMELEC and the choice where voting by mail will be allowed as determined by the COMELEC since these will intrude into the constitutional independence of the latter.

VILLAROSA v. MAGALLANES, G.R. No. 139841 (April 29, 2003) SECOND DIVISION Perjury cases committed in relation to an election offense must be filed where the case for violation of the OEC is pending and not in Manila (unless case is pending in Manila) where the seat of the Law Department is located.

COMELEC v. TAGLE, G.R. No. 148948 & 148951-60 (February 17, 2003) EN BANC It must be stressed that the COMELEC has the exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law. The Chief State Prosecutor, all Provincial and City Prosecutors, or their respective assistants are, however, given continuing authority, as deputies of the COMELEC, to conduct preliminary investigation of complaints involving election offenses and to prosecute the same. This authority may be revoked or withdrawn by the COMELEC anytime.

BATOY v. CALIBO, JR., G.R. No. 126833 (February 17, 2003) SECOND DIVISION COMELEC, not the RTCs has appellate jurisdiction over decisions of the MTC concerning election protests involving barangay officials.

BAYTAN v. COMELEC, G.R. No. 153945 (February 4, 2003) EN BANC The finding of probable cause in the prosecution of election offenses rests in the COMELEC's sound discretion. The COMELEC exercises the constitutional authority to investigate and, where appropriate, prosecute cases for violation of election laws, including acts or omissions constituting election frauds, offenses and malpractices. Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether En Banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "COMELEC," while providing that the COMELEC "may sit En Banc or in two divisions." Clearly, the COMELEC En Banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions. A preliminary investigation does not make any pronouncement as to the guilt or innocence of the party involved. Hence, a preliminary investigation cannot be considered a judicial or quasi-judicial proceeding required to be heard by the Division in the first instance. Thus, the COMELEC's exercise of its quasi-judicial powers is subject to Section 3 of Article IX-C which expressly requires that all election cases, including pre-proclamation controversies, shall be decided by the COMELEC in division, and the motion for reconsideration shall be decided by the COMELEC En Banc. It follows, as held by the Court in *Canicosa*, that the COMELEC is mandated to decide cases first in division, and then upon motion for reconsideration En Banc, only when the COMELEC exercises its quasi-judicial powers.

CODILLA, SR. v. HON. JOSE DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC The jurisdiction of the COMELEC to disqualify candidates is limited to those enumerated in Section 68 of the OEC. All other election

offenses are beyond the ambit of COMELEC jurisdiction. They are criminal and not administrative in nature. Pursuant to Sections 265 and 268 of the OEC, the power of the COMELEC is confined to the conduct of preliminary investigation on the alleged election offenses for the purpose of prosecuting the alleged offenders before the regular courts of justice, viz: Furthermore, Section 268 provides: Jurisdiction. The RTC shall have the exclusive original jurisdiction to try and decide any criminal action or proceeding for violation of this Code, except those relating to the offense of failure to register or failure to vote which shall be under the jurisdictions of metropolitan or MTCs. From the decision of the courts, appeal will lie as in other criminal cases." The COMELEC Second Division grievously erred when it decided the disqualification case based on section 261 (a) and (o), and not on section 68 of the OEC.

MONTESCLAROS v. COMELEC, G.R. No. 152295 (July 9, 2002) EN BANC The COMELEC exercised its power and duty to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall" and to "recommend to Congress effective measures to minimize election spending." The COMELEC's acts enjoy the presumption of regularity in the performance of official duties.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC The transfer was made not only in blatant disregard of COMELEC Resolution No. 4360 issued on May 21, 2001 specifying the polling places but also Sections 153 and 154 of the Election Code. As clearly provided by the law, the location of polling places shall be the same as that of the preceding regular election. However, changes may be initiated by written petition of the majority of the voters of the precinct or agreement of all the political parties or by resolution of the COMELEC after notice and hearing. But ultimately, it is the COMELEC which determines whether a change is necessary after notice and hearing. Next, the appointment of military personnel as members of the BEI is another grave electoral irregularity that attended the special elections held on May 30, 2001.

MATIBAG v. BENIPAYO, G.R. No. 149036 (April 2, 2002) EN BANC The Chairperson, as the Chief Executive of the COMELEC, is expressly empowered on his/her own authority to transfer or reassign COMELEC personnel in accordance with the Civil Service Law. In the exercise of this power, the Chairperson is not required by law to secure the approval of the COMELEC En Banc. Under the Revised Administrative Code, the COMELEC Chairperson is the sole officer specifically vested with the power to transfer or reassign COMELEC personnel. Ad interim appointments of the Chairperson and Commissioners of the COMELEC are permanent, not temporary in character and are therefore valid. The President may renew such appointments.

AMPATUAN v. COMELEC, G.R. No. 149803 (January 31, 2002) EN BANC A pre-proclamation controversy is not the same as an action for annulment of election results, or failure of elections. Therefore, while the COMELEC is restricted, in pre-proclamation cases, to an examination of the election returns on their face and is without jurisdiction to go beyond or behind them and investigate election irregularities, the COMELEC is duty bound to investigate allegations of fraud, terrorism, violence, and other analogous causes in actions for annulment of election results or for declaration of failure of elections. Thus, the COMELEC, in the case of actions for annulment of election results or declaration of failure of elections, may conduct technical examination of election documents and compare and analyze voters' signatures and thumbprints in order to determine whether or not the elections had indeed been free, honest and clean. The fact that a candidate proclaimed has assumed office does not deprive the COMELEC of its authority to annul any canvass and illegal proclamation.

MARGAREJO v. ESCOSES, G.R. No. 137250-51 (September 13, 2001) EN BANC COMELEC has the power to delegate to "The Chief State Prosecutor, all Provincial and City Fiscals, and/or their respective assistants... as deputies of the Commission, to conduct preliminary investigation of complaints involving election offenses under the election laws which may be filed directly with them, or which may be indorsed to them by the Commission or its duly authorized representatives and to prosecute the same. Such authority may be revoked

or withdrawn any time by the Commission." In the absence of any revocation of the aforementioned authority by COMELEC, the city prosecutor's "continuing delegation" to prosecute Criminal Case No. 14354 stays.

DUMAYAS, JR. v. COMELEC, G.R. No. 141952-53 (April 20, 2001) EN BANC If at the time it is promulgated, a judge or member of the collegiate court who had earlier signed or registered his/her vote has vacated office, his/her vote on the decision must automatically be withdrawn or cancelled. Accordingly, the votes of two Commissioners should merely be considered as withdrawn for the reason that their retirement preceded the resolution's promulgation. The effect of the withdrawal of their votes would be as if they had not signed the resolution at all and only the votes of the remaining commissioners would be properly considered for the purpose of deciding the controversy.

AKBAYAN-YOUTH v. COMELEC, G.R. No. 147066 (26 March 2001) EN BANC COMELEC had the authority to deny the request for the holding of a special registration for it acted within the bounds and confines of the Section 8 of R.A. 8189. In issuing the assailed Resolution, COMELEC simply performed its constitutional task to enforce and administer all laws and regulations relative to the conduct of an election, inter alia, questions relating to the registration of voters; evidently, COMELEC merely exercised a prerogative that chiefly pertains to it and one which squarely falls within the proper sphere of its constitutionally mandated powers. Hence, whatever action COMELEC takes in the exercise of its wide latitude of discretion, specifically on matters involving voters' registration, pertains to the wisdom rather than the legality of the act.

CARLOS v. ANGELES, G.R. No. 142907 (November 29, 2000) EN BANC By Constitutional fiat, COMELEC has appellate jurisdiction over election protest cases involving elective municipal officials decided by courts of general jurisdiction. The Supreme Court and COMELEC have concurrent jurisdiction to issue writs of certiorari, prohibition, and mandamus over decisions of trial courts of general jurisdiction in election cases involving elective officials.

SOLLER v. COMELEC, G.R. No. 139853 (September 5, 2000) EN BANC The authority to resolve petitions for *certiorari* involving incidental issues of election protests filed with the lower courts falls within the division of the COMELEC, not with the COMELEC En Banc.

DE GUZMAN, JR. v. COMELEC, G.R. No. 129118 (July 19, 2000) EN BANC The COMELEC has the authority to transfer local election officers pursuant to Section 44 of the Voter's Registration Act.

SARANGANI v. COMELEC, G.R. No. 135927 (June 26, 2000) EN BANC The findings of the administrative agency cannot be reversed on appeal or certiorari particularly when no significant facts and circumstances are shown to have been overlooked or disregarded which when considered would have substantially affected the outcome of the case. The assailed order, having been issued pursuant to COMELEC's administrative powers and in the absence of any finding of grave abuse of discretion in declaring a precinct as non-existent, stands.

MARUHOM v. COMELEC, G.R. No. 139357 (May 5, 2000) EN BANC In the performance of its duties, COMELEC must be given a considerable latitude in adopting means and methods that will insure the accomplishment of the great objective for which it was created – to promote free, orderly and honest elections. Section 2(1) of Article IX of the Constitution gives COMELEC the broad power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall." There can hardly be any doubt that the text and intent of this constitutional provision is to give COMELEC all the necessary and incidental powers for it to achieve the holding of free, orderly, honest, peaceful and credible elections.

FAELNAR v. PEOPLE, G.R. No. 140850-51 (May 4, 2000) EN BANC If the preliminary investigation of a complaint for election offense is conducted by the COMELEC itself, its investigating officer prepares a report upon which

COMELEC's Law Department makes its recommendation to the COMELEC En Banc on whether there is probable cause to prosecute. It is thus the COMELEC En Banc which determines the existence of probable cause. The prosecutors are subject to the control and supervision of the COMELEC. The resolution by the prosecutor is appealable to the COMELEC while the resolution of the COMELEC En Banc may be subject of a motion for reconsideration.

BESO v. ABALLE, G.R. No. 134932 (February 18, 2000) FIRST DIVISION COMELEC has the authority to issue the extraordinary writs of certiorari, prohibition and mandamus in aid of its appellate jurisdiction. Moreover, Section 50 of the OEC provides that, "the Commission is hereby vested with exclusive authority to hear and decide petitions for certiorari, prohibition and mandamus involving election cases."

OCAMPO v. COMELEC, G.R. No. 136282 (February 15, 2000) EN BANC The findings of facts of the Municipal BOC, being an administrative body charged with a specified field of expertise, are afforded great weight by the courts. The election returns shall be regarded as prima facie bona fide reports of the results of the count of votes for canvassing and proclamation purposes in the absence of a strong evidence establishing spuriousness of the returns.

SAHALI v. COMELEC, G.R. No. 134169 (February 2, 2000) EN BANC The COMELEC has the inherent power to amend and control its processes and orders within the thirty-day period from their promulgation, which may thus be recalled and set aside. Thus, the COMELEC, prior to the finality of an earlier resolution, can issue another holding in abeyance the effectivity of the earlier one. The issuance of the subsequent minute resolution is not contrary to law.

LAUREL v. PRESIDING JUDGE OF RTC MANILA, BR. 10, G.R. No. 131778 (January 28, 2000) EN BANC There is no requirement that only the COMELEC may refer a complaint to its law department for investigation.

SANDOVAL v. COMELEC, G.R. No. 133842 (January 26, 2000) EN BANC The phrase "motu proprio" does not refer to the annulment of proclamation but to the manner of initiating the proceedings to annul a proclamation made by the BOC. In observance of due process, the law requires that hearing be held before the COMELEC rules on the petition to annul the proclamation. In ruling on the question of the existence of a manifest error in a certificate of canvass, the COMELEC is required to act as an arbiter exercising its quasi-judicial power.

TRINIDAD v. COMELEC, G.R. No. 134657 (December 15, 1999) EN BANC COMELEC may suspend the application of its rules to give due course to the Supplemental Petition which was clearly filed out of time. COMELEC may suspend its rules of procedure so as not to defeat the will of the electorate. The COMELEC in order to do justice and truly determine the rightful winner in the elections may suspend its rules provided the right of the parties are equally protected and act thereon pro hac vice.

ABAD v. COMELEC, G.R. No. 128877 (December 10, 1999) EN BANC COMELEC, sitting En Banc, does not have the requisite authority to hear and decide election cases in the first instance. From the ruling in the trial court which dismissed the appeal, the aggrieved party cannot proceed directly to the COMELEC En Banc.

VILLAROSA v. COMELEC, G.R. No. 133927 (November 29, 1999) EN BANC Article IX (C) Section 3 of the Constitution requires all election cases to be first heard and decided by a division of COMELEC, before being brought to the COMELEC En Banc on reconsideration.

PANGANDAMAN v. COMELEC, G.R. No. 134340 (November 25, 1999) EN BANC COMELEC may order elements of the Armed Forces of the Philippines and the Philippine National Police who are not assigned to the affected

areas to act as members of the BEI. Such decision is warranted and is justified by the objective to have an effective and impartial military presence "to avoid the risk of another failure of elections."

CARUNCHO III v. COMELEC, G.R. No. 135996 (September 30, 1999) EN BANC Due process in quasi-judicial proceedings before the COMELEC requires due notice and hearing. The proclamation of a winning candidate cannot be annulled if he has not been notified of the motion to set aside his/her proclamation. Likewise, quasi-judicial agencies should be joined as public respondents but it is the duty of the private respondent to appear and defend such agency.

LOONG v. COMELEC, G.R. No. 133676 (April 14, 1999) EN BANC In enacting RA 8436, Congress failed to provide a remedy where the error in counting is not machine-related. However, this cannot prevent the COMELEC from levitating above the problem. The Constitution gives COMELEC the broad power "to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall." COMELEC, because of its fact-finding facilities, its contacts with political strategists, and its knowledge derived from actual experience in dealing with political controversies, is in a peculiarly advantageous position to decide complex political questions. Hence, it is in the best position to decide and order the manual counting of the votes when the automated counting failed. COMELEC cannot defeat the will of the people by giving a literal interpretation to RA 8436. The law did not prohibit manual counting when machine count does not work. Counting is part and parcel of the conduct of an election which is under the control and supervision of the COMELEC. It ought to be self-evident that the Constitution did not envision a COMELEC that cannot count the result of an election.

PUNZALAN v. COMELEC, G.R. No. 126669 (April 27, 1998) EN BANC As a specialized agency tasked with the supervision of the election all over the country, the appreciation of the contested ballots and election documents which involve questions of fact is best left to the determination of the COMELEC.

ROQUERO v. COMELEC, G.R. No. 128165 (April 15, 1998) EN BANC When investigating and prosecuting election offenses, COMELEC is acting analogous to the Ombudsman with its investigatory and prosecutory powers. Hence, COMELEC should be accorded full discretion whether or not to initiate a criminal case, pursuant to its power to investigate and prosecute an election offense.

RAMAS v. COMELEC, G.R. No. 130831 (February 10, 1998) EN BANC Under Section 5, Rule 30 of the COMELEC Rules of Procedure and Section 5, Rule 58 of the Rules of Court, the lifetime of a restraining order is only for a non-extendible period of 20 days.

MASTURA v. COMELEC, G.R. No. 124521 (January 29, 1998) EN BANC COMELEC has broad powers to ascertain the true results of the election by means available to it. For the attainment of that end, it is not strictly bound by the rules of evidence. The objection against the inclusion of the returns in the canvassing conducted by the BOC was coured through the COMELEC. This is so not because COMELEC exercises appellate jurisdiction over the BOC, but because COMELEC exercises direct supervision and control over the proceedings before the BOC. COMELEC issued the assailed order which suspends the canvassing of the votes pursuant to its administrative functions and constitutional mandate. Thus, the same must be given high regard. In the absence of any finding of grave abuse of discretion, judicial interference is therefore unnecessary and uncalled for.

KILOSBAYAN, INC., ET. AL. v. COMELEC, ET. AL., G.R. No. 128054 (October 16, 1997) EN BANC Appointive government officials cannot be prosecuted for election offenses when the complainant was not able to present evidence to prove its complaint. The constitutional and statutory mandate for the COMELEC to investigate and prosecute cases of violation of election laws translates, in effect, to the exclusive power to conduct preliminary investigation in cases involving election offenses for the twin purpose of filing an information in court and helping the judge determine, in the course of preliminary inquiry, whether or not a warrant of arrest should be

issued. The task of COMELEC as investigator and prosecutor, acting upon any election offense complaint, is not the physical searching and gathering of proof in support of a complaint for an alleged commission of an election offense. Therefore, it is still the task of the complainant to prove its allegations for the COMELEC to act on such complaint.

PHILIPPINE PRESS INSTITUTE, INC. v. COMELEC, G.R. No. 119694 (May 22 1995) EN BANC A COMELEC Resolution compelling print media companies to donate "COMELEC space" amounts to "taking" of private personal property for public use or purposes because of the possible substantial amount of the donation's monetary value. It does not constitute a valid exercise of eminent domain considering that there is no constitutional basis for such compulsion. Nor is it a valid exercise of the police power of the state without any showing of a national emergency or imperious public necessity.

MONTEJO v. COMELEC, G.R. No. 118702 (March 16, 1995) EN BANC Section 1 of COMELEC Resolution No. 2736 is null and void insofar as it transferred the Municipality of Capooacan of the Second District and the Municipality of Palompon of the Fourth District to the Third District of the province of Leyte. COMELEC has no authority to apportion legislative districts. It was only empowered to modify the number of members (not municipalities) "apportioned to the province out of which such new province was created."

GALLARDO, ET. AL. v. JUDGE TABAMO, JR. and ROMUALDO, G.R. No.104848 (January 29, 1993) EN BANC The trial court's assumption of jurisdiction over an election offense under OEC is clearly inconsistent with the COMELEC's Constitutional mandate to enforce and administer all laws relative to the conduct of elections. Under the 1987 Constitution, the COMELEC has broader powers. The trial court arrogating unto itself the powers granted to the COMELEC impedes the vision of the Constitution for a truly independent COMELEC in ensuring free, orderly, honest, peaceful and credible elections.

ONG, JR. v. COMELEC, G.R. No. 105717 (December 23, 1992) EN BANC It is a well-settled rule that election cases, including pre-proclamation cases like the instant case, should first be heard and decided by a COMELEC Division.

PANGARUNGAN v. COMELEC, G.R. No. 107435-36 (December 11, 1992) EN BANC Under the COMELEC Rules of Procedure, notice of a motion shall be served by the movant to all parties concerned at least three (3) days before the hearing thereof together with the copy of the motion.

SARMIENTO v. COMELEC, G.R. No. 105628 (August 6, 1992) EN BANC All election cases, including pre-proclamation controversies, must first be heard and decided by a Division. The COMELEC En Banc does not have the authority to hear and decided theses cases at the first instance.

VELORIA v. COMELEC, G.R. No. 94771 (July 29, 1992) EN BANC COMELEC does not have jurisdiction to grant writs of certiorari, prohibition and mandamus. These suits can only be acted upon by the CA and SC because they have original jurisdiction to act on these and it is provided by the Constitution. Thus, such petition should have been coursed to the CA.

CHAVEZ v. COMELEC, G.R. No. 105323 (July 3, 1992) EN BANC The inaction of the COMELEC in implementing its own order is administrative in nature and does not call for judicial review.

GARCIA v. DE JESUS, G.R. No. 97108-09 (March 4, 1992) EN BANC Although the 1987 Constitution vests the COMELEC with appellate jurisdiction, without more, it cannot issue such writs in aid of its appellate jurisdiction.

PEÑAFLOIDA v. COMELEC, G.R. No. 101753 (March 3, 1992) EN BANC If any error can be attributed at all to COMELEC, it would be its failure to notify the parties of the fingerprint examination despite its order to do so.

At most this is a procedural flaw, not a substantial defect, that can not be equated with grave abuse of discretion by reason of which certiorari would lie. Errors of procedure or judgment are not correctible by certiorari.

LOZANO v. YORAC, G.R. No. 94521 (October 28, 1991) EN BANC The Supreme Court cannot review the factual findings of the COMELEC absent grave abuse of discretion and a showing of arbitrariness in its decision, order or resolution. The Court cannot disturb the factual findings of the COMELEC unless there is absolutely no evidence or substantial evidence to support such findings. The framers of the Constitution did not intend for COMELEC to be at a lower level than other statutory administrative organs.

RIVERA v. COMELEC, G.R. No. 95336 (July 12, 1991) EN BANC COMELEC's decisions, final orders or rulings are final, executory and not appealable when the election contest involves elective municipal and barangay officials. This, however, does not preclude a party to file a special civil action for certiorari. For although COMELEC's decisions are final and executory, its finality can only apply to questions of fact and not of law. The Supreme Court is not divested of its power to review questions of law, pursuant to its duties under the Constitution.

GALIDO v. COMELEC, G.R. No. 95356 (January 18, 1991) EN BANC In cases involving elective municipal and barangay officials, the decisions, final orders, or rulings of the COMELEC are final, executory and not appealable. However, this does not preclude a remedy by way of a special civil action of certiorari, which can be filed with the Supreme Court. In this case, however, the TRO issued by the Court is lifted for, absent any findings of any grave abuse of discretion amounting to lack or excess of jurisdiction, COMELEC has an inherent power to decide on elections cases based on physical evidence, equity, law and justice, and jurisprudence.

BRILLANTES, JR. v. YORAC, G.R. No. 93867 (December 18, 1990) EN BANC It is unconstitutional for the president of the Philippines to designate an acting chairperson for the COMELEC. The choice of the acting chairperson is for the members of COMELEC to decide. The lack of any statutory rule on the designation of an acting chairperson does not vest upon the president the power to fill such temporary designation. COMELEC has been established as an independent body. Although they are executive in nature, they are not under the control of the president. An acting chairperson is temporary and therefore revocable at will. If the president designates the chairperson, his/her designation of the position can be withdrawn by the President at any time and for whatever reason, hence the chairperson of the Commission shall not be independent of the president's control.

BOCOBO v. COMELEC G.R. No. 94173 (November 21, 1990) EN BANC The best authority to interpret the rules promulgated by COMELEC is COMELEC itself. The contention that COMELEC violated its own rule when it issued a show-cause order without making an initial evaluation of the ballots hence disregarding the two-step process required by COMELEC itself does not hold water. The interpretation of COMELEC of its own rules must prevail. According also to the records of the case, the third division did not fail to conduct an initial evaluation and examination of the ballots before it issued a show-cause order.

QUILALA v. COMELEC, G.R. No. 82726 (August 13, 1990) EN BANC The courts are bound to respect the decisions reached by the COMELEC unless there is a jurisdictional infirmity or an error of law of the utmost gravity. From the evidence presented, the decision of the Second Division of COMELEC, confirming the validity of the proceedings of the BOC of Currimao, Ilocos Norte, was not issued with grave abuse of discretion. The petition to nullify COMELEC's decision must necessarily be dismissed.

FLORES v. COMELEC, G.R. No. 89604 (April 20, 1990) EN BANC Section 9 of RA 6679 stating that the decision of the municipal or metropolitan court in a barangay election case should be appealed to the regional courts is unconstitutional. COMELEC has exclusive appellate jurisdiction over all contests involving elected barangay

officials. COMELEC's decisions may then be elevated to the Supreme Court on certiorari within thirty days from receipt of a copy of said decision. The decision of COMELEC on election contests involving questions of fact shall be final and not appealable when it involves municipal and barangay officials. Election contests of municipal and barangay officials involving questions of law can be elevated to the Supreme Court on certiorari by the aggrieved party. The Supreme Court cannot be divested of its power to resolve questions of law, which is an inherent power conferred to it by the Constitution.

PEOPLE v. DELGADO, G.R. No. 79672 (February 15, 1990) THIRD DIVISION COMELEC has the power to decide on election contests and administrative questions, the power of a public prosecutor with exclusive authority to conduct preliminary investigation and the prosecution of election offenses punishable under before competent courts. The RTCs have the authority to review the actions of the COMELEC in the investigation and prosecution of election offenses filed in the said court. The Supreme Court, on the other hand, can subject COMELEC decisions in election contests or administrative questions to a judicial review.

DUREMDES v. COMELEC, G.R. No. 86362-63 (October 27, 1989) EN BANC The assumption of office of a candidate does not deprive COMELEC of the power to declare such proclamation null and void. A proclamation which is null and void is no proclamation at all. Absent any valid proclamation, questions pertaining to the proceedings of the BOC may be raised directly with COMELEC as a pre-proclamation controversy.

CUA v. COMELEC, G.R. No. 80519-21 (December 17, 1987) EN BANC The proclamation of the candidate as winner on the basis of the 2-1 Decision of the First Division and the 3-2 decision of COMELEC En Banc is a valid act that entitles him/her to assume his/her seat in the House of Representatives pursuant to Article IX-A, Section 7 of the Constitution. The three members who voted to affirm the 2-1 decision constituted a majority of the five members who deliberated and voted En Banc.

VILLAROYA v. COMELEC, G.R. No. 79646-47 (November 13, 1987) EN BANC COMELEC has the power to maintain a clean and orderly election. It has original jurisdiction on all questions regarding election returns and it may decide on questions regarding the elections. Once COMELEC is convinced that the election returns do not reflect the true election results, it is COMELEC's duty to obtain the proper basis of the canvass. COMELEC may order that clerical errors in the statement of votes be corrected. COMELEC cannot wash its hands by asking the aggrieved party to simply file the petition to an electoral tribunal as an election protest. The improvised certificates of votes issued by the election inspectors to the watchers of the contesting candidate after the canvass stated that s/he received 111 votes while the requested copy of the statement of votes stated that s/he only received 54. Although the candidate was not able to raise the issue during the canvassing, the court deemed the petition to be seasonably filed since the error in the statement of votes was not apparent on its face.

CONSOLIDATION OF CASES

MUÑOZ v. COMELEC, G.R. No. 170678 (July 17, 2006) EN BANC COMELEC is given the option to consolidate cases if they involve similar questions of law and fact; The term "may" is indicative of a mere possibility, an opportunity or an option. Mere pendency of two cases before the same division of the COMELEC is not a ground for their outright consolidation.

CONSTITUTIONALITY

DIOCESE OF BACOLOD v. COMELEC, G.R. No. 205728 (January 21, 2015) EN BANC COMELEC does not have the authority to regulate the enjoyment of the preferred right to freedom of expression exercised by a non-

candidate. Regulation of speech in the context of electoral campaigns made by persons who are not candidates or who do not speak as members of a political party which are, taken as a whole, principally advocacies of a social issue that the public must consider during elections is unconstitutional. Such regulation is inconsistent with the guarantee of according the fullest possible range of opinions coming from the electorate including those that can catalyze candid, uninhibited, and robust debate in the criteria for the choice of a candidate. OBITER: Regulation of election paraphernalia will still be constitutionally valid if it reaches into speech of persons who are not candidates or who do not speak as members of a political party if they are not candidates, only if what is regulated is declarative speech that, taken as a whole, has for its principal object the endorsement of a candidate only. The regulation (a) should be provided by law, (b) reasonable, (c) narrowly tailored to meet the objective of enhancing the opportunity of all candidates to be heard and considering the primacy of the guarantee of free expression, and (d) demonstrably the least restrictive means to achieve that object. The regulation must only be with respect to the time, place, and manner of the rendition of the message. In no situation may the speech be prohibited or censored on the basis of its content. For this purpose, it will not matter whether the speech is made with or on private property.

MACALINTAL v. COMELEC, G.R. No. 157013 (July 10, 2003) EN BANC The provisions of the Constitution as the fundamental law of the land should be read as part of The Overseas Absentee Voting Act of 2003 and hence, the canvassing of the votes and the proclamation of the winning candidates for president and vice-president for the entire nation must remain in the hands of Congress. The second sentence of the first paragraph of Section 19 stating that "[t]he Implementing Rules and Regulations shall be submitted to the Joint Congressional Oversight Committee created by virtue of this Act for prior approval," and the second sentence of the second paragraph of Section 25 stating that "[i]t shall review, revise, amend and approve the Implementing Rules and Regulations promulgated by the Commission," whereby Congress, in both provisions, arrogates unto itself a function not specifically vested by the Constitution, should be stricken out of the subject statute for constitutional infirmity. Both provisions brazenly violate the mandate on the independence of the COMELEC. By vesting itself with the powers to approve, review, amend, and revise the Implementing Rules and Regulations of the Overseas Absentee Voting Act of 2003, Congress went beyond the scope of its constitutional authority. Congress trampled upon the constitutional mandate of independence of the COMELEC.

SOCIAL WEATHER STATIONS v. COMELEC, G.R. No. 147571 (May 5, 2001) SECOND DIVISION It is not an exercise by the COMELEC of its adjudicatory power to settle the claims of parties. To the contrary, Resolution 3636 clearly states that it is promulgated to implement the provisions of R.A. No. 9006. Prohibition has been found appropriate for testing the constitutionality of various election laws, rules, and regulations. Section 5.4 of R.A. No. 9006 constitutes an unconstitutional abridgment of freedom of speech, expression, and the press. To be sure, Section 5.4 provides a prior restraint on freedom of speech, expression, and the press prohibiting the publication of election survey results affecting candidates within the prescribed periods of fifteen (15) days immediately preceding a national election seven (7) days before a local election. Because of the preferred status of the constitutional rights of speech, expression, and the press, such a measure is vitiated by a weighty presumption of invalidity. Indeed, any system of prior restraints of expression comes to the Supreme Court bearing a heavy presumption against its constitutional validity. The Government thus carries a heavy burden of showing justification for its enforcement of such restraint. There is thus a reversal of the normal presumption of validity that inheres in every legislation.

ZARATE v. COMELEC, G.R. No. 129096 (November 19, 1999) EN BANC Election cases, including pre-proclamation controversies, and all such cases must first be heard and decided by a Division of COMELEC. COMELEC, sitting En Banc, does not have the authority to hear and decide the same at the first instance.

CORRECTION OF MANIFEST ERRORS

CERBO, JR. v. COMELEC, G.R. No. 168411 (February 15, 2007) EN BANC A petition for correction of manifest errors filed directly with the COMELEC should pertain to errors that could have not been discovered during the canvassing, despite the exercise of due diligence. The initial filing of a petition for Correction of Manifest Errors with the Provincial BOC evidently showed that the errors sought to be corrected were discovered during the canvassing.

DELA LLANA v. COMELEC, G.R. No. 152080 (November 28, 2003) EN BANC In *Trinidad v. COMELEC* it was held that “correction of manifest errors has reference to errors in the election returns, in the entries of the statement of votes by precinct per municipality, or in the certificate of canvass.” Some of the definitions given for the word “manifest” are that “it is evident to the eye and understanding; visible to the eye; that which is open, palpable, and incontrovertible; needing no evidence to make it more clear; not obscure or hidden.” The prayer for annulment of proclamation in the petition is immaterial and does not change the nature of the petition. The prayer in a pleading does not constitute an essential part of the allegations determinative of the jurisdiction of a court. The question of jurisdiction depends largely upon the determination of the true nature of the action filed by a party which, in turn, involves the consideration of the ultimate facts alleged as constitutive of the cause of action therein (*Bautista v. Fernandez*, L-24062, April 30, 1971). The prayer for relief, although part of the complaint, cannot create a cause of action, hence it cannot be considered a part of the allegations on the nature of the cause of action.

O’HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC To be manifest, the errors must appear on the face of the certificates of canvass or election returns sought to be corrected and/or objections thereto must have been made before the BOC and specifically noted in the minutes of their respective proceedings.

RAMIREZ v. COMELEC, ET. AL., G.R. No. 122013 (March 26, 1997) EN BANC A certification which declares the correction of errors in the Statements of Votes based on the Certificate of Votes, issued by the BOC is not the proper way to correct manifest errors in the Statement of Votes. Corrections in the Statements of Votes should be made either by inserting corrections in the Statement of Votes, which was originally prepared and submitted by the BOC, or by preparing an entirely new Statement of Votes incorporating therein the corrections. Moreover, the Statement of Votes is a tabulation per precinct of votes garnered by the candidates as reflected in the election returns. Therefore, the BOC should have based its corrections on the election returns instead of on the Certificate of Votes.

CREATION OF DISTRICT

ALDABA v. COMELEC, G.R. No. 188078 (January 25, 2010) EN BANC The 1987 Constitution requires that for a city to have a legislative district, the city must have “a population of at least two hundred fifty thousand.” A city whose population has increased to 250,000 is entitled to have a legislative district only in the “immediately following election” after the attainment of the 250,000 population. However, a province is entitled to one representative no matter what its population size.

HERRERA v. COMELEC, G.R. No. 131499 (November 17, 1999) EN BANC Under RA 6636, the allotment of elective members to provinces and municipalities must be made on the basis of its classification as a province and/or municipality.

DISQUALIFICATION

EJERCITO v. COMELEC, G.R. No. 212398 (November 25, 2014) EN BANC The purpose of a disqualification proceeding is to prevent the candidate from running or, if elected, from serving, or to prosecute him for

violation of the election laws. A petition to disqualify a candidate may be filed pursuant to Section 68 of the Omnibus Election Code. Offenses that are punished in laws other than in the Omnibus Election Code cannot be a ground for a Section 68 petition. The electoral aspect of a disqualification case is done through an administrative proceeding which is summary in character.

DOCTRINE OF CONDONATION

CARPIO-MORALES v. BINAY, G.R. No. 217126-27 (November 10, 2015) EN BANC The concept of public office is a public trust and the corollary requirement of accountability to the people at all times, as mandated under the 1987 Constitution, is plainly inconsistent with the idea that an elective local official's administrative liability for a misconduct committed during a prior term can be wiped off by the fact that he was elected to a second term of office, or even another elective post. Election is not a mode of condoning an administrative offense, and there is simply no constitutional or statutory basis in our jurisdiction to support the notion that an official elected for a different term is fully absolved of any administrative liability arising from an offense done during a prior term.

OFFICE OF THE OMBUDSMAN v. TORRES, G.R. No. 168309 (September 25, 2008) THIRD DIVISION The condonation of an administrative offense applies only to an elective public official who was re-elected during the pendency of an administrative case against him/her. An official formerly holding an appointive position cannot be discharged from an administrative case by merely being elected into office. Hence, he is still liable for the offenses made prior to his/her assumption to the office.

TRILLANES IV v. PIMENTEL, SR., G.R. No. 179817 (June 27, 2008) EN BANC The doctrine of condonation does not apply to criminal cases. Election, or in certain cases of re-election to office, does not obliterate a criminal charge. The voters are fully aware of the limitation on the freedom of action of the said candidate that he could achieve only certain legislative results which could be accomplished within the confines of prison.

DUE PROCESS

TIMBOL v. COMELEC, G.R. NO. 206004 (February 24, 2015) EN BANC COMELEC cannot motu proprio deny due course to or cancel an alleged nuisance candidate's certificate of candidacy without providing the candidate his opportunity to be heard.

IBRAHIM v. COMELEC, G.R. No. 192289 (January 8, 2013) EN BANC COMELEC may not disqualify a candidate when no complaint or petition had been filed against him yet.

ROMUALDEZ v. COMELEC, G.R. No. 167011 (April 30, 2008) EN BANC A person cannot be said to have been denied due process on the claim that the election offenses charged against him/her by another person are entirely different from those for which he stands to be accused of before the court, as charged by the COMELEC, where the informations directed to be filed by the COMELEC were based on the same set of facts as originally alleged in the Complaint-Affidavit. They cannot claim that they were not able to refute or submit documentary evidence against the charges that the COMELEC filed with the RTC.

OCTAVA v. COMELEC, G.R. No. 166105 (March 22, 2007) EN BANC Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of due process. The essence of due process is to be given a reasonable opportunity to be heard and submit evidence in support of one's defense.

ONG v. ALEGRE, G.R. No. 163295 (January 23, 2006) EN BANC A candidate whose certificate of candidacy has been cancelled or not given due course cannot be substituted by another belonging to the same political party as that of the former. A person without a valid certificate of candidacy is not considered a candidate. Therefore, there being no valid candidate in the said position, there is no one to substitute.

ALEJANDRO v. COMELEC, G.R. No. 167101 (January 21, 2006) EN BANC The right to heard does not only mean presentation of testimonial evidence. One may also be heard through pleadings and where opportunity to be heard through pleadings is accorded, there is no denial of due process.

DUMPIT-MICHELANA v. BOADO, G.R. No. 163619-20 (November 17, 2005) EN BANC The hearing officer is only designated to hear and receive evidence. His/her conclusions are merely recommendatory upon the COMELEC. A candidate who files a Memorandum which s/he described as one "done in 'half-hearted' compliance with the rules." may not claim now that s/he was denied due process because s/he was unable to present all his/her evidence before the hearing officer.

SAYA-ANG, SR v. COMELEC, G.R. No. 155087 (November 28, 2003) EN BANC Under Section 3, Rule 23 of the COMELEC Rules of Procedure, a petition to cancel a certificate of candidacy shall be heard summarily after due notice. The same rules also provide that when the proceedings are authorized to be summary, in lieu of oral testimonies, the parties may, after due notice, be required to submit their position papers together with affidavits, counter-affidavits and other documentary evidence; and when there is a need for clarification of certain matters, at the discretion of the COMELEC En Banc or the Division, the parties may be allowed to cross-examine the affiants. The rules providing for the abovementioned summary hearing were mandated to accord due process of law to candidates during elections. The right to due process is a cardinal and primary right which must be respected in all proceedings. It is the embodiment of the sporting idea of fair play, the cornerstone of every democratic society. In any proceeding, the essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard.

NAMIL v. COMELEC, G.R. No. 150540 (October 28, 2003) EN BANC While it is true that the COMELEC is vested with a broad power to enforce all election laws, the same is subject to the right of the parties to due process. Elected officials cannot be removed from office without due process of law. Due process in the proceedings before COMELEC exercising its quasi-judicial functions, requires due notice and hearing, among others. Thus, although the COMELEC possesses, in appropriate cases, the power to annul or suspend the proclamation of any candidate, COMELEC is without power to partially or totally annul a proclamation or suspend the effects of a proclamation without notice and hearing.

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC The essence of due process is simply the opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of. There is due process when a party is able to present evidence in the form of pleadings. A summary proceeding does not mean that the COMELEC could do away with the requirements of notice and hearing. COMELEC should at least give notice to the candidate to give him/her the chance to adduce evidence to explain his/her side in the cancellation proceeding. The COMELEC En Banc deprives a candidate of procedural due process of law when it approves the report and recommendation of the Law Department without notice and hearing.

COQUILLA v. COMELEC, G.R. No. 151914 (July 31, 2002) EN BANC Under Section 5(d), in relation to Section 7, of R.A. No. 6646 (Electoral Reforms Law of 1987), proceedings for denial or cancellation of a certificate of candidacy are summary in nature. The holding of a formal hearing is thus not de rigeur.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC The appointment of military personnel as members of the BEI cannot be done since under R.A. 6646, the BEI are composed of public school teachers. They can only be relieved for cause and after due hearing.

GO v. COMELEC, G.R. No. 147741 (May 10, 2001) EN BANC By approving the report and recommendation of the Law Department and not giving the opportunity to be heard, COMELEC deprived the candidate of procedural due process of law. COMELEC, acting as a quasi-judicial tribunal, cannot ignore the requirements of procedural due process in resolving cases before it.

DIANGKA v. COMELEC, G.R. No. 139545 (January 28, 2000) EN BANC When the COMELEC En Banc reviews and evaluates a party's petition, a party's answer and the supporting papers attached thereto is tantamount to a fair "hearing." The rule is that due process does not mean prior hearing but only an opportunity to be heard.

DUTIES OF A JUDGE

COMELEC v. ESPAÑOL, G.R. No. 149164-73 (December 10, 2003) EN BANC COMELEC is empowered to investigate and, when appropriate, prosecute election offenses. Under Section 265 of the OEC, COMELEC, through its duly authorized legal officers, has the exclusive power to conduct preliminary investigation of all election offenses punishable under the OEC, and to prosecute the same. Those complaining of election offenses may avail of the assistance of the prosecuting arms of the government. The complaints may be filed directly with them or may be indorsed to them by COMELEC or its duly authorized representatives. Until revoked, the continuing authority of the Provincial or City Prosecutor stays.

COMELEC v. TAGLE, G.R. No. 148948 & 148951-60 (February 17, 2003) EN BANC The grant of immunity from criminal liability in favor of the party whose vote was bought under Section 28 of R.A. No. 6646 is constitutional and is an effective way of preventing the commission of vote-buying. Witnesses in vote-buying cases are exempt from prosecution for vote-selling.

GUSTILO v. REAL, SR., A.M. No. MTJ-00-1250 [Formerly OCA IPI No. 97-332-MTJ] (February 28, 2001) SECOND DIVISION By annulling a complainant's proclamation as the duly elected punong barangay, despite being aware of the fact that his/her court had no power to do so, not only is the judge guilty of grave abuse of authority, he also manifests unfaithfulness to a basic legal rule as well as injudicious conduct. He displayed a marked ignorance of basic laws and principles. Rule 3.01 of the Code of Judicial Conduct provides that a "judge shall be faithful to the law and maintain professional competence."

SANGGUNIANG BAYAN OF TAGUIG v. ESTRELLA, A.M. No. 01-1608-RTJ (January 16, 2001) THIRD DIVISION Section 255 of the OEC requires that, "where allegations in a protest or counter-protest so warrant, or whenever in the opinion of the court the interests of justice so require, it shall immediately order the book of voters, ballot boxes and their keys, ballots and other documents used in the election be brought before it and that the ballots be examined and the votes recounted."

ELECTION OFFENSES

AQUINO vs. COMELEC, G.R. Nos. 211789-90 (March 17, 2015) EN BANC Any personnel action, when caused or made during the election period, can be used for electioneering or to harass subordinates with different political persuasions. This possibility – of being used for electioneering purposes or to harass subordinates – created by any movement of personnel during the election period is precisely what the transfer ban seeks to prevent. The prohibition on transfer or detail covers any movement of personnel from one station to another,

whether or not in the same office or agency when made or caused during the election period, and includes reassignment. If the reassignment orders are issued prior to the start of the election period, they are automatically rendered beyond the coverage of the prohibition and the issuing official cannot be held liable for violation of Section 261(h) of BP 881. Retention of duties and temporary discharge of additional duties do not contemplate or involve any movement of personnel, whether under any of the various forms of personnel action enumerated under the laws governing the civil service or otherwise. Hence, they are not covered by the legal prohibition on transfers or detail. In reading and interpreting the provisions governing election offenses, we should consider the terms of the election laws themselves and how they operate as a whole. As a necessary and indispensable tool in this interpretation process, we must likewise consider these provisions in the light of the constitutional and legislative goal of attaining free, honest, and peaceful elections.

EJERCITO v. COMELEC, G.R. NO. 212398 (November 25, 2014) EN BANC The “exclusive power of the COMELEC to conduct a preliminary investigation of all cases involving criminal infractions of the election laws” stated in Par. 1 of COMELEC Resolution No. 2050 pertains to the criminal aspect of a disqualification case.

GARCIA v. COMELEC, G.R. No. 170256 (January 25, 2010) EN BANC COMELEC is empowered to investigate and where appropriate, prosecute cases for violation for election laws, including acts or omissions constituting election frauds, offenses and malpractices. The finding of probable cause in the prosecution of election offenses rests in the COMELEC’s sound discretion.

RIMANDO v. COMELEC, G.R. No. 176364 (September 18, 2009) SECOND DIVISION Under Section 261 (s) of the OEC, the punishable act is the bearing of arms outside the immediate vicinity of one’s place of work during the election period and not the failure of the head or responsible officer of the security agency to obtain prior written COMELEC approval. The failure of the President or General Manager of the security agency to secure approval of the COMELEC for his/her security guards to bear arms outside the immediate vicinity of his/her place of work during the election period, except under certain circumstances, is not itself defined as an election offense.

ROMUALDEZ v. COMELEC, G.R. No. 167011 (April 30, 2008) EN BANC The constitutional grant of prosecutorial power in the COMELEC finds statutory expression under 265 of B.P. Blg. 881, otherwise known as the OEC. It is succinct that courts will not substitute the finding of probable cause by the COMELEC in the absence of grave abuse of discretion. The power to prosecute necessarily involves the power to determine who shall be prosecuted, and the corollary right to decide whom not to prosecute. The power to prosecute also includes the right to determine under which laws prosecution will be pursued.

ABENES v. COURT OF APPEALS, G.R. No. 156320 (February 14, 2007) THIRD DIVISION The burden of proof to adduce evidence that one is exempt from the COMELEC gun ban lies with the accused. While it is well-settled that under P.D. No. 1866, as amended, the burden to prove the negative allegation that the accused has no license or permit to carry a firearm lies with the prosecution. Under the OEC, however, the burden to adduce evidence that accused is exempt from the COMELEC Gun Ban, lies with him/her. Failure to present any form of authority, his/her conviction must be affirmed. Section 32 of R.A. No. 7166 is clear and unequivocal that the prohibited act to which this provision refers is made up of the following elements: (1) the person is bearing, carrying, or transporting firearms or other deadly weapons, (2) such possession occurs during the election period, and, (3) the weapon is carried on in a public place. Even if the accused is holding a valid license to possess such firearm, the circumstance by itself cannot exculpate him/her from criminal liability.

GARCIA v. COURT OF APPEALS, G.R. No. 157171 (March 14, 2006) THIRD DIVISION Intentionally increasing or decreasing the number of votes received by a candidate is a crime classified under mala in se. The elements of malice and intent to injure another are present in such acts which make it inherently immoral. When a person

executes an act which the law punishes, there is a presumption of the existence of criminal intent. Therefore, the burden of proof lies with the person invoking good faith as a defense.

COMELEC v. ESPAÑOL, G.R. No. 149164-73 (December 10, 2003) EN BANC Under Section 265 of the OEC, COMELEC is mandated to conduct a preliminary investigation of all election offenses and to prosecute the same. A joint preliminary investigation thereof must be conducted and the appropriate Information filed in court against all the offenders. COMELEC may avail of the assistance of the prosecuting arms of the government. The complaints may be filed directly with them or may be indorsed to them by the COMELEC or its duly authorized representatives. Until revoked, the continuing authority of the Provincial or City Prosecutor stays. To enable the COMELEC to comply with its mandate to investigate and prosecute those committing election offenses, it has been vested with authority under the last paragraph of Section 28 of R.A. No. 6648 to exempt those who have committed election offenses under Section 261 (a) and (b) but volunteer to give information and testify on any violation of said law in any official investigation or proceeding with reference to which his/her information and testimony is given. The power to grant exemptions is vested solely on COMELEC. This power is concomitant with its authority to enforce election laws, investigate election offenses and prosecute those committing the same. The exercise of such power should not be interfered with by the trial court. Neither may the Supreme Court interfere with the COMELEC's exercise of its discretion in denying or granting exemptions under the law, unless COMELEC commits a grave abuse of its discretion amounting to excess or lack of jurisdiction. Not only principals but also accomplices and accessories are criminally liable for election offenses. Under the last paragraph of Section 68 of B.P. Blg. 881, any person guilty of vote-buying and vote-selling who voluntarily gives information and willingly testifies on violations of paragraphs (a) and (b) of Section 261 of the OEC shall be exempt from prosecution and punishment for the offense with reference to which their information and testimony were given, without prejudice to their liability for perjury and false testimony.

VILLAROSA v. MAGALLANES, G.R. No. 139841 (April 29, 2003) SECOND DIVISION Perjury cases committed in relation to an election offense must be filed where the case for violation of the OEC is pending and not in Manila (unless case is pending in Manila) where the seat of the Law Department is located.

COMELEC v. TAGLE, G.R. No. 148948 & 148951-60 (February 17, 2003) EN BANC COMELEC has the exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law. The Chief State Prosecutor, all Provincial and City Prosecutors, or their respective assistants are, however, given continuing authority, as deputies of the COMELEC, to conduct preliminary investigation of complaints involving election offenses and to prosecute the same. This authority may be revoked or withdrawn by the COMELEC anytime.

BAYTAN v. COMELEC, G.R. No. 153945 (February 4, 2003) EN BANC The finding of probable cause in the prosecution of election offenses rests in the COMELEC's sound discretion. The COMELEC exercises the constitutional authority to investigate and, where appropriate, prosecute cases for violation of election laws, including acts or omissions constituting election frauds, offenses and malpractices. Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether En Banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "COMELEC," while providing that the COMELEC "may sit En Banc or in two divisions." Clearly, the COMELEC En Banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions. A preliminary investigation does not make any pronouncement as to the guilt or innocence of the party involved. Hence, a preliminary investigation cannot be considered a judicial or quasi-judicial proceeding required to be heard by the Division in the first instance. Thus, the COMELEC's exercise of its quasi-judicial powers is subject to Section 3 of Article IX-C which expressly requires that all election cases, including pre-proclamation controversies, shall be decided by the COMELEC in division,

and the motion for reconsideration shall be decided by the COMELEC En Banc. It follows, as held by the Court in *Canicosa*, that the COMELEC is mandated to decide cases first in division, and then upon motion for reconsideration En Banc, only when the COMELEC exercises its quasi-judicial powers.

MALINIAS v. COMELEC, G.R. No. 146943 (October 4, 2002) EN BANC Preventing supporters of candidates from entering the provincial capitol to attend the canvassing and the presence of police officers in a room where the election returns were being canvassed are not election offenses since R.A. No. 6646 does not punish these alleged violation as such.

MARGAREJO v. ESCOSES, G.R. No. 137250-51 (September 13, 2001) EN BANC COMELEC has the power to delegate to "The Chief State Prosecutor, all Provincial and City Fiscals, and/or their respective assistants... as deputies of the Commission, to conduct preliminary investigation of complaints involving election offenses under the election laws which may be filed directly with them, or which may be indorsed to them by the Commission or its duly authorized representatives and to prosecute the same. Such authority may be revoked or withdrawn any time by the Commission." In the absence of any revocation of the aforementioned authority by COMELEC, the city prosecutor's "continuing delegation" to prosecute Criminal Case No. 14354 stays.

DOMALANTA v. COMELEC, G.R. No. 125586 (June 29, 2000) EN BANC The unauthorized alteration of statement of votes by members of the BOC is an election offense.

DOMINGO v. COMELEC, G.R. No. 136587 (August 30, 1999) EN BANC The complaint for election offense is a criminal case which involves the ascertainment of the guilt or innocence of the accused candidate and, like any other criminal case, requires a conviction on proof beyond reasonable doubt.

CONDUCTO v. MONZON, A.M. No. MTJ-98-1147 (July 2, 1998) FIRST DIVISION The re-election of a public official extinguishes only the administrative, but not the criminal, liability incurred by him/her during his/her previous term of office.

SUNGA v. COMELEC, G.R. No. 125629 (March 25, 1998) EN BANC An amendment which merely supplements or amplifies the facts originally contained in the complaint relates back to the date of the commencement of the action or the filing of the initiatory complaint. Hence, the same is not yet barred by the statute of limitations. An election offense has two aspects, criminal and electoral. The criminal aspect involves the ascertainment of his/her guilt beyond reasonable doubt, while the electoral aspect involves the determination of whether he should be disqualified. The former involves a full-blown trial, while the latter is summary in nature.

AGUJETAS and BIJIS v. COURT OF APPEALS, G.R. No. 106560 (August 23, 1996) EN BANC The Members of the Provincial BOC are guilty of violating Section 231 of the OEC for the preparation of an incorrect certificate of canvass and the erroneous proclamation of a winning candidate. The explanation that the provision merely punishes the preparation of a certificate of canvass and failing to make the corresponding proclamation on the basis thereof would be tantamount to tolerating and licensing BOCs to make an erroneous proclamation.

PEOPLE v. JUDGE REYES and MANIEGO, G.R. No 115022 (August 14, 1995) SECOND DIVISION A public officer cannot be held liable for transferring a government officer or employee during the election period when the Resolution implementing the rules and regulations with regard to such prohibition is not yet in existence. Section 261(h) of B.P. Blg. 881 does not absolutely prohibit the transfer of a government officer or employee during the election period; the transfer or detail is a prerogative of the appointing authority to meet the exigencies of public service. Considering that the Resolution requiring the approval of the COMELEC for the transfer or detail of a government officer or employee was not yet in force during the date of transfer of the

aggrieved party, the appointing authority cannot be held liable under the provisions of Section 261(h) of B.P. Blg. 881.

ELECTION PROTEST/ ELECTION CONTEST

BASMALA v. COMELEC, G.R. No. 176724 (October 6, 2012) EN BANC The findings of fact of the COMELEC, when supported by substantial evidence, are final, non-reviewable and binding upon the Supreme Court. It is the specialized agency tasked with the supervision of elections all over the country. Once given an issue to resolve, it must examine the records of the protest, evidence given by the parties, and the relevant election documents.

GOMEZ-CASTILLO v. COMELEC, G.R. No. 187231 (June 22, 2010) EN BANC The filing of an election protest in an erroneous RTC, provided that the protestant's wrong choice did not affect the jurisdiction of the RTC, the court where the protest was erroneously filed should transfer it to the proper branch of the RTC. The jurisdiction over election contests involving elective municipal officials has been vested in the RTC by Section 251, B.P. Blg. 881. On the other hand, A.M. No. 07-4-15-SC spelled out the manner by which an RTC jurisdiction exercises such jurisdiction by specifying the proper venue where such cases may be filed and heard.

LOKIN, JR. v. COMELEC, G.R. No. 179431-32 (June 22, 2010) EN BANC An election protest proposes to oust the winning candidate from office. It is strictly a contest between the defeated and the winning candidates, based on the grounds of electoral frauds and irregularities, to determine who between them has actually obtained the majority of the legal votes cast and is entitled to hold the office. It can only be filed by a candidate who has duly filed a certificate of candidacy and has been voted for in the preceding elections. While a special civil action for quo warranto refers to questions of disloyalty to the State, or of ineligibility of the winning candidate, to unseat the ineligible person from the office, it is not to install another in his/her place. Any voter may initiate the action, which is, strictly speaking, not a contest where the parties strive for supremacy because the losing candidate will not be seated even if the winning candidate may be unseated.

TOLENTINO v. COMELEC, G.R. No. 187958, 187961, and 187962 (April 7, 2010) EN BANC In an election protest, the electoral tribunal has an imperative duty to promptly ascertain by all means within its command the candidates the electorate has chosen. In the exercise of the plenitude of its powers to protect the integrity of the elections, the COMELEC should not and must not be straitjacketed by procedural rules in resolving election disputes. Thus, the Division's adoption of measures that especially respond to or address unique situations, like these cases, was incidental to the COMELEC's general authority to adopt all the means to effect its powers and exercise its jurisdiction.

MARTINEZ III v. HRET, G.R. No. 189034 (January 12, 2010) EN BANC The purpose of an election protest is to ascertain whether the candidate proclaimed by the BOC is the lawful choice of the people. What is sought is the correction of the canvass of votes which was used as the basis for the proclamation of the winner. It involves the adjudication not only of private and pecuniary interest of rival candidates but also the public interest to determine the real choice of the electorate.

PECSON v. COMELEC, G.R. No. 182865 (December 24, 2008) EN BANC The review of a COMELEC ruling or decision is via a petition for certiorari which is a limited review on jurisdictional grounds specifically of the question on whether the COMELEC has jurisdiction or whether the assailed order or resolution is tainted with grave abuse of discretion amounting to lack or excess of jurisdiction and only in cases wherein there is an exercise of power in an arbitrary and despotic manner by reason of passion or personal hostility, or an exercise of judgment so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act in a manner not at all in contemplation of law.

ESTEVEZ v. SARMIENTO, G.R. No. 182374 (November 11, 2008) EN BANC The power of review of the Supreme Court of the rulings of COMELEC is limited only to the final decision or resolution of the COMELEC En Banc and not the final resolution of its Division. Certiorari cannot be resorted to as a shield from the adverse consequences of a one's own omission to file the required motion for reconsideration.

CABRERA v. COMELEC, G.R. No. 182084 (October 6, 2008) EN BANC In applying for a certiorari writ, it is imperative to show that caprice and arbitrariness characterized the act of the court or agency whose exercise of discretion is being assailed. There is grave abuse of discretion when the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility. It arises when the lower court or tribunal violates the Constitution, the law or existing jurisprudence.

TOLENTINO v. COMELEC, G.R. No. 183806-08 (September 16, 2008) EN BANC The election laws and rules do not specifically provide the procedure on the photocopying and authentication processes of the relevant election documents. The law merely provides that immediate action on the transmittal of the pertinent election documents for revision and/or recount. COMELEC, based on express legal authority, may grant accommodations, made in the exercise of its discretion, to transmit the relevant materials to Manila.

LEGARDA v. DE CASTRO, PET Case No. 003 (January 18, 2008) PET As far as cash deposits in presidential protests cases are concerned, the same is reckoned on the basis of the number of precincts protested, not the number of ballot boxes containing the election returns.

CUNDANGAN v. COMELEC, G.R. No. 174392 (August 28, 2007) EN BANC COMELEC En Banc cannot be considered to have committed grave abuse of discretion where it merely affirms the factual findings of a decision of a Division. Such findings, as long as supported by substantial evidence, are beyond the ken of review of the court. Thus, the COMELEC En Banc was correct in invalidating the ballots based on the findings of the Division supported by substantial evidence and such findings also consistent with the findings of the trial court. Big bold letters that occupy all the spaces for a specific position makes the ballot a marked ballot, thus, invalidating the said ballot. It manifests an evident intent to mark the ballot. A ballot is not a "written by one person" (WBOP) ballot where there are differences in how particular letters in the ballot were written. The mere presence of words "papag," "bangus," "kalabasa" do not also make a ballot a marked ballot. For the said ballots to be considered marked ballots, it must clearly appear that the said words were deliberately placed thereon to serve as identification marks. Absent the showing of malicious intent, the validity of the said ballots must be upheld. Neighborhood rules apply where space for Punong Barangay was left blank and name of candidate written on the first space for kagawad. Neighborhood rule pertains to a vote for a position written near the line/space for such position which is left vacant. Such ballot is considered valid and should be counted for the candidate.

LAURENA, JR. v. COMELEC, G.R. No. 174499 (June 29, 2007) EN BANC The only question that may be raised in a petition for certiorari from a judgment or final order or resolution of the COMELEC is whether or not COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction. Mere abuse of discretion is not enough for it must show that it was exercised arbitrarily or despotically by reason of passion or hostility. In the absence of grave abuse of discretion or any jurisdictional infirmity or error of law, the factual findings, conclusions, rulings, and decisions rendered by COMELEC on matters falling within its competence shall not be interfered with by the Supreme Court. The appreciation of contested ballots and election documents involves a question of fact best left to the determination of the COMELEC. The COMELEC being a specialized agency, is tasked with the supervision of elections all over the country. It is vested with exclusive original jurisdiction over election contests involving regional, provincial and city officials; as well as appellate jurisdiction over election protests involving elective municipal and barangay officials. Votes cannot be nullified on the mere sweeping allegations that fraud and irregularity attended the election. The will of the voters is

embodied in the ballots, and to ascertain and carry out such will, the ballots must be read and appreciated according to the rule that every ballot is presumed valid unless there is clear and good reason to justify its rejection. Ample and credible evidence is necessary to prove such claim.

MANZALA v. COMELEC, G.R. No. 176211 (May 8, 2007) EN BANC In a special civil action for certiorari under Section 1 of Rule 65, the only question that may be raised and/or resolved is whether or not COMELEC had acted with grave abuse of discretion amounting to lack or excess of jurisdiction. In the absence of grave abuse of discretion or any jurisdictional infirmity or error of law, the factual findings, conclusions, rulings and decisions rendered by COMELEC on matters falling within its competence shall not be interfered with by the Court.

JUAN v. COMELEC, G.R. No. 166639 (April 24, 2007) EN BANC The office of a petition for certiorari is not to correct simple errors of judgment. Any resort to the said petition under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure is limited to the resolution of jurisdictional issues. The appreciation of contested ballots and election documents which involves a question of fact is best left to the determination of the COMELEC. In reading and appreciation of ballots, every ballot is presumed valid unless there is a clear reason to justify its rejection. The object in the appreciation of ballots is to ascertain and carry into effect the intention of the voter, if it can be determined with reasonable certainty. There is no requirement that the entries in the ballot be written nicely or that the name of the candidate be spelled accurately.

MUTILAN v. COMELEC, G.R. No. 171248 (April 2, 2007) EN BANC Where a party filed an Electoral Protest and/or Petition to Annul the Elections, he cannot blame the docketing clerk for erroneous docketing of the case. The automatic elevation of a case from a Division to the En Banc is not prohibited either by the rules or by jurisprudence. The COMELEC Rules of Procedure provides that any suitable process or proceeding may be adopted in cases wherein the procedure to be followed in the exercise of such power or jurisdiction is not specifically provided for by the law or the said rules. Verily, the Rules does not provide any prohibition which may prevent a COMELEC Division from referring a petition to annul the elections to the COMELEC en Banc.

ROSAL v. COMELEC, G.R. NO. 168253 (March 16, 2007) EN BANC No judicial or quasi-judicial act or order is excluded a priori from the ambit of the Supreme Court's power to correct through the writ of certiorari. Any act by an officer or entity exercising judicial or quasi-judicial functions, if done without or in excess of jurisdiction, may be assailed by a special action of certiorari. It is incorrect to say that the interlocutory orders issued by a division of the COMELEC, or by any judicial or quasi-judicial body for that matter, are beyond the reach of the Supreme Court. The prohibition on filing of petitions for certiorari from an order or decision of the Division of the COMELEC is laid down in *Ambil, Jr. v. COMELEC*. Under the existing Constitutional scheme, a party to an election case within the jurisdiction of the COMELEC in division cannot dispense with the filing of a motion for reconsideration of a decision, resolution or final order of the Division of the COMELEC because the case would not reach the COMELEC En Banc without such motion for reconsideration having been filed. The power of the Court to review decisions of the COMELEC as prescribed in Section 7, Article IX-A of the Constitution refers to final orders, rulings and decisions of the COMELEC En Banc. Before the ballots found in a box can be used to set aside the returns, the court must be sure that it has before it the same ballots deposited by the voters. The purpose of an election protest is to ascertain whether the candidate proclaimed elected by the BOC is the true and lawful choice of the electorate. It should never be forgotten that the superior status of the ballots as evidence of how the electorate voted presupposes that these were the very same ballots actually cast and counted in the elections. No evidentiary value can be given to the ballots and the official count reflected in the election return must be upheld as the better and more reliable account of how and for whom the electorate voted in cases wherein the ballot's integrity has been compromised. The mode of preserving the ballots is for these to be stored safely and sealed and padlocked which shall remain unopened unless otherwise ordered by COMELEC. However, where a ballot box is found in such conditions as would raise a reasonable

suspicion that unauthorized persons could have gained unlawful access to its contents, no evidentiary value can be given to the ballots in it.

ABUBAKAR v. HRET, G.R. No. 173310 (March 7, 2007) EN BANC The Supreme Court's jurisdiction to review decisions and resolutions of the HRET operates only upon a showing of grave abuse of discretion on the part of the Tribunal tantamount to lack or excess of jurisdiction. Such grave abuse of discretion implies capricious and whimsical exercise of judgment amounting to lack of jurisdiction, or arbitrary and despotic exercise of power because of passion or personal hostility. The grave abuse of discretion must be so patent and gross as to amount to an evasion or refusal to perform a duty enjoined by law. The allowance or disallowance of the technical examination of ballots is discretionary on the part of the HRET. The general rule that all ballots are presumed to be valid is applied when there is doubt in their appreciation, but not when clear and sufficient reasons justify the nullification of the ballots.

JUMAMIL v. COMELEC, G.R. No. 167989-93 (March 6, 2007) EN BANC For a decision to be elevated to the Supreme Court, it must be a final decision or resolution of the COMELEC En Banc, not of a division. Section 7 of the OEC provides that a decision, order or ruling of COMELEC may be elevated to the Supreme Court on certiorari by an aggrieved party. Final order or resolution interpreted to mean final orders, rulings and decisions of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers. The Supreme Court has no power to review via certiorari, an interlocutory order or even a final resolution of a Division of the COMELEC.

TUGADE v. COMELEC, G.R. No. 171063 (March 2, 2007) EN BANC In cases of tie between two candidates, the same shall be resolved by drawing of lots.

DELOS REYES v. COMELEC, G.R. No. 170070 (February 28, 2007) EN BANC The will of the voters is embodied in the ballots. To ascertain and carry out such will, their ballots must be read and appreciated according to the rule that every ballot is presumed valid unless there is a clear and good reason to justify its rejection.

VELASCO v. COMELEC, G.R. No. 166931 (February 22, 2007) EN BANC The misplaced votes in the ballots are appreciated through the use of the Neighborhood Rule. Section 211(19) of the OEC states that any vote in favor of a person who has not filed a certificate of candidacy or in favor of a candidate for an office for which he did not present him/herself shall be considered a stray vote but it shall not invalidate the whole ballot. This is meant to avoid confusion in the minds of the election officials as to the candidates actually voted for and to stave off any scheming design to identify the voter of the elector, thus defeating the secrecy of the ballot which is a cardinal feature of our election laws. The ballots should be appreciated with liberality to give effect to the voter's will. The court is ever mindful of the need, under our republican form of government, to give full expression to the voter's will as indicated in the ballots. Thus, the law allows several exceptions in Section 211 (19) wherein the misplaced votes are credited to the candidate because of the voter's intention is clear from the face of the ballots.

ADAP v. COMELEC, G.R. No. 161984 (February 21, 2007) EN BANC Substantial evidence on record is sufficient to convince the COMELEC En Banc that no elections had actually been conducted. It is not necessary for the COMELEC En Banc to examine and view the election paraphernalia inside the ballot boxes of the questioned precincts of subject barangays. Once the factual findings of COMELEC are supported by substantial evidence, the court may uphold such findings of the said body. Substantial evidence is defined as that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

PERMAN v. COMELEC, G.R. No. 174010 (February 8, 2007) EN BANC Any ballot which clearly appears to have been filled by two distinct persons before it was deposited in the ballot box during the voting is totally null and void. The allowance or rejection of a ballot filled by more than one person depends on its condition before it

was cast in the ballot box. If at the time it was cast only one person filled it, but thereafter it was tampered and entries were made thereon by other persons, the ballot is valid. However, if it already bore the fillings of two or more persons when cast, said ballots are deemed marked void. In order for a ballot to be considered marked, in the sense necessary to invalidate it, it must appear that the voter designedly placed some superfluous sign or mark on the ballot which served to identify its character. What the law forbids to be placed on the ballots are those which the elector may have placed therein with the intention of facilitating the means of identifying the ballot for the purpose of defeating the secrecy of suffrage. Thus, no ballot should be discarded as a marked ballot unless its character as such is unmistakable.

VILLAGRACIA v. COMELEC, G.R. No. 168296 (January 31, 2007) EN BANC The appearance of the words “Joker,” “Alas,” “Queen” and “Kamatis” in more than one ballot cannot identify the voter of a ballot that amounts to the violation of the secrecy of votes. The marks which shall be considered sufficient to invalidate the ballot are those which the voter him/herself deliberately placed on his/her ballot for the purpose of identifying it thereafter. Marks which are purposely placed on the ballots by the voter with a view to possible future identification invalidate such ballot. On the other hand, marks that were apparently carelessly or innocently made do not invalidate the ballot.

VILLAMOR v. COMELEC, G.R. No. 169865 (July 21, 2006) EN BANC The general rule is that the proper remedy after the proclamation of the winning candidate for the position contested is to file either a regular election contest or a petition for quo warranto. An election contest was filed against the proclamation of a candidate on the grounds of illegal composition of the Municipal BOC and its proceedings. The filing of such precludes the subsequent filing of a pre-proclamation controversy amounts to abandonment of one earlier filed. In effect, it will deprive COMELEC the authority to inquire into and pass upon the title of the protestee or the validity of the proclamation.

SINSUAT v. COMELEC, G.R. No. 169106 (June 23, 2006) EN BANC As a rule, the filing of an election protest (1) precludes the subsequent filing of a pre-proclamation controversy or (2) amounts to the abandonment of one earlier filed, thus depriving COMELEC the authority to inquire into and pass upon the title of the protestee or the validity of his/her proclamation. The acquisition of jurisdiction by the competent tribunal of an election protest, all questions relative thereto will be decided in the case itself and not in another proceeding to prevent confusion and conflict of authority. The COMELEC *En Banc*'s decision directing the proclamation of the winning candidates becomes final and executory after five days from promulgation unless restrained by the Supreme Court. If the Supreme Court does not issue a restraining order, the winning candidates must be proclaimed. Upon such proclamation, the action ceases to be a pre-proclamation controversy. But the losing party may still file an election contest within 10 days following the date of proclamation.

ONG v. ALEGRE, G.R. No. 163295 (January 23, 2006) EN BANC While an elective official may only be considered a presumptive winner as his/her proclamation was under protest, it does not make him/her less than a duly elected official.

GAYO v. VERCELES, G.R. No. 150477 (February 28, 2005) SECOND DIVISION The ineligibility of a candidate receiving majority votes does not entitle the eligible candidate receiving the next highest number of votes to be declared elected. A minority or defeated candidate cannot be deemed elected to the office. As held in *Reyes v. COMELEC*, to simplistically assume that the second placer would have received the other votes would be to substitute our judgment for the mind of the voter. The second placer is just that, a second placer. He lost the elections. He was repudiated by either a majority or plurality of voters. He could not be considered the first among qualified candidates because in a field which excludes the disqualified candidate, the conditions would have substantially changed. We are not prepared to extrapolate the results under the circumstances.

TECSON v. COMELEC G.R. No. 161434 (March 3, 2004) EN BANC An election protest can only contemplate a post-election scenario. The Supreme Court has no jurisdiction over cases brought directly before it questioning the qualifications of a candidate for the presidency before the elections are held. Ordinary usage would characterize a “contest” in reference to a post-election scenario. Election contests consist of either an election protest or a quo warranto which, although two distinct remedies, would have one objective in view, i.e., to dislodge the winning candidate from office.

LORENZO v. COMELEC, G.R. No. 158371 (December 11, 2003) EN BANC As a general rule, the proper remedy after the proclamation of the winning candidate for the position contested would be to file a regular election protest or a petition for quo warranto. This rule, however, admits of exceptions, to wit: (1) where the BOC was improperly constituted; (2) where quowarranto was not the proper remedy; (3) where what was filed was not really a petition for quo warranto or an election protest but a petition to annul the proclamation; (4) where the filing of a quo warranto petition or an election protest was expressly made without prejudice to the pre-proclamation controversy or was made ad cautelam; and (5) where the proclamation was null and void. An incomplete canvass is illegal and cannot be the basis of a valid proclamation. Well settled is the doctrine that election contests involve public interest, and technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. Also settled is the rule that laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate.

TAN v. COMELEC, G.R. No. 148575-76 (December 10, 2003) EN BANC Section 4, R.A. No. 7166 provides that the COMELEC sitting En Banc by a majority vote of its members may decide, among others, the declaration of failure of election and the calling of special elections as provided in Section 6 of the OEC. The long-standing rule is that the nature of an action and the jurisdiction of the tribunal are determined by law and the allegations in the petitions regardless of whether or not the petitioners are entitled to the relief sought. The caption of the petitions are not determinative of the nature thereof.

SAQUILAYAN v. COMELEC, G.R. No. 157249 (November 28, 2003) EN BANC An election protest is not defective when protestant contests all the precincts even if s/he did not specify the precincts involved in the protest.

SANTOS v. COMELEC (FIRST DIVISION), G.R. No. 155618 (March 26, 2003) EN BANC Between the determination by the trial court of who of the candidates won the elections and the finding of the BOC as to whom to proclaim, it is the court’s decision that should prevail.

BATOY v. CALIBO, JR., G.R. No. 126833 (February 17, 2003) SECOND DIVISION The requirement of a certificate of non-forum shopping under Administrative Circular No. 04-94 is mandatory. Subsequent compliance does not excuse the party’s failure to comply therewith.

DUMAYAS, JR. v. COMELEC, G.R. No. 141952-53 (April 20, 2001) EN BANC Well-entrenched is the rule that findings of fact by the COMELEC, or any other administrative agency exercising particular expertise in its field of endeavor, are binding on the Supreme Court. An election protest is a contest between the defeated and winning candidates on the ground of fraud or irregularities in the casting and counting of the ballots, or in the preparation of the returns. It raises the question of who actually obtained the plurality of the legal votes and therefore is entitled to hold the office.

TORRES v. HRET, G.R. No. 144491 (February 6, 2001) EN BANC As held in *Lerias v. HRET*: "In an election contest where what is involved is the correctness of the number of votes of each candidate, the best and most

conclusive evidence are the ballots themselves. But where the ballots cannot be produced or are not available, the election returns would be the best evidence.”

SOLLER v. COMELEC, G.R. No. 139853 (September 5, 2000) EN BANC Non-payment, partial or incomplete payment of filing/ docket fees for election protests is a fatal defect. In which case, the election protest should be dismissed. An election protest which is not verified, lacks proper verification or contains a verification which is incomplete (e.g. protestant failed to state that the contents of the election protest are true and correct of his/her personal knowledge) must be dismissed. Election protests should contain a certificate of non-forum shopping.

MIGUEL v. COMELEC, G.R. No. 136966 (July 5, 2000) EN BANC The mere filing of an election protest calls for the opening and revision of ballots and re-appreciation of votes. There is no need for the protestant to present evidence and substantiate his/her claim of election fraud before revision could take place. The purpose of ordering the opening of the ballot boxes is to ascertain, with the least amount of protracted delay, the veracity of the allegations of fraud and anomalies in the conduct of the electoral exercise. Thus, a preliminary hearing set for the same purpose is a mere superfluity that negates the essence of affording premium to the prompt resolution of election cases and incidents relating thereto. While Section 6 of Rule 20 of the COMELEC Rules of Procedure, which warrants the opening of ballot boxes, pertains to election protests falling within the exclusive original jurisdiction of the COMELEC, the same procedure is prescribed for election contests which are within the exclusive original jurisdiction of courts of general jurisdiction as well as election contests within the exclusive original jurisdiction of courts of limited jurisdiction.

MARUHOM v. COMELEC, G.R. No. 139357 (May 5, 2000) EN BANC The purpose of an election protest is to ascertain whether the candidate proclaimed elected by the BOC is really the lawful choice of the electorate. The best way, therefore, to test the truthfulness of the claim is to open the ballot boxes in the protested precincts followed by the examination, revision, recounting and re-appreciation of the official ballots therein contained in accordance with law and pertinent rules on the matter. This can only be done through a full-blown trial on the merits, not a peremptory resolution of the motion to dismiss on the basis of the bare and one-sided averments made therein. As a general rule, the filing of an election protest or a petition for quo warranto precludes the subsequent filing of a pre-proclamation controversy, or amounts to the abandonment of one earlier filed, thus depriving COMELEC of the authority to inquire into and pass upon the title of the protestee or the validity of his/her proclamation.

DAGLOC v. COMELEC, G.R. No. 138969 (December 17, 1999) EN BANC The 10-day period for filing an election protest under Section 289 of the former Election Code was suspended by the filing of a petition for annulment of proclamation. Not all actions seeking the annulment of proclamation suspend the running of the period for filing an election protest or a petition for quo warranto.

CHU v. COMELEC, G.R. No. 135423 (November 29, 1999) EN BANC In a pre-proclamation case, there is no need to go beyond the face of the election return which appears to be authentic and regular. If there had been sham voting or minimal voting which was made to appear as normal through the falsification of the election returns, such grounds are properly cognizable in an election protest and not in a pre-proclamation controversy.

VILLAROSA v. COMELEC, G.R. No. 133927 (November 29, 1999) EN BANC When COMELEC draws its conclusion that a particular nickname is not one by which a candidate is generally or popularly known based solely on allegations in a letter-petition without first affording a candidate the opportunity to explain his/her side, it is acting in excess of its jurisdiction. Since it involves the application of law or rules to an ascertained set of facts, it called for COMELEC’s exercise of its adjudicatory powers and falls within the concept of an “election contest.”

MELENDRES, JR. v. COMELEC, G.R. No. 129958 (November 25, 1999) EN BANC The filing fee must be paid within the 10-day period. This defect cannot be cured by subsequent payment. It is the payment of the filing fee that vests jurisdiction of the court over the election protest, not the payment of the docket fees for the claim of damages and attorney's fees. Before the payment of the filing fee, a case is not deemed duly registered and docketed. In other words, the date of the payment of the filing fee is deemed the actual date of the filing of the election protest.

RASUL v. COMELEC, G.R. No. 134142 (August 24, 1999) EN BANC The proper remedy of a losing candidate for the position of Senator is to file a regular election protest which under the Constitution and the OEC exclusively pertains to the Senate Electoral Tribunal.

ROQUERO v. COMELEC, G.R. No. 128165 (April 15, 1998) EN BANC The rule prescribing the 10-day period for the filing of an election protest is mandatory and jurisdictional. Hence, the filing of an election protest beyond such period will deprive the court of its jurisdiction over the case. The 10-day period rule is not a mere technicality but an essential requirement, the non-compliance of which would oust the court of jurisdiction over the case. Verily, a counterprotest should likewise be filed within the period prescribed by law, otherwise, the court acquires no jurisdiction to entertain it. As provided by Section 248 of the Code, the 10-day period is suspended during the pendency of a pre-proclamation case with the COMELEC or with the Courts. Likewise, the running of said reglementary is tolled by a party's elevation to the Supreme Court of a COMELEC decision or Resolution of a pre-proclamation case.

MANAHAN v. HON. JUDGE BERNARDO, and GARCIA, G.R. No. 125752 (December 22, 1997) EN BANC An election protest filed beyond the 10-day reglementary period cannot be dismissed on the ground that a petition for annulment of proclamation has been previously filed. The filing with the COMELEC of a petition to annul or to suspend the proclamation of any candidate suspends the running of the 10-day period within which to file an election protest. Section 251 of the OEC provides that all election contests involving municipal offices prescribe ten (10) days after proclamation of the results is made. However, under Section 248 of the same Code, the filing with the COMELEC of a petition to annul or to suspend the proclamation of any candidate suspends the running of the 10-day period within which to file an election protest. A RTC Judge is not guilty of grave abuse of discretion in ordering the reopening of the ballots and the recount of the votes even without requiring a protestant to prove his/her allegations in the complaint for the sole reason that the grounds invoked actually require the reopening of the ballot boxes. Section 255 of the OEC provides that, "where allegations in a protest or counter-protest so warrant, or whenever in the opinion of the court the interests of justice so require, it shall immediately order the book of voters, ballot boxes and their keys, ballots and other documents used in the election be brought before it and that the ballots be examined and the votes recounted." Therefore, judicial counting of votes in an election contest does not require that there be further proof than the allegations of the protest before the court may allow the examination of the ballots and the recounting of votes. Obviously the simplest, the most expeditious, and the best means to determine the truth or falsity of the allegations are to open the ballot box and examine its contents. To require parol or other evidence on said alleged irregularities before opening said box would have merely given the protestee ample opportunity to delay the settlement of the controversy.

KHO v. COMELEC and ESPINOSA, G.R. No. 124033 (September 25, 1997) EN BANC A COMELEC order with regard to an election protest is null and void insofar as it pertains to an answer with counter-protest filed out of time. A counter-protest is tantamount to a counterclaim in a civil action and may be presented as part of the answer within the time a party is required to answer the protest, unless a motion for extension is granted, in which case it must be filed before the expiration of the extended time. COMELEC has no jurisdictional authority to entertain a belated answer with counterprotest much less pass upon and decide the issues raised therein.

SALIH v. COMELEC, ET. AL., G.R. No. 122872 (September 10, 1997) EN BANC COMELEC En Banc rightfully reversed the decision of the Second Division, which excluded election returns on the basis of sham voting, due to the fact that the Second Division could not justifiably exclude said returns on the occasion of a pre-proclamation controversy whose office is limited to incomplete, falsified or materially defective returns which appear as such on their face. As long as the returns appear to be authentic and duly accomplished on their face, the BOC cannot look beyond or behind them to verify allegations of irregularities in the casting of counting of the votes. If there had been sham voting or minimal voting that was made to appear as normal through the falsification of the election returns by protestee's followers, such grounds are properly cognizable in an election protest and not in a pre-proclamation controversy.

PEÑA v. HRET and ABUEG, JR. G.R. No. 123037 (March 21, 1997) EN BANC Under Section 21 of the Revised Rules of Procedure of HRET, insufficiency in form and substance of the petition constitutes a ground for the immediate dismissal of the petition. In *Fernando v. Endencia*, it was held that, "while the election law does not say so directly, it is clearly inferred from its relevant provisions that where the grounds of contest are that legal votes were rejected and illegal votes received, the motion of protest should state in what precincts such irregularities occurred." The prescription that the petition must be sufficient in form and substance means that the petition must be more than merely rhetorical. If the allegations contained therein are unsupported by even the faintest whisper of authority in fact and law, then there is no other course than to dismiss the petition, otherwise, the assumption of an elected public official may, and will always be held up by petitions of this sort by the losing candidate.

DE CASTRO v. COMELEC and MEDRANO, G.R. No. 125249 (February 7, 1997) EN BANC A protestant in an election contest involving the position of mayor, who died during the pendency of the action, can be substituted by the proclaimed vice-mayor. Although a public office is personal in nature and not a property transmissible to the heirs of the deceased, an election contest is not purely personal and exclusive to the protestant or to the protestee such that the death of either would oust the court of all authority to continue the proceedings. As held in *Vda. de Mesa and Lomugdang*, "...the Vice Mayor elect has the status of a real party in interest in the continuation of the proceedings and is entitled to intervene therein. For if the protest succeeds and the protestee is unseated, the Vice-Mayor succeeds to the office of Mayor that becomes vacant if the one duly elected can not assume the post."

BOLALIN v. JUDGE OCCIANO, A.M. No. MTJ-96-1104 (January 14, 1997) SECOND DIVISION The judge is guilty of delay in deciding an election protest where it appears that, up to the present, he is still in the process of preparing the final draft of his/her decision although eight (8) months have already elapsed since the filing of the complaint. Section 252 of the OEC provides that a petition or protest contesting the election of a barangay officer should be decided by the municipal or metropolitan trial court within fifteen (15) days from the filing thereof. The period provided by law must be observed faithfully because an election case, unlike ordinary actions, involves public interest. It must be noted that the term of office of barangay officials is only three years; hence, there is a need for the resolution of the controversy in the shortest possible time.

HASSAN v. COMELEC, G.R. No. 124089 (November 13, 1996) EN BANC COMELEC erred in not declaring a failure of election wherein a notice for special election was given only the day before the scheduled special election and the venue transferred fifteen (15) kilometers away from the original place. It is essential to the validity of the election that the voters have notice in some form, either actual or constructive of the time, place and purpose thereof. Further in *Lucero v. COMELEC*, in fixing the date of the special election, COMELEC should see to it that (1) it should not be later than thirty (3) days after the cessation of the cause of the postponement or suspension of the election or the failure to elect, and (2) it should be reasonably close to the date of the election not held, suspended, or which resulted in failure to elect.

BEEGAN v. BORJA and BALANO, A.M. No. P-95-1171 (September 6, 1996) EN BANC The Clerk of Court of the MTC did not violate any rules in allowing a party to an election contest to photocopy certain ballots subject of the case, which was being heard in such MTC. In the absence of any prejudice on the part of the complainant caused by the acts of effecting the photocopying of the questioned ballots, both the accused must be absolved. It is clear under the COMELEC Rules of Procedure that the election documents and paraphernalia involved in election contests before courts of general jurisdiction shall be kept and held secure in a place to be designated by the Court in the care and custody of the Clerk of Court. It is also common practice in the courts with respect to the photocopying of portions of case records as long as the same are not confidential or disallowed by the rules to be reproduced. The judge need not be bothered as long as the permission of the Clerk of Court has been sought and as long as a duly authorized representative of the court takes charge of the reproduction within the court premises.

CABAGNOT v. COMELEC and MIRAFLORES, G.R. No. 124383 (August 9, 1996) EN BANC The COMELEC acted with grave abuse of discretion in denying to maintain the venue of the revision of ballots in Manila, where the COMELEC and its Clerk of Court are located. In *Antonio v. Nuñez*, COMELEC justified the holding of revisions in Manila instead of General Santos, “for it would be expensive, time-consuming and impractical for the Commissioner of the first Division and, most probably, the Commission En Banc, when brought on appeal before it, to go to General Santos City for this sole purpose.” To reverse its own doctrine on the argument of lack of space is a violation of its own rules. Section 9 of the COMELEC Rules of Procedure mandates that the venue for the revision of ballots shall be in the office of the clerk of court concerned or at such places as the COMELEC or its Division shall designate.

MALALUAN v. COMELEC and EVANGELISTA, G.R. No. 120193 (March 6, 1996) EN BANC An election protest in which the term of office has expired must be dismissed for being moot and academic. The parties are contesting an elective office to which their right to the office no longer exists. This rule was established in *Yorac v. Magalona* wherein the election protest was dismissed because it had been mooted by the expiration of the term of office of the Municipal Mayor of Saravia, Negros Occidental. An appeal is dismissible on that ground except when the rendering of a decision on the merits would be of practical value.

DEFENSOR-SANTIAGO v. RAMOS, PET Case No. 001 (February 13, 1996) EN BANC An election protest for the position of President is rendered moot and academic by virtue of the protestant’s assumption of the office of Senator and the discharge of the function and duties thereof. A protestant effectively abandons or withdraws his/her protest after filing, campaigning and submitting him/herself to be voted upon. In so doing, s/he entered into a political contract with the electorate that if elected, s/he would assume the office of Senator, discharge its functions and serve his/her constituency as such for the term for which s/he was elected. An election protest may be dismissed on the ground that it has become moot due to its abandonment by the Protestant. Under Rule 19 of the Rules of the PET, an election protest may be summarily dismissed, regardless of the public policy and public interest implications thereof, on the following grounds: (1) The petition is insufficient in form and substance; (2) The petition is filed beyond the periods provided in Rules 14 and 15 hereof; (3) The filing fee is not paid within the periods provided for in these Rules; (4) The cash deposit, or the first P100,000.00 thereof, is not paid within 10 days after the filing of the protest; and (5) The petition or copies thereof and the annexes thereto filed with the Tribunal are not clearly legible. Other grounds for a motion to dismiss such as those provided in the Rules of Court, which apply suppletorily, may likewise be pleaded as affirmative defenses in the answer. Therefore, if an election protest may be dismissed on technical grounds, then it must be, for a decidedly stronger reason, if it has become moot due to its abandonment by the Protestant.

PATORAY v. COMELEC, ET. AL., G.R. No. 120823 (October 24, 1995) EN BANC The COMELEC’s Second Division was correct in ordering the exclusion of an election return that contained a discrepancy between the taras and the written figures. According to Section 236 of the OEC, in cases of discrepancies in election returns, COMELEC, upon motion of the BOC or any candidate affected shall proceed summarily to determine whether

the integrity of the ballot box had been preserved, and once satisfied thereof shall order the opening of the ballot box to recount the votes cast in the polling place to determine the true result of the count of votes of the candidate concerned. The COMELEC'S Second Division should have ordered a recount of the ballots and directed the proclamation of the winner accordingly instead of resorting to the Certificate of Votes. There was no showing of any discrepancy in the election return; rather, it is a case involving material defects. In excluding the election returns in question, the voters in such precinct will be disenfranchised. It is the BEI concerned that will effect the correction.

ARROYO v. HRET and SYJUCO, G.R. No. 118597 (July 14, 1995) EN BANC The introduction of a new theory through a memorandum cum addendum in an election protest is proscribed by Rule 28 of the HRET Internal Rules. It provides, "After the expiration of the period for filing of the protest, counter-protest or petition for quo warranto, substantial amendments which broaden the scope of the action or introduce an additional cause of action shall not be allowed..." The rule in an election protest is that the protestant or counter-protestant must stand or fall upon the issues he had raised in his/her original or amending pleading filed prior to the lapse of the statutory period for filing of protest or counter-protest. Substantial amendments to the protest may be allowed only within the same period for filing of the election protest.

GATCHALIAN v. COURT OF APPEALS, ET. AL., G.R. No 107979 (June 19, 1995) FIRST DIVISION Even though the election protest ex abundante cautela was filed nineteen (19) days after the proclamation of the adverse party, it was still filed within the prescribed period given that a pre-proclamation case has been previously filed, Section 248 of the OEC provides that the filing of a pre-proclamation case suspends the running of the period within which to file an election protest or quo warranto proceedings. Since a pre-proclamation case was filed with the COMELEC nine (9) days after proclamation of the adverse party, the period prescribed for filing an election protest was tolled.

ERNI v. COMELEC and TOLENTINO, G.R. No. 116246 (April 27, 1995) EN BANC No grave abuse of discretion is committed by the COMELEC in denying a request for the conduct of a technical examination in determining whether or not the ballots had been written by two or more persons or in groups written only in one hand. COMELEC itself has the authority to make the determination without calling handwriting experts. Nor was evidence aliunde necessary in determining the genuineness of the handwriting on the ballots; an examination of the ballots is sufficient for this purpose. Due process is not denied to a protestee in not giving him/her the chance to cross-examine the BEI chairpersons and document examiners concerned. It is always the COMELEC who is the best judge of the authenticity of ballots.

ATIENZA v. COMELEC and SIA, G.R. No. 108533 (December 20, 1994) EN BANC A decision of the RTC over an election protest that was appealed to the COMELEC, which was dismissed by the latter for being moot and academic, does not have effect of validating the RTC's decision, especially on the matter of the payment of expenses for the election protest to the aggrieved party. Following the synchronized elections, the term of the disputed office has expired; there was virtually nothing to enforce. Most election protest cases where the monetary claim does not hinge on either a contract or quasi-contract or a tortuous act or omission, the claimant must be able to point out to a specific provision of law authorizing a money claim for election protest expenses against the losing party.

ABEJA v. JUDGE TAÑADA and RADOVAN, G.R. No. 112283 (August 30, 1994) THIRD DIVISION A respondent in an election contest may not be allowed to commence with the revision of the results in the counter-protested precincts after the Board of Revisors has submitted its Report on the Revision. He was deemed to have abandoned or waived his/her claim when he stubbornly asserted that said precincts should be revised only if it shown after the revision that his/her opponent leads by at least one (1) vote.

MITMUG v. COMELEC, G.R. No. 106270-73 (February 10, 1994) EN BANC An election protest instituted subsequent to the filing of a petition to declare a failure of election is not an automatic abandonment of the petition initially filed. Where only an election protest ex abundante cautela is filed, the Court retains jurisdiction to hear the petition seeking to annul an election.

BULAONG v. COMELEC, FIRST DIVISION and VILLAFUERTE, G.R. NO 107987 (March 31, 1993) EN BANC COMELEC did not commit a grave abuse of discretion in issuing an order to hold the revision of ballots in another place other than in the Office of the Clerk of Court concerned. Section 9 of the COMELEC Rules of Procedure provides, "the revision of ballots shall be made in the Office of the Clerk of Court concerned or at such places as the Commission or Division shall designate and shall be completed within three (3) months from the date of the order; unless otherwise directed by the Commission." The venue of the revision of ballots may be held in such places as COMELEC shall designate. COMELEC cannot be compelled to exercise the discretionary power of determining the venue of for the revision of ballots through a mandamus proceeding. Mandamus will only lie against an act specifically enjoined by law to be performed.

CRISPINO v. HON. PANGANIBAN, G.R. No. 106556 (March 5, 1993) THIRD DIVISION No grave abuse of discretion is committed by the trial court in denying a motion to require a protestant to present evidence to establish merit in his/her case before the commencement of the revision of the ballots. In election protests involving allegations requiring the perusal, examination, or counting of ballots as evidence, the trial court has the ministerial duty to order the opening of ballot boxes and the examination and counting of the ballots deposited therein. The most expedient means of resolving the protest is to open the ballot boxes and examine its contents instead of ordering a protestant to present evidence on such allegations.

ARAO v. COMELEC, G.R. No. 103877 (June 23, 1992) EN BANC The Court, despite the protestant's failure to raise the question on the validity of the ballots pertaining to the handwritings appearing therein, gave it due consideration. An election protest is of utmost public concern and the rights of the parties must yield to the far greater interests of the electorate in the sanctity of the electoral process. Such failure by the protestant does not preclude the COMELEC from rejecting the protest on that ground.

TATLONGHARI v. COMELEC, G.R. No. 86645 (July 31, 1991) EN BANC COMELEC's Rules and Procedure providing the five-day prescriptive period cannot be given retroactive effect as it impairs vested substantive rights. Prior to the effectivity of COMELEC's Rules and Procedure, the OEC did not prescribe any prescriptive period for filing petitions of the same nature as the case at bar. Absent any provision of law providing for a prescriptive period in filing cases relating to correction of manifest errors in the tabulation of tallying the results during canvassing following the date of proclamation, the petition is not filed out of time nor is the petitioner guilty of inaction for an unreasonable length of time. Laws cannot be given a retroactive effect in instances wherein substantive rights may be impaired. Prior to the effectivity of COMELEC's Rules and Procedure, the OEC did not prescribe any prescriptive period for filing petitions of the same nature as the case at bar.

DELA VICTORIA v. COMELEC, G.R. No. 95275-76 (July 23, 1991) EN BANC The Vice-Mayor elect is a real party-in-interest in the continuation of the election protest regarding the mayoralty position. He is entitled to intervene in the proceedings. By operation of law, the vice-mayor accedes to the position of mayor upon the death of the mayor elect. His/her right to hold said position is in jeopardy of being lost should the protestant win the present election protest.

DAYO v. COMELEC, G.R. No. 94681 (July 18, 1991) EN BANC An election protest may not be disposed of through a summary judgment. Rules on summary judgment have no application to election protests for it deals with the rights of the electorate and not just merely on the rights of the candidates involved. Summary judgments can only be applied in civil actions for the recovery of money claims. If the allegations of the protest

are not sufficient, the court should order an examination of the ballots instead of dismissing the case merely on written interrogatories of the opposing candidates especially when fraud and irregularities are alleged in said protest.

FECUNDO v. BERJAMEN, G.R. No. 88105 (December 18, 1989) EN BANC The preferential disposition of election contests must be within six months after the filing of such case. The tardiness or the delay in the disposition of election cases in other courts does not necessarily show the partiality of the presiding judge.

PEOPLE v. BASILLA, G.R. No. 83938-40 (November 6, 1989) THIRD DIVISION The immediate investigation and prosecution and disposition of election offenses are indispensable parts of securing a free, orderly, honest, peaceful and credible elections. Such purpose is of greater importance than that of the maintenance of the physical order in an election precinct. There is thus a need for the assistance of provincial and city fiscals and their assistants and staff members, and of the state prosecutors of the Department of Justice in order that free, orderly, honest and peaceful elections may be conducted.

FRIVALDO v. COMELEC, G.R. No. 87193 (June 23, 1989) EN BANC The period for filing a quo warranto or election protest fixed by law is mandatory and jurisdictional. In a quo warranto proceeding, the petition must be filed within ten days after the proclamation of the winning candidate. Even if the petition was only filed eight months after the proclamation of the winner, the court held that the issues must still be resolved as to maintain the confidence of the people in their elective officials.

SALVACION v. COMELEC, G.R. No. 84673-74 (February 2, 1989) EN BANC After the winning candidate has already taken his/her oath and assumed office, the losing party's remedy is an electoral protest and not a pre-proclamation controversy. After all the election returns from the various precincts were canvassed, objections were raised to the inclusion and/or exclusion of 4 precincts. The winning candidate based on such election returns was eventually proclaimed winner, taken his/her oath and assumed his/her duties. The losing party's remedy, considering that the proclamation is valid, therefore is an electoral protest and not a pre-proclamation controversy.

LAZATIN v. COMELEC, G.R. No. 80007 (January 25, 1988) EN BANC If the Supreme Court would take cognizance of the electoral protest, this would usurp the functions set out for the HRET since the candidate has already been proclaimed winner of the congressional elections, has taken his/her oath of office and has assumed his/her duties. The sole judge for electoral protests against a candidate who has been proclaimed winner, has taken oath of office and has assumed his/her duties is the HRET. Neither the courts nor COMELEC can take cognizance of the electoral protest against the winning congressional candidate as this would usurp the functions set out for the HRET.

SANCHEZ v. COMELEC, G.R. No. 79146 (August 12, 1987) EN BANC Errors in the appreciation/count by the board of inspectors are a proper subject for an election protest. It is not a proper subject for a re-count or re-appreciation of the ballots. The Senatorial candidate's petition for recount and/or re-appreciation of ballots is not a proper issue for a summary pre-proclamation controversy, which can be filed before the COMELEC. For an objection to be a ground for a pre-proclamation controversy, it must be proven that the canvassed election returns (1) are incomplete or contain material defects, (2) appear to have been tampered with (3) falsified (4) prepared under duress (5) contain discrepancies in the votes to be credited to a candidate, the difference of which affects the result of the elections.

ELECTION RETURNS

DOROMAL v. BIRON, G.R. No. 181809 (February 17, 2010) EN BANC It is the over-all policy of the law to place a premium on an election return, which appears regular on its face, by imposing stringent requirements before the certificate of votes may be used to convert the election return's authenticity and operate as an exception to the general rule that in a pre-proclamation controversy, the inquiry is limited to the four corners of the election return. In the absence of clearly convincing evidence, the validity of the election returns must be upheld. Any plausible explanation, one which is acceptable to a reasonable man in the light of experience and of the probabilities of the situation, should suffice to avoid outright nullification, which results in disenfranchisement of those who exercised their right of suffrage. Where the COMELEC disregards the principle requiring "extreme caution" before rejecting election returns, and proceeds with undue haste in concluding that the election returns are tampered, it commits a grave abuse of discretion amounting to lack or excess of jurisdiction.

SUHURI v. COMELEC G.R. No. 181869 (October 2, 2009) EN BANC The lack of signatures of the party's watchers, which is a violation of the rules governing the preparation and delivery of election returns for canvassing do not necessarily affect the authenticity and genuineness of election returns as to warrant their exclusion from the canvassing, as they are defects in form. The doctrine of statistical improbability does not apply where there is neither uniformity of tallies nor systematic blanking of the candidates of one party. A candidate that merely receives zero votes in one precinct cannot use the doctrine of statistical improbability.

CAMBE v. COMELEC, G.R. No. 178456 (January 30, 2008) EN BANC Where the Municipal BOC immediately proclaimed the winner after issuing its ruling on the petition for exclusion of an election return, the same constituted a deprivation of the right of the aggrieved candidate to appeal the ruling to the COMELEC, violation Section 20 (i) of R.A. No. 7166. The proclamation of a candidate will be rendered invalid. This is in accordance with Section 20 (i) of the said R.A. which provides that any proclamation made in violation of the said section shall be void ab initio. The BOC cannot look beyond or behind the election returns to verify the allegations of irregularities in the casting or the counting of votes if they appear to be authentic and duly accomplished on their face. However, if it appears that there is a prima facie showing that the return is not genuine, as where several entries were omitted in the questioned election return, the doctrine does not apply. The BOC may now look beyond the returns to verify the said irregularities.

LEGARDA v. DE CASTRO, PET Case No. 003 (January 18, 2008) PET As public documents, the Congress-retrieved election return copies, used for the proclamation of the protestee by the National BOC, are presumed authentic and duly executed in the regular course of official business. The presumption of regularity could only be overcome by evidence that is clear, convincing and more than merely preponderant. Absent such convincing evidence, the presumption must be upheld.

BASARTE v. COMELEC, G.R. No. 169413 (May 9, 2007) EN BANC As long as the returns appear to be authentic and duly accomplished on their face, the BOC cannot look beyond or behind them to verify allegations of irregularities in the casting or the counting of the votes. This presupposes that the returns appear to be authentic and duly accomplished on their face. Such principle does not apply where there is prima facie showing that the return is not genuine.

EWOC v. COMELEC, G.R. No. 171882 (April 4, 2007) EN BANC If there is a prima facie showing that the return is not genuine, several entries having been omitted in the questioned election return, COMELEC may determine if there is basis for the exclusion of a questioned election return. It is an exception to the well-established rule in pre-proclamation cases that the BOC is without jurisdiction to go beyond what appears on the face of the election return. However, in certain cases, the BOC cannot close its eyes to patently dubious entries that would put a reasonable person on notice that something is wrong or irregular. The Municipal BOC's exclusion of the questioned election returns is proper upon showing that the integrity of the ballots has been violated. If upon the opening of the ballot box as ordered by COMELEC under Sections 234, 235 and 236, hereof, it should

appear that there is evidence or signs of replacement, tampering or violation of the integrity of the ballots, COMELEC shall not recount the ballots but shall forthwith seal the ballot box and order its safekeeping. They may then proceed with the canvass and make the proclamation based on unquestioned returns.

MARABUR v. COMELEC, G.R. No. 169513 (February 26, 2007) EN BANC The finding of COMELEC that by simple inspection the contested election return is clearly tampered binds the Supreme Court, absent any showing that this particular finding is unsubstantiated. An election return which mysteriously disappeared then suddenly reappeared and showed signs of tampering must be excluded. Since the election return does not, on its face, appear regular, the rule that the City BOC and the COMELEC are not to look beyond or behind the election return is not applicable to this case.

BENWAREN v. COMELEC, G.R. No. 169393 (April 7, 2006) EN BANC A person who did not contest the election return cannot claim to get more than what is reflected in the election of that precinct where the election return was contested. Therefore, the upholding of the proclamation of a candidate is proper.

DIMAPORO v. COMELEC, G.R. No. 93201-04 (June 26, 1990) EN BANC The Doctrine of Statistical Improbability has no application if the nullification of contested returns will show that the COMELEC-declared winner is still leading by a substantial margin. There is, therefore, no need to re-examine *Lagumbay v. COMELEC* in order to expand the scope of the doctrine. When the contested returns contain "statistically improbable" entries, they are excludable from canvass as "obviously manufactured" without need of evidence aliunde.

DIPATUAN v. COMELEC, G.R. No. 86117 (May 7, 1990) EN BANC The apparent alphabetical and chronological sequence in the voting alleged was not proof of fraud that would justify the exclusion of assailed returns. Irregularities such as fraud cannot be considered as a ground for a pre-proclamation controversy. To require the comparison of thumb marks and signatures of the voters through the different records and affidavits, what should have been filed was an election protest and not a pre-proclamation controversy.

UTOTALUM v. COMELEC, G.R. No. 84843-44 (January 22, 1990) EN BANC Returns which cannot be contended as "obviously manufactured" cannot be a legitimate issue in a pre-proclamation controversy. The basis of the case at hand is the preparation of the registry of the list of voters, which cannot be deduced from the face of election returns. A pre-proclamation controversy is only limited to challenges before the BOC and such challenges are restricted to what is seen on the face of the specified election returns.

CASIMIRO v. COMELEC, G.R. No. 84462-63 (March 29, 1989) EN BANC When a winning candidate has been validly declared as winner, the remedy of the losing party is an electoral protest before the proper forum. The COMELEC is correct when it dismissed the petition claiming that it already has no jurisdiction over the petition after the proclamation and assumption of office of the winning candidate. A pre-proclamation controversy is no longer viable in this case. The validity of the election returns and canvassing proceedings must be upheld in the absence of convincing evidence. There was no substantial evidence to justify the exclusion of the contested returns for being fraudulent or for a declaration that the proceedings of the board were null and void. The evidence presented in the case at hand is not enough to overturn the presumption of validity of the contested returns. Caution must be observed before disregarding election returns.

SALVACION v. COMELEC, G.R. No. 84673-74 (February 2, 1989) EN BANC Election returns would be excluded if the alleged threats, duress, intimidation or coercion which attended the preparation of said election returns affected the regularity or genuineness of the contested returns. Evidence must be presented to validate that the threats, duress, intimidation and coercion affected the contested returns. However, the losing party in this case did not present any evidence that would support his/her contention. The petition must necessarily be dismissed for lack of merit.

SANCHEZ v. COMELEC, G.R. No. 79146 (August 12, 1987) EN BANC By legal definition, an election return is incomplete if there is an omission in the election returns of the name of any candidate and/or his/her corresponding votes, and in case the number of votes for a candidate has been omitted. For the purpose of canvassing election returns and for proclaiming the winning candidate, a complete election return whose authenticity is not in question is prima facie considered valid. Attempts to paralyze the canvassing and proclamation is against public policy.

ELECTORAL TRIBUNAL

BARBERS v. COMELEC, G.R. No. 165691 (June 15, 2005) EN BANC It is the SET, not the Supreme Court, which has sole and exclusive jurisdiction over election protests involving Senators. The constitutional authority conferred upon the SET is categorical and complete. Certiorari and prohibition will not lie since there is an available and appropriate remedy.

RASUL v. COMELEC, G.R. No. 134142 (August 24, 1999) EN BANC it is the SET, not the COMELEC which has exclusive jurisdiction over complaints contesting the proclamation of the 12th winning senatorial candidate.

LIBANAN v. HRET and RAMIREZ, G.R. No. 129783 (December 22, 1997) EN BANC The HRET did not commit grave abuse of discretion in ruling that the absence of the signature of the Chairperson of the BEI in the ballots did not render the ballots spurious because all the ballots examined had the COMELEC watermarks. For a ballot to be rejected for being spurious, the ballot must not have any of the following authenticating marks: a) the COMELEC watermark; b) the signatures or initial of the BEI Chairperson at the back of the ballot; and c) red and blue fibers. In the present case, all the ballots examined by the Tribunal had COMELEC watermarks. While Section 24 of R.A. 7166 provides that failure to authenticate the ballot shall constitute an election offense, there is nothing in the said law, which provides that ballots not so authenticated shall be considered invalid. In fact, the members of the Committee on Suffrage and Electoral Reforms agreed during their deliberation on the subject that the absence of the BEI Chairperson's signature at the back of the ballot will not per se make a ballot spurious.

PEÑA v. HRET and ABUEG, JR. G.R. No. 123037 (March 21, 1997) EN BANC The HRET rightfully dismissed an election protest on the ground of protestant's failure to make specific mention of the precincts where widespread election fraud and irregularities occurred rendering the petition insufficient in form and substance. Under Section 21 of the Revised Rules of Procedure of HRET, insufficiency in form and substance of the petition constitutes a ground for the immediate dismissal of the petition. In *Fernando v. Endencia*, it was held that, "while the election law does not say so directly, it is clearly inferred from its relevant provisions that where the grounds of contest are that legal votes were rejected and illegal votes received, the motion of protest should state in what precincts such irregularities occurred." The prescription that the petition must be sufficient in form and substance means that the petition must be more than merely rhetorical. If the allegations contained therein are unsupported by even the faintest whisper of authority in fact and law, then there is no other course than to dismiss the petition, otherwise, the assumption of an elected public official may, and will always be held up by petitions of this sort by the losing candidate.

ARROYO v. HRET and SYJUCO, G.R. No. 118597 (July 14, 1995) EN BANC The annulment of fifty thousand (50,000) votes by the HRET on the basis of lost or destroyed ballots and alleged forged signatures failed to comply with the established standard on annulment. The HRET has laid down the two (2) requisites for the annulment of election returns by the Electoral Tribunal, based on fraud, irregularities, or terrorism, namely (a) that more than fifty percent (50%) of the total number of votes in the precincts were involved, and (b) that the votes much be shown to have been affected or vitiated by such fraud, irregularities or terrorism. Non-compliance with these requisites will not warrant the annulment of votes. Elections should never be held void

unless they are clearly illegal; it is the duty of the court to sustain an election authorized by law if it has been so conducted as to give a free and fair expression of the popular will, and the actual result thereof is clearly ascertained.

LOYOLA v. HRET and DRAGON, G.R. No. 109026 (January 4, 1994) EN BANC An entry of general denial due to the failure to file an answer on time as required by the Revised Rule of the HRET does not amount to an admission of all the material allegations in the protest. Trial, wherein a petitioner must still prove all the material facts necessary to his/her cause of action, must follow. An entry of general denial due to the failure to file an answer on time as required by the Revised Rule of the HRET does not permit the tribunal to dispense with trial on the complaint. Rules 21, 28, 33, 59 and 60 of the Revised Rules of the HRET, which embody the policy to expedite the disposition of electoral cases before them, do not show the intent of the legislature to decide cases without hearing and on the basis merely of pleadings. If it were the legislative intent, it should have stated so in clear and unequivocal terms.

PANGILINAN v. COMELEC, G.R. No. 105278 (November 18, 1993) EN BANC Section 15 of RA 7166 (An Act Providing for Synchronized National and Local Elections and for Electoral Reforms) disallowing pre-proclamation cases for the positions of President, Vice-President, Senator, and Members of the House of Representatives is not unconstitutional. The Constitution vests in the COMELEC the exclusive original jurisdiction over all contests relating to the election, returns, and qualification of all elective regional, provincial and city officials. On the other hand, by virtue of Section 17, Art. VI of the Constitution, the jurisdiction over contests relating to the election, returns, and qualifications of Members of the House of Representatives is vested in the Electoral Tribunal of the House of Representatives.

EVIDENCE

SAHALI v. COMELEC, G.R. No. 201796 (January 15, 2013) EN BANC The absence of a rule which specifically mandates the technical examination of election paraphernalia does not mean that the COMELEC division is barred from issuing an order for the conduct thereof. The power of the COMELEC division to order the technical examination election paraphernalia in election protest cases stems from its "exclusive original jurisdiction over all contest relating to the elections, returns and qualifications of all elective regional, provincial and city officials." Otherwise stated, the express grant of power to the COMELEC to resolve election protests carries with it the grant of all other powers necessary, proper, or incidental to the effective and efficient exercise of the power expressly granted. Verily, the exclusive original jurisdiction conferred by the constitution to the COMELEC to settle said election protests includes the authority to order a technical examination of relevant election paraphernalia, election returns and ballots in order to determine whether fraud and irregularities attended the canvass of the votes.

BASMALA v. COMELEC, G.R. No. 176724 (October 6, 2012) EN BANC The findings of fact of COMELEC, when supported by substantial evidence, are final, non-reviewable and binding upon the Supreme Court. It is the specialized agency tasked with the supervision of elections all over the country. Once given an issue to resolve, it must examine the records of the protest, evidence given by the parties, and the relevant election documents.

TYPOCO v. COMELEC, G.R. No. 186359 (March 5, 2010) EN BANC 614 A certificate of votes does not constitute sufficient evidence of the true and genuine results of the election, only election returns are. In cases wherein the correctness of the number of votes is involved, the ballots are the best and most conclusive evidence. However, if such cannot be produced or are not available, the election returns would then be the next best evidence.

BADDIRI v. COMELEC, G.R. No. 165677 (June 8, 2005) EN BANC The factual finding of the COMELEC, which is supported by substantial evidence, is binding on the Supreme Court. The COMELEC can declare that there was manifest error in the certificate of canvass when it shows that there was mistake in the addition of votes.

TECSON v. COMELEC G.R. No. 161434 (March 3, 2004) EN BANC Even if the totality of evidence fails to prove natural born Filipino citizenship, there is still evidence as not to hold the candidate guilty for having made a material misrepresentation in his/her certificate of candidacy in violation of Section 78, in relation to Section 74, of the OEC. The misrepresentation must not only be material but also willful and deliberate.

BATUL v. BAYRON G.R. No. 157687 (February 26, 2004) EN BANC The ballots are the best and most conclusive evidence in an election contest where the correctness of the number of votes of each candidate is involved.

SARANGANI v. COMELEC, G.R. No. 155560-62 (November 11, 2003) EN BANC The COMELEC En Banc has made a careful examination of the original copies of the certificates of canvass used by the Provincial BOC in the canvass, along with the statement of votes, which accompanied the certificates of canvass. The results have been found to be virtually the same. The Supreme Court's function is merely to check or to ascertain where COMELEC might have gone far astray from parameters laid down by law but not to supplant its factual findings. So long as its findings are not arbitrary and unfounded, the Court is not at liberty to discard and ignore such findings.

CODILLA, SR. v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC To be disqualified under the above-quoted provision, the following elements must be proved: (a) the candidate, personally or through his/her instructions, must have given money or other material consideration; and (b) the act of giving money or other material consideration must be for the purpose of influencing, inducing, or corrupting the voters or public officials performing electoral functions.

SOCRATES v. COMELEC, G.R. No. 154512 (November 12, 2002) EN BANC The Supreme Court is bound by the findings of fact of the COMELEC on matters within the competence and expertise of the COMELEC, unless the findings are patently erroneous. In *Malonzo v. COMELEC*, which also dealt with alleged defective service of notice to PRA members, we ruled that – "Needless to state, the issue of propriety of the notices sent to the PRA members is factual in nature, and the determination of the same is therefore a function of the COMELEC. In the absence of patent error, or serious inconsistencies in the findings, the Court should not disturb the same. The factual findings of the COMELEC, based on its own assessments and duly supported by gathered evidence, are conclusive upon the court, more so, in the absence of a substantiated attack on the validity of the same." In the instant case, we do not find any valid reason to hold that the COMELEC's findings of fact are patently erroneous.

PASANDALAN v. COMELEC, G.R. No. 150312 (July 18, 2002) EN BANC To warrant a declaration of failure of election on the ground of fraud, the fraud must prevent or suspend the holding of an election, or mar fatally the preparation, transmission, custody and canvass of the election returns. The conditions for the declaration of failure of election are stringent. Otherwise, elections will never end for losers will always cry fraud and terrorism. The allegations of massive substitution of voters, multiple voting, and other electoral anomalies should be resolved in a proper election protest in the absence of any of the three instances justifying a declaration of failure of election. In an election protest, the election is not set aside, and there is only a revision or recount of the ballots cast to determine the real winner. The nullification of elections or declaration of failure of elections is an extraordinary remedy. The party who seeks the nullification of an election has the burden of proving entitlement to this remedy. It is not enough that a verified petition is filed. The allegations in the petition must make out a prima facie case for the declaration of failure of election, and convincing evidence must substantiate the allegations.¹⁷ In the instant case, it is apparent that the allegations do not constitute sufficient grounds for the nullification of the election. Pasandalan even failed to substantiate his/her

allegations of terrorism and irregularities. His/her evidence consisted only of affidavits. Mere affidavits are insufficient,¹⁸ more so in this case since the affidavits were all executed by Pasandalan's own poll watchers. Factual findings of the COMELEC are binding on the Supreme Court. Accordingly, the following findings of the COMELEC in the instant case must be respected.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC The factual findings of the COMELEC supported by substantial evidence shall be final and non-reviewable. Thus, it has been held that findings of fact of the COMELEC based on its own assessments and duly supported by evidence, are conclusive upon the Supreme Court, more so, in the absence of a substantiated attack on the validity of the same.¹ Moreover, there is no question that the transfer of venue was made within the prohibited period of thirty days before the special election.

ABINAL v. COMELEC, G.R. No. 148540 (April 22, 2002) EN BANC In a special civil action under Rule 65 of the Rules of Court, the Supreme Court is limited to the resolution of issues mainly involving jurisdiction, including grave abuse of discretion amounting to lack or excess of jurisdiction attributed to COMELEC.

O'HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC In an election case asserting the existence of fraud, reliance should not be placed on mere affidavits.

HERRERA v. COURT OF APPEALS, G.R. No. 140651 (February 19, 2002) SECOND DIVISION Upon termination of the counting, the ballot boxes must be forwarded directly to the local treasurer. A chairperson of a BEI is liable for an election offense when s/he brought home the election paraphernalia.

PANGKAT LAGUNA v. COMELEC, G.R. No. 148075 (February 4, 2002) EN BANC Factual findings of the COMELEC based on its own assessments and duly supported by evidence, are conclusive upon the Court, more so, in the absence of a substantiated attack on the validity of the same. The COMELEC, as the government agency tasked with the enforcement and administration of election laws, is entitled to the presumption of regularity of official acts with respect to the elections.

DUMAYAS, JR. v. COMELEC, G.R. No. 141952-53 (April 20, 2001) EN BANC Well-entrenched is the rule that findings of fact by the COMELEC, or any other administrative agency exercising particular expertise in its field of endeavor, are binding on the Supreme Court.

ALVAREZ v. COMELEC, G.R. No. 142527 (March 1, 2001) EN BANC The Supreme Court can review decisions of the COMELEC on appeal in election protests involving barangay officials by way of a special civil action for certiorari.

TORRES v. HRET, G.R. No. 144491 (February 6, 2001) EN BANC It is futile to insist that the physical count of ballots found inside the ballot boxes during revision must prevail over the votes reflected in election returns in the revised protested precincts despite the findings that the integrity of the ballot boxes was not preserved prior to revision. Further, this issue has been squarely addressed in *Lerias v. HRET* in this wise: "In an election contest where what is involved is the correctness of the number of votes of each candidate, the best and most conclusive evidence are the ballots themselves. But where the ballots cannot be produced or are not available, the election returns would be the best evidence."

BENITO v. COMELEC, G.R. No. 134913 (January 19, 2001) EN BANC The propriety of declaring whether or not there has been a total failure of elections in the entire province is a factual issue which the Supreme Court will not delve into considering that the COMELEC, through its deputized officials in the field, is in the best position to assess the actual conditions prevailing in that area. Absent any showing of grave abuse of discretion, the

findings of fact of the COMELEC or any administrative agency exercising particular expertise in its field of endeavor, are binding on the Court. There is no cogent reason to depart from the general rule in this case.

EXECUTION PENDING APPEAL

SALUDAGA v. COMELEC, G.R. No. 189431 & 191120 (April 7, 2010) EN BANC A writ of execution pending resolution of the motion for reconsideration of a decision of the division is not granted as a matter of right. The discretion belongs to the division that rendered the assailed decision, order or resolution, or the COMELEC En Banc as the case may be. Such issuance becomes a ministerial duty that may be dispensed with even just by the Presiding Commissioner.

ISTARUL v. COMELEC, G.R. No. 170702 (June 16, 2006) EN BANC The length of time that the election protest has been pending, leaving the protestant only 21 months as the remaining portion of the term to serve, does not constitute “good reason” to justify execution pending appeal. Unless meritorious grounds exist to execute judgment pending appeal, it is illogical to replace a presumptive winner proclaimed by the BOC, by another presumptive winner so declared by a court. Discretionary execution is not proper when the decision contains no explanation for crediting votes in favor of protestant and thus, the victory of protestant was not clearly established and the results were unreliable.

BATUL v. BAYRON G.R. No. 157687 (February 26, 2004) EN BANC Executions pending appeal apply with equal force to election contests involving city and provincial officials not only municipal officials. Section 2, Rule 39 (“Section 2”) of the Rules of Court applies even if the cases are originally cognizable by the COMELEC because of its suppletory function.

NAVAROSA v. COMELEC, G.R. No. 157957 (September 18, 2003) EN BANC When more than 1/3 of the term of the mayor had lapsed, there is good reason to allow execution pending appeal.

SANTOS v. COMELEC, G.R. No. 155618 (March 26, 2003) EN BANC The following constitute good reasons to allow execution pending appeal and a combination of two or more of them will suffice to allow execution pending appeal: [a] public interest involved or will of the electorate; [b] the shortness of the remaining portion of the term of the contested office; and [c] length of time that the election contest has been pending. Shortness of the remaining period alone is a ground for execution pending appeal. This is the case where a decision of the trial court was rendered after almost one year of trial.

FERMO v. COMELEC, G.R. No. 140179 (March 13, 2000) EN BANC An execution pending appeal, under Section 2 Rule 39 of the Rules of Court, must be based upon good reasons. The following constitute “good reasons” and a combination of two or more of them will suffice to support an order granting execution pending appeal: (1) public interest involved or will of the electorate; (2) the shortness of the remaining portion of the term of the contested office; and (3) the length of time that the election contest has been pending. “Shortness of term” alone cannot justify premature execution.

RAMAS v. COMELEC, G.R. No. 130831 (February 10, 1998) EN BANC The failure to reproduce Section 218 of OEC does not mean that execution pending appeal is no longer available. It is still permitted in accordance with Section 2 of Rule 39 of the Rules of Court. The purpose behind the allowance of execution pending appeal is to give recognition to the worth of a trial judge’s decision as that which is initially ascribed by the law to the proclamation by the BOC. BOCs are composed of persons who are less technical in the appreciation of ballots and which act summarily. On the other hand, the judge has the benefit of all evidence the parties can offer and better technical preparation and background, apart from his/her being allowed ample time for conscientious study and mature deliberation before rendering judgment. Thus, one cannot but perceive the wisdom of

allowing the immediate execution of decisions in election cases adverse to the protestees, notwithstanding the perfection and pendency of appeals therefrom, as long as there are, in the sound discretion of the court, good reasons therefor. The execution of judgment pending appeal is discretionary upon the Court provided there are good reasons therefor. The following constitute “good reasons,” and a combination of two or more of them will suffice to grant execution pending appeal: (1) the public interest involved or the will of the electorate; (2) the shortness of the remaining portion of the term of the contested office; and (3) the length of time that the election contest has been pending. Although, the trial court may require the filing of a bond to answer for damages which the aggrieved party may suffer by reason of the execution pending appeal.

EXEMPTION FROM ELECTION BAN

COMMISSIONER OF INTERNAL REVENUE v. ALONZO-LEGASTO, G.R. No. 148443 (April 24, 2006) SECOND DIVISION Where the resolution of the COMELEC is clear and categorical with regard to the grant of request of the request for exemption for the election ban, subsequent approval by the COMELEC of the action thereafter is no longer required. The grant of the exemption from election ban on the transfer, promotion, reassignment and recruitment of personnel is subject only to submission of certain documents which does not need further approval by the said body. The judge’s issuance of a temporary Restraining Order then amounts to an abuse of discretion.

EXHAUSTION OF REMEDIES

BLANCO v. COMELEC, G.R. No. 180164 (June 17, 2008) EN BANC The Court can take cognizance of an election case even if a motion for reconsideration of the COMELEC resolution (Second Division) was not filed before the COMELEC En Banc. Such case is justified since the resolution to be set aside is a nullity. The holding of periodic elections is a basic feature of our democratic government. Setting aside the resolution of the issue will only postpone a task that could well crop up again in the future.

MUÑOZ v. COMELEC, G.R. No. 170678 (July 17, 2006) EN BANC By ordering the re-canvass of all the election returns, the COMELEC En Banc in effect rendered a decision on the merits of a case which was still pending before its First Division. This is in violation of the rule that it does not have the authority to decide and hear election cases, including pre-proclamation controversies, at the first instance. Election cases must first be heard and decided by a Division of the COMELEC. COMELEC, sitting En Banc, does not have authority to hear and decide the same at the first instance. COMELEC has no authority to decide cases: one involving a pre-proclamation controversy on the preparation of election returns, and the other an annulment of proclamation since proclamation was made by the BOC without COMELEC authority – when the cases do not involve similar questions of law and fact.

ISTARUL v. COMELEC, G.R. No. 170702 (June 16, 2006) EN BANC If the issues raised were merely questions of the correctness of the COMELEC’s rulings which involves the wisdom or legal soundness of the decision, the writ of certiorari cannot be availed of. The remedy of a special civil action for certiorari is designed for the correction of errors of jurisdiction and not errors of judgment. An error committed while the court exercises its jurisdiction does not deprive it of the jurisdiction being exercised. However, there are some exceptions to the general rule is that a motion for reconsideration must first be filed before resorting to certiorari and these are: first, when public interest is involved; second, the matter is one of urgency; and third, the order is a patent nullity.

REPOL v. COMELEC G.R. No. 161418 (April 28, 2004) EN BANC The COMELEC En Banc shall decide motions for reconsideration only for “decisions” of a Division, meaning final orders, rulings and decisions of the COMELEC

rendered in the exercise of its adjudicatory or quasi-judicial powers. The Supreme Court has no power to review via certiorari, an interlocutory order or even a final resolution of a Division of the COMELEC. The aggrieved party can still assign as error the interlocutory order before the COMELEC En Banc.

JARAMILLA v. COMELEC, G.R. No. 155717 (October 23, 2003) EN BANC Election cases including pre-proclamation controversies should first be heard and decided by a division of the COMELEC, and then by COMELEC En Banc if a motion for reconsideration of the division is filed. It must be noted however that this provision applies only in cases where the COMELEC exercises its adjudicatory or quasi-judicial powers, and not when it merely exercises purely administrative functions. Accordingly, when the case demands only the exercise by the COMELEC of its administrative functions, such as the correction of a manifest mistake in the addition of votes or an erroneous tabulation in the statement of votes, the COMELEC En Banc can directly act on it in the exercise of its constitutional function to decide questions affecting elections. In this case, the Petition for Correction of Manifest Errors in the case at bar alleges an erroneous copying of figures from the election return to the Statement of Votes by Precinct. Such an error in the tabulation of the results, which merely requires a clerical correction without the necessity of opening ballot boxes or examining ballots, demands only the exercise of the administrative power of the COMELEC. Hence, COMELEC En Banc properly assumed original jurisdiction over the aforesaid petition.

MUNICIPAL BOC OF GLAN v. COMELEC and BENZONAN, G.R. No. 150946 (October 23, 2003) EN BANC The Court has upheld this constitutional mandate and consistently ruled that the COMELEC sitting En Banc does not have the requisite authority to hear and decide election cases in the first instance. This power pertains to the divisions of COMELEC and any decision by COMELEC En Banc as regards election cases decided by it in the first instance is null and void for lack of jurisdiction. It is important to clarify, however, that not all cases relating to election laws filed before the COMELEC are required to be first heard by a division. Under the Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC En Banc can act directly on matters falling within its administrative powers. It is only when the exercise of quasi-judicial powers are involved that the COMELEC is mandated to decide cases first in division, and then, upon motion for reconsideration, En Banc. It is clear that SPC No. 01-032 is one that involves a pre-proclamation controversy that requires the exercise of the COMELEC's quasi-judicial powers, as the illegality of the composition and proceedings of the Municipal BOC, including the falsification of election returns and certificate of canvass, were alleged to be in issue.

BALINDONG v. COMELEC, G.R. No. 153991-92 (October 16, 2003) EN BANC The Supreme Court has consistently ruled that the requirement mandating the hearing and decision of election cases, including pre-proclamation controversies, at the first instance by a division of the COMELEC, and not by the poll body as a whole, is mandatory and jurisdictional. Indeed, as the above-quoted Constitutional provision is couched in simple language and yields to no other interpretation than what its plain meaning presents, it is imperative for the Supreme Court to enforce its indelible import and spirit to the fullest, any decision, resolution or proceeding of the COMELEC which runs counter to it notwithstanding. In the definitive case of Sarmiento v. COMELEC, the Supreme Court explicitly held that the COMELEC En Banc does not have the requisite authority to hear and decide pre-proclamation controversies at the first instance.

ABAD v. COMELEC, G.R. No. 128877 (December 10, 1999) EN BANC COMELEC, sitting En Banc, does not have the requisite authority to hear and decide election cases in the first instance. From the ruling in the trial court which dismissed the appeal, the aggrieved part cannot proceeded directly to the COMELEC En Banc.

EXIT POLLS/SURVEYS

SOCIAL WEATHER STATIONS, INC. ET AL vs. COMELEC, G.R. No. 208062 (April 7, 2015) EN BANC The names of those who commission or pay for election surveys, including subscribers of survey firms, must be disclosed pursuant to Section 5.2(a) of the Fair Election Act. This requirement is a valid regulation in the exercise of police power and effects the constitutional policy of “guaranteeing equal access to opportunities for public service.”, and neither curtails petitioners’ free speech rights nor violates the constitutional proscription against the impairment of contracts. When published, the tendency of election surveys to shape voter preferences comes into play. In this respect, published election surveys partake of the nature of election propaganda. It is then declarative speech in the context of an electoral campaign properly subject to regulation. While Resolution No. 9674 does regulate expression (i.e., petitioners’ publication of election surveys), it does not go so far as to suppress desired expression. There is neither prohibition nor censorship specifically aimed at election surveys. The freedom to publish election surveys remains. All Resolution No. 9674 does is articulate a regulation as regards the manner of publication, that is, that the disclosure of those who commissioned and/or paid for, including those subscribed to, published election surveys must be made. There is no prior restraint because Resolution No. 9674 poses no prohibition or censorship specifically aimed at election surveys. Apart from regulating the manner of publication, petitioners remain free to publish election surveys. The disclosure requirement kicks in only upon, not prior to, publication. As a valid exercise of COMELEC’s regulatory powers, Resolution No. 9674 is correctly deemed written into petitioners’ existing contracts, therefore not violative of the principle against impairment of contracts.

ABS-CBN BROADCASTING CORPORATION v. COMELEC, G.R. No. 133486 (January 28, 2000) EN BANC The COMELEC issued a TRO to restrain the conduct and subsequent broadcasting of the results of an exit poll survey by the ABS-CBN. An exit poll is defined in this case as a species of electoral survey conducted by qualified individuals or groups of individuals for the purpose of determining the probable result of an election by confidentially asking randomly selected voters whom they have voted for, immediately after they have officially cast their ballots. COMELEC asserts that the conduct of exit polls violates the principle of preservation of the sanctity of ballots and poses a danger of discrediting the electoral process. However, the importance of exit polls should likewise be recognized. An absolute prohibition would be unreasonably restrictive, because it will prevent the use of the data not only for election-day projections, but also for long-term research. To warrant a prohibition against exit polls, COMELEC must demonstrate that its exercise is within the constitutional power of the government, if it furthers an important or substantial government interest. Here, the COMELEC’s concern with the possible non-communicative effect of the exit polls, the possible disorder and confusion in the voting centers, does not justify a total ban on them. The COMELEC, in prohibiting ABS-CBN from conducting the exit polls, finds justification in the protection of the sanctity of the ballots. The reason behind the principle of the secrecy of the ballots is to avoid vote buying through voter identification. Moreover, the COMELEC, so as to minimize or suppress incidental problems in the conduct of exit polls, without transgressing the fundamental rights of our people, may prescribe narrowly tailored countermeasures.

FAILURE OF ELECTION/ SPECIAL ELECTION

KIDA v. COMELEC, G.R. No. 196271 (February 28, 2012) EN BANC The Constitution mandates synchronized national and local elections, the ARMM even if not included still falls under this mandate. As the ARMM was still not officially organized and recognized at the time the Constitution was enacted and ratified by the people. ARMM elections were postponed by law, in furtherance of the constitutional mandate of synchronization of national and local elections. Thus COMELEC has no power to organized special elections as this does not fall under the circumstances contemplated by Section 5 or Section 6 of BP 881.

DIBARATUN v. COMELEC, G.R. No. 170365 (February 2, 2010) EN BANC There instances when a failure of elections may be declared by COMELEC: (1) the election in any polling place has not been held on the date fixed on account of force majeure, violence, terrorism, fraud or another analogous causes; (2) the election in

any polling place had been suspended before the hour fixed by law for the closing of the voting on account of force majeure, violence, terrorism, fraud or another analogous causes; or (3) after the voting and during the preparation and transmission of the election returns or in the custody or canvass thereof, such election results in a failure to elect on account of force majeure, violence, terrorism, fraud or another analogous causes. Before the COMELEC can act on a verified petition seeking to declare a failure of elections, two conditions must concur: (1) no voting took place in the precinct or precincts on the date fixed by law, or even if there was voting, the election resulted in a failure to elect; and (2) the votes not cast would have affected the result of the elections. The cause of such failure of election could only be any of the following: force majeure, violence, terrorism, fraud or other analogous causes. The COMELEC's resolution on the petition to declare failure of elections is in line with its function of ensuring the holding of free, orderly, honest, peaceful, and credible elections. The provision on failure of elections in Section 6 of the OEC and Section 2, Rule 26 of the COMELEC Rules of Procedure do not provide for a prescriptive period for the filing of a petition for declaration of failure of elections. It appears that the COMELEC En Banc has the discretion whether or not to take cognizance of such petition.

PRESBITERO, JR. v. COMELEC, G.R. No. 178884 (June 30, 2008) EN BANC There are only three instances wherein failure of elections may be declared. These are: (1) the election has not been held; (2) the election has been suspended before the hour fixed by law; and (3) the preparation and transmission of the election returns have given rise to the consequent failure to elect, meaning nobody emerged as a winner. In addition to the above mentioned instances, the concurrence of conditions must be established, which are: (1) no voting has taken place in the precincts concerned on the date fixed by law or, even if there was voting, the election nevertheless resulted in a failure to elect; and (2) the votes cast would affect the result of the election. Absent the showing of the mentioned instances and requisites, the COMELEC may not declare a failure of election. Failure of election may only be declared when the will of the electorate has been muted and cannot be ascertained. Only when there is a disregard of the law that makes it difficult to determine the lawfulness of the votes can there be such declaration. Hence, if the will of the people is determinable, the same must be respected.

MACACUA v. COMELEC, G.R. No. 175390 (May 8, 2007) EN BANC The COMELEC En Banc did not gravely abuse its discretion in issuing the Resolution dated November 20, 2006 denying a motion to hold a third special election for the position of Mayor. The holding of a third special election would be impractical in terms of time, effort and money given the previous circumstances that transpired in the first two special election. In addition to that, the special may be rendered moot for it might coincide or be held nearly approximate the next election.

MUTILAN v. COMELEC, G.R. No. 171248 (April 2, 2007) EN BANC There are three instances where a failure of elections may be declared, thus (a) the election in any polling place has not been held on the date fixed on account of force majeure, violence, terrorism, fraud or other analogous causes;(b) the election in any polling place has been suspended before the hour fixed by law for the closing of the voting on account of force majeure, violence, terrorism, fraud or other analogous causes; or(c) after the voting and during the preparation and transmission of the election returns or in the custody or canvass thereof, such election results in a failure to elect on account of force majeure, violence, terrorism, fraud or other analogous causes.

TAN v. COMELEC, G.R. No. 166143-47 (November 20, 2006) EN BANC Three instances justifying a declaration of failure of election. First, the COMELEC found that based upon the evidence presented by the parties, a valid election was held as scheduled. Second, there was no suspension of the election as voting continued normally. Third, the candidate elected by a plurality of votes as proclaimed by the Provincial BOC.

GALO v. COMELEC, G.R. No. 164225 (April 19, 2006) EN BANC A failure of election may be declared if one of the following instances occurs: 1. the election in any polling place has not been held on the date fixed on

account of force majeure, violence, terrorism, fraud or other analogous causes; 2. the election in any polling place has been suspended before the hour fixed by law for the closing of the voting on account of any of such causes; or 3. after the voting and during the preparation, transmission, custody or canvass of the election returns, the election results in a failure to elect on account of any of said aforementioned causes. The term failure to elect means “nobody emerges as a winner.”

SAMBARANI v. COMELEC G.R. No. 160427 (September 15, 2004) EN BANC The application of the hold-over principle preserves continuity in the transaction of official business and prevents a hiatus in government pending the assumption of a successor into office. Since there was a failure of elections in the 15 July 2002 regular elections and in the 13 August 2002 special elections, the elected officials can legally remain in office as barangay chairmen of their respective barangays in a hold-over capacity. COMELEC can conduct special elections for barangay officials even beyond the 30 days from cessation of the cause of the failure of election. The 30-day period is directory and the deadline cannot defeat the right of suffrage of the people.

BATABOR, v. COMELEC, G.R. No. 160428 (July 21, 2004) EN BANC The COMELEC may not, on the ground of failure of elections, annul the proclamation of one candidate only, and thereafter call a special election therefore, because failure of elections necessarily affects all the elective positions in the place where there has been a failure of elections. There can be failure of election in a political unit only if the will of the majority has been defied and cannot be ascertained. But if it can be determined, it must be accorded respect.

TOLENTINO v. COMELEC, G.R. No. 148334 (January 21, 2004) EN BANC Failure on the part of the COMELEC to give additional notice to voters that the candidate who will garner the 13th highest number of voters for the Senate will serve the unexpired portion of the Senator who was nominated as Vice-President is not fatal. Voters are presumed to know that under R.A. No. 6645, a special election is conducted to fill up vacancies in the Senate shall be held simultaneously with the next succeeding regular election.

BAO v. COMELEC, G.R. No. 149666 (December 19, 2003) EN BANC In *Mitmug v. COMELEC*, the Supreme Court held that before the COMELEC can act on a verified petition seeking to declare a failure of election, two (2) conditions must concur: first, no voting has taken place in the precinct or precincts on the date fixed by law or, even if there was voting, the election nevertheless results in failure to elect; and second, the votes not cast would affect the result of the election. In the present case, the allegations-bases of both the petition and Langco’s petition-in-intervention before the COMELEC are mostly grounds for an election contest, not for a declaration of failure of election. While there are allegations which may be grounds for failure of election, they are supported by mere affidavits and the narrative report of the election officer.

TAN v. COMELEC, G.R. No. 148575-76 (December 10, 2003) EN BANC When the alleged fraud and irregularities did not prevent or suspend the holding of the elections, there is no failure of elections.

ALAUYA, JR. v. COMELEC, G.R. No. 152151-52 (January 22, 2003) EN BANC Simply deducting the election results of certain municipalities subject of a petition for failure of elections does not necessarily establish the theory that the over-all election will not change. The possibility that the results of the special elections may still change the standing of the candidates cannot be discounted. An action for declaration of failure of elections is different from a pre-proclamation controversy. The former case involves an examination of election fraud, technical examination of election documents, comparison of signatures which is not the case in pre-proclamation cases

MACABAGO v. COMELEC, G.R. No. 152163 (November 18, 2002) EN BANC A failure of elections cannot be declared on the ground that there was a massive substitution of voters.

PASANDALAN v. COMELEC, G.R. No. 150312 (July 18, 2002) EN BANC There is no failure of elections on the grounds that there was ballot box-snatching, that ballots were filled up with the name of another, and that ballots were not signed at the back by members of the BEI. Terrorism may not be invoked to declare a failure of election and to disenfranchise the greater number of the electorate through the misdeeds of only a few, absent any of the three instances specified by law.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC A special election may also be ordered by the COMELEC when the transfer of the polling place was made in blatant disregard of COMELEC Resolution No. 4360 specifying the polling places and also Sections 153 and 154 of the OEC. Changes may be initiated by written petition of the majority of the voters of the polling place or agreement of all the political parties or by resolution of the COMELEC after notice and hearing.

AMPATUAN v. COMELEC, G.R. No. 149803 (January 31, 2002) EN BANC A pre-proclamation controversy is not the same as an action for annulment of election results, or failure of elections. Therefore, while the COMELEC is restricted, in pre-proclamation cases, to an examination of the election returns on their face and is without jurisdiction to go beyond or behind them and investigate election irregularities, COMELEC is duty bound to investigate allegations of fraud, terrorism, violence, and other analogous causes in actions for annulment of election results or for declaration of failure of elections. Thus, COMELEC, in the case of actions for annulment of election results or declaration of failure of elections, may conduct technical examination of election documents and compare and analyze voters' signatures and thumbprints in order to determine whether or not the elections had indeed been free, honest and clean. The fact that a candidate proclaimed has assumed office does not deprive the COMELEC of its authority to annul any canvass and illegal proclamation.

SOLIVA v. COMELEC, G.R. No. 141723 (April 20, 2001) EN BANC There is a failure of elections when the venue for counting was transferred without notice to or conformity of the candidates and watchers and where canvassing was done without their presence. Even though casting took place, the irregularities that marred the counting and canvassing must result in a failure to elect.

BENITO v. COMELEC, G.R. No. 134913 (January 19, 2001) EN BANC There is no failure of elections when after the firing of guns, voting resumed.

CARLOS v. ANGELES, G.R. No. 142907 (November 29, 2000) EN BANC To annul an election, two conditions must be present: [1] the illegality must affect more than 50% of the votes cast, and [2] the good votes can be distinguished from the bad votes. If there is failure of elections, no winner can be declared. Two conditions must first be present before a failure of elections can be declared: (1) that no voting has taken place in the precincts concerned on the date fixed by law or, even if there was voting, the election nevertheless resulted in a failure to elect; and (2) that the votes cast would affect the result of the election. There are three instances where a failure of election may be declared: (1) the election in any polling place has not been held on the date fixed on account of force majeure, violence, terrorism, fraud or other analogous causes; (b) the election in any polling place has been suspended before the hour fixed by law for the closing of the voting on account of force majeure, violence, terrorism, fraud or other analogous causes; or (c) after the voting and during the preparation and transmission of the election returns or in the custody or canvass thereof, such election results in a failure to elect on account of force majeure, violence, terrorism, fraud or other analogous causes.

BANAGA, JR. v. COMELEC, G.R. No. 134696 (July 31, 2000) EN BANC Whether an action is for declaration of failure of elections or for annulment of election results, based on allegations of fraud, terrorism, violence or analogous cause, the OEC denominates them similarly. The fact that a verified petition has been filed does not mean that a hearing on the case should first be held before the COMELEC can act on it. The petition to declare a failure of election and/or to annul election results must show on its face that the conditions necessary to declare a failure to elect are present. In their absence, the petition must be denied outright. To warrant a

declaration of failure of elections, the commission of fraud must be such that it prevented or suspended the holding of an election, or the preparation and transmission, custody and canvass of the election returns. These essential facts must be established.

BASHER v. COMELEC, G.R. No. 139028 (April 12, 2000) EN BANC An election officer has no authority to declare a failure of election. Only COMELEC itself has legal authority to exercise such power. An election officer alone, or even with the agreement of the candidates, cannot validly postpone or suspend the elections. An announcement “over the mosque” was made at around 8:30pm informing the public that the election will push through at 9:00pm at the incumbent Mayor’s residence. To require the voters to come to the polls on such short notice was highly impracticable. It is essential to the validity of the election that the voters have notice in some form, either actual or constructive, of the time, place and purpose thereof. The time for holding it must be authoritatively designated in advance. Moreover, he cannot conduct the elections from 9:00 p.m. until the wee hours of the following day for this in effect is postponing the elections beyond the time set by law (*i.e.*, 7:00 a.m. to 3:00 p.m.).

IMMAM v. COMELEC, G.R. No. 134167 (January 20, 2000) EN BANC To hold a special election for one position would be discriminatory and violative of the right to equal protection of the laws. By suspending the effect of his/her proclamation, COMELEC is not depriving the electorate of a Mayor and would create a hiatus in the government service. Greater unfairness would result if the electorate will be disenfranchised. Jurisprudences provide that all votes casts must be considered. Otherwise, voters shall be disenfranchised. A canvass cannot be reflective of the true vote of the electorate unless and until all returns are considered and none is omitted.

TYPOCO v. COMELEC, G.R. No. 136191 (November 29, 1999) EN BANC While fraud is a ground to declare a failure of election, the commission of fraud must be such that it prevented or suspended the holding of an election, including the preparation and transmission of the election returns. The proper remedy in assailing election returns as manufactured for being allegedly prepared by one person, is to seek a recount, which is a proper subject of an election protest.

PANGANDAMAN v. COMELEC, G.R. No. 134340 (November 25, 1999) EN BANC In fixing the date for the special elections, COMELEC must see to that, (1) it should not be later than thirty (30) days after the cessation of the cause of the postponement or suspension of the election or the failure to elect; and (2) it should be reasonably close to the date of the election not held, suspended or which resulted in the failure to elect. The propriety of declaring whether or not there has been a total failure of elections in a particular place is a factual issue which the Supreme Court will not delve into considering that the COMELEC, through its deputized officials in the field, is in the best position to assess the actual conditions prevailing in the locality.

LOONG v. COMELEC, G.R. No. 133676 (April 14, 1999) EN BANC To hold a special election only for one position will be discriminatory and will violate the right of the elected official to equal protection of the law. Moreover, manual counting of votes when automated machines failed to read the ballots is not a ground for failure since voters were able to cast their votes freely and votes were counted correctly.

SISON v. COMELEC, G.R. No. 134096 (March 3, 1999) EN BANC The scope of pre-proclamation controversy is only limited to the issues enumerated under Section 243 of the OEC, and the enumeration therein is restrictive and exclusive.

BORJA v. COMELEC, G.R. No. 133495 (September 3, 1998) EN BANC The 3-term limit for elective local officials must be taken to refer to the right to be elected as well as the right to serve in the same elective position. Consequently, it is not enough that an individual has served three consecutive terms in an elective local office, s/he must also have been elected to the same position for the same number of times before the

disqualification can apply. Filling up a higher office by succession or operation of law is not considered service of term for purposes of applying the 3-term limit.

CANICOSA v. COMELEC, ET. AL., G.R. No. 120318 (December 5, 1997) EN BANC A petition to declare a failure of election and to declare null and void the canvass and proclamation because of alleged widespread frauds and anomalies in casting and counting of votes, preparation of election returns, violence, threats, intimidation, vote buying, unregistered voters voting, and delay in the delivery of election documents and paraphernalia from the precincts to the Office of the Municipal Treasurer should be dismissed because the grounds cited do not warrant the declaration of a failure of election. Under Section 6 of the OEC, there are only three (3) instances where a failure of election may be declared, namely: (1) the election in any polling place has not been held on the date fixed; (2) the election in any polling place has been suspended before the hour fixed by law for the closing of the voting; or (3) after the voting and during the preparation and transmission of the election returns or in the custody or canvass thereof, such election results in a failure to elect. All three instances must be on account of force majeure, violence, terrorism, fraud, or analogous causes. A petition to declare a failure of election filed with the COMELEC on the ground that the names of the registered voters in the various precincts did not appear in their respective lists of voters must fail for not being a ground of the declaration of a failure of election. Fifteen (15) days before such regular elections, the final list of voters was posted in each precinct pursuant to Section 148 of R.A. No. 7166. The question of inclusion or exclusion from the list of voters involves the right to vote, which is not within the power and authority of the COMELEC to rule upon. The determination of whether one has the right to vote is a justiciable issue properly cognizable by our regular courts pursuant to Section 138 of the OEC.

HASSAN v. COMELEC, ET. AL., G.R. No. 124089 (November 13, 1996) EN BANC COMELEC erred in not declaring a failure of election wherein a notice for special election was given only the day before the scheduled special election and the venue transferred fifteen (15) kilometers away from the original place. It is essential to the validity of the election that the voters have notice in some form, either actual or constructive of the time, place and purpose thereof. Further in *Lucero v. COMELEC*, in fixing the date of the special election, the COMELEC should see to it that (1) it should not be later than thirty (3) days after the cessation of the cause of the postponement or suspension of the election or the failure to elect, and (2) it should be reasonably close to the date of the election not held, suspended, or which resulted in failure to elect.

GARAY v. COMELEC and GATA, JR., G.R. No. 121331 (August 28, 1996) EN BANC COMELEC En Banc gravely abused its discretion when it decided to set aside and annul the special election it had earlier called and conducted due to a failure of elections. Its declaration that the certificate of votes and tally board reflected the true and genuine will of the electorate effectively overturned its earlier decision to hold the special election. Such election having already been held and the winner proclaimed, the COMELEC had lost its jurisdiction to revoke and set aside that decision. In upholding the certificate of votes and tally board as reflective of the will of the electorate, and annulling the special elections, the COMELEC also in effect declared without adequate basis, said special elections as not reflective of such popular mandate. It is merely sound public policy to cause public offices to be filled by those who are the unquestioned choice of the majority.

BORJA, JR. v. COMELEC, ET. AL., G.R. No. 120140 (August 21, 1996) EN BANC A petition to declare a failure of election and to nullify a proclamation do not qualify as pre-proclamation controversies; in turn, it is not within the jurisdiction of the COMELEC. The allegations of lack of notice of the date and time of canvass; fraud, violence, terrorism and analogous cases; disenfranchisement of voters; presence of flying voters; and unqualified members of the BEI as constituting the failure of elections are proper only in an election contest. Under Section 251 of the OEC, elections contests for municipal offices are within the exclusive original jurisdiction of the appropriate RTC.

BALINDONG v. COMELEC and TANOG, G.R. No. 124041 (August 9, 1996) EN BANC COMELEC did not gravely abuse its discretion in refusing to annul the results in a precinct despite the finding that the transfer of the polling place was not in accordance with law. The mere fact that the transfer of the polling place was not made in accordance with law does not warrant a declaration of failure of election and the annulment of the proclamation of the winning candidate, unless the number of uncast votes will affect the result of the election. The remedy is not to seek the annulment of COMELEC's proclamation but, if at all, to file an election protest against COMELEC.

LOONG and TULAWIE v. COMELEC, ET. AL., G.R. No. 122137 (May 16, 1996) EN BANC COMELEC commits grave abuse of discretion when, confronted with essentially similar situations, it takes cognizance of a petition to annul the election results in one municipality yet dismisses a petition to annul election results in other municipalities. The untimeliness of the petition is an untenable argument for such dismissal because the law does not provide for a reglementary period in filing a petition for annulment of elections as long as there has been no proclamation yet. Since there is no reglementary period to file a petition for annulment of elections before proclamation, there is no legal impediment to the examination of pertinent election documents to determine whether or not the elections should be annulled. It was grave abuse of discretion on the part of COMELEC to annul an election without conducting a special election. No proclamation of the winners for the vacant positions can be made without holding a special election. It is a clear disregard of the mandate of Section 4 of R.A. 7166 and Section 6 of the OEC for a holding of a special election in case of a failure of election.

LUCERO v. COMELEC and ONG, G.R. No. 113107 (July 20, 1994) EN BANC Under Section 6 of the OEC, the two (2) requirements for the holding of a special election are: (1) that there is a failure of elections and (2) that such failure would affect the results of the election. This "result of the election" means the net result of the election in the rest of the precincts in a given constituency, such that if the margin of a leading candidate over that of his/her closest rival in the latter precincts is less than the total number of votes in the precinct where there was a failure of election, then such failure would certainly affect "the result of the election."

MITMUG v. COMELEC, ET. AL., G.R. No. 106270-73 (February 10, 1994) EN BANC The COMELEC has the authority to deny motu proprio and without due notice and hearing a petition seeking to declare a failure of election where the allegations therein did not warrant the relief sought. According to Section 2, Rule 26 of the COMELEC Rules of Procedure, before COMELEC can act on a verified petition seeking to declare a failure of election, two (2) conditions must concur: (1) no voting has taken place in the precinct or precincts on the date fixed by law or, even if there was voting, the election nevertheless results in failure to elect; and (2) the votes not cast would affect the result of the election. The fact that a verified petition is filed does not automatically mean that a hearing on the case will be held before COMELEC will act on it. The verified petition must still show on its face that the conditions to declare a failure to elect are present.

CARAM and LDP v. COMELEC and ILOILO PROVINCIAL BOC, G.R. No. 105214 (August 30, 1993) EN BANC The COMELEC cannot be compelled to conduct special elections in the 2nd Congressional District of Iloilo for the purpose of electing its representative in Congress. The allegation that the COMELEC failed to properly disseminate information regarding their right to elect a Congressman, to the extent that 1/3 of the registered voters were not able to exercise their right to vote is not supported by any evidence. In the absence of proof, it can only be deduced that those who did not vote for the position of Congressman merely abstained from voting for the said position. If special elections were to be held, it would have the effect of disregarding the votes that were cast in the May 1992 elections.

SARDEA, ET. AL. v. COMELEC, ET. AL., G.R. No. 106164 (August 17, 1993) EN BANC COMELEC correctly issued a resolution denying the petition to declare a failure of election even if the sympathizers of a defeated candidate stormed the municipal building and destroyed election paraphernalia. Section 6 of the OEC and Section 2, Rule 26 of the COMELEC Rules of Procedure provide that, "if, on account of force majeure, violence, terrorism,

fraud, or analogous cases, the election in any polling place has not been held on the date fixed, or had been suspended before the hour fixed by law for the closing of the voting, or after the voting and during the preparation and the transmission of the election returns or in the custody or canvass, such election results in a failure to elect, and in any of such cases the failure or suspension of election would affect the result of the election.” The destruction and loss of the copies of the election returns intended for the Municipal BOC is not one of the causes mentioned above. A failure of election shall only be declared when the true will of the electorate cannot be determined; if it is ascertainable, it must be respected as far as practicable. In addition, the OEC expressly authorizes the use of the MTC Judge’s copy of the election returns as basis for the canvass.

SALAZAR, JR. v. COMELEC, G.R. No. 85742 (April 19, 1990) EN BANC Vote buying, fake bills and open balloting are grounds for an election contest but not grounds to declare a failure of elections. COMELEC is authorized to lift the suspension of the proclamation if it finds that the objections to such proclamation are invalid. Following a valid proclamation, the petition cannot also therefore be filed as a pre-proclamation controversy.

FAILURE TO REGISTER AND FAILURE TO VOTE

COMELEC v. AGUIRRE, G.R. No. 171208 (September 7, 2007) EN BANC The MTCs have jurisdiction over cases relating to the offense of failure to register or failure to vote. Section 286 of the OEC specifically provides that RTCs have exclusive jurisdiction to try and decide any criminal action or proceedings for violation of the Code “except those relating to the offense of failure to register or failure to “vote.” Thus, first -level courts, do not have jurisdiction over the said instances.

GERRYMANDERING

ALDABA v. COMELEC, G.R. No. 188078 (January 25, 2010) EN BANC The creation of a legislative district for Malolos would separate the town of Bulacan from the rest of the towns comprising the first district, would not militate against the constitutionality of R.A. 9716. This is so because there is no showing that Congress enacted R.A. 9591 to favor the interest of any candidate. The constitutional check against “gerrymandering,” which means the creation of representative districts out of separate points of territory in order to favor a candidate, is found in Section 5(3), Article VI of the Constitution.

GRAVE ABUSE OF DISCRETION

BELUSO v. COMELEC, G.R. No. 180711 (June 22, 2010) EN BANC A petition for certiorari, under Rule 65, will prosper only if grave abuse of discretion is alleged and proved to exist. Grave abuse of discretion is defined as the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility. It is the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.

VELASCO v. COMELEC, G.R. No. 180051 (December 24, 2008) EN BANC Court will not interfere with a COMELEC decision unless the latter is shown to have committed grave abuse of discretion. Grave abuse of discretion means that such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction or excess thereof. It must be shown that the abuse of discretion must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by law.

BASMALA v. COMELEC, G.R. No. 176724 (October 6, 2008) EN BANC For the COMELEC to commit Grave abuse of discretion, it should have exercised its powers arbitrarily or despotically by reason of passion or personal

hostility. Grave abuse of discretion is defined as such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction. A mere abuse of discretion is not enough. It must be so patent and gross as to amount to an evasion of a positive duty or a refusal to perform the duties designated to it by law.

TOLENTINO v. COMELEC, G.R. No. 183806-08 (September 16, 2008) EN BANC For writ a writ certiorari under Rule 65 of the Revised Rules of Court, the review for the petition is limited only to the determination of whether or not they were issued with lack or excess of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion means such capricious and whimsical exercise of judgment amounting to excess or lack of jurisdiction. The abuse of jurisdiction must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law, or where the power is exercised in an arbitrary and despotic manner by reason of personal hostility.

PATALINGHUG v. COMELEC, G.R. No. 178767 (January 30, 2008) EN BANC Grave abuse of discretion must be shown for an action for certiorari to prosper. Grave abuse of discretion means that such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction or excess thereof. The COMELEC must show that the abuse of discretion must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by law.

BANTAY R.A. 7941 v. COMELEC, G.R. No. 177271 (May 4, 2007) EN BANC COMELEC committed grave abuse of discretion in refusing the legitimate demands for a list of the nominees of the party-list groups subject of their respective petitions. No national security or like concerns is involved with the disclosure of the names of the nominees of the party-list groups. In addition thereto, there is absolutely nothing in R.A. No. 7941 that prohibits the COMELEC from disclosing or even publishing through mediums other than the "Certified List" the names of the party-list nominees. Mandamus, therefore, lies.

GROSS INEFFICIENCY

PANGILINAN v. JAURIGUE, A.M. No. RTJ-08-2100 (January 31, 2008) EN BANC Failure on the part of the judge to rectify an Order after an urgent motion for postponement with manifestation and clarification constitutes gross inefficiency. The order of the said judge without taking into account a COMELEC Order is erroneous. However, erroneous interpretations of the said judge may not be considered gross ignorance of the law.

GUIDELINES ON THE APPROPRIATE RECOURSE TO ASSAIL COMELEC RESOLUTIONS ISSUED PURSUANT TO SECTION 16 OF R.A. No. 7166

PATALINGHUG v. COMELEC, G.R. No. 178767 (January 30, 2008) EN BANC The following are the guidelines on the appropriate recourse to assail COMELEC resolutions pursuant to Section 16 of R.A. No. 7166: First, if a pre-proclamation case is excluded from the list of those that shall continue after the beginning of the term of the office involved, the remedy of the aggrieved party is to timely file a certiorari petition; Second, if a pre-proclamation case is dismissed by a COMELEC division and, on the same date of dismissal or within the period to file a motion for reconsideration, the COMELEC En Banc excluded the same case from the list annexed to the Omnibus Resolution, the remedy of the aggrieved party is also a timely filing of a certiorari petition; and third, if a pre-proclamation case is dismissed by COMELEC division but, on the same date of dismissal or within the period to file a motion for reconsideration, the COMELEC En Banc included the case in the list annexed to the Omnibus Resolution, the remedy of the aggrieved party is to timely file a Motion for reconsideration with the COMELEC En Banc.

HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET)

LAYUG v. COMELEC, ET. AL., G.R. No. 192984 (February 28, 2012) EN BANC Section 17, Article VI of the 1987 Constitution provides that the HRET shall be the sole judge of all contests relating to the election, returns, and qualifications of its Members. Section 5 (1) of the same Article identifies who the "members" of the House are: "Section 5 (1). The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party list system of registered national, regional, and sectoral parties or organizations." Clearly, the members of the House of Representatives are of two kinds: (1) members who shall be elected from legislative districts; and (2) those who shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations. In this case, Buhay Party-List was entitled to two seats in the House that went to its first two nominees, Mariano Michael DM. Velarde, Jr. and William Irwin C. Tieng. On the other hand, Brother Mike, being the fifth nominee, did not get a seat and thus had not become a member of the House of Representatives. Indubitably, the HRET has no jurisdiction over the issue of Brother Mike's qualifications.

SANDOVAL v. HRET, G.R. No. 190067 (March 9, 2010) EN BANC The 2004 Rules of the HRET mandates the parties to complete the presentation of their evidence within a period of (2) months, which shall begin to run from the first date set for the presentation of the party's evidence. Procedural rules in election cases are designed to achieve not only a correct but also an expeditious determination of the popular will of the electorate.

ABAYON v. HRET, G.R. No. 189466 (February 11, 2010) EN BANC The jurisdiction of the HRET begins once the party or organization of the party-list nominee has been proclaimed and the nominee has taken his/her oath and assumed office as member of the House of Representatives. The Constitution provides that the HRET shall be the sole judge of all contest relating to, among others, the qualifications of members of House of Representatives. Thus, the COMELEC's jurisdiction over election contests relating to a party-list nominee's qualifications ends

MARTINEZ III v. HRET, G.R. No. 189034 (January 12, 2010) EN BANC Judgment of the Electoral Tribunals are beyond judicial interference when rendered without or in excess of their jurisdiction or with grave abuse of discretion. The power of judicial review may be invoked in exceptional cases upon a clear showing of such arbitrary and improvident use by the Tribunal of its power.

CERBO, JR. v. COMELEC, G.R. No. 168411 (February 15, 2007) EN BANC The proper remedy for a losing candidate is to file an election protest with the HRET once his/her opponent is proclaimed as the winner. The HRET has the sole and exclusive jurisdiction over all election contests relative to the election, returns, and qualifications of members of the House of Representatives once a candidate is proclaimed a winner. The allegation of the nullity of the proclamation does not divest the said tribunal the jurisdiction to the case.

VINZONS-CHATO v. COMELEC, G.R. No. 172131 (April 2, 2007) EN BANC The proclamation of a candidate as a winner in the congressional elections transfers the jurisdiction over election contest relating to his/her election, returns, and qualification to the HRET. Once a winning candidate has been proclaimed, taken his/her oath, and assumed office as a Member of House of Representatives, the COMELEC's jurisdiction end. The proper remedy of the proclaimed candidate would be to file an electoral protest with the said tribunal. The Constitution provides that once a candidate has been proclaimed the winner, the electoral tribunal will have the sole jurisdiction over election contests relating to their members. The use of "sole" in section 17, Article VI of the Constitution and in Section 250 of the OEC underscores the exclusivity of the Electoral tribunals'

jurisdiction over election contests relating to their members. Likewise, the phrase "election, returns, and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. Allegations that the protestee's proclamation is null and void do not divest the HRET of its jurisdiction. The alleged invalidity of the proclamation is best addressed to the sound judgment and discretion of the HRET. It helps to avoid duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate.

PLANAS v. COMELEC, G.R. 167594 (March 10, 2006) EN BANC When the decision of the COMELEC Division disqualifying a candidate who obtained the plurality of votes has not become final, the proclamation of said candidate was valid and thus COMELEC was divested of its jurisdiction. The rule is based on the assumption that there has been a valid proclamation. However, Where the proclamation of a candidate is illegal, the assumption of office cannot in any way affect the basic issues. Thus, it is considered as an exception to the rule.

ROCES v. HRET, G.R. No. 167499 (September 15, 2005) EN BANC The HRET is the sole judge of all contests relating to the election, returns, and qualifications of the members of the House of Representatives and has the power to promulgate procedural rules to govern proceedings brought before it. This exclusive jurisdiction includes the power to determine whether it has the authority to hear and determine the controversy presented, and the right to decide whether that state of facts exists which confers jurisdiction, as well as all other matters which arise in the case legitimately before it. Accordingly, it has the power to hear and determine, or inquire into, the question of its own jurisdiction, both as to parties and as to subject matter, and to decide all questions, whether of law or fact, the decision of which is necessary to determine the question of jurisdiction. One of the three essential elements of jurisdiction is that proper parties must be present. Consequently, the HRET merely exercised its exclusive jurisdiction when it ruled that Mrs. Ang Ping was a proper party to contest the election of Roces.

BARBERS v. COMELEC, G.R. No. 165691 (June 22, 2005) EN BANC In *Javier v. COMELEC*, we interpreted the phrase "election, returns and qualifications" as follows: The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that "election" referred 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" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the BOC and the authenticity of the election returns; and "qualifications" to matters that could be raised in a quo warranto proceeding against the proclaimed winner, such as his/her disloyalty or ineligibility or the inadequacy of his/her certificate of candidacy. The word "sole" in Section 17, Article VI of the 1987 Constitution and Rule 12 of the Revised Rules of the SET underscores the exclusivity of the SET's jurisdiction over election contests relating to members of the Senate. The authority conferred upon the SET is categorical and complete. It is therefore clear that the Supreme Court has no jurisdiction to entertain the instant petition. Since Barbers contests Biazon's proclamation as the 12th winning senatorial candidate, it is the SET which has exclusive jurisdiction to act on Barbers' complaint.

AGGABAO v. COMELEC, G.R. No. 163756 (January 26, 2005) EN BANC The HRET has sole and exclusive jurisdiction over all contests relative to the election, returns, and qualifications of members of the House of Representatives. Thus, once a winning candidate has been proclaimed, taken his/her oath, and assumed office as a Member of the House of Representatives, COMELEC's jurisdiction over election contests relating to his/her election, returns, and qualifications ends, and the HRET's own jurisdiction begins.

CODILLA v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC When a decision of a COMELEC division disqualifying a congressional candidate is not yet final (a motion for reconsideration having been filed with the COMELEC En Banc), the COMELEC En Banc retains jurisdiction, i.e., the HRET cannot assume

jurisdiction over the matter. The decision of the COMELEC division cannot serve as basis for assumption into office of the candidate.

PEREZ v. COMELEC, G.R. No. 133944 (October 28, 1999) EN BANC The HRET has exclusive jurisdiction over the question of eligibility of an elected representative.

RASUL v. COMELEC, G.R. No. 134142 (August 24, 1999) EN BANC Section 17, Article VI of the 1987 Constitution as well as Section 250 of the OEC provide that “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. The phrase “election, returns and qualifications” should be interpreted in its totality as referring to all matters affecting the validity of the contestee’s title. The word “sole,” on the other hand, underscores the exclusive jurisdiction of the Electoral Tribunal over election contests relating to its members.

GARCIA v. HRET, G.R. No. 134792 (August 12, 1999) EN BANC A petition for quo warranto may be dismissed by the HRET if the required cash deposit is not paid.

ONG, JR. v. COMELEC, G.R. No. 105717 (December 23, 1992) EN BANC Since the pre-proclamation case was filed against a congressional candidate, the COMELEC cannot act upon the case submitted before it because as a rule, for purposes of elections, no pre-proclamation case is allowed against, among others, a candidate of the House of Representatives as stated in Section 15 of RA 7166.

SAMPAYAN v. DAZA, G.R. No. 103903 (September 11, 1992) EN BANC Under Section 17 of Article VI of the Constitution, the HRET is the sole judge of all contests relating to election, returns and qualification of its members.

CO v. HRET, G.R. No. 92191-92 (July 30, 1991) EN BANC Judgments of the electoral tribunal are beyond judicial interference except in cases of grave abuse of discretion amounting to lack or excess of jurisdiction. The HRET is the sole judge in all contests relating to the elections, returns and qualifications of the members of the House of Representatives. This, however, does not absolutely divest the courts of its judicial power to review the judgments of the electoral tribunal. Under our Constitution, it is the duty of the courts to determine if there is grave abuse of discretion on the part of any branch or instrumentality of the government.

ROBLES v. HRET, G.R. No. 86647 (February 5, 1990) EN BANC The HRET is not divested of jurisdiction if it does not act upon a motion to withdraw a protest. Once jurisdiction is acquired, it continues until the case is terminated. Jurisdiction is not lost by the mere filing of a motion to withdraw protest if the tribunal did not act on it. It is upon the tribunal’s discretion whether to grant such motion. Hence, there was no grave abuse of discretion when HRET issued the assailed resolutions.

LAZATIN v. HRET, G.R. No. 84297 (December 8, 1988) EN BANC The 1987 Constitution vests upon the HRET exclusive jurisdiction over all contests relating to the election, returns and qualifications of the House of Representatives in their respective electoral tribunals. The rule-making power of the HRET naturally flows from the general power granted to it by the Constitution, including the period for filing of election contests. The rules governing the exercise of the tribunal’s constitutional function may not be prescribed by the OEC. The HRET is the sole judge of all contests relating to the election, returns and qualifications of the House of Representatives. “Sole” emphasizes the exclusive character of the jurisdiction conferred upon HRET. The electoral tribunal has nine (9) members: 3 SC justices designated by the Chief Justice, 6 members from the House of Representatives chosen by proportional representation from the political parties and parties registered under the party-list system. The Senior Justice is the chairperson of the tribunal. A judgment rendered by the tribunal in the exercise of its sole power over all contests relating to the election, returns and

qualifications of its members is beyond judicial interference except if there has been grave abuse of discretion amounting to lack or excess of jurisdiction. It is the sole judge of all contests relating to the elections, returns and qualifications of the House of Representatives. In the case at hand, therefore, the court held that the issues in this case lie with the sound discretion of HRET.

INITIATIVE AND REFERENDUM

LAMBINO V. COMELEC, G.R. NO. 174153 (October 25, 2006) EN BANC An amendment is “directly proposed by the people through initiative upon a petition” only if the people sign on a petition that contains the full text of the proposed amendments. The draft must be “ready and shown” to the people “before” they sign such proposal. A signature sheet which does not show to the people the draft of the proposed changes before they are asked to sign the signature sheet does not comply with the requirement. The framers of the Constitution intended, and wrote, that only Congress or a constitutional convention may propose revisions to the Constitution. The framers intended, and wrote, that a people’s initiative may propose only amendments to the Constitution. There is also revision if the change alters the substantial entirety of the constitution, as when the change affects substantial provisions of the constitution. On the other hand, amendment broadly refers to a change that adds, reduces, or deletes *without* altering the basic principle involved. A shift from the present Bicameral-Presidential system to a Unicameral-Parliamentary system is a revision of the Constitution. Merging the legislative and executive branches is a radical change in the structure of government.

DEFENSOR-SANTIAGO, ET. AL., G.R. No. 127325 (March 19, 1997) EN BANC The provision in the Constitution on people’s initiative is not self-executory. While the Constitution has recognized or granted that right, the people cannot exercise it if Congress, for whatever reason, does not provide for its implementation. R.A. No. 6735 is not in full compliance with the power and duty of Congress to provide for the implementation of the exercise of the right of people’s initiative of the Constitution.

SUBIC BAY METROPOLITAN AUTHORITY v. COMELEC, ET. AL., G.R. No. 125416 (September 26, 1996) EN BANC COMELEC committed grave abuse of discretion in issuing a resolution, which provides for the rules and guidelines to govern the conduct of the referendum proposing to annul or repeal municipal a resolution, for the simple reason that the proper process to be undergone is an initiative. The LGC defines initiative as the legal process whereby the registered voters of local government unit may directly propose, enact, or amend any ordinance; while, referendum is the legal process whereby the registered voters of the local government units may approve, amend or reject any ordinance enacted by the sanggunian. In other words, while initiative is entirely the work of the electorate, referendum is begun and consented to by the law-making body. In initiative and referendum, the COMELEC exercises administration and supervision of the process itself akin to its power over the conduct of elections. There is need for the COMELEC to supervise an initiative more closely, its authority thereon extending not only to the counting and canvassing of votes but also to seeing to it that the matter or act submitted to the people is in the proper form and language so it may be easily understood and voted upon by the electorate. This is especially true where the proposed legislation is lengthy and complicated, and should thus be broken down into several autonomous parts, each such part to be voted upon separately.

JURISDICTION

JALOSJOS v. COMELEC, G.R. No. 192474 (June 26, 2012) EN BANC While the Constitution vests in the COMELEC the power to decide all questions affecting elections, such power is not without limitation. It does not extend to contests relating to the election, returns, and qualifications of members of the House of Representatives and the Senate. The Constitution vests the resolution of these contests solely upon the appropriate Electoral Tribunal of the Senate or the House of Representatives. The Supreme Court has already settled the question of

when the jurisdiction of COMELEC ends and when that of the HRET begins. The proclamation of a congressional candidate following the election divests COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed Representative in favor of the HRET.

VILANDO v. HRET, G.R. No. 192147 & 192149 (August 23, 2011) EN BANC Judgments of the HRET are beyond judicial interference. The only instance where the Supreme Court may intervene in the exercise of its so-called extraordinary jurisdiction is upon a determination that the decision or resolution of the HRET was rendered without or in excess of its jurisdiction, or with grave abuse of discretion or upon a clear showing of such arbitrary and improvident use of its power to constitute a denial of due process of law, or upon a demonstration of a very clear unmitigated error, manifestly constituting such grave abuse of discretion that there has to be a remedy for such abuse.

MACALINTAL v. PET G.R. No. 191618 (June 7, 2011) PET The creation of the PET is valid. The PET, as intended by the framers of the Constitution, is to be an institution independent, but not separate, from the judicial department, i.e., the Supreme Court. The present Constitution has allocated to the Supreme Court, in conjunction with latter's exercise of judicial power inherent in all courts, the task of deciding presidential and vice-presidential election contests, with full authority in the exercise thereof. The power wielded by PET is a derivative of the plenary judicial power allocated to courts of law, expressly provided in the Constitution.

ABC (ALLIANCE FOR BARANGAY CONCERNS) PARTY LIST v. COMELEC G.R. No. 193256 (March 22, 2011) EN BANC COMELEC has the authority to register political parties, organizations or coalitions, and the authority to cancel the registration of the same on legal grounds. The COMELEC En Banc, has the prerogative to direct that a hearing be conducted on the petition for cancellation of registration of the party list. The COMELEC has jurisdiction over petitions for cancellation of registration of any national, regional or sectoral party, organization or coalition while it is the HRET that has jurisdiction over contests relating to the qualifications of a party-list nominee or representative.

GONZALEZ v. COMELEC G.R. No. 192856 (March 8, 2011) EN BANC After proclamation, taking of oath and assumption of office by a candidate for the House of Representatives, jurisdiction over the matter of his/her qualifications, as well as questions regarding the conduct of election and contested returns were transferred to the HRET. Section 16 of COMELEC Resolution No. 8678 which contemplate disqualification cases against candidates over which the COMELEC retains jurisdiction even after those candidates have won the elections, duly proclaimed and assumed office cannot apply to a member of the House of Representatives as jurisdiction is vested with the HRET.

GALANG, JR., v. GERONIMO, G.R. No. 192793 (February 22, 2011) EN BANC It is the COMELEC, which has jurisdiction to take cognizance of an appeal from the decision of the RTC in election contests involving elective municipal officials, then it is also the COMELEC which has jurisdiction to issue a writ of certiorari in aid of its appellate jurisdiction. A case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of certiorari, in aid of its appellate jurisdiction.

SALUDAGA v. COMELEC, G.R. No. 189431 & 191120 (April 7, 2010) EN BANC COMELEC is a constitutional commission vested with the exclusive original jurisdiction over election contests, involving regional, provincial and city officials, as well as appellate jurisdiction over election protest involving elective municipal and barangay officials. It determines the appreciation of contested ballots and election documents when these documents involve a questions of fact.

TOLENTINO v. COMELEC, G.R. No. 187958, 187961, and 187962 (April 7, 2010) EN BANC COMELEC does not lose jurisdiction over the provincial election contest by reason of the transmittal of the provincial ballot boxes

and other election materials to the SET. Its jurisdiction over provincial election contests exist side by side with the jurisdiction of the SET with each tribunal being supreme in its respective areas of concern, with neither being higher than the other in terms of precedence.

ERIGUEL v. COMELEC, G.R. No. 190526 (February 26, 2010) EN BANC However exhaustive the COMELEC's findings may appear to be the same is still rendered void due to its lack of jurisdiction and its failure to ensure that the integrity of the ballots has been preserved prior to conducting a fresh appreciation thereof. Proper proceedings with the COMELEC must be conducted to answer who between the two candidates was duly elected. Thus, the assailed resolution must be set aside for being procedurally and substantially infirm. COMELEC, in the exercise of its quasi-judicial functions, is bound to follow the provisions set forth in Section 3, Article IX-C of the 1987 Constitution. Thus, when the COMELEC is exercising its quasi-judicial powers, it is constitutionally mandated to decide the case first in division, and En Banc only upon motion for reconsideration. It is the COMELEC division that has original appellate jurisdiction to resolve an appeal to an election protest decided by a trial court. The Special Second Division of the COMELEC acted with grave abuse of discretion when it immediately transferred to the COMELEC En Banc a case that ought to be heard and decided by a division. The jurisdiction of a court or an agency existing quasi-judicial functions (such as COMELEC) over the subject-matter of an action is conferred only by the Constitution or by law. Jurisdiction cannot be fixed by the agreement of the parties, acquired through, or waived, enlarged or diminished by, any act or omission of the parties. Neither can it be conferred by the acquiescence of the court, more particularly so in election cases where the interest involved transcends those of the contending parties.

PANLAQUI v. COMELEC, G.R. No. 188671 (February 24, 2010) EN BANC Finding that a candidate is not qualified to vote due to lack of residency requirement does not amount to a deliberate attempt to mislead, misinform or hide a fact which would render such candidate ineligible for an elective position. It is not within the province of the RTC in a voter's inclusion/exclusion proceedings to take cognizance of and determined the presence of a false representation of a material fact. It does not have jurisdiction to try the issues of whether the misrepresentation relates to material fact and whether there was an intention to deceive the electorate in terms of one's qualifications for public office.

FERNANDEZ v. HRET, G.R. NO. 187478 (December 21, 2009) EN BANC COMELEC is subservient to the HRET when the dispute or contest at issue refers to the eligibility and/or qualification of a Member of the House of Representatives. A petition for quo warranto is within the exclusive jurisdiction of the HRET as sole judge, and cannot be considered forum shopping even if another body may have passed upon in administrative or quasi-judicial proceedings the issue of the Member's qualification while the Member was still a candidate. A petitioner in a quo warranto must not only prove the existence of a previous domicile but also that there was failure to comply with the one year residence requirement.

DUENAS, JR. v. HRET, G.R. No. 185401 (July 21, 2009) EN BANC The mere filing of a motion to withdraw/abandon the unrevised precincts did not automatically divest the HRET of its jurisdiction over the same. Under Rule 88 of the HRET it has the discretion either to dismiss the protest or counter-protest, or to continue with the revision if necessitated by reasonable and sufficient grounds affecting the validity of the election. The HRET can motu proprio review the validity of every ballot involved in a protest or counter-protest and the same could not be frustrated by the mere expedient of filing a motion to withdraw/abandon the remaining counter-protested precincts.

LIMKAICHONG v. COMELEC G.R. No. 178831-32 (April 1, 2009) EN BANC Once a winning candidate has been proclaimed and taken his/her oath and assumed office as a member of the House of Representatives, the jurisdiction of the COMELEC of election contests regarding his/her election, returns and qualifications is lost as it is assumed by the HRET. The irregularity of the proclamation of a winning candidate does not divest the HRET of its jurisdiction

ESTEVEZ v. SARMIENTO, G.R. No. 182374 (November 11, 2008) EN BANC COMELEC (Second Division) has no jurisdiction to entertain special relief cases like petitions for certiorari, prohibition or mandamus. As a requirement, an aggrieved party must first file a motion for reconsideration of a resolution of the Division to the COMELEC En Banc. This is mandatory and jurisdictional in invoking the power of review of the Supreme Court.

FERNANDEZ v. COMELEC, G.R. 176296 (June 30, 2008) EN BANC The COMELEC has appellate jurisdiction to try and hear cases involving SK Chairperson. The Constitution vests exclusive original jurisdiction in the trial courts of limited jurisdiction and appellate jurisdiction in the COMELEC over all contests involving elective barangay officials decided by trial courts of limited jurisdiction. The enumeration of barangay officials includes the SK Chairperson as construed in relation to the provision of R.A. No. 7160.

BLANCO v. COMELEC, G.R. No. 180164 (June 17, 2008) EN BANC The jurisdiction of COMELEC to disqualify candidates is limited to those enumerated in Section 68 of the OEC. All other election cases are beyond the ambit of COMELEC jurisdiction. If the cases are criminal and not administrative in nature, the power of the COMELEC is confined to the conduct of preliminary investigation on the alleged election offenses for the purpose of prosecuting the alleged offenders before the regular courts of justice.

DIMAPORO v. COMELEC, G.R. No. 179285 (February 11, 2008) EN BANC The proclamation of a congressional candidate by the COMELEC as winner before there is status quo ante order by Supreme Court is valid. Without the status quo ante order, the COMELEC may proceed with the proclamation with the candidate as if there was no petition filed in the said body. Once an elected candidate has his/her oath, the jurisdiction to try and hear the cases transfer to the HRET. The proper remedy would then be to file the proper election protest before the HRET.

LEGARDA v. DE CASTRO, PET Case No. 003 (January 18, 2008) PET COMELEC En Banc does not have jurisdiction in the first instance, whether original or appellate, over election cases, pre-proclamation controversies, and incidents thereof. When such disputes are filed before or elevated to the COMELEC, they should be heard and adjudicated first at the division level. However, the COMELEC En Banc can act directly on matters falling within its administrative powers. Only upon motion for reconsideration of the said case can the En Banc acquire jurisdiction over the case.

SAN JUAN v. COMELEC (FIRST DIVISION), G.R. No. 170908 (August 24, 2007) EN BANC The COMELEC First Division has the jurisdiction to hear and decide election cases. As for Motion for reconsideration of the decisions rendered in the division, the COMELEC En Banc has jurisdiction over those matters. The dispositions for the motion, as provided for under Rule 19 of the COMELEC Rules and Procedure, must be followed to avoid the dismissal of the said petition.

MANZALA v. COMELEC, G.R. No. 176211 (May 8, 2007) EN BANC The COMELEC is the constitutional commission vested with the exclusive original jurisdiction over election contest involving regional, provincial and city officials as well as appellate jurisdiction over election protests involving elective municipal and barangay officials. Decisions, final orders, or rulings of the COMELEC contests involving elective municipal and barangay offices shall be final, executory, and not appealable. All such election cases shall be heard and decided in division provided that motions for reconsideration of decisions shall be decided by COMELEC En Banc. Election cases cannot be treated in a similar manner as criminal cases where, upon appeal from a conviction by the trial court, the whole case is thrown open for review and the appellate court can resolve issues which are not even set forth in the pleadings. The COMELEC exercises appellate jurisdiction to review, revise, modify, or even reverse and set aside the decision of the former and substitute it with its own decision.

In the exercise of its adjudicatory or quasi-judicial powers, the Constitution also mandates the COMELEC to hear and decide cases first by division and upon motion for reconsideration, by the COMELEC En Banc.

CAYAT v. COMELEC, G.R. No. 163776 (April 24, 2007) EN BANC To insist or to require that the filing fee be paid before acting on the motion, or in the usual legal parlance “under the pain of denial of motion,” is a definitive action properly carried out by the COMELEC En Banc, not by the division thereof. The COMELEC En Banc has sole jurisdiction to decide motions for reconsideration of final decisions as distinguished from interlocutory orders.

MUTILAN v. COMELEC, G.R. No. 171248 (April 2, 2007) EN BANC COMELEC Second Division has no jurisdiction over the petition to annul the elections. The basis of such petition which are the allegations of fraud, terrorism, violence and analogous causes are of the same nature and denominated similarly in the OEC. A petition to declare a failure of election is neither a pre-proclamation controversy nor an election case. Thus, the jurisdiction over postponements, failure of elections and special elections vests with the COMELEC En Banc.

SORIANO, JR. v. COMELEC, G.R. No. 164496-505 (April 2, 2007) EN BANC A decision or an order of a COMELEC Division cannot be elevated to the Supreme Court through a special civil action for certiorari. A motion to reconsider a decision, resolution, order, or ruling of a COMELEC Division shall be elevated to the COMELEC En Banc. However, a motion to reconsider an interlocutory order of a COMELEC Division shall be resolved by the division which issued the interlocutory order, except when all the members of the division decide to refer the matter to the COMELEC En Banc.

BALINGIT v. COMELEC, G.R. No. 170300 (February 9, 2007) EN BANC The appreciation of the contested ballots and election documents involves a question of fact best left to the determination of the COMELEC. COMELEC is a specialized agency tasked with the supervision of elections all over the country. Thus, the factual findings, conclusions, rulings and decisions rendered by COMELEC falling within its competence cannot be interfered with by the Supreme Court provided that, there is absence of any grave abuse of discretion on its part.

PARTIDO NG MANGGAGAWA v. COMELEC, G.R. No. 164702 (March 15, 2006) EN BANC A motion for reconsideration of an *En Banc* ruling, order or decision of the COMELEC is not allowed. Direct recourse to the Supreme Court is allowed when the issue is a pure question of law. This is a recognized exception to the rule on exhaustion of administrative remedies. The 30-day rule applies to final orders, rulings and decisions of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers, not in the exercise of its administrative function to enforce and administer election laws to ensure an orderly election. A mandamus case can be filed against COMELEC to compel performance of a ministerial duty as in compelling it to apply the formula as decided by the Supreme Court after interpreting the existing law on party-list representation. The issuance of a Resolution on the allocation of party-list seats is in the exercise of the administrative, not quasi-judicial powers of the COMELEC.

CAYETANO v. COMELEC, G.R. No. 166388 and 166652 (January 23, 2006) EN BANC COMELEC is an independent, constitutional body exclusively charged with the power of enforcement and administration of all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall. Thus, the conduct of a plebiscite and the determination of its results in which the COMELEC has indisputable expertise is under their jurisdiction and not the regular courts.

SANTOS v. COMELEC, G.R. No. 164439 (January 23, 2006) EN BANC A party cannot file a petition for certiorari with the Supreme Court while a motion for reconsideration is pending before the COMELEC *En Banc* assailing the same resolution of the COMELEC Division. This is forum shopping

BRILLANTES JR. v. COMELEC G.R. No. 163193 (June 15, 2004) EN BANC A resolution of the COMELEC involving an “unofficial” tabulation of election results for President and Vice President based on a copy of the election returns, amounts to a canvassing and infringes on the sole and exclusive authority of Congress to canvass the votes for the election of President and Vice-President. The COMELEC is proscribed from conducting an official canvass of the votes cast for the President and Vice-President, the COMELEC is, with more reason, prohibited from making an “unofficial” canvass of said votes. COMELEC has no authority to provide for the electronic transmission of the results of the elections in the precincts to the COMELEC which it will use for an advanced unofficial tabulation since there is no appropriation for the project and that there is no law which authorizes the COMELEC to augment funds from savings. If allowed, this will usurp the exclusive authority of the Congress to canvass the votes for the election of President and Vice-President. This would also be in contravention of the law which solely authorizes the duly accredited citizens’ arm to conduct the unofficial counting of votes.

REPOL v. COMELEC, G.R. No. 161418 (April 28, 2004) EN BANC The Supreme Court has no power to review an interlocutory order or a final resolution of a division of the COMELEC. Said order or resolution must be reviewed by the COMELEC En Banc through a motion for reconsideration.

DE GUZMAN v. COMELEC G.R. NO. 159713 (March 31, 2004) EN BANC Appreciation of the contested ballots and election documents involves a question of fact best left to the determination of the COMELEC however decisions of administrative agencies which are declared “final” by law are not exempt from judicial review when so warranted. Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness, or upon proof of gross abuse of discretion, fraud or error of law. The disregarding manifest errors in tabulation without a rational basis constitutes grave abuse of discretion exercised by the COMELEC En Banc.

DIMAPORO v. HRET, G.R. NO. 158359 (MARCH 23, 2004) EN BANC The grant of a motion for technical examination is subject to the sound discretion of the HRET. The Constitution confers full authority on the electoral tribunals of the House of Representatives and the Senate as the sole judges of all contests relating to the election, returns, and qualifications of their respective members. Such jurisdiction is original and exclusive. The HRET may refuse the request for technical examination when the claims of the parties can be resolved without the need for technical examination and when election documents pertaining to the precincts in one municipality were gutted by fire.

LABAN NG DEMOKRATIKONG PILIPINO v. COMELEC G.R. No. 161265 (February 24, 2004) EN BANC COMELEC cannot grant to a party official greater power than what is granted unto the official by the party. COMELEC in resolving claims between political parties must first look at the party’s constitution rather than the applicable laws. The lack of authority to nominate candidates by a political party does not result in the denial of due course to or the cancellation of the certificates of candidacy rather those nominated are deemed independent candidates. COMELEC has jurisdiction over the ascertainment of the identity of the legitimate officers of a political party who can sign certificates of candidacy.

TOLENTINO v. COMELEC, G.R. No. 148334 (January 21, 2004) EN BANC The Supreme Court has jurisdiction over questions involving the validity of a special election to fill up a vacancy in the Senate since the case does not involve the determination of the right of a senatorial candidate over the position.

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC The COMELEC Law Department recommended to the COMELEC En Banc to deny due course or to cancel Bautista's certificate of candidacy. The COMELEC En Banc approved the recommendation in Resolution No. 5404 dated 23 July 2002. A division of the COMELEC should have first heard this case. The COMELEC En Banc can only act on the case if there is a motion for reconsideration of the decision of the COMELEC division.

MILLA v. BALMORES-LAXA, G.R. No. 151216 (July 18, 2003) EN BANC Petitions involving pre-proclamation controversies must be first decided by a division of the COMELEC.

PEÑA v. MARTIZANO, A.M. No. MTJ-02-1451 (May 30, 2003) THIRD DIVISION The COMELEC, through its authorized legal officers, has the exclusive power to conduct preliminary investigations of all election offenses and to prosecute them.

SANTOS v. COMELEC (FIRST DIVISION), G.R. No. 155618 (March 26, 2003) EN BANC The COMELEC should dismiss outright a case filed by a party in violation of the forum-shopping rule as when two petitions for certiorari were filed by the same party seeking the same reliefs involving cases pending before the RTCs.

CODILLA v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC The timely filing of a motion for reconsideration with the COMELEC En Banc concerning a decision of its divisions suspending and disqualifying a candidate did not divest the former of its jurisdiction to review the resolution of the latter. The order of the division was unenforceable and had not attained finality.

QUINTOS v. COMELEC, G.R. No. 149800 (November 21, 2002) EN BANC In election protests, the COMELEC can allow, as an exception to the rule on preference, the RTC to first take custody of the ballot boxes involved in municipal offices before causing the transfer of ballots to the COMELEC main office.

MACABAGO v. COMELEC, G.R. No. 152163 (November 18, 2002) EN BANC Rule 64 of the Rules of Court does not foreclose recourse to the Supreme Court under Rule 65 of orders of the COMELEC issued in the exercise of its administrative function.

CARLOS v. ANGELES, G.R. No. 142907 (November 29, 2000) EN BANC Both the Supreme Court and COMELEC have concurrent jurisdiction to issue writs of certiorari, prohibition, and mandamus over decisions of trial courts of general jurisdiction (RTCs) in election cases involving elective municipal officials. The Court that takes jurisdiction first shall exercise exclusive jurisdiction over the case.

COLUMBRES v. COMELEC, G.R. No. 142038 (September 18, 2000) EN BANC Questions involving findings of fact (*i.e.*, sufficiency of evidence) addressed by a division of the COMELEC is a proper subject of a motion for reconsideration with the COMELEC En Banc.

FAELNAR v. PEOPLE, G.R. No. 140850-51 (May 4, 2000) EN BANC A resolution of the COMELEC *En Banc* may be reviewed by the Supreme Court by certiorari filed with the latter within 30 days from the promulgation thereof.

ABS-CBN BROADCASTING CORPORATION v. COMELEC, G.R. No. 133486 (January 28, 2000) EN BANC When a party has hardly enough opportunity to move for reconsideration and to obtain a swift resolution in time for the elections and the petition involves transcendental constitutional issues, direct resort to the Supreme Court is justified.

JUAN v. PEOPLE, G.R. No. 132378 (January 18, 2000) EN BANC The RTC has the exclusive jurisdiction of the to try and decide any criminal case for violation of the Code with the exception only of those in relation to the offense of failure to register or failure to vote.

DOMINGO v. COMELEC, G.R. No. 136587 (August 30, 1999) EN BANC When a party files a motion for reconsideration with the COMELEC En Banc (and the same is denied), s/he has only 30 days less the period s/he consumed when s/he filed the motion for reconsideration to file his/her petition for certiorari with the Supreme Court.

ALBERTO v. COMELEC, G.R. No. 132242 (July 27, 1999) EN BANC Trial courts and other bodies hearing election cases are mandated by law to resolve such cases expeditiously and promptly. Election contests should be rapidly and economically decided, avoiding unnecessary delays.

DOMINO v. COMELEC, G.R. No. 134015 (July 19, 1999) EN BANC A determination by the MTC in the exclusion proceedings as to the right of a person to be included or excluded from the list of voters in the precinct within its territorial jurisdiction, does not preclude the COMELEC to pass upon the issue of compliance with the residency requirement.

COMELEC v. DATU-IMAN, A.M. No. MTJ-99-1178 (March 3, 1999) EN BANC Lower courts cannot issue writs of injunction against the COMELEC.

COMELEC v. NOYNAY, G.R. No. 132365 (July 9, 1998) EN BANC A reading of Section 268 of the Code will reveal that election cases fall within the exception provided for in the opening sentence of Section 32 of BP 129 which says that the RTC has no jurisdiction over the cases since the maximum imposable penalty in each of the cases does not exceed six years of imprisonment.

CALUCAG v. COMELEC, ET. AL., G.R. No. 123673 (June 19, 1997) EN BANC An appeal to the RTC of the ruling by the MTC on an election protest involving the position of Barangay Captain is dismissible on the ground of lack of jurisdiction. The COMELEC has exclusive appellate jurisdiction over election contests involving elective barangay officials decided by trial courts of limited jurisdiction. Article IX-C Section 2(2) of the Constitution, provides that the COMELEC shall exercise exclusive original jurisdiction over all contests relating to the elections, returns and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

ROMUALDEZ-MARCOS v. COMELEC and MONTEJO, G.R. No. 119976 (September 18, 1995) EN BANC COMELEC does not lose its jurisdiction to hear and decide a petition to deny due course to or cancel a certificate of candidacy of a candidate for Representative of the First District of Leyte even after the elections. By virtue of Section 78 of the OEC in relation to Section 6 and 7 of the Electoral Reforms Law of 1987, a disqualification case against a candidate is to be decided by the COMELEC. It is only after his/her proclamation or when the candidate has been proclaimed that jurisdiction over such case will be vested within the HRET.

GUIEB v. FONTANILLA and ASUNCION, G.R. No. 118118 (August 14, 1995) FIRST DIVISION The Decision of the RTC on an election protest originally filed with the MTC by a defeated candidate for the position of Punong Barangay is null & void for want of jurisdiction. Section 2(2) of Art IX-C of the Constitution expressly vests in the COMELEC the exclusive jurisdiction over all contests involving barangay officials decided by courts of limited jurisdiction (i.e. MTC, Municipal Circuit Trial Court, Metropolitan Trial Court). In Flores v. COMELEC, the Supreme Court declared unconstitutional the portion of Section 9 of RA 6679 vesting upon the RTC the appellate jurisdiction over election protests involving barangay elections. The appeal should have been made to the COMELEC; and, for lack of jurisdiction, the RTC should not have given due course to the appeal.

GATCHALIAN v. COURT OF APPEALS, ET. AL., G.R. No 107979 (June 19, 1995) FIRST DIVISION Even if payment of the docket fees for the claim of damages & attorney's fees was made, the election protest cannot be given due course. Jurisdiction is vested with the court only upon payment of the prescribed filing fee.

RELAMPAGOS v. CUMBA and COMELEC, G.R. No. 118861 (April 27, 1995) EN BANC COMELEC has the authority to hear and decide petitions for certiorari, prohibition and mandamus pursuant to the exclusive appellate jurisdiction vested in it by the Constitution. Consequently, the COMELEC did not exceed its

jurisdiction in annulling an Order of Execution issued by the RTC. It was only necessary in preserving the status quo of the parties pending their appeal before COMELEC.

LIBARDOS v. JUDGE CASAR, A.M. No. MTJ-92-728 (July 8, 1994) EN BANC A Municipal Circuit Trial Court Judge is administratively liable for having knowingly issued an order suspending the canvassing of the election returns by the BOC without jurisdiction and with grave abuse of discretion. A Municipal Circuit Trial Court Judge has no jurisdiction to order the suspension of the canvassing of the election returns. While his/her reasons for issuing the assailed order are perhaps commendable and demonstrative of his/her concern for peace and order during the election period in the given community, he lost sight of his/her bounden duty, as a Judge, to be the embodiment of competence, integrity, and independence.

RE: COMELEC RESOLUTION No. 2521, A.M. No. 92-12-916-RTC (July 8, 1994) EN BANC A RTC Judge is administratively liable for gross ignorance of the law and arbitrariness for preventing the members of the Municipal BOC from attending the COMELEC En Banc meeting and going as far as incarcerating such members in order to force them to proclaim a candidate. His/her ignorance of the Constitutional provisions relating to the powers and functions of the COMELEC and the relevant portions of the OEC is inexcusable particularly because he practically interfered with and prevented the exercise of the duties exclusively vested with the Municipal BOC. The controversy before the judge is a pre-proclamation controversy, which is outside the jurisdiction of the RTC.

GALLARDO, ET. AL. v. JUDGE TABAMO, JR., A.M. No. RTJ-92-881 (June 2, 1994) EN BANC A RTC Judge is administratively liable for gross ignorance of the law and guilty of grave abuse of discretion for issuing an order that restrains the continuance of various public works projects being undertaken by the local government and the disbursement of funds therefore. The RTC has no jurisdiction over a case involving the enforcement of the OEC; it is at war with the plain constitutional command that the COMELEC is exclusively charged with the enforcement of all laws relative to the conduct of elections. Although the Omnibus Election does impose a 45-day ban on public works, the RTC has no jurisdiction to take cognizance of a petition for injunction, prohibition and mandamus to enjoin the concerned government officials from continuing with such public works.

TAULE v. SANTOS, G.R. No. 90336 (August 12, 1991) EN BANC COMELEC's jurisdiction is over popular elections. Popular elections are those wherein the elected officials are determined through the will of the electorate. The jurisdiction of the COMELEC involves contests regarding the conduct of the polls, the listing of voters, the holding of the electoral campaign, and the casting and counting of votes. Its jurisdiction does not cover protests involving the organizational set-up of the Katipunan ng mga Barangay for the participants in the election of the officers of said organization only involves its respective members. The Secretary of Local Government cannot assume jurisdiction over election protests involving the election of officers of the Katipunan ng mga Barangay. There is no statutory or constitutional provision vesting such powers to the Secretary. Administrative agencies are only vested with quasi-judicial powers in cases where the law expressly provides. They cannot confer it upon themselves. The case at hand involves a protest against the election of officers of the Katipunan ng mga Barangay which also does not fall under the jurisdiction of the COMELEC. The remedy of the parties in this case, therefore, lies with the ordinary courts.

LOCAL GOVERNMENT CODE

MORENO v. COMELEC, G.R. No. 168550 (August 10, 2006) EN BANC The Probation Law is an exception to the LGC. With the enactment of the LGC, it can be presumed that the legislators had knowledge of ruling in *Bacayon v. Mutia* on the effect of the disqualifications under Section 40 (a). It is clear that they did not want to disqualify the probationers because of their non-inclusion in the said Section of the LGC. In applying statutory

construction, a later statute not repealing a prior special statute will not ordinarily affect the provisions of the earlier statute. Therefore, Moreno should not be disqualified in running for an elective position.

DAVID v. COMELEC, ET. AL., G.R. No. 127116 (April 8, 1997) EN BANC The holding of the barangay election scheduled on the second Monday of May 1997 cannot be prohibited on the ground that barangay chairmen elected on the second Monday of May 1994 have a term of five (5) years as provided by R.A. 6679. The term of office of barangay officials is governed by the LGC, which provides that they shall hold office for three (3) years. The LGC was enacted later than R.A. 6679. The Constitution did not expressly prohibit Congress from fixing any term of office for barangay officials. It merely left the determination of such term to the lawmaking body, without any specific limitation or prohibition, thereby leaving to the lawmakers full discretion to fix such term in accordance with the exigencies of public service.

VICTORIA v. COMELEC and CALISIN, G.R. No. 109005 (January 10, 1994) EN BANC There is no grave abuse of discretion on the part of the COMELEC in issuing a resolution certifying the ranking of the Sangguniang Panlalawigan on the basis of the number of votes obtained by the Sanggunian members in relation to the number of registered voters in the district. Section 44 of the LGC provides that, "...For purposes of succession as provided in this Chapter, ranking in the sanggunian shall be determined on the basis of the proportion of votes obtained by each winning candidate to the total number of registered voters in each district in the immediately preceding local election."

ONG v. HERRERA-MARTINEZ, G.R. No. 87743 (August 21, 1990) EN BANC The LGC governs the filling up of vacancy for councilor while the Civil Service Law governs the appointment referred to in the election ban provision. Section 261(g) of the OEC does not apply to both appointments mentioned. When a person has satisfied the formal requisites and procedure for appointment as councilor and when the position is outside the contemplation of the election ban, the appointment for councilor is declared valid.

MISREPRESENTATION

MUNDER, v. COMELEC G.R. No. 194076 (October 19, 2011) EN BANC A candidate who while he was still a minor, registered him/herself as a voter and misrepresented that he was already of legal age is not guilty of misrepresentation if he runs for a position possessing the necessary age qualification.

FERMIN v. COMELEC, G.R. No. 179695 and G.R. No. 182369 (December 18, 2008) EN BANC The denial of due course to or the cancellation of a Certificate of candidacy is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false. Such misrepresentation may refer to the qualifications required of the public office s/he is running for. If there is a subsequent material representation made by a candidate, the COMELEC may deny due course or cancel the certificate.

JUSTIMBASTE v. COMELEC, G.R. No. 179413 (November 28, 2008) EN BANC Material misrepresentation as a ground to deny due course or cancel a certificate of candidacy refers to the falsity of a statement required to be entered therein. Section 47 of the OEC provides the contents of the certificate of candidacy and that such facts must be true to the best of the candidate's knowledge. Concurrent with the materiality is a deliberate intention to deceive the electorate as to one's qualification. With such materiality and intent present, the COMELEC may deny due course or cancel a certificate of candidacy. The use of a name other than that stated in the certificate of birth is not a material misrepresentation. The "material misrepresentation" mentioned in Section 78 of the OEC refers to "qualifications for elective office" There must be also an intent to deceive the electorate as to the true identity of the candidate. A petition for disqualification based on material misrepresentation in the certificate of candidacy is different from an election protest. An election protest determines whether the candidate proclaimed elected by the BOC is the choice of the electorate. On the other

hand, petition for disqualification based on material misrepresentation in the certificate of candidacy determines whether a person is eligible to run for office.

ROMUALDEZ v. COMELEC, G.R. No. 167011 (April 30, 2008) EN BANC There is no false material representation which could be a ground to cancel a certificate of candidacy when the candidate is actually qualified even if the entries in the certificate of candidacy as filled up by the candidate will show that s/he is not since there was no intention to deceive the electorate as to one's qualifications for public office.

UGDORACION, JR. v. COMELEC, G.R. No. 179851 (April 18, 2008) EN BANC Any false representation of material fact stated in the certificate of candidacy shall be a ground for cancellation thereof. Section 74, in relation to Section 78 of the Code requires that the facts stated in the certificate of candidacy must be true and any false representation therein of a material fact shall be a ground for cancellation thereof. The false representation contemplated by Section 78 of the Code pertains to material fact, and is not simply an innocuous mistake. The candidate's misrepresentation in his/her certificate of candidacy must not only refer to a material fact (eligibility and qualifications for elective office) but should evince a deliberate intent to mislead, misinform or hide a fact which would otherwise render a candidate ineligible. A candidate's disqualification to run for public office does not necessarily constitute material misrepresentation as a sole ground for the cancellation of the certificate of candidacy. It must be made with an intention to deceive the electorate as to one's qualifications to run for public office. Winning the elections does not substitute for the specific requirements of law on a person's eligibility for public office which he lacked. Getting the plurality of votes needed does not cure his/her material misrepresentation. Such misrepresentation may be used as a valid ground for the cancellation of certificate of candidacy.

LLUZ v. COMELEC, G.R. No. 172840 (June 7, 2007) EN BANC A candidate who misrepresents his/her profession or occupation in the certificate of candidacy may not be disqualified from running for office as his/her certificate of candidacy cannot be denied due course or canceled on such ground. No elective office, not even the office of the President of the Republic of the Philippines, requires a certain profession or occupation. Not being a qualification for elective office, misrepresentation of such does not constitute a material misrepresentation. Materiality of representation is an essential element of any violation of Section 74 of the OEC. Although the term "material matter" under Article 183 of the Revised Penal Code takes on a fairly general meaning, that is, it refers to the main fact which is the subject of inquiry, in terms of being an element in the execution of a statement under oath it must be understood as referring to a fact which has an effect on the outcome of the proceeding for which the statement is being executed. In the case of a certificate of candidacy, a material matter is a fact relevant to the validity of the certificate and which could serve as basis to grant or deny due course to the certificate in case it is assailed under Section 78.

LUNA v. COMELEC, G.R. No. 165983 (April 24, 2007) EN BANC Where a candidate withdrew his/her certificate of candidacy and COMELEC found that the substitute complied with all the procedural requirements for valid substitution, the latter can validly substitute for the former. COMELEC may not, by itself, without the proper proceedings, deny due course to or cancel a certificate of candidacy filed in due form. The question of eligibility or ineligibility of a candidate for non-age is beyond the usual and proper cognizance of the COMELEC. If the candidate made a material misrepresentation as to his/her date of birth or age in his/her certificate of candidacy, his/her eligibility may only be impugned through a verified petition to deny due course to or cancel such certificate of candidacy under Section 78 of the Election Code. There can be no substitution of a person whose certificate of candidacy has been cancelled and denied due course. The certificate of candidacy was withdrawn before the COMELEC could declare that the candidate was not a valid for the said position. For if he was declared as such, substitution will be invalid.

TECSON v. COMELEC G.R. No. 161434 (March 3, 2004) EN BANC Even if the totality of evidence fails to prove natural born Filipino citizenship, there is still evidence as not to hold the candidate guilty for having made a

material misrepresentation in his/her certificate of candidacy in violation of Section 78, in relation to Section 74, of the OEC. The misrepresentation must not only be material but also willful and deliberate.

SALCEDO II, v., COMELEC, G.R. No. 135886 (August 16, 1999) EN BANC The material misrepresentation contained in the certificate of candidacy, which would warrant the disqualification of a candidate under 78, refers to qualifications for elective office. Such false representation must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. There is no false material representation which could be a ground to cancel a certificate of candidacy when a candidate uses the name of his/her long-time live-in partner.

NATURE OF ELECTIONS

PROVINCE OF AGUSAN DEL NORTE v. COMELEC, G.R. No. 165080 (April 24, 2007) EN BANC The COMELEC should be accorded by the Court the greatest measure of presumption of regularity in the course of action and choice of means in performing its duties, to the end that it may achieve its designated place in the democratic fabric of our government. It is the effective instrument to preserve the sanctity of popular suffrage, endowed with independence and all the needed concomitant powers. In the discharge of its legal duties, the COMELEC is provided by the law with tools, ample wherewithal, and considerable latitude in adopting means that will ensure the accomplishment of the great objectives for which it was created, i.e., to promote free, orderly and honest elections. COMELEC had to make snap judgments to meet unforeseen circumstances that threaten to subvert the will of our voters. In the process, the actions of the COMELEC may not be impeccable, indeed may even be debatable, but the Court cannot engage in a swivel chair criticism of these actions often taken under very difficult circumstances. Thus, the action of the COMELEC in constituting a new Provincial BOC is justified under the circumstances that the former members are unavailable. The COMELEC has broad powers to enforce and administer all election laws. It has the power of supervision and control over the BEIs or BOCs. This includes the authority to relieve any member thereof for cause or to appoint a substitute.

OCTAVA v. COMELEC, G.R. No. 166105 (March 22, 2007) EN BANC The COMELEC has the power to suspend its rules and the mandate to determine the true victor in an electorate contest. It has the primary duty to ascertain by all feasible means the will of the electorate in an election case. The will of the people in the choice of public officers may not be defeated by mere technical objections. In line with this, the Supreme Court has consistently employed liberal construction of procedural rules in election cases.

PEOPLE v. HERNANDEZ, G.R. No. 154218 & 154372 (August 28, 2006) SECOND DIVISION The sovereignty of the people is expressed through their choice on who will represent them in the government. This decision is made through an election ballot where they decided without any restraint on their freedom to choose. Thus, the ballot is considered sacred, and its desecration unpardonable.

SULIGUIN v. COMELEC, G.R. No. 166046 (March 23, 2006) EN BANC The COMELEC has the discretion to liberally construe its rules and, at the same time, suspend the rules or any portion thereof in the interest of justice. Disputes in the outcome of elections involve public interest; as such, technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. Laws governing such disputes must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.

MARUHOM v. COMELEC, G.R. No. 139357 (May 5, 2000) EN BANC In the performance of its duties, COMELEC must be given a considerable latitude in adopting means and methods that will insure the accomplishment of the great objective for which it was created – to promote free, orderly and honest elections. Section 2(1) of

Article IX of the Constitution gives COMELEC the broad power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall." There can hardly be any doubt that the text and intent of this constitutional provision is to give COMELEC all the necessary and incidental powers for it to achieve the holding of free, orderly, honest, peaceful and credible elections.

DUREMDES v. COMELEC, G.R. No. 86362-63 (October 27, 1989) EN BANC The tabulation of the votes is a purely mechanical act by the BOC over which the COMELEC has direct control or supervision. Questions pertaining to the proceedings of the BOC may be raised directly with COMELEC as a pre-proclamation controversy. Section 243 of the OEC is silent as to when errors in the statement of votes may be raised. The court held that since the statement of votes supports the certificate of canvass and shall be the basis of the proclamation, errors in Statement of Votes would affect the true will of the electorate. The COMELEC did not commit grave abuse of discretion in ordering the BOC to reconvene and prepare a new Statement of Votes. The tabulation of the votes is a purely mechanical act by the BOC, over which the COMELEC has direct control or supervision. The decision of COMELEC must be upheld. All returns must be considered for a canvass to be reflective of the true will of the electorate. Public interest is involved in an election contest. If technicalities obstruct the determination of the true will of the electorate, then it must not be allowed. Laws governing election contests must be liberally construed as not to defeat the true reflection of the will of the electorate.

NATURE OF ELECTION CASES

CODILLA, SR. v. HON. JOSE DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC In every election, the people's choice is the paramount consideration and their expressed will must at all times be given effect. When the majority speaks and elects into office a candidate by giving him/her the highest number of votes cast in the election for the office, no one can be declared elected in his/her place. It would be extremely repugnant to the basic concept of the constitutionally guaranteed right to suffrage if a candidate who has not acquired the majority or plurality of votes is proclaimed winner and imposed as representative of a constituency, the majority of which have positively declared through their ballots that they do not choose him/her. To simplistically assume that the second placer would have received the other votes would be to substitute our judgment for the mind of the voters. He could not be considered the first among the qualified candidates because in a field which excludes the qualified candidate, the conditions would have substantially changed.

COQUILLA v. COMELEC, G.R. No. 151914 (July 31, 2002) EN BANC Under Section 5(d), in relation to Section 7, of R.A. No. 6646 (Electoral Reforms Law of 1987), proceedings for denial or cancellation of a certificate of candidacy are summary in nature. The holding of a formal hearing is thus not de rigeur. In any event, one cannot claim denial of the right to be heard when he filed a Verified Answer, a Memorandum and a Manifestation, all dated on the same day, before the COMELEC, in which he submitted documents relied by him/her in this petition, which, contrary to his/her claim, are complete and intact in the records.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC A prayer to annul election results, as in the instant case, and a prayer to declare failure of elections based on allegations of fraud, terrorism, violence or analogous causes, are actually of the same nature and the Election Code denominates them similarly. The COMELEC may exercise the power to annul election results or declare a failure of election motu proprio or upon a verified petition. The hearing of the case shall be summary in nature. A formal trial-type hearing is not at all times and in all instances essential to due process – it is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to present evidence on which a fair decision can be based. In fine, a trial is not at all indispensable to satisfy the demands of due process.

SANCHEZ v. EDUARDO, A.M. No. MTJ-00-1322 (July 17, 2001) THIRD DIVISION The OEC mandates the resolution of election protests involving barangay positions within fifteen (15) days from the filing thereof. The failure to decide the election protest within the required period constitutes gross inefficiency. This irresponsibility is made even more apparent by the fact that time is of the essence in the resolution of election cases, involving as they do the public interest and the mandate of the people.

ANG BAGONG BAYANI-OFW LABOR PARTY v. COMELEC, G.R. No. 147589 (June 26, 2001) EN BANC It has been held that certiorari is available, "where the issue raised is one purely of law, where public interest is involved, and in case of urgency." This case is indubitably imbued with public interest and with extreme urgency, for it potentially involves the composition of 20 percent of the House of Representatives. Moreover, the case raises transcendental constitutional issues on the party-list system, which the Supreme Court must urgently resolve, consistent with its duty to "formulate guiding and controlling constitutional principles, precepts, doctrines, or rules." Finally, procedural requirements "may be glossed over to prevent a miscarriage of justice, when the issue involves the principle of social justice xxx when the decision sought to be set aside is a nullity, or when the need for relief is extremely urgent and certiorari is the only adequate and speedy remedy available."

BELAC v. COMELEC, G.R. No. 145802 (April 4, 2001) EN BANC Pre-proclamation controversies are mandated by law to be summarily disposed of.

ALVAREZ v. COMELEC, G.R. No. 142527 (March 1, 2001) EN BANC The COMELEC has numerous cases before it where attention to minutiae is critical. Considering further the tribunal's manpower and logistic limitations, it is sensible to treat the procedural requirements on deadlines realistically. Overly strict adherence to deadlines might induce COMELEC to resolve election contests hurriedly by reason of lack of material time. In our view this is not what the framers of the Code had intended since a very strict construction might allow procedural flaws to subvert the will of the electorate and would amount to disenfranchisement of voters in numerous cases. It will be noted that the "preferential disposition" applies to cases before the courts and not those before the COMELEC, as a faithful reading of the section will readily show. The said provision reads as follows: "7 Section 258. Preferential disposition of cases in courts. The courts, in their respective cases, shall give preference to election contests over all other cases, except those of habeas corpus, and shall without delay, hear and, within thirty days from the date of their submission for decision, but in every case within six months after filing, decide the same (Art. XVIII, Section 197, 1978 EC)."

BALTAZAR v. COMELEC, G.R. No. 140158 (January 29, 2001) EN BANC By their very nature and given the public interest involved in the determination of the results of an election, the controversies arising from the canvass must be resolved speedily, otherwise the will of the electorate would be frustrated.

NEIGHBORHOOD RULE

ABAD v. CO, G.R. No. 167438 (July 25, 2006) EN BANC The neighborhood rule applies in situations where the name of candidate for punong barangay was written on the first line for barangay kagawad (the space for punong barangay was left vacant). This rule does not apply when name was written on second line.

NUISANCE CANDIDATES

MARTINEZ III v. HRET, G.R. No. 189034 (January 12, 2010) EN BANC Proceedings in cases nuisance candidates require prompt disposition. A final judgment declaring a candidate to be nuisance results in the cancellation of his/her certificate of candidacy. The law mandates COMELEC and the courts to give priority to cases of disqualification to the end that a final decision shall be rendered not later than seven days before the election

in which the disqualification is sought. A nuisance candidate is defined as one who, based on the attendant circumstances, has no bona fide intention to run for the office for which the certificate of candidacy has been filed, his/her sole purpose being the reduction of the votes of a strong candidate, upon the expectation that the ballots with only the surname of such candidate will be considered strayed and not counted for either of them. The law contemplates the likelihood of confusion which the similarity of surnames of 2 candidates as the type of controversies pertaining to nuisance candidates.

PAMATAGON v. COMELEC G.R. No. 161872 (April 13, 2004) EN BANC The preparation of ballots is but one aspect that would be affected by allowance of "nuisance candidates" to run in the elections. The organization of an election with bona fide candidates standing is onerous enough. To add into the mix candidates with no serious intentions or capabilities to run a viable campaign would actually impair the electoral process.

BAUTISTA v. COMELEC, G.R. No. 133840 (November 13, 1998) EN BANC A nuisance candidate is one whose certificate of candidacy is presented and filed to cause confusion among the electorate by the similarity of names of the registered candidate or by other names which 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.

PARDON

RISOS-VIDAL v. COMELEC, G.R. No. 206666 (January 21, 2015) EN BANC The phrase in the presidential pardon which declares that the person "is hereby restored to his civil and political rights" substantially complies with the requirement of express restoration of his right to hold public office, or the right of suffrage. Articles 36 and 41 of the Revised Penal Code should be construed in a way that will give full effect to the executive clemency granted by the President, instead of indulging in an overly strict interpretation that may serve to impair or diminish the import of the pardon which emanated from the Office of the President and duly signed by the Chief Executive himself/herself. The said codal provisions must be construed to harmonize the power of Congress to define crimes and prescribe the penalties for such crimes and the power of the President to grant executive clemency. All that the said provisions impart is that the pardon of the principal penalty does not carry with it the remission of the accessory penalties unless the President expressly includes said accessory penalties in the pardon. It still recognizes the Presidential prerogative to grant executive clemency and, specifically, to decide to pardon the principal penalty while excluding its accessory penalties or to pardon both. Thus, Articles 36 and 41 only clarify the effect of the pardon so decided upon by the President on the penalties imposed in accordance with law. A whereas clause in a pardon which states that the person "publicly committed to no longer seek any elective position or office" does not make the pardon conditional. Whereas clauses do not form part of a statute because, strictly speaking, they are not part of the operative language of the statute. The whereas clause is not an integral part of the decree of the pardon, and therefore, does not by itself alone operate to make the pardon conditional or to make its effectivity contingent upon the fulfillment of the aforementioned commitment nor to limit the scope of the pardon.

PARTY-LIST/ SECTORAL REPRESENTATION

AKSYON MAGSASAKA-PARTIDO TINIG NG MASA (AKMA-PTM) v. COMELEC, G.R. NO. 207134 (June 16, 2015) EN BANC Party-list groups garnering less than 2% of the party-list votes may yet qualify for a seat in the allocation of additional seats depending on their ranking in the second round. The continued operation of the two-percent threshold was deemed "an unwarranted obstacle to the full implementation of Section 5(2), Article VI of the Constitution and prevents the attainment of the 'broadest possible representation of party, sectoral or group interests in the House of Representatives.'" and has been declared unconstitutional. The 20%

share in representation may never be filled up if the 2% threshold is maintained. In the same vein, the maximum representation will not be achieved if those party-list groups obtaining less than one percentage are disqualified from even one additional seat in the second round.

ASSOCIATION OF FLOOD VICTIMS v. COMELEC, G.R. NO. 203775 (August 5, 2014) A party which is still in the process of incorporation, cannot be considered a juridical person or an entity authorized by law to be a party to a civil action and thus cannot pray for the issuance of a writ of mandamus to compel publication of a COMELEC Resolution. Neither does such party have *locus standi* as it is not even a party-list candidate and could not have been directly affected by the COMELEC Resolution.

ABANG-LINGKOD PARTY LIST v. COMELEC, G.R. No. 206952 (October 22, 2013) EN BANC Sectoral parties or organizations are no longer required to adduce evidence showing their track record, i.e. proof of activities that they have undertaken to further the cause of the sector they represent. It is enough that their principal advocacy pertains to the special interest and concerns of their sector. Otherwise stated, it is sufficient that the ideals represented by the sectoral organizations are geared towards the cause of the sector/s, which they represent. If at all, evidence showing a track record in representing the marginalized and underrepresented sectors is only required from nominees of sectoral parties or organizations that represent the marginalized and underrepresented who do not factually belong to the sector represented by their party or organization.

COCOFED-PHILIPPINE COCONUT PRODUCERS FEDERATION, INC. v. COMELEC, G.R. No. 207026 (August 6, 2013) EN BANC Under Section 6(5) of RA No. 7941, violation of or failure to comply with laws, rules or regulations relating to elections is a ground for the cancellation of registration. However, not every kind of violation automatically warrants the cancellation of a party-list group's registration. Since a reading of the entire Section 6 shows that all the grounds for cancellation actually pertain to the party itself, then the laws, rules and regulations violated to warrant cancellation under Section 6(5) must be one that is primarily imputable to the party itself and not one that is chiefly confined to an individual member or its nominee. A sectoral party's failure to submit a list of five nominees, despite ample opportunity to do so before the elections, is a violation imputable to the party under Section 6(5) of RA No. 7941.

ATONG PAGLAUM, INC. v. COMELEC, GR No. 203766 (April 2, 2013) EN BANC In determining who may participate in party-list elections, the COMELEC shall adhere to the following parameters:

- a. Three different groups may participate in the party-list system: (1) national parties or organizations, (2) regional parties or organizations, and (3) sectoral parties or organizations.
- b. National parties or organizations and regional parties or organizations do not need to organize along sectoral lines and do not need to represent any "marginalized and underrepresented" sector.
- c. Political parties can participate in party-list elections provided they register under the party-list system and do not field candidates in legislative district elections. A political party, whether major or not, that fields candidates in legislative district elections can participate in party-list elections only through its sectoral wing that can separately register under the party-list system. The sectoral wing is by itself an independent sectoral party, and is linked to a political party through a coalition.
- d. Sectoral parties or organizations may either be "marginalized and underrepresented" or lacking in "well-defined political constituencies." It is enough that their principal advocacy pertains to the special interest and concerns of their sector. The sectors that are "marginalized and underrepresented" include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, and overseas workers. The sectors that lack "well-defined political constituencies" include professionals, the elderly, women, and the youth.
- e. A majority of the members of sectoral parties or organizations that represent the "marginalized and underrepresented" must belong to the "marginalized and underrepresented" sector they represent. Similarly, a majority of the members of sectoral parties or organizations that lack "well-defined political constituencies" must belong to the sector they represent. The nominees of sectoral parties or

organizations that represent the "marginalized and underrepresented," or that represent those who lack "well-defined political constituencies," either must belong to their respective sectors, or must have a track record of advocacy for their respective sectors. The nominees of national and regional parties or organizations must be bona-fide members of such parties or organizations.

- f. National, regional, and sectoral parties or organizations shall not be disqualified if some of their nominees are disqualified, provided that they have at least one nominee who remains qualified.

MAGDALO PARA SA PAGBABAGO v. COMELEC, G.R. No. 190793 (June 19, 2012) EN BANC To join electoral contests, a party or organization must undergo the two-step process of registration and accreditation, as the Supreme Court explained in *Liberal Party v. COMELEC*: Registration is the act that bestows juridical personality for purposes of our election laws; accreditation, on the other hand, relates to the privileged participation that our election laws grant to qualified registered parties. Accreditation can only be granted to a registered political party, organization or coalition; stated otherwise, a registration must first take place before a request for accreditation can be made. Once registration has been carried out, accreditation is the next natural step to follow.

PHILIPPINE GUARDIANS BROTHERHOOD, INC v. COMELEC G.R. No. 190529 (March 22, 2011) EN BANC Section 6(8) of RA 7941 provides for two separate grounds for delisting; these grounds cannot be mixed or combined to support delisting; and the disqualification for failure to garner 2% party-list votes in two preceding elections should now be understood, in light of the *Banat* ruling, to mean failure to qualify for a party-list seat in two preceding elections for the constituency in which it has registered. The law provides for 2 separate reasons for the delisting of any national, regional or sectoral party organization or coalition. Section 6(8) of the Party-List system Act provides that the COMELEC may motu proprio or upon verified complaint of any interested party, remove or cancel, after due notice and hearing, the registration of any national, regional or sectoral party organization or coalition. The grounds are : (a) if it fails to participate in the last two (2) preceding elections; or (b) fails to obtain at least two per centum (2%) of the votes cast under the party list system in the two (2) preceding elections for the constituency in which it was registered. Failure of the COMELEC to include a party list as an accredited party list contrary to the orders of the Supreme Court thus resulting in the party list garnering zero votes constitutes contempt. The party list cannot be disqualified for non-participation or for failure to garner the votes required under Section 6(8) of R.A. No. 7941.

AMORES v. HRET, G.R. No. 189600 (June 29, 2010) EN BANC A party-list organization's ranking of its nominees is a mere indication of preference. The law also provides for their qualifications to be eligible to the said seat. Such requirements must be possessed not only at the time of appointment but during the officer's entire tenure. A nominee who changes his/her sectoral affiliation within the same party will only be eligible for nomination under the new sectoral affiliation if the change has been effected at least six months before the elections. Section 15 of R.A. No. 7941 provides the effect of a change in affiliation and it covers both changes in political parties and sectoral affiliation. Such change may occur in the latter within the same party because the Philippine Party-List system allows multi-sectoral party-list system to participate. A candidate who is more than 30 on election day is not qualified to be a youth sector nominee. The law provides a nominee of the youth sector must at least be twenty-five (25) but not more than thirty (30) years of age on the day of election. This age limit covers all youth sector nominees vying for party-list representative seats as mandated by R.A. 7941, the Party-List System Act.

LOKIN, JR. v. COMELEC, G.R. No. 179431-32 (June 22, 2010) EN BANC The new ground which granted to the party-list organization the unilateral right to withdraw its nomination already submitted to the COMELEC would not secure the object of R.A. No. 7941 of developing and guaranteeing a full, free and open party-list electoral system. The success of a party-list system could only be ensured by avoiding any arbitrariness on the part of the party-list organization, by seeing to the transparency of the system, and by guaranteeing that the

electorate would be afforded the chance of making intelligent and informed choices of their party-list representative.

PHILIPPINE GUARDIANS BROTHERHOOD, INC (PGBI) v. COMELEC, G.R. No. 190529 (April 29, 2010) EN BANC

The law provides for 2 separate reasons for the delisting of any national, regional or sectoral party organization or coalition. Section 6(8) of the Party-List system Act provides that the COMELEC may motu proprio or upon verified complaint of any interested party, remove or cancel, after due notice and hearing, the registration of any national, regional or sectoral party organization or coalition. The grounds are: (a) if it fails to participate in the last two (2) preceding elections; or (b) fails to obtain at least two per centum (2%) of the votes cast under the party list system in the two (2) preceding elections for the constituency in which it was registered.

ANG LADLAD LGBT PARTY v. COMELEC, G.R. No. 190582 (April 8, 2010) EN BANC

The party-list system is reserved only for those sectors marginalized and underrepresented in the past. The concept of the marginalized and underrepresented sectors under the party-list scheme has been carefully refined by concrete examples involving sectors deemed to be significant in our legal tradition. Marginalized sectors should be given a say in governance through the party-list system, not simply because they desire to say something constructive but because they deserve to be heard on account of their traditionally and historically decisive role in Philippine society. The only sectors expressly or closely related to those sectors mentioned in Section 5 of R.A. (RA) No. 7941 are qualified to participate in the party-list system. Until and unless Congress amends the law to include the LGBT and other sectors in the party-list system, deference to Congress' determination on the matter is proper. The party-list system was not designed as a tool to advocate tolerance and acceptance of any and all socially misunderstood sectors.

ABAYON v. HRET, G.R. No. 189466 (February 11, 2010) EN BANC

The HRET has the authority to interpret the meaning of this particular qualification of a nominee of a party-list representative. A nominee must be a bona fide member or a representative of his/her party-list organization. They must look in the context of the facts that characterize such nominees and the marginalized and underrepresented interests that they presumably embody. The authority to determine the qualifications and to examine the fitness of aspiring nominees belong to the party or organization that nominates them. However, once an allegation is made that the party or organization has chosen and allowed a disqualified nominee to become its party-list representative in the lower House and enjoy the secured tenure that goes with the position, the resolution of the dispute is taken out of its hand.

SENERES v. COMELEC G.R. No. 178678 (April 16, 2009) EN BANC

As long as the acts embraced under Sec. 79 of the Omnibus Election Code pertain to or are in connection with the nomination of a candidate by a party or organization, then such are treated as internal matters and cannot be considered as electioneering or partisan political activity. The twin acts of signing and filing a Certificate of Nomination are purely internal processes of the party or organization and are not designed to enable or ensure the victory of the candidate in the elections. The act of submitting a nomination list cannot be considered electioneering or partisan political activity within the context of the Election Code. Acts done under Section 79 of the OEC if done for the purpose of enhancing the chances of aspirants for nominations for candidacy to a public office by a political party, agreement, or coalition of parties is not considered as a prohibited electioneering or partisan election activity.

BANAT v. COMELEC, G.R. No 179271 (July 8, 2009) EN BANC

The three-seat cap provided prevents the mandatory allocation of all available seats. The filling up of all available party list seats thus is not mandatory and is subject to the number of participants in the party list election. The fixed 2% vote requirement is no long viable due to the increases in both party list allotment and the creation of additional legislative districts. The 2% vote requirement cannot be given effect as the 20% of party list seats in the membership of the House of Representatives as provided in the constitution would be mathematically impossible to fill up.

CITIZEN'S BATTLE AGAINST CORRUPTION v. COMELEC, G.R. No. 172103 (April 13, 2007) EN BANC In determining the number of additional seats for each party-list that has met the 2% threshold, "proportional representation" is the touchstone to ascertain entitlement to extra seats. In order to be entitled to one additional seat, an exact whole number is necessary. Rounding off may result in the awarding of a number of seats in excess of that provided by the law. Furthermore, obtaining absolute proportional representation is restricted by the three-seat-per-party limit to a maximum of two additional slots. The prevailing formula for the computation of additional seats for party-list winners is the formula stated in the landmark case of Veterans.

BANTAY REPUBLIC ACT 7941 v. COMELEC, G.R. No. 177271 (May 4, 2007) EN BANC The COMELEC's reasoning that a party-list election is not an election of personalities is valid to a point. It cannot be taken, however, to justify its assailed non-disclosure stance which comes, as it were, with a weighty presumption of invalidity, impinging, as it does, on a fundamental right to information. While the vote cast in a party-list election is a vote for a party, such vote, in the end, would be a vote for its nominees, who, in appropriate cases, would eventually sit in the House of Representatives.

PARTIDO NG MANGGAGAWA v. COMELEC, G.R. No. 164702 (March 15, 2006) EN BANC The giving of an additional seat to a party in 2003 was *pro hac vice* (for this one particular occasion).

PIMENTEL, JR. v. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, G.R. No. 141489 (November 29, 2002) EN BANC Under Sections 17 and 18 of Article VI of the 1987 Constitution and their internal rules, the HRET and the CA are bereft of any power to reconstitute themselves. The Constitution expressly grants to the House of Representatives the prerogative, within constitutionally defined limits, to choose from among its district and party-list representatives those who may occupy the seats allotted to the House in the HRET and the CA. However, even assuming that party-list representatives comprise a sufficient number and have agreed to designate common nominees to the HRET and the CA, their primary recourse clearly rests with the House of Representatives and not with the Supreme Court. Under Sections 17 and 18, Article VI of the Constitution, party-list representatives must first show to the House that they possess the required numerical strength to be entitled to seats in the HRET and the CA. Only if the House fails to comply with the directive of the Constitution on proportional representation of political parties in the HRET and the CA can the party-list representatives seek recourse to the Supreme Court under its power of judicial review. Under the doctrine of primary jurisdiction, prior recourse to the House is necessary before direct recourse to the Supreme Court

ANG BAGONG BAYANI-OFW LABOR PARTY v. COMELEC, G.R. No. 147589 (June 26, 2001) EN BANC The party-list system has been branded as "a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them. To be entitled to one qualifying seat, a party must obtain 2% of those ballots cast for qualified party-list candidates. Votes cast for a party which is not entitled to be voted for should not be counted. The votes they obtained shall be deducted from the canvass of the total votes for the party-list.

VETERANS FEDERATION PARTY v. COMELEC G. R. No. 136781 (October 6, 2000) EN BANC The number of party-list seats is determined using this formula: $\text{number of district representatives} / 0.80 \times 0.20$. No rounding off is allowed. Parties other than the first party (*i.e.*, the party that obtained the highest number of votes based on plurality) may be entitled to additional seats based on the following formula: $\text{number of votes of that party} / \text{number of votes of first party} \times \text{number of seats of first party}$.

SINACA v. MULA, G.R. No. 135691 (September 27, 1999) EN BANC There is also no irregularity in the act of a candidate in joining a political party. He may join such a party for whatever reason seems good to him/her, and may quit the party for any cause, good, bad, or indifferent, or without cause. The decision of a candidate on whether to run as an independent candidate or to join a political party, group or aggrupation is left entirely to

his/her discretion. The determination of disputes as to party nominations rests with the party, in the absence of statutes giving the court's jurisdiction. Where there is no controlling statute or clear legal right involved, the court will not assume jurisdiction to determine factional controversies within a political party, but will leave the matter for determination by the proper tribunals of the party itself or by the electors at the polls. An election in which the voters have fully, fairly, and honestly expressed their will is not invalid even though an improper method is followed in the nomination of candidates. In the absence of a statutory provision to the contrary, an election may not even be invalidated by the fact that the nomination of the successful candidate was brought about by fraud, and not in the manner prescribed by the statute, provided it appears that noncompliance with the law did not prevent a fair and free vote.

BANAT v. COMELEC G.R. No. 179271 (July 8, 2009) EN BANC The three-seat cap provided prevents the mandatory allocation of all available seats. The filling up of all available party list seats thus is not mandatory and is subject to the number of participants in the party list election. The fixed 2% vote requirement is no longer viable due to the increases in both party list allotment and the creation of additional legislative districts. The 2% vote requirement cannot be given effect as the 20% of party list seats in the membership of the House of Representatives as provided in the constitution would be mathematically impossible to fill up.

BANTAY R.A. 7941 v. COMELEC, G.R. No. 177271 (May 4, 2007) EN BANC Analysis of the non-disclosure stance of the COMELEC not to release the names of the nominees of sectoral parties, organizations, or coalitions accredited to participate in the party-list election is the right to information is self-executory. By weight of jurisprudence, any citizen can challenge any attempt to obstruct the exercise of his/her right to information and may seek its enforcement by mandamus. Like all constitutional guarantees, however, the right to information and its companion right of access to official records are not absolute. The people's right to know is limited to "matters of public concern" and is further subject to such limitation as may be provided by law. While the vote cast in a party-list elections is a vote for a party, such vote, in the end, would be a vote for its nominees, who, in appropriate cases, would eventually sit in the House of Representatives. The people have the right to elect their representatives on the basis of an informed judgment. The COMELEC's reasoning that a party-list election is not an election of personalities is valid to a point. However, this cannot justify the non-disclosure stance which amounts to impinging of the right to information.

CITIZEN'S BATTLE AGAINST CORRUPTION (CIBAC) v. COMELEC, G.R. No. 172103 (April 13, 2007) EN BANC In determining the number of additional seats for each party-list that has met the 2% threshold, "proportional representation" is the touchstone to ascertain entitlement to extra seats. In order to be entitled to one additional seat, an exact whole number is necessary. Rounding off may result in the awarding of a number of seats in excess of that provided by the law. Furthermore, obtaining absolute proportional representation is restricted by the three-seat-per-party limit to a maximum of two additional slots. The prevailing formula for the computation of additional seats for party-list winners is the formula stated in the landmark case of Veterans. The COMELEC should use and adhere to the said formula in computing the number of additional seats a party-list organization is entitled to have. The claimed Ang Bagong Bayani and Bayan Muna formula has not modified the Veterans formula. As a matter of fact, there was really no other formula approved by the Court other than the Veterans formula in fixing the number of additional seats for the other qualified party-list groups.

PIMENTEL, JR., v. HRET, G.R. No. 141489 (November 29, 2002) EN BANC Under Sections 17 and 18 of Article VI of the 1987 Constitution and their internal rules, the HRET and the CA are bereft of any power to reconstitute themselves. The Constitution expressly grants to the House of Representatives the prerogative, within constitutionally defined limits, to choose from among its district and party-list representatives those who may occupy the seats allotted to the House in the HRET and the CA. However, even assuming that party-list representatives comprise a sufficient number and have agreed to designate common nominees to the HRET and the CA, their primary recourse clearly rests with the House of Representatives and not with the Supreme Court. Under Sections 17 and 18, Article VI of the Constitution, party-list representatives must first show to the

House that they possess the required numerical strength to be entitled to seats in the HRET and the CA. Only if the House fails to comply with the directive of the Constitution on proportional representation of political parties in the HRET and the CA can the party-list representatives seek recourse to the Supreme Court under its power of judicial review. Under the doctrine of primary jurisdiction, prior recourse to the House is necessary before direct recourse to the Supreme Court.

ANG BAGONG BAYANI-OFW LABOR PARTY v. COMELEC, G.R. No. 147589 (June 26, 2001) EN BANC The party-list system has been branded as “a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them. To be entitled to one qualifying seat, a party must obtain 2% of those ballots cast for qualified party-list candidates. Votes cast for a party which is not entitled to be voted for should not be counted. The votes they obtained shall be deducted from the canvass of the total votes for the party-list.

PETITION TO DENY DUE COURSE

CERAFICA v. COMELEC, G.R. No. 205136 (December 2, 2014) EN BANC The cancellation of COC is a quasi-judicial process, and accordingly must be heard by COMELEC in Division and En Banc on appeal.

HAYUDINI v. COMELEC, G.R. No. 207900 (April 22, 2014) EN BANC Under Sec. 74 of the Omnibus Election Code, it is required that a candidate must certify under oath that he is eligible for the public office he seeks election. When a candidate states in his COC that he is a resident of the place where he is seeking to be elected, and is eligible for a public office, but it turned out that he was declared to be a non-resident thereof in a petition for his inclusion in the list of registered voters, he commits a false representation pertaining to a material fact in his COC, which is a ground for the cancellation of his COC under Section 78 of the Omnibus Election Code.

VILLAFUERTE v. COMELEC, G.R. No. 206698 (February 25, 2014) EN BANC A petition to deny due course and to cancel COC on the ground of a statement of a material representation that is false; to be material, such must refer to an eligibility or qualification for the elective office the candidate seeks to hold. The use of a nickname is not a qualification for a public office which affects his eligibility; the proper recourse is to file an election protest and pray that the votes be declared as stray votes.

JALOSJOS v. COMELEC, G.R. No. 205033 (June 18, 2013) EN BANC When the ground for the denial in due course or cancellation of a COC is based on a final judgment, it falls within the administrative functions of COMELEC, and there is no denial of due process when the COMELEC *En Banc* issues a resolution *motu proprio* denying due course to, or cancelling a COC.

FERMIN v. COMELEC, G.R. No. 179695 and G.R. No. 182369 (December 18, 2008) EN BANC The denial of due course to or the cancellation of a Certificate of candidacy is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false. Such misrepresentation may refer to the qualifications required of the public office s/he is running for. If there is a subsequent material representation made by a candidate, the COMELEC may deny due course or cancel the certificate.

QUIZON v. COMELEC, G.R. No. 177927 (February 15, 2008) EN BANC The fifteen (15) day period given to resolve a petition to deny due course or cancel a certificate of candidacy is merely directory. As provided for by Section 78 of the OEC, a petition to deny due course or cancel a certificate of candidacy should be resolved, after due notice and hearing, not later than fifteen days before the election. However, if no final judgment is rendered for such petition and the candidate won said elections, the court or the COMELEC shall continue with

the trial and hearing and may also suspend the proclamation of the candidate whenever the evidence of guilt is strong.

LUNA v. COMELEC, G.R. No. 165983 (April 24, 2007) EN BANC A petition to deny due course to or cancel a certificate of candidacy shall be heard summarily after due notice. Candidates must be notified of the petition against them and should be given the opportunity to present evidence on their behalf. The notice of the petition sent by COMELEC and the opportunity given to the candidate to present evidence constitutes compliance with the requirements of due process.

PLEBISCITE

CAGAS v. COMELEC, GR No. 209185 (October 25, 2013) EN BANC The determination of the feasibility of holding a plebiscite on a given date is within the competence and discretion of the COMELEC.

NAVARRO v. ERMITA, G.R. No. 180050 (February 10, 2010) EN BANC Allegations of fraud and irregularities during the conduct of a plebiscite are factual in nature. Hence, they cannot be the subject of this special civil action for certiorari under Rule 65 of the Rules of Court. Such remedy designed only for the correction of errors of jurisdiction, including grave abuse of discretion amounting to lack or excess of jurisdiction. A proper action should be filed with COMELEC.

ALDABA v. COMELEC, G.R. No. 188078 (January 25, 2010) EN BANC The creation of a separate district does not amount to a conversion and does not require the conduct of a plebiscite. This is in accordance with the ruling in Bagabuyo v. COMELEC, 573 SCRA 290 (2008) which held that, the holding of a plebiscite is not a requirement in legislative apportionment or reapportionment. A plebiscite is necessary only in the creation, division, merger, abolition or alteration of boundaries of local government units.

PADILLA, JR. v. COMELEC, G.R. No. 103328 (October 19, 1992) EN BANC According to the law, a plebiscite should include all the residents of the political units who will be economically dislocated by the separation of a portion.

POLITICAL AD-BAN

EJERCITO v. COMELEC, G.R. No. 212398 (November 25, 2014) EN BANC COMELEC may properly take and act on the advertising contracts without further proof since the contracts are ought to be known by COMELEC because of its statutory function as the legal custodian of all advertising contracts promoting or opposing any candidate during the campaign period.

GMA NETWORK, INC. v. COMELEC, G.R. No. 205357 (September 2, 2014) EN BANC The Fair Election Act does not justify a conclusion that the maximum allowable airtime should be based on the totality of possible broadcast in all television or radio stations, and the COMELEC has no authority to provide for rules beyond what was contemplated by the law it is supposed to implement. When it comes to election and the exercise of freedom of speech, of expression and of the press, the latter must be properly viewed in context as being necessarily made to accommodate the imperatives of fairness by giving teeth and substance to the right to reply requirement. Broadcast companies have standing to question a COMELEC Resolution on airtime limits in view of the direct inquiry they may suffer relative to their ability to carry out their tasks of disseminating information because of the burdens imposed on them. Broadcast companies have standing to assert the constitutional freedom of speech and of the right to information of the public in addition to their own freedom of the press. Section 9 (a) of COMELEC Resolution No. 9615, with its adoption of the "aggregate-based" airtime

limits unreasonably restricts the guaranteed freedom of speech and of the press. The reporting requirement for broadcast companies in COMELEC Resolution No. 9615 does not constitute prior restraint; it is a reasonable means adopted by the COMELEC to ensure that parties and candidates are afforded equal opportunities to promote their respective candidacies. There is no restriction on dissemination of information before broadcast. COMELEC Resolution No. 9615 adopting the aggregate-based airtime limit required prior hearing before adoption since it introduced a radical change in the manner in which the rules on airtime for political advertisements are to be reckoned.

OSMEÑA v. COMELEC, G.R. No. 132231 (March 31, 1998) EN BANC There is no total prohibition on the use of media for campaign purposes. The term political “ad-ban” used in describing the assailed Section 11(b) of RA 6676 is misleading since there is no suppression of political ads but only a regulation of the time and manner of advertising. The law allocates the allowable airtime in television and radio advertisements, and the space in print campaign materials. What is involved here is simply regulation of this nature. Instead of leaving candidates to advertise freely in the mass media, the law provides for allocation, by the COMELEC, of print space and air time to give all candidates equal time and space for the purpose of ensuring “free, orderly, honest, peaceful, and credible elections.” There is no total ban on political ads, much less restriction on the content of the speech. A long line of the Courts’ decision boils down to a conclusion that the State can prohibit campaigning outside a certain period as well as campaigning within a certain place. An unlimited expenditure for political advertising in the mass media skews the political process and subverts democratic self-government. What is bad is if the law prohibits campaigning by certain candidates because of the views expressed in the ad. Content regulation cannot be done in the absence of any compelling reason. The notion that the government may restrict the speech of some in order to enhance the relative voice of others may be foreign to the American Constitution. It is not to the Philippine Constitution, being in fact an animating principle of that document. The Constitution espouses political equality, and this can be achieved by the allocation of “COMELEC time” and “COMELEC space” equally among candidates. An action coured through the judiciary is not the proper remedy. Well-settled is the rule that the choice of remedies for an admitted social malady requiring government action belongs to the Congress.

NATIONAL PRESS CLUB v. COMELEC, G.R. No. 102653 (March 5, 1992) EN BANC By virtue of the operation of Article IX (C) (4) of the Constitution, Section 11 (b) is limited in its applicability in time to election periods. By its Resolution No. 2328 dated 2 January 1992, the COMELEC, acting under another specific grant of authority by the Constitution (Article IX [C] [9]), has defined the period from 12 January 1992 until 10 June 1992 as the relevant election period. It neither constitutes proscribed abridgment of the freedom of expression nor prohibits free speech; it merely provides the rules as to the manner, time and place for its exercise during a very limited period. It does not amount to a total prohibition or ban of political advertisement but merely provides regulation as to the allocation of air time and newsprint space. While it prohibits the donation of air time and ad space except to the COMELEC, it should be read with Sections 90 and 92 which mandates the COMELEC to encourage the use of “COMELEC Space” and “COMELEC Time” by the candidates. Obviously then, the airing and printing of a candidate’s political advertisements can still be done — and is even encouraged to be done — during the “COMELEC time” and within the “COMELEC space.” It is fundamental that these freedoms of the press, speech and expression are not immune to regulation by the State in the legitimate exercise of its police power. Police power rests upon public necessity and upon the right of the State and of the public to self-protection. Congress passed, R.A. No. 6646, otherwise known as the Electoral Reforms Law of 1987, introducing additional reforms to the electoral system which, inter alia, not only seeks to enhance the purity of the electoral process, but also aspires to ensure even just an approximation of equality among all candidates in their use of media for propaganda purposes. In short, Section 11 of the law in question has been enacted for a legitimate public purpose and the means it employs to achieve such purpose are reasonable and even timely.

POLITICAL PARTIES

ALCANTARA v. COMELEC, G.R. No. 203646 (April 16, 2013) EN BANC COMELEC has jurisdiction to resolve the issue of leadership of a political party.

DAMASEN v. TUMAMAO, G.R. No. 173165 (February 17, 2010) THIRD DIVISION The discretion of accepting members to a political party is a right and a privilege which the Supreme Court cannot meddle in. Aside from the procurement of membership from the provincial chairperson, the additional requirement of endorsement by a National Council for approval cannot be questioned by the court. Being a purely internal matter, the Court cannot impose its own view on the said matters of the political party. The reason behind the right given to a political party to nominate a replacement where a permanent vacancy occurs in the Sanggunian is to maintain the party presentation as willed by the people in the election. If a permanent vacancy occurring in the Sanggunian is caused by the elevation of a party member to Vice Mayor, it follows that the person to succeed him/her belong to the same political party to preserve party representation. An appointee succeeding the position of the Sanggunian member who caused the vacancy must be a bona fide member of the political party. The Court cannot countenance a person's insistence in clinging to an appointment when he is in fact not a bona fide member of the political party that nominated him/her. Without such membership, he may not occupy and exercise the functions of the vacant Sanggunian office for it is the very first requirement under Section 45 (b) of the LGC.

ATIENZA v. COMELEC, G.R. No. 188920 (February 16, 2010) EN BANC The validity or invalidity of the expulsion of a political party's officers is purely a membership issue that has to be settled within the party. It is an internal party matter over which the COMELEC has no jurisdiction. It may intervene in disputes internal to a party only when necessary to the discharge of its constitutional functions, such as resolving an intra party leadership dispute as an incident of its power to register political parties.

AKLAT-ASOSASYON PARA SA KAUNLARAN NG LIPUNAN AT ADHIKAIN PARA SA TAO, INC. v. COMELEC G.R. No. 162203 (April 14, 2004) EN BANC Only political parties and organizations that "actually and truly represent the marginalized and underrepresented constituencies" can participate under the party-list system. At least a majority of its membership should belong to the marginalized. The party must not be an adjunct of, or a project organized or an entity funded or assisted by the government. Concurrently, the persons nominated by the party-list candidate-organization must be Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties. In addition, the nominee must be able to contribute to the formulation of appropriate legislation that will benefit the whole nation. General averments that an organization represents the marginalized sectors must be substantiated and shown through its constitution, history, platform and track record. It must demonstrate that in case of conflict of interests, it is likely to choose the interest of the sectors.

POPULATION PROJECTION

AQUINO III v. COMELEC, G.R. No. 189793 (April 7, 2010) EN BANC There is no specific provision in the Constitution that fixes a 250,00 minimum population that must compose a legislative district. While Section 5(3), Article VI of the Constitution requires a city to have a minimum population of 250,000 to be entitled to a representative, it does have to increase its population by another 250,000 to be entitled to an additional district.

ALDABA v. COMELEC, G.R. No. 188078 (January 25, 2010) EN BANC Certifications on demographic projection can be issued only if such projections are declared official by the National Statistic Coordination Board (NSCD). Any population projection forming the basis for the creation of a legislative district must be based on an official and credible source. That is why the Office of the Solicitor General (OSG) cited Executive Order no. 135, (The

Guidelines on the Issuance of Certification of Population Sizes); otherwise the population projection would be unreliable or speculative.

PRE-PROCLAMATION CONTROVERSIES

SAÑO v. COMELEC, G.R. No. 182221 (February 3, 2010) EN BANC A pre-proclamation controversy, as defined in BP Blg. 881, otherwise known as the OEC of the Philippines, is: Any question pertaining to or affecting the proceeding of the BOC which may be raised by any candidate or by any registered political party or coalition of political parties before the board or directly with COMELEC, or any matter raised under Sections 233, 234, 235 and 236 in relation to the preparation, transmission, receipt, custody and appearance of the election returns. A pre-proclamation controversy is summary in character. It is the policy of the law that pre-proclamation controversies be promptly decided, so as not to delay canvass and proclamation. The BOC will not look into allegations of irregularity that are not apparent on the face of ERs that appear otherwise authentic and duly accomplished. Section 20 of R.A. No. 7166 lays down the procedure to be followed when election returns are contested before the BOC. Compliance with this procedure is mandatory to permit the BOC to resolve the objections as quickly as possible.

ABAYON v. COMELEC G.R. No. 181295 (April 2, 2009) EN BANC Mere filing of a petition denominated as a pre-proclamation case or one seeking the annulment of a proclamation will not suspend the ten-day period for filing an election protest. It is required that the issues raised in such a petition be restricted to those that may be properly included therein. The enumeration of section 243 of the OEC is restrictive and exclusive.

PIMENTEL III v. COMELEC, G.R. No. 178413 (March 13, 2008) EN BANC Pre-proclamation controversies refer to matters relating to the preparation, transmission, receipt, custody and appearance of election returns and certificates of canvass. In the elections for President, Vice-President, Senators and Members of the House of Representatives, pre-proclamation cases on matters relating to the preparation, transmission, receipt, custody and appreciation of election returns or certificates of canvass are still prohibited. However, the following are recognized exceptions, namely : (1) correction of manifest errors; (2) questions affecting the composition or proceedings of the BOC; and (3) determination of the authenticity and due execution of certificates of canvass as provided in Section 30 of R.A. No. 7166, as amended by R.A. No. 9369.

PATALINGHUG v. COMELEC, G.R. No. 178767 (January 30, 2008) EN BANC The COMELEC's determination of the merits of a pre-proclamation case involves its exercise of adjudicatory powers. It examines and weighs the parties' pieces of evidence vis-à-vis their respective arguments, and considers whether, on the basis of the evidence that the case has merits. However, it is deemed a quasi-judicial if a power rests in judgment or discretion and it is of judicial nature or character, but does not involve that exercise of the functions of a judge or is conferred upon an officer other than a judicial officer.

CAMBE v. COMELEC, G.R. No. 178456 (January 30, 2008) EN BANC COMELEC En Banc does not have jurisdiction in the first instance, whether original or appellate, over election cases, pre-proclamation controversies, and incidents thereof. When such disputes are filed before or elevated to COMELEC, they should be heard and adjudicated first at the division level. This is in accordance with Section 3, Article IX-C of the Constitution which provides that election cases, including pre-proclamation controversies, should be heard and decided first at the division level.

TAMAYO-REYES v. COMELEC, G.R. No. 175121 (June 8, 2007) EN BANC A pre-proclamation controversy is limited to an examination of the election returns on their face. As a general rule, COMELEC need not go beyond the face of the returns and is without jurisdiction to go beyond or behind them and investigate the alleged

election irregularities. A petition for correction of manifest errors and nullification of proclamation is classified as a pre-proclamation controversy.

ARBONIDA v. COMELEC, G.R. No. 167137 (March 14, 2007) EN BANC The petition filed contained allegations of dagdad-bawas which is a pre-proclamation controversy and not that of an election protest. A pre-proclamation controversy refers to any question pertaining to or affecting the proceedings of the BOC. Although the petition alleged fraud, the remedy sought was merely for correction of erroneous entries in the statements of votes which were based on the election returns. If a candidate's proclamation is based on a statement of votes which contains erroneous entries, it is a nullity. Where a proclamation is null and void, it is no proclamation at all. The proclaimed candidate's assumption of office cannot deprive the COMELEC of the power to annul the proclamation. The COMELEC correctly assumed jurisdiction over the petition for the correction of entries and to declare the nullity of proclamation. Pre-proclamation controversies must first be heard and decided by a division of the COMELEC. This is a consistent ruling by the court that is mandatory and jurisdictional.

JAINAL v. COMELEC, G.R. No. 174551 (March 7, 2007) EN BANC The Municipal BOC is required to summon the members of the BEI to complete the election returns and/or correct the same should it appear that some requisites in form or data are omitted in the election returns. Where a candidate did what was required by him/her by Section 20 of R.A. No. 7166 as far as the circumstances would allow, it was then incumbent on the Municipal BOC to immediately make a categorical ruling on the said objections, even without the benefit of additional evidence where the basic evidence consists of the questioned election returns themselves, as they clearly depict on their face that stark absence of printed names and signatures of the members of the BEI. The filing of an election protests or a petition for quo warranto precludes the subsequent filing of a pre-proclamation controversy or amounts to the abandonment of one earlier filed. A candidate's participation in an election protest would render his/her pre-proclamation case deemed abandoned. However, in cases wherein there is a dismissal of an Election Protest case could not cast an adverse or prejudicial effect on a pending pre-proclamation controversy.

MARABUR v. COMELEC, G.R. No. 169513 February 26, 2007) EN BANC Issues relating to the qualifications of candidates are not proper in pre-proclamation controversies. A pre-proclamation controversy refers to any question affecting the proceedings of the BOC or those in relation to the preparation, transmission, receipt, custody and appreciation of the returns. Thus, a separate petition for disqualification must be filed.

CERBO, JR. v. COMELEC, G.R. No. 168411 (February 15, 2007) EN BANC The general rule is that the filing of an election protest or a petition for quo warranto precludes the subsequent filing of a pre-proclamation controversy. The filing of an election protest is tantamount to the abandonment of the petition for Correction of Manifest Errors he earlier filed. Upon the acquisition of a competent tribunal of the jurisdiction over election protests and petition for quo warranto, all the questions relative thereto will have to be decided in the case itself to prevent confusion and conflict of authority. Filing of a protest ex abundante ad cautelam is not considered an abandonment of a petition of manifest errors. However, failure to indicate in the caption that the petition filed was ex abundante cautela made it equivalent to an election protest. Therefore, the filing of such was tantamount to an abandonment of a petition for the correction of manifest errors.

VILLAMOR v. COMELEC, G.R. No. 169865 (July 21, 2006) EN BANC The ground of illegal composition of the BOC filed against the proclamation of a candidate may be properly raised in a pre-proclamation controversy. As provided for by Section 5 of Rule 27 of COMELEC Rules and Procedure, a petition involving an illegal composition of the BOC must be filed immediately when the board begins to act as such, or at the time of the appointment of the member whose capacity to sit as such is objected to if it comes after the canvassing of the board, or immediately at the point where the proceedings are or begin to be illegal.

SINSUAT v. COMELEC, G.R. No. 169106 (June 23, 2006) EN BANC Issues relative to the appreciation of ballots cannot be raised in a pre-proclamation controversy. Appreciation of ballots is the task of the BEI, not the BOC, and questions related thereto are proper only in election protests.

ESPIDOL v. COMELEC, G.R. No. 164922 (October 11, 2005) EN BANC Under Section 20 of R.A. No. 7166, the BOC is mandated to grant an objecting party 24 hours from the time of the presentation of the oral objection to submit its evidence. Thereafter, the other party is also given 24 hours to submit its opposition. If no opposition has been filed, the board shall rule on the objections and enter its ruling in the prescribed form and authenticate the same with the signatures of the members of the board. The COMELEC is with authority to annul any canvass and proclamation illegally made. The fact that a candidate illegally proclaimed has assumed office is not a bar to the exercise of such power. It is also true that as a general rule, the proper remedy after the proclamation of the winning candidate for the position contested would be to file a regular election protest or quo warranto. This rule, however, admits of exceptions and one of those is where the proclamation was null and void. In such a case, i.e., where the proclamation is null and void, the proclaimed candidate's assumption of office cannot deprive the COMELEC of the power to declare such proclamation a nullity. A pre-proclamation controversy is defined as referring "to any question pertaining to or affecting the proceedings of the BOC which may be raised by any candidate or by any registered political party or coalition of political parties before the board or directly with the Commission, or any matter raised under Sections 233, 234, 235 and 236 in relation to the preparation, transmission, receipt, custody and appreciation of the election returns."

LUCMAN v. COMELEC, G.R. No. 166229 (June 29, 2005) EN BANC The dismissal of a pre-proclamation case improperly filed before the COMELEC is without prejudice to the filing of a regular election protest before the proper tribunal, the period for the filing of which is deemed suspended by the filing of the aforementioned case. Pre-proclamation controversies are limited to challenges directed against the BOC and proceedings before said Board relating to particular election returns to which candidates should have made specific verbal objections subsequently reduced to writing. A pre-proclamation controversy does not delve into the conduct of the elections. As a rule, the COMELEC is limited to an examination of the election returns on their face. It is beyond the COMELEC's jurisdiction to go beyond the face of the returns or investigate election irregularities. The proceedings in a pre-proclamation controversy are summary in nature. Reception of evidence *aliunde*, such as the List of Voters with Voting Record is proscribed. Issues such as fraud or terrorism attendant to the election process, the resolution of which would compel or necessitate the COMELEC to pierce the veil of election returns which appear to be *prima facie* regular, on their face, are anathema to a pre-proclamation controversy. Such issues should be posed and resolved in a regular election protest. In a regular election protest, the parties may litigate all the legal and factual issues raised by them inasmuch detail as they may deem necessary or appropriate. Issues such as fraud or terrorism attendant to the election process, the resolution of which would compel or necessitate the COMELEC to pierce the veil of election returns which appear to be *prima facie* regular, on their face, are proper for election protests, not pre-proclamation cases. Proceedings in a pre-proclamation controversy are summary in nature. Reception of evidence *aliunde*, such as the List of Voters with Voting Record is proscribed.

BARBERS v. COMELEC, G.R. No. 165691 (June 15, 2005) EN BANC Since the election returns not included in the national canvass as well as the results of the special elections to be held would not materially affect the results of the elections, it is immaterial whether the COMELEC used provincial certificates of canvass or municipal certificates of canvass in the subsequent canvass.

BADDIRI v. COMELEC, G.R. No. 165677 (June 8, 2005) EN BANC The factual finding of the COMELEC, which is supported by substantial evidence, is binding on the Court. The BOC may correct manifest errors committed under the circumstances enumerated in the law before proclamation of the winning candidate.

AGGABAO v. COMELEC, G.R. No. 163756 (January 26, 2005) EN BANC The HRET has sole and exclusive jurisdiction over all contests relative to the election, returns, and qualifications of members of the House of Representatives. The allegation that a proclamation is null and void ab initio does not divest the HRET of its jurisdiction. Thus, once a winning candidate has been proclaimed, taken his/her oath, and assumed office as a Member of the House of Representatives, COMELEC's jurisdiction over election contests relating to his/her election, returns, and qualifications ends, and the HRET's own jurisdiction begins.

SALIC v. COMELEC, G.R. No. 157019 (March 17, 2004) EN BANC To determine the winning candidate, it is necessary to canvass the returns in all the precincts. The use of the election return inside the ballot box or a recount, the procedure laid down in Section 235 of the OEC, may also apply to returns whose pages bear dissimilar numbers since such returns also appear to be unauthentic.

BANDALA v. COMELEC G.R. No. 159369 (March 3, 2004) EN BANC The lack of inner paper seals in the election returns does not justify their exclusion from the canvassing.

TAN v. COMELEC, G.R. No. 148575-76 (December 10, 2003) EN BANC The filing of pre-proclamation controversies under Section 248 of the OEC, however, is not the only ground for the suspension of proclamation. Two other instances are provided in R.A. No. 6646, known as "The Electoral Reforms Law of 1987," viz.: (1) Under Section 6 of the statute, the COMELEC may, upon motion of the complainant in an action for disqualification, suspend the proclamation of the winning candidate if the evidence of his/her guilt is strong, and (2) under Section 7 thereof, the COMELEC may likewise suspend the proclamation of the winning candidate if there is ground for denying or canceling his/her certificate of candidacy.

DAGLOC v. COMELEC, G.R. No. 154442-47 (December 10, 2003) EN BANC Outright exclusion of election returns on the ground that they were fraudulently prepared by some members or non-members of the BEI disenfranchises the voters. Hence, when election returns are found to be spurious or falsified, Section 235 of the OEC provides the procedure which enables the COMELEC to ascertain the will of the electorate. Nevertheless, if the integrity of the ballots has been violated, the COMELEC need not recount the ballots but should seal the ballot box and order its safekeeping in accordance with Section 237 of the OEC. COMELEC, after ascertaining the integrity of the ballot box and of the ballots, can order a recount if the integrity of the ballots is intact. After which, new election returns should be prepared.

SARANGANI v. COMELEC, G.R. No. 155560-62 (November 11, 2003) EN BANC Erasures that are actually mere corrections to reflect the actual number of votes garnered do not justify exclusion of the certificate of canvass.

MUNICIPAL BOC OF GLAN v. COMELEC and BENZONAN, G.R. No. 150946 (October 23, 2003) EN BANC The Court has upheld this constitutional mandate and consistently ruled that the COMELEC sitting En Banc does not have the requisite authority to hear and decide election cases in the first instance. This power pertains to the divisions of COMELEC and any decision by COMELEC En Banc as regards election cases decided by it in the first instance is null and void for lack of jurisdiction. It is important to clarify, however, that not all cases relating to election laws filed before the COMELEC are required to be first heard by a division. Under the Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC En Banc can act directly on matters falling within its administrative powers. It is only when the exercise of quasi-judicial powers are involved that the COMELEC is mandated to decide cases first in division, and then, upon motion for reconsideration, En Banc. It is clear that SPC No. 01-032 is one that involves a pre-proclamation controversy that requires the exercise of the COMELEC's quasi-judicial powers, as the illegality of the composition and proceedings of the MBC, including the falsification of election returns and certificate of canvass, were alleged to be in issue.

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC It is now settled doctrine that the COMELEC cannot proclaim as winner the candidate who obtains the second highest number of votes in case the winning candidate is ineligible or disqualified. The belief that he was qualified. There is no presumption that the electorate agreed to the invalidation of their votes as stray votes in case of Bautista's disqualification.

JARAMILLA v. COMELEC, G.R. No. 155717 (October 23, 2003) EN BANC Election cases including pre-proclamation controversies should first be heard and decided by a division of the COMELEC, and then by COMELEC En Banc if a motion for reconsideration of the division is filed. It must be noted however that this provision applies only in cases where the COMELEC exercises its adjudicatory or quasi-judicial powers, and not when it merely exercises purely administrative functions. Accordingly, when the case demands only the exercise by the COMELEC of its administrative functions, such as the correction of a manifest mistake in the addition of votes or an erroneous tabulation in the statement of votes, the COMELEC En Banc can directly act on it in the exercise of its constitutional function to decide questions affecting elections. In this case, the Petition for Correction of Manifest Errors in the case at bar alleges an erroneous copying of figures from the election return to the Statement of Votes by Precinct. Such an error in the tabulation of the results, which merely requires a clerical correction without the necessity of opening ballot boxes or examining ballots, demands only the exercise of the administrative power of the COMELEC. Hence, COMELEC En Banc properly assumed original jurisdiction over the aforesaid petition.

LEE v. COMELEC, G.R. No. 157004 (July 4, 2003) EN BANC The rule that the COMELEC cannot go behind the face of an election return admits of an exception. When there is prima facie showing that the election return is not genuine, as when several entries have been omitted, the rule does not apply.

BAROT v. COMELEC CITY BOC OF TANJAY CITY, G.R. No. 149147, (June 18, 2003) EN BANC COMELEC, in the interest of justice, may suspend the rule on 5-day period to file a petition to correct manifest errors. Since COMELEC may motu proprio correct manifest errors, a BOC can file a petition for correction before COMELEC.

NAVARRO v. COMELEC, G.R. No. 150799 (February 3, 2003) EN BANC Non-compliance by a BOC of the prescribed canvassing procedure is not an "illegal proceeding" under paragraph (a) of Section 243 of the OEC, given the summary nature of a pre-proclamation controversy, consistent with the law's desire that the canvass and proclamation be delayed as little as possible. The enumeration of pre-proclamation grounds under Section 243 of the OEC is exclusive. A pre-proclamation controversy is limited to an examination of the election returns on their face and the COMELEC as a general rule need not go beyond the face of the returns and investigate the alleged election irregularities. The absence of the required number of padlocks on ballot boxes containing the election returns prior to actual canvassing is not a ground for exclusion of election returns.

ALAUYA, JR. v. COMELEC, G.R. No. 152151-52 (January 22, 2003) EN BANC An action for declaration of failure of election cannot be confused with a pre-proclamation controversy, thus: While, however, the COMELEC, is restricted in pre-proclamation cases, to an examination of the election returns on their face and is without jurisdiction to go beyond or behind them and investigate election irregularities, the COMELEC is duty bound to investigate allegations of fraud, terrorism, violence and other analogous causes in actions for annulment of election results or for declaration of failure of elections, as the OEC denominates the same. The Supreme Court has emphasized that public policy frowns on attempts to "grab-the-proclamation and prolong-the protest." However, this policy has to be balanced against the clear and present dangers created by a lengthy period of non-proclamation of winners, a period commonly fraught with tension and danger for the public at large.

MACABAGO v. COMELEC, G.R. No. 152163 (November 18, 2002) EN BANC In pre-proclamation proceedings, the COMELEC is not to look beyond or behind election returns which are on their face regular and authentic returns. Issues such as fraud or terrorism attendant to the election process, the resolution of which would compel or necessitate the COMELEC to pierce the veil of election returns which appear to be prima facie

regular, on their face, are anathema to a pre-proclamation controversy. Such issues should be posed and resolved in a regular election protest.

O'HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC A petition to correct entries in the certificates of canvass on the ground of manifest errors must be predicated on errors that appear on the face of the certificate of canvass sought to be corrected. The precincts must be identified.

DUMAYAS, JR. v. COMELEC, G.R. No. 141952-53 (April 20, 2001) EN BANC As a general rule, the filing of an election protest or a petition for quo warranto precludes the subsequent filing of a pre-proclamation controversy or amounts to the abandonment of one earlier filed, thus depriving the COMELEC of the authority to inquire into and pass upon the title of the protestee or the validity of his/her proclamation. Nevertheless, the general rule admits of certain exceptions, as where: (a) the BOC was improperly constituted; (b) quo warranto was not the proper remedy; (c) what was filed was not really a petition for quo warranto or an election protest but a petition to annul a proclamation; (d) the filing of a quo warranto petition or an election protest was expressly made without prejudice to the pre-proclamation controversy or was made ad cautelam; and (e) the proclamation was null and void. A case incorrectly denominated as a petition for *quo warranto* when in fact it questions the legality and prematurity of the proclamation is in effect an action to annul a proclamation and the same does not constitute abandonment of a pre-proclamation case earlier filed.

BELAC v. COMELEC, G.R. No. 145802 (April 4, 2001) EN BANC In a pre-proclamation case, COMELEC cannot go beyond the face of the election returns. It is not to look beyond or behind election returns which are on their face regular and authentic.

ANGELIA v. COMELEC, G.R. No. 135468 (May 31, 2000) EN BANC There is manifest error when on the face of an election return, a candidate was credited with more (or less) than what is showed in the tally.

BARROSO v. AMPIG, JR., G.R. No. 138218 (March 17, 2000) FIRST DIVISION When there is a false certification but there is no actual forum shopping, the election protest should not be dismissed.

VELAYO v. COMELEC, G.R. No. 135613 (March 9, 2000) EN BANC While it is true that pre-proclamation proceedings are summary in nature, it cannot be resolved ex parte. In a summary proceeding such as in a pre-proclamation case seeking the annulment of a winning candidates proclamation, such pronouncement must be made on the basis of the official records and evidence adduced by the parties before the BOC. Such records contain the contested election returns, the objections of the aggrieved party, the opposition of the prevailing party, the evidence of the parties, and the rulings of the BOC. The doctrine of statistical improbability must be viewed restrictively so as not to disenfranchise innocent voters. Moreover, since the application of the doctrine involves a question of fact, all the more that an ex parte determination should be prohibited.

SEBASTIAN v. COMELEC, G.R. No. 139573-75 (March 7, 2000) EN BANC If parties wish to raise issues which would require the COMELEC to "pierce the veil" of election returns that appear prima facie regular, the proper remedy is a regular election protest, wherein they may litigate all the legal and factual issues raised by them in as much detail as they may deem necessary or appropriate. Allegations of "harassments of petitioners' supporters," "midnight convoys of armed men riding in motorcycles," and "raids by the military in different houses" which affected the preparation of the returns cannot be passed upon in a pre-proclamation case. Moreover, duress is not a ground for excluding an election return.

OCAMPO v. COMELEC, G.R. No. 136282 (February 15, 2000) EN BANC The mere fact that a candidate has received zero votes, or when only one candidate obtained all the votes in some precincts, is not enough to make the returns statistically improbable. As long as the election returns, on their face, appear regular and wanting of any physical signs of tampering, alteration, or other similar vice, they cannot be unjustifiably

excluded. To look beyond or behind these returns is not a proper issue in a pre-proclamation controversy as in the case at bar.

SANDOVAL v. COMELEC, G.R. No. 133842 (January 26, 2000) EN BANC A petition for correction of manifest errors involving the election of members of the House of Representatives may be filed, for the simple reason that the correction of manifest error will not prolong the process of canvassing nor delay the proclamation of the winner in the election.

DAGLOC v. COMELEC, G.R. No. 138969 (December 17, 1999) EN BANC The purpose for allowing pre-proclamation controversies is to put a stop to the pernicious practice of unscrupulous candidates of “grabbing the proclamation and prolonging the protest.” Accordingly, grounds which are proper for electoral protests should not be allowed to delay the proclamation of the winners.

TRINIDAD v. COMELEC, G.R. No. 134657 (December 15, 1999) EN BANC A pre-proclamation controversy praying for the correction of manifest errors must be filed not later than five (5) days following the date of proclamation while an election protest must be filed within ten (10) days after the proclamation of the results of the election. An answer with counter-petition for correction of manifest errors is allowed.

SIQUIAN v. COMELEC, G.R. No. 135627 (December 9, 1999) EN BANC An objection to an election return cannot be made after the same has been canvassed. Once a proclamation has been made, a pre-proclamation case should be dismissed.

CHU v. COMELEC, G.R. No. 135423 (November 29, 1999) EN BANC In the absence of any indication of patent irregularity or “palpable errors and/or material defects [which] are clearly discernible on the faces of the returns,” the BOC should include such returns in the canvass. Moreover, intimidation is not a ground for excluding an election return.

OLONDRIZ, JR. v. COMELEC, G.R. No. 135084 (August 25, 1999) EN BANC The existence of discrepancies in the votes written in words and votes written in figures warrant a physical recount of the votes cast for mayor in order to ascertain the true result of the elections. The electorate deserves to know who the true winner is. Public interest and the sovereign will of the people expressed in their ballots must, at all times, be the paramount consideration in an election controversy.

LONZANIDA v. COMELEC, G. R. No 135150 (July 28, 1999) EN BANC The proclamation or the assumption of office of a candidate against whom a petition for disqualification is pending before the COMELEC does not divest the COMELEC of jurisdiction to continue hearing the case and to resolve it on the merits. The clear legislative intent is that the COMELEC should continue the trial and hearing of the disqualification case to its conclusion i.e., until judgment is rendered.

CORDERO v. COMELEC, G.R. No. 134826 (July 6, 1999) EN BANC Any objection must be reduced in writing and evidence must be presented within 24 hours, otherwise the objection will be summarily dismissed.

SISON v. COMELEC, G.R. No. 134096 (March 3, 1999) EN BANC The scope of pre-proclamation controversy is only limited to the issues enumerated under Section 243 of the OEC, and the enumeration therein is restrictive and exclusive.

BAUTISTA v. COMELEC, G.R. No. 133840 (November 13, 1998) EN BANC A pre-proclamation controversy should be summarily heard and it is sufficient that notice has been given by the COMELEC to the parties involved. The COMELEC in resolving such cases may rely on whatever pleading may have been filed by either party.

PEÑAFLOIDA v. COMELEC, ET. AL., G.R. No. 125950 (November 18, 1997) EN BANC A COMELEC Omnibus Resolution terminating all pending pre-proclamation controversies in light of the beginning of the term of office of elective officials is valid. Pursuant to Section 19 of R.A. 7166, all pre-proclamation cases pending before COMELEC shall be deemed terminated at the beginning of the term of the Office involved and the rulings of the BOC concerned shall be deemed affirmed, without prejudice to the filing of a regular election protest by the aggrieved party. However, proceedings may continue when on the basis of the evidence thus far presented, COMELEC determines that the petition appears meritorious and accordingly issues an order for the proceeding to continue or when an appropriate order had been issued by the Supreme Court in a petition for certiorari.

SALIH v. COMELEC, ET. AL., G.R. No. 122872 (September 10, 1997) EN BANC COMELEC En Banc rightfully reversed the decision of the Second Division, which excluded election returns on the basis of sham voting, due to the fact that the Second Division could not justifiably exclude said returns on the occasion of a pre-proclamation controversy whose office is limited to incomplete, falsified or materially defective returns which appear as such on their face. As long as the returns appear to be authentic and duly accomplished on their face, the BOC cannot look beyond or behind them to verify allegations of irregularities in the casting of counting of the votes. If there had been sham voting or minimal voting that was made to appear as normal through the falsification of the election returns by protestee's followers, such grounds are properly cognizable in an election protest and not in a pre-proclamation controversy.

PATORAY v. COMELEC and DISOMIMBA, G.R. No. 125798 (June 19, 1997) EN BANC The Municipal BOC correctly ruled that objections in the course of canvass of returns alleging that the election returns are manufactured, fabricated or not authentic, considering that the election returns includes votes on ballots which are spurious, marked and invalid ballots are not proper in a pre-proclamation controversy. It is beyond the competence of the BOC; neither is it a pre-proclamation issue, and the refusal of the BOCs to consider such objection or rule on the same is not erroneous. Issues relative to the appreciation of ballots cannot be raised in a pre-proclamation controversy.

MATALAM v. COMELEC and CANDAO, G.R. No. 123230 (April 18, 1997) EN BANC A petition with allegations that the election returns were spurious, obviously manufactured and prepared under irregular circumstances is considered a pre-proclamation controversy. The same petition praying for the technical examination of the questioned election returns cannot prosper. Pre-proclamation is defined as any question pertaining to or affecting the proceedings of the BOC which may be raised by any candidate or by any registered political party with COMELEC, or any matter raised under Section 233, 234, 235, and 236 in relation to the preparation, transmission, receipt, custody and appreciation of the election returns. In a pre-proclamation controversy, the COMELEC, as a rule, is restricted to an examination of the election returns on its face and is without jurisdiction to go beyond or behind them and investigate election irregularities.

RAMIREZ v. COMELEC, ET. AL., G.R. No. 122013 (March 26, 1997) EN BANC COMELEC En Banc rightfully assumed jurisdiction over a petition for correction of manifest error. In *Ong, Jr. v. COMELEC*, it was held that election cases, including that of pre-proclamation controversies, must first be heard by a division of COMELEC. However, Rule 27 Section 5 of the 1993 Rules of the COMELEC provides that pre-proclamation controversies involving, inter alia, manifest errors in the tabulation or tallying of the results may be filed directly with the COMELEC En Banc.

SULTAN BALINDONG v. COMELEC and MAYOR TANOG, G.R. No. 124041 (August 9, 1996) EN BANC COMELEC correctly denied a motion for technical examination of the Voters' Lists and Voters' Affidavits due to the fact that the allegation of "massive substitute voting" has not been proved. As held in *Loong v. COMELEC*, as long as the returns appear to be authentic and duly accomplished on their face, the BOC cannot look beyond or behind

them to verify allegations of irregularities in the casting or counting of the votes. In addition, technical examination of voting paraphernalia involving analysis and comparison of voter's signatures and thumbprints thereon is prohibited in pre-proclamation cases, which are mandated by law to be expeditiously resolved without involving evidence aliunde and examination of voluminous documents that take up much time and cause delay defeating the public policy underlying the summary nature of pre-proclamation controversies.

BULAONG v. COMELEC and VILLAFUERTE, G.R. No. 116206 (February 7, 1995) EN BANC Request for additional time to conduct a technical examination of election documents and to have his/her witnesses examine the ballots before requiring them to make their affidavits was properly denied where one has been given sufficient time of fifty-five (55) days to complete the technical examination of such election documents and to prove his/her allegations. The fact that there is a "huge discrepancy" between the result of the canvass and that of the revision is no proof of grave abuse of discretion in the denial of his/her request. Granting him/her further extension would be inconsistent with the summary nature of the proceedings.

RE: COMELEC RESOLUTION No. 2521, A.M. No. 92-12-916-RTC (July 8, 1994) EN BANC The Municipal BOC is authorized to make a partial proclamation pending resolution of the petition for official proclamation of the other candidates for vice-mayor and councilors. According to Section 247 of the OEC, the COMELEC may, motu proprio or upon filing of a verified petition and after due notice and hearing, order the proclamation of other winning candidates whose election will not be affected by the outcome of the controversy. Members of the BOC were well within the authority vested upon them by Section 241 of the OEC, which mandates that pre-proclamation controversies, such as in the instant case, may be raised before the Board or directly with the COMELEC.

ALFONSO v. COMELEC, ET. AL., G.R. No. 107487 (June 2, 1994) EN BANC A candidate who filed his/her certificate of candidacy in substitution for his/her deceased father, cannot question COMELEC's ruling that the votes cast in favor of his/her deceased father should be considered stray votes. The votes in favor of the father shall be declared as stray votes. Only those votes cast with the name of the actual candidate shall be counted in his/her favor. A candidate's petition praying for the recount or reopening of the ballot boxes is not a proper issue for a pre-proclamation controversy but should be threshed out in an election protest. In Chavez v. COMELEC citing Sanchez v. COMELEC, the Court has laid down the principle that the appreciation of ballots is not part of the proceedings of the BOC. The function of ballots appreciation is performed by the BEI at the precinct level. Errors in the appreciation of ballots by the BEI are proper subject for election protest and not for recount or re-appreciation of ballots.

DATU MENTANG v. COMELEC AND BERNAN, G.R. No. 110347 (February 4, 1994) EN BANC COMELEC has the power to declare a candidate's proclamation null and void when it was proven that there was a mistake in the addition of votes in the election returns. A pre-proclamation controversy is still viable after a candidate's proclamation and assumption of office provided that there are allegations which when proved, will render the proclamation null and void. The prohibition of a pre-proclamation controversy after a candidate's proclamation and assumption of office only applies to a valid proclamation.

SARDEA, ET. AL. v. COMELEC, ET. AL., G.R. No. 106164 (August 17, 1993) EN BANC COMELEC correctly dismissed the petition assailing the composition of and proceedings before the Municipal BOC on the ground that the proper remedy was an election contest. Section 241 of the OEC defines a pre-proclamation controversy as "any question pertaining to or affecting the proceedings of the BOC which may be raised by any candidate or by any registered political party or coalition of political parties before the board or directly with COMELEC on any matter raised under Sections 233, 234, 235 and 236 in relation to the preparation, transmission, receipt, custody and appreciation of the election returns. COMELEC cannot take cognizance of pre-proclamation controversies after a candidate has already been proclaimed.

ONG, JR. v. COMELEC, G.R. No. 105717 (December 28, 1992) EN BANC Though the COMELEC En Banc did not have jurisdiction over the case, it was correct in classifying the case as a pre-proclamation controversy, one being covered by the definition provided for under Section 241 of the OEC.

ONG v. COMELEC and LUCERO, G.R. No. 105717 (April 22, 1993) EN BANC The Supreme Court correctly voided an order issued by the COMELEC En Banc deciding on pre-proclamation issues. The COMELEC En Banc has no original jurisdiction with regard to pre-proclamation controversies. Logically, the case must be remanded to a COMELEC Division pursuant to its Rules of Procedure on raffle of cases.

PANGARUNGAN v. COMELEC, G.R. No. 107435-36 (December 11, 1992) EN BANC A resolution which affirms the decision to exclude the certificates of canvass was promulgated by the COMELEC without hearing. No violation of due process was committed when said resolution was promulgated without hearing because the parties already submitted evidence and the factual question of whether the questioned certificates of canvass are spurious must be resolved on the basis of the evidence adduced by the parties.

VERCELES v. COMELEC, G.R. No. 105227 (September 18, 1992) EN BANC The instant case is a consolidation of three pre-proclamation controversies. During their pendency, no restraining order was issued. Hence, the winning candidates have already been proclaimed. The Court ruled that, pursuant to Section 16 of RA 7166, the pre-proclamation issues have been rendered moot and academic when the proclaimed elected officials commenced their terms.

SARMIENTO v. COMELEC, G.R. No. 105628 (August 6, 1992) EN BANC Pending pre-proclamation cases shall be deemed terminated at the beginning of the term of office, and the rulings of the BOCs shall be deemed affirmed, without prejudice to the filing of a regular election protest by the aggrieved party.

CHAVEZ v. COMELEC, G.R. No. 105323 (July 3, 1992) EN BANC Section 242 of the OEC provides that pre-proclamation contests are not allowed in elections for President, Vice-President, Senator and Member of the House of Representatives. The proper recourse should have been to file a regular election protest before the SET. The petition must also fail for failure to demonstrate any manifest error in the certificates of canvass or election returns before the COMELEC which would warrant their correction.

BATERINA v. COMELEC, G.R. No. 95347-49 (January 6, 1992) EN BANC The BOC can make no proclamation without authorization from the COMELEC until after the latter has ruled on the objections brought to it on appeal by the losing party. It is not enough that the election returns are objected to. Such allegation, absent any evidence, does not operate to exclude the same from the canvassing. Moreover, formal defects alone are not sufficient to establish palpable irregularity that would make its authenticity questionable. COMELEC cannot be faulted for dismissing their petitions without hearing. Canvass proceedings are administrative and summary in nature.

GALLARDO v. RIMANDO, G.R. No. 91718 (July 13, 1990) EN BANC During the pendency of the pre-proclamation controversy, the reglementary period for filing an election protest is suspended. It is, therefore, not correct for the lower court to rule that the running of the ten-day period to file an election protest was not suspended when COMELEC's decision on the pre-proclamation controversy was elevated to the Supreme Court. The right to the executing of a favorable decision in a pre-proclamation controversy does not bar the losing party from filing an election contest within the ten-day period. After the proclamation and assumption to office of a winning candidate, a pre-proclamation petition does not lie against him/her. Although proclaimed and installed to office, there are still circumstances where a winning candidate may be unseated. These are the following: (1) when his/her opponent is adjudged as the true winner by a final judgment of the courts in an election contest, (2) when the prevailing party is declared ineligible or disqualified by final judgment in a quo warranto case, and (3) when the incumbent is removed from office for cause.

DIMAPORO v. COMELEC, G.R. No. 93201-04 (June 26, 1990) EN BANC There is a need for a speedy action in the declaration of a winner in a pre-proclamation controversy. A pre-proclamation controversy involves public interest and must be resolved in summary proceedings. Considering that time that elapsed without the winning candidates being proclaimed by COMELEC, there is a need for the speedy resolution of such case. The remedy of the loser after the proclamation of a winner in a pre-proclamation controversy is to file an election protest. The examination of fingerprints and handwritings appearing on voters' list and other records cannot be ordered in a pre-proclamation controversy. The nature, scope and ambit of pre-proclamation controversies are statutorily determined and cannot be expanded. The statutes that state the nature, scope and ambit of a pre-proclamation controversy are sections 243 (Issues that May Be Raised in Pre-Proclamation Controversy), 245 (Contested Election Returns) and 246 (Summary Proceedings before the Commission) of the OEC. The rules prescribed on presenting evidence and appealing from the rulings of the BOC is mandatory in a pre-proclamation controversy. This is in view of the public policy to have a speedy determination of the winner in a pre-proclamation controversy. Having filed a pre-proclamation controversy, the proclamation of a winner has already been delayed. A deviation from the procedural requirements of pre-proclamation controversy will produce uncertainty thus causing more delay in the declaration of winner.

AGBAYANI v. COMELEC, G.R. No. 87440-42 (June 13, 1990) EN BANC A pre-proclamation controversy is summary in nature. COMELEC can resolve pre-proclamation cases on the basis of the evidence and arguments submitted by the parties. COMELEC should be wary of dilatory tactics that can postpone the resolution of such controversies. If more evidence should be adduced, COMELEC should not take a long time to examine them in order to ascertain the winners in a certain election.

DIPATUAN v. COMELEC, G.R. No. 86117 (May 7, 1990) EN BANC In a pre-proclamation controversy, COMELEC cannot look beyond the election returns which are on their face regular and authentic. Pre-proclamation controversies can only be directed against the BOC. The challenges should only relate to particular election returns and should be made through specific verbal objections subsequently confirmed in writing. If the party would wish for the COMELEC to look beyond the face of the election returns, his/her proper remedy is to file an election protest. Pre-proclamation controversies are to be resolved in summary proceedings. Elections are vested with public interest, which is the reason why there should be a speedy determination of the results of the elections. Pre-proclamation controversies are limited to challenges directed against the BOC and the proceedings before said board. It must be made through specific verbal objections and subsequently confirmed in writing. Fraud is not a proper ground for a pre-proclamation controversy but rather an election protest. The only issues that may be raised at a pre-proclamation controversy are (1) illegal composition or proceedings of the BOC, (2) the canvassed election returns are incomplete, contain material defects, appear to be tampered or falsified, or contain discrepancies in the same returns or in other authentic copies thereof, (3) the election returns were prepared under duress, threats, coercion, or intimidation, or they are obviously manufactured or not authentic, and (4) the results of the substitute or fraudulent returns in controverted polling places materially affected the standing of the aggrieved candidate or candidates.

MACIAS, II v. COMELEC, G.R. No. 85642 (February 12, 1990) EN BANC Filing of a Pre-Proclamation Protest Appeal suspends the running of the period to file an election protest. Section 248, Article XX of BP 881 expressly provides that the filing of a petition to annul or suspend the proclamation of any candidate shall suspend the running of the period within which to file an election protest or quo warranto proceedings. Assuming that the date of proclamation was January 24, 1988, the filing of the protest on February 4, 1988 was still within the period because of the Pre-Proclamation Protest Appeal filed on January 24, 1988.

UTOTALUM v. COMELEC, G.R. No. 84843-44 (January 22, 1990) EN BANC The padding and preparation of the voters' list is not a ground for a pre-proclamation controversy which may be raised before the BOC. Challenges before the BOC should only relate to the election returns through verbal objections before the said board. The

only issues that may be raised at a pre-proclamation controversy are (1) illegal composition or proceedings of the BOC, (2) the canvassed election returns are incomplete, contain material defects, appear to be tampered or falsified, or contain discrepancies in the same returns or in other authentic copies thereof, (3) the election returns were prepared under duress, threats, coercion, or intimidation, or they are obviously manufactured or not authentic, and (4) the results of the substitute or fraudulent returns in controverted polling places materially affected the standing of the aggrieved candidate or candidates. Padded voters' list, massive fraud and terrorism are proper grounds for an election protest.

ABELLA v. LARRAZABAL, G.R. No. 87721-30 (December 21, 1989) EN BANC The purpose of a pre-proclamation controversy is to ascertain who the true winner or winners in the elections are on the basis of the election returns. These elections returns must be duly authenticated by the board of inspectors and admitted by the BOC. A pre-proclamation is summary in nature in order not to delay the disposition of decisions manifesting the true will of the electorate.

DUREMDES v. COMELEC, G.R. No. 86362-63 (October 27, 1989) EN BANC The court held that errors in the Statement of Votes may be subjected to a pre-proclamation controversy. It may be filed directly with the COMELEC. Questions pertaining to the proceedings of the BOC may be raised directly with COMELEC as a pre-proclamation controversy. Section 243 of the OEC is silent as to when errors in the statement of votes may be raised.

CASIMIRO v. COMELEC, G.R. No. 84462-63 (March 29, 1989) EN BANC Pre-proclamation cases should be decided summarily. Delays should be avoided in such cases for it goes beyond the personal interests of the parties involved therein. It deals with public interest. The COMELEC cannot be faulted for requiring the parties to merely file their respective Memoranda in support of their positions. This is not against due process as the parties are both notified and heard.

SANCHEZ v. COMELEC, G.R. No. 79146 (August 12, 1987) EN BANC The senatorial candidate's petition for recount and/or re-appreciation of ballots by the board of inspectors is not a proper issue for a summary pre-proclamation controversy which can be filed before the COMELEC. Errors in the count/appreciation of ballots by the board of inspectors should be filed as an election protest, which should then be filed before the SET. For an objection to be a ground for a pre-proclamation controversy, it must be proven that the canvassed election returns (1) are incomplete or contain material defects, (2) appear to have been tampered with (3) falsified (4) prepared under duress (5) contain discrepancies in the votes to be credited to a candidate, the difference of which affects the result of the elections. The only issues that can be raised in a pre-proclamation controversy before the COMELEC are restrictive and conclusive. It must be proven that the canvassed election returns (1) are incomplete or contain material defects, (2) appear to have been tampered with (3) falsified (4) prepared under duress (5) contain discrepancies in the votes to be credited to a candidate, the difference of which affects the result of the elections. Terrorism, vote buying and other irregularities should be filed as a regular election protest and should not be filed before the COMELEC. Pre-proclamation controversies are decided summarily. However, due notice and hearing must still be afforded to the parties involved in said controversy. The delay of pre-proclamation controversies is against public policy. The true will of the electorate should be ascertained as soon as possible.

PRESIDENTIAL ELECTORAL TRIBUNAL (PET)

MACALINTAL v. PET G.R. No. 191618 (June 7, 2011) PET The creation of the PET is valid. The PET, as intended by the framers of the Constitution, is to be an institution independent, but not separate, from the judicial department, i.e., the Supreme Court. The present Constitution has allocated to the Supreme Court, in conjunction with latter's exercise of judicial power inherent in all courts, the task of deciding presidential and

vice-presidential election contests, with full authority in the exercise thereof. The power wielded by PET is a derivative of the plenary judicial power allocated to courts of law, expressly provided in the Constitution.

LEGARDA v. DE CASTRO, PET Case No. 003 (January 18, 2008) PET The PET adopts the Hearing Commissioner's recommendations that the Motion to Resolve the First Aspect of the Protest under consideration should be denied. Consequently, the protest itself, should be dismissed for lack of legal and factual basis, as the pilot-tested revision of ballots or re-tabulation of the certificates of canvass would not affect the winning margin of the protestee in the final canvass of the returns. This is in addition to the ground of abandonment or withdrawal by reason of his/her candidacy for, election and assumption of office as Senator of the Philippines.

LEGARDA v. DE CASTRO, PET CASE No. 003 (March 31, 2005) PET There is no need to resort to revision when the protestant concedes the correctness of the ballot results, concerning the number of votes obtained by both protestant and protestee, and reflected in the election returns. The constitutional function as well as the power and duty to be the sole judge of all contests relating to the election, returns and qualification of the President and Vice-President is expressly vested in the PET and includes the duty to correct manifest errors in the Statement of Votes and Certificates of Canvass.

POE, JR. v. MACAPAGAL-ARROYO, PET CASE No. 002 (March 29, 2005) PET Only real parties in interest can file and pursue election protests. A real party in interest is the party who would be benefited or injured by the judgment and the party who is entitled to the avails of the suit. Thus, a vice-mayor can substitute for the protestant where the latter dies during the pendency of the protest. However, substitution by the widow or heirs in election contests cannot be allowed considering a public office is personal to the public officer and not a property transmissible to the heirs upon death. Nobility of intention is not the point of reference in determining whether a person may intervene in an election protest. In the case of presidential protest cases, only two persons the 2nd and 3rd placers may contest the election.

DEFENSOR-SANTIAGO v. RAMOS, PET Case No. 001 (February 13, 1996) EN BANC An election protest for the position of President is rendered moot and academic by virtue of the Protestant's assumption of the office of Senator and the discharge of the function and duties thereof. A protestant effectively abandons or withdraws his/her protest after filing, campaigning and submitting him/herself to be voted upon. In so doing, s/he entered into a political contract with the electorate that if elected, s/he would assume the office of Senator, discharge its functions and serve his/her constituency as such for the term for which s/he was elected. An election protest may be dismissed on the ground that it has become moot due to its abandonment by the protestant. Under Rule 19 of the Rules of the PET, an election protest may be summarily dismissed, regardless of the public policy and public interest implications thereof, on the following grounds: (1) The petition is insufficient in form and substance; (2) The petition is filed beyond the periods provided in Rules 14 and 15 hereof; (3) The filing fee is not paid within the periods provided for in these Rules; (4) The cash deposit, or the first P100,000.00 thereof, is not paid within 10 days after the filing of the protest; and (5) The petition or copies thereof and the annexes thereto filed with the Tribunal are not clearly legible. Other grounds for a motion to dismiss such as those provided in the Rules of Court, which apply suppletorily, may likewise be pleaded as affirmative defenses in the answer. Therefore, if an election protest may be dismissed on technical grounds, then it must be, for a decidedly stronger reason, if it has become moot due to its abandonment by the Protestant.

PROBABLE CAUSE

GARCIA v. COMELEC, G.R. No. 170256 (January 25, 2010) EN BANC By definition, probable cause is a reasonable ground of presumption that a matter is, or may be, well founded such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe or entertain an honest or strong suspicion that a thing is so. Thus, a finding of probable cause does not require an inquiry into whether

there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged.

PROCEDURAL MATTERS

QUERUBIN vs. COMELEC, G.R. No. 218787 (December 8, 2015) EN BANC The phrase "decision, order, or ruling" of constitutional commissions, the COMELEC included, that may be brought directly to the Supreme Court on certiorari is not all-encompassing, and that it only relates to those rendered in the commissions' exercise of adjudicatory or quasi-judicial powers. In the case of the COMELEC, this would limit the provision's coverage to the decisions, orders, or rulings issued pursuant to its authority to be the sole judge of generally all controversies and contests relating to the elections, returns, and qualifications of elective offices. Under the law, grievances relating to the COMELEC rulings in protests over the conduct of its project procurement should then be addressed to the RTC. However, this rule only applies to a failed bidder. In the Querubin case, there existed ample compelling reasons to justify the direct resort to the Court as a departure from the doctrine of hierarchy of courts not in relation to but under Rule 65 of the Rules of Court on certiorari and prohibition, and to brush aside the procedural issues in this case to focus on the substantive issues surrounding the procurement of the 23,000 additional OMRs for the 2016 elections.

LAYUG v. COMELEC G.R. No. 192984, (February 28, 2012) EN BANC The HRET shall be the sole judge of all contests relating to the election, returns, and qualifications of its Members. By failing to acquire a seat a candidate does not fall under the jurisdiction of the HRET as he is not a member. Mandamus, as a remedy, is available to compel the doing of an act specifically enjoined by law as a duty. The COMELEC En Banc cannot be compelled to resolve a motion for reconsideration when it is filled out of time.

CAGAS v. COMELEC G.R. No. 194139, (January 24, 2012) EN BANC COMELEC En Banc shall decide motions for reconsideration only of "decisions" of a Division. Interlocutory orders may not be resolved by the COMELEC En Banc. An order is final in nature if it completely disposes of the entire case. But if there is something more to be done in the case after its issuance, that order is interlocutory. The exception is when an interlocutory order issued by a Division of the COMELEC does not appear to be specifically provided under the COMELEC Rules of Procedure that the matter is one that the COMELEC En Banc may sit and consider.

VIOLAGO, SR. v. COMELEC, G.R. No. 194143 (October 4, 2011) EN BANC The essence of due process is to be afforded a reasonable opportunity to be heard and to submit any evidence in support of one's claim or defense. The fact that a petitioner somehow acquired knowledge or information of the date set for the preliminary conference by means other than the official notice sent by the COMELEC is not an excuse to dismiss his/her protest, because it cannot be denied that he was not afforded reasonable notice and time to adequately prepare for and submit his/her brief.

BULILIS v. NUEZ, G.R. NO. 195953 (August 9, 2011) EN BANC An aggrieved party may file a petition for certiorari with the COMELEC whenever a judge hearing an election case has acted without or in excess of his/her jurisdiction or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law. Election cases involving an act or an omission of a municipal or a RTC, the petition shall be filed exclusively with COMELEC, in aid of its appellate jurisdiction.

CAYETANO v. COMELEC, G.R. No. 193846 (April 12, 2011) EN BANC The general rule is that a decision or an order of a COMELEC Division cannot be elevated directly to the Supreme Court through a special civil action for certiorari. The exception is when the interlocutory order of a COMELEC Division is a patent nullity because of absence of jurisdiction to issue the interlocutory order, as where a COMELEC Division issued a temporary

restraining order without a time limit, or where a COMELEC Division admitted an answer with counter-protest which was filed beyond the reglementary period.

MENDOZA v. COMELEC, G.R. No. 191084 (March 25, 2010) EN BANC When a decision of a trial court is brought before the COMELEC for it to exercise appellate jurisdiction, the division decides the appeal. If there is a motion for reconsideration, the appeal proceeds to the banc where a majority is needed for a decision. If what is brought before the COMELEC is an original protest invoking the original jurisdiction of COMELEC, the protest, as one whole process, is first decided by the division, which process is continued in the banc if there is a motion for reconsideration of the division ruling.

SAN MIGUEL v. COMELEC G.R. No. 188240 (December 23, 2009) EN BANC A special order directing the issuance of a writ of execution pending appeal must be issued prior to the transmittal of the records to Electoral Contests Adjudication Department of the COMELEC. The filing of a motion for executing pending appeal including the three-day notice to the other party, the hearing on the motion, and the issuance of the order resolving the motion does not have to take place within five days. A motion for execution pending appeal may be filed at the latest on the second day after notice of the decision, and heard and resolved at the latest on the fifth day after notice of the decision, in compliance with the mandatory three-day notice rule.

REVILLA, SR. v. COMELEC, G.R. No. 187428 (October 16, 2009) EN BANC It is the COMELEC En Banc, not the division, which has the discretion either to refuse to take action until the motion fee is paid, or to dismiss the action or proceeding. The payment of the appeal fee constitutes a perfection of the appeal.

MENDOZA v. COMELEC G.R. No. 188308 (October 15, 2009) EN BANC COMELEC is under no legal obligation to notify either party of the steps it is taking in the course of deliberating on the merits of the provincial election contest. No proceedings at the instance of one party or of COMELEC have been conducted at the SET that would require notice and hearing because of the possibility of prejudice to the other party. The physical transfer of the ballots and other election materials to the SET for purposes of its own revision did not divest the COMELEC of its jurisdiction.

BARRO v. COMELEC G.R. No. 186201 (October 9, 2009) EN BANC A motion for reconsideration heard by and answered by the COMELEC first division is a decision that is in excess or without jurisdiction. As the COMELEC first division arrogated unto itself a power constitutionally lodged in the COMELEC En Banc as provided by Section 3, Article IX-C of the Constitution.

HIPE v. COMELEC G.R. No. 181528 (October 2, 2009) EN BANC Election returns filed beyond the prescribed time or almost 24 hours after the oral petition to exclude are still valid. Even if the oral objections were given on May 15, 2007 at around 7:00 p.m. filed the written objections on May 16, 2007 at 6:40 p.m. and submitted the documentary evidence in support of the protest at 2:45 p.m. the following day is substantial compliance. Technicalities and procedural barriers are not allowed to stand in the way if they constitute an obstacle to the determination of the electorate's true will in the choice of its elective officials.

GUZMAN v. COMELEC G.R. No. 182380 (August 28, 2009) EN BANC Challenging the COMELEC's interpretation of Section 261(v) and (w) of the OEC is an exception to the plain, speedy and adequate remedy requirement of Certiorari as it involved an issue that is purely of law. Public works as used in Section 261 (v) of the OEC refers to any building or structure on land or to structures (such as roads or dams) built by the Government for public use and paid for by public funds. Property purchased for use as a public cemetery constitutes public works that violates Section 261(w) of the OEC.

PACANAN, JR. v. COMELEC, G.R. No. 186224 (August 25, 2009) EN BANC Perfection of the appeal no longer depends solely on the full payment of the appeal fee to the COMELEC thus the COMELEC in denying the motion

for reconsideration because of lack of jurisdiction by non payment of appeal fee should have directed the payment of the correct appeal fee with the COMELEC Cash Division, and should not have dismissed the appeal outright.

TAGUIAM v. COMELEC G.R. No. 184801 (July 30, 2009) EN BANC COMELEC can suspend its rules of procedure regarding the late filing of a petition for correction of manifest error and annulment of proclamation in view of its paramount duty to determine the real will of the electorate. Where a proclamation is null and void, the proclamation is no proclamation at all and the proclaimed candidate's assumption of office cannot deprive the COMELEC of the power to declare such nullity and annul the proclamation.

LIMKAICHONG v. COMELEC, G.R. No. 178831-32 (July 30, 2009) EN BANC Proper proceedings must be strictly followed by the proper officers under the law. It is not enough that one's qualification, or lack of it, to hold an office requiring one to be a natural-born citizen, be attacked and questioned before any tribunal or government institution. Due process and fair play must be observed.

DIVINAGRACIA, JR. v. COMELEC G.R. No. 186007 & 186016 (July 27, 2009) EN BANC 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. The issue of lack of jurisdiction for non-payment of the appeal fee only after the COMELEC appreciated the contested ballots and ruled in favor of a candidate constitutes estoppel by laches when both parties have failed to pay the proper appeal fee.

PANLILIO v. COMELEC, G.R. No. 181478 (July 15, 2009) EN BANC The filing of a protest before the BEI is not required before the COMELEC acquires jurisdiction over the present election protest. Jurisdiction is conferred only by law and cannot be acquired through, or waived by, any act or omission of the parties. The COMELEC exercises exclusive original jurisdiction over all contests relating to the elections of all elective regional, provincial, and city officials. COMELEC En Banc shall decide motions for reconsideration only of "decisions" of a Division. Interlocutory orders may not be resolved by the COMELEC En Banc. An order is final in nature if it completely disposes of the entire case. But if there is something more to be done in the case after its issuance, that order is interlocutory.

AGUILAR v. COMELEC G.R. No. 185140 (June 30, 2009) EN BANC COMELEC Rules of Procedure gives discretion to the COMELEC, in this case, to the En Banc and not to the division, either to refuse to take action until the motion fee is paid, or to dismiss the action or proceeding. An appeal filed months before COMELEC Resolution No. 8486 should not prejudice such appeal as such was filed before such action of the COMELEC should have first directed payment of the additional appeal fee in accordance with the clarificatory resolution, and if there is a refusal to comply, then, and only then, dismiss the appeal.

CONCEPCION, JR. v. COMELEC G.R. No. 178624 (June 30, 2009) EN BANC In assailing a resolution of the COMELEC by certiorari one must be the aggrieved party as provided by Section 7, Article IX of the Constitution. A petitioner must have the requisite personality to mount the legal challenge to the COMELEC adjudicatory action. An original petition for certiorari under Rule 65 dissociated from any COMELEC action made in the exercise of its quasi-judicial functions cannot validly contest an adjudicatory order of the COMELEC.

LIMKAICHONG v. COMELEC G.R. No. 178831-32 (April 1, 2009) EN BANC The prescriptive period of 10 days as provided under the 1998 HRET rules do not apply to a disqualification case based on citizenship since citizenship is a continuing requirement. Under the 1987 constitution member of the House of Representatives must not only be natural born citizens at the time of their election but also during their entire tenure. As a continuing requirement it may be assailed at anytime, the ten-day period notwithstanding.

BOLOS, JR. v. COMELEC G.R. No. 184082 (March 17, 2009) EN BANC Serving three terms as punong barangay and running as a Sangguniang Bayan during the term constitutes voluntary renunciation as to be counted in the three term limit as provided in Section 43(b) of the LGC.

VALINO v. VERGARA, G.R. No. 180492 (March 13, 2009) EN BANC Resolution No. 8212, which dismissed several pre proclamation cases issued by the COMELEC En Banc, is an exercise of their quasi judicial power. Procedural rules are not to be disdained as mere technicalities. They may not be ignored to suit the convenience of a party. Adjective law ensures the effective enforcement of substantive rights through the orderly and speedy administration of justice. There must be compliance with the rules of procedure and remedies available vis-à-vis Resolution No. 8212.

PECSON v. COMELEC, G.R. No. 182865 (December 24, 2008) EN BANC The RTC must still be in possession of the records and that the period to appeal (of both contending parties) must have not lapsed are important for jurisdictional purposes if the issue is the authority of the RTC to grant a Special Order allowing execution pending appeal. The Rules similarly apply the good reason standard (in fact, the even greater superior circumstance standard) for execution pending appeal under the Rules of Court making the remedy an exception rather than the rule.

ABAINZA v. COMELEC, G.R. No. 181644 (December 8, 2008) EN BANC Election laws should be construed liberally to give effect to the popular will without resort to technicalities. The COMELEC has the discretion to construe its rules liberally and suspend any rules or portion thereof in the interest of justice. They should be able to determine the free and intelligent casting of votes as well as the correct ascertainment of the results of such election. Correction of manifest errors in the tabulation or tallying of results during the canvassing may be filed directly with COMELEC, even after a proclamation of the winning candidates. A “ manifest error” is defined as one that is visible to the eye or obvious to the understanding that which is open, palpable, incontrovertible, needing no evidence to make it clearer. Section 7 of the COMELEC Rules of Procedure held applicable to cases when a proclamation had already been made. The correction of errors in tabulation or tallying of results by the BOC usually deals with pre-proclamation controversies. However, it is also applicable where the validity of the candidate’s proclamation was precisely in question, even if proclamation has been made

PANGILINAN v. JAURIGUE, A.M. No. RTJ-08-2100 (January 31, 2008) EN BANC The jurisdiction to correct manifest errors in certificate of canvass or election returns and to immediately proclaim the winning candidate lies with the COMELEC. Election cases are to be decided summarily. Being imbued with public interest, the real choice of the electorate on who will discharge the duties of the office must be determined. In addition to that, the adjudication of the private interest of the parties must also be made known.

ABUBAKAR v. HRET, G.R. No. 173310 (March 7, 2007) EN BANC The duty of the Secretary of the Tribunal to indicate the date of promulgation and thereafter serve copies thereof to the parties as mandated by Rule 72 of the HRET Rules is ministerial after the decision, signed by the members present, is delivered and filed with the Secretary of the Tribunal so that copies thereof can be furnished to the parties involved.

ALI v. PACALNA, A.M. No. MTJ-03-1505 (September 25, 2007) THIRD DIVISION There is a display of gross ignorance of the procedure in the conduct of election cases when the judge failed to observe fundamental rules relative to the petitions for inclusion. Petitions for inclusion in the permanent list of voters shall be heard and decided within 10 days from filing. It is upon the incumbent judge to determine whether the petitions were sufficient in form and in substance to be able to set the cases for hearing at the soonest possible time. Failure of a judge to follow and be familiar with such rules cannot be excused.

BASARTE v. COMELEC, G.R. No. 169413 (May 9, 2007) EN BANC A violation of Section 1, Rule 4 of the COMELEC Rules is a reason for the reversal of the acts of the COMELEC. The said body should be the first to respect its own rules to provide a proper example to those appearing before it. It also removes the suspicion of arbitrariness in its proceedings.

CARLOTO v. COMELEC, G.R. No. 174155 (January 24, 2007) EN BANC In the absence of an express provision in the OEC, execution of judgment pending appeal in election cases is governed by Section 2, Rule 39 of the Rules of Court. The Court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal. This discretionary execution may only issue upon good reasons to be stated in a special order after hearing.

CAYAT v. COMELEC, G.R. No. 163776 (April 24, 2007) EN BANC The failure to pay the filing fee makes the motion for reconsideration a mere scrap of paper, as if the movant did not file any motion for reconsideration at all. Although there is nothing in Resolution no 6452 which mentions the need to pay a fee for filing a motion for reconsideration, Section 7 of Rule 40 of the 1993 COMELEC Rules of Procedure imposes a fee of P300 for filing a motion for reconsideration of a decision, order, or resolution. Thus, there being no motion for reconsideration filed, the resolution attains its finality. Election cases are, at all times invested with public interest which cannot be defeated by mere procedural or technical infirmities. Non- payment of filing fees would not necessarily be a mandatory ground for dismissing or denying a pleading or motion. When such fees are not paid on the same day as the filing of the pleading or the motion concerned, the COMELEC has the discretion whether to accept or reject it.

CUMIGAD v. COMELEC, G.R. No. 167314 (March 20, 2007) EN BANC A candidate for n elective position, by virtue of merely of his/her candidacy as such, has legal interest in a proceeding for correction of manifest errors. Any person allowed to initiate an action or proceeding may, before or during the trial of an action or proceeding, be permitted by the COMELEC, in its discretion, to intervene in such action or proceeding. Thus, there should be no objections to the intervention of a candidate who directly challenges a winner in a seat of an elective position. Correction of manifest errors is an issue that may be raised in a pre-proclamation controversy. They may be filed directly with COMELEC. Such errors could have not been discovered during the canvassing despite the exercise of diligence and proclamation of the candidate has been made. The Municipal BOC is expressly allowed to motu proprio correct manifest errors before proclamation under Section 7, Rule 27 of the COMELEC Rules. Although Section 7, Rule 27 of the COMELEC Rules applies to pre-proclamation controversies, there is nothing to prevent its application to cases where the validity of the candidate's proclamation is precisely the question. Election laws should be construed liberally to give effect to the popular will, without resort to technicalities. The court frowns upon any interpretation of election laws that would hinder in any way not only the free and intelligent casting of votes in a n election but also the correct ascertainment of the results. The determination of the will of the electorate is of a paramount importance.

DELOS REYES v. COMELEC, G.R. No. 170070 (February 28, 2007) EN BANC In order to reach the conclusion that two writings are by the same hand there must not only be present class characteristics but also individual characteristics of "dents and scratches" in sufficient quantity to exclude the theory of accidental coincidence. Even if it is patent on the face of the ballots that these were written by only one person, that fact alone cannot invalidate said ballot for it may be that the latter was duly authorized to act as assistor and prepare the said ballots. To hinder disenfranchisement of assisted voters, it is imperative that, in the evaluation of ballots contested on the ground of having been prepared by one person, the COMELEC first verify from the minutes of Voting or the Computerized Voter's List for the presence of assisted voters in contested precinct and take this fact into account when it evaluates ballot bearing similar handwritings, and omission of this verification process will render its reading and appreciation of the ballots incomplete.

JAINAL v. COMELEC, G.R. No. 174551 (March 7, 2007) EN BANC There is forum shopping when a party seeks to obtain remedies in an action in one court, which had already been solicited, and in other courts and other proceedings in other tribunals. The relief sought in Extreme Urgent Ex Parte Manifestation is basically the same as the prayer for a temporary restraining order in the present petition which was still pending resolution by the Supreme Court at the time the Extreme Urgent Ex Parte Manifestation was filed before the COMELEC. COMELEC, in granting the motion and ordering the Vice-Mayor or any ranking councilor to cease and desist from assuming the position of Acting Mayor, it committed what amounts to a usurpation of the Supreme Court prerogative to issue the Temporary Restraining Order (TRO). It amounts to grave abuse of discretion, without jurisdiction and usurpation in the Court's prerogative and jurisdiction. It behooved upon the COMELEC En Banc to deny or at least refuse to take action on the Extreme Urgent Ex Parte Manifestation.

JUAN v. COMELEC, G.R. No. 166639 (April 24, 2007) EN BANC The testimonies of the 107 teachers of the BEI does not sufficiently establish the claim of post-election operations of the questioned ballots since it was shown that the affidavit was a prepared form. Where the affidavit is one in prepared form, with the affiant only writing his/her name, precinct number, and affixing his/her signature thereon. It only implies that the testimonies of those who signed the same consisted only of the very same prepared sworn statement with only the affiants affixing their own signatures.

LLUZ v. COMELEC, G.R. No. 172840 (June 7, 2007) EN BANC The phraseology of introductory clauses of Section 262 of the OEC - "Violation of the provisions, or pertinent portions, of the following sections shall constitute election offenses: xxx." - alerts us that said Section itself possibly limits its coverage to only pertinent portions of Section 74; Equally well-settled is the rule that a statute imposing criminal liability should be construed narrowly in its coverage such that only those offenses clearly included, beyond reasonable doubt, will be considered within the operation of the statute. The more reasonable construction of the term "pertinent portions" found in Section 262, in particular reference to Section 74, means only that those portions of Section 74 which prescribe qualification requirements of a candidate. Thus, only material misrepresentation made by a candidate of the required qualifications to run for office will be a violation of the said provision.

LUNA v. COMELEC, G.R. No. 165983 (April 24, 2007) EN BANC When a candidate files his/her certificate of candidacy, the COMELEC has a ministerial duty to receive and acknowledge its receipt. Although the candidate does not qualify with the age requirement, the COMELEC has the duty to give due course the certificate of candidacy.

MAÑAGO v. COMELEC, G.R. No. 167224 (September 21, 2007) EN BANC Laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. However, a stubborn subservience to technicalities that would result in upholding a patently void proclamation will never be allowed by the court. It is of importance that the will of the electorate will be determined, and the technicalities dispensed with if it hinders such determination.

MARABUR v. COMELEC, G.R. No. 169513 (February 26, 2007) EN BANC A candidate's submission of his/her offer of evidence, including the evidence, within the prescribed period constitute substantial compliance with the requirements that objections to the inclusion of contested election returns be reduced into writing. The purpose of requiring the objections be put into writing is to expedite the resolution of pre-proclamation controversies. However, even without the written objections, the COMELEC was able to rule on the said objections and did not unduly delay the resolution of the protest. Technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the electorate's true will in the choice of their elective officials. In order that the result of the canvass would reflect the true expression of the people's will in the choice of their elective officials, the canvass must be based on true, genuine, and authentic election returns.

RIVERA III v. COMELEC, G.R. No. 167591 (May 9, 2007) EN BANC A second place candidate cannot be proclaimed as a substitute winner. Ineligibility of a candidate receiving the majority votes does not entitle the eligible candidate receiving the next highest number of votes to be declared elected as winner. A minority or defeated candidate cannot be deemed elected to the office.

SAN JUAN v. COMELEC (FIRST DIVISION), G.R. No. 170908 (August 24, 2007) EN BANC The dismissal of a Motion for reconsideration filed out of time was valid and proper and does not amount to an exercise of grave abuse of discretion. Under Section 2, Rule 19 of the COMELEC Rules of Procedure, a motion for reconsideration of a decision, resolution, order or ruling of a Division must be filed within 5 days from the promulgation thereof. As a consequence of a failure to file on time, the said petition need not be forwarded to the COMELEC En Banc where the results will only be the same.

TAMAYO-REYES v. COMELEC, G.R. No. 175121 (June 8, 2007) EN BANC For errors to be manifest, they must appear on the face of the certificates of canvass or election returns sought to be corrected, and objections thereto must have been made before the BOC and specifically noted in the minutes of their respective proceedings. Manifest has been defined as evident to the eye and understanding; visible to the eye, that which is open, palpable, and incontrovertible, needing no evidence to make it more clear, or one not obscure or hidden. A petition for correction of manifest errors may be filed even beyond the reglementary period of five (5) days following the date of the proclamation pursuant to Section 5(b), Rule 27 of the 1993 COMELEC Rules of Procedure. The COMELEC has the power to annul the proclamation made on the basis of an erroneous tabulation of votes in the election returns or in the statement of votes.

TORRES v. ABUNDO, SR., G.R. No. 174263 (January 24, 2007) EN BANC A protestee's deep sense of urgency when faced with eminent eviction from the post that he worked so hard to obtain is not the same as that contemplated by prevailing jurisprudence as one of the recognized exceptions to the general rule with respect to the filing of a motion for reconsideration as a requisite to a petition for certiorari. A motion for reconsideration is a condition sine qua non for the filing of a petition for certiorari. However, there are certain recognized exceptions to the said rule and these are: (1) the question is purely legal, (2) judicial intervention is urgent; (3) its application may cause great and irreparable damage; and (4) the controversial acts violate due process. To grant execution pending appeal in election protest cases, the following requisites must concur: (1) there must be a motion by the prevailing party with notice to the adverse party; (2) there must be "good reasons" for the execution pending appeal; and (3) the order granting execution pending appeal must state the "good reasons." "Good reasons" includes the public interest involved, the length of the remaining portion of the term of the contested office and length of time that the election contest has been pending. Absence of one of the requisite will not justify the granting of an execution pending appeal.

SANCHEZ v. ALAAN, A.M. No. MTJ-04-1570 (September 5, 2006) THIRD DIVISION As mandated by Section 252 of the OEC, the MTC must decide a petition or protest contesting the election of barangay officers within 15 days from its filing. While Section 258 provides that election contests must be given preference by the courts over all other cases, except habeas corpus, and judges are enjoined to be hear and decide without delay.

VILLAMOR v. COMELEC, G.R. No. 169865 (July 21, 2006) EN BANC A motion for consideration of the election protest is a prohibited pleading. Section 19 of Rule 35 provides that no motion for consideration shall be entertained. Thus, being a prohibited pleading, it does not toll the running of the prescriptive period. In addition to that, Section 265 of the OEC provides that the trial court cannot entertain a motion for reconsideration of its decision in an election contest affecting municipal offices filed by an aggrieved party.

SINSUAT v. COMELEC, G.R. No. 169106 (June 23, 2006) EN BANC COMELEC cannot proclaim as winner the candidate who obtains the second highest number of votes in case the winning candidate is ineligible or disqualified. However, there is an exception to the rule and the concurrence of the two requisites must be

present: first, the one who obtained the highest number of votes is disqualified; and second, the electorate is fully aware in fact and in law of a candidate's disqualification so as to bring such awareness within the realm of notoriety but would nonetheless cast their votes in favor of the ineligible candidate.

ISTARUL v. COMELEC, G.R. No. 170702 (June 16, 2006) EN BANC The promulgation of the COMELEC Resolution merely four days after the submission of the parties' memoranda does not show bias or grave abuse of discretion but that COMELEC is upholding its mandate to resolve issues before it with dispatch. There is abuse of discretion when there is a showing of a whimsical and capricious manner of exercising one's power.

JULIANO v. COMELEC, G.R. No. 167033 (April 12, 2006) EN BANC In cases wherein members of the COMELEC En Banc favored the decision granting the motion for reconsideration while 3 members dissented and one member took no part, the resolution will be affirmed due to equal division of votes. When a pre-proclamation case to nullify the proclamation of a said candidate was elevated to the COMELEC En Banc, the motion for consideration was granted but only three members voted in favor of granting the motion and 3 members dissented. Section 6, Rule 18 of the COMELEC Rules of Procedure provides that if the opinion of the COMELEC En Banc is equally divided, the case shall be reheard. If no decision or judgment is reached, the judgment ordered or appealed shall stand affirmed.

ALEJANDRO v. COMELEC, G.R. No. 167101 (January 21, 2006) EN BANC COMELEC Resolution No. 6624 was issued merely for the COMELEC employees and was not intended to limit the filing of the election controversies, contests and offenses. The declaration that all Saturdays, Sundays, and holidays from October 2003 until June 30, 2004 as a working days in the COMELEC does not bar the filing of the petition to annul a candidate's proclamation even if it fell on a Sunday. The determination of the will of the electorate is of a paramount duty on which mere technicality shall be used as a bar to determine the proper winner of the election.

BALAJONDA v. COMELEC, G.R. No. 166032 (February 28, 2005) EN BANC While present election laws are silent on the remedy of execution pending appeal in election contests, there is no case law holding that such remedy is exclusive to election contests involving elective barangay and municipal officials. Section 2, Rule 39 of the Rules of Court allowing execution pending appeal in the discretion of the court applies in a suppletory manner to election cases, including those involving city and provincial officials.

ZAMORAS v. COMELEC, G.R. No. 158610 (November 12, 2004) EN BANC The payment of the filing fee is a jurisdictional requirement and non-compliance is a valid basis for the dismissal of the case. The subsequent full payment of the filing fee after the lapse of the reglementary period does not cure the jurisdictional defect. The right to appeal is merely a statutory privilege and a litigant may exercise such right to appeal only in the manner prescribed by law. The requirement of an appeal fee is not a mere technicality of law or procedure. It is an essential requirement without which the decision appealed from would become final and executory as if there was no appeal filed at all.

CIPRIANO v. COMELEC, G.R. No. 158830 (August 10, 2004) EN BANC COMELEC may not without the proper proceedings, deny due course to or cancel a certificate of candidacy filed in due form. When a candidate files his/her certificate of candidacy, the COMELEC has a ministerial duty to receive and acknowledge its receipt. The candidate must be notified of the petition to deny due course against him/her and he should be given the opportunity to present evidence in his/her behalf. It is not sufficient that the candidate be notified of the COMELEC's inquiry into the veracity of the contents of his/her certificate of candidacy, but he must also be allowed to present his/her own evidence to prove that he possesses the qualifications for the office he seeks. The determination of the eligibility of candidate is a determination of fact where parties must adduce evidence to support their respective contentions. The COMELEC cannot motu proprio cancel a certificate of candidacy.

HOFER v. HRET, G.R. No. 158833 (May 12, 2004) EN BANC Failure to comply with the limited period of twenty (20) days in the presentation of his/her evidence, including the formal offer thereof as provided in Rule 59 of the 1998 HRET Rules shall result in dismissal of the election protest.

AKLAT-ASOSASYON PARA SA KAUNLARAN NG LIPUNAN AT ADHIKAIN PARA SA TAO, INC. v. COMELEC G.R. No. 162203 (April 14, 2004) EN BANC The COMELEC may also prescribe a deadline for registration of party-list organizations beyond the 90-day period under R.A. No. 7941. The 90-day period is a minimum period not subject to reduction but is susceptible to protraction on account of administrative necessities and exigencies.

TOLENTINO v. COMELEC, G.R. No. 148334 (January 21, 2004) EN BANC Want of notice resulting in to misleading a sufficient number of voters as to change the result of the special election is required to invalidate a special election in relation to the failure to give notice of the special election. Separate documentation and canvassing is not required in a special election.

LORENZO v. COMELEC, G.R. No. 158371 (December 11, 2003) EN BANC As a general rule, the proper remedy after the proclamation of the winning candidate for the position contested would be to file a regular election protest or a petition for quo warranto. This rule, however, admits of exceptions, to wit: (1) where the BOC was improperly constituted; (2) where quo warranto was not the proper remedy; (3) where what was filed was not really a petition for quo warranto or an election protest but a petition to annul the proclamation; (4) where the filing of a quo warranto petition or an election protest was expressly made without prejudice to the pre-proclamation controversy or was made ad cautelam; and (5) where the proclamation was null and void. Well settled is the doctrine that election contests involve public interest, and technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. Also settled is the rule that laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate.

DAGLOC v. COMELEC, G.R. No. 154442-47 (December 10, 2003) EN BANC In the absence of evidence to the contrary, it is presumed that official duty has been regularly performed. Outright exclusion of an election return is not proper.

SAQUILAYAN v. COMELEC, G.R. No. 157249 (November 28, 2003) EN BANC The facts of the present petition are similar to those in Miguel rather than to those in Peña. In Miguel, there was a controversy between two candidates for municipal mayor, while Peña dealt with candidates for a congressional district office. Also, one reason that led to the dismissal of the election protest in Peña was the protestant's failure to specify the 700 out of the 743 precincts where the alleged anomalies occurred. In both Miguel and the present petition, the protestants questioned all the precincts in their respective municipalities. Furthermore, the Miguel case, being the more recent decision, should prevail in case of a conflict, under the well-established doctrine that a later judgment supersedes a prior one in case of an inconsistency. In closing, the Court reiterates its pronouncement: Election contests involve public interest, and technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. Laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate. The Supreme Court frowns upon any interpretation of the law or the rules that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results.

DELA LLANA v. COMELEC, G.R. No. 152080 (November 28, 2003) EN BANC In *Duremdes v. COMELEC*, we held that the determination of the true will of the electorate should be paramount, thus: "Election contests involve public interest. Technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials... Laws (and rules) governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate." Concomitant to its power to resolve election controversies, COMELEC is authorized to determine the true nature of the cases filed before it. Depending on the allegations and reliefs sought, an election protest may be treated as petition to correct manifest errors.

JARAMILLA v. COMELEC, G.R. No. 155717 (October 23, 2003) EN BANC Section 4, Rule 1 of the COMELEC Rules expressly provides that: SECTION 4. Suspension of the Rules – In the interest of justice and in order to obtain speedy disposition of all matters pending before the commission, these rules or any portion thereof may be suspended by COMELEC. The COMELEC therefore has authority to suspend the reglementary periods provided by the rules, or the requirement of certification of non-forum shopping for that matter, in the interest of justice and speedy resolution of the cases before it. COMELEC is not constrained to dismiss a case before it by reason of non-payment of filing fees. Section 18, Rule 40 the COMELEC Rules of Procedure states: SEC 18. Nonpayment of Prescribed Fees – If the fees above prescribed are not paid, the Commission may refuse to take action thereon until they are paid and may dismiss the action or the proceeding. The use of the word "may" in the aforesaid provision readily shows that the COMELEC is conferred the discretion whether to entertain the petition or not in case of non-payment of legal fees. And even if it were not afforded such discretion, as discussed above, it is authorized to suspend its rules or any portion thereof in the interest of justice.

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC Section 1 (d), Rule 13 of the 1993 COMELEC Rules of Procedure prohibits a motion to reconsider a resolution of the COMELEC En Banc except in cases involving election offenses. As the case before the COMELEC did not involve an election offense, reconsideration of the COMELEC resolution was not possible and the petitioner had no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. For him/her to wait until the COMELEC denied his/her motion would be to allow the reglementary period for filing a petition for certiorari with the Supreme Court to run and expire. The instant controversy involves resolutions issued by the COMELEC En Banc which do not pertain to election offenses. Hence, a special civil action for certiorari is the proper remedy in accordance with Section 2, Rule 64 of the Rules of Court.

NAVAROSA v. COMELEC, G.R. No. 157957 (September 18, 2003) EN BANC If protestee did not raise the issue during the trial of the election protest and where s/he even filed a counter-protest, protestee is precluded from questioning the incomplete payment of the filing fee. Estoppel has set in.

MILLA v. BALMORES-LAXA, G.R. No. 151216 (July 18, 2003) EN BANC If a candidate's proclamation is based on a Statement of Votes which contains erroneous entries, it is null and void. It is no proclamation at all and the proclaimed candidate's assumption of office cannot deprive the COMELEC of the power to annul the proclamation. In the case at bar, as the Statement of Votes contained erroneous entries, the COMELEC rightfully assumed jurisdiction over the petition for the correction thereof and declaration of nullity of the proclamation. While our election laws are silent when such and similar petitions may be filed directly with the COMELEC, the above-quoted Section 5, Rule 27 of the Rules of Procedure sets a prescriptive period of five (5) days following the date of proclamation. The COMELEC, however, could suspend its own Rules of Procedure so as not to defeat the will of the electorate. For adherence to technicality that would put a stamp on a palpably void proclamation, with the inevitable result of frustrating the people's will, cannot be countenanced.

ULLODA v. COMELEC, G.R. No. 154198 (January 20, 2003) EN BANC Technicalities and procedural niceties in election cases should not be made to stand in the way of the true will of the electorate. Laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. Election contests involve public interest, and technicalities and procedural barriers must yield if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. The Court frowns upon any interpretation of the law that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results.

CODILLA, SR. v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC Resolution No. 3402 clearly requires the COMELEC, through the Regional Election Director, to issue summons to the candidate together with a copy of the petition and its enclosures, if any, within three (3) days from the filing of the petition for disqualification. Undoubtedly, this is to afford the candidate the opportunity to answer the allegations in the petition and hear his/her side.

QUINTOS v. COMELEC, G.R. No. 149800 (November 21, 2002) EN BANC The alleged lack of verification of the Manifestation and Motion for Partial Reconsideration is merely a technicality that should not defeat the will of the electorate. COMELEC may liberally construe or even suspend its rules of procedure in the interest of justice, including obtaining a speedy disposition of all matters pending before COMELEC.

MACABAGO v. COMELEC, G.R. No. 152163 (November 18, 2002) EN BANC Under Section 2 of the same Rule, a judgment or final order or resolution of the COMELEC may be brought by the aggrieved party to the Supreme Court on certiorari under Rule 65, as amended, except as therein provided. We ruled in *Elpidio M. Salva, et. al. v. Hon. Roberto L. Makalintal, et. al.* that Rule 64 of the Rules applies only to judgments or final orders of the COMELEC in the exercise of its quasi-judicial functions. The rule does not apply to interlocutory orders of the COMELEC in the exercise of its quasi-judicial functions or to its administrative orders. Rule 64, a procedural device for the review of final orders, resolutions or decision of the COMELEC, does not foreclose recourse to the Supreme Court under Rule 65 from administrative orders of COMELEC issued in the exercise of its administrative function. Judicial power is an antidote to and a safety net against whimsical, despotic and oppressive exercise of governmental power. The aggrieved party may seek redress therefrom through the appropriate special civil action provided by the Rules of Court. As to acts of the COMELEC, the special civil action may be one for certiorari pursuant to Article IX (A), Section 7 of the Constitution. As a general rule, an administrative order of the COMELEC is not a proper subject of a special civil action for certiorari. But when the COMELEC acts capriciously or whimsically, with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing such an order, the aggrieved party may seek redress from the Supreme Court via a special civil action for certiorari under Rule 65 of the Rules.

SANDOVAL II v. HRET, G.R. No. 149380 (July 3, 2002) EN BANC In the absence of even the barest compliance with the procedure for substituted service of summons outlined in the Rules of Court, the presumption of regularity in the performance of public functions does not apply. It is unmistakable that the process server hastily served the summons by substituted service without first attempting to personally serve the process. This violates the rule granting absolute preference to personal service of summons and, only secondarily, when the defendant cannot be promptly served in person and after compliance with stringent formal and substantive requirements, permitting resort to substituted service.

O'HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC In any election contest, the ultimate issue is to determine the electoral will. In other words, who among the candidates was the voters' choice. In this jurisdiction, an election means "the choice or selection of candidates to public office by popular vote," through the use of the ballot, and the elected officials of which are determined through the will of the electorate." An election is the embodiment of the popular will, the expression of the sovereign power of the

people. Specifically, the term election, in the context of the Constitution, may refer to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of votes. Furthermore, given that election contests involve public interest, and technicalities and procedural barriers must yield if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials. The Court frowns upon any interpretation of the law that would hinder in any way not only the free and intelligent casting of the votes in an election but also the correct ascertainment of the results.

BERNARDO v. ABALOS, SR., ET. AL., G.R. No. 137266 (December 5, 2001) EN BANC The filing of a motion for reconsideration is a prerequisite to the filing of a petition for certiorari with the Supreme Court.

VILLOTA v. COMELEC, G.R. No. 146724 (August 10, 2001) EN BANC The payment of the full amount of the appeal/docket fee is an indispensable step for the perfection of an appeal.

ANG BAGONG BAYANI-OFW LABOR PARTY v. COMELEC, G.R. No. 147589 (June 26, 2001) EN BANC Certiorari is available, "where the issue raised is one purely of law, where public interest is involved, and in case of urgency." This case is indubitably imbued with public interest and with extreme urgency, for it potentially involves the composition of 20 percent of the House of Representatives. Moreover, this case raises transcendental constitutional issues on the party-list system, which the Supreme Court must urgently resolve, consistent with its duty to "formulate guiding and controlling constitutional principles, precepts, doctrines, or rules." Finally, procedural requirements "may be glossed over to prevent a miscarriage of justice, when the issue involves the principle of social justice xxx when the decision sought to be set aside is a nullity, or when the need for relief is extremely urgent and certiorari is the only adequate and speedy remedy available."

AKBAYAN-YOUTH v. COMELEC, G.R. No. 147066 (26 March 2001) EN BANC The Supreme Court cannot, in view of the very nature of such extraordinary writ, issue the same without transgressing the time-honored principles in this jurisdiction. As an extraordinary writ, the remedy of mandamus lies only to compel an officer to perform a ministerial duty, not a discretionary one. For the determination of whether or not the conduct of a special registration of voters is feasible, possible or practical within the remaining period before the actual date of election, involves the exercise of discretion and thus, cannot be controlled by mandamus. No special registration may be conducted during the period starting 120 days before a regular election and 90 days before a special election.

GEMENTIZA v. COMELEC, G.R. No. 140884 (March 6, 2001) EN BANC A demurrer to evidence is considered an implied waiver by the protestee of the right to present evidence whatever may be the ruling in the first instance.

BALTAZAR v. COMELEC, G.R. No. 140158 (January 29, 2001) EN BANC An answer with counter-protest must be filed within the 5-day period to answer.

MALABAGUIO v. COMELEC, G.R. No. 142507 (December 1, 2000) EN BANC COMELEC issued a resolution to implement the election rules for the 1997 Barangay Election, and under said rules, the failure by the BEI to authenticate the ballots shall no longer be a ground for the invalidation thereof. Article VI, Section 43 of the OEC and Section 6 of R.A. No. 6679 do not apply to the 1997 Barangay Elections. The official ballots referred to by the law which needs to be authenticated in order not to be invalidated are the ones provided by the city or municipality concerned. However, during the 1997 barangay elections, the ballots were provided by the COMELEC which already bear unique security markings. As these ballots were provided and furnished by COMELEC and not by the local government unit concerned, the evil sought to be avoided by these provisions, are more imaginary than real.

SARANGANI v. COMELEC, G.R. No. 135927 (June 26, 2000) EN BANC The determination of whether a certain election precinct actually exists or not and whether the voters registered in said precinct are real voters is a factual matter. On such issue, it is a time-honored precept that factual findings of the COMELEC based on its own assessments and duly supported by evidence, are conclusive upon the Supreme Court, more so, in the absence of a substantiated attack on the validity of the same. The report of the investigation team sent to make an ocular inspection on the contested precinct showed that there are only structures therein wherein no inhabitant could possibly reside. If there were no inhabitants, a fortiori, there can be no registered voters, or the registered voters may have left the place.

MARUHOM v. COMELEC, G.R. No. 139357 (May 5, 2000) EN BANC The filing of the motion to dismiss three months after filing of the answer appears to be part of a plot to prevent the early termination of the proceedings, calculated to frustrate the will of the electorate, a change of mind which cannot be countenanced much more so in election cases where time is the essence in the resolution thereof. A motion to conduct a preliminary hearing on the affirmative defenses may be contained in the answer.

MELENDRES, JR. v. COMELEC, G.R. No. 129958 (November 25, 1999) EN BANC A motion to dismiss may be filed in election protests filed with the regular courts.

ALBERTO v. COMELEC, G.R. No. 132242 (July 27, 1999) EN BANC While there is no specific COMELEC rule which governs the photocopying of ballots, it has become a practice allowed by COMELEC itself in numerous election cases.

AGUINALDO v. COMELEC, G.R. No. 132774 (June 21, 1999) EN BANC Section 67 of the OEC was crafted with the intention of giving flesh to the constitutional pronouncement that public service is a public trust. Officials running for office other than the ones they are holding will be considered resigned not because of abuse of facilities of power or the use of office facilities but primarily because under our Constitution, we have this new chapter on accountability of public offices. Section 67 is not violative of the Constitution as it does not unduly cut short the term of office of local officials. The situation that results with the application of Section 67 is covered by the term "voluntary renunciation."

MERCADO v. MANZANO, G.R. No. 135083 (May 26, 1999) EN BANC The rule in Labo v. COMELEC, only applies to cases in which the election of the candidate is contested, and the question is whether one who placed second to the disqualified candidate may be declared the winner. The failure of the COMELEC En Banc to resolve petitioner's motion for intervention was tantamount to a denial of the motion, justifying petitioner in filing the instant petition for certiorari.

PUNZALAN v. COMELEC, G.R. No. 126669 (April 27, 1998) EN BANC Section 24 of R.A. No. 7166 requires the BEI chairperson to affix his/her signature at the back of the ballot. However, the mere failure to do so does not invalidate the same. As a rule, the failure of the BEI inspectors or any member of the board to comply with their mandated administrative responsibility, i.e. signing, authenticating and thumb marking of ballots, should not penalize the voter with disenfranchisement.

LIM v. COMELEC, ET. AL., G.R. No. 129040 (November 17, 1997) EN BANC COMELEC did not gravely abuse its discretion in upholding the RTC's denial of protestee's counterprotest for being filed eight (8) days after the reglementary period had lapsed. Rule 35 of the COMELEC Rules of Procedure provides that a respondent in an election contest must file his/her Answer, Reply, Counter-Protest and Protest or Intervention within five (5) days after receipt of notice of the filing of the petition and a copy of the petition. In addition, a counterprotest is the equivalent of a counterclaim in a civil action and must be presented as part of the answer within the time the protestee is required to answer the protest.

KHO v. COMELEC and ESPINOSA, G.R. No. 124033 (September 25, 1997) EN BANC A COMELEC order with regard to an election protest is null and void insofar as it pertains to an answer with counterprotest filed out of time. A counterprotest is tantamount to a counterclaim in a civil action and may be presented as part of the answer within the time a party is required to answer the protest, unless a motion for extension is granted, in which case it must be filed before the expiration of the extended time. The COMELEC has no jurisdictional authority to entertain a belated answer with counterprotest much less pass upon and decide the issues raised therein.

LINDO v. COMELEC, ET. AL., G.R. No. 127311 (June 19, 1997) EN BANC A motion for execution pending appeal was rightfully issued by the Trial Court and affirmed by the COMELEC pursuant to Rule 39 Section 2 of the Rules of Court. Such provision applies suppletorily to election cases. As held in the cases of Gutierrez v. COMELEC and Malaluan v. COMELEC, Rule 143 of the Rules of Court allows execution pending appeal in election cases upon good reasons stated in the special order.

MIRANDA and FRANCISCO v. CASTILLO, ET. AL., G.R. No. 126361 (June 19, 1997) EN BANC Insufficient payment of filing fees is not a ground to dismiss the election protest filed with the RTC. The incomplete payment of the filing fee as a result of the application by the Clerk of Court of Section 5 of Rule 141 of the Rules of Court instead of Section 9 of rule 35 of the COMELEC Rules of Procedure substantially vests the RTC with jurisdiction over the election protest. Nonetheless, any mistake in the payment of the full amount of filing fees for election cases filed after the promulgation of the Loyola v. COMELEC decision on March 25, 1997 will no longer be tolerated.

CAMLIAN v. COMELEC and PIOQUINTO, G.R. No. 124169 (April 18, 1997) EN BANC COMELEC did not commit grave abuse of discretion in setting aside the RTC's order of execution pending appeal of its decision declaring a duly elected mayor because the reason allowing for immediate execution must be of such urgency as to outweigh the injury or damages of the losing party should it secure a reversal of the judgment on appeal. Section 2 of Rule 39 of the Rules of Court, which allows RTCs to order execution pending appeal upon good reasons stated in a special order, may be made to apply suppletorily or by analogy to election cases decided by them. However, not every invocation of public interest with particular reference to the will of the electorate can be appreciated as a good reason especially so if the same appears to be self-serving and has not been clearly established.

GUTIERREZ v. COMELEC and MORA III, G.R. No. 126298 (March 25, 1997) EN BANC The trial court has acted correctly and judiciously in the exercise of its authority under the law in issuing an order of execution pending appeal in an election protest; and, the COMELEC gravely abused its discretion in disregarding that prerogative of the court. A motion for execution pending appeal may be filed at any time before the period for the perfection of the appeal. Section 2, Rule 39 of the Rules of Court, which allows RTCs to order executions pending appeal upon good reasons stated in a special order, can be applied, pursuant to Rule 41 of the COMELEC Rules of Procedures, to election contests decided by the courts.

LOYOLA v. COMELEC, ET. AL., G.R. No.124137 (March 25, 1997) EN BANC The RTC acquired jurisdiction over protestant's election protest despite the payment, upon the filing thereof, of only a part of the filing fee fixed in Section 9 of Rule 35 of the COMELEC Rules of Procedure, which fixes the filing fee at P300. Evidently, the Clerk of Court had in mind the former Section 5(a)(11), Rule 141 of the Rules of Court on filing fees. The error of the Clerk of Court could be due to ignorance of Section 9 of Rule 35 of the COMELEC Rules of Procedure and the Supreme Court's 4 September 1990 resolution amending Rule 141 of the Rules of Court on legal fees. Or it could be due to sheer confusion as to which rule would apply in assessing the filing fee considering that the election protest falls within the exclusive original jurisdiction of the RTC. The application by the Clerk of Court of Section 5 of Rule 141 of the Rules of Court substantially vested the RTC with jurisdiction over the election protest.

TOMARONG, ET. AL. v. JUDGE LUBGUBAN, ET. AL., G.R. No. 117955-58 (March 13, 1997) FIRST DIVISION An election protest filed with the MTCs must comply with Administrative Circular No. 04-94 of the Supreme Court, which requires a certification on non-forum shopping for all complaints, petitions, applications or other initiatory pleadings. There is nothing in the circular indicating that it does not apply to election cases. Although substantial compliance has been previously allowed, the mere submission of a certification under such circular after the filing of a motion to dismiss on the ground of non-compliance thereof does not necessarily operate as a substantial compliance; otherwise, the circular would lose its value or efficacy.

AGUJETAS and BIJIS v. COURT OF APPEALS and THE PEOPLE OF THE PHILIPPINES, G.R. No. 106560 (August 23, 1996) EN BANC The Members of the Provincial BOC are guilty of violating Section 231 of the OEC for the preparation of an incorrect certificate of canvass and the erroneous proclamation of a winning candidate. The explanation that the provision merely punishes the preparation of a certificate of canvass and failing to make the corresponding proclamation on the basis thereof would be tantamount to tolerating and licensing BOCs to make an erroneous proclamation. To construe the provision of the law in such a way would defeat the purpose and spirit of that law, which is to achieve the holding of free, orderly, honest, peaceful and credible elections. A person who did not file a complaint for violation of the OEC may claim civil liability on the basis of the judgment thereof. The OEC does not specifically provide that a particular person must file the complaint. A complaint that a public crime has been committed may be filed by any competent person except where the law specifically provides the contrary.

GARCIA v. COMELEC and GARCIA, G.R. No. 121139 (July 12, 1996) EN BANC COMELEC acted with grave abuse of discretion in granting a motion for reconsideration that has been rendered moot and academic. There was more than ample opportunity for COMELEC to be apprised of supervening events that rendered the motion moot and academic.

MALALUAN v. COMELEC, ET. AL., G.R. No. 120193 (March 6, 1996) EN BANC The victorious party in an election protest cannot be indemnified for expenses, which he has incurred in an electoral contest in the absence of a wrongful act or omission or breach of obligation clearly attributable to the losing party. The OEC and the COMELEC Rules of Procedure allow for the grant of actual or compensatory damages may be granted in all election contests or in quo warranto proceedings in accordance with law as established by the evidence if the aggrieved party has included such claims in his/her pleadings. In order to effectively recover actual or compensatory damages, the monetary claim of a party in an election case must necessarily be hinged on either a contract of a quasi-contract or a tortuous act or omission or a crime. In the absence of any or all of these, the claimant must be able to point out a specific provision of law authorizing a money claim for election protest expenses against the losing party. Failure to do so deprives the victorious party to claim for damages. The award of salaries and other emoluments to the victorious party in an election protest is improper and lacks legal sanction. Notwithstanding the ouster of a protestee as a result of a judgment on the case, an elective official who has been proclaimed by the COMELEC as winner in an electoral protest and who assumed office and entered into the performance of the duties of that office, is entitled to the compensation, emoluments and allowances legally provided for the position. One who exercised the duties of an elective office under color of election, is deemed a "de facto" officer who, in good faith, has had possession of the office and had discharged the duties thereto and is thus legally entitled to the emoluments of the office. He is not obligated in any way to hand over such compensation to the one legally entitled to the office.

RODILLAS v. COMELEC, ET. AL., G.R. No. 119055 (July 10, 1995) EN BANC The COMELEC correctly dismissed an appeal, which was not accompanied by the payment of the correct amount of appeal fees. In cases where the prescribed appeal fee is not paid, pursuant to Section 18, Rule 40 of the COMELEC Rules of Procedure, the COMELEC has the discretion to either refuse to give due course to the action until payment of the fees, or to dismiss the action or proceeding outright. In addition to this, Section 9 of Rule 22 provides that non-payment of

appeal fees is a ground for dismissal of the appeal. To perfect the appeal, the filing of a notice of appeal must be accompanied by the payment of the appeal fee.

LOYOLA v. COURT OF APPEALS, ET. AL., G.R. No. 117186 (June 29, 1995) EN BANC The filing of a certification of non-forum shopping a day after the election protest was filed with the Municipal Circuit Trial Court is considered a substantial compliance with Administrative Circular 04-94, which requires the filing of such certification together with a complaint, petition, application or other initiatory pleading. The Circular, as an amendment to the Rules of Court, still applies to election cases, even if the Rules of Court do not actually apply to election cases. The Circular expressly provides that, "it shall be strictly complied with in the filing of complaints, petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals.

REYES v. RTC OF ORIENTAL MINDORO, BRANCH XXXIX, ET. AL., G.R. No. 108886 (May 5, 1995) EN BANC All election cases, including pre-proclamation controversies, must be decided by the COMELEC division. An aggrieved party must first file a motion for reconsideration before the COMELEC En Banc before the case may be brought to the Supreme Court.

BENITO v. COMELEC, ET. AL., G.R. No. 106053 (August 17, 1994) EN BANC The appeal filed a day late by the heirs of the deceased mayoralty candidate from the ruling of the Municipal BOC, proclaiming the candidate who obtained the second highest number of votes due to the death of the candidate who obtained the highest number of votes, is to be entertained so as to give way to the adjudication of the case on its substantive basis. Adherence to a technicality would put a stamp of validity on the palpably void proclamation. Where the proclamation is null and void, the legal rules enunciated in the election laws should not frustrate the determination of the popular will.

ROA, SR. v. JUDGE IMBING, A.M. No. RTJ-93-935 (March 11, 1994) EN BANC A complainant who filed an answer with a counter protest to an election protest filed against him/her cannot be required to pay the cash deposit to be applied to the payment of all expenses incidental to such counter-protest. Under Section 7 (b), Rule 35 of the COMELEC Rules of Procedure, a counter-protest is that filed by the protestee who desires to impugn the votes received by the protestants in other precincts. Even though the answer is titled as answer with a counter protest, the complainant only prayed that the protestant be required to pay a certain amount for every appearance in Court as attorney's fees. This is not the counter-protest contemplated by law; it is merely a counterclaim made by the complainant to what he thinks to be a malicious election protest filed against him/her.

PAHILAN v. TABALBA, ET. AL., G.R. No. 110170 (February 21, 1994) EN BANC A notice of appeal filed with the RTC can be validly substituted by an appeal brief filed with the COMELEC. An act of taking or perfecting appeal is more expressive of the intention to appeal than the filing of a mere notice to do so. Although the perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional, in some instances, strong and compelling reasons, such as serving the ends of justice and preventing a grave miscarriage, the strict application of technical rules of procedure may merit an exemption. Election statutes, being imbued with public interest, are to be liberally construed to the end that the will of the people in the choice of public officers may not be defeated by mere technical procedures. The RTC erroneously dismissed an appeal for incomplete payment of docket fees. The Trial Court's reliance on the rulings in the cases such as Manchester Development Corporation v. Court of Appeals, et. al. is misplaced considering that rules governing ordinary civil actions are not necessarily binding on special actions like an election contest wherein public interest will be adversely affected. Ordinary civil actions would generally involve private interests while all elections cases are, at all times, invested with public interest which cannot be defeated by mere procedural or technical infirmities. There was an honest effort to pay the full amount of docket fees,

contrary to the Manchester ruling, which aims to prevent the fraud on the part of the parties in evading the payment of docket fees.

ARUELO, JR. v. COURT OF APPEALS, ET. AL., G.R. No. 107852 (October 20, 1993) FIRST DIVISION The filing of a motion to dismiss and a motion for bill of particulars with the RTC in a case involving an election protest is not prohibited. An election protest before a RTC is governed by the Rules of Court and not the COMELEC Rules of Procedure. Section 2 Rule 1, Part I of the COMELEC Rules of Procedure, which prohibits the filing of motions to dismiss and for bill of particulars, only applies to proceedings pending before the COMELEC.

BULAONG v. COMELEC and VILLAFUERTE, G.R. NO 107987 (March 31, 1993) EN BANC It is not mandatory for a COMELEC Division to refer to the COMELEC En Banc a motion for reconsideration regarding an interlocutory order. A motion for reconsideration of an interlocutory order to be referred to the COMELEC En Banc requires the unanimous vote of the division as provided for by Section 2 of Rule 3 of the COMELEC Rules. The absence of a unanimous vote authorizes the Division to exercise its discretionary power to order the revision of the ballot instead.

GALLARDO, ET. AL. v. JUDGE TABAMO, JR. and ROMUALDO, G.R. No.104848 (January 29, 1993) EN BANC A private individual has legal standing to initiate the filing of a complaint for a violation of the OEC. Nothing in the law prohibits an individual from exposing an individual's commission of an election offense and filing the necessary complaint in connection therewith. The COMELEC Rules of Procedure also provides that initiation of complaints for commission of an election offense may be done motu proprio by the COMELEC or upon written complaint by any citizen, candidate or registered political party or organization under the party-list system or any of the accredited citizens arms of COMELEC.

BAUTISTA v. CASTRO, G.R. No. L-61260 (February 17, 1992) FIRST DIVISION The Court in its decision said that an appreciation of Section 14 of B.P. Blg. 222 and Section 36 of COMELEC Resolution. No. 1539 suggests that such requirement of the signature of the poll chairperson is mandatory and that the absence of the signature of the BET in the ballot given to a voter as required by law and the rules as proof of authenticity of said ballot is fatal.

BATERINA v. COMELEC, G.R. No. 95347-49 (January 6, 1992) EN BANC The two (2) principal watchers for the ruling coalition and the dominant oppositions shall, if available, affix their signature and thumb marks on the election returns for that precinct. However, if he is unavailable or unwilling or refuses to sign therein, any other watcher present may be required to sign therein. Hence, the absence of said signature does not give rise to the presumption that said election return is spurious.

DIMAPORO v. MITRA, G.R. No. 96859 (October 15, 1991) EN BANC Upon the filing of the certificate of candidacy for another office, forfeiture is automatic and permanently effective. It is not necessary that the position is actually held. It is sufficient that the candidate filed his/her certificate of candidacy for another office. The mere act of filing such certificate automatically produces the permanent forfeiture of the elective position presently held.

ABELLA v. COMELEC, G.R. No. 100710 (September 3, 1991) EN BANC The candidate with the second highest number of votes does not necessarily accede to the position in the event that the winning candidate is disqualified. The winning candidate was elected upon the voters' belief that s/he was qualified to run for the position. S/he was the obvious choice of the electorate. Henceforth the candidate's failure to obtain the highest number of votes will not necessarily result in his/her proclamation for it is not the manifestation of the true will of the electorate.

TAULE v. SANTOS, G.R. No. 90336 (August 12, 1991) EN BANC The Governor is a proper party to question the regularity of the elections of the federation of punong barangays. The elected president of the federation shall become part of the sangguniang panlalawigan, wherein the governor shall act as presiding officer. The decisions of the assembly shall thus be vulnerable to attacks of legality and validity if the federation president shall assume office under questionable circumstances.

TATLONGHARI v. COMELEC, G.R. No. 86645 (July 31, 1991) EN BANC Laws governing election contests must be liberally construed. The true will of the electorate must be given importance and must not be defeated by mere technical objections. Election contests are clothed with public interest. Technicalities and procedural barriers should give way to the true will of the people in their choice of public officials. The court is duty-bound to put all its efforts in ascertaining the real candidate elected by the electorate.

DAYO v. COMELEC, G.R. No. 94681 (July 18, 1991) EN BANC There is a violation of due process in cases wherein it was summarily dismissed using mere interrogatories wherein both parties had no participation as basis. Expediency should not be an excuse for the court not to extensively examine the ballots to ascertain the true winner in an election protest. By rendering a judgment on mere interrogatories, the court has denied itself of the examination of the best evidence in an election protest—the ballots.

LINDO v. COMELEC, G.R. No. 95016 (February 11, 1991) EN BANC Being a mere procedural lapse, the trial court's failure to serve a notice in advance of the promulgation did not affect the rights of the parties, the validity of the decision of the trial court and the validity of the promulgation of the decision. Lack of jurisdiction and procedural lapse are different from each other. The court's lack of jurisdiction renders the proceedings null and void unconditionally. A procedural lapse, however, renders the proceedings null and void only when there is an error in the proceedings that caused the harm done. COMELEC's additional requirement regarding notice in advance of promulgation is not part of the process of promulgation. Promulgation is the process of making a decision public or making a decision known to the parties. It is the filing of the signed decision with the clerk of court coupled with notice to the parties or with publication.

GALIDO v. COMELEC, G.R. No. 95356 (January 18, 1991) EN BANC A writ of certiorari may be issued to keep an inferior court within the bounds of its jurisdiction. It also prevents such tribunal from committing grave abuse of discretion amounting to lack or excess of jurisdiction. COMELEC has the power to decide over election contests based on physical evidence, equity, law and justice, and jurisprudence. Absent any findings of grave abuse of discretion, no one can control the COMELEC's power to decide up to which extent these bases shall find application in its decisions.

UNDA v. COMELEC, G.R. No. 94090 (October 18, 1990) EN BANC Statutes concerning election contests should be construed liberally in order that the will of the electorate may not be defeated by technical objections. An election case is imbued with public interest. The paramount consideration in such cases is to ascertain the real choice of the electorate. It is imperative that the claim for an elective position be cleared of uncertainty. The decisions in such election cases should not be delayed and trivial procedural technicalities should not bar the expediency of the resolution of the case.

QUILALA v. COMELEC, G.R. No. 82726 (August 13, 1990) EN BANC The assignment of watchers or representatives in the counting and canvassing of election returns is the duty of the candidates. There was no necessity to send another notice to the candidates when the BOC recessed because some of the election returns were not yet delivered. It is the responsibility of the candidate's watcher to verify when the actual canvass will resume for once the election returns are delivered, the board shall resume canvassing.

PEOPLE v. INTING, G.R. No. 88919 (July 25, 1990) EN BANC COMELEC has the power to conduct preliminary investigation in cases involving election offenses. The purpose of such power is to help the judge determine the

existence of probable cause and for filing an information in court. The provincial fiscal, in cases involving prosecution of election cases, has no role therein. The order, therefore, to get the approval of the provincial fiscal in election cases is not necessary.

AGBAYANI v. COMELEC, G.R. No. 87440-42 (June 13, 1990) EN BANC To insure all the ballot boxes used, a candidate can file a protest ad cautelam in case the pre-proclamation controversy was dismissed and in case it was necessary for him/her to activate his/her protest. There is a need to involve all the precincts in the province in case he decides to activate his/her protest. If he did not file a protest ad cautelam as a precaution, the other ballot boxes would have been emptied and their contents would have been burned.

DIPATUAN v. COMELEC, G.R. No. 86117 (May 7, 1990) EN BANC The OEC has not specifically set out the proper procedure for indicating that illiterate voters have cast their votes. In such absence, the COMELEC is bound by law to presume regularity. The complaints therefore regarding a third person writing the name of the illiterate he assisted should have been supported by clear evidence wherein it shows that through the said assistance, irregularities as to the elections occurred.

FLORES v. COMELEC, G.R. No. 89604 (April 20, 1990) EN BANC When the candidate filed for his/her candidacy as kagawad, he has forfeited his/her seat as punong barangay. The position of punong barangay is conferred by operation of law on the kagawad candidate placing first. The position being conferred by operation of law, the candidate must necessarily forfeit his/her seat as punong barangay when he filed his/her candidacy as kagawad. Having forfeited his/her seat, he cannot therefore be credited with the contested votes on the ground that he was still the incumbent punong barangay on the day of the elections.

MACIAS, II v. COMELEC, G.R. No. 85642 (February 12, 1990) EN BANC A specific allegation that a candidate duly filed his/her certificate of candidacy is not required in a petition for an election protest for COMELEC to acquire jurisdiction. The requirement that a protest must be filed by a candidate who has duly filed his/her certificate of candidacy and has been voted for the same office need not be specifically alleged in a protest.

UTUTALUM v. COMELEC, G.R. No. 84843-44 (January 22, 1990) EN BANC The annulment of the voting list in a separate proceeding cannot retroactively and without due process nullify accepted election returns. To allow its retroactivity would be invalid for this would empower the COMELEC to annul a previous election because of an annulment of a voting list in a proceeding wherein the candidate was not a party. There was no prior petition to question the list of voters used in the 1987 Congressional elections. The list, therefore, is considered conclusive evidence of persons who can vote in a particular election.

SANIDAD v. COMELEC, G.R. No. 90878 (January 29, 1990) EN BANC The prohibition regarding certain forms of election propaganda to prevent the perversion and prostitution of the electoral process does not apply in plebiscites. The evil prevented by the prohibition does not apply in plebiscites wherein the electorate is asked to vote for or against issues, not candidates. Votes in plebiscites are for special political matters taken in an area. The right to be informed and to be able to freely and intelligently make a decision must be upheld and should not be curtailed. People should not be burdened by the said prohibitions and restrictions on certain forms of election propaganda.

PROCLAMATION

GARCIA v. COMELEC, G.R. NO. 216691 (July 21, 2015) The manual COCP is the official COMELEC document in cases wherein the canvassing threshold is lowered. In fact, clear from the language of the Resolution is that the winners, in such instances, are proclaimed “by manually preparing a Certificate of Canvass and Proclamation of Winning Candidates,” the format for which is appended to COMELEC Resolution No. 9700. Only the winning

candidates have the demandable right to be furnished a copy of the COCP. The prescriptive period ought to be reckoned from the actual date of proclamation, not from notice through service of a COCP, since the losing candidates are not even required to be served a copy of the COCP in the first place.

AKSYON MAGSASAKA-PARTIDO TINIG NG MASA (AKMA-PTM) vs. COMELEC, G.R. No. 207134 (June 16, 2015)

COMELEC is authorized by law to proclaim winning candidates if the remaining uncanvassed election returns will not affect the result of the elections.

SULIGUIN v. COMELEC, G.R. No. 166046 (March 23, 2006) EN BANC COMELEC can annul a proclamation of a candidate for being based on an erroneous computation of votes. Where the proclamation is null and void, the proclaimed candidate's assumption of office cannot deprive COMELEC of the power to declare such proclamation a nullity.

ALEJANDRO v. COMELEC, G.R. No. 167101 (January 21, 2006) EN BANC COMELEC can treat a petition against a candidate as one for annulment of proclamation although it was denominated as also for correction of manifest errors. COMELEC was given the power of control and supervision over the BOC which allows them to revise, reverse and set aside the action of the board. A petition for annulment or declaration of nullity of proclamation includes the correction of mathematical errors which are not attributable to on correct entries in any election returns, statement of votes and certificate of canvass but in the mere computation of the votes reflected in those election documents. COMELEC also has the authority to annul the proclamation due to an alleged error in the tabulation of the statement of votes even if the petition was filed beyond the 10-day period after proclamation.

LORENZO v. COMELEC, G.R. No. 158371 (December 11, 2003) EN BANC When the issue of eligibility of a candidate is still pending, the canvass which excluded said candidate was an incomplete canvass and the proclamation of the other candidate is illegal.

SAYA-ANG, SR v. COMELEC, G.R. No. 155087 (November 28, 2003) EN BANC When voters have honestly cast their ballots, the same should not be nullified simply because the officers tasked under the law to direct the elections and guard the purity of the ballot did not do their duty. When a candidate (whose certificate of candidacy has been denied but has not become final) has been proclaimed, the resolution canceling the certificate of candidacy should be set aside

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC A summary proceeding does not mean that COMELEC could do away with the requirements of notice and hearing. COMELEC should have at least given notice to Bautista to give him/her the chance to adduce evidence to explain his/her side in the cancellation proceeding. The COMELEC En Banc deprived Bautista of procedural due process of law when it approved the report and recommendation of the Law Department without notice and hearing.

MILLA v. BALMORES-LAXA, G.R. No. 151216 (July 18, 2003) EN BANC If a candidate's proclamation is based on a Statement of Votes which contains erroneous entries, it is null and void. It is no proclamation at all and the proclaimed candidate's assumption of office cannot deprive COMELEC of the power to annul the proclamation. While our election laws are silent when such and similar petitions may be filed directly with the COMELEC, Section 5, Rule 27 of the Rules of Procedure sets a prescriptive period of five (5) days following the date of proclamation. The COMELEC, however, could suspend its own Rules of Procedure so as not to defeat the will of the electorate. For adherence to technicality that would put a stamp on a palpably void proclamation, with the inevitable result of frustrating the people's will, cannot be countenanced.

CODILLA, SR. v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC The COMELEC En Banc has the jurisdiction to rule on the issue. Section 3, Article IX-C of the 1987 Constitution empowers the COMELEC En Banc to review, on motion for reconsideration, decisions or resolutions decided by a division.

CAWASA v. COMELEC, G.R. No. 150469 (July 3, 2002) EN BANC A prayer to annul election results, as in the instant case, and a prayer to declare failure of elections based on allegations of fraud, terrorism, violence or analogous causes, are actually of the same nature and the Election Code denominates them similarly. COMELEC may exercise the power to annul election results or declare a failure of election motu proprio or upon a verified petition. The hearing of the case shall be summary in nature. A formal trial-type hearing is not at all times and in all instances essential to due process – it is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to present evidence on which a fair decision can be based. In fine, a trial is not at all indispensable to satisfy the demands of due process.

ABINAL v. COMELEC, G.R. No. 148540 (April 22, 2002) EN BANC Under Section 20 (i) of R.A. No. 7166: Section 20. Procedure in Disposition of Contested Election Returns. – (i) The BOC shall not proclaim any candidate as winner unless authorized by COMELEC after the latter has ruled on the objections brought to it on appeal by the losing party. Any proclamation made in violation hereof shall be void ab initio, unless the contested returns will not adversely affect the results of the election. COMELEC cannot validly authorize the proclamation of a candidate if it would contravene a provision of the election law.

O’HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC The present controversy does not merely involve a mistake in the addition of the votes appearing on the Statement of Votes per precinct or an erroneous copying of figures in the Certificate of Canvass. We are called upon to protect the sovereign will of the people of Rizal and not to stifle or frustrate it. Thus, we must employ all means bestowed upon us to safeguard the rule of the majority. Time and again, the Supreme Court has given its imprimatur on the principle that COMELEC is with authority to annul any canvass and proclamation which was illegally made. The Constitution gives COMELEC the broad power “to enforce and administer all laws and regulations to the conduct of an election, plebiscite, initiative, referendum and recall.” COMELEC indisputably exercises the power of supervision and control over BEIs and BOCs. COMELEC must do everything in its power to secure a fair and honest canvass of the votes cast in the elections. The Constitution upgraded to a constitutional status the statutory authority under B.P. Blg. 881 to grant COMELEC broad and more flexible powers to effectively perform its duties and to ensure free, orderly, honest, peaceful and credible elections, and to serve as the guardian of the people’s sacred right of suffrage. In the absence of any manifest error in the certificate of canvass sought to be corrected, COMELEC should have ordered the re-canvass of the election returns or the re-counting of the ballots in the municipality of Binangonan in order to validate the claim of the MBC. If after the re-canvass of the election returns or the re-counting of the official ballots, the clerical error or mathematical mistake in the addition of the votes had been established, COMELEC should have annulled the canvass and proclamation based on the erroneous certificate of canvass. If the records had borne out that the proclamation was the result of a clerical error or simple mathematical mistake in the addition of votes and did not reflect the true and legitimate will of the electorate, there could have been no valid proclamation to speak of. The issue would involve a pre-proclamation controversy not proper at this time.

UTTO v. COMELEC, G.R. No. 150111 (January 31, 2002) EN BANC A proclamation made pending appeal of the ruling of the BOC is void. After proclamation, the remedy of a party aggrieved in an election is an election protest. This is on the assumption, however, that there has been a valid proclamation. Where a proclamation is null and void, the proclaimed candidate’s assumption of office cannot deprive COMELEC of the power to declare such proclamation a nullity.

DE RAMA v. COURT OF APPEALS, G.R. No. 131136 (February 28, 2001) EN BANC The constitutional prohibition on so-called "midnight appointments," specifically those made within two (2) months immediately prior to the next presidential elections, applies only to the President or Acting President.

GUSTILO v. REAL, SR., A.M. No. MTJ-00-1250 [Formerly OCA IPI No. 97-332-MTJ] (February 28, 2001) SECOND DIVISION The jurisdiction over annulment of proclamations is with COMELEC, not the regular courts.

SEMA v. COMELEC, G.R. No. 134163-64 (December 13, 2000) EN BANC An incomplete canvass is illegal and cannot be the basis of a valid proclamation. Decisions of the BOC not appealed within the 5-day period become final. An appeal concerning the composition or proceedings of the board must be filed with the COMELEC within three days.

IMMAM v. COMELEC, G.R. No. 134167 (January 20, 2000) EN BANC At the time the proclamation was made, COMELEC had not yet resolved the Petition for Canvassing of Votes and Petition for Special Elections. Absent the authorization from COMELEC, any proclamation is void ab initio. Several returns were excluded for failure of elections in their respective precincts. An incomplete canvass of votes is illegal and cannot be the basis of a subsequent proclamation.

DAGLOC v. COMELEC, G.R. No. 138969 (December 17, 1999) EN BANC The filing of a petition to declare a failure of election which is not a pre-proclamation case does not suspend the running of the reglementary period within which to file an election protest.

BAGATSING v. COMELEC, G.R. No. 134047 (December 15, 1999) EN BANC The mere filing of a petition for disqualification is not a ground to suspend the proclamation of the winning candidate. The mere pendency of a disqualification case against a candidate, and a winning candidate at that, does not justify the suspension of his/her proclamation after winning in the election.

CARUNCHO III v. COMELEC, G.R. No. 135996 (September 30, 1999) EN BANC An incomplete canvass of votes is illegal and cannot be the basis of a subsequent proclamation. A canvass cannot be reflective of the true vote of the electorate unless all returns are considered and none is omitted.

MIRANDA v. ABAYA, G.R. No. 136351 (July 28, 1999) EN BANC A certificate of candidacy filed beyond the period fixed by law is void, and the person who filed it is not, in law, a candidate. He cannot be substituted.

LONZANIDA v. COMELEC, G. R. No 135150 (July 28, 1999) EN BANC A proclamation which was subsequently declared void is no proclamation at all. While a proclaimed candidate may assume office on the strength of said proclamation, he remains to be only a presumptive winner subject to the final resolution of the election protest lodged against him/her. Hence, when his/her proclamation was nullified, he is not considered to have served the full term of his/her office.

JAMIL v. COMELEC, et. al., G.R. No. 123648 (December 15, 1997) EN BANC The proclamation of a candidate based on an incomplete canvass is null and void for the simple reason that a complete canvass is a prerequisite for a valid proclamation. Issuances of the Municipal BOC "setting aside" the election return from a precinct for "further investigation," or "to go deeper into the contradicting testimonies of the Chairperson and the watchers," or to "summon the two (2) BEI who failed to affix their signatures and explain the alleged increase of votes of a candidate and the use of unauthorized envelope without seal containing the election returns and thereafter a ruling on the matter shall be rendered" are not definitive rulings of exclusion by such board because they merely defer the inclusion of the election returns pending further investigation. There being no ruling on the inclusion or exclusion of the disputed returns, there could have been no complete and valid canvass, which is a prerequisite to a valid proclamation. In addition, Section 245 of the OEC prohibits the

proclamation by the BOC of a candidate as winner where returns are contested except in cases authorized by COMELEC. No authority had been given by COMELEC to the MBC for the proclamation of the candidate.

BLANCO v. COMELEC and ALARILLA, G.R. No. 122258 (July 21, 1997) EN BANC COMELEC did not gravely abuse its discretion in suspending a winning candidate's proclamation pending determination of a petition for disqualification when there was a finding of probable commission of an election offense, which is a ground for disqualification pursuant to Section 68 of the OEC. The suspension is provisional in nature and can be lifted when the evidence so warrants. It is akin to a temporary restraining order, which a court can issue ex parte under exigent circumstances.

TORRES v. COMELEC and DE PERALTA, G.R. No. 121031 (March 26, 1997) EN BANC The COMELEC has the power to annul the proclamation of a winning candidate for Municipal Councilor in view of an error in the computation of totals in the Statement of Votes, which was made the basis of the proclamation, and to direct the Municipal BOC to reconvene and proclaim the rightful winner. Under Section 27, Rule 27 of the COMELEC Rules of Procedure, correction of Errors in Tabulation or Tallying of Results by the BOC is allowed where it is clearly shown before proclamation that manifest errors were committed in the tabulation or tallying of election returns, or certificates of canvass, during the canvassing as where there was a mistake in the adding or copying of the figures into the certificate of canvass or into the statement of votes by precinct. Although candidates have already been proclaimed, there is nothing to prevent its application to cases like the one at bar in which the validity of the proclamation is precisely in question. Since the Statement of Votes forms the basis of the Certificate of Canvass and of the proclamation, any error in the statement ultimately affects the validity of the proclamation. In making the correction in the computation the Municipal BOC acted in an administrative capacity under the control and supervision of the COMELEC.

GARCIA v. COMELEC and REYES, G.R. No. 120940 (March 7, 1996) EN BANC That the candidate who obtains the second highest number of votes may not be proclaimed winner in case the winning candidate is disqualified has been settled in view of *Frivaldo v. COMELEC*, *Labo, Jr. v. COMELEC*, *Abella v. COMELEC* and *Benito v. COMELEC*. The second placer is just that, a second placer. S/he lost the elections. S/he was repudiated by either a majority or plurality of the voters.

AQUINO v. COMELEC, ET. AL., G.R. No. 120265 (September 18, 1995) EN BANC A candidate garnering the next highest number of votes in the congressional elections for the Second District of Makati City cannot be declared as the winning candidate by virtue of the disqualification of the candidate who obtained the highest number of votes. It has been repeatedly held that, "The fact that a candidate who obtained the highest number of votes is later declared to be disqualified or not eligible for the office to which he was elected does not necessarily entitle the candidate who obtained the second highest number of votes to be declared the winner of the elective office." The second placer is just that, a second placer - he lost the elections; he was repudiated by either a majority or plurality of voters – he could not be proclaimed the winner since he could not be considered the first among qualified candidates.

BINCE, JR. v. ET. AL., G.R. No. 11624-25 (March 9, 1995) EN BANC COMELEC has the authority to declare null and void a candidate's proclamation and to direct the Municipal BOC to reconvene pursuant to a Supreme Court ruling on the case that a candidate's proclamation is done without jurisdiction or with grave abuse of discretion for failure to comply with the due process requirements of notice and hearing. Setting aside the proclamation is strengthened by the fact that the candidate was proclaimed based on a faulty tabulation. Laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.

BENITO v. COMELEC, ET. AL., G.R. No. 106053 (August 17, 1994) EN BANC The proclamation of a candidate who obtained the second highest number of votes due to the death of the candidate who obtained the highest

number of votes is an absolute nullity and of no force and effect. It was the duty of the Municipal BOC to proclaim as winner the candidate who obtained the highest number of votes with the information that he died, to give way to legal succession to office. The fact that the candidate who obtained the highest number of votes dies, or is later declared to be disqualified or not eligible for the office to which he was elected does not necessarily entitle the candidate who obtained the second highest number of votes to be declared the winner of the elective office. For to allow the defeated and repudiated candidate to take over the elective position despite his/her rejection by the electorate is to disenfranchise the electorate without any fault on their part and to undermine the importance and meaning of democracy and the people's right to elect officials of their choice. The motion to suspend proclamation of a deceased candidate with the argument that the votes for such candidate should not have been counted on the basis of a pending petition for disqualification cannot prosper. Under Section 6 of R.A. No. 6646, one of the effects of a disqualification case is that the votes for a deceased candidate shall not be counted; however, this provision only applies to candidates who have been declared by final judgment to be disqualified. Therefore, the provision does not cover the deceased candidate since there has been no final judgment on the petition to disqualify him/her.

PAPANDAYAN v. COMELEC, ET. AL., G.R. No. 107509-11 (February 28, 1994) EN BANC A petition filed with COMELEC praying for the nullification of the proclamation of the opposing party, for the reconvening of the BOC to make a new canvass by including certain election returns and the proclamation of the winning candidate filed subsequent to an Omnibus Motion praying for the inclusion of the same election returns and the declaration of the winning candidate cannot prosper. The petition is actually in the guise of a motion for reconsideration considering that the prayers in the first petition filed has been granted by COMELEC. Under Section 1 of Rule 13 of the COMELEC Rules of Procedure, a motion for reconsideration of an En Banc ruling is among the prohibited pleadings. A petition filed with COMELEC praying for the nullification of the proclamation of the opposing party, for the reconvening of the BOC to make a new canvass by including certain election returns and the proclamation of the winning candidate cannot prosper for lack of jurisdiction. The petition is in the nature of an election protest, jurisdiction of which is vested in the RTCs. Section 1 of Rule 35 of the COMELEC Rules of Procedure provides that, "RTCs shall have exclusive original jurisdiction over contests relating to the elections, returns and qualifications involving elective municipal officials.

DATU MENTANG v. COMELEC AND BERNAN, G.R. No. 110347 (February 4, 1994) EN BANC COMELEC has jurisdiction to decide a Petition to Correct Manifest Error & Annul the Proclamation and/or Suspend the Effects of such Proclamation and implement an order directing the re-tabulation of the votes as reflected in the copies of the Statement of Votes by Precinct Per Municipality even if filed beyond the 5-day reglementary period for pre-proclamation cases. While the petition has prayed for the correction of mathematical errors, such errors, however, are not attributed to incorrect entries in any of the election returns, statement of votes and certificate of canvass but in the mere computation of the votes reflected in those election documents.

LABO, JR. v. COMELEC, G.R. No. 105111 (July 3, 1992) EN BANC With regard to the suspension of the proclamation by COMELEC, the Court held that the it can legally suspend the proclamation notwithstanding that fact that he received the winning number of votes for his/her failure to prove that he reacquired his/her Philippine citizenship.

TATLONGHARI v. COMELEC, G.R. No. 86645 (July 31, 1991) EN BANC The validity of the proclamation of a candidate may be challenged even after said candidate has assumed office. The assumption to office of a candidate is not a bar for COMELEC to annul any canvass or proclamation which was illegally made. Election protests are said to be the remedy if the petition is filed after a proclamation. However, this statement presupposes that the proclamation is valid. Absent a valid proclamation, it is correct that the case at hand is filed as a pre-proclamation controversy. There is no valid proclamation if the basis of such is a faulty tabulation. Evidence showed that the assumption of office was effected through a mere clerical error and not through the will of the electorate. Election protests are said to be the remedy if the petition is filed after a valid

proclamation. Absent a valid proclamation, it is correct that the case at hand is filed as a pre-proclamation controversy.

PROVISIONAL CONSTITUTION/ 1987 CONSTITUTION

OSMENA v. COMELEC, G.R. No. 100318 (July 30, 1991) EN BANC The 1987 Constitution clearly mandated that a synchronized national and local elections on the second Monday of May 1992. RA 7056, providing for the holding of a desynchronized election, is violative of such mandate. Contrary to the constitution, RA 7056 postpones the holding of a synchronized election and provides for two separate elections for 1992. According to the R.A., the elections for President, Vice-President, Senators and Members of the House of Representatives shall be held on the second Monday of May 1992 while the local elections shall be held on the second Monday of November 1992. Violative of the Constitution, the R.A. in question is unconstitutional. It is unconstitutional for the legislature to extend the official term of an elective local official by stipulating in the R.A. that an incumbent shall hold over a position until a successor is elected and qualified. The Constitution has fixed the term and the day on which an official term shall begin. The term of office for elective local officials, save for barangay officials, shall be three years and shall not be for three consecutive terms. Violative of the mandates of the Constitution, the R.A. in question is unconstitutional.

OSIAS v. FERRER, G.R. No. 77049 (March 28, 1988) EN BANC Art. III, Section 2 of the Provisional Constitution provides that a successor must have been designated, appointed and qualified before Feb. 2, 1987. The duly elected barangay captain was sought to be replaced by appointing another person for the said position. However, the appointed barangay captain only took his/her oath of office after March 24, 1987. He, then, had not been qualified for the position by February 2, 1987, as mandated by the constitution. The court held that the duly elected barangay captain is restored to his/her position as barangay captain.

PUBLIC OFFICE

DELA VICTORIA v. COMELEC, G.R. No. 95275-76 (July 23, 1991) EN BANC Public office, which is not a transmissible right, is personal to the incumbent and is not a property right which can be passed to the incumbent's heirs. The heirs can only defend their interests as against claims for damages and costs. However, the subsequent waiver of the protestant of claims for damages and costs effectively withdraws the participation of the heirs in the present case. The death of the candidate extinguished the claim for the contested office for such death terminated the candidate's ability to occupy said office.

QUALIFICATIONS/ DISQUALIFICATIONS

SOBEJANA-CONDON v. COMELEC, G.R. No. 198742 (August 10, 2012) EN BANC Failure to renounce foreign citizenship in accordance with the exact tenor of Section 5(2) of R.A. 9225 renders a dual citizen ineligible to run for, and thus hold, any elective public office.

SORIANO v. COMELEC and BOLANGOS, G.R. No. 201936 (July 3, 2012) EN BANC The re-acquisition of Philippine citizenship has no automatic impact or effect on his/her residence/domicile. After his/her renunciation of his/her American citizenship, his/her length of residence in the municipality shall be determined from the time s/he made it his/her domicile of choice and shall not retroact to the time of his/her birth.

MUNDER, v. COMELEC G.R. No. 194076 (October 19, 2011) EN BANC A candidate who while he was still a minor, registered him/herself as a voter and misrepresented that he was already of legal age is not guilty of misrepresentation if he runs for a position possessing the necessary age qualification.

AMORA v. COMELEC G.R. No. 192280 (January 25, 2011) EN BANC An improperly sworn certificate of candidacy is not equivalent to possession of a ground for disqualification. For COMELEC to uphold that a defective notarization is a ground for the disqualification of a candidate amounts to a grave abuse of discretion. However there still must be the formal requirement of a certificate of candidacy being sworn.

LIMBONA v. COMELEC G.R. No. 186006 (October 16, 2009) EN BANC Husband and wife are presumed to live together. Marriage changes the domicile to where the family home is located. Mere residence in a different location does not automatically constitute a change in domicile. Where a wife lives separately from her husband but does not fall under the court granted exception, her domicile is still the same as her husband's. To establish a new domicile there must concur (1) residence or bodily presence in the new locality, (2) an intention to remain there, and (3) an intention to abandon the old domicile. In order to acquire a domicile by choice, there requisites must concur: (1) residence or bodily presence in the new locality;(2) an intention to remain there; and (3) an intention to abandon the old domicile. A person's "domicile" once established is considered to continue and will not be deemed lost until a new one is established. In other words, there must basically be animus manendi coupled with animus non revertendi. The purpose to remain in or at the domicile of choice must be for an indefinite period of time; the change of residence must be voluntary; and the residence at the place chosen for the new domicile must be actual.

PUNDAODAYA v. COMELEC G.R. No. 179313 (September 17, 2009) EN BANC Voter registration records, a Marriage Certificate, affidavits of residents and receipts for payment of water bills is not enough to establish a change in domicile from the domicile of origin. To establish a new domicile of choice, personal presence in the place must be coupled with conduct indicative of that intention. It requires not only such bodily presence in that place but also a declared and probable intent to make it one's fixed and permanent place of abode.

MARUHOM v. COMELEC G. R. No. 179430 (July 27, 2009) EN BANC The first registration of any voter subsists, any subsequent registration thereto is void ab initio. A certificate of candidacy based on the subsequent registration constitutes false material representations which may be the basis of cancelation however such does not deprive one of the right to vote in the area of the first registration.

TEVES v. COMELEC G.R. No. 180363 (April 28, 2009) EN BANC Violation of Section 3(h), R.A. (R.A.) No. 3019, or the Anti-Graft and Corrupt Practices Act, for possessing pecuniary or financial interest in a cockpit, which is prohibited under Section 89(2) of the LGC by ownership of a cockpit is not a crime involving moral turpitude

GUNSI, SR. v. COMELEC, G.R. No. 168792, (February 23, 2009) EN BANC Non compliance with the three (3) specimen signatures as required by Section 10 of R.A. No. 8189 or the Voters Registration Act shall result in one not being a registered voter and the subsequent cancelling of a certificate of candidacy if filled.

CORDORA v. COMELEC, G.R. No. 176947 (February 19, 2009) EN BANC The twin requirements of swearing to an Oath of Allegiance and executing a Renunciation of Foreign Citizenship do not apply to a natural-born Filipino holding dual citizenship that did not subsequently become a naturalized citizen of another country. Dual citizenship is not a ground for disqualification from running for any local elective position.

JAPZON v. COMELEC G.R. NO. 180088 (JANUARY 19, 2009) EN BANC When a Filipino reacquires his/her Philippine citizenship to run in local elections his/her domicile shall not retroact to the time of this birth. Absence from residence to pursue studies or practice a profession or registration as a voter other than in the place where one is elected, does not constitute loss of residence. Even if length of actual stay in a place is not

necessarily determinative of the fact of residence therein, it does strongly support intent to establish residence/domicile.

DIZON v. COMELEC G.R. No. 182088 (January 30, 2009) EN BANC The three-term limit does not apply whenever there is an involuntary break. The Constitution does not require that the interruption or hiatus to be a full term of three years. What the law requires is for an interruption, break or a rest period from a candidate's term of office "for any length of time."

VELASCO v. COMELEC, G.R. No. 180051 (December 24, 2008) EN BANC A certificate of candidacy cancellation proceeding essentially partakes of the nature of a disqualification case. If the disqualification or certificate of candidacy cancellation/denial case is not resolved before election day, the proceeding shall continue even after the election and the proclamation of the winner. Certificate of candidacy defects beyond matters of form and that involve material misrepresentations cannot avail of the benefit of our ruling that the certificate of candidacy mandatory requirements before elections are considered merely directory after the people shall have spoken.

FERMIN v. COMELEC, G.R. No. 179695 and G.R. No. 182369 (December 18, 2008) EN BANC Failure to meet the one-year residency requirement for the public office is not a ground for the "disqualification" of a candidate under Section 68. The said section pertains to the commission of prohibited acts and the possession of a permanent resident status in a foreign country as grounds for disqualification. The candidate being mere resident of the another municipality instead of the newly created municipality where he is running for office cannot be disqualified using the said provision.

JUSTIMBASTE v. COMELEC, G.R. No. 179413 (November 28, 2008) EN BANC When a candidate's immigration records contain the acronym "BB" (Balikbayan), s/he either harbors dual citizenship or is a permanent resident of a former country which are grounds for disqualification from running for any elective position. R.A. 6768 provides that a balikbayan is: (1) A Filipino citizen who has been continuously out of the Philippines for a period of at least one year; (2) A Filipino overseas worker; or (3) A former Filipino citizen and his/her family, who had been naturalized in a foreign country and comes or returns to the Philippines. If there is concrete proof that a candidate falls in any of the categories mentioned, s/he may be disqualified to run for office.

JACOT v. DAL, G.R. No. 179848 (November 27, 2008) EN BANC The candidates in the Philippine elections must only have one citizenship, namely, Philippine Citizenship. The law categorically requires persons seeking elective public office, who either retained their Philippine citizenship or those who reacquired it, to make a personal and sworn renunciation of any and all foreign citizenship before a public officer authorized to administer an oath simultaneous with or before the filing of the certificate of candidacy. Such rules on citizenship qualifications must be strictly applied. Therefore, having failed to comply with the necessary citizenship requirements is ground for disqualification from running in the said elected position.

LOPEZ v. COMELEC, G.R. No. 182701 (July 23, 2008) EN BANC The filing of a certificate of candidacy does not operate as an effective renunciation of foreign citizenship. The Dual Citizenship Act in 2003 (R.A. No. 9225) expressly provides that a personal and sworn renunciation of any or all foreign citizenship must be made for the said renunciation to be valid. Failure to prove such renunciation disqualifies a person from running for an elective position in the Philippines. Garnering the most number of votes does not cure the defect in the qualifications of a candidate. Even if a person won the elections, took his/her oath and started discharging his/her duties, he must relinquish his/her position for failure to meet the qualifications of a candidate. The constitutional and statutory provisions on disqualifications are not a matter of popularity.

LIMBONA v. COMELEC, G.R. No. 181097 (June 25, 2008) EN BANC The withdrawal of a certificate of candidacy does not necessarily render the certificate void ab initio. Once a certificate is filed, the permanent legal effects

produced thereby remain even if the certificate itself be subsequently withdrawn. The filing or withdrawal of such shall not affect any civil, criminal or administrative liabilities which a candidate may have incurred. The fact that a person's certificate of candidacy as a substitute candidate is given due course by COMELEC does not bar the said body from deciding on his/her qualifications to run as a candidate. When there is no issue of disqualification passed upon by the COMELEC, it should not be presumed that one is not disqualified. The basis for giving due course to a certificate of candidacy is different from those for proclaiming that one is not disqualified.

BLANCO v. COMELEC, G.R. No. 180164 (June 17, 2008) EN BANC COMELEC committed grave abuse of discretion when they sentenced a candidate who was not convicted of an election offense under the OEC to suffer disqualification to hold public office. A presidential pardon, amnesty or any other form of executive clemency is not needed for the candidate to run for office absent the proof of conviction. Furthermore, no imposition of an accessory penalty of disqualification to hold public office was given to the said candidate after being charged of vote buying.

ROMUALDEZ v. COMELEC, G.R. No. 167011 (April 30, 2008) EN BANC There is no false material representation which could be a ground to cancel a certificate of candidacy when the candidate is actually qualified even if the entries in the certificate of candidacy as filled up by the candidate will show that s/he is not since there was no intention to deceive the electorate as to one's qualifications for public office.

UGDORACION, JR. v. COMELEC, G.R. No. 179851 (April 18, 2008) EN BANC The basic rules governing domicile are as follows: (1) a man must have a residence or domicile somewhere; (2) domicile, once established, remains until a new one is validly acquired; and (3) a man can have but one residence or domicile at any given time. One's domicile of origin is not easily lost. Its loss is only when there is an actual removal or change of domicile, a bona fide intention of abandoning the former residence and establishing a new one, and acts which correspond with such purpose. In election law, the term "residence" is synonymous to the term "domicile." The question of residence is mainly one of intention. Intention of residing in a fixed place and the intention of remaining in that place. The use of which is to prevent strangers or newcomers, with no knowledge of the need of the community to serve the said community. A Filipino citizen's acquisition of a permanent resident status abroad constitutes an abandonment of his/her domicile and residence in the Philippines; The "green card" status in the USA is a renunciation of one's status as resident of the Philippines. He must waive his/her status as such to be eligible to run as a candidate for public office.

QUIZON v. COMELEC, G.R. No. 177927 (February 15, 2008) EN BANC Provision of the election law regarding certificates of candidacy, such as signing and swearing on the same as well as the information required to be stated therein, are considered mandatory prior to the elections. Afterwards, such declarations are only considered as directory to merely give effect to the will of the people. Mere technicalities should not be used to defeat the intention of the electorate, particularly when the ballots themselves show such intention of electing the said candidate.

UY v. PANTANOSAS, JR., A.M.-RTJ-07-2094 (Formerly A.M. OCA IPI No. 05-2392-RTJ) (December 10, 2007) FIRST DIVISION A judge is considered resigned from the judiciary from the time he files his/her certificate of candidacy for an elective office. A judge should be able to dispose of the court's business promptly and decide cases within the required periods. Running for an elective position would be an interference in the disposition of a judge's duties.

CAYAT v. COMELEC, G.R. No. 163776 (April 24, 2007) EN BANC Where one of the two candidates for the position of mayor was disqualified by final judgment before election day, the remaining candidate, as the only candidate, was not a second placer even if he got lower number of votes. He was the sole and only placer, second to none. Thus, the doctrine on the rejection of the second placer does not apply.

LANOT v. COMELEC, G.R. No. 164858 (November 16, 2006) EN BANC There are two aspects of disqualification cases. The electoral aspect of a disqualification case determines whether the offender should be disqualified from being a candidate or from holding office. Proceedings are summary in character and require only clear preponderance of evidence. An erring candidate may be disqualified even without prior determination of probable cause in a preliminary investigation. The electoral aspect may proceed independently of the criminal aspect, and vice-versa. The criminal aspect of a disqualification case determines whether there is probable cause to charge a candidate for an election offense. The prosecutor is the COMELEC, through its Law Department, which determines whether probable cause exists. If there is probable cause, the COMELEC, through its Law Department, files the criminal information before the proper court. Proceedings before the proper court demand a full-blown hearing and require proof beyond reasonable doubt to convict. A criminal conviction shall result in the disqualification of the offender, which may even include disqualification from holding a future public office. The two aspects account for the variance of the rules on disposition and resolution of disqualification cases filed before or after an election. When the disqualification case is filed before the elections, the question of disqualification is raised before the voting public. If the candidate is disqualified after the election, those who voted for him/her assume the risk that their votes may be declared stray or invalid. These two aspects can proceed simultaneously. The COMELEC commits grave abuse of discretion if it orders the dismissal of the disqualification case pending preliminary investigation of the election offense by the COMELEC Law Department. COMELEC has the discretion to suspend the proclamation of the winning candidate during the pendency of a disqualification case when evidence of his/her guilt is strong. However, an order suspending the proclamation of a winning candidate against whom a disqualification case is filed is merely provisional in nature and can be lifted when warranted by the evidence.

MORENO v. COMELEC, G.R. No. 168550 (August 10, 2006) EN BANC Since the accessory penalty of perpetual disqualification of the right to vote and to hold public office are suspended when a person is placed under probation, s/he is not disqualified to run for elective office.

NICOLAS-LEWIS, ET. AL. v. COMELEC, G.R. No. 162759 (August 4, 2006) EN BANC There is no provision in the Citizenship Retention and Re-acquisition Act of 2003/dual citizenship law requiring "duals" or dual citizens to actually establish residence and physically stay in the Philippines first before they can exercise their right to vote. On the contrary, said Act, in implicit acknowledgment that "duals" are most likely non-residents, grants under its Section 5(1) the same right of suffrage as that granted an absentee voter under the Overseas Absentee Voting Act of 2003. It cannot be overemphasized that R.A. 9189 aims, in essence, to enfranchise as much as possible all overseas Filipinos who, save for the residency requirements exacted of an ordinary voter under ordinary conditions, are qualified to vote.

DUMPIT-MICHELANA v. BOADO, G.R. No. 163619-20 (November 17, 2005) EN BANC A beach house is at most a place of temporary relaxation. It can hardly be considered a place of residence. In addition, the designation of caretaker with monthly compensation of ₱2,500 only shows that the candidate does not regularly reside in the place. The Deed of Absolute Sale states that person is a resident of Naguilian, La Union while the Special Power of Attorney states that s/he is a resident of San Julian West, Agoo, La Union and No. 6 Butterfly St. Valle Verde 6, Pasig, Metro Manila. The person obviously has a number of residences and the acquisition of another one does not automatically make the most recently acquired residence his/her new domicile.

GAYO v. VERCELES, G.R. No. 150477 (February 28, 2005) SECOND DIVISION The term "residence" is to be understood not in its common acceptance as referring to "dwelling" or "habitation," but rather to "domicile" or legal residence, that is, the place where a party actually or constructively has his/her permanent home, where s/he, no matter where may be found at any given time, eventually intends to return and remain. A domicile of origin is acquired by every person at birth. A Filipino citizen's immigration to a foreign country

constitutes an abandonment of domicile and residence in the Philippines. The acquisition of a permanent residency status is a renunciation of Philippine residency status.

BAGUIO MIDLAND COURIER v. THE COURT OF APPEALS G.R. No. 107566 (November 25, 2004) EN BANC The public has a right to be informed on the mental, moral, and physical fitness of candidates for public office. The remedy of the person allegedly libeled is to show proof that an article was written with the author's knowledge that it was false or with reckless disregard of whether it was false or not. While the law itself creates the presumption that every defamatory imputation is malicious, nevertheless, the privileged character of a communication destroys said presumption. The burden of proving actual malice shall then rest on the plaintiff.

ALTAREJOS v. COMELEC, G.R. No. 163256 (November 10, 2004) EN BANC Reacquisition of Filipino citizenship through repatriation retroacts and is effective even before the registration of the certificate of repatriation with the civil registry and the Bureau of Immigration.

ALBAÑA v. COMELEC G.R. No. 163302 (July 23, 2004) EN BANC COMELEC may not before final conviction of a candidate order his/her disqualification. The COMELEC order directing the prosecution of the candidates in a criminal case which is pending in the RTC is invalid. Their supposed disqualification should be adjudged by the latter court and not by COMELEC. Further, a petition to disqualify a candidate after his/her proclamation as winner should be dismissed.

OCAMPO, v. HRET, G.R. No. 158466 (June 15, 2004) EN BANC There must be a final judgment of a crime before the election in order that the votes of a disqualified candidate can be considered "stray." Voting for a candidate who has not been disqualified by final judgment during the election day, the people voted for him/her bona fide, without any intention to misapply their franchise, and in the honest belief that the candidate was then qualified to be the person to whom they would entrust the exercise of the powers of government.

TECSON v. COMELEC G.R. No. 161434 (March 3, 2004) EN BANC Legitimacy or illegitimacy has no relevance to elective public office. There is no false material representation which could be a ground to cancel a certificate of candidacy when the candidate, supported by a preponderance of evidence, believed that s/he was qualified since there was no intention to deceive the electorate as to one's qualifications for public office.

KARE v. COMELEC G.R. No. 157526 (April 28, 2004) EN BANC Where the winner of a mayoral race is disqualified by conviction of a crime, it is the vice mayor who must succeed him/her not the candidate who garnered the second highest vote. Where an "ineligible" candidate has garnered either a majority or a plurality of the votes, by no mathematical formulation can the runner up in the election be construed to have obtained the majority or the plurality of votes cast.

LATASA v. COMELEC, G.R. No. 154829 (December 10, 2003) EN BANC A 3-term municipal mayor cannot seek office as a city mayor in the 1st election of city officials after the municipality has been converted to a city considering that the area and inhabitants of the locality are the same and that the municipal mayor continued to hold office until such time as city elections are held. While the city acquired a new corporate existence separate and distinct from that of the municipality, this does not mean that for the purpose of applying the constitutional provision on term limitations, the office of the municipal mayor would be construed as different from that of the office of the city mayor.

SAYA-ANG, SR v. COMELEC, G.R. No. 155087 (November 28, 2003) EN BANC COMELEC has jurisdiction to deny due course to or cancel a certificate of candidacy. Such jurisdiction continues even after the elections, if for any reason no final judgment of disqualification is rendered before the elections, and the candidate facing disqualification is voted for and receives the highest number of votes, and provided further that the winning

candidate has not been proclaimed or taken his/her oath of office. Furthermore, a decision by the COMELEC to disqualify a candidate shall become final and executory only after a period of five days.

BAUTISTA v. COMELEC, G.R. No. 154796-97 (October 23, 2003) EN BANC An elective local official, including a Punong Barangay, must not only be a "qualified elector" or a "qualified voter." S/he must also be a "registered voter."

MENDOZA v. LAXINA, SR., G.R. No. 146875 (July 14, 2003) FIRST DIVISION An oath of office is a qualifying requirement for a public office; a prerequisite to the full investiture with the office. It is only when the public officer has satisfied the prerequisite of oath that his/her right to enter into the position becomes plenary and complete. However, once proclaimed and duly sworn in office, a public officer is entitled to assume office and to exercise the functions thereof. The pendency of an election protest is not sufficient basis to enjoin him/her from assuming office or from discharging his/her functions.

MACALINTAL v. COMELEC, G.R. No. 157013 (July 10, 2003) EN BANC Section 5(d) of R.A. No. 9189 specifically disqualifies an immigrant or permanent resident who is "recognized as such in the host country" because immigration or permanent residence in another country implies renunciation of one's residence in his/her country of origin. However, same Section allows an immigrant and permanent resident abroad to register as voter for as long as s/he executes an affidavit to show that s/he has not abandoned his/her domicile in pursuance of the constitutional intent expressed in Sections 1 and 2 of Article V that "all citizens of the Philippines not otherwise disqualified by law" must be entitled to exercise the right of suffrage and, that Congress must establish a system for absentee voting; for otherwise, if actual, physical residence in the Philippines is required, there is no sense for the framers of the Constitution to mandate Congress to establish a system for absentee voting. The affidavit required in Section 5(d) is not only proof of the intention of the immigrant or permanent resident to go back and resume residency in the Philippines, but more significantly, it serves as an explicit expression that he had not in fact abandoned his/her domicile of origin.

MIRANDA v. CARREON, ET. AL., G.R. No. 143540 (April 11, 2003) EN BANC A proclaimed candidate who was later on disqualified has no legal personality to institute an action seeking to nullify a decision of the Civil Service Commission concerning the dismissal of municipal employees since s/he is not a real party in interest.

CODILLA, SR. v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC Section 6 of R.A. No. 6646 and Section 72 of the OEC require a final judgment before the election for the votes of a disqualified candidate can be considered "stray." Hence, when a candidate has not yet been disqualified by final judgment during the election day and was voted for, the votes cast in his/her favor cannot be declared stray. To do so would amount to disenfranchising the electorate in whom sovereignty resides. For in voting for a candidate who has not been disqualified by final judgment during the election day, the people voted for him/her bona fide, without any intention to misapply their franchise, and in the honest belief that the candidate was then qualified to be the person to whom they would entrust the exercise of the powers of government. COMELEC cannot suspend the proclamation on the sole basis of the seriousness of the allegations in the petition for disqualification. The candidate must be accorded due process and must be properly notified. The hearing on the motion to lift the suspension of the proclamation cannot be substituted for the hearing in the disqualification case.

LINGATING v. COMELEC, G.R. No. 153475 (November 13, 2002) EN BANC To disqualify a candidate for a local position by reason of an administrative case, the same must have attained finality. Thus, the filing of motion for reconsideration prevented the decision of the higher-supervising local government from becoming final.

SOCRATES v. COMELEC, G.R. No. 154512 (November 12, 2002) EN BANC After three consecutive terms, an elective local official cannot seek immediate reelection for a fourth term. The prohibited election refers to the

next regular election for the same office following the end of the third consecutive term. Any subsequent election, like a recall election, is no longer covered by the prohibition for two reasons. First, a subsequent election like a recall election is no longer an immediate reelection after three consecutive terms. Second, the intervening period constitutes an involuntary interruption in the continuity of service. Clearly, what the Constitution prohibits is an immediate reelection for a fourth term following three consecutive terms. The Constitution, however, does not prohibit a subsequent reelection for a fourth term as long as the reelection is not immediately after the end of the third consecutive term. A recall election mid-way in the term following the third consecutive term is a subsequent election but not an immediate reelection after the third term. The period of time prior to the recall term, when another elective official holds office, constitutes an interruption in continuity of service. Clearly, the winner in the recall election cannot be charged or credited with the full term of three years for purposes of counting the consecutiveness of an elective official's terms in office.

MAGNO v. COMELEC, G.R. No. 147904 (October 4, 2002) EN BANC The disqualification is lifted after two years from service of the sentence under the LGC, not five years under the OEC, the former law being the earlier enactment.

COQUILLA v. COMELEC, G.R. No. 151914 (July 31, 2002) EN BANC The principal elements of domicile, *i.e.*, physical presence in the locality involved and intention to adopt it as his/her domicile, must concur to establish a new domicile. Thus, a Filipino citizen who later became a naturalized American citizen only acquires Philippine residency (and waive his/her status non-resident) upon taking his/her oath as a citizen of the Philippines after repatriation proceedings. A petition for disqualification should be decided despite the proclamation of another as winner.

PAPANDAYAN, JR. v. COMELEC, G.R. No. 147909 (April 16, 2002) EN BANC A person who worked in a different town but resides in another and is a registered voter and owns property in the latter meets the residency requirement.

ADORMEO v. COMELEC, G.R. No. 147927 (February 4, 2002) EN BANC An elected official serving an unexpired term after winning in the recall elections is not considered to served a full term for the purpose of applying the three-term limit on local officials.

GO v. COMELEC, G.R. No. 147741 (May 10, 2001) EN BANC The Supreme Court annulled the COMELEC resolution declaring a candidate disqualified for both positions of governor of Leyte and mayor of the municipality of Baybay, Leyte. There is nothing in Section 73, B.P. Blg. 881 which mandates that the affidavit of withdrawal must be filed with the same office where the certificate of candidacy to be withdrawn was filed. Thus, it can be filed directly with the main office of COMELEC, the office of the regional election director concerned, the office of the provincial election supervisor of the province to which the municipality involved belongs, or the office of the municipal election officer of the said municipality.

TORAYNO, SR. v. COMELEC, G.R. No. 137329 (August 9, 2000) EN BANC A person who lived for more than 25 years in a house that he bought, and is a registered voter of that place for more than a year, meets the residency requirement for candidacy.

CONQUILLA v. COMELEC, G.R. No. 139801 (May 31, 2000) EN BANC A certificate of candidacy will not be cancelled even if it failed to specify the position sought if the information omitted is supplied in the certificate of nomination and amended certificate of candidacy.

BAGATSING v. COMELEC, G.R. No. 134047 (December 15, 1999) EN BANC A complaint for disqualification filed before the election must be inquired into by COMELEC for the purpose of determining whether the acts complained of have in fact been committed. Where the inquiry results in a finding before the election,

COMELEC shall order the candidate's disqualification. In case the complaint was not resolved before the election, COMELEC may motu proprio or on motion of any of the parties, refer the said complaint to the Law Department of COMELEC for preliminary investigation. A complaint for disqualification filed after the election against a candidate (a) who has not yet been proclaimed winner, or (b) who has already been proclaimed winner. In both cases, the complaint shall be dismissed as a disqualification case but shall be referred to the Law Department of COMELEC for preliminary investigation. However, if before proclamation, the Law Department makes a prima facie finding of guilt and the corresponding information has been filed with the appropriate trial court, the complainant may file a petition for suspension of the proclamation with the court before which the criminal case is pending and the said court may order the suspension of the proclamation if the evidence of guilt is strong. The referral to the Law Department is discretionary on the part of COMELEC and in no way may it be interpreted that COMELEC will dismiss the disqualification case or will no longer continue with the hearing of the same. The reason for this is that a disqualification case may have two (2) aspects, the administrative, which requires only a preponderance of evidence to prove disqualification, and the criminal, which necessitates proof beyond reasonable doubt to convict. Where in the opinion of the COMELEC, the acts which are grounds for disqualification also constitute a criminal offense or offenses, referral of the case to the Law Department is proper. The mere filing of a petition for disqualification is not a ground to suspend the proclamation of the winning candidate. The mere pendency of a disqualification case against a candidate, and a winning candidate at that, does not justify the suspension of his/her proclamation after winning in the election. In the absence of an order suspending the proclamation, the winning candidate sought to be disqualified is entitled to be proclaimed as a matter of law.

PEREZ v. COMELEC, G.R. No. 133944 (October 28, 1999) EN BANC The fact that a person is registered as a voter in one district is not proof that he is not domiciled in another district. Registration as a voter in another place is not sufficient to consider a person to have abandoned his/her residence.

TRINIDAD v. COMELEC, G.R. No. 135716 (September 23, 1999) EN BANC To allow a defeated and repudiated candidate, to take over the mayoralty despite the electorate's rejection is tantamount to the disenfranchisement of the electorate which will undermine the importance of democracy and their right to elect the officials of their choice.

SALCEDO II, v., COMELEC, G.R. No. 135886 (August 16, 1999) EN BANC The material misrepresentation contained in the certificate of candidacy, which would warrant the disqualification of a candidate under 78, refers to qualifications for elective office. Such false representation must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. There is no false material representation which could be a ground to cancel a certificate of candidacy when a candidate uses the name of her long-time live-in partner.

LORETO v. COMELEC, G.R. No. 130681 (July 29, 1999) EN BANC To allow the defeated and repudiated candidate to take over the mayoralty despite his/her rejection by the electorate is to disenfranchise the electorate without any fault on their part and to undermine the importance and meaning of democracy and the people's right to elect officials of their choice. The votes cast for the disqualified candidate are presumed to have been cast in the belief that he is qualified. Hence, they cannot be considered as stray votes.

LONZANIDA v. COMELEC, G. R. No 135150 (July 28, 1999) EN BANC For the 3-year term limit to apply, the candidate must have fully served three consecutive terms.

DOMINO v. COMELEC, G.R. No. 134015 (July 19, 1999) EN BANC A lease contract entered into a little over a year before the day of elections does not adequately support a change of domicile.

RECABO, JR. v. COMELEC, G.R. No. 134293 (June 21, 1999) EN BANC It is settled that the disqualification or non-qualification of the winners in a vice mayoralty race does not justify the proclamation of the defeated candidate who garnered the second highest number of votes. The vacancy created in the office of the vice mayor due to the ineligibility of the winning candidate should be filled up in accordance with Section 44 of the LGC which provides that the highest rankings sanggunian member shall become vice mayor.

BORJA v. COMELEC, G.R. No. 133495 (September 3, 1998) EN BANC Filling up a higher office by succession or operation of law is not considered service of term for purposes of applying the 3-term limit. An officer suspended from office cannot also be considered to have served a full term for purposes of applying the 3-term limit for local officials.

SUNGA v. COMELEC, G.R. No. 125629 (March 25, 1998) EN BANC Under Section Section 6 of RA 6646, a candidate who has been declared disqualified by a final judgment cannot be voted for, the votes for him/her shall not be counter, or his/her proclamation shall be suspended. Clearly, the purpose of the law is to prevent a candidate from running, or being elected. This is not negated by the fact that the candidate has been proclaimed. His/her proclamation does not amount to a condonation of the disqualification proceedings, neither does it preclude the institution of a separate action challenging his/her qualifications. The law then as now only authorizes a declaration of election in favor of the person who has obtained a plurality of votes and does not entitle a candidate receiving the next highest number of votes to be declared elected. In case COMELEC disqualifies Sunga, his/her disqualification will create a permanent vacancy which should be filled in accordance with the law. In such case and as provided by the law, the duly elected vice-mayor shall succeed.

RODRIGUEZ v. COMELEC and MARQUEZ, JR., G.R. No. 120099 (July 24, 1996) EN BANC A winning candidate for a gubernatorial post cannot be denied the right to assume office for not falling under the definition of "fugitive from justice." Under Section 40 of the LGC, a fugitive from justice is disqualified and ineligible to run for any local elective position. A fugitive from justice includes not only those who flee after conviction to avoid punishment but likewise who, after being charged, flee to avoid prosecution. Intent to evade on the part of a candidate must therefore be established by proof that there has already been a conviction or at least, a charge has already been filed, at the time of flight. The winning candidate having left the foreign jurisdiction without any criminal charge being filed against him/her yet is not considered a fugitive from justice.

FRIVALDO v. COMELEC, G.R. No. 87193 (June 23, 1989) EN BANC By actively participating in the elections, a candidate does not automatically forfeit his/her foreign citizenship. Being elected by the electorate cannot erase the required qualifications for an elective official. Necessarily, the candidate in this case must be disqualified from serving as Governor of Sorsogon for not complying with the qualifications for an elective official. The qualifications to be elected in public office must be possessed by the candidate at the time of appointment, election or assumption of office and during his/her entire tenure. The candidate does not forfeit his/her foreign citizenship by actively participating in the elections. Being elected by the electorate cannot also erase the required qualifications for an elective official. Necessarily, the candidate in this case must be disqualified from serving as Governor of Sorsogon for not complying with the qualifications for an elective official.

GARCIA v. COMELEC and RENATO U. REYES, G.R. No. 120940 (March 7, 1996) EN BANC The votes cast for a winning candidate who has been subsequently adjudged to be disqualified cannot be invalidated. Such votes are presumed to have been cast in the belief that the candidate was qualified and for that reason cannot be treated as stray, void, or meaningless. The subsequent finding that he is disqualified cannot retroact to the date of the elections so as to invalidate the votes cast for him/her.

REYES v. COMELEC and ROGELIO DE CASTRO, G.R. No. 120905 (March 7, 1996) EN BANC The reelection of a person who has been found guilty of an administrative charge does not render such administrative charge

moot and academic. Section 40 of the LGC provides that those removed from office as a result of an administrative case is disqualified from running for any elective local position. His/her failure to appeal to the Office of the President rendered final the decision of the Sangguniang Panlalawigan removing him/her from office.

AQUINO v. COMELEC, ET. AL., G.R. No. 120265 (September 18, 1995) EN BANC A candidate for the elective position of Representative of Makati's Second District is ineligible for lacking the one-year residence in the district as mandated by the 1987 Constitution. In order for a person to qualify as a candidate for a district, he must prove that he has established not just residence but domicile of choice. The Constitution requires that a person seeking election to the House of Representatives should be a resident of the district in which he seeks election for a period of not less than one (1) year prior to the elections. The absence of clear and positive proof showing a successful abandonment of domicile and the suspicious circumstances under which a lease agreement was effected all belie one's claim of residency for the period required by the Constitution.

ROMUALDEZ-MARCOS v. COMELEC and MONTEJO, G.R. No. 119976 (September 18, 1995) EN BANC A candidate for the position of Representative for the First District of Leyte is deemed to have complied with the residency requirement even though s/he has held various residences other than the district in which s/he is running. For the purposes of election law residence is synonymous with domicile. Domicile includes the twin elements of "the fact of residing or physical presence in a fixed place" and animus manendi, or the intention of returning there permanently. An individual does not lose his/her domicile even if s/he has lived and maintained residences in different places. To successfully effect a change of domicile, one must demonstrate: (1) An actual removal or an actual change of domicile; (2) A bona fide intention of abandoning the former place of residence and establishing a new one; and (3) Acts which correspond with the purpose. There is no showing that s/he has abandoned his/her domicile.

REPUBLIC OF THE PHILIPPINES v. JUDGE DE LA ROSA and FRIVALDO, G.R. No. 104654 (June 6, 1994) EN BANC A candidate who was declared as Governor and who assumed such office should vacate his/her position for being disqualified by virtue of being declared not a citizen of the Philippines. The proceedings conducted, the decision rendered and the oath of allegiance taken therein, are null and void for failure to comply with the publication and posting requirements under the Revised Naturalization Law. The proceedings of the RTC on his/her petition for naturalization under the Revised Naturalization Law were marred by irregularities divesting the Court of its jurisdiction. The candidate who garnered the second highest number of votes cannot be declared the winner of a gubernatorial race by virtue of the disqualification of the candidate with the highest number of votes. In *Labo v. COMELEC*, where the candidate who obtained the highest number of votes is later declared to be disqualified to hold the office to which he was elected, the candidate who garnered the second highest number of votes is not entitled to be declared winner. The Vice-Governor of the Province is to assume the vacant office pursuant to the provisions of the LGC on succession.

PNO-CORPORATION v. NATIONAL LABOR RELATIONS COMMISSION and PINEDA, G.R. No. 100947 (May 31, 1993) SECOND DIVISION An employee of a government-controlled corporation created under the Corporation Code is ipso facto resigned from office upon the filing of his/her certificate of candidacy. Section 66 of the OEC provides that candidates holding appointive office or position in government-owned or controlled corporations shall be considered ipso facto resigned from his/her office upon the filing of his/her certificate of candidacy. This provision applies even as to a government-owned and controlled corporation without an original charter. Even though its employees are governed by the Labor Code and not the Civil Service, it is nonetheless a government-owned or controlled corporation.

LABO, JR. v. COMELEC, G.R. No. 105111 (July 3, 1992) EN BANC The ineligibility of the winning candidate does not entitle the eligible candidate receiving the next highest number of votes to be declared elected. The fact remains that he was not the choice of the sovereign will of the electorate.

ABELLA v. COMELEC, G.R. No. 100710 (September 3, 1991) EN BANC One of the qualifications in order to run is the requirement of residency. A person does not abandon his/her residence/domicile when such person pursues his/her studies, engages in business or practices a vocation away from his/her domicile. It is the person's intention to return to his/her residence which establishes where his/her domicile is despite voter registration in another place. In the present case, however, the intention of animus revertendi not to abandon her residence is not present. Explicitly provided in the Constitution, highly-urbanized cities and component cities whose charters prohibit their voters from voting for provincial elective officials are independent of the province. The contention of the candidate that there is no impediment to his/her candidacy as governor of Leyte for s/he is a registered voter in Ormoc City is untenable. Ormoc City is a component city whose charter prohibits its voters from voting for provincial elective officials to which they are geographically attached—in this case Leyte.

CO v. HRET, G.R. No. 92191-92 (July 30, 1991) EN BANC The right of suffrage and the participation in the elections are positive acts for an election of Philippine citizenship. An election of Philippine citizenship consists of a formal and an informal process. Under the Constitution, the term residence is synonymous to domicile. Domicile connotes a fixed and permanent residence of a person and in instances wherein said person is absent from his/her domicile, he has the intention to return. Pursuance of studies, practice of a profession or registration as a voter in another place does not constitute loss of such domicile as long as the person has an intention to return. Domicile is characterized by animus revertendi.

CAASI v. CA, G.R. No. 88831 (November 8, 1990) EN BANC The act of filing a certificate of candidacy for an elective office in the Philippines do not constitute a waiver of a candidate's status as a permanent resident or immigrant of the United States. A waiver to do so consists of a positive act independent of and should be done prior to the filing of the certificate of candidacy. The records of the case were not able to establish that the candidate waived his/her status as a permanent resident of the United States before filing his/her certificate of candidacy. Absent clear evidence that he had an irrevocable waiver of said status, he is disqualified from running as a public official in the Philippines. His/her election, therefore, was null and void.

AZNAR v. COMELEC, G.R. No. 83820 (May 25, 1990) EN BANC The two instances to question the qualifications of a running candidate are (1) before elections through a petition to deny due course or to cancel a certificate of candidacy and (2) after elections through a petition for quo warranto. A petition for disqualification under a petition to deny due course or to cancel a certificate of candidacy must be filed within the 25 days from the time of the filing of the certificate of candidacy. A petition for quo warranto must be filed within ten days after the proclamation of the results of the elections. COMELEC's decision to dismiss the petition for disqualification is affirmed for such petition was filed beyond the 25-day period and cannot be treated as a petition for quo warranto for it is still premature.

LABO, JR. v. COMELEC, G.R. No. 86564 (August 1, 1989) EN BANC The qualifications for public office are continuing requirements. If during the incumbency one of these qualifications is lost, the title to the office is deemed forfeited. Necessarily, the official is not qualified to hold his/her position for he was not a citizen of the Philippines at the time he was elected.

FRIVALDO v. COMELEC and LEE, G.R. No. 120295 (June 28, 1996) EN BANC A candidate for an elective office who has been duly proclaimed cannot be deprived of his/her office only because he possessed the necessary citizenship on the first day of his/her term of office. The citizenship requirement in the LGC is to be possessed by an elective official at the latest as of the time he is proclaimed and at the start of the term of office to which he has been elected. Considering that such elective official was repatriated on the same day that his/her term of office became effective, he is not disqualified from assuming such office for having complied with the citizenship requirement.

QUO WARRANTO

GREGO v. COMELEC and BASCO, G.R. No. 125955 (June 19, 1997) EN BANC A petition for disqualification of a candidate for councilor on the ground that he was previously removed from office by virtue of an administrative case must be dismissed because the law imposing such a disqualification cannot be applied retroactively. Section 40 (b) of the LGC provides that those removed from office as a result of an administrative case are disqualified from running for any elective local positions. The LGC was enacted on January 1, 1992; while, the candidate's removal from office occurred on October 31, 1981. A statute, despite the generality in its language, must not be so construed as to overreach acts, events or matters that transpired before its passage.

ROMUALDEZ v. RTC, BRANCH 7, TACLOBAN CITY, ET. AL., G.R. No. 104960 (September 14, 1993) EN BANC A petition for disqualification of a voter cannot prosper on the ground that the person has not complied with the residency requirement considering that his/her sudden flight from the country cannot be described as "voluntary" or as "abandonment of residence." To be able to register as voter, one is required to be a residence for one (1) year in the Philippines and six (6) months in the city/municipality in which s/he desires to register. In election cases, residence is synonymous with domicile. A domicile is established through the intention to reside in a fixed place and personal presence in that place, coupled with conduct indicative of such intention. Basically, there must be *animus manendi* and *animus non revertendi*.

DATU SAMAD v. COMELEC and BAI UNGGIE ABDULA, G.R. No. 107854 (July 16, 1993) EN BANC The subsequent filing of a petition for quo warranto in the RTC is not tantamount to abandonment of the petition for nullification of the proclamation and the calling of special elections previously filed with COMELEC. Although the general rule is that the institution of an election protest or a petition for quo warranto precludes the subsequent filing of a pre-proclamation controversy, the exceptions are: (1) the BOC was improperly constituted; (2) quo warranto was not the proper remedy; (3) what was filed was not really a petition for quo warranto or an election protest but a petition to annul a proclamation; (4) the filing of a quo warranto petition or an election protest was expressly made *ad cautelam*; and (5) the proclamation was null and void.

FRIVALDO v. COMELEC, G.R. No. 87193 (June 23, 1989) EN BANC The period for filing a quo warranto or election protest fixed by law is mandatory and jurisdictional. In a quo warranto proceeding, the petition must be filed within ten days after the proclamation of the winning candidate. Even if the petition was only filed eight months after the proclamation of the winner, the court held that the issues must still be resolved as to maintain the confidence of the people in their elective officials.

RE-HEARING VERSUS RE-CONSULTATION

JULIANO v. COMELEC, G.R. No. 167033 (April 12, 2006) EN BANC The terms rehearing and re-re-consultation are different. Rehearing is defined as a second consideration of cause for purpose of calling to the court's or the administrative board's attention any error, omission, or oversight in first consideration. Its purpose is for the presentation of additional evidence, if any, and the further clarifying and amplifying of the opposing parties' arguments. On the other hand, a re-consultation is defined as the second deliberation of persons on some subject. The proper way for the COMELEC *En Banc* to act on a motion for reconsideration when the first voting was equally divided is to rehear the matter, not merely to hold a re-consultation amongst themselves. The COMELEC's own Rules of Procedure calls for a rehearing where the parties would have the opportunity to strengthen their respective positions or arguments and convince the members of the COMELEC *En Banc* of the merit of their case. Thus, when the COMELEC *En Banc* failed to hold a rehearing required by the COMELEC Rules of Procedure, said body acted with grave abuse of discretion.

RECALL

GOH v. BAYRON, G.R. NO. 212584 (November 25, 2014) EN BANC COMELEC is mandated to shoulder all expenses relative to recall elections. The 2014 General Appropriations Act provide the line item appropriation to allow the COMELEC to perform its constitutional mandate of conducting recall elections. There is no need for supplemental legislation to authorize the COMELEC to conduct recall election for 2014.

AFIADO v. COMELEC, G.R. No. 141787 (September 18, 2000) EN BANC A resolution for the recall of a vice-mayor becomes moot and academic when said elective official has become mayor by legal succession.

CLAUDIO v. COMELEC, G.R. No. 140560 (May 4, 2000) EN BANC The 1-year ban (from assumption and next election) refers to the holding of the recall election, not the convening of the PRA.

JARIOL v. COMELEC, G.R. No. 127456 (March 20, 1997) EN BANC A party aggrieved by the issuance of COMELEC En Banc resolution (calendar of activities for recall election) when s/he had sufficient time, must file a motion for reconsideration with COMELEC En Banc.

MALONZO v. COMELEC, ET. AL., G.R. No. 127066 (March 11, 1997) EN BANC The Liga ng mga Barangay is undoubtedly an entity distinct from the Preparatory Recall Assembly. However, the personalities representing the barangays in the Liga are the very members of the Preparatory Recall Assembly. Thus, the Punong Barangays and Sangguniang Barangay members convened and voted as members of the Preparatory Recall Assembly and not as members of the Liga ng mga Barangay. Notice may be served by president of the liga ng mga barangay who is also a member of the PRA. Service of notice may be effected under any of the modes of service of pleadings – personal, by registered mail.

ANGOBUNG v. COMELEC and DE ALBAN, G.R. No. 126576 (March 5, 1997) EN BANC A COMELEC Resolution approving the petition to initiate recall against a municipal mayor is null and void for failing to comply with the minimum number of petitioners. Section 69 (d) of the LGC mandates that the petition to initiate recall proceedings must be filed, not by one person only, but by at least 25% of the total number of registered voters. The procedure of allowing just one person to file the initiatory recall petition and then setting a date for the signing of the petition, which amounts to inviting and courting the public which may have not, in the first place, even entertained any displeasure in the performance of the official sought to be recalled, is not only violative of statutory law but also tainted with an attempt to go around the law.

PARAS v. COMELEC, G.R. No. 123169 (November 4, 1996) EN BANC A petition for recall against a Punong Barangay even if filed within the prescribed period for filing will not prosper if the recall election is to be had outside the prescribed period for holding the recall election. The ‘regular recall election’ mentioned in the 1-year proscription refers to an election where the office held by the local elective official sought to be recalled will be contested and filled by the electorate.

GARCIA, ET. AL. v. COMELEC and PAYUMO, ET. AL., G.R. No. 111511 (October 5, 1993) EN BANC Section 70 of the LGC, which provides for the initiation of the recall process, cannot be struck down as unconstitutional for allowing the recall of local government officials through a preparatory recall assembly. Recall is a mode of removal of a public officer by the people before the end of his/her term of office. Although recall is a power reserved to the people to be exercised by the registered voters, the LGC provided for a second mode of initiating the recall process through a preparatory recall assembly. There is nothing in the Constitution that will remotely suggest that the people have the sole and exclusive right to decide on whether to initiate a recall

proceeding. Notice to all members of the PRA is a mandatory requirement. Loss of confidence as a ground for recall is a political question.

EVARDONE v. COMELEC, G.R. No. 94010 (December 2, 1991) EN BANC When an official has assumed office for two years or where the time remaining before a regular local election is only one year, no recall shall take place. This is enshrined in Chapter 3 of BP 337, which was the law operative at the time of the filing of the petition. Although the signing process for the recall of Sulat, Eastern Samar's mayor is valid, a recall election to be held seven months before the regular elections is violative of BP 337. COMELEC's Resolution 2272 containing the general rules and regulations on the recall of elective provincial, city and municipal officials is valid and constitutional. The Constitution provides that laws which are not inconsistent with the 1987 Constitution shall remain operative until amended, repealed or revoked. Section 59 of BP 337, which is still the operative law at the time of the filing of the petition, vests COMELEC with rule-making powers. Through its rule-making power, COMELEC promulgated Resolution 2272, thus making the resolution valid and constitutional.

RESULT OF ELECTION

MUÑOZ v. COMELEC, G.R. No. 170678 (July 17, 2006) EN BANC The phrase "result of the election" is not statutorily defined but it has been jurisprudentially explained to mean the net results of the election in the rest of the precincts in a given constituency, such that if the margin of a leading candidate over that of his/her closest rival in the latter precincts is less than the total number of votes in the precincts where there was failure of election, then such failure would certainly affect "the result of the election."

REVERSAL OF DECISION

BASARTE v. COMELEC, G.R. No. 169413 (May 9, 2007) EN BANC COMELEC's disregard of some glaring facts give rise to a prima facie showing of irregularity in the assailed election return violates its own rules. Factual findings of administrative bodies like COMELEC are not infallible and will be set aside when they fail the test of arbitrariness or upon proof of grave abuse of discretion, fraud or error of law. When they grossly misappreciate evidence of such nature as to compel a contrary conclusion, their factual findings have been reversed.

REVIEW OF DECISIONS

SEMA v. COMELEC, G.R. No. 134163-64 (December 13, 2000) EN BANC It cannot be correctly argued that the 3-day period set by law for the submission of an appeal from a ruling contesting the composition or proceedings of the board had expired because the City BOC never ruled on the objections to the board's proceedings.

SALVA v. MAKALINTAL, G.R. No. 132603 (September 18, 2000) EN BANC What is contemplated by the term final orders, rulings and decisions of COMELEC reviewable by certiorari by the Supreme Court as provided by law are those rendered in actions or proceedings before COMELEC and taken cognizance of by the said body in the exercise of its adjudicatory or quasi-judicial powers. The COMELEC resolution which provides for the rules and regulations governing the conduct of the required plebiscite, was not issued pursuant to the COMELEC's quasi-judicial functions but merely as an incident of its inherent administrative functions over the conduct of plebiscites, thus, the said resolution may not be deemed as a final order reviewable by certiorari by the Supreme Court. Any question pertaining to the validity of said resolution may be well taken in an ordinary civil

action before the trial courts. A resolution issued by the COMELEC in the performance of its ministerial duty and as part of its administrative functions may be questioned before the RTC in the first instance, not the Supreme Court.

AMBIL, JR. v. COMELEC, G.R. No. 143398 (October 25, 2000) EN BANC The Supreme Court has no authority to review on certiorari, an interlocutory order or even a final decision of a COMELEC division as in this case. The filing of the petition for certiorari before the Supreme Court to assail the resolution of the COMELEC First Division which sets the schedule for the promulgation of an election protest decision is improper. A decision, order, or resolution of a COMELEC division must first be reviewed by the COMELEC En Banc via a motion for reconsideration before it may be elevated to the Supreme Court by the special civil action of certiorari under Rule 64 of the Revised Rules of Court. The exceptions to the rule in certiorari cases, which dispenses with the motion of reconsideration prior to the filing of the petition, do not apply in election cases where the prior filing of a motion for reconsideration is a mandatory Constitutional fiat to elevate the case to the Supreme Court. The Supreme Court cannot assume that COMELEC will promulgate a void resolution and violate the Constitution and the law. We must assume that the members of COMELEC in Division or En Banc are sworn to uphold and will obey the Constitution. Accordingly, one who is no longer a member of COMELEC at the time the final decision or resolution is promulgated cannot validly take part in that resolution or decision. Much more could he be the ponente of the resolution or decision. The resolution or decision of the Division must be signed by a majority of its members and duly promulgated. Hence, when he vacated his/her office without the final decision or resolution having been promulgated, his/her vote was automatically invalidated.

ANGELIA v. COMELEC, G.R. No. 135468 (May 31, 2000) EN BANC While the filing of a petition for quo warranto precludes the subsequent filing of a pre-proclamation controversy, this principle admits of several exceptions, such as when such petition is not the proper remedy. The Court held in a previous case that, as the case involved a manifest error, although COMELEC erred in annulling the proclamation of petitioner without notice and hearing, the expedient course of action was for the Municipal BOC to reconvene and, after notice and hearing in accordance with Rule 27, Section 7 of the COMELEC Rules of Procedure, to effect the necessary corrections on the certificate of canvass and proclaim the winning candidate or candidates on the basis thereof.

FAELNAR v. PEOPLE, G.R. No. 140850-51 (May 4, 2000) EN BANC The remedy for the final resolution of COMELEC was to seek its annulment by way of special civil action for certiorari. What is involved in this case is a resolution of the COMELEC En Banc in an election offense. Hence, a motion for reconsideration of such resolution is allowed under Rule 34 Section 10 of the Rules of Procedure of COMELEC.

GUERRERO v. COMELEC, G.R. No. 137004 (July 26, 2000) EN BANC A special civil action for certiorari may be availed of when the tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling the proceeding. Once a winning candidate has been proclaimed, taken his/her oath, and assumed office as a member of the House of Representatives, COMELEC's jurisdiction over election contests relating to his/her election, returns, and qualification ends, and the HRET's own jurisdiction begins.

BAGATSING v. COMELEC, G.R. No. 134047 (December 15, 1999) EN BANC The Court does not look with favor the practice of seeking remedy from the Supreme Court without waiting for the resolution of the pending action before the tribunal below, absent extraordinary circumstances warranting appropriate action by the Supreme Court. This makes a short shrift of established rules of procedure intended for orderly administration of justice.

TRINIDAD v. COMELEC, G.R. No. 135716 (September 23, 1999) EN BANC COMELEC is the agency vested with exclusive jurisdiction over election contests involving regional, provincial and city officials, as well as appellate jurisdiction over election contests involving elective municipal and barangay officials. Unless COMELEC is shown to have committed grave abuse of discretion, its decision and rulings will not be interfered with by the Supreme Court.

ANTONIO v. COMELEC, G.R. No. 135869 (September 22, 1999) EN BANC The procedure for perfecting an appeal from the decision of the MTC in a barangay election protest case is set forth in the COMELEC Rules of Procedure. According to the COMELEC Rules of Procedure, the proper appellate court which has jurisdiction to hear the appeal, which must be filed within five (5) days after promulgation of the MTC decision, is COMELEC.

DOMINO v. COMELEC, G.R. No. 134015 (July 19, 1999) EN BANC In cases where there is no identity of parties, subject matter and cause of action, the decision in the Petition for Exclusion cannot be considered as a basis for the dismissal of the Petition to Deny Due Course or to Cancel Certificate of Candidacy by reason of res judicata.

LOONG v. COMELEC, G.R. No. 133676 (April 14, 1999) EN BANC Certiorari is the proper remedy to question any final order, ruling and decision of COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers. On the other hand, administrative orders cannot, as a general rule, be the subjects of a petition for certiorari.

SISON v. COMELEC, G.R. No. 134096 (March 3, 1999) EN BANC The scope of pre-proclamation controversy is only limited to the issues enumerated under Section 243 of the OEC, and the enumeration therein is restrictive and exclusive.

COMELEC v. SILVA, JR., G.R. No. 129417 (February 10, 1998) EN BANC On the question of who has the authority to decide whether or not to appeal orders of dismissal of a criminal prosecution for an election offense, the Court held that such authority is with COMELEC and not with the deputized public prosecutor. The Constitution expressly vests in it the power and function to “investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.” COMELEC is the proper authority to appeal orders of dismissal, not the public prosecutor. The public prosecutor in this case only act as a deputized agent, he derives his/her authority from COMELEC and not from his/her office. Hence, it was beyond his/her power, as COMELEC-designated prosecutor, to leave to the trial courts the determination of whether there was probable cause for the filing of the cases. If he disagreed with COMELEC’s findings, he should have sought permission to withdraw from the cases. He could not leave the determination of probable cause to the courts and agree in advance to the dismissal of the cases should the courts find no probable cause for proceeding with the trial of the accused. Under the Constitution, COMELEC has the power to “prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices” (Art. IX (C), Section 2[6]), and under the OEC, (BP 881), it may avail of the assistance of other prosecution arms of the government (Section 265). Thus, the COMELEC Rules of Procedure gave the Chief State, Provincial and City Prosecutors a continuing authority “as deputies” to prosecute offenses punishable under the Election laws. Hence, COMELEC has the right to appeal, in its own name, a decision dismissing a case filed by it. Considering the authority of COMELEC over the prosecution of election offenses, its decision to bring this instant petition for certiorari and mandamus is conclusive on the Solicitor General. It would simply be a matter of referring this case to the Solicitor General so that, if he agrees, he may take over the conduct of this case. Otherwise, COMELEC could just continue handling this case as it has actually done.

VELORIA v. COMELEC, G.R. No. 94771 (July 29, 1992) EN BANC The Motion for Reconsideration filed by the protestee with the trial court is improper because it is prohibited by the Election Code. The Motion for

Reconsideration referred to by the OEC is that which is filed with COMELEC and not in the trial court where a Motion for reconsideration is not entertained.

ARAO v. COMELEC, G.R. No. 103877 (June 23, 1992) EN BANC The jurisdiction of the SC to take cognizance of the case was questions and the Court made a distinction between a petition for certiorari and a petition for review on certiorari. While the former deals with grave abuse of discretion resulting to lack or excess of jurisdiction, the latter deals only with questions of law. The abuse of discretion must be grave and patent as to amount to a denial of due process.

REVISION OF BALLOTS

VARIAS v. COMELEC, G.R. No. 189078 (February 11, 2010) EN BANC When tampering of ballots is proven, the compromised ballots, whether genuine or not, cannot be valid subjects of revision in an electoral contest. Whether the ballots are genuine or not is therefore a non-issue, given clearly established evidence that the ballots have been compromised. When there is a conflict between the results of a revision of questionable ballots and the official tally reflected in the election results, revision results cannot prevail over the election returns. This shows that there are changes in the entries in the ballots after they were counted at the precinct level. While these facts and circumstances, when treated separately, do not directly prove ballot tampering, a combined consideration thereof indicates otherwise and unmistakably point to the conclusion that the integrity of the ballots has been compromised. The National Bureau of Investigation (NBI) report is not sufficient to indicate ballot tampering. The opinions of handwriting experts, while helpful in the examination of forged documents owing to the technical procedure involved in the analysis, are not binding on the courts.

MIGUEL v. COMELEC, G.R. No. 136966 (July 5, 2000) EN BANC The mere filing of an election protest calls for the opening and revision of ballots and re-appreciation of votes. There is no need for the protestant to present evidence and substantiate his/her claim of election fraud before revision could take place. The purpose of ordering the opening of the ballot boxes is to ascertain, with the least amount of protracted delay, the veracity of the allegations of fraud and anomalies in the conduct of the electoral exercise. Thus, a preliminary hearing set for the same purpose is a mere superfluity that negates the essence of affording premium to the prompt resolution of election cases and incidents relating thereto. While Section 6 of Rule 20 of the COMELEC Rules of Procedure, which warrants the opening of ballot boxes, pertains to election protests falling within the exclusive original jurisdiction of the COMELEC, the same procedure is prescribed for election contests which are within the exclusive original jurisdiction of courts of general jurisdiction as well as election contests within the exclusive original jurisdiction of courts of limited jurisdiction.

FERRER v. COMELEC, G.R. No. 139489 (April 10, 2000) EN BANC When the trial court creates a revision committee for the purpose of segregating the ballots contested or claimed by the parties, the computation for the determination of the winner shall be based on the number of uncontested ballots after revision at the lower court.

MOHAMMAD v. COMELEC, G.R. No. 136384 (December 8, 1999) EN BANC A revision and examination of the ballots, rather than a technical examination of the fingerprints in the voting records, is the proper method for the COMELEC to adopt in resolving the election dispute. The Court has already sanctioned the method of technical examination of the thumbprints of voters, over revision of ballots, where a recount or revision of the ballots will not be reflective of the sovereign will due to the irregularities committed during the elections.

PUNZALAN v. COMELEC, G.R. No. 126669 (April 27, 1998) EN BANC COMELEC need not conduct any adversarial proceedings to determine the authenticity of the ballots and the handwritings found thereon, neither does it need to solicit the aid of a handwriting expert. In fact, even evidence aliunde is not necessary to

enable COMELEC to determine the authenticity of the ballots and the genuineness of the handwriting on the ballots as an examination of the ballots themselves is already sufficient. In a previous case, the Court already held that handwriting experts, while useful, are not really indispensable in examining or comparing handwritings. This can be done by the COMELEC itself. Hence, the opinion of one claiming to be a handwriting expert is not binding upon the COMELEC especially when the question involves only the similarity of handwritings which could be determined by a comparison to existing signatures or handwritings. Indeed, the haste and pressure, the rush and excitement permeating the surroundings of polling places could certainly affect the handwriting of both the voters and the election officers manning the said precincts. Verily, minor and insignificant variations in handwriting must be perceived as indicia of genuineness rather than of falsity. Expert opinions are not ordinarily conclusive in the sense that they must be accepted as true on the subject of their testimony, but are generally regarded as purely advisory in character; the courts may place whatever weight they choose upon such testimony and may reject it, if they find that it is consistent with the facts in the case or otherwise unreasonable.

BAUTISTA v. CASTRO, G.R. No. L-61260 (February 17, 1992) FIRST DIVISION As a general rule, a voter must write on the ballot only the names of the candidates voted for the offices appearing thereon. Some exceptions, however, were provided for by Section 149 of the Revised Election Code; such as when the voter writes prefixes, suffixes, nicknames, names or appellations of affection and friendship. These will not invalidate the same if accompanied by the name or surname of the candidate. But, even if it is unaccompanied by the name or surname of such candidate, the ballot remains valid if the name written is one by which he is popularly known in the locality or if there is no other candidate for the same office with the same nickname. Where the name of a candidate is not written on the proper space in the ballot but is preceded by the name of the office for which he is a candidate, the vote should be counted as valid for such candidate. Due regard should be given to the intention of the voter in appreciating the ballot. Where the name of a candidate is written seven (7) times in the ballot, it cannot be considered a valid vote in favor of the candidate. The writing of the name more than twice on the ballot is considered to be intentional and for no other purpose than to identify the ballot.

RIGHT TO CHANGE THE NAME OF THE NOMINEE

LOKIN, JR. v. COMELEC, G.R. No. 179431-32 (June 22, 2010) EN BANC The Legislature deprived the party-list organization of the right to change its nominees or to alter the order of nominees once the list is submitted to the COMELEC. The exception to this rule is when: (a) the nominee dies; (b) the nominee withdraws in writing his/her nomination; or (c) the nominee becomes incapacitated.

SANGGUNIANG KABATAAN (SK)

MARQUEZ v. COMELEC G.R. No. 127318 (August 25, 1999) EN BANC COMELEC, not the RTCs has appellate jurisdiction over decisions of the MTC concerning election protests involving members of the SK.

ALUNAN III, ET. AL. v. MIRASOL, ET. AL., G.R. No. 108399 (July 31, 1997) EN BANC The Department of Interior and Local Government through its Secretary has the authority to exempt certain cities from holding the SK Elections on the ground that the elections previously held on May 26, 1990 were to be considered the first under the newly-enacted LGC. Pursuant to Section 4 of COMELEC Resolution No. 2499, COMELEC placed the SK elections under the direct control and supervision of the DILG. This did not contravene Article IX-C Section 2(1) of the Constitution, which provides that COMELEC shall have the power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall." DILG

supervision was to be exercised within the framework of detailed and comprehensive rules embodied in Resolution No. 2499 of COMELEC. What was left to the DILG to perform was the enforcement of the rules.

GARVIDA v. SALES, JR., ET. AL., G.R. No. 124893 (April 18, 1997) EN BANC The certificate of candidacy of a candidate for Chairperson of the SK must be cancelled on the ground that s/he had exceeded the age requirement to run as an elective official of the SK. Section 428 of the LGC requires that an elective official of the SK must be at least 15 years but not more than 21 years of age on the day of his/her election. The requirement that a candidate possess the age qualification is founded on public policy; and, if he lacks the age on the day of the election he can be declared ineligible.

PARAS v. COMELEC, G.R. No. 123169 (November 4, 1996) EN BANC The SK Elections as set by R.A. 7808 (An Act Resetting the Elections of SK Officials to the First Monday of May 1996 and Every Three (3) Years Thereafter) cannot be considered as a regular local election for the purposes of applying the limitation on recall of a Punong Barangay. The interpretation that regular local election includes the SK Election will render ineffective the provisions of the LGC on recall. It will also be in conflict with the Constitution, which mandates that the LGC shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum.

MERCADO v. BOARD OF ELECTION SUPERVISORS OF THE MUNICIPALITY OF IBAAN, ET. AL., G.R. No. 109713 (April 6, 1995) EN BANC A COMELEC Resolution creating for the purposes of the elections in the SK the Board of Election Supervisors (BES) and making it the final arbiter of all election protests is constitutional and legal. Election contests involving SK officials do not fall within Section 252 of the OEC and paragraph 2, Section 2, Article IX-C of the Constitution. In addition to this, no law prior to the ratification of the present Constitution makes the SK Chairperson an elective barangay official. Although the SK Chairperson is an ex-officio member of the sangguniang barangay, this does not automatically make him/her an elective barangay official.

SENATE ELECTORAL TRIBUNAL (SET)

TOLENTINO v. COMELEC, G.R. No. 187958, 187961, and 187962 (April 7, 2010) EN BANC COMELEC does not lose jurisdiction over the provincial election contest by reason of the transmittal of the provincial ballot boxes and other election materials to the SET. Its jurisdiction over provincial election contests exist side by side with the jurisdiction of the SET with each tribunal being supreme in its respective areas of concern, with neither being higher than the other in terms of precedence.

BARBERS v. COMELEC, G.R. No. 165691 (June 22, 2005) EN BANC In *Javier v. COMELEC*, we interpreted the phrase "election, returns and qualifications" as follows: The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that "election" referred 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" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the BOC and the authenticity of the election returns; and "qualifications" to matters that could be raised in a quo warranto proceeding against the proclaimed winner, such as his/her disloyalty or ineligibility or the inadequacy of his/her certificate of candidacy. The word "sole" in Section 17, Article VI of the 1987 Constitution and Rule 12 of the Revised Rules of the SET underscores the exclusivity of the SET's jurisdiction over election contests relating to members of the Senate. The authority conferred upon the SET is categorical and complete. It is therefore clear that the Supreme Court has no jurisdiction to entertain the instant petition. Since Barbers contests Biazon's proclamation as the 12th winning senatorial candidate, it is the SET which has exclusive jurisdiction to act on Barbers' complaint.

RASUL v. COMELEC, G.R. No. 134142 (August 24, 1999) EN BANC The proper remedy of a losing candidate for the position of Senator is to file a regular election protest which under the Constitution and the OEC exclusively pertains to the SET.

CHAVEZ v. COMELEC, G.R. No. 105323 (July 3, 1992) EN BANC Section 242 of the OEC provides that pre-proclamation contests are not allowed in elections for President, Vice-President, Senator and Member of the House of Representatives. The proper recourse should have been to file a regular election protest before the SET. The petition must also fail for failure to demonstrate any manifest error in the certificates of canvass or election returns before the COMELEC which would warrant their correction.

SANCHEZ v. COMELEC, G.R. No. 79146 (August 12, 1987) EN BANC The senatorial candidate's petition for recount and/or re-appreciation of ballots by the board of inspectors is not a proper issue for a summary pre-proclamation controversy which can be filed before the COMELEC. Errors in the count/appreciation of ballots by the board of inspectors should be filed as an election protest, which should then be filed before the SET. For an objection to be a ground for a pre-proclamation controversy, it must be proven that the canvassed election returns (1) are incomplete or contain material defects, (2) appear to have been tampered with (3) falsified (4) prepared under duress (5) contain discrepancies in the votes to be credited to a candidate, the difference of which affects the result of the elections. The only issues that can be raised in a pre-proclamation controversy before the COMELEC are restrictive and conclusive. It must be proven that the canvassed election returns (1) are incomplete or contain material defects, (2) appear to have been tampered with (3) falsified (4) prepared under duress (5) contain discrepancies in the votes to be credited to a candidate, the difference of which affects the result of the elections. Terrorism, vote buying and other irregularities should be filed as a regular election protest and should not be filed before the COMELEC. Pre-proclamation controversies are decided summarily. However, due notice and hearing must still be afforded to the parties involved in said controversy. The delay of pre-proclamation controversies is against public policy. The true will of the electorate should be ascertained as soon as possible.

STATEMENT OF VOTES

CUMIGAD v. COMELEC, G.R. No. 167314 (March 20, 2007) EN BANC The statement of votes is a tabulation per precinct of the votes obtained by all candidates as entered in the election returns. The Statement of Votes must correctly reflect the exact number of votes per precinct based on the entries in the election returns. Therefore, manifest errors must be corrected by mere re-computation without the reopening of the ballot boxes.

ARBONIDA v. COMELEC, G.R. No. 167137 (March 14, 2007) EN BANC The petition filed contained allegations of dagdad-bawas which is a pre-proclamation controversy and not that of an election protest. A pre-proclamation controversy refers to any question pertaining to or affecting the proceedings of the BOC. Although the petition alleged fraud, the remedy sought was merely for correction of erroneous entries in the statements of votes which were based on the election returns. If a candidate's proclamation is based on a statement of votes which contains erroneous entries, it is a nullity. Where a proclamation is null and void, it is no proclamation at all. The proclaimed candidate's assumption of office cannot deprive the COMELEC of the power to annul the proclamation. The COMELEC correctly assumed jurisdiction over the petition for the correction of entries and to declare the nullity of proclamation. Pre-proclamation controversies must first be heard and decided by a division of the COMELEC. This is a consistent ruling by the court that is mandatory and jurisdictional.

PIMENTEL, JR. v. FABROS, A.C. No. 4517 (September 11, 2006) SECOND DIVISION Invoking the defenses of honest mistake, oversight due to fatigue, even simple negligence is tantamount to admission of the existence of discrepancies in the number of votes reflected in the certificates of canvass. The anomalous tampering in

the statement of votes, as evidenced by the discrepancy in records of the certificate of canvass and the statement of votes and admission of the candidate is a violation. A disciplinary action is imposed for certifying the false figures in the questioned documents.

LEGARDA v. DE CASTRO, PET CASE No. 003 (March 31, 2005) PET There is no need to resort to revision when the protestant concedes the correctness of the ballot results, concerning the number of votes obtained by both protestant and protestee, and reflected in the election returns. The constitutional function as well as the power and duty to be the sole judge of all contests relating to the election, returns and qualification of the President and Vice-President is expressly vested in the PET and includes the duty to correct manifest errors in the Statement of Votes and Certificates of Canvass.

MILLA v. BALMORES-LAXA, G.R. No. 151216 (July 18, 2003) EN BANC If a candidate's proclamation is based on a Statement of Votes which contains erroneous entries, it is null and void. It is no proclamation at all and the proclaimed candidate's assumption of office cannot deprive the COMELEC of the power to annul the proclamation. In the case at bar, as the Statement of Votes contained erroneous entries, the COMELEC rightfully assumed jurisdiction over the petition for the correction thereof and declaration of nullity of the proclamation. While our election laws are silent when such and similar petitions may be filed directly with the COMELEC, the above-quoted Section 5, Rule 27 of the Rules of Procedure sets a prescriptive period of five (5) days following the date of proclamation. The COMELEC, however, could suspend its own Rules of Procedure so as not to defeat the will of the electorate. For adherence to technicality that would put a stamp on a palpably void proclamation, with the inevitable result of frustrating the people's will, cannot be countenanced.

O'HARA v. COMELEC, G.R. No. 148941-42 (March 12, 2002) EN BANC Reliance on the Statement of Votes per precinct would have been proper had the COMELEC determined if the members of the Municipal BOC did not commit any other mistake in the tabulation or preparation of the Statements of Votes.

DOMALANTA v. COMELEC, G.R. No. 125586 (June 29, 2000) EN BANC The unauthorized alteration of statement of votes by members of BOC is an election offense.

RAMIREZ v. COMELEC, ET. AL., G.R. No. 122013 (March 26, 1997) EN BANC A certification which declares the correction of errors in the Statements of Votes based on the Certificate of Votes, issued by the BOC is not the proper way to correct manifest errors in the Statement of Votes. Corrections in the Statements of Votes should be made either by inserting corrections in the Statement of Votes, which was originally prepared and submitted by the BOC, or by preparing an entirely new Statement of Votes incorporating therein the corrections. Moreover, the Statement of Votes is a tabulation per precinct of votes garnered by the candidates as reflected in the election returns. Therefore, the BOC should have based its corrections on the election returns instead of on the Certificate of Votes.

DUREMDES v. COMELEC, G.R. No. 86362-63 (October 27, 1989) EN BANC The tabulation of the votes is a purely mechanical act by the BOC over which the COMELEC has direct control or supervision. Questions pertaining to the proceedings of the BOC may be raised directly with COMELEC as a pre-proclamation controversy. Section 243 of the OEC is silent as to when errors in the statement of votes may be raised. The court held that since the statement of votes supports the certificate of canvass and shall be the basis of the proclamation, errors in Statement of Votes would affect the true will of the electorate. The COMELEC did not commit grave abuse of discretion in ordering the BOC to reconvene and prepare a new Statement of Votes. The tabulation of the votes is a purely mechanical act by the BOC, over which the COMELEC has direct control or supervision. The decision of COMELEC must be upheld. All returns must be considered for a canvass to be reflective of the true will of the electorate. Public interest is involved in an election contest. If technicalities obstruct the determination of the true will of the electorate, then it must not be allowed. Laws governing election contests must be liberally construed as not to defeat the true reflection of the will of the electorate.

VILLAROYA v. COMELEC, G.R. No. 79646-47 (November 13, 1987) EN BANC COMELEC has the power to maintain a clean and orderly election. It has original jurisdiction on all questions regarding election returns and it may decide on questions regarding the elections. Once COMELEC is convinced that the election returns do not reflect the true election results, it is COMELEC's duty to obtain the proper basis of the canvass. COMELEC may order that clerical errors in the statement of votes be corrected. COMELEC cannot wash its hands by asking the aggrieved party to simply file the petition to an electoral tribunal as an election protest. The improvised certificates of votes issued by the election inspectors to the watchers of the contesting candidate after the canvass stated that s/he received 111 votes while the requested copy of the statement of votes stated that s/he only received 54. Although the candidate was not able to raise the issue during the canvassing, the court deemed the petition to be seasonably filed since the error in the statement of votes was not apparent on its face.

TORRES v. COMELEC and DE PERALTA, G.R. No. 121031 (March 26, 1997) EN BANC The COMELEC has the power to annul the proclamation of a winning candidate for Municipal Councilor in view of an error in the computation of totals in the Statement of Votes, which was made the basis of the proclamation, and to direct the Municipal BOC to reconvene and proclaim the rightful winner. Under Section 27, Rule 27 of the COMELEC Rules of Procedure, correction of Errors in Tabulation or Tallying of Results by the BOC is allowed where it is clearly shown before proclamation that manifest errors were committed in the tabulation or tallying of election returns, or certificates of canvass, during the canvassing as where there was a mistake in the adding or copying of the figures into the certificate of canvass or into the statement of votes by precinct. Although candidates have already been proclaimed, there is nothing to prevent its application to cases like the one at bar in which the validity of the proclamation is precisely in question. Since the Statement of Votes forms the basis of the Certificate of Canvass and of the proclamation, any error in the statement ultimately affects the validity of the proclamation. In making the correction in the computation the Municipal BOC acted in an administrative capacity under the control and supervision of the COMELEC.

STATUS QUO ANTE ORDER

DIAPER v. COMELEC, G.R. No. 179285 (February 11, 2008) EN BANC The proclamation of a congressional candidate by the COMELEC as winner before there is status quo ante order by Supreme Court is valid. Without the status quo ante order, the COMELEC may proceed with the proclamation with the candidate as if there was no petition filed in the said body. Once an elected candidate has his/her oath, the jurisdiction to try and hear the cases transfer to the HRET. The proper remedy would then be to file the proper election protest before the HRET.

DIMAYUGA v. COMELEC, G.R. No. 174763 (April 24, 2007) EN BANC The COMELEC En Banc did not commit grave abuse of discretion and its issuance of the status quo ante order was proper under the circumstances. The issuance though timely filed was not found to be pro forma which can suspend the execution or implementation of the decision. Furthermore, the status quo ante order, being an interlocutory order in nature, will not be reviewed by the court. The power of the Court to review decisions of COMELEC as prescribed in Section 7, Article IX-A of the Constitution refers to final orders, rulings and decisions of the COMELEC En Banc in accordance with the pronouncement in *Ambil, Jr. v. COMELEC*.

STATUTORY CONSTRUCTION

GAYO v. VERCELES, G.R. No. 150477 (February 28, 2005) SECOND DIVISION Section 68 of the OEC was not repealed by the LGC of 1991. The repealing clause of the LGC, Section 534, does not specifically mention a repeal of any provision of the OEC. The legislature is presumed to know the existing laws, such that whenever it intends to repeal a particular or specific provision of law, it does so expressly. The failure to add a specific repealing clause particularly mentioning the statute to be repealed indicates that the intent was not to repeal any existing law on the matter, unless an irreconcilable inconsistency and repugnancy exists in the terms of the new and the old laws

DELA LLANA v. COMELEC, G.R. No. 152080 (November 28, 2003) EN BANC In *Duremdes v. COMELEC*, we held that the determination of the true will of the electorate should be paramount, thus: "Election contests involve public interest. Technicalities and procedural barriers should not be allowed to stand if they constitute an obstacle to the determination of the true will of the electorate in the choice of their elective officials... Laws (and rules) governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections. In an election case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate."

MACALINTAL v. COMELEC, G.R. No. 157013 (July 10, 2003) EN BANC Clearly therefrom, the intent of the Constitutional Commission is to entrust to Congress the responsibility of devising a system of absentee voting. The qualifications of voters as stated in Section 1 shall remain except for the residency requirement. This is in fact the reason why the Constitutional Commission opted for the term qualified Filipinos abroad with respect to the system of absentee voting that Congress should draw up. As stressed by Commissioner Monsod, by the use of the adjective qualified with respect to Filipinos abroad, the assumption is that they have the "qualifications and none of the disqualifications to vote." It is therefore clear that the Constitutional Commission intended to enfranchise as much as possible all Filipino citizens abroad who have not abandoned their domicile of origin. The Constitutional Commission even intended to extend to young Filipinos who reach voting age abroad whose parents' domicile of origin is in the Philippines, and consider them qualified as voters for the first time.

BAYTAN v. COMELEC, G.R. No. 153945 (February 4, 2003) EN BANC Election offenses prescribe after 5 years from date of their commission. Period is interrupted by the filing of the complaint even if it merely for purposes of preliminary investigation.

RULLODA v. COMELEC, G.R. No. 154198 (January 20, 2003) EN BANC It is incorrect to say that there can be no substitution because there is no political party from which to designate the substitute. Such an interpretation, aside from being non sequitur, ignores the purpose of election laws which is to give effect to, rather than frustrate, the will of the voters. It is a solemn duty to uphold the clear and unmistakable mandate of the people. It is well-settled that in case of doubt, political laws must be so construed as to give life and spirit to the popular mandate freely expressed through the ballot. The absence of a specific provision governing substitution of candidates in barangay elections can not be inferred as a prohibition against said substitution. Such a restrictive construction cannot be read into the law where the same is not written. Indeed, there is more reason to allow the substitution of candidates where no political parties are involved than when political considerations or party affiliations reign, a fact that must have been subsumed by law.

MAGNO v. COMELEC, G.R. No. 147904 (October 4, 2002) EN BANC The intent of the legislature to reduce the disqualification period of candidates for local positions from five to two years is evident. The cardinal rule in the interpretation of all laws is to ascertain and give effect to the intent of the law. Thus, Section 40 of RA 7160, insofar as it governs the disqualifications of candidates for local positions, assumes the nature of a special law which ought to prevail. The reduction of the disqualification period from five to two years is the manifest intent. Therefore, although his/her crime of direct bribery involved moral turpitude, a candidate

nonetheless could not be disqualified from running in the 2001 elections. Article 12 of the OEC (BP 881) must yield to Article 40 of the LGC.

ANG BAGONG BAYANI-OFW LABOR PARTY v. COMELEC, G.R. No. 147589 (June 26, 2001) EN BANC Notwithstanding the unmistakable statutory policy, the Office of the Solicitor General submits that RA No. 7941 "does not limit the participation in the party-list system to the marginalized and underrepresented sectors of society." The declared policy of RA 7941 contravenes the position of the Office of the Solicitor General (OSG). We stress that the party-list system seeks to enable certain Filipino citizens – specifically those belonging to marginalized and underrepresented sectors, organizations and parties – to be elected to the House of Representatives. The assertion of the OSG that the party-list system is not exclusive to the marginalized and underrepresented disregards the clear statutory policy. Its claim that even the super-rich and overrepresented can participate desecrates the spirit of the party-list system. Verily, allowing the non-marginalized and overrepresented to vie for the remaining seats under the party-list system would not only dilute, but also prejudice the chance of the marginalized and underrepresented, contrary to the intention of the law to enhance it. The party-list system is a tool for the benefit of the underprivileged; the law could not have given the same tool to others, to the prejudice of the intended beneficiaries. While the enumeration of marginalized and underrepresented sectors is not exclusive, it demonstrates the clear intent of the law that not all sectors can be represented under the party-list system. It is a fundamental principle of statutory construction that words employed in a statute are interpreted in connection with, and their meaning is ascertained by reference to, the words and the phrases with which they are associated or related. Thus, the meaning of a term in a statute may be limited, qualified or specialized by those in immediate association. The marginalized and underrepresented sectors to be represented under the party-list system are enumerated in Section 5 of RA 7941, which states: "that the sector shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals."

GO v. COMELEC, G.R. No. 147741 (May 10, 2001) EN BANC While it may be true that Section 12 of COMELEC Resolution No. 3253-A, adopted on 20 November 2000, requires that the withdrawal be filed before the election officer of the place where the certificate of candidacy was filed, such requirement is merely directory, and is intended for convenience. It is not mandatory or jurisdictional. An administrative resolution can not contradict, much less amend or repeal a law, or supply a deficiency in the law.

AKBAYAN-YOUTH v. COMELEC, G.R. No. 147066 (26 March 2001) EN BANC The provisions of Section 28, RA 8436, would come into play in cases where the pre-election acts are susceptible of performance within the available period prior to election day. Such, however, is not the case for registration. Existing legal proscription and pragmatic operational considerations regarding voter registration, as found in Section 8 of R.A. 8189, bear great weight in the adjudication and denial of the petition. The "standby" powers or "residual" powers of COMELEC, as provided under the relevant provisions of Section 29, R.A. No. 6646 and in Section 28 of R.A. No. 8436 are: "Designation of other Dates for Certain Pre-election Acts - if it should no longer be possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishments of the activities so voters shall not be deprived of their right to suffrage." On this matter, the act of registration is concededly, by its very nature, a pre-election act. Yet, said provisions, far from contradicting each other, actually share some common ground. Rudimentary is the principle in legal hermeneutics that changes made by the legislature in the form of amendments to a statute should be given effect, together with other parts of the amendment act. Accordingly, Courts of justice, when confronted with apparently conflicting statutes, should endeavor to reconcile them instead of declaring outright the invalidity of one against the other. Courts should harmonize them, if this is possible, because they are equally the handiwork of the same legislature.

MALABAGUIO v. COMELEC, G.R. No. 142507 (December 1, 2000) EN BANC Being the ultimate instrument of sovereignty, a duly accomplished ballot must be preserved and protected in every case and be allowed to flow

unimpeded into the mainstream of counting and canvassing, and finally into the proclamation of the electorate's genuine choice. However, in applying election laws, it would be far better to err in favor of popular sovereignty than to be right in complex but little understood legalisms.

TORAYNO, SR. v. COMELEC, G.R. No. 137329 (August 9, 2000) EN BANC The manifest will of the people as expressed through the ballot must be given fullest effect. In case of doubt, political laws must be interpreted to give life and spirit to the popular mandate.

MARUHOM v. COMELEC, G.R. No. 139357 (May 5, 2000) EN BANC In order to give effect to the constitutional mandate of COMELEC of ensuring the conduct of free, orderly, honest, peaceful and credible elections, laws and statutes governing election contests especially the appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities. At balance, the question really boils down to a choice of philosophy and perception of how to interpret and apply the laws relating to elections. In applying elections laws, it would be far better to err in favor of popular sovereignty than to be right in complex but little understood legalisms.

PEOPLE v. JALOSJOS, G.R. No. 132875-76 (February 3, 2000) EN BANC The accused is convicted of the crime of statutory rape and is confined in the penitentiary. Pending his/her appeal, he filed a motion asking that he be allowed to discharge the functions of a congressman. The Court denied his/her request. Election is the expression of the sovereign power of the people. In the exercise of suffrage, a free people expect to achieve the continuity of government and the perpetuation of its benefits. However, in spite of its importance, the privileges and rights arising from having been elected may be enlarged or restricted by law.

PANGANDAMAN v. COMELEC, G.R. No. 134340 (November 25, 1999) EN BANC Subject of this case is the interpretation of the provision on failure of elections. Politics is a practical matter, and political questions must be dealt with realistically – not from the standpoint of pure theory. COMELEC, because of its fact-finding facilities, its contacts with political strategists, and its knowledge derived from actual experience in dealing with political controversies, is in a peculiarly advantageous position to decide complex political questions. In adopting a more liberal interpretation of the provision on failure of elections, the Court notes that the legal compass from which COMELEC should take its bearings in acting upon election controversies is the principle that “clean elections control the appropriateness of the remedy.

SINACA v. MULA, G.R. No. 135691 (September 27, 1999) EN BANC The fact that the nomination of a substitute lacks the signature of one of the authorized signatory is but a technicality which cannot be used to frustrate the will of the electorate. It has been held that the provisions of the election law regarding certificates of candidacy, such as signing and swearing on the same, as well as the information required to be stated therein, are considered mandatory prior to the elections. Thereafter, they are regarded as merely directory. With respect to election laws, it is an established rule of interpretation that mandatory provisions requiring certain steps before election will be construed as directory after the elections, to give effect to the will of the electorate. Where a candidate has received popular mandate, overwhelmingly and clearly expressed, all possible doubts should be resolved in favor of the candidate's eligibility for to rule otherwise is to defeat the will of the people.

ALBERTO v. COMELEC, G.R. No. 132242 (July 27, 1999) EN BANC It is doctrinal that election cases involve public interest; thus, laws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections.

PUNZALAN v. COMELEC, G.R. No. 126669 (April 27, 1998) EN BANC An election protest is imbued with public interest such that any uncertainty must be dispelled to arrive at the true will of the electorate. A well-founded rule found in our jurisprudence is that laws and statutes governing election contests especially appreciation of

ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.

ROQUERO v. COMELEC, G.R. No. 128165 (April 15, 1998) EN BANC Section 27(b) of RA 6646 provides, "Any member of the BEI or BOC who tampers, increases or decreases the votes received by a candidate in any election or any member of the board who refuses, after proper verification and hearing, to credit the correct votes or deduct such tampered votes." In criminal and penal statutes, like the above-quoted, the word "and" cannot be read "or" and conversely. As provided under Section 27(b) of RA 6646, two acts, not one are penalized: (1) the tampering, increasing or decreasing of votes received by a candidate; and (2) the refusal, after proper verification and hearing, to credit the correct votes or deduct such tampered votes.

LOONG v. COMELEC, G.R. 93986 (December 22, 1992) EN BANC A petition to disqualify on the ground of false representation was filed beyond the 25-day period prescribed by Section 78 of the OEC. The ground raised is not one covered by the Rules of Procedure but by the OEC. Additionally, the Code cannot yield to a mere procedural rule.

STRAY VOTES

MARTINEZ III v. HRET, G.R. No. 189034 (January 12, 2010) EN BANC A nuisance candidate is defined as one who, based on the attendant circumstances, has no bona fide intention to run for the office for which the certificate of candidacy has been filed, his/her sole purpose being the reduction of the votes of a strong candidate, upon the expectation that the ballots with only the surname of such candidate will be considered strayed and not counted for either of them.

QUIZON v. COMELEC, G.R. No. 177927 (February 15, 2008) EN BANC As provided for by Section 6 of R.A. No. 6646, a final judgment before the election is required for the votes of a disqualified candidate to be considered "stray." Unless a final judgment of disqualification has been rendered, the votes for the said candidate are still considered valid and should be counted. The said candidate may still be proclaimed as a winner of the elective position.

VELASCO v. COMELEC, G.R. No. 166931 (February 22, 2007) EN BANC The misplaced votes in the ballots are appreciated through the use of the Neighborhood Rule. Section 211(19) of the OEC states that any vote in favor of a person who has not filed a certificate of candidacy or in favor of a candidate for an office for which he did not present him/herself shall be considered a stray vote but it shall not invalidate the whole ballot.

LANOT v. COMELEC, G.R. No. 164858 (November 16, 2006) EN BANC If the candidate is disqualified after the election, those who voted for him/her assume the risk that their votes may be declared stray or invalid.

PARTIDO NG MANGGAGAWA v. COMELEC, G.R. No. 164702 (March 15, 2006) EN BANC In Labo v. COMELEC, the SC ruled that the votes cast for an ineligible or disqualified candidate cannot be considered "stray." But said doctrine cannot be applied to the party-list system in view of Section 10 of R.A. No. 7941 which expressly provides that the votes cast for a party, sectoral organization or coalition "not entitled to be voted for shall not be counted."

OCAMPO, v. HRET, G.R. No. 158466 (June 15, 2004) EN BANC There must be a final judgment of a crime before the election in order that the votes of a disqualified candidate can be considered "stray."

CODILLA, SR. v. DE VENECIA, G.R. No. 150605 (December 10, 2002) EN BANC Section 6 of R.A. No. 6646 and Section 72 of the OEC require a final judgment before the election for the votes of a disqualified candidate can

be considered "stray." Hence, when a candidate has not yet been disqualified by final judgment during the election day and was voted for, the votes cast in his/her favor cannot be declared stray. To do so would amount to disenfranchising the electorate in whom sovereignty resides.

LORETO v. COMELEC, G.R. No. 130681 (July 29, 1999) EN BANC To allow the defeated and repudiated candidate to take over the mayoralty despite his/her rejection by the electorate is to disenfranchise the electorate without any fault on their part and to undermine the importance and meaning of democracy and the people's right to elect officials of their choice. The votes cast for the disqualified candidate are presumed to have been cast in the belief that he is qualified. Hence, they cannot be considered as stray votes.

BAUTISTA v. COMELEC, G.R. No. 133840 (November 13, 1998) EN BANC A stray vote is invalidated because there is no way of determining the real intention of the voter.

GARCIA v. COMELEC and RENATO U. REYES, G.R. No. 120940 (March 7, 1996) EN BANC The votes cast for a winning candidate who has been subsequently adjudged to be disqualified cannot be invalidated. Such votes are presumed to have been cast in the belief that the candidate was qualified and for that reason cannot be treated as stray, void, or meaningless. The subsequent finding that he is disqualified cannot retroact to the date of the elections so as to invalidate the votes cast for him/her.

ALFONSO v. COMELEC, ET. AL., G.R. No. 107487 (June 2, 1994) EN BANC A candidate who filed his/her certificate of candidacy in substitution for his/her deceased father, cannot question COMELEC's ruling that the votes cast in favor of his/her deceased father should be considered stray votes. The votes in favor of the father shall be declared as stray votes. Only those votes cast with the name of the actual candidate shall be counted in his/her favor.

SUBSTITUTION

TAGOLINO v. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, G.R. No. 202202 (March 19, 2013) EN BANC Substitution is not allowed if the certificate of the candidate to be substituted was cancelled, because he failed to meet the one-year residency requirement.

LUNA v. COMELEC, G.R. No. 165983 (April 24, 2007) EN BANC Where a candidate withdrew his/her certificate of candidacy and COMELEC found that the substitute complied with all the procedural requirements for valid substitution, the latter can validly substitute for the former. COMELEC may not, by itself, without the proper proceedings, deny due course to or cancel a certificate of candidacy filed in due form. The question of eligibility or ineligibility of a candidate for non-age is beyond the usual and proper cognizance of the COMELEC. If the candidate made a material misrepresentation as to his/her date of birth or age in his/her certificate of candidacy, his/her eligibility may only be impugned through a verified petition to deny due course to or cancel such certificate of candidacy under Section 78 of the Election Code. There can be no substitution of a person whose certificate of candidacy has been cancelled and denied due course. The certificate of candidacy was withdrawn before the COMELEC could declare that the candidate was not a valid for the said position. For if he was declared as such, substitution will be invalid.

RULLODA v. COMELEC, G.R. No. 154198 (January 20, 2003) EN BANC A candidate for barangay elective office, notwithstanding the policy that barangay elections are non-partisan, can be substituted by his/her spouse.

GO v. COMELEC, G.R. No. 147701 (May 10, 2001) EN BANC An Affidavit of Withdrawal may be filed with the COMELEC and other receiving agencies since there is no law that requires the filing of said withdrawal with the same office where the certificate of candidacy was filed.

GUERRERO v. COMELEC, G.R. No. 137004 (July 26, 2000) EN BANC The question of whether a congressional candidate validly substituted another candidate who withdrew and whether the former became a legitimate candidate must be addressed to the sound judgment of the HRET.

SINACA v. MULA, G.R. No. 135691 (September 27, 1999) EN BANC The rule on substitution of an official candidate of a registered or accredited political party who dies, withdraws or is disqualified for any cause after the last day for the filing of certificates of candidacy is governed by Section 77 of the OEC. Under the said provision it is necessary, among others, that the substitute candidate must be of the same political party as the original candidate and must be duly nominated as such by the political party. A certificate of candidacy is in the nature of a formal manifestation to the whole world of the candidate's political creed or lack of political creed. There is nothing in the Constitution or the statute which requires as a condition precedent that a substitute candidate must have been a member of the party concerned for a certain period of time before he can be nominated as such. Section 77 of the OEC only mandates that a substitute candidate should be a person belonging to and certified by the same political party as the candidate to be replaced.

MIRANDA v. ABAYA, G.R. No. 136351 (July 28, 1999) EN BANC While there is no dispute as to whether or not a nominee of a registered or accredited political party may substitute for a candidate of the same party who had been disqualified for any cause, this does not include those cases where the certificate of candidacy of the person to be substituted had been denied due course and cancelled under Section 78 of the Code. The lower court correctly held that petitioner cannot validly substitute his/her father since the latter was never considered a mayoralty candidate because his/her certificate of candidacy was not given due course. A valid certificate of candidacy is likewise an indispensable requisite in the case of a substitution of a disqualified candidate under the provisions of Section 77 of the Code

SUCCESSION IN OFFICE

MONTEBON v. COMELEC, G.R. No. 180444 (April 9, 2012) EN BANC The assumption of office by operation of law is not considered a voluntary renunciation of the elected position of an officer. The succession in local government is by operation of law. The LGC provides that a permanent vacancy occurs in the position of the vice mayor, the highest ranking municipal councilor shall be seated in the said position. Therefore, it is automatically filled and not considered as a voluntary renunciation of the position.

LIMBONA v. COMELEC, G.R. No. 181097 (June 25, 2008) EN BANC When the elected mayoral candidate is disqualified, the proclaimed Vice Mayor, not the second placer, may succeed as Mayor. Pursuant to Section 44 of the LGC, If a permanent vacancy occurs in the office of the Mayor, the Vice-Mayor concerned shall become the mayor. An example of a permanent vacancy arises when an elective official fails to qualify or is removed from office. In such cases, the Vice Mayor will be seated in the said position.

QUIZON v. COMELEC, G.R. No. 177927 (February 15, 2008) EN BANC The second placer cannot be proclaimed winner in the event that the candidate who won is thereafter proclaimed disqualified from the elective office. The said candidate only received the second highest number of votes which only means that s/he did not obtain the majority or plurality of the votes needed for him/her to be seated in office. Hence, the disqualification of the winner does not make him/her the elected official for the said position.

SUFFRAGE

KABATAAN PARTYLIST vs. COMELEC, G.R. No. 221318 (December 16, 2015) EN BANC The biometrics registration requirement is not a "qualification" to the exercise of the right of suffrage, but a mere aspect of the registration procedure, of which the State has the right to reasonably regulate. Unless it is shown that a registration requirement rises to the level of a literacy, property or other substantive requirement as contemplated by the Framers of the Constitution - that is, one which propagates a socio-economic standard which is bereft of any rational basis to a person's ability to intelligently cast his vote and to further the public good - the same cannot be struck down as unconstitutional. The assailed biometrics registration regulation on the right to suffrage was sufficiently justified as it was indeed narrowly tailored to achieve the compelling state interest of establishing a clean, complete, permanent and updated list of voters, and was demonstrably the least restrictive means in promoting that interest. The public has been sufficiently apprised of the implementation of RA 10367, and its penalty of deactivation in case of failure to comply. Thus, there was no violation of procedural due process.

TIMBOL vs. COMELEC, G.R. No. 206004 (February 24, 2015) EN BANC The power of COMELEC to restrict a citizen's right of suffrage should not be arbitrarily exercised.

CHAVEZ v. GONZALES, G.R. No. 168338 (February 15, 2008) EN BANC Election is a sacred instrument of democracy. It is of paramount importance that the people are informed of the matters pertaining to the integrity of the election process. The public airing of the Garci tapes is a protected political expression which would occupy the highest rank, assuming there is an hierarchy of protected expression, for it is a subject of a fair and honest elections.

RULLODA v. COMELEC, G.R. No. 154198 (January 20, 2003) EN BANC An election means the choice or selection of candidates to public office by popular vote through the use of the ballot, and the elected officials which are determined through the will of the electorate. An election is the embodiment of the popular will, the expression of the sovereign power of the people. The winner is the candidate who has obtained a majority or plurality of valid votes cast in the election. Sound policy dictates that public elective offices are filled by those who receive the highest number of votes cast in the election for that office. For, in all republican forms of government the basic idea is that no one can be declared elected and no measure can be declared carried unless he or it receives a majority or plurality of the legal votes cast in the election.

AKBAYAN-YOUTH v. COMELEC, G.R. No. 147066 (26 March 2001) EN BANC The right of suffrage is not at all absolute. The exercise of such right is subject to existing substantive and procedural requirements embodied in our Constitution, statute books and other repositories of law. In a representative democracy such as ours, the right of suffrage, although accorded a prime niche in the hierarchy of rights embodied in the fundamental law, ought to be exercised within the proper bounds and framework of the Constitutions and must properly yield to pertinent laws skillfully enacted by the Legislature, which statutes for all intents and purposes, are crafted to effectively insulate such so cherished right from ravishment and preserve the democratic institutions our people have, for so long, guarded against the spoils of opportunism, debauchery and abuse. The right of a citizen to vote is necessarily conditioned upon certain procedural requirements he must undergo: among others, the process of registration. Proceeding from the significance of registration as a necessary requisite to the right to vote, the State undoubtedly, in the exercise of its inherent police power, may then enact laws to safeguard and regulate the act of voter's registration for the ultimate purpose of conducting honest, orderly and peaceful election, to the incidental yet generally important end, that even pre-election activities, such as registration as a pre-election act, could be performed by the duly constituted authorities in a realistic and orderly manner - one which is not indifferent and so far removed from the pressing order of the day and the prevalent circumstances of the times.

SUPREME COURT

AQUINO v. COMELEC, G.R. Nos. 211789-90 (March 17, 2015) EN BANC The Supreme Court has no general powers of supervision over COMELEC except those which the Constitution specifically grants to it, i.e., to review its decisions, orders, and rulings within the limited terms of a petition for certiorari.

TERM LIMITS

NAVAL v. COMELEC, GR No. 207851 (July 8, 2014) EN BANC A provincial board member's election to the same position for the third and fourth time, but now in representation of the renamed district, is a violation of the three-term limit rule.

ABUNDO v. COMELEC, G.R. No. 201716 (January 8, 2013) EN BANC An involuntary interrupted term, as in the case of assumption of office only after winning an election protest, cannot, in the context of the disqualification rule, be considered as one term for purposes of counting the three-term threshold, since prior to winning, the candidate was not the rightful holder of the position.

KIDA v. COMELEC G.R. No. 196271 (February 28, 2012) EN BANC ARMM officials are also local officials bound by the three-year term limit prescribed by the Constitution. It is irrelevant that the Constitution does not expressly prohibit elective officials from acting in a holdover capacity. Congress has no authority to extend the three-year term limit by inserting a holdover provision in RA No. 9054.

COMELEC v. CRUZ G.R. No. 186616 (November 20, 2009) EN BANC The constitutionality of RA 9164, which implemented back the three term limit is valid even if it has a retroactive effect. The challenged proviso did not provide for the retroactive application to barangay officials of the three-term limit; Section 43(b) of RA No. 9164 simply continued what had been there before. The constitutional challenge based on retroactivity is not anchored on a constitutional standard but on a mere statutory norm.

LACEDA, SR. v. LIMENA, G.R. No. 182867 (November 25, 2008) EN BANC The three year term limit applies even if the Municipality has been converted into a City during the incumbency of the Mayor as long as the charter does not interrupt his/her term. If during his/her second term the Municipality was converted by law into a city, such conversion does not remove the prohibition from running for the fourth time as City Mayor. The said Mayor is then disqualified to run for the fourth consecutive time. The prohibition of the three-term rule was implemented to broaden the choices of the electorate of the candidates who will run for office, and to infuse new blood in the political arena by disqualifying officials from running for the same office after a term of nine years. The following requisites must concur to apply the said prohibition: (1) that the official concerned has been elected for three consecutive terms in the same local government post and (2) that s/he has fully served three consecutive terms. Laceda has been elected for three consecutive terms and has fully served such terms. Therefore, the prohibition applies to him/her and may no longer run as City Mayor in the next elections.

MONTEBON v. COMELEC, G.R. No. 180444 (April 8, 2008) EN BANC For the three-term limit to apply, the official must have been elected and served for three consecutive terms in the same elective position. There are two conditions that must concur before the disqualification may apply and these are: first, that the official concerned has been elected for three consecutive terms in the same local government post; and second, that he has fully served three consecutive terms. Absence of one of the conditions, the candidate may run again for the same elective position for the fourth time.

SALES v. COMELEC, G.R. No. 174668 (September 12, 2007) EN BANC The expiration of a challenged term of office renders the corresponding petition moot and academic. Courts will not determine a moot question in case in which no practical relief can be granted and no useful purpose can be served in passing upon the merits. The case being an election protest involving the office of a Mayor whose term has expired, the appeal becomes dismissible on the ground that it has become moot and there is no more actual controversy or useful purpose on the rendering of a decision.

RIVERA III v. COMELEC, G.R. No. 167591 (May 9, 2007) EN BANC An official serving his/her term despite the decision of the RTC in the electoral case ousting him/her does not constitute an interruption in serving the full term. He was elected in the said position and was able to discharge the functions of his/her office until such term expired. Thus, it should be counted to determine whether or not such candidate will be barred by the three-term limit. No official shall serve for more than three consecutive terms in the same position. The reason for the maximum term limit is to establish some safeguards against the excessive accumulation of power as a result of the consecutive terms. It also tends to prevent the official from developing any proprietary interest in their positions. An official serving his/her term whether as "caretaker" or "de facto" officer, an official exercises the powers and enjoys the prerequisites of the office which enables him/her "to stay on indefinitely." It is equivalent to a full term of service.

ONG v. ALEGRE, G.R. No. 163295 (January 23, 2006) EN BANC The three term limit imposed on local elective officials requires the concurrence of 2 conditions to apply: 1) the official concerned has been elected for three (3) consecutive terms in the same local government post, and (2) he has fully served three (3) consecutive terms. Although the mayor is a presumptive winner in a mayoralty derby as his/her proclamation was under protest, he is considered to be a duly elected mayor. Also, his/her assumption in the said office constituted a full term. Thus, he may no longer run in the same position for having met the requisites and serving for three consecutive terms. Where a person loses in an election protest but the decision of the RTC was promulgated after his/her service of the term and thus, fully served the term, he will be considered to have served a full term for purposes of imposing the 3-term ban.

DE GUZMAN, JR. v. COMELEC, G.R. No. 129118 (July 19, 2000) EN BANC The singling out of election officers in order to "ensure the impartiality of election officials by preventing them from developing familiarity with the people of their place of assignment" does not violate the equal protection clause of the Constitution.

REGALADO, JR. v. CA, G.R. No. 115962 (February 15, 2000) SECOND DIVISION Reassignment of personnel within the election period without the prior approval of the COMELEC is an election offense since this amounts to a transfer which is a prohibited activity.

LONZANIDA v. COMELEC, G. R. No 135150 (July 28, 1999) EN BANC An elected official unseated or ordered to vacate by reason of declaration of failure of election/election protest does not satisfy the requirement of full service of a term for the purpose of applying the 3-term limit on local officials.

VOTER'S INCLUSION/ EXCLUSION

PANLAQUI v. COMELEC, G.R. No. 188671 (February 24, 2010) EN BANC There is a distinction between a petition for inclusion of voters in the list and a petition to deny due course or cancel a certificate of candidacy as to issues, reliefs and remedies involved. Voter's inclusion/exclusion proceedings essentially involve the issue of whether a person shall be included in or excluded from the list of voters based on the qualifications required by law and the facts presented to show possession of these qualifications. On the other hand, denial or cancellation of Certificate of Candidacy proceedings involves the issue of whether there is a false

representation of a material fact. The false representation must necessarily pertain not to a mere innocuous mistake but to a material fact or those that refers to a candidate's qualification for elective office.

MERCADO v. DYSANGCO, A.M. No. MTJ-00-1301 (July 30, 2002) THIRD DIVISION Although inclusion proceedings are summary, holding a hearing cannot be dispensed with. Personal interviews of the voters sought to be included cannot substitute for the hearing required by law.

SIAWAN v. INOPIQUEZ, A.M. No. MTJ 95-1056 (May 21, 2001) SECOND DIVISION A petition for inclusion may only be filed by a person whose application had been stricken out from the list of voters or whose application for registration was disapproved. Failure to register for failure to book a flight is not a valid ground. The Election Registration Board must be notified of the hearing and made a party to the case.

SARANGANI v. COMELEC, G.R. No. 135927 (June 26, 2000) EN BANC COMELEC, acting on a petition to annul, has the authority to exclude a precinct from an election where there are no buildings and inhabitants in said precinct and there are no registered voters.

DOMINO v. COMELEC, G.R. No. 134015 (July 19, 1999) EN BANC Except for the right to remain or be excluded in the list of voters, a decision in inclusion/ exclusion proceedings does not acquire the nature of *res judicata* and is not conclusive on the COMELEC.