



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

**BIBIANO C. RIVERA and LUIS
K. LOKIN, JR.,**

G.R. No. 210273

Petitioners,

- versus -

**COMMISSION ON ELECTIONS
(COMELEC), THE SECRETARY-
GENERAL OF THE HOUSE OF
REPRESENTATIVES, SHERWIN
N. TUGNA AND CINCHONA C.
CRUZ-GONZALES,**

Respondents.

X-----X

**CITIZENS' BATTLE AGAINST
CORRUPTION (CIBAC)
FOUNDATION as represented by
JESUS EMMANUEL L. VARGAS,**

Petitioner,

G.R. No. 213069

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,

- versus -

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**CIBAC NATIONAL COUNCIL as
represented by EMMANUEL
JOEL VILLANUEVA, and the
COMMISSION ON ELECTIONS
(COMELEC),**

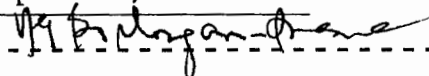
LEONEN,
JARDELEZA,* and
CAGUIOA,* JJ.

Promulgated:

Respondents.

April 19, 2016

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DECISION

REYES, J.:

Before the Court are two petitions assailing the legitimacy of Citizens' Battle Against Corruption (CIBAC) Party-List's representation. One is a petition for *certiorari*¹ under Rule 64 in relation to Rule 65 of the Rules of Court, docketed as G.R. No. 210273, filed by Bibiano C. Rivera (Rivera) and Luis K. Lokin, Jr. (Luis), alleged lawful nominees of the CIBAC Party-List, against the Commission on Elections (COMELEC). The second is a petition for *quo warranto*² under Rule 66 of the Rules of Court, docketed as G.R. No. 213069, filed by CIBAC Foundation, Inc. against the CIBAC National Council and COMELEC. Upon the recommendation of the Clerk of Court *en banc* in its Memorandum³ dated February 15, 2016, the Court in a Resolution dated February 23, 2016 resolved to consolidate⁴ the petitions.

Antecedent Facts

On February 10, 2001, CIBAC was registered as a multi-sectoral party with the COMELEC under Republic Act (R.A.) No. 7941, otherwise known as the Party-List System Act.⁵

* No Part.

¹ *Rollo* (G.R. No. 210273), pp. 3-49.

² *Rollo* (G.R. No. 213069), pp. 3-34.

³ *Id.* at 449-455.

⁴ Internal Rules of the Supreme Court, Rule 9, Section 5 provides:

Section 5. Consolidation of cases. – The Court may order the consolidation of cases involving common questions of law or of act. The Chief Justice shall assign the consolidated cases to the Member-in-Charge to whom the case having the lower or lowest docket number has been raffled, subject to equalization of case load by raffle. The Judicial Records Office shall see to it that (a) the *rollos* of the consolidated cases are joined together to prevent the loss, misplacement or detachment of any of them; and (b) the cover of each *rollo* indicates the G.R. or UDK number of the case with which the former is consolidated.

The Member-in-Charge who finds after study that the cases do not involve common questions of law or of fact may request the Court to have the case or cases returned to the original Member-in-Charge.

⁵ *Rollo* (G.R. No. 213069), p. 49.

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On April 18, 2012, Emmanuel Joel J. Villanueva (Villanueva), CIBAC National Council's Chairman and President, submitted to COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections" as well as a "Certificate of Nomination" containing the following nominees to represent CIBAC in the House of Representatives:⁶

1. Sherwin N. Tugna
2. Cinchona C. Cruz-Gonzales
3. Armi Jane R. Borje
4. Virginia S. Jose, and
5. Stanley Clyde C. Flores

On May 31, 2012, CIBAC Foundation, headed by Maria Blanca Kim Bernardo-Lokin (Maria Blanca), who claimed to be CIBAC's President, also submitted a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections"⁷ and a "Certificate of Nomination"⁸ of the following persons as CIBAC's nominees:

1. Luis K. Lokin, Jr.
2. Bibiano C. Rivera, Jr.
3. Antonio P. Manahan, Jr.
4. Teresita F. Planas, and
5. Jesus Emmanuel L. Vargas

On September 3, 2012, the COMELEC conducted a summary hearing, pursuant to its Resolution No. 9513 dated August 2, 2012, to settle the issue of whose nominees should represent CIBAC in the 2013 elections.⁹ Villanueva's group filed a Motion for Clarificatory Judgment,¹⁰ dated April 30, 2013, claiming that Maria Blanca was neither CIBAC's President nor a member of its National Council; and that it was CIBAC National Council which, on March 28, 2012, resolved to authorize its President or Secretary-General to sign and submit all necessary documents to signify its participation in the May 2013 elections.¹¹

⁶ *Rollo* (G.R. No. 210273), p. 539.

⁷ *Rollo* (G.R. No. 213069), pp. 114-115.

⁸ *Id.* at 116-117.

⁹ *Rollo* (G.R. No. 210273), pp. 65-66.

¹⁰ *Id.* at 65-88.

¹¹ *Id.* at 75-76.

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Maria Blanca's group filed its Comment/Opposition¹² on May 29, 2013, insisting that: (1) CIBAC National Council has been superseded by the Board of Trustees (BOT) of the CIBAC Foundation, following the latter's registration with the Securities and Exchange Commission (SEC) as a non-stock foundation in 2003; (2) since CIBAC National Council is now non-existent, CIBAC's true and legitimate President who has been duly authorized by its BOT to file its Certificate of Nomination for the May 2013 elections is Maria Blanca and not Villanueva; and (3) Pia B. Derla (Derla), CIBAC's Secretary-General, was duly authorized to file the Manifestation of Intent to Participate in the Party-List System of Representation in the May 2013 elections.

On June 5, 2013, CIBAC was proclaimed as one of the winning party-list groups in the May 2013 elections and was given two seats in the House of Representatives.¹³ Consequently, CIBAC National Council nominees Sherwin N. Tugna¹⁴ (Tugna) and Cinchona C. Cruz-Gonzales¹⁵ (Gonzales) were sworn in by House Speaker Feliciano Belmonte, Jr. as party-list members of the House of Representatives representing CIBAC.

In the meantime, the COMELEC issued the National Board of Canvassers (NBOC) Resolution No. 0011-13¹⁶ dated June 5, 2013 recognizing as CIBAC's nominees those names listed in its Certificate of Nomination dated April 18, 2012, without expressly resolving Villanueva's clarificatory motion. Thereafter, the COMELEC issued, on July 10, 2013, the second assailed NBOC Resolution No. 0013-13¹⁷ ruling as moot the "Manifestation and Motion for Proclamation as First Nominee of CIBAC" filed by Luis.

G.R. No. 210273

On December 20, 2013, Rivera and Luis filed a petition for *certiorari*,¹⁸ docketed as G.R. No. 210273, seeking to nullify the assailed COMELEC resolutions. They claimed that they were served a certified copy of NBOC Resolution No. 0011-13 only on November 21, 2013, after they had requested the COMELEC for a copy thereof on November 14, 2013.

¹² Id. at 89-113.

¹³ *Rollo* (G.R. No. 213069), pp. 299-300.

¹⁴ Id. at 328.

¹⁵ Id. at 329.

¹⁶ *Rollo* (G.R. No. 210273), pp. 50-54.

¹⁷ Id. at 55-60.

¹⁸ Id. at 3-49.

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Rivera and Luis argued that: (1) the registration of CIBAC with the SEC as CIBAC Foundation was precisely intended to forestall questions raised in the past as to its qualification to participate in the party-list election as a multi-sectoral party;¹⁹ (2) CIBAC National Council has become “defunct”, having been replaced by the BOT of CIBAC Foundation since its registration with the SEC in 2003;²⁰ (3) pursuant to Section 6(7) of R.A. No. 7941, CIBAC National Council has lost its authority to represent CIBAC in the COMELEC;²¹ and (4) it was, in fact, the SEC-registered CIBAC which had been participating in the 2004 and 2007 party-list elections, and not the CIBAC National Council.²²

To support their petition, Rivera and Luis invoke the consolidated cases of *Lokin, Jr. v. COMELEC, et al.*²³ (*consolidated Lokin case*), where the Court annulled the proclamation of Gonzales, nominated by Villanueva’s group as a CIBAC party-list representative in the 15th Congress, and ordered the proclamation of Luis as its legitimate second nominee. They also cited the case of *Amores v. House of Representatives Electoral Tribunal, et al.*,²⁴ where the Court declared that Villanueva, CIBAC National Council’s President, was ineligible to hold office as a member of the House of Representatives representing the CIBAC Party-list.

Thus, Rivera and Luis sought to nullify the following resolutions of the COMELEC *en banc* in connection with the May 2013 elections:

1. NBOC Resolution No. 0011-13²⁵ dated June 5, 2013, ordering the issuance of a Certificate of Canvass and Proclamation to the CIBAC Party-List, and recognizing its legitimate nominees as follows:
 - Sherwin N. Tugna,
 - Cinchona C. Cruz-Gonzales,
 - Armi Jane R. Borje,
 - Virginia S. Jose, and
 - Stanley Clyde C. Flores

¹⁹ Id. at 25-32.

²⁰ Id. at 22-24.

²¹ Id.

²² Id. at 25-26.

²³ 635 Phil. 372 (2010).

²⁴ 636 Phil. 600 (2010).

²⁵ *Rollo* (G.R. No. 210273), pp. 50-54.

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2. NBOC Resolution No. 0013-13,²⁶ dated July 10, 2013, where the COMELEC considered as moot the Manifestation and Motion for Proclamation as first nominee of CIBAC filed by Luis.

G.R. No. 213069

CIBAC Foundation filed a petition for *quo warranto*,²⁷ posted on June 30, 2014, docketed as G.R. No. 213069, arguing in the main that the CIBAC National Council lost its legal existence following the registration of CIBAC with the SEC as CIBAC Foundation by reason of which it is now governed by a BOT. By recognizing the nominees of CIBAC National Council, CIBAC Foundation insists that the COMELEC unlawfully deprived it of its right and authority to represent CIBAC in Congress.

Thus, CIBAC Foundation raised the issue of whether they are the rightful and legitimate representatives of CIBAC Party-List in the 16th Congress.

Ruling of the Court

As a factual backdrop, Villanueva's group, representing CIBAC National Council, first sought registration in November 2000 with the COMELEC as a multi-sectoral party-list organization for the May 2001 elections. Under its Constitution and By-Laws,²⁸ the CIBAC National Council is the governing body empowered to formulate the policies, plans, and programs of CIBAC and to issue decisions and resolutions binding on party members and officers.²⁹

CIBAC's registration, participation in the May 2001 elections, and eventual proclamation as a winner, was hounded by controversy after the COMELEC ruled that it did not belong to any marginalized sectoral group. In *Ang Bagong Bayani-OFW Labor Party v. COMELEC*,³⁰ the Court issued a Temporary Restraining Order (TRO) directing the COMELEC to refrain from proclaiming the winners in the May 2001 party-list elections, which included CIBAC. In the subsequent Decision³¹ dated June 26, 2001, the Court reiterated the TRO but ordered the COMELEC to immediately conduct summary evidentiary hearings on the qualifications of the party-list participants in light of the guidelines laid down therein.³²

²⁶ Id. at 55-60.

²⁷ *Rollo* (G.R. No. 213069), pp. 3-30.

²⁸ Id. at 301-318.

²⁹ Id. at 310.

³⁰ G.R. Nos. 147589 and 147613, May 9, 2001.

³¹ *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, 412 Phil. 308 (2001).

³² Id. at 346-347.

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In its first compliance report, the COMELEC excluded CIBAC from the qualified party-list groups. The Court, however, issued a Resolution dated January 29, 2002, qualifying CIBAC and lifted the TRO to enable the COMELEC to proclaim CIBAC, whose nominee was Villanueva, as one of the party-list winners. This was reiterated in the Court's Resolution³³ dated June 25, 2003 as follows:

[W]e accept Comelec's submission, per the OSG, that APEC and CIBAC have sufficiently met the 8-point guidelines of this Court and have garnered sufficient votes to entitle them to seats in Congress. Since these issues are factual in character, we are inclined to adopt the Commission's findings, absent any patent arbitrariness or abuse or negligence in its action. There is no substantial proof that CIBAC is merely an arm of JIL, or that APEC is an extension of PHILRECA. The OSG explained that these are separate entities with separate memberships. Although APEC's nominees are all professionals, its membership is composed not only of professionals but also of peasants, elderly, youth and women. Equally important, APEC addresses the issues of job creation, poverty alleviation and lack of electricity. Likewise, CIBAC is composed of the underrepresented and marginalized and is concerned with their welfare. CIBAC is particularly interested in the youth and professional sectors.³⁴

The Court also subsequently lifted the TRO against the proclamation of CIBAC's additional nominee since it garnered 4.96% of the votes cast, entitling it to two seats in the House of Representatives.³⁵

Interestingly, the present case is a virtual reprise of *Lokin, Jr., et al. v. COMELEC, et al.*,³⁶ which was invoked by the COMELEC in the assailed NBOC Resolution No. 0011-13.³⁷

By way of background, the same two contending entities as above, each claiming to represent CIBAC, filed with the COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 10, 2010 Elections." The first Manifestation,³⁸ filed on November 20, 2009, was signed by Derla, who claimed to be CIBAC's acting Secretary-General, according to an authority granted by the BOT of CIBAC Foundation. However, at 1:30 p.m. of the same day, another Manifestation was submitted by Gonzales and Virginia Jose (Jose), CIBAC's Vice-President and Secretary-General, respectively, by authority of the CIBAC National Council.³⁹

³³ *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, 452 Phil. 899 (2003).

³⁴ *Id.* at 908-909.

³⁵ Resolution dated November 20, 2003.

³⁶ 689 Phil. 200 (2012).

³⁷ *Rollo* (G.R. No. 210273), p. 52.

³⁸ *Rollo* (G.R. No. 213069), pp. 79-80.

³⁹ *Lokin, Jr., et al. v. COMELEC, et al.*, *supra* note 36.

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Claiming that the nomination of Luis and Teresita F. Planas was unauthorized, Villanueva's group filed with the COMELEC a *Petition to Expunge From The Records And/Or For Disqualification*, seeking to nullify the Certificate of Nomination filed by Derla. They contended that: (1) Derla misrepresented herself as "acting secretary-general" since she was not even a member of CIBAC; (2) the Certificate of Nomination and other documents she submitted were unauthorized by the party; and (3) it was Villanueva who was duly authorized to file the Certificate of Nomination on its behalf.⁴⁰

The COMELEC First Division granted the petition, ordered the Certificate of Nomination filed by Derla expunged from the records, and declared Villanueva's group's nominees as the legitimate nominees of CIBAC.⁴¹ On motion for reconsideration, the COMELEC *en banc* in a *per curiam* Resolution⁴² dated August 31, 2010 affirmed the First Division's findings, reiterating that Derla was unable to prove her authority to file the said Certificate, whereas Villanueva presented overwhelming evidence that CIBAC Secretary General Jose was duly deputized to submit the Certificate of Nomination pursuant to CIBAC's Constitution and by-laws.⁴³

On petition for *certiorari* to this Court, Maria Blanca's group insisted that it was CIBAC Foundation which participated in the party-list elections in the 2004 and 2007, not the CIBAC National Council, which had become defunct since 2003, the year when CIBAC Foundation was registered with the SEC. Villanueva's group countered that CIBAC Foundation was established solely for the purpose of acting as CIBAC's legal and financial arm, as provided in the party's Constitution and by-laws, and never to substitute for, or oust CIBAC, the party-list itself.⁴⁴

The Court affirmed the COMELEC's ruling that the nominees of Villanueva's group were the legitimate CIBAC nominees. The Court's decision became final and executory on October 20, 2012, thereby settling with finality the question of who are the true nominees of CIBAC Party-List. Significantly, the Court expressly ruled that the BOT of CIBAC Foundation and its acting Secretary-General Derla, were not affiliated with the CIBAC multi-sectoral party, which is registered with COMELEC, *viz*:

[Derla], who is not even a member of CIBAC, is thus a virtual stranger to the party-list, and clearly not qualified to attest to petitioners [Luis and Teresita F. Planas] as CIBAC nominees, or certify their nomination to the COMELEC. **Petitioners cannot use their registration with the SEC as a**

⁴⁰ Id.

⁴¹ *Rollo* (G.R. No. 213069), pp. 273-282.

⁴² Id. at 283-291.

⁴³ *Lokin, Jr., et al. v. COMELEC, et al.*, supra note 36.

⁴⁴ Id.

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substitute for the evidentiary requirement to show that the nominees, including Derla, are bona fide members of the party. Petitioners Planas and [Luis] have not even presented evidence proving the affiliation of the so-called [BOT] to the CIBAC Sectoral Party that is registered with COMELEC.

Petitioners cannot draw authority from the [BOT] of the SEC-registered entity, because the Constitution of CIBAC expressly mandates that it is the National Council, as the governing body of CIBAC, that has the power to formulate the policies, plans, and programs of the Party, and to issue decisions and resolutions binding on party members and officers. Contrary to petitioners' allegations, the National Council of CIBAC has not become defunct, and has certainly not been replaced by the [BOT] of the SEC-registered entity. The COMELEC carefully perused the documents of the organization and outlined the process followed by the National Council before it complied with its task of choosing the party's nominees. This was based on the "Minutes of Meeting of CIBAC Party-List National Council" held on 12 November 2009, which respondents attached to their Memorandum.⁴⁵ (Citations omitted and emphasis and underscoring ours)

The Court also reiterated that the COMELEC's jurisdiction to settle the struggle for leadership within the party is well established, emanating from one of its constitutional functions, under Article IX-C, Section 2, Paragraph 5, of the 1987 Constitution, which is to "register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government," and that this singular power of COMELEC to rule upon questions of party identity and leadership is an incident to its enforcement powers.⁴⁶

The Court reiterates, then, that: (1) the petitioners have shown no evidence of the affiliation of the BOT of CIBAC Foundation to the CIBAC sectoral party which is registered with the COMELEC; (2) it is the CIBAC National Council, the COMELEC-registered governing body of CIBAC under its Constitution, which is empowered to formulate its policies, plans, and programs, and to issue decisions and resolutions binding on party members and officers; and (3) the CIBAC National Council alone can authorize the party's participation in party-list elections and the submission of its nominees. Thus, in view of CIBAC's subsisting registration with the COMELEC as a multi-sectoral organization, CIBAC National Council has not become defunct or non-existent, nor replaced by the BOT of the SEC-registered entity, CIBAC Foundation, whose registration with the SEC will not *per se* dispense with the evidentiary requirement under R.A. No. 7941 that its nominees must be *bona fide* members and nominees of the party.

⁴⁵ Id. at 216.

⁴⁶ Id.

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The petitioners erred in citing the *consolidated Lokin Case*.⁴⁷ In the said case, CIBAC manifested its intent to participate in the May 2007 synchronized national and local elections through Villanueva, and submitted a Certificate of Nomination containing five nominees for representatives, namely: Villanueva, Luis, Gonzales, Tugna and Emil L. Galang (Galang). However, Villanueva filed a "Certificate of Nomination, Substitution and Amendment" whereby CIBAC withdrew the nominations of Luis, Tugna and Galang and substituted Armi Jane R. Borje (Borje) as its third and last nominee. With CIBAC having won two seats, Villanueva transmitted to then COMELEC Chairman Benjamin Abalos the signed petitions of 81% of CIBAC members confirming the withdrawal of the nomination of Luis, Tugna and Galang and the substitution of Borje. The COMELEC *en banc* accepted CIBAC's amended list of nominees, and Gonzales took her oath of office as CIBAC's second party-list representative.

Thus, what was at issue in the *consolidated Lokin case* was not whether the CIBAC National Council, headed by Villanueva, could no longer represent CIBAC in the COMELEC for purposes of party-list elections, but whether the withdrawal by Villanueva, as CIBAC President, of the nomination of Luis in favor of a new list of nominees was valid. The Court ruled that: (1) Villanueva's act was contrary to Section 8⁴⁸ of R.A. No. 7941, which requires the submission, not later than 45 days before the election, of a list of not less than five (5) nominees; and (2) Section 13 of Resolution No. 7804, containing the Implementing Rules and Regulations of R.A. No. 7941 issued by the COMELEC, invalidly expanded the exceptions in Section 8 of R.A. No. 7941 for the substitution of nominees.

Lastly, the petitioners invoke *Amores*,⁴⁹ where it was declared that Villanueva was ineligible to hold office as a member of the House of Representatives representing the youth sector of CIBAC. The subject of the case was NBOC Resolution No. 07-60 dated July 9, 2007, where the COMELEC partially proclaimed CIBAC as a winner in the May 2007 elections, along with other party-list organizations. The Court found that at the time of the filing of his certificates of nomination and acceptance, Villanueva was already 31 years old and beyond the age limit of 30 provided under Section 9 of R.A. No. 7941, and that his change of affiliation from

⁴⁷ Supra note 23.

⁴⁸ Section 8. *Nomination of Party-List Representatives*.—Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate of any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

⁴⁹ Supra note 24.

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CIBAC's youth sector to its overseas Filipino workers and their families sector was not effected at least six months prior to the May 2007 elections, in violation of Section 15 of R.A. No. 7941.

Nonetheless, the Court also clarified that NBOC Resolution No. 07-60 was not a proclamation of Villanueva himself, but of CIBAC as one of the party-list winners, since Section 13 of R.A. No. 7941 separately provides that, "[p]arty-list representatives shall be proclaimed by the COMELEC based on the list of names submitted by the respective parties, organizations, or coalitions to the COMELEC according to their ranking in said list."

Concerning now the *quo warranto* petition, G.R. No. 213069, of CIBAC Foundation, the Court reminds the petitioners that under Section 17 of Article IV of the 1987 Constitution, the sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives is the House of Representatives Electoral Tribunal (HRET). Section 17 reads:

Section 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members, x x x.

Because the nominees of CIBAC National Council, Tugna and Gonzales, assumed their seats in Congress on June 26, 2013 and July 22, 2013, respectively, G.R. No. 213069 should be dismissed for lack of jurisdiction. It should be noted that since they had been already proclaimed, the jurisdiction to resolve all election contests lies with the HRET as it is the sole judge of all contests relating to the election, returns, and qualifications of its Members.


In a long line of cases⁵⁰ and more recently in *Reyes v. COMELEC, et al.*,⁵¹ the Court has held that once a winning candidate has been proclaimed, taken his oath, and assumed office as Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. Since the nominees of CIBAC National Council have already assumed their seats in Congress, the *quo warranto* petition should be dismissed for lack of jurisdiction.

WHEREFORE, premises considered, the petitions are **DISMISSED**.

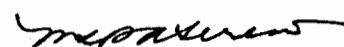
⁵⁰ Please see *Lazatin v. COMELEC*, G.R. No. L-80007, January 25, 1988, 157 SCRA 337; *Guerrero v. COMELEC*, 391 Phil. 344 (2000).

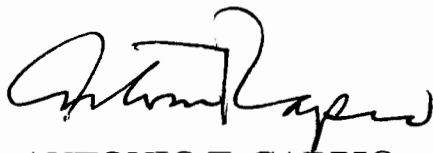
⁵¹ 720 Phil. 174 (2013).

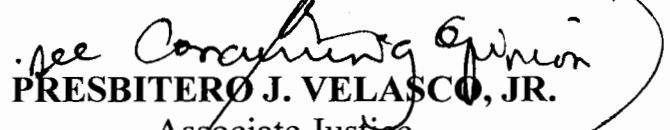
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

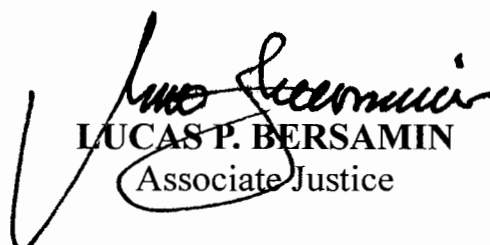

ANTONIO T. CARPIO
Associate Justice

(He see Concurring Opinion)

PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice

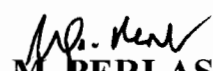

DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

*separate concurring
and dissenting opinion*

[Signature]
MARVIC M.V.F. LEONEN
Associate Justice

[Signature]
FRANCIS H. JARDELEZA
Associate Justice

[Signature]
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

*No Part
prior actions
3 of 5*

*(No Part due to
relationship to a
party.)*

CERTIFICATION

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

[Signature]
MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:

[Signature]
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT

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