EN BANC

G.R. No. 210273 ***(Bibiano C. Rivera and Luis K. Lokin, Jr. vs. Commission on Elections [COMELEC], the Secretary General of the House of Representatives, Sherwin C. Tugna, and Cinchona C. Cruz-Gonzales)***

G.R. No. 213069 ***(Citizen's Battle Against Corruption [CIBAC] Foundation as represented by Jesus Emmanuel L. Vargas vs. CIBAC National Council as represented by Emmanuel Joel Villanueva, and the Commission on Elections)***

Promulgated:

April 19, 2016

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CONCURRING OPINION

VELASCO, JR., *J.*:

This treats the consolidated petitions for *certioriari* and *quo warranto*, docketed as G.R. Nos. 210273 and 213069, respectively.

Res Judicata by conclusiveness of judgment bars the re-litigation of the central issue in G.R. No. 210273

The *certiorari* petition seeks to nullify COMELEC NBOC Resolution No. 0011-13, which recognized as nominees of Citizen's Battle Against Corruption (CIBAC) party-list those names submitted by respondent Emmanuel Joel Villanueva, CIBAC National Council's Chairman and President. It is petitioners' contention that the CIBAC National Council has become defunct, having been replaced by the Board of Trustees (BOT) of the CIBAC Foundation, Inc. registered with the SEC. They then argue that it is CIBAC Foundation's own list that ought to be considered by the COMELEC as CIBAC party-list's nominees.

I agree with the *ponencia* that the extant case is but a reprise of G.R. No. 193808, which the Court had resolved on June 26, 2012.[1] Petitioners are, therefore, estopped by *res judicata* from re-litigating in G.R. No. 210273 the settled facts and issues in G.R. No. 193808.

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[1] Entitled *Luis K. Lokin, Jr. and Teresita F. Planas v. Commission on Elections, Citizen's Battle Against Corruption Party List represented by Virginia S. Jose, Sherwin C. Tugna, and Cinchona C. Cruz-Gonzales*, decided by the this Court on June 26, 2012.

Res judicata embraces two concepts: bar by prior judgment[2] and by conclusiveness of judgment.[3] For the legal principle to apply, the following elements must concur: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Anent the fourth element, *res judicata* in the concept of conclusiveness of judgment only requires the identity of parties and issues, not necessarily of the causes of action.[4]

The doctrine of conclusiveness of judgment prescribes that a fact or question settled by final judgment or order binds the parties to that action, persons in privity with them, and their successors-in-interest, and continues to bind them while the judgment or order remains standing and unreversed by proper authority. The conclusively settled fact or question cannot again be litigated in any future or other action between those bound by the final judgment, either for the same or for a different cause of action.[5]

As aptly observed by the *ponencia*, the Court resolved in G.R. No. 193808 which between the CIBAC Foundation, Inc. and CIBAC National Council is authorized to field nominees in behalf of CIBAC party-list for the party-list elections. The Court held therein that it is CIBAC National Council, the COMELEC-registered governing body of the CIBAC party-list, that is empowered to formulate the policies, plans, and programs of the party, and to issue decisions and resolutions binding on party members and officers.[6] This ruling, which has long attained finality, was issued pursuant to the Court's valid exercise of its jurisdiction to review rulings of the COMELEC. It is, therefore, binding on substantially the same parties and bars them from re-litigating the same issue.

Needless to state, the case at bench involves parties privy to the Court's ruling in G.R. No. 193808, albeit raising a different cause of action.[7] Petitioner Luis K. Lokin as well as respondents Sherwin C. Tugna and Cinchona C. Cruz-Gonzales directly participated in the proceedings in G.R. No. 193808. The involvement of CIBAC National Council and CIBAC Foundation, Inc. in the case cannot also be disclaimed.

Verily, all the elements for *res judicata* by conclusiveness of judgment obtain herein. The instant petition for *certiorari*, which

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[2] RULES OF COURT, Rule 39, Sec. 47(b).

[3] Id., Rule 39, Sec. 47(c).

[4] *Social Security Commission v. Rizal Livestock and Poultry Association, Inc.*, G.R. No. 167050, June 1, 2011; see also *Pryce Corporation v. China Banking Corporation*, G.R. No. 172302, February 18, 2014.

[5] *Degayo v. Magbanua-Dinglasan* G.R. No. 173148, April 6, 2015

[6] Page 8 of the Decision; see also *Lokin v. COMELEC*, G.R. No. 193808, June 26, 2012.

[7] The cause of action in G.R. No. 193808 pertains to the lists of party-list nominees submitted to the COMELEC in connection to the 2010 National and Local Elections, while the instant petition relates to those submitted in connection with the 2013 polls.

substantially raised the same issues as those in G.R. No. 193808, should, thus, be dismissed.

The controversy in G.R. No. 213069 falls within the jurisdiction of the House of Representatives Electoral Tribunal

I likewise concur with the *ponencia* that the *quo warranto* case falls outside the jurisdictional bounds of the Court, as it should have been lodged with the House of Representatives Electoral Tribunal (HRET). Article VI, Section 17 of the Constitution pertinently 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**. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (emphasis added)

Reyes v. COMELEC (Reyes)[8] delineated the blurred boundaries between the COMELEC and the HRET, explicitly ruling where one ends and the other begins.[9] This landmark case instructs that the HRET has jurisdiction over Members of the House of Representatives (HoR) and that to be considered a "*Member*," the following requisites must concur: (1) a valid proclamation, (2) a proper oath, and (3) assumption of office.[10]

Associate Justice Marvic M.V.F. Leonen (Justice Leonen) submits that the elements for membership are not independent events, and that mere proclamation suffices to vest the HRET of jurisdiction over the winning congressional candidate, citing the cases of *Limkaichong v. COMELEC (Limkaichong)*[11] and *Vinzons-Chato v. COMELEC (Vinzons-Chato)*.[12] However, these very cases relied upon served as jurisprudential basis in the Court's ruling in *Reyes*. To demonstrate, the opening salvo of *Limkaichong* reads:

> Once a winning candidate has been **proclaimed**, **taken his oath**, and **assumed office** as a Member of the House of Representatives, the jurisdiction of the House of Representatives Electoral Tribunal begins. (emphasis added)

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[8] G.R. No. 207264, June 25, 2013.

[9] Concurring Opinion of Associate Justice Jose P. Perez, *Velasco v. Belmonte, Jr.*, G.R. No. 211140, January 12, 2016.

[10] *Reyes v. COMELEC*, supra.

[11] G.R. Nos. 178831-32 & 179120, 179132-33, 179240-41, April 1, 2009.

[12] G.R. No. 172131, April 2, 2007.

And as the Court held in *Vinzons-Chato*:

> x x x [I]n an electoral contest where the validity of the **proclamation of a winning candidate** who has **taken his oath** of office and **assumed his post** as Congressman is raised, that issue is best addressed to the HRET. The reason for this ruling is self-evident, for it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate. (emphasis added)

Evidently, the Court's doctrine in *Reyes* is in hew with jurisprudence. The Court merely adhered to its long-standing criteria for membership in Congress that all three indispensable requirements—a valid proclamation, a proper oath, and assumption of office—must concur.

Contrary to Justice Leonen's postulation, the subsequent case of *Tañada v. COMELEC (Tañada)*[13] did not deviate from our ruling in *Reyes*. Markworthy is that before disposing the petition in *Tañada*, the Court made the following observations:

> x x x [C]onsidering that Angelina had already been **proclaimed** as Member of the House of Representatives for the 4th District of Quezon Province on May 16, 2013, as she has in fact **taken her oath** and **assumed office** past noon time of June 30, 2013, the Court is now without jurisdiction to resolve the case at bar. As they stand, the issues concerning the conduct of the canvass and the resulting proclamation of Angelina as herein discussed are matters which fall under the scope of the terms "election" and "returns" as above-stated and hence, properly fall under the HRET's sole jurisdiction. (emphasis added)

Indubitably, the Court's ruling in *Tañada* disclaiming jurisdiction in favor of the HRET is premised on the concurrence of the three (3) requirements for membership in the HoR, in clear consonance with our ruling in *Reyes*.[14] Hence, the statement[15] in *Tañada* cited by Justice Leonen—that proclamation alone vests the HRET with jurisdiction over election, returns, and qualification of the winning congressional candidate—is mere *obiter dictum*. This lone statement in the *Tañada* Resolution pales in comparison with the academic discussion in *Reyes*, which was the product of a more extensive discussion and incisive scrutiny of the issue regarding the HRET's jurisdiction.[16]

Tañada is clearly not intended as a reversal of *Reyes*. It could not have overturned nor abandoned *Reyes* for they are, in fact, consistent in their

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[13] G.R. No. 207199-200, October 22, 2013.

[14] Concurring Opinion of Associate Justice Jose P. Perez in *Velasco v. Belmonte, Jr.*, G.R. No. 211140, January 12, 2016.

[15] *"Case law states that the proclamation of a congressional candidate following the election divests the COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed representative in favor of the HRET."*

[16] Concurring Opinion of Associate Justice Jose P. Perez in *Tañada v. HRET*, G.R. No. 217012, March 1, 2016

holdings. Thus, the *Reyes* doctrine remains to be the litmus test in ascertaining whether or not the winning candidate can already be deemed a "*Member*" of Congress over whom the HRET can validly exercise jurisdiction. This is even affirmed in the February 3, 2015 ruling in *Bandara v. COMELEC (Bandara)*,[17] which was decided by the Court after the October 22, 2013 *Tañada* Resolution. As held in *Bandara*:

> It is a well-settled rule that once a winning candidate has been **proclaimed, taken his oath, and assumed office** as a Member of the House of representatives, the jurisdiction of the Commission on Elections (COMELEC) over election contests relating to his/her election, returns, and qualification ends, and the HRET's own jurisdiction begins. Consequently, the instant petitions for certiorari are not the proper remedies for the petitioners in both cases to question the propriety of the National Board of Canvassers' proclamation, and the events leading thereto. (emphasis added)

In view of the foregoing, the doctrine in *Reyes*, as affirmed in *Tañada* and *Bandara*, must now be applied herein. In so doing, it must first be noted that the petition for *quo warranto* was filed on July 11, 2014.[18] By that date, private respondents Sherwin Tugna and Cinchona C. Cruz-Gonzales have already taken their respective oaths and assumed office as CIBAC party-list's representatives to Congress. The occurrence of these events effectively divested the Court of the power to adjudicate the case for *quo warranto*. The *quo warranto* petition should then be dismissed for lack of jurisdiction.

G.R. No. 213069 should be dismissed for lack of cause of action

Even assuming *arguendo* that the Court has jurisdiction over the *quo warranto* proceeding, G.R. No. 213069 should nevertheless be dismissed for lack of cause of action.[19]

A ruling in G.R. No. 210273 that is favorable to petitioners is a precondition before the petition for *quo warranto* in G.R. No. 213069 can prosper. Otherwise stated, the *certiorari* case is so closely intertwined with the *quo warranto* case that dismissal of the former necessarily results in the dismissal of the latter. Thus, as a consequence of the Court's ruling in G.R No. 210273, as earlier discussed, so too must G.R. No. 213069 be dismissed.

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[17] G.R. Nos. 207144 and 208141, February 3, 2015.

[18] Page 5 of Decision.

[19] *"Failure to state a cause of action and lack of cause of action are distinct grounds to dismiss a particular action. The former refers to the insufficiency of the allegations in the pleading, while the latter to the insufficiency of the factual basis for the action. Dismissal for failure to state a cause of action may be raised at the earliest stages of the proceedings through a motion to dismiss under Rule 16 of the Rules of Court, while dismissal for lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff."* Zuñiga-Santos v. Santos-Gran, G.R. No. 197380, October 8, 2014.

To recall, the *quo warranto* case was filed on the postulation that petitioners are the rightful and legitimate representatives of CIBAC party-list in Congress.[20] Raising grounds for the allowance of the petition similar to those in the *certiorari* case, petitioners argued in the main that CIBAC National Council has already lost its legal existence, and that CIBAC Foundation, Inc.'s BOT is the governing body of CIBAC party-list. Clearly, petitioners' case for *quo warranto* presupposes that the COMELEC gravely abused its discretion in recognizing CIBAC National Council's list of nominees, thereby allegedly depriving petitioners of their right to represent CIBAC in Congress.

These presuppositions, however, are bereft of factual basis.

Guilty of reiteration, it has already been resolved that it is the CIBAC National Council, not the CIBAC Foundation, Inc.'s BOT, which can validly nominate CIBAC party-list representatives to Congress. This holding in G.R. No. 193808, as now affirmed in G.R. No. 210273, automatically renders petitioners' contentions meritless and their claimed right to field party-list nominees, illusory. The pivotal allegations in the petition are just as easily belied by settled facts. Therefore, in view of the majority vote to dismiss G.R. No. 210273, the Court is constrained to likewise dismiss G.R. No. 213069.

PRESBITERO J. VELASCO, JR.
Associate Justice

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[20] Page 5 of Decision.