



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

FELICIANO LEGASPI,
Petitioner,

G.R. No. 216572

Present:

-versus-

COMMISSION ON ELECTIONS,
ALFREDO D. GERMAR, AND
ROGELIO P. SANTOS, JR.,
Respondents.

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

Promulgated:

April 19, 2016

[Signature]

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RESOLUTION

VELASCO, JR., J.:

The opportunities for the Court to revisit its ruling in *Mendoza vs. COMELEC*¹ (*Mendoza*) are sparse. It is a rarity for us to be presented a case assailing the COMELEC *en banc*'s reversal of its division's ruling notwithstanding the former's failure to muster the four (4) votes required under our Constitution to do so. In fact, the September 1, 2015 Decision in the case at bench is only second to the seminal case of *Mendoza* to have

¹ 630 Phil. 432 (2010).

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resolved such an issue. The Court must, therefore, take advantage of this rare opportunity, on reconsideration, to modify the *Mendoza* doctrine before it further takes root, deeply entrenched in our jurisprudence.

The facts of this case are simple and undisputed.

To recapitulate, petitioner Feliciano Legaspi (Legaspi) and private respondent Alfredo D. Germar (Germar) both ran as mayoralty candidates in Norzagaray, Bulacan while private respondent Rogelio Santos (Santos) was a candidate for councilor in the May 13, 2013 elections.² On May 14, 2013 Legaspi filed a Petition for Disqualification against private respondents, docketed as SPA No. 13-323 (DC). There, petitioner averred that from May 11, 2013 until election day, private respondents engaged in massive vote-buying, using their political leaders as conduits. As per witness accounts, said political leaders, while camped inside the North Hills Village Homeowners Association Office in Brgy. Bitungol, Norzagaray, Bulacan, were distributing to voters envelopes containing Php 500.00 each and a sample ballot bearing the names of private respondents. Through military efforts, the vote-buying was foiled and the office, which served as the venue for distribution, padlocked. The newly-minted Chief of Police, P/Supt. Dale Soliba, and his subordinates then attempted to force open the office and retrieve from inside four (4) boxes containing the remaining undistributed envelopes with an estimated aggregate amount of Php800,000.00, but a group of concerned citizens were able to thwart their plan in *flagrante delicto* and intercept the said evidence of vote-buying.³

In answer, private respondents denied the allegations and raised the alibi that from 3:00 o'clock to 11:00 o'clock in the evening of May 11, 2013, they attended the Liberal Party's meeting *de avance* at the San Andres Parish church grounds, and that they did not go to nor visit the office of the Homeowner's Association of North Hills Village at the time the election offenses were allegedly committed.⁴

Giving due credence and consideration to the evidence adduced by petitioner,⁵ the COMELEC Special First Division, by a 2-1 vote on October

² Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

³ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

⁴ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

⁵ Petitioner offered the following in evidence:

- 1) Sinumpaang Salaysay of Kagawad Helen Viola, Ma. Joanna Abesamis, Jaimenito Magat, Danny Mendoza and Teodorico Tuazon who witnessed the vote buying activities during the morning of May 11, 2013, the forced opening of the HOA office around 12:00 A.M. of May 12, 2013 by P/Supt. Soliba and subsequent interception of the latter by the affiants, who seized the plastic bag containing 4 boxes of money and sample ballots of respondents;
- 2) Report of the Turn-over of Confiscated/Recovered Items by P/Supt. Soliba to the Municipal Treasurer of Norzagaray, Bulacan, detailing the number of envelopes and sample ballots of Germar-Esquivel Team (FB Team) and amounts of money found inside each of the 4 boxes;

3, 2013, disqualified private respondents from the 2013 electoral race. The dispositive portion of the COMELEC resolution⁶ reads:

WHEREFORE, premises considered, the Commission **RESOLVED** as it hereby **RESOLVES** to:

- (1) **DISQUALIFY** Respondents Alfredo M. Gesmar (*sic*) and Rogelio C. Santos, Jr. for the positions of Mayor and Councilor of Norzagaray, Bulacan;
- (2) **REFER** the criminal aspect of this case against Germar (*sic*), Roberto Esquivel, Rogelio Santos, Jr., Dale Soliba, Dominador Rayo, Marivic Nunez, Adelaida Auza, Amelia Cruz, and Leonardo Ignacio to the Law Department for preliminary investigation; and
- (3) **ORDER** the Regional Election Director of COMELEC Region III to implement this Resolution, following the rules on succession as provided in R.A. 7160.

SO ORDERED.


Thereafter, private respondents moved for reconsideration before the COMELEC *en banc* but the latter, through its July 10, 2014 Resolution,⁷ resolved to deny private respondents' motion thusly:

WHEREFORE, premises considered, the Commission **RESOLVED**, as it hereby **RESOLVES** to **DENY** this Motion for Reconsideration for LACK OF MERIT. Consequently, the October 3, 2013 Resolution of the Special First Division (1) disqualifying respondents Alfredo M. Germar and Rogelio C. Santos, Jr. for the positions of Mayor and Councilor of Norzagaray, Bulacan; (2) referring the criminal aspect of this case against Alfredo M. Germar, Roberto Esquivel, Rogelio Santos, Jr., Dale Soliba, Dominador Rayo, Marivic Nunez, Adelaida Auza, Amelia Cruz and Leonardo Ignacio to the Law Department for preliminary investigation and (3) ordering the Regional Election Director of COMELEC Region III to implement this Resolution, following the Rules on Succession as provided under R.A. 7160 is hereby **AFFIRMED**.

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- 3) Pictures during the opening of the seized items before the Norzagaray Municipal Police Station and photos taken during the vote-buying incident at the HOA office where respondent Esquivel was seen going out of the premises in the morning of May 11, 2013;
 - 4) Certified True Copies of the Police Blotter Entries regarding the vote-buying incidents which happened on May 12-13, 2013, as reported to the police by Retired Col. Bruno Paler Viola, Jr. and Alma Rulida;
 - 5) Sworn Statements of 194 voters who testified that they were offered and/or given the amount ranging from PhP250.00-PhP500.00 each in exchange of their votes for the respondents, and were thus issued yellow stubs that they received such amount;
 - 6) Sworn Statements of several witnesses, attesting that during election day, respondents' team promised them to pay PhP500.00-PhP1,000.00 each on condition that they will not vote and their right point fingers will be marked with ink; and
 - 7) Minutes of Voting of the Board of Election Inspectors of Cluster Precinct No. 60, allowing three voters to cast their vote upon verifying that the ink marked on their fingers was not that of the Comelec's indelible ink and that they have not yet voted.

⁶ Rollo, pp. 59-73.

⁷ Rollo, pp. 84 - 92



SO ORDERED.

The adverted Resolution had a vote of **3-2-1-1**, as follows: three (3) commissioners, namely Chairman Sixto S. Brillantes, Jr. and commissioners Lucenito N. Tagle and Elias R. Yusoph, voted for the denial of the motion, while two (2) commissioners, Christian Robert S. Lim and Luie Tito F. Guia, dissented. Commissioner Al A. Parreño took no part in the deliberations and Commissioner Maria Grace Cielo M. Padaca did not vote as her *ad interim* appointment had already expired, vacating a seat in the electoral tribunal.⁸

Since the Resolution was not concurred in by four (4) votes or a majority of all the members of the COMELEC, a re-deliberation of the administrative aspect of the case was conducted pursuant to Sec. 6, Rule 18 of the COMELEC Rules of Procedure. The re-deliberation resulted in the issuance of the assailed Order⁹ dated January 28, 2015 with a **3-2-2** vote: the previously voting commissioners maintained their respective positions while then newly-appointed commissioner Arthur D. Lim took no part in the deliberations and abstained from voting.¹⁰ Citing the same procedural rule, the COMELEC *en banc* dismissed the original Petition for Disqualification filed by Legaspi in the following wise:

WHEREFORE, premises considered, the Commission **RESOLVED**, as it hereby **RESOLVES** to **DISMISS** the administrative aspect of this Petition for Disqualification for **FAILURE TO OBTAIN THE NECESSARY MAJORITY VOTES AFTER RE-DELIBERATION/REHEARING** by the members of the Commission *en banc*.

SO ORDERED.

Perplexed as to how he who prevailed before the COMELEC Special First Division can face defeat before the COMELEC *en banc* when three (3) commissioners voted to deny private respondents' motion for reconsideration and only two (2) commissioners voted to reverse the judgment in his favor, Legaspi launched a Rule 64 petition assailing the January 28, 2015 COMELEC *en banc* Order before this Court. Regrettably, the Court, on September 1, 2015, voted to dismiss the petition.

From the September 1, 2015 Decision, petitioner Legaspi interposed the instant motion for reconsideration. Hence, the Court is faced once again with the issue on how to treat the rulings of the COMELEC *en banc* when less than four (4) votes were cast to either grant or deny the motion for reconsideration pending before it.

⁸ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

⁹ *Rollo*, p. 99- 103.

¹⁰ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

The Court's Ruling

The Court **GRANTS** petitioner's motion for reconsideration. The September 1, 2015 Decision in the case at bar is hereby **REVERSED** and **SET ASIDE**, and the instant petition is **GRANTED**.

Primarily, the Court is called to interpret Sec. 6, Rule 18 of the COMELEC Rules on Procedure. The provision reads:

Section 6. Procedure if Opinion is Equally Divided. - When the Commission *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall be reheard, and if on rehearing no decision is reached, the action or proceeding shall be dismissed if originally commenced in the Commission; in appealed cases, the judgment or order appealed from shall stand affirmed; **and all incidental matters, the petition or motion shall be denied.**" (emphasis added)


As framed in the September 1, 2015 Decision, the afore-cited provision outlines the effects of the COMELEC *en banc*'s failure to decide:

1. If the action or proceeding is *originally commenced* in the COMELEC, **such action or proceeding shall be dismissed;**
2. In *appealed* cases, **the judgment or order appealed from shall stand affirmed;** or
3. In *incidental matters*, **the petition or motion shall be denied.**

In dismissing Legaspi's petition on September 1, 2015, the Court first categorized SPA No. 13-323 (DC) as an action "*originally commenced with the Commission*," warranting the entire case's dismissal should the *en banc* fail to reach the required majority vote, regardless of the COMELEC division's ruling. This, according to the *ponencia*, is the first effect of Sec. 6, Rule 18 of the COMELEC Rules of Procedure, as previously applied in *Mendoza*.

To summarize *Mendoza*, therein petitioner Joselito R. Mendoza (Mendoza) was proclaimed winner of the 2007 gubernatorial election for the province of Bulacan, besting respondent Roberto M. Pagdanganan (Pagdanganan). On June 1, 2007, Pagdanganan filed an election protest that the COMELEC Second Division eventually granted, thereby annulling Mendoza's proclamation. Aggrieved, Mendoza moved for reconsideration with the *en banc*, but the COMELEC failed to reach a majority vote to either grant or deny the motion. Pursuant to its rules, the COMELEC *en banc* reheard the case but was, nevertheless, unsuccessful in obtaining the required majority vote to render a valid ruling. Thus, in a **3-1** vote, with three votes denying the motion, the COMELEC *en banc* sustained the ruling of its Second Division.¹¹

¹¹ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015



On petition with the Court, Mendoza pointed out that because the necessary majority vote of four (4) was not obtained by the COMELEC *en banc*, Pagdanganan's election protest ought to be dismissed. Agreeing, the Court, on March 25, 2010, ruled for Mendoza and explained that as an original action before the Commission, failure to muster the required majority vote on reconsideration would lead to the election protest's dismissal, not just of the motion for reconsideration.¹²

Aside from relying on the *Mendoza* ruling, the September 1, 2015 Decision discussed that a motion for reconsideration lodged with the COMELEC *en banc* is not an “*action or proceeding*” within the contemplation of the rules; that the phrase ought to be construed as pertaining to Part V of the COMELEC Rules of Procedure, denominated as “*Particular Actions or Proceedings*” and covering Rules 20-34.¹³ Thus, the Court applied the first effect and ordered that Legaspi's Petition for Disqualification, the alleged “*action or proceeding*” in this case, be dismissed in its entirety.

***The interpretation of Sec. 6, Rule 18
of the COMELEC Rules of Procedure
in Mendoza and in the September 1,
2015 Decision renders the rule
unconstitutional***

The *Mendoza* doctrine, as reiterated in the September 1, 2015 Decision, deviated from the 1987 Constitution. Not only does it circumvent the four-vote requirement under Sec. 7, Art. IX-A of the Constitution, it likewise diminishes the adjudicatory powers of the COMELEC Divisions under Sec. 3, Article IX-C.¹⁴

Under Sec. 3, Article IX-C of the 1987 Constitution,¹⁵ the COMELEC Divisions are granted adjudicatory powers to decide election cases, provided that the COMELEC *en banc* shall resolve motions for reconsideration of the division rulings. Further, under Sec. 7, Article IX-A of the Constitution,¹⁶ four (4) votes are necessary for the COMELEC *en banc* to decide a case. Naturally, the party moving for reconsideration, as the party

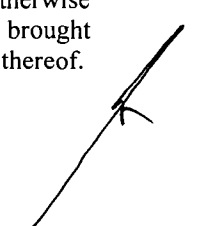
¹² Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

¹³ Rule 19 of the COMELEC Rules of Procedure governs motions for reconsideration

¹⁴ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

¹⁵ Section 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*. (emphasis added)

¹⁶ Section 7. Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.



seeking affirmative relief, carries the burden of proving that the division committed reversible error. The movant then shoulders the obligation of convincing four (4) Commissioners to grant his or her plea.¹⁷

This voting threshold, however, is easily rendered illusory by the application of the *Mendoza* ruling, which virtually allows the grant of a motion for reconsideration even though the movant fails to secure four votes in his or her favor, in blatant violation of Sec. 7, Art. IX-A of the Constitution. In this case, in spite of securing only two (2) votes to grant their motion for reconsideration, private respondents were nevertheless declared the victors in the January 28, 2015 COMELEC *en banc* Resolution.¹⁸

To exacerbate the situation, the circumvention of the four-vote requirement, in turn, trivializes the proceedings before the COMELEC divisions and presents rather paradoxical scenarios, to wit:¹⁹

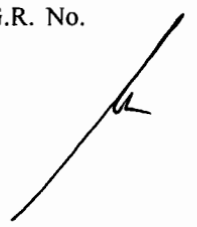
- i. The failure of the COMELEC *en banc* to muster the required majority vote only means that it could not have validly decided the case. Yet curiously, it managed to reverse the ruling of a body that has properly exercised its adjudicatory powers; and
- ii. A motion for reconsideration may be filed on the ground that the evidence is insufficient to justify the decision, order or ruling; or that the said decision, order or ruling is contrary to law. If the COMELEC *en banc* does not find that either ground exists, there would be no cogent reason to disturb the ruling of the COMELEC division. Otherwise stated, failure to muster four votes to sustain the motion for reconsideration should be understood as tantamount to the COMELEC *en banc* finding no reversible error attributable to its division's ruling. Said decision, therefore, ought to be affirmed, not reversed nor vacated.

These resultant paradoxes have to be avoided. Under the prevailing interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure, a movant, in situations such as this, need not even rely on the strength of his or her arguments and evidence to win a case, and may, instead, choose to rest on inhibitions and abstentions of COMELEC members to produce the same result. To demonstrate herein, it is as though the two (2) abstention votes were counted in favor of the private respondents to reach the majority vote of four (4). This impedes and undermines the adjudicatory powers of the

¹⁷ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

¹⁸ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

¹⁹ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015



COMELEC divisions by allowing their rulings to be overruled by the *en banc* without the latter securing the necessary number to decide the case.²⁰

From the foregoing disquisitions, it is then difficult to see how the *Mendoza* doctrine “*complements our Constitution*.”²¹ Far from it, the prevailing interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure severely suffers from constitutional infirmities and calls for the nullification of the rule itself.

***The motion for reconsideration
before the COMELEC en banc is an
“incidental matter”***

Proceeding to the core of the controversy, we now apply Sec. 6, Rule 18 in the case at bar. As discussed in the September 1, 2015 *ponencia*:

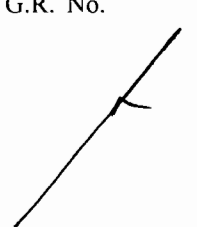
xxx [T]he effects of the COMELEC *en banc*'s failure to decide vary **depending on the type of case or matter that is before the commission**. Thus, under the provision, the **first effect** (*i.e.*, the dismissal of the action or proceeding) only applies when the type of case before the COMELEC is an action or proceeding “*originally commenced in the commission*”; the **second effect** (*i.e.*, the affirmance of a judgment or order) only applies when the type of case before the COMELEC is an “*appealed case*”; and the **third effect** (*i.e.*, the denial of the petition or motion) only applies when the case or matter before the COMELEC is an “*incidental matter*.” (emphasis added)

Verily, **classifying the pending case or matter before the COMELEC is a prerequisite to identifying the applicable effect**. Here, while the case originated from Legaspi's filing of a Petition for Disqualification, said petition has already been passed upon and decided by the COMELEC Special First Division on October 3, 2013. Instead, what was under consideration when Sec. 6, Rule 18 was invoked was no longer Legaspi's petition for disqualification itself but his **motion for reconsideration** before the COMELEC *en banc*. The pending issue at the time was not directly private respondents' qualification or disqualification to run for or hold office, but, more precisely, whether or not the COMELEC division committed reversible error in its October 3, 2013 ruling.

For the first effect to apply, the pending case or matter must be an original action or proceeding originally commenced before the COMELEC. This could take either of two forms: those originally commenced with the COMELEC Division or those originally commenced with the COMELEC *en banc*.

²⁰ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

²¹ *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015



Under Article IX-C, Sec. 2(2) of the Constitution, actions originally commenced before the COMELEC Division consist of all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials.²² On the other hand, the cases directly filed with the COMELEC *en banc* are those specifically provided in the COMELEC Rules of Procedure, such as petitions for postponement of elections under Sec. 1, Rule 26, petitions for failure of election under Sec. 2, Rule 26, complaints or charges for indirect contempt under Sec. 2, Rule 29, preliminary investigation of election offenses under Sec. 1, Rule 34, and all other cases where the COMELEC division is not authorized to act.²³

In this case, while the motion for reconsideration was filed with the COMELEC *en banc* in the first instance, it cannot strictly be considered as an “*action or proceeding*” originally commenced with the commission as contemplated by the rules. As held in the September 1, 2015 Decision, the coverage of the phrase is limited to those itemized in Part V of the COMELEC Rules of Procedure, viz:

**COMELEC RULES OF PROCEDURE - PART V
PARTICULAR ACTIONS OR PROCEEDINGS**

A. ORDINARY ACTIONS

- Rule 20 - Election Protests
- Rule 21 - Quo Warranto
- Rule 22 - Appeals from Decisions of Courts in Election Protest Cases

B. SPECIAL ACTIONS

- Rule 23 - Petition to Deny Due Course To or Cancel Certificates of Candidacy
- Rule 24 - Proceedings Against Nuisance Candidates
- Rule 25 - Disqualification of Candidates
- Rule 26 - Postponement of Suspension of Elections

C. IN SPECIAL CASES

- Rule 27 - Pre-proclamation Controversies

D. SPECIAL RELIEFS

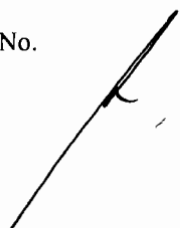
- Rule 28 - *Certiorari*, Prohibition and Mandamus
- Rule 29 - Contempt

²² SECTION 2. The Commission on Elections shall exercise the following powers and functions:

x x x x

(2) 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.

²³ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.



E. PROVISIONAL REMEDIES

- Rule 30 - Injunction

F. SPECIAL PROCEEDINGS

- Rule 31 - Annulment of Permanent List of Voters
- Rule 32 — Registration of Political Parties or Organization
- Rule 33 - Accreditation of Citizens' Arms of the Commission

G. ELECTION OFFENSES

- Rule 34 - Prosecution of Election Offenses

It bears stressing that the first effect would only apply if the tie vote was in the resolution of the “*action or proceeding*” originally commenced before the COMELEC. But given that the pending matter when the vote was cast was the resolution of the motion for reconsideration, which is neither an action nor a proceeding within the ambit of Part V of the COMELEC Rules of Procedure, the first effect cannot therefore be applied in this case.

The second effect cannot likewise be applied herein for it requires that the pending case or matter be an appeal. Worth maintaining is this doctrine in *Mendoza*: a motion for reconsideration is a constitutionally guaranteed remedial mechanism for parties aggrieved by a division decision or resolution, but not an appeal.²⁴ In the same vein, it was held in *Apo Fruits Corporation v. Court of Appeals*²⁵ that “[t]he Supreme Court sitting en banc is not an appellate court vis-a-vis its Divisions, and it exercises no appellate jurisdiction over the latter. Each division of the Court is considered not a body inferior to the Court en banc, and sits veritably as the Court en banc itself.”²⁶

This leaves the court with the **third effect**: that **the petition or motion will be dismissed in incidental matters.**

The Court now determines whether the motion for reconsideration of private respondents is an “*incidental matter*” to which the third effect will apply. Without doubt, the answer is in the affirmative.

In the August 24, 2010 ruling in *League of Cities vs. COMELEC*,²⁷ the Court applied Sec.7, Rule 56 of the Rules of Court, which reads:

²⁴ Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015

²⁵ G.R. No. 164195, April 30, 2008, 553 SRA 237

²⁶ *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, April 30, 2008, 553 SRA 237, citing *Firestone Ceramics, Inc. v. Court of Appeals*, 389 Phil. 810, 818 (2000). In accordance with Supreme Court Circular No. 2-89, providing *Guidelines and Rules in the Court En Banc of Cases Assigned to A Division*.

²⁷ G.R. Nos. 176951, 177499, and 178056

Rule 56
Procedure in the Supreme Court

X X X X

SEC. 7. Procedure if opinion is equally divided. – Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and **on all incidental matters, the petition or motion shall be denied.** (Emphasis supplied)

As can be gleaned, the afore-quoted rule bears striking similarity with Sec. 6, Rule 18 of the COMELEC Rules of Procedure. In the adverted ruling, Senior Associate Justice Antonio T. Carpio (Justice Carpio) explained that **a motion for reconsideration is an incidental matter**, and that application of Sec. 7, Rule 56 thereto has been clarified in A.M. No. 99-1-09-SC²⁸ wherein the Court resolved as follows:

A MOTION FOR THE CONSIDERATION OF A DECISION OR RESOLUTION OF THE COURT EN BANC OR OF A DIVISION MAY BE GRANTED UPON A VOTE OF A MAJORITY OF THE MEMBERS OF THE EN BANC OR OF A DIVISION, AS THE CASE MAY BE, WHO ACTUALLY TOOK PART IN THE DELIBERATION OF THE MOTION.

IF THE VOTING RESULTS IN A TIE, THE MOTION FOR RECONSIDERATION IS DEEMED DENIED. (emphasis added)

Free from ambiguity, the plain meaning of the clarificatory resolution is that the motion for reconsideration, being an incidental matter, is deemed denied if no majority vote is reached. Consequently, the Court's prior majority action in such cases stands affirmed.²⁹

*Defensor-Santiago vs. COMELEC*³⁰ served as jurisprudential basis for the pronouncement in the August 24, 2010 *League of Cities* ruling. In the cited case, eight (8) Justices of the Supreme Court, as against five (5), voted to declare Republic Act No. 6735³¹ insufficient to cover the system of initiative on amendments to the Constitution, and to nullify the COMELEC rules and regulations prescribing the conduct thereof. On reconsideration, the Court was equally-divided, 6-6, yet the prior Decision was never deemed overturned. The deadlock was interpreted to mean that the opposite view failed to muster enough votes to modify or reverse the majority

²⁸ In the Matter of Clarifying the Rule in Resolving Motions for Reconsideration, promulgated on January 26, 1999.

²⁹ Supra note 27.

³⁰ 336 Phil. 848 (1997).

³¹ AN ACT PROVIDING FOR A SYSTEM OF INITIATIVE AND REFERENDUM AND APPROPRIATING FUNDS THEREFOR.

ruling. Therefore, the motion for reconsideration was denied and the original Decision, upheld.³²

Noticeably, *Mendoza*, which was decided by the Court on March 25, 2010, preceded the August 24, 2010 *League of Cities* ruling. In the latter *en banc* case, the Court set the precedent that the failure to reach the majority vote on reconsideration would only result in the denial of the motion alone.³³

There is no reason why the same procedural principle in *League of Cities*, as embodied in A.M. No. 99-1-09-SC, cannot find application in election cases. **With Sec. 6, Rule 18 of the COMELEC Rules of Procedure couched in terms that are almost identical with Sec. 7, Rule 56 of the Rules of Court, the interpretation of one ought not deviate from the other.** *Interpretare et cocordare leges legibus est optimus interpretandi modus.* The rule is that a statute must be construed not only to be consistent with itself but also to harmonize with other laws so as to form a complete, coherent and intelligible system.³⁴ A.M. No. 99-1-09-SC on Sec. 7, Rule 56 of the Rules of Court should then be given suppletory application³⁵ to election cases for a singular interpretation of the similarly phrased rules, more particularly to the treatment of less than majority votes on motions for reconsideration before the COMELEC *en banc*.

In conclusion, Sec. 3, Article IX-C of the Constitution bestows on the COMELEC divisions the authority to decide election cases. Their decisions are capable of attaining finality, without need of any affirmative or confirmatory action on the part of the COMELEC *en banc*. And while the Constitution requires that the motions for reconsideration be resolved by the COMELEC *en banc*, it likewise requires that four votes must be reached for it to render a valid ruling and, consequently, to GRANT the motion for reconsideration of private respondents. Hence, when the private respondents failed to get the four-vote requirement on their motion for reconsideration, their motion is defeated and lost as there was NO valid ruling to sustain the plea for reconsideration. The prior valid action - the COMELEC Special First Division's October 3, 2013 Resolution in this case - therefore subsists and is affirmed by the denial of the motion for reconsideration.

WHEREFORE, premises considered, the motion for reconsideration is hereby **GRANTED** and the September 1, 2015 Decision of the Court is **REVERSED** and **SET ASIDE**. The instant petition is **GRANTED** and the January 28, 2015 Order of the Comelec *en banc* in SPA No. 13-323 (DC) is hereby **SET ASIDE**. The October 3, 2013 Resolution of the COMELEC

³² Separate Opinion of former Associate Justice Angelina Sandoval-Gutierrez in *Lambino vs. COMELEC*, G.R. Nos. 174153 and 174299, October 25, 2006.

³³ Although the *League of Cities* ruling was thereafter reversed, said reversal was due to substantive arguments, not for any perceived error in the application of the procedural rule.


³⁴ *Dreamwork Construction, Inc. vs. Janiola*, G.R. No. 184861, June 30, 2009

³⁵ Rule 41 of the COMELEC Rule of Procedure:

Section 1. The Rules of Court. - In the absence of any applicable provisions in these Rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect.

Special First Division in SPA No. 13-323 (DC) is **REINSTATED** and **AFFIRMED**. THIS RESOLUTION IS IMMEDIATELY EXECUTORY.

SO ORDERED.

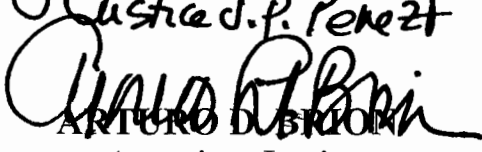

PRESBITERO J. VELASCO, JR.
Associate Justice


WE CONCUR:

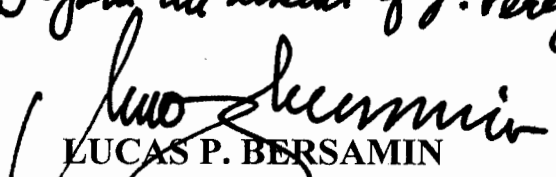

MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

I join the Dissent of Justice J.P. Perez

ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


I join the dissent of J. Perez

LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

Please see Dissenting Opinion

JOSE PORTUGAL PEREZ
Associate Justice

I join the Dissent of J. Perez

JOSE CATRAL MENDOZA
Associate Justice

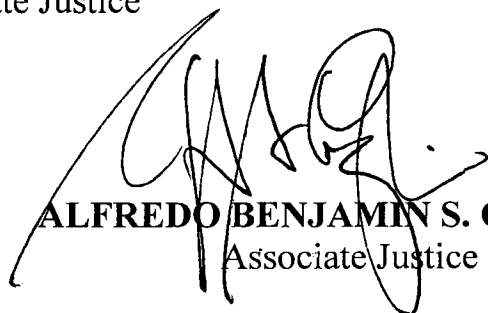

BIENVENIDO L. REYES
Associate Justice

I join the dissent of J. Perez
W. Perl
ESTELA M. PERLAS-BERNABE
Associate Justice

I join the dissent of S. Perez


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

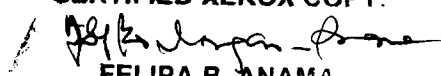
I join dissent
of J. Perez

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:


FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT

