



Republic of the Philippines
Supreme Court
 Manila

EN BANC

FELICIANO P. LEGASPI,
 Petitioner,

G.R. No. 216572

Present:

- versus -

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

**COMMISSION ON
 ELECTIONS, ALFREDO
 GERMAR, and ROGELIO P.
 SANTOS, JR.,**

Promulgated:

Respondents.

September 1, 2015

X-----*ref: Angan Bone*-----X

DECISION

PEREZ, J.:

This is a Petition for *Certiorari*¹ assailing the Order² dated 28 January 2015 of respondent Commission on Elections (COMELEC) *en banc* in SPA No. 13-323 (DC).

* On leave.

¹ Under Rule 64 in relation to Rule 65 of the Rules of Court; *rollo*, pp. 3-58.

² Id. at 99-103.

The Parties

Respondents Alfredo Germar (Germar) and Rogelio P. Santos, Jr. (Santos), along with one Roberto C. Esquivel (Esquivel), were among the candidates fielded by the Liberal Party (LP) to vie for local elective posts in Norzagaray, Bulacan, during the 13 May 2013 elections. Germar ran for the position of mayor, Santos ran for the position of councilor, and Esquivel ran for the position of vice-mayor.

Petitioner Feliciano P. Legaspi, on the other hand, was the National Unity Party's (NUP's) bet for mayor of Norzagaray during the 2013 polls.

The Election Results and the Petition for Disqualification

After the votes cast by the Norzagaray electorate were tallied, Germar emerged as the highest vote getter in the mayoralty race. Santos, for his part, also appeared to have secured enough votes to be the second councilor of the municipality. Esquivel, though, failed in his bid to become vice-mayor of Norzagaray.

Upon learning about the results of the tally, petitioner immediately filed before the Municipal Board of Canvassers (MBC) of Norzagaray a motion to suspend the proclamation of Germar and Santos as winning candidates. Such motion, however, proved to be futile.

At exactly 7:45 a.m. on 14 May 2013, despite the petitioner's motion, the MBC proclaimed Germar and Santos as duly elected mayor and councilor of the municipality of Norzagaray, respectively.

A few hours³ after the said proclamation, petitioner filed before the COMELEC a *Petition for Disqualification* against Germar, Santos, and Esquivel. In it, petitioner accused Germar, Santos, and Esquivel of having engaged in rampant vote buying during the days leading to the elections.

The *Petition for Disqualification* was docketed as SPA No. 13-323 (DC) and was assigned to the COMELEC First Division, then composed of Commissioners Lucenito N. Tagle (Commissioner Tagle), Christian Robert

³ At 12:45 p.m. on 14 May 2013.

S. Lim (Commissioner Christian Lim) and Al A. Parreño (Commissioner Parreño).

COMELEC First Division and Special First Division

In due course, the COMELEC First Division took a vote on SPA No. 13-323 (DC). The vote of the division was an even 1-1 split, with Commissioner Tagle voting in favor of granting the petition for disqualification, but with Commissioner Christian Lim voting against it. The third member of the division, *i.e.*, Commissioner Parreño, was not able to provide the potential tie-breaking vote as he was then absent and attending to some other official business.

Due to the impasse created by the absence of one of its members, the COMELEC First Division called for the constitution of a *Special First Division* through which COMELEC Chairman Sixto S. Brillantes, Jr. sat in the First Division as acting member *vice* the absent Commissioner Parreño for purposes of SPA No. 13-323 (DC).⁴

On 3 October 2013, the COMELEC Special First Division, by a 2 to 1 vote, rendered a resolution: (1) disqualifying Germar and Santos for the positions of mayor and councilor, respectively, of Norzagaray; and (2) referring the criminal aspect of SPA No. 13-323 (DC) to the COMELEC Law Department for preliminary investigation.⁵

Germar, Santos, and Esquivel filed a motion for reconsideration with the COMELEC *en banc*.

⁴ Via an Order dated 1 October 2013. The substitution of Commissioner Parreño was made pursuant to Section 6, Rule 3 of the COMELEC Rules, as amended by COMELEC Resolution No. 9636 dated 13 February 2013. That provision reads:

Sec. 6. *Substitution of members of a Division.* –

(a) *Temporary vacancy.* Whenever a member of a Division is on leave, seriously ill, temporarily disabled, is **absent**, inhibits himself, or is disqualified from sitting in a case, the Chairman shall substitute him with another Commissioner, or the **Chairman shall sit in place of said member**, and[,] in that event[,] he will preside.

(b) x x x.

Under either of the foregoing substitutions, the **Division where the acting or signing member is assigned shall be designated as “Special First Division” or “Special Second Division,” as the case may be, for purposes of the pertinent cases therein pending.** (Emphases ours.)

⁵ *Rollo*, pp. 59-73. The Resolution was penned by Presiding Commissioner Lucenito N. Tagle, and concurred in by Chairman Sixto S. Brillantes, Jr. Commissioner Christian Robert S. Lim registered the dissent. The electoral aspect of the disqualification case was dismissed as to Esquivel since the latter had lost during the 2013 election.

*The COMELEC En Banc and the Dismissal of the Electoral Aspect of SPA
No. 13-323 (DC)*

On 10 July 2004, the COMELEC *en banc* took a vote on the motion for reconsideration. At that time, the COMELEC *en banc* had six (6) incumbent members.⁶ Of the six (6), however, only five (5) members actually participated in the deliberations and casted votes. Commissioner Parreño opted to take no part and did not vote.

The following were the results of the voting:

1. As to the electoral aspect of SPA No. 13-323 (DC), the vote was 3-2, *i.e.*, 3 members voted in favor of the disqualification of Germar and Santos, and 2 dissented.⁷ Hence, a majority of at least four (4) votes was not reached with respect to the electoral aspect of the case.
2. As to the criminal aspect of SPA No. 13-323 (DC), the vote was 4-1, *i.e.*, 4 members voted in favor of the referral of the criminal aspect of the disqualification case to the COMELEC Law Department and 1 dissented.⁸ Hence, a majority was reached with respect to the criminal aspect of the case.

In view of the foregoing, the COMELEC *en banc* issued a resolution⁹ denying the motion for reconsideration with respect to the criminal aspect of SPA No. 13-323 (DC), but ordering the conduct of a rehearing insofar as the electoral aspect of the case was concerned.

After the rehearing, the COMELEC *en banc* took another vote but it still failed to muster a majority consensus on the electoral aspect of SPA No. 13-323 (DC).¹⁰ The final vote of the COMELEC *en banc* on the matter

⁶ There was a vacancy created in the membership of the COMELEC when the ad-interim appointment of erstwhile commissioner Maria Gracia Cielo Padaca automatically lapsed on 11 June 2014. Such vacancy would only be filled on 28 July 2014, when then newly appointed Commissioner Arthur D. Lim assumed office.

⁷ Those who voted in favor of granting the disqualification of Germar and Santos were: Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle and Elias R. Yusoph. Commissioners Christian Robert S. Lim and Luie Tito F. Guia, on the other hand, dissented.

⁸ Those who voted in favor of the referral to the COMELEC Law Department were Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Elias R. Yusoph and Luie Tito F. Guia. Commissioner Christian Robert S. Lim dissented.

⁹ *Rollo*, pp. 84-93. See also *rollo*, p. 100.

¹⁰ At this time, the COMELEC *en banc* already had seven (7) incumbent members.

remained at the exact 3-2 split that it was before the rehearing.¹¹ Commissioner Parreño maintained his “no part” stance, while newly appointed Commissioner Arthur D. Lim also opted to take no part and did not vote.

Thus, on 28 January 2015, the COMELEC *en banc* issued an Order¹² directing the dismissal of the electoral aspect of SPA No. 13-323 (DC) pursuant to Section 6, Rule 18 of the 1993 COMELEC Rules of Procedure¹³ (COMELEC Rules), to wit:

Sec. 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 in all incidental matters, the petition or motion shall be denied. (Emphasis ours.)

Unconvinced, petitioner filed the present petition¹⁴ before this Court.

The Present Petition

Petitioner claims that COMELEC *en banc* gravely abused its discretion when it dismissed the electoral aspect of SPA No. 13-323 (DC). He protests that the dismissal was occasioned by a “misapplication” by the COMELEC *en banc* of Section 6, Rule 18 of the COMELEC Rules.¹⁵

OUR RULING

We dismiss the present petition.

I

Let us start with the basics.

¹¹ See note 7.

¹² *Supra* note 2.

¹³ *COMELEC Rules Governing Pleadings, Practice and Procedure Before It or Any of Its Offices*, dated 15 February 1993.

¹⁴ *Supra* note 1.

¹⁵ *Id.*

Section 7 of Article IX-A of the Constitution obliges the COMELEC, like the other constitutional commissions, to decide all cases or matters before it by a “*majority vote of all its [m]embers.*”¹⁶ When such majority vote cannot be mustered by the COMELEC *en banc*, Section 6, Rule 18 of the COMELEC Rules provides the mechanism to avert a non-decision. Thus:

Sec. 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 in all incidental matters, the petition or motion shall be denied.

Verily, under the cited provision, the COMELEC *en banc* is first required to rehear the case or matter that it cannot decide or resolve by the necessary majority. When a majority still cannot be had after the rehearing, however, there results a failure to decide on the part of the COMELEC *en banc*. The provision then specifies 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.**

As can be gleaned above, the 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*

¹⁶ The provision reads in full:

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.

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*.”

*Mendoza v. Commission on Elections, et al.*¹⁷ gives us a key illustration of an application of the first effect under Section 6, Rule 18 of the COMELEC Rules.

Mendoza involved an electoral protest that was originally filed before the COMELEC and which was raffled to one of its divisions. The COMELEC division to which the electoral protest was assigned granted that protest, prompting the protestee to file a motion for reconsideration with the COMELEC *en banc*. When the COMELEC *en banc* took a vote on the motion for reconsideration, however, it failed to obtain the necessary majority vote. Consequently, the COMELEC *en banc* reheard the matter and then took another vote. However, the second vote also lacked the necessary majority. The final vote of the COMELEC *en banc* was 3-1 (*i.e.*, 3 in support of granting the protest and 1 dissent), with 3 members taking no part.¹⁸ On the basis of the foregoing, the COMELEC *en banc* issued a resolution denying the motion for reconsideration (in effect sustaining the division’s decision). The protestee challenged the foregoing resolution on the strength of the argument that the failure of the COMELEC *en banc* to obtain the necessary majority should have resulted in the dismissal of the election protest case itself pursuant to the first effect under Section 6, Rule 18 of the COMELEC Rules.

When that dispute reached this Court in *Mendoza*, we sustained the protestee. We held that the first effect applied because the case before the COMELEC *en banc* was an electoral protest that was “*originally commenced*” in the commission. We noted that while the electoral protest only reached the COMELEC *en banc* through the motion for reconsideration of the decision of a division, the same did not change the nature of the case before it; the motion for reconsideration not being an appeal.¹⁹ Thus, we held that the failure of the COMELEC *en banc* to decide the motion for reconsideration would result—not in the denial of the said motion or the affirmance of the division’s decision—but in the dismissal of the electoral

¹⁷ 630 Phil. 432 (2010).

¹⁸ *Id.*

¹⁹ *Id.*

protest itself, pursuant to the first effect under Section 6, Rule 18 of the COMELEC Rules.²⁰

Guided by the foregoing precepts, we shall now address the issues at hand.

II

The main thrust of petitioner's challenge is the supposed error of the COMELEC *en banc* in applying the first effect under Section 6, Rule 18 of the COMELEC Rules (by dismissing the electoral aspect of SPA No. 13-323 [DC]) when it was unable to reach a majority vote after the rehearing.²¹ According to petitioner, the COMELEC *en banc* erred in treating SPA No. 13-323 (DC) as an action that was "*originally commenced in the commission*" under the said provision.²² As petitioner argues, an action can only be considered as having been "*originally commenced in the commission*" under Section 6, Rule 18 of the COMELEC Rules when that action was originally filed before the COMELEC *en banc* itself and, as such, is the very matter pending before it.²³

Petitioner then points out that, in this case, what was before the COMELEC *en banc* was not the main petition itself but only a motion for reconsideration of the decision of the division in SPA No. 13-323 (DC). Hence, petitioner submits, the failure of the COMELEC *en banc* to reach a majority vote in this case should result, not in the dismissal of the electoral aspect of SPA No. 13-323 (DC), but merely in the denial of the motion for reconsideration and the affirmance of the division's decision.²⁴

We do not agree.

The COMELEC *en banc* did not err when it dismissed the electoral aspect of SPA No. 13-323 (DC) when it was unable to reach a majority vote after the rehearing. Contrary to what petitioner asserts, SPA No. 13-323 (DC) is most definitely an action that was filed originally before the COMELEC within the contemplation of the said provision. While SPA No. 13-323 (DC) reached the COMELEC *en banc* only through a motion for

²⁰ Id.

²¹ Supra note 1.

²² Id.

²³ Id.

²⁴ Id.

reconsideration of the decision of the Special First Division, its character as an original case filed before the commission remains the same. Hence, the failure of COMELEC *en banc* to decide in this case properly results in the application of the first effect of Section 6, Rule 18 of the COMELEC Rules.

***SPA No. 13-323 (DC) is an Action
“Originally Commenced in the
Commission” Under Section 6, Rule
18 of the COMELEC Rules***

Petitioner, to begin with, misconstrues Section 6, Rule 18 of the COMELEC Rules.

The phrase “*originally commenced in the commission*” in Section 6, Rule 18 of the COMELEC Rules is worded in plain language and, therefore, must be construed in its ordinary and natural sense.²⁵ It simply means what it says. The phrase is meant to cover any action or proceeding that is filed, at the first instance, before the COMELEC—whether sitting in division or *en banc*—as contradistinguished from cases that are merely appealed to it. Petitioner’s view that restricts such phrase to include only those actions or proceedings that are originally filed with the COMELEC *en banc* itself (*e.g.*, petition to declare failure of elections) has no basis and only obscures the otherwise clear import of the phrase’s language.

In this case, the fact that SPA No. 13-323 (DC) is an action originally commenced in the COMELEC cannot at all be doubted. The records are crystal clear that the petition was first filed with the COMELEC and was raffled to the First Division for decision. It is a fresh petition—as it passed upon no other tribunal, body or entity prior to its filing with the COMELEC. Hence, for all intents and purposes, SPA No. 13-323 (DC) must be considered as an action “*originally commenced in the commission*” under Section 6, Rule 18 of the COMELEC Rules.

***Single Process of COMELEC in
Deciding Election Cases; COMELEC
En Banc Correctly Dismissed
Electoral Aspect of SPA No. 13-323
(DC)***

²⁵ See *Mustang Lumber, Inc. v. CA*, 327 Phil. 217, 235 (1996).

Petitioner's insistence that the first effect under Section 6, Rule 18 of the COMELEC Rules ought not to be applied since what was before the COMELEC *en banc* was merely a motion for reconsideration and not the petition for disqualification itself, likewise has no merit. It is premised on the assumption that the proceedings in election cases before the COMELEC division are separate from those before the *en banc*—an assumption that has already been discredited by *Mendoza*.

In *Mendoza*, we held that the COMELEC acts on election cases under a single and integrated process, to wit:

[H]owever the jurisdiction of the COMELEC is involved, xxx, the COMELEC will act on the case in **one whole and single process: to repeat, in division, and if impelled by a motion for reconsideration, *en banc*.**²⁶

In his concurring opinion in *Mendoza*, Justice Presbitero J. Velasco (Justice Velasco) described the act of filing a motion for reconsideration with the COMELEC *en banc* from a decision of a division in an election case as but “*part*” of such single and integrated process and is “*not an appeal*” from the latter to the former:

At best, **the filing of a motion for reconsideration with the COMELEC *en banc* of a decision or resolution of the division of the COMELEC should be viewed as part of one integrated process.** Such motion for reconsideration before the COMELEC *en banc* is a constitutionally guaranteed remedial mechanism for parties aggrieved by a division decision or resolution. However, at the risk of repetition, it is not an appeal from the COMELEC division to the *en banc*.²⁷

Verily, when an election case originally filed with the COMELEC is first decided by a division, the subsequent filing of a motion for reconsideration from that decision before the *en banc* does not signify the initiation of a new action or case, but rather a mere continuation of an existing process. The motion for reconsideration—not being an appeal from the decision of the division to the *en banc*—only thus serves as a means of having the election case decided by the COMELEC *en banc*. Under this view, therefore, the nature of the election case as it was before the division remains the same even after it is forwarded to the *en banc* through a motion for reconsideration. Hence, the failure of the COMELEC *en banc* to decide a motion for reconsideration from the decision of a division in an *original*

²⁶ Supra note 17, at 460. (Emphasis ours.)

²⁷ Id. at 484. (Emphasis ours.)

election case would unquestionably bring to the fore the application of the first effect under Section 6, Rule 18 of the COMELEC Rules.

This is exactly what happened in this case. In this case, SPA No. 13-323 (DC) was filed, at the first instance, with the COMELEC. Being a petition for disqualification filed under Section 68 of the Omnibus Election Code,²⁸ SPA No. 13-323 (DC) was initially raffled to and decided by a division of the commission. From that point, however, SPA No. 13-323 (DC) found its way to the COMELEC *en banc* after a motion for reconsideration from the decision of the division was filed. Hence, when the COMELEC *en banc* twice failed to reach the necessary majority to decide the electoral aspect of SPA No. 13-323 (DC), it applied the first effect under Section 6, Rule 18 of the COMELEC Rules. We find absolutely nothing wrong with such application. It is, in fact, reinforced by the very provisions of the COMELEC Rules and by *Mendoza*.

III

We next address the *contra* argument raised by Justice Velasco in his Dissenting Opinion.

Justice Velasco, in his dissent, shared petitioner's position that the failure of the COMELEC *en banc* to reach a necessary majority in this case should have resulted merely in the denial of the motion for reconsideration and not in the dismissal of SPA No. 13-323 (DC) itself. The learned justice, however, justified the said position with an argument different from that advanced by petitioner: Justice Velasco, in essence, concedes that the first effect under Section 6, Rule 18 of the COMELEC Rules applies in this case, but contends that the COMELEC *en banc* erred in *how* it applied the said provision.

Justice Velasco points out that the first effect under Section 6, Rule 18 of the COMELEC Rules speaks of the dismissal of either an "*action*" or a "*proceeding*" – which, the good justice submits, supposedly pertains to different cases or matters that may be brought before the COMELEC *en banc*. After identifying what those matters are, Justice Velasco concluded that the word "*action*" as used under the subject provision has reference to the "*cases originally filed before the COMELEC division or en banc*" whilst the word "*proceeding*" under the same rule has reference to "*motions for*

²⁸ Batas Pambansa Bilang 881.

reconsideration challenging the rulings [of a division in election cases].”²⁹ Thus, Justice Velasco opines, the failure of the COMELEC *en banc* to reach a majority vote on a mere *motion for reconsideration* of a division decision in an original election case would – under the first effect of Section 6, Rule 18 of the COMELEC Rules – only lead to a dismissal of the “*proceeding*” or of the motion for reconsideration; not the dismissal of the “*action*” or of the election case itself.

Cognizant that the foregoing view is a betrayal of the principles laid down by the Court in *Mendoza*, Justice Velasco now clamors for a “*modification*” or an abandonment of our ruling in the said case insofar as how it applied the first effect under Section 6, Rule 18 of the COMELEC Rules.³⁰ Justice Velasco cautions the Court that pursuing *Mendoza*’s interpretation of Section 6, Rule 18 of the COMELEC Rules is bound to lead to absurd and illogical results – such as one wherein a decision of a COMELEC division in an election case can simply be overturned by the COMELEC *en banc* even though the latter is not able to reach a majority vote.³¹

The Court is not convinced.

Meaning of the Words “Action” and “Proceeding” Determinable From Other Provisions of the COMELEC Rules; Justice Velasco’s Interpretation of the Word “Proceeding” Contradicted By COMELEC Rules, Taken As A Whole

The pin that holds Justice Velasco’s argument is his interpretation of the terms “*action*” and “*proceeding*” under Section 6, Rule 18 of the COMELEC Rules. While an isolated view of the contested terms does lend some degree of reason to the respected justice’s interpretation, a more careful consideration of such terms in the context of the other parts of the COMELEC Rules, however, will quickly reveal the interpretation’s fault. Verily, we are unable to accept it.

The words “*action*” and “*proceeding*” and even the entire phrase “*action or proceeding*” are not exclusive to Section 6, Rule 18 of the

²⁹ Dissenting Opinion of J. Velasco, p. 14.

³⁰ Id. at 15-17.

³¹ Id. at 17-19.

COMELEC Rules. Such words and phrase, in fact, appear in other parts of the COMELEC Rules, most notably in **Part V** thereof. To our minds, an examination of how the words “*action*” and “*proceeding*” and the phrase “*actions or proceedings*” were used in Part V of the COMELEC Rules is telling of how the COMELEC Rules actually intended such terms and phrase to be understood, which is, in the context of its other provisions.³²

Part V of the COMELEC Rules, which is aptly titled “*Particular Actions or Proceedings*,” is one of the nine major parts of the COMELEC Rules. It is composed of Rules 20 to 34 of the COMELEC Rules, wherein each rule covers a specific “*action or proceeding*” that the COMELEC can take cognizance of, thus:

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. SPECIAL CASES

- Rule 27 – Pre-proclamation Controversies

³² See the “*Whole Act Rule*” in statutory construction. The rule provides that when a certain term or phrase is used multiple times in a statute, such term or phrase is assumed to have the same meaning throughout the whole statute (*A Guide To Reading, Interpreting and Applying Statutes* by Katharine Clark and Matthew Connolly [2006], accessed through <http://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/writing-center/upload/statutoryinterpretation.pdf>). The rule is a necessary component of the principle that statutes ought to be interpreted holistically.

D. SPECIAL RELIEFS

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

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

Evidently, what Part V actually discloses are the particular cases or matters that may be considered as “*actions or proceedings*” for purposes of the COMELEC Rules. Notably, all the actions or proceedings identified thereunder, save for the provisional remedy of injunction, are all *main* cases cognizable by the COMELEC. Notable too is that a *motion for reconsideration from a decision of a division* – which is but a part of a main case – is not among those included in Part V.³³

Accordingly, we find Justice Velasco’s formulation linking the term “*proceeding*” under Section 6, Rule 18 of the COMELEC Rules with “*motions for reconsideration challenging the rulings [of a division in election cases]*”³⁴ to be inconsistent with how such term was actually intended to be understood by the COMELEC Rules. Such a formulation,

³³ A motion for reconsideration, in the scheme of the COMELEC Rules, is included in Part IV thereof under Rule 19. Part IV of the COMELEC Rules is titled “*Dispositions of Actions or Proceedings*,” which actually reinforces the conclusion that the COMELEC Rules does not treat a motion for reconsideration as an action or proceeding in itself, but merely as a part of how an action or a proceeding may be disposed of.

³⁴ Supra note 29.

rooted as it was in an isolated analysis of the contested term, is out of touch with the rest of the provisions of the COMELEC Rules.

***Pursuing Mendoza Ruling Will Not
Lead to Absurdity***

We likewise rebut Justice Velasco's submission that continuing with *Mendoza's* interpretation of the first effect under Section 6, Rule 18 of the COMELEC Rules is bound to lead to absurd results.

To our minds, there is no "*absurdity*" in the fact that the decision of a division in an election case ceases to be a COMELEC decision as a consequence of the failure of the COMELEC *en banc* to reach a majority vote on reconsideration. That fact, far from being absurd, is nothing but the natural and logical consequence of the application of the first effect under Section 6, Rule 18 of the COMELEC Rules which, in turn, only complements our Constitution.

IV

All told, we found no indications that the COMELEC *en banc* had acted with grave abuse of discretion in dismissing the electoral aspect of SPA No. 13-323 (DC). On the contrary, what we found is that such dismissal was perfectly in accord with the provisions of its own rules of procedure and is consistent with established jurisprudence on the matter. *Mendoza*, to our minds, remains good law. Certainly, the extraordinary writ of *certiorari* does not lie here.

IN VIEW WHEREOF, the instant petition is DISMISSED.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

I join the Dissent of J. Velasco

[Signature]

MARIA LOURDES P. A. SERENO
Chief Justice

[Signature]

ANTONIO T. CARPIO
Associate Justice

*I dissent.
(Please see Dissenting Opinion)*
PRESBITERO J. VELASCO, JR.
Associate Justice

*I join the dissent of Justice Velasco:
Teresito Leonardo de Castro*
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

[Signature]
ARTURO D. BRION
Associate Justice

I join the Dissenting Opinion of J. Velasco
[Signature]
DIOSDADO M. PERALTA
Associate Justice

[Signature]
LUCAS P. BERSAMIN
Associate Justice

I join the dissent of J. Velasco
[Signature]
MARIANO C. DEL CASTILLO
Associate Justice

[Signature]
MARTIN S. VILLARAMA, JR.
Associate Justice

[Signature]
JOSE CATRAL MENDOZA
Associate Justice

(On Leave)
BIENVENIDO L. REYES
Associate Justice

[Signature]
ESTELA M. PERLAS-BERNABE
Associate Justice

[Signature]
MARVIC MARIO VICTOR F. LEONEN
Associate Justice

[Signature]
FRANCIS H. JARDELEZA
Associate Justice

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.



MARIA LOURDES P. A. SERENO
Chief Justice