G.R. No. 211140 – LORD ALLAN JAY Q. VELASCO, *petitioner* v. HON. SPEAKER FELICIANO R. BELMONTE. JR., SECRETARY GENERAL MARILYN B. BARUA-YAP AND REGINA ONGSIAKO REYES, *respondents.*

Promulgated:

January 12, 2016

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DISSENTING OPINION

BRION, *J.*:

Before the Court is the petition for *mandamus*[1] filed by Lord Allan Jay Q. Velasco[2] *(Velasco)* against Hon. Feliciano R. Belmonte, Jr., (as Speaker of the House of Representatives, *Speaker Belmonte)*, Secretary General Marilyn B. Barua-Yap *(Sec. Gen. Barua-Yap)*, and Representative Regina Ongsiako-Reyes (*Reyes*).

I. THE PETITION

The petition seeks to compel: Speaker Belmonte to administer the proper oath in favor of Velasco and allow him to assume office as Representative for Marinduque and exercise the powers and prerogatives attached to the office; and Sec. Gen Barua-Yap to remove the name of Reyes, and register his name in her place, in the Roll of Members of the House of Representatives *(HOR)*. It also seeks to restrain Reyes from further exercising the powers and prerogatives attached to the position and to direct her to immediately vacate it.

Velasco asserts that ***"he has a well-defined and clear legal right and basis to warrant the grant of the writ of mandamus."*** He argues that the final and executory resolutions of the **Commission on Elections** *("Comelec")* **in SPA No. 13-053 and SPC No. 13-010** and of the **Court in GR No. 207264**, with his proclamation as Representative of Marinduque, grant him this clear legal right to claim and assume the congressional seat.

Because of this clear legal right, Velasco reasons out that **Speaker Belmonte has the ministerial duty to *"administer the oath to [him] and allow him to assume and exercise the prerogatives of the congressional seat x x x."* Sec. Gen. Barua-Yap, on the hand, has the ministerial duty to *"register [his] name x x x as the duly elected member of the [HOR] and***

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1 *Rollo*, pp. 3-26.

2 Petitioner Velasco is the son of incumbent Supreme Court Justice Presbiterio J. Velasco, Jr.

delete the name of respondent Reyes from the Roll of Members." Velasco cites *Codilla v. De Venecia*[3] to support his claim.

He claims that Speaker Belmonte and Sec. Gen. Barua-Yap are unlawfully neglecting the performance of these ministerial duties, thus, illegally excluding him from the enjoyment of his right as the duly elected Marinduque Representative.

As regards **Reyes**, Velasco asserts that the ***"continued usurpation and unlawful holding of such position by respondent Reyes has worked injustice and serious prejudice to [him] in that she has already received the salaries, allowances, bonuses and emoluments that pertain to the [office] since June 30, 2013 up to the present x x x."***

For these reasons, he argues that a writ of *mandamus* should be issued to compel Speaker Belmonte and Sec. Gen. Barua-Yap to perform their ministerial duties; and that a TRO and a writ of permanent injunction should also be issued to restrain, prevent, and prohibit Reyes from usurping the position that rightfully belongs to him.

II. THE *PONENCIA*'S RULING

The *ponencia* grants the petition; it views the petition merely as a plea to the Court for the enforcement of what it perceives as clear legal duties on the part of the respondents.

To the *ponencia,* any issue on who is the rightful Representative of the Lone District of Marinduque has been settled with the finality of the rulings in GR No. 207264, SPA No. 13-035, and SPC No. 13-010.

Recognizing it settled that Velasco is the proclaimed winning candidate for the Marinduque Representative position, the *ponencia* concludes that the administration of oath and the registration of Velasco in the Roll of Members of the HOR are no longer matters of discretion on the part of Speaker Belmonte and Sec. Gen. Barua-Yap. Hence, the writ of *mandamus* must issue.

III. MY DISSENT

I submit this **Dissenting Opinion** to object to the *ponencia*'s GRANT of the petition, as I disagree with the *ponencia*'s premises and conclusion that Velasco is entitled to the issuance of a writ of *mandamus*. I likewise believe that Velasco's petition should be dismissed because:

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3 442 Phil. 139 (2002).

(1) he failed to satisfy the requirements for the issuance of the writ of *mandamus;* and

(2) the grant of the writ is a patent violation of the principle of the separation of powers that will disturb, not only the Court's relations with the HOR, a co-equal branch of government. As well, it will result in upsetting the established lines of jurisdiction among the Comelec, the House of Representatives Electoral Tribunal *(HRET)*, and the Court.

Needless to state, the HOR may very well have its own views about the admission of its Members and can conceivably prefer its own views to those of the Court on matters that it believes are within its competence and jurisdiction to decide as an equal and separate branch of government.

Additionally, as I reminded the Court in my writings on the cases affecting Velasco, the Court should be keenly aware of the sensitivity involved in handling the case. ***Velasco is the son of a colleague, Associate Justice Presbitero Velasco, who is also the Chair of the HRET***. Thus, we should be very clear and certain if we are to issue the writ in order to avoid any charge that the Court favors its own.

IV. DISCUSSION

IV.A. Mandamus: Nature and Concept

Mandamus is a command issuing from a court of law of competent jurisdiction, in the name of the state or sovereign, *directed to some **inferior** court, tribunal, or board, or to some corporation or person*, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed, or from operation of law.[4]

The writ of *mandamus* is an ***extraordinary remedy*** *issued only in cases of extreme necessity* where the *ordinary course of procedure is powerless to afford an adequate and speedy relief* to one who has a *clear legal right to the performance of the act* to be compelled.[5]

As a peremptory writ, *mandamus* must be issued with utmost circumspection, and should always take into consideration existing laws, rules and jurisprudence on the matter, particularly the principles underlying our Constitution.

Moreover, the remedy of *mandamus* is employed to compel the performance of a ***ministerial duty*** after performance of the duty has been refused. As a rule, it cannot be used to direct the exercise of judgment or discretion; if at all, the obligated official carrying the duty can only be

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4 Feria-Noche, Civil Procedure Annotated, (2001), p. 486, citing 34 Am. Jur. *Mandamus,* S. 2.

5 See *Spouses Dacudao v. Secretary of Justice Raul M. Gonzales*, GR No. 188056, January 8, 2013.

directed by *mandamus* to act, but not to act in a particular way. The courts can only interfere when the refusal to act already constitutes inaction amounting to grave abuse of discretion, manifest injustice, palpable excess of authority, or other causes affecting jurisdiction.[6]

IV.A.1. Mandamus as a remedy under Rule 65 of the Rules of Court

In this jurisdiction, the remedy of *mandamus* is governed by Section 3, Rule 65 of the Rules of Court. Under Section 3, *mandamus* is the remedy available when *"a tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, **[and]**, there is no other plain, speedy, and adequate remedy in the ordinary course of law."*

The person aggrieved by the unlawful neglect or unlawful exclusion of the tribunal, corporation, board, officer, or person may file the petition for *mandamus* with the proper court.

IV.A.2. Ministerial v. discretionary acts

"Discretion," when applied to public functionaries, means the power or right conferred upon them by law of acting officially, under certain circumstances, uncontrolled by the judgment or sense of propriety of others. If the law imposes a duty upon a public officer and gives him the right to decide how and when the duty shall be performed, such duty is discretionary and not ministerial.[7]

In contrast, a purely ministerial act or duty is one which an officer or tribunal performs under a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment on the propriety or impropriety of the act done.[8] The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment.[9]

A ministerial act is one as to which nothing is left to the discretion of the person who must perform. It is a **simple, definite duty arising under conditions admitted or proved to exist and imposed by law**. It is a precise act accurately marked out, enjoined upon particular officers for a particular purpose.[10]

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6 Feria-Noche, Civil Procedure Annotated, (2001), p. 486.
7 See Feria-Noche, Civil Procedure Annotated (2001), p. 487 (citation omitted).
8 See *Nazareno v. City of Dumaguete*, 607 Phil. 768 (2009).
9 Id.
10 See Feria-Noche, Civil Procedure Annotated (2001), p. 488 (citation omitted).

IV.B. Requirements for the issuance of the writ of *mandamus*

In the light of its nature, the writ of *mandamus* will issue only if the following requirements are complied with:

First, *the petitioner has a* ***clear and unmistakable legal right*** *to the act demanded.*

The clear and unmistakable right that the writ of *mandamus* requires pertains to those rights that are well-defined, clear and certain. The writ contemplates only those **rights** which are **founded in law, are specific, certain, clear, established, complete, undisputed or unquestioned, and are without any semblance or color of doubt.**[11]

In situations where the right claimed, or the petitioner's entitlement to it, is unclear, the writ of *mandamus* will not lie. The writ of *mandamus* will not issue to establish a right or to compel an official to give to the applicant anything to which he is not clearly entitled. ***Mandamus*** **never issues in doubtful cases, or to enforce a right which is in substantial dispute or to which substantial doubt exists.**[12]

Second, *it must be the duty of the respondent to perform the act because it is mandated by law.*

The act must be clearly and peremptorily enjoined by law or by reason of the respondent's official station. It must be the imperative duty of the respondent to perform the act required.[13]

Third, *the respondent unlawfully neglects the performance of the duty enjoined by law or unlawfully excludes the petitioner from the use or enjoyment of the right or office.*

Fourth, *the act to be performed is ministerial, not discretionary.*

Fifth **and last,** *there is no other plain, speedy, and adequate remedy in the ordinary course of law.*

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[11] See *Nazareno v. City of Dumaguete*, 607 Phil. 768 (2009); *Asia's Emerging Dragon Corporation v. Republic*, 602 Phil. 722 (2009). See also Feria-Noche, Civil Procedure Annotated (2001), p. 488 (citation omitted).

[12] See *Metropolitan Bank and Trust Company v. S.F. Naguiat Enterprises Inc.*, GR No. 178407, March 18, 2015; and *Nazareno v. City of Dumaguete*, 607 Phil. 768 (2009).

[13] See *Nazareno v. City of Dumaguete*, *supra* note 11.

IV.C. Velasco's petition and the requirements for the issuance of the writ of *mandamus*

Velasco failed to comply **with all five requirements** for the issuance of a writ of *mandamus*.

IV.C.1. No showing of any clear and unmistakable right

Velasco failed to show that he has a clear, established, and unmistakable right to the position of Representative of Marinduque. Any right that Velasco may claim to hold is, at most, substantially doubtful or is in substantial dispute; in either case, the existence of doubt renders the Court unjustified in issuing a writ in Velasco's favor.

Velasco's cited legal grounds for the issuance of the writ of mandamus in his favor are the final rulings in the following cases: **SPA No. 13-053** and ***Reyes v. Comelec***, and **SPC No. 13-010**. Thus, a look into what these cases really are and what they say is in order.

IV.C.1.a. SPA No. 13-053 (*Socorro B. Tan v. Regina Ongsiako-Reyes*) and *Reyes v. Comelec*, GR No. 207264

SPA No. 13-053 involved the petition filed by Socorro B. Tan ***before the Comelec*** to deny due course to or cancel Reyes' CoC on the ground of the alleged material misrepresentations Reyes made. ***Velasco was not a party to this case***.

The Comelec cancelled Reyes' CoC in its May 14, 2013 resolution (in SPA No. 13-053). Note should be taken of the fact that this May 14, 2013 Comelec ruling became final and executory only on **May 19, 2013** or *"five (5) days after its promulgation"* per Section 13, Rule 18 of the 1993 Comelec Rules of Procedure, in relation with Paragraph 2, Section 8 of Resolution No. 9523; and that the Comelec itself did not enjoin Reyes' proclamation. As a result, the Comelec, itself, proclaimed Reyes on **May 18, 2013.**

I point out that in the June 25, 2013 resolution in *Reyes v. Comelec,* this Court *expressly* characterized ***SPA No. 13-053*** to be ***summary in nature***.[14]

Reyes assailed the Comelec rulings in SPA No. 13-053 before this Court *via* a petition for *certiorari,* docketed as **GR No. 207264 *(Reyes v. Comelec or "Reyes")***. The Court's majority, in this June 25, 2013

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[14] See *Reyes v. Comelec,* GR No. 207264, June 25, 2013, 699 SCRA 522, 538-539.

resolution, ***dismissed*** respondent Reyes' petition ***outright*** based solely on the face of the petition and its annexes.

Reyes carries several features that the Court should be aware of:

First. *Reyes* was a petition that respondent Reyes filed to question the Comelec's cancellation of her CoC in SPA No. 13-053. Respondent Reyes cited the violation of her right to due process and the Comelec's grave abuse of discretion as grounds for her petition.

Second. Only Tan (the petitioner before the Comelec) was the party respondent before the Court in *Reyes*; Velasco was not a party to the case as he was not a party to the challenged Comelec ruling.

Third. The Court did not see it fit to hear the respondent Tan (let alone Velasco who was not a party) before issuing its outright dismissal, although the Court subsequently heard Tan's arguments in her comment to herein respondent Reyes' motion for reconsideration (compelled perhaps by the vigorous dissent issued against the outright dismissal).[15]

Under the circumstances of the outright dismissal of the petition, the belated attempt at hearing Tan on the motion for reconsideration, however, does not change the character of the Court's rulings and proceedings as summary.

Fourth. In ***dismissing the petition outright***, the Court only considered the Reyes petition itself, the assailed Comelec rulings (SPA No. 13-053), and the petition's other annexes. The outright dismissal was made ***despite*** the plea from the Dissent that ***the case be fully heard because it would benefit the son of a sitting Justice of the Court.***

Fifth. The Court's majority also chose not to hear anymore the **HRET**, the **Comelec,** or the **Office of the Solicitor General** on petitioner Reyes' positions and arguments, particularly on the ***issue of the delineation of jurisdiction between the HRET and the Comelec.***

Sixth. The Court's rulings – both in the June 25, 2013 outright dismissal of the *Reyes* petition and the October 22, 2013 resolution on the motion for reconsideration – **never declared nor recognized Velasco as the duly elected Representative of Marinduque.**

Seventh. The rulings in SPA No. 13-053 and *Reyes v. Comelec* did not consider and rule on any matter other than the material misrepresentation she allegedly committed.

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[15] See Dissenting Opinion of J. Brion, joined in by Senior Associate Justice Antonio T. Carpio, and Associate Justices Martin S. Villarama, Jr. and Marvic Mario Victor F. Leonen.

Thus, any legal effect that these rulings carry should not be extended to matters outside of the issues and matters specifically addressed by these rulings, as these extraneous rulings are *obiter dicta*.

Specifically, these rulings and their legal effects cannot extend to Reyes' election, returns, and qualification as Marinduque Representative. Nor should these rulings vest in Velasco the title to hold the position, even assuming that petitioner Reyes' CoC was properly cancelled.

In resolving the present *mandamus* petition, the Court must appreciate that Velasco's cited rulings are simply summary determinations of the alleged material misrepresentation committed by Reyes in her CoC, and cannot be used as basis for the requested issuance of the writ.

Eight. In the outright dismissal of Reyes' *certiorari* petition, the Court's majority declared that the Comelec retained its jurisdiction over respondent Reyes and the CoC cancellation proceeding against her because respondent Reyes was not a member of the HOR over whom the HRET can exercise its jurisdiction.

The majority reasoned out that a candidate is considered a Member of the HOR only after the candidate has been **proclaimed, has taken the proper oath, and has assumed office.**

This declaration is noteworthy because of the ***intervening factual developments*** that significantly altered the consequent legal effects of: (1) the Comelec's rulings in SPC No. 13-053 and of the Court's rulings in *Reyes v. Comelec*; and (2) the subsequent Comelec actions and rulings affecting respondent Reyes' right to hold her congressional seat.

These intervening factual developments, more fully discussed below, is another reason why the Court cannot issue the writ of *mandamus* ***for the reason alone*** that the rulings in SPC No. 13-053 and in *Reyes v. Comelec* had ***become final and executory***.

Lastly, the Court should sit up and take notice because of the *Reyes'* pronouncement on the jurisdictional divide between the HRET and the Comelec, a matter more extensively discussed below.

IV.C.1.b. SPC No. 13-010 (*Rep. Lord Allan Jay Q. Velasco vs. New Members/Old Members of the Provincial Board of Canvassers [PBOC] of the Lone District of Marinduque and Regina Ongsiako-Reyes*)

SPC No. 13-010 was the petition that Velasco filed before the Comelec on May 20, 2013, to declare respondent Reyes' May 18, 2013 proclamation void.

The Comelec dismissed SPC No. 13-010 on June 19, 2013.

On July 9, 2013, however, the Comelec issued a resolution reversing its June 19, 2013 resolution; this reversal declared void and without legal effect respondent Reyes' proclamation.

In between these dates – *i.e.,* from May 20, 2013, when Velasco initiated SPC No. 13-010 before the Comelec, and the Comelec's July 9, 2013 resolution – respondent Reyes had already taken her oath (on June 7, 2013) and had assumed office on June 30, 2013. Significantly, as of June 30, 2013, when respondent Reyes assumed office, the challenge to respondent Reyes' proclamation **stood dismissed** by the Comelec and was entered in its records.

Thus, **as of June 30, 2013, respondent Reyes was the candidate the Comelec recognized as the duly proclaimed winner of the Marinduque congressional seat.** She was proclaimed pursuant to the electorate's mandate through the majority of the votes cast in Marinduque. More importantly, at the time Reyes assumed the office on June 30, 2013 – after she had been proclaimed and had taken her oath – there was no standing challenge against her proclamation.

Significantly, the records of *Reyes* show that soon after assumption to office on June 30, 2013, she started discharging the functions of her office by filing bills with the HOR.

These developments and dates are pointed out because of their critical significance. In resolving the present petition, the Court cannot simply undertake a mechanistic reading of the cited rulings and on this basis rely on the finality doctrine. The Court must appreciate that at the time respondent Reyes assumed office on June 30, 2013, the Comelec had cast aside the challenge to her proclamation and her oath was properly taken.

To be sure, the Comelec eventually declared respondent Reyes' proclamation void, but this reversal happened only on July 9, 2013, and only after Reyes had taken her oath and assumed office based on a standing proclamation. The proclamation, oath, and assumption **effectively altered the legal situation** as respondent Reyes – instead of being a mere candidate waiting for proclamation – had already become a Member of the HOR whose election, returns, and qualification are subject to the jurisdiction of the HRET.

This altered legal situation cannot but affect how the petition for *mandamus* should be resolved.

IV.C.1.c. The intervening factual developments; *Reyes v. Comelec* versus the present petition

Another critical point the Court should not fail to consider in determining whether Velasco has a clear legal right to a writ of *mandamus* are the various factual developments that intervened (from the Comelec's rulings in SPA No. 13-053 and the Court's ruling in *Reyes v. Comelec*, to the filing of the present petition) that substantially and substantively differentiate the present *mandamus* case from *Reyes v. Comelec.*

These factual developments are:

First, while respondent Reyes took her oath and assumed the office of Representative of Marinduque after the Comelec cancelled her CoC in SPA No. 13-053, she did not simply accept the cancellation and forthwith proceeded to question it before this Court through a petition for *certiorari* entitled *Reyes v. Comelec.* This petition was still pending at the time respondent Reyes took her oath and assumed office (on June 30, 2013); by then the case was pending based on the motion for reconsideration that respondent Reyes filed against the Court's June 25, 2013 Resolution. **As a result, Reyes had already assumed office even before *Reyes v. Comelec* became final and executory**.

It must be noted, too, that respondent Reyes' oath and assumption to office also occurred before the Comelec (in SPC No. 13-010 filed by Velasco) declared void respondent Reyes' proclamation as Marinduque Representative. The Comelec ruling only came on July 9, 2013. As discussed above, respondent Reyes took her oath and assumed office (on June 30, 2013) when the **standing Comelec ruling** in SPC No. 13-010 (to cancel respondent Reyes' proclamation) was the June 19, 2013 dismissal of the Velasco petition.

Thus, as of June 30, 2013, Reyes had taken her oath and had assumed office based on a subsisting proclamation. The Comelec declared her proclamation void only on July 9, 2013; prior to this declaration, there was no pending legal challenge that could have impeded her oath and assumption of office.

Second, the Comelec granted Tan's motion for execution, in SPA No. 13-053, and directed the proclamation of Velasco as the duly elected Representative of Marinduque, only on **July 10, 2013**. Velasco was proclaimed by the new PBOC much later — on **July 16, 2013**.

These dates are stressed because when the Comelec took actions to enforce SPA No. 13-053 and to proclaim Velasco as the duly elected Representative of Marinduque, Reyes was already a member of the HOR – she had by then been proclaimed, taken her oath, and assumed office.

Significantly, **these developments were not considered in *Reyes v. Comelec;* neither were they considered in SPC No. 13-010.** In these lights, I submit that this *mandamus* petition is not a continuation of *Reyes v. Comelec* and should not be resolved on the basis of the bare finality of SPA No. 13-053 and *Reyes v. Comelec,* and of SPC No. 13-010.

Since the present case substantially and substantively differs from *Reyes v. Comelec,* the latter's finality (as well as the finality of the Comelec rulings in SPA No. 13-053 that *Reyes v. Comelec* passed upon) should not control the resolution of the present petition and must not be determinative of Velasco's right to the issuance of a writ of *mandamus*.

Moreover, as I stated above, these intervening factual developments significantly altered the *consequent legal effects* of the Comelec's rulings in SPC No. 13-053 and of this Court's rulings in *Reyes v. Comelec*, the Comelec's ruling in SPC No. 13-010, and the subsequent Comelec actions and rulings affecting respondent Reyes' right to hold her congressional seat.

IV.C.1.d. The proper appreciation of SPA No. 13-053, *Reyes v. Comelec* and SPC No. 13-010 *vis-à-vis* the intervening factual developments in the context of the present petition

If only for emphasis, I call attention again to the fact that as of June 30, 2013, Reyes had been proclaimed, had taken her oath, and assumed office as the elected and proclaimed Representative of Marinduque.

Section 17, Article VI of the Constitution provides that the Electoral Tribunal of the HOR shall be the *"sole judge of all contests relating to the election, returns, and qualifications of [its] Members."*[16]

I highlight, too, that in *Reyes v. Comelec,* the majority declared that a winning candidate becomes subject to the jurisdiction of the HRET only after he or she becomes a member of the HOR. The majority stressed that a candidate **becomes a member of the HOR** only after he or she has been **proclaimed, taken his or her oath, and assumed the office.**

In other words, the majority in *Reyes v. Comelec* required the concurrence of all three events – proclamation, oath, and assumption to office – to trigger the jurisdiction of the HRET over election contests relating to the winning candidate's election, returns, and qualifications. **All three events duly took place in the case of respondent Reyes,** such that the HRET at this point should have jurisdiction over questions relating to respondent Reyes' election, even on the basis of the majority's ***own*** standards.

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[16] See also Rule 14 of the 2011 Rules of the House of Representatives Electoral Tribunal.

(Note in this regard that in my Dissent in *Reyes v. Comelec,* I considered this majority action a "major **retrogressive** jurisprudential development that can emasculate the HRET."

I still maintain that the proclamation of the winning candidate – the last operative act in the election process that is subject to Comelec jurisdiction – triggers and opens the way for the HRET's own jurisdiction.

This was the position I took, backed up by jurisprudence,[17] in my Dissent in *Reyes v. Comelec*. I said:

> *[T]he proclamation of the winning candidate is the operative fact that triggers the jurisdiction of the HRET over election contests relating to the winning candidate's election, returns and qualifications x x x the proclamation of the winning candidate divests the Comelec of its jurisdiction over matters pending before it at the time of the proclamation and the party questioning the qualifications of the winning candidate should now present his or her case in a proper proceeding (i.e., quo warranto) before the HRET, who, by constitutional mandate, has the sole jurisdiction to hear and decide cases involving the election, returns and qualifications of members of the [HOR]).*

Thus, even by the Court majority's own standard[18] as defined in *Reyes v. Comelec,* respondent Reyes became a member of the HOR as of June 30, 2013. To reiterate, respondent Reyes was proclaimed on May 16, 2013. She then took her oath on June 7, 2013, and assumed office on June 30, 2013, pursuant to a subsisting proclamation. The Comelec ruling that declared respondent Reyes' proclamation void came only after she had already fully complied with *Reyes v. Comelec*'s defined standard.

In these lights, the Comelec had already been divested of jurisdiction over any issue that may have affected respondent Reyes' proclamation (including all consequent legal effects her proclamation carries) at the time the Comelec declared her proclamation void on July 9, 2013. As well, the Comelec was already without jurisdiction when it granted Tan's motion for execution on July 10, 2013, and proclaimed Velasco (through the new PBOC) as the duly elected Marinduque Representative on July 16, 2013.[19]

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[17] See *Limkaichong v. Commission on Elections,* 601 Phil. 751 (2009); *Jalosjos v. Commission on Elections,* G.R. Nos. 192474, 192704, 193566, June 26, 2012; and *Perez v. Comelec,* 548 Phil. 712 (2007). See also *Guerrero v. Commission on Elections,* 391 Phil. 344 (2000); *Vinzons-Chato v. Commission on Elections,* 548 Phil. 712 (2007); and *Aggabao v. Commission on Elections,* 391 Phil. 344 (2000).

[18] See J. Brion's Dissenting Opinion in *Reyes v. Comelec,* June 25, 2013 Resolution.

[19] See J. Brion's Dissenting Opinion in *Reyes v. Comelec,* June 25, 2013 Resolution. Pertinent are the following discussions:

> *The ponencia's holding on the COMELEC's jurisdiction vis-à-vis the HRET is inconsistent with the HRET Rules*
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> The view that the proclamation of the winning candidate is the operative fact that triggers the jurisdiction of the HRET is also supported by the HRET Rules. They state:

Under Section 2(2), Article IX-C of the Constitution, the Comelec has the *"exclusive jurisdiction over all contests relating to the election, returns, and qualifications of all* ***elective regional, provincial, and city officials*** *x x x."* In other words, the Constitution vests the Comelec this exclusive jurisdiction only with respect to *elective regional, provincial, and city officials.* **The Comelec, by express constitutional mandate, has no jurisdiction over the election, returns, and qualifications of members of the HOR (or of the Senate) as Article VI vests this jurisdiction with the HRET (or the SET).**

The validity of the proclamation of respondent Reyes who became a member of the HOR on June 30, 2013, and the right of either respondent Reyes or Velasco to hold the contested congressional seat are **election contests** relating to a Member's election, returns, and qualifications. By *Reyes v. Comelec*'s own defined standard, the jurisdiction over these election contests affecting respondent Reyes already rested with the HRET beginning June 30, 2013.

> RULE 14. *Jurisdiction.* – The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.
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> RULE 15. *How Initiated.* – An election contest is initiated by the filing of a verified petition of protest or a verified petition for *quo warranto* against a Member of the House of Representatives. An election protest shall not include a petition for *quo warranto*. Neither shall a petition for *quo warranto* include an election protest.
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> RULE 16. *Election Protest.* – A verified petition contesting the election or returns of any Member of the House of Representatives shall be filed by any candidate who has duly filed a certificate of candidacy and has been voted for the same office, within fifteen (15) days after the proclamation of the winner. The party filing the protest shall be designated as the protestant while the adverse party shall be known as the protestee. x x x
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> RULE 17. *Quo Warranto.* – A verified petition for quo warranto contesting the election of a Member of the House of Representatives on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall be filed by any registered voter of the district concerned within fifteen (15) days from the date of the proclamation of the winner. The party filing the petition shall be designated as the petitioner while the adverse party shall be known as the respondent[.]

Based on the above Rules, it appears clear that as far as the HRET is concerned, the proclamation of the winner in the congressional elections serves as the reckoning point as well as the trigger that brings any contests relating to his or her election, return and qualifications within its sole and exclusive jurisdiction.

In the context of the present case, by holding that the COMELEC retained jurisdiction (because Reyes, although a proclaimed winner, has not yet assumed office), the majority effectively emasculates the HRET of its jurisdiction as it allows the filing of an election protest or a petition for *quo warranto* only after the assumption to office by the candidate (*i.e.,* on June 30 in the usual case). To illustrate using the dates of the present case, any election protest or a petition for *quo warranto* filed after June 30 or more than fifteen (15) days from Reyes' proclamation on May 18, 2013, shall certainly be dismissed outright by the HRET for having been filed out of time under the HRET rules.

To be sure, the validity of this Comelec resolution in SPC No. 13-010 was never challenged before this Court such that the ruling lapsed to finality. Under existing legal principles, the Court cannot pass upon the validity of this Comelec ruling without violating the doctrine of finality of judgments and the principle of separation of powers with the principle of judicial non-interference that it carries.

Nonetheless, the Court also cannot and should not simply rely on this Comelec ruling to grant Velasco's present *mandamus* petition and compel the HOR to admit him as its member. The fact that these Comelec rulings and actions all occurred after Reyes had fully complied with the restrictive *Reyes v. Comelec* standard creates substantial doubt on their validity and efficacy. In view of these substantial doubts, the Court should consider them with utmost caution.

In this respect, I submit that any legal significance the Court may accord to the Comelec's ruling in SPC No. 13-010 (as well as its July 10, 2013 execution order) in considering Velasco's present move to compel, *via mandamus,* the HOR to admit him as its member must be limited to:

one, the fact of their issuance;

two, the fact that the Comelec declared void Reyes' proclamation on July 9, 2013; and

three, the fact that Velasco was proclaimed on July 16, 2013,

without prejudice to whatever ruling that the HRET and this Court may render in the future on the validity or invalidity of the Comelec rulings that were made after HOR jurisdiction had vested.

Any other legal significance which these rulings may have on the right of either Reyes or Velasco to the congressional seat must now be left to the judgment and discretion of the HRET which must appreciate them in a properly filed action.

Additionally and finally on this point, the HRET now has jurisdiction to rule upon **all questions** relating to respondent Reyes' election, returns, and qualifications that may still be fit and proper for its resolution in accordance with existing laws and its own rules of procedure. This Court itself cannot assume jurisdiction over any aspect of HRET jurisdiction unless it relates to a matter filed or pending with us on a properly filed petition, taking into account the clear conferment and delineation of the Court's jurisdiction and those of the HRET under the Constitution.

In sum, the Comelec's rulings in SPA No. 13-053 and SPC No. 13-010, and the Court's rulings in *Reyes v. Comelec* did not establish a clear and unmistakable right in Velasco's favor to the position of the Representative of Marinduque.

At most, Velasco's right to hold the congressional seat based on these rulings is substantially doubtful. Unless this substantial doubt is settled, Velasco cannot claim as of right any entitlement, and cannot also compel the respondents to admit him, to HOR membership through the Court's issuance of a writ of *mandamus*.

In the absence of any other clear and unmistakable legal source for his claimed right to the contested congressional seat, Velasco's petition must necessarily fail.

IV.C.1.e. Reyes' holding of the office could not have worked injustice and seriously prejudiced Velasco with her receipt of the salaries, allowances, bonuses, and emoluments that pertain to the office.

Finally, I find tenuous Velasco's claim that Reyes' continued holding of the contested Congressional seat has *"worked injustice and serious prejudice to [him] in that she has already received the salaries, allowances, bonuses and emoluments that pertain to the [office] since June 30, 2013 up to the present x x x."*

This argument clearly forgets that public office is a public trust.[20] Public service and public duty are and must be the primary and utmost consideration in entering the public service. Any remuneration, salaries, and benefits that a public officer or employee receives in return must be a consideration merely secondary to public service.

Accordingly, any salary, allowance, bonus, and emoluments pertaining to an office must be received by one who is not only qualified for the office, but by one whose right to the office is clearly and unmistakably without doubt and beyond dispute. In the case of an elective public office, this right is, at the very least, established by the mandate of the majority of the electorate. More importantly, of course, the right to receive the salaries, allowances, bonuses, and emoluments that pertain to an office must be received by one who actually perform the duties called for by the office.

Here, Velasco may be qualified for the office. His right to hold the congressional seat, however, is at most substantially doubtful or in substantial dispute; worse, he has not performed the duties of the office. In short, Reyes' receipt of the salaries, etc. that pertain to the congressional seat obviously could not have worked injustice to and seriously prejudiced him.

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[20] See Article XI, Section 1 of the Constitution.

IV.C.2. Clear, established, and specific legal duty and unlawful neglect in the performance of ministerial acts

For the same factual and legal reasons discussed above, I submit that Velasco likewise failed to show that Speaker Belmonte and Sec. Gen. Barua-Yap have the clear and specific duty, founded in law, to administer the required oath, to allow Velasco to assume the duties of the office, and to register his name in the Roll of Members as the duly elected Representative of Marinduque. He also failed to show that the respondents unlawfully refused or neglected to admit him as member.

At the very least, he failed to show that the respondents have the clear and specific legal duty to allow a second-placer candidate like him whose right to the contested congressional seat is substantially doubtful, to assume the office until such time that all doubts are resolved in his favor.

Thus, in the absence of any law specifically requiring Speaker Belmonte and Sec. Gen. Barua-Yap to act, and to act in a particularly clear manner, the Court cannot compel these respondents to undertake the action that Velasco prays for *via* a writ of *mandamus*.

Additionally, the HOR in this case simply acted pursuant to law and jurisprudence when it admitted respondent Reyes as the duly elected Representative of Marinduque. After this admission, the HOR and its officers cannot be compelled to remove her without an order from the tribunal having the exclusive jurisdiction to resolve all contests affecting HOR members, of which Reyes has become one. This tribunal, of course, is the HOR's own HRET.

IV.C.3. Absence of any other plain, speedy and adequate remedy

Lastly, I submit that Velasco failed to show that there is **no other plain, speedy, and adequate remedy** available in the ordinary course of law to secure to him the congressional seat.

I reiterate and emphasize once more that respondent Reyes became a Member of the HOR on June 30, 2013, after her proclamation, oath, and assumption to office. Whether the Court views these circumstances under the restrictive standard of *Reyes v. Comelec* to be the legally correct standard or simply the applicable one[21] under the circumstances of the petition,

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[21] As I discussed in my Dissenting Opinion to the June 25, 2013 Resolution in *Reyes v. Comelec,* this reasonable standard is the proclamation of the winning candidate. There, I said that: "[t]he proclamation of the winning candidate is the operative fact that triggers the jurisdiction of the HRET over election contests relating to the winning candidate's election, returns and qualifications."

respondent Reyes undoubtedly has complied with the conditions for HOR membership that *Reyes v. Comelec* laid down.

Since Reyes is a member of the HOR, any challenge against her right to hold the congressional seat or which may have the effect of removing her from the office – whether pertaining to her election, returns or qualifications – now rests with the HRET.

Viewed by itself and in relation to the surrounding cited cases and circumstances, Velasco's present petition cannot but be a challenge against respondent Reyes' election, returns, and qualifications, hiding behind the cloak of a petition for *mandamus*. In other words, although presented as a petition that simply seeks to enforce a final Court ruling, the petition is an original one that ultimately seeks to oust Reyes from the congressional seat. The relationships between and among the cited cases and the present case, read in relation with the relevant developments, all point to this conclusion.

Thus, rather than recognize this roundabout manner of contesting respondent Reyes' seat, the Court should recognize this kind of challenge for what it really is – a challenge that properly belongs to the domain of the HRET and one that should be raised before that tribunal through the proper action. The Court, in other words, should acknowledge that it has no jurisdiction to act on the present petition.

Under the 2011 Rules of the HRET,[22] the proper actions in coming before the HRET are: (1) a verified petition of protest (election protest) to contest the election or returns of the member; or (2) a verified petition for *quo warranto* to contest the election of a member on the ground of ineligibility or disloyalty to the Republic of the Philippines.[23] Both petitions should be filed within fifteen (15) days after the proclamation of the winner,[24] save in the case of a petition for *quo warranto* on the ground of citizenship which may be filed at any time during the member's tenure.[25] The failure to file the appropriate petition before the HRET within the prescribed periods will bar the contest.[26] These are the rules that must guide Velasco in his quest for a remedy.

To be sure, though, this remedy has been within Velasco's knowledge and contemplation as on May 31, 2013,[27] he filed an **election protest** before

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22 Issued pursuant to the HRET's rule-making that necessarily flows from the general power granted to it by the Constitution as the sole judge of all contests relating to the election, returns, and qualifications of its members (see *Angara v. Electoral Commission,* 63 Phil. 139 [1936]).

23 See Rules 16 and 17 of the 2011 Rules of the House of Representatives Electoral Tribunal.

24 See Rule 16, paragraph 1, and Rule 17, paragraph 1 of the 2011 Rules of the House of Representatives Electoral Tribunal.

25 See Rule 17, paragraph 2 of the 2011 Rules of the House of Representatives Electoral Tribunal.

26 See Rule 19 of the 2011 Rules of the House of Representatives Electoral Tribunal. It reads:
RULE 19. Periods Non-Extendible. – The period for the filing of the appropriate petition, as prescribed in Rules 16 and 17, is jurisdictional and cannot be extended

27 In fact, also on May 31, 2013, a *quo warranto* petition was filed by a certain Matienzo before the HRET against Reyes; this was docketed as HRET Case No. 13-027.

the HRET, docketed as HRET Case No. 13-028.[28] Very obviously, he recognized that, as early as May 31, 2013, any challenge against respondent Reyes's election, returns, or qualifications should be raised before the HRET – the sole judge of all contests relating to the election, returns, and qualifications of HOR members.

Why he now appears to have glossed over this legal reality in the present petition (especially since Reyes is now a clearly recognized member of the HOR after satisfying the restrictive *Reyes v. Comelec* standard) is a question I would not dare speculate on; only the attendant facts and the legal realities can perhaps sufficiently provide the answer.[29]

In reality, two other cases – both of them *quo warranto* petitions – were subsequently filed against Reyes. The first is HRET Case No. 13-036 entitled *"Noeme Mayores Tan and Jeasseca L. Mapacpac v. Regina Ongsiako Reyes."* The second is HRET No. 13-037 entitled *"Eric Del Mundo v. Regina Ongsiako Reyes."*

On March 14, 2014, the HRET issued a resolution in HRET Case No. 13-036 and HRET No. 13-037 stating that *"the proclamation of Representative Reyes as the winning candidate for the position of Representative of the Lone District of Marinduque is and remains valid and subsisting until annulled by HRET."*

In a modified *ponencia* circulated on January 11, 2016 (for deliberation on January 12, 2016), *it was alleged* that the HRET promulgated a Resolution on December 14, 2015, dismissing HRET Case Nos. 13-036 and 13-037 – the twin petitions for *quo warranto* filed against Reyes.

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[28] See *rollo,* p. 399. As of April 1, 2014, the HRET records show that *Matienzo v. Reyes* and *Velasco v. Reyes* have been withdrawn.

[29] A possible answer may be drawn from these facts: *first,* the two *quo warranto* petitions – HRET Case No. 13-036 entitled *"Noeme Mayores Tan and Jeasseca L. Mapacpac v. Regina Ongsiako Reyes"* (filed on July 13, 2013) and HRET No. 13-037 entitled *"Eric Del Mundo v. Regina Ongsiako Reyes"* (filed on December 13, 2013) – filed against Reyes have been pending before the HRET, of which a Member of this Court, Associate Justice Presbiterio Velasco, is petitioner Velasco's father, for more or less two years without any action by the HRET. The only action the HRET has taken so far in these cases was in relation with the petition-for-intervention filed by Victor Vela Sioco seeking the dismissal of the *quo warranto* petitions for lack of jurisdiction where it required (*via* Resolution No. 14-081) Reyes to comment thereon.

Second, the HRET has recently revised its Rules of Procedure incorporating the restrictive *Reyes v. Comelec* standards that requires the concurrence of proclamation, oath, and assumption of office before the elected candidate is considered a member of the HOR over whom the HRET can exercise jurisdiction. The 2015 HRET Rules of Procedure was published in the Philippine Star on November 1, 2015, and took effect fifteen days thereafter. Rule 80 of the 2015 HRET Rules provides for its application to all pending actions save "when substantive rights are affected as may be determined by the Tribunal."

Third, per the November 5, 2015 letter-petition – Urgent Follow-Up on the Petition for Recall of the Designation of Justice Presbiterio J. Velasco, Jr. to the HRET – to the Court *En Banc* by Reyes' counsel Roque and Butuyan Law Offices (letter signed by H. Harry L. Roque, Jr., Joel Ruiz Butuyan, and Roger R. Rayel), the HRET has deferred action on its February 3, 2015 manifestation/motion that from thereon it shall act as Reyes' lead counsel and been refusing to furnish it copies, at their expense, of all documents, pleadings etc. pertaining to the two *quo warranto* cases.

Allegedly, the HRET held that "*the final Supreme Court ruling in G.R. No. 207264 is the COGENT REASON to set aside the September 11, 2014 Resolution.*" The HRET ruling allegedly reversed its own ruling of September 11, 2014 that ordered the dismissal of the petition of Victor Vela Sioco in the twin petitions for *quo warranto* for "lack of merit," and for the hearings in the petitions against Reyes to proceed.

Under these attendant facts, the circumstances surrounding the Reyes-Velasco dispute becomes more confused and all the more should this Court refrain from acting on the present petition.

If indeed there is already a HRET ruling as alleged, then the proper remedy now is for the HRET to present this ruling, certified as a final and executory one, to the HOR for that body's action in light of its own Tribunal's decision.

To state the obvious, the admission of a member and his or her exclusion is primarily an internal affair that the HOR should first resolve before this Court should step in through the coercive power of a writ of mandamus. The principles of separation of powers and judicial non-interference demand that the Court respect and give due recognition to the HOR in its internal affairs.

By granting the petition and issuing a writ of mandamus, the Court, not only disrespects the HOR, but sows confusion as well into the HRET's jurisdiction – a jurisprudential minefield in the coming elections.

IV.D. The Separation of Powers Principle Demands the Dismissal of the Present Petition.

IV.D.1. The principle of separation of powers.

An issue that the Court cannot but recognize in the present case is whether it can, under the circumstances of this case, compel a House of Congress – a co-equal branch – to act. The resolution of this issue calls for the consideration of several principles, foremost of which is the principle of separation of powers that underlie our governmental structure.

The Constitution does not specifically provide for the principle of separation of powers. Instead of a distinct express provision, the Constitution divides the governmental powers among the three branches – the legislative, the executive, and the judiciary. Under this framework, the Constitution confers on the Legislature the duty to make the law, on the

Executive the duty to execute the law, and on the Judiciary the duty to construe and apply the law.[30]

Underlying the principle of separation of powers is the general scheme that each department is supreme within their respective spheres of influence, and the exercise of their powers to the full extent cannot be questioned by another department. Outside of these spheres, neither of the great governmental departments has any power; and neither may any of them validly exercise any of the powers conferred upon the others.[31]

Thus, as a fundamental principle, the separation of powers provides that each of the three departments of our government is distinct and not directly subject to the control of another department. The power to control is the power to abrogate; and the power to abrogate is the power to usurp.[32] In short, for one branch to control the other is to usurp its power. In this situation, the exercise of control by one department over another would clearly violate the principle of separation of powers.

In this light, the question that we ask next is: whether the Court can compel Speaker Belmonte and Sec. Gen. Barua-Yap – who are admittedly officers of the HOR – to perform the acts specifically prayed for by Velasco *via mandamus*. To properly answer this question, we must hark back to our earlier discussion of *mandamus*, and consider it in the context of the principle of separation of powers.

IV.D.2. Mandamus against a co-equal branch

Over and above the usual requirements of *mandamus* earlier discussed, it must be appreciated that the remedy of *mandamus* is essentially a discretionary remedy that is contingent upon compelling equitable grounds for its grant. As a peremptory writ, a presumption exists strongly against its grant; it will and must issue only in the most extraordinary of circumstances and always with great caution.

In the context of the separation of powers principle, I submit that the Court must proceed with greater caution before issuing the writ against a co-equal branch, notwithstanding the concurrence of the requirements.

As a general rule, *mandamus* will not lie against a coordinate branch.[33] The rule proceeds from the obvious reason that none of the three departments is inferior to the others; by its very nature, the writ of *mandamus* is available against an **inferior** court, tribunal, body, corporation, or person. With respect to a coordinate and co-equal branch, the issuance can be justified only under the Court's expanded jurisdiction under Article

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30 See Defensor-Santiago, Constitutional Law, citing *U.S. v. Ang Tang Ho,* 43 Phil. 1(1922).
31 See Defensor-Santiago, Constitutional Law.
32 See *Alejandrino v. Quezon, et. al.,* 46 Phil. 83 (1924).
33 Id.

VIII, Section 1 of the Constitution[34] and under the ***most compelling circumstances*** and ***equitable reasons***.[35]

I submit that no grave abuse of discretion intervened in the present case to justify resort to the Court's expanded jurisdiction. Neither are there compelling and equitable reasons to justify a grant as ***there is a remedy in law that was available to petitioner Velasco*** (for reasons of his own, he has failed to pursue the remedy before the HRET to its full fruition) and ***that is available now*** – to present the final rulings in the cited HRET cases to the HOR for its own action on an internal matter it zealously guards.

The Comelec petition to contest respondent Reyes' proclamation was filed by Velasco, but this was a case solely addressing respondent Reyes' proclamation and voiding it. Beyond this, the ruling made no other directive. But even given all these, there is indisputably the live question of whether the Comelec still had jurisdiction when it issued its rulings as Reyes had by then become a member of the HOR. At the very least, this complication leaves the continued validity of the Comelec ruling in doubt.

Another point to consider is the filing and withdrawal by Velasco of an election protest case with the HRET against respondent Reyes. By doing this and despite the withdrawal of his petition, Velasco recognized the jurisdiction of the HRET. Can he now turn around and simply say that the Comelec and the Court are, after all, correct in its rulings and that he would now avail of these rulings although he was never a party to them? I provide no answers but again this development effectively brings the propriety of Velasco's use of *mandamus* within the realm of doubt.

A further point to consider is that Speaker Belmonte and Sec. Gen. Barua-Yap are officers of the HOR chosen by its members.[36] As HOR officers, their acts made in the performance of their duties and functions are acts of the HOR. The acts Velasco wants this Court to compel Speaker Belmonte and Sec. Gen. Barua-Yap to perform pertain to their official positions. Hence, any *mandamus* that will be issued against them is a *mandamus* issued against the HOR. As I have stated before, *mandamus* does not and will not lie against a coordinate branch.

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34 Section 1, Article VIII of the Constitution reads in full:

> SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

35 *Supra* note 32.

36 See Section 16 (1), Article VI of the Constitution. It reads:

> SECTION 16. (1) The Senate shall elect its President and **the House of Representatives its Speaker,** by a **majority vote of all its respective Members. Each House shall choose such other officers** as it may deem necessary. [emphases supplied]

Notably, under the attendant facts, significantly altered by the intervening factual developments and the consequent legal considerations, the acts sought to be performed – the exclusion of sitting members and the admission of replacement members – are not ministerial acts for which *mandamus* will lie. That much is implied, if not directly held, as early as *Angara v. Electoral Commission*,[37] and many other cases relating to this situation followed.[38] Their common thread is that ***Congress takes the admission (or exclusion) of its members as a very serious concern that is reserved for itself to decide, save only when a superior law or ruling with undoubted validity intervenes***. Such freedom from doubt, however, is not apparent in the present petition.

Appeal to "***compelling and equitable circumstances***" that call for the application of the equitable remedy of *mandamus* is, at best, a murky proposition in light of the circumstances surrounding the May 2013 Marinduque election situation as a whole.

It should not be forgotten that Reyes won by a convincing margin over Velasco, but the latter chose to fight his electoral battle in the Comelec, bypassing thereby the verdict against him of the people of Marinduque. The merits of the Comelec ruling is likewise not beyond doubt from the point of view of the imputed due process violations, as the Dissent in *Reyes* and the close vote in Court showed.

In any case, mandamus is, by its nature, a discretionary remedy that can be denied when no compelling equitable grounds exist. In particular, in situations where the constitutional separation-of-powers principle is involved, *mandamus*, as a rule, will not lie against a co-equal branch notwithstanding the petitioner's compliance with the requirements necessary for its grant, as discussed above. To justify the issuance of the writ, the petitioner must not only comply with the requirements; the petitioner must, more importantly, show that *mandamus* is ***demanded by the most compelling reasons or circumstances and by the demands of equity***. These exception-inducing factors, as discussed above, are simply not present in this case.

Thus, the Court cannot dictate action under the present petition without committing gross usurpation of power. The risk for the Court in ruling under these circumstances is to be accused of ruling under a situation of doubt and uncertainty in favor of the son of a colleague. In a worse scenario, Congress – even if it does not frontally rebuff the Court – may raise issues that would effectively disregard the writ issued by the Court. While no constitutional crisis may result, the Court would have tested the limits of its constitutional powers and failed. The situation does not bode

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37 63 Phil. 139 (1936).

38 See *Suanes v. The Chief Accountant, Accounting Division, Senate, et. al.*, 81 Phil. 818 (1948); *Co v. Electoral Tribunal,* 276 Phil. 758 (1991); *Lazatin v. House of Representatives Electoral Tribunal,* 250 Phil. 390 (1988); *Vilando v. House of Representatives Electoral Tribunal,* 671 Phil. 524 (2011); *Duenas v. House of Representatives Electoral Tribunal,* 619 Phil. 730 (2009), to name a few.

well for the Court's integrity, reputation, and credibility — the essential attributes that allow it to occupy the moral high ground in undertaking its functions within the Constitution's tripartite system.

The better view, under the circumstances and as posited above, is to allow internal matters within the HOR to take their natural course. This position best addresses the confused situation that is the Marinduque May 2013 elections, while respecting the interests of all concerned parties, including those of the Court's.

V. CONCLUSION

In sum, the present petition for *mandamus* must be dismissed as petitioner Velasco failed to comply with all five requirements for the issuance of the writ of *mandamus*. Most importantly, the petitioner's speedy remedy to address his situation lies with the HRET and the HOR, not with the Court. In any case, the remedy of *mandamus* does not lie against the HOR, a co-equal branch, *under the circumstances of the case* and would be an unwarranted intrusion and impermissible usurpation by this Court of the authority and functions of the HOR and of the HRET.

For these reasons, I vote to dismiss the petition.

ARTURO D. BRION
Associate Justice

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