



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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EN BANC

**NORMAN  
 MARQUEZ,**

**CORDERO**

**G.R. No. 258435**

Petitioner,

Members:

-versus-

**GESMUNDO, C.J.,  
 LEONEN,  
 CAGUIOA,\*  
 HERNANDO,  
 LAZARO-JAVIER,  
 INTING,\*\*  
 ZALAMEDA,  
 LOPEZ, M.,  
 GAERLAN,  
 ROSARIO,  
 LOPEZ, J.,  
 DIMAAMPAO,  
 MARQUEZ,  
 KHO, JR.,\*\*\* and  
 SINGH, JJ.**

**COMMISSION  
 ELECTIONS,**

**ON**

Respondent.

Promulgated:

June 28, 2022

*Antonio L. Guebara*

X-----X

**DECISION**

**LAZARO-JAVIER, J.:**

\* On official leave.  
 \*\* No part.  
 \*\*\* No part.

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### The Case

This Petition for Certiorari assails the following dispositions of the Commission on Elections (COMELEC) in SPA No. 21-056(DC)(MP) entitled “*In Re: Motu Proprio Petition to Declare Norman Cordero Marquez as Nuisance Candidate,*” viz.:

1. **Resolution**<sup>1</sup> dated December 13, 2021, declaring petitioner Norman Cordero Marquez (Marquez) a nuisance candidate and ordering the cancellation of his Certificate of Candidacy (COC) for Senator for the May 9, 2022 National and Local Elections (2022 National and Local Elections); and
2. **Resolution**<sup>2</sup> dated January 3, 2022, denying his subsequent motion for reconsideration.

### Antecedents

On October 1, 2021, Marquez filed a Certificate of Candidacy<sup>3</sup> for Senator in the 2022 National and Local Elections. Acting thereon, the COMELEC Law Department *motu proprio* filed a petition<sup>4</sup> to declare Marquez as a nuisance candidate, thus:

15. In the present Petition, [Marquez] filed the COC to put the election process in mockery or disrepute, and as gleaned from the said circumstance or act, [Marquez] has no *bona fide* intention to run for the office for which the COC was filed and thus prevent a faithful determination of the true will of the electorate.

16. A candidate of a national position should be publicly known by numerous voters. It bears stressing, however, that [Marquez] is not virtually known to the entire country except possibly in the locality where he resides.

17. Also, in entry No. 3 of the COC, [Marquez] stated that he was running for Senator without being officially nominated by any political party. Although a political party nomination is not a guarantee of a candidate’s capability to launch a nationwide campaign, running as an independent candidate or without the support of a political party further decreases a candidate’s chances for such a rigorous campaign, as there will be no political party to support him.<sup>5</sup>

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<sup>1</sup> By Presiding Commissioner Ma. Rowena Amelia V. Guanzon and Commissioners Marlon S. Casquejo and Aimee P. Ferolino, *rollo*, pp. 43-53.

<sup>2</sup> By Chairman Sheriff M. Abas, Commissioners Ma. Rowena Amelia V. Guanzon, Socorro B. Inting, Marlon S. Casquejo, Antonio T. Kho, Jr. (now a member of this Court), and Aimee P. Ferolino, *id.* at 63-67.

<sup>3</sup> *Id.* at 31.

<sup>4</sup> *Id.* at 20-30.

<sup>5</sup> *Id.* at 25-27.

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[Marquez] does not appear to have a genuine intention to run for public office. He does not have a nationwide network or organization of supporters to assist him during the campaign so that he may be known nationally within the short campaign period. Neither does he appear to be personally capable of persuading a substantial number of voters from different parts of the country.

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20. While it is true that "*the right to vote and be voted for shall not be dependent upon the wealth of the individual concerned, whereas social justice presupposes equal opportunity for all, rich and poor alike, and that, accordingly, no person shall, by reason of poverty, be denied the chance to be elected to public office,*" reality is a bitter pill that [Marquez] has to swallow.

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22. The COMELEC notes that the Supreme Court in the case of *Marquez* ruled that failure to prove financial capacity to wage a nationwide campaign cannot be used as the sole reason to declare an applicant as a nuisance candidate. Nevertheless, even without considering financial capacity, the circumstances of the Respondent as discussed above show that he has no capabilities to run a viable campaign. As discussed by the Supreme Court in the case of [*Pamatong v. COMELEC*], adding into the mix candidates with no capabilities to run a viable campaign would actually impair the electoral process. (Emphasis in the original; citations omitted)

In his Answer,<sup>6</sup> Marquez asserted he was not a nuisance candidate. He denied filing his COC as Senator supposedly without any *bona fide* intention to run for office. The allegations against him were "impudently presumptuous" and undermined his capabilities, experiences, and genuine intention to serve.<sup>7</sup>

The COMELEC Law Department also allegedly erred in assuming that he is not known in the entire country except in the locality where he resides. On the contrary, he has been actively campaigning all over the Philippines for about five (5) years already. As an advocate of animal welfare and co-founder of Baguio Animal Welfare, Cordillera to the Rest of the Philippines he had the opportunity to travel and attend to countless animal rescue projects, as well as extend free legal assistance in animal cruelty cases nationwide, all in collaboration with established animal welfare groups. As a result of his successful projects and operations, he had been featured several times in various media; his name is ubiquitous in online animal welfare fora.<sup>8</sup> Clearly, the COMELEC Law Department

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<sup>6</sup> *Rollo*, pp. 34-42.

<sup>7</sup> *Id.* at 35.

<sup>8</sup> *Id.* at 36.

was mistaken in assuming that he is only known in Baguio City where he hails from.<sup>9</sup>

More, circumstances have drastically changed in his favor these past years. The machinery of animal welfare advocacy groups has significantly expanded, with more groups and shelters operating and conducting rescue missions.<sup>10</sup> There has also been a marked influx of funding from sponsors and donors for animal welfare groups, as well as an increase in the number of volunteers, rescuers, and fellow advocates who collectively aspire for reform in the animal welfare system.<sup>11</sup> For these reasons, he never felt the need to associate with any political party.<sup>12</sup>

### Rulings of the COMELEC

By Resolution<sup>13</sup> dated December 13, 2021, the COMELEC First Division declared Marquez a nuisance candidate and subsequently canceled his COC.<sup>14</sup> It purportedly found nothing in his Answer which proved that he was not a nuisance candidate.<sup>15</sup> He has the burden of proving that he has made himself known well enough nationwide to persuade a sufficient portion of the electorate to support his candidacy within the short span of time during the campaign period.<sup>16</sup> As it was, his bold claims regarding his achievements and supposed popularity have remained unsubstantiated.<sup>17</sup>

Too, Marquez could not find solace in G.R. No. 244274, entitled *Marquez v. COMELEC*, since the ground invoked by the COMELEC therein was his lack of financial capability to sustain the financial rigors of a nationwide campaign. In contrast, his COC for the 2022 National and Local Elections was cancelable since he did not have any *bona fide* intention to run for the position of Senator, nor was he known in the entire country, except possibly in the locality where he resides.<sup>18</sup>

The COMELEC En Banc denied reconsideration under Resolution<sup>19</sup> dated January 3, 2022.

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<sup>9</sup> Id. at 35-39.

<sup>10</sup> Id. at 39.

<sup>11</sup> Id.

<sup>12</sup> Id. at 38-39.

<sup>13</sup> Id. at 43-53.

<sup>14</sup> Id. at 52.

<sup>15</sup> Id. at 49.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id. at 50-51.

<sup>19</sup> Id. at 63-67.

### The Present Petition

Marquez now charges the COMELEC with grave abuse of discretion for declaring him a nuisance candidate. He essentially argues:

**First.** The COMELEC unduly shifted to him the burden of proving that he genuinely intends to run for public office as declared in his COC, instead of the COMELEC Law Department itself proving otherwise. At any rate, the COMELEC merely required candidates to submit their bio-data in support of their COC, nothing more; they were never required to submit proof or basis of their *bona fide* intention to run for office.<sup>20</sup>

**Second.** The COMELEC accused him of making bold claims regarding his achievements and popularity supposedly without evidence. But proofs of his accomplishments and popularity are all over the internet. A simple Google search of the name “Norman Cordero Marquez” would direct one to various Facebook pages which document his work as an animal welfare advocate. These pages include four (4) active personal accounts and several Facebook groups. Compared to Dr. Willy Ong and Raffy Tulfo who were both allowed to run for the Senate in the 2019 and 2022 National and Local Elections, he has a wider clientele and more firsthand interaction with the masses in different parts of the Philippines.<sup>21</sup>

**Third.** In the same manner that the COMELEC cannot conflate *bona fide* intention to run with a financial capacity requirement per *Marquez v. COMELEC*; so too, one’s *bona fide* intention to run cannot be conflated with the degree or extent of support a candidate is expected to receive during the election itself.<sup>22</sup>

**Finally.** He already won in the precursor case of *Marquez v. COMELEC*. There, the Court held that the COMELEC acted with grave abuse of discretion in declaring him a nuisance candidate in the 2019 Elections.<sup>23</sup> As it was, he again filed his COC for the 2022 National and Local Elections – a testament to his *bona fide* intention to run for office.<sup>24</sup> He even formulated a Program of Governance should he win the elections, *viz.*:

OUR VISION is a harmonious animal welfare system of advocacy and machinery that genuinely fosters and safeguards the well-being of the animals and their humans in support of the principle that ANIMAL WELFARE IS HUMAN WELFARE.

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<sup>20</sup> Id. at 8-10.

<sup>21</sup> Id. at 9-10.

<sup>22</sup> Id. at 10-11.

<sup>23</sup> *Marquez v. COMELEC*, G.R. No. 244274, September 3, 2019, 917 SCRA 502 [Per *J. Jardeleza*, En Banc].

<sup>24</sup> *Rollo*, p. 14.

## OUR MISSION Statements:

- 1) to strengthen the mandate of the government agencies and local government units (LGUs) to protect and uphold the welfare of animals, as well as their humans, through relevant programs, infrastructure, animal-friendly pounds, and [judicial] system.
- 2) to make responsible pet owners out of Filipinos to resolve the proliferation of stray pets and attain a Rabies-Free Philippines;
- 3) to empower animal owners, animal lovers, and advocates, to fight and prevent animal abuse;
- 4) to delegate advocacy groups and animal shelters as partners of government in education, adoption, rescue, health care, spay and neuter, shelter management, and animal welfare enforcement;
- 5) to encourage the participation and support of the private and business sectors, and non-governmental organizations (NGOs), in the joint programs of the government and advocacy groups;
- 6) to legislate animal welfare related laws and regulations, and amend existing laws, to guarantee the protection and welfare of animals and prescribe stricter penalties against animal abusers.<sup>25</sup>

Thus, the COMELEC once again acted in grave abuse of discretion in declaring him anew as a nuisance candidate.

In the interim, Marquez sought the issuance of a Writ of Injunction and/or Temporary Restraining Order (TRO) to enjoin the COMELEC from implementing its Resolutions dated December 13, 2021 and January 3, 2022.<sup>26</sup> He also sent the Court a Letter dated January 13, 2022,<sup>27</sup> expressing his fear “of not being able to secure a TRO in time” which could result in the exclusion of his name from the printed ballots.<sup>28</sup>

By Resolution<sup>29</sup> dated January 19, 2022, the Court, after due consideration, issued a TRO, enjoining COMELEC from implementing its assailed Resolutions, *viz.*:

NOW, THEREFORE, respondent COMELEC is hereby required to **COMMENT** on the petition within a **NON-EXTENDIBLE** period of ten (10) days from notice hereof. Meanwhile, a **TEMPORARY RESTRAINING ORDER** is **ISSUED**, effective immediately and continuing until further orders from this Court, enjoining You,

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<sup>25</sup> Id. at 15.

<sup>26</sup> Id. at 16.

<sup>27</sup> Id. at 68-69.

<sup>28</sup> Id.

<sup>29</sup> Id. at 67-A-67-C

respondent COMELEC, your agents, representatives, or persons acting in your place or stead, from enforcing the assailed Resolutions dated December 13, 2021 and January 3, 2022 in SPA No. 21-056 (DC)(MP).<sup>30</sup>

Thereafter, Marquez sent the Court two Letters dated January 26 and 27, 2022,<sup>31</sup> informing it that the COMELEC “proceeded with the printing of the ballots, without announcing the Final List of Candidates, in a bid to bar candidates [like him] who have secured TROs” from protesting their exclusion therefrom,<sup>32</sup> and that the COMELEC “conveniently misinterpreted the TRO” because it did not construe the TRO as a prohibition from printing ballots.<sup>33</sup>

Marquez also filed an Extremely Urgent Motion To Direct Respondent COMELEC to Include Petitioner’s Name in All the Official Ballots to be Used in the May 9, 2022 Elections dated January 28, 2022 (Extremely Urgent Motion),<sup>34</sup> based on news reports that the COMELEC “had already started the printing of the Automated Election System ballots...despite the [Supreme Court’s] issuance of [the] TRO.”<sup>35</sup>

On February 2, 2022, the COMELEC, through the **Office of the Solicitor General**, filed its Comment<sup>36</sup> (with Motion to Lift Temporary Restraining Order) dated January 31, 2022 and asserted that Marquez raised mere errors of judgment allegedly committed by the COMELEC when it declared him a nuisance candidate. Hence, the petition is beyond the ambit of Rule 65.

In any event, Marquez failed to establish his *bona fide* intention to run for Senator. He did not adduce sufficient evidence to support his claims pertaining to his alleged popularity, social media presence, networks and achievements.<sup>37</sup> He, too, showed no proof that he could persuade a sufficient portion of the electorate to support his candidacy within the short span of the campaign period.<sup>38</sup>

Notably, the State has a compelling interest to exclude nuisance candidates, such as Marquez, from the ballot.<sup>39</sup> For nuisance candidates impose additional logistical challenges on the already difficult task of conducting an election.<sup>40</sup>

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<sup>30</sup> Id. at 67-B.

<sup>31</sup> Id. at 74-76; 91-94.

<sup>32</sup> Id. at 74.

<sup>33</sup> Id. at 93.

<sup>34</sup> Id. at 107-111.

<sup>35</sup> Id. at 108.

<sup>36</sup> Id. at 124-154.

<sup>37</sup> Id. at 136 and 139.

<sup>38</sup> Id. at 138.

<sup>39</sup> Id. at 130.

<sup>40</sup> Id. at 130-131.

As such, the COMELEC prayed that the TRO issued by the Court on January 19, 2022 be lifted since Marquez allegedly failed to show that he stands to suffer any grave and irreparable injury in the absence of an injunctive relief.<sup>41</sup>

Taking heed of the Letters dated January 13, 26, and 27, 2022<sup>42</sup> of Marquez, as well as his Extremely Urgent Motion, the Court, under Resolution dated February 22, 2022, directed the COMELEC to file a comment. Marquez then filed an Extremely Urgent Reiterative Motion to Direct Respondent COMELEC to Include Petitioner's Name in All the Official Ballots to be Used in the May 9, 2022 Elections dated March 16, 2022 (Extremely Urgent Reiterative Motion).

The Court reiterated its directive in its subsequent Resolution<sup>43</sup> dated March 22, 2022.

Eventually, the COMELEC filed its Comment<sup>44</sup> dated May 6, 2022 (May 6 Comment), where it maintained that it had no intention to impede, obstruct, or degrade the administration of justice by printing the ballots beginning January 23, 2022.<sup>45</sup> Crucial pre-election activities, including but not limited to the mandatory Pre-election Logic and Accuracy Tests (Pre-LAT), were entirely dependent on the timely completion of the printing of ballots.<sup>46</sup> It further claimed that it did not commit any belligerent or contumacious act for it merely pursued its actions to avoid frustrating the conduct of orderly elections as ordained by the Constitution.<sup>47</sup> If the target timelines were not faithfully observed, then the whole electoral process would have suffered grave disruptions to the detriment of the electorate.<sup>48</sup> More important, the controversy had supposedly become moot because the ballots and other election-related equipment were already deployed to the various polling precincts in the country as of the filing of the May 6 Comment.<sup>49</sup>

### **Our Ruling**

First off, the petition has become moot with the conclusion of the 2022 National and Local Elections and the proclamation as senators-elect

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<sup>41</sup> Id. at 147-148.

<sup>42</sup> Id. at 68-69, 74-76, and 91-94.

<sup>43</sup> Id. at 255-A and 255-B.

<sup>44</sup> Id. at 325-331.

<sup>45</sup> Id. at 327-328 and 329.

<sup>46</sup> Id. at 328.

<sup>47</sup> Id. at 329.

<sup>48</sup> Id.

<sup>49</sup> Id.



of the top 12 senatorial candidates receiving the highest number of votes. “[A petition] ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.”<sup>50</sup>

Indeed, the **election and proclamation of the 12 senators-elect has put an end** to the petition of Marquez to be included in the list of Senatorial candidates for the May 2022 National and Local Elections. In other words, the **complained actions** by the COMELEC (*i.e.*, the exclusion of the name of Marquez from the list of candidates for Senator in the May 2022 National and Local Elections) **even if wrong** will not **undo** the outcome of the election.

But despite the mootness of a case, the Court may still render a decision if it finds that: (a) there is a grave violation of the Constitution; (2) the case involves a situation of exceptional character and is of paramount public interest; (3) the issues raised require the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) **the case is capable of repetition yet evading review.**<sup>51</sup>

Just like in the first foray of Marquez against the COMELEC in *Marquez v. COMELEC*,<sup>52</sup> we find his situation here to be one capable of repetition, yet, evading review. To be sure, the COMELEC, left unchecked, would be free to deploy the grounds it had utilized to declare Marquez a nuisance candidate as against other candidates in subsequent elections. **Too, a similar TRO** which the Court may issue in future election cases may again be emasculated by perpetuating the erroneous exclusion of a qualified candidate, thus, improperly denying the qualified candidate his or her opportunity to run for public office and the electorate the right to vote for him or her.

As stated, this is not the first time Marquez came to the Court for affirmative relief against his declaration as a nuisance candidate. The first

<sup>50</sup> *Marquez v. COMELEC, et al.*, G.R. No. 238274, (Notice) November 9, 2021 citing *ABS-CBN Corp. v. National Telecommunications Commission*, G.R. No. 252119, August 25, 2020 [Per J. Perlas-Bernabe, En Banc].

<sup>51</sup> See *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines), et al.*, 791 Phil. 243, 259 (2016) [Per J. Perlas-Bernabe, En Banc] citing *Belgica v. Ochoa, Jr.*, 721 Phil. 416, 522 (2013) [Per J. Jardeleza, En Banc].

<sup>52</sup> *Supra* note 23.

time was in relation to the 2019 Elections where he filed a COC for Senator but was declared a nuisance due to *alleged lack of proof of his financial capacity to wage a nationwide campaign*.<sup>53</sup>

Consequently, he filed a Petition for Certiorari in *Marquez v. COMELEC* where the Court nullified the dispositions of the COMELEC because the property requirement used against Marquez was “inconsistent with the nature and essence of the Republican system ordained in our Constitution and the principle of social justice underlying the same x x x,” *viz.*:<sup>54</sup>

The COMELEC gravely abused its discretion when it declared Marquez a nuisance candidate *on the ground of lack of proof of his financial capacity to wage a nationwide campaign*. By so doing, the COMELEC has effectively imposed a “property qualifications are inconsistent with the nature and essence of the Republican system ordained in our Constitution and the principle of social justice underlying the same x x x” already and clearly proscribed under Our ruling in *Maquera*. (sic)

x x x

**The COMELEC cannot conflate the *bona fide* intention to run with a financial capacity requirement.**

x x x

It bears reiterating that the Court acknowledges the COMELEC’s legitimate objective in weeding out candidates who have not evinced a *bona fide* intention to run for office from the electoral process. Any measure designed to accomplish the said objective should, however, not be arbitrary and oppressive and should not contravene the Republican system ordained in our Constitution. Unfortunately, the COMELEC’s preferred standard falls short of what is constitutionally permissible.

This time, the COMELEC declared Marquez a nuisance candidate and thereafter canceled his COC in view of his supposed failure to establish his *bona fide* intention to run as Senator in the 2022 National and Local Elections because he is virtually unknown<sup>55</sup> and has no political party to help him become known to the electorate.<sup>56</sup>

We disagree.

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<sup>53</sup> Id.

<sup>54</sup> Id.

<sup>55</sup> Id. at 49-51.

<sup>56</sup> Id. at 51.

**First.** While the COMELEC, in this instance, has cited an apparently different ground to declare Marquez a nuisance candidate, that is, he is “virtually not known to the entire country”<sup>57</sup> and has no political party to make himself known,<sup>58</sup> these circumstances are closely intertwined to the ground previously used against him in *Marquez v. COMELEC*, *i.e.*, that he had no financial capacity to wage a nationwide campaign. The COMELEC is merely referring to it by another name.

As it was, the COMELEC accorded Marquez the status of an alleged nuisance candidate since he supposedly lacked the ability “to [make] himself known to the entire country and the electorate”<sup>59</sup> and “to make himself known nationwide, enough that he could persuade a sufficient portion of the electorate to support his candidacy within the short span of the campaign period.”<sup>60</sup> More, the COMELEC faulted Marquez for not being a member of a political party as this “decreases [his] chances for such a rigorous campaign.”<sup>61</sup> The lack of a “nationwide network or organization of supporters to assist [Marquez] during the campaign so that he may be known nationally within the short campaign period” was also taken against him. Finally, the COMELEC opined that Marquez “does [not] appear to be personally capable of persuading a substantial number of voters from different parts of the country.”<sup>62</sup>

In fine, the so-called nuisance status of Marquez, although apparently grounded on his supposed absence of *bona fide* intent to run for public office,<sup>63</sup> actually hinged on his perceived lack of capacity to wage a successful election campaign. In this regard, the Omnibus Election Code provides that an “election campaign” refers to any act designed to promote the election or defeat of a particular candidate which shall include:

- (1) Forming organizations, associations, clubs, committees or other groups of persons for the purpose of soliciting votes and/or undertaking any campaign for or against a candidate;
- (2) Holding political caucuses, conferences, meetings, rallies, parades, or other similar assemblies, for the purpose of soliciting votes and/or undertaking any campaign or propaganda for or against a candidate;
- (3) Making speeches, announcements or commentaries, or holding interviews for or against the election of any candidate for public office;
- (4) Publishing or distributing campaign literature or materials designed to support or oppose the election of any candidate; or

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<sup>57</sup> Id. at 50-51.

<sup>58</sup> Id. at 26.

<sup>59</sup> Id. at 48.

<sup>60</sup> Id. at 49.

<sup>61</sup> Id. at 26.

<sup>62</sup> Id.

<sup>63</sup> Id. at 49-51.

(5) Directly or indirectly soliciting votes, pledges or support for or against a candidate.<sup>64</sup>

History would show that election campaigns invariably entail the expenditure of funds<sup>65</sup> regardless of the methodology employed. A simple door-to-door campaign and the airing of political advertisements on the radio and television, while varied in scope, both require candidates to spend money. The difference lies only in how much money a candidate is willing, able, and allowed<sup>66</sup> to spend. Hence, for equating the perceived inability of Marquez to mount an election campaign—with his supposed absence of *bona fide* intention to run for office, the COMELEC indirectly violated the proscription against conflating a candidate's financial capacity with *bona fide* intention to run as *Marquez v. COMELEC* had aptly decreed.

Verily, the grounds for the disqualification of Marquez in this case are in truth shrouded property qualifications employed by the COMELEC to disqualify an otherwise qualified candidate. In other words, the attempt of the COMELEC to pass off the inability of Marquez to wage an election campaign as an indication of lack of *bona fide* intent to run for office is unconstitutional and will not be allowed by the Court. For what cannot be done directly, cannot be done indirectly.

**Another.** The COMELEC unfairly shifted to Marquez the burden of proving his genuine intention to run for office. As the COMELEC itself held, “he who alleges must prove.”<sup>67</sup> Thus, it is the COMELEC Law Department which should adduce evidence in support of its petition to declare Marquez a nuisance candidate, not the other way around.

In administrative cases, such as election cases,<sup>68</sup> the burden of proof falls on the complainant.<sup>69</sup> When the complainant fails to show in a satisfactory manner the facts upon which he bases his claims, the respondent is under no obligation to prove his exception or defense.<sup>70</sup>

<sup>64</sup> Omnibus Election Code, Article X, Section 79(b); COMELEC Resolution No. 10730, Section 1(4), November 17, 2021.

<sup>65</sup> See *Gonzales v. COMELEC*, In the Matter of Petition for Declaratory Relief Re: Constitutionality of Republic Act 4880, 137 Phil. 471 (1969) [Per J. Fernando, En Banc], Dissenting Opinion of J. Ruiz Castro's, p. 526.

<sup>66</sup> Republic Act No. 7166, Section 13; COMELEC Resolution No. 10730, Section 5, November 17, 2021.

<sup>67</sup> *Rollo*, p. 49.

<sup>68</sup> *Francisco v. COMELEC*, 831 Phil. 106, 126 (2018) [Per J. Velasco, Jr., En Banc]; See *Macarambon, Jr. v. Balindong*, HRET Case No. 10-056(EP), February 18, 2013.

<sup>69</sup> *National Bureau of Investigation v. Najera*, G.R. No. 237522, June 30, 2020 [Per J. Lopez, Second Division]; See *De Jesus v. Guerrero III*, 614 Phil. 520, 529 (2009) [Per J. Quisumbing, Second Division].

<sup>70</sup> *National Bureau of Investigation v. Najera*, supra; See *Quintos v. Department of Agrarian Reform Adjudication Board*, 726 Phil. 366, 375 (2014) [Per J. Perlas-Bernabe, Second Division].

To repeat, the burden is upon the COMELEC to prove, by substantial evidence, that the candidacy of Marquez falls within any of the three (3) grounds provided in Section 69 of the Omnibus Election Code.

As shown, the COMELEC relied on bare allegations by its Law Department in concluding that Marquez is a nuisance candidate, thus: (a) Marquez has no *bona fide* intention to run for Senator as he is virtually unknown to the entire country;<sup>71</sup> and (b) Marquez is running for a national position as an independent candidate, which only “adds a burden to the task of making himself known to the entire country within the short span of time during the campaign period.”<sup>72</sup> To be sure, allegation, without more, is not evidence.<sup>73</sup>

**To emphasize**, *bona fide* intent is present when a candidate is able to demonstrate that he or she is serious in running for office.<sup>74</sup> Several circumstances belie the COMELEC’s conclusion that Marquez did not have any *bona fide* intention to run for Senator. On the contrary, Marquez has been consistently and vigorously asserting his right to be voted for. Consider:

- His COC is a sworn document wherein he declared his candidacy for the position of Senator;
- This is not the first time he filed a COC;
- Though he was initially declared a nuisance candidate in the 2019 Elections, he availed of judicial remedies to assert his right and **prevailed before this Court**;
- Now that the COMELEC canceled his COC for the second time, he once again sought redress before this Court to protect his interest.
- He exercised utmost vigilance in the protection of his candidacy. He wrote several letters,<sup>75</sup> and filed various motions<sup>76</sup> informing the Court of the actions of the COMELEC excluding his name from the official ballot as a candidate for Senator;
- He even crafted a Program of Governance in the event he wins the election.

Indeed, the intent of Marquez to run for an elective post is indubitable. For on two (2) separate occasions, he sought judicial remedy from this

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<sup>71</sup> *Rollo*, pp. 49-51.

<sup>72</sup> *Id.* at 48.

<sup>73</sup> See *Regio v. COMELEC*, 722 Phil. 664, 675 (2013) [Per *J. Velasco, Jr.*, En Banc].

<sup>74</sup> See *Zapanta v. COMELEC*, G.R. No. 233016, March 5, 2019, 894 SCRA 599 [Per *J. Leonen*, En Banc].

<sup>75</sup> *Rollo*, pp. 68-69, 74-76, and 91-94.

<sup>76</sup> *Id.* at 107-111.

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Court to claim the privilege to run for public office. It is contrary to human experience that a candidate would go through such a rigorous process, not once but twice, if he or she has actually no intent to run.

**Next.** The COMELEC considered non-membership in a political party as proof of Marquez's alleged lack of *bona fide* intent to run for the position of Senator.<sup>77</sup> Certainly, he should not be prejudiced by this fact alone, for neither the law nor the rules impose such requirement on persons intending to run for public office.<sup>78</sup>

On this score, Marquez even explained that there has been a marked influx of funding from sponsors and donors for animal welfare groups, as well as an increase in volunteers, rescuers and fellow advocates who collectively aspire for reform in the animal welfare system. For these reasons, he never felt the need to associate himself with any political party.<sup>79</sup>

Certainly, the COMELEC ought to balance its duty to ensure that the electoral process is clean, honest, orderly, and peaceful without conflating a candidate's *bona fide* intention to run with his or her capacity to wage a campaign, his or her political connections, alliances, or the lack thereof.

**Finally.** The COMELEC insists that Marquez is not virtually known to the entire country except possibly in the locality where he resides. Assuming this to be true, it does not, standing alone, suffice to declare one a nuisance candidate. In fact, it is not among the grounds for declaration of a nuisance candidate enumerated in Section 69 of the Omnibus Election Code.

Further, declaring one a nuisance candidate simply because he or she is not known to the entire country reduces the electoral process—a sacred instrument of democracy<sup>80</sup>—to a mere popularity contest. The matter of the candidate being known (or unknown) should not be taken against that candidate but is best left to the electorate. As it is, our democratic and republican state is based on effective representation. Thus, the electorate's choices must be protected and respected.<sup>81</sup>

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<sup>77</sup> Id. at 50-51.

<sup>78</sup> Omnibus Election Code, Section 69; COMELEC Resolution No. 9523, In the Matter of the Amendment to Rules 23, 24 and 25 of the COMELEC Rules of Procedure for Purposes of the 13 May 2013 National, Local and ARMM Elections and Subsequent Elections, September 25, 2012.

<sup>79</sup> *Rollo*, p. 38-39.

<sup>80</sup> *Chavez v. COMELEC*, 569 Phil. 155 (2003), Concurring Opinion of J. Sandoval-Gutierrez, p. 229.

<sup>81</sup> *Marquez v. COMELEC*, supra note 23, Separate Opinion of J. Leonen, p. 539.

Of note, nuisance candidates, as an evil to be remedied, do not justify the adoption of measures, not specifically indicated under our election laws or rules, which would consequently bar seemingly unpopular candidates from running for office.<sup>82</sup> On this score, we reckon with *Marquez v. COMELEC*, the first instance where Marquez sought aid from this Court for the protection of his opportunity to run for public office, viz.:

It bears reiterating that the Court acknowledges the COMELEC's legitimate objective in weeding out candidates who have not evinced a *bona fide* intention to run for office from the electoral process. **Any measure designed to accomplish the said objective should, however, not be arbitrary and oppressive and should not contravene the Republican system ordained in our Constitution.** Unfortunately, the COMELEC's preferred standard falls short of what is constitutionally permissible. (Emphasis supplied)

So must it be.

We now tackle the prayer of Marquez "to make the COMELEC suffer the pain of contempt of Court"<sup>83</sup> because it "brazenly and contumaciously exhibited contempt"<sup>84</sup> and "[was] bold enough to defy the Court"<sup>85</sup> in proceeding with its election preparations despite the Court's issuance of a TRO.

Contempt has been defined as "a willful disregard or disobedience of a public authority."<sup>86</sup> It comprehends a despising of the authority, justice or dignity of a court.<sup>87</sup> The power to punish contempt is exercised on the preservative and not on the vindictive principle. Only occasionally should a court invoke its inherent power to punish contempt to retain that respect without which the administration of justice may falter or fail.<sup>88</sup>

Here, the COMELEC has sufficiently demonstrated that it was not impelled by a desire to disrespect the authority of the Court when it proceeded with election preparations despite our issuance of a TRO.

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<sup>82</sup> *Marquez v. COMELEC*, supra note 23, citing *Maquera v. Borra*, 122 Phil. 412 (1965), Concurring Opinion of *J. Bengzon*, p. 420.

<sup>83</sup> *Rollo*, p. 93.

<sup>84</sup> *Id.* at 74.

<sup>85</sup> *Id.* at 76.

<sup>86</sup> WILLARD R. RIANO, CIVIL PROCEDURE, VOLUME II 476 (2012 Ed.) citing *Lorenzo Shipping Corporation v. Distribution Management Association of the Philippines*, 672 Phil. 1, 10 (2011) [Per *J. Bersamin*, First Division].

<sup>87</sup> *Id.*

<sup>88</sup> WILLARD R. RIANO, CIVIL PROCEDURE, VOLUME II 480 (2012 Ed.) citing *Habawel v. Court of Tax Appeals*, 672 Phil. 582, 603 (2011) [Per *J. Bersamin*, First Division].

Rather, it only sought to ensure that the 2022 National and Local Elections would take place on the second Monday of May—the time appointed by the 1987 Constitution,<sup>89</sup> viz.:

[A]t the time the TRO was issued, the COMELEC had already concluded several preparatory activities, which were pre-requisites to and thus were necessarily intertwined with the printing of the official ballots for the 9 May 2022 National and Local Elections.

In particular, the generation of the final ballot face templates started on 9 January 2022, which was followed by the loading of the finalized list of candidates in [COMELEC's] Election Management System (EMS) and the subsequent generation of the serialized machine-readable official ballots on 15 January 2022. In this process of serialization, the machine-readable official ballot of every registered voter was assigned a unique serial number. Without a serial number, the ballot would be rejected by the Vote-Counting Machines (VCM).

Thereafter, the configuration of the Secure Digital (SD) cards for use in the VCMs and the preparation of the credentials for the Electoral Boards (EB) was conducted on 19 January 2022. The SD cards were fully configured and synchronized in conjunction with the EMS database and with EB credentials. They were made to match completely with the serialized machine-readable official ballots in order to function with the assigned VCM on a one-is-to-one basis. At that point, the serialized ballots were already duly prepared for printing, which proceeded beginning 23 January 2022. (Emphasis in the original; citations omitted)

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**[A]ny modification or change [i]n the machine-readable ballots after their serialization and the configuration of the SD cards may no longer be implemented without jeopardizing the timely conduct of the 2022 [National and Local] Elections.** This is because any revision to the face of the serialized ballots would entail redoing the whole preparatory process starting from the generation of ballots.

Moreover, this would significantly reduce if not eliminate, the period allocated for the conduct of verification/accuracy tests and deployment of official ballots, VCMs, and other election-related paraphernalia in time for election day. To elaborate, there were crucial pre-election activities that were fully dependent on the timely completion of the printing of the official ballots.

The first one was the conduct of the Mandatory Pre-election Logic and Accuracy Tests (Pre-LAT) which referred to the testing of all components of the Automated Election System to ensure that they are fully functional. At the Pre-LAT stage, all 107,000 VCM boxes/kits and Consolidation Canvassing Systems (CCS) were checked for completion and were subsequently tested. The testing included setting up the configuration

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<sup>89</sup> 1987 Constitution, Article VI, Section 8.



for the clustered precincts, starting the VCM/CCS, scanning three (3) ballots in the VCM, closing the voting/counting, generating election returns/Certificate of Canvass, comparing the pre-determined results with the results printed in the reports, and transmitting the results to the next level CCS laptop and other servers.

The termination of the Pre-LAT stage then led to the deployment of the machine-readable official ballots and election-related materials all over the different polling precincts in the country. (Emphasis supplied)

The Court defers to the wisdom of the COMELEC, the Constitutional body charged with the power of enforcement and administration of all laws and regulations relative to the conduct of an election.<sup>90</sup> It possesses indubitable expertise in the field of elections<sup>91</sup> and was in the best position to determine what preparations were needed to ensure that the 2022 National and Local Elections would promptly take place.

The Court nevertheless agrees with Marquez that he has suffered yet another terrible injustice in the hands of the COMELEC.<sup>92</sup> For two consecutive elections, he was deprived of the opportunity to field his candidacy as a Senator of the Republic without any valid reason. In this instance, although Marquez promptly filed his pleadings before the COMELEC, the COMELEC Division resolved his case only after 53 days, while the COMELEC En Banc decided his case only after 17 days. In total, the COMELEC took 70 days to resolve his case. As the foremost expert in the field of elections, the COMELEC should have foreseen the outcome of its protracted resolution of a time-sensitive case.

Thus, to avoid a recurrence of similar incidents in the future, the COMELEC is strongly urged to adopt a practicable plan or timeline to ensure that all cases which may result in the inclusion or exclusion of a candidate from the ballot are resolved at the earliest possible time. In formulating the same, the COMELEC should bear in mind that its dispositions are subject to review by this Court and that the Court also needs ample time to resolve such cases prior to election day. It should further consider that the aggrieved party will likely seek injunctive relief from the Court which might affect its timeline for necessary election preparations.

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<sup>90</sup> See *Cayetano v. COMELEC*, 515 Phil. 485, 492-493 (2006) [Per J. Sandoval-Gutierrez, En Banc] citing *Buac v. COMELEC*, 465 Phil. 800, 811-812 [Per J. Puno, En Banc].

<sup>91</sup> *Cayetano v. COMELEC*, id. at 493.

<sup>92</sup> *Rollo*, p. 75.

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In any event, whatever practicable plan or timeline may be formulated by the COMELEC in this regard should ensure that election cases are promptly decided to prevent them from becoming moot as what happened here.

### CONCLUSION

All told, there was no cogent reason for the COMELEC to deny Marquez the opportunity to run for Senator. He has exhibited his steadfast desire and *bona fide* intent to run as Senator since 2019, when he first fought for his candidacy before this Court. His palpable intent cannot be negated by unsubstantiated claims that he is an unknown, or that he lacks the capacity to mount a nationwide campaign. Neither is his non-membership in a political party sufficient to declare him a nuisance candidate.

While the COMELEC cannot be faulted for zealously scrutinizing the qualifications of candidates for elective posts, it is reminded to be more circumspect in the pursuit of its mandate under the Constitution and the law.

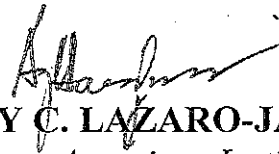
**ACCORDINGLY**, the petition is **PARTLY GRANTED**. The Resolution dated December 13, 2021 of the COMELEC Second Division in SPA Case No. 21-056(DC)(MP) and the Resolution dated January 3, 2022 of the COMELEC En Banc are **NULLIFIED**.

The prayer of Marquez for the inclusion of his name in all the official ballots as a candidate for Senator for the May 2022 National and Local Elections is **DECLARED MOOT**.

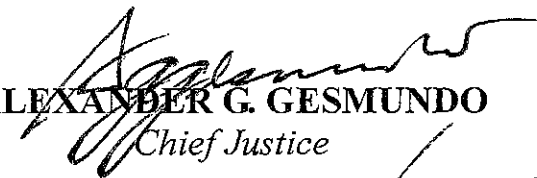
The prayer “to make the COMELEC suffer the pain of contempt of Court” because it “brazenly and contumaciously exhibited contempt” and “[was] bold enough to defy the Court” in proceeding with its election preparations despite the Court’s issuance of a TRO is **DENIED**.

To avoid a recurrence of similar incidents in the future, the COMELEC is strongly urged to adopt a practicable plan or timeline to ensure that all cases which may result in the exclusion of a candidate from the ballot are resolved at the earliest possible time.

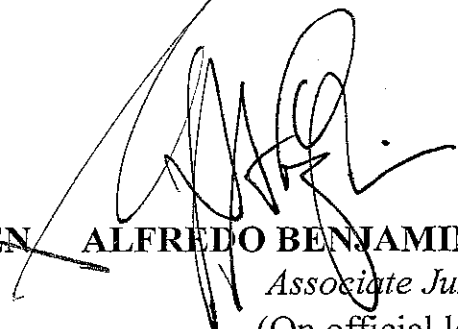
**SO ORDERED.**

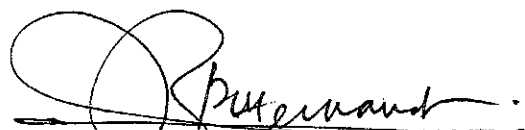
  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**WE CONCUR:**


  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

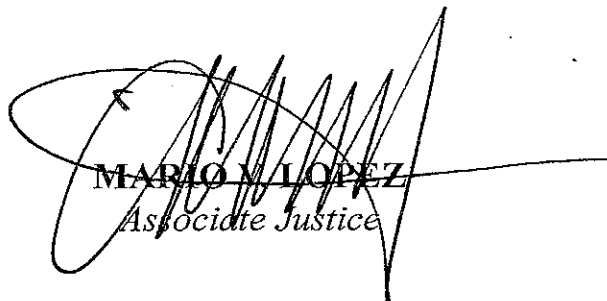
  
**MARVIC MARIO VICTOR F. LEONEN**  
*Senior Associate Justice*


  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
(On official leave)


  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

(No part)  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**MARIO M. LOPEZ**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JHOSEPH V. LOPEZ**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

(No part)  
**ANTONIO T. KHO, JR.**  
*Associate Justice*

  
**MARIA FILOMENA D. SINGH**  
*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's En Banc.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*