



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

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EN BANC

PRYDE HENRY A. TEVES,
Petitioner,

G.R. No. 262622

- versus -

**COMMISSION ON ELECTIONS,
ROEL R. DEGAMO, and GREGO
"RUEL" DEGAMO**
Respondents.

X-----X

GREGO "RUEL" G. DEGAMO,
Petitioner,

G.R. No. 262682

Present:
GISMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,*
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,**
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO,* and
SINGH, JJ.

- versus -

**COMMISSION ON ELECTIONS
AND ROEL R. DEGAMO,**
Respondents.

Promulgated:
February 14, 2023

[Signature]

* No part.

** On official leave.

X-----X

DECISION**LOPEZ, J. J.**

“An election is a moral horror, as bad as a battle except for the blood; a mud bath for every soul concerned in it.” – George Bernard Shaw

These two consolidated cases stemmed from the disqualification of Ruel Gaudia Degamo (*Ruel*) who used “Ruel Degamo” as the name to appear in the official ballot. Initially, Roel Degamo (*Roel*) filed a Petition for *Mandamus*, docketed as G.R. No. 261178, seeking to compel the Commission on Elections (*COMELEC*) *En Banc* to render a Decision, on the disqualification case. This was followed by two separate Petitions filed by Ruel and Pryde Henry A. Teves (*Teves*) as follows:

- a. G.R. No. 262622 – A Petition for *Certiorari* seeking the reversal of the Decision; and
- b. G.R. No. 262682 – A Petition for *Certiorari* with an application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction ascribing grave abuse of discretion on the part of the Commission on Elections Second Division and the Commission on Elections *En Banc*.

In a Resolution¹ dated September 13, 2022, G.R. No. 261178 was consolidated with G.R. No. 262622 and G.R. No. 262682.

Thereafter, with the resolution of the pending issues with the *COMELEC En Banc* and the respective manifestation of Teves and Ruel that they would no longer assail this Court’s Resolution in G.R. No. 261178, a Resolution dated November 29, 2022 was issued by this Court deconsolidating G.R. No. 261178 from G.R. No. 262622 and G.R. No. 262682 and declaring G.R. No. 261178 as closed and terminated.²

Antecedents

On October 7, 2021, Roel R. Degamo (*Roel*) filed his Certificate of Candidacy for Governor of Negros Oriental under the Nacionalista Party. The

¹ *Rollo* (G.R. No. 261178, Vol. II) pp. 621-A–621-F.

² *Rollo* (G.R. No. 261178, Vol. IV) pp. 1926-A–1926-B.

④

following day, Ruel filed his Certificate of Candidacy as an independent candidate for the same position. Teves filed his own Certificate of Candidacy to be part of the gubernatorial race.³

On October 13, 2021, Roel filed a Petition before the COMELEC seeking to declare Ruel as a nuisance candidate, which was docketed as SPA No. 21-085 (DC). Roel claimed that Ruel filed his Certificate of Candidacy for governor to confuse the choice and mind of the voters in Negros Oriental. Roel further claimed that Ruel is a Gaudia and not a Degamo and that he has no birth certificate as he was merely raised by his surrogate guardians, the spouses Jaime Degamo and Irna Gaudia Degamo (*spouses Degamo*). To prove his claim, Roel submitted the sworn affidavit of Irna Gaudia Degamo.⁴

Roel also alleged that Ruel is devoid of means, influence, and machinery to launch a campaign for a position as high as governor since his income as an air conditioner mechanic will not be sufficient, and he has not held any elective or appointive position, not even as a *barangay tanod*. Roel asserted that Ruel was never called as a “Ruel” and it was only in his Certificate of Candidacy that he used such nickname.⁵

Lastly, Roel claimed that his political rival kidnapped, pressured and bribed a relative of Ruel for the latter to file a Certificate of Candidacy. The affidavit of Rifeniel Degamo (*Rifeniel*) was submitted to prove the narration of his abduction and the attempt to entice him and his two brothers. Roel further claimed that Rifeniel’s wife, Nanchie Degamo (*Nanchie*) was pressured and bribed to run for a congressional seat but later on withdrew her candidacy. Roel also offered the affidavit of Nanchie to this effect.⁶

In his Verified Answer, Ruel countered that he has all the qualifications and none of the disqualifications to run for a local elective office such as for the position of governor. Thus, there is no valid reason to cancel or deny due course his Certificate of Candidacy.⁷ Ruel claimed that to require him or anyone aspiring to run for a public office to have the “means, influence, and machinery” to wage a campaign is tantamount to imposing a property qualification that is not allowed by the Constitution or any law.⁸

Ruel denied the allegation of Roel that he is not a Degamo and that his nickname “Ruel” is merely a pretense. He asserted that his registered name is

³ *Rollo*, (G.R. No. 261178, Vol. I), p. 7.

⁴ *Id.* at 117.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 86.

⁸ *Id.*

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Ruel G. Degamo and has always been known as Ruel. He then claimed that the petition for him to be declared as a nuisance candidate is devoid of any factual and legal merit.⁹

On December 16, 2021, the COMELEC Second Division issued a Resolution granting the Petition of Roel, the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition is hereby **GRANTED**.

Respondent **RUEL DEGAMO** is **DECLARED** a **NUISANCE CANDIDATE**.

Accordingly, his Certificate of Candidacy for Governor of Negros Oriental in the May 9, 2022 National and Local Elections is hereby **DENIED DUE COURSE** and/or **CANCELLED**.¹⁰ (Emphasis in the original)

The COMELEC Second Division noted that Ruel is known as Ruel Gaudia and it is only recently that he opted to use Ruel Gaudia Degamo. The presence of two “Degamos”, one with a name “Roel” and another with the nickname “Ruel” will necessarily confuse the voters and render worthless a vote for a “Degamo” during the appreciation of votes.¹¹ It also declared that Ruel failed to demonstrate his *bona fide* intention to run for public office in good faith and that no evidence was presented to show that Ruel is aware of the rigors of a campaign, and has acted or is acting in response to these rigors.¹²

In a nutshell, the COMELEC Second Division decreed that Ruel knew for a fact that he does not stand a chance to win the elections but still moved forward towards a vain candidacy.¹³

On December 21, 2021, Ruel filed a Motion for Reconsideration¹⁴ arguing that the evidence presented by Roel is insufficient to justify the COMELEC Second Division’s finding that he is a Gaudia and not a Degamo.¹⁵ Ruel further averred that the COMELEC Second Division’s observation that he has no *bona fide* intention to run for public office rests on speculation rather than on evidence.¹⁶

⁹ Id. at 91.

¹⁰ Id. at 123–124.

¹¹ Id. at 121–122.

¹² Id. at 122–123.

¹³ Id. at 123.

¹⁴ Id. at 125–135.

¹⁵ Id. at 126.

¹⁶ Id. at 128.

On December 28, 2021, Roel filed an Opposition/Comment to the Motion for Reconsideration.¹⁷ Roel pointed out that Ruel has no birth certificate; Ruel is not a son, either biological or adopted, of the spouses Degamo; the spouses Degamo did not authorize him to use the surname Degamo; and that Ruel's biological parents are not surnamed Degamo.¹⁸ Roel pointed out that the COMELEC Second Division did not rely on the financial difficulty of Ruel when it declared that Ruel had no *bona fide* intention to run for governor. Instead, it ruled as such based on its findings that Ruel as used in Ruel Degamo's Certificate of Candidacy is confusingly similar with Roel Degamo; that he has no political party to back up his candidacy; that he has not proven himself to be an accomplished person which could capitalize his campaign; and that Ruel does not have the name or popularity in the province where he seeks to be voted upon.

On May 9, 2022, the electorate of Negros Oriental voted for local and national positions without the final resolution on the issue of whether Ruel is a nuisance candidate. As a result, the name "Ruel Gaudia Degamo" remained on the official ballot as candidate for governor. The results of the election tally resulted in Teves receiving the highest number of votes. Roel and Ruel came in second and third respectively. The tally of the votes are as follows:¹⁹

Candidate's Name	Votes Received
Pryde Henry A. Teves	301,319
Roel Ragay Degamo	281,773
Ruel Gaudia Degamo	49,953

On the same day of the Elections, Roel filed an Urgent Motion for Early Resolution of the Motion for Reconsideration stating that the resolution of the motion will decisively affect the outcome in the gubernatorial race.²⁰

The following day, Roel filed another manifestation and motion asking the COMELEC *En Banc* to resolve the pending motion for reconsideration. Roel asserted this Court's ruling in the 2018 case of *Santos v. Commission on Elections En Banc, et al.*,²¹ wherein the votes obtained by a nuisance candidate should be credited to a legitimate candidate with similar name, which crediting can be done even after the elections.²²

¹⁷ Id. at 136-139.

¹⁸ Id. at 136-137.

¹⁹ Id. at 17.

²⁰ Id. at 140.

²¹ 839 Phil. 672 (2018) [Per J. Gesmundo, *En Banc*].

²² *Rollo*, (G.R. No. 261178, Vol. I), pp. 142-143.

On June 1, 2022, the COMELEC *En Banc* noted and referred the matters raised by the parties to the *ponente*.²³

On June 20, 2022, Roel filed before this Court a Petition for *Mandamus*. He imputed that the COMELEC has the clear legal duty to resolve with dispatch the case for declaration of a nuisance candidate and the cancellation of the Certificate of Candidacy.²⁴ Roel asserted that by its nature, a case for declaration of nuisance candidates was purposely designed to be summary and expeditious. He also highlighted that as per the COMELEC Rules of Procedure and pertinent COMELEC Resolutions, the nuisance proceedings may be resolved with finality within a period of 30-60 days.²⁵

Roel ascribed that the COMELEC had committed gross and inexcusable neglect in allowing the longstanding motion for reconsideration to languish in delay and inaction even in the face of intervening motions to resolve filed by petitioner, all evincing gross, if not willful, disregard of the clear legal duty to resolve with dispatch cases for declaration of nuisance candidates.²⁶ Further, he elaborated that the case is deemed submitted for decision upon filing of petitioner's last pleading, brief or opposition as provided in the COMELEC Rules of Procedure. In response to the Motion for Reconsideration, petitioner filed a responsive pleading on December 28, 2021. Thus, the COMELEC had 15 days reckoned from December 28, 2021 or up to January 12, 2022 within which to resolve the Motion for Reconsideration.²⁷

Lastly, Roel avowed that the COMELEC has the clear legal duty to resolve with dispatch the case for declaration of nuisance candidate and cancellation of Certificate of Candidacy and that the filing of the Petition is anchored on the fact that he has no other plain, speedy and adequate remedy to prevent an impending miscarriage of justice and mockery of the electorate's will.²⁸

Roel prayed for the issuance of a Temporary Restraining Order *ex parte* to enjoin Teves from assuming the office and exercising the functions of Governor of the Province of Negros Oriental. He likewise asked this Court to issue the writ of *mandamus* directing the COMELEC *En Banc* to resolve and deny the Motion for Reconsideration filed by Ruel and to credit the 49,953 votes received by Ruel to his tally.²⁹

²³ Id. at 187.

²⁴ Id. at 20.

²⁵ Id. at 21.

²⁶ Id. at 23.

²⁷ Id. at 23-24.

²⁸ Id. at 25.

²⁹ Id. at 32.

On August 16, 2022, this Court granted the Petition for *Mandamus* filed by Roel. The dispositive portion of our Resolution reads:

WHEREFORE, the Court **GRANTS** the Petition. The Commission on Elections *En Banc* is **ORDERED** to resolve the pending motion for reconsideration in SPA No. 21-085 (DC) within ten (10) days from receipt of this Resolution. The Commission on Elections *En Banc* is **ORDERED** to furnish this Court a copy of the Resolution resolving respondent Grego G. Degamo's Motion for Reconsideration within five (5) days from the time of its promulgation.³⁰ (Emphasis in the original)

Then on September 1, 2022, the COMELEC *En Banc* issued its assailed Resolution denying the Motion for Reconsideration filed by Ruel, the decretal portion reads:

WHEREFORE, in view of the foregoing, the Commission on Elections (*En Banc*) **DENIES** Respondent's Motion for Reconsideration dated [December 21, 2021] and **AFFIRMS** the Resolution of the Commission on Elections (Second Division) promulgated on [December 16,] 2021. Accordingly, votes that Respondent may garner in the [May 9,] 2022 NLE shall be counted in favor of Petitioner.

SO ORDERED.³¹ (Emphasis in the original and italics omitted)

Subsequently, the COMELEC *En Banc* submitted to this Court a manifestation and compliance to Our August 16, 2022 directive to them, which this Court deemed as satisfactory compliance.

Meanwhile, on September 5, 2022, Teves filed a Petition for *Certiorari* and Prohibition with Urgent Application for the issuance of an *ex-parte* Temporary Restraining Order and/or *status quo* Order/Writ of Preliminary Injunction. The following day, Ruel filed a separate Petition for *Certiorari* with application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction.

As there was no injunctive relief issued by this Court, the COMELEC *En Banc* issued an order of execution on September 27, 2022, whereby it ordained:

IN VIEW OF THE FOREGOING, the Commission on Elections (*En Banc*) hereby:

1. NOTES the Comment/Opposition (Re: Motion for a Writ of Execution dated [September 7,] 2022) filed by Respondent on September 8,

³⁰ Id. at 411.

³¹ *Rollo*, (G.R. No. 261178, Vol. II), p. 524.



2022 and the Reply [To: the Petitioner's Comment to Entry of Appearance dated [September 7,] 2022] with Vehement Opposition [to: the Petitioner's Motion for Writ of Execution dated September 7, 2022] on filed by Intervenor Henry Pryde Teves on September 9, 2022.

2. GRANTS the *Motion for Execution* filed by **Petitioner ROEL RAGAY DEGAMO**. Let a *Writ of Execution* be issued implementing the Commission on Elections (*Second Division*) *Resolution* dated [December 16,] 2021, Commission on Elections (*En Banc*) *Resolution* dated [September 1,] 2022, and *Order with Explanation of Votes*.

3. CREATES a Special Provincial Board of Canvassers of the Province of Negros Oriental, to be composed of: x x x

4. DIRECTS, after due notice to the parties, the [Special Provincial Board of Canvassers] to perform the following:

- a. **CONVENE** on [October 3,] 2022 at 10:00 A.M., at the [Commission on Elections Session Hall, 8th Floor, Palacio del Gobernador Bldg., Intramuros, Manila;
- b. **ANNUL** the proclamation of HENRY PRYDE TEVES for Provincial Governor of Negros Oriental;
- c. **CREDIT** the votes obtained by GREGO DEGAMO in favor of ROEL RAGAY DEGAMO, pursuant to Section 5, Rule 24 of COMELEC Resolution No. 9523, as amended by Commission on Elections Resolution No. 9599, and the rulings of the Supreme Court in *Santos vs. [Commission on Elections]*, *Dela Cruz vs. COMELEC* and *Martinez III vs. House of Representatives Electoral Tribunal*;
- d. **AMEND/CORRECT**, the Certificate of Canvass of Votes and Proclamation for the Provincial Governor of Negros Oriental based on the Amended Statement of Votes by Precinct; and
- e. **PROCLAIM** the candidate who obtained the highest number of votes based on the Amended Statement of Votes by Precinct as the duly elected Governor of Negros Oriental.

x x x x

SO ORDERED.³² (Emphasis in the original)

On October 3, 2022, the Special Provincial Board of Canvassers convened and proclaimed Roel as the duly elected Governor of the Province of Negros Oriental. The following day, he took his oath of office before President Ferdinand Marcos, Jr.³³

³² *Rollo*, (G.R. No. 261178, Vol. III), p. 1110-1111.

³³ Last viewed November 15, 2022. <<https://www.philstar.com/nation/2022/10/06/2214573/new-negros-oriental-governor-degamo-takes-oath>>

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The Petitions and the consolidated comment

Teves claimed in G.R. No. 262622 that the COMELEC *En Banc* committed grave abuse of discretion when it ruled that Ruel is a nuisance candidate and the votes cast in his favor should be counted in favor of Roel instead.³⁴ Teves also stated that because of the active and very specific campaign launched against Ruel, the voters cannot be deemed to have been confused about the identity of the two individuals especially since Roel is a well-known public figure in the province.³⁵

Further, Teves pointed out that the 49,053 votes received by Ruel is not small enough to consider as the result of error or confusion on the part of the voters in choosing their desired gubernatorial candidate. He stressed that the number of voters in the present case are substantially more than the largest number of voters in favor of any nuisance candidate in jurisprudence.³⁶

Teves then alleged that the COMELEC failed to act on the anomalies surrounding the proceedings before it, particularly on the presence of an alleged COMELEC *En Banc* Resolution affirming the findings of the Second Division³⁷ and on its inaction on the prejudicial question presented by the case of *Balasbas, et al. v. Degamo*,³⁸ which sought to disqualify Degamo for violation of the three-term limit rule. He also raised violation of his right to due process as the effect of the implementation of the COMELEC Resolution would be for him to be summarily unseated without being afforded the opportunity to be heard on the matter.

For Ruel, he alleged in G.R. No. 262682 that the COMELEC *En Banc* clearly acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it completely disregarded the pending matters particularly the pendency of the case entitled *Balasbas, et al. v. Degamo*, docketed as SPA No. 21-052, with the COMELEC.³⁹ Ruel explained that *Balasbas* poses a prejudicial question because of the possibility of Roel being disqualified as a candidate in the 2022 Elections for having ran for his fourth consecutive term for the same position. He claimed that in the end, Roel may not be considered a "registered candidate for the same position" that has a personality to institute a petition for disqualification.⁴⁰

³⁴ *Rollo* (G.R. No. 262622, Vol. I), p. 28.

³⁵ *Id.* at 29.

³⁶ *Id.* at 33.

³⁷ *Id.* at 38.

³⁸ *Id.* at 39.

³⁹ *Rollo*, (G.R. No. 262682, Vol. I), p. 38.

⁴⁰ *Id.* at 42.

He also asserted that the COMELEC *En Banc* arbitrarily failed to act on the matter of the sham resolution, which cast doubt on the integrity of the proceedings of the disqualification case.⁴¹ He further claims that the COMELEC *En Banc* arbitrarily failed to rule on the issue of deliberate forum shopping on the part of Roel.⁴²

Ruel avowed that the COMELEC *En Banc* committed grave abuse of discretion when it failed to appreciate the concrete evidence that he has all the qualifications and none of the disqualifications to be a candidate for the position of Governor.⁴³ He further cited in his supplement to the Petition that this Court has ruled in the case of *Marquez v. Commission on Elections*⁴⁴ that unknowns and unaffiliated candidates are not nuisance candidates.⁴⁵ Additionally he states that the COMELEC *En Banc* erred in not recognizing that his surname is Degamo and that he has used Ruel since he was a child.⁴⁶

Ruel likewise averred that the COMELEC *En Banc* erred when it ruled in favor of Roel despite failing to prove his claim that Ruel is a nuisance candidate.⁴⁷ Ruel also stated that the COMELEC *En Banc* placed an imposition of financial capacity as a requirement to run for public office.⁴⁸

In his supplement to the Petition, Ruel claimed that the COMELEC *En Banc* railroaded the proceedings before it despite the lack of *quorum* and/or votes to implement the assailed Resolutions.⁴⁹

Roel countered in his consolidated comment that the COMELEC *En Banc* did not violate Teves' right to due process. He explained that the exclusion of Teves as party respondent in the nuisance proceedings against Ruel is consistent with the rules and does not violate the principle of due process as the rules require that only those sought to be disqualified should be impleaded. Roel also claimed that if Teves wanted to be heard, there was nothing that could have prevented him from intervening early on in the proceedings.⁵⁰ Roel emphasized that he impleaded Ruel in the petition for *mandamus* that he filed. Despite such fact, Teves did not participate in the succeeding COMELEC *En Banc* proceedings to resolve Ruel's motion for reconsideration. Roel further stated that Teves was even allowed to intervene

⁴¹ Id. at 45.

⁴² Id. at 48.

⁴³ Id.

⁴⁴ G.R. No. 258435, June 28, 2022 [Per J. Lazaro-Javier, *En Banc*].

⁴⁵ *Rollo*, (G.R. No. 262682, Vol. III), p. 1138.

⁴⁶ *Rollo*, (G.R. No. 262682, Vol. I), p. 57.

⁴⁷ Id. at 59.

⁴⁸ Id.

⁴⁹ *Rollo*, (G.R. No. 262682, Vol. III), p. 1137.

⁵⁰ Id. at 1095.

in the disqualification case but his motion to withhold the execution of the COMELEC Decision was denied.⁵¹

Roel defended the COMELEC *En Banc* in sustaining the Second Division Resolution that found Ruel a nuisance candidate.⁵² He belied the claims of Ruel that he has been using the name Ruel Degamo since childhood. He also declared that during the proceedings, not a single witness or document was presented to adequately support Ruel's claim.

Further, Roel claimed that the "overwhelming number of votes" received by Ruel speaks of the extent by which the electorate was confused by the similarity in the names in the ballot: Roel Degamo, the legitimate candidate, and Ruel Degamo, the nuisance candidate.⁵³

Roel raised that no error was committed by the COMELEC *En Banc* in crediting the votes cast for Ruel, to his tally. He claimed that the jurisprudential pronouncements from *Martinez v. House of Representative Electoral Tribunal, et al.*,⁵⁴ *Dela Cruz v. Commission on Elections, et al.*,⁵⁵ *Zapanta v. Commission on Elections*,⁵⁶ and *Santos v. Commission on Elections*,⁵⁷ consistently ruled that the votes cast for the nuisance candidate should be credited in favor of the *bona fide* candidate.⁵⁸ He further stated that the imputations of alleged irregularities – forum shopping, the "sham" resolution, and the *Balasbas* case – are more fictional than real, more tangential than substantial.⁵⁹

The COMELEC, through the Office of the Solicitor General (OSG), submitted its Consolidated Comment/Opposition⁶⁰ seeking the dismissal of the complaint on the ground of mootness. The OSG argues that the occurrence of supervening events, such as the COMELEC ruling on the Motion for Reconsideration, the proclamation, oath-taking, and the assumption of Roel as Governor of Negros Oriental renders the consolidated petitions moot.⁶¹ The OSG pointed out that the consolidated petitions do not fall within any of the exceptions to the rule on mootness.⁶²

⁵¹ Id. at 1096.

⁵² Id. at 1095.

⁵³ Id. at 1102.

⁵⁴ 624 Phil. 50 (2010) [Per J. Villarama, Jr., *En Banc*].

⁵⁵ 698 Phil. 548 (2012) [Per J. Villarama, Jr., *En Banc*].

⁵⁶ 848 Phil. 341 (2019) [Per J. Leonen, *En Banc*].

⁵⁷ *Supra* note 21.

⁵⁸ *Rollo*, (G.R. No. 262682, Vol. III), p. 1106.

⁵⁹ Id. at 1108.

⁶⁰ *Rollo*, (G.R. No. 261178, Vol. IV), p. 2071–2104.

⁶¹ Id. at 2084.

⁶² Id. at 2086.



The OSG further argues that the present petitions are incorrect remedies to settle the matter of who is the rightful governor of Negros Oriental. It also opines that the remedies sought by Ruel and Teves lies not with this Court but in an election contest or *quo warranto* proceedings.⁶³

The OSG also claims that the consolidated petitions should be dismissed for failure to establish a clear grave abuse of discretion on the part of the COMELEC.⁶⁴

Issue

This Court is confronted with the lone issue of whether the COMELEC erred in declaring Ruel as a nuisance candidate.

This Court's Ruling

The Petitions are without merit.

The concept of electoral controversies that challenges the results of the election or seeks the disqualification of a candidate started with Act No. 1582,⁶⁵ "*An Act to Provide for the Holding of Elections in the Philippine Islands, for the Organization of the Philippine Assembly, and for other purposes*" otherwise known as the Election Law. Section 27 of the Election Law reads:

Section. 27. *Election Contests.* — The Assembly shall be the judge of the elections, returns, and qualifications of its members. Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any candidate voted for at such election, which motion must be made within two weeks after the election, and such court shall have exclusive and final jurisdiction and shall forthwith **cause the registry lists and all ballots used at such election to be brought before it and examined**, and to appoint the necessary officers therefor and to fix their compensation, which shall be payable in the first instance out of the provincial treasury, and to issue its *mandamus* directed to the board of canvassers to correct its canvass in accordance with the facts as found. If in any case the court shall determine that no person was lawfully elected it shall forthwith so certify to the Governor-General, who shall order a special election to fill the offices in question as hereinbefore provided.

⁶³ Id. at 2090.

⁶⁴ Id. at 2092.

⁶⁵ Approved on January 9, 1907.

Before the court shall entertain any such motion the party making it shall give a bond in an amount to be fixed by the court with two sureties satisfactory to it, conditioned that he will pay all expenses and costs incident to such motion, or shall deposit cash in court in lieu of such bond. If the party paying such expenses and costs shall be successful they shall be taxed by the court and entered and be collectible as a judgment against the defeated party.

All proceedings under this section shall be upon motion with notice of not to exceed twenty days to all candidates voted for and not upon pleadings or by action, and shall be heard and determined by the court in the judicial district in which the election was held regardless of whether said court be at the time holding a regular or stated term. In such proceedings the registry list as finally corrected by the board of inspectors shall be conclusive as to who was entitled to vote at such election.

The clerk of the court in which any such contest is instituted shall give immediate notice of its institution and also of the determination thereof to the Executive Secretary.

At this point, the concept of election contest is limited to the revision and recount of ballots or an election protest. This is the obvious text in Section 27 of the Election Law, which gives authority to the Court of First Instance, now the Regional Trial Court, to cause the registry lists and all ballots used at such election to be questioned before it and examined. In short, only the proper counting of the manual votes as well as the integrity of the ballots are the concerns of the election contest under the Election Law. The qualifications of the candidates or any other concerns were not considered as electoral controversies that the electoral tribunals take cognizance.

It was only until the amendments to the Election Law brought about by Act No. 3387⁶⁶ that a remedy to question the qualifications of a candidate came about. Section 408 provides:

Section. 408. *Proceedings against an ineligible person.* — When an ineligible person is elected to a provincial or municipal office, his right thereto may be challenged by any elector of the province or municipality concerned by instituting special proceedings in the nature of *quo warranto* before the Court of First Instance or before the Supreme Court within two weeks after the proclamation of his election. The case shall be tried in accordance with the usual procedure in *quo warranto* provided by law, and shall be decided by the court within thirty days after the filing of the complaint.

At present, *Batas Pambansa Bilang* 881, otherwise known as the Omnibus Election Code, provides for avenues to challenge the results of an

⁶⁶ Entitled "Title of Act 3387", Approved on December 3, 1927.

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election: first, failure of election cases; second, pre-proclamation petitions; and third, election contests.⁶⁷

The Omnibus Election Code likewise provides for grounds to seek the disqualification of candidates on varying grounds provided under Sections 68 and 261. Another means to seek the disqualification of a candidate is provided in Section 69 of the Omnibus Election Code, which states:

Section. 69. *Nuisance candidates.* — The Commission on Elections may *motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no *bona fide* intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

As can be gleaned from the provision of Section 69 of the Omnibus Election Code there are two modes of assailing a nuisance candidacy. The first mode authorizes the COMELEC, on its own initiative, to declare a nuisance candidate provided it complies with the due process requirement.⁶⁸ This Court in *De Alban v. Commission on Elections, et al.*,⁶⁹ discussed the power of the COMELEC to deny the candidacy of a nuisance candidate even without the intervention of a petitioner. We elucidated in this manner:

Section 69 of the [Omnibus Election Code] empowers the [Commission on Elections] to “*motu proprio* or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy x x x” On the other hand, Section 5 of [Republic Act] No. 6646 provides that: “Section 5. Procedure in Cases of Nuisance Candidates. — (a) A Verified petition to declare a duly registered candidate as a nuisance candidate under Section 69 of *Batas Pambansa Blg. 881* shall be filed personally or through a duly authorized representative with the Commission by any registered candidate for the same office within five (5) days from the last day for the filing of certificates of candidacy. Filing by mail shall not be allowed.” Obviously, the words “*motu proprio*” in Section 69 of the [Omnibus Election Code] do not appear in Section 5 of RA No. 6646. Nevertheless, this omission can hardly be construed that the [Certificate of Candidacy] is already prevented from refusing due course or cancelling *motu proprio* the [Certificate of Candidacy] of a nuisance candidate. On this point, the Court reminds that implied repeal is frowned upon in this jurisdiction absent any irreconcilable conflict between the two laws x x x

⁶⁷ *Marcos, Jr. v. Robredo*, P.E.T. Case No. 005, February 16, 2021 [Per J. Leonen, Presidential Electoral Tribunal].

⁶⁸ *Timbol v. Commission on Elections, et al.*, 754 Phil. 578, 587 (2015) [Per J. Leonen, *En Banc*].

⁶⁹ G.R. No. 243968, March 22, 2022 [Per J. M. Lopez, *En Banc*].

Remarkably, even before the enactment of Section 69 of the [Omnibus Election Code], the Court already acknowledged the [Commission on Elections] authority to refuse due course to [Certificate of Candidacy] filed in bad faith pursuant to its mandate to ensure free, orderly, and honest elections. In subsequent cases, the Court held that limiting the names of candidates appearing on the ballots for those with "*bona fide*" intention to run for office is permissible. The Court observed that the greater the number of candidates, the greater opportunities for logistical confusion, not to mention the increased allocation of time and resources in preparation for election. As such, remedial actions should be available to alleviate the logistical hardships in the preparation and conduct of elections, whenever necessary and proper. Moreover, the Court stressed that the importance of barring nuisance candidates from participating in the electoral exercise is the avoidance of confusion and frustration in the democratic process by preventing a faithful determination of the true will of the electorate. It seeks to address the "dirty trick" employed by political rival operators to reduce the votes of the legitimate candidates due to the similarity of names and particularly benefitting from Commission on Elections "slow-moving decision-making." x x x

The second mode is *via* a verified Petition filed by any interested party. In *Santos*,⁷⁰ we summarized the salient decisions of this Court that ruled on petitions for disqualification under Section 69 of the Omnibus Election Code. Therein We stated:

The Court has resolved several petitions involving cases where the Commission on Elections declared a nuisance candidate before and after the elections.

In *Bautista v. COMELEC* (Bautista), the case involved the disqualification of Edwin "Efren" Bautista as a nuisance candidate for the position of mayor in Navotas because his name was confusingly similar to Cipriano "Efren" Bautista and he had no financial means to support a campaign. Several days before the election or on April 30, 1998, the Commission on Elections issued a resolution declaring Edwin Bautista as a nuisance candidate and ordered the cancellation of his [Certificate of Candidacy]. A motion for reconsideration was filed and it was only resolved by Commission on Elections on May 13, 1998, or after the elections. Thus, a separate tally for "EFREN BAUTISTA," "EFREN," "E. BAUTISTA," and "BAUTISTA" were made by the municipal board of canvassers. Cipriano Bautista filed a petition to declare illegal the proceedings of the municipal board of canvassers, but, it was denied by the [Commission on Elections] stating that the separate tallies should be considered as stray votes.

On appeal, the Court reversed the Commission on Elections. It ruled that the separate tallies were made to remedy any prejudice that may be caused by the inclusion of a potential nuisance candidate. Such inclusion was brought about by technicality, specifically Edwin Bautista's filing of a motion for reconsideration, which prevented the April 30, 1998 resolution from becoming final at that time. Ideally, the matter should have been

⁷⁰ 839 Phil. 672 (2018) [Per J. Gesmundo, *En Banc*].

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resolved with finality prior to election day. Its pendency on election day exposed the evils brought about by the inclusion of a nuisance candidate.

The Court further held therein that the votes separately tallied were not stray votes. It emphasized that a stray vote is invalid because there is no way of determining the real intention of the voter. In that case, however, it was clear that the votes for Edwin "Efren" Bautista were actually intended by the electorate for Cipriano "Efren" Bautista, thus, the votes for Edwin "Efren" Bautista should be credited in favor of Cipriano "Efren" Bautista. The Court also underscored that:

As we said earlier, the instant petition is laden with an issue which involves several ramifications. Matters tend to get complicated when technical rules are strictly applied. True it is, the disqualification of Edwin Bautista was not yet final on election day. However, it is also true that the electorate of Navotas was informed of such disqualification. The voters had constructive as well as actual knowledge of the action of the [Commission on Elections] delisting Edwin Bautista as a candidate for mayor. Technicalities should not be permitted to defeat the intention of the voter, especially so if that intention is discoverable from the ballot itself, as in this case.

Similarly, *Martinez III v. House of Representatives Electoral Tribunal* (Martinez III) involved a petition to declare Edilito C. Martinez a nuisance candidate for the position of representative in the fourth legislative district of Cebu because his name was confusingly similar with Celestino A. Martinez III. The Commission on Elections rendered a decision declaring Edilito Martinez as a nuisance candidate only on June 12, 2007, or almost one (1) month after the elections. Thus, the jurisdiction regarding the election was transferred to the House of Representatives Electoral Tribunal (HRET) and Celestino Martinez III filed an election protest therein against the winning candidate Benhur Salimbangon. The HRET ruled that the ballots containing "MARTINEZ" and "C. MARTINEZ" should not be counted in favor of Celestino Martinez III because Edilito Martinez was not yet declared a nuisance candidate at the time of the elections.

The Court reversed the HRET and held that the votes for "MARTINEZ" and "C. MARTINEZ" should have been counted in favor of Celestino Martinez III because such votes could not have been intended for Edilito C. Martinez, who was declared a nuisance candidate in a final judgment. It emphasized that the candidacy of Edilito C. Martinez was obviously meant to confuse the electorate. The Court also stated that Celestino Martinez III should not have been prejudiced by the COMELEC's lethargy in resolving the nuisance case. It was explained therein:

Enscorced in our jurisprudence is the well-founded rule that laws and statutes governing election contests especially appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities. An election protest is imbued with public interest so much so that the need to dispel uncertainties which becloud the real choice of the people is imperative. The prohibition against nuisance candidates is

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aimed precisely at preventing uncertainty and confusion in ascertaining the true will of the electorate. Thus, in certain situations as in the case at bar, final judgments declaring a nuisance candidate should effectively cancel the certificate of candidacy filed by such candidate as of election day. Otherwise, potential nuisance candidates will continue to put the electoral process into mockery by filing certificates of candidacy at the last minute and delaying resolution of any petition to declare them as nuisance candidates until elections are held and the votes counted and canvassed.

Recently, in *Dela Cruz v. Commission on Elections* (Dela Cruz), a petition to declare Aurelio Dela Cruz a nuisance candidate for the position of vice-mayor of Bugasong, Antique was filed because his name was confusingly similar with the name of Casimir Dela Cruz and the former did not have the financial capacity to campaign for the elections. On January 29, 2010, the Commission on Elections declared Aurelio Dela Cruz a nuisance candidate, however, his name was not deleted in the certified list of candidates and he still received votes during the automated elections. In its Resolution No. 8844, the Commission on Elections stated that the votes for Aurelio Dela Cruz, a nuisance candidate, should be considered stray. Thus, Casimir Dela Cruz filed a petition for *certiorari* before the Court to annul and set aside the said resolution.

In reversing the [Commission on Elections], the Court ruled that even in the automated elections, the votes for the nuisance candidate should still be credited to the legitimate candidate. It held that the previous Commission on Elections Resolution No. 4116 — declaring that the vote cast for a nuisance candidate, who had the same surname as the legitimate candidate, should be counted in favor of the latter — remains good law. The Court underscored that:

x x x the possibility of confusion in names of candidates if the names of nuisance candidates remained on the ballots on election day, cannot be discounted or eliminated, even under the automated voting system especially considering that voters who mistakenly shaded the oval beside the name of the nuisance candidate instead of the *bona fide* candidate they intended to vote for could no longer ask for replacement ballots to correct the same.

Finally, upholding the former rule in Resolution No. 4116 is more consistent with the rule well-ensconced in our jurisprudence that laws and statutes governing election contests especially appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities. Indeed, as our electoral experience had demonstrated, such infirmities and delays in the delisting of nuisance candidates from both the Certified List of Candidates and Official Ballots only made possible the very evil sought to be prevented by the exclusion of nuisance candidates during elections.

Accordingly, the Court consistently declared that the votes cast for the nuisance candidate must be credited in favor of the legitimate candidate with a similar name to give effect to, rather than frustrate, the will of the voters, even if the declaration of the nuisance candidate became final only after the elections.

We now proceed in discussing the merits of the present case.

The COMELEC did not commit grave abuse of discretion

In a Petition for *Certiorari* under Rule 64, in relation to Rule 65 of the Rules of Court, the main issue to be resolved is whether the tribunal committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolution. This Court consistently defined grave abuse of discretion as:

By grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.⁷¹

It is incumbent upon the persons ascribing grave abuse of discretion to prove such as a fact. Otherwise, this Court cannot set aside the judgment of the respondent. This is especially true in the case of the COMELEC, being a specialized agency tasked with the supervision of elections all over the country. As such, we shall not interfere with its factual findings, conclusions, rulings and decisions rendered on matters falling within its competence.⁷²

In the present case, we find that the petitioners failed to prove that the COMELEC committed grave abuse of discretion in declaring Ruel R. Degamo as a nuisance candidate. The pertinent portion of the COMELEC *En Banc*'s Decision reads:

Upon careful review, the Motion for Reconsideration reveals that it was not able to raise new matters or issues that would justify the reversal of the Assailed Resolution. Respondent merely reiterated his previous assertions before the Commission [on Elections] (Second Division).

⁷¹ *Land Transportation Franchising and Regulatory Board v. Valenzuela*, 848 Phil. 917 (2019) [Per J. Perlas-Bernabe, Second Division].

⁷² *Dela Cruz v. Commission on Elections*, 698 Phil. 548, 559 (2012) [Per J. Villarama, *En Banc*].

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Primarily, it bears stressing that the conclusion of the Commission [on Elections] (Second Division) rested on the finding that Respondent filed his [Certificate of Candidacy] to confuse voters, such that, viz:

x x x x

In this case, Petitioner asserts that Respondent filed his Certificate of Candidacy to confuse the voters.

This Commission on Elections (Second Division) agrees.

The similarity between the registered surnames and nicknames of Petitioner and Respondent, "Degamo," and "Roel" or "Ruel", respectively, could potentially cause confusion among the voters. In the case of *Martinez v. HRET*, the Supreme Court had occasion to explain the rationale behind disqualifying nuisance candidates particularly whose names would merely cause confusion.

x x x x

In the instant case, the name which Petitioner wrote in his [Certificate of Candidacy to appear in the ballot, "DEGAMO, ROEL NP"] [*vis-à-vis*] the name which Respondent wrote in his [Certificate of Candidacy] to appear in the ballot, "DEGAMO, RUEL" are almost the same with a vowel of difference. Respondent is known by his name "Grego" but suddenly wants to use "Ruel" for the 2022 NLE. Respondent knows that he is a GAUDIA but, for purposes of the 2022 NLE, he decides to use DEGAMO, the surname of those who has taken custody of him but has not legally adopted him. All of these evinces bad faith on the part of Respondent, clearly, he has no [*bona fide*] intention to run for gubernatorial seat in Negros Oriental.

More importantly, in Respondent's choice to use his purported surname "Degamo" and suddenly electing "Ruel" as his nickname would necessarily confuse him with Petitioner whose name is "Roel Ragay Degamo". That, while Respondent focused so much to persuade Us, and emphasized his submitted exhibits, that his surname is also a "Degamo" and not "Gaudia", he failed to provide proof that he is legitimately known as "Ruel Degamo". At this point, we are centered on the fact that, he has not persuaded us that using "Ruel Degamo" was not intended to confuse voters, as found by the Commission on Elections (Second Division).⁷³

It was pointed out during the deliberations of this case that the sentence "*At this point, we are centered on the fact that, he has not persuaded us that using 'Ruel Degamo' was not intended to confuse voters, as found by the COMELEC (Second Division)*" means that the COMELEC *En Banc* erroneously placed the burden of proof on Ruel to show that he is not a nuisance candidate instead of upon Roel who pleaded that Ruel be declared a nuisance candidate. We disagree.

⁷³ *Rollo*, (G.R. No. 262622, Vol. I), p. 70.

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A careful reading of the above-quoted provision would show that the COMELEC *En Banc* has already made a determination that “Ruel” Degamo was in bad faith in using such name because he was actually known to be “Grego” but suddenly wants to use “Ruel” in the 2022 National and Local Elections. Moreso, he knows that he is a Gaudia but suddenly used Degamo for purposes of the 2022 National and Local Elections.

These are factual findings of a specialized agency, which this Court accords respect, and will not be reversed in the absence of any exceptional circumstance. To recapitulate, when Roel filed his Petition to declare Ruel as a nuisance candidate, he presented affidavits supporting his claim that Ruel is not a Degamo, and that he was merely forced to use the said name. The COMELEC gave more weight to the pieces of evidence submitted by Roel. Ultimately, the burden of evidence shifted to Ruel to prove otherwise. As the name of Roel and Ruel can only be separated by a vowel and in fact, pronounced in the same way, which causes confusion, this led the COMELEC *En Banc* to pronounce that “*he has not persuaded us that using “Ruel Degamo” was not intended to confuse voters.*”

Moreover, as correctly pointed out by the COMELEC *En Banc*, Ruel failed to controvert the fact that he is legally a Gaudia. There is no showing that he submitted for scrutiny, his birth certificate, to prove his identity as a Degamo. To this Court’s mind, this raises doubts as to why, of all pieces of evidence to prove his filiation, Ruel did not bother to present his own birth certificate. This document could easily be secured from the Local Civil Registry or the Philippine Statistics Authority. This would have been the best evidence to controvert the allegation of Roel that Ruel is not a Degamo. We find this omission on the part of Ruel as falling under Section (e) of Rule 131, which provides:

Section 3. *Disputable presumptions*. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(e) That evidence willfully suppressed would be adverse if produced;

In *Blue Cross Health Care, Inc. v. Spouses Olivares*,⁷⁴ We discussed that the presumption that evidence willfully suppressed would be adverse if produced does not apply if (a) the evidence is at the disposal of both parties; (b) the suppression was not willful; (c) it is merely corroborative or cumulative; and, (d) the suppression is an exercise of a privilege.

⁷⁴ 568 Phil. 526 (2008) [Per J. Corona, First Division].

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We find that none of the exceptions is present. As to the first exception, it is obvious that Roel could not get hold of a copy of Ruel's birth certificate, as this is not allowed due to the innate privacy limitations in securing such personal document. Second, the suppression appears to be willful as there was no reason to withhold a readily available document for scrutiny. As discussed earlier, Ruel could have easily secured a copy of his birth certificate before the Local Civil Registry or the Philippine Statistics Authority. Third, the birth certificate is not merely corroborative or cumulative as it is the primary document to prove the identity of an individual. In the present case, such document would unequivocally prove that Ruel is a Degamo. Lastly, the evidence is clearly not a document covered by any obligation for it to remain privileged.

In a Petition for declaration of nuisance candidate, one factor that takes primary consideration is the seriousness to run for public office and not put the electoral process in disrepute. Here, as found by the COMELEC, Roel was able to establish that Ruel was in bad faith in suddenly using Ruel Degamo in the 2022 National and Local Elections. The burden of evidence was eventually shifted to Ruel to prove otherwise. He could have presented the best evidence to show that he was indeed serious in running for the position of governor, if this was the truth. However, he failed to do so.

There is no doubt that confusingly similar names and/or surnames may cause disorientation on the electorate in a manual election system, as there are rules on interpretations that involves the use of the names and the surnames.⁷⁵

⁷⁵ Section 211 of the Omnibus Election Code reads:

SECTION 211. Rules for the appreciation of ballots. — In the reading and appreciation of ballots, every ballot shall be presumed to be valid unless there is clear and good reason to justify its rejection. The board of election inspectors shall observe the following rules, bearing in mind that the object of the election is to obtain the expression of the voters' will:

1. Where only the first name of a candidate or only his surname is written, the vote for such candidate is valid, if there is no other candidate with the same first name or surname for the same office.
2. Where only the first name of a candidate is written on the ballot, which when read, has a sound similar to the surname of another candidate, the vote shall be counted in favor of the candidate with such surname. If there are two or more candidates with the same full name, first name or surname and one of them is the incumbent, and on the ballot is written only such full name, first name or surname, the vote shall be counted in favor of the incumbent.
3. In case the candidate is a woman who uses her maiden or married surname or both and there is another candidate with the same surname, a ballot bearing only such surname shall be counted in favor of the candidate who is an incumbent.
4. When two or more words are written on the same line on the ballot, all of which are the surnames of two or more candidates, the same shall not be counted for any of them, unless one is a surname of an incumbent who has served for at least one year in which case it shall be counted in favor of the latter.

When two or more words are written on different lines on the ballot all of which are the surnames of two or more candidates bearing the same surname for an office for which the law authorizes the election of more than one and there are the same number of such surnames written as there are

candidates with that surname, the vote shall be counted in favor of all the candidates bearing the surname.

5. When on the ballot is written a single word which is the first name of a candidate and which is at the same time the surname of his opponent, the vote shall be counted in favor of the latter.

6. When two words are written on the ballot, one of which is the first name of the candidate and the other is the surname of his opponent, the vote shall not be counted for either.

7. A name or surname incorrectly written which, when read, has a sound similar to the name or surname of a candidate when correctly written shall be counted in his favor;

8. When a name of a candidate appears in a space of the ballot for an office for which he is a candidate and in another space for which he is not a candidate, it shall be counted in his favor for the office for which he is a candidate and the vote for the office for which he is not a candidate shall be considered as stray, except when it is used as a means to identify the voter, in which case, the whole ballot shall be void.

If the word or words written on the appropriate blank on the ballot is the identical name or surname or full name, as the case may be, of two or more candidates for the same office none of whom is an incumbent, the vote shall be counted in favor of that candidate to whose ticket belong all the other candidates voted for in the same ballot for the same constituency.

9. When in a space in the ballot there appears a name of a candidate that is erased and another clearly written, the vote is valid for the latter.

10. The erroneous initial of the first name which accompanies the correct surname of a candidate, the erroneous initial of the surname accompanying the correct first name of a candidate, or the erroneous middle initial of the candidate shall not annul the vote in favor of the latter.

11. The fact that there exists another person who is not a candidate with the first name or surname of a candidate shall not prevent the adjudication of the vote of the latter.

12. Ballots which contain prefixes such as "Sir.", "Mr.", "Datu", "Don", "Ginoo", "Hon.", "Gob." or suffixes like "Hijo", "Jr.", "Segundo", are valid.

13. The use of the nicknames and appellations of affection and friendship, if accompanied by the first name or surname of the candidate, does not annul such vote, except when they were used as a means to identify the voter, in which case the whole ballot is invalid: *Provided*, That if the nickname used is unaccompanied by the name or surname of a candidate and it is the one by which he is generally or popularly known in the locality, the name shall be counted in favor of said candidate, if there is no other candidate for the same office with the same nickname.

14. Any vote containing initials only or which is illegible or which does not sufficiently identify the candidate for whom it is intended shall be considered as a stray vote but shall not invalidate the whole ballot.

15. If on the ballot is correctly written the first name of a candidate but with a different surname, or the surname of the candidate is correctly written but with different first name, the vote shall not be counted in favor of any candidate having such first name and/or surname but the ballot shall be considered valid for other candidates.

16. Any ballot written with crayon, lead pencil, or in ink, wholly or in part, shall be valid.

17. Where there are two or more candidates voted for in an office for which the law authorizes the election of only one, the vote shall not be counted in favor of any of them, but this shall not affect the validity of the other votes therein.

18. If the candidates voted for exceed the number of those to be elected, the ballot is valid, but the votes shall be counted only in favor of the candidates whose names were firstly written by the voter within the spaces provided for said office in the ballot until the authorized number is covered.

19. Any vote in favor of a person who has not filed a certificate of candidacy or in favor of a candidate for an office for which he did not present himself shall be considered as a stray vote but it shall not invalidate the whole ballot.

20. Ballots containing the name of a candidate printed and pasted on a blank space of the ballot or affixed thereto through any mechanical process are totally null and void.

In *Bautista v. Commission on Elections*,⁷⁶ this Court disqualified Edwin “Efren” Bautista as a nuisance candidate for the mayoralty race in Navotas because his name was confusingly similar to Cipriano “Efren” Bautista. We similarly found that there was a confusion caused in the case involving candidates Edilito C. Martinez and Celestino A. Martinez III in *Martinez v. House of Representatives Electoral Tribunal*.⁷⁷

Even with the automation of election system, this Court has held that such development will not eliminate confusion on the part of the voters. This was made apparent in the case of *Santos*,⁷⁸ wherein we found that “Roxas Jenn-Rose,” was strikingly similar with “Roxas Jenny.” The application of the rules on nuisance candidates even in an automated elections was underscored as follows:

Recently, in *Dela Cruz v. COMELEC (Dela Cruz)*, a petition to declare Aurelio Dela Cruz a nuisance candidate for the position of vice-mayor of Bugasong, Antique was filed because his name was confusingly similar with the name of Casimir Dela Cruz and the former did not have the financial capacity to campaign for the elections. On January 29, 2010, the COMELEC declared Aurelio Dela Cruz a nuisance candidate, however, his name was not deleted in the certified list of candidates and he still received votes during the automated elections. In its Resolution No. 8844, the COMELEC stated that the votes for Aurelio Dela Cruz, a nuisance candidate, should be considered stray. Thus, Casimir Dela Cruz filed a petition for *certiorari* before the Court to annul and set aside the said resolution.

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21. Circles, crosses or lines put on the spaces on which the voter has not voted shall be considered as signs to indicate his desistance from voting and shall not invalidate the ballot.
 22. Unless it should clearly appear that they have been deliberately put by the voter to serve as identification marks, commas, dots, lines, or hyphens between the first name and surname of a candidate, or in other parts of the ballot, traces of the letter “T”, “J”, and other similar ones, the first letters or syllables of names which the voter does not continue, the use of two or more kinds of writing and unintentional or accidental flourishes, strokes, or strains, shall not invalidate the ballot.
 23. Any ballot which clearly appears to have been filled by two distinct persons before it was deposited in the ballot box during the voting is totally null and void.
 24. Any vote cast in favor of a candidate who has been disqualified by final judgment shall be considered as stray and shall not be counted but it shall not invalidate the ballot.
 25. Ballots wholly written in Arabic in localities where it is of general use are valid. To read them, the board of election inspectors may employ an interpreter who shall take an oath that he shall read the votes correctly.
 26. The accidental tearing or perforation of a ballot does not annul it.
 27. Failure to remove the detachable coupon from a ballot does not annul such ballot.
 28. A vote for the President shall also be a vote for the Vice-President running under the same ticket of a political party, unless the voter votes for a Vice-President who does not belong to such party.

⁷⁶ 359 Phil. 1 (1998) [Per J. Melo, *En Banc*].

⁷⁷ 624 Phil. 50 (2010) [Per J. Villarama, *En Banc*].

⁷⁸ *Supra*, note 21.

In reversing the COMELEC, the Court ruled that even in the automated elections, the votes for the nuisance candidate should still be credited to the legitimate candidate. It held that the previous COMELEC Resolution No. 4116 – declaring that the vote cast for a nuisance candidate, who had the same surname as the legitimate candidate, should be counted in favor of the latter – remains good law. The Court underscored that:

x x x the possibility of confusion in names of candidates if the names of nuisance candidates remained on the ballots on election day, cannot be discounted or eliminated, even under the automated voting system especially considering that voters who mistakenly shaded the oval beside the name of the nuisance candidate instead of the *bona fide* candidate they intended to vote for could no longer ask for replacement ballots to correct the same.⁷⁹ (Citations omitted)

In *Zapanta*,⁸⁰ we affirmed the findings of the COMELEC that Rafael S. Zapanta, who used the nickname “Alfred” as his nickname in his Certificate of Candidacy and as his name in the official ballots, was identical to the name of Alfred J. Zapanta. We observed:

21. ZAPANTA, ALFRED (AKSYON)
22. ZAPANTA, ALFRED (LAKAS)

The only way to distinguish petitioner from private respondent is their number on the ballot and their affiliations. Other than that, a voter who wanted to vote for “Alfred Zapanta,” but only knows the name “Alfred” or surname “Zapanta,” would be confused on which oval to shade to reflect his or her choice. No other candidate for the position of city councilor has either the name “Alfred” or “Zapanta.”

After a perusal of the case records, this Court holds that petitioner was not able to sufficiently show that voters can clearly identify that his chosen nickname pertains only to him. The affidavits he presented are not enough to show that he had been using the name “Alfred” or that he is publicly known by that name.

Moreover, despite being given an opportunity to counter private respondent’s allegations, petitioner failed to deny that he had no campaign materials using the name “Alfred Zapanta,” or present evidence to the contrary. He merely banked on his membership in a political party to support his claim that he had a *bona fide* intention to run for office. Association to a political party per se does not necessarily equate to a candidate’s *bona fide* intent; instead, he or she must show that he or she is serious in running for office. This, petitioner failed to demonstrate.

Additionally, private respondent is more recognized by his constituents as “Alfred Zapanta,” being an incumbent city councilor who was running for another term.⁸¹

⁷⁹ Id. at 691–692.

⁸⁰ 848 Phil. 341 (2019) [Per J. Leonen, *En Banc*].

⁸¹ Id. at 360–361.

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The names between Roel and Ruel is not a far cry from the situation in *Zapanta*. A close examination of the documents detailing the list of candidates for governor in the province of Negros Oriental would show the similarity between Roel Degamo and Ruel Degamo. First, the Certified List of Candidates⁸² from the COMELEC provides the following names of the gubernatorial candidates for the Province of Negros Oriental that were printed in the official ballots as follows:

#	Name to appear in the ballot	Sex	Name	Political Party
1	Degamo, Roel (NP)	MALE	Degamo, Roel Ragay	Nacionalista Party
2	Degamo, Ruel (IND)	MALE	Degamo, Grego Gaudia	Independent
3	Macias, Doc Mark (LP)	MALE	Macias, Edward Mark Lopez	Liberal Party
4	Teves, Henry (NPC)	MALE	Teves, Pryde Henry Alipit	Nationalist People's Coalition

Second, the Official Ballot⁸³ following the Certified List of Candidates would appear:

Provincial Governor/ Vote for 1			
<input type="radio"/> 1. Degamo, Roel (NP)	<input type="radio"/> 2. Degamo, Ruel (IND)	<input type="radio"/> 3. Macias, Doc Mark (LP)	<input type="radio"/> 4. Teves, Henry (NPC)

From the Certified List of Voters and the Official Ballot, it can be observed that there is as noticeable likeness to the name of candidates "Roel Degamo" and "Ruel Degamo". First, their names are only distinguishable by one vowel as the incumbent uses the letter "o" while the independent candidate uses the letter "u". Second, the name "Roel" and the nickname "Ruel" have similar pronunciation. Likewise, the two candidates used Degamo as their surnames. Similar to the circumstances in *Zapanta*, the only way to distinguish "Roel" and "Ruel" is their number on the ballot and their political affiliations.

Even the conduct of automated elections should not be treated as an automatic safeguard against the confusion brought by nuisance candidates. The complexity of the human mind cannot be easily comprehended. In an election by which different ballots are encountered every three years, it cannot be said that the human eye would be trained enough to immediately spot the difference between two candidates bearing similarities in names. This is

⁸² *Rollo* (G.R. No. 262622, Vol. I), p. 106.

⁸³ *Id.* at 55.

especially true where the ballot has to be a one page document and has to be adjusted to accommodate all possible candidates, which makes it more challenging to read and for which the dominant part of the name used in the ballot gets immediate attention. Moreover, during the campaign period, it is the name of candidates and the way by which they introduced themselves that causes a lasting memory recall among the voters. When the people who knows Roel Degamo is suddenly confronted with a name Ruel Degamo, which was used only in the 2022 National and Local Elections, the same would easily cause confusion as early as the campaign period until the shading of oval in the ballot in an automated election.

Here, the circumstances surrounding the case shows that candidate Grego Gaudia Degamo purposely used the nickname "Ruel" to cause confusion to the electorate. As observed by the COMELEC Second Division, it was only for the 2022 Elections that he used "Ruel Degamo." He was known as Grego and merely used the nickname "Ruel" recently. He also used the surname of those who has taken custody of him even though he was not legally adopted by them.

Anent the allegation of Teves as to the violation of his right to due process, it has already been discussed in *Santos*,⁸⁴ that the status of a winning candidate in a petition for declaration of a nuisance candidate is merely that of an observer. This was reiterated in *Zapanta*,⁸⁵ as follows:

On the third issue, petitioner-intervenor contends that he was denied his right to due process since he was not impleaded in the Nuisance Petition, nor was he furnished with public respondent's processes or private respondent's pleadings.

The legal standing of unaffected candidates in a nuisance petition has already been settled in *Santos*:

The Court finds that in a petition for disqualification of a nuisance candidate, the only real parties in interest are the alleged nuisance candidate, the affected legitimate candidate, whose names are similarly confusing. A real [party-in-interest] is the party who stands to be benefited or injured by the judgment in the suit or the party entitled to the avails of the suit.

In *Timbol v. Commission on Elections (Timbol)*, it was stated that to minimize the logistical confusion caused by nuisance candidates, their [Certificate of Candidacy] may be denied due course or cancelled by the petition of a legitimate candidate or by the [Commission on Elections]. This denial or cancellation may be *motu proprio* or upon a verified petition of an interested party, subject to an opportunity to be

⁸⁴ Supra note 21.

⁸⁵ Supra note 56.

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heard. It was emphasized therein that the Commission on Elections should balance its duty to ensure that the electoral process is clean, honest, orderly, and peaceful with the right of an alleged nuisance candidate to explain his or her *bona fide* intention to run for public office before he or she is declared a nuisance candidate.

Thus, when a verified petition for disqualification of a nuisance candidate is filed, the real parties-in-interest are the alleged nuisance candidate and the interested party, particularly, the legitimate candidate. Evidently, the alleged nuisance candidate and the legitimate candidate stand to be benefited or injured by the judgment in the suit. The outcome of the nuisance case shall directly affect the number of votes of the legitimate candidate, specifically, whether the votes of the nuisance candidate should be credited in the former's favor.

Glaringly, there was nothing discussed in *Timbol* that other candidates, who do not have any similarity with the name of the alleged nuisance candidate, are real parties-in-interest or have the opportunity to be heard in a nuisance petition. Obviously, these other candidates are not affected by the nuisance case because their names are not related with the alleged nuisance candidate. **Regardless of whether the nuisance petition is granted or not, the votes of the unaffected candidates shall be completely the same.** Thus, they are mere silent observers in the nuisance case.

As a mere observer, petitioner-intervenor is not required to be impleaded in the Nuisance Petition. Hence, his right to due process could not have been violated.⁸⁶ (Emphasis in the original, citations omitted)

In the absence of any circumstance that would preclude this Court from applying the doctrine laid down in *Santos* and reiterated in *Zapanta*, this Court, following the doctrine of *stare decisis*, is bound by the said Decision, and must necessarily render a ruling based on its previous pronouncement.

Consistent therewith, the fact that Teves, the winning candidate for the gubernatorial position in Negros Oriental, was not impleaded in the Petition filed by Roel against Ruel before the COMELEC will not amount to a violation of his right to due process. Not being a real party in interest, Teves' non-participation in the Petition filed by Roel, will not affect the proceedings conducted by the COMELEC. Moreso, the number of votes he has garnered will remain the same, with the COMELEC proceeding merely on the appreciation of the votes cast by the voters and determine whether all of the votes obtained by the declared nuisance candidate will have to be credited in favor of the declared real candidate.

⁸⁶ Id. at 364-365.

Ultimately, this Court upholds the counting of the votes of nuisance candidate Ruel G. Degamo in favor of Roel R. Degamo as it is in accord with our jurisprudential pronouncements. Our pronouncement in *Zapanta*⁸⁷ is instructive:

This Court finds that public respondent did not exercise its judgment in an arbitrary, capricious, or whimsical manner when it ordered adding the votes cast for petitioner to the votes cast for private respondent. On the contrary, it merely applied "the current state of our law."

With the recent promulgation of *Santos*, this Court clarified how the votes of nuisance candidates in a multi-slot office should be treated:

In a multi-slot office, such as membership of the *Sangguniang Panlungsod*, a registered voter may vote for more than one candidate. Hence, it is possible that the legitimate candidate and nuisance candidate, having similar names, may both receive votes in one ballot. The Court agrees with the [Office of the Solicitor General] that in that scenario, the vote cast for the nuisance candidate should no longer be credited to the legitimate candidate; otherwise, the latter shall receive two votes from one voter.

Therefore, in a multi-slot office, the [Commission on Elections] must not merely apply a simple mathematical formula of adding the votes of the nuisance candidate to the legitimate candidate with the similar name. To apply such simple arithmetic might lead to the double counting of votes because there may be ballots containing votes for both nuisance and legitimate candidates.

As properly discussed by the [Office of the Solicitor General], a legitimate candidate may seek another person with the same surname to file a candidacy for the same position and the latter will opt to be declared a nuisance candidate. In that scenario, the legitimate candidate shall receive all the votes of the nuisance candidate and may even receive double votes, thereby, drastically increasing his odds.

At the same time, it is also possible that a voter may be confused when he reads the ballot containing the similar names of the nuisance candidate and the legitimate candidate. In his eagerness to vote, he may shade both ovals for the two candidates to ensure that the legitimate candidate is voted for. Similarly, in that case, the legitimate candidate may receive two (2) votes from one voter by applying the simple arithmetic formula adopted by the Commission on Elections when the nuisance candidate's Certificate of Candidacy is cancelled.

Thus, to ascertain that the votes for the nuisance candidate is accurately credited in favor of the legitimate candidate with the similar name, the Commission on Elections must also

⁸⁷ Supra note 56.

inspect the ballots. In those ballots that contain both votes for nuisance and legitimate candidate, only one count of vote must be credited to the legitimate candidate.

While the perils of a fielding nuisance candidates against legitimate candidates cannot be overemphasized, it must also be guaranteed that the votes of the nuisance candidate are properly and fairly counted in favor of the said legitimate candidate. In that manner, the will of the electorate is upheld.

Here, the *Santos* doctrine must be applied: the votes for petitioner alone should be counted in favor of private respondent; if there are votes for both petitioner and private respondent in the same ballot, then only one (1) vote should be counted in the latter's favor. This will not only discourage nuisance candidates, **but will also prevent the disenfranchisement of voters.**⁸⁸ (Emphasis in the original)

As such, in *Santos*,⁸⁹ and *Zapanta*,⁹⁰ which were decided when automated elections were held, this Court upheld the rules on how the votes obtained by a nuisance candidate should be treated. This Court merely cautioned the rules in a multi-slot office by which voters have to vote for multiple candidates and held that there should be no double counting of votes. Nonetheless, it still upheld the COMELEC Rules on crediting of votes of the nuisance candidate in favor of the legitimate candidate in order to uphold the will of the electorate.

Contrary to the view being espoused by Justice Mario V. Lopez, there appears to be no need to revisit the manner by which the appreciation of votes is made in the case of an automated election. The effect of including nuisance candidates in a ballot, whether the election be done manually or through automation, is the same: to confuse the electorate. If the will of the electorate is to be upheld, the votes obtained by the nuisance candidate should be added in favor of the legitimate candidate. This can be done easily in a single slot office election as in the instant case.

In summary, this Court finds that the COMELEC *En Banc* did not commit grave abuse of discretion in affirming the findings of the COMELEC Second Division.

WHEREFORE, premises considered, this Court further **RESOLVES to DISMISS** the Petitions in G.R. No. 262622 and G.R. No. 262682 due to the absence of grave abuse of discretion committed by the Commission on Elections *En Banc* in SPA No. 21-085 (DC) dated September 1, 2022.

⁸⁸ Id. at 362-364.

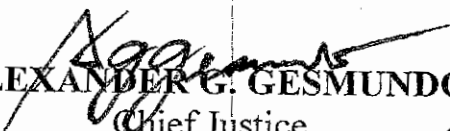
⁸⁹ Supra note 21.

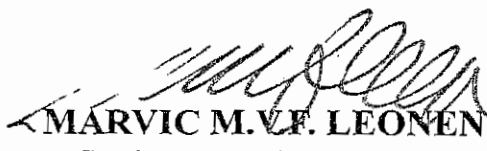
⁹⁰ Supra note 56.

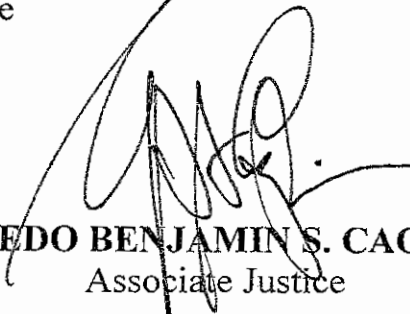
SO ORDERED.

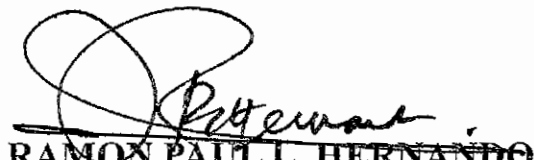

JOSE V. LOPEZ
Associate Justice


WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

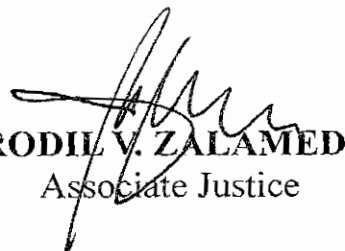

MARVIC M.V.F. LEONEN
Senior Associate Justice

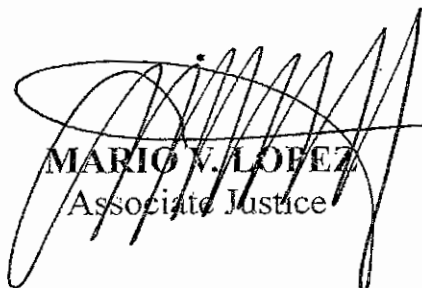

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

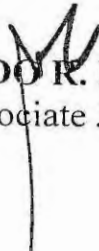
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HENRI JEAN PAUL B. INTING
Associate Justice

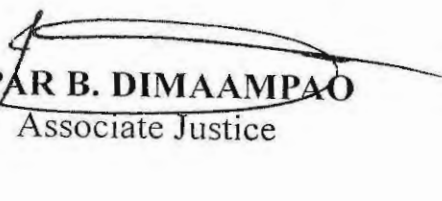

RODIL V. ZALAMEDA
Associate Justice

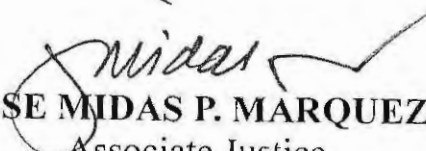

MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

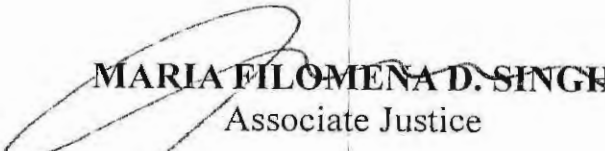
ON OFFICIAL LEAVE


RICARDO R. ROSARIO
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

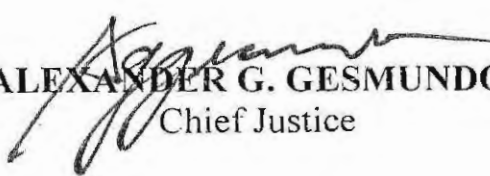

JOSE MIDAS P. MARQUEZ
Associate Justice

no part
ANTONIO T. KHO, JR.
Associate Justice

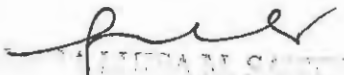

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 14, 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 this Court.


ALEXANDER G. GESMUNDO
Chief Justice

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SECRETARY
Department of Justice
1001 D. R. St., Manila
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