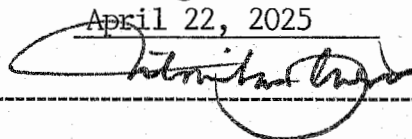


EN BANC

G.R. Nos. 260219 & 260231 (DATU PAX ALI S. MANGUDADATU, Petitioner, v. THE COMMISSION ON ELECTIONS, SHARIFA AKEEL MANGUDADATU, AZEL V. MANGUDADATU, and BAI ALI A. UNTONG, Respondents).

Promulgated:

April 22, 2025



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DISSENT

LAZARO-JAVIER, J.:

To recall, petitioner Pax Ali Mangudadatu (Pax Ali) was raised in his family's ancestral home in Purok Garden, Tamnag, Lutayan, Sultan Kudarat – his domicile of origin.¹ In 2018, he effected a change of domicile when he ran and won as Municipal Mayor of Datu Abdullah Sangki (DAS), Province of Maguindanao. On October 7, 2021, Pax Ali, then the incumbent Mayor of DAS, Province of Maguindanao, filed his Certificate of Candidacy (COC) for Provincial Governor of Sultan Kudarat for the May 9, 2022 elections.² On November 15, 2021, he resigned as Municipal Mayor of DAS, Province of Maguindanao.

Respondents Sharifa Akeel Mangudadatu³ (Sharifa), Azel Mangudadatu (Azel), and Bai Ali A. Untong⁴ (Bai Ali) separately filed before the Commission on Elections (COMELEC) a Petition to Deny Due Course or to Cancel the Certificate of Candidacy of Pax Ali on the ground that the latter allegedly misrepresented his residency qualification. Considering that Pax Ali was the incumbent mayor of DAS, Province of Maguindanao at the time he filed his COC, Pax Ali was said to have purposely lied, stated, and affirmed under oath that he was a resident of Sultan Kudarat to qualify for the position of Governor for the Province of Sultan Kudarat.⁵

Pax Ali countered that his domicile of origin is Lutayan, Sultan Kudarat, where their ancestral family house still stands. He merely temporarily transferred his residence to DAS, Province of Maguindanao to

¹ Draft *ponencia*, p. 13.

² *Id.* at 3.

³ *Id.*

⁴ *Id.* at 4.

⁵ *Id.* at 3.

comply with the residency requirement for the position of Mayor, but he always intended to return to his domicile of origin. In fact, through a series of acts commencing July 2020, he started moving back to Sultan Kudarat, and by September 2, 2020, all his personal effects and belongings were already there. Since October 2020, he had been going home to Lutayan, Sultan Kudarat daily, and he only went back to DAS to perform his functions as mayor. By the time he filed his COC on October 7, 2021, therefore, he had already complied with the one-year residency requirement under the Local Government Code (LGC). Finally, as a sign of total and complete abandonment of his residence and occupation in Maguindanao, he resigned from his position as Mayor of DAS on November 15, 2021.⁶

The *Majority* dismissed the Petition, affirming the cancellation by the COMELEC of Pax Ali's COC on the alleged ground of false misrepresentation as regards his residency in Sultan Kudarat. The *Majority* ruled that Pax Ali failed to effect a change of domicile from DAS, Province of Maguindanao to Lutayan, Province of Sultan Kudarat, one year immediately preceding the May 9, 2022 elections. While there is substantial evidence that Pax Ali had bodily or physical presence in Lutayan, Province of Sultan Kudarat, his intent to remain there for an indefinite period, and to abandon DAS, Province of Maguindanao was supposedly missing.⁷

Section 78 of the Omnibus Election Code states:

SECTION 78. *Petition to deny due course to or cancel a certificate of candidacy.* – A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

For a petition to deny due course or cancel the COC of a candidate to prosper, the candidate must have made a material misrepresentation involving his or her eligibility or qualification for the office to which he or she seeks election, such as the requisite residency, age, citizenship, or any other legal qualification necessary to run for local elective office as provided in the Local Government Code. More, such false representation under Section 78 must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.⁸

⁶ *Id.* at 4–5.

⁷ *Id.* at 14.

⁸ See *Villafuerte v. Commission on Elections*, 728 Phil. 74 (2014) [Per J. Peralta, *En Banc*].

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Meanwhile, Section 39 of Republic Act No. 7160 provides for the qualification of elective local officials:

Section 39. Qualifications. -

- (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

I focus on the residency requirement.

Residence is the permanent home, the place to which whenever absent for business or pleasure, one intends to return.⁹ For purposes of election law, residence is synonymous with “domicile.” As used in election law, it imports not only an intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention.¹⁰ The question of residence is mainly one of intention. There is no hard and fast rule by which to determine where a person actually resides. Three rules are, however, well established: *first*, a person must have a residence or domicile somewhere; *second*, once established, it remains until a new one is acquired; and *third*, a person can have but one domicile at a time. Relevantly, in order to acquire a domicile by choice, there must concur: (1) residence or bodily presence in the new locality, (2) an intention to remain there, and (3) an intention to abandon the old domicile.¹¹

Notably, if one wishes to successfully effect a change of domicile, he or she must demonstrate an actual removal or an actual change of domicile, a bona fide intention of abandoning the former place of residence and establishing a new one, and definite acts which correspond with the purpose. Simply put, there must be *animus manendi* coupled with *animus non revertendi*. Pure intention to reside in that place is not sufficient, there must likewise be conduct indicative of such intention.¹²

Here, Pax Ali was raised in his family’s ancestral home in Purok Garden, Tamnag, Lutayan, Province of Sultan Kudarat – his domicile of origin.¹³ In 2018, he effected a change of domicile when he ran and won as Municipal Mayor of DAS, Province of Maguindanao. On October 7, 2021, Pax Ali, then incumbent Mayor of DAS, Province of Maguindanao, filed his

⁹ See *Hyatt Elevators and Escalators Corp. v. Goldstar Elevators Phils., Inc.*, 510 Phil. 467 (2005) [Per J. Panganiban, Third Division], citing *Evangelista v. Santos*, 86 Phil. 387 (1950) [Per J. Reyes].

¹⁰ See *Saludo, Jr. v. American Express International, Inc.*, 521 Phil. 585 (2006) [Per J. Callejo, Sr. First Division], citing *Papandayan, Jr. v. COMELEC*, 430 Phil. 754, 770 (2002) [Per J. Mendoza, *En Banc*].

¹¹ See *Limbona v. COMELEC*, 619 Phil. 226 (2009) [Per J. Nachura, *En Banc*].

¹² *Id.*

¹³ Draft *ponencia*, p. 13.

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COC for Provincial Governor of Sultan Kudarat for the May 9, 2022 elections, and indicated therein that he had been residing in Sultan Kudarat for at least one year immediately preceding the elections.¹⁴

Pax Ali avers that he merely temporarily transferred his residence to Barangay Talisawa, DAS, Maguindanao, but he always had the inherent intention to return to Sultan Kudarat.¹⁵

The next question — at which point do we reckon his intent to abandon his domicile of DAS, Province of Maguindanao?

I am of the view that Pax Ali was able to establish both physical residence or bodily presence in the new locality, an intention to remain there, and an intention to abandon the old domicile.

Pax Ali's case is akin to *Mitra v. Comelec*.¹⁶ In that case, when Mitra's COC for the position of Governor of Palawan was declared cancelled, he was the incumbent Representative of the Second District of Palawan. This district then included, among other territories, the Municipality of Aborlan and Puerto Princesa City. He was elected Representative thereof as a domiciliary of Puerto Princesa City, and represented the legislative district for three terms immediately before the elections of 2010. On March 26, 2007 (or before the end of Mitra's second term as Representative), Puerto Princesa City was reclassified as a "highly urbanized city" and thus ceased to be a component city of the Province of Palawan. The direct legal consequence of this new status was the ineligibility of Puerto Princesa City residents from voting for candidates for elective provincial officials.¹⁷

On March 20, 2009, with intent to run for the position of Governor, Mitra applied for the transfer of his Voter's Registration Record from Precinct No. 03720 of Barangay Sta. Monica, Puerto Princesa City, to Sitio Maligaya, Barangay Isaub, Municipality of Aborlan, Province of Palawan. He subsequently filed his COC for the position of Governor of Palawan as a resident of Aborlan.¹⁸

Mitra explained that he gradually transferred his residence in 2008. He added that his residence was located inside the premises of the Maligaya Feedmill and Farm (Maligaya Feedmill) which the owner, Carme Caspe,

¹⁴ *Id.* at 3.

¹⁵ *Id.*

¹⁶ See 648 Phil. 165 (2010) [Per J. Bion, *En Banc*].

¹⁷ *Id.*

¹⁸ *Id.*

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leased to him; and that he purchased a farm and has an experimental pineapple plantation and a cock farm.¹⁹

Mitra submitted the following: (a) the *Sinumpaang Salaysay* of elective officials attesting that he resided in their locality; (b) photographs of the residential portion of the Maligaya Feedmill where he claimed he transferred residence, and of his Aborlan experimental pineapple plantation, farm, farmhouse, and cock farm; (c) the lease contract over the Maligaya Feedmill; (d) the community tax certificate (CTC) he claimed he himself secured, stating that Aborlan was his residence; and (e) an updated identification card issued by the House of Representatives stating that Aborlan was his residence.²⁰

Ultimately, the Supreme Court held that Mitra did not falsely misrepresent his domiciliary qualification, viz.:

Mitra's domicile of origin is undisputedly Puerto Princesa City. For him to qualify as Governor — in light of the relatively recent change of status of Puerto Princesa City from a component city to a highly urbanized city whose residents can no longer vote for provincial officials — he had to abandon his domicile of origin and acquire a new one within the local government unit where he intended to run; this would be his domicile of choice.²¹

Notably, in *Mitra*, the Court did not give any attention to the fact that Mitra was still the incumbent Representative of Puerto Princesa City at the time he filed his COC for the gubernatorial post in Palawan. The Court even acknowledged that this is not an uncommon phenomenon among elective officials, and what is important is that a candidate complies with the requirements for a transfer of residence/domicile within the period required by law. Thus, in *Mitra*, the Court additionally found that the case is not the first that the Supreme Court has encountered, where a former elective official had to transfer residence to continue his public service in another political unit that he could not legally access, as a candidate, without a change of residence.

Like Mitra, not only did Pax Ali completely move his physical belongings back to Lutayan, Sultan Kudarat in September of 2020 (one year and eight months before the May 2022 elections), by October 2020, he even started going home to his residence in Lutayan, Sultan Kudarat daily after office hours, as supported by sworn statements of neighbors, aide, bookkeeper, police escorts, and the affidavits of the Human Resource Management Officer of the local government of DAS.²²

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² See Reflections of J. Hernando, p. 5.

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To be sure, while Pax Ali admitted in his Verified Answer that he tendered his resignation as Mayor of DAS, Maguindanao only on November 15, 2021, he also stated that this was “yet *another* evidence ultimately showing his total abandonment of his house and occupation in Maguindanao.” Evidently, this was simply the strongest if not the final indication of his intent to abandon his domicile in DAS; but not the *only* indication of such total abandonment, as laid down in the *ponencia*:

Pax Ali attached in his Verified Answer several photos of the celebrations/occasions and socio-civic activities that he attended while growing up in his residence at Sultan Kudarat. He also submitted copies of his government-issued identification documents (e.g. Philhealth, Bureau of Internal Revenue registration, driver's license, police clearance, NBI clearance, Municipal Mayor ID, etc.) showing his address as Barangay Tamnag, Lutayan, Sultan Kudarat. Pax Ali presented a Certification from the Mayor of Lutayan declaring that he is a bona fide resident of Purok Garden, Barangay Tamnag, bearing the Community Tax Certificate No. 13127421. Similarly, the Barangay Chairperson of Tamnag issued a Certification that Pax Ali had been a resident of the said barangay since August 2020. Pax Ali showed a Certification from the Election Officer of DAS stating that he had transferred his voter's registration in Lutayan, Sultan Kudarat on May 17, 2021 and that his registration in Maguindanao has been deleted. He submitted a copy of his resignation letter as Mayor of DAS, as well as the acceptance thereof. In addition, he presented the affidavits of his family members, barangay officials and neighbors in Purok Garden, socio-civic organizations in Sultan Kudarat, and his colleagues to prove that he has abandoned his former residence in Barangay Talisawa, DAS, Maguindanao, and re-established his residence in Purok Garden, Barangay Tamnag, Lutayan, Sultan Kudarat beginning October 2020.²³

Indeed, Pax Ali was able to establish a clear series of consistent acts showing both his *bona fide* intention to reside in Lutayan, Sultan Kudarat, as well as his personal presence therein, coupled with conduct indicative of such intention.

Additionally, the Court, in the following cases, considered as sufficient the same pieces of evidence that Pax Ali, in this case, offered in evidence before the COMELEC to establish his domicile of origin, his intention to return thereto, and the abandonment of his temporary residence, to wit:

In *Japzon v. COMELEC*,²⁴ the Court considered the candidate's government identification cards, showing the address of the candidate's domicile, as strong proof of his transfer of residence.

²³ Draft *ponencia*, p. 5.

²⁴ See 596 Phil. 354 (2009) [Per J. Chico-Nazario, *En Banc*].

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Too, in *Jalosjos v. COMELEC*,²⁵ the Court gave weight to the affidavits of the candidates' neighbors as proof of actual physical presence in the locality.

In *Sabili v. COMELEC*,²⁶ citing *Mitra*, the Court recognized that the transfer of domicile can be gradual, done through an incremental process. The Court gave credence to the Affidavit executed by leaders of organizations as regards support and participation in local activities and as evidence of physical presence in a residence and intention to permanently remain therein.

In *Fernandez v. HRET*,²⁷ the Court also gave credence to the candidate's Department of Trade and Industry Certificate showing ownership of business in the subject locality as proof of his physical presence and his intention to remain therein and abandon his old residence.

Meanwhile, in *Romualdez-Marcos v. COMELEC*,²⁸ the Court held that it cannot be correctly argued that petitioner therein, Imelda Romualdez-Marcos (Romualdez-Marcos), lost her domicile of origin of Tacloban, Leyte, by operation of law as a result of her marriage to the late President Ferdinand E. Marcos in 1952. Although Romualdez-Marcos was obliged by law to follow her husband's actual place of residence, what she gained was actual residence, but she did not automatically lose her domicile of origin. Even assuming that Romualdez-Marcos did, in fact, gain a new domicile after her marriage and only acquired a right to choose a new one after the death of her husband, the following acts following her return to the country clearly indicated that she expressly chose her domicile of origin as her domicile: (1) she expressed in her letters to the Chairman of the Presidential Commission on Good Government (PCGG) when she sought the PCGG's permission to "rehabilitate (our) ancestral house in Tacloban and Farm in Olot, Leyte. . . to make them livable for the Marcos family to have a home in our homeland;" and (2) Romualdez-Marcos obtained her residence certificate in 1992 in Tacloban, Leyte, while living in her brother's house.

In *Dano v. COMELEC*,²⁹ the Court ruled on the issue of compliance with the one-year residency requirement for local elective officials. There, the COC of Juliet B. Dano (Dano) was sought to be cancelled because she allegedly made material misrepresentations of fact in her COC and likewise failed to comply with the one-year residency requirement under Section 39 of the LGC. Dano countered that on February 2, 2012, she obtained a CTC from the municipal treasurer of Sevilla. Thereafter, she took her Oath of Allegiance before the Vice Consul of the Philippine Consulate in Los Angeles, California

²⁵ See 711 Phil. 414 (2013) [Per J. Perlas-Bernabe, *En Banc*].

²⁶ See 686 Phil. 649 (2012) [Per J. Sereno, *En Banc*].

²⁷ See 623 Phil. 628 (2009) [Per J. Leonardo-De Castro, *En Banc*].

²⁸ See 318 Phil. 329 (1995) [Per J. Kapunan, *En Banc*].

²⁹ See 794 Phil. 573 (2016) [Per C.J. Sereno, *En Banc*].

on March 30, 2012. On May 2, 2012, she applied for voter's registration in Sevilla. Eight days later, she returned to the United States (US) and stayed there until September 28, 2012 to wind up her affairs, particularly to sell her house in Stockton, California, as well as her shares of stock in various companies. Upon her arrival in the Philippines, she executed a Sworn Renunciation of Any and All Foreign Citizenship on September 30, 2012. She filed her COC for mayor of Sevilla on October 4, 2012. In her COC, she represented herself as one who had been a resident of Sevilla for one year and 11 days prior to the May 13, 2013 elections, or from May 2, 2012.

The COMELEC legally concluded that a candidate who has been physically absent from a locality for four out of the 12 months preceding the elections can never fulfill the residence requirement under Section 39 of the LGC.³⁰

The Court nonetheless did not agree. Instead, it held that although physical presence, along with *animus manendi et revertendi*, is an essential requirement for the acquisition of a domicile of choice, the law does not require that physical presence be unbroken. It added that the COMELEC should not have disregarded the following evidence showing specific acts performed by Dano one year before the elections, or by May 13, 2012, which clearly demonstrated her *animus manendi et revertendi*: 1) She made public her intention to run for the mayoralty position. In preparation for this aspiration, and in order to qualify for the position, she went through the reacquisition process under Republic Act No. 9225; 2) She started to reside in her ancestral home, and even obtained a CTC, during the first quarter of 2012; 3) She applied for voter's registration in Sevilla; and 4) She went back to the US to dispose of her properties located there.

It should have been apparent to the COMELEC that when Dano returned in the first quarter of 2012, it was for good; and that when she left for the US on May 10, 2012, it was for the sole purpose of confirming her permanent abandonment of her US domicile.³¹

In *Torayno Sr. v. COMELEC*,³² where a sitting governor of Misamis Oriental in his third term vied for a mayoral seat for Cagayan De Oro City, a high urbanized city, the Court found Vicente Y. Emano (Emano) qualified to run for the position. The Court concurred in the findings of the COMELEC that Emano and his family had actually been residing in Capistrano Subdivision, Gusa, Cagayan de Oro City, in a house he had bought in 1973. Further, during the three terms (1988-1998) that he was governor of Misamis Oriental, he physically lived in that city, where the seat of the provincial

³⁰ *Id.*

³¹ *Id.*

³² See 392 Phil 342 (2000) [Per J. Panganiban, *En Banc*].

government was located. In June 1997, he also registered as voter of the same city. These facts indubitably proved that Emano was a resident of Cagayan de Oro City for a period of time sufficient to qualify him to run for public office therein. More, the COMELEC did not find any bad faith on the part of Emano in his choice of residence.³³

The Court disregarded therein petitioners' argument that since Cagayan de Oro City is a highly urbanized city, its voters cannot participate in the provincial elections. According to the Court, political subdivisions and voting restrictions, are simply for the purpose of parity in representation. At any rate, Cagayan de Oro City was once an integral part of Misamis Oriental and remains a geographical part of the province. Not only is it at the center of the province; more important, it is itself the seat of the provincial government. As a consequence, the provincial officials who carry out their functions in the city cannot avoid residing therein; much less, getting acquainted with its concerns and interests. Emano, having been the governor of Misamis Oriental for three terms and consequently residing in Cagayan de Oro City within that period, could not be said to be a stranger or newcomer to the city in the last year of his third term, when he decided to adopt it as his permanent place of residence. Emano was actually and physically residing in Cagayan de Oro City while discharging his duties as governor of Misamis Oriental. He owned a house in the city and resided there together with his family. He even paid his 1998 community tax and registered as a voter therein. For all intents and purposes of the Constitution and the law, he is a resident of Cagayan de Oro City and eligible to run for mayor thereof.³⁴

True, the requirement of residency cannot be overemphasized. After all, it is rooted in the recognition that officials of districts or localities should not only be acquainted with the metes and bounds of their constituencies; importantly, they should know their constituencies and the unique circumstances of their constituents – their needs, difficulties, aspirations, potentials for growth and development, and all matters vital to their common welfare. Familiarity, or the opportunity to be familiar, with these circumstances can only come with residency in the constituency to be represented.³⁵ The minimum requirement for candidates' residency in the political unit they seek to represent, therefore, was never intended to be an empty formalistic condition. It carries with it a very specific purpose: to prevent strangers or newcomers who are wholly unacquainted with the conditions and needs of a community from seeking elective office in such community.³⁶

³³ *Id.*

³⁴ *Id.*

³⁵ See *Jalover, et al., v. Osmeña and COMELEC*, 743 Phil. 825 (2014) [Per J. Brion, *En Banc*].

³⁶ See *Torayno v. COMELEC*, 392 Phil. 342 (2000) [Per J. Panganiban, *En Banc*].

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To be sure, residency can readily be appreciated as a requirement that goes into the heart of our democratic system. It highlights the very purpose of representation – electing only those who can best serve the community because of their knowledge and sensitivity to its needs.³⁷

Here, Pax Ali is no stranger to the Province of Sultan Kudarat as he grew up there and it is his domicile of origin. Too, he had physically been present in Purok Garden, Barangay Tamnag, Lutayan, Sultan Kudarat, and regularly going home to his residence therein since October 2020. The Punong Barangay of Tamnag, Lutayan, even attested that he regularly spoke with Pax Ali regarding the issues and concerns of the residents and how Pax Ali can help them.³⁸

As the Court concluded in *Mitra*, we cannot also deny that the people of Sultan Kudarat have spoken in an election where residency qualification had been squarely raised and their voice has erased any doubt about their verdict on Pax Ali's qualifications.³⁹

With the position I espouse in this case, I vote that there is no sufficient reason to revisit, much less, abandon, the second placer rule.

The *Majority* found Pax Ali to have made a false representation in his COC when he declared that he was resident of Lutayan, Sultan Kudarat for one year and eight months immediately before the day of the elections. He deliberately misrepresented that he was eligible for Governor of Sultan Kudarat when in fact he was not. As a result, the COMELEC denied due course or cancelled his COC.⁴⁰

The *Majority* proceeded to discuss the effect of the denial of due course to or cancellation of the COC of Pax Ali and who would succeed him in the office. For the majority, the rejection of the second placer rule is supported by law and public policy. When a COC is denied due course or cancelled, a permanent vacancy occurs. Regardless of the nature of the proceedings, whether disqualification (under Sections 12 and 68 of the Omnibus Election Code [OEC] and Section 40 of the LGC), denial/cancellation of COC (under Section 78 of the OEC), or *quo warranto* (under Section 253 of the OEC), the second placer cannot be proclaimed as winner in lieu of the disqualified first-placer. Rather, the rules on succession under the Local Government Code shall apply in all cases where a permanent vacancy results from a local

³⁷ See *Mitra v. COMELEC*, 648 Phil. 165 (2010) [Per J. Brion, *En Banc*].

³⁸ Draft *ponencia*, p. 15.

³⁹ See *Mitra v. COMELEC*, 648 Phil. 165 (2010) [Per J. Brion, *En Banc*].

⁴⁰ *Ponencia*, p. 20.

elective official's disqualification from office regardless of the proceedings involved.⁴¹

I respectfully disagree.

If a COC is denied due course or cancelled, then the person who filed such COC was never a candidate in the first place. The second placer, therefore, is considered as the qualified candidate who garnered the highest number of votes. We are guided by the leading case of *Jalosjos, Jr. v. COMELEC*.⁴²

If the certificate of candidacy is *void ab initio*, then legally the person who filed such void certificate of candidacy was never a candidate in the elections at any time. All votes for such non-candidate are stray votes and should not be counted. Thus, such non-candidate can never be a first-placer in the elections. If a certificate of candidacy *void ab initio* is cancelled on the day, or before the day, of the election, prevailing jurisprudence holds that all votes for that candidate are stray votes. If a certificate of candidacy *void ab initio* is cancelled one day or more after the elections, all votes for such candidate should also be stray votes because the certificate of candidacy is void from the very beginning. This is the more equitable and logical approach on the effect of the cancellation of a certificate of candidacy that is *void ab initio*. Otherwise, a certificate of candidacy *void ab initio* can operate to defeat one or more valid certificates of candidacy for the same position.⁴³

Even then, the Court, speaking through then Senior Associate Justice Antonio T. Carpio clarified in the same case that decisions of this Court holding that the second placer cannot be proclaimed winner if the first placer is disqualified or declared ineligible should be limited to situations where the COC of the first placer was valid at the time of filing but subsequently had to be cancelled because of a violation of law that took place, or a legal impediment that took effect, after the filing of the certificate of candidacy.⁴⁴

Here, Pax Ali, a qualified candidate, garnered the most votes on election day and was proclaimed by the Provincial Board of Canvassers as the duly elected Governor of Sultan Kudarat. There is, therefore, no reason to revisit the second placer rule.

True, the abandonment of doctrines here — the *Mitra et al.* doctrine and the second placer rule, is wholly within the prerogative of the Court. Its own jurisprudential creation may, therefore, pursuant to its mandate to uphold

⁴¹ *Id.* at 33.

⁴² See 696 Phil 601 (2012) [Per J. Carpio, *En Banc*].

⁴³ *Id.*

⁴⁴ *Id.*

and defend the Constitution, revoke it notwithstanding supervening events that render the subject of discussion moot.⁴⁵

But the abandonment of doctrines is not without its limitations. Article 8 of the Civil Code states that judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines. Although decisions form part of the law of the land, they are also subject to Article 4 of the Civil Code which provides that laws shall have no retroactive effect unless the contrary is provided. This is expressed in the familiar legal maxim *lex prospicit, non respicit* — the law looks forward not backward. The rationale against retroactivity is easy to perceive. The retroactive application of a law usually divests rights that have already become vested or impairs the obligations of contract and hence, is unconstitutional.⁴⁶ While the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as **good law** prior to its abandonment. Consequently, the people's reliance thereupon should be respected.⁴⁷

Thus, the abandonment of the *Mitra* and second placer doctrines must be applied prospectively for the reason that judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines. Unto this Court devolves the sole authority to interpret what the Constitution means, and all persons are bound to follow its interpretation.⁴⁸

We are guided by *People v. Jabinal*⁴⁹ where the Court settled that when a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.

In *Carpio-Morales v. Court of Appeals*⁵⁰ the Court found no legal authority to sustain the condonation doctrine in this jurisdiction, it nonetheless clarified that the Court's abandonment of the condonation doctrine should be prospective in application. As explained in *De Castro v. Judicial Bar Council*,⁵¹ judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines. Unto this Court devolves the sole authority to interpret what the Constitution means, and all persons are bound to follow its interpretation.

⁴⁵ See *Carpio-Morales v. Court of Appeals*, 772 Phil 672 (2015) [Per J. Perlas-Bernabe, *En Banc*].

⁴⁶ See *Gauvain v. Court of Appeals*, 282 Phil 530 (1992) [Per J. Gutierrez, Jr., Third Division].

⁴⁷ See *Carpio-Morales v. Court of Appeals*, 772 Phil 672 (2015) [Per J. Perlas-Bernabe, *En Banc*].

⁴⁸ *Id.*

⁴⁹ See 154 Phil. 565 (1974) [Per J. Antonio, Second Division].

⁵⁰ See *Carpio-Morales v. Court of Appeals*, 772 Phil 672 (2015) [Per J. Perlas-Bernabe, *En Banc*].

⁵¹ See 629 Phil. 629 (2010) [Per J. Bersamin, *En Banc*].

Too, in *Tañada v. Tuvera*,⁵² the Court declared that presidential issuances of general application, which have not been published, shall have no force and effect. Without such notice and publication, there would be no basis for the application of the maxim "*ignorantia legis non excusat*." It would be the height of injustice to punish or otherwise burden a citizen for the transgression of a law of which he had no notice whatsoever, not even a constructive one.

In ruling so, the Court adopted the pragmatic and realistic course set forth in *Chicot County Drainage District v. Baxter Bank*,⁵³ thus:

The actual existence of a statute, prior to such a determination, is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects—with respect to particular conduct, private and official. Questions of rights claimed to have become vested, of status, of prior determinations deemed to have finality and acted upon accordingly, of public policy in the light of the nature both of the statute and of its previous application, demand examination. These questions are among the most difficult of those which have engaged the attention of courts, state and federal and it is manifest from numerous decisions that an all-inclusive statement of a principle of absolute retroactive invalidity cannot be justified.

Similarly, in this case, the implementation/enforcement of presidential decrees prior to their publication in the Official Gazette is "an operative fact which may have consequences which cannot be justly ignored. *The past cannot always be erased by a new judicial declaration ... that an all-inclusive statement of a principle of absolute retroactive invalidity cannot be justified.* (Emphasis in the original)

Meanwhile, a doctrine which is considered a good law until abandoned finds application in *Madreo v. Bayron*.⁵⁴ In that case, Aldrin Madreo charged Lucilo Bayron (Lucilo) and Karl Bayron with the administrative offenses of grave misconduct, serious dishonesty; conduct unbecoming of a public officer and conduct prejudicial to the best interest of the service, docketed as OMB-L-A-13-0564; and criminal offenses of nepotism, perjury, falsification of public documents, and violation of Section 3(e) of Republic Act No. 3019, docketed as OMB-L-C-13-0500 before the Ombudsman. On May 8, 2015 and during the pendency of the proceedings in OMB-L-A-13-0564 and OMB-L-C-13-0500, a recall election was held for the position of city mayor of Puerto Princesa and Lucilo was proclaimed as the winner and duly elected mayor of Puerto Princesa City. On June 22, 2015, Lucilo, through his counsel, filed an Entry of Appearance with Motion to Dismiss, praying for the dismissal of the administrative complaint in light of his proclamation as the winner of the

⁵² See 220 Phil. 422 (1985) [Per J. Escolin, *En Banc*].

⁵³ 308 U.S. 371, 374

⁵⁴ See 888 Phil. 768 (2020) [Per J. Delos Santos, *En Banc*].

recall election. He asserted that re-election to office operates as a **condonation** of the officer's misconduct to the extent of cutting off the right to remove him therefrom. During the May 2016 local elections, and while the proceedings in OMB-L-A-13-0564 and OMB-L-C-13-0500 were ongoing, Lucilo was re-elected as mayor of Puerto Princesa City.⁵⁵

As to whether the condonation doctrine still applied to Lucilo's case, the Court clarified that the defense of condonation doctrine is no longer available if the public official's re-election happens on or after April 12, 2016. With the abandonment of the condonation doctrine in *Carpio-Morales*, which became final on April 12, 2016, any re-elections of public officials on said date and onwards no longer have the effect of condoning their previous misconduct. The Court ratiocinated:

In view of the foregoing disquisitions, the Court rules that the doctrine of condonation is applicable to the case of Lucilo by reason of his re-election, as the term is understood in the application of the doctrine, during the recall election on 8 May 2015. It is undisputed that Lucilo's re-election took place prior to the finality of *Carpio-Morales*, which abandoned the condonation doctrine, on 12 April 2016. Considering that the doctrine of condonation is still a good law at the time of his re-election in 2015, Lucilo can certainly use and rely on the said doctrine as a defense against the charges for prior administrative misconduct on the rationale that his re-election effectively obliterates all of his prior administrative misconduct, if any at all. Further, with his re-election on 8 May 2015, Lucilo already had the vested right, by reason of the doctrine of condonation, not to be removed from his office, which may not be deprived from him or be impaired by the subsequent abandonment in *Carpio-Morales* of the aforesaid doctrine, or by any new law, doctrine or Court ruling. Accordingly, his re-election on 8 May 2015 rendered moot and academic the administrative complaint filed against him on 22 November 2013 for misconduct allegedly committed on 1 July 2013, hence, must be dismissed.

The doctrine of condonation, however, cannot be extended to Lucilo's re-election during the May 2016 elections. By then, the doctrine had already been abandoned, and his re-election no longer had the effect of condoning his previous misconduct.

So must it be in the present case.

⁵⁵ *Id.*

Thus, I vote to **GRANT** the petition of Pax Ali and reverse the Resolution dated January 18, 2022 of the COMELEC First Division and the Resolution dated May 2, 2022 of the COMELEC *En Banc* in SPA No. 21-078 (DC) and SPA No. 21-114 (DC).

Respectfully submitted.



AMY C. LAZARO-JAVIER