

EN BANC

G.R. No. 278353 – SARA Z. DUTERTE, Petitioner, v. HOUSE OF REPRESENTATIVES, represented by Ferdinand Martin G. Romualdez, in his capacity as Speaker of the House of Representatives, REGINALDO S. VELASCO, in his capacity as the Secretary-General of the House of Representatives, THE SENATE OF THE PHILIPPINES, represented by Francis G. Escudero, in his capacity as the President of the Senate, Respondents; and G.R. No. 278359 – ATTY. ISRAELITO P. TORREON, MARTIN DELGRA III, ATTY. JAMES T. RESERVA, ATTY. HILARY OLGA M. RESERVA, J. MELCHOR QUITAIN, JR., LUNA MARIA DOMINIQUE S. ACOSTA, BAI HUNDRA CASSANDRA DOMINIQUE N. ADVINCULA, AL RYAN S. ALEJANDRE, DANTE L. APOSTOL, SR., CONRADO C. BALURAN, JESSICA M. BONGUYAN, LOUIE JOHN J. BONGUYAN, PILAR C. BRAGA, JONARD C. DAYAP, EDGAR P. IBUYAN, JR., RICHLYN N. JUSTOL-BAGUILOD, MYRNA G DALODO-ORTIZ, DIOSDADO ANGELO JUNIOR R. MAHIPUS, BONZ ANDRE A. MILITAR, ALBERTO T. UNGAB, TRISHA ANN J. VILLAFUERTE, LORENZO BENJAMIN D. VILLAFUERTE, JESUS JOSEPH P. ZOZOBRADO III, DARWIN G. SALCEDO, RODOLFO MANDE, KRISTINE MAY JOHN ABDUL MERCADO, LORD OLIVER RAYMUND MONFERO CRISTOBAL, and LORD BYRON MONFERO CRISTOBAL, Petitioners, v. HOUSE OF REPRESENTATIVES, represented by House Speaker Ferdinand Martin G. Romualdez, SENATE OF THE PHILIPPINES, represented by Senate President Francis Joseph G. Escudero, Respondents.

Promulgated: July 25, 2025

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CONCURRING OPINION

GAERLAN, J.:

The importance of impeachment as a tool of accountability cannot be overstated. As Prof. Edward Corwin, a leading expositor of the United States Constitution (from where our constitutional provisions on impeachment were lifted), puts it, “*impeachment is the most formidable weapon in the arsenal of democracy.*”¹ Impeachment is a device that maintains the true essence of a representative government.²

¹ *Chief Justice Corona v. Senate of the Philippines*, 691 Phil 156, 169 (2012) [Per J. Villarama, Jr., *En Banc*], citing Edward S. Corwin, cited in *Judicial Review of Impeachment: The Judicialization of Philippine Politics* by Franco Aristotle G. Larcina, University of Santo Tomas (UST) Law Review, Vol. L, AY 2005-2006.

² Jonathan Turley, *Senate Trials and Factional Disputes: Impeachment as a Madisonian Device*, 49 DUKE L.J. 1, 3 (Oct. 1999).

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The 1987 Philippine Constitution states that “[t]he Philippines is a democratic and republican State; Sovereignty resides in the people and all government authority emanates from them.”³ Impeachment embodies this declaration by questioning the legitimacy of the impeached public officer in the light of his/her alleged misconduct in office.⁴ The process will determine whether or not the governed (or the people), through their representatives (the Senators), would still allow the impeached public officer to remain in office.⁵ This is the reason why the impeachment trial is lodged in the Senate and not in the Supreme Court.

Impeachment plays a vital role in the checks and balances of the three branches of the government. It is the mechanism by which the Legislature may check the Executive and the Judiciary. Nevertheless, as powerful as it is, impeachment does not rob and should not rob impeachable public officers of their rights. Public officers do not lose their rights as citizens when they assume public office. The principle that no person shall be deprived of their life, liberty, or property except by ‘the law of the land,’ or its synonym, ‘due process of law’ is older than written constitutions.⁶

In this regard, I concur with the eloquent *ponencia* of Senior Associate Justice Marvic Leonen that impeachment is not a purely political proceeding and that the Bill of Rights, especially the due process clause, applies to the entire impeachment process.⁷ Considering that Vice President Sara Duterte’s (VP Sara) right to due process was violated, the fourth Articles of Impeachment transmitted to the Senate is indeed null and void.

Let me expound.

Nature of Impeachment

In *Gutierrez v. The House of Representatives Committee on Justice*,⁸ (*Gutierrez*), the Court declared that, “[i]ndubitably, an impeachment is not a judicial proceeding, but rather a political exercise.”⁹ This sentiment is maintained in *Rep. of the Phils. v. Sereno*¹⁰ and *Re: Letter of Mrs. Corona Requesting Grant of Retirement/Benefits to the Late Former C.J. Corona and Her Claim Under [Republic Act] No. 9946*.¹¹ The *ponencia* now abandons this view. The *ponencia* rules that impeachment is not solely a political process. It

³ CONST., art. II, sec. 1.

⁴ Jonathan Turley, *Senate Trials and Factional Disputes: Impeachment as a Madisonian Device*, 49 DUKE L.J. 1, 4 (Oct. 1999).

⁵ *Id.*

⁶ *City of Manila v. Posadas, Jr.*, 48 Phil 309 (1925) [Per J. Johns, *En Banc*].

⁷ *Ponencia*, p. 3.

⁸ 660 Phil 271 (2011) [Per. J. Carpio Morales, *En Banc*].

⁹ *Id.* at 284.

¹⁰ 831 Phil 271 (2018) [Per. J. Tijam, *En Banc*].

¹¹ A.M. No. 20-07-10-SC, January 12, 2021 [Per. J. Hernando, *En Banc*].

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is a *sui generis* constitutional process, that is, primarily legal but with political characteristics.¹²

I agree. It is further my humble submission that impeachment is “quasi-judicial and quasi-political.”¹³ It is political, on the one hand, because the right to accuse is exclusively given to the House of Representatives (HOR), and the right to try and decide is given to the Senate and not to the Supreme Court.¹⁴ On the other hand, it is judicial because the Senate, acting as the impeachment court, would determine the guilt or innocence of the accused, and the senators are required to be under oath or affirmation.¹⁵

Consequently, the judicial aspect of impeachment partakes a penal nature; that is, impeachment is akin to a criminal proceeding.¹⁶ Article XI, Section 3(6) and (7) of the 1987 Constitution use the word “convicted,” which is ordinarily associated with a criminal case.¹⁷ Three of the grounds for impeachment are well-defined criminal offenses such as treason, bribery, and graft and corruption.¹⁸ The penalty for impeachment also carries with it perpetual disqualification from any office in the government—a punishment provided under the Revised Penal Code.¹⁹ The stigma of being convicted in a criminal proceeding arising from a common crime obtains in an impeachment trial. Not only is the position of the impeached public officer at stake, but also their reputation and the possibility of future employment in the government. As then Senator Miriam Defensor-Santiago quipped, “conviction on impeachment is a stunning penalty, the ruin of a life.”²⁰

Significantly, the framers of the 1987 Constitution see impeachment as essentially a political act; albeit, with a procedure analogous to a criminal

¹² *Ponencia*, p. 43.

¹³ Senator Miriam Defensor-Santiago, *citing* Professor Charles Black of Yale University and Professor Raoul Berger of Harvard University, during the Impeachment Trial of Honorable Chief Justice Renato C. Corona. *See* Transcript of Stenographic Notes, In re: Impeachment Trial of Honorable Chief Justice Renato C. Corona, Case No. 002-2011 (May 29, 2012), 14.

¹⁴ Chief Justice Renato V. Puno, concurring and dissenting opinion in *Francisco, Jr. v. The House of Representatives*, 460 Phil. 830 (2003) [Per J. Carpio Morales, *En Banc*].

¹⁵ Renato V. Puno, Comment, *The Process of Impeachment and its Applicability in the Philippine Legal System*, 26 *Ateneo L.J.* 162, 168 (March, 1982).

¹⁶ Chief Justice Renato V. Puno, concurring and dissenting opinion in *Francisco, Jr. v. The House of Representatives*, 460 Phil. 830 (2003) [Per J. Carpio Morales, *En Banc*].

¹⁷ (6) The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be **convicted** without the concurrence of two-thirds of all the Members of the Senate. (7) Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold any office under the Republic of the Philippines, but the party **convicted** shall nevertheless be liable and subject to prosecution, trial, and punishment according to law. (Emphasis supplied)

¹⁸ Chief Justice Renato V. Puno, concurring and dissenting opinion in *Francisco, Jr. v. The House of Representatives*, 460 Phil. 830 (2003) [Per J. Carpio Morales, *En Banc*].

¹⁹ An Act Revising the Penal Code and Other Penal Laws, Act No. 3815, art. 30 (1932).

²⁰ Transcript of Stenographic Notes, In re: Impeachment Trial of Honorable Chief Justice Renato C. Corona, Case No. 002-2011 (May 29, 2012), 11.

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proceeding. The exchange of *Mr. Maambong* and *Mr. Romulo* during the 1986 Constitutional Convention is instructive, thus:

MR. MAAMBONG:

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I will start by asking the Committee this question: What is really the thinking of the Committee as far as impeachment proceedings are concerned? **Are impeachment proceedings criminal in nature or not?** In order to answer this very clearly, I would like to indicate the following: In the case of *State v. Lorse*, 70 Nebraska 92, which is United States case, the Supreme Court ruled that the proceeding is likened to a proceeding by indictment in a court of criminal jurisdiction. It is in its nature highly penal and its governed by rules of law applicable to criminal prosecution. I would like to indicate this to the Committee that in case of official misconduct, we have here statements which I think the Committee should comment on. Official misconduct is supposed to fall into three categories: One, exceeding the constitutional bounds of the powers of the office in derogation of the powers of another branch of government; two, behaving in a manner grossly incompatible with the proper function and purpose of the office; and, three, employing the power of the office for an improper purpose or personal gain.

The provision which we have here says:

. . . [I]mpeachment and criminal law serve fundamentally different purposes. Impeachment is the first step in a remedial process. The purpose is not personal punishment. Its function is primarily to maintain constitutional government. The general applicability of the criminal law also makes it inappropriate as the standard. In an impeachment proceeding, a President is called to account for abusing powers which only a President possesses. Impeachable conduct may include the serious failure to discharge the affirmative duties imposed on the President by the Constitution. Unlike a criminal case, the cause for removal may be based on his entire course of conduct in office. It may be a course of conduct more than individual acts that has a tendency to subvert constitutional government. (*Powers of Impeachment – Guide to Congress*, p. 149)

For the purpose of proper elucidation, what is the thinking now of the Committee as far as this impeachment procedure is concerned? Is this a criminal proceeding? If so, we have to use the principle of criminal law.

MR. ROMULO: Yes. Firstly, we agree with the quotation that the Commissioner has read. Insofar as we are concerned, the procedure is analogous to a criminal trial but is not a criminal proceeding per se.²¹ (Emphasis supplied)

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²¹ II Record of the Constitutional Commission: Proceedings and Debates 276–277 (1987).

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MR. MAAMBONG: Last point, just to enrich our records. I would like the Committee to comment on this quotation from the *Philippine Constitution* by Former Chief Justice Fernando, where he said:

In the United States Constitution, the term is high crime and misdemeanors. The Philippine Constitution speaks only of high crimes. There is support for the view that while there need not be a showing of the criminal character of the act imputed, it must be of sufficient seriousness as to justify the belief that there was a grave violation of the trust imposed on the official sought to be impeached. (pp. 460–461).

Would the Committee agree to this statement?

MR. ROMULO: Yes. Let me say that essentially, impeachment is a political act.²² (Emphasis supplied)

From the foregoing, it is clear that the Philippine concept of impeachment involves a commixture of political and judicial components.²³

Due process in impeachment

The *ponencia* is groundbreaking as it addresses categorically, for the first time, the issue of whether the due process clause of the Constitution applies to impeachment proceedings.

Gutierrez is the first case where the respondent in an impeachment proceeding raised a violation of her right to due process. Former Ombudsman Merceditas Gutierrez (OMB Gutierrez) filed a special civil action for *certiorari* and prohibition before the Supreme Court, primarily questioning the constitutionality of the simultaneous referral of the HOR of two impeachment complaints filed against her to the Committee on Justice. “She anchored her claim on the alleged violation of the one-year bar rule and the due process clause of the 1987 Constitution.”²⁴

OMB Gutierrez alleged that the proceeding before the Committee on Justice headed by then Representative Niel Tupas, Jr. (Rep. Tupas) was tainted with partiality and haste, thus effectively depriving her of a proceeding before an impartial tribunal. She narrated that Rep. Tupas was the subject of an investigation she was conducting, while his father had been charged by her under the Anti-Graft and Corrupt Practices Act before the *Sandiganbayan*. In addition, she maintained that she was denied due process by the delay in the publication of the Impeachment Rules. The said Rules was published only

²² *Id.* at 278.

²³ Chief Justice Renato V. Puno, concurring and dissenting opinion in *Francisco, Jr. v. The House of Representatives*, 460 Phil. 830 (2003) [Per J. Carpio Morales, *En Banc*].

²⁴ *Gutierrez v. The House of Representatives Committee on Justice*, 660 Phil 271 (2011) [Per. J. Carpio Morales, *En Banc*].

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after a day that the Committee on Justice ruled that the impeachment complaints filed against her were sufficient in substance.²⁵

The Court tacitly acknowledged OMB Merceditas' right to due process when it did not shy away from resolving her claim of denial of the right. It found OMB Gutierrez's allegations of "bias and vindictiveness as bereft of merit,"²⁶ just as it also rebuffed her contention regarding the need for publication of the House Impeachment Rules. The Court explained that unlike in inquiries in aid of legislation wherein the 1987 Constitution explicitly requires the publication of its rules, the rules on impeachment need only to be "promulgated" and "when the Constitution itself has not prescribed a specific method of promulgation," the court itself is in no position to take a specific mode.²⁷

Subsequently in *Chief Justice Corona v. Senate of the Philippines*,²⁸ former Chief Justice C. Renato Corona (CJ Corona) filed a Petition for *Certiorari* and prohibition before the Court, claiming that his right to due process was being violated during the impeachment proceedings as certain Senator-Judges had lost the cold neutrality of impartial judges. However, during the pendency of the case, the impeachment trial ended with the conviction of CJ Corona. Thus, the Court no longer resolved the due process issue and dismissed the petition on the ground of mootness.

The present case marks the third time that violation of due process rights is alleged in an impeachment case. Petitioners argue that VP Sara was not given prior notice, and other members of the House were deliberately excluded. They also questioned whether members of the House were required to determine the sufficiency in form and substance of the impeachment complaint or the existence of probable cause before signing.²⁹ Respondents denied violation of VP Sara's due process right. They asserted that petitioners' arguments are misplaced as impeachment does not implicate life, liberty, or property, as public office is not a vested right. VP Sara would also be given an opportunity to respond to the charges against her before the Senate sitting as an impeachment court.³⁰

The *ponencia* found that the right to due process of VP Sara was violated. It held that the HOR is mistaken in believing that the verification and signature of at least one-third of its members are sufficient to meet due process of law. It underscored that due process applies to all stages of the impeachment process.³¹ The impeachment proceeding would be scrutinized

²⁵ *Id.* at 279.

²⁶ *Id.* at 284.

²⁷ *Id.* at 283.

²⁸ 691 Phil 156 (2012) [Per. J. Villarama Jr., *En Banc*].

²⁹ *Ponencia*, p. 16.

³⁰ *Id.* at 17.

³¹ *Id.* at 92.

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based on the HOR's compliance with procedural due process, which includes notice and hearing, an impartial tribunal, and a decision supported by facts and evidence.³²

The *ponencia* is correct. It is high time for the Court to make a clear ruling on the applicability of due process in impeachment proceedings, as well as what constitutes the same.

To my mind, the very nature of due process as a fundamental right speaks in favor of its application in impeachment proceedings. *First*, due process of law is not only guaranteed by the Philippine Constitutions but also by international instruments, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), to which the Philippines is a signatory. The UDHR provides that "no one shall be arbitrarily deprived of his property."³³ The ICCPR conveys that, "... everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."³⁴

Second, the right to due process antedates any written constitution in the world and is considered an "inalienable right of every man and woman that cannot be brushed aside either in time of peace or in time of war."³⁵

Third, public office may be considered as a property right in a limited sense in the context of security of tenure. Hence, the right to due process could rightfully be invoked.³⁶

Fourth, the framers of the 1987 Constitution contemplated that due process of law shall be observed in impeachment proceedings, thus:

MR. MAAMBONG: May I proceed now to two very short questions considering that we have already identified the problem and the answer is that it is not a purely criminal prosecution in terms of procedure. We have here a statement in the book of Simpson which reads:

"A person subject to impeachment by Congress is entitled to due process of law although presently there is little judicial authority. It can be suggested that he is also entitled to his privilege against self-incrimination, right to counsel, right to be informed of the nature and the cause of the accusation against him, and the right to be confronted with adversary witnesses." (*Treaties on Federal Impeachment*, p. 27)

³² *Id.* at 90.

³³ Universal Declaration of Human Rights, GA Res 217A (III), art. 17(2), A/RES/3/217 A, (December 10, 1948).

³⁴ ICCPR, art. 14(1).

³⁵ 1 AMBROSIO B. PADILLA, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES WITH COMMENTS AND Cases 121 (1987 ed.), p. 131, citing *Raquiz v. Bradford*, 75 Phil. 50, 65 (1945) [Per J. Hilado, *En Banc*].

³⁶ *Lumiqued v. Exevea*, 346 Phil 807-830 (1997) [Per J. Romero, *En Banc*]. See also *Morfe v. Mutuc*, 130 Phil 415 (1968) [Per J. Fernando, *En Banc*].

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Would this statement be applicable to an impeachment proceeding?

MR. ROMULO: As the provisions now read, I think the Senate, as well as the House, will set up its own rules. I do not know whether or not we have to adhere to that because what the Commissioner has read, strictly speaking, is a criminal proceeding. But the President like any citizen is entitled to the bill of rights, like confrontation of witnesses, notice of the charges and so on. I think those are fundamental and he is entitled to them.³⁷ (Emphasis supplied)

Corollary, it is apparent from the foregoing that the framers of the Constitution gave leeway to the HOR and the Senate to formulate their own rules for impeachment. Hence, the Constitution provides that “[t]he Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section.”³⁸ However, in creating their respective rules, the two chambers of the Congress are expected to ensure that the right to due process of the public officer is observed.

As pointed out in the *ponencia*, Article XI, Section 3(2) and (3) of the Constitution, constituting the first mode of impeachment, and Rule II of the House Rules on Impeachment of the 19th Congress (House Rules) provide a comprehensive procedure³⁹ observing procedural process. The provision reads:

ARTICLE XI **ACCOUNTABILITY OF PUBLIC OFFICERS**

Section 3.

1. The House of Representatives shall have the exclusive power to initiate all cases of impeachment.
2. A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution or endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.
3. A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

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³⁷ II Record of the Constitutional Commission: Proceedings and Debates 276-277 (1987), at 277.

³⁸ CONST. art. XI, sec. 3(8).

³⁹ *Ponencia*, p. 79.

RULE II
Initiating Impeachment

Section 2. *Mode of Initiating Impeachment.* – Impeachment shall be initiated by the filing and subsequent referral to the Committee on Justice of:

- a. a verified complaint for impeachment filed by any Member of the House of Representatives or;
- b. a verified complaint filed by any citizen upon a resolution of endorsement by any Member thereof; or
- c. a verified complaint or resolution of impeachment filed by at least one-third (1/3) of all the Members of the House.

Section 3. *Filing and Referral of Verified Complaints.* – A verified complaint for impeachment by a Member of the House or by any citizen upon a resolution of endorsement by any Member thereof shall be filed with the office of the Secretary General and immediately referred to the Speaker.

An impeachment complaint is verified by an affidavit that the complainant has read the complaint and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

An impeachment complaint required to be verified which contains a verification based on “information and belief,” or upon “knowledge, information and belief,” or lacks a proper verification, shall be treated as an unsigned impeachment complaint.

The Speaker shall have it included in the Order of Business within ten (10) session days from receipt. It shall then be referred to the Committee on Justice within three (3) session days thereafter.

I observe that the House Rules is silent as to the procedural due process in place when the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the HOR. Nevertheless, as the *ponencia* suggests, at the very least, the HOR should have given the respondent, VP Sara in this case, a copy of the draft Articles of Impeachment and its accompanying evidence and an opportunity to respond thereto within a reasonable period. Thereafter, the draft articles of impeachment, its accompanying evidence, and the comment of respondent should be made available to all the members of the HOR. There should be some moment of deliberation allowing each member to be heard. After the foregoing, the draft impeachment would be transmitted to the Senate upon the vote of one-third of the members of the HOR.⁴⁰

Here, as admitted by the HOR in their Compliance before the Court, VP Sara was not given the opportunity to be heard in relation to the fourth

⁴⁰ *Ponencia*, p 88.

Articles of Impeachment transmitted to the Senate. The HOR posits that neither the Constitution nor the House Rules imposes any requirement of prior opportunity to be heard: (1) before Members constituting at least one-third of the HOR may file a verified complaint for impeachment; or (2) before transmitting to the Senate the Articles of Impeachment filed by at least one-third of all the Members of the HOR.⁴¹

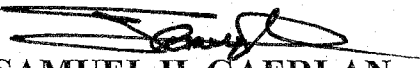
At the risk of repetition, the fundamental right to due process applies in all proceedings. Impeachment is not an exception. Due process of law does not distinguish between a private citizen and a public servant. If in disciplinary actions against non-impeachable/ordinary public officers, due process is guaranteed, the more reason that it should be applied in the case of impeachable public officers who occupy positions of greater responsibility in the government.

Whatever the kind of proceedings may be, the violation of the constitutional right to due process, substantive or procedural, would render the entire proceedings null and void. Thus, the Court opined that:

*The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted from their jurisdiction. The violation of a party's right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. Where the denial of the fundamental right to due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction. **This rule is equally true in quasi-judicial and administrative proceedings, for the constitutional guarantee that no man shall be deprived of life, liberty, or property without due process is unqualified by the type of proceedings (whether judicial or administrative) where he stands to lose the same.***⁴²
(Emphasis supplied)

In fine, due to the HOR's violation of VP Sara's right to due process, the fourth Articles of Impeachment is null and void. The Senate, sitting as an Impeachment Court, has no jurisdiction over the transmitted Articles of Impeachment.

All told, I vote to **GRANT** the Petitions for *Certiorari*.


SAMUEL H. GAERLAN
Associate Justice

⁴¹ Compliance, p. 8.

⁴² *Garcia v. Molina and Velasco*, 642 Phil. 6, 22 (2010) [Per J. Nachura, *En Banc*].