



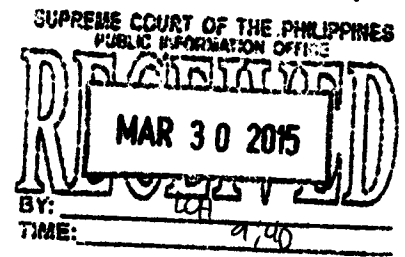
Republic of the Philippines

Supreme Court

Manila

EN BANC

NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **FEBRUARY 17, 2015**, which reads as follows:

“G.R. No. 216457 - *Wilhelmino M. Sy-Alvarado, Petitioner v. Commission on Elections (COMELEC), Provincial Election Supervisor of Bulacan (PES), and Perlita G. Mendoza, Respondents.*

Private respondent Perlita G. Mendoza filed before public respondent Commission on Elections (COMELEC) a Petition for Recall of petitioner Governor Wilhelmino M. Sy-Alvarado of the Province of Bulacan. The Petition was docketed as PRC No. 14-002.

Pursuant to COMELEC Resolution No. 7505,¹ or the *Rules And Regulations For The Recall Of Elective Local Government Officials As Provided Under the Local Government Code, As Amended*, particularly Section 12 thereof, the Petition was referred to the Provincial Election Supervisor (PES) of Bulacan for evaluation of the sufficiency or insufficiency of the Petition. After reviewing the Petition and its supporting documents, the PES found that all the prescribed requirements under Resolution No. 7505 have been complied with. As regards the required percentage or total number of signatories, it was noted that based on the letter of National Statistics Office Officer-in-Charge National Statistician Carmelita N. Ericta, the voting-age population of the Province of Bulacan is 1,830,698. As provided in Section 6 of Resolution No. 7505, the required percentage or minimum number of signatories should be at least 10% of the voting population or 183,069. In this case, there were 319,707 signatories in the Petition. Thus, the PES found that the required percentage or total number of signatories has been attained. In fine, the PES found the Petition sufficient in form and substance. His findings were then submitted to the Office of the Deputy Executive Director for Operations (ODEDO).

¹ Promulgated on June 6, 2005.

On May 5, 2014, the ODEDO submitted to the COMELEC a Memorandum stating that pursuant to Resolution No. 9864² dated April 1, 2014, the ODEDO would hold in abeyance any action on the Petition pending resolution of the issue on funding of recall elections.

Acting on the Memorandum, the COMELEC³ on May 8, 2014 issued Minute Resolution No. 14-0318, directing the ODEDO to proceed with the evaluation and review of the recommendations of the PES to determine the sufficiency or insufficiency of the Petition. On May 26, 2014, the ODEDO submitted its findings and recommendations to the COMELEC.

On June 3, 2014, the COMELEC issued Minute Resolution No. 14-0380,⁴ affirming the recommendation of the ODEDO, to wit:

The Commission RESOLVED, as it hereby RESOLVES, to affirm the foregoing recommendation of the Office of the Deputy Executive Director for Operations as to the SUFFICIENCY of the Petition for Recall filed by Perlita G. Mendoza against Governor Wilhelmino M. Sy-Alvarado of the Province of Bulacan.⁵

Aggrieved, petitioner filed a Motion for Reconsideration insisting that the Petition is not sufficient in substance as the PES failed to determine whether all the signatories are registered voters of Bulacan and whether they were registered as such during the 2013 elections. However, the same was denied by the COMELEC on January 30, 2014. Its Summary of Votes⁶ reads:

After due deliberation of the Commission *en banc* of the above-captioned case, the members of the *en banc* voted as follows:

x x x x

In view of the foregoing, with the vote 4-2-1, the DISSENTING OPINIONS of Chairman Sixto S. Brillantes, Jr. and Commissioner Christian Robert S. Lim as adopted by Commissioners Al A. Parreño and Luie Tito F. Guia are effectively the majority opinion. Thus, the instant Motion for Reconsideration is hereby DENIED. The assailed Minute Resolution No. 14-0380 dated June 3, 2014 pronouncing the SUFFICIENCY of the recall petition against Bulacan Governor Wilhelmino M. Sy-Alvarado is hereby AFFIRMED.⁷

² In the Matter of the Recall of Elective Government Officials, and the Budgetary Provisions for the Conduct Thereof; Promulgated on April 1, 2014.

³ En Banc.

⁴ *Rollo*, pp. 48-52.

⁵ *Id.* at 51.

⁶ *Id.* at 74-75.

⁷ *Id.*

Hence, petitioner filed this Petition for *Certiorari* with application for immediate issuance of Temporary Restraining Order/Status Quo Ante Order under Rule 64 of the Rules of Court. The following issues are raised:

- (1) x x x [T]he COMELEC, En Banc committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it declared SUFFICIENCY in substance the recall petition against [petitioner] and allowed further proceedings, despite express admission by the PES that he failed to authenticate the required number of x x x signatories essential to a valid recall petition.
- (2) x x x COMELEC committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it opted not to issue a Decision incorporating the views of the dissenting Commissioners as the new majority decision, depriving herein petitioner of the opportunity to challenge said decision in this petition for certiorari.⁸

We dismiss the petition, there being no showing of grave abuse of discretion on the part of the COMELEC.

Petitioner insists that the Petition for Recall is not sufficient in substance as the signatures attached thereto were not authenticated and verified pursuant to Section 12 of Resolution No. 7505, in relation to Section 6 thereof. The pertinent provisions provide:

SEC. 6. *Supporting petitioners in a petition for recall.* – The supporting petitioners in a petition for recall shall be the registered voters of the local government [unit] concerned, who are registered as such during the election in which the local official sought to be recalled was elected, and whose total number shall comply with the following percentage requirements:

Voting Population of Local Government Units Concerned	Required Percentage or Minimum Number of Petitioners
x x x x	x x x x
Over 300,000	At least ten percent (10%) but not less than 45,000

x x x x

SEC. 12. *Certification of sufficiency and insufficiency of petition for recall.* – The EO or the PES, as the case may be, shall, within three (3) days from the filing of the recall petition, determine whether or not:

⁸ Id. at 13.

(a) The required percentage or total number of signatories has been attained based on the certification on voting population issued by the NSO; and

(b) All the requirements prescribed in the preceding sections have been complied with.

x x x x

COMELEC, on the other hand, claims that the determination of whether the signatories in the Petition are registered voters of the local government unit concerned and were registered as such during the election in which the local official sought to be recalled was elected, are not done during the determination of the sufficiency or insufficiency in form and substance of the Petition, but are done during the public verification of names, signatures, or thumbmarks of the petitioners, as provided for in Sections 20 and 21 of Resolution No. 7505, to wit:

SEC. 20. Public verification of names, signatures or thumbmarks of the petitioners. – The verification of the names, signatures or thumbmarks of the petitioners shall at all times be open to the public, and conducted by the EO or his representative/s at his office and at the verification center, if any, using for this purpose the Books of Voters or Lists of Voters with Voting Records. The petitioners and the official sought to be recalled may send their representatives to the verification proceedings to serve as observers with the right to file objections.

SEC. 21. Objections to signatures or thumbmarks of petitioners; Grounds. – The elective official sought to be recalled or his representative, may question the authenticity and genuineness of any signature or thumbmark on the following grounds:

- a. The signature is forged or falsified;
- b. The thumbmark is smudged, blurred or indistinct;
- c. The thumbmark is that of a voter whose fact of illiteracy is not indicated in his voter registration record;
- d. The petitioner is not a registered voter during the election in which the local official sought to be recalled was elected;
- e. The petitioner's voter registration record has been deactivated during the election in which the local official sought to be recalled was elected; or
- f. The signature or thumbmark of a petitioner appears in the petition more than once.

x x x x

We agree with the COMELEC that the verification of the signatures is done during the verification process and not at the initial stage. Under Section 12 of Resolution No. 7505, the PES is only required, within three (3) days from the filing of the recall petition, to determine whether the



percentage requirement of signatories was met and whether all the necessary documents attached to the petition are complete. To require the PES to verify the authenticity of all the signatures within the three (3)-day period given him is impossible. This is precisely the reason why Resolution No. 7505 provides for a verification process, where the elected official sought to be recalled and the Election Officer (EO) are given the opportunity to examine the authenticity and genuineness of the signatures. In fact, after the verification process, Section 24⁹ of Resolution No. 7505 states that the EO shall count the total valid signatures and thumbmarks and shall issue a certification stating whether the required percentage of signatories to the petition is attained. Once it is determined that the required percentage of signatories is met, the ODEDO shall submit a recommendation to the COMELEC for the setting of the recall election.¹⁰

Anent the validity of the manner by which the Motion for Reconsideration was denied, we note that on January 30, 2015, the COMELEC issued a Summary of Votes, which reads:

After due deliberation of the Commission en banc of the above-captioned case, the members of the en banc voted as follows:

MEMBER	VOTE	EXPLANATION
x x x x		

In view of the foregoing, with the vote 4-2-1, the DISSENTING OPINIONS of Chairman Sixto S. Brillantes, Jr. and Commissioner Christian Robert S. Lim as adopted by Commissioners Al A. Parreño and Luie Tito F. Guia are effectively the majority opinion. Thus, the instant Motion for Reconsideration is hereby DENIED. The assailed Minute Resolution No. 14-0380 dated June 3, 2014 pronouncing the SUFFICIENCY of the recall petition against Bulacan Governor Wilhelmino M. Sy-Alvarado is hereby AFFIRMED.¹¹

Together with the Summary of Votes, copies of the Resolution¹² penned by Commissioner Elias R. Yusoph¹³ and the Opinions (two dissenting and one separate concurring) of Chairman Sixto S. Brillantes¹⁴

⁹ SEC. 24. *Determination of percentage; Certification.* – In case there is no appeal filed by any aggrieved party, or upon receipt of the Resolution of the Commission En Banc on the appeal, if one has been made, the EO shall count the total valid signatures and thumbmarks, and issue a certification on the number of valid signatures and thumbmarks obtained in each barangay and whether or not the required percentage of signatories to the petition or the required minimum number of petitioners is attained. x x x x

¹⁰ SEC. 25. *Review and Evaluation; Setting of recall election.* – After appropriate review and evaluation of the submitted petition and its supporting documents by the ODEDO, and if no infirmities in the process or incompleteness in the documents are found, favourable recommendation shall be made to the Commission En Banc for the setting of the recall election.

¹¹ *Rollo*, pp. 74-75.

¹² *Id.* at 53-61.

¹³ The ponente granted the Motion for Reconsideration but was outvoted by the other Commissioners.

¹⁴ *Rollo*, pp. 62-63.

and Commissioners Christian Robert S. Lim¹⁵ and Lucenito N. Tagle,¹⁶ were sent to petitioner.

Petitioner bewails that the foregoing did not comply with Section 1, Rule 18 of the COMELEC Rules of Procedure, to wit:

Section 1. *Procedure in Making Decisions.* – The conclusions of the Commission in any case submitted to it for decision en banc or in Division shall be reached in consultation before the case is assigned by raffle to a Member for the writing of the opinion of the Commission or the Division and a certification to this effect signed by the Chairman or the Presiding Commissioner, as the case may be, shall be incorporated in decision. Any Member who took no part, or dissented, or abstained from a decision or resolution must state the reason therefor.

Every decision shall express therein clearly and distinctly the facts and the law on which it is based.

Petitioner claims that the COMELEC should have assigned to one of the dissenters the writing of the new majority opinion, instead of disposing the case through a Summary of Votes.

Indeed, we observe that the COMELEC's Summary of Votes is not the normally-accepted format used in resolving motions for reconsideration; in fact, the presentation could not be easily understood. However, we do not agree that the COMELEC's adoption of the said format affected the validity of the Summary of Votes. To begin with, Section 1, Rule 18 of the COMELEC Rules of Procedure pertains to cases submitted to the *en banc* or the division for decision. In this case, under consideration is the Motion for Reconsideration of the COMELEC's Minute Resolution finding the Petition for Recall sufficient in form and substance. Besides, even if such provision applies, we still find the Summary of Votes issued by the COMELEC to have substantially complied with the rules and the law. Section 14, Article VIII of the Constitution provides that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts of the case and the law on which it is based and that no motion for reconsideration of a decision shall be refused due course or denied without stating the legal basis therefor. In this case, we find that the Minute Resolution dated June 3, 2014 clearly set forth the facts of the case and the law, upon which the finding that the Petition for Recall is sufficient in form and substance, was based. Moreover, in the Summary of Votes, the legal bases for the denial of petitioner's Motion for Reconsideration of the Minute Resolution were clearly set forth, as well as the individual votes of each Commissioner. As to why respondent COMELEC opted not to assign to one of the dissenters the drafting of a new resolution of the majority opinion, we can only surmise

¹⁵ Id. at 64-70.

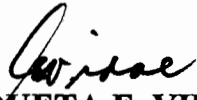
¹⁶ Id. at 71-73.

that time was of the essence considering that a recall election can no longer be conducted one (1) year immediately preceding a regular local election.

In fine, we find no grave abuse of discretion on the part of the COMELEC in denying petitioner's Motion for Reconsideration.

ACCORDINGLY, the instant Petition is **DISMISSED**. Brion, J., on leave. Jardeleza, J., on official leave. (32)

Very truly yours,


ENRIQUETA E. VIDAL
Clerk of Court

(With Dissenting Opinion of Justice Presbitero J. Velasco, Jr.)

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[FOR UPLOADING PURSUANT TO A.M. No. 12-7-1-SC]

G. R. No. 216457
kat 2/17/15 (32) 3/26/15

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