

EN BANC

G.R. No. 221697 [MARY GRACE NATIVIDAD S. POE-LLAMANZARES vs. COMMISSION ON ELECTIONS AND ESTRELLA C. ELAMPARO] and G.R. Nos. 221698-700 [MARY GRACE NATIVIDAD S. POE-LLAMANZARES vs. COMMISSION ON ELECTIONS, FRANCISCO S. TATAD, ANTONIO P. CONTRERAS AND AMADO D. VALDEZ].

Promulgated

April 5, 2016

P. H. Magan-Oron

MENDOZA, J.:

SEPARATE CONCURRING OPINION

I join the denial of the motions for reconsideration of the March 8, 2016 Decision where the Court held that the assailed COMELEC resolutions were tainted with grave abuse of discretion when they cancelled the certificate of candidacy of Mary Grace Poe as she did not commit a material misrepresentation in executing it.

This position, notwithstanding, I am expressing my reservation on the issue of residency. The Court should not in this case make a definitive ruling on the matter, as it should be tackled and resolved by the Presidential Electoral Tribunal, the sole judge of all contests relating to the election, returns, and qualifications of the president-elect in appropriate cases.

Nevertheless, I share the view of the my esteemed colleague Associate Justice Estela M. Perlas-Bernabe that the Court's interpretation of the COMELEC's jurisdiction under Section 78 of the Omnibus Election Code in *Romualdez-Marcos v. COMELEC*,¹ *Salcedo II v. COMELEC*² and other succeeding cases should be abandoned. In those cases, it was held that the statement in a certificate of candidacy "[b]ecomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible."³ A reading of the said provision, however, reveals that there no requirement of a deliberate attempt to mislead, misinform, or hide a fact, to wit:

¹ 318 Phil. 329 (1995).

² 371 Phil. 377 (1999).

³ *Supra* note 1, p. 380.

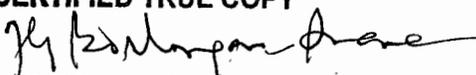
Sec. 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. xxx

Indeed, Section 78 does not require that there be an intention to deceive for a certificate of candidacy to be denied due course or be cancelled. The intent of a candidate with respect to a petition to deny due course to or cancel a candidacy is immaterial. A candidate's material representation in his certificate of candidacy should be determined by fact or law and not measured by his/her claim of good faith. Otherwise, the COMELEC would become impotent in petitions under Section 78 because a questioned candidate can effortlessly evade scrutiny by simply invoking his good faith. It will defeat the COMELEC's power to "[e]nforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall" and to "[d]ecide, except those involving the right to vote, all questions affecting elections."⁴

Nevertheless, the abandonment of the doctrine under *Romualdez-Marcos v. COMELEC* and *Salcedo II v. COMELEC* should be **prospective** in application. A sense of fairness dictates that those who relied on the Court's interpretation of Section 78 in the past, including the petitioner herein, should not be prejudiced by its reversion. In *Morales v. Court of Appeals and Jejomar Erwin S. Binay, Jr.*,⁵ where the condonation doctrine was reversed, the Court cautioned that it "should be *prospective in application* for the reason that judicial decisions applying or interpreting the laws of the Constitution, until reversed, shall form part of the legal system of the Philippines." The Court added therein that "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."

Accordingly, a candidate can still claim that he has no deliberate intent to mislead, misinform, or hide a fact from his/her certificate of candidacy.


JOSE CATRAL MENDOZA
Associate Justice

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FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT

⁴ Article IX, C, Section 2, Constitution.

⁵ G.R. Nos. 217126-27, November 10, 2015.