

### **Suffrage**

- Suffrage is not just an important political right, but also a threshold for the preservation and enjoyment of all other rights that it ought to be considered as “one of the most sacred parts of the constitution.”
- The right of suffrage is a treasured right in a republican democratic society: the right to voice one's choice in the election of those who make the laws and those who implement them is indispensable in a free country that its absence will render illusory other rights, even the most basic.
- It is the most fundamental form of political expression and enjoyment of one's faculties. It signifies the electorate's assent to the myriad ways by which the government may limit or restrict their freedoms through law. Thus, at its core, it is the act of the people freely and consciously consenting to surrender a portion of their sacred rights and liberties to those who will temporarily exercise the powers that inviolably belong to them (*Macalintal v. COMELEC [2023]*).
- *But see People v. Corral* (1936), where the court held that “the right to vote is not a natural right but is a right created by law.”

#### **Macalintal guidelines for laws postponing elections:**

1. The right of suffrage requires the holding of honest, genuine, regular, and periodic elections. Thus, postponement of the elections is the exception.
2. The postponement of the elections must be justified by reasons sufficiently important, substantial, or compelling under the circumstances:
  - a. The postponement must be intended to guarantee the conduct of free, honest, orderly, and safe elections
  - b. The postponement must be intended to safeguard the electorate's right of suffrage
  - c. The postponement must be intended to safeguard other fundamental rights of the electorate
  - d. Such other important, substantial, or compelling reasons that necessitate the postponement of the elections, i.e., necessitated by public emergency, but only if and to the extent strictly required by the exigencies of the situation
    - i. Reasons such as election fatigue, purported resulting divisiveness, shortness of existing term, and/or other superficial or farcical reasons, alone, may not serve

as important, substantial, or compelling reasons to justify the postponement of the elections. To be sufficiently important, the reason for the postponement must primarily be justified by the need to safeguard the right of suffrage or other fundamental rights or required by a public emergency situation.

3. The electorate must still be guaranteed an effective opportunity to enjoy their right of suffrage without unreasonable restrictions notwithstanding the postponement of the elections.
4. The postponement of the elections is reasonably appropriate for the purpose of advancing sufficiently important, substantial, or compelling governmental reasons.
  - a. The postponement of the elections must be based on genuine reasons and only on objective and reasonable criteria.
  - b. The postponement must still guarantee that the elections will be held at regular periodic intervals that are not unduly long.
    - i. The intervals must still ensure that the authority of the government continues to be based on the free expression of the will of the electorate.
    - ii. Holding the postponed elections at a date so far remote from the original elections date may serve as badge of the unreasonableness of the interval that may render questionable the genuineness of the reasons for the postponement.
  - c. The postponement of the elections is reasonably narrowly tailored only to the extent necessary to advance the government interest.\*
5. The postponement must not violate the Constitution or existing laws.

*\* Essentially, the postponement law must muster strict scrutiny.*

#### **Republicanism**

- Republicanism, or so far as it implies the adoption of a representative type of government, necessarily points to the enfranchised citizen as a particle of popular sovereignty and as the ultimate source of the established authority. He has a voice in his government and whenever possible it is the solemn duty of the judiciary, when called

upon to act in justiciable cases, to give it efficacy and not stifle or frustrate it.

- A republic then to be true to its name requires that the government rests on the consent of the people, consent freely given, intelligently arrived at, honestly recorded, and thereafter counted (*Sanchez v. COMELEC, dissenting opinion of J. Sarmiento*).

Who can vote?

- Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least 18 years of age, and who shall have resided in the Philippines for at least one year, and in the place wherein they propose to vote, for at least six months immediately preceding the election (Const. art. V, § 1).

Voter qualifications:

1. Citizen of the Philippines
2. At least 18 years old
3. Resident of the Philippines for at least 1 year and in the place wherein they propose to vote for at least 6 months immediately preceding the election
4. Not otherwise disqualified by law (RA 8189, § 9)

Void voter qualifications

- No literacy, property or other substantive requirement shall be imposed on the exercise of suffrage (Const. art. V, § 1).
- Hence, requiring candidates to post a surety bond is unconstitutional.
- The property qualifications are inconsistent with the nature and essence of the republican system ordained in our constitution and the principle of social justice underlying the same, for said political system is premised upon the tenet that sovereignty resides in the people and all government authority emanates from them, and this, in turn, implies necessarily that the right to vote and to be voted for shall not be dependent upon the wealth of the individual concerned, whereas social justice presupposes equal opportunity for all, rich and poor alike, and that, accordingly, no person shall, by reason of poverty, be denied the chance to be elected to public office (*Maquera v. Borra*).

Residence

- Any person who *temporarily* resides in another place *solely by reason of his occupation, profession, employment, educational activities, work in the military and police, or confinement or detention* shall not be deemed to have lost his original residence (RA 8189, § 9).

Domicile

- Denotes a fixed permanent residence to which, when absent, one has the intention of returning.

Three types of domicile:

1. Domicile of origin – Acquired by every person at birth.
2. Domicile of choice – Acquired upon abandonment of the domicile of origin.
3. Domicile by operation of law – Which the law attributes to a person independently of his residence or intention.

Requisites to acquire a new domicile:

1. Residence or bodily presence in the new locality.
2. An intention to remain there (*animus manendi*).
3. An intention to abandon the old domicile (*animus non revertendi*).

### **Romualdez-Marcos v. COMELEC**

G.R. No. 119976, 18 September 1995

**FACTS:** Imelda Romualdez-Marcos filed her COC for the position of representative of the 1st district of Leyte in the 1995 election. In her COC, she indicated that she resided there immediately preceding the election for 7 months (she eventually amended this to “since childhood”). Incumbent Rep. Cirilo Montejo sought to disqualify her, alleging that the petitioner did not meet the constitutional requirement for residency.

**ISSUE:** Does Romualdez-Marcos meet the one-year residency requirement?

**HELD:** YES. An individual does not lose his domicile even if he has lived and maintained residences in different places. The absence from legal residence or domicile to pursue a profession, to study or to do other things of a temporary or semi-permanent nature does not constitute loss of residence.

To successfully effect a change of domicile, one must demonstrate:

1. An actual removal or an actual change of domicile
2. A *bona fide* intention of abandoning the former place of residence and establishing anew one
3. Acts which correspond with the purpose

### **Poe-Llamanzares v. COMELEC**

G.R. No. 221697, 8 March 2016

**FACTS:** Grace Poe was found abandoned as a newborn infant in the Parish Church of Jaro, Iloilo. When she was 5 years old, Susan Rocas and Fernando Poe Jr. adopted her. In 1988, she opted to continue her studies in the US, and she graduated from Boston College with a degree in political

studies in 1991. On Oct. 18, 2001, Poe became a naturalized American citizen. Following FPJ's election defeat and subsequent health deterioration, Poe went back on May 24, 2005. On Jul. 7, 2006, Poe took her oath of allegiance pursuant to RA 9225. She also filed a petition to reacquire Philippine citizenship, which the BI approved.

Poe ran for the presidency in 2016. She stated that she's a natural-born citizen and that she's been residing in the country for 10 years and 11 months up to the day of the May 9 polls, reckoned from May 24, 2005.

**ISSUE:** Does Poe meet the residency requirement?

**HELD:** YES. Poe satisfied the Constitution's 10-year residency requirement for presidential candidates, as she had reestablished her domicile in the Philippines on 24 May 2005 upon returning from the US with the intent to stay permanently and abandon her US domicile. It found overwhelming evidence of this change in domicile, including the sale of her U.S. home, enrollment of her children in Philippine schools, acquisition of property, continuous physical presence, and her family's eventual permanent relocation. Poe's 2012 COC for senator, which stated a shorter residency period, was a result of a misunderstanding and was not conclusive against her. Citing *Romualdez-Marcos v. COMELEC*, it reiterated that the fact of residence prevails over a mistaken COC entry. Thus, her 2015 COC's declaration of 10 years and 11 months' residence was truthful.

**Mangudadatu v. COMELEC**  
G.R. No. 260219, 22 April 2025

**FACTS:** Pax Ali, a mayor of Datu Abdullah Sangki (DAS), Maguindanao, ran for governor of Sultan Kudarat in the 2022 elections. He indicated that his residence is in Sultan Kudarat. His candidacy was assailed, alleging there is no way for Pax Ali to comply with the residency requirement for governor as he is a mayor of a town in another province.

**ISSUE:** Is Pax Ali's declaration that he is a resident of Lutayan, Sultan Kudarat, for at least one year before the May 9, 2022 elections false?

**HELD:** No. Pax Ali's domicile of origin is Sultan Kudarat. However, he effected a change of domicile when he ran as DAS mayor in 2018. Following this, he had failed to once again effect a change of domicile from DAS to Sultan Kudarat, one year immediately preceding the 2022 elections.

1. A barangay certification or sworn statements by neighbors merely testify as to the candidate's physical presence in the area or locality.
2. Pax Ali's resolve to maintain residence in Sultan Kudarat only became manifest when he resigned as DAS mayor in Nov. 2021. The

question of residence is mainly of intention. Staying as DAS mayor is a positive and voluntary act reflecting Pax Ali's choice of residence. Remaining as the local chief executive of DAS is antithetical to a claim of animus non-reverendi. Likewise, clinging to his position as mayor meant that Pax Ali must comply with the continuing requirement of remaining a resident of DAS during his entire tenure.

**Voter disqualifications**

1. Any person who has been sentenced by final judgment to suffer imprisonment for not less than one year.
  2. Any person who has been adjudged by final judgment by a competent court or tribunal of having committed any crime involving disloyalty to the duly constituted government, such as rebellion, sedition, violation of the anti-subversion and firearm laws, or any crime against national security.
  3. Insane or incompetent persons as declared by competent authority.
- In cases (1) and (2), the disability may be removed by plenary pardon or amnesty to restore the person's full civil and political rights.
  - If no executive clemency is given, the right to vote is *automatically restored* upon expiration of five years after service of sentence.
  - The enjoyment of the franchise in the modern states has come to embrace the mass of the adult male population. For reasons of public policy, certain classes of persons are excluded from the franchise. Among the generally excluded classes are minors, idiots, paupers, and convicts. The manifest purpose of such restrictions upon this right is to preserve the purity of elections. The presumption is that one rendered infamous by conviction of felony, or those base offense indicative of moral turpitude, in unfit to exercise the privilege of suffrage or to hold office (*People v. Corral*).

**Other electoral exercises**

1. Plebiscite – The electoral process by which an initiative on the Constitution is approved or rejected by the people.
2. Referendum – The power of the electorate to approve or reject a legislation through an election called for the purpose.
3. Initiative – The power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose.
4. Recall – A mode of removal of a public officer by the people before the end of his term of office.

**Marmento v. COMELEC**

G.R. No. 213953, 26 September 2017

**FACTS:** Marmento, on behalf of the Muntinlupa People Power (MPP), filed a proposed ordinance in the SP, creating a “sectoral council” (12-member people's representative) and giving it P200M in funds. Because the SP failed to act, he invoked the power of initiative under the LGC. However, the SP set aside his petition because the city's budget has already been enacted and no funds were set aside for it. COMELEC also set aside his petition because the proposal was beyond the powers of the SP. After the 2013 elections, he once again filed the initiative petition. However, COMELEC again denied it because it has no funds to hold the local initiative activity.

**ISSUES:**

1. Can COMELEC set aside an initiative petition for lack of budgetary allocation?
2. Can COMELEC review the propositions in an initiative petition if they are within the power of the SP to enact?

**HELD:**

1. NO. COMELEC's 2014 budget contains a line item for the “Conduct and supervision of elections, referenda, recall votes and plebiscites” worth P1.4B. The term “election” in the line item is comprehensive enough to include other kinds of electoral exercises, including initiative elections. COMELEC is also empowered to certify funds needed to defray referenda expenses, the allocation of which shall be provided in an appropriations law.
2. YES. LGC, § 124 (b) provides that initiatives shall only extend to subject matters within the power of the SP to enact. § 127 also gives the courts authority to void any proposition approved for unconstitutionality or being ultra vires from the capacity of the SP to enact. Courts only have the power to review approved propositions. Hence, it is the COMELEC which has the power to determine whether the propositions in an initiative petition are within the powers of a concerned sanggunian to enact. Marmento's propositions are beyond the powers of the Muntinlupa SP to enact as it creates a separate local legislative body.

**Defensor-Santiago v. COMELEC**

G.R. No. 127325, 19 March 1997

**FACTS:** On 6 December 1996, private respondent Atty. Jesus S. Delfin filed the COMELEC a “Petition to Amend the Constitution, to Lift Term Limits of Elective Officials, by People's Initiative.” The Delfin Petition further alleged that the provisions sought to be amended are Sections 4 and 7 of Article VI, 7

Section 4 of Article VII, 8 and Section 8 of Article X of the Constitution.

**ISSUE:** Does RA 6735 cover initiatives on amendments to the constitution?

**HELD:** YES, but it is insufficient. The law does not include, as among the contents of the petition, the provisions of the Constitution sought to be amended, in the case of initiative on the Constitution. No subtitle is provided for initiative on the Constitution. This conspicuous silence as to the latter simply means that the main thrust of the Act is initiative and referendum on national and local laws. The foregoing brings us to the conclusion that RA 6735 is incomplete, inadequate, or wanting in essential terms and conditions insofar as initiative on amendments to the Constitution is concerned. Its lacunae on this substantive matter are fatal and cannot be cured by empowering the COMELEC “to promulgate such rules and regulations as may be necessary to carry out the purposes of [the] Act.”

**Lambino v. COMELEC**

G.R. No. 174153, 25 October 2006

**FACTS:** Raul Lambino et al. gathered signatures for an initiative petition to change the 1987 Constitution. In their petition to the COMELEC to hold the plebiscite to ratify their proposed changes, Lambino alleged they had the support of 6,327,952 voters, consisting of at least 12% of all registered voters, with each legislative district represented by at least 3% of its registered voters. The proposition would transform the current bicameral-presidential system to a unicameral-parliamentary form of government.

**ISSUE:** Did the initiative petition comply with Const. art. XVII, §2 on amendments to the constitution through a people's initiative (PI)?

**HELD:** NO.

1. "An initiative signer must be informed at the time of signing of the nature and effect of that which is proposed" and failure to do so is "deceptive and misleading" which renders the initiative void. The constitution mandates that amendments be "directly proposed by the people through initiative upon a petition." Two essential elements must be present:
  - a. the people must author and thus sign the entire proposal
  - b. as an initiative upon a petition, the proposal must be embodied in a petition
2. The Lambino petition violates Const. art. XVII, §2 which only allows amendments, not revisions, through a PI. The Lambino initiative is a revision and not merely an amendment.

- a. Revision – a change that alters a basic principle in the constitution (e.g., separation of powers, checks-and-balances, or when the change alters the substantial entirety of the constitution)
- b. Amendment – a change that adds, reduces, or deletes without altering the basic principle involved

- However, in case of such vacancy in the Senate, the special election shall be held simultaneously with the succeeding regular election (RA 7166, § 4).

### **Tolentino v. COMELEC**

G.R. No. 148334, 21 January 2004

#### **Amending the constitution**

- Amendment to, or revision of, the constitution may be proposed by:
  - The Congress (3/4 supermajority)
  - A constitutional convention
- Amendments may likewise be *directly proposed* by the people through initiative, which is concurred in by:
  - 12% of the total number of voters; and
  - At least 3% of the voters of each legislative district
- Any amendment shall be ratified by a majority of the votes cast in a plebiscite which must be held within 60 to 90 days following the approval of the amendment or revision, or certification of sufficiency of the initiative.

#### **Special elections**

- In case of vacancy in the Senate or in the House of Representatives, a special election may be called to fill such vacancy in the manner prescribed by law, but the Senator or Member of the House of Representatives thus elected shall serve only for the unexpired term (Const. art. VI, § 9).
- When a vacancy in the House of Representatives arises at least one year prior to the expiration of the term for the vacated seat, the COMELEC must call and conduct a special election to fill the vacancy not earlier than 60 days nor longer than 90 days after the occurrence of such vacancy. A resolution from the House of Representatives certifying to the vacancy and calling for a special election is no longer required. This duty of the COMELEC to call and hold a special election is mandatory and ministerial. In the exercise of this duty, the COMELEC is not beholden to any certification, call, or any positive act from the House of Representatives (*Hagedorn v. House of Representatives*).
- In case a permanent vacancy shall occur in the Senate or House of Representatives at least one year before the expiration of the term, the COMELEC *shall* call and hold a special election to fill the vacancy not earlier than 60 days nor longer than 90 days after the occurrence of the vacancy.

**FACTS:** Sen. Teofisto Guingona was appointed vice president following the EDSA 2 revolution, which led to the accession of then Vice President Gloria Macapagal-Arroyo to the presidency. Guingona's Senate term was supposed to end in 2004, having been elected for a 6-year term in 1998. As such, the Senate passed S. Res. 84, certifying the vacancy, calling on the COMELEC to conduct a special election simultaneous with the 2001 elections, and the 13th-ranking candidate be deemed elected for the unexpired portion of Guingona's term. Petitioners assailed the validity of the special elections, arguing that COMELEC failed to notify the electorate of the position to be filled.

**ISSUE:** Was a special election to fill a vacant three-year term Senate seat validly held on May 14, 2001?

**HELD:** YES. COMELEC, in the exercise of its discretion to use means and methods to conduct the special election within the confines of RA 6645, merely chose to adopt the Senate's proposal. The method used by COMELEC in doing the special elections merely implemented the procedure specified by the Senate in S. Res. 84.

#### **Voter registration**

- It is the act of accomplishing and filing a sworn application for registration by a qualified voter before the election officer of the city or municipality wherein he resides and including the same in the book of registered voters upon approval by the Election Registration Board (RA 8189, § 3 (a)).

Some terms of art:

- a. List of voters – An enumeration of registered voters in a precinct duly certified by the ERB for use in the election (*id.* § 3 (d)).
- b. Book of voters – The compilation of all registration records in a precinct (*id.* § 3 (c)).

What is the remedy in case of breaches in the book of voters?

- Any voter, election officer, or political party may file a petition to annul any book of voters under any of the following grounds:
  - That it was not prepared in accordance with RA 8189
  - That it was prepared through fraud, bribery, forgery, impersonation, force, or any similar irregularity

- That it contains data that are statistically improbable.
- The COMELEC may not annul a book of voters within 90 days before an election.

Two remedies:

1. A challenge to an application for registration, which must be filed with the ERB (*id.* § 18).
2. Petition for inclusion or exclusion in the list of voters (*id.* §§ 32-35)

**Kabataan Party-list v. COMELEC**  
G.R. No. 221318, 16 December 2015

**FACTS:** Congress passed RA 10367, mandating COMELEC to implement a mandatory biometrics registration system for new voters. The law directed registered voters whose biometrics have not been captured to submit themselves for validation. Should a voter fail to validate, he shall be deactivated for the 2016 elections. Petitioners assailed the law for being an additional, substantial qualification not contemplated by the constitution.

**ISSUE:** Is RA 10367 unconstitutional?

**HELD:** NO. The state may regulate the right to vote by imposing statutory disqualifications, with the restriction, however, that they do not amount to a “literacy, property or other substantive requirement.” The biometrics requirement is not a “qualification,” but a mere aspect of the registration procedure, which the state has the right to reasonably regulate. Police power may be invoked by the state to enact laws to safeguard and regulate the act of voter registration for the purpose of conducting honest, orderly and peaceful elections.

- Thus, unless it is shown that a registration requirement rises to the level of a literacy, property or other substantive requirement as contemplated by the framers of the constitution—that is, one which propagates a socio-economic standard which is bereft of any rational basis to a person's ability to intelligently cast his vote and to further the public good—the same cannot be struck down as unconstitutional.\*

\* As a police power requirement, the requirement must only satisfy the rational basis test: was there a lawful subject and lawful means?

**Biometrics Voter Registration Act**

- Biometrics – The quantitative analysis that provides a positive identification of an individual such as voice, photograph, fingerprint, signature, iris and/or such other identifiable features.
- Validation – The process of taking the biometrics of registered voters whose biometrics have not yet been captured.
- Deactivation – The removal of the registration record of the registered voter from the corresponding precinct book of

voters for failure to comply with the validation process as required by this Act.

- Reactivation – The reinstatement of a deactivated voter (RA 10367, § 2).

Cancellation vs. deactivation

	Deactivation	Cancellation
Grounds	Disqualified voter  Failed to vote in 2 successive polls  Ordered excluded  Lost citizenship  Those who have not validated (i.e., had their biometrics captured)	Death of voter
Done by?	ERB	
Process	Registration records are removed from precinct book and placed in an inactive file, marked and dated  Cause of deactivation entered  Lists of deactivated voters posted and furnished to parties and concerned offices	Registration records of the deceased are cancelled upon receipt of certified death list  Lists of cancelled registrations posted and furnished to parties and concerned offices
Effect	Temporarily loses the right to vote	Permanently removed from voters' list
Remedy	Reactivation	None

Reactivation

- The deactivated voter may file with the EO a sworn application for reactivation in the form of an affidavit stating that the grounds for deactivation no longer exist.
- Time to file: Up to 120 days before a regular election and 90 days for special elections.

Who are voters with special needs?

1. Senior citizens
2. Illiterate
3. Disabled

Who may assist voters with special needs?

1. Relative by consanguinity or affinity within the 4th civil degree

2. If none:
  - a. Any person of the voter's confidence who belongs to the same household
  - b. The voter's personal assistant, caregiver, or nurse
3. If still none:
  - a. Any member of the Board of Election Inspectors (BEI).

#### Conditions for assistance

- Assistance allowed only if illiteracy or physical disability is recorded in the voter's registration record.
  - *Exception:* If physical inability is manifest, obvious, or visible, assistance may still be given even if not recorded.
- Assistor must be of voting age.

#### Accessible polling places

- The venue where the BEI conducts election-related proceedings and where the voters cast their votes.
- The accessible polling place shall be located at the ground floor, preferably near the entrance of the building, and is free of any physical barriers and provided with necessary services, including assistive devices.

#### Procedure for assistance

1. The voter declares a need for assistance.
2. Assistor executes a formal document under oath:
  - a. Swearing to fill out the ballot strictly according to the voter's instructions
  - b. Swearing not to reveal the contents of the ballot
3. The ballot must be accomplished inside the voting booth.
4. Limitation: No assistor, except the BEI, may assist more than three voters.

#### Transfer of registration

1. The voter files an application for transfer with the EO of the new residence.
2. The application is subject to:
  - a. Notice requirements, and
  - b. Hearing before the ERB
3. The ERB must approve the transfer.
4. Once approved:
  - a. The EO of the voter's former residence is notified.
  - b. The voter's registration record is transmitted by registered mail to the EO of the new residence (RA 8189, § 12).

#### ERB

- Chairperson: Election Officer of the city or municipality
- Members:

- The public school official most senior in rank in the city/municipality
- The local civil registrar; in his absence, the city or municipal treasurer (RA 8189, § 15).

#### Voter registration

- *Where:* A qualified voter shall be registered in the permanent list of voters in a precinct of the city or municipality wherein he resides to be able to vote in any election (RA 8189, § 10).
- *When:* The personal filing of application of registration of voters shall be conducted *daily* in the office of the Election Officer during regular office hours.
  - No registration shall, however, be conducted during the period starting 120 days before a regular election and 90 days before a special election (RA 8189, § 8).
- *How:* To register as a voter, he shall personally accomplish an application form for registration as prescribed by the Commission in three (3) copies before the Election Officer on any date during office hours after having acquired the qualifications of a voter. The application shall contain the following data:
  - Name, surname, middle name, and/or maternal surname;
  - Sex;
  - Date, and place of birth;
  - Citizenship;
  - Civil status, if married, name of spouse;
  - Profession, occupation or work;
  - Periods of residence in the Philippines and in the place of registration;
  - Exact address with the name of the street and house number for location in the precinct maps maintained by the local office of the Commission, or in case there is none, a brief description of his residence, *sitio*, and barangay;
  - A statement that the applicant possesses all the qualifications of a voter;
  - A statement that the applicant is not a registered voter of any precinct; and
  - Such information or data as may be required by the Commission (RA 8189, § 10).

#### Prevention of voter fraud

- It is an election offense for any person who, being a registered voter, registers anew without filing an application for cancellation

of his previous registration (OEC, § 261 (y) (5)).

- Because the form is sworn under oath, any false entry therein may subject the affiant to perjury.
- It is also an election offense for any person who knowingly makes any false or untruthful statement relative to any of the data or information required in the application for registration (*id.*, § 261 (y) (1)).
- COMELEC has the power to conduct preliminary investigation of all election offenses punishable under the OEC and to prosecute the same (*id.* § 265).

### **Baytan v. COMELEC**

G.R. No. 153945, 4 February 2003

**FACTS:** Baytan registered for the May 1998 elections in Barangay 18. However, they realized that their residence was indeed situated in Barangay 28. Hence, they wrote to COMELEC seeking assistance on how to cancel their previous registration, and expressed their intention to redress the error. However, despite this, the COMELEC *en banc* resolved to file an information against Baytan, et al. for double registration, contrary to the OEC.

**ISSUE:** Did the COMELEC *en banc* commit grave abuse of discretion in recommending petitioners' prosecution for double registration?

**HELD:** NO. The grant by the Constitution to the COMELEC of the power to investigate and prosecute election offenses is intended to enable the COMELEC to assure the people of "free, orderly, honest, peaceful and credible elections." This grant is an adjunct to the COMELEC's constitutional duty to enforce and administer all election laws. Failure by the COMELEC to exercise this power could result in the frustration of the true will of the people and make an idle ceremony of the sacred right and duty of every qualified citizen to vote. Moreover, the COMELEC resolution was issued in the preliminary investigation stage—merely to determine probable cause. Petitioners' defenses are best ventilated in the trial proper.

Some more terms of art:

- Precinct – The basic unit of territory established by the COMELEC for the purpose of voting.
- Polling place – The place where the BEI conducts its proceedings and where the voters cast their votes.
- Voting center – The building or place where the polling place is located (RA 8189, § 3).

Petitions for inclusion/exclusion of voters

- The first-level courts (MTCs) have exclusive original jurisdiction over petitions for inclusion or exclusion of voters.
- Appellate jurisdiction: RTC

- Period for appeal: 5 days after notice of the decision of the MTC
- Indispensable party: ERB
- Period for decision on appeal: 10 days after receipt
  - The decision of the RTC is final and executory (unappealable).

Petition for inclusion

Who may file	Any person whose registration has been disapproved by the ERB or has been stricken out from the list
Period for filing	Anytime, except 105 days before a regular election or 75 days before a special election
Period for decision	15 days after filing

Petition for exclusion

Who may file	Any voter, representative of a political party, or the EO
Period for filing	Anytime, except 100 days before a regular election or 65 days before a special election
Period for decision	10 days from filing

Detainee voting

- Detainee voting may be availed of by any registered detainee whose registration record is not transferred, deactivated, cancelled, or deleted.
- The following are eligible for detainee voting:
  - Those confined in jail, formally charged for any crime/s and awaiting/undergoing trial
  - Those serving a sentence of imprisonment for less than one year
  - Those whose conviction of a crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the firearms laws or any crime against national security or for any other crime is on appeal.
- Two modes of detainee voting:
  - Special Polling Places Inside Jails
  - Escorted Voting

**Local absentee voting (LAV)**

- A system of voting whereby government officials and employees, including the AFP,

PNP and media, are allowed to vote for national positions in places where they are not registered voters but where they are temporarily assigned to perform election duties on election day, or in case of media voters who will not be able to vote due to the performance of their functions in covering and reporting on the elections (COMELEC Res. No. 11091, § 1 (a)).

Who are entitled to avail of LAV:

1. Government officials and employees, including members of the PNP and AFP
2. Members of the media and media practitioners including their technical and support staff

Requisites to be eligible for LAV:

1. They are duly registered voters (active)
2. On election day, they are assigned temporarily to perform duties in places where they are not registered voters (for government officials), or that they will not be able to vote due to the performance of their functions in covering and reporting on the conduct of elections (for media).

Positions to be voted for:

1. Senators
2. Party-list representatives
3. President
4. Vice-president\*

*\* Only national positions may be voted in absentee voting.*