



REPUBLIC OF THE PHILIPPINES
SENATE ELECTORAL TRIBUNAL
COA-NCR Bldg., Batasan Road, Quezon City

FRANCIS N. TOLENTINO,
Protestant,

- versus -

SET CASE No. 001-16

LEILA M. DE LIMA,
Protestee.

X-----X

RESOLUTION NO. 16-04

On 27 July 2016, Protestant Tolentino filed a *Motion for Leave to File and to Admit Amended Election Protest* on the grounds that: (a) the Supreme Court,¹ in a Resolution dated 31 May 2016, has dismissed his Petition, docketed as G.R. No. 224329, entitled "Francis N. Tolentino vs. Commission on Elections, et. al.", for being moot and academic; thus, there is a need to amend to drop the *Ex Abundante Ad Cautelam* nature of the Protest; (b) since the filing of the Protest, there had been several other evidence and grounds for election protest against Protestee De Lima that had surfaced, which Protestant believes should be considered by the Tribunal; and (c) considering the limited time given to Protestant to file his Protest and to collate his evidence in support thereof, it shall serve the paramount interest of justice that the issues set forth in his Amended Election Protest be fully threshed out and Protestant be given the ample opportunity to defend the million of votes of Filipinos and the integrity of the Philippine electoral process.

The ruling in *Tiu vs. Philippine Bank of Communications*,² is apropos:

¹ Undated Notice, Annex "A", Motion for Leave to File and to Admit Amended Election Protest

² G.R. No. 151932, August 19, 2009.

"Granting of leave to file amended pleading is a matter particularly addressed to the sound discretion of the trial court; and that discretion is broad, subject only to the limitations that the amendments should not substantially change the cause of action or alter the theory of the case, or that it was not made to delay the action.³ Nevertheless, as enunciated in *Valenzuela*⁴, even if the amendment substantially alters the cause of action or defense, such amendment could still be allowed when it is sought to serve the higher interest of substantial justice; prevent delay; and secure a just, speedy and inexpensive disposition of actions and proceedings.⁵

"The courts should be liberal in allowing amendments to pleadings to avoid a multiplicity of suits and in order that the real controversies between the parties are presented, their rights determined, and the case decided on the merits without unnecessary delay. This liberality is greatest in the early stages of a lawsuit, especially in this case where the amendment was made before the trial of the case, thereby giving the petitioners all the time allowed by law to answer and to prepare for trial.⁶

"Furthermore, amendments to pleadings are generally favored and should be liberally allowed in furtherance of justice in order that every case, may so far as possible, be determined on its real facts and in order to speed up the trial of the case or prevent the circuitry of action and unnecessary expense. That is, unless there are circumstances such as inexcusable delay or the taking of the adverse party by surprise or the like, which might justify a refusal of permission to amend.⁷"

Granting the *Motion for Leave to File and to Admit Amended Election Protest* in this early stage of the proceedings would neither work an injustice to Protestee nor delay the determination of the case. On the contrary, it will allow the presentation of the real issues between the parties, thereby serving the higher interest of the public with which election protest cases are imbued.

ACCORDINGLY, the Executive Committee of the Tribunal Resolves to:

- a) **GRANT** the Motion for Leave to File Amended Election Protest;

³ *Refugia vs. Alejo*, 389 Phil. 568, 576 (200).

⁴ 416 Phil. 289 (2001).

⁵ *Tiu vs. Philippine Bank of Communications*, G.R. No. 151932, August 19, 2009.

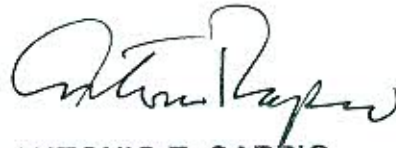
⁶ *Refugia* at 576-577.

⁷ *Philippine National Bank v. Court of Appeals*, G.R. No. L-45770, March 30, 1988, 159 SCRA 433, 444.

- b) **ADMIT** the Amended Election Protest of Protestant Tolentino; and
- c) **DIRECT** Protestee De Lima to file her ANSWER to the Amended Election Protest within ten (10) days from service of a copy of the amended pleading and the resolution admitting the same.

SO ORDERED.

28 July 2016.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member



ARTURO D. BRION
Associate Justice
Member