



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 - 111

In Resolution No. 16 -106 dated 18 April 2018, the Executive Committee of the Tribunal declared that the revision proceedings involving the pilot precincts of Protestant Francis N. Tolentino are deemed terminated. The uncollected ballot boxes, namely, eight (8) clustered precincts from the Province of Lanao del Sur and one (1) clustered precinct from Tongkil, Sulu, are considered withdrawn from the Protestant's pilot precincts but remain to be part of his contested non-pilot precincts.

Protestant Tolentino filed a *Motion for Reconsideration* dated 03 May 2018 praying that the eight (8) clustered precincts from the Province of Lanao del Sur which were not retrieved due to security reasons be substituted with other contested precincts, as follows:

Province	Municipality	Clustered Precinct Number	Precincts in Cluster
Tawi-Tawi	South Ubian	9	16A, 17A
		28	53A
Isabela	Angadanan	38	88A, 88B
		60	125A, 126A, 126B
Kalinga	Balbalan	10	18A, 18B
Agusan del Norte	Buenavista	39	77A, 77B, 78A
Quezon	Gumaca	22	62A, 62B, 63A, 64A
		24	67A, 68A, 69A

Verification disclosed that while the proposed substitute precincts are among the protested precincts listed in the *Amended Election Protest* dated 27 July 2016, the precincts from the Municipalities of South Ubian (Tawi-Tawi), Angadanan (Isabela), Balbalan (Kalinga), and Buenavista (Agusan del Norte) were alleged to have a 100% turnout of voters, for which reason the Protestant moved not for the revision of ballots but for the annulment of the election results. With respect to the Municipality of Gumaca (Quezon), the Protestant prayed for revision of ballots as these were allegedly affected by the illegal bypass of the Automated Election System (AES) and/or the use of pre-loaded Secure Digital (SD) Cards. However, Clustered Precincts Numbers 22 and 24 of this municipality do not form part of Protestant's pilot precincts as may be gleaned from his *Preliminary Conference Brief* dated 05 October 2016.

Protestant's plea to have the opportunity to further substantiate his allegations by considering the above substitute precincts is tantamount to amending his election protest. At this point of the proceedings, Protestant cannot introduce amendments to change his cause of action or theory by requesting the revision of ballots from precincts for which, as specifically stated in the *Amended Election Protest*, revision is not the proper remedy.¹ Well established is the rule that "amendments are not proper and should be denied when delay would arise, or when the amendments would result in a change of cause of action or defense or change the theory of the case, or would be inconsistent with the allegations in the original complaint."²

Further, Rule 42 of the 2013 SET Rules requires the *Preliminary Conference Brief* to include the "list of pilot precincts consisting of not more than twenty-five percent (25%) of the total number of contested precincts, which the party deems as best exemplifying or demonstrating the electoral fraud or anomaly pleaded." As aforesaid, Clustered Precincts Numbers 22 and 24 of Gumaca, Quezon were not listed as pilot precincts in the *Preliminary Conference Brief*. Protestant's appeal to change the scope of his pilot precincts at this time is rather too late.

¹ Amended Election Protest, pp. 30-31.

² Ching vs. Court of Appeals, et. al., G.R. No. 110844, April 27, 2000.

Rules are set to ensure orderly procedure before courts of law and quasi-judicial bodies. Rules of procedure, especially those prescribing the time within which certain acts must be done, "have oft been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business. x x x The reason for rules of this nature is because the dispatch of business by courts would be impossible, and intolerable delays would result, without rules governing practice x x x. Such rules are a necessary incident to the proper, efficient and orderly discharge of judicial functions."³

Public policy demands that an election protest be resolved with utmost dispatch. Imperative justice requires the proper observance of technicalities precisely designed to ensure its proper and swift dispensation.⁴ It has been emphasized that in this specie of controversies involving the determination of the true will of the electorate, time indeed is of paramount importance - second to none perhaps, except for the genuine will of the majority.⁵

Needless to point out, in Resolution No. 16-64 dated 14 September 2017, the Protestant was given the opportunity to substitute the clustered precincts from the Province of Lanao del Sur. However, in his *Manifestation and Motion* dated 12 October 2017, he insisted on pursuing the Mindanao collection.

Upon coordination, the Armed Forces of the Philippines (AFP) stood firm in its assessment that the cessation of the hostilities in Marawi City would not assure the safety of the collection teams in Lanao del Sur. Notwithstanding this information, Protestant did not bother to submit his substitute pilot precincts. Protestant's inaction was construed as a waiver of the opportunity to substitute his pilot precincts.

As clearly stated in Resolution No. 16-64 dated 14 September 2017, the purpose for the order of substitution was to avoid delay in the proceedings. Granting the instant *Motion for Reconsideration* by allowing the substitution of uncollected pilot precincts at this juncture will unduly delay the proceedings. Protestant must be reminded that an election contest, unlike an ordinary action, is

³Lazaro, et. al. vs. Court of Appeals, et. al., G.R. No. 137761, April 6, 2000.

⁴Garcia, et. al. vs. HRET, et al., G.R. No. 134792, August 12, 1999.

⁵Miguel vs. COMELEC, et. al., G.R. No. 136966, July 5, 2000.

imbued with public interest since it involves not only the adjudication of the private interests of rival candidates but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate with respect to who shall discharge the prerogatives of the office within their gift. Moreover, it is neither fair nor just to keep in office for an uncertain period one whose right to it is under suspicion. It is imperative that his claim be immediately cleared not only for the benefit of the winner but for the sake of public interest.⁶

IN VIEW OF THE FOREGOING, the Executive Committee of the Tribunal Resolves to DENY Protestant Tolentino's *Motion for Reconsideration* of Resolution No. 16-106 for lack of merit.

SO ORDERED.

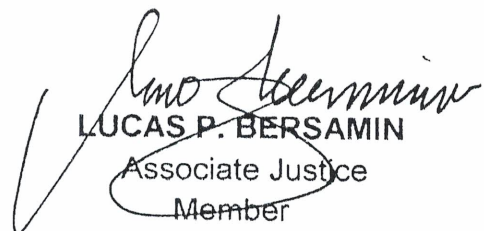
15 May 2018.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Member



LUCAS P. BERSAMIN
Associate Justice
Member

⁶ Barroso vs. Ampig, Jr., G.R. No. 138218, March 17, 2000.