



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.

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**RESOLUTION NO. 16 - 136**

On 03 October 2018, Protestant Francis N. Tolentino filed a *Motion for the Return of Payments* dated 01 October 2018, praying that the amount of Three Million Three Hundred Fifteen Thousand Seven Hundred Eighty-Five & 36/100 Pesos (P3,315,785.36) be returned to him. The said amount represents the cost of retention by the Commission on Elections (COMELEC) of One Hundred Fifty-One (151) Vote Counting Machines (VCM) and Six (6) Consolidation and Canvassing System (CCS) laptops.

Acting on the *Motion*, the Executive Committee of the Tribunal issued Resolution No. 16-135, dated 24 October 2018, requiring the COMELEC to Comment thereon within ten (10) days from receipt of the Resolution.

In its *Comment (on Protestant Francis N. Tolentino's Motion for the Return of Payments)* dated 31 October 2018, which was filed with the Tribunal on 05 November 2018, COMELEC prayed that the Protestant's *Motion for the Return of Payments* be denied for lack of merit.

The Commission on Elections argued, among others, that: (a) Protestant Tolentino was required to pay COMELEC for the cost it incurred in retaining the election paraphernalia and not the payment of the cost of the election

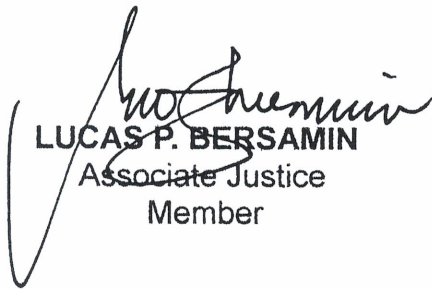
paraphernalia itself;<sup>1</sup> (b) There was no contract of sale, whether express or implied, between COMELEC and Protestant Tolentino, so it follows that there will never be transfer of ownership over the said election paraphernalia to Protestant Tolentino;<sup>2</sup> (c) Notwithstanding COMELEC's ownership of the subject election paraphernalia, it has no authority to transfer the ownership thereof to the Protestant;<sup>3</sup> and, (d) The amount of Three Million Three Hundred Fifteen Thousand Seven Hundred Eighty-Five & 36/100 Pesos (P3,315,785.36) which was deposited by Protestant Tolentino with the Tribunal belongs to the government.<sup>4</sup>

**CONSIDERING** the arguments raised by the COMELEC in its *Comment (on Protestant Francis N. Tolentino's Motion for the Return of Payments)*, the Executive Committee of the Tribunal resolves to **REQUIRE** Protestant Tolentino to file a Reply within five (5) days from receipt of this Resolution.


**SO ORDERED.**  
13 November 2018.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice  
Member



**ESTELA M. PERLAS-BERNABE**  
Associate Justice  
Member

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<sup>1</sup> COMELEC's Comment, par. 11.

<sup>2</sup> *Ibid.*, par. 15.

<sup>3</sup> *Ibid.*, par. 20.

<sup>4</sup> *Ibid.*, par. 32.