



REPUBLIC OF THE PHILIPPINES
SENATE ELECTORAL TRIBUNAL

REYMAR R. MANSILUNGAN,
Petitioner,
-versus-

SET Case No. 001-19

AQUILINO "KOKO" PIMENTEL III,
Respondent.

X-----X

EFREN A. ADAN,
Petitioner,
-versus-

SET Case No. 002-19

AQUILINO "KOKO" PIMENTEL III,
Respondent.

X-----X

RESOLUTION NO. 19 – 02

The issues in the above-entitled petitions for *quo warranto* having been joined, the Tribunal, pursuant to Rule 39 of the 2013 SET Rules, called the parties and their counsel to a preliminary conference on Thursday, 05 September 2019.

In compliance with Rule 42 of the SET Rules, Petitioner Efren A. Adan and Respondent Aquilino Pimentel III filed their respective Preliminary Conference Briefs on 28 August 2019. Petitioner Reymar R. Mansilungan submitted the Preliminary Conference Brief on 30 August 2019, while Respondent filed an Amended Preliminary Conference Brief on the same date.

On 04 September 2019, Petitioner Adan filed a *Motion to Suspend Proceedings Pending Resolution of the Issue on Jurisdiction*. In his Motion, Petitioner Adan prayed that the proceedings in the consolidated petitions be indefinitely suspended pending the final resolution of the constitutionality of Rule 18 of the 2013 Rules of the Senate Electoral Tribunal and the issue on jurisdiction

Petitioner Adan anchored his Motion on the Special and Affirmative Defenses alleged by Respondent Pimentel in his Answer. Respondent questioned the jurisdiction of the Tribunal over his person claiming that he was not yet a member of the Senate at the time the petitions were filed, hence the assumption by the Tribunal of jurisdiction over his person as a member of the Senate is premature. Respondent also assailed the constitutionality of Rule 18 of the 2013 SET Rules, which prescribes the period of ten (10) days from the proclamation of respondent within which any registered voter may institute an action for *quo warranto*.

We DENY the Motion.

RULE 26. Answer; Counter-Protest: Cross Protest. -

X X X

x x x

a. *Motion to Dismiss;*

- b. *Motion for a Bill of Particulars;*
- c. *Demurrer to Evidence;*
- d. *Motion for Postponement; or*
- e. *Motion to Declare Protestee or Respondent in Default.*

Grounds for a motion to dismiss shall be alleged as affirmative defenses in the appropriate responsive pleading allowed under Rules 26 and 27, and the Tribunal may in its discretion hold a preliminary hearing on any of the grounds so pleaded.

It is clear from the foregoing provisions of the 2013 SET Rules that: (a) the filing of a Motion to Dismiss is prohibited; (b) the grounds for a Motion to Dismiss, which include the issue of jurisdiction, must be alleged as affirmative defenses in the appropriate responsive pleading, which is the Answer in the instant case; and (c) the Tribunal has discretion whether or not to hold a preliminary hearing on any of the grounds so pleaded, including any ground for a Motion to Dismiss.

Respondent Pimentel has complied with the above-cited Rules when he included in his Consolidated Answer the issue of jurisdiction instead of filing a Motion to Dismiss. In not praying for the conduct of a preliminary hearing on the issue of jurisdiction, he agreed that the same be resolved together with the other issues presented in the petitions.

Petitioner Adan should have been forewarned that since the Tribunal has scheduled a Preliminary Conference on 05 September 2019 without first calling for a preliminary hearing on the issue of jurisdiction, the logical conclusion is that the Tribunal has opted not to call for a preliminary hearing on the issue of jurisdiction, a decision which is clearly authorized under the Rules.

There was peculiarity in the action of Petitioner Adan to file the motion to suspend proceedings based on the issue of jurisdiction. Petitioner Adan filed the petition for *quo warranto* against Respondent Pimentel before the Tribunal, obviously because Petitioner believes in the Tribunal's jurisdiction and authority to resolve the case. Surprisingly, it is Petitioner Adan who is moving for the suspension of the proceedings pending the resolution of the issue on jurisdiction

which was actually raised by the Respondent, who, on the contrary, is not even asking for a preliminary hearing on the matter.

Petitioner Adan's proposition may have been rooted in the procedure before the regular courts wherein the issue of jurisdiction is normally raised through a Motion to Dismiss,¹ followed by a hearing² and a resolution of the motion.³ It should be noted, however, that the Rules of Court presupposes that the issue of jurisdiction is raised by the defending party.⁴

Nonetheless, we invite Petitioner Adan's attention to Rule 87 of the SET Rules which declares that the Rules of Court and Administrative Circulars of the Supreme Court are applicable only by analogy or suppletorily, in so far as they are not inconsistent with the Rules of the Tribunal. The Tribunal has the inherent power to promulgate its own rules of procedure and adopt any suitable process or procedure not specifically provided by law.⁵

The SET Rules, particularly the aforecited provisions, were adopted for the speedy disposition of election contests, be it an electoral protest or a petition for *quo warranto*. In a long list of decisions, the Supreme Court has always emphasized the special and expeditious nature of election cases, the early resolution of which should not be hampered by any unnecessary delays. The High Court has consistently ruled that:

An election contest, unlike an ordinary action, is 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

¹ Rules of Court, Rule 16, Section 1.

² *Ibid.*, Section 2.

³ *Ibid.*, Section 3.

⁴ *Ibid.*, Section 1 (a).

⁵ 2013 Rules of the Senate Electoral Tribunal, Rule 9 (h).

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


IN VIEW OF THE FOREGOING, the Tribunal Resolves to:

1. **DENY** the *Motion to Suspend Proceedings Pending Resolution of the Issue on Jurisdiction* filed by Petitioner Adan on 04 September 2019; and
2. **PROCEED** with the conduct of the Preliminary Conference as scheduled.

SO ORDERED.

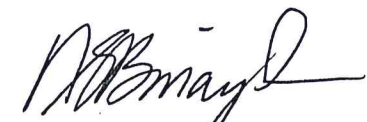
05 September 2019.

(ON LEAVE)
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice
Member


FRANCIS H. JARDELEZA
Associate Justice
Member

RICHARD J. GORDON
Senator
Member


MARIA LOURDES NANCY S. BINAY
Senator
Member


PIA S. CAYETANO
Senator
Member

EMMANUEL "MANNY" D. PACQUIAO
Senator
Member


FRANKLIN M. DRILON
Senator
Member


MANUEL "LITO" M. LAPID
Senator
Member