



REPUBLIC OF THE PHILIPPINES  
**SENATE ELECTORAL TRIBUNAL**

**REYMAR R. MANSILUNGAN,**  
Petitioner,

**SET Case No. 001-19**

-versus-

**AQUILINO “KOKO” PIMENTEL III,**  
Respondent.

X-----X

**EFREN A. ADAN,**  
Petitioner,

**SET Case No. 002-19**

-versus-

**AQUILINO “KOKO” PIMENTEL III,**  
Respondent.

X-----X

## **DECISION**

Before the Tribunal are consolidated Petitions for *Quo Warranto* filed under Rule 18<sup>1</sup> of the 2013 Rules of the Senate Electoral Tribunal (2013 SET Rules), seeking to declare respondent Senator Aquilino “Koko” Pimentel III (respondent) ineligible for the position of Senator for the 2019-2025 Senatorial term on the ground that he exhausted the two-term limit for Senators under Section 4, Article VI of the Constitution.

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<sup>1</sup> Rule 18 of the 2013 Rules of the Senate Electoral Tribunal reads:

Rule 18. *Quo Warranto*. – A verified petition for *quo warranto* contesting the election of a Member of the Senate on the ground of ineligibility or disloyalty to the Republic of the Philippines shall be filed by any registered voter within ten (10) days after the proclamation of the respondent; *Provided, however*, that the petition for *quo warranto* on the ground of ineligibility based on citizenship may be filed at any time during the respondent’s tenure.

### The Facts

In 2007, respondent filed his Certificate of Candidacy (COC) and ran for Senator in the National and Local Elections (NLE) held on May 14, 2007; unfortunately, he was not among those initially proclaimed as winning candidates for the position. On July 30, 2007, respondent filed before the Tribunal an election protest against Juan Miguel F. Zubiri (Zubiri), the 12<sup>th</sup> Senator proclaimed by the National Board of Canvassers (NBOC), docketed as SET Case No. 001-07, seeking a recount of the votes obtained by Zubiri in the protested precincts as stated therein. During the pendency of SET Case No. 001-07, Zubiri was able to assume office for the 2007-2013 Senatorial term for around four (4) years and two (2) months, or from June 30, 2007 until August 10, 2011. Thereafter, the Tribunal promulgated a Decision dated August 11, 2011 annulling and setting aside Zubiri's proclamation as Senator, and accordingly, declaring respondent as the 12<sup>th</sup> winning senator in the 2007 NLE.<sup>2</sup> Consequently, respondent assumed office for the remainder of the 2007-2013 Senatorial term, or from August 11, 2011 until June 30, 2013, a period totalling one (1) year and ten (10) months.

In 2013, respondent again filed a COC for Senator in the 2013 NLE held on May 13, 2013 and subsequently, the NBOC proclaimed him as one of the winning candidates. He was able to assume office for the entirety of the 2013-2019 Senatorial term, or from June 30, 2013 until June 30, 2019.

In 2019, respondent sought another re-election as Senator by filing the necessary COC therefor. Shortly thereafter, various petitions to deny due course or to cancel COC were filed against respondent before the Commission on Elections (COMELEC) – such as the consolidated petitions of *Topacio v. Pimentel* and *Chong v. Pimentel*, respectively docketed as

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The provisions of the preceding paragraph to the contrary notwithstanding, a petition for *quo warranto* challenging the position of a Member of the Senate, who, at the time of election or assumption of office, possesses all the qualifications, shall be filed by any registered voter at any time during the respondent's tenure, as soon as any of the required qualifications is lost.

<sup>2</sup> The dispositive portion of the Tribunal's Decision dated August 11, 2011 reads:

WHEREFORE, Resolution No. NBC 07-67 of the Commission on Elections En Banc, sitting as the National Board of Canvassers, dated 14 July 2007, is ANNULLED and SET ASIDE. Aquilino L. Pimentel III is DECLARED as the 12th duly elected Senator of the Philippines during the 14 May 2007 National and Local Elections. x x x x





SPA Case No. 18-005 (DC) and SPA Case No. 18-147 (DC) – principally claiming that Pimentel committed a false material representation in his COC when he stated therein that he is eligible to run for Senator, when in truth, he had already exhausted the two (2)-term limit for Senators under the Constitution. In a Resolution dated February 13, 2019, the COMELEC decided in respondent's favor and allowed him to continue his candidacy, ultimately ruling that since he did not fully serve the 2007-2013 Senatorial term, he has yet to exhaust the aforementioned two (2)-term limit.<sup>3</sup> Thereafter, respondent was again proclaimed by the NBOC as one of the winning senatorial candidates in the 2019 NLE held on May 13, 2019. However, before respondent could assume office for the 2019-2025 Senatorial term, petitioners Reyman R. Mansilungan (Mansilungan) and Efren A. Adan (Adan; collectively, petitioners) filed the instant consolidated petitions for *quo warranto* on May 31, 2019.

### The Petitions

Essentially, petitioners question the eligibility of respondent to hold office as a Senator for the 2019-2025 Senatorial term, claiming that he had already served two (2) terms prior thereto, *i.e.*, 2007-2013 and 2013-2019. On this note, while petitioners concede that respondent was unable to completely serve the 2007-2013 Senatorial term, they nevertheless maintain that such circumstance did not exempt him from the two (2)-term limit provided by the Constitution; and to allow respondent to assume office for a third term would be in gross violation of the aforementioned Constitutional mandate. Additionally, Mansilungan alleges that respondent should be deemed as only a *de facto* Senator beginning June 30, 2019 as his COC is void *ab initio*; while Adan avers that should respondent assume office as Senator for an illegal third term, all his actions in the Senate may be considered void, to the prejudice of the Filipino people.

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<sup>3</sup> Pertinent portions of the COMELEC's Resolution dated February 13, 2019 read:

In the recent case of *Abundo, Sr. vs. COMELEC*, Abundo was declared the winner in an election protest case and was declared the rightful holder of the mayoralty post. Abundo was the protestant who ousted his opponent and had assumed the remainder of the term. The Supreme Court ruled that the two-year period during which Abundo's opponent was serving as mayor should be considered as an interruption, which effectively removed Abundo's case from the ambit of the three-term limit rule.

Applying the above pronouncements in the instant case by analogy, it is clear that Pimentel has not fully served his first term as a Senator; thus the two-term limit does not yet apply to him.



### Respondent's Special and Affirmative Defenses

Finding the petitions to be sufficient in form and substance, the Tribunal required<sup>4</sup> respondent to file his consolidated Answer, which the latter complied with by filing his Consolidated Verified Answer *Ad Cautelam* with Special and Affirmative Defenses on July 5, 2019.

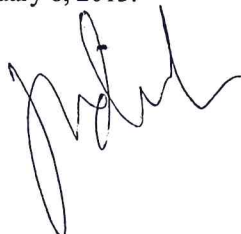
On the procedural aspect, respondent contends that since he has yet to assume office as a Senator for the 18<sup>th</sup> Congress, *i.e.*, the 2019-2025 Senatorial term at the time the petitions were filed and the Summons was issued, the Tribunal did not acquire jurisdiction over his person. On this note, while respondent recognizes the Tribunal's jurisdiction over all contests relating to the election, returns, and qualifications of Senators, he nevertheless argues that such jurisdiction begins only after a candidate becomes a full-fledged member of the Senate, *i.e.*, upon the concurrence of these requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office. Respondent likewise assails the validity of Rule 18 of the 2013 SET Rules as it requires the filing of *quo warranto* petitions *prior* to the concurrence of the aforementioned requisites. Respondent also questions petitioners' legal standing to file the instant petitions, pointing out that aside from the latter's bare allegations that they are registered voters, they have miserably failed to prove the same by attaching relevant documents showing that they were indeed registered voters who participated in the 2019 NLE.

On the substantive aspect, respondent denies violating the two (2)-term limit for Senators as provided by the Constitution, maintaining that he did not fully serve the 2007-2013 Senatorial term because Zubiri initially held the post for a total of four (4) years and two (2) months and he was only able to assume office for the last one (1) year and ten (10) months of the 2007-2013 Senatorial term on account of a successful election protest, *i.e.*, SET Case No. 001-07. Respondent then posits that pursuant to prevailing jurisprudence, particularly *Abundo, Sr. v. COMELEC*,<sup>5</sup> the period in which Zubiri served as Senator should be considered as an involuntary interruption, which effectively removes him beyond the ambit of the

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<sup>4</sup> See Resolution No. 19-01 dated June 24, 2019 ordering the consolidation of the petitions and directing the Secretary of the Tribunal to issue summons to respondent requiring him to file his consolidated Answer within a non-extendible period of ten (10) days from receipt of the summons. Accordingly, summons was issued on June 25, 2019 which was received by respondent on even date.

<sup>5</sup> G.R. No. 201716, January 8, 2013.





aforementioned term limit for Senators. Finally, respondent claims for moral and exemplary damages, averring that he suffered mental anguish and serious anxiety on account of petitioners' baseless suits against him.

### Proceedings Before the Tribunal

On August 1, 2019, Mansilungan filed his Comments on respondent's Consolidated Answer *Ad Cautelam*, which respondent countered with a Strong Manifestation *Ad Cautelam* filed on August 20, 2019. Thereafter, and pursuant to the Tribunal's Notice of Conference<sup>6</sup> dated August 22, 2019, the parties submitted their respective Preliminary Conference Briefs. However, on September 4, 2019, or a day before the scheduled Preliminary Conference, Adan filed a motion<sup>7</sup> seeking the indefinite suspension of the proceedings pending the final resolution of the constitutionality of Rule 18 of the 2013 SET Rules and the issue on jurisdiction over the person of respondent.

The foregoing notwithstanding, the Preliminary Conference proceeded as scheduled on September 5, 2019. During the conference, petitioner Adan orally reiterated his motion to suspend, which the Tribunal denied in open court, as reflected in Resolution No. 19-02. On even date, the Tribunal likewise issued Resolution No. 19-03 containing the Preliminary Conference Order listing the facts admitted by the parties and their respective evidence to be presented, as well as the issues to be resolved.

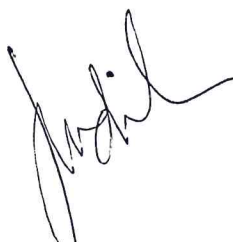
Aggrieved with Resolution No. 19-02, Adan moved for reconsideration thereof which was denied in Resolution No. 19-04 dated October 17, 2019. In the same Resolution, the Tribunal also directed the parties to appear before the Director of Legal Service, who had been designated as Hearing Commissioner, on October 29, 2019 for the marking of documentary exhibits and presentation of evidence.

During the hearing scheduled on October 29, 2019, the parties stipulated that petitioners have the legal standing to file the instant petitions as they are indeed registered voters who participated in the 2019 NLE. They

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<sup>6</sup> In the Notice of Conference dated August 22, 2019, the Secretary of the Tribunal required the parties to attend a conference on August 29, 2019 in order "to discuss matters that may expedite the conduct of the preliminary conference and such other measures that may aid in the prompt disposition" of the petitions.

<sup>7</sup> Motion to Suspend Proceedings Pending Resolution of the Issue on Jurisdiction.



were likewise directed to file their respective Offer of Evidence, which they complied with on November 8, 2019.

On December 11, 2019, the Tribunal issued Resolution No. 19-05 requiring the parties to file their respective Memoranda, which the parties complied with on January 6 (Mansilungan and respondent) and 7 (Adan), 2020. Consequently, the Tribunal issued Resolution No. 19-06 dated January 22, 2020 whereby the consolidated petitions were deemed submitted for resolution.

### The Issues

Considering that respondent had already agreed to drop his claim for damages against petitioners during the Preliminary Conference and that the issue on the latter's legal standing had already been resolved during the October 29, 2019 hearing, only the following issues remain for the Tribunal's resolution: (a) whether or not the Tribunal has acquired jurisdiction over the person of respondent considering that he has yet to assume office as Senator for the 2019-2025 Senatorial term when the instant petitions were filed and the Summons was issued against him; and (b) whether or not respondent violated the two (2)-term limit for Senators under the Constitution.

### The Tribunal's Ruling

#### I.

Pursuant to its mandate under Section 17, Article VI<sup>8</sup> of the Constitution, the Tribunal promulgated the 2013 SET Rules in order to govern its proceedings as the sole judge of all contests relating to the election, returns, and qualifications of Members of the Senate. Among these

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<sup>8</sup> Section 17, Article VI of the Constitution reads:

SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.





are proceedings for *quo warranto* which are commenced pursuant to Rule 18 of the 2013 SET Rules. In particular, Rule 18 states that a verified petition for *quo warranto* shall be filed **within ten (10) days after the proclamation** of the respondent:

**Rule 18. Quo Warranto.** – A verified petition for *quo warranto* contesting the election of a Member of the Senate on the ground of ineligibility or disloyalty to the Republic of the Philippines shall be filed by any registered voter **within ten (10) days after the proclamation of the respondent;** *Provided, however,* that the petition for *quo warranto* on the ground of ineligibility based on citizenship may be filed at any time during the respondent's tenure.

The provisions of the preceding paragraph to the contrary notwithstanding, a petition for *quo warranto* challenging the position of a Member of the Senate, who, at the time of election or assumption of office, possesses all the qualifications, shall be filed by any registered voter at any time during the respondent's tenure, as soon as any of the required qualifications is lost. (Emphasis and underscoring supplied)

Notably, the foregoing rule was patterned after the general provision of Batas Pambansa Blg. (BP) 881, otherwise known as the "Omnibus Election Code" (OEC),<sup>9</sup> which similarly provides that petitions for *quo warranto* filed before the COMELEC should be filed "within ten (10) days after proclamation of the results of the election."

However, as aptly pointed out by respondent, Rule 18 of the 2013 SET Rules which, as presently worded, mandates the filing of a petition for *quo warranto* within ten (10) days after proclamation is **incongruent with prevailing jurisprudence regarding the acquisition of the SET's jurisdiction**. As consistently ruled by the Supreme Court, an Electoral Tribunal's jurisdiction over a winning candidate – may it be the SET or the House of Representatives Electoral Tribunal – is acquired only upon the concurrence of the following requisites: (1) a valid proclamation; (2) a proper

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<sup>9</sup> Section 253 of BP 881 reads:

**Section 253. Petition for quo warranto.** – Any voter contesting the election of any Member of the Congress, regional, provincial, or city officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall file a sworn petition for *quo warranto* with the Commission **within ten days after the proclamation of the results of the election.** (Emphasis and underscoring supplied)



oath; and (3) assumption of office.<sup>10</sup> The rationale for this rule was explained in *Vinzons-Chato v. COMELEC*<sup>11</sup> as follows:

The Court has invariably held that **once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives [or the Senate]**, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the [Electoral Tribunals'] own jurisdiction begins. Stated in another manner, where the candidate has already been proclaimed winner in the congressional elections, the remedy of the petitioner is to file an electoral protest with the [Electoral Tribunal].

x x x Significantly, the allegation that [the winning candidate's] proclamation is null and void does not divest the [Electoral Tribunals] of [their] jurisdiction:

...[I]n an electoral contest where the validity of the proclamation of a winning candidate who has taken his oath of office and assumed his post as Congressman [or Senator] is raised, that issue is best addressed to the [Electoral Tribunals]. **The reason for this ruling is self-evident, for it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate.**<sup>12</sup> (Emphases and underscoring supplied)

Therefore, it would logically follow that a petition for *quo warranto* on the ground of ineligibility or disloyalty to the Republic of the Philippines should be filed only upon or within a period of time after the Tribunal could have legally acquired jurisdiction over the person of the winning candidate/respondent – that is, at the time that the latter had not only been proclaimed, but more so, had already taken his oath, and assumed office therefor. Otherwise, an anomalous situation would arise wherein a *quo warranto* petition has already been filed and yet the adjudicating tribunal would not be able to legally acquire jurisdiction over the person of the winning candidate/respondent. As currently worded, Rule 18 of the SET Rules causes this anomaly by requiring would-be petitioners to file their *quo warranto* petitions within ten (10) days after the winning candidate/respondent's proclamation. By this time, the petition would still be premature because the SET cannot yet acquire jurisdiction over the winning candidate/respondent's person which – to reiterate – occurs only after he has taken his oath and assumed office therefor. Indeed, while it is apparent

<sup>10</sup> *Marcos v. COMELEC*, G.R. No. 119976, September 18, 1995; *Reyes v. COMELEC*, G.R. No. 207264, June 25, 2013; *Gonzalez v. COMELEC*, G.R. No. 192856, March 8, 2011.

<sup>11</sup> G.R. No. 172131, April 2, 2007.

<sup>12</sup> *Id.*; citations omitted. See also *Limkaichong v. COMELEC*, G.R. Nos. 178831-32, April 1, 2009.





that Rule 18 was patterned after the provisions of the OEC, it is now discerned that these provisions are palpably incompatible with the prevailing doctrines regarding the SET's jurisdiction. On this score, it deserves highlighting that the OEC is merely a law of general application; hence, its application (or in this case, its transposition to the 2013 SET Rules) must yield to the more special rules/doctrines presently governing the subject matter.

Thus, in view of the foregoing, the Tribunal finds it fitting to initiate the formal amendment of Rule 18 of the 2013 SET Rules, as well as other procedural rules of similar import, in accordance with settled doctrines regarding its jurisdiction. Notably, this amendment must be coursed through the proper proceeding therefor and shall take effect only upon its due publication. Rule 88 of the 2013 SET Rules states:

Rule 88. Amendment. – These Rules may be amended by the Tribunal at any time. Any amendment adopted by the Tribunal shall become effective fifteen (15) days from publication in the Official Gazette or in any newspaper of general circulation.

Further, it must be borne in mind that any eventual amendment of the 2013 SET Rules regarding the above-mentioned matters should be prospective in application in deference to the due process rights of those who relied upon the old rules in good faith. Moreover, it must be pointed out that the SET Rules enjoy the presumption of constitutionality and validity. As such, they have the force and effect of law up until they are set aside,<sup>13</sup> or – as in this case – amended accordingly by the Tribunal pursuant to its rule-making power.

Thus, notwithstanding the fact that the instant consolidated petitions were filed even before respondent had assumed office as Senator, the Tribunal takes cognizance of the same in recognition of the effects of Rule 18 of the 2013 SET Rules as currently worded, which petitioners only subscribed to.

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<sup>13</sup> See *Spouses Dacudao v. Sec. Gonzales*, G.R. No. 188056, January 8, 2013; see also *Dasmariñas Water District v. Monterey Foods Corporation*, G.R. No. 175550, September 17, 2008.



## II.

To recount, petitioners mainly argue that since respondent had already assumed office as a Senator during the 2007-2013 and 2013-2019 Senatorial terms, he had already exhausted the two (2)-term limit for Senators under the Constitution; hence, he is ineligible to run and be elected as Senator for a third consecutive term in the 2019 NLE. On this score, while petitioners concede that respondent was unable to completely serve the 2007-2013 Senatorial term, they nevertheless maintain that such circumstance did not exempt him from the two (2)-term limit provided by the Constitution.

Petitioners' arguments lack merit.

Section 4, Article VI of the Constitution fixes the term of a Senator and limits such elective official's stay in office to no more than two consecutive terms, to wit:

SECTION 4. The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon on the thirtieth day of June following their election.

**No senator shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term of which he was elected.** (Emphases and underscoring supplied)

The intention behind the rule on term limits was not only to abrogate the monopolization of political power and to prevent elected officials from breeding proprietary interest in their position, but also to enhance the people's freedom of choice.<sup>14</sup> As case law explains, "while people should be protected from the evils that a monopoly of power may bring about, care should be taken that their freedom of choice is not unduly curtailed."<sup>15</sup>

In a legal sense, "term" means a fixed and definite period of time during which the officer may claim to hold office as a right, and fixes the

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<sup>14</sup> See *Abundo, Sr. v. COMELEC*, G.R. No. 201716, January 8, 2013, citing *Borja, Jr. v. COMELEC*, G.R. No. 133495, September 3, 1998.

<sup>15</sup> *Id.*





interval which the several incumbents shall succeed one another.<sup>16</sup> Under the aforementioned Constitutional provision, a Senator may only serve for two (2) consecutive terms, and thereafter, is disqualified to run for a third consecutive term. According to case law, in order to be covered by the disqualification, the following requisites must concur: (a) the official concerned has been elected for two (2) consecutive terms as a Senator; and (b) that said Senator has fully-served said terms.<sup>17</sup>

However, the Constitution provides that any voluntary renunciation should not be considered as an interruption which would preclude the application of the term limitation provided therein. Verily, this clause prevents any sitting Senator from circumventing the limit provided by the Constitution by voluntarily relinquishing his position at the last minute. In *Aldovino, Jr. v. COMELEC*,<sup>18</sup> the Supreme Court explained the concept of “voluntary renunciation”:

The word “renunciation” carries the dictionary meaning of abandonment. To renounce is to *give up, abandon, decline, or resign*. It is an act that emanates from its author, as contrasted to an act that operates from the outside. Read with the definition of a “term” in mind, renunciation, as mentioned under the second branch of the constitutional provision, cannot but mean *an act that results in cutting short the term, i.e., the loss of title to office*. The descriptive word “voluntary” linked together with “renunciation” signifies an act of surrender based on the surrenderee’s own freely exercised will; in other words, a loss of title to office by conscious choice. In the context of the [rule on term limitations], such loss of title is not considered an interruption **because it is presumed to be purposely sought to avoid the application of the term limitation.**<sup>19</sup> (Emphasis and underscoring supplied)

If voluntary renunciation of a term does not cancel the renounced term in the computation of the term limitations provided by the Constitution or by law, **then conversely, involuntary severance from office for any length of time short of the full term provided by law amounts to an interruption of continuity of service.**<sup>20</sup> In this regard, as may be gleaned from the numerous cases<sup>21</sup> decided by the Supreme Court on this matter, the

<sup>16</sup> *Aldovino, Jr. v. COMELEC*, G.R. No. 184836, December 23, 2009, citing *Gaminde v. Commission on Audit*, 401 Phil. 77, 88 (2000).

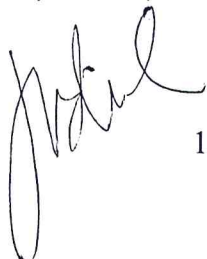
<sup>17</sup> See *id.*, citing *Lonzanida v. COMELEC*, G.R. No. 135150, July 28, 1999, 311 SCRA 602.

<sup>18</sup> G.R. No. 184836, December 23, 2009.

<sup>19</sup> *Id.*

<sup>20</sup> See *id.*, citing *Lonzanida v. COMELEC*, G.R. No. 135150, July 28, 1999, 311 SCRA 602.

<sup>21</sup> *Borja v. COMELEC*, G.R. No. 133495, September 3, 1998; *Montebon v. COMELEC*, G.R. No. 180444, April 8, 2008; *Adorneo v. COMELEC*, G.R. No. 147927, February 4, 2002; *Latasá v. COMELEC*, G.R. No. 154829, December 10, 2003; *Aldovino, Jr. v. COMELEC*, G.R. No. 184836, December 23, 2009;



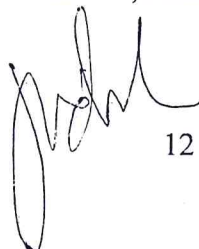


consecutiveness of the terms held by elective public officials as well as the characterization of their renunciation would depend on the factual circumstances and/or scenarios presented in each case, to wit:

| <u>Scenario/<br/>Circumstance</u>        | <u>Applicable Rule/s</u>  |
|--|---|
| Assumption of Office by Operation of Law | When a permanent vacancy occurs in an elective position and the official merely assumed the position pursuant to the rules on succession under the LGC, then his service for the unexpired portion of the term of the replaced official cannot be treated as one full term as contemplated under the subject constitutional and statutory provision that service cannot be counted in the application of any term limit x x x. If the official runs again for the same position he held prior to his assumption of the higher office, then his succession to said position is by operation of law and is considered an involuntary severance or interruption.   |
| Recall Elections                         | An elective official, who has served for three consecutive terms and who did not seek the elective position for what could be his fourth term, but later won in a recall election, had an interruption in the continuity of his service. For, he had become in the interim, i.e., from the end of the 3rd term up to the recall election, a private citizen.  |
| Conversion of a Municipality into a City | The abolition of an elective local office due to the conversion of a municipality to a city does not, by itself, work to interrupt the incumbent official's continuity of service.  |
| Preventive Suspension                    | Preventive suspension is not a term-interrupting event as the elective official's continued stay and entitlement to the office remain unaffected during the period of suspension, although he is barred from exercising the functions of his office during this period.   |
| Election Protests                        | <ol style="list-style-type: none"> <li>1. When a candidate is proclaimed as winner for an elective position and assumes office, his term is interrupted when he loses in an election protest and is ousted from office, thus disabling him from serving what would otherwise be the unexpired portion of his term of office had the protest been dismissed x x x. The break or interruption need not be for a full term of three years or for the major part of the 3-year term; an interruption for any length of time, provided the cause is involuntary, is sufficient to break the continuity of service.</li> <li>2. When an official is defeated in an election protest and said decision becomes final after said official had served the full term for said office, then his loss in the election contest does not constitute an interruption since he has managed to serve the term from start to finish. His full service, despite the defeat, should be counted in the application of term limits because the nullification of his proclamation came after the expiration of the term x x x.<sup>22</sup></li> </ol> |

*Lonzanida v. COMELEC*, G.R. No. 135150, July 28, 1999; *Ong v. Alegre*, G.R. Nos. 163295 & 163354, January 23, 2006; *Rivera III v. COMELEC*, G.R. Nos. 167591 & 170577, May 9, 2007; *Dizon v. COMELEC*, G.R. No. 182088, January 30, 2009.

<sup>22</sup> *Abundo, Sr. v. COMELEC*, G.R. No. 201716, January 8, 2013.





In *Abundo, Sr. v. COMELEC*,<sup>23</sup> the Supreme Court added another rule applicable to election protests. In that case, therein petitioner ran for municipal mayor in the 2001, 2004, and 2007 NLEs. In both the 2001 and 2007 NLEs, he was proclaimed the winning candidate and consequently served full terms. However, in the 2004 NLE, he was initially not proclaimed the winning candidate, prompting him to file an election protest against his opponent. During the pendency of the election protest, his opponent assumed office and served as municipal mayor. After due proceedings, therein petitioner won the election protest, and accordingly, assumed office for the remainder of the 2004-2007 term. In 2010, therein petitioner again ran for and was elected municipal mayor in the 2010 NLE, prompting the filing of a disqualification case against him on the ground that he had already exhausted the three (3)-term limit for local officials. In ruling for therein petitioner, the Supreme Court held that the period during the 2004-2007 term wherein therein petitioner was unable to serve as municipal mayor because he was not initially proclaimed as the winning candidate should be deemed as an **involuntary interruption** of office, and thus, cannot be counted against him for the purpose of determining whether or not he has breached the threshold on term limits, viz.:

In the present case, the Court finds Abundo's case meritorious **and declares that the two-year period during which his opponent, Torres, was serving as mayor should be considered as an interruption, which effectively removed Abundo's case from the ambit of the three-term limit rule.**

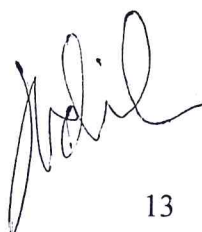
It bears to stress at this juncture that Abundo, for the 2004 election for the term starting July 1, 2004 to June 30, 2007, was the duly elected mayor. Otherwise how explain his victory in his election protest against Torres and his consequent proclamation as duly elected mayor. Accordingly, the first requisite for the application of the disqualification rule based on the three-term limit that the official has been elected is satisfied.

This thus brings us to the second requisite of whether or not Abundo had served for "three consecutive terms," as the phrase is juridically understood, as mayor of Viga, Catanduanes immediately before the 2010 national and local elections. Subsumed to this issue is of course the question of whether or not there was an effective involuntary interruption during the three three-year periods, resulting in the disruption of the continuity of Abundo's mayoralty.

The facts of the case clearly point to an involuntary interruption during the July 2004-June 2007 term.

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<sup>23</sup> Id.





There can be no quibbling that, during the term 2004-2007, and with the enforcement of the decision of the election protest in his favor, Abundo assumed the mayoralty post only on May 9, 2006 and served the term until June 30, 2007 or for a period of a little over one year and one month. x x x

x x x x

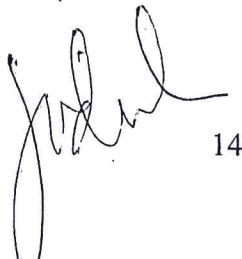
In the present case, during the period of one year and ten months, or from June 30, 2004 until May 8, 2006, Abundo cannot plausibly claim, even if he wanted to, that he could hold office of the mayor as a matter of right. Neither can he assert title to the same nor serve the functions of the said elective office. The reason is simple: during that period, title to hold such office and the corresponding right to assume the functions thereof still belonged to his opponent, as proclaimed election winner. Accordingly, Abundo actually held the office and exercised the functions as mayor only upon his declaration, following the resolution of the protest, as duly elected candidate in the May 2004 elections or for only a little over one year and one month. Consequently, since the legally contemplated full term for local elected officials is three (3) years, it cannot be said that Abundo fully served the term 2004-2007. The reality on the ground is that Abundo actually served less.

Needless to stress, the almost two-year period during which Abundo's opponent actually served as Mayor is and ought to be considered an involuntary interruption of Abundo's continuity of service. An involuntary interrupted term, cannot, in the context of the disqualification rule, be considered as one term for purposes of counting the three-term threshold.<sup>24</sup> (Emphases and underscoring supplied)

At this juncture, it is well to stress that while the Tribunal is aware that the aforecited jurisprudence involves the interpretation of laws pertaining to term limits of local elective officials, the same ruling may be applied to term limits of Senators – as in this case – as they essentially involve the same legal principles. As stated by the Supreme Court, the period during which one's opponent actually served is and ought to be considered as an involuntary interruption of the former's continuity of service. The rationale is that during that period, title to hold such office and the corresponding right to assume the functions thereof still belonged to his opponent as proclaimed election winner. Hence, as he was prevented from asserting title to the said elective office and from assuming the functions of the same during this period, it cannot be said that he has fully served the term. Consequently, the involuntarily interrupted term, cannot, in the context of the disqualification rule, be considered as one term for purposes of counting the term threshold.

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<sup>24</sup> Id., citing *Socrates v. COMELEC*, G.R. No. 154512, November 12, 2002, 391 SCRA 457.



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Here, it is undisputed that respondent assumed office as Senator for the 2007-2013 and 2013-2019 Senatorial terms, before eventually being re-elected for a supposed third term, *i.e.*, the 2019-2025 Senatorial term. It must be noted, however, that respondent was not initially proclaimed as a winning Senatorial candidate in the 2007 NLE, and consequently, was unable to assume the elective office at the start of the 2007-2013 Senatorial term. It was only after four (4) years and two (2) months – or on August 11, 2011 when SET Case No. 001-07 was ruled in his favor – that he was able to assume office for the remainder of the term, or from August 11, 2011 until June 30, 2013, a period totalling one (1) year and ten (10) months. Thus, taking guidance from *Abundo, Sr.*, the foregoing circumstances constitute an involuntary interruption or a break in respondent's service of the 2007-2013 Senatorial term. Being an interrupted term, the 2007-2013 Senatorial term cannot be counted against respondent for purposes of counting the term limitation provided by the Constitution.


In conclusion, respondent was not prohibited to run and be elected for the 2019-2025 Senatorial term as he has yet to serve two (2) consecutive Senatorial terms in full within the contemplation of prevailing law and jurisprudence.

**WHEREFORE**, the instant consolidated petitions for *quo warranto* are hereby **DISMISSED** for lack of merit. Further, the matter of amending the 2013 Rules of the Senate Electoral Tribunal based on the considerations discussed in this Decision is **REFERRED** to the Office of the Secretary for eventual deliberation and approval of the Members of the Tribunal pursuant to Rule 88 thereof.

No pronouncement as to costs.

**SO ORDERED.**  
**03 June 2020.**

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson



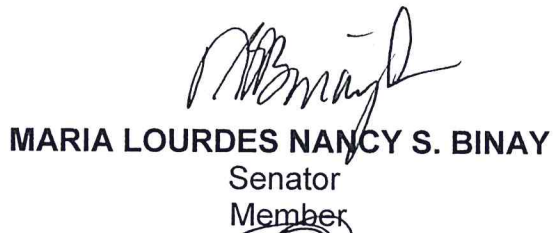
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Member



**ALEXANDER G. GESMUNDO**  
Associate Justice  
Member



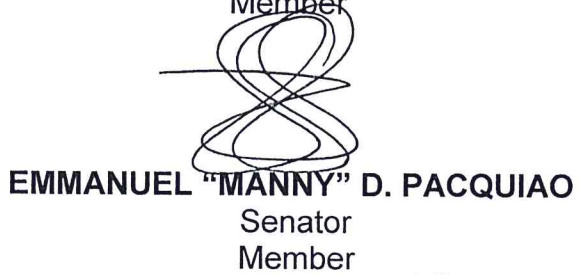
**RICHARD J. GORDON**  
Senator  
Member



**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