

## **SEPARATE OPINION**

### **CAYETANO, P.**

This is a petition for *quo warranto* filed by Petitioner Rizalito Y. David, as candidate for Senator in 2013 and a concerned citizen, seeking to hold Respondent Mary Grace Poe Llamanzares ineligible to sit as Senator of the Republic of the Philippines on the ground that the latter is not a citizen of the Philippines.

I will no longer discuss the merits of the case because the main decision is comprehensive and covers all legal grounds. I submit this separate opinion for the public and the layman's better understanding of the nature of this case and what differentiates it from other cases. This petition is not brought before an ordinary court, but before the Senate Electoral Tribunal (SET) as an independent and impartial body, "which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members."<sup>1</sup>

In *Abbas vs. Senate Electoral Tribunal*,<sup>2</sup> it was held that the Constitution intended that "both those 'judicial' and 'legislative' components commonly share the duty and authority of deciding all contests relating to the election, returns, and qualifications of Senators." The Constitutional provision "is a clear expression of an intent that all (such) contests x x x shall be resolved by a panel or body in which their (the Senators') peers in that Chamber are represented."<sup>3</sup>

As a lawyer, I could have come to the same conclusion as the Justices. I have utmost respect for them and their separate opinions. Yet, I arrived at a different conclusion based on my combined function as a member of the Bar and a member of Congress, specifically as the Chair of the Senate Committee on Women, Children, Family Relations, and Gender Equality, and a strong advocate of the rights of children.

My practice of law in the Senate has revolved around defending the rights of those in the minority who are traditionally overlooked - women, children, elderly, persons with disability, and others. As such, I have trained myself to look deeper, because more often, these minority and vulnerable groups are left behind.

Finally, it is important for the public to understand that the main decision of the SET and my separate opinion are limited to the issues raised before it.

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<sup>1</sup> 1987 Constitution, Art. VI, Sec. 17

<sup>2</sup> 166 SCRA 651 (1988)

<sup>3</sup> *Ibid.* via de Leon, H. (2004) Philippine Constitutional Law Principles and Cases.

This does not cover other issues raised in the Commission on Elections in connection with Respondent's candidacy as President or issues raised in various public fora.

ACCORDINGLY, I concur with the majority opinion which denies the Petition and declares Respondent Mary Grace Poe Llamanzares eligible to hold her seat as Senator of the Republic of the Philippines.

  
PIA S. CAYETANO