

## EN BANC

[ G.R. No. 217012, March 01, 2016 ]

**WIGBERTO "TOBY" R. TAÑADA, JR., PETITIONER, VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, ANGELINA "HELEN" D. TAN, AND ALVIN JOHN S. TAÑADA, RESPONDENTS.**

### DECISION

**CARPIO, J.:**

#### The Case

G.R. No. 217012 is a petition for *certiorari*<sup>[1]</sup> assailing the Resolutions promulgated on 25 September 2014<sup>[2]</sup> and 22 January 2015<sup>[3]</sup> by the House of Representatives Electoral Tribunal (HRET) in HRET Case No. 13-018 (EP). The HRET dismissed Wigberto "Toby" R. Tañada, Jr.'s (Wigberto) election protest *ad cautelam* on two grounds: for being insufficient in form and substance, and for lack of jurisdiction to pronounce and declare Alvin John S. Tañada (Alvin John) as a nuisance candidate.

#### The Facts

The HRET recited the facts as follows:

Culled from the records and the submissions of the parties herein, as well as from the ruling of the Supreme Court in *Tañada, Jr. v. Commission on Elections, et al.*, [G.R. Nos. 207199-200, 22 October 2013, 708 SCRA 188] are the factual antecedents relevant to this resolution.

For the position of Representative of the Fourth Legislative District of the Province of Quezon contested in the National and Local Elections of 2013, three candidates filed their respective Certificates of Candidacy (CoC), namely: Wigberto R. Tañada, Jr. (Wigberto) of the Liberal Party; Angelina D. Tan (Tan) of the Nationalist People's Coalition [(NPC)]; and Alvin John S. Tañada (Alvin John) of the Lapiang Manggagawa. In October 2012, Wigberto filed twin petitions in the Commission on Elections (COMELEC) to seek the cancellation of Alvin John's CoC (docketed as SPA No. 13-056), and to declare Alvin John a nuisance candidate (docketed as SPA No. 13-0357). The petitions were eventually consolidated.

On January 29, 2013, the COMELEC First Division dismissed the consolidated petitions for their lack of merit.

Wigberto duly filed his motion for reconsideration of the dismissal of his petitioners [sic], alleging the following grounds, to wit:

a) Assuming Respondent Tañada resided in Purok 3, Barangay Progreso, Gumaca, Quezon for a period of thirteen (13) years, the said period was long ago. Presently, Respondent Tañada failed to comply with the one-year residency requirement.

b) Respondent Tañada was a resident of Parañaque where he was enrolled as a voter from 2009 until 4 June 2012, when he transferred his Voter's Registration to Gumaca, Quezon; and

c) Respondent Tañada's own tweets and entries in Facebook are bereft of any political plans or activities which betray his true intentions to run as Member of the 4<sup>th</sup> District of Gumaca, Quezon.

On April 25, 2013, the COMELEC En Banc denied Wigberto's motion for reconsideration in SPA No. 13-057, but granted his motion for reconsideration in SPA No. 13-056, decreeing thusly:

WHEREFORE, premises considered, the Motion for Reconsideration dated 18 February 2013 is PARTIALLY GRANTED. The Motion for Reconsideration for SPA No. 13-057 (DC) is DENIED for LACK OF MERIT. However, the Motion for Reconsideration for SPA No. 13-056 (DC) is GRANTED. Accordingly, Respondent Alvin John S. Tañada's Certificate of Candidacy for the position of Member of the House of Representatives for the 4<sup>th</sup> District of the Province of Quezon is hereby CANCELLED.

On May 7, 2013, Wigberto sought the reconsideration of the denial of his petition in SPA Case No. 13-057 to urge the declaration of Alvin John as a nuisance candidate on the basis of newly discovered evidence.

For the May 13, 2013 National and Local Elections, the name of candidate Alvin John remained in the ballots. After the canvass of the votes, the following results indicated that Tan was the winning candidate, to wit:

Tan	84,782
Tañada,	80,698
Wigberto	
Tañada,	
Alvin	7,038
John	

On May 16, 2013, Wigberto filed with the Quezon Provincial Board of Canvassers (Quezon PBOC) his PETITION TO CORRECT MANIFEST ERRORS IN THE CERTIFICATES OF CANVASS FOR THE POSITION OF MEMBER OF THE HOUSE OF REPRESENTATIVES, 4TH DISTRICT QUEZON with URGENT MOTION TO SUSPEND CANVASS AND/OR PROCLAMATION FOR THE SAID POSITION, whereby he prayed that the COMELEC direct the Quezon PBOC to consolidate in his favor the votes canvassed for Alvin John, and to proclaim the candidate with the highest number of votes as the winner.

The Quezon PBOC denied Wigberto's motion to have the votes garnered by Alvin John credited in his favor on the same date of May 16, 2013, holding that the votes of Alvin John could not be counted in favor of Wigberto because the cancellation of the former's CoC had been on the basis of his material misrepresentations under Section 78 of the *Omnibus Election Code*, not on being a nuisance candidate under Section 69 of *Omnibus Election Code*. The Quezon PBOC then proclaimed Tan as the winning candidate.

On May 21, 2013, Wigberto filed a SUPPLEMENT TO THE PETITION WITH ADDITIONAL PRAYER FOR ANNULMENT OF PROCLAMATION, whereby he reiterated his prayer to be declared as the winning candidate for the position of Representative of the Fourth District of Quezon by consolidating the votes received by Alvin John with the votes he garnered.

On May 27, 2013, Wigberto brought in the Supreme Court his *AD CAUTELAM* PETITION FOR *CERTIORARI*, *MANDAMUS* AND PROHIBITION with URGENT MOTION FOR THE ISSUANCE OF A *STATUS QUO ANTE* ORDER to assail the COMELEC *En Banc's* Resolution promulgated on April 25, 2013 declaring Alvin John not a nuisance candidate, docketed as G.R. Nos. 207199-200, thereby imploring the Supreme Court to declare Alvin John as a nuisance candidate, and to order the COMELEC to credit the votes received by Alvin John in his favor.

On May 30, 2013, Wigberto filed [with] this Tribunal this election protest *ad cautela*, pertinently alleging as follows:

13. The fraud perpetrated upon herein Protestant in the fielding of Alvin John Tañada as a nuisance candidate consists of the following:

a. The lawyers who turned out to be counsels for Protestee collaborated, in varying degrees and at various times, in support of the nuisance candidate Alvin John Tañada, in a case of an otherwise patent conflict of interest, unless their client Protestee in the first place was precisely the sponsor of the candidacy of Alvin John as a nuisance candidate in order to confuse and mislead the voters into voting for Alvin John instead of herein Protestant, to wit: x x x.

b. As found by the Comelec *En Banc* in SPA 13-056, Alvin John Tañada "is not a resident of and/or never resided" in the Fourth District of Quezon, and that he had the "intent to mislead, misinform, or deceive the electorate" since he is a resident of Parañaque City, and therefore disqualified from running for any elective post in the Fourth District of Quezon. x x x.

d. Alvin John Tañada was never seen campaigning in the Fourth District of Quezon Province, nor did he have any posters in the common poster areas. Neither did he attend any campaign rally or candidate's forum. To top it all, he did not even bother to vote in the May 13, 2013 Elections.

e. An avid user of social media such as Facebook and Twitter, Alvin John Tañada never made a single post or tweet to his friends, relatives or associates in said media about his political plans of the fact that he was running as Congressman. Such palpable silence, if not secrecy, on one's candidacy is a trademark attitude of nuisance candidates. They make themselves publicly scarce and difficult to track down, when the very nature of a candidacy precisely seeks nourishment from widespread publicity and maximum exposure.

f. The fraudulent fielding of Alvin John Tañada as a nuisance candidate resulted in 7,038 votes for the one and only *bona fide* candidate with the surname "Tañada," Wigberto "Toby" Tañada, [Jr.,] whose certificate of candidacy, in the first place, had already been ordered cancelled by the Comelec in its April 25, 2013 consolidated Resolution in SPA 13-056 and 13-057. x x x.

22. Because of the perpetration of fraud upon herein Protestant through the malicious and intentional fielding of a nuisance candidate in the person of Alvin John Tañada to sabotage the candidacy of herein Protestant, and the inclusion of Alvin John's name in the ballot despite the cancellation of his certificate of candidacy, Protestant is hereby protesting the miscounting and mistabulation of the votes cast for him as votes for Alvin John in the ten (10) Municipal Board of Canvassers of the Fourth District of Quezon and the Provincial Board of Canvassers of Quezon as follows: x x x.

Meanwhile, on June 28, 2013, the COMELEC Second Division favorably acted on the motion to annul the proclamation of Tan, and annulled the proclamation, and directed the Quezon PBOC to credit the 7,038 votes of Alvin John to Wigberto, and to declare the winner after the re-computation of the votes. While Wigberto's petition for *certiorari* was still pending in the Supreme Court, the COMELEC En Banc affirmed the action of the COMELEC Second Division annulling Tan's proclamation. However, Tan had by then taken her oath and assumed office past noon time of June 30, 2013, thereby rendering the adverse resolution on her proclamation moot.

On October 22, 2013, the Supreme Court promulgated its resolution in G.R. Nos. 207199-200 dismissing Wigberto's *AD CAUTELAM* PETITION

FOR *CERTIORARI*, *MANDAMUS* AND PROHIBITION with URGENT MOTION FOR THE ISSUANCE OF A STATUS QUO ANTE ORDER, *viz*:

Case law states that the proclamation of a congressional candidate following the election divests the COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed representative in favor of the HRET. The phrase "election, returns and qualifications" refers to all matters affecting the validity of the contestee's title. In particular, the term "election" refers to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" refers to the canvass of the returns and the proclamation of winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" refers to matters that could be raised in *quo warranto* proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his COC.

In the foregoing light, considering that Angelina had already been proclaimed as Member of the House of Representatives for the 4<sup>th</sup> District of Quezon Province on May 16, 2013, as she has in fact taken her oath and assumed office past noon time of June 30, 2013, the Court is now without jurisdiction to resolve the case at bar. As they stand, the issues concerning the conduct of the canvass and the resulting proclamation of Angelina as herein discussed are matters which fall under the scope of the terms "election" and "returns" as above-stated and hence, properly fall under the HRET's sole jurisdiction.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Thereafter, the Tribunal directed Tan to submit her responsive pleading to the election contest.

In compliance, Tan filed her verified answer with special and affirmative defenses and counter-protest, praying that the Tribunal dismiss the election protest pursuant to Rule 16 in relation to Rule 21 of *The 2011 Rules of the House of Representatives Electoral Tribunal* (2011 HRET Rules) for being grossly deficient in form and substance under the law, and considering further that Wigberto was guilty of forum shopping.

In his reply and answer to the counter-protest, Wigberto insisted that the Supreme Court had already declared in G.R. Nos. 207199-200 that the Tribunal had exclusive jurisdiction to determine whether or not Alvin John was a nuisance candidate, and whether or not crediting the votes garnered by Alvin John to Wigberto constituted an election contest.

On February 11, 2014, Tan filed her comment with motion to dismiss