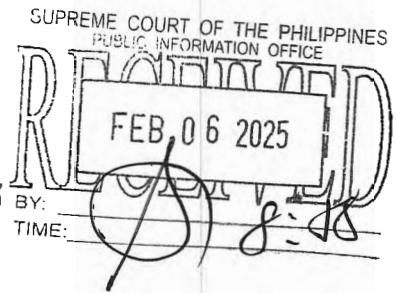




Republic of the Philippines
Supreme Court
Manila



EN BANC

VICE MAYOR PETER BASCON
MIGUEL,

Petitioner,

G.R. No. 256053

Present:

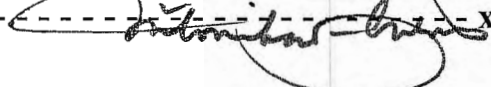
GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,**
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

- versus -

ELIORDO USERO OGENA,
Respondent.

Promulgated:

November 5, 2024

X----------X

DECISION

CAGUIOA, J.:

This is a Petition for Review on *Certiorari*¹ (Petition) filed pursuant to Rule 45 of the Rules of Court by then Koronadal City Vice Mayor Peter Bascon Miguel (Miguel) assailing the Decision² dated December 15, 2020 (assailed Decision) of the Court of Appeals (CA) in CA-G.R. SP No. 09886.

* On official business.

** On official leave.

¹ *Rollo*, pp. 3–92.

² Captioned as “Report.” *Id.* at 94–103. The December 15, 2020 Decision in CA-G.R. SP No. 09886 was penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Loida S. Posadas-Kahulugan and Richard D. Mordeno of the Twenty-Second Division, CA, Cagayan de Oro City.

The assailed Decision denied Miguel's appeal³ and affirmed *in toto* the Resolution⁴ dated July 7, 2020 of Branch 42, Regional Trial Court (RTC), Koronadal City, which dismissed Miguel's Complaint for *Quo Warranto*⁵ against then Koronadal City Mayor Eliordo Usero Ogena (Ogena), granted the latter's Motion for Reconsideration,⁶ and set aside its earlier Decision⁷ dated March 5, 2020 for want of jurisdiction. The latter decision, in turn, granted Miguel's *quo warranto* complaint, found Ogena disqualified from the Office of the Mayor, and adjudged him guilty of unlawfully holding and exercising the functions of said office.

The Facts

Petitioner Miguel and respondent Ogena were duly elected Vice Mayor and Mayor, respectively, of Koronadal City, Province of South Cotabato, during the May 13, 2019 National and Local Elections (NLE). Both were duly proclaimed by the City Board of Canvassers on May 15, 2019,⁸ and assumed their respective offices on June 30, 2019.⁹

On August 29, 2019, Miguel filed before the RTC a Complaint for *Quo Warranto* pursuant to Rule 66 of the Rules of Court against Ogena, claiming that the latter was disqualified to occupy and hold any elective public office. Specifically, he alleged that the penalties that had been imposed upon Ogena by this Court in its Decision dated February 2, 2016 in Administrative Case (AC) No. 9807¹⁰ constituted grounds to disqualify him under Section 40(a) and (b) of Republic Act No. 7160¹¹ or the Local Government Code (LGC).¹²

In AC No. 9807, a complaint was filed against Ogena before the Integrated Bar of the Philippines (IBP) by the children of his deceased client, who alleged that Ogena falsified several documents to make it appear that the complainants had executed the same, which falsification led to the transfer and sale of their properties to interested buyers. While the Court found the allegations of forgery or falsification as well as prejudice to the complainants unsubstantiated, it nonetheless ruled that Ogena violated the 2004 Rules on Notarial Practice and accordingly imposed upon him the penalty of

³ Notice of Appeal, *id.* at 104–107.

⁴ *Rollo*, pp. 108–114. The July 7, 2020 Resolution in SPL Civil Action Case No. 096-42 was penned by Pairing Judge Gerardo C. Braganza.

⁵ *Id.* at 138–148.

⁶ *Id.* at 115–129.

⁷ *Id.* at 131–137. The March 5, 2020 Decision in SPL Civil Action Case No. 096-42 was penned by Presiding Judge Jordan H. Reyes of Branch 42, RTC, Koronadal City, South Cotabato.

⁸ *Id.* at 95.

⁹ *See id.* at 22.

¹⁰ *Sistual v. Ogena*, 780 Phil. 125 (2016) [*Per Curiam, En Banc*].

¹¹ An Act Providing for a Local Government Code of 1991 (1991). The same provides:

SECTION 40. *Disqualifications*. — The following persons are disqualified from running for any elective local position:

(a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;

(b) Those removed from office as a result of an administrative case[.]

¹² *Rollo*, pp. 139–142.

suspension from the practice of law for two years and permanently barred him to ever perform notarial service, thus:

The Court agrees with the findings of the IBP except as to the penalty it imposed. To begin with, complainants' allegation of forgery was not clearly substantiated and there was no concrete proof that the complainants were prejudiced. They submitted a copy of the affidavits for falsification executed by Erlinda and Flordelisa, both subscribed before the City . . . Prosecutor on February 20, 2006; Memoranda for Preliminary Investigation issued by Office of the City Prosecutor, Koronadal, South Cotabato; Letter, Memorandum, and Order issued by the Bureau of Lands, but these do not suffice to prove the allegation of forgery and/or falsification.

Atty. Ogena, however, violated the 2004 Rules on Notarial Practice specifically Rule IV, Section 2(b), which provides:

Section 2. Prohibitions. – (a) . . .

(b) A person shall not perform a notarial act if the person involved as signatory to the instrument or document –

(1) is not in the notary's presence personally at the time of the notarization; and

(2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.

Doubtless, Atty. Ogena was negligent in the performance of his duty as a notary public. He failed to require the personal presence of the signatories of the documents and proceeded to notarize the aforementioned documents without the signatures of all the parties. Likewise, Atty. Ogena failed to comply with the most basic function that a notary public must do – to require the parties to present their residence certificates or any other document to prove their identities. This Court, in *Gonzales v. Atty. Ramos*, wrote:

. . . .

By notarizing the aforementioned documents, Atty. Ogena engaged in unlawful, dishonest, immoral or deceitful conduct. His conduct is fraught with dangerous possibilities considering the conclusiveness on the due execution of a document that our courts and the public accord to notarized documents. His failure to perform his duty as a notary public resulted not only in damaging complainants' rights but also in undermining the integrity of a notary public and in degrading the function of notarization. Thus, Atty. Ogena should be liable for such negligence, not only as a notary public but also as a lawyer.

Pursuant to the pronouncement in *Re: Violation of Rules on Notarial Practice*, Atty. Ogena should be suspended for two (2) years from the practice of law and forever barred from becoming a notary public.

WHEREFORE, respondent Atty. Eliordo Ogena is **SUSPENDED** from the practice of law for two (2) years and



is **BARRED PERMANENTLY** from being commissioned as Notary Public.¹³ (Emphasis in the original; citations omitted)

In his answer with affirmative defenses, Ogena argued that the *quo warranto* action should have been filed before the Commission on Elections (COMELEC) within 10 days from his proclamation pursuant to the Omnibus Election Code¹⁴ (OEC) and the COMELEC Rules of Procedure. Ogena likewise questioned Miguel's personality to file the case for having no right to the mayoralty post even under Rule 66 of the Rules of Court. Accordingly, he prayed that the complaint be dismissed for lack of jurisdiction and lack of cause of action.¹⁵

The Ruling of the RTC

In its Decision dated March 5, 2020, the RTC granted Miguel's complaint, found Ogena disqualified from the Office of the Mayor of Koronadal City, ousted him therefrom, and declared the position vacant, thus:

WHEREFORE, premises considered, the petition for quo warranto is GRANTED. Respondent Eliordo Usero Ogena is found **DISQUALIFIED** from and is hereby adjudged **GUILTY OF UNLAWFULLY HOLDING AND EXERCISING THE OFFICE OF THE MAYOR OF KORONADAL CITY**. Accordingly, Respondent Eliordo Usero Ogena is ousted and removed therefrom.

The position of the Office of the Mayor of Koronadal City is hereby declared vacant.

....

SO ORDERED.¹⁶ (Emphasis in the original)

The RTC found Miguel's complaint under Rule 66 proper and timely, considering that it was filed within the reglementary period of one year from when the right of Miguel to occupy the position arose.¹⁷ It likewise found that the administrative case against Ogena involved moral turpitude, and constituted a proper ground to disqualify him under Section 40(a) of the LGC. Further, the case resulted to a removal from the office of Notary Public, and hence, covered by Section 40(b). Finally, it declared that since Ogena was not qualified or eligible to run for Mayor from the very beginning, his election, proclamation, and assumption to the Mayor's office were null and void.¹⁸

¹³ *Sistual v. Ogena*, *supra* note 10, at 130–132.

¹⁴ Batas Pambansa Blg. 881 (1985).

¹⁵ *Rollo*, p. 133.

¹⁶ *Id.* at 136.

¹⁷ *Id.* at 134.

¹⁸ *Id.* at 134–135.



Miguel filed a motion for execution pending appeal, while Ogena filed a motion for reconsideration.¹⁹ Ogena reasserted his argument against the jurisdiction of the RTC over the subject matter of the case. Additionally, he questioned the interpretation by the RTC of Section 40(a) and (b) of the LGC, claiming that this Court's Decision in AC No. 9807 does not constitute a sentence for an offense involving moral turpitude.²⁰ Even assuming that it does fall under Section 40, the same had already lapsed after two years from the promulgation of the Decision on February 2, 2016, pursuant to the proviso in Section 40(a).²¹ Moreover, Ogena asserted that his ban from notarial service is not a ground to disqualify him, as the same relates only to his personal profession and is not a requirement for the mayoralty office.²²

In its Resolution dated July 7, 2020, the RTC granted Ogena's motion for reconsideration and declared as null and void its earlier Decision for want of jurisdiction over the subject matter. It held that COMELEC has exclusive jurisdiction over actions for *quo warranto* against elective city officials pursuant to Section 253 of the OEC. The RTC disposed of the motion for reconsideration and Miguel's motion for execution pending appeal, thus:

WHEREFORE, premises considered, the Motion for Reconsideration is HEREBY GRANTED by REVERSING AND SETTING ASIDE the NULL AND VOID Decision of the Court dated March 05, 2020 for want of jurisdiction over the subject matter and ORDERING the DISMISSAL of the instant petition. Consequently, the motion for execution pending appeal is hereby denied since the decision it has sought to be executed produces neither rights nor legal effect.

....

SO ORDERED.²³

Miguel filed an appeal under Rule 41 of the Rules of Court with the CA.

The Ruling of the CA

In the assailed Decision, the CA denied Miguel's appeal, to wit:

WHEREFORE, premises considered, the Appeal filed by petitioner-appellant Peter Bascon Miguel is DENIED. The Resolution dated July 7, 2020 of the Regional Trial Court of Koronadal City, 11th Judicial Region, Branch 42, in SPL Civil Action No. 096 is hereby AFFIRMED *in toto*.

SO ORDERED.²⁴

¹⁹ *Id.* at 98, 115–129.

²⁰ *Id.* at 117–122.

²¹ *Id.* at 122–124.

²² *Id.* at 124–125.

²³ *Id.* at 114.

²⁴ *Id.* at 102.



In fully affirming the RTC's Resolution, the CA ruled that, indeed, COMELEC has exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, not only under the OEC, but likewise under Section 2, Article IX-C of the Constitution.²⁵ Further, the CA held as specious the claim of Miguel that Ogena hid his administrative case which supposedly prevented the former from filing a disqualification case earlier. It found that Miguel "chose not to [file such case] since the one who will benefit from the case will be the closest opponent of Ogena in the mayoralty race and not him."²⁶ Finally, it ruled that the administrative case against Ogena does not constitute a ground for disqualification under the LGC because the same related to his private career and that no elective office requires its holder to be a lawyer or a Notary Public.²⁷

Thus, the present Petition, which argues for the RTC's jurisdiction over Miguel's Complaint for *Quo Warranto* because the same was filed under Rule 66 of the Rules of Court and solely concerns Ogena's right to occupy the Office of the Mayor.²⁸ On the merits, Miguel contends that the administrative case where Ogena was "convicted" constituted criminal acts of forgery and falsification so that it was an offense involving moral turpitude under Section 40(a) of the LGC.²⁹ Moreover, Ogena was allegedly removed from the office of Notary Public, constituting a ground for disqualification under Section 40(b).³⁰

Issues

- 1) Whether the RTC has jurisdiction over the action for *quo warranto* filed against Ogena, an elected city official.
- 2) Whether the penalty of suspension from the practice of law for two years and permanent ban from being commissioned as Notary Public imposed upon Ogena by this Court in AC No. 9807 constitute grounds for disqualification under Section 40(a) and (b) of the LGC.

The Court's Ruling

The Petition is denied.

Despite the passage of the subject term of office, the case may still proceed as it

²⁵ *Id.* at 99–101.

²⁶ *Id.* at 101.

²⁷ *Id.* at 102.

²⁸ *Id.* at 18, 23.

²⁹ *Id.* at 80–81.

³⁰ *See id.* at 87.



falls under the exemptions to the mootness rule.

At the outset, it bears stressing that the subject term of office had already expired upon the passage of the 2022 NLE and the proclamation, oath taking, and assumption to office on June 30, 2022 of the newly elected Mayor of Koronadal City.

A case becomes moot when it ceases to present a justiciable controversy by virtue of supervening events so that a declaration thereon would be of no practical use or value.³¹ In such circumstance, courts generally decline jurisdiction and no longer consider questions in which no actual interests are involved. Here, a ruling on the main issue of the Petition anent the jurisdiction of the RTC over the Complaint for *Quo Warranto* against Ogena as elected Mayor of Koronadal City in the 2019 NLE would no longer serve a practical purpose because such 2019 term had already ended.

Nevertheless, the mootness rule admits of exceptions,³² two of which are if the case is capable of repetition yet evading review, and if the issue raised requires the formulation of controlling principles to guide the bench, the bar, and the public. These two exempting circumstances are extant in this case. Because of the time-bound nature of the elections and electoral terms, the parties may very well find themselves again in the same situation, as, in fact, per public and official records, Ogena was re-elected as Mayor of Koronadal City in the 2022 NLE.³³ Moreover, the case serves as an opportunity for the Court to establish guiding principles for the bar, the bench, and the public, considering the novelty of the issues raised, specifically that of whether *quo warranto* under Rule 66 of the Rules of Court can be filed against an elected public official.

For these reasons, the Court now proceeds to rule on the substantive arguments raised.

Quo warranto under the OEC versus quo warranto under the Rules of Court.

The RTC dismissed Miguel's *quo warranto* complaint for lack of jurisdiction, ruling that it is COMELEC, pursuant to Section 2, Article IX-C of the Constitution and Section 253 of the OEC, which has jurisdiction over the case.

³¹ *De Alban v. Commission on Elections*, 921 Phil. 524, 527-528 (2022) [Per J. Lopez, M., *En Banc*].

³² *See id.* at 528, where the Court held:

Nonetheless, courts will decide cases, otherwise moot and academic if: *first*, there is a grave violation of the Constitution; *second*, the exceptional character of the situation and the paramount public interest is involved; *third*, when the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and *fourth*, the case is capable of repetition yet evading review.

³³ Per the official website of the City of Koronadal, *see* <https://koronadal.gov.ph/city-officials/>.



Miguel counters that the RTC has such jurisdiction over his Complaint for *Quo Warranto* because the same was filed under Rule 66 of the Rules of Court and that he is contesting Ogena's continued occupation of the Office of the Mayor despite being disqualified under Section 40 of the LGC, and not his election to such office.³⁴

The remedy of *quo warranto* that is cognizable by COMELEC is provided in Section 253 of the OEC. It is filed by any voter who contests the election of a Member of the House of Representatives (HoR), regional, provincial, or city officer for the ineligibility or disloyalty to the Republic of the Philippines (Republic) of such official and must be filed within 10 days from the date the official is proclaimed winner, thus:

SECTION 253. *Petition for quo warranto.* — Any voter contesting the election of any Member of the Batasang Pambansa, 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.

Any voter contesting the election of any municipal or barangay 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 regional trial court or metropolitan or municipal trial court, respectively, within ten days after the proclamation of the results of the election. (Emphasis supplied)

This is reiterated in Rule 21 of the COMELEC Rules of Procedure, thus:

RULE 21

Quo Warranto

SECTION 1. *Petition for Quo Warranto.* — Any voter contesting the election of any regional, provincial or city official on the ground of ineligibility or of disloyalty to the Republic of the Philippines may file a petition for *quo warranto* with the Electoral Contests Adjudication Department.

SECTION 2. *Period Within Which to File.* — A petition for *quo warranto* may be filed within ten (10) days from the date the respondent is proclaimed.

On the other hand, the RTC is one of the courts which Rule 66 of the Rules of Court empowers to take cognizance of *quo warranto* actions, thus:

Section 1. *Action by Government against individuals.* — An action for the usurpation of a public office, position or franchise may be commenced by a

³⁴ See rollo, p. 23.



verified petition brought in the name of the Republic of the Philippines against:

- (a) A person who usurps, intrudes into, or unlawfully holds or exercises a public office, position or franchise;
- (b) A public officer who does or suffers an act which, by the provision of law, constitutes a ground for the forfeiture of his office; or
- (c) An association which acts as a corporation within the Philippines without being legally incorporated or without lawful authority so to act. (1a)

....

Section 5. *When an individual may commence such an action.* — A person claiming to be entitled to a public office or position usurped or unlawfully held or exercised by another may bring an action therefor in his own name. (6)

....

Section 7. *Venue.* — An action under the preceding six sections can be brought only in the Supreme Court, the Court of Appeals, or in the Regional Trial Court exercising jurisdiction over the territorial area where the respondent or any of the respondents resides, but when the Solicitor General commences the action, it may be brought in a Regional Trial Court in the City of Manila, in the Court of Appeals, or in the Supreme Court. (8a)

....

Section 11. *Limitations.* — Nothing contained in this Rule shall be construed to authorize an action against a public officer or employee for his ouster from office unless the same be commenced within one (1) year after the cause of such ouster, or the right of the petitioner to hold such office or position, arose; nor to authorize an action for damages in accordance with the provisions of the next preceding section unless the same be commenced within one (1) year after the entry of the judgment establishing the petitioner's right to the office in question. (16a)

Thus, the two actions compare to each other in the following manner and as to the following aspects:

	<i>Quo Warranto</i> under the OEC	<i>Quo Warranto</i> under the Rules of Court
As to the grounds for filing	ineligibility or disloyalty to the Republic	usurpation of a public office, position, or franchise
As to who may file	any voter	the Government or an individual claiming to be entitled to the subject public office or position usurped



As to who may be the respondent	any elected Member of the HoR, regional, provincial, or city officer	(a) a person who usurps, intrudes into, or unlawfully holds or exercises a public office, position, or franchise; (b) a public officer who does or suffers an act which, by the provision of law, constitutes a ground for the forfeiture of his office; or (c) an association which acts as a corporation within the Philippines without being legally incorporated or without lawful authority so to act
As to which body has jurisdiction	COMELEC	Supreme Court, the CA, or the RTC exercising jurisdiction over the territorial area where the respondent resides
As to the period to file the action	within 10 days from the proclamation of the election results	within one year after the cause of the ouster, or the right of the petitioner to hold such office or position arose
As to the judgment that may be rendered	ouster of the respondent	(a) the respondent shall be ousted and excluded from the office; (b) the petitioner or relator as the case may be, shall recover his costs; and (c) such further judgment determining the respective rights in and to the public office, position or franchise of all the parties to the action as justice requires



		The remedies available in a <i>quo warranto</i> judgment do not include correction or reversal of acts taken under the ostensible authority of an office or franchise. Judgment is limited to ouster or forfeiture and may not be imposed retroactively upon prior exercise of official or corporate duties. ³⁵
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Section 253 of the OEC applies only to quo warranto actions concerning the election of the public officials enumerated therein despite being ineligible.

The RTC ruled against its own jurisdiction because, according to it, as Ogena is an elected public official, a *quo warranto* action against the latter must be filed in accordance with the OEC—that is, with COMELEC and within 10 days from Ogena’s proclamation. Miguel counters that *quo warranto* under the OEC is limited to qualifications and eligibilities of officials *to become a candidate and to be elected to office*, whereas the Rules of Court remedy of *quo warranto* may be used to challenge the elected officials’ eligibilities and qualifications *to hold or occupy* the office.

Miguel’s point is well-taken.

The exclusive power of COMELEC to resolve *quo warranto* cases involving Members of the HoR, regional, provincial, and city elected officials is part of its general powers and duties under the Constitution, specifically under Section 2(1) and (2), Article IX-C of the Constitution which provides:

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

- (1) **Enforce and administer all laws and regulations relative to the conduct of an election**, plebiscite, initiative, referendum, and recall.
- (2) **Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials**, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of

³⁵ See *Republic v. Sereno*, 831 Phil. 271, 399 (2018) [Per J. Tijam, *En Banc*].



general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable. (Emphasis supplied)

The latter power is echoed in Section 249 of the OEC, which likewise emphasizes COMELEC as being the *sole* judge of all contests relating to the elections and qualifications of city officials, thus:

SECTION 249. *Jurisdiction of the Commission.* – The Commission shall be the **sole judge of all contests relating to the elections, returns, and qualifications of all** Members of the *Batasang Pambansa*, elective regional, provincial and **city officials**. (Emphasis supplied)

In turn, the phrase “election, returns, and qualifications” broadly pertains to any matter which affects the contestee’s title, as defined in the landmark case of *Javier v. COMELEC*,³⁶ thus:

The phrase “election, returns and qualifications” should be interpreted in its totality as referring to all matters affecting the validity of the contestee’s title. But if it is necessary to specify, we can say that “election” referred 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” to the canvass of the returns and the **proclamation** of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and “qualifications” to matters that could be raised in a *quo warranto* proceeding against the proclaimed winner, such as his **disloyalty or ineligibility or the inadequacy of his certificate of candidacy**.³⁷ (Emphasis supplied)

One of the major election laws that COMELEC administers is the OEC—a collection of virtually all the laws governing Philippine elections when it was passed in 1985. One of the remedies provided under the OEC is an action for *quo warranto* under Section 253.

Needless to say, the OEC is an election statute intended to govern matters related to the conduct of Philippine elections. In fact, said law expressly limits its scope or applicability in Section 2, Article 1 to cover only “all elections of public officers and, to the extent appropriate, all referenda and plebiscites.” As if Section 2, Article 1 is not clear enough, Section 253 on *quo warranto* under the law itself likewise refers only to “contest[s] [on the] election of any Member of the [HoR], regional, provincial, or city officer on the ground of ineligibility or of disloyalty to the Republic of the Philippines,” which must be filed by a “voter” with COMELEC within 10 days from the “proclamation of the [election] results.”

³⁶ 228 Phil. 193 (1986) [Per J. Cruz, *En Banc*].

³⁷ *Id.* at 205–206.



From the foregoing legal provisions on the extent of the powers of COMELEC, and the scope of the OEC, including the specific remedy of *quo warranto* under Section 253, as well as the very narrow window of time from the proclamation of election results for the filing of a Section 253 *quo warranto* action, there should be no doubt that such remedy is limited only to defects in the title of the respondent relating to, or affecting, their *election* to the subject position. This means that such defects must have arisen before or at the time of the election for the obvious reason that subsequent matters could not have impacted the election of the respondent.

Having settled the limited application of *quo warranto* under Section 253 of the OEC, the next question to ask is: can questions of ineligibility or disloyalty to the Republic concerning an elected public official—grounds for *quo warranto* under Section 253—still be raised after the 10-day prescription period under the OEC?

The Court answers this question with an unequivocal “yes.”

Foremost, the language of Section 253 neither expresses nor implies that the remedy provided therein is exclusive, so that beyond the limited period fixed in the law, the grounds to challenge the title of the elected public officials enumerated in the law can no longer be made in another forum. Thus, Section 253 must not be read as being the only remedy to challenge the ineligibility of the elected officials mentioned therein.

Further, and perhaps more importantly, to hold that Section 253—which must be filed within the short window of 10 days from the proclamation of the respondent—is the only remedy to challenge the ineligibility or disqualification of an elected public official will be tantamount to shielding them from the requirement that qualifications and eligibilities for public office must be possessed by the elected public official, not only at the time that they are elected or assumed in office, but likewise for the duration of their entire tenure in office.³⁸ Otherwise, the fact that the elected public official will be exposed to possible challenges on their title to the office for a very short window of only 10 days counted from proclamation may encourage abuse by bold and rather shameless politicians who, knowing themselves to be not qualified or eligible for the office, will still file their CoCs for the same because if they win and get proclaimed, they will just need to withstand the meager 10-day window after which they will practically become invincible.

The purpose of *quo warranto* is to protect the people from the usurpation of public office and to ensure that government authority is entrusted only to qualified and eligible individuals,³⁹ at any given time from their election to the duration of their entire tenure in office. To be sure, allowing disqualified or ineligible people to enter into the office of a

³⁸ See *Piccio v. House of Representatives Electoral Tribunal*, 912 Phil. 189, 199 (2021) [Per J. Caguioa, *En Banc*].

³⁹ *Republic v. Sereno*, *supra* note 35, at 413.



government leader and assume its powers and responsibilities is just as detrimental to public service as letting them hold and remain in such office.

Thus, in *Frivaldo v. COMELEC*,⁴⁰ the Court allowed a “petition for annulment of Frivaldo’s election and proclamation” filed with COMELEC on the ground of his lack of Filipino citizenship, despite having been filed almost 10 months from the last day to file a *quo warranto* case under the OEC. The Court emphasized the need for public officials—appointed or elected—to continue possessing the qualifications and none of the disqualifications or ineligibilities while they hold the concerned public office. *Frivaldo* likewise gave a practical example of the anomaly that can result from a contrary ruling, i.e., that an official whose ineligibility or disqualification arose or was discovered only after the elections and during the incumbency of the respondent, can simply continue until the end of the latter’s term despite having lost the required qualification or eligibility under the law. The Court ruled that it cannot allow such an anomaly, thus:

The argument that the petition filed with the Commission on Elections should be dismissed for tardiness is not well-taken. The herein private respondents are seeking to prevent Frivaldo from continuing to discharge his office of governor because he is disqualified from doing so as a foreigner. **Qualifications for public office are continuing requirements and must be possessed not only at the time of appointment or election or assumption of office but during the officer’s entire tenure. Once any of the required qualifications is lost, his title may be seasonably challenged.** If, say, a female legislator were to marry a foreigner during her term and by her act or omission acquires his nationality, would she have a right to remain in office simply because the challenge to her title may no longer be made within ten days from her proclamation? It has been established, and not even denied, that the evidence of Frivaldo’s naturalization was discovered only eight months after his proclamation and his title was challenged shortly thereafter.

This Court will not permit the anomaly of a person sitting as provincial governor in this country while owing exclusive allegiance to another country. The fact that he was elected by the people of Sorsogon does not excuse this patent violation of the salutary rule limiting public office and employment only to the citizens of this country. The qualifications prescribed for elective office cannot be erased by the electorate alone. The will of the people as expressed through the ballot cannot cure the vice of ineligibility, especially if they mistakenly believed, as in this case, that the candidate was qualified. Obviously, this rule requires strict application when the deficiency is lack of citizenship. If a person seeks to serve in the Republic of the Philippines, he must owe his total loyalty to this country only, abjuring and renouncing all fealty and fidelity to any other state.⁴¹ (Emphasis supplied)

So vital is ensuring that our elected leaders observe the qualifications and eligibilities imposed under the law that the same cannot even be defeated by the people’s exercise of their right of suffrage—their will as expressed in

⁴⁰ 255 Phil. 934 (1989) [Per J. Cruz, *En Banc*].

⁴¹ *Id.* at 944–945.



the ballots. In practical terms, the will of the people does not cure the ineligibility or disqualification, so that, an unqualified and ineligible candidate who has won in the elections, and has accordingly assumed office, can still be removed from such office anytime during their tenure. In *Maquiling v. COMELEC*,⁴² the Court expounded on why the scales need to be tipped in favor of enforcing these requirements of law as against the people's right of suffrage thus:

The popular vote does not cure the ineligibility of a candidate.

The ballot cannot override the constitutional and statutory requirements for qualifications and disqualifications of candidates. When the law requires certain qualifications to be possessed or that certain disqualifications be not possessed by persons desiring to serve as elective public officials, those qualifications must be met before one even becomes a candidate. When a person who is not qualified is voted for and eventually garners the highest number of votes, even the will of the electorate expressed through the ballot cannot cure the defect in the qualifications of the candidate. To rule otherwise is to trample upon and rent asunder the very law that sets forth the qualifications and disqualifications of candidates. We might as well write off our election laws if the voice of the electorate is the sole determinant of who should be proclaimed worthy to occupy elective positions in our republic.

....

What will stop an otherwise disqualified individual from filing a seemingly valid COC, concealing any disqualification, and employing every strategy to delay any disqualification case filed against him so he can submit himself to the electorate and win, if winning the election will guarantee a disregard of constitutional and statutory provisions on qualifications and disqualifications of candidates?

It is imperative to safeguard the expression of the sovereign voice through the ballot by ensuring that its exercise respects the rule of law. To allow the sovereign voice spoken through the ballot to trump constitutional and statutory provisions on qualifications and disqualifications of candidates is not democracy or republicanism. It is electoral anarchy. When set rules are disregarded and only the electorate's voice spoken through the ballot is made to matter in the end, it precisely serves as an open invitation for electoral anarchy to set in.⁴³ (Emphasis in the original)

Quo warranto under Rule 66 of the Rules of Court may be used to challenge the qualification or eligibility of elected public officials, if such defects in title arose or were discovered only during the incumbency of the elected official,

⁴² 709 Phil. 408 (2013) [Per C.J. Sereno, *En Banc*].

⁴³ *Id.* at 444-447.



rendering invalid their continued occupation of the office.

With all that has been discussed, what then is the remedy against disqualified or ineligible elected public officials after the 10-day period to file *quo warranto* under Section 253 of the OEC? Stated differently, can Rule 66 of the Rules of Court be used as such remedy against elected public officials?

Again, the Court answers with an affirmative “yes.”

Foremost, the Court, examining *Frivaldo*, recognizes the intention in the case not to set a judicial precedent for belatedly filed *quo warranto* cases. Indeed, a close look at *Frivaldo* shows that its ruling is unequivocally made to apply only to the specific requirement of citizenship to seek or hold public office, the importance of which the Court repeatedly stressed. The disclaimer and the care in which the Court laid down its decision in *Frivaldo* was to avoid overextending its reach so as to render nugatory the prescription period set in the OEC for *quo warranto* cases. This care is more seen in Associate Justice Hugo E. Gutierrez, Jr.’s (Justice Gutierrez, Jr.) Concurring Opinion, which not only emphasized the exceptional facts in *Frivaldo*, but also the mandatory and jurisdictional character of the period fixed in law for the filing of election remedies, thus:

I concur in the pragmatic approach taken by the Court. I agree that when the higher interests of the State are involved, the public good should supersede any procedural infirmities which may affect a petition filed with the Commission on Elections. I fail to see how the Court could allow a person who by his own admissions is indubitably an alien to continue holding the office of Governor of any province.

It is an established rule of long standing that the period fixed by law for the [filing] of a protest — whether *quo warranto* or election contest — is mandatory and jurisdictional.

As a rule, the *quo warranto* petition seeking to annul the petitioner’s election and proclamation should have been filed within ten days after the proclamation of election results. The purpose of the law in not allowing the filing of protests beyond the period fixed by law is to have a certain and definite time within which petitions against the results of an election should be filed and to provide summary proceedings for the settlement of such disputes. The Rules of Court allow the Republic of the Philippines to file *quo warranto* proceedings against any public officer who performs an act which works a forfeiture of his office. However, where the Solicitor General or the President feel that there are no good reasons to commence *quo warranto* proceedings, the Court should allow a person like respondent Estuye or his league to bring the action.

I must emphasize, however, that my concurrence is limited to a clear case of an alien holding an elective public office. And perhaps in a clear case of disloyalty to the Republic of the Philippines.⁴⁴ (Citations omitted)

⁴⁴ J. Gutierrez, Jr., Concurring Opinion in *Frivaldo v. COMELEC*, *supra* note 40, at 946–947.



Indeed, the Court's allowance of the *quo warranto* action under the OEC, despite the lapse of the 10-day prescriptive period provided by the law, is an exception, rather than the rule. The OEC is clear in setting the 10-day prescription, and likewise in not providing for exceptions. Thus, to allow *Frivaldo* to become a controlling doctrine for similar cases of failure to maintain the qualifications of the office by an elected public official will be crossing the clear line to judicial legislation, as it will be encroaching upon a function that should be legislative in nature.

At this juncture, the Court rules that Rule 66 of the Rules of Court is the remedy which may be resorted to should the ground for *quo warranto* arise or be discovered during the incumbency of the elected official, and thus, beyond the 10-day period from their proclamation under the OEC. Notably, the same is implied as well in Justice Gutierrez, Jr.'s Concurring Opinion quoted above.

Just like Section 253 of the OEC, a simple reading of Rule 66 reveals the total lack of language that may indicate an intention to make it applicable only to appointive public officials. There being no such words showing exclusivity, Rule 66 should not be treated as exclusively applicable to appointed public officials.

Indeed, Rule 66 of the Rules of Court provides for a **general** remedy of *quo warranto* against the usurpation of a public office, position, or franchise, which may be filed before this Court, the CA, or the RTC having jurisdiction, within one year from the cause of the ouster or from when the right of the petitioner to the office arose, thus:

RULE 66

QUO WARRANTO

Section 1. *Action by Government against individuals.* — An action for the usurpation of a public office, position or franchise may be commenced by a verified petition brought in the name of the Republic of the Philippines against:

- (a) A person who usurps, intrudes into, or unlawfully holds or exercises a public office, position or franchise;
- (b) A public officer who does or suffers an act which, by the provision of law, constitutes a ground for the forfeiture of his office; or
- (c) An association which acts as a corporation within the Philippines without being legally incorporated or without lawful authority so to act. (1a)

....



Section 5. *When an individual may commence such an action.* — A person claiming to be entitled to a public office or position usurped or unlawfully held or exercised by another may bring an action therefor in his own name.

(6)

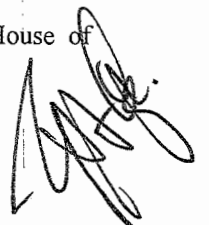
Notably, Rule 66 does not mention the specific defects in the title of the respondent, so long as the nature of such title to the office is defective, rendering their occupation thereof as amounting to “usurpation” or “illegal holding.” On the other hand, Section 253 of the OEC provides for such specific defects in title, i.e., “ineligibility” or “disloyalty to the Republic,” which, at least for purposes of Section 253, should render the *election* of the respondent defective. Thus, the OEC may be reconciled with Rule 66 so that for elected public officials, the defect in their title that causes the usurpation under Rule 66 can be the ineligibility or disloyalty to the Republic of the respondent provided for under Section 253.

To demonstrate: Candidate A was elected Governor of Province B. During his incumbency, he was discovered to be a naturalized American citizen, thus, lacking the important eligibility of natural-born citizenship. A *quo warranto* under Rule 66 may be filed against Candidate A because he is effectively usurping or illegally holding the office of the Governor for remaining in his office despite the fact that he is ineligible for lacking the necessary citizenship.

Therefore, there can be no doubt that ineligibility and disloyalty to the Republic—grounds for *quo warranto* under the OEC—can likewise be invoked in a *quo warranto* action under the Rules of Court, specifically as the cause of the defect in the usurper’s title. There is no conflict between the remedies of *quo warranto* under the OEC and the Rules of Court against elected public officials. This being so, and to ensure that the policy of the law discussed above and settled in jurisprudence—that public officials must, at all times, possess the qualifications and none of the disqualifications, from the time of their election or appointment to the entire duration of their incumbency in office—the Court holds that such a defect in the public official’s title which arose or which was discovered only after said election or appointment and during their incumbency, may be the proper subject of a *quo warranto* action under Rule 66 of the Rules of Court.

That *quo warranto* must be allowed via Rule 66 of the Rules of Court to be filed against elected public officials for defects in their title arising during their tenure is also supported by the fact that the Rules of both the Senate Electoral Tribunal and the House of Representatives Electoral Tribunal allow the filing of a *quo warranto* action anytime for grounds that occur during the winning candidate’s tenure.⁴⁵

⁴⁵ See Rules of the Senate Electoral Tribunal (2020), Rule 18 and Revised Rules of the House of Representatives Electoral Tribunal (2015), Rule 18.



The Court notes that the OEC requires the filing of a *quo warranto* petition only up to 10 days from the proclamation of the respondent. Considering that such a proclamation can be as early as on the night of the election date which is the second Monday of May of the election year,⁴⁶ there necessarily arises a vacuum from the expiration of the 10-day period counted from such proclamation to the assumption to office of those proclaimed winners which generally is on the 30th of June of the same year,⁴⁷ in which a *quo warranto* action may not be filed. However, the Court is powerless to remedy such oddity. The filing of a *quo warranto* action under the OEC cannot be extended by the Court beyond the clear deadline of 10 days fixed by the legislators. Neither can the Court interpret Rule 66 to allow the filing of an action thereon before the respondent has assumed office and before the term of office has started because then, there is no office which can be usurped or illegally held yet.

The rules as to the remedy of quo warranto under the OEC and the Rules of Court.

Thus, to sum up the different legal pronouncements discussed, moving forward, the rules on the remedies of *quo warranto* under the OEC and *quo warranto* under the Rules of Court shall be:

- 1) The remedy of *quo warranto* under the OEC applies only if the respondent is an elected public officer. The remedy of *quo warranto* under the Rules of Court applies to *all* public officers, regardless if elected or appointed;
- 2) The remedy of *quo warranto* under the OEC applies if the act, omission, or defect in the title to the office was committed or arose before or on the day of the election, which thus affects the validity of the election of the respondent;
- 3) As to elected public officials, the remedy of *quo warranto* under the Rules of Court is limited to acts, omissions, or defects in title which were committed or which arose or were discovered during the incumbency or tenure of the elected official.

Considering that the alleged defect in the title to the office of Ogena arose and was published before the subject 2019 NLE, the proper remedy is an action for quo warranto under the OEC. Thus, Miguel should have filed the same with

⁴⁶ Republic Act No. 7166 (1991), sec. 2.

⁴⁷ Republic Act No. 7160 (1991), sec. 43.



***COMELEC within 10 days from
Ogena's proclamation.***

Miguel was correct in his legal theory that disqualifications or ineligibilities arising during the incumbency of the elected official falls under Rule 66 of the Rules of Court; hence, it is the RTC, not COMELEC, that has jurisdiction over the same. Unfortunately for Miguel, the *quo warranto* case that he filed with the RTC does not fall under the category of actions which are cognizable under the Rules of Court by the RTC. This is because the alleged disqualification of Ogena arose in 2016, i.e., long before the term of his office being challenged, which is 2019 to 2022.

Neither can Miguel claim ignorance of the existence of the alleged disqualification, even with his allegation that Ogena maliciously hid and concealed this Court's Decision in AC No. 9807. As observed by the CA, such decision was promulgated as early as February 2, 2016 and has been since published. It also bears noting that Ogena was elected Vice Mayor of Koronadal City on May 9, 2016 and served his full term as such, yet Miguel never sought his disqualification or removal from office. Neither did Miguel lift a finger from when Ogena filed his certificate of candidacy in 2019 until his assumption to the office of the Mayor. To stress, any citizen of voting age may file a petition to disqualify a candidate.⁴⁸

To recall, Miguel alleges in his Complaint for *Quo Warranto* that Ogena suffers from a number of disqualifying circumstances under Section 40 of the LGC. Section 40 enumerates grounds for disqualification to run for and hold local elective office. Thus, Miguel could have likewise filed a petition for disqualification⁴⁹ on the same grounds to prevent Ogena from even becoming a candidate for Mayor.

In short, Miguel had multiple opportunities to invoke Ogena's alleged disqualification and have the latter removed from office during his (Ogena's) 2016 term as Vice Mayor, or from the list of candidates for Mayor prior to the 2019 NLE. It appears that, as the CA had found, Miguel purposely waited until it was he who stood to profit from Ogena's disqualification or removal. This came when both he and Ogena assumed their respective offices, entitling him as Vice Mayor, to succeed as Mayor after Ogena's departure following the rules on succession under the LGC. He would not have profited from Ogena's disqualification prior to the start of their terms on June 30, 2019 because, as pointed out by Miguel himself, the persons who would benefit thereby were Ogena's co-candidates for Mayor.⁵⁰ The Court cannot countenance such flagrant and selfish machinations which uses dishonesty and legal gymnastics to circumvent the rules on procedure.

⁴⁸ COMELEC Rules of Procedure (1993), Rule 25, sec. 2.

⁴⁹ See *id.*

⁵⁰ See *rollo*, p. 101.



Finally, Miguel cannot invoke *Estrada v. Macapagal-Arroyo*,⁵¹ to support the wrong remedy of *quo warranto* under the Rules of Court that he took in the present case, because the alleged defect in the right of the respondent in *Estrada* to hold the office had *nothing* to do with the election of the parties. *Estrada* involved the resignation and permanent incapacity of former President Joseph Ejercito Estrada (Estrada) following the EDSA People Power II in 2001 and the ascension to the office of the President of then Vice President Gloria Macapagal-Arroyo (Macapagal-Arroyo). Estrada sought to remove Macapagal-Arroyo from the seat of the President, contending that the same was not vacant when she assumed the same because he (Estrada) neither resigned nor abandoned such office, therefore making Macapagal-Arroyo a usurper.

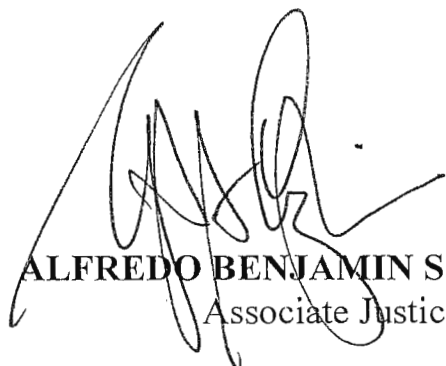
Thus, in *Estrada*, the cause for *quo warranto* arose more than two years after the elections of Estrada and Macapagal-Arroyo and during the two officials' incumbency. Here, as mentioned, the circumstance which allegedly disqualifies Ogena had occurred and been published since 2016, giving Miguel not less than two election cycles—the 2016 and 2019 elections—to timely institute the proper remedies as a registered voter. He merely chose to forego these ample opportunities because he imagined no direct gain from Ogena's disqualification then.

In any case, regardless of Miguel's reasons for belatedly challenging the qualifications and the right of Ogena to the office of the Mayor, one thing is clear: following the discussions above, the RTC was correct in dismissing Miguel's Complaint for *Quo Warranto* for lack of jurisdiction. The proper remedy was a *quo warranto* under the OEC and the adjudicatory body having jurisdiction is COMELEC.

With the foregoing findings, there is no longer any need to discuss the other arguments presented in the Petition.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated December 15, 2020 of the Court of Appeals in CA-G.R. SP No. 09886 is **AFFIRMED**.

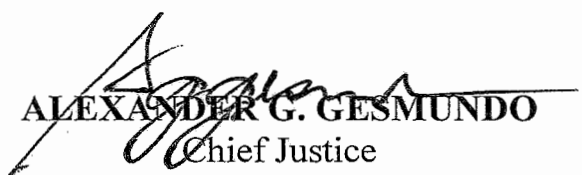
SO ORDERED.



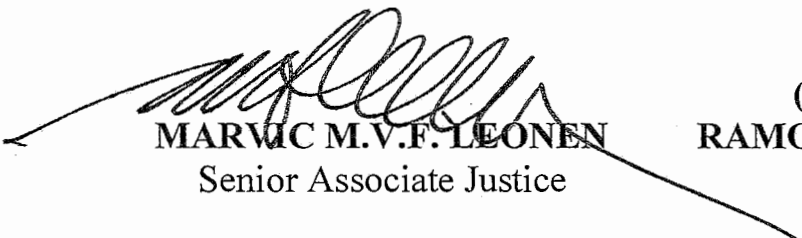
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁵¹ 406 Phil. 1 (2001) [Per J. Puno, *En Banc*].

WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
Senior Associate Justice

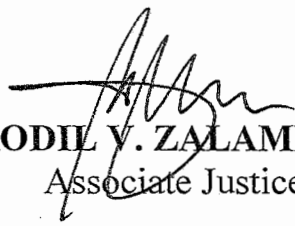
(On official business)
RAMON PAUL L. HERNANDO
Associate Justice



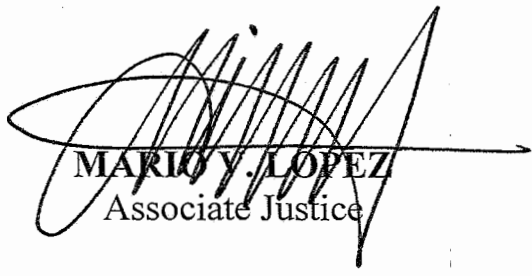
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

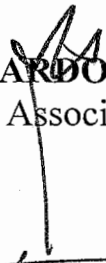


RODIL V. ZALAMEDA
Associate Justice




MARIO Y. LOPEZ
Associate Justice

(On official leave)
SAMUEL H. GAERLAN
Associate Justice



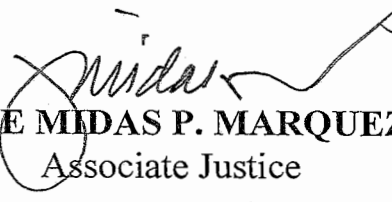
RICARDO R. ROSARIO
Associate Justice



JHOSEP V. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice