Republic of the Philippines
Supreme Court
Manila

EN BANC

REGINA ONGSIAKO REYES, Petitioner,	**G.R. No. 221103**
	Present:
- versus -	CARPIO, *J.*, PERALTA,* BERSAMIN,* DEL CASTILLO, PERLAS-BERNABE, LEONEN, JARDELEZA,** CAGUIOA, TIJAM, REYES, A., JR., GESMUNDO,*** REYES, J., JR., and HERNANDO, *JJ.*
HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, Respondent.	Promulgated: October 16, 2018

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D E C I S I O N

CARPIO, *J.*:

The Case

In this petition for certiorari filed before this Court, petitioner Regina Ongsiako Reyes challenges the constitutionality of several provisions of the 2015 Revised Rules of the House of Representatives Electoral Tribunal (HRET). In particular, petitioner questions (1) the rule which requires the

* No part. Members of the HRET who approved the 2015 Revised Rules of the House of Representatives Electoral Tribunal.

** On official business.

*** On leave.

presence of at least one Justice of the Supreme Court to constitute a quorum; (2) the rule on constitution of a quorum; and (3) the requisites to be considered a member of the House of Representatives.

The Antecedent Facts

Petitioner alleges that she has two pending *quo warranto* cases before the HRET. They are (1) Case No. 13-036 (*Noeme Mayores Tan and Jeasseca L. Mapacpac v. Regina Ongsiako Reyes*) and (2) Case No. 130037 (*Eric D. Junio v. Regina Ongsiako Reyes*).

On 1 November 2015, the HRET published the 2015 Revised Rules of the House of Representatives Electoral Tribunal (2015 HRET Rules).

Petitioner alleges that Rule 6 of the 2015 HRET Rules is unconstitutional as it gives the Justices, collectively, denial or veto powers over the proceedings by simply absenting themselves from any hearing. In addition, petitioner alleges that the 2015 HRET Rules grant more powers to the Justices, individually, than the legislators by requiring the presence of at least one Justice in order to constitute a quorum. Petitioner alleges that even when all six legislators are present, they cannot constitute themselves as a body and cannot act as an Executive Committee without the presence of any of the Justices. Petitioner further alleges that the rule violates the equal protection clause of the Constitution by conferring the privilege of being indispensable members upon the Justices.

Petitioner alleges that the quorum requirement under the 2015 HRET Rules is ambiguous because it requires only the presence of at least one Justice and four Members of the Tribunal. According to petitioner, the four Members are not limited to legislators and may include the other two Justices. In case of inhibition, petitioner alleges that a mere majority of the remaining Members shall be sufficient to render a decision, instead of the majority of all the Members.

Petitioner likewise alleges that Rule 15, in relation to Rules 17 and 18, of the 2015 HRET Rules unconstitutionally expanded the jurisdiction of the Commission on Elections (COMELEC). Petitioner alleges that under Section 17, Article VI of the 1987 Constitution as well as the 2011 Rules of the HRET, a petition may be filed within 15 days from the date of the proclamation of the winner, making such proclamation the operative fact for the HRET to acquire jurisdiction. However, Rule 15 of the 2015 HRET Rules requires that to be considered a Member of the House of Representatives, there should be (1) a valid proclamation; (2) a proper oath; and (3) assumption of office. Further, Rule 17 of the 2015 HRET Rules states that election protests should be filed within 15 days from June 30 of the election year or the date of actual assumption of office, whichever is

later, while Rule 18 provides that petitions for *quo warranto* shall be filed within 15 days from June 30 of the election year or the date of actual assumption of office, whichever is later. Petitioner alleges that this would allow the COMELEC to determine whether there was a valid proclamation or a proper oath, as well as give it opportunity to entertain cases between the time of the election and June 30 of the election year or actual assumption of office, whichever is later.

Petitioner alleges that the application of the 2015 HRET Rules to all pending cases could prejudice her cases before the HRET.

The HRET, through the Secretary of the Tribunal, filed its own Comment.[1] Thus, in a Manifestation and Motion[2] dated 13 January 2016, the Office of the Solicitor General (OSG) moved that it be excused from representing the HRET and filing a Comment on the petition. The Court granted the OSG's Manifestation and Motion in its 2 February 2016 Resolution.[3]

The HRET maintains that it has the power to promulgate its own rules that would govern the proceedings before it. The HRET points out that under Rule 6 of the 2015 HRET Rules, a quorum requires the presence of at least one Justice-member and four members of the Tribunal. The HRET argues that the requirement rests on substantial distinction because there are only three Justice-members of the Tribunal as against six Legislator-members. The HRET further argues that the requirement of four members assures the presence of at least two Legislator-members to constitute a quorum. The HRET adds that the requirement of the presence of at least one Justice was incorporated in the Rules to maintain judicial equilibrium in deciding election contests and because the duty to decide election cases is a judicial function. The HRET states that petitioner's allegation that Rule 6 of the 2015 HRET Rules gives the Justices virtual veto power to stop the proceedings by simply absenting themselves is not only speculative but also imputes bad faith on the part of the Justices.

The HRET states that it only has jurisdiction over a member of the House of Representatives. In order to be considered a member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office. Hence, the requirement of concurrence of these three requisites is within the power of the HRET to make.

The Issue

The issue before this Court is the constitutionality of the following provisions of the 2015 HRET Rules:

1 *Rollo*, pp. 72-104.
2 Id. at 111-113.
3 Id. at 115-116.

(1) Rule 6(a) requiring the presence of at least one Justice in order to constitute a quorum;
(2) Rule 15, paragraph 2, in relation to Rule 17; and
(3) Rule 6, in relation to Rule 69.

The Ruling of this Court

The petition has no merit.

The pertinent provisions questioned before this Court are the following:

(I) Rule 6(a) and Rule 6, in relation to Rule 69

(1) Rule 6 of the 2015 HRET Rules provides:

> Rule 6. *Meetings; Quorum; Executive Committee Actions on Matters in Between Regular Meetings.* -
>
> (a) The Tribunal shall meet on such days and hours as it may designate or at the call of the Chairperson or of a majority of its Members. The presence of at least one (1) Justice and four (4) Members of the Tribunal shall be necessary to constitute a quorum. In the absence of the Chairperson, the next Senior Justice shall preside, and in the absence of both, the Justice present shall take the Chair.
>
> (b) In the absence of a quorum and provided there is at least one Justice in attendance, the Members present, who shall not be less than three (3), may constitute themselves as an Executive Committee to act on the agenda for the meeting concerned, provided, however, that its action shall be subject to confirmation by the Tribunal at any subsequent meeting where a quorum is present.
>
> (c) In between the regular meetings of the Tribunal, the Chairperson, or any three (3) of its Members, provided at least one (1) of them is a Justice, who may sit as the Executive Committee, may act on the following matters requiring immediate action by the Tribunal:
>
> 1. Any pleading or motion,
>
> (a) Where delay in its resolution may result in irreparable or substantial damage or injury to the rights of a party or cause delay in the proceedings or action concerned;
>
> (b) Which is urgent in character but does not substantially affect the rights of the adverse party, such as one for extension of time to comply with an order/resolution of the Tribunal, or to file a pleading which is not a prohibited pleading and is within the discretion of the Tribunal to grant; and

(c) Where the Tribunal would require a comment, reply, rejoinder or any other similar pleading from any of the parties or their attorneys;

2. Administrative matters which do not involve new applications or allocations of the appropriations of the Tribunal; and

3. Such other matters as may be delegated by the Tribunal.

However, any such action/resolution shall be included in the order of business of the immediately succeeding meeting of the Tribunal for its confirmation.

(2) Rule 69 of the 2015 HRET Rules provides:

Rule 69. *Votes Required.* - In resolving all questions submitted to the Tribunal, all the Members present, inclusive of the Chairperson, shall vote.

Except as provided in Rule 5(b) of these Rules, the concurrence of at least five (5) Members shall be necessary for the rendition of decisions and the adoption of formal resolutions, provided that, in cases where a Member inhibits or cannot take part in the deliberations, a majority vote of the remaining Members shall be sufficient.

This is without prejudice to the authority of the Supreme Court or the House of Representatives, as the case may be, to designate Special Member or Members who should act as temporary replacement or replacements in cases where one or some of the Members of the Tribunal inhibits from a case or is disqualified from participating in the deliberations of a particular election contest, provided that:

(1) The option herein provided should be resorted [to] only when the required quorum in order for the Tribunal to proceed with the hearing of the election contest, or in making the final determination of the case, or in arriving at decisions or resolutions thereof, cannot be met; and

(2) Unless otherwise provided, the designation of the Special Member as replacement shall only be temporary and limited only to the specific case where the inhibition or disqualification was made.

(II) Rule 15, paragraph 2, in relation to Rule 17

Rules 15 and 17 of the 2015 HRET Rules provide:

Rule 15. *Jurisdiction.* - The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.

> To be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office.
>
> Rule 17. *Election Protest.* - A verified election protest contesting the election or returns of any Member of the House of Representatives shall be filed by any candidate who had duly filed a certificate of candidacy and has been voted for the same office, within fifteen (15) days from June 30 of the election year or the date of actual assumption of office, whichever is later.
>
> x x x x

We shall discuss issues (1) and (3) together.

Presence of at least one Justice-member to Constitute a Quorum

Petitioner alleges that the requirement under Rule 6 of the 2015 HRET Rules that at least one Justice should be present to constitute a quorum violates the equal protection clause of the 1987 Constitution and gives undue power to the Justices over the legislators.

The argument has no merit.

Section 17, Article VI of the 1987 Constitution provides for the composition of the HRET. It states:

> 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 all 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.

In accordance with this organization, where the HRET is composed of three Justices of the Supreme Court and six members of the House of Representatives, it is clear that the HRET is a collegial body with members from two separate departments of the government: the Judicial and the Legislative departments. The intention of the framers of the 1987 Constitution is to make the tribunal an independent, constitutional body subject to constitutional restrictions.[4] The origin of the tribunal can be traced back from the electoral commissions under the 1935 Constitution whose

[4] Record of the Constitutional Commission, No. 34, 19 July 1986, p. 111.

functions were quasi-judicial in nature.[5] The presence of the three Justices, as against six members of the House of Representatives, was intended as an additional guarantee to ensure impartiality in the judgment of cases before it.[6] The intentions of the framers of the 1935 Constitution were extensively discussed in *Tañada and Macapagal v. Cuenca,*[7] thus:

> Senator Paredes, a veteran legislator and former Speaker of the House of Representatives, said:
>
> > x x x *what was intended in the creation of the electoral tribunal was to create a sort of collegiate court composed of nine members: Three of them belonging to the party having the largest number of votes, and three from the party having the second largest number of votes so that these members may represent the party, and the members of said party who will sit before the electoral tribunal as protestees. For when it comes to a party, Mr. President, there is ground to believe that decisions will be made along party lines.* (Congressional Record for the Senate, Vol. III, p. 351; italics supplied.)
>
> Senator Laurel, who played an important role in the framing of our Constitution, expressed himself as follows:
>
> > Now, with reference to the protests or contests, relating to the election, the returns and the qualifications of the members of the legislative bodies, I heard it said here correctly that there was a time when that was given to the corresponding chamber of the legislative department. So the election, returns and qualifications of the members of the Congress or legislative body was entrusted to that body itself as the exclusive body to determine the election, returns and qualifications of its members. There was some doubt also expressed as to whether that should continue or not, and the greatest argument in favor of the retention of that provision was the fact that was, among other things, the system obtaining in the United States under the Federal Constitution of the United States, and there was no reason why that power or that right vested in the legislative body should not be retained. But it was thought that that would make the determination of this contest, of this election protest, purely political *as has been observed in the past.* (Congressional Record for the Senate, Vol. III, p. 376; italics supplied.)
>
> It is interesting to note that not one of the members of the Senate contested the accuracy of the views thus expressed.
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> Referring particularly to the philosophy underlying the constitutional provision quoted above, Dr. Aruego states:

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5 Proceedings of the Philippine Constitutional Convention, Vol. IV, p. 505.

6 See *Tañada and Macapagal v. Cuenco*, 103 Phil. 1051, 1079-1080 (1957).

7 Id. at 1078-1084. Italicization in the original.

The defense of the Electoral Commission was based *primarily* upon the hope and belief that the *abolition of party lines because of the equal representation in this body of the majority and the minority parties* of the National Assembly and the intervention of some members of the Supreme Court who, under the proposed constitutional provision, would also be members of the same, would insure greater political justice in the determination of election contests for seats in the National Assembly than there would be if the power had been lodged in the lawmaking body itself. Delegate Francisco summarized the arguments for the creation of the Electoral Commission in the following words:

> I understand that from the time that this question is placed in the hands of members not only of the majority party but also of the minority party, there is already a condition, a factor which would make protests decided in a non-partisan manner. We know from experience that many times in the many protests tried in the House or in the Senate, *it was impossible to prevent the factor of party from getting in.* From the moment that it is required that *not only the majority but also the minority should intervene in these questions,* we have already enough guarantee that there would be no tyranny on the part of the majority.
>
> But there is another more detail which is the one which satisfies me most, and that is the intervention of three justices. So that with this intervention of three justices if there would be any question as to the justice applied by the majority or the minority, if there would be any fundamental disagreement, or if there would be nothing but questions purely of party in which the members of the majority as well as those of the minority should wish to take lightly a protest because the protestant belongs to one of said parties, we have in this case, *as a check upon the two parties,* the actuations of the three justices. In the last analysis, what is really applied in the determination of electoral cases brought before the tribunals of justice or before the House of Representatives or the Senate? Well, it is nothing more than the law and the doctrine of the Supreme Court. If that is the case, there will be greater skill in the application of the laws and in the application of doctrines to electoral matters having as we shall have three justices who will act impartially in these electoral questions.

> I wish to call the attention of my distinguished colleagues to the fact that *in electoral protests it is impossible to set aside party interests.* Hence, the best guarantee, I repeat, for the administration of justice to the parties, for the fact that the laws will not be applied improperly or incorrectly as well as for the fact that the doctrines of the Supreme Court will be applied rightfully, *the best guarantee which we shall have, I repeat, is the intervention of the three justices.* And with the formation of the Electoral Commission, I say again, the protestants as well as the protestees could remain tranquil in the certainty that they will receive the justice that they really deserve. If we eliminate from this precept the intervention of the party of the minority and that of the three justices, then *we shall be placing protests exclusively in the hands of the party in power.* And I understand, gentlemen, that in practice that has not given good results. Many *have criticized, many have complained against, the tyranny of the majority in electoral cases* x x x. I repeat that the best guarantee lies in the fact that these questions will be judged not only by three members of the majority but also by three members of the minority, with the additional guarantee of the impartial judgment of three justices of the Supreme Court. (The Framing of the Philippine Constitution by Aruego, Vol. I, pp. 261-263; italics supplied.)

The foregoing was corroborated by Senator Laurel. Speaking for this Court, in Angara *vs.* Electoral Commission (63 Phil. 139), he asserted:

> The members of the Constitutional Convention who framed our fundamental law were in their majority men mature in years and experience. To be sure, many of them were familiar with the history and political development of other countries of the world. When, therefore, they deemed it wise to create an Electoral Commission as a constitutional organ and invested with the exclusive function of passing upon and determining the election, returns and qualifications of the members of the National Assembly, they must have done so not only in the light of their own experience but also having in view the experience of other enlightened peoples of the world. The creation of the Electoral Commission was designed to remedy certain evils of which the framers of our Constitution were cognizant. Notwithstanding the vigorous opposition of some members of the Convention to its creation, the plan, as hereinabove stated, was approved by that body by a vote of 98 against 58. All that can be said now is that, upon the approval of the Constitution, the creation of the Electoral Commission is the expression of the wisdom 'ultimate

> justice of the people'. (Abraham Lincoln, First Inaugural Address, March 4, 1861.)
>
> From the deliberations of our Constitutional Convention it is evident that the purpose was to transfer in its totality all the powers previously exercised by the legislature in matters pertaining to contested elections of its members, to an independent and impartial tribunal. It was not so much the knowledge and appreciation of contemporary constitutional precedents, however, as the long felt need of *determining legislative contests devoid of partisan considerations* which prompted the people acting through their delegates to the Convention, to provide for this body known as the Electoral Commission. With this end in view, a composite body in which both the majority and minority parties are equally represented to *off-set partisan influence* in its deliberations was created, and further endowed with judicial temper by including in its membership three justices of the Supreme Court, (Pp. 174-175.)

As a matter of fact, during the deliberations of the convention, Delegates Conejero and Roxas said:

> El Sr. CONEJERO. Antes de votarse la enmienda, quisiera pedir información del Subcomité de Siete.
>
> El Sr. PRESIDENTE. Que dice el Comité?
>
> El Sr. ROXAS. Con mucho gusto.
>
> "El Sr. CONEJERO. Tal como está *el draft, dando tres miembros a la mayoría, y otros tres a la minoría y tres a la Corte Suprema*, no cree su Señoria que este equivale prácticamente a dejar el asunto a los miembros del Tribunal Supremo?
>
> El Sr. ROXAS. Sí y no. Creemos que *si el tribunal a la Comisión está cotistuído en esa forma*, tanto los miembros de la mayoría como los de la minoría así como los miembros de la Corte Suprema considedarán la cuestión sobre la base de sus méritos, *sabiendo que el partidismo no es suficiente para dar el triunfo.*
>
> El Sr. CONEJERO. Cree Su Señoria que en un caso como ese, podríamos hacer que tanto los de la mayoría como los de la minoría prescindieran del partidismo?
>
> El Sr. ROXAS. Creo que sí, porque el partidismo no les daría el triunfo." (Angara *vs.* Electoral Commission, supra, pp. 168-169; italics supplied.)

It is clear from the foregoing that the main objective of the framers of our Constitution in providing for the establishment, first, of an Electoral

Commission, and then of one Electoral Tribunal for each House of Congress, was to insure the exercise of judicial impartiality in the disposition of election contests affecting members of the lawmaking body. To achieve this purpose, two devices were resorted to, namely: *(a)* the party having the *largest* number of votes, and the party having the *second* largest number of votes, in the National Assembly or in each House of Congress, were given the same number of representatives in the Electoral Commission or Tribunal, so that they may realize that partisan considerations could not control the adjudication of said cases, and thus be induced to act with greater impartiality; and *(b)* the Supreme Court was given in said body the same number of representatives as each one of said political parties, so that the influence of the former may be decisive and endow said Commission or Tribunal with judicial temper.

This is obvious from the very language of the constitutional provision under consideration. In fact, Senator Sabido — who had moved to grant to Senator Tañada the "privilege" to make the nominations on behalf of the party having the second largest number of votes in the Senate —agrees with it. As Senator Sumulong inquired:

> x x x. I suppose Your Honor will agree with me that the framers of the Constitution precisely thought of creating this Electoral Tribunal so as *to prevent the majority from ever having a preponderant majority in the Tribunal.* (Congressional Record for the Senate, Vol. III, p. 330; italics supplied.)

Senator Sabido replied:

> That is so, x x x. (Id., p. 330.)

Upon further interpretation, Senator Sabido said:

> x x x *the purpose of the creation of the Electoral Tribunal and of its composition is to maintain a balance between the two parties and make the members of the Supreme Court the controlling power so to speak of the Electoral Tribunal or hold the balance of power. That is the ideal situation.* (Congressional Record for the Senate, Vol. III, p. 349; italics supplied.)

Senator Sumulong opined along the same line. His words were:

> x x x. The intention is that when the three from the majority and the three from the minority become members of the Tribunal *it is hoped* that they will become aware of their judicial functions, not to protect the protestants or the protestees. It is hoped that they will act as judges because to decide election cases is a judicial function. But the framers of the Constitution besides being learned were *men of experience*. They knew that even Senators like us are not angels, that we are human beings, that if we should be chosen to go to the Electoral Tribunal *no one can say that we will entirely be free from partisan influence to favor* our

> party, so that in case that hope that the three from the majority and the three from the minority who will act as Judges should result in disappointment, in case they do not act as judges but they go there and vote along party lines, still there is the guarantee that they will offset each other and the result will be that *the deciding vote will reside in the hands of the three Justices who have no partisan motives* to favor either the protestees or the protestants. In other words, *the whole idea is to prevent the majority from controlling* and dictating the decisions of the Tribunal and to make sure that *the decisive vote will be wielded not by the Congressmen or Senators who are members of the Tribunal but will be wielded by the Justices who*, by virtue of their judicial offices, will have no partisan motives to serve, either protestants or protestees. That is my understanding of the intention of the framers of the Constitution when they decided to create the Electoral Tribunal.
>
> x x x x
>
> My idea is that the intention of the framers of the constitution in creating the Electoral Tribunal is to insure *impartiality and independence in its decision*, and that is sought to be done by never *allowing the majority party to control the Tribunal*, and secondly by seeing to it that *the decisive vote in the Tribunal will be left in the hands of persons who have no partisan interest or motive to favor either protestant or protestee.* (Congressional Record for the Senate, Vol. III, pp. 362-363, 365-366; italics supplied.)

Rule 6 of the 2015 HRET Rules does not grant additional powers to the Justices but rather maintains the balance of power between the members from the Judicial and Legislative departments as envisioned by the framers of the 1935 and 1987 Constitutions. The presence of the three Justices is meant to tone down the political nature of the cases involved and do away with the impression that party interests play a part in the decision-making process.

Rule 6(a) of the 2015 HRET Rules requires the presence of at least one Justice and four members of the Tribunal to constitute a quorum. This means that even when all the Justices are present, at least two members of the House of Representatives need to be present to constitute a quorum. Without this rule, it would be possible for five members of the House of Representatives to convene and have a quorum even when no Justice is present. This would render ineffective the rationale contemplated by the framers of the 1935 and 1987 Constitutions for placing the Justices as members of the HRET. Indeed, petitioner is nitpicking in claiming that Rule 6(a) unduly favors the Justices because under the same rule, it is possible for four members of the House of Representatives and only one Justice to constitute a quorum. Rule 6(a) of the 2015 HRET Rules does not make the

Justices indispensable members to constitute a quorum but ensures that representatives from both the Judicial and Legislative departments are present to constitute a quorum. Members from both the Judicial and Legislative departments become indispensable to constitute a quorum. The situation cited by petitioner, that it is possible for all the Justice-members to exercise denial or veto power over the proceedings simply by absenting themselves, is speculative. As pointed out by the HRET, this allegation also ascribes bad faith, without any basis, on the part of the Justices.

The last sentence of Section 17, Article VI of the 1987 Constitution also provides that "[t]he senior Justice in the Electoral Tribunal shall be its Chairman." This means that only a Justice can chair the Electoral Tribunal. As such, there should always be one member of the Tribunal who is a Justice. If all three Justice-members inhibit themselves in a case, the Supreme Court will designate another Justice to chair the Electoral Tribunal in accordance with Section 17, Article VI of the 1987 Constitution.

Contrary to petitioner's allegation, Rule 6(a) of the 2015 HRET Rules does not violate the equal protection clause of the Constitution. The equal protection clause is embodied in Section 1, Article III of the 1987 Constitution which provides:

> Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

The Court has explained that the equal protection clause of the Constitution allows classification. The Court stated:

> x x x. A law is not invalid because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. All that is required of a valid classification is that it be reasonable, which means that the classification should be based on substantial distinctions which make for real differences; that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class. This Court has held that the standard is satisfied if the classification or distinction is based on a reasonable foundation or rational basis and is not palpably arbitrary.[8]

In the case of the HRET, there is a substantial distinction between the Justices of the Supreme Court and the members of the House of Representatives. There are only three Justice-members while there are six Legislator-members of the HRET. Hence, there is a valid classification. The classification is justified because it was placed to ensure the presence of members from both the Judicial and Legislative branches of the government

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[8] *Garcia v. Judge Drilon*, 712 Phil. 44, 90-91 (2013).

to constitute a quorum. There is no violation of the equal protection clause of the Constitution.

Ambiguity of Rule 6 in relation to Rule 69

Petitioner likewise questions Rule 6 in relation to Rule 69 of the 2015 HRET Rules for being ambiguous, questionable, and undemocratic. Petitioner alleges:

> x x x while the general rule requires that the "concurrence of at least five (5) Members shall be necessary for the rendition of decisions ..." in cases where a "member inhibits or cannot take part in the deliberations," a mere "majority of those remaining Members shall be sufficient."
>
> Thus, in case where there are only 5 constituting a quorum whereby at least 1 of the Members present thereat inhibit, a majority of the remaining four may validly render a decision. In an extreme case where the 4 of the 5 present inhibit, the Rule allows that the decision of the remaining 1 member shall be the decision of the Tribunal.
>
> Applied to Petitioner in the cases against her pending with the HRET whereby 2 justices inhibited themselves, in the event the 2 inhibiting justices are present together with another justice and 2 other legislator-members, these may qualify as a valid quorum because under Rule 6, their mere "presence" is the only requirement. Therefore, the majority of the remaining 3 members may vote and their decision shall be considered the decision of the Tribunal. In case 1 of the remaining 3 opposes the measure, only 2 votes actually represent the decision of the Tribunal. This may happen even if those absent four (4) members may actually be against the decision, but due to their absence, they were not able to vote.[9]

The ambiguity referred to by petitioner is absurd and stems from an erroneous understanding of the Rules. As pointed out by the HRET in its Comment, a member of the Tribunal who inhibits or is disqualified from participating in the deliberations cannot be considered present for the purpose of having a quorum. In addition, Rule 69 clearly shows that the Supreme Court and the House of Representatives have the authority to designate a Special Member or Members who could act as temporary replacement or replacements in cases where one or some of the Members of the Tribunal inhibit from a case or are disqualified from participating in the deliberations of a particular election contest when the required quorum cannot be met. There is no basis to petitioner's claim that a member who inhibits or otherwise disqualified can sit in the deliberations to achieve the required quorum.

[9] *Rollo*, p. 20.

Actions of the Executive Committee

Rule 6(b) and 6(c) of the 2015 HRET Rules provide for instances when the members of the tribunal can constitute themselves as an Executive Committee, thus:

> Rule 6. *Meetings; Quorum; Executive Committee Actions on Matters in Between Regular Meetings.* -
>
> x x x x
>
> (b) In the absence of a quorum and provided there is at least one Justice in attendance, the Members present, who shall not be less than three (3), may constitute themselves as an Executive Committee to act on the agenda for the meeting concerned, provided, however, that its action shall be subject to confirmation by the Tribunal at any subsequent meeting where a quorum is present.
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> (c) In between the regular meetings of the Tribunal, the Chairperson, or any three (3) of its Members, provided at least one (1) of them is a Justice, who may sit as the Executive Committee, may act on the following matters requiring immediate action by the Tribunal:
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> 1. Any pleading or motion,
>
> (a) Where delay in its resolution may result in irreparable or substantial damage or injury to the rights of a party or cause delay in the proceedings or action concerned;
>
> (b) Which is urgent in character but does not substantially affect the rights of the adverse party, such as one for extension of time to comply with an order/resolution of the Tribunal, or to file a pleading which is not a prohibited pleading and is within the discretion of the Tribunal to grant; and
>
> (c) Where the Tribunal would require a comment, reply, rejoinder or any other similar pleading from any of the parties or their attorneys;
>
> 2. Administrative matters which do not involve new applications or allocations of the appropriations of the Tribunal; and
>
> 3. Such other matters as may be delegated by the Tribunal.
>
> However, any such action/resolution shall be included in the order of business of the immediately succeeding meeting of the Tribunal for its confirmation.

The Rules clearly state that any action or resolution of the Executive Committee "shall be included in the order of business of the immediately succeeding meeting of the Tribunal for its confirmation." Hence, even if only three members of the HRET acted as an Executive Committee, and

even if all these three members are Justices of the Supreme Court, their actions are subject to the confirmation by the entire Tribunal or at least five of its members who constitute a quorum. The confirmation required by the Rules should bar any apprehension that the Executive Committee would commit any action arbitrarily or in bad faith. In addition, the Rules enumerated the matters, requiring immediate action, that may be acted upon by the Executive Committee. Any other matter that may be delegated to the Executive Committee under Rule 6(c)(3) has to be decided by the entire Tribunal.

Qualifications of a Member of the House of Representatives and Date of Filing of Election Protest

Petitioner alleges that the HRET unduly expanded the jurisdiction of the COMELEC. Petitioner states that Section 17, Article VI of the 1987 Constitution provides that the HRET shall be the sole judge of all contests relating to the election, returns, and qualifications of the members of the House of Representatives. According to petitioner, Rule 15 of the 2015 HRET Rules provides for the requisites to be considered a member of the House of Representatives, as follows: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office. In addition to these requisites, Rule 17 fixed the time for the filing of an election protest within 15 days from June 30 of the election year or the date of actual assumption of office, whichever is later. Petitioner alleges that these Rules will allow the COMELEC to assume jurisdiction between the time of the election and within 15 days from June 30 of the election year or the date of actual assumption of office, whichever is later. Further, the requirements of a valid proclamation and a proper oath will allow the COMELEC to look into these matters until there is an actual assumption of office.

Under the 2015 HRET Rules, the HRET is the sole judge of all contests relating to the election, returns, and qualifications of the members of the House of Representatives. This is clear under the first paragraph of Rule 15.

> Rule 15. *Jurisdiction.* - The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.
>
> To be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office.

HRET's jurisdiction is provided under Section 17, Article VI of the 1987 Constitution which states that "[t]he 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." There is no room for the COMELEC to assume jurisdiction because HRET's jurisdiction is constitutionally mandated.

The reckoning event under Rule 15 of the 2015 HRET Rules, being dependent on the taking of oath and the assumption of office of the winning candidate, is indeterminable. It is difficult, if not impossible, for the losing candidate who intends to file an election protest or a petition for *quo warranto* to keep track when the winning candidate took his oath of office or when he assumed office. The date, time, and place of the taking of oath depend entirely upon the winning candidate. The winning candidate may or may not publicize his taking of oath and thus any candidate intending to file a protest will be in a dilemma when to file the protest. The taking of oath can happen any day and any time after the proclamation. As to the assumption of office, it is possible that, for one reason or another, the winning candidate will not assume office at the end of the term of his predecessor but on a later date that is unknown to the losing candidate.

However, the Court takes judicial notice that in its Resolution No. 16, Series of 2018, dated 20 September 2018,[10] the HRET amended Rules 17 and 18 of the 2015 HRET Rules. As amended, Rules 17 and 18 now read:

> RULE 17. *Election Protest.* – A verified protest contesting the election or returns of any Member of the House of Representatives shall be filed by any candidate who has duly filed a certificate of candidacy and has been voted for the same office within fifteen (15) days from June 30 of the election year, if the winning candidate was proclaimed on or before said date. However, if the winning candidate was proclaimed after June 30 of the election year, a verified election protest shall be filed within fifteen (15) days from the date of proclamation.
>
> x x x x
>
> RULE 18. *Quo Warranto.* – A verified petition for *quo warranto* on the ground of ineligibility may be filed by any registered voter of the congressional district concerned, or any registered voter in the case of party-list representatives, within fifteen (15) days from June 30 of the election year, if the winning candidate was proclaimed on or before said date. However, if the winning candidate was proclaimed after June 30 of the election year, a verified petition for *quo warranto* shall be filed within fifteen (15) days from the date of proclamation. The party filing the petition shall be designated as the petitioner, while the adverse party shall be known as the respondent.
>
> x x x x

The amendments to Rules 17 and 18 of the 2015 HRET Rules were made "with respect to the reckoning point within which to file an election protest or a petition for *quo warranto*, respectively, in order to further promote a just and expeditious determination and disposition of every

[10] Signed by Associate Justices Diosdado M. Peralta (Chairperson), Mariano C. Del Castillo, Marvic M.V.F. Leonen and Representatives Jorge T. Almonte, Rodel M. Batocabe, Abigail Faye C. Ferriol-Pascual, and Joaquin M. Chipeco, Jr.

election contest brought before the Tribunal[.]"[11] The recent amendments, which were published in The Philippine Star on 26 September 2018 and took effect on 11 October 2018, clarified and removed any doubt as to the reckoning date for the filing of an election protest. The losing candidate can determine with certainty when to file his election protest.

WHEREFORE, we **DISMISS** the petition.

SO ORDERED.

ANTONIO T. CARPIO
Senior Associate Justice

WE CONCUR:

No part due to prior participation in the HRET

DIOSDADO M. PERALTA
Associate Justice

No Part

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

11 Fourth WHEREAS clause of Resolution No. 16, Series of 2018.

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

(on official business)
FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

(on leave)
ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
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.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
~~Clerk~~ of Court En Banc
Supreme Court