



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

SECOND DIVISION

DANILO A. LIHAYLIHAY,

Petitioner,

-versus-

SPA No. 21-003 (DC)

FERDINAND R. MARCOS, JR.,

Respondent,

x-----x

NOTICE

1. **DANILO A. LIHAYLIHAY**
Petitioner
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2. **ATTY. ESTELITO P. MENDOZA**
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3. **ATTY. DRIXEL S. DABATOS**
ATTY. PAOLO S. TESTON
ATTY. AL A. BALJON
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4. The EDUCATION and INFORMATION DEPARTMENT (EID)
This Commission

GREETINGS:

Attached is a copy of the **RESOLUTION** promulgated on
16 December 2021 of the Commission (**SECOND DIVISION**) in the above-entitled
case.

Given this 17th day of December 2021, City of Manila, Philippines.

FOR THE DIVISION:


ATTY. GENESIS M. GATDULA
Clerk of the Commission



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

SECOND DIVISION

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Promulgated:

DEC 16 2021

x-----x

RESOLUTION

For disposition by the Commission (Second Division) is a *Petition*¹ filed by Danilo A. Lihaylihay ["Petitioner"] against Ferdinand R. Marcos, Jr. ["Respondent"], seeking to declare him a nuisance candidate and praying that his Certificate of Candidacy ["COC"] for the position of President be cancelled and/or denied due course.

FACTS

On 12 October 2021, Petitioner filed the subject Petition, praying therein that:

"WHEREFORE, PREMISES CONSIDERED, IT IS MOST RESPECTFULLY PRAYED OF THIS HONORABLE COMMISSION TO DECLARE FERDINAND R. MARCOS, JR. AS NUISANCE CANDIDATE AND REFUSE TO GIVE DUE COURSE TO AND CANCEL HIS CERTIFICATE OF CANDIDACY FOR PRESIDENT."

¹ Records, at 6-13.

At this juncture, We note with disdain Petitioner's failure to submit a copy of Respondent's COC. It pays to ask, how could We cancel something which is not found in the records of this case? To put it bluntly, Petitioner's evidence is grossly insufficient considering that the COC it sought to cancel was not even attached to the Petition.

Instead, Petitioner attached the following: [1] Petitioner's own COC for President,² [2] KBL Letter received by the Office of Rep. Imelda Romualdez-Marcos on 6 June 2013,³ [3] General Agreement executed by the Marcos family on 28 December 1993,⁴ [4] Supplemental Agreement executed by the Marcos family on 28 December 1993,⁵ and [5] Letter dated 21 July 1994 of Respondent addressed to Magtanggol C. Gunigundo.⁶

On 22 October 2021, Petitioner filed a Submission,⁷ attaching thereto various Final Assessment Notices.⁸

On 4 November 2021, the Commission (Second Division) issued *Summons with Notice of Preliminary Conference* directing Respondent to file a verified Answer via E-mail⁹ within a non-extendible period of five (5) days from receipt of the notice. He was likewise directed to immediately file four (4) hard copies of the same through the fastest means available after the electronic filing. In addition, the parties were notified that the Preliminary Conference for this case is set on 18 November 2021. Lastly, the parties were required to submit a Summary of Documents at least three (3) days before the scheduled conference.

On 9 November 2021, Petitioner filed a Supplemental (To the Petition filed on October 12, 2021).¹⁰

² *Id.*, at 14.

³ *Id.*, at 15-20.

⁴ *Id.*, at 22-25.

⁵ *Id.*, at 26-29.

⁶ *Id.*, at 30.

⁷ *Id.*, at 36-37.

⁸ *Id.*, at 38-44.

⁹ Pursuant to Section 1, Rule 2 of COMELEC Resolution No. 10673.

¹⁰ Records, at 45-47.

On 16 November 2021, Respondent filed his Consolidated Answer (to the Petition dated 11 October 2021 and the Supplemental Petition dated 9 November 2021).¹¹

On 18 November 2021, the Preliminary Conference for this case was conducted.

On 19 November 2021, Petitioner filed his Memorandum.¹²

On 22 November 2021, Respondent filed his Memorandum.¹³

ISSUE

Should Respondent be declared a nuisance candidate?

DISCUSSION

The Commission (Second Division) **DENIES** the Petition.

The governing law for the resolution of the instant case is Section 69 of the Omnibus Election Code [OEC], which reads:

Sec. 69. Nuisance candidates. - The Commission may motu proprio or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate. [Emphasis supplied]

¹¹ *Id.*, at 63-77.

¹² *Id.*, at 162-168.

¹³ *Id.*, at 174-186.

This rule is reiterated in Section 1 of Rule 24 of the COMELEC Rules of Procedure, as amended by COMELEC Resolution No. 9523,¹⁴ which provides:

Section 1. Grounds. - Any candidate for any elective office who filed his certificate of candidacy to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or who by other acts or circumstances is clearly demonstrated to have no bona fide intention to run for the office for which the certificate of candidacy has been filed, thus preventing a faithful determination of the true will of the electorate, may be declared a nuisance candidate, and his certificate of candidacy may be denied due course or may be cancelled. (Emphasis supplied)

The Supreme Court had the occasion to define the term "nuisance candidates" in the case of *Joseph B. Timbol v. Commission on Elections*¹⁵, citing the case of *Rev. Elly Chavez Pamatong, Esquire v. Commission on Elections*,¹⁶ thus:

Under Article II, Section 26 of the Constitution, "[t]he State shall guarantee equal access to opportunities for public service[.]" This, however, does not guarantee "a constitutional right to run for or hold public office[.]" To run for public office is a mere "privilege subject to limitations imposed by law." Among these limitations is the prohibition on nuisance candidates. Nuisance candidates are persons who file their certificates of candidacy "to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate."

Based on the aforementioned rules and jurisprudence, there are three possible instances where a candidate for public office may be classified as a nuisance candidate:

¹⁴ In the matter of the amendment to Rules 23, 24, and 25 of the COMELEC Rules of Procedures for purposes of the 13 May 2013 National, Local and ARMM Elections and Subsequent Elections; 25 September 2012.

¹⁵ G.R. No. 206004, 24 February 2015.

¹⁶ G.R. No. 161872, 13 April 2004.

- 1] One who files his COC to put the election process in mockery or disrepute.
- 2] One who files his COC to cause confusion among the voters by the similarity of the names of the registered candidates.
- 3] One who, by other acts or circumstances, is clearly demonstrated to have no bona fide intention to run for the office for which the COC has been filed, thus preventing a faithful determination of the true will of the electorate.

Petitioner utterly failed to demonstrate to the Commission (Second Division) that Respondent falls in any of the classifications listed above.

First, Petitioner claimed that Respondent put the election process in mockery or disrepute because his purpose was mainly to have his family's political comeback in Malacañang Palace.¹⁷

Petitioner's line of reasoning fails to convince. The term "mockery" is defined as "*insulting or contemptuous action or speech*" and "*a subject of laughter, derision, or sport.*"¹⁸ On the other hand, the word "disrepute" refers to "*lack or decline of good reputation*" or "*a state of being held in low esteem.*"¹⁹

Based on these definitions, no inference can possibly be made that Respondent's act of filing his COC for President puts the election process in mockery or disrepute. Petitioner's sweeping statements and unfounded claims utterly failed to establish that Respondent's candidacy put the election process in mockery or disrepute.

Second, there is no proof, much less an allegation, that Respondent's filing of his COC causes confusion among the voters by the similarity of the names of the registered candidates.

¹⁷ Par. 15.1 of the *Petition*.

¹⁸ <https://www.merriam-webster.com/dictionary/mockery>, accessed on 13 November 2021.

¹⁹ <https://www.merriam-webster.com/dictionary/disrepute>, accessed on 13 November 2021.

Third, there is no act or circumstance which clearly demonstrates that Respondent has no *bona fide* intention to run for the office for which the COC has been filed, thus preventing a faithful determination of the true will of the electorate. On the contrary, Respondent has sufficiently established that he actually has a *bona fide* intention to run for President of the country. Respondent, who continuously rank as the most preferred candidate in recent Presidentiable surveys,²⁰ previously served as Vice Governor, Governor, and Representative of the Province of Ilocos Norte. He also became a Senator and he was a candidate for Vice President in 2016. Additionally, Respondent is backed by a registered political party, the Partido Federal ng Pilipinas. In stark contrast to what Petitioner attempts to depict, the circumstances obtaining in this case actually demonstrate that Respondent has a *bona fide* intention to run for President of the country.

In light of the foregoing disquisitions, it becomes manifest that herein Respondent does not fall under any of the three types of nuisance candidates. Hence, the instant Petition must be denied.

Other matters deserve scant consideration.

WHEREFORE, premises considered, the Petition is hereby **DENIED**.

SO ORDERED.


SOCORRO B. INTING
Presiding Commissioner


ANTONIO T. KHO, JR.
Commissioner

²⁰ Par. 33 of Respondent's Consolidated Answer.

CERTIFICATION

I hereby certify that the conclusions in the above Resolution were reached in consultation among the members of the Second Division before the case was assigned to the *ponente*.


SOCORRO B. INTING
Presiding Commissioner 