

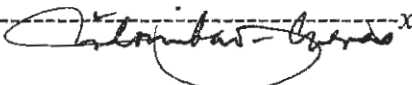
*EN BANC*

G.R. No. 260374 – FR. CHRISTIAN B. BUENAFE, *et al.*,  
*Petitioners*, v. COMMISSION ON ELECTIONS, *et al.*, *Respondents*;

G.R. No. 260426 – BONIFACIO PARABUAC ILAGAN, *et al.*,  
*Petitioners*, v. COMMISSION ON ELECTIONS, *et al.*, *Respondents*.

Promulgated:

June 28, 2022

x-----  
x

**CONCURRING OPINION**

**SINGH, J.:**

*“No master but law, no guide but conscience, no goal but  
justice.”*

- Justice J.B.L. Reyes

I concur with the Decision of the Court penned by Associate Justice Rodil V. Zalameda, dismissing the Consolidated Petitions. However, I write this Concurring Opinion to emphasize two points on which, I opine, the resolution of these cases turns.

*The Court has jurisdiction over  
the Consolidated Petitions*

Contrary to the position of respondent Ferdinand R. Marcos, Jr. (**respondent**), the Constitution mandates this Court to exercise jurisdiction over the Consolidated Petitions.

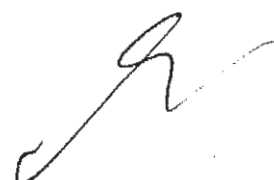
Article IX (A), Section 7, of the 1987 Constitution provides:

**“ARTICLE VIII**  
*Constitutional Commissions*

A. Common Provisions

xxx.      xxx      xxx

SECTION 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the



Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof." (underscoring supplied)

Rule 64 in relation to Rule 65 of the Rules of Court provides for a mode of review of judgments and final orders or resolutions of the Commission on Elections (COMELEC). Particularly, through this remedy, the Court is provided the means to discharge its duty to determine the existence of grave abuse of discretion on the part of the COMELEC.

Unlike in the American jurisdiction where the power of judicial review is not found within the text of the American Constitution but was established only as a doctrine in the seminal case of *Marbury vs. Madison* (*Marbury*),<sup>1</sup> the power of judicial review in this jurisdiction is vested by no less than the Constitution. Article VIII, Section 1 of the 1987 Constitution provides:

**"ARTICLE VIII**  
*Judicial Department*

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." (underscoring supplied)

In *Angara vs. Electoral Commission*,<sup>2</sup> the Court, through Justice Jose P. Laurel expounded on how this Court, in the exercise of its power to determine the proper application of the law, checks the other branches and instrumentalities of government:

"The separation of powers is a fundamental principle in our system of government. It obtains not through express provision but by actual division in our Constitution. Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere. But it does not follow from the fact that the three powers are to be kept separate and distinct that the Constitution intended them to be absolutely unrestrained and independent of each other. The Constitution has provided for an elaborate system of checks

<sup>1</sup> 5 U.S. 137 (1803).

<sup>2</sup> G.R. No. L-45081, 15 July 1936.



and balances to secure coordination in the workings of the various departments of the government. xxx

But in the main, the Constitution has blocked out with deft strokes and in bold lines, allotment of power to the executive, the legislative and the judicial departments of the government. xxx In cases of conflict, the judicial department is the only constitutional organ which can be called upon to determine the proper allocation of powers between the several departments and among the integral or constituent units thereof. xxx

The Constitution sets forth in no uncertain language the restrictions and limitations upon governmental powers and agencies. If these restrictions and limitations are transcended it would be inconceivable if the Constitution had not provided for a mechanism by which to direct the course of government along constitutional channels, for then the distribution of powers would be mere verbiage, the bill of rights mere expressions of sentiment, and the principles of good government mere political apothegms. Certainly, the limitation and restrictions embodied in our Constitution are real as they should be in any living constitution. In the United States where no express constitutional grant is found in their constitution, the possession of this moderating power of the courts, not to speak of its historical origin and development there, has been set at rest by popular acquiescence for a period of more than one and a half centuries. In our case, this moderating power is granted, if not expressly, by clear implication from section 2 of article VIII of our constitution.

The Constitution is a definition of the powers of government. Who is to determine the nature, scope and extent of such powers? The Constitution itself has provided for the instrumentality of the judiciary as the rational way. And when the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed "judicial supremacy" which properly is the power of judicial review under the Constitution." (underscoring supplied)

In G.R. No. 230674, the petitioners invoke the Court's power of judicial review alleging that the COMELEC gravely abused its discretion in promulgating the following issuances:

- (1) Resolution dated 17 February 2022 of the COMELEC Second Division in SPA No. 21-156 (DC);
- (2) Resolution dated 10 May 2022 of the COMELEC *En Banc* in SPA No. 21-156 (DC);



According to the petitioners in G.R. No. 230674, the COMELEC gravely abused its discretion in refusing to cancel the Certificate of Candidacy of respondent despite what the petitioners characterized as false representations contained therein.

In G.R. No. 260426, the petitioners likewise invoke the Court's power of judicial review, and assail the following issuances on the ground of grave abuse of discretion:

- (1) Resolution dated 10 February 2022 of the COMELEC Former First Division in SPA No. 21-212 (DC); and
- (2) Resolution dated 10 May 2022 of the COMELEC *En Banc* in SPA No. 21-212 (DC).

The petitioners in G.R. No. 260426 argue that the COMELEC gravely abused its discretion in ruling, among others, that respondent is not perpetually disqualified from running for public office.

As the Court is vested by no less than the Constitution with the exclusive authority and corresponding duty to review judgments and final orders or resolutions of the COMELEC, this Court must rule upon the challenge squarely, as it did in the exhaustive *ponencia* of Associate Justice Zalameda.

*The final and executory Decision of the Court of Appeals can no longer be modified*

The Decision of the Court of Appeals (CA) in CA-G.R. CR No. 18569 has long attained finality. Hence, the same can no longer be altered.

It is axiomatic that when a judgment is final and executory, it becomes immutable and unalterable.<sup>3</sup> The primary consequence of this principle known as the doctrine of immutability of judgment is that the judgment may no longer be modified or amended by any court in any manner even if the purpose of the modification or amendment is to correct perceived errors of law or fact, and regardless of whether the modification is attempted to be made by the court rendering it or by this Court.<sup>4</sup>

<sup>3</sup> *Marcos v. Pamintuan*, 654 Phil. 626-638 (2011).

<sup>4</sup> *Mercury Drug Corp. v. Spouses Huang*, 817 Phil. 434-464 (2017); *Davao ACF Bus Lines, Inc. v. Ang*, G.R. No. 218516, 27 March 2019.



The tenet is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some definite point in time.<sup>5</sup> It has a two-fold purpose, namely: (a) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business; and (b) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist.<sup>6</sup> As held in *Antone v. People*:<sup>7</sup>

“[The principle of immutability of judgment] fosters the judicious perception that the rights and obligations of every litigant must not hang in suspense for an indefinite period of time. As such, it is not regarded as a mere technicality to be easily brushed aside, but rather, a matter of public policy which must be faithfully complied.” (citations omitted)

In *Mocorro, Jr. v. Ramirez*,<sup>8</sup> this Court further explained the rationale behind the doctrine of immutability of judgments and held that it is a fundamental principle in our justice system:

“A decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. (citations omitted; underscoring supplied)”

Nonetheless, the immutability of final judgments admits of several exceptions, namely, (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.<sup>9</sup>

The Court has also relaxed the application of the doctrine to serve the ends of substantial justice in order to consider certain circumstances such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d)

<sup>5</sup> *Government Service Insurance System v. Regional Trial Court of Pasig City*, 623 Phil. 453-490 (2009) citing *Spouses Gomez v. Correa*, 617 Phil. 241-250 (2009).

<sup>6</sup> *National Housing Authority v. Court of Appeals*, G.R. No. 173802, 7 April 2014.

<sup>7</sup> G.R. No. 225146, 20 November 2017.

<sup>8</sup> G.R. No. 178366, 582 Phil. 357-368 (2008).

<sup>9</sup> *Republic v. Heirs of Gotengco*, G.R. No. 226355, 24 January 2018.

the cause not being entirely attributable to the fault or negligence of the party favored by the suspension of the doctrine; (e) the lack of any showing that the review sought is merely frivolous and dilatory; or (f) the other party will not be unjustly prejudiced by the suspension.<sup>10</sup>

Petitioners Ilagan *et al.* assert that the case falls under the third exception: the Decision of the CA is void because "it completely ignored the mandatory directive of Section 286 of P.D. No. 1994, which mandated that if the offender is a public officer, he shall suffer the maximum penalty imposed and in addition, he shall be perpetually disqualified from running for public office."<sup>11</sup>

In *Nazareno v. Court of Appeals*,<sup>12</sup> the Court explained the nature and effects of a void judgment:

**"A void judgment never acquires finality.** Hence, while admittedly, the petitioner in the case at bar failed to appeal timely the aforementioned decision of the Municipal Trial Court of Naic, Cavite, it cannot be deemed to have become final and executory. In contemplation of law, that void decision is deemed non-existent. Thus, there was no effective or operative judgment to appeal from. In *Metropolitan Waterworks & Sewerage System vs. Sison*, this Court held that:

"... [A] void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding effect or efficacy for any purpose or at any place. It cannot affect, impair or create rights. It is not entitled to enforcement and is, ordinarily, no protection to those who seek to enforce. All proceedings founded on the void judgment are themselves regarded as invalid. In other words, a void judgment is regarded as a nullity, and the situation is the same as it would be if there were no judgment. It, accordingly, leaves the parties-litigants in the same position they were in before the trial."

Thus, a void judgment is no judgment at all. It cannot be the source of any right nor of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void: "... it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head." (citations omitted; emphasis supplied)

<sup>10</sup> *Abrigo v. Flores*, G.R. No. 160786, 711 Phil. 251-263 (2013).

<sup>11</sup> Petition for *Certiorari* in G.R. No. 260426, pp. 33-35.

<sup>12</sup> G.R. No. 111610, 27 February 2002, 428 Phil. 32-43.

While it is true that the rule on the immutability and finality of judgments finds no application in cases where the final and executory judgment is void, this Court has consistently held that a mere erroneous judgment is not a void judgment.<sup>13</sup> An erroneous judgment is one though rendered according to the course and practice of the court is contrary to law.<sup>14</sup> A wrong judgment is not a void judgment, provided the court which renders it had jurisdiction to try the case.<sup>15</sup>

Here, petitioners Ilagan *et al.* question the Decision of the CA mainly on the basis of the supposed erroneous non-imposition of the penalty of perpetual disqualification from public office. Hence, even assuming *arguendo* that the penalty imposed by the CA was wrong, such error does not make the Decision void as an exception to the principle of immutability of judgments, considering that the appellate court indisputably had jurisdiction over the case. It has been held that “even the subsequent discovery of an erroneous imposition of a penalty will not justify correction of the judgment after it has become final.”<sup>16</sup>

I am not unaware that the Court, in a line of cases, has corrected the penalties imposed notwithstanding the finality of the judgments of conviction.<sup>17</sup> The Court ratiocinated that “a sentence which imposes upon the defendant in a criminal prosecution a penalty in excess of the maximum which the court is authorized by law to impose for the offense for which the defendant was convicted, is void for want or excess of jurisdiction as to the excess.”<sup>18</sup> However, unlike the supposed omission complained of in this case, the said cases concerned penalties in excess of what were prescribed by law which warranted the Court’s relaxation of the rules in the interest of justice. I therefore submit that the rulings in those cases find no application in these cases and thus the general rule on immutability of judgment stands. Lest it be forgotten, the doctrine of immutability of final judgments is the very guarantee of stability and reliability in our adversarial system of dispute resolution.

*A magistrate must be impartial,  
obedient only to the law*

In concurring with the *ponencia* of Associate Justice Zalameda, and the equally erudite Opinions of Senior Associate Justice Marvic M.V.F. Leonen, Associate Justice Alfredo Benjamin S. Caguioa,

<sup>13</sup> *Davao ACF Bus Lines, Inc. v. Ang*, G.R. No. 218516, 27 March 2019.

<sup>14</sup> *Barco v. Court of Appeals*, G.R. No. 120587, 20 January 2004, 465 Phil. 39-65.

<sup>15</sup> *Supra* note 11.

<sup>16</sup> *Icao v. Apalisok*, 259 Phil. 1168-1173 (1989) citing *Castillo v. Donato*, 137 SCRA 210 (1985). See also *Escalante v. People*, 701 Phil. 332-344 (2013).

<sup>17</sup> *Sumbilla v. Matrix Finance Corporation*, G.R. No. 197582, June 29, 2015; *Almuete v. People*, G.R. No. 179611, March 12, 2013, 693 SCRA 167; *Estrada v. People*, 505 Phil. 339 (2005); *Rigor v. The Superintendent, New Bilibid Prison*, 458 Phil. 561 (2003); *People v. Barro*, 392 Phil. 857 (2000); *People v. Gatvard*, 335 Phil. 440 (1997); and *Bigler v. People*, 782 Phil. 158-167 (2016).

<sup>18</sup> *Sumbilla v. Matrix Finance Corporation*, G.R. No. 197582, 29 June 2015.

Associate Justice Amy C. Lazaro-Javier, and Associate Justice Samuel H. Gaerlan, I cannot but emphasize the requirement of impartiality which is expected of every member of the Bench. The principle is enshrined in the New Code of Judicial Conduct for the Philippine Judiciary.<sup>19</sup>

**CANON 3**  
*Impartiality*

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

SECTION 1. Judges shall perform their judicial duties without favor, bias or prejudice.

The annotation provided by the Philippine Judicial Academy, the American Bar Association – Rule of Law Initiative and the University of the Philippines Law Center – Institute of Judicial Administration underscores the importance of impartiality in the administration of justice:

“The principle[s] of impartiality, disinterestedness, and fairness on the part of the judge [are] as old as the history of courts; in fact, the administration of justice through the mediation of courts is based upon this principle. It is a fundamental idea, running through and pervading the whole system of judicature, and it is the popular acknowledgement of the inviolability of this principle which gives credit, or even toleration, to decrees of judicial tribunals.”<sup>20</sup>

The significance of impartiality is so fundamental that even the mere appearance of partiality is a ground for administrative liability. The ruling of the Court in *Pascual v. Judge Bonifacio*,<sup>21</sup> as reiterated in *Sison-Barias v. Judge Rubia*,<sup>22</sup> is instructive:

“It appears now that respondent has failed to live up to those rigorous standards. Whether or not he purposely went to the Manila Hotel on November 25, 1998 to meet complainant or only had a chance meeting with him, his act of trying to convince complainant to agree to his proposal is an act of impropriety. It is improper and highly unethical for a judge to suggest to a litigant what to do to resolve his case for such would generate the suspicion that the judge is in collusion with one party. A litigant in a case is entitled to no less than the cold neutrality of an impartial judge. **Judges are not only required to be impartial, but also to appear to be so, for appearance is an essential manifestation of reality. Hence, not**

<sup>19</sup> A.M. No. 03-05-01-SC, April 27, 2004.

<sup>20</sup> ABA-Rule of Law Initiative. February 2007. New Code of Judicial Conduct for the Philippine Judiciary (Annotated).  
<<https://www.americanbar.org/content/dam/aba/directories/roli/philippines/philippines-judicial-code-02-2007.pdf>> (Last visited 26 June 2022).

<sup>21</sup> A.M. No. RTJ-01-1625, 447 Phil. 11 (2003).

<sup>22</sup> A.M. No. RTJ-14-2388, 10 June 2014.





**only must a judge render a just decision, he is also duty bound to render it in a manner completely free from suspicion as to its fairness and its integrity.** Respondent's conduct in the instant case inevitably invites doubts about respondent's probity and integrity. It gives ground for a valid reproach. In the judiciary, moral integrity is more than a cardinal virtue, it is a necessity. **Moreover, a judge's lack of impartiality or the mere appearance of bias would cause resentment if the party who refused the judge's proposal subsequently lost his case. It would give rise to suspicion that the judgment was 'fixed' beforehand. Such circumstance tarnishes the image of the judiciary and brings to it public contempt, disrepute, and ridicule.** Thus, we are constrained to rule that respondent violated Rule 2.01 of the Code of Judicial Conduct. His misconduct is not excused but rather made more glaring by the fact that the controversy involving complainant was pending in his own sala.<sup>23</sup> (emphasis and underscoring supplied)

It is a fitting reminder to quote here the words of Associate Justice Marcelino R. Montemayor in his Concurring Opinion in *Ocampo v. Secretary of Justice*:<sup>24</sup>

“A great jurist once said that **a judge shall know everything about the case, but nothing about the parties.** That, perhaps, was the reason or one of the reasons why Justice is symbolized by a lady holding the scales in one hand and the sword on the other, with a bandage over her eyes — **meaning that to her the merits and only the merits of the case as weighed in the scales are everything, and the parties thereto are nothing, to be utterly disregarded and ignored. x x x**” (emphasis and underscoring supplied)

These Consolidated Petitions are a tangle of a multitude of factors, beliefs, persuasions, even hopes and aspirations. It finds our nation at a crossroads in our shared history. It is not only the parties who are anticipating the resolution of these Petitions. After all, what is at stake is the highest office of the land, and with it, the lives of the Filipino people for the next six years and even beyond.

It is during these times that the impartiality of the Court should all the more be manifest. It is when there are far too many discordant voices that a magistrate must be the exemplar of objectivity in his or her appreciation of the facts and application of the law, blind and deaf to all but the clarion call to uphold the rule of law.

<sup>23</sup> Id.; citation omitted.

<sup>24</sup> G.R. No. L-7910, 18 January 1955.



**WHEREFORE**, I vote to **DISMISS** the Consolidated Petitions in G.R. Nos. 260374 and 260426.

**MARIA FILOMENA D. SINGH**  
Associate Justice