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confessants physically and thoroughly examined by independent and qualified doctors before administering the oath, even if it is not requested by the accused. If physicians are not available then they should themselves examine the bodies of the declarants for signs of possible violence. This would not only deter attempts to secure confessions through violence but would also preclude future controversies on whether the statements were obtained through torture or not, which only delay criminal trials.[10] Then Municipal Judge Amandito Araneta was not only wanting in the observance of the prescribed practice but was also indifferent to APPELLANT's plight and should be, as he is hereby, censured.

WHEREFORE, on reasonable doubt, the appealed judgment is hereby REVERSED, and appellant Ricardo Cabrera is hereby acquitted. Costs *de officio*.

SO ORDERED.

Teehankee, Makasiar, Concepcion Jr., Abad Santos, Plana, Escolin, Relova, Gutierrez, Jr., de la Fuente, and *Cuevas, JJ.*, concur.

Aquino and *Alampay, JJ.*, took no part.

Fernando, C.J., on official leave.

EN BANC

[G.R. No. 52713. January 31, 1985]

GELACIO I. YASON, *petitioner, vs.* THE COMMISSION ON ELECTIONS, THE MUNICIPAL BOARD OF CANVASSERS OF ROXAS, ORIENTAL MINDORO, and LUCIO T. SUAREZ, JR., *respondents.*

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[10] People *vs.* Castro, 11 SCRA 699 (1964); People *vs.* Francisco, 74 SCRA 159 (1976).

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SYLLABUS

1. **POLITICAL LAW; ELECTION LAW; ELECTION; PURPOSE.**— The purpose of an election is to give the voters a direct participation in the affairs of their government, either in determining who shall be their public officials or in deciding some question of public interest; and for this purpose, all of the legal voters should be permitted, unhampered and unmolested, to cast their ballots. When that is done, and no frauds have been committed, the ballot should be counted and the election should not be declared null. Innocent voters should not be deprived of their participation in the affairs of their government for mere irregularities on the part of election officers for which they are in no way responsible. A different rule would make the *manner* and *method* of performing a public duty of greater importance than the duty itself. (*Luna v. Rodriguez* [39 Phil. 208]).

2. **ID.; ID.; FILING OF CERTIFICATE OF CANDIDACY; CORRECTION OF ENTRIES; CORRECTED VERSION SUPERSEDES ONE FILED EARLIER.**— The records are not precise and definite about petitioner Yason's being a turncoat as defined by the Constitution. Up to the day he filed his certificate of candidacy, Yason's choice as to whether he would remain with the KBL as an independent KBL candidate or move over to the welcoming Nationalista Party was marked by vacillation. Yason's final decision was, however, clear and beyond doubt. Notwithstanding the unholy hour before midnight, on January 4, 1980, Yason withdrew the certificate of candidacy he had earlier filed that afternoon, erased "Nationalista (NP)" from the space denoting party affiliation, typed "Kilusang Bagong Lipunan (KBL)" thereon, and initialed the change. And to remove any doubts about his choice, he erased the word "Yes" from the query whether he was nominated by a political party and instead typed "Kilusang Bagong Lipunan (KBL)" followed by his initials. There is no provision of law forbidding the withdrawal of candidacy at any time before election. As a matter of fact, the law does not require that the withdrawal of a certificate so as to validate a second filing of another certificate of candidacy must be made on or before the deadline for filing candidacies. (Montinola *v.* Commission on Elections, 98 Phil. 220) By the same token, once entries

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in a certificate of candidacy are corrected, it is the corrected version which is considered filed and not the earlier one.

3. **ID.; ID.; PETITION TO VALIDLY DISQUALIFY A CANDIDATE; FILING BEFORE DAY OF ELECTION, REQUIRED.**— A petition to disqualify a candidate, as would validly cancel any votes cast for him as "stray votes" if granted, should be filed before the day of elections. This will enable a substitute candidacy to be filed thus giving the electorate a choice of alternative candidates. (See Section 28, P.D. No. 1296, Election Code of 1978)

4. **ID.; ID.; ID.; FILED AFTER THE RESULTS OF ELECTIONS WERE ALREADY KNOWN, INVALID.**— For the 1980 local elections, the COMELEC promulgated Resolution No. 8434 which mandated that the exact deadline for the filing of petitions for disqualification was "5:00 o'clock P.M., Friday, January 25, 1980." The mandatory nature of the deadline is explicit from the statement of an exact hour, day, and date. Respondent Suarez filed his petition for the disqualification of Yason on February 2, 1980 after the results of the elections were already known. Suarez has submitted a copy of a letter he allegedly wrote to COMELEC dated January 25, 1980 protesting the turncoatism of Yason and stating that a formal petition would follow. The authenticity of this letter is doubtful because it is dated January 25, 1980 and yet, it was supposed to have been received that same day in Manila. Suarez was campaigning for the January 30 elections in the distant town of Roxas, Oriental Mindoro. It is not shown what he was doing in Manila five days before a hotly contested election. To reach Roxas, one has to take a car or bus ride from Manila to Batangas City, a ferry ride of several hours to Calapan, and at least six hours ride over rough roads to reach Roxas. At any rate, even if filed on January 25, 1980, whoever initiated its receipt by the COMELEC Law Division was careful to extricate himself or herself from a potentially difficult situation by pointedly entering "6:00 P.M." as the time of receipt or one hour after the official deadline. Moreover, COMELEC was completely unaware of the letter because it acted only after the February 2, 1980 petition was filed. There is absolutely no mention in the petition that an informal letter had earlier been filed. We rule that the petition to disqualify the petitioner was filed long after the deadline for filing had lapsed. Moreover,

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considering its lack of merit it may not be validated on equitable grounds.

5. **ID.; ID.; SEC. 14, B.P. BLG. 697; AN EXCEPTION TO THE TURNCOATISM PROVISION OF THE CONSTITUTION; LIBERAL VIEW ADOPTED IN APPLYING LAW TO THE CASE AT BAR.**— Batas Pambansa Blg. 697 governing the 1984 elections for Batasan members provided otherwise - "any person, including an elective official, may change his party affiliation for purposes of the election herein provided for." Thus, a candidate for the Batasan may change his party affiliation even within the proscribed term or period. True, the same Section 14 of Batas Pambansa Blg. 697 provides that pending disqualification cases before the COMELEC or the Supreme Court based on "turncoatism" shall not be affected by the provisions of the section. Nonetheless, the spirit behind the enactment of Section 14, B.P. Blg. 697 as an exception to the turncoatism provision of the Constitution constrains us to adopt a liberal view in applying the law to the facts of the case before us to insure that the will of the people of Roxas, Oriental Mindoro expressed through their ballots shall be respected.

TEEHANKEE, ***Acting C.J., concurring:***

SYLLABUS

POLITICAL LAW; ELECTION LAW; ELECTION; PEOPLE'S RIGHT TO ELECT OFFICIALS, NOT FRUSTRATED BY MATERIAL DEFECTS IN CANDIDATE'S CERTIFICATE OF CANDIDACY.— The Court's decision at bar rightfully reaffirms the basic and fundamental democratic principle that the people's will and undeniable right as "particles of sovereignty" to elect officials of their unfettered choice should be respected and not defeated or frustrated by material defects in the winning candidate's certificate of candidacy (such as in the case of *Yra vs. Abaño,* 52 Phil. 380, where the winning candidate's election as president of Meycauayan was upheld despite his not being a registered elector of that municipality).

APPEARANCES OF COUNSEL

Rosalino Reyes Isler for petitioner.
Antonio R. Bautista for Lucio Suarez, Jr.

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DECISION

GUTIERREZ, JR., *J.:*

Gelacio I. Yason filed this petition for certiorari and mandamus — (1) to set aside the resolution of respondent Commission on Elections (COMELEC) which denied due course to his candidacy for Mayor of Roxas, Oriental Mindoro for having changed his party affiliation; (2) to set aside the resolution of COMELEC which declared Lucio T. Suarez, Jr. as the duly elected Mayor after it had ordered all votes cast for Yason to be considered stray votes; and (3) to order COMELEC or the Municipal Board of Canvassers to proclaim petitioner Yason, who had obtained the highest number of votes, as the duly elected Mayor.

On January 4, 1980 at 2:45 in the afternoon, petitioner Yason filed his certificate of candidacy for Mayor of Roxas, Oriental Mindoro with the Municipal Election Registrar. On the blank space in Item No. 4 indicating "Political Party/Group or Aggrupation," he stated "Nationalista, (NP)." Shortly afterwards, Yason had a change of mind. A few minutes before midnight of the same day, he went back to the municipal election registrar, asked for the certificate of candidacy he had filed that afternoon, and erased the words and letters, "Nationalista, (NP)." Over the erased items, he typed "Kilusang Bagong Lipunan (KBL)." The same thing was done for Item No. 5, "state if nominated by Political Party/Group or Aggrupation" where the word "Yes" was erased and "Kilusang Bagong Lipunan (KBL)" typed clearly as the answer. Both changes in Items 4 and 5 were initialed by Mr. Yason.

Around January 10, 1980, the chairman of the Nationalista Party for the province of Oriental Mindoro submitted the NP candidates for local positions. Allegedly unknown to the petitioner, his name was included in the complete NP line-up of candidates for his municipality.

On the morning of election day on January 30, 1980, after the petitioner came to know from the Certified List of Candidates furnished by the COMELEC for posting in election booths and guidance of citizens' election committees that COMELEC had

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listed him in the official line-up of NP candidates, he immediately disclaimed knowledge of his having been nominated by the NP provincial chapter. He sent a telegram to COMELEC, attention Law Department, which reads:

"SIR:

"THIS IS IN CONNECTION WITH THE PARTY AFFILIATION IN WHICH ALL CANDIDATES UNDER MY FACTION WERE LISTED OFFICIALLY UNDER THE NATIONALISTA PARTY.

"RECORDS WOULD SHOW THAT MY CANDIDACY AND THAT OF THE VICE-MAYOR AND EIGHT COUNCILORS FILED THEIR CERTIFICATES OF CANDIDACY UNDER THE KILUSANG BAGONG LIPUNAN (KBL).

"WE WANT TO PUT ON RECORD THAT WE HAVE NOT CHANGED OR AUTHORIZED ANY REPRESENTATIVE TO CHANGE OFFICIALLY OUR PARTY FROM KBL TO NATIONALISTA PARTY.

"THANK YOU.

VERY TRULY YOURS,

ENGR. GELACIO I. YASON
CANDIDATE FOR MAYOR
ROXAS OR MINDORO"

Yason also sent a formal letter to COMELEC, copy furnished the Roxas Election Registrar, embodying the same protest.

After the canvass of election returns was completed on February 1, 1980, the respondent Board of Canvassers certified that the number of votes obtained by the candidates were:

Yason	3,933
Suarez	3,568

thus indicating that Yason won by 365 votes over Suarez. Incidentally, only Yason and one councilor in his line-up won. The winning candidate for vice-mayor, Oscar C. Sison, and seven of the eight councilors who won were in the ticket of respondent Suarez. Councilor Venancio Yap, the sole candidate

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who won with petitioner Yason placed fifth among the elected councilors.

A day later, on February 2, 1980, Suarez filed with COMELEC a petition for disqualification of Yason as candidate for mayor. Notice of the petition or a copy thereof was not furnished the petitioner. Two days later, on February 4, 1980, without the petitioner having been given an opportunity to controvert, comment upon, or answer the petition, the COMELEC issued the questioned resolution which denied due course to the candidacy of Yason. Having secured a copy of the resolution on his own initiative, Yason filed on February 11, 1980 a motion for reconsideration followed by a motion to suspend proclamation of the mayor of Roxas, Oriental Mindoro.

On February 13, 1980, the COMELEC ordered the citizens' election committee and the election registrar of Roxas to consider all votes cast for Yason as stray and to declare Lucio T. Suarez as duly elected mayor.

The petitioner contends that respondent COMELEC acted without jurisdiction or with grave abuse of discretion in issuing the questioned resolutions.

On February 26, 1980, this Court restrained the respondents from enforcing the questioned resolutions. The restraining order was later modified to enjoin respondent Suarez from assuming the office of mayor and from discharging the duties of the mayorship.

On March 18, 1980, respondent Suarez filed a comment and counter-petition with this Court. In this counter-petition, Suarez stated that the municipal board of canvassers proclaimed Yason as mayor-elect on March 2, 1980. He also asks that this proclamation be set aside.

In this petition, Yason raises the following issues for consideration:

I. THE COMELEC, AFTER THE ELECTION AND ALL THE VOTES WERE PROPERLY CANVASSED (AND WINNER PROCLAIMED) HAVE NO MORE POWER OR JURISDICTION TO CANCEL A CERTIFICATE OF CANDIDACY OR DISQUALIFY PETITIONER AS A CANDIDATE;

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II. THE COMELEC HAS NO JURISDICTION TO ENTERTAIN THE PETITION FOR DISQUALIFICATION, THE SAME HAVING BEEN FILED OUT OF TIME; and

III. PETITIONER, BEFORE THE COMELEC WAS DENIED DUE PROCESS OF LAW.

Under the facts of this case, may petitioner Yason be denied the mayorship of Roxas, Oriental Mindoro on the ground of turncoatism?

There is no question from the records that Yason received 3,933 votes against the 3,568 votes cast for Suarez. The elections were clean and orderly. As a matter of fact, only Yason and Councilor Venancio Yap managed to win. The vice-mayoral candidate and seven out of eight candidates for councilor who emerged winners all belonged to the Suarez camp. There is no indication of any frauds and malpractices as would indicate a tampering with the people's choice. The only issue raised against the petitioner is "turncoatism."

The provision applicable to the case of petitioner Yason is Section 10, Article XII-C of the Constitution as it was worded during the 1980 local elections. At that time, it read:

SEC. 10. No elective public officer may change his political party affiliation during his term of office, and no candidate for any elective public office may change his political party affiliation within six months immediately preceding or following an election.

On April 7, 1981, the above provision was amended by the addition of the phrase "unless otherwise provided by law" at its end after the word "election."

In *Luna v. Rodriguez* (39 Phil. 208) decided on November 29, 1918 this Court stressed the basic principle which has governed all elections in our country from the early years of democratic government up to the present. This Court stated:

"x x x The purpose of an election is to give the voters a direct participation in the affairs of their government, either in determining who shall be their public officials or in deciding some question of public interest; and for this purpose, all of the legal voters should

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be permitted, unhampered and unmolested, to cast their ballots. When that is done, and no frauds have been committed, the ballot should be counted and the election should not be declared null. Innocent voters should not be deprived of their participation in the affairs of their government for mere irregularities on the part of election officers for which they are in no way responsible. A different rule would make the *manner* and *method* of performing a public duty of greater importance than the duty itself."

In elections, the first consideration of every democratic polity is to give effect to the expressed will of the majority. It is true that constitutional and statutory provisions requiring compliance with measures intended to enhance the quality of our democratic institutions must be obeyed. The restriction against turncoatism is one such measure. However, even as there should be compliance with the provision on turncoatism, an interpretation in particular cases which respects the free and untrammelled expression of the voters' choice must be followed in its enforcement.

The various and numerous provisions of the Election Law were adopted to assist the voters in their participation in the affairs of the Government and not to defeat that object. (Villavert *v.* Fornier, 84 Phil. 756, 763) Election cases involve not only the adjudication of the private interests of rival candidates but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate with respect to who shall discharge the prerogatives of the offices within their gift. They are imbued with public interest. (Vda. de Mesa *v.* Mencias, 18 SCRA 533, 538) The disenfranchisement of electors is not favored. (Lloren *v.* Court of Appeals, et al., 19 SCRA 110) This is especially true where the majority of voters are sought to be disenfranchised.

Applying the above rules to the interpretation of the turncoatism provision in the light of the facts of this case, we find merit in the petition.

The records are not precise and definite about petitioner Yason's being a turncoat as defined by the Constitution. Up to the day he filed his certificate of candidacy, Yason's choice as to whether he would remain with the KBL as an independent

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KBL candidate or move over to the welcoming Nationalista Party was marked by vacillation.

Yason's final decision was, however, clear and beyond doubt. Notwithstanding the unholy hour before midnight, on January 4, 1980, Yason withdrew the certificate of candidacy he had earlier filed that afternoon, erased "Nationalista (NP)" from the space denoting party affiliation, typed "Kilusang Bagong Lipunan (KBL)" thereon, and initialed the change. And to remove any doubts about his choice, he erased the word "Yes" from the query whether he was nominated by a political party and instead typed "Kilusang Bagong Lipunan (KBL)" followed by his initials.

There is no provision of law forbidding the withdrawal of candidacy at any time before election. As a matter of fact, the law does not require that the withdrawal of a certificate so as to validate a second filing of another certificate of candidacy must be made on or before the deadline for filing candidates. (Montinola *v.* Commission on Elections, 98 Phil. 220) By the same token, once entries in a certificate of candidacy are corrected, it is the corrected version which is considered filed and not the earlier one.

The records do not show that Yason ever affiliated with the Nationalista Party or that he signed any NP membership form or took his oath as an NP member. The only records available show him as still belonging to the KBL. The petitioner has submitted campaign leaflets which indicate that he was running as a KBL candidate and that his campaign motto was "Umunlad sa Bagong Lipunan - Boy Yason ang ating Kailangan."

The private respondent has introduced affidavits to show that the local Nacionalista Party of Roxas, Oriental Mindoro campaigned for Yason as its own candidate for mayor. Apart from protesting his inclusion in the NP line-up of the provincial chapter and formally disowning such support in a telegram and letter to COMELEC, the petitioner has not shown what other measures he took. Nevertheless, we cannot categorically tag Yason as a "turncoat" under the law simply because he did not reject more strongly the support which another party voluntarily gave to him.

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There are other reasons for granting this petition.

A petition to disqualify a candidate, as would validly cancel any votes cast for him as "stray votes" if granted, should be filed before the day of elections. This will enable a substitute candidacy to be filed thus giving the electorate a choice of alternative candidates. (See Section 28, P.D. No. 1296, Election Code of 1978).

For the 1980 local elections, the COMELEC promulgated Resolution No. 8434 which mandated that the exact deadline for the filing of petitions for disqualification was "5:00 o'clock P.M., Friday, January 25, 1980." The mandatory nature of the deadline is explicit from the statement of an exact hour, day, and date.

Respondent Suarez filed his petition for the disqualification of Yason on February 2, 1980 after the results of the elections were already known. Suarez has submitted a copy of a letter he allegedly wrote to COMELEC dated January 25, 1980 protesting the turncoatism of Yason and stating that a formal petition would follow. The authenticity of this letter is doubtful because it is dated January 25, 1980 and yet, it was supposed to have been received that same day in Manila. Suarez was campaigning for the January 30 elections in the distant town of Roxas, Oriental Mindoro. It is not shown what he was doing in Manila five days before a hotly contested election. To reach Roxas, one has to take a car or bus ride from Manila to Batangas City, a ferry ride of several hours to Calapan, and at least six hours ride over rough roads to reach Roxas. At any rate, even if filed on January 25, 1980, whoever initialed its receipt by the COMELEC Law Division was careful to extricate himself or herself from a potentially difficult situation by pointedly entering "6:00 P.M." as the time of receipt or one hour after the official deadline. Moreover, COMELEC was completely unaware of the letter because it acted only after the February 2, 1980 petition was filed. There is absolutely no mention in the petition that an informal letter had earlier been filed.

We rule that the petition to disqualify the petitioner was filed long after the deadline for filing had lapsed. Moreover, considering its lack of merit it may not be validated on equitable grounds.

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The provision on turncoatism was incorporated in the 1973 Constitution to bring about disciplined political parties with dedicated party followers. The shift to a parliamentary system at this time was clear. The President was a nominal Head of State while executive power was exercised by the Prime Minister and his Cabinet. The Prime Minister under the 1973 Constitution, as Chief of State, was elected by the National Assembly, remained a member of the Parliament during his tenure as Chief Executive, and could be removed by a no confidence majority vote of the legislature. The Constitution has since been amended to have a President elected nationwide for a fixed term who can be removed by the legislature only through impeachment. However, whether the government is pure parliamentary, modified parliamentary, pure presidential, or modified presidential, it cannot be denied that the turncoatism provision represents an ideal objective. The opposition party should be strong, organized, and united in its challenge. It should be more or less permanent, not broken up into squabbling factions after being defeated in an election. It should present a viable alternative program of government so that when elected to political power, the people can exact strict compliance with its promises and platforms.

Unfortunately, the 1980 experience showed that perhaps disciplined political parties with faithful and dedicated members cannot be organized through unduly strict and peremptory legislation. Perhaps, voluntary action through evolutionary processes helped along by carefully crafted legislation would have been preferable. At any rate, the Constitution was amended in 1981 such that the provision on "turncoatism" would be enforced, "unless otherwise provided by law."

Batas Pambansa Blg. 697 governing the 1984 elections for Batasan members provided otherwise - "any person, including an elective official, may change his party affiliation for purposes of the election herein provided for." Thus, a candidate for the Batasan may change his party affiliation even within the proscribed term or period.

True, the same Section 14 of Batas Pambansa Blg. 697 provides that pending disqualification cases before the COMELEC

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or the Supreme Court based on "turncoatism" shall not be affected by the provisions of the section. Nonetheless, the spirit behind the enactment of Section 14, B.P. Blg. 697 as an exception to the turncoatism provision of the Constitution constrains us to adopt a liberal view in applying the law to the facts of the case before us to insure that the will of the people of Roxas, Negros Oriental Expressed through their ballots shall be respected.

WHEREFORE, the petition is hereby GRANTED. The questioned resolutions of respondent Commission on Elections are SET ASIDE. The proclamation of petitioner Gelacio I. Yason as duly elected Mayor of Roxas, Oriental Mindoro is AFFIRMED. The temporary restraining order dated February 26, 1980 as subsequently modified is made PERMANENT.

SO ORDERED.

Concepcion Jr., Melencio-Herrera, Plana, Escolin, de la Fuente, and *Cuevas, JJ.*, concur.

Teehankee, Acting C.J., files a brief concurrence.

Relova, J., I concur on the ground that petitioner Yason won by a clear majority of *365* votes over private respondent Suarez, Jr.

Aquino, J., I concur in the result. Yason's case is similar to Rodolfo C. Fariñas, who on Jan. 4, 1980 filed his certificate of candidacy as a Nacionalista but at 4 p.m. of the same day he filed another certificate as the official KBL candidate. He was elected (106 SCRA 202). Yason's certificate of candidacy in NOs. 4 and 5 clearly indicates that he was a KBL candidate like Suarez his opponent. Yason's election must be upheld.

Makasiar, J., I reserve my vote.

Abad Santos and *Alampay, JJ.*, no part.

Fernando, C.J., on official leave.

TEEHANKEE, ***Acting C.J.,concurring:***

The Court's decision at bar rightfully reaffirms the basic and fundamental democratic principle that the people's will and undeniable right as "particles of sovereignty" to elect officials of their unfettered choice should be respected and not defeated or frustrated by material defects in the winning candidate's certificate of candidacy (such as in the case of *Yra vs. Abaño,*

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52 Phil. 380, where the winning candidate's election as president of Meycauayan was upheld despite his not being a registered elector of that municipality).

It marks, I trust, a breakaway from the better-forgotten case of *Ticzon vs. Comelec,* 103 SCRA 671, (and other similar cases) involving the mayoralty election for San Pablo City on January 30, 1980. In that case, despite three successive restraining orders issued by this Court against the Comelec orders suspending the canvass, replacing the original canvassing board with a new and more pliant board and transferring the venue of the canvassing to Manila and the last of which enjoined enforcing of the Comelec's *post-election* 11th hour resolution disqualifying Ticzon as a "turncoat" (dated February 12, 1980 but released only on February 14, 1980 when the canvassing showed Ticzon with an insurmountable margin of 2,994 votes with only 62 more precincts to be tallied), the Court upheld (by a vote of seven to four) the Comelec's post-election disqualification of Ticzon as the winning candidate for alleged turncoatism, disenfranchised more than half of the city's electorate, 30,178 voters for Ticzon (as against Dizon's 28,119 votes, 1,959 short of Ticzon's) by not counting them as "stray votes," and ordered the proclamation of the loser Dizon as "the remaining winning candidate" - with "no opponent." Comelec had disqualified Ticzon after the election as a "turncoat" for having run as an *oppositionist* Liberal in 1971 and *nine years later* as an *oppositionist* Nacionalista (after first filing as an independent) in the 1980 election against the *dominant KBL* candidate, Dizon, who had been elected in both the 1967 and 1971 elections as the *then dominant* Nacionalista official candidate. Prescinding from the fact that Ticzon presented evidence that he had been expelled by the Liberal Party after the 1971 election for having run as a rebel Liberal candidate, the fact is that in *Potencion vs. Comelec,* 99 SCRA 595, the Comelec "dismissed the disqualification case against respondent for switching from Liberal Party (under which he was elected) to the KBL on the ground that 'the Liberal Party may be deemed to have become inexistent as it did not nominate candidates both in the elections of 1978 and 1980.'" But the Comelec in Ticzon's case, did not equally apply this reasoning and ruling in the case of the winner Ticzon who became partyless and switched from the

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"inexistent" Liberal Party not to the dominant KBL (as the loser Dizon did, switching from the former majority Nacionalista Party under which he was elected) but to the opposition Nacionalista Party - violating, in my view, the very spirit of the cited constitutional provision against turncoatism, which is to curtail opportunism and desertion of the opposition ranks. As noted in the Court's decision, the Constitution amendment in 1981 has now made enforcement of the said constitutional provision dependent upon the law, which may "provide otherwise," as in fact, B.P. Blg. 697 governing the 1984 elections did so provide otherwise and allowed changes of party affiliation.

FIRST DIVISION

[G.R. No. 53620. January 31, 1985]

PEDRO LONZAME, *petitioner, vs.* HON. AUGUSTO M. AMORES, Judge of the Court of First Instance of Manila, Branch XXIV, MELANIO FLORES and SEGUNDA MANUEL, *respondents.*

SYLLABUS

1. **CIVIL LAW; OBLIGATIONS AND CONTRACTS; MORTGAGE; FORECLOSURE; RIGHT OF REDEMPTION CEASES AFTER CONFIRMATION OF JUDICIAL SALE.**— In the case of *Villar vs. Javier de Paderanga* (97 Phil. 604, 608), we held that in foreclosure of mortgages under Rule 70 (now Rule 68 of the Rules of Court), there is no right of redemption after the judicial sale is confirmed; and when the foreclosure sale is validly confirmed by the court, title vests upon the purchaser in the foreclosure sale and the confirmation retroacts to the date of the sale. Thus, the rights of the mortgagee and persons holding under him are cut off by the sale upon confirmation, and with them the equity of redemption. (See also Benedicto *v.* Yulo, 26 Phil. 160, 166) The above ruling is expressly sanctioned by Section 3, Rule 68 of the Rules of Court.