G.R. No. 237428 (*Republic of the Philippines, represented by Solicitor General Jose C. Calida v. Hon. Chief Justice Maria Lourdes P. A. Sereno).*

Promulgated:

June 19, 2018

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SEPARATE CONCURRING OPINION

PERALTA, *J.*:

Respondent Hon. Chief Justice Maria Lourdes P. A. Sereno filed an *Ad Cautelam* Motion for Reconsideration, praying for the Court to set aside its May 11, 2018 Decision, which granted the Petition for *Quo Warranto* filed by the Office of the Solicitor General, and to reconsider the denial of her *Ad Cautelam* Motions for Inhibition.

Respondent raised the following grounds in support of her motion for reconsideration:

A.

The Decision is null and void, rendered in violation of Respondent's fundamental right to due process of law.

A.1. The existence of an impartial tribunal is an indispensable prerequisite of due process.

A.2. The six (6) disqualified Justices ought to have inhibited themselves from hearing and deciding the case. There were compelling grounds to believe that they were not impartial.

A.2.1. The disqualification of Associate Justices De Castro, Peralta, Jardeleza, Tijam, Bersamin and Martires is mandatory, grounded on actual bias and not mere participation in the hearings held by the House Committee on Justice.

A.2.2. The majority failed to refute actual bias on the part of Justices De Castro and Jardeleza, and did not address other grounds for mandatory disqualification present in the cases of Justices De Castro and Peralta.

A.2.3. This Honorable Court has required inhibition of trial court judges for far lesser reasons. Established jurisprudence on the inhibition of judges should be equally applied in this case.

A.3. The majority acted without jurisdiction and in gross violation of Respondent's right to due process when it took cognizance of extraneous matters as "corroborative evidence" of Respondent's supposed lack of integrity.

A.4. The Petition is ultimately based on disputed questions of fact which could not have been validly resolved by the Court without observing the mandatory procedure for reception of evidence under the Rules of Court and the Internal Rules of the Supreme Court.

B.

The Decision is contrary to the Constitution. The Honorable Court is without jurisdiction to oust an impeachable officer via *quo warranto.*

B.1. The indisputable intent of the Constitution is that impeachable officers, save for the President and Vice President, can be removed from office only by impeachment.

B.1.1. Textually, impeachment is the only method for removal of appointive constitutional officers permitted under the Constitution.

B.1.2. The intent that impeachment be exclusive is shown by the deliberations of the 1986 Constitutional Commission. It is also expressed by the views of the members of that Commission.

B.1.3. Jurisprudence prior to the 11 May 2018 Decision consistently held that impeachment is an exclusive mode for removal from office.

B.1.4. The use of the word "may" does not denote an alternative to impeachment.

B.1.5. Statutes providing for removal of public officers must be strictly construed.

B.1.6. The reasons and public policy behind impeachment as the Constitutionally-mandated mode of removal of Justices of the Supreme Court negate any other mode of removal.

B.1.7. A difficult process deliberately chosen by the Constitution cannot be substituted with an expedient procedure.

B.1.8. Assuming arguendo that Respondent is a *de facto* officer, she can still only be removed by impeachment.

B.2. The Honorable Court should have exercised judicial restraint to avoid the possibility of a constitutional crisis.

B.3. The Republic is guilty of forum-shopping. This Honorable Court ought to have dismissed the Petition and allowed these issues to be resolved by the proper constitutional body: the Congress.

B.4. Respondent did not waive her jurisdictional objections.

C.

The Honorable Court seriously erred in annulling the official act of the Judicial and Bar Council ("JBC") and the President absent any allegation, much less finding of, grave abuse of discretion. The JBC's and the President's determination of Respondent's integrity is a political question beyond the pale of judicial review.

D.

Assuming the *quo warranto* is initially available, the petition is now time-barred.

E.

Assuming arguendo that this Honorable Court has jurisdiction, the Decision is contrary to law and evidence. The Chief justice was and is a person of proven integrity.

E.1. The Honorable Court erred in ruling that Respondent "chronically failed to file her SALNS."

E.2. This Honorable Court seriously erred when it ignored the JBC's standards and criteria for determining "integrity," and crafter and applied its own definition of that abstract quality.

E.2.1. Applying the JBC's standards, criteria, and guidelines, the Respondent was able to show that she is a person of "proven integrity."

E.2.2. The JBC never considered the filing *per se* of SALNs as a measure of an applicant's integrity. The SALNs were meant to be a tool to uncover the applicant's hidden cash assets, if any.

E.3. The filing *per se* of a SALN neither proves nor negates a person's integrity.

The *Ad Cautelam* Motion for Reconsideration should be denied for lack of merit.

I will first address respondent's arguments why the *Ad Cautelam* Respectful Motion for Inhibition (Of Hon. Associate Justice Diosdado M. Peralta) should not be reconsidered.

Respondent argues that I should inhibit in this case because I had expressed my view under oath that she should have been disqualified from nomination for the position of Chief Justice due to her failure to submit the JBC her SALNs for the years that she was employed as a professor at the University of the Philippines (*U.P.*). She points out that my statement that I would have "objected to the selection of the Chief Justice" as her failure to submit her U.P. SALNs was a "very clear deviation from existing rules," suffices to produce in the mind "a firm belief or conviction" that he had already prejudged the case. She contends that it is clear from jurisprudence

that prejudgment of an issue could occur even before the case from which a judge is sought to be disqualified has been filed.

Respondent's arguments are a mere rehash of those raised in her *Ad Cautelam Respectful Motion for Inhibition,* which have already been addressed in my Separate Concurring Opinion, in this wise:

> In saying that "*had I been informed of this letter dated July 23, 2012, and a certificate of clearance, I could have immediately objected to the selection of the Chief Justice for voting because this is a very clear deviation from existing rules that if a member of the Judiciary would like ... or ... a candidate would like to apply for Chief Justice, then she or he is mandated to submit the SALNs,*" I merely made a hypothetical statement of fact, which will not necessarily result in the disqualification of respondent from nomination, if it would be proven that she had indeed filed all her SALNs even before she became an Associate Justice in 2010.
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> There is nothing in the statement that manifests bias against respondent *per se* as the same was expressed in view of my function as then Acting *Ex-Officio* Chairperson of the JBC, which is tasked with determining the constitutional and statutory eligibility of applicants for the position of Chief Justice. It would have been but rational and proper for me or anyone else in such position to have objected to the inclusion of any nominee who was not known to have met all the requirements for the subject position. The significance of his responsibility as Acting *Ex-Officio* Chairperson of the JBC gave rise to the imperative to choose the nominee for Chief Justice who was best qualified for the position, *i.e.* one who must be of proven competence, integrity, probity and independence. Be it stressed that when the hypothetical statement was made, there was no petition for *quo warranto* yet, so I cannot be faulted for pre-judging something that is not pending before the Court.
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> Besides, in my honest view, what is being assailed in this petition for *quo warranto* is respondent's failure to prove her integrity on the ground that she deliberately concealed from the JBC the material fact that she failed to file her SALNs for the years 2000, 2001, 2003, 2004, 2005 and 2006, among others, even before she became an Associate Justice of the Supreme Court in 2010. Thus, whether hypothetical or not, my statement that she should have been disqualified to be nominated as Chief Justice, is not relevant or material to this petition for *quo warranto.*
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> For one, in connection with her application for Associate Justice in July 2010, what the Office of Recruitment, Selection and Nomination (ORSN) received on July 28, 2010 from respondent was her un-notarized 2006 SALN dated July 2010. However, in a recent letter dated February 2, 2018 addressed to the ORSN, she explained that such SALN was really intended to be her SALN as of July 27, 2010. During the Oral Arguments, respondent further explained that she merely downloaded the SALN form, and forgot to erase the year "2006" printed thereon and that she was not required by the ORSN to submit a subscribed SALN. Assuming that her said SALN is for 2010, it should have been filed only in the following year (2011) as the calendar year 2010 has not yet passed, and her appointment would still be in August 16, 2010. She cannot also claim that said SALN is for 2009 because she was still in private practice that time.

> For another, she also failed to file her SALN when she resigned from the University of the Philippines (U.P.) in 2006 in violation of R.A. No. 6713. Accordingly, whatever I testified on during the Congressional Hearings has no bearing on this petition because my concern is her qualification of proven integrity before she even became an Associate Justice in 2010, and not when she applied for Chief Justice in 2012.

Respondent also insists that she raised other mandatory grounds for my inhibition, which were not refuted, such as (1) having personal knowledge of disputed evidentiary facts; (2) having served as material witness in the matter in controversy; and (3) having acted as Acting *Ex-Officio* Chairperson of the JBC for the matter in controversy. She explains that as such *Ex-Officio* Chairperson of the JBC, I would have personal knowledge of disputed evidentiary facts concerning the proceedings; thus, my disqualification is mandated by Section 5(a), Canon 3 of the New Code of Judicial Conduct and Rule 3.12(a), Canon 3 of the 1989 Code of Judicial Conduct. She asserts that my explanation to the effect that it was the Office of the Recruitment, Selection and Nomination (*ORSN*) of the JBC which was tasked to determine the completeness of the applicant's documentary requirements including SALNs, is in itself a personal account of what transpired during the selection of nominees for the Chief Justice position in 2012, and thus still covered by Canon 3, Section 5(a) of the New Code of Judicial Conduct. She adds that another ground for my disqualification is Section 1(f), Rule 8 of the Internal Rules of the Supreme Court because I signed the short list of nominees for the position of Chief Justice, which was transmitted to the Office of the President; thus, I acted in an official capacity on the subject matter of this case. According to her, the fact that the validity of my official action is in question, ought to have sufficed for my compulsory disqualification in this case.

Contrary to respondent's view that Section 5(a),[1] Canon 8 of the New Code of Judicial Conduct, which mandates that the inhibition of a judge who has "actual bias or prejudice against a party" is a compulsory ground for inhibition, the said ground is merely voluntary or discretionary under Rule 137[2] of the Rules of Court and Rule 8[3] of the Internal Rules of the Supreme

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[1] Section 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide a matter impartially. Such proceedings include, but are not limited to instances where:

(a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings. x x x

[2] Section 1. Disqualification of Judicial Officers. – No Judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity of affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

Any judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reason other than those mentioned above.

[3] Section 1. *Grounds for Inhibition.* – A Member of the Court shall inhibit himself of herself from participating in the resolution of the case for any of these or similar reasons:

a) the Member of the Court was the ponente of the decision or participated in the proceedings before the appellate or trial court;

Court, which are the applicable rules governing inhibition in this petition for *quo warranto.*

Respondent's supposed grounds for my mandatory inhibition are also reiterations of matters that have already been passed upon in my Separate Concurring Opinion, thus:

> Contrary to respondent's contention, I have no personal knowledge of the disputed facts concerning the proceedings (*e.g.,* the matters considered by the members of the JBC in preparing the shortlist of nominees). As can be gathered from the Minutes of the July 20, 2012 JBC *En Banc* Special Meeting, it is the ORSN and the JBC Execom which was given the duty to determine the completeness of the documentary requirements, including the SALNs, of applicants to judicial positions. Suffice it to state that because of my usual heavy judicial workload, it is inconceivable and impractical for me, as then Acting *Ex Officio* JBC Chairperson, to examine the voluminous dossier of several applicants and determine whether they have complete documentary requirements.
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> Equally noteworthy is the fact that there are no disputed evidentiary facts concerning the proceedings before Congress or the Court. In the July 24, 2012 Report of ORSN regarding the Documentary Requirements and SALNs of Candidates for the Position of the Chief Justice of the Philippines, then Associate Justice Maria Lourdes P. A. Sereno was noted to have "Complete Requirements" with notation "Letter 7/23/12 — considering her government records in the academe are more than 15 years old, it is reasonable to consider it infeasible to retrieve all those file." Despite her employment at the UP College of Law from November 1986 to June 1, 2006, the record of the UP Human Resources Department Office only contains her SALNs filed for 1985, 1990, 1991, 1993, 1994, 1995, 1996, 1997 and 2002,[4] but her SALNs for 2000, 2001, 2003, 2004, 2005 and 2006 are not on file,[5] whereas the records of the Central Records Division of the Office of the Ombudsman reveal that no SALN was filed by respondent from 2000 to 2009, except for the SALN for 1998. Respondent neither disputes the foregoing facts nor the authenticity and due execution of the foregoing documents.

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a) the Member of the Court was the ponente of the decision or participated in the proceedings before the appellate or trial court;
b) the Member of the Court was counsel, partner or member of law firm that is or was the counsel in the case subject of Section 3(c) of this rule;
c) the Member of the Court or his or her spouse, parent or child is pecuniarily interested in the case
d) the Member of the Court is related to either party in the case within the sixth degree of consanguinity or affinity, or to an attorney or any member of a law firm who is counsel of record in the case within the fourth degree of consanguinity or affinity;
e) the Member of the Court was executor, administrator, guardian or trustee in the case; and
f) the Member of the Court was an official or is the spouse of an official or former official of the government agency or private agency or private entity that is a party to the case, and the Justice or his or her spouse has reviewed or acted on any matter relating to the case.

A Member of the Court may in the exercise of his or her sound discretion, inhibit himself of herself for a just or valid reason other than any of those mentioned above.

[4] Petitioner's Memorandum, Annex "O."

[5] *Id.*, Annex "B."

> Significantly, when I was Acting *Ex-Officio* Chairperson in 2012, I have had no personal knowledge that respondent had not filed her SALNs for 2000, 2001, 2003, 2004, 2005 and 2006. I may have had access to her SALNs for 2009, 2010 and 2011, but it was only during the Congressional Hearings that it was discovered that she failed to file her SALNs for the period between 2000-2006, as borne by the Certifications issued by the Office of the Ombudsman and the U.P. HRDO pursuant to *subpoena duces tecum* issued by the Committee on Justice.
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> It is likewise important to distinguish the proceedings before the Committee on Justice of the House of Representatives and the *quo warranto* petition pending before the Court. The issue in the petition for *quo warranto* is whether respondent unlawfully holds or exercises a public office in view of the contention of the Solicitor General that her failure to file SALNs, without lawful justification, underscored her inability to prove her integrity which is a constitutional qualification to become a member of the Supreme Court. In contrast, the issue in the Congressional Hearings where I was invited as a Resource Person was the determination of probable cause to impeach the respondent where her qualifications prior to her appointment as Chief Justice was never an issue nor raised as ground for impeachment.

There is no merit in respondent's claim that I am compulsorily disqualified to act in this case because as then *Ex-Officio* Chairperson of the JBC, I signed the short list of nominees for the position of Chief Justice, and the validity of my official action is purportedly in question. Suffice it to state that there is no dispute in this case as to the validity of my act of transmitting to the Office of the President the short list of nominees. I may have participated in the deliberation of the names included in the short list, but since respondent deliberately concealed from the JBC the material fact that she failed to file her SALNs in 2000, 2001, 2003, 2004, 2005 and 2006, I was denied the opportunity to pass upon her qualification of "proven integrity." As a matter of course, respondent's name would not have been included in the deliberation for the said short list, if only the JBC Executive Committee (*Execom*) and the ORSN had exercised reasonable diligence in the performance of their ministerial duty to ensure the complete documentary requirements of the applicants to the position of Chief Justice.

For all her harping on the mandatory grounds of inhibition, respondent should be well aware of what constitutes a clear case of "conflict of interest" which is a ground for recusal. In the November 17, 2017 deliberations where the JBC *En Banc* voted for the applicants to be shortlisted for the position of Court of Appeals Presiding Justice, respondent should not have allowed another round of voting, but should have sustained the motion of Judge Toribio Ilao, Jr. to re-open the position, considering that only two (2) of the five (5) candidates were voted by the JBC *En Banc* when the Constitution requires that three (3) from five (5) or more qualified candidates be voted upon. Instead, respondent insisted on a re-vote among the three (3) candidates who were not initially voted upon (first in the history of the JBC), to include one applicant in the shortlist of nominees, who penned a decision reversing the ruling of the trial court, which found that the fees awarded to the lawyers

(including respondent) who represented the Philippine Government in a case, were exorbitant and unenforceable for being contrary to public policy. Note that when the second round of voting took place, there was still a pending motion for reconsideration of the said applicant's decision which is favorable to respondent. It may even be said that respondent concealed such conflict of interest from the other JBC *Ex-Officio* members, who could have called for her inhibition as then *Ex-Officio* Chairperson.

In claiming that I am compulsorily disqualified from acting on this petition for *quo warranto*, respondent ignores the crucial distinction between the subject matter of this petition and that of the 2012 deliberations of the JBC *En Banc* when I acted as its *Acting Ex-Officio* Chairperson. Note that the subject matter of this petition for *quo warranto* is her ineligibility to become a member of the Judiciary because she was not a person of "proven integrity" for deliberately concealing from the JBC the fact that she had failed to file her SALNs, whereas the subject matter of the 2012 deliberations of the JBC *En Banc* is the overall qualifications of applicants, including respondent, to become a Chief Justice. Equally noteworthy is the fact that while there is a disputed evidentiary fact in this petition for *quo warranto* as to whether or not respondent had failed to file her SALNs before the Ombudsman Central Records Division or the U.P. Human Resource Department Office (*HRDO*), there was no disputed evidentiary fact during the JBC deliberations with respect to her SALN requirement. Then as now, however, there is no question that she had failed to file her SALNs **before the JBC** for so many years, including those for 2000, 2001, 2003, 2004, 2005 and 2006, but the ORSN erroneously stated in its report dated July 24, 2012 that she had "COMPLETE REQUIREMENTS [-] Letter 7/23/12 – considering that her government records in the academe are more than 15 years old, it is reasonable to consider it infeasible to retrieve all those file."

Respondent further asserts that I was a material witness in the matter in controversy because I testified before the House Committee on Justice that the JBC should have disqualified her for failure to submit her SALNs for the years when she was a U.P. Professor; hence, disqualified to sit in judgment pursuant to Canon 3, Section 5(b) of the New Code of Judicial Conduct and Rule 3.12(b), Canon 3 of the 1989 Code of Judicial Conduct. She claims that my opinion before the House Committee on Justice as to her invalid nomination for failure to submit SALNs to the JBC, given about a month before the petition for *quo warranto* was filed, might in some way or another, influence my decision in this case, because I already have personal knowledge of disputed evidentiary facts.

Respondent fails to persuade. A "material witness" is one who can testify about matters having logical connection with the consequential facts, especially if few others, if any, know about those matters.[6] For one, whether

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6 Black's Law Dictionary, Eight Edition.

or not I will be a material witness in the impeachment proceedings would be for the prosecution panel to eventually decide. For another, as can be clearly gathered from the Minutes of the July 20, 2012 JBC *En Banc* Special Meeting and the transcript of the Congressional Hearings, I cannot be a material witness in the first place, because I have no personal knowledge as to whether there was substantial compliance with the SALN requirement, the determination of which having been expressly delegated to the JBC Execom. Because of my usual heavy judicial workload as an Associate Justice, it was inconceivable and impractical for me, as then Acting *Ex-Officio* JBC Chairperson, to examine the voluminous dossier of several applicants and determine whether they have complete documentary requirements, including SALNs.

To my mind, the material witnesses who could testify whether there was substantial SALN requirement are the members of the JBC Execom and the ORSN. On my part, I could corroborate the matters that transpired during the July 20, 2012 JBC *En Banc* Special Meeting, and the fact that respondent's letter dated July 23, 2012 never reached the JBC *En Banc* before the deadline for the submission of documentary requirements. It is also important to stress that when I was Acting *Ex-Officio* Chairperson in 2012, I have had no personal knowledge that respondent had not filed her SALNs for 2000, 2001, 2003, 2004, 2005 and 2006. I may have had access to her SALNs for 2009, 2010 and 2011, but it was only during the Congressional Hearings in 2018 that it was discovered that she failed to file her SALNs for the periods between 2000-2006, as borne by the Certifications issued by the Office of the Ombudsman and the U.P. HRDO pursuant to *subpoena duces tecum* issued by the Committee on Justice.

Even assuming that respondent's name was included in the shortlist of nominees for the position of Chief Justice submitted by the JBC to the Office of the President, there is a difference between determining her qualifications and the violation of the SALN law. Granted that there was a waiver on the part of the JBC with regard to respondent's incomplete SALNs, the fact remains that there were violations of the statutory and constitutional laws for failure to file SALNs, which not only cast doubt on her integrity, but also constitute culpable violation of the Constitution, and violation of R.A. Nos. 6713 and 3019 for as many years that she failed to file her SALNs. Because the said violations were committed even prior to respondent's appointment as Associate Justice of the Supreme Court in 2010, then they are proper subject of *quo warranto* proceedings instead of impeachment.

As to the respondent's right to due process, I have already explained in a Separate Concurring Opinion that my participation in the Congressional Hearings did not violate her right to due process, because it was never shown that I am disqualified on either compulsory or voluntary grounds for inhibition under the Rules of Court and the Internal Rules of the Supreme Court. Respondent's allegations of actual bias and partiality are unsubstantiated,

conjectural, and not founded on rational assessment of the factual circumstances on which the motion to inhibit is anchored. When I made the statements before the Congressional Hearings for the determination of probable cause to impeach the respondent Chief Justice, no petition for *quo warranto* was filed yet before the Court, hence, I could not have pre-judged the case. Once again, the genuine issue in this petition for *quo warranto* is not the eligibility of respondent to be appointed as Chief Justice in 2012, but her qualification of "proven integrity" when she was appointed as an Associate Justice in 2010 despite concealment of her habitual failure to file SALNs. Of utmost importance is the fact that I, like every other member of the Supreme Court, have never let personal reasons and political considerations shroud my judgment and cast doubt in the performance of my sworn duty, my only guide in deciding cases being a clear conscience in rendering justice without fear or favor in accordance with the law and the Constitution.

Jointly addressing the substantive issues in respondent's *Ad Cautelam* Motion for Reconsideration, I restate my position that there is nothing in Section 2, Article XI of the 1987 Constitution that states that Members of the Supreme Court, among other public officers, may be removed from office "only" through impeachment. The provision simply means than only the enumerated high government officials may be removed via impeachment, but it does not follow that they could not be proceeded against in any other manner, if warranted. Otherwise, the constitutional precept that public office is a public trust would be undermined simply because political or other improper consideration may prevent an impeachment proceeding being initiated.

Since Section 2, Article XI of the 1987 Constitution is clear and unambiguous, it is neither necessary nor permissible to resort to extrinsic aids for its interpretation, such as the records of deliberation of the constitutional convention, history or realities existing at the time of the adoption of the Constitution, changes in phraseology, prior laws and judicial decisions, contemporaneous constructions, and consequences of alternative interpretations.[7] It is only when the intent of the framers does not clearly appear in the text of the provision, as when it admits of more than one interpretation, where reliance on such extrinsic aids may be made.[8] After all, the Constitution is not primarily a lawyer's document, and it does not derive its force from the convention that framed it, but from the people who ratified it.[9]

As a rule, an action against a public officer or employee for his ouster from office – within one year from the date the petitioner is ousted from his position[10] or when the right of the claimant to hold office arises.[11] Exception

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7 Statutory Construction, Ruben E. Agpalo, p. 439 (2003)
8 *People v. Muñoz*, 252 Phil. 105, 118 (1989).
9 *People v. Derilo*, 338 Phil. 350, 376(1997).
10 *Madrigal v. Lecaroz*, 269 Phil. 20, 24 (1990).
11 *Unabia v. City Mayor of Cebu*, 99 Phil. 253 (1956).

to the rule is when the petitioner was constantly promised and reassured or reinstatement, in which case laches may not be applied because petitioner is not guilty of inaction, and it was the continued assurance of the government, through its responsible officials, that led petitioner to wait for the government to fulfill its commitment.[12] Thus, I posit that the one-year prescriptive period to file a petition for *quo warranto* should commence from the time of discovery of the cause for the ouster from public office, especially in cases where the ground for disqualification is not apparent or is concealed.

It is not amiss to stress that under American jurisprudence, which has persuasive effect in this jurisdiction, it had been held that the power to impeach executive officers, vested in the legislature, does not affect the jurisdiction of the Supreme Court to try the right to office, since such right to an office is a proper matter of judicial cognizance, and impeachment is not a remedy equivalent to, or intended to take the place of *quo warranto*.[13]

Contrary to respondent's claim that the burden of proof to show unlawful holding or exercise of public office rests on the petitioner in a *quo warranto* proceeding, the general rule under American jurisprudence is that the burden of proof is on respondent when the action is brought by the attorney general, to test right to public office. Therefore, it is the respondent, not the petitioner, who bears the burden to prove that she possessed the constitutional qualification of proven integrity when she applied for the position of Associate Justice of the Supreme Court in 2010, despite her failure to comply with the statutory and constitutional requisite of filing SALNs for the years of 2000, 2001, 2003, 2004, 2005 and 2006 while she was in government service, albeit on official leave intermittently.

In sum, the filing of Statement of Assets, Liabilities and Net Worth (*SALN*) is a constitutional and statutory obligation of public officers and employees. Submission of SALN is a pre-requisite of the Judicial and Bar Council for applicants to the Judiciary who come from government service. Its significance in determining the integrity of applicants to the Judiciary came to the fore when former Chief Justice Renato C. Corona was impeached for failure to properly declare assets in his SALNs. Based on the certifications issued by the University of the Philippines Human Resource Department Office and the Office of the Ombudsman Central Records Division, respondent failed to file her SALNs for the years 2000, 2001, 2003, 2004, 2005 and 2006. When respondent deliberately concealed from the JBC the fact that she failed to file her said SALNs while she was a Professor at the University of the Philippines College Law, she demonstrated that her integrity is dubious and questionable. Therefore, her appointment as an Associate Justice in August 16, 2010 is void *ab initio,* for she lacks the constitutional qualification of "proven integrity" in order to become a member of the Court.

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12 *Cristobal v. Melchor*, 189 Phil. 658, 1997.

13 74 C.J.S. Quo Warranto § 15.

WHEREFORE, I vote to **DENY** respondent's *Ad Cautelam* Motion for Reconsideration for lack of merit.

Respectfully submitted.

DIOSDADO M. PERALTA
Associate Justice