



SUPREME COURT OF THE PHILIPPINES
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**REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila**

EN BANC

**GOVERNOR EDGARDO A.
TALLADO,**
Petitioner,

- versus -

G.R. No. 246679

**COMMISSION ON ELECTIONS,
NORBERTO B. VILLAMIN, and
SENANDRO M. JALGALADO,**
Respondents.


x ----- x

January 22, 2020

Sirs/Mesdames:

I am sending herewith copy of the Decision with revised page 18 of the main decision (signature page) which was promulgated on September 10, 2019, with the information that Justice Estela M. Perlas-Bernabe, Associate Justice, this Court, actually joined the dissenting opinion of Justice Jardeleza in the above-entitled case.

Very truly yours,


EDGAR O. ARICHETA
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Republic of the Philippines
Supreme Court
Manila

EN BANC

**GOVERNOR EDGARDO A.
TALLADO,**

Petitioner,

G.R. No. 246679

Present:

**BERSAMIN, C.J.,
CARPIO,
PERALTA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, JR., A.,
GESMUNDO,
REYES, JR., J.,
*HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, JJ.**

-versus-

**COMMISSION ON ELECTIONS,
NORBERTO B. VILLAMIN, and
SENANDRO M. JALGALADO,**

Respondents.

Promulgated:

September 10, 2019

X-----X

DECISION

BERSAMIN, C.J.:

Once the order of the Office of the Ombudsman to dismiss an elective local official is executed, the dismissed official thereby loses title to the office even if he or she has filed a timely appeal assailing the dismissal which would have prevented it from attaining finality. The loss of title to the office constitutes an involuntary interruption of the official's service of his or her full term.

On official business.

The Case

Before the Court is the petition for *certiorari* initiated under Rule 64 of the Rules of Court by the petitioner assailing the resolution promulgated on March 29, 2019 by the Commission on Elections (COMELEC) First Division in SPA No. 18-041 (DC) and SPA No. 18-137 (DC) granting the private respondents' petitions to deny due course and/or to cancel the petitioner's Certificate of Candidacy (COC),¹ and the resolution promulgated on May 9, 2019 by the Commission on Elections *En Banc* denying the petitioner's verified motion for reconsideration.²

Antecedents

The petitioner was duly elected as Governor of the Province of Camarines Norte in the 2010, 2013 and 2016 elections. He fully served his 2010-2013 and 2013-2016 terms. It is the turn of events in respect of the petitioner's 2016-2019 term that has spawned the controversy under review.

Relevant are three administrative cases decided by the Office of the Ombudsman (OMB).

It appears that on January 28, 2013, one Edgardo Gonzales filed in the OMB an administrative complaint charging the petitioner with grave misconduct, oppression or grave abuse of authority.³ While the case was pending, the petitioner won as Governor in the 2013 elections. On October 2, 2015, while he was serving his 2013-2016 term, the OMB found and declared him administratively liable and imposed upon him the penalty of suspension for one year,⁴ which suspension was immediately implemented by the Department of Interior and Local Government (DILG).⁵

The petitioner timely appealed the suspension to the Court of Appeals (CA) by petition for review,⁶ docketed as C.A.-G.R. SP No. 142737.

Acting on the petitioner's appeal, the CA promulgated its decision reducing the imposed penalty of suspension from one year to six months.⁷ He immediately re-assumed his position after the lapse of six months, and his re-assumption later became the subject of the third OMB case.⁸ Under

¹ *Rollo*, pp. 56-63.

² *Id.* at 51-55.

³ *Id.* at 10.

⁴ *Id.* at 125.

⁵ *Id.* at 57.

⁶ *Id.* at 577-594.

⁷ *Id.*

⁸ *Id.* at 58.

the resolution issued on December 1, 2016 in C.A.-G.R. SP No. 142737, however, the CA restored the one-year suspension of the petitioner.⁹

On November 4, 2015, several persons (namely: Milline Marie B. Dela Cruz, Mark Anthony J. Mago, Maria Joanabelle L. Crisostomo, and Shanta V. Baraquiel) initiated the second OMB case against the petitioner.¹⁰

In the decision dated April 18, 2016 and approved by then Ombudsman Conchita Carpio Morales on September 13, 2016, the OMB held the petitioner guilty of grave misconduct and oppression/abuse of authority and ordered his dismissal from the service.¹¹

Although the petitioner appealed to the CA,¹² the DILG implemented the OMB decision on November 8, 2016 by ordering the petitioner to vacate his position as Governor.¹³

On the same date, the DILG issued another memorandum addressed to then Vice Governor Jonah Pedro G. Pimentel (Pimentel) directing him to assume as Governor of Camarines Norte.¹⁴ The memorandum stated that there was a permanent vacancy in the office of Governor as a consequence of the petitioner's dismissal from the service. In ordering Pimentel to assume as Governor, the DILG cited Section 44 of Republic Act No. 7160, or the *Local Government Code* (LGC).

On November 16, 2016, Pimentel took his oath of office as Governor of Camarines Norte,¹⁵ and thereupon assumed office and exercised the functions of Governor.¹⁶

On December 12, 2016, the CA issued a temporary restraining order enjoining the DILG from implementing or continuously implementing the decision of the OMB.¹⁷ Thus, the petitioner was able to re-assume his post as Governor.¹⁸

The third OMB case, as noted above, concerned the petitioner's re-assumption of the office of Governor after the CA had initially reduced the penalty imposed in the first OMB case to suspension for six months. The

⁹ Id. at 58, 145.

¹⁰ Id. at 131-141.

¹¹ Id.

¹² Id. at 232-237.

¹³ Id. at 215.

¹⁴ Id. at 216.

¹⁵ Id. at 382.

¹⁶ Id. at 384-397.

¹⁷ Id. at 398-403.

¹⁸ Id. at 58.

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complainant thereat initiated another complaint on the basis that the petitioner had violated the first OMB decision by re-assuming office without having fully served his suspension.¹⁹

On January 11, 2018, the OMB rendered another decision finding the petitioner guilty of grave misconduct, and ordering his dismissal from the service.²⁰

The petitioner appealed the decision to the CA.²¹

To implement the decision of the OMB, the DILG issued the Memorandum dated March 14, 2018 ordering Pimentel to assume as Governor,²² this time citing Section 46 of LGC as legal basis therefor.

On March 15, 2018, Pimentel again took his oath of office as Governor, and assumed office and exercised the functions of Governor.²³

On September 26, 2018, the CA ruled on the petitioner's appeal by modifying the penalty of dismissal to six months suspension.²⁴

On October 29, 2018, the DILG issued its memorandum directing the implementation of the decision of the CA, and the reinstatement of the petitioner as Governor if he had already served the six-month suspension.²⁵

On October 30, 2018, the petitioner took his oath of office as Governor of Camarines Norte.²⁶

In the meanwhile, on October 15, 2018, the petitioner filed his Certificate of Candidacy (COC) for Governor of Camarines Norte for the May 2019 elections.²⁷ This prompted respondents Norberto B. Villamin and Senandro M. Jalgalado to file their separate petitions (respectively docketed as SPA No. 18-041 (DC) and SPA No. 18-137 (DC)) with the COMELEC praying for the denial of due course to and/or for the cancellation of the petitioner's COC,²⁸ which petitions were consolidated and predicated on the application of the three-term limit rule.

¹⁹ Id. at 58, 238-245.

²⁰ Id. at 243-244.

²¹ Id. at 142-160.

²² Id. at 413.

²³ Id. at 414-452.

²⁴ Id. at 483-501.

²⁵ Id. at 505.

²⁶ Id. at 507.

²⁷ Id. at 19, 112.

²⁸ Id. at 56-63.

In its March 29, 2019 resolution, the COMELEC First Division granted the petitions and ordered the cancellation of the petitioner's COC.²⁹ The COMELEC First Division concluded that the petitioner had fully served three consecutive terms considering that his suspension and dismissals from the service were not interruptions of his term because he had not thereby lost title to the office; that the OMB's decisions ordering his dismissals were not yet final; and that there had been no permanent vacancy and no succession in accordance with Section 44 of the LGC.

The COMELEC First Division disposed as follows:

WHEREFORE, premises considered, the Petitions are hereby **GRANTED**. The Certificate of Candidacy filed by Respondent **EDGARDO A. TALLADO** is **CANCELLED**.

SO ORDERED.

It is notable that the COMELEC First Division was not unanimous. Commissioner Al A. Parreño dissented and voted to deny the petitions, opining that the dismissals from the service had effectively interrupted the petitioner's 2016-2019 term, and that the petitioner had thereby involuntarily lost title to the office.³⁰

In the resolution promulgated on May 9, 2019,³¹ the COMELEC *En Banc*, with Commissioner Parreño maintaining his dissent, denied the petitioner's verified motion for reconsideration and affirmed the ruling of the COMELEC First Division, to wit:

WHEREFORE, premises considered, the Commission (*En Banc*) **AFFIRMS** the *Resolution dated 29 March 2019* of the Commission (*First Division*) and **RESOLVES** to **DENY** the Motion for Reconsideration of Respondent Edgardo A. Tallado.

SO ORDERED.

The COMELEC *En Banc* declared that the petitioner's dismissal from the service had been temporary inasmuch as he had appealed the OMB decisions; that the DILG's implementation of the dismissals, the petitioner's removal from office, and the Vice-Governor's assumption as Governor did not affect the temporariness of the vacancy in the office of the Governor; that the petitioner had later on re-assumed his post as Governor; and that the DILG's implementation of the ruling on the third OMB case, on the basis of Section 46 of the LGC, had corrected its earlier erroneous reliance on

²⁹ Id. at 56-63.

³⁰ Id. at 69-73.

³¹ Id. at 51-55.

Section 44 of the LGC in implementing the ruling in the second OMB case. The COMELEC *En Banc* took the view that it was Section 46 of the LGC that was applicable inasmuch as there was only a temporary vacancy.

Undeterred, the petitioner lodged the petition for *certiorari* with the Court.

On May 10, 2019, the Court issued a *status quo ante* order requiring the parties to observe the *status quo* prevailing before the issuance of the COMELEC *En Banc* resolution.³² In the resolution of June 4, 2019, the Court *En Banc* confirmed the *status quo ante* order.³³

The petitioner eventually garnered the highest number of votes for the position of Governor of Camarines Norte in the May 13, 2019 elections. On May 16, 2019, the petitioner was proclaimed as the duly elected Governor of Camarines Norte.³⁴

Issues

The petitioner contends that his third term as Governor of Camarines Norte was involuntarily interrupted when the Ombudsman's dismissal orders were implemented, thereby preventing the application of the three-term limit rule. According to him, it is immaterial that the CA subsequently modified the Ombudsman's decisions to reduce the penalty because the modification did not change the fact that he had involuntarily ceased to hold his title when the DILG ordered him to vacate his office on November 8, 2016 and again on March 14, 2018 pursuant to the decisions. He thereby lost his title to the office, and the continuity of his service as Governor was involuntarily interrupted.³⁵

The petitioner argues that contrary to the findings of the COMELEC, his removal from office caused a permanent vacancy that necessitated the appointment of Pimentel as his successor, and that even the DILG itself had recognized the existence of the permanent vacancy and consequently ordered Pimentel to succeed him pursuant to Section 44 of the LGC.³⁶

After directing the respondents to file their comment,³⁷ the Office of the Solicitor General (OSG) filed a *Manifestation and Motion in Lieu of*

³² Id. at 940-942.

³³ Id. at 985-A.

³⁴ Id. at 992-1000.

³⁵ Id. at 27.

³⁶ Id. at 32.

³⁷ Id. at 940-942.

Comment,³⁸ averring therein that the COMELEC had acted with grave abuse of discretion amounting to lack or excess of jurisdiction in finding and holding that the petitioner was ineligible to run for Governor in the May 2019 elections under the three-term limit rule.³⁹

The OSG, as tribune of the people, submits that the implementation of the Ombudsman's decisions on the petitioner's removal from office must be considered as term interruption because he thereby ceased to exercise the functions and prerogatives of the office; and that he must be deemed not to have fully served his third term as Governor considering that he involuntarily lost his title to the office.⁴⁰

To support its submission, the OSG cites *Lonzanida v. COMELEC (Lonzanida)*⁴¹ wherein this Court has held that an elective official could not be deemed to have served the full term if he was ordered to vacate his post before the expiration of the term; that the petitioner's third term as Governor was validly interrupted twice when he complied with the DILG's memoranda ordering him to vacate his post; and that the petitioner's loss of title to the office was manifested by the fact that Pimentel took his oath of office as Governor, and discharged all the functions and responsibilities thereof.⁴²

On its part, the COMELEC contends that the three-term limit rule must be strictly construed in order to avoid attempts to circumvent and evade the application of the same;⁴³ that under Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman (OMB's Rules), the petitioner's exoneration from the charge of grave misconduct rendered the "dismissal" nothing more than a mere preventive suspension,⁴⁴ which was not the term interruption that effectively precluded the application of the three-term limit rule;⁴⁵ that the dismissal and its resultant legal effects must not be recognized in view of the reduction of the penalty from dismissal to suspension;⁴⁶ that because the petitioner's position as Governor was never permanently vacant, he was able to re-assume the office and functions of Governor, thus warranting the conclusion that the vacancy was only temporary.⁴⁷

³⁸ Id. at 1059-1080.

³⁹ Id. at 1076.

⁴⁰ Id. at 1076.

⁴¹ G.R. No. 135150, July 28, 1999, 311 SCRA 602.

⁴² *Rollo*, p. 1074.

⁴³ Id. at 1139.

⁴⁴ Id. at 1143.

⁴⁵ Id. at 1145.

⁴⁶ Id. at 1148.

⁴⁷ Id. at 1152.

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In his comment,⁴⁸ respondent Villamin claims that because the two OMB decisions suspending and/or removing the petitioner did not become final despite their immediate execution, the petitioner never lost his title even if he could no longer exercise the powers and authority attached to the position;⁴⁹ that while the petitioner's suspension resulted to a vacancy in the office of the Governor, the vacancy was only temporary; that Pimentel only held the office of Governor in an acting capacity, with the full title being still held by the petitioner.⁵⁰ On his part, respondent Jalgalado adopted Villamin's comment.⁵¹

The petitioner specifies the following issues for the Court's consideration and resolution, to wit:

I.

WHETHER THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT SUSTAINED THE FINDINGS OF THE COMELEC FIRST DIVISION[,] WHICH CANCELLED PETITIONER'S CERTIFICATE OF CANDIDACY[.]

II.

WHETHER THERE WAS LOSS OF TITLE TO PETITIONER'S OFFICE DURING HIS THIRD TERM WHICH CONSTITUTED AN INVOLUNTARY TERM INTERRUPTION[.] WHICH PREVENTS THE APPLICATION OF THE THREE-TERM LIMIT RULE, THEREBY MAKING HIM ELIGIBLE TO RUN FOR THE POSITION OF GOVERNOR OF CAMARINES NORTE IN THE FORTHCOMING MAY 13, 2019 NATIONAL AND LOCAL ELECTIONS[.]

III.

WHETHER PETITIONER'S TWICE REMOVAL (*sic*) FROM OFFICE DURING HIS THIRD TERM CREATED A PERMANENT VACANCY IN THE GUBERNATORIAL POST[.]

Ruling of the Court

The petition for *certiorari* is meritorious.

I.

The three-term limit rule

Section 8, Article X, of the Constitution embodies the three-term limit rule, *viz.*:

⁴⁸ Id. at 952-966.

⁴⁹ Id. at 955.

⁵⁰ Id. at 956.

⁵¹ Id. at 1001-1004.

Section 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

To implement the Constitutional provision, Section 43(b) of the LGC states:

x x x x

(b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

x x x x

For the application of the disqualification under the three-term limit rule, therefore, two conditions must concur, to wit: (1) that the official concerned has been elected for three consecutive terms to the same local government post; and (2) that he or she has fully served three consecutive terms.⁵²

In *Abundo v. COMELEC (Abundo)*,⁵³ the Court, upon reviewing the applicable jurisprudence on consecutiveness of terms, summarized the rules for the determination of involuntary interruptions to an elective local official's term thusly:

To summarize, hereunder are the prevailing jurisprudence on issues affecting consecutiveness of terms and/or involuntary interruption, viz.:

1. When a permanent vacancy occurs in an elective position and the official merely assumed the position pursuant to the rules on succession under the LGC, then his service for the unexpired portion of the term of the replaced official cannot be treated as one full term as contemplated under the subject constitutional and statutory provision that service cannot be counted in the application of any term limit (*Borja, Jr.*). If the official runs again for the same position he held prior to his assumption of the higher office, then his succession to said position is by operation of law and is considered an involuntary severance or interruption (*Montebon*).

2. An elective official, who has served for three consecutive terms and who did not seek the elective position for what could be his fourth

⁵² *Lonzanida v. COMELEC*, G.R. No. 135150, July 28, 1999, 311 SCRA 602, 611.

⁵³ G.R. No. 201716, January 8, 2013, 688 SCRA 149.

term, but later won in a recall election, had an interruption in the continuity of the official's service. For, he had become in the interim, *i.e.*, from the end of the 3rd term up to the recall election, a private citizen (*Adormeo and Socrates*).

3. The abolition of an elective local office due to the conversion of a municipality to a city does not, by itself, work to interrupt the incumbent official's continuity of service (*Latasa*).

4. Preventive suspension is not a term-interrupting event as the elective officer's continued stay and entitlement to the office remain unaffected during the period of suspension, although he is barred from exercising the functions of his office during this period (*Aldovino, Jr.*).

5. When a candidate is proclaimed as winner for an elective position and assumes office, his term is interrupted when he loses in an election protest and is ousted from office, thus disabling him from serving what would otherwise be the unexpired portion of his term of office had the protest been dismissed (*Lonzanida and Dizon*). The break or interruption need not be for a full term of three years or for the major part of the 3-year term; an interruption for any length of time, provided the cause is involuntary, is sufficient to break the continuity of service (*Socrates*, citing *Lonzanida*).

6. When an official is defeated in an election protest and said decision becomes final after said official had served the full term for said office, then his loss in the election contest does not constitute an interruption since he has managed to serve the term from start to finish. His full service, despite the defeat, should be counted in the application of term limits because the nullification of his proclamation came after the expiration of the term (*Ong and Rivera*).

Based on the foregoing, there is an involuntary interruption in the term of an elective local official when there is a break in the term as a result of the official's loss of title to the office.

II.

The petitioner was dismissed from office, and lost his title thereto

Nonetheless, there is no definitive ruling yet on whether or not an elective local official's dismissal from the service pursuant to the executory decision of the OMB may be considered as an effective interruption in the official's term.

The first requisite for the application of the three-term limit rule is present inasmuch as the petitioner was elected as Governor of Camarines Norte for three consecutive terms, specifically in the 2010, 2013 and 2016 elections. But the second requisite was not satisfied because his intervening

dismissals from the service truly prevented him from fully serving the third consecutive term.

In ruling that the petitioner had fully served three consecutive terms as Governor and was, therefore, disqualified from running for a fourth consecutive term, the COMELEC cited *Aldovino v. COMELEC (Aldovino)*⁵⁴ under which the three-term limit rule must be read in the context of interruption of term, not in the context of interrupting the full continuity of the exercise of the powers of the elective position.⁵⁵

The COMELEC explained that despite clearly mandating the dismissal of the petitioner, the OMB's decisions of dismissal against him did not deprive him of his title to the office because the dismissals were not yet final by virtue of their being timely appealed; that, consequently, there was no vacancy in the office of Governor and the petitioner's service of the penalty could only be considered as preventive suspension; and that following *Aldovino*, the preventive suspension could not be considered as an interruption of the petitioner's term.

We cannot subscribe to the COMELEC's explanation.

Interruption of term entails the involuntary loss of title to office, while interruption of the full continuity of the exercise of the powers of the elective position equates to failure to render service. In this regard, *Aldovino* is instructive, as follows:

From all the above, we conclude that the "interruption" of a term exempting an elective official from the three-term limit rule is one that involves no less than the involuntary loss of title to office. The elective official must have involuntarily left his office for a length of time, however short, for an effective interruption to occur. This has to be the case if the thrust of Section 8, Article X and its strident intent are to be faithfully served, i.e., to limit an elective official's continuous stay in office to no more than three consecutive terms, using "voluntary renunciation" as an example and standard of what does not constitute an interruption.

Thus, based on this standard, loss of office by operation of law, being involuntary, is an effective interruption of service within a term, as we held in *Montebon*. On the other hand, temporary inability or disqualification to exercise the functions of an elective post, even if involuntary, should not be considered an effective interruption of a term because it does not involve the loss of title to office or at least an effective break from holding office; the office holder, while retaining title, is simply barred from exercising the function of his office for a reason provided by law.

⁵⁴ G.R. No. 184836, December 23, 2009, 609 SCRA 234.

⁵⁵ *Id.*

An interruption occurs when the term is broken because the office holder lost the right to hold on to his office, and cannot be equated with the failure to render service. The latter occurs during an office holder's term when he retains title to the office but cannot exercise his functions for reasons established by law. Of course, the "failure to serve" cannot be used once the right to office is lost; without the right to hold office or to serve, then no service can be rendered so that none is really lost.⁵⁶

The COMELEC relies on the OMB's Rules to support its view that the execution of the orders of dismissal against the petitioner did not create a permanent, but only a temporary, vacancy.

A review reveals that the OMB's Rules did not justify the COMELEC's reliance.

The OMB's Rules, promulgated in Administrative Order No. 07, Series of 1990, as amended by Administrative Order No. 17, Series of 2003, stated in Section 7 of its Rule III as follows:

Section 7. Finality and execution of decision.- Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer.

⁵⁶ Id. at 259-260.

Section 10 of Rule III of the OMB's Rules also stated:

Section 10. Penalties. — (a) For administrative charges under Executive Order No. 292 or such other executive orders, laws or rules under which the respondent is charged, the penalties provided thereat shall be imposed by the Office of the Ombudsman; (b) in administrative proceedings conducted under these Rules, **the Office of the Ombudsman may impose the penalty of** reprimand, suspension without pay for a minimum period of one (1) month up to a maximum period of one (1) year, demotion, **dismissal from the service**, or a fine equivalent to his salary for one (1) month up to one (1) year, or from Five Thousand Pesos (₱5,000.00) to twice the amount malversed, illegally taken or lost, or both, at the discretion of the Ombudsman, taking into consideration circumstances that mitigate or aggravate the liability of the officer or employee found guilty of the complaint or charge.

The penalty of dismissal from the service shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service, unless otherwise provided in the decision.

Based on the foregoing, the OMB's Rules mandated that decisions handed down in administrative cases should be immediately executory despite being timely appealed. Thus, it was clear that what were to be executed were the decisions of the Ombudsman without consideration as to their finality.

That the second paragraph of Section 7 of Rule III of the OMB's Rules, *supra*, characterizes the penalty of suspension or dismissal meanwhile enforced as a preventive suspension should the public officer later win his or her appeal of the OMB's decision is absurd and illogical as to the penalty of dismissal. The characterization also lacks legal and factual support. In his case, the petitioner was twice fully divested of his powers and responsibilities as Governor by the DILG immediately transferring the discharge of the office of Governor and the exercise of the functions and powers thereof to another person, Vice Governor Pimentel. The latter forthwith took his oath of office as Governor and unconditionally assumed and discharged such office. Without doubt, the execution of the OMB's dismissals in that manner resulted in the petitioner's loss of title to the office of Governor.

Neither did the non-finality of the decisions render any less the petitioner's loss of his title to the office. It would be unwarranted to differentiate the dismissals enforced against him from the dismissal based on and pursuant to a decision that was already final. Both dismissals would produce the same effect – the ouster of the official from his title to the office.

Indeed, even the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) imposes this effect of dismissal as the “permanent separation” of the guilty civil servant from his or her title to the office by explicitly providing in its Section 56(a), *viz.*:

Section 56. Duration and Effect of Administrative Penalties.— The following rules shall govern the imposition of administrative penalties:

a. The penalty of dismissal shall **result in the permanent separation of the respondent from the service**, without prejudice to criminal or civil liability.⁵⁷

X X X X

Moreover, it should be pointed out that the decisions directing the dismissal of the petitioner included no indication of the petitioner being thereby placed under any type of suspension. In fact, the decisions did not state any conditions whatsoever. As such, he was dismissed *for all intents and purposes of the law* in the periods that he was dismissed from office even if he had appealed. In that status, he *ceased* to hold the title to the office *in the fullest sense*.

The length of time of the involuntary interruption of the term of office was also immaterial. The Court adopts with approval the following excerpt from the dissent of COMELEC Commissioner Parreño, which dealt with such issue, *viz.*:

It matters not that the duration of such loss of title to office appears to be brief and short. In fact, in *Aldovino*, it was held that the elective official must have involuntarily left his office for a length of time, however short, for an effective interruption to occur, thus:

From all the above, we conclude that the interruption of a term exempting an elective official from the three-term limit rule is one that involves no less than the involuntary loss of title to office. The **elective official must have involuntarily left his office for a length of time, however short, for an effective interruption to occur.**⁵⁸ (Bold and underscoring emphases are part of the original text)

⁵⁷ Section 51(a) of the Revised Rules on Administrative Cases in the Civil Service, the predecessor of the 2017 RRACCS, similarly provided:

Section 51. Duration and effect of administrative penalties. – The following rules shall govern the imposition of administrative penalties:

a. **The penalty of dismissal shall result in the permanent separation of the respondent from the service, without prejudice to criminal or civil liability.**

X X X X

⁵⁸ Supra note 30, at 73.

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Verily, the COMELEC failed to recognize the true effect of the executed decisions of dismissal because it strained its reading of the OMB's Rules, and ignored the relevant law and jurisprudence in so doing. Thus, it gravely erred.

III. Petitioner's dismissals resulted in permanent vacancy

The COMELEC opined that the DILG's reliance on Section 44⁵⁹ of the LGC in respect of the second OMB case was erroneous because the order of succession therein applied pertained to a permanent vacancy despite the lack of such permanent vacancy in view of the OMB's dismissal of the petitioner being still not final; that Section 46⁶⁰ of the LGC, which provided for succession in cases of a temporary vacancy, was applicable to the petitioner's case; and that the DILG corrected itself by now citing Section 46 of the LGC when it implemented the second dismissal decision issued in relation to the third OMB case.

We find that contrary to the opinion of the COMELEC, the DILG did not err in citing Section 44 of the LGC as its legal basis when it implemented the dismissal of the petitioner under the second OMB case.

To start with, the DILG executed against the petitioner two decisions of dismissal handed down in two *different* and *separate* cases. As such, the COMELEC had neither factual nor legal basis to conflate the DILG's actions in the two OMB cases for the reason that its action on the second OMB case could not be prejudiced by its action on the third OMB case.

Secondly, the DILG's opinion on what provision of the LGC properly applied was far from binding or controlling. It was even irrelevant. We ought to observe that the DILG, as the mere implementor of the decisions, had no legal competence to interpret or to render its opinion on the

⁵⁹ Section 44. *Permanent Vacancies in the Offices of the Governor, Vice-Governor, Mayor, and Vice-Mayor.* — (a) **If a permanent vacancy occurs in the office of the governor or mayor, the vice-governor or vice-mayor concerned shall become the governor or mayor.** If a permanent vacancy occurs in the offices of the governor, vice-governor, mayor, or vice-mayor, the highest ranking sanggunian member or, in case of his permanent inability, the second highest ranking sanggunian member, shall become the governor, vice-governor, mayor or vice-mayor, as the case may be. Subsequent vacancies in the said office shall be filled automatically by the other sanggunian members according to their ranking as defined herein.

x x x x

⁶⁰ Section 46. *Temporary Vacancy in the Office of the Local Chief Executive.* — (a) **When the governor, city or municipal mayor, or punong barangay is temporarily incapacitated to perform his duties for physical or legal reasons such as, but not limited to, leave of absence, travel abroad, and suspension from office, the vice-governor, city or municipal vice-mayor, or the highest ranking sangguniang barangay member shall automatically exercise the powers and perform the duties and functions of the local chief executive concerned, except the power to appoint, suspend, or dismiss employees which can only be exercised if the period of temporary incapacity exceeds thirty (30) working days.**

x x x x

succession ensuing from the dismissals. As the implementing body, the DILG was acting in a ministerial capacity, and, as such, was absolutely bereft of the discretion to determine what provision of the LGC specifically governed. Instead, the DILG was duty-bound to execute the directives of the OMB's decisions *exactly as they were written in the decisions*. Otherwise, the DILG could literally supplant the prerogative of the OMB itself to decide the administrative cases of the petitioner.

Thirdly, inasmuch as Section 46 of the LGC textually applied to succession where the local chief executive was "temporarily incapacitated to perform his duties for physical or legal reasons such as, but not limited to, leave of absence, travel abroad, and suspension from office," the provision was certainly not the proper basis for the COMELEC to characterize as temporary the vacancy in the office of Governor ensuing from the petitioner's dismissal. As earlier explained, the vacancy was not temporary because the petitioner was fully divested of his title to the office of Governor in both instances of his dismissal.

Under Section 44 of the LGC, a permanent vacancy arises whenever an elective local official fills a higher vacant office, or refuses to assume office, or fails to qualify, or dies, or is removed from office, or voluntarily resigns, or is otherwise permanently incapacitated to discharge the functions of his office. In contrast, Section 46 of the LGC enumerates as resulting in a temporary vacancy in the office of the local chief executive leave of absence, travel abroad, and suspension from office. Although Section 46 of the LGC specifically states that the causes of a temporary vacancy are not limited to such circumstances, what is evident is that the enumeration therein share something in common, which is that there is a definite term to be re-assumed. However, the petitioner's dismissals, even if still not final, were not akin to the instances enumerated in Section 46 of the LGC because the loss of his title to the office denied to him the expectancy to re-assume his term.

Lastly, Section 44 of the LGC includes removal from office as one of the instances triggering a permanent vacancy. Such permanent vacancy was precisely the outcome that the OMB directed in its decisions. Consequently, when the petitioner was ousted in the period from November 8, 2016 to December 30, 2016, in the first instance of dismissal, and in the period from March 14, 2018 to September 26, 2018, in the second instance of dismissal, the permanent vacancy in the office of Governor ensued.

IV.

**Developments in the appeals did not
change the fact that the petitioner was dismissed**

The COMELEC considered developments in the petitioner's appeals in holding that the DILG's execution of the decisions did not result into the loss of title to the office. This holding was grounded on two matters, namely: (1) the non-finality of the decisions under the OMB's Rules; and (2) the fact that the petitioner was able to re-assume his seat as Governor.

The holding of the COMELEC was unjustified because it thereby disregarded the fact that the DILG had fully implemented the decisions of dismissal. The full implementation immediately carried legal repercussions that no developments in relation to the petitioner's appeals could change or undo. Among others, the petitioner effectively lost his title to the office by the DILG's act of directing Pimentel to take his oath of office as Governor, and by the latter then assuming and discharging the office and functions of such office.

The provision of the OMB's Rules allowing the petitioner to re-assume on the basis of the interim being considered as a period of preventive suspension after his appeals resulted in the imposition of lesser penalties did not alter the reality that he had actually been ousted from office. In other words, there was still an interruption of the term of office. As aptly put in *Latasa v. COMELEC*,⁶¹ the interruption, to be considered as interruption of the term, "contemplates a rest period during which the *local elective official steps down from office and ceases to exercise power or authority over the inhabitants of the territorial jurisdiction of a particular local government unit.*"⁶² Conformably with said ruling, the period during which the petitioner was not serving as Governor should be considered as a rest period or break in his service because he had then ceased to exercise power or authority over the people of the province. Indeed, it was Pimentel who then held title to the office and exercised the functions thereof. As such, the petitioner did not fully serve his entire third term even if his re-assumption to office subsequently occurred.

V. Conclusion

The DILG's execution of the OMB decisions for the petitioner's dismissal clearly constituted loss of the petitioner's title to the office. The dismissals were involuntary interruptions in the petitioner's 2016-2019 term. As such, he cannot be considered to have fully served a third successive term of office.

In fine, the petitioner was not disqualified from seeking the same elective post during the 2019 elections. The COMELEC thus gravely abused

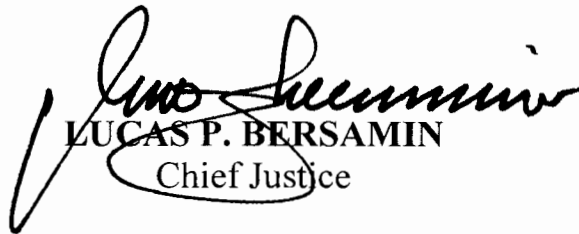
⁶¹ G.R. No. 154829, December 10, 2003, 417 SCRA 601.

⁶² *Id.* at p. 614.

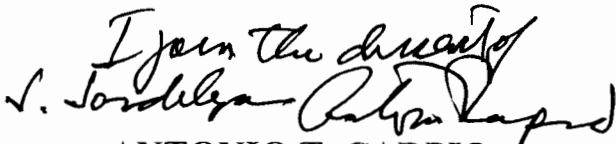
its discretion in ordering the cancellation of the petitioner's Certificate of Candidacy for the 2019 elections.


WHEREFORE, the Court **GRANTS** the petition for *certiorari*; **ANNULS** and **SETS ASIDE** the resolution issued on March 29, 2019 by the Commission on Elections First Division and the resolution issued on May 9, 2019 by the Commission on Elections *En Banc* in SPA No. 18-041 (DC) and SPA No. 18-137 (DC); **DISMISSES** the consolidated petitions in SPA No. 18-041 (DC) and SPA No. 18-137 (DC) for the cancellation of petitioner Edgardo A. Tallado's Certificate of Candidacy for the position of Provincial Governor of Camarines Norte in the 2019 Local Elections; **DECLARES** this decision immediately executory; and **ORDERS** respondents Norberto B. Villamin and Senandro M. Jalgalado to pay the costs of suit.

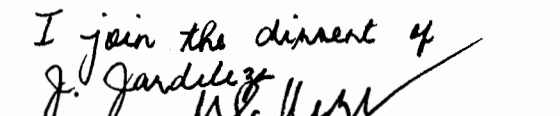
SO ORDERED.

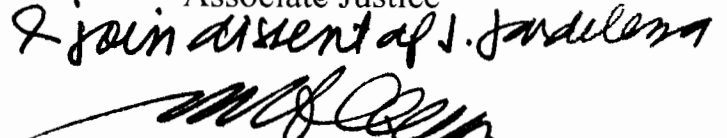

LUCAS P. BERSAMIN
Chief Justice

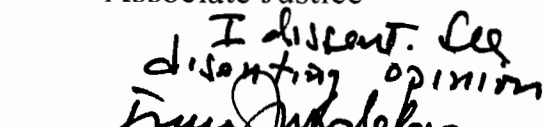
WE CONCUR:

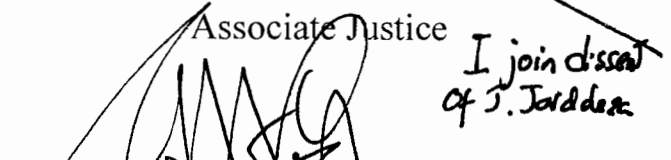
I join the dissent of J. Jardeleza

ANTONIO T. CARPIO
Senior Associate Justice


DIOSDADO M. PERALTA
Associate Justice

I join the dissent of J. Jardeleza

ESTELA M. PERLAS-BERNABE
Associate Justice

I join dissent of J. Jardeleza

MARVIC M.V.F. LEONEN
Associate Justice

I dissent. See dissenting opinion from Jardeleza

FRANCIS H. JARDELEZA
Associate Justice

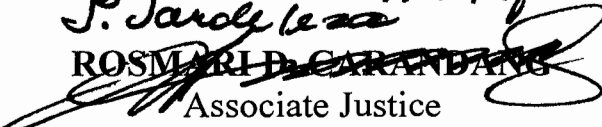
I join dissent of J. Jardeleza

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

Gesmundo
ALEXANDER G. GESMUNDO
Associate Justice

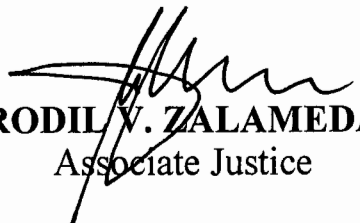

JOSE C. REYES, JR.
 Associate Justice

(On Official Business)
RAMON PAUL L. HERNANDO
 Associate Justice

*I join the dissent of
 J. Jardo Leza*

ROSMARIE CARANDANG
 Associate Justice

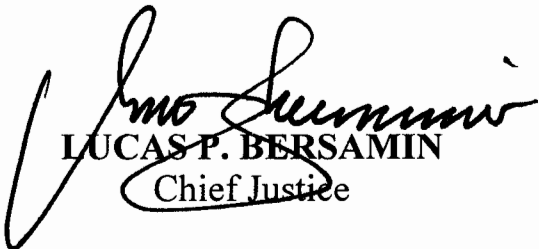

AMY C. LAZARO-JAVIER
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.


LUCAS P. BERSAMIN
 Chief Justice

