



Republic of the Philippines  
 Supreme Court  
 Baguio City

SUPREME COURT OF THE PHILIPPINES  
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*EN BANC*

**JOSEPH C. DIMAPILIS,**  
 Petitioner,

**G.R. No. 227158**

Present:

- versus -

**COMMISSION ON ELECTIONS,**  
 Respondent.

SERENO, C.J.,  
 CARPIO,  
 VELASCO, JR.,  
 LEONARDO-DE CASTRO,  
 PERALTA,  
 BERSAMIN,  
 DEL CASTILLO,  
 MENDOZA,  
 REYES,  
 PERLAS-BERNABE,  
 LEONEN,  
 JARDELEZA,  
 CAGUIOA,  
 MARTIRES, and  
 TIJAM, JJ.

Promulgated:

April 18, 2017

*[Handwritten Signature]*

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**DECISION**

**PERLAS-BERNABE, J.:**

Before the Court is a petition for *certiorari*<sup>1</sup> with urgent prayer for the issuance of a Temporary Restraining Order and/or a Status *Quo Ante* Order and/or a Writ of Preliminary Injunction, assailing the Resolutions dated

<sup>1</sup> *Rollo*, pp. 8-30.

April 11, 2016<sup>2</sup> and August 31, 2016<sup>3</sup> of respondent Commission on Elections (COMELEC) in SPA No. 13-436 (BRGY) (MP), which cancelled the Certificate of Candidacy (CoC) filed by petitioner Joseph C. Dimapilis (petitioner) for the position of *Punong Barangay* of Barangay Pulung Maragul, Angeles City (Brgy. Pulung Maragul) for the October 28, 2013 Barangay Elections (2013 Barangay Elections), annulled his proclamation as the winner, and directed the Barangay Board of Canvassers to reconvene and proclaim the qualified candidate who obtained the highest number of votes as the duly-elected official for the said post.

### The Facts

Petitioner was elected as *Punong Barangay* of Brgy. Pulung Maragul in the October 2010 Barangay Elections. He ran for re-election for the same position in the 2013 Barangay Elections, and filed his CoC<sup>4</sup> on October 11, 2013, declaring under oath that he is “eligible for the office [he seeks] to be elected to.” Ultimately, he won in the said elections and was proclaimed as the duly elected *Punong Barangay* of Brgy. Pulung Maragul on October 29, 2013.<sup>5</sup>

On even date, the COMELEC Law Department filed a Petition for Disqualification<sup>6</sup> against petitioner pursuant to Section 40 (b)<sup>7</sup> of Republic Act No. 7160,<sup>8</sup> otherwise known as the “Local Government Code of 1991” (LGC). It claimed that petitioner was barred from running in an election<sup>9</sup> since he was suffering from the accessory penalty of perpetual disqualification to hold public office as a consequence of his dismissal from service<sup>10</sup> as then *Kagawad* of Brgy. Pulung Maragul, after being found

<sup>2</sup> Id. at 34-45. Issued by Presiding Commissioner Al A. Parreño and Commissioners Arthur D. Lim and Sheriff M. Abas.

<sup>3</sup> Id. at 46-54. Issued by Chairman J. Andres D. Bautista and Commissioners Christian Robert S. Lim, Al A. Parreño, Luie Tito F. Guia, Arthur D. Lim, Ma. Rowena Amelia V. Guanzon, and Sheriff M. Abas.

<sup>4</sup> Id. at 103.

<sup>5</sup> See Certificate of Canvass of Votes and Proclamation of Winning Candidates for *Punong Barangay* and *Kagawad, Sangguniang Barangay*; id. at 181. See also id. at 34 and 64.

<sup>6</sup> Dated October 25, 2013. Id. at 90-102.

<sup>7</sup> Section 40. *Disqualifications*. – The following persons are disqualified from running for any elective local position.

x x x x

(b) Those removed from office as a result of an administrative case[.]

<sup>8</sup> Entitled “AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991” (October 10, 1991).

<sup>9</sup> See *rollo*, p. 96.

<sup>10</sup> Pursuant to Section 10, Rule III of Administrative Order No. (AO) 07, otherwise known as the “RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN,” approved on April 10, 1990, as amended by AO 17-03, entitled “AMENDMENT OF RULE III ADMINISTRATIVE ORDER NO. 07,” approved on September 15, 2003, which pertinently provides:

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)

guilty, along with others, of the administrative offense of Grave Misconduct, in a Consolidated Decision<sup>11</sup> dated June 23, 2009 (OMB Consolidated Decision) and an Order<sup>12</sup> dated November 10, 2009 (collectively, OMB rulings) rendered by the Office of the Ombudsman (OMB) in OMB-L-A-08-0401-G, and allied cases.<sup>13</sup>

On December 17, 2013, the COMELEC Second Division issued an Order<sup>14</sup> directing petitioner to file his answer.

In his Verified Answer *cum* Memorandum<sup>15</sup> dated February 24, 2014, petitioner averred that the petition should be dismissed, considering that: (a) while the petition prayed for his disqualification, it partakes the nature of a petition to deny due course to or cancel CoC under Section 78<sup>16</sup> of the Omnibus Election Code of the Philippines (OEC),<sup>17</sup> and combining these two distinct and separate actions in one petition is a ground for the dismissal of the petition<sup>18</sup> pursuant to the COMELEC Rules of Procedure<sup>19</sup> (COMELEC Rules); (b) the COMELEC Law Department is not a proper party to a petition for disqualification, and cannot initiate such case *motu proprio*;<sup>20</sup> and (c) the Regional Trial Court of Angeles City, Branch 58 (RTC of Angeles City) had permanently enjoined the implementation of the aforesaid OMB Consolidated Decision in a November 8, 2013 Resolution<sup>21</sup> in Civil Case No. 15325, grounded on the condonation doctrine.<sup>22</sup>

The COMELEC Law Department countered petitioner's averments, maintaining that it has the authority to file *motu proprio* cases, and reiterating its earlier arguments.<sup>23</sup>

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year, or from Five Thousand Pesos (P5,000.00) 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.**

x x x (Emphasis supplied)

<sup>11</sup> *Rollo*, pp. 104-131. Approved by Deputy Ombudsman for Luzon Victor C. Fernandez.

<sup>12</sup> *Id.* at 132-156. Approved by Deputy Ombudsman for Luzon Mark E. Jalandoni.

<sup>13</sup> *See id.* at 91-92.

<sup>14</sup> Not attached to the *rollo*.

<sup>15</sup> *Rollo*, pp. 157-179.

<sup>16</sup> Section 78. *Petition to deny due course to or cancel a certificate of candidacy.* - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

<sup>17</sup> *Batas Pambansa Blg. 881* (December 3, 1985).

<sup>18</sup> *See rollo*, pp. 160-165.

<sup>19</sup> Approved on February 15, 1993.

<sup>20</sup> *See rollo*, pp. 166-167.

<sup>21</sup> *See id.* at 184-187. Penned by Judge Philbert I. Iturralde.

<sup>22</sup> *See id.* at 159, 168, and 186.

<sup>23</sup> *Id.* at 36.

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On the other hand, the OMB submitted its Comment<sup>24</sup> on April 8, 2014, averring that the OMB rulings had attained finality as early as May 28, 2010 for failure of petitioner to timely appeal to the Court of Appeals (CA), rendering him disqualified from running for any elective position.<sup>25</sup>

### The COMELEC Second Division Ruling

In a Resolution<sup>26</sup> dated April 11, 2016, the COMELEC Second Division granted the petition, and cancelled petitioner's CoC, annulled his proclamation as the winner, and directed the Barangay Board of Canvassers to reconvene and proclaim the qualified candidate who garnered the highest number of votes as the duly-elected *Punong Barangay* of Brgy. Pulung Maragul.<sup>27</sup>

It treated the petition as one for cancellation of CoC pursuant to Section 78 of the OEC, notwithstanding that it was captioned as a "Petition for Disqualification" under Section 40 (b) of the LGC, holding that the nature of the petition is not determined by the caption given to it by the parties, but is based on the allegations it presented.<sup>28</sup> It ruled that petitioner committed material misrepresentation in solemnly avowing that he was eligible to run for the office he seeks to be elected to, when he was actually suffering from perpetual disqualification to hold public office by virtue of a final judgment dismissing him from service.<sup>29</sup>

The COMELEC Second Division likewise upheld its Law Department's authority to initiate *motu proprio* the Petition for Disqualification as being subsumed under the COMELEC's Constitutional mandate to enforce and administer laws relating to the conduct of elections.<sup>30</sup>

Finally, it rejected petitioner's invocation of the condonation doctrine as jurisprudentially established in *Aguinaldo v. Santos*<sup>31</sup> since the same had already been abandoned in the 2015 case of *Carpio Morales v. Binay, Jr. (Carpio Morales)*.<sup>32</sup> It ruled that the doctrine cannot apply to petitioner, who was clearly established to be suffering from perpetual disqualification to hold public office, which rendered him ineligible, voided his CoC from the beginning, and barred his re-election.<sup>33</sup> Consequently, it declared petitioner

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<sup>24</sup> Not attached to the *rollo*.

<sup>25</sup> See *rollo*, pp. 36 and 38.

<sup>26</sup> *Id.* at 34-45.

<sup>27</sup> *Id.* at 45.

<sup>28</sup> *Id.* at 38.

<sup>29</sup> *Id.* at 40.

<sup>30</sup> *Id.* at 40-41.

<sup>31</sup> G.R. No. 94115, August 21, 1992, 212 SCRA 768.

<sup>32</sup> G.R. Nos. 217126-27, November 10, 2015, 774 SCRA 431.

<sup>33</sup> See *rollo*, pp. 42-44.

to be not a candidate at all in the 2013 Barangay Elections; hence, the votes cast in his favor should not be counted.<sup>34</sup>

Petitioner moved for reconsideration,<sup>35</sup> maintaining that: (a) the petition should have been outrightly dismissed as the same is a combination of a disqualification case and a petition to deny due course to or cancel CoC, which is proscribed by the COMELEC Rules;<sup>36</sup> (b) he was not dismissed or removed from service since the CA had permanently enjoined the execution of the OMB Consolidated Decision in a December 17, 2009 Decision<sup>37</sup> in CA-G.R. SP No. 109986, which was affirmed by this Court in its Resolution<sup>38</sup> dated August 2, 2010 in G.R. No. 192325;<sup>39</sup> (c) the RTC of Angeles City, Branch 60 had already dismissed the criminal case against him that was anchored on the same basis as the administrative cases before the OMB, in a November 20, 2015 Order<sup>40</sup> in Criminal Case No. 09-5047;<sup>41</sup> and (d) petitioner's re-election as *Punong Barangay* of Brgy. Pulung Maragul in the 2013 Barangay Elections operated as a condonation of his alleged misconduct.<sup>42</sup>

### The COMELEC *En Banc* Ruling

In a Resolution<sup>43</sup> dated August 31, 2016, the COMELEC *En Banc* denied petitioner's motion for reconsideration and affirmed the ruling of its Second Division. It explained that petitioner's reliance on the aforesaid CA Decision and RTC Order was misplaced, observing that: (a) the evident intent of the CA Decision was only to enjoin the implementation of the OMB Consolidated Decision, while petitioner's motion for reconsideration was pending, and not thereafter;<sup>44</sup> and (b) absolution from a criminal charge is not a bar to an administrative prosecution and *vice versa*.<sup>45</sup>

Hence, this petition.

### The Issues Before the Court

The essential issue for the Court's resolution is whether or not the COMELEC gravely abused its discretion in cancelling petitioner's CoC.

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<sup>34</sup> Id. at 44.

<sup>35</sup> See Verified Motion for Reconsideration dated April 21, 2016; id. at 55-73.

<sup>36</sup> Id. at 58-59.

<sup>37</sup> Id. at 75-80. Penned by Associate Justice (now Member of the Court) Jose Catral Mendoza with Associate Justices Myrna Dimaranan Vidal and Priscilla J. Baltazar-Padilla concurring.

<sup>38</sup> See Second Division Minute Resolution dated August 2, 2010 in G.R. No. 192325 entitled "*OMB v. Josefa [Joseph] C. Dimapilis, et al.*," id. at 83.

<sup>39</sup> See id. 60-61.

<sup>40</sup> Id. at 85-88. Penned by Presiding Judge Eda P. Dizon-Era.

<sup>41</sup> See id. at 62-64.

<sup>42</sup> See id. at 64-67.

<sup>43</sup> See id. at 46-54.

<sup>44</sup> See id. at 50-52.

<sup>45</sup> Id. at 53.

## The Court's Ruling

The petition is without merit.

### **I. Petitioner's perpetual disqualification to hold public office is a material fact involving eligibility.**

A CoC is a formal requirement for eligibility to public office.<sup>46</sup> Section 74 of the OEC provides that the CoC of the person filing it shall state, among others, that he is eligible for the office he seeks to run, and that the facts stated therein are true to the best of his knowledge. To be “eligible” relates to the capacity of holding, as well as that of being elected to an office.<sup>47</sup> Conversely, “ineligibility” has been defined as a “disqualification or legal incapacity to be elected to an office or appointed to a particular position.”<sup>48</sup> In this relation, **a person intending to run for public office must not only possess the required qualifications for the position for which he or she intends to run, but must also possess none of the grounds for disqualification under the law.**<sup>49</sup>

In this case, petitioner had been found guilty of Grave Misconduct by a final judgment, and punished with dismissal from service with all its accessory penalties, including perpetual disqualification from holding public office.<sup>50</sup> Verily, **perpetual disqualification to hold public office is a material fact involving eligibility**<sup>51</sup> which rendered petitioner's CoC void from the start since he was not eligible to run for any public office at the time he filed the same.

### **II. The COMELEC has the duty to *motu proprio* bar from running for public office those suffering from perpetual disqualification to hold public office.**

Under Section 2 (1), Article IX (C) of the 1987 Constitution, the COMELEC has the duty to “[e]nforce and administer all laws and regulations relative to the conduct of an election x x x.” The Court had previously ruled that **the COMELEC has the legal duty to cancel the CoC of anyone suffering from the accessory penalty of perpetual disqualification to hold public office**, albeit, arising from a criminal

<sup>46</sup> *Bellosillo, Marquez and Mapili*, Effective Litigation & Adjudication of Election Contests, 2012 Ed., p. 47.

<sup>47</sup> See Concurring and Dissenting Opinion of Associate Justice Jose Catral Mendoza in *Talaga v. COMELEC*, 696 Phil. 786, 890 (2012), citing Bouvier's Law Dictionary, Vol. I, 8<sup>th</sup> Ed., p. 1002.

<sup>48</sup> *Id.* See also Black's Law Dictionary, 6<sup>th</sup> Ed., p. 776.

<sup>49</sup> See *Chua v. COMELEC*, G.R. No. 216607, April 5, 2016.

<sup>50</sup> See Section 52 (a), Rule 10 of the REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, promulgated on November 18, 2011.

<sup>51</sup> See *Jalosjos, Jr. v. COMELEC*, 696 Phil. 601, 622-623 (2012).

conviction.<sup>52</sup> Considering, however, that Section 52 (a), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service similarly imposes the penalty of perpetual disqualification from holding public office as an accessory to the penalty of dismissal from service, the Court sees no reason why the ratiocination enunciated in such earlier criminal case should not apply here, *viz.*:

Even without a petition under either x x x Section 78 of the Omnibus Election Code, or under Section 40 of the Local Government Code, **the COMELEC is under a legal duty to cancel the certificate of candidacy of anyone suffering from the accessory penalty of perpetual special disqualification to run for public office by virtue of a final judgment** of conviction. The final judgment of conviction is notice to the COMELEC of the disqualification of the convict from running for public office. The law itself bars the convict from running for public office, and the disqualification is part of the final judgment of conviction. The final judgment of the court is addressed not only to the Executive branch, but also to other government agencies tasked to implement the final judgment under the law.

**Whether or not the COMELEC is expressly mentioned in the judgment to implement the disqualification, it is assumed that the portion of the final judgment on disqualification to run for elective public office is addressed to the COMELEC because under the Constitution the COMELEC is duty bound to “[e]nforce and administer all laws and regulations relative to the conduct of an election.”** The disqualification of a convict to run for public office under the Revised Penal Code, as affirmed by final judgment of a competent court, is part of the enforcement and administration of “all laws” relating to the conduct of elections.

To allow the COMELEC to wait for a person to file a petition to cancel the certificate of candidacy of one suffering from perpetual special disqualification will result in the anomaly that these cases so grotesquely exemplify. Despite a prior perpetual special disqualification, Jalosjos was elected and served twice as mayor. **The COMELEC will be grossly remiss in its constitutional duty to “enforce and administer all laws” relating to the conduct of elections if it does not *motu proprio* bar from running for public office those suffering from perpetual special disqualification by virtue of a final judgment.**<sup>53</sup> (Emphases and underscoring supplied)

In *Romeo G. Jalosjos v. COMELEC*<sup>54</sup> (*Jalosjos*), the Court had illumined that while the denial of due course to and/or cancellation of one’s CoC generally necessitates the exercise of the COMELEC’s quasi-judicial functions commenced through a petition based **on either Sections 12 or 78 of the OEC, or Section 40 of the LGC, when the grounds therefor are rendered conclusive on account of final and executory judgments, as in this case, such exercise falls within the COMELEC’s administrative**

<sup>52</sup> Id. at 634. See also *Aratea v. COMELEC*, 696 Phil. 700, 738 (2012).

<sup>53</sup> Id. at 634-635.

<sup>54</sup> 711 Phil. 414 (2013).

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**functions.**<sup>55</sup> To note, the choice as to which action to commence belongs to the petitioner:

What is indisputably clear is that the false material representation of Jalosjos is a ground for a petition under Section 78. However, since the false material representation arises from a crime penalized by *prisión mayor*, a petition under Section 12 of the Omnibus Election Code or Section 40 of the Local Government Code can also be properly filed. The petitioner has a choice whether to anchor his petition on Section 12 or Section 78 of the Omnibus Election Code, or on Section 40 of the Local Government Code. The law expressly provides multiple remedies and the choice of which remedy to adopt belongs to the petitioner.<sup>56</sup>

As petitioner's disqualification to run for public office pursuant to the final and executory OMB rulings dismissing him from service now stands beyond dispute, **it is incumbent upon the COMELEC to cancel petitioner's CoC as a matter of course**, else it be remiss in fulfilling its Constitutional duty to enforce and administer all laws and regulations relative to the conduct of an election.

Accordingly, the Court finds no merit to petitioner's claim<sup>57</sup> of denial of due process because even though the special circumstance extant herein calls for the outright cancellation of his CoC in the exercise of the COMELEC's administrative function, it even allowed him to submit his Verified Answer *cum* Memorandum to explain his side, and to file a motion for reconsideration from its resolution.

### **III. Petitioner's re-election as Punong Barangay of Brgy. Pulung Maragul in the 2013 Barangay Elections cannot operate as a condonation of his alleged misconduct.**

In *Carpio Morales*, the Court abandoned the "condonation doctrine," explaining that "[e]lection is not a mode of condoning an administrative offense, and there is simply no constitutional or statutory basis in our jurisdiction to support the notion that an official elected for a different term is fully absolved of any administrative liability arising from an offense done during a prior term."<sup>58</sup>

Although *Carpio Morales* clarified that such abandonment should be prospectively applied<sup>59</sup> (thus, treating the condonation doctrine as "good law" when the COMELEC's petition was commenced on October 29, 2013, and when petitioner filed his Verified Answer *cum* Memorandum invoking

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<sup>55</sup> Id. at 425-426.

<sup>56</sup> *Jalosjos, Jr. v. COMELEC*, supra note 51, at 632.

<sup>57</sup> See *rollo*, pp. 17-20.

<sup>58</sup> *Carpio Morales*, supra note 32.

<sup>59</sup> Id. at 558.

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the same), the parameters for the operation of such doctrine simply do not obtain in petitioner's favor.

Prior to *Carpio Morales*, the Court, in the 1996 case of *Reyes v. COMELEC*<sup>60</sup> (*Reyes*), had illumined that the rationale in the *Aguinaldo* cases<sup>61</sup> was hinged on the expiration of the term of office during which the misconduct was committed before a decision could be rendered in the administrative case seeking the candidate's removal. As such, his or her re-election bars removal for said misconduct since removal cannot extend beyond the term when the misconduct was committed.<sup>62</sup> *Reyes* likewise noted that the *Aguinaldo* cases involved a misconduct committed prior to the enactment of the LGC, and there was no existing provision similar to Section 40 (b), disqualifying a person from running for any elective local position as a consequence of his removal from office as a result of an administrative case.<sup>63</sup> Thus, it rejected petitioner's invocation of the condonation doctrine, holding that:

*Second.* The next question is whether the reelection of petitioner rendered the administrative charges against him moot and academic. Petitioner invokes the ruling in *Aguinaldo v. COMELEC* [(see supra note 31)], in which it was held that a public official could not be removed for misconduct committed during a prior term and that his reelection operated as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor. But that was because in that case, **before the petition questioning the validity of the administrative decision removing petitioner could be decided, the term of office during which the alleged misconduct was committed expired. Removal cannot extend beyond the term during which the alleged misconduct was committed. If a public official is not removed before his term of office expires, he can no longer be removed if he is thereafter reelected for another term.** This is the rationale for the ruling in the two *Aguinaldo* cases.

The case at bar is the very opposite of those cases. Here, although petitioner Reyes brought an action to question the decision in the administrative case, the temporary restraining order issued in the action he brought lapsed, with the result that **the decision was served on petitioner and it thereafter became final on April 3, 1995, because petitioner failed to appeal to the Office of the President. He was thus validly removed from office and, pursuant to Section 40 (b) of the Local Government Code, he was disqualified from running for reelection.**

It is noteworthy that at the time the *Aguinaldo* cases were decided there was no provision similar to Section 40 (b) which disqualifies any person from running for any elective position on the ground that he has

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<sup>60</sup> 324 Phil. 813 (1996).

<sup>61</sup> See discussion in *Aguinaldo v. Santos*, supra note 31, at 771-772.

<sup>62</sup> See *Reyes*, supra note 60, at 826.

<sup>63</sup> Id. at 827.

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been removed as a result of an administrative case. The Local Government Code of 1991 x x x could not be given retroactive effect. x x x.<sup>64</sup>

x x x x (Emphases supplied; citations omitted)

In this case, the OMB rulings dismissing petitioner for Grave Misconduct had already attained finality on May 28, 2010, which date was even prior to his first election as Punong Barangay of Brgy. Pulung Maragul in the October 2010 Barangay Elections. As above-stated, “[t]he penalty of dismissal [from 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.”<sup>65</sup> Although the principal penalty of dismissal appears to have not been effectively implemented (since petitioner was even able to run and win for two [2] consecutive elections), the corresponding accessory penalty of perpetual disqualification from holding public office had already rendered him ineligible to run for any elective local position. Bearing the same sense as its criminal law counterpart,<sup>66</sup> the term perpetual in this administrative penalty should likewise connote a lifetime restriction and is not dependent on the term of any principal penalty. It is undisputable that this accessory penalty sprung from the same final OMB rulings, and therefore had already attached and consequently, remained effective at the time petitioner filed his CoC on October 11, 2013 and his later re-election in 2013. Therefore, petitioner could not have been validly re-elected so as to avail of the condonation doctrine, unlike in other cases where the condonation doctrine was successfully invoked<sup>67</sup> by virtue of re-elections which overtook and thus, rendered moot and academic pending administrative cases.

**IV. With the cancellation of his CoC, petitioner is deemed to have not been a candidate in the 2013 Barangay Elections, and all his votes are to be considered stray votes.**

A person whose CoC had been cancelled is deemed to have not been a candidate at all because his CoC is considered void *ab initio*, and thus, cannot give rise to a valid candidacy and necessarily to valid votes.<sup>68</sup> The cancellation of the CoC essentially renders the votes cast for him or her

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<sup>64</sup> Id. at 826-827.

<sup>65</sup> Pursuant to Section 10, Rule III of AO 07, as amended by AO 17-03.

<sup>66</sup> See *Jalosjos*, supra note 54.

<sup>67</sup> In *Lingating v. COMELEC*, November 13, 2002 (440 Phil. 308 [2002]); *Aguinaldo v. Santos*, supra note 31; and *Lizares v. Hechanova* (123 Phil. 916 [1966]), the public officials therein were administratively charged for the acts they committed during their previous term and were initially adjudged to be liable; however, during the pendency of their motions for reconsideration or appeal, the public officials were re-elected into the same office, which, thus, rendered moot and academic the pending charges against them. Cf. *Reyes v. COMELEC*, March 7, 1996 (supra note 60) wherein the Court ruled that the condonation doctrine was inapplicable to Reyes, considering that the *Sangguniang Panlalawigan* Ruling dated February 6, 1995 became final before the Court could finally resolve the case. See also Silos, Miguel U., A Re-examination of the Doctrine of Condonation of Public Officers, 84, Phil. LJ 22, 69 (2009), pp.49-57.

<sup>68</sup> *Aratea v. COMELEC*, supra note 52, at 739.

as stray votes,<sup>69</sup> and are not considered in determining the winner of an election.<sup>70</sup> This would necessarily invalidate his proclamation<sup>71</sup> and entitle the qualified candidate receiving the highest number of votes to the position.<sup>72</sup> Apropos is the Court's ruling in *Maquiling v. COMELEC*,<sup>73</sup> to wit:

As in any contest, elections are governed by rules that determine the qualifications and disqualifications of those who are allowed to participate as players. **When there are participants who turn out to be ineligible, their victory is voided and the laurel is awarded to the next in rank who does not possess any of the disqualifications nor lacks any of the qualifications set in the rules to be eligible as candidates.**

x x x x

x x x The second-placer in the vote count is actually the first-placer among the qualified candidates.

That the disqualified candidate has already been proclaimed and has assumed office is of no moment. The subsequent disqualification based on a substantive ground that existed prior to the filing of the certificate of candidacy voids not only the COC but also the proclamation.<sup>74</sup> (Emphasis supplied)

In light of the cancellation of petitioner's CoC due to ineligibility existing at the time of filing, he was never a valid candidate for the position of *Punong Barangay* of Brgy. Pulung Maragul in the 2013 Barangay Elections, and the votes cast for him are considered stray votes. Thus, the qualified candidate for the said post who received the highest number of valid votes shall be proclaimed the winner.<sup>75</sup>

It is likewise imperative for the eligible candidate who garnered the highest number of votes to assume the office. In *Svetlana P. Jalosjos v. COMELEC*,<sup>76</sup> the Court explained:

There is another more compelling reason why the eligible candidate who garnered the highest number of votes must assume the office. The ineligible candidate who was proclaimed and who already assumed office is a *de facto* officer by virtue of the ineligibility.

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<sup>69</sup> See Section 9, Rule 23 of the COMELEC Rules of Procedure, as amended by Resolution No. 9523, entitled "IN THE MATTER OF THE AMENDMENT TO RULES 23, 24, AND 25 OF THE COMELEC RULES OF PROCEDURE FOR PURPOSES OF THE 13 MAY 2013 NATIONAL, LOCAL AND ARMM ELECTIONS AND SUBSEQUENT ELECTIONS," promulgated on September 25, 2012.

<sup>70</sup> *Maquiling v. COMELEC*, 709 Phil. 408, 447 (2013).

<sup>71</sup> See *Hayudini v. COMELEC*, 733 Phil. 822, 845-846 (2014).

<sup>72</sup> *Aratea v. COMELEC*, supra note 52, at 740.

<sup>73</sup> Supra note 70, at 447-448.

<sup>74</sup> Id. at 448.

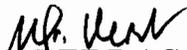
<sup>75</sup> Consonant with the Court's ruling in *Jalosjos, Jr. v. COMELEC* (supra note 51, at 635) and *Aratea v. COMELEC* (supra note 52, at 740).

<sup>76</sup> 712 Phil. 177 (2013).

The rule on succession in Section 44 of the Local Government Code cannot apply in instances when a *de facto* officer is ousted from office and the *de jure* officer takes over. The ouster of a *de facto* officer cannot create a permanent vacancy as contemplated in the Local Government Code. There is no vacancy to speak of as the *de jure* officer, the rightful winner in the elections, has the legal right to assume the position.<sup>77</sup>

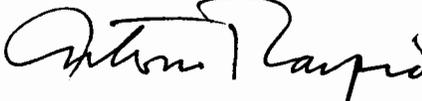
**WHEREFORE**, the petition is **DISMISSED**. The Resolutions dated April 11, 2016 and August 31, 2016 of respondent the Commission on Elections in SPA No. 13-436 (BRGY) (MP) are hereby **AFFIRMED**. Petitioner Joseph C. Dimapilis is **ORDERED** to cease and desist from discharging the functions of the *Punong Barangay* of Barangay Pulung Maragul, Angeles City.

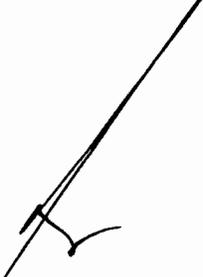
**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

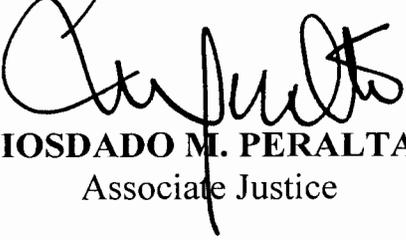
**WE CONCUR:**

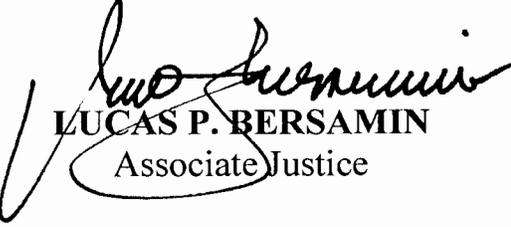
  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice

  
**ANTONIO T. CARPIO**  
 Associate Justice

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice

  
**TERESITA J. LEONARDO-DE CASTRO**  
 Associate Justice

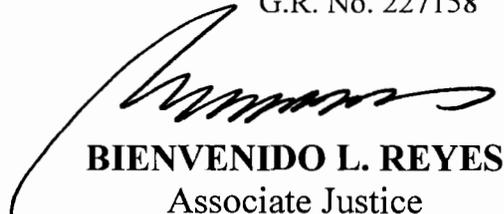
  
**DIOSDADO M. PERALTA**  
 Associate Justice

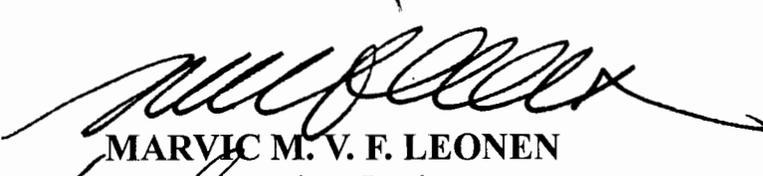
  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

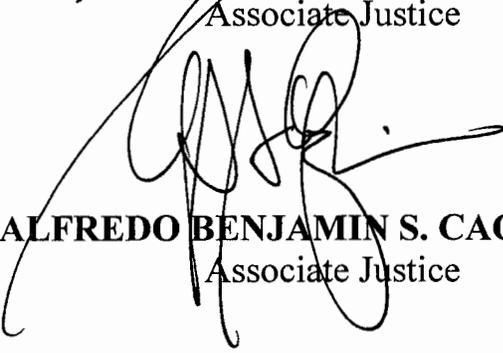
<sup>77</sup> Id. at 190-191.

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**MARVIC M. V. F. LEONEN**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

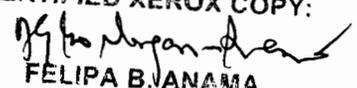
  
**SAMUEL R. MARTIRES**  
Associate Justice

  
**NOEL G. TIAM**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

CERTIFIED XEROX COPY:  
  
**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT