Republic of the Philippines
Supreme Court
Manila

EN BANC

REPUBLIC of the PHILIPPINES, represented by SOLICITOR GENERAL JOSE C. CALIDA, Petitioner,	**G.R. No. 237428** Present:
- versus -	CARPIO, VELASCO, JR., LEONARDO-DE CASTRO, PERALTA, BERSAMIN, DEL CASTILLO, PERLAS-BERNABE, LEONEN, JARDELEZA, CAGUIOA, MARTIRES, TIJAM, REYES, JR., and GESMUNDO, *JJ.*
MARIA LOURDES P. A. SERENO Respondent.	Promulgated: June 19, 2018

x----------x

RESOLUTION

TIJAM, *J.*:

This resolution treats of the following motions:

1. Maria Lourdes P. A. Sereno's (respondent) *Ad Cautelam* Motion for Reconsideration of this Court's Decision[1] dated May 11, 2018, the dispositive portion of which states:

[1] *Rollo*, pp. 6230-6382.

> **WHEREFORE**, the Petition for *Quo Warranto* is **GRANTED**. Respondent Maria Lourdes P. A. Sereno is found **DISQUALIFIED** from and is hereby adjudged **GUILTY of UNLAWFULLY HOLDING and EXERCISING** the **OFFICE OF THE CHIEF JUSTICE**. Accordingly, Respondent Maria Lourdes P. A. Sereno is **OUSTED** and **EXCLUDED** therefrom.
>
> The position of the Chief Justice of the Supreme Court is declared vacant and the Judicial and Bar Council is directed to commence the application and nomination process.
>
> This Decision is immediately executory without need of further action from the Court.
>
> Respondent Maria Lourdes P.A. Sereno is ordered to **SHOW CAUSE** within ten (10) days from receipt hereof why she should not be sanctioned for violating the Code of Professional Responsibility and the Code of Judicial Conduct for transgressing the *sub judice* rule and for casting aspersions and ill motives to the Members of the Supreme Court.
>
> **SO ORDERED**.[2]

2. Respondent's *Ad Cautelam* Motion for Extension of Time to File Reply (to the Show Cause Order dated 11 May 2018).

We first dispose of respondent's Motion for Reconsideration.

Respondent claims denial of due process because her case was allegedly not heard by an impartial tribunal. She reiterates that the six (6) Justices ought to have inhibited themselves on the grounds of actual bias, of having personal knowledge of disputed evidentiary facts, and of having acted as a material witness in the matter in controversy. Respondent also argues denial of due process when the Court supposedly took notice of extraneous matters as corroborative evidence and when the Court based its main Decision on facts without observing the mandatory procedure for reception of evidence.

She reiterates her arguments that the Court is without jurisdiction to oust an impeachable officer through *quo warranto*; that the official acts of the Judicial and Bar Council (JBC) and the President involves political questions that cannot be annulled absent any allegation of grave abuse of discretion; that the petition for *quo warranto* is time-barred; and that respondent was and is a person of proven integrity.

By way of Comment, the Republic of the Philippines (Republic), through the Office of the Solicitor General (OSG), seeks a denial of respondent's motion for reconsideration for being *pro forma.* In any case,

---

[2] Id. at 6380.

the OSG argues that respondent's motion lacks merit as there was no denial of due process and that *quo warranto* is the appropriate remedy to oust an ineligible impeachable officer. The OSG adds that the issue of whether respondent is a person of proven integrity is justiciable considering that the decision-making powers of the JBC are limited by judicially discoverable standards. Undeviating from its position, the OSG maintains that the petition is not time-barred as Section 11, Rule 66 of the Rules of Court does not apply to the State and that the peculiar circumstances of the instant case preclude the strict application of the prescriptive period.

Disputing respondent's claims, the OSG reiterates that respondent's repeated failure to file her Statement of Assets, Liabilities and Net Worth (SALN) and her non-submission thereof to the JBC which the latter required to prove the integrity of an applicant affect respondent's integrity. The OSG concludes that respondent, not having possessed of proven integrity, failed to meet the constitutional requirement for appointment to the Judiciary.

Carefully weighing the arguments advanced by both parties, this Court finds no reason to reverse its earlier Decision.

I

Respondent is seriously in error for claiming denial of due process. Respondent refuses to recognize the Court's jurisdiction over the subject matter and over her person on the ground that respondent, as a purported impeachable official, can only be removed exclusively by impeachment. Reiterating this argument, respondent filed her Comment to the Petition, moved that her case be heard on Oral Argument, filed her Memorandum, filed her Reply/Supplement to the OSG's Memorandum and now, presently moves for reconsideration. All these representations were made *ad cautelam* which, stripped of its legal parlance, simply means that she asks to be heard by the Court which jurisdiction she does not acknowledge. She asked relief from the Court and was in fact heard by the Court, and yet she claims to have been denied of due process. She repeatedly discussed the supposed merits of her opposition to the present *quo warranto* petition in various social and traditional media, and yet she claims denial of due process. The preposterousness of her claim deserves scant consideration.

Respondent also harps on the alleged bias on the part of the six (6) Justices and that supposedly, their failure to inhibit themselves from deciding the instant petition amounts to a denial of due process.

Respondent's contentions were merely a rehash of the issues already taken into consideration and properly resolved by the Court. To reiterate, mere imputation of bias or partiality is not enough ground for inhibition, especially when the charge is without basis. Acts or conduct clearly

indicative of arbitrariness or prejudice has to be shown.[3] Verily, for bias and prejudice to be considered sufficient justification for the inhibition of a Member of this Court, mere suspicion is not enough.

Moreover, as discussed in the main Decision, respondent's allegations on the grounds for inhibition were merely based on speculations, or on distortions of the language, context and meaning of the answers given by the concerned Justices as resource persons in the proceedings of the Committee on Justice of the House of Representatives. These matters were squarely resolved by the Court in its main Decision, as well as in the respective separate opinions of the Justices involved.

Indeed, the Members of the Court's right to inhibit are weighed against their duty to adjudicate the case without fear of repression. Respondent's motion to require the inhibition of Justices Teresita J. Leonardo-De Castro, Lucas P. Bersamin, Diosdado M. Peralta, Francis H. Jardeleza, Samuel R. Martires, and Noel Gimenez Tijam, who all concurred to the main Decision, would open the floodgates to the worst kind of forum shopping, and on its face, would allow respondent to shop for a Member of the Court who she perceives to be more compassionate and friendly to her cause, and is clearly antithetical to the fair administration of justice.

Bordering on the absurd, respondent alleges prejudice based on the footnotes of the main Decision which show that the draft thereof was being prepared as early as March 15, 2018 when respondent has yet to file her Comment. Respondent forgets to mention that the Petition itself was filed on March 5, 2018 where the propriety of the remedy of *quo warranto* was specifically raised. Certainly, there is nothing irregular nor suspicious for the Member-in-Charge, nor for any of the Justices for that matter, to have made a requisite initial determination on the matter of jurisdiction. In professing such argument, respondent imputes fault on the part of the Justices for having been diligent in the performance of their work.

Respondent also considers as irregular the query made by the Member-in-Charge with the JBC Office of the Executive Officer (OEO) headed by Atty. Annaliza S. Ty-Capacite (Atty. Capacite). Respondent points out that the same is not allowed and shows prejudice on the part of the Court.

For respondent's information, the data were gathered pursuant to the Court *En Banc's* Resolution dated March 20, 2018 wherein the Clerk of Court *En Banc* and the JBC, as custodian and repositories of the documents submitted by respondent, were directed to provide the Court with documents pertinent to respondent's application and appointment as an Associate Justice in 2010 and as Chief Justice of the Court in 2012 for the purpose of

---

[3] *Barnes v. Reyes, et al.*, 614 Phil. 299, 304 (2009).

arriving at a judicious, complete, and efficient resolution of the instant case. In the same manner, the "corroborative evidence" referred to by respondent simply refers to respondent's acts and representations ascertainable through an examination of the documentary evidence appended by both parties to their respective pleadings as well as their representations during the Oral Argument. Reference to respondent's subsequent acts committed during her incumbency as Chief Justice, on the other hand, are plainly matters of public record and already determined by the House of Representatives as constituting probable cause for impeachment.

II

The Court reaffirms its authority to decide the instant *quo warranto* action. This authority is expressly conferred on the Supreme Court by the Constitution under Section 5, Article VIII which states that:

> **Sec. 5.** The Supreme Court shall have the following powers:
>
> 1. **Exercise original jurisdiction** over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, ***quo warranto***, and *habeas corpus*.
>
> x x x x (Emphasis ours)

Section 5 of Article VIII does not limit the Court's *quo warranto* jurisdiction only to certain public officials or that excludes impeachable officials therefrom. In *Sarmiento v. Mison*,[4] the Court ruled:

> The task of the Court is rendered lighter by the existence of relatively clear provisions in the Constitution. In cases like this, we follow what the Court, speaking through Mr. Justice (later, Chief Justice) Jose Abad Santos stated in *Gold Creek Mining Corp. v. Rodriguez,* that:
>
> > The fundamental principle of constitutional construction is to give effect to the intent of the framers of the organic law and of the people adopting it. **The intention to which force is to be given is that which is embodied and expressed in the constitutional provisions themselves.**[5] (Emphasis ours)

---

[4] No. L-79974, December 17, 1987, 156 SCRA 549.

[5] Id. at 552.

The Constitution defines judicial power as a "duty" to be performed by the courts of justice.[6] Thus, for the Court to repudiate its own jurisdiction over this case would be to abdicate a constitutionally imposed responsibility.

As the Court pointed out in its Decision, this is not the first time the Court took cognizance of a *quo warranto* petition against an impeachable officer. In the consolidated cases of *Estrada v. Macapagal-Arroyo*[7] and *Estrada v. Desierto*,[8] the Court assumed jurisdiction over a *quo warranto* petition that challenged Gloria Macapagal-Arroyo's title to the presidency.

Arguing that the aforesaid cases cannot serve as precedent for the Court to take cognizance of this case, respondent makes it appear that they involved a totally different issue, one that concerned Joseph E. Estrada's immunity from suit, specifically: "Whether conviction in the impeachment proceedings is a condition precedent for the criminal prosecution of petitioner Estrada. In the negative and on the assumption that petitioner is still President, whether he is immune from criminal prosecution."[9]

Respondent's allegation is utterly false and misleading. A cursory reading of the cases will reveal that Estrada's immunity from suit was just one of the issues raised therein. Estrada in fact sought a *quo warranto* inquiry into Macapagal-Arroyo's right to assume the presidency, claiming he was simply a President on leave.

Respondent also asserts that *Estrada* cannot serve as precedent for the Court to decide this case because it was dismissed, and unlike the instant petition, it was filed within the prescribed one (1)-year period under Section 11, Rule 66 of the Rules of Court.[10]

The argument fails to persuade. *Estrada* was dismissed not because the Court had no jurisdiction over the *quo warranto* petition but because Estrada's challenge to Macapagal-Arroyo's presidency had no merit. In ruling upon the merits of Estrada's *quo warranto* petition, the Court has undeniably exercised its jurisdiction under Section 5(1) of Article VIII. Thus, *Estrada* clearly demonstrates that the Court's *quo warranto* jurisdiction extends to impeachable officers.

---

[6] Section 1 of Article VIII states:

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

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

[7] 406 Phil. 1 (2001).

[8] Supra.

[9] Respondent's *Ad Cautelam* Motion for Reconsideration, pp. 68-69.

[10] Respondent's *Ad Cautelam* Motion for Reconsideration, p. 69.

Furthermore, as will be discussed elsewhere in this Resolution, the filing of the instant petition was not time-barred. The issue of prescription must be addressed in light of the public interest that *quo warranto* is meant to protect.

Accordingly, the Court could, as it did in *Estrada,* assume jurisdiction over the instant *quo warranto* petition against an impeachable officer.

Quo warranto and impeachment are two distinct proceedings, although both may result in the ouster of a public officer. Strictly speaking, *quo warranto* grants the relief of "ouster", while impeachment affords "removal."

A *quo warranto* proceeding is the proper legal remedy to determine a person's right or title to a public office and to oust the holder from its enjoyment.[11] It is the proper action to inquire into a public officer's eligibility[12] or the validity of his appointment.[13] Under Rule 66 of the Rules of Court, a *quo warranto* proceeding involves a judicial determination of the right to the use or exercise of the office.

Impeachment, on the other hand, is a political process undertaken by the legislature to determine whether the public officer committed any of the impeachable offenses, namely, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust.[14] It does not ascertain the officer's eligibility for appointment or election, or challenge the legality of his assumption of office. Conviction for any of the impeachable offenses shall result in the removal of the impeachable official from office.[15]

The OSG's *quo warranto* petition challenged respondent's right and title to the position of Chief Justice. He averred that in failing to regularly disclose her assets, liabilities and net worth as a member of the career service prior to her appointment as an Associate Justice of the Court, respondent could not be said to possess the requirement of proven integrity demanded of every aspiring member of the Judiciary. The OSG thus prayed that respondent's appointment as Chief Justice be declared void.

Clearly, the OSG questioned the respondent's eligibility for appointment as Chief Justice and sought to invalidate such appointment. The OSG's petition, therefore, is one for *quo warranto* over which the Court exercises original jurisdiction.

---

[11] *Sen. Defensor Santiago v. Sen. Guingona, Jr.*, 359 Phil. 276, 302 (1998).

[12] *Fortuno v. Judge Palma*, 240 Phil. 656, 664 (1987).

[13] *Nacionalista Party v. De Vera*, 85 Phil. 126, 133 (1949) and *J/Sr. Supt. Engaño v. Court of Appeals*, 526 Phil. 291, 297 (2006).

[14] 1987 CONSTITUTION, Article XI, Section 2.

[15] 1987 CONSTITUTION, Article XI, Sections 2 and 3(7).

As the Court previously held, "where the dispute is on the eligibility to perform the duties by the person sought to be ousted or disqualified a *quo warranto* is the proper action."[16]

Respondent harps on the supposed intent of the framers of the Constitution for impeachable officers to be removed only through impeachment.[17] However, a circumspect examination of the deliberations of the 1986 Constitutional Commission will reveal that the framers presumed that the impeachable officers had duly qualified for the position. Indeed, the deliberations which respondent herself cited[18] showed that the framers did not contemplate a situation where the impeachable officer was unqualified for appointment or election.

Accordingly, respondent's continued reliance on the Court's pronouncement in *Mayor Lecaroz v. Sandiganbayan*,[19] *Cuenco v. Hon. Fernan*,[20] *In Re Gonzales*,[21] *Jarque v. Desierto*[22] and *Marcoleta v. Borra*[23] (*Lecaroz* etc.) is misplaced. Not one of these cases concerned the validity of an impeachable officer's appointment. To repeat, *Lecaroz* involved a criminal charge against a mayor before the Sandiganbayan, while the rest were disbarment cases filed against impeachable officers principally for acts done during their tenure in public office. The officers' eligibility or the validity of their appointment was not raised before the Court. The principle laid down in said cases is to the effect that during their incumbency, impeachable officers cannot be criminally prosecuted for an offense that carries with it the penalty of removal, and if they are required to be members of the Philippine Bar to qualify for their positions, they cannot be charged with disbarment. The proscription does not extend to actions assailing the public officer's title or right to the office he or she occupies. The ruling therefore cannot serve as authority to hold that a *quo warranto* action can never be filed against an impeachable officer.

The Court's *quo warranto* jurisdiction over impeachable officers also finds basis in paragraph 7, Section 4, Article VII of the Constitution which designates it as the sole judge of the qualifications of the President and Vice-President, both of whom are impeachable officers. With this authority, the remedy of *quo warranto* was provided in the rules of the Court sitting as the Presidential Electoral Tribunal (PET).

---

[16] *Fortuno v. Judge Palma*, supra at 664.
[17] Respondent's *Ad Cautelam* Motion for Reconsideration, p. 58.
[18] Respondent's *Ad Cautelam* Motion for Reconsideration, pp. 58-61.
[19] 213 Phil. 288 (1984).
[20] 241 Phil. 162 (1988).
[21] 243 Phil. 167 (1988).
[22] *En Banc* Resolution dated December 5, 1995 in A.C. No. 5409.
[23] 601 Phil. 470 (2009).

Respondent, however, argues that *quo warranto* petitions may be filed against the President and Vice-President under the PET Rules "only because the Constitution specifically permits" them under Section 4, Article VII. According to respondent, no counterpart provision exists in the Constitution giving the same authority to the Court over the Chief Justice, the members of the Constitutional Commissions and the Ombudsman. Respondent, thus, asserts that the Constitution made a distinction between elected and appointive impeachable officials, and limited *quo warranto* to elected impeachable officials. For these reasons, respondent concludes that by constitutional design, the Court is denied power to remove any of its members.[24]

The Court is not convinced. The argument, to begin with, acknowledges that the Constitution in fact allows *quo warranto* actions against impeachable officers, albeit respondent limits them to the President and Vice-President. This admission refutes the very position taken by respondent that *all* impeachable officials cannot be sued through *quo warranto* because they belong to a "privileged class" of officers who can be removed only through impeachment.[25] To be sure, *Lecaroz,* etc. did not distinguish between elected and appointed impeachable officers.

Furthermore, that the Constitution does not show a counterpart provision to paragraph 7 of Section 4, Article VII for members of this Court or the Constitutional Commissions does not mean that *quo warranto* cannot extend to non-elected impeachable officers. The authority to hear *quo warranto* petitions against appointive impeachable officers emanates from Section 5(1) of Article VIII which grants *quo warranto* jurisdiction to this Court without qualification as to the class of public officers over whom the same may be exercised.

Respondent argues that Section 5(1) of Article VIII is not a blanket authority, otherwise paragraph 7 of Section 4, Article VII would be "superfluous." Superfluity, however, is not the same as inconsistency. Section 4, Article VII is not repugnant to, and clearly confirms, the Court's *quo warranto* jurisdiction under Section 5(1) of Article VIII. Respondent herself has not alleged any irreconcilability in these provisions.

Indeed, contrary to respondent's claim, Section 4 of Article VII is not meant to limit the Court's *quo warranto* jurisdiction under Article VIII of the Constitution. In fact, We held that "[t]he power wielded by PET is "a derivative of the plenary judicial power allocated to the courts of law, expressly provided in the Constitution."[26] Thus, the authority under Section 4 of Article VII to hear *quo warranto* petitions assailing the qualifications of

[24] Respondent's *Ad Cautelam* Motion for Reconsideration, pp. 67-68.

[25] Respondent's *Ad Cautelam* Motion for Reconsideration, p. 59.

[26] *Atty. Macalintal v. Presidential Electoral Tribunal*, 650 Phil. 326, 359 (2010).

the President and Vice-President is simply a component of the Court's *quo warranto* jurisdiction under Article VIII. This finds support in the nature of *quo warranto* as a remedy to determine a person's right or title to a public office,[27] which is not confined to claims of ineligibility but extends to other instances or claims of usurpation or unlawful holding of public office as in the cases of *Lota v. CA and Sangalang*,[28] *Moro v. Del Castillo, Jr.*,[29] *Mendoza v. Allas*,[30] *Sen. Defensor Santiago v. Sen. Guingona, Jr.*[31] and *Estrada*. It will be recalled that in *Estrada*, the Court took cognizance of, and ruled upon, a *quo warranto* challenge to a vice-president's assumption of the presidency; the challenge was based, not on ineligibility, but on therein petitioner's claim that he had not resigned and was simply a president on leave. To sustain respondent's argument, therefore, is to unduly curtail the Court's judicial power and to dilute the efficacy of *quo warranto* as a remedy against the "unauthorized arbitrary assumption and exercise of power by one without color of title or who is not entitled by law thereto."[32] It bears to reiterate that:

> While an appointment is an essentially discretionary executive power, it is subject to the limitation that the appointee should possess none of the disqualifications but all the qualifications required by law. **Where the law prescribes certain qualifications for a given office or position, courts may determine whether the appointee has the requisite qualifications, absent which, his right or title thereto may be declared void.**[33] (Citations omitted and emphasis ours)

This Court has the constitutional mandate to exercise jurisdiction over *quo warranto* petitions. And as *Estrada* and the PET Rules show, impeachable officers are not immune to *quo warranto* actions. Thus, a refusal by the Court to take cognizance of this case would not only be a breach of its duty under the Constitution, it would also accord respondent an exemption not given to other impeachable officers. Such privilege finds no justification either in law, as impeachable officers are treated without distinction under the impeachment provisions[34] of the Constitution, or in reason, as the qualifications of the Chief Justice are no less important than the President's or the Vice-President's.

Respondent's insistence that she could not be removed from office except through impeachment is predicated on Section 2, Article XI of the Constitution. It reads:

---

[27] *Sen. Defensor Santiago v. Sen. Guingona, Jr.*, supra note 11, at 302.
[28] 112 Phil. 619 (1961).
[29] 662 Phil. 331 (2011).
[30] 362 Phil. 238 (1999).
[31] 359 Phil. 276 (1998).
[32] *Sen. Defensor Santiago v. Sen. Guingona, Jr.*, supra note 11, at 302.
[33] *J/Sr. Supt. Engaño v. Court of Appeals*, supra note 13, at 299.
[34] 1987 CONSTITUTION, Article XI, Sections 2 and 3.

> Sec. 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office on impeachment for, and conviction of, **culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust**. All other public officers and employees may be removed from office as provided by law, but not by impeachment. (Emphasis ours)

By its plain language, however, Section 2 of Article XI does not preclude a *quo warranto* action questioning an impeachable officer's **qualifications** to assume office. These qualifications include age, citizenship and professional experience – matters which are manifestly outside the purview of impeachment under the above-cited provision.

Furthermore, Section 2 of Article XI cannot be read in isolation from Section 5(1) of Article VIII of the Constitution which gives this Court its *quo warranto* jurisdiction, or from Section 4, paragraph 7 of Article VII of the Constitution which designates the Court as the sole judge of the qualifications of the President and Vice-President.

In *Civil Liberties Union v. The Executive Secretary*,[35] the Court held:

> It is a well-established rule in constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.
>
> In other words, the court must harmonize them, if practicable, and must lean in favor of a construction which will render every word operative, rather than one which may make the words idle and nugatory.[36] (Citations omitted)

Section 2 of Article XI provides that the impeachable officers may be removed from office on impeachment for and conviction of culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. Lack of qualifications for appointment or election is evidently not among the stated grounds for impeachment. It is, however, a ground for a *quo warranto* action over which this Court was given original jurisdiction under Section 5(1) of Article VIII. The grant of jurisdiction was not confined to unimpeachable officers. In fact, under Section 4, paragraph 7 of Article VII, this Court was expressly

---

[35] 272 Phil. 147 (1991).

[36] Id. at 162.

authorized to pass upon the qualifications of the President and Vice-President. Thus, the proscription against the removal of public officers other than by impeachment does not apply to *quo warranto* actions assailing the impeachable officer's eligibility for appointment or election.

This construction allows all three provisions to stand together and to give effect to the clear intent of the Constitution to address not only the impeachable offenses but also the issue of qualifications of public officers, including impeachable officers.

As this Court intoned in its Decision, to take appointments of impeachable officers beyond the reach of judicial review is to cleanse them of any possible defect pertaining to the constitutionally prescribed qualifications which cannot otherwise be raised in an impeachment proceeding.

To illustrate this, the Court cited the requirement that the impeachable officer must be a natural-born citizen of the Philippines. We explained that if it turns out that the impeachable officer is in fact of foreign nationality, respondent's argument will prevent this Court from inquiring into this important qualification that directly affects the officer's ability to protect the interests of the State. Unless convicted of an impeachable offense, the officer will continue in office despite being clearly disqualified from holding it. We stressed that this could not have been the intent of the framers of the Constitution.

Respondent, however, contends that the above-cited defect will actually constitute a ground for impeachment because the appointee's continued exercise of public functions despite knowledge of his foreign nationality amounts to a culpable violation of the Constitution.

The argument is untenable. Citizenship is a qualification issue which this Court has the authority to resolve. Thus, in *Kilosbayan Foundation v. Exec. Sec. Ermita*,[37] where the appointment of Sandiganbayan Justice Gregory S. Ong (Ong) to this Court was sought to be annulled for the latter's supposed failure to comply with the citizenship requirement under the Constitution, We stated that:

> Third, as to the proper forum for litigating the issue of respondent Ong's qualification for membership of this Court. **This case is a matter of primordial importance involving compliance with a Constitutional mandate. As the body tasked with the determination of the merits of conflicting claims under the Constitution, the Court is the proper forum for resolving the issue, even as the JBC has the initial competence to do so.**[38] (Citation omitted and emphasis ours)

---

[37] 553 Phil. 331 (2007).

[38] Id. at 340.

In the subsequent case of *Topacio v. Assoc. Justice Gregory Santos Ong, et al.*,[39] Ong's citizenship was raised anew, this time to prevent him from further exercising the office of a Sandiganbayan Associate Justice. The Court held that the challenge was one against Ong's title to the office which must be raised in a *quo warranto* proceeding, thus:

> **While denominated as a petition for *certiorari* and prohibition, the petition partakes of the nature of a *quo warranto* proceeding with respect to Ong, for it effectively seeks to declare null and void his appointment as an Associate Justice of the Sandiganbayan for being unconstitutional.** While the petition professes to be one for *certiorari* and prohibition, petitioner even adverts to a *quo warranto* aspect of the petition.
>
> Being a collateral attack on a public officer's title, the present petition for *certiorari* and prohibition must be dismissed.
>
> **The title to a public office may not be contested except directly, by *quo warranto* proceedings; and it cannot be assailed collaterally,** even through *mandamus* or a motion to annul or set aside order. In *Nacionalista Party v. De Vera*, the Court ruled that prohibition does not lie to inquire into the validity of the appointment of a public officer.
>
> > x x x [T]he writ of prohibition, even when directed against persons acting as judges or other judicial officers, **cannot be treated as a substitute for *quo warranto* or be rightfully called upon to perform any of the functions of the writ.** If there is a court, judge or officer *de facto*, the title to the office and the right to act cannot be questioned by prohibition. If an intruder takes possession of a judicial office, the person dispossessed cannot obtain relief through a writ of prohibition commanding the alleged intruder to cease from performing judicial acts, since in its very nature prohibition is an **improper remedy by which to determine the title to an office.**[40] (Citations omitted and emphasis ours)

Determining title to the office on the basis of a public officer's qualifications is the function of *quo warranto*. For this reason, impeachment cannot be treated as a substitute for *quo warranto*.

Furthermore, impeachment was designed as a mechanism "to check abuse of power."[41] The grounds for impeachment, including culpable violation of the Constitution, have been described as referring to "serious crimes or misconduct"[42] of the "vicious and malevolent" kind.[43] Citizenship

---

[39] 595 Phil. 491 (2008).

[40] Id. at 503.

[41] *Chief Justice Corona v. Senate of the Philippines, et al.*, 691 Phil. 156, 170 (2012).

[42] Id.

[43] *Gonzales III v. Office of the President of the Philippines, et al.*, 694 Phil. 52, 102 (2012).

issues are hardly within the ambit of this constitutional standard.

The Constitution must be construed in light of the object sought to be accomplished and the evils sought to be prevented or remedied.[44] An interpretation that would cause absurdity is not favored.[45]

It thus bears to reiterate that even the PET Rules expressly provide for the remedy of election protest. Following respondent's theory that an impeachable officer can be removed only through impeachment means that a President or Vice-President against whom an election protest has been filed can demand for the dismissal of the protest on the ground that it can potentially cause his/her removal from office through a mode other than by impeachment. To sustain respondent's position is to render election protests under the PET Rules nugatory. The Constitution could not have intended such absurdity since fraud and irregularities in elections cannot be countenanced, and the will of the people as reflected in their votes must be determined and respected.

The preposterousness of allowing unqualified public officials to continue occupying their positions by making impeachment the sole mode of removing them was likewise aptly discussed by Our esteemed colleague Justice Estela M. Perlas-Bernabe when she stated that qualification should precede authority, *viz*:

> Owing to both the "political" and "offense-based" nature of these grounds, I am thus inclined to believe that impeachment is not the sole mode of "removing" impeachable officials as it be clearly absurd for any of them to remain in office despite their failure to meet the minimum eligibility requirements, which failure does not constitute a ground for impeachment. Sensibly, there should be a remedy to oust all our public officials, no matter how high-ranking they are or criticial their functions may be, upon a determination that they have not actually qualified for election or appointment. While I do recognize the wisdom of insulating impeachable officials from suits that may impede the performance of vital public functions, ultimately, this concern cannot override the basic qualification requirements of public office. ***There is no doubt that qualification should precede authority***. Every public office is created and conferred by law. x x x.[46] (Emphasis in the original)

Underlying all constitutional provisions on government service is the principle that public office is a public trust.[47] The people, therefore, have the right to have only qualified individuals appointed to public office. To construe Section 2, Article XI of the Constitution as proscribing a *quo*

---

[44] *Atty. Macalintal v. Presidential Electoral Tribunal*, supra note 26, at 340; *People of the Philippines v. Lacson*, 448 Phil. 317, 386 (2003).

[45] *Southern Cross Cement Corp. v. Cement Manufacturers Association of the Phil.*, 503 Phil. 485, 524 (2005).

[46] Separate Opinion of Justice Estela M. Perlas-Bernabe in G.R. No. 237428 dated May 11, 2018, *rollo*, pp. 6578-6579.

[47] 1987 CONSTITUTION, Article XI, Section 1.

warranto petition is to deprive the State of a remedy to correct a public wrong arising from defective or void appointments. Equity, however, will not suffer a wrong to be without remedy.[48] It stands to reason, therefore, that *quo warranto* should be available to question the validity of appointments especially of impeachable officers since they occupy the upper echelons of government and are capable of wielding vast power and influence on matters of law and policy.

III

Much noise and hysteria have been made that a sitting Chief Justice can only be removed by impeachment and that *quo warranto* is an improper remedy not sanctioned by the Constitution. The wind of disinformation was further fanned by respondent who claimed that her ouster was orchestrated by the President. This campaign of misinformation attempted to conceal and obfuscate the fact that the main issue in the petition which the Court is tasked to resolve is the qualification of respondent.

In the instant motion, respondent made mention of Senate Resolution No. 738,[49] which urges this Court to review Our May 11, 2018 Decision as it sets a "dangerous precedent that transgresses the exclusive powers of the legislative branch to initiate, try and decide all cases of impeachment." This Resolution was supposedly aimed to express "the sense of the Senate to uphold the Constitution on the matter of removing a Chief Justice from office." We have to remind the respondent, however, that while a majority of the Senators – 14 out of the 23 members – signed the said Resolution, the same has not yet been adopted by the Senate to date. In fact, the Court takes judicial notice that on May 31, 2018, the Senate adjourned its interpellation without any conclusion as to whether the Resolution is adopted.[50] Without such approval, the Senate Resolution amounts to nothing but a mere scrap of paper at present.

The Senate Resolution also appears to have been drafted, signed by some Senators, and interpellated on while respondent's motion for reconsideration is still pending consideration by the Court. While the concerned Members of the Senate insist on non-encroachment of powers, the Senate Resolution itself tends to influence, if not exert undue pressure on, the Court on how it should resolve the pending motion for reconsideration. The importance and high regard for the institution that is the Senate is undisputed. But the Court, in the discharge of its Constitutional duty, is also entitled to the same degree of respect and deference.

---

[48] *Re: Request of National Committee on Legal Aid to Exempt Legal Aid Clients from Paying Filing, Docket and Other Fees*, A.M. No. 08-11-7-SC, August 28, 2009.

[49] RESOLUTION EXPRESSING THE SENSE OF THE SENATE TO UPHOLD THE CONSTITUTION ON THE MATTER OF REMOVING A CHIEF JUSTICE FROM OFFICE.

[50] <http://news.abs-cbn.com/news/05/31/18/senate-fails-to-adopt-resolution-challenging-sereno-ouster> (visited on June 1, 2018).

At any rate, and with due regard to the Members of the Senate, We emphasize that the judicial determination of actual controversies presented before the courts is within the exclusive domain of the Judiciary. "The separation of powers doctrine is the backbone of our tripartite system of government. It is implicit in the manner that our Constitution lays out in separate and distinct Articles the powers and prerogatives of each co-equal branch of government."[51] Thus, the act of some of the Senators questioning the Court's judicial action is clearly an unwarranted intrusion to the Court's powers and mandate.

To disabuse wandering minds, there is nothing violative or intrusive of the Senate's power to remove impeachable officials in the main Decision. In fact, in the said assailed Decision, We recognized that the Senate has the sole power to try and decide all cases of impeachment. We have extensively discussed therein that the Court merely exercised its Constitutional duty to resolve a legal question referring to respondent's qualification as a Chief Justice of the Supreme Court. We also emphasized that this Court's action never intends to deprive the Congress of its mandate to make a determination on impeachable officials' culpability for acts committed while in office. We even explained that impeachment and *quo warranto* may proceed independently and simultaneously, albeit a ruling of removal or ouster of the respondent in one case will preclude the same ruling in the other due to legal impossibility and mootness.

Quo warranto is not a figment of imagination or invention of this Court. It is a mandate boldly enshrined in the Constitution[52] where the judiciary is conferred original jurisdiction to the exclusion of the other branches of the government. *Quo warranto*, not impeachment, is the constitutional remedy prescribed to adjudicate and resolve questions relating to qualifications, eligibility and entitlement to public office. Those who chose to ignore this fact are Constitutionally blind. US Supreme Court Justice Scalia once said: "If it is in the Constitution, it is there. If it is not in the Constitution, it is not there."[53] There is nothing in Our Constitution that says that impeachable officers are immuned, exempted, or excluded from *quo warranto* proceedings when the very issue to be determined therein is the status of an officer as such. No amount of public indignation can rewrite or deface the Constitution.

IV

The plain issue in the instant case is whether respondent is eligible to occupy the position of Chief Justice. To determine whether or not respondent is eligible, the primordial consideration is whether respondent met the requisite Constitutional requirements for the position. Questions on

[51] *Padilla, et al. v. Congress of the Phils.*, G.R. No. 231671, July 25, 2017.

[52] 1987 CONSTITUTION, Article VIII, Section 5.

[53] Scalia and Garner, READING THE LAW: THE INTERPRETATION OF LEGAL TEXTS, pp. 4-6 (2012).

eligibility therefore present a justiciable issue, which can be resolved by juxtaposing the facts with the Constitution, as well as pertinent laws and jurisprudence. In *Kilosbayan Foundation*,[54] the Court affirmed its jurisdiction to resolve the issue on the qualification for membership of this Court as the body tasked with the determination of the merits of conflicting claims under the Constitution, *even* when the JBC has the initial competence to do so.[55]

True enough, constitutionally committed to the JBC is the principal function of recommending appointees to the Judiciary. The function to recommend appointees carries with it the concomitant duty to screen applicants therefor. The JBC's exercise of its recommendatory function must nevertheless conform with the basic premise that the appointee possesses the non-negotiable qualifications prescribed by the Constitution. While the JBC enjoys a certain leeway in screening aspiring magistrates, such remains to be tightly circumscribed by the Constitutional qualifications for aspiring members of the Judiciary.[56] These Constitutional prerequisites are therefore deemed written into the rules and standards which the JBC may prescribe in the discharge of its primary function. The JBC cannot go beyond or less than what the Constitution prescribes.

The surrender to the JBC of the details as to how these qualifications are to be determined is rendered necessary and in keeping with its recommendatory function which is nevertheless made expressly subject to the Court's exercise of supervision.

As an incident of its power of supervision over the JBC, the Court has the authority to insure that the JBC performs its duties under the Constitution and complies with its own rules and standards. Indeed, supervision is an active power and implies the authority to inquire into facts and conditions that renders the power of supervision real and effective.[57] Under its power of supervision, the Court has ample authority to look into the processes leading to respondent's nomination for the position of Chief Justice on the face of the Republic's contention that respondent was ineligible to be a candidate to the position to begin with.

Arguments were raised against the Court's assumption over the *quo warranto* petition on the premise that the determination of the integrity requirement lies solely on the JBC's discretion and thus, a prior nullification of the JBC's act on the ground of grave abuse of discretion through a *certiorari* petition is the proper legal route.

---

[54] Supra note 37.

[55] Id. at 340.

[56] *Villanueva v. Judicial and Bar Council*, 757 Phil. 534 (2015).

[57] *Planas v. Gil*, 67 Phil. 62, 77 (1939).

The question of whether or not a nominee possesses the requisite qualifications is determined based on facts and as such, generates no exercise of discretion on the part of the nominating body. Thus, whether a nominee is of the requisite age, is a natural-born citizen, has met the years of law practice, and is of proven competence, integrity, probity, and independence are to be determined based on facts and cannot be made dependent on inference or discretion, much less concessions, which the recommending authority may make or extend. To say that the determination of whether a nominee is of "proven integrity" is a task absolutely contingent upon the discretion of the JBC is to place the integrity requirement on a plateau different from the rest of the Constitutional requirements, when no such distinction is assigned by the Constitution. As well, to treat as discretionary on the part of the JBC the question of whether a nominee is of "proven integrity" is to render the Court impotent to nullify an otherwise unconstitutional nomination unless the Court's jurisdiction is invoked on the ground of grave abuse of discretion. Such severely limiting course of action would effectively diminish the Court's collegial power of supervision over the JBC.

To re-align the issue in this petition, the Republic charges respondent of unlawfully holding or exercising the position of Chief Justice of the Supreme Court. The contents of the petition pose an attack to respondent's authority to hold or exercise the position. Unmoving is the rule that title to a public office may not be contested except directly, by *quo warranto* proceedings.[58] As it cannot be assailed collaterally, *certiorari* is an infirm remedy for this purpose. It is for this reason that the Court previously denied a *certiorari* and prohibition petition which sought to annul appointment to the Judiciary of an alleged naturalized citizen.[59]

Aguinaldo, et al. v. Aquino, et al.,[60] settles that when it is the *qualification* for the position that is in issue, the proper remedy is *quo warranto* pursuant to *Topacio*.[61] But when it is the act of the appointing power that is placed under scrutiny and not any disqualification on the part of the appointee, a petition for *certiorari* challenging the appointment for being unconstitutional or for having been done in grave abuse of discretion is the apt legal course. In *Aguinaldo*, the Court elucidated:

> The Court recognized in *Jardeleza v. Sereno* that a petition for *certiorari* is a proper remedy to question the act of any branch or instrumentality of the government on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions.

---

[58] *Topacio v. Assoc. Justice Gregory Santos Ong, et al.*, supra note 39, at 503 citing *Gonzales v. COMELEC, et al.*, 129 Phil 7, 29 (1967).

[59] Id.

[60] G.R. No. 224302, November 29, 2016.

[61] Supra note 39.

> In opposing the instant Petition for *Certiorari* and Prohibition, the OSG cites Topacio in which the Court declares that title to a public office may not be contested except directly, by *quo warranto* proceedings; and it cannot be assailed collaterally, such as by *certiorari* and prohibition.
>
> However, Topacio is not on all fours with the instant case. In Topacio, the writs of *certiorari* and prohibition were sought against Sandiganbayan Associate Justice Gregory S. Ong on the ground that he lacked the qualification of Filipino citizenship for said position. In contrast, the present Petition for *Certiorari* and Prohibition puts under scrutiny, not any disqualification on the part of respondents Musngi and Econg, but the act of President Aquino in appointing respondents Musngi and Econg as Sandiganbayan Associate Justices without regard for the clustering of nominees into six separate shortlists by the JBC, which allegedly violated the Constitution and constituted grave abuse of discretion amounting to lack or excess of jurisdiction. This would not be the first time that the Court, in the exercise of its expanded power of judicial review, takes cognizance of a petition for *certiorari* that challenges a presidential appointment for being unconstitutional or for having been done in grave abuse of discretion. x x x.[62] (Italics and citations omitted.)

A *certiorari* petition also lacks the safeguards installed in a *quo warranto* action specifically designed to promote stability in public office and remove perpetual uncertainty in the title of the person holding the office. For one, a *certiorari* petition thrives on allegation and proof of grave abuse of discretion. In a *quo warranto* action, it is imperative to demonstrate that the respondent have usurped, intruded into or unlawfully held or exercised a public office, position or franchise.

For another, *certiorari* may be filed by any person alleging to have been aggrieved by an act done with grave abuse of discretion. In a *quo warranto* action, it is the Solicitor General or a public prosecutor, when directed by the President or when upon complaint or when he has good reason to believe that the grounds for *quo warranto* can be established by proof, who must commence the action. The only instance when an individual is allowed to commence such action is when he or she claims to be entitled to a public office or position usurped or unlawfully held or exercised by another. In such case, it is incumbent upon the private person to present proof of a clear and indubitable right to the office. If *certiorari* is accepted as the proper legal vehicle to assail eligibility to public office then any person, although unable to demonstrate clear and indubitable right to the office, and merely upon claim of grave abuse of discretion, can place title to public office in uncertainty.

---

[62] *Aguinaldo, et al. v. Aquino, et al.*, supra.

Tellingly also, the rules on *quo warranto* do not require that the recommending or appointing authority be impleaded as a necessary party, much less makes the nullification of the act of the recommending authority a condition precedent before the remedy of *quo warranto* can be availed of. The JBC itself did not bother to intervene in the instant petition.

Under Section 6, Rule 66 of the Rules of Court, when the action is against a person for usurping a public office, position or franchise, it is only required that, if there be a person who claims to be entitled thereto, his or her name should be set forth in the petition with an averment of his or her right to the office, position or franchise and that the respondent is unlawfully in possession thereof. All persons claiming to be entitled to the public office, position or franchise may be made parties and their respective rights may be determined in the same *quo warranto* action. The appointing authority, or in this case the recommending authority which is the JBC, is therefore not a necessary party in a *quo warranto* action.

Peculiar also to the instant petition is the surrounding circumstance that an administrative matter directly pertaining to the nomination of respondent is pending before the Court. While the administrative matter aims to determine whether there is culpability or lapses on the part of the JBC members, the factual narrative offered by the latter are all extant on record which the Court can take judicial notice of. Thus, considerations regarding the lack of due process on the part of the JBC present only a superficial resistance to the Court's assumption of jurisdiction over the instant *quo warranto* petition.

In any case, the rules on *quo warranto* vests upon the Court ancillary jurisdiction to render such further judgment as "justice requires."[63] Indeed, the doctrine of ancillary jurisdiction implies the grant of necessary and usual incidental powers essential to effectuate its jurisdiction and subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction and for the enforcement of its judgments and mandates.[64] Accordingly, "demands, matters or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance."[65]

---

[63] Section 9, Rule 66 of the Rules of Court.

[64] *The City of Manila, et al. v. Judge Grecia-Cuerdo, et al.*, 726 Phil. 9, 27 (2014).

[65] Id. at 27-28.

V

This Court had likewise amply laid down the legal and factual bases for its ruling against the dismissal of the instant petition on the ground of prescription. Our ruling on this matter is anchored upon the very purpose of such prescriptive period as consistently held by this Court for decades and also upon consideration of the unique underlying circumstances in this case which cannot be ignored.

In addition to the catena of cases cited in the assailed Decision, the Court, in *Madrigal v. Prov. Gov. Lecaroz*,[66] exhaustively explained the rationale behind the prescriptive period:

> The unbending jurisprudence in this jurisdiction is to the effect that a petition for *quo warranto* and *mandamus* affecting titles to public office must be filed within one (1) year from the date the petitioner is ousted from his position. x x x The reason behind this being was expounded in the case of *Unabia v. City Mayor, etc.*, x x x where We said:
>
> "x x x[W]e note that in actions of *quo warranto* involving right to an office, the action must be instituted within the period of one year. This has been the law in the island since 1901, the period having been originally fixed in Section 216 of the Code of Civil Procedure (Act No. 190). **We find this provision to be an expression of policy on the part of the State that *persons claiming a right to an office* of which they are illegally dispossessed should immediately take steps to recover said office and that if they do not do so within a period of one year, they shall be considered as having lost their right thereto by abandonment.** There are weighty reasons of public policy and convenience that demand the adoption of a similar period for persons claiming rights to positions in the civil service. **There must be stability in the service so that public business may [not] be unduly retarded; delays in the statement of the right to positions in the service must be discouraged**. The following considerations as to public officers, by Mr. Justice Bengzon, may well be applicable to employees in the civil service:
>
> > 'Furthermore, **constitutional *rights* may certainly be waived**, and the inaction of the officer for one year could be validly considered as waiver, i.e., a renunciation which no principle of justice may prevent, he being at liberty to resign his position anytime he pleases.
> >
> > 'And there is good justification for the limitation period; it is not proper that the title to public office should be subjected to continued uncertain[t]y, and the **peoples' interest require that such right should be determined as speedily as practicable**.'
>
> "Further, the **Government must be immediately informed or advised if any person claims to be entitled to an office or a position in**

[66] 269 Phil. 20 (1990).

> **the civil service as against another actually holding it, so that the Government may not be faced with the predicament of having to pay the salaries, one, for the person actually holding the office, although illegally, and another, for one not actually rendering service although entitled to do so.** x x x."[67] (Citations omitted and emphasis ours)

The long line of cases decided by this Court since the 1900's, which specifically explained the spirit behind the rule providing a prescriptive period for the filing of an action for *quo warranto*, reveals that such limitation can be applied only against private individuals claiming rights to a public office, *not* against the State.

Indeed, there is no proprietary right over a public office. Hence, a claimed right over a public office may be waived. In fact, even Constitutionally-protected rights may be waived. Thus, We have consistently held that the inaction of a person claiming right over a public office to assert the same within the prescriptive period provided by the rules, may be considered a waiver of such right. This is where the difference between a *quo warranto* filed by a private individual as opposed to one filed by the State through the Solicitor General lies. There is no claim of right over a public office where it is the State itself, through the Solicitor General, which files a petition for *quo warranto* to question the eligibility of the person holding the public office. As We have emphasized in the assailed Decision, unlike Constitutionally-protected rights, Constitutionally-required qualifications for a public office can never be waived either deliberately or by mere passage of time. While a private individual may, in proper instances, be deemed to have waived his or her right over title to public office and/or to have acquiesced or consented to the loss of such right, no organized society would allow, much more a prudent court would consider, the State to have waived by mere lapse of time, its right to uphold and ensure compliance with the requirements for such office, fixed by no less than the Constitution, the fundamental law upon which the foundations of a State stand, especially so when the government cannot be faulted for such lapse.

On another point, the one-year prescriptive period was necessary for the government to be immediately informed if any person claims title to an office so that the government may not be faced with the predicament of having to pay two salaries, one for the person actually holding it albeit illegally, and another to the person not rendering service although entitled to do so. It would thus be absurd to require the filing of a petition for *quo warranto* within the one-year period for such purpose when it is the State itself which files the same not for the purpose of determining who among two private individuals are entitled to the office. Stated in a different manner, the purpose of the instant petition is not to inform the government that it is facing a predicament of having to pay two salaries; rather, the

[67] Id. at 25-26.

government, having learned of the predicament that it might be paying an unqualified person, is acting upon it head-on.

Most importantly, urgency to resolve the controversy on the title to a public office to prevent a hiatus or disruption in the delivery of public service is the ultimate consideration in prescribing a limitation on when an action for *quo warranto* may be instituted. However, it is this very same concern that precludes the application of the prescriptive period when it is the State which questions the eligibility of the person holding a public office and not merely the personal interest of a private individual claiming title thereto. Again, as We have stated in the assailed Decision, when the government is the real party in interest and asserts its rights, there can be no defense on the ground of laches or limitation,[68] otherwise, it would be injurious to public interest if this Court will not act upon the case presented before it by the Republic and merely allow the uncertainty and controversy surrounding the Chief Justice position to continue.

Worthy to mention is the fact that this is not the first time that this Court precluded the application of the prescriptive period in filing a petition for *quo warranto*. In *Cristobal v. Melchor*,[69] the Court considered certain exceptional circumstances attending the case, which took it out of the rule on the one-year prescriptive period. Also, in *Agcaoili v. Suguitan*,[70] the Court considered, among others, therein petitioner's good faith and the injustice that he suffered due to his forcible ouster from office in ruling that he is not bound by the provision on the prescriptive period in filing his action for *quo warranto* to assert his right to the public office. When the Court in several cases exercised liberality in the application of the statute of limitations in favor of private individuals so as not to defeat their personal interests on a public position, is it not but proper, just, reasonable, and more in accord with the spirit of the rule for this Court to decide against the application of the prescriptive period considering the public interest involved? Certainly, it is every citizen's interest to have qualified individuals to hold public office, especially that of the highest position in the Judiciary.

From the foregoing disquisition, it is clear that this Court's ruling on the issue of prescription is not grounded upon provisions of the Civil Code, specifically Article 1108(4)[71] thereof. Instead, the mention thereof was intended merely to convey that if the principle that "prescription does not lie against the State" can be applied with regard to property disputes, what more if the underlying consideration is public interest.

---

[68] *Republic of the Phils. v. Court of Appeals*, 253 Phil. 698, 713 (1989) citing *Government of the U.S. v. Judge of the First Instance of Pampanga*, 49 Phil. 495, 500 (1965).

[69] 168 Phil. 328 (1977).

[70] 48 Phil. 676 (1929).

[71] Article 1108. Prescription, both acquisitive and extinctive, runs against:

x x x x

(4) Juridical persons, except the State and its subdivisions.

To be clear, this Court is not abolishing the limitation set by the rules in instituting a petition for *quo warranto*. The one-year presciptive period under Section 11, Rule 66 of the Rules of Court still stands. However, for reasons explained above and in the main Decision, this Court made distinctions as to when such prescriptive period applies, to wit: (1) when filed by the State at its own instance, through the Solicitor General,[72] prescription shall not apply. This, of course, does not equate to a blanket authority given to the Solicitor General to indiscriminately file baseless *quo warranto* actions in disregard of the constitutionally-protected rights of individuals; (2) when filed by the Solicitor General or public prosecutor at the request and upon relation of another person, with leave of court,[73] prescription shall apply except when established jurisprudential exceptions[74] are present; and (3) when filed by an individual in his or her own name,[75] prescription shall apply, except when established jurisprudential exceptions are present. In fine, Our pronouncement in the assailed Decision as to this matter explained that certain circumstances preclude the absolute and strict application of the prescriptive period provided under the rules in filing a petition for *quo warranto*.

Thus, this Court finds no reason to reverse its ruling that an action for *quo warranto* is imprescriptible if brought by the State at its own instance, as in the instant case.

In any case, and as aptly discussed in the main Decision, the peculiarities of the instant case preclude strict application of the one-year prescriptive period against the State. As observed by Justice Perlas-Bernabe in her Separate Opinion, "x x x if there is one thing that is glaringly apparent from these proceedings, it is actually the lack of respondent's candor and forthrightness in the submission of her SALNs."[76] Respondent's actions prevented the State from discovering her disqualification within the prescriptive period. Most certainly, thus the instant case is one of those proper cases where the one-year prescriptive period set under Section 11, Rule 66 of the Rules of Court should not apply.

VI

Respondent reiterates her argument that her case should be treated similarly as in *Concerned Taxpayer v. Doblada Jr.*[77]

---

[72] Section 2, Rule 66 of the Rules of Court.

[73] Section 3, Rule 66 of the Rules of Court.

[74] (1) there was no acquiescence to or inaction on the part of the petitioner, amounting to the abandonment of his right to the position; (2) it was an act of the government through its responsible officials which contributed to the delay in the filing of the action; and (3) the petition was grounded upon the assertion that petitioner's removal from the questioned position was contrary to law. [*Cristobal v. Melchor and Arcala*, 168 Phil. 328 (1977)].

[75] Section 5, Rule 66 of the Rules of Court.

[76] *Rollo*, p. 6584.

[77] 498 Phil. 395 (2005).

As extensively discussed in the main Decision, respondent, unlike Doblada, did not present contrary proof to rebut the Certifications from U.P. HRDO that respondent's SALNs for 1986, 1987, 1988, 1992, 1999, 2000, 2001, 2003, 2004, 2005 and 2006 are not in its possession and from the Ombudsman that based on its records, there is no SALN filed by respondent except that for 1998. Being uncontroverted, these documents suffice to support this Court's conclusion that respondent failed to file her SALNs in accordance with law.

In *Doblada*, the *contrary proof* was in the form of the letter of the head of the personnel of Branch 155 that the SALN for 2000 *exists* and was *duly transmitted* and *received* by the Office of the Court Administrator as the repository agency. In respondent's case, other than her bare allegations attacking the credibility of the aforesaid certifications from U.P. HRDO and the Ombudsman, no supporting proof was presented. It bears to note that these certifications from the aforesaid public agencies enjoy a presumption that official duty has been regularly performed. These certifications suffice as proof of respondent's failure to file her SALN until contradicted or overcome by sufficient evidence. Consequently, absent a countervailing evidence, such disputable presumption becomes conclusive.[78]

As what this Court has stated in its May 11, 2018 Decision, while government employees cannot be required to keep their SALNs for more than 10 years based from the provisions of Section 8, paragraph C(4) of Republic Act No. 6713,[79] the same cannot substitute for respondent's manifest ineligibility at the time of her application. Verily, even her more recent SALNs, such as those in the years of 2002 to 2006, which in the ordinary course of things would have been easier to retrieve, were not presented nor accounted for by respondent.

Respondent attempts to strike a parallelism with Doblada by claiming that she, too, religiously filed her SALNs. The similarity however, ends there. Unlike in *Doblada,* respondent failed to present contrary proof to rebut the evidence of non-filing. If, indeed, she never missed filing her SALNs and the same were merely lost, or missing in the records of the repository agency, this Court sees nothing that would prevent respondent from securing a Certification which would provide a valid or legal reason for the copies' non-production.

---

[78] *See Alcantara v. Alcantara,* 558 Phil. 192 (2007).

[79] AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES. Approved on February 20, 1989.

VII

Respondent insists that the filing of SALNs bears no relation to the Constitutional qualification of integrity. For her, the measure of integrity should be as what the JBC sets it to be and that in any case, the SALN laws, being *malum prohibitum*, do not concern adherence to moral and ethical principles.

Respondent's argument, however, dangerously disregards that the filing of SALN is not only a requirement under the law, but a positive duty required from every public officer or employee, first and foremost by the Constitution.[80] The SALN laws were passed in aid of the enforcement of the Constitutional duty to submit a declaration under oath of one's assets, liabilities, and net worth. This positive Constitutional duty of filing one's SALN is so sensitive and important that it even shares the same category as the Constitutional duty imposed upon public officers and employees to owe allegiance to the State and the Constitution.[81] As such, offenses against the SALN laws are not ordinary offenses but violations of a duty which every public officer and employee owes to the State and the Constitution. In other words, the violation of SALN laws, by itself, defeats any claim of integrity as it is inherently immoral to violate the will of the legislature and to violate the Constitution.

Integrity, as what this Court has defined in the assailed Decision, in relation to a judge's qualifications, should not be viewed separately from the institution he or she represents. Integrity contemplates both adherence to the highest moral standards and obedience to laws and legislations. Integrity, at its minimum, entails compliance with the law.

In sum, respondent has not presented any convincing ground that would merit a modification or reversal of Our May 11, 2018 Decision. Respondent, at the time of her application, lacked proven integrity on account of her failure to file a substantial number of SALNs and also, her failure to submit the required SALNs to the JBC during her application for the position. Although deviating from the majority opinion as to the proper remedy, Justice Antonio T. Carpio shares the same finding:

> Since respondent took her oath and assumed her position as Associate Justice of the Supreme Court on 16 August 2010, she was required to file under oath her SALN within thirty (30) days after assumption of office, or until 15 September 2010, and the statements must be reckoned as of her first day of service, pursuant to the relevant provisions on SALN filing.

---

[80] 1987 Constitution, Article XII, Section 17.
[81] 1987 Constitution, Article XII, Section 18.

> However, **respondent failed to file a SALN containing sworn statements reckoned as of her first day of service within thirty (30) days after assuming office.** While she allegedly submitted an "entry SALN" on 16 September 2010, it was unsubscribed and the statements of her assets, liabilities and net worth were reckoned as of 31 December 2009, and not as of her first day of service, or as of 16 August 2010. x x x
>
> x x x x
>
> The Constitution, law, and rules clearly require that the sworn entry SALN "must be reckoned as of his/her first day of service" and must be filed "within thirty (30) days after assumption of office." Evidently, respondent failed to file under oath a SALN reckoned as of her first day of service, or as of 16 August 2010, within the prescribed period of thirty (30) days after her assumption of office. **In other words, respondent failed to file the required SALN upon her assumption of office,** which is a clear violation of Section 17, Article XI of the Constitution. In light of her previous failure to file her SALNs for several years while she was a UP College of Law Professor, her failure to file her SALN upon assuming office in 2010 as Associate Justice of this Court constitutes culpable violation of the Constitution, a violation committed while she was already serving as an impeachable office.[82] (Citation omitted and emphasis ours)

Having settled respondent's ineligibility and ouster from the position, the Court reiterates its directive to the JBC to immediately commence the application, nomination and recommendation process for the position of Chief Justice of the Supreme Court.

WHEREFORE, respondent Maria Lourdes P. A. Sereno's *Ad Cautelam* Motion for Reconsideration is **DENIED** with **FINALITY** for lack of merit. No further pleadings shall be entertained. Let entry of judgment be made immediately.

The Court **REITERATES** its order to the Judicial and Bar Council to commence the application and nomination process for the position of the Chief Justice without delay. The ninety-day (90) period[83] for filling the vacancy shall be reckoned from the date of the promulgation of this Resolution.

SO ORDERED.

NOEL GIMENEZ TIJAM
Associate Justice

---

[82] Dissenting Opinion of Justice Antonio T. Carpio in G.R. No. 237428 dated May 11, 2018, pp. 6401-6404.

[83] 1987 CONSTITUTION, Article VIII, Section 4.

WE CONCUR:

I maintain my dissent.

ANTONIO T. CARPIO
Senior Associate Justice

I maintain my dissent.

PRESBITERO J. VELASCO, JR.
Associate Justice

Please see my Separate Concurring Opinion.
Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

See separate concurring opinion.

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

I maintain my dissent

MARIANO C. DEL CASTILLO
Associate Justice

I maintain my separate Opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

I maintain my discent

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

I maintain my dissent.

Please see Concurring Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

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

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court