

## EN BANC

[ G.R. No. 246679, March 02, 2021 ]

**GOVERNOR EDGARDO A. TALLADO, PETITIONER, VS.  
COMMISSION ON ELECTIONS, NORBERTO B. VILLAMIN AND  
SENANDRO M. JALGALADO, RESPONDENTS.**

### R E S O L U T I O N

**GESMUNDO, C.J.:**

On September 10, 2019, the Court promulgated its Decision in this petition, disposing:

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

**SO ORDERED.**<sup>[1]</sup>

In due course, both private respondents and the Commission on Elections (COMELEC) filed their respective motions for reconsideration, impugning the aforesaid decision. The COMELEC raised the following errors:

**I. PETITIONER NEVER LOST TITLE TO THE OFFICE OF THE GOVERNOR OF CAMARINES NORTE.**

**A. The doctrine in *Aldovino, Jr., et al. v. COMELEC and Asilo* is clear. The temporary inability or disqualification to exercise the functions of an elective post, even if involuntary, is not an effective interruption of a term.**

**B. The non-final although executory nature of the decisions of the Ombudsman in administrative cases, which impose the penalty of dismissal, proves the impermanence of the dismissal. Hence, it is akin to a preventive suspension for all intents and purposes.**

**C. Petitioner's dismissal resulted to a mere temporary**

**vacancy in the office of the Governor of Camarines Norte.**

**II. TERM LIMITATIONS SHOULD BE STRICTLY CONSTRUED.<sup>[2]</sup>**

For his part, private respondent Norberto B. Villamin raised the following points for reconsideration:

3.1. In this Motion for Reconsideration, RESPONDENT questions the Assailed Decision which held that the Ombudsman's dismissal decisions against PETITIONER serve as valid interruptions in his term of office so as to prevent the application of the three term limit rule. Particularly, RESPONDENT questions the following findings of the Court:

3.1.1. PETITIONER lost title to his office when he was dismissed therefrom;

3.1.2. PETITIONER'S dismissals resulted in permanent vacancy; and

3.1.3. Developments in the appeals did not change the fact that PETITIONER was dismissed.<sup>[3]</sup>

Lastly, private respondent Senandro M. Jalgado joins the COMELEC in assailing the conclusions reached by the Court in its September 10, 2019 Decision.<sup>[4]</sup>

In unison, all of the respondents argue that the Court erred in ruling that petitioner's removal constitutes as valid interruption of his term sufficient to break the three-term limit rule imposed on local candidates. They point out that petitioner's resort to appeal and the eventual modification of the administrative penalty imposed on him shows the lack of permanence of his ouster as governor and should be insufficient to warrant as an interruption of his term. Further, respondents urge the Court to consider his absence in office as preventive suspension, as the Ombudsman (*OMB*) Rules provide. Lastly, they claim that for the Court to allow such construction to continue would reward corrupt and unscrupulous politicians to escape the grasp of the three-term prohibition.

In response, petitioner, echoing the Court's arguments, prays for the denial of the motions for reconsideration.

The Court **DENIES** all motions for reconsideration for lack of merit.

It does not escape the Court's attention that the issues raised by respondents in their motions for reconsideration were already squarely ruled upon. Thus, We reiterate our Decision promulgated last September 10, 2019:

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

From all the above, we conclude that the "interruption" of a term exempting an elective official from the three-term limit

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

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

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

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

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

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

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

receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

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

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

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

Section 10. Penalties. — (a) For administrative charges under Executive Order No. 292 or such other executive orders, laws or rules under which the respondent is charged, the penalties provided thereat shall be imposed by the Office of the Ombudsman; (b) in administrative proceedings conducted under these Rules, **the Office of the Ombudsman may impose the penalty** of reprimand, suspension without pay for a minimum period of one (1) month up to a maximum period of one (1) year, demotion, **dismissal from the service**, or a fine equivalent to his salary for one (1) month up to one (1) year, or from Five Thousand Pesos (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.

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

That the second paragraph of Section 7 of Rule III of the OMB's Rules, *supra*, characterizes the penalty of suspension or dismissal meanwhile enforced as a preventive suspension should the public officer later win his or her appeal of the OMB's decision is absurd and illogical as to the

penalty of dismissal. The characterization also lacks legal and factual support. In his case, the petitioner was twice fully divested of his powers and responsibilities as Governor by the DILG immediately transferring the discharge of the office of Governor and the exercise of the functions and powers thereof to another person, Vice Governor Pimentel. The latter forthwith took his oath of office as Governor and unconditionally assumed and discharged such office. Without doubt, the execution of the OMB's dismissals in that manner resulted in the petitioner's loss of title to the office of Governor.

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

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

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

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

x x x x

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

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

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

From all the above, we conclude that the interruption of a term exempting an elective official from the three-term limit rule is one that involves