

ALDRIN MADREO, PETITIONER, VS. LUCILO R. BAYRON, RESPONDENT.

G.R. No. 237330. November 03, 2020

Ponente: DELOS SANTOS, J.

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DELOS SANTOS, J.:

Before the Court are two consolidated Petitions for Review on Certiorari under Rule 45 of the Rules of Court, assailing the Decision[1] dated 8 August 2017 and the Resolution[2] dated 25 January 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 149375, which reversed and set aside the Decision[3] dated 18 November 2016 of the Office of the Ombudsman (OMB) in OMB-L-A-13-0564 and dismissed the administrative complaint against Lucilo Bayron (Lucilo), City Mayor of Puerto Princesa, Palawan, by reason of the application of the doctrine of condonation.

Antecedents

During the 2013 elections, Lucilo won as the Mayor of Puerto Princesa City, Palawan. He assumed office on 30 June 2013.

On 1 July 2013, the City Government of Puerto Princesa, represented by Lucilo as city mayor, entered into a Contract of Services[4] with Lucilo's son, Karl Bayron (Karl), engaging the latter as Project Manager for Bantay Puerto-VIP Security Task Force, with a monthly compensation of P16,000.00, from 1 July 2013 to 31 December 2013.

The Complaint

On 22 November 2013, Aldrin Madreo (Madreo) filed a Complaint-Affidavit[5] against Lucilo and Karl before the OMB, charging them with the following:

(1)

Administrative offenses of Grave Misconduct, Serious Dishonesty; Conduct Unbecoming of a Public Officer and Conduct Prejudicial to the Best Interest of the Service, docketed as OMB-L-A-13-0564; and

(2)

Criminal offenses of Nepotism, Perjury, Falsification of Public Documents, and Violation of Section 3(e) of Republic Act (RA) No. 3019, docketed as OMB-L-C-13-0500.[6]

In his Complaint-Affidavit, Madreo alleged that the Contract of Services between the Puerto Princesa City Government and Karl contained a declaration that Karl "is not related within the fourth degree of consanguinity/affinity with the Hiring Authority." Contrary to this declaration, however, Karl is the biological son of Lucilo as evidenced by an official copy of his Birth Certificate.[7] Madreo argued that such act of concealment was indicative of a clear intention to violate the law,[8] lack of integrity, and disposition to betray and defraud the public.[9] He added that they also violated Civil Service Commission Memorandum Circular No. 17-02[10]

which prohibits a person covered by the rule against nepotism to be hired under a contract of service. Finally, Madreo claimed that Karl acted without authority when he issued Office Order No. 001, Series of 2013,[11] detailing a certain Rigor Cobarrubias, a regular employee, to the City Traffic Management Office.[12]

In his Consolidated Counter-Affidavit,[13] Lucilo alleged that the position for which Karl was engaged in a non-career position. He pointed out that the position is confidential in nature, and, as such, his engagement is allowed under the Civil Service Rules.[14] He added that the complaint should be dismissed outright on the basis of the following grounds: (1) failure to comply with Administrative Order No. 07,[15] as amended, which requires that a criminal and/or administrative complaint should be under oath; (2) lack of jurisdiction of the OMB since administrative complaints against local elective officials should be filed before the Office of the President; and (3) Madreo's lack of personal interest in the subject matter of the complaint as he was not a resident nor a taxpayer of Puerto Princesa City.[16]

Additionally, both Lucilo and Karl explained that the latter was not considered a public officer, therefore there was no legal obligation to disclose their relationship. As the position is confidential in nature, it is exempt from the rule against nepotism, and relationship between the parties is immaterial. Further, they claimed that there was no deliberate or willful intent to commit a falsehood as it was the city government, and not Lucilo, which entered into a contract with Karl.[17]

The 2015 Recall Election

On 8 May 2015 and during the pendency of the proceedings in OMB-L-A-13-0564 and OMB-L-C-13-0500, a recall election was held for the position of city mayor of Puerto Princesa. After the casting and counting of the votes, Lucilo was proclaimed as the winner and duly elected mayor of Puerto Princesa City.[18]

On 22 June 2015, Lucilo, through his counsel, filed an Entry of Appearance with Motion to Dismiss,[19] praying for the dismissal of the administrative complaint in light of his proclamation as the winner of the recall election. He asserted that re-election to office operates as a condonation of the officer's misconduct to the extent of cutting off the right to remove him therefrom.[20]

May 2016 Elections

During the May 2016 local elections, and while the proceedings in OMB-L-A-13-0564 and OMB-L-C-13-0500 were ongoing, Lucilo was re-elected as mayor of Puerto Princesa City.

Ruling of the OMB, Removal and Reinstatement of Lucilo as City Mayor

On 18 November 2016, the OMB, through Assistant Ombudsman Jennifer Jardin-Manalili, rendered a Decision[21] in OMB-L-A-13-0564, finding both Lucilo and Karl administratively liable, the dispositive portion of which reads:

WHEREFORE, this Office finds substantial evidence to hold respondents LUCILO R. BAYRON, and KARL M. BAYRON administratively liable for SERIOUS DISHONESTY and GRAVE MISCONDUCT. Pursuant to Section 46 (A)(1) and Section 46 (A)(3) respondents are meted the penalty of DISMISSAL FROM THE SERVICE, together with the corresponding accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, bar from taking the civil service examinations and perpetual disqualification from holding any public office.

In the event the principal penalty of dismissal can no longer be enforced on respondents, it shall be converted into a Fine in the amount equivalent to their basic salary for one year, payable to the Office of the Ombudsman, which amount maybe deducted from any receivable from the government. In the alternative,

respondents] may opt to pay the fine directly to the Office of the Ombudsman.

SO ORDERED.[22]

On the same date, a Resolution[23] was issued finding probable cause to indict both Lucilo and Karl for Falsification of Public Document.

Lucilo and Karl then filed their respective motions for reconsideration of the above Decision and Resolution.[24] Pending the resolution of his motion for reconsideration, Lucilo filed before the CA a Petition for Review[25] on 2 February 2017, alleging, among others, that with his re-elections during the 8 May 2015 recall election and May 2016 local elections, he can no longer be removed from office by reason of the condonation doctrine,[26] also known as Aguinaldo doctrine, which provides that a public official cannot be removed for administrative misconduct committed during a prior term since his re-election to office operates as a condonation of his past misconduct. Lucilo's petition, however, was simply noted without action by the CA for being premature in view of Lucilo's pending motion for reconsideration with the OMB.[27]

Meanwhile, the OMB Decision dated 18 November 2016 was implemented by way of several issuances and letters from various government agencies, including the Indorsement Letter[28] dated 10 January 2017 of the OMB to the Department of Interior and Local Government (DILG) and the Memorandum[29] dated 15 February 2017 of the DILG-MIMAROPA Region advising Vice-Mayor Luis Marcaida III (Marcaida) to assume office. Marcaida later took his oath as the Mayor of Puerto Princesa City.[30]

On 20 February 2017, Lucilo filed an Urgent Verified Manifestation[31] with the OMB, stating that he is abandoning his motion for reconsideration so that he may already avail judicial relief on the justification that the OMB has already effectively denied his motion for reconsideration by causing the immediate implementation of the judgment of dismissal. Further, with the objective to prevent the immediate implementation of the judgment of dismissal, Lucilo filed a motion for the issuance of a temporary restraining order (TRO) or a status quo ante Order before the CA, which was denied, however. Nonetheless, the CA declared the petition for review submitted for decision.[32]

Subsequently, in a Joint Order[33] dated 20 March 2017, the OMB modified its earlier ruling, setting aside the Resolution finding probable cause for Falsification of Public Document against Lucilo and Karl, and holding them administratively liable for Simple Dishonesty only. The dispositive portion of the Order reads:

WHEREFORE, considering the foregoing, this Office PARTIALLY GRANTS the Consolidated Motion for Reconsideration of respondent Karl M. Bayron. The Motion for Reconsideration of respondent Lucilo R. Bayron in the criminal case, on the other hand, is GRANTED.

The assailed Resolution is hereby SET ASIDE and all criminal charges against the respondents are DISMISSED. On the other hand, the assailed Decision is accordingly MODIFIED. Respondents Lucilo R. Bayron and Karl M. Bayron are administratively found guilty only of SIMPLE DISHONESTY and meted the penalty of Three Months Suspension from service.

In the event the principal penalty of suspension can no longer be enforced on respondents, it shall be converted into a Fine in the amount equivalent to their basic salary for three months, payable to the Office of the Ombudsman, which amount may be deducted from any receivable from the government. In the alternative, respondent may opt to pay the fine directly to the Office of the Ombudsman.

SO ORDERED.[34]

Thereafter, Lucilo filed before the CA an Urgent Manifestation with Reiterative Plea (For Immediate Issuance of Status Quo Ante Order/Preliminary Injunction Pending Final Disposition of the Main Petition),[35] alleging that

while the OMB had already reduced his penalty, the finding of guilt for Simple Dishonesty against him was bereft of any factual or legal basis, hence, he should be totally exonerated.[36] On the other hand, Marcaida filed a Petition for Leave to Intervene,[37] praying that he be allowed to intervene in the CA case and that a status quo ante order be issued to preserve the status of the parties prior to the issuance of the Joint Order dated 20 March 2017.[38]

On 22 June 2017, the DILG re-installed Lucilo as mayor of Puerto Princesa City per OMB's directive to implement its Joint Order[39] dated 20 March 2017.

On 6 July 2017, the OMB modified its disposition once again by setting aside the Joint Order dated 20 March 2017 in so far as Lucilo is concerned. The dispositive portion of its latest Order reads:

WHEREFORE, in view of the foregoing, this Office GRANTS complainant-movant Aldrin Madreo's Motion for Reconsideration and hereby RECONSIDERS and SETS ASIDE the assailed Joint Order dated 20 March 2017 modifying the Decision dated 18 November 2016 insofar as it affects respondent Lucilo Bayron.

SO ORDERED.[40]

Lucilo notified the CA of the supervening order which, in effect, reinstated OMB's judgment of his dismissal from service, and accordingly filed an Urgent Motion to Expedite Decision of the Pending Petition for Review.[41]

Ruling of the Court of Appeals

On 8 August 2017, the CA rendered the now assailed Decision.[42] The CA discussed that Lucilo could not be held liable for the charges of Serious Dishonesty and Grave Misconduct based on the circumstances surrounding the execution of the Contract of Services and in view of Lucilo's acquittal in the criminal complaint for Falsification of Public Document. In the main, however, the CA reversed the Decision dated 18 November 2016 of the OMB and dismissed the administrative complaint against Lucilo on the ground that the Aguinaldo doctrine is applicable to his case. The CA ratiocinated:

The cold hard fact is that after the purported misrepresentation, [Lucilo] was re-elected in a recall election held on 8 May 2015 when the Aguinaldo Doctrine was still in force. It must be emphasized that it is the election which operates to condone any misconduct supposedly committed by the public official during a prior term. In sooth, [Lucilo's] reelection on 8 May 2015 operates as a condonation of his alleged previous misconduct to the extent of cutting off the right to remove him therefrom.

x x x x

THE FOREGOING DISQUISITIONS CONSIDERED, We hereby GRANT the Petition for Review. The Decision dated 18 November 2016 of the Office of the Ombudsman in OMB-L-A-13-0564 is REVERSED and SET ASIDE. Accordingly, the Complaint for Serious Dishonesty and Grave Misconduct against petitioner Lucilo Bayron is DISMISSED.

The Petition for Leave to Intervene filed by Vice-Mayor Luis Marcaida is DENIED.

SO ORDERED.[43]

Madreo, Marcaida, and the OMB filed their separate motions for reconsideration of the Decision of the CA. The OMB, in particular, questioned the applicability of the doctrine of condonation in Lucilo's case as the same had already been abandoned in Ombudsman Carpio-Morales v. Court of Appeals[44] promulgated on 10 November 2015. While the abandonment of the said doctrine was declared to be applied prospectively, the OMB explained that there was no categorical statement from the Court as to what constitutes "prospective application." As such, the OMB is of the opinion that all administrative cases that remain open and pending as of 12 April 2016, the date

of finality of Carpio-Morales, can no longer avail of the defense of condonation. In any case, the OMB pointed out that Lucilo cannot avail the benefit of the condonation doctrine since he was not re-elected to a fresh term in the 2015 recall elections. Corollarily, there is no "prior term" to speak of for the doctrine to apply.[45]

In a Resolution[46] dated 25 January 2018, the CA denied the motions for reconsideration, disposing as follows:

WHEREFORE, the Motion for Reconsideration and Supplement thereto of respondent Aldrin Madreo, and the respective Motions for Reconsideration of Luis Marcaida III and public respondent Office of the Ombudsman are hereby DENIED.

SO ORDERED.[47]

The CA ruled that the ratio decidendi of the condonation doctrine, that an elective official's re-election serves as a condonation of previous misconduct which cuts the right to remove him therefor, applies to both regular and recall elections and that there is no plausible reason to make a distinction.[48]

The Petitions

Dissatisfied with ruling of the CA, Madreo and the OMB filed their respective petitions for review on certiorari, docketed as G.R. Nos. 237330[49] and 237579,[50] respectively. Madreo and the OMB's arguments in their respective petitions may be summarized into three points. First, they contend that the doctrine of condonation should not be applied to obliterate Lucilo's administrative liability since the doctrine had already been abandoned in Carpio-Morales. Second, assuming that the doctrine still prevails, the same cannot be applied in Lucilo's case since what was involved was a recall election and not a re-election for a fresh term of office. Third, they postulate that the CA gravely erred in absolving Lucilo from any administrative liability considering that he falsely attested to his non-relationship with his son, Karl, in the subject notarized Contract of Services.

Ruling

The petitions lack merit.

I

The doctrine of condonation first enunciated in the 1959 En Banc ruling in Pascual v. Provincial Board of Nueva Ecija[51] and reiterated in Aguinaldo v. Santos,[52] hence also known as Aguinaldo doctrine, states that an elected public official cannot be removed for administrative misconduct committed during a prior term, since his re-election to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor.[53]

In another En Banc ruling in Salalima v. Guingona, Jr.,[54] the Court stated that the condonation doctrine is not only founded on the theory that an official's re-election expresses the sovereign will of the electorate to forgive or condone any act or omission constituting a ground for administrative discipline which was committed during his previous term. The same is also justified by "sound public policy." The Court held that to rule otherwise would open the floodgates to exacerbating endless partisan contests between the re-elected official and his political enemies, who may not stop to hound the former during his new term with administrative cases for acts alleged to have been committed during his previous term. His second term may thus be devoted to defending himself in the said cases to the detriment of public service.[55]

This doctrine of forgiveness or condonation cannot, however, apply to criminal acts which the re-elected official may have committed during his previous term.[56] The Court also clarified that the condonation doctrine would not apply to appointive officials since, as to them, there is no sovereign will to disenfranchise.[57]

II

It bears noting that the condonation doctrine was abandoned in Carpio-Morales primarily on the grounds that there was no legal authority to sustain the condonation doctrine in this jurisdiction, and for being contrary to the present Constitution's mandate of holding all public officials and employees accountable to the people at all times. However, Carpio-Morales was also clear that the abandonment of the condonation doctrine shall be "prospective in application for the reason that judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines." [58]

The Court further clarified in *Crebello v. Office of the Ombudsman*, [59] that the ruling promulgated in Carpio-Morales on the abandonment of the doctrine of condonation had become final only on 12 April 2016, thus, the abandonment should be reckoned from the said date. The Court explained that the prospective application of Carpio-Morales should be reckoned from 12 April 2016 because that was the date on which the Court had "acted upon and denied with finality" the motion for clarification/motion for partial reconsideration filed in the said case.

Notwithstanding that the Court had already declared that the abandonment of the condonation doctrine is to be applied prospectively from 12 April 2016, the OMB asserts that the doctrine still does not apply to Lucilo because the administrative case against him was already pending before its office prior to the finality of Carpio-Morales. Pursuant to its Office Circular No. 17 dated 11 May 2016, the OMB maintains that it could still resolve the case and has in fact decided the same on 18 November 2016.

OMB Office Circular No. 17 reads:

From the date of finality of the Decision on 12 April 2016 and onwards, the Office of the Ombudsman will no longer give credence to the condonation doctrine, regardless of when an administrative infraction was committed, when the disciplinary complaint was filed, or when the concerned public official was re-elected. In other words, for [as] long as the administrative case remains open and pending as of 12 April 2016 and onwards, the Office of the Ombudsman shall no longer honor the defense of condonation. [60]

The Court does not agree with the stance of the OMB.

The problem with the OMB's position is that it completely obliterated the doctrine as a defense for all cases, even those already pending resolution or appeal at the time of the finality of Carpio-Morales. This is patently violative of the binding rule that "laws shall only have a prospective effect and must not be applied retroactively in such a way as to apply to pending disputes and cases." [61] In this regard, the Court finds it imperative to clarify as to what Carpio-Morales meant when it ruled that the abandonment of the condonation doctrine is applied prospectively. To be precise, the Court shall resolve the issue as to what event should have transpired before 12 April 2016, the date Carpio-Morales attained finality, for the doctrine of condonation to apply.

The preliminaries first. The re-election of the public official is the most important element for the application of the doctrine of condonation. Logically so as it is the event that triggers the application of the doctrine being the act that manifests the body politic's expressed or implied forgiveness of the public official's offense or misconduct. As emphasized in *Salumbides v. Office of the Ombudsman*, [62] it is the will of the populace that could extinguish an administrative liability. Needless to say, the rationale behind the condonation doctrine clearly instructs us that an elective official's re-election serves as a condonation of previous misconduct, thereby cutting the right to remove him; to do otherwise would be to deprive the people of their right to elect their officers, and it is not for the court, by reason of such faults or misconduct, to practically overrule the will of the people. It can be said then that it is the re-election which would ultimately give rise to the application of the condonation doctrine and the final act or event which vests upon the public official the right not to be removed from office.

Taking into account the above preliminary considerations, when the Court ruled in *Carpio-Morales* that the abandonment of the doctrine of condonation is applied prospectively, it meant that the said doctrine does not anymore apply to public officials re-elected after its abandonment. Stated differently, the doctrine still applies to those officials who have been re-elected prior to its abandonment. That is because when a public official had already been re-elected prior to the promulgation and finality of *Carpio-Morales*, he or she has every right to rely on the old doctrine that his or her re-election had already served as a condonation of his previous misconduct, thereby cutting the right to remove him from office, and a new doctrine decreeing otherwise would not be applicable against him or her. More telling, once re-elected, the public official already had the vested right not to be removed from office by reason of the condonation doctrine, which cannot be divested or impaired by a new law or doctrine without violating the Constitution. These are the decisive reasons behind the prospective applicability of the abandonment of the doctrine of condonation, as can be gleaned from the case law pointed out in *Carpio-Morales* to explain its ruling, to wit:

Hence, while the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as "good law" prior to its abandonment. Consequently, the people's reliance thereupon should be respected. The landmark case on this matter is *People v. Jabinal*, wherein it was ruled:

[W]hen a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.

Later, in *Spouses Benzonan v. CA*, it was further elaborated:

[P]ursuant to Article 8 of the Civil Code "judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." But while our decisions form part of the law of the land, they are also subject to Article 4 of the Civil Code which provides that "laws shall have no retroactive effect unless the contrary is provided." This is expressed in the familiar legal maxim *lex prospicit, non respicit*, the law looks forward not backward. The rationale against retroactivity is easy to perceive. The retroactive application of a law usually divests rights that have already become vested or impairs the obligations of contract and hence, is unconstitutional.[63] (Emphasis in the original and citations omitted; new emphases supplied)

Thus, the Court now clarifies in simple and direct terms. The defense of condonation doctrine is no longer available if the public official's re-election happens on or after 12 April 2016. With the abandonment of the condonation doctrine in *Carpio-Morales*, which became final on 12 April 2016, any re-elections of public officials on said date and onwards no longer have the effect of condoning their previous misconduct.

III

The condonation doctrine covers re-election through regular and recall elections.

It is noteworthy that the rationale behind the doctrine of condonation speaks of "re-election to public office" without specifying the type of elections conducted, thereby, signifying that the pivotal consideration in the application of the doctrine is the electorate's act of electing again an erring public official. Thus, the Court applies by analogy the well-established legal maxim "*ubi lex non distinguit, nec nos distinguere debemus*." When the law, a case law in this instance, does not distinguish, neither should we distinguish. Accordingly, that the manner of re-election was through a regular or recall elections is beside the point for the doctrine of condonation to apply. There should be no distinction as to the manner of re-election in the application of the said doctrine where none is indicated.

The OMB insists that the doctrine of condonation does not apply to a recall election because the same is a "mode

of removal" of a public officer by the people before the end of his term of office. It submits that when an incumbent public official wins in a recall election, he will merely continue his term of office, hence, such election is not considered a "re-election" because it is not a regular election where a person is elected for a new term of office. The OMB adds that for the condonation doctrine to apply, the misconduct must be committed during the immediately preceding term for the re-election.

The Court disagrees.

Condonation doctrine is a jurisprudential creation that originated from the 1959 case of Pascual.[64] Relatedly, judicial decisions assume the same authority as a statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria that must control the actuations, not only of those called upon to abide by them, but also of those duty-bound to enforce obedience to them.[65] Thus, like any other laws or statutes, judicial decisions and doctrines declared therein must be construed or interpreted with reference to its full context, i.e., that every part of the decision or doctrine must be considered together with the other parts, and kept subservient to the general intent of the whole enactment.[66] It is also a rule in statutory construction that the statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole.[67] Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.[68] It is also well-established rule that a statute must be so construed as to harmonize and give effect to all its provisions whenever possible;[69] and that the spirit and reason of the statute may be passed upon where a literal meaning would lead to absurdity, contradiction, injustice, or would defeat the clear purpose of the lawmakers.[70]

The Court applies the foregoing principles to the case at bench.

It is worthy to note that when the Court, in Pascual, subscribed to the idea that a public official may not be removed in the present term of office, the same was not simply and solely premised on the underlying theory that "each term is separate from other terms" in that "the penalty in proceedings for removal shall not extend beyond the removal from office, and disqualification from holding office for the term for which the officer was elected or appointed." The condonation doctrine, as it was later known, was also predicated on the reasoning that re-election serves as a condonation of previous misconduct and that the courts may not deprive the electorate, who are assumed to have known the life and character of candidates, of their right to elect officers nor to overrule the will of the people to disregard or forgive his faults or misconduct, if he had been guilty of any, when they elected a man to office.

Thus, in Carpio-Morales, the Court dissected Pascual's ratio decidendi into three (3) parts, to wit:

First, the penalty of removal may not be extended beyond the term in which the public officer was elected for each term is separate and distinct:

Offenses committed, or acts done, during previous term are generally held not to furnish cause for removal and this is especially true where the constitution provides that the penalty in proceedings for removal shall not extend beyond the removal from office, and disqualification from holding office for the term for which the officer was elected or appointed. (67 C.J.S. p. 248, citing *Rice vs. State*, 161 S.W. 2d. 401; *Montgomery vs. Nowell*, 40 S.W. 2d. 418; *People ex rel. Bagshaw vs. Thompson*, 130 P. 2d. 237; *Board of Com'rs of Kingfisher County vs. Shutler*, 281 P. 222; *State vs. Blake*, 280 P. 388; *In re Fudula*, 147 A. 67; *State vs. Ward*, 43 S.W. 2d. 217).

The underlying theory is that each term is separate from other terms

Second, an elective official's re-election serves as a condonation of previous misconduct, thereby cutting the right

to remove him therefor; and

[T]hat the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor. (43 Am. Jur. p. 45, citing *Atty. Gen. vs. Hasty*, 184 Ala. 121, 63 So. 559, 50 L.R.A. (NS) 553.

Third, courts may not deprive the electorate, who are assumed to have known the life and character of candidates, of their right to elect officers:

As held in *Conant vs. Grogan* (1887) 6 N.Y.S.R. 322, cited in 17 A.I.R. 281, 63 So. 559, 50 LRA (NS) 553 —

The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people.[71] (Emphases in the original and citations omitted; new emphases supplied)

To the mind of the Court, the rationale behind the doctrine of condonation gives significant consideration to the right of the electorate to elect officers, who will serve them, and of their sovereign will to forgive a public official's alleged misconduct through election, hence, the term "condonation." Otherwise, the Court, in *Pascual*, could have just simply and solely relied on the underlying theory that "each term is separate from other terms" to support its ruling on why a public official elected to a new term may not be removed for misconduct committed in his previous term. The rationale behind the doctrine, however, as elucidated in *Pascual*, stresses and gives value to the right of the electorate to elect officers and of their sovereign will to forgive. To be sure, these justifications are not without meaning and effect to the ruling of the Court in *Pascual*. The Court notes that the said case was decided under the 1935 Constitution. Section 1, Article II thereof states that "[t]he Philippines is a democratic and republican State" and "[s]overeignty resides in the people and all government authority emanates from them." Republicanism, in so far as it implies the adoption of a representative type of government, necessarily points to the enfranchised citizen as a particle of popular sovereignty and as the ultimate source of the established authority.[72] Each time the enfranchised citizen goes to the polls to assert this sovereign will, that abiding credo of republicanism is translated into living reality.[73] Indeed, a truly-functioning democracy owes its existence to the People's collective sovereign will.

The Court's rulings subsequent to *Pascual* would indeed tell the compelling reasons behind the condonation doctrine – the right of the electorate to elect officers and their sovereign will to forgive.

In *Salalima*,[74] the Court explained that the condonation doctrine is founded on the theory that an "official's reelection expresses the sovereign will of the electorate to forgive or condone any act or omission constituting a ground for administrative discipline which was committed during his previous term"[75] and added that the doctrine is also reinforced by sound public policy to prevent the elective official from being hounded by administrative cases filed by his political enemies during a new term, for which he has to defend himself to the detriment of public service.[76]

In *Garcia v. Mojica*,[77] the Court held that the rationale of the condonation doctrine is that "when the electorate put [the re-elected official] back into office, it is presumed that it did so with full knowledge of his life and character, including his past misconduct. If, armed with such knowledge, it still reelects him, then such reelection is considered a condonation of his past misdeeds." [78]

In *Salumbides*,[79] the Court ruled:

More than 60 years ago, the Court in *Pascual v. Hon. Provincial Board of Nueva Ecija* issued the landmark ruling that prohibits the disciplining of an elective official for a wrongful act committed during his immediately preceding term of office. The Court explained that "[t]he underlying theory is that each term is separate from other terms, and that the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor."

The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people elect[e]d a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct[,] to practically overrule the will of the people.[80] (Underscoring in the original; citations omitted)

And in *Garcia, Jr. v. Court of Appeals*,[81] the Court remarked that it would have been prudent for the appellate court therein to have issued a TRO against the implementation of the preventive suspension order issued by the OMB in view of the condonation doctrine as "the suspension from office of an elective official, whether as a preventive measure or as a penalty, will undeservedly deprive the electorate of the services of the person they have conscientiously chosen and voted into office." [82]

In view, therefore, of the paramount importance of the electorate's right to elect and of their willpower to forgive one's misconduct in the application of the doctrine of condonation, it is only fitting that the term "re-election," as referred to and contemplated in the aforesaid doctrine, should not be interpreted in its restrictive sense. Rather, the same must be given its ordinary and generic meaning of a public official having been elected again in a process where the electorate cast their votes in his or her favor during any elections. Corollarily, when the rationale of the doctrine mentioned of "commission of the act in the prior term," the same should mean to include "previous acts prior to the re-election" so as not to restrict the meaning of re-election to the extent of defeating or disenfranchising the right of the electorate to elect their officers and their sovereign will to forgive the latter's misconduct. Such approach would give life and meaning to, instead of rendering worthless and of no purpose, the declared rationale behind the doctrine of condonation on the protection of and respect for the sovereign will of the electorate to elect officers and to forgive the previous misconduct of their elected public servants. Only then could we give real sense of the term "condonation" which is defined as "a victim's express or implied forgiveness of an offense, [especially] by treating the offender as if there had been no offense." [83]

The foregoing considered, the doctrine of condonation, then, is applicable through a recall election.

In *Garcia v. Commission on Elections*,[84] recall was defined as a mode of removal of a public officer by the people before the end of his term of office. The people's prerogative to remove a public officer is an incident of their sovereign power and in the absence of constitutional restraint, the power is implied in all government operations.[85]

While recall election is defined as a mode of removal, the same could also operate as a re-election of the concerned incumbent public official since it resorts to the democratic process of election to achieve its end where the official sought to be recalled shall automatically be considered as duly registered candidate to the pertinent position and, like other candidates, shall be entitled to be voted upon.[86] More importantly, like in regular elections, the electorate in a recall election cast their votes to elect among the candidates who shall serve or continue to serve them.

At this point, it might not be amiss to stress that the same considerations behind the doctrine of condonation exist in recall elections.

In recall elections, the electorate can simply cut short the term of an incumbent official by not voting for him and entrusting the reins of government to another candidate. If the incumbent, however, "receive[s] the highest number of votes, confidence in him is thereby affirmed, and he shall continue in office." [87] It is the outcome of the election that ultimately determines the reaffirmation of the people's faith in him or, otherwise, their expression of displeasure over his administration. In any case, the electorate's participation in recall elections underscores an exercise of their right to elect officers to serve them – a right, which under the doctrine of condonation, may not be disenfranchised by the courts. Likewise, the result of this exercise is presumed to be with the electorate's full awareness of the allegations of misconduct against the local official. By re-electing a public official, however, his constituents are deemed to have pardoned his alleged previous misconduct. When an incumbent public official wins in a recall election, the only telling conclusion is that the people had foregone of their prerogative to proceed against the erring public official, and decided to look past the misconduct and reinstate their trust and confidence in him. This blurs the line of distinction between a regular and recall election in terms of the applicability of the condonation doctrine. Certainly, the will of the electorate to forgive or condone the incumbent of his act or omission constituting a ground for administrative discipline and the reaffirmation of the People's faith in him is well within the contemplation of the condonation doctrine.

Moreover, in the same way that, in construing a statute, the spirit of the law should never be divorced from its letter, a doctrine should always be interpreted according to its essence or philosophy that accompanied its adoption. In *Cometa v. Court of Appeals*, [88] the Court reiterated that:

[T]he spirit rather than the letter of the statute determines its construction, hence, a statute must be read according to its spirit or intent. For what is within the spirit is within the statute although it is not within the letter thereof, and that which is within the letter but not within the spirit is not within the statute. [89] (Italics in the original)

Thus, a doctrine should be deemed to embrace instances that uphold the same philosophy. A recall elections presupposes the same collective resolution of the constituents to condone the alleged misconduct. This is no different from re-election by regular election. The idea is that "when the people elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any." [90] This is in deference to the superiority of the collective will of the People. Accordingly, there is no persuasive reason to distinguish between re-election by regular or recall elections when applying the condonation doctrine since the controlling elements, i.e., the expression of the sovereign will of the people to elect their officer and to forgive a previous misconduct, are present in both cases. To say that condonation doctrine does not apply in recall elections when the compelling reasons and clear purpose of said doctrine are present therein would be a clear case of absurdity, and would tantamount to injustice to the electorate and to the public official concerned, in the context of applying the doctrine of condonation at the time when the same was not yet abandoned and still considered a good law.

IV

In view of the foregoing disquisitions, the Court rules that the doctrine of condonation is applicable to the case of Lucilo by reason of his re-election, as the term is understood in the application of the doctrine, during the recall election on 8 May 2015. It is undisputed that Lucilo's re-election took place prior to the finality of *Carpio-Morales*, which abandoned the condonation doctrine, on 12 April 2016. Considering that the doctrine of condonation is still a good law at the time of his re-election in 2015, Lucilo can certainly use and rely on the said doctrine as a defense against the charges for prior administrative misconduct on the rationale that his re-election effectively obliterates all of his prior administrative misconduct, if any at all. Further, with his re-election on 8 May 2015, Lucilo already had the vested right, by reason of the doctrine of condonation, not to be removed from

his office, which may not be deprived from him or be impaired by the subsequent abandonment in Carpio-Morales of the aforesaid doctrine, or by any new law, doctrine or Court ruling. Accordingly, his re-election on 8 May 2015 rendered moot and academic the administrative complaint filed against him on 22 November 2013 for misconduct allegedly committed on 1 July 2013, hence, must be dismissed.

The doctrine of condonation, however, cannot be extended to Lucilo's re-election during the May 2016 elections. By then, the doctrine had already been abandoned, and his re-election no longer had the effect of condoning his previous misconduct.

Finally, with the dismissal of the administrative complaint against Lucilo, the Court deems it unnecessary to pass upon the issue on whether the OMB has correctly found him liable for Serious Dishonesty and Grave Misconduct.

WHEREFORE, premises considered, the instant consolidated petitions are hereby DENIED. The Decision dated 8 August 2017 and the Resolution dated 25 January 2018 of the Court of Appeals in CA-G.R. SP No. 149375 are AFFIRMED.

SO ORDERED.

Peralta, C.J., Gesmundo, Hernando, Carandang, Inting, Zalameda, Lopez, Gaerlan, and Rosario, JJ., concur.

Perlas-Bernabe, J., see concurring and dissenting opinion.

Leonen, J., respectfully dissent. See separate dissenting opinion.

Caguioa, J., please see concurring opinion.

Lazaro-Javier, J., no part.

[1] Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Amy C. Lazaro-Javier (now a Member of the Court) and Pedro B. Corales, concurring; rollo (G.R. No. 237579), pp. 60-77.

[2] Id. at 80-89.

[3] Id. at 92-102.

[4] Id. at 141-142.

[5] Id. at 126-139.

[6] Id. at 61.

[7] Id. at 130, 145.

[8] Id. at 133.

[9] Id. at 134.

[10] Policy Guidelines for Contract of Services.

[11] Rollo (G.R. No. 237579), p. 144.

[12] Id. at 93.

[13] Id. at 148-169.

[14] Id. at 152-153.

[15] Rules of Procedure of the Office of the Ombudsman (April 10, 1990).

[16] Id. at 149-151.

[17] Id. at 94.

[18] Id. at 274.

[19] Id. at 271-273.

[20] Id. at 272.

[21] Id. at 92-102.

[22] Id. at 101.

[23] Not attached to the rollo.

[24] Id. at 103.

[25] Rollo (G.R. No. 237579), pp. 237-306.

[26] *Aguinaldo v. Santos*, 287 Phil. 851 (1992).

[27] Rollo (G.R. No. 237579), p. 67.

[28] Id. at 327.

[29] Id. at 336.

[30] Id. at 656.

[31] Id. at 313-314.

[32] Id. at 68.

[33] Id. at 103-114.

[34] Id. at 112-113.

[35] Not attached to the rollo.

[36] Rollo (G.R. No. 237579), pp. 68-69.

[37] Not attached to the rollo.

[38] Rollo (G.R. No. 237579), p. 69.

[39] Id. at 69, 614.

[40] Id. at 124.

[41] Id. at 70.

[42] Id. at 60-77.

[43] Id. at 76.

[44] 772 Phil. 672 (2015).

[45] Rollo (G.R. No. 237579), pp. 433-434.

- [46] Id. at 80-89.
- [47] Id. at 88.
- [48] Id.
- [49] Rollo (G.R. No. 237330), pp. 14-31.
- [50] Rollo (G.R. No. 237579), pp. 19-53.
- [51] 106 Phil. 466 (1959).
- [52] Supra note 26.
- [53] Id. at 857-858.
- [54] 326 Phil. 847 (1996).
- [55] Id. at 921.
- [56] See *Ingco v. Sanchez*, 129 Phil. 553 and *Aguinaldo*, supra note 26.
- [57] See *Salumbides, Jr. v. Office of the Ombudsman*, 633 Phil. 325 (2010), citing *Civil Service Commission v. Sojor*, 577 Phil. 52 (2008).
- [58] *Carpio-Morales*, supra note 44, at 775.
- [59] G.R. No. 232325, April 10, 2019.
- [60] Rollo (G.R. No. 237579), p. 37.
- [61] *Philippine National Bank v. Tejano*, 619 Phil. 139, 151 (2009).
- [62] Supra note 57.
- [63] *Carpio-Morales*, supra note 44, at 775-776.
- [64] Id. at 755.
- [65] Id. at 775, citing *De Castro v. Judicial Bar and Council*, 632 Phil. 657, 686 (2010).
- [66] *Land Bank of the Philippines v. AMS Farming Corporation*, 590 Phil. 170, 203 (2008).
- [67] *Mactan-Cebu International Airport Authority v. Urgello*, 549 Phil. 302, 322 (2007).
- [68] *Smart Communications, Inc. v. The City of Davao*, 587 Phil. 20, 30 (2008).
- [69] *Chavez v. Judicial and Bar Council*, 691 Phil. 173, 200 (2012), citing *Uy v. Sandiganbayan*, 407 Phil. 154, 180 (2001).
- [70] *Ursua v. Court of Appeals*, 326 Phil. 157, 163 (1996).
- [71] *Carpio-Morales*, supra note 44, at 761-762.
- [72] *Maya v. Del Fierro*, 69 Phil. 199, 204 (1939).
- [73] *People v. San Juan*, 130 Phil. 515, 522 (1968).
- [74] Supra note 54.

- [75] Id. at 921.
- [76] Id.
- [77] 372 Phil. 892 (1999).
- [78] Id. at 911-912.
- [79] Supra note 57.
- [80] Id. at 33.
- [81] 604 Phil. 677 (2009).
- [82] Id at 692.
- [83] Carpio-Morales, supra note 44, at 754, citing Black's Law Dictionary, 8th Ed., p. 315.
- [84] 297 Phil. 1034 (1993).
- [85] Id. at 1048.
- [86] Section 71, Republic Act No. 7160.
- [87] Section 72, id.
- [88] 404 Phil. 107 (2001).
- [89] Id. at 117.
- [90] Pascual, supra note 51, at 472.

CONCURRING AND DISSENTING OPINION

PERLAS-BERNABE, J.:

[W]hile the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as "good law" prior to its abandonment. Consequently, the people's reliance thereupon should be respected.

— excerpt from *Carpio Morales v. Court of Appeals*[1] explaining why the condonation's abandonment should be prospective.

While I agree with the ponencia[2] that re-election is the determinative point to reckon condonation, which thus allows elective officials to still invoke the condonation doctrine for as long as they have been re-elected before its abandonment on April 12, 2016, I dissent insofar as it extends the exculpatory effects of said doctrine to recall elections.[3]

By creating jurisprudence that, for the first time, stretches the scope of the condonation doctrine to recall elections, the ponencia glosses over the restrictive context in which said doctrine should be applied post-abandonment. It should be remembered that condonation is a legally baseless, unconstitutional, and hence, void doctrine; nonetheless, it is still given limited recognition today if only to fairly account for the people's previous reliance thereupon at the time it was still subsisting. Therefore, when applying condonation post-abandonment, the doctrine must be strictly limited and construed so that its present application does not go beyond what was previously relied upon by the public.

As will be herein discussed, the condonation doctrine was not only applied but was also intended to apply to regular elections only. In contrast, condonation was never applied to recall elections, whose concept and purpose are substantially different from regular elections. Accordingly, those who won in a recall election had no right to rely on the condonation doctrine as a means to exculpate their previous administrative liability. Neither was the voting public ever led to believe that a recall election may completely exonerate an official's previous administrative liability. Thus, I disagree with the ponencia's contrary position in this case.

I.

Understanding the limited and strict approach to applying condonation post-abandonment must fittingly begin with a recollection of why condonation was abandoned in the first place.

The condonation doctrine had previously gained notoriety as a legal vehicle for elective officials to escape public accountability by merely asserting the fact of their re-election. As it had been applied, the condonation doctrine completely cut off the Ombudsman's authority to determine the administrative liability of elective officials for infractions committed during a prior term, since ultimately, condonation through re-election rendered such issue moot and academic.

Tracing its doctrinal roots, the condonation doctrine was a purely jurisprudential creation introduced in the Philippines in the 1959 case of *Pascual v. Hon. Provincial Board of Nueva Ecija (Pascual)*.^[4] Its effect was to foreclose the removal of an elective official due to an administrative infraction once he is re-elected after his term of office. Notably, *Pascual* was decided under the 1935 Constitution, whose dated provisions do not reflect the experience of the Filipino People under the 1973 and 1987 Constitutions.^[5] Eventually, to instill public accountability in the government because of the past experiences of political abuse, an independent Ombudsman was created under the 1987 Constitution. This was further strengthened under Republic Act No. 7660^[6] by giving the Ombudsman disciplinary authority over all elective officials, including those in the local government.

Despite these attempts to strengthen the Ombudsman as an institution, the condonation doctrine in our jurisprudence gravely weakened the Ombudsman's authority to discipline elective officials. The sheer impact of the condonation doctrine on public accountability necessitated *Pascual*'s judicious re-examination.^[7] This was the setting when the Court, in the pivotal case of *Carpio Morales v. Court of Appeals (Carpio Morales)*,^[8] categorically declared the abandonment of the condonation doctrine not only for lacking constitutional and statutory basis but also for being rendered obsolete by the public accountability standard under the prevailing framework of the 1987 Constitution.

However, the Court remained cognizant that its decisions, until reversed, are considered part of the law of the land, which people were bound to abide and hence, had a right to rely upon in good faith; thus, in *Carpio Morales*, the Court qualified that the condonation doctrine's abandonment is only prospective in effect.^[9] The prospective abandonment of the condonation doctrine, despite its utter baselessness and unconstitutionality, was borne from fairness and practical considerations only; since the Court itself had led people to believe that an official's previous administrative liability could be condoned by voting for the same official to serve a new term of office, it could not simply undo the consequences of such reliance in the interim.

Notably, in *Crebello v. Office of the Ombudsman*,^[10] the Court clarified that the prospective abandonment of condonation should be reckoned from April 12, 2016 when *Carpio Morales*'s ruling attained finality.^[11] Hence, the limited application of condonation today subsists only to re-elections conducted prior to the April 12, 2016 cut-off date.

This case, however, presents a novel legal nuance to the application of the condonation doctrine which was never

before encountered by the Court in any of its past cases. For the first time, the Court is currently confronted with the issue of whether or not it can apply condonation to recall elections, as opposed to its previous application only in regular election cases. Since condonation applies today only because of previous public reliance, this Court must necessarily determine whether or not the public was led to believe by the Court that voting in favor of an official subjected to recall would result in the complete exoneration of his previous administrative liability. As will be herein discussed, I submit that no such reliance existed. The Court had applied the effects of condonation only by and through regular elections which, in contrast to a recall, ushers in a new term of office.

II.

Previous public reliance on condonation necessitates an examination of the doctrine's actual scope as envisioned in the Court's past precedents.

Prefatorily, a circumspect reading of Carpio Morales will show that: (1) condonation is not an original legal concept in our jurisdiction; and (2) there are various versions of condonation in the United States of America (US). "In fact, as pointed out during the oral arguments [in Carpio Morales], at least seventeen (17) states in the US have abandoned the condonation doctrine. The Ombudsman [in said case] aptly cite[d] several rulings of various US State courts, as well as literature published on the matter, to demonstrate the fact that the doctrine is not uniformly applied across all state jurisdictions."^[12] Thus, as the Court, in Carpio Morales, observed, "[i]ndeed, the treatment is nuanced,"^[13] viz.:

(1) For one, it has been widely recognized that the propriety of removing a public officer from his current term or office for misconduct which he allegedly committed in a prior term of office is governed by the language of the statute or constitutional provision applicable to the facts of a particular case (see *In Re Removal of Member of Council Coppola*). As an example, a Texas statute, on the one hand, expressly allows removal only for an act committed during a present term: "no officer shall be prosecuted or removed from office for any act he may have committed prior to his election to office" (see *State ex rel. Rawlings v. Loomis*). On the other hand, the Supreme Court of Oklahoma allows removal from office for "acts of commission, omission, or neglect committed, done or omitted during a previous or preceding term of office" (see *State v. Bailey*). Meanwhile, in some states where the removal statute is silent or unclear, the case's resolution was contingent upon the interpretation of the phrase "in office." On one end, the Supreme Court of Ohio strictly construed a removal statute containing the phrase "misfeasance of malfeasance in office" and thereby declared that, in the absence of clear legislative language making, the word "office" must be limited to the single term during which the offense charged against the public officer occurred (see *State ex rel. Stokes v. Probate Court of Cuyahoga County*). Similarly, the Common Pleas Court of Allegheny County, Pennsylvania decided that the phrase "in office" in its state constitution was a time limitation with regard to the grounds of removal, so that an officer could not be removed for misbehavior which occurred prior to the taking of the office (see *Commonwealth v. Rudman*). The opposite was construed in the Supreme Court of Louisiana which took the view that an officer's inability to hold an office resulted from the commission of certain offenses, and at once rendered him unfit to continue in office, adding the fact that the officer had been re-elected did not condone or purge the offense (see *State ex rel. Billon v. Bourgeois*). Also, in the Supreme Court of New York, Appellate Division, Fourth Department, the court construed the words "in office" to refer not to a particular term of office but to an entire tenure; it stated that the whole purpose of the legislature in enacting the statute in question could easily be lost sight of and the intent of the law-making body be thwarted, if an unworthy official could not be removed during one term for misconduct for a previous one (*Newman v. Strobel*).

(2) For another, condonation depended on whether or not the public officer was a successor in the same office for which he has been administratively charged. The "own-successor theory," which is recognized in numerous States as an exception to condonation doctrine, is premised on the idea that each term of a re-elected incumbent is not taken as separate and distinct, but rather, regarded as one continuous term of office. Thus,

infractions committed in a previous term are grounds for removal because a re-elected incumbent has no prior term to speak of (see *Attorney-General v. Tufts*; *State v. Welsh*; *Hawkins v. Common Council of Grand Rapids*; *Territory v. Sanches*; and *Tibbs v. City of Atlanta*).

(3) Furthermore, some State courts took into consideration the continuing nature of an offense in cases where the condonation doctrine was invoked. In *State ex rel. Douglas v. Megaarden*, the public officer charged with malversation of public funds was denied the defense of condonation by the Supreme Court of Minnesota, observing that "the large sums of money illegally collected during the previous years are still retained by him." In *State ex rel. Beck v. Harvey*, the Supreme Court of Kansas ruled that "there is no necessity" of applying the condonation doctrine since "the misconduct continued in the present term of office[;] [thus] there was a duty upon defendant to restore this money on demand of the county commissioners." Moreover, in *State ex rel. Londerholm v. Schroeder*, the Supreme Court of Kansas held that "insofar as nondelivery and excessive prices are concerned, . . . there remains a continuing duty on the part of the defendant to make restitution to the country this duty extends into the present term, and neglect to discharge it constitutes misconduct." [14]

While there were different variants of the condonation doctrine as may be gleaned from American cases,[15] the version adopted in our jurisprudence was the prior-term variant.[16] This iteration proceeds from the "underlying theory x x x that each term is separate from other terms";[17] hence, as only regular elections could contemplate the existence of separate terms, condonation has been applied to regular elections only.

The factoring-in of prior and new terms in effecting condonation is not merely trivial or inconsequential but is, in fact, substantive and deliberate. This is demonstrated by the Court's discussion in the case of Pascual, where the condonation doctrine in the Philippines finds genesis. As pointed out in *Carpio Morales*, Pascual's ratio decidendi, which embodies the reasons behind adopting condonation, has three (3) parts, the first part of which pertains to the concept of separateness and distinctiveness of terms, to wit:

First, the penalty of removal may not be extended beyond the term [for] which the public officer was elected, [as] each term is separate and distinct:

Offenses committed, or acts done, during previous term are generally held not to furnish cause for removal and this is especially true where the constitution provides that the penalty in proceedings for removal shall not extend beyond the removal from office, and disqualification from holding office for the term for which the officer was elected or appointed. (67 C.J.S. p. 248, citing *Rice vs. State*, 161 S.W. 2d. 401; *Montgomery vs. Nowell*, 40 S.W. 2d. 418; *People ex rel. Bagshaw vs. Thompson*, 130 P. 2d. 237; *Board of Com'rs of Kingfisher County vs. Shutler*, 281 P. 222; *State vs. Blake*, 280 P. 388; *In re Fudula*, 147 A. 67; *State vs. Ward*, 43 S.W. 2d. 217).

The underlying theory is that each term is separate from other terms x x x

Second, an elective official's re-election serves as a condonation of previous misconduct, thereby cutting the right to remove him therefor; and

[T]hat the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor. (43 Am. Jur. p. 45, citing *Atty. Gen. vs. Hasty*, 184 Ala. 121, 63 So. 559, 50 L.R.A. (NS) 553. x x x.

Third, courts may not deprive the electorate, who are assumed to have known the life and character of candidates, of their right to elect officers[.] [18] (Emphases and underscoring in the original)

However, the ponencia conveniently ignores Pascual's first consideration, and instead, confines condonation to the second and third considerations as above-quoted.[19] Thus, with its disregard of the first consideration in Pascual, the ponencia removes the substantive barrier of applying condonation to recall elections and extends its scope thereto accordingly.

To my mind, this the Court cannot do in novel jurisprudence. Not only will this course of action amount to a substantive modification of the condonation doctrine, this will also defy the public reliance rationale behind the condonation's prospective abandonment. Condonation has always been pronounced and hence, relied upon by the public relative to regular elections and its effect of ushering new terms that are separate and distinct. As stated in Carpio Morales:

With respect to its applicability to administrative cases, the core premise of condonation — that is, an elective official's re-election cuts off the right to remove him for an administrative offense committed during a prior term — was adopted hook, line, and sinker in our jurisprudence largely because the legality of that doctrine was never tested against existing legal norms.[20] (Emphases and underscoring supplied)

Further, in *Salalima v. Guingona, Jr.*,[21] the Court explained that the condonation doctrine prevented the danger of having an elective official devote the entire subsequent or "second term" "to defend x x x himself "for acts alleged to have been committed during his previous term." Practically speaking, condonation prevented the official from being "hounded" by administrative cases filed by his "political enemies" during a new term, for which he has to defend himself "to the detriment of public service." [22]

In this regard, it is therefore no coincidence that, based on existing Philippine cases, the condonation doctrine has been applied only in the context of a regular election wherein the winning candidate serves a separate term of office. Conversely, it was never applied in a situation involving a recall election where there is no new term of office.

On this score, it is immaterial that recall elections were formally established only during the passage of the Local Government Code (LGC) of 1991,[23] and hence, was not existing back when condonation was conceived in the Pascual case. The reasons for this immateriality are as follows:

First, it should be observed that jurisprudence is replete with condonation doctrine cases post-enactment of the LGC[24] including the famed *Aguinaldo v. Santos*[25] case. As such, it was not legally impossible for the Court to adjudicate on the inclusion of recall as a variant of condonation and make it part of our jurisprudence. In fact, the non-existence of a condonation-recall case – spanning the entire twenty-five (25) year period, more or less, from the enactment of the LGC up until the condonation's abandonment in 2016 – is evidence to show that indeed, the public never relied on recall as a form of condoning administrative liability.

Second, and more importantly, the abandonment of condonation as an unconstitutional and legally baseless doctrine bars its further expansion to a novel application that was never relied upon by the public. At the risk of belaboring the point, the application of condonation post-abandonment is circumscribed by the public reliance element. Since the public was never led by the Court to believe that administrative liability can be condoned through a recall election, there is no right to invoke condonation as a defense in this novel sense.

III.

In any event, contrary to the ponencia's stance,[26] the "same considerations" behind the condonation doctrine being applied to a regular election do not exist in a recall election. Arguing for the inclusion of recall elections within the scope of condonation, the ponencia posits that: "once reelected, the public official already had the vested right not to be removed from office by reason of the condonation doctrine, which cannot be divested or impaired by a new law or a new doctrine without violating the Constitution." [27]

I disagree.

Historically, the recall mechanism was introduced in our legal system as an additional layer of exacting public

accountability in the local government level. Its creation in the LGC[28] hearkens back to the need to provide a "responsive and accountable local government structure." [29] Section 3, Article X of the 1987 Constitution even mentions "recall" as distinct from "election." To my mind, it would be illogical if such innovation meant to advance public accountability will be used as a means to breathe new life to the unconstitutional condonation doctrine, which was already abandoned in Carpio Morales.

Moreover, by its nature, recall is a scrutiny on an incumbent official's fitness to continue in office.[30] Essentially, it is a check on the official's capability to continue leading his constituents for the same term in which he is originally, elected. On the other hand, in a regular election, the voting public is given a slew of candidates to choose from, the purpose of which is not to administratively check an official already voted in, but rather, to purely express their sovereign mandate by deciding who will govern them for a new term of office. In this regard, a recall election is therefore not the true expression of democratic will contemplated by the condonation doctrine. In fact, as the Ombudsman expresses, the conduct of recall and regular elections is logistically different: as in this case, the recall is an isolated event which was conducted during a working day,[31] whereas a regular election is a traditionally expected and highly-anticipated event that is conducted on a non-working holiday, hence, allowing the voting public to fully participate.

Furthermore, to construe that recall may produce the same effects of a regular election in terms of condonation would practically allow the candidate, whose integrity to lead is being questioned, to benefit from his own questionable conduct or circumstance that subjected him to the recall process in the first place. Likewise, an official who is subjected to recall would actually be placed in a better position than one who is not because the former can be completely exonerated from any administrative liability by gaining enough votes to hurdle a recall challenge. In my opinion, the Court, even in the past, could not have intended this unfairness.

At this juncture, it must be reiterated that an important consideration underlying the condonation doctrine is the policy to afford the public official a full term to serve his constituents without being hounded "during his new term" with administrative cases for acts committed "during his previous term." [32] Clearly, this consideration does not apply in a recall election but only in a regular election where a winning candidate is given a full term of office. In contrast, recall is a mode of removal of elective local official by the people before the end of one's term.[33] The election happens within a term, and is conducted primarily to oust an incumbent; there is no "prior term" to speak of and the winning candidate therein serves only the unexpired portion of the present term. Hence, it varies from the concept of re-election as used in the context of the condonation doctrine. If anything, applying the condonation doctrine in a recall election only confers an unwarranted benefit to a local elective official whose original term of office should not have been even tainted by the recall process.

IV.

Applying the foregoing discussion in this case, it is therefore my view that the successful bid of then City Mayor Lucilo R. Bayron (Lucilo) in the 2015 recall election did not constitute as a condonation of his previous administrative misconduct. He had no right to rely on the condonation doctrine because in no instance did the Court pronounce, in any of its previous decisions, that winning a recall election amounts to condonation. The version of condonation doctrine that existed in our legal system never encompassed a recall election and Lucilo had no right to rely upon such doctrine, or assume that such doctrine applies to him. Hence, without any reliance therefor, he cannot invoke condonation as a defense to escape administrative liability.

Having stated that condonation does not apply to Lucilo's case, his administrative liability must now be determined.

To recapitulate, Lucilo and his son, Karl Bayron (Karl), were charged before the Ombudsman for executing a

Contract of Services[34] with this provision: "the SECOND PARTY hereby attests that: a. He/she is not related within the fourth degree of consanguinity/affinity with the Hiring Authority." [35] In a Decision[36] dated November 18, 2016, the Ombudsman initially found Lucilo and Karl liable for Serious Dishonesty and Grave Misconduct, particularly for making an untruthful statement in the contract. Upon Lucilo and Karl's motion for reconsideration,[37] the Ombudsman issued Joint Order[38] dated March 20, 2017 wherein the Ombudsman reduced their liability to Simple Dishonesty.[39] However, in an Order[40] dated July 6, 2017, the Ombudsman overturned the latter ruling "insofar as it affects [Lucilo]," [41] explaining that it "had lost jurisdiction over the administrative case as against [L]ucilo upon the abandonment of his motion for reconsideration before the Ombudsman and the perfection on 2 February 2017 of his appeal with the Court of Appeals," [42] both of which occurred before the issuance of the Joint Order. Thereafter, the Court of Appeals no longer ruled on Lucilo's administrative liability believing that the latter's victory during the 2015 recall elections amounted to condonation.

Petitioners Ombudsman and Aldrin Madreo (petitioners) now come before the Court praying to declare the condonation doctrine inapplicable to Lucilo and to reinstate the Ombudsman's initial ruling (pronouncing Serious Dishonesty and Grave Misconduct) with respect to Lucilo's liability.

As exhaustively discussed above, the condonation doctrine is not available to Lucilo as a defense. This notwithstanding, petitioners' prayer to reinstate the Ombudsman's initial ruling finding Lucilo liable for Serious Dishonesty and Grave Misconduct should still not be granted.

Dishonesty has been defined as the "disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray." [43] Notably, in the Ombudsman's Joint Order wherein it lowered Lucilo's liability to Simple Dishonesty, it gave credence to Lucilo and Karl's explanations that: (i) there was no reason to conceal their relationship which was of common knowledge to the constituents of Puerto Princesa; (ii) the contract was prepared by the Office of the City Legal Officer on whom they relied in good faith to ensure that it did not bear any infirmity; and (iii) they signed the contract with the defective attestation only by sheer inadvertence. I echo the Ombudsman's finding therein that Lucilo should only be held liable for Simple Dishonesty, to wit:

These explanations, to note, were likewise pleaded by respondent Lucilo in his previous pleadings. The totality of these circumstances provides a basis to set aside the finding of Serious Dishonesty but does not totally absolve respondents Karl and Lucilo of administrative liability[,] considering that they, in fact, made a misrepresentation in the Contract of Service, for which they are found guilty only of Simple Dishonesty.

x x x x

[Moreover,] the prohibition on persons covered under the rules on nepotism from being hired under a contract of services has been abandoned and the submission of the contract to the [Civil Service Commission] is no longer required. Such repeal leaves no more ground on which the charge of [falsification] can rest. It likewise renders the administrative charge for Gross Misconduct with no more leg to stand on.[44] (Emphasis and underscoring supplied)

On this score, I agree with the Ombudsman that Lucilo should be found liable only for Simple Dishonesty, for which a penalty of suspension without pay for three (3) months may be imposed.[45] Considering, however, that based on Section 66 (b) of the Local Government Code,[46] the penalty of suspension can no longer be imposed on Lucilo beyond his term in office, he may be imposed the penalty of fine in lieu of suspension[47] in the amount equivalent to his basic salary for three (3) months. To note, said penalty does not carry with it the accessory penalty of perpetual disqualification from holding public office. Hence, Lucilo is still qualified to hold public office, which he did after he won in the 2016 regular elections.

V.

A final word. Cognizant of the deep-seated reasons for the condonation doctrine's abandonment, I cannot, in good conscience, support the proposed expansion of the same unconstitutional doctrine to once again weaken the public accountability standard under our present legal regime. To overextend the interpretation of a now-abandoned doctrine is to effectively create a specter of that dead doctrine to loom in the present. Verily, by unduly expanding the scope of the condonation doctrine in this case, the Court would once again be weakening the Ombudsman's disciplinary authority – which is the same institutional error that Carpio Morales already sought to address. Since the condonation doctrine is only being applied today because of previous public reliance at the time that it was still subsisting, the Court should not conjure something from the old doctrine which was never there.

The unfairness and impracticality borne from the public's previous reliance in this Court's decisions constitute the true essence behind condonation's prospective abandonment; hence, without any public reliance that condonation may be applied to a recall election, it is neither unfair nor impractical to deny condonation as a defense to those who have hurdled a recall challenge. Indeed, in the Ombudsman's own strident words, "all doubts in the prospective application of the condonation doctrine's abandonment must be construed in favor of public trust and accountability, which must prevail over the x x x elective official's privilege to seek employment in government or perform a public service."^[48]

ACCORDINGLY, I vote to PARTLY GRANT the petitions. The condonation doctrine is not an available defense in Lucilo R. Bayron's case. Nevertheless, he should be held administratively liable only for Simple Dishonesty, which is meted with the appropriate penalty of fine equivalent to his basic salary for three (3) months.

[1] 772 Phil. 672, 775 (2015); emphasis supplied.

[2] Ponencia, pp. 11-12.

[3] Id. at 13, 17-19.

[4] 106 Phil. 466 (1959).

[5] Carpio Morales v. Court of Appeals, supra note 1.

[6] Entitled "AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES," otherwise known as "THE OMBUDSMAN ACT OF 1989" approved on November 17, 1989.

[7] Carpio Morales v. Court of Appeals, supra note 1, at 760.

[8] Id.

[9] Id. at 775.

[10] See G.R. No. 232325, April 10, 2019.

[11] See id.

[12] See Carpio Morales, supra note 1, at 756, emphasis supplied.

[13] Id., emphasis supplied

[14] Id. at 756-759, citations omitted.

[15] See *id.*

[16] The variant adopted in *Pascual* contained three (3) interrelated parts: (1) "the penalty of removal may not be extended beyond the term [for] which the public officer was elected, [as] each term is separate and distinct"; (2) "an elective official's re-election serves as a condonation of previous misconduct, thereby cutting the right to remove him therefor"; and (3) "courts may not deprive the electorate, who are assumed to have known of the life and character of candidates, of their right to elect officers " (See *id.*; emphasis and underscoring supplied.)

[17] See *id.* at 760-761; emphasis supplied.

[18] *Id.*

[19] *Ponencia*, pp. 16-19.

[20] See *supra* note 1, at 764-765.

[21] 326 Phil. 847, 921 (1996).

[22] See *Carpio Morales*, *supra* note 1, at 762-763.

[23] See Associate Justice Alfredo Benjamin S. Caguioa's Concurring Opinion, pp. 2-3.

[24] See *Salalima v. Guingona, Jr.*, *supra* note 21, *Garcia v. Mojica*, 372 Phil. 892 (1999), *Civil Service Commission v. Sojor*, 577 Phil. 52 (2008), *Valencia v. Sandiganbayan*, 477 Phil. 103 (2004).

[25] G.R. No. 94115, August 21, 1992, 212 SCRA 768.

[26] *Ponencia*, p. 17.

[27] *Id.* at 11.

[28] Republic Act No. 7160 entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991," otherwise known as the "LOCAL GOVERNMENT CODE OF 1991" (January 1, 1992).

[29] See Section 2, Chapter I, Title I, Book 1, Republic Act No. 7160; emphasis and underscoring supplied.

Section 2, Article XI of the 1973 Constitution states:

Section 2. The Batasang Pambansa shall enact a local government code which may not thereafter be amended except by a majority vote of all its Members, defining a more responsive and accountable local government structure with an effective system of recall, allocating among the different local government units their powers, responsibilities, and resources, and providing for the qualifications, election and removal x x x." (Emphases and underscoring supplied)

Section 3, Article X of the 1987 Constitution states:

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal x x x" (Emphases and underscoring supplied)

[30] While the petition for recall has to briefly indicate the "reasons and justifications" for the loss of confidence (see Section 70 of the Local Government Code), these do not necessarily relate to any administrative infraction subject to the discipline authority of the Ombudsman.

- [31] Rollo (G.R. No. 237579), p. 732.
- [32] See *Salalima v. Guingona, Jr.*, supra note 21.
- [33] See *Garcia v. Commission of Elections*, G.R. No. 111511, October 5, 1993, 227 SCRA 100 (1993).
- [34] Rollo (G.R. No. 237579), pp. 141-142.
- [35] Id. at 141.
- [36] Rollo (G.R. No. 237330), pp. 32-42 and rollo (G.R. No. 237579), pp. 92-102.
- [37] Dated February 1, 2017. Rollo (G.R. No. 237579), pp. 188-203. See also rollo (G.R. No. 237330), p. 147 and rollo (G.R. No. 237579), p. 103.
- [38] Rollo (G.R. No. 237330), pp. 147-158 and rollo (G.R. No. 237579), pp. 103-114.
- [39] Rollo (G.R. No. 237330), p. 156 and rollo (G.R. No. 237579), p. 112.
- [40] Rollo (G.R. No. 237330), pp. 168-178 and rollo (G.R. No. 237579), pp. 115-125.
- [41] Rollo (G.R. No. 237330), p. 177 and rollo (G.R. No. 237579), p. 124.
- [42] Rollo (G.R. No. 237330), p. 173 and rollo (G.R. No. 237579), p. 120.
- [43] Dishonesty covers a broad spectrum of conduct ranging from serious, less serious, to simple. Criteria has been set to determine the severity of the act. The act is considered one of simple dishonesty if when it is attended by the presence of any of the following circumstances: (1) the dishonest act did not cause damage or prejudice to the government; (2) The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent; (3) in falsification of any official document, where the information falsified is not related to his/her employment; (4) the dishonest act did not result in any gain or benefit to the offender; and (5) other analogous circumstances. (See *Civil Service Commission Resolution No. 06-0538* and *Committee on Security and Safety v. Dianco*, 760 Phil. 169, 188-190 [2015]).
- [44] Rollo (G.R. No. 237330), pp. 69-72.
- [45] Rule 10, Section 46 (E) of the Revised Rules on Administrative Cases in the Civil Service (November 18, 2011) (RRACCS) states that: "Simple Dishonesty is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense x x x."
- [46] The provision reads: "The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office."
- [47] See RRACCS, Rule 10, Section 47.
- [48] Rollo (G.R. No. 237579), p. 38.

DISSENTING OPINION

LEONEN, J.:

The pivotal question before this Court is whether the now abandoned doctrine of condonation would also apply to a reelection of a public official through recall elections. The majority has ruled that it does. I disagree.

In its ruling, the majority underscored that the abandonment of the condonation doctrine is reckoned from the finality of *Carpio Morales v. Court of Appeals*[1] on April 12, 2016.[2] As the majority noted, *Carpio Morales* applies prospectively, owing to the fact that the doctrine was still good law prior to its abandonment, and along with it, the rule that a public official's reelection "manifests the body politic's expressed or implied forgiveness of the public official's offense or misconduct." [3] It explained:

[W]hen *Carpio-Morales* ruled that the abandonment of the doctrine of condonation is applied prospectively, it meant that the said doctrine does not apply to public officials reelected after its abandonment. Stated differently, the doctrine applies to those officials who have been reelected prior to its abandonment. That is because when a public official has been reelected prior to the promulgation and finality of *Carpio-Morales*, he or she has every right to rely on the old doctrine that his [or her] [reelection] has already served as a condonation of his [or her] previous misconduct, thereby cutting the right to remove him [or her] from office, and a new doctrine decreeing otherwise would not be applicable against him or her. More telling, once reelected, the public official already had the vested right not to be removed from office by reason of the condonation doctrine, which cannot be divested or impaired by a new law or a new doctrine without violating the Constitution. . . .

....

Thus, the Court now clarifies in simple and direct terms. The defense of condonation doctrine is no longer available if the public official's reelection happens on or after 12 April 2016. With the abandonment of the condonation doctrine in *Carpio-Morales*, any reelections of public officials on 12 April 2016, and thereafter, no longer have the effect of condoning their previous misconduct.[4] (Emphasis supplied)

The majority then proceeds to declare that "reelection" under the condonation doctrine is unqualified. Hence, whether the reinstatement to public office was through regular or recall elections does not matter.[5]

As the majority underscored, the condonation doctrine gives premium to the "protection of and respect for the sovereign will of the electorate to elect officers and to forgive the previous misconduct of their elected public servants." [6] Therefore, it declares that "reelection" should not be construed strictly so as to exclude recall elections:

[R]ecall elections presupposes the same collective resolution of his [or her] constituents to condone his [or her] alleged misconduct. This is no different from reelection by regular election. The idea is that "when the people elected a [person] to office, it must be assumed that they did this with knowledge of his [or her] life and character, and that they disregarded or forgave his [or her] faults or misconduct, if he [or she] had been guilty of any." This is in deference to the superiority of the collective will of the people. Accordingly, there is no persuasive reason to distinguish between reelection by regular or recall elections when applying the condonation doctrine since the controlling elements, i.e., the expression of sovereign will of the people to elect their officer and to forgive a previous misconduct, are present in both cases. To say that condonation doctrine does not apply in recall elections when the compelling reasons and clear purpose of said doctrine are present therein would be a clear case of absurdity, and would tantamount to injustice to the electorate and to the public official concerned, in the context of the application of the doctrine of condonation at the time when the same was not yet abandoned and still considered a good law.[7] (Emphasis supplied, citation omitted)

Here, Lucilo R. Bayron (Lucilo) was reinstated as mayor of Puerto Princesa, Palawan in the 2015 recall elections. The majority declared that the condonation doctrine still applied then, and as such, Lucilo may rely on it against

administrative charges filed in his previous term. It, however, noted that the doctrine cannot extend to his succeeding reelection in May 2016.[8]

In brief, the majority held the view that the administrative charge against Lucilo for a prior transgression purportedly done in July 2013 was rendered moot by his reelection in the 2015 recall elections. Thus, it affirmed the Court of Appeals' dismissal of petitioner Aldrin Madreo's Complaint against Lucilo for serious dishonesty and grave misconduct.[9]

I dissent.

We have to be cautious in endowing the People with an intention that might not objectively be there. Sovereignty is exercised through election and is also manifested through a written Constitution, which allocates the powers of government. The Constitution creates a legislature, which enacts clearly formulated laws that, in turn, provide acts that may be administratively, civilly, and criminally punished. Laws also clearly provide mechanisms to limit or extinguish liability.

In Carpio Morales, a unanimous Court struck down the condonation doctrine after acknowledging that it was not based on any law. For this Court to now claim that the doctrine must apply to recall elections would be to craft legislation that simply does not exist.

I

This Court first resolved whether an elected public official may be disciplined for an administrative offense committed during a previous term in the 1959 case of Pascual v. Provincial Board of Nueva Ecija.[10] In that case, the petitioner was the mayor of San Jose, Nueva Ecija in 1951 and was eventually reelected to office in 1955. Sometime in 1956, during his second term, three administrative complaints were filed against him before the Provincial Board of Nueva Ecija.

Claiming that the third charge was based on a misconduct committed during his preceding term, the petitioner moved to dismiss the complaint.[11] In ruling for the petitioner, this Court resorted to American jurisprudence and explained that his reelection effectively condoned his previous administrative offense, cutting off the right to remove him from office:

In the absence of any precedent in this jurisdiction, we have resorted to American authorities. We found that cases on the matter are conflicting due in part, probably, to differences in statutes and constitutional provisions, and also, in part, to a divergence of views with respect to the question of whether the subsequent election or appointment condones the prior misconduct. The weight of authority, however, seems to incline to the rule denying the right to remove one from office because of misconduct during a prior term, to which we fully subscribe.

Offenses committed, or acts done, during previous term are generally held not to furnish cause for removal and this is especially true where the constitution provides that the penalty in proceedings for removal shall not extend beyond the removal from office, and disqualification from holding office for the term for which the officer was elected or appointed. . . .

The underlying theory is that each term is separate from other terms, and that the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor —

The Court should never remove a public officer for acts done prior to his [or her] present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man [or woman] to office, it must be assumed that they did this with knowledge of his [or her] life and character, and that they disregarded or forgave his [or her] faults or misconduct, if he [or she] had been guilty

of any. It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people.[12] (Emphasis supplied, citations omitted)

Pascual was reiterated in the 1966 case of *Lizares v. Hechanova*.^[13] This time, the petitioner was then the mayor of Talisay, Negros Occidental when he was administratively charged for corruption and maladministration in 1962. The Provincial Board acquitted him, but the Office of the President reversed this decision and imposed a suspension instead, prompting him to file a petition for certiorari. This Court later dismissed the case for being moot, after the petitioner's term in which he purportedly committed the misdeeds had expired, and after he was reelected in 1964. It held that he cannot be administratively sanctioned for acts made in his previous term.^[14]

In 1967, this Court clarified in *Ingco v. Sanchez*^[15] that Pascual does not extend to criminal cases. Unlike an administrative charge, a crime is a public offense more inherently appalling than a public officer's sheer malfeasance or misfeasance. A crime, after all, is detrimental not only to an individual or a group, but to the State itself.^[16]

In 1992, *Aguinaldo v. Santos*^[17] echoed the ruling in Pascual. The petitioner there was Cagayan's governor who served a four-year term from 1988. Acting on a complaint for disloyalty filed in 1989, the Secretary of Local Government adjudged him guilty and directed his removal from office. Amid his reelection in the May 1992 elections, however, this Court reversed the decision, reiterating that reelection meant condonation of any administrative misconduct committed in the previous term.^[18]

In the 1996 case of *Salalima v. Guingona, Jr.*,^[19] the petitioners who were reelected in the May 1992 elections also benefited from Pascual and Aguinaldo. Building on these cases, this Court explicitly referred to the doctrine of forgiveness or condonation. Said to have been prescribed by "sound public policy," the condonation doctrine averts a scenario of "exacerbating endless partisan contests between the reelected official and his [or her] political enemies, who may not stop to hound the former during his [or her] new term with administrative cases for acts alleged to have been committed during his [or her] previous term."^[20]

In 1999, this Court clarified in *Garcia v. Mojica*^[21] that there was no need to distinguish the exact point when the public official perpetrated the transgression, "except that it must be a prior date"^[22] to the reelection. That the people reelected the official with presumed knowledge of the latter's character wipes out the need to determine such timeframe. Thus, in *Garcia*, even if the petitioner committed the misconduct only four days before his reelection, this Court still declared that he cannot be held administratively accountable for an act done in his previous term.^[23]

In the 2009 case of *Garcia, Jr. v. Court of Appeals*,^[24] the petitioners, whom the Office of the Ombudsman had preventively suspended, sought injunctive relief with the Court of Appeals. When the appellate court merely directed the filing of comment, the petitioners went to this Court, which then ruled that the appellate court should have considered, among others, the doctrine of condonation in promptly resolving the matter.

Finally, in the 2010 case of *Salumbides, Jr. v. Office of the Ombudsman*,^[25] this Court made it clear that the condonation doctrine—which, at its core, upholds the popular will through the ballot—does not extend to appointed officials because "there is neither subversion of sovereign will nor disenfranchisement of the electorate" in their case.^[26]

Then again, with the advent of *Carpio Morales* in 2015, this Court had the occasion to revisit the condonation doctrine and eventually found it to be a mere jurisprudential creation in the 1959 case of Pascual, and thus, bereft of any statutory basis.^[27]

II

In ascertaining if there exists a legal basis to sustain the condonation doctrine, Carpio Morales found the rule to be in contravention with pertinent provisions relating to accountability of public officers enshrined in our 1987 Constitution and relevant laws. This Court held:

The foundation of our entire legal system is the Constitution. It is the supreme law of the land; thus, the unbending rule is that every statute should be read in light of the Constitution. Likewise, the Constitution is a framework of a workable government; hence, its interpretation must take into account the complexities, realities, and politics attendant to the operation of the political branches of government.

As earlier intimated, Pascual was a decision promulgated in 1959. Therefore, it was decided within the context of the 1935 Constitution which was silent with respect to public accountability, or of the nature of public office being a public trust. The provision in the 1935 Constitution that comes closest in dealing with public office is Section 2, Article II which states that "[t]he defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service." Perhaps owing to the 1935 Constitution's silence on public accountability, and considering the dearth of jurisprudential rulings on the matter, as well as the variance in the policy considerations, there was no glaring objection confronting the Pascual Court in adopting the condonation doctrine that originated from select US cases existing at that time.

With the advent of the 1973 Constitution, the approach in dealing with public officers underwent a significant change. The new charter introduced an entire article on accountability of public officers, found in Article XIII. Section 1 thereof positively recognized, acknowledged, and declared that "[p]ublic office is a public trust." Accordingly, "[p]ublic officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency, and shall remain accountable to the people."

After the turbulent decades of Martial Law rule, the Filipino People have framed and adopted the 1987 Constitution, which sets forth in the Declaration of Principles and State Policies in Article 11 that "[t]he State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption." Learning how unbridled power could corrupt public servants under the regime of a dictator, the Framers put primacy on the integrity of the public service by declaring it as a constitutional principle and a State policy. More significantly, the 1987 Constitution strengthened and solidified what has been first proclaimed in the 1973 Constitution by commanding public officers to be accountable to the people at all times:

Section 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency and act with patriotism and justice, and lead modest lives.

. . . .

The same mandate is found in the Revised Administrative Code under the section of the Civil Service Commission, and also, in the Code of Conduct and Ethical Standards for Public Officials and Employees.

For local elective officials . . . , the grounds to discipline, suspend or remove an elective local official from office are stated in Section 60 of Republic Act No. 7160, 292 otherwise known as the "Local Government Code of 1991" (LGC), which was approved on October 10, 1991, and took effect on January 1, 1992:

Section 60. Grounds for Disciplinary Action. — An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

a)

Disloyalty to the Republic of the Philippines;

b)

Culpable violation of the Constitution;

c)

Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;

d)

Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;

e)

Abuse of authority;

f)

Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the sangguniang panlalawigan, sangguniang panlungsod, sanggunian bayan, and sangguniang barangay;

g)

Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and

h)

Such other grounds as may be provided in this Code and other laws.

An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

Related to this provision is Section 40 (b) of the LGC which states that those removed from office as a result of an administrative case shall be disqualified from running for any elective local position:

....

In the same sense, Section 52 (a) of the RRACCS provides that the penalty of dismissal from service carries the accessory penalty of perpetual disqualification from holding public office:

....

In contrast, Section 66 (b) of the LGC states that the penalty of suspension shall not exceed the unexpired term of the elective local official nor constitute a bar to his candidacy for as long as he meets the qualifications required for the office. Note, however, that the provision only pertains to the duration of the penalty and its effect on the official's candidacy. Nothing therein states that the administrative liability therefor is extinguished by the fact of re-election:

....

Reading the 1987 Constitution together with the above-cited legal provisions now leads this Court to the conclusion that the doctrine of condonation is actually bereft of legal bases.

To begin with, the concept of public office is a public trust and the corollary requirement of accountability to the people at all times, as mandated under the 1987 Constitution, is plainly inconsistent with the idea that an elective

local official's administrative liability for a misconduct committed during a prior term can be wiped off by the fact that he was elected to a second term of office, or even another elective post. Election 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. In this jurisdiction, liability arising from administrative offenses may be condoned by the President in light of Section 19, Article VII of the 1987 Constitution which was interpreted in *Llamas v. Orbos* to apply to administrative offenses[.]

....

Relatedly, it should be clarified that there is no truth in Pascual's postulation that the courts would be depriving the electorate of their right to elect their officers if condonation were not to be sanctioned. In political law, election pertains to the process by which a particular constituency chooses an individual to hold a public office. In this jurisdiction, there is, again, no legal basis to conclude that election automatically implies condonation. Neither is there any legal basis to say that every democratic and republican state has an inherent regime of condonation. If condonation of an elective official's administrative liability would perhaps, be allowed in this jurisdiction, then the same should have been provided by law under our governing legal mechanisms. May it be at the time of Pascual or at present, by no means has it been shown that such a law, whether in a constitutional or statutory provision, exists. Therefore, inferring from this manifest absence, it cannot be said that the electorate's will has been abdicated.

....

That being said, this Court simply finds no legal authority to sustain the condonation doctrine in this jurisdiction. As can be seen from this discourse, it was a doctrine adopted from one class of US rulings way back in 1959 and thus, out of touch from — and now rendered obsolete by — the current legal regime. In consequence, it is high time for this Court to abandon the condonation doctrine that originated from Pascual, and affirmed in the cases following the same, such as *Aguinaldo*, *Salalima*, *Mayor Garcia*, and *Governor Garcia, Jr.* which were all relied upon by the [Court of Appeals].[28] (Emphasis supplied, citations omitted)

Nonetheless, recognizing that there was prior reliance on the condonation doctrine, this Court in *Carpio Morales* moved to abandon it prospectively:

It should, however, be clarified that this Court's abandonment of the condonation doctrine should be prospective in application for the reason that judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines. Unto this Court devolves the sole authority to interpret what the Constitution means, and all persons are bound to follow its interpretation. As explained in *De Castro v. Judicial Bar and Council*:

Judicial decisions assume the same authority as a statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria that must control the actuations, not only of those called upon to abide by them, but also of those duty-bound to enforce obedience to them.

Hence, while the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as "good law" prior to its abandonment. Consequently, the people's reliance thereupon should be respected. The landmark case on this matter is *People v. Jabin*, wherein it was ruled:

[W]hen a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.[29] (Emphasis supplied, citations omitted)

Yet, despite the above disquisitions in Carpio Morales, the majority still declared that the condonation doctrine also covers recall elections. Firm on its stance that the "compelling reason behind [it] [is] the right of the electorate to elect officers and their sovereign will to forgive[.]"[30] the majority believes that the term "reelection" should not be construed restrictively in order to give meaning to the rule's intent.[31]

For the majority, although a recall election is a manner of removal, it could work as a reelection in that it uses "the democratic process of election to achieve its end";[32] that "the same considerations behind the doctrine of condonation exist in recall elections." [33]

I beg to differ.

The majority effectively expanded the now abandoned rule's coverage when it declared that the condonation doctrine encompasses recall elections. As this doctrine now exists only as recognition of the prior reliance on it, the prospective application of Carpio Morales should be confined strictly to the rule's established parameters before its abandonment. Indeed, as the preceding survey of cases shows, this doctrine does not extend to a reinstallation to public office through recall elections.

In reality, candidates do not confess to their mistakes and transgressions when they run for office. For this reason, we cannot assume that when the people reelect an erring public officer, they already know of the candidate's previous misconduct and, by reelecting such officer, express their forgiveness or condonation. As reinforced in Carpio Morales, such ascribed knowledge has no basis in law, and is even contrary to ordinary human experience:

Equally infirm is Pascual's proposition that the electorate, when re-electing a local official, are assumed to have done so with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. Suffice it to state that no such presumption exists in any statute or procedural rule. Besides, it is contrary to human experience that the electorate would have full knowledge of a public official's misdeeds. The Ombudsman correctly points out the reality that most corrupt acts by public officers are shrouded in secrecy, and concealed from the public. Misconduct committed by an elective official is easily covered up, and is almost always unknown to the electorate when they cast their votes. At a conceptual level, condonation presupposes that the condoner has actual knowledge of what is to be condoned. Thus, there could be no condonation of an act that is unknown. As observed in *Walsh v. City Council of Trenton* decided by the New Jersey Supreme Court:

Many of the cases holding that re-election of a public official prevents his removal for acts done in a preceding term of office are reasoned out on the theory of condonation. We cannot subscribe to that theory because condonation, implying as it does forgiveness, connotes knowledge and in the absence of knowledge there can be no condonation. One cannot forgive something of which one has no knowledge.[34] (Emphasis supplied, citations omitted)

Besides, administrative infractions of public officers should not be taken lightly. As a public servant, Lucilo is expected to constantly present himself with the utmost sense of integrity and honesty. The Constitution is explicit that a public office is a public trust.[35] Erring public officials ought to face the consequences of their transgressions and should be dealt with accordingly based on pertinent rules.

The intent behind disciplining officers and employees is not simply punishment, "but the improvement of the public service and the preservation of the public's faith and confidence in the government." [36] To this end, the determination of administrative liability should be best left to the courts, and not to be simply disregarded on account of a doctrine that lacks any basis, both in law and in fact.

Lucilo's reinstatement as mayor in the 2015 recall elections is outside the confines of the now abandoned condonation doctrine. This doctrine cannot operate to condone his administrative liabilities made in 2013.

ACCORDINGLY, I vote that the consolidated Petitions be GRANTED, and that the assailed Court of Appeals rulings dismissing the Administrative Complaint against respondent Lucilo R. Bayron be REVERSED and SET ASIDE.

[1] 772 Phil. 672 (2015) [Per J. Perlas-Bernabe, En Banc].

[2] Ponencia, p. 9 citing *Crebello v. Office of the Ombudsman*, G.R. No. 232325, April 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/l/65037>> [Per C.J. Bersamin, First Division].

[3] *Id.* at 10.

[4] *Id.* at 10-11.

[5] *Id.* at 11-12.

[6] *Id.* at 16.

[7] *Id.* at 17.

[8] *Id.* at 18.

[9] *Id.*

[10] 106 Phil. 466 (1959) [Per J. Gutierrez David, En Banc].

[11] *Id.* at 468.

[12] *Id.* at 471-472.

[13] 123 Phil. 916 (1966) [Per J. J.B.L. Reyes, En Banc].

[14] *Id.* 917-919.

[15] 129 Phil. 553 (1967) [Per J. Angeles, En Banc].

[16] *Id.* at 555-556.

[17] 287 Phil. 851 (1992) [Per J. Nocon, En Banc].

[18] *Id.* at 853-860.

[19] 326 Phil. 847 (1996) [Per J. Davide, Jr., En Banc].

[20] *Id.* at 921.

[21] 372 Phil. 892 (1999) [Per J. Quisumbing, Second Division].

[22] *Id.* at 912.

[23] *Id.* at 912-913.

[24] 604 Phil. 677 (2009) [Per J. Nachura, Jr., Third Division].

[25] 633 Phil. 325 (2010) [Per J. Carpio Morales, En Banc].

[26] *Id.* at 337.

[27] *Carpio Morales v. Court of Appeals*, 772 Phil. 672, 755 (2015) [Per J. Perlas-Bernabe, En Banc].

[28] Id. at 765-775.

[29] Id. at 775-776.

[30] Ponencia, p. 14.

[31] Id. at 16.

[32] Id.

[33] Id.

[34] *Carpio Morales v. Court of Appeals*, 111 Phil. 672, 774 (2015) [Per J. Perlas-Bernabe, En Banc].

[35] *Civil Service Commission v. Cortez*, 474 Phil. 670, 689 (2004) [Per Curiam En Banc].

[36] Id. at 690.

CONCURRING OPINION

CAGUIOA, J.:

I concur.

I share the ponente's view that respondent Lucilo R. Bayron (Mayor Bayron) may still invoke the condonation doctrine as a defense in the administrative complaint subject of these consolidated petitions for review.

My concurrence is based on the following reasons: first, the condonation doctrine extends to re-election through both regular and recall elections; and second, the condonation doctrine can be invoked as a defense if the misconduct and subsequent re-election occurred prior to April 12, 2016, or the finality of the Court's decision in *Carpio-Morales v. Court of Appeals*[1] (*Carpio-Morales*).

The condonation doctrine applies to re-election through recall.

The condonation doctrine was incorporated into our body of jurisprudence in 1959, through the Court's ruling in *Pascual v. Honorable Provincial Board of Nueva Ecija*[2] (*Pascual*). There, the Court held that "[t]he weight of authority [in American jurisprudence] x x x seems to incline to the rule denying the right to remove one from office because of misconduct during a prior term." [3]

Based on the language of the Court in *Pascual*, my esteemed colleague Justice Bernabe opines that the version of the condonation doctrine adopted in this jurisdiction envisions an election at the end of a term (i.e., general election) and not an election within a term in office (i.e., recall election) since a recall election is a method of removing a local official from office before the expiration of said official's original term due to loss of confidence. Hence, the condonation doctrine cannot be applied in the context of a recall election where there is no "prior term" to speak of.[4]

With utmost respect, I am constrained to disagree.

The system of recall of local elective officials was introduced in this jurisdiction through Presidential Decree No. 1577[5] issued on June 11, 1978, nearly two decades after *Pascual*. Thus, when the Court spoke of re-election in *Pascual*, it referred to re-election held at the end of an official's original elective term simply by default, since there was no other method of re-election existing at the time.

In my view, this should not preclude the application of the condonation doctrine in cases of re-election through

recall, since a contrary ruling effectively defeats the rationale of the condonation doctrine as declared in Pascual — to uphold the people's right to elect their officers. Thus:

The underlying theory is that each term is separate from other terms, and that the [re-election] to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor x x x. As held in *Conant vs. Brogan* x x x —

"The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people." [6] (Emphasis and underscoring supplied)

The operation of the condonation doctrine is triggered by the concerned officer's re-election, since re-election serves as the manifestation of the electorate's desire to condone the officer's previous acts of misconduct.

On this score, I submit that re-election through recall and regular elections should be treated similarly, since both have the effect of affirming the electorate's trust and confidence in the incumbent. This is confirmed by Section 72 of the Local Government, which states:

SECTION 72. Effectivity of Recall. — The recall of an elective local official shall be effective only upon the election and proclamation of a successor in the person of the candidate receiving the highest number of votes cast during the election on recall. Should the official sought to be recalled receive the highest number of votes, confidence in him is thereby affirmed, and he shall continue in office. (Emphasis supplied)

Hence, I submit that the scope of the condonation doctrine extends to both regular and recall elections.

Notwithstanding its abandonment in *Carpio-Morales*, the condonation doctrine may still be invoked if the misconduct and subsequent re-election occurred prior to April 12, 2016.

As the electorate's desire to condone past misconduct is manifested through the erring officer's re-election, the defense of condonation attaches only at the point of re-election, and not anytime sooner. Thus, to invoke the condonation doctrine, the concerned officer must establish that both the misconduct and re-election occurred prior to April 12, 2016, or the finality of the Court's decision in *Carpio-Morales*.

Here, Mayor Bayron first assumed office as city mayor on June 30, 2013.[7] The assailed act was committed on July 1, 2013.[8]

On November 22, 2013, Aldrin Madreo (Madreo) filed his Complaint-Affidavit (Complaint) with the Office of the Ombudsman.[9] In response, Mayor Bayron filed his Consolidated Counter-Affidavit, praying for the outright dismissal of Madreo's Complaint.[10]

On May 8, 2015, a recall election was held where Mayor Bayron won with a margin of 5,297 votes. Thus, on June 22, 2015, Mayor Bayron filed a Motion to Dismiss, arguing that his re-election by way of recall operates as a condonation of the misconduct he allegedly committed in 2013.[11]

Based on these established facts, the defense of condonation attached on May 8, 2015, when Mayor Bayron won in the recall elections. Clearly, Mayor Bayron may still invoke the doctrine to evade administrative liability in this case.

Proceeding from the foregoing, I vote to DENY the consolidated petitions for review.

[1] 772 Phil. 672 (2015).

[2] 106 Phil. 466 (1959).

[3] *Id.* at 471.

[4] See Concurring and Dissenting Opinion of J. Bernabe, p. 9.

[5] PRESCRIBING THE MANNER OF CALLING A PLEBISCITE OR A REFERENDUM AND THE MANNER OF RECALL OF LOCAL ELECTIVE OFFICIALS, June 11, 1978.

[6] *Pascual v. Honorable Provincial Board of Nueva Ecija*, *supra* note 2, at 471-472.

[7] Ponencia, p. 2.

[8] *Id.*

[9] *Id.*

[10] The grounds relied upon in Mayor Bayron's Consolidated Counter-Affidavit are summarized by the ponencia, as follows: "(1) failure to comply with Administrative Order No. 07, as amended, which requires that a criminal and/or administrative complaint should be under oath; (2) lack of jurisdiction of the OMB since administrative complaints against local elective officials should be filed before the Office of the President; and (3) Madreo's lack of personal interest in the subject matter of the complaint as he was not a resident nor a taxpayer of Puerto Princesa City." See ponencia, p. 3.

[11] See ponencia, pp. 3-4.

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