

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

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

Ponente: GESMUNDO, C.J.

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GESMUNDO, C.J.:

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

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

SO ORDERED.[1]

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

I.

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

A.

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

B.

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

C.

Petitioner's dismissal resulted to a mere temporary vacancy in the office of the Governor of Camarines Norte.

II.

TERM LIMITATIONS SHOULD BE STRICTLY CONSTRUED.[2]

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

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

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

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

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

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

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

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

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

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

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

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

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

office for a reason provided by law.

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

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

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

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

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

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

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

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

Section 10. Penalties. — (a) For administrative charges under Executive Order No. 292 or such other executive orders, laws or rules under which the respondent is charged, the penalties provided thereat shall be imposed by the Office of the Ombudsman; (b) in administrative proceedings conducted under these Rules, the Office of the Ombudsman may impose the penalty of reprimand, suspension without pay for a minimum period of one (1) month up to a maximum period of one (1) year, demotion, dismissal from the service, or a fine equivalent to his salary for one (1) month up to one (1) year, or from Five Thousand Pesos (P5,000.00) to twice the amount malversed, illegally taken or lost, or both, at the discretion of the Ombudsman, taking into consideration circumstances that mitigate or aggravate the liability of the officer or employee found guilty of the complaint or charge.

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

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

That the second paragraph of Section 7 of Rule III of the OMB's Rules, *supra*, characterizes the penalty of

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

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

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

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

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

x x x x

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

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

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

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

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

III.

Petitioner's dismissals resulted
in permanent vacancy

The COMELEC opined that the DILG's reliance on Section 44 of the LGC in respect of the second OMB case was erroneous because the order of succession therein applied pertained to a permanent vacancy despite the lack of such permanent vacancy in view of the OMB's dismissal of the petitioner being still not final; that Section 46 of the LGC, which provided for succession in cases of a temporary vacancy, was applicable to the petitioner's case; and that the DILG corrected itself by now citing Section 46 of the LGC when it implemented the second dismissal decision issued in relation to the third OMB case.

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

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

Secondly, the DILG's opinion on what provision of the LGC properly applied was far from binding or controlling. It was even irrelevant. We ought to observe that the DILG, as the mere implementor of the decisions, had no legal competence to interpret or to render its opinion on the succession ensuing from the dismissals. As the implementing body, the DILG was acting in a ministerial capacity, and, as such, was absolutely bereft of the discretion to determine what provision of the LGC specifically governed. Instead, the DILG was duty-bound to execute the directives of the OMB's decisions exactly as they were written in the decisions. Otherwise, the DILG could literally supplant the prerogative of the OMB itself to decide the administrative cases of the petitioner.

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

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

Lastly, Section 44 of the LGC includes removal from office as one of the instances triggering a permanent vacancy. Such permanent vacancy was precisely the outcome that the OMB directed in its decisions. Consequently, when the petitioner was ousted in the period from November 8, 2016 to December 30, 2016, in the first instance of dismissal, and in the period from March 14, 2018 to September 26, 2018, in the second instance of dismissal, the permanent vacancy in the office of Governor ensued."^[5] (citations omitted)

In Our September 10, 2019 Decision, this Court ruled that the dismissal orders of the OMB against petitioner serves as permanent removal from office and was not merely temporary. From his dismissal until the Court of Appeals' modification of his penalty to suspension, petitioner neither had title nor powers to wield as governor of Camarines Norte. As evidence of this lack of title by petitioner, Camarines Vice Governor Jonah Pedro G.

Pimentel was sworn as Governor, and not as Acting Governor. The nomenclature used here by the Department of the Interior and Local Government (DILG) is important because it recognizes that the vacancy is not temporary but a permanent one. To rule otherwise would result in the absurd situation where a public office is occupied by two persons when basic in the law on public officers is that in single constituency positions, like the Office of the Provincial Governor, only one person can occupy a public office at a given time. The fact that the DILG has now clarified its position that it should have applied Section 46 of the Local Government Code, rather than Sec. 44, is irrelevant. As stated earlier, it is not the position of the DILG to characterize the nature of the dismissal of public officers being merely the implementor of the law.

Further, the OMB Rules placing petitioner in preventive suspension upon modification of his penalty cannot be applied, considering the constitutional consequences of his prior authorized removal, as compared to other public officers subject to the OMB's administrative jurisdiction.

To start with, the administrative jurisdiction of the OMB is all- encompassing. Rule III, Sec. 2 of Administrative Order No. 07 provides:

Section 2. Public officers covered; exceptions. - All elective and appointive officials of the government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local governments, government-owned or controlled corporations and their subsidiaries are subject to the disciplinary authority of the Office of the Ombudsman.

Excepted from the foregoing are Members of Congress, the Judiciary, and officials removable only by impeachment; provided, however, that the Office of the Ombudsman may investigate any serious misconduct in office allegedly committed by officials removable only by impeachment for the purpose of filing a verified complaint for impeachment, if warranted. (emphases supplied)

Thus, when an appointive official is initially dismissed by the OMB and his penalty eventually judicially modified and reduced, the rules of the OMB declare his period of dismissal, by fiction of law, as a period of preventive suspension with payment of backwages and other emoluments. This means that for the appointive official, it is as if he was never removed and all the vestiges of his removal were reversed. There is nothing wrong with this conversion because his removal only affected his wages which are eventually given to him. But this is not the same for elective local government officials, like petitioner, because dismissal of an elective local government official does not only affect receipt of salaries but also affects his term, which would effectively be interrupted – an interruption which has constitutional consequences.

When an elective local public officer is administratively dismissed by the OMB and his penalty subsequently modified to another penalty, like herein petitioner, the period of dismissal cannot just be nonchalantly dismissed as a period for preventive suspension considering that, in fact, his term is effectively interrupted. During said period, petitioner cannot claim to be Governor as his title is stripped of him by the OMB despite the pendency of his appeal. Neither does he exercise the power of the office. Said title and power are already passed to the Vice ,Governor. He also cannot claim that the exercise of his power is merely suspended since it is not. Hence, the Court cannot turn a blind eye on the interruption of his term despite the ex post facto redemption of his title following the OMB rule.

Considering the constitutional consequences of the application of OMB Rules to local elective officials compared to other officials under the administrative jurisdiction of the OMB, there is reason to excuse the former from the preventive suspension rule.

The exception cannot be said to be in violation of the equal protection clause. In the past, the Court has recognized the substantial distinction of elective officials as compared to appointive officials.[6] As stated above,

aside from the distinctions stated in *Quinto v. COMELEC*, supra, the application of the "preventive suspension proviso" to appointive officials does not affect a constitutional provision while the application of the same rule to elective officials, particularly, local elective officials, has constitutional consequences. Hence, there is a justification why said preventive suspension proviso cannot be applied to local elective officials.

Lastly, respondents fear that the Court's construction would reward corrupt politicians who will perpetuate their term by escaping the constitutional term limits. This claim is not only unfair but also discriminatory.

To begin with, the Court's conclusion is but an application of established jurisprudential concepts and was never intended to reward corrupt politicians who escape dismissal. The OMB's dismissal order is immediately executory and, once executed, the public officer ceases to have title for the time being. Hence, it should be considered as an interruption of his term. The fact that the public official is not an ideal one, considering his administrative baggage, does not deprive him of the law's application.

Moreover, our laws never required our elective public officials to be immaculately free from a troubled past. As a matter of fact, the mere imposition of an administrative penalty does not automatically disqualify a public officer from running for public office. Sec. 40 of the Local Government Code^[7] does not disqualify a person from running even if he was previously administratively sanctioned. The same observation can be made in Secs. 12 and 68 of the Omnibus Election Code.

Lastly, the Court's construction cannot be construed as a reward for corrupt politicians as it does not guarantee their prolonged grips on power. It must be remembered that they are still subject to competitive and recurring democratic elections wherein the people decide their political fate. It is presumptuous to say that upon the Court's decision, public officials would automatically claim their stakes in certain government positions for the foreseeable future. With or without the application of the three-term limit rule, their political futures are still uncertain. Thus, respondents' fears are clearly unfounded.

WHEREFORE, the motions for reconsiderations are hereby DENIED.

SO ORDERED.

Peralta, C.J., Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Delos Santos, Gaerlan, Rosario, and J. Lopez, JJ., concur.

Perlas-Bernabe, J., I dissent and maintain my vote in the Court's Decision dated 9-10-19.

Leonen, J., I maintain my dissent.

Caguioa, J., I dissent and maintain my vote in the Court's Decision dated Sept. 10, 2019.

Carandang, J., I dissent.

[1] Rollo, Vol. III, p. 1416.

[2] Id. at 1367.

[3] Id. at 1330.

[4] Id. at 1353-1364.

[5] Id. at 1292-1297.

[6] *Quinto v. Commission on Elections*, 627 Phil. 193, 228 (2010).

[7] Section 40. Disqualifications. -The following persons are disqualified from running for any elective local

position:

(a)

Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;

(b)

Those removed from office as a result of an administrative case;

(c)

Those convicted by final judgment for violating the oath of allegiance to the Republic;

(d)

Those with dual citizenship;

(e)

Fugitives from justice in criminal or non-political cases here or abroad;

(f)

Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and

(g)

The insane or feeble-minded.

DISSENTING OPINION

LEONEN, J.:

I maintain my dissent.

The ponencia states that "It would be unwarranted to differentiate the dismissals enforced against him from the dismissal based on and pursuant to a decision that was already final. Both dismissals would produce the same effect—the ouster of the official from his title to the office."^[1]

I beg to disagree. The second paragraph of Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman^[2] provides:

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.^[3]

The difference between a dismissal pending appeal and dismissal based on a final and executory decision is clearly provided: that the respondent is entitled to his or her salary and other emoluments in case respondent wins the appeal. As elucidated by Justice Jardeleza in his dissent in the September 10, 2019 Decision:

To my mind, what is decisive is Tallado's reinstatement to office, which occurred not one, but twice. I am unable to subscribe to the majority opinion because it attributes permanent effect to the dismissals pending appeal, when such permanency is not contemplated by the very Rules that sanction such dismissal. The Ombudsman rules provide a remedy when the non-final but executory dismissal is overturned, i.e., the respondent is considered to have been under preventive suspension for which he shall be paid the salary and other emoluments that he did not receive by reason of his removal. This is a glaring indication that no permanent effect of the dismissal pending appeal is contemplated so that none should attach.[4] (Emphasis supplied)

The Commission on Elections' cancellation of petitioner's Certificate of Candidacy for the 2019 National and Local Elections was not a grave violation of discretion. Petitioner had served three (3) consecutive terms as Governor. Petitioner's various suspensions did not create any permanent vacancy that can be considered as an involuntary interruption of his term.

In Section 44 of the Local Government Code:[5]

a permanent vacancy arises when an elective local official fills a higher vacant office, refuses to assume office, fails to qualify, dies, is removed from office, voluntarily resigns, or is otherwise permanently incapacitated to discharge the functions of his office.[6]

"Temporary vacancy" is defined in Section 46 of the Local Government Code. Section 46 also states that suspension from office is one of the instances when a temporary vacancy is created.[7] Notably, Section 46 did not differentiate between preventive suspension and suspension as a penalty.

The reason for the elective official's incapacity to hold office must be considered to determine whether the vacancy created is permanent or temporary. Justice Jardeleza raised that "the nature of the vacancy is merely a consequence of such incapacity." [8] The definitions of "permanent vacancy" and "temporary vacancy" provided under Sections 44 and 46 of the Local Government Code are clear; thus, "the law does not contemplate a situation where a temporary incapacity would lead to a permanent vacancy, and vice versa." [9]

In petitioner's case, he was removed from office twice and in both instances, the removals were based on Office of the Ombudsman decisions that were immediately executory, but pending appeal. In both cases, petitioner was reinstated. These instances happened during his term as Governor from 2016 to 2019. To recall, he was removed on November 8, 2016, but was reinstated on April 12, 2016 when the Court of Appeals issued a temporary restraining order. He was once again removed on January 10, 2018, but was reinstated on October 29, 2018, when the Court of Appeals imposed a penalty of six (6) months suspension in lieu of dismissal.[10]

Had any of his removals been permanent, then there would be no legal basis to reinstate him as Governor. A permanent vacancy presupposes that the decision removing the official has become final and executory. In this case, the Office of the Ombudsman's decision included the "accessory penalty of perpetual disqualification from holding any public office." [11] However, petitioner was allowed to hold office after his removal.

There can be no other conclusion then, but that petitioner was never permanently removed from office. As pointed out by Justice Jardeleza:

First, there was no final judgment dismissing Tallado from the service. Anything less than a final judgment of dismissal cannot create a permanent void in the Governor's office. Second, by actions rendered by the CA, Tallado was reinstated as Governor. Not much legal calisthenics is required for one to recognize that the vacancy caused by Tallado's dismissals were only temporary. Verily, Tallado was not permanently incapacitated to discharge the functions of his office, and the vacancy created in his absence was not permanent.[12] (Emphasis in the original)

The ponente writes that the period of preventive suspension is an effective interruption of the term of an elective official, since no power can be exercised by the elective official while on preventive suspension. However, the exercise of power should not be the sole factor considered. An official placed under preventive suspension is entitled to be paid "the salary and such other emoluments that he did not receive by reason of the suspension of the removal."^[13] If there is an effective interruption in the term of an elective official that is equivalent to a permanent vacancy, then the elective official should not be entitled to salary and other emoluments for the period of interruption.

I vote to grant the Motion for Reconsideration.

[1] Ponencia, pp. 5-6.

[2] Administrative Order No. 07. Rules of Procedure of the Office of the Ombudsman (1990), as amended by Administrative Order No. 17, dated September 7, 2003.

[3] Administrative Order No. 07. Rules of Procedure of the Office of the Ombudsman (1990), as amended by Administrative Order No. 17, dated September 7, 2003.

[4] Tallado v. Commission on Elections, G.R. No. 246679, September 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65755>> [Per CJ Bersamin, En Banc]. J. Jardeleza, dissenting.

[5] Republic Act No. 7160 (1991).

[6] Republic Act No. 7160 (1991).

[7] Republic Act No. 7160 (1991) sec. 46 partly states:

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

[8] Tallado v. Commission on Elections, G.R. No. 246679, September 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65755>> [Per CJ Bersamin, En Banc]. J. Jardeleza, dissenting.

[9] Id.

[10] Id.

[11] Id.

[12] Id.

[13] Sec. 7, Rule III, Administrative Order No. 07. Rules of Procedure of the Office of the Ombudsman (1990), as amended by Administrative Order No. 17, dated September 7, 2003.

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