

SALVACION A. MONSANTO, PETITIONER, VS. FULGENCIO S. FACTORAN, JR., RESPONDENT.*G.R. No. 78239. February 09, 1989*

Ponente: FERNAN, C.J.

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The principal question raised in this petition for review is whether or not a public officer, who has been granted an absolute pardon by the Chief Executive is entitled to reinstatement to her former position without need of a new appointment.

In a decision rendered on March 25, 1983, the Sandiganbayan convicted petitioner Salvacion A. Monsanto (then assistant treasurer of Calbayog City) and three other accused, of the complex crime of estafa thru falsification of public documents and sentenced them to imprisonment of four (4) years, two (2) months and one (1) day of prision correccional as minimum, to ten (10) years and one (1) day prision mayor as maximum, and to pay a fine of P3,500. They were further ordered to jointly and severally indemnify the government in the sum of P4,892.50 representing the balance of the amount defrauded and to pay the costs proportionately.

Petitioner Monsanto appealed her conviction to this Court which subsequently affirmed the same. She then filed a motion for reconsideration but while said motion was pending, she was extended on December 17, 1984 by then President Marcos absolute pardon which she accepted on December 21, 1984.

By reason of said pardon, petitioner wrote the Calbayog City treasurer requesting that she be restored to her former post as assistant city treasurer since the same was still vacant.

Petitioner's letter-request was referred to the Ministry of Finance for resolution in view of the provision of the Local Government Code transferring the power of appointment of treasurers from the city governments to the said Ministry. In its 4th Indorsement dated March 1, 1985, the Finance Ministry ruled that petitioner may be reinstated to her position without the necessity of a new appointment not earlier than the date she was extended the absolute pardon. It also directed the city treasurer to see to it that the amount of P4,892.50 which the Sandiganbayan had required to be indemnified in favor of the government as well as the costs of the litigation, be satisfied.[1]

Seeking reconsideration of the foregoing ruling, petitioner wrote the Ministry on April 17, 1985 stressing that the full pardon bestowed on her has wiped out the crime which implies that her service in the government has never been interrupted and therefore the date of her reinstatement should correspond to the date of her preventive suspension which is August 1, 1982; that she is entitled to backpay for the entire period of her suspension; and that she should not be required to pay the proportionate share of the amount of P4,892.50.[2]

The Ministry of Finance, however, referred petitioner's letter to the Office of the President for further review and action. On April 15, 1986, said Office, through Deputy Executive Secretary Fulgencio S. Factoran, Jr. held:

"We disagree with both the Ministry of Finance and the petitioner because, as borne out by the records, petitioner was convicted of the crime for which she was accused. In line with the government's crusade to

restore absolute honesty in public service, this Office adopts, as a juridical guide (*Miranda v. Imperial*, 77 Phil. 1966), the Resolution of the Sandiganbayan, 2nd Division, in *People v. Lising*, Crim. Case No. 6675, October 4, 1985, that acquittal, not absolute pardon, of a former public officer is the only ground for reinstatement to his former position and entitlement to payment of his salaries, benefits and emoluments due to him during the period of his suspension pendente lite.

"In fact, in such a situation, the former public official must secure a reappointment before he can reassume his former position. x x x.

"Anent the civil liability of Monsanto, the Revised Penal Code expressly provides that 'a pardon shall in no case exempt the culprit from payment of the civil indemnity imposed upon him by the sentence.' (Sec. 36, par. 2).

"IN VIEW OF THE FOREGOING, this Office holds that Salvacion A. Monsanto is not entitled to an automatic reinstatement on the basis of the absolute pardon granted her but must secure an appointment to her former position and that, notwithstanding said absolute pardon, she is liable for the civil liability concomitant to her previous conviction." [3]

Her subsequent motion for reconsideration having been denied, petitioner filed the present petition in her behalf. We gave due course on October 13, 1987.

Petitioner's basic theory is that the general rules on pardon cannot apply to her case by reason of the fact that she was extended executive clemency while her conviction was still pending appeal in this Court. There having been no final judgment of conviction, her employment therefore as assistant city treasurer could not be said to have been terminated or forfeited. In other words, without that final judgment of conviction, the accessory penalty of forfeiture of office did not attach and the status of her employment remained "suspended." More importantly, when pardon was issued before the final verdict of guilt, it was an acquittal because there was no offense to speak of. In effect, the President has declared her not guilty of the crime charged and has accordingly dismissed the same. [4]

It is well to remember that petitioner had been convicted of the complex crime of estafa thru falsification of public documents and sentenced to imprisonment of four years, two months and one day of prision correccional as minimum, to ten years and one day of prision mayor as maximum. The penalty of prision mayor carries the accessory penalties of temporary absolute disqualification and perpetual special disqualification from the right of suffrage, enforceable during the term of the principal penalty. [5] Temporary absolute disqualification bars the convict from public office or employment, such disqualification to last during the term of the sentence. [6] Even if the offender be pardoned, as to the principal penalty, the accessory penalties remain unless the same have been expressly remitted by the pardon. [7] The penalty of prision correccional carries, as one of its accessory penalties, suspension from public office. [8]

The propositions earlier advanced by petitioner reveal her inadequate understanding of the nature of pardon and its legal consequences. This is not totally unexpected considering that the authorities on the subject have not been wholly consistent particularly in describing the effects of pardon.

The benign mercy of pardon is of British origin, conceived to temper the gravity of the King's wrath. But Philippine jurisprudence on the subject has been largely influenced by American case law.

Pardon is defined as "an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual, on whom it is bestowed, from the punishment the law inflicts for a crime he has committed. It is the private, though official act of the executive magistrate, delivered to the individual for whose benefit it is intended, and not communicated officially to the Court. xxx. A pardon is a deed, to the validity of

which delivery is essential, and delivery is not complete without acceptance."8-a

At the time the antecedents of the present case took place, the pardoning power was governed by the 1973 Constitution as amended in the April 7, 1981 plebiscite. The pertinent provision reads:

"The President may, except in cases of impeachment, grant, reprieves, commutations and pardons, remit fines and forfeitures, and with the concurrence of the Batasang Pambansa, grant amnesty."[9]

The 1981 amendments had deleted the earlier rule that clemency could be extended only upon final conviction, implying that clemency could be given even before conviction. Thus, petitioner's unconditional pardon was granted even as her appeal was pending in the High Court. It is worth mentioning that under the 1987 Constitution, the former limitation of final conviction was restored. But be that as it may, it is our view that in the present case, it is not material when the pardon was bestowed, whether before or after conviction, for the result would still be the same. Having accepted the pardon, petitioner is deemed to have abandoned her appeal and her unreversed conviction by the Sandiganbayan assumed the character of finality.

Having disposed of that preliminary point, we proceed to discuss the effects of a full and absolute pardon in relation to the decisive question of whether or not the plenary pardon had the effect of removing the disqualifications prescribed by the Revised Penal Code.

In *Pelobello v. Palatino*,^[10] we find a reiteration of the stand consistently adopted by the courts on the various consequences of pardon: "x x x we adopt the broad view expressed in *Cristobal v. Labrador*, G.R. No. 47941, December 7, 1940, that subject to the limitations imposed by the Constitution, the pardoning power cannot be restricted or controlled by legislative action; that an absolute pardon not only blots out the crime committed but removes all disabilities resulting from the conviction. x x x. (W)e are of the opinion that the better view in the light of the constitutional grant in this jurisdiction is not to unnecessarily restrict or impair the power of the Chief Executive who, after an inquiry into the environmental facts, should be at liberty to atone the rigidity of the law to the extent of relieving completely the party x x x concerned from the accessory and resultant disabilities of criminal conviction."

The *Pelobello v. Palatino* and *Cristobal v. Labrador* cases,^[11] and several others^[12] show the unmistakable application of the doctrinal case of *Ex Parte Garland*,^[13] whose sweeping generalizations to this day continue to hold sway in our jurisprudence despite the fact that much of its relevance has been downplayed by later American decisions.

Consider the following broad statements:

"A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full, it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction, it prevents any of the penalties and disabilities, consequent upon conviction, from attaching; if granted after conviction, it removes the penalties and disabilities and restores him to all his civil rights; it makes him, as it were, a new man, and gives him a new credit and capacity."[14]

Such generalities have not been universally accepted, recognized or approved.^[15] The modern trend of authorities now rejects the unduly broad language of the *Garland* case (reputed to be perhaps the most extreme statement which has been made on the effects of a pardon). To our mind, this is the more realistic approach. While a pardon has generally been regarded as blotting out the existence of guilt so that in the eye of the law the offender is as innocent as though he never committed the offense, it does not operate for all purposes. The very essence of a pardon is forgiveness or remission of guilt. Pardon implies guilt. It does not erase the fact of the commission of the crime and the conviction thereof. It does not wash out the moral stain. It involves forgiveness

and not forgetfulness.[16]

The better considered cases regard full pardon (at least one not based on the offender's innocence) as relieving the party from all the punitive consequences of his criminal act, including the disqualifications or disabilities based on the finding of guilt.[17] But it relieves him from nothing more. "To say, however, that the offender is a 'new men', and 'as innocent as if he had never `committed the offense;' is to ignore the difference between the crime and the criminal. A person adjudged guilty of an offense is a convicted criminal, though pardoned; he may be deserving of punishment, though left unpunished; and the law may regard him as more dangerous to society than one never found guilty of crime, though it places no restraints upon him following his conviction." [18]

A pardon looks to the future. It is not retrospective.[19] It makes no amends for the past. It affords no relief for what has been suffered by the offender. It does not impose upon the government any obligation to make reparation for what has been suffered. "Since the offense has been established by judicial proceedings, that which has been done or suffered while they were in force is presumed to have been rightfully done and justly suffered, and no satisfaction for it can be required." [20] This would explain why petitioner, though pardoned, cannot be entitled to receive backpay for lost earnings and benefits.

Petitioner maintains that when she was issued absolute pardon, the Chief Executive declared her not guilty of the crime for which she was convicted.

In the case of *State v. Hazzard*, [21] we find this strong observation: "To assume that all or even a major number of pardons are issued because of innocence of the recipients is not only to indict our judicial system, but requires us to assume that which we all know to be untrue. The very act forgiveness implies the commission of wrong, and that wrong has been established by the most complete method known to modern civilization. Pardons may relieve from the disability of fines and forfeitures attendant upon a conviction, but they cannot erase the stain of bad character, which has been definitely fixed." [22]

In this ponencia, the Court wishes to stress one vital point: While we are prepared to concede that pardon may remit all the penal consequences of a criminal indictment if only to give meaning to the fiat that a pardon, being presidential prerogative, should not be circumscribed by legislative action, we do not subscribe to the fictitious belief that pardon blots out the guilt of an individual and that once he is absolved, he should be treated as if he were innocent. For whatever may have been the judicial dicta in the past, we cannot perceive how pardon can produce such moral changes" as to equate a pardoned convict in character and conduct with one who has constantly maintained the mark of a good, law-abiding citizen.

Pardon cannot mask the acts constituting the crime. These are "historical" facts which, despite the public manifestation of mercy and forgiveness implicit in pardon, "ordinary, prudent men will take into account in their subsequent dealings with the actor." [23]

Pardon granted after conviction frees the individual from all the penalties and legal disabilities and restores him all his civil rights. But unless expressly grounded on the person's innocence (which is rare), it cannot bring back lost reputation for honesty, integrity and fair dealing. [24] This must be constantly kept in mind lest we lose track of the true character and purpose of the privilege.

Thus, notwithstanding the expensive and effusive language of the *Garland* case, we are in full agreement with the commonly-held opinion that pardon does not ipso facto restore a convicted felon to public office necessarily relinquished or forfeited by reason of the conviction [25] although such pardon undoubtedly restores his eligibility for appointment to that office. [26]

The rationale is plainly evident. Public offices are intended primarily for the collective protection, safety and

benefit of the common good. They cannot be compromised to favor private interests. To insist on automatic reinstatement because of a mistaken notion that the pardon virtually acquitted one from the offense of estafa would be grossly untenable. A pardon, albeit full and plenary, cannot preclude the appointing power from refusing appointment to anyone deemed to be of bad character, a poor moral risk, or who is unsuitable by reason of the pardoned conviction.

For petitioner Monsanto, this is the bottom line: the absolute disqualification or ineligibility from public office forms part of the punishment prescribed by the Revised Penal Code for estafa thru falsification of public documents. It is clear from the authorities referred to that when her guilt and punishment were expunged by her pardon, this particular disability was likewise removed. Henceforth, petitioner may apply for reappointment to the Office which was forfeited by reason of her conviction. And in considering her qualifications and suitability for the public post, the facts constituting her offense must be and should be evaluated and taken into account to determine ultimately whether she can once again be entrusted with public funds. Stated differently, the pardon granted to petitioner has resulted in removing her disqualification from holding public employment but it cannot go beyond that. To regain her former post as assistant city treasurer, she must reapply and undergo the usual procedure required for a new appointment.

Finally, petitioner has sought exemption from the payment of the civil indemnity imposed upon her by the sentence. The Court cannot oblige her. Civil liability arising from crime is governed by the Revised Penal Code. It subsists notwithstanding service of sentence, or for any reason the sentence is not served by pardon, amnesty or commutation of sentence. Petitioner's civil liability may only be extinguished by the same causes recognized in the Civil Code, namely: payment, loss of the thing due, remission of the debt, merger of the rights of creditor and debtor, compensation and novation.[27]

WHEREFORE, the assailed resolution of former Deputy Executive Secretary Fulgencio S. Factoran, Jr., dated April 15, 1986, is AFFIRMED. No costs.

SO ORDERED.

Narvasa, Paras, Gancayco, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Melencio-Herrera, J., in the result and joined the separate opinion of J. Padilla and J. Feliciano.

Gutierrez, Jr., J., join Justice Feliciano in his concurring opinion.

Cruz, J., concur subject to Mr. Justice Feliciano's reservation in his separate opinion

Feliciano and Padilla, JJ., please see separate concurring opinion.

Sarmiento, J., join the separate opinion of Justices Padilla and Feliciano.

[1] Rollo at 14-15.

[2] Rollo at 18-19.

[3] Rollo at 21-22.

[4] Rollo at 73.

[5] Article 42, Revised Penal Code.

[6] Article 30, *supra*.

[7] Article 36, *supra*.

[8] Article 43, *supra*.

[8-a] *United States v. Wilson*, 7 Pet. 150, 160-1, cited in *Bernas, The 1973 Philippine Constitution, Notes and Cases. Part I*, 1974 Ed., p. 355

[9] Article VII, Section 11

[10] 72, Phil. 441.

[11] *Supra*.

[12] *In re Lontok*, 43 Phil. 293; *Pendon v. Diasnes*, 91 Phil. 848 and *Mijares v. Custorio*, 73 Phil. 507.

[13] 4 Wall.333, 18 L. Ed. 366.

[14] *Ex Parte Garland*, *supra* at 367.

[15] 67 C.J.S. 576-577.

[16] 67 C.J.S. 576-577; *Page vs. Watson*, 192 So. 205, 126 A.L.R. 249, 253.

[17] *Comm. of Met. Dist. Com. v. Director of Civil Service*, 203 N.E. 2d 95).

[18] *State v. Cullen*, 127 P. 2d 257, cited in 67 C.J.S. 577, note 18.

[19] *Morris v. Hartsfield*, 197 S.E. 251.

[20] *Illinois C.R. Co. v. Bosworth*, 133 U.S. 92, 33 L. Ed. 550, 554-555, citing *Knote v. United States*, 95 U.S. 149.

[21] 247 p. 957.

[22] See also *State v. Serfling*, 230 p. 847.

[23] *Comm. of Mgt. Dist. Com. v. Director of Civil Service*, 203 N.E. 2d 95.

[24] *Ibid*.

[25] *Illinois C.R. Co. v. Bosworth*, 133 U.S. 92, 33 L.E. 550; *Page v. Watson*, 192 So. 205, 126 ALR, 249; *State v. Hazzard*, 247 P. 957 and *In re Stephensons*, 10 So. 2d 1.

[26] 59 Am. Jur. 2d 40.

[27] Articles 36, 112-113, Revised Penal Code.

SEPARATE OPINION

PADILLA, J.,

I concur in the result but on grounds different from those relied upon by the majority opinion.

Petitioner Salvacion A. Monsanto was Assistant Treasurer of Calbayog City. Together with three (3) other accused, she was charged before the Sandiganbayan with the complex crime of Estafa through falsification of public documents. After trial, the accused were convicted and sentenced to imprisonment of four (4) years, two

(2) months and one (1) day of prison correccional, as minimum, to ten (10) years and one (1) day of prison correccional, as maximum, and to pay a fine of P3,500.00. They were also ordered to jointly and severally indemnify the government in the sum of P4,892.50 representing the balance of the amount defrauded and to pay the costs proportionately.

Petitioner appealed the judgment of conviction to this Court which affirmed the same. Petitioner then filed a motion for reconsideration but while said motion was pending, President Ferdinand E. Marcos extended to her on 17 December 1984 an absolute pardon which she accepted on 21 December 1984.

By reason of said absolute pardon, petitioner in representations before the City Treasurer of Calbayog, the Ministry of Finance and the Office of the President, asked that she be allowed to re-assume her former office, as of 1 August 1982 (the date of her preventive suspension), that she be paid her back salaries for the entire period of her suspension, and that she be not required to pay her proportionate share of the amount of P4,892.50.

Respondent Assistant Executive Secretary denied petitioner's request for automatic reinstatement as well as her other claims, because of which denial, this petition for review on certiorari was filed before the Court seeking the setting aside and reversal of the decision of the respondent Assistant Executive Secretary, on the main contention that, as a public officer who has been granted an absolute pardon by the President, she is entitled to reinstatement to her former position without need of a new appointment, and to the other reliefs prayed for.

There can be no dispute that the pardon extinguished petitioner's criminal liability. At the same time, Art. 36 of the Revised Penal Code categorically covers the effects of a pardon on the pardoned's right to hold public office, suffrage and on his civil liability. It states:

"ART. 36. Pardon; its effects. - A pardon shall not work the restoration of the right to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon.

"A pardon shall in no case exempt the culprit from the payment of the civil indemnity imposed upon him by the sentence." (Underscoring supplied)

Applying Art. 36 of the Revised Penal Code to the case at bar, it is, to my mind, clear that the pardon extended by the President to the petitioner did not per se entitle her to again hold public office (including therefore the office of Assistant Treasurer, Calbayog City) or to suffrage: nor, did such pardon extinguish her civil liability for the criminal conviction, subject matter of the pardon.

An examination of the presidential pardon in question shows that, while petitioner was granted "an absolute and unconditional pardon and restored to full civil and political rights", yet, nothing therein expressly provides that the right to hold public office was thereby restored to the petitioner. In view of the express exclusion by Art. 36, R.P.C., of the right to hold public office, notwithstanding a pardon unless the right is expressly restored by the pardon, it is my considered opinion that, to the extent that the pardon granted to the petitioner did not expressly restore the right to hold public office as an effect of such pardon, that right must be kept away from the petitioner.

It is a recognized principle in public law - hopefully to be honored more in its compliance rather than in its breach - that a "public office is a public trust." The restoration of the right to hold public office to one who has lost such right by reason of conviction in a criminal case, but subsequently pardoned, cannot be left to inference, no matter how intensely arguable, but must be stated in express, explicit, positive and specific language. To require this would not be asking too much.

I am aware that there are broad statements in *Cristobal vs. Labrador*, 71 Phil. 341 and *Pelobello vs. Palatino*, 72 Phil. 441 which may be understood to mean that an absolute pardon, without qualification, restores full civil rights which have been construed, in turn, to include the right to hold public office (*Versoza vs. Fernandez*, 55

Phil. 323).

If such be the message of said cases, then I submit that a modification is in order, so that an absolute pardon to work a restoration of the right to hold public office must expressly so state, in order to give substance and meaning to the sound provisions of Article 36 of the Revised Penal Code, particularly in the light of our times and experience.

ACCORDINGLY, I vote to DENY the petition.

CONCURRING OPINION

FELICIANO, J.,

I concur in the result reached in the important and eloquent opinion of the Chief Justice. I also join in the separate concurring opinion of Mr. Justice Padilla. At the same time, I would add a few brief statements, basically for my own clarification.

Article 36 of the Revised Penal Code states:

"Article 36. Pardon; its effects. -- A pardon shall not work the restoration of the right to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon.

A pardon shall in no case exempt the culprit from the payment of the civil indemnity imposed upon him by the sentence." (Underscoring supplied)

It is worthy of note that the rule embodied in Article 36 is reiterated four (4) times by the Revised Penal Code in its following provisions:

"Article 40. Death - Its accessory penalties. - The death penalty, when it is not executed by reason of commutation or pardon shall carry with it that of perpetual absolute disqualification and that of civil interdiction during thirty years following the date of sentence, unless such accessory penalties have been expressly remitted in the pardon."

"Article 41. Reclusion perpetua and reclusion temporal - Their accessory penalties. - The penalties of reclusion perpetua and reclusion temporal shall carry with them that of civil interdiction for life or during the period of the sentence as the case may be, and that of perpetual absolute disqualification which the offender shall suffer even though pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon."

"Article 42. Prision mayor – Its accessory penalties. - The penalty of prision mayor shall carry with it that of temporary absolute disqualification and that of perpetual special disqualification from the right of suffrage which the offender shall suffer although pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon."

"Article 43. Prision correccional - Its accessory penalties. - The penalty of prision correccional shall carry with it that of suspension from public office, from the right to follow a profession or calling, and that of perpetual special disqualification from the right of suffrage, if the duration of said imprisonment shall exceed eighteen months. The offender shall suffer the disqualification provided in this article although pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon." (Underscoring supplied)

The Chief Justice points out that the penalty imposed upon petitioner for the complex crime of estafa through falsification of public documents, included the accessory penalties of temporary absolute disqualification from

public office or employment and perpetual special disqualification from the right of suffrage. The 17 December 1984 pardon extended to petitioners in the instant case was written on a standard printed form which states in printed words that it was "an absolute and unconditional pardon [which] restored [petitioner] to full civil and political rights."^[1] While the right of suffrage and the right to hold public office or employment are commonly regarded as "political rights,"^[2] it must be noted that there are other "political rights"^[3] and that the pardon given petitioner did not expressly and in printer's ink restore to petitioner the particular right to hold public office and the specific right to vote at elections and plebiscites.

I join in the basic point of Mr. Justico Padilla that because of the nature of a public office as a public trust, Articles 36 and 40-43 appropriately require a very high degree of explicitness if a pardon is to work the restoration of such right to petitioner. Exactly the same point may, of course, be made in respect of the restoration of the right to vote.

Articles 36 and 40-43 of the Revised Penal Code, quoted above, have been in our statute books since 1930. I believe that they have been left intact by the constitutional provisions on pardon, whether one refers to the 1935 Constitution or to the 1973 and 1987 Constitutions. I do not believe that Articles 36, et al. collided with any provision or principle embodied in either of our prior constitutions. The Chief Justice appears to agree with this position when he referred to Article 36 of the Revised Penal Code (Opinion, p. 5). He goes on, however, to say (in page 13) that: "the pardon granted to petitioner has resulted in removing her disqualification from holding public employment but it cannot go beyond that."

It is submitted, with respect, that Articles 36, et al. of the Revised Penal Code have not been shown to be an unconstitutional restriction on the pardoning power of the President. The limitation on the President's pardoning power, if limitation it be, does not appear to be an unreasonably onerous one. Articles 36, et al. merely require the President to become completely explicit if the pardon he extends is intended to wipe out not merely the principal but also the accessory penalty of disqualification from holding public office and from voting and to restore the recipient of the pardon to the exercise of such fundamental political rights. Such requirement of explicitness seems entirely in line with the fundamental point made by the Chief Justice that a pardon does not blot out the factual guilt of the recipient of the pardon. In other words, the mere grant of a pardon to a public officer or employee who has been unfaithful to the public trust and sentenced to disqualification from voting and from holding such office, does not create the presumption that the recipient of the pardon has thereby suddenly become morally eligible once more to exercise the right to vote and to hold public office.

In my view, the pardon extended to petitioner was ineffective to restore to her the right to hold public office and on this ground, I vote to DENY the Petition for Review and to AFFIRM the assailed Resolution of the then Executive Secretary Fulgencio S. Factoran, Jr.

[1] Rollo, p. 90.

[2] *Vera v. Avelino*, 77 Phil. 192 (1946).

[3] *Malcolm and Laurel*, *The Constitutional Law of the Philippines*, p. 378 (1936).

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