Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

OFFICE OF THE OMBUDSMAN,
Petitioner,

- *versus* -

MAYOR JULIUS CESAR VERGARA,
Respondent.

G.R. No. 216871

Present:

CARPIO, *J.*, *Chairperson*,
PERALTA,
PERLAS-BERNABE,
CAGUIOA,
REYES, JR., *JJ.*

Promulgated:

06 DEC 2017

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DECISION

PERALTA, *J.*:

For this Court's consideration is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated April 6, 2015 of petitioner Office of the Ombudsman that seeks to reverse and set aside the Decision[1] dated May 28, 2014 of the Court of Appeals (*CA*) in CA-G.R. SP No. 125841 rendering the penalty imposed in the Decision[2] dated February 7, 2006 and Review Order[3] dated June 29, 2012 of petitioner Office of the Ombudsman against respondent Mayor Julius Cesar Vergara (*Mayor Vergara*) for violation of Section 5 (a) of Republic Act (*R.A.*) No. 6713 inapplicable due to the doctrine of condonation.

The facts follow.

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1 Penned by Associate Justice Mario V. Lopez, with the concurrence of Associate Justices Jose C. Reyes, Jr. and Socorro B. Inting; *rollo*, pp. 37-43.

2 *Rollo*, pp. 69-75.

3 *Id.* at 82-85.

A complaint was filed by Bonifacio G. Garcia, on June 21, 2005 before petitioner's Office of the Environmental Ombudsman against respondent Mayor Julius Cesar Vergara and then Vice-Mayor Raul Mendoza (*Vice-Mayor Mendoza*). Respondent Mayor Vergara was then serving as Mayor of Cabanatuan City for his third term (2004-2007).

According to the complainant, respondent Vergara and then Vice-Mayor Mendoza maintained for quite a long time an open burning dumpsite located at the boundaries of Barangays San Isidro and Valle Cruz in Cabanatuan City, which has long been overdue for closure and rehabilitation. He claimed that the dumpsite is now a four-storey high mountain of mixed garbage exposing the residents of at least eighty-seven (87) *barangays* of Cabanatuan City to all toxic solid wastes. He further alleged that respondent Mayor Vergara and then Vice-Mayor Mendoza ordered and permitted the littering and dumping of the solid wastes in the said area causing immeasurable havoc to the health of the residents of Cabanatuan and that despite the enactment of R.A. 9003, respondent Mayor Vergara and then Vice-Mayor Mendoza allowed and permitted the collection of non-segregated and unsorted wastes. It was also alleged that respondent Mayor Vergara and then Vice-Mayor Mendoza ignored the complaints from local residents and the letters from the authorities of the Department of Environment and Natural Resources (*DENR*) and from the Commissioner of the National Solid Waste Management ordering them to comply with the provisions of the said law.

In their Joint Counter-Affidavit,[4] both respondent Mayor Vergara and then Vice-Mayor Mendoza denied that they wilfully and grossly neglected the performance of their duties pursuant to R.A. 9003. They claimed that since 1999, they were already aware about the growing problem of garbage collection in Cabanatuan City. They also contended that even before the enactment of RA 9003, they have already prepared a master plan for the transfer of the city dumpsite in *Barangay* Valle into an agreement with Lacto Asia Pacific Corporation for the establishment of Materials Recovery Facility at the motorpool compound of Cabanatuan City as a permanent solution to the garbage problem.

Respondent Mayor Vergara was found guilty by Graft Investigation and Prosecution Officer II Ismaela B. Boco for violation of Section 5 (a) of R.A. No. 6713, or the *Code of Conduct and Ethical Standards for Public Officials and Employees* which provides that:

> Section 5. *Duties of Public Officials and Employees.* – In the performance of their duties, all public officials and employees are under obligation to:

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4 *Id.* at 62-68.

> (a) Act promptly on letter and requests – All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

As such, petitioner imposed a penalty on respondent which reads as follows:

> x x x Accordingly, he is meted the penalty of Suspension for six (6) months from the government service pursuant to Section 10, Rule III of the Administrative Order No. 07, this Office, in relation to Section 25 of Republic Act No. 6770.
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> It is further recommended that both respondents, JULIUS CESAR VERGARA and RAUL P. MENDOZA be administratively liable for NEGLECT OF DUTY for failing to implement RA 9003. Accordingly, each of them is meted the penalty of Suspension for six (6) months from the government service pursuant to Section 10, Rule III of the Administrative Order No. 07, this Office, in relation to Section 25 of Republic Act No. 6770.[5]

Respondent filed a motion for reconsideration contending that the assailed decision that meted him the penalty of suspension for six (6) months from government service cannot be implemented or enforced as the same runs counter to the established doctrine of condonation, since he was re-elected as Mayor of Cabanatuan City on May 10, 2010.

The petitioner, in its Review Order dated June 29, 2012, affirmed the Decision dated February 7, 2006 but modified the penalty imposed, thus:

> **PREMISES CONSIDERED**, the Decision dated 7 February 2006 is hereby **AFFIRMED** with modification. The penalty imposed on respondent-movant Julius Cesar V. Vergara for failure to act promptly on letters and requests is reduced from six-month suspension to reprimand in light of the foregoing disquisition.
>
> **SO ORDERED**.[6]

Aggrieved, respondent filed a petition for review with the CA.

Respondent then filed a Motion and Manifestation dated May 16, 2013, which the CA noted, alleging that his re-election as Mayor of Cabanatuan City in the May 2010 elections eliminated the break from his

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5 *Id.* at 74.

6 *Id.* at 85.

service as Mayor and, thus, qualified his case for the application of the doctrine of condonation.

The CA, on May 28, 2014, granted respondent's petition. The CA ruled that there is no reason for it to reverse the findings of the Office of the Ombudsman, however, the appellate court held that respondent may no longer be held administratively liable for misconduct committed during his previous term based on the doctrine of condonation, thus:

> x x x x
>
> Contrary to the ratiocination of the Office of the Ombudsman, the application of the doctrine does not require that the official must be reelected to the same position in the immediately succeeding election. The Supreme Court's rulings on the matter do not distinguish the precise timing or period when the misconduct was committed, reckoned from the date of the official's reelection, except that it must be prior to said date. Thus, when the law does not distinguish, the courts must not distinguish.
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> **FOR THESE REASONS**, the petition is **GRANTED**.
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> **SO ORDERED**.[7]

Petitioner filed a motion for partial reconsideration contending that the re-election referred to in the doctrine of condonation refers to the immediately succeeding election. The CA, in its Resolution dated February 5, 2015, denied the motion for reconsideration.

Hence, the present petition with the following grounds:

> I.
> THE COURT OF APPEALS ERRED WHEN IT HELD THAT RESPONDENT MAY NO LONGER BE HELD ADMINISTRATIVELY LIABLE FOR MISCONDUCT COMMITTED DURING HIS PREVIOUS TERM OF OFFICE BASED ON THE DOCTRINE OF CONDONATION.
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> II.
> ASSUMING *ARGUENDO* THAT THE DOCTRINE OF CONDONATION IS APPLICABLE TO THE CASE AT BAR, PETITIONER RESPECTFULLY BESEECHES THIS HONORABLE COURT TO REEXAMINE SAID DOCTRINE IN LIGHT OF THE 1987 CONSTITUTION'S MANDATE THAT PUBLIC OFFICE IS A PUBLIC TRUST.[8]

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7 *Id.* at 42-43.
8 *Id.* at 20.

According to petitioner, the term re-election, as applied in the doctrine of condonation, is used to refer to an election immediately preceding a term of office and it is not used to refer to a subsequent re-election following the three-term limit break considering that it is an incumbent official serving the three-term limit break who is said to be seeking re-election. It further argues that the factual circumstances of respondent do not warrant the application of the doctrine of condonation considering that the same doctrine is applied only to cases where the subject public officials were elected to the same position in the immediately succeeding election. Petitioner, likewise, contends that assuming that the doctrine of condonation is applicable in this case, such doctrine contradicts the 1987 Constitution and the present public policy.

In his Comment dated September 23, 2015, respondent insists that he did not violate any law and that if he is indeed guilty of violating R.A. 9003, the doctrine of condonation must be applied by virtue of his re-election.

The petition lacks merit.

Basically, this Court is presented with the single issue of whether or not respondent is entitled to the doctrine of condonation.

In November 10, 2015, this Court, in *Conchita Carpio Morales v. CA and Jejomar Binay, Jr.,*[9] extensively discussed the doctrine of condonation and ruled that such doctrine has no legal authority in this jurisdiction. As held in the said the decision:

> The foundation of our entire legal system is the Constitution. It is the supreme law of the land;[10] thus, the unbending rule is that every statute should be read in light of the Constitution.[11] 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.[12]
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> 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

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9 G.R. Nos. 217126-27, November 10, 2015, 774 SCRA 431, 540-542.
10 *Chavez v. Judicial and Bar Council,* 691 Phil. 173, 208 (2012).
11 *Teehankee v. Rovira,* 75 Phil. 634, 646 (1945), citing 11 Am. Jur., Constitutional Law, Section 96.
12 *Philippine Constitution Association v. Enriquez*, 305 Phil. 546, 566 (1994).

render personal military or civil service."[13] 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 II that "[t]he State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."[14] 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.

In Belgica, it was explained that:

> [t]he aphorism forged under Section 1, Article XI of the 1987 Constitution, which states that "public office is a public trust," is an overarching reminder that every instrumentality of government should exercise their official functions only in accordance with the principles of the Constitution which embodies the parameters of the people's trust. The notion of a public trust connotes accountability x x x.[15]

The same mandate is found in the Revised Administrative Code under the section of the Civil Service Commission,[16] and also, in the Code of Conduct and Ethical Standards for Public Officials and Employees.[17]

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[13] See Silos, Miguel U., *A Re-examination of the Doctrine of Condonation of Public Officers,* 84, Phil. LJ 22, 69 (2009), pp. 26-27.

[14] Section 27, Article II.

[15] *Belgica v. Ochoa,* 721 Phil. 416, 556 (2013), citing Bernas, Joaquin G., S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 2003 Ed., p. 1108.

[16] Section 1. Declaration of Policy. - The State shall insure and promote the Constitutional mandate that appointments in the Civil Service shall be made only according to merit and fitness; that the Civil

For local elective officials like Binay, Jr., the grounds to discipline, suspend or remove an elective local official from office are stated in Section 60 of Republic Act No. 7160,[18] 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 r 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 prision 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 panlunsod, 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:

Service Commission, as the central personnel agency of the Government shall establish a career service, adopt measures to promote morale, efficiency, integrity, responsiveness, and courtesy in the civil service, strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability; **that public office is a public trust and public officers and employees must at all times be accountable to the people**; and that personnel functions shall be decentralized, delegating the corresponding authority to the departments, offices and agencies where such functions can be effectively performed. (Section 1, Book V, Title I, subtitle A of the Administrative Code of 1987). (Emphasis supplied)

[17] Section 2. Declaration of Policies. - It is the policy of the State to promote a high standard of ethics in public service. **Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest**. See Section 2, RA 6713 (approved on February 20, 1989). (Emphasis supplied)

[18] Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991" (approved on October 10 1991).

> Section 40. Disqualifications. - The following persons are disqualified from running for any elective local position:
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> x x x x
>
> (b) Those removed from office as a result of an administrative case;
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> x x x x

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:

> Section 52. - Administrative Disabilities Inherent in Certain Penalties. -
>
> The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking the civil service examinations.

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:

> Section 66. Form and Notice of Decision. - x x x.
>
> x x x x
>
> (b) 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.

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*[19] to apply to administrative offenses:

> x x x The Constitution does not distinguish between which cases executive clemency may be exercised by the President, with the sole exclusion of impeachment cases. By the same token, if executive clemency may be exercised only in criminal cases, it would indeed be unnecessary to provide for the exclusion of impeachment cases from the coverage of Article VII, Section 19 of the Constitution. Following petitioner's proposed interpretation, cases of impeachment are automatically excluded inasmuch as the same do not necessarily involve criminal offenses.
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> In the same vein, We do not clearly see any valid and convincing, reason why the President cannot grant executive clemency in administrative cases. It is Our considered view that if the President can grant reprieves, commutations and pardons, and remit fines and forfeitures in criminal cases, with much more reason can she grant executive clemency in administrative cases, which are clearly less serious than criminal offenses.

Also, it cannot be inferred from Section 60 of the LGC that the grounds for discipline enumerated therein cannot anymore be invoked against an elective local official to hold him administratively liable once he is re-elected to office. In fact, Section 40 (b) of the LGC precludes condonation since in the first place, an elective local official who is meted with the penalty of removal could not be re-elected to an elective local position due to a direct disqualification from running for such post. In similar regard, Section 52 (a) of the RRACCS imposes a penalty of perpetual disqualification from holding public office as an accessory to the penalty of dismissal from service.

To compare, some of the cases adopted in Pascual were decided by US State jurisdictions wherein the doctrine of condonation of administrative liability was supported by either a constitutional or statutory provision stating, in effect, that an officer cannot be removed by a misconduct committed during a previous term,[20] or that the disqualification to hold the office does not extend beyond the term in

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[19] 279 Phil. 920, 937 (1991)

[20] In *Fudula's Petition* (297 Pa. 364; 147 A. 67 [1929]), the Supreme Court of Pennsylvania cited (a) 29 Cyc. 1410 which states: "Where removal may be made for cause only, the cause must have occurred during the present term of the officer. Misconduct prior to the present term even during a preceding term will not justify a removal"; and (b) "x x x Penal Code [Cal.], paragraph 772, providing for the removal of officers for violation of duty, which states "a sheriff cannot be removed from office, while serving his second term, for offenses committed during his first term."

In *Board of Commissioners of Kingfisher County v. Shutler* (139 Okla. 52; 281 P. 222 [1929]), the Supreme Court of Oklahoma held that "[u]nder section 2405, C. O. S. 1921, the only judgment a court can render on an officer being convicted of malfeasance or misfeasance in office is removal from office and an officer cannot be removed from office under said section for acts committed by him while holding the same office in a previous term."

which the official's delinquency occurred.[21] In one case,[22] the absence of a provision against the re-election of an officer removed - unlike Section 40 (b) of the LGC-was the justification behind condonation. In another case,[23] it was deemed that condonation through re-election was a policy under their constitution - which adoption in this jurisdiction runs counter to our present Constitution's requirements on public accountability. There was even one case where the doctrine of condonation was not adjudicated upon but only invoked by a party as a ground;[24] while in another case, which was not reported in full in the official series, the crux of the disposition was that the evidence of a prior irregularity in no way pertained to the charge at issue and therefore, was deemed to be incompetent.[25] Hence, owing to either their variance or inapplicability, none of these cases can be used as basis for the continued adoption of the condonation doctrine under our existing laws.

At best, Section 66 (b) of the LGC prohibits the enforcement of the penalty of suspension beyond the unexpired portion of the elective local official's prior term, and likewise allows said official to still run for re-election This treatment is similar to *People ex rel Bagshaw v. Thompson*[26]

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21 In State v. Blake (138 Okla. 241; 280 P. 833 [1929]), the Supreme Court of Oklahoma cited *State ex rel. Hill, County Attorney, v. Henschel,* 175 P. 393, wherein it was said: "Under the Ouster Law (section 7603 of the General Statutes of 1915-Code Civ. Proc. 686a-), a public officer who is guilty of willful misconduct in office forfeits his right to hold the office for the term of his election or appointment; but the disqualification to hold the office does not extend beyond the term in which his official delinquency occurred."

22 In Rice v. State (204 Ark. 236; 161 S.W.2d 401 [1942]), the Supreme Court of Arkansas cited (a) *Jacobs v. Parham,* 175 Ark. 86,298 S.W. 483, which quoted a headnote, that "Under Crawford Moses' Dig., [(*i.e.*, a digest of statutes in the jurisdiction of Arkansas)] 10335, 10336, a public officer is not subject to removal from office because of acts done prior to his present term of office in view of Const., art. 7, 27, containing no provision against re-election of officer removed for any of the reasons named therein."

23 In State ex rel. Brickell v. Hasty (184 Ala. 121; 63 So. 559 [1913]), the Supreme Court of Alabama held: "x x x If an officer is impeached and removed, there is nothing to prevent his being elected to the identical office from which he was removed for a subsequent term, and, this being true, a re election to the office would operate as a condonation under the Constitution of the officer's conduct during the previous term, to the extent of cutting off the right to remove him from subsequent term for said conduct during the previous term. It seems to be the policy of our Constitution to make each term independent of the other, and to disassociate the conduct under one term from the qualification or right to fill another term, at least, so far as the same may apply to impeachment proceedings, and as distinguished from the right to indict and convict an offending official."

24 In State Ex Rel. V. Ward (163 Tenn. 265; 43 S.W.2d. 217 [1931]), decided by the Supreme Court of Tennessee, Knoxville, it appears to be erroneously relied upon in *Pascual,* since the proposition "[t]hat the Acts alleged in paragraph 4 of the petition involved contracts made by defendant prior to his present term for which he cannot now be removed from office" was not a court ruling but an argument raised by the defendant in his demurrer.

25 In *Conant v. Grosan* (6 N.Y.S.R. 322 [1887]), which was cited in *Newman v. Strobel* (236 A.D. 371; 259 N.Y.S. 402 [1932]; decided by the Supreme Court of New York, Appellate Division) reads: "Our attention is called to *Conant v. Grogan* (6 N.Y. St. Repr. 322; 43 Hun, 637) and *Matter of King* (25 N.Y. St. Repr. 792; 53 Hun, 631), both of which decisions are of the late General Term, and neither of which is reported in full in the official series. While there are expressions in each opinion which at first blush might seem to uphold respondent's theory, an examination of the cases discloses the fact that the charge against each official related to acts performed during his then term of office, and evidence of some prior irregularity was offered which in no way pertained to the charge in issue. It was properly held that such evidence was incompetent. The respondent was not called upon to answer such charge, but an entirely separate and different one."

26 In People ex rel. Basshaw v. Thompson (55 Cal. App. 2d 147; 130 P.2d.237 [1942]), the Court of Appeal of California, First Appellate District cited *Thurston v. Clark,* (107 Cal. 285, 40 P. 435), wherein it was ruled: "The Constitution does not authorize the governor to suspend an incumbent of the office of county commissioner for an act of malfeasance or misfeasance in office committed by him prior to the date of the beginning of his current term of office as such county commissioner."

and *Montgomery v. Novell*[27] both cited in Pascual, wherein it was ruled that an officer cannot be suspended for a misconduct committed during a prior term. However, as previously stated, nothing in Section 66 (b) states that the elective local official's administrative liability is extinguished by the fact of re-election. Thus, at all events, no legal provision actually supports the theory that the liability is condoned.

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.

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.[28] 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.[29] 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*[30] 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

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[27] *Montgomery v. Nowell,* (183 Ark. 1116; 40 S.W.2d 418 [1931]; decided by the Supreme Court of Arkansas), the headnote reads as follows: "Crawford & Moses' Dig., 10, 335, providing for suspension of an officer on presentment or indictment for certain causes including malfeasance, in office does not provide for suspension of an officer on being indicted for official misconduct during a prior term of office."

[28] See Chief Justice Maria Lourdes P. A. Sereno's interpellation, TSN of the Oral Arguments, April 14, 2015, p. 43.

[29] See Ombudsman's Memorandum, *rollo*, Vol. 11, p. 716, citing Silos, Miguel U., *A Re-examination of the Doctrine of Condonation of Public Officers,* 84, Phil. LJ 22, 69 (2009), p. 67.

[30] 117 N.J.L. 64; 186 A. 818(1936).

> no condonation. One cannot forgive something of which one has no knowledge.
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> 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 CA.

The above ruling, however, was explicit in its pronouncement that the abandonment of the doctrine of condonation is prospective in application, hence, the same doctrine is still applicable in cases that transpired prior to the ruling of this Court in *Carpio Morales v. CA and Jejomar Binay, Jr.*[31] Thus:

> 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.[32] 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 Council*.[33]
>
> > 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.[34]
>
> 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*,[35] wherein it was ruled:
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> [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.

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31 *Supra* note 2.
32 See Article 8 of the Civil Code.
33 632 Phil. 657 (2010).
34 *Id.* at 686.
35 154 Phil. 565 (1974).

Later, in *Spouses Benzonan v. CA*,[36] it was further elaborated:

> [Pursuant 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.[37]
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> Indeed, the lessons of history teach us that institutions can greatly benefit from hindsight and rectify its ensuing course. Thus, while it is truly perplexing to think that a doctrine which is barren of legal anchorage was able to endure in our jurisprudence for a considerable length of time, this Court, under a new membership, takes up the cudgels and now abandons the condonation doctrine.

Considering that the present case was instituted prior to the above-cited ruling of this Court, the doctrine of condonation may still be applied.

It is the contention of the petitioner that the doctrine of condonation cannot be applied in this case, since there was a gap in the re-election of the respondent. It must be remembered that the complaint against respondent was filed on June 21, 2005, or during the latter's third term as Mayor (2004-2007) and was only re-elected as Mayor in 2010. According to petitioner, for the doctrine to apply, the respondent should have been re-elected in the same position in the immediately succeeding election.

This Court finds petitioner's contention unmeritorious.

The application of the doctrine does not require that the official must be re-elected to the same position in the immediately succeeding election. In *Giron v. Ochoa*,[38] the Court recognized that the doctrine can be applied to a public officer who was elected to a different position provided that it is shown that the body politic electing the person to another office is the same. Thus, the Court ruled:

> On this issue, considering the *ratio decidendi* behind the doctrine, the Court agrees with the interpretation of the administrative tribunals

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36 282 Phil. 530 (1992).

37 *Id.* at 544.

38 G.R. No. 218463 March 1, 2017.

> below that the condonation doctrine applies to a public official elected to another office. The underlying theory is that each term is separate from other terms. Thus, in Carpio-Morales, the basic considerations are the following: 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; second, an elective official's re-election serves as a condonation of previous misconduct, thereby cutting the right to remove him therefor; and 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. In this case, it is a given fact that the body politic, who elected him to another office, was the same.

From the above ruling of this Court, it is apparent that the most important consideration in the doctrine of condonation is the fact that the misconduct was done on a prior term and that the subject public official was eventually re-elected by the same body politic. It is inconsequential whether the said re-election be on another public office or on an election year that is not immediately succeeding the last, as long as the electorate that re-elected the public official be the same. In this case, the respondent was re-elected as mayor by the same electorate that voted for him when the violation was committed. As such, the doctrine of condonation is applied and the CA did not err in so ruling.

WHEREFORE, Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated April 6, 2015 of petitioner Office of the Ombudsman is **DENIED**. Consequently, the Decision dated May 28, 2014 of the Court of Appeals in CA-G.R. SP No. 125841 is **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice