



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ERNESTO L. CHING,

Petitioner,

G.R. No. 244828

Present:

PERLAS-BERNABE, J.,
Chairperson,

HERNANDO,
INTING,

DELOS SANTOS, and
BALTAZAR-PADILLA,* JJ.

- versus -

CARMELITA S. BONACHITA-
RICABLANCA,

Respondent.

Promulgated:

OCT 12 2020

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DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by Ernesto L. Ching (Ching) assailing both the Amended Decision¹ of the Court of Appeals, Cagayan de Oro City (CA) dated June 29, 2018 and the Resolution² dated January 28, 2019 in CA-G.R. SP No. 07261-MIN which reversed the Decision of the Office of the Deputy Ombudsman-Mindanao in OMB-M-A-15-0120³ dated October 13, 2015 finding Carmelita S. Bonachita-Ricablanca (Ricablanca) guilty of grave misconduct and conduct prejudicial to the best interest of the service and imposes upon her the penalty of dismissal from service pursuant to Section 10 of

* On leave.

¹ Penned by Associate Justice Perpetua T. Atal-Paño, with Associate Justices Romulo V. Borja and Oscar V. Badelles, concurring; *rollo*, pp. 130-135.

² Penned by Associate Justice Oscar V. Badelles, with Associate Justices Evalyn M. Arellano-Morales and Florencio M. Mamauag, Jr., concurring; *id.* at 167-169.

³ Also referred to as "OMB-M-A-15-012" in some parts of the *rollo*.

Administrative Order (A.O.) No. 17, amending Rule III of A.O. No. 7 providing for the Rules of Procedure of the Office of the Ombudsman.

The Facts

The case arose after a fire broke out in the Residential Building in *Barangay* Poblacion, Sagay, Camiguin owned by Virgilio Bonachita (Virgilio), father of Ricablanca, on January 29, 2015. Although the fire was extinguished, Ching claimed that he was traumatized by the incident because the building is connected to a “Petron *Bulilit* Station,” a fuel station, near his residence.

The fire incident led to the discovery that Ricablanca, while she was still a *Barangay Kagawad* of Poblacion, Sagay, Camiguin, not only authored *Barangay* Resolution No. 16, Series of 2012 (*Barangay* Resolution No. 16) for the construction of the Petron *Bulilit* Station operated by her father Virgilio, who was then a Member of the *Sangguniang Bayan*, but likewise participated in the approval of the same resolution.

During the 2013 Elections, Ricablanca ran for office and won a seat as a Member of the *Sangguniang Bayan* of the Municipality of Sagay.

On March 26, 2015, Ching filed a Complaint against Ricablanca and seven (7) other public officials (Ricablanca, *et al.*) of Sagay, Camiguin before the Office of the Ombudsman (Ombudsman) for Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, and for Violation of Republic Act No. (RA) 6713 (The Code of Conduct and Ethical Standards for Public Officials and Employees).

Ricablanca, *et al.* contended in their individual Counter-Affidavits that they did not violate any law when they authored and/or approved *Sangguniang Bayan* Resolution No. 25 and/or *Barangay* Resolution No. 16.

At the time the complaint was filed before the Ombudsman, Ricablanca was already serving as Member of the *Sangguniang Bayan* of Sagay, Camiguin.

The Ombudsman Ruling

In a Decision⁴ dated October 13, 2015, the Ombudsman found no substantial evidence to hold the seven (7) other public officials of Sagay, Camiguin guilty except for Ricablanca who was found guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service for authoring *Barangay* Resolution No. 16, a resolution approving and endorsing the construction and operation of the Petron *Bulilit* Station owned by her father, and for not inhibiting herself from participating in its deliberation and approval. By not immediately inhibiting herself from the deliberation of *Barangay* Resolution No. 16, and worse, eventually approving the same, Ricablanca created the impression that she intended to advance her own interest and ensure that the outcome of the deliberation would be favorable to her.

The Ombudsman imposed upon her the penalty of dismissal from service pursuant to Section 10 of A.O. No. 17, amending Rule III of A.O. No. 7 providing for the Rules of Procedure of the Office of the Ombudsman. In the event that the penalty of dismissal can no longer be enforced due to her separation from service, her penalty shall be converted into a fine in an amount equivalent to her salary for one (1) year, payable to the Ombudsman, and may be deductible from her retirement benefits, accrued leave credits, or any receivable from her office.

The administrative charges filed against the seven (7) other public officials of Sagay, Camiguin were dismissed.

Ricablanca filed a Motion for Reconsideration dated November 20, 2015. In its Order⁵ dated December 23, 2015, the Ombudsman denied Ricablanca's Motion for Reconsideration.

The Ombudsman did not agree with Ricablanca's contention that the case against her should be dismissed for being moot and academic by virtue of Aguinaldo Doctrine (Doctrine of Condonation), because after she authored *Barangay* Resolution No. 16 on April 13, 2012, she subsequently ran for public office in the 2013 Elections and won.

The Ombudsman ruled that the Doctrine of Condonation finds no place in this case because Ricablanca was not re-elected as *Barangay*

⁴ Penned by Graft and Investigation and Prosecution Officer Randolph C. Cadiogan, Jr., reviewed by Director for Evaluation and Investigation Bureau-A Maria Iluminada S. Lapid-Viva and approved by Deputy Ombudsman for Mindanao Rodolfo M. Elman; *rollo*, pp. 170-180.

⁵ *Id.* at 181-185.

Kagawad of Poblacion, Sagay, Camiguin in the 2013 Elections, but was elected as *Sangguniang Bayan* Member in the said elections.

Aggrieved, Ricablanca filed an Appeal before the CA.

The CA Ruling

In a Decision⁶ dated June 30, 2017, the CA denied the petition and affirmed the Decision⁷ dated October 13, 2015 of the Ombudsman.

Preliminarily, as to the procedural issue, the CA did not find any legal or factual basis to justify Ricablanca's failure to serve a copy of the petition to Ching and to provide proof of such service. Considering that the service and proof thereof is a mandatory requirement under the Rules of Court and absent any compelling reason to do so, the CA found no cogent reason to relax the application of the Rules of Court in the instant petition. However, the CA also noted that even if the petition complied with the requirements under Rule 43 of the Rules of Court, the same must nevertheless be denied for lack of merit.

The CA found Ricablanca liable for Gross Misconduct and Conduct Prejudicial to the Best Interest of Service. Ricablanca's act of authoring and approving *Barangay* Resolution No. 16, which, she admitted, was aimed at helping her father's gasoline business, undoubtedly constituted Gross Misconduct. She need not have direct interest in the establishment and operation of her father's gasoline business in order to be found administratively liable. Under Section 7(a) of RA 6713, she is prohibited from directly or indirectly having financial or material interest in any transaction requiring the approval of their office. Her authorship and approval of *Barangay* Resolution No. 16, knowing that it is for the benefit of her father and/or brother, indicates her shortsightedness which is so gross that it cannot be considered as simple misconduct. Moreover, the CA rejected Ricablanca's claim that simultaneous finding of gross misconduct and conduct prejudicial to the best interest of the service is judicially proscribed. In *Office of the Ombudsman, Field Investigation Office v. Faller*,⁸ which upheld the ruling of the Ombudsman finding therein respondent, Faller, guilty of simple misconduct and conduct prejudicial to the best interest of the service, the Supreme Court reiterated that acts may constitute conduct prejudicial to the best interest of the service as long as they tarnish the image and integrity of his/her public office,⁹ as in this case.

⁶ Penned by Associate Justice Perpetua T. Atal-Paño, with Associate Justices Romulo V. Borja and Oscar V. Badelles, concurring; *id.* at 214-227.

⁷ *Id.* at 170-180.

⁸ 786 Phil. 467 (2016).

⁹ *Id.* at 482, citing *Avenida v. Civil Service Commission*, 576 Phil. 654, 662 (2008).

Furthermore, it did not find merit to Ricablanca's claim that the doctrine of condonation, as held in the landmark case of *Pascual v. Hon. Provincial Board of Nueva Ecija*,¹⁰ is applicable to her case. It must be stressed that the application of the doctrine depends on the public officer being re-elected to the same office for a new term,¹¹ which is not the case here. More importantly, the Supreme Court, in *Ombudsman Carpio Morales v. Court of Appeals*,¹² after conducting a judicious examination of our current laws, abandoned the application of the doctrine of condonation to administrative cases filed against public officials.

As to the penalty imposed by the Ombudsman, the CA found that there was a sufficient basis in upholding the same.

For all the foregoing reasons, the CA sustained the findings of the Ombudsman, holding Ricablanca liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, and dismissing her from service as provided under Section 11 of RA 6713.

Feeling aggrieved, Ricablanca filed a Motion for Reconsideration¹³ dated July 27, 2017, assailing the above-cited Decision¹⁴ of the CA dated June 30, 2017. She maintained that apart from the general averments of Ching, there was no substantial evidence to hold her liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and that her act of authoring *Barangay* Resolution No. 16 was not so grave that would warrant the imposition of the penalty of dismissal.

In her Supplemental Motion for Reconsideration,¹⁵ Ricablanca also contended that her case is similar to that of *Almario-Templonuevo v. Office of the Ombudsman*,¹⁶ where the Supreme Court ruled that despite the abandonment of the condonation doctrine in the case of *Carpio Morales*, the effect of abandonment was made prospective in application.

In an Amended Decision¹⁷ dated June 29, 2018, the CA resolved to grant the Motion for Reconsideration filed by Ricablanca, and the Decision dated June 30, 2017, as well as the Decision dated October 13, 2015 were reconsidered. Effectively, the Order¹⁸ dated December 23, 2015 of the Office of the Deputy Ombudsman-Mindanao was reversed.

¹⁰ 106 Phil. 466 (1959).

¹¹ *Rollo*, p. 226.

¹² 772 Phil. 672 (2015).

¹³ *Rollo*, pp. 228-234.

¹⁴ *Id.* at 214-227.

¹⁵ *Id.* at 235-240.

¹⁶ 811 Phil. 686 (2017).

¹⁷ *Rollo*, pp. 130-135.

¹⁸ *Id.* at 181-185.

The CA found sufficient grounds to reconsider the assailed Decision and applied the recently decided case of *Almario-Templonuevo*, wherein the Supreme Court ruled that the condonation doctrine will apply despite its abandonment in the case of *Carpio Morales*. Even if it involved 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 as held in the case of *Giron v. Hon. Executive Secretary Ochoa*.¹⁹ Moreover, the penalty of dismissal from service, which was converted into a fine in an amount equivalent to her salary for one (1) year was rendered moot and academic on the basis of the condonation doctrine. Finally, the CA found it more in accord with substantial justice to overlook Ricablanca's procedural lapse in the interest of resolving the case on the merits, considering that there exists a compelling reason to reconsider its judgment.

Ching filed a Motion for Reconsideration assailing the Amended Decision. In a Resolution²⁰ dated January 28, 2019, the CA denied Ching's Motion for Reconsideration for lack of merit.

Ching filed a Petition for Review on *Certiorari*²¹ under Rule 45 with the Court.

Our Ruling

Preliminarily, before we move to resolve the substantive issues raised by Ching in his petition, we first settle the issue on *locus standi* raised by Ricablanca. In her Comment,²² Ricablanca argues that Ching has no legal standing or legal personality to file the instant petition to assail the Amended Decision of the CA, he being a mere witness of the government. The real party aggrieved of the Amended Decision is the Ombudsman, who has not filed any motion or appeal to the Supreme Court when the Amended Decision came out.

We do not agree.

The Court rules that Ching has legal standing to file the instant petition before the Court.

¹⁹ 806 Phil. 624 (2017).

²⁰ Penned by Associate Justice Oscar V. Badelles, with Associate Justices Evalyn M. Arellano-Morales and Florencio M. Mamauag, Jr., concurring; *rollo*, pp. 55-57.

²¹ *Id.* at 61-108.

²² *Id.* at 244-253.

In *Association of Flood Victims v. Commission on Elections*,²³ the Court defined legal standing as follows:

[*Locus standi* or legal standing is defined as] a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The term “interest” means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.

Further, in *Ifurung v. Carpio Morales*,²⁴ the Court cited *Funa v. Chairman Villar*²⁵ in showing the liberal stance of the Court in interpreting *locus standi*:

To have legal standing, therefore, a suitor must show that he has sustained or will sustain a “direct injury” as a result of a government action, or have a “material interest” in the issue affected by the challenged official act. However, the Court has time and again acted liberally on the *locus standi* requirements and has accorded certain individuals, not otherwise directly injured, or with material interest affected, by a Government act, standing to sue provided a constitutional issue of critical significance is at stake. The rule on *locus standi* is after all a mere procedural technicality in relation to which the Court, in a *catena* of cases involving a subject of transcendental import, has waived, or relaxed, thus allowing non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been personally injured by the operation of a law or any other government act. In *David*, the Court laid out the bare minimum norm before the so-called “non-traditional suitors” may be extended standing to sue, thusly:

1.) For *taxpayers*, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;

2.) For *voters*, there must be a showing of obvious interest in the validity of the election law in question;

3.) For *concerned citizens*, there must be a showing that the issues raised are of transcendental importance which must be settled early; and

4.) For *legislators*, there must be a claim that the official action complained of infringes their prerogatives as legislators.²⁶

²³ 740 Phil. 472, 481 (2014), citing *Integrated Bar of the Philippines v. Zamora*, 392 Phil. 618, 632-633 (2000).

²⁴ G.R. No. 232131, April 24, 2018, 862 SCRA 684.

²⁵ 686 Phil. 571 (2012).

²⁶ *Ifurung v. Carpio Morales*, supra note 24, at 704.

It is important to note that this case arose because of a fire incident that traumatized Ching as his residence is right beside the building that caught fire, which is also connected to the fuel station. Both the building and the fuel station are owned by Ricablanca's father, Virgilio. It is through the effort of Ching that pieces of evidence were gathered which led to the discovery of the participation of Ricablanca in the authorship, approval, and passing of *Barangay* Resolution No. 16 which allowed the construction and operation of the subject fuel station. It was also Ching who filed the complaint against Ricablanca before the Ombudsman for Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, and for violation of RA 6713. As such, he was one of the respondents when the case was still pending in the CA. These factual antecedents show that Ching has a material interest in the issue at hand and, therefore, has a legal standing to file the Petition for Review before the Court.

Ricablanca's reliance to the case of *Office of the Ombudsman v. Gutierrez*²⁷ is flawed. A careful perusal of the said case would reveal that such case involved a different issue which is the legal standing of the Ombudsman to validly intervene on appeal in administrative cases that it has resolved. Such is not the issue here. Considering that *Gutierrez* was decided against an entirely different factual milieu, reliance on that case is misplaced and unjustified.

Condonation Doctrine, when applicable.

The remaining issue involves the application of the doctrine of condonation, which is a question of law.

In this regard, Ching submits that the doctrine of condonation had been abandoned on November 10, 2015 through the ruling in *Carpio Morales*. Hence, the administrative case filed by Ching in the case at bar is still pending with the Ombudsman when the doctrine of condonation was abandoned. Specifically, it was only on December 23, 2015 when the Ombudsman finally disposed of the administrative case of Ricablanca – about a month after the promulgation of *Carpio Morales*. As such, since the case was still pending before the Ombudsman when the doctrine was abandoned, Ching argued that Ricablanca could no longer invoke condonation as a defense as it was already declared unconstitutional.

In contrast, Ricablanca averred that her case is similar to that of *Almario-Templonuevo*, and invokes the ruling of the Supreme Court that despite the abandonment of the condonation doctrine in the case of *Carpio*

²⁷ 811 Phil. 389 (2017).

Morales, the effect of abandonment was made prospective in application. Therefore, she can still raise condonation as a defense because as far as her case is concerned, the doctrine remains to be a good law.

We agree with Ricablanca.

In the case of Ricablanca, it is undisputed that her acts which is subject of the administrative case were committed during her previous term as *Barangay Kagawad* of *Barangay Poblacion* in the Municipality of Sagay, Province of Camiguin in 2012, for allegedly authoring, not inhibiting from the deliberation of, and participating in the approval of *Barangay* Resolution No. 16 which approved and endorsed the construction and operation of Petron *Bulilit* Station owned by her father. However, in the elections of 2013, Ricablanca was elected as a Member of the *Sangguniang Bayan* of the Municipality of Sagay. Applying then the condonation doctrine, Ricablanca's subsequent election in 2013 meant that she could no longer be administratively charged for the complained acts committed in 2012.

The condonation doctrine, first enunciated in *Pascual v. Provincial Board of Nueva Ecija*²⁸ and reiterated in *Aguinaldo v. Santos*,²⁹ states that a public official cannot be removed for administrative misconduct committed during a prior term, since his re-election to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor.

The condonation doctrine was thoroughly discussed in the case of *Carpio Morales* where it defined condonation as “[a] victim’s express or implied forgiveness of an offense, [especially] by treating the offender as if there had been no offense.”³⁰ It also discussed in length the origin of the doctrine and reviewed its validity in this jurisdiction. The Court in that case enunciated that:

The condonation doctrine – which connotes this same sense of complete extinguishment of liability as will be herein elaborated upon – is not based on statutory law. It is a jurisprudential creation that originated from the 1959 case of *Pascual v. Hon. Provincial Board of Nueva Ecija*, (Pascual), which was therefore decided under the 1935 Constitution.

X X X X

In this case, the Court agrees with the Ombudsman that since the time *Pascual* was decided, the legal landscape has radically shifted. Again, *Pascual* was a 1959 case decided under the 1935 Constitution,

²⁸ Supra note 10.

²⁹ 287 Phil. 851 (1992).

³⁰ *Ombudsman Carpio Morales v. Court of Appeals*, supra note 12, at 754.

which dated provisions do not reflect the experience of the Filipino People under the 1973 and 1987 Constitutions. Therefore, the plain difference in setting, including, of course, the sheer impact of the condonation doctrine on public accountability, calls for *Pascual*'s judicious re-examination.

X X X X

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

To begin with, the concept of **public office is a public trust and the corollary requirement of accountability to the people at all times**, as mandated under the 1987 Constitution, is **plainly inconsistent** with the idea that an elective local official's administrative liability for a misconduct committed during a prior term can be wiped off by the fact that he was elected to a second term of office, or even another elective post. **Election is not a mode of condoning an administrative offense**, and there is simply no constitutional or statutory basis in our jurisdiction to support the notion that an official elected for a different term is fully absolved of any administrative liability arising from an offense done during a prior term. In this jurisdiction, **liability arising from administrative offenses may be condoned by the President** in light of Section 19, Article VII of the 1987 Constitution which was interpreted in *Llamas v. Orbos* to apply to administrative offenses[.]

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[I]t would be a violation of the Court's own duty to uphold and defend the Constitution if it were not to abandon the condonation doctrine now that its infirmities have become apparent. As extensively discussed, the continued application of the condonation doctrine is simply impermissible under the auspices of the present Constitution which explicitly mandates that public office is a public trust and that public officials shall be accountable to the people at all times.³¹ (Emphases and underscoring in the original; citations omitted)

Despite the abandonment of the condonation doctrine in *Carpio Morales*, it must be stressed, however, that the said doctrine still applies in this case as the effect of the abandonment was made prospective in application. In *Crebello v. Office of the Ombudsman*,³² the Court clarified that the ruling promulgated in *Carpio Morales* on the abandonment of the doctrine of condonation had become final only on April 12, 2016, and thus, the abandonment should be reckoned from April 12, 2016.

The prospective application of the ruling in *Carpio Morales* was already reiterated and applied by the Court in several cases. In *Almario-Templonuevo* and *Giron*, condonation doctrine was applied to a situation where the complained acts of the elected public official, the filing of

³¹ Id. at 755, 760, 769-770, and 778.

³² G.R. No. 232325, April 10, 2019.

administrative case against him and his re-election took place prior to the abandonment of the aforementioned doctrine in *Carpio Morales*. In *Ombudsman v. Vergara*,³³ the Court categorically stated that the abandonment of condonation doctrine is prospective in application which means that “the same doctrine is still applicable in cases that transpired prior to the ruling.” In ruling so, the Court took note of *Carpio Morales* where it was pointed out that “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 Thus, in *Vergara*, the Court applied the doctrine — considering that the case was instituted prior to the finality of the *Carpio Morales* ruling.

While it is settled that the doctrine of condonation is applied prospectively, there is diversity of views with regard to the reckoning point of the Court’s limited application of the condonation doctrine.

As aptly pointed out by Senior Associate Justice Estela M. Perlas-Bernabe in her Concurring Opinion,³⁵ there are three misguided views as to when condonation should be reckoned. The first view, as contained in the Ombudsman’s Office Circular No. 17 dated May 11, 2016, considers condonation doctrine inapplicable to all administrative cases that are open and pending as of April 12, 2016, to wit:

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

A second view suggests the date of filing of the complaint as the reckoning point. As aforementioned, in *Vergara*, the condonation doctrine was applied because the case was “instituted prior to” April 12, 2016; while in *Dator v. Carpio Morales*,³⁶ the condonation doctrine was held to be no longer applicable because the case was instituted after such date even though the misconduct was committed in 2014.

³³ 822 Phil. 361 (2017).

³⁴ *Ombudsman Carpio Morales v. Court of Appeals*, supra note 12, at 775, citing *De Castro v. Judicial Bar Council*, 632 Phil. 657, 686 (2010).

³⁵ See Concurring Opinion of Senior Associate Justice Estela M. Perlas-Bernabe, pp. 4-5.

³⁶ G.R. No. 237742, October 8, 2018.

A third view considers the date of commission of the misconduct as the reckoning point.

In view of the diversity of precedents, and in order to finally clarify and provide guidance for the bench, the bar, and the public, this Court has reexamined the question and, after consideration, has arrived at the conclusion that the proper interpretation is that the condonation is manifested through re-election, and therefore, the defense of condonation is no longer available if the re-election happens after April 12, 2016. To reiterate, Black's Law Dictionary, as cited in *Carpio Morales*, defines condonation as "[a] victim's express or implied forgiveness of an offense, [especially] by treating the offender as if there had been no offense."³⁷ Considering that the electorate's act of forgiving a public officer for a misconduct is done through re-election, the abandonment of the condonation doctrine should mean that re-elections conducted after April 12, 2016 should no longer have the effect of condoning the public officer's misconduct. Simply put, albeit by judicial *fiat* only, it is the act of re-election which triggers the legal effect of and, to an extent, vests the right to rely on the defense of condonation.

In this case, since Ricablanca was re-elected during the 2013 Elections (specifically on May 13, 2013), the doctrine of condonation applies to her. In sum, for so long as the elective official had already been re-elected prior to April 12, 2016, he or she may avail of the doctrine of condonation as a valid defense to the administrative complaint against him/her, as in this case.

Condonation Doctrine will still apply even if Ricablanca was not elected by exactly, identically, and exclusively the same body politic.

It is also the contention of Ching that the doctrine of condonation cannot be applied in this case because Ricablanca was not re-elected by the same body politic/electorate. On the other hand, the latter maintains that the electorate that elected her as a *Sangguniang Bayan* Member is wider than the electorate that elected her as a *Barangay Kagawad* and her re-election operates as forgiveness of her constituents.

In *Giron*,³⁸ the Court recognized that the condonation doctrine can be applied to a public officer who was elected to a different position provided

³⁷ *Ombudsman Carpio Morales v. Court of Appeals*, supra note 12, at 754.

³⁸ Supra note 19.

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 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.**³⁹ (Emphasis supplied)

The same ruling was reiterated in the subsequent cases of *Almario-Templonuevo* and *Vergara*.

It is worthy to note that in *Giron*, *Almario-Templonuevo*, and *Vergara* (all decided by the Court in Division), the Court fell short in categorically setting the parameters or elements of the words "same body politic." For certain, the Court **did not rule** that the doctrine of condonation **cannot be applied** to a public officer who was **not subsequently elected by exactly, identically, and exclusively the same body politic**. Obviously, the Court did not expound on these material points due to the fact that the aforesaid cases involve a scenario where the electorate involved belongs to exactly, identically, and exclusively the same political geographical unit -- *Barangay* Chairman Arnaldo A. Cando of *Barangay* Capri, Novaliches, Quezon City having been subsequently elected as *Kagawad* of the same *barangay*; *Templonuevo* as *Sangguniang Bayan* Member of the Municipality of Caramoan, Province of Catanduanes who was elected as Vice-Mayor of the same municipality; and Mayor Vergara of Cabanatuan City re-elected as Mayor of the same city, respectively.

Accordingly, the Court is confronted with the issue on whether or not the condonation doctrine is applicable to a public official who is elected to another office by not exactly, identically, and exclusively the same body politic. To be specific, the issue before the Court is whether or not the doctrine of condonation can be applied to a public official (Ricablanca) elected to an office (*Sangguniang Bayan* Member) by the electorate (Municipality of Sagay) which includes the whole body politic (*Barangay* Poblacion, Municipality of Sagay) she has served in her previous term (as *Barangay Kagawad*).

³⁹ Id. at 634.

It is submitted that the answer to the above-mentioned issue is in the affirmative.

It is imperative to take a look into the *ratio decidendi* behind the condonation doctrine, prior to its abandonment.

As explained in *Carpio Morales* and as reiterated in *Giron*, the *ratio decidendi* behind the condonation doctrine, can be dissected into three parts, to wit:

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

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

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

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

[T]hat the [*re-election*] to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor. x x x

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

As held in *Conant vs. Grogan* x x x —

The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. **It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people.**⁴⁰ (Original underscoring deleted; emphases supplied)

⁴⁰ *Ombudsman Carpio Morales v. Court of Appeals*, supra note 12, at 761-762.

The *ratio decidendi* behind the condonation doctrine as discussed in *Carpio Morales* is taken from the 1959 *En Banc* ruling in *Pascual*. In another *En Banc* 1996 ruling in *Salalima v. Guingona*,⁴¹ the Court **stated that the condonation doctrine** is not only founded on the theory that an official's re-election expresses the sovereign will of the electorate to forgive or condone any act or omission constituting a ground for administrative discipline which was committed during his previous term. The same is also **justified by "sound public policy."** The Court held that to rule otherwise would open the floodgates to exacerbating endless partisan contests between the re-elected official and his political enemies, who may not stop to hound the former during his new term with administrative cases for acts alleged to have been committed during his previous term. His second term may, thus, be devoted to defending himself in the said cases to the detriment of public service. This doctrine of forgiveness or condonation cannot, however, apply to criminal acts which the re-elected official may have committed during his previous term.

As can be observed from the foregoing, nowhere in the *ratio decidendi* behind the condonation doctrine that it requires that there should be a geographical and numerical exactness of body politic or that the body politic in the previous term should be exactly, identically, and exclusively the same with that who elected the public official to a new term. What is clear in the rationale behind the condonation doctrine is that **primary consideration is given to the right of the electorate to elect officers and for the courts not to overrule the will of the people, and that a public officer should never be removed for acts done prior to his present term of office.**

The word "same body politic," therefore, as mentioned in *Giron*, *Almario-Templonuevo*, and *Vergara* which, to note, are all cases decided after *Carpio Morales* – should not be applied literally, but should be construed by taking into account the spirit and intent of the condonation doctrine prior to its abandonment in *Carpio Morales*.

Collorarily, the condonation doctrine is a jurisprudential creation that originated from the 1959 case of *Pascual*, which was decided under the 1935 Constitution.⁴² Section 1, Article II thereof states that "[t]he Philippines is a democratic and republican State" and "[s]overeignty resides in the people and all government authority emanates from them." The same provision is maintained under the present 1987 Constitution.⁴³ Republicanism, insofar as it implies the adoption of a representative type of government, necessarily

⁴¹ 326 Phil. 847 (1996).

⁴² *Ombudsman Carpio Morales v. Court of Appeals*, supra note 12, at 755.

⁴³ Art. II. Declaration of Principles and State Policies

X X X X

Sec. 1. The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them.

points to the enfranchised citizen as a particle of popular sovereignty and as the ultimate source of the established authority.⁴⁴ Each time the enfranchised citizen goes to the polls to assert this *sovereign will*, that abiding credo of republicanism is translated into living reality.⁴⁵ Indeed, a truly-functioning democracy owes its existence to the people's collective sovereign will.

In this case, while it may be true that the body politic who voted for Ricablanca as *Sangguniang Bayan* Member is not exactly, identically, and exclusively the same with that who elected her to the previous term as *Barangay Kagawad*, the voters thereof, however, were not entirely different. The voters of *Barangay Poblacion* maintained its identity as the body politic, which previously elected Ricablanca as *Barangay Kagawad*, when it formed part of the bigger electorate who elected Ricablanca as *Sangguniang Bayan* Member of the Municipality of Sagay during the 2013 Elections, being a fraction thereof as one of its *barangays*. Hence, the requirement of "same body politic" as pronounced by the Court in *Giron* is still compliant as regards the voters of *Barangay Poblacion* who belong to the Municipality of Sagay to which Ricablanca was elected as *Sangguniang Bayan* Member. The Court, in applying the condonation doctrine, should consider that the electorate for the election of *Kagawad* of *Barangay Poblacion* is the same and part of the electorate who participated and elected Ricablanca as *Sangguniang Bayan* Member of Sagay. Otherwise stated, condonation still applies since the electorate who voted Ricablanca as *Sangguniang Bayan* Member of Sagay in 2013 included the same body politic (*Barangay Poblacion*) whom she has served in her previous term when the alleged misconduct was committed.

It might not be amiss to point out that it would be too much to stretch the meaning of the requirement "same body politic" so as to say that it should be required and proven that the elected public official won in the exact same political unit (but forming part of a bigger body politic who re-elected him) he has previously served in the previous term. By being elected by a bigger body politic, he is effectively re-elected by the same body politic with that he has previously served. The reason is that the bigger body politic who voted for him or her still chose and designated him to rule over or represent them, as the case may be, already subsuming the vote of the smaller body politic.

To reiterate, the meaning of "the same body politic," as mentioned in the cases of *Vergara*, *Almario-Templonuevo*, and *Giron*, should not be viewed or interpreted in a limited and restrictive sense. Rather, the same should be interpreted in conjunction and in consideration with the *ratio decidendi* behind the condonation doctrine, prior to its abandonment, which is primarily about the protection of and respect for the sovereign will of the


⁴⁴ *Moya v. Del Fierro*, 69 Phil. 199, 204 (1939).

⁴⁵ *People v. San Juan*, 130 Phil. 515, 522 (1968).

electorate to elect their officers. To do otherwise, is to give a myopic interpretation of the word “same body politic” resulting into absurdity. Accordingly, as thoroughly explained, condonation doctrine applies to Ricablanca.

WHEREFORE, the petition is **DENIED**. The Amended Decision dated June 29, 2018 and the Resolution dated January 28, 2019 of the Court of Appeals, Cagayan de Oro City in CA-G.R. SP No. 07261-MIN are hereby **AFFIRMED**.

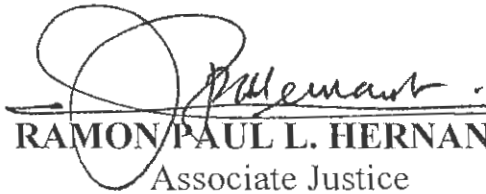
SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:

Please see Concurring Opinion

M. Bernabe
ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

(On Leave)
PRISCILLA J. BALTAZAR-PADILLA
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.

M. Bernabe
ESTELA M. PERLAS-BERNABE
Senior 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.


DIOSDADO M. PERALTA
Chief Justice