



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

ROMEO G. JALOSJOS,

Petitioner,

- versus -

THE COMMISSION ON  
ELECTIONS, MARIA ISABELLE G.  
CLIMACO-SALAZAR, ROEL B.  
NATIVIDAD, ARTURO N.  
ONRUBIA, AHMAD NARZAD K.  
SAMPANG, JOSE L. LOBREGAT,  
ADELANTE ZAMBOANGA PARTY,  
AND ELBERT C. ATILANO,

Respondents.

G.R. No. 205033

Present:

SERENO, C.J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES,  
PERLAS-BERNABE, and  
LEONEN, JJ.

Promulgated:

JUNE 18, 2013

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*<sup>1</sup> filed under Rule 64 in relation to Rule 65 of the Rules of Court is the Commission on Elections' (COMELEC) *En Banc* Resolution No. 9613<sup>2</sup> dated January 15, 2013, ordering the denial of due course to and/or cancellation of petitioner Romeo G. Jalosjos' certificate of candidacy (CoC) as a mayoralty candidate for Zamboanga City.

<sup>1</sup> Rollo, pp. 3-62.

<sup>2</sup> Id. at 69-71.

## The Facts

On November 16, 2001, the Court promulgated its Decision in G.R. Nos. 132875-76, entitled “*People of the Philippines v. Romeo G. Jalosjos*,”<sup>3</sup> convicting petitioner by final judgment of two (2) counts of statutory rape and six (6) counts of acts of lasciviousness.<sup>4</sup> Consequently, he was sentenced to suffer the principal penalties of *reclusion perpetua* and *reclusion temporal*<sup>5</sup> for each count, respectively, which carried the accessory penalty of perpetual absolute disqualification pursuant to Article 41 of the Revised Penal Code (RPC).<sup>6</sup> On April 30, 2007, then President Gloria Macapagal Arroyo issued an order commuting his prison term to sixteen (16) years, three (3) months and three (3) days (Order of Commutation). After serving the same, he was issued a Certificate of Discharge From Prison on March 18, 2009.<sup>7</sup>

On April 26, 2012,<sup>8</sup> petitioner applied to register as a voter in Zamboanga City. However, because of his previous conviction, his application was denied by the Acting City Election Officer of the Election Registration Board (ERB), prompting him to file a Petition for Inclusion in the Permanent List of Voters (Petition for Inclusion) before the Municipal Trial Court in Cities of Zamboanga City, Branch 1 (MTCC).<sup>9</sup> Pending resolution of the same, he filed a CoC<sup>10</sup> on October 5, 2012, seeking to run as mayor for Zamboanga City in the upcoming local elections scheduled on May 13, 2013 (May 2013 Elections). In his CoC, petitioner stated, *inter alia*, that he is eligible for the said office and that he is a registered voter of Barangay Tetuan, Zamboanga City.

On October 18, 2012,<sup>11</sup> the MTCC denied his Petition for Inclusion on account of his perpetual absolute disqualification which in effect, deprived him of the right to vote in any election. Such denial was affirmed by the Regional Trial Court of Zamboanga City, Branch 14 (RTC) in its October 31, 2012 Order<sup>12</sup> which, pursuant to Section 138<sup>13</sup> of Batas Pambansa Bilang

<sup>3</sup> Id. at 69. See *People v. Jalosjos*, 421 Phil. 43 (2001).

<sup>4</sup> In relation to Section 5(b), Article III of Republic Act No. 7610.

<sup>5</sup> Specifically, the indeterminate penalty of twelve years (12) and one (1) day of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal* as maximum.

<sup>6</sup> ART. 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.

<sup>7</sup> *Rollo*, p. 74.

<sup>8</sup> Id. at 398. See Comment of the Office of the Solicitor General.

<sup>9</sup> Id. Docketed as Case No. 7433.

<sup>10</sup> Id. at 154.

<sup>11</sup> Id. at 81-96. Penned by Presiding Judge Nancy I. Bantayanon-Cuaresma.

<sup>12</sup> Id. at 97-100. Docketed as Civil Case No. 6479.

<sup>13</sup> SEC. 138. *Jurisdiction in inclusion and exclusion cases.* - The municipal and metropolitan trial courts shall have original and exclusive jurisdiction over all matters of inclusion and exclusion of voters from the list in their respective municipalities or cities. Decisions of the municipal or metropolitan trial courts may be appealed directly by the aggrieved party to the proper regional trial court within five

881, as amended, otherwise known as the “Omnibus Election Code” (OEC), was immediately final and executory.

Meanwhile, five (5) petitions were lodged before the COMELEC’s First and Second Divisions (COMELEC Divisions), praying for the denial of due course to and/or cancellation of petitioner’s CoC. Pending resolution, the COMELEC *En Banc* issued *motu proprio* Resolution No. 9613<sup>14</sup> on January 15, 2013, resolving “to **CANCEL** and **DENY** due course the Certificate of Candidacy filed by Romeo G. Jalosjos as Mayor of Zamboanga City in the May 13, 2013 National and Local Elections” due to his perpetual absolute disqualification as well as his failure to comply with the voter registration requirement. As basis, the COMELEC *En Banc* relied on the Court’s pronouncement in the consolidated cases of *Dominador Jalosjos, Jr. v. COMELEC* and *Agapito Cardino v. COMELEC*<sup>15</sup> (*Jalosjos, Jr. and Cardino*).

Hence, the instant petition.

### Issues Before the Court

Submitted for the Court’s determination are the following issues: (a) whether the COMELEC *En Banc* acted beyond its jurisdiction when it issued *motu proprio* Resolution No. 9613 and in so doing, violated petitioner’s right to due process; and (b) whether petitioner’s perpetual absolute disqualification to run for elective office had already been removed by Section 40(a) of Republic Act No. 7160, otherwise known as the “Local Government Code of 1991” (LGC).

### The Court’s Ruling

The petition is bereft of merit.

At the outset, the Court observes that the controversy in this case had already been mooted by the exclusion of petitioner in the May 2013 Elections. Nevertheless, in view of the doctrinal value of the issues raised herein, which may serve to guide both the bench and the bar in the future, the Court takes this opportunity to discuss on the same.

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days from receipt of notice thereof, otherwise said decision of the municipal or metropolitan trial court shall become final and executory after said period. The regional trial court shall decide the appeal within ten days from the time the appeal was received and its decision shall be immediately final and executory. No motion for reconsideration shall be entertained by the courts. (Emphasis and underscoring supplied)

<sup>14</sup> *Rollo*, pp. 69-71. Issued by COMELEC Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucento N. Tagle, Armando C. Velasco, Elias R. Yusoph, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca.

<sup>15</sup> G.R. Nos. 193237 & 193536, October 9, 2012, 683 SCRA 1.

***A. Nature and validity of motu proprio issuance of Resolution No. 9613.***

Petitioner claims that the COMELEC *En Banc* usurped the COMELEC Divisions' jurisdiction by cancelling *motu proprio* petitioner's CoC through Resolution No. 9613, contrary to Section 3, Article IX-C of the 1987 Philippine Constitution (Constitution) which reads:

SEC. 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. **All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.** (Emphasis and underscoring supplied)

Concomitantly, he also claims that his right to procedural due process had been violated by the aforementioned issuance.

The Court is not persuaded.

The above-cited constitutional provision requiring a motion for reconsideration before the COMELEC *En Banc* may take action is confined ***only to cases where the COMELEC exercises its quasi-judicial power***. It finds no application, however, in matters concerning the COMELEC's exercise of administrative functions. The distinction between the two is well-defined. As illumined in *Villarosa v. COMELEC*:<sup>16</sup>

[T]he term '**administrative**' connotes, or pertains, to **'administration, especially management, as by managing or conducting, directing or superintending, the execution, application, or conduct of persons or things**'. It does not entail an opportunity to be heard, the production and weighing of evidence, and a decision or resolution thereon. While a '**quasi-judicial function**' is a term which applies to **the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature**. (Emphasis and underscoring supplied)

Crucial therefore to the present disquisition is the determination of the nature of the power exercised by the COMELEC *En Banc* when it promulgated Resolution No. 9613.

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<sup>16</sup> 377 Phil. 497, 506-507 (1999).

The foregoing matter is not without established precedent. In *Jalosjos, Jr. and Cardino*, the Court held that the COMELEC's denial of due course to and/or cancellation of a CoC in view of a candidate's disqualification to run for elective office ***based on a final conviction*** is subsumed under its mandate to enforce and administer all laws relating to the conduct of elections. Accordingly, in such a situation, it is the COMELEC's duty to cancel *motu proprio* the candidate's CoC, notwithstanding the absence of any petition initiating a quasi-judicial proceeding for the resolution of the same. Thus, the Court stated:<sup>17</sup>

**Even without a petition** under either Section 12 or Section 78 of the Omnibus Election Code, or under Section 40 of the Local Government Code, **the COMELEC is under a legal duty to cancel the certificate of candidacy of anyone suffering from the accessory penalty of perpetual special disqualification to run for public office by virtue of a final judgment of conviction.** The final judgment of conviction is notice to the COMELEC of the disqualification of the convict from running for public office. The law itself bars the convict from running for public office, and the disqualification is part of the final judgment of conviction. The final judgment of the court is addressed not only to the Executive branch, but also to other government agencies tasked to implement the final judgment under the law.

Whether or not the COMELEC is expressly mentioned in the judgment to implement the disqualification, it is assumed that the portion of the final judgment on disqualification to run for elective public office is addressed to the COMELEC because under the Constitution the COMELEC is duty bound to “[e]nforce and administer all laws and regulations relative to the conduct of an election.” **The disqualification of a convict to run for public office under the Revised Penal Code, as affirmed by final judgment of a competent court, is part of the enforcement and administration of “all laws” relating to the conduct of elections.**

To allow the COMELEC to wait for a person to file a petition to cancel the certificate of candidacy of one suffering from perpetual special disqualification will result in the anomaly that these cases so grotesquely exemplify. Despite a prior perpetual special disqualification, Jalosjos was elected and served twice as mayor. **The COMELEC will be grossly remiss in its constitutional duty to “enforce and administer all laws” relating to the conduct of elections if it does not *motu proprio* bar from running for public office those suffering from perpetual special disqualification by virtue of a final judgment.** (Emphasis and underscoring supplied)

In *Aratea v. COMELEC (Aratea)*,<sup>18</sup> the Court similarly pronounced that the disqualification of a convict to run for public office, ***as affirmed by final judgment of a competent court***, is part of the enforcement and administration of all laws relating to the conduct of elections.<sup>19</sup>

<sup>17</sup> *Jalosjos, Jr. v. COMELEC & Cardino v. COMELEC*, supra note 15, at 32-33.

<sup>18</sup> G.R. No. 195229, October 12, 2012, 683 SCRA 105, 145.

<sup>19</sup> *Id.* at 149.

Applying these principles to the case at bar, it is clear that the COMELEC *En Banc* did not exercise its quasi-judicial functions when it issued Resolution No. 9613 as it did not assume jurisdiction over any pending petition or resolve any election case before it or any of its divisions. ***Rather, it merely performed its duty to enforce and administer election laws in cancelling petitioner's CoC on the basis of his perpetual absolute disqualification, the fact of which had already been established by his final conviction.*** In this regard, the COMELEC *En Banc* was exercising its administrative functions, dispensing with the need for a motion for reconsideration of a division ruling under Section 3, Article IX-C of the Constitution, the same being required only in quasi-judicial proceedings.

Lest it be misunderstood, while the denial of due course to and/or cancellation of one's CoC generally necessitates the exercise of the COMELEC's quasi-judicial functions commenced through a petition based on either Sections 12<sup>20</sup> or 78<sup>21</sup> of the OEC, or Section 40<sup>22</sup> of the LGC, when the grounds therefor are rendered conclusive on account of final and executory judgments – as when a candidate's disqualification to run for public office is based on a final conviction – such exercise falls within the COMELEC's administrative functions, as in this case.

In this light, there is also no violation of procedural due process since the COMELEC *En Banc* would be acting in a purely administrative manner. Administrative power is concerned with the work of applying policies and enforcing orders as determined by proper governmental organs.<sup>23</sup> As petitioner's disqualification to run for public office had already been settled in a previous case and now stands beyond dispute, it is incumbent upon the COMELEC *En Banc* to cancel his CoC as a matter of course, else it be remiss in fulfilling its duty to enforce and administer all laws and regulations relative to the conduct of an election.

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<sup>20</sup> SEC. 12. *Disqualifications.* - Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty. x x x

<sup>21</sup> SEC. 78. *Petition to deny due course to or cancel a certificate of candidacy.* - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

<sup>22</sup> SEC. 40. *Disqualifications.* - The following persons are disqualified from running for any elective local position:

- (a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- (b) Those removed from office as a result of an administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic;
- (d) Those with dual citizenship;
- (e) Fugitives from justice in criminal or non-political cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

<sup>23</sup> *Cipriano v. COMELEC*, 479 Phil. 677, 690 (2004).

Equally compelling is the fact that the denial of petitioner's Petition for Inclusion as a registered voter in Zamboanga City had already attained finality by virtue of the RTC's Order dated October 31, 2012. In this accord, petitioner's non-compliance with the voter registration requirement under Section 39(a) of the LGC<sup>24</sup> is already beyond question and likewise provides a sufficient ground for the cancellation of his CoC altogether.

***B. Petitioner's right to run for elective office.***

It is petitioner's submission that Article 30 of the RPC was partially amended by Section 40(a) of the LGC and thus, claims that his perpetual absolute disqualification had already been removed.

The argument is untenable.

Well-established is the rule that every new statute should be construed in connection with those already existing in relation to the same subject matter and all should be made to harmonize and stand together, if they can be done by any fair and reasonable interpretation.<sup>25</sup>

On the one hand, Section 40(a) of the LGC, applicable as it is to *local* elective candidates, provides:

SEC. 40. *Disqualifications.* – The following persons are disqualified from running for any elective local position:

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

And on the other hand, Article 30 of the RPC reads:

ART. 30. *Effects of the penalties of perpetual or temporary absolute disqualification.* - The penalties of perpetual or temporary absolute disqualification for public office shall produce the following effects:

1. The deprivation of the public offices and employments which the offender may have held, even if conferred by popular election.

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<sup>24</sup> SEC. 39. *Qualifications.* – (a) An elective local official must be a citizen of the Philippines; a **registered voter in the** barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district **where he intends to be elected**; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect. (Emphasis supplied)

<sup>25</sup> RUBEN E. AGPALO, *Statutory Construction*, p. 377, citing *C & C Commercial Corp. v. National Waterworks & Sewerage Authority*, 129 Phil. 227 (1967).

**2. The deprivation of the right to vote in any election for any popular office or to be elected to such office.**

3. The disqualification for the offices or public employments and for the exercise of any of the rights mentioned.

In case of temporary disqualification, such disqualification as is comprised in paragraphs 2 and 3 of this Article shall last during the term of the sentence.

4. The loss of all rights to retirement pay or other pension for any office formerly held. (Emphasis and underscoring supplied)

Keeping with the above-mentioned statutory construction principle, the Court observes that the conflict between these provisions of law may be properly reconciled. In particular, while Section 40(a) of the LGC allows a prior convict to run for local elective office after the lapse of two (2) years from the time he serves his sentence, the said provision **should not be deemed to cover cases wherein the law<sup>26</sup> imposes a penalty, either as principal or accessory,<sup>27</sup> which has the effect of disqualifying the convict to run for elective office.** An example of this would be Article 41 of the RPC, which imposes the penalty of perpetual<sup>28</sup> absolute<sup>29</sup> disqualification as

<sup>26</sup> Either under the RPC or a special penal law.

<sup>27</sup> Under the RPC, a principal penalty is that which is provided for by law for a felony and which is imposed by the court expressly upon conviction. On the other hand, an accessory penalty is one that is deemed included in the imposition of the principal penalty. (See ANTONIO L. GREGORIO, "Fundamentals of Criminal Law Review," 10<sup>th</sup> Ed., 2008, p. 240)

<sup>28</sup> Under the RPC, and in particular, regarding disqualifications to run for elective office, **the difference between a perpetual and a temporary disqualification pertains to its duration. A perpetual penalty lasts for a lifetime (see *Lacuna v. Abes*, G.R. No. L-28613, August 27, 1968, 24 SCRA 78), while the duration of a temporary disqualification, if imposed as an accessory penalty, is **coterminous** with the term of the imprisonment sentence. This may be gleaned from Articles 30 and 32 of the RPC which respectively read:**

ART. 30. *Effects of the penalties of perpetual or temporary absolute disqualification.* - The penalties of perpetual or temporary absolute disqualification for public office shall produce the following effects:

1. The deprivation of the public offices and employments which the offender may have held even if conferred by popular election.

**2. The deprivation of the right to vote in any election for any popular office or to be elected to such office.**

3. The disqualification for the offices or public employments and for the exercise of any of the rights mentioned.

In case of **temporary disqualification**, such disqualification as is comprised in paragraphs **2** and **3** **of this article shall last during the term of the sentence.**

x x x x

ART. 32. *Effect of the penalties of perpetual or temporary special disqualification for the exercise of the right of suffrage.* - The **perpetual or temporary** special **disqualification for the exercise of the right of suffrage** shall deprive the offender **perpetually or during the term of the sentence**, according to the nature of said penalty, of the right to vote in any popular election for any public office or to be elected to such office. Moreover, the offender shall not be permitted to hold any public office during the period of his disqualification.

an accessory to the principal penalties of *reclusion perpetua* and *reclusion temporal*:

ART. 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. (Emphasis and underscoring supplied)

In this relation, Article 30 of the RPC, as earlier cited, provides that the penalty of perpetual absolute disqualification has the effect of depriving the convicted felon of the privilege to run for elective office. To note, this penalty, as well as other penalties of similar import, is based on the presumptive rule that *one who is rendered infamous by conviction of a felony, or other base offense indicative of moral turpitude, is unfit to hold public office*,<sup>30</sup> as the same partakes of a privilege which the State grants only to such classes of persons which are most likely to exercise it for the common good.<sup>31</sup>

Pertinently, it is observed that the import of Article 41 in relation to Article 30 of the RPC is more direct and specific in nature – insofar as it deprives the candidate to run for elective office due to his conviction – as compared to Section 40(a) of the LGC which broadly speaks of offenses involving moral turpitude and those punishable by one (1) year or more of

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Meanwhile, a temporary disqualification which is **imposed as a principal penalty** shall be from six (6) years and one day to twelve (12) years as stated in Article 27 of the RPC:

ART. 27. x x x x

*Prision mayor and temporary disqualification.* - The **duration of the penalties** of *prision mayor* and **temporary disqualification shall be from six years and one day to twelve years**, except when the penalty of disqualification is imposed as an accessory penalty, in which case its duration shall be that of the principal penalty.

<sup>29</sup> Under the RPC, the **difference between an absolute and a special disqualification pertains to the kinds of effects attendant to the disqualification imposed.**

Under Article 30, the penalty of perpetual or temporary **absolute** disqualification has the effect of depriving the convict the right to vote in any election for any popular office or to be elected to such office; this effect is **cumulative with the other effects of the said penalty** namely, (a) deprivation of the public offices and employments which the offender may have held even if conferred by popular election; (b) the disqualification for the offices or public employments and for the exercise of any of the rights mentioned; and (c) the loss of the rights to retirement pay or other pension for any office formerly held.

Under Article 31, the penalty of perpetual or temporary **special** disqualification has the following effects: (a) deprivation of the office, employment, profession or calling affected; and (b) disqualification for holding similar offices and employments.

Under Article 32, the penalty of perpetual or temporary **special** disqualification for the exercise of the right of suffrage has the following effects: (a) depriving the offender the right to vote in any popular election for any public office or to be elected to such office; and (b) the offender shall not be permitted to hold any public office during the period of his disqualification.

<sup>30</sup> *People v. Corral*, 62 Phil. 945, 948 (1936).

<sup>31</sup> *Id.* at 948-949.

imprisonment without any consideration of certain disqualifying effects to one's right to suffrage. Accordingly, Section 40(a) of the LGC should be considered as a law of general application and therefore, must yield to the more definitive RPC provisions in line with the principle of *lex specialis derogat generali* – **general legislation must give way to special legislation on the same subject, and generally is so interpreted as to embrace only cases in which the special provisions are not applicable**. In other words, where two statutes are of equal theoretical application to a particular case, the one specially designed therefor should prevail.<sup>32</sup>

In the present case, petitioner was sentenced to suffer the principal penalties of *reclusion perpetua* and *reclusion temporal* which, pursuant to Article 41 of the RPC, carried with it the accessory penalty of perpetual absolute disqualification and in turn, pursuant to Article 30 of the RPC, disqualified him to run for elective office. As discussed, Section 40(a) of the LGC would not apply to cases wherein a penal provision – such as Article 41 in this case – directly and specifically prohibits the convict from running for elective office. Hence, despite the lapse of two (2) years from petitioner's service of his commuted prison term, he remains bound to suffer the accessory penalty of perpetual absolute disqualification which consequently, disqualifies him to run as mayor for Zamboanga City.

Notably, Article 41 of the RPC expressly states that one who is previously convicted of a crime punishable by *reclusion perpetua* or *reclusion temporal* continues to suffer the accessory penalty of perpetual absolute disqualification even though pardoned as to the principal penalty, **unless the said accessory penalty shall have been expressly remitted in the pardon**.<sup>33</sup> In this case, the same accessory penalty had not been expressly remitted in the Order of Commutation or by any subsequent pardon and as such, petitioner's disqualification to run for elective office is deemed to subsist.

Further, it is well to note that the use of the word "perpetual" in the aforementioned accessory penalty connotes a lifetime restriction and in this respect, does not depend on the length of the prison term which is imposed as its principal penalty. Instructive on this point is the Court's ruling in *Lacuna v. Abes*,<sup>34</sup> where the Court explained the meaning of the term "perpetual" as applied to the penalty of disqualification to run for public office:

The accessory penalty of *temporary absolute disqualification* disqualifies the convict for public office and for the right to vote, such disqualification to last only during the term of the sentence (Article 27, paragraph 3, & Article 30, Revised Penal Code) that, in the case of Abes, would have expired on 13 October 1961.

<sup>32</sup> *Roque, Jr. v. COMELEC*, G.R. No. 188456, September 10, 2009, 599 SCRA 69, 196.

<sup>33</sup> See Article 41 of the RPC.

<sup>34</sup> 133 Phil. 770 (1968).

But this does not hold true with respect to the other accessory penalty of perpetual special disqualification for the exercise of the right of suffrage. This accessory penalty deprives the convict of the right to vote or to be elected to or hold public office **perpetually**, as distinguished from temporary special disqualification, which lasts during the term of the sentence. (Emphasis and underscoring supplied)

Likewise, adopting the *Lacuna* ruling, the Court, in the more recent cases of *Aratea*,<sup>35</sup> *Jalosjos, Jr.* and *Cardino*,<sup>36</sup> held:

Clearly, *Lacuna* instructs that the accessory penalty of perpetual special disqualification "**deprives the convict of the right to vote or to be elected to or hold public office perpetually.**"

The accessory penalty of perpetual special disqualification takes effect immediately once the judgment of conviction becomes final. **The effectivity of this accessory penalty does not depend on the duration of the principal penalty, or on whether the convict serves his jail sentence or not.** The last sentence of Article 32 states that "the offender shall not be permitted to hold any public office during the period of his [perpetual special] disqualification." **Once the judgment of conviction becomes final, it is immediately executory. Any public office that the convict may be holding at the time of his conviction becomes vacant upon finality of the judgment, and the convict becomes ineligible to run for any elective public office perpetually.** (Emphasis and underscoring supplied)

All told, applying the established principles of statutory construction, and more significantly, considering the higher interests of preserving the sanctity of our elections, the Court holds that Section 40(a) of the LGC has not removed the penalty of perpetual absolute disqualification which petitioner continues to suffer. Thereby, he remains disqualified to run for any elective office pursuant to Article 30 of the RPC.

**WHEREFORE**, the petition is **DISMISSED**.

**SO ORDERED**.

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

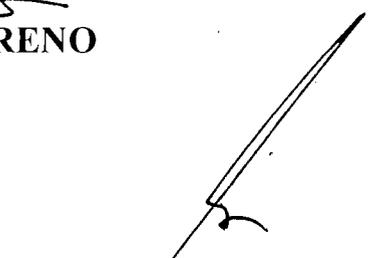
<sup>35</sup> *Aratea v. COMELEC*, supra note 18, at 134.

<sup>36</sup> *Jalosjos, Jr. v. COMELEC & Cardino v. COMELEC*, supra note 15, at 27.

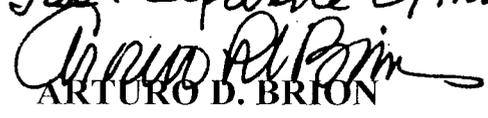
**WE CONCUR:**

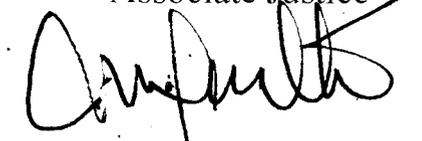
  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice

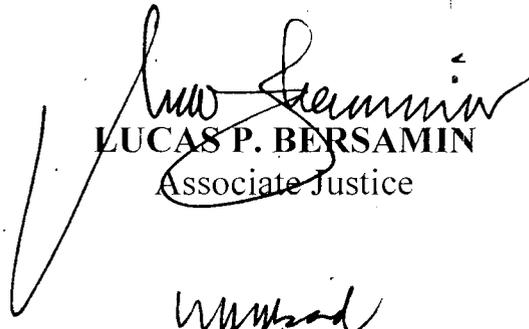
  
**ANTONIO T. CARPIO**  
 Associate Justice

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice

  
**TERESITA J. LEONARDO-DE CASTRO**  
 Associate Justice

*See: Separate Opinion*  
  
**ARTURO D. BRION**  
 Associate Justice

  
**DIOSDADO M. PERALTA**  
 Associate Justice

  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

  
**ROBERTO A. ABAD**  
 Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

  
**JOSE CATRAL MENDOZA**  
 Associate Justice

  
**BIENVENIDO L. REYES**  
 Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
 Associate Justice

**CERTIFICATION**

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.



**MARIA LOURDES P. A. SERENO**

Chief Justice