

# Melo: GMA need not resign if she runs

By SHEILA CRISOSTOMO

Commission on Elections (Comelec) Chairman Jose Melo yesterday said President Arroyo need not resign if she decides to run for any position in next year's polls.

Melo stressed that a provision in the Omnibus Election Code treating elected officials as resigned once they file their certificates of candidacy had

been amended.

Melo's clarification came after Comelec Commissioner Rene Sarmiento said Mrs. Arroyo should resign if she decides to seek a congressional seat in her home province of Pampanga.

"Before yes but now, not anymore. Before, if you are

running for a position that is higher than the one you presently hold, you have to resign. Now that no longer exists. You can run for any position," Melo said in a telephone interview.

The poll official added that under the law, only appointive officials would be deemed

resigned when they file their certificates of candidacy.

This opinion was corroborated by election lawyer Romulo Macalintal, who said that in case Mrs. Arroyo decides to run for a congressional post next year, "she is not deemed resigned as President, which means that she continues to

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serve her term until noon of June 30, 2010 as provided under the Constitution."

Macalintal said the restriction had been amended with the passage in 2001 of Republic Act 9006 or the Fair Election Act.

"As consequence thereof, we saw the phenomena of senators running for mayor or president who still retain their senatorial positions even if they lose in the mayoral or presidential election," he added.

Macalintal said the constitutionality of the amendment "had been upheld by the Supreme Court as early as Dec. 10, 2003 in the case of Fariñas vs Comelec, wherein the court held that it is not for the Court to look into the wisdom or propriety of legislative determination."

"In other words, there is no legal impediment for any elected official to retain or remain in his position even if he runs for a position other than the one he is presently holding until the expiration of the term of office for which he was previously elected," he added.

Macalintal was the lawyer of Mrs. Arroyo and Vice President Noli de Castro in the 2004 elections.

## Silver lining

Makati City Mayor Jejomar Binay said that if Sarmiento's point is valid, it would pave the way for the assumption of Chief Justice Reynato Puno to the country's highest position.

"There seems to be a silver lining after all in Mrs. Arroyo's decision to run for a seat in Congress. It will pave the way for the succession of Chief Justice Puno, whom I would trust at the helm of government during the 2010 elections," said Binay, president of the United Opposition.

Binay said while the Constitution allows for an order of succession, the vice president, the speaker and the Senate president will all be running in the 2010 elections and hence are barred from taking over the presidency.

Sarmiento said under the Constitution, a president serves a fixed term of six years, "but if she seeks a lower elective post she could no longer perform her duties as presi-

dent while campaigning."

"As far as I'm concerned the president is morally bound to resign if she intends to run for a seat in the second congressional district of Pampanga," he said.

Binay earlier asked Mrs. Arroyo to resign and yield power to Puno.

"Chief Justice Puno has shown his independence and the moral courage to stand up against vested interests and do what is right for the nation," he said.

"We cannot have a person with a tainted record of election fraud in a position to dispense government resources in favor of her candidate in 2010," he said.

"Nor can we afford having such a person acting as commander-in-chief of a military that will be headed by a known loyalist in March 2010, at the height of the campaign period," he said.

"As long as Mrs. Arroyo stays in power, we will never be sure that

elections will push through in 2010, or that the elections will be clean and honest," he added.

Under Puno, Binay said he is confident that government resources will not be used for the campaign of Mrs. Arroyo's candidate.

"With Mrs. Arroyo, it is certain that her candidate will benefit from government resources, in the same way she used government resources in 2004," he added.

- With Rhodina Villanueva