G.R. No. 206666 - Atty. Alicia Risos-Vidal, *petitioner* v. Commission On Elections and Joseph Ejercito Estrada, *respondents*; Alfredo Lim, *petitioner-intervenor*.

Promulgated:

January 21, 2015

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CONCURRING OPINION

MENDOZA, *J.*:

At first glance, this case presents itself as an ordinary election case involving the issue of who is the rightful winner in the 2013 mayoralty elections in the City of Manila. The matter, however, is engrossed in a deeper constitutional conundrum that affects the exercise of one of the most benevolent powers of the President—the power to extend executive clemency in the form of pardon. Undoubtedly, the Court's ruling on this case would shape the parameters surrounding the future exercise of the said power, thus, requiring a pragmatic stance that would equal the theoretical and practical purpose of the pardoning power, that is, the realization of checks and balances in government and the relief given to the pardonee.

The undisputed facts as culled from the records:

In its September 12, 2007 Decision, the Sandiganbayan convicted respondent former President Joseph Ejercito Estrada *(Estrada)* of plunder. The *fallo* of the decision reads:

> WHEREFORE, in view of all the foregoing, judgment is hereby rendered in Criminal Case No. 26558 finding the accused, Former President Joseph Ejercito Estrada, GUILTY beyond reasonable doubt of the crime of PLUNDER, defined in and penalized by Republic Act No. 7080, as amended. On the other hand, for failure of the prosecution to prove and establish their guilt beyond reasonable doubt, the Court finds the accused Jose "Jinggoy" Estrada and Atty. Edward S. Serapio NOT GUILTY of the crime of plunder and, accordingly, the Court hereby orders their ACQUITTAL.
>
> The penalty imposable for the crime of plunder under Republic Act No. 7080, as amended by Republic Act No. 7659, is *Reclusion Perpetua to Death*. There being no aggravating or mitigating circumstances, however, the lesser penalty shall be applied in accordance with Article 63 of the Revised Penal Code. Accordingly, the

accused Former President Joseph Ejercito Estrada is hereby sentenced to suffer the penalty of Reclusion Perpetua and the accessory penalties of civil interdiction during the period of sentence and perpetual absolute disqualification.

The period within which accused Former President Joseph Ejercito Estrada has been under detention shall be credited to him in full as long as he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

Moreover, in accordance with Section 2 of Republic Act No. 7080, as amended by Republic Act No. 7659, the Court hereby declares the forfeiture in favor of the government of the following:

(1) The total amount of Five Hundred Forty Two Million Seven Hundred Ninety One Thousand Pesos (**P**545,291,000.00), with interest and income earned, inclusive of the amount of Two Hundred Million Pesos (**P**200,000,000.00), deposited in the name and account of the Erap Muslim Youth Foundation.

(2) The amount of One Hundred Eighty Nine Million Pesos (**P**189,000,000.00), inclusive of interests and income earned, deposited in the Jose Velarde account.

(3) The real property consisting of a house and lot dubbed as Boracay Mansion located at #100 11th Street, New Manila, Quezon City.

The cash bonds posted by accused Jose Jinggoy Estrada and Atty. Edward S. Serapio are hereby ordered cancelled and released to the said accused or their duly authorized representatives upon presentation of the original receipt evidencing payment thereof and subject to the usual accounting and auditing procedures. Likewise, the hold-departure orders issued against the said accused are hereby recalled and declared functus oficio.

SO ORDERED.

On October 25, 2007, then President Gloria Macapagal-Arroyo *(PGMA)* granted executive clemency to Estrada. The text of the said pardon is hereunder replicated:

MALACANAN PALACE
MANILA

———————————————————————————

By the President of the Philippines

PARDON

———————————————————————————

Whereas, this Administration has a policy of releasing inmates who have reached the age of seventy (70),

> Whereas, Joseph Ejercito Estrada has been under detention for six and a half years,
>
> Whereas, Joseph Ejercito Estrada has publicly committed to no longer seek any elective position or office,
>
> In view hereof and pursuant to the authority conferred upon me by the Constitution, I hereby grant executive clemency to Joseph Ejercito Estrada, convicted by the Sandiganbayan of plunder and imposed a penalty of reclusion perpetua. ***He is hereby restored to his civil and political rights.***
>
> The forfeitures imposed by the Sandiganbayan remain in force and in full, including all writs and processes issued by the Sandiganbayan in pursuance hereof, except for the bank account(s) he owned before his tenure as President.
>
> Upon acceptance of this pardon by JOSEPH EJERCITO ESTRADA, this pardon shall take effect.
>
> Given under my hand at the City of Manila, this 25th day of October, in the year of Our Lord, two thousand and seven.
>
> Gloria M. Arroyo (sgd.)
>
> By the President:
>
> IGNACIO R. BUNYE (sgd.)
> Acting Executive Secretary
>
> [Emphasis supplied]

The next day, Estrada accepted the pardon as evidenced by a handwritten notation in the same document.

Subsequently, Estrada undertook his second bid for the presidency during the 2010 elections. This candidacy hurdled two (2) disqualification cases filed by Atty. Evilio C. Pormento and Mary Lou B. Estrada *(2010 disqualification cases)*, when these were denied for lack of merit by the Commission on Elections *(COMELEC)*, Second Division, and the COMELEC *En Banc* in its respective resolutions, dated January 20, 2010[1] and April 27, 2010.[2] The COMELEC was of the position that Estrada was eligible to run for president on the ground that the constitutional prohibition on re-election[3] applies to an incumbent president.

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[1] *Rollo*. pp. 1009-1034.
[2] Id. at 1035-1054.
[3] Section 4, Article VII 1987 Constitution.

Upon elevation to the Court, however, the opportunity to resolve the said constitutional issue was arrested by mootness, with Estrada having lost the elections to President Benigno Aquino.[4]

Undaunted by his defeat in the race for national office, Estrada thereafter sought the position of mayor in no less than the City of Manila. He filed his certificate of candidacy on October 2, 2012.

Petitioner Atty. Alicia Risos-Vidal *(petitioner)* invoked Estrada's disqualification from running for public office, this time on the ground that his candidacy was a violation of the pardon extended by PGMA. She filed a petition for disqualification with the COMELEC[5] pursuant to Section 12 of Batas Pambansa Blg. 881 (Omnibus Election Code),[6] grounded on a sole argument, *viz*:

> **RESPONDENT IS DISQUALIFIED TO RUN FOR PUBLIC OFFICE BECUSE OF HIS CONVICTION FOR PLUNDER BY THE SANDIGANBAYAN IN CRIMINAL CASE NO. 26558 ENTITLED "PEOPLE OF THE PHILIPPINES VS. JOSEPH EJERCITO ESTRADA" SENTENCING HIM TO SUFFER THE PENALTY OF RECLUSION PERPETUA WITH PERPETUAL ABSOLUTE DISQUALIFICATION**.

In the main, the petitioner argued that Estrada was still suffering from the accessory penalties of civil interdiction and perpetual disqualification because the pardon granted to him failed to expressly restore his right to suffrage and to run for public office as provided under Articles 36 and 41 of the Revised Penal Code. Furthermore, the "whereas clause" in the pardon which stated that, "*Joseph Ejercito Estrada has publicly committed to no longer seek any elective position or office*" would indicate a condition that Estrada must abide by under pain of recommitment to prison in the event of violation thereof. The petitioner likewise finds support in the concurring opinion of Justice Padilla in *Monsanto v. Factoran,*[7] stated in this wise:

> An examination of the presidential pardon in question shows that, while petitioner was granted "an absolute and unconditional pardon and restored to full civil and political rights", yet, nothing therein *expressly* provides that the right to hold public office was thereby restored to the petitioner. In view of the *express* exclusion by Art. 36, RPC of the right to hold public office, notwithstanding a pardon *unless the right is expressly restored* by the pardon, it is my considered opinion that, to the extent that the pardon granted to the

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[4] *Atty. Evillo C. Pormento v. Joseph "Erap" Ejercito Estrada and Commission on Elections*, G.R. No. 191988, August 31, 2010, 629 SCRA 530.
[5] *Rollo*, pp. 267-285.
[6] Docketed as SPA N, 13-211 (DC).
[7] 252 Phil. 192, 206-207 (1989).

> petitioner did not *expressly restore* the right to hold public office as an effect of such pardon, that right must be kept away from the petitioner.

After an exchange of pleadings, the COMELEC Second Division issued its April 1, 2013 Resolution dismissing the petition for lack of merit.[8] The dismissal was grounded on its resolution of the 2010 disqualification cases where it found that the pardon granted to Estrada was absolute and unconditional, hence, entitling him to run for public office. The dismissal was affirmed over petitioner's motion for reconsideration in the April 23, 2013 Resolution of the COMELEC En Banc.[9]

Impervious to her cause, the petitioner comes to this Court, ascribing grave abuse of discretion on the part of the COMELEC in declining to disqualify Estrada *motu propio*, based on the following grounds cited by it: 1] the issues raised in the petition have already been passed upon in the past; 2] Estrada's pardon was not conditional; 3] Estrada is not disqualified to run as mayor despite Section 40 of the Local Government Code *(LGC);* and 4] Estrada's pardon restored his right to suffrage and remitted his perpetual disqualification from seeking public office.

During the pendency of the petition, local elections were conducted on May 13, 2013, yielding a victory for Estrada over his opponents including then incumbent Mayor Alfredo S. Lim *(Lim)*. Consequently, the latter moved to intervene in the petition, which was granted by the Court in its June 25, 2013 Resolution.[10] Lim supports petitioner's theory that Estrada remains to be disqualified to hold public office as his pardon did not expressly remit his perpetual disqualification, and, pursuant to the Court's ruling in *Jalosjos v. COMELEC*,[11] he must be declared as the rightful mayor of the City of Manila.

After an exchange of pleadings,[12] the parties were required to submit their respective memoranda. The parties complied on different dates.[13]

To my mind, the following queries and premises, which are crafted in a clear-cut and logical sequence, serve as guideposts for the Court in order to arrive at conclusions that are consonant with prevailing law and jurisprudence:

I. Was the executive pardon extended to Estrada conditional or absolute?

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[8] *Rollo*, pp. 39-46.
[9] Id. at 49-50.
[10] Id. at 438.
[11] G.R. No. 193237, October 9, 2012, 683 SCRA 1.
[12] Estrada filed his comment to Lim's petition-in-intervention on July 15, 2013; the COMELEC, through the Office of the Solicitor General (OSG) filed its consolidated comment on July 29, 2013; Estrada filed his comment to the petition on August 6, 2013; Lim filed his reply to Estrada's comment on August 23, 2013; Petitioner filed her reply to Estrada's comment to the petition on August 27, 2013; Petitioner filed her reply to the COMELEC's consolidated comment on December 13, 2013.
[13] Lim on May 27, 2014; Petitioner on June 2, 2014; Estrada on June 16, 2014 and the COMELEC on June 26, 2014.

II. What were the effects of the pardon, particularly the statement, "[h]e is hereby restored to his civil and political rights"? Does this include the restoration of his right to suffrage and to run for public office?

III. Given that the nature of pardon, whether absolute or conditional, does not imply the automatic obliteration of the pardonee's guilt, is Estrada qualified to run for and hold a mayoralty position?

I. Estrada's Pardon Was Absolute

After admittedly having failed to argue on this before the COMELEC, the petitioner expressly elevated this issue for the resolution of the Court. Her insistence on the conditional nature of Estrada's pardon is anchored on the latter's expressed acceptance of the same. In her words, this acceptance became "the fundamental basis and *indicium* of the conditional nature of the pardon."[14] She contends that had PGMA intended to issue an absolute pardon, she would have not required Estrada's acceptance thereof. Having accepted its terms with a commitment of strict compliance, Estrada should be deemed to have breached the "contract" when he ran for Mayor.

Amidst this argument, the primordial question continues to nag: was the pardon bestowed on Estrada conditional or absolute? For the following reasons, I find that Estrada's pardon was absolute in nature:

First. I am of the view that the acceptance confers effectivity in both absolute and conditional pardon.

> Pardon is defined as "an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual, on whom it is bestowed, from the punishment the law inflicts for a crime he has committed. It is the private, though official act of the executive magistrate, delivered to the individual for whose benefit it is intended, and not communicated officially to the Court. ... A pardon is a deed, to the validity of which delivery is essential, and delivery is not complete without acceptance."[15]

The fact of Estrada's acceptance of the pardon, by affixing his signature therein, is an insufficient indication of its conditional nature. Petitioner's reliance on *Cabantag v. Wolf*,[16] where the Court ruled that a conditional pardon has no force until accepted by the condemned because the condition may be less

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[14] *Rollo*, p. 12.
[15] 252 Phil 192, 198-199 (1989).
[16] G.R. No. 3080, May 5, 1906.

acceptable to him than the original punishment and may in fact be more onerous, is misplaced. It merely stated that a conditional pardon must be accepted in the exercise of the pardonee's right to choose whether to accept or reject the terms of the pardon. It does not operate in the manner suggested by petitioner. It does not work the other way around.

An "acceptance" does not classify a pardon as conditional just by the mere reception and the placing of an inscription thereon. I am not prepared to ignore the very intention and content of a pardon as standards to determine its nature, as against the mere expediency of its delivery and acceptance. I am much more amenable to the rule consistent with the benevolent nature of pardon: that it is an act of forgiveness predicated on an admission of guilt. To be effective, therefore, this admission of past wrongdoing must be manifested by the acceptance of a pardon, absolute or conditional.

Further, the significance of "acceptance" is more apparent in cases of "commutation," which is the substitution of a lighter punishment for a heavier one. William F. Duker elucidates:

> Although for a pardon to be effective it usually must be accepted, commutation is effective without acceptance. In Chapman v. Scott, the President granted a commutation to "time-served" to a convict so that he would be available for prosecution in a state court on a capital case. The convict refused the commutation and argued that it was not effective until accepted, but the court held that a commutation did not require acceptance:
>
> Although power to commute is logically derivable from power to pardon, commutation is essentially different from pardon. Pardon exempts from punishment, bears no relation to term of punishment, and must be accepted, or it is nugatory. Commutation merely substitutes lighter for heavier punishment. It removes no stain, restores no civil privileges, and may be effected without the consent and against the will of the prisoner.[17]

As applied to Estrada's case, his acceptance of the pardon does not necessarily negate its absolute nature. The more appropriate test to apply in the determination of the subject pardon's character is the grantor's intention as revealed in the four corners of the document.

Second. The controversial perambulatory clause which states, "Whereas, Joseph Ejercito Estrada has publicly committed to no longer seek any elective position or office," should not be considered as a restriction on Estrada's pardon.

Primarily, rules on statutory construction provide that whereas clauses, do not form part of a statute, strictly speaking; they are not part of the operative

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[17] William and Mary Law Review, The President's Power to Pardon: A Constitutional History by William F. Duker, Voume 18, Issue 3, Article 3.

language of the statute.[18] While they may be helpful to the extent that they articulate the general purpose or reason underlying a new enactment, reliance on whereas clauses as aids in construing statutes is not justified when their interpretation "control the specific terms of the statute."[19]

As applied in Estrada's case, the subject whereas clause does not purport to control or modify the unequivocal terms found in the pardon's body. In this sense, the "whereas clauses" in Estrada's pardon cannot adversely affect the ultimate command which it evokes, that is, executive clemency is granted to Estrada absent any condition.

A conditional pardon basically imposes a condition. I take this to mean that it must either stipulate a circumstance, a situation, or a requisite that must come into pass or express a restriction that must not ensue. I find none in this case. The plain language of the pardon extended to Estrada does not set forth any of these. It was couched in a straightforward conferment of pardon, to wit:

> I hereby grant executive clemency to Joseph Ejercito Estrada, convicted by the Sandiganbayan of plunder and imposed a penalty of reclusion perpetua.

Had PGMA intended to impress a condition on Estrada, the same would have been clearly stated as a requirement of, or restriction to, the above conferment. I am inclined to posit that the extension of a conditional pardon to her political rival is a matter that PGMA would have regarded with solemnity and tact. After all, the pardoning power is a pervasive means to bluntly overrule the force and effect, not only of a court's judgment of conviction, but the punitive aspect of criminal laws. As it turned out, no direct showing suggests that the pardon was conditional.

For a condition to be operative, the condition must appear on the face of the document. The conditions must be clear and specific. The reason is that the conditions attached to a pardon should be definite and specific as to inform the person pardoned of what would be required.[20] As no condition was patently evinced in the document, the Court is at no liberty to shape one, only because the plain meaning of the pardon's text is unacceptable for some waylaid and extraneous reasons. That the executive clemency given to Estrada was unaccompanied by any condition is clearly visible in the text of the pardon. The Court must simply read the pardon as it is written. There is no necessity to resort to construction. I choose to heed the warning enunciated in *Yangco v. Court of First Instance of Manila*:

> . . . [w]here language is plain, subtle refinements which tinge words so as to give them the color of a particular judicial theory are not only

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[18] *Llamado v. CA and Gaw*, 256 Phil 328, 339 (1989) citing *Yazoo & Mississippi Valley R. Co. v. Thomas*, 132 US 174 (1889); 33 L Ed 302.
[19] *Llamado v. CA and Gaw*, 256 Phil 328, 339 (1989).
[20] *Ex Parte Reno*, 66 Mo. 266, 269 (Mo. 1877).

> unnecessary but decidedly harmful. *That which has caused so much confusion in the law,* which has made it so difficult for the public to understand and know what the law is with respect to a given matter, *is* in considerable measure *the unwarranted interference by judicial tribunals with the English language as found in statutes* and contracts, cutting the words here and inserting them there, *making them fit personal ideas of what the legislature ought to have done* or what parties should have agreed upon, *giving them meanings which they do not ordinarily have* cutting, trimming, fitting, changing and coloring until lawyers themselves are unable to advise their clients as to the meaning of a given statute or contract until it has been submitted to some court for its interpretation and construction.[21]

Suffice it to say, a statement describing Estrada's previous commitment not to seek any elective office cannot operate as a condition for his pardon, *sans* any indication that it was intended to be so. In light of the ***clear absence*** of any condition in the pardon, no ambiguity warrants interpretation by the Court. At the most, the subject whereas clause depicts the state of affairs at the time when the pardon was granted. It should not be considered as part and parcel of the entire act as it serves neither the ability to enlarge or confer powers nor the authority to control the words of the act.

Third. The pardoning power is granted exclusively to the President amidst the constitutional scheme of checks and balances. While it is most ideal that the executive strictly adheres to this end, it is undeniable that the pardoning power is still dependent on the grantor's measure of wisdom and sense of public policy. This reality invites, if not bolsters, the application of the political question doctrine. The only weapon, which the Court has freedom to wield, is the exercise of judicial power against a blatant violation of the Constitution. When unavailing, the Court is constrained to curb its own rebuking power and to uphold the acumen of a co-equal branch. It would do the Court well to remember that neither the Congress nor the courts can question the motives of the President in the use of the power.[22]

Hence, in determining the nature of Estrada's pardon, the Court must undertake a tempered disposition and avoid a strained analysis of the obvious. Where there is no ostensible condition stated in the body of the pardon, to envisage one by way of statutory construction is an inexcusable judicial encroachment.

The absolute nature of Estrada's pardon now begets a more astute query: what rights were restored in his favor?

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[21] 29 Phil. at 188 (1915).

[22] William and Mary Law Review, The President's Power to Pardon: A Constitutional History by William F. Duker, Voume 18, Issue 3, Article 3.

II. Estrada's Civil and Political Rights Restored

In this particular issue, the *ponencia* deserves my full agreement in finding that the third preambular clause of Estrada's pardon does not militate against the conclusion that Estrada's rights to suffrage and to seek public office have been restored. Further, the subject pardon had substantially complied with the statutory requirements laid down in Articles 36 and 41 of the RPC. The authority of the said provisions of law was reinforced by the ruling of the Court in *Monsanto v. Factoran*. A deeper analysis of *Monsanto*, however, reveals that its repercussions actually favor Estrada.

Consider these points:

1. Monsanto involved an absolute pardon, from which, Estrada likewise benefits.

2. The issue in Monsanto involved the propriety of an automatic reinstatement to public office. In refutation of the Garland cases, the Court maintained that while an absolute pardon remits all the penal consequences of a criminal indictment if only to give meaning to the fiat that a pardon, being a presidential prerogative ... it, however, rejected the "fictitious belief that pardon blots out the guilt of an individual and that once he is absolved, he should be treated as if he were innocent."

3. Monsanto's absolute disqualification or ineligibility from public office was considered to have formed part of the punishment prescribed against her. **Ultimately, when her guilt and punishment were expunged by her pardon, this particular disability was likewise removed.**

4. Noteworthy is the observation of the Court that she may apply for reappointment to the office, but in the appraisal of her suitability to a public post, the facts constituting her past offense should be taken into account to determine whether she could once again serve in a public office.

After serious reflection, I am convinced that the foregoing pronouncement parallels that which should apply to Estrada.

In *Monsanto*, the Court declared that the absolute pardon granted to her by the President effectively expunged her disqualification or ineligibility to hold public office because this formed part of the penalty against her. As in the foregoing discussion on the absolute nature of Estrada's pardon, there is no question that his pardon likewise remitted the punishment previously imposed in

his conviction for plunder. As such, he was released from incarceration and thereafter regained his liberty of movement, albeit ordered to abide by the forfeiture of his properties as listed in the judgment of the Sandiganbayan. More significantly, there was no categorical statement impressed in *Monsanto* that banned her from holding public office again. All that it withheld was an automatic reinstatement to her previous office and her entitlement to backpay. In other words, Monsanto may hold public office provided that there is favorable action on her application.

While I generally acquiesce with the scholarly opinions of Justices Padilla and Feliciano in *Monsanto*, I find it difficult to apply their respective observations (that based on Article 36 of the RPC, it was clear that the pardon extended by the President did not per se entitle Monsanto to again hold public office or to suffrage because nothing therein expressly provided the restoration of the said rights with specifity) precisely because this was not adopted in the majority decision. There is a stark difference between the positions taken by the concurring justices from the very holding of the majority. The former entirely and perpetually denied Monsanto of her right to hold public office, while the latter merely disallowed an automatic reinstatement but permitted her to undergo re-application with the only *caveat* that her pardon did not place her in a state of complete innocence. In other words, her past conviction should be considered as forming part of her credentials in her re-application for public office. Between these two conclusions, I choose with steadfast belief that the holding pronounced in the majority decision should prevail. The strict interpretation of Article 36 as advocated in the concurring opinion was not adopted in the main decision, hence, rendering the same as mere *obiter dictum* which has no controlling effect.

While I do not subscribe to Estrada's theory that Articles 36 and 41 of the RPC have the effect of abridging and diminishing the power of the President, I also remain unconvinced that the said provisions of law should apply to his case because the strict interpretation of these provisions were not encapsulated in jurisprudence, particularly *Monsanto*. Therefore, the statement, "He is hereby restored to his civil and political rights," as found in the subject pardon does not fall short of producing the effect of wiping away the penalties being suffered by the pardonee. As things stand now, an absolute and full pardon erases both the principal and accessory penalties meted against him, thereby allowing him to hold public office once again.

Corollary to this, I am of the opinion that PGMA's failure to use the term "full," apropos to the restoration of Estrada's rights does not denigrate its coverage. PGMA's omission to use such term in the case of Estrada may have been caused by reasons unknown to the Court. The Court cannot discount the possibility that this was borne out of plain inadvertence, considering the fact that the pardon was unaccompanied by a clear condition. Had it been PGMA's intention to restrict the rights restored to Estrada, she could have stated clear exceptions thereto, instead of employing a phrase, which, in its *plain meaning*,

comprises the right to vote and to run for public office. Besides, the deprivation of these rights is a dangerous ground that the Court should not tread on, especially when the intention to restrict their exercise is impalpable.

Applying this to the case at bench, no ban from holding public office should be imposed on Estrada, because the absolute pardon given to him had effectively extinguished both the principal and accessory penalties brought forth by his conviction. Succinctly, Estrada's civil and political rights had been restored in full.

III. Estrada's Right to Run for Public Office Restored

Consistent with my view that *Monsanto* reflects the obliteration of Estrada's perpetual disqualification, I conclude that he now possesses the right to vote and to run for public office.

Lest it be misunderstood, this conclusion does not degenerate from the doctrine that a pardon only relieves a party from the punitive consequences of his past crimes, nothing more. Indeed, "a person adjudged guilty of an offense is a convicted criminal, though pardoned; he may be deserving of punishment, though left unpunished; and the law may regard him as more dangerous to society than one never found guilty of crime, though it places no restraints upon him following his conviction."[23] Estrada was not reborn into innocence by virtue of the forgiveness bestowed in by the pardon. The moral stain caused by his past crimes remains to be part of his person, then as now. In no way did his pardon serve as a stamp of incorruptibility. It is not a magic spell that superimposes virtuousness over guilt. His past conviction for plunder would forever form part of his person, whether as a private individual or a public officer.

Without squabble, plunder is a crime involving moral turpitude. Nevertheless, this fact alone negates a mechanical application of statutory provisions on disqualification. One thing is clear, in the exercise of her exclusive power to grant executive clemency, PGMA pardoned Estrada, thereby wiping away the penalties of his crime and entitling him the right to run for public office. Corollary to this, Estrada's fitness to hold public office is an issue that should not concern the Court. All that the Court can rule on is the availability of Estrada's right to seek public office. This ruling on his eligibility is not tantamount to a declaration that Estrada befits a person wholly deserving of the people's trust. The Manileños' decision alone can mould the city's journey to either development or decline. Indeed, election expresses the sovereign will of the people consistent with the principle of *vox populi est suprema lex*. This is the beauty of democracy which the Court must endeavour to protect at all cost. As Abraham Lincoln put it with both guile and eloquence,

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[23] *Monsanto v. Factoran*, 252 Phil 192, 201 (1989) citing *State v. Cullen*, 127 P. 2d 257, cited in 67 C.J.S. 577, note 18.

Elections belong to the people. It's their decision. If they decide to turn their back on the fire and burn their behinds, then they will just have to sit on their blisters.

For the foregoing reasons, I vote to **CONCUR** with the majority opinion.

JOSE CATRAL MENDOZA
Associate Justice