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MANGONDAYA ASUM TAGO,
Petitioner,**G.R. No. 216158**

Present:

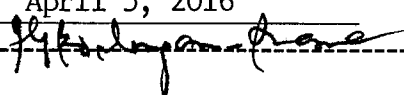
SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,*
LEONEN,
JARDELEZA, and
CAGUIOA, JJ.

- versus -

**COMELEC AND MOHAMMAD
EXCHAN GABRIEL LIMBONA,**
Respondents.

Promulgated:

April 5, 2016

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**DECISION****REYES, J.:**

Before the Court are consolidated petitions for *certiorari* docketed as G.R. No. 215548,¹ G.R. No. 215726² and G.R. No. 216158,³ which assail the Resolutions dated November 17, 2014⁴ and January 5, 2015⁵ of the Commission on Elections (COMELEC) *en banc*, in EM. No. 14-005, citing Department of Interior and Local Government (DILG) Undersecretary Austere A. Panadero (Usec. Panadero), DILG Regional Director Rene K. Burdeos (RD Burdeos) and Mangondaya Asum Tago (Tago) (petitioners) in indirect contempt and providing penalties therefor, following the DILG's

* On leave.

¹ Rollo (G.R. No. 215548), pp. 3-43.

² Rollo (G.R. No. 215726), pp. 3-37.

³ Rollo (G.R. No. 216158), pp. 3-20A.

⁴ Rollo (G.R. No. 215548), pp. 47-55.

⁵ Rollo (G.R. No. 215726), pp. 39-42.

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implementation of the Decision⁶ dated September 30, 2009 of the Office of Ombudsman (Ombudsman) in OMB-L-A-08-0530-H, against Mohammad Exchan Gabriel Limbona (Limbona).

The Antecedents

In the Decision rendered by the Office of the Deputy Ombudsman for Luzon on September 30, 2009 and approved by then Ombudsman Ma. Merceditas N. Gutierrez on October 23, 2009,⁷ Limbona was among the persons⁸ found to be guilty of grave misconduct, oppression and conduct prejudicial to the best interest of the service, which he committed while he was still the Chairman of Barangay Kalanganan Lower, Pantar, Lanao del Norte, and in relation to the killing of Hadji Abdul Rasid Onos, the former Municipal Vice Mayor of Pantar. Limbona was meted the penalty of dismissal from public service, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from re-employment in the government service. In the dispositive portion of the decision, the DILG Secretary was directed to immediately implement the ruling against Limbona, pursuant to Section 7, Rule III of Administrative Order No. 17 (Ombudsman Rules of Procedure) in relation to Memorandum Circular No. 1, series of 2006. Limbona moved for reconsideration, but this was denied by the Ombudsman in a Joint Order⁹ dated March 22, 2010.

On November 15, 2013, the Ombudsman issued an Order¹⁰ forwarding to the DILG Secretary a copy of its Decision against Limbona for implementation, as it had become final and executory in 2011. The order indicated that Limbona had been elected as Municipal Mayor of Pantar. Acting on the order, Usec. Panadero issued, on April 3, 2014, a Memorandum¹¹ directing RD Burdeos, as the RD of the DILG Region X Office, to cause the immediate implementation of the Ombudsman decision insofar as Limbona was concerned.

On April 21, 2014, however, RD Burdeos reported that he received from Limbona's counsel a copy of the Resolution¹² dated June 6, 2013 issued by the COMELEC First Division, dismissing the petition for disqualification filed against Limbona. The petition, entitled *Malik T. Alingan v. Mohammad Limbona*, docketed as SPA No. 13-252 (DC), questioned Limbona's eligibility to run for public office in the

⁶ *Rollo* (G.R. No. 215548), pp. 92-132.

⁷ *Id.* at 7.

⁸ Along with Mayor Norlaine Mitmug Limbona and Mapunud Buisan Gabriel.

⁹ *Rollo* (G.R. No. 215548), pp. 133-142.

¹⁰ *Id.* at 143-145.

¹¹ *Id.* at 146-148.

¹² *Id.* at 149-152.

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2013 elections after the Ombudsman found him guilty in 2009 in OMB-L-A-08-0530-H. In the COMELEC resolution, Limbona was declared to still be qualified to run for public office, citing the case of *Aguinaldo v. Santos*¹³ (*Aguinaldo* doctrine), holding 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.”¹⁴ Thus, the resolution reads in part:

In other words, misconduct committed by [Limbona] in 2008 have been condoned by the people of Pantar, Lanao del Norte[,] when they elected him as their Mayor in 2010. Hence, such fact cannot serve as ground for his disqualification for purposes of the 2013 elections.

WHEREFORE, premises considered, the instant Petition is hereby **DISMISSED**. [Limbona] is **QUALIFIED** to run for Municipal Mayor of Pantar, Lanao del Norte.

SO ORDERED.¹⁵

On April 30, 2014, Usec. Panadero then sought clarification from Ombudsman Conchita Carpio-Morales on the applicability of the *Aguinaldo* doctrine in Limbona’s case in light of the COMELEC First Division’s resolution.¹⁶ Pending receipt of the Ombudsman’s reply, Usec. Panadero also issued on even date a Memorandum,¹⁷ addressed to RD Burdeos, directing him to proceed with the implementation of the Ombudsman’s decision. He explained that: -

Pending such clarification, you are hereby directed to proceed with the implementation of the Ombudsman Decision and Joint Order dated 30 September 2009 and 22 March 2010, respectively, pursuant to Ombudsman Memorandum Circular No. 01, series of 2006 in relation to the case of *Office of the Ombudsman vs. De Chavez, et al.* that the decision of the Ombudsman is immediately executory pending appeal and may not be stayed by the filing of an appeal or the issuance of an injunctive writ.

For compliance.¹⁸ (Citation omitted)

¹³ G.R. No. 94115, August 21, 1992, 212 SCRA 768.

¹⁴ Id. at 773.

¹⁵ *Rollo* (G.R. No. 215548), p. 152.

¹⁶ Id. at 156-159.

¹⁷ Id. at 160.

¹⁸ Id.

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Limbona, on the other hand, sought the Office of the President's (OP) revocation and/or recall of the DILG Memoranda dated April 3, 2014 and April 30, 2014, relative to the implementation of the Ombudsman's decision against him.¹⁹

On May 5, 2014, the DILG served the dismissal order of Limbona, which led to his removal from office and the assumption to the mayoralty of then Vice Mayor Tago.²⁰ Displeased by the DILG's actions, Limbona filed with the COMELEC a petition²¹ to cite the petitioners for indirect contempt. In his petition, he also sought the COMELEC's issuance of an injunctive writ that would enjoin the performance of any act that would directly or indirectly contravene the tenor and substance of the COMELEC First Division's resolution.

Meanwhile, Usec. Panadero followed up from the Ombudsman its reply to the clarification sought by the DILG on Limbona's case.²² The DILG later received from the Ombudsman an Indorsement²³ dated June 23, 2014 still referring to the DILG the said Ombudsman decision "for implementation, with the information that [therein] respondents' petitions filed with the [CA] and Supreme Court had all been dismissed."²⁴

In their Comment²⁵ on the petition for indirect contempt, Usec. Panadero and RD Burdeos contended, among other arguments, that: *first*, the petition was premature because the COMELEC First Division's resolution was not yet final, as it remained pending with the COMELEC *en banc*; *second*, the COMELEC had no jurisdiction over the petitioners and the decision of the Ombudsman; and *third*, the petitioners were not in bad faith but were merely implementing a final and executory decision of the Ombudsman.

In the meantime, the motion for reconsideration filed by Malik Alingan against the COMELEC First Division's Resolution dated June 6, 2013 was later resolved by the COMELEC *en banc*. On August 8, 2014, the DILG received a copy of the COMELEC *en banc*'s Resolution²⁶ dated July 8, 2014, which affirmed with modification its division's Resolution. The COMELEC *en banc* disagreed with the First Division's application of the *Aguinaldo* doctrine. It said that the doctrine on condonation could not apply in Limbona's case because

¹⁹ Id. at 212-225.

²⁰ Id. at 161-162.

²¹ Id. at 169-181.

²² Id. at 168.

²³ Id. at 182.

²⁴ Id.

²⁵ Id. at 183-211.

²⁶ Id. at 80-89.

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he was elected as Mayor for the term 2010-2013, which was different from his position as Barangay Chairman in 2007-2010 when his administrative case was filed. The COMELEC *en banc*, nonetheless, declared that Limbona was qualified to run for public office because he was not removed from his post as Barangay Chairman, and was able to finish his term prior to the finality of the Ombudsman's decision. Section 40(b) of the Local Government Code (LGC) disqualifies from running for any elective local position "those removed from office as a result of an administrative case."²⁷

On August 5, 2014, the COMELEC issued a Certificate of Finality²⁸ covering COMELEC Resolutions dated June 6, 2013 and July 8, 2014. These COMELEC resolutions were assailed in a petition docketed as G.R. No. 213291, which was dismissed *via* this Court's Resolutions dated March 24, 2015²⁹ and June 16, 2015.³⁰ Meanwhile, Limbona's petition with the OP for the revocation and/or recall of the DILG's Memoranda dated April 3, 2014 and April 30, 2014 was dismissed in a Decision³¹ dated December 5, 2014.

Ruling of the COMELEC

On November 17, 2014, the COMELEC *en banc* issued its Resolution³² citing the petitioners in indirect contempt. It explained:

The violation of the final and executory resolution of the Comelec constitutes contempt. The [COMELEC] already ruled that the Ombudsman Decision cannot be the cause of the disqualification or ouster of [Limbona]. The [petitioners] completely disregarded the ruling despite their knowledge and receipt of the Entry of Judgment thereof. The fact that the DILG is not a party to the case cannot be used to circumvent the Resolution of [COMELEC]. They themselves admit of the receipt of the same. It behooves the [COMELEC] the motivation of the [petitioners] to blatantly disobey the Resolutions of [COMELEC].

All told, the [COMELEC] finds the [petitioners] [to have] disobeyed the legal order/resolution of [COMELEC].³³

²⁷ Id. at 86-88.

²⁸ Id. at 77-79.

²⁹ Id. at 492.

³⁰ Id. at 493.

³¹ Id. at 261-265.

³² Id. at 47-55.

³³ Id. at 54.

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No penalty for the contempt was provided in the aforequoted COMELEC resolution, the dispositive portion of which reads:

WHEREFORE, premises considered, petition is hereby **GRANTED**. The [COMELEC] (En Banc) hereby **RESOLVES** to **CITE** [THE PETITIONERS] in **CONTEMPT**.

SO ORDERED.³⁴

Among the petitioners, only Tago filed a motion for reconsideration before the COMELEC *en banc*, assailing the abovequoted resolution.

The Present Petitions

G.R. No. 215548

The foregoing prompted the filing on December 17, 2014 by Usec. Panadero and RD Burdeos, through the Office of the Solicitor General (OSG), the Petition for *Certiorari* (under Rule 64 of the Rules of Court)³⁵ docketed as G.R. No. 215548, contending that: (1) the COMELEC had no jurisdiction over the acts of the Ombudsman; (2) there was no basis to hold the parties in contempt; and (3) the *Aguinaldo* doctrine does not apply to the case of Limbona. They, thus, asked the Court to set aside the COMELEC resolution citing them in contempt.

G.R. No. 215726

On January 5, 2015, after the petition in G.R. No. 215548 had been filed, the COMELEC *en banc* issued a Resolution³⁶ resolving Tago's motion for reconsideration of the COMELEC *en banc*'s Resolution dated November 17, 2014. The COMELEC *en banc* denied Tago's motion, imposed penalties upon the petitioners for indirect contempt, and ordered their arrest. The dispositive portion of the new resolution reads:

WHEREFORE, premises considered, the instant Motion for Reconsideration is **DENIED**. The Resolution of [COMELEC] dated November 17, 2014 is **AFFIRMED** in *toto*.

³⁴ Id.

³⁵ Id. at 3-43.

³⁶ *Rollo* (G.R. No. 215726), pp. 39-42.

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Accordingly, a fine of One thousand pesos (Php1,000.00) and a penalty of imprisonment for six (6) months is imposed against [the petitioners].

Let a warrant of arrest be issued against [the petitioners].

SO ORDERED.³⁷

Aggrieved, Usec. Panadero and RD Burdeos filed with the Court another Petition for *Certiorari* With a Very Urgent Application for a Writ of Preliminary Injunction and/or Temporary Restraining Order³⁸ (TRO) docketed as G.R. No. 215726, which sought to set aside the COMELEC *en banc*'s Resolutions dated November 17, 2014 and January 5, 2015. They argued that the COMELEC cannot *motu proprio* amend its decision by imposing upon them the penalties of fine and imprisonment. They further reiterated their argument that the COMELEC did not have jurisdiction over the petitioners and the acts of the Ombudsman.

Acting on the application for a TRO against the issuance of warrants of arrest pending determination of the merits of the petition, the Court issued, on January 8, 2015, a TRO to enjoin the COMELEC, its agents, representatives, or persons acting in its place and stead, from implementing the COMELEC Resolution dated January 5, 2015 effective immediately until further orders from the Court.³⁹

G.R. No. 216158

On February 5, 2015, Tago filed his own Petition for *Certiorari* with Motion to Adopt,⁴⁰ docketed as G.R. No. 216158, against the COMELEC and Limbona. Tago argued, among several grounds, that the petitioners did not commit acts constituting indirect contempt as defined by law. His assumption to office, in particular, was supported by legal bases given the issuances of the Ombudsman and the DILG, in light of pertinent provisions on succession under the LGC. Tago further adopted the petition filed by the OSG for Usec. Panadero and RD Burdeos.

The Issue

The core issue for the Court's resolution is whether the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding the petitioners in contempt of court and imposing the penalties of fine and imprisonment.

³⁷ Id. at 42.

³⁸ Id. at 3-37.

³⁹ Id. at 322-324.

⁴⁰ *Rollo* (G.R. No. 216158), pp. 3-20A.

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Ruling of the Court

At the outset, the Court emphasizes that its determination in the pending petitions shall be limited to the COMELEC resolutions on the finding of indirect contempt and the penalties imposed therefor, being the issuances assailed *via* the three consolidated petitions. While the Ombudsman's ruling in OMB-L-A-08-0530-H and the COMELEC's disposition in SPA No. 13-252 (DC) are related to the finding of contempt, the subject matters thereof were covered by separate petitions before the Court,⁴¹ and are beyond the cover of the Court's present review.

The Court grants the petitions.

Power of contempt

"The power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and consequently, to the due administration of justice."⁴² Contempt is defined as a disobedience to the court by acting in opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or in some manner to impede the due administration of justice. It is a conduct that tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice parties-litigant or their witnesses during litigation.⁴³ By jurisprudence, the power to punish for contempt, however, should be used sparingly with caution, restraint, judiciousness, deliberation, and due regard to the provisions of the law and the constitutional rights of the individual.⁴⁴

The COMELEC is similarly vested with the power to punish for contempt. Article VII, Section 52(e) of The Omnibus Election Code expressly gives it the power to "[p]unish contempts provided for in the Rules of Court in the same procedure and with the same penalties provided therein. Any violation of any final and executory decision, order or ruling of the Commission shall constitute contempt thereof." The pertinent provision on indirect contempt in the Rules of Court referred to is Rule 71, Section 3, which provides:

⁴¹ *Rollo* (G.R. No. 215548), pp. 144, 492-495.

⁴² *Bank of the Philippine Islands v. Labor Arbiter Calanza, et al.*, 647 Phil. 507, 514 (2010).

⁴³ *Roxas, et al. v. Judge Tipon, et al.*, 688 Phil. 372, 382 (2012).

⁴⁴ *Office of the Court Administrator v. Judge Lerma*, 647 Phil. 216, 243 (2010).

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Sec. 3. *Indirect contempt to be punished after charge or hearing.* After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

- (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
- (f) Failure to obey a subpoena duly served; and
- (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

The foregoing provision is substantially reproduced in Section 2, Rule 29 of the COMELEC Rules of Procedure defining indirect contempt which reads:

Sec. 2. *Indirect Contempt.* – After charge in writing has been filed with the Commission or Division, as the case may be, and an opportunity given to the respondent to be heard by himself or counsel, a person guilty of the following acts may be punished for indirect contempt:

- a. Misbehavior of the responsible officer of the Commission in the performance of his official duties or in his official transactions;



- b. Disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its Divisions, or injunction or restraining order granted by it;
- c. Any abuse of or any unlawful interference with the process or proceedings of the Commission or any of its Divisions not constituting direct contempt under Section 1 of this Rules;
- d. Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice by the Commission or any of its Divisions;
- e. Assuming to be an attorney and acting as such without authority; and
- f. Failure to obey a subpoena duly served.

Section 3, Rule 29 of the COMELEC Rules of Procedure prescribes the impossible penalties for indirect contempt committed against the COMELEC, to wit:

Sec. 3. *Penalty for Indirect Contempt.* - If adjudged guilty, the accused may be punished by a fine not exceeding one thousand (P1,000.00) pesos or imprisonment for not more than six (6) months, or both, at the discretion of the Commission or Division.

The petitioners were charged, cited and punished for a supposed indirect contempt committed against the COMELEC. As defined by jurisprudence, indirect contempt is one committed out of or not in the presence of the court that tends to belittle, degrade, obstruct or embarrass the court and justice, as distinguished from direct contempt which is characterized by misbehavior committed in the presence of or so near a court or judge as to interrupt the proceedings before the same.⁴⁵

For the COMELEC *en banc*, the petitioners' contemptuous act pertained to their alleged "violation of the final and executory resolution of the [COMELEC]."⁴⁶ Usec. Panadero and RD Burdeos, in particular, dismissed Limbona from his post as Municipal Mayor of Pantar on the basis of the Ombudsman's decision finding him guilty in an administrative case. As the COMELEC already ruled that the Ombudsman's decision failed to disqualify Limbona from the mayoralty post, the dismissal of the latter and Tago's resulting assumption to office were blatant disobedience of a legal order or resolution of the COMELEC. The contempt was then premised on Section 2(b) of Rule 29 of the COMELEC Rules of Procedure, *i.e.*,

⁴⁵ *Commissioner Rodriguez v. Judge Bonifacio*, 398 Phil. 441, 466-467 (2000).

⁴⁶ *Rollo* (G.R. No. 215548), p. 54.

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disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its Divisions, or injunction or restraining order granted by it.

The petitioners are not guilty of indirect contempt

Upon review, the Court finds that the actions of the petitioners do not constitute indirect contempt.

In serving the dismissal order of Limbona and allowing Tago to assume the vacated mayoralty post, the petitioners could not be said to have disobeyed the resolutions of the COMELEC in the disqualification case, much less did so, in a manner that was characterized with contempt against the COMELEC. Contrary to the COMELEC's stance, the COMELEC's Resolution in SPA No. 13-252 (DC) and the Ombudsman's Decision in OMB-L-A-08-0530-H involved two distinct issues, such that the implementation of one agency's ruling would not necessarily result in a violation of the other.

To be specific, SPA No. 13-252 (DC) was instituted to question the qualification of Limbona as a candidate for the 2013 elections, an issue that was well within the jurisdiction of the COMELEC. In order to properly resolve such issue, and given the arguments that were raised to seek his disqualification, the COMELEC was called upon to refer to Section 40 of the LGC, which reads:

Sec. 40. *Disqualifications.* – The following persons are disqualified from running from 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 nonpolitical cases here or abroad;

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- (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. (Emphasis ours)

Notwithstanding Section 40(b) of the LGC, the COMELEC decided in favor of Limbona's qualification only for the reason that he was not removed from office prior to 2013, but was able to complete his term despite the Ombudsman case that was filed against him. The Court underscores the fact that the COMELEC's decision to allow Limbona's candidacy was not a disregard of the Ombudsman's Decision in OMB-L-A-08-0530-H. There was instead a clear recognition of the fact of conviction in the administrative case, except that no removal as required by law had transpired during Limbona's prior tenure as public official. Even as it declared Limbona qualified to run for the 2013 elections, the COMELEC could not have set aside the consequences attached to the Ombudsman's finding of guilt. Moreso, the Ombudsman's decision against Limbona was neither nullified nor set aside by the ruling of the COMELEC.

The actions of the DILG, in turn, were mere implementation of the Ombudsman's decision, as records indicated the failure to previously effect the consequences attached to the finding of guilt. By acting on the Ombudsman's order to implement its decision, the DILG neither argued nor declared Limbona to be disqualified from the mayoralty. That Limbona was qualified to run for the 2013 elections, however, did not mean that he could no longer be dismissed from the service as a result of his administrative case. The DILG could still implement the Ombudsman's decision, as it did so, with the service of the dismissal order upon Limbona, without disobeying the COMELEC. The Ombudsman's decision even carried sanctions other than dismissal from the public service, such as the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from re-employment in the government service. While the administrative case was pertinent to the disqualification issue, these penalties could not have been rendered ineffective simply by the COMELEC's decision in the disqualification case.

As COMELEC Commissioner Christian Robert S. Lim correctly supplied in his Dissenting Opinion⁴⁷ from the majority's decision to cite the petitioners in contempt, he explained that:

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Id. at 56-65.

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The ponencia failed to establish the metes and bounds of how the assailed act constituted disobedience and defiance of the *Decision* in **SPA No. 13-252 (DC)**. x x x **If it be asked what lawful writ, process, order, judgment or command of the Commission was disobeyed or resisted by the [petitioners], the answer is none whatever.** A finding of contempt cannot be presumed by a mere inference from surrounding circumstances. The disqualification in **SPA Case No. 13-252 (DC)** and the removal of [Limbona] as contained in the dismissal order of the DILG, although intimately related, are two different subject matters which are independent of each other. The purpose of a disqualification case is to prevent a candidate from running, if elected, from serving, or to prosecute him or her for violation of the election laws. In **SPA Case No. 13-252 (DC)**, [Limbona] was sought to be disqualified on account of the *Ombudsman Decision* which found merit in the complaint for grave misconduct and sentenced him with the penalty of dismissal from service with the accessory penalties x x x. The issue boils down to whether [Limbona] was removed from office as a result of an administrative case, thus, rendering him disqualified from running for any elective local position. On the other hand, the purpose of an execution or implementation of a judgment is to put the final judgment of the court into effect. In the case of **OMB-L-A-08-0530-H**, the issue boils down to how the DILG will implement the penalty of dismissal from service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification for reemployment in the government service. x x x.⁴⁸

In *Rivulet Agro-Industrial Corporation v. Paruñgao, et al.*,⁴⁹ the Court emphasized:

To be considered contemptuous, an act must be clearly contrary to or prohibited by the order of the court. Thus, a person cannot be punished for contempt for disobedience of an order of the Court, unless the act which is forbidden or required to be done is clearly and exactly defined, so that there can be no reasonable doubt or uncertainty as to what specific act or thing is forbidden or required.⁵⁰ (Citation omitted)

In any case, even granting that the issuances of the COMELEC should have barred the DILG from the service of the dismissal order, the petitioners could not be considered guilty of contempt. By jurisprudence, intent and good faith may be crucial in contempt cases. As the Court held in *Saint Louis University, Inc. v. Olarez*:⁵¹

⁴⁸ Id. at 63-64.

⁴⁹ 701 Phil. 444 (2013).

⁵⁰ Id. at 452.

⁵¹ G.R. No. 162299, March 26, 2014, 720 SCRA 74.

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In contempt, the intent goes to the gravamen of the offense. Thus, the good faith or lack of it, of the alleged contemnor is considered. Where the act complained of is ambiguous or does not clearly show on its face that it is contempt, and is one which, if the party is acting in good faith, is within his rights, the presence or absence of a contumacious intent is, in some instances, held to be determinative of its character. x x x To constitute contempt, the act must be done willfully and for an illegitimate or improper purpose.⁵² (Citations omitted)

Contrary to the COMELEC's finding, the DILG did not blatantly disregard the resolutions of the COMELEC. Records indicate that it did not simply ignore the COMELEC issuances, notwithstanding the fact that it only obtained notice thereof through Limbona's counsel and not directly from the COMELEC. Considering that the implementation of the order to dismiss Limbona was upon the instance of the Ombudsman, the DILG still took recourse by seeking clarification from the Ombudsman, which nonetheless later reiterated the instruction to implement the decision in the administrative case. These circumstances show good faith on the part of the petitioners, and negate a supposed intent to plainly disobey the COMELEC.

It was thus erroneous for the COMELEC to punish the DILG officials for contempt, for the acts that they performed upon the Ombudsman's directive, especially since the order upon them in the dispositive portion of the Ombudsman's decision was patent that:

The Honorable Secretary, [DILG] with respect to respondents Mayor Norlainie Mitmug Limbona (a.k.a. Lai) and [Limbona], x x x are hereby **directed to implement this DECISION immediately upon receipt thereof** pursuant to Section 7, Rule III of [Ombudsman Rules of Procedure] in relation to Memorandum Circular No. 1, Series of 2006 dated 11 April 2006 and to promptly inform this Office of the action taken hereon.⁵³ (Emphasis ours)

The DILG officials' disobedience to the said order would have similarly resulted in the imposition of penalties upon them by the Ombudsman. They were bound by prevailing rules affecting the implementation of the agency's decisions, particularly Section 7, Rule III of the Ombudsman Rules of Procedure, which provides sanctions for non-compliance, to wit:

⁵² Id. at 91-92.

⁵³ Rollo (G.R. No. 215548), pp. 129-130.

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Sec. 7. *Finality and execution of decision.* – x x x.

x x x x

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. **The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer.** (Emphasis ours)

Lastly, with the DILG being merely tasked to implement the Ombudsman's order, Limbona's recourse to nullify the actions of the DILG officials or the instructions of the Ombudsman to pursue the implementation of its decision, towards the end of keeping his post as Municipal Mayor of Pantar, could not be allowed through a petition for contempt. He had, in fact, filed with the OP a petition to revoke and/or recall Usec. Panadero's memoranda that ordered the implementation of the Ombudsman's decision, but this was still dismissed by the OP on the ground that the petitioners were justified in their implementation of the Ombudsman's decision. The OP said that to revoke Usec. Panadero's memoranda would be to encroach upon the disciplining authority of the Ombudsman.⁵⁴

The foregoing circumstances, taken collectively, lead the Court to rule that the petitioners were not guilty of indirect contempt. The COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolutions dated November 17, 2014 and January 5, 2015. There is grave abuse of discretion when a court or quasi-judicial body acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment, as when the assailed order is bereft of any factual and legal justification.⁵⁵

WHEREFORE, the petitions are **GRANTED**. The Resolutions dated November 17, 2014 and January 5, 2015 of the Commission on Elections *en banc* in EM. No. 14-005 are **ANNULLED** and **SET ASIDE**.

⁵⁴


Id. at 265.

⁵⁵


Aquino v. Ng, 555 Phil. 253, 258 (2007).

N


SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

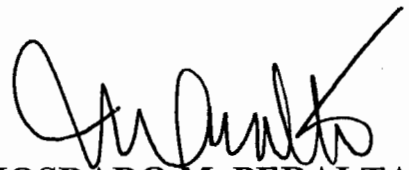

MARIA LOURDES P. A. SERENO
Chief Justice

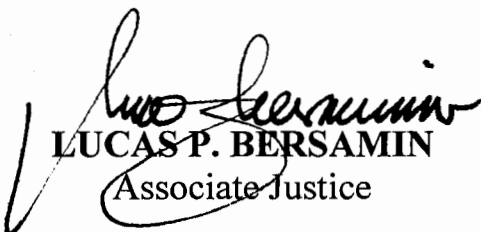

ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice

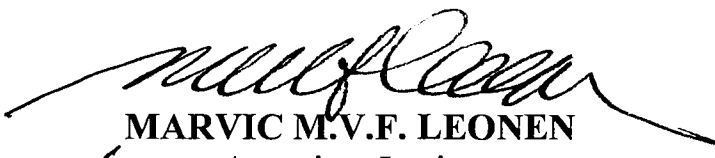

LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

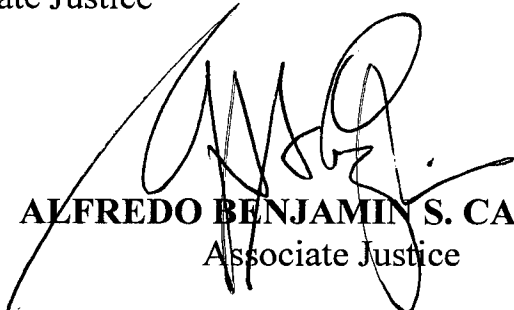
(On official leave)
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



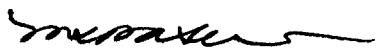
FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

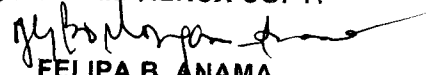
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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

CERTIFIED XEROX COPY:



FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT

