G.R. No. 237428 – *REPUBLIC OF THE PHILIPPINES, represented by SOLICITOR GENERAL JOSE C. CALIDA, Petitioner, v. MARIA LOURDES P. A. SERENO, Respondent.*

Promulgated on:

May 11, 2018

x----------x

CONCURRING OPINION

BERSAMIN, *J.*:

The thorough and scholarly Majority Opinion ably written for the Court by Justice Tijam frontally addresses and resolves the issues that have been raised and joined in this unprecedented case.

I **CONCUR.**

I would not need to write anything more in order to add to the resolution. Yet, I have to tender this separate opinion to support my concurrence for two compelling reasons. The first is that the respondent has directly challenged my neutrality as a judge to sit and decide on the basis that I have a bias against her. I deplore her challenge, and reject her bases for the challenge. I maintain my ability to sit in her case and decide as a fair-minded and objective judge. This separate opinion states my reasons for so maintaining. The second is that the issue of whether or not an original action for *quo warranto* may be brought by the Republic of the Philippines, through the Office of the Solicitor General, to seek the ouster of the respondent from the position of Chief Justice of the Philippines because she did not possess the integrity qualification required by the 1987 Constitution despite her being among the officials of the State who may be removed from office only through impeachment is a novel one.

I.
The motion for my voluntary inhibition utterly lacks merit and deserves denial

Before going to the merits of the petition for *quo warranto*, I hereby state and announce the reasons for denying the respondent's request for my voluntary inhibition.

The respondent manifested in her *Ad Cautelam Respectful Motion for Inhibition (Of Hon. Associate Justice Lucas P. Bersamin)* filed on April 4, 2018 that she had reasonable ground to believe that I "exhibited bias against and animosity towards her" such that my participation herein "would violate

[her] constitutional right to due process." She submitted that she was entitled to have her defenses heard by a judge who was not only capable of viewing her arguments impartially and with an open mind but who could also be perceived as capable of doing so; and that any judge with actual bias or prejudice concerning a party should not sit in any case. She believed that I could not objectively and impartially decide the petition for *quo warranto* against her considering that I was against her continued stay in office, which would tend to cloud judgment in weighing the parties' arguments herein.

The respondent cited the testimony I gave on January 15, 2018 during the inquiry to determine probable cause against her conducted by the Committee on Justice of the House of Representatives alluding to her as a dictator, and expressing a personal resentment over her manner of leadership that violated the collegial nature of the Supreme Court. She recalled that I also testified therein that I had resented the withdrawal of the "privilege" previously enjoyed by the Members of the Supreme Court to recommend nominees to vacant positions in the judiciary; and that I was also among the Members of the Supreme Court who "wore a touch of red as the so-called "Red Monday" protest on 12 March 2018 was ongoing." She insisted that my remarks were not mere innocuous ones but were expressions of my personal animosity towards her.

I vehemently deny the respondent's unwarranted and unfair imputations of bias against and animosity towards her.

My appearance at the inquiry conducted by the Committee on Justice was upon the invitation of the House of Representatives. I appeared thereat only out of deference to the House of Representatives whose constitutional duty to investigate the impeachment complaint filed against the respondent could not be doubted. I harbored no ill will or malice towards her in appearing at the inquiry because my doing so had been priorly approved by the Court *En Banc*.

The queries posed to me by some of the Members of the Committee on Justice were varied but I faithfully observed the parameters prescribed by the Court for the purpose.

I deny alluding to the respondent as a "**dictator**." My answers in this regard were grossly taken out of context by her. In answering the question of Cong. Rodante Marcoleta on the loss of collegiality in the Supreme Court under the respondent as the Chief Justice, I forthrightly stated: "**Ang Supreme Court ay hindi po maaring mag-function kung isa ay diktador.**" My statement was clearly **hypothetical** about what the Court *would become* if any of its Members, including her as the Chief Justice, *was to act dictatorially*. In point of law and fact, my answer to the question of

Cong. Marcoleta was very cogent and neutral, and devoid of any bias against or animosity towards her.

The true and actual context of my answer was actually easily apparent from what I said immediately thereafter, to wit: "**Kaila[ng]an po lahat ng 15 members, maliit na samahan iyan, kaniya-kaniyang boses, kaniya-kaniyang boto. Kaya nagkaroon diyan ng possibility of a majority and a minority.**" I was thereby dutifully explaining the *democratic regime* being adhered to by the Court in conducting its institutional affairs, including its deliberations and other actions. How could such answer be misunderstood in the sad light she complained about?

It is true that I further commented in relation to the same query of Cong. Marcoleta that I had been *offended* by the respondent's attitude of ignoring collegiality in the Court. My comment ran as follows:

> Now, sa premise ng ano niyo, you summed up very well what transpired here. The testimonies that were given. If that is the premise, my answer is, definitely, nawala na po, nabura na po iyong batas ng samahan na sinasabi niyo. **Hindi ko po puwedeng itanggi na ako po ay offended by those kinds of attitude on the part of a leader who would deprive her colleagues, *primus inter pares* lang po siya eh. Hindi naman siya po reyna na titingnan, titingalain at susundin.** That's all I can say, Sir.

Yet, equating my *feeling offended* to harboring a *personal resentment* towards the respondent's "manner of leadership" reflected too much presumptuousness on her part. Among mature individuals, of which she and I were presumed to be, *feeling offended* and *personally resenting* were not the same. In the context of the functioning of the Court, they were widely different because all its Members have then and now exhibited the highest degree of professionalism in our official and personal dealings with each other. A particular colleague's acts or actuations could at times be offensive to another but such offensiveness never became the cause of personal resentment towards the latter. We always easily moved on. This high degree professionalism is a fact of daily life in the Court. As far as I am concerned, therefore, I, despite having felt offended by her attitudes as Chief Justice, still have the professional objectivity and detachment necessary to deal with the issues embroiling her under the petition for *quo warranto*.

The respondent ought to know that my taking offense did not deter me from actually defending her actuations before the Committee on Justice by characterizing her withdrawal of the "privilege" to recommend nominees to fill vacancies in the Supreme Court as not necessarily amounting to "a misrepresentation of the will of the Supreme Court en banc." I also clarified then that she had "her own mind about this."

Nonetheless, I need to insist that my comment that "**I resented [this] personally because this was contrary to the collegiality of the Court**" reflected a very natural and legitimate sentiment. It would have been pure hypocrisy on my part to suppress or conceal such sentiment. Although I was aware that most of the other Members of the Court who did not waive the "privilege" to recommend nominees to fill vacancies in the Court shared it, I believed nonetheless that the professionalism of the Members of the Court would easily overcome the resentment towards her as a person or even as the Chief Justice in this matter.

I cannot fathom why the respondent would read bias and animosity in my "reportedly" wearing "a touch of red" on March 12, 2018 on the supposed occasion of the so-called "Red Monday" protest during which "judges and court employees" called on her to make the "supreme sacrifice" to resign. In the first place, I now hardly remember if my formal attire then had "a touch of red." And, even if I wore something with "a touch of red" on that day, why would there be anything to it?

The occasion the respondent was referring to was the Flag Raising Ceremony held on March 12, 2018, a Monday. The ceremony was a weekly ritual mandated by law and practice. My attendance thereat, and the attendance of other Members of the Supreme Court and of its officials and personnel were plainly to discharge the patriotic and civic obligation to honor the flag of the Philippines. Consequently, I deny having taken part in any so-called "Red Monday" protest to call for her resignation on that or on any other day. Protesting or acting in that manner would have been beneath my dignity and prestige as an incumbent Member of the Court.

Section 1, Rule 137 of the *Rules of Court* sets forth the rule on the inhibition and disqualification of judges, to wit:

> Section 1. *Disqualification of judges.* - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.
>
> A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

Under the second paragraph of the aforequoted rule, which is relevant to the call for my inhibition, a judge may decide, "*in the exercise of his*

sound discretion," to recuse himself from a case for *just or valid reasons*. The phrase *just or valid reasons*, as the second requisite for voluntary inhibition, must be taken to mean –

> x x x causes which, though not strictly falling within those enumerated in the first paragraph, are akin or analogous thereto. In determining what causes are just, judges must keep in mind that next to importance to the duty of rendering a righteous judgment is that of doing it in such a manner as will beget no suspicion of the fairness and integrity of the judge. For it is an accepted axiom that every litigant, including the state, in criminal cases, is entitled to nothing less than the cold neutrality of an impartial judge, and the law intends that no judge shall preside in any case in which he is not wholly free, disinterested, impartial, and independent.[1]

In my humble view, the respondent's call for my inhibition has been based on nothing but twisted speculations, or on deliberate distortions of the language, context and meaning of the answers I gave as a sworn witness in the proceedings of the Committee on Justice of the House of Representatives. But speculations and distortions cannot justify my inhibition from taking part on a judicial matter. For, as the Court has pointedly observed in *Pimentel v. Salanga*:[2]

> Efforts to attain fair, just and impartial trial and decision have a natural and alluring appeal. But, we are not licensed to indulge in unjustified assumptions, or make a speculative approach to this ideal. **It ill behooves this Court to tar and feather a judge as biased or prejudiced, simply because counsel for a party litigant happens to complain against him. As applied here, respondent judge has not as yet crossed the line that divides partiality and impartiality. He has not thus far stepped to one side of the fulcrum. No act or conduct of his would show arbitrariness or prejudice. Therefore, we are not to assume what respondent judge, not otherwise legally disqualified, will do in a case before him. We have had occasion to rule in a criminal case that a charge made before trial that a party "will not be given a fair, impartial and just hearing" is "premature." Prejudice is not to be presumed. Especially if weighed against a judge's legal obligation under his oath to administer justice "without respect to person and do equal right to the poor and the rich."** To disqualify or not to disqualify himself then, as far as respondent judge is concerned, *is a matter of conscience*. (Bold underscoring supplied for emphasis)

The Court has constantly counseled that no Judge or Justice who is not legally disqualified should evade the duty and responsibility to sit in the adjudication of any controversy without committing a dereliction of duty for which he or she may be held accountable. Towards that end, the Court has also aptly reminded:

---

1 30 Am. Jur. 767.

2 No. L-27934, September 18, 1967, 21 SCRA 160, 166-167.

> To take or not to take cognizance of a case does not depend upon the discretion of a judge not legally disqualified to sit in a given case. **It is his duty not to sit in its trial and decision if legally disqualified; but if the judge is not disqualified, it is a matter of official duty for him to proceed with the trial and decision of the case. He cannot shirk the responsibility without the risk of being called upon to account for his dereliction.**[3] (Bold underscoring supplied for emphasis)

It is timely to remind, too, that the Court is a collegial judicial body whose every Member has solemnly and individually sworn to dispense and administer justice to every litigant. As a collegial body, the Court adjudicates without fear or favor. The only things that the Court collectively focuses its attention to in every case are the merits thereof, and the arguments of the parties on the issues submitted for consideration and deliberation. Only thereby may the solemn individual oath of the Members to do justice be obeyed.

II.
Quo warranto is a proper remedy to oust the respondent as an ineligible impeachable public officer

The respondent served as a member of the faculty of the University of the Philippines-College of Law (U.P. College of Law) from November 1986 to June 1, 2006. According to the U.P. Human Resources Development Office (U.P. HRDO), she was on official leave without pay in the following periods, to wit: (*a*) June 1, 2000 – May 31, 2001; (*b*) June 1, 2001 – May 31, 2002; (*c*) November 1, 2003 – May 31, 2004; (*d*) June 1, 2004 – October 31, 2004; (*e*) November 1, 2004 – February 10, 2005; (*f*) February 11, 2005 – October 31, 2005; and (*g*) November 14, 2005 – May 31, 2006.

In July 2010, the respondent applied for the position of Associate Justice of the Court. Based on the records of the Judicial and Bar Council (JBC), she submitted her statement of assets, liabilities and net worth (SALN) ending December 31, 2006 in support of her application. Upon nomination by the JBC, she was appointed Associate Justice by President Benigno C. Aquino III. She took her oath of office on August 16, 2010 and assumed the position.

With the position of Chief Justice becoming vacant following the removal by impeachment of Chief Justice Corona in 2012, the JBC announced the opening for application for the position, and directed the candidates to submit specific requirements, in addition to the usual documentary requirements, as follows:

---

[3] *People v. Moreno,* 83 Phil. 286, 294 (1949); *Perfecto v. Contreras*, 28 Phil. 538, 543 (1914); *Joaquin v. Barretto*, 25 Phil. 281, 287 (1913).

1. Sworn Statements of Assets, Liabilities, and Networth (SALN)

   a. For those in the government: all previous SALNs (up to 31 December 2011)
   b. For those from the private sector: SALN as of 31 December 2011

2. Waiver in favor of the JBC of the confidentiality of local and foreign bank accounts under the Bank Secrecy Law and Foreign Currency Deposits Act.[4]

Being among the applicants for the vacancy, the respondent submitted to the JBC her SALNs for 2009, 2010 and 2011, and the waiver of confidentiality of her local and foreign bank accounts.[5] On July 20, 2012, the JBC inquired about her SALNs for 1995, 1996, 1997 and 1999. In reply, she transmitted a letter-response dated July 23, 2012,[6] wherein she explained why she could not submit her SALNs for said periods when she was still a professor at the U.P. College of Law; stated that it should be reasonable to consider it "infeasible" for her to still retrieve all of her SALNs considering that most of her government records in the academe were more than 15 years old; and pointed out that the clearance from all administrative responsibilities and administrative charges issued to her by the U.P. was an assurance that the U.P. had considered her SALN requirements met.

Upon being nominated by the JBC, President Aquino III appointed the respondent as Chief Justice on August 24, 2012. Five years thereafter, on August 30, 2017, Atty. Larry Gadon filed an impeachment complaint against her in the House of Representatives for culpable violation of the Constitution, corruption, high crimes, and betrayal of public trust. The complaint, which also alleged that she had failed to make truthful declarations in her SALNs, was referred to the Committee on Justice in accordance with the rules of the House of Representatives. After finding the complaint sufficient in form and substance, the Committee on Justice conducted several hearings to determine probable cause. It was revealed in the course of the proceedings to determine probable cause that she had not filed her SALNs when she was still employed as a faculty member of the U.P. College of Law.

On the basis of the testimonies and other evidence submitted to the Committee on Justice relevant to the respondent's failure to submit the required SALNs to comply with the requirements of the JBC for applicants to the vacancy of the position of Chief Justice, Atty. Eligio Mallari requested the Office of the Solicitor General (OSG) through his letter dated February

---

4 Petition, Annex G.
5 Memorandum of Respondent, pp. 16-17.
6 Memorandum of Respondent, Annex 11.

21, 2018[7] to initiate against her *quo warranto* proceedings in the name of the Republic of the Philippines. Acting on the request of Atty. Mallari, the OSG communicated to U.P. HRDO, through its Director Angela D. Escoto, a request for copies of the respondent's SALN in its possession.[8]

By her letter-response on March 6, 2018,[9] Director Escoto furnished to the OSG copies of the respondent's SALNs found in the records of the U.P. HRDO for the years 1985, 1990, 1991, 1993, 1994, 1995, 1996, 1997 and 2002.

In the meanwhile, on March 2, 2018, the Republic of the Philippines, as represented by Solicitor General Jose C. Calida, commenced these *quo warranto* proceedings against the respondent, praying for her ouster as Chief Justice due to her ineligibility for the position.

Is the remedy of *quo warranto* proper to oust the respondent as the sitting Chief Justice?

In the Majority Opinion, Justice Tijam answers this query in the affirmative. He asserts that the Court is empowered by Section 5, Article VIII of the 1987 Constitution to entertain a petition for *quo warranto* and to issue in a worthy suit the writ of *quo warranto* to oust from office an unqualified public officer; that although impeachment and *quo warranto* have the same result, which is the removal of a public officer, the two are really different from each other based on their nature, purpose, function, and grounds; that impeachment and *quo warranto* can proceed independently and simultaneously; hence, impeachment does not bar the Court from taking cognizance of the OSG's petition for *quo warranto* brought against the respondents, an impeachable official; that the OSG's petition for *quo warranto* is not time-barred because prescription does not lie against the State; that the time-bar under the *Rules of Court* is a limitation applicable only to private individuals challenging the title of an incumbent official, but not to the Solicitor General who represents the public interest in pursuing the action; and that, in any event, several circumstances that would require the relaxation of the application of the time-bar are present.

On the substantive issues, Justice Tijam rules that the respondent did not meet the integrity qualification under the 1987 Constitution by failing to file her SALNs for several years despite the same being a constitutional and legal requirement, and by consequently not meeting the requirement of her service in government. As such, she was ineligible for the position, and could not continue holding the office.

---

7 Petition, Annex M.
8 Memorandum of Petitioner, Annex O, p. 51.
9 Id.

As I earlier declared, I fully agree with the Majority Opinion. Let me tender my explanations for the concurrence.

The respondent argues that the Court has no jurisdiction to entertain the petition for *quo warranto* considering that the only procedure to remove her as an impeachable officer is by impeachment.

The respondent's argument is unacceptable.

Section 5(1), Article VIII of the 1987 Constitution vests in the Court original jurisdiction over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*. In particular reference to *quo warranto*, the Court can delve into the validity of a public official's title to her office. That this jurisdiction is shared with the Regional Trial Court and the Court of Appeals does not dilute or lessen the Court's jurisdiction. The fear expressed by the respondent emanating from the sharing of the jurisdiction with the lower courts arises from her propensity for speculation. Nonetheless, her fear is unfounded.

The respondent contends that impeachment precludes *quo warranto* as a remedy against her due to her being an impeachable official.

The contention is absurd. I submit that the remedies of *quo warranto* and impeachment are not mutually exclusive by virtue of their having different natures, different grounds and different coverages.

Quo warranto – literally, *by what warrant*, or *by what authority* – is a remedy to try disputes with respect to the title to a public office or franchise or privilege appertaining to the State. It is, therefore, a demand by the State upon the individual or corporation to show by what right she holds the office, or by what right it exercises some franchise or privilege appertaining to the State which, under the Constitution and the laws of the land, neither can legally exercise except by virtue of grant or authority from the State.[10] Generally, therefore, a *quo warranto* proceeding is commenced by the Government as the proper party-plaintiff.[11] It is an extraordinary remedy, a prerogative writ, and as such is administered cautiously and in accordance with certain well-defined principles.[12]

---

[10] Francisco, V. *The Revised Rules of Court in the Philippines, Special Civil Actions*, Vol. IV-B., Part 1, East Publishing, Quezon City, 1972, p. 281.

[11] *General v. Urro*, G.R. No. 191560, March 29, 2011, 646 SCRA 567, 591.

[12] Id., citing *Castro v. Del Rosario*, G.R. No. L-17915, January 31, 1967.

In his seminal work on extraordinary legal remedies,[13] James Lambert High has rendered the following concise backgrounder on the common law origin and nature of the writ of *quo warranto* as "a writ of right for the king," or sovereign that sheds enlightenment on the remedy, thus:

> § 592. The ancient writ of quo warranto was a high prerogative writ, in the nature of a writ of right for the king, against one who usurped or claimed any office, franchise or liberty of the crown, to inquire by what authority he supported his claim, in order to determine the right. It was also granted as a corrective of the mis-user, or non-user of a franchise, and commanded the respondent to show by what right, "*quo warranto,*" he exercised the franchise, having never had any grant of it, or having forfeited it by neglect or abuse. Being an original writ, it issued out of chancery, and was directed to the sheriff, commanding him to summon the respondent to appear before the king's justices at Westminster. Afterwards, by virtue of the statutes of quo warranto, the writ was made returnable before the king's justices in eyre, and the respondent was commanded to appear before the king or these justices when they should come into the county, to show by what warrant the office or franchise in question was exercised. The justices in eyre having been displaced by the judges on the several circuits, the proceedings were again remanded to the king's justices at Westminster, and the original writ gradually fell into disuse.
>
> § 593. The origin of the writ may be traced to a very early date in the history of common law. The earliest case upon record is said to have been in the ninth year of Richard I., A.D. 1198, and was against the incumbent of a church, calling upon him to show quo warranto he held the church. It was frequently employed during the feudal period, and especially in the reign of Edward I., to strengthen the power of the crown at the expense of the barons. Indeed, to such an extent had the encroachments of the crown been carried, that , prior to the statutes of quo warranto, the king had been accustomed to send commissions over the kingdom to inquire into the title to all franchises, *quo jure et quove nomine illi retinerent*, and the franchises being grants from the crown if no sufficient authority could be shown for their exercise, they were seized into the king's hands, often without any judicial process. These encroachments of the royal prerogative having been limited and checked by statute, resort was then had to the original writ of quo warranto. Indeed, both the original writ of quo warranto and the information in the nature thereof were crown remedies, and though often unreasonably narrowed in the hands of weak princes, they were always recognized as of most salutary effect in correcting the abuse or usurpation of franchises.

Where the public officer is ineligible for public office at the start, impeachment is not a proper remedy to oust her. Conversely, *quo warranto* is not the correct remedy to oust a public officer for misconduct committed while in office. Both can stand independently of each other despite the fact that both remedies will achieve the same result – the removal of the

---

[13] *Treatise on Extraorindary Legal Remedies, embracing Mandamus, Quo Warranto and Prohibition*, Chicago, 1874, pp. 424–426.

occupant of a public office. They do not exclude each other. As High has further noted:

> § 618. Since the remedy of quo warranto, or information in the nature thereof, is only employed to test the actual right to an office or franchise, it follows that it can afford no relief for official misconduct and can not be employed to test the legality of the official action of public or corporate officers. x x x[14]
>
> § 619. Where, however, the right to an office or franchise is the sole point in controversy, the specific legal remedy afforded by proceedings in quo warranto is held to oust all equitable jurisdiction of the case...[15]
>
> § 640. In Alabama, a somewhat novel doctrine is maintained, with regard to the use of a quo warranto information as a means of testing the title to an office, and ousting an incumbent unlawfully exercising its franchises, and the propriety of the remedy in that state would seem to be dependent upon the ineligibility of the officer, or his illegal election in the first instance. And while the information will lie against one who was originally ineligible, or was never duly and legally elected, and whose tenure of office was therefore, illegal from the first, yet if the incumbent was lawfully elected in the first instance, and was eligible to the office, he can not be ousted by information, but resort must be had to the means afforded by the laws of the state for the punishment of officers by impeachment or otherwise.[16]

III.
The Republic's petition is not time barred

The next issue that I want to weigh in on concerns the insistence of the respondent that even if the petition for *quo warranto* is the proper remedy to test her eligibility to the position of Chief Justice, the petition is already time-barred for not being brought within one year after the cause for the ouster arose. She cites in support of her insistence Section 11, Rule 66 of the *Rules of Court*, to wit:

> Sec. 11. *Limitations.* — Nothing contained in this Rule shall be construed to authorize an action against a public officer or employee for his ouster from office **unless the same be commenced within one (1) year after the cause of such ouster, or the right of the petitioner to hold such office or position, arose**; nor to authorize an action for damages in accordance with the provisions of the next preceding section unless the same be commenced within one (1) year after the entry of the judgment establishing the petitioner's right to the office in question. (16a)

---

[14] Id. at 448, citing *People v. Whitcomb*, 55, Ill. 172; *Dart v. Houston* , 22 Geo. 506.
[15] Id. at 449, citing *Updegraff v. Crans*, 47 Pa. St. 108; *Hullman v. Honcomp*, 5 Ohio St. 237.
[16] Id. at 467, citing *State v. Gardner*, 43 Ala. 234. 103.

In contrast, the Republic fends off the respondent's insistence by asserting that the time-bar of one year does not apply against the State conformably with the principle that acts of limitation do not bind the State (*nullum tempus occurrit regi* or *nullum tempus occurrit reipublicae* or time does not run against the crown or the state). It states that the time-bar applies only to private individuals initiating the *quo warranto* proceeding. Nonetheless, it argues that the time-bar, assuming that it applies against the State, has not yet expired.

The assertion of the Republic is correct.

That statutes of limitation do not apply against the State in *quo warranto* suits is now settled. The reason is that the State is thereby enforcing a public right.

In *Agcaoili v. Suguitan*,[17] the Court held that –

> With reference to the second question above suggested, in *re* prescription or limitation of the action, it may be said that originally there was no limitation or prescription of action in an action for *quo warranto*, neither could there be, for the reason that it was an action by the Government and prescription could not be plead as a defense to an action by the Government. The ancient writ of *quo warranto* was a high prerogative writ in the nature of a writ of right by the King against any one who usurped or claimed any office, franchise or liberty of the crown, to inquire by what authority the usurper supported his claim, in order to determine the right. Even at the present time in many of the civilized countries of the world the action is still regarded as a prerogative writ and no limitation or prescription is permitted to bar the action. **As a general principle it may be stated that ordinary statutes of limitation, civil or penal, have no application to quo warranto proceeding brought to enforce a public right.** (McPhail vs. People *ex rel.* Lambert, 160 Ill., 77; 52 Am. St. Rep., 306; People *ex rel.* Moloney vs. Pullman's Palace Car Co., 175 Ill., 125; 64 L. R. A., 366.)
>
> In all public matters a writ of *quo warranto* is a writ of right at the suit of the state, and issues as a matter of course upon demand of the proper officer (State ex rel. Washington County vs. Stone, 25 Mo., 555; Commonwealth vs. Allen, 128 Mass., 308), and the court has no authority to withhold leave to file a petition therefor. [Bold emphasis supplied]

Still, even assuming that the time-bar is applicable to *quo warranto* proceedings instituted by the State, I believe that the filing of the petition herein by the Republic was still made within the one-year period for bringing the suit under Section 11, *supra*.

---

[17] 48 Phil. 676, 692 (1926).

The one-year period stated in Section 11 is in the nature of a statute of limitation, a law that restricts the time within which legal proceedings may be brought. But a statute of limitation is generally considered as procedural, not substantive, in nature;[18] hence, the Court has never been shy in relaxing its procedural rules whenever the circumstances so warrant. Verily, it is always the better course for the courts, under the principle of equity, not to be guided or be bound strictly by the statute of limitations or the doctrine of laches when by doing so, manifest wrong or injustice would result.[19]

In my view, the Republic timely brought its petition for *quo warranto*. There is no need to liberalize the application of the time-bar under Section 11, which should be reckoned from the discovery of the cause when it was revealed for the first time in the course of the recent hearings of the Committee on Justice that the respondent had not submitted the SALNs required of her by the JBC. The Solicitor General and the public in general could not be subjected to the time-bar counted from her assumption to the office because they were not informed of her ineligibility and lack of qualifications at the time of her application or assumption into office. Her letter dated July 23, 2012 to the JBC objectively misrepresented her eligibility by asking the JBC to accept her three SALNs as substantial compliance by claiming that for her to still secure copies of her 15-year old SALNs was already "infeasible". She thereby implied that she had filed the SALNs, but she had not filed the non-produced SALNs in reality. To bar the State's *quo warranto* suit despite her resorting to strategy and stealth to cover up her ineligibility would surely defeat the public policy of not rewarding deceptions prejudicial to the public interest.

Jurisprudence on time-bars in other actions can be applied by analogy to firm up the position of the State on reckoning the time-bar in *quo warranto* from discovery. An action for forcible entry had to be filed within a year from the deprivation of possession, but *Vda. De Prieto v. Reyes*[20] reckoned the period from discovery of the *clandestine* dispossession, thus:

> It is insisted now that both trial courts lacked jurisdiction to entertain the illegal detainer suit, because defendant-appellant had been in possession since December, 1948, and the action was started only in 1952; and that it was error to consider that the year for the summary action should be counted only from the time the owner learned of defendant's encroachment.
>
> The contention is unmeritorious. There is a natural difference between an entry secured by force or violence and one obtained by stealth, as in the case before us. The owner or possession of the land could not be

---

[18] See *Hatcher v. State Farm Mutual Automobile Insurance, Co.*, 269 Mich. App. 596, 605, 712 N.W. 2d 744, 750 (2005).

[19] *Heirs of Anacleto B. Nieto v. Municipality of Meycauayan, Bulacan*, G.R. No. 150654, December 13, 2007, 540 SCRA 100, 109.

[20] No. L-21470, June 23, 1965, 14 SCRA 430, 432.

> expected to enforce his right to its possession against the illegal occupant and sue the latter before learning of the clandestine intrusion. **And to deprive the lawful possessor of the benefit of the summary action, under Rule 70 of the Revised Rules, simply because the stealthy intruder manages to conceal the trespass for more than a year would be to reward clandestine usurpations even if they are unlawful.** [Bold emphasis supplied]

The respondent's non-filing of some of her SALNs would not have been found out without the thorough hearings by the Committee on Justice. Applying *Vda. De Prieto v. Reyes* by analogy, the one-year period could be justifiably reckoned from the discovery of the cause for ouster because she had *misrepresented* her filing of the SALNs.

In *Frivaldo v. Commission on Elections*,[21] the Court refused to declare that the *quo warranto* suit brought against the petitioner was time-barred despite its being commenced more than eight months after his proclamation as the winning candidate, *which was way beyond the 10-day limit under the law*. The Court explained why:–

> The argument that the petition filed with the Commission on Elections should be dismissed for tardiness is not well-taken. The herein private respondents are seeking to prevent Frivaldo from continuing to discharge his office of governor because he is disqualified from doing so as a foreigner. Qualifications for public office are continuing requirements and must be possessed not only at the time of appointment or election or assumption of office but during the officer's entire tenure. **Once any of the required qualifications is lost, his title may be seasonably challenged. If, say, a female legislator were to marry a foreigner during her term and by her act or omission acquires his nationality, would she have a right to remain in office simply because the challenge to her title may no longer be made within ten days from her proclamation? It has been established, and not even denied, that the evidence of Frivaldo's naturalization was discovered only eight months after his proclamation and his title was challenged shortly thereafter.**
>
> This Court will not permit the anomaly of a person sitting as provincial governor in this country while owing exclusive allegiance to another country. The fact that he was elected by the people of Sorsogon does not excuse this patent violation of the salutary rule limiting public office and employment only to the citizens of this country. The qualifications prescribed for elective office cannot be erased by the electorate alone. The will of the people as expressed through the ballot cannot cure the vice of ineligibility, especially if they mistakenly believed, as in this case, that the candidate was qualified. Obviously, this rule requires strict application when the deficiency is lack of citizenship. If a person seeks to serve in the Republic of the Philippines, he must owe his total loyalty to this country only, abjuring and renouncing all fealty and fidelity to any other state. [Bold emphasis supplied]

---

[21] G.R. No. 87193, June 23, 1989, 174 SCRA 245, 255.

Under the *baseless ignorance* doctrine, the one-year period was counted from the date of discovery. This doctrine was expounded on in *Romualdez v. Marcelo*,[22] thusly:

> x x x For the *general rule* is that the mere fact that a person entitled to an action has no knowledge of his right to sue or of the facts out of which his right arises, does not prevent the running of the statute. This stringent rule, however, admits of an *exception*. Under the "*blameless ignorance*" doctrine, the statute of limitations runs *only* upon discovery of the fact of the invasion of a right which will support a cause of action. **In other words, courts decline to apply the statute of limitations where the plaintiff neither knew nor had reasonable means of knowing the existence of a cause of action.** [Bold emphasis supplied]

Considering that the Republic did not know if the respondent had complied with the law requiring the filing of her SALNs during her stint in government service, it would be inequitable to strictly enforce the time-bar under Section 11, *supra*, against the State.

IV.
The respondent is ineligible to hold the position of Chief Justice due to her lack of proven integrity as required by the Constitution

Section 7, Article VIII of the 1987 Constitution provides:

> Section 7. (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.
>
> (2) The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar.
>
> (3) A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence.

The Republic reiterates that the respondent lacked the required integrity for appointment to the Judiciary by virtue of her deliberate and constant failure to file her SALNs. The records do not show her SALNs corresponding to 1986, 1987, 1988, 1989, 1992, 1999, 2000, 2001, 2003, 2004, 2005 and 2006. However, she states that her integrity should not be

---

[22] G.R. Nos. 165510-33, September 23, 2005, 470 SCRA 754, 768.

based solely on the fact of filing or non-filing of the SALNs; that the Republic has utterly failed to prove her being ineligible for the position of Chief Justice; and that it was the Republic, not her, that had the burden of proof in this case.

The burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.[23] Generally, in civil litigations, the party who alleges has the burden to prove his affirmative allegations. The burden of proof should not be confused with burden of evidence, the latter being that logical necessity that rests on a party at any particular time during the trial to create a *prima facie* case in his favor or to overthrow one when created against him. A *prima facie* case arises when the party having the burden of proof has produced evidence sufficient to support a finding and adjudication for him of the issue in litigation.[24]

The burden of proof in these *quo warranto* proceedings fell on the shoulders of the respondent. The Republic, albeit the petitioner, did not have to discharge the burden of proof. Indeed, High has pointed out:

> § 629. An important feature of the law governing quo warranto informations, and one which most distinguishes this remedy from ordinary civil actions at law, is that the prosecutor is not obliged to show title in himself to sustain the action or to put the respondent upon the necessity of proving his title. **And the principle is well established that the burden rests upon the respondent of showing good title to the office whose functions he claims to exercise, the state being only obliged to answer the particular claim of title asserted**. The principle has been carried even further, and it has been held that it is incumbent upon the respondent to show, not only his title, but also the continued existence of every qualification necessary to the enjoyment of the office ad that it is not sufficient for him to state the qualifications necessary to the appointment, and rely on the presumption of their continuance. And while it is true, that as to officers *de facto* the courts will not inquire into their title in collateral proceedings, yet in proceedings in the nature of quo warranto, the object being to test the actual right to the office and not merely a use under color of right, **it is incumbent upon the respondent to show a good legal right, and not merely a colorable one, since he must rely wholly on the strength of his own title. If he fails in this requirement judgment of ouster will be given**.[25]
>
> x x x x
>
> § 712. Allusion has been made to an important distinction between pleadings upon quo warranto informations, and in civil actions, as to the title necessary to be asserted by the prosecutor. That distinction is, that while ordinary civil actions the burden rests upon the plaintiff to allege

---

23 Section 1, Rule 131 of the *Rules of Court*.

24 *People v. Court of Appeals*, G.R. No. 183652, February 25, 2015, 751 SCRA 675, 706.

25 High, *supra*, note 13, at 458.

and prove the title to the thing in controversy, the rule is reversed in cases of quo warranto informations, and the respondent is required to disclose his title to the office or franchise in controversy, and if he fails in any particular complete title, judgment must go against him. **In other words, in civil actions, plaintiff recovers upon his own title, but in proceedings quo warranto respondent must show that he has good title against the government. The sole issue in proceedings in this nature, instituted to test the right of an incumbent to an office or franchise, being as to the right of the respondent, he cannot controvert the right or title of the person alleged in the information to be entitled to the office nor can the court adjudicate upon such right, unless it is necessarily involved in the determination of the issue between the people and the respondent**...[26]

x x x x

§ 716. **Where the proceedings are instituted for the purpose of testing the title to an office, the proper course for the respondent is either to disclaim or to justify. If he disclaims all right to the office, the people are at once entitled tot judgment as of course. If, upon the other hand, the respondent seeks to justify, he must set out his title specially and distinctly, and it will not suffice that he alleges generally that he was duly elected or appointed to the office, but he must state specifically how he was appointed, and if appointed to fill a vacancy caused by the removal of the former incumbent, the particulars of the dismissal as well as of the appointment must appear. The people are not bound to show anything, and the respondent must show on the face of his plea that he has a valid and sufficient title, and if he fails to exhibit sufficient authority for exercising the functions of the office, the people are entitled to judgment of ouster. Unless, therefore, the respondent disclaims all right to the office and denies that he has assumed to exercise its functions, he should allege such facts, if true, invest him fully with the legal title; otherwise he is considered as a mere usurper.**[27] [Bold emphasis supplied]

Francisco shared the view, opining thusly:

The general rule is that the burden of proof is on the respondent when the action is brought by the attorney general to test right to a public office. When the state calls on an individual to show his title to an office he must show the continued existence of every qualification necessary of its enjoyment. **The state is bound to make no showing and defendant must make out an undoubted case.** He must set out his title specifically and show on the face of the answer that he has a valid title. **The people are not called on to show anything. The entire burden is on defendant.**[28] [Bold emphasis supplied]

Such uniqueness of the treatment of the burden of proof in *quo warranto* actions is not hard to understand. The thrust of the State's demand

---

[26] Id. at 519-520.
[27] Id. at 521-523.
[28] Francisco, *supra*, note 10, at 319-320.

comes from its negative allegations of the respondent lacking the title to the office, as differentiated from the respondent's position of having title, which is based on affirmative allegations. In our system of judicial proof, the affirmative allegations, not the negative ones, need to be established.

In this case, therefore, the respondent must discharge the burden of proof by showing that she was eligible for the position of Chief Justice through the production of all the SALNs required of her by the JBC, among others, and only thereafter, not before, may the State assume the discharge of its own burden of evidence.

This brings us to the matter of *proven integrity* as an indispensable qualification for the position of Chief Justice. My understanding of the respondent's position is that she has taken this qualification too lightly. She should not.

Integrity as a qualification in the context of the vetting of candidates to judicial positions by the JBC, according to *Jardeleza v. Sereno*,[29] is closely related to, or, if not, approximately equated to an applicant's *good reputation for honesty, incorruptibility, irreproachable conduct, and fidelity to sound moral and ethical standards*. This understanding of the qualification accounts for why every candidate's reputation may be shown through certifications and testimonials given by reputable government officials, non-governmental organizations, and clearances issued by the courts, the National Bureau of Investigation, and the police, among others. In fact, the JBC may even conduct a discreet background check and receive feedback from the public on the integrity, reputation and character of the judicial candidates, the merits of which are to be verified and checked.

While a general averment of integrity normally suffices as qualification for court employees, the same is not true for the officials of the Judiciary. For the latter, the 1987 Constitution expressly requires integrity *to be proven*. This means, simply, that every candidate for a judicial position must present proof of her integrity, among others. In that regard, presumptions and assumptions would not satisfy the requirement.

The SALNs required in the selection for the vacancy of Chief Justice would gauge whether or not the respondent and the other aspirants had proven integrity. This is because the SALNs, if truthful and accurate, were good indicators of integrity for being quantifiable as declarations of assets and liabilities.

---

[29] G.R. No. 213181, August 19, 2014, 733 SCRA 279, 332-333.

The records disclose that the respondent did not present sufficient proof of her integrity because she did not dutifully file the constitutionally-mandated SALNs, as required of her by the JBC. She presented her SALNs only for the years ending in 1985, 1989, 1990, 1991, 1993, 1994, 1995, 1996, 1997, 1998, and 2002 despite having worked at the U.P. College of Law in the period from 1985 to 2006.

Nonetheless, the respondent alleges having filed *all* her SALNs *as required by law*, and boldly calls on the State to prove that she had not. In seeming self-contradiction of her allegation, however, she surprisingly invokes the presumption of regularity indulged in by the Court in *Concerned Taxpayer v. Doblada, Jr.*[30]

The respondent apparently trivializes the constitutional qualification of *proven integrity*. The presumption would be unneeded by her if, as she alleged, she really filed all the SALNs. She has not been sincere and forthright about her qualifications, particularly that of her *proven integrity*. I openly wonder why she would even invoke the presumption of regularity in respect of the filing of her SALNs if it was true that she had filed *all* her SALNs *as required by law*.

We are dealing here with the State's petition for *quo warranto* that seeks to test the respondent's title to the office of Chief Justice. As such, the burden of proof belonged to her as the respondent, that she, not the State, must be the party to come forward with evidence to show her title to the office. The reality frontally facing her now is that she did not discharge her burden of proof. To me, therefore, her insistence on the State still discharging the burden of proof was her abject admission of not successfully discharging her burden of proof.

Moreover, it is fundamental that the presumption of regularity, being a presumption *juris* that the law directs to be made from particular facts, may not be indulged in if there is a demonstration of irregularity. Here, the very certification by the U.P. HRDO about her too many *missing* SALNs demonstrated patent irregularity, and consequently removed the factual basis for presuming regularity in her favor.

A presumption is an inference on the existence of a fact not actually known, and arises from its usual connection with another that is known, or a conjecture based on past experience as to what course of human affairs ordinarily takes.[31] The role of presumption is to relieve the party enjoying the same of the evidential burden to prove the proposition that he contends

---

30 A.M. No. P-99-1342, June 8, 2005, 459 SCRA 356.

31 Agpalo, *Handbook on Evidence*, Rex Book Store, 2003, p. 255.

for, and to shift the burden of evidence to the adverse party.[32] In general, presumptions are resorted to for either of two reasons. The first is to enable the courts to determine the party who should discharge the burden of proof and the burden of evidence. Illustrative of this is the constitutional presumption of innocence, which immediately requires the State to discharge the burden to prove guilt beyond reasonable doubt. The other is necessity and convenience. There are many situations in which proof of facts may not be available or accessible, or are too expensive to access or impossible to produce. To prevent a miscarriage or denial of justice, or to serve a public need, the presumption may be resorted to. An example, of which there are many, is the disputable presumption that prior rents or installments had been paid when a receipt for the later ones is produced.[33] The presumption relieves the tenant or buyer of the duty to prove payment, and burdens the landlord or seller to show non-payment. Proof to the contrary bursts the presumption, which is merely disputable.

Finally, let me simply stress that the respondent cannot rely on *Concerned Taxpayer v. Doblada, Jr.* because said ruling had no bearing or relevance to her situation. The Court presumed that the respondent in that case had filed his SALN in view of the records of the OCA being unreliable. Such presumption would shield the respondent from probable criminal and administrative liabilities. In short, *Concerned Taxpayer v. Doblada, Jr.* concerned the respondent's liability under the SALN law, not his eligibility. In contrast, the issue herein relates to the respondent's eligibility, which she had the duty to prove in the first place.

IN VIEW OF THE FOREGOING, I VOTE TO GRANT the petition for *quo warranto*, and **I CONCUR** with the reliefs stated in the dispositive portion of the Majority Opinion written by Justice Tijam.

LUCAS R. BERSAMIN
Associate Justice

---

32 Id.

33 Section 3(i), Rule 131 of the *Rules of Court*.