

## EN BANC

[ G.R. No. 206666, January 21, 2015 ]

**ATTY. ALICIA RISOS-VIDAL, PETITIONER,  
ALFREDO S. LIM PETITIONER-INTERVENOR, VS. COMMISSION  
ON ELECTIONS AND JOSEPH EJERCITO ESTRADA,  
RESPONDENTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Before the Court are (1) a Petition for *Certiorari* filed under Rule 64, in relation to Rule 65, both of the Revised Rules of Court, by Atty. Alicia Risos-Vidal (Risos-Vidal), which essentially prays for the issuance of the writ of *certiorari* annulling and setting aside the April 1, 2013<sup>[1]</sup> and April 23, 2013<sup>[2]</sup> Resolutions of the Commission on Elections (COMELEC), Second Division and En banc, respectively, in SPA No. 13-211 (DC), entitled "*Atty. Alicia Risos-Vidal v. Joseph Ejercito Estrada*" for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction; and (2) a Petition-in-Intervention<sup>[3]</sup> filed by Alfredo S. Lim (Lim), wherein he prays to be declared the 2013 winning candidate for Mayor of the City of Manila in view of private respondent former President Joseph Ejercito Estrada's (former President Estrada) disqualification to run for and hold public office.

#### ***The Facts***

The salient facts of the case are as follows:

On September 12, 2007, the Sandiganbayan convicted former President Estrada, a former President of the Republic of the Philippines, for the crime of plunder in Criminal Case No. 26558, entitled "*People of the Philippines v. Joseph Ejercito Estrada, et al.*" The dispositive part of the graft court's 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 (P545,291,000.00), with interest and income earned, inclusive of the amount of Two Hundred Million Pesos (P200,000,000.00), deposited in the name and account of the Erap Muslim Youth Foundation.

(2) The amount of One Hundred Eighty[-]Nine Million Pesos (P189,000,000.00), 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 officio*.<sup>[4]</sup>

On October 25, 2007, however, former President Gloria Macapagal Arroyo (former President Arroyo) extended executive clemency, by way of pardon, to former President Estrada. The full text of said pardon states:

MALACAÑAN PALACE  
MANILA

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*By the President of the Philippines*

PARDON

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*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 25<sup>th</sup> 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<sup>[5]</sup>*

On October 26, 2007, at 3:35 p.m., former President Estrada "received and accepted"<sup>[6]</sup> the pardon by affixing his signature beside his handwritten notation thereon.

On November 30, 2009, former President Estrada filed a Certificate of Candidacy<sup>[7]</sup> for the position of President. During that time, his candidacy earned three oppositions in the COMELEC: (1) SPA No. 09-024 (DC), a "Petition to Deny Due Course and Cancel Certificate of Candidacy" filed by Rev. Elly Velez B. Lao Pamatong, ESQ; (2) SPA No. 09-028 (DC), a petition for "Disqualification as Presidential Candidate" filed by Evilio C. Pormento (Pormento); and (3) SPA No. 09-104 (DC), a "Petition to Disqualify Estrada Ejercito, Joseph M. from Running as President due to Constitutional Disqualification and Creating Confusion to the Prejudice of Estrada, Mary Lou B" filed by Mary Lou Estrada. In separate Resolutions<sup>[8]</sup> dated January 20, 2010 by the COMELEC, Second Division, however, all three petitions were effectively dismissed on the uniform grounds that (i) the Constitutional proscription on reelection applies to a sitting president; and (ii) the pardon granted to former President Estrada by former President Arroyo restored the former's right to vote and be voted for a public office. The subsequent motions for

reconsideration thereto were denied by the COMELEC *En banc*.

After the conduct of the May 10, 2010 synchronized elections, however, former President Estrada only managed to garner the second highest number of votes.

Of the three petitioners above-mentioned, only Pormento sought recourse to this Court and filed a petition for *certiorari*, which was docketed as G.R. No. 191988, entitled "*Atty. Evilio C. Pormento v. Joseph 'ERAP' Ejercito Estrada and Commission on Elections*." But in a Resolution<sup>[9]</sup> dated August 31, 2010, the Court dismissed the aforementioned petition on the ground of mootness considering that former President Estrada lost his presidential bid.

On October 2, 2012, former President Estrada once more ventured into the political arena, and filed a Certificate of Candidacy,<sup>[10]</sup> this time vying for a local elective post, that of the Mayor of the City of Manila.

On January 24, 2013, Risos-Vidal, the petitioner in this case, filed a Petition for Disqualification against former President Estrada before the COMELEC. The petition was docketed as SPA No. 13-211 (DC). Risos-Vidal anchored her petition on the theory that "[Former President Estrada] is Disqualified to Run for Public Office because 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."<sup>[11]</sup> She relied on Section 40 of the Local Government Code (LGC), in relation to Section 12 of the Omnibus Election Code (OEC), which state respectively, that:

Sec. 40, Local Government Code:

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

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

(b) Those removed from office as a result of an administrative case;

(c) Those convicted by final judgment for violating the oath of allegiance to the Republic;

(d) Those with dual citizenship;

(e) Fugitives from justice in criminal or nonpolitical cases here or abroad;

(f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and

(g) The insane or feeble minded. (Emphasis supplied.)

Sec. 12, Omnibus Election Code:

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

In a Resolution dated April 1, 2013, the COMELEC, Second Division, dismissed the petition for disqualification, the *fallo* of which reads:

**WHEREFORE**, premises considered, the instant petition is hereby **DISMISSED** for utter lack of merit.<sup>[12]</sup>

The COMELEC, Second Division, opined that “[h]aving taken judicial cognizance of the consolidated resolution for SPA No. 09-028 (DC) and SPA No. 09-104 (DC) and the 10 May 2010 *En Banc* resolution affirming it, this Commission will not belabor the controversy further. Moreso, [Risos-Vidal] failed to present cogent proof sufficient to reverse the standing pronouncement of this Commission declaring categorically that [former President Estrada’s] right to seek public office has been effectively restored by the pardon vested upon him by former President Gloria M. Arroyo. Since this Commission has already spoken, it will no longer engage in disquisitions of a settled matter lest indulged in wastage of government resources.”<sup>[13]</sup>

The subsequent motion for reconsideration filed by Risos-Vidal was denied in a Resolution dated April 23, 2013.

On April 30, 2013, Risos-Vidal invoked the Court’s jurisdiction by filing the present petition. She presented five issues for the Court’s resolution, to wit:

I. RESPONDENT COMELEC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT RESPONDENT ESTRADA’S PARDON WAS NOT CONDITIONAL;

II. RESPONDENT COMELEC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT FINDING THAT RESPONDENT ESTRADA IS DISQUALIFIED TO RUN AS MAYOR OF MANILA UNDER SEC. 40 OF THE LOCAL GOVERNMENT CODE OF 1991 FOR HAVING BEEN CONVICTED OF PLUNDER, AN OFFENSE INVOLVING MORAL TURPITUDE;

III. RESPONDENT COMELEC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISMISSING THE PETITION FOR DISQUALIFICATION ON THE GROUND THAT THE CASE INVOLVES THE SAME OR SIMILAR ISSUES IT ALREADY RESOLVED IN THE CASES OF “PORMENTO VS. ESTRADA”, SPA NO. 09-028 (DC) AND IN “*RE: PETITION TO DISQUALIFY ESTRADA EJERCITO, JOSEPH M. FROM RUNNING AS PRESIDENT, ETC.*,” SPA NO. 09-104 (DC);