

## EN BANC

[ A.M. No. 19-03-16-SC, August 14, 2019 ]

**RE: INVESTIGATION RELATIVE TO THE FAKE DECISION IN G.R. NO. 211483 (MANUEL TAMBIO v. ALBERTO LUMBAYAN, ET AL.)**

### DECISION

#### PER CURIAM:

For resolution is the investigation conducted by the National Bureau of Investigation (NBI) regarding a Decision dated 14 March 2016 entitled *Manuel Tambio v. Alberto Lumbayan, Alvina Lumbayan and Virginia Lumbayan represented by surviving spouse Alberto Lumbayan*, purportedly issued by the Court's Third Division in G.R. No. 211483.

On 19 July 2016, Atty. Vincent Paul L. Montejo (Atty. Montejo) of Batacan, Montejo & Vicencio Law Firm, counsel of record for the respondents in the subject case, came to the Office of the Clerk of Court (OCC), Third Division, Supreme Court, seeking a certification as to the authenticity of a copy of a Decision dated 14 March 2016 entitled *Manuel Tambio v. Alberto Lumbayan, Alvina Lumbayan and Virginia Lumbayan represented by surviving spouse Alberto Lumbayan*, purportedly issued by the Third Division in G.R. No. 211483 and penned by Associate Justice Francis H. Jardeleza, which Atty. Montejo received by mail in Davao City. The Records Division of the Office informed Atty. Montejo that no such decision was promulgated by the Third Division, because the subject case was already decided in a Minute Resolution of the First Division dated 18 June 2014 denying the petition for review on certiorari of the petitioner in the said case and an entry of judgment was accordingly made on 17 March 2015. Moreover, the undated omnibus motion submitted by the petitioner was denied by the Third Division in its Resolution dated 9 November 2015.

Atty. Montejo asked to confer with the Third Division Clerk of Court (COC) to verify if the purported Decision of the Third Division dated 14 March 2016 is authentic or not. In its purported Decision dated 14 March 2016, the Third Division made the following rulings: (a) recalled the entry of judgment; (b) reinstated the petitioner's appeal; (c) granted the reliefs prayed for in the petition; and (d) issued orders and dispositions favorable to the petitioner, such as the payment of moral, exemplary, and actual damages. After a thorough examination of the subject document, Atty. Wilfredo V. Lapitan (Atty. Lapitan), Third Division COC, informed Atty. Montejo that such is not authentic and is fake, because of the following reasons: (a) no such document was promulgated or released by the OCC Third Division; (b) the purported decision has no accompanying Notice of Judgment duly certified by the Division COC; (c) the alleged decision was not duly certified by the Division COC; and (d) the subject decision was not in proper form, considering that the text was for short-size bond paper, instead of long-size bond paper, the signatures of the Associate Justices and the Division COC appeared to have been merely superimposed and then photocopied, the brown envelope which contained the said

decision bore the name of the Judicial Records Office (JRO) and not the OCC Third Division, and such envelope indicated the postage payment of P79.00, instead of being free under the franking privilege, among others. Because he was in a hurry to leave for Davao City, Atty. Montejo did not leave a copy of the subject document with the OCC Third Division.

On 22 July 2016, an Incident Report<sup>[1]</sup> dated 22 July 2016 on the abovementioned was submitted by Atty. Lapitan to the Office of the Chief Justice (OCJ), as required under OCJ Office Order No. 09-2016, effective 26 May 2016, with the following recommendations: (a) a formal investigation of the subject incident be made to determine the author of the fake decision; (b) Atty. Montejo to be directed to submit to the Court such fake decision and its accompanying letter envelope; and (c) paper with the Court's watermark or any distinctive marking for authenticity be used in all decisions and resolutions issued by the Court.

In a letter<sup>[2]</sup> dated 5 August 2016, Atty. Lapitan furnished Associate Justice Presbitero J. Velasco, Jr., then Chairperson of the Third Division, with a copy of the Incident Report dated 22 July 2016, for his information and appropriate action.

On 12 July 2016, the OCC Third Division received a letter<sup>[3]</sup> dated 29 June 2016 from Hon. Jose T. Tabosares, the Presiding Judge of Branch 23, Regional Trial Court, Kidapawan City (Judge Tabosares), informing the OCC Third Division that the court *a quo* received a Decision of the Third Division dated 14 March 2016 which he suspects is fake, considering that the copy sent to him by registered mail is not a certified machine copy, the Court's logo does not appear at the back of the pages of the copy, and the copy is not accompanied by a Notice of Judgment as usually being issued by the Division COC. In his letter, Judge Tabosares requested confirmation if indeed the Third Division has already rendered a decision in Civil Case No. 2006-10. Judge Tabosares likewise attached a machine copy of the purported decision in his letter. In a letter<sup>[4]</sup> dated 25 August 2016, Atty. Lapitan replied to Judge Tabosares confirming and certifying the following: (a) the purported copy of the Decision dated 14 March 2016 in G.R. No. 211483 was not issued by the OCC Third Division; (b) the same decision is not authentic or is fake as it is not a certified true copy and is not in the standard form of a Court decision; (c) the subject decision is fraudulent as it was intended to mislead the court and the parties to the case.

On 21 July 2016, the OCC Third Division received from Atty. Montejo a letter<sup>[5]</sup> dated 19 July 2016 requesting certification on the non-existence of the Decision dated 14 March 2016 in G.R. No. 211483 and attaching a photocopy of the said decision. In a letter<sup>[6]</sup> dated 25 August 2016, Atty. Lapitan replied to Atty. Montejo's letter-request certifying the following: (1) the Decision dated 14 March 2016 in G.R. No. 211483 does not exist in the OCC Third Division files; (2) the subject decision was not promulgated or released by the OCC Third Division; and (3) said decision is not authentic as it is not in the standard form, it is not a certified true copy, and it is not accompanied by a Notice of Judgment certified as a true copy by the Division COC.

Subsequently, Atty. Lapitan submitted a Report<sup>[7]</sup> dated 13 October 2016 to then Chairperson of the Third Division, *i.e.*, Associate Justice Presbitero J. Velasco, Jr., and members of the Third Division, *i.e.*, Associate Justices Diosdado M. Peralta, Jose

P. Perez, Bienvenido L. Reyes, and Francis H. Jardeleza, detailing the chronology of events and circumstances leading to the discovery of the fake decision, the actions he made and subsequent events, and recommending that the matter be referred to the proper office for investigation, report, and recommendation to determine the source or author of the fake decision, in order that the appropriate penalty be meted out unto the culprit or culprits. Thereafter, the Third Division issued a Resolution<sup>[8]</sup> dated 5 June 2017, noting the aforesaid report of Atty. Lapitan and referring such report to the NBI for investigation, report, and recommendation within 60 days from notice.

After the lapse of more than one year since the issuance of the Resolution of the Third Division dated 5 June 2017 and considering that the NBI had yet to submit to it its investigation, report, and recommendation, the Third Division issued a Resolution<sup>[9]</sup> dated 4 July 2018 requiring the NBI to submit the following: (a) a status report of its investigation within 10 days from receipt of notice; and (b) its investigation report and recommendation within 30 days from notice.

In compliance with the Resolution of the Third Division dated 4 July 2018 regarding the fake decision relative to G.R. No. 211483 entitled *Manuel Tambio v. Alberto Lumbayan, Alvina Lumbayan and Virginia Lumbayan represented by surviving spouse Alberto Lumbayan*, which has been transferred to the First Division, the NBI submitted its Manifestation/Compliance Initial Investigation Report<sup>[10]</sup> dated 7 October 2018, attaching its Initial Report<sup>[11]</sup> dated 3 October 2018, to Atty. Lapitan.

In a 1<sup>st</sup> Indorsement<sup>[12]</sup> dated 16 October 2018, Atty. Lapitan respectfully indorsed to Librada C. Buena, First Division COC, the Manifestation/Compliance Initial Investigation Report of the NBI dated 7 October 2018, with attached Initial Report dated 3 October 2018, for appropriate action.

In its Manifestation/Compliance Initial Investigation Report dated 7 October 2018, the NBI made the following initial findings:

- A. The present issue stemmed from the verification and follow-up of ATTY. PAUL VINCENT L. MONTEJO seeking this Court's certification as to the authenticity of the alleged Decision [sic] he received through mail, allegedly penned by JUSTICE FRANCIS H. JARDELEZA for the THIRD DIVISION;
- B. ATTY. MONTEJO was informed[, ] however, by the Records Division of this Honorable Court that no Decision was promulgated by the said division as the case was already decided in a *Minute Resolution* of the FIRST DIVISION on 18 June 2014, which effectively denied the petition for review on certiorari; accordingly, an entry of judgment was made on 17 March 2015. An undated Omnibus Motion submitted by the petitioner was likewise denied by the THIRD DIVISION on 09 November 2015[;]
- C. ATTY. MONTEJO was likewise informed by ATTY. WILFREDO LAPITAN that on its face the alleged "*Decision*" appears to be a fake due to several reasons;

D. On 12 July 2016, the OCC THIRD DIVISION received a letter from HON. JOSE T. TABOSARES, Presiding Judge, Branch 23, Regional Trial Court, Kidapawan City, informing the Court that they received a "DECISION", which they suspect to be a fake; [and]

E. On 25 August 2016, ATTY. LAPITAN replied that the Decision was indeed a fake one, as it was not issued by the Office of the Clerk of Court, Third Division, Supreme Court and that it was fraudulent and is apparently intended to mislead the court and the parties to the case.<sup>[13]</sup>

During the investigation conducted by the NBI, Atty. Lapitan introduced the team to Atty. Basilia T. Ringol (Atty. Ringol), Deputy COC and Chief Judicial Records Officer. The latter mentioned that Atty. Pagwadan S. Fonacier (Atty. Fonacier), Supreme Court Assistant Chief of the JRO, once reported to her that a certain Mr. Tambio approached him and told him that an employee of the JRO was aiding him. According to Atty. Fonacier, he met Mr. Tambio in a church fellowship in Parañaque City. During the aforesaid encounter, Mr. Tambio asked for his assistance in finding a solution to his alleged legal issue with the Third Division, to which the latter replied that since he was still connected with the Court, he cannot and is in fact prohibited from handling cases. Nevertheless, Mr. Tambio inquired about the legal remedies available to him in relation to G.R. No. 211483. Mr. Tambio likewise claimed the following:

1. This Court already ruled in their favor but ATTY. LAPITAN claimed that the said Decision was fake. Hence, he filed a complaint with the Office of the Chief Justice against the former because of his unjustified refusal to honor such decision;
2. He then showed a copy of the alleged Decision and insisted that the same was genuine as it bears the supposed signature of ATTY. LAPITAN with all the markings of the Supreme Court. This document was allegedly placed inside an "Official Supreme Court Envelope";
3. He further mentioned that when he visited the Court, he was introduced by a lady employee of the Court of Appeals, who was also the wife of a judge, to a clerk of the Judicial Records Office (SC).<sup>[14]</sup>

Mr. Tambio identified to Atty. Fonacier a certain Lorna G. Abadies (Abadies) as the court employee who assisted him in securing updates of his case before the Third Division. He allegedly secured her assistance after he gave her money for every piece of information regarding his case that she provided him. He claimed that he visited the Court a number of times and was told by Abadies that the decision of his case is forth coming. He alleged likewise that they met and ate out several times outside of her office. According to Mr. Tambio, the last time he went to the Court to follow up on his case was when the remains of the late Chief Justice Renato C. Corona was interred in the Court for viewing. He averred that, during that time, Abadies told him that the decision of his case cannot be released yet as the signatories, *i.e.*, Associate Justices of the Third Division, were in the Session Hall viewing the remains of the late Chief Justice Renato C. Corona. Thereafter, the two of them went out to eat at Manila Pavilion, wherein he told her that he would do anything for his case. Before he left Manila Pavilion, he gave his contact number to

Abadies so that she could contact him for any update on his case.

It was later on revealed that Mr. Tambio is actually Emiliano Tambio, the son of the petitioner in G.R. No. 211483 and the person who stands to benefit the most had the subject decision turn out to be genuine.

On 1 October 2018, Mr. Tambio appeared before the NBI to air his side of the story. According to Mr. Tambio, "he has nothing to do with the 'alleged fake decision' and that he himself was wondering why the said decision was considered fake when it bore all the markings (seal and logo) of this court."<sup>[15]</sup> He further claimed that "there is no way he could lose before this court as he had already won in the lower courts."<sup>[16]</sup> When Mr. Tambio was asked about Abadies by the NBI, he stated that it was her who helped him secure updates on the status of his case before the Third Division and that he paid her for every such update she provided.

During his appearance before the NBI, Mr. Tambio declared that he also provided money to Esther Andres (Andres), whom he met through Dr. Leah Balatacan (Dr. Balatacan).<sup>[17]</sup> He claimed that Dr. Balatacan was the widow of Jose Balatacan and that he came to know of the Balatacans when he was introduced to them by Leo Vergara, who was said to be connected with the Department of Agriculture. Dr. Balatacan then introduced him to her sister, Andres. He averred that Andres asked for a standard operating procedure before she would agree to help him with his case. He alleged that he gave Andres around P1,400,000.00 on installment basis as compensation for her help. He also alleged that, before he met Andres, he gave Dr. Balatacan P380,000.00 for her assistance. However, despite the aforesaid payments, his case before the Third Division never prospered. Hence, he filed a case for estafa against Andres and Dr. Balatacan. The NBI noted that Mr. Tambio was willing to cooperate with the ongoing probe and was willing to submit all documents relating to the payments he made to Abadies, Andres, and Dr. Balatacan.

In the attached Initial Report dated 3 October 2018, the NBI cited the following as persons of interest being pursued by its Special Task Force: (1) Lorna Abadies; (2) Salvacion Garma Ramirez, the daughter of Lorna Abadies, who was a former employee of the Judgment Division of the Court; (3) Esther Andres; (4) Dr. Leah Balatacan; and (5) Emiliano Tambio.

On 15 March 2019, the NBI submitted its Final Report<sup>[18]</sup> dated 11 February 2019 to Atty. Lapitan. In a letter dated 22 March 2019, Atty. Lapitan transmitted the aforesaid report to the Court for appropriate action.<sup>[19]</sup>

In its Final Report dated 11 February 2019, the NBI verified its previous findings in its Manifestation/Compliance Initial Investigation Report dated 7 October 2018 and Initial Report dated 3 October 2018. The NBI noted that Atty. Ringol and Atty. Fonacier executed their respective affidavits to formalize their previous statements and to support the investigation. Likewise, Mr. Tambio submitted an affidavit along with other documents to support his claim, *i.e.*, the estafa case he filed against Andres and Dr. Balatacan and receipts as proof of payment made by him to Andres and Dr. Balatacan.

The NBI Special Task Force sent a subpoena to Abadies for her to be informed of the allegations raised against her and to give her the opportunity to air her side on the