

## EN BANC

[ A.M. No. 07-09-13 -SC, August 08, 2008 ]

### IN THE MATTER OF THE ALLEGATIONS CONTAINED IN THE COLUMNS OF MR PRESENT: AMADO P. MACASAET PUBLISHED IN MALAYA DATED SEPTEMBER 18, 19 , 20 AND 21, 2007

#### D E C I S I O N

**REYES, R.T., J.:**

FREEDOM of the press and judicial independence (*kalayaan ng pamamahayag at kalayaang panghukuman*) - two constitutional values which unfortunately clash in this case for indirect contempt of court - have to be weighed and balanced against each other.

#### **The Antecedents**

The case stemmed from certain articles that appeared in the "Business Circuit" column of Amado P. Macasaet in the Malaya, a newspaper of general circulation of which he is the publisher. The articles, containing statements and innuendoes about an alleged bribery incident in the Supreme Court, came out in four (4) issues of the newspaper on September 18, 19, 20 and 21, 2007, reproduced as follows:

#### **September 18, 2007 -**

##### **Bribery in the Court**

A lady justice (I have not been told whether she is from the Supreme Court or the Court of Appeals) did not report for a day last week.

Her secretary received a gift-wrapped box about the size of two dozen milk cans.

Believing that the "gift" might be something perishable, she opened the box. Indeed, it was a gift - estimated at P10 million. Posthaste, the secretary informed the magistrate about the gift. She thought she was doing her job. The lady justice fired her instead.

She would not have anybody catch her accepting a bribe. But she practically did.

The stupidity here is that the bribe-giver - what else would we call him or her - did not check whether the lady justice was in the office or not. Better still he or she could have the box full of money delivered to her home. But then her family would get to know about and ask who was the kind soul that was so liberal with money - a boxful of it.

The Supreme Court cannot let this pass. A full investigation should be conducted. The magistrate who was sent the bribe should be impeached.

The gift gives proof to the pernicious rumor that the courts are dirty. This time, the lady justice is with a higher court.

The court is like a basket of apples. There a few which are rotten that makes the whole basket rotten.

The names and reputation of highly-respected jurists must be saved from suspicions they are thieves.

### **Here's the clue**

The Court employee who was fired by the lady jurist is a niece of another lady justice who earlier retired. The worker was inherited by the incumbent lady justice.

My problem with this report is that while my source is definite about the employee opening a gift-wrapped box that contained at least P10 million, he won't confide to me the identity of the jurist.

Unless the employee who was fired talks against her boss - and she should as a matter of duty - we will never know who this justice really is. The members of the Supreme Court, the Court of Appeals, the Sandiganbayan are all called justices.

The head of the Office of Government Corporate Counsel is also honored by being addressed as such. So is the head of the Court of Tax Appeals.

Since the employee was fired for opening the box which she thought contained perishable goods but turned out there was an estimated P10 million in it, she should be loyal to her duty of telling the truth.

That way, she would have rendered a great service to the justice system. Without her talking, every lady with the title of Justice is suspect. There are more than a dozen of them in different courts but only one was caught red-handed taking a bribe. Her name should be known so that the Supreme Court can act swiftly on a clear case of bribery.

Otherwise, this case becomes one where the pot calls the kettle black. Or is that the reason the employee would not talk, that her former boss could spill the beans on her peers?

**September 19, 2007 -**

### **The Bribe Giver**

I learned from some lawyers that the bribe money given to a lady justice came from a Chinese-Filipino businessman who has been criminally charged.

It is funny that the delivery of five boxes of money (I said only one earlier) coincided on the day the lady justice, obviously acting as *ponente*, acquitted the prospect.

The secretary of the lady justice who took the bribe made five trips to the guardhouse to pick up the boxes.

Incidentally, this secretary is a namesake of her aunt, a deceased associate justice of the Supreme Court.

I dare say that if her name is Cecilia, it is entirely possible that the lady justice is a member of the Supreme Court. The late justice Cecilia Muñoz-Palma is the only lady justice I know who retired and died at a ripe old age and left behind a reputation of decency and integrity.

We are coming closer and closer to the truth. The lady justice shamed her court. She should resign or be impeached.

That is the only way the soiled reputation of the Highest Court could be restored.

**September 20, 2007 -**

**Cecilia, please save the court**

I have established the lady justice's secretary who opened one of the five milk boxes containing bribe money is a niece of the late, respected and honorable Associate Justice Cecilia Muñoz Palma from Batangas.

The secretary is a niece of the late justice and a namesake.

Cecilia, you have a duty to honor the memory of your aunt, who, during her stay in the court, was known for having balls.

More important than that, you have a duty to save the sagging reputation of the Supreme Court.

Cecilia, you must tell the Court *en banc* everything you know about the money that was sent in five boxes to your boss.

Not in retaliation for your dismissal, but for no other reason than as a duty to your country and, I must again say, to honor the memory of your late illustrious aunt, a legal luminary and staunch defender of the Constitution.

The other reason you must spill the beans is that if you do not, other lady justices are suspects. That is not fair to them.

**September 21, 2007 -**

**Wrong date, same facts**

On verification, I discovered that the secretary of a lady justice of the Supreme Court who was said to have accepted five milk boxes of money, was fired as early as March. Not last week as I mistakenly reported.

It turns out that Cecilia Muñoz-Delis from Bicol picked up the last five boxes several times in March.

She never opened the first four boxes which she picked up from the guardhouse of the Court.

She opened the last and saw the money because the lady justice was absent on that day. Forthwith, she was fired. Cecilia, who is from Bicol, never opened any of the first four boxes delivered on various dates (I have not been told when). She picked up all of them from the Supreme Court guardhouse and left them with the lady justice. She wouldn't dare open the first four because the lady justice was in her office. She opened the fifth one because the lady justice did not report for work on that day.

Cecilia thought that the gift-wrapped box contained some perishables like food. What she found was money instead. She was fired.

Whenever a gift for lady justice comes, she would order Cecilia to pick it up from the guardhouse. So the fifth she picked up was one of those errands.

### **Where is Cecilia?**

I cannot get any information on the present whereabouts of Cecilia. However, if the Supreme Court has intentions to investigate what I have been saying, maybe the Chief Justice himself should find out where she could be sent an invitation to appear before an investigation group in the Court.

Better still, as I said, yesterday, Cecilia should disclose everything she knows regarding the box before the Court *en banc*.

Farthest thing from my mind is to embarrass the lady justice whose identity I do not know up to now.

It is my conviction that the Court should investigate reports of wrongdoing by any of its peers. Justice is served that way.

The Chief Justice and the rest of the justices should not have a problem finding out who she is.

It is a simple job of asking a clerk to go to personnel department of the Court and find out who Cecilia worked for.<sup>[1]</sup>

The September 18, 2007 article, the first of the series of articles, caught the attention of Assistant Court Administrator (ACA) Jose Midas P. Marquez, Chief of the Supreme Court Public Information Office, in the course of his monitoring the daily news reports and columns in major newspapers. However, since it was "vague about

which 'court' was being referred to, whether the Supreme Court, the Court of Appeals, the Sandiganbayan, or the Court of Tax Appeals,"<sup>[2]</sup> ACA Marquez opted to merely note it.<sup>[3]</sup>

The succeeding two articles, however, gave an indication that the supposed bribery happened in the Supreme Court. Respondent Macasaet, in his September 19, 2007 article, wrote, among others, that "I dare say that if her name is Cecilia, it is entirely possible that the lady justice is a member of the Supreme Court x x x. We are coming closer and closer to the truth. The lady justice shamed her court. She should resign or be impeached. That is the only way the soiled reputation of the Highest Court could be restored."

Similarly, in his September 20, 2007 article, respondent said that Cecilia had "a duty to save the sagging reputation of the Supreme Court."

Also on September 20, 2007, at around 6:00 p.m., Marites Dañguilan-Vitug, Editor in Chief of *Newsbreak*, faxed a letter to Supreme Court Associate Justice Consuelo Ynares-Santiago asking for three things -

1. In (*sic*) April 13, 2007, you concurred with a decision penned by Justice Romeo Callejo, Sr. ruling that the Sandiganbayan Fifth Division did not commit a grave abuse of discretion by finding probable cause against Henry Go. However, five months later (September 3, 2007), acting on Go's motion for reconsideration, you reversed yourself and ordered the dismissal of the graft case against Go. Please explain the circumstances that led to this reversal.
2. We have gathered from three sources that you received a cash gift of P10 million after you issued the decision early September. Please comment.
3. We're checking if this is accurate. Your secretary, who opened the gift-wrapped box thinking that it contained perishable items, found cash instead. It was after this incident that you removed her.<sup>[4]</sup>

Upon receipt of the faxed letter, Mme. Justice Ynares-Santiago called for ACA Marquez, showed him the letter of Dañguilan-Vitug, and requested him to tell Dañguilan-Vitug that she (Mme. Justice Ynares-Santiago) had been consistent on her position in the Go case, that she never reversed herself, that she never received a cash gift, and that no secretary was terminated for opening a gift-wrapped box containing money. Accordingly, ACA Marquez went back to his office, called up Dañguilan-Vitug and told her what Mme. Justice Ynares-Santiago told him.<sup>[5]</sup>

That same evening, at around seven, Dañguilan-Vitug faxed "the corrected version of the earlier letter" -

1. On April 13, 2007, you dissented against the decision penned by Justice Romeo Callejo, Sr. ruling that the Sandiganbayan Fifth Division did not commit a grave abuse of discretion by finding probable cause against Henry Go. The vote was 3-2 in favor of Calleja's (*sic*) decision. Five months later (September 3, 2007),