

## EN BANC

[ G.R. No. 171008, October 24, 2008 ]

**CARMELITA FUDOT, PETITIONER, VS. CARPIO, AUSTRIA-MARTINEZ, CORONA, CARPIO MORALES, CATTLEYA LAND, INC., RESPONDENT.**

### R E S O L U T I O N

#### PER CURIAM:

For resolution is the charge of indirect contempt initiated *motu proprio*<sup>[1]</sup> by the Court against Atty. Victor De La Serna.<sup>[2]</sup>

On 9 November 2007, the Court received from De La Serna a request for the inhibition of Associate Justice Dante O. Tinga,<sup>[3]</sup> claiming that Justice Tinga received P10 Million from Mr. Johnny Chan (Mr. Chan) in exchange for a favorable decision in the instant case.<sup>[4]</sup> He alleges:

After the usual exchange of civilities, **JOHNNY CHAN** curtly told the undersigned that all negotiations for the purchase of petitioner's rights between us were off. He further stated that he had already given out **TEN MILLION PESOS to JUSTICE DANTE O. TINGA** in exchange for a favorable Decision in this case. Hence, there is no more reason for him to talk to us. Justice Dante O. Tinga is the **ponente** of the Decision subject to [sic] this Motion for Reconsideration.<sup>[5]</sup>

Atty. De La Serna relates that sometime in 2006, he was prevailed upon by former BIR Commissioner Tomas Toledo to meet with Mr. Chan. In the meeting, Mr. Chan informed him that he had already bought the interest of Cattleya Land, Inc. (Cattleya) over a property adjacent to the property subject of the case and that he was interested in putting up a resort/hotel in the property. He wanted to purchase Carmelita Fudot's interest in the property as well to put an end to the litigation. They did not reach an agreement on the purchase price.<sup>[6]</sup>

Another meeting was set, this time, through the intercession of Atty. Dionisio De La Serna, former Secretary of the Housing and Land Use Regulatory Board, and upon the request of Mr. Chan's lawyer, Atty. Paulino Petralba (Atty. Petralba). In this meeting, Atty. Petralba offered P4 Million. Again, no agreement was reached on the purchase price, De La Serna narrates.<sup>[7]</sup>

Sometime in August 2007, Atty. Petralba sought out Atty. De La Serna's son, Atty. Victor De La Serna, Jr., and informed him that the Supreme Court's decision in the instant case was forthcoming.<sup>[8]</sup> This advance knowledge of the decision only confirms the bribery bragged about by Mr. Chan, De La Serna claims.<sup>[9]</sup>

In another meeting on 26 September 2007, Mr. Chan told Atty. De La Serna that there would no more negotiations for the purchase of Fudot's rights and he had already given P10 Million to Justice Tinga. By way of *consuelo de bobo*, Mr. Chan offered De La Serna a legal retainer of P200,000.00 down and a monthly fee of P15,000.00 to act as his lawyer in Bohol.<sup>[10]</sup> A day later, or on 27 September 2007, as De La Serna notes, in a bid to tie the loose ends of his tale, the decision in this case was mailed at the Central Post Office,<sup>[11]</sup> a copy of which was received by him on 10 October 2007.

Atty. De La Serna adds:

**ALL WE NEED TO HAVE IS A LITTLE COMMON SENSE TO CONCLUDE THAT INDEED, THE FAVORABLE DECISION OF THIS HONORABLE COURT WAS OBTAINED THRU BRIBERY.** This is what JOHNNY CHAN was bragging and this is what happened.<sup>[12]</sup> (Emphasis supplied)

Atty. De La Serna insists that the decision was contrary to the principles enunciated by Justice Tinga in the case of *Lim v. Jorge*.<sup>[13]</sup> He states:

**III. THE DECISION OF JUSTICE TINGA IN THE CASE REEKS OF BRIBERY. HE HAS REPUDIATED ALL THE DOCTRINES HE HAS SUMMARIZED AND ENUNCIATED IN LIM v. JORGE, A DECISION HE PENNED ONLY IN 2005.**

Only two years ago, in *Lim v. Jorge*, (G.R. No. 161861, March 11, 2005) **Justice Dante Tinga** made a learned treatise when he summarized and further expounded on all the long-established doctrines on the law and jurisprudence governing the Torrens System of land titles in the Philippines. It was indeed a brilliant anthology worthy of publication into a book.

In this instant Decision however, Justice Tinga has swallowed all the noble doctrines he has enunciated so brilliantly, and instead repudiated and contradicted everything he has said **just to accommodate JOHNNY CHAN and all his cohorts and his money.**

x x x

If this is not a **CLEAR CASE OF BRIBERY**, then we don't know what is.

The Decision of Justice Tinga in this case is simply a **ROGUE DECISION**. It is **illegal**. It is **immoral**. And **like a "mad dog, it should be slain at sight."**<sup>[14]</sup> (Emphasis supplied)

Atty. De La Serna also finds it surprising that the instant case was decided less than two (2) years after it was submitted for resolution. He compares the instant case to a criminal case which has been pending for ten (10) years before the Court.<sup>[15]</sup> He states:

Yet, in this instant case, **TWO (2) YEARS** is all it took for Justice Dante Tinga to come up with a favorable Decision for **JOHNNY CHAN**.

Where is equity? Where is the justice? **IF THIS IS NOT BRIBERY, THEN THE SUN RISES EVERY MORNING FROM THE WEST.**

This case must have been plucked out from underneath a stack of older cases which have been prioritized for resolution. There could be no other explanation.

x x x

There is a difference of some 20,000 intervening cases between **Oppus** and **Fudot**. **WHAT COULD HAVE BEEN THE REASON WHY THIS INSTANT CASE WAS SELECTED AND PLUCKED OUT FROM UNDERNEATH 20,000 OTHER CASES, AND DECIDED IN LESS THAN TWO (2) YEARS?**

Your Honors, **the answer** is in Your hands, but it **seems quite obvious**.  
[16] (Emphasis supplied)

On 6 February 2008, the Court issued a Resolution requiring Atty. De La Serna to explain in writing why he should not be punished for indirect contempt of court.[17] On 27 March 2008, De La Serna submitted his explanation, stating that he believes in utmost good faith that all the statements he made in recent pleadings he submitted in this case do not constitute "improper conduct" and that his statements "were not intended to `impede, obstruct or degrade' the administration of justice," as they were made, on the contrary, "TO PREVENT THE COMMISSION OF A GRAVE INJUSTICE.[18]

In a resolution dated 14 April 2008, the Court set the hearing on the charge of indirect contempt on 18 June 2008.[19] In the hearing, Atty. De La Serna, together with his son Atty. Victor De La Serna, Jr., Mr. Chan, Atty. Petralba and Atty. Alex Monteclar (Atty. Monteclar) of Cattleya appeared.

Atty. De La Serna mainly reiterated his arguments during the hearing. His son, Atty. De La Serna, Jr., corroborated his statements. De La Serna, Jr. claimed that he heard Mr. Chan bragging that he spent so much for the Supreme Court; afterwards, he heard Mr. Chan mention of Justice Tinga's name and the amount of P10 Million, [20] only to clarify later that he did not hear Mr. Chan say for whom or which person the money was spent on.[21]

Mr. Chan informed the Court that he represents Ryan, Patrick and John (RPJ) company which owns Bellevue Hotel.[22] He testified that RPJ bought a property from Cattleya which was adjacent to the lot subject of the case.[23] He admitted that he approached De La Serna for the purpose of amicably settling their case with Cattleya, and offered him to be their retainer in Bohol.[24] However, he denied having said to De La Serna that he had already spent so much money for the Supreme Court.[25] He added that the hearing was the first time that he saw all the justices.[26]

Mr. Chan related that during the 25 September 2007 meeting, he offered Atty. De La

Serna P4 Million and an additional incentive--as retainer of their company.<sup>[27]</sup> In his testimony:

x x x

Mr. Chan:

Well, as I said, I offered. I was trying to convince him to accept that amicable settlement and aside from that, to be my friend, maybe you can be our company retainer in Bohol. That's what we discussed about, your honor.<sup>[28]</sup>

Justice Carpio Morales:

So, how did the conversation or that meeting end?

Mr. Chan:

Well, we end-up, he was kind of unhappy.

Justice Carpio Morales:

Why?

Mr. Chan:

I don't know; maybe angry.

Justice Carpio Morales:

Why? What is your basis in saying that?

Mr. Chan.

Because my offer to him for the amicable settlement still stands for Four Million.

Justice Carpio Morales:

Did he counter[-]offer?

Mr. Chan:

Well, he said Ten and I said that's too much.

Justice Carpio Morales:

And that was it?

Mr. Chan:

That was it.<sup>[29]</sup>

For his part, Atty. Petralba clarified that the third meeting he had with Atty. De La Serna was on 4 September 2007, and not in August as what De La Serna claimed, presenting his detailed diary for the purpose. <sup>[30]</sup> Thus:

Atty. Paulino Petralba:

The third meeting alluded to by Atty. de la Serna was not in August, Your Honors. It was on September 4, 2007. It is recorded in my PDA and I do keep a diary where I list and narrate what happens to my life everyday. In fact, Your Honor, I have my diary here--the diary for June 2007 to December 2007, this is for last year--and I have marked September 4, 2007 and, with your indulgence, Your Honors, if I may be permitted to read even extraneous matters because that will prove something also?

JUSTICE QUISUMBING:

Yes.

Justice Carpio Morales:

Yes.

Atty. Paulino Petralba:

"September 4, 2007, Tuesday, Office, 11:00 a.m.: Tennis at Makati Sports Club with my son, score 8-5, I won; Meeting with Ryan Chan, Cecil, and Atty. Vic and Junior de la Serna; He said his price is Ten Million, I offered Four Million; Home, 9:30 p.m.; I did not attend my Tuesday club," Your Honor, the third meeting was on September 4, 2007; therefore, my encounter with de la Serna, Jr. could not have happened prior to that because my encounter with him was regarding the September 25, 2000 proposed meeting between Johnny Chan and Atty. De la Serna. And may I relate, Your Honor, how that happened?<sup>[31]</sup>

Atty. Petralba claimed that his conversation with Atty. De La Serna, Jr. was a chance encounter in the tennis court, and that he did not tell Atty. De La Serna, Jr. that a decision was forthcoming. Instead, he told him that "the client wants to have another meeting *baka sakali* there will be a favorable result."<sup>[32]</sup> He maintained that he never intimated a bribery of a Supreme Court Justice.<sup>[33]</sup> In his testimony, Atty. Petralba stated:

Atty. Paulino Petralba:

I will proceed. After the third meeting in September 4, 2007 which is by the way, Your Honors, is only nine days prior to the promulgation of the case on September 13. Ahhh...my birthday is September 13, Your Honors, and I went to the tennis court on September 17, 2007 to give a blow out to my tennis buddies and I also played one game of tennis on September 17. If I may be permitted, Your Honors, may I read my entries in this diary?

JUSTICE QUISUMBING:

Go ahead.

Atty. Paulino Petralba: