

EN BANC

[A.M. NO. 08-8-11-CA, October 15, 2008]

**RE: LETTER OF PRESIDING JUSTICE CONRADO M. VASQUEZ, JR.
ON CA-G.R. SP NO. 103692 [ANTONIO ROSETE, ET AL. V.
SECURITIES AND EXCHANGE COMMISSION, ET AL.]**

R E S O L U T I O N

PER CURIAM:

For consideration of this Court are several motions for reconsideration of our Decision dated September 9, 2008, sanctioning several justices of the Court of Appeals (CA) for improprieties or irregularities in connection with CA G.R.-SP No. 103692, entitled "Antonio Rosete, et al. v. Securities and Exchange Commission, et al." (the Meralco-GSIS case). The incidents to be resolved are:

- (a) Motion for Reconsideration dated September 24, 2008 filed by Justice Vicente Q. Roxas;
- (b) Motion for Reconsideration dated September 15, 2008 filed by Justice Jose L. Sabio;
- (c) Motion for Reconsideration dated September 24, 2008 filed by Presiding Justice Conrado M. Vasquez, Jr.;
- (d) A Plea for Compassion and Clemency dated September 22, 2008 filed by Justice Myrna Dimaranan Vidal (which we shall consider a motion for reconsideration); and
- (e) Motion for Reconsideration dated September 26, 2008 filed by Mr. Francis de Borja.

At the outset, the Court stresses that our Decision was fully supported by the facts on record and is in accordance with the law and prevailing jurisprudence. After a perusal of the various arguments presented in the pleadings listed above, we find that there are no substantial grounds for the Court to reverse its previous judgment in this administrative matter.

We now discuss each incident in greater detail.

MOTION FOR RECONSIDERATION OF JUSTICE VICENTE Q. ROXAS

In his Motion, Justice Vicente Q. Roxas (Justice Roxas) seeks a reconsideration of the imposition of the penalty of dismissal upon him and prays that should a penalty still be imposed, the penalty be accordingly reduced to two months suspension at the most.

Justice Roxas attempts to explain the "haste" in which his decision was promulgated by claiming that it was but due to his intention (a) to "efficiently" dispose of the Meralco-GSIS case and (b) to preserve confidentiality (i.e. avoid leakages and outside influence). He likewise asserts that he was in compliance with Canon 6, Section 5 of the Code of Judicial Conduct, which provides: "Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness."

Certainly, the speedy resolution of a case in itself is not indicative of any wrongdoing on the part of a judge or magistrate. However, it must be recalled that the haste in which the decision was promulgated was taken in context with other suspicious circumstances and improprieties on Justice Roxas' part which led the Panel and this Court to believe that he was unduly interested in the Meralco-GSIS case. We need not elaborate on these circumstances and improprieties here as we have extensively discussed them in our Decision. Moreover, Justice Roxas cannot seek refuge in Canon 6, Section 5 of the Canons of Judicial Conduct. That provision does not sanction procedural shortcuts with dubious motivations such as non-resolution of pending incidents or drafting a decision before all required pleadings have been filed. Indeed, instead of protecting the integrity of the appellate court as Justice Roxas claims he was doing, he brought the institution he works for to disrepute.

Justice Roxas further cites the confusion that arose due to the chairmanship dispute between Justices Jose L. Sabio, Jr. and Bienvenido L. Reyes. He asserts that he acted in good faith and believed by virtue of the reorganization of the CA and their internal rules it was the Eighth Division which should decide the Meralco-GSIS case. To our mind, Justice Roxas' full knowledge of the existence of the chairmanship dispute and the differences of opinion among his colleagues regarding the proper interpretation of the rules should have all the more induced him to wait for a final resolution of the dispute before deciding the case. His "rush to judgment," as one member of the Panel termed it, despite the pendency of the chairmanship dispute and his own request for an opinion from the Presiding Justice, only opened his act of deciding the case to more questions and attacks not only from the other justices but from the public as well.

As regards the "Transcript of Deliberation" which the Panel found to be a fabrication and containing falsehoods, Justice Roxas claims it was better termed "Minutes of the Deliberation" and being unsigned, should be considered a "draft" and not an official document. We find that line of argument flimsy and a mere afterthought since they are proffered only after the Panel already questioned those irregularities attending the production of said "Transcript of Deliberation."

As for the promulgation of his *ponencia* not being intended to be a discourtesy to the Presiding Justice since Justice Roxas believed the Presiding Justice, who was of the opinion that he had no authority to act on the matter, would not resolve Justice Roxas' interpleader petition, we cannot give such claim credit. Presiding Justice Conrado Vasquez, Jr. testified that when Justice Roxas personally filed the interpleader petition he told Justice Roxas that he will study the matter^[1] and in fact rendered his opinion within days from the filing of the interpleader petition.

Justice Roxas also asserts that he believed that he had either resolved all pending motions, or that said motions had become moot in view of transpiring events. For one, it is a matter of record that there were still pending motions unresolved and

Justice Roxas, who had possession of the *rollo* of the case most of the time prior to the promulgation of his decision, could not have been unaware of said motions. Second, the transpiring event, i.e. the promulgation of the decision, which he claims had mooted certain motions, being an event of his making, could hardly be cited in his defense. Also if Justice Roxas truly believed that certain motions, such as the Motion for Inhibition, were unmeritorious then we have greater reason to believe that Justice Roxas could have easily resolved them before rendering a decision on the merits.

With respect to arguments related to the acts of others involved in the controversy, these do not aid Justice Roxas' cause. To begin with, Justice Roxas' actions must be judged on their own and the improprieties committed by others will not negate nor mitigate his own liabilities in the matter at hand. Indeed, Justice Roxas' choice of personalities whose improprieties and wrongdoings were highlighted in his motion does not reflect well on Justice Roxas who has already been found to have shown undue interest in the case.

With respect to his claim that his decision in CA-G.R. SP No. 103692 was anchored on existing law and jurisprudence and evidenced his good faith, we cannot rule upon this point considering that the said decision is under appeal with this Court and we cannot preempt the resolution of that appeal on the merits. Nevertheless, we must emphasize that the subject matter of this administrative case involves the irregularities and improprieties that attended the deliberation, drafting and/or promulgation of the decision which should be deemed entirely separate from and independent of the merits of the decision itself.

As for his complaint that he was not informed by the Panel that he was a "respondent" or "accused" and thus, he was not able to emphasize his intentions for greater efficiency and confidentiality in the discharge of his functions during the investigation, we find little merit in the same. It is common knowledge that the mandate of the Panel was to investigate the alleged improprieties of the actions of the Justices of the Court of Appeals in CA-G.R. SP No. 103692. The Panel was not limited to the chairmanship dispute nor to the bribery allegations of Justice Jose L. Sabio, Jr., as Justice Roxas claims to believe. Moreover, the questions asked by the Panel and his colleagues in relation to his actions in the Meralco-GSIS case could lead to no other conclusion but that the propriety of Justice Roxas' conduct was under scrutiny in these proceedings. In any event, Justice Roxas was given by the Panel ample opportunity to present his side and his evidence and to cross-examine the testimonies of the other participants in the investigation.

Finally, Justice Roxas interposes a plea of mercy in consideration of the difficulties he and his family has had to face in the wake of his dismissal from the service. The Court is not at all insensitive to situation of dismissed court officials and personnel, especially in these turbulent economic times. However, we must emphasize that where the finding of administrative guilt is well supported by the evidence on record, as in this case, this Court must impose the penalty warranted under the law and prevailing jurisprudence. This is in accord with our duty to protect and preserve the integrity and independence of the Court of Appeals and the whole Judiciary.

**MOTION FOR RECONSIDERATION
OF JUSTICE JOSE L. SABIO, JR.**

On September 17, 2008, Justice Jose L. Sabio, Jr. (Justice Sabio) filed a Motion for Reconsideration, praying that the Court (a) review the portion of our Decision finding Justice Sabio guilty of simple misconduct and conduct unbecoming of a justice of the Court of Appeals and (b) remove the two month suspension imposed upon him.

In seeking the reversal of our Decision with respect to his participation in CA G.R.-SP No. 103692, Justice Sabio cites the following arguments:

- I. Justice Sabio did not violate any Canons of Professional Ethics by speaking with his brother, Camilo - truth is - Justice Sabio declined his brother's offer. How can that be taken against him?
- II. Although Justice Sabio defended Camilo's having telephoned him (during the hearings), that was mere *obiter dicta* which cannot render the Justice liable for his brother's act. (a) Justice Sabio did not initiate the phone call; (b) Justice Sabio did not agree to the request of Camilo; (c) Justice Sabio stated he would rule on the matter based on good conscience. (d) The brothers never spoke again on the matter. What was Justice Sabio's wrongdoing?
- III. The panel's conclusion that "*Justice Sabio adamantly refused to yield the chairmanship*" and had "*unusual interest in holding on to the case*" is mischaracterization. (a) The unrebutted testimonies of Justice Sabio and of Justice Villarama establish that the latter advised Justice Sabio on June 23, 2008, the very morning of the hearing in issue, to remain as Chairman because that was the correct interpretation of the rules; (b) Likewise, the suspicious actuations of Justice Reyes and Justice Roxas constrained Justice Sabio "to stand his ground" in order to protect the integrity of the CA.
- IV. The panel's findings that Justice Sabio failed to tell De Borja that "*he could not, and would not talk about the MERALCO case*" is factual misappreciation and mischaracterization. The unrebutted affidavit and testimony in open hearing of Justice Sabio is that he did not know and could not have known the reason for De Borja's urgent plea to meet. In truth, Justice Sabio told off De Borja when the latter came to the Ateneo Faculty Lounge. But since De Borja kept badgering Justice Sabio by text messages, Justice Sabio finally had to call De Borja to warn him against his pestering texts
- V. The Honorable Court's conclusion that Justice Sabio's conversations with his brother and with Mr. De Borja were "*indiscreet and imprudent*" would only be true and correct if Sabio knew before the fact of (a) what was to be discussed or (b) if he agreed to the proposals. Justice Sabio is not guilty of either.
- VI. Justice Sabio initiated this investigation by his letter to PJ Vasquez. Justice Sabio spoke the truth at great personal risk to himself and to his family. He even prejudiced his older brother whom he dearly loves by his revelations. Should this not have been at the very least

positively noted by the investigating panel in its findings? Are the panel's findings not sending a subconscious message: that Justice Sabio would have been far better-off had he accepted the bribe offer (or kept silent about it); correspondingly ignoring the perceptible infidelities all about him?^[2]

After a careful consideration of the foregoing justifications, we find no reason to overturn our previous findings with respect to Justice Sabio.

Justice Sabio's Telephone Conversation With His Brother Chairman Camilo Sabio

In the Motion, Justice Sabio claims he did not violate Canon 13 of the Code of Professional Responsibility^[3] considering that: (a) it was his brother Chairman Camilo Sabio (Chairman Sabio) of the Presidential Commission on Good Government (PCGG) who initiated the call; (b) all Justice Sabio did was answer a call from his brother without knowing beforehand what the call was about; (c) Justice Sabio told his brother that he would vote according to his conscience and did not do as his brother asked; (d) after that call, they never spoke on the matter again; (e) even though Justice Sabio defended his brother's "act of enlisting the Justice's support," he (Justice Sabio) should not be made liable for his brother's act.

From the foregoing, it would appear that Justice Sabio is arguing from the mistaken premise that he was likewise being held accountable under Canon 13 of the Code of Professional Responsibility or that he is being held accountable for the acts of his brother. The Panel of Investigators indeed used Canon 13 to characterize his conversation with his brother as improper and the same provision was the basis for this Court to refer Chairman Sabio's act to the Bar Confidant for appropriate action. However, as Justice Sabio noted in his own motion, the Panel found him in violation of the following provisions of the Canon of Judicial Conduct on independence:

Canon 1 Independence

Sec. 1. Judges shall exercise the judicial function independently x x x free from extraneous influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason.

x x x

Sec. 4. Judges shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

Sec. 5. Judges shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to be free therefrom to a reasonable observer.

This Court agrees with the panel that Justice Sabio, by his own action, or more accurately inaction, failed to maintain the high standard of independence and propriety that is required of him.