

FIRST DIVISION

[SB-99-9-J, July 28, 1999]

JEWEL F. CANSON, COMPLAINANT, VS. HON. FRANCIS E. GARCHITORENA, HON. JOSE S. BALAJADIA, HON. HARRIET O. DEMETRIOU, AND HON. SABINO R. DE LEON, IN THEIR CAPACITIES AS MEMBERS/SPECIAL MEMBERS OF THE SANDIGANBAYAN (SECOND DIVISION), RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

In this administrative complaint respondents stand charged for violation of Section 7, P. D. No. 1606; Rule 8 of the Revised Rules of the Sandiganbayan; Rules 1.02, 2.01, 3.01 and 3.05 of the Canons of Judicial Conduct; and Gross Misconduct in allegedly knowingly and deliberately delaying the transfer of Criminal Case Nos. 23047-23057 to the Regional Trial Court of Quezon City.

The factual and procedural antecedents, as summed^[1] by the Office of the Court Administrator (OCA) and borne out by the records disclose that the following were filed by complainant Jewel F. Canson, Chief Superintendent, National Capital Regional Command (NCRC):

"1. VERIFIED COMPLAINT^[2] dated February 24, 1997 with enclosures charging respondents Presiding Justice Francis E. Garchitorea, and Associate Justice Jose S. Balajadia in their capacity as designated Special Members of the Second Division, Sandiganbayan, and, Associate Justices Roberto M. Lagman, Harriet O. Demetriou and Sabino R. de Leon, Members, Second Division, Sandiganbayan with Violation of Section 7, P.D. 1606; Rule 8 of the Revised Rules of the Sandiganbayan; Rules 1.02; 2.01; 3.01 and 3.05 of the Canons of Judicial Conduct, and, Gross Misconduct relative to Criminal Cases Nos. 23047-23057, all entitled "People of the Philippines vs. Chief Insp. Michael Ray Aquino, *et al.*" in connection with the slaying of the eleven suspected members of the *Kuratong Baleleng* Gang by PNP personnel on May 18, 1995.

2. MOTION TO ADMIT AMENDED COMPLAINT^[3] dated April 16, 1997 dropping Associate Justices Jose S. Balajadia, Roberto M. Lagman and Harriet O. Demetriou, as respondents in the case, it appearing that the questioned delay in resolving the subject matter of the instant administrative complaint is directly attributable to only two of the respondent Justices, namely : Presiding Justice Francis E. Garchitorea and Associate Justice Sabino R. de Leon; and

3. VERIFIED AMENDED COMPLAINT^[4] dated April 16, 1997 charging respondents Presiding Justice Francis E. Garchitorea and Associate

Justice Sabino R. de Leon as designated Special Members of the Second Division of the Sandiganbayan with the following:

- a] Willful violation of Sec. 7, P.D. No. 1606 and Rule 8 of the Revised Rules of the Sandiganbayan;

Complainant asserts that under Section 7 of P.D. No. 1606 (1978) the Sandiganbayan is required to resolve a motion for reconsideration of any final order or decision within thirty (30) days from its submission. This same 30-day period for resolving motions for reconsideration is prescribed by Rule VIII of the Revised Rules of the Sandiganbayan. Notwithstanding, respondent Justices flagrantly violated and blatantly disregarded the law and the Sandiganbayan's own rules of procedures in failing and refusing to resolve, despite repeated motions, the motions of the public and private prosecutors for reconsideration of the Resolution dated May 8, 1996 admitting the amended information and ordering the transfer of the eleven (11) criminal cases to the RTC, Quezon City.

- b] Violation of the Canons of Judicial Conduct

RULE 1.02 - administer justice impartially and without delay;

RULE 2.01 - behave at all times to promote public confidence in the integrity and impartiality of the judiciary;

RULE 3.01 - be faithful to the law and maintain professional competence; and

RULE 3.05 - dispose of the court's business promptly.

Complainant asserts that respondent Justices were responsible for the failure of the Sandiganbayan to promptly resolve the motions for reconsideration (ANNEXES "B"^[5] and "C"^[6]) of the Resolution of May 8, 1996 (ANNEX "A"^[7]) filed by the prosecution in Criminal Cases Nos. 23047-23057; thus the subject motions remained pending for almost ten (10) months despite filing of several motions for early resolution; and

- c.] Gross misconduct for knowingly and deliberately delaying the transfer to the RTC of Criminal Cases Nos. 23047-23057.

Complainant contends that the inaction of the respondent Justices is due to more than simple innocent (*sic*) and simple oversight on their part. While respondent Justices were tarrying over the unresolved incident, the Senate had already conducted its inquiry into the *Kuratong Baleleng* case, set legislative proceedings into action to amend the law on the jurisdiction of the Sandiganbayan to include the very criminal cases which the respondent Justices and the other members of the Second Division, on a 3-2 vote, had already resolved to transfer to the RTC, Quezon City.

In anticipation of the amendatory law which could eliminate the jurisdictional objections to the Sandiganbayan trying and deciding the said cases instead of having them transferred to the RTC the respondent Justices knowingly and intentionally delayed resolving the pending incidents. Had the respondent Justices promptly acted on the motions for reconsideration by giving their concurrence/dissent to the Associate Justice's signed *ponencia* to pave the way for the transfer of the subject criminal cases to the RTC for trial, the Sandiganbayan would have lost the opportunity to retain the cases under the transitory provisions of the amendatory law.

Other relevant information submitted by the OCA^[8] with regard to the case and the complainant, who is among the accused charged as accessories-after-the-fact narrates that -

"On November 21, 1995, the Ombudsman filed with the Sandiganbayan eleven (11) informations for murder against the therein named members of the Philippine National Police (PNP) which the Ombudsman amended on March 1, 1996 downgrading the charges against accused Panfilo M. Lacson from principal to accessory after the fact.

"On March 5 and 6, 1996, eleven (11) of the accused moved to transfer the cases to the RTC or to otherwise dismiss the same on the ground of lack of jurisdiction of the Sandiganbayan to offenses where the principal accused are PNP officials with rank of Chief Superintendent or higher, or, any government official with a salary grade of 27 or upwards.

"Complainant contends that with the charges against accused Panfilo M. Lacson downgraded to mere accessory-after-the-fact the case is now without a principal accused with the requisite rank and salary grade that would confer on the Sandiganbayan the jurisdictional requirement to try the said case.

"In the Order dated March 14, 1996, the Sandiganbayan resolved to consider the jurisdictional issue submitted for decision. On March 26, 1996, pursuant to Administrative Order No. 121-96, respondent Justices Garchitorena and De Leon were designated Special Members of the three-man Second Division composed of Justices Balajadia, Demetriou and Lagman, for purposes of Criminal Cases Nos. 23047-23057. On a 3-2 vote the Sandiganbayan ordered the transfer of the subject cases to the RTC in the resolution dated May 8, 1996 (ANNEX "A")^[9] On May 17 and 22, 1996, the public and private prosecutors filed separate motions for reconsideration (ANNEXES "B" and "C")^[10] of the aforesaid Resolution with the corresponding oppositions (ANNEXES "E" and "F")^[11] filed by herein complaint (*sic*). The incident was deemed submitted for resolution by the end of June 1996 but the Sandiganbayan failed to resolve the same despite several motions for early resolution (ANNEXES "G", "H", "I" and "J").^[12]

"Meantime, on May 27, 1996 or nineteen (19) days after the Sandiganbayan ordered the transfer of the cases to the Regional Trial

Court, House Bill No. 5323 was filed for the purpose of amending the jurisdiction of the Sandiganbayan. The amendatory bill sought among others to delete the word "principal" from the phrase "principal accused" in Section 4 of the old law so that offenses involving any high-ranking official, regardless of the extent of his participation in the crime charged, whether as principal, accomplice or accessory would fall within the jurisdiction of the Sandiganbayan.

"On September 26, 1996, a counterpart bill was filed before the Senate by Senator Raul Roco as Chairman of the Senate's Committee on Justice and Human Rights. Respondent Presiding Justice Francis Garchitorena, who advocated the retention of the cases by the Sandiganbayan in his dissent to the resolution directing the transfer of the cases to the RTC attended and participated in the Senate hearings held on the bill and was thus aware of the amendatory law.

"On February 5, 1997, the bill was signed into law and designated as R.A. 8249 (ANNEX "K").^[13] The transitory provisions of R.A. 8249 provided for the transfer to the Sandiganbayan of all cases falling under its modified jurisdiction which may be pending before the Regional Trial Court but have not yet commenced trial.

"On March 6, 1997, herein complainant received from the Sandiganbayan a copy of the Resolution dated September 4, 1996 (ANNEX "L")^[14] resolving the motions for reconsideration. Although dated six (6) months earlier, the said resolution was promulgated on March 5, 1997. It was signed by its *ponente*, Associate Justice Lagman on September 4, 1996, concurred in by Associate Justice Demetriou on October 30, 1997 and by respondent Justice de Leon on February 28, 1997. A separate dissent thereto was filed by Associate Justice Balajadia on October 28, 1996 while respondent Presiding Justice entered his dissent on February 26, 1997.

"Complainant argued that despite the readiness of Associate Justices Lagman, Demetriou and Balajadia to dispose of the incident as of October 1996, respondent Justices clearly delayed action on the motions for reconsideration. Their action was knowingly and intentionally delayed in anticipation of the amendatory law that would eliminate the jurisdictional objections for the Sandiganbayan to try and decide the subject criminal cases."

In a Resolution dated July 7, 1997 the Court: 1.] noted the administrative complaint against Presiding Justice Francis E. Garchitorena, Associate Justices Jose S. Balajadia, Roberto M. Lagman, Harriet O. Demetriou and Sabino R. de Leon, Jr.; 2.] granted complainant's motion to admit amended complaint dropping Associate Justices Balajadia, Lagman and Demetriou as respondents; and 3.] requiring respondents Sandiganbayan Presiding Justice Francis E. Garchitorena and Associate Justice Sabino R. de Leon, Jr. to comment on the administrative complaint within ten (10) days from notice.^[15]

On August 15, 1997 respondent Sandiganbayan Presiding Justice filed a Motion To

Dismiss Petition As Against Justice Sabino R. De Leon, Jr.^[16] averring that respondent Justice De Leon, Jr. be discharged from the instant accusation since he received the draft of the resolution on the motion for reconsideration from his co-respondent on February 26, 1997 and he released that draft with his own concurrence with, and dissent to, the *ponencia* on the very next day, February 27, 1997. Respondent Sandiganbayan Presiding Justice likewise prayed that Associate Justice de Leon, Jr. be excused from filing a comment on the instant administrative matter or from being required to participate in any further proceeding herein.

In a Resolution dated September 3, 1997^[17], the Court required complainant to comment on the motion to dismiss the administrative complaint as against respondent Justice Sabino R. de Leon, Jr.

It appears from the record that complainant received a copy of the above mentioned motion to dismiss on August 29, 1997, thus he forthwith filed *motu proprio* a comment on the said motion on September 3, 1997^[18] averring, among others, that: 1.] In view of the statement in the Motion to Dismiss that respondent Justice Sabino R. de Leon, Jr. had only received the draft of the resolution on the Motion for Reconsideration on February 26, 1997 and that he released that draft with his own concurrence with, and dissent to, the *ponencia* on the very next day, February 27, 1997, complainant interposed no objection and in fact joins in moving to dismiss the administrative complaint as against respondent Justice Sabino R. de Leon, Jr.; 2.] had complainant been furnished the information requested which is now disclosed in the motion to dismiss, complainant would have, as he had done in the case of Associate Justices Harriet O. Demetriou, Roberto M. Lagman and Jose S. Balajadia, also moved *motu proprio* to dismiss the case as against Justice Sabino R. de Leon, Jr.

On September 5, 1997, respondent Sandiganbayan Presiding Justice Francis E. Garchitorena filed his comment^[19] to the administrative complaint denying the material allegations therein.

Upon receipt on October 7, 1997 of the Court's Resolution of September 3, 1997, requiring him to comment on the motion to dismiss, complainant again filed a comment^[20] reiterating that he is not objecting but is in fact joining the said motion to dismiss the administrative complaint as against respondent Justice de Leon, Jr.

In a Resolution dated November 12, 1997^[21] the Court, among others, a.] noted the comment of complainant on the motion to dismiss the administrative complaint as against respondent Justice Sabino R. de Leon Jr.; and b.] required complainant to reply to the comment of respondent Presiding Justice Francis E. Garchitorena.

It appears that on December 4, 1997, complainant already filed a Reply which he appended to a motion to admit^[22] even before receipt of the above mentioned Resolution of November 12, 1997, thus, he filed a Manifestation^[23] apprising the Court of this fact.

On January 12, 1998, the Court issued a Resolution^[24] noting complainant's above mentioned manifestation and requiring respondents to file a rejoinder to the reply.