

RE: ANONYMOUS LETTER RELATIVE TO THE ALLEGED CORRUPTION IN THE COURT OF APPEALS, CAGAYAN DE ORO CITY

A.M. No. 07-6-14-CA. January 18, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By Resolution[1] of July 10, 2007, the Court En Banc resolved to require Court of Appeals Associate Justices Rodrigo F. Lim, Jr. (Justice Lim) and Mario V. Lopez (Justice Lopez), and 21[st] Division Clerk of Court Cherry Hope Valledor-Ignes (Atty. Ignes), who are all based in Cagayan de Oro, to COMMENT on the June 10, 2007 anonymous letter addressed to then Chief Justice Reynato S. Puno requesting him to take action on alleged corruption taking place at the said Court of Appeals station.

Pertinent portions of the letter are reproduced below, quoted verbatim:

x x x x

We are respectfully requesting you to take action of the corruption in the Court of Appeals, Cagayan de Oro City.

The Court of Appeals, Cagayan de Oro City, is highly politicize or shall we say "Politicize Judiciary". Wherein those with political connections and influence can always get favorable decisions or resolutions and worst, those cases whose merits are not favorable to the people in power would not be decided and left in the dust in one corner of the stockroom.

Let me cite you some examples.

In one case involving employees in the Province of Zamboanga where it has already been over two (2) years since the case was submitted for decision but until this time no decision has come out yet which is contrary to the rules of the Court of Appeals that required cases to be decided within one (1) year from the time it has been submitted for decision.

It has come to our attention that this case involves rank and file regular employees of the provincial government that were illegally dismissed by Governor Cerilles. It has already been decided by the Civil Service Commission (CSC for brevity), En Banc, that their termination was illegal. As a matter of fact they were dismissed from their employment because they were identified to be supporters of the previous governor.

Their professional lives and the lives and future of their family and children are now uncertain because even if the CSC has already decided in their favor but the Court of Appeals, through Justice Rodrigo Lim issued an injunction order that enjoined the implementation of the CSC decision. BUT for over two (2) years now "INUUPUAN LANG NI JUSTICE LIM ANG KASO".

Speculation arose that in whatever angle he will look at the case it would be difficult to reverse the decision of the CSC. Information leaked that it was the father of Gov. Cerilles who talked to Justice Lim and made some arrangements. MAY USAPAN PALA SILA?

Another case in point is the case of Mayor Galario, City Mayor of Valencia City, Bukidnon where the Office of the Ombudsman ordered for his suspension for two (2) months.

The Mayor filed a case to the CA-Cagayan de Oro and sought for the issuance of a TRO but to his dismay he was denied of the TRO he was seeking.

In the case of Ombudsman vs. Laja, G.R. No. 169241, May 2, 2006, the Honorable Supreme Court in affirming the decision of the CA Cagayan de Oro, ruled that in case where the penalty of suspension is more than one (1) month the law gives the respondent the time to appeal. The order of suspension shall only become final after the lapse of the period to appeal if no appeal is perfected. It is only then that the execution becomes final.

In the case of Mayor Galario, CA-Cagayan de Oro City shows inconsistency. He made a timely appeal and the appeal supposedly prevented his suspension from being executory but the CA-CDO did not hear his case. WHY THEY GAVE A TRO OR INJUNCTION TO THE CASE OF LAJA AND WHY THEY CAN'T GIVE THE SAME TREATMENT IN THE CASE OF MAYOR GALARIO?

The answer is simple, CORRUPTION.

It is of public knowledge in Cagayan de Oro City that the Court of Appeals through Justice Lim solicited cash donations from Gov. Zubirri who is a political enemy of Mayor Galario.

In all the Christmas Parties (December 2005 and 2006) of the Court of Appeals-Cagayan de Oro, Governor Zubirri has been donating not less that P50,000.00 in cash.

How could Mayor Galario get justice and fair treatment to his case when his arch enemy is one of the biggest contributor of cash to the CA-Cagayan de Oro Christmas Parties?

In the case of Mayor Galarion, the ponente is no other than JUSTIS [sic] LIM.

There are also many cases where the CA-Cagayan de Oro that were treated unfairly. It is always; THE PERSON WHO IS IN POWER AND HAS THE INFLUENCE DUE TO HIS POLITICAL POSITION IS ALWAYS GIVEN THE FAVOR.

PAANO NA LANG KAMI AN ORDINARYONG MAMAMAYAN LAMANG?

Many cases in the Court of Appeals, Cagayan de Oro City that were decided base on WHOM YOU KNOW. If you do not know any justice in the CA-CDO then in most instances your case will not be given priority.

There are also cases that the parties already made an amicable settlement but it take years for CA-CDO Justices to grant the settlement and dismissed the case while there are also cases that were decided earlier but not in accordance with the hierarchy or rules on priority of cases.

On[e] case where there is already an amicable settlement is handled by Justice Lopez. There was already a joint manifestation of all parties that economic benefits will be released but up to this time it remains unresolved. There was already an agreement by all parties but it is hard to understand why it took him so long to resolve it. It is a very simple issue to be resolved but for a long period of time it still remains unresolved by Justice Lopez.

We are also watching this Justice Lopez because he has a reputation to succumb easily to pressures especially from those who are occupying elective position.

It is also of common knowledge here among practicing lawyers that if you want to get a TRO or Injunction we should talk to a certain Atty. Cherry Ignes, Clerk of Court of the 21[st] Division. As we found out she talked it out with the lawyer of the justice who is assigned to the case and request for the issuance of a TRO or Injunction.

In the case of FERROCHROME vs. CEPALCO, CEPALCO was issued a TRO with the help of Atty. Ignés. We received information that one of the lawyers working for CEPALCO is the one who made the follow up through her. This lawyer is her classmate at law school.

Atty. Ignés, also made ENTRY OF JUDGMENTS in many cases even if these case were appealed to the Supreme Court. Because of her action it caused confusion to the parties of these cases. One of the cases is involving Montessori de Oro School.

These acts of Atty. Ignés degrades the judicial system. She has no place in our judiciary and she ought to be dismissed from the service.

x x x x

We only hope that you will take action on this matter and through your desire of cleansing the judiciary you will have a judiciary that will have the support and confidence of the people. As you have said, "It is only the capital of the judiciary. If you lose this capital, you will lose the ball game.

Please understand that we are not divulging our identities in order not to affect the cases we are handling and unfair reprisal against our clients. Rest assured that from time to time we will inform your Honorable Office on whatever transgression and travesty on the judiciary and the judicial system that will be happening in our place.

More power to you and your family! (emphasis and underscoring supplied)

In her August 31, 2007 Comment,[2] Atty. Ignés decried her portrayal in the anonymous letter as "akin to a [T]emporary [R]estraining [O]rder fixer" in obvious reference to the TRO issued in CA-G.R. SP No. 00880, "Cagayan de Oro Electric Power and Light Co., Inc. (CEPALCO) v. Hon. Leonardo Demecillo and Ferrochrome Phils, Inc."

Atty. Ignés claimed that she was unaware of CEPALCO's urgent motion for resolution of its application for a TRO[3] which was filed on March 3, 2006 as she had designated her assistant, Cecilia Carbajosa, to man the office while she was away assisting Justice Teresita Dy-Liacco Flores as Clerk of Court[4] in the investigation of an administrative case, which entailed a weeklong hearing from March 6 to 10, 2006 in Davao City; and that she learned of the TRO only upon her return on March 10, 2006 when it was forwarded to her office for promulgation.

As she vouched for the integrity and honesty of her assistant, Atty. Ignés maintained that while one of the in-house counsels for CEPALCO was her classmate in law school, she was never approached by any of them regarding the case.

Disputing the charge that she had made entries of judgment in many cases even if they were pending appeal before this Court, such as the one involving Montessori de Oro School, Atty. Ignés pointed out that the anonymous writer must have been referring to CA-G.R. CV No. 79772, "Montessori de Oro, Inc. v. [First] Malayan Leasing and Finance Corp.," the only Montessori case which passed through her division. She explained that she acted on the motion for entry of judgment filed by First Malayan Leasing's counsel,[5] and later issued an entry of judgment,[6] on the basis of the October 24, 2005 letter[7] of this Court's Deputy Clerk of Court and Chief Judicial Records Office, Teresita Dimaisip, certifying that Montessori de Oro's Motion for Extension of Time to File Petition for Review on Certiorari[8] had been denied by Resolution of July 13, 2005 and that on such date no petition for review on certiorari had been filed with this Court.

Atty. Ignés surmised that the anonymous letter may have arisen from a personal vendetta carried out by disgruntled former court employees who resented her for exposing their misdeeds in office resulting either in

disciplinary action, including dismissal, against those found guilty.[9]

In his September 7, 2007 Comment,[10] Justice Lim branded the allegation that he had been "sitting" on the case adverted to in the letter for more than two years to be grossly inaccurate and exaggerated, he explaining that the delay was "only six . . . months and two . . . days."

This case (CA-G.R. SP No. 86627, Gov. Aurora E. Cerilles vs. CSC et al.) was deemed submitted for decision on December 6, 2005 and due for resolution on or before December 6, 2006. While there was a delay in the resolution of the aforementioned case, the delay was only six (6) months and two (2) days (from December 6, 2006) as this case has already been decided on June 8, 2007. The delay of 6 months and 2 days (and not over 2 years as alleged) from the time the one (1) year period expired on December 6, 2006, is excusable considering that so many cases of older vintage dating as far back as 1998 were resolved by me from December 5, 2005 up to the time this case was decided on June 8, 2007. I have resolved and decided 217 cases dating back as aforestated to cases already deemed submitted for decision with the Court of Appeals in Manila before the creation of the Visayas and Mindanao Stations. These 217 cases were decided on the merits covering the period from December 6, 2005 to June 8, 2007. In other words, much time and effort were also devoted in the resolution of these cases that had long been pending before this Court in Manila.

x x x [11] (emphasis and underscoring supplied)

Claiming that he does not know either Zamboanga Gov. Aurora Cerilles or her father, Justice Lim retorted that the allegation that he had made "arrangements" to favor the governor over the rank and file employees of the Zamboanga provincial government was totally baseless as he in fact resolved the case in favor of the rank and file employees.

On the allegation that he had refused to issue a TRO or injunction in a case involving Valencia City (in Bukidnon) Mayor Galario (Galario) due to his (Justice Lim's) close ties to Bukidnon Gov. Zubiri, a purported arch enemy of the mayor, Justice Lim pointed out that he had, in fact, issued a Resolution[12] dated October 10, 2006 in CA-G.R. SP No. 01278-MIN, "Jose M Galario, Jr., City Mayor, Valencia City v. The Honorable Office of the Ombudsman and Ruth P. Piano," granting the TRO prayed for by the mayor. He added that it was a matter of record that Gov. Zubiri was not even a party to that case, the mayor having been charged and suspended by the Ombudsman upon the complaint of a certain Ruth Piano; and that he had no knowledge of any political rivalry between the governor and the mayor or any interest in Bukidnon politics.

On the allegation that he was soliciting cash donations for the Court of Appeals at Cagayan de Oro 2005 and 2006 Christmas parties, Justice Lim gave the following explanation:

While it is admitted that Gov. Zubiri indeed made contributions to the Christmas Party of the Court of Appeals-Mindanao Station, such was voluntary and spontaneous on his part, without any solicitation from the Court of Appeals. It is a matter of record that the Court of Appeals-Mindanao Station celebrates the whole day its anniversary every December 7, and local government officials, among others, are invited like Gov. Oscar Moreno of the Province of Misamis Oriental. Gov. Zubiri, upon knowing that our Christmas Party would be held that evening, both Governors Zubiri and Moreno attended, and in the course of our Christmas Party, Gov. Zubiri spontaneously and out of goodwill and kindheartedness gave Fifty Thousand (P50,000.00) Pesos to be raffled off... (underlining supplied)

On the part of Justice Lopez, in his two-page Comment[13] of August 31, 2007, he manifested that, contrary to the anonymous writer's allegations, he had "thoroughly scanned the dockets of all cases raffled to us and [we] find no amicable settlement submitted for our resolution or approval." He emphasized that he has earned a reputation for fairness and independence in his more than 13-year stint in the judiciary, and that in his brief stint in

Mindanao, he neither fraternized with any politician nor allowed anyone to influence his judicial acts.

Where one, such as the present anonymous letter-writer, seeks the imposition of a penalty upon a judicial officer or magistrate on the ground of corruption, among others, it behooves him/her to establish the charge beyond reasonable doubt, for the general rules with regard to admissibility of evidence in criminal cases apply.[14] Respecting this charge of corruption against Justice Lopez and Atty. Ignes, the Court finds that the writer failed to discharge the burden.

ON THE CHARGES AGAINST JUSTICE LIM:

The Constitution mandates lower collegiate courts to decide or resolve cases or matters within 12-months from date of submission.[15] Section 5, Canon 6 of the New Code of Judicial Conduct reminds judges to perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

As reflected above, Justice Lim admitted that the appealed case, CA-G.R. SP No. 86627, involving provincial government employees found by the CSC to have been illegally dismissed by Gov. Cerilles (per anonymous writer's claim, "they were identified supporters of the previous governor"), was due for resolution on or before December 6, 2006. The Justice explained, however, that on account of his efforts to resolve 217 other cases "that had long been pending before the Court of Appeals" in Manila, he was able to decide the said case only on June 8, 2007 or more than six months beyond the reglementary period in fact in favor of the employees.

The Court takes notice that Justice Lim was appointed to the Court of Appeals on March 15, 2004, or just a little more than three (3) years before the subject anonymous letter reached the Office of the Chief Justice.

Jurisprudence has assiduously impressed upon judges their sworn duty to decide cases promptly and expeditiously, failing which the people's faith and confidence in the judiciary[16] are eroded. While the Court gives Justice Lim the benefit of the doubt respecting his claim that he had to resolve 217 cases many of which were of older vintage, and absent any showing that the delay was motivated by malice, capriciousness or any ill-motive, he should have accorded the appealed case a measure of priority, given that it involved the welfare of government employees who were purportedly dismissed without cause.

Any unwarranted delay - be it a day, a week or a month - shakes the people's trust and confidence in the judiciary.[17] More so when it is committed by a superior court magistrate who is held to a higher station. This delay, in all likelihood, precipitated the impression that Justice Lim was "sitting" on the case pending before him. It is thus not remiss to remind Justice Lim to exercise greater discretion and vigilance in the disposition of cases of this or similar nature.

The charge against Justice Lim of bias against Mayor Galario due to the Justice's purported ties to the mayor's alleged enemy, Gov. Zubiri, is belied by the Justice's issuing of a TRO in favor of the mayor, as evidenced by the October 10, 2006 Resolution in CA-G.R. SP No. 01278-MIN.

On Justice Lim's admitted accepting of cash gifts from Governor Zubiri during the Christmas party of the Court of Appeals at Cagayan de Oro which were raffled to employees, the Court may take note of the customary practice of the attendance during major "events" or national holidays, of government officials and their spontaneous donating of cash to augment the merriment of the occasions. While the Court may not put Justice Lim to task on this account given the lack of evidence pointing to any ulterior motive, the Court would be remiss if it did not caution Justice Lim to be more circumspect or to exercise prudence in accepting such cash donations in the future, if only to dispel any perceptions of unwarranted or improper ties to the executive branch.

ON THE OTHER CHARGES
AGAINST JUSTICE LOPEZ:

On Justice's Lopez's alleged failure to act on an amicable settlement of a case submitted for his resolution or approval, since that particular case is not mentioned, Justice Lopez's disclaimer can be credited. So does his disclaimer on his perceived reputation of "succumb(ing) easily to pressures especially from those who are occupying elective position,"[18] absent any slightest proof or indication thereof proffered by the anonymous writer.

ON THE CHARGES AGAINST
ATTY. IGNES:

The documentary evidence proffered by Atty. Ignés supports her assertion that she was unaware of CEPALCO's urgent motion for resolution of its application for a TRO,[19] and that she learned of the issuance of a TRO only upon her return on March 10, 2006 when it was forwarded to her office for promulgation. That CEPALCO had not obtained a TRO in its favor prior to Atty. Ignés' departure for Davao City where she was from March 6 to 10, 2006 is bolstered by CEPALCO's own admission that at the time it filed the said urgent motion for resolution on March 3, 2006, the appellate court had as yet not issued any injunctive relief.[20]

As for the issuance by Atty. Ignés of the December 5, 2005 Entry of Judgment in CA-G.R. CV No. 79772, "Montessori de Oro, Inc. v. [First] Malayan Leasing and Finance Corp.," the same appears to be regular and in conformity with established court procedures. She acted appropriately on First Malayan Leasing's motion for entry of judgment only after receipt of this Court's October 24, 2005 certification issued by Deputy Clerk of Court and Chief Judicial Records Office Teresita Dimaisip confirming the denial of Montessori de Oro's Motion for Extension of Time to File Petition for Review and the absence of any actual petition for review on certiorari filed by the same party litigant.

ALL TOLD, the allegations of corruption against respondents do no lie. The tenet â€œ that while this Court will never tolerate or condone any act, conduct or omission that would violate the norms of public accountability or diminish the people's faith in the judiciary, neither will it hesitate to reject suits that only serve to disrupt rather than promote the orderly administration of justice â€œ bears emphatic reiteration.[21]

WHEREFORE, for failure to substantiate the complaint for corruption—subject of the anonymous letter dated June 10, 2007 against Court of Appeals Associate Justices Rodrigo F. Lim, Jr. and Mario V. Lopez, and Division Clerk of Court (21[st] Division) Cherry Hope Valledor-Ignés, (Mindanao Station), Cagayan de Oro City, it is DISMISSED.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Mendoza, and Sereno, JJ., concur.
Perez, J., no part.

[1] Rollo, p. 11.

[2] Id. at 19-23.

[3] Annex "B," id. at 26-30.

[4] Vide Annex "C." id. at 31.

[5] The Anastacio Law Office with offices at Unit 10G Burgundy Corporate Tower, Sen. Gil Puyat Ave., Makati City.

[6] Dated December 5, 2005, vide Annex "I," rollo, pp. 52-53.

[7] Id. at 50.

[8] In G.R. No. 168389; Vide Annex "H-3," id. at 45-49.

[9] Rollo, pp. 22-23.

[10] Id. at 126-133.

[11] Id. at 127.

[12] Penned by CA (Division of five) Associate Justice Rodrigo F. Lim, Jr. with the concurrence of Justices Ricardo R. Rosario and Mario V. Lopez; Justices Teresita Dy-Liacco Flores and Sixto Marella, Jr. dissenting, Annex "1," rollo, pp. 134-135.

[13] Id. at 138-139.

[14] Office of the Court Administrator v. Pascual, A.M. No. MTJ-93-783, July 29, 1996, 259 SCRA 604, 617 citing Raquiza v. Castañeda, Jr. 81 SCRA 244 (1978).

[15] Sec. 15(1), Article VIII, PHILIPPINE CONSTITUTION.

[16] Re: Complaint against Justice Elvi John S. Asuncion of the Court of Appeals, A.M. No. 06-6-8-CA, March 20, 2007, 518 SCRA 512, 528 citing Arap v. Judge Amir Mustafa, A.M. No. SCC-01-7, 379 SCRA 1, 5 (2002)

[17] Concerned Trial Lawyers of Manila v. Veneracion, A.M. No. RTJ-05-1920, April 26, 2006, 488 SCRA 285, 296

[18] Rollo, p. 7.

[19] Vide at note 4.

[20] Ibid, p. 27.

[21] Ang v. Asis, A.M. No. RTJ-00-1590, January 15, 2002, 373 SCRA 91, 99.

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