

**KILOSBOYAN FOUNDATION AND BANTAY KATARUNGAN
FOUNDATION, AS REPRESENTED BY JOVITO R. SALONGA,
PETITIONERS, VS. LEONCIO M. JANOLO, JR., PRESIDING JUDGE, RTC,
BRANCH 264, PASIG CIT...**

G.R. No. 180543. July 27, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On July 9, 2007, private respondent Gregory Ong (Ong), following the promulgation of the Court's Decision in *Kilosbayan Foundation v. Ermita*,^[1] filed a petition^[2] under Rule 108 of the Rules Court for the "amendment/correction/supplementation or annotation" of the entry on citizenship in his Certificate of Birth, docketed as Sp. Proc. No. 11767-SJ and raffled to Branch 264 of the Regional Trial Court (RTC) of Pasig City over which public respondent Leoncio Janolo, Jr. presided.

Via the present recourse of certiorari and prohibition, petitioners Kilosbayan Foundation and Bantay Katarungan Foundation assail four Orders and the Decision emanating from the proceedings in the RTC case.

As Ong's petition was set for hearing by the RTC on August 7, 14, 21 and 28, 2007,^[3] petitioners-therein oppositors^[4] filed on August 6, 2007 a motion for voluntary inhibition, which the RTC denied by Order of August 7, 2007, a day after it was filed and prior to the hearing on the motion.^[5] Despite the pendency of petitioners' motion for reconsideration, the RTC proceeded to hear Ong's petition on August 14 and 21, 2007. It was only by Order of September 17, 2007^[6] that the motion for reconsideration was resolved, a copy of which was received by petitioners on October 4, 2007.

Meanwhile, by Order of August 21, 2007,^[7] the RTC declared petitioners in default. Petitioners' motion to vacate the order of default was likewise denied by Order of October 4, 2007,^[8] a copy of which was received by petitioners on October 17, 2007. Subsequently, the RTC granted Ong's petition and recognized him as a natural-born citizen of the Philippines, by Decision of October 24, 2007.^[9]

In the present petition filed on December 3, 2007, petitioners assert that public respondent "erred and committed grave abuse of discretion: (a) [i]n not voluntarily inhibiting himself from presiding over the case; (b) [i]n declaring herein [p]etitioners as having defaulted; and (c) in granting the Petition of [r]espondent Gregory S. Ong."^[10]

The Court, by Resolution of February 19, 2008, required respondents to comment on the petition, with which Ong and the Office of the Solicitor General (OSG) complied on March 14, 2008 and June 5, 2008, respectively. Petitioners submitted their Consolidated Reply on December 10, 2008.

The Court shall first resolve the preliminary objections raised by respondents. Both Ong and the OSG claim that petitioners availed themselves of an improper remedy and disregarded the hierarchy of courts. Ong adds that the defective verification renders the petition as unsigned pleading, and the lack of service of the petition on all

adverse parties violates basic rules.

The question on the propriety of the remedy availed of by petitioners is resolved in *Cerezo v. Tuazon*,^[11] where the Court discussed the various remedies available to a party declared in default, including a petition for certiorari to declare the nullity of a judgment by default if the trial court improperly declared a party in default, or even if the trial court properly declared a party in default, if grave abuse of discretion attended such declaration. A party declared in default may thus alternatively file a petition for certiorari assailing both the order of default and the judgment of default.^[12] On the choice of remedy, the Court finds petitioners' recourse procedurally allowable. The same, however, cannot be said as to the choice of court forum.

The hierarchy of courts serves as a general determinant of the appropriate forum for appeals and petitions for extraordinary writs. ^[13] The rule on hierarchy of courts is not absolute, and the Court has full discretionary power to take cognizance of a petition filed directly with it. A direct invocation of this Court's original jurisdiction may be allowed where there are special and important reasons therefor clearly and specifically set out in the petition. ^[14]

The present petition is bereft of even a single allegation of exceptional and compelling circumstance to warrant an exception to the rule. In fact, this valid objection elicited no response from petitioners, who glossed over all procedural issues in their Consolidated Reply. If petitioners themselves do not provide the Court some basis for the direct recourse, the Court is not minded to search for one.

Further, the petition carries a defective verification since it was verified without stating the basis thereof. In the Verification/ Certification of the Petition, the affiant states that he "has read the same and all the facts contained therein are true and correct."^[15] The Rules clearly state that a pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records, and a pleading required to be verified which lacks a proper verification shall be treated as an unsigned pleading.^[16] Verification is not an empty ritual or a meaningless formality. Its import must never be sacrificed in the name of mere expedience or sheer caprice. For what is at stake is the matter of verity attested by the sanctity of an oath to secure an assurance that the allegations in the pleading have been made in good faith, or are true and correct and not merely speculative. ^[17]

Moreover, this Court observes that the affiant failed to present competent evidence of his identity before the notary public, as required under the 2004 Rules on Notarial Practice.^[18] The Court cannot assume that affiant, being a public figure, is personally known to the notary public, for the jurat does not contain a statement to that effect .

Records also show that petitioners failed to furnish public respondent with a copy of the petition. The Rules require that the petition should be filed with proof of service on all adverse parties, and that the failure to comply with the requirement shall be sufficient ground for the dismissal of the petition. ^[19]

On procedural grounds alone then, the petition is susceptible to dismissal. The Court deems it best, however, to resolve the substantial issues in the interest of justice.

In their motion for voluntary inhibition, petitioners cite that Ong, his counsel, and public respondent are members of the San Beda Law Alumni Association which, along with the school's Benedictine community, publicly endorsed and supported Ong's petition through newspaper advertisements. Moreover, from the account of the proceedings, petitioners point out that issuing the order of default without resolving the motion for reconsideration of the order denying the motion for inhibition exhibits blatant bias for being unduly precipitate and wholly unwarranted.

The rule on compulsory disqualification and voluntary inhibition of judges is provided under Section 1, Rule 137 of the Rules of Court:

No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above . (underscoring supplied)

In keeping with the tenet that judges should not only act with fairness, independence, impartiality and honesty but should also be perceived to be the embodiment of such qualities, the Court added the rule on voluntary inhibition in 1964. In outlining the genesis of the provision, the Court narrated:

In *Umale v. Villaluz*, the Court traced the history of the second paragraph of the above-quoted provision, which had been added only as an amendment to the Rules of Court in 1964. Prior to that year, the question on whether to take cognizance of the case did not depend upon the discretion of the judges not legally disqualified to sit in a given case. If those concerned were not disqualified, it was their official duty to proceed with the case or else risk being called upon to account for their dereliction. They could not voluntarily inhibit themselves on grounds of prejudice or bias, extreme delicacy, or even if they themselves took great interest and an active part in the filing of the case. *Gutierrez v. Santos* and *Del Castillo v. Javelona* paved the way for the recognition of other circumstances for disqualification- those that depended upon the exercise of discretion of the judges concerned.[20]

While the second paragraph does not expressly enumerate the specific grounds for inhibition and leaves it to the sound discretion of the judge, such should be based on just or valid reasons. The import of the rule on the voluntary inhibition of judges is that the decision on whether to inhibit is left to the sound discretion and conscience of the judge based on his rational and logical assessment of the circumstances prevailing in the case brought before him. It makes clear to the occupants of the Bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there might be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition. That is to betray a sense of realism, for the factors that lead to preferences and predilections are many and varied. [21]

In the final reckoning, there is really no hard and fast rule when it comes to the inhibition of judges. Each case should be treated differently and decided based on its peculiar circumstances.

The issue of voluntary inhibition is primarily a matter of conscience and sound discretion on the part of the judge. It is a subjective test, the result of which the reviewing tribunal will not disturb in the absence of any manifest finding of arbitrariness and whimsicality. The discretion given to trial judges is an acknowledgment of the fact that they are in a better position to determine the issue of inhibition, as they are the ones who directly deal with the parties-litigants in their courtrooms.[22]

Impartiality being a state of mind, there is thus a need for some kind of manifestation of its reality, in order to provide "good, sound or ethical grounds" or "just and valid reasons" for inhibition.[23] Bare allegations of bias and prejudice are not enough in the absence of clear and convincing evidence to overcome the presumption that a judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor.[24] In *Gochan v. Gochan*,[25] the Court elucidated further:

Verily, the second paragraph of Section 1 of Rule 137 does not give judges the unfettered discretion to decide whether to desist from hearing a case. The inhibition must be for just and valid causes. The mere imputation of bias or partiality is not enough ground for them to inhibit, especially when the charge is without basis. This Court has to be shown acts or conduct clearly indicative of arbitrariness or prejudice before it can brand them with the stigma of bias or partiality.

In a string of cases, the Supreme Court has said that bias and prejudice, to be considered valid reasons for the voluntary inhibition of judges, must be proved with clear and convincing evidence. Bare allegations of their partiality will not suffice. It cannot be presumed, especially if weighed against the sacred oaths of office of magistrates, requiring them to administer justice fairly and equitably- both to the poor and the rich, the weak and the strong, the lonely and the well-connected.[26] (emphasis and underscoring supplied)

The Court applied the same precept in *Pagoda Philippines, Inc. v. Universal Canning, Inc.* [27] where the judge's right to inhibit was weighed against his duty to decide the case without fear of repression. Indeed, the automatic granting of a motion for voluntary inhibition would open the floodgates to a form of forum-shopping, in which litigants would be allowed to shop for a judge more sympathetic to their cause, and would prove antithetical to the speedy and fair administration of justice.[28]

A judge must decide based on a rational and logical assessment of the circumstances prevailing in a case brought before him. [29] In the present case, petitioners cite public respondent's affiliation with an alumni association as the sole ground to which they anchor their motion for the voluntary inhibition of public respondent.

Before the trial court, petitioners alleged that the law school ties among public respondent, Ong and his counsel, they having graduated from San Beda College of Law, albeit years apart, spell partiality.

Inhibition is not allowed at every instance that a schoolmate or classmate appears before the judge as counsel for one of the parties, however. [30] In one case, [31] the Court ruled that organizational affiliation per se is not a ground for inhibition.

Membership in a college fraternity, by itself, does not constitute a ground to disqualify an investigator, prosecutor or judge from acting on the case of a respondent who happens to be a member of the same fraternity. A trial Judge, appellate Justice, or member of this Court who is or was a member of a college fraternity, a university alumni association, a socio-civic association like Jaycees or Rotary, a religion-oriented organization like Knights of Columbus or Methodist Men, and various other fraternal organizations is not expected to automatically inhibit himself or herself from acting whenever a case involving a member of his or her group happens to come before him or her for action.

A member in good standing of any reputable organization is expected all the more to maintain the highest standards of probity, integrity, and honor and to faithfully comply with the ethics of the legal profession.[32] (underscoring supplied)

The added fact that the law school's alumni association published statements in support of Ong's application cannot lend credence to the imputation of bias on the part of public respondent. No clear and convincing evidence was shown to indicate that public respondent actively sponsored and participated in the adoption and publication of the alumni association's stand. It is inconceivable to suppose that the alumni association's statement obliged all its members to earnestly embrace the manifesto as a matter of creed.

Arbitrariness cannot be inferred either from the fact that public respondent resolved the motion for voluntary inhibition one day after it was filed. Since the personal process of "careful self-examination" [33] is essentially a matter of conscience, the judge may decide as soon as the factual basis of the motions has been clearly laid before the court because from there on the resolution of the motion enters the subjective phase.

That public respondent, Ong and his counsel former Senator Rene Saguisag are all graduates of San Beda College of Law was clearly and early on established. Hence, this sole ground relied upon by petitioners in their motion, it bears repeating, no longer required a hearing or called for the submission of a comment or opposition, and the absence thereof did not prejudice petitioners.

In one case,[34] it was held that the Rules of Court does not direct the court to order the filing of comments or oppositions to the motion before the motion is resolved. The parties may orally argue and ventilate their positions and, thereafter, the court may rule on the motion.

The Court notes that when petitioners filed the Omnibus Motion (for reconsideration and deferment) which basically reiterated their previous arguments, they no longer set the motion for hearing and simply submitted their motion ex parte without further arguments, thereby recognizing the non-litigious nature of their allegations.

Even assuming that Ong interposed no objection to the motion, it was still up to public respondent to discern, for a qualified judge cannot be ousted from sitting in a case by sheer agreement of the parties.

Petitioners further complain that public respondent proceeded to hear the case and declared them in default without first resolving their pending motion. Records show that petitioners filed on August 13, 2007 an Omnibus Motion[35] for reconsideration of the August 7, 2007 Order and for deferment of the hearings set on August 14, 21 and 28, 2007. Petitioners, thereafter, did not appear in the various settings, they alleging that the question of voluntary inhibition, which they deem to be an "overriding consideration" partaking of a "highly prejudicial matter," had yet to be resolved by the trial court. [36]

While there is no specific rule providing for a definite period of time within which to resolve a motion for reconsideration of an order denying inhibition, judges must endeavor to act promptly on it within the mandatory 90-day period so as not to interrupt the course of trial.[37]

The trial court narrated what transpired on August 14, 2007 as confirmed by the entry of the nunc pro tunc Order of September 17, 2007 making on record the denial of the Omnibus Motion.

During the hearing on August 14, 2007, the Court, after considering the arguments and counter-arguments from petitioner [Ong] and the Office of the Solicitor General, and finding no cogent reasons to reconsider its earlier position, denied in open court the motion seeking a reconsideration of the Order dated August 7, 2007 which denied movants' "Motion for Voluntary Inhibition of Presiding Judge". Corollarily, for lack of merit, the motion to defer the proceedings in the instant case was similarly denied. (see TSN, August 14, 2007, pp. 13). (citation in the original)[38]

The cited record of the proceedings validates the disposition made by the trial court on the given date, during which time petitioners failed to appear. After hearing the arguments, the trial court ruled as follows, quoted verbatim:

COURT: That's right, so there's no basis to overturn our previous Order denying the motion to voluntary inhibition filed by Atty. Capulong Now, there's another matter being raised here, counsel could not have a valid argument here to delay the proceedings What the Supreme Court wanted is to have an Order summary of the proceeding because Kilos Bayan did sought at their level. Supreme Court was expecting that they will do so again in our level, but in... since there's seems to be no good idea waiting for the adversary arguments, so, it will, when it reaches the Supreme Court, it will repeat the purpose to which they were directed to litigate. They're supposed to litigate because if they believe they're... for the denial of the petition, unless the application for declaration of natural born citizen, they should do so without any delay, so, use Bayan as a very... an active group and Bantay Katarungan, they should be a party to expeditious resolution of cases, not to a delay. How many are we here from government. We are here to litigate. So, the Motion for Reconsideration

is denied, and Motion to Defer Further Proceedings is also denied. The settings for August were all placed in the Order which was published in the newspaper of general circulation. We have previously agreed that we will proceed to cross of petitioner and witnesses. Are you ready or would you agree to the suggestion by the Court that we conduct pre-trial?[39] (underscoring supplied)

The issuance of a nunc pro tunc order is recognized where an order actually rendered by a court at a former time had not been entered of record as rendered.[40] The phrase nunc pro tunc signifies "now for then," or that a thing is done now that shall have the same legal force and effect as if done at the time it ought to have been done.[41] The purpose of an order nunc pro tunc is to make a present record of an order that the court made in a previous term, but which was not then recorded. It can only be made when the thing ordered has previously been made, but, by inadvertence, has not been entered.[42]

In the case at bar, the trial court actually took judicial action which was, however, by mistake or inadvertence, not placed in proper form on record. In any event, petitioners neither seriously contest the veracity of the transcript used as basis for such confirmatory order nor claim any unwarranted prejudice from the fact of its resolution during their non-appearance in the scheduled hearing.

The disallowance of a motion for postponement is not sufficient to show arbitrariness and partiality of the trial court.[43] For one, the grant of such is not a matter of right for it is addressed to the sound discretion of the court.[44] Parties have absolutely no right to assume that their motion for deferment would be granted, hence, they should prepare for the hearing, lest they pass the blame to no one but themselves.

Further, in considering such motions, two things must be borne in mind: (1) the reason for the postponement and (2) the merits of the case of the movant.[45] In this case, the requested postponement was premised on the pendency of the motion for reconsideration. The Omnibus Motion was, however, "submitted ex parte and without further arguments from Oppositors,"[46] drawing public respondent to promptly resolve it by denying it.

As to the merits of the case of petitioners, the trial court was left with nothing to assess since they did not file any Opposition to Ong's Petition despite the grant to them of extension of time for the purpose and their various submissions to the trial court all related to peripheral issues.

No trace of bias can be found at that juncture when the court proceeded to declare petitioners in default after resolving the pending incidents. It is an equally important doctrine that bias and prejudice must be shown to have resulted in an opinion on the merits on the basis of an extrajudicial source, not on what the judge learned from participating in the case. As long as opinions formed in the course of judicial proceedings are based on the evidence presented and the conduct observed by the magistrate, such opinion - even if later found to be erroneous - will not prove personal bias or prejudice on the part of the judge. While palpable error may be inferred from the decision or the order itself, extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose.[47]

Divergence of opinion as to applicable laws and jurisprudence between counsel and the judge is not a proper ground for disqualification. Opinions framed in the course of judicial proceedings, although erroneous, as long as they are based on the evidence presented and conduct observed by the judge, do not prove bias or prejudice. Repeated rulings against a litigant no matter how erroneous are not bases for disqualification.[48]

As for the allegation of undue haste, the Court cannot appreciate it, considering that the trial court even granted petitioners additional period within which to file an Opposition and in view of the nature of the case, which empowers the trial court to make orders expediting proceedings.[49]

In the absence then of clear and convincing evidence to prove the charge, a ruling not to inhibit oneself cannot

just be overturned. [50] In this case, petitioners failed to demonstrate such acts or conduct clearly indicative of arbitrariness or prejudice as to thaw the attributes of the cold neutrality of an impartial judge. Unjustified assumptions and mere misgivings that the hand of prejudice, passion, pride and pettiness moves the judge in the performance of his functions are patently weak to parry the presumption that a judge shall decide on the merits of a case with an unclouded vision of its facts.

In fine, the Court finds no grave abuse of discretion when public respondent did not inhibit himself from hearing the case.

On the second issue, petitioners assail the Orders of August 21, 2007 and October 4, 2007 declaring them in default and denying their motion to vacate order, respectively.

Rules of procedure, especially those prescribing the time within which certain acts must be done, have often been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business.[51] Section 5, Rule 108 of the Rules of Court provides that "[t]he civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto." Records show that the notice was last published on July 26, 2007. [52]

The trial court pointed out that petitioners filed their entry of appearance [53] without any attached Opposition to Ong's petition and that, despite the grant to them of additional five days from August 7, 2007, they still failed to make a submission. Petitioners do not contest the trial court's earlier observation that at the August 7, 2007 hearing, petitioners' counsel undertook to submit the Opposition within the extended period and to appear at the next hearing, [54] where eventually both their pleading and presence turned up unforthcoming.

Petitioners thereafter filed an Urgent Ex-Parte Motion to Vacate the August 21, 2007 Order, insisting that the Omnibus Motion presented a prejudicial issue that should have been resolved first before the trial court proceeded with the case. Notably, in both the Motion to Vacate Order and the Memorandum and/or Submission, petitioners relied only on this ground and impliedly waived other defenses or grounds for the lifting of the default order.

For a motion to lift an order of default to prosper, the following requisites must concur: (1) it must be made by motion under oath by one who has knowledge of the facts; (2) it must be shown that the failure to file answer was due to fraud, accident, mistake or excusable negligence; and (3) there must be a proper showing of the existence of meritorious defense.[55]

As the trial court observed, the motion to vacate or set aside the order of default failed to comply with paragraph (b), Section 3, Rule 9 of the Rules of Court, [56] it noting, inter alia, that the motion was "not under oath, it failed to explain or justify why movants have not filed any opposition to the petition, and it was not accompanied by an affidavit of merit." [57]

Indeed, a trial court has no authority to consider a motion to lift the order of default where such motion was not made under oath. [58] Moreover, a motion to lift an order of default must allege with particularity the facts constituting the fraud, accident, mistake or excusable neglect which caused the failure to answer. [59]

In this case, petitioners' unverified motion does not contain any justifiable reason for their failure to file an appropriate responsive pleading. Petitioners' persistent stance on the pendency of their Omnibus Motion deserves scant consideration in view of the recognition of the nunc pro tunc order confirming the August 14, 2007 denial of such motion.

Moreover, the filing of a motion for inhibition could not toll the running of the reglementary period to file a

responsive pleading, for where a period is to be suspended by the filing of a pleading, the Rules of Court expressly provides for such a suspension.[60] Despite the grant of an extension of time, petitioners did not file an Opposition to Ong's Petition, even one *ex abundante ad cautelam* that would have sufficiently dealt with their concern over the alleged pending incident.

Further, petitioners failed to allege, much less demonstrate, a meritorious defense or any argument to protect whatever interest they may have under the entry which they resist to be corrected, either embodied in a separate affidavit of merit or embedded in the verified motion itself. [61] Petitioners would later admit that they are "not real adversarial litigants in the juridical sense" as they are acting as "judicial monitors and observers." [62]

Velayo-Fong v. Velayo[63] discusses the meaning of meritorious defense:

Moreover, when a party files a motion to lift order of default, she must also show that she has a meritorious defense or that something would be gained by having the order of default set aside. The term meritorious defense implies that the applicant has the burden of proving such a defense in order to have the judgment set aside. The cases usually do not require such a strong showing. The test employed appears to be essentially the same as used in considering summary judgment, that is, whether there is enough evidence to present an issue for submission to the trier of fact, or a showing that on the undisputed facts it is not clear that the judgment is warranted as a matter of law. The defendant must show that she has a meritorious defense otherwise the grant of her motion will prove to be a useless exercise. Thus, her motion must be accompanied by a statement of the evidence which she intends to present if the motion is granted and which is such as to warrant a reasonable belief that the result of the case would probably be otherwise if a new trial is granted.[64] (emphasis in the original)

Conjunctively, the glaring deficiencies negate the posture that petitioners had no intention to delay the case and that their defenses, if any, deserve to see the light of day in court. *David v. Gutierrez-Fruelda* [65] did not countenance the failure to comply with the basic requirements of a motion to lift an order of default. Accordingly, public respondent did not arbitrarily declare them in default and deny their motion to lift the order of default.

Respecting the trial court's Decision of October 24, 2007, petitioners recapitulate their arguments against the inhibition and default orders to conclude that the assailed decision is "insupportable." [66] As lone ground, petitioners posit that the special proceedings under Rule 108 do not fall under the juridical concept of adversarial proceedings in the absence of effective adversaries since the Office of the Civil Registrar is a formal party while the Office of the Solicitor General sided with Ong's legal position. Petitioners admit that they, while being parties in interest in their capacity as judicial monitors and observers, are not real adversarial litigants in the juridical sense. [67]

The Court, in *Kilosbayan Foundation v. Ermita*,[68] stated that substantial corrections to the nationality or citizenship of persons recorded in the civil registry are effected through a petition filed in court under Rule 108 of the Rules of Court. Jurisprudence has settled that such proceedings are adversarial in nature or "[o]ne having opposing parties; contested, as distinguished from an *ex parte* application, one which the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it." [69] In this case, impleaded as defendants were the Civil Registrar of San Juan, Metro Manila and any other person having or claiming an interest under the entry sought to be corrected. The interest of the State was amply represented by the Office of the Solicitor General, while petitioners' "interest" was deemed waived when they failed to appear and file a responsive pleading.

Petitioners raise no additional ground to substantiate their imputation of grave abuse of discretion on the part of public respondent insofar as the issuance of the October 24, 2007 Decision is concerned. Since no further issues were raised, the Court is precluded from making a definitive pronouncement on the substantial aspect of the

assailed decision.

WHEREFORE, in light of all the foregoing, the petition is DISMISSED.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ.

[1] G.R. No. 177721, July 3, 2007, 526 SCRA 353, 367. The dispositive portion of the Decision reads:

WHEREFORE, the petition is GRANTED as one of injunction directed against respondent Gregory S. Ong, who is hereby ENJOINED from accepting an appointment to the position of Associate Justice of the Supreme Court or assuming the position and discharging the functions of that office, until he shall have successfully completed all necessary steps, through the appropriate adversarial proceedings in court, to show that he is a natural-born Filipino citizen and correct the records of his birth and citizenship.

This Decision is FINAL and IMMEDIATELY EXECUTORY.

No costs.

SO ORDERED.

[2] Rollo, pp. 89-132. Entitled "Gregory Santos Ong v. The Civil Registrar of San Juan, Metro Manila, and any person having or claiming an interest under the entry where an amendment/correction/supplementation or correction is sought."

[3] Order of July 10, 2007; id. at 111-112.

[4] Notice of Appearance of July 23, 2007; id. at 113-114.

[5] Id. at 19-20.

[6] Id. at 23-25.

[7] Id. at 29-30.

[8] Id. at 33-35.

[9] Id. at 39-63.

[10] Id. at 9.

[11] 469 Phil. 1020 (2004).

[12] Id. at 1036-1038.

[13] LPBS Commercial, Inc. v. Amila, G.R. No. 147443, February 11, 2008, 544 SCRA 199.

[14] Cf. Lumanlaw v. Peralta, Jr., G.R. No. 164953, February 13, 2006, 482 SCRA 396, 419; Civil Service Commission v. Department of Budget and Management, G.R. No. 158791, July 22, 2005, 464 SCRA 115, 123.

[15] Rollo, p. 16.

[16] Rules of Court, Rule 7, Sec. 4.

- [17] Hun Hyung Park v. Eung Won Choi, G.R. No. 165496, February 12, 2007, 515 SCRA 502, 508.
- [18] A.M. No. 02-8-13-SC (2004), Rule II, Sec. 6 in relation to Section 12.
- [19] Rules of Court, Rule 56, Sec. 2 in relation to Rule 46, Sec. 3.
- [20] Pagoda Philippines, Inc. v. Universal Canning, Inc., G.R. No. 160966, October 11, 2005, 472 SCRA 355, 361.
- [21] Gutang v. CA, 354 Phil. 77, 85 (1998).
- [22] Id. at 88.
- [23] Vide Parayno v. Meneses, G.R. No. 112684, April 26, 1994, 231 SCRA 807, 810.
- [24] People v. Governor Kho, 409 Phil. 326, 336 (2001).
- [25] 446 Phil. 433 (2003).
- [26] Id. at 447-448.
- [27] G.R. No. 160966, October 11, 2005, 472 SCRA 355.
- [28] Id. at 362-363.
- [29] Vide Chin v. Court of Appeals, 456 Phil. 440, 451 (2003).
- [30] Vide Santos et al. v. BLTB Co., Inc., etc. et al., 145 Phil. 422, 438 (1970); Cf. Masado and Elizaga Re: Criminal Case No. 4954-M, A.M. No. 87-9-3918-RTC, October 26, 1987, 155 SCRA 72.
- [31] Bellosillo v. Board of Governors of the Integrated Bar of the Philippines, G.R. No. 126980, March 31, 2006, 486 SCRA 152.
- [32] Id. at 158-159.
- [33] Pimentel v. Hon. Salanga, 128 Phil. 176, 183 (1967).
- [34] Calo v. Tan, G.R. No. 151266, November 29, 2005, 476 SCRA 426.
- [35] Rollo, pp. 5, 119-122.
- [36] Id. at 12-13.
- [37] Vide Custodio v. Judge Quitain, 450 Phil. 70, 76-77 (2003).
- [38] Rollo, p. 26.
- [39] Transcript of Stenographic Notes, August 14, 2007, pp. 12-13.
- [40] Cardoza v. Singson, G.R. No. 59284, January 12, 1990, 181 SCRA 45.
- [41] Lichauco v. Tan Pho, 51 Phil. 862, 880 (1923); vide Mocerro, Jr. v. Ramirez, G.R. No. 178366, July 28, 2008, 560 SCRA 362, 373.
- [42] Maramba v. Lozano, et al., 126 Phil. 833, 837-838 (1967); vide Tirol, Jr. v. Justice del Rosario, 376 Phil. 115, 119-120 (1999), where the Sandiganbayan issued a written order nunc pro tunc 18 days after the ruling in open court.
- [43] Alcaraz v. Court of Appeals, G.R. No. 152202, July 28, 2006, 497 SCRA 75, 82.

- [44] Bautista v. Court of Appeals, G.R. No. 157219, May 28, 2004, 430 SCRA 353, 357.
- [45] Sevilla v. Quintin, A.M. No. MTJ-05-1603, October 25, 2005, 474 SCRA 10.
- [46] Rollo, p. 121.
- [47] Gochan v. Gochan, supra at 447-448; Webb v. People, 342 Phil. 206, 216 (1997).
- [48] People v. Governor Kho, supra at 336.
- [49] Rules of Court, Rule 108, Sec. 6.
- [50] Sps. Hizon v. Sps. Dela Fuente, 469 Phil. 1076, 1083 (2004).
- [51] Philippine National Bank v. Deang Marketing Corporation, G.R. No. 177931, December 8, 2008.
- [52] Vide rollo, p. 144.
- [53] Id. at 113-114.
- [54] Id. at 24.
- [55] Montinola, Jr. v. Republic Planters Bank, 244 Phil. 49 (1988), which was decided under the 1964 Rules of Civil Procedure, Section 3 of Rule 18 of which was substantially retained as Section 3(b) of Rule 9 of the 1997 Rules of Civil Procedure.
- [56] A party declared in default may at any time after notice thereof and before judgment file a motion under oath to set aside the order of default upon proper showing that his failure to answer was due to fraud, accident, mistake or excusable negligence, and that he has a meritorious defense. In such case, the order of default may be set aside in such terms and conditions as the judge may impose in the interest of justice. (Underscoring supplied)
- [57] Rollo, p. 34.
- [58] SSS v. Hon. Chaves , 483 Phil. 292, 301 (2004).
- [59] Villareal v. CA, 356 Phil. 826, 844 (1998).
- [60] Vide Republic v. Sandiganbayan, 325 Phil. 762, 784 (1996).
- [61] Vide Capuz v. Court of Appeals, G.R. No. 112795, June 27, 1994, 233 SCRA 471, 475.
- [62] Rollo, p. 131.
- [63] G.R. No. 155488, December 6, 2006, 510 SCRA 320.
- [64] Id. at 334-335.
- [65] G.R. No. 170427, January 30, 2009.
- [66] Rollo, p. 288.
- [67] Id. at 15.
- [68] Supra note 1 at 366 citing Barco v. Court of Appeals, 465 Phil. 39 (2004), Lee v. Court of Appeals, 419 Phil. 392 (2001), Republic v. Valencia, 225 Phil. 408 (1986).
- [69] Tan Co v. The Civil Registrar of Manila, 467 Phil. 904, 916 (2004); Republic v. Kho, G.R. No. 170340, June 29, 2007, 526 SCRA 177, 187.

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