

CELERNA CALAYAG, AMELIA ORFIANO, MARILYN HIBE, ERNESTO CLARIN, NARCISO UNGSOD, BONIFACIO TORIDA, BOB ILLUT, EVELYN BAJET, ELORDE ILUSTRISIMO, ENRICO DETIQUEZ, JAIME CASTRO, JOSE...

G.R. No. 221864. September 14, 2016

Ponente: MENDOZA, J.

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MENDOZA, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court assails and seeks to set aside the September 21, 2015 Decision[1] and the December 18, 2015 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 138330, ordering Judge Daniel C. Villanueva (Judge Villanueva), Presiding Judge of the Regional Trial Court, Branch 49, Manila (RTC), to recuse himself from taking part and hearing Civil Case Nos. 08-119709 to 09-121989.

The subject petition stems from the 71 consolidated cases for civil damages filed by Celerna Calayag, et al. (petitioners), the survivors of the victims of the ill-fated M/V Princess of the Stars, which sank on June 20, 2008, against Sulpicio Lines, Inc. (Sulpicio)[3] and the owners, officers, ship captain, and ship master thereof.

Controversy arose when Sulpicio and its co-defendants suspected that Judge Villanueva was exhibiting bias in favor of petitioners. Firm in their belief, Sulpicio and its co-defendants filed separate motions[4] for his inhibition on the basis of the following specific charges:

- (1) [Judge Villanueva] allowed witness Sosan Lisbo to testify on actual damages even if there was no claim for such in the Complaint filed by [petitioners];
- (2) [Judge Villanueva] allowed the presentation of a mere photocopy of the circular relating to the PISA minutes meeting of the shipowners despite the timely objection made by [Sulpicio] in view of the requirement under the Judicial Affidavit Rule that the originals of the document must be attached to the affidavit. Worse, [Judge Villanueva] declared that the "Best Evidence Rule" has no application before his Court;
- (3) [Judge Villanueva] committed misconduct when [he] admitted an opinion testimony from an ordinary witness, specifically, during the April 11, 2014 hearing wherein [Sulpicio] objected to the questions contained in the judicial affidavit of witness Celerna Calayag for being speculative as it intended to pass off the opinion of the said witness on the number of years her alleged missing relative would have lived without any concrete or factual basis for the same;
- (4) [Judge Villanueva's] manifest partiality towards [petitioners] by actively participating during the cross-examination in the form of questioning to test the credibility of the witness of [petitioners] and doing the objections for the latter. Worse, in disallowing the cross-examination to test the credibility of the witness, [Judge Villanueva] is even quoted by [Sulpicio] to have said: "x x x don't use that test of credibility here in Branch 49;"
- (5) [Judge Villanueva] prejudged the case by referring to [Sulpicio's] alleged "notoriety," having in mind the

past maritime mishaps involving the former; and

(6) [Judge Villanueva] showed hostility towards [Sulpicio's] counsel when he unfairly referred Atty. Dante Vargas, as a mere "saling-pusa." [5] [Italizations supplied]

Petitioners opposed the motion.[6]

On September 2, 2014, Judge Villanueva denied the said motions for inhibition for the reasons 1) that the perceived errors committed by him and his use of the words "saling pusa" and/or "kibitzer" against the counsel of Sulpicio's co-defendants were totally taken out of context; and 2) that his rulings were simply meant to prevent delay.[7] Judge Villanueva opined that the many instances when counsel for the movants questioned his actuations were simply a deliberate attempt to "obfuscate the issues" and that their numerous objections during the trial amounted to "clear nitpicking." [8]

Sulpicio sought reconsideration,[9] but its motion was denied.[10]

Undeterred, Sulpicio initiated certiorari proceedings before the CA,[11] alleging that Judge Villanueva committed grave abuse of discretion when he refused to recuse himself from the case. In its Petition, dated November 6, 2014, Sulpicio was no longer joined by its co-defendants.

On September 18, 2015, while the petition before the CA was pending, Judge Villanueva handed down his Decision,[12] ordering Sulpicio and its co-defendants, jointly and severally, to pay damages to petitioners.

Aggrieved, Sulpicio filed its notice of appeal.[13]

On September 21, 2015, or three days following the promulgation of the RTC decision, the, CA promulgated its assailed decision granting the petition for certiorari and directing Judge Villanueva to recuse himself from hearing the civil cases for damages. In its decision, the CA faulted the presiding judge for allowing an ordinary witness to provide testimony of his own opinion in violation of the Judicial Affidavit Rule. The CA opined that this, coupled with his remarks in open court, cast doubt on his impartiality.[14]

Hoping that the CA would reverse itself, petitioners filed their Very Urgent Motion for Reconsideration[15] and their Supplemental Motion for Reconsideration with Manifestation.[16] On its part, Sulpicio sought to have Judge Villanueva cited for contempt for proceeding with hearing the main case and deciding the same while certiorari proceedings in the CA were ongoing. Sulpicio likewise prayed for the issuance of a temporary restraining order (TRO) and/or a writ of preliminary injunction to prevent the execution of the RTC Decision, dated September 18, 2015.

On December 18, 2015, the CA issued the assailed resolution[17] denying petitioners' motion for reconsideration for being moot and academic. The appellate court explained that the decision on the merits of the main case by Judge Villanueva rendered the inhibition proceedings moot and academic.[18]

The CA also saw no reason to cite Judge Villanueva in contempt because he had no reason not to proceed with the case and decide it on its merits while certiorari proceedings were pending. It explained that the remedy of Sulpicio was to appeal the judgment on the merits and incorporate therein the improprieties committed by Judge Villanueva during the trial.[19]

As for the prayer for TRO and/or injunction, the CA was of the view that a TRO or injunction was no longer necessary as it had already ordered Judge Villanueva to cease from further performing acts relative to the civil cases for damages.[20] Thus, it was resolved:

WHEREFORE, [petitioners'] Very Urgent Motion for Reconsideration, and Supplemental Motion for

Reconsideration with Manifestation are hereby denied for being moot and academic. Likewise, [Sulpicio's] Motion to Cite [Judge Villanueva] in Contempt and Urgent Motion for Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary injunction to Stop Baseless and Unlawful Execution Pending Appeal of the RTC Decision are merely noted.

Finally, in view of our September 21, 2015 Decision, this Court orders the following:

a. [Judge Villanueva] is directed anew to recuse himself from the principal case (Civil Case Nos. 08-119709 to 09-121989) and REFRAIN from further executing acts in connection with these cases; and

b. [Judge Villanueva] through his Branch Clerk of Court is directed to immediately FORWARD the entire records of the case to the Executive Judge of the Regional Trial Court of Manila who is hereby ordered to conduct a re-raffle of the same with dispatch and thereafter submit a REPORT to this Court within ten (10) days therefrom.

SO ORDERED.[21]

Not in conformity, petitioners questioned the CA decision and resolution in this Rule 45 petition.

Subsequent Proceedings/Actions

In its Resolution,[22] dated April 20, 2016, this Court noted the Motion for Leave to Intervene[23] of Buenaventura Rabe, Jr. and thirteen others who were alleged relatives of the victims of M/V Princess of the Stars seeking to join the subject petition and adopting the abovementioned arguments raised by petitioners.[24]

Thereafter, in the Order,[25] dated May 11, 2016, notwithstanding the receipt of the September 11, 2015 CA decision ordering him to recuse from further participating in the civil cases against Sulpicio, Judge Villanueva granted petitioners' motion for execution pending appeal. In light of this development, the Court issued a TRO,[26] dated June 22, 2016, to stay the implementation of the writ of execution pending appeal insofar as the grant of actual damages was concerned.

Issue

Whether there were sufficient grounds for the CA to order the inhibition of Judge Villanueva from the civil cases filed against Sulpicio.

The Arguments of Petitioners

Procedurally, petitioners contend that the CA erred in not dismissing the petition for certiorari because it failed to attach [1] the pertinent transcript of stenographic notes (TSNs) of the hearings before the trial court and [2] petitioners' comment on the motion for inhibition filed by Sulpicio, in violation of Section 1, Rule 65,[27] in relation to Section 3, Rule 46 of the Rules of Court.[28]

Substantively, petitioners question the CA decision to overturn Judge Villanueva's prerogative not to voluntarily inhibit from the case as it was in violation of Section 1, Rule 137 of the Rules of Court.[29] For petitioners, the CA ruling ordering the inhibition of Judge Villanueva was not warranted because his acts and remarks were just manifestations of his displeasure with the acts of the lawyers of the defendants which he characterized as dilatory schemes.

As for Judge Villanueva's use of the words "saling pusa" and/or "kibitzer" pertaining to the counsel of Sulpicio's co-defendants, petitioners claim that it was deliberately taken out of context by the respondent to suit its advantage of unduly disrupting a valid judicial proceeding.[30] They believe that Judge Villanueva only made such comments because he did not want the counsel of Sulpicio to take up the time of its co-defendants' counsel

in the cross-examination of the witness.

As for the finding of the CA that Judge Villanueva violated the rule on judicial affidavits, petitioners argue that he merely allowed the witness to confirm her allegations in her complaint.

Petitioners also contend that the motion for reconsideration was not rendered moot and academic by the order of Judge Villanueva granting their motion for execution pending appeal because his participation in their said motion was crucial.

The Position of the Respondent

Respondent Sulpicio, aside from defending the correctness of the CA finding of partiality, contends that the Court should dismiss the subject petition on the ground that petitioners did not attach a certified true copy or legible duplicate copies of the assailed September 21, 2015 Decision of the CA to their petition before the Court. Sulpicio adds that a perusal of the "Statement of Material Dates" of the subject petition yields the fact that petitioners never mentioned the date when they did receive a copy of the said CA decision.[31]

The Court's Ruling

Procedural Issues

Both petitioners and Sulpicio fault each other for failing to attach the pertinent documents to support their respective claims before the higher courts.

A cursory review of the pleadings filed by the parties before this Court reveals that the contentions of both parties have no merit. With respect to the alleged failure of petitioners to attach certified true copies of the September 21, 2015 Decision of the CA in their petition for review and the omission of material dates, the Court allowed the subject petition based on the following explanation made by petitioners:

1. On 21 September 2015, the Honorable Court of Appeals promulgated the decision sought to be reviewed. A copy of the same is, as of date, not yet officially received from the Court of Appeals by the PAO. Hence, in an Omnibus Motion dated 8 December 2015, Calayag, et al., through the PAO, prayed that they be furnished (anew) a copy of the said CA decision.

Nonetheless, on 29 September 2015, Atty. Diana Zoe B. Guardiano, resident Public Attorney of the Regional Trial Court of Manila, Branch 49, from which the CA case arose, in the course of following up the status of the RTC case, chanced upon a Manifestation dated 23 September 2015 filed by Sulpicio with attached copy of the CA decision.

x x x x

2. Thus, despite not having officially received a copy of the CA decision, Calayag, et al. filed a Very Urgent Motion for Reconsideration on 30 September 2015 and a Supplemental Motion for Reconsideration with Manifestation on 14 October 2015. x x x

3. On 4 January 2015, the PAO received a copy of the CA Resolution dated 18 December 2015 denying the foregoing motion. x x x

4. Hence, petitioners have fifteen (15) days, or until 19 January 2015, within which to file a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Procedure.

5. This Petition is being filed within the said period.[32]

In *Air Philippines Corporation v. Zamora*,[33] it was written:

Certiorari, being an extraordinary remedy, the party seeking it must strictly observe the requirements for its issuance. Some of these requirements are found in paragraph 2, Section 1 of Rule 65, which reads:

SECTION. 1. Petition for certiorari.

x x x x

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto x x x.

These requirements are emphasized in Section 3, Rule 46, thus:

SEC. 3. Contents and filing of petition; effect of non-compliance with requirements.

x x x x

[The petition] shall be x x x accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record, as are referred to therein, and other documents relevant or pertinent thereto x x x.

x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

Note that the foregoing rules speak of two sets of documents to be attached to the petition. The first set consists of certified true copies of the judgment, order or resolution subject of the petition. Duplicate originals or certified true copies thereof must be appended to enable the reviewing court to determine whether the court, body or tribunal, which rendered the same committed grave abuse of discretion. The second set consists of the pleadings, portions of the case record and other documents which are material and pertinent to the petition. Mere photocopies thereof may be attached to the petition. It is this second set of documents which is relevant to this case.

As a general rule, a petition lacking copies of essential pleadings and portions of the case record may be dismissed. This rule, however, is not petrified. As the exact nature of the pleadings and parts of the case record which must accompany a petition is not specified, much discretion is left to the appellate court to determine the necessity for copies of pleading and other documents. There are, however, guideposts it must follow.

First, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a prima facie case of grave abuse of discretion as to convince the court to give due course to the petition.

Second, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also [be] found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.[34] [Emphases and Underscoring supplied]

The same liberality can likewise be accorded to petitioners because, eventually, they were able to remedy their lapses by submitting certified true copies of the September 21, 2015 Decision[35] and December 18, 2015

Resolution[36] of the CA.

The fundamental purpose of the rule in requiring the attachment of pertinent records submitted in every appeal or petition is to enable the appellate courts to judiciously and expeditiously resolve all controversies elevated to their jurisdiction. In this case, the Court finds that these requirements were met.

As regards the failure of Sulpicio to attach to its petition before the CA the pertinent TSNs highlighting the claimed bias of Judge Villanueva against them, the Court finds merit in its argument:

It bears emphasizing that the inhibition petition filed by respondent before the Court of Appeals which led to the issuance of the 21 September 2015 Decision now being assailed in the instant petition was an original special civil action for certiorari brought under Rule 65 of the Rules of Court alleging grave abuse of discretion on the part of Judge Villanueva grounded on the latter's manifest bias, partiality and hostility against herein respondent exhibited during the trial of the 71 consolidated STARS civil cases pending in his sala.

It likewise bears stressing that, as asseverated by the afore-quoted jurisprudence, the "nature" of "other pleadings and documents to be attached" in a petition for certiorari under Rule 65 has never been specified by the Rules.

It is noteworthy to point out at this juncture that the inhibition petition filed by respondent before the Court of Appeals quoted relevant portions of the TSNs which highlighted parts of the proceedings before the trial court showing the bias and prejudice of Judge Villanueva against herein respondent, as earlier asseverated in the Counter-Statement of Matters Involved. Said quoted portions of the TSNs are likewise found in the Motion for Inhibition filed by respondent before the trial court and certified true copy of the aforesaid inhibition motion was appended by respondent as Annex "E" to the inhibition petition filed before the Court of Appeals.[37]

At any rate, it should be remembered that dismissals based on technical grounds are abhorred. As the Court has expounded in *Agum vs. Court of Appeals*:[38]

x x x The court has discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[39] [Emphasis supplied]

Substantive Issue

The Court resolves the substantive issue against the petitioners.

Section 1, Rule 137 of the Rules of Court encapsulates the rules on the disqualification and the inhibition of judicial officials. Thus:

Section 1. Disqualification of judges. 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.

From the above, the rule on disqualification and inhibition essentially involves two aspects, one being compulsory disqualification and the other being voluntary inhibition.

Compulsory disqualification assumes that a judge cannot actively or impartially sit on a case for the reasons stated in the first paragraph of Section 1, Rule 137 of the Rules. It has been said that the rationale for the rule on the compulsory disqualification of a judge or judicial officer is predicated on the long-standing precept that no judge should preside in a case in which he or she is not wholly independent, disinterested or impartial. Judges should not handle cases in which they might be perceived, rightly or wrongly, to be susceptible to bias and partiality. The rule is aimed at preserving at all times the people's faith and confidence in our courts, which are essential to the effective administration of justice.[40]

On the other hand, the aspect of voluntary inhibition, as stated in the second paragraph, involves the use of discretion. Undoubtedly, it partakes of voluntariness and is a matter of conscience that is addressed primarily to the judge's sense of fairness and justice.[41]

This discretion is an acknowledgment of the fact that judges are in a better position to determine the issue of inhibition, as they are the ones who directly deal with the litigants in their courtrooms.[42] The decision on whether he should inhibit himself, however, must be based on his rational and logical assessment of the circumstances prevailing in the case brought before him.[43]

To guide the members of the bench, it should be stated that inhibition must be for just and valid causes.[44] Generally, the mere imputation of bias, partiality and prejudgment will not suffice in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor.[45] The disqualification of a judge cannot be based on mere speculations and surmises or be predicated on the adverse nature of the judges rulings towards the movant for inhibition.[46] In fact, this Court has, on several instances, ruled that to warrant the judge's inhibition from the case, bias or prejudice must be shown to have stemmed from an extra-judicial or extrinsic source. In other words, a judge must inhibit only if it is shown that a judge's evident leaning towards a party would result in a disposition on the merits on some basis other than what the judge learned from participating in the case.

After all, the option given to a judge to choose whether or not to handle a particular case should be counterbalanced by the judge's sworn duty to administer justice without fear of repression.[47]

As with many rules, however, there are exceptions; such as -whenever it is shown that the consistency and regularity with which a judge issued the assailed directives give rise, not to a fanciful suggestion or to a superficial impression of partiality, but to a clear and convincing proof of bias and prejudice, a judge may be directed to inhibit himself from presiding over the case.[48]

Thus, in *Peralta v. Judge George E. Omelio*,[49] this Court pronounced that:

X x x, a presiding judge must maintain and preserve the trust and faith of the parties litigants. He must hold

himself above reproach and suspicion.

At the very first sign of lack of faith and trust to his actions, whether well grounded or not, the Judge has no other alternative but inhibit himself from the case. The better course for the Judge under such circumstances is to disqualify himself. That way, he avoids being misunderstood, his reputation for probity and objectivity is preserved. What is more important, the ideal of impartial administration of justice is lived tip to.[50]

In the case at bench, the Court finds that the exception applies.

First. It appears that despite the timely objections of Sulpicio, Judge Villanueva allowed petitioners to introduce in evidence a document containing a summary of a witness' testimony, despite being a mere photocopy. In declaring that a photocopy of a document was an "authentic document," he disregarded one of the very elementary rules of evidence. The pertinent portion of the TSN reads:

ATTY. AREZA: We have another witness Your Honor, Captain Teotimo R. Borja.

x x x x

ATTY. LIM: Your Honor please, to avoid discussion and objection, I think it is [unavoidable] that the witness may have to come back because the circular relates to the PISA minutes meeting of ship owners that is the gist of his testimony and according to counsel here when he inquired from the witness, this minutes is with the BMI, BMI is part of the coastguard, the witness is from the coastguard so I would also appreciate an authenticated copy, Your Honor.

COURT: Is it attached here?

ATTY. LIM: Yes, Your Honor. It is attached as a mere photocopy. x x x

COURT: I think this is legible enough, you can conduct your cross if unless there is such an issue that this (sic) a Court's copy or spurious copy which I don't think counsel is prepared to say because if you say this is spurious, you must have basis.

ATTY. LIM: Your Honor, my basis in questioning the authenticity, Your Honor, there are handwritten notations on the face of 'quadruple O-2' whereas on the face of the document there is a typewritten document, there is even a note here, sir, concerned staffs, I could not read, Your Honor.

COURT: It does not matter (sic) this kind of notations practically no probative value. The court is convinced that this is an authentic document, you can cross examine him on this.

ATTY. LIM: But this is a photocopy, Your Honor.

COURT: Yes, even then, even then, we are already in 2014, we (sic) had that technology and this court is very sure it will be upheld by the Supreme Court if there is no jurisprudence yet. These are authentic documents.

ATTY. LIM: Just for clarification, Your Honor, the judicial affidavit rule I think, if I may recall correctly, requires the originals to be attached. If the counsel of the witness is not in a position to attach the originals, he should make the comparison in open Court.

COURT: Okay, let's ask counsel, where is the original of this one?

x x x

COURT: The Court has already expressed its view that if you want we can convert it into a ruling that the attachment is sufficient to be used as basis for the cross-examination. The authenticity of the document is not at issue here.

ATTY. LIM: Your Honor if that is the case then I will not deal with that on my cross-examination because I

would not want to waive objection to the document attached to the judicial affidavit as not being compliant with the best evidence rule. In any event, I will proceed on other points, Your Honor.

COURT: The Court would like to state that as far as the copy of the Court is concerned, it is a very legible copy. x x x It's only if it's blurred; it could hardly be read, that we try to get the original of course but in this case, it's very legible. It can be read. There was supposed to be a public hearing and that's not been put in issue by counsel, are you trying to say this never happened, this meeting?

ATTY. LIM: Your Honor, if we will read carefully the judicial affidavit of the witness, there is an allegation in the offer of testimony of about the alleged negligence of the defendants and as far as this witness is concerned, that purpose is sought to be proven by certain documents whereat the defendant Sulpicio Lines is being made to appear as having participated in.

COURT: Did it not participate this James Go?

ATTY. LIM: I have no personal knowledge, Your Honor.

COURT: Since you have no personal knowledge, then you have to yield to this document.

ATTY. LIM: But they are the ones presenting evidence, Your Honor.

COURT: That is why they presented this showing prima facie that there was a James Go from Sulpicio Lines who participated and we will proceed upon that premise.

ATTY. LIM: My problem is that, Your Honor, since they are the plaintiffs with the burden of proof [maybe] this should be clarified already because this is always . . .

COURT: This will be a recurring issue, I think counsel is very well aware of the view of this representation.

ATTY. LIM: We respect your view, Your Honor.

COURT: Unless, it is put in issue and that is part of the new rules that all come into effect, unless it is put in issue, all attachments are considered authentic.

ATTY. LIM: But that is not yet applicable.

COURT: Yes, but then it will be. the new rule in the future, in the short future.

ATTY. LIM: The best evidence rule will be abolished?

COURT: No, well, we will see, it's up to the Supreme Court.

x x x

COURT: There are new technologies coming in. x x x Machine copies of (sic) document are already quite reliable. The reason why we have all this kind of . . . was omnibus during the time of antiquity when it's so difficult to make a copy, that a copy, the integrity of the copy may not be assure but right now for instance a meeting there are so many participants (sic) minutes that this witness who claimed that it was already submitted, that is already part of the official record. If you feel that there is something wrong with that, it was a total make believe pretend document (sic) the child would say, you verify and if you were able to show the Court, the Court may even rule to disregard the entire testimony of this witness. If you can just show the Court.

ATTY. LIM: That is very revolutionary, Your Honor.

COURT: No, that is not revolutionary. [Emphases supplied]

Second. Despite the objections of Sulpicio's counsel, Judge Villanueva allowed petitioners' witness to give her

opinion on how long her husband could have lived.[51] On this point, the Rules on Evidence are clear:

Sec. 48 . General rule. — The opinion of witness is not admissible, except as indicated in the following sections.
(42)

x x x x

Sec. 50. Opinion of ordinary witnesses. — The opinion of a witness for which proper basis is given, may be received in evidence regarding —

(a)

the identity of a person about whom he has adequate knowledge;

(b)

A handwriting with which he has sufficient familiarity; and

(c)

The mental sanity of a person with whom he is sufficiently acquainted.

The witness may also testify on his impressions of the emotion, behavior, condition or appearance of a person.
(44a)

Although the opinion of petitioners' witness might tend to prove Sulpicio's overall liability to petitioners for their loss, still, to arrive at such conclusion on the amount of its liability based on the testimony of an ordinary witness smacks of wanton disregard of procedural rules.

Uncontroverted also is the fact that Judge Villanueva denigrated and belittled the counsel for the co-defendants by calling him a mere "kibitzer" or "saling-pusa." The Court finds that the remark was uncalled for as it publicly humiliated him before everyone present in the courtroom. This open degrading description of the said counsel bares a state of mind of a partial trial judge. By his expression of his regard for a counsel of a litigant, he displayed his predisposition and propensity to partiality.

Ordinarily, the foregoing, even taken together, would not constitute a solid ground for the inhibition of a trial judge. His remarks could have been uttered in the excitement of the moment.

Such lapses, however, when coupled with his acting on the case after he was ordered by the CA to recuse himself, brought to fore his tendentious mind.

The most telling manifestation of his partiality was his Order, dated May 11, 2016, granting petitioners' motion for execution pending appeal. Despite receiving categorical orders from the CA to recuse himself from participating in the subject civil cases, Judge Villanueva acted on petitioners' motion for execution pending appeal and granted it.[52] The records even show that despite being directed by Executive Judge Reynaldo A. Alhambra on January 12, 2016 to transmit the records of the case for reraffle, Judge Villanueva failed to heed this directive.[53] In resolving the motion for execution pending appeal, he opined that while he was "not prepared to state at this time that whatever appeal that may be made by Sulpicio and co-defendants should automatically be characterized as frivolous and manifestly dilatory yet it would seem that a party that has no evidence on record could hardly expect to prevail in the appellate courts." [54] By his acts and statements, he confirmed his evident predisposition.

On this score, it bears mentioning that although judicial courtesy is indeed not mandatory, under such circumstances, Judge Villanueva should have been more circumspect in the exercise of his discretion and recused

himself from further presiding over the said civil cases to remove any doubt on his neutrality. While Section 7 of Rule 65 provides the general rule that the mere pendency of a special civil action for certiorari does not stay the proceedings in the lower court in the absence of a writ of preliminary injunction or TRO, this Court in *Eternal Gardens Memorial Park v. Court of Appeals*[55] explained:

Although this Court did not issue any restraining order against the Intermediate Appellate Court to prevent it from taking any action with regard to its resolutions respectively granting respondents' motion to expunge from the records the petitioner's motion to dismiss and denying the latter's motion to reconsider such order, upon learning of the petition, the appellate court should have refrained from ruling thereon because its jurisdiction was necessarily limited upon the filing of a petition for certiorari with this Court questioning the propriety of the issuance of the above-mentioned resolutions. Due respect for the Supreme Court and practical and ethical considerations should have prompted the appellate court to wait for the final determination of the petition before taking cognizance of the case and trying to render moot exactly what was before this court. x x x x.
[Emphasis and underscoring supplied]

Thus, while petitioners were correct in asserting that Judge Villanueva had yet to receive the CA decision ordering his inhibition when he handed down his decision on the civil cases, he should not have entertained the subsequent motion for execution pending appeal and recused himself from the case as he already received the September 21, 2015 CA Decision and December 18, 2015 Resolution ordering his inhibition. It bears to reiterate that the Executive Judge even directed him to turn over the entire records of the case to the Clerk of Court of Manila. Despite this, he acted on the motion for execution pending appeal.

Petitioners cannot argue that no TRO or writ of preliminary injunction was issued by the CA enjoining Judge Villanueva from further acting on the case. In the same way that a lower court should readily comply with the provisional orders of a higher court, then it is with more reason that he should respect and comply with a higher court's final disposition of the case on the merits.

Taking into consideration the actions of Judge Villanueva during the trial and his overzealousness to have his decision executed despite clear directive from the CA, the Court finds that Sulpicio's right to have an impartial judge was clearly violated. Thus, the Court will let stand the ruling of the CA ordering Judge Villanueva to recuse himself from the case.

Clearly issued with grave abuse of discretion, the May 11, 2016 Order of Judge Villanueva granting petitioners' motion of execution pending appeal should be annulled. To let it be is to sanction and reward disrespect of a higher tribunal.

Judges should avoid not just impropriety in their conduct but even the mere appearance of impropriety[56] for appearance is an essential manifestation of reality.[57] In insulating the Bench from unwarranted criticism, thus preserving a democratic way of life, it is essential that judges be above suspicion.[58] It bears stressing that the duty of judges is not only to administer justice but also to conduct themselves in a manner that would avoid any suspicion of irregularity.[59] This arises from the avowed duty of members of the Bench to promote confidence in judicial system. Occupying an exalted position in the administration of justice, judges must pay a high price for the honor bestowed upon them. Hence, any act which would give the appearance of impropriety becomes, of itself, reprehensible.[60]

WHEREFORE, the petition is DENIED. Accordingly, the September 21, 2015 Decision and the December 18, 2015 Resolution of the Court of Appeals in CA-G.R. SP. No. 138330 are AFFIRMED.

The May 11, 2016 Order of the Regional Trial Court, Branch 49, Manila, in Civil Case Nos. 08-119709 to 09-121989, granting execution of its September 18, 2015 Decision, is NULL and VOID for being issued with

grave abuse of discretion and in excess of jurisdiction.

Within 24 hours from receipt of this judgment, the Executive Judge of the Regional Trial Court in Manila is hereby ordered to re-raffle the consolidated cases to a new judge, who should act on the notice of appeal of the defendants and, in the exercise of its residual powers, resolve the motion for execution pending appeal filed by the petitioners, with deliberate dispatch.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Leonen, JJ., concur.

[1] Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Ricardo R. Rosario and Ramon Paul L. Hernando, concurring; rollo, pp. 206-215; 1606-1615.

[2] Id. at 339-343.

[3] Now known as Philippine Span Asia Carrier Corporation.

[4] Id. at 414-456; 457-458.

[5] CA Decision, id. at 209-210.

[6] Id. at 10-11.

[7] Id. at 394-399.

[8] Id. at 398.

[9] Id. at 464-470.

[10] Id. at 401.

[11] Id. at 344-392.

[12] Id. at 84-170.

[13] Id. at 1562.

[14] Id. at 213.

[15] Id. at 220-233.

[16] Id. at 235-242.

[17] Id. at 339-343.

[18] Id. at 340-341.

[19] Id. at 341.

[20] Id. at 432.

[21] Id. at 343.

[22] Id. at 1534-1535.

[23] With herein Incorporated Manifestation; id. at 1485-1495.

[24] Id. at 1485-1495.

[25] Id. at 1641-1645.

[26] Id. at 1671-1673.

[27] Section 1. Petition for certiorari. When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

[28] Sec. 3. Contents and filing of petition; effect of non-compliance with requirements.

The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition. The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

[29] Sec. 1. Disqualification of judges. - 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.

[30] Rollo, p. 70.

[31] Id. at 1554-1555.

[32] Id. at 7.

[33] 529 Phil. 718 (2006).

[34] Id. at 726-728.

[35] Rollo, pp. 1606-1615.

[36] Id. at 339-343.

[37] Id. at 1560.

[38] 388 Phil. 587 (2000).

[39] Id. at 593-594.

[40] *Perez v. Suller*, 320 Phil. 1, 8 (1995).

[41] *Gochan v. Gochan*, 446 Phil. 433, 447 (2003).

[42] *Chin v. Court of Appeals*, 456 Phil. 440, 450 (2003), citing *Gutang v. Court of Appeals*, 354 Phil. 77 (1998).

[43] Id. at 451, citing *Gacayan v. Pamintuan*, 373 Phil. 460, 478 (1999).

[44] *People v. Kho*, 409 Phil. 326, 335 (2001).

[45] *People v. Court of Appeals*, 369 Phil. 150, 158 (1999); *Go v. Court of Appeals*, G.R. No. 106087, April 7, 1993, 221 SCRA 397, 409-410.

[46] *Republic v. Gingoyon*, 514 Phil. 657, 711 (2005).

[47] *Dumo v. Espinas*, 515 Phil. 685, 696 (2006).

[48] *Ty v. Banco Filipino Savings Bank*, 467 Phil. 290, 306 (2004).

[49] 720 Phil. 60 (2013), citing *Madula v. Judge Santos*, 457 Phil. 625, 634 (2003).

[50] Id. at 100.

[51] Rollo, pp. 1567-1568.

[52] Id. at 1658-1662.

[53] Id. at 1637-1639.

[54] Id. at 1661.

[55] 247 Phil. 387, 394 (1988); also cited in *Republic v. Sandiganbayan (First Division)*, 525 Phil. 804, 809 (2006).

[56] *San Juan v. Bagalacsa*, 347 Phil. 696, 701 (1997).

[57] *Espiritu v. Jovellanos*, 345 Phil. 823, 835 (1997).

[58] Concerned Employees of the RTC of Dagupan City v. Falloran-Aliposa, 384 Phil. 168, 190 (2000).

[59] Contreras v. Solis, 329 Phil. 376, 380 (1996).

[60] Concerned Employees of the RTC of Dagupan City v. Falloran-Aliposa, 384 Phil. 168, 181 (2000).

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