

**NICETAS A. SUANES, PETITIONER VS. CHIEF ACCOUNTANT,
ACCOUNTING DIVISION, SENATE, AND DISBURSING OFFICER,
DISBURSEMENT AND PROPERTY DIVISION, SENATE, RESPONDENTS.**

G.R. No. 2460. September 11, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

The Solicitor General filed a motion seeking to disqualify in this proceeding Acting Chief Justice Ricardo Paras, Mr. Justice Pedro Tuason, and the writer hereof. The motion is addressed to the Supreme Court in violation of Sec. 2 of Rule 126, which provides that the objection should be addressed to the official claimed to be disqualified, this technical error of law notwithstanding, we will consider the motion on its merits.

In the eyes of the law, the motion appears to be absolutely unfounded. Only a misreading of the law or mental blindness can explain its filing. Sec. 1 of Rule 126 is the [only law applicable, and no one can honestly see in its text any support to the motion. Said section is copied in the motion and it is surprising that, in the absence of a single fact in the motion that would justify application of its provision, the Solicitor General had the recklessness of filing it.

If the gesture is intended to deluge the gallery of ignorant:, among the people, as suggested by the fact that wide press publicity was given to the Intended move before the motion was actually filed, it is definitely of bad taste and highly unbecoming.

The grounds of disqualification under Sec. 1 of Rule 126 are as follows:

1. Pecuniary interest in the case of the Judge or his relatives within the 6th degree of consanguinity or affinity.
2. When the judge has, in the case, 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.

Movant alleged that "the present question presented fin this proceeding is the legality of the appointment of the petitioner by the Honorable Acting Chief Justice ^Ricardo Paras as Chairman of the Senate Electoral Tribunal." (Such question has absolutely no bearing to the grounds for disqualification specified in Sec. 1 of Rule 126.

Movant's allegation that the three Justices sought to fee disqualified "have made common cause with the petitioner" is a misrepresentation of fact. It falsely assumes that said three Justices have personal or private interest involved in the litigation, when said Justices' participation in the actuations of the Senate Electoral Tribunal were ;and are of public nature and only in the performance of their official duties and functions.

The same Solicitor General refers to the actuations of the three Justices in the Senate Electoral Tribunal as "official actuations," and in "official actuations" no personal or private interest of the person undertaking them is or should be involved. Government officials are supposed to perform their duties and functions in accordance with law and with the principles of justice, and this holds good with respect to all the members of the Senate

Electoral Tribunal, a body created by the Constitution to administer impartial justice, without fear or favor. No government official may inject personal or private motives or interest in his official actuations without disregarding his oath of office, without violating the law, without betraying public trust, without debasing his official dignity, without pawning or forfeiting his honesty. Such official would place himself in no higher moral level than that of any impostor or criminal, and would deserve no less contempt and punishment. Banishment from the society of decent people is the least measure that should be taken against such a moral leper.

Following the line of reasoning of the Solicitor General, persons accused of the most heinous crime³ such as treason, parricide, robbery with homicide, kidnaping, murder, may, on a challenge of disqualification, wipe out the whole membership of the Supreme Court by raising in their cases the question of legality of any ruling that the Supreme Court may have laid down in previous decisions rendered in similar criminal cases. Those Justices who, during their former legislative incumbency, took part in the enactment of the Revised Penal Code and other penal laws, may also be disqualified by the accused by the simple ruse of raising the question of validity of said laws. The writer hereof may, by the same procedure, be disqualified in all litigations involving the Constitution, the Public Acts passed by the 6th and 7th Philippine Legislature, or any of the more than 650 laws enacted by the 1st and 2nd National Assembly, only because he took part in their passage as one of the members of the respective legislative bodies. Such preposterous way of thinking cannot seriously be countenanced in a court of Justice.

The Solicitor General alleges that the three Justices (he is seeking to disqualify) would be reviewing in effect a decision or ruling of the Senate Electoral Tribunal within the meaning of Section 1 of Rule 126, notwithstanding the fact that said section refers only to "any inferior court" and only a stubborn refusal to see light can possibly confuse it with the Senate Electoral Tribunal, which, as created by the fundamental law, is supreme and paramount within its exclusive jurisdiction.

Lastly, the Solicitor General alleges that Azucena Perfecto, daughter of the undersigned, "is pecuniarily interested in the result of this suit." The statement is false. There is absolutely nothing in the record of this case to show that with the salary sought to be collected by petitioner Suanes, Azucena Perfecto would be richer or poorer by a single centavo or any conceivable fraction thereof. The Solicitor General, if he has read carefully Section 1 of Rule 126, ought to know that it refers (exclusively) to the pecuniary interest in the very case which is being litigated, the decision of which would order the payment or non-payment of money to the interested party. Is the Solicitor General advancing the legal heresy that the Supreme Court may render decision in this case ordering the payment or non-payment to Azucena Perfecto of any amount of money? If he is not, then in his motion for disqualification he is stepping beyond the bound³ of legality, by trying to enforce an imaginary rule which is in open conflict with a duly enacted printed rule.

In viewing this controversy, the parties should free themselves from the crass materialism pervading the official atmosphere of this Republic. They should not [measure the controversy in terms of pesos or centavos. The ultimate national issue is whether or not the Senate Electoral Tribunal should be allowed to become a mere 'puppet in the hands of one of the officials who, by conclusive evidence on record in the Supreme Court, appears to be one of the most unprincipled and unscrupulous in this government, who unblushingly flaunted his financial achievements as a profiteer, and who, by common consensus, is hated as the most pernicious personality in our democracy. Shall he be allowed to defeat the administration of justice in the tribunal and, by such open provocation, drive our people into revolution? In that question all and everything fare at stake, lives and possessions, without excluding any single member of the Supreme Court or the Solicitor General himself. All other incidental and collateral questions must give way to that momentous question.

Before ending this resolution, it seems necessary to remind all parties concerned that Rule 126 has no application to members of the Supreme Court, and any motion or petition filed seeking their disqualification has no legal

basis to stand on. The members of the Supreme Court need no prodding from any party litigant with regard to the performance of their official duties. They inhibit themselves from taking part in the consideration of cases when their sense of justice advises them to do so. Differences of opinion on this matter can be expected among the members of a collective body, but such situation has not been ignored by the Constitutional Convention. If its wisdom does not now hold true, the people may order the proper amendment.

In so far as it is addressed to the undersigned, the motion is denied.

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