

**FLORITA SARDINIA-LINCO, ASSISTANT PROVINCIAL FISCAL,
FRANCISCO MA. GUERRERO, SENIOR STATE COUNSEL, AND PEOPLE
OF THE PHILIPPINES, PETITIONERS, VS. HONORABLE GREGORIO G.
PINEDA, ...**

G.R. No. 55939. May 29, 1981

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Without prejudice to the filing of extended opinions, the Court has issued the following resolutions:

I. On the question previa of (a) whether the People of the Philippines should first be ordered impleaded as petitioner (it having been noted that the petition at bar was filed only by petitioners Linco and Guerrero in their official capacities as Assistant Provincial Fiscal and Senior State Counsel, respectively, while the real party in interest is the People); and (b) whether the Solicitor General on behalf of the People should be required to submit his comment and position on the issues raised before the case can be finally acted upon and decided, no majority could be reached with five Justices, namely, Barredo, Aquino, Fernandez, Guerrero and De Castro, JJ., first voting against such impleading of the People and requiring of the Solicitor General's comment and three Justices, namely, Teehankee, Makasiar and Herrera, JJ., voting for such impleading and comment of the People as an indispensable party and Chief Justice Fernando voting for such impleading without comment. The Court, consequently, voted unanimously to ORDER that the People of the Philippines be deemed impleaded as petitioner but to forego any comment on the part of the Solicitor General.

II. On the merits of the petition, the Court

(a) Resolved, by unanimous vote, to SET ASIDE respondent judge's questioned Order of January 12, 1981 (Annex "FF" of the petition) giving the parties "thirty (30) days from receipt of copy of (his) resolution on the admission of rebuttal evidence within which to submit their simultaneous memoranda. Thereafter, with or without such memoranda, this case shall be deemed submitted for decision" and to ORDER the reopening of the case pending before respondent judge for further reception of the People's rebuttal evidence, giving the People a period of thirty (30) days from the date first set for continuation of hearing within which to do so;

(b) Resolved, by unanimous vote, to SET ASIDE respondent judge's questioned Order of January 7, 1981 (Annex "EE" of the petition) finding petitioners Linco and Guerrero "guilty of contempt of (his) court" and sentencing them "to pay a fine of P100.00 each with warning that "repetition of the same or similar acts shall be dealt with more severe-ly;" and

(c) Resolved, for lack of the necessary votes, to DENY the petition to set aside respondent judge's Orders of December 10, 1980 and January 6, 1981 (Annexes "W" and "DD" of the petition) denying the motion for his inhibition and disqualification, with five Justices, namely, Barredo, Aquino, Fernandez, Guerrero and De Castro, JJ., voting against the petition for disqualification and Chief Justice Fernando and Teehankee, Makasiar and

Herrera, JJ. voting for respondent judge's dis-qualification.

Justices Teehankee and Fernandez filed their respective memoranda-opinions on the issues involved, which were taken into consideration in the Court's deliberations, as follows:

Justice Teehankee's memo-opinion

"Antecedents: In Administrative Matter No. 4453-CFI, the Court's majority through its resolution of December 28, 1979 upheld the order of Executive Judge Gregorio G. Pineda denying the motion of Augusto Syjuco, Jr. for inhibition from further hearing the anti-graft case against former Land Registration Commissioner Gregorio Bilog, Jr., et al., docketed as Criminal Case No. 27743 of the Court of First Instance, Pasig, Rizal. Chief Justice Fernando, Justice Melencio-Herrera and I dissented and voted to grant the Motion for inhibition for the reasons stated in the Resolution, copy of which is attached hereto as Annex 'A' for ready reference and for a full statement of the antecedents.

"Chief Justice Fernando's vote is herewith reproduced for the Court's considerations: 'Chief Justice Fernando voted to grant such motion consistently with the principle he has followed invariably in a number of opinions penned by him that to avoid any suspicion as to the absence of that desirable frame of mind expected of a judge, namely the cold neutrality of an impartial arbiter, and considering the incidents that show the apparent lack of mutual goodwill between petitioner Syjuco and respondent Judge, the latter's apparent willingness to leave the disposition of the matter to the Court gives more than ample ground for his inhibition and the re-raffling of the case.'

"On my part, I urged the members of the Court to consider that under our unbroken line of doctrinal jurisprudence, elementary due process which entitles every litigant to the cold neutrality of an impartial judge demands the inhibition of the judge. Where there exist mutual mistrust, suspicion and hostility between the complainant and the judge, with the complainant charging in open hearing before this Court that the judge offered him for sale a land suspected of being covered by a void title and with the judge likewise charging the complainant in open hearing with having hallucinations and having tried to bribe and corrupt him, and acknowledging complainant's fear that 'the accused will be acquitted in my court,' the judge should withdraw from the case, He has passed the buck to us and we must tell him so."

"Likewise, let it be recalled that the record before us shows that there is a strained relationship between Syjuco and Judge Pineda and more, mutual hostility, mistrust and prejudice, with Syjuco expressing open mistrust of the judge who offered him for sale a land suspected of being covered by wrongfully issued titles and the judge openly charging Syjuco of having hallucinations and trying to bribe him, and asserting that Syjuco 'is full of fear and suspicion in his mind' and fears that 'the accused will finally be acquitted in my court . . . Because he could not corrupt me, that is how he is hallucinating before this Honorable Tribunal.' This makes it imperative for this Court to heed Judge Pineda's request for guidance in the dispositive part of his order (stating that he is 'amenable to whatever this Honorable Supreme Court may decide on the matter') and accordingly, to declare that it is in the best interests of justice, in accordance with our settled doctrines and jurisprudence, that the case below be transferred and re-raffled among the other branches of the Court of First Instance of Rizal.

"The land suspected of being covered by a void title therein referred to and purportedly belonging to respondent judge's aunt (see transcript of hearing reproduced on pages 15 to 17 hereof) has now definitively and finally held by this Court to be covered by a fake claim and title in Director of Lands vs. CA, L-45168, Resolution of September 25, 1979 and Decision of January 27, 1981.

"The present case. - At any rate, as a consequence of the attached Resolution, Judge Pineda continued the trial and

hearing of the case. But according to the petition, Judge Pineda continued to show undue interest and partiality in the trial of the case, obviously favoring the accused, which prompted the government prosecutors, Linco and Guerrero, to file on August 25, 1980 before the respondent judge a motion for his disqualification and/or inhibition of respondent judge.

"At the hearing of August 27, 1980, the motion was ordered stricken off the record on the flimsy ground that it was mistakenly captioned "Office of the Provincial Fiscal" instead of "Court of First Instance." The next day, or on August 28, 1980, petitioners refiled their Motion for Disqualification and/or Inhibition of respondent judge, this time properly captioned.

"Respondent Judge denied the motion for inhibition and continued with the trial of the case. What precipitated the filing of this petition is, while the prosecution was still in the process of presenting rebuttal evidence, respondent judge terminated the case and verbally ordered petitioner Linco to submit memorandum on the case within ten (10) days although the verbal order was modified in respondent judge's written order of January 12, 1981 by requiring petitioners to submit their formal offer of rebuttal evidence within ten (10) days and to submit their memorandum within thirty (30) days. Petitioners allege that respondent judge committed grave abuse of discretion by arbitrarily, whimsically and capriciously closing the case without allowing the State, represented by the herein petitioners, to finish or complete its rebuttal evidence, a matter which, besides being contrary to law is an obvious display of bias, hostility, and partiality. Petitioners pointed out that respondent judge committed error of law and gravely abused his discretion in compelling petitioner Guerrero to be placed on the witness stand and cross-examined in the hearing of their motion for inhibition and finding them in contempt while denying their motion to hold counsel for accused Bilog in contempt of court. They likewise reiterated their previous stand that respondent judge committed error of law and grave abuse of discretion in refusing to inhibit himself from trying the criminal case.

"I. Petitioners allege that respondent judge committed grave abuse of discretion in refusing to inhibit himself from trying Criminal Case No. 27743 against the private respondents.

"In view of the antecedents clearly demonstrating the antagonism between the complainant and respondent judge (Adm. Matter No. 4453 CFI) or at the very least, on the basis of the evident lack of faith on the part of the complainant and prosecution with respect to the ability of the respondent judge to dispense justice without bias or partiality, the respondent judge should have voluntarily inhibited himself if only to restore the confidence of the complainant and prosecution in particular and the public in general in the soundness of our judicial system and the integrity and probity of those who sit in the bench.

"Again, in view of the verbal clashes between the prosecution and the respondent judge and the charges of partiality levelled by the prosecution, considering that 'however upright the judge, and however free from the slightest inclination to do justice, there is peril of his unconscious bias or prejudice' (Del Castillo vs. Javelona, 6 SCRA 146 cited in Ignacio vs. Villaluz, 90 SCRA 16) engendered by the expressed antagonism or at the very least, a demonstration of lack of confidence on the part of both the prosecution and its complaining witness. Thus, in Pimentel vs. Salanga, 21 SCRA 160, We held that:

'All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide a case fairly and judiciously comes to the fore by way of challenge from any one of the parties. A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or pre-judice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a

losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. On the result of his decisions to sit or not to sit may depend to a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice.'

"Judges should not only be impartial, but should also appear impartial. (Fernandez vs. Presbitero, 79 SCRA 61.) While judges should possess proficiency in law in order that they can competently construe and enforce the law, it is more important that they should act and behave in such a manner that the parties before them should have confidence in their impartiality (Ibid). It is now beyond dispute that due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient to reassure litigants of his being fair and just (Mateo, Jr. vs. Villaluz, 50 SCRA 18).

"It has been said, in fact, that due process of law requires a hearing before an impartial and disinterested tribunal and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge (Gutierrez vs. Santos, 2 SCRA 249, Villapando vs. Quitain, 75 SCRA 24).

"In Castillo vs. Juan, 62 SCRA 124, We held that in the event that a judge may be unable to discern for himself his inability to meet the test of the cold neutrality required of him, this Court has seen to it that he should disqualify himself.

"2. While on its face, the obvious attempt of the respondent judge to terminate the proceedings with apparent speed and dispatch should merit our approval and commendation, his failure to accord the same consideration to other cases pending before his sala including cases involving detention prisoners, must necessarily give rise to doubts as to his reasons for pursuing this particular case with a vigor unknown in his sala. Where the deportment of a judge leaves much to be desired, he should be disqualified. (Villapando vs. Quitain, supra.)

"3. The refusal of respondent judge to grant the prosecution ample opportunity to complete its rebuttal evidence.

"In the first place, postponements are part and parcel of our procedural system of dispensing justice, and when substantial rights are affected and the intention to delay is not manifest, it is sound judicial discretion to allow them. (Rexwell Corporation vs. Canlas, 3 SCRA 875.) In considering motions of postponement of trials or for new trials, two circumstances should be taken into account by the court, namely (1) the merits of the case of the movant, and (2) the reasonableness of the postponement or new trials (De Cases vs. Peyer 5 SCRA 1165; Udan vs. Amon, 23 SCRA 837).

"In the second place, the right to speedy trial is not violated by granting a continuance on the ground of the absence of material witnesses (Rexwell Corporation vs. Canlas, supra).

"In the third place, there will have been no substantial injury or prejudice upon the accused by a delay of one or two months considering that all the accused are out on bail. The interests of justice and fair play will better be served if greater freedom and latitude is allowed the parties to present, for the consideration and appreciation of the court, all their evidence.

"In any event, the State is likewise entitled to due process in criminal cases, thus We held in the case of People vs.

Navarro, 63 SCRA 264 and the later case of *Silvestre vs. Military Commission No. 21*, 82 SCRA 10, that:

'The State is entitled to due process in criminal cases, that is, it must be given the opportunity to present its evidence in support of the charge. The Court has always accorded this right to the prosecution, and where the right had been denied, had promptly annulled the offending court action. We have heretofore held that a purely capricious dismissal of an information deprives the State of fair opportunity to prosecute and convict; it denies the prosecution its day in court. For this reason, it is a dismissal (in reality an acquittal) without due process, and, therefore, null and void. Such dismissal is invalid for lack of a fundamental prerequisite, that is, due process, and, consequently, will not constitute a proper basis for the claim of double jeopardy. We have likewise held that a trial court may not arbitrarily deny a timely and well-founded motion of the prosecution for reconsideration of an order of dismissal or acquittal and that such arbitrary refusal to reopen the case will be set aside to give the State its day in court and an opportunity to prove the offense charged against the accused and to prevent mis-carriage of justice, especially when no substantial right of the accused would be prejudiced thereby.'

"4. Petitioners contend that respondent judge committed grave abuse of discretion in compelling Fiscal Guerrero to take the witness stand and be cross-examined on his motion for inhibition. Section 2, Rule 137 of the Rules of Court provides for the procedure to be followed in objecting to the competency of the judge in hearing a case, which must be substantially followed (*Joaquin vs. Barreto*, 25 Phil. 281). Objection to the competency of the judge should be filed with him in writing and the judge shall determine his qualification (*Government of Philippine Islands vs. Heirs of Abella*, 49 Phil. 374) and thereupon proceed with the trial or to withdraw therefrom, in accordance with his determination of the question of his disqualification. The judge is not allowed by the rules to receive evidence on the motion for inhibition. Though not necessarily illegal or improper, it is not a usual procedure in the conduct of trial to place a prosecutor on the witness stand and put pressure on the prosecution which might be construed as indicative of personal bias or interest.

"5. The hostility of respondent judge against petitioners is bolstered by the fact that, in his order of January 7, 1981, he declared petitioners in contempt of court and fined P100.00 each because of alleged false manifestations made before the court.

"It appears that petitioners were ordered by the respondent judge to submit to the court the names of their rebuttal witnesses and the nature of their testimony. In their manifestation of August 18, 1980, they refused on the ground that they did not want to divulge the names of their witnesses because of their fear that the witnesses, who are employees of the Land Registration Commission might be influenced by their former superiors, the accused. They cited Acting Land Registration Commissioner Federico B. Alfonso, Jr., who cautioned them to exercise restraint and reminded them that the accused are capable of intimidating witnesses.

"Based on a letter of Acting Commissioner Alfonso, respondent judge in his January 7, 1981 Order (Annex 'EE') declared petitioners guilty of contempt of court for allegedly making 'false imputations as found by (his) court, thereby obstructing, delaying and fomenting distrust in the administration of justice.' In fact, respondent judge plainly misinterpreted the letter of Acting Commissioner Alfonso as a complete denial of the statement attributed to him. Respondent judge lost sight of the fact that in his typewritten letter, Acting Commissioner Alfonso added in his own handwriting the statement, 'I do not pass judgment on the capability or lack of capability of accused to intimidate witnesses' which is not a denial that he did express the fear to the petitioners.

"The act of respondent judge declaring petitioners-prosecutors guilty of 'reprehensible and contemptuous gross misconduct' on a contentious and insignificant matter manifests clear partiality and hostility against the prosecution that require his disqualification, considering the antecedents as set forth above and in Annex 'A' hereof.

"The Court's settled and uniform jurisprudence on the litigants' right to the cold neutrality of an impartial judge as an essential part of due process demand such disqualification - until and unless the Court is to overthrow its long line of decisions which form part of the law of the land.

"The only drawback cited that it is better that the judge who tried the case, hand down the decision, must yield to the law of the land. And it is refuted by the numerous cases decided correctly by judges other than those who tried the same and saw and heard the witnesses, more so, where as in this case, the main evidence consists of documentary evidence.

"ACCORDINGLY, the Court should set aside the questioned or-ders and specifically

"1. Order the reopening of the case for further reception of the State's rebuttal evidence, giving them a period of 90 days to do so, in order to afford them the opportunity to locate missing witnesses;

"2. Set aside the contempt order and lift the fine of P100.00 imposed upon each of petitioners-prosecutors; and

"3. Order the inhibition of respondent judge and the re-raffle of the case among the other branches of the Rizal court of first instance upon due notice to and in the presence of the parties and/or their counsels."

Annex "A" of Justice Teehankee's memo-opinion

"December 18, 1979

"Administrative Matter No. 4453-CFI-Re: Order of Executive Judge Gregorio G. Pineda, CFI, Pasig, Branch XXI. - The Court voted to sustain the order of Executive Judge Gregorio G. Pineda, denying for lack of merit the mo-tion of Augusto Syjuco, Jr. for the inhibition of Executive Judge Gregorio G. Pineda from further hearing Criminal Case No. 27743 entitled 'People vs. Gregorio Bilog, Jr., et al.' Chief Justice Fernando and Justices Teehankee and Melencio-Herrera voted to grant the motion for inhibition. Justices Felix V. Makasiar and Felix Q. Antonio reserved their votes. Chief Justice Fernando voted to grant such mo-tion consistently with the principle he has followed invariably in a number of opinions penned by him that to avoid any sus-picion as to the absence of that desirable frame of mind ex-pected of a judge, namely, the cold neutrality of an impartial arbiter, and considering the incidents that show the apparent lack of mutual goodwill between petitioner Syjuco and respon-dent Judge, the latter's apparent willingness to leave the disposition of the matter to the Court gives more than ample ground for his inhibition and the re-raffling of the case. Jus-tice Teehankee, dissenting, voted to (a) direct the implemen-tation by the Ministry of Justice of the President's order of January 12, 1979 to transfer the case below to the Sandigan-bayan or to secure a revocation of the same within fifteen (15) days from notice hereof; and (b) in the event that such revo-cation is obtained within the said fifteen-day period, to direct that the case below be transferred and re-raffled among the other branches of the Court of First Instance of Rizal (ex-cluding Branch XXI presided by Judge Pineda and the Circuit Criminal Court of Rizal) upon due notice to and in the presence of the parties, including complainant Syjuco, and/or their res-pective counsels. Justice Melencio-Herrera concurred with the above dissent. Justice Teehankee's separate opinion fol-lows:

"I dissent from the majority's resolution upholding Judge Gregorio G. Pineda's Order denying the motion for his inhibition in the anti-graft case pending in his court, for the following reasons:

"I. The President's January 12, 1979 direct order to the Ministry of Justice to transfer the case to the Sandiganbayan should be implemented by said ministry. It is pro tanto a withdrawal of the general instruction that only all cases where there has been no arraignment be so transferred, and its validity has not been chal-lenged; and

"II. Prescinding from the above, under our unbroken line of doctrinal jurisprudence, elementary due process which entitles every litigant to the cold neutrality of an impartial judge demands the inhibition of the judge. Where there exist mutual mistrust, suspicion and hostility between the complainant and the judge, with the complainant charging in open hearing before this Court that the judge offered him for sale a land suspected of being covered by a void title and with the judge likewise charging the complainant in open hearing with having hallucinations and having tried to bribe and corrupt him, and acknowledging complainant's fear that "the accused will be acquitted in my court," the judge should withdraw from the case. He has passed the buck to us and we must tell him so.

"This incident started on August 30, 1978 when three co-accused of former LRC Commissioner Gregorio Bilog, Jr., namely, Amado Y. Masicampo, Dominador Mateo and Conrado Torres, in a pending criminal case for violation of the Anti-Graft and Corrupt Practices Act[1] before Judge Onofre Villaluz of the Circuit Criminal Court of Rizal who had already held eight months of extensive hearings, had filed ex parte on their own behalf an obviously pre-prepared petition of five (5) short paragraphs, stating that Judge Villaluz had filed a leave of absence from August 20, 1978 to September 21, 1978 (the specific dates were just filled in ink on the blank spaces provided in the petition, indicating that the accused who were at-large already had a prepared petition for re-raffle ready for them to come out of hiding and to file the same upon Judge Villaluz' going on leave of absence), that they had not yet been arraigned, that their bail bonds had not been approved due to Judge Villaluz' absence and they were liable to be arrested any time and that they invoked their right to speedy trial, and prayed that the case be referred to the Executive Judge of the CFI of Rizal for re-raffle.

"The petition was included in the September 5, 1976 agenda of the Court en banc (with a heavy load of 108 items), at which time there were only sixteen days left yet of Judge Villaluz' leave of absence. Upon recommendation of the Court's then executive officer, now deputy court administrator Arturo B. Buena (who was apparently by the misrepresentations and was unaware that the reason for the movants' non-arraignment was that they had gone into hiding and had evaded service of the warrants of arrest long issued against them), the Court en banc in its session of September 5 granted the petition without following the usual practice of requiring the prosecution's comment and thus the case was re-raffled and re-docketed as Criminal Case No. 27743 of the Pasig CFI presided by Executive Judge Gregorio G. Pineda."

"Augusto L. Syjuco, Jr., as the authorized representative of the victimized party in the case, complained about the transfer of the case from the circuit criminal court to the court of first instance, and the President on January 12, 1979 in a directive to the Ministry of Justice "ordered the transfer of all cases of corruption committed by public officials to the Sandiganbayan. This shall include the case against former Com. Bilog."

"Upon request of Deputy Minister of Justice Catalino Macaraig, Jr. in a letter dated January 30, 1979, the Court set for hearing and heard on April 3, 1979 Syjuco's complaint. In his letter of March 20, 1979 filed in compliance with the Court's resolution of February 6, 1979, Syjuco prayed for the return of the case to the circuit criminal court for the continuation of trial or in the alternative for the transfer thereof to the Sandiganbayan pursuant to the President's order.

"Stated briefly and in summary, the following were brought to light at the hearing of April 3, 1979:

- The Ministry of Justice has nothing to do with the transfer of cases from one branch to another which falls within the exclusive jurisdiction of this Court.
- Syjuco expressed his "full and unqualified belief in the wisdom and integrity of the Supreme Court" and averred that through their misrepresentations the three above-named co-accused petitioners succeeded in misleading this Court into issuing its resolution of September 5, granting the petition for the transfer of the case from the circuit criminal court to the court of first instance.
- Syjuco expressed great suspicion as to the re-raffling of the case and its falling in the sala of Judge Pineda, so

much so that some Justices suggested that his remedy was to file a motion for the inhibition of Judge Pineda and to state the reasons as he did in open court why he "did not have faith in the court of Judge Pineda" and "doubted his fairness" although expressing that he had "enough ground for my fear but not enough for his disqualification." (T.s.n. pp. 44-47).

- In answer to a question of Mr. Justice De Castro, Syjuco explained his misgivings as to the whitewashing of the case against Bilog in the Ministry of Justice in this wise: "(B)ecause of Mr. Bilog's boast in the past that he is well covered in the Department of justice, in the same way that he has likewise boasted that in matters involving the Supreme Court his wife is here. I have this statement dated January 23, 1978 from Mr. Gerardo Pios, while admitting that in law, suspicion is not evidence, although stating that "I say categorically that I can substantiate to the President my fears and my belief. But I also likewise admit that I cannot substantiate it before the courts." (T.s.n., pp. 51, 54).

- The mutual suspicion, mistrust and hostility between Syjuco and Judge Pineda may best be appreciated from the transcript of the last part of the hearing wherein both of them expressed their respective feelings against each other (with Judge Pineda charging in open court that Syjuco, through his former counsel, had tried to bribe or corrupt him), as follows:

'Justice Barredo [to Mr. Syjuco]:

Anyway, when you say that you are confident that you can substantiate your charges before the President while you cannot substantiate it before the Court, you mean to say that you cannot substantiate it before us because you don't have the facts while the President will agree with you even if you don't have the facts?

'Mr. Syjuco:

No, Your Honor, because a court of law operates on the principle that unless a man is proven guilty, he is considered innocent. I feel that the leadership of this country on the other hand follows a different criterion, that criterion being that when there is any question at all as to the person's integrity, he would not otherwise qualify for public office, the standard being that he should be like Caesar's wife.

One last statement, Your Honor. - I do not believe that where the matter presently rests, i.e., in the sala of Judge Pineda, the matter would get a fair hearing. Several months ago I received an offer from Judge Pineda for the sale of a property. This was before this case started. The basis of that offer was a court order that was expected to come out shortly for the titling of a property. If that property would be titled, it would be offered to me. Again, I wish to categorically point out that this in itself does not discredit the good Judge, but this is one of the matters that create these fears in my mind and in my heart.

'Justice Teehankee:

All right the time is getting late. If Judge Pineda wishes to make a response to that, we will listen to him, to round this up.

'Judge Pineda:

I would just like to point out that what Mr. Syjuco has just stated is not true. It was through his lawyer, Fiscal Bernabe now, when they were investigating the first case they filed with the CCC, that I told Fiscal Bernabe that I have an aunt who has a land in that place. In the event that a final decision will be in her favor, I think she would offer it to him. That's all. I did not tell him that I have a land. Now, one reason for the fear of Mr. Syjuco that the accused will finally be acquitted in my court is that his lawyer, my former assistant fiscal in Pasay, approached me while this case was being tried. Because he could not corrupt me, that is how he is hallucinating^[2] before this Honorable Tribunal.

'Justice Teehankee:

Are you saying that this former lawyer tried to corrupt you?

'Judge Pineda:

It was said in a mild manner. He said that Mr. Syjuco has much money. But I said, I don't give a damn. This is a case which I am going to try as I receive the evidence. That is the reason why Mr. Syjuco now is full of fear and suspicion in his mind.

Justice Teehankee:

All right, case submitted." (T.s.n., pp. 54-56, emphasis supplied).

"Apparently in compliance with the suggestions made at the hearing, Syjuco did file in the case below a motion for the inhibition of Judge Pineda from the case and on June 1, 1979, Judge Pineda forwarded to this Court a copy of his order of May 30, 1979 declaring the motion for inhibition to be "utterly groundless and without just and legal justification." In his said order Judge Pineda states that

'Candor compels the admission that at first this Presiding Judge would have given in to the temptation of inhibiting himself from trying this case if only to make manifest his disinterestedness. On further reflection, so as not to frustrate the ends of justice, he ordered a hearing on this motion to determine whether or not the allegations and the evidence presented meet the requirements of the Constitution and statutory commands of impartiality (Art. IV, Section 19, Constitution of the Philippines; Rule 137, Rules of Court) and jurisprudence.

'After hearing, this Presiding Judge finds the Petitioner's motion for inhibition utterly groundless and without just and legal justification such that to inhibit himself would, in consequence, amount to an abandonment of a sworn duty to administer speedy, fair and impartial justice. x x x.'

"Without, however, denying the motion for his inhibition, Judge Pineda made the following disposition of the motion in the last paragraph of his order: "(W)hile it is evident that the motion for inhibition is utterly groundless, this Presiding Judge is, however, amenable to whatever the Honorable Supreme Court may decide on this matter." (Syjuco's counsel in his comment on the order surmised correctly that the same should have been docketed under AM 961-CCC [wherein the petition of the three above-named co-accused Masicampo, et al., for the transfer and re-raffle of the case was granted and wherein some Justices had suggested precisely that Syjuco file the motion for inhibition] but peculiarly enough the order of Judge Pineda was given another docket number as shown in the above title hereof.)

"I. Before proceeding to deal with the question of Judge Pineda's inhibition, we should deal with Syjuco's alternative prayer that the criminal case below be transferred to the Sandiganbayan which has exclusive jurisdiction over anti-graft cases pursuant to the President's directive of January 12, 1979.

"At the April 3, 1979 hearing, it was brought out that the President's order to transfer the case to the Sandiganbayan has not been implemented as follows:

'Justice Teehankee:

I just would like to ask Deputy Minister Macaraig whether this case has been transferred to the Sandiganbayan?

'Deputy Minister Macaraig:

No, Your Honor. The trial before Judge Pineda, I understand, is proceeding.

'Justice Teehankee:

What about the directive of the President?

'Deputy Minister Macaraig:

The Sandiganbayan decree itself provides that only cases where there has been no arraignment can be transferred to the Sandiganbayan. I was just talking to the Fiscal in charge of this case, and she said that she is about to close her evidence. So transfer of this case at this time to the Sandiganbayan might also raise issues of double jeopardy, perhaps.

'Chief Justice Castro:

Or propriety, honesty and so on.

'Justice Teehankee:

And the said evidence before the CFI cannot be passed over to the Sandiganbayan? The President has made an order to transfer all the cases involving corruption committed by public officials to the Sandiganbayan.

'Deputy Minister Macaraig:

We have done that in cases cognizable by the Sandigan-bayan, where there had been no arraignment yet, as provided for by PD 1607.

'Justice Makasiar:

Did you bring that to the attention of the President?

'Deputy Minister Macaraig:

Yes, I told Secretary Clave about that difficulty.

'Justice Makasiar:

'Do you know if Secretary has brought that to the attention of the President?

'Deputy Minister Macaraig:

I don't know, Your Honor.

'Justice Makasiar:

There might be need to amend the decree.' (T.s.n. pp. 36-37).

There appears to be no valid reason for not implementing the President's order to transfer the case to the Sandiganbayan in the same manner that this Court had ordered in its September 5 resolution the transfer of the very same case from the Circuit Criminal Court to the Court of First Instance. The Sandiganbayan is composed of a division of at least three judges who try and hear the case and requires the affirmative vote of two judges in a division for the promulgation of a judgment. The accused is favored, rather than prejudiced or jeopardized by the transfer of his case from a single-judge court (the Court of First Instance) to a collegiate court (the Sandiganbayan).

"The President's order to transfer the case to the Sandiganbayan, which under the Court's majority ruling in *Aquino vs. Comelec*, 62 SCRA 275 (1975) has the force of the law of the land under Art. XVII, section 3 (2) of the 1973 constitution, is binding on all government ministries, bureaus and offices, particularly the Ministry of Justice to which it was specifically issued. It is pro tanto a withdrawal of the general instruction that only all cases where there has been no arraignment be so transferred. Its validity has not been challenged and it must, therefore, be implemented by the said Ministry of Justice, by having the prosecution so move for its transfer (in the same manner it has done with previous transfers of cases from the civil courts to the military tribunals).

Need-less to say, such implementation and transfer would make the question of Judge Pineda's inhibition moot and academic.

"II. Coming to the order of Judge Pineda, assuming that the President's order to transfer the case to the Sandiganbayan is not implemented, the record before us shows that there is a strained relationship[3] between Syjuco and Judge Pineda and more, mutual hostility, mistrust and prejudice, with Syjuco expressing open mistrust of the judge who offered him for sale a land suspected of being covered by wrongfully issued titles and the judge openly charging Syjuco of having hallucinations and trying to bribe him, and asserting that Sy-juco 'is full of fear and suspicion in his mind' and fears that 'the ac-cused will finally be acquitted in my court ... Because he could not corrupt me, that is how he is hallucinating before this Honorable Tri-bunal.' This makes it imperative for this Court to heed Judge Pineda's request for guidance in the dispositive part of his order (stating that he is "amenable to whatever this Honorable Supreme Court may decide on the matter") and accordingly, to declare that it is in the best interests of justice, in accordance with our settled doctrines and juris-prudence, that the case below be transferred and re-raffled among the other branches of the Court of First Instance of Rizal (excluding Judge Pineda's branch and the Circuit Criminal Court of Rizal) upon due no-tice to and in the presence of the parties, including complainant Syjuco, and/or their respective counsels.

"We have said time and again that all suitors are 'entitled to nothing short of the cold neutrality of an independent, wholly free, disinterested and impartial tribunal' (Luque vs. Kayanan, 29 SCRA 175-177).

"In Pimentel vs. Salanga, 21 SCRA 160, we said that 'if after reflection, he (the judge) should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and sub-stance to the second paragraph of Section 1, Rule 137,' and laid down the following appropriate guidelines for judges to follow in the matter of their inhibition.

'All the foregoing notwithstanding, this should be a good occasion as any to draw attention of all judges to appropriate guidelines in a situation where their capacity to try and decide a case fairly and judiciously comes to the fore by way of challenge from any one of the parties. A judge may not be legally prohibited from sitting in a litigation. But when suggestion is made of record that he might be induced to act in favor of one party or with bias or prejudice against a litigant arising out of circumstances reasonably capable of inciting such a state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had unmeritoriously tilted the scales of justice against him. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. On the result of his decisions to sit or not to sit may depend to a great extent the all-important confidence in the impartiality of the judiciary. If after reflection he should resolve to voluntarily desist from sitting in a case where his motives or fairness might be seriously impugned, his action is to be interpreted as giving meaning and substance to the second paragraph of Section 1, Rule 137. He serves the cause of the law who forestalls miscarriage of justice.' (emphasis supplied).

"Now Chief Justice Fernando has stressed that 'It is now beyond dispute that due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient to reassure litigants of his being fair and being just. Thereby there is the legiti-mate expectation that the decision arrived at would be the application of the law to the facts as found by a judge who does not play favorites. For him, the parties stand on equal footing. In the language of Justice Dizon: 'It has been said, in fact, that due process of law requires a

hearing before an impartial and disinterested tribunal, and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge.' x x x A judge then, to quote from the latest decision in point, *Geotina vs. Gonzales*, penned by Justice Castro, should strive to be at all times 'wholly free, disinterested, impartial and independent. Elementary due process requires a hearing before an impartial and disinterested tribunal. A judge has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to his integrity.' (*Mateo vs. Villaluz*, 50 SCRA 18).

"In *Ignacio vs. Villaluz*, L-37527-52, May 5, 1979, the Chief Justice again reiterated the principle that "It is now beyond dispute that due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient to reassure litigants of his being fair and just.' (*Ibid*, 23.) It is traceable to *Gutierrez vs. Santos* (112 Phil. 184), a 1961 decision, cited in the petition. As a matter of fact, in *Umale*, five cases were relied upon in support of the conclusion reached, starting from *Del Castillo vs. Javelona* (116 Phil. 451 [1962]), likewise invoked by petitioner and referred to in the Comment of the Solicitor General. Such a doctrine has been consistently adhered to (Cf. *Umale vs. Villaluz*, L-23710, Sept. 10, 1969, 29 SCRA 688, and other cases cited), the latest case in point being *Bautista vs. Rebuena* (L-46117, Feb. 22, 1978, 81 SCRA 535)," remarking that 'it is difficult to understand the reluctance of respondent judge to inhibit himself'.

"Accordingly, I vote to (a) direct the implementation by the Ministry of Justice of the President's order of January 12, 1979 to transfer the case below to the Sandiganbayan or to secure a revocation of the same within fifteen (15) days from notice hereof; and (b) in the event that such revocation is obtained within the said fifteen-day period, to direct that the case below be transferred and re-raffled among the other branches of the Court of First Instance of Rizal (excluding branch XXI presided by Judge Pineda and the Circuit Criminal Court of Rizal) upon due notice to and in the presence of the parties, including complainant Syjuco, and/or their respective counsels."

Justice Fernandez' memo-opinion

"This is a petition for certiorari, mandamus, and prohibition with preliminary mandatory injunction instituted by Florita Sardinia-Linco and Francisco Ma. Guerrero, in their personal and official capacities as Assistant Fiscal of Rizal province and Senior State Counsel of the Ministry of Justice, respectively, in representation of the state, seeking the following reliefs:

- '1. Setting aside ORDERS of December 10, 1980 and January 6, 1981 (Annexes 'W' and 'DD') denying the motion to inhibit the respondent Judge and the motion for the reconsideration thereof and to order the respondent Judge to inhibit himself from proceeding with Criminal Case No. 27743; ordering the transfer of this case from the Court of First Instance of Rizal to the Court of origin, the Circuit Criminal Court of Rizal; ordering the reopening of the case to accommodate presentation and completion of prosecution's evidence;
- '2. Setting aside the ORDER of December 9, 1980 (Annex 'V') denying petitioners' motion to withdraw or set aside the proceedings wherein petitioner GUERRERO was improperly placed at the witness stand and to order the respondent judge to strike out said proceeding from the records;
- '3. To set aside the ORDER of January 7, 1981 declaring petitioners in contempt of court and sentencing them to pay a fine of P100 each; and to order Atty. EXEQUIEL CONSULTA in contempt of court (Annex 'EE');
- '4. Further praying for such other relief as they may be entitled in law and equity.'

"The petitioners contend that Judge Pineda committed the following errors:

I

'THE RESPONDENT JUDGE COMMITTED ERROR OF LAW AND GRAVE ABUSE OF DISCRETION IN REFUSING TO INHIBIT HIMSELF FROM TRYING CRIMINAL CASE NO. 27743 AGAINST THE PRIVATE RESPONDENTS.

II

'THE RESPONDENT JUDGE COMMITTED ERROR OF LAW AND GRAVELY ABUSED HIS DISCRETION IN COMPELLING PETITIONER GUERRERO TO BE CROSS-EXAMINED IN THE HEARING OF THE SUBJECT MOTION FOR INHIBITION.

III

'THE RESPONDENT JUDGE ERRED IN DENYING MOTION TO HOLD ATTY. EXEQUIEL CONSULTA IN CONTEMPT OF COURT AND DECLARING PETITIONERS IN CONTEMPT OF COURT.

IV

'THE RESPONDENT JUDGE COMMITTED ERROR OF LAW AND GRAVELY ABUSED HIS DISCRETION IN DENYING PETITIONERS' URGENT MOTION FOR POSTPONEMENT OF TRIAL ON JANUARY 12, 1981; FOR ORDERING TERMINATED PROSECUTION'S REBUTTAL EVIDENCE; FOR GIVING PROSECUTION 10 DAYS WITHIN WHICH TO SUBMIT FORMAL OFFER OF EVIDENCE AND FOR UNCONSCIONABLY DECLARING THE CASE SUBMITTED FOR DECISION THEREAFTER.'

"1. Respondent Judge did not commit any error of law nor grave abuse of discretion in refusing to inhibit himself from trying Criminal Case No. 27743, there being no valid grounds to warrant disqualification. Specific instances cited by the petitioners to prove that respondent Judge committed grave abuse of discretion amounting to lack of jurisdiction are not only unsupported by the records but are contrary to what appears therein. The issue of 'raffle' which was not raised in the lower court and, therefore, cannot be an issue in this Petition, has already been decided by this Court in its resolution of December 18, 1979 in AM No. 4453-CFI which sustained the Order of respondent Judge denying the motion of Augusto Syjuco, Jr. to disqualify said judge on the ground, inter alia, that the raffle was irregular.

"2. Respondent Judge did not commit any error nor grave abuse of discretion in allowing the cross-examination of petitioner Guerrero at the hearing of subject motion for inhibition. It appears that said motion for disqualification was set for hearing at the instance of the petitioners (pp. 4-5 of said Motion for Disqualification); in the hearing of said motion on September 19, 1980, petitioner Guerrero presented evidence in narrative form and at the next hearing on October 1, 1980, submitted himself to cross-examination by the defense counsel without objection through 102 pages of the transcript of stenographic notes. (Annex 'P', pet.). It was only at the next hearing of October 6, 1980, for the continuation of said cross-examination that he objected; but there is nothing in the record that respondent judge threatened him with contempt. The petitioner Guerrero not only made manifestations as a prosecutor but actually testified as a witness. (Annex 'P', petition). Hence, his cross-examination by defense counsels for the oppositors was necessary and proper.

"3. Respondent Judge did not err in declaring petitioners in contempt of court and in denying the motion to hold Atty. Exequiel Consulta in contempt of court. Two motions for contempt were filed against the petitioners: (a) one was filed by Atty. Consulta, counsel for accused Bilog for having falsely represented in court that 'Acting

Commissioner of Land Registration Federico B. Alfonso, Jr. had expressed the belief that the accused Gregorio Bilog, Jr. is capable of intimidating witnesses. Acting Commissioner Alfonso both in open court and in his letter dated August 22, 1980 categorically denied the imputations attributed to him; (b) the other motion was filed by accused Felino Cortez on the ground that they filed a Motion for Disqualification dated August 28, 1980, of the respondent judge, alleging imputations of partiality and bias on the part of the respondent judge, which the court in the Order dated January 7, 1981 (Annex 'EE', petition) found to be false. The petitioners filed a motion for contempt against Atty. Consulta for alleged distortion of the meaning of their allegation in their Manifestation of August 18, 1980, which does not refer to Gregorio Bilog, Jr. alone but to the 'accused' and to Bilog's well entrenched friends at the Land Registration Commission, as capable of intimidating witnesses. (Motion to Hold Atty. Consulta in Contempt of Court; Annex 'N', petition). Respondent judge rendered the Order dated January 7, 1981 (Annex 'EE', id.), finding petitioners guilty of contempt of court, sentencing each of them to pay a fine of P100.00 with a warning that repetition of the same or similar acts shall be dealt with severely. The motion to hold Atty. Consulta in contempt was denied for lack of merit. According to respondent judge, it is immaterial whether the imputation refers to Bilog alone or to all the accused (including Bilog), the issue being the falsity of the prosecutors' claim that Acting LRC Commissioner made such imputation.

"4. Respondent Judge did not err in denying petitioners' urgent motion for postponement of trial on January 12, 1981; for ordering terminated prosecution's rebuttal evidence, for giving prosecution 10 days within which to submit formal offer of evidence and for declaring the case submitted for decision. On January 12, 1981, at the scheduled hearing, petitioner Linco again asked for postponement on the ground that the last witness she was going to present could not be located because he had resigned from the LRC, and on the further ground that they intended to appeal certain orders of the respondent Judge. Counsel for Bilog vigorously objected to the motion for postponement and asked that since the prosecution had no witness the rebuttal evidence be deemed terminated and the case submitted for decision, which was granted. Undoubtedly, trial courts have the power to regulate the conduct of trials and direct their course; and may thus limit the number of witnesses when in its opinion further testimony on the point would be merely cumulative.

"Finally, if, as petitioner Linco manifested in open court, that witness Ernesto del Rosario who had already testified for the prosecution, was their last witness (TSN of Jan. 12, 1981 attached as Annex '16', Answer of Bilog), the Order terminating their rebuttal evidence could not have prejudiced the prosecution's case, since the defense did not ask for the striking out of the testimony of that witness for his failure to appear for additional cross-examination.

"Hence, I vote to dismiss the petition for lack of merit."

ACCORDINGLY, as first above stated, the Court has ordered and rendered judgment (1) that the People of the Philippines be deemed impleaded as petitioner; (2) that respondent judge's Order of January 12, 1961 (Annex "FF" of the petition) declaring the case submitted for decision upon the filing of memoranda be set aside and that the pending criminal case against private respondents be reopened for further reception of the People's rebuttal evidence, for which purpose the People are given a period of thirty (30) days counted from the date first set for the purpose; and (3) that respondent judge's Order of January 7, 1981 (Annex "EE" of the petition) sentencing petitioners Linco and Guerrero to a fine of P100.00 each for contempt of court be set aside. For lack of necessary votes, as first above stated, the petition to set aside respondent judge's Orders of December 10, 1980 and January 6, 1981 (Annexes "W" and "DD" of the petition) denying the motion for his inhibition and disqualification is denied.

Fernando, C.J., Barredo, Makasiar, Aquino, Fernandez*, Guerrero, De Castro, and Melencio-Herrera, JJ., concur. Concepcion, Jr., J., on leave.

Abad Santos, J., did not take part.

* By force of this Resolution, the People of the Philippines are hereby deemed impleaded and included as petitioner.

[1] Criminal Case No. CCC-VII-2646-Rizal.

[2] As counsel for Syjuco stated in their comment of June 18, 1979:

"Hallucination is an insulting word; its use in this case is indicative of anger. It is defined fully as follows: 'Hallucination: 1(a): Perception of objects with no reality; experience of sensations with no external cause, usually arising from disorder of the nervous system (as in delirium tremens or in functional psychosis without known neurological disease; (b): the object of a hallucinatory perception. 2. A completely, unfounded or mistaken impression or notion: DELUSION (that popular - from which not even great scientists are . . . free - Lewis Mumford.'" (WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY of the English Language, Unabridged, p. 1023)."

[3] Paredes vs. Abad, 56 SCRA 522.

* Fernandez, J., signed the resolution prior to his departure for abroad.

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