



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-1562 to 1564**
Plaintiff, For: Violation of Section 3(e)
of R.A. No. 3019, as amended

SB-17-CRM-1565 to 1566
For: Malversation

Present

- versus -

RODOLFO V. VALDEZ, ET AL., **FERNANDEZ, SJ, J.,**
Chairperson
MIRANDA, J. and
VIVERO, J.
Accused.

Promulgated:

JUN 06 2019 

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Inhibition*¹ filed by accused Rodolfo V. Valdez and Paz P. Fortunato.

In their Motion, accused Valdez and Fortunato pray for the inhibition of the Justices of the Sixth Division. They argue:

1. The Justices of the Sixth Division have lost their vestige of impartiality when the Court pronounced the guilt of the accused before they could present their evidence, in the Resolution dated April 8, 2019² denying their demurrer to evidence.³

¹ Dated May 7, 2019; Record, Vol. 3, pp. 413-416

² Record, Vol. 3, pp. 393-396

³ The Court, in the assailed Resolution denied their *Motion for Leave to File Verified Demurrer to Evidence*, not their demurrer to evidence.

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2. The Court admitted in evidence certain documentary exhibits that do not comply with the requirements of the Rules on Admissibility.
 - a. Some of the documents admitted in evidence were mere photocopies, the originals of which were not presented.
 - b. Furthermore, said documents were not identified by competent witnesses.
3. They were only two (2) among several government officials involved in the subject transactions. The Office of the Ombudsman did not include the other government officials and the private entity in the charges. The Court did not consider such circumstance in the pre-determined judgment.
4. The Court's leniency in the application of the rules of procedure and evidence in favor of the prosecution raises questions as to the impartiality of the Justices.
5. They do not expect the Justices to deviate from their earlier rulings or findings.

In its *Comment/Opposition*,⁴ the prosecution counters:

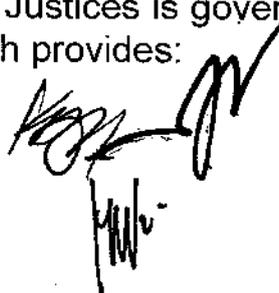
1. Mere suspicion of bias and partiality is not enough for the disqualification of the Court's Justices. The same must be proved by clear and convincing evidence.
2. Accused Valdez and Fortunato failed to cite even a single act or conduct clearly indicative of bias or partiality on the part of this Court's Justices.
3. The fact that the Court denied their *Manifestation and Motion for Leave to File Verified Demurrer to Evidence*, by itself, is not proof of bias or partiality.

THE COURT'S RULING

The Court resolves to deny the *Motion for Inhibition* filed by accused Valdez and Fortunato for being bereft of merit.

The disqualification of Judges and Justices is governed by Sec. 1 of Rule 137 of the Rules of Court, which provides:

⁴ Dated May 20, 2019; Record, Vol. 3, pp. 420-423



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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.

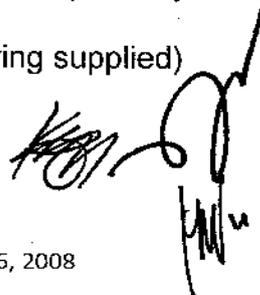
A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

The first paragraph of the aforementioned provision of the Rules of Court pertains to the grounds for compulsory inhibition. The second paragraph pertains to voluntary inhibition. The ground being invoked by accused Valdez and Fortunato, *i.e.*, bias and partiality, falls under the second paragraph.

Bias, prejudice and partiality have been recognized as valid reasons for the voluntary inhibition of Judges and Justices under the second paragraph of Rule 137, Sec. 1 of the Rules of Court.⁵ But it bears stressing that Judges and Justices may voluntarily inhibit only for just and valid causes. Said provision does not give Judges and Justices the unfettered discretion to desist from hearing a case. In *Pagoda Philippines, Inc. v. Universal Canning, Inc.*,⁶ the Supreme Court emphatically held:

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

(underscoring supplied)



⁵ Please see *Ong v. Basco*, G.R. No. 167899, August 6, 2008

⁶ G.R. No. 160966, October 11, 2005

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In *Ramiscal v. Hernandez*,⁷ the Supreme Court explained that for bias or partiality to be a sufficient ground for inhibition, mere imputation is not enough. Such bias or partiality must be proved by presenting extrinsic evidence. viz.:

In denying the motions for his inhibition, Justice Hernandez explained that petitioner failed to impute any act of bias or impartiality on his part, to wit:

What can reasonably be gleaned from jurisprudence on this point of law is the necessity of proving bias and partiality under the second paragraph of the rule in question. The proof required needs to point to some act or conduct on the part of the judge being sought for inhibition. In the instant Motions, there is not even a single act or conduct attributed to Justice Hernandez from where a suspicion of bias or partiality can be derived or appreciated. In fact, it is oddly striking that the accused does not even make a claim or imputation of bias or partiality on the part of Justice Hernandez. Understandably, he simply cannot make such allegation all because there is none to be told. If allegations or perceptions of bias from the tenor and language of a judge is considered by the Supreme Court as insufficient to show prejudgment, how much more insufficient it becomes if there is absent any allegation of bias or partiality to begin with.

We find the above explanation well-taken and thus uphold the assailed Resolution upon the grounds so stated. We have ruled in *Philippine Commercial International Bank v. Dy Hong Pi*, that mere imputation of bias or partiality is not enough ground for inhibition, especially when the charge is without basis. Extrinsic evidence must further be presented to establish bias, bad faith malice, or corrupt purpose, in addition to palpable error which may be inferred from the decision or order itself. This Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased or partial.

(underscoring supplied)

Here, accused Valdez and Fortunato claim that this Court's Justices have lost their impartiality because (1) the Court prejudged the accused' guilt in the Resolution dated April 8, 2019, denying their *Motion for Leave of to File Verified Demurrer to Evidence*, and (2) it admitted in evidence certain documentary exhibits offered by the prosecution, allegedly, despite non-compliance of said documentary exhibits with the rules on evidence.

First, the denial of their motion for leave to file their demurrer to evidence. Nowhere in the assailed Resolution did this Court render its

⁷ G.R. Nos. 173057-74, September 20, 2010



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judgment finding them guilty of the crimes charged. The pertinent portion of the assailed Resolution reads:⁸

After a thorough review of the records of the case and the evidence formally offered by the Prosecution and admitted by the Court, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for violation of Section 3(e) of R.A. No. 3019 and Malversation of Public Funds. The Court hereby **denies** the Motion (for Leave of Court to File Demurrer to Evidence) dated March 4, 2019 of accused Puyat and the Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019) of accused Valdez and Fortunato.

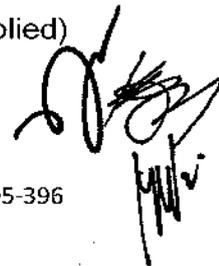
This is without prejudice to the filing by accused Puyat, Valdez and Fortunato of their Demurrer to Evidence without prior leave of court, but subject to the legal consequence provided under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, that they shall waive their right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the Prosecution.

WHEREFORE, the Manifestation and Ex Parte Humble Motion dated March 7, 2019 of accused Rodolfo V. Valdez and Paz P. Fortunato is **NOTED** and their attached Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019 is **ADMITTED** in the interest of justice.

The Motion (for Leave of Court to File Demurrer to Evidence) dated March 4, 2019 of accused Maria Cynthia A. Puyat and the Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019 of accused Rodolfo V. Valdez and Paz P. Fortunato are **DENIED**. Accused Puyat, Valdez and Fortunato, through counsel, are given a non-extendible period of ten (10) days from receipt of this Resolution within which to file their respective Demurrer to Evidence without prior leave of court, if they so desire, or file a Manifestation informing the Court that they will no longer file a demurrer to evidence.

The hearings set on May 6 and 7, 2019 at 1:30 in the afternoon for the presentation of the defense evidence are maintained. The said scheduled dates will be considered automatically cancelled as to the accused who files a demurrer to evidence.

(underscoring supplied)



⁸ Resolution dated April 8, 2019, pp. 3-4; Record, Vol. 3, pp. 395-396

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From the aforementioned portion of the assailed Resolution, it is plain that the Court merely ruled on their Motion by denying the same, after a review of the records and the prosecution's evidence. Furthermore, the hearings set for the presentation of the accused' evidence were maintained to give them the opportunity to rebut the prosecution's evidence. The accused—including accused Valdez and Fortunato—were then allowed, if they desire to do so, to file their demurrer to evidence without leave of court, pursuant to Rule 119, Sec. 23 of the Rules of Court. Clearly, accused Valdez and Fortunato were not deprived of their right to present evidence for their defense. Had this Court rendered judgment finding them guilty of the crimes charged, the accused would not have been given the opportunity to present their evidence to rebut that of the prosecution's.

Next, on the matter of the admission in evidence of the prosecution's exhibits, the Supreme Court's ruling in *Notarte v. Notarte*⁹ is apropos:

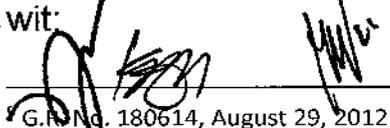
Even assuming that the MTC had reservations about the relevancy of some exhibits offered by the respondent, still, it should have admitted the same subject to judicial evaluation as to their probative value. In connection with evidence which may appear to be of doubtful relevancy, incompetency, or admissibility, this Court has held that:

It is the safest policy to be liberal, not rejecting them on doubtful or technical grounds, but admitting them unless plainly irrelevant, immaterial or incompetent, for the reason that their rejection places them beyond the consideration of the court, if they are thereafter found relevant or competent; on the other hand, their admission, if they turn out later to be irrelevant or incompetent, can easily be remedied by completely discarding them or ignoring them.

At any rate, even assuming that this Court erroneously ruled on their *Motion for Leave of to File Verified Demurrer to Evidence*, or on any of their previously filed motions, for that matter, this still falls short of the requirement of extrinsic evidence that would prove bias and partiality.

In *Webb v. People*,¹⁰ the Supreme Court categorically held that adverse and erroneous rulings, by themselves, do not sufficiently prove bias and prejudice sufficient to disqualify a Judge or Justice. To

wit:



G.R. No. 180614, August 29, 2012

¹⁰ G.R. No. 127262, July 24, 1997

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To prove bias and prejudice on the part of respondent judge, petitioners harp on the alleged adverse and erroneous rulings of respondent judge on their various motions. By themselves, however, they do not sufficiently prove bias and prejudice to disqualify respondent judge. To be disqualifying, the bias and prejudice must be shown to have stemmed from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. Opinions formed in the course of judicial proceedings, although erroneous, as long as they are based on evidence presented and conduct observed by the judge, do not prove personal bias or prejudice on the part of the judge. As a general rule, repeated rulings against a litigant, no matter how erroneous and vigorously and consistently expressed, are not a basis for disqualification of a judge on grounds of bias and prejudice. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error which may be inferred from the decision or order itself. Although the decision may seem so erroneous as to raise doubts concerning a judge's integrity, absent extrinsic evidence, the decision itself would be insufficient to establish a case against the judge. The only exception to the rule is when the error is so gross and patent as to produce an ineluctable inference of bad faith or malice.

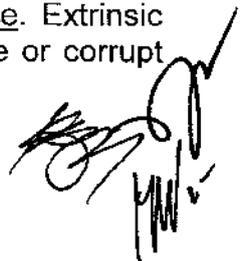
(underscoring supplied)

This ruling was later reiterated in *Dipatuan v. Mangotara*.¹¹ To wit:

Moreover, complainant failed to cite any specific act that would indicate bias, prejudice or vengeance warranting respondent's voluntary inhibition from the case. Complainant merely pointed on the alleged adverse and erroneous rulings of respondent Judge to their prejudice. By themselves, however, they do not sufficiently prove bias and prejudice.

To be disqualifying, the bias and prejudice must be shown to have stemmed from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. Opinions formed in the course of judicial proceedings, although erroneous, as long as they are based on the evidence presented and conduct observed by the judge, do not prove personal bias or prejudice on the part of the judge. As a general rule, repeated rulings against a litigant, no matter how erroneous and vigorously and consistently expressed, are not a basis for disqualification of a judge on grounds of bias and prejudice. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt

¹¹ A.M. No. RTJ-09-2190, April 23, 2010



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purpose, in addition to the palpable error which may be inferred from the decision or order itself. Although the decision may seem so erroneous as to raise doubts concerning a judge's integrity, absent extrinsic evidence, the decision itself would be insufficient to establish a case against a judge.

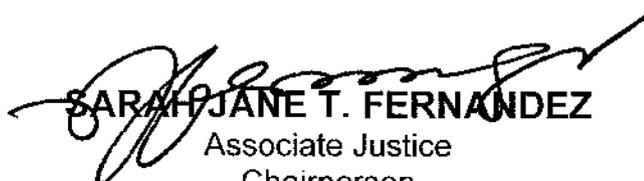
Mere suspicion of partiality is not enough. There must be sufficient evidence to prove the same, as well as a manifest showing of bias and partiality stemming from an extrajudicial source or some other basis. A judge's conduct must be clearly indicative of arbitrariness and prejudice before it can be stigmatized as biased and partial. x x x

(underscoring supplied)

Accused Valdez and Fortunato failed to support their bare claims of partiality on the part of this Court's Justices with extrinsic evidence. Neither have they shown how this Court's rulings were grossly or patently erroneous, such that the same would indicate bad faith or malice. Thus, there is no ground for this Court's Justices to voluntarily inhibit on the ground of partiality.

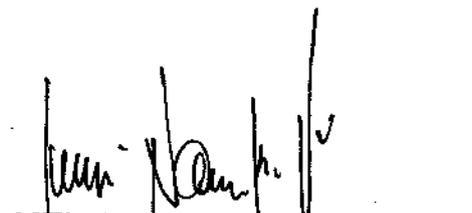
WHEREFORE, the *Motion for Inhibition* filed by accused Valdez and Fortunato is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice