



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-16-CRM-0580
Plaintiff, For: Violation of Sec. 3(e) of R.A. No. 3019, as amended

SB-16-CRM-0581
For: Malversation of Public Funds under Art. 217 of the Revised Penal Code

Present

- versus -

FERNANDEZ, SJ, J., Chairperson
MIRANDA, J. and VIVERO, J.

ESTEBAN R. SIA, ET AL. Accused.

Promulgated:

NOV 10 2020 [Signature]

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

This resolves the Motion to Inhibit -with- Motion for Cancellation -and- Videoconferencing1 filed by accused Esperato A. Del Socorro, with respect to his Motion to Inhibit only. His Motion for Cancellation and Videoconferencing will be the subject of a separate resolution.

In his Motion to Inhibit, accused Del Socorro prays that the presiding Justices inhibit themselves from hearing the present cases on the following grounds:

- 1. There is bias on the part of the Justices. There are some questions which are essential to his defense, and trial was allowed to proceed, despite the presumption of innocence in his favor.

1 Dated October 26, 2019 and received by the Court on November 3, 2020

[Handwritten signatures]

## RESOLUTION

*People vs. Sia, et al.*  
SB-16-CRM-0580 and 0581

Page 2 of 10

x-----x

2. The Court refused to give him the opportunity to show that the prosecution has failed to prove his guilt beyond reasonable doubt. The Court did not allow him to discuss why the case must be dismissed, and prejudged him as guilty.
3. Under the Rules of Court, a judge must not only be impartial, but must also appear impartial.
4. The Court showed its bias against him when it refused to discharge him despite the fact that it was the accountant who could have stopped the cash advance before the check could have been signed.
5. The accusers, who had the power to stop the cash advances, are likewise guilty because they allowed the same despite knowing that the previous cash advances were huge. He is getting all the blame but he was not allowed to fully explain his side in a demurrer to evidence.
6. The denial of his Motion for Leave to File Demurrer to Evidence was done without considering his arguments. He has been prejudged. Despite his presentation of evidence, which will be along that line of defense, the Court already found him guilty.
7. He is filing his Motion to Inhibit to prevent injustice against him, and to make sure that he has a fair and impartial trial.

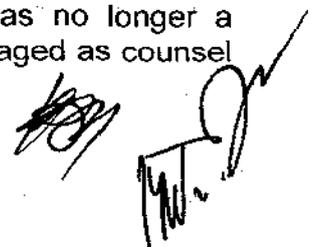
### THE COURT'S RULING

Accused Del Socorro's *Motion to Inhibit* is devoid of merit and must be denied.

Under Sec. 8, Rule XIII of the *2018 Revised Internal Rules of the Sandiganbayan (2018 Internal Rules)*, the following are the grounds for inhibition of Justices:

**Sec. 8. Grounds for Inhibition of Division Members.** – A Justice may inhibit from a case on the following grounds:

- (a) When the Justice was the *ponente* of the appealed decision of the lower court;
- (b) When the Justice was counsel or member of a law firm which was counsel in a case before the Division, within ten (10) years from joining the Sandiganbayan unless the Justice was no longer a partner or member of the law firm when it was engaged as counsel



## RESOLUTION

*People vs. Sia, et al.*  
SB-16-CRM-0580 and 0581

Page 3 of 10

X -----X

in the case and the Justice votes against the client of such law firm. In any event, the mandatory inhibition shall cease after the lapse of ten (10) years from the resignation or withdrawal of the Justice from the law firm, unless the Justice personally handled the case when he/she was a partner member of the law firm; or

(c) When the Justice, spouse or child, or any member of the family, is pecuniarily interested in said case as heir, legatee, creditor or otherwise; or

(d) When the Justice is related to either party in the case within the sixth degree of consanguinity or affinity or to counsel within the fourth degree, computed according to the rules of civil law; or

(e) When the Justice has been executor, administrator, guardian or trustee in the case.

A Justice may also inhibit for any compelling reason or cause other than those mentioned above or for any other ground provided for under the Rules, subject to the condition that the replacement shall be by raffle

The word "may" in the last paragraph indicates that whether the Justice inhibits is left to that Justice's discretion.<sup>2</sup> In determining whether the ground being invoked by accused Del Socorro, *i.e.*, bias on the part of the Justices, may be considered as a "compelling reason" under the last paragraph of the aforementioned provision, the discussion in *Kilosbayan Foundation v. Janolo*,<sup>3</sup> on voluntary inhibition, is instructive. To wit:

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

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

<sup>2</sup> Please see *De Ocampo v. Secretary of Justice*, G.R. No. 147932, January 25, 2006

<sup>3</sup> G.R. No. 180543, July 27, 2010

RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 4 of 10

X -----X

disqualification—those that depended upon the exercise of discretion of the judges concerned.

While the second paragraph<sup>4</sup> does not expressly enumerate the specific grounds for inhibition and leaves it to the sound discretion of the judge, such should be based on just or valid reasons. The import of the rule on the voluntary inhibition of judges is that the decision on whether to inhibit is left to the sound discretion and conscience of the judge based on his rational and logical assessment of the circumstances prevailing in the case brought before him. It makes clear to the occupants of the Bench that outside of pecuniary interest, relationship or previous participation in the matter that calls for adjudication, there might be other causes that could conceivably erode the trait of objectivity, thus calling for inhibition. That is to betray a sense of realism, for the factors that lead to preferences and predilections are many and varied.

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

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

But it must be emphasized that the provisions on voluntary inhibition do not give Judges and Justices the unfettered discretion to desist from hearing a case. Under the second paragraph of Rule 137, Sec. 1 of the Rules of Court, Judges and Justices may voluntarily inhibit only for just and valid causes. Under Sec. 8, Rule XIII of the 2018 Internal Rules, Justices may inhibit only for compelling reasons or causes. In *Pagoda Philippines, Inc. v. Universal Canning, Inc.*,<sup>5</sup> the Supreme Court 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

<sup>4</sup> Rules of Court. Rule 137, Sec. 1. Disqualification of judges. - x x x

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.

<sup>5</sup> G.R. No. 160966, October 11, 2005

RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 5 of 10

X-----X

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)

Bias, prejudice and partiality have been recognized as valid reasons for the voluntary inhibition of Judges and Justices under the second paragraph of Sec. 1, Rule 137 of the Rules of Court.<sup>6</sup> In *Ramiscal v. Hernandez*,<sup>7</sup> 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:

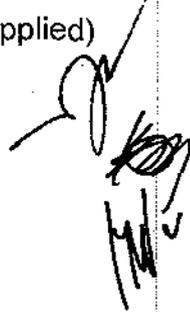
What can reasonably be gleaned from jurisprudence on this point of law is the necessity of proving bias and partiality under the second paragraph of the rule in question. The proof required needs to point to some act or conduct on the part of the judge being sought for inhibition. In the instant Motions, 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)

<sup>6</sup> Please see *Ong v. Basco*, G.R. No. 167899, August 6, 2008

<sup>7</sup> G.R. Nos. 173057-74, September 20, 2010



RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 6 of 10

x -----x

Here, accused Del Socorro claims that this Court's Justices were biased against him because the Court denied his *Motion for Leave of Court to File Demurrer to Evidence* without considering his arguments, prejudged him as guilty, and refused to discharge him. An examination of the pertinent Resolutions would show that this is not the case.

First, the denial of accused Del Socorro's *Motion for Leave of Court to File Demurrer to Evidence*. The pertinent portion of the Resolution dated March 12, 2020 reads:<sup>8</sup>

In *Bernardo v. Court of Appeals*, the Supreme Court explained that the trial court is given the discretion to grant leave to the accused to file a demurrer for the purpose of determining whether the accused is merely stalling the proceedings. *Viz.:*

x x x

After an examination of the prosecution's evidence and the arguments in the accused' Motions, this Court rules that granting the accused leave to file their demurrers to evidence will accomplish nothing but delay the proceedings.

**WHEREFORE**, the respective Motions of Sia and Del Socorro are hereby DENIED for lack of merit.

As provided in Sec. 23, Rule 119 of the Rules of Court, they may adduce evidence in their defense, or in the alternative, they may file their demurrers to evidence without leave of court.

x x x

SO ORDERED.

On the other hand, in the Resolution dated September 4, 2020, denying accused Del Socorro's *Motion for Reconsideration* for being a mere reiteration or rehash of his previous Motion, this Court held:<sup>9</sup>

Accused Del Socorro's arguments in his *Motion for Reconsideration* are a mere reiteration or rehash of those in his *Motion for Leave of Court to File Demurrer to Evidence*.

In *Mendoza-Ong v. Sandiganbayan*, it was held:

x x x

<sup>8</sup> Resolution dated March 12, 2020, pp. 4-5

<sup>9</sup> Resolution dated September 4, 2020, pp. 3-5

RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 7 of 10

X -----X

Accused Del Socorro raises no new arguments in his *Motion for Reconsideration*. This Court had already considered accused Del Socorro's rehashed arguments, and found them to be without merit, when it denied accused Del Socorro's earlier Motion in the Resolution dated March 12, 2020. It is unnecessary to discuss them anew.

x x x

**WHEREFORE**, accused Del Socorro's *Motion for Reconsideration* is hereby DENIED.

As provided in Sec. 23, Rule 119 of the Rules of Court, he may adduce evidence in his defense, or in the alternative, he may file his demurrer to evidence without leave of court.

x x x

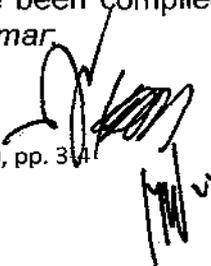
SO ORDERED.

As stated in the Resolution dated March 12, 2020, the Court concluded that granting accused Sia and Del Socorro leave to file their demurrers will merely delay the proceedings "after an examination of the prosecution's evidence and the arguments in the accused' Motions." Moreover, a cursory reading of the two (2) Resolutions would show that the Court allowed accused Del Socorro to adduce evidence in his defense, or if he so desires, to file his demurrer to evidence without leave of court, pursuant to Sec. 23, Rule 119 of the Rules of Court. There is nothing in said Resolutions that pronounced him guilty of the crimes charged, or anything that would even suggest that the Court prejudged him as guilty.

Next, in the Resolution dated January 15, 2020, the Court denied the *Motion to Discharge Accused Del Socorro as State Witness* on the ground that it had no authority to discharge him. To wit:<sup>10</sup>

The discharge of an accused as state witness is left to the prosecution's discretion. The Court's authority with regard to the discharge of accused as state witness is limited to determining if the legal requirements therefor, as provided in Sec. 17, Rule 119 of the Rules of Court, have been complied with. As the Supreme Court held in *People v. Ocimar*

<sup>10</sup> Resolution dated January 15, 2020, pp. 34



RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 8 of 10

X-----X

X X X

This was reiterated in *People v. Sandiganbayan*, where the Supreme Court held that the decision to employ an accused as a state witness must necessarily originate from the prosecution, and that courts should generally defer to the judgment of the prosecution and deny a motion to discharge an accused as witness only in clear cases of failure to meet the requirements therefor. *Viz.:*

X X X

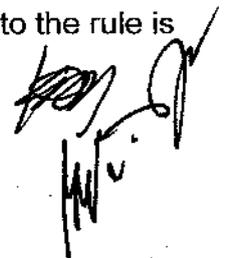
Here, the prosecution has not moved for the discharge of accused Del Socorro as state witness. On the contrary, the prosecution opposed accused Del Socorro's instant Motion. There is no ground for discharging accused Del Socorro as state witness.

In any event, even assuming that this Court erroneously ruled on accused Del Socorro's previous motions, this still falls short of the requirement of extrinsic evidence that would prove bias and partiality on the part of this Court's Justices.

In *Webb v. People*,<sup>11</sup> 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:

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

<sup>11</sup> G.R. No. 127262, July 24, 1997



RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 9 of 10

X -----X

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*.<sup>12</sup> 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 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 Del Socorro failed to support his bare claim of bias on the part of this Court's Justices with extrinsic evidence. Neither has he shown how this Court's rulings were grossly or patently erroneous, such that the same would indicate bad faith or malice. Thus, there is

<sup>12</sup> A.M. No. RTJ-09-2190, April 23, 2010

RESOLUTION

People vs. Sia, et al.  
SB-16-CRM-0580 and 0581

Page 10 of 10

X-----X

no compelling reason or cause for this Court's Justices to voluntarily inhibit.

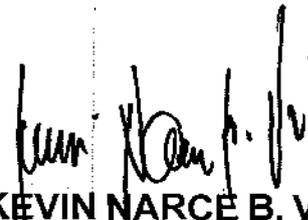
**WHEREFORE**, accused Del Socorro's *Motion to Inhibit* is hereby DENIED for lack of merit.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice