



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

- versus -

SB-16-CRM-0077 to 0084

JEJOMAR S. BINAY, JR., et al.,

Accused.

X-----X

PEOPLE OF THE PHILIPPINES,

Plaintiff,

- versus -

SB-16-CRM-0439 to 0453

JEJOMAR C. BINAY, SR. et al.,

Accused.

X-----X




Present:

**CABOTAJE-TANG, P.J.,
Chairperson
FERNANDEZ, B., J. and
MORENO, R, J.**

Promulgated on:

JUNE 13, 2023

X-----X

RESOLUTION

CABOTAJE-TANG, P.J.

This resolves the prosecution's Manifestation and Motion dated April 13, 2023, praying for the inhibition of Atty. Jesus Christopher PB. Belandres (Atty. Belandres) from appearing as collaborating counsel of accused Mario V. Badillo in the following cases: SB-16-CRM-0084, 0439, 0442, 0443, 0451 and 0453.

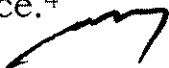
THE PROSECUTION'S SUBMISSIONS

The prosecution avers that by Order dated March 20, 2023, this Court noted the entry of appearance of Atty. Belandres as collaborating counsel for accused Mario V. Badillo in criminal cases, docketed as SB-16-CRM-0084, 0439, 0442, 0443, 0451 and 0453.¹ It insists that there is a purported conflict of interest since Atty. Belandres was hired by the Presidential Commission on Good Government (PCGG) as its Special Legal Counsel starting on August 11, 2017 up to December 31, 2022 through a Contract of Service.²

Allegedly, by representing accused Badillo in the said cases, Atty. Belandres is now "advocating against the State." The PCGG is "part of government instrumentality" where Atty. Belandres receives funds for his services as its Special Legal Counsel. The PCGG has not given its consent to Atty. Belandres' engagement as collaborating counsel for accused Badillo. Thus, the conflict of interest.³

ATTY. BELANDRES' COMMENT

Atty. Belandres, on the other hand, insists that there is no conflict of interest allegedly because he is not a regular employee of the PCGG but was just hired as Special Legal Counsel through a Contract of Service.⁴





¹ p. 1, Prosecution's Manifestation and Motion dated April 13, 2023

² pp. 1-2, *ibid.*

³ p. 3, *ibid.*

⁴ unpaginated Comment of Atty. Belandres



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Under his Contract of Service, he is free to practice his profession, accept cases and appear in court except if there is a conflict of interest.⁵

Allegedly, the conflict of interest contemplated in his Contract of Service with the PCGG refers to a scenario where the Special Legal Counsel is also a counsel of the parties against the PCGG. The PCGG is primarily mandated “*to recover ill-gotten wealth by the former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates whether located in the Philippines or abroad.*”⁶

In this case, accused Mario V. Badillo is not an immediate family of former President Marcos, neither his relative, subordinate, or close associate. Thus, there is no conflict of interest.⁷

THE COURT’S RULING

In **PCGG v. Peña, et al.**,⁸ the Supreme Court had the occasion to state that considering the duties and functions and the power and authority given to the PCGG, it exercises quasi-judicial functions.

Paragraphs 10 and 11, Section 2 of the Administrative Code of 1987 read:

(10) Instrumentality refers to any agency of the National Government, not integrated within the department framework vested within special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations.

⁵ *ibid.*

⁶ *ibid.*

⁷ *ibid.*

⁸ 159 SCRA 556 (1988)

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(11) Regulatory agency refers to any agency expressly vested with jurisdiction to regulate, administer or adjudicate matters affecting substantial rights and interests of private persons, the principal powers of which are exercised by a collective body, such as a commission, board or council.⁹

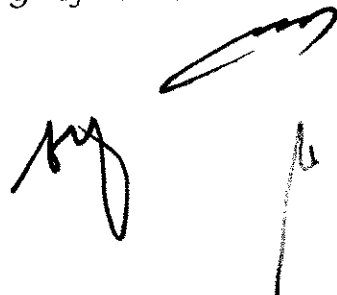
Based on the above laws and jurisprudence, the PCGG is considered as an instrumentality or regulatory agency of the government. Being an instrumentality or regulatory agency of the government, PCGG is, therefore, part of the State. By representing accused Badillo in the subject cases where the plaintiff is the "People of the Philippines" or the State, Atty. Belandres is now going against his client, the PCGG which is an instrumentality of the State. Thus, there is an apparent conflict of interest.

In ***Hornilla v. Salunat***,¹⁰ the Supreme Court explained the test to determine the existence of conflict of interest:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client. This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is

⁹ underscoring ours

¹⁰ 453 Phil. 108 (2003)



x-----x

whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.¹¹

The rule prohibiting conflict of interest applies to situations where in a lawyer would be representing a client whose interest is directly adverse to any of his present or former clients.¹² It also applies when the lawyer represents a client against a former client in a controversy that is related, directly or indirectly, to the subject matter of the previous litigations in which he appeared for the former client.¹³ This rule applies regardless of the degree of adverse interests.¹⁴ What a lawyer owes his former client is to maintain inviolate the client's confidence or to refrain from doing anything which will injuriously affect him in any matter in which he previously represented him.¹⁵ A lawyer may only be allowed to represent a client involving the same or a substantially related matter that is materially adverse to the former client only if the former client consents to it after consultation.¹⁶

Rule 15.03 of the Code of Professional Responsibility reads:

Canon 15 - A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

Rule 15 .03 - A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

¹¹ emphasis supplied

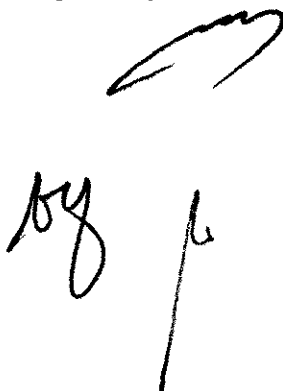
¹² citing *Samson vs. Era*, 701 SCRA 241 (2013)

¹³ *Pormento, Sr. vs. Pontevedra*, 494 Phil. 164 (2005)

¹⁴ *Nakpil vs. Valdes*, 350 Phil. 412 (1998)

¹⁵ *supra*

¹⁶ *Heirs of Lydio Falame v. Bagueio*, 571 Phil. 428 (2008)

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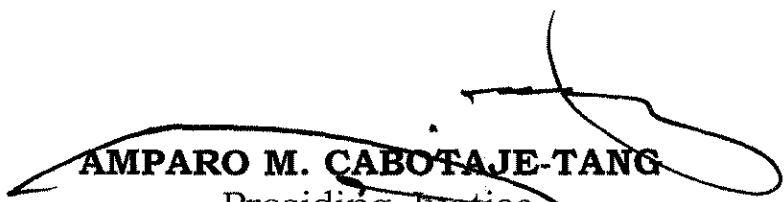
Resolution
Criminal Cases Nos. SB-16-CRM-0077 to 0084
and SB-16-CRM-0439 to 0453
People vs. Binay, et al.
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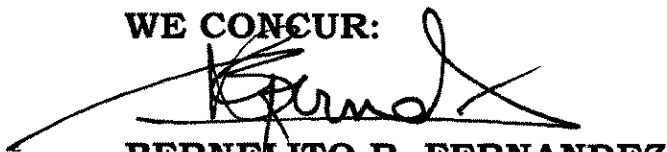
The afore-cited rule evidently prohibits a lawyer from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.¹⁷

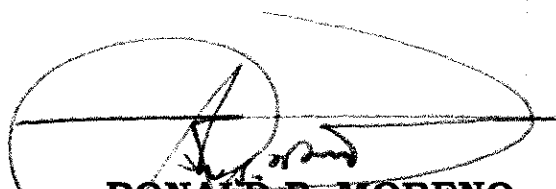
WHEREFORE, the Court hereby **GRANTS** the prosecution's Manifestation and Motion dated April 13, 2023. Thus, Atty. Blandres is hereby **DISQUALIFIED** from appearing as collaborating counsel of accused Mario V. Badillo in the cases docketed as SB-16-CRM-0084, 0439, 0442, 0443, 0451 and 0453.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:

BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice

¹⁷ Orola v. Atty. Ramos, 705 SCRA 350 (2013)