



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**THIRD DIVISION**

**REPUBLIC OF THE PHILIPPINES,**  
*Petitioner,*

-versus-

**SB-14-CVL-0002**

*For: Forfeiture of  
Unlawfully Acquired  
Properties under R.A. No.  
1379*

**HERNANDO B. PEREZ, ET AL.,**  
*Respondents.*

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*Present:*

**CABOTAJE-TANG, PJ.**  
**FERNANDEZ, B. J.,**  
**MORENO, R. J.**

*Promulgated on:*

*APRIL 29, 2024*

**RESOLUTION**

**CABOTAJE-TANG, PJ.:**

For resolution are the following:

1. *Motion for Voluntary Recusal (of this Honorable Division) dated March 8, 2024 ("Motion for Recusal"), filed by respondent Ernest De Leon Escaler;<sup>1</sup>*

<sup>1</sup> p. 270, Vol. XIII, Records

2. *Motion for Inhibition* dated March 13, 2024 (*Motion for Inhibition*), filed respondents Hernando B. Perez and Ramon Antonio C. Arceo, Jr.;<sup>2</sup> and,

3. *Consolidated Opposition (To: Respondent Ernest De Leon Escaler’s Motion for Voluntary Recusal [of this Honorable Division], and, Respondents Hernando B. Perez and Ramon Arceo, Jr.’s Motion for Inhibition dated 13 March 2024)* dated March 13, 2024 (“*Consolidated Opposition*”), filed by petitioner Republic of the Philippines.<sup>3</sup>

**I.**

**RESPONDENT ESCALER’S MOTION FOR VOLUNTARY RECUSAL**

In his *Motion for Voluntary Recusal*, respondent Escaler asserts that the prevailing circumstances surrounding the instant case “engendered reasonable grounds to request for the inhibition of the members of the Third Division of this Honorable Court from participating further in the instant case.”<sup>4</sup> He claims that there are “several factual circumstances in the instant case showing acts or conduct by this Honorable Third Division that are ... clearly indicative of violation of the laws, rules and prevailing jurisprudence, and manifest arbitrariness and/or prejudice, if not gross ignorance of the law, which warrant its inhibitions.”<sup>5</sup>

According to respondent Escaler, the following circumstances are grounds for the voluntary inhibition of the members of this Division:

1. The issuance by the Third Division of its *Resolution* dated October 25, 2023, which admitted the petitioner’s formal offer of exhibits, and its *Resolution* dated January 14, 2024, which denied respondent Escaler’s motion for reconsideration of the said earlier resolution, “raises reasonable suspicions that tend to cause Respondent Escaler to lose faith and trust in the partiality of this Honorable Division.”<sup>6</sup>



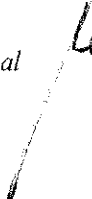
<sup>2</sup> p. 288, *id*

<sup>3</sup> p. 296, Vol. XIII, Records

<sup>4</sup> Par. 4, p. 2, Respondent Escaler’s *Motion for Voluntary Recusal*

<sup>5</sup> Par. 10, p. 4, *id*

<sup>6</sup> Par. 11, p. 4, *id*

*by*   
  


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1.2 In his *Objections (To Petitioner's Formal Offer of Evidence)*, respondent Escaler painstakingly pointed out the inadmissibility of petitioner's documentary exhibits.<sup>7</sup> "Unfortunately, this Honorable Third Division appears to have simply glossed over them when, in its Minute Resolution dated 25 October 2023, it admitted petitioner's offer on [an] overly-simplistic 'justification'..."<sup>8</sup>

1.3 In his motion for reconsideration, respondent Escaler clearly explained and demonstrated that the petitioner's documentary exhibits are hearsay, and therefore, inadmissible.<sup>9</sup> "Unfortunately, despite Respondent Escaler's detailed submissions, this Honorable Division appears to have peremptorily dismissed them, and perhaps for lack of a valid justification, simply cited the overly-abused phrase 'no new arguments were raised that would warrant a reversal of the Court's assailed Resolution'."<sup>10</sup>

1.3 Respondent Escaler did not raise the issue of the probative value of the petitioner's exhibits because at this stage of the proceedings it is premature to do so. The sole and crucial issue is the (non) admissibility of hearsay evidence, which this Honorable Court conveniently skirted and did not resolve.<sup>11</sup>

1.4 The unanimous acts of the members of the Third Division "to admit Petitioner's exhibits despite their clear inadmissibility reasonably raise the belief of bias and erodes Respondent Escaler's faith in this Honorable Division."<sup>12</sup>

2. When the law is basic and the rules are elementary, the duty of the judge is simply to apply it.<sup>13</sup> The rule governing hearsay evidence is elementary and simple.<sup>14</sup> The Third Division failed to apply it when it admitted the petitioner's exhibits. Thus, the Third Division's inhibition is in order because at the "very sign of lack of faith and trust to his actions, whether well-grounded or not, the Judge has no other alternative but inhibit himself from the case."<sup>15</sup>

<sup>7</sup> Par. 13, p. 5, *id.*

<sup>8</sup> Par. 14, *id.*

<sup>9</sup> Par. 16, *id.*

<sup>10</sup> Par. 18, p. 6, Respondent Escaler's *Motion for Voluntary Recusal*

<sup>11</sup> Par. 20, *id.*

<sup>12</sup> Par. 23, *id.*

<sup>13</sup> p. 7, *id.*

<sup>14</sup> p. 13, *id.*

<sup>15</sup> p. 14, *id.*

**II.**

**RESPONDENTS PEREZ AND ARCEO, JR.'s  
MOTION FOR INHIBITION**

Respondents Perez and Arceo, Jr. likewise implore the members of this Division to voluntarily disqualify themselves from hearing this case. Just like respondent Escaler, respondents Perez and Arceo, Jr. take exception to the admission by the Third Division of the petitioner's formal offer of exhibits. *"With the ruling by the Justices of the Third Division that the objections of the respondents to petitioner's formal offer of evidence refer more to probative value rather than admissibility despite the clear tenor of respondents' objection providing otherwise, the respondents feel that the Justices of the Third Division may no longer have the cold neutrality of impartial judges."*<sup>16</sup>

**III.**

**PETITIONER'S  
COMMENT/OPPOSITION**

In its *Consolidated Opposition*, the petitioner prays for the denial of respondent Escaler's *Motion for Voluntary Recusal* and respondents Perez and Arceo, Jr.'s *Motion for Inhibition*. According to the petitioner:

1. Respondents' respective motions are dilatory in nature.<sup>17</sup> The filing of the two (2) motions have been perfectly timed with the intent to disrupt the schedules set by the Court for the presentation of respondents' evidence on March 14 and 21, April 2, 3, 8, 16, 16 (*sic*), 22, 24, and 30, 2024;<sup>18</sup>

2. The *Resolutions* dated October 25, 2023, and January 15, 2024, might have been unfavorable to the respondents but they are not valid grounds for the voluntary inhibition of this Division;<sup>19</sup> and

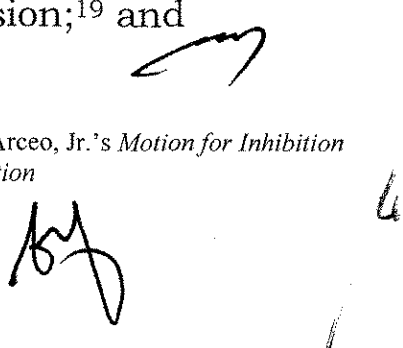
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<sup>16</sup> Par. 3, p. 3, respondent Perez and Arceo, Jr.'s *Motion for Inhibition*

<sup>17</sup> p. 2, Petitioner's *Comment/Opposition*

<sup>18</sup> Par. 6, p. 2, *id.*

<sup>19</sup> Par. 10, p. 4, *id.*

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3. Granting without admitting that there were any errors, the subject *Resolutions* do not sufficiently prove bias and prejudice to disqualify this Division from hearing the instant case.<sup>20</sup>

**THE RULING OF THE COURT**

After a judicious evaluation of the arguments raised by respondents Escaler, Perez, and Arceo, Jr. in their respective motions *vis a vis* the arguments raised by the petitioner in its *Comment/Opposition*, the undersigned finds the subject motions devoid of merit for reasons hereunder discussed.

***I. The governing rules on a judge's inhibition and the prevailing jurisprudence thereon.***

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Section 1, Rule 137 of the Rules of Court, as amended, encapsulates the rules on the disqualification and inhibition of judges. Thus:

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.<sup>21</sup>**



<sup>20</sup> Par. 14, p. 5, *id*

<sup>21</sup> Emphasis supplied

Plainly, the rule on disqualification and inhibition involves two (2) aspects, *i.e.*, *compulsory disqualification* and *voluntary inhibition*.

*Compulsory disqualification* assumes that a judge cannot actively or impartially sit on a case for the reasons stated in the first paragraph of Section 1, Rule 137 of the Rules. It has been said that the rationale for the rule on the compulsory disqualification of a judge or judicial officer is predicated on the long-standing precept that no judge should preside in a case in which he or she is not wholly independent, disinterested or impartial. Judges should not handle cases in which they might be perceived, rightly or wrongly, to be susceptible to bias and partiality. The rule is aimed at preserving at all times the people's faith and confidence in our courts, which are essential to the effective administration of justice.<sup>22</sup>

On the other hand, the aspect of *voluntary inhibition*, as stated in the second paragraph, involves the use of discretion. Undoubtedly, it partakes of voluntariness and is a matter of conscience that is addressed primarily to the judge's sense of fairness and justice.<sup>23</sup>

This discretion is an acknowledgment of the fact that judges are in a better position to determine the issue of inhibition, as they are the ones who directly deal with the litigants in their courtrooms.<sup>24</sup> The decision on whether he should inhibit himself/herself, however, must be based on his/her rational and logical assessment of the circumstances prevailing in the case brought before him/her.<sup>25</sup>

To guide the members of the bench, it should be stated that inhibition must be for just and valid causes.<sup>26</sup> Generally, the mere imputation of bias, partiality and prejudgment will not suffice in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor.<sup>27</sup> The disqualification of a judge cannot be

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<sup>22</sup> *Calayag, et al., vs. Sulpicio Line, Inc., et al.* 795 Phil. 418, 434 (2016); citing *Perez vs. Suller*, 320 Phil. 1, 8 (1995)

<sup>23</sup> *Id.*; citing *Gochan v. Gochan*, 446 Phil. 433, 447 (2003)

<sup>24</sup> *Id.*; citing *Chin v. Court of Appeals*, 456 Phil. 440, 450 (2003), citing *Gutang v. Court of Appeals*, 354 Phil. 77, 88 (1998)

<sup>25</sup> *Id.* at 435;

<sup>26</sup> *Id.*; citing *People v. Kho*, 409 Phil. 326, 335 (2001).

<sup>27</sup> *Id.*; citing *People v. Court of Appeals*, 369 Phil. 150, 158 (1999); *Go v. Court of Appeals*, G.R. No. 106087, April 7, 1993, 221 SCRA 397, 409-410.

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based on mere speculations and surmises or be predicated on the adverse nature of the judge’s rulings towards the movant for inhibition.<sup>28</sup> In fact, the Supreme Court has, on several instances, ruled that to warrant the judge’s inhibition from the case, bias or prejudice must be shown to have stemmed from an extrajudicial or extrinsic source. In other words, a judge must inhibit only if it is shown that a judge’s evident leaning towards a party would result in a disposition on the merits on some basis other than what the judge learned from participating in the case. After all, the option given to a judge to choose whether or not to handle a particular case should be counterbalanced by the judge’s sworn duty to administer justice without fear of repression.<sup>29</sup>

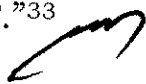
With these precepts as guide, the undersigned shall now examine the plea of the respondents for them to voluntarily inhibit from hearing this case.

**II. There is no just and valid ground to warrant the grant of the inhibition of the members of the Third Division.**

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Respondent Escaler, et al.’s prayer for the recusal of the members of the Third Division is primarily anchored on the issuance of the *Minute Resolution* dated October 25, 2023,<sup>30</sup> and the *Minute Resolution* dated January 15, 2024.<sup>31</sup>

The *Minute Resolution* dated October 25, 2023, admitted the exhibits formally offered by the petitioner because the “objections of the respondents, through counsel/s, refer more to the probative value rather than their admissibility...”<sup>32</sup> On the other hand, the *Minute Resolution* dated January 15, 2024, denied respondent’s Escaler’s motion for reconsideration of the said earlier Resolution “considering that apart from admittedly reiterating the issues stated in his objections to the petitioner’s formal offer of evidence, no new arguments were raised that would warrant the reversal of the Court’s assailed Resolution dated October 25, 2023.”<sup>33</sup>



<sup>28</sup> *Id*; citing *Republic v. Gingoyon*, 514 Phil. 657, 711 (2005)



<sup>29</sup> *Id*; citing *Dumo v. Espinas*, 515 Phil. 685, 696 (2006)

<sup>30</sup> p. 178, Vol. XIII, Records

<sup>31</sup> p. 259, *id*

<sup>32</sup> *Supra* at note 31

<sup>33</sup> *Supra* at note 32



According to respondent Escaler, the issuance of these Resolutions caused him “to lose faith and trust in the partiality of this Honorable Division.” For respondent Perez and Arceo, Jr., the issuance of the same Resolutions led them to believe “that the Justices of the Third Division may no longer have the cold neutrality of impartial judges.”

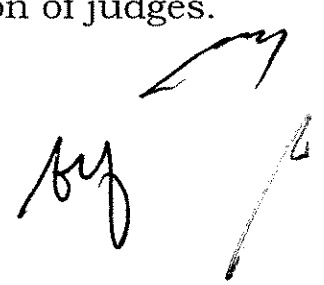
After a rational and logical assessment of the circumstances in this case, the undersigned finds that there is no just and valid reason for them to recuse from further hearing this case.

It is jurisprudentially settled that 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.<sup>34</sup>

Here, as presented above, respondent Escaler, et al. are moving for the inhibition of the members of this Division on the allegation that the two (2) *Minute Resolutions* that they issued were erroneous. Respondent Escaler insists that these resolutions failed to take into consideration his objections to the admission of the petitioner’s documentary exhibits on the ground of being hearsay. This was echoed by respondents Perez and Arceo, Jr. For them, these two (2) resolutions are already proof of the bias and partiality of the members of the Third Division.

However, the mere imputation that the subject resolutions are erroneous, *without more*, does not constitute a just and valid ground for the recusal of the members of this Division. To be sure, respondents have not alleged that the said resolutions were issued with bad faith, malice or corrupt purposes. Respondents have not even presented, as they cannot present, even a scintilla of evidence that would prove, even tangentially, that the subject resolutions were issued with bad faith, malice or even for corrupt purposes. Indeed, they are merely relying on the purported erroneousness of the subject resolutions. This simply falls short of the requirement for extrinsic evidence to establish bias and partiality for the inhibition of judges.

<sup>34</sup> *Webb vs. People*, G.R. No. 127262, 276 SCR 243 (1997)





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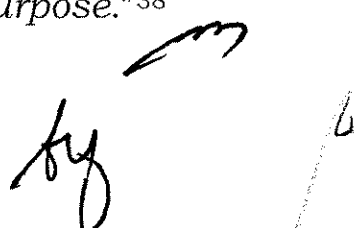
More importantly, there is nothing questionable in the ruling of the Court to admit petitioner's documentary exhibits on the ground that the "*objections of the respondents, through counsel/s, refer more to the probative value rather than their admissibility...*"

It is worthy to stress that "*admissibility of evidence should not be confounded with its probative value.*"<sup>35</sup> Indeed, "*[a]dmissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue.*"<sup>36</sup> "*Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence.*"<sup>37</sup>

Here, the Court, after a thorough assessment of the respondents' objections *vis a vis* the petitioner's offer of exhibits, held that the said objections should be overruled considering that they pertained to the probative value of the subject exhibits rather than its admissibility.

Assuming *arguendo*, that the subject resolutions are erroneous. There is an appropriate remedy for it but definitely it is not through the vehicle of the voluntary inhibition of the members of this Division.

Jurisprudence instructs that "*bias and prejudice must be shown to have resulted in an opinion on the merits on the basis of an extrajudicial source, not on what the judge learned from participating in the case. **As long as opinions formed in the course of judicial proceedings are based on the evidence presented and the conduct observed by the magistrate, such opinion – even if later found to be erroneous – will not prove personal bias or prejudice on the part of the judge.** While palpable error may be inferred from the decision or the order itself, extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose.*"<sup>38</sup>

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<sup>35</sup> *Mancol vs. Development Bak of the Philippines*, 821 Phil. 323, 335 (2017)

<sup>36</sup> *Id.*; citing *Lepanto Consolidated Mining Co. v. Dumapis, et al.*, 584 Phil. 100, 110 (2008)

<sup>37</sup> *Id.*; citing *De Guzman v. Tumolva*, 675 Phil. 808, 819 (2011) citing *Tating v. Marcella*, 548 Phil. 19, 28 (2007)

<sup>38</sup> *Kilosbayan Foundation, et al., vs. Judge Janolo, Jr., et al.*, 640 Phil. 33, 55-56 (2010); citing *Gochan v. Gochan*, *supra* at 447-448; *Webb v. People*, 342 Phil. 206, 216 (1997).

In **Webb vs. People**,<sup>39</sup> the Supreme Court gave the following reasons why an erroneous ruling is not enough reason for the voluntary inhibition of a judge:

A perusal of the records will reveal that petitioners failed to adduce any extrinsic evidence to prove that respondent judge was motivated by malice or bad faith in issuing the assailed rulings. Petitioners simply lean on the alleged series of adverse rulings of the respondent judge which they characterized as palpable errors. This is not enough. We note that respondent judge's rulings resolving the various motions filed by petitioners were all made after considering the arguments raised by all the parties.

... ..

We hasten to stress that a party aggrieved by erroneous interlocutory rulings in the course of a trial is not without remedy. The range of remedy is provided in our Rules of Court and we need not make an elongated discourse on the subject. **But certainly, the remedy for erroneous rulings, absent any extrinsic evidence of malice or bad faith, is not the outright disqualification of the judge. For there is yet to come a judge with the omniscience to issue rulings that are always infallible. The courts will close shop if we disqualify judges who err for we all err.**<sup>40</sup>

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.<sup>41</sup> 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.<sup>42</sup>

Indeed, the automatic granting of a motion for voluntary inhibition would open the floodgates to a form of forum-shopping, in which litigants would be allowed to shop for a judge more sympathetic to their cause, and would prove antithetical to the speedy and fair administration of justice.<sup>43</sup>

<sup>39</sup> *Supra* at note 34,

<sup>40</sup> Emphasis supplied

<sup>41</sup> *Kilosbayan Foundation, et al., vs. Judge Janolo, Jr., et al., supra* at 48

<sup>42</sup> *Id*; citing *Gutang v. Court of Appeals*, 354 Phil. 77 (1998)

<sup>43</sup> *Id*; citing *Pagoda Philippines, Inc. v. Universal Canning, Inc.*, G.R. No. 160966, October 11, 2005, 472 SCRA 355

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**WHEREFORE**, respondent Ernest De Leon Escaler's *Motion for Voluntary Recusal* dated March 8, 2024, and respondents Hernando B. Perez and Ramon Antonio Castillo Arceo, Jr.'s *Motion for Inhibition* dated March 13, 2024, be both **DENIED** for utter lack of merit.

**SO ORDERED.**



**AMPARO M. CABOTAJE-TANG**

Presiding Justice  
Chairperson

**WE CONCUR:**



**BERNELITO R. FERNANDEZ**

Associate Justice



**RONALD B. MORENO**

Associate Justice