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[A.M. No. CA-10-49-J. January 28, 2010]
(Formerly A.M. OCA IPI No. 08-142-CA-J)

RAMON C. GONZALES, *complainant, vs.* **COURT OF APPEALS ASSOCIATE JUSTICE AMELITA G. TOLENTINO,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; *CERTIORARI;* ISSUANCE OF WRIT OF PRELIMINARY INJUNCTION WAS A COLLECTIVE ACT OF MEMBERS OF A DIVISION OF THE COURT OF APPEALS; CHARGES FILED AGAINST A SINGLE MEMBER, INAPPROPRIATE; CASE AT BAR.— In any event, the order to issue the writ of preliminary injunction was the collective act of the members of the Ninth Division of the Court. *Bautista v. Abdulwahid* enlightens: x x x The Court of Appeals is a collegiate court whose members reach their conclusions in consultation and accordingly render their collective judgment after due deliberation. Thus, we have held that a charge of violation of the Anti-Graft and Corrupt Practices Act on the ground that a collective decision is "unjust" cannot prosper. Consequently, the filing of charges against a single member of a division of the appellate court is inappropriate.

2. POLITICAL LAW; CONSTITUTIONAL LAW; JUDICIARY; PERIOD FOR DECIDING OR RESOLVING CASES ON MATTERS BEFORE THE COURTS.— Article VIII, Section 15 (1) of the Constitution directs: All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from the date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

3. REMEDIAL LAW; CIVIL PROCEDURE; *CERTIORARI*; SHALL NOT INTERRUPT THE COURSE OF THE PRINCIPAL CASE; EXCEPTION.— Section 7 of Rule 65 of the Rules of Court provides that a petition for *certiorari*

shall **not interrupt** the course of the principal case *unless* a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding with the case. This rule must be strictly adhered to by appellate and lower courts notwithstanding the possibility that the proceedings undertaken by them tend to or would render nugatory the pending petition before this Court.

4. LEGAL ETHICS; JUDGES; DELAY IN RENDERING DECISIONS; SANCTIONS THEREFOR; CASE AT BAR.— Even gratuitously crediting respondent's justification for the delay, since the Court resolved complainant's petition for *certiorari* on April 11, **2007,** still, given the nature and history of the cases, respondent unduly delayed the resolution of a mere motion for inhibition — only on October 8, **2008**, after the Court referred the present complaint to the appellate court and after complainant filed a reiterative motion. Under Section 9 (1) of Rule 140 of the Rules of Court, undue delay in rendering a decision or order is a less serious charge. Under Section 11 (B) of the same rule, the following sanctions may be imposed on judges of regular and special courts and justices of the Court of Appeals and the Sandiganbayan who commit less serious offenses: 1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or 2. A fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

D E C I S I O N

CARPIO MORALES, *J.*:

The facts that spawned the filing of the present administrative case are as follows:

Ramon C. Gonzales (complainant), then a member of Alabang Country Club, Incorporated (ACCI) who was vying for a seat in its Board of Directors (the Board), was charged by the Board with having falsified proxy forms for the 2004 election of Board members. That drew him to file a complaint before the Regional Trial Court (RTC) of Muntinlupa City, docketed as Civil Case No. 04-122, *Ramon C. Gonzalez v. Alabang Country Club, Inc.,* for damages (the civil case).

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Complainant was later disqualified as a candidate and ousted as a member of the ACCI. He thus amended his complaint in the civil case by impleading the members of the Board at the time material to his expulsion, the newly elected members, and the members of the Nomination and Election Committee. And he added, as cause of action, the nullification of his disqualification and expulsion in the reliefs prayed for.

Branch 256 of the Muntinlupa RTC decided the civil case in complainant's favor, and issued a writ of execution allowing him to resume his rights as a member of ACCI.

The defendants in the civil case assailed the trial court's decision before the Court of Appeals via petition for review with application for temporary restraining order (TRO) and/or writ of preliminary injunction, docketed as CA-G.R. SP. No. 89358.[1] This case was consolidated with related cases in which herein complainant was the respondent.

It is gathered that the appellate court issued on April 29, 2005 a temporary restraining order (TRO) against the execution of the decision in the civil case, drawing complainant to move for its lifting, alleging that ACCI had already voluntarily executed the decision in the civil case. His motion was, however, denied.

When the TRO expired, the Ninth Division of the Court of Appeals composed of Associate Justices Roberto A. Barrios, Vicente S.E. Veloso, and Justice Amelita Tolentino as *ponente* directed the issuance of a Writ of Preliminary Injunction as in fact one was issued on July 11, 2005.[2]

Complainant challenged the appellate court's issuance of the writ of preliminary injunction via petition for *certiorari* filed before this Court on September 8, 2005.[3]

In the meantime, complainant, through counsel, filed on September 29, 2005 before the appellate court a Motion for

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[1] *Rollo*, pp. 15-64.

[2] *Id.* at 11-12.

[3] *Id.* at 74-105.

Inhibition of respondent because, by his claim, the issuance of the writ was against the law.

By Resolution of April 11, 2007, the Court dismissed complainant's petition for *certiorari*[4] "for failure to sufficiently show that the questioned [appellate court's] Resolution is tainted with grave abuse of discretion."

More than a year later or on August 20, 2008, complainant filed a letter-complaint before this Court, alleging as follows:

> On September 29, 2005, or almost three (3) years ago to date, I asked my lawyer to file a Motion for Inhibition against the *ponente*, Justice Amelita G. Tolentino because the issuance of the injunction was obviously against the law. Up to the present, the [motion for] inhibition has not been acted upon.
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> I also understand that cases involving intra-corporate controversy must be resolved as soon as possible because of [their] nature. The affairs of corporations cannot be suspended or left undecided longer than is necessary. In my case, I ran x x x for the term June 2004-June 2006 and a decision was rendered on April 4, 2005. The decision was raised to the Court of Appeals in May 2005. At that time, if the Decision was not restrained, or the case acted upon quickly as should have been the case, there was still an opportunity for me to have been duly elected and to have served as director. Because of the inaction of Justice Tolentino which is against the rule governing intra-corporate dispute, this opportunity was forever lost to me.
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> As can be seen in the Resolutions issued in the cases, they were also furnished to a certain Atty. Felisberto Verano [Atty. Verano] who is not even a counsel of record in the case nor has he entered formally his appearance. Atty. Verano is the brother of then Congresswoman Lorna Verano-Yap of Parañaque and she was instrumental in having Justice Tolentino appointed to her present post. In fact, the Writ of Preliminary Injunction was even addressed to Atty. Verano and not to any of the two (2) counsels of record for the Club. This is highly suspicious and anomalous. x x x
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> x x x I am bringing this matter to your attention because I have reason to believe that Justice Tolentino is not innocent when she granted the Writ of Injunction and totally failed to act on the petitions.

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[4] *Id.* at 107.

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This is a favor to Atty. Verano to whose sister Justice Tolentino owes a debt of gratitude for her position.

In view of the scandal now besetting the Court of Appeals, and recalling the removal of another associate justice last year, the taint of dishonesty and corruption may not be isolated, and in this case, the questionable inclusion of Atty. Verano should be immediately investigated, especially when there exists a link between Justice Tolentino and the Veranos. The inclusion of his name may be there to remind Justice Tolentino about his interest in the case.[5] (underscoring supplied)

In a parallel move, complainant filed on August 21, 2008 before the appellate court an Urgent Verified Motion Reiterating Motion for Inhibition (of *Ponente*–herein respondent Justice Amelita G. Tolentino).[6]

This Court referred the letter-complaint to Court of Appeals Presiding Justice Conrado V. Vasquez for appropriate action.[7]

By Order of October 8, 2008, respondent inhibited herself from CA-G.R. SP No. 89788.[8] On October 14, 2008, she filed her Comment[9] on the letter-complaint. She claimed that there was nothing anomalous in furnishing Atty. Verano with a copy of the resolutions of the Court of Appeals, since he signed as collaborating counsel in the petition in CA-G.R. SP No. 89788. She added that she did not know Atty. Verano and "former Parañaque Congresswoman Lorna Verano Yap" (Lorna) who she claimed was never a congresswoman of Parañaque.

Respecting the delay in resolving the Motion for Inhibition, respondent claimed that in view of complainant's filing (on September 8, 2005) of the petition for *certiorari* before this Court, she deemed it appropriate to defer any action on the motion (which was filed on September 29, 2005) in deference

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[5] *Id.* at 9-10.

[6] *Id.* at 65-71.

[7] *Id.* at 13.

[8] *Id.* at 108-118.

[9] *Id.* at 1-8.

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to the authority of this Court to resolve the issues raised before it.[10]

In his letter-reply,[11] complainant stated that Atty. Verano signed no pleading other than the petition for review in CA-G.R. SP No. 89358.

In sum, the present administrative case complains against 1) the issuance of a Writ of Preliminary Injunction, 2) the delay in the resolution by respondent of the Motion for Inhibition, 3) the furnishing of copies of Resolutions of the appellate court to Atty. Verano, and 4) the delay in the resolution by respondent of the cases on the merits.

Since the Court has, as reflected above, found in herein complainant's petition for *certiorari* that the issuance by the appellate court of a writ of preliminary injunction was not attended with grave abuse of discretion, the Court shall dwell on the other specified complaints against respondent.

The records show that indeed Atty. Verano signed the Petition for Review in CA-G.R. SP No. 89358 as collaborating counsel.[12] He was, therefore, entitled to receive a copy of the appellate court's resolutions including that which directed the issuance of a writ of preliminary injunction. In any event, the order to issue the writ of preliminary injunction was the collective act of the members of the Ninth Division of the Court. *Bautista v. Abdulwahid* enlightens:[13]

> x x x The Court of Appeals is a collegiate court whose members reach their conclusions in consultation and accordingly render their collective judgment after due deliberation. Thus, we have held that a charge of violation of the Anti-Graft and Corrupt Practices Act on the ground that a collective decision is "unjust" cannot prosper.

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[10] *Id.* at 6.

[11] *Id.* at 124-125.

[12] *Id.* at 61.

[13] *Bautista v. Abdulwahid*, A.M. OCA I.P.I No. 06-97-CA-J, May 2, 2006, 488 SCRA 428.

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Consequently, the filing of charges against a single member of a division of the appellate court is inappropriate.[14]

Respecting the complaint about the delay in resolving complainant's Motion for Inhibition, the Court notes that the motion was filed on September 29, 2005 after complainant filed before this Court on September 8, 2005 a petition for *certiorari* to assail the issuance of the writ of preliminary injunction. As earlier stated, the Court resolved the petition for *certiorari* on April 11, 2007. It was only on **October 8, 2008**, however, or only *after* complainant filed on August 20, 2008 the letter-complaint which this Court referred to the Court of Appeals, and *after* complainant also filed on Augsut 21, 2008 a reiterative motion for inhibition, that respondent resolved the motion by granting it.

Article VIII, Section 15 (1) of the Constitution directs:

> All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from the date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts. (underscoring supplied)

Respondent's justification for the delay in resolving the motion for inhibition — in deference to the authority of this Court to resolve the issues raised in the petition for *certiorari* — does not impress. Section 7 of Rule 65 of the Rules of Court provides that a petition for *certiorari* shall **not interrupt** the course of the principal case *unless* a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding with the case. This rule must be strictly adhered to by appellate and lower courts notwithstanding the possibility that the proceedings undertaken by them tend to or would render nugatory the pending petition before this Court.[15]

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[14] *Id.* at 435-436.

[15] *Go v. Looyuko*, G.R. No. 147923, October 26, 2007, 537 SCRA 445, 480-481; *vide Republic v. Sandiganbayan*, G.R. No. 166859, June 26, 2006, 492 SCRA 747.

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But even gratuitously crediting respondent's justification for the delay, since the Court resolved complainant's petition for *certiorari* on April 11, **2007**, still, given the nature and history of the cases, respondent unduly delayed the resolution of a mere motion for inhibition — only on October 8, **2008**, after the Court referred the present complaint to the appellate court and after complainant filed a reiterative motion.

Under Section 9 (1) of Rule 140[16] of the Rules of Court, undue delay in rendering a decision or order is a less serious charge. Under Section 11 (B) of the same rule, the following sanctions may be imposed on judges of regular and special courts and justices of the Court of Appeals and the Sandiganbayan who commit less serious offenses:

1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
2. A fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

Under the circumstances, this Court deems it appropriate to impose a fine of ₱15,000 on respondent.

WHEREFORE, respondent is found *GUILTY* of undue delay in rendering an order, and is *FINED* Fifteen Thousand Pesos (₱15,000), with *WARNING* that commission of the same or similar infraction shall be faulted strictly.

SO ORDERED.

Puno, C.J., Carpio, Corona, Nachura, Leonardo-de Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and *Mendoza, JJ.,* concur.

Velasco, Jr., J., no part.

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[16] On the "Discipline of Judges of Regular and Special Courts and Justices of the Court of Appeals and the Sandiganbayan."