

Malaya Business

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• BUSINESS CIRCUIT •

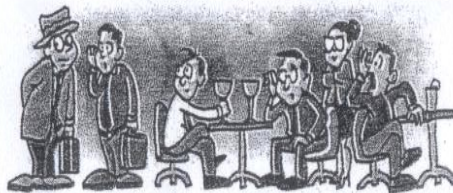
Dismissal of CA justice sought

THE dismissal of a justice in the Court of Appeals has been sought by a major stockholder of a company where the government has a 35 percent interest.

Erlinda I. Bildner, daughter of the late Potenciano Ilusorio, one of the founders of the Philippine Overseas Telecommunications Corp. (POTC), alleged before the Supreme Court that Appeals Justice Vicente Q. Roxas should be dismissed from the service for "gross inefficiency and gross ignorance of the law... in deciding a case in spite of the motion of the complainant to withdraw a petition for a temporary restraining order.

The complainant also charged that Roxas "committed gross ignorance of the law and obvious partiality by disregarding her constant pleas to have the case set for hearing to determine the veracity of the representation of lawyer Alma Kristina Aloba and Catherine Nuval as the purported counsel of Manuel H. Nieto Jr. in the latter's alleged petition for a temporary restraining order.

The TRO, which was converted into a preliminary injunction in spite of the motion to withdraw, restrains the stockholders of Philcomsat Holdings from holding a stockholders meeting.



"There is no such thing as paper loss. A paper loss is a very real loss."
Jim Rogers, US banker, Treasury of Investment Wisdom, 1999

Nieto did not know anything

MANUEL Nieto, president of the company, is now 91 years old. He was allegedly asked by Aloba and Nuval to sign the petition for a TRO.

Confronted with the document, obviously in his lucid moments, Nieto blurted out "cabrones." He immediately fired the two lady

lawyers.

Immediately, he called his friend, lawyer Manuel Lazaro, to withdraw the petition.

It would have been routine for Justice Roxas to grant the petition. The motion to withdraw is reasonably similar to an affidavit of desistance.

The complainant is no longer interested in pursuing the case.

But then, granting the motion of withdrawal would nullify the TRO which Roxas earlier issued.

He sat on the motion for so long until Lazaro suggested that the case be raffled by the presiding justice. Roxas refused to have it raffled. Pending resolution which took so long, the TRO remained valid.

He reinforced his ruling by issuing a writ of preliminary injunction which PHC as a corporation dominated by nominees of the PCGG sought to make permanent.

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Petition for TRO granted

ONE begins to grumble in the stomach when he learns that in spite of the motion of petitioner Nieto to withdraw the petition for a TRO, Justice Roxas ruled on Oct. 30, 2006 and said "wherefore, premises considered, petition (for a TRO) is hereby granted."

He also ruled that the two orders of the Securities and Exchange Commission allowing the meeting be stayed.

He explained: "The SEC is hereby directed to stay its hand and cease in the exercise of its regulatory powers, as in this case, when they interfere with or render moot the exercise of the adjudicative powers already transferred from the SEC to the regular courts."

Roxas missed the point

THE controversy here is not over the decision of the SEC to allow the stockholders meeting although, as it happened, it may be stopped by a TRO, converted into a preliminary injunction by the Court of Appeals.

The issue is that the complainant or petitioner, Manuel Nieto, claims he did not even know he signed a petition. That is why he hired Lazaro to have it withdrawn.

It is very much similar to the motion to dismiss of the First Gentlemen the libel cases against 40 of us newsmen.

Those who did not object and in fact welcomed the motion are off the hook. Because I opposed the motion to dismiss, the RTC in Manila scheduled a hearing on Aug. 20. We will be heard.

In the case of Nieto, the motion to withdraw was denied and he or his counsel was denied a hearing which could have determined the state of mind of Nieto.

Justice Roxas could have had the opportunity to see for himself whether Nieto was lying or not.

Justice Roxas sat on Nieto's motion for about two months when the more simple thing to do was have it raffled to other divisions if he did not want to make a ruling.

He made a decision just the same denying Nieto's motion to withdraw. It's very much like a boxer who throws in the towel, but the referee, in this case Justice Roxas, demanded that the fight continue.

The conduct of Roxas

THE complaint against Roxas now pending with the Supreme Court alleges: "The totality of respondent Roxas in deciding the case despite the withdrawal of petition and his reluctance to call even just one hearing to prove the authenticity of the petition filed by Aloba and Nuval, showed his gross inefficiency and gross (intentional and feigned) ignorance of the law.

"This, in effect, permitted the Locsin-Brodett group to continue benefitting from PHC when they are not even parties to the CA dispute. The decision was issued to the detriment of Nieto and the real PHIC stockholders, who include" Bildner.

Bildner, through counsel, cited jurisprudence which states "judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. Basic rules must be at the palm of his hands.

"When the judge displays utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. Ignorance of the law is the mainspring of injustice."

Amen to that.

—A.P. Macasaet

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