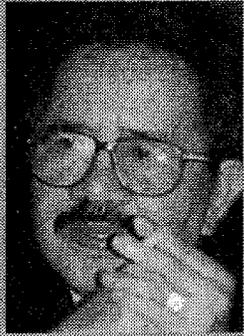


Bautista not fit to head Comelec

AMADO P. MACASAET

'Nobody saw the possibility of Bautista, chairman of POTC and of the PCGG, colluding with himself.'



ANY man with a modicum of self respect would not accept any position in government after failing a psychological test given by the Judicial and Bar Council to all aspirants for Chief Justice of the Supreme Court. The courage, in fact gall, to seek the position is by itself a sign of aiming too high without examining whether he is more fit by knowledge of law, experience and psychological preparedness.

After the Department of Finance was notified of an annual stockholders meeting of POTC, it issued a proxy for Karen G. Singson at that time the Department of Finance Chief Privatization Officer and to Andy Bautista. By what appears to be shallow manipulation facilitated by Richard Amurao, Bautista became chair of POTC and chairman of POTC.

It never occurred to Amurao or Bautista that the latter's concurrent positions as chair of POTC and PCGG created the possibility of colluding with himself. Bautista was in effective control of his acts as POTC chair and also chair of PCGG.

In the event of a conflict Bautista gave himself the unheard of facility of deciding which Bautista should be supported: Bautista as PCGG chair or Bautista as chair of POTC. He had the best of both worlds.

How does this shameful act relate to his failure to pass the psychological test given by the Judicial and Bar Council? Let someone ask a competent psychologist. He or she will provide the correct answer.

Ignoring all that, Bautista conveniently forgot there is a prohibition against a state official holding two positions given by government. Bautista's case is weird because his two positions complemented each other.

If President Aquino did not know about the failure of Bautista to hurdle the JBC test the members of his search committee should be fired. But then, knowing the often felt impulsiveness of the President, it is entirely possible he did not consult the committee before appointing Bautista chairman of the Comelec.

Bautista is a law dean.

He has other "faults" that betray his true character. He stuck to his position as PCGG chairman and chair of POTC like a stamp sticks to the envelope. He defied lawful orders, one of which was the opinion of the Secretary of Justice saying PCGG has lost authority to be involved in matters of management and representation with respect to POTC and its wholly-owned subsidiary, Philcomsat.

The loss of authority resulted from the delayed transfer of the government's 35 percent share in POTC to the Department of Finance which officially became the custodian of the asset. Therefore, the government, specifically the Department of Finance acquired the right to nominate state representatives to POTC, which we will repeat was illegally sequestered.

The PCGG or Bautista held on to the 40 percent share surrendered by Jose Y. Campos to the PCGG saying he was keeping them in the name of two companies for Marcos and his family.

The compromise settlement approved by the Supreme Court reduced the shares to 35 percent. Five percent was awarded to Potenciano Ilusorio. If the PCGG had recognized the state's ownership of 35 percent, not 40 percent, it would have lost tenuous control of the company to its beneficial owners.

It should not take a lawyer like Bautista not to exercise rights over the five percent share that cannot be sequestered as it was lawfully acquired by Ilusorio. The compromise settlement was approved by President Ramos and sanctified by the Supreme Court in a final ruling.

For this reason alone, the Commission on Appointments should not confirm Bautista's nomination. There is a mountain of official records about how he violated lawful orders regarding how he wanted to stay as chairman of Philippine Overseas Telecommunications Corp.

In obvious recognition of this fact, Justice Secretary Leila de Lima said in an opinion written on Feb. 25, 2015 "the PCGG has lost authority to be involved in matters of management and representation with respect to POTC and its wholly-owned subsidiary Philcomsat."

It bears no explanation that as a result of the transfer of the shares to the DOF, the PCGG automatically lost its authority to designate nominees to the board of POTC and its subsidiaries. The right was transferred to the national government, specifically the Department of Finance, the official custodian.

It may be this failure to make the test that encourages Bautista to do what he wants, ignoring the consequences — legal and otherwise — of his actions.

The Executive Order creating the PCGG specifically provides due process must be observed. The owners of the enterprise proposed to be sequestered must be given a chance to explain.

In addition to that the sequestration order must have the signature and concurrence of two PCGG commissioners. The sequestration order against POTC had only one signature, that of Ramon Diaz.

Therefore the sequestration of POTC is legally flawed as pointed out repeatedly by its beneficial stockholders. Bautista and the PCGG commissioners before him closed their eyes to this fact.

Nobody saw the possibility of Bautista, chairman of POTC and of the PCGG, colluding with himself. As chair of POTC, Bautista was effectively controlling himself in his capacity as chair of the PCGG.

Tells a lot of a man.

The five percent is a swing vote that gave PCGG tenuous majority control of POTC, a company that was illegally sequestered.

The Presidential Commission on Good Government adopted a resolution that relinquished to the Department of Finance the 35 percent share of the state in POTC. Bautista, at that time chairman of the PCGG, refused to comply. In fact, he insisted the state owns 40 percent of POTC.

This is a direct result of the transfer of the 35 percent POTC share written out in the name of the Republic of the Philippines from the PCGG to the Department of Finance which became the official custodian of the asset.

email:amadomacasaet@yahoo.com