

## EN BANC

[ A.M. OCA IPI No. 12-204-CA-J, July 26, 2016 ]

**RE: VERIFIED COMPLAINT FOR DISBARMENT OF AMA LAND, INC. (REPRESENTED BY JOSEPH B. USITA) AGAINST COURT OF APPEALS ASSOCIATE JUSTICES HON. DANTON Q. BUESER, HON. SESINANDO E. VILLON AND HON. RICARDO G. ROSARIO.**

### R E S O L U T I O N

**BERSAMIN, J.:**

In the resolution promulgated on July 15, 2014,<sup>[1]</sup> the Court: (a) declared Joseph B. Usita guilty of two counts of indirect contempt of court under Section 3(d), Rule 71 of the *Rules of Court*, but deferred the determination and imposition of the penalties against him; (b) ordered Usita to disclose the names of all the members of the Board of Directors of AMA Land, Inc. (AMALI) who had authorized him to bring the two administrative charges against respondent Associate Justices of the Court of Appeals (CA); and (c) required Usita and a certain Garry de Vera to shed light on the true interest or participation of the so-called JC-AT-JC Law Offices whose office address de Vera had stated as his in the affidavit of service he had executed for purposes of this case.

Consequently, Usita submitted his compliance dated August 11, 2014,<sup>[2]</sup> wherein he again apologized for his actions, but appealed for the understanding and forgiveness of the Court. He denied having disobeyed the decision of March 11, 2014, and pointed out that the other complaint against respondent Associate Justices of the CA dated October 2, 2012 (OCA-IPI No. 12-202-CA-J entitled *Re: Verified Complaint for Disbarment of AMA Land, Inc. Represented by Joseph B. Usita v. Hon. Danton Q. Bueser, Hon. Seseinando E. Villon and Hon. Ricardo R. Rosario, Associate Justices of the Court of Appeals*) had been filed earlier than the present complaint; that he had filed the present complaint against respondent Associate Justices of the CA "*in good faith and merely to petition this Honorable Court for redress of what he believed to be a judicial wrong*;"<sup>[3]</sup> and that he was anyway withdrawing the complaint in OCA-IPI No. 12-202-CA-J as a manifestation of his "*good faith and sincere remorse for his inaction (sic)*."<sup>[4]</sup>

Regarding the participation of the so-called JC-AT-JC Law Office, Usita explained that de Vera was an employee of AMALI rendering messengerial services to the JC-AT-JC Law Office, one of the retained counsels of AMALI; and that the JC-AT-JC Law Office did not have any involvement in the filing of the administrative complaints.

De Vera submitted a *salaysay ng pagpapaliwanag*,<sup>[5]</sup> which contained explanations similar to those made by Usita.

Finally, Usita disclosed by name the members of the AMALI Board of Directors who

had authorized him to file the present complaint, as follows: (a) Atty. Vicente Acsay; (b) Felizardo R. Colambo; (c), Arnel F. Hibo; (d) Darwin V. Dominguez; and (e) Alberto L. Buenviaje.

On September 30, 2014, the Court directed the abovenamed officers of AMALI to show cause in writing why they should not be held liable for indirect contempt for degrading the judicial office of respondent Associate Justices of the CA, and for interfering with the due performance of their work for the Judiciary.<sup>[6]</sup>

The aforementioned members of the AMALI Board, with the exception of Atty. Acsay who had meanwhile passed away on March 29, 2014,<sup>[7]</sup> uniformly manifested that only Atty. Acsay, Hibo and Dominguez had taken part in the meeting of the Board of Directors at which the resolution to file the present complaint had been adopted; that it was Atty. Acsay who had moved for the approval of the resolution; and that they had caused the filing of the administrative complaint in their belief that they were thereby raising a valid legal issue, without any intention of offending or disrespecting respondent Associate Justices of the CA.<sup>[8]</sup> It was further manifested that Colambo and Buenviaje had been absent from the meeting when the resolution to file the complaint had been tackled.<sup>[9]</sup>

### **Ruling of the Court**

We first deal with the penalties to be meted on Usita.

Usita's assertion that he did not disobey and defy the decision promulgated on March 11, 2014 is hollow in light of the solid and firm findings of the Court about AMALI having been prone to bring charges against judicial officers who had ruled against it in its cases. On the contrary, such assertion constitutes his continuing refusal to own his contumacious part in the filing of frivolous administrative charges against respondent Associate Justices of the CA. His tendered withdrawal of the complaint in OCA-IPI No. 12-202-CA-J is even irrelevant now considering that we dismissed his charges therein last January 15, 2013 due to their patent lack of merit. Verily, his filing of two unfounded identical administrative complaints against respondent Associate Justices of the CA displayed his utter lack of respect for their judicial office. His plea for understanding and forgiveness should be ignored for being actually insincere and frivolous.

Nonetheless, we have frequently reminded that the power to punish for contempt must be used sparingly, with caution, restraint, judiciousness, deliberation, and in due regard to the provisions of the law and the constitutional rights of the individual.<sup>[10]</sup> This approach impels us now to hold Usita responsible for only one count of indirect contempt by considering his forthright compliance with our directive for him to identify the members of AMALI's Board of Directors who had caused him to bring the unfounded charges as a mitigating circumstance.

Anent the liability of the abovenamed members of AMALI's Board of Directors, the general rule is that a corporation and its officers and agents may be held liable for contempt of court for disobeying judgments, decrees, or orders of a court issued in a case within its jurisdiction,<sup>[11]</sup> or for committing any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

[12] So it must be herein.

The abovenamed members of the AMALI Board of Directors specifically claimed that they had brought the complaints against respondent Associate Justices of the CA in their belief in good faith that they were thereby raising a valid legal issue. Their claim is preposterous, however, because the complaints were identical, and palpably designed to intimidate or influence respondent Associate Justices of the CA in respect of AMALI's case in their Division. The abovenamed members of the AMALI Board of Directors could not allowed to hide behind the shield of good faith because their charges were from the beginning bereft of factual and legal merit. In this regard, we observed in our decision of March 11, 2014, as follows:

The filing of the meritless administrative complaints by AMALI was not only repulsive, but also an outright disrespect of the authority of the CA and of this Court. Unfounded administrative charges against judges truly degrade the judicial office, and interfere with the due performance of their work for the Judiciary. **Although the Court did not then deem fit to hold in the first administrative case AMALI or its representative personally responsible for the unfounded charges brought against respondent Justices, it is now time, proper and imperative to do so in order to uphold the dignity and reputation of respondent Justices, of the CA itself, and of the rest of the Judiciary. AMALI and its representatives have thereby demonstrated their penchant for harassment of the judges who did not do its bidding, and they have not stopped doing so even if the latter were sitting judges. To tolerate the actuations of AMALI and its representatives would be to reward them with undeserved impunity for an obviously wrong attitude towards the Court and its judicial officers.**[13]

Moreover, there is no doubt that the abovenamed members of the AMALI Board of Directors, led by the late Atty. Acsay, were well aware, or, at least, ought to have known that no judicial officer could be legitimately held administratively accountable for the performance of his duties as a judicial officer for the reason that such performance was a matter of discharging a public duty and responsibility.

The abovenamed members of AMALI's Board of Directors are hereby found and pronounced guilty of indirect contempt of court for thereby causing the bringing of the unfounded and unwarranted administrative charges against respondent Associate Justices of the CA in order to intimidate or harass them, thereby directly or indirectly impeding, obstructing or degrading the administration of justice.

Any sanction, to be proper, should be commensurate to the contumacious conduct of Usita and the abovenamed members of AMALI's Board of Directors. The sanction should be meaningful and condign; otherwise, it would be mocked and derided, rendering it inutile for the purpose. It must also be within the bounds of Rule 71 of the *Rules of Court*, whose Section 7 relevantly provides:

SEC. 7. *Punishment for indirect contempt.* - If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a