

**EN BANC**

**[ A.M. No. 11-7-10-SC, July 31, 2012 ]**

**RE: COA OPINION ON THE COMPUTATION OF THE APPRAISED  
VALUE OF THE PROPERTIES PURCHASED BY THE RETIRED  
CHIEF/ASSOCIATE JUSTICES OF THE SUPREME COURT.**

**R E S O L U T I O N****PER CURIAM:**

The present administrative matter stems from the two Memoranda, dated July 14, 2011 and August 10, 2010, submitted by Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, Office of Administrative Services, to the Office of the Chief Justice. These Memoranda essentially ask the Court to determine the proper formula to be used in computing the appraisal value that a retired Chief Justice and several Associate Justices of the Supreme Court have to pay to acquire the government properties they used during their tenure.

**THE FACTUAL ANTECEDENTS**

This issue has its roots in the June 8, 2010 Opinion<sup>[1]</sup> issued by the Legal Services Sector, Office of the General Counsel of the Commission on Audit (COA), which found that an underpayment amounting to P221,021.50 resulted when five (5) retired Supreme Court justices purchased from the Supreme Court the personal properties assigned to them during their incumbency in the Court, to wit:

<b>Name of Justice</b>	<b>Items Purchased</b>	<b>Valuation under CFAG (in pesos)</b>	<b>Valuation under COA Memorandum No. 98-569A (in pesos)</b>	<b>Difference (in pesos)</b>
Artemio Panganiban (Chief Justice)	Toyota Camry, 2003 model	341,241.10	365,000.00	23,758.90
	Toyota Grandia, 2002 model	136,500.00	151,000.00	14,500.00
	Toyota Camry, 2001 model	115,800.00	156,000.00	40,200.00
Ruben T.	Toyota	579,532.50	580,600.00	1,067.50

Reyes (Associate Justice)	Camry, 2005 model			
	Toyota Grandia, 2003 model	117,300.00	181,200.00	63,900.00
Angelina S. Gutierrez (Associate Justice)	Toyota Grandia, 2002 model	115,800.00	150,600.00	34,800.00
Adolfo S. Azcuna (Associate Justice)	Toyota Camry, 2005 model	536,105.00	543,300.00	9,195.00
	Toyota Grandia, 2002 model	117,300.00	145,000.00	27,700.00
	Sony TV Set	2,399.90	2,500.00	100.10
Ma. Alicia Austria- Martinez (Associate Justice)				5,800.00 <sup>[2]</sup>
<b>TOTAL</b>				<b>P 221,021.50</b>

The COA attributed this underpayment to the use by the Property Division of the Supreme Court of the wrong formula in computing the appraisal value of the purchased vehicles. According to the COA, the Property Division erroneously appraised the subject motor vehicles by applying Constitutional Fiscal Autonomy Group (CFAG) Joint Resolution No. 35 dated April 23, 1997 and its guidelines, in compliance with the Resolution of the Court *En Banc* dated March 23, 2004 in A.M. No. 03-1201,<sup>[3]</sup> when it should have applied the formula found in COA Memorandum No. 98-569-A<sup>[4]</sup> dated August 5, 1998.

### ***Recommendations of the Office of Administrative Services***

In her Memorandum dated August 10, 2010, Atty. Candelaria recommended that the Court advise the COA to respect the in-house computation based on the CFAG formula, noting that this was the first time that the COA questioned the authority of the Court in using CFAG Joint Resolution No. 35 and its guidelines in the appraisal and disposal of government property since these were issued in 1997. As a matter of fact, in two previous instances involving two (2) retired Court of Appeals Associate Justices,<sup>[5]</sup> the COA upheld the in-house appraisal of government property using the formula found in the CFAG guidelines.

More importantly, the Constitution itself grants the Judiciary fiscal autonomy in the handling of its budget and resources. Full autonomy, among others,<sup>[6]</sup> contemplates the guarantee of full flexibility in the allocation and utilization of the Judiciary's resources, based on its own determination of what it needs. The Court thus has the recognized authority to allocate and disburse such sums as may be provided or required by law in the course of the discharge of its functions.<sup>[7]</sup> To allow the COA to substitute the Court's policy in the disposal of its property would be tantamount to an encroachment into this judicial prerogative.

### **OUR RULING**

We find Atty. Candelaria's recommendation to be well-taken.

The COA's authority to conduct post-audit examinations on constitutional bodies granted fiscal autonomy is provided under Section 2(1), Article IX-D of the 1987 Constitution, which states:

Section 2. (1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and **on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution[.] [emphasis ours]**

This authority, however, must be read not only in light of the Court's fiscal autonomy, but also in relation with the constitutional provisions on judicial independence and the existing jurisprudence and Court rulings on these matters.

### ***Separation of Powers and Judicial Independence***

In *Angara v. Electoral Commission*,<sup>[8]</sup> we explained the principle of separation of powers, as follows:

The separation of powers is a fundamental principle in our system of government. It obtains not through express provision but by actual division in our Constitution. Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere. But it does not follow from the fact that the three powers are to be kept separate and distinct that the Constitution intended them to be absolutely unrestrained and independent of each other. The Constitution has provided for an elaborate system of checks and balances to secure coordination in the workings of the various departments of the government. x x x And the judiciary in turn, with the Supreme Court as the final arbiter, effectively checks the other departments in the exercise of its power to determine the law, and hence

to declare executive and legislative acts void if violative of the Constitution.<sup>[9]</sup>

The concept of the independence of the three branches of government, on the other hand, extends from the notion that the powers of government must be divided to avoid concentration of these powers in any one branch; the division, it is hoped, would avoid any single branch from lording its power over the other branches or the citizenry.<sup>[10]</sup> To achieve this purpose, the divided power must be wielded by co-equal branches of government that are equally capable of independent action in exercising their respective mandates; lack of independence would result in the inability of one branch of government to check the arbitrary or self-interest assertions of another or others.<sup>[11]</sup>

Under the Judiciary's unique circumstances, independence encompasses the idea that *individual* judges can freely exercise their mandate to resolve justiciable disputes, while the judicial branch, *as a whole*, should work in the discharge of its constitutional functions free of restraints and influence from the other branches, save only for those imposed by the Constitution itself.<sup>[12]</sup> Thus, judicial independence can be "broken down into two distinct concepts: **decisional independence** and **institutional independence**."<sup>[13]</sup> **Decisional independence** "refers to a judge's ability to render decisions free from political or popular influence based solely on the individual facts and applicable law."<sup>[14]</sup> On the other hand, **institutional independence** "describes the separation of the judicial branch from the executive and legislative branches of government."<sup>[15]</sup> Simply put, institutional independence refers to the "collective independence of the judiciary as a body."<sup>[16]</sup>

In the case *In the Matter of the Allegations Contained in the Columns of Mr. Amado P. Macasaet Published in Malaya Dated September 18, 19, 20 and 21, 2007*,<sup>[17]</sup> the Court delineated the distinctions between the two concepts of judicial independence in the following manner:

One concept is ***individual judicial independence***, which focuses on each particular judge and seeks to insure his or her ability to decide cases with autonomy within the constraints of the law. A judge has this kind of independence when he can do his job without having to hear – or at least without having to take it seriously if he does hear – criticisms of his personal morality and fitness for judicial office. The second concept is ***institutional judicial independence***. It focuses on the independence of the judiciary as a branch of government and protects judges as a class.

A truly independent judiciary is possible only when both concepts of independence are preserved - wherein public confidence in the competence and integrity of the judiciary is maintained, and the public accepts the legitimacy of judicial authority. An erosion of this confidence threatens the maintenance of an independent Third Estate. [italics and emphases ours]

Recognizing the vital role that the Judiciary plays in our system of government as

the sole repository of judicial power, with the power to determine whether any act of any branch or instrumentality of the government is attended with grave abuse of discretion,<sup>[18]</sup> no less than the Constitution provides a number of safeguards to ensure that judicial independence is protected and maintained.

The Constitution expressly prohibits Congress from depriving the Supreme Court of its jurisdiction, as enumerated in Section 5, Article VII of the Constitution, or from passing a law that undermines the security of tenure of the members of the judiciary.<sup>[19]</sup> The Constitution also mandates that the judiciary shall enjoy fiscal autonomy,<sup>[20]</sup> and grants the Supreme Court administrative supervision over all courts and judicial personnel. Jurisprudence<sup>[21]</sup> has characterized administrative supervision as exclusive, noting that only the Supreme Court can oversee the judges and court personnel's compliance with all laws, rules and regulations. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.<sup>[22]</sup>

The Constitution protects as well the salaries of the Justices and judges by prohibiting any decrease in their salary during their continuance in office,<sup>[23]</sup> and ensures their security of tenure by providing that "Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reach the age of seventy years or become incapacitated to discharge the duties of their office."<sup>[24]</sup> With these guarantees, justices and judges can administer justice undeterred by any fear of reprisals brought on by their judicial action. They can act inspired solely by their knowledge of the law and by the dictates of their conscience, free from the corrupting influence of base or unworthy motives.<sup>[25]</sup>

All of these constitutional provisions were put in place to strengthen judicial independence, not only by clearly stating the Court's powers, but also by providing express limits on the power of the two other branches of government to interfere with the Court's affairs.

### ***Fiscal Autonomy***

One of the most important aspects of judicial independence is the constitutional grant of fiscal autonomy. Just as the Executive may not prevent a judge from discharging his or her judicial duty (for example, by physically preventing a court from holding its hearings) and just as the Legislature may not enact laws removing all jurisdiction from courts,<sup>[26]</sup> the courts may not be obstructed from their freedom to use or dispose of their funds for purposes germane to judicial functions. While, as a general proposition, the authority of legislatures to control the purse in the first instance is unquestioned, any form of interference by the Legislative or the Executive on the Judiciary's fiscal autonomy amounts to an improper check on a co-equal branch of government. If the judicial branch is to perform its primary function of adjudication, it must be able to command adequate resources for that purpose. This authority to exercise (or to compel the exercise of) legislative power over the national purse (which at first blush appears to be a violation of concepts of separateness and an invasion of legislative autonomy) is necessary to maintain judicial independence<sup>[27]</sup> and is expressly provided for by the Constitution through the grant of fiscal autonomy under Section 3, Article VIII. This provision states: