

## EN BANC

**[ A.M. No. 07-4-05-CA, February 22, 2008 ]**

**RE: REQUEST OF THELMA J. CHIONG FOR INVESTIGATION OF THE ALLEGED "JUSTICE FOR SALE" IN CA-CEBU. (A.M. No. 07-4-05-CA)**

**RE: LETTER OF JUDGE FORTUNATO M. DE GRACIA, JR., RE CORRUPTION IN THE JUDICIARY. (A.M. No. 07-5-1-SC)**

**RE: LETTER OF ROSENDO GERMANO, RE REQUEST TO ABOLISH COURT OF APPEALS CEBU.(A.M. No. 07-5-2-SC)**

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

**LEONARDO-DE CASTRO, J.:**

Before the Court are the following three separate letters alleging corruption in the Court of Appeals (CA) Cebu Station:

1. Letter of Thelma J. Chiong, requesting investigation of the alleged "Justice for Sale" in CA-Cebu;
2. Letter of Executive Judge Fortunato M. De Gracia, Jr., regarding the claims of corruption in the judiciary; and
3. Letter of Rosendo Germano, regarding request to abolish the Court of Appeals-Cebu.

A.M. No. 07-4-05-CA stemmed from the letter-request of Thelma J. Chiong, National Vice President of Crusade Against Violence, to the Chief Justice requesting investigation of the alleged "Justice for Sale" in CA-Cebu. Ms. Chiong alleged that they had received a "lot of information" about it. She cited an unspecified case where the Department of Justice (DOJ) allegedly had ordered the withdrawal of an information but CA-Cebu still issued a temporary restraining order (TRO) directing the DOJ not to withdraw the said information. She expressed concern that a "tayo-tayo" system, appears to have developed at present in CA-Cebu, which Ms. Chiong also accused of equating hurried justice with speedy justice. Ms. Chiong, however, did not name any particular Justices or court personnel.

In A.M. No. 07-5-1-SC, Judge Fortunato M. de Gracia, Executive Judge of Regional Trial Court (RTC) Branch 16, Cebu City, recommended the immediate investigation of the derogatory news item published in *Sun Star Cebu* on April 21, 2007 which was attributed to the alleged "revelations" of RTC Judge Meinrado Paredes of Branch 13 of the same city.

In A.M. No. 07-5-2-SC, Rosendo Germano seeks a positive action from the Chief Justice regarding the alleged erroneous dismissal by the CA- Cebu of Civil Case No.

525 pending in RTC Branch 18, Hilongos, Leyte. According to him, the case was dismissed by the CA-Cebu because “money did much of the talking” and this would be an additional reason to abolish CA-Cebu. Mr. Germano adverted to a column in the *Philippine Daily Inquirer* regarding an alleged plan of the Chief Justice to abolish the CA-Cebu and transfer it to Manila because of rampant corruption.

In three separate resolutions, the Court referred A.M. No. 07-5-1-SC,<sup>[1]</sup> A.M. No. 07-5-2-SC,<sup>[2]</sup> and A.M. No. 07-4-05-CA,<sup>[3]</sup> to then CA Presiding Justice Ruben T. Reyes<sup>[4]</sup> for his comment. In turn, the Presiding Justice required the CA Justices stationed in Cebu and Cagayan de Oro to comment on the subject administrative matters.

On July 10, 2007, then CA Presiding Justice Ruben T. Reyes submitted his comment and attached therewith the separate comments of the CA Justices in Cebu and Cagayan de Oro. We quote a portion of said comment, to wit:

“There can be no denying that for sometime, the Court of Appeals Cebu Station has been the subject of unsavory newspaper items. Said negative articles triggered critical evaluation of the present set-up. One area of concern identified is the prolonged stay of some Justices in the Station, making it possible for them to develop special affiliation with local politicians and influential people. Arguably, there is nothing inherently objectionable in being friendly to the local officials and influential personages, specially when a Justice is a native of the place. However, Justices ought not forget that they must not only be impartial but must strive not to appear partial or beholden to anybody.

Before the full implementation of R.A. No. 8246, the Court of Appeals had only seventeen (17) divisions all stationed in the City of Manila. With the appointment of eighteen (18) justices in 2004, pursuant to the said law, three (3) divisions, 18<sup>th</sup> to 20<sup>th</sup>, were organized in Cebu City and another three (3) divisions, 21<sup>st</sup> to 23<sup>rd</sup>, in Cagayan de Oro City.

The composition of the existing seventeen (17) divisions based in Manila remained, while the eighteen (18) justices were assigned to Cebu and Cagayan de Oro stations according to the order of seniority. However, as provided in the Internal Rules of the Court of Appeals, ‘waiver’ of senior members was allowed. Hence, there were instances when members of the Court who were supposed to be assigned in Cebu City or Cagayan de Oro City signed ‘waivers’ and remained in Manila without losing their seniority. Likewise, instances did and still occur that those who are due to move to Manila or Cebu City during a reorganization opt to stay in Cebu City and Cagayan de Oro City by signing a ‘waiver’.

According to Justice Remedios S. Fernando, the situation is not in accord with the provisions of R.A. No. 8246. Said law never mentions a ‘waiver’. Instead, the only guiding principle provided in determining the place of assignment is ‘precedence’ or seniority in accordance with the dates of appointments or the order in which the appointments were issued by the President.

The deviation in the implementation of the law can be abandoned by strictly following the provisions on assignment of Justices to the six (6) divisions of the Court stationed in Cebu and Cagayan de Oro. Otherwise, it would appear that those who signed the 'waiver' could hold on and claim a vested right to their assignment."

According to the CA Justices in Cebu – namely, Executive Justice Arsenio J. Magpale and Justices Isaias P. Dicdican, Pampio A. Abarintos, Agustin S. Dizon, Antonio L. Villamor, Priscilla Baltazar-Padilla, Francisco P. Acosta and Stephen C. Cruz – the letters and news items against them lack details and basis. They challenge the complainants to identify the alleged corrupt Justices before the proper channels so that only the corrupt, if any, will be compelled to account for their own actions. This will also spare innocent Justices, as well as the entire Philippine Judiciary, from unjust criticisms. According to them, the abolition by the Supreme Court of the CA-Cebu Station is not possible because CA-Cebu was created by law and, as such, its abolition may be done only through legislation.

The CA Justices in CA-Cagayan de Oro submitted their comment through Executive Justice Teresita Dy-Liacco Flores on the subject matter of the letters of Ms. Chiong and Mr. Germano, as the probe requested by Judge De Gracia Jr. should be referred to the Office of the Court Administrator. They share the view of the Justices of CA-Cebu that the abolition of CA-Cebu is not the solution. They opine that the Court's role should not only be to investigate but to encourage litigants and lawyers to come forward with their evidence and to name names. This, to them, will positively serve to reinstate the good name of the Court. Moreover, the abolition of CA-Cebu by the Supreme Court would be an encroachment by the judiciary into the realm of the legislative branch. Abolition will also transgress the spirit and letter of Republic Act 8246,<sup>[5]</sup> which is to bring justice closer to the people.

Former Presiding Justice Ruben T. Reyes sought the views and comments of the Division Chairmen and other Justices in Manila, meeting with them several times. The following options in the stationing of Justices emerged from the exchange of views and consultations:

1. First Option. The first 51 Justices shall constitute the 1<sup>st</sup> to 17<sup>th</sup> Divisions in Manila with the first 17 as chairmen, the next 17 as senior members and the last 17 as junior members. The 52<sup>nd</sup> to 69<sup>th</sup> Justices shall constitute the 18<sup>th</sup> to 20<sup>th</sup> (Cebu Station) and the 21<sup>st</sup> to 23<sup>rd</sup> Divisions (Cagayan de Oro Station) with the first six (6) as chairmen, the next six (6) as seniors and the last six (6) as juniors. Movements in case of any vacancy shall be in accordance with seniority such that the most recent appointee begins his service as junior member of the 23<sup>rd</sup> Division.
2. Second Option. The organization of the twenty-three (23) Divisions of the Court shall be in accordance with strict seniority, such that the first 23 members shall be chairmen, the next 23 shall be senior members and the last 23 shall be junior members. Movements in case of vacancy shall follow the seniority line, such that the most recent appointee begins his service as junior member of the 23<sup>rd</sup>

Division.

3. Third Option. The first 51 Justices shall constitute the 1st to 17th Divisions in Manila with the first 17 as chairmen, the next 17 as seniors and the last 17 as juniors. The 18<sup>th</sup> to 20<sup>th</sup> Divisions in Cebu shall be constituted by the 52<sup>nd</sup> to the 60<sup>th</sup> Justices with the first three (3) as chairmen, the next three (3) as seniors and the last three (3) as juniors. The 21<sup>st</sup> to 23<sup>rd</sup> Divisions in Cagayan De Oro shall be constituted by the 61<sup>st</sup> to 69<sup>th</sup> Justices with the first three (3) as chairmen, next three (3) as seniors and the last three (3) as juniors. Movements in case of vacancy shall follow the seniority line such that the most recent appointee begins his service as junior member of the 23<sup>rd</sup> Division.
4. All 23 Divisions shall be in Manila with the first 17 continuing to handle cases for Luzon. The 18<sup>th</sup> to 20<sup>th</sup> shall continue to handle cases coming from the Visayas and the 21<sup>st</sup> to 23<sup>rd</sup> shall continue to handle cases coming from Mindanao, said 18<sup>th</sup> to 23<sup>rd</sup> Divisions being temporarily stationed in Manila in the interest of the service pursuant to R.A. 8246. The assignment of Justices to the Divisions shall follow the path outlined in the second option.

On July 12, 2007, the aforestated options were put to a vote. Former Presiding Justice Ruben T. Reyes, in his letter dated July 30, 2007 addressed to Chief Justice Reynato Puno, reported that of the total of 65 Justices (there being four vacancies), seventeen (17) Justices chose Option 1. Options 2 and 3 got four (4) votes each while Option 4 won the nod of fifteen (15) Justices. Ten (10) Justices picked none of the four specific options, as they prefer the investigation first of the alleged corruption in CA-Cebu. Another ten (10) voted for the status quo, favoring the perpetuation of the waiver. Then Presiding Justice Reyes reached the following conclusion from the result of the voting of the CA Justices:

This implies that the great majority of forty (40) are not averse to a reorganization in response to the initiatives for reforms. They differ only on the manner or mode of reorganization. But a common thread runs through them – FOLLOW STRICT SENIORITY WITHOUT WAIVERS IN ASSIGNMENT OF WORK STATION.

However, the new Presiding Justice, Conrado M. Vasquez, Jr., in his letter dated December 10, 2007 addressed to the Chief Justice, reported that in the course of the subsequent discussions of the CA Justices, they realized that the "Status Quo" option did not really lose in the *en banc* deliberation held on July 12, 2007. Although only ten (10) voted for the "Status Quo" option, there were ten (10) who also voted for the "none of the above" option which was really equivalent to "Status Quo." Thus, the CA held another *en banc* meeting to clarify the consensus, which was put to a vote anew. Aside from the first four (4) options in the first voting, the "Status Quo" was added as the fifth option. The results of the CA *en banc* second round of voting were as follows:

First Option	-	0
Second Option	-	0