

EN BANC

[G.R. No. 170338, December 23, 2008]

VIRGILIO O. GARCILLANO, PETITIONER, VS. THE HOUSE OF REPRESENTATIVES COMMITTEES ON PUBLIC INFORMATION, PUBLIC ORDER AND SAFETY, NATIONAL DEFENSE AND SECURITY, INFORMATION AND COMMUNICATIONS TECHNOLOGY, AND SUFFRAGE AND ELECTORAL REFORMS, RESPONDENTS.

G.R. No. 179275

SANTIAGO JAVIER RANADA AND OSWALDO D. AGCAOILI, PETITIONERS, VS. THE SENATE OF THE REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE SENATE PRESIDENT THE HONORABLE MANUEL VILLAR, RESPONDENT.

MAJ. LINDSAY REX SAGGE, PETITIONER-IN-INTERVENTION.

AQUILINO Q. PIMENTEL, JR., BENIGNO NOYNOY C. AQUINO, RODOLFO G. BIAZON, PANFILO M. LACSON, LOREN B. LEGARDA, M.A. JAMBY A.S. MADRIGAL, AND ANTONIO F. TRILLANES, RESPONDENTS-INTERVENORS.

D E C I S I O N

NACHURA, J.:

More than three years ago, tapes ostensibly containing a wiretapped conversation purportedly between the President of the Philippines and a high-ranking official of the Commission on Elections (COMELEC) surfaced. They captured unprecedented public attention and thrust the country into a controversy that placed the legitimacy of the present administration on the line, and resulted in the near-collapse of the Arroyo government. The tapes, notoriously referred to as the "Hello Garci" tapes, allegedly contained the President's instructions to COMELEC Commissioner Virgilio Garcillano to manipulate in her favor results of the 2004 presidential elections. These recordings were to become the subject of heated legislative hearings conducted separately by committees of both Houses of Congress.^[1]

In the House of Representatives (House), on June 8, 2005, then Minority Floor Leader Francis G. Escudero delivered a privilege speech, "Tale of Two Tapes," and set in motion a congressional investigation jointly conducted by the Committees on Public Information, Public Order and Safety, National Defense and Security, Information and Communications Technology, and Suffrage and Electoral Reforms (respondent House Committees). During the inquiry, several versions of the wiretapped conversation emerged. But on July 5, 2005, National Bureau of Investigation (NBI) Director Reynaldo Wycoco, Atty. Alan Pagua and the lawyer of

former NBI Deputy Director Samuel Ong submitted to the respondent House Committees seven alleged "original" tape recordings of the supposed three-hour taped conversation. After prolonged and impassioned debate by the committee members on the admissibility and authenticity of the recordings, the tapes were eventually played in the chambers of the House.^[2]

On August 3, 2005, the respondent House Committees decided to suspend the hearings indefinitely. Nevertheless, they decided to prepare committee reports based on the said recordings and the testimonies of the resource persons.^[3]

Alarmed by these developments, petitioner Virgilio O. Garcillano (Garcillano) filed with this Court a Petition for Prohibition and Injunction, with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction^[4] docketed as G.R. No. 170338. He prayed that the respondent House Committees be restrained from using these tape recordings of the "illegally obtained" wiretapped conversations in their committee reports and for any other purpose. He further implored that the said recordings and any reference thereto be ordered stricken off the records of the inquiry, and the respondent House Committees directed to desist from further using the recordings in any of the House proceedings.^[5]

Without reaching its denouement, the House discussion and debates on the "Garci tapes" abruptly stopped.

After more than two years of quiescence, Senator Panfilo Lacson roused the slumbering issue with a privilege speech, "The Lighthouse That Brought Darkness." In his discourse, Senator Lacson promised to provide the public "the whole unvarnished truth -- the what's, when's, where's, who's and why's" of the alleged wiretap, and sought an inquiry into the perceived willingness of telecommunications providers to participate in nefarious wiretapping activities.

On motion of Senator Francis Pangilinan, Senator Lacson's speech was referred to the Senate Committee on National Defense and Security, chaired by Senator Rodolfo Biazon, who had previously filed two bills^[6] seeking to regulate the sale, purchase and use of wiretapping equipment and to prohibit the Armed Forces of the Philippines (AFP) from performing electoral duties.^[7]

In the Senate's plenary session the following day, a lengthy debate ensued when Senator Richard Gordon aired his concern on the possible transgression of Republic Act (R.A.) No. 4200^[8] if the body were to conduct a legislative inquiry on the matter. On August 28, 2007, Senator Miriam Defensor-Santiago delivered a privilege speech, articulating her considered view that the Constitution absolutely bans the use, possession, replay or communication of the contents of the "Hello Garci" tapes. However, she recommended a legislative investigation into the role of the Intelligence Service of the AFP (ISAFP), the Philippine National Police or other government entities in the alleged illegal wiretapping of public officials.^[9]

On September 6, 2007, petitioners Santiago Ranada and Oswaldo Agcaoili, retired justices of the Court of Appeals, filed before this Court a Petition for Prohibition with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction,^[10] docketed as G.R. No. 179275, seeking to bar the Senate from

conducting its scheduled legislative inquiry. They argued in the main that the intended legislative inquiry violates R.A. No. 4200 and Section 3, Article III of the Constitution.^[11]

As the Court did not issue an injunctive writ, the Senate proceeded with its public hearings on the "Hello Garci" tapes on September 7,^[12] 17^[13] and October 1,^[14] 2007.

Intervening as respondents,^[15] Senators Aquilino Q. Pimentel, Jr., Benigno Noynoy C. Aquino, Rodolfo G. Biazon, Panfilo M. Lacson, Loren B. Legarda, M.A. Jamby A.S. Madrigal and Antonio F. Trillanes filed their Comment^[16] on the petition on September 25, 2007.

The Court subsequently heard the case on oral argument.^[17]

On October 26, 2007, Maj. Lindsay Rex Sagge, a member of the ISAFP and one of the resource persons summoned by the Senate to appear and testify at its hearings, moved to intervene as petitioner in G.R. No. 179275.^[18]

On November 20, 2007, the Court resolved to consolidate G.R. Nos. 170338 and 179275.^[19]

It may be noted that while both petitions involve the "Hello Garci" recordings, they have different objectives--the first is poised at preventing the playing of the tapes in the House and their subsequent inclusion in the committee reports, and the second seeks to prohibit and stop the conduct of the Senate inquiry on the wiretapped conversation.

The Court dismisses the first petition, G.R. No. 170338, and grants the second, G.R. No. 179275.

- I -

Before delving into the merits of the case, the Court shall first resolve the issue on the parties' standing, argued at length in their pleadings.

In *Tolentino v. COMELEC*,^[20] we explained that "[l]egal standing' or *locus standi* refers to a personal and substantial interest in a case such that the party has sustained or will sustain direct injury because of the challenged governmental act x x x," thus,

generally, a party will be allowed to litigate only when (1) he can show that he has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable action.^[21]

The gist of the question of standing is whether a party has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends

for illumination of difficult constitutional questions."^[22]

However, considering that *locus standi* is a mere procedural technicality, the Court, in recent cases, has relaxed the stringent direct injury test. *David v. Macapagal-Arroyo*^[23] articulates that a "liberal policy has been observed, allowing ordinary citizens, members of Congress, and civic organizations to prosecute actions involving the constitutionality or validity of laws, regulations and rulings."^[24] The fairly recent *Chavez v. Gonzales*^[25] even permitted a non-member of the broadcast media, who failed to allege a personal stake in the outcome of the controversy, to challenge the acts of the Secretary of Justice and the National Telecommunications Commission. The majority, in the said case, echoed the current policy that "this Court has repeatedly and consistently refused to wield procedural barriers as impediments to its addressing and resolving serious legal questions that greatly impact on public interest, in keeping with the Court's duty under the 1987 Constitution to determine whether or not other branches of government have kept themselves within the limits of the Constitution and the laws, and that they have not abused the discretion given to them."^[26]

In G.R. No. 170338, petitioner Garcillano justifies his standing to initiate the petition by alleging that he is the person alluded to in the "Hello Garci" tapes. Further, his was publicly identified by the members of the respondent committees as one of the voices in the recordings.^[27] Obviously, therefore, petitioner Garcillano stands to be directly injured by the House committees' actions and charges of electoral fraud. The Court recognizes his standing to institute the petition for prohibition.

In G.R. No. 179275, petitioners Ranada and Agcaoili justify their standing by alleging that they are concerned citizens, taxpayers, and members of the IBP. They are of the firm conviction that any attempt to use the "Hello Garci" tapes will further divide the country. They wish to see the legal and proper use of public funds that will necessarily be defrayed in the ensuing public hearings. They are worried by the continuous violation of the laws and individual rights, and the blatant attempt to abuse constitutional processes through the conduct of legislative inquiries purportedly in aid of legislation.^[28]

Intervenor Sagge alleges violation of his right to due process considering that he is summoned to attend the Senate hearings without being apprised not only of his rights therein through the publication of the Senate Rules of Procedure Governing Inquiries in Aid of Legislation, but also of the intended legislation which underpins the investigation. He further intervenes as a taxpayer bemoaning the useless and wasteful expenditure of public funds involved in the conduct of the questioned hearings.^[29]

Given that petitioners Ranada and Agcaoili allege an interest in the execution of the laws and that intervenor Sagge asserts his constitutional right to due process,^[30] they satisfy the requisite personal stake in the outcome of the controversy by merely being citizens of the Republic.

Following the Court's ruling in *Francisco, Jr. v. The House of Representatives*,^[31] we find sufficient petitioners Ranada's and Agcaoili's and intervenor Sagge's allegation that the continuous conduct by the Senate of the questioned legislative inquiry will

necessarily involve the expenditure of public funds.^[32] It should be noted that in *Francisco*, rights personal to then Chief Justice Hilario G. Davide, Jr. had been injured by the alleged unconstitutional acts of the House of Representatives, yet the Court granted standing to the petitioners therein for, as in this case, they invariably invoked the vindication of their own rights--as taxpayers, members of Congress, citizens, individually or in a class suit, and members of the bar and of the legal profession--which were also supposedly violated by the therein assailed unconstitutional acts.^[33]

Likewise, a reading of the petition in G.R. No. 179275 shows that the petitioners and intervenor Sagge advance constitutional issues which deserve the attention of this Court in view of their seriousness, novelty and weight as precedents. The issues are of transcendental and paramount importance not only to the public but also to the Bench and the Bar, and should be resolved for the guidance of all.^[34]

Thus, in the exercise of its sound discretion and given the liberal attitude it has shown in prior cases climaxing in the more recent case of *Chavez*, the Court recognizes the legal standing of petitioners Ranada and Agcaoili and intervenor Sagge.

- II -

The Court, however, dismisses G.R. No. 170338 for being moot and academic. Repeatedly stressed in our prior decisions is the principle that the exercise by this Court of judicial power is limited to the determination and resolution of actual cases and controversies.^[35] By actual cases, we mean existing conflicts appropriate or ripe for judicial determination, not conjectural or anticipatory, for otherwise the decision of the Court will amount to an advisory opinion. The power of judicial inquiry does not extend to hypothetical questions because any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities.^[36] Neither will the Court determine a moot question in a case in which no practical relief can be granted. A case becomes moot when its purpose has become stale.^[37] It is unnecessary to indulge in academic discussion of a case presenting a moot question as a judgment thereon cannot have any practical legal effect or, in the nature of things, cannot be enforced.^[38]

In G.R. No. 170338, petitioner Garcillano implores from the Court, as aforementioned, the issuance of an injunctive writ to prohibit the respondent House Committees from playing the tape recordings and from including the same in their committee report. He likewise prays that the said tapes be stricken off the records of the House proceedings. But the Court notes that the recordings were already played in the House and heard by its members.^[39] There is also the widely publicized fact that the committee reports on the "Hello Garci" inquiry were completed and submitted to the House in plenary by the respondent committees.^[40] Having been overtaken by these events, the Garcillano petition has to be dismissed for being moot and academic. After all, prohibition is a preventive remedy to restrain the doing of an act about to be done, and not intended to provide a remedy for an act already accomplished.^[41]

- III -