

THIRD DIVISION

[G.R. NO. 138965, March 05, 2007]

PUBLIC INTEREST CENTER, INC., LAUREANO T. ANGELES AND JOCELYN P. CELESTINO, PETITIONERS, VS. MAGDANGAL B. ELMA, AS CHIEF PRESIDENTIAL LEGAL COUNSEL AND AS CHAIRMAN OF THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, AND RONALDO ZAMORA, AS EXECUTIVE SECRETARY, ACCUSED-APPELLANT.

RESOLUTION

CHICO-NAZARIO, J.:

For consideration is the Omnibus Motion, dated 14 August 2006, where respondent Magdangal B. Elma sought: (1) the reconsideration of the Decision in the case of *Public Interest Center, Inc., et al. v. Magdangal B. Elma, et al.* (G.R. No. 138965), promulgated on 30 June 2006; (2) the clarification of the dispositive part of the Decision; and (3) the elevation of the case to the Court *en banc*. The Solicitor General, in behalf of the respondents, filed an Omnibus Motion, dated 11 August 2006, with substantially the same allegations.

Respondent Elma was appointed as Chairman of the Presidential Commission on Good Government (PCGG) on 30 October 1998. Thereafter, during his tenure as PCGG Chairman, he was appointed as Chief Presidential Legal Counsel (CPLC). He accepted the second appointment, but waived any remuneration that he may receive as CPLC. Petitioners sought to have both appointments declared as unconstitutional and, therefore, null and void.

In its Decision, the Court declared that the concurrent appointments of the respondent as PCGG Chairman and CPLC were unconstitutional. It ruled that the concurrent appointment to these offices is in violation of Section 7, par. 2, Article IX-B of the 1987 Constitution, since these are incompatible offices. The duties of the CPLC include giving independent and impartial legal advice on the actions of the heads of various executive departments and agencies and reviewing investigations involving heads of executive departments. Since the actions of the PCGG Chairman, a head of an executive agency, are subject to the review of the CPLC, such appointments would be incompatible.

The Court also decreed that the strict prohibition under Section 13 Article VII of the 1987 Constitution would **not** apply to the present case, since neither the PCGG Chairman nor the CPLC is a secretary, undersecretary, or assistant secretary. However, had the rule thereunder been applicable to the case, the defect of these two incompatible offices would be made more glaring. The said section allows the concurrent holding of positions only when the second post is required by the primary functions of the first appointment and is exercised in an *ex-officio* capacity. Although respondent Elma waived receiving remuneration for the second appointment, the