

## EN BANC

[ A.M. No. CAJ-04-41, September 22, 2004 ]

**ANTONIO K. LITONJUA, COMPLAINANT, VS. COURT OF APPEALS JUSTICES JUAN Q. ENRIQUEZ, JR. AND BERNARDO P. ABESAMIS, RESPONDENTS.**

### DECISION

**AZCUNA, J.:**

To be resolved in this administrative proceeding is the complaint-affidavit<sup>[1]</sup> filed by Antonio K. Litonjua against two Court of Appeals (CA) Associate Justices.

CA Justice Juan Q. Enriquez stands charged with (1) serious misconduct for alleged extortion of about ₱1.5 million pesos from the complainant; and (2) gross ignorance of the law, for proceedings in connection with CA-G.R. SP No. 64419<sup>[2]</sup> and CA-G.R. SP No. 64449,<sup>[3]</sup> pending before the division to which Justice Enriquez belonged.

CA Justice Bernardo P. Abesamis is also charged with serious misconduct, for allegedly exerting undue influence over Justice Enriquez, for the latter to issue a TRO and injunction in the aforementioned Court of Appeals cases.

### THE ANTECEDENTS

The facts are:

American Realty Corporation (ARC) is a family corporation of the Litonjuas.<sup>[4]</sup>

On February 12, 1993, ARC filed a complaint for damages against Bank of America (BA) with the Regional Trial Court (RTC) of Pasig, Branch 159. The RTC rendered a decision on May 12, 1995 in favor of ARC, ordering BA to pay actual and compensatory damages in the amount of ₱99,000,000 and exemplary damages in the amount of ₱5,000,000.

On appeal to the CA, the RTC decision was affirmed *in toto*. A petition for review with this Court<sup>[5]</sup> resulted in a modification of the judgment, reducing the award of exemplary damages from ₱5,000,000 to ₱50,000. The decision became final on April 3, 2000. Entry of judgment was made thereafter and the case was remanded to the court of origin.

On November 20, 2000, ARC, through Eduardo V. Litonjua, Jr.<sup>[6]</sup> and Eduardo K. Litonjua, Sr., entered into a "Compromise Agreement"<sup>[7]</sup> with BA, whereby the amounts awarded in the judgment of this Court were offset against the other claims of BA against ARC. A copy of this compromise agreement was submitted to this Court but not to the RTC. On December 15, 2000, ARC filed a "Satisfaction of

Judgment," also with this Court, on the basis of the compromise agreement.

On March 5, 2001, Aurelio K. Litonjua, Jr., together with Antonio K. Litonjua entered their personal appearance before the RTC and filed a Motion for Execution of Judgment.<sup>[8]</sup> The motion was opposed by BA because the case was between two corporations and not individual persons. Said motion was later withdrawn by Antonio and Aurelio, Jr.

At this point, it can be gleaned that the Litonjua's had split into two factions vying for control of ARC's businesses and property. These two factions are led by Antonio and Aurelio, Jr. on one hand, and their older brother Eduardo, Sr. and nephew Eduardo, Jr., on the other. To avoid confusion in identifying these factions, both of whom claim to be the lawful representatives of the corporation, they shall hereafter be identified as "ARC (Aurelio)"<sup>[9]</sup> and "ARC (Eduardo)."<sup>[10]</sup>

On April 24, 2001, ARC (Eduardo) filed a Petition for Prohibition before the CA, contesting the RTC's issuance of the writ of execution. They invoked the compromise agreement entered into between ARC and BA, as well as BA's execution of a satisfaction of judgment. On April 26, 2001, BA likewise filed a Petition for Prohibition before the CA, on the same ground as that of ARC (Eduardo)'s.

Thus, two petitions for prohibition were pending before the CA, namely (1.) *American Realty Corporation*<sup>[11]</sup> *versus Honorable Rodolfo Bonifacio and Antonio K. Litonjua and Aurelio K. Litonjua, Jr.* (C.A. GR SP No. 64419) and (2.) *Bank of America v. Hon. Rodolfo Bonifacio and American Realty Corporation*<sup>[12]</sup> (C.A. GR No. 64449). The two cases were consolidated in the Special Eleventh Division of which Justice Juan Q. Enriquez was a member.<sup>[13]</sup>

On April 24, 2001, a 60-day TRO was issued by the CA, stopping the RTC from executing the judgment. This resolution was penned by respondent Justice Juan Q. Enriquez, Jr., and concurred in by Justices Presbitero J. Velasco and Ruben T. Reyes. Thereafter, on June 25, 2001, a Preliminary Injunction was issued via resolution, concurred in by Justices Presbitero J. Velasco and Bienvenido L. Reyes.

On August 7, 2001, finding no grave abuse of discretion on the part of the lower court, the CA dismissed the Petition for Prohibition and dissolved the writ of Preliminary Injunction.<sup>[14]</sup> This was contained in a Decision penned by respondent Justice Enriquez, Jr., and concurred in by Justices Presbitero J. Velasco and Ruben T. Reyes.

On October 2, 2001, acting on the motion for reconsideration of BA, the Special Eleventh Division of the CA rendered an Amended Decision, again penned by respondent Justice Enriquez, Jr., and concurred in by Justices Delilah Vidallon-Magtolis and Ruben T. Reyes. The amended decision granted BA's Motion for Reconsideration and set aside its decision dated August 7, 2001. It enjoined the implementation and enforcement of the Writ of Execution issued by the RTC until the validity and efficacy of the compromise agreement shall have been determined.

### **THE PRESENT ADMINISTRATIVE COMPLAINT**

On July 8, 2002, complainant Antonio K. Litonjua filed the instant complaint before

this Court against herein respondents, Justices Juan Q. Enriquez, Jr., and Bernardo P. Abesamis. He alleged therein the following offenses purportedly committed in the two cases pending before the Special Eleventh Division of the CA:

1. Grave Misconduct on the part of Justice Enriquez in demanding money from him in order to facilitate the release of the resolution of the case;
2. Grave Misconduct on the part of Justices Enriquez and Abesamis in knowingly frustrating the execution of the Writ of Final Decision despite the Supreme Court's Entry of Judgment, in issuing a Temporary Restraining Order (TRO) and Preliminary Injunction stopping the execution of the judgment in the case before the RTC.
3. Grave Misconduct and Gross Ignorance of the Law due to Justice Enriquez' deliberate refusal to resolve the six pending motions listed in his Affidavit-Complaint for an unreasonable length of time;
4. Acting as a power broker and influence-peddler, and engaging in the practice of case-fixing, on the part of Justice Abesamis.

When Justice Enriquez submitted his Counter-Affidavit, he stated, among other things, that the Amended Decision was not his decision alone, but that of the whole Special Eleventh Division composed of Justice Vidallon-Magtolis, Justice Ruben T. Reyes and himself. He mentioned that Justice Reyes made some corrections on his draft and the latter even suggested that it be called Amended Decision.

On the basis of these statements, complainant Litonjua filed a Supplemental Complaint against Justice Reyes for incompetence, gross negligence, grave misconduct and gross ignorance of the law. The supplemental complaint against Justice Reyes was dismissed by this Court for lack of merit, in an *en banc* resolution dated May 5, 2003.

In the same *en banc* resolution, this Court directed Retired Supreme Court Justice Carolina C. Griño-Aquino to investigate the complaint filed by petitioner Antonio K. Litonjua against Justices Enriquez and Abesamis.

The formal investigation commenced on May 28, 2003 and was concluded on March 5, 2004, after submission of the parties' memoranda.

In her report, the Investigating Justice summed up the parties' evidence, as follows:

#### **THE COMPLAINANT'S EVIDENCE**

ANTONIO K. LITONJUA testified that he came to know Justice Juan Q. Enriquez, Jr. in 1984 when the latter was an RTC judge in Quezon City. Litonjua had a case in his sala involving a 2.5-hectare commercial property bounded by Katipunan Road and Aurora Boulevard belonging to the Government, and adjoining the property of Freuhauf Electronics, a corporation controlled by him (20-24 tsn, May 28, 2003). The property was leased by the Government to a third person, without notice to Freuhauf and without a public bidding, so Litonjua sued to annul the lease and conduct a public bidding.

When he approached Justice Enriquez regarding the case, the latter allegedly demanded P500,000.00 which Litonjua allegedly paid "to expedite a decision" (54 tsn, June 12, 2003) which came out soon after in favor of Freuhauf Electronics (24 tsn, May 28, 2003). He did not mind having to pay half a million pesos for the decision because he owns 16 corporations (43 tsn, June 12, 2003). "P500,000.00 was affordable." "At that point in time I did not even complain against justice Enriquez x x x because it could be a need for his family or his personal use" (58 tsn, June 12, 2003). Moreover, "P500,000.00 to me is nothing, it is nothing and I was telling you my capacity whether you will believe me (or not) on my capacity, on my financial capacity, that is why I am saying P500,000.00 is nothing" (60 tsn, June 12, 2003).

After that transaction, Antonio Litonjua and Justice Enriquez allegedly became close and used to have lunch together near the Quezon City Hall (26 tsn, May 28, 2003). Every December, at Christmas time, he would give the judge a cash gift of P20,000 to P25,000 because he believed that judges were underpaid; besides, he considered Justice Enriquez as his friend. Since everybody was calling Justice Enriquez by his nickname "Che", Litonjua took to calling him "Che" also (30-33 tsn, May 28, 2003).

In late April 2001, Litonjua received a TRO, issued by Justice Enriquez on April 24, 2001, and followed by a Writ of Preliminary Injunction on June 25, 2001 in CA-G.R. SP No. 64419, "American Realty Corporation (Eduardo) versus Honorable Rodolfo Bonifacio, Antonio K. Litonjua and Aurelio K. Litonjua" (41-42 tsn, May 28, 2003). The TRO and Injunction effectively stopped the full implementation of the writ of execution and sale of BA's properties which ARC (Aurelio) had already ceased (15 tsn, June 12, 2003).

According to Litonjua, "sometime in the late part of July 2001, Justice Enriquez telephoned him to come to his office in the Court of Appeals. The TRO and Preliminary Injunction had already been issued in SP No. 64419, when he received the call. Accompanied by his younger brother Aurelio, the president of ARC, Antonio and Aurelio visited Justice Enriquez's CA office the next day (49-54 tsn, May 28, 2001). Justice Enriquez allegedly "apologized for the issuance of the TRO and Injunction" (61 tsn, May 28, 2003). His exact words were: "Pasensiya ka na Tony dahil hindi ko alam na itong companying ito, American Realty, ay sa inyong magkapatid ni Jun, naisyuhan ko ito nang TRO, at saka noong ano nang injunction for the reason that naipangako ko ito sa co-Justice ko, kay Justice Abesamis" (65-66 tsn, May 28, 2003). Justice Enriquez allegedly added: "Nang inisyuhan ko ito hindi ko pa nababasa ang petition, on the same day that it was filed pinirmahan ko lang ito, itong TRO na ito" (66-67 tsn, May 28, 2003).

He allegedly remarked to Justice Enriquez that "this is a bit unfair because x x x there was already a x x x final decision from the Supreme Court disposing this case and there was already an entry of judgment and all the records were returned back to the Regional Trial Court x x x when we received this TRO x x x we were executing and possessing all the properties of Bank of America in Makati x x x." (68-69 tsn, May 28,

2003).

Justice Enriquez allegedly remembered that: "Mayroon na pala itong x x x final judgment, may entry of judgment na. Ang pinag-uusapan na lang dito, if I remember right, is grave abuse. The lower court issued a writ with grave abuse of authority; that is what we were discussing. And he (Justice Enriquez) is convinced that there was no grave abuse because it is ministerial for the Lower Court to issue a TRO (sic, writ of execution)" (76-77 tsn, May 28, 2003).

However, Justice Enriquez allegedly confided to Antonio: "Alam mo mahirap itong kasong ito. x x x Alam mo mahirap ito dahil sa ang kalaban ninyo eh very influential x x x dahil banko ito." Justice Enriquez allegedly also said: "Alam mo ito malaki ang war chest x x x for judicial expenses. x x x So, malaki ang judicial expenses nito pero kung mayroon judicial expenses ito puede natin maiano and decision nito. Ako naman ang ponente dito" (78-81 tsn, May 28, 2003).

Litonjua understood "that we must come up also with an equivalent or at least even higher war chest or what not for judicial expenses" (82 tsn, May 28, 2003).

But what he allegedly told Justice Enriquez was: "Well, I leave it to you how we can really get the decision, there is merit in the case how we can work it out" (83 tsn, May 28, 2003).

Justice Enriquez allegedly replied that: "It would be slightly more (or) higher than (what) was 'previously in Quezon City'" referring to the Freuhauf case where, as then RTC Judge, he allegedly asked for and was paid ₱500,000, and he rendered a decision annulling the lease in question for lack of a public bidding. Antonio assumed that as Justice Enriquez has risen in the judicial hierarchy, the "cost" of a favor from him must be higher too. So, when Litonjua asked him "how much?" he allegedly answered: "Kailangan natin dito maybe x x x mga 1.5 million" (83-88 tsn, May 28, 2003).

"Ang reaction ko," according to Antonio, was – "that is a big fund for this case, but then, considering a protracted litigation as what he was saying magtatagal ito, the amount of award of 99 million at 1%, that is 12 million, we are losing one (1) million a month, so puede na siguro ito" (88-89 tsn, May 28, 2003).

Justice Enriquez allegedly told Litonjua that if the amount was okay with him, he (Justice Enriquez) would work on the decision. He advised Antonio to send a down payment (90 tsn, May 28, 2003).

On August 1, 2001, Justice Enriquez allegedly called up Antonio to inform him that the decision was ready and that he should come to the Justice's office in the Court of Appeals. Antonio promptly obeyed the summons, went to the CA at between 9 to 10 A.M., read a draft of the decision and gave Justice Enriquez ₱500,000 in cash inside a brown envelope which Justice Enriquez placed inside a drawer of his desk. The