by Fresco Mocktails

FRANCISCO I. CHAVEZ v. IMELDA R. MARCOS, GR No. 185484, 2018-06-27 (/juris /view/cfb55?user=gK2Z4aCtpVHo5Z1ovYVd3c25sLzZvcW9DTnk4dm5yV

Facts:

This case involves 33 consolidated criminal cases, namely, Criminal Case Nos. 91-101732-39, 91-101879-83, 91-101884-92, and 92-101959-69,[7] filed against Imelda R. Marcos (Imelda), among others, for violations of Section 4 of Central Bank Circular No. 960,[8] in relation to Section 34 of Republic Act No. 265,[9] or the Central Bank Act.[10

The informations for Criminal Case Nos. 91-101733-39 read similarly, except for the dates of the offense, the name/s of the dummy/ies used, the amounts maintained in the foreign exchange accounts, and the names of the foreign banks where the accounts were allegedly held by the accused.

That from September 1, 1983 up to 1987, both dates inclusive, and for sometime thereafter, both accused, conspiring and confederating with each other and with the late President Ferdinand E. Marcos, all residents of Manila, Philippines, and within the jurisdiction of this Honorable Court, did then and there wilfully, unlawfully and feloniously fail to submit reports in the prescribed form and/or register with the Foreign Exchange Department of the Central Bank within 90 days from October 21, 1983 as required of them being residents habitually/customarily earning, acquiring or receiving foreign exchange from whatever source or from invisibles locally or from abroad, despite the fact they actually earned interests regularly every six (6) months for the first two years and

then quarterly thereafter for their investment of $50-million, later reduced to $25-million in December 1985, in Philippine-issued dollar denominated treasury notes with floating rates and in bearer form, in the name of Bank Hofmann, AG, Zurich, Switzerland, for the benefit of Avertina Foundation, their front organization established for economic advancement purposes with secret foreign exchange account Category (Rubric) C.A.R. No. 211 925-02 in Swiss Credit Bank (also known as SKA) in Zurich, Switzerland, which earned, acquired or received for the accused Imelda Romualdez Marcos and her late husband an interest of $2,267,892 as of December 16, 1985 which was remitted to Bank Hofmann, AG, through Citibank, New York, United States of America, for the credit of said Avertina account on December 19, 1985, aside from the redemption of $25 million (one-half of the original $50-M) as of December 16, 1985 and outwardly remitted from the Philippines in the amounts of $7,495,297.49 and $17,489,062.50 on December 18, 1985 for further investment outside the Philippines without first complying with the Central Bank reporting/registering requirements.

Issues:

First, whether or not the petition should be dismissed for raising questions of fact;Second, whether or not the Regional Trial Court May 28, 2007 Decision acquitting respondent Imelda R. Marcos was issued in violation of a subsisting injunction; andFinally, whether or not the records show that Judge Silvino T. Pampilo, Jr. acted with bias in favor of respondent Imelda R. Marcos.

Ruling:

This Court will not require a judge to inhibit himself in the absence of clear and convincing evidence to overcome the presumption that he will dispense justice in accordance with law and evidence.[1] This Court will also not allow itself to become an instrument to paper over fatal errors done by the petitioner and the prosecution in the lower court.

A petition for review on certiorari under Rule 45 shall only pertain to

questions of law. Further, the Rules of Court mandate that petitions for review distinctly set forth the questions of law raised.

lthough this Court may, in exceptional cases, delve into questions of fact, these exceptions must be alleged, substantiated, and proved by the parties before this Court may evaluate and review facts of the case.[93] Petitioner having failed to establish the basis for this Court to evaluate and review the facts in this case, the petition may be dismissed on this ground.

In other words, the Court of Appeals' decision denying the petition for certiorari carried with it a contrary order dissolving the injunction. Petitioner fails to address this point and does not show how it is an error of law. Thus, the argument that a subsisting injunction was violated is clearly frivolous, if not misleading, and intended only to make it appear as though the petition has some semblance of basis.

Whether or not to voluntarily inhibit from hearing a case is a matter within the judge's discretion. Absent clear and convincing evidence to overcome the presumption that the judge will dispense justice in accordance with law and evidence, this Court will not interfere.[97]On the inhibition of judges, Rule 137 of the Rules of Court provides:Section 1. Disqualification of judges

The import of Rule 137, Section 1 of the Rules of Court was explained in Pimentel v. Salanga:[

Thus, the genesis of the provision (paragraph 2, Section 1, Rule 137), not to say the letter thereof, clearly illumines the course of construction we should take. The exercise of sound discretion - mentioned in the rule-has reference exclusively to a situation where a judge disqualifies himself, not when he goes forward with the case. For, the permissive authority given a judge in the second paragraph of Section 1, Rule 137, is only in the matter of disqualification, not otherwise. Better stated yet, when a judge does not inhibit himself, and he is not legally disqualified by the first paragraph of Section 1, Rule 137, the rule remains as it has been he

has to continue with the case.

Thus, since the second paragraph of Rule 137, Section 1 was introduced, this Court has periodically repeated that it shall always presume that a judge will decide on the merits of the case without bias. Allowing a judge to inhibit without concrete proof of personal interest or any showing that his bias stems from an extrajudicial source will open the floodgates to abuse.[100]No concrete proof of Judge Pampilo's personal interest in the case was presented. There was no showing that his bias stems from an extrajudicial source. Not only that, but none of his acts, as shown on the record, was characterized by any error.Petitioner finds fault in the scheduling of his testimony but fails to show how it was irregular. He characterizes the scheduling as "noose-tightening," for being scheduled on "unreasonably proximate" dates.[101] Far from the scheduling being evidence of partiality, it was aligned with this Court's rules on expeditious disposition of cases and the mandatory continuous trial system.

etitioner also claims that Judge Pampilo could have accommodated the prosecution's requests for postponement, but he did not. However, Judge Pampilo's reluctance in sanctioning further delays and in denying motions to postpone hearings was also in accordance with the rules on the expeditious resolution of cases. This Court cannot assume bias or arbitrariness based on the denial of requests of postponement. [102]There was nothing remarkable about the denial of the Motion to Inhibit. It was not hasty, and whether to deny it orally in court is the prerogative of the judge, who could have decided it as soon as its factual basis had been clearly laid.[103] Further, counsel for the prosecution expressly agreed that the motion be submitted for resolution

WHEREFORE, the Petition for Review on Certiorari is DENIED.

Principles:

This Court will not require a judge to inhibit himself in the absence of clear and convincing evidence to overcome the presumption that he will

dispense justice in accordance with law and evidence.[1] This Court will also not allow itself to become an instrument to paper over fatal errors done by the petitioner and the prosecution in the lower court.