

EN BANC

G.R. No. 237428 **REPUBLIC OF THE PHILIPPINES,**
REPRESENTED BY SOLICITOR GENERAL
JOSE C. CALIDA, *Petitioner,* v. MARIA
LOURDES P. A. SERENO, *Respondent.*

Promulgated:

June 19, 2018

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CONCURRING OPINION

LEONARDO-DE CASTRO, J.:

On May 11, 2018, the majority of this Court voted to grant the Petition for *Quo Warranto* filed by petitioner Republic of the Philippines, represented by the Office of the Solicitor General (OSG), against respondent Maria Lourdes P. A. Sereno, fundamentally based on the categorical finding of respondent's ineligibility for the position of Chief Justice in view of her failure to submit to the Judicial and Bar Council (JBC) several of her Statements of Assets, Liabilities and Net Worth (SALNs) covered within the required 10-year period, such failure means that her integrity was not established at the time of her application for the said position. The dispositive portion of the Decision, penned by Associate Justice Noel Gimenez Tijam, reads:

WHEREFORE, the Petition for *Quo Warranto* is **GRANTED**. Respondent Maria Lourdes P.A. Sereno is found **DISQUALIFIED** from and is hereby adjudged **GUILTY of UNLAWFULLY HOLDING and EXERCISING the OFFICE OF THE CHIEF JUSTICE**. Accordingly, Respondent Maria Lourdes P.A. Sereno is **OUSTED and EXCLUDED** therefrom.

The position of the Chief Justice of the Supreme Court is declared vacant and the Judicial and Bar Council is directed to commence the application and nomination process.

This Decision is immediately executory without need of further action from the Court.

Respondent Maria Lourdes P.A. Sereno is ordered to **SHOW CAUSE** within ten (10) days from receipt hereof why she should not be sanctioned for violating the Code of Professional Responsibility and the Code of Judicial Conduct for transgressing the *sub judice* rule and for casting aspersions and ill motives to the Members of the Supreme Court.

I wrote my Concurring Opinion to the aforementioned Decision so I could further explain my vote to deny respondent's motion for my inhibition and to concur with the grant of the said Petition.

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Respondent comes again before this Court through the instant *Ad Cautelam* Motion for Reconsideration of the Decision dated May 11, 2018, seeking the following reliefs:

WHEREFORE, Respondent, the Hon. Chief Justice Maria Lourdes P.A. Sereno, respectfully prays that this Honorable Court:

- 1) RECONSIDER the denial of Respondent's *Ad Cautelam* Motions for Inhibition of the Hon. Associate Justices Teresita J. Leonardo-De Castro, Diosdado M. Peralta, Francis H. Jardeleza, Noel G. Tijam, Lucas P. Bersamin, and Samuel R. Martires;
- 2) RECONSIDER and SET ASIDE the Decision dated 11 May 2018; and
- 3) DISMISS the Petition for *Quo Warranto* dated 2 March 2018 filed by the Office of the Solicitor General.¹

Once more, I concur in Justice Tijam's Resolution denying respondent's motion for reconsideration, but I am compelled to write a separate Concurring Opinion to address respondent's insistence that I, along with five other Justices, should have recused ourselves from the present case allegedly due to our evident bias and the applicable grounds for our mandatory inhibition.

I reiterate that there is no factual or legal basis for respondent's motion for my inhibition.

May I stress that I testified before the House of Representatives Committee on Justice, not as a complainant, but as a resource person during the committee hearings on the determination of probable cause in Atty. Lorenzo G. Gadon's impeachment complaint against respondent. I attended in deference to the invitation of the Committee on Justice of the House of Representatives, a co-equal branch, only after securing authorization² from

¹ Respondent's *Ad Cautelam* Motion for Reconsideration, p. 203.

² The Court Resolution dated November 28, 2017 pertinently states:

NOW, THEREFORE, the Court *En Banc* hereby authorizes the invited officials and Justices to so appear and testify, if they wish to do so, under the following conditions:

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3. Justice Teresita J. Leonardo-De Castro of this Court may testify on administrative matters, and on adjudicatory matters only in the following cases:

- a. G.R. Nos. 206844-45 (*Coalition of Association of Senior Citizens in the Philippines Party List v. Commission on Elections*): Justice Leonardo-De Castro may testify only on the issuance of the Temporary Restraining Order and on the exchange of communications between Chief Justice Sereno and Justice Leonardo-De Castro, but not on the deliberations of the *En Banc* in this case;
- b. G.R. No. 224302 (*Hon. Philip Aguinaldo, et al. v. President Benigno S. Aquino III*): Justice Leonardo-De Castro may testify only on the merits of her *ponencia* but not on the deliberations of the *En Banc* in this case;
- c. G.R. No. 213181 (*Francis H. Jardeleza v. Chief Justice Maria Lourdes P.A. Sereno*): Justice Leonardo-De Castro may testify only on the merits of

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the Court *en banc* to testify on administrative matters and specific adjudication matters subject of the said impeachment complaint.

I have no personal knowledge of the evidentiary fact in dispute in this Petition, which is about respondent's failure to submit to the JBC her SALNs. The said fact remained hidden for a period of about six years until respondent's letter dated July 23, 2012 was revealed by JBC officials during the hearing before the Committee on Justice of the House of Representatives. Moreover, respondent refused to appear and testify personally before the said Committee to shed light on this factual matter. Neither did respondent answer my and our other colleagues' question on whether or not she filed her SALNs as professor of the University of the Philippines (UP). Respondent's consistent reply was that she would answer this question only before the Impeachment Court.

I testified before the House of Representatives Committee on Justice only on matters raised in the impeachment complaint, which were within my personal knowledge and which essentially constituted of respondent's misdeeds or misfeasance as Chief Justice, *viz.*:

(a) Respondent's creation of the Judiciary Decentralized Office (JDO) in the 7th Judicial Region without the knowledge and approval of the Court *en banc* and the falsification of a Court resolution to make it appear that the Court *en banc* ratified the operation of the JDO, under the pretext that she was merely reviving the Regional Court Administration Office (RCAO) in the 7th Judicial Region;

(b) Respondent's falsification and unlawful expansion of the coverage of the Temporary Restraining Order issued in the consolidated Petitions in G.R. Nos. 206844-45 and G.R. No. 206982, *Coalition of Associations of Senior Citizens in the Philippines, Inc. v. Commission on Elections*,³ in contravention of my recommendation as the Member-in-Charge;

(c) Respondent's false claim in her letter dated May 29, 2014 that several Supreme Court Associate Justices recommended to do away with Section 1, Rule 8 of JBC-009,⁴ thus, depriving the Court *en banc* of the opportunity, under said rule, to submit its recommendees to the JBC for the vacant post of Supreme Court Associate Justice vice retired Associate Justice Roberto A. Abad, all apparently in furtherance of respondent's manipulations to block the inclusion of then

her separate concurring opinion, but not on the deliberations of the Court in this case.

³ 714 Phil. 606 (2013).

⁴ JBC-009 was promulgated on October 18, 2000. Said rules had been superseded by JBC No. 2016-01 (the Revised Rules of the Judicial and Bar Council), which took effect on October 24, 2016, without notice to the Supreme Court *en banc*.

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Solicitor General, now Supreme Court Associate Justice Francis H. Jardeleza, in the shortlist of qualified nominees for the said vacant post; and

(d) The JBC, during respondent's incumbency as Chairperson, clustered the nominees for six simultaneous vacancies in the Sandiganbayan into six separate shortlists in violation of the Constitution; laws, rules, and jurisprudence; and the qualified nominees' rights to due process and equal opportunity to be appointed.

Indeed, my testimony could not be said to have been motivated by prejudice or personal grudge, or to be indicative of bias or partiality. My testimony before the House of Representatives Committee on Justice was objective, factual, and truthful; fully supported by official documents, including Court Decisions and issuances; substantiated by other resource persons who likewise testified before the said Committee; and more importantly, **has remained unrebutted by respondent up to now**. The matters I testified on **were also clearly work-related and not personal**, as when I called the Court *en banc*'s attention when respondent violated Court *en banc* Resolutions, falsified Court Resolution, and misled or lied to us, her colleagues in the Supreme Court, on official matters.

I have vehemently denied in my Concurring Opinion to the main Decision the **blatant lies** about the alleged conversation that I had with respondent upon her appointment as Chief Justice.

In addition, the matters taken up during the hearings before the House of Representatives Committee on Justice concerned respondent's actuations while she held the position of Chief Justice, which might constitute impeachable offenses and did not involve respondent's qualifications for appointment to the post of Supreme Court Chief Justice. While the questioning by the Committee Members during the hearings did reveal respondent's non-submission of her SALNs for the past 10-year period to the JBC, a specific requirement for filling-up the vacant post of Chief Justice vice Chief Justice Renato C. Corona, it was a matter which the said Committee did not act upon. The issue of whether or not respondent is qualified to be Chief Justice is a totally different and separate matter from the grounds adduced in the impeachment complaint, and is appropriately within this Court's jurisdiction, raised via this Petition for *Quo Warranto*.

Furthermore, respondent objects to references to and discussions of the other false entries in her **sworn** Personal Data Sheet (PDS), which no longer involved her SALNs.

To be sure, the past action of a person is a valuable yardstick of his/her character. This is true as regards respondent who advanced in her career in the Judiciary through her lies and deceptions, which were

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recounted in detail in my Concurring Opinion, beginning with the false entries in the PDS she submitted when she applied for Supreme Court Associate Justice in 2010, and repeated in the PDS she submitted when she subsequently applied for Supreme Court Chief Justice in 2012.

It bears to point out that in the Resolution dated April 3, 2018 in the case at bar, the Court acted on respondent's *Ad Cautelam* Motion to Set for Oral Argument dated April 2, 2018 and resolved, among other things, to:

- (a) GRANT the subject Motion, not for the purpose cited therein, but for the sole purpose of granting the respondent a final opportunity to **answer specific questions, under oath, needed for the judicious resolution of the instant case[.]** (Emphasis mine.)

The Amended Advisory attached to the Resolution explicitly laid down the conditions and guidelines for the oral arguments, to wit:

Accordingly, without necessarily giving due course to the petition, the Oral Argument is set on April 10, 2018, 2 p.m., at the Session Hall, Supreme Court, Baguio City. This is subject to the conditions that respondent shall: (a) personally appear and testify under oath and **(b) affirm and verify under oath the truth and veracity of the allegations in the Comment filed by counsels supposedly on her behalf.**

For the orderly proceeding of Oral argument, the parties are required to observe the following guidelines:

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V. The Members of the Court maintain their privilege to ask any question on any relevant matter or require submission of any document necessary for an enlightened resolution of this case. (Emphases mine.)

Respondent herself opened the door to questions as to the entries in her PDS⁵ as she had attached to her Comment *Ad Cautelam* the nominations and endorsements for the position of Chief Justice of "various persons and groups in the legal and evangelical community." Among said attachments were the nominations of respondent by Atty. Fidel Thaddeus I. Borja⁶ and Atty. Jordan M. Pizarras and Atty. Janalyn B. Gainza-Tang,⁷ who mentioned respondent's credentials as a former lecturer in the University of Western Australia (UWA) and Murdoch University. Hence, it was completely within my authority as a Member of the Court to verify such matter which respondent herself put into the record, during the oral arguments. And, as my questions during the oral arguments exposed, which I discussed in my Concurring Opinion to the Decision of May 11, 2018, that respondent was not being entirely truthful in her PDS when she deliberately omitted the fact that she was a lecturer in the Masters in Business Administration (MBA)

⁵ Annex "A" of the Petition.

⁶ Annex "7" of the Comment *Ad Cautelam*.

⁷ Annex "8" of the Comment *Ad Cautelam*.

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program of a Manila-based school, unnamed in her PDS, which happened to have a partnership with UWA and Murdoch University.

I likewise have a legitimate basis for questioning respondent during the oral arguments regarding her entry in her PDS that she served as Deputy Commissioner of the Commission on Human Rights (CHR). CHR officers and employees are undeniably public officers and employees mandated by the Constitution and statutes to file their SALNs. Other than verifying the veracity of respondent's purported title of CHR Deputy Commissioner, I merely intended to inquire if respondent filed her SALN during her tenure with the CHR, thus:

JUSTICE DE CASTRO:

In your PDS, you mentioned that you're a Deputy Commissioner of the Commission on Human Rights. When was that period of time? Because your PDS did not mention the year when you were a Deputy Commissioner of the Commission of Human Rights. What was the period that you served in the CHR?

CHIEF JUSTICE SERENO:

It was a functional title. I don't have the exact details because you did not ask me to prepare for my PDS, allegations on the PDS. At least I didn't see that. So...

JUSTICE DE CASTRO:

So, it was not a Position Title because the...

CHIEF JUSTICE SERENO:

It was a functional... No, no, it was a functional...

JUSTICE DE CASTRO:

Excuse me. Let me finish. The PDS has a matrix and the information required of the one accomplishing the PDS stated that you should put there your Position Title. But, so, when you accomplished that form, of the PDS, you mentioned that you were a Deputy Commissioner of the Commission on Human Rights. So the question is, is there such a position in the Commission on Human Rights?

CHIEF JUSTICE SERENO:

If you are going to look at the way the PDS was trying to condense, the Commission on Human rights succeeded the Presidential Committee on Human Rights. I was first hired with the Presidential Committee on Human Rights and given a title of Technical Consultant then a functional title of Deputy Commissioner where I could vote *vice* Abelardo --- who was the Commissioner. Then, it morphed into the Commission on Human Rights but the terms of reference that were still to be carried over into that CHR was still to carry that because I was there for a while. I was going to explain this eventually.

JUSTICE DE CASTRO:

So, you're saying ...

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CHIEF JUSTICE SERENO:

And this is not, I'm sorry, Justice Tess, this is outside already of the petition.

JUSTICE DE CASTRO:

This is, let me...
So, I want to find out, are we going ...

JUSTICE DE CASTRO:

This is connected...

CHIEF JUSTICE SERENO:

Is it a global roaming...

JUSTICE DE CASTRO:

No, I asked this...

CHIEF JUSTICE SERENO:

Global roaming event?

JUSTICE DE CASTRO:

No, I asked this because this is connected. I want to know if you occupy a permanent position there...

CHIEF JUSTICE SERENO:

No...

JUSTICE DE CASTRO:

...as Deputy Commissioner. So, I'd like to know whether you submitted your SALN?

CHIEF JUSTICE SERENO:

No, no, it was not permanent.

JUSTICE DE CASTRO:

So, you're now saying there's no such Position Title as Deputy Commissioner?

CHIEF JUSTICE SERENO:

No. There is.

JUSTICE DE CASTRO:

You said it's a functional title?

CHIEF JUSTICE SERENO:

Position slash functional title, they merged.

JUSTICE DE CASTRO:

What is the meaning, but there's, why...

CHIEF JUSTICE SERENO:

Maybe we need to talk to people from the Commission on Human Rights and PCHR, they can explain this in great detail including the organizational birth of PCHR morphing into the CHR and why perfectly, it is perfectly all right to use that functional title.

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JUSTICE DE CASTRO:

So you...

CHIEF JUSTICE SERENO:

And the petition is only about my UP, my UP stint not my CHR stint, Justice Tess. I was not prepared, I did not bring my documents, I don't think I should be examined under these conditions.

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JUSTICE DE CASTRO:

And your PDS says that you were a Deputy Commissioner of the Commission on Human Rights. So, I'd like to know if you're a permanent official of the CHR and if so, whether you filed your SALN and I wanted to know if that was the period you resigned from UP. So, if you... That's why I...

CHIEF JUSTICE SERENO:

No, I was with UP also at the same time.

JUSTICE DE CASTRO:

So, that's why I'm asking...

CHIEF JUSTICE SERENO:

It was a UP SALN...⁸ (Emphases mine.)

It was evident that during the oral arguments, respondent was very evasive as to questions concerning entries in her sworn PDS, which falsely stated that she held the **position of Deputy Commissioner of the CHR**, when **the said position did not exist**. Respondent repeatedly asserted that such entries were outside the jurisdiction of the Court, but these were actually factual matters closely related to her claimed qualifications for the posts of Associate Justice and Chief Justice of the Supreme Court. These concerned personal information, if true, would have been easily answered by respondent without need for extensive review or preparation.

Lastly, it is worthy to note that up to this time, respondent has yet to provide any categorical and demonstrably truthful explanation regarding the incomplete and improper submission of her SALNs.

From the outset, the thrust of respondent's argument is that the issues raised in the Petition for *Quo Warranto* and the relief sought therein, *i.e.*, her removal from office, are matters that should be taken cognizance of, not by the Court, but by the Senate sitting as Impeachment Court.

Yet, respondent's assertion that she will address the questions regarding her non-submission of SALNs before the Senate sitting as Impeachment Court, on closer look, is **duplicious**.

⁸ TSN, April 10, 2018, pp. 161-165.

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In her Comment *Ad Cautelam*, respondent claimed that she **“continues to recover and retrieve her missing SALNs and will present them before the Senate sitting as the Impeachment Tribunal[,]”** but in the same breath, said statement is followed by the reservation that her presentation of the SALNs was **“without prejudice to her legal defenses in light of the fact that her alleged failure to file SALNs before she joined the Supreme Court is not within the scope of the impeachment complaint or the grounds for impeachment provided in the Constitution.”**⁹ Again, said Comment *Ad Cautelam* stated **“x x x with most of the missing SALNs ready to be produced at the Senate Impeachment Trial, but without prejudice to the Chief Justice’s objections based on jurisdiction and relevance.”**¹⁰

Respondent further insisted in her Memorandum *Ad Cautelam* that **“only the Senate sitting as an Impeachment Tribunal may try and decide the factual issue of whether she filed her SALNs as a U.P. Professor (and only assuming *arguendo* that this matter – which took place before she joined the Supreme Court – may be considered an impeachable offense).”**¹¹

It is readily apparent that respondent has taken the position that the Senate sitting as Impeachment Court has no jurisdiction over her failure to file her SALNs, which happened before she was appointed Chief Justice. This is precisely the thrust of this Petition for *Quo Warranto*. The SALN issue lies at the heart of the qualification of integrity required for appointment as Chief Justice. Respondent’s omission to file her SALNs was an antecedent fact or a prior factual requirement before she could qualify for appointment as Chief Justice.

The foregoing only reinforces the ruling of the Court that under the particular circumstances of this case, the remedy of *quo warranto* before the Supreme Court is appropriate to challenge respondent’s qualifications to be Chief Justice as there can be no void in available remedies so as to hold respondent accountable for the consequences of her actions prior to her invalid appointment and assumption to the position of Chief Justice, *i.e.*, her failure to submit to the JBC her SALNs for the 10-year period before 2012, particularly for 2002, 2003, 2004, 2005, 2006, and August 24, 2010, which were explicitly required for applications for the Chief Justice vacancy in 2012, as well as her deceptive letter dated July 23, 2012 to the JBC to justify her non-submission.

As I pointed out during the Oral Arguments, if respondent succeeds in preventing the Court, and also the Senate, from looking into her SALNs, nobody will ever know whether or not she has properly complied with the

⁹ Respondent’s Comment *Ad Cautelam*, p. 60.

¹⁰ Id. at 68-69.

¹¹ Respondent’s Memorandum *Ad Cautelam*, p. 25.

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constitutionally mandated obligation of the filing of SALNs.¹² Respondent's obvious defense strategy is to avoid revealing the truth about her missing SALNs whether in this Petition for *Quo Warranto* or in the Senate Impeachment Court.

Respondent's crafty defense strategy should not be countenanced.

Considering the foregoing, I vote to **DENY** respondent's *Ad Cautelam* Motion for Reconsideration for utter lack of merit.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

¹² TSN, April 10, 2018, p. 158.