



**Republic of the Philippines
Supreme Court
Manila**

EN BANC

**Re: COA Opinion on the
Computation of the Appraised Value
of the Properties Purchased by the
Retired Chief/Associate Justices of
the Supreme Court.**

A.M. No. 11-7-10-SC

Present:

**CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,*
SERENO,
REYES, and
PERLAS-BERNABE, JJ.**

Promulgated:

JULY 31, 2012

X-----X

RESOLUTION

PER CURIAM:

The present administrative matter stems from the two Memoranda, dated July 14, 2011 and August 10, 2010, submitted by Atty. Eden T.

* On Leave.

Candelaria, Deputy Clerk of Court and Chief Administrative Officer, Office of Administrative Services, to the Office of the Chief Justice. These Memoranda essentially ask the Court to determine the proper formula to be used in computing the appraisal value that a retired Chief Justice and several Associate Justices of the Supreme Court have to pay to acquire the government properties they used during their tenure.

THE FACTUAL ANTECEDENTS

This issue has its roots in the June 8, 2010 Opinion¹ issued by the Legal Services Sector, Office of the General Counsel of the Commission on Audit (COA), which found that an underpayment amounting to ₱221,021.50 resulted when five (5) retired Supreme Court justices purchased from the Supreme Court the personal properties assigned to them during their incumbency in the Court, to wit:

Name of Justice	Items Purchased	Valuation under CFAG (in pesos)	Valuation under COA Memorandum No. 98-569A (in pesos)	Difference (in pesos)
Artemio Panganiban (Chief Justice)	Toyota Camry, 2003 model	341,241.10	365,000.00	23,758.90
	Toyota Grandia, 2002 model	136,500.00	151,000.00	14,500.00
	Toyota Camry, 2001 model	115,800.00	156,000.00	40,200.00
Ruben T. Reyes (Associate Justice)	Toyota Camry, 2005 model	579,532.50	580,600.00	1,067.50
	Toyota Grandia, 2003 model	117,300.00	181,200.00	63,900.00
Angelina S. Gutierrez (Associate Justice)	Toyota Grandia, 2002 model	115,800.00	150,600.00	34,800.00
Adolfo S. Azcuna (Associate Justice)	Toyota Camry, 2005 model	536,105.00	543,300.00	9,195.00
	Toyota Grandia, 2002 model	117,300.00	145,000.00	27,700.00
	Sony TV Set	2,399.90	2,500.00	100.10
Ma. Alicia				5,800.00 ²

¹ Opinion No. 2010-035.
² The amount of ₱5,800.00 allegedly underpaid by retired Associate Justice Ma. Alicia Austria-Martinez in the purchase of an unspecified item was subsequently included via the COA’s letter dated July 6, 2011.

Austria-Martinez (Associate Justice)				
TOTAL				₱ 221,021.50

The COA attributed this underpayment to the use by the Property Division of the Supreme Court of the wrong formula in computing the appraisal value of the purchased vehicles. According to the COA, the Property Division erroneously appraised the subject motor vehicles by applying Constitutional Fiscal Autonomy Group (CFAG) Joint Resolution No. 35 dated April 23, 1997 and its guidelines, in compliance with the Resolution of the Court *En Banc* dated March 23, 2004 in A.M. No. 03-12-01,³ when it should have applied the formula found in COA Memorandum No. 98-569-A⁴ dated August 5, 1998.

Recommendations of the Office of Administrative Services

In her Memorandum dated August 10, 2010, Atty. Candelaria recommended that the Court advise the COA to respect the in-house computation based on the CFAG formula, noting that this was the first time that the COA questioned the authority of the Court in using CFAG Joint Resolution No. 35 and its guidelines in the appraisal and disposal of government property since these were issued in 1997. As a matter of fact, in two previous instances involving two (2) retired Court of Appeals Associate Justices,⁵ the COA upheld the in-house appraisal of government property using the formula found in the CFAG guidelines.

More importantly, the Constitution itself grants the Judiciary fiscal autonomy in the handling of its budget and resources. Full autonomy,

³ Resolution Adopting Guidelines on the Purchase of Judiciary Properties by Retiring Members of the Supreme Court and Appellate Courts.

⁴ Revised Guidelines on Appraisal of Property other than Real Estate, Antique Property and Works of Art.

⁵ LAO-N-2003-262 – Request of Retired Justice Oswaldo D. Agcaoili, Court of Appeals, for the reduction in the appraised value of one unit Mazda E2000 Power Van Model 1998 from ₱192,000.00 to ₱52,000.00); and LAO-N-2004-296 – Request of Retired Justice Buenaventura J. Guerrero, Court of Appeals, for reconsideration of the value of one (1) unit Honda Civic, which he intends to purchase from ₱362,999.98 to ₱330,299.12.

among others,⁶ contemplates the guarantee of full flexibility in the allocation and utilization of the Judiciary's resources, based on its own determination of what it needs. The Court thus has the recognized authority to allocate and disburse such sums as may be provided or required by law in the course of the discharge of its functions.⁷ To allow the COA to substitute the Court's policy in the disposal of its property would be tantamount to an encroachment into this judicial prerogative.

OUR RULING

We find Atty. Candelaria's recommendation to be well-taken.

The COA's authority to conduct post-audit examinations on constitutional bodies granted fiscal autonomy is provided under Section 2(1), Article IX-D of the 1987 Constitution, which states:

Section 2. (1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and **on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution[.]** [emphasis ours]

This authority, however, must be read not only in light of the Court's fiscal autonomy, but also in relation with the constitutional provisions on judicial independence and the existing jurisprudence and Court rulings on these matters.

Separation of Powers and Judicial Independence

⁶ Section 3, Article VIII of the 1987 Constitution provides, "The Judiciary shall enjoy fiscal autonomy."

⁷ See *Bengzon v. Drilon*, G.R. No. 103524, April 15, 1992, 208 SCRA 133, 150.

In *Angara v. Electoral Commission*,⁸ we explained the principle of separation of powers, as follows:

The separation of powers is a fundamental principle in our system of government. It obtains not through express provision but by actual division in our Constitution. Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere. But it does not follow from the fact that the three powers are to be kept separate and distinct that the Constitution intended them to be absolutely unrestrained and independent of each other. The Constitution has provided for an elaborate system of checks and balances to secure coordination in the workings of the various departments of the government. x x x And the judiciary in turn, with the Supreme Court as the final arbiter, effectively checks the other departments in the exercise of its power to determine the law, and hence to declare executive and legislative acts void if violative of the Constitution.⁹

The concept of the independence of the three branches of government, on the other hand, extends from the notion that the powers of government must be divided to avoid concentration of these powers in any one branch; the division, it is hoped, would avoid any single branch from lording its power over the other branches or the citizenry.¹⁰ To achieve this purpose, the divided power must be wielded by co-equal branches of government that are equally capable of independent action in exercising their respective mandates; lack of independence would result in the inability of one branch of government to check the arbitrary or self-interest assertions of another or others.¹¹

Under the Judiciary's unique circumstances, independence encompasses the idea that *individual* judges can freely exercise their mandate to resolve justiciable disputes, while the judicial branch, *as a whole*, should work in the discharge of its constitutional functions free of restraints and influence from the other branches, save only for those imposed

⁸ 63 Phil. 139 (1936).

⁹ *Id.* at 156-157.

¹⁰ CARL BAAR, SEPARATE BUT SUBSERVIENT: COURT BUDGETING IN THE AMERICAN STATES 149-52 (1975), *cited in* Jeffrey Jackson, *Judicial Independence, Adequate Court Funding, and Inherent Judicial Powers*, 52 Md. L. Rev. 217 (1993).

¹¹ Jeffrey Jackson, *Judicial Independence, Adequate Court Funding, and Inherent Judicial Powers*, 52 Md. L. Rev. 217 (1993).

by the Constitution itself.¹² Thus, judicial independence can be “broken down into two distinct concepts: **decisional independence** and **institutional independence**.”¹³ **Decisional independence** “refers to a judge’s ability to render decisions free from political or popular influence based solely on the individual facts and applicable law.”¹⁴ On the other hand, **institutional independence** “describes the separation of the judicial branch from the executive and legislative branches of government.”¹⁵ Simply put, institutional independence refers to the “collective independence of the judiciary as a body.”¹⁶

In the case *In the Matter of the Allegations Contained in the Columns of Mr. Amado P. Macasaet Published in Malaya Dated September 18, 19, 20 and 21, 2007*,¹⁷ the Court delineated the distinctions between the two concepts of judicial independence in the following manner:

One concept is *individual judicial independence*, which focuses on each particular judge and seeks to insure his or her ability to decide cases with autonomy within the constraints of the law. A judge has this kind of independence when he can do his job without having to hear – or at least without having to take it seriously if he does hear – criticisms of his personal morality and fitness for judicial office. The second concept is *institutional judicial independence*. It focuses on the independence of the judiciary as a branch of government and protects judges as a class.

A truly independent judiciary is possible only when both concepts of independence are preserved - wherein public confidence in the competence and integrity of the judiciary is maintained, and the public accepts the legitimacy of judicial authority. An erosion of this confidence threatens the maintenance of an independent Third Estate. [italics and emphases ours]

Recognizing the vital role that the Judiciary plays in our system of government as the sole repository of judicial power, with the power to determine whether any act of any branch or instrumentality of the

¹² Joseph M. Hood, *Judicial Independence*, 23 J. National Association Admin. L. Judges 137, 138 (2003) citing American Judicature Society, What is Judicial Independence? (November 27, 2002), at http://www.ajs.org/cji/cji_whatjsi.asp (last visited April 14, 2003).

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Gerard L. Chan, *Lobbying the Judiciary: Public Opinion and Judicial Independence*, 77 PLJ 73, 76 (2002).

¹⁷ A.M. No. 07-09-13-SC, August 8, 2008, 561 SCRA 395, 436.

government is attended with grave abuse of discretion,¹⁸ no less than the Constitution provides a number of safeguards to ensure that judicial independence is protected and maintained.

The Constitution expressly prohibits Congress from depriving the Supreme Court of its jurisdiction, as enumerated in Section 5, Article VII of the Constitution, or from passing a law that undermines the security of tenure of the members of the judiciary.¹⁹ The Constitution also mandates that the judiciary shall enjoy fiscal autonomy,²⁰ and grants the Supreme Court administrative supervision over all courts and judicial personnel. Jurisprudence²¹ has characterized administrative supervision as exclusive, noting that only the Supreme Court can oversee the judges and court personnel's compliance with all laws, rules and regulations. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.²²

The Constitution protects as well the salaries of the Justices and judges by prohibiting any decrease in their salary during their continuance in office,²³ and ensures their security of tenure by providing that “Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reach the age of seventy years or become incapacitated to discharge the duties of their office.”²⁴ With these guarantees, justices and judges can administer justice undeterred by any fear of reprisals brought on by their judicial action. They can act inspired solely by their knowledge of the law and by the dictates of their conscience, free from the corrupting influence of base or unworthy motives.²⁵

¹⁸ CONSTITUTION, Article VIII, Section 1.

¹⁹ *Id.*, Section 2.

²⁰ *Id.*, Section 3.

²¹ *Garcia v. Miro*, G.R. No. 167409, March 20, 2009, 582 SCRA 127; *Ampong v. Civil Service Commission, CSC-Regional Office No. 11*, G.R. No. 167916, August 26, 2008, 563 SCRA 293; *Judge Caoibes, Jr. v. Hon. Ombudsman*, 413 Phil. 717 (2001); and *Fuentes v. Office of the Ombudsman-Mindanao*, G.R. No. 124295, October 23, 2001, 368 SCRA 36.

²² *Ampong v. Civil Service Commission, CSC-Regional Office No. 11*, *supra*, at 303, citing *Maceda v. Vasquez*, G.R. No. 102781, April 22, 1993, 221 SCRA 464.

²³ CONSTITUTION, Article VIII, Section 10.

²⁴ *Id.*, Section 11.

²⁵ See *De La Llana, etc., et al. v. Alba, etc., et al.*, 198 Phil. 1, 64 (1982).

All of these constitutional provisions were put in place to strengthen judicial independence, not only by clearly stating the Court's powers, but also by providing express limits on the power of the two other branches of government to interfere with the Court's affairs.

Fiscal Autonomy

One of the most important aspects of judicial independence is the constitutional grant of fiscal autonomy. Just as the Executive may not prevent a judge from discharging his or her judicial duty (for example, by physically preventing a court from holding its hearings) and just as the Legislature may not enact laws removing all jurisdiction from courts,²⁶ the courts may not be obstructed from their freedom to use or dispose of their funds for purposes germane to judicial functions. While, as a general proposition, the authority of legislatures to control the purse in the first instance is unquestioned, any form of interference by the Legislative or the Executive on the Judiciary's fiscal autonomy amounts to an improper check on a co-equal branch of government. If the judicial branch is to perform its primary function of adjudication, it must be able to command adequate resources for that purpose. This authority to exercise (or to compel the exercise of) legislative power over the national purse (which at first blush appears to be a violation of concepts of separateness and an invasion of legislative autonomy) is necessary to maintain judicial independence²⁷ and is expressly provided for by the Constitution through the grant of fiscal autonomy under Section 3, Article VIII. This provision states:

Section 3. The Judiciary shall enjoy fiscal autonomy. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released.

²⁶ See e.g., *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1872), cited in Jeffrey Jackson, *Judicial Independence, Adequate Court Funding, and Inherent Judicial Powers*, 52 Md. L. Rev. 217 (1993).

²⁷ See *Juvenile Director*, 522 P.2d at 168; *Commonwealth ex rel. Carroll v. Tate*, 274 A.2d 193, 197 (Pa.) cert. denied, 402 U.S. 974 (1971), cited in Jeffrey Jackson, *Judicial Independence, Adequate Court Funding, and Inherent Judicial Powers*, 52 Md. L. Rev. 217 (1993).

In *Bengzon v. Drilon*,²⁸ we had the opportunity to define the scope and extent of fiscal autonomy in the following manner:

As envisioned in the Constitution, the fiscal autonomy enjoyed by the Judiciary, the Civil Service Commission, the Commission on Audit, the Commission on Elections, and the Office of the Ombudsman contemplates **a guarantee of full flexibility to allocate and utilize their resources with the wisdom and dispatch that their needs require.** It recognizes the power and authority to levy, assess and collect fees, fix rates of compensation not exceeding the highest rates authorized by law for compensation and pay plans of the government and allocate and disburse such sums as may be provided by law or prescribed by them in the course of the discharge of their functions.

Fiscal autonomy means freedom from outside control. If the Supreme Court says it needs 100 typewriters but DBM rules we need only 10 typewriters and sends its recommendations to Congress without even informing us, the autonomy given by the Constitution becomes an empty and illusory platitude.

The Judiciary, the Constitutional Commissions, and the Ombudsman must have the independence and flexibility needed in the discharge of their constitutional duties. **The imposition of restrictions and constraints on the manner the independent constitutional offices allocate and utilize the funds appropriated for their operations is anathema to fiscal autonomy and violative not only of the express mandate of the Constitution but especially as regards the Supreme Court, of the independence and separation of powers upon which the entire fabric of our constitutional system is based.** In the interest of comity and cooperation, the Supreme Court, Constitutional Commissions, and the Ombudsman have so far limited their objections to constant reminders. We now agree with the petitioners that this grant of autonomy should cease to be a meaningless provision.²⁹ (emphases ours)

In this cited case, the Court set aside President Corazon Aquino's veto of particular provisions of the General Appropriations Act for the Fiscal Year 1992 relating to the payment of the adjusted pensions of retired justices of the Supreme Court and the Court of Appeals, on the basis of the Judiciary's constitutionally guaranteed independence and fiscal autonomy. The Court ruled:

In the case at bar, the veto of these specific provisions in the General Appropriations Act is tantamount to dictating to the Judiciary how its funds should be utilized, which is clearly repugnant to fiscal autonomy. The freedom of the Chief Justice to make adjustments in the utilization of

²⁸ G.R. No. 103524, April 15, 1992, 208 SCRA 133.

²⁹ *Id.* at 150-151.

the funds appropriated from the expenditures of the judiciary, including the use of any savings from any particular item to cover deficits or shortages in other items of the Judiciary is withheld. Pursuant to the Constitutional mandate, the Judiciary must enjoy freedom in the disposition of the funds allocated to it in the appropriations law. It knows its priorities just as it is aware of the fiscal restraints. The Chief Justice must be given a free hand on how to augment appropriations where augmentation is needed.³⁰

The Court's declarations in *Bengzon* make it clear that the grant of fiscal autonomy to the Judiciary is more extensive than the mere automatic and regular release of its approved annual appropriations;³¹ real fiscal autonomy covers the grant to the Judiciary of the authority to use and dispose of its funds and properties at will, free from any outside control or interference.

Application to the Present Case

The Judiciary's fiscal autonomy is realized through the actions of the Chief Justice, as its head, and of the Supreme Court *En Banc*, in the exercise of administrative control and supervision of the courts and its personnel. As the Court *En Banc*'s Resolution (dated March 23, 2004) in A.M. No. 03-12-01 reflects, the fiscal autonomy of the Judiciary serves as the basis in allowing the sale of the Judiciary's properties to retiring Justices of the Supreme Court and the appellate courts:

WHEREAS, by the constitutional mandate of fiscal autonomy as defined in *Bengzon v. Drilon* (G.R. No. 103524, 15 April 1992, 208 SCRA 133, 150) the Judiciary has "full flexibility to allocate and utilize (its) resources with the wisdom and dispatch that (its) needs require";

WHEREAS, the long-established tradition and practice of Justices or Members of appellate courts of purchasing for sentimental reasons at retirement government properties they used during their tenure has been recognized as a privilege enjoyed only by such government officials; and

WHEREAS, the exercise of such privilege needs regulation to the end that respect for sentiments that a retiring Justice attaches to properties he or she officially used during his or her tenure should be in consonance with the

³⁰ *Id.* at 151.

³¹ *Commission on Human Rights Employees' Association v. Commission on Human Rights*, 528 Phil. 658, 675 (2006).

need for restraint in the utilization and disposition of government resources.

By way of a long standing tradition, partly based on the intention to reward long and faithful service, the sale to the retired Justices of specifically designated properties *that they used during their incumbency* has been recognized both as a privilege and a benefit. This has become an established practice within the Judiciary that even the COA has previously recognized.³² The *En Banc* Resolution also deems the grant of the privilege as a form of additional retirement benefit that the Court can grant its officials and employees in the exercise of its power of administrative supervision. Under this administrative authority, the Court has the power to administer the Judiciary's internal affairs, and this includes the authority to handle and manage the retirement applications and entitlements of its personnel as provided by law and by its own grants.³³

Thus, under the guarantees of the Judiciary's fiscal autonomy and its independence, the Chief Justice and the Court *En Banc* determine and decide the *who, what, where, when* and *how* of the privileges and benefits they extend to justices, judges, court officials and court personnel within the parameters of the Court's granted power; they determine the terms, conditions and restrictions of the grant as grantor.

In the context of the grant now in issue, the use of the formula provided in CFAG Joint Resolution No. 35 is a part of the Court's exercise of its discretionary authority to determine the manner the granted retirement privileges and benefits can be availed of. Any kind of interference on how these retirement privileges and benefits are exercised and availed of, not only violates the fiscal autonomy and independence of the Judiciary, but also

³² *Supra* note 5.

³³ Circular No. 36-97 (*Subject: Reorganization And Strengthening of the Office of the Court Administrator*) pursuant to Presidential Decree No. 828, as amended by Presidential Decree No. 842, created the Office of the Court Administrator to assist the Supreme Court in the exercise of its power of administrative supervision over all courts as prescribed by the Constitution.

encroaches upon the constitutional duty and privilege of the Chief Justice and the Supreme Court *En Banc* to manage the Judiciary's own affairs.

As a final point, we add that this view finds full support in the Government Accounting and Auditing Manual (GAAM), Volume 1, particularly, Section 501 of Title 7, Chapter 3, which states:

Section 501. *Authority or responsibility for property disposal/divestment.* – The **full and sole authority and responsibility for the divestment and disposal of property and other assets owned by the national government agencies** or instrumentalities, local government units and government-owned and/or controlled corporations and their subsidiaries **shall be lodged in the heads of the departments, bureaus, and offices of the national government**, the local government units and the governing bodies or managing heads of government-owned or controlled corporations and their subsidiaries conformably to their respective corporate charters or articles of incorporation, who shall constitute the appropriate committee or body to undertake the same. [italics supplied; emphases ours]

This provision clearly recognizes that the Chief Justice, as the head of the Judiciary, possesses the *full and sole authority* and responsibility to divest and dispose of the properties and assets of the Judiciary; as Head of Office, he determines the *manner and the conditions of disposition*, which in this case relate to a benefit. As the usual practice of the Court, this authority is exercised by the Chief Justice in consultation with the Court *En Banc*. However, whether exercised by the Chief Justice or by the Supreme Court *En Banc*, the grant of such authority and discretion is unequivocal and leaves no room for interpretations and insertions.


ACCORDINGLY, premises considered, the in-house computation of the appraisal value made by the Property Division, Office of Administrative Services, of the properties purchased by the retired Chief Justice and Associate Justices of the Supreme Court, based on CFAG Joint Resolution No. 35 dated April 23, 1997, as directed under the Court Resolution dated

March 23, 2004 in A.M. No. 03-12-01, is **CONFIRMED** to be legal and valid. Let the Commission on Audit be accordingly advised of this Resolution for its guidance.

SO ORDERED.



ANTONIO T. CARPIO
Senior Associate Justice




PRESBITERO J. VELASCO, JR.
Associate Justice



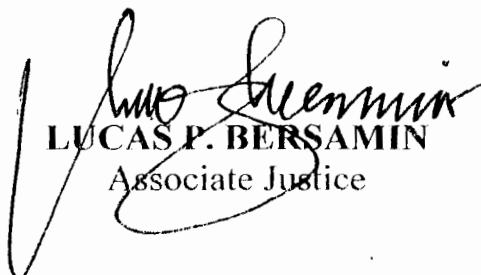
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
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MARTIN S. VILLARAMA, JR.
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JOSE PORTUGAL PEREZ
Associate Justice

(On Leave)

JOSE CATRAL MENDOZA
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MARIA LOURDES P. A. SERENO
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BIENVENIDO L. REYES
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ESTELA M. PERLAS-BERNABE
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