



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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Sirs/Mesdames:

*Quoted hereunder, for your information, is a resolution of the Court En Banc dated 11 October 2005*

G.R. No. 169676 (*Jonathan M. Tiongco v. The People of the Philippines, Senate President Franklin Drilon, Senator Rodolfo Biazon, House Speaker Jose de Venecia and Shiela Coronel*).— Jonathan Tiongco (“Tiongco”) filed this original petition<sup>1</sup> with this Court, naming as respondents the People of the Philippines, Senate President Franklin Drilon, Senator Rodolfo Biazon, House of Representatives Speaker Jose de Venecia, and journalist Sheila Coronel.

A few months ago, there was significant public interest over the emergence and circulation of voice recordings of telephone conversations said to involve former COMELEC Commissioner Virgilio Garcilano. The effects of these recordings in the country’s political milieu are generally well-known. Among others, these recordings became the subject of legislative hearings conducted by the House of Representatives, and provided some impetus in the recent impeachment proceedings initiated against President Arroyo.

Tiongco, a self-identified “digital audio engineer”, alleges that he had the opportunity to examine the recordings, and had come to the conclusion that the tapes were tampered. He claims that his warnings on the dubious nature of the tapes had been ignored by Congressman Gilbert Remulla, Chairman of the Joint Committee of the House of Representatives holding hearings on the tapes.<sup>2</sup>

Tiongco likewise narrates in his petition that the Philippine Center for Investigative Journalism (PCIJ) freely distributed the subject recordings on its Internet website, which also contained transcriptions on these recordings. Characterizing this distribution of the PCIJ as illegal, Tiongco at the same time disputes the veracity of the PCIJ transcription, especially after it was revised to include the phrase “*yung dagdag, yung dagdag*”.<sup>3</sup> According to Tiongco, the PCIJ, “in a segment with reporter Alex Santos”, branded him as a “person facing a string of criminal cases”, and subsequently, a bigamist. As a result, Tiongco has since filed libel

*Handwritten:*  
 T. M. Tiongco  
 Coronel

<sup>1</sup>Dated 3 October 2005. An amended petition dated 4 October 2005 was subsequently filed.

<sup>2</sup>Rollo, p. 26.

<sup>3</sup>*Id.* at 26, 27.

charges against the PCIJ, now pending with the Quezon City Prosecutor's Office.<sup>4</sup>

From these premises, Tiongco prays of this Court that: "(1) judgment be rendered immediately enjoining the public respondents to comply with the pre-requisite of having the [tapes] authenticated by a competent authority; (2) terminate their inquiries pending such compliance; (3) [the] lower house lift the warrant of arrest issued against Atty. Garcillano so that the latter may be united with his family and be given his right to due process; (4) [private] respondent Sheila Coronel and the PCIJ be ordered from further distributing the [recordings] and their transcript through the [I]nternet and; (5) that the libelous story written by Vinia Datinguino pertaining to the libel suit filed by [Tiongco] and other related articles [be removed from the PCIJ website immediately]."<sup>5</sup>

We dismiss the petition outright.

The petition is barely comprehensible, especially in identifying any cause of action justiciable through an original action before this Court. Tiongco notes before this Court that he is not a lawyer, and "has tried his best to prepare [the] Petition all by himself."<sup>6</sup> He would have benefited from professional legal advice, which may have served to isolate and properly characterize whatever plausible causes of action Tiongco may have had. Moreover, a professional lawyer would have counseled that if Tiongco wished to institute an original action directly with the Supreme Court, it would have to conform with the requisites of the special civil action of certiorari under Rule 65. Tiongco does not cite under which modality he is instituting the present action, and we are compelled to treat it as a Rule 65 special civil action for certiorari considering the general allegation of grave abuse of discretion.<sup>7</sup>

Under Rule 65, the jurisdiction of this Court over the special civil actions of certiorari, prohibition and mandamus is limited to cases imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any tribunal, board or officer exercising judicial or quasi-judicial functions.<sup>8</sup> As regards the allegations against Sheila Coronel and the PCIJ, the Court simply has no jurisdiction over an original action for damages, libel, or any suit relating to any injury or slight sustained by Tiongco against these journalists. Neither Sheila Coronel nor the PCIJ can be considered a branch or instrumentality of

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<sup>4</sup>*Id.* at 27.

<sup>5</sup>*Id.* at 31.

<sup>6</sup>*Id.* at 25.

<sup>7</sup>*See e.g.,* *Ligon v. Court of Appeals*, 355 Phil. 503 (1998).

<sup>8</sup>*See* Secs. 1, 2 and 3, Rule 65, 1997 Rules of Civil Procedure.

government. Tiongco notes that he has instituted libel charges against the PCIJ before the Quezon City Prosecutor's Office. It is in that forum that whatever causes of action he may have against these private persons should be properly litigated, where his claim for damages or injury would be properly balanced as against the constitutional guarantee of free expression that avails to Coronel and the PCIJ.

In that regard, Tiongco's plea to this Court that the recordings and certain published stories be removed by the PCIJ from its website cannot be allowed at this juncture. Free expression is guaranteed by the Constitution, and any deviation from this rule through judicial restraint can only be had after a proper trial of facts. The Court is not a trier of facts,<sup>9</sup> and most certainly does not have original jurisdiction to conduct *de novo* trial of factual issues.<sup>10</sup> As intimated earlier, whatever cause of action Tiongco may maintain against Coronel and the PCIJ should first be litigated at the lower level courts.

On the other issues, the petition is similarly bereft of merit. Tiongco prays that the public respondents be required to authenticate the recordings and enjoined from further inquiries pending such authentication. Should the Court, in the exercise of its constitutional functions, be obliged to take the unusual step of intervening in the exercise of functions by co-equal branches of government such as the legislature, there should be at the very least, an indubitable set of facts from which to proceed. The petition fails to establish such pertinent facts, such as what official proceedings, if any, are currently being undertaken by the House or Senate in relation to the questioned recordings. Assuming there are any, the Court likewise deems it premature to elevate to this Court any plea for injunctive relief over these proceedings, considering that these questions may be decided at first instance by the relevant bodies of the House or Senate. And even if the facts are established and undisputed, the petition does not mention any violation of the Constitution or any act amounting to grave abuse of discretion on the part of the public respondents which would call for this Court's action.

Finally, Tiongco seeks in his prayer the lifting of the warrant of arrest issued by the House of Representatives against Virgilio Garcillano, even though the petition is silent as to when, how or why such warrant of arrest was issued. Nonetheless, the Court can take judicial notice that such warrant of arrest had been issued, and that it has remained unserved. We

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<sup>9</sup>See *e.g.*, *W-Red Construction v. CA*, G.R. No. 122648, 17 August 2000, 338 SCRA 341.

<sup>10</sup>See *e.g.*, *Republic v. Nolasco*, G.R. No. 155108, 27 April 2005.

rule that Tiongco has no standing or cause of action to assail the said warrant of arrest. The proper party to judicially challenge such warrant would be Garcillano himself, as he would be intimately familiar with whatever rights of his may have been violated or injury sustained by reason of such warrant. Whatever empathy Tiongco may have for Garcillano cannot metamorphose into legal standing the former may exercise in behalf of the latter. Tiongco did not sustain any legal injury, or did not have any legal rights impaired by reason of the warrant of arrest against Garcillano.<sup>11</sup> Unless there is any legal tie that binds Tiongco to Garcillano that this Court or the public at large has not been aware of, there is no reason to allow one to seek judicial relief in behalf of the other.

The Petition is DISMISSED, with costs against petitioner.

Very truly yours,

*mvillarama*  
MA. LUISA D. VILLARAMA  
Clerk of Court

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G.R. No. 169676  
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<sup>11</sup>"Locus standi or legal standing has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged." *Francisco v. House of Representatives*, G.R. No. 160261, 10 November 2003, 415 SCRA 44.