



Republic of the Philippines

Senate

Pasay City

Record of the Senate
Sitting As An Impeachment Court
Monday, May 14, 2012

At 2:13 P.M., THE PRESIDING OFFICER, SENATE PRESIDENT JUAN PONCE ENRILE, CALLED THE IMPEACHMENT TRIAL OF SUPREME COURT CHIEF JUSTICE RENATO C. CORONA TO ORDER.

The Presiding Officer. The continuation of the Impeachment Trial of the Hon. Chief Justice of the Supreme Court, Chief Justice Renato C. Corona, is hereby called to order.

We shall be led in prayer by Sen. Sergio R. Osmeña III.

Senator Osmeña.

Dear Lord, as we approach the finish of this Impeachment Trial, we must not forget to express our deepest appreciation to You for the strength, the light, and the courage You so lovingly bestowed on each and every participant in this prolonged exercise: the members of the Philippine Senate so ably led by its Presiding Officer, the members of the Prosecution and Defense panels and their staffs, the members of the Senate Secretariat, the witnesses for both the Prosecution and Defense, the members of media for faithful reporting, and last but not the least, the Accused himself and the members of his family.

Whatever the outcome might be, whatever the decision will be, may we all acknowledge Your interventions in the smooth execution of this constitutional exercise which is testament to our deeply embedded values of democratic governance.

May Your grace and blessings upon the Filipino nation be never ending. Amen.

The Presiding Officer. Amen.

Thank you.

The Secretary will please call the roll of Senators.

The Secretary, reading:

Senator Edgardo J. Angara	Present
Senator Joker P. Arroyo	Present
Senator Alan Peter “Compañero” S. Cayetano	Present
Senator Pia S. Cayetano	Present
Senator Miriam Defensor Santiago	Present
Senator Franklin M. Drilon	Present
Senator Jinggoy Ejercito Estrada	Present
Senator Francis G. Escudero	Present
Senator Teofisto L. Guingona III	Present
Senator Gregorio B. Honasan II	Present
Senator Panfilo M. Lacson	Present
Senator Manuel “Lito” M. Lapid	Present
Senator Loren Legarda	Present
Senator Ferdinand “Bongbong” R. Marcos Jr.	Present
Senator Sergio R. Osmeña III	Present
Senator Francis N. Pangilinan	Present
Senator Aquilino L. Pimentel III	Present
Senator Ralph G. Recto	Present
Senator Ramon “Bong” Revilla Jr.	Present
Senator Vicente C. Sotto III	Present
Senator Antonio “Sonny” F. Trillanes IV	Present
Senator Manny Villar	Present
The President	Present

The Presiding Officer. With 23 Senator-Judges present, the Presiding Officer declares the presence of a quorum.

The Floor Leader.

Senator Sotto. Mr. President, may I ask the Sergeant-at-Arms to make the proclamation?

The Presiding Officer. The Sergeant-at-Arms is directed to make the proclamation.

The Sergeant-at-Arms. All persons are commanded to keep silent under pain of penalty while the Senate is sitting in trial on the Articles of Impeachment against Chief Justice Renato C. Corona.

The Presiding Officer. The Floor Leader.

Senator Sotto. Mr. President, I move that we dispense with the reading of the May 8, 2012 *Journal* of the Senate sitting as an Impeachment Court and consider the same as approved.

The Presiding Officer. Is there any objection? [*Silence*] The Chair hears none; the May 8, 2012 *Journal* of the Senate sitting as an Impeachment Court is hereby approved.

The Secretary will please call the case before the Senate sitting as an Impeachment Court.

The Secretary. Case No. 002-2011, In the Matter of Impeachment Trial of Hon. Chief Justice Renato C. Corona.

The Presiding Officer. Appearances?

The Floor Leader.

Senator Sotto. Yes, Mr. President.

May we ask the parties for their respective appearances?

Representative Tupas. Good afternoon, Mr. President. On the part of the House Prosecution Panel, same appearance. We are ready, Your Honor.

The Presiding Officer. Noted.

Defense.

Mr. Cuevas. Good afternoon, Your Honor. For the Defense, the same appearance. We are ready, Your Honor.

The Presiding Officer. Noted.

Senator Sotto. Mr. President.

The Presiding Officer. The Floor Leader.

Senator Sotto. Mr. President, we have received the letter from the Ombudsman, Conchita Carpio-Morales, requesting that she be allowed to testify ahead of all other witnesses during today's hearing in view of heavy volume of work and equally urgent professional work that needs her immediate attention.

So, I move, Mr. President, that this matter be submitted to the Presiding Officer.

The Presiding Officer. What is the pleasure of the Defense?

Mr. Cuevas. If Your Honor please, we wanted to accommodate the request, Your Honor, but we assure the Honorable Ombudsman that we will call her today, only that we be permitted to call ahead of her other witnesses whom we have subpoenaed for today's hearing, Your Honor.

The Presiding Officer. But Walden Bello is not here.

Mr. Cuevas. We have Noli—Emmanuel Santos, Your Honor.

The Presiding Officer. But whatever these witnesses will say in this Court will still be dependent upon the findings of the Ombudsman if indeed she conducted an investigation of the complaint of these witnesses that were subpoenaed and who are complainants before that office. So why not hear the Ombudsman first and if there is a need to ask the other witnesses to corroborate her, then so be it?

Mr. Cuevas. Okay, then subject to the discretion—we yield to the discretion of the Honorable Court, Your Honor.

The Presiding Officer. I would suggest that we hear the Ombudsman first because if there is no need to present these other witnesses, if the Ombudsman has made a substantial presentation or no presentation at all, then even if we do not hear these witnesses, this Court will already be given an opportunity to see the pendency of the evidence being presented today.

Mr. Cuevas. Okay, then, Your Honor, we submit to the discretion of the Court. We made known our option but if it does not meet the conformity of the Court, we submit, Your Honor.

The Presiding Officer. Well, I felt, this Chair feels that given the fact that we are calling one of the highest functionaries of the government, she is no less than the Ombudsman with power to investigate cases in the entire government from top to bottom, then I think we should hear first if indeed there is any evidence at all that is available from her against the Respondent.

So let the order of presentation start with the Ombudsman.

Senator Sotto. Mr. President.

The Presiding Officer. Yes, the Floor Leader.

Senator Sotto. Yes, before we proceed. Earlier today also we received a letter from Ms. Risa Hontiveros-Baraquel requesting clarification as to the purpose and expected content of the testimony she is directed to provide considering that she has not made any allegation or reference to foreign-denominated accounts amounting to \$10 million belonging to Chief Justice Corona in her letter-request to the Ombudsman or in any other form.

May I move that the Presiding Officer also rule on the request?

The Presiding Officer. Well, while we respect the position of the subpoenaed Witness, Madam Baraquel, the Court is not in a position to determine what the Defense will be asking from her. That depends upon the Defense. So I do not think it is proper for us to control the Defense in this respect. Under the Rules of Evidence, a witness when called has a duty to answer questions propounded by the producing party if she or he takes the witness stand.

So the request is hereby not granted.

Senator Sotto. And, finally, Mr. President, one more item.

The Presiding Officer. The Floor Leader.

Senator Sotto. Just for the information of the Court and the parties, we are in receipt of an e-mail from Representative Walden Bello informing the Court that he is currently abroad on official travel to attend and lecture in conferences. As authorized by Speaker Feliciano Belmonte Jr., Representative Bello is requesting that his presence in the Impeachment Trial be deferred until after his return to the country on May 18.

Will we take note of the letter, Mr. President?

The Presiding Officer. Well, I do not think we have any control over that matter so we will wait for his return to appear before this Court.

Senator Sotto. Yes, Mr. President, Senator Drilon agrees.

The Presiding Officer. If there is any need for him to testify, then we will require him to appear here when he comes back.

So ordered.

Senator Sotto. So may we now call on the Defense, Mr. President, for the continuation of the presentation of evidence.

Mr. Cuevas. In compliance with the statement made by the Honorable Presiding Judge, Your Honor, may we call the Ombudsman to the stand.

The Presiding Officer. The Honorable Ombudsman—is she around already? Yes. Please bring her in and swear her.

One-minute recess to wait for the Ombudsman.

The trial was suspended at 2:23 p.m.

At 2:24 p.m., the trial was resumed.

The Clerk of Court. Honorable Ombudsman Conchita Carpio-Morales.

The Presiding Officer. The session is resumed.

The Clerk of Court. Honorable Ombudsman Conchita Carpio-Morales, please raise your right hand.

Do you swear to tell the truth, the whole truth and nothing but the truth in this Impeachment Proceeding?

Ms. Carpio-Morales. Yes, I do.

The Clerk of Court. So help you God.

Ms. Carpio-Morales. Thank you.

The Presiding Officer. Thank you.

Counsel, proceed.

Representative Tupas. Mr. Presiding Officer, please.

The Presiding Officer. Yes. What is the pleasure of the Prosecution?

Representative Tupas. On the part of the Prosecution, Mr. President, may we ask permission that our lead private lawyer be recognized, be allowed to receive the testimony of the Ombudsman and to conduct the cross, if necessary. Atty. Mario Bautista, Your Honor.

The Presiding Officer. The request of the Prosecution is granted.

Representative Tupas. Thank you.

The Presiding Officer. The Counsel referred to may now take the podium and take care of the case for the Prosecution.

Mr. Bautista. Thank you, Mr. President.

The Presiding Officer. Proceed.

Mr. Cuevas. With the kind permission of the Honorable Court, will you kindly state your name and other personal circumstances for the record, Madam Ombudsman.

Ms. Carpio-Morales. Conchita Carpio-Morales, 71 years old, going—no—70 years old, going 72—no—I am just kidding you—I am 70, I am going 71. I am the present Ombudsman.

What else?

Mr. Cuevas. Your residence, please.

Ms. Carpio-Morales. Residence: No. 9, Carpio Compound, Soldiers Hills, Muntinlupa. Married.

Mr. Cuevas. May we be allowed to proceed, Your Honor?

The Presiding Officer. You have the floor. You can proceed, Counsel.

Mr. Cuevas. Yes, Your Honor.

Madam Ombudsman is being presented, Your Honor, first, to prove that she has an interest against Chief Justice Corona, the Respondent in this case; to show that the Honorable Ombudsman is currently conducting an investigation against Chief Justice Corona especially with respect to his alleged foreign-denominated bank accounts in the aggregate value of \$10 million; to prove further that there is no evidential basis whatsoever for the imputation that CJ Corona has foreign-denominated bank accounts in the aggregate amount of \$10 million; and to prove that the Honorable Ombudsman's investigation is illegal, baseless and not in accordance with the Constitution.

The Presiding Officer. In other words, you are considering this Witness as a hostile witness.

Mr. Cuevas. Right, Your Honor.

The Presiding Officer. Then comply with Section 12 of Rule 132.

Mr. Cuevas. Well, the fact that the Witness, Your Honor, had made statements both in TV and radio castigating or commenting on the propriety of the Ombudsman—on the propriety of the Chief Justice, Your Honor, to continue—

The Presiding Officer. Counsel, wait. I am not trying to hurry you up but whatever was said outside this Court is not evidence.

I will read to you the rule: "A witness may be considered as unwilling or hostile only if so declared by the court upon adequate showing of his/her adverse interest, unjustified reluctance to testify, or his/her having misled the party into calling him/her to the witness stand."

So, please comply with that requirement.

Mr. Cuevas. There are two kinds, in our humble submission, Your Honor, of hostile witnesses: first, is one who is introduced right from the beginning as a hostile witness because of the interest he has in connection with the subject matter of the Complaint together with the person of the Respondent; and secondly, a witness who had been presented as an ordinary witness but who turned hostile in the course of the proceedings, in which case, we may ask for a ruling on the part of the Court that he is a hostile witness in view of the statements made by him.

The Presiding Officer. My understanding of the Rules of Evidence are the classes of witnesses: willing witness, unwilling witness, hostile witness, adverse party as a witness. So can you cite to me the rule that you are using to justify in considering the Ombudsman immediately as a hostile witness? She is not an adverse party to this case.

Mr. Cuevas. Yes, Your Honor. But—

The Presiding Officer. But the presumption is the party in producing a witness, is producing the witness as a friendly witness.

Mr. Cuevas. Well, that is our impression also, Your Honor. But a deeper analysis of the situation involved in hostile witnesses showed two different occasions whereby a witness may be considered hostile.

The Presiding Officer. But precisely Section 12 requires you to lay the basis. Qualify your witness in the way that you want that witness to be treated on the witness stand and let the court make the ruling.

Mr. Cuevas. Very well, Your Honor. We will proceed as directed, Your Honor.

The Presiding Officer. So, proceed.

Mr. Cuevas. Now, Madam Witness, you are familiar with the *De Castro* case before the Supreme Court in connection with the qualification of the Honorable Chief Justice Corona.

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. And that involves the validity of his appointment as Chief Justice of the Supreme Court.

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. And I understand from the records of the case that you were the lone dissenter...

Ms. Carpio-Morales. That is right.

Mr. Cuevas. ...insofar as the validity of the appointment is concerned.

Ms. Carpio-Morales. That is right, Your Honor.

Mr. Cuevas. It is your contention then at that time that the Supreme Court has no authority, much less any power, to rule that the former or outgoing President of the Republic of the Philippines may appoint a Chief Justice to the position two days after the election, Your Honor.

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. In a Motion for Reconsideration, you likewise sustained your stand as objecting to the qualification—or rather, but the power of the President to appoint a Chief Justice, Your Honor.

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. All right. In that Motion for Reconsideration, you cling to the view that GMA or the Honorable ex-President Macapagal-Arroyo has no authority to make the appointment, Your Honor.

Ms. Carpio-Morales. Yes, Your Honor, I always clung to my earlier decision if I thought that my decision for the first time was correct.

Mr. Cuevas. But knowing that the Supreme Court acts as a collegiate court, the majority did not sustain you, am I right?

Ms. Carpio-Morales. Yes, Your Honor. And that is—

Mr. Cuevas. And the majority opinion declares that the President in this particular case can appoint even notwithstanding the holding of an election and a determination of a winner in that election.

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. And it is a time-honored practice that what governs the resolution of the issues involved in a case is the majority opinion.

Ms. Carpio-Morales. That is right, Your Honor.

Mr. Cuevas. All right. So there is no further question as to the validity of the appointment or the appointing power belonging to President Gloria Macapagal-Arroyo.

Ms. Carpio-Morales. You are asking me?

Mr. Cuevas. Yes.

Ms. Carpio-Morales. Well, that is the decision of the majority of the Supreme Court. So we have to abide by the decision of the majority.

Mr. Cuevas. That is correct. And you will agree with me that there is no power on earth that can modify, reverse or, much less, set aside that decision of the Supreme Court.

Ms. Carpio-Morales. The members who wrote the majority can always change their mind, Your Honor.

Mr. Cuevas. Yes. But that is not my question to you, Madam Ombudsman.

Ms. Carpio-Morales. Yes. There is no power, you said, on earth who can reverse or change the decision of the Supreme Court, and I said the power emanates from those who want to change their mind.

Mr. Cuevas. Because judicial power belongs only to the Supreme Court.

Ms. Carpio-Morales. That is a fact, Your Honor.

Mr. Cuevas. Okay. Now, notwithstanding that pronouncement made by the Supreme Court at the time, President—the President did not appear to be comfortable in accepting that kind of an official action.

Ms. Carpio-Morales. Which President?

Mr. Bautista. Objection, Your Honor please.

Mr. Cuevas. The present President.

Ms. Carpio-Morales. I am not competent to answer that, Your Honor.

Mr. Cuevas. Yes. But you are—you must have read in the papers together with the speeches over the radio and the television, or you are not aware of that?

Ms. Carpio-Morales. I read them but whether or not that is true—sometimes, you know, reports get into the papers but they are not exactly accurate.

Mr. Bautista. Mr. President, may I raise an objection, please? Counsel for the Prosecution.

The Presiding Officer. What is the basis of the objection?

Mr. Bautista. The Defense Counsel has been requested by the Chair to qualify the Witness as a hostile witness so that the Chair, in turn, may declare the Witness as such.

The mere fact that the Witness was the sole dissenter in the *De Castro* case does not qualify her as a hostile witness. As the Chair correctly ruled, a hostile witness is one who is, No. 1, an adverse party; No. 2, an adverse party witness; No. 3, someone who is reluctant or does not want to testify; and No. 4, someone who is established to have an adverse interest to the accused.

Mr. Cuevas. I am sorry, Your Honor.

Mr. Bautista. All of those situations are not present, so that it is premature for the Counsel of the Defense to start impeaching the Witness before she has been qualified as a hostile witness.

Mr. Cuevas. I am just starting—

The Presiding Officer. Well, I have to sustain the objection, Counsel. The first rule is, “A party producing a witness is not allowed to impeach his own witness.” So objection sustained.

Mr. Cuevas. I am not—If Your Honor please, I am not impeaching the Witness. I am laying the basis to show hostility and attitude on the part of the Witness that qualifies her to be a hostile witness, Your Honor.

The Presiding Officer. Then reform the question, please.

Mr. Cuevas. All right.

Now, I am not asking you about the truth of what President Aquino had stated that he does not like the Honorable Justice Corona to be occupying the Chief Justice of the Supreme Court. But I am asking you—my question to you is limited to the fact whether you are acquainted with those news spread over the TV and radio.

Ms. Carpio-Morales. Yes. I have read those news.

Mr. Cuevas. All right. And you also must have heard the fact that there was a statement by the Honorable President Aquino now that he is not willing to take his oath of office as a President before the Honorable Chief Justice Corona?

Ms. Carpio-Morales. That is right, Your Honor.

Mr. Cuevas. And as in fact, he made mention of the fact that he would rather take his oath before a barrio captain.

Ms. Carpio-Morales. That is right, Your Honor.

Mr. Bautista. If Your Honor please, these questions are irrelevant to the adverse interest of the Witness. They have nothing to do at all with the qualification of the Witness as a hostile witness.

Mr. Cuevas. Well, qualifying the Witness, Your Honor, is not borne out by one and only question, Your Honor.

The Presiding Officer. Let the Ombudsman who is a very intelligent witness answer the question.

Mr. Bautista. We submit, Your Honor.

Mr. Cuevas. Thank you, Your Honor.

Pakibasa nga 'yung question.

Ms. Carpio-Morales. Yes. He said that—early on he said he wanted to take his oath before a barangay captain. That is the question.

Mr. Cuevas. Yes. And there were also statements made by him that he will try his level best not to allow Chief Justice Corona to continue occupying the position to which he was illegally appointed.

Ms. Carpio-Morales. That I do not know.

Mr. Cuevas. You have not read in the papers?

Ms. Carpio-Morales. I could not recall reading that.

Mr. Cuevas. You do not recall also having heard it over the radio?

Ms. Carpio-Morales. I seldom listen to the radio.

The Presiding Officer. Counsel, may I suggest that you go direct to the point? Find out through direct questions regarding the hostility of the Witness towards the Respondent. She is the Ombudsman. She is investigating the Respondent.

Mr. Cuevas. Okay then. Thank you, Your Honor.

Now, in fact, he took his oath before the Honorable Ombudsman now?

Ms. Carpio-Morales. That is a fact, Your Honor.

Mr. Cuevas. Yes. And that notwithstanding, Chief Justice Corona attended the oath-taking, is it not?

Ms. Carpio-Morales. That is right, Your Honor, I witnessed him.

Mr. Cuevas. He was there?

Ms. Carpio-Morales. Yes.

Mr. Cuevas. All right. Now, in the course of a certain event like the Criminal Justice Summit, Your Honor, you must have read over the papers also as reported that there were statements made by the President against the Chief Justice?

Mr. Bautista. Your Honor please, may I object again? May I raise a continuing objection to this line of questioning? I do not see the point in establishing any hostility there may be between the President and the Chief Justice. We have a witness here as the Ombudsman.

Mr. Cuevas. Yes.

Mr. Bautista. What is the connection between the Ombudsman and the President?

Mr. Cuevas. At that time, Your Honor, we wanted to show how hostile the President was. And having acted that way, led to the filing of this complaint for impeachment, Your Honor.

Mr. Bautista. That is totally irrelevant, Your Honor.

Mr. Cuevas. We submit, Your Honor. We are only in the process of—

The Presiding Officer. Let the Witness answer. We will be very liberal and let us see the Defense—

Mr. Bautista. Yes, Your Honor.

Ms. Carpio-Morales. I think I was abroad at that time. But eventually, I was told about it.

Mr. Cuevas. Now I noticed that—I am aware of the fact that before your appointment as Ombudsman, there is a necessity that nomination be made by the Judicial and Bar Council.

Ms. Carpio-Morales. That is right, Your Honor.

Mr. Cuevas. And you were aware of the proceedings in that body?

Ms. Carpio-Morales. I just knew about it through others because I was not present.

Mr. Cuevas. And you came to know that one of those who did not vote for your nomination is the Chief Justice.

Ms. Carpio-Morales. I eventually came to know when they invited my attention to the internet data showing the results of the voting.

Mr. Cuevas. The Chief Justice is not one among those who voted for your nomination.

Ms. Carpio-Morales. Yes, that is right.

Mr. Cuevas. He was opposed to your nomination, did I understand you—

Ms. Carpio-Morales. Whether he was opposed to my nomination, I do not know. But it is a fact that he did not vote for me.

The Presiding Officer. May I intervene? Counsel, I would like to be very liberal but may I request you to go direct to the point by showing the adverse interest of the Witness with respect to your client, the Respondent. What is the adverse interest of the Witness such that if that is established, then she will be considered as a hostile witness?

Mr. Cuevas. I will go into that direction, Your Honor. But I was trying to deal with it little by little in the hope that—

The Presiding Officer. Yes. I do not want to control you but I think—why do you not ask her if she has investigated the case of the Respondent?

Mr. Cuevas. Okay. Thank you, Your Honor.

Now, may I go to a letter dated April 20, 2012, purportedly addressed to one Renato C. Corona, Chief Justice, Supreme Court, Manila, consisting of five (5) pages, and direct your attention to a signature appearing over the typewritten name “Conchita Carpio-Morales, Ombudsman.”

The Presiding Officer. I would suggest that the Counsel will show that letter to the Witness.

Mr. Cuevas. Yes, Your Honor. Which we request, Your Honor, to be marked as Exhibit...
Witness examining the same, Your Honor.

Ms. Carpio-Morales. This appears to be a photocopy of my letter.

Mr. Cuevas. May I request first, for purposes of identification, Your Honor, that it be marked, as we prayed before, as Exhibit “253”, consisting of five pages?

A little earlier I was asking you to go over the signature appearing over the typewritten name “Conchita Carpio-Morales, Ombudsman.” That is your signature?

Ms. Carpio-Morales. Yes, Your Honor. It appears so.

Mr. Cuevas. Now, there are three (3) complaints involved in this investigation.

The Presiding Officer. Counsel, why do you not ask the Ombudsman why she wrote that letter to the Respondent?

Mr. Cuevas. Yes, Your Honor.

Now—I adopt the question. Will you kindly tell us why this letter was written or addressed to the Honorable Chief Justice Corona?

Ms. Carpio-Morales. Yes, Your Honor. After we received the Complaint from—it is difficult to memorize the first mentioned complainant, but one of them is Risa Hontiveros. I went over it because I had an advance copy and I first sought information from agencies and then I referred the complaints to the Anti-Money Laundering Council because I thought that the charges included of— some matters that were within the jurisdiction of the AMLC. And then later I constituted a panel of investigators. And eventually, I wrote the AMLC seeking assistance towards the determination of the truth of the charges. And then I got an initial report from the special panel recommending, among other things, that we should write the Chief Justice.

Mr. Cuevas. Now, in this letter you were asking the Chief Justice to explain in writing...

Ms. Carpio-Morales. That is right, Your Honor.

Mr. Cuevas. ...his—May I read the particular portion, Your Honor? “Accordingly, consistent with the provisions of Section 15, 22 and 26, you are hereby requested, within 72 hours from receipt hereof, a written answer to the complaints and to the above-stated information respecting your alleged several bank accounts in several banks.”

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. All right. Now, I understand that in this kind of investigation by your office, the Respondent is akin to an accused in a criminal case.

Mr. Bautista. Your Honor please, the questions are leading and up to now, the Witness has not been qualified nor established—declared by the Court as a hostile witness.

Mr. Cuevas. Well, that is a direct question, Your Honor.

The Presiding Officer. Counsel, why do you not reform your question? Ask the Ombudsman if by that letter, she was actually investigating the Chief Justice.

Mr. Cuevas. I predicate the—

The Presiding Officer. That would be the adverse interest.

Mr. Cuevas. Okay then, Your Honor.

Now, when you stated in this letter that the Chief Justice is being requested to submit within 72 hours from receipt a written answer to the complaint, my understanding is that he is already being investigated by your office, am I right?

Ms. Carpio-Morales. We were doing a case buildup. In other words, it was a fact-finding investigation, Your Honor.

Mr. Cuevas. All the while I thought that the complaint, per your letter, is on the basis—this letter rather is on the basis of the three (3) complaints: one, by the group of Ruperto Aleroza; second, by Walden Bello; and the third one by Emmanuel T. Santos, right?

Ms. Carpio-Morales. Yes. We were—what—

Mr. Cuevas. Since—I am sorry, go ahead.

Ms. Carpio-Morales. Whenever we received a complaint, we determine first if it merits docketing. So we docketed it for purposes of factual investigation or case buildup.

Mr. Cuevas. Correct. When you asked him to file an answer, the answer that you wanted to be made by him is in connection with the allegation or this strictly confidential resolution.

Ms. Carpio-Morales. Your Honor, may I invite your attention to the second to the last paragraph of page 4. It says here: “Furthermore, we received information that there are several bank accounts in PSB and several other banks in your name including those denominated in U.S. dollars, the aggregate value of which amounts to at least US, US\$10,000.”

The Presiding Officer. In other words, Madam Ombudsman, when you wrote that letter you were already initiating an investigation of the Respondent Chief Justice.

Ms. Carpio-Morales. That is right, Your Honor.

The Presiding Officer. And that, in effect, you are taking an adverse position with respect to the subject of your investigation.

Ms. Carpio-Morales. We wanted him to...

The Presiding Officer. Explain.

Ms. Carpio-Morales. ...enlighten us, Your Honor.

The Presiding Officer. Yes.

Ms. Carpio-Morales. Because as I said early on, I had sought the help of another agency for purposes of determining further there was indeed unexplained wealth or things to that effect which would be violative of the Anti-Graft and Corrupt Practices Act.

Mr. Bautista. If, Your Honor please—

The Presiding Officer. Yes, the gentleman from Iloilo.

Senator Drilon. I am sorry for the intervention but the Ombudsman mentioned 10,000, is that US\$10,000? Is that what is reflected in—

Ms. Carpio-Morales. Oh, I am sorry, US\$10 million. Sorry.

The Presiding Officer. All right.

Ms. Carpio-Morales. Again, as I said, I am not used to millions so I always say thousands.

The Presiding Officer. In other words, the Office of the Ombudsman was already conducting an investigation of the Chief Justice so much so that you have to write the Respondent Chief Justice to explain, to appear in 72 hours to explain his side.

Ms. Carpio-Morales. Yes, Your Honor.

The Presiding Officer. All right. That your testimony here would be, if you have any finding at all in the course of that investigation, will be against or in favor of the Ombudsman—of the Respondent Chief Justice, we do not know that.

Ms. Carpio-Morales. Yes, Your Honor.

The Presiding Officer. Yes.

Mr. Bautista. If Your Honor please...

The Presiding Officer. So Counsel, please proceed along that line so that we can finish this. This is only to lay the basis whether this party is a hostile witness or a friendly witness to you.

Mr. Cuevas. Yes, Your Honor. We will do so, Your Honor, as directed.

Now, you mentioned in here US\$10,000.

Ms. Carpio-Morales. I am sorry.

Mr. Cuevas. Ten million *pala*, I am sorry. All right.

Ms. Carpio-Morales. Chain of errors.

Mr. Cuevas. Now, you must have been informed about the impeachment proceedings going on before this Honorable Body by then?

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. All right. My question to you, is there any mention or evidence of this US\$10 million and the evidence presented before this Honorable Court?

Mr. Bautista. Objection, Your Honor. Up to now the Witness has not been qualified. With due respect, the mere fact that the Ombudsman—

The Presiding Officer. The Counsel for the Prosecution is correct. Just to help in this. Anyway, this is a preliminary matter.

Madam Ombudsman, you are conducting an investigation of this case against the Respondent, am I correct?

Ms. Carpio-Morales. Yes, Your Honor. Fact-finding investigation, Your Honor. A case buildup...

The Presiding Officer. Yes, fact-finding investigation.

Ms. Carpio-Morales. ...as opposed to preliminary investigation, Your Honor.

The Presiding Officer. Have you made any findings at all?

Ms. Carpio-Morales. About?

The Presiding Officer. Against the Respondent?

Ms. Carpio-Morales. Well, I was able to get data showing that at least—

The Presiding Officer. You obtained data material to—

Ms. Carpio-Morales. Material and relevant to the...

The Presiding Officer. Complaint filed with your office.

Ms. Carpio-Morales. ...complaints filed by the three (3) complainants. Yes, at least from the first complainant.

The Presiding Officer. And are those materials adverse to the Respondent?

Ms. Carpio-Morales. Well, it appeared so, Your Honor, because...

The Presiding Officer. Correct.

Ms. Carpio-Morales. ...these are the documents that I sourced from that agency.

The Presiding Officer. So that whatever testimony you will give here in this Court would have the tendency to be adverse to the Respondent.

Ms. Carpio-Morales. It appears so, Your Honor.

The Presiding Officer. All right.

Ms. Carpio-Morales. And that is the reason why—

The Presiding Officer. So, Counsel proceed.

Mr. Cuevas. In which case, Your Honor—

The Presiding Officer. If you want to make a motion, then make a motion.

Mr. Cuevas. May we move, Your Honor, that the Witness be declared as a hostile witness, because her interest as Ombudsman investigating the case is already adverse to that of the Respondent, the Honorable Chief Justice, Your Honor.

The Presiding Officer. Well, the answers of the—

Ms. Carpio-Morales. Your Honor, that is my mandate. If I am mandated by law to investigate and I investigate the Respondent, that does not make me an adverse person. So, I have to discharge my mandate.

The Presiding Officer. That is correct. That is a constitutional mandate. In fact, the Ombudsman can investigate with or without complaint.

Ms. Carpio-Morales. That is right, Your Honor.

The Presiding Officer. So, you may proceed.

Mr. Cuevas. Yes, Your Honor.

Mr. Bautista. If Your Honor please, the Defense has moved for the qualification of the Witness as a hostile witness, may I object. The mere fact that the Ombudsman is conducting an investigation

does not render her as an adverse witness. In fact, she has merely written the Chief Justice to explain if there is any truth to the allegation that he has \$10 million. There has been no adverse finding by the Ombudsman. She is merely performing her mandate and task under the Constitution and the Ombudsman's Law. That is not evidence of any adverse interest.

Mr. Cuevas. We do not question that there is an investigation, that the investigation is allegedly being conducted by the Honorable Ombudsman, Your Honor, pursuant to law. What we wanted to lay down is the fact that there is already allegedly a finding made by her adverse to that of the Chief Justice. How can she be expected to be neutral, to be unbiased and to be impartial, Your Honor, in dealing with the Chief Justice?

Mr. Bautista. If I may, Your Honor please. The Ombudsman has not said she has made a finding. She merely said that she has gathered or received data. She has not made any finding.

Mr. Cuevas. Precisely, the gathering of data does not appear to be in consonance with the impartial investigation of a case, Your Honor. Because there are complainants in here.

The Presiding Officer. All right. To cut short this discussion unless I am traversed by the Impeachment Court given the fact the Ombudsman and according to the question of the Counsel for the Defense has shown some disagreement with the Respondent and the fact that she is the one investigating the Respondent by virtue of her office, this Court would consider her as a hostile witness and so declared that she is a hostile witness.

And you may examine her as a hostile witness.

Mr. Cuevas. Thank you, Your Honor.

The Presiding Officer. Proceed.

Mr. Cuevas. Now, being a respondent in your case his position may be akin to that of an accused in a criminal case, am I right?

Ms. Carpio-Morales. I said, Your Honor, we are still in the fact-finding investigation. He was a mere respondent. You become an accused only when you are indicted in court.

Mr. Cuevas. I am not saying he is an accused, he may be likened to an accused in a criminal case. There is no similarity whatsoever, is that your point?

Ms. Carpio-Morales. Well, as I said, it is merely fact-finding.

Mr. Cuevas. Yes.

Ms. Carpio-Morales. There is no determination yet of probable cause because he has to undergo preliminary investigation. If we wind up our fact-finding investigation and we believe that there ought to be preliminary investigation, then we set the case for preliminary—

Mr. Cuevas. But why the necessity of compelling him to submit or to file an Answer?

Ms. Carpio-Morales. That is what the law says, Your Honor, Section 26.

Mr. Cuevas. But this is practically compelling him to be a witness, which is prescribed by the Constitution under Article III, Section 17...

Ms. Carpio-Morales. Are you assailing—

Mr. Cuevas. ...that no person may be compelled to be a witness against...because the moment he answers necessarily he has to state his reason.

Ms. Carpio-Morales. Are you assailing the constitutionality of Section 26 of Anti-Graft?

Mr. Cuevas. I am raising it right now because the practice—

Mr. Bautista. Objection, Your Honor please.

Ms. Carpio-Morales. It does not follow, Your Honor, that if he refuses to answer, then—

The Presiding Officer. Counsel.

Mr. Cuevas. I am still—

The Presiding Officer. Please propound your question.

Mr. Cuevas. Yes.

The Presiding Officer. Do not argue with the Witness.

Mr. Cuevas. There is a pending question, Your Honor.

The Presiding Officer. Yes, precisely. Ask your question, whether leading or direct question. You are now entitled to ask, but do not argue with the Witness.

Mr. Cuevas. Yes, I am not, Your Honor. I am asking her whether the position of the Chief Justice as a respondent or a party being investigated with her office may be compared to that of an accused in a criminal case.

The Presiding Officer. You are asking an opinion.

Mr. Cuevas. Yes.

The Presiding Officer. That is a legal characterization. We are dealing with facts here.

Mr. Cuevas. But she is very much in a position to answer that, Your Honor. With due respect.

The Presiding Officer. Well, the Ombudsman may answer, if she wishes to answer.

Ms. Carpio-Morales. I have already answered, Your Honor.

Mr. Cuevas. All right.

And in accordance with the Constitution, the law says under Article III, Section 17, "No person may be compelled to be a witness against himself."

Ms. Carpio-Morales. I did not compel him, Your Honor. I said I was just following the mandate of the law. That was his lookout if he did not like to answer. You could waive answering if you want to.

Mr. Cuevas. Yes.

Ms. Carpio-Morales. But again, as I am saying, Your Honor, you are assailing the constitutionality of Section 26.

Mr. Cuevas. I am showing that that practice is not in accordance with the Constitution.

Ms. Carpio-Morales. It is not a practice, Your Honor; it is a provision of law, Section 26 of the Anti-Graft and Corrupt Practices Act.

Mr. Cuevas. Yes, but that nullifies the right of—I am sorry, I am sorry. I will just ask question. I am sorry, Your Honor, and I apologize.

Now, furthermore, may I direct your attention to this portion of—

Ms. Carpio-Morales. Sorry. Let me correct my answer. It is Section 26 of the Ombudsman Act, not the Anti-Graft and Corrupt Practices Act.

The Presiding Officer. Counsel, may I remind you that the time to raise the nonincrimination clause of the Bill of Rights is when a question is addressed to the respondent. She was only asked to appear for—

Mr. Cuevas. To answer, Your Honor.

Ms. Carpio-Morales. To answer, Your Honor.

The Presiding Officer. To answer within 72 hours. He can answer that he does not want to give an answer because it might tend to incriminate him. That is the prerogative of the party.

Mr. Cuevas. If Your Honor please. With the kind indulgence of the Court, Your Honor.

The Presiding Officer. Proceed.

Mr. Cuevas. What we are invoking is a right which is fundamental and enshrined under our Constitution, Your Honor. And it is the right of a person not to be compelled to testify against himself. Here, it is our humble submission, if Your Honor please, that the moment he is compelled to answer he will state all his defenses and everything and that is practically compelling him to answer. It is a definite violation of that particular law, not merely from being safe from the trouble of incriminating himself but the right not to be compelled to be a witness against himself, Your Honor.

Mr. Bautista. If I may make a counter-submission, Your Honor, please. Your Honor, please.

The Presiding Officer. Let the Witness answer.

Ms. Carpio-Morales. All right. Again, I sound like a broken record, Justice Cuevas. Section 26 of the Ombudsman Act requires the Ombudsman to direct the respondent, in the event there is reasonable ground to investigate further, to answer within 72 hours. So I sent that letter requesting him—I want to emphasize the word “requesting him.” And so the immediate reaction was, “Oh, the Ombudsman has no jurisdiction over me. That is a phony data”, and all that. So now, you are invoking the Bill of Rights?

Mr. Cuevas. I am just stating for the record, Your Honor, the right—the constitutional right of the Chief Justice, Your Honor.

The Presiding Officer. Already answered.

Ms. Carpio-Morales. Yes.

Mr. Cuevas. Now, I have examined the various affidavits of the different complainants in this case and I have not found any statement to the effect that they are leveling an accusation against Chief Justice Corona for the amassing of this \$10 million. Do you agree with me?

Mr. Bautista. Objection, Your Honor, the question is misleading. The Witness has never stated that the basis for the \$10 million accusation or charge is the three (3) complaints. She has never said that. In fact, I do agree with you that if you examine the three (3) complaints there is no mention of the \$10 million.

Mr. Cuevas. Thank you.

Mr. Bautista. What she said is that the \$10 million was gathered from information and evidence she got from AMLC. So, the question is misleading, Your Honor.

The Presiding Officer. Objection sustained.

Mr. Cuevas. Now, may I go back to the different complaints. Will you kindly tell the Honorable Court whether you have examined any of the complainants in connection with the contents of their complaint?

Ms. Carpio-Morales. No, I have not.

Mr. Cuevas. Not even any one of them?

Ms. Carpio-Morales. No.

Mr. Cuevas. Now, there were statements by these complainants that they have nothing to do with the alleged \$10,000.

Ms. Carpio-Morales. Ten million.

Mr. Cuevas. Ten million. I am sorry. I am not accustomed to million also. [*Laughter*] Good lang ako sa P10.00.

And they mentioned that they have nothing to do with that.

Ms. Carpio-Morales. Yes, Your Honor.

Mr. Cuevas. Do you contradict that or you are not in conformity with them?

Ms. Carpio-Morales. That is correct. They did not mention anything about \$10 million.

Mr. Cuevas. Thank you. Thank you.

And insofar as their complaint is concerned, nothing touched on the \$10 million.

Ms. Carpio-Morales. Ten million dollars (\$10 million). No, no, Your Honor.

Mr. Cuevas. Now, this AMLC that you mentioned a while ago, would you like us to believe there was already a court proceeding involving the AMLC?

Ms. Carpio-Morales. No, Your Honor. I just asked for assistance if they had any document that had a bearing with the financial transactions and related transactions of the Chief Justice.

Mr. Cuevas. But that will require an investigation, is it not? Or an inquiry.

Ms. Carpio-Morales. An investigation by?

Mr. Cuevas. By the AMLC. Otherwise, their statement to you and reply to your query may not be accurate and true.

