



SUPREME COURT HEARS "JUDGES' CASE"

The above photo, a *Journal* exclusive, shows the Supreme Court* during the hearing of the "Judges' case" (*Feliciano Ocampo, et al. vs. The Secretary of Justice, et al.*, G. R. No. L-7910). At issue is the constitutionality of Section 3 of Republic Act No. 1186 which abolished the positions of judges-at-large and cadastral judges. Ten judges-at-large and cadastral judges who were eased out of the judiciary in virtue of this provision alleged violation of the constitutional guarantee of judicial tenure.

Shown standing at the extreme right is former Senator Vicente J. Francisco, chief counsel for the ten judges, as he pleaded the cause of judicial independence and the inviolability of judicial tenure. The former senator contended that the office of judges-at-large and cadastral judges is the exercise of jurisdiction in Courts of First Instance throughout the country. Since, he argued, Republic Act No. 1186 maintained all the Courts of First Instance established under the Judiciary Act of 1948, the office of judges-at-large and cadastral judges still exists and consequently, the ouster of the ten judges amounted to their removal from office, in violation of the constitutional guarantee of tenure of judicial office.

Other lawyers who appeared for the judges were former Ambassador Proceso Sebastian who maintained that Republic Act No. 1186 "virtually convicted the ten judges before the bar of public

opinion without due process," and Professor Amado G. Salazar of the Francisco College Law Faculty who stressed the limitations on the power of Congress to abolish judicial offices.

Congressmen Ferdinand Marcos, Diosdado Macapagal and Cornelio Villareal, as *amici curiae*, deplored the political motives which they alleged brought about the enactment of the controversial Act.

On the other hand, Solicitor General Ambrosio Padilla who appeared in behalf of the respondents, upheld the constitutionality of the law, invoking the right of Congress to abolish courts as corollary to its power of creating the same. He argued that the Act in question was intended to put an end to "rigodon de jueces," or the practice of arbitrary assignments of judges from one province to another.

Other members of the bar who argued before the Court were ex-Justice of the Court of Appeals Mariano de la Rosa and Attorneys Mariano Nicomedes and Abelardo Subido.

* Left to Right: Justice Bautista Angelo, Justice Alex Reyes, Justice Sabino Padilla, Justice Guillermo F. Pablo, Chief Justice Ricardo Paras, Justice Cesar Bengzon, Justice Marcelino Montemayor, Justice Fernando Jugo, Justice Aljelo Labrador and Justice J. B. L. Reyes. Not seen in the picture is Justice Roberto Concepcion.

2) The Bank can not invoke the provision that the payor "may only recover from the debtor insofar as the payment has been beneficial to him," when made against his express will. This is a defense that may be availed of by the debtor, not by the Bank, for its affects solely the rights of the former. At any rate, in order that the rights of the payer may be subject to said limitation, the debtor must oppose the payments before or at the time the same were made, not subsequently thereto.

"Entendemos como evidente, que los preceptos del art. 1158 que comentamos, y las distintas hipótesis que establece, giran sobre la base de que la oposición del deudor al pago ha de mostrarse con anterioridad a la realización de este pues de ser aquella posterior, no cabe estimar verdadera y eficaz oposición de buena fe, ya que en el caso de que antes hubiera conocido el proyecto de pago, habría en su silencio una aprobación tácita que autorizaría incluso la subrogación del tercero, y si lo había ignorado antes de realizarse, se estaría en la situación distinta prevista y regulada en los dos primeros párrafos del artículo 1158 y en el 1159." (8 Manresa, 4th ed., pp. 246-249.)

Indeed, it is only fair that the effects of said payment be determined at the time it was made, and that the rights then acquired by the payor be not dependent upon, or subject to modification by, subsequent unilateral acts or omissions of the debtor. At any rate, the theory that Anduiza had not been benefited by the payments in question is predicated solely upon his original refusal to acknowledge the validity of said payments. Obviously, however, the question whether the same were beneficial or not to Anduiza, depends upon the law, not upon his will. Moreover, if his former enmity towards Madrid sufficed to negate the beneficial effects of the payments under consideration, the subsequent change of front of Anduiza, would constitute an admission and proof of said beneficial effects.

Being in conformity with law, the decision appealed from is hereby affirmed, therefore, *in toto*.

Paras, Pablo, Bengzon, Montemayor, Reyes, Jugo and Bautista Angelo, J.J., concur.

Mr. Justice Padilla did not take part.
Mr. Justice Labrador did not take part.