

No 'judicial legislation' in ruling on cases: Bersamin

MANILA -- Chief Justice Lucas Bersamin on Wednesday took exception to critics claims that the Supreme Court (SC) engages in judicial legislation in key cases, including the acquittal of former President Gloria Macapagal Arroyo, where the High Court first announced the requirement of a mastermind or main plunderer in plunder cases.

"The accusation of judicial legislation is most often unfair. That is not judicial legislation. That is an interpretation to make the law operate and the courts are free to do that because unless they are free to do

that, they cannot interpret the law," the head magistrate said at the sidelines of his Meet the Press forum.

Judicial legislation is defined as the move of a court to step in to craft missing parts, to fill in the gaps in laws, or when it oversteps its discretionary boundaries and goes beyond the law to coin doctrines or principles which are not previously established.

"Although law did not use the term main plunderer, it was needed to point out that you, the prosecutor, must say which of these public officials who you are accusing is the main plun-

derer because there will be others who merely contributed," Bersamin noted.

Bersamin, the ponente of the SC decision on Arroyo's acquittal, said he based the ruling on the information on the plunder case against former President Joseph Estrada.

In the Estrada case, Bersamin clarified "the information specified that he was the one who amassed".

Originally passed in 1991, the Plunder Law or Republic Act 7080 provides that any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business

associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts, in the aggregate amount or total value of at least PHP50 million, shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any public office.

Any person who participated with the said public officer in the commission of plunder shall likewise be punished.

In the imposition of penalties, the degree of participation and the attendance

of mitigating and extenuating circumstances shall be considered by the court.

The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stock derived from the deposit or investment thereof forfeited in favor of the State, under the said law.

Don't generalize drug cases

The country's top magistrate, meanwhile, stressed that each criminal charge arising from the war on drugs deserves separate attention and cautioned against sweeping generalizations and solutions suggested by critics.

"Itong war on drugs, hindi pwedeng sabihin na la-lahatin (This war on drugs cannot be subject to sweeping generalizations) be-

cause each case has specific facts and backgrounds," Bersamin told reporters.

Bersamin said the court will continue to go after outlaws, including rogue policemen who break the law, and added that the judiciary continues to support the executive department's campaign against criminality.

"You know we have always been very clear of police agencies as being held to task if they violate (the law). Ang problema kasi sa (The problem with the) law on drugs is there are two sides, one the side of the government and the side of the victim or whoever gets killed in the action," Bersamin said.

"These cases usually end up in court so we cannot make a total approach," Bersamin noted. (PNA)

Esperon vows to pursue perjury raps vs. Red front groups

MANILA -- National Security Adviser Hermogenes Esperon, Jr., on Thursday said he is bent on pursuing the perjury complaint he initiated against members of communist-front groups.

"I am going to pursue this case continuously," Esperon told reporters shortly after a hearing at the Quezon City Prosecutor's Office, which is conducting a preliminary investigation into the case.

"Respondents assert that they have not committed perjury because the elements of the crime are not present. Contrary to such assertion, the ultimate facts as narrated in the affidavit complaint substantially established that a crime under the Revised Penal Code has been committed," he added in his reply.

City Prosecutor Nilo Peñafior has scheduled the next hearing on the case on October 3.

Esperon noted that the offense is committed by persons who knowingly make untruthful statements before a competent person authorized to administer an oath.

In his complaint, Esperon, also concurrent vice-chairperson of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), said respondents Cristina Palabay, Sr. Elenita Belardo, Romeo Clamor, Gabriela Krista Dalena, Editha Burgos, Jose Mari Callueng, Wilfredo Ruazol, Elisa Tita P. Lubi, Rey-lan B. Vergara, Sr. Maria Cupin, Joan May Salvador, and Gertrudes Ranjo-Liang all swore to a notary public that the Rural Missionaries of the Philippines (RMP) is duly-registered non-stock, non-profit organization registered with the Securities and Exchange Commission (SEC).

"Contrary to the verification and certification, executed by petitioners, the SEC already revoked the certificate of RMP on August 20, 2003, for its failure to submit the required General Information Sheets and Financial Statements from 1997 to 2002. The revocation took effect on September 23, 2003," Esperon said. (PNA)

Duterte fires Faeldon for 'disobeying' his order

MANILA -- President Rodrigo Duterte on Wednesday night fired Bureau of Corrections (BuCor) chief Nicanor Faeldon for "disobeying" his order not to allow the release of nearly 2,000 heinous crimes convicts supposedly eligible under the Good Conduct Time Allowance (GCTA) law.

"I am demanding the resignation of Faeldon immediately. Second, that I am calling for an investigation to be handled by the Ombudsman," Duterte said in a televised press briefing in Malacañang.

Asked to clarify if his call for Faeldon's resignation meant he was firing the BuCor chief, Duterte said: "Yes."

"Faeldon has to go because Faeldon disobeyed my order," Duterte said, referring to his instruction to Senator Christoper "Bong" Go to tell Faeldon to prohibit the release of the 1,900 heinous crimes convicts.

Duterte refused to say if he had completely lost his trust and confidence in Faeldon.

"That is a matter between me and Faeldon," he said.

He also bared that he rejected Faeldon's attempt to speak to him about the GCTA law.

"He should have ech-

oed my order to him. No releases until further notice by higher authority. Higher authority," he added, noting that public outcry prompted him to fire Faeldon.

However, instead of obeying his order, Duterte said Faeldon gave him a computation showing that the 1,900 heinous crimes convicts were eligible under the GCTA law.

"I said no releases but what he said was a computation. May apoy na nga e (There's already a fire). I was trying to provide the fire extinguisher para wala na magduda yung tao (so that people would not suspect)," Duterte said.

"No releases. Eh kung sinabi niya yan di wala na sana (If he said that, there would have been no problem). Ang ginawa niya (But what he did), he tried to justify ang computation nila (their computation) which may be correct by the way," he added.

The President said while Faeldon's computation based on the GCTA law could be correct, his no-release order was clear.

"The problem is there was a fire burning. Pag sinabi ng Presidente, hintay ka until further orders, ang ibig sabihin nun magimbistiga

ako in a jiffy (When the President says wait until further orders, that means I'll be investigating in a jiffy)," Duterte said.

"Ang problema niya, kinabukasan (His problem is, the next day) he came up with a statement with his own computation. Kung sinabi niya lang yung sinabi ko e di tapos na (If he just echoed what I said, there would not have been a problem)," he added.

Duterte said he has yet to decide on Faeldon's replacement.

Meanwhile, Duterte ordered other BuCor officials and the committee responsible for allowing the release of the 1,700 heinous crimes convicts to report to him and Justice Secretary Menardo Guevarra.

Although he will not order their suspension, Duterte said he will have them investigated under the Office of the Ombudsman.

"In the meantime, I will not suspend them but they will be investigated. Diretso na ito sa (But they will go straight to the) Ombudsman. This is a prima facie case. There's an admission that they were remiss in their duties," Duterte said.

Duterte also encour-

aged the 1,700 heinous crimes convicts to surrender to the nearest police or military stations within 15 days.

"Lahat nakulong at na-release sa batas na ito (All those jailed and released under this law), 1,900 of you, you surrender and have yourself registered with the BuCor," Duterte said.

"I will give you 15 days liberty provided you make yourself available anytime that you will be called for investigation to have a recomputation or if there's an investigation of corruption that you cooperate fully," he added

He said all heinous crime convicts who have been released but refuse to surrender will be treated as fugitives.

"If you do not, then beginning at this hour, you are a fugitive from justice. And you will be treated as a criminal who is evading the law and well you know things can go wrong. If I were you, mag-surrender na kayo to the nearest police or military detachment wherever you are now," he added.

Duterte said the released inmates with heinous crimes will be automatically barred from leaving the country. (PNA)