



Republic of the Philippines
 Supreme Court
 Manila

CERTIFIED TRUE COPY
W. Velasco, Jr.
 VICE CHIEF JUSTICE
 Supreme Court
 JUL 15 2016

THIRD DIVISION

PHILIPPINE NATIONAL OIL
 COMPANY-ENERGY
 DEVELOPMENT
 CORPORATION and/or PAUL
 AQUINO and ESTER R.
 GUERZON,

G.R. Nos. 183200-01

Petitioners,

-versus-

AMELYN A. BUENVIAJE,
 Respondent.

x-----x

AMELYN A. BUENVIAJE,
 Petitioner,

G.R. Nos. 183253 & 183257

Present:

-versus-

PHILIPPINE NATIONAL OIL
 COMPANY-ENERGY
 DEVELOPMENT
 CORPORATION, PAUL A.
 AQUINO and ESTER R.
 GUERZON,

VELASCO, JR., J., *Chairperson*
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

Promulgated:

Respondents.

June 29, 2016

x-----x

DECISION

JARDELEZA, J.:

Before us are consolidated petitions for review on *certiorari*¹ of the Decision² dated October 31, 2007 and Resolution³ dated June 3, 2008 of the Court of Appeals (CA) in CA-G.R. S.P. Nos. 94359 and 94458. The CA

¹ *Rollo* (G.R. Nos. 183200-01), pp. 3-28 and *rollo* (G.R. Nos. 183253 & 183257), pp. 34-50-A.

² Penned by Associate Justice Lucenito N. Tagle and concurred in by Associate Justices Amelita G. Tolentino and Agustin S. Dizon of the Fifteenth Division, *rollo* (G.R. Nos. 183200-01), pp. 29-51.

³ *Id.* at 52-55.

partially modified the Resolutions⁴ of the National Labor Relations Commission (NLRC) dated September 27, 2005 and January 31, 2006, which in turn partially modified the Decision⁵ of the Labor Arbiter dated December 10, 2004.

The Facts

Philippine National Oil Company-Energy Development Corporation (PNOC-EDC) hired Amelyn Buenviaje (Buenviaje) as Assistant to the then Chairman/President and Chief Executive Officer Sergio A.F. Apostol (Apostol), her father. Buenviaje's employment contract provided that she will serve until June 30, 2004 or co-terminous with the tenure of Apostol, whichever comes first.⁶

On August 4, 2003, Apostol approved the creation of PNOC-EDC's new Marketing Division composed of thirty (30) positions. Seven (7) of these thirty (30) positions were also newly created,⁷ one of which was that of a Marketing Division Manager.⁸ Buenviaje assumed this position as early as the time of the creation of the Marketing Division.⁹

On January 5, 2004, Apostol filed his Certificate of Candidacy as Governor for the province of Leyte, yet continued to discharge his functions as President in PNOC-EDC.¹⁰ Buenviaje also continued to perform her duties as Assistant to the Chairman/President and Marketing Division Manager in PNOC-EDC.¹¹

On February 2, 2004, Paul Aquino (Aquino), the new President of PNOC-EDC, appointed Buenviaje to the position of Senior Manager for Marketing Division effective February 1, 2004.¹² The appointment letter partly provides:

By copy of this letter, HRMD [Human Resources Management Division] is instructed to amend your present employment status from your present position as Assistant to the President (co-terminus) to regular status and as such you will be entitled to all the rights and privileges granted to your new position under the company's benefit policies subject to existing rules and regulations. This appointment is subject to confirmation by your immediate superior based on your performance during the next six months. x x x For record purposes, please take note that your regular status is retroactive to July 1, 2001. This date will be used

⁴ *Id.* at 185-200 and 223-225; *per curiam.*

⁵ *Id.* at 140-152; penned by Labor Arbiter Elias H. Salinas.

⁶ *Id.* at 30.

⁷ *Id.*

⁸ *Rollo* (G.R. Nos. 183200-01), p. 48.

⁹ *Id.*

¹⁰ *Rollo* (G.R. Nos. 183200-01), pp. 30-31.

¹¹ *Id.* at 49.

¹² *Id.* at 30-33.

for the computation of your service credits, retirement and other company benefits allowed under company policy.¹³

Pursuant to the instructions in the appointment letter, Buenviaje affixed her signature to the letter, signifying that she has read and understood its contents.¹⁴

In line with PNOC-EDC's policies, Buenviaje was subjected to a performance appraisal during the first week of May 2004.¹⁵ She received a satisfactory grade of three (3).¹⁶ In her subsequent performance appraisal covering the period of May 1, 2004 to June 30, 2004, she received an unsatisfactory grade of four (4).¹⁷ Thus, Ester Guerzon (Guerzon), Vice President for Corporate Affairs of PNOC-EDC, informed Buenviaje that she did not qualify for regular employment.¹⁸ PNOC-EDC, through Guerzon, communicated in writing to Buenviaje her non-confirmation of appointment as well as her separation from the company effective July 31, 2004.¹⁹ On July 2, 2004, Buenviaje gave her written comments on the results of her second performance appraisal.²⁰ In reply, PNOC-EDC sent her two (2) more letters reiterating her non-confirmation and separation from the company.²¹ Aquino also issued a Memorandum to Buenviaje instructing her to prepare a turnover report before her physical move-out.²²

Buenviaje responded by filing a complaint before the Labor Arbiter for illegal dismissal, unpaid 13th month pay, illegal deduction with claim for moral as well as exemplary damages, including attorney's fees and backwages.²³

The Ruling of the Labor Arbiter

The Labor Arbiter rendered a decision in favor of Buenviaje, the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered declaring complainant a regular employee. As a consequence thereof, her dismissal without any basis is hereby deemed illegal. Respondents PNOC-Energy Development Corporation, and/or Paul Aquino and Ester R. Guerzon are hereby ordered to reinstate complainant to her former position without loss of seniority rights and other benefits and with full backwages reckoned from August 1,

¹³ *Id.* at 31-32.

¹⁴ *Id.* at 33.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Rollo* (G.R. Nos. 183200-01), pp. 33-34.

²¹ *Id.* at 34.

²² *Id.*

²³ *Id.*

2004 up to her actual or payroll reinstatement, which as of this date is in the amount of P718,260.40.

Further, for having acted with manifest bad faith and given the extent of the damage done to complainant who occupies a high managerial position, respondents are jointly and severally ordered to pay complainant moral damages in the amount of P1,000,000.00 and exemplary damages in the amount of P500,000.00.

Finally, respondents are hereby ordered to return to complainant the amount of P51,692.72, which they illegally deducted from her last salary and to pay the sum equivalent to ten percent of the judgment award as and by way of attorney's fees.

SO ORDERED.²⁴ (Emphasis in the original.)

The Labor Arbiter held that Buenviaje was a regular employee because her appointment letter clearly says so. Any doubt caused by the statement in the appointment letter that Buenviaje's appointment was subject to confirmation must be resolved against PNOC-EDC. In addition, PNOC-EDC failed to prove that reasonable standards were explained to Buenviaje at the time of her engagement, thusly negating PNOC-EDC's claim that she was merely a probationary employee. The Labor Arbiter noted that PNOC-EDC even admitted that the alleged standards were only set and discussed with Buenviaje more than a month after her actual appointment.²⁵

The Labor Arbiter further ruled that PNOC-EDC also failed to explain why Buenviaje was allowed to enjoy benefits that were supposed to be exclusive for regular employees. As a regular employee, therefore, Buenviaje could only be dismissed for any of the just or authorized causes under Articles 282 and 283²⁶ of the Labor Code. Since the cause for Buenviaje's dismissal was not included in any of the grounds enumerated in either Article, she was considered illegally dismissed. The Labor Arbiter found Guerzon and Aquino to have acted in bad faith due to their failure to explain the standards to Buenviaje, as well as why the evaluation form for regular employees was used in her evaluation. They also failed to respond to Buenviaje's allegation that the second evaluation was done in bad faith to serve as an excuse in dismissing her. The Labor Arbiter noted that the second evaluation appeared irregular because it did not bear the signature and approval of Aquino. Consequently, for lack of the required approval, the second evaluation could not serve as a valid basis to remove Buenviaje.²⁷

²⁴ *Rollo* (G.R. Nos. 183200-01), pp. 151-152.

²⁵ *Id.* at 145-148.

²⁶ Renumbered to Articles 297 and 298 pursuant to Republic Act No. 10151. (For all Labor Code citations, please refer to Department of Labor and Employment Department Advisory No. 1, Series of 2015.)

²⁷ *Rollo* (G.R. Nos. 183200-01), pp. 148-150.

Both parties appealed to the NLRC.

The Ruling of the National Labor Relations Commission

In its Resolution²⁸ dated September 27, 2005, the NLRC ruled:

WHEREFORE, premises considered, the appeal is partly **GRANTED** and the Decision dated 10 December 2004 is hereby **MODIFIED** ordering respondent-appellant PNO-C Energy Development Corporation to pay complainant-appellee financial assistance in the amount of P229,681.35 only and her accrued wages in the amount of P1,224,967.28 for the period covering December 2004, the date of the decision ordering her reinstatement until the date of this Resolution. The order to return to complainant-appellee the amount of P51,692.72, which represents deduction from her salary and not raised on appeal, **STANDS**. Finally, the award of moral and exemplary damages and attorney's fees, as well as the joint and solidarily (*sic*) liability of individual respondents Paul A. Aquino and Ester R. Guerzon are hereby **DELETED**.

SO ORDERED.²⁹ (Emphasis in the original.)

The NLRC agreed with the Labor Arbiter that Buenviaje was a regular employee of PNO-C-EDC, noting that the terms of her appointment expressly grants a regular status of employment.³⁰ The NLRC also found that PNO-C-EDC admitted that Buenviaje has been performing the functions of a Marketing Division Manager for more than six (6) months before she was formally appointed to the said position.³¹ Nevertheless, the NLRC ruled that she was not illegally dismissed because she did not enjoy security of tenure.³² The NLRC noted that the condition in Buenviaje's appointment letter, which provided that her appointment is subject to confirmation by her immediate superior based on her performance during the next six (6) months, was clear and understood by her when she affixed her signature to the appointment letter.³³ The NLRC concluded that only upon confirmation of her appointment will Buenviaje enjoy the right to security of tenure.³⁴ As it was, PNO-C-EDC found her performance unsatisfactory and Buenviaje failed to disprove these findings. Therefore, Buenviaje failed to complete her appointment as a regular employee and her non-confirmation cannot be considered as an illegal dismissal.³⁵

²⁸ *Id.* at 185-200.

²⁹ *Id.* at 199.

³⁰ *Id.* at 195.


³¹ *Id.*

³² *Id.*

³³ *Rollo* (G.R. Nos. 183200-01), p. 196.

³⁴ *Id.*

³⁵ See *rollo* (G.R. Nos. 183200-01), pp. 196-197.



With respect to Buenviaje's prayer for moral and exemplary damages, and attorney's fees, the NLRC found no basis to grant the same. The NLRC also found no basis for the solidary liability of Aquino and Guerzon.³⁶

Both parties asked the NLRC to reconsider its Resolution, but the NLRC denied their motions. Thus, both parties filed their petitions for *certiorari* with the CA.

The Ruling of the Court of Appeals

The CA partially modified the Resolution of the NLRC. The dispositive portion of the CA Decision³⁷ dated October 31, 2007 reads:

WHEREFORE, in view of all the foregoing, the September 27, 2005 and January 31, 2006 Resolutions of the NLRC are **MODIFIED** as follows:

For having been illegally dismissed, petitioner Amelyn Buenviaje is entitled to receive a separation pay equivalent to ½ month pay for every year of service (with a fraction of at least 6 months considered one whole year) in lieu of reinstatement. In addition she is also to receive full backwages inclusive of allowances and other benefits or their monetary equivalent, computed from the time the compensation was withheld up to the finality of this decision.

The other awards in the NLRC decision as well as the deletion of the joint and solidary liabilities of Paul A. Aquino and Ester R. Guerzon are hereby **AFFIRMED**.

SO ORDERED.³⁸ (Emphasis in the original.)

The CA found no reason to disturb the findings of both the Labor Arbiter and the NLRC that Buenviaje was a regular employee of PNOC-EDC. However, it disagreed with the NLRC's ruling that Buenviaje failed to acquire security of tenure. The CA stated that where an employee has been engaged to perform activities which are usually necessary or desirable in the usual business of the employer, such employee is deemed a regular employee and is entitled to security of tenure notwithstanding the contrary provisions of his contract of employment.³⁹ As a regular employee, Buenviaje may only be dismissed if there are just or authorized causes. Thus, PNOC-EDC's reasoning that she failed to qualify for the position cannot be countenanced as a valid basis for her dismissal.⁴⁰

³⁶ *Id.* at 198-199.

³⁷ *Supra* note 2.

³⁸ *Rollo* (G.R. Nos. 183200-01), pp. 50-51.

³⁹ *Id.* at 47.

⁴⁰ *Id.* at 47-48.

Both parties filed their respective motions for reconsideration, which the CA denied. Hence, these consolidated petitions, which present the following issues:

- I. Whether Buenviaje was a permanent employee;
- II. Whether Buenviaje was illegally dismissed;
- III. Whether Buenviaje is entitled to moral and exemplary damages as well as attorney's fees;
- IV. Whether Buenviaje should be given separation pay in lieu of reinstatement; and
- V. Whether Aquino and Guerzon should be held jointly and severally liable to Buenviaje.

Our Ruling

Buenviaje was a permanent employee

Buenviaje was hired as a Marketing Division Manager, a position that performs activities that are usually necessary and desirable to the business of PNOC-EDC and is thusly, regular. As an employer, PNOC-EDC has an exclusive management prerogative to hire someone for the position, either on a permanent status right from the start or place him first on probation. In either case, the employee's right to security of tenure immediately attaches at the time of hiring.⁴¹ As a permanent employee, he may only be validly dismissed for a just⁴² or authorized⁴³ cause. As a probationary employee, he may also be validly dismissed for a just or authorized cause, or when he fails to qualify as a regular employee in accordance with reasonable standards

⁴¹ See *Robinsons Galleria/Robinsons Supermarket Corporation v. Ranchez*, G.R. No. 177937, January 19, 2011, 640 SCRA 135, 142.

⁴² LABOR CODE, Art. 297. *Termination by Employer*. – An employer may terminate an employment for any of the following causes:

- a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- b) Gross and habitual neglect by the employee of his duties;
- c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
- e) Other causes analogous to the foregoing. (As renumbered by Republic Act No. 10151.)

⁴³ LABOR CODE, Art. 298. *Closure of Establishment and Reduction of Personnel*. – The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year. (As renumbered by Republic Act No. 10151.)

made known to him by the employer at the time of his engagement.⁴⁴ Apart from the protection this last ground in the dismissal of a probationary employee affords the employee, it is also in line with the right or privilege of the employer to choose who will be accorded with regular or permanent status and who will be denied employment after the period of probation. It is within the exercise of this right that the employers may set or fix a probationary period within which it may test and observe the employee's conduct before hiring him permanently.⁴⁵

Here, PNOC-EDC exercised its prerogative to hire Buenviaje as a permanent employee right from the start or on February 1, 2004, the effectivity date of her appointment. In her appointment letter, PNOC-EDC's President expressly instructed the HRMD to amend Buenviaje's status from co-terminous to regular. He also informed her that her regular status shall be retroactive to July 1, 2001. Nowhere in the appointment letter did PNOC-EDC say that Buenviaje was being hired on probationary status. Upon evaluation on two (2) occasions, PNOC-EDC used a performance appraisal form intended for permanent managerial employees, even if the company had a form for probationary employees. The intention, therefore, all along was to grant Buenviaje regular or permanent employment. As correctly observed by the CA:

Accordingly, at the time of her formal appointment to the position on February 2, 2004, Amelyn Buenviaje has been performing the functions of a Senior Manager of the Marketing Division for almost six months. After having had the opportunity to observe her performance for almost six months as Senior Marketing Manager, PNOC should not have formally appointed her if she appeared to have been unqualified for the position. But as it is, Amelyn Buenviaje was formally appointed and given a regular status. x x x⁴⁶

This intention was clear notwithstanding the clause in the appointment letter saying that Buenviaje's appointment was subject to confirmation by her immediate superior based on her performance during the next six (6) months. This clause did not make her regularization conditional, but rather, effectively informed Buenviaje that her work performance will be evaluated later on. PNOC-EDC, on the other hand, insists that this clause demonstrates that Buenviaje was merely a probationary employee. Consequently, when she failed to meet the standards set by PNOC-EDC, the latter was well within its rights not to confirm her appointment and to dismiss her.

We are not persuaded.

⁴⁴ See *Carvajal v. Luzon Development Bank*, G.R. No. 186169, August 1, 2012, 678 SCRA 132; Article 296, formerly Article 281 of the Labor Code. (As renumbered by Republic Act No. 10151.)

⁴⁵ *Manlimos v. National Labor Relations Commission*, G.R. No. 113337, March 2, 1995, 242 SCRA 145, 155.

⁴⁶ *Rollo* (G.R. Nos. 183200-01), p. 49.

Firstly, if the clause in the appointment letter did cause an ambiguity in the employment status of Buenviaje, we hold that the ambiguity should be resolved in her favor. This is in line with the policy under our Labor Code to afford protection to labor and to construe doubts in favor of labor.⁴⁷ We upheld this policy in *De Castro v. Liberty Broadcasting Network, Inc.*,⁴⁸ ruling that between a laborer and his employer, doubts reasonably arising from the evidence or interpretation of agreements and writing should be resolved in the former's favor.⁴⁹ Hence, what would be more favorable to Buenviaje would be to accord her a permanent status.

But more importantly, apart from the express intention in her appointment letter, there is substantial evidence to prove that Buenviaje was a permanent employee and not a probationary one.

A *probationary employee* is defined as one who is on trial by an employer during which the employer determines whether or not he is qualified for permanent employment.⁵⁰ In general, probationary employment cannot exceed six (6) months, otherwise the employee concerned shall be considered a regular employee.⁵¹ It is also indispensable in probationary employment that the employer informs the employee of the reasonable standards that will be used as a basis for his or her regularization at the time of his or her engagement.⁵² If the employer fails to comply with this, then the employee is considered a regular employee.⁵³

In their reply to Buenviaje dated July 28, 2004, PNOC-EDC reminded Buenviaje that the standards "were thoroughly discussed with [her] separately soon after [she] signed [her] contract, as well as that which was contained in the job description attached thereto."⁵⁴ PNOC-EDC maintained this position in its appeal memorandum,⁵⁵ asserting that Buenviaje was apprised of the reasonable standards for regularization by virtue of the job description attached to her appointment.⁵⁶ They also alleged that the standards were discussed with Buenviaje prior to her first and second appraisals.⁵⁷ We, however, do not find these circumstances sufficient to categorize Buenviaje as a probationary employee.

⁴⁷ See *Asuncion v. National Labor Relations Commission*, G.R. No. 129329, July 31, 2001, 362 SCRA 56, 68.

⁴⁸ G.R. No. 165153, August 25, 2010, 629 SCRA 77.

⁴⁹ *Id.* at 83.

⁵⁰ *Phil. Federation of Credit Cooperatives, Inc. v. NLRC*, G.R. No. 121071, December 11, 1998, 300 SCRA 72, 76.

⁵¹ LABOR CODE, Art. 296. (As renumbered by Republic Act No. 10151.)

⁵² *Id.*

⁵³ *Abbott Laboratories, Philippines v. Alcaraz*, G.R. No. 192571, July 23, 2013, 701 SCRA 682, 706-707.

⁵⁴ *Rollo* (G.R. Nos. 183200-01), p. 130.

⁵⁵ *Id.* at 155-183.

⁵⁶ *Id.* at 174.

⁵⁷ *Id.*



In *Abbott Laboratories, Philippines v. Alcaraz*,⁵⁸ we were confronted with the similar question of whether Alcaraz was sufficiently informed of the reasonable standards that would qualify her as a regular employee. In affirming that she was, we enumerated the details and circumstances prior to, during the time of her engagement, and the incipient stages of her employment that show she was well-apprised of her employer's expectations that would, in turn, determine her regularization. These were:

(a) On June 27, 2004, Abbott caused the publication in a major broadsheet newspaper of its need for a Regulatory Affairs Manager, indicating therein the job description for as well as the duties and responsibilities attendant to the aforesaid position; this prompted Alcaraz to submit her application to Abbott on October 4, 2004;

(b) In Abbott's December 7, 2004 offer sheet, it was stated that Alcaraz was to be employed on a probationary status;

(c) On February 12, 2005, Alcaraz signed an employment contract which specifically stated, *inter alia*, that she was to be placed on probation for a period of six (6) months beginning February 15, 2005 to August 14, 2005;

(d) On the day Alcaraz accepted Abbott's employment offer, Bernardo sent her copies of Abbott's organizational structure and her job description through e-mail;

(e) Alcaraz was made to undergo a pre-employment orientation where Almazar informed her that she had to implement Abbott's Code of Conduct and office policies on human resources and finance and that she would be reporting directly to Walsh;

(f) Alcaraz was also required to undergo a training program as part of her orientation;

(g) Alcaraz received copies of Abbott's Code of Conduct and Performance Modules from Misa who explained to her the procedure for evaluating the performance of probationary employees; she was further notified that Abbott had only one evaluation system for all of its employees; and

(h) Moreover, Alcaraz had previously worked for another pharmaceutical company and had admitted to have an "extensive training and background" to acquire the necessary skills for her job.⁵⁹

⁵⁸ G.R. No. 192571, July 23, 2013, 701 SCRA 682 and April 22, 2014, 723 SCRA 25.

⁵⁹ G.R. No. 192571, July 23, 2013, 701 SCRA 682, 708-709.

We concluded that “[c]onsidering the totality of the above-stated circumstances, it cannot, therefore, be doubted that Alcaraz was well-aware that her regularization would depend on her ability and capacity to fulfill the requirements of her position as Regulatory Affairs Manager and that her failure to perform such would give Abbott a valid cause to terminate her probationary employment.”⁶⁰

We stress here that the receipt by Buenviaje of her job description does not make this case on all fours with *Abbott*. The receipt of job description and the company’s code of conduct in that case was just one of the attendant circumstances which we found equivalent to being actually informed of the performance standards upon which a probationary employee should be evaluated. What was significant in that case was that both the offer sheet and the employment contract specifically stated that respondent was being employed on a probationary status. Thus, the intention of Abbott was to hire Alcaraz as a probationary employee. This circumstance is not obtaining in this case and the opposite, as we have already discussed, is true.

Of equal significance, the job description attached to Buenviaje’s appointment letter merely answers the question: “what duties and responsibilities does the position entail?”, but fails to provide the answer/s to the question: “how would the employer gauge the performance of the probationary employee?”. The job description merely contains her job identification, her immediate superior and subordinates, a list of her job objectives, duties and responsibilities, and the qualification guidelines required of her position (*i.e.*, minimum education, minimum experience, and special skills). There is no question that performance of duties and responsibilities is a necessary standard for qualifying for regular employment. It does not stop on mere performance, however. There must be a measure as to how poor, fair, satisfactory, or excellent the performance has been. PNOC-EDC, in fact, used an appraisal form when it evaluated the performance of Buenviaje twice. A copy of this appraisal form, unlike in *Abbot*, was not given to Buenviaje at any time prior to, during the time of her engagement, and the incipient stages of her employment. A comparison of the job description and the standards in the appraisal form reveals that they are distinct. The job description is just that, an enumeration of the duties and responsibilities of Buenviaje. To better illustrate, the job objectives, duties and responsibilities of Buenviaje are set out below:


III. JOB OBJECTIVE

1. To set the overall marketing objectives and directions of EDC, in coordination with EDC Operations, through the Department Managers and Corporate Services units.
2. To initiate the preparation of detailed/specific short (annual) and medium to long term (2-5 years) marketing plans and programs.

⁶⁰ *Id.* at 709.

3. To monitor the implementation of the work performance and execution of the plans and programs of Public & Marketing Relations, Power & Energy Services, and Market Development.
4. To manage the functional and administrative requirements of the managers for Public & Marketing Relations, Power & Energy Services, and Market Development.

IV. DUTIES AND RESPONSIBILITIES

1. Ensures that a survey of potential markets and customers in relation to newly developed or soon-to-be-completed power projects are regularly initiated.
 2. Develops marketing plans and strategies with Managers and staff, relevant to new and/or uncommitted power and/or resources for both contracted and through the Wholesale Electricity Spot Market (WESM).
 3. Develops marketing plans and strategies with managers on new opportunities for Energy Services (Drilling, Geoscientific, Design and Engineering, etc.).
 4. Ensures and oversees the development of a business networking system and database.
 5. Establishes business contacts (domestic and overseas) and oversees market development and opportunities through the subordinate managers.
 6. Ensures and oversees the development of an effective advertising program, annually and as needed (print, publication, etc.), to propagate and enhance EDC's public image and awareness of its marketable products and services.
 7. Develops new marketable products and services, in coordination with Operations and Corporate Services.
 8. Represents Top Management in various fora, conventions, etc. for business/marketing opportunities domestically and internationally.
 9. Ensures that an effective system of customer after-sales and service monitoring is in place.
 10. Approves all expense disbursements, contracts, and other corporate documents in accordance with the approval limits specified in the EDC Approvals Policy.
 11. Issues instructions on marketing matters to the subordinate managers in accordance with decisions from Top Management/Board and/or as coordinated with Operations and Corporate Services.
 12. Initiates and conducts check-up meetings and conferences with the subordinate managers and their staff.
 13. Functions as budget administrator of the Senior Manager's Office.
 14. Oversees the preparation of the consolidated annual capital and operating expense budget for the division.
 15. Executes EDC's marketing contracts, in accordance with approvals policy.
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16. Oversees the preparation and consolidation of all the personnel performance appraisals of the division and effectively administers the forced-ranking program, consistent with company guidelines.
17. Administers the personnel performance appraisal of office staff and managers.
18. Oversees the preparation of the training requirements of the subordinate managers and their staff.
19. Performs other duties which may be assigned from time to time.⁶¹

The foregoing, however, invite the question as to what are the specific qualitative and/or quantitative standards of PNOC-EDC. With respect to the first job objective listed above, for instance, one may ask: “how will PNOC-EDC measure the performance of Buenviaje as to whether she has adequately set the overall marketing objectives and directions of PNOC-EDC, in coordination with PNOC-EDC Operations, through the Department Managers and Corporate Service units?”. The same is true with the first duty: “how will PNOC-EDC measure the performance of Buenviaje as to whether she has ensured that a survey of potential markets and customers in relation to newly developed or soon-to-be-completed power projects are regularly initiated?”.

On the other hand, the appraisal form appraises the elements of performance, which are categorized into results-based factors, individual effectiveness and co-worker effectiveness.⁶² Pertinently, the results-based factors, which are broken down into output indicators of: 1.) quality, 2.) quantity, 3.) timeliness, 4.) cost effectiveness, 5.) safety/housekeeping/environmental consciousness, and 6.) profit objectives, are rated according to expected outputs or key result areas, performance standards, and actual accomplishments. Clearly, the form specifies the performance standards PNOC-EDC will use, which demonstrates that PNOC-EDC expected a certain manner, level, or extent by which she should perform her job. PNOC-EDC knew the job description and the performance appraisal form are not one and the same, having specifically used the latter when it evaluated Buenviaje and not the job description attached to the appointment letter. The fact, therefore, that PNOC-EDC used a performance appraisal form with standards expected from Buenviaje further negates any assumption that these standards were of basic knowledge and common sense,⁶³ or that Buenviaje’s position was self-descriptive such that there was no need to spell out the standards at the time of her engagement.⁶⁴

⁶¹ *Rollo* (G.R. Nos. 183200-01), pp. 111-112.

⁶² *Id.* at 113-114.

⁶³ See *Aberdeen Court, Inc. v. Agustin, Jr.*, G.R. No. 149371, April 13, 2005, 456 SCRA 32.

⁶⁴ See *Robinsons Galleria/Robinsons Supermarket Corporation v. Sanchez*, G.R. No. 177937, January 19, 2011, 640 SCRA 135, 145.

Buenviaje was illegally dismissed

The foregoing discussion proves Buenviaje was hired as a permanent employee on February 1, 2004. As a permanent employee, she may only be dismissed by PNOC-EDC after observing the following substantive and procedural requirements:

1. The dismissal must be for a just or authorized cause;
2. The employer must furnish the employee with two (2) written notices before termination of employment can be legally effected. The first notice states the particular acts or omissions for which dismissal is sought while the second notice states the employer's decision to dismiss the employee; and
3. The employee must be given an opportunity to be heard.⁶⁵

PNOC-EDC failed to observe these requirements because it operated on the wrong premise that Buenviaje was a probationary employee. But even if we were to assume that she was, she would still be illegally dismissed in light of PNOC-EDC's violation of the provisions of the Labor Code in dismissing a probationary employee.

A probationary employee also enjoys security of tenure, although it is not on the same plane as that of a permanent employee.⁶⁶ This is so because aside from just and authorized causes, a probationary employee may also be dismissed due to failure to qualify in accordance with the standards of the employer made known to him at the time of his engagement.⁶⁷ PNOC-EDC dismissed Buenviaje on this latter ground; that is, Buenviaje allegedly failed to meet the standards set by the company. In dismissing probationary employees on this ground, there is no need for a notice and hearing.⁶⁸ The employer, however, must still observe due process of law in the form of: 1) informing the employee of the reasonable standards expected of him during his probationary period at the time of his engagement;⁶⁹ and 2) serving the employee with a written notice within a reasonable time from the effective date of termination.⁷⁰ By the very nature of a probationary employment, the employee needs to know from the very start that he will be under close observation and his performance of his assigned duties and functions would be under continuous scrutiny by his superiors. It is in apprising him of the standards against which his performance shall be continuously assessed

⁶⁵ *Yabut v. Manila Electric Company*, G.R. No. 190436, January 16, 2012, 663 SCRA 92, 107-108.

⁶⁶ See *Mercado v. AMA Computer College Paranaque City, Inc.*, G.R. No. 183572, April 13, 2010, 618 SCRA 218, 238-241.

⁶⁷ *Robinsons Galleria/Robinsons Supermarket Corporation v. Ranchez*, *supra* note 41 citing the Omnibus Rules Implementing the Labor Code, Book VI, Rule I, Sec. 6 (c).

⁶⁸ *Philippine Daily Inquirer, Inc. v. Magtibay, Jr.*, G.R. No. 164532, July 27, 2007, 528 SCRA 355, 364.

⁶⁹ *Id.*

⁷⁰ Omnibus Rules Implementing the Labor Code, Book VI, Rule I, Sec. 2 (d).

where due process lies.⁷¹ Likewise, probationary employees are entitled to know the reason for their failure to qualify as regular employees.⁷²

As we have previously settled, PNOC-EDC failed to inform Buenviaje of the reasonable standards for her regularization at the time of her engagement. The unfairness of this failure became apparent with the results of Buenviaje's appraisals. In her first appraisal covering a three-month period from February 1, 2004 to April 30, 2004, Buenviaje received a satisfactory rating. It was in her second appraisal covering a two-month period from May 1, 2004 to June 30, 2004 where she received an unsatisfactory rating that led to her dismissal. There was no proof, however, that per PNOC-EDC's standards, receiving an unsatisfactory rating of four (4) from a satisfactory rating of three (3) will result to failure to qualify for regularization.

Neither would PNOC-EDC's reason for dismissing Buenviaje qualify as a just cause. Under Article 297 of the Labor Code, an unsatisfactory rating can be a just cause for dismissal only if it amounts to gross and habitual neglect of duties.⁷³ Analogous to this ground, an unsatisfactory performance may also mean gross inefficiency. "Gross inefficiency" is closely related to "gross neglect," for both involve specific acts of omission on the part of the employee resulting in damage to the employer or to his business.⁷⁴ Failure to observe prescribed standards of work or to fulfill reasonable work assignments due to inefficiency may constitute just cause for dismissal. Such inefficiency is understood to mean failure to attain work goals or work quotas, either by failing to complete the same within the allotted reasonable period, or by producing unsatisfactory results. This management prerogative of requiring standards may be availed of so long as they are exercised in good faith for the advancement of the employer's interest.⁷⁵

The fact that an employee's performance is found to be poor or unsatisfactory does not necessarily mean that the employee is grossly and habitually negligent of or inefficient in his duties.⁷⁶ Buenviaje's performance, poor as it might have been, did not amount to gross and habitual neglect of duties or gross inefficiency. The markedly different results of several factors in the appraisals in a span of five (5) months prove this. To illustrate:

February 1, 2004-April 30, 2004	May 1, 2004-June 30, 2004
Quantity — x x x Completed the public relations programs scheduled within the period including those	Quantity — While several marketing programs have been undertaken, no submissions were

⁷¹ *Philippine Daily Inquirer v. Magtibay, Jr.*, *supra*.

⁷² See *Colegio del Santisimo Rosario v. Rojo*, G.R. No. 170388, September 4, 2013, 705 SCRA 63, 82.

⁷³ LABOR CODE, Art. 297, par. (b). (As renumbered by Republic Act No. 10151.)

⁷⁴ *Aliling v. Feliciano*, G.R. No. 185829, April 25, 2012, 671 SCRA 186, 206.

⁷⁵ *Buiser v. Leogardo, Jr.*, G.R. No. L-63316, July 31, 1984, 131 SCRA 151, 158.

⁷⁶ See *INC Shipmanagement, Inc. v. Camporeddo*, G.R. No. 199931, September 7, 2015.

directed on special assignment basis like the Dr. Alcaraz lounge.	made on the projects required by immediate superior x x x.
Timeliness — Timely submission of reports and processed invoices. PR programs were responsive to company's call.	Timeliness — Has not met organizational needs as the required projects on Tongonan I and Bacman deemed important for the formulation of strategies have not been submitted. x x x Priorities have not been set so as to be responsive to company needs.
Cost Effectiveness — Observed in general the proper use of operating and capital budgets.	Cost Effectiveness — Some recommendations tended to be expensive and demonstrated non-optimization of funds, methods and manpower.
Judgment — Able to come up with good decisions but has to arrive at more complete and conclusive recommendations. <i>Examples: x x x</i>	Judgment — Needed to come up with more sound decisions. <i>Examples: x x x</i>
Leadership — She has a strong personality and able to influence others specially the subordinates to accomplish their tasks diligently. ⁷⁷	Leadership — x x x Not much supervision and direction is given to her various departments as can be gleaned from the quality of work produced particularly in Market Development where results are mere researchers (<i>sic</i>) without firm recommendations where applicable. ⁷⁸

Gross negligence implies a want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.⁷⁹ As a just cause, it also has to be habitual, which implies repeated failure to perform one's duties for a period of time, depending upon the circumstances. A single or isolated act of negligence, as was shown here, does not constitute a just cause for the dismissal of the employee.⁸⁰

PNOC-EDC would also be in violation of procedural due process if Buenviaje were dismissed on the purported ground of gross negligence or inefficiency. For termination of employees based on just causes, the employer must furnish the employee with two (2) written notices before termination of employment can be effected: a first written notice that informs the employee of the particular acts or omissions for which his or her dismissal is sought, and a second written notice which informs the employee

⁷⁷ *Rollo* (G.R. Nos. 183200-01), pp. 116-117.

⁷⁸ *Id.* at 122-123.

⁷⁹ *Universal Staffing Services, Inc. v. National Labor Relations Commission*, G.R. No. 177576, July 21, 2008, 559 SCRA 221, 229.

⁸⁰ See *St. Luke's Medical Center, Inc. v. Notario*, G.R. No. 152166, October 20, 2010, 634 SCRA 67, 78.

of the employer's decision to dismiss him. In considering whether the charge in the first notice is sufficient to warrant dismissal under the second notice, the employer must afford the employee ample opportunity to be heard.⁸¹ Although Buenviaje indeed received two (2) letters from PNOC-EDC regarding her termination, these letters fall short of the two (2) notices required under the law. The first letter sent to Buenviaje failed to apprise her of the particular acts or omissions on which her dismissal was based. It was merely a bare statement that Buenviaje's performance failed to meet PNOC-EDC's minimum requirements. True, Buenviaje replied to the first letter, but considering that it did not specify the acts or omissions warranting her dismissal but only served to inform her of her termination, Buenviaje was not afforded a reasonable and meaningful opportunity to explain her side.

Buenviaje is entitled to separation pay and attorney's fees

An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.⁸² However, there are instances when reinstatement is no longer feasible, such as when the employer-employee relationship has become strained. In these cases, separation pay may be granted in lieu of reinstatement, the payment of which favors both parties. As we have previously stated in *Bank of Lubao, Inc. v. Manabat*:⁸³

x x x On one hand, such payment [of separation pay] liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.⁸⁴

Separation pay or financial assistance may also be granted to a legally terminated employee as an act of social justice and equity when the circumstances so warrant.⁸⁵ In awarding financial assistance, the interests of both the employer and the employee must be tempered, if only to approximate what Justice Laurel calls justice in its secular sense.⁸⁶ As the term suggests, its objective is to enable an employee to get by after he has

⁸¹ *Sang-an v. Equator Knights Detective and Security Agency, Inc.*, G.R. No. 173189, February 13, 2013, 690 SCRA 534, 544.

⁸² LABOR CODE, Art. 294. (As renumbered by Republic Act No. 10151.)

⁸³ G.R. No. 188722, February 1, 2012, 664 SCRA 772.

⁸⁴ *Id.* at 780.

⁸⁵ *St. Joseph Academy of Valenzuela Faculty Association (SJA VFA)-FUR Chapter-TUCP v. St. Joseph Academy of Valenzuela*, G.R. No. 182957, June 13, 2013, 698 SCRA 342, 350.

⁸⁶ *Eastern Shipping Lines, Inc. v. Sedan*, G.R. No. 159354, April 7, 2006, 486 SCRA 565, 574-575, citing *Catalang v. Williams*, 70 Phil. 726 (1940).

been stripped of his source of income from which he relies mainly, if not, solely.⁸⁷

We agree with the CA that the reinstatement of Buenviaje is no longer viable given the irreconcilable differences and strained relations between her and PNOC-EDC. In light of this, separation pay with full backwages, in lieu of Buenviaje's reinstatement, is warranted.

Moreover, it is a well-settled rule that in actions for recovery of wages, or where an employee was forced to litigate and, thus, incur expenses to protect his rights and interests, attorney's fees may be granted pursuant to Article 111 of the Labor Code.⁸⁸ Considering, therefore, that she was forced to litigate in order to assert her rights,⁸⁹ Buenviaje is entitled to attorney's fees in the amount of ten percent (10%) of the total award of backwages.⁹⁰

*Buenviaje is entitled to moral
and exemplary damages*

The claim for moral damages cannot be justified solely upon the premise that the employer fired his employee without just cause or due process. Additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, these being, that the act of dismissal was attended by bad faith or fraud, or was oppressive to labor, or done in a manner contrary to morals, good customs, or public policy; and, of course, that social humiliation, wounded feelings, grave anxiety, *etc.*, resulted therefrom.⁹¹ Bad faith "implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity."⁹² Bad faith must be proven through clear and convincing evidence. This is because bad faith and fraud are serious accusations that can be so conveniently and casually invoked, and that is why they are never presumed. They amount to mere slogans or mudslinging unless convincingly substantiated by whoever is alleging them.⁹³

Exemplary damages, on the other hand, may be granted when the dismissal of the employee was done in a wanton, oppressive or malevolent manner.⁹⁴

⁸⁷ See *Guatson International Travel and Tours, Inc. v. NLRC*, G.R. No. 100322, March 9, 1994, 230 SCRA 815, 824.

⁸⁸ *Tangga-an v. Philippine Transmarine Carriers, Inc.*, G.R. No. 180636, March 13, 2013, 693 SCRA 340, 355-356.

⁸⁹ *Id.*

⁹⁰ Art. 111. *Attorney's Fees.* – (a) In cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered.

x x x

⁹¹ *Montinola v. Philippine Airlines*, G.R. No. 198656, September 8, 2014, 734 SCRA 439, 458, citing *Primero v. Intermediate Appellate Court*, G.R. No. L-72644, December 14, 1987, 156 SCRA 435.

⁹² *Id.*, citing *Laureano Investment and Development Corporation v. Court of Appeals*, G.R. No. 100468, May 6, 1997, 272 SCRA 253.

⁹³ *Id.*, citing *Cathay Pacific Airways, Ltd. v. Vazquez*, G.R. No. 150843, March 14, 2003, 399 SCRA 207.

⁹⁴ *Pasos v. Philippine National Construction Corporation*, G.R. No. 192394, July 3, 2013, 700 SCRA 608, 631.

Buenviaje argues that she is entitled to an award of these damages because PNOC-EDC, Aquino, and Guerzon acted in bad faith.⁹⁵ To Buenviaje's mind, the following acts of PNOC-EDC, Aquino, and Guerzon prove that they acted in bad faith:

1. They used the evaluation form for regular employees in evaluating Buenviaje;
2. Buenviaje was evaluated using the standards for regular employees;
3. Unlike the first evaluation, Aquino did not sign the second evaluation; and
4. The second evaluation was conducted without Buenviaje's knowledge.⁹⁶

We agree that there was manifest bad faith when Buenviaje was evaluated using the standards and performance appraisal form for regular employees, yet, in dismissing her, she was treated as a probationary employee. To reiterate, the clear intention of PNOC-EDC from the start was to grant Buenviaje a permanent status. She was evaluated in a short span of five (5) months, in which her previous satisfactory outputs turned unsatisfactory. There were also factors or variables that showed PNOC-EDC initially found as her strengths but were now inexplicably viewed as negative. For example, PNOC-EDC found Buenviaje's political connections helpful in pushing for marketing programs; yet, PNOC-EDC criticized her for flaunting her strong political connections as an instrument in achieving the company's objectives.⁹⁷

With regard to the third and fourth acts, though, we find no malice or bad faith against PNOC-EDC. PNOC-EDC was able to refute the allegation that Aquino did not sign the second evaluation by annexing a signed one in its appeal memorandum.⁹⁸ As to the allegation that her second evaluation was conducted without her knowledge, we find the same inconsequential. To repeat, Buenviaje's appointment letter apprised her of performance evaluations in the horizon for the next six (6) months. Even if it weren't expressly communicated to her, it would have certainly been reasonable for Buenviaje to expect that her performance would be gauged and appraised at any given time.

Thus, the Labor Arbiter's award of moral and exemplary damages is proper. We are wont, however, to reduce the amounts he fixed by reason alone of the "extent of the damage done to [Buenviaje] who occupies a high managerial position."⁹⁹ We find his award excessive in the absence of evidence to prove the degree of moral suffering or injury that Buenviaje


⁹⁵ *Rollo* (G.R. Nos. 183253 & 183257), p. 47.

⁹⁶ *Id.* at 45-46.

⁹⁷ *Rollo* (G.R. Nos. 183200-01), pp. 120 and 123.

⁹⁸ *Id.* at 178-179.

⁹⁹ *Id.* at 152.



suffered.¹⁰⁰ In line with our ruling in *Magsaysay Maritime Corporation v. Chin, Jr.*,¹⁰¹ we hold that an award of ₱30,000 as moral damages and ₱25,000 as exemplary damages is more fair and reasonable. We explained:

x x x It has been held that in order to arrive at a judicious approximation of emotional or moral injury, competent and substantial proof of the suffering experienced must be laid before the court. It is worthy to stress that moral damages are awarded as compensation for actual injury suffered and not as a penalty. The Court believes that an award of P30,000.00 as moral damages is commensurate to the anxiety and inconvenience that Chin suffered.

As for exemplary damages, the award of P25,000.00 is already sufficient to discourage petitioner Magsaysay from entering into iniquitous agreements with its employees that violate their right to collect the amounts to which they are entitled under the law. Exemplary damages are imposed not to enrich one party or impoverish another but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions.¹⁰² (Citations omitted.)

However, the extent of liability of the respondents should not be solidary.

A corporation, as a juridical entity, may act only through its directors, officers and employees. Obligations incurred as a result of the directors' and officers' acts as corporate agents, are not their personal liability but the direct responsibility of the corporation they represent. As a rule, they are only solidarily liable with the corporation for the illegal termination of services of employees if they acted with malice or bad faith.¹⁰³

To hold a director or officer personally liable for corporate obligations, two (2) requisites must concur: (1) it must be alleged in the complaint that the director or officer assented to patently unlawful acts of the corporation or that the officer was guilty of gross negligence or bad faith; and (2) there must be proof that the officer acted in bad faith.¹⁰⁴

While the position paper of Buenviaje alleges that the respondents acted in bad faith and that Aquino and Guerzon, in particular, conspired with each other to terminate her illegally, we find these allegations were not clearly and convincingly proved. To our mind, there was insufficient

¹⁰⁰ See *Magsaysay Maritime Corporation v. Chin, Jr.*, G.R. No. 199022, April 7, 2014, 721 SCRA 46, 51.

¹⁰¹ G.R. No. 199022, April 7, 2014, 721 SCRA 46.

¹⁰² *Id.* at 51-52.

¹⁰³ *Polymer Rubber Corporation v. Salamuding*, G.R. No. 185160, July 24, 2013, 702 SCRA 153, 160, citing *Peñaflor v. Outdoor Clothing Manufacturing Corporation*, G.R. No. 177114, April 13, 2010, 618 SCRA 208, 216.


¹⁰⁴ *Polymer Rubber Corporation v. Salamuding*, G.R. No. 185160, July 24, 2013, 702 SCRA 153, 161, citing *Francisco v. Mallen, Jr.*, G.R. No. 173169, September 22, 2010, 631 SCRA 118, 123-124.



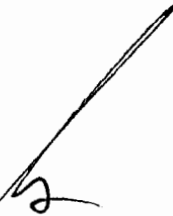
evidence that Aquino and Guerzon were personally motivated by ill-will in dismissing Buenviaje.¹⁰⁵


WHEREFORE, the petition in **G.R. Nos. 183200-01** is **DENIED** while the petition in **G.R. Nos. 183253** and **183257** is **PARTIALLY GRANTED**. The October 31, 2007 Decision and June 3, 2008 Resolution of the CA in CA-G.R. S.P. Nos. 94359 and 94458 are **AFFIRMED** with the **MODIFICATION** that PNOC-EDC is ordered to pay Amelyn Buenviaje moral damages in the amount of ₱30,000, exemplary damages in the amount of ₱25,000, and attorney's fees equivalent to ten percent (10%) of the total award of backwages.

SO ORDERED.



FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


BIENVENIDO L. REYES
Associate Justice

¹⁰⁵ See *Peñaflor v. Outdoor Clothing Manufacturing Corporation*, G.R. No. 177114, January 21, 2010, 610 SCRA 497.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.

*Associate Justice
Chairperson, Third Division*

CERTIFICATION

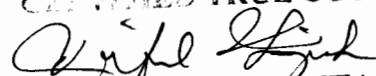
Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

CERTIFIED TRUE COPY



WENDELDO V. LAPITAN
Division Clerk of Court
Third Division

JUL 15 2016