



Republic of the Philippines
Supreme Court
Manila

EN BANC

**CAREER EXECUTIVE
SERVICE BOARD, represented
by its EXECUTIVE DIRECTOR,
MARIA ANTHONETTE
VELASCO-ALLONES,**
Petitioner,

G.R. No. 212348

Present:

CARPIO, *Acting C.J.*
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES,
TIJAM,
REYES, JR., and
GISMUNDO, *JJ.*

- versus -

**COMMISSION ON AUDIT; THE
AUDIT TEAM LEADER, CAREER
EXECUTIVE SERVICE BOARD;
and THE SUPERVISING
AUDITOR, CLUSTER A –
GENERAL PUBLIC SERVICES I,
NATIONAL GOVERNMENT
SECTOR,**

Promulgated:

June 19, 2018

Respondents.

Anna-Li R. Reyes Jones

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DECISION

BERSAMIN, J.:

By petition for *certiorari* and prohibition, petitioner Career Executive Service Board (CESB), through its then Executive Director Maria Anthonette Velasco-Allones, assails COA Decision No. 2010-121 rendered on November 19, 2010 by the Commission on Audit (COA) affirming the Notice of Disallowance (ND) issued by the Audit Team Leader (ATL) vis-à-

vis the payment of the monetary benefits for Calendar Years (CY) 2002 and 2003 to its covered officials and employees out of the CESB's savings.¹

The CESB asserts herein that COA Decision No. 2010-121 was null and void for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.²

Antecedents

The CESB granted to its officials and employees various monetary benefits in CY 2002 and CY 2003 pursuant to Section 2, Article V of the Collective Negotiation Agreement (CNA) it had entered into with the Samahan ng Kawaning Nagkakaisa sa Diwa, Gawa at Nilalayon (SANDIGAN), a duly accredited organization of its employees.

Section 2, Article V of the CNA stipulated as follows:

Section 2. Monetary Benefits. The [CESB] SECRETARIAT shall grant all CESB employees the following benefits, subject to existing laws and regulation and availability of funds:

1. **Fringe benefits** in the amount of not less than ten thousand pesos (₱10,000.00) each year;
2. **Rice Subsidy allowance** of one thousand pesos (₱1,000.00) a month;
3. **Birthday Cash Gift** in the amount of two thousand pesos (₱2,000.00) effective January 1, 2002 subject to such guidelines as the [CESB]SECRETARIAT and SANDIGAN may adopt;
4. **Christmas Grocery** in the form of groceries or gift check in the amount of not less than ten thousand pesos (₱10,000.00) effective year 2002 subject to such guidelines as the [CESB] SECRETARIAT and SANDIGAN may adopt;
5. **Loyalty Award** in the amount of one thousand pesos (₱1,000.00) for every year of service starting on the 10th year;
6. **Retirement Benefit.** In addition to the [CESB] SECRETARIAT'S [Program on Awards and Incentives for Service Excellence], pursuant to Civil Service Commission rules and regulations, the [CESB] SECRETARIAT shall

¹ Rollo, pp. 46-51 (Entitled *Petition of Ms. Mary Ann Z. Fernandez-Mendoza, Executive Director, Career Executive Service Board (CESB), for review of Legal and Adjudication Office-National (LAO-N) Resolution No. 2005-134A dated November 22, 2005, denying the appeal from Notice of Disallowance (ND) No. 2004-067 dated November 9, 2004 amounting to ₱2,386,000.00 representing economic benefits granted to CESB employees pursuant to the Collective Negotiaion Agreement (CNA).*)

² Id. at 18-26.

likewise provide a cash incentive of ten thousand pesos (₱10,000.00) to retirees whether under the optional or compulsory retirement schemes. The retiree should have rendered at least ten (10) years of satisfactory service in the [CESB] SECRETARIAT.

7. **Funeral Assistance** amounting to thirty thousand pesos (₱30,000.00) to the family of a SANDIGAN member.³

Upon post-audit, respondent ATL issued Audit Observation Memorandum (AOM) No. 2003 AAR-12, dated February 11, 2004, assailing the legality of the grant of benefits.

In due time, the Director of the Legal and Adjudication Office–National (LAO-N) issued ND No. 2004-67 dated November 9, 2004,⁴ to wit:

We have audited the Audit Observation Memorandum (AOM) No. 2003 AAR-12 dated February 11, 2004 and the accompanying supporting documents, issued by the Audit Team Leader, Career Executive Service Board, Quezon City relative to the payment of monetary benefits like Birthday Bonus, Fringe Benefits, Christmas Grocery and Retirement Pay in the total amount of ₱2,386,000.00 to its rank and files (sic) employees. The result of our audit shows that the payment of said monetary benefits has no legal support.⁵

On December 10, 2004, the CESB's Executive Director, Mary Ann Z. Fernandez-Mendoza, filed a request dated November 9, 2004 seeking the reconsideration of ND No. 2004-67.⁶ However, the LAO-N denied the request for reconsideration through Decision Number 2005-134 dated April 22, 2005.⁷

The CESB appealed,⁸ but the LAO-N denied the appeal through Resolution No. 2005-134A dated November 22, 2005.⁹

Ultimately, respondent COA rendered the assailed Decision No. 2010-121 to affirm ND No. 2004-67 dated November 9, 2004.¹⁰

Hence, this present recourse.

³ Id. at 91-92.
⁴ Id. at 30-33.
⁵ Id. at 30.
⁶ Id. at 34-35.
⁷ Id. at 36-38.
⁸ Id. at 39-42.
⁹ Id. at 43-45.
¹⁰ Id. at 46-51.

Issues

The CESB defines the issues to be resolved, as follows:

- a. Whether respondent COA committed grave abuse of discretion when it affirmed the recommendation of the Audit Team Leader (ATL) and the Supervising Auditor (SA) disallowing the monetary benefits granted by the petitioner;¹¹ and
- b. Whether respondent COA committed grave abuse of discretion when it ordered the refund of the amounts received by the CESB employees.¹²

Ruling of the Court

The Court finds that the respondents did not gravely abused their discretion in disallowing the payment of the monetary benefits under the CNA, but declares that the officials approving the payment and the employees receiving the monetary benefits are not required to reimburse the disallowed amounts on the ground of their good faith.

1.

The COA did not commit grave abuse of discretion

We uphold the disallowance by the COA of the monetary benefits granted by the CESB for being based on cogent legal grounds.

In the discharge of its constitutional mandate, the COA has been vested with enough latitude to determine, prevent and disallow irregular, unnecessary, excessive, extravagant, or unconscionable expenditures of government funds. It has the power to ascertain whether or not public funds were utilized for the purpose for which they had been intended.¹³ Being the guardian of public funds, it has been vested by the 1987 Constitution with broad powers over all accounts pertaining to government revenue and expenditures and the uses of public funds and property, including the exclusive authority to define the scope of its audit and examination, establish the techniques and methods for such review, and promulgate accounting and auditing rules and regulations.¹⁴

In this instance, the CESB granted the monetary benefits pursuant Section 2, Article V of the CNA. It argues that it needed no new

¹¹ Id. at 18.

¹² Id. at 22.

¹³ *Sanchez v. Commission on Audit*, G.R. No. 127545, April 23, 2008, 552 SCRA 471, 487-488.

¹⁴ *Yap v. Commission on Audit*, G.R. No. 158562, April 23, 2010, 619 SCRA 154, 167-168.

appropriation to grant the benefits inasmuch as its agency savings were utilized for the purpose. In justification, it stresses that the use of the savings for the benefits was authorized by the Department of Budget and Management (DBM) under National Budget Circular No. 487, which embodied the guidelines for the release of funds for CY 2003.

Section 3.10 of National Budget Circular No. 487 reads:

As an exception to Section 55 of the General Provisions of R.A. No. 9206, agencies are authorized to use savings to cover payment of TLB, RA x x x and collective negotiation agreement (CNA) incentives even if no specific appropriation is provided for the purpose.

The CESB submits that National Budget Circular 487 was issued primarily to enforce or implement an existing law, that is, Republic Act (R.A.) No. 9206 (*General Appropriations Act of 2003*);¹⁵ and that the DBM had the authority to identify such other compensations that could be granted over and above the standardized salary rates pursuant to Section 12 of R.A. No. 6758 (*Salary Standardization Law*), to wit:

Section 12. Consolidation of Allowances and Compensation. -

All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

that National Budget Circular 487, in conjunction with Section 12 of the SSL, in effect included the benefits paid under the CNA among those *not* integrated in or consolidated with the standardized salary rates pursuant to R.A. No. 6758;¹⁶ and that the DBM authorized the use of savings for the payment of the CNA benefits pursuant to the catch-all proviso ("*such other additional compensation not otherwise specified herein as may be determined by the DBM*") contained in Section 12 of R.A. No. 6758.

¹⁵ *Rollo*, p. 21.

¹⁶ *Id.* at 22.

The submissions of the CESB are unfounded.

To begin with, the DBM did not have any hand in the determination of the CNA benefits and incentives to be given to the CESB's employees and officers because the CNA had been entered into only by and between the CESB and SANDIGAN. As such, the DBM could not have expressly determined and authorized the additional compensations in the form of fringe benefits, rice subsidy allowance, birthday cash gift, Christmas grocery, loyalty award, retirement benefits and funeral assistance agreed upon by and between the CESB and SANDIGAN, and thus were not deemed to have been included in the prescribed standardized salary rates. The nature of such additional benefits for the CESB's employees required their still being included in the regular budget of the CESB, and such benefits would still be subject to approval by the DBM.

Secondly, Section 2, Rule VIII of the IRR enumerated the benefits that could be the subject of negotiation, *viz.*:

Section 2. The following concerns, among others, may be the subject of negotiation between the employer and the accredited employees' organization:

- a) Schedule of vacation and other leaves;
- b) Work assignment of pregnant women;
- c) Personnel growth and development;
- d) Communication system-lateral and vertical;
- e) Provision for protection and safety;
- f) Provision for facilities for handicapped personnel;
- g) Provision for first aid medical services and supplies;
- h) Physical fitness program;
- i) Provision for family planning services for married women;
- j) Annual medical/physical examination;
- k) Recreational, social, athletic and cultural activities and facilities.¹⁷

On the other hand, Section 3, Rule VIII of the IRR listed the benefits that were not subject to negotiation, to wit:

¹⁷ Id. at 47-48.

Section 3. Those that require appropriation of funds, such as the following, are not negotiable:

- a. Increase in the salary emoluments and other allowances not presently provided for by law;
- b. Facilities requiring capital outlays;
- c. Car plan;
- d. Provident fund;
- e. Special hospitalization, medical and dental services;
- f. Rice/sugar/other subsidies;
- g. Travel expenses;
- h. Increase in retirement benefits.¹⁸

In light of the foregoing provisions, the COA was correct in holding that the benefits given under the CNA were not allowed under Executive Order (EO) 180¹⁹ and its Implementing Rules and Regulations (IRR) because the benefits given by the CESB to its employees and officers were not subject to negotiation.

And, thirdly, the CESB's reliance on National Budget Circular 487 was bereft of legal anchor considering that the CESB had no legal authority to use its savings for the payment of the monetary benefits.

To explain, Section 29(1), Article VI of the 1987 Constitution ordains that: "No money shall be paid out of the Treasury except in pursuance of an appropriation made by law." The only exception is found in Section 25(5),²⁰ Article VI of the 1987 Constitution, by which the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Philippines, and the heads of the Constitutional Commissions are authorized to transfer appropriations to augment any item in the GAA for their respective offices from the savings in other items of their respective appropriations.²¹ The CESB is definitely not among the officials or agencies authorized to transfer their savings in other

¹⁸ Id. at 48.

¹⁹ *Exercise of the Right to Organize of Government Employees*

²⁰ Section 5. x x x
x x x x

5. No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

x x x x

²¹ *Nazareth v. Villar*, G.R. No. 188635, January 29, 2013, 689 SCRA 385, 402-405.

items of its appropriation. The CESB came into being by virtue of Presidential Decree No. 1 on September 1, 1974. The CESB, although intended to be an autonomous entity, is administratively attached to the Civil Service Commission (CSC),²² and does not wield the power to authorize the augmentation of items of its appropriations from savings in other items of its appropriations. With the CSC being the office vested with fiscal autonomy by the 1987 Constitution, the CESB's use of its savings to cover the CNA benefits for its employees had no legal basis.

We find no grave abuse of discretion on the part of the COA in issuing COA Decision No. 2010-121 dated November 19, 2010. By *grave abuse of discretion* is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.²³ The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave.²⁴

On the contrary, the COA only discharged and adhered to its duty and responsibility to exercise its general audit power under the 1987 Constitution.

2.

CESB and its employees need not return the benefits received because of their good faith

The validity of the disallowance notwithstanding, we note that the CESB's officials who authorized and caused the payment of the CNA benefits to covered officers and employees, and the latter as the recipients of the disallowed payments enjoyed the benefit of good faith and should be absolved from the liability to refund. To hold so conforms to the ruling in *De Jesus v. Commission on Audit*,²⁵ viz.:

Nevertheless, our pronouncement in *Blaquera v. Alcala* supports petitioners' position on the refund of the benefits they received. In *Blaquera*, the officials and employees of several government

²² *Eugenio v. Civil Service Commission*, G.R. No. 115863, March 31, 1995, 243 SCRA 196, 204.

²³ *United Coconut Planters Bank v. Looyuko*, G.R. No. 156337, September 28, 2007, 534 SCRA 322, 331.

²⁴ *Tan v. Antazo*, G.R. No. 187208, February 23, 2011, 644 SCRA 337, 342.

²⁵ G.R. No. 149154, June 10, 2003, 403 SCRA 666, 676-677.

departments and agencies were paid incentive benefits which the COA disallowed on the ground that Administrative Order No. 29 dated 19 January 1993 prohibited payment of these benefits. While the Court sustained the COA on the disallowance, it nevertheless declared that:

Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no *indicia* of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and the latter accepted the same with gratitude, confident that they richly deserve such benefits.

This ruling in *Blaquera* applies to the instant case. Petitioners here received the additional allowances and bonuses in good faith under the honest belief that LWUA Board Resolution No. 313 authorized such payment. At the time petitioners received the additional allowances and bonuses, the Court had not yet decided *Baybay Water District v. Commission on Audit*. Petitioners had no knowledge that such payment was without legal basis. Thus, being in good faith, petitioners need not refund the allowances and bonuses they received but disallowed by the COA.

This doctrine of good faith has been consistently followed in many other rulings.²⁶ Recently, in *Philippine Economic Zone Authority v. Commission on Audit (PEZA v. COA)*,²⁷ the Court has reiterated that the affirmance of the disallowance of payments or disbursements does not automatically cast liability on the responsible officers when good faith could be considered as a valid defense. To appreciate good faith as a valid defense of a public official being required to refund or reimburse a disallowed payment, however, the Court has required in *PEZA v. COA* that such public official must possess:

x x x [A] state of mind denoting “honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any

²⁶ *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 782 (“xxx The city officials disbursed the retirement and gratuity pay remuneration in the honest belief that the amounts given were due to the recipients and the latter accepted the same with gratitude, confident that they richly deserve such reward.”); *Casal v. Commission on Audit*, G.R. No. 149633, November 30, 2006, 509 SCRA 138, 150 (“As to the employees who received the incentive award without participating in the approval thereof, it cannot be said that they were either in bad faith or grossly negligent in so doing. The imprimatur given by the approving officers on such award certainly tended to give it a color of legality from the perspective of these employees. Being in good faith, they cannot, following *Blaquera*, be compelled to refund the benefits already granted to them.”); *Singson v. Commission on Audit*, G.R. No. 159355, August 9, 2010, 627 SCRA 36; *Molen, Jr. v. Commission on Audit*, G.R. No. 150222, March 18, 2005, 453 SCRA 769; *Querubin v. Regional Cluster Director, Legal and Adjudication Office, COA Regional Office VI, Pavia, Iloilo City*, G.R. No. 159299, July 7, 2004, 433 SCRA 769; *De Jesus v. Commission on Audit*, G.R. No. 156641, February 5, 2004, 422 SCRA 287; *Philippine International Trading Corporation v. Commission on Audit*, G.R. No. 152688, November 19, 2003, 416 SCRA 245.

²⁷ G.R. No. 210903, October 11, 2016, 805 SCRA 618, 642.

unconscientious advantage of another, even though technicalities of law, together with absence of all information, notice or benefit or belief of facts which render transaction unconscientious.”²⁸

Thus, guided by the recognition of the good faith on the part of the public officials and employees involved in *Arias v. Sandiganbayan*,²⁹ *Sistoza v. Desierto*³⁰ and *Social Security System v. Commission on Audit*,³¹ the Court has fittingly concluded in *PEZA v. COA* that:

x x x [I]t is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that readily capable of being understood at the time such functionaries acted in good faith. If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively. A contrary rule would be counterproductive. It could result in paralysis, or lack of innovative ideas getting tried. In addition, it could dissuade others from joining the government. When government service becomes unattractive, it could only have adverse consequences for society.³²

In fine, good faith is properly appreciated in favor of the public officials and employees involved when: (1) the concerned public officials authorize or the concerned employees receive the disallowed payment upon an honest belief that such authority to cause payment or to receive payment is valid and legal;³³ or (2) there is absence of circumstances that ought to put the concerned public officials or employees upon inquiry as to the validity or legality of the payment;³⁴ or (3) the document relied upon and signed shows no palpable, or patent, or definite defects;³⁵ or (4) the concerned public officer's trust and confidence in his subordinates upon whom the duty to ensure the validity or legality of the payment primarily devolves are within the parameters of tolerable judgment and permissible margins of error;³⁶ or (5) there has been no prior jurisprudence or ruling on the allowance or disallowance of the subject or similar payment.³⁷

The officials of the CESB who authorized and caused the disallowed payment of the CNA benefits apparently acted and believed in the honest belief that the grant of the monetary benefits was proper and had legal basis. Indeed, the CESB, relying on its autonomous character, which was not

²⁸ Id. at 642.

²⁹ G.R. No. 81563, December 19, 1989, 180 SCRA 309.

³⁰ G.R. No. 144784, September 3, 2002, 388 SCRA 307.

³¹ G.R. No. 210940, September 6, 2016, 802 SCRA 229.

³² G.R. No. 210903, October 11, 2016, 805 SCRA 618, 645-646.

³³ *De Jesus v. Commission on Audit*, G.R. No. 149154, June 10, 2003, 403 SCRA 666, 676-677; see also *Velooso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 782.

³⁴ *Social Security System v. Commission on Audit*, G.R. No. 210940, September 6, 2016, 802 SCRA 229, 252-255.

³⁵ *Sistoza v. Desierto*, G.R. No. 144784, September 3, 2002, 388 SCRA 307, 316.

³⁶ Id.

³⁷ See *Mendoza v. Commission on Audit*, G.R. No. 195395, September 10, 2013, 705 SCRA 306, 337-339.

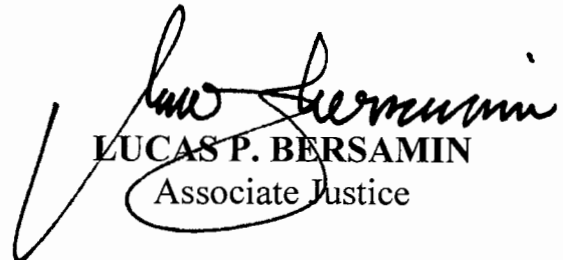
negated by its being an attached agency of the CSC,³⁸ sincerely believed in good faith that it had the legal authority to use its savings to pay the CAN benefits. Similarly, the recipients of the disallowed payment honestly believed that they were legally entitled to said benefits as the product of the CNA between the CESB and SANDIGAN, and thus received the benefits in good faith.

The CESB officers and employees' basis of good faith further stemmed from the fact that there had been no prior ruling yet to the effect that the CNA benefits were not deemed included in the prescribed standardized salary rates; that such benefits were in fact not negotiable; and that the CESB had no legal authority to pay such benefits out of its savings. With their good faith having been sufficiently established, it becomes just and imperative to release the concerned officials and employees of the CESB from any financial accountability or legal obligation of reimbursement respecting the disallowed payments of the CNA benefits.


WHEREFORE, the Court **PARTLY GRANTS** the petition for *certiorari*; and **UPHOLDS** Decision No. 2010-121 dated November 19, 2010 of the Commission on Audit subject to the **MODIFICATION** that all the officials of petitioner Career Executive Service Board who approved the granting of the monetary benefits under the Collective Negotiation Agreement, and all the officials and employees of the Career Executive Service Board who received the monetary benefits pursuant to the grant in question need not refund the disallowed amounts received.

No pronouncement on costs of suit.

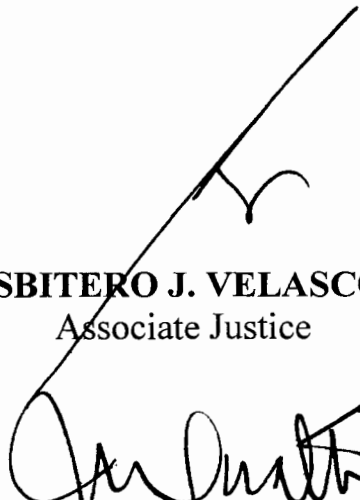
SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

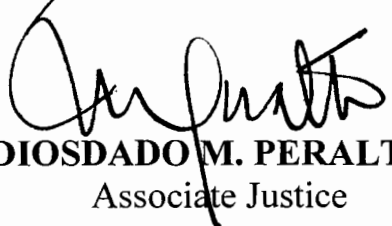
WE CONCUR:


ANTONIO T. CARPIO
Acting Chief Justice

³⁸ Id. at 205.

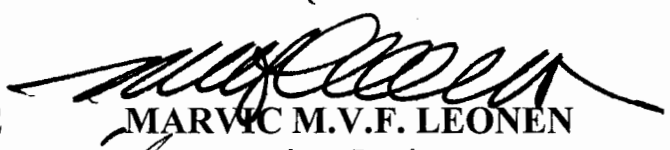

PRESBITERO J. VELASCO, JR.
Associate Justice

Teresito Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

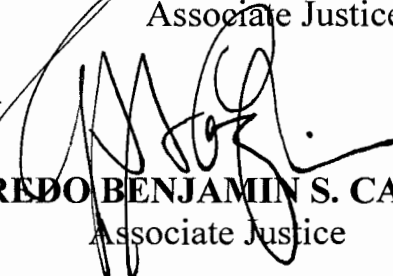

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Associate Justice

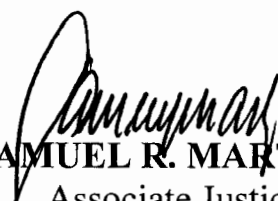

MARIANO C. DEL CASTILLO
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

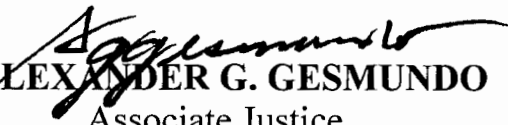
Francis H. Jardeleza
FRANCIS H. JARDELEZA
Associate Justice

*no part
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ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


SAMUEL R. MARTIRES
Associate Justice



NOEL GIMENEZ TIJAM
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ANTONIO T. CARPIO
Acting Chief Justice