



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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EN BANC

ELENA A. ESTALILLA,
Petitioner,

G.R. No. 217448

Present:

BERSAMIN, C.J.,
CARPIO,
PERALTA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A., JR.,
GESMUNDO,
REYES, J., JR.,
***HERNANDO,**
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, JJ.

- versus -

COMMISSION ON AUDIT,
Respondent.

Promulgated:

September 10, 2019.

X-----X

DECISION

BERSAMIN, C.J.:

A municipal treasurer who merely certifies to the availability of funds is not liable for the disallowance of the disbursement unless she has falsified the certification.

The Case

Petitioner Elena A. Estalilla seeks the review and setting aside of the

On official business.

decision promulgated on December 29, 2014,¹ whereby the Commission on Audit (COA) dismissed her appeal and held her liable in the amount of ₱35,591,200.00, thusly:

WHEREFORE, premises considered, the petition for review of Ms. Elena A. Estalilla of the denial of her Omnibus Motion to Lift the Notice of Finality of Decision and COA Order Of Execution and Admit Appeal Memorandum is hereby **DISMISSED**. Accordingly, Notices of Disallowance Nos. 2008-043-101(05) and 2008-044-101(04) dated November 18, 2008 and November 25, 2008, respectively, on the payment of the 2004 garbage collections of the Municipality of Cabuyao, Laguna, charged against the 2005 appropriation, in the total amount of ₱35,591,200.00, are final and executory.

Antecedents

This case emanated from the *Contract for the Hauling of Garbage*, entered into by and between the then Municipality of Cabuyao in the Province of Laguna and J.O. Batallones Trading and Construction on March 18, 2003² and May 1, 2005.³ The Sangguniang Bayan of Cabuyao had approved both contracts through *Pambayang Kapasyahan Bilang 048-2004* and *Pambayang Kapasyahan Bilang 067-2005*.⁴

After audit, the Audit Team Leader (ATL) of the Municipality of Cabuyao issued Audit Observation Memoranda (AOM) dated February 16, 2003 and September 13, 2005 upon discovering that payments totaling ₱35,591,200.00 for the 2004 garbage collections had been charged against the 2005 appropriation.⁵

Regional Cluster Director Eden D. Tingson Rafanan later on issued Notice of Disallowance (ND) No. 2008-0430-101(05) dated November 18, 2008 in the amount of ₱18,676,200.00 and ND No. 2008-044-101(04) dated November 25, 2008 in the amount of ₱16,915,000.00 on the ground that the expenditures had been improperly charged against the 2005 annual budget contrary to Section 305(a), Section 305(f) and Section 350 of Republic Act No. 7160 (*The Local Government Code*) in relation to Section 85 of Presidential Decree No. 1445 (*Auditing Code of the Philippines*).⁶

The following individuals were listed in the NDs to be liable, namely:

¹ *Rollo*, pp. 28-33.

² *Id.* at 52-53.

³ *Id.* at 54-55.

⁴ *Id.* at 73-74.

⁵ *Id.* at 28.

⁶ *Id.* at 34-37.

Persons liable	Position	Participation
Proceso D. Aguillo	Former Mayor	Approved the payment of ₱16,915,000.00
Nila G. Aguillo	Former Mayor	Approved the payment of ₱18,676,200.00
Felix L. Galang	Former Municipal Accountant	Certified the completeness and propriety of supporting documents
Marcelina B. Maraña	Former Municipal Budget Officer	Allowed the payment without appropriation
Elena A. Estalilla	Municipal Treasurer	Certified as to cash availability ⁷

After the above-named individuals, including Estalilla, failed to appeal the NDs within the six-month period, the COA Regional Office issued Notices of Finality of Decision (NFDs) on March 26, 2012,⁸ and the corresponding COA Orders of Execution (COEs) on April 2, 2012.⁹

On June 26, 2012, Estalilla filed an *Omnibus Motion to Lift the NFDs and COEs and Admit Appeal Memorandum*,¹⁰ wherein she denied having received the AOM, but admitted having received the NDs. She thereby also pleaded for compassion, and attributed her inability to timely appeal to her preoccupation with other disallowances issued against her.

Ignoring Estalilla's plea for compassion in view of the substantial amounts involved, the COA Regional Office denied the *Omnibus Motion to Lift the NFDs and COEs and Admit Appeal Memorandum* mainly because of her failure to appeal within the 6-month period provided by Section 2 and Section 4 of the 2009 Revised Rules of Procedure of the COA.¹¹

Undeterred, Estalilla filed a petition for review with the COA proper.

Decision of the COA

The COA promulgated the now assailed decision on December 29, 2014 dismissing Estalilla's appeal for having been filed beyond the 6-month reglementary period. The COA observed therein that Estalilla had not tendered any compelling reasons to warrant relaxing in her favor the doctrine on the immutability of judgment.¹²

⁷ Id. at 29.

⁸ Id. at 38-41.

⁹ Id. at 42-45.

¹⁰ Id. at 29.

¹¹ Id. at 47-49.

¹² Id. at 28-33.

Hence, this petition for *certiorari*.

Issues

Estalilla submits the following issues for our consideration:

I

WHETHER RESPONDENT COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REFUSED TO GIVE DUE COURSE AND DISMISSED THE PETITION FOR REVIEW

II

WHETHER RESPONDENT COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITION FOR REVIEW DESPITE ITS CLEAR AND EVIDENT MERITS¹³

Estalilla claims that her failure to file a timely appeal was not motivated by bad faith, inexcusable negligence, or reckless disregard of the relevant rules; that she had lost track of the NDs due to her being too preoccupied with two other NDs issued against her; that she had not been apprised of the AOM; that the disallowed amount of ₱35,591,200.00 had arisen from a budgetary and accounting error or technicality in which she had had no participation or responsibility; that the irregularity could be traced to the municipal accountant's failure to properly obligate the corresponding appropriation; that her certification had only indicated that there was sufficient cash to cover the proposed disbursement;¹⁴ that the contracts for the hauling of garbage had been authorized and approved by the *Sangguniang Bayan*; that the contractor had performed its obligation in good faith, and had become entitled to compensation; that charging her for the disallowed amount would unjustly enrich the Government considering that the municipality and its constituents had already benefitted from the garbage hauling services.¹⁵

In its comment,¹⁶ the COA, through the Office of the Solicitor General (OSG), submits that that Estalilla's appeal was belated pursuant to Section 4, Rule V of the 2009 Revised Rules of Procedure of the COA, which required the appeal to be filed within six months from receipt of the decision; that the COA did not gravely abuse its discretion in denying her omnibus motion because the NDs had meanwhile attained finality; and that the 2004 garbage

¹³ Id. at 8.

¹⁴ Id. at 11-12.

¹⁵ Id. at 15-22.

¹⁶ Id. at 88-96.

hauling services had been improperly disbursed against the 2005 appropriations.¹⁷

In her reply,¹⁸ Estalilla insists that the merits of her petition warrant setting aside technicalities; that the filing of the motion for reconsideration would be useless considering that the COA had consistently rejected her plea, and had stifled her efforts to strengthen and support her cause;¹⁹ that her liability for the disallowed amounts was legally unwarranted; that pursuant to Section 351 of the *Local Government Code* and Section 103 of P.D. No. 1445, she could not be held liable for the questioned amounts because she had not been directly responsible therefor;²⁰ that paragraph 16.1, Section 16 of the Rules and Regulations on the Settlement of Accounts (RRSA) provided the guidelines in determining the liability of the officers for disallowances; that certifying to the existence of the appropriation and to the availability of cash were two different conditions pertaining to different offices; that her responsibility for certifying to the availability of funds would come only after the local chief executive, the local budget officer, and the local accountant had signed the appropriate documents; that it was the local budget officer who had certified to the availability of the appropriation; that the actual cash under her custody that had been kept in a single depository account was the basis of her certification; that the COA had on several occasions excluded the local treasurers from liability because their participation in the disallowed disbursements had been limited to their certifications to the effect that funds were available;²¹ that ND No. 2008-044-101(04) dated November 25, 2008 pertained to payments made in FY2004, not in FY2005; and that it was implausible that the local government had paid ₱35,591,200.00 for the hauling services, but she could not confirm the same because the COA had denied her requests for copies of the disbursement vouchers and allotment and obligation slips (ALOBS).²²

As the foregoing indicates, Estalilla raises procedural and substantive issues. Procedurally, the COA assails the propriety of still allowing her petition for *certiorari* to prosper despite her failure to file the requisite motion for reconsideration in the COA. Substantively, she calls for the determination of whether or not the COA gravely abused its discretion in dismissing her appeal, and in holding her liable for the disallowed amount of ₱35,591,200.00.

Ruling of the Court

The Court **GRANTS** the petition for *certiorari*.

¹⁷ Id. at 90-93.

¹⁸ Id. at 100-111.

¹⁹ Id. at 108-109.

²⁰ Id. at 100.

²¹ Id. at 102-106.

²² Id. at 102-108.

I

**Non-filing of the motion for reconsideration
vis-à-vis the COA's decision was justified**

The COA, through the OSG, argues that Estalilla's failure to file the motion for reconsideration vis-à-vis the decision manifested her propensity to disregard the rules of procedure, and constitutes a fatal defect that merits the dismissal of her petition.²³ She submits, however, that filing the motion for reconsideration would have been useless in view of the COA's consistent rejection of her pleas and requests for copies of documents pertinent to her defense.²⁴

Estalilla's submission is warranted.

The rule is that a motion for reconsideration is a condition *sine qua non* for the filing of a petition for *certiorari*. Such requirement is imposed to grant the court or tribunal the opportunity to correct any actual or perceived error attributed to it through the re-examination of the legal and factual circumstances of the case. The rule is not rigid and set in stone, but admits of exceptions, like the following: (1) where the order is a patent nullity, such as when the court *a quo* had no jurisdiction; (2) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (3) where there is an urgent necessity for the resolution of the question, and any further delay would prejudice the interests of the Government or of the petitioner, or the subject matter of the action is perishable; (4) where a motion for reconsideration would be useless; (5) where the petitioner was deprived of due process, and there is extreme urgency for relief; (6) where, in a criminal case, relief from an order of arrest is urgent, and the granting of such relief by the trial court is improbable; (6) where the proceedings in the lower court are a nullity for lack of due process; (7) where the proceeding was *ex parte*, or the petitioner had no opportunity to object; and (8) where the issue raised is one purely of law, or where public interest is involved.²⁵

The fourth and fifth exceptions are applicable.

To support her claim that the filing of the motion for reconsideration was useless, Estalilla avers that:

²³ Id. at 94.

²⁴ Id. at 108-110.

²⁵ *People v. Court of Appeals*, G.R. No. 183652, February 25, 2015, 751 SCRA 675, 696; *Republic of the Philippines v. Bayao*, G.R. No. 179492, June 5, 2013, 697 SCRA 313, 323.

32. From the time petitioner set out to have the disallowances overturned or obtain a relief from the liability decreed, respondent has consistently rejected petitioner's plea and stifled other efforts aimed at strengthening and supporting her cause. Respondent's Region IV-A Director Luz Loreto-Tolentino denied petitioner's Omnibus Motion seeking the lifting of the COA Order of Execution, Notice of Finality of Decision, and admission of her Appeal Memorandum on the ground that the disallowances have become final and executory. Long before petitioner received notice of the unfavorable resolution of her motion, respondent's General Counsel rejected petitioner's request for copies of the disbursement vouchers and ALOBS pertaining to the disallowed payments stating that "*the purpose for which the documents are requested will no longer be served*" because of petitioner's failure to perfect an appeal within the prescribed period.

33. Despite the above setbacks, petitioner pursued her cause before respondent, deprived of the information which the requested disbursement vouchers and ALOBs may have provided to bolster her cause. Similarly, however, respondent denied her appeal and flatly refused to consider it on its merits. This pattern of rejections clearly conveyed that no speedy and adequate relief awaits petitioner from a Motion for Reconsideration filed before respondent and resort thereof would be useless.²⁶

Estalilla's averments are valid. The futility of filing a motion for reconsideration against the COA's December 29, 2014 decision is not difficult to discern in the face of the COA's constant rejections of her efforts to defend herself from the disallowances based solely on the lapse of the period to appeal the NDs. Such stance already indicated the COA's inclination to invoke Section 4, Rule V of its Rules on the period to file an appeal in order to deny outright any reconsideration that Estalilla would seek. Any further attempt by her to convince the COA to reconsider her case would have been pointless and wasteful.

Furthermore, we reject the posture of the COA to the effect that Estalilla had been fully afforded her right to due process. To recall, she had insisted on her request to be furnished copies of the DVs and the ALOBs having been denied. Her insistence was not denied considering that the COA had been content in simply positing that she had lost the right to appeal by her failure to timely appeal the NDs. Hence, her right to due process had been unduly rebuffed. The COA should be reminded that her right to due process could be respected only if she had been afforded the opportunity to seek the meaningful recourse against the NDs. Unfortunately, the COA rejected the request for the copies of the DVs and the ALOBs on the sole basis of her not having appealed on time. Such rejection of her request was violative of her right to due process, for the DVs and the ALOBs pertained to her discharge of the duties of the municipal treasurer to certify to the availability of funds. Thus, the COA thereby gravely abused its discretion amounting to lack or excess of jurisdiction.

²⁶ *Rollo*, pp. 108-109.

There was also the undeniable urgency of the relief sought in the face of the COA's order to withhold Estalilla's salary and benefits to answer for the disallowed amount of ₱35,591,200.00 by way of the solidary liability adjudged under the assailed decision of the COA.

II

Estalilla is not liable for the disallowed amounts

The Court generally observes the policy of sustaining the decisions of the COA on the basis both of the doctrine of separation of powers and of the COA's presumed expertise in the laws entrusted to it to enforce.²⁷ Unless the COA's decision or ruling is tainted with grave abuse of discretion, the Court will not review any errors allegedly committed by the COA. Accordingly, the Constitution and the *Rules of Court* provide the remedy of a petition for *certiorari* under Rule 64 in relation to Rule 65 of the *Rules of Court* in order to restrict the scope of inquiry to errors of jurisdiction or to grave abuse of discretion amounting to lack or excess of jurisdiction committed by the COA.²⁸ In the proper cases, the Court determines whether or not there was on the part of the COA an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law, as when the judgment rendered is not based on law and evidence but on caprice, whim, and despotism.²⁹

Estalilla pleaded that the COA should admit her appeal on equitable considerations in view of the huge amount involved, and because of her limited participation in the questioned transactions; but the COA stood its ground, and upheld her personal liability for the disbursement of ₱35,591,200.00 in local funds on the ground that the NDs had meanwhile become final and executory.

We rule that the COA thereby gravely abused its discretion in imposing the personal liability against Estalilla.

The settled rule is that courts are bereft of jurisdiction to review decisions that have become final and executory. The rule safeguards the immutability of a final judgment, and is tenaciously applied and adhered to in order to preclude the modification of the final judgment, even if the modification is meant to correct erroneous findings of fact and conclusions of law, and whether the modification is made by the court that rendered the

²⁷ *Delos Santos v. Commission on Audit*, G.R. No. 198457, August 13, 2013, 703 SCRA 501, 513; *Yap v. Commission on Audit*, G.R. No. 158562, April 23, 2010, 619 SCRA 154, 174.

²⁸ *Fontanilla v. Commissioner Proper*, G.R. No. 209714, June 21, 2016, 794 SCRA 213, 223-224.

²⁹ *Espinosa v. Commission on Audit*, G.R. No. 198271, April 1, 2014, 720 SCRA 302, 315; *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 777.

judgments or by the highest court of the land. The evident objective of the rule is to definitively end disputes.³⁰ Although the COA correctly cited the rule, the Court holds that the rule bows to recognized exceptions, like: (1) the correction of clerical errors; (2) the making of so-called *nunc pro tunc* entries that cause no prejudice to any party; and (3) in case of void judgments.³¹ The Court has further allowed the relaxation of the rigid rule on the immutability of a final judgment in order to serve substantial justice in considering: (1) matters of life, liberty, honor or property; or (2) the existence of special or compelling circumstances; or (3) the merits of the case; or (4) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; or (5) a lack of any showing that the review sought is merely frivolous and dilatory; or (6) the other party will not be unjustly prejudiced thereby.³²

Several of the exceptions obtain in favor of Estalilla.

To begin with, Estalilla's case affected her right to life and property. Judicial notice is taken of the size of her salary as a municipal treasurer in comparison with the disallowed amount of ₱35,591,200.00. The huge disparity between her salary and the liability was glaring enough. To charge her with the solidary liability would produce very serious and dire consequences on her precious right to life and property. The consequences could impact negatively as well on the rest of her family. What makes the liability even harsher was that she had not personally derived any direct or personal benefit from the disallowed disbursements.

Also, the existence of compelling circumstances and the merits of her case, as well as the lack of any showing that she had committed any falsification in her certification on the availability of funds should be enough reason to undo the declaration of her personal liability by the COA.

Section 351 of the *Local Government Code* provides that expenditures of funds or use of property in violation of law shall be the personal liability of the official or employee responsible therefor. In that regard, in Section 16 of Circular No. 2009-006,³³ the COA has listed the factors to be considered in determining the liability of public officers for disallowances, namely: (1) the nature of the disallowance/charge; (2) the duties and responsibilities of officers/employees concerned; (3) the extent of their participation in the disallowed/charged transaction; and (4) the amount of damage suffered by or loss to the Government.

³⁰ *Aguilar v. Court of Appeals*, G.R. No. 172986, October 2, 2009, 602 SCRA 336, 347.

³¹ *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66*, G.R. No. 161282, February 23, 2011; 644 SCRA 50, 56; *Tuballa Heirs v. Cabrera*, G.R. No. 179104, February 29, 2008, 547 SCRA 289, 293.

³² *Barnes v. Padilla*, G.R. No. 160753, September 30, 2004, 439 SCRA 675, 686-687..

³³ Dated September 15, 2009.

In Circular No. 2006-002,³⁴ the COA has further defined the responsibilities of the public officers involved in the disbursement of local government funds, thusly:

2.0. POLICIES

The responsibilities of the Heads of the Requesting Unit, the Budget Unit, the Accounting Unit and the Treasurer are hereby set forth as follows:

- 2.1 The Head of the Requesting Unit shall prepare the Obligation Request (ObR) – Annex A and the Disbursement Voucher (DV) – Annex B and certify on the necessity and legality of charges to appropriation and allotment under his direct supervision. He shall also certify to the validity, propriety and legality of supporting documents.
- 2.2 The Head of the Budget Unit shall certify the existence of available appropriation, take charge of budgetary activities as provided under Section 344 and Section 475, respectively, of R.A. 7160, the Local Government Code, and shall maintain the Registries of Appropriations, Allotments and Obligations as prescribed under the Manual on the New Government Accounting System for Local Government Units,
- 2.3 The Head of the Accounting Unit shall certify the obligation of allotment and completeness of supporting documents in the DV.
- 2.4 **The Treasurer shall certify the availability of funds in the DV as provided in the Local Government Code.**
- 2.5 The Treasurer shall prepare the Daily Cash Position Report – Annex C to be submitted to the Local Chief Executive.

The foregoing rendered clear that Estalilla's responsibility in the disbursement process should only be limited because all that she had done was to certify whether or not funds were available for the purpose of the expenditure. This limitation is based on Section 344 of Republic Act No. 7160 (*The Local Government Code*), which relevantly states:

Section 344. Certification, and Approval of, Vouchers.—No money shall be disbursed unless the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, the local accountant has obligated said appropriation, **and the local treasurer certifies to the availability of funds for the purpose.** x x x x

³⁴ Dated January 31, 2006.

8

Accordingly, Estalilla's plea that she was not personally liable by virtue of her having certified to the availability of funds in her capacity as the municipal treasurer should not fall on deaf ears. Her plea for relief had legal as well as factual support. As the municipal treasurer, her primary duty in relation to the disallowed disbursement was merely to certify to the availability of funds.³⁵ She had nothing to do with the disallowed disbursements beyond that.

The only time when Estalilla might be properly held personally liable for the disallowance would be if her certification of the availability of funds to cover the expenditures had been deliberately false. Such false certification, and a showing of other factors or circumstances of irregularities, would have invalidated the disbursement. But there was no showing of her having issued a false certification. As such, the COA gravely abused its discretion in holding her personally liable under the NDs without finding that she had certified falsely to the availability of funds.

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.³⁶ The burden is on the part of 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.³⁷

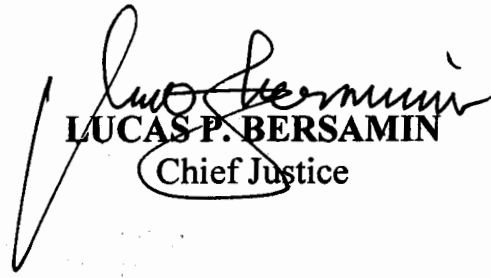
WHEREFORE, the Court **GRANTS** the petition for *certiorari*; **SETS ASIDE** the decision of the Commission on Audit dated December 29, 2014; and **MODIFIES** the Notice of Disallowance Nos. 2008-0430-101(05) and 2008-044-101(04) dated November 18, 2008 and November 25, 2008, respectively, the Notices of Finality of Decision dated March 26, 2012, and the corresponding Orders of Execution dated April 2, 2012, by **DELETING** that portion ordering the solidary liability of petitioner Elena A. Estalilla for the disallowed amount of ₱35,591,200.00.

SO ORDERED.

³⁵ Bureau of Local Government Finance-Department of Finance. Local Treasury Operations Manual (2008), p. 30, available at <http://blgf.gov.ph/wp-content/uploads/2015/10/DOF-BLGF-Local-Treasury-Operations-Manual-LTOM.pdf> last accessed on January 20, 2018.


³⁶ *United Coconut Planters Bank v. Looyuko*, G.R. No. 156337, September 28, 2007, 534 SCRA 322, 331.

³⁷ *Tan v. Antazo*, G.R. No. 187208, February 23, 2011, 644 SCRA 337, 342.

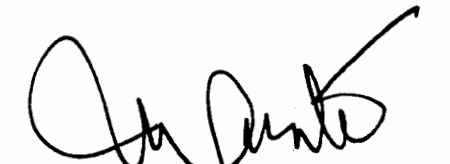


LUCAS P. BERSAMIN
Chief Justice

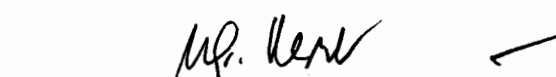
WE CONCUR:




ANTONIO T. CARPIO
Associate Justice




DIOSDADO M. PERALTA
Associate Justice



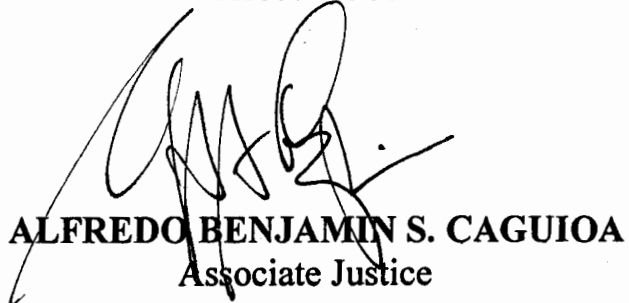
ESTELA M. PERLAS-BERNABE
Associate Justice




MARVIC M.V.F. LEONEN
Associate Justice



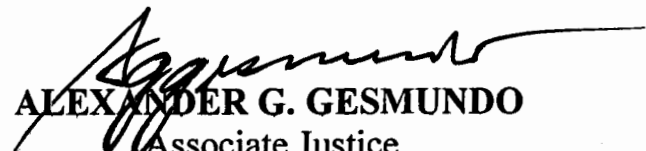
FRANCIS H. JARDELEZA
Associate Justice




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
Associate Justice




ALEXANDER G. GESMUNDO
Associate Justice

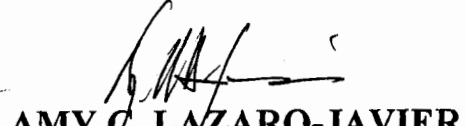


JOSE C. REYES, JR.
Associate Justice


(On Official Business)
RAMON PAUL L. HERNANDO
Associate Justice

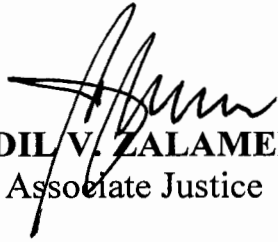


ROSMARI D. CARANDANG
Associate Justice



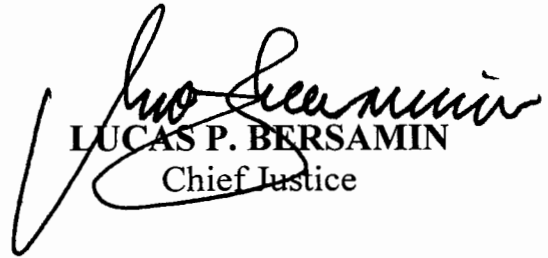
AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
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.


LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY


EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court