



Republic of the Philippines
Supreme Court
Manila

EN BANC

MANUEL G. VILLATUYA,
Complainant,

A. C. No. 6622

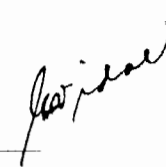
Present:

- versus -

ATTY. BEDE S. TABALINGCOS,
Respondent.

CARPIO, J.,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,*
DEL CASTILLO,
ABAD,*
VILLARAMA, JR.,
PEREZ,
MENDOZA,
SERENO,
REYES, and
PERLAS-BERNABE, JJ.

Promulgated:

JULY 10, 2012 

X-----X

DECISION

PER CURIAM:

In this Complaint for disbarment filed on 06 December 2004 with the Office of the Bar Confidant, complainant Manuel G. Villatuya (complainant) charges Atty. Bede S. Tabalingcos (respondent) with unlawful solicitation of cases, violation of the Code of Professional Responsibility for nonpayment

* On leave.

of fees to complainant, and gross immorality for marrying two other women while respondent's first marriage was subsisting.¹

In a Resolution² dated 26 January 2005, the Second Division of this Court required respondent to file a Comment, which he did on 21 March 2005.³ The Complaint was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation within sixty (60) days from receipt of the record.⁴

On 23 June 2005, the Commission on Bar Discipline of the IBP (Commission) issued a Notice⁵ setting the mandatory conference of the administrative case on 05 July 2005. During the conference, complainant appeared, accompanied by his counsel and respondent. They submitted for resolution three issues to be resolved by the Commission as follows:

1. Whether respondent violated the Code of Professional Responsibility by nonpayment of fees to complainant
2. Whether respondent violated the rule against unlawful solicitation, and
3. Whether respondent is guilty of gross immoral conduct for having married thrice.⁶

The Commission ordered the parties to submit their respective verified Position Papers. Respondent filed his verified Position Paper,⁷ on 15 July 2005 while complainant submitted his on 01 August 2005.⁸

¹ *Rollo*, p. 1.

² *Id.* at 22.

³ *Id.* at 22-35.

⁴ *Id.* at 36.

⁵ Commission on Bar Discipline Records, Vol. II, p. 1.

⁶ *Id.* at 3.

⁷ *Id.* at 60.

⁸ *Id.* at 186.

Complainant's Accusations

Complainant averred that on February 2002, he was employed by respondent as a financial consultant to assist the latter on technical and financial matters in the latter's numerous petitions for corporate rehabilitation filed with different courts. Complainant claimed that they had a verbal agreement whereby he would be entitled to ₱50,000 for every Stay Order issued by the court in the cases they would handle, in addition to ten percent (10%) of the fees paid by their clients. He alleged that, from February to December 2002, respondent was able to rake in millions of pesos from the corporate rehabilitation cases they were working on together. Complainant also claimed that he was entitled to the amount of ₱900,000 for the 18 Stay Orders issued by the courts as a result of his work with respondent, and a total of ₱4,539,000 from the fees paid by their clients.⁹ Complainant appended to his Complaint several annexes supporting the computation of the fees he believes are due him.

Complainant alleged that respondent engaged in unlawful solicitation of cases in violation of Section 27 of the Code of Professional Responsibility. Allegedly respondent set up two financial consultancy firms, Jesi and Jane Management, Inc. and Christmel Business Link, Inc., and used them as fronts to advertise his legal services and solicit cases. Complainant supported his allegations by attaching to his Position Paper the Articles of Incorporation of Jesi and Jane,¹⁰ letter-proposals to clients signed by respondent on various dates¹¹ and proofs of payment made to the latter by their clients.¹²

⁹ Id. at 1.

¹⁰ Id. at 10-20.

¹¹ Id. at 5 & 6.

¹² Commission on Bar Discipline Records, Vol. II, pp. 202-212.

On the third charge of gross immorality, complainant accused respondent of committing two counts of bigamy for having married two other women while his first marriage was subsisting. He submitted a Certification dated 13 July 2005 issued by the Office of the Civil Registrar General-National Statistics Office (NSO) certifying that Bede S. Tabalingcos, herein respondent, contracted marriage thrice: first, on 15 July 1980 with Pilar M. Lozano, which took place in Dasmarinas, Cavite; the second time on 28 September 1987 with Ma. Rowena Garcia Piñon in the City of Manila; and the third on 07 September 1989 with Mary Jane Elgincolin Paraiso in Ermita, Manila.¹³

Respondent's Defense

In his defense, respondent denied the charges against him. He asserted that complainant was not an employee of his law firm – Tabalingcos and Associates Law Office¹⁴ – but of Jesi and Jane Management, Inc., where the former is a major stockholder.¹⁵ Respondent alleged that complainant was unprofessional and incompetent in performing his job as a financial consultant, resulting in the latter's dismissal of many rehabilitation plans they presented in their court cases.¹⁶ Respondent also alleged that there was no verbal agreement between them regarding the payment of fees and the sharing of professional fees paid by his clients. He proffered documents showing that the salary of complainant had been paid.¹⁷

As to the charge of unlawful solicitation, respondent denied committing any. He contended that his law firm had an agreement with Jesi and Jane Management, Inc., whereby the firm would handle the legal aspect of the corporate rehabilitation case; and that the latter would attend to the

¹³ Id. at 195, 201.

¹⁴ Id. at 61.

¹⁵ Id. at 66.

¹⁶ Id. at 67.

¹⁷ Id. at 78-82.

financial aspect of the case' such as the preparation of the rehabilitation plans to be presented in court. To support this contention, respondent attached to his Position Paper a Joint Venture Agreement dated 10 December 2005 entered into by Tabalingcos and Associates Law Offices and Jesi and Jane Management, Inc.;¹⁸ and an Affidavit executed by Leoncio Balena, Vice-President for Operations of the said company.¹⁹

On the charge of gross immorality, respondent assailed the Affidavit submitted by William Genesis, a dismissed messenger of Jesi and Jane Management, Inc., as having no probative value, since it had been retracted by the affiant himself.²⁰ Respondent did not specifically address the allegations regarding his alleged bigamous marriages with two other women.

On 09 January 2006, complainant filed a Motion to Admit Copies of 3 Marriage Contracts.²¹ To the said Motion, he attached the certified true copies of the Marriage Contracts referred to in the Certification issued by the NSO.²² The appended Marriage Contracts matched the dates, places and names of the contracting parties indicated in the earlier submitted NSO Certification of the three marriages entered into by respondent. The first marriage contract submitted was a marriage that took place between respondent and Pilar M. Lozano in Dasmarinas, Cavite, on 15 July 1980.²³ The second marriage contract was between respondent and Ma. Rowena G. Piñon, and it took place at the Metropolitan Trial Court Compound of Manila on 28 September 1987.²⁴ The third Marriage Contract referred to a marriage between respondent and Mary Jane E. Paraiso, and it took place on 7 September 1989 in Ermita, Manila. In the second and third Marriage Contracts, respondent was described as single under the entry for civil status.

¹⁸ Id. at 74.

¹⁹ Id. at 75.

²⁰ Id. at 10.

²¹ Id. at 215.

²² Id. at 217-219.

²³ Id. at 217.

²⁴ Id. at 218.

On 16 January 2006, respondent submitted his Opposition to the Motion to Admit filed by complainant, claiming that the document was not marked during the mandatory conference or submitted during the hearing of the case.²⁵ Thus, respondent was supposedly deprived of the opportunity to controvert those documents.²⁶ He disclosed that criminal cases for bigamy were filed against him by the complainant before the Office of the City Prosecutor of Manila. Respondent further informed the Commission that he had filed a Petition to Declare Null and Void the Marriage Contract with Rowena Piñon at the Regional Trial Court (RTC) of Biñan, Laguna, where it was docketed as Civil Case No. B-3270.²⁷ He also filed another Petition for Declaration of Nullity of Marriage Contract with Pilar Lozano at the RTC-Calamba, where it was docketed as Civil Case No. B-3271.²⁸ In both petitions, he claimed that he had recently discovered that there were Marriage Contracts in the records of the NSO bearing his name and allegedly executed with Rowena Piñon and Pilar Lozano on different occasions. He prayed for their annulment, because they were purportedly null and void.

On 17 September 2007, in view of its reorganization, the Commission scheduled a clarificatory hearing on 20 November 2007.²⁹ While complainant manifested to the Commission that he would not attend the hearing,³⁰ respondent manifested his willingness to attend and moved for the suspension of the resolution of the administrative case against the latter. Respondent cited two Petitions he had filed with the RTC, Laguna, seeking the nullification of the Marriage Contracts he discovered to be bearing his name.³¹

²⁵ Id. at 220.

²⁶ Id. at 221.

²⁷ Id. at 226.

²⁸ Id. at 231.

²⁹ Id. at 237.

³⁰ Id. at 238.

³¹ Id. at 244.

On 10 November 2007, complainant submitted to the Commission duplicate original copies of two (2) Informations filed with the RTC of Manila against respondent, entitled “People of the Philippines vs. Atty. Bede S. Tabalingcos.”³² The first criminal case, docketed as Criminal Case No. 07-257125, was for bigamy for the marriage contracted by respondent with Ma. Rowena Garcia Piñon while his marriage with Pilar Lozano was still valid.³³ The other one, docketed as Criminal Case No. 07-257126, charged respondent with having committed bigamy for contracting marriage with Mary Jane Elgincolin Paraiso while his marriage with Pilar Lozano was still subsisting.³⁴ Each of the Informations recommended bail in the amount of ₱24,000 for his provisional liberty as accused in the criminal cases.³⁵

On 20 November 2007, only respondent attended the clarificatory hearing. In the same proceeding, the Commission denied his Motion to suspend the proceedings pending the outcome of the petitions for nullification he had filed with the RTC–Laguna. Thus, the Commission resolved that the administrative case against him be submitted for resolution.³⁶

IBP’s Report and Recommendation

On 27 February 2008, the Commission promulgated its Report and Recommendation addressing the specific charges against respondent.³⁷ The first charge, for dishonesty for the nonpayment of certain shares in the fees, was dismissed for lack of merit. The Commission ruled that the charge should have been filed with the proper courts since it was only empowered to determine respondent’s administrative liability. On this matter,

³² Id. at 239.

³³ Id. at 240.

³⁴ Id. at 256.

³⁵ Id. at 241 & 243.

³⁶ Id. at 256.

³⁷ Commission on Bar Discipline Records Vol. III, pp. 2-13. The Commission’s Report and Recommendation dated 27 February 2008 was penned by Commissioner Wilfredo E.J.E. Reyes.

complainant failed to prove dishonesty on the part of respondent.³⁸ On the second charge, the Commission found respondent to have violated the rule on the solicitation of client for having advertised his legal services and unlawfully solicited cases. It recommended that he be reprimanded for the violation. It failed, though, to point out exactly the specific provision he violated.³⁹

As for the third charge, the Commission found respondent to be guilty of gross immorality for violating Rules 1.01 and 7.03 of the Code of Professional Responsibility and Section 27 of Rule 138 of the Rules of Court. It found that complainant was able to prove through documentary evidence that respondent committed bigamy twice by marrying two other women while the latter's first marriage was subsisting.⁴⁰ Due to the gravity of the acts of respondent, the Commission recommended that he be disbarred, and that his name be stricken off the roll of attorneys.⁴¹

On 15 April 2008, the IBP Board of Governors, through its Resolution No. XVIII-2008-154, adopted and approved the Report and Recommendation of the Investigating Commissioner.⁴² On 01 August 2008, respondent filed a Motion for Reconsideration, arguing that the recommendation to disbar him was premature. He contends that the Commission should have suspended the disbarment proceedings pending the resolution of the separate cases he had filed for the annulment of the marriage contracts bearing his name as having entered into those contracts with other women. He further contends that the evidence proffered by complainant to establish that the latter committed bigamy was not substantial to merit the punishment of disbarment. Thus, respondent moved for the reconsideration of the resolution to disbar him and likewise moved to archive the administrative proceedings pending the outcome of the Petitions

³⁸ Id. at 8.

³⁹ Id.

⁴⁰ Id. at 9-10.

⁴¹ Id. at 13.

⁴² Id. at 1.

he separately filed with the RTC of Laguna for the annulment of Marriage Contracts.⁴³

On 26 June 2011, the IBP Board of Governors denied the Motions for Reconsideration and affirmed their Resolution dated 15 April 2008 recommending respondent's disbarment.⁴⁴

The Court's Ruling

The Court affirms the recommendations of the IBP.

First Charge: **Dishonesty for nonpayment of share in the fees**

While we affirm the IBP's dismissal of the first charge against respondent, we do not concur with the rationale behind it.

The first charge of complainant against respondent for the nonpayment of the former's share in the fees, if proven to be true is based on an agreement that is violative of Rule 9.02⁴⁵ of the Code of Professional Responsibility. A lawyer is proscribed by the Code to divide or agree to divide the fees for legal services rendered with a person not licensed to practice law. Based on the allegations, respondent had agreed to share with complainant the legal fees paid by clients that complainant solicited for the

⁴³ Id. at 14-27.

⁴⁴ On the 36th page succeeding Commission on Bar Discipline Records, Vol. III (no pagination on the rollo).

⁴⁵ CODE OF PROFESSIONAL RESPONSIBILITY, Rule 9.02 - A lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law, except:

- (a) Where there is a pre-existing agreement with a partner or associate that, upon the latter's death, money shall be paid over a reasonable period of time to his estate or to persons specified in the agreement; or
- (b) Where a lawyer undertakes to complete unfinished legal business of a deceased lawyer; or
- (c) Where a lawyer or law firm includes non-lawyer employees in a retirement plan even if the plan is based in whole or in part, on a profit sharing agreement.

respondent. Complainant, however, failed to proffer convincing evidence to prove the existence of that agreement.

We ruled in *Tan Tek Beng v. David*⁴⁶ that an agreement between a lawyer and a layperson to share the fees collected from clients secured by the layperson is null and void, and that the lawyer involved may be disciplined for unethical conduct. Considering that complainant's allegations in this case had not been proven, the IBP correctly dismissed the charge against respondent on this matter.

Second Charge:
Unlawful solicitation of clients

Complainant charged respondent with unlawfully soliciting clients and advertising legal services through various business entities. Complainant submitted documentary evidence to prove that Jesi & Jane Management Inc. and Christmel Business Link, Inc. were owned and used as fronts by respondent to advertise the latter's legal services and to solicit clients. In its Report, the IBP established the truth of these allegations and ruled that respondent had violated the rule on the solicitation of clients, but it failed to point out the specific provision that was breached.

A review of the records reveals that respondent indeed used the business entities mentioned in the report to solicit clients and to advertise his legal services, purporting to be specialized in corporate rehabilitation cases. Based on the facts of the case, he violated Rule 2.03⁴⁷ of the Code, which prohibits lawyers from soliciting cases for the purpose of profit.

⁴⁶ 211 Phil. 547 (1983).

⁴⁷ CODE OF PROFESSIONAL RESPONSIBILITY, Rule 2.03 - A lawyer shall not do or permit to be done any act designed primarily to solicit legal business.

A lawyer is not prohibited from engaging in business or other lawful occupation. Impropriety arises, though, when the business is of such a nature or is conducted in such a manner as to be inconsistent with the lawyer's duties as a member of the bar. This inconsistency arises when the business is one that can readily lend itself to the procurement of professional employment for the lawyer; or that can be used as a cloak for indirect solicitation on the lawyer's behalf; or is of a nature that, if handled by a lawyer, would be regarded as the practice of law.⁴⁸

It is clear from the documentary evidence submitted by complainant that Jesi & Jane Management, Inc., which purports to be a financial and legal consultant, was indeed a vehicle used by respondent as a means to procure professional employment; specifically for corporate rehabilitation cases. Annex "C"⁴⁹ of the Complaint is a letterhead of Jesi & Jane Management, Inc., which proposed an agreement for the engagement of legal services. The letter clearly states that, should the prospective client agree to the proposed fees, respondent would render legal services related to the former's loan obligation with a bank. This circumvention is considered objectionable and violates the Code, because the letter is signed by respondent as President of Jesi & Jane Management, Inc., and not as partner or associate of a law firm.

Rule 15.08⁵⁰ of the Code mandates that the lawyer is mandated to inform the client whether the former is acting as a lawyer or in another capacity. This duty is a must in those occupations related to the practice of law. The reason is that certain ethical considerations governing the attorney-client relationship may be operative in one and not in the other.⁵¹ In this

⁴⁸ RUBEN A. AGPALO, *LEGAL AND JUDICIAL ETHICS*, 124 (2009), citing A.B.A. Op. 57 (19 March 1932); *Re*, 97 A2d 627, 39 ALR2d 1032 (1953).

⁴⁹ *Rollo*, p. 6.

⁵⁰ CODE OF PROFESSIONAL RESPONSIBILITY, Rule 15.08. - A lawyer who is engaged in another profession or occupation concurrently with the practice of law shall make clear to his client whether he is acting as a lawyer or in another capacity.

⁵¹ AGPALO, *supra* note 48.

case, it is confusing for the client if it is not clear whether respondent is offering consultancy or legal services.

Considering, however, that complainant has not proven the degree of prevalence of this practice by respondent, we affirm the recommendation to reprimand the latter for violating Rules 2.03 and 15.08 of the Code.

Third Charge:
Bigamy

The third charge that respondent committed bigamy twice is a serious accusation. To substantiate this allegation, complainant submitted NSO-certified copies of the Marriage Contracts entered into by respondent with three (3) different women. The latter objected to the introduction of these documents, claiming that they were submitted after the administrative case had been submitted for resolution, thus giving him no opportunity to controvert them.⁵² We are not persuaded by his argument.

We have consistently held that a disbarment case is *sui generis*. Its focus is on the qualification and fitness of a lawyer to continue membership in the bar and not the procedural technicalities in filing the case. Thus, we explained in *Garrido v. Garrido*:⁵³

Laws dealing with double jeopardy or with procedure — such as the verification of pleadings and prejudicial questions, or in this case, prescription of offenses or the filing of affidavits of desistance by the complainant — do not apply in the determination of a lawyer's qualifications and fitness for membership in the Bar. We have so ruled in the past and we see no reason to depart from this ruling. *First*, admission to the practice of law is a component of the administration of justice and is a matter of public interest because it involves service to the public. The admission qualifications are also qualifications for the continued enjoyment of the privilege to practice law. *Second*, lack of qualifications or the violation of the standards for the practice of law, like criminal cases,

⁵² Commission on Bar Discipline Records, Vol. II, p. 221.

⁵³ A.C. No. 6593, 04 February 2010, 611 SCRA 508.

is a matter of public concern that the State may inquire into through this Court.

In disbarment proceedings, the burden of proof rests upon the complainant. For the court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof.⁵⁴ In this case, complainant submitted NSO-certified true copies to prove that respondent entered into two marriages while the latter's first marriage was still subsisting. While respondent denied entering into the second and the third marriages, he resorted to vague assertions tantamount to a negative pregnant. He did not dispute the authenticity of the NSO documents, but denied that he contracted those two other marriages. He submitted copies of the two Petitions he had filed separately with the RTC of Laguna – one in Biñan and the other in Calamba – to declare the second and the third Marriage Contracts null and void.⁵⁵

We find him guilty of gross immorality under the Code.

We cannot give credence to the defense proffered by respondent. He has not disputed the authenticity or impugned the genuineness of the NSO-certified copies of the Marriage Contracts presented by complainant to prove the former's marriages to two other women aside from his wife. For purposes of this disbarment proceeding, these Marriage Contracts bearing the name of respondent are competent and convincing evidence proving that he committed bigamy, which renders him unfit to continue as a member of the bar. The documents were certified by the NSO, which is the official repository of civil registry records pertaining to the birth, marriage and death of a person. Having been issued by a government agency, the NSO certification is accorded much evidentiary weight and carries with it a

⁵⁴ *Aba v. De Guzman*, A.C. No. 7649, 14 December 2011.

⁵⁵ Commission on Bar Discipline Records Volume II, pp. 226-234.

presumption of regularity. In this case, respondent has not presented any competent evidence to rebut those documents.

According to the respondent, after the discovery of the second and the third marriages, he filed civil actions to annul the Marriage Contracts. We perused the attached Petitions for Annulment and found that his allegations therein treated the second and the third marriage contracts as ordinary agreements, rather than as special contracts contemplated under the then Civil Code provisions on marriage. He did not invoke any grounds in the Civil Code provisions on marriage, prior to its amendment by the Family Code. Respondent's regard for marriage contracts as ordinary agreements indicates either his wanton disregard of the sanctity of marriage or his gross ignorance of the law on what course of action to take to annul a marriage under the old Civil Code provisions.

What has been clearly established here is the fact that respondent entered into marriage twice while his first marriage was still subsisting. In *Bustamante-Alejandro v. Alejandro*,⁵⁶ we held thus:

[W]e have in a number of cases disciplined members of the Bar whom we found guilty of misconduct which demonstrated a lack of that good moral character required of them not only as a condition precedent for their admission to the Bar but, likewise, for their continued membership therein. No distinction has been made as to whether the misconduct was committed in the lawyer's professional capacity or in his private life. This is because a lawyer may not divide his personality so as to be an attorney at one time and a mere citizen at another. He is expected to be competent, honorable and reliable at all times since he who cannot apply and abide by the laws in his private affairs, can hardly be expected to do so in his professional dealings nor lead others in doing so. Professional honesty and honor are not to be expected as the accompaniment of dishonesty and dishonor in other relations. The administration of justice, in which the lawyer plays an important role being an officer of the court, demands a high degree of intellectual and moral competency on his part so that the courts and clients may rightly repose confidence in him.

⁵⁶ A.C. No. 4256, 467 Phil. 139 (2004).

Respondent exhibited a deplorable lack of that degree of morality required of him as a member of the bar. He made a mockery of marriage, a sacred institution demanding respect and dignity.⁵⁷ His acts of committing bigamy twice constituted grossly immoral conduct and are grounds for disbarment under Section 27, Rule 138 of the Revised Rules of Court.⁵⁸

Thus, we adopt the recommendation of the IBP to disbar respondent and order that his name be stricken from the Roll of Attorneys.

WHEREFORE, this Court resolves the following charges against Atty. Bede S. Tabalingcos as follows:

1. The charge of dishonesty is **DISMISSED** for lack of merit.
2. Respondent is **REPRIMANDED** for acts of illegal advertisement and solicitation.
3. Atty. Bede S. Tabalingcos is **DISBARRED** for engaging in bigamy, a grossly immoral conduct.


Let a copy of this Decision be attached to the personal records of Atty. Bede S. Tabalingcos in the Office of the Bar Confidant, and another copy furnished to the Integrated Bar of the Philippines.

The Clerk of Court is directed to strike out the name of Bede S. Tabalingcos from the Roll of Attorneys.

⁵⁷ *Cojuangco, Jr. v. Palma*, A.C. No. 2474, 501 Phil. 1 (2005).

⁵⁸ Rule 138, Section 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a wilfull disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

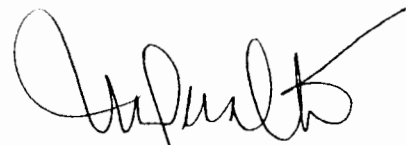
SO ORDERED.



ANTONIO T. CARPIO
Senior Associate Justice

(No part-relationship to a party)
PRESBITERO J. VELASCO, JR.
Associate Justice


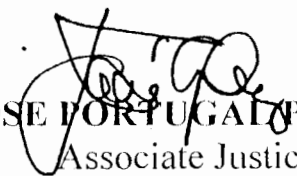


Ceresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice
DIOSDADO M. PERALTA
Associate Justice

(On leave)
LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

(On leave)
ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice
JOSE PORTUGAL PEREZ
Associate Justice
JOSE CATRAL MENDOZA
Associate Justice
MARIA LOURDES P. A. SERENO
Associate Justice
BIENVENIDO L. REYES
Associate Justice
ESTELA M. PERLAS-BERNABE
Associate Justice