

REPUBLIC OF THE PHILIPPINES SUPREME COURT Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 14 February 2022 which reads as follows:

"G.R. No. 233145 (Milagros A. Longasa v. Civil Service Commission and Carmencita¹ N. Ericta, in her capacity as National Statistics Office [NSO] Administrator). — Challenged in this petition for review on certiorari² are the May 18, 2016 Decision³ and July 3, 2017 Resolution⁴ of the Court of Appeals (CA) in CA-G.R. SP No. 128124, which sustained the July 26, 2012 Decision⁵ of the Civil Service Commission (CSC) in CSC No. 120467, which in turn modified the December 30, 2010 Decision⁶ of the National Statistics Office (NSO) that found Milagros A. Longasa (petitioner) guilty of Grave Misconduct.

The Facts:

Sometime in November 2006, immense flooding brought about by typhoon "*Reming*" submerged the NSO Regional Office No. V of Legazpi City causing damage to office files, records and equipment.⁷ Regional Director Mariano T. Fontanilla decided to relocate the Regional Office.

The relocation was made in a bare, open space of the 3rd floor of the Enterprise Building in LANDCO Business Park in Legazpi City. The Regional Office also found additional office space at the 2nd floor of the Volcanic Building for the *Serbilis* outlet situated along Rizal Street in Legazpi City. Both spaces

¹ Also referred to as Carmelita in some parts of the records.

² Rollo, pp. 13-47.

³ Id. at 52-65. Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Rosmari D. Carandang (now a retired Member of the Court) and Mario V. Lopez (now a Member of the Court).

⁴ Id. at 77-78.

⁵ Id. at 165-173. Penned by Commissioner Mary Ann Z. Fernandez-Mendoza with Chairperson Francisco T. Duque III and Commissioner Robert S. Martinez, concurring.

⁶ Id. at 105-127; rendered by NSO Administrator Carmelita N. Ericta.

⁷ Id. at 131.

required construction of counters and partitions to suit the lay-out of an office to make it fully functional. With the construction requirement, the Regional Office had to procure materials and laborers.8 Petitioner was the head of the Bids and Awards Committee (BAC) at that time. She facilitated all the transactions related to the transfer including the negotiations for the office spaces.9

In July 2007, the NSO Regional Office and the Serbilis outlet transferred to their new office locations.¹⁰

On March 10, 2008, a letter-complaint of an alleged fraud was filed before the Commission on Audit (COA) through the internet. The said letter-complaint alleged irregularities committed by a certain government employee during the transfer of the NSO Regional Office and in the purchase of some office furniture and fixtures.¹¹

On the basis of the said letter-complaint, COA submitted three Audit Observation Memoranda (AOM). An exit conference was conducted on these AOM which were later endorsed to the NSO Central Office. Such endorsement included a recommendation that a further investigation be conducted.¹²

On April 8, 2009, the NSO instructed its Legal Division, composed of Atty. Maribeth C. Pilimpinas, Atty. Jenifer Felipe, and Sherwin Soriano, to proceed to Legazpi City, and conduct an investigation to verify allegations contained in Fraud Complaint No. 2008-28. An investigation report was prepared and a recommendation that petitioner be charged with Grave Misconduct was made.13

On July 3, 2009, petitioner was formally charged with 12 counts of Grave Misconduct.¹⁴ Petitioner was required to file her answer in writing and was given an option to a have a formal investigation, or to waive her right thereto.¹⁵ In compliance, an answer¹⁶ dated July 30, 2009 was filed by petitioner.

A preventive suspension order was also issued, which petitioner appealed to the CSC.¹⁷ The appeal on the preventive suspension aspect was dismissed by the CSC for lack of merit in CSC Resolution No. 10-0224 dated February 2, 2010.18

On September 16, 2009, a preliminary conference was conducted wherein petitioner was represented by Atty. Ian Macasinag. During the preliminary

¹⁵ Id. at 80.

Q Id. at 132. ŋ

Id 10

Id. 11

Id. at 167.

¹² Id. at 168. ¹³ Id. at 54.

¹⁴ CA *rollo*, pp. 79-80.

Id. at 81-91.
Rollo, p. 112.

¹⁸ Id. at 113.

conference and after the stipulations of the parties, only six out of the initial 12 charges of Grave Misconduct remained with three major issues for resolution, to wit:

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1) x x x [W]hether or not [petitioner] unlawfully appropriated 25 sq. m. of [the] Volcanic Building for herself to put up a canteen/store allowing laborers who constructed the *Serbilis* Outlet's partition to also work on the said canteen/store. The materials purchased by [NSO] were also used for the construction of the canteen/store. The unauthorized appropriation of the 25 sq. m. [for the said canteen/store] form part of the leased property of Census *Serbilis* Outlet which was being monthly paid by NSO Region V x x x.

2) x x x [W]hether or not [petitioner] unlawfully took the unserviceable office properties [like computers, transformers, generator set] which were supposed to be disposed [through bidding]; x x x. and

3) x x x [W]hether or not [petitioner] failed to conduct public bidding x x x for the materials used for the partitions and cubicles both of the Regional Office and the *Serbilis* Outlet [as required under RA 9184]. [Petitioner purportedly] manipulated the canvass papers and other documents [pertinent] to the procurements for the office transfer.¹⁹

Thereafter, hearing on the case ensued where the respondent presented witnesses and their corresponding testimonies. For her part, petitioner presented three witnesses including herself. She also presented documentary evidence.²⁰

The case was submitted for resolution after submission of the parties' formal offer of evidence and respective memoranda which were all considered by the NSO.

Ruling of the National Statistics Office:

By Decision ²¹ dated December 30, 2010, the NSO, through its Administrator, found petitioner guilty of Grave Misconduct. It ruled that the Contract of Lease clearly covers the entire 2nd floor of the Volcanic Building as the NSO's *Serbilis* outlet. When petitioner isolated the 25 sq. m. portion of the leased area, and appropriated the same for her store/canteen, NSO was deprived use of the space.²² The NSO also found dubious petitioner's act of allowing some persons to gather office properties subject for disposal on June 29, 2007, late at night from 6:00 p.m. to 11:00 p.m., as testified to by the security guard assigned at the NSO old building. There was no clear justification given by petitioner why the hauling of the disposable properties was done during the night without any of the members of the disposal committee present except the petitioner.

¹⁹ Id. at 113-114.

²⁰ Id. at 114-122.

²¹ Id. at 105-127.

²² ld. at 158-161.

As regards the lack of public bidding for office procurement of labor and materials, the NSO found credible the testimonies of witnesses that no bidding was ever conducted, only canvassing that were fabricated and pro-forma, hence unreliable. The NSO did not accept petitioner's explanation of urgency and pressure from the Mayor of Legazpi City to justify the failure to the conduct of a public bidding. The fact that petitioner is an accountant for the regional office for a long time, makes it unbelievable that she is not aware of the Procurement Law or Republic Act No. (RA) 9184²³ even after being designated as BAC Chairperson.

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Finally, the NSO ruled that petitioner's 23 years of service, though mitigating, was offset by the aggravating circumstance of abuse of authority, which petitioner exerted over her subordinates to consummate her unlawful acts.

The NSO decreed, thus:

WHEREFORE, premises considered, we find the [Petitioner] guilty of Grave Misconduct. She is hereby meted the penalty of *dismissal* from service, effective immediately upon receipt of this decision.

Let this form part of Ms. Longasa's 201 Files.

So ordered.²⁴ (Emphasis in the original)

Undaunted, petitioner filed a notice of appeal²⁵ dated March 30, 2011 before the CSC substantially claiming: that she was denied the right to procedural due process; that the claim for unlawful appropriation of the 25-sq. m. portion of the 2nd floor of the Volcanic Building was not proven by substantial evidence and devoid of any factual basis to stand on;²⁶ that there can be no clandestine disposal of unserviceable equipment to speak of because the disposal was made in the presence of the Regional Director, NSO employees, as well as employees of TESDA, the donee of the unserviceable properties;²⁷ and that while public bidding was not resorted to in the procurement of labor and materials for the new office, she just heeded, in good faith, the advice of the NSO resident auditor to resort to alternative method of procurement in order to meet an urgency.²⁸

²³ Entitled "AN ACT PROVIDING FOR THE MODERNIZATION, STANDARDIZATION AND REGULATION OF THE PROCUREMENT ACTIVITIES OF THE GOVERNMENT AND FOR OTHER PURPOSES," approved on January 10, 2003.

²⁴ *Rollo*, p. 127.

²⁵ Id. at 145.

²⁶ Id. at 147.

²⁷ Id. at 154.

²⁸ Id. at 157.

Ruling of the Civil Service Commission:

On July 26, 2012, the CSC rendered a Decision,²⁹ sustaining the findings of the NSO. The CSC ruled that petitioner was not denied due process since the essence of due process in administrative proceedings is the opportunity to explain one's side. Moreover, the CSC held that the NSO was not precluded to investigate the said report as provided in the Rules despite the fact that the proceedings was initiated by an anonymous letter-complaint filed through the internet.

The CSC sustained the finding of Grave Misconduct on the part of petitioner for misappropriating the 25-sq. m. portion of the NSO leased area; for disposing clandestinely the unserviceable properties; and for failing to conduct any bidding for the procurement of labor and materials for the repair of the new office.

The CSC maintained that the appeal is devoid of merit but modified the disposition of the NSO in this wise:

WHEREFORE, premises considered, the appeal of Milagros A. Longasa, Administrative Officer V, National Statistics Office (NSO), Legazpi City, is hereby DISMISSED. Accordingly, the NSO Decision dated December 20, 2010 which found her guilty of Grave Misconduct, and imposed upon her the penalty of dismissal from the service, is hereby **AFFIRMED with MODIFICATION** that the accessory penalties of cancellation of Civil Service eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking any Civil Service examination are likewise imposed. ³⁰ (Emphasis in the original)

A motion for reconsideration³¹ was subsequently filed but the CSC denied the same by Resolution³² dated November 19, 2012 for lack of merit.

Feeling aggrieved, petitioner elevated the case to the CA *via* a petition for review³³ raising substantially the same arguments proffered below.

Ruling of the Court of Appeals:

In a Decision³⁴ dated May 18, 2016, the CA sustained entirely the findings of the CSC. The CA found untenable petitioner's claim that her rights to due process was violated just because the complaint was unverified and filed through the internet using the COA's website. The CA ruled that the power to discipline and to commence an administrative investigation are within the power and jurisdiction of the head of agency. While the anonymous letter is not

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²⁹ CA *rollo*, pp. 45-54.

³⁰ Id. at 173.

³¹ Id. at 55-67.

³² Id. at 68-73. ³³ R_0/l_0 pp 18

³³ *Rollo*, pp. 187-220.

³⁴ Id. at 52-66.

the complaint within the purview of Section 11, Rule 3 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), it triggered an investigation by the NSO.

As regards the allegation of Grave Misconduct, the CA noted that petitioner was the head of the BAC, NSO Regional Office, and was duty-bound to conduct public bidding according to the COA Rules and Regulations. The circumstances taken together demonstrated a willful intent to violate the law.

Finding that the CSC decision was well-supported by substantial evidence, the CA disposed in this wise:

WHEREFORE, the petition for review is DENIED. The decision of the Civil Service Commission dated July 26, 2012 in Case No. 120467 finding petitioner Milagros A. Longasa guilty of grave misconduct and imposing upon her the penalty of dismissal from service, cancellation of Civil Service eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and being barred from taking any Civil Service examination, is AFFIRMED.

SO ORDERED.³⁵ (Emphasis in the original)

On July 03, 2017, the CA denied petitioner's motion for reconsideration.³⁶

Hence, the present petition.

The Issue

The petition is anchored on the following issues:

1. WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN INTERPRETING THE PROVISIONS ON COMPLAINTS UNDER THE UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, THUS, THE VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS;

2. WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THEN CIVIL SERVICE COMMISSION IN FINDING PETITIONER GUILTY OF GRAVE MISCONDUCT.³⁷

Our Ruling

The petition lacks merit.

³⁵ Id. at 65.

³⁶ Id. at 77-78.

³⁷ *Rollo*, p. 20,

Petitioner insists that she was denied the rudiments of fair play. She claims that the electronic/computer generated anonymous letter, which became the basis of the formal charge against her, is not the complaint envisaged under Section 11, Rule 3 of the RRACCS. Petitioner maintains that it should not have been entertained given that no certified true copies of documentary evidence was attached to it and it was not accompanied with a certification of non-forum shopping.³⁸

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Petitioner likewise laments that she was not afforded the opportunity to be heard and substantially defend her right; that she was not assisted by counsel and was not notified of her right to have one of her choice;³⁹ there was no impartial tribunal who heard and decided her case; the respondent NSO Administrator was the complainant, prosecutor, and judge all at the same time.⁴⁰

Petitioner's contention fails to persuade.

The concept of due process is fluid and is not limited to an exact definition. It is flexible and varies with the circumstances, subject matter and the necessities of the situation.⁴¹ In essence, due process basically requires notice and a fair and real opportunity to be heard and defend one's self.

In administrative proceedings, "the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process."⁴² This opportunity is often manifested through the submission of pleadings providing details of one's defense.⁴³ In *Soliva v. Tanggol*,⁴⁴ the Court pronounced:

Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary, and technical rules of procedure are not strictly applied. The essence of due process, therefore, as applied to administrative proceedings, is an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Thus, a violation of that right occurs when a court or tribunal rules against a party without giving the person the opportunity to be heard.⁴⁵ (Citation omitted.)

No violation of such sort is present in the instant case. Petitioner was evidently not deprived of due process. She was formally charged with multiple counts of Grave Misconduct, required to file her answer thereto, and was given an option to have a formal investigation. In fact, she submitted an answer⁴⁶ to

³⁸ Id. at 22-23.

³⁹ Id. at 25.

⁴⁰ Id. at 25-26.

⁴¹ Saunar v. Ermita, 822 Phil. 536, 546 (2017).

⁴² Disciplinary Board, Land Transportation Office v. Gutierrez, 812 Phil. 148, 154 (2017), citing Vivo v. PAGCOR, 721 Phil. 34, 39-40 (2013).

⁴³ Melendres v. PAGC, 692 Phil. 546, 561 (2012).

⁴⁴ See G.R. No. 223429, January 29, 2020.

⁴⁵ Id.

⁴⁶ CA rollo, pp. 81-91.

the formal charge, and hearings⁴⁷ were conducted where petitioner presented her witnesses and was represented by counsel. Later, petitioner was able to seek reconsideration of the challenged Decision of the NSO and subsequently appealed the same to the CSC. Clearly, petitioner can be said to have been given more than sufficient opportunity to argue her case. Unfortunately for her, she was not able to overturn the substantial evidence presented by the NSO to establish that she committed Grave Misconduct.

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Petitioner also bewails the allowance of an electronic/computer generated anonymous letter to be the basis of the formal charge against her. To her, this is a violation of the requirements of a valid complaint provided under Section 11, Rule 3 of the RRACCS.

The grievance is bereft of merit.

Anonymous complaints are not strictly proscribed. However, it should be treated with great caution.⁴⁸ The mere anonymity of the complainant does not warrant its disregard or justify its outright dismissal.⁴⁹ It is pronounced in *Anonymous Complaint v. Dagala*,⁵⁰ that an anonymous complaint may be acted upon –

provided its allegations can be reliably verified and properly substantiated by competent evidence, like public records of indubitable integrity, "thus needing no corroboration by evidence to be offered by the complainant, whose identity and integrity could hardly be material where the matter involved is of public interest," or the declarations by the respondents themselves in reaction to the allegations, where such declarations are, properly speaking, admissions worthy of consideration for not being self-serving. (Citations omitted.)

We note that the formal charge was only filed after the allegations in the anonymous letter was verified and properly substantiated by competent evidence. Section 9⁵¹ of the Revised Uniform Rules on Administrative Cases in the Civil Service provides that the head of agencies has the authority to take cognizance of complaints involving their respective personnel. When Administrator Carmelita N. Ericta, as head of NSO, commenced an investigation based on the anonymous complaint, she was well within her authority to do so.

⁴⁷ Id. at 133-181.

⁴⁸ A.M. No. MTJ-16-1886, 814 Phil. 103, 114 (2017).

⁴⁹ Id. ⁵⁰ Id.

⁵¹ Section 9. Jurisdiction of Heads of Agencies. — The Secretaries and heads of agencies, and other instrumentalities, provinces, cities and municipalities shall have original concurrent jurisdiction with the Commission over their respective officers and employees. They shall take cognizance of complaints involving their respective personnel. xxx

Furthermore, the anonymous letter in this case was not the complaint within the purview of Section 8, ⁵² Rule II of the Uniform Rules on Administrative Cases in the Civil Service, which requires compliance of formalities before it can be acted upon. However, it may be used as a basis for an investigation, as what happened in this case, that culminated into the filing of the administrative complaint. The instant administrative complaint is deemed to have been initiated by the NSO itself after its fact-finding investigation.

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Indeed, while the letter-complaint is just a plain and simple letter filed through the internet, to say that information in an anonymous complaint cannot be acted upon because it was from an anonymous writer and because it lacks formal niceties, would effectively deprive the Government of its disciplining power over people who hold a public trust.⁵³

Petitioner faults the CA with error in affirming the CSC decision. She claims that the facts and evidence, when taken together, will not constitute substantial evidence sufficient to sustain a finding that she is administratively liable.⁵⁴ Petitioner is grasping at straws.

Petitioner is effectively asking this Court to calibrate anew the evidence presented and make a factual determination based on the re-examination. Evidently, petitioner is raising a question of fact which is not proper for our consideration under Rule 45 of the Rules of Court. It is settled that this Court is not a trier of facts and its jurisdiction under a petition for review on *certiorari* is limited only to errors of law.⁵⁵ Admittedly, there are instances where the

The complaint shall contain the following:

- a, full name and address of the complainant;
- b. full name and address of the person complained of as well as his position and office of employment;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed by the civil servant;
- d. certified true copies of documentary evidence and affidavits of his witnesses, if any; and e. certification or statement of non-forum shopping.

⁵⁴ *Rollo*, p. 26.

⁵² SECTION 8. Complaint. — A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However, in cases initiated by the proper disciplining authority, the complaint need not be under oath.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.

In the absence of any one of the aforementioned requirements, the complaint shall be dismissed.

⁵³ Civil Service Commission v. Court of Appeuls, 469 Phil. 395, 404-405 (2004).

⁵⁵ Gatan v. Vinarao, 820 Phil. 257, 266 (2017).

Court relaxes this Rule. These instances are enumerated in *NGEI Multi-Purpose Cooperative*, *Inc. v. Filipinas Palmoil Plantation*, *Inc.*, ⁵⁶ viz.:

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(1) when there is grave abuse of discretion;

(2) when the findings are grounded on speculation;

(3) when the inference made is manifestly mistaken;

(4) when the judgment of the Court of Appeals is based on a misapprehension of facts;

(5) when the factual findings are conflicting;

(6) when the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of the parties;

(7) when the Court of Appeals overlooked undisputed facts which, if properly considered, would justify a different conclusion;

(8) when the facts set forth by the petitioner are not disputed by the respondent; and

(9) when the findings of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.⁵⁷

An examination of the records, as well as the arguments presented by petitioner shows that none of the recognized exceptions are extant in this case.

Here, in the exercise of its appellate jurisdiction over the findings of the head of the disciplining agency, the CSC considered the documents submitted, as well as the testimonies of the witnesses presented by both parties during the formal investigation, in sustaining the ruling of the NSO. It found these documents and testimonies substantial enough to establish petitioner's liability for Grave Misconduct.

To recapitulate, the CSC held petitioner liable for her appropriation of the 25-sq. m. portion of the NSO leased area. The CSC's examination of the provisions of the lease contract reveals that the area for lease is the entire second floor of the Volcanic Building which has an area of 300 sq. m. Petitioner's misappropriation of the subject area, according to the CSC, was aggravated by the fact that the materials used for the construction of petitioner's canteen/store at the subject area were procured by the NSO.⁵⁸

The CSC also found petitioner liable as regards the disposal of the unserviceable properties. While there were a number of properties donated to the TESDA, and there were some transferred to the National Archives, there

⁵⁶ 697 Phil. 433 (2012).

⁵⁷ Id. at 443.

⁵⁸ *Rollo*, p. 171.

Resolution

were still quite a number of properties left in the NSO old building for disposal. The CSC found credible the testimony of Security Guard Romeo Espartinez, who was assigned at the NSO old building, given that his testimony coincides with the entries in his logbook. He testified that he allowed some persons to gather office properties for disposal on the night of June 29, 2007 between 6:00 p.m. to 11:00 p.m. These persons told him that it was petitioner who allowed them to gather the office properties. He also testified that petitioner arrived that night and instructed him to go to the new building despite the fact that his reliever was not yet around. To the CSC, all these acts manifested knowledge on the part of the petitioner of the unserviceable properties' disposal.⁵⁹

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The CSC further held petitioner liable for her failure to conduct any bidding for the procurement of labor and materials for the repair of the new office. Based on a COA AOM,⁶⁰ goods and materials covered by several vouchers amounting to P431,526.50 and P213,416.25 were made through an alternative method of procurement (shopping), even in the absence of grounds that will justify it. Moreover, procurement of materials was not made with *bona fide* business entities as provided under existing rules. Six "*pakyaw*" contracts with a total of P121,550.00 were used as basis of disbursement for the repairs. These transactions are contrary to the provisions of the procurement law according to the COA AOM.⁶¹

The foregoing discussions negated petitioner's assertion that the facts and evidence herein do not constitute substantial evidence sufficient to sustain a finding that she is administratively liable.

It is reiterated that the power to discipline government officials and employees is vested by the Constitution with the CSC as the central personnel agency of the government.⁶² It is mandated to hear and decide administrative cases instituted by or brought before it directly or on appeal in the exercise of its quasi-judicial functions.⁶³

It is a basic doctrine that the findings of fact of quasi-judicial agencies, like the CSC, in the assessment of the pieces of evidence presented before them are accorded great weight, more especially when sustained by the CA. This is in recognition of the administrative agencies' specialized knowledge and expertise in their respective fields. Thus, so long as the quantum of evidence required in administrative proceedings which is substantial evidence has been met, factual findings and calibration of evidence made by the administrative agencies are accorded respect and finality by this Court.⁶⁴ We find no reasonable ground to deviate from this well-settled doctrine.

⁵⁹ Id. at 171-172.

⁶⁰ Id. at 172.

⁶¹ Id. at 172.

⁶² CONSTITUTION, Article IX-B, Section 3.

⁶³ Mamiscal v. Abdullah, 762 Phil. 328, 346 (2015).

⁶⁴ Pollo v. Constantino-David, 675 Phil. 225, 267 (2011).

WHEREFORE, the petition for review on *certiorari* is **DENIED**. The May 18, 2016 Decision and July 3, 2017 Resolution of the Court of Appeals in CA-G.R. SP No. 128124, are hereby **AFFIRMED**.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON Division Clerk of Court

By:

MA. CONSOLACION GAMINDE-CRUZADA Deputy Division Clerk of Court n 4/24

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