



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 27, 2022** which reads as follows:*

**“G.R. No. 210512 (DR. RAMON S. GUERRA, JR., petitioner v. THE BOARD OF REGENTS, WEST VISAYAS STATE UNIVERSITY, LA PAZ, ILOILO CITY, respondent).** – This Petition for Review on *Certiorari*<sup>1</sup> assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 04774:

- a) Decision<sup>2</sup> dated May 6, 2013 finding petitioner guilty of simple misconduct for the second time, hence, dismissing him from service; and
- b) Resolution<sup>3</sup> dated November 25, 2013, denying petitioner’s motion for reconsideration.

**Antecedents**

On September 13, 2005, the West Visayas State University Board of Regents (WVSU-BOR) (respondent) held its 125<sup>th</sup> Regular Board Meeting. During the meeting, Medicotek, Inc. presented a proposal for a Rent-To-Own Plan of various hospital equipment for the benefit of the WVSU Medical Center.<sup>4</sup>

After due deliberation, the members of the board agreed that a public bidding was no longer necessary because the transaction would fall under direct contracting which is an exception to the requirement of public bidding under Section 50(c)<sup>5</sup> of the Implementing Rules and Regulations (IRR) of

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<sup>1</sup> *Rollo*, pp. 10–31.

<sup>2</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Pampio A. Abarintos and Gabriel T. Ingles, *id.* at 35–45.

<sup>3</sup> *Id.* at 48–50.

<sup>4</sup> *Id.* at 199–203.

<sup>5</sup> **Section 50. Direct Contracting** - Direct Contracting or single source procurement is a method of procurement of Goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be

Republic Act No. (RA) 9184, otherwise known as the Government Procurement Reform Act.<sup>6</sup> Even then, respondent ordered the WVSU Medical Center Director Dr. Ramon S. Guerra, Jr. (petitioner) to put the contract on hold until Medicotek, Inc. presents a certificate of exclusive dealership.

On September 13, 2005, respondent passed Resolution No. 68-2005,<sup>7</sup> viz.:

**RESOLVED, AS IT IS HEREBY RESOLVED**, that after full deliberation on the matter, the Board accepted/approved the proposed Rent-to-Own plan of Medicotek[,] Inc. for the acquisition of hospital equipment such as three (3) units defibrillator with cardiac monitors with central station for the use of Medical ICU, Surgical ICU, Post Anesthetic Care Unit and Neonatal ICU.

**RESOLVED FURTHER, AS IT IS HEREBY FURTHER RESOLVED**, that Medicotek[,] Inc. must submit a certification from the Department of Health that it is the Exclusive/Sole Distributor of the aforementioned medical equipment.<sup>8</sup> (Emphasis supplied)

On October 25, 2005, petitioner entered into a Memorandum of Agreement (MOA) with Medicotek, Inc. for the acquisition of the various medical equipment.<sup>9</sup> Thereafter, or on December 5, 2005, petitioner made partial payments to Medicotek, Inc. for the following hospital equipment, viz.: one (1) unit Primedic Defi Monitor Model DM-30 amounting to ₱109,772.73 under Voucher No. 05-12-1479; and one (1) set Colin Central 4 System, consisting of one (1) unit central station and four (4) units patients monitor amounting to ₱229,090.91 under Voucher No. 05-12-1478.<sup>10</sup>

On May 2, 2006, 12 “concerned taxpayers” of Iloilo City wrote the WVSU-BOR Chairman Designate and Commission on Higher Education (CHED) Commissioner Hadja Luningning Misuarez-Umar asking to investigate the alleged anomalous contracts entered into by petitioner in behalf of the WVSU Medical Center with Medicotek, Inc.<sup>11</sup> The “concerned taxpayers” claimed that the medical equipment purchased were overpriced by 200% to 300%. Too, no public bidding was conducted despite the availability of suitable substitutes from other suppliers. There was also no evaluation and recommendation from the hospital department prior to the purchase of the

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accepted immediately or after some negotiations. Direct contracting may be resorted to by concerned Procuring Entities under any of the following conditions:

- a) xxx
- b) xxx
- c) Those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the GoP.

<sup>6</sup> *Rollo*, pp. 199–203.

<sup>7</sup> *Id.* at 226.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 62.

<sup>10</sup> *Id.* at 200.

<sup>11</sup> *Id.* at 141.

equipment. Lastly, the terms and conditions of the contracts were grossly disadvantageous to the government.<sup>12</sup>

During the May 23, 2006 board meeting, respondent passed a Resolution No. 46-2006 and created a fact-finding committee to investigate the alleged transactions. The fact-finding committee then held a meeting with the WVSU President, the Bids and Awards Committee, Chief Administrative Officer, Accountant IV and Supply Officer.<sup>13</sup>

After investigation, the fact-finding committee found that petitioner did not have authority from respondent when he entered into a MOA with Medicotek, Inc.<sup>14</sup> Further, petitioner was only authorized to sign the vouchers on behalf of the WVSU Medical Center if the amount will not exceed ₱200,000.00; otherwise, the WVSU President must be a co-signor.<sup>15</sup>

Thereafter, respondent issued a resolution authorizing the WVSU President Lourdes C. Arañador (President Arañador) to determine the appropriate charges to be filed against petitioner. President Arañador, however, submitted a brief stating that she authorized petitioner to sign the MOA with Medicotek, Inc. She also explained that petitioner's lone signature on Voucher No. 05-12-1478 for ₱229,090.91 was only an initial signature as head of the WVSU Medical Center which would be followed by her signature as the WVSU President.<sup>16</sup>

On January 30, 2007, despite President Arañador's explanation, respondent issued Resolution No. 03-2007 approving the issuance of a formal charge and order of preventive suspension against petitioner for Grave Misconduct. Thereafter, the BOR Chairman Designate and CHED Commissioner Misuarez-Umar issued a Preventive Suspension Order against petitioner.<sup>17</sup>

On December 17, 2007, the BOR Investigation and Hearing Committee issued a resolution finding petitioner guilty of simple misconduct only and recommended the penalty of suspension for three (3) months.<sup>18</sup>

On March 17, 2008, respondent, nonetheless, issued Resolution No. 37-2008 finding petitioner guilty of grave misconduct and imposed on him the penalty of dismissal from the service.<sup>19</sup>

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<sup>12</sup> Id. at 36.

<sup>13</sup> Id.

<sup>14</sup> Id. at 199–203.

<sup>15</sup> As approved during the respondent's 123<sup>rd</sup> regular meeting on March 17, 2005 pursuant to Resolution No. 27 series of 2005; id. at 199–203.

<sup>16</sup> Id. at 37.

<sup>17</sup> Id. at 199–203.

<sup>18</sup> Id. at 37.

<sup>19</sup> Id. at 38.

Petitioner moved for reconsideration, claiming he was denied due process when he was not invited to the meeting with the WVSU officials to hear his case.<sup>20</sup> He also asserted that President Arañador authorized him to sign the MOA with Medicotek Inc. and Voucher No. 05-12-1478.<sup>21</sup>

By Resolution No. 40-2008,<sup>22</sup> respondent denied petitioner's motion for reconsideration.

On appeal to the Civil Service Commission (CSC), petitioner claimed that the disciplinary proceeding against him was replete with irregularities resulting in the denial of due process. More, respondent's resolution finding him liable for grave misconduct was not supported by substantial evidence.<sup>23</sup>

### **The Ruling of the CSC**

Under Resolution No. 090209<sup>24</sup> dated February 17, 2009, the CSC found petitioner guilty of simple misconduct only and imposed on him the penalty of three (3) months suspension.

The CSC found that petitioner was not denied due process since he was able to defend himself through the various pleadings he filed during the proceedings below. As for his liability, the CSC ruled that the elements of corruption, willful intent to violate the law or to disregard the established rules which must be proven by substantial evidence were not present in this case. Hence, petitioner cannot be made liable for grave misconduct.<sup>25</sup>

Both petitioner and respondent sought a reconsideration. Respondent also filed a supplemental motion for reconsideration, manifesting that petitioner had been previously found guilty of simple misconduct way back in April 23, 1998 when he refused to comply with an order to implement the re-assignment of one Zenaida L. Quiroz (Quiroz) as an Administrative Assistant, Office of the Chief of WVSU Medical Center. There, she was meted the penalty of fine equivalent to three (3) month-salary.<sup>26</sup> The CSC, nonetheless, denied the motions per Resolution No. 091559.<sup>27</sup>

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<sup>20</sup> Id.

<sup>21</sup> Id. at 64.

<sup>22</sup> Id. at 102.

<sup>23</sup> Id. at 103.

<sup>24</sup> Id. at 360-373.

<sup>25</sup> Id. at 104-105.

<sup>26</sup> See CSC Resolution No. 980920 dated April 23, 1998; id. at 623-628.

<sup>27</sup> Id. at 39.

### The Ruling of the Court of Appeals

By Decision<sup>28</sup> dated May 6, 2013, the Court of Appeals affirmed petitioner's liability for simple misconduct but modified his penalty to dismissal from the service.

Considering that this is petitioner's second offense for simple misconduct, the Court of Appeals imposed the penalty of dismissal from the service in accordance with Section 52 (B) (2), Rule IV of the 1999 Uniform Rules on Administrative Cases in the Civil Service (1999 URACCS).<sup>29</sup>

Petitioner moved for reconsideration but it was denied under Resolution<sup>30</sup> dated November 25, 2013.

### The Present Petition

Petitioner now seeks affirmative relief *via* Rule 45 of the Rules of Court. He insists that he was denied of due process since the Court of Appeals considered respondent's arguments which were not raised in the proceedings below. He also asks that the mitigating circumstance of good faith be appreciated in the determination of his liability.<sup>31</sup>

In its Comment,<sup>32</sup> respondent ripostes that petitioner's pleas are now irrelevant since he failed to appeal the decision of the CSC finding him guilty of Simple Misconduct.<sup>33</sup>

During the pendency of the petition before this Court, however, on **October 3, 2019**, petitioner died of liver failure.<sup>34</sup>

<sup>28</sup> Id. at 35-45.

<sup>29</sup> RULE IV – PENALTIES

Section 52. – Classification of Offenses – Administrative offenses with corresponding penalties are classified into grave, less grave or light depending on their gravity or depravity and effects on the government service.

A. xxx

B. The following are *less grave offenses* with the corresponding penalties:

1. xxx

2. Simple Misconduct:

1<sup>st</sup> Offense – Suspension for one (1) month and one (1) day to six (6) months

2<sup>nd</sup> Offense – **Dismissal** (emphasis supplied)

<sup>30</sup> *Rollo*, pp. 18-21.

<sup>31</sup> Id. at 215.

<sup>32</sup> Id. at 198-223.

<sup>33</sup> Id. at 629-636.

<sup>34</sup> *Temporary Rollo*, PSA Certificate of Death of Dr. Ramon S. Guerra showing that he died on October 3, 2019.

## Ruling

### *Petitioner is liable for simple misconduct only.*

Misconduct is a transgression of some established and definite rule of action, particularly, as a result of a public officer's unlawful behavior, recklessness, or gross negligence. This type of misconduct is characterized for purposes of gravity and penalty as *simple* misconduct.<sup>35</sup>

The misconduct is *grave* if it involves any of the additional elements of corruption, clear willful intent to violate the law, or flagrant disregard of established rules, supported by substantial evidence.<sup>36</sup>

In *Office of the Ombudsman v. Miedes, Sr.*,<sup>37</sup> therein respondents as members of the Bids and Awards Committee (BAC) purchased 19 cellphones without public bidding and from a mere authorized distributor and not the manufacturer or the latter's exclusive distributor in violation of Presidential Decree No. 1445. As BAC members, they were each presumed to know all existing policies, guidelines, and procedures in carrying out the purchase of the cellphones. The Court held petitioner liable only for simple misconduct because while they knew that the approval may violate administrative rules, it cannot be automatically concluded that they did so with either a corrupt intention or a clear willful intention amounting to an open defiance or a flagrant disregard of the rules. Thus:

Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer."

In Grave Misconduct, as distinguished from Simple Misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rules, must be manifest and established by substantial evidence. Grave Misconduct necessarily includes the lesser offense of Simple Misconduct. Thus, a person charged with Grave Misconduct may be held liable for Simple Misconduct if the misconduct does not involve any of the elements to qualify the misconduct as grave.

The CA correctly found no reason to depart from the findings of the petitioner that respondent and his companions are guilty of Simple Misconduct. The elements particular to Grave Misconduct were not adequately proven in the present case. **Corruption, as an element of Grave Misconduct, consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the**

<sup>35</sup> *Domingo v. Civil Service Commission*, G.R. No. 236050, June 17, 2020.

<sup>36</sup> *Id.*

<sup>37</sup> 570 Phil. 464, 468 ((2008) [Per *J. Austria-Martinez*, En Banc].

rights of others. There is no clear and convincing evidence in the present case to show that the purchase and acquisition of the 19 cellular phone units had been **made for personal or selfish ends. Nor is there evidence** that respondent and his companions **acted in a capricious, whimsical and arbitrary manner with conscious and deliberate intent to do an injustice to others.**

Nonetheless, as aptly found by the CA, respondent and his companions should have exercised all the necessary prudence to ensure that the proper procedure was complied with in the purchase of the 19 cellular phone units because the Municipal Government of Carmen, Davao del Norte was deprived of means of securing the most advantageous price by the purchase of the 19 cellular phone units through an authorized distributor and not directly through a manufacturer or an exclusive distributor. Thus, respondent is liable for Simple Misconduct. (emphasis supplied)

In *Civil Service Commission v. Ledesma*,<sup>38</sup> we ruled that respondent is guilty only of Simple Misconduct for accepting ₱3,000.00 in exchange for facilitating the release of complainants' emigrant certificate clearances and their respective passports. The Court held:

The standard was not met in this case. Taken as a whole, the circumstances surrounding this case and the execution of the complaint-affidavits against Ledesma would raise doubts in a reasonable mind.

The primary complainant, Steve Tsai, is a foreigner who was a mere student at the time. Yet he blithely broke into a government office on a day that he probably knew, from his stay in the country, to be a non-working day. At the least, this brazen and appalling conduct shows that Steve Tsai is hardly trustworthy. His version of events should not be accepted wholesale. We have previously held that the standard of substantial evidence is not met by affidavits of questionable veracity.

Given the questionable nature of the complainants' affidavits, we are left with **Ledesma's admission that she received ₱3,000 from complainants.** There is no dispute that **₱2,560 was the required fee for two ECCs in 1999. This amount was actually paid to the Bureau, and Steve Tsai and Ching Tsai received their ECCs. Only ₱460 is unaccounted.** Ledesma's admission, however, does not prove by itself **corruption or the other elements particular to grave misconduct.** Ledesma admitted to receiving the money only so she could pass it to **someone else and not for her own benefit.** In the absence of substantial evidence to the contrary, Ledesma's explanation is plausible. Moreover, **to warrant dismissal, the misconduct must be grave, serious, important, weighty, momentous and not trifling.** That is not the case here. (emphasis supplied)

For administrative proceedings, only substantial evidence is required. Substantial evidence is defined as that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. The standard of substantial evidence is satisfied when there is reasonable ground

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<sup>38</sup> *Civil Service Commission v. Ledesma*, 508 Phil. 569, 572 (2005) [Per J. Carpio, En Banc].

to believe that respondent is responsible for the misconduct complained of, even if such evidence might not be overwhelming or even preponderant.<sup>39</sup>

Here, there was no substantial evidence to prove the element of corruption for grave misconduct against petitioner. Records did not show that he intended to benefit or had in fact benefited from the MOA he entered into with Medicotek, Inc. Notably, respondent's basis for imposing the penalty of Grave Misconduct against petitioner was only the "concerned taxpayers" claim that the medical equipment purchased were overpriced by 200% to 300%; no public bidding was conducted; there was no evaluation and recommendation from the hospital department prior to the purchase of the equipment; and the terms and conditions of the contracts were grossly disadvantageous to the government. Nothing more. These were however all bare allegations without proof.

Petitioner's acts of entering the MOA with Medicotek, Inc. without authority from respondent and signing Voucher No. 05-12-1478 for the purchase of various hospital equipment without the signature of WVSU President as co-signor nonetheless violated the norm and decency or diminished the people's respect for those in the government service. Since petitioner occupied a high position in the government as Medical Director, he was expected to be more circumspect in all his actuations and dealings.

Verily, the CSC and the Court of Appeals were correct in finding petitioner guilty of Simple Misconduct only.

***Petitioner's commission of Simple Misconduct for the second time merits his dismissal from the service.***

Under Section 52 (B) (2), Rule IV of the 1999 URACCS though, the commission of the second offense of Simple Misconduct should be penalized with dismissal from the service, viz.:

#### RULE IV – PENALTIES

Section 52. – Classification of Offenses – Administrative offenses with corresponding penalties are classified into grave, less grave or light depending on their gravity or depravity and effects on the government service.

A. xxx

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<sup>39</sup> *Anonymous Complaint Against Judge Edmundo P. Pintac*, A.M. Nos. RTJ-20-2597, P-20-4091, RTJ-20-2598, RTJ-20-2599, September 22, 2020.

B. The following are *less grave offenses* with the corresponding penalties:

1. xxx
2. Simple Misconduct:
  - 1<sup>st</sup> Offense – Suspension for one (1) month and one (1) day to six (6) months
  - 2<sup>nd</sup> Offense – **Dismissal** (emphasis supplied)

The 2011 Revised Rules on Administrative Cases in the Civil Service<sup>40</sup> which supplanted the 1999 URACCS similarly provide that the commission of Simple Misconduct on its second offense is punished with dismissal from the service, thus:

#### PENALTIES

##### Rule 10

#### SCHEDULE OF PENALTIES

##### Section 46 - Classification of Offenses.

- A. xxx
- B. xxx
- C. xxx
- D. The following less grave offenses are punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first offense, and **dismissal from the service for the second offense**:

1. xxx
2. **Simple Misconduct**

xxx xxx (Emphasis supplied)

Notably, this is not the first time petitioner was found guilty of simple misconduct. Petitioner was already found guilty of simple misconduct way back April 23, 1998 when he refused to comply with an order to implement the re-assignment of one Quiroz as an Administrative Assistant, Office of the Chief of WVSU Medical Center. There, petitioner was meted the penalty of fine equivalent to his three (3) month-salary.<sup>41</sup>

Considering that this was not petitioner's first infraction, the Court of Appeals did not err in taking into consideration petitioner's prior conviction for simple misconduct in modifying the penalty imposed on him by the CSC. Thus, petitioner's commission of simple misconduct for the second time merits his dismissal from the service.

<sup>40</sup> CSC Resolution No. 11011502 dated November 18, 2011.

<sup>41</sup> See CSC Resolution No. 980920 dated April 23, 1998; *rollo*, pp. 623-628.

***Petitioner's death warrants the dismissal of the administrative case against him***

On June 1, 2022, Atty. Eliezer P. Ambatali, Director III of the Philippine Statistics Office, forwarded to this Court petitioner's Certificate of Death indicating that petitioner died on October 3, 2019 due to liver failure.<sup>42</sup> Consequently, the Court is constrained to dismiss the present administrative case against petitioner.

In *Flores-Concepcion v. Judge Castañeda*,<sup>43</sup> Judge Castañeda was charged with conduct unbecoming of a Judge and ignorance of the law in connection with a nullity of marriage case. By Decision dated September 15, 2020, the Court *En Banc* took judicial notice of respondent's demise on April 10, 2018. It dismissed the administrative case against respondent and did not discuss her administrative liability anymore since there is no one left to punish after her death.

In *Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge Godofredo B. Abul, Jr., Branch 4, Regional Trial Court, Butuan City, Agusan Del Norte*,<sup>44</sup> the Court *En Banc*, under Decision dated September 8, 2020, granted the motion for reconsideration and ordered the dismissal of the administrative complaint against Judge Abul with finality. For humanitarian reasons, the Court ruled that **respondent's mistakes should not unduly punish his heirs**, especially if they had no part in or knowledge about respondent's extortion activities. **Respondent's liability should be considered personal and extinguished upon his death. It should not extend beyond his death, and its effects should not be suffered by his heirs, lest it indirectly impose a harsh penalty upon innocent individuals.** The Court stressed that respondents heirs already had to deal with the sudden death of a loved one. This alone was more than enough for a family to bear. Hence, to allow respondent's administrative case and the forfeiture of all of his death and survivorship benefits to subsist beyond his death would unnecessarily add to the already deep sorrow and grief of his bereaved family.

Too, in *Anonymous complaint against Judge Edmundo Pintac, et al.*,<sup>45</sup> where respondent Judge was administratively charged for his failure to inhibit from a case involving one of his court personnel, the Court *En Banc*, through Decision dated September 22, 2020, took judicial notice of Judge Pintac's demise and thus resolved to dismiss the administrative complaint against him.

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<sup>42</sup> *Temporary Rollo*, PSA Certificate of Death of Dr. Ramon S. Guerra showing that he died on October 3, 2019.

<sup>43</sup> A.M. No. RTJ-15-2438, September 15, 2020.

<sup>44</sup> *Re: Godofredo B. Abul, Jr.*, A.M. No. RTJ-17-2486, September 3, 2019.

<sup>45</sup> *Anonymous Complaint Against Judge Edmundo P. Pintac*, A.M. Nos. RTJ-20-2597, P-20-4091, RTJ-20-2598, RTJ-20-2599, September 22, 2020.

Finally, in *Delagua v. Batingana*,<sup>46</sup> respondent Judge Batingana was charged with gross misconduct, immorality, and ignorance of the law. Though found guilty of gross misconduct, the Court *En Banc* under Decision dated February 2, 2021, dismissed the administrative case against Judge Batingana because of his demise.

The same rule applies to the present case. Had petitioner not died, his dismissal from the service would have been in order. But in view of his untimely demise, it is no longer appropriate to impose any administrative liability of a punitive character. Thus, the administrative case against petitioner should be dismissed.

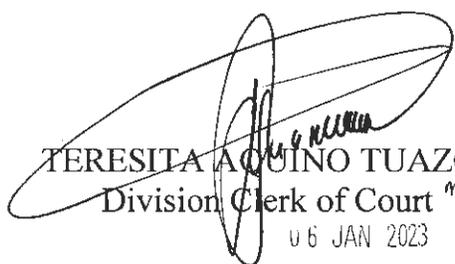
The Court **NOTES** the compliance dated May 25, 2022 by Atty. Eliezer P. Ambatali, Director III, Legal Service, Philippine Statistics Authority (PSA) with the Resolution dated September 29, 2021, submitting the attached PSA-issued copy of the certificate of death of Mr. Ramon Salva Guerra, Jr. with Registry No. 2019-5315.

**FOR THESE REASONS**, in view of the supervening death of petitioner **DR. RAMON S. GUERRA, JR.** on October 3, 2019, the petition is **DISMISSED**. This case is considered **CLOSED** and **TERMINATED**.

Let entry of judgment be issued immediately.

**SO ORDERED.”**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court <sup>mm</sup>  
06 JAN 2023

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<sup>46</sup> A.M. No. RTJ-20-2588, February 2, 2021.

Resolution

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G.R. No. 210512  
July 27, 2022

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