



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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Republic of the Philippines
Supreme Court
Baguio City

BY: _____
TIME: _____

EN BANC

VIOLETA C. MAGASO,

G.R. No. 219425

Petitioner,

Present:

- versus -

**THE HON. COMMISSION ON
AUDIT,**

Respondent.

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.V.,
GAERLAN,
ROSARIO,
LOPEZ, J.Y.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

January 10, 2023

X

X

DECISION

ZALAMEDA, J.:

Our laws mandate that disbursements of government funds shall

* On leave.

invariably bear the approval of the proper officials.¹ Time and again, We are confronted with situations where the signatories of an accountable form disavow liability based on blind reliance on the presumption of regularity. Undoubtedly, as in this case, their signature as approvers or certifiers were not meant to be mere rubber stamps and their duty as such is not ministerial. Nonetheless, their liability will be determined based on the extent of their participation in a disallowed transaction.²

The Case

This Petition for *Certiorari* (Petition)³ under Rule 64 in relation to Rule 65 of the Rules of Court seeks to reverse and review the Decision dated 31 March 2009⁴ of the Commission on Audit (COA) in Legal Services Sector (LSS) Decision No. 2009-163. This Petition also seeks to challenge the Notice of Finality of Decision dated 23 April 2015.

Antecedents

Sometime in 2004, then Congressman Hussin U. Amin (Congressman Amin) of the First District of Sulu, identified the Municipality of Panglima Tahil, Sulu as one of the recipients of his Priority Development Assistance Fund (PDAF) for calendar year (CY) 2004. Congressman Amin requested the Department of Budget and Management (DBM) to allocate ₱3,000,000.00 for the procurement of various medicines, medical supplies, and devices to be distributed to the constituents of the Municipality of Panglima Tahil. As such, the DBM issued Special Allotment Release Order (SARO) No. ROIX-2004-071 dated 16 March 2004 in the amount of ₱3,000,000.00. Said PDAF was released to the Department of Health (DOH), Regional Field Office IX, Zamboanga City. Thereafter, a Memorandum of Agreement (MOA) dated 19 March 2004 was entered into by and between Brenda B.A. Lopez and Mayor Nedra Burahan (Mayor Burahan), who were the Regional Director of the Center for Health Development (CHD) Zamboanga Peninsula of the DOH and Municipal Mayor of the Municipality of Panglima Tahil, Sulu, respectively.⁵

In response to a complaint filed relative to said transactions, a Special Audit Team (SAT) was created under Legal and Adjudication Office Order No. 2005-058 tasked to conduct an audit investigation on various

¹ Section 4, Presidential Decree No. 1445, or the Government Auditing Code of the Philippines.

² See *Advincula v. COA*, G.R. No. 209712, 16 February 2021.

³ *Rollo*, pp. 3-17.

⁴ *Id.* at 18-22. Penned by Director III Lito Q. Martin.

⁵ *Id.* at 18-19.

transactions of the DOH-CHD, Zamboanga Peninsula, covering check disbursements for CY 2004. During their audit, it was found that a Notice of Cash Allocation No. 149403-2 dated 6 May 2004 was issued by the DBM in the amount of ₱3,000,000.00 to DOH-CHD, Zamboanga Peninsula. Said fund was eventually released by the latter through Check Number 70241 dated 7 May 2004 to the Municipality of Panglima Tahil c/o Mayor Burahan during the 2004 election period.⁶

After its audit investigation, the SAT issued the Notice of Disallowance No. 07-022-101 (04) dated 14 March 2007 as it found the transaction violative of Section 261(w) of Batas Pambansa Blg. 881, or the Omnibus Election Code. The SAT named the following persons to be held liable: Mayor Burahan as payee, DBM Director Gerardo Concepcion for his release of the PDAF, Regional Director Lopez for approving the transaction, Dr. Caridad Y. Baban for certifying the on-going project status, Chief Administrative Officer Wilfredo Pacatang (Pacatang) for certifying Box "A" of Disbursement Voucher No. 101-04-05-12,⁷ and Accountant III Violeta Magaso (Magaso) for certifying Box "B" of said disbursement voucher. The Notice of Disallowance further directed the above-named persons to immediately settle the disallowance.⁸

Based on the representations made by the officials of the Municipality of Panglima Tahil, the Regional Director of DOH-CHD informed the Commission on Election (COMELEC) about the procurement of drugs and medicines which were bidded and awarded on or before 26 March 2004 by the Local Government Unit (LGU) concerned and that expenditures were regular and routine pursuant to COMELEC Resolution No. 6634. However, the SAT Report disclosed that there were no documents to show that the project was in fact awarded on or before 26 March 2004. As of the audit period, the Municipality of Panglima Tahil had not yet complied with the provision in the MOA to submit a report on how the amount was spent through a Fund Utilization Report.⁹

Aggrieved, Pacatang and Magaso wrote a letter requesting for reconsideration of said Notice of Disallowance and praying that they be excluded from liability. They cited Section 39 of COA Circular No. 85-156-B dated 31 May 1989, or the Manual on Certificate of Settlement and Balances, which provides that the liability of an official or employee for disallowances or discrepancies in audited accounts shall depend upon his or her participation in the transactions involved. As such, they argued that: (1)

⁶ Id. at 19.

⁷ Id. at 26.

⁸ Id. at 19, 26-27.

⁹ Id. at 19.

their participation is limited only to their certification in Box "A" and Box "B" of the disbursement voucher [*i.e.*, Box "A" is for the Chief Administrative Officer: expenses/advances necessary, lawful and incurred under his/her direct supervision¹⁰ and Box "B" is for the Chief Accountant: supporting documents complete and proper and cash were available¹¹]; (2) they signed said disbursement voucher as a matter of office policy, and their certification was merely based on the supporting documents attached to it; (3) they totally relied on the representations made by Mayor Burahan that the Municipality of Panglima Tahil complied with COMELEC Resolution No. 6634; and (4) they were not certifying the legality and propriety of the events that transpired in the Municipality of Panglima Tahil, but were only certifying on the completeness of the mandatory minimum supporting documents for the transaction.¹²

Ruling of the COA Proper

On 31 March 2009, the COA, thru the LSS, issued the assailed Decision No. 2009-163, the dispositive portion of which reads:

WHEREFORE, premises considered, the herein request for exclusion as persons liable of Mr. Wilfredo S. Pacatang and Violeta C. Magaso of the Department of Health, Center for Health Development (DOH-CHD), Zamboanga Peninsula, Zamboanga City, from the Notice of Disallowance (ND) No. 07-22-101 (04) dated March 14, 2007 is hereby **DENIED**.¹³

The COA cited Section 19 of the Manual for Certificate of Settlement and Balances, which states:-

19.1.2 Public officers who certify to the necessity, legality and availability of funds/budgetary allotments, adequacy of documents, etc. involving the expenditure of funds or uses of government property shall be liable according to their respective certifications.

According to the COA, it is evident that Magaso and Pacatang's participation as signatories of Box "A" and Box "B" of the disbursement voucher is material and significant enough to the consummation of the transaction. Without their signature, the transaction could not have been consummated and the funds could not have been transferred to the

¹⁰ Id. at 108.

¹¹ Id. at 10.

¹² Id. at 19-20.

¹³ Id. at 21.

Municipality of Panglima Tahil.¹⁴

In the Notice of Finality of Decision dated 23 April 2015, the COA informed the Regional Director of DOH-CHD that the foregoing Decision has become final and executory in the absence of an appeal filed within the reglementary period.¹⁵

Issues

Only Magaso filed the instant Petition, raising the following issues:

- I. Whether COA gravely erred in ruling that Magaso is liable for the release of ₱3,000,000.00 fund in favor of Panglima Tahil Municipality;
- II. Whether COA committed grave abuse of discretion amounting to excess of jurisdiction when it denied Magaso's right to due process of law thereby making the Notice of Finality of Decision null and void; and
- III. Whether COA committed grave abuse of discretion amounting to excess of jurisdiction when it violated the Constitutional provision requiring that a decision rendered must clearly and distinctly state the facts and law on which it is based.

Ruling of the Court

The petition is without merit.

At the outset, Magaso alleged that she did not receive any copy of the assailed Decision. She only learned of it when she received a copy of the Notice of Finality of Decision on 23 June 2015.¹⁶ She filed the instant Petition on 23 July 2015, or within 30 days from her receipt of the Notice of Finality of Decision.¹⁷

It must be emphasized that a judgment becomes final and executory by operation of law. Finality becomes a fact when the reglementary period to appeal lapses and no appeal is perfected within such period. When a final judgment is executory, it becomes immutable and unalterable. This doctrine

¹⁴ Id. at 20-21.

¹⁵ Id. at 24.

¹⁶ Id. at 8.

¹⁷ Id. at 1.

of immutability is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some definite point in time.¹⁸ A related concept is the running of reglementary period to appeal, which commences from receipt of the notice of decision.¹⁹

In this case, Magaso alleged, and it was uncontested, that she did not receive a copy of the assailed Decision. Thus, said Decision has not yet attained finality.

Nonetheless, this Petition must still be denied even if We resolve the case on the merits.

The disallowance of the transaction based on an alleged violation of Section 261(w) of the Omnibus Election Code was proper

The SAT disallowed the transaction due to alleged violation of Section 261(w) of the Omnibus Election Code. In *Guzman v. COMELEC (Guzman)*,²⁰ We ruled that Section 261(w) covers two separate and distinct acts, considering the use of the disjunctive “or” to separate subparagraphs (a) and (b), viz:

Section 261. xxx

(w) **Prohibition against construction of public works, delivery of materials for public works and issuance of treasury warrants and similar devices.** - During the period of forty-five days preceding a regular election and thirty days before a special election, any person who:

- (a) undertakes the construction of any public works, except for projects or works exempted in the preceding paragraph; or
- (b) issues, uses or avails of treasury warrants or any device undertaking future delivery of money, goods or other things of value chargeable against public funds.

¹⁸ *PCI Leasing and Finance, Inc. v. Milan*, 631 Phil. 257, 277-278 (2010).

¹⁹ *See Damasco v. Arrieta*, 117 Phil. 246, 248-250 (1963).

²⁰ 614 Phil. 143 (2009).

Consequently, in determining if the legal provision was violated, it is immaterial whether or not the subject treasury warrant in *Guzman* was intended for public works.²¹ Moreover, in *People v. Ting*,²² We identified the elements of Section 261(w)(b) as follows:

(1) any person issues, uses or avails of treasury warrants *or any device* forty-five days preceding a regular election or thirty days before a special election; (2) the warrant *or device* undertakes the future delivery of money, goods or other things of value; and (3) the undertaking is chargeable against public funds.²³ (Italics supplied.)

Corollary thereto, it is not necessary that the “device undertaking future delivery of money, goods or other things of value chargeable against public funds” is related to any construction of public works or delivery of materials for public works.

Here, the device in question is Check No. 70241 dated 07 May 2004, which was released to the Municipality of Panglima Tahil c/o Mayor Burahan during the 2004 election period.

Under the Manual on the New Government Accounting System (NGAS) for LGUs,²⁴ which was in force at the time of the disbursement in 2004, as well as the present Government Accounting Manual (GAM) for LGUs,²⁵ a disbursement voucher must be prepared to facilitate payment of money claims. Once the disbursement voucher has been duly accomplished, the claimant or his/her authorized representative will be issued either cash or check.²⁶ A check is a bill of exchange drawn on a bank payable on demand.²⁷ Thus, for all intents and purposes, Check No. 70241 is a device undertaking future delivery of money which is chargeable against public funds.

²¹ Id. at 159-160.

²² 844 Phil. 868 (2018).

²³ Id. at 878-879 (2018).

²⁴ Manual on the New Government Accounting System (NGAS) for Local Government Units (LGUs), Volume II, Chapter 2:

Sec. 32. Disbursement Voucher (DV). – The Disbursement Voucher (Annex 24) shall be used by local government agencies for all money claims. The number shall be indicated on the DV and on every supporting document of the claim. The supporting documents shall be listed on the face of the voucher and in case more space is needed, the back of the DV shall be used.

²⁵ Government Accounting Manual (GAM) for LGUs, Volume II, Chapter 2:

Section 38. Disbursement Voucher (DV). – The Disbursement Voucher (Appendix 31) shall be used by local government agencies for all money claims. The number shall be indicated on the DV and on every supporting document of the claim. The supporting documents shall be listed on the face of the voucher and in case more space is needed, the back of the DV shall be used.

²⁶ NGAS for LGUs, Instructions Volume II, A-24, DV.

²⁷ Section 185, Negotiable Instruments Law.

Verily, the COA correctly invoked Section 261(w) of the Omnibus Election Code as basis of its disallowance.

The COA did not commit grave abuse of discretion when it affirmed Magaso's accountability in the disallowed transaction

Magaso insists that she should be excluded from liability considering that she merely relied on the representations of Mayor Burahan that the Municipality of Panglima Tahil complied with COMELEC Resolution No. 6634 and her participation is limited only to her certification in Box "B" of the disbursement voucher.

We are not persuaded.

COA Circular No. 92-389 dated 03 November 1992 states:

3. Document Checklist at the Back of the Voucher

The checklist at the back of the voucher enumerates the mandatory minimum supporting documents for the selected transactions.

It should be clear, however, that the submission of the supporting documents enumerated under each type of transaction does not preclude reasonable questions on the funding, legality, regularity, necessity or economy of the expenditure or transaction. Such questions may be raised by **any of the signatories** to the voucher.

The demand for additional documents or equivalents should be in writing. A blank space is provided for additional requirements, if any, and if authorized by any law or regulation. If the space is insufficient, separate check may be used and attached to the voucher. (Emphasis supplied.)

The foregoing reveals that the signatories in a disbursement voucher may raise questions and demand additional documents, if necessary. Clearly, therefore, the certifiers and approvers are expected to review the documents and not merely sign perfunctorily.

Here, as admitted by Magaso, she certified that the "[s]upporting documents [are] complete and **proper** and cash were available."²⁸ By certifying the propriety of the supporting documents of the disbursement

²⁸ *Rollo*, p. 10. Emphasis supplied.

voucher, Magaso attests to its entirety, which necessarily includes compliance with existing laws.

The surrounding circumstances should have raised Magaso's suspicion, *i.e.*, the timing of the disbursement during the 2004 election period and the instruction that the check be issued c/o Mayor Burahan. Instead of her blind reliance, Magaso should have indicated her questions or concerns in the disbursement voucher or required the submission of additional documents. Records are bereft of any showing that she did so.

Magaso erroneously invokes *Buscaino v. COA (Buscaino)*.²⁹ In ruling that the Chief Financial Management Officer was not liable for the disallowed amount, We considered in said case that he could not have questioned the grant of housing allowance as his task was just to certify that the disbursement was properly supported by the Resolution of the Board of Trustees.³⁰

However, it may be noted that the disbursement voucher discussed in *Buscaino* was Form No. 5A, Rev. 1981, wherein the accounting officer only certify that the transaction has: (1) adequate available funds; (2) expenditure properly certified; (3) supported by documents appearing legal and proper; and (4) account codes proper.³¹ Based on these certifications, it is sufficient that the documents appear legal and proper. Hence, in *Buscaino*, We held that "[a]s accounting officer, petitioner's duty was merely to sign the vouchers for the disbursement of the funds therefor."³²

It is worth highlighting that the required certification for accounting officers has since been amended. COA Circular No. 92-389 dated 03 November 1992 states that one of the objectives of the revisions in the disbursement voucher is to make it more effective and responsive to the requirements of Republic Act No. (RA) 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, and RA 7160, or the Local Government Code of 1991. At present, similar to Magaso's case, accounting officers are required to attest that the supporting documents are in fact complete and proper, as opposed to "appearing legal and proper."

In *Umipig v. People*,³³ We denied the chief accountant's claim that her duty in certifying Box "B" of a disbursement voucher is merely ministerial.

²⁹ 369 Phil. 886 (1999).

³⁰ *Id.* at 904.

³¹ COA Circular No. 81-155 dated 23 February 1981.

³² *Supra* note 29 at 905.

³³ 691 Phil. 272 (2012).

We took into account that she was not precluded from raising questions on the legality or regularity of the transaction involved. We further stressed the nature of her responsibilities as an accountable officer, to wit:

Accountable. (a) Having responsibility or liability for cash or other property held in trust or under some other relationship with another. (b) [government accounting] **Personally liable for improper payments; said of a certifying or disbursing officer.** (c) Requiring entry on the books of account; said of a transaction not yet recorded, often with reference to its timing. (d) Responsible.

Accountable officer. An officer who, by reason of the duties of his office, is accountable for public funds or property.³⁴

The presumption of good faith fails when an explicit law, rule or regulation has been violated, as in this case.³⁵ The palpable disregard of laws and applicable directives amounts to gross negligence.³⁶

The COA did not violate Magaso's Constitutional right to due process and right to be informed of the facts and law upon which the ruling against her is based.

Magaso raised for the first time that she believes that her right to due process was violated when the other signatories to the disbursement voucher were not duly notified of the disallowance.³⁷ She also argues the decision of the COA did not exhaustively resolve the merits of her case, in violation of Section 14, Article VIII of the Constitution.³⁸

We are not convinced.

On the alleged failure of the COA to notify the other signatories to the disbursement voucher of the notice of disallowance, We observed that this was not denied in the Comment by the COA through its counsel, the Office of the Solicitor General.³⁹ Be that as it may, Magaso is not the proper party to raise the due process violation on the part of the other signatories found

³⁴ Id. at 308, citing F.S. Tantuico, Jr., State Audit Code Philippines Annotated, p. 529.

³⁵ SSS v COA, G.R. No. 244336, 06 October 2020.

³⁶ Ngalob v COA, G.R. No. 238882, 05 January 2021; Paguio v COA, G.R. No. 223547, 27 April 2021.

³⁷ Rollo, pp. 12-13.

³⁸ Id. at 13-14.

³⁹ Id. at 59-74.

liable under the Notice of Disallowance. Even assuming that the other signatories were not informed of the disallowance, she need not depend on their arguments because her accountability is based on her actual participation. Since she certified that the supporting documents to the disbursement voucher are complete and proper, she should be aware of the factual and legal basis of her certification.

At any rate, it is well-settled that their civil liability is solidary under Sections 43 of the Administrative Code of 1987. Their solidary liability for amounts they may or may not have received is justified considering that the payees would not have received the disallowed amounts if it were not for the officers' irregular discharge of their duties.⁴⁰

As regards the alleged violation of Section 14, Article VIII of the Constitution, in *Yao v. CA*, We stressed that "[t]he parties to a litigation should be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court,"⁴¹ viz:

Faithful adherence to the requirements of Section 14, Article VIII of the Constitution is indisputably a paramount component of due process and fair play. It is likewise demanded by the due process clause of the Constitution. The parties to a litigation should be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court. The court cannot simply say that judgment is rendered in favor of X and against Y and just leave it at that without any justification whatsoever for its action. The losing party is entitled to know why he lost, so he may appeal to the higher court, if permitted, should he believe that the decision should be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is precisely prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.⁴²

A perusal of the assailed decision of the COA shows that it adequately covered the relevant facts and law of the case, and thus informed the parties of how it was decided. While the discussion of the ruling was concise, it sufficiently explained the factual and legal reasons in affirming the Notice of Disallowance. The COA cited Section 19 of the Manual for Certificate of Settlement and Balances and ruled that the participation of Pacatang and Magaso as the respective signatories of Box "A" and Box "B" of the disbursement voucher is material and significant enough to the

⁴⁰ *Madera v. COA*, G.R. No. 244128, 08 September 2020.

⁴¹ *Yao v. Court of Appeals*, 398 Phil. 86, 105 (2000).

⁴² *Id.* at 105-106.

consummation of the transaction. Without their signatures, the transaction could not have been consummated and the funds could not have been transferred to the Municipality of Panglima Tahil. Notwithstanding the brevity of the decision of the COA, this complies with the Constitutional requirement of stating clearly and distinctly the facts and law on which a decision is based.

As a final note, Magaso explains that even if she refused to sign the disbursement voucher, it will not ultimately stop the transaction but will only hold the project in abeyance until such time funds will be available. Further, she raised for the first time that the advances for ₱3,000,000.00 appears to have been fully liquidated based on the DOH-Regional Office IX Certification dated 06 July 2015.⁴³

Contrary to Magaso's contention, the check would not have been released if not for her signature and certification that the supporting documents are complete and proper. Moreover, if the transaction was completed *after* the 2004 election period, there is no election offense to begin with. Whether or not the amount has been fully liquidated is immaterial since this should not have been spent in the first place. At any event, there is nothing in the DOH-Regional Office IX Certification that clearly shows that it pertains to the same disallowed transaction in this case. Consistent with Our ruling in *People v. Ting*, for as long as the device is issued, used, or availed of within the prohibited period to undertake the future delivery of money chargeable against public funds, an election offense is committed.⁴⁴ Thus, the violation of Section 261(w)(b) was committed upon the issuance of Check No. 70241 to Mayor Burahan. Accordingly, the responsible officers who made this possible should be held accountable.

Indeed, the Constitution vests the broadest latitude in the COA in discharging its role as the guardian of public funds and properties. In recognition of such constitutional empowerment, the Court has generally sustained the COA's decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce. Thus, the Constitution and the Rules of Court provide the remedy of a petition for *certiorari* 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. For this purpose, grave abuse of discretion means that there is, 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

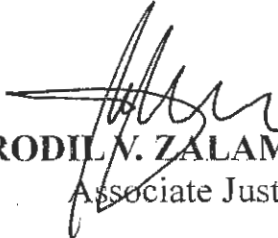
⁴³ *Rollo*, p. 14.

⁴⁴ *People v. Ting*, supra note 22 at 881.

of law, such as when the assailed decision or resolution rendered is not based on law and the evidence but on caprice, whim and despotism.⁴⁵ In this case, Magaso failed to show that the COA gravely abused its discretion.

WHEREFORE, in view of the foregoing, the present Petition is hereby **DENIED**. The Decision of the Commission on Audit in Legal Services Sector No. 2009-163 dated 31 March 2009 is hereby **AFFIRMED**.

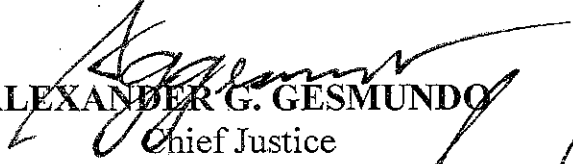
SO ORDERED.




RODIL N. ZALAMEDA
Associate Justice

⁴⁵ Supra note 40.

WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice

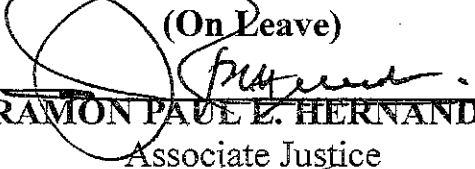


MARVIC M. V. F. LEONEN
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


(On Leave)



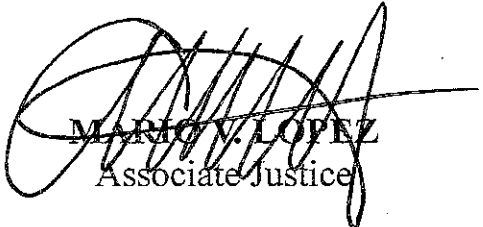
RAMON PAUL E. HERNANDO
Associate Justice



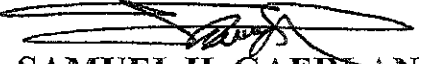
AMY C. LAZARO-JAVIER
Associate Justice



HENRY JEAN PAUL B. INTING
Associate Justice



MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice




RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice




MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to the 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.


ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court