



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,
Complainant,

A.M. No. P-22-058 [Formerly
JIB FPI No. 22-087-P]

Present:

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

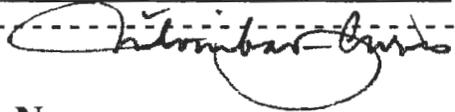
-versus-

CHARLIBETH P. SICAD, Clerk
III, Office of the Clerk of Court,
Metropolitan Trial Court, Makati
City,

Promulgated:

Respondent.

June 27, 2023

x-----
 x

DECISION

PER CURIAM:

The Case

The Office of the Court Administrator (OCA) charged respondent Charlibeth P. Sicad (respondent), Clerk III, Cashier Unit, Office of the Clerk

* On official leave.

** Acting Chief Justice per Special Order No. 2989 dated June 24, 2023.

of Court, Metropolitan Trial Court (MeTC), Makati City (OCC-MeTC) with gross misconduct and dishonesty.¹ The Complaint was an offshoot of an undated Memorandum² of Executive Judge Ma. Concepcion A. Billones (Executive Judge Billones) of MeTC, Makati City and the Memorandum³ dated February 8, 2022 of Assistant Court Administrator (ACA) Maria Regina Adoracion Filomena M. Ignacio, the ACA in-charge of the said station, regarding the theft of court collections in the amount of PHP 277,000.00 which occurred on February 3, 2022 at the OCC-MeTC.

Antecedents

On February 3, 2022, Kim Ericka D. Dela Cruz (Dela Cruz), Clerk III, Cashier Unit, was the cashier on duty at the OCC-MeTC. Around 12:00 noon of that day, Dela Cruz received a text message and a phone call from an alleged Lalamove rider regarding a supposed delivery of documents from a certain Miss Malou of the Supreme Court. The Lalamove rider told Dela Cruz to wait at the entrance of the Makati City Hall, Building 2. Since Dela Cruz still had pending transactions, it took her some time to go down to meet the Lalamove rider. But before she did, she asked respondent to stay at the cashier post in the meantime. She was only gone for a few minutes though because when she reached the lobby, she could no longer contact the Lalamove rider.⁴

When Dela Cruz got back to her post, respondent was still there, asking for reimbursement of PHP 500.00 which she (respondent) allegedly advanced to cover the change due to one of the payees. When she opened the money drawer, respondent pointed out that there were fake bills inside the money drawer. Alarmed, she immediately reported the matter to Atty. Adoracion Arceo (Atty. Arceo), Clerk of Court of OCC-MeTC.⁵

Atty. Arceo ordered Dela Cruz to close the door and immediately called Executive Judge Billones to report the incident. Thereafter, Executive Judge Ethel V. Mercado-Gutay of the Regional Trial Court (RTC) and Vice Executive Judges Niño Delvin Embuscado and Ma. Lourdes V. Barrios-Sapalo of the MeTC arrived and directed an immediate investigation of the incident. Fortunately, there were police officers in the area who assisted in the investigation.⁶ With the consent of the judges and the employees of the OCC-MeTC, Police Staff Sergeant Danny Boy Argel and Police Corporal John Jake B. Salazar (PCp1 Salazar) frisked the employees and searched their personal belongings.⁷

¹ *Rollo*, pp. 1-3. See Memorandum dated February 11, 2022 of Deputy Court Administrator Raul B. Villanueva,

² *Id.* at 31-32.

³ *Id.* at 9-30.

⁴ *Id.* at 31.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 20.

During the investigation, respondent was uneasy and doing unnecessary movements. She was seen going to the storage room at the back of the OCC-MeTC even though everyone was ordered to stay in their work areas. This prompted PCp1 Salazar and PCp1 Hige Lee Braga (PCp1 Braga) to follow her. They saw her coming out from the edge of a filing cabinet. Consequently, PCp1 Salazar searched the area where respondent had come out, and there, he discovered the stolen money inside a black pouch. Right off, PCp1 Braga placed respondent under arrest and apprised her of her constitutional rights.⁸

An examination of the financial transactions of the OCC-MeTC showed there was a total collection of PHP 311,299.07 in the morning of that day but only PHP 34,299.07 was left inside the money drawer. Notably, the money in the black pouch amounted to PHP 277,000.00. There were also fake bills found in the garbage bin in front of the table of respondent. A litigant also confirmed that only respondent was in the cashier area the whole time Dela Cruz was away.⁹

A criminal case for qualified theft docketed as Criminal Case No. R-MKT-22-00199-CR was thereafter filed against respondent before the RTC of Makati City.¹⁰

By Memorandum¹¹ dated February 11, 2022, the OCA informed Chief Justice Alexander G. Gesmundo that respondent was also charged with gross misconduct and dishonesty and her immediate preventive suspension was recommended pending investigation by the Judicial Integrity Board (JIB).

Under Resolution¹² dated February 22, 2022, the Court *En Banc* preventively suspended respondent effective immediately until further orders from the Court.

In its 1st Indorsement¹³ dated September 19, 2022, the Office of the Executive Director, JIB (OED-JIB) referred the complaint for respondent's comment. But respondent neither filed a comment nor communicated with the JIB regarding the Complaint despite notices sent to her city, provincial, and electronic mail addresses through which she attended the online hearings in the aforesaid criminal case.

⁸ *Id.*

⁹ *Id.* at 9.

¹⁰ *Id.* at 215-226.

¹¹ *Id.* at 1-3.

¹² *Id.* at 82.

¹³ *Id.* at 171.

In its Report and Recommendation¹⁴ dated February 28, 2023, OED-JIB recommended that the case be evaluated on the merits, sans respondent's comment.

Report and Recommendation of the Acting Executive Director of the JIB

Under his Report and Recommendation¹⁵ dated March 28, 2023, Atty. James D.V. Navarrete (Atty. Navarrete), Deputy Clerk of Court at-Large, OCA and Acting Executive Director of the JIB, recommended that respondent be found liable for commission of a crime involving moral turpitude, gross misconduct, and violation of Supreme Court rules, directives, and circulars, *viz.*:

IN VIEW OF THE FOREGOING, it is respectfully submitted for the consideration of the Honorable Board that the following recommendations be made to the Supreme Court:

1. [R]espondent Charlibeth P. Sicad, Clerk III, Office of the Clerk of Court, Metropolitan Trial Court (OCC-MeTC), Makati City, be found **GUILTY** of Commission of a Crime involving Moral Turpitude And Gross Misconduct constituting violations of the Code of Conduct for Court Personnel, and be **DISMISSED** from the service with **FORFEITURE** of all her retirement benefits except earned leave credits, and with **PREJUDICE** to re-employment in any branch or agency of the government, including government-owned and controlled corporations; and
2. [R]espondent Sicad be found **GUILTY** of Violation of Supreme Court rules, directives and circulars that establish an internal policy, rule of procedure, or protocol, and be **FINED** an amount of **Thirty-Six Thousand Pesos (P36,000.00)**, payable within a period not exceeding three (3) months from the time the decision or resolution is promulgated or to be deducted from her salaries and benefits, including accrued leave credits, if it remains unpaid after said period.¹⁶

Atty. Navarrete opined that respondent's failure to submit her comment on the administrative case shows her propensity to disregard and disobey lawful orders of the Court. Jurisprudence dictates that all directives of the Court Administrator and his deputies are issued in the exercise of the Court's administrative supervision of trial courts and their personnel, hence, noncompliance therewith constitutes insubordination. Thus, although the directive to file a comment came from the JIB, and not the OCA, the same rule applies since the JIB has been delegated the power to process

¹⁴ *Id.* at 177-179.

¹⁵ *Id.* at 184-194.

¹⁶ *Id.* at 194.

administrative complaints. Therefore, respondent should be held liable for violation of Supreme Court rules, directives, and circulars.¹⁷

There was likewise substantial evidence to support respondent's administrative liability for commission of a crime involving moral turpitude and gross misconduct constituting violations of the Code of Conduct for Court Personnel in connection with the theft of the missing PHP 277,000.00 from the total collection of the financial transactions of the OCC-MeTC on February 3, 2022. Accordingly, the penalty of dismissal from the service is justified under Rule 140 of the Rules of Court, as further amended by A.M. No. 21-08-09-SC.¹⁸

Report and Recommendation of the JIB

In its Report¹⁹ dated April 26, 2023, the JIB partly adopted the recommendation of Atty. Navarrete, finding respondent liable for gross misconduct constituting violation of the Code of Conduct for Court Personnel, serious dishonesty, and commission of a crime involving moral turpitude, viz.:

WHEREFORE, it is respectfully **RECOMMENDED** to the Honorable Supreme Court that Charlibeth P. Sicad, Clerk III, Office of the Clerk of Court, Metropolitan Trial Court, Makati City, be found guilty of gross misconduct constituting a violation of the Code of Conduct for Court Personnel, serious dishonesty, and commission of a crime involving moral turpitude, and be **DISMISSED** from the service with forfeiture of her benefits except earned leave credits, and with prejudice to re-employment in any branch or agency of the government, including government-owned or controlled-corporations.²⁰

As for respondent's noncompliance with the OED-JIB's directive to submit a comment in the case, the JIB held that it was sufficient that in its Report²¹ dated March 15, 2023, respondent's right to participate in the proceedings was already deemed waived. Thus, respondent should not be held administratively liable anymore for violation of the Court's directive to file her comment in the case.²²

As for the theft incident, the JIB found that there was substantial evidence to reasonably conclude that the amount of PHP 277,000.00 was taken from the money drawer and it was respondent who did it. Verily, the taking of money from the court's collection was a flagrant violation of the law. Thus, respondent should be held liable for gross misconduct constituting a violation of the Code of Conduct for Court Personnel. Too, since respondent

¹⁷ *Id.* at 188.

¹⁸ *Id.* at 193.

¹⁹ *Id.* at 215-226.

²⁰ *Id.* at 225.

²¹ *Id.* at 195-200.

²² *Id.* at 215-226.

committed theft, which is *malum in se*, she should be held administratively liable for serious dishonesty. Lastly, although respondent enjoyed the constitutional presumption of innocence in the criminal case for theft and there was no final judgment yet, there was substantial evidence to hold her administratively liable for commission of a crime involving moral turpitude.²³

Our Ruling

We adopt in full the findings of fact, conclusions of law, and recommendation of the JIB.

Time and again, the Court has stressed that no position demands greater moral righteousness and uprightness from its holder than a judicial office.²⁴ Those connected with the dispensation of justice, from the highest official to the lowliest clerk, carry a heavy burden of responsibility.²⁵ As frontliners in the administration of justice, they should live up to the strictest standards of honesty and integrity. They must bear in mind that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the people who work there.²⁶

Thus, the Court demands that every employee of the Judiciary should be an example of integrity, uprightness, and honesty. Like any public servant, he or she must exhibit the highest sense of honesty and integrity not only in the performance of his or her official duties but in his or her personal and private dealings with other people, to preserve the courts' good name and standing.²⁷

Undoubtedly, respondent has fallen far short of these standards.

Respondent's failure to file her comment is a waiver of her right to present evidence and participate in the proceedings

We first tackle the effect of respondent's noncompliance with the OED-JIB's directive to submit her comment in this case.

²³ *Id.* at 223.

²⁴ *Office of the Court Administrator v. Nacuray*, 521 Phil. 32 (2006) [*Per Curiam, En Banc*], citing *Re: Report on the Financial Audit Conducted in the MTC, Sta. Cruz, Davao Del Sur*, 508 Phil. 143 (2005) [*Per J. Carpio, First Division*].

²⁵ *Id.*, citing *Re: Report on the Financial Audit Conducted at the MCTC-Mabalacat, Pampanga*, 510 Phil. 237, 241 (2005) [*Per J. Panganiban, En Banc*].

²⁶ *Id.*, citing *Chua v. Paas*, 506 Phil. 455 (2005) [*Per Curiam, En Banc*].

²⁷ *Floria v. Sunga*, 420 Phil. 637, 650 (2001) [*Per J. Sandoval-Gutierrez, Third Division*], citing *Bucacat v. Bucacat*, 380 Phil. 555, 567 (2000) [*Per Curiam, En Banc*].

We agree with the JIB that noncompliance with the OED-JIB's directive to submit respondent's comment per its 1st Indorsement dated September 19, 2022 does not by itself constitute a separate offense.

Relevantly, Section 3(3) of Rule 140, as amended, states, *viz.*:

*(3) Consequence of Respondent's Failure to Answer or Comment – **Failure of the respondent to file his or her verified answer or comment** in accordance with Section 3 (1) or (2) above **shall**, unless otherwise justified, result in his or her **waiver to participate in the proceedings, and the investigation may proceed based on the available evidence on record.** (Emphases supplied)*

In fine, respondent's failure to file her comment in the administrative complaint, despite the OED-JIB's directive, constitutes a waiver of her right to present evidence and to participate in the administrative proceedings against her.

The Court is not unmindful though that a criminal case for qualified theft has already been filed against respondent. But unlike criminal cases where the quantum of evidence requires proof beyond reasonable doubt, only substantial evidence is required to prove misconduct in administrative cases.²⁸ The quantum of proof required here, therefore, is only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion.²⁹

Respondent is liable for gross misconduct, serious dishonesty, and commission of a crime involving moral turpitude

Misconduct is defined as “a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.”³⁰ In order to differentiate gross misconduct from simple misconduct, any of the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule, must be manifest in the former.³¹

²⁸ *Re: Oliver B. Maxino*, 873 Phil. 729 (2020) [*Per Curiam, En Banc*].

²⁹ *Id.*, citing *Office of the Court Administrator v. Lopez*, 654 Phil. 602, 607 (2011) [*Per Curiam, En Banc*].

³⁰ *Tolentino-Genilo v. Pineda*, 819 Phil. 588, 594 (2017) [*Per Curiam, En Banc*].

³¹ *Id.*

Corruption, as an element of gross 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 rights of others.³²

Dishonesty, on the other hand, is defined as “the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray, or intent to violate the truth.”³³

The Court has decreed that dishonesty becomes serious when it is qualified by any of the following circumstances:³⁴

- a. The dishonest act causes serious damage and grave prejudice to the government.
- b. The respondent gravely abused his authority in order to commit the dishonest act.
- c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption.
- d. The dishonest act exhibits moral depravity on the part of the respondent.
- e. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment.
- f. The dishonest act was committed several times or in various occasions.
- g. The dishonest act involves a Civil Service examination, irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.
- h. Other analogous circumstances.³⁵

Here, respondent committed acts that clearly constitute gross misconduct constituting violations of the Code of Conduct for Court Personnel, serious dishonesty, and commission of a crime involving moral turpitude.

³² *Office of the Court Administrator v. Lopez*, *supra* note 29.

³³ *Office of the Court Administrator v. Sarabia, Jr.*, A.M. No. P-15-3398, July 12, 2022 [*Per Curiam, En Banc*], citing *Alforon v. Delos Santos*, 789 Phil. 462, 474 (2016) [*Per J. Brion, Second Division*].

³⁴ *Office of the Court Administrator v. Sarabia, Jr.*, *supra*.

³⁵ *Id.*, citing Sec. 3, CSC Resolution No. 06-0538 (s. 2006), cited in *Madreo v. Bayron*, 888 Phil. 768, 815 (2020) [*Per J. Delos Santos, Jr., En Banc*].

As correctly observed by the JIB, the text message from the supposed Lalamove driver for an alleged delivery was a ruse to lure Dela Cruz away from the cashier's drawer. The ruse proved to be successful since respondent gained access to the cashier's drawer after Dela Cruz left respondent to attend to the cashier area in the meantime. We can reasonably conclude, therefore, that respondent used her position while taking charge of the cashier area to unlawfully take and clandestinely hide the court's cash collections inside the black pouch. Surely, the element of corruption is present here.

Notably, Atty. Arceo, PCp1 Salazar, and PCp1 Braga uniformly observed that respondent became uneasy while the employees were being frisked and their belongings, being searched. To make matters worse, respondent dubiously made her way to the OCC-MeTC storage area despite the mandate for the employees to remain in their respective work areas. Further, there were torn fake peso bills in the garbage bin right in front of respondent's desk. It was also obvious that she was conditioning the mind of Dela Cruz that before she (respondent) took charge of the cashier's area, the substantial amount which got lost was already stolen by one who supposedly slid the fake peso bills inside the money drawer. But all her lies were easily uncovered when she became visibly uneasy and mobile during the investigation, leading to the discovery of the stolen money inside the black pouch. More, respondent's waiver of the opportunity to file her comment, and consequently clear her name, has left the incriminating evidence against her un rebutted, if not conclusive.

Respondent's dishonesty is certainly qualified by at least more two circumstances, *viz.*: Her dishonest act caused serious damage and grave prejudice to the government; and she gravely abused her authority to commit the dishonest act. Ultimately, her unauthorized taking of cash collections in the amount of PHP 277,000.00 constitutes theft. While theft is not among the charges enumerated under Sections 14 to 16 of Rule 140, Section 14(f) thereof characterizes commission of a crime involving moral turpitude as a serious charge.

We have previously explained³⁶ that the annotated version of Rule 140 provides an explanatory note to Section 14(f) thereof, *viz.*:

The 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) has the counterpart offense of "Conviction of a crime involving moral turpitude." Here, the term "conviction" is changed to "commission" because the former tends to imply that a final conviction before the criminal courts is required before a respondent may be charged with this offense. The Court has discussed that "to sustain a finding of administrative culpability, only substantial evidence is required. The present case is an administrative

³⁶ *Office of the Court Administrator v. Sarabia, Jr., supra* note 33.

case, not a criminal case, against respondent. Therefore, the quantum of proof required is only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. Evidence to support a conviction in a criminal case is not necessary, and the dismissal of the criminal case against the respondent in an administrative case is not a ground for the dismissal of the administrative case. We emphasize the well-settled rule that a criminal case is different from an administrative case and each must be disposed of according to the facts and the law applicable to each case.”

As such, if there is already substantial evidence to support the finding that a respondent has committed a crime involving moral turpitude, then it should be enough to find him administratively liable for this offense. Besides, the new Section 1 (1) explicitly provides that mere institution of a criminal action against a respondent is sufficient basis to institute *motu proprio* proceedings against him or her.³⁷

Theft is a crime involving moral turpitude,³⁸ because it is inherently against good morals and the accepted rule of right conduct.³⁹ To be sure, the Court has consistently declared that thievery, no matter how petty, has no place in the Judiciary.⁴⁰

As shown, respondent committed three serious charges under Section 14 of Rule 140, *viz.*:

SECTION 14. *Serious charges.* – Serious charges include:

- (a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;
x x x
- (c) Serious dishonesty;
x x x
- (f) Commission of a crime involving moral turpitude;
x x x⁴¹

Penalty

Section 17(1) of Rule 140, as amended, prescribes the sanctions for a serious charge, as follows:

SECTION 17. *Sanctions.* –

³⁷ *Office of the Court Administrator v. Sarabia, Jr., supra.*

³⁸ See *Philippine Long Distance Telephone Company v. National Labor Relations Commission*, 247 Phil. 641 (1988) [Per J. Cruz, *En Banc*].

³⁹ *In re: Basa*, 41 Phil. 275, 276 (1920) [Per J. Malcolm, *En Banc*].

⁴⁰ *Re: Alleged Theft of Food during the 2019 Bar Examinations by Head Watcher Mr. Zosimo D. Labro, Jr., Administrative Officer II, Shipping and Delivery Section, Property Division, Office of the Court Administrator (OCA), from a 2019 Bar Examinee*, A.M. No. 2020-02-SC, January 12, 2021 [Per Curiam, *En Banc*].

⁴¹ Section 14, Rule 140 of the Rules of Court, as further amended.

- (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:
- (a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits;
 - (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
 - (c) A fine of more than P100,000.00 but not exceeding P200,000.00[.]⁴²

Meanwhile, Section 21 of the same Rule prescribes the penalty for multiple offenses arising from a single act, *viz.*:

SECTION 21. *Penalty for Multiple Offenses.* – x x x

x x x

On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.⁴³

Having committed three serious infractions under Rule 140, respondent must be meted the penalty of dismissal from the service.

There is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.⁴⁴ We have invariably emphasized that conduct which violates the norms of public accountability and diminish, or even tends to diminish, the faith of the people in the justice system has never been and will never be tolerated or condoned by the Court.⁴⁵

ACCORDINGLY, the Court finds respondent **CHARLIBETH P. SICAD**, Clerk III, Cashier Unit, Office of the Clerk of Court, Metropolitan Trial Court, Makati City **GUILTY** of **GROSS MISCONDUCT CONSTITUTING VIOLATIONS OF THE CODE OF CONDUCT OF COURT PERSONNEL, SERIOUS DISHONESTY, and COMMISSION OF A CRIME INVOLVING MORAL TURPITUDE**. Accordingly, she is **DISMISSED** from the service with **FORFEITURE** of all benefits and

⁴² Section 17 (1), Rule 140 of the Rules of Court, as further amended.

⁴³ Section 21, Rule 140 of the Rules of Court, as further amended.

⁴⁴ *Supra* note 30, at 595.

⁴⁵ *Office of the Court Administrator v. Nacuray*, *supra* note 24.

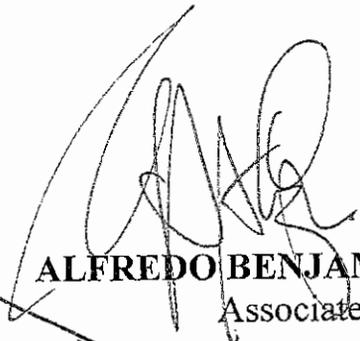
privileges, excluding earned leave credits, if any, with **PREJUDICE** to re-employment in any branch or agency of the government, including government-owned and controlled corporations. Her Civil Service Eligibility is **CANCELLED** and she is **BARRED** from taking any future civil service examination.

This Decision is without prejudice to the filing of any criminal and/or civil case/s against respondent. Let a copy of this Decision be attached to her records with this Court and furnished the Civil Service Commission.

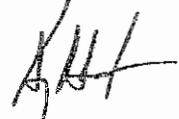
SO ORDERED.

(on official leave)
ALEXANDER G. GESMUNDO
Chief Justice


MARVIC M.V.F. LEONEN
Acting Chief Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

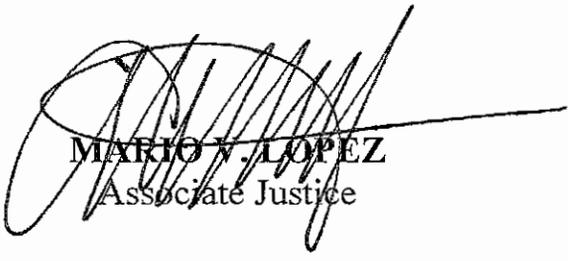

AMY C. LAZARO-JAVIER
Associate Justice



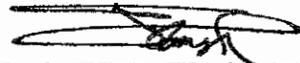
HENRI JEAN PAUL B. INTING
Associate Justice



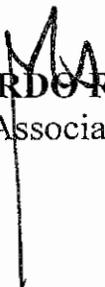
RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice



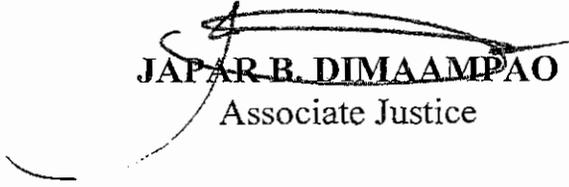
SAMUEL H. GAERLAN
Associate Justice



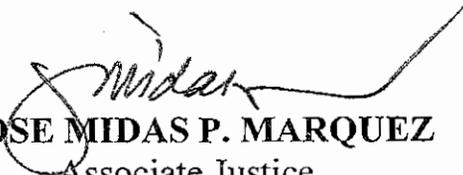
RICARDO R. ROSARIO
Associate Justice



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