



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

**RE: EVALUATION OF
ADMINISTRATIVE LIABILITY OF
HON. ANTONIO C. LUBAO,
BRANCH 22, REGIONAL TRIAL
COURT, GENERAL SANTOS CITY,
WHO COMPULSORILY RETIRED
ON JANUARY 13, 2015, IN
CONNECTION WITH THE CASES
SUBJECT OF THE JUDICIAL
AUDIT CONDUCTED THEREAT
FROM MAY 19-22, 2014, AND
OTHER RELEVANT DIRECTIVES
ISSUED BY THE OFFICE OF THE
COURT ADMINISTRATOR.**

A.M. No. 15-09-314-RTC

Present:

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

Promulgated:

April 19, 2016

Hon. Leonardo de Castro

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DECISION

BRION, J.:

For this Court's consideration is the Memorandum¹ dated September 11, 2015 from the Office of the Court Administrator (OCA) on the administrative liability of Hon. Antonio C. Lubao (*Judge Lubao*) of the Regional Trial Court (RTC), Branch 22, General Santos City, in connection with the cases subject of the judicial audit and physical inventory conducted by the OCA on his court from May 19 to 22, 2014. The judicial audit was

* No Part.

¹ Rollo, pp. 1-10.

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conducted in anticipation of Judge Lubao's compulsory retirement on January 13, 2015.

From the audit and inventory conducted by the OCA, the number of pending cases and matters discovered were: sixty-eight (68) cases submitted for decision, sixty-one (61) cases already beyond the reglementary period to decide, forty-one (41) cases with pending incidents, twenty-nine (29) cases already beyond the prescribed period to resolve, forty-one (41) cases have yet to be acted upon (composed of seven [7] newly-filed cases and cases with no initial action taken, thirty-two [32] cases with no further action, and two [2] cases with no further setting), one hundred fifty-one (151) court processes (six [6] in civil cases and one hundred forty-five [145] in criminal cases) – which returns have yet to be received by the court, with most cases already due for archiving.²

In a July 21, 2014 Memorandum, the OCA asked Judge Lubao to take appropriate action on the cases subject of the audit, including the observations made by the Audit Team in their report, and to submit his compliance within sixty (60) days from notice. Also, the OCA required Judge Lubao to submit an explanation within fifteen (15) days from notice for his omissions. The OCA reiterated its directives in a November 11, 2014 Memorandum to Judge Lubao, who failed to comply with the OCA's earlier memorandum.

On December 9, 2014, Clerk of Court Atty. Marivic E. Fillalan of RTC Branch 22, General Santos City submitted to the OCA copies of the decisions and orders in some of the cases subject of the audit, in partial compliance to the OCA's July 21, 2014 Memorandum. She mentioned in her submission that Judge Lubao's explanation will soon follow, but the OCA never received the promised explanation.

In a January 27, 2015 Memorandum, the OCA directed Clerk of Court Atty. Fillalan to submit a supplemental status report on the case left pending by Judge Lubao after his retirement on January 13, 2015. The OCA received Atty. Fillalan's compliance on March 24, 2015.

Judge Lubao submitted his compliance only in August 2015, in what he described as a "Post Retirement Explanation for My Failure to Comment on Your Several Memoranda regarding My Failure to Resolve Pending Incidents and to Decide Cases Submitted for Decision within the Reglementary Period with Request to Refer this Comment to the Supreme Court Doctors and Psychologist."

Based on the submissions of Atty. Fillalan and Judge Lubao, the actions (or inaction) taken by Judge Lubao on the OCA's directives are summarized in the table below:

² *Id.* at 1.

| DIRECTIVE | COMPLIANCE |
|--|---|
| (a) SUBMIT, within fifteen (15) days from notice, a comment on the findings, if any, and/or EXPLAIN, your failure to decide/resolve the cases submitted for decision or cases with pending incidents, which already fall beyond the reglementary period; | NO EXPLANATION SUBMITTED |
| (b) DECIDE/RESOLVE the same with dispatch; xxx | <p>There were 60 cases decided beyond the reglementary period (<i>civil cases – 31 on Table 1.1, 1 on Table 1.2, and 2 on Table 1.4; and criminal cases – 24 on Table 2.1, and 5 on Table 2.2</i>), to wit: Sp. Civil 685, Sp. Civil 691, Sp. Civil 698, SP 1708, SP 1890, SP 1906, 4277, 5283,5426, 5503, 5638, 5801, 5910, 5921, 5954, 6016, 6021, 6367, 6542, 6761, 6818, 6989, 7403, 7533, 7757, 7795, 7813, 7899, 7924, 7933, 8162, SP 1879, 7970, and 8063; and Criminal Cases Nos. 4926, 10863, 11995, 12621-23, 12918, 13035, 13149, 13831, 14187, 15143, 15724, 16075, 16494, 16839, 17528, 18023, 18030, 19074, 20039-40, 20041, 22879, 13335-36, and 15100-103.</p> <p>There were also 35 cases with pending incidents resolved beyond the reglementary period (<i>civil cases – 8 on Table 3.1, and 2 on Table 3.2; and criminal cases – 18 on Table 4.1, and 7 on Table 4.2</i>), to wit: SP 810, SP 1272, 5233 and Sp. Civil Action 672, 7018, 7062, 8195, 8267, 2862, and 7918; and Criminal Cases Nos. 13055-56, 15100-103, 18118-19, 20044-50, 21029-30, 24671, 19006-09, 19914 and 20258, and 24180.</p> <p><u>Left unresolved were 3 cases with pending incidents</u>, to wit: Civil Cases Nos. 1358 (motion pending since 2005, where the adverse party was belatedly required to comment thereon), and 7067 and 5150 (motion to dismiss filed on 1-15-13, where the incident was belatedly set for hearing), <i>see Table 3.1</i></p> |
| (c) TAKE APPROPRIATE ACTION on the cases which have not advanced or progressed as of audit date, within fifteen (15) days from notice; | There were 47 cases which have not progressed as of audit date, which were belatedly acted upon (<i>civil cases – 6 on Table 5, 21 on Table 7, 2 on Table 9; and criminal cases – 1 on Table 1, 11 on Table 8, 6 on Table 10</i>), to wit: Civil Cases Nos. 8399, 8400, 8405, Misc. Case No. 3668, SP 2020, SP 2021, SP 1339, 483, Sp. Civil 668, SP 1024, SP 1702, SP 1897, SP 1992, 6786, 8107, 8172, 8175, 8176, 8180, 8252, 8262, 8276, 8289, 8297, 8309, 8318, 8349, 8251, and SP 1974; and Criminal |

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| | <p>Cases Nos. 7403, 16695, 17437, 20714-15, 22761-63, 23415, 23972, 24888, 24944, 7460, 8256, 8278, 8359, 8368, and 8379.</p> <p>Left unacted upon were 7 cases, to wit: Criminal Cases Nos. 15397, 18374, and 22629 – no directive for the SPMC to periodically submit results of examination although per 12-9-14 letter of Atty. Fillalan, SPMC undertook to henceforth furnish the court with the exam results (see Table 8), and 5 cases which warrants of arrest against co-accused were without returns thereby tolerating non-compliance with Sec. 4, Rule 113 of the Rules of Court by peace officers (see Table 11), to wit: 19104, 18437, 18430, 21035, and 6115.</p> |
| <p>(d) EXPLAIN why the court does not act on the failure of the public prosecutor/other officers of concerned government institutions to comply with the orders of the court, despite a showing of total disregard thereof by the said officers/government entities, and which appears to largely contribute to the delay in the speedy disposition of cases;</p> | <p>NO EXPLANATION SUBMITTED</p> |
| <p>(e) Henceforth ENSURE that cases awaiting compliance are PROPERLY MONITORED so that the court may act accordingly immediately after the lapse of the period given to the parties and/or other government institutions concerned;</p> | <p>Not complied with – no action taken after the lapse of the period given to prosecutor to submit collusion report in the following cases: Civil Cases Nos. 8399 (see Table 5); 8252 and 8318 (see Table 7); 8242, 8303, 8342, and 8350 (see Table 12)</p> |
| <p>(f) SUBMIT, within sixty (60) days from notice, copies of the decisions and certifications of promulgation, orders, or other court processes issued as proof of compliance with the above directives;</p> | <p><u>Late submission</u></p> |
| <p>As regards the observations mentioned in Table I, Annex “A” hereof, you are further directed to:</p> | |
| <p>(g) (a) Work with the Branch Clerk of Court to DEVISE A SYSTEM so that the observations mentioned therein are properly addressed; and</p> <p>(b) SUBMIT, within fifteen (15) days from notice: (i) a REPORT on the action taken thereon; (ii) AMENDED REPORTS with respect to the inaccurate Monthly Report of Cases for the months affected by the dates subject of Item 13 of Table I, and the July to December 2013 Docket Inventory Report relative to the unreported cases mentioned in Item 14 of</p> | <p>NO REPORT SUBMITTED ON THE ACTIONS TAKEN; NO AMENDED REPORTS SUBMITTED</p> |

| | |
|---|--|
| <p>the same Table; (iii) COPIES OF THE DECISIONS/ ORDERS in the cases enumerated in Item 15 of the same Table; and (iv) a RESPONSE to the clarifications sought for under Item 16 also of the same Table.</p> | |
|---|--|

The OCA noted that Judge Lubao had also failed to comply with several memoranda issued prior to the conduct of the subject judicial audit, namely: (a) **Memorandum dated January 15, 2014** directing Judge Lubao to strictly comply with Administrative Circular Nos. 4-2004 and 81-2012, and to explain his failure to decide on forty-three (43) cases within the reglementary period and to decide on these cases within sixty (60) days from notice; (b) **Memorandum dated April 23, 2015** reiterating the directives of the January 15, 2014 Memorandum; and (c) **Memorandum dated May 7, 2014** enjoining all judges of General Santos City, including Judge Lubao, to comply with Court's issuances on the timely submission of their Monthly Report of Cases.

Judge Lubao's Explanation

In his "Post Retirement Explanation" letter³ dated August 11, 2015, Judge Lubao admitted to his failure to resolve many incidents and to decide cases submitted for decision within the reglementary period. He expounded on his medical history and attached several medical certificates showing that he has minimal cognitive impairment caused by a stroke he had in 2012, coronary artery disease, arthritis, gastroesophageal or laryngopharyngeal reflux aggravated by stress, and had underwent major surgical operations such as resection of the prostate, brain surgery, and removal of gallstone; and that he was hospitalized on numerous occasions due to stress and hypertension, acute hemorrhagic cystitis and benign prostatic hyperplasia, acute gastroenteritis with hypokalemia, pneumonia, moderate risk hypertensive cardiovascular disease, and ischemic heart disease. He explained that his health condition and frequent hospitalizations prevented him from deciding cases submitted for decision, resolving incidents within the reglementary period, and submitting an explanation to the memoranda issued by the OCA.

He mentioned that he *intentionally* opted not to make any comment on the memoranda issued to him because of the unbearable stress caused to him by the preparation of such comment/explanation; that, due to the stress, he experiences loss of appetite, sleepless nights, feeling of an empty chest, weakening of the knees, elevation of blood pressure and prostrate bleeding; and that the fact that he was always late in filing comments to the administrative complaints filed against him would confirm his condition.

³ *Id.* at 12-17.

Judge Lubao concluded his letter by requesting: (i) to have his case referred to the Court's doctors and psychologist for assistance in the technical evaluation of the merits of his case, and (ii) to have his retirement check be prepared and authorized as soon as possible because he would be needing money for a stent operation for two (2) cardio arterial blockages and another operation on his lower spine.

The OCA's Recommendation

In its September 11, 2015 Memorandum, the OCA found Judge Lubao to have committed the following offenses:

1. repeated failure to comply with the directives of this Office, to wit Memorandum dated January 15, 2014; Memorandum dated April 23, 2014; Memorandum dated May 7, 2014; Memorandum dated July 21, 2014; and Memorandum dated November 11, 2014;
2. violation of the following Supreme Court rules, directives, and circulars: Administrative Circular No. 4-2004; Administrative Circular No. 81-2012; and OCA Circular No. 81-2012;
3. undue delay in rendering decisions or orders, among others: 60 cases decided beyond the reglementary period; 35 cases with pending incidents resolved beyond the reglementary period; and 47 cases which have not progressed as of audit date, and failure to resolve 3 cases with pending incidents and act upon 7 cases; and
4. undue delay in the submission of Monthly Reports of Cases from January to December, 2014.⁴

In view of these offenses, the OCA recommended that: (i) Judge Lubao's August 11, 2015 letter be noted, (ii) Judge Lubao's request to have his letter referred to the doctors of the Supreme Court be denied considering that the medical findings were not disputed in the course of the proceedings, (iii) its September 11, 2015 Memorandum/Report be re-docketed as a regular administrative matter against Judge Lubao, and (iv) **Judge Lubao be fined the amount of ₱100,000.00.**⁵

On October 22, 2015, the OCA received a motion⁶ from Judge Lubao for the urgent approval of his application for retirement. Judge Lubao, who retired in January 13, 2015, prayed that the Court approve his retirement application and order the immediate payment of his retirement benefits as he needed the money for a stent operation and capital to start a small business; also, that he was scheduled to leave for the United States on October 28, 2015 for a medical check-up sponsored by his niece. He manifested that he was willing to have the amount of ₱100,000.00, or any amount that the Court may deem sufficient, withheld from his retirement benefits for the

⁴ *Id.* at 7.

⁵ *Id.* at 10.

⁶ *Id.* at 160-161.

payment of whatever fine that the Court may impose upon him in the present administrative matter.

In a resolution⁷ dated November 10, 2015, the Court favorably granted Judge Lubao's urgent motion and approved his application for retirement benefits but ordered the Financial Management Office to set aside the amount of ₱100,000.00 to ensure full satisfaction of any fine that may be imposed on Judge Lubao.

OUR RULING

We concur with the OCA's findings and recommendations.

We reiterate and affirm the OCA's findings that Judge Lubao had committed the following offenses:

1. Repeated failure to comply with the directives of the Office of the Court Administrator in Memorandum dated January 15, 2014, Memorandum dated April 23, 2014, Memorandum dated May 7, 2014, Memorandum dated July 21, 2014, and Memorandum dated November 11, 2014;
2. Violation of Supreme Court Administrative Circular Nos. 4-2004 and 81-2012, and OCA Circular No. 81-2012;
3. Undue delay in rendering decisions or orders, having sixty (60) cases decided beyond the reglementary period, thirty-five (35) cases with pending incidents resolved beyond the reglementary period, forty-seven (47) cases which have not progressed as of audit date, three (3) unresolved cases with pending incidents, and seven (7) cases not acted upon; and
4. Undue delay in the submission of Monthly Reports of Cases from January to December, 2014.

We note that the OCA, in its September 11, 2015 Memorandum, concluded its findings, stating that:

In the instant case, Judge Lubao was able to decide/resolve all the cases submitted for decision/resolution and majority of the cases with pending incidents/for appropriate action before he retires. However, this Office has to underscore his gross inefficiency considering that among the cases he neglected were cases that were already due as early as year 2004 (cases submitted for decision) and 2001 (case [sic] with pending incidents) – the period of delay in the bulk of the cases submitted for decision ranges from 4 to 10 years. As to cases with pending incidents for resolution, the delay ranged from 2 to 13 years. To compound his omissions, he belatedly submitted his compliance with the numerous directives of this

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Id. at 164.

Office, and repeatedly ignored the show-cause orders sent to him, which, to reiterate, constitute misconduct and insubordination.⁸

Judge Lubao does not dispute the results of the inventory and judicial audit conducted by the Audit Team. Instead, he cites his poor health condition as the cause of his failure to timely decide on cases and resolve incidents, and to file his comments to the memoranda issued to him by the OCA. He stated in his letter-explanation that:

The foregoing shows that I am very susceptible to stress that triggers dangerous bouts of hypertension, bleeding of my prostate, swelling of my finger joints, profuse coughing due to acid reflux. In fact it has been an ordinary occurrence for me to be confined for several hours at the emergency room of St. Elizabeth for stress and hypertension and for placing of catheter for my bleeding prostate. xxx **Simply put my health had prevented me from deciding cases submitted for decision and resolving incidents submitted for resolution seasonably and the same also prohibited me in making any explanation for the said delay mentioned in your memoranda.**⁹ (Emphasis and underscoring in the original)

As the OCA did, we find Judge Lubao's reasons to be inadequate. Usually, we consider the poor health condition of a judge as a mitigating circumstance in determining the imposable administrative penalty. However, in this case, Judge Lubao knew from the start of his career in the Judiciary that he is afflicted with the illnesses mentioned in his letter-explanation but never bothered to inform this Court early on about his condition. Aware of his condition, Judge Lubao could have simply asked this Court for a reasonable extension of time to dispose of his cases. The Court, cognizant of the heavy case load of some of our judges and mindful of the difficulties they encounter in the disposition of their cases, is almost always disposed to grant such requests on meritorious grounds.¹⁰

Because of his silence, the litigants before Judge Lubao's court have long suffered from the delays in his disposition and resolution of cases and incidents and, thus, ultimately tainted the image of the Judiciary. We have stressed that "delay in case disposition is a major culprit in the erosion of public faith and confidence in the judiciary and the lowering of its standards."¹¹ For this reason, we cannot apply as mitigating circumstance the poor state of Judge Lubao's health in the resolution of the present administrative matter.

We then proceed to determine the proper penalties to be imposed against Judge Lubao for his offenses.

⁸ *Id.* at 10.

⁹ *Id.* at 16.

¹⁰ *Gonzalez-Decano v. Siapno*, A.M. No. MTJ-00-1279, March 1, 2001, 353 SCRA 269, 278.

¹¹ *Re: Report of Deputy Court Administrator Bernardo T. Ponferada Re: Judicial Audit Conducted in the RTC, Branch 26, Argao, Cebu*, A.M. No. 00-4-09-SC, February 23, 2005, 452 SCRA 125, 133.

Judge Lubao's deliberate and repeated failure to comply with several memoranda from the OCA constitutes Gross Misconduct,¹² which is a *serious* offense under Section 8, Rule 140¹³ of the Rules of Court. In *Re: Audit Report in Attendance of Court Personnel of Regional Trial Court, Branch 32, Manila*,¹⁴ we held that:

It is gross misconduct, even outright disrespect for the Court, for respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaint thoroughly and substantially. After all, a resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply accordingly betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful order and directive.¹⁵

And we held, in *Alonto-Frayna v. Astih*,¹⁶ that a judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination.

Section 11(A) of Rule 140 provides that if the respondent is guilty of a serious charge, any of the following may be imposed: (i) Dismissal from the service, (ii) Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months, or (iii) **a Fine of more than ₱20,000.00 but not exceeding ₱40,000.00.**

Under Section 9 of Rule 140, 'Violation of Supreme Court rules, directives, and circulars,' and 'Undue delay in rendering a decision or order' constitute *less serious* offenses.

Section 11(B) of Rule 140 provides that if the respondent is guilty of a less serious charge, any of the following may be imposed: (i) Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or (ii) **a Fine of more than ₱10,000.00 but not exceeding ₱20,000.00.**

Under Section 10 of the same Rule 140, 'Undue delay in the submission of monthly reports' is considered a *light* offense.

Section 11(C) of Rule 140 provides that if the respondent is guilty of a light charge, any of the following may be imposed: (i) **a Fine of not less than ₱1,000.00 but not exceeding ₱10,000.00;** and/or (ii) Censure, (iii) Reprimand, (iv) Admonition with warning.

Since Judge Lubao has already retired from the service and was even paid his retirement benefits (except for the ₱100,000.00 ordered withheld by the Court), **the only alternative for us is to impose upon him the penalty**

¹² *Soria, et al. v. Judge Villegas*, 461 Phil. 665, 670 (2003).

¹³ As amended by A.M. No. 01-8-10-SC, effective October 1, 2001.

¹⁴ A.M. No. P-04-1838, August 31, 2006, 500 SCRA 351.

¹⁵ *Id.*, citing *Imbang v. Del Rosario*, A.M. No. 03-1515-MTJ, November 19, 2004, 443 SCRA 79, 83.

¹⁶ 360 Phil. 385 (1998).

of a fine in the medium amounts, in the absence of proven mitigating and aggravating circumstances.

WHEREFORE, the Court adjudges former Judge Antonio C. Lubao of the Regional Trial Court, Branch 22, General Santos City **GUILTY** of the following offenses:

1. **GROSS MISCONDUCT**, a serious offense, for his repeated failure to comply with several memoranda from the Office of the Court Administrator (*OCA*), namely: Memorandum dated January 15, 2014, Memorandum dated April 23, 2014, Memorandum dated May 7, 2014, Memorandum dated July 21, 2014, and Memorandum dated November 11, 2014. For this offense, Judge Lubao is imposed the penalty of fine in the amount of thirty thousand pesos (₱30,000.00);
2. **VIOLATION OF SUPREME COURT RULES, DIRECTIVES, AND CIRCULARS**, a less serious offense, for violating Administrative Circular Nos. 4-2004 and 81-2012, and *OCA* Circular No. 81-2012. For this offense, Judge Lubao is imposed the penalty of fine in the amount of fifteen thousand pesos (₱15,000.00);
3. **UNDUE DELAY IN RENDERING A DECISION OR ORDER**, a less serious offense, due to his *(i)* failure to decide sixty (60) cases beyond the reglementary period, thirty-five (35) cases with pending incidents resolved beyond the reglementary period, and forty-seven (47) cases which have not progressed as of audit date, and *(ii)* failure to resolve three (3) cases with pending incidents and to act on seven (7) cases. For this offense, Judge Lubao is imposed the penalty of fine in the amount of fifteen thousand pesos (₱15,000.00); and
4. **UNDUE DELAY IN THE SUBMISSION OF MONTHLY REPORTS**, a light offense, for his failure to submit on time Monthly Reports of Cases from January to December, 2014. For this offense, Judge Lubao is imposed the penalty of fine in the amount of five thousand pesos (₱5,000.00).

Judge Lubao is hereby meted the penalty of a **FINE** in the **total amount of SIXTY-FIVE THOUSAND PESOS (₱65,000.00)**. Considering that the Court has already withheld the amount of one hundred thousand pesos (₱100,000.00) from Judge Lubao's retirement benefits, we shall declare the amount of sixty-five thousand pesos (₱65,000.00) forfeited as payment for the fine imposed herein and the amount of thirty-five thousand pesos (₱35,000.00) returned to Judge Lubao.

SO ORDERED.


ARTURO D. BRION
Associate Justice

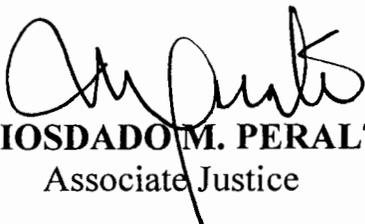
WE CONCUR:

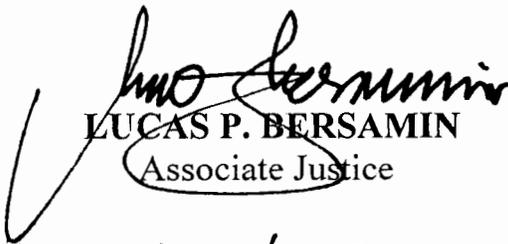

MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CAPIO
Associate Justice

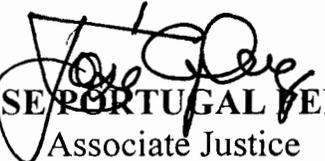
(No Part)
PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

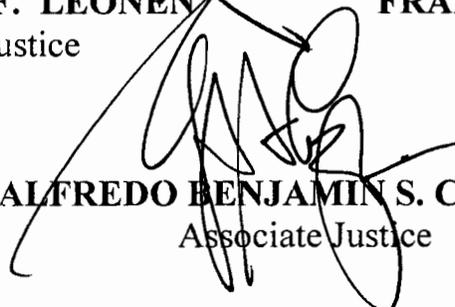

JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice