



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
OCT 12 2023

BY: JAN
TIME: 10:15

Republic of the Philippines
Supreme Court
Manila

EN BANC

FORMER MUNICIPAL
MAYOR CLARITO A.
POBLETE, MUNICIPAL
BUDGET OFFICER MA.
DOLORES JEANETH
BAWALAN, and MUNICIPAL
ACCOUNTANT NEPHTALI V.
SALAZAR,

Petitioners,

- versus -

COMMISSION ON AUDIT,

Respondent.

G.R. No. 222810

Present:

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

Promulgated:

July 11, 2023

X-----X

Katambay

SINGH, J.:

RESOLUTION

This is a Petition for *Certiorari*¹ (**Petition**) under Rule 65 of the Rules of Court in relation to Rule 64 filed by the petitioners former Municipal Mayor Clarito A. Poblete, Municipal Budget Officer Ma. Dolores Jeaneth Bawalan,

¹ Rollo, pp. 3-43, Petition for Certiorari, dated February 22, 2016.

[Handwritten signature]

and Municipal Accountant Nephtali V. Salazar (collectively, the **petitioners**), assailing Decision No. 2015-048,² dated February 23, 2015, and Resolution No. 2015-350,³ dated November 27, 2015, of the Commission on Audit (**COA**), for having been issued with grave abuse of discretion. The assailed Decision dismissed the Petition for Review filed by the petitioners for having been filed out of time. The assailed Resolution denied the petitioners' Motion for Reconsideration for lack of merit.

The Facts

The petitioner Clarito A. Poblete (**Mayor Poblete**) was the former Municipal Mayor of Silang, Cavite, while the petitioners Ma. Dolores Jeaneth Bawalan and Nephtali V. Salazar were the Municipal Budget Officer and Municipal Accountant, respectively, of the same Municipality.⁴

On June 2, 2011, the Audit Team Leader (**ATL**) and Supervising Auditor (**SA**) of COA Team No. 18, Silang, Cavite issued 12 Notices of Disallowance (**ND**) amounting to a total of ₱2,891,558.31:

ND No. 11-001-101-(10)	₱200,000.00
ND No. 11-002-101-(10)	344,255.65
ND No. 11-003-101-(10)	538,586.32
ND No. 11-004-101-(10)	526,124.25
ND No. 11-005-101-(10)	75,199.32
ND No. 11-006-101-(10)	425,358.71
ND No. 11-007-101-(10)	200,000.00
ND No. 11-008-101-(10)	202,432.00
ND No. 11-009-101-(10)	150,000.00
ND No. 11-010-101-(10)	30,817.90
ND No. 11-011-101-(10)	30,434.86
ND No. 11-012-101-(10)	<u>168,349.30</u>
	₱2,891,558.31

The said amounts pertained to various projects undertaken by the municipality in the years 2004, 2006, and 2007, which were disallowed because these were appropriated during the 2010 budget in violation of

² Id. at 49-52, COA Decision in Decision No. 2015-048, dated February 23, 2015. Signed by Commissioner (Officer-in-Charge) Heidi L. Mendoza and Commissioner Jose A. Fabia.

³ Id. at 44-48, COA Resolution in Decision No. 2015-250, dated November 27, 2015. Signed by Commissioner Michael G. Aguinaldo and Commissioners Heidi L. Mendoza and Jose A. Fabia.

⁴ Id. at 7.



Section 350⁵ of the Local Government Code (LGC). The petitioners were, thus, named as persons liable therefor.

Hence, they filed an appeal before the COA Regional Office.

The Ruling of the COA Regional Office

In a Decision,⁶ dated August 1, 2013, the COA Regional Office No. IV-A in Decision No. 2013-19 affirmed the NDs issued by the ATL and SA:

WHEREFORE, the instant Appeal is DENIED for lack of merit. Accordingly, ND Nos. 11-001-101 (10) to 11-012-101 (10) all dated June 2, 2011 are hereby AFFIRMED.⁷ (Emphasis omitted)

It found that pursuant to P.D. No. 1445 and case law, the contracts for various projects in 2004, 2006, and 2007 are void for being entered into without the necessary appropriation and certificate of availability of funds.⁸

The petitioners, thus, filed a Petition for Review⁹ with the COA Proper through the Commission Secretariat.

The Ruling of the COA Proper

On February 23, 2015, the COA issued the assailed Decision:¹⁰

WHEREFORE, premises considered, the instant petition for review is hereby DISMISSED for having been filed out of time. Accordingly, COA RO IV-A Decision No. 2013-19 dated August 1, 2013, which sustained ND Nos. 11-001-101(10) to 11-012-101(10), all dated June 2, 2011, on the payment of various local projects undertaken in years 2004, 2006 and 2007, in the total amount of [P]2,891,558.31, is final and executory.¹¹ (Emphasis omitted)

The COA ruled that the Petition before it was filed out of time for failure of the petitioners to pay the required filing fees within the prescribed

⁵ Local Government Code, Sec. 350. Accounting for Obligations. — All lawful expenditures and obligations incurred during a fiscal year shall be taken up in the accounts of that year.

⁶ Id. at 140-144, COA Regional Office Decision, dated August 1, 2013 in Decision No. 2013-19.

⁷ Id. at 144.

⁸ Id. at 143.

⁹ Id. at 64-83.

¹⁰ Id. at 49-52, COA Decision in Decision No. 2015-048, dated February 23, 2015.

¹¹ Id. at 51.



period. Under the 2009 Revised Rules of Procedure of the COA (**RRPC**), the perfection of an appeal shall be taken by filing a petition for review before the Commission Secretariat within the time remaining of the six months or the 180-day reglementary period, with proof of payment of the prescribed fees attached thereto.¹²

The COA found that the petitioners belatedly paid the filing fees. Specifically, the petitioners paid the prescribed fees only on October 14, 2013, or after 212 days counted from the time they received the NDs on June 6, 2011.¹³

On November 27, 2015, the COA issued a Resolution¹⁴ denying the petitioners' Motion for Reconsideration.

Hence, this Petition.

The Issue

The sole issue for the Court's consideration is whether the COA gravely abused its discretion in dismissing the case on account of the petitioners' failure to file the Petition for Review within the reglementary period.

The Ruling of the Court

The petitioners argued that the COA gravely abused its discretion when it disregarded its own rules of procedure. Under the RRPC, the running of the six-month prescriptive period is suspended upon the filing of an appeal. This is without regard to the date when the filing fee is directed to be, and actually paid.¹⁵ In fact, the petitioners insisted that they were made to pay the required fees twice.¹⁶

Moreover, the RRPC does not state that the payment of the prescribed fees is mandatory and jurisdictional, contrary to the ruling of the COA in the assailed Decision. The petitioners also pointed out that the Commission Secretary through a Letter, dated August 29, 2013, cured the belated payment of the filing fee, since the Commission Secretary only ordered the payment,

¹² Id. at 50.

¹³ Id.

¹⁴ Id. at 44-48, COA Resolution in Decision No. 2015-250, dated November 27, 2015.

¹⁵ Id. at 12-13.

¹⁶ Id. at 20.



amounting to ₱2,920.48, on even date.¹⁷ Also, the RRPC expressly states that any appeal/petition without the required filing fee will be returned to the party concerned for compliance with the said requirement.¹⁸

The petitioners added that the RRPC expressly states that the said rules shall be applied liberally.¹⁹

The petitioners also claimed that there can be no malversation or illegality since funds were appropriated for the purpose of paying the prior years' obligations or vouchers.²⁰

Lastly, the petitioners invoked the application of the principle of *quantum meruit* to the present case.

For his part, petitioner Mayor Poblete argued that he must be relieved of any liability as the former Mayor, based on the Arias Doctrine.²¹

In its Comment,²² the COA remained firm in its stance that it is within its jurisdiction to dismiss the petitioners' appeal grounded on their failure to file the same within the prescribed period. It pointed out that the COA issued Resolution No. 2008-005, dated February 15, 2008, which instructs that the payment of filing fees should be made at the time of the filing of the pleading, or else, no action shall be taken on the appeal.²³

COA claimed that the petitioners violated Section 350 of the LGC, which requires that all expenditures and obligations during the fiscal year must be taken up in the accounts of the same year. COA also averred that Mayor Poblete should have known the foregoing since he was the Mayor of Silang for three terms, hence, the Arias Doctrine finds no application.²⁴ Lastly, the principle of *quantum meruit* is, likewise, not applicable in the present case.²⁵

In a Motion for Leave to file a Reply,²⁶ the petitioners clarified that the Letter of the Commission Secretariat, dated August 29, 2013, directing the

¹⁷ Id. at 13-14.

¹⁸ Id. at 16.

¹⁹ Id. at 17.

²⁰ Id. at 21-24.

²¹ Id. at 30-36, Petition for *Certiorari*.

²² Id. at 191-205, Comment, dated July 8, 2016.

²³ Id. at 195-197.

²⁴ Id. at 199.

²⁵ Id. at 199-200.

²⁶ Id. at 208-221, Motion for Leave to File a Reply, dated July 22, 2016.



petitioners to pay the filing fee amounting to ₱2,920.48, was not directly sent to any of the petitioners, but to the incumbent Municipal Mayor Emilia Lourdes F. Poblete.²⁷

Furthermore, the petitioners reiterated the pertinent provisions of the RRPC stating that any appeal or petition without the required filing fee will be returned for purposes of compliance.²⁸

Anent the violation of Section 350 of the LGC, the petitioners argued that the law does not mean that the lawful obligations incurred in previous years cannot anymore be paid in subsequent years.²⁹

Lastly, contrary to the claim of COA, the principle of *quantum meruit* can be favorably applied to the projects or contracts in question.

The Court rules in favor of the respondent COA.

*An appeal made before the COA
Proper must be accompanied by proof
of payment of filing fees*

Prior to the 2009 RRPC, the 1997 COA Revised Rules of Procedure did not require the payment of filing fees in cases filed before the COA or in any of its offices pursuant to its quasi-judicial functions.³⁰

Subsequently, the COA *en banc* issued Resolution No. 2008-005, dated February 15, 2008,³¹ the pertinent provisions of which state:

WHEREFORE, premises considered, the Commission Proper resolves, as it is hereby resolved, to authorize the adjudicating bodies/offices of this Commission, in the exercise of its original and appellate jurisdictions, to **impose and collect filing fees** on the following cases:

1. Appeals from notices of suspension, disallowance or charge
2. Appeals for relief from accountability
3. Money claims, except if the claimant is a government agency

²⁷ Id. at 208-209.

²⁸ Id. at 210.

²⁹ Id. at 212.

³⁰ *Department of Foreign Affairs v. Commission on Audit*, G.R. No. 194530, July 7, 2020, 941 SCRA 343, 351.

³¹ IMPOSITION AND COLLECTION OF FILING FEES ON CASES BEFORE THE COMMISSION ON AUDIT IN THE EXERCISE OF ITS QUASI-JUDICIAL FUNCTION.

4. Requests for condonation

The appellant/petitioner/claimant/complainant in any of the above cases shall pay a filing fee, as follows:

Amount Involved	Filing Fee
[P]1,000,000.00 below	and [P]1,000.00 or 1/10 of 1% (0.1%) of the amount involved in the case whichever is lower
Above [P]1,000,000.00	Additional [P]1,000.00 for every [P]1,000,000.00 or a fraction thereof but not to exceed [P]10,000.00

In addition, a Legal Research Fund of one percent (1%) of the filing fee herein imposed but in no case lower than Ten Pesos shall be collected pursuant to Section 4, Republic Act No. 3870, as amended, and as reiterated under Letter of Instruction No. 1182 dated December 16, 1981.

The fees **shall be paid** at the Treasury Division, Finance Sector, this Commission, **at the same time the pleading is filed** in any of the adjudicating bodies/offices of this Commission. For appealed cases emanating from the region, the fee may be paid at the Regional Finance of the nearest COA Regional Office. **A copy of the official receipt shall be attached to the pleading otherwise, the adjudicating bodies/offices shall not take action.** (Underscoring and emphasis supplied)

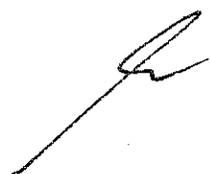
From the foregoing, it is clear that the filing of an appeal requires the concomitant payment of the prescribed filing fee.

On September 15, 2009, the 2009 RRCP was approved, which similarly provides:

Rule IX, Section 5. Payment of Filing Fee. — Every petition/appeal filed before an adjudicating body/office of this Commission pertaining to the cases enumerated below shall be imposed a filing fee equivalent to 1/10 of 1% of the amount involved, but not exceeding [P]10,000.00:

- a) appeal from audit disallowance/charge
- b) appeal from disapproval of request for relief from accountability
- c) money claim, except if the claimant is a government agency
- d) request for condonation of settled claim or liability except if between government agencies

Payment shall be made at the COA Central Office Cashier or at the Cashier of the COA Regional Finance Office. If not practicable, payment



may be remitted through postal money order payable to the Commission on Audit.

Any appeal/petition without the required filing fee will be returned to the party concerned for compliance with such requirement.

The Petitioners claim that the last paragraph of the above-cited provision requires that the COA return the appeal in instances where a party concerned failed to comply with the payment of the filing fee.

Here it is admitted by the petitioners that the COA, through the Commission Secretariat, indeed gave the petitioners the opportunity to comply with the requirement of payment of filing fees. There is no question that the Petition for Review before the COA Proper was filed on August 23, 2013. In a Letter, dated August 29, 2013, the Commission Secretariat required the petitioners to pay the filing fee. Yet, the petitioners paid the filing fee only on October 14, 2013, or after roughly one and a half months.³²

As correctly argued by the COA,³³ the belated payment rendered the appeal unseasonable as it was filed beyond the six-month period provided under Section 3, Rule VII of the RRPC:

Section 3. Period of Appeal. — The appeal shall be taken within the time remaining of the six (6) months period under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, or under Sections 9 and 10 of Rule VI in case of decision of the [Adjudication and Settlement Board].

Section 4, Rule V of the RRPC provides:

Section 4. When Appeal Taken. — An Appeal must be filed within six (6) months after receipt of the decision appealed from.

Here, the petitioners received the NDs on June 6, 2011. However, they perfected their appeal upon the payment of filing fees only on October 14, 2013, or 212 days after receiving the NDs.³⁴ Hence, their appeal was perfected beyond six months or the 180-day reglementary period.

³² *Rollo*, p. 14.

³³ *Id.* at 195-196, Comment, dated July 8, 2016.

³⁴ *Id.* at 50, COA Decision in Decision No. 2015-048, dated February 23, 2015.



It bears to stress that the payment of filing fees in both judicial and quasi-judicial tribunals is essential in our jurisdiction. It is recognized as a limitation to the right to appeal,³⁵ which is neither a natural right nor part of due process. It is merely a statutory privilege that must be exercised only in a manner and in accordance with the provisions of law. To be sure, the RRPC was crafted to ensure the orderly disposition of cases.³⁶

The Court cannot agree with the argument of the petitioners that the Letter, dated August 29, 2013, cured the belated payment of the filing fee. To rule in their favor would open an avenue for the circumvention of the RRPC. Specifically, it would set to naught the requirement of payment of filing fees and the prescriptive period provided.

The COA, therefore, did not err, much less commit grave abuse of discretion in dismissing the petitioners' appeal on account of the foregoing procedural lapse.

Even if the Court brushes aside these technical rules, the Petition still fails on substantial grounds.

The appropriation in the Municipality's 2010 budget for prior years' obligations runs counter to several laws

Section 350 of the LGC³⁷ requires all expenditures and obligations during the fiscal year to be taken up in the accounts of the same year:

Section 350. Accounting for Obligations. — All lawful expenditures and obligations incurred during a fiscal year shall be taken up in the accounts of that year.

In the present case, the Municipality of Silang, Cavite entered into several agreements for local projects in the years 2004, 2006, and 2007.³⁸ These were, however, paid using the appropriations for the calendar year 2010³⁹ in contravention of the above-cited LGC provision.

³⁵ *Department of Foreign Affairs v. Commission on Audit*, supra note 30 at 357.

³⁶ *Chozas v. Commission on Audit*, 864 Phil. 733, 750 (2019).

³⁷ Approved on October 10, 1991.

³⁸ *Rollo*, p. 7.

³⁹ Id at 140, COA Regional Office Decision, dated August 1, 2013 in Decision No. 2013-19.



Furthermore, the petitioners violated Sections 46, 47, and 48 of Book V, Title I, Subtitle B, Chapter 8 of the Administrative Code of 1987.⁴⁰

Section 46. Appropriation Before Entering into Contract. — (1) No contract involving the expenditure of public funds shall be entered into unless there is an appropriation therefor, the unexpended balance of which, free of other obligations, is sufficient to cover the proposed expenditure; and

(2) Notwithstanding this provision, contracts for the procurement of supplies and materials to be carried in stock may be entered into under regulations of the Commission provided that when issued, the supplies and materials shall be charged to the proper appropriations account.

Section 47. Certificate Showing Appropriation to Meet Contract. — Except in the case of a contract for personal service, for supplies for current consumption or to be carried in stock not exceeding the estimated consumption for three (3) months, or banking transactions of government-owned or controlled banks, no contract involving the expenditure of public funds by any government agency shall be entered into or authorized unless the proper accounting official of the agency concerned shall have certified to the officer entering into the obligation that funds have been duly appropriated for the purpose and that the amount necessary to cover the proposed contract for the current calendar year is available for expenditure on account thereof, subject to verification by the auditor concerned. The certificate signed by the proper accounting official and the auditor who verified it, shall be attached to and become an integral part of the proposed contract, and the sum so certified shall not thereafter be available for expenditure for any other purpose until the obligation of the government agency concerned under the contract is fully extinguished.

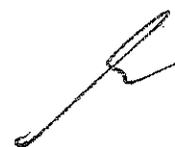
The violation of the foregoing renders void the contract entered into and the officer/s responsible for entering into the said contract shall be held liable:

Section 48. Void Contract and Liability of Officer. — Any contract entered into contrary to the requirements of the two (2) immediately preceding sections shall be void, and the officer or officers entering into the contract shall be liable to the Government or other contracting party for any consequent damage to the same extent as if the transaction had been wholly between private parties.

On this note, the petitioners' invocation of the *quantum meruit* principle is misplaced. The petitioners argue that the case of *Department of Public Works and Highways v. Quiwa, et al. (Quiwa)*⁴¹ applies to the present case.

⁴⁰ Executive Order No. 292 (1987).

⁴¹ 675 Phil. 9 (2011).



Unlike in the present case, however, there was prior appropriation in the case of *Quiwa*:

To emphasize, the contracts in the above cases, as in this case, were not illegal *per se*. There was prior appropriation of funds for the project including appropriation; and payment to the contractors, upon the subsequent completion of the works, was warranted.⁴²

Furthermore, the factual milieu in *Quiwa* is exceptional since the government agency therein engaged the services of the respondents pursuant to an emergency project under the Mount Pinatubo Rehabilitation Project.⁴³

*The Arias Doctrine cannot be applied
in favor of Mayor Poblete*

When a document appears to be irregular on its face, the head of office cannot reasonably rely on the Arias Doctrine.⁴⁴

In the present case, a detailed examination of the document is not necessary to see that the projects being funded for the 2010 budget were projects incurred in 2004, 2006, and 2007, in clear contravention of the law.

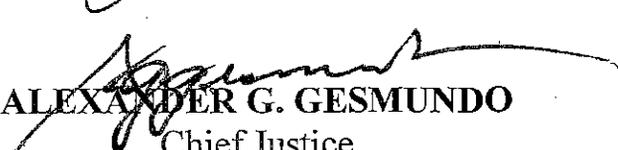
All told, the COA did not commit grave abuse of discretion when it dismissed the Petition for Review for being filed out of time.

WHEREFORE, the Petition is **DISMISSED**. The Commission on Audit's Decision in Decision No. 2015-048, dated February 23, 2015, is **AFFIRMED**.

SO ORDERED.


MARIA FILOMENA D. SINGH
Associate Justice

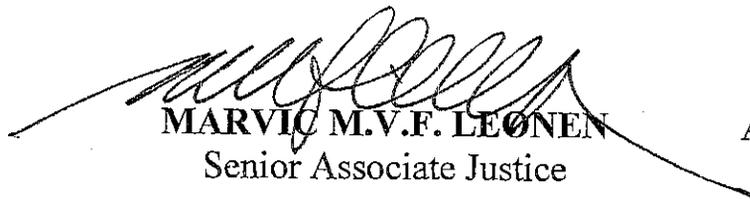
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

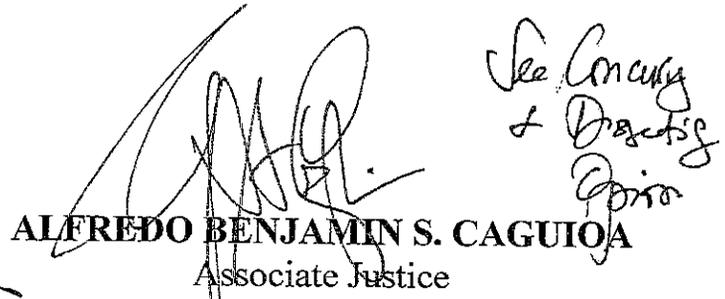
⁴² Id. at 25.

⁴³ Id. at 12.

⁴⁴ *Chen v. Field Investigation Bureau*, G.R. No. 247916, April 19, 2022.

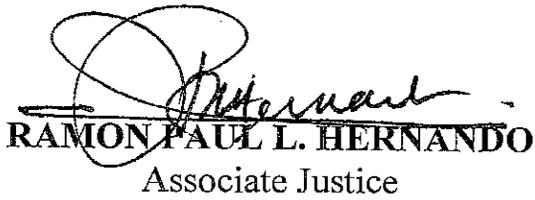


MARVIC M.V.F. LEONEN
Senior Associate Justice

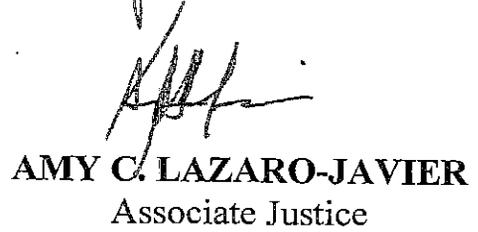


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

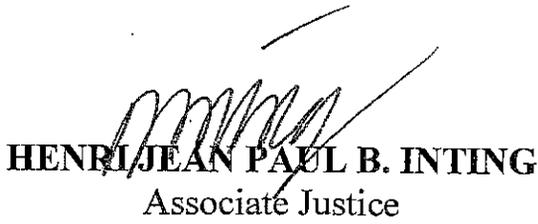
See Concurring & Dissenting Opinions



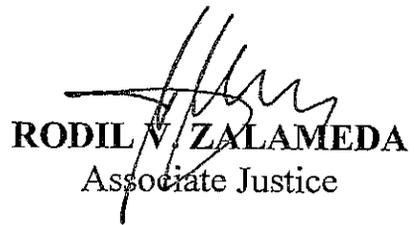
RAMON PAUL L. HERNANDO
Associate Justice



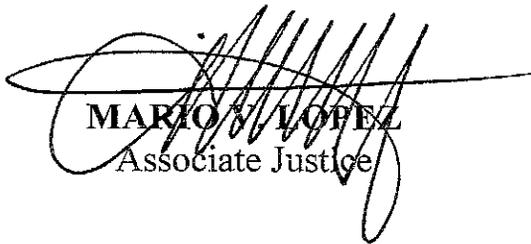
AMY C. LAZARO-JAVIER
Associate Justice



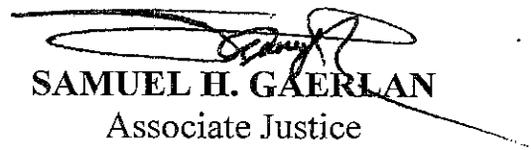
HENRIJEAN PAUL B. INTING
Associate Justice



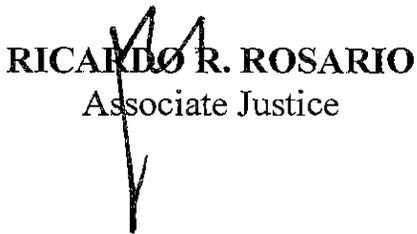
RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice



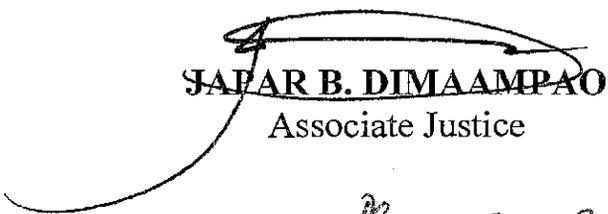
SAMUEL H. GAERLAN
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

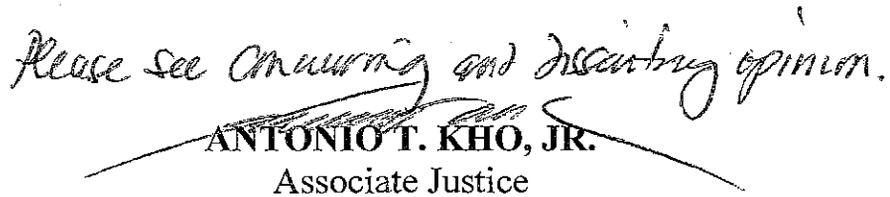


JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

Please see concurring and dissenting opinion.

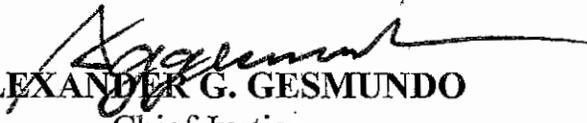


ANTONIO T. KHO, JR.
Associate Justice



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice