



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **11 November 2020** which reads as follows:*

“**G.R. No. 232142** (*Office of the Ombudsman v. Reynaldo S. San Pedro*). – This is an appeal from the Decision¹ dated October 21, 2016 and Resolution² dated June 1, 2017 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 145153, entitled *Reynaldo S. San Pedro v. Rufino A. Gravador, Jr. and The Office of the Ombudsman*. The CA Decision reversed and set aside the Office of the Ombudsman’s Decision³ dated March 7, 2016, which found Reynaldo S. San Pedro (*San Pedro*) guilty of Grave Abuse of Authority and Grave Misconduct, and dismissed the administrative charges against him.

The controversy stemmed from the *Sinumpaang Salaysay*⁴ dated July 14, 2015 filed by Rufino A. Gravador, Jr. (*Gravador*) with the Office of the Ombudsman (*petitioner*) charging respondent Reynaldo S. San Pedro, then City Mayor of San Jose Del Monte, Bulacan, with Constructive Dismissal, Oppression, and violation of Civil Service Rules. Gravador alleged that he was the City Engineer of San Jose del Monte City, Bulacan. City Mayor San Pedro issued Office Order No. 040-2013⁵ and subsequently, Office Order No. 055-2014 reassigning him as Acting City Agriculturalist from August 1, 2013 to July 31, 2014, and from August 1, 2014 to July 31, 2015, respectively, “in the exigency of public service and for public interest.” Gravador believed that this reassignment was predicated on his refusal to sign the Purchase Request for the construction of a new City Hall in which San Pedro was allegedly bound to receive a thirty percent (30%) markup from the contractor. Even when Gravador later assumed the role of Acting City Agriculturalist, San

¹ *Rollo*, pp. 36-52; penned by Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of this Court) with Associate Justices Remedios A. Salazar-Fernando and Socorro B. Inting, concurring.

² *Id.* at 55-56.

³ *Id.* at 57-65.

⁴ *Id.* at 173-181.

⁵ *Id.* at 87.

11/14

Pedro did not refer to him the tasks pertaining to that office.⁶ On August 15, 2014, he appealed the reassignment to the Civil Service Commission (CSC), Regional Office No. III.⁷ On March 23, 2015, the CSC rendered a Decision⁸ granting the appeal, setting aside the reassignment, and directing San Pedro to allow Gravador to report back to his former post as City Engineer and discharge the duties and responsibilities of the said position immediately. San Pedro moved for reconsideration, but the CSC denied it.⁹

In an Order¹⁰ dated September 2, 2015, petitioner required San Pedro to submit his Counter-Affidavit. The docket number of the case appears on the face of the order as “OMB-L-A-15-0287,” and the offenses considered were “Grave Abuse of Authority” and “Oppression.”¹¹

On September 11, 2015, Gravador filed a Supplemental Complaint,¹² in which he alleged the following:

1. Last July 31, 2015, I was served a copy of Office Order No. 050-2015, entitled RECALL ORDER¹³ dated 30 July 2015; x x x
2. Such Recall Order was however, merely a farce, an insincere gesture, as I was not allowed to return to my office, my functions limited, staff membership crippled, and was constrained to relocate, necessitating me to utilize a *kamalig* or storage of fertilizer of the Agriculture Department in order to continue my duties as City Engineer;
3. Worse, I was asked to meet, last August 3, 2015 with the City Administrator Edward Ignacio, City Legal Officer Atty. Anel Martin S. Antero, Human Resources Management Office Head Teresita M. Ramos and Adeng Ignacio, the Mayor’s uncle and father of the City Administrator;
4. In the said meeting, I was asked if I have any questions about the Recall Order, and when I said that I have none, I was told that [I] shall no longer function as building official, and I can no longer use my former office space, as it shall be used by their newly appointed City Building Official, Engr. Arnel Vitug;

⁶ Id. at 178.

⁷ Id. at 184.

⁸ Id. at 184-191.

⁹ Id. at 192-196.

¹⁰ Id. at 270.

¹¹ Id.

¹² Id. at 212-214; citations omitted.

¹³ Office Order No. 050-2015 recalled the previous reassignment order and reinstated Gravador as City Engineer; id. at 37.

5. The following day, I received Office Order No. 052-2015 dated 4 August 2015, ordering me **“to hold office at the former office of the CCAT, Productivity Center, Brgy. Sapang Palay Proper.”** I was given only ten (10) personnel, five (5) regular, and five (5) job orders. x x x
6. I also came to know of the Mayor’s Executive Order No. 2015-08-03-01, designating Engr. Arnel Vitug as City Building Official, stripping the Engineering Office of the functions given it by Republic Act No. 8797, and doing so immediately, all in the interest of preventing me from performing my functions and gaining information about their irregularities that has connection with the highly overpriced government center and such other projects;
7. The Mayor took further actions to debilitate my office, pulled-out from my department and designated twenty seven (27) engineers and staff members to the illegally created City Building Official and made them report to the Mayor’s office, leaving the City Engineering Office ten (10) personnel to perform gargantuan tasks, to the detriment of public service; x x x
8. From the foregoing, the continued oppression is clear. Mayor San Pedro utilized his top brass to undermine my personality, and these people allowed themselves to be utilized in oppressing me further;
9. Even the transfer of my office to another space x x x and the assignment of a limited number of staff members to assist me in performing my work is a clear manifestation of continued oppression against me;
10. Despite the fact that executive orders issued by a component city like San Jose del Monte are subject to review by the governor, Mayor San Pedro caused its immediate implementation and execution, to my detriment and limitation of my functions as City Engineer. Hence, I wrote the Provincial Governor about it, x x x;

x x x x¹⁴

Notably, the caption of the Supplemental Complaint contained the docket number “IC-0L-15-0843” and the words “For: Constructive Dismissal & Oppression.”¹⁵

On October 19, 2015, after several motions for extension,¹⁶ San Pedro filed his Counter-Affidavit.¹⁷ Among others, he strongly denied all the allegations in Gravador’s *Sinumpaang Salaysay* and defended the reassignment orders as a valid exercise of management prerogative.

¹⁴ Id.

¹⁵ Id. at 212.

¹⁶ Id. at 227.

¹⁷ Id. at 282-293A.

Conspicuously, there is nothing in the Counter-Affidavit that addressed the allegations in the Supplemental Complaint.¹⁸

Meanwhile, in an Order¹⁹ dated October 15, 2015, petitioner required the parties to file their respective verified position papers. San Pedro filed his Position Paper²⁰ on November 2, 2015. Again, there was nothing in his arguments that addressed the allegations in the Supplemental Complaint.

Subsequently, petitioner rendered a Decision dated March 7, 2016. It observed that “[a]s to the allegations contained in the Supplemental Complaint, respondent did not address them in his Counter-Affidavit and Position Paper.” It then proceeded to rule on the case as follows:

This Office finds respondent administratively liable.

Although respondent ordered the reinstatement of complainant as City Engineer, his subsequent issuance of Office Order No. 032-2015 relocating the Office of the City Engineer and designating 10 personnel, 5 of which are under job order status, not only diminished the complement of said office but also manifested his deliberate intent to harass complainant to make the latter’s return to office miserable. Respondent’s intention to distress complainant is further validated by his issuance of Executive Order No. 2015-08-03-01 and Office Order No. 058-2015, designating Assistant City Engineer Vitug as the new City Building Official effectively stripping complainant of almost all of his duties and responsibilities; and reassigning 27 officials and employees of the Office of the City Engineer to the Office of the City Building Official.

Grave abuse of authority (oppression) is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority. Even if there is no proof that respondent, under color of his office, inflicted bodily harm or injury to complainant, he nonetheless acted with cruelty and severity and excessively used his power which makes him liable for Grave Abuse of Authority or Oppression. x x x

x x x x

Anent the charge of conduct prejudicial to the best interest of service, the same must fail because the acts complained of are related to respondent’s functions as mayor. However, he may be held liable for Grave Misconduct for creating an Office of the City Building Official separate

¹⁸ Id.

¹⁹ Id. at 294.

²⁰ Id. at 296-312.

from the Office of the City Engineer which is a clear violation of Section 477(a) of R.A. No. 7160 x x x.

X X X X

The questioned issuances were all geared towards respondent's goal to torment and demoralize complainant. In the guise of complying with the CSC decision, he issued the illegal orders to be able to circumvent the directive reinstating complainant.

X X X X

WHEREFORE, this Office finds respondent **REYNALDO S. SAN PEDRO** guilty of Grave Abuse of Authority and Grave Misconduct and meted the penalty of **DISMISSAL** from the service, including all its accessory penalties of (a) cancellation of eligibility, (b) forfeiture of retirement benefits and (c) perpetual disqualification for re-employment in the government service.

In the event that the penalty of Dismissal can no longer be enforced due to respondent's separation from the service, the same shall be converted into a Fine in the amount equivalent to respondent's salary for one (1) year, payable to the Office of the Ombudsman, and may be deductible from respondent's accrued leave credits or any receivable from his office.

It shall be understood that the accessory penalties attached to the principal penalty of Dismissal shall continue to be imposed.

SO ORDERED.²¹

Dissatisfied with the above ruling, San Pedro filed a Petition for Review with the CA. On October 21, 2016, the CA rendered the assailed Decision granting the petition. Its dispositive portion states:

WHEREFORE, the instant appeal is **GRANTED**. The assailed Decision and Resolution of the Office of the Ombudsman dated March 7, 2016 are **REVERSED and SET ASIDE**.

The administrative charge against Reynaldo S. San Pedro is **DISMISSED**.

SO ORDERED.²²

²¹ Id. at 60-64.

²² Id. at 51-52.

The CA subscribed to San Pedro's argument that he had been denied due process when he was not furnished with a copy of the Supplemental Complaint on which the finding of guilt for Grave Misconduct was based, and was not properly informed of the said charge.²³

The CA held that Gravador failed to comply with the mandatory requirements on proof of service under Section 13, Rule 13 of the Rules of Court since no affidavit was appended to the Supplemental Complaint, and neither was the original or actual registry receipt attached thereto. Registry Receipt No. "05445" dated September 11, 2015 was merely stamped across San Pedro's name on the last page of the Supplemental Complaint.²⁴

The Mandaluyong Central Post Office where the Supplemental Complaint was mailed issued a Certification²⁵ dated April 29, 2016 stating that "registered letter no. 05445 dated September 11, 2015 addressed to Mayor Reynaldo San Pedro x x x was posted x x x at Mandaluyong Post Office" and "was dispatched x x x on September 14, 2015 x x x." However, the CA observed that this does not show that the pleading was actually received by San Pedro. Gravador also failed to present the registry return card. For this reason, the CA held that it cannot accept at face value the registry receipt as proof of San Pedro's receipt of the Supplemental Complaint.²⁶

What complicates the issue, according to the CA, is that the docket number of the Supplemental Complaint, IC-0L-15-0843, is different from the docket number of the administrative case, which is OMB-L-A-15-0287. This mistake can only be attributed to Gravador.²⁷

In sum, the CA ruled that since it was not shown that San Pedro received a copy of the Supplemental Complaint on which the finding of guilt for Grave Misconduct was based, and he was not able to explain his side as regards the allegations therein, his right to due process was violated.²⁸

On another matter, the CA held that even if San Pedro duly received a copy of the Supplemental Complaint, he was still not afforded due process because he was not properly informed of the nature of the charge of Grave Misconduct. Petitioner's September 2, 2015 and October 15, 2015 Orders indicated that San Pedro was being charged with Grave Abuse of Authority and Oppression. However, petitioner found him guilty of Grave Abuse of

²³ Id. at 45.

²⁴ Id. at 45-56 and 215.

²⁵ Id. at 171.

²⁶ Id. at 46.

²⁷ Id.

²⁸ Id. at 47-48.

Authority and Grave Misconduct. San Pedro's right to due process was breached since he was condemned for an offense of which he was not properly informed nor provided with an opportunity to be heard.²⁹

The CA added that it is cognizant of the rule that it is not the designation of the offense charged that is controlling, but the description of the crime charged and the particular facts recited in the complaint. However, the rule does not apply here because Grave Misconduct has a definite meaning under the law and there are particular elements which should be established by substantial evidence. San Pedro should not be left in the dark and be made to determine for himself what charges are filed against him.³⁰ The CA cited the case of *Espiña v. Cerujano*³¹ where the Court held that a person charged with Conduct Grossly Prejudicial to the Best Interest of the Service cannot also be made accountable for Grave Misconduct.

Finally, the CA held that it cannot sustain petitioner's finding that San Pedro is guilty of Grave Abuse of Authority. This finding was based on the allegations in the Supplemental Complaint which San Pedro was not shown to have received. Even if the Supplemental Complaint is taken into account, the said charge is barred by the principle of conclusiveness of judgment. Gravador's *Sinumpaang Salaysay* was submitted to substantiate, among others, the administrative charge for Oppression filed by one Romeo Agapito against San Pedro. The charges have been dismissed by petitioner.³²

Hence, this petition which raises the following arguments: (1) San Pedro was never deprived of his right to due process; and, (2) San Pedro's guilt for the administrative offenses of Grave Abuse of Authority (Oppression) and Grave Misconduct were based on the evidence on record.³³

On the first argument, petitioner asserts that San Pedro was given every opportunity to controvert the administrative charges as, in fact, he filed his Counter-Affidavit and Position Paper. Moreover, there is a presumption under Section 3(v), Rule 131 of the Rules of Court that a letter duly directed and mailed was received in the regular course of the mail. In this connection, petitioner pointed out the following: (1) the Certification issued by the Postmaster of the Mandaluyong Central Post Office mentioned above; (2) the Supplemental Complaint was not returned to sender, which implies that San Pedro received it; (3) in Gravador's Rejoinder he argued that all papers and documents relative to the administrative case that were sent to the Mayor's

²⁹ Id. at 48.

³⁰ Id.

³¹ 573 Phil. 254 (2008).

³² *Rollo*, p. 51.

³³ Id. at 17-18.

Office, San Jose Del Monte City, Bulacan, were received by San Pedro; and, (4) in the Petition for Review filed by San Pedro with the CA, it appears that he received the Supplemental Complaint, only, he did not address it in his Counter-Affidavit and Position Paper since it bore a different case number.³⁴ Petitioner alleged that San Pedro could not have realized that the Supplemental Complaint relates to Gravador's earlier complaint.³⁵

Even in the absence of the Supplemental Complaint, petitioner asserts that the allegations in Gravador's *Sinumpaang Salaysay* were sufficient to inform San Pedro of the nature of the charges filed against him.³⁶

Finally, petitioner insists that San Pedro's guilt for the administrative offenses of Grave Abuse of Authority (Oppression) and Grave Misconduct were based on the evidence on record.

The Court's Ruling

We partially grant the petition.

Petitioner's finding that San Pedro was guilty of Grave Abuse of Authority and Grave Misconduct was indeed based on the Supplemental Complaint. It is not based on the *Sinumpaang Salaysay*, in which Gravado mainly complained of his reassignment as the Acting City Agriculturist. Note should be taken of the fact that petitioner prefaced its main decision with the clause "[a]lthough respondent ordered the reinstatement of complainant as City Engineer."³⁷ This bears the tone of exoneration. Since Gravado was already restored to his original post as City Engineer, this was no longer a factor that petitioner considered in ruling on San Pedro's administrative liability. Rather, it was his subsequent acts that mattered—acts which incidentally were narrated in the Supplemental Complaint that San Pedro insists he did not receive. According to San Pedro, he learned of the existence of the Supplemental Complaint only after petitioner rendered a decision, and after he made an inquiry with its office.³⁸

³⁴ Id. at 19-20.

³⁵ Id. at 20.

³⁶ Id. at 21.

³⁷ Id. at 61.

³⁸ Id. at 230.

A judgment in an administrative case that imposes the extreme penalty of dismissal must not only be based on substantial evidence but also rendered with due regard to the rights of the parties to due process.³⁹ The essence of due process in administrative cases is simply an opportunity to explain one's side or to seek a reconsideration of the action or ruling. For as long as the parties were given fair and reasonable opportunity to be heard before judgment was rendered, the demands of due process were sufficiently met.⁴⁰

Here, there is no evidence on record that San Pedro received a copy of the Supplemental Complaint before petitioner decided the case. Thus, it cannot be said that he was given a fair opportunity to respond to the accusations contained therein. He was denied due process.

The CA correctly held that Gravador failed to provide proof of service in accordance with the Rules of Court. The last page of the Supplemental Complaint shows that San Pedro was "copy furnished" thereof. Across his name and address, the following annotation was stamped: "RR 05445 Sept. 11, 2015 Mandaluyong."⁴¹ However, this does not conform with the proof of service requirement under Section 13, Rule 13 of the Rules of Court, which states:

Section 13. Proof of Service. — Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with section 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. (10a)

Indeed, if service is by registered mail, proof of service consists of the affidavit of the person mailing the document and the registry receipt issued by the mailing office. As the CA held, neither affidavit nor original or actual registry receipt was appended to the Supplemental Complaint. Absent one or the other, or worse both, there is no proof of service.⁴²

³⁹ *Office of the Ombudsman v. Reyes*, 674 Phil. 416, 434 (2011).

⁴⁰ *IAl Magcamit v. Internal Affairs Service-PDEA*, 779 Phil. 43, 52 (2016); citation omitted.

⁴¹ *Rollo*, p. 215.

⁴² *Cruz v. Court of Appeals*, 436 Phil. 641, 652 (2002).

The Certification⁴³ issued by the Mandaluyong Central Post Office, where the Supplemental Complaint was mailed, does not benefit petitioner. It pertinently states:

This is to certify that registered letter no. 05445 dated September 11, 2015 addressed to Mayor Reynaldo San Pedro in San Jose del Monte, Bulacan was posted here at Mandaluyong Post Office. It was dispatched under Mandaluyong CPO to AMED Province Bill No. 41, Page 1, column 1, line 14 on September 14, 2015 per record of PSO 1 Ramon Remetilla.⁴⁴

When the post office makes a Certification regarding delivery of registered mail, **such Certification should include the data not only as to whether or not the corresponding notices were issued or sent but also as to how, when and to whom the delivery thereof was made.** Accordingly, the Certification in this case that the registered letter was "dispatched" does not suffice.⁴⁵ It would not be in consonance with the demands of due process and equity for the Court to automatically conclude that from the word "dispatched" alone, the document was in fact received by the addressee or somebody acting on his behalf and on the same date of the notice. The postmaster should have included in his Certification the manner, date and the recipient of the delivery.⁴⁶

We have held that when the Certification by a public officer refers only to some acts out of several related acts supposed to be performed, and proof of whether or not all of the acts have been performed is available under the law or office regulations to the officer making the Certification, the presumption of regularity in the performance of official functions does not arise. The omission of some of the acts in the Certification may justify the inference that from the proof available to the officer there is no showing that they have also been performed.⁴⁷

As a final point, We cannot subscribe to the CA's ruling that even if the Supplemental Complaint is taken into account, the charge of Grave Abuse of Authority must fail under the precept of conclusiveness of judgment.⁴⁸ The CA held:

⁴³ *Rollo*, p. 171.

⁴⁴ *Id.*

⁴⁵ See *Hernandez v. Navarro*, 150-C Phil. 269, 290 (1972).

⁴⁶ *Santos v. Court of Appeals*, 356 Phil. 458, 466 (1998).

⁴⁷ *Hernandez v. Navarro*, supra note 45, at 291.

⁴⁸ *Rollo*, p. 50.

As borne out by the record, criminal and administrative cases for violation of [R.A. No.] 7080, [R.A. No.] 9184, [R.A. No.] 3019, Oppression, Grave Abuse of Authority, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service which were docketed as OMB-L-C-15-0182 and OMB-L-A-15-0240, respectively, were filed by one Romeo Agapito. In the said cases, the *Sinumpaang Salaysay* of Gravador dated June 1, 2015 was submitted in support of the criminal case for plunder, among others, and the administrative charge for oppression against San Pedro. It is indubitable that the said pleading is substantially the same as the *Sinumpaang Salaysay* dated July 14, 2015 submitted by Gravador in support of the present suit.

In OMB-L-C-15-0182, the Ombudsman dismissed the criminal case against San Pedro, among others, for failure of Romeo Agapito to establish his case. OMB-L-A-15-0240 was also rejected considering that the administrative charges were anchored on the criminal cases which were held to be unfounded.

x x x while it is true that Gravador is not the complainant in OMB-L-A-15-0240, it should be recalled, however, that his June 1, 2015 *Sinumpaang Salaysay* was submitted to substantiate the administrative charges therein which is essentially the same evidence presented in this case. The two cases involve the same set of facts, the same cause of action and require the same quantum of evidence. They were the offshoot of Gravador's refusal to approve the valuation for the construction of the NGC which led to his reassignment and designation to a position which undermined his permanent post as City Engineer. In the light of the foregoing, [We] are convinced that the administrative charge for grave abuse of authority should be dismissed.⁴⁹

The records show that the *Sinumpaang Salaysay* dated July 14, 2015 filed by Gravador in this case was substantially the same as the *Sinumpaang Salaysay* dated June 1, 2015 that he filed in OMB-L-C-15-0182 and OMB-L-A-15-0240. However, such fact is inconsequential. As discussed above, petitioner found San Pedro guilty of administrative offenses on the basis of the facts narrated in the Supplemental Complaint—not in the *Sinumpaang Salaysay*. Hence, even if petitioner's Joint Resolution in OMB-L-C-15-0182 and OMB-L-A-15-0240 dismissed the charges of Oppression and Grave Abuse of Authority anchored, among others, on Gravador's *Sinumpaang Salaysay* dated June 1, 2015, such has no bearing on this case. Besides, conclusiveness of judgment requires identity of parties in the first and second cases.⁵⁰ Gravador was not a party in the criminal and administrative cases that petitioner had dismissed.

⁴⁹ Id. at 51.

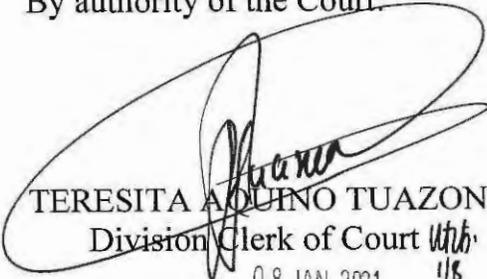
⁵⁰ See *Tala Realty Services Corp. v. Banco Filipino Savings & Mortgage Bank*, 788 Phil. 19, 28 (2016).

WHEREFORE, the petition is **PARTLY GRANTED**. The October 21, 2016 Decision and June 1, 2017 Resolution of the Court of Appeals in CA-G.R. SP No. 145153, as well as the Ombudsman's Decision in OMB-L-A-15-0287, are **REVERSED** and **SET ASIDE**.

The case is **REMANDED** to the Office of the Ombudsman, which is hereby **ORDERED** to furnish respondent Reynaldo S. San Pedro with a copy of the Supplemental Complaint, and conduct further proceedings in OMB-L-A-15-0287 as may be appropriate.

SO ORDERED. (Rosario, *J.*, designated additional member per Special Order No. 2797 dated November 5, 2020)"

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court *Wh*
 08 JAN 2021 *1/8*

OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

TOPACIO LAW OFFICE (reg)
 Counsel for Respondent
 Suite 107, Skyway Twin Towers
 H. Javier Street, Ortigas Center
 1605 Pasig City

THE OFFICE OF THE OMBUDSMAN(reg)
 4th Floor, Ombudsman Building
 Agham Road, Diliman, Quezon City
 (OMB-L-A-15-0287)

JUDGMENT DIVISION (x)
 Supreme Court, Manila

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COURT OF APPEALS (x)
 Ma. Orosa Street
 Ermita, 1000 Manila
 CA-G.R. SP No. 145153

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