



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**GOVERNMENT SERVICE
 INSURANCE SYSTEM, BY
 ATTY. LUCIO L. YU, JR.,**
 Complainant,

**A.M. No. RTJ-09-2182
 [FORMERLY A.M. NO. 08-3007-
 RTJ]**

Present:

-versus-

SERENO, C.J.,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, JJ.

**EXECUTIVE JUDGE MARIA
 A. CANCINO-ERUM,
 REGIONAL TRIAL COURT,
 BRANCH 210,
 MANDALUYONG CITY, AND
 JUDGE CARLOS A.
 VALENZUELA, REGIONAL
 TRIAL COURT, BRANCH 213,
 MANDALUYONG CITY,**
 Respondents.

Promulgated:

05 SEP 2012

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RESOLUTION

BERSAMIN, J.:

For resolution are the respondents' separate motions seeking the reconsideration of the resolution promulgated on June 3, 2009,¹ whereby the Court, adopting and approving the recommendation of the Office of the Court of Administrator (OCA), imposed a fine of ₱5,000.00 on each of them for violating the rules regulating the raffle of cases.²

¹ Rollo, pp. 310-311.

² Id. at 301-309.

Antecedents

This administrative complaint emanated from the filing on July 18, 2008 by one Belinda Martizano (Martizano) of a suit to restrain the Department of Transportation and Communications (DOTC), Land Transportation Office (LTO), Stradcom Corporation (STRADCOM), Insurance Commission, and Government Service Insurance System (GSIS) from implementing DOTC Department Order No. 2007-28 (DO 2007-28), an issuance that constituted the LTO the sole insurance provider of compulsory third party liability (CTPL) that was required for the registration of motor vehicles.

The suit, docketed as Civil Case No. MC08-3660 of the Regional Trial Court (RTC) in Mandaluyong City, claimed that the implementation of DO 2007-28 would deprive Martizano of her livelihood as an insurance agent.³ She applied for the issuance of a temporary restraining order (TRO). On July 21, 2008, Civil Case No. MC08-3660 was raffled and assigned to Branch 213 of the RTC, presided by respondent Judge Carlos A. Valenzuela.⁴

On October 2, 2008, GSIS charged respondent RTC Judge Maria A. Cancino-Erum, the then Executive Judge of the RTC in Mandaluyong City, with grave misconduct, gross ignorance of the law, and violation of the *Rules of Court*.⁵ On the same date, GSIS also charged Judge Valenzuela with grave misconduct, gross ignorance of the law, violation of the *Rules of Court*, and knowingly rendering an unjust order.⁶

The charges against the respondents were both based on the non-raffling of Civil Case No. MC08-3660. Allegedly, Judge Erum violated

³ Id. at 110-148.

⁴ Id. at 13-21.

⁵ Id. at 3-4.

⁶ Id. at 244-245.

Section 2, Rule 20 of the *Rules of Court* by assigning Civil Case No. MC08-3660 to Branch 213 without the benefit of a raffle.

According to the GSIS, the raffle of Civil Case No. MC08-3660 had been set on July 21, 2008 at 1:00 p.m. inside the courtroom of Judge Erum. On said date, all the parties, as well as the members of the raffle committee, namely, the respondents and RTC Judge Esteban A. Tacla, Jr., attended. For the conduct of the raffle, a roulette bearing the numbers 208, 212, 213 and 214 (representing the RTC Branches involved in the raffle) was brought inside the courtroom. However, Judge Erum announced that Civil Case No. MC08-3660 was being assigned to Branch 213 because Branches 208, 212, and 214 had already been assigned an injunction case each, leaving only Branch 213 without an injunction case. She then explained the practice that once a TRO/injunction case had been raffled to a Branch, that particular Branch would be automatically excluded from the raffle until all the other Branches had each been assigned a TRO/injunction case. Thus, there being only four regular RTC Branches in Mandaluyong City (*i.e.*, Branches 208, 212, 213 and 214), every fourth TRO/injunction case filed was no longer raffled but automatically assigned to the remaining Branch.

GSIS stated that it sought a clarification from Judge Erum on the non-raffling of Civil Case No. MC08-3660 to know which particular Supreme Court circular authorized the rotation scheme, but Judge Erum merely replied that the scheme had been a long-standing practice of raffling and assigning TRO/injunction cases in the RTC in Mandaluyong City; that it subsequently requested the re-raffle of Civil Case No. MC08-3660 through its letter dated September 1, 2008; that Judge Erum denied the request on the ground that there was nothing irregular in the assignment of Civil Case No. MC08-3660 to Branch 213; that such conduct showed her incompetence, lack of integrity, and partiality; and that she thereby gave rise to an anomalous situation in which –

xxx. [A]ll that a litigant with an injunction complaint in Mandaluyong has to do is to time the filing of his her case by waiting until the favored judge is the only sala left without an injunction case. Considering that there are only four salas in Mandaluyong, a litigant may not have to wait long until this happens. Once the favored judge is the only sala left, then the litigant is assured that his or her case will automatically be assigned to that judge.⁷

Against Judge Valenzuela, GSIS asserted that he showed manifest partiality as a member of the Raffle Committee by consenting to the assignment of Civil Case No. MC08-3660 to his Branch without the benefit of raffle; that despite having previously worked at FGU Insurance Corporation, a member of the Philippine Insurance and Reinsurance Association (PIRA) that had actively opposed the implementation of DO 2007-28 and had even filed a petition in the RTC in Makati City for the nullification of DO 2007-28, he refused to inhibit himself from handling Civil Case No. MC08-3660, and, instead, issued a TRO restraining the implementation of DO 2007-28 despite Martizano's failure to substantiate her application for the TRO, and without waiting for the opposition and comment of STRADCOM as well as without requiring Martizano to post a bond; and that he also unreasonably denied the *motion to dismiss* filed in Civil No. MC08-3660.⁸

In her *comment* dated October 24, 2008, Judge Erum took the position that the assignment of Civil Case No. MC08-3660 to Branch 213 was by raffle, not by rotation, contrary to GSIS's position, thus:

14. xxx The assignment of cases including TRO cases is by raffle, and not by "rotation" in its strict sense. Because if we say rotation, we follow the consecutive number of the branches participating. Relative to MC08-3660, the 1st TRO case after closing the last preceding round was raffled to Branch 208 on July 7, 2008 raffle (and we used the roulette). The 2nd TRO case was raffled to Branch 212 (and we used the roulette) on July 14, 2008 raffle, and the 3rd TRO case was raffled to Branch 214 on July 14, 2008 raffle (and we also used the roulette). The next raffle was held on July 21, 2008, and that's where the case of MC08-3660 was raffled for it was during this period that it was filed, and the case was assigned to Branch 213, still by raffle although we did not use the roulette anymore in this particular case.

⁷ Id. at 8.

⁸ Id. at 245-255.

15. Had there been “rotation” in its strict sense, and not by raffle as what complainant is saying, then the sequence of the raffle would be Branch 208 to get the 1st TRO case, Branch 212 to get the 2nd TRO case, Branch 213 to get the 3rd TRO case, and the last or 4th TRO case would be Branch 214. That did not happen in this case because as it appears in the minutes of raffle, after Branch 208 and Branch 212 got their share, the next Branch to which the 3rd TRO case was raffled was to Branch 214.

Judge Erum explained that the roulette was not used in the assignment of Civil Case No. MC08-3660 because only Branch 213 of the four regular Branches in Mandaluyong City had not been assigned a TRO or injunction case. She cited the existing practice whereby a Branch to which a TRO was already raffled would be excluded from the next raffle, stating that the practice was adopted by consensus among the RTC Judges in Mandaluyong City for the purpose of equalizing the distribution of TRO/injunction cases among the several Branches of the station. She insisted that GSIS lodged the charges only because Judge Valenzuela denied its motion to inhibit and motion to dismiss filed in Civil Case No. MC08-3660.⁹

Judge Valenzuela submitted his own *comment* dated October 20, 2008, in which he maintained as follows:

3. xxx The raffle of all cases and those which includes application for TRO/Injunction is done on a “*round system*.” The raffle of cases at present only involves the four (4) RTC branches, i.e., RTC- Branch 208, RTC-Branch 212, RTC-Branch 213, and RTC-Branch 214, RTC-Branch 209 having been designated as a Family Court, a special court, hence excluded from raffle of ordinary cases, civil and criminal, the same with RTC-Branch 210, presided by the Executive Judge, which is likewise a special court since the same was designated as Drug Court, and RTC-Branch 211 which at present has no presiding judge, the raffle of cases only involves said four regular courts.

During the said raffle of July 21, 2008, it was only this court which has not received its share of cases with application for TRO/Injunction for said “*round*” hence, Civil Case No. MC-08-3660 was considered raffled and automatically assigned to the court of the undersigned at RTC-Branch 213 to close the raffle of cases with application for TRO/Injunction for said “*round*.”

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⁹ Id. at 172-176.

In short, Civil Case No. MC08-3660 was raffled on July 21, 2008 xxx, there is no need to spin the roulette, which was used in the raffle of cases, since it was only the court of the undersigned which has not received its share of civil cases with application for a TRO/Injunction for the particular “*round*.” The raffle committee would just be wasting time and make fool out of ourselves if we would still spin the roulette, on that particular raffle of July 21, 2008 for the raffle of Civil Case No. MC08-3660, and wait until the pointer of the roulette would be finally pointed to the portion where the words “RTC 213” is located in the roulette since it is only RTC-Branch 213 which is the only court included in the raffle of civil cases with application for a TRO/Injunction for the particular “*round*.”

Judge Valenzuela justified the proceedings taken thusly:

[T]he same was agreed upon by the judges as its internal rules so as not burden a particular judge with several cases with application for TRO/preliminary injunction since as aforestated, such applications requires the immediate attention of the judge in view of the fact that each court has hundreds or thousands of cases clogging in its respective dockets.”

Albeit admitting being a former employee of FGU Insurance Corporation, Judge Valenzuela clarified that FGU Insurance Corporation was not a party in Civil Case No. MC08-3660. He assured that all the parties in Civil Case No. MC08-3660 were given the opportunity to argue for or against the issuance of the TRO; that although he had granted a period of five days to STRADCOM within which to file its own *comment/opposition* to Martizano’s application for the TRO, he did not wait anymore for STRADCOM’s written *comment/opposition* owing to the public interest involved and the urgency of resolving the issues concerning DO 2007-28. He said that the non-imposition of a bond on Martizano was justified under Rule 58, Section 4(b) of the *Rules of Court*; that he denied the *motion to dismiss* because the requisites for the grounds relied upon were not met; and that the supposed anomaly attending the raffle proceedings was only the product of GSIS’s “polluted mind.”¹⁰

¹⁰ Id. at 59-84.

On April 1, 2009, the OCA rendered a report, stating:

A careful study of the records of the case shows that respondent violated the procedure on the raffle of cases by automatically assigning a case to Branch 213 on the ground that the said procedure has been the practice of her predecessors.

Even on the assumption, as respondent admitted, that the procedure has been the practice prior to her assumption as Executive Judge, she should have borne in mind that practice is not the law. The law is very explicit on this as expressed by Article 7 of the New Civil Code which provides: “Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or customs or practice to the contrary” (Ceferino Inciong vs. Honorable Leticia S. Mariano De Guia, A.M. No. R-249-RTJ, September 17, 1987).

Circular No. 20, dated October 4, 1979, clearly provides that all cases filed with the court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. Respondents could not go against Circular No. 20 of the Supreme Court in the exercise of its rule-making power until it is repealed or otherwise modified.¹¹

The OCA recommended that: (a) both respondents be held guilty of violating the rules on the raffle of cases contained in Circular No. 7 dated September 23, 1974, with stern warning that the commission of the same or similar acts in the future would be dealt with more severely; (b) the charge against Judge Valenzuela for issuing the questioned orders in Civil Case No. MC08-3660 be dismissed for lack of merit; (c) the matter be re-docketed as a regular administrative matter; and (d) each of the respondents be fined ₱5,000.00 for violating Circular No. 7.¹²

As earlier mentioned, on June 3, 2009, the Court, adopting and approving the OCA’s recommendations, declared the respondents guilty of violating the rules on the raffle of cases and fined each of them ₱5,000.00.¹³

¹¹ Id. at 308.

¹² *Supra*, note 3.

¹³ *Supra*, note 2.

Hence, the separate motions for reconsideration of the respondents,¹⁴ which GSIS opposed.¹⁵ The respondents then filed their separate replies.¹⁶

Issue

Were the respondents properly held administratively liable for violating the standing rules on the raffle of cases?

Ruling

We grant the motions for reconsideration, and reconsider and set aside the resolution dated June 3, 2009. We absolve the respondents.

1.

Rules in Raffling of Cases

The 1997 *Rules of Civil Procedure* has expressly made the raffle the *exclusive* method of assigning cases among several branches of a court in a judicial station by providing in Section 2 of Rule 20, as follows:

Section 2. *Assignment of Cases.* – The assignment of cases to the different branches of a court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present. (7a,R22)

Previously, under the *Revised Rules of Court* (1964), the distribution of cases among different branches by raffle was *not exclusive*, considering that Rule 22 then allowed other methods, to wit:

Section 7. *Assignment of cases.* In the assignment of cases to the different branches of a Court of First Instance or their transfer from one branch to another whether by raffle or otherwise, the parties or their counsel shall be given written notice sufficiently in advance so that they may be present therein if they so desire.

¹⁴ *Supra*, note 1.

¹⁵ *Rollo*, pp. 392-408; 420-437.

¹⁶ *Id.* at 477-479; 486-489.

The avowed purpose of instituting raffle as the exclusive method of assigning cases among several branches of a court in the same station is two-fold: *one*, to equalize the distribution of the cases among the several branches, and thereby foster the Court's policy of promoting speedy and efficient disposition of cases; and, *two*, to ensure the impartial adjudication of cases and thereby obviate any suspicion regarding assignment of cases to predetermined judges.¹⁷

To achieve and implement this two-fold purpose, the Supreme Court issued Circular No. 7 on September 23, 1974, which pertinently stated:

I. RAFFLING OF CASES

All cases filed with the Court in stations or groupings where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all the branches in the particular station or grouping shall be included in the raffle. Cases in excess of the number sufficient for equal distribution shall be included in the next scheduled raffle, subject to the exceptions provided in paragraphs II and IV hereof.

II. NOTICE

Notice of the day and hour of the raffle shall be posted prominently in the bulletin boards of the Courts and at a conspicuous place at the main door of the session hall of the Executive Judge. Other notices to the parties may be sent as the interest of justice may require on request of any party and with the prior approval of the Executive Judge. There shall be no special raffle of any case except on meritorious application in writing by any party to the case and with the approval of the Executive Judge.

III. MANNER OF RAFFLING

The raffle must be conducted at the lawyer's table in open court by the Executive Judge personally with the attendance of two other Judges or, in case of the latter's inability, of their duly authorized representatives. In stations where there are only two salas the Judges of both or either and the Clerk of Court or the Branch Clerk of Court should be present. In the absence of the Executive Judge, the Judge at the station who is the most senior in point of appointment to the Judiciary shall personally conduct the raffle. Under no circumstance may any raffle be made in chambers. The raffle proceedings should be stenographically recorded, and minutes

¹⁷ *Fineza v. Rivera*, A.M. No. RTJ-00-1545, August 6, 2003, 408 SCRA 365, 373.

thereof shall be prepared by signed by the Judges (or their representatives) and the Clerk of Court in attendance. Immediately after the raffle on any particular branch to which the case is assigned, the same to be written in words and in figures on the cover of the Rollo and on the first page of the original complaint or information and initialed by the Executive Judge and the other two officers who attended said raffle.

The raffle must be conducted in such manner that all the branches of the Court in that station or grouping including vacant salas, shall receive more or less the same number of civil, criminal and other kinds of cases.

For purposes of facilitating implementation of the foregoing rules, a Raffle Committee composed of the Executive Judge and two other judges shall, as much as practicable, be constituted.

IV. IN CASE OF URGENT OR INTERLOCUTORY MATTERS

Whenever an incidental or interlocutory matter in a case is of such urgent nature that it may not wait for the regular raffle, the interested party may request the Executive Judge in writing for a special raffle. If the request is granted and the special raffle is conducted, the case shall immediately be referred to the branch to which it corresponds. The Executive Judge shall have no authority to act on any incidental or interlocutory matter in any case not yet assigned to any branch by raffle.

II.

Respondents did not violate the purposes of the rule requiring raffle

Circular No. 7, *supra*, stated that only the maximum number of cases, according to their dates of filing, as could be equally distributed to all the branches in the particular station or grouping should be included in the raffle; and that cases in excess of the number *sufficient for equal distribution* should be included in the next scheduled raffle.

Despite not strictly following the procedure under Circular No. 7 in assigning Civil Case No. MC08-3660 to Branch 213, the respondents as members of the Raffle Committee could not be held to have violated the rule on the exclusivity of raffle because there were obviously less TRO or injunction cases available at anytime for raffling than the number of Branches of the RTC. Given the urgent nature of TRO or injunction cases, each of them had to be immediately attended to. This peculiarity must have led to the adoption of the practice of raffling such cases despite their number

being less than the number of the Branches in Mandaluyong City. The practice did not absolutely contravene Circular No. 7 in view of the circular itself expressly excepting under its fourth paragraph, *supra*, any incidental or interlocutory matter of such urgent nature (like a TRO application) that might not wait for the regular raffle.

Still, GSIS posits that assigning Civil Case No. MC08-3660 to Branch 213 without raffle could easily “create an anomalous situation,” which it describes in the following terms:

They create an anomalous situation whereby all that a litigant with an injunction complaint in Mandaluyong has to do is to time the filing of his her case by waiting until the favored judge is the only sala left without an injunction case. Considering that there are only four salas in Mandaluyong, a litigant may not have to wait long until this happens. Once the favored judge is the only sala left, then the litigant is assured that his or her case will automatically be assigned to that judge.”¹⁸

We find the position of GSIS untenable. The urgent nature of an injunction or TRO case demands prompt action and immediate attention, thereby compelling the filing of the case in the proper court without delay. To assume that a party desiring to file an injunction or TRO case will just stand idly by and mark time until his favored Branch is the only Branch left without an assigned injunction or TRO case is obviously speculative. Moreover, the “anomalous situation” is highly unlikely in view of the uncertainty of having the favored Branch remain the *only Branch* without an injunction or TRO case following the series of raffle.

The OCA has cited *Hilario v. Ocampo III*¹⁹ and *Fineza v. Rivera*²⁰ to support its adverse recommendation against the respondents. However, said rulings were not on all fours with the situation of the respondents. In *Hilario*

¹⁸ *Supra*, note 7.

¹⁹ A.M. No. MTJ-00-1305, December 3, 2001, 371 SCRA 260, 273.

²⁰ *Supra*, note 17.

v. Ocampo III, the respondent was an executive judge who had assigned 13 related cases to the branch to which the case having the lowest docket number had been assigned, thereby causing the uneven distribution of cases among the various branches of the station. That was not true herein, because the respondents as members of the Raffle Committee had earlier conducted a series of raffle involving injunction and TRO cases before assigning Civil Case No. MC08-3660 to Branch 213 conformably with the standing practice designed to ensure the equalization of the distribution of cases among the several Branches in the Mandaluyong City station. In *Fineza v. Rivera*, the respondent was an executive judge who had disregarded the procedure for the assignment of cases by relying instead on sequencing, that is, if a case was raffled to Branch 1, the next case was assigned to the next branch (Branch 2), and so on. In contrast, the respondents herein assigned Civil Case No. MC08-3660 to Branch 213 without considering their preference or without exercising their unregulated choice of the Branch, but entirely pursuant to their existing practice.

Even if we now absolve the respondents from administrative liability on the basis of the foregoing, we cannot hereafter sanction any practice that does not conform to the raffle as the exclusive method of assigning cases among several Branches within the judicial station. We reiterate that the raffle should always be the rule rather than the exception.

Henceforth, adherence to the procedure for the raffle set forth in Circular No. 7 is demanded of all Raffle Committees in multi-sala trial courts in order to achieve the two-fold objectives earlier mentioned. Only the exceptions expressly recognized under item IV of Circular No. 7 shall be permitted.

III.
**Dismissal of charges for gross ignorance of the law,
grave misconduct, and knowingly rendering
unjust judgment was proper**

The dismissal of the charges of gross ignorance of the law, grave misconduct, and knowingly rendering unjust judgment, as the OCA recommended, was justified because the charges were really devoid of merit.

In the absence of any showing that improper motives or corruption had actuated the respondents, the respondents should be presumed to have acted in utmost good faith in assigning Civil Case No. MC08-3660 according to the existing practice of raffling cases adopted by the Raffle Committee. As such, they could not be held guilty of either gross ignorance of the law or grave misconduct. To constitute gross ignorance of the law, the acts complained of must not only be contrary to existing law and jurisprudence, but must also be motivated by bad faith, fraud, dishonesty and corruption.²¹ Grave misconduct refers to a wrongful act inspired by corruption or intention to violate the law.²²

The charge of knowingly rendering unjust orders in Civil Case No. MC08-3660 levelled against Judge Valenzuela was bereft of factual support and legal basis. His explanations for issuing the assailed orders, which the Court finds to be fully substantiated by the records and the pertinent laws, are sufficient. In addition, we are puzzled that GSIS did not resort to any of several adequate remedies, like bringing a petition for *certiorari* or taking an appeal in due course, which remedies were available at its disposal had it really considered the issuance of the orders and Judge Valenzuela's explanations unwarranted or in contravention of the law.

GSIS's proceeding against Judge Valenzuela through this administrative complaint instead was definitely not its viable option at all.

²¹ *Naval v. Panday*, A.M. No. RTJ-95-1283, July 21, 1997, 275 SCRA 654, 694.

²² *Sesbreño v. Igonia*, A.M. No. P-04-1791, January 27, 2006, 480 SCRA 243, 255.

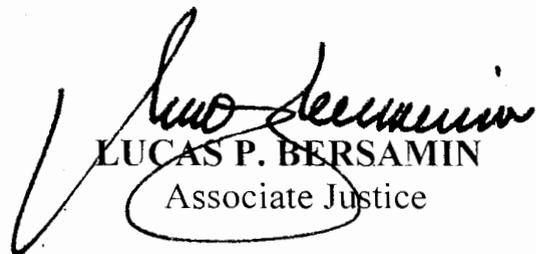
We have always regarded as a fundamental precept that an administrative complaint against a judge is inappropriate as a remedy for the correction of an act or omission complained of where the remedy of appeal or *certiorari* is a recourse available to an aggrieved party.²³ Two reasons underlie this fundamental precept, namely: (a) to hold otherwise is to render judicial office untenable, for no one called upon to try the facts or to interpret the law in the process of administering justice can be infallible in his judgment; and (b) to follow a different rule can mean a deluge of complaints, legitimate or otherwise, and our judges will then be immersed in and be ceaselessly occupied with answering charges brought against them instead of performing their judicial functions.

WHEREFORE, the Court **GRANTS** the respondents' separate motions for reconsideration; **SETS ASIDE** the resolution dated June 3, 2009; and **DISMISSES** the administrative charges against the respondents.

Henceforth, the Raffle Committees of all multi-sala stations shall strictly adhere to the procedures for assigning of cases among the Branches in the stations, subject only to the exceptions recognized in Circular No. 7.

The Court Administrator is hereby directed to disseminate this resolution to all trial courts for their guidance and strict compliance.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

²³ *City of Cebu v. Gako, Jr.*, A.M. No. RTJ-08-2111, May 7, 2008, 554 SCRA 15, 24; *Cepeda v. Cloribel-Purugganan*, A.M. No. RTJ-04-1866, July 30, 2004, 435 SCRA 456, 460.

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



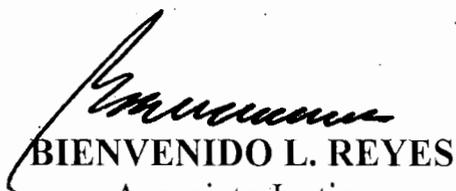
TERESITA J. LEONARDO-DE CASTRO

Associate Justice



MARTIN S. VILLARAMA, JR.

Associate Justice



BIENVENIDO L. REYES
Associate Justice