



Republic of the Philippines  
Supreme Court  
Manila City

EN BANC

LAND BANK OF THE  
PHILIPPINES,

Petitioner,

G.R. No. 186279

Present:

- versus -

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

Promulgated:

ARTEMIO S. SAN JUAN, JR.,  
Respondent.

April 2, 2013

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*[Signature]* X

DECISION

BRION, J.:

For our consideration is the petition for review on *certiorari*,<sup>1</sup> filed by petitioner Land Bank of the Philippines (LBP), assailing the decision<sup>2</sup> dated October 17, 2007 and the resolution<sup>3</sup> dated February 5, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 94757. The CA modified on appeal

\* On official leave.

<sup>1</sup> Rollo, pp. 31-45.

<sup>2</sup> Penned by Associate Justice Rosmari D. Carandang, and concurred in by Associate Justices Marina L. Buzon and Mariflor P. Punzalan-Castillo; id. at 13-26.

<sup>3</sup> Id. at 8-11.

Resolution No. 060286,<sup>4</sup> issued by the Civil Service Commission (CSC), finding Artemio S. San Juan, Jr. (*respondent*), then Acting LBP Manager - Binangonan Branch, guilty of gross neglect of duty. The CA, instead, found the respondent liable for simple neglect of duty.

### **Factual Antecedents**

The facts, as gathered from the records, are as follows: in the morning of June 14, 2002, a certain Esmayatin Bonsalagan approached the respondent in his office at LBP-Binangonan Branch to encash a **check for Twenty-Six Billion pesos**.<sup>5</sup> The check, numbered GH0 A0012480, was issued by the China Banking Corporation (*China Bank*), Greenhills-Ortigas Avenue Branch, and drawn against the account of CQ Ventures Corporation, with Bonsalagan as the payee.<sup>6</sup>

The respondent then summoned to his office Acsa Ramirez, the Cashier/Operations Supervisor, and Leila Amparo, the Teller/Designated New Accounts Clerk, and informed them of Bonsalagan's desire to partially withdraw funds on the check. He also told them that the ₱26-Billion check had already been confirmed by China Bank.<sup>7</sup> Ramirez expressed her reservation to the client's request because, as a matter of bank procedure and policy, the check must first be cleared before funds could be withdrawn.<sup>8</sup>

To accommodate the client, the respondent suggested that Bonsalagan open a current/checking account with the branch where the China Bank check would first be deposited.<sup>9</sup> Ramirez, who assisted in opening the checking account, required Bonsalagan to present at least two (2) valid identification cards (*IDs*), but the latter could only present one ID.<sup>10</sup> The respondent assured Ramirez that it was alright to proceed with the opening of the checking account because Bonsalagan had previously presented the proper IDs, being a signatory to an existing account with the branch.<sup>11</sup> The respondent also approved and authenticated Bonsalagan's specimen signature cards.<sup>12</sup> Bonsalagan was consequently issued a check booklet.<sup>13</sup>

The China Bank check was forwarded to the LBP-Cainta Branch, for clearing, in the afternoon of June 14, 2002 because it was already past the

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<sup>4</sup> Id. at 144-150.

<sup>5</sup> Id. at 15.

<sup>6</sup> Id. at 106.

<sup>7</sup> Id. at 15.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Id. at 16.

<sup>13</sup> Ibid.

clearing cut-off time at the Binangonan Branch.<sup>14</sup> Ramirez called the Cainta Branch to inform it of the incoming check and the certification issued by a certain Gonzalo T. Lambo II of China Bank that the funds from which the check was drawn against were of clean origin.<sup>15</sup> Alarmed by the check's enormous amount, Florencio Quicoy, Jr., the Branch Manager of LBP-Cainta Branch, inquired whether the China Bank check had been reported to Carmencita Bayot of the Area Head Office.<sup>16</sup> Ramirez then advised the respondent that he needed to immediately report the China Bank check to Bayot.<sup>17</sup> The respondent directed Ramirez to just report the check on the next working day, which fell on a Monday.<sup>18</sup>

Against the respondent's advice, Ramirez immediately called the Area Head Office to report the China Bank check.<sup>19</sup> Liza Castrence, who received the call from the Area Head Office, instructed Ramirez to call China Bank to confirm the check.<sup>20</sup> After a while, Castrence called back to inform Ramirez that Bayot had already communicated with China Bank to withhold the clearing of the ₱26-Billion check.<sup>21</sup> Bayot then spoke with Ramirez and directed her to close Bonsalagan's checking account with the LBP-Binangonan Branch.<sup>22</sup>

After an investigation, the LBP discovered that the ₱26-Billion check was spurious and unfunded,<sup>23</sup> and that the check's account number did not belong to CQ Ventures Corporation, but to a certain Jing Limbo and/or Arien Romero.<sup>24</sup> This discovery prompted the LBP to issue a Formal Charge<sup>25</sup> against the respondent with the Office of the Government Corporate Counsel (OGCC) where it accused the respondent of gross neglect of duty<sup>26</sup> for the following acts or omissions detrimental to the bank's interest: (a) in ordering that a current account be opened without properly verifying the depositor's identity in accordance with the bank's policy; (b) in not confirming the genuineness of the China Bank check and the legitimacy and sufficiency of its funds; and (c) in issuing a check booklet to Bonsalagan without waiting for the China Bank check to be cleared. The respondent was preventively suspended.<sup>27</sup>

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<sup>14</sup> Id. at 16-17.

<sup>15</sup> Id. at 147.

<sup>16</sup> Id. at 148.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Id. at 103-104.

<sup>24</sup> Id. at 104.

<sup>25</sup> Dated July 29, 2002 and docketed as Administrative Case No. 02-03, entitled "*Land Bank of the Philippines v. Mr. Artemio S. San Juan, Jr.*"; id. at 100-105.

<sup>26</sup> Pursuant to Section 46, Chapter 7, Subtitle (A), Title I, Book V of Executive Order No. 292, in relation to Section 16, Rule II of CSC Resolution No. 991936; id. at 100.

<sup>27</sup> Pursuant to Section 19, Rule II of CSC Resolution No. 991936; id. at 105.

In its Report of Investigation dated October 21, 2004,<sup>28</sup> the OGCC found the respondent guilty of gross neglect of duty and recommended that he be dismissed from the service.<sup>29</sup>

In Resolution No. 04-394 dated October 26, 2004,<sup>30</sup> the LBP Board of Directors adopted the OGCC's findings and approved the respondent's dismissal. The respondent moved for reconsideration, but his motion was denied for lack of merit;<sup>31</sup> hence, his appeal to the CSC.

### **Resolution of the CSC**

In Resolution No. 060286 dated February 15, 2006,<sup>32</sup> the CSC affirmed the LBP Board's Resolution No. 04-394 and similarly found the respondent guilty of gross neglect of duty. The CSC ruled that:

As the Acting Head of the Land Bank of the Philippines-Binangonan Branch, San Juan has control and supervision over all the employees in his branch, especially so that the transaction involved in this case was his very own client whom he has admitted to have convinced to deposit in his Branch the P26 Billion check. The transaction was done in his office and in his presence. As the Acting Head of the Branch, with full knowledge of the transaction done right before his eyes, it becomes his inherent duty to see to it that the bank's policies, rules and regulations involving the opening of a checking account is faithfully observed. His failure to do so makes him liable for Gross Neglect of Duty.<sup>33</sup>

The CSC imposed on the respondent the penalty of dismissal, together with the accessory penalties of cancellation of eligibility, perpetual disqualification from re-employment in the government service and forfeiture of retirement benefits. The respondent appealed the CSC's resolution to the CA under Rule 43 of the Rules of Court.

### **Decision of the CA**

In its decision dated October 17, 2007,<sup>34</sup> the CA partly granted the respondent's appeal and affirmed with modification the assailed CSC resolution by finding the respondent guilty of simple, not gross, neglect of duty.

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<sup>28</sup> Id. at 108-121.

<sup>29</sup> In accordance with "Rule IV, Section 52 A (2), in connection with Section 54.c of x x x CSC Resolution No. 99-[1936]"; id. at 121.

<sup>30</sup> Id. at 122.

<sup>31</sup> Dated December 7, 2004; id. at 143.

<sup>32</sup> *Supra* note 4.

<sup>33</sup> Id. at 148.

<sup>34</sup> *Supra* note 2.

The CA found that, while the respondent was negligent in allowing Bonsalagan to open a checking account and to deposit the China Bank check with the branch without complying with the bank's procedures, his negligence could not be considered as so gross that it would merit the respondent's dismissal from the service; that the respondent did exercise some degree of diligence in the performance of his duties as Acting LBP Manager when he: (a) instructed Ramirez to confirm Lambo's certification as to the legitimacy of the source and the sufficiency of the China Bank check's funding, (b) required Bonsalagan to submit an additional ID on the next banking day, and (c) ordered the "tagging" of Bonsalagan's account with the branch, which means that, despite the premature issuance of a check booklet to Bonsalagan, funds of the China Bank check could be withdrawn only when the said check is cleared and after the completion of the client's identification requirements.

Despite the respondent's efforts, however, the CA considered them short of the diligence expected of the respondent as the branch's Acting Manager. The CA stated that:

While it is true that the duty to process the opening of an account, to validate the identity of the would-be depositor, to verify and determine the genuineness of the check deposit, and to issue the check booklet are the specific duties of the Operations Supervisor, such would not absolve petitioner from any administrative liability. As Head/Manager of the Branch, he has direct control and supervision over all the employees and of all the transactions of the Branch, hence, **he has the inherent duty and responsibility to effect faithful compliance of bank policies, rules and regulations with respect to the opening and processing of accounts.**<sup>35</sup> (emphasis ours)

Under the Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty is a less grave offense punishable with the penalty of suspension from work for one (1) month and one (1) day to six (6) months for the first offense.<sup>36</sup> **The CA imposed on the respondent the penalty of six (6) months suspension.**<sup>37</sup>

The LBP moved to reconsider the CA's decision but the latter denied the motion in a resolution dated February 5, 2009;<sup>38</sup> hence, the present petition for review on *certiorari* filed with this Court.

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<sup>35</sup> Id. at 22.

<sup>36</sup> Section 52 B(1), Rule IV.

<sup>37</sup> *Supra* note 2, at 25.

<sup>38</sup> *Supra* note 3.

### **The Petition**

The LBP contends that the respondent's infractions constitute gross, and not simply simple neglect of duty considering that the respondent held a position of trust and integrity, dealt with public money, and was engaged in the banking business.<sup>39</sup> It argues that due to the fiduciary nature of banking, the law imposes upon banks, its officers and employees, high standards of integrity and performance, and requires them to assume a degree of diligence higher than that of a good father of a family;<sup>40</sup> that the respondent's negligent acts and performance as Acting LBP Manager fell short of the exacting and high standards expected from bank officials and employees;<sup>41</sup> and that the respondent's extraordinary accommodation of Bonsalagan could lead to only one conclusion, *i.e.*, the respondent and Bonsalagan were in collusion to defraud the bank, the bank's depositors, and the government.<sup>42</sup> The LBP further contends that the respondent's failure to report the China Bank check to the Anti-Money Laundering Council clearly constituted gross neglect of duty.<sup>43</sup>

### **The Respondent's Comment**

In his comment dated June 29, 2009,<sup>44</sup> the respondent counter-argued that the LBP's petition should be denied on the ground that the sole issue raised by the LBP, as to whether the acts committed by the respondent constitute gross neglect of duty, is a question of fact that cannot be raised in a petition under Rule 45 of the Rules of Court. Even if assuming that the issue raised by the LBP is a valid question of law, the respondent contends that the CA correctly ruled that he is only guilty of simple neglect of duty considering that he specifically instructed that Bonsalagan's account with the branch be tagged.

### **The Court's Ruling**

**We find LBP's petition meritorious.**

The LBP's petition hinges on the question of whether the acts imputed on the respondent constitute gross neglect of duty so as to justify the respondent's dismissal from the government service.

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<sup>39</sup> *Supra* note 1, at 36-37.

<sup>40</sup> *Id.* at 39-40.

<sup>41</sup> *Id.* at 41.

<sup>42</sup> *Id.* at 42.

<sup>43</sup> *Id.* at 38.

<sup>44</sup> *Rollo*, pp. 160-169.

We stress that the issue presented is a question of fact whose determination entails an evaluation of the evidence on record. Generally, purely factual questions are not passed upon in petitions for review on *certiorari* under Rule 45 because “this Court is not a trier of facts[.]”<sup>45</sup> In view, however, of the contrary findings made by the CSC and the CA in this case, we shall resolve the presented factual question.<sup>46</sup>

Simple neglect of duty is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference.<sup>47</sup> On the other hand, gross neglect of duty is characterized by want of even the slightest care, or by conscious indifference to the consequences, and in cases involving public officials, by flagrant and palpable breach of duty.<sup>48</sup> It is the omission of that care that even inattentive and thoughtless men never fail to take on their own property.<sup>49</sup>

**Our review of the records convinces us that the respondent’s actuations constitute gross, and not simple, neglect of duty.**

A bank manager has the duty to ensure that bank rules are strictly complied with, not only to ensure efficient bank operation, but also to serve the bank’s best interest.<sup>50</sup> His responsibility over the functions of the employees of the branch cannot simply be overlooked as their acts normally pass through his supervision and approval. He should serve as the last safeguard against any pretense employed to carry out an illicit claim over the bank’s money.

<sup>45</sup> *Diokno v. Cacdac*, G.R. No. 168475, July 4, 2007, 526 SCRA 440, 460.

<sup>46</sup> When supported by substantial evidence, the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) When the judgment is based on a misapprehension of facts;
- (5) When the findings of fact are conflicting;
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) When the findings are contrary to those of the trial court;
- (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and
- (10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record. (*Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, G.R. No. 190515, June 6, 2011, 650 SCRA 656, 660; underscore supplied)

<sup>47</sup> *Office of the Court Administrator v. Garcia-Rañoco*, A.M. No. P-03-1717, March 6, 2008, 547 SCRA 670, 673-674.

<sup>48</sup> *Brucal v. Hon. Desierto*, 501 Phil. 453, 465-466 (2005).

<sup>49</sup> *Id.* at 466.

<sup>50</sup> *Equitable PCI Bank v. Dompur*, G.R. Nos. 163293 and 163297, December 8, 2010, 637 SCRA 698, 714.

In the present case, the respondent miserably failed to discharge his functions as Acting LBP Manager.

*First*, the respondent allowed, even prodded, his employees to bypass bank procedures that were in place to secure the bank's funds. Through the respondent's assurances as to Bonsalagan's identity, Ramirez blindly opened a current account despite the client's submission of incomplete identification requirements. The respondent even approved and authenticated Bonsalagan's specimen signature cards to facilitate the opening of Bonsalagan's current account.

The respondent contends that since Bonsalagan was already a signatory of the Humanitarian Foundation Order of Service, Inc., which had an existing account with the LBP-Binangonan Branch, Bonsalagan did not need to present the additional identification requirements to open an account with the branch. We find the respondent's leniency in this regard to be misplaced. Bonsalagan, in his personal capacity, and the Humanitarian Foundation Order of Service, Inc., as a corporate entity, are different personalities and their accounts with the branch should have been treated individually and separately.

The respondent further argues that the duties of opening and processing the bank's accounts fell on the shoulders of Ramirez and Amparo and were not part of his specific duties and responsibilities as Acting LBP Manager; thus, he should not be made accountable. We cannot, however, accept this excuse. As Acting LBP Manager, the respondent had the primary duty to see to it that his employees faithfully observe bank procedures. Whether or not the opening and processing of accounts were part of his job description or not was of no moment because the respondent held a position that exercised control and supervision over his employees.

*Second*, the respondent permitted the issuance of a check booklet to Bonsalagan without waiting for the latter's check to pass through the three-day clearing requirement.<sup>51</sup> We take judicial notice of the required bank procedure of forwarding a check for clearance before funds are allowed to be withdrawn from it. In this case, Bonsalagan was issued a check booklet within the same day that he presented his check to the respondent and without his check being forwarded to and cleared by the Philippine Clearing House Corporation. Bonsalagan did not even pay for the issuance of his check booklet, as the respondent generously paid the ₱150.00 fee out of his own pocket.<sup>52</sup>

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<sup>51</sup> Currently, under Bangko Sentral ng Pilipinas (BSP) Circular No. 681 or "The Revised Check Clearing and Settlement Processes," all banks are mandated to return checks drawn against Uncollected Deposits (DAUD) and Insufficient Funds (DAIF) and checks with stop payment orders to the Philippine Clearing House Corporation by 7:30 a.m. the next day after their presentation for clearing.

<sup>52</sup> *Rollo*, p. 16.



We consider the respondent's act of tagging Bonsalagan's account as insufficient safeguard to prevent unauthorized withdrawals of the check's funds as it would not really have prevented Bonsalagan, who was already in possession of the check booklet, from issuing and circulating in the market checks that would subsequently be dishonored for being spurious and unfunded. Knowledge that Bonsalagan's account was tagged by the respondent was only internal with the branch or, possibly within the LBP bank system, but not with respect to third persons who would get hold of the checks issued by Bonsalagan.

*Third*, the respondent failed to exert prompt efforts in confirming the genuineness and source of Bonsalagan's ₱26-Billion check.

Due to the nature of his Bank Manager position, it was inevitable for the respondent to encounter and process, on a daily basis, checks of enormous amounts, ranging from thousands to millions of pesos. However, we find the enormity of the amount of Bonsalagan's check, *i.e.*, ₱26 Billion, to be exceptional and far from the usual bank transactions. This kind of unusual, even suspicious, transaction warranted a more guarded and prompt response from the respondent.

We recall that it was through Ramirez's initiative, and not the respondent's, that the unusually enormous check was immediately reported to the LBP Area Head Office. Strangely, the respondent, with apparent insensitivity to the circumstances of the situation, wanted to wait until the next working day to report the check. Such relaxed response cannot but be a confirmation of his disregard of and lack of concern for the bank's interests, which he was duty-bound to protect.

We likewise discern from the respondent's actuations that he was not only grossly negligent in the performance of his duties, but was also instrumental in perpetuating a fraud against the bank. The respondent cannot deny that he solicited Bonsalagan's account, allegedly to improve the bank's deposit portfolio.<sup>53</sup> The day before Bonsalagan arrived at the LBP-Binangonan Branch, the respondent already advised Ramirez of Bonsalagan's arrival and the presentation of the ₱26-Billion check.<sup>54</sup> And on the day the client arrived at the bank, the respondent vouched for Bonsalagan's identity and for the supposed confirmation by China Bank of the ₱26-Billion check.

Clearly, the respondent's willingness to accommodate Bonsalagan placed in serious doubt his intentions and loyalty to the bank. These

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<sup>53</sup> Id. at 134.

<sup>54</sup> As reported by the OGCC in its Report of Investigation dated October 21, 2004; id. at 110.

suspensions were later confirmed with the respondent's involvement and arrest in a tax diversion scam that had siphoned off millions of tax money in fictitious bank accounts with the LBP-Binangonan Branch.<sup>55</sup>

For the reasons cited above, we find the respondent guilty of gross neglect of duty and order his dismissal from the service. The banking business is one impressed with public trust<sup>56</sup> and a higher degree of diligence is imposed on banks compared to an ordinary business enterprise in the handling of deposited funds; the degree of responsibility, care and trustworthiness expected of their officials and employees is far greater than those imposed on ordinary officers and employees in other enterprises.<sup>57</sup> All these considerations were apparently lost on the CA when it misappreciated the import and significance of the facts of this case. Even a layman with no in-depth training in law would have wondered why a bank manager, presented a P26-Billion check by a private individual, did not bother to take special care.

Under the Revised Uniform Rules on Administrative Cases in the Civil Service,<sup>58</sup> gross neglect of duty is a grave offense punishable with the penalty of dismissal, even for first-time offenders.

**WHEREFORE**, premises considered, the Court **GRANTS** the petition and **SETS ASIDE** the decision and the resolution of the Court of Appeals in CA-G.R. SP No. 94757. Accordingly, Resolution No. 060286 of the Civil Service Commission dated February 15, 2006, dismissing Artemio S. San Juan, Jr. from the service with all the accessory penalties of cancellation of eligibility, perpetual disqualification from re-employment in the government service and forfeiture of retirement benefits, is hereby **REINSTATED** and **UPHELD**.

**SO ORDERED.**

  
ARTURO D. BRION  
Associate Justice

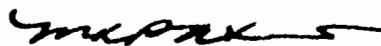
<sup>55</sup> <http://www.philstar.com/headlines/171515/nbi-question-land-bank-employees>, last accessed on January 22, 2013; <http://www.philstar.com/metro/184150/3-tax-scam-suspects-charged>, last accessed on January 22, 2013; <http://archive.malaya.com.ph/2009/August/aug18/news2.htm>, last accessed on January 22, 2013.

<sup>56</sup> *United Coconut Planters Bank v. Basco*, 480 Phil. 803, 819 (2004).

<sup>57</sup> *Ibid.*

<sup>58</sup> Memorandum Circular No. 19, s. 1999. Rule IV, Section 52 A (2).


WE CONCUR:



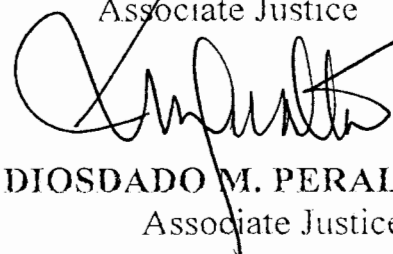
MARIA LOURDES P. A. SERENO  
Chief Justice



ANTONIO T. CARPIO  
Associate Justice

  
TERESITA J. LEONARDO DE CASTRO  
Associate Justice

PRESBITERO J. VELASCO, JR.  
Associate Justice





DIOSDADO M. PERALTA  
Associate Justice



LUCAS P. BERSAMIN  
Associate Justice

  
MARIANO C. DEL CASTILLO  
Associate Justice

  
ROBERTO A. ABAD  
Associate Justice

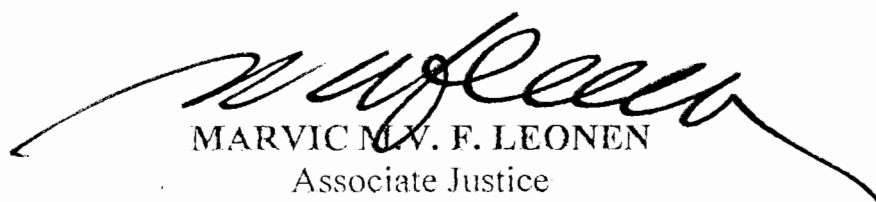
  
MARTIN S. VILLARAMA, JR.  
Associate Justice

  
JOSE PORTUGAL PEREZ  
Associate Justice

  
JOSE CATRAL MENDOZA  
Associate Justice

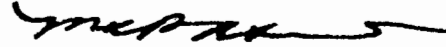
  
BIENVENIDO L. REYES  
Associate Justice

(On Leave)  
ESTELA M. PERLAS-BERNABE  
Associate Justice

  
MARVIC M. V. F. LEONEN  
Associate Justice

## CERTIFICATION

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



MARIA LOURDES P. A. SERENO

Chief Justice