



Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

RAUL H. SESBREÑO,
Petitioner,

G.R. No. 160689

Present:

-versus-

**HONORABLE COURT OF
APPEALS, JUAN I. COROMINA
(SUBSTITUTED BY ANITA
COROMINA, ELIZABETH
COROMINA and ROSIEMARIE
COROMINA), VICENTE E.
GARCIA (SUBSTITUTED BY
EDGAR JOHN GARCIA),
FELIPE CONSTANTINO,
RONALD ARCILLA,
NORBETO ABELLANA,
DEMETRIO BALICHA,
ANGELITA LHUILLIER,
JOSE E. GARCIA, AND
VISAYAN ELECTRIC
COMPANY (VECO),**
Respondents.

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

Promulgated:

MAR 26 2014

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DECISION

BERSAMIN, J.:

This case concerns the claim for damages of petitioner Raul H. Sesbreño founded on abuse of rights. Sesbreño accused the violation of contract (VOC) inspection team dispatched by the Visayan Electric Company (VECO) to check his electric meter with conducting an unreasonable search in his residential premises. But the Regional Trial Court (RTC), Branch 13, in Cebu City rendered judgment on August 19, 1994

* Vice Associate Justice Bienvenido L. Reyes, who inhibited from participation, per the raffle of March 10, 2014.

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dismissing the claim;¹ and the Court of Appeals (CA) affirmed the dismissal on March 10, 2003.²

Hence, this appeal by Sesbreño.

Antecedents

At the time material to the petition, VECO was a public utility corporation organized and existing under the laws of the Philippines. VECO engaged in the sale and distribution of electricity within Metropolitan Cebu. Sesbreño was one of VECO's customers under the metered service contract they had entered into on March 2, 1982.³ Respondent Vicente E. Garcia was VECO's President, General Manager and Chairman of its Board of Directors. Respondent Jose E. Garcia was VECO's Vice-President, Treasurer and a Member of its Board of Directors. Respondent Angelita Lhuillier was another Member of VECO's Board of Directors. Respondent Juan Coromina was VECO's Assistant Treasurer, while respondent Norberto Abellana was the Head of VECO's Billing Section whose main function was to compute back billings of customers found to have violated their contracts.

To ensure that its electric meters were properly functioning, and that none of its meters had been tampered with, VECO employed respondents Engr. Felipe Constantino and Ronald Arcilla as Violation of Contract (VOC) inspectors.⁴ Respondent Sgt. Demetrio Balicha, who belonged to the 341st Constabulary Company, Cebu Metropolitan Command, Camp Sotero Cabahug, Cebu City, accompanied and escorted the VOC inspectors during their inspection of the households of its customers on May 11, 1989 pursuant to a mission order issued to him.⁵

The CA summarized the antecedent facts as follows:

x x x. Reduced to its essentials, however, the facts of this case are actually simple enough, although the voluminous records might indicate otherwise. It all has to do with an incident that occurred at around 4:00 o'clock in the afternoon of May 11, 1989. On that day, the Violation of Contracts (VOC) Team of defendants-appellees Constantino and Arcilla and their PC escort, Balicha, conducted a routine inspection of the houses at La Paloma Village, Labangon, Cebu City, including that of plaintiff-appellant Sesbreño, for illegal connections, meter tampering, seals, conduit pipes, jumpers, wiring connections, and meter installations. After

¹ CA *rollo*, pp. 234-285.

² *Rollo*, 26-42; penned by Associate Justice Remedios A. Salazar-Fernando, and concurred in by Associate Justice Ruben T. Reyes (later Presiding Justice, and Member of the Court/retired) and Associate Justice Edgardo F. Sundiam (retired/deceased).

³ Records, Vol. 2, p. 1186.

⁴ Id. at 1185.

⁵ Id. at 1185-1186; 1198.

Bebe Baledio, plaintiff-appellant Sesbreño's maid, unlocked the gate, they inspected the electric meter and found that it had been turned upside down. Defendant-appellant Arcilla took photographs of the upturned electric meter. With Chuchie Garcia, Peter Sesbreño and one of the maids present, they removed said meter and replaced it with a new one. At that time, plaintiff-appellant Sesbreño was in his office and no one called to inform him of the inspection. The VOC Team then asked for and received Chuchie Garcia's permission to enter the house itself to examine the kind and number of appliances and light fixtures in the household and determine its electrical load. Afterwards, Chuchie Garcia signed the Inspection Division Report, which showed the condition of the electric meter on May 11, 1989 when the VOC Team inspected it, with notice that it would be subjected to a laboratory test. She also signed a Load Survey Sheet that showed the electrical load of plaintiff-appellant Sesbreño.

But according to plaintiff-appellant Sesbreño there was nothing routine or proper at all with what the VOC Team did on May 11, 1989 in his house. Their entry to his house and the surrounding premises was effected without his permission and over the objections of his maids. They threatened, forced or coerced their way into his house. They unscrewed the electric meter, turned it upside down and took photographs thereof. They then replaced it with a new electric meter. They searched the house and its rooms without his permission or a search warrant. They forced a visitor to sign two documents, making her appear to be his representative or agent. Afterwards, he found that some of his personal effects were missing, apparently stolen by the VOC Team when they searched the house.⁶

Judgment of the RTC

On August 19, 1994, the RTC rendered judgment dismissing the complaint.⁷ It did not accord credence to the testimonies of Sesbreño's witnesses, Bebe Baledio, his housemaid, and Roberto Lopez, a part-time salesman, due to inconsistencies on material points in their respective testimonies. It observed that Baledio could not make up her mind as to whether Sesbreño's children were in the house when the VOC inspection team detached and replaced the electric meter. Likewise, it considered unbelievable that Lopez should hear the exchanges between Constantino, Arcilla and Balicha, on one hand, and Baledio, on the other, considering that Lopez could not even hear the conversation between two persons six feet away from where he was seated during the simulation done in court, the same distance he supposedly had from the gate of Sesbreño's house during the incident. It pointed out that Lopez's presence at the gate during the incident was even contradicted by his own testimony indicating that an elderly woman had opened the gate for the VECO personnel, because it was Baledio, a lady in her 20s, who had repeatedly stated on her direct and cross examinations that she had let the VECO personnel in. It concluded that for

⁶ *Rollo*, pp. 37-38.

⁷ *Supra* note 1.

Lopez to do nothing at all upon seeing a person being threatened by another in the manner he described was simply contrary to human experience.

In contrast, the RTC believed the evidence of the respondents showing that the VOC inspection team had found the electric meter in Sesbreño's residence turned upside down to prevent the accurate registering of the electricity consumption of the household, causing them to detach and replace the meter. It held as unbelievable that the team forcibly entered the house through threats and intimidation; that they themselves turned the electric meter upside down in order to incriminate him for theft of electricity, because the fact that the team and Sesbreño had not known each other before then rendered it unlikely for the team to fabricate charges against him; and that Sesbreño's non-presentation of Chuchie Garcia left her allegation of her being forced to sign the two documents by the team unsubstantiated.

Decision of the CA

Sesbreño appealed, but the CA affirmed the RTC on March 10, 2003,⁸ holding thusly:

x x x. plaintiff-appellant Sesbreño's account is simply too implausible or far-fetched to be believed. For one thing, the inspection on his household was just one of many others that the VOC Team had conducted in that subdivision. Yet, none but plaintiff-appellant Sesbreño complained of the alleged acts of the VOC Team. Considering that there is no proof that they also perpetrated the same illegal acts on other customers in the guise of conducting a Violation of Contracts inspection, plaintiff-appellant Sesbreño likewise failed to show why he alone was singled out. It is also difficult to believe that the VOC Team would be brazen enough to want to antagonize a person such as plaintiff-appellant Sesbreño. There is no evidence that the VOC Team harbored any evil motive or grudge against plaintiff-appellant Sesbreño, who is a total stranger to them. Until he came along, they did not have any prior criminal records to speak of, or at least, no evidence thereof was presented. It is equally difficult to believe that their superiors would authorize or condone their alleged illegal acts. Especially so since there is no indication that prior to the incident on May 11, 1989, there was already bad blood or animosity between plaintiff-appellant Sesbreño and defendant appellees to warrant such a malevolent response. In fact, since availing of defendant-appellee VECO's power services, the relationship between them appears to have been uneventful.

It becomes all the more apparent that the charges stemming from the May 11, 1989 incident were fabricated when taken together with the lower court's evaluation of the alleged theft of plaintiff-appellant Sesbreño's personal effects. It stated that on August 8, 1989, plaintiff-appellant Sesbreño wrote the barangay captain of Punta Princesa and

⁸ Supra note 1.

accused Chuchie Garcia and Victoria Villarta alias Victoria Rocamora of theft of some of his things that earlier he claimed had been stolen by members of the VOC Team. When he was confronted with these facts, plaintiff-appellant Sesbreño further claimed that the items allegedly stolen by Chuchie Garcia were part of the loot taken by defendants-appellees Constantino and Arcilla. Yet not once did plaintiff-appellant Sesbreño or any of his witnesses mention that a conspiracy existed between these people. Clearly, much like his other allegations, it is nothing more than an afterthought by plaintiff-appellant Sesbreño.

All in all, the allegations against defendants-appellees appear to be nothing more than a put-on to save face. For the simple truth is that the inspection exposed plaintiff-appellant Sesbreño as a likely cheat and thief.

x x x x

Neither is this Court swayed by the testimonies of Baledio and Lopez. The lower court rightly described their testimonies as fraught by discrepancies and inconsistencies on material points and even called Lopez a perjured witness. On the other hand, it is odd that plaintiff-appellant Sesbreño chose not to present the witness whose testimony was very crucial. But even though Chuchie Garcia never testified, her absence speaks volumes. Whereas plaintiff-appellant Sesbreño claimed that the VOC Team forced her to sign two documents that made her appear to be his authorized agent or representative, the latter claimed otherwise and that she also gave them permission to enter and search the house. The person most qualified to refute the VOC Team's claim is Chuchie Garcia herself. It is axiomatic that he who asserts a fact or claim must prove it. He cannot transfer that burden to the person against whom he asserts such fact or claim. When certain evidence is suppressed, the presumption is that it will adversely affect the cause of the party suppressing it, should it come to light. x x x⁹

Upon denial of his motion for reconsideration,¹⁰ Sesbreño appealed.

Issue

Was Sesbreño entitled to recover damages for abuse of rights?

Ruling

The appeal has no merit.

Sesbreño's main contention is that the inspection of his residence by the VOC team was an unreasonable search for being carried out without a warrant and for being allegedly done with malice or bad faith.

⁹ Id. at 39-41.

¹⁰ CA *rollo*, pp. 446-460.

Before dealing with the contention, we have to note that two distinct portions of Sesbreño's residence were inspected by the VOS team – the garage where the electric meter was installed, and the main premises where the four bedrooms, living rooms, dining room and kitchen were located.

Anent the inspection of the garage where the meter was installed, the respondents assert that the VOC team had the continuing authority from Sesbreño as the consumer to enter his premises at all reasonable hours to conduct an inspection of the meter without being liable for trespass to dwelling. The authority emanated from paragraph 9 of the metered service contract entered into between VECO and each of its consumers, which provided as follows:

9. The CONSUMER agrees to allow properly authorized employees or representatives of the COMPANY to enter his premises at all reasonable hours without being liable to trespass to dwelling for the purpose of inspecting, installing, reading, removing, testing, replacing or otherwise disposing of its property, and/or removing the COMPANY'S property in the event of the termination of the contract for any cause.¹¹

Sesbreño contends, however, that paragraph 9 did not give Constantino, Arcilla and Balicha the blanket authority to enter at will because the only property VECO owned in his premises was the meter; hence, Constantino and Arcilla should enter only the garage. He denies that they had the right to enter the main portion of the house and inspect the various rooms and the appliances therein because those were not the properties of VECO. He posits that Balicha, who was not an employee of VECO, had no authority whatsoever to enter his house and conduct a search. He concludes that their search was unreasonable, and entitled him to damages in light of their admission that they had entered and inspected his premises without a search warrant.¹²

We do not accept Sesbreño's conclusion. Paragraph 9 clothed the entire VOC team with unquestioned authority to enter the garage to inspect the meter. The members of the team obviously met the conditions imposed by paragraph 9 for an authorized entry. Firstly, their entry had the objective of conducting the routine inspection of the meter.¹³ Secondly, the entry and inspection were confined to the garage where the meter was installed.¹⁴ Thirdly, the entry was effected at around 4 o'clock p.m., a reasonable hour.¹⁵ And, fourthly, the persons who inspected the meter were duly authorized for the purpose by VECO.

¹¹ Supra note 4, at 1199.

¹² Id. at 12-17, 81.

¹³ TSN, Vol. 9, September 12, 1990, pp. 24-25; Vol. 8, September 13, 1990, pp. 56-57, 63, 65.

¹⁴ TSN, Vol. 3, June 5, 1990, pp. 27, 36.

¹⁵ TSN, Vol. 7, April 30, 1990, p. 4; Vol. 9, September 12, 1990, pp. 35-36; Vol. 8, September 13, 1990, p. 57.

Although Balicha was not himself an employee of VECO,¹⁶ his participation was to render police assistance to ensure the personal security of Constantino and Arcilla during the inspection, rendering him a necessary part of the team as an authorized representative. Under the circumstances, he was authorized to enter considering that paragraph 9 expressly extended such authority to “properly authorized employees or representatives” of VECO.

It is true, as Sesbreño urges, that paragraph 9 did not cover the entry into the main premises of the residence. Did this necessarily mean that any entry by the VOS team into the main premises required a search warrant to be first secured?

Sesbreño insists so, citing Section 2, Article III of the 1987 Constitution, the clause guaranteeing the right of every individual against unreasonable searches and seizures, *viz*:

Section 2. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

He states that a violation of this constitutional guaranty rendered VECO and its VOS team liable to him for damages by virtue of Article 32 (9) of the *Civil Code*, which pertinently provides:

Article 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

x x x x

(9) The right to be secured in one's person, house, papers, and effects against unreasonable searches and seizures;

x x x x.

Sesbreño's insistence has no legal and factual basis.

¹⁶ *Rollo*, pp. 14-15.

The constitutional guaranty against unlawful searches and seizures is intended as a restraint against the Government and its agents tasked with law enforcement. It is to be invoked only to ensure freedom from arbitrary and unreasonable exercise of State power. The Court has made this clear in its pronouncements, including that made in *People v. Marti*,¹⁷ viz:

If the search is made upon the request of law enforcers, a warrant must generally be first secured if it is to pass the test of constitutionality. **However, if the search is made at the behest or initiative of the proprietor of a private establishment for its own and private purposes, as in the case at bar, and without the intervention of police authorities, the right against unreasonable search and seizure cannot be invoked for only the act of private individual, not the law enforcers, is involved. In sum, the protection against unreasonable searches and seizures cannot be extended to acts committed by private individuals so as to bring it within the ambit of alleged unlawful intrusion by the government.**¹⁸

It is worth noting that the VOC inspectors decided to enter the main premises only after finding the meter of Sesbreño turned upside down, hanging and its disc not rotating. Their doing so would enable them to determine the unbilled electricity consumed by his household. The circumstances justified their decision, and their inspection of the main premises was a continuation of the authorized entry. There was no question then that their ability to determine the unbilled electricity called for them to see for themselves the usage of electricity inside. Not being agents of the State, they did not have to first obtain a search warrant to do so.

Balicha's presence participation in the entry did not make the inspection a search by an agent of the State within the ambit of the guaranty. As already mentioned, Balicha was part of the team by virtue of his mission order authorizing him to assist and escort the team during its routine inspection.¹⁹ Consequently, the entry into the main premises of the house by the VOC team did not constitute a violation of the guaranty.

Our holding could be different had Sesbreño persuasively demonstrated the intervention of malice or bad faith on the part of Constantino and Arcilla during their inspection of the main premises, or any excessiveness committed by them in the course of the inspection. But Sesbreño did not. On the other hand, the CA correctly observed that the inspection did not zero in on Sesbreño's residence because the other houses

¹⁷ G.R. No. 81561, January 18, 1991, 193 SCRA 57, 67.

¹⁸ Id. at 67-68 (bold emphasis supplied). See also *People v. Bongcarawan*, G.R. No. 143944, July 11, 2002, 384 SCRA 525, 531; *Tolentino v. Mendoza*, Adm. Case No. 5151, October 19, 2004, 440 SCRA 519, 530-531.

¹⁹ Supra note 5, at 1187.

within the area were similarly subjected to the routine inspection.²⁰ This, we think, eliminated any notion of malice or bad faith.

Clearly, Sesbreño did not establish his claim for damages if the respondents were not guilty of abuse of rights. To stress, the concept of abuse of rights prescribes that a person should not use his right unjustly or in bad faith; otherwise, he may be liable to another who suffers injury. The rationale for the concept is to present some basic principles to be followed for the rightful relationship between human beings and the stability of social order.²¹ Moreover, according to a commentator,²² “the exercise of right ends when the right disappears, and it disappears when it is abused, especially to the prejudice of others[;] [i]t cannot be said that a person exercises a right when he unnecessarily prejudices another.” Article 19 of the *Civil Code*²³ sets the standards to be observed in the exercise of one’s rights and in the performance of one’s duties, namely: (a) to act with justice; (b) to give everyone his due; and (c) to observe honesty and good faith. The law thereby recognizes the primordial limitation on all rights – that in the exercise of the rights, the standards under Article 19 must be observed.²⁴

Although the act is not illegal, liability for damages may arise should there be an abuse of rights, like when the act is performed without prudence or in bad faith. In order that liability may attach under the concept of abuse of rights, the following elements must be present, to wit: (a) the existence of a legal right or duty, (b) which is exercised in bad faith, and (c) for the sole intent of prejudicing or injuring another.²⁵ There is no hard and fast rule that can be applied to ascertain whether or not the principle of abuse of rights is to be invoked. The resolution of the issue depends on the circumstances of each case.

Sesbreño asserts that he did not authorize Baledio or Chuchie Garcia to let anyone enter his residence in his absence; and that Baledio herself confirmed that the members of the VOC team had intimidated her into letting them in.

²⁰ Supra note 13.

²¹ Paras, *Persons and Family Relations*, 2013, p. 122.

²² Pineda, *Persons and Human Relations*, 2010, p. 76.

²³ Article 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

²⁴ According to *Albenson Enterprises Corp. v. Court of Appeals* (G.R. No. 88694, January 11, 1993, 217 SCRA 16, 25), Article 20 of the *Civil Code*, which prescribes that every person who, contrary to law, wilfully or negligently causes damage to another shall indemnify the latter for the same, speaks of a general sanction for violation of all other provisions of law that do not provide their own sanction. Article 21 of the *Civil Code* deals with acts *contra bonus mores*, and has the following elements, to wit: (1) there is an act that is legal; (2) but is contrary to morals, good custom, public order, or public policy; and (3) it is done with intent to injure. The common element under Article 19 and Article 21 is that the act is intentional. But Article 20 does not distinguish whether the act is willful or negligent. Under any of the three provisions of law, an act that causes injury to another may be made the basis for an award of damages.

²⁵ *Far East Bank and Trust Company v. Pacilan Jr.*, G.R. No. 157314, July 29, 2005, 465 SCRA 372, 282.

The assertion of Sesbreño is improper for consideration in this appeal. The RTC and the CA unanimously found the testimonies of Sesbreño's witnesses implausible because of inconsistencies on material points; and even declared that the non-presentation of Garcia as a witness was odd if not suspect. Considering that such findings related to the credibility of the witnesses and their testimonies, the Court cannot review and undo them now because it is not a trier of facts, and is not also tasked to analyze or weigh evidence all over again.²⁶ Verily, a review that may tend to supplant the findings of the trial court that had the first-hand opportunity to observe the demeanor of the witnesses themselves should be undertaken by the Court with prudent hesitation. Only when Sesbreño could make a clear showing of abuse in their appreciation of the evidence and records by the trial and the appellate courts should the Court do the unusual review of the factual findings of the trial and appellate courts.²⁷ Alas, that showing was not made here.

Nor should the Court hold that Sesbreño was denied due process by the refusal of the trial judge to inhibit from the case. Although the trial judge had issued an order for his voluntary inhibition, he still rendered the judgment in the end in compliance with the instruction of the Executive Judge, whose exercise of her administrative authority on the matter of the inhibition should be respected.²⁸ In this connection, we find to be apt the following observation of the CA, to wit:

x x x. Both Judge Paredes and Judge Priscila Agana serve the Regional Trial Court and are therefore of co-equal rank. The latter has no authority to reverse or modify the orders of Judge Paredes. But in ordering Judge Paredes to continue hearing the case, Judge Agana did not violate their co-equal status or unilaterally increased her jurisdiction. It is merely part of her administrative responsibilities as Executive Judge of the Regional Trial Court of Cebu City, of which Judge Paredes is also a member.²⁹

²⁶ *Heirs of Margarito Pabaus v. Heirs of Amanda Yutiamco*, G.R. No. 164356, July 27, 2011, 654 SCRA 521, 531-532.

²⁷ There are several exceptions to the rule against the Court not reviewing the factual findings of the CA, namely: (1) when the factual findings of the CA and those of the trial court are contradictory; (2) when the findings are grounded entirely on speculation, surmises, or conjectures; (3) when the inference made by the CA from its findings of fact is manifestly mistaken, absurd, or impossible; (4) when there is grave abuse of discretion in the appreciation of facts; (5) when the CA, in making its findings, went beyond the issues of the case, and such findings were contrary to the admissions of both appellant and appellee; (6) when the judgment of the CA was premised on a misapprehension of facts; (7) when the CA failed to notice certain relevant facts that, if properly considered, would justify a different conclusion; (8) when the findings of facts are themselves conflicting; (9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and (10) when the findings of fact of the CA were premised on the absence of evidence but such findings are contradicted by the evidence on record (*E.Y. Industrial Sales, Inc. v. Shen Dar Electricity and Machinery Co., Ltd.*, G.R. No. 184850, October 20, 2010, 634 SCRA 363, 382).

²⁸ Records, Vol. 5, p. 2479 (Order dated October 18, 1990).

²⁹ *Rollo*, p. 41.

Lastly, the Court finds nothing wrong if the writer of the decision in the CA refused to inhibit from participating in the resolution of the motion for reconsideration filed by Sesbreño. The motion for her inhibition was grounded on suspicion of her bias and prejudice,³⁰ but suspicion of bias and prejudice were not enough grounds for inhibition.³¹ Suffice it to say that the records are bereft of any indication that even suggested that the Associate Justices of the CA who participated in the promulgation of the decision were tainted with bias against him.


WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; **AFFIRMS** the decision promulgated on March 10, 2003; and **DIRECTS** the petitioner to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



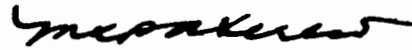
JOSE PORTUGAL PEREZ
Associate Justice

³⁰ Id. at 20, 72-73.

³¹ See *Dumo v. Espinas*, G.R. No. 141962, January 25, 2006, 480 SCRA 53, 65-66; *Barnes v. Reyes*, G.R. No. 179583, September 3, 2009, 598 SCRA 107, 112; *Pagoda Philippines, Inc. v. Universal Canning, Inc.*, G.R. No. 160966, October 11, 2005, 472 SCRA 355, 362.

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's Division.



MARIA LOURDES P. A. SERENO
Chief Justice