



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

CECILIA PAGADUAN,  
Petitioner,

GR. No. 206379

Present:

- versus -

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, JJ.

CIVIL SERVICE COMMISSION\*  
and REMA MARTIN SALVADOR,  
Respondents.

Promulgated:

NOV 19 2014 *H.W. Cabalag*

X ----- X

DECISION

MENDOZA, J.:

Subject of this disposition is the petition for review on *certiorari* filed under Rule 45 of the Rules of Court which seeks to review, reverse and set aside the August 31, 2012 Amended Decision<sup>1</sup> and the February 20, 2013 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 120208, involving a complaint for falsification and misrepresentation.

Initially, the Court *denied* the petition in its July 10, 2013 Resolution<sup>3</sup> for failure of the petitioner to show any reversible error in the challenged amended decision as to warrant the exercise of the Court's discretionary appellate jurisdiction. (*Rollo*, p. 101.)

\* Represented by the Office of the Solicitor General, but it opted not to file any comment. In its Explanation filed on September 29, 2014, it mentioned that a comment was attached thereto but **none was attached**. (*Rollo*, pp. 257-265)

<sup>1</sup> *Rollo*, pp. 5-10; Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Hakim S. Abdulwahid and Leoncia R. Dimagiba, concurring.

<sup>2</sup> *Id.* at 11-12.

<sup>3</sup> *Id.* at 101.

The petitioner filed a *motion for reconsideration*, and on October 23, 2013, the Court granted the said motion and set aside the July 10, 2013 Resolution. In the same October 23, 2013 resolution, the Court *reinstated the petition* and required the respondents to file their comments thereon. On January 23, 2014, the private respondent filed her Comment. On February 7, 2014, the petitioner filed her Reply to Comment. (*Rollo*, p. 110)

**The Facts:**

On May 14, 1992, petitioner Cecilia Pagaduan (*Pagaduan*) filed a notarized complaint with the Civil Service Commission-Regional Office No. 2 (*CSC-RO II*) in Tuguegarao City, Cagayan, against respondent Rema Martin Salvador (*Salvador*), newly appointed Municipal Budget Officer at that time, charging her with the administrative offenses of falsification and misrepresentation. Pagaduan alleged that Salvador did not actually possess the necessary budgeting experience required by her position; and that although she indicated in her Personal Data Sheet (*PDS*) that she performed bookkeeping and accounting functions for Veteran's Woodworks, Inc. (*VWI*) from August 1, 1990 to February 15, 1992, she was never in fact employed by the said entity.<sup>4</sup>

Salvador on the other hand, claimed that she had been employed by Alfonso Tuzon (*Tuzon*), whom the Board of Directors of VWI had granted full management, direct supervision and control of VWI's logging operations. She explained that her name did not appear in the employees' payroll because Tuzon's office was independent from VWI's original staff.<sup>5</sup>

Subsequently, on October 19, 1994, Pagaduan filed with the Municipal Trial Court in Cities, Branch 4, Tuguegarao City (*MTCC*), a criminal charge against Salvador for falsification of public documents under Article 172 in relation to Article 171(4) of the Revised Penal Code in making false statements in her PDS, which was docketed as Criminal Case No. 15482.

On May 22, 2000, a decision<sup>6</sup> on the administrative complaint was rendered by the CSC-RO II, holding Salvador liable only for Simple Misconduct and imposing the penalty of one (1) month suspension, after ruling that her act was a mere error of judgment.

---

<sup>4</sup> Id. at 69.

<sup>5</sup> Id. at 47.

<sup>6</sup> Id. at 47-50.

Unsatisfied, Pagaduan filed a motion for reconsideration which was, however, denied. She then appealed to the Civil Service Commission (CSC), which found the appeal to be without merit, ruling that she had no standing to file the appeal as she was not the party aggrieved by the CSC-RO II decision. The CSC also approved Salvador's qualification as Municipal Budget Officer because her experience in VWI was a "related field."<sup>7</sup>

Pagaduan ceased her pursuit and did not move for a reconsideration or appeal. Thus, on January 21, 2002, the CSC-RO II issued the order, stating that its May 22, 2000 decision had attained finality. Salvador then served the penalty of one (1) month suspension.<sup>8</sup>

Later, on October 22, 2008, the MTCC rendered a decision<sup>9</sup> in Criminal Case No. 15842, finding Salvador guilty of falsification of public documents. Salvador did not appeal and then applied for probation. Her application was granted and she was placed under probation for a period of one (1) year.

Thereafter, Pagaduan filed a second administrative complaint against Salvador, this time for the offense of conviction of a crime involving moral turpitude. Salvador submitted the required counter affidavit, raising the defenses of *res judicata*, forum shopping, and double jeopardy on account of the finality of the decision in the first administrative complaint for falsification. After finding a *prima facie* case in the second administrative complaint, Salvador was formally charged. To answer the charges against her, she adopted her defenses in her counter-affidavit and submitted documents to support her cause.

On January 12, 2010, the CSC-RO II rendered a decision,<sup>10</sup> finding Salvador guilty of the administrative offense of conviction of a crime involving moral turpitude because of her conviction for falsification before the MTCC, and imposing the penalty of dismissal from the service with all its accessory penalties. Thus:

**WHEREFORE, premises considered, REMA MARTIN SALVADOR is hereby declared guilty of CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE and is meted the penalty of DISMISSAL FROM THE SERVICE WITH ALL ITS ACCESSORY PENALTIES.<sup>11</sup>**

---

<sup>7</sup> Id. at 70.

<sup>8</sup> Id.

<sup>9</sup> Id. at 38-46.

<sup>10</sup> Id. at 52-56.

<sup>11</sup> Id. at 56.

Aggrieved, Salvador moved for reconsideration, but the motion was denied. Salvador appealed to the CSC, which rendered a decision<sup>12</sup> on March 1, 2011 *reversing* and *setting aside* the decision of the CSC-RO II and exonerating her of the charge. She was sternly warned to be more cautious and prudent in accomplishing public documents. The CSC ruled that the criminal offense of falsification of public document did not *per se* involve moral turpitude, following the Court's pronouncement in *Dela Torre vs. COMELEC*,<sup>13</sup> citing *Zari vs. Flores*.<sup>14</sup> The CSC stated that since the liability of Salvador in the first administrative complaint was lowered to Simple Misconduct, the crime ascribed to her could not be said to have been attended with inherent baseness or vileness or depravity.<sup>15</sup> The dispositive portion of the March 1, 2011 CSC Decision reads:

WHEREFORE, the Petition for Review (appeal) filed by Rema Martin Salvador is hereby **GRANTED**. Accordingly, the Decision dated January 12, 2010 issued by Civil Service Commission Regional Office (CSCRO) No. II finding her guilty of Conviction of a Crime Involving Moral Turpitude and meting upon her the penalty of dismissal from the government service with all its accessory penalties is hereby **REVERSED** and **SET ASIDE**. Thus, appellant Rema Martin Salvador is **EXONERATED** of the charge of Conviction of Crime Involving Moral Turpitude levelled against her. She is **STERNLY WARNED** to be more cautious and prudent in accomplishing public documents.<sup>16</sup>

Pagaduan moved for reconsideration but the motion was denied on June 1, 2011. Hence, an appeal was made to the CA which ruled that following precedents, a conviction for falsification of public document constituted the offense of conviction of a crime involving moral turpitude.<sup>17</sup> The gravity of Salvador's falsification was highlighted by her commission of the same in her PDS, which was no ordinary contract.<sup>18</sup> Thus, on February 28, 2012 the CA disposed in this wise:

WHEREFORE, premises considered, the Decision of the Commission dated 1 March 2011 and its Resolution promulgated 3 June 2011 affirming the same are hereby **REVERSED** and **SET ASIDE**. Consequently, the Decision of the Civil Service Commission Regional Office No. 2 of Tuguegarao City, Cagayan, dated 12 January 2010, is hereby **AFFIRMED**.

**SO ORDERED.**<sup>19</sup>

---

<sup>12</sup> Id. at 57-61.

<sup>13</sup> 327 Phil 1144 (1996).

<sup>14</sup> 183 Phil 27 (1979).

<sup>15</sup> *Rollo*, p. 60.

<sup>16</sup> Id. at 61.

<sup>17</sup> Id. at 81.

<sup>18</sup> Id. at 85.

<sup>19</sup> Id. at 86-87.

Salvador then filed a motion for reconsideration of the February 28, 2012 CA Decision.<sup>20</sup> On August 31, 2012, in a turn-around, the CA granted her motion and issued the assailed Amended Decision,<sup>21</sup> *reversing* and *setting aside* its previous decision and reinstated the March 1, 2011 CSC decision. It agreed with the findings of the CSC that the act of falsification committed by Salvador did not involve moral turpitude as it was a mere error of judgment on her part. The dispositive portion of the Amended Decision reads:

**WHEREFORE, premises considered, the instant Motion for Reconsideration is GRANTED, such that Our Decision dated 28 February 2012 is hereby REVERSED and SET ASIDE and in view thereof, the Decision and Resolution of public respondent Civil Service Commission dated 01 March 2011 and 01 June 2011 respectively, are REINSTATED.**

**SO ORDERED.**<sup>22</sup>

Hence, this petition.

#### **ASSIGNMENT OF ERRORS**

- I. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT FINALLY EXONERATED RESPONDENT OF THE ADMINISTRATIVE CHARGE OF CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE BY FINDING THE FALSIFICATION COMMITTED BY RESPONDENT IN HER PERSONAL DATA SHEET AS ONLY A SIMPLE MISCONDUCT WHICH DOES NOT AMOUNT TO MORAL TURPITUDE.**
- II. THE HONORABLE COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AND AUTHORITY AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN NOT APPLYING IN THE INSTANT CASE THE DOCTRINE LAID DOWN IN THE CASE OF *TEVES VS. SANDIGANBAYAN* WHICH SPECIFICALLY CATEGORIZED THE CRIME OF FALSIFICATION OF PUBLIC DOCUMENT FOR WHICH RESPONDENT WAS CONVICTED AS A CRIME WHICH INVOLVES MORAL TURPITUDE.**

---

<sup>20</sup> Id. at 67-88.

<sup>21</sup> Id. at 5-10; Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Hakim S. Abdulwahid and Leoncia R. Dimagiba, concurring.

<sup>22</sup> Id. at 9.

**III. THAT THE HONORABLE COURT OF APPEALS ERRED AND ACTED IN GRAVE ABUSE OF ITS AUTHORITY AND DISCRETION IN NOT AFFIRMING THE DECISION OF THE CSC-ROII WHICH DISMISSED FROM THE GOVERNMENT SERVICE PRIVATE RESPONDENT OF THE OFFENSE OF CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE.<sup>23</sup>**

In this case, the substantive issue for resolution is whether or not Salvador was convicted of a crime involving moral turpitude. On the other hand, the procedural issues of *res judicata* and forum shopping were raised by the respondent.

**The Ruling of the Court**

As previously recited, this petition arose from the second administrative complaint filed by Pagaduan against Salvador. The first administrative complaint was for the offenses of falsification and misrepresentation, where the CSC-RO II found her to be liable for simple misconduct only. The CSC decision affirming the said CSC-RO II decision became final and executory, and Salvador served the penalty of one (1) month suspension.

Meanwhile, the October 22, 2008, MTCC decision<sup>24</sup> in the criminal case filed by Pagaduan against Salvador, finding the latter guilty of the crime of falsification of public document, attained finality as Salvador did not appeal. By reason of the said conviction, Pagaduan filed the second administrative complaint for the offense of conviction of a crime involving moral turpitude.

Before discussing the substantial aspect of the case, the issues on the procedural aspect shall first be addressed.

In her Comment,<sup>25</sup> Salvador invoked *res judicata* and forum shopping in arguing that the second administrative case was already barred by the prior administrative case against her. It was her contention that both cases involved the same parties, the same facts and issues, although with different causes of action.<sup>26</sup>

---

<sup>23</sup> Id. at 27-28.

<sup>24</sup> Id. at 38.

<sup>25</sup> Id. at 214-230.

<sup>26</sup> Id. at 218.

The principle of *res judicata* is applicable either by way of “bar by prior judgment” or by “conclusiveness of judgment.” Here, Salvador’s defense was *res judicata* by conclusiveness of judgment. In *Borra v. Court of Appeals*,<sup>27</sup> the Court stated that:

Stated differently, conclusiveness of judgment finds application when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction. The fact or question settled by final judgment or order binds the parties to that action (and persons in privity with them or their successors-in-interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; the conclusively-settled fact or question cannot again be litigated in any future or other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action. Thus, only the identities of parties and issues are required for the operation of the principle of conclusiveness of judgment. [Emphasis supplied]

Contrary to Salvador’s contention, however, there appears to be no identity of issues and facts in the two administrative cases. The first case involved facts necessary to resolve the issue of whether or not Salvador falsified her PDS. The second one involved facts necessary to resolve the issue of whether or not Salvador was convicted of a crime involving moral turpitude. Falsification was the main issue in the first case, while it was no longer an issue in the second case. The only fact to consider in the second administrative complaint is the fact of conviction of a crime involving moral turpitude. It must be borne in mind that both administrative complaints were based on different grounds. The grounds were separate and distinct from each other and entailed different sets of facts.

Corollarily, Pagaduan cannot be liable for forum shopping. The established rule is that for forum shopping to exist, both actions must involve the same transactions, same essential facts and circumstances, and must raise identical causes of actions, subject matter, and issues.<sup>28</sup> It exists where the elements of *litis pendentia* are present, namely: (a) there is identity of parties, or at least such parties representing the same interests in both actions; (b) there is identity of rights asserted and relief prayed for, the relief being founded on the same set of facts; and (c) **the identity of the two preceding particulars is such that any judgment rendered in the**

---

<sup>27</sup> G.R. No. 167484, September 9, 2013, 705 SCRA 222.

<sup>28</sup> *Catayas v. CA*, G.R. No. 16660, August 29, 2012, 679 SCRA 291, 295.

**pending case, regardless of which party is successful, would amount to *res judicata* in the other.**<sup>29</sup> Since no *res judicata* exists, no forum shopping either exists in this case.

Now on the substantial issue, Pagaduan avers that Salvador was convicted of a crime involving moral turpitude – a sufficient ground for dismissal from government service. On the other hand, Salvador argues that the falsification she committed did not involve moral turpitude. In resolving the issue of whether Salvador was convicted of a crime involving moral turpitude, the existence of only two elements is necessary: (1) the conviction of a crime, which conviction has attained finality; and (2) the crime for which the accused was convicted involves moral turpitude. There is no dispute as to the first element, leaving Us to determine the presence of the other.

Moral turpitude has been defined as everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general,<sup>30</sup> contrary to the accepted and customary rule of right and duty between man and woman, or conduct contrary to justice, honesty, modesty, or good morals.<sup>31</sup> Not every criminal act, however, involves moral turpitude. It is for this reason that the Court has to determine as to what crime involves moral turpitude.<sup>32</sup>

Salvador was convicted of falsification of public document. The MTCC found that she made an untruthful statement in a narration of facts and perverted the truth with a wrongful intent.<sup>33</sup> While Salvador invoked good faith as a defense, the MTCC was not convinced, stating that good faith could not be made to depend solely on the self-serving statement of the accused. It must be supported by other independent evidence.<sup>34</sup> To the MTCC, Salvador miserably failed to clearly show the presence of good faith. More specifically, the trial court stated:

**She alleged that she honestly believed she was employed with VWI because Alfonso Tuzon is the operations manager of VWI. Second, she was responsible in the preparation of the payroll sheets of VWI.**

---

<sup>29</sup> *Id.*

<sup>30</sup> *PAL v. NLRC*, G.R. No. 123294, October 20, 2010, 634 SCRA 18, 41-42.

<sup>31</sup> *RE: SC Decision dated May 20, 2008 in G.R. No. 161455 under Rule 139-B of the Rules of Court v. Pactolin*, A.C. No. 7940, April 24, 2012, 670 SCRA 366, 371.

<sup>32</sup> *Teves v. COMELEC*, G.R. No. 180363, April 28, 2009, 587 SCRA 1, 12; citing *Dela Torre v. Commission on Elections*, 327 Phil. 1144, 1150-1151 (1996).

<sup>33</sup> MTCC Decision, *rollo*, p. 43.

<sup>34</sup> *Id.* at 45.



However, the following circumstances negate the existence of good faith:

1. Accused was not included in the list of employees of VWI as shown in Exhibits “G”, “G-1”, “G-2”, “G-3”, and “G-4,” “J” and its sub-markings and “K” and its sub-markings;
2. Accused was not in the payroll of VWI as shown in Exhibit “L”;
3. Accused received her salary from Rodolfo Quiambao and not from VWI;
4. Rodolfo Quiambao, who is not a VWI employee, issued directives to the accused;
5. Accused never went to the VWI office at Magapit, Lallo, Cagayan;
6. Accused never had any VWI identification card;
7. Accused had no contract of employment with VWI; and finally,
8. Rodolfo Quiambao worked personally with Alfonso Tuzon and not with VWI.

These circumstances were known to the accused. Despite knowledge of these facts, accused stated in her PDS that she was employed with VWI, thus, she perverted the truth. Said act constitutes malice on her part negating her claim of good faith.<sup>35</sup> [Emphasis supplied]

Granting *arguendo* that Salvador had no criminal intent to injure a third person, the same is immaterial as such intent is not an essential element of the crime of falsification of public document. It is jurisprudentially settled that in the falsification of public or official documents, whether by public officers or private persons, it is not necessary that there be present the idea of gain or the intent to injure a third person for the reason that, in contradistinction to private documents, the principal thing punished is the **violation of the public faith** and the **destruction of truth as therein solemnly proclaimed**. In falsification of public documents, therefore, the controlling consideration is the public character of a document; and the existence of any prejudice caused to third persons or, at least, the intent to cause such damage becomes immaterial.<sup>36</sup>

---

<sup>35</sup> Id. at 45-46.

<sup>36</sup> *Fullero v. People*, 559 Phil. 524, 542 (2007).

Salvador did not appeal from the said judgment and, instead, filed an application for probation which was granted. It has been held that an application for probation is an admission of guilt.<sup>37</sup> Logically then, when Salvador applied for probation, she admitted the making of an untruthful statement in her PDS. In *Lumancas v. Intas*,<sup>38</sup> the Court held that "the accomplishment of the Personal Data Sheet being a requirement under the Civil Service Rules and Regulations in connection with employment in the government, the making of an untruthful statement therein was, therefore, intimately connected with such employment."<sup>39</sup> The filing of a PDS is required in connection with the promotion to a higher position and contenders for promotion have the legal obligation to disclose the truth. Otherwise, enhancing their qualifications by means of false statements will prejudice other qualified aspirants to the same position.<sup>40</sup>

As early as 1961, in the case of *De Jesus-Paras vs. Vailoces*,<sup>41</sup> the Court disbarred a lawyer on the ground of conviction of a crime involving moral turpitude, after having found that the said lawyer was convicted of the crime of falsification of public documents. Similarly, in *In Re – Attorney Jose Avanceña*,<sup>42</sup> the said lawyer was disbarred from the practice of law due to a conviction by final judgment of a crime involving moral turpitude after being convicted of the crime of falsification of public documents. Lastly, in *RE: SC Decision dated May 20, 2008 in G.R. No. 161455 under Rule 139-B of the Rules of Court v. Atty. Rodolfo D. Pactolin*,<sup>43</sup> the Court reiterated that the crime of falsification of public document is contrary to justice, honesty and good morals and, therefore, involves moral turpitude.<sup>44</sup>

Following the Court's disposition in the aforecited cases, the CSC and the CA therefore erred in reaching a conclusion to the contrary, especially that Salvador's conviction for such crime already attained finality. Both tribunals were of the view that Salvador merely committed a mere error of judgment and, thus, no moral turpitude was involved. Their position was based on the finding previously made by the CSC-RO II in the first administrative complaint. That could not a valid basis because, as earlier pointed out, the second case was separate and distinct from the first one.

---

<sup>37</sup> *Palo v. Judge Militante*, 263 Phil. 315, 321 (1990).

<sup>38</sup> 400 Phil. 785 (2000).

<sup>39</sup> *Id.*, citing *Inting v. Tanodbayan*, 186 Phil. 343, 348 (1980).

<sup>40</sup> *Id.* at 799.

<sup>41</sup> 111 Phil. 569, 570-571 (1961).

<sup>42</sup> 127 Phil. 426, 429 (1967).

<sup>43</sup> *Supra* note 31.

<sup>44</sup> *Id.* at 371.

Although the CSC itself recognized that it was for the Court to determine what crime involved moral turpitude, it ruled that Salvador's commission of the crime of falsification of public document did not involve moral turpitude. Both the CSC and the CA strayed away from the settled jurisprudence on the matter. It will be absurd to insist that Salvador committed a mere error of judgment when the very basis of the second administrative charge against her was a final judgment of conviction where the trial court found otherwise.

Considering that the principal act punished in the crime of falsification of public document is the **violation of the public faith** and the **destruction of truth as therein solemnly proclaimed**, the elements of the administrative offense of conviction of a crime involving moral turpitude clearly exist in this case. The Court does not have to look beyond what is simply apparent from the surrounding circumstances.

Finally, Salvador argues that her conviction and eventual discharge from probation presents another administrative case to be filed against her because to do so would defeat the purpose of the Probation Law<sup>45</sup> which was to erase the effect of conviction and to restore civil rights that were lost or suspended. Suffice it to state that probation does not erase the effects and fact of conviction, but merely suspends the penalty imposed. While indeed the purpose of the Probation Law is to save valuable human material, it must not be forgotten that unlike pardon, probation does not obliterate the crime for which the person under probation has been convicted. The reform and rehabilitation of the probationer cannot justify his retention in the government service.<sup>46</sup> Furthermore, probation only affects the criminal liability of the accused, and not his administrative liabilities, if any. The Court once ruled in the case of *Samalio vs. Court of Appeals*<sup>47</sup> that:

Finally, even if dismissal had been one of the accessory penalties of the principal penalty imposed upon petitioner in the criminal case, and even if the administrative case had been decided earlier than the criminal case, still the imposition of the penalty of dismissal could not have been suspended by the grant of probation. As petitioner himself contends, the criminal action is separate and distinct from the administrative case. And, if only for that reason, so is administrative liability separate and distinct from penal liability. Hence, probation affects only the criminal aspect of the case, not its administrative dimension.<sup>48</sup> [Emphases supplied]

---

<sup>45</sup> Presidential Decree No. 968, as amended.

<sup>46</sup> *Dimapilis-Baldoz v. COA*, G.R. No. 199114, July 16, 2013.

<sup>47</sup> 494 Phil. 456 (2005).

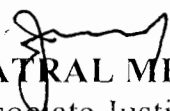
<sup>48</sup> *Id.* at 468.

All told, if there is no compelling reason to deviate from what has already been established, settled principles and jurisprudence should be respected. To do otherwise would only create confusion and instability in our jurisprudence.

As a final note, it must be borne in mind that a PDS is a public document<sup>49</sup> required of a government employee and official by the CSC. It is the repository of all information about any government employee or official regarding his personal background, qualification, and eligibility. Government employees are tasked under the Civil Service rules to properly and completely accomplish their PDS,<sup>50</sup> in accordance with the constitutional principle that public office is a public trust, thereby enjoining all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency.<sup>51</sup> Only those who can live up to such exacting standard deserve the honor of continuing in public service.<sup>52</sup>

**WHEREFORE**, the petition is **GRANTED**. Accordingly, the August 31, 2012 Amended Decision<sup>53</sup> and the February 20, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 120208 are hereby **REVERSED** and **SET ASIDE**. The February 28, 2012 Decision of the Court of Appeals is **UPHELD** and **REINSTATED**.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice

---

<sup>49</sup> *Fullero v. People*, supra note 36.

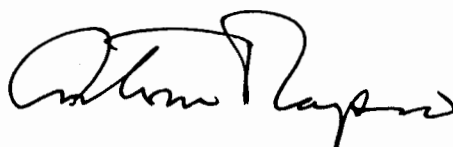
<sup>50</sup> *Miel v. Malindog*, 598 Phil. 594, 608 (2009).

<sup>51</sup> *Id.* at 607-608.

<sup>52</sup> *Duque III v. Veloso*, G.R. No. 196201, June 19, 2012, 673 SCRA 676, 682.

<sup>53</sup> *Rollo*, pp. 5-10; Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Hakim S. Abdulwahid and Leoncia R. Dimagiba, concurring.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



ARTURO D. BRION

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

### ATTESTATION

I attest 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.



ANTONIO T. CARPIO

Associate Justice

Chairperson, Second Division

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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