



Republic of the Philippines
Supreme Court
Manila

EN BANC

ELSIE S. CAUSING,
Petitioner,

G.R. No. 199139

Present:

- versus -

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

**COMMISSION ON ELECTIONS
AND HERNAN D. BIRON, SR.,**
Respondents.

Promulgated:

SEPTEMBER 09, 2014

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DECISION

BERSAMIN, J.:

The issue is whether the relocation of the petitioner by respondent Municipal Mayor during the election period from her office as the Local Civil Registrar to the Office of the Mayor just a few steps away constituted a

* On Wellness Leave.

** Acting Chief Justice in lieu of Chief Justice Maria Lourdes P.A. Sereno, who is on Wellness Leave, per Special Order No. 1770.

prohibited act under the *Omnibus Election Code* and the relevant Resolution of the Commission on Elections.

The Case

Petitioner Elsie Causing (Causing) assails the Resolution of the Commission on Elections *En Banc* (COMELEC *En Banc*) promulgated on September 9, 2011 dismissing her complaint-affidavit dated June 8, 2010 docketed as E.O. Case No. 10-131 entitled *Elsie S. Causing v. Hernan D. Biron, Sr.* charging Municipal Mayor Hernan D. Biron, Sr. (Mayor Biron) of Barotac Nuevo, Iloilo with violating COMELEC Resolution No. 8737 in relation to Section 261 (g), (h), and (x) of the *Omnibus Election Code*.¹

Antecedents

On January 1, 1993, Causing assumed office as the Municipal Civil Registrar of Barotac Nuevo, Iloilo. On May 28, 2010, Mayor Biron issued Memorandum No. 12, Series of 2010,² which reads:

Office Order No. 12
Series of 2010

MRS. ELSIE S. CAUSING
Municipal Civil Registrar
LGU Barotac Nuevo

Exigencies of service so requiring, you are hereby detailed at the Office of the Municipal Mayor effective upon receipt of this Order and shall likewise receive direct orders from the undersigned as to particular functions our office may require from time to time.

For your information and strict compliance.

X X X X

On the same date, Mayor Biron also issued Office Order No. 13 detailing Catalina V. Belonio (Belonio), another municipal employee, to the office of the Local Civil Registrar of Barotac Nuevo, Iloilo to assume the functions and duties as Local Civil Registrar-designate effective upon receipt of the order. Office Order No. 13 reads:

Office Order No. 13
Series of 2010

MS. CATALINA V. BELONIO
Administrative Officer III
Office of the Municipal Mayor

¹ *Rollo*, pp. 18-29.

² *Id.* at 36.

Exigencies of service so requiring, you are hereby detailed at the Office of the Local Civil Registrar and assume the functions and duties as LCR-Designate effective upon receipt of this Order.

As such, you are hereby authorized to sign and issue documents relative thereto including the claim for travel allowance and seminar expenses.

For you information and compliance.

x x x x³

On June 1, 2010, Mayor Biron issued to Causing Memorandum No. 17, Series of 2010, and Memorandum No. 17-A, Series of 2010, respectively reading as follows:

Memorandum No. 17

You are hereby directed to report to the Office of the Mayor effective immediately upon receipt of this Order and signing of MCR documents shall likewise be done at my office where you will be provided with a table for this particular function.

For clarity purposes preparation of such documents relative to civil registration provided for under R.A. No. 9048 and R.A. 9255 shall be done at the office of MCR, after which, the said documents shall be forwarded to you for your signature.

Additional duties and functions shall likewise be under my direct supervision.

Office Order No. 12 issued on May 28, 2010 is hereby repealed accordingly.

For your strict compliance.⁴

Memorandum No. 17-A

You are hereby directed to report to the Office of the Mayor effective immediately upon receipt of this Order. You have to take action on R.A. 9048 and sign MCR documents at my office where you will be provided with a table for this particular function.

For clarity purposes, preparation of documents relative to civil registration shall be done at the office of MCR, after which, the said completed documents shall be forwarded to you for your signature.

Additional duties and functions shall likewise be under my direct supervision.

³ Id. at 37.

⁴ Id. at 51.

Office Order No. 12 issued on May 28, 2010 is hereby repealed accordingly.

For your strict compliance.⁵

In view of the foregoing issuances by Mayor Biron, Causing filed the complaint-affidavit dated June 8, 2010 in the Office of the Regional Election Director, Region VI, in Iloilo City, claiming that Office Order No. 12 dated May 28, 2010 issued by Mayor Biron ordering her detail to the Office of the Municipal Mayor, being made within the election period and without prior authority from the COMELEC, was illegal and violative of Section 1, Paragraph A, No. 1, in connection with Section 6 (B) of COMELEC Resolution No. 8737, Series of 2009, to wit:

X X X X

5. The issuance of Office Order No. 12 dated May 28, 2010 by the municipal mayor ordering my detail at the Office of the Municipal Mayor, made within the election period and without prior written authority from the COMELEC is illegal and violative of Section 1, Paragraph A, No 1 in connection with Section 6 (B) of COMELEC Resolution No. 8737 (Series of 2009) otherwise known as “ In the Matter of Enforcing the Prohibition against appointment or hiring of new employees, creating or filing of new positions, giving any salary increase or transferring or detailing any officer or employee in the civil service and suspension of local elective officials in connection with the May 10, 2010 national and local elections;’

X X X X

8. Further, said transfer of detail does not fall under any of the exceptions to the requirement of prior authority from the COMELEC, as provided under Section 7 of COMELEC Resolution No. 8737.

X X X X⁶

In his counter-affidavit,⁷ Mayor Biron countered that the purpose of transferring the office of Causing was to closely supervise the performance of her functions after complaints regarding her negative behavior in dealing with her co-employees and with the public transacting business in her office had been received;⁸ that as the local chief executive, he was empowered to take personnel actions and other management prerogatives for the good of public service; that Causing was not being stripped of her functions as the Municipal Civil Registrar; that she was not transferred or detailed to another office in order to perform a different function; and that she was not demoted to a lower position that diminished her salary and other benefits.⁹

⁵ Id. at 52.

⁶ Id. at 39-40.

⁷ Id. at 42-48.

⁸ Id. at 42.

⁹ Id. at 44-46.

On March 1, 2011, Atty. Elizabeth Doronilla, the Provincial Election Supervisor (PES), recommended the dismissal of the complaint-affidavit for lack of probable cause to charge Mayor Biron with the violation of Section (h) of the *Omnibus Election Code*, as implemented by Resolution No. 8737.

On September 9, 2011, the COMELEC *En Banc* affirmed the findings and recommendation of PES Doronilla,¹⁰ observing that Mayor Biron did not transfer or detail Causing but only required her to physically report to the Mayor's office and to perform her functions thereat; and that he did not strip her of her functions as the Municipal Civil Registrar, and did not deprive her of her supervisory functions over her staff.¹¹

Hence, this petition for *certiorari*.

Issues

Causing submits that Office Order 12 and Office Order 13 were gross violations of COMELEC Resolution No. 8737, Series of 2009, that implemented Section 261 (g), (h), and (x) of the *Omnibus Election Code*; that the prohibition contained in said provisions covered any movement during the election period, whether it was by reassignment, appointment, promotion, or demotion, regardless of rank, level or salary of the affected personnel; that her detail to the Office of the Mayor was a clear case of personnel movement prohibited by law;¹² and that Mayor Biron violated the provisions because he did not secure from the COMELEC the prior authority to transfer or detail her during the election period.¹³

In addition, Causing claims that the COMELEC *En Banc* committed grave abuse of discretion in affirming the findings of PES Doronilla to the effect that there was no probable cause to hold Mayor Biron liable for violating the *Omnibus Election Code*; and that the COMELEC *En Banc* totally disregarded a crucial piece of evidence — the existence of Office Order No. 13 that had ordered the detail of Belonio as the Local Civil Registrar-designate.¹⁴

In his comment,¹⁵ Mayor Biron insists that the petition for *certiorari* should be dismissed because of the petitioner's failure to file a motion for reconsideration in the COMELEC, and because of her failure to attach copies of equally important documents pertinent to the case.¹⁶ He emphasizes that Office Order No. 12 was issued by his office for the purpose

¹⁰ Id. at 18-29.

¹¹ Id. at 26-27.

¹² Id. at 9-10.

¹³ Id. at 10.

¹⁴ Id. at 14.

¹⁵ Id. at 67-83.

¹⁶ Id. at 68-70.

of closely supervising her in performing her functions after complaints about her behavior in dealing with her co-workers and with the public transacting business in her office had been received by his office.¹⁷ He accuses her of willfully suppressing evidence, specifically the two office orders that clarified that she would still be performing the functions of her office, albeit in the Office of the Mayor.¹⁸

Mayor Biron reiterates his counter-affidavit, namely: (a) that there was no transfer or detail involved, and any movement of Causing, if at all, was a purely physical transfer, that is, only a few steps from her office to the Office of the Mayor, without any change in the present work, agency, position, rank and compensation;¹⁹ and (b) that granting without admitting that the movement constituted reassignment, the same was not covered by the provisions of COMELEC Resolution No. 8737, which expressly limited the prohibition to either transfer or detail only.²⁰

Mayor Biron posits that Office Order No. 13 purportedly ordering the detail of Belonio as Local Civil Registrar-designate was a mere piece of paper, which Belonio never received.²¹ He points out that his actions were upheld by the decision dated August 13, 2010 of the Regional Office of the Civil Service Commission dismissing the appeal by Causing of the assailed office orders.²²

Finally, Mayor Biron asserts that Causing did not demonstrate that the COMELEC *En Banc* committed grave abuse of discretion in affirming the findings that there was no probable cause to hold him liable for violation of the *Omnibus Election Code*.²³

On its part, the COMELEC, through the Office of the Solicitor General (OSG),²⁴ defends its questioned resolution, stating that the words *transfer* and *detail*, having already acquired legislative and jurisprudential meanings, should not be understood in their literal sense; that Causing was neither transferred nor detailed; that she was not moved to a different office with the same rank, level and salary, or to another agency;²⁵ and that Mayor Biron's act of transferring the office space of Causing was *intra vires*, and found legal support in the power of supervision and control accorded to local chief executives under the *Local Government Code*.²⁶

¹⁷ Id. at 70-71.

¹⁸ Id. at 71-72.

¹⁹ Id. at 73.

²⁰ Id. at 74.

²¹ Id. at 75-76.

²² Id. at 77-78.

²³ Id. at 79-80.

²⁴ Id. at 153-169.

²⁵ Id. at 164.

²⁶ Id. at 166.

Ruling

The petition has no merit.

1.

Procedural Issue:

Causing did not file a motion for reconsideration before filing the petition for *certiorari*

Section 7, Article IX-A of the Constitution states that unless otherwise provided by the Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Court on *certiorari* by the aggrieved party within 30 days from receipt of a copy thereof. For this reason, the *Rules of Court* (1997) contains a separate rule (Rule 64) on the review of the decisions of the COMELEC and the Commission on Audit.²⁷ Rule 64 is generally identical with *certiorari* under Rule 65,²⁸ except as to the period of the filing of the petition for *certiorari*, that is, in the former, the period is 30 days from notice of the judgment or final order or resolution sought to be reviewed but, in the latter, not later than 60 days from notice of the judgment, order or resolution assailed.²⁹

Mayor Biron indicates that Causing did not file a motion for reconsideration before coming to the Court. Causing submits, however, that she was not required to file the motion for reconsideration because the only recourse of an aggrieved party from the decision of the COMELEC was the filing of the petition for *certiorari* under either Rule 64 or Rule 65.³⁰

The well-established rule is that the motion for reconsideration is an indispensable condition before an aggrieved party can resort to the special civil action for *certiorari* under Rule 65 of the *Rules of Court*. The filing of the motion for reconsideration before the resort to *certiorari* will lie is intended to afford to the public respondent the opportunity to correct any actual or fancied error attributed to it by way of re-examination of the legal and factual aspects of the case.³¹

²⁷ Section 1, Rule 64 of the *Rules of Court* provides:

Section 1. *Scope.* — This Rule shall govern the review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit. (n)

²⁸ Section 2, Rule 64 of the *Rules of Court* states:

Section 2. *Mode of review.* — A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on *certiorari* under Rule 65, except as hereinafter provided. (n)

²⁹ See *Pates v. Commission on Elections*, G.R. No. 184915, June 30, 2009, 591 SCRA 481, 485-486.

³⁰ *Rollo*, p. 123.

³¹ *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, G.R. No. 155306, August 28, 2013, 704 SCRA 24, 37, citing *Villena v. Rupisan*, G.R. No. 167620, April 3, 2007, 520 SCRA 346, 358-359.

The rule is not absolute, however, considering that jurisprudence has laid down exceptions to the requirement for the filing of a petition for *certiorari* without first filing a motion for reconsideration, namely: (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question, and any further delay would prejudice the interests of the Government, or of the petitioner, or the subject matter of the petition is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where the petitioner was deprived of due process, and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent, and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceeding was *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or public interest is involved.

A perusal of the circumstances of the case shows that none of the foregoing exceptions was applicable herein. Hence, Causing should have filed the motion for reconsideration, especially because there was nothing in the COMELEC Rules of Procedure that precluded the filing of the motion for reconsideration in election offense cases.³²

Accordingly, the petition must be dismissed.

2.

**Substantive Issues:
Mayor Biron's acts did not violate
the *Omnibus Election Code*
and the COMELEC Resolution**

On the merits, the petition should also fail.

E.O. Case No. 10-131 was founded on Mayor Biron's alleged violation of COMELEC Resolution No. 8737, Series of 2009, in relation to Section 261(g), (h) and (x) of the *Omnibus Election Code*, which respectively provide:

³² Rule 13 of the COMELEC Rules of Procedure provides:

Section 1. *What Pleadings are not Allowed.* - The following pleadings are not allowed:

- (a) motion to dismiss;
- (b) motion for a bill of particulars;
- (c) motion for extension of time to file memorandum or brief;
- (d) motion for reconsideration of an *en banc* ruling, resolution, order or decision except in election offense cases;
- (e) motion for re-opening or re-hearing of a case;
- (f) reply in special actions and in special cases; and
- (g) supplemental pleadings in special actions and in special cases.

Resolution No. 8737

Section 1. Prohibited Acts

- A. During the election period from January 10, 2010 to June 09, 2010, no public official shall, except upon prior authority of the Commission:
1. Make or cause any transfer or detail whatsoever of any officer or employee in the civil service, including public school teachers. “**Transfer**” as used in this provision shall be construed as any personnel movement from one government agency to another or from one department, division, geographical unit or subdivision of a government agency to another with or without the issuance of an appointment.

x x x x

Section 261(g), (h) and (x)
of the Omnibus Election Code

Sec. 261. Prohibited Acts. - The following shall be guilty of an election offense:

x x x x

(g) Appointment of new employees, creation of new position, promotion, or giving salary increases. - During the period of forty-five days before a regular election and thirty days before a special election, (1) any head, official or appointing officer of a government office, agency or instrumentality, whether national or local, including government-owned or controlled corporations, who appoints or hires any new employee, whether provisional, temporary or casual, or creates and fills any new position, except upon prior authority of the Commission. The Commission shall not grant the authority sought unless, it is satisfied that the position to be filled is essential to the proper functioning of the office or agency concerned, and that the position shall not be filled in a manner that may influence the election.

As an exception to the foregoing provisions, a new employee may be appointed in case of urgent need: Provided, however, That notice of the appointment shall be given to the Commission within three days from the date of the appointment. Any appointment or hiring in violation of this provision shall be null and void.

(2) Any government official who promotes, or gives any increase of salary or remuneration or privilege to any government official or employee, including those in government-owned or controlled corporations.

(h) Transfer of officers and employees in the civil service. - Any public official who makes or causes any transfer or detail whatever of any officer or employee in the civil service including public school teachers, within the election period except upon prior approval of the Commission.

x x x x

(x) Suspension of elective provincial, city, municipal or barangay officer. - The provisions of law to the contrary notwithstanding during the election period, any public official who suspends, without prior approval of the Commission, any elective provincial, city, municipal or barangay officer, unless said suspension will be for purposes of applying the Anti-Graft and Corrupt Practices Act in relation to the suspension and removal of elective officials; in which case the provisions of this section shall be inapplicable.

The only personnel movements prohibited by COMELEC Resolution No. 8737 were transfer and detail. *Transfer* is defined in the Resolution as “any personnel movement from one government agency to another or from one department, division, geographical unit or subdivision of a government agency to another with or without the issuance of an appointment;” while *detail* as defined in the *Administrative Code of 1987* is the movement of an employee from one agency to another without the issuance of an appointment.³³ Having acquired technical and legal meanings, *transfer* and *detail* must be construed as such. Obviously, the movement involving Causing did not equate to either a transfer or a detail within the contemplation of the law if Mayor Biron only thereby physically transferred her office area from its old location to the Office of the Mayor “some little steps” away.³⁴ We cannot accept the petitioner’s argument, therefore, that the phrase “any transfer or detail whatsoever” encompassed “any and all kinds and manner of personnel movement,”³⁵ including the mere change in office location.

Moreover, Causing’s too-literal understanding of *transfer* should not hold sway because the provisions involved here were criminal in nature. Mayor Biron was sought to be charged with an election offense punishable under Section 264 of the *Omnibus Election Code*.³⁶ It is a basic rule of statutory construction that penal statutes are to be liberally construed in favor of the accused. Every reasonable doubt must then be resolved in favor

³³ Book V-A, Chapter 5, Section 26 (6).

³⁴ Id. at 46.

³⁵ *Rollo*, p. 10.

³⁶ Section 264. Penalties. - Any person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be sentenced to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than ten thousand pesos, which shall be imposed upon such party after criminal action has been instituted in which their corresponding officials have been found guilty.

In case of prisoner or prisoners illegally released from any penitentiary or jail during the prohibited period as provided in Section 261, paragraph (n) of this Code, the director of prisons, provincial warden, keeper of the jail or prison, or persons who are required by law to keep said prisoner in their custody shall, if convicted by a competent court, be sentenced to suffer the penalty of *prision mayor* in its maximum period if the prisoner or prisoners so illegally released commit any act of intimidation, terrorism of interference in the election.

Any person found guilty of the offense of failure to register or failure to vote shall, upon conviction, be fined one hundred pesos. In addition, he shall suffer disqualification to run for public office in the next succeeding election following his conviction or be appointed to a public office for a period of one year following his conviction.

of the accused.³⁷ This means that the courts must not bring cases within the provision of a law that are not clearly embraced by it. In short, no act can be pronounced criminal unless it is clearly made so by statute prior to its commission (*nullum crimen, nulla poena, sine lege*). So, too, no person who is not clearly within the terms of a statute can be brought within them.

Equally material is that Mayor Biron's act of transferring the office space of Causing was rooted in his power of supervision and control over the officials and employees serving in his local government unit, in order to ensure the faithful discharge of their duties and functions.³⁸ His explanation that he transferred Causing's work station from her original office to his office in order to closely supervise her after his office received complaints against her could not be justly ignored. Verily, she thereafter continued to perform her tasks, and uninterruptedly received her salaries as the Municipal Civil Registrar even after the transfer to the Office of the Mayor.

The issuance of Office Order No. 13 by Mayor Biron detailing Belonio to the Office of the Local Civil Registrar was not proof of Mayor Biron's "crystal clear intention" to replace and transfer her during the election period.³⁹ As the COMELEC *En Banc* found, Belonio did not receive the order, and Causing remained as the Municipal Civil Registrar, leaving the detailing of Belonio uncompleted. Without the actual appointment of Belonio as the Municipal Civil Registrar, it would be unwarranted to criminally charge Mayor Biron of violating Section 261 of the *Omnibus Election Code*.

It is interesting to note that aside from the present election offense case, Causing initiated an administrative case in the Civil Service Commission to challenge her "reassignment" pursuant to the same office orders. In that administrative case, she referred to the personnel movement not as a *transfer* or *detail*, but as a *reassignment* that constituted her constructive dismissal.⁴⁰ On August 13, 2010, the CSC Regional Office No. 6 in Mandurriao, Iloilo City ruled that although Mayor Biron used the word *detail* in referring to the personnel movement effected, the personnel action that actually took place, albeit a reassignment, was a valid reassignment, *viz*:

In the instant case, Causing is not stripped of her functions as Municipal Civil Registrar (MCR). She was merely required to physically report to the Mayor's Office and perform her functions as Municipal Civil Registrar therein. Definitely, she is still the MCR, albeit doing her work physically outside of her usual work station. She is also not deprived of her supervisory function over the staff as she continues to review their work and signs documents they prepared. While she may encounter

³⁷ *People v. Deleverio*, G.R. No. 118937-38, April 24, 1998, 289 SCRA 547, 566, citing *People v. Atop*, G.R. Nos. 124303-05, February 10, 1998, 286 SCRA 157, 170-171.

³⁸ Section 444, Republic Act No. 7160 (*Local Government Code*).

³⁹ *Rollo*, p. 80.

⁴⁰ *Id.* at 110-111.

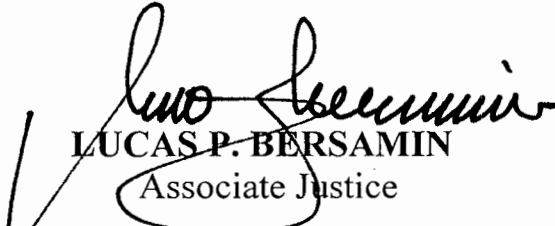
difficulty in performing her duties as a supervisor as she is not physically near her staff, that by itself, however, does not mean that she has lost supervision over them. That difficulty, nonetheless, is not tantamount to constructive dismissal. That Mayor Biron prefers to ensure that Causing faithfully discharging her duties as MCR is principally an exercise of his sound judgment and discretion. He alone has the discretion to decide when to resort to the necessity of implementing changes in the workplace as he occupies the ideal vantage point and is in the best position to determine the needs of his agency and how to satisfy those needs. Besides, contrary to the allegations of Causing, none of the elements of constructive dismissal is present.

WHEREFORE, the instant appeal of Elsie B. Causing is DISMISSED. Office Order No. 12. Dated May 28, 2010 and Office Orders No. 17 and 17-A dated June 01, 2010 of Mayor Hernan D. Biron, Sr. of Barotac Nuevo, Iloilo are AFFIRMED.⁴¹

Considering that reassignment was not prohibited by the *Omnibus Election Code*, there was no probable cause to criminally charge Mayor Biron with the violation of the *Omnibus Election Code*.

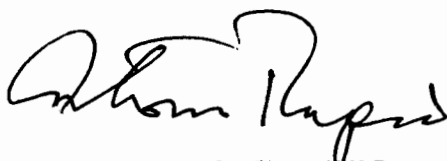
WHEREFORE, the Court **DISMISSES** the petition for *certiorari*; **AFFIRMS** the Resolution of the Commission on Elections promulgated on September 9, 2011 dismissing E.O. Case No. 10-131 entitled *Elsie S. Causing v. Hernan D. Biron, Sr.*; and **ORDERS** the petitioner to pay the costs of suit.

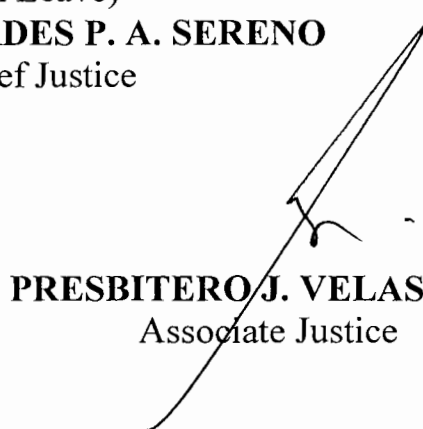
SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

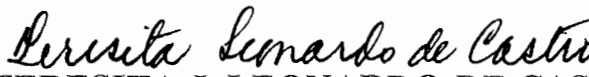
WE CONCUR:

(On Leave)
MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice
Acting Chief Justice


PRESBITERO J. VELASCO, JR.
Associate Justice

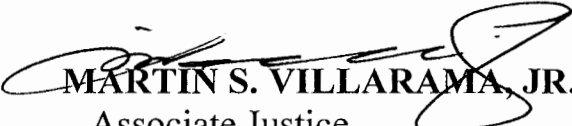
⁴¹ Id. at 116-117.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice

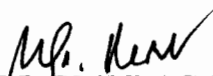

MARIANO C. DEL CASTILLO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

(On Leave)
JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice

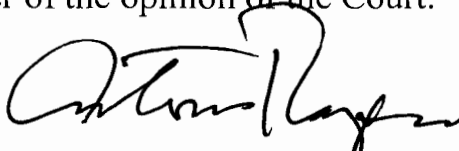

ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

(No Part)
FRANCIS H. JARDELEZA
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.


ANTONIO T. CARPIO
Acting Chief Justice