



Republic of the Philippines  
Supreme Court  
Manila

*EN BANC*

**REYNALDO M. SOLEMA,**  
*Complainant,*

**A.M. No. P-12-3098**  
**[Formerly OCA IPI No. 11-3704-P]**

- versus -

Present:

**MA. CONSUELO JOIE  
ALMEDA-FAJARDO, SHERIFF  
IV, BRANCH 93, REGIONAL  
TRIAL COURT, SAN PEDRO,  
LAGUNA,**

*Respondent.*

GESMUNDO, *C.J.*,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
LAZARO-JAVIER,\*  
INTING,  
ZALAMEDA,  
LOPEZ, M.,  
GAERLAN,  
ROSARIO,  
LOPEZ, J.,  
DIMAAMPAO,\*  
MARQUEZ,  
KHO, JR., and  
SINGH, *JJ.*

Promulgated:

October 3, 2023

**DECISION**

**SINGH, J.:**

This resolves the Complaint<sup>1</sup> filed by Reynaldo M. Solema (**Solema**) for malfeasance in office, grave misconduct, and “illegal exaction/extortion” against Ma. Consuelo Joie Almeda-Fajardo (**Fajardo**), former Sheriff IV of

\* On official business.

<sup>1</sup> *Rollo*, pp. 1–6.

the Branch 93, Regional Trial Court, San Pedro, Laguna (**RTC**) in relation to the implementation of the Writ of Execution<sup>2</sup> issued by the RTC in Criminal Case Nos. 39622–23, entitled *People of the Philippines v. Monica L. Dana*.

### *The Facts*

Solema was the private complainant in Criminal Case Nos. 39622–23, wherein Monica L. Dana (**Monica**) was charged with two counts of Violation of Batas Pambansa Bilang 22.<sup>3</sup>

In its Consolidated Judgment,<sup>4</sup> dated April 27, 2009, the RTC acquitted Monica of the crimes charged but held the latter civilly liable to Solema for the amounts covered by the unfunded checks. The dispositive portion of the Consolidated Judgment reads:

**WHEREFORE**, premises considered, judgment is hereby rendered as follows:

1. ACQUITTING accused Monica L. Dana of the crimes charged on the ground that her guilt has not been proven beyond reasonable doubt; and

2. ORDERING accused Monica L. Dana to pay by way of civil indemnity private complainant Reynaldo M. Solema the total amount of FIFTY FIVE THOUSAND PESOS (P55,000.00) with interest at the rate of twelve percent (12%) per annum reckoned from September 20, 2002 until the same is paid in full and to pay the costs of suit.

**SO ORDERED.**<sup>5</sup> (Emphasis in the original)

On August 26, 2000, the RTC issued a Writ of Execution,<sup>6</sup> commanding the execution of the Consolidated Judgment.

In his Complaint, Solema alleged that in the implementation of the Writ of Execution, for which he paid Fajardo PHP 18,000.00 upon the latter's demand, Fajardo seized a Starex Van from Renato Dana (**Renato**), Monica's husband, on December 28, 2009. However, on the following day, Fajardo caused the release of the said vehicle to Edmund Dana (**Edmund**), Renato's brother, without the RTC's imprimatur. According to Solema, Fajardo delivered the vehicle to Edmund in exchange for PHP 100,000.00. To prove payment of the PHP 18,000.00 and the seizure and release of the Starex Van, Solema attached to his Complaint an Acknowledgment Receipt<sup>7</sup> for PHP

<sup>2</sup> *Id.* at 15–16.

<sup>3</sup> *Id.* at 1.

<sup>4</sup> *Id.* at 17–23.

<sup>5</sup> *Id.* at 22.

<sup>6</sup> *Id.* at 15–16.

<sup>7</sup> *Id.* at 13.



18,000.00 signed by Fajardo and copies of the pertinent pages of the logbook of the Hall of Justice of San Pedro, Laguna.<sup>8</sup>

In her Comment,<sup>9</sup> Fajardo explained that she caused the release of the vehicle because Monica, the judgment debtor, was not the owner thereof.

Upon the recommendation of the Office of the Court Administrator (OCA), the case was referred to Executive Judge Sonia Y. Casano (**EJ Casano**) of the RTC, San Pedro, Laguna for investigation, report and recommendation.<sup>10</sup>

### *The Report and Recommendation of EJ Casano*

After conducting hearings and receiving the parties' evidence, EJ Casano recommended to the Court that Fajardo be found guilty of dereliction of duty for failing to observe the procedure laid down in Rules of Court, Rule 141, Section 10 and grave misconduct for unlawfully collecting PHP 18,000.00 from Solema and that Fajardo be meted the penalty of dismissal from the service and a fine of PHP 5,000.00.<sup>11</sup>

EJ Casano found that: (1) Fajardo, in implementing the Writ of Execution, seized a Starex Van purportedly registered under the name of Renato, husband of Monica but released the same later on and returned the Writ of Execution to the RTC unsatisfied;<sup>12</sup> (2) Fajardo directly received PHP 18,000.00 from Solema in connection with the implementation of the Writ of Execution;<sup>13</sup> and (3) there is no proof that Fajardo rendered an accounting of the amount that she received from Solema. However, as regards Solema's claim that Fajardo received PHP 100,000.00 from Edmund for the release of the Starex Van, EJ Casano ruled that no evidence was adduced to substantiate the said allegation.

On February 10, 2014, the Court noted EJ Casano's Investigation Report and Recommendation and referred the same to the OCA for evaluation, report, and recommendation.<sup>14</sup>

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<sup>8</sup> *Id.* at 11–12.

<sup>9</sup> *Id.* at 28.

<sup>10</sup> *Id.* at 33–34.

<sup>11</sup> *Id.* at 145–149.

<sup>12</sup> *Id.* at 146, Investigation Report and Recommendation. Signed by Sonia T. Yu-Casano.

<sup>13</sup> *Id.* at 147.

<sup>14</sup> *Id.* at 180–181.



### *The Report and Recommendation of the OCA*

In its Memorandum,<sup>15</sup> dated December 3, 2014, the OCA agreed with EJ Casano's factual findings. It also concurred with EJ Casano's recommendation that Fajardo be dismissed from the service. However, the OCA took exception to the imposition of a fine of PHP 5,000.00 on the ground that the same had no basis in law.

The OCA recommended that Fajardo be found guilty of grave misconduct and simple neglect of duty and suffer the penalty of dismissal from the service with forfeiture of all retirement benefits except earned leave credits, with prejudice to employment with any office or instrumentality of the government.<sup>16</sup>

### *The Issue*

Should Fajardo be held administratively liable, as recommended by EJ Casano and the OCA?

### *The Ruling of the Court*

The Court agrees with the factual findings of the OCA and EJ Casano but resolves to modify the nomenclature of the infractions committed by Fajardo and the penalty imposed in view of the recent amendments to Rule 140 of the Rules of Court and Fajardo's previous dismissal.

At the outset, the Court underscores that a sheriff is expected to know the rules of procedure pertaining to his or her functions as an officer of the court.<sup>17</sup> Under The Rules of Court, Rule 141, Section 10, expenses for the execution of writs shall be paid by the interested party based on estimates by the sheriff and subject to the approval of the court. Upon approval of the estimates, the party must deposit the amount with the clerk of court, who shall disburse it to the sheriff. The sheriff must liquidate the amount within the same period of filing the return before the court. Rule 141, Section 10, pertinently states:

SEC. 10. Sheriffs, Process Servers and other persons serving processes. —

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<sup>15</sup> *Id.* at 182-189.

<sup>16</sup> *Id.* at 189.

<sup>17</sup> *Malabanan v. Ruiz*, A.M. No. P-20-4090, March 16, 2021 [*Per Curiam, En Banc*].



With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, **the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court.** Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor. (Emphasis supplied)

Instead of following the foregoing procedure, Fajardo directly demanded and received money for expenses from Solema without the RTC's approval. In her testimony before EJ Casano, Fajardo admitted that she directly received PHP 18,000.00 from Solema to defray the expenses arising from the implementation of the Writ of Execution.<sup>18</sup> According to her, she used the amount to pay the barangay officers, police officers, and the towing service who brought the Starex Van to the Hall of Justice of San Pedro, Laguna. However, nothing in the record shows that Solema liquidated the amount that she collected from Solema. Evidently, Fajardo did not observe the procedure prescribed by Rules of Court, Rule 141, Section 10.

The Court has repeatedly held that the rules on sheriff's expenses are clear cut and do not provide for procedural shortcuts.<sup>19</sup> A sheriff's conduct of unilaterally demanding sums of money from a party without observing the proper procedure falls short of the required standards of public service and threatens the very existence of the system of administration of justice.<sup>20</sup> It opens the door not only to suspicion of, but actual corruption.

Fajardo also admitted that she caused the impoundment of the Starex Van, as well as its subsequent release.<sup>21</sup> During her cross-examination, Fajardo claimed that she released the vehicle because one Aimee<sup>22</sup> Macarubio (**Macarubio**)<sup>23</sup> showed her a Deed of Sale of Motor Vehicle<sup>24</sup> and Official Receipt/Certificate of Registration proving that she was the owner of the Starex Van.<sup>25</sup> However, her own Sheriff's Report<sup>26</sup> belies her claim. In the said report, which she submitted to the RTC, Fajardo stated that she returned

<sup>18</sup> *Rollo*, p. 160.

<sup>19</sup> See *Malabanan v. Ruiz*, *supra* note 17.

<sup>20</sup> See *Olympia-Geronilla v. Montemayor*, 810 Phil. 1, 13-14 (2017) [Per J. Perlas-Bernabe, First Division].

<sup>21</sup> *Rollo*, p. 159.

<sup>22</sup> Also spelled as Amee in some parts of the *rollo*.

<sup>23</sup> Also spelled as "Macarubbo" in some parts of the *rollo*.

<sup>24</sup> *Rollo*, p. 40.

<sup>25</sup> *Id.* at 159-162.

<sup>26</sup> *Id.* at 10.

the Starex Van “for the reason that the said vehicle when appraised was way beyond the amount to be collected by the undersigned in favor of [Solema].”<sup>27</sup> Aware that this justification finds no basis in law, it is readily apparent that Fajardo came up with a new explanation as an afterthought. It also bears stressing that Fajardo released the vehicle to Edmund, Renato’s brother, and not to Macarubio.

Moreover, while Fajardo was able to produce a copy of the Deed of Sale of Motor Vehicle<sup>28</sup> which shows that the Starex Van was sold to Macarubio on July 18, 2006, she failed to produce the Official Receipt/Certificate of Registration of the vehicle. An examination of the Deed of Sale of Motor Vehicle readily shows that it does not sufficiently prove that Macarubio was the registered owner of the vehicle in 2009, when Fajardo seized the Starex Van.

In any case, assuming that Macarubio had a valid claim to the Starex Van, Fajardo should have observed the procedure laid down under Rules of Court, Rule 39, Section 16, instead of unilaterally releasing the impounded vehicle. The pertinent portion of Rules of Court, Rule 39, Section 16 reads:

Section 16. *Proceedings where property claimed by third person.* —  
**If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and copy thereof, upon the judgment obligee, the officer shall not be bound to keep the property,** unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond. (Emphasis supplied)

Fajardo transgressed this rule when she released the Starex Van despite the absence of an affidavit supporting the purported third-party claim or the court’s order.

In *Trinidad v. Javier*,<sup>29</sup> the sheriff’s act of directly demanding and receiving money from the complainant and failure to observe the prescribed procedure regarding the expenses in the service of a writ of execution was held to constitute dishonesty, conduct prejudicial to the best interest of service, and grave misconduct. Thus, applying Section 50(A) of the Rules on

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 40.

<sup>29</sup> 851 Phil. 413 (2019) [*Per Curiam, En Banc*].



Administrative Cases in the Civil Service (RACCS), the Court imposed on the erring sheriff the penalty of dismissal from the service, with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from re-employment in the government.

However, in *Office of the Court Administrator v. Atty. Toledo*,<sup>30</sup> the Court declared that in view of the recent issuance of A.M. No. 21-08-09-SC,<sup>31</sup> Rule 140 of the Rules of Court, as amended, will be applied uniformly to all pending and future administrative cases involving all Members, officials, employees, and personnel of the entire Judiciary. Prior to the amendment of Rule 140, administrative cases against court personnel were governed by the RACCS. Rule 140, Section 24, as amended, provides:

**Section 24. Retroactive Effect. — All the foregoing provisions shall be applied to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary,** without prejudice to the internal rules of the Committee on Ethics and Ethical Standards of the Supreme Court insofar as complaints against Members of the Supreme Court are concerned. (Emphasis supplied)

Considering the foregoing, the Court finds Fajardo guilty of two counts of Gross Misconduct constituting violation of the Code of Conduct for Court Personnel and one count of Serious Dishonesty under, Rule 140, Section 14(a) and 14(c) in accordance with Rule 140, Section 21, which states:

**Section 21. Penalty for Multiple Offenses.— If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense.** Should the aggregate of the imposed penalties exceed five (5) years of suspension or ₱1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits.

**On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.** (Emphasis supplied)

Fajardo transgressed the following provisions of the Code of Conduct for Court Personnel:

<sup>30</sup> A.M. No. P-13-3124, February 28, 2023 [Per C.J. Gesmundo, *En Banc*].

<sup>31</sup> Approved on February 22, 2022.



## CANON I

## Fidelity to Duty

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Section 4. Court personnel shall not accept any fee or remuneration beyond what they receive or are entitled to in their official capacity.

Section 5. Court personnel shall use the resources, property and funds under their official custody in a judicious manner and solely in accordance with the prescribed statutory and regulatory guidelines or procedures.

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## CANON IV

## Performance of Duties

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Section 6. Court personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority.

It was stated in the explanatory notes to A.M. No. 21-08-09-SC,<sup>32</sup> which amended Rule 140 of the Rules of Court, that violations of the Code of Conduct for Court Personnel are tantamount to misconduct and that to constitute gross misconduct, as distinguished from simple misconduct, the violation should be of serious nature and must involve “the elements of corruption, clear intent to violate the law or flagrant disregard of established rules that must be manifest and established by substantial evidence,” citing *Office of the Court Administrator v. Del Rosario*.<sup>33</sup> Fajardo’s acts of directly demanding and receiving money from Solema, without court approval, failing to liquidate the said amount, and releasing the seized vehicle without complying with the prescribed procedure or the court’s directive constituted flagrant disregard of established rules, which she, as a sheriff, is expected to know and strictly follow. Given Fajardo’s failure to liquidate the amount that she received from Solema, it is reasonable to assume that she misappropriated the same.

It is also settled that a sheriff’s act of demanding sums of money from a party-litigant without complying with the proper procedural steps also amount to dishonesty and extortion.<sup>34</sup> Dishonesty is defined as the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and

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<sup>32</sup> *Id.*

<sup>33</sup> 884 Phil. 18 (2020) [*Per Curiam, En Banc*].

<sup>34</sup> *Francia v. Esguerra*, 746 Phil. 423, 429 (2014) [*Per Curiam, En Banc*].





straightforwardness; disposition to defraud, deceive or betray.<sup>35</sup> Fajardo's conduct of circumventing the procedure prescribed under the Rules of Court, which is specifically designed to prevent sheriffs from dealing directly with the money of the party-litigants, clearly reveals her propensity to defraud and intent to gain. Such conduct amounts to Serious Dishonesty, which gravely tarnishes the integrity of the Judiciary. As the Court held in *Santos v. Leaño*:<sup>36</sup>

Due to the nature of their duties, sheriffs are often in direct contact with litigants. As such, they must not exhibit conduct that may discredit the public's faith in the judiciary. They must perform their duties with the utmost honesty and diligence considering that even the slightest deviation in the prescribed procedure may affect the rights and interests of these litigants.<sup>37</sup>

Under Rule 140 Section 17, of the Rules of Court, Gross Misconduct and Serious Dishonesty are serious charges that merit any of the following sanctions:

- (a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however*, that the forfeiture of benefits shall in no case include accrued leave credits;
- (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
- (c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00.

Considering the gravity of the infraction committed by Fajardo, the proper penalty to be imposed upon her is dismissal from the service with the accessory penalties of forfeiture of retirement and other benefits, except accrued leave credits, and perpetual disqualification from re-employment in any government agency or instrumentality, including government-owned and controlled corporation or government financial institution.

It appears, however, that the Court has already previously dismissed Fajardo from the service with accessory penalties in *Gillera v. Fajardo*<sup>38</sup> for dishonesty and conduct unbecoming of an officer of the court. Thus, pursuant to Rule 140, Section 18<sup>39</sup> and 21, the Court, in lieu of her dismissal, imposes

<sup>35</sup> *Office of the Administrator v. Acampado*, 721 Phil. 12, 30 (2013) [*Per Curiam, En Banc*].

<sup>36</sup> 781 Phil. 342 (2016) [*Per Curiam, En Banc*].

<sup>37</sup> *Id.* at 361.

<sup>38</sup> 745 Phil. 712 (2014) [*Per Curiam, En Banc*].

<sup>39</sup> Rules of Court, Rule 140, Section 18 states:

SECTION 18. *Penalty in Lieu of Dismissal on Account of Supervening Resignation, Retirement, or Other Modes of Separation of Service.* — If the respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to the respondent's supervening resignation, retirement, or other modes of separation from service except for death, he or she may be meted with the following penalties in lieu of dismissal:

on Fajardo the fines in the amount of: (a) PHP 150,000.00 for directly demanding and receiving money for sheriff's expenses without complying with the procedure laid down in Rules of Court, Rule 141, Section 10, which amounted to one count of Gross Misconduct constituting violation of the Code of Conduct for Court Personnel and one count of Serious Dishonesty; and (b) another PHP 150,000.00 for releasing the seized Starex Van without following the procedure set forth in Rule 39, Section 16, or the court's directive, which amounted to one count of Gross Misconduct constituting violation of the Code of Conduct for Court Personnel. To underscore, Rule 140, Section 21, mandates that only one penalty (the penalty for the most serious offense) shall be imposed upon the respondent found guilty of more than one offense arising from the same act or omission. Gross Misconduct constituting violation of the Code of Conduct and Serious Dishonesty are both classified as serious charges under Rule 140 Section 14, and thus merit the same penalties under Section 17 of the same Rule.

**ACCORDINGLY**, the Court finds Ma. Consuelo Joie Almeda-Fajardo, former Sheriff IV of the Branch 93, Regional Trial Court, San Pedro, Laguna, **GUILTY** of two counts of Gross Misconduct constituting violation of the Code of Conduct for Court Personnel and one count of Serious Dishonesty. She is **ORDERED** to pay a fine in the aggregate amount of PHP 300,000.00, within a period of three months from the time this Decision is promulgated.

**SO ORDERED.**

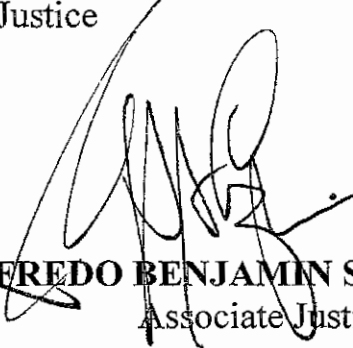
  
**MARIA FILOMENA D. SINGH**  
Associate Justice


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- (a) Forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however*, that the forfeiture of benefits shall in no case include accrued leave credits; and/or
- (b) Fine as stated in Section 17(1)(c) of this Rule.

WE CONCUR:


  
**ALEXANDER G. GESMUNDO**  
Chief Justice

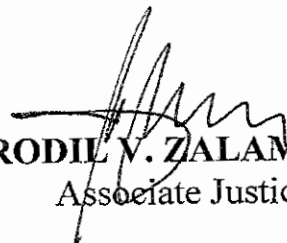
  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice

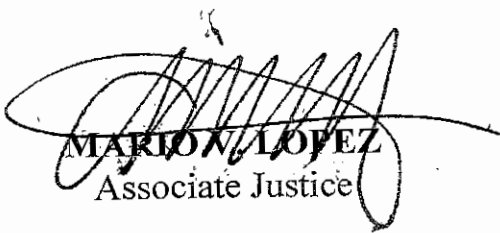
  
**ALREDO BENJAMIN S. CAGUIOA**  
Associate Justice

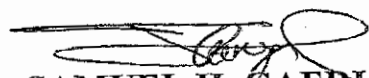
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

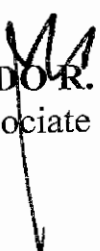
(On official business)  
**AMY C. LAZARO-JAVIER**  
Associate Justice


  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**MARION LOPEZ**  
Associate Justice

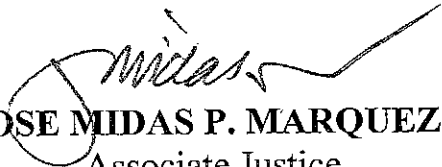
  
**SAMUEL H. GAERLAN**  
Associate Justice

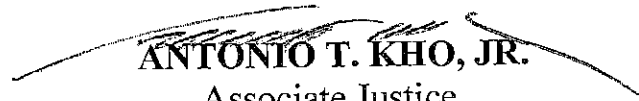
  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice



(On official business)  
**JAPAR B. DIMAAMPAO**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

