



Republic of the Philippines
Supreme Court
Manila

EN BANC

**SPOUSES EMILIO AND ALICIA
JACINTO,**

Complainants,

A.C. No. 8494

Present:

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

- versus -

ATTY. EMELIE P. BANGOT, JR.,
Respondent.

Promulgated:

October 5, 2016

X-----*Emelie P. Bangot - Brone*-----X

DECISION

BERSAMIN, J.:

A lawyer shall observe candor, honesty and fairness in dealing with his clients, and shall only charge fair and reasonable fees for his legal services. He should not excessively estimate the value of his professional services. In drawing up the terms of his professional engagement, he should not practice deceit. The clients are entitled to rescind the written agreement

* On official business.
** On leave.

on his professional fees if the terms thereof contravened the true agreement of the parties.

Antecedents

This administrative case stems from the complaint brought on December 8, 2009 by the Spouses Emilio and Alicia Jacinto, then 81 and 76 years of age, respectively, against Atty. Emelie P. Bangot, Jr. for the latter's unjust and dishonest treatment of them as his clients. They hereby seek that he be sanctioned for his actuations.¹

The complainants averred that a private survey team had conducted a survey of Cad. 237 Lot No. 1351 on October 10-11, 2008 pursuant to the order of the Regional Trial Court, Branch 39, in Cagayan de Oro City in connection with the reconstitution of the lost certificate of title of said lot by the owners; that after conducting the perimeter survey, the survey team had tried to enter the premises owned by them but they had prevented the team from doing so because their premises had already been segregated by virtue of the issuance of Original Certificate of Title No. P-3387; that their land covered by OCT No. P-3387 had already been subdivided into nine lots; that the survey team had then desisted from proceeding with their survey of their land but had nonetheless informed them that they would return another time for the survey; and that this had forced them to consult a lawyer on the legal remedies to prevent the intrusion on their property.²

The complainants further averred that they had then consulted with the respondent, briefing him on their concern, and delivering to him the documents pertinent to their land; that after scrutinizing the documents, he had told them that he would be initiating a case for *certiorari* in their behalf to nullify the order for the reconstitution of the lost title covering Cad. 237 Lot No. 1351; that he had then insinuated that one of their lots would be his attorney's fees; and that they had not initially agreed to the insinuation because the lots had already been allocated to each of their seven children, but they had ultimately consented to giving him only a portion of Lot No. 37926-H with an area of 250 square meters n.³

It appears that soon after the respondent unilaterally prepared the document so-called *Memorandum of Agreement* (MOA), to wit:

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

¹ *Rollo*, pp. 1-5.

² *Id.* at 2.

³ *Id.* at 2-3.

I, ATTY. EMELIE P. BANGOT, JR., of legal age, married and a resident of Lot 13, Block 1, Xavier Heights Subd., Upper Balulang, Cagayan de Oro City, hereinafter referred as the FIRST PARTY; and

WE, SPOUSES EMILIO JACINTO AND ALICIA JACINTO, both legal age, and residents of Cagayan de Oro City, herein referred as the SECOND PARTY;

WITNESSETH:

1. That the FIRST PARTY shall be the counsel/lawyer of the SECOND PARTY, regarding their parcel of land formerly covered by Original Certificate of Title No. P-3387 with an area of 4,138 sq. m., located at Kauswagan, Cagayan de Oro City, presently subdivided into 8 lots with individual certificate of titles (sic);

2. That the First Party shall get 300 sq. m., from Lot No. 37925-G covered by TCT No. 121708

3. That this agreement shall take effect immediately upon the signing of the parties (sic) cannot be revoked, amended or modified by the Second Party without the consent of the First Party.⁴

The complainants recalled that on October 17, 2008 the respondent requested them to proceed to his law office. What thereafter transpired and that led to the signing of the MOA were set forth in their complaint, as follows:

On October 17, 2008, my wife received a phone call from the office of Atty. Bangot directing us to go to his office to sign documents they have prepared. The phone call was relayed to me by my wife so we immediately proceeded to his office arriving thereat at exactly 4:00 PM. The daughter of Atty. Bangot handed to us two sets of documents for our signatures. Because of full trust to Atty. Bangot, we did not bother reading the contents of the documents. Per instruction, we brought the papers to their friend lawyer for notarization and after the notarization returned to the office where we were given our personal file, without reading every detail of the documents.

Upon arriving at our residence, I read the contents of the Memorandum of Agreement (MOA). Said MOA was not signed by Atty. Bangot and did not bear the signature of witnesses. I was surprised to know that the terms of the (MOA) did not reflect the true intentions being contemplated in our previous discussions. Contrary to what I have told him, a different area which is 37925-G under TCT No. 121708 was written. I already told him that my other lots including the lot written in the MOA could no longer be disposed of because these lots were already committed to each of my children. The lot area was also increased from 250 sq. m. to 300 sq. m. Because of this situation, I called my wife and children and told them about the problem. My daughter whose share was involved reacted badly and she was hurt because she will then be deprived

⁴ Id. at 8.

of her place to live in, in the future. We continued our discussion and we decided to see Atty. Bangot to have the MOA be revoked because we felt that we were deceived, Atty. Bangot took advantage of our old age, thus breaking the trust and confidence the client[']s and lawyer should uphold at all times in the exercise of one's profession.

As a gesture of acknowledging his efforts, we offered to pay him in cash, fair enough for the services he had rendered to us. However, he refused to revoke the MOA because accordingly, he would consult his wife which finally did not materialize because his wife was not amenable which in effect showed that they have vested interest on the property and they are bent on taking the property at any cause. He even challenged us to file an appropriate case in court against him rather than agree with our pleading for payment of cash. Likewise, he refused our offer to pay his services in cash alleging that he already filed a Manifestation in court and claimed that our possession would not be disturbed and that he will be filing a case for Certiorari as promised.

To our surprise though, we came to know that the Manifestation filed by Atty. Bangot is not a preparatory pleading for certiorari. No way could it even stop the intrusion into our property. Basically, we were deceived by Atty. Bangot into believing that the Manifestation he filed would stop any legal disturbance on our property and the same is preparatory for certiorari.⁵

Feeling aggrieved, the complainants decided to bring their complaint against the respondent.

On his part, the respondent denied the allegations of the complainants. He insisted that the complaint against him was a harassment tactic designed to intimidate him from seeking judicial remedies to settle their dispute on the validity of the MOA;⁶ that the MOA was valid; that the *Manifestation for Information* he had filed in court prevented the intrusion into the complainants' land; that the administrative complaint was designed to insure the derailment of his application for a judgeship position, and to cover up the negligence of the complainants' counsel as the plaintiffs in Civil Case No. 2008-302 (for annulment and/or rescission of agreement), which case was dismissed for failure to comply with the requirement for the prior barangay conciliation proceedings; and that they had voluntarily signed the MOA without intimidation, fraud or undue influence.⁷

On August 23, 2010, the Court referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.⁸

⁵ Id. at 3-4.

⁶ Id. at 16-19.

⁷ Id. at 16-19, 100-120.

⁸ Id. at 95.

Findings and Recommendation of the IBP

In due course, IBP Commissioner Oliver A. Cachapero submitted his Report and Recommendation⁹ finding the complaint against the respondent meritorious, and recommending that the respondent be suspended from the practice of law for one year for his unfair and injudicious treatment of the complainants as his clients.

In Resolution No. XX-2013-71,¹⁰ the IBP Board of Governors increased the duration of the respondent's recommended penalty to suspension from the practice of law for two years, viz.:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED AND APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that Respondent breached his duty of candor and fairness to his client, Atty. Emelie P. Bangot, Jr. is hereby **SUSPENDED from the practice of law for two (2) years.**

Through its Resolution No. XXI-2014-315,¹¹ the IBP Board of Governors denied the respondent's motion for reconsideration.

Issue

Did the respondent violate his ethical duties as a member of the Bar in his dealings with the complainants?

Ruling of the Court

We find and hold that the respondent grossly violated his Lawyer's Oath and his ethical duties as an attorney because he did not observe candor and fairness in his dealings with his clients.

The findings of IBP Commissioner Cachapero, which sufficiently described the violations of the respondent, provide an irrefutable insight into the gravity of the violations by the respondent, as follows:

The question to ask is, "*Was the MOA fair to the parties and entered into by them in good faith?*"

⁹ Id. at 340-343.

¹⁰ Id. at 338.

¹¹ Id. at 335.

The undersigned resolves in the negative. To begin with, the conduct of Respondent had evinced an instinctive interest in the property of Complainants. He had the MOA executed at the same time he filed the Manifestation for Information before the court that was hearing LRC Case No. 98-010. Not only that, Respondent's proposal to have a MOA executed between him and the Complainant was meant to impress that his supposed attorney's fees would be paid on contingent basis, however, a perusal of the MOA indicates that the payment of Respondents' fee by way of a real property is being made immediately effective upon execution of the agreement.

As to the agreement of the Complainant and the Respondent, the undersigned gives full faith to the allegation of Complainant that the payment of Respondent's attorney's fees by way of a real property would come from TCT No. 121709 and not T-121708. Complainants explained that the latter lot had already been committed to their seven (7) children especially because this lot is situated in a prime location thus they could not have picked the same over Lot No. 121709. The Respondent knew straightforwardly that lot 121708 was a better lot yet Respondent gave a different account of their agreement and took advantage of the frailty and advance ages (sic) of his clients.

But, the most shocking of all, is the apparent inequity or disproportion between the amount of attorney's fees (*measured from the value of the property taken by Respondent*) and the effort or service already performed or still to be performed by him. The Complainants were not made parties to the LRC case or any other case and Respondent filed a mere two-paged Manifestation for Information in court which he did almost effortlessly. It is not clear how the court had reacted to the manifestation but Respondent did not follow it up with [any] other action. Despite the same, Respondent stuck to his tale that the Complainants had signed [the] MOA and despite his minimal representation of the Complainants in court, he held on to his idea that he had taken from his clients valid title to a million [pesos] worth of real estate in payment of his fees.

The undersigned does not see fairness and judiciousness to Respondent's treatment of his clients, 81 and 76 years old, respectively, and he need not add to his brief disquisition in this regard.¹²

We adopt the findings and note the insights thus expressed.

We must, therefore, highlight the following reasons why the findings and insights should be sustained.

To determine the reasonableness of attorney's fees, the following factors as enumerated in Rule 20.1 of the *Code of Professional Responsibility* may serve as a guide, to wit: (a) the time spent and the extent of the services rendered or required; (b) the novelty and difficulty of the questions involved; (c) the importance of the subject matter; (d) the skill

¹² Id. at 342-343.

demanded; (e) the probability of losing other employment as a result of acceptance of the proffered case; (f) the customary charges for similar services and the schedule of fees of the IBP chapter to which he belongs; (g) the amount involved in the controversy and the benefits resulting to the client from the service; (h) the contingency or certainty of compensation; (i) the character of the employment, whether occasional or established; and (j) the professional standing of the lawyer.

It was not disputed that only the filing of the two-paged *Manifestation for Information* constituted the respondent's rendition of professional services for the complainants. Although he did claim that the filing of the *Manifestation for Information* had prevented any intrusion on their property, thereby fulfilling his end of the contract,¹³ the worth of such minimal effort was exaggerated and disproportionate when taken in the context of the attorney's fees being Lot No. 37925-G with 300 square meters in area. The two-paged *Manifestation for Information* was not even the procedural precursor of the promised petition for *certiorari*. Moreover, he did not actually file the petition for *certiorari* as he had promised. And, lastly, he did nothing more after filing the *Manifestation for Information*. He certainly transgressed the Lawyer's Oath by receiving property of a substantial value from the complainants after having made them believe that he could ensure their land from intrusion by third parties. He took advantage of them who had reposed their full trust and confidence in his ability to perform the task by virtue of his being a lawyer. He was definitely bent on obtaining Lot No. 37925-G than in protecting the complainants' interest in their property. He exhibited this zeal by refusing their offer to give cash for his attorney's fees instead of the land. We sadly note in this connection that his changing the property ostensibly agreed upon with the bigger lot as payment for his legal services¹⁴ reflected his deceit at the start of the relationship. He maintained the deceit by ultimately enforcing the MOA against them through the action for specific performance.

Surely, the totality of the respondent's actuations inevitably eroded public trust in the Legal Profession. On the basis of his acts and actuations, the attorney's fees in the form of the lot he charged from them were unconscionable and unreasonable, and should be struck down for failing to pass muster under the aforestated guidelines.

The respondent appears to have impressed on the complainants at the time of their negotiations that the attorney's fees in the form of the lot would be delivered to him only on a contingent basis. Again, he had misrepresented himself to them because the express terms of the MOA stipulated that "this agreement shall take effect immediately upon the signing of the parties [and]

¹³ Id. at 114-116.

¹⁴ Id. at 3-4.

cannot be revoked, amended or modified by the Second Party without the consent of the First Party.”

As worded, the agreement was not a contingent fee arrangement. Indeed, a contingent fee arrangement is a contract in writing in which the fee, usually a fixed percentage of what may be recovered in the action, is made to depend upon the success in the effort to enforce or defend a supposed right.¹⁵ The amount of the contingent fee agreed upon by the parties is *subject to the stipulation that counsel will be paid for his legal services only if the suit or litigation prospers*. A much higher compensation is allowed as contingent fee in consideration of the risk that the lawyer may get nothing should the suit fail. Such arrangement is generally recognized as valid and binding in this jurisdiction but its terms must be reasonable.¹⁶ Canon 13 of the *Canons of Professional Ethics* states that “a contract for a contingent fee, when sanctioned by law, should be reasonable under all the circumstances of the case including the risk and uncertainty of the compensation, but should always be subject to the supervision of a court, as to its reasonableness.” A contract of this nature is permitted because it redounds to the benefit of the poor client and the lawyer especially in cases where the client has a meritorious cause of action but has no means with which to pay for the legal services unless he can, with the sanction of law, make a contract for a contingent fee to be paid out of the proceeds of the litigation. Oftentimes, such arrangement is the only means by which the poor and helpless can seek redress for injuries sustained and have their rights vindicated.¹⁷

Considering that a contingent fee arrangement is susceptible to abuse, the courts should closely scrutinize it to protect the client from unjust charges. The court looks in large measure at the reasonableness of the stipulated fee under the circumstances of each case.¹⁸ Section 24, Rule 138 of the *Rules of Court* explicitly provides:

Section 24. *Compensation of attorneys; agreement as to fees.* – An attorney shall be entitled to have and recover from his client no more than **a reasonable compensation for his services**, with a view to the importance of the subject matter of the controversy, the extent of the services rendered, and the professional standing of the attorney. No court shall be bound by the opinion of attorneys as expert witnesses as to the proper compensation, but may disregard such testimony and base its conclusion on its own professional knowledge. A written contract for services shall control the amount to be paid therefor unless found by the court to be unconscionable or unreasonable. (Emphasis ours)

¹⁵ *Integrated Construction Services, Inc. and Engineering Construction, Inc. v. Relova*, G.R. No. L-36424, July 31, 1975, 65 SCRA 638, 650.

¹⁶ *Sesbreño v. Court of Appeals*, G.R. No. 117438, June 8, 1995, 245 SCRA 30, 36-37.

¹⁷ *Rayos v. Hernandez*, G.R. No. 169079, February 12, 2007, 515 SCRA 517, 528-529.

¹⁸ *Taganas v. National Labor Relations Commission*, G.R. No. 118746, September 7, 1995, 248 SCRA 133, 137.

All the foregoing circumstances established that the respondent was deceitful, dishonest and unreasonable in his dealings with the complainants as his clients. He thus violated his Lawyer's Oath, whereby he vowed, among others, to do no falsehood, and not to consent to the doing of any falsehood, as well as not to delay any man's cause for money or malice but to conduct himself as a lawyer according to the best of his knowledge and discretion "with all good fidelity as well to the courts as to [his] clients. He also breached the following canons of the *Code of Professional Responsibility*, to wit:

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Canon 15 – A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

Canon 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

Canon 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Canon 20 – A lawyer shall charge only fair and reasonable fees.

Rule 20.4 – A lawyer shall avoid controversies with clients concerning his compensation and shall resort to judicial action only to prevent imposition, injustice or fraud.

We have said time and again, and this we cannot overemphasize, that the Law is neither a trade nor a craft but a profession whose basic ideal is to render public service and to secure justice for those who seek its aid. If the Law has to remain an honorable profession and has to attain its basic ideal, those enrolled in its ranks should not only master its tenets and principles but should also, by their lives, accord continuing fidelity to such tenets and principles.¹⁹ The respondent's behavior and deceit demonstrated a preference for self-gain that transgressed his sworn duty of fidelity, loyalty and devotion to his clients' cause. His betrayal of his clients' trust besmirched the honorable name of the Law Profession. These considerations justify suspending him from the practice of law.

Moreover, the respondent made the following allegations in his motion for reconsideration filed with the IBP Board of Governors, to wit:

9. It is quite disturbing that to cover up Atty. Palasan's negligence and reckless filing of Annulment and/or Rescission of Agreement titled Spouses Emilio Jacinto and Alicia Jacinto vs. Atty. Emelie P. Bangot docketed as Civil Case No. 2008-302 before the Regional Trial Court,

¹⁹ *Docena v. Limon*, A.C. No. 2387, September 10, 1998, 295 SCRA 262, 266.

Branch 41, Cagayan de Oro City where the subject matter was the Memorandum of Agreement (MOA) between the complainant and respondent, said counsel resorted to another forum by filing this administrative case where his chance of oppressing and harassing respondent is far greater because when he filed said administrative case Atty. Roan Libarios then one of the Officers of the IBP National Chapter and member of the Board of Governors, representing Eastern Mindanao, was holding office at IBP, Ortigas Center, Pasig City as such, his officemate or law partner at Butuan City (sic). Unfortunately, for respondent, Atty. Libarios eventually became the IBP National President;

x x x x

18. The statement by Commissioner Cachapero in his Report and Recommendation, 1st sentence, 2nd par., thereof that: “On October 10 & 11, 2008, a survey was conducted on Cadastral Lot No. 1351 situated at Kauswagan, Cagayan de Oro City in connection with the reconstitution of the lost title of the lot which was then pending before the Regional Trial Court, Branch 39, R-10, Cagayan de Oro City.” is quite confusing and designed to put down respondent probably at any cost and probably by an “**unseen but influential hands** (sic)”;²⁰

The aforementioned allegations indicated that the respondent had readily attributed the filing of the administrative charge to the lawyer representing the complainants in the suit against him to annul or rescind the MOA, as well as to “unseen but influential hands” in the hierarchy of the IBP. The attribution was bereft of factual and legal justifications, however, because he did not even attempt to establish it with satisfactory proof. We cannot but dismiss the attribution as malicious and unfounded in view of the record establishing his serious ethical violations. He displayed an unmitigated lack of professionalism by casting aspersions against his peers, and exhibited a dangerous propensity to disparage others, which should move us to consider his violations as aggravated.

To be now considered, therefore, is the condign penalty of the respondent. A review of precedents shows that the penalty of suspension, or even disbarment, has been meted on similar violations and transgressions. In *Santeco v. Avance*,²¹ the respondent attorney was suspended for five years for abandoning the cause of her client without notice despite her having collected her legal fees. She also failed to account for the money of the client and constantly refused to submit herself to the proceedings of the IBP. In *Lemoine v. Balon, Jr.*,²² this Court disbarred the respondent attorney who did not promptly account for the funds he had received for the benefit of his client, and for his deceit in dealings with his client. In *Overgaard v. Valdez*,²³ the respondent attorney was disbarred for assuring the complainant that his property involved in a civil case would be safeguarded, and then

²⁰ *Rollo*, pp. 143-145.

²¹ A.C. No. 5834, December 11, 2003, 418 SCRA 6.

²² A.C. No. 5829, October 28, 2003, 414 SCRA 511.

²³ A.C. No. 7902, September 30, 2008, 567 SCRA 118.

collecting the full amount of legal fees amounting to ₱900,000.00, only to desert the complainant after receiving the fees. The respondent attorney had further failed to submit an answer as well as to attend the proceedings before the IBP.

Although the complainants appeared to have initially bound themselves to give a part of their land as the respondent's professional fees, they did so apparently because he had misrepresented to them the gravity and extent of their legal matter. His misrepresentation was undeniably calculated to make them part with their valuable asset in lieu of cash. He did not thereafter render any worthy professional legal service in their favor. Verily, as the cliché goes, they did not get their money's worth from him. Even if this charge was his first infraction, the grossness of his violations of the Lawyer's Oath and the various relevant canons of the *Code of Professional Responsibility* quoted earlier absolutely warranted his suspension from the practice of law for five years effective upon his receipt of this decision, with warning of sterner sanctions should he hereafter commit a similar offense. This duration of suspension was the penalty we prescribed in the recent case of *Mercullo v. Ramon*²⁴ where the respondent lawyer had deceived the complainants into parting with the substantial sum of ₱350,000.00 as her attorney's fees but did not subsequently perform her professional undertaking.

In addition, the respondent should not be entitled to receive any attorney's fees in view of the worthlessness of the professional services he supposedly rendered. There is no question, as ruled in *Sanchez v. Aguilos*,²⁵ that every attorney is entitled to have and receive a just and reasonable compensation for services performed at the special instance and request of his client; and that for as long as the attorney is in good faith and honestly trying to represent and serve the interests of the client, he should have a reasonable compensation for such services. Yet, equally without question is that the attorney should not accept the engagement that is way above his ability and competence to handle, for there will then be no basis for him to accept any amount as attorney's fees; or that he should at least begin to perform the contemplated task undertaken for the client to entitle him to be compensated on the basis of *quantum meruit*.²⁶

WHEREFORE, this Court **FINDS** and **HOLDS** respondent **ATTY. EMELIE P. BANGOT, JR.** guilty of violation of the Lawyer's Oath and of the *Code of Professional Responsibility*; **SUSPENDS** him from the practice of law for five (5) years effective upon notice of this decision, with warning that sterner sanctions will be meted on him for a similar offense; and

²⁴ A.C. No. 11078, July 19, 2016.

²⁵ A.C. No. 10543, March 16, 2016.

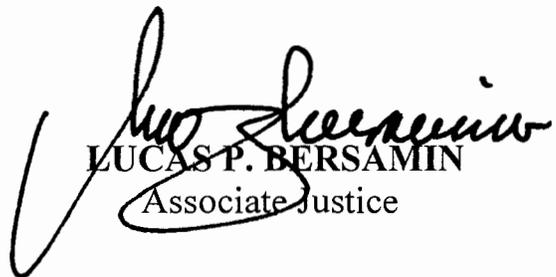
²⁶ Id.

DECLARES that he is not entitled to recover any attorney’s fees from the complainants.

Let copies of this decision be furnished to the Office of the Bar Confidant; the Integrated Bar of the Philippines; and to the Office of the Court Administrator.

The Office of the Court Administrator shall disseminate this decision to all courts of the Philippines.

SO ORDERED.



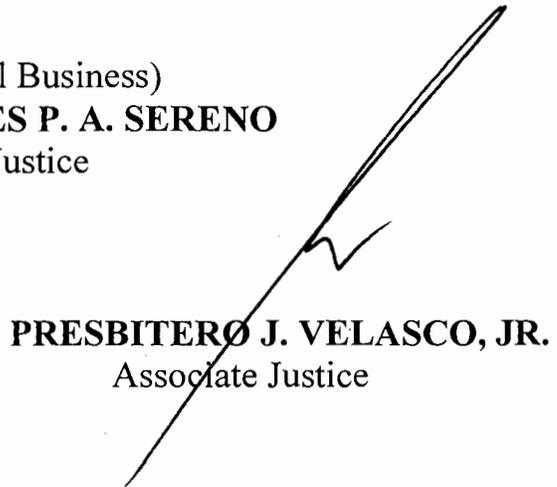
LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

(On Official Business)
MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice
Acting Chief Justice

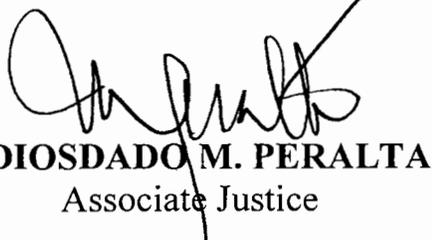


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

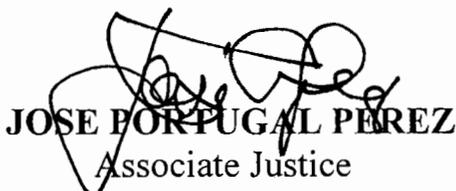
(On Leave)
ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



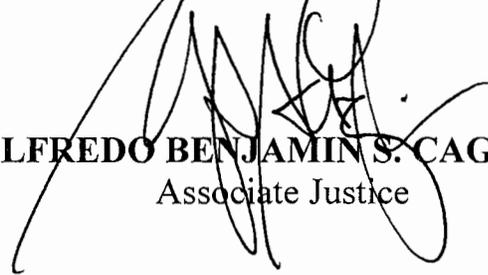
JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice