



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**SOFRONIO B. ALBANIA,**  
Petitioner,

**G.R. No. 226792**

**Present:**

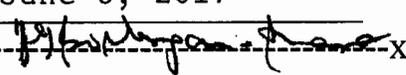
SERENO, *C.J.*,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
MENDOZA,\*  
REYES,  
PERLAS-BERNABE,  
LEONEN,  
JARDELEZA,  
CAGUIOA,  
MARTIRES,\*\* and  
TIJAM, *JJ.*

- versus -

**COMMISSION ON ELECTIONS**  
**and EDGARDO A. TALLADO,**  
Respondents.

**Promulgated:**

June 6, 2017

X----------X

**DECISION**

**PERALTA, J.:**

Challenged in this petition for *certiorari* under Rule 64, in relation to Rule 65 of the Rules of Civil Procedure is the Resolution<sup>1</sup> dated August 24, 2016 of the Commission on Elections (*COMELEC*) *En Banc* which upheld

\* On official leave.

\*\* On wellness leave.

<sup>1</sup> Per Commissioner Ma. Rowena Amelia V. Guanzon, concurred in by Chairman J. Andres D. Bautista, Commissioners Christian Robert S. Lim, Al A. Parreño, Luie Tito F. Guia, Arthur D. Lim, and Sheriff M. Abas; *rollo*, pp. 43-52.

the Resolution<sup>2</sup> dated April 22, 2016 of the COMELEC Second Division dismissing the petition to deny due course to or to cancel respondent Edgardo A. Tallado's Certificate of Candidacy (COC) for being filed out of time.

The facts are as follows:

In the May 14, 2007 National and Local Elections, respondent Edgardo A. Tallado and Jesus O. Typoco were both candidates for the position of Governor in Camarines Norte. After the counting and canvassing of votes, Typoco was proclaimed as the winner. Respondent questioned Typoco's proclamation by filing with the COMELEC, a petition for correction of a manifest error. The Petition was decided<sup>3</sup> in respondent's favor on March 5, 2010 and the latter assumed the position of Governor of Camarines Norte from March 22, 2010 to June 30, 2010, the end of the 2007-2010 term.

Respondent ran again in the 2010<sup>4</sup> and 2013<sup>5</sup> National and Local Elections where he won and served as Governor of Camarines Norte, respectively.

On October 16, 2015, respondent filed his Certificate of Candidacy<sup>6</sup> as Governor of Camarines Norte in the May 9, 2016 National and Local elections.

On November 13, 2015, petitioner, a registered voter of Poblacion Sta. Elena, Camarines Norte, filed a petition<sup>7</sup> for respondent's disqualification from running as Governor based on Rule 25 of COMELEC Resolution No. 9523<sup>8</sup> on two grounds: (1) he violated the three term limit rule under Section 43 of RA No 7160, otherwise known as the *Local Government Code of 1991 (LGC)*; and (2) respondent's suspension from office for one year without pay, together with its accessory penalties, after he was found guilty of oppression and grave abuse of authority in the Ombudsman's Order<sup>9</sup> dated October 2, 2015.

In his Verified Answer, respondent argued that since the petition was primarily based on his alleged violation of the three-term limit rule, the same

<sup>2</sup> Per Presiding Commissioner Al A. Parreño, and concurred in by Commissioners Arthur D. Lim and Sheriff M. Abas; *id.* at 31-38.

<sup>3</sup> *Typoco v. Commission on Elections*, 628 Phil. 288 (2010).

<sup>4</sup> *Rollo*, p. 76.

<sup>5</sup> *Id.* at 71.

<sup>6</sup> *Id.* at 70.

<sup>7</sup> *Id.* at 53-68.

<sup>8</sup> *IN THE MATTER OF THE AMENDMENT TO RULES 23, 24, AND 25 OF THE COMELEC RULES OF PROCEDURE FOR PURPOSES OF THE 13 MAY 2013 NATIONAL, LOCAL AND ARMM ELECTIONS AND SUBSEQUENT ELECTIONS.*

<sup>9</sup> *Rollo*, pp. 79-87.

should have been filed as a petition to deny due course to or cancel certificate of candidacy under Rule 23 of COMELEC Resolution 9523, in relation to Section 78 of the Omnibus Election Code, as the ground cited affected a candidate's eligibility; that based on Section 23, the petition should had been filed on November 10, 2015, but the petition was filed only on November 13, 2015, hence, the same had already prescribed and must be dismissed. His suspension from office is also not a ground for a petition for disqualification. On the substantive issues, he denied violating the three-term limit rule as he did not fully serve three consecutive terms since he only served as Governor for the 2007 elections from March 22, 2010 to June 30, 2010.

On April 22, 2016, the COMELEC Second Division dismissed the petition for being filed out of time. It ruled that a violation of the three-term limit rule and suspension from office as a result of an administrative case are not grounds for disqualification of a candidate under the law; that the alleged violation of three-term limit rule is a ground for ineligibility which constituted false material representation under Section 78 of the OEC; and such petition must be filed within 25 days from the time of filing of the COC, which respondent failed to do.

Petitioner filed a motion for reconsideration with the COMELEC *En Banc*, which dismissed the same in a Resolution dated August 24, 2016.

The COMELEC *En Banc* echoed the Division's findings that the grounds relied upon by petitioner are not proper for a petition for disqualification but one for denial of due course to or cancellation of respondent's COC, which was filed out of time. It then continued to rule on the merits finding that respondent did not serve the full 2007-2010 term as Governor of Camarines Norte, thus, cannot be considered as one term for purposes of counting the three-term threshold; and that the ground for a candidate's disqualification referred to by Section 40 (b) of the LGC is the actual removal from office as a result of an administrative case, and not mere suspension as imposed by the Ombudsman.

Dissatisfied, petitioner is now before us in a petition for *certiorari* raising the following grounds, to wit: Whether or not the respondent COMELEC acted with grave abuse of discretion amounting to lack of jurisdiction: (1) in ruling that the grounds relied upon are not proper grounds for a petition for disqualification; (2) in ruling that even if the petition for disqualification is considered one for denial of due course to or cancellation of private respondent Tallado's COC, the same is filed out of time; (3) in failing to rule that private respondent Tallado should be disqualified pursuant to Section 43 of RA No. 7160 or the LGC; and (4) in failing to rule that private respondent Tallado



should be disqualified due to the Order dated October 2, 2015 by the Office of the Ombudsman.<sup>10</sup>

We find the petition without merit.

In a petition for *certiorari* under Rule 64, in relation to Rule 65 of the Rules of Court, the primordial issue to be resolved is whether the respondent tribunal committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolution.<sup>11</sup> The term “grave abuse of discretion” is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.<sup>12</sup> Grave abuse of discretion arises when a court or tribunal violates the Constitution, the law or existing jurisprudence.<sup>13</sup> And as a matter of policy, this Court will not interfere with the resolutions of the Comelec unless it is shown that it had committed grave abuse of discretion. Thus, in the absence of grave abuse of discretion, a Rule 64 petition will not prosper.<sup>14</sup>

The grounds for disqualification of a candidate are found under Sections 12 and 68 of Batas Pambansa Blg. 881, as amended, otherwise known as the *Omnibus Election Code of the Philippines*, as well as Section 40 of the Local Government Code, which respectively provide:

SEC. 12. *Disqualifications.* Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion, or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.

The disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service or sentence, unless within the same period he again becomes disqualified.

X X X X

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> *Arnado v. COMELEC*, G.R. No. 210164, August 18, 2015, 767 SCRA 168, 195.

<sup>12</sup> See *Tan v. Spouses Antazo*, 659 Phil. 400, 404 (2011), citing *Office of the Ombudsman v. Magno*, 592 Phil. 636, 652 (2008), citing *Microsoft Corporation v. Best Deal Computer Center Corporation*, 438 Phil. 408, 414 (2002); *Suliguin v. Commission on Elections*, 520 Phil. 92, 107 (2006); *Natalia Realty, Inc. v. Court of Appeals*, 440 Phil. 1, 19-20 (2002); *Philippine Rabbit Bus Lines, Inc. v. Goimco, Sr.*, 512 Phil. 729, 733-734 (2005), citing *Land Bank of the Philippines v. Court of Appeals*, 456 Phil. 755, 786 (2003); *Duero v. Court of Appeals*, 424 Phil. 12, 20 (2002), citing *Cuison v. Court of Appeals*, 351 Phil. 1089, 1102 (1998).

<sup>13</sup> *Cabrera v. Commission on Elections*, 588 Phil. 969, 974 (2008).

<sup>14</sup> *Arnado v. COMELEC*, *supra* note 11.

SEC. 68. *Disqualifications.* Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, subparagraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any, elective office under this Code, unless said person has waived his status as a permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

x x x x

SECTION 40. *Disqualifications* - The following persons are disqualified from running for any elective local position:

- (a) Those sentence by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- (b) Those removed from office as a result of an administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic;
- (d) Those with dual citizenship;
- (e) Fugitive from justice in criminal or nonpolitical cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

Petitioner filed the petition for disqualification of respondent on the grounds that he allegedly violated the three-term limit rule provided under the Constitution and the LGC; and that he was suspended from office as a result of an administrative case. Notably, however, a reading of the grounds enumerated under the above-quoted provisions for a candidate's disqualification does not include the two grounds relied upon by petitioner. Thus, the COMELEC Second Division was correct when it found that the petition was not based on any of the grounds for disqualification as enumerated in the foregoing statutory provisions.

Respondent's suspension from office is indeed not a ground for a petition for disqualification as Section 40(b) clearly speaks of removal from office as a result of an administrative offense that would disqualify a candidate from running for any elective local position. In fact, the penalty of



suspension cannot be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications for the office as provided under Section 66(b) of R.A. No. 7160, to wit:

SEC. 66. Form and Notice of Decision. - x x x

(b) The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications for the office.

While the alleged violation of the three-term limit rule is not a ground for a petition for disqualification, however, the COMELEC Second Division found that it is an ineligibility which is a proper ground for a petition to deny due course to or to cancel a Certificate of Candidacy under Section 78 of the OEC, hence considered the petition as such.

The Constitution has vested in the COMELEC broad powers, involving not only the enforcement and administration of all laws and regulations relative to the conduct of elections, but also the resolution and determination of election controversies.<sup>15</sup> It also granted the COMELEC the power and authority to promulgate its rules of procedure, with the primary objective of ensuring the expeditious disposition of election cases.<sup>16</sup> Concomitant to such powers is the authority of the COMELEC to determine the true nature of the cases filed before it. Thus, it examines the allegations of every pleading filed, obviously aware that in determining the nature of the complaint or petition, its averments, rather than its title/caption, are the proper gauges.<sup>17</sup>

Since the petition filed was a petition to deny due course to or to cancel a certificate of candidacy, such petition must be filed within 25 days from the time of filing of the COC, as provided under Section 78 of the Omnibus Election Code. However, as the COMELEC found, the petition was filed beyond the reglementary period, and dismissed the petition for being filed out time. The COMELEC *En Banc* affirmed such dismissal.

We agree.

The three-term limit rule is embodied in Section 8 of Article X of the Constitution, to wit:

Section 8. The term of office of elective local officials, except *barangay* officials, which shall be determined by law, shall be three years

<sup>15</sup> See *Dela Llana v. Commission on Elections*, 462 Phil. 355 (2003), citing Article IX (C), Section 2.

<sup>16</sup> *Id.*, citing Article IX (C), Section 3.

<sup>17</sup> *Id.*, citing *Enojas v. COMELEC*, 347 Phil. 510 (1997).

and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

which is restated in Section 43 of the Local Government Code, thus:

Section 43. *Term of Office.* – (a) x x x

(b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

The objective of imposing the three-term limit rule was to avoid the evil of a single person accumulating excessive power over a particular territorial jurisdiction as a result of a prolonged stay in the same office.<sup>18</sup> After being elected and serving for three consecutive terms, an elective local official cannot seek immediate reelection for the same office in the next regular election because he is ineligible.<sup>19</sup>

Section 74 of the OEC provides that the certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office. The word "eligible" in Section 74 means having the right to run for elective public office, that is, having all the qualifications and none of the ineligibilities to run for the public office.<sup>20</sup> And We had held<sup>21</sup> that a violation of the three-term limit rule is an ineligibility which is a proper ground for a petition to deny due course to or to cancel a COC under Section 78 of the Omnibus Election Code, to wit:

*Sec. 78. Petition to deny due course to or cancel a certificate of candidacy.* – A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

As the petition filed is indeed a petition under Section 78 of the OEC, the filing of the same must comply with the period prescribed therein, *i.e.*, the filing of the same must be made not later than twenty-five days from the

<sup>18</sup> *Mayor Talaga v. COMELEC*, 696 Phil. 786, 833-834 (2012).

<sup>19</sup> *Aratea v. Commission on Elections*, 696 Phil. 700, 731-732 (2012).

<sup>20</sup> *Id.* at 732.

<sup>21</sup> *Id.* at 732-733, citing *Latasa v. Commission on Elections*, 463 Phil. 296 (2003), *Atty. Rivera III v. Commission on Elections (Rivera)*, 551 Phil. 37 (2007); *Ong v. Alegre*, 515 Phil. 442 (2006).

time of the filing of the certificate of candidacy.<sup>22</sup> In this case, respondent filed his COC for Governor of Camarines Norte for the 2016 elections on October 16, 2015, and he had 25 days therefrom to file the petition for denial of due course or cancellation of COC on the ground of violation of the three-term limit rule, which fell on November 10, 2015. However, the petition was filed only on November 13, 2015 which was already beyond the period to file the same; thus, find no grave abuse of discretion committed by the COMELEC in dismissing the petition for being filed out of time.

Petitioner's insistence that the petition filed with the COMELEC was based on Rule 25 of COMELEC Resolution No. 9523 which provides:

Rule 25 - Disqualification of Candidates

Section 1. *Grounds.* - Any candidate who, in an action or protest in which he is a party, is declared by final decision of a competent court, guilty of, or found by the Commission to be suffering from any disqualification provided by law or the Constitution.

x x x x

Section 3. *Period to File Petition.* - The Petition shall be filed any day after the last day for filing of certificates of candidacy, but not later than the date of proclamation.

is not meritorious. Rule 25 of Comelec Resolution No. 9523 refers to disqualification of candidates and the grounds thereof, which are those provided in Sections 12 and 68 of the OEC and Section 40 of the LGC, as quoted in the early part of the decision. To reiterate, a violation of the three-term limit rule is not included among the grounds for disqualification, but a ground for a petition to deny due course to or cancel certificate of candidacy; thus, it is Rule 23 of COMELEC Resolution No. 9523 which is applicable, and We quote:

Rule 23 - Petition to Deny Due Course to or Cancel Certificates of Candidacy

Section 1. *Ground for Denial or Cancellation of Certificate of Candidacy.* - A verified Petition to Deny Due Course to or Cancel a Certificate of Candidacy for any elective office may be filed by any registered voter or a duly registered political party, organization, or coalition of political parties on the exclusive ground that any material representation contained therein as required by law is false.

Section 2. *Period to File Petition.* - The Petition must be filed within five (5) days from the last day for filing of certificate of candidacy; but not later than twenty five (25) days from the time of filing of the certificate of candidacy subject of the Petition. In case of a substitute

<sup>22</sup>

*Aznar v. Commission on Elections*, 264 Phil. 307, 318 (1990).

candidate, the Petition must be filed within five (5) days from the time the substitute candidate filed his certificate of candidacy.

We, likewise, find no grave abuse of discretion committed by the COMELEC *En Banc* when it found that the petition to deny due course to or cancel a COC will not also prosper as there was no violation of the three-term limit rule. Petitioner alleges that since respondent had already been elected and had served as Governor of Camarines Norte for three consecutive terms, *i.e.*, 2007, 2010, and 2013, he is proscribed from running for the same position in the 2016 elections as it would already be his fourth consecutive term.

We are not convinced.

We held that two conditions must concur for the application of the disqualification of a candidate based on violation of the three-term limit rule, which are: (1) that the official concerned has been elected for three consecutive terms in the same local government post, and (2) that he has fully served three consecutive terms.<sup>23</sup>

In *Aldovino, Jr. v. Commission on Elections*,<sup>24</sup> We said:

As worded, the constitutional provision fixes the term of a local elective office and limits an elective official's stay in office to no more than three consecutive terms. x x x

Significantly, this provision refers to a "term" as a period of time - three years - during which an official has title to office and can serve. *Appari v. Court of Appeals*, a Resolution promulgated on November 28, 2007, succinctly discusses what a term connotes, as follows:

The word "term" in a legal sense means a fixed and definite period of time which the law describes that an officer may hold an office. According to Mechem, the term of office is the period during which an office may be held. Upon expiration of the officer's term, unless he is authorized by law to holdover, his rights, duties and authority as a public officer must *ipso facto* cease. In the law of public officers, the most and natural frequent method by which a public officer ceases to be such is by the expiration of the terms for which he was elected or appointed.

A later case, *Gaminde v. Commission on Audit*, reiterated that he term means the time during which the officer may claim to hold office as of right, and fixes the interval after which the several incumbents shall succeed one another.<sup>25</sup>

<sup>23</sup> *Lonzanida v. Commission on Elections*, 370 Phil. 625, 636 (1999).

<sup>24</sup> *Aldovino, Jr. v. Commission on Elections*, 623 Phil. 876 (2009).

<sup>25</sup> *Id.* at 893-894. (Emphases omitted)



In this case, while respondent ran as Governor of Camarines Norte in the 2007 elections, he did not win as such. It was only after he filed a petition for correction of manifest error that he was proclaimed as the duly-elected Governor. He assumed the post and served the unexpired term of his opponent from March 22, 2010 until June 30, 2010. Consequently, he did not hold the office for the full term of three years to which he was supposedly entitled to. Thus, such period of time that respondent served as Governor did not constitute a complete and full service of his term. The period when he was out of office involuntarily interrupted the continuity of his service as Governor.<sup>26</sup> As he had not fully served the 2007-2010 term, and had not been elected for three consecutive terms as Governor, there was no violation of the three-term limit rule when he ran again in the 2016 elections.

We quote with approval the COMELEC *En Banc's* ruling on the matter as follows:

x x x x

The Supreme Court has ruled in several occasions that in order for the ineligibility under the “three-term limit rule” to apply, two conditions must concur: first, that the official concerned has been elected for three consecutive terms in the same local government post; and second, that he has fully served three consecutive terms.

While it is undisputed that respondent was duly elected as Governor of Camarines Norte for three consecutive terms, the issue lies on whether he is deemed to have fully served his first term, specifically, whether the service by an elected official of a term less than the full three years arising from his being declared as the duly elected official in an election contest is considered full service of the term for purposes of counting the three-term threshold.

The facts involved in the present case are similar to those involved in *Abundo v. COMELEC*, where the Court declared:

There can be no quibbling that, during the term 2004-2007, and with the enforcement of the decision of the election protest in his favor, Abundo assumed the mayoralty post only on May 9, 2006 and served the term until June 30, 2007 or for a period of a little over one year and one month. xxx It cannot be said that Mayor Abundo was able to serve fully the entire 2004-2007 term to which he was otherwise entitled.

x x x

Needless to stress, the almost two-year period during which Abundo’s opponent actually served as Mayor is and ought to be considered an involuntary interruption of Abundo’s continuity of service. An involuntary interrupted term,

<sup>26</sup> *Adorneo v. Commission on Elections*, 426 Phil. 472, 476 (2002).

cannot, in the context of the disqualification rule, be considered as one term for purposes of counting the three-term threshold.

X X X

As previously stated, the declaration of being the winner in an election protest grants the local elected official the right to serve the unexpired portion of the term. Verily, while he was declared the winner in the protest for the mayoralty seat for the 2004-2007 term, Abundo's full term has been substantially reduced by the actual service rendered by his opponent (Torres). Hence, there was actual involuntary interruption in the term of Abundo and he cannot be considered to have served the full 2004-2007 term.

Applying the foregoing in the instant case, since Respondent did not serve the full 2007-2010 term, it cannot be considered as one term for purposes of counting the three-term threshold. Consequently, Respondent cannot be said to have continuously served as Governor for three consecutive terms prior to the 2016 elections.

X X X<sup>27</sup>

**WHEREFORE**, the petition is **DENIED**. The Resolution dated August 24, 2016 of the Commission on Elections *En Banc* is hereby **AFFIRMED**.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

---

<sup>27</sup> Rollo, pp. 50-51.

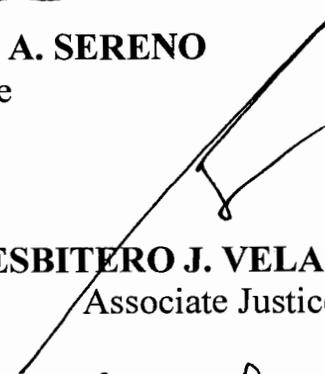
**WE CONCUR:**



**MARIA LOURDES P. A. SERENO**  
Chief Justice



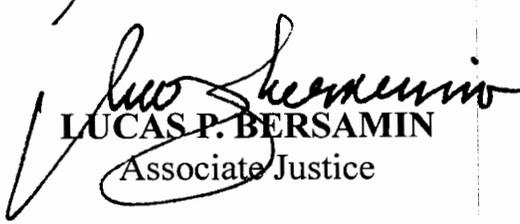
**ANTONIO T. CARPIO**  
Associate Justice



**PRESBITERO J. VELASCO, JR.**  
Associate Justice



**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILO**  
Associate Justice

On official leave  
**JOSE CATRAL MENDOZA**  
Associate Justice

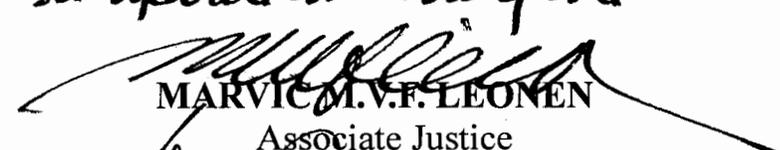


**BIENVENIDO L. REYES**  
Associate Justice

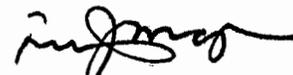


**ESTELA M. PERLAS-BERNABE**  
Associate Justice

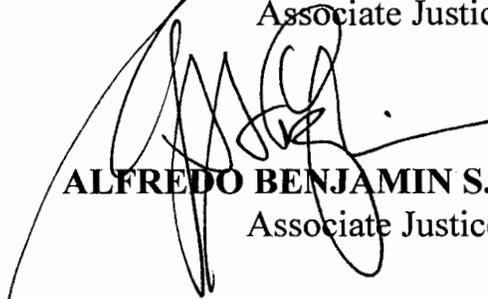
*See separate concurring vote*



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



**FRANCIS H. JARDELEZA**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

On wellness leave  
**SAMUEL R. MARTIRES**  
Associate Justice



**NOEL GIMENEZ TIJAM**  
Associate Justice

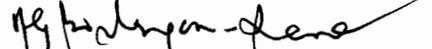
**CERTIFICATION**

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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

CERTIFIED XEROX COPY:



**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT