Republic of the Philippines
Supreme Court
Manila

EN BANC

ROSA F. MERCADO,
Petitioner,

G.R. No. 178630

Present:

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

-versus-

COMMISSION ON HIGHER EDUCATION,
Respondent.

Promulgated:

November 27, 2012

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DECISION

PEREZ, *J*:

This case is an appeal[1] from the Resolution[2] dated 29 June 2007 of the Court of Appeals in CA-G.R. No. SP No. 72864. In the assailed Resolution,

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* Associate Justice Arturo D. Brion is on leave.
1 The appeal was filed under Rule 45 of the Rules of Court. *Rollo*, pp. 10-42.
2 Penned by Associate Justice Remedios A. Salazar-Fernando for the Former Ninth Division of the Court of Appeals with Justices Rosalinda Asuncion-Vicente and Enrico A. Lanzanas, concurring. Id. at 44-46.

the Court of Appeals denied the *Motion for Leave to File Motion for Reconsideration and to Admit Attached Motion for Reconsideration*[3] of petitioner Rosa F. Mercado (Mercado) on the ground of lack of merit. The assailed Resolution provides:[4]

> **WHEREFORE**, premises considered, respondent's Motion for Leave to File Motion for Reconsideration and Admit Attached Motion for Reconsideration is hereby **DENIED** for lack of merit.

The antecedents:

Petitioner is a Senior Education Program Specialist of the respondent Commission on Higher Education (CHED).[5]

On 13 November 1998, a letter-complaint[6] against petitioner was filed before the CHED by one Ma. Luisa F. Dimayuga (Ms. Dimayuga)—Dean of the College of Criminology of the Republican College. In the letter-complaint, Ms. Dimayuga accused petitioner of *"arrogance and abuse of power and authority, ignorance of the appropriate provisions of the Manual of Regulations for Private Schools and CHED orders, and incompetence"* in relation to her evaluation of the Republican College's application for the recognition of its Master of Criminology program.[7]

On 22 January 1999, CHED, through its Office of Program and Standards, issued a memorandum[8] directing petitioner to explain in writing why no administrative charges should be filed against her.

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3 Id. at 91-101.
4 Id. at 45-46.
5 Id. at 14.
6 CA *rollo*, pp. 61-64.
7 Id. *See* narration of facts in *Commissioner of Higher Education v. Rosa F. Mercado*, G.R. No. 157877, 10 March 2006, 484 SCRA 424.
8 Id. at 66.

On 26 January 1999, petitioner submitted her explanation[9] denying the accusations in the letter-complaint. Ms. Dimayuga thereafter filed a reply.[10]

On 27 September 1999, CHED *en banc* issued a decision[11] finding petitioner guilty of discourtesy in the performance of her official duties and imposed upon her the penalty of reprimand coupled with a stern warning that a similar violation in the future will warrant a more severe punishment.

The Alcala Resolution and the Affidavit of Desistance

On 26 October 1999, petitioner filed a motion for reconsideration[12] of the CHED decision. In it, petitioner argued that the CHED decision was already barred by an earlier Resolution issued by former CHED Chairman Angel A. Alcala (*Alcala Resolution*)[13] on 3 June 1999. According to the petitioner, the *Alcala Resolution* already dismissed the letter-complaint against her based on an *Affidavit of Desistance*[14] executed by Ms. Dimayuga herself. Copies of both the *Alcala Resolution* and the *Affidavit of Desistance* were thus attached in petitioner's motion for reconsideration.

Questions about the authenticity of the *Alcala Resolution* and the *Affidavit of Desistance*, however, soon surfaced when CHED was able to discover that there was no official record of any such *Alcala Resolution* being passed and that the signature of Ms. Dimayuga in the *Affidavit of Desistance* differed from those in her authentic samples. These doubts prompted CHED to defer resolution of petitioner's motion for

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9 Id. at 68-70.
10 Id. at 71-80.
11 Id. at 81-83.
12 Id. at 84-89.
13 Id. at 92-102.
14 The *Affidavit of Desistance* was dated 19 May 1999. Id. at 103-104.

reconsideration until the genuineness of the *Alcala Resolution* and the *Affidavit of Desistance* would have been determined in a full-blown investigation.

The New Charges, Investigation and the CHED Resolution

On 24 December 1999, CHED *en banc* passed Resolution No. R-438-99[15] adopting the recommendation of its Legal Affairs Service to investigate and place petitioner under preventive suspension in connection with her use of the apparently fake *Alcala Resolution* and *Affidavit of Desistance*. A Hearing and Investigating Committee (Committee) was organized to conduct the investigation.[16] On 3 January 2000, petitioner was formally charged with "*dishonesty, grave misconduct, conduct prejudicial to the best interest of the service and falsification of official document*" and was placed under preventive suspension for sixty (60) days without pay.[17]

The Committee scheduled hearings on 17 March, 13 April and 15 May 2000.[18] However, despite being summoned in all three hearing dates, petitioner failed to appear in any of them.[19]

During the 13 March 2000 hearing, Ms. Dimayuga appeared and testified under oath that she never signed any affidavit of desistance much less the *Affidavit of Desistance* being presented by petitioner.[20] On the other hand, at the 11 May 2000 hearing, CHED Records Officers, Ms. Maximina

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15 Id. at 106.
16 Id.
17 Id. at 107-108.
18 *See* Subpoenas dated 13 March, 10 April and 11 May 2000. Id. at 109-112.
19 *See* Consolidated Fact Finding Report. Id. at 117-119.
20 Id.

Sister and Ms. Revelyn Brina, testified that the purported *Alcala Resolution* does not exist per CHED records.[21]

The Committee likewise made a comparison of the signatures of Ms. Dimayuga and Chairman Alcala.[22] The Committee observed that the signature of Ms. Dimayuga as appearing in the *Affidavit of Desistance* is remarkably different with those in the samples[23] supplied by her.[24] It also noted disparity between the signatures of Chairman Alcala in the *Alcala Resolution* with those in earlier resolutions signed by him.[25]

After evaluating the evidence thus gathered, the Committee issued a Consolidated Fact Finding Report[26] on 8 June 2000. In it, the Committee concluded that, based on the evidence yielded by its investigation, there is strong indication that the *Alcala Resolution* and the *Affidavit of Desistance* attached in petitioner's motion for reconsideration were not genuine.[27]

Thus, on 19 June 2000, CHED *en banc* issued a Resolution[28] adopting the findings of the Committee and holding petitioner guilty of the charges of "*dishonesty, grave misconduct, conduct prejudicial to the best interest of the service and falsification of official documents*." Petitioner was therein meted the penalty of dismissal from the service with forfeiture of leave credits and retirement benefits.[29] In addition, CHED *en banc* also denied petitioner's motion for reconsideration.[30]

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21 Id.
22 Id.
23 Id. at 124-125.
24 Id. at 117-119.
25 Id.
26 Id.
27 Id.
28 Id. at 55-60.
29 Id.
30 Id.

The CSC Appeal

Aggrieved by her dismissal, petitioner filed an appeal[31] with the Civil Service Commission (CSC).

On 18 October 2000, the CSC issued Resolution No. 00-2406[32] wherein it initially denied the appeal of petitioner. However, upon petitioner's motion for reconsideration, the CSC reversed itself. Thus, on 21 August 2002, the CSC issued Resolution No. 02-1106[33] granting petitioner's motion for reconsideration and ordering her reinstatement.

The CSC hinged its reversal on the following pieces of evidence that were submitted by the petitioner only during the course of the appeal:

1. Signature analyses of the Philippine National Police (PNP) as contained in Questioned Document Report Nos. 134-00[34] and 141-01.[35]

a. Questioned Document Report No. 134-00 dealt with a comparison of the signature of Chairman Alcala as appearing in the *Alcala Resolution* and his standard signature as appearing in sample documents.[36] The report stated that the signature in the

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31 Id. at 130-205.

32 Penned by Commissioner J. Waldemar V. Valmores with then Chairman Corazon Alma G. De Leon and Commissioner Jose F. Erestain, Jr., concurring. Id. at 43-54.

33 Penned by Commissioner J. Waldemar V. Valmores with Commissioner Jose F. Erestain, Jr., concurring. Chairman Karina Constantino-David did not participate. Id. at 36-42.

34 Id. at 285.

35 Id. at 318.

36 The sample documents mentioned are: (a) Order dated 7 September 1998 signed by Chairman Alcala in the CHED case *Aleli N. Cornista v. Magdalena Jasmin* (Id. at 352); (b) Memorandum dated 25 August 1998 from Chairman Alcala; (c) Special Power of Attorney dated 4 December 1998; (d) CHED appointment of Dr. Ruben Sta. Teresa and Dr. Lourdes A. Aniceta dated 1 January 1999; (d) Two (2) CHED Authority to Travel of Atty. Felina Dasig dated 22-24 December 1998 and 2-4 February 1998; and (e) Memorandum dated 25 February 1998 from Chairman Alcala to Renigia A. Nathaniels. Id. at 285.

Alcala Resolution and in the sample documents, appear to be written by one and the same person.[37]

b. Questioned Document Report No. 141-01 dealt with a comparison of the signature of Ms. Dimayuga as appearing in the *Affidavit of Desistance* and her standard signature as appearing in sample documents.[38] The report stated that the signature in the *Affidavit of Desistance* and in the sample documents, appear to be written by one and the same person.[39]

2. An affidavit dated 11 January 2001 executed by Chairman Alcala (*Alcala Affidavit*),[40] wherein the latter affirmed that he indeed issued the *Alcala Resolution.*

The CSC considered the foregoing as "*newly discovered evidence*," which tend to prove that the *Alcala Resolution* and the *Affidavit of Desistance* were genuine and not falsified.[41] The CSC thus found no basis to hold petitioner accountable for her use of the *Alcala Resolution* and the *Affidavit of Desistance*.[42]

The Ensuing Appeals

CHED then filed an appeal[43] with the Court of Appeals, which was docketed as CA-G.R. SP No. 72864.

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37 Id. at 285.

38 The sample documents mentioned are: (a) Affidavit dated 27 January 2000 executed by Ms. Dimayuga (Id. at 122-123); (b) Letter dated 13 November 1998 of Ms. Dimayuga to Dr. Reynaldo Peña (Id. at 61-64); (c) Letter dated 23 April 1999 of Ms. Dimayuga to Atty. Joel Voltaire Mayo (Id. at 71-80). Id. at 318.

39 Id. at 318.

40 Id. at 317.

41 Id. at 36-42.

42 Id.

43 The appeal was filed under Rule 43 of the Rules of Court. Id. at 6-34.

On 13 January 2003, the Court of Appeals rendered a decision[44] denying the appeal of CHED on the *technical* ground of prematurity. This decision, however, eventually became the subject of an appeal by *certiorari* before this Court in G.R. No. 157877 or the case of *Commissioner of Higher Education vs. Rosa F. Mercado*.

In G.R. No. 157877, We reversed the 13 January 2003 Decision of the Court of Appeals and ordered the latter to instead resolve CA-G.R. SP No. 72864 *on the merits*.[45]

Following Our directive in G.R. No. 157877, the Court of Appeals rendered another Decision[46] on 30 March 2007. In it, the Court of Appeals granted CHED's appeal and ordered Resolution No. 02-1106 of the CSC to be set aside.[47] Accordingly, the appellate court affirmed the findings of CHED that petitioner ought to be dismissed from the service *except* that the latter cannot be deprived thereby of her accrued leave benefits.[48]

In overturning Resolution No. 02-1106, the Court of Appeals mainly faulted the CSC in treating the PNP signature analyses as "*newly discovered evidence*."[49] According to the appellate court, they could not have constituted as "*newly discovered evidence*" for the following reasons:[50]

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44 Penned by Associate Justice Remedios A. Salazar-Fernando for the Seventh Division of the Court of Appeals with Associate Justices Ruben T. Reyes and Edgardo F. Sundiam, concurring. Id. at 396-404.

45 *Commissioner of Higher Education v. Rosa F. Mercado*, G.R. No. 157877, 10 March 2006, 484 SCRA 424.

46 Penned by Associate Justice Remedios A. Salazar-Fernando for the Ninth Division of the Court of Appeals with Justices Rosalinda-Asuncion-Vicente and Enrico A. Lanzanas, concurring. CA *rollo*, pp. 948-964.

47 Id.

48 Id.

49 Id.

50 Id.

1. The sample documents[51] used as basis of the comparisons in the two (2) PNP signature analyses were not actually "*newly discovered*" but were readily available to petitioner from the very start of the proceedings before the CHED. Such documents could have been easily presented during the Committee hearings.

2. The two (2) PNP signature analyses cannot be given any weight for being hearsay evidence. The police officers who executed the signature analyses were never presented before the CSC. Hence, the said officers were never cross-examined.

3. The integrity of the findings contained in the two (2) PNP signature analyses was not established, because the competency of the police officers who conducted the examinations on the contested signatures were not qualified as experts.

Records reveal that copies of the 30 March 2007 Decision of the Court of Appeals were served by registered mail upon petitioner, both at her address-on-record[52] *and* also thru one Atty. Juan S. Sindingan (Atty. Sindingan).[53] The copy sent to petitioner's address was returned unserved.[54] However, Atty. Sindingan was able to receive his copy on 13 April 2007.[55]

More than a month thereafter, or on 7 June 2007, petitioner filed a *Motion for Leave to File Motion for Reconsideration and to Admit Attached*

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51 *See* notes 36 and 38.
52 *See* Notice of Judgment dated 30 March 2007. Id. at 947.
53 Id.
54 *See* Returned Envelope. Id. at 973.
55 *See* Registry Return Receipt for Atty. Juan S. Sindingan, id. at 947. *See* also Compliance, id. at 967-968.

Motion for Reconsideration (*Motion for Leave*)[56] before the Court of Appeals. The said motion was accompanied by an *Entry of Appearance*[57] of one Atty. Adolfo P. Runas (Atty. Runas), who sought recognition as petitioner's new counsel *in lieu* of Atty. Sindingan.

Motion for Leave and This Petition

In her *Motion for Leave*, petitioner asked that she be allowed to seek reconsideration of the 30 March 2007 Decision even though more than a month has already passed since its promulgation. Petitioner claims that:[58]

1. She came to know about the 30 March 2007 Decision of the Court of Appeals only on 29 May 2007 *i.e.*, the date when she went to the Court of Appeals to personally inquire about her case. Hence, she should be entitled to at least fifteen (15) days from such date, or until 13 June 2007, within which to file a motion for reconsideration.

2. Atty. Sindingan's receipt of the 30 March 2007 Decision does not bind her. At that time, Atty. Sindingan was no longer her counsel—the former having earlier withdrawn from the case. Atty. Sindingan also never informed her about the 30 March 2007 Decision.

In the *Motion for Reconsideration* attached to the *Motion for Leave*, on the other hand, petitioner vouched for the correctness of CSC Resolution No. 02-1106 and faults the Court of Appeals for overturning the same.[59] She

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56 *Rollo*, pp. 91-101.
57 CA *rollo*, p. 1019.
58 *Rollo*, pp. 91-101.
59 Id.

argued that the Court of Appeals, unlike the CSC, failed to consider the merits of the *Alcala Affidavit* as evidence to show that the *Alcala Resolution* was not falsified.[60]

Also in the *Motion for Reconsideration*, petitioner seeks the introduction, for the first time, of the following entries in the logbook for incoming communications of Chairman Alcala—as new and additional proof of the authenticity of the *Alcala Resolution*, to wit:[61]

1. Page 58 – which shows that the *Affidavit of Desistance* was received by the Office of the CHED Chairman on 21 May 1999;

2. Page 78 – which shows receipt of the draft for the *Alcala Resolution*;

3. Page 89 – which shows that the *Alcala Resolution* was officially released.

On 29 June 2007, the Court of Appeals issued a Resolution[62] noting the entry of appearance of Atty. Runas but flat-out denying petitioner's *Motion for Leave* for lack of merit. The appellate court considered the petitioner to be bound still by Atty. Sindingan's receipt and so held that the 30 March 2007 Decision had already become final and executory.[63]

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60 Id.
61 Id. at 229-231.
62 Id. at 44-47.
63 Id.

Hence the present appeal by petitioner.[64]

In this appeal, petitioner raises the solitary issue of whether the Court of Appeals erred in denying her *Motion for Leave*.[65] Reiterating the arguments she previously raised in the said motion, petitioner would have Us answer the foregoing in the affirmative.[66]

OUR RULING

We find that the Court of Appeals erred in denying petitioner's *Motion for Leave*. The appellate court ought to have admitted petitioner's *Motion for Reconsideration*, because at the time such motion was filed, the assailed 30 March 2007 Decision has not yet attained finality.

However, pursuant to procedural policy which will be discussed anon, instead of remanding the instant case to the Court of Appeals, this Court opted to exercise its sound discretion to herein resolve the merits of petitioner's *Motion for Reconsideration.* This was done for the sole purpose of bringing final resolution to this otherwise protracted case.

On that end, We find that petitioner's *Motion for Reconsideration* failed to raise any substantial issue that may merit a reversal of the 30 March 2007 Decision. Ultimately, We deny the present appeal.

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64 Per Our Resolution dated 28 August 2007 (id. at 233), the present appeal was previously denied outright: (a) for having defective verification, (b) for having defective affidavit of service, and (c) for failure of petitioner's counsel to submit his latest IBP OR Number. However, per Our Resolution dated 9 October 2007 (id. at 249), upon Motion for Reconsideration by the petitioner, this Court subsequently reinstated the present appeal.

65 *Rollo*, pp. 10-42.

66 Id.

Motion for Leave

As intimated earlier, the Court of Appeals denied petitioner's *Motion for Leave* for lack of merit.[67] The appellate court refused to admit petitioner's *Motion for Reconsideration* because it held that the 30 March 2007 Decision was already final and executory.[68]

The Court of Appeals maintains that petitioner was still bound by Atty. Sindingan's receipt of the 30 March 2007 Decision.[69] The appellate court points out that the earlier withdrawal filed by Atty. Sindingan was ineffective as it was made *without* the written conformity of petitioner and it did not state any valid reason therefor.[70] Hence, the Court of Appeals still considered Atty. Sindingan to be the counsel-of-record of petitioner until Atty. Runas filed an entry of appearance to replace him.[71]

The petitioner, on the other hand, disagrees. She counters that the withdrawal of Atty. Sindingan was made *with* her written conformity. Petitioner posits that, at the time the Court of Appeals rendered the 30 March 2007 Decision, Atty. Sindingan was no longer her counsel. Therefore, she was not bound by Atty. Sindingan's receipt of the 30 March 2007 Decision.

We find for petitioner.

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67 Id. at 44-47.
68 Id.
69 Id.
70 Id.
71 Id.

Withdrawal of Atty. Sindingan was made WITH Conformity of Petitioner

We first settle the pivotal factual dispute of whether the previous withdrawal of Atty. Sindingan was made *with* the written conformity of petitioner or *without*. While questions of fact are generally not passed upon in appeals by *certiorari*, We nevertheless digress from this procedural norm for it is apparent that the records do not support, but rather contradict, the findings of the Court of Appeals on this point.[72]

A review of the records of this case reveals the following facts:

One. Atty. Sindingan filed a *Motion to Withdraw as Counsel*[73] for petitioner as early as **17 February 2005**. Such motion was filed before this very Court during the pendency of G.R. No. 157877. As G.R. No. 157877 was merely an appeal from CA-G.R. No. 72864, the *Motion to Withdraw as Counsel* filed in the former likewise takes effect in the latter.

Two. Atty. Sindingan's *Motion to Withdraw as Counsel*, in fact, **bears the written conformity of petitioner**.[74] The signature of petitioner is clearly affixed below the word "*Conforme*" at the bottom part of the said motion.[75]

Thus, no conclusion can be had other than that the withdrawal of Atty. Sindingan, filed before this Court on 17 February 2005 during the pendency of G.R. No. 157877, was made with the written conformity of petitioner.

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72 *See International Container Terminal Services, Inc. v. FGU Insurance Corporation*, G.R. No. 161539, 28 June 2008, 556 SCRA 194, 199.

73 *Rollo*, p. 186. *See* also *Rollo* of G.R. No. 157877, p. 487.

74 Id.

75 Id.

Having settled the contentious fact, We now proceed with an examination of the rules, jurisprudence and practice regarding the withdrawal of counsels from a case.

Rules for the Withdrawal of Counsel from a Case

In our jurisdiction, a client has the absolute right to relieve his counsel at any time with or without cause.[76] In contrast, the counsel, on his own, cannot terminate their attorney-client relation except for sufficient cause as determined by the court.[77] These basic principles form the bedrock of Section 26 of Rule 138 of the Rules of Court, which prescribes the rules for the withdrawal of counsel from a case.

Under Section 26 of Rule 138 of the Rules of Court, the withdrawal of a counsel from a case could either be with the written conformity of the client or without, thus:

> SEC. 26. *Change of attorneys.*—**An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court**. **He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire**. In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party. (Emphasis supplied)

Pursuant to the quoted section, when a counsel withdraws from a case *with* the written consent of the client, the former no longer needs to provide

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76 *Orcino v. Gaspar*, 344 Phil. 792, 797 (1997).

77 Id. at 797-798.

reasons to justify his retirement from a case. The act of withdrawal is accomplished by merely filing the same with the court.[78]

On the other hand, the rule is structured differently when the withdrawal is made *without* the consent of the client. The counsel, in that event, must actually provide valid reasons[79] to justify the withdrawal. Section 26 of Rule 138 is categorical that when the withdrawal was made without the consent of the client, the court must first determine, in a hearing upon notice to the client, whether the counsel may be allowed to retire.

As a rule, the withdrawal of a counsel from a case made *with* the written conformity of the client takes effect once the same is filed with the court. The leading case of ***Arambulo v. Court of Appeals***[80] laid out the rule that, in general, such kind of a withdrawal does not require any further action or approval from the court in order to be effective. In contrast, the norm with respect to withdrawals of counsels *without* the written conformity of the client is that they only take effect after their approval by the court.[81]

The rule that the withdrawal of a counsel *with* the written conformity of the client is immediately effective once filed in court, however, is **not**

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78 *Real Bank Inc. v. Samsung Mabuhay Corporation*, G.R. No. 175862, 13 October 2010, 633 SCRA 124, 135, citing *Arambulo v. Court of Appeals*, G.R. No. 105818, 17 September 1993, 226 SCRA 589, 597-598.

79 Rule 22.01 of Canon 22 of the Code of Professional Responsibility states the valid grounds for withdrawal of counsel, to wit:

CANON 22 – A LAWYER SHALL WITHDRAW HIS SERVICES ONLY FOR GOOD CAUSE AND UPON NOTICE APPROPRIATE IN THE CIRCUMSTANCES.

Rule 22.01— A lawyer may withdraw his services in any of the following cases:

a) When the client pursues an illegal or immoral course of conduct in connection with the matter he is handling;
b) When the client insists that the lawyer pursue conduct violative of these canons and rules;
c) When his inability to work with co-counsel will not promote the best interest of the client;
d) When the mental or physical condition of the lawyer renders it difficult for him to carry out the employment effectively;
e) When the client deliberately fails to pay the fees for the services or fails to comply with the retainer agreement;
f) When the lawyer is elected or appointed to public office; and
g) Other similar cases.

80 G.R. No. 105818, 17 September 1993, 226 SCRA 589.

81 *Supra* note 76.

absolute. *When the counsel's impending withdrawal with the written conformity of the client would leave the latter with no legal representation in the case*, it is an accepted practice for courts to **order the deferment of the effectivity** of such withdrawal until such time that it becomes certain that service of court processes and other papers to the party-client would not thereby be compromised—either by the due substitution of the withdrawing counsel in the case or by the express assurance of the party-client that he now undertakes to himself receive serviceable processes and other papers. Adoption by courts of such a practice in that particular context, while neither mandatory nor sanctioned by a specific provision of the Rules of Court, is nevertheless justified as part of their inherent power to see to it that the potency of judicial processes and judgment are preserved.

We now apply the foregoing tenets to the case at bar.

Atty. Sindingan No Longer the Counsel of Petitioner at the Time 30 March 2007 Decision was Rendered

As settled beforehand, the withdrawal of Atty. Sindingan, filed before this Court during the pendency of G.R. No. 157877 on 17 February 2005, bore the written conformity of the petitioner. The withdrawal was, thus, valid notwithstanding that Atty. Sindingan did not state therein any supporting reason therefor. Moreover, despite the fact that such withdrawal left petitioner without counsel in G.R. No. 157877, this Court never issued any order deferring its effectivity. On the contrary, this Court had implicitly assented to the withdrawal of Atty. Sindingan when it served, albeit unsuccessfully, copies of its decision in G.R. No. 157877 on petitioner at her address-of-record. Indeed, it was only after multiple failed attempts to reach

petitioner that this Court finally issued a Resolution wherein we "*considered*" the decision in G.R. No. 157877 as already served upon her.[82]

Hence, following the rules and jurisprudence, Atty. Sindingan can no longer be deemed as counsel of petitioner as of 17 February 2005. The finding of the Court of Appeals that Atty. Sindingan remained as counsel of petitioner simply has no leg to stand on.

Petitioner Not Bound by Atty. Sindingan's Receipt of the 30 March 2007 Decision

With their severed attorney-client relationship, Atty. Sindingan's receipt of the 30 March 2007 decision on 13 April 2007 cannot be deemed as receipt thereof by the petitioner. Inevitably, the period within which petitioner may file a motion for reconsideration *cannot* run from such receipt. From the time of the withdrawal of Atty. Sindingan *until* his subsequent replacement by Atty. Runas on 7 July 2007, court notices for the petitioner may, as it should, be served directly upon the latter.[83]

Anent the matter, the records of this case do attest that a copy of the 30 March 2007 Decision was sent *via* registered mail directly to petitioner's address of record.[84] Unfortunately, the records also profess that such copy was returned unserved.[85]

Due to the circumstances mentioned, and *in the absence of bad faith*, We are constrained to reckon the period within which petitioner may file her motion for reconsideration only from the time the latter received actual

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82 *Rollo* of G.R. No. 157877, p. 545.
83 *Elli v. Ditan*, 115 Phil. 502, 505 (1962).
84 CA *rollo*, Notice of Judgment dated 30 March 2007, p. 947.
85 Returned Envelope. Id. at 973.

notice of the challenged decision—*i.e.*, according to petitioner's manifestation, on 29 May 2007. This Court, therefore, disagrees with the Court of Appeals in holding that petitioner was already barred from seeking reconsideration of the 30 March 2007 Decision. Without question, petitioner was able to file her *Motion for Leave* with *Motion for Reconsideration* on 7 June 2007 or within fifteen (15) days from her actual notice of the 30 March 2007 decision.[86] Verily, the 30 March 2007 decision has not yet attained finality insofar as petitioner is concerned. The appellate court ought to have admitted her *Motion for Reconsideration* attached to her *Motion for Leave*.

Motion for Reconsideration

Rather than remanding this case to the Court of Appeals, however, this Court chooses to herein resolve petitioner's *Motion for Reconsideration*. In doing so, We only exercise a procedural policy, already established by a catena of decided cases[87] no less, that empowers this Court to bring final resolution to a case when it could, instead of remanding it and allowing it to "*bear the seeds of future litigation*."[88] After all, the voluminous documentary evidence existing in the records of this case already affords this Court with more than enough foundation to make a ruling on the merits. Undoubtedly, the ends of justice as well as the interest of all parties would be better served, if this otherwise protracted case can be brought to its conclusion without any further delay.

We now proceed to resolve petitioner's *Motion for Reconsideration*.

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86 *See* Section 1, Rule 37 in relation to Section 1, Rule 45 of the Rules of Court.

87 *Gokongwei, Jr. v. Securities and Exchange Commission*, 178 Phil. 266, (1979); *Francisco v. The City of Davao*, 120 Phil. 1417 (1964); *Republic v. Security Credit and Acceptance Corporation*, 125 Phil. 471 (1967); *Rep. of the Phil. v. Central Surety and Ins. Co., et al.*, 134 Phil. 631 (1968).

88 *Marquez v. Marquez*, 73 Phil. 74, 78 (1941); *Vidal v. Escueta*, 463 Phil. 314, 336 (2003).

As mentioned earlier, the petitioner vouches for a reinstatement of CSC Resolution No. 02-1106. She primarily argues that the Court of Appeals' reversal of CSC Resolution No. 02-1106 is erroneous because it failed to consider the merits of the *Alcala Affidavit* as evidence to show that the *Alcala Resolution* was not falsified.[89]

Looking back at Resolution No. 02-1106, on the other hand, We discern that the CSC hinged its absolution of petitioner on the two (2) PNP signature analyses and the *Alcala Affidavit*. The CSC considered such pieces of evidence as "*newly discovered"* that proves the genuineness of the *Alcala Resolution* and the *Affidavit of Desistance*.[90] Hence, the CSC found no basis to hold petitioner accountable for her use of the *Alcala Resolution* and the *Affidavit of Desistance*.[91]

We are not convinced.

It must be stated at the outset that petitioner did not raise any issue relative to the Court of Appeals' rejection of the two (2) PNP signature analyses in her *Motion for Reconsideration*, much less in the instant appeal. For all intents and purposes, the determination by the Court of Appeals on that issue may be considered as already settled.

At any rate, We find that the Court of Appeals did not err in refusing to recognize the two (2) PNP signature analyses as "*newly discovered evidence*." The said analyses do not have sufficient weight to "*materially*

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89 *Rollo*, pp. 91-101.
90 CA *rollo*, pp. 36-42.
91 Id.

affect"[92] the earlier findings of the CHED that were, in turn, based on the evidence yielded during the Committee hearings.

It is doctrined that opinions of handwriting experts, like signature analyses of the PNP, are not conclusive upon courts or tribunals on the issue of authenticity of signatures.[93] The seminal case of ***Gamido v. Court of Appeals***[94] reminds Us that the authenticity or forgery of signatures "*is not a highly technical issue in the same sense that questions concerning, e.g., quantum physics or topology or molecular biology, would constitute matters of a highly technical nature,*" and thus "*[t]he opinion of a handwriting expert on the genuineness of a questioned signature is certainly much less compelling x x x than an opinion rendered by a specialist on a highly technical issue.*" Hence, in resolving the question of whether or not forgery exists, courts or tribunals are neither limited to, nor bound by, the opinions of handwriting experts. Far from it, courts or tribunals may even disregard such opinions entirely in favor of either their own independent examination of the contested handwritings or on the basis of any other relevant, if not more direct, evidence of the character of the questioned signatures.[95]

Verily, the weight that may be given to opinions of handwriting experts varies on a case-to-case basis and largely depends on the quality of the opinion itself[96] as well as the availability of other evidence directly

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92 Section 40(a), Rule III of CSC Memorandum Circular No. 19, series of 1999 allows a party who was aggrieved by a decision of a disciplining authority in and administrative case to file a Motion for Reconsideration on the ground that "*[n]ew evidence has been discovered which materially affects the decision rendered*."

93 *Jimenez v. Commission on Ecumenical Mission, United Presbyterian Church, USA*, 432 Phil. 895, 907 (2002).

94 321 Phil. 463, 472 (1995).

95 *Jimenez v. Commission on Ecumenical Mission, United Presbyterian Church*, Supra, note 90, citing *Heirs of Severa P. Gregorio v. Court of Appeals*, 360 Phil. 753, 764 (1998); Regalado, *Remedial Law Compendium*, Volume II, p. 762.

96 *Gamido v. Court of Appeals*, supra note 94.

proving the forgery or authenticity of the questioned signatures.[97] Before such opinions may be accepted and given probative value, it is indispensable that the integrity and soundness of the procedures undertaken by the expert in arriving at his conclusion, as well as the qualifications of the expert himself, must first be established satisfactorily.[98] However, as such opinions are essentially based on mere inference, they should always be accorded less significance when lined up against direct statements of witnesses as to matters within their personal observation.[99]

In this case, full faith on the correctness of the two (2) PNP signature analyses, as expert opinions on handwritings, cannot be accorded in view of the fact that the integrity of the comparisons made therein were never really tested and verified satisfactorily. Even the qualifications of the police officers who made the examination are not extant on the records. Rather, the CSC just immediately accepted the two (2) PNP signature analyses hook, line and sinker, without even inquiring into the soundness of the findings therein set forth. That is a clear and patent error. In terms of evidentiary weight, the two (2) PNP signature analyses cannot, therefore, overcome the earlier signature comparison made by the CHED.

Moreover, the PNP signature analysis that dealt with a comparison of the purported signatures of Ms. Dimayuga carries lesser weight than the statement given by Ms. Dimayuga herself during the CHED proceedings that she did not execute any such *Affidavit of Desistance*. Mere inference based on comparison indubitably offers less certainty of the existence or non-existence of a fact, than a direct statement on that matter by a qualified and truthful witness.

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97 Regalado, *Remedial Law Compendium*, Volume II, p. 762.
98 Id. at 761.
99 Id. at 762.

Anent the issue regarding the failure of the Court of Appeals to consider the *Alcala Affidavit*, We find that such cannot serve to alter the disposition in the 30 March 2007 Decision.

Petitioner, it must be borne in mind, was charged with the administrative offenses of "*dishonesty, grave misconduct, conduct prejudicial to the best interest of the service and falsification of official document*" in relation to her use of two (2) allegedly falsified documents, *i.e.*, the *Affidavit of Desistance* and the *Alcala Resolution.*[100] The *Alcala Affidavit*, however, only tends to prove the genuineness of the *Alcala Resolution*, but not the authenticity of the *Affidavit of Desistance*. On the contrary, the finding that the *Affidavit of Desistance* is a forgery still holds, in view of the unchallenged and categorical statement of Ms. Dimayuga during the CHED proceedings that she did not execute any such instrument. As a witness whose credibility and motive have not been sullied, We, like the CHED and the Court of Appeals before Us, find Ms. Dimayuga to be worthy of belief.

Since the *Affidavit of Desistance* was established as a forgery, petitioner may still be held liable for "*dishonesty, grave misconduct, conduct prejudicial to the best interest of the service and falsification of official document*" for her use thereof notwithstanding the possible authenticity of the *Alcala Resolution*. Being the sole and chief beneficiary of the falsified *Affidavit of Desistance*, petitioner may rightfully be presumed as its author.[101] Indeed, even if We grant that the *Alcala Resolution* is genuine, it cannot itself prove that the *Affidavit of Desistance* is likewise genuine. What that merely proves is that Chairman Alcala's reliance on the *Affidavit of*

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100 *See* Formal Charge and Order of Preventive Suspension. CA *rollo*, pp. 107-108.

101 *Sarep v. Sandiganbayan*, 258 Phil 229, 238 (1989).

Desistance is, though genuine, mistaken. Ms. Dimayuga herself testified that her supposed *Affidavit of Desistance* is false.

For the same reasons, this Court no longer sees the necessity of further passing upon the merits of the entries in the logbook for incoming communications of Chairman Alcala[102] that were attached by petitioner, for the first time, only in her *Motion for Reconsideration*.

WHEREFORE, in light of the foregoing premises, the instant petition is **DENIED**. The Resolution dated 29 June 2007, insofar as it effectively sustains the Decision dated 30 March 2007, of the Court of Appeals in CA-G.R. No. SP No. 72864 is hereby **AFFIRMED.**

Costs against petitioner.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

MARIA LOURDES P.A. SERENO
Chief Justice

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102 *Rollo*, pp. 229-231

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DECASTRO
Associate Justice

(On Leave)
ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MARIA LOURDES P.A. SERENO
Chief Justice