



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**SANDIGANBAYAN,**

Complainant,

**A.M. No. SB-24-003-P**

**[Formerly JIB FPI No. 21-001-SB-P]**

Present:

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

- versus -

**REGINO R. HERMOSISIMA,**  
Security II, Sandiganbayan,

Respondent.

Promulgated:

June 4, 2024

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

**DECISION**

***PER CURIAM:***

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\* On official leave.

This administrative matter pertains to the Formal Charges for Gross Insubordination, Grave Misconduct, Being Notoriously Undesirable, and Conduct Prejudicial to the Best Interest of the Service<sup>1</sup> (Formal Charges), all dated October 31, 2018, that the Sandiganbayan filed before the Judicial Integrity Board (JIB) against Regino R. Hermosisima (respondent), Security Guard II, Security and Sheriff Services, Sandiganbayan.

*The Antecedents*

The two incident reports that detailed the various altercations involving respondent are as follows:

(1) *The Landbank Incident*

In the Incident Report<sup>2</sup> dated February 5, 2018, Ma. Luvi M. Rigonan, Cashier III, Sandiganbayan, narrated that respondent made a scene at the Commission on Audit Branch, Landbank of the Philippines (LBP) while waiting for his overtime pay to be credited to his account. The pertinent part of the report reads:

As I was submitting transmittal letters to the bank[,] the teller casually conveyed that a certain SB employee named Hermo (sic) made a scene/ or was irritated (term was “nagwala”) regarding the OT pay he was waiting to be credited on his account. He was very impatient because they think he also want to withdraw the said OT pay the soonest time possible. May I reiterate, as my office has direct transactions with the bank, that we are not the only agency being catered to by LBP-COA and that let us always practice respectful demeanor when dealing with other people.<sup>3</sup>

In a Letter<sup>4</sup> dated February 9, 2018, respondent apologized to Sandiganbayan Presiding Justice Amparo M. Cabotaje-Tang (Presiding Justice Cabotaje-Tang) and explained that his blood pressure was in “*hyper mode*” while he was at the LBP branch. In response, Presiding Justice Cabotaje-Tang accepted respondent’s apology but warned him that

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<sup>1</sup> *Rollo*, pp. 114–121. Signed by Sandiganbayan Presiding Justice Amparo M. Cabotaje-Tang.

<sup>2</sup> *Id.* at 14.

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

<sup>4</sup> *Id.* at 12.



a similar infraction or any other infraction “shall be dealt with administratively.”<sup>5</sup>

(2) *The Batasan Gate Incident*

In the Incident Report<sup>6</sup> dated September 15, 2018, Danilo V. Reyes (Reyes), Security Guard II, Sandiganbayan, the assigned Team Leader during the first shift of security guards for the day, stated that respondent shouted at Atty. Dennis Pulma (Atty. Pulma) who was just waiting in his vehicle for the gate to be opened on that rainy night.

Apparently, Atty. Pulma could not leave the Sandiganbayan grounds *via* the Batasan Gate because no security guard was posted there at the time. Atty. Pulma returned inside the court premises and asked the other security guards thereat why there was no one posted at the Batasan Gate. Reyes and the other security guards determined that respondent was the security guard assigned to man the Batasan Gate; thus they radio messaged and told him to return to his post but respondent did not respond. Reyes, thereafter, found respondent, talking to a detainee at the court’s detention cell. When told by Reyes to go to the Batasan Gate and assist Atty. Pulma, respondent retorted: “*Sino ba siya? Maghintay siya, di ako si Superman. Bibigyan ko ng spiritual advice yan.*” Respondent then approached Atty. Pulma’s vehicle without an umbrella and proceeded to hurl invectives at him.

Another security guard tried to pacify respondent but the latter instead punched Reyes. Thereafter, a commotion ensued. Reyes proceeded to the Batasan Gate guard post where respondent was supposed to be stationed at and found an empty bottle of whiskey. This confirmed Reyes’ suspicion that respondent was drunk while on duty.<sup>7</sup>

In a Letter<sup>8</sup> dated September 21, 2018, respondent admitted his guilt and sought Presiding Justice Cabotaje-Tang’s forgiveness for the second time.

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

<sup>6</sup> *Id.* at 31–32.

<sup>7</sup> *Id.* at 32.

<sup>8</sup> *Id.* at 56.

Prior to these two incidents, it turned out that respondent had written a bizarre Letter<sup>9</sup> addressed to Presiding Justice Cabotaje-Tang suggesting that the Sandiganbayan should introduce a health card that can be converted into an ATM card with a credit line of PHP 300,000.00, among others.

Albert Dela Cruz (Dela Cruz), Acting Chief Judicial Staff Officer, Security and Sheriff Services, Sandiganbayan, apologized to Presiding Justice Cabotaje-Tang for respondent's strange letter. He likewise recounted that respondent also figured in a heated argument with another employee of the Sandiganbayan over his loan application.<sup>10</sup> Dela Cruz sought the help of Dr. Edgardo D. Viola, Medical Officer IV, Sandiganbayan, who, after an initial assessment, recommended that respondent should undergo a psychological evaluation for further analysis.<sup>11</sup>

Pursuant to the Resolution dated May 21, 2018, of the Sandiganbayan *En Banc*, Ma. Teresa S. Pabulayan, Executive Clerk of Court IV, issued Office Order No. 169-2018<sup>12</sup> dated July 12, 2018, directing respondent to undergo a psychological examination, with the expenses to be shouldered by the Sandiganbayan, in a government hospital by a government psychiatrist.<sup>13</sup>

However, respondent did not comply.<sup>14</sup>

Consequently, Presiding Justice Cabotaje-Tang issued the following Memoranda in relation to these incidents:

*First*, the Memorandum<sup>15</sup> dated September 18, 2018, which required respondent to explain why no disciplinary action should be taken against him for his failure to undergo a psychological examination, in violation of the Resolution dated May 21, 2018.

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<sup>9</sup> *Id.* at 11.

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

<sup>11</sup> *Id.* at 9. RE: Evaluation of Mr. Regino Hermosissima dated February 7, 2018.

<sup>12</sup> *Id.* at 22.

<sup>13</sup> *Id.* at 17 and 22, respectively.

<sup>14</sup> *Id.* at 35.

<sup>15</sup> *Id.* at 36-37.

And *second*, the Memorandum<sup>16</sup> dated September 21, 2018, that directed Atty. Jason T. Lorenzo (Atty. Lorenzo), Legal Research and Technical Staff, Sandiganbayan, to conduct a fact-finding investigation on the Batasan Gate Incident. On October 25, 2018, Atty. Lorenzo issued the following Report and Recommendation:<sup>17</sup>

. . . [T]he undersigned respectfully recommends that separate formal charges be issued against MR. REGINO R. HERMOSISIMA, Security Guard II, for:

(a) GROSS INSUBORDINATION under Section 50(B)(9), Rule 10 of the 2017 RACCS[;]

(b) GRAVE MISCONDUCT under Section 50(A)(3) Rule 10 of the 2017 RACCS[;]

(c) BEING NOT[O]RIOUSLY UNDESIRABLE under Section 50(A)(4), Rule 10 of the 2017 RACCS; and

(d) CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE under Section 50(B)(10), Rule 10 of the 2017 RACCS.<sup>18</sup>

Hence, the Formal Charges.

Notably, respondent did not submit any answer to the Formal Charges. Instead, he submitted another letter of apology.<sup>19</sup>

Meanwhile, the Sandiganbayan referred the case to the JIB pursuant to Rule 140 of the Rules of Court, as further amended. In the 1<sup>st</sup> Indorsement<sup>20</sup> dated June 18, 2021, the JIB directed respondent to submit his comment on the Formal Charges. Thereafter, respondent resigned from the Sandiganbayan effective September 1, 2020.<sup>21</sup>

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<sup>16</sup> *Id.* at 55.

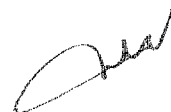
<sup>17</sup> *Id.* at 79–113.

<sup>18</sup> *Id.* at 113.

<sup>19</sup> *Id.* at 329–330.

<sup>20</sup> *Id.* at 388.

<sup>21</sup> *Id.* at 400.



*The Report and Recommendation of the JIB*

In the Report and Recommendation<sup>22</sup> dated June 1, 2023, the Office of the Executive Director (OED), JIB, found respondent guilty of Gross Misconduct and proposed the forfeiture of his retirement benefits given that his dismissal from the service was no longer possible in view of his resignation, thus:

IN VIEW OF THE FOREGOING, it is respectfully recommended for the consideration of the Honorable Board that the instant administrative complaint be RE-DOCKETED, and the following recommendations be submitted to the Supreme Court:

- 1) respondent Regino R. Hermosisima, Security II, Sandiganbayan, be found GUILTY of gross misconduct; and
- 2) considering that respondent Hermosisima's dismissal is no longer possible as he has resigned from the service, the retirement benefits due him, except accrued leave credits, be instead FORFEITED and respondent be further DISQUALIFIED from re-employment in any branch of the government or any of its agencies or instrumentalities, including government owned and controlled corporations.<sup>23</sup>

In its Report<sup>24</sup> dated January 17, 2024, the JIB found respondent guilty of only Simple Misconduct and Gross Insubordination for his actions, viz.:

WHEREFORE, it is respectfully RECOMMENDED to the Honorable Supreme Court that:

1. the instant complaint against Regino R. Hermosisima, Security Guard II, Security and Sheriff Services, Sandiganbayan, Quezon City, be RE-DOCKETED as a regular administrative matter;
2. respondent be found GUILTY of Gross Insubordination and PENALIZED with forfeiture of all his benefits, except accrued leave credits, and disqualification from

<sup>22</sup> *Id.* at 397–403. Issued by Acting Executive Director James D.V. Navarrete.

<sup>23</sup> *Id.* at 403.

<sup>24</sup> *Id.* at 404–418. Penned by Justice Rodolfo A. Ponferrada (Ret.) and concurred in by Justices Angelina Sandoval-Gutierrez (Ret.) and Cielito N. Mindaro-Grulla (Ret.).

reinstatement [or] appointment to any public office, including government-owned or -controlled corporations; and

3. respondent be found GUILTY of Simple Misconduct constituting violation of the Code of Conduct for Court Personnel and FINED in the amount of [PHP] 100,000.00, payable within three (3) months from the time the decision or resolution is promulgated which may be deducted from his benefits and/or leave credits, if any.<sup>25</sup>

### *The Issue*

The issue for the Court's resolution is whether respondent should be held administratively liable for his actions.

### *The Ruling of the Court*

The Court adopts the findings of the JIB but with modification as to the penalties imposed upon respondent.

Preliminarily, the Formal Charges against respondent, i.e., for Gross Insubordination, Grave Misconduct, Being Notoriously Undesirable, and Conduct Prejudicial to the Best Interest of the Service, were all anchored on alleged violations of the 2017 Rules on Administrative Cases in the Civil Service (RACCS).<sup>26</sup> However, it is well to stress that all pending and future disciplinary cases involving all judicial personnel, such as respondent, are now governed by Rule 140 of the Rules of Court, as further amended,<sup>27</sup> which has a different classification of charges and nomenclature of penalties when compared to the RACCS.

As such, it is under the prism of Rule 140 that the Court now reexamines the Formal Charges against respondent to determine his administrative liabilities in the case, if any.

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<sup>25</sup> *Id.* at 417.

<sup>26</sup> In particular, respondent was charged with a violation of: 1) Section 50(B)(9), Rule 10 for his refusal to comply with the Office Order; 2) Section 50(A)(3), Rule 10, for Grave Misconduct; 3) Section 50(A)(4), Rule 10, for being notoriously undesirable; and 4) Section 50(B)(10), Rule 10 for Conduct Prejudicial to the Best Interest of the Service.

<sup>27</sup> Rule 140 of the Rules of Court as amended by A.M. No. 21-08-09-SC (2022), Further Amendments to Rule 140 of the Rules of Court, February 22, 2022.

Furthermore, respondent's precipitate resignation neither renders the instant administrative complaint moot nor forestalls the finding of administrative liability for which he may be held answerable.<sup>28</sup> On the contrary, his rushed resignation coupled with his refusal to participate in the proceedings is a clear indicium of his guilt.<sup>29</sup>

After a careful review of the records, the Court finds respondent guilty of the serious charges of Gross Insubordination and Gross Misconduct under Section 14(n) and (a) of Rule 140, as further amended, respectively.

Jurisprudence defines Gross Insubordination "as the inexplicable and unjustified refusal to obey some order that a superior is entitled to give and have obeyed, and imports a willful or intentional disregard of the lawful and reasonable instructions of the superior."<sup>30</sup> As for misconduct, it is defined as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer."<sup>31</sup>

To recall, respondent was involved in two incidents:

*First*, the Landbank Incident, where he was reported to have acted inappropriately in an LBP branch, for which he was subsequently forgiven by Presiding Justice Cabotaje-Tang with a warning that "should [respondent] commit . . . any other infraction in the future, the same shall be dealt with administratively";<sup>32</sup>

Although respondent was forgiven for the Landbank Incident, it must be emphasized that the Sandiganbayan *En Banc*, through the Resolution dated May 21, 2018, directed him to undergo a psychological

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<sup>28</sup> Rule 140, sec. 2(2), as further amended.

SECTION 2. *Effect of Death, Retirement, and Separation from Service to the Proceedings.*—

.....

(2) *Circumstances Supervening Only during the Pendency of the Proceedings.*— However, once disciplinary proceedings have already been instituted, the respondent's supervening retirement or separation from service shall not preclude or affect the continuation of the same, provided, that, the supervening death of the respondent during the pendency of such proceedings shall result in the dismissal of the administrative case against him or her.

<sup>29</sup> *Office of the Court Administrator v. Juan*, 478 Phil. 823, 828 (2004).

<sup>30</sup> *Santiago v. Fernando*, A.M. No. P-22-053, January 17, 2023, citing *Alano v. Delicana*, A.M. No. P-20-4050, June 14, 2022.

<sup>31</sup> *Alano v. Delicana*, *id.*

<sup>32</sup> *Rollo*, p. 12.



examination, which he vehemently refused. In doing so, the JIB correctly ruled that respondent committed Gross Insubordination, which is a serious charge under Section 14(n) of Rule 140, as further amended.

And *second*, the Batasan Gate Incident, wherein, respondent 1) cursed at Atty. Pulma, 2) punched Reyes on the face, and 3) was caught drinking while on-duty.<sup>33</sup>

Clearly, respondent committed a misconduct as he transgressed his duties under Sections 1 and 2, Canon IV of the Code of Conduct for Court Personnel, which mandates court personnel to “perform their official duties properly and with diligence,” and “carry out their responsibilities in a courteous manner,” respectively.

Notably, the JIB opined that respondent’s actions in relation to the Batasan Gate Incident merely constitute Simple Misconduct as there was “no evidence of corruption.”

The Court, however, disagrees.

The records speak for themselves. Respondent left his post without informing his team leader, so that he could take shots of whiskey while on duty and within the premises of the Sandiganbayan. Worse, he hurled various invectives at Atty. Pulma, an officer of the court, and even punched his fellow security guard on the face when the latter confronted him.

The pertinent portion of respondent’s testimony reads:

[RESPONDENT]: . . . Attorney, ang totoo po nun habang naka-duty ako nun, kasi sa lamig ng panahon, bumili ako ng alak. Bumili ako ng alak, Attorney, White Castle Whisky. Habang naka-duty ako dun sa Batasan, suma-shot ako ng alak, White Castle Whisky.

ATTY. LORENZO: Sandali lang, Mr. Hermosisima, naka-record tayo ha.

[RESPONDENT]: Opo. Sinasabi ko po ang totoo.<sup>34</sup>

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<sup>33</sup> *Id.* at 31–32.

<sup>34</sup> *Id.* at 165.

....

ATTY. LORENZO: At nung minura mo si Atty. Pulma, anong nangyari? Mayroon ba siyang sinabi sa 'yo, sumagot ba siya?

[RESPONDENT]: Sumagot si Attorney na kanina pa raw siya roon, ano daw ginagawa ko roon sa post tapos dinuro duro niya nga ako saka nung namura ko si Attorney, umatras siya. Pag-atras niyang ganon, saka ko binuksan yung gate. . .<sup>35</sup>

....

ATTY. LORENZO: Hindi ka nagpaumanhin sa kanya?

[RESPONDENT]: Sir, that time hindi ko nagawang magpaumanhin eh saka under ako ng influence ng ano, di ba nakainom ako, under ako ng influence ng alak, nakainom ako. Yun po, Sir.<sup>36</sup>

....

ATTY. LORENZO: Hindi mo naalala kung may away na nangyari sa inyo?

[RESPONDENT]: Opo. Wala nga po akong naalala nun, pero nung ni-review ko po yun CCTV footage, dun ko lang na-recall.

....

ATTY. LORENZO: Na?

[RESPONDENT]: Na nagkaroon kami ng away na parang nasuntok ko yata si Danilo, Sir.<sup>37</sup>

In *Alano v. Delicana*,<sup>38</sup> a misconduct is considered gross or grave if “it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be manifest and proved by substantial evidence.”

Here, there is no doubt that respondent committed Gross Misconduct for his actions during the Batasan Gate Incident. Respondent completely disregarded the Sheriff and Security Services Division’s standard operating procedure which required him to inform his team leader whenever he intends to leave his assigned post. Then, he adamantly

<sup>35</sup> *Id.* at 171–172.

<sup>36</sup> *Id.* at 172.

<sup>37</sup> *Id.* at 175–176.

<sup>38</sup> A.M. No. P-20-4050 & OCA IPI No. 16-4578-RTJ, June 14, 2022.

refused to return to his assigned post despite having received several radio messages from his team leader and fellow security guards, informing him that Atty. Pulma is about to exit the Batasan Gate. When he finally arrived at the gate, respondent shouted invectives at Atty. Pulma. Even after Atty. Pulma left the court premises, respondent continued to curse at his fellow security guards over his court-issued handheld radio. When the team leader directed respondent to surrender his radio and end his duty, respondent not only objected to the directive, he also punched his team leader. Worse, respondent admitted that he purposely drank alcohol while on-duty.<sup>39</sup>

While it is true that the administrative liability of the respondent for the Batasan Gate Incident stems from a *series of acts* relating to his duties as a security guard, the Court views the totality thereof as a *single count* of Gross Misconduct given that respondent's actions cannot be reasonably separated from one another.<sup>40</sup>

#### *The Proper Penalties*

Notably, in A.M. No. SB-13-20-P, entitled "*Ria Abulencia and Blessie Burgonio v. Hermosisima*,"<sup>41</sup> the Court found respondent guilty of Simple Misconduct for hurling invectives at fellow Sandiganbayan employees during court hours and within the court premises, and suspended him from office for one month and one day, with a stern warning that a repetition of the same shall be dealt with more severely.

Section 17(1) of Rule 140, as further amended, provides that the imposable penalties for serious charges, such as Gross Insubordination and Gross Misconduct, are as follows:

#### SECTION 17. *Sanctions.* —

(1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed.

- (a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled

<sup>39</sup> *Rollo*, pp. 105–107.

<sup>40</sup> *Banzuela-Didulo v. Santizo*, A.M. No. P-22-063, February 7, 2023.

<sup>41</sup> 712 Phil. 248 (2013).

corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits;

- (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
- (c) A fine of more than [PHP] 100,000.00 but not exceeding [PHP] 200,000.00.

Relatedly, Section 18 of the same Rule reads:

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

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

In this instance, the penalty of dismissal from the service can no longer be imposed in light of respondent's earlier resignation. Taking into consideration a *previous finding of administrative liability*, which is considered as an aggravating circumstance under Section 19(2)(a) of Rule 140, as further amended, the Court imposes the following sanctions against respondent:

*One*, for his Gross Insubordination, he is penalized with the forfeiture of all his retirement benefits, except accrued leave benefits, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations.

And *two*, for having committed Gross Misconduct, he is fined in the amount of PHP 110,000.00, pursuant to Rule 140, Section 20, which allows the Court to *increase* the fine to an amount not exceeding double

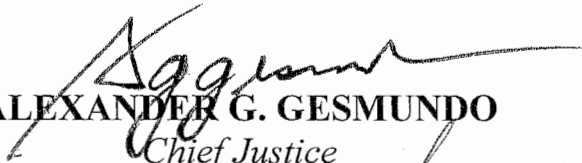
the maximum prescribed under Section 17 when an aggravating circumstance is present, as in the case.

Finally, the imposition of a separate penalty for each offense is in line with Rule 140, Section 21, considering that respondent's administrative liabilities for Gross Insubordination and Gross Misconduct in the case *arose from separate acts or omissions*.


**ACCORDINGLY**, the Court finds respondent Regino R. Hermosisima, former Security Guard II, Security and Sheriff Services, Sandiganbayan, Quezon City, **GUILTY** of Gross Misconduct and Gross Insubordination for which he would have been **DISMISSED** from the service had he not resigned.

In lieu of dismissal, respondent Regino R. Hermosisima's retirement and other benefits, except accrued leave credits, is hereby **FORFEITED**; he is **PERPETUALLY DISQUALIFIED** from reemployment in any branch or instrumentality of the government, including government-owned or -controlled corporations; and he is hereby **FINED** in the amount of PHP 110,000.00 to be paid directly to the Court.

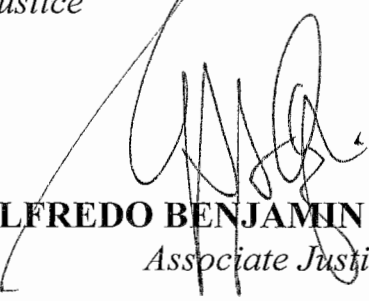
**SO ORDERED.**



ALEXANDER G. GESMUNDO  
*Chief Justice*



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




ALFREDO BENJAMIN S. CAGUIOA  
*Associate Justice*




RAMON PAUL L. HERNANDO  
*Associate Justice*



AMY C. LAZARO-JAVIER  
*Associate Justice*

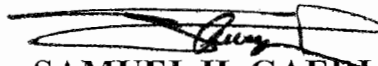


**HENRI JEAN PAUL B. INTING**  
*Associate Justice*




**RODIL V. ZALAMEDA**  
*Associate Justice*

(On official leave)  
**MARIO V. LOPEZ**  
*Associate Justice*



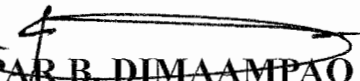
**SAMUEL H. GAERLAN**  
*Associate Justice*



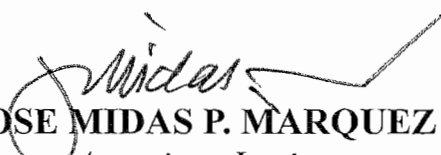
**RICARDO R. ROSARIO**  
*Associate Justice*



**JHOSEP Y. LOPEZ**  
*Associate Justice*



**JAPAR B. DIMAAMPAO**  
*Associate Justice*



**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*



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



**MARIA FILOMENA D. SINGH**  
*Associate Justice*