Republic of the Philippines
Supreme Court
Manila

EN BANC

SUGAR REGULATORY ADMINISTRATION, represented by its Administrator, Petitioner, - *versus* - **ENCARNACION B. TORMON, EDGARDO B. ALISAJE, LOURDES M. DOBLE, TERESITA Q. LIM, EDMUNDO R. JORNADAL, JIMMY C. VILLANUEVA , DEANNA M. JANCE, HENRY G. DOBLE, REYNALDO D. LUZANA, MEDELYN P. TOQUILLO, SEVERINO A. ORLIDO, RHODERICK V. ALIPOON, JONATHAN CORDERO, DANILO B. BISCOCHO, BELLO C. LUCASAN, LUBERT V. TIVE, and the COMMISSION ON AUDIT,** Respondents.	**G.R. No. 195640** **Present:** SERENO, *C.J.*,* CARPIO,** VELASCO, JR., LEONARDO-DE CASTRO, BRION, PERALTA, BERSAMIN, DEL CASTILLO, ABAD, VILLARAMA, JR., PEREZ, MENDOZA, REYES, PERLAS-BERNABE, and LEONEN, *JJ.* **Promulgated:** DECEMBER 04, 2012

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D E C I S I O N

PERALTA, *J.*:

Assailed in this petition for *certiorari* under Rule 64, in relation to Rule 65 of the Rules of Court, is Decision No. 2010-146[1] dated December 30, 2010 of the Commission on Audit (COA).

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* On leave.

** Acting Chief Justice per Special Order No. 1384 dated December 4, 2012.

1 *Rollo*, pp. 34-49.

The antecedent facts are as follows:

Private respondents, namely: Encarnacion B. Tormon, Edgardo B. Alisaje, Lourdes M. Doble, Teresita Q. Lim, Edmundo R. Jornadal, Jimmy C. Villanueva , Deanna M. Jance, Henry G. Doble, Reynaldo D. Luzana, Medelyn P. Toquillo, Severino A. Orlido, Rhoderick V. Alipoon, Jonathan Cordero, Danilo B. Biscocho, Bello C. Lucasan, Lubert V. Tive, were former employees of Philippine Sugar Institute (PHILSUGIN) and the Sugar Quota Administration (SQA). On February 2, 1974, Presidential Decree (P.D.) No. 388 was issued creating the Philippine Sugar Commission (PHILSUCOM). Under the said decree, PHILSUGIN and SQA shall be abolished upon the organization of PHILSUCOM and all the former's assets, liabilities and records shall be transferred to the latter and the personnel of the abolished agencies who may not be retained shall be entitled to retirement/gratuity and incentive benefits.

In September 1977, PHILSUGIN and SQA were abolished and private respondents were separated from the service; thus, they were paid their retirement/gratuity and incentive benefits. In the same year, private respondents were reinstated by PHILSUCOM subject to the condition that the former would refund in full the retirement/gratuity and incentive benefits they received from PHILSUGIN or SQA. PHILSUCOM Consultant, Eduardo F. Gamboa, wrote:

> We have received orders from the Main Office to require you to refund in full the unexpired portion of the money value of the retirement or lay-off gratuity you received as called for in Office Memorandum No. 4, series of 1977, dated December 5, 1977, in view of your reinstatement in the service.
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> x x x x
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> In connection herewith, you are therefore directed to make the necessary refund of the above-mentioned amount to our Local Accounting Department and to inform the Personnel Department, when refund is

> made. Failure on your part to make the necessary refund will constrain us to recommend corrective measures.[2]

On May 28, 1986, Executive Order (E.O.) No. 18, series of 1986 was issued wherein the Sugar Regulatory Administration (petitioner SRA) replaced PHILSUCOM. PHILSUCOM's assets and records were all transferred to petitioner SRA which also retained some of the former's personnel which included the private respondents.

On July 29, 2004, E.O. No. 339 was issued, otherwise known as *Mandating the Rationalization of the Operations and Organization of the SRA*, for the purpose of strengthening its vital services and refocusing its resources to priority programs and activities, and reducing its personnel with the payment of retirement gratuity and incentives for those who opted to retire from the service. Among those separated from the service were private respondents. Under the SRA Rationalization Program, petitioner computed its employees' incentives and terminal leave benefits based on their creditable years of service contained in their respective service records on file with petitioner and validated by the Government Service and Insurance System (GSIS). The computation was then submitted to the Department of Budget and Management (DBM) for approval and request of funds. The DBM approved the same and released the disbursement vouchers for processing of the incentive benefits.

However, in the course of the implementation of its rationalization plan, petitioner found out that there was no showing that private respondents had refunded their gratuity benefits received from PHILSUGIN or SQA. Hence, petitioner considered private respondents' length of service as having been interrupted which commenced only at the time they were re-employed by PHILSUCOM in 1977. Petitioner then recomputed private respondents' retirement and incentive benefits and paid only the 75%

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[2] *Id*. at 59.

equivalent of the originally computed benefits and withheld the remaining 25% in view of the latter's inability to prove the refund.

Private respondents requested petitioner to compute their incentive benefits based on their length of service to include their years of service with PHILSUGIN or SQA taking into consideration their refund of gratuity benefits to PHILSUCOM at the time of their re-employment in 1977. On January 4, 2007, then petitioner's Administrator, James C. Ledesma, issued a memorandum[3] declaring the services of its employees affected by the Rationalization Program, which included private respondents, terminated effective on January 15, 2007. Under Board Resolution No. 2007-055[4] dated June 14, 2007, petitioner denied private respondents' requests for the latter's failure to submit proofs of refund of gratuity received from PHILSUGIN or SQA.

On September 6, 2007, private respondents wrote a letter[5] addressed to then Commission on Audit (COA) Chairman, Guillermo N. Carague, asking the COA to order petitioner to pay the balance representing the 25% of their retirement and incentive benefits withheld by petitioner. They claimed that they had already refunded the full amount of the incentive benefits through salary deductions and since petitioner could no longer find the PHILSUCOM payrolls reflecting those deductions, private respondents submitted the affidavits of Messrs. Hilario T. Cordova[6] and Nicolas L. Meneses Jr.,[7] petitioner's Chief, Administrative Division, and Manager, Administrative and Finance Department, respectively, both executed in March 2007, attesting to the fact of refund.

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3 *Id*. at 116.
4 *Id*. at 139-142.
5 *Id*. at 121-127.
6 *Id*. at 128.
7 *Id*. at 129

Petitioner filed its Answer[8] thereto contending among others that since private respondents alleged payment, they were duty-bound to present evidence substantiating the said refund; that no records of payments existed to clearly establish their claim, thus, their resort to secondary evidence which were the sworn affidavits of petitioner's former officials were insufficient to prove the fact of the alleged payment.

On October 14, 2009, the COA rendered Decision No. 2009 -100,[9] with the following dispositive portion, to wit:

> WHEREFORE, foregoing premises considered, this Commission rules that the affidavits presented by claimants are insufficient proofs that they have refunded to PHILSUCOM the gratuity/incentive benefits they received from PHILSUGIN/SQA.
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> Evidence other than the affidavits must be presented to substantially prove their claims. Also, all the benefits, gratuity, incentive and retirement they received upon their separation from PHILSUGIN or SQA must be accounted for and refunded to SRA before the requested incentive benefit is computed based on their length of government service reckoned from the time they were employed with PHILSUGIN or SQA.[10]

In so ruling, the COA found that since private respondents alleged payment, they had the burden of proving the same by clear and positive evidence; that the affidavits of Messrs. Cordova and Meneses, Jr. stating that private respondents had refunded to PHILSUCOM the benefits they received from PHILSUGIN/SQA were not the best evidence of such refunds; that an affidavit was made without notice to the adverse party or opportunity to cross examine; and that the contents of these affidavits were too general and did not state private respondents' respective final payments.

Private respondents filed their motion for reconsideration which was opposed by petitioner.

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8 *Id*. at 130-138.
9 *Id*. at 50-54.
10 *Id*. at 53.

On December 30, 2010, the COA rendered Decision No. 2010-146 granting private respondents' motion for reconsideration, the dispositive portion of which reads:

> WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby GRANTED. Accordingly, COA Decision No. 2009-100 is hereby REVERSED and [SET] ASIDE. The SRA is directed to release to movants the amount representing the 25% balance of their incentive and terminal leave benefits.[11]

In its decision, the COA observed that private respondents had filed a separate but related complaint with the Civil Service Commission (CSC). It found that while their complaint with the CSC was denominated as illegal termination/backwages and entitlements, the main thrust of their complaint was to compel the payment of the 25% balance of their total incentives and terminal leave benefits withheld by petitioner, which was the same demand made in their letter to Chairman Carague whose decision is the subject of the motion for reconsideration, thus, forum shopping existed. The COA also noted that in their Supplement to Motion for Reconsideration/Manifestation filed on November 24, 2009, private respondents mentioned the ruling of the CSC[12] in their favor and they now disputed the COA's jurisdiction to rule on their demand contending that it is the CSC which has jurisdiction over cases involving government reorganization; and that the CSC had issued a Resolution granting private respondents' motion for execution of the CSC resolution. Notwithstanding, however, the COA found that it did not lose jurisdiction over the present case and went on to decide the claim on the merits and disregarded the CSC Resolution.

The COA ruled that the affidavits submitted were not secondary evidence within the context of Section 5, Rule 130 of the Rules of Court, hence, admissible in evidence, since technical rules of procedure and evidence are not strictly applied in administrative proceedings. The COA

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11 *Id*. at 48.

12 In Resolution No. 08-1945 dated October 12, 2008, the CSC ruled, among others, the private respondents' entitlement to the 25% of their incentives and terminal benefits and payment of their back salaries. Petitioner filed a petition with the Court of Appeals, which is still pending resolution.

found in the records certain significant circumstances which, when taken together with the affidavits, established that indeed private respondents had refunded the incentives in question. Since private respondents had discharged their burden of proof, it was incumbent on petitioner to discharge the burden of evidence that respondents had not paid the said incentives; that it was the PHILSUCOM, then petitioner, being the successor of PHILSUGIN and SQA, that had been tasked with the official custody of all the records and books of their predecessors, as mandated under Section 10 of Presidential Decree No. 388; that if petitioner's Accounting Division cannot issue a certification because it has no records, it is never an excuse to shift the burden to the employees.

Petitioner is now before us raising the following issues, to wit:

> 1. Whether or not respondent Commission erred and gravely abused its discretion when it gave credence to the affidavits of Mr. Hilario T. Cordova, then Chief, Administrative Division, SRA, and Mr. Nicolas L. Meneses, Jr., then Manager, Administrative and Finance Department plainly alleging that the gratuity/incentives have been refunded by the private respondents.
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> 2. Whether or not public respondent Commission on Audit erred and gravely abused its discretion in making assumptions or suppositions out of certain circumstances which were not even alleged by private respondents and in arriving at a conclusion out of the same in favor of private respondents.
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> 3. Whether or not public respondent Commission on Audit erred and gravely abused its discretion in finding substantial evidence that private respondents refunded the gratuity incentives in question.[13]

The issue for resolution is whether the COA committed grave abuse of discretion amounting to lack of jurisdiction in directing petitioner to pay the 25% balance of private respondents' incentive and terminal leave benefits withheld from the submitted computation of petitioner and duly funded by the DBM.

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13 *Rollo*, pp. 20-21.

We find no merit in the petition.

Petitioner withheld 25% of private respondents' incentive and terminal leave benefits because of their failure to present evidence of refund of the amounts of retirement and incentive benefits earlier received from PHILSUGIN/SQA. On the other hand, private respondents claim that they had already refunded these benefits through salary deduction, therefore, they are entitled to the payment of the amounts withheld by petitioner. The burden of proof is on private respondents to prove such refund. One who pleads payment has the burden of proving it.[14] Even where the creditor alleges non-payment, the general rule is that the *onus* rests on the debtor to prove payment, rather than on the creditor to prove non-payment.[15] The debtor has the burden of showing with legal certainty that the obligation has been discharged by payment.[16]

Well settled also is the rule that a receipt of payment is the best evidence of the fact of payment.[17] In *Monfort v. Aguinaldo,*[18] the receipts of payment, although not exclusive, were deemed to be the best evidence. Private respondents, however, could not present any receipt since they alleged that their payments were made through salary deductions and the payrolls which supposedly contained such deductions were in petitioner's possession which had not been produced. In order to prove their allegations of refund, private respondents submitted the affidavits of Messrs. Cordova and Meneses, Jr., which we successively quote in part, to wit:

Mr. Cordova states:

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[14] *Citibank, N.A. (Formerly First National City Bank) v. Sabeniano*, G.R. No. 156132, October 16, 2006, 504 SCRA 378, 418.

[15] *Coronel v. Capati*, G.R. No. 157836, May 26, 2005, 459 SCRA 205, 213; 498 Phil. 248, 255 (2005).

[16] *Id.*; *Citibank, N.A. v. Sabeniano, supra*.

[17] *Cham v. Paita-Moya*, A.C. No. 7494, June 27, 2008, 556 SCRA 1, 8, citing *Philippine National Bank v. Court of Appeals*, 326 Phil. 326, 335-336 (1996), cited in *Towne and City Dev't. Corp. v. Court of Appeals*, G.R. No. 135043, July 14, 2004, 434 SCRA 356, 361-363.

[18] 91 Phil. 913 (1952).

> That I was the Administrative Officer II of the defunct Philippine Sugar Institute when it was abolished in 1977; that I hold the same position when the Philippine Sugar Commission took over the functions of PHILSUGIN from that year up to 1986;
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> That I continued to be the head of Personnel Division when Sugar Regulatory Administration replaced PHILSUCOM in 1986 and retired as Division Chief II of the Administrative Division on July 31, 2003;
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> That during my incumbency in said positions, I have personal knowledge of the paymen/refund of ex-PHILSUGIN employees separated from service but reinstated in PHILSUCOM by way of salary deduction through payroll;
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> That Ms. Encarnacion Tormon, et al., upon return to service with PHILSUCOM, refunded the amount of the gratuities they received from PHILSUGIN in the months following/succeeding upon their appointment as reinstated employees of PHILSUCOM;
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> That their status as reinstated employees are officially marked in their individual service records duly authenticated by myself as Chief of Personnel Division and validated by the Government Service Insurance System as proven by GSIS computation of their creditable years.[19]

On the other hand, Mr. Meneses Jr., states:

> That I was the Chief Internal Auditor of the defunct Philippine Sugar Institute when it was abolished in 1977; that I hold a key position in the Budget and Accounting Division when the Philippine Sugar Commission took over the functions of PHILSUGIN from that year up to 1986;
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> That I later became Division Chief I of [the] Budget Division in the Sugar Regulatory Administration in 1988 and retired as Manager of the Administrative and Finance Department on July 31, 2003;
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> That during my incumbency in said positions, I have personal knowledge of the payment/refund of ex-PHILSUGIN employees separated from service and reinstated in PHILSUCOM;
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> That Ms. Encarnacion Tormon et al., upon return to service with PHILSUCOM, refunded the amount of the gratuities they received from PHILSUGIN;
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> That their status as reinstated employees are officially marked in their individual service records duly authenticated by the Chief of Personnel Division and validated by GSIS.[20]

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19 *Rollo*, p. 128.

20 *Id*. at 129.

Messrs. Cordova, being petitioner's head of the Personnel Department, and Meneses, Jr., as petitioner's Chief of Budget Division, and later Manager of the Administrative and Finance Department, were in the best positions to attest to the fact of private respondents' refund through salary deductions of the amounts of retirement and incentive benefits previously received, especially since these officials were in those departments since PHILSUCOM took over in 1977 and later with petitioner until their retirement in 2003. There was nothing on record to show that Messrs. Cordova and Meneses, Jr. were actuated with any ill motive in the execution of their affidavits attesting to the fact of refund.

The general rule is that administrative agencies are not bound by the technical rules of evidence. It can accept documents which cannot be admitted in a judicial proceeding where the Rules of Court are strictly observed. It can choose to give weight or disregard such evidence, depending on its trustworthiness.[21] Here, we find no grave abuse of discretion committed by the COA when it admitted the affidavits of Messrs. Cordova and Meneses, Jr. and gave weight to them in the light of the other circumstances established by the records which will be shown later in the decision.

Petitioner claims that the affiants attested on a matter which happened 30 years ago; thus, how could they recall that each of the 16 employees had actually refunded the gratuity/incentives way back in 1977; that each of the private respondents held different positions with salaries different from each other and the dates when they respectively re-assumed service in the government differed from each other; that it may not even be entirely correct that all 16 respondents refunded the gratuity incentives in question by salary deduction.

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[21] See *Commission of Internal Revenue v. Hantex Trading Co., Inc*., G.R. No. 136975, March 31, 2005, 454 SCRA 301, 327; 494 Phil. 306, 332-333 (2005).

We are not persuaded.

Significantly, Messrs. Cordova and Meneses, Jr. were petitioner's former officials who held key positions in the two divisions, namely, Personnel and Accounting Divisions, where private respondents were directed by then petitioner's Consultant Gamboa to make the necessary refunds for their retirement and incentive pay. Thus, if no refunds were made, these officials could have reported the same to Gamboa, who would have taken corrective measures as he threatened to do so if private respondents failed to make the necessary refunds. Notably, there is no showing that corrective measures had been taken. Moreover, as we said, while the COA admitted the affidavits, it did not rely solely on those affidavits to conclude that refunds were already made by private respondents. The matter of refund was proven by several circumstances which the COA found extant in the records of the case. We find apropos to quote the COA findings in this wise:

> First, movants were reemployed by PHILSUCOM with the condition that they must return the benefits they had already received. In his 16 March 1978 letter, Mr. Eduardo F. Gamboa, directed Ms. Tormon to refund the amount and to inform the Personnel Department when the refund was made. He warned Ms. Tormon to make the refund or they will be constrained to recommend corrective measures. The fact was that claimants were reinstated. That management did not take any corrective measures to compel the refund – except perhaps, the enforced salary deduction which claimants said was the mode of refund undertaken - is a point in favor of claimants. It would be unbelievable that in all these years, from 1977 to 2007, the SRA management, indubitably having the higher authority, just slept on its right to enforce the refund and did nothing about it. The natural and expected action that SRA ought to have taken was to enforce the refund through salary deduction, not through voluntary direct payment since the latter option does not carry with it the mandatory character of an automatic salary deduction.
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> Second, a certain Mr. Henry Doble, one of the movants, was promoted from Emergency Employee, a temporary status, to senior machine cutting operator with permanent status. If Mr. Doble had not refunded his gratuity, it was more reasonable to suppose that SRA would not have promoted him.
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> Third, COA Directors Rosemarie L. Lerio and Divina M. Alagon, CGS and SRA ATL[22] Antonio M. Malit, to whom the case was coursed

[22] Audit Team Leader.

> through for comments, did not mention, even in passing, of any audit finding in the Annual Audit Reports (AARS) regarding the unrefunded incentives received by claimants The silence of the AARs for 30 years would only lend credence that theses refunds were made.
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> Fourth, under the SRA Rationalization program, the affected employees' incentive and terminal leave benefits were computed based on their creditable years of services as contained in their respective service records with the agency as validated by the GSIS. Accordingly, SRA computed movants' incentive and terminal leave benefits as of December 31, 2006 which was approved by the Department of Budget and Management (DBM) Secretary Rolando Andaya. This only showed that even the SRA was convinced that movants had no more financial accountability with the SRA at the time.
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> Fifth, then SRA Administrator James C. Ledesma informed movants that not one of the records of the payments they claimed was available at the office; thus, the SRA could not be definite as to the actual payments made by them and the equivalent periods corresponding thereto, Also, Ms. Amelita A. Papasin, Accountant IV, Accounting Unit, SRA, Bacolod, stated that they could not find any record showing payments made as claimed by Ms. Tormon, et al., to refund the severance gratuities paid to them during their termination on September 30, 1977. Indeed, the SRA could not comply with the request of Mr. Antonio M. Malit, Audit Team leader (ATL), SRA, to produce copies of payroll or index of payments, or any accounting records covering the 32-year period which would have shown whether movants paid or did not pay the required refund. These payrolls and other records would have conclusively established the fact of payment or non-payment, But then all the SRA could say was there is no record of such payment. Absence of record is different from saying there was no payment.[23]

Factual findings of administrative bodies charged with their specific field of expertise, are afforded great weight by the courts, and in the absence of substantial showing that such findings were made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed.[24]

Petitioner's claim that the COA made its own assumptions which were not even based on the allegations made by private respondents in any of their pleadings is devoid of merit. In their Reply to petitioner's Supplemental Comment/Opposition to private respondents' motion for reconsideration, private respondents had alleged some of these above-

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[23] *Rollo*, pp. 44-46.

[24] *Lumayna v. Commission on Audit*, G.R. No. 185001, September 25, 2009, 601 SCRA 163, 176-177.

mentioned circumstances to support their claim that refunds had already been made. We also find that the records of the case support the above-quoted circumstances enumerated by the COA.

Considering that private respondents had introduced evidence that they had refunded their retirement and incentive benefits through salary deduction, the burden of going forward with the evidence – as distinct from the general burden of proof – shifts to the petitioner, who is then under a duty of producing some evidence to show non-payment.[25] However, the payroll to establish whether or not deductions had been made from the salary of private respondents were in petitioner's custody, but petitioner failed to present the same due to the considerable lapse of time.

All told, we find no grave abuse of discretion amounting to lack or excess of jurisdiction committed by the COA in rendering its assailed decision. There is grave abuse of discretion when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism,[26] which is wanting in this case.

WHEREFORE, the petition is **DISMISSED**. Decision No. 2010-146 dated December 30, 2010 of the Commission on Audit is hereby **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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[25] See *G & M (Phils.), Inc. v. Cruz*, G. R. No. 140495, April 15, 2005, 456 SCRA 215, 222; 496 Phil. 119, 126 (2005).

[26] *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 777.

WE CONCUR:

On leave
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

ARTURO D. BRION
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 PORTUGAL PEREZ
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, 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.

ANTONIO T. CARPIO
Acting Chief Justice