Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

BAGONG KAPISANAN SA PUNTA TENEMENT, INC., represented by ENRICO V. ESPAÑO,
Petitioner,

- versus -

AZER E. DOLOT, LUDIVINA F. MANLANGIT, RODRIGO T. JACLA, PEDRO B. ESCOBER, WENCESLAO C. ASIS, EDUARDO E. ENRADO, SILVERIO S. TAÑADA, PAZ ANA M. ARIOLA, ANTONIO BENZON, JULIE GARCERA, IMELDA GIGANAN, CELESTE TORRES, AND CARLOS DIUCO,
Respondents.

G.R. No. 179054

Present:

VELASCO, JR., *J., Chairperson*,
LEONARDO-DE CASTRO,*
ABAD,
PEREZ,** and
MENDOZA, *JJ.*

Promulgated:

05 September 2012

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DECISION

MENDOZA, *J.*:

This is a petition for review on certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure filed by Bagong Kapisanan sa Punta Tenement,

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* Designated Additional Member, in lieu of Associate Justice Diosdado M. Peralta, per Raffle dated July 1, 2009.

** Designated Additional Member, per Special Order No. 1299 dated August 28, 2012.

[1] *Rollo*, pp. 7-21.

Inc., represented by Enrico Español *(Punta Tenement)*, which assails the August 1, 2007 Amended Decision[2] of the Court of Appeals *(CA)* in CA-G.R. SP No. 92506.

Petitioner Punta Tenement is an association formed by the residents of said tenement in Punta, Sta. Ana, Manila. The respondents, on the other hand, are barangay officials of Barangay 901 and Barangay 902, Zone 100, District IV of the City of Manila.

The Facts

The controversy stemmed from the February 6, 1999 Memorandum of Agreement[3] *(MOA)* signed by Barangay 901 and Barangay 902, represented by their respective chairmen, Azer E. Dolot *(Dolot)* and Silverio S. Tañada *(Tañada);* and Inpart Engineering *(Inpart)*, represented by respondent Antonio Benzon *(Benzon)*. Both barangays adopted and approved the said undertaking as reflected in Resolution No. 99-006.[4] The MOA was formulated to address the repair and rehabilitation of the water system of Punta Tenement and to manage the water distribution in the tenement as well as to handle the payment of the back accounts of its tenants to Metropolitan Waterworks and Sewerage System *(MWSS)*. Pertinent portions of the MOA are herein quoted:

> x x x
>
> 1. The contractor shall distribute water f[ro]m MWC to the residents/tenants of the Tenement at the cost of ₱1.50/20 liter container which will be distributed as follows:
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> a. ₱ 0.25 will be remitted to the Barangay.

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[2] Id. at 22-28.
[3] Records, pp. 190-192.
[4] Id. at 204.

> Note: Of the said amount of ₱ 0.25, 50% (or 0.125) shall be paid to the MWSS (Metropolitan Waterworks and Sewerage System), through the MWC, in partial payment of the back account of the tenement to the MWSS in the amount of ₱ 1,845,541.65 as of July 31, 1997. The other 50% (or ₱ 0.125) will be remitted directly to the Barangay for whatever project they intend to use the said fund.
>
> b. ₱0.50 will go to the "*aguador*" who will be responsible in distributing water to every [tenant/resident]
>
> c. ₱0.75 will be remitted by the Contractor in payment of the MWC water bill, electrical bill, salary of pump water, maintenance and return of investment of the Contractor.
>
> x x x[5]

Punta Tenement filed a complaint for dishonesty and corruption before the Office of the Ombudsman *(Ombudsman)* against their barangay chairmen, Dolot and Tañada; and Benzon and other barangay kagawads namely: Ludivina F. Manlangit, Rodrigo T. Jacla, Pedro B. Escober, Wenceslao C. Asis, Eduardo E. Enrado, Lilia Marzo, Paz Ana M. Ariola, Antonio Benzon, Julie Garcera, Imelda Giganan, and Celeste Torres; and barangay treasurer Calos Diuco. The barangay officials were impleaded for their participation in the execution of the separate resolutions from their respective barangays and the subsequent Joint Resolution authorizing Dolot and Tañada to sign the MOA.

Punta Tenement alleged that the respondents conspired to defraud the tenants by not remitting to MWSS the agreed barangay share of ₱0.125 or 50% of ₱0.25 per 20 liter-container from the cost of water collection paid by the tenement residents which was intended to pay the back account with MWSS as instructed by the MOA. The MWSS back account was said to be around ₱2,214,792.87 covering the years 2000-2003.

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[5] Id. at 190.

On May 5, 2005, the Ombudsman rendered a decision[6] finding all the respondents guilty of dishonesty and imposing upon them the penalty of dismissal from the service. The dispositive portion of which reads:

> WHEREFORE, the foregoing premises considered, this Office hereby finds respondents AZER E. DOLOT and SILVERIO S. TAÑADA, Punong Barangay of Barangays 901 and 902, Zone 100, District IV, Manila, respectively, LUDIVINA F. MANLANGIT, RODRIGO T. JACLA, PEDRO B. ESCOBAR, WENCESLAO C. ASIS and EDUARDO E. ENRADO, AND LILIA MARZO, PAZ ANA M. ARIOLA, ANTONIO BENZON, JULIE GARCERA, IMELDA GIGANAN, CELESTE TORRES, all Barangay Kawagad, and CARLOS DIUCO, the Barangay Treasurer of Barangay 902 GUILTY of administrative offense of DISHONESTY with the penalty of DISMISSAL FROM THE SERVICE pursuant to the pertinent provisions of Republic Act No. 6770 otherwise known as the Ombudsman Act of 1989.[7]

The Ombudsman found that Inpart was already reneging on its MOA obligation as early as 1999, but the respondents failed to act on the problem. It opined that the respondents, at that point, should have noticed that the funds intended for the MWSS back account were not being remitted by Inpart and should have resolved it. They, however, chose to ignore it. It also found the authority of Dolot and Tañada to appoint *aguadores,* or those who would collect water payments, questionable.[8]

Aggrieved, the respondents filed their respective motions for reconsideration.[9] In its October 21, 2005 Order,[10] the Ombudsman denied the said motions. The decretal portion reads:

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[6] *Rollo*, pp. 29-49.
[7] Id. at 46-47.
[8] Id. at 41-42.
[9] Id. at 50-74.
[10] Id. at 75-83.

> WHEREFORE, the Motions for Reconsideration are hereby DENIED.
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> The Hon. Jose L. Atienza, Jr. City Mayor of Manila City, is hereby directed to implement the decision of this office dated May 5, 2005, imposing the administrative penalty of dismissal from the service upon the respondents and submit proof of compliance thereof to this office.
>
> SO ORDERED.[11]

Undaunted, the respondents appealed the case to the CA *via* a petition for review under Rule 43 of the Rules of Court.[12]

On October 20, 2006, the CA *reversed* the assailed ruling of the Ombudsman.[13] The *fallo* reads:

> WHEREFORE, premises considered, the instant PETITION FOR REVIEW is hereby GRANTED. Accordingly, the Decision dated 05 May 2005 and the Order dated 21 October 2005 both rendered by the Office of the Ombudsman which declared the petitioners guilty of dishonesty are hereby REVERSED and SET ASIDE.
>
> SO ORDERED.[14]

Punta Tenement moved for the reconsideration of the said decision arguing that the special audit report of the Commission on Audit of the Manila City Auditor's Office clearly demonstrated the respondents' acts of corruption when they submitted improvised, not official, receipts of collections for the *Patubig* project. Likewise, the Ombudsman filed its Motion for Reconsideration asking for the re-evaluation of the CA 2006 decision.[15]

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[11] Id. at 82.
[12] Id. at 84-117.
[13] Id. at 150-161.
[14] Id. at 160-161.
[15] Id. at 162-186.

On August 1, 2007, the CA, in its Amended Decision, partly granted Punta Tenement's motion for reconsideration.[16] The CA ruled that the respondents were indeed remiss in their duties but the penalty of dismissal from service would be too harsh. It noted that "the collections intended for Barangays 901 and 902 were spent for noble Barangay projects. The special audit report submitted by the COA of the Manila City Auditor's Office covered these collections and not those being referred to for the payment of the water back accounts. This is entirely separate and independent proof and in no way connected with the issue of non-remittance of collections intended to pay the tenants' water back accounts with the Manila Water Company as assumed by the contractor – I[n]part Engineering."[17] The decretal portion of the Amended Decision reads:

> WHEREFORE, premises duly considered, the respondents' motions for reconsideration are perforce PARTLY GRANTED. Accordingly, the 20 October 2006 Decision of this Court in the above-entitled case is hereby set aside, and a new one entered finding only petitioners AZER E. D[O]LOT and SILVERIO S. TA[Ñ]ADA, in their capacity as Chairmen of Barangays 901 and 902 respectively, GUILTY OF DISHONESTY and are hereby ORDERED SUSPENDED FOR SIX (6) MONTHS without pay.
>
> The private respondent's motion to cite in contempt of court and its motion to render decision thereof are DISMISSED for lack of legal and factual basis.
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> SO ORDERED.[18]

Hence, this petition.

Punta Tenement prays that the Court impose the penalty of dismissal on the respondents, who were found guilty of dishonesty, and find the

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[16] Id. at 22-28.
[17] Id. at 26-27.
[18] Id. at 27-28.

exonerated respondents guilty as well. It, thus, anchors its position on the following

ARGUMENTS

> **I. The Court of Appeals gravely erred in imposing [a] very light penalty to a grave Administrative Offense of Dishonesty.**
>
> **II. The Court of Appeals gravely erred in exonerating the rest of the respondents despite the fact that these respondents have direct and continuous participation in the anomalous transaction to date**.[19]

Punta Tenement insists that the CA was not correct in imposing a penalty of suspension despite its finding that Dolot and Tañada were guilty of dishonesty. It also faults the CA for absolving the other respondents despite their direct participation in the questionable *patubig* project.

The petition is partly meritorious.

Dishonesty is defined as the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.[20]

In the case at bench, the supposed acts of dishonesty by Dolot and Tañada were convincingly established. Based on the contract, both barangays were to receive ₱0.25/20 liter as their share in the water distribution arrangement. From the said amount, 50% was allocated for the payment of back account with MWSS, while the remaining 50% was earmarked to their other barangay-related projects. The provision was very

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[19] Id. at 12-13; 334.
[20] *Ampong v. Civil Service Commission, CSC-Regional Office No. 11*, G.R. No. 167916, August 26, 2008, 563 SCRA 293, 307.

clear and categorical. Inpart was never tasked to pay the barangays' back account as the money allocated for payment was agreed to be deducted from the barangays' share. Apart from the self-serving declaration of Dolot and Tañada that it was Inpart's obligation to remit payments to MWSS, nothing in the records would show that they had an arrangement to such effect.

Thus, the Court cannot accept their flimsy excuse that it was the contractor's job to remit payments to the MWSS. As public servants and representatives of their respective barangays, it behooves upon Dolot and Tañada to ensure that the main goals of the MOA, which were to distribute water to the tenants and pay the tenement's back account with the MWSS, are faithfully followed. Even assuming that Inpart was the one delegated to pay the barangays' back account, the respondents should have checked on the status of the payment. They failed to demand accountability from Inpart to ensure that their payments were properly documented and remitted to MWSS. Their inaction demonstrated a lack of concern for the welfare of their constituents. Simply stated, they reneged on their sworn duty to be true to their constituents.

Dolot and Tañada tried to convince the Court that they had no power over the situation. It was not the case, however. The MOA, in fact, provided that they had a say on who should be appointed as "*aguadors*" or collectors of the water distribution set-up:

> Duties and Responsibilities of the Owner:
>
> 1. The Owner shall recommend to the Contractor the person to be assigned as "aguador" on every floor.
>
> 2. That in case the "aguador" fails to remit to the Contractor the amount collected from the water distribution less his commission of ₱0.50/20 liter container, the Owner shall take the responsibility and the unremitted amount shall be deducted from the 25% or ₱0.25/20 liter container intended for the Owner.

> 3. The Owner shall provide security for the entire water system operation.[21]

These two respondents cannot feign ignorance of the fact that their chosen people acted as collectors for the water distribution set-up and had the first access to the money collected before the money was supposed to be turned over to Inpart less their commission/share. They could have easily effected the proper recording of payments and allocation of shares, and secured the money for the MWSS repayment. These nonfeasance seriously tainted their integrity as public servants.

Furthermore, as observed by the Ombudsman, Inpart had started violating the MOA in 1999, but the two respondents failed to investigate them. They tolerated the fact that no proper receipts were being issued to the tenants for the proper recording of their payments. They even refused to cooperate with the Commission of Audit when the latter asked them for documents regarding the *patubig* project.[22] They misled the tenants into believing that the water collections were being properly accounted for and were being remitted to pay the tenement's back account with MWSS.

The Court agrees with the findings of the Ombudsman and the CA that Dolot and Tañada were guilty of dishonesty. Well-settled is the rule that the findings of fact of the Ombudsman are conclusive when supported by substantial evidence and are accorded due respect and weight, especially when they are affirmed by the CA.[23] It is not the task of this Court to analyze and weigh the parties' evidence all over again except when there is

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[21] Records, p. 191.
[22] *Rollo*, pp. 224-225.
[23] *Tolentino v. Loyola*, G.R. No. 153809, July 27, 2011, 654 SCRA 420, 434.

serious ground to believe that a possible miscarriage of justice would thereby result.[24] Although there are exceptions[25] to this rule, the Court finds none in this case.

In administrative cases, only substantial evidence is required to support any findings. Substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. Evidently, the circumstances of the case all point to the inexcusable misfeasance of Dolot and Tañada. Dishonesty is a malevolent act that puts serious doubt upon one's ability to perform his duties with the integrity and uprightness demanded of a public officer or employee.[26]

In its Amended Decision, the CA found Dolot and Tañada guilty of dishonesty but considered the penalty of dismissal from service too harsh, hence, it imposed a penalty of six (6) months suspension without pay instead.

Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service classifies dishonesty as a grave offense punishable with dismissal from the service even for the first offense. Moreover, dismissal from service carries administrative disabilities specified under Section 54 of the Uniform Rules such as cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

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[24] *Bascos, Jr. v. Taganahan*, G.R. No. 180666, February 18, 2009, 579 SCRA 653, 674-675.

[25] *E.Y. Industrial Sales, Inc. v. Shen Dar Electricity and Machinery Co., Ltd.*, G.R. No. 184850, October 20, 2010, 634 SCRA 363, 375, citing *New City Builders, Inc. v. NLRC*, G.R. No. 149281, June 15, 2005, 460 SCRA 220, 227. The following are the exceptions, to wit: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the findings went beyond the issues of the case or are contrary to the admissions of the parties to the case; (7) when the findings are contrary to those of the trial court or the administrative agency; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the pleadings are not disputed; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when certain relevant facts not disputed by the parties were manifestly overlooked, which, if properly considered, would justify a different conclusion.

[26] *Civil Service Commission v. Sta. Ana*, 435 Phil. 1, 12 (2002).

When an individual is found guilty of dishonesty, the corresponding penalty is dismissal from employment or service. The underlying reason for this is because when a public official or government employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in the government.[27]A finding of dishonesty necessarily carries with it the penalty of dismissal from the office he is holding or serving. In *Remolona v. Civil Service Commission*,[28] the Court explained the rationale for the imposition of the penalty of dismissal from service:

> It cannot be denied that dishonesty is considered a grave offense punishable by dismissal for the first offense under Section 23, Rule XIV of the Rules Implementing Book V of Executive Order No. 292. And the rule is that dishonesty, in order to warrant dismissal, need not be committed in the course of the performance of duty by the person charged. The rationale for the rule is that if a government officer or employee is dishonest or is guilty of oppression or grave misconduct, even if said defects of character are not connected with his office, they affect his right to continue in office. The Government cannot tolerate in its service a dishonest official, even if he performs his duties correctly and well, because by reason of his government position, he is given more and ample opportunity to commit acts of dishonesty against his fellow men, even against offices and entities of the government other than the office where he is employed; and by reason of his office, he enjoys and possesses a certain influence and power which renders the victims of his grave misconduct, oppression and dishonesty less disposed and prepared to resist and to counteract his evil acts and actuations. The private life of an employee cannot be segregated from his public life. Dishonesty inevitably reflects on the fitness of the officer or employee to continue in office and the discipline and morale of the service.

Moreover, considering the proven facts, the Court cannot reduce the penalty. Section 53 of the Uniform Rules on Administrative Cases in the Civil Service, dated April 15, 2003, reads:

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[27] *Bautista v. Negado*, 108 Phil. 283, 289 (1960).
[28] 414 Phil. 590, 600-601 (2001).

> Section 53. *Extenuating, Mitigating, Aggravating or Alternative Circumstances.* – In the determination of the penalties imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.
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> The following circumstances shall be appreciated:
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> a. Physical illness
> b. Good faith
> c. Taking undue advantage of official position
> d. Taking undue advantage of subordinate
> e. Undue disclosure of confidential information
> f. Use of government property in the commission of the offense
> g. Habituality
> h. Offense is committed during office hours and within the premises of the office or building
> i. Employment of fraudulent means to commit or conceal the offense
> j. Length of service in the government
> k. Education, or
> l. Other analogous circumstances

In the case of *Civil Service Commission v. Delia Cortez,*[29] it was written:

> Under the Civil Service Law and its implementing rules, **dishonesty**, grave misconduct and conduct grossly prejudicial to the best interest of the service are grave offenses punishable by dismissal from the service. Thus, as provided by law, **there is no other penalty that should be imposed on respondent than the penalty of dismissal**.
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> Of course, **the rules allow the consideration of mitigating and aggravating circumstances** and provide for the manner of imposition of the proper penalty: Section 54 of the Uniform Rules on Administrative Cases in the Civil Service provides:
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> Section 54. *Manner of imposition*. When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:
>
> a. The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstance are present.
>
> b. The medium of the penalty shall be imposed where no mitigating and no aggravating circumstances are present.

[29] G.R. No. 155732, June 3, 2004, 430 SCRA 593, 602-603.

> c. The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
>
> d. Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied where there are more mitigating circumstances present; paragraph (b) shall be applied when the circumstances equally offset each other; and the paragraph (c) shall be applied when there are more aggravating circumstances.
>
> Jurisprudence is abound with cases applying the above rule in the imposition of the proper penalty and even in cases where the penalty prescribed by law, on commission of the first offense, is that of **dismissal**, which is, as argued by petitioner, **an indivisible penalty, the presence of mitigating or aggravating circumstances may still be taken into consideration** by us in the imposition of the proper penalty. Thus, in at least three cases, taking into consideration the presence of mitigating circumstances, we lowered the penalty of dismissal on respondent to that of forced resignation or suspension for 6 months and 1 day to 1 year without benefits. [Emphases supplied]

In this case, however, the Court finds no mitigating circumstance at all. Thus, the Court has no disposition except to impose the penalty of dismissal.

The Code of Conduct and Ethical Standards for Public Officials and Employees[30] lays down the state policy to promote a high standard of ethics in public service, and enjoins public officials and employees to discharge their duties with utmost responsibility, integrity and competence. Section 4 of the Code lays down the norms of conduct which every public official and employee shall observe in the discharge and execution of their official duties, specifically providing that they shall at all times respect the rights of others, and refrain from doing acts contrary to law, good morals, good customs, public policy, public order, and public interest. It is the bounden duty of public officials and government employees to remain true to the people at all times.[31]

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[30] Republic Act No. 6713.
[31] First sentence of Section 4(c), R.A. No. 6713.

As public officials, Dolot and Tañada are expected to exhibit the highest degree of dedication in deference to their foremost duty of accountability to the people.[32] No less than the Constitution sanctifies the principle that public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty, and efficiency.[33] Doubtless, Dolot and Tañada committed infractions of such a grave nature justifying sanctions of commensurate degree. To allow them to remain as accountable public officers, despite their questionable acts, would be rewarding them for their misdeed.

As to the other respondents, the Court affirms the dismissal of the complaint against them for lack of evidence proving, even in the slightest degree, that they had a direct hand in the mishandling of the tenement's *patubig* project. They merely signed the resolution approving the MOA in their capacities as barangay kagawads, a laudable remedy to alleviate the plight of the members of the Punta Tenement.

WHEREFORE, the petition is **PARTLY GRANTED**. The August 1, 2007 Amended Decision of the Court of Appeals in CA-G.R. SP No. 92506, is hereby **MODIFIED.** Respondents Azer E. Dolot and Silverio S. Tañada are found **GUILTY** of **DISHONESTY** and are hereby ordered **DISMISSED** from the service with forfeiture of all benefits, except accrued leave credits, and perpetual disqualification to hold public office.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[32] *Castillo v. Buencillo*, 407 Phil. 143, 153 (2001), citing *Gacho v. Fuentes, Jr.*, 353 Phil. 665, 674 (1998).
[33] 1987 CONSTITUTION, Art. XI, Sec. 1.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ROBERTO A. ABAD
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest 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's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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's Division.

MARIA LOURDES P. A. SERENO
Chief Justice