Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 195668**
	Present:
- versus -	
MA. HARLETA VELASCO *y* BRIONES, MARICAR B. INOVERO, MARISSA DIALA, and BERNA M. PAULINO, Accused,	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
	Promulgated:
MARICAR B. INOVERO, Accused-Appellant.	JUN 25 2014

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DECISION

BERSAMIN, *J.*:

The several accused in illegal recruitment committed in large scale against whom the State establishes a conspiracy are each equally criminally and civilly liable. It follows, therefore, that as far as civil liability is concerned each is solidarily liable to the victims of the illegal recruitment for the reimbursement of the sums collected from them, regardless of the extent of the participation of the accused in the illegal recruitment.

The Case

Accused-appellant Maricar B. Inovero seeks the review and reversal of the decision promulgated on August 26, 2010,[1] whereby the Court of Appeals (CA) affirmed her conviction for illegal recruitment committed in large scale amounting to economic sabotage under the judgment rendered on

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[1] *Rollo*, pp. 2-18.

January 14, 2008 by the Regional Trial Court (RTC), Branch 133, in Makati City.[2]

Antecedents

On March 17, 2004, the Office of the City Prosecutor of Makati City filed in the RTC two informations[3] charging Inovero, Ma. Harleta Velasco *y* Briones, Marissa Diala and Berna Paulino with illegal recruitment as defined and penalized under Section 6 of Republic Act No. 8042 (*Migrant Worker's Act of 1995*), and 11 informations[4] charging the same accused with *estafa* as defined and penalized under Article 315, paragraph 2(a) of the *Revised Penal Code*. Only Inovero was arrested and prosecuted, the other accused having remained at large.

Six cases charging *estafa* (Criminal Case No. 04-1565, Criminal Case No. 1568, Criminal Case No. 1570, Criminal Case No. 1571 and Criminal Case No. 1572 and Criminal Case No. 1573) and one of the two charging illegal recruitment (Criminal Case No. 04-1563) were provisionally dismissed because of the failure of the complainants to prosecute.[5] The seven cases were later permanently dismissed after the complainants did not revive them within two years, as provided in Section 8,[6] Rule 117 of the *Rules of Court*.

Trial on the merits ensued as to the remaining cases (Criminal Case No. 04-1562, for illegal recruitment; and Criminal Case No. 04-1564; Criminal Case No. 04-1566; Criminal Case No. 04-1567; Criminal Case No. 1569 and Criminal Case No. 04-1574, for *estafa*).[7]

The CA recounted the transactions between the complainants and the accused, including Inovero, in the following manner:

> Regarding **Criminal Case No. 04-1562**, the prosecution presented the five (5) private complainants as witnesses to prove the crime of Illegal Recruitment, namely: Novesa Baful ("**Baful**"), Danilo Brizuela ("**Brizuela**"), Rosanna Aguirre ("**Aguirre**"), Annaliza Amoyo ("**Amoyo**"), and Teresa Marbella ("**Marbella**"), and Mildred Versoza ("**Versoza**") from the Philippine Overseas Employment Administration ("**POEA**").

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2 CA *rollo*, pp. 40-54.
3 Id. at 8-11.
4 Id. at 12-33.
5 Id. at 48.
6 Section 8. *Provisional dismissal*. – A case shall not be provisionally dismissed except with the express consent of the accused and with notice to the offended party.

The provisional dismissal of offenses punishable by imprisonment not exceeding six (6) years or a fine of any amount, or both, shall become permanent one (1) year after issuance of the order without the case having been revived. **With respect to offenses punishable by imprisonment of more than six (6) years, their provisional dismissal shall become permanent two (2) years after issuance of the order without the case having been revived**. (n)
7 CA *rollo*, p. 49.

Baful testified that on May 20, 2003 she, together with her sister-in-law, went to Harvel International Talent Management and Promotion ("**HARVEL**") at Unit 509 Cityland Condominium, Makati City upon learning that recruitment for caregivers to Japan was on-going there. On said date, she allegedly met Inovero; Velasco, and Diala, and saw Inovero conducting a briefing on the applicants. She also testified that Diala, the alleged talent manager, directed her to submit certain documents, and to pay Two Thousand Five Hundred Pesos (P2,500.00) as training fee, as well as Thirty Thousand Pesos (P30,000.00) as placement and processing fees. Diala also advised her to undergo physical examination.

On June 6, 2003, after complying with the aforesaid requirements and after paying Diala the amounts of Eighteen Thousand Pesos (P18,000.00) and Ten Thousand pesos (P10,000.00), Baful was promised deployment within two (2) to three (3) months. She likewise testified that Inovero briefed her and her co-applicants on what to wear on the day of their departure. However, she was never deployed. Finally, she testified that she found out that HARVEL was **not** licensed to deploy workers for overseas employment.

Brizuela, another complainant, testified that he went to HARVEL's office in Makati on February 7, 2003 to inquire on the requirements and hiring procedure for a caregiver in Japan. There, Diala told him the amount required as processing fee and the documents to be submitted. And when he submitted on March 7, 2003 the required documents and payments, it was, this time, Paulino who received them. He claimed that he underwent training and medical examination; he likewise attended an orientation conducted by Inovero at which time, he and his batchmates were advised what clothes to wear on the day of their departure; he was assured of deployment on the first week of June 2003, however, on the eve of his supposed "pre-departure orientation seminar," Paulino texted him that the seminar was cancelled because Inovero, who had the applicants' money, did not show up. He testified that he was not deployed. Neither was his money returned, as promised.

On cross-examination, Brizuela testified that **Inovero was the one who conducted the orientation, and represented to all the applicants that most of the time, she was in the Japanese Embassy expediting the applicants' visa.**

Aguirre, the third complainant to testify, alleged that she went to HARVEL on May 22, 2003, to apply as caregiver in Japan; there, Diala informed her that Inovero was one of the owners of HARVEL and Velasco was its President; she paid Thirty Five Thousand Pesos (P35,000.00), and submitted her documents, receipt of which was acknowledged by Diala; despite her undergoing medical examination and several training seminars, she was however not deployed to Japan. Worse, she found out that **HARVEL was not licensed to recruit workers.**

Amoyo, the fourth complainant, testified that she went to HARVEL's office on May 28, 2003 to apply as caregiver in Japan, and Diala required her to submit certain documents, to undergo training and medical examination, and to pay Thirty Five Thousand Pesos (P35,000.00) as placement and processing fees. However, after complying with said requirements, she was never deployed as promised.

Marbella was the last complainant to testify. She alleged that she applied for the position of janitress at HARVEL sometime in December 2002; just like the rest of the complainants, she was required to submit certain documents and to pay a total amount of Twenty Thousand pesos (P20,000.00) as processing fee; after paying said fee, Diala and Inovero promised her and the other applicants that they will be deployed in three (3) months or in June 2003; however, the promised deployment never materialized; she later found out that HARVEL was not even licensed to recruit workers.

[Mildred] Versoza, on the other hand, is a Labor and Employment Officer at the POEA Licensing Branch. She testified that she prepared a Certification certifying that neither HARVEL nor Inovero was authorized to recruit workers for overseas employment as per records at their office.

In her defense, Inovero denied the allegations hurled against her. As summarized in the assailed Decision, she claimed that she is the niece of accused Velasco, the owner of HARVEL, but denied working there. Explaining her presence in HARVEL, she alleged that she worked for her uncle, Velasco's husband, as an office assistant, hence, for at least two or three times a week, she had to go to HARVEL on alleged errands for her uncle. She also testified that her alleged errands mainly consisted of serving food and refreshments during orientations at HARVEL.

Inovero likewise denied receiving any money from the complainants, nor issuing receipts therefor.[8]

Judgment of the RTC

On January 14, 2008, the RTC rendered judgment acquitting Inovero of five counts of *estafa* but convicting her in Criminal Case No. 04-1562 of illegal recruitment committed in large scale as defined and penalized by Section 6 and Section 7 of Republic Act No. 8042 (*Migrant Workers and Overseas Filipinos Act of 1995*), disposing thusly:

WHEREFORE, judgment is hereby rendered in the aforestated cases as follows:

In Criminal Case No. 04-1562, accused Maricar Inovero is found guilty beyond reasonable doubt of the crime of Illegal Recruitment in large scale defined and penalized under Sections 6 and 7, II, of Republic Act No. 8042 otherwise known as the 'Migrant Workers and Overseas Filipinos Act of 1995', and is hereby sentenced to suffer the penalty of life imprisonment. She is likewise ordered to pay a fine of Five Hundred Thousand Pesos (₱500,000.00).

Criminal Case No. 04-1563 also for illegal recruitment in large scale is hereby ordered dismissed to its finality for failure of complainants Alvin De Leon, Roderick Acuna, Agosto Vale and Marina Viernes to revive said case despite the lapse of two years from its provisional dismissal.

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8 Id. at 144-148.

Criminal Cases No. 04-1564, 1566, 1567, 1569, 1571 and 1574 are hereby ordered DISMISSED for failure of the prosecution to adduce sufficient evidence to prove all the elements of the said offense.

Criminal Cases Nos. 1565, 1568, 1570, 1572 and 1573 also for estafa [are] hereby ordered dismissed to its finality for failure of complainants Agosto Vale, Alvin De Leon, Roselyn Saruyda, Roderick Acuna and Marina Viernes to revive said cases despite the lapse of two (2) years from its provisional dismissal.

Considering that the accused is a detention prisoner, she shall be credited in the service of her sentence with the full time during which she has undergone preventive imprisonment if she agrees voluntarily to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, with four-fifths thereof.

Meanwhile, considering that the accused Ma. Harleta B. Velasco, Marissa Diala and Berna Paulino are still at large, let alias warrants of arrest be issued against them. In the meantime, let the cases filed against them be archived, which shall be revived upon their apprehension.

SO ORDERED.[9]

Decision of the CA

Inovero appealed, contending that:

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH [HER] GUILT BEYOND REASONABLE DOUBT.[10]

On August 26, 2010, the CA affirmed the conviction, *viz*:

WHEREFORE, the instant appeal is **DISMISSED**. The January 14, 2008 Decision of the RTC is **AFFIRMED**.

SO ORDERED.[11]

Issue

In this appeal, Inovero insists that the CA erred in affirming her conviction by the RTC because she had not been an employee of Harvel at any time; that she could be faulted only for her association with the supposed illegal recruiters; that in all stages of the complainants' recruitment

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9 Id. at 152-154.
10 Id. at 69.
11 Id. at 156.

for overseas employment by Harvel, they had transacted only and directly with Diala; and that the certification from the POEA to the effect she was not a licensed recruiter was not a positive proof that she engaged in illegal recruitment.

Ruling of the Court

The appeal lacks merit.

In its assailed decision, the CA affirmed the entire findings of fact of the RTC, stating:

> The essential elements of illegal recruitment committed in large scale are: (1) that the accused engaged in acts of recruitment and placement of workers as defined under Article 13(b) of the Labor Code, or in any prohibited activities under Article 34 of the same Code; (2) that the accused had not complied with the guidelines issued by the Secretary of Labor and Employment with respect to the requirement to secure a license or authority to recruit and deploy workers; and (3) that the accused committed the unlawful acts against 3 or more persons. In simplest terms, **illegal recruitment is committed by persons who, without authority from the government, give the impression that they have the power to send workers abroad for employment purposes.**
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> In Our view, despite Inovero's protestations that she did not commit illegal recruitment, the following circumstances contrarily convince Us that she was into illegal recruitment.
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> **First**, private complainants Baful and Brizuela commonly testified that Inovero was the one who conducted orientations/briefings on them; informed them, among others, on how much their salary would be as caregivers in Japan; and what to wear when they finally will be deployed.
>
> **Second**, when Diala introduced her (Inovero) to private complainant Amoyo as one of the owners of HARVEL, Inovero did not bother to correct said representation. Inovero's silence is clearly an implied acquiescence to said representation.
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> **Third**, Inovero, while conducting orientation on private complainant Brizuela, represented herself as the one expediting the release of applicants' working visa for Japan.
>
> **Fourth**, in a Certification issued and attested to by POEA's Versoza – Inovero had **no license nor authority to recruit for overseas employment.**
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> Based on the foregoing, there is therefore no doubt that the **RTC correctly found that Inovero committed illegal recruitment in large scale** by giving private complainants the **impression that she can send**

> **them abroad for employment purposes**, despite the fact that she had no license or authority to do so.[12]

It is basic that the Court, not being a trier of facts, must of necessity rely on the findings of fact by the trial court which are conclusive and binding once affirmed by the CA on intermediate review. The bindingness of the trial court's factual findings is by virtue of its direct access to the evidence. The direct access affords the trial court the unique advantage to observe the witnesses' demeanor while testifying, and the personal opportunity to test the accuracy and reliability of their recollections of past events, both of which are very decisive in a litigation like this criminal prosecution for the serious crime of illegal recruitment committed in large scale where the parties have disagreed on the material facts. The Court leaves its confined precinct of dealing only with legal issues in order to deal with factual ones only when the appellant persuasively demonstrates a clear error in the appreciation of the evidence by both the trial and the appellate courts. This demonstration was not done herein by the appellant. Hence, the Court upholds the CA's affirmance of the factual findings by the trial court.

All that Inovero's appeal has offered was her denial of complicity in the illegal recruitment of the complainants. But the complainants credibly described and affirmed her specific acts during the commission of the crime of illegal recruitment. Their positive assertions were far trustworthier than her mere denial.

Denial, essentially a negation of a fact, does not prevail over an affirmative assertion of the fact. Thus, courts – both trial and appellate – have generally viewed the defense of denial in criminal cases with considerable caution, if not with outright rejection. Such judicial attitude comes from the recognition that denial is inherently weak and unreliable by virtue of its being an excuse too easy and too convenient for the guilty to make. To be worthy of consideration at all, denial should be substantiated by clear and convincing evidence. The accused cannot solely rely on her negative and self-serving negations, for denial carries no weight in law and has no greater evidentiary value than the testimony of credible witnesses who testify on affirmative matters.[13] It is no different here.

We concur with the RTC and the CA that Inovero was criminally liable for the illegal recruitment charged against her. Strong and positive evidence demonstrated beyond reasonable doubt her having conspired with her co-accused in the recruitment of the complainants. The decision of the CA amply recounted her overt part in the conspiracy. Under the law, there is

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12 Id. at 154-156, (the bold underscoring is in the original text).

13 *People v. Bensig*, G.R. No. 138989, September 17, 2002, 389 SCRA 182, 194.

a conspiracy when two or more persons come to an agreement concerning the commission of a felony, and decide to commit it.[14]

The complainants paid varying sums for placement, training and processing fees, respectively as follows: (*a*) Baful – ₱28,500.00; (*b*) Brizuela – ₱38,600.00; (*c*) Aguirre – ₱38,600.00; (*d*) Amoyo – ₱39,000.00; and (*e*) Marbella – ₱20,250.00. However, the RTC and the CA did not adjudicate Inovero's personal liability for them in their judgments. Their omission needs to be corrected, notwithstanding that the complainants did not appeal, for not doing so would be patently unjust and contrary to law. The Court, being the ultimate reviewing tribunal, has not only the authority but also the duty to correct at any time a matter of law and justice. It is, indeed, a basic tenet of our criminal law that every person criminally liable is also civilly liable.[15] Civil liability includes restitution, reparation of the damage caused, and indemnification for consequential damages.[16] To enforce the civil liability, the *Rules of Court* has deemed to be instituted with the criminal action the civil action for the recovery of civil liability arising from the offense charged unless the offended party waives the civil action, or reserves the right to institute the civil action separately, or institutes the civil action prior to the criminal action.[17] Considering that the crime of illegal recruitment, when it involves the transfer of funds from the victims to the accused, is inherently in fraud of the former, civil liability should include the return of the amounts paid as placement, training and processing fees.[18] Hence, Inovero and her co-accused were liable to indemnify the complainants for all the sums paid.

That the civil liability should be made part of the judgment by the RTC and the CA was not disputable. The Court pointed out in *Bacolod v. People*[19] that it was "imperative that the courts prescribe the proper penalties when convicting the accused, and determine the civil liability to be imposed on the accused, unless there has been a reservation of the action to recover civil liability or a waiver of its recovery," because:

> It is not amiss to stress that both the RTC and the CA disregarded their express mandate under Section 2, Rule 120 of the *Rules of Court* to have the judgment, if it was of conviction, state: "(1) the legal qualification of the offense constituted by the acts committed by the

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14 Article 8 of the *Revised Penal Code*.

15 *E.g.*, Article 100 of the *Revised Penal Code* stipulates that every person criminally liable for a felony is also civilly liable. The provision, although seemingly applicable only to a felony, governs also a non-felony by virtue of Article 10 of the *Revised Penal Code* expressly making the provisions of the *Revised Penal Code* "supplementary" to special laws unless such laws provide otherwise.

16 Article 104 of the *Revised Penal Code*.

17 Section 1, Rule 111 of the *Rules of Court* (2000).

18 The *Civil Code*, in its Article 1170, expressly holds to be liable for damages those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor of the obligations; and in its Article 1171, considers the responsibility arising from fraud to be demandable in all obligations.

19 G.R. No. 206236, July 15, 2013, 701 SCRA 229 (the bold underscoring is part of the original text of the decision).

> accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) **the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived**." Their disregard compels us to act as we now do lest the Court be unreasonably seen as tolerant of their omission. That the Spouses Cogtas did not themselves seek the correction of the omission by an appeal is no hindrance to this action because the Court, as the final reviewing tribunal, has not only the authority but also the duty to correct at any time a matter of law and justice.
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> We also pointedly remind all trial and appellate courts to avoid omitting reliefs that the parties are properly entitled to by law or in equity under the established facts. Their judgments will not be worthy of the name unless they thereby fully determine the rights and obligations of the litigants. It cannot be otherwise, for only by a full determination of such rights and obligations would they be true to the judicial office of administering justice and equity for all. Courts should then be alert and cautious in their rendition of judgments of conviction in criminal cases. They should prescribe the legal penalties, which is what the Constitution and the law require and expect them to do. Their prescription of the wrong penalties will be invalid and ineffectual for being done without jurisdiction or in manifest grave abuse of discretion amounting to lack of jurisdiction. They should also determine and set the civil liability *ex delicto* of the accused, in order to do justice to the complaining victims who are always entitled to them. The *Rules of Court* mandates them to do so unless the enforcement of the civil liability by separate actions has been reserved or waived.[20]

What was the extent of Inovero's civil liability?

The nature of the obligation of the co-conspirators in the commission of the crime requires solidarity, and each debtor may be compelled to pay the entire obligation.[21] As a co-conspirator, then, Inovero's civil liability was similar to that of a joint tortfeasor under the rules of the civil law. Joint tortfeasors are those who command, instigate, promote, encourage, advise, countenance, cooperate in, aid or abet the commission of a tort, or who approve of it after it is done, if done for their benefit.[22] They are also referred to as those who act together in committing wrong or whose acts, if

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[20] Id. at 239-240.

[21] The *Civil Code* states:

> Article 1207. The concurrence of two or more creditors or of two or more debtors in one and the same obligation does not imply that each one of the former has a right to demand, or that each one of the latter is bound to render, entire compliance with the prestation. There is a solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity. (1137a)

See IV Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, 1991 (Reprinting 1999), Central Lawbook Publishing Co., Inc., Quezon City, p. 220.

[22] *Malvar v. Kraft Food Phils., Inc*., G.R. No. 183952, September 9, 2013; *Chan, Jr. v. Iglesia ni Cristo, Inc*., G.R. No. 160283, October 14, 2005, 473 SCRA 177, 186.

independent of each other, unite in causing a single injury.[23] Under Article 2194 of the *Civil Code*, joint tortfeasors are solidarily liable for the resulting damage. In other words, joint tortfeasors are each liable as principals, to the same extent and in the same manner as if they had performed the wrongful act themselves. As regards the extent of their respective liabilities, the Court expressed in *Far Eastern Shipping Company v. Court of Appeals*:[24]

> x x x. Where several causes producing an injury are concurrent and each is an efficient cause without which the injury would not have happened, the injury may be attributed to all or any of the causes and recovery may be had against any or all of the responsible persons although under the circumstances of the case, it may appear that one of them was more culpable, and that the duty owed by them to the injured person was not same. No actor's negligence ceases to be a proximate cause merely because it does not exceed the negligence of other acts. Each wrongdoer is responsible for the entire result and is liable as though his acts were the sole cause of the injury.
>
> There is no contribution between joint tort-feasors whose liability is solidary since both of them are liable for the total damage. Where the concurrent or successive negligent acts or omissions of two or more persons, although acting independently, are in combination the direct and proximate cause of a single injury to a third person, it is impossible to determine in what proportion each contributed to the injury and either of them is responsible for the whole injury. x x x

It would not be an excuse for any of the joint tortfeasors to assert that her individual participation in the wrong was insignificant as compared to those of the others.[25] Joint tortfeasors are not liable *pro rata*. The damages cannot be apportioned among them, except by themselves. They cannot insist upon an apportionment, for the purpose of each paying an aliquot part. They are jointly and severally liable for the whole amount.[26] Hence, Inovero's liability towards the victims of their illegal recruitment was solidary, regardless of whether she actually received the amounts paid or not, and notwithstanding that her co-accused, having escaped arrest until now, have remained untried.

Under Article 2211 of the *Civil Code*, interest as part of the damages may be adjudicated in criminal proceedings in the discretion of the court. The Court believes and holds that such liability for interest attached to Inovero as a measure of fairness to the complainants. Thus, Inovero should pay interest of 6% *per annum* on the sums paid by the complainants to be reckoned from the finality of this judgment until full payment.[27]

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[23] Black's Law Dictionary, Fifth Edition, 1979, pp. 752-753, citing *Bowen v. Iowa Nat. Mut. Ins. Co.*, 270 N.C. 486, 155 S.E. 2d 238, 242.

[24] G.R. No. 130068, October 1, 1998, 297 SCRA 30, 84.

[25] *Lafarge Cement Philippines, Inc. v. Continental Cement Corporation*, G.R. No. 155173, November 23, 2004, 443 SCRA 522, 545.

[26] Id.

[27] *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on August 26, 2010, subject to the **MODIFICATION** that appellant Maricar B. Inovero is ordered to pay by way of actual damages to each of the complainants the amounts paid by them for placement, training and processing fees, respectively as follows:

(a)	Noveza Baful	–	₱28,500.00;
(b)	Danilo Brizuela	–	₱38,600.00;
(c)	Rosanna Aguirre	–	₱38,600.00;
(d)	Annaliza Amoyo	–	₱39,000.00; and
(e)	Teresa Marbella	–	₱20,250.00.

plus interest on such amounts at the rate of six percent (6%) *per annum* from the finality of this judgment until fully paid.

Inovero shall further pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
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's Division.

MARIA LOURDES P. A. SERENO
Chief Justice