

Republic of the Philippines
Supreme Court
Manila

EN BANC

JUDGE NIMFA P. SITACA,

Complainant,

- versus -

**ATTY. DIEGO M.
PALOMARES, JR.,**

Respondent.

A.C. No. 5285

Present:

BERSAMIN, *Chief Justice*
CARPIO,
PERALTA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A., JR.,
GISMUNDO,
REYES, J., JR.
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA, *JJ.*

Promulgated:

August 14, 2019

X-----X

DECISION

PER CURIAM:

The Charge

By Complaint Affidavit¹ dated April 5, 2000, Hon. Nimfa P. Sitaca***, Acting Presiding Judge of the Regional Trial Court (RTC) - Branch 35, Ozamiz City charged respondent Atty. Diego M. Palomares, Jr.

*** "Ma. Nimfa P. Sitaca" in some parts of the *Rollo*.

¹ *Rollo*, p. 5.

before the Integrated Bar of the Philippines (IBP) with falsification/disbarment/discipline. She essentially alleged:

In September 1997, Criminal Case No. RTC-1503 entitled "*People of the Philippines v. Dunhill Palomares*", for murder, got raffled to RTC-Branch 35, Ozamiz City, of which she is the Presiding Judge. Accused Dunhill Palomares was represented by his father, herein respondent Atty. Diego M. Palomares, Jr., as counsel of record.

Thereafter, Branch Clerk of Court Atty. Roy Murallon reported to her that respondent was present in the court for the purpose of securing approval of the bail bond for his son's temporary release. The bail bond in the amount of P200,000.00 was accompanied by the order of release signed by Atty. Glenn Peter Baldado, Branch Clerk of Court of the RTC-Branch 18, Cagayan de Oro City. Atty. Murallon presented to her the bail bond itself bearing the signature of Hon. Nazar Chavez, Presiding Judge of RTC-Branch 18. At that time, accused Dunhill Palomares was detained at the Cagayan de Oro City jail.

She approved the order of release and the bail bond itself after she saw the signature of Judge Chavez thereon.

Not long after, however, Atty. Murallon informed her of a letter he received from Atty. Baldado advising that the supposed bail bond was actually inexistent and the Branch 18 never processed it.

In his Comment² dated September 19, 2000, respondent basically countered:

When his son was allowed to post bail in the amount of P200,000.00, he sought help from his client Bentley House International Corporation (BHIC) through its Chief Executive Officer Jonathon Bentley Stevenz and Operations Manager Cristina Romarate for the purpose of facilitating his son's temporary release from detention. For this purpose, BHIC referred him to one William Guialani. He and Guialani talked about the matter. Then Guialani proceeded to secure the bail bond for his son's temporary release. The bail bond which Guialani was able to secure carried the signature of Judge Chavez. It was also accompanied by the release order signed by Atty. Baldado. His BHIC clients were able to get hold of these documents which they turned over to him.³

Atty. Murallon ought to have been in the best position to inquire whether or not the bail bond and the release order were authentic. As it was, however, Atty. Murallon never mentioned any irregularity about these documents nor inquired about their authenticity.

² *Id.* at 24-28.

³ *Id.* at 25.

He never had a hand in the production of the alleged spurious bail bond because he could easily secure one from other insurance companies, which happened to be his clients, too.⁴

In her reply, Judge Sitaca took notice of respondent's convenient imputation of liability on innocent third parties like her and Atty. Murallon.⁵

On March 19, 2003, the Court referred the case to the IBP Commission on Bar Discipline (IBP-CBD) for investigation.⁶

IBP Commissioner's Report and Recommendation

Under her Report and Recommendation dated July 24, 2003,⁷ Investigating IBP Commissioner Milagros V. San Juan found respondent liable for violation of Canon 10, Rule 10.01 of the Code of Professional Responsibility⁸ (CPR) and recommended his suspension from the practice of law for eighteen (18) months.

Commissioner San Juan keenly noted: (a) the circumstances by which respondent supposedly secured Guialani's services were suspect. For although claiming to be capable of securing the bail bond himself through his so called insurance company clients, why did he still opt to avail of the services of Guialani whom he did not know from Adam; (b) it was very much convenient for respondent to cast all the blame on Guialani, albeit it was he himself (respondent) who submitted and used the falsified documents for the purpose of securing temporary release of his son; (c) as a lawyer, respondent should have verified with Branch 18 the veracity of the documents.⁹

IBP Board of Governors' Resolution

By Resolution No. XVI-2003-81 dated August 30, 2003, the IBP Board of Governors resolved to adopt and approve the Report and Recommendation of IBP-CBD.¹⁰

The Court's Ruling (Third Division)

Under Decision dated April 14, 2004,¹¹ the Court noted that the prescribed procedure pertaining to the investigation of administrative complaints was not complied with here, viz:

⁴ *Id.* at 26.

⁵ *Id.* at 37.

⁶ *Id.* at 40.

⁷ *Rollo*, pp. 43-50.

⁸ Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

⁹ *Rollo*, pp. 43-47.

¹⁰ *Id.* at 42.

¹¹ *Id.* at 53-59.

“SEC. 3. Duties of the National Grievance Investigator. – The National Grievance Investigators shall investigate all complaints against members of the Integrated Bar referred to them by the IBP Board of Governors.

“x x x x x x x x x

“SEC. 5. Service or dismissal. – if the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

“No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.

“x x x x x x x x x

“SEC. 8. Investigation. – Upon joinder of issues or upon failure of the respondent to answer, the Investigator shall, with deliberate speed, proceed with the investigation of the case. He shall have the power to issue subpoenas and administer oaths. The respondent shall be given full opportunity to defend himself, to present witnesses on his behalf and be heard by himself and counsel. However, if upon reasonable notice, the respondent fails to appear, the investigation shall proceed *ex parte*.

“The Investigator shall terminate the investigation within three (3) months from the date of its commencement, unless extended for good cause by the Board of Governors upon prior application.

“Willful failure to (sic) refusal to obey a subpoena or any other lawful order issued by the Investigator shall be dealt with as for indirect contempt of court. The corresponding charge shall be filed by the Investigator before the IBP Board of Governors which shall require the alleged contemnor to show cause within ten (10) days from notice. The IBP Board of Governors may thereafter conduct hearings, if necessary, in accordance with the procedure set forth in this Rule for hearings before the Investigator. Such hearing shall as far as practicable be terminated within fifteen (15) days from its commencement. Thereafter, the IBP Board of Governors shall within a like period of fifteen (15) days issue a resolution setting forth its findings and recommendations, which shall forthwith be transmitted to the Supreme Court for final action and is warranted, the imposition of penalty.”

Hence, the Court resolved to remand the case to the IBP for further proceedings, *viz:*

WHEREFORE, the instant administrative case is REMANDED to the Integrated Bar of the Philippines for further proceedings; it is also directed to act on this referral with dispatch.

SO ORDERED.

The Proceedings before the IBP-CBD

After receiving back the case records, the IBP-CBD set the case for hearing on several dates. Judge Sitaca, however, did not attend a single hearing. In her Letter dated June 22, 2007, complainant manifested that she was submitting the case on the basis of the records. On the other hand, respondent moved to dismiss the case for alleged lack of evidence to support the charges against him. At any rate, as alleged proof of his innocence, he stuck to the affidavits of Stevenz and Romarate on how Guialani came into the picture.¹²

The IBP-CBD denied respondent's motion to dismiss and resolved the case based on the evidence on record thus far adduced on record.

IBP Commissioner's Amended Report and Recommendation

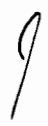
In its Amended Report and Recommendation dated March 27, 2009,¹³ Investigating Commissioner Jose dela Rama, Jr. came out with the following factual findings:

First, as counsel of record for his son Dunhill Palomares, respondent knew there were no bail proceedings in his son's murder case. Consequently, respondent cannot deny the spurious character of the bail bond in question, let alone, feign ignorance thereof since it was his son who actually benefited from it.¹⁴

Second, respondent failed to present copy of the "Petition for Approval of Bond" or the "Order" approving the bail bond supposedly issued by Branch 18.¹⁵

Third, when he sought Guialani's assistance in processing the bail bond, he himself was presumed to have furnished the required documents to Guialani otherwise the latter would not have been able to possibly secure the bail bond, much less the release order.¹⁶

In sum, the IBP-CBD recommended:



¹² IBP Record, (Vol. III), Commissioner's Report dated July 18, 2008.

¹³ IBP Record, (Vol. IV), Commissioner's Report dated March 27, 2009.

¹⁴ *Id.*

¹⁵ *Id.* at p.9.

¹⁶ *Id.* at p.10.

WHEREFORE, in view of the foregoing, it is most respectfully recommended to the Board of Governors that its earlier Resolution No. XVI-2003-81 be reiterated and that respondent ATTY. DIEGO M. PALOMARES be SUSPENDED from the practice of law for a period of eighteen (18) months.

IBP Board of Governors' Resolution

By Resolution No. XIX-2011-188 dated May, 14, 2011,¹⁷ the IBP Board of Governors resolved to adopt and approve the IBP-CBD's findings but recommended to increase respondent's suspension from the practice of law from eighteen (18) months to three (3) years.

In its Resolution dated February 11, 2014, the IBP Board of Governors denied respondent's motion for reconsideration.¹⁸

Ruling

Despite respondent's vigorous disclaimer of any participation in the procurement of the falsified bail bond and release order, the combination of all the circumstances on record is such as to produce the indubitable conclusion that it was respondent, no other, who conceptualized, planned, and implemented the falsified bail bond and release order for his son's temporary release. Consider:

First. He was the counsel of record for his son who was charged with murder, a non-bailable offense, docketed as Criminal Case No. RTC-1503.

Second. As such, he knew there was no petition for bail at all, much less any hearing thereon, nor an order granting or fixing the amount thereof at P200,000.00. But despite his knowledge of these attendant circumstances, he personally went to present to Branch Clerk of Court Atty. Murallon the supposed bail bond and release order with the end in view of securing his son's temporary liberty. More than anyone else, it was he who knew these documents were falsified and did not legally exist.

He cannot feign ignorance of these spurious documents. He may deny all he wants but being his son's counsel of record speaks volumes of his familiarity with the proceedings that actually took place therein including those which did not take place at all. He may deny being the conceptor, inventor, implementor or brains behind the whole scheme, but he has only himself to fool.

¹⁷ IBP Record, (Vol. IV), Notice of Resolution.

¹⁸ IBP Record, (Vol. IV), Notice of Resolution dated February 11, 2014.

In any event, his vehement denial only further exposes to all and sundry his wicked tendencies and unworthiness to continue being a member of the Philippine Bar.

He may have thought of putting into the picture a fall guy named "Guialani" whom he said processed the falsified court issuances. But does this person really exist? What is his expertise in processing bail bonds? What did he do to be able to come out with a falsified bail bond and release order? What is BHIC's connection to Guialani? True, in their respective affidavits, Cristina Romarate (an alleged BHIC stockholder) and BHIC CEO Jonathan Stevens stated they introduced respondent to Guialani. But these affidavits did not shed light on Guialani's true identity and actual participation in the procurement of the falsified bail bond and release order.

It was indeed convenient for respondent to point to Guialani as the procurer of the falsified court documents. It was also convenient for the BHIC officers to corroborate respondent's claim that the falsified court issuances were procured by a certain Guialani. But these statements are all self-serving. The rock bottom is this: there is no proof Guialani really exists. Besides, if indeed respondent had no hand in the procurement of the falsified court issuances, it would have been right for him to promptly file an action against Guialani. But he never did.

Third. Respondent unabashedly turned the table on the persons accusing him of falsifying the bail bond and release order. If this is not moral depravity, what is? Like seasoned criminals who resort to victim blaming, respondent conveniently pointed fingers at Judge Sitaca and her branch clerk of court when he himself clearly appears to be the mastermind of the vicious scheme.

Fourth. When a court has already obtained jurisdiction over a criminal case, such jurisdiction is retained up until the end of the litigation.¹⁹ Here, Branch 35, Ozamiz City had already acquired jurisdiction over the murder case. Verily, bail should have been processed and applied for with that court. Nowhere else.

Fifth. Under the principle of presumption of authorship, the possessor and user of a falsified document is the author of the falsification and whoever stands to benefit from the falsification is the author thereof.²⁰ Here, it was respondent himself who held the falsified court documents. He, too, utilized the same to secure his son's temporary liberty. In other words, all considerations points to him as the primary author of the falsified court documents.

In *Spouses Villamar v. People of the Philippines*,²¹ the Court applied the presumption of authorship after finding that petitioners therein were the

¹⁹ *Barrameda v. Rural Bank of Canaman, Inc.*, 650 Phil. 476, 485 (2010).

²⁰ *PCGG v. Jacobi*, 689 Phil. 307, 321-322 (2012).

²¹ 652 Phil. 117, 123 (2010).

ones who caused the registration of the deed of sale, received the falsified document from the Assessor's Office, and essentially benefited from the spurious sale of the property in question.

No one ordinary mortal, nay, a member of the bar could ignore the glaring irregularity of the circumstances under which the falsified bail bond and the release order were obtained. From beginning to end, everything on its face looked wrong, smelled fishy, and revealed a despicable design to tamper with court processes and records, with impunity.

Rule 1.01, Canon 1 of the Code of Professional Responsibility ordains:

CANON 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Based on the evidence on record, respondent committed a serious breach of Rule 1.01 of Canon 1.

In *Billanes v. Atty. Latido*,²² the Court imposed on respondent therein the penalty of disbarment in view of respondent's act of falsifying a court decision supposedly granting his client's petition for declaration of nullity of marriage. The Court considered the act "so reprehensible", it warranted the extreme penalty of disbarment, thus:

Rule 1.01, Canon 1 of the CPR instructs that "as officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing." Indubitably, respondent fell short of such standard when he committed the afore-described acts of misrepresentation and deception against complainant. Such acts are not only unacceptable, disgraceful, and dishonorable to the legal profession; they further reveal basic moral flaws that make respondent unfit to practice law.

In *Tan v. Diamante*, the Court found the lawyer therein administratively liable for violating Rule 1.01, Canon 1 of the CPR as it was established that he, among others, falsified a court order. In that case, the Court deemed the lawyer's acts to be "so reprehensible, and his violations of the CPR are so flagrant, exhibiting his moral unfitness and inability to discharge his duties as a member of the bar."⁴² Thus, the Court disbarred the lawyer.

Similarly, in *Taday v. Apoya, Jr.*, promulgated just last July 3, 2018, the Court disbarred the erring lawyer for authoring a fake court decision regarding his client's annulment case, which was considered as a violation also of Rule 1.01, Canon 1 of the CPR. In justifying the

²² *Vicente Ferrer A. Billanes v. Atty. Leo S. Latido*, A.C. No. 12066, August 28, 2018.

imposition of the penalty of disbarment, the Court held that the lawyer "committed unlawful, dishonest, immoral[,] and deceitful conduct, and lessened the confidence of the public in the legal system. Instead of being an advocate of justice, he became a perpetrator of injustice. His reprehensible acts do not merit him to remain in the rolls of the legal profession. Thus, the ultimate penalty of disbarment must be imposed upon him."

Accordingly, following prevailing jurisprudence, the Court likewise finds respondent guilty of violating Rule 1.01, Canon 1 of the CPR. Hence, he is disbarred from the practice of law and his name is ordered stricken off from the roll of attorneys, effective immediately.

Likewise, this Court finds respondent guilty of violating Canon 10, Rule 10.01 of the CPR which provides:

CANON 10 - A lawyer owes candor, fairness and good faith to the Court.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

Records show that respondent indulged in deliberate falsehood when he caused the falsification of the bail bond and release order. Not only that. He even presented these court documents in court all for the purpose of securing his son's temporary release from detention.

In *Sps. Umaguing v. Atty. De Vera*,²³ respondent was found guilty of violating Rule 10.01, Canon 10 of the CPR by submitting a falsified affidavit before the court, viz:

Fundamental is the rule that in his dealings with his client and with the courts, every lawyer is expected to be honest, imbued with integrity, and trustworthy. These expectations, though high and demanding, are the professional and ethical burdens of every member of the Philippine Bar, x
x x x

x x x

x x x

x x x

The Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. Every lawyer is a servant of the law, and has to observe and maintain the rule of law as well as be an exemplar worthy of emulation by others. It is by no means a coincidence, therefore, that the core values of honesty, integrity, and trustworthiness are emphatically reiterated by the Code of Professional Responsibility.³⁰ In this light, Rule 10.01, Canon 10 of the Code of Professional Responsibility

²³ 753 Phil. 11, 22 (2015).

provides that “[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.”

After an assiduous examination of the records, the Court finds itself in complete agreement with the IBP Investigating Commissioner, who was affirmed by the IBP Board of Governors, in holding that Atty. De Vera sanctioned the submission of a falsified affidavit, i.e., Almera’s affidavit, before the court in his desire to beat the November 8, 2008 deadline for filing the election protest of Umaguang. x x x x The assertion that Atty. De Vera authorized the falsification of Almera’s affidavit is rendered more believable by the absence of Atty. De Vera’s comment on the same. In fact, in his Motion for Reconsideration of the IBP Board of Governors’ Resolution dated December 14, 2012, no specific denial was proffered by Atty. De Vera on this score. Instead, he only asserted that he was not the one who notarized the subject affidavits but another notary public, who he does not even know or has seen in his entire life, and that he had no knowledge of the falsification of the impugned documents, much less of the participation in using the same. Unfortunately for Atty. De Vera, the Court views the same to be a mere general denial which cannot overcome Elsa Almera-Almacen’s positive testimony that he indeed participated in the procurement of her signature and the signing of the affidavit, all in support of the claim of falsification.

The final lining to it all – for which the IBP Board of Governors rendered its recommendation – is that Almera’s affidavit was submitted to the MeTC in the election protest case. The belated retraction of the questioned affidavits, through the Answer to Counterclaim with Omnibus Motion, does not, for this Court, merit significant consideration as its submission appears to be a mere afterthought, prompted only by the discovery of the falsification. Truth be told, it is highly improbable for Atty. De Vera to have remained in the dark about the authenticity of the documents he himself submitted to the court when his professional duty requires him to represent his client with zeal and within the bounds of the law. (underscoring supplied) x x x x

x x x

x x x

x x x

All told, Atty. De Vera is found guilty of violating the Lawyer’s Oath and Rule 10.01, Canon 10 of the Code of Professional Responsibility by submitting a falsified document before a court.

So must it be.

A final word. The Court has invariably emphasized that membership in the bar is only bestowed upon individuals who are not only learned in law, but also known to possess good moral character.²⁴ Thus, to preserve the nobility and honor of the legal profession, disbarment, no matter how harsh it may be, is a remedy resorted to by the Court in order to purge the law profession of unworthy members of the bar.²⁵ Here, considering the gravity of respondent’s infractions, the Court imposes, no less than the extreme penalty of disbarment on respondent.

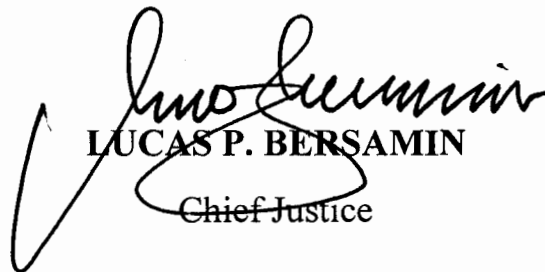
²⁴ *Ret. Judge Alpajora v. Atty. Calayan*, A.C. No. 8208, January 10, 2018, 850 SCRA 99, 113.


²⁵ *Yu v. Atty. Dela Cruz*, 778 Phil. 557, 563 (2016).


WHEREFORE, the Court finds respondent Diego M. Palomares, Jr. **GUILTY** of violation of Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the Code of Professional Responsibility. Accordingly, he is **DISBARRED** from the practice of law and his name is ordered **STRICKEN OFF** from the Roll of Attorneys effective immediately.


The Office of the Bar Confidant is required to attach a copy of this Decision to the records of respondent Diego M. Palomares, Jr.. Let copies of this Decision be furnished the Integrated Bar of the Philippines for their information and guidance and the Office of the Court Administrator for circulation to all the courts in the country.


SO ORDERED.


LUCAS P. BERSAMIN
Chief Justice

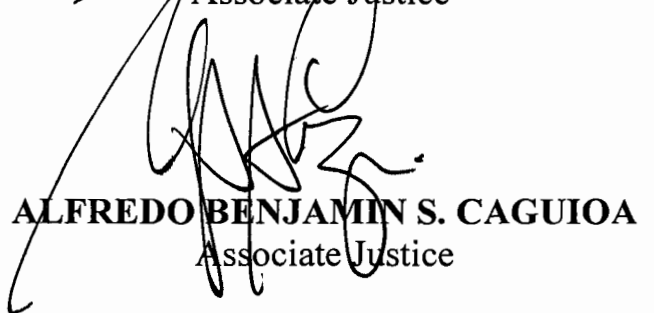

ANTONIO T. CARPIO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice

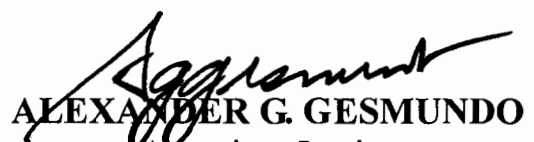

ESTELA M. PERLAS-BERNABE
Associate Justice

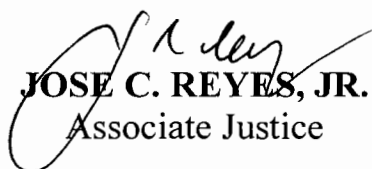

MARVIC M.V.E. LEONEN
Associate Justice

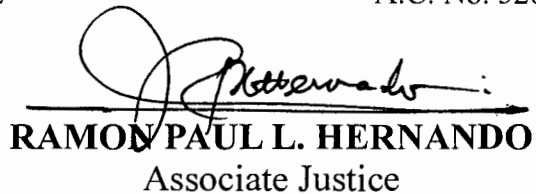

FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

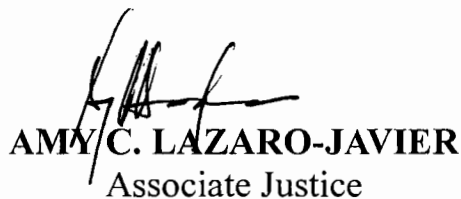

ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GASMUNDO
Associate Justice

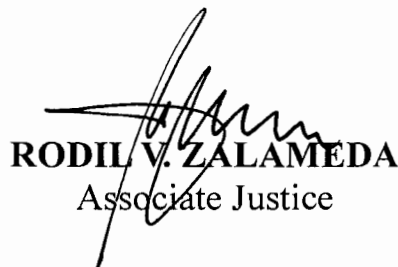

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

