OFFICE OF THE OMBUDSMAN, PETITIONER, VS. PEDRO DELIJERO, JR., RESPONDENT.

G.R. No. 172635. October 20, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for review on certiorari,[1] under Rule 45 of the Rules of Court, seeking to set aside the June 7, 2005 Decision[2] and May 2, 2006 Resolution[3] of the Court of Appeals (CA), in CA-G.R. SP No. 00017.

The facts of the case, as culled from the records, are as follows:

Respondent Pedro Delijero, Jr., was a public school teacher at the Burauen Comprehensive National High School, Burauen, Leyte and was administratively charged for Grave Misconduct.

A complaint against respondent was filed before petitioner Office of the Ombudsman as a Request for Assistance (RAS) from the President of the Burauen Watchdog Committee for Good Government. Philip Camiguing, Graft Prevention & Control Officer I, submitted his final evaluation report and recommended that the RAS be upgraded into an administrative and criminal complaint against respondent.[4]

The complainant, Cleofas P. dela Cruz, was the mother of the alleged victim Myra dela Cruz (Myra). At the time of the incident, Myra was only 12 years old and a first year high school student at the Burauen Comprehensive National High School. Respondent, on the other hand, was Myra's 52-year-old Mathematics teacher.[5]

Sometime in May 2003, complainant learned from her cousin that respondent was courting her daughter Myra. Complainant then immediately confronted Myra, who admitted having received from respondent several handwritten love letters, a Valentine's card and Two Hundred Pesos as allowance.[6]

In her Affidavit,[7] Myra gave the following declarations, to wit:

> x x x x
>
> 2. Sometime on August 12, 2002, our Mathematics teacher, Mr. Pedro Delijero, started courting me, by sending love notes, valentines cards thru my classmates Angelyn del Pilar, Maricel Gayanes, Irene Cajote;
>
> 3. Last April 7, 2003, at about 10:00 a.m., more or less, my math teacher, Mr. Pedro Delijero, who was inside his room, [called] my attention, and as I got inside the said room, he abruptly closed the open door, thereby, immediately kissed my cheek, out of fear, I pushed him away from me, and I rushed to the door of said room and went outside.[8]

Maricel Gayanes, Irene Cajote and Angelyn del Pilar, all classmates of Myra, submitted their Joint Affidavit[9] the pertinent portions of which read:

> x x x x

> In several instances, which we cannot anymore recall the dates, we were requested by our Math teacher Mr. Pedro Delijero, Jr. to handed the letters to my classmate Myra Dela Cruz,
>
> 4. We have the knowledge of all the letters sent to her, as "LOVE LETTERS" as it was confirmed by our classmate Myra dela Cruz, that those letters which we brought to her, were all love letters from our Math teacher, Mr. Pedro Delijero, since Mr. Delijiro is courting her, same were true with regard to Valentine's Cards, as well as the 2 pieces of One Hundred Peso Bill (P100.00) being inserted at the intermediate pad paper, x x x

Respondent submitted a Counter-Affidavit[10] in his defense. Respondent denied kissing Myra in the morning of April 7, 2003. Moreover, respondent claimed that Myra fell in love with him and wrote him love letters. Respondent claimed that he was merely forced to answer her letters as she threatened him that she would kill herself if he would not answer her and reciprocate her love. Lastly, respondent claimed that their relationship was merely platonic.

Petitioner called the parties to a preliminary conference and, after which, ordered them to submit their respective position papers.

Respondent, however, did not submit a position paper but instead submitted a Manifestation[11] stating that the administrative aspect of the complaint was likewise the subject of a complaint filed by complainant before the Office of the Regional Director, Department of Education, Regional Office VIII, Palo, Leyte.

On May 17, 2004, petitioner rendered a Decision[12] finding respondent guilty of Grave Misconduct and meted him the penalty of dismissal, the dispositive portion of which reads:

> WHEREFORE, premises considered, this Office finds respondent PEDRO DELIJERO, JR. guilty of Grave Misconduct and, pursuant to Section 46 (b) of the Revised Administrative Code of 1987, he is, therefore, meted the penalty of DISMISSAL from public service, forfeiture of all benefits and perpetual disqualification to hold public office.
>
> SO DECIDED.[13]

Respondent moved for a reconsideration[14] of petitioner's decision. Respondent asked that the order of dismissal be reconsidered and, instead, be changed to a penalty of suspension. On May 14, 2004, petitioner issued an Order[15] denying respondent's motion for reconsideration.

Aggrieved, respondent then appealed to the CA.

On June 7, 2005, the CA rendered a Decision ruling in favor of respondent, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in this case and SETTING ASIDE the Decision dated May 17, 2004 and the Order dated July 30, 2004 rendered and issued by the Office of the Ombudsman in OMB-VIS-A-03-0506-4.
>
> IT IS SO ORDERED.[16]

The CA, without ruling on the issues raised by respondent, instead tackled the issue of jurisdiction motu proprio. The CA ruled that petitioner had no jurisdiction to investigate the complaint filed before it as Republic Act No. 4670 (RA 4670), the Magna Carta for Public School Teachers, specifically covers and governs administrative proceedings involving public school teachers. The CA held that petitioner should have immediately dismissed the case after respondent had informed it, through a manifestation, of the pendency of an administrative complaint before the DECS. Moreover, the CA ruled that even assuming arguendo that petitioner had the power to investigate the complaint, it still had no power to directly impose sanctions against respondent as its power is limited to only recommend the appropriate sanctions, but not to directly impose the same.

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Petitioner then filed an Omnibus Motion to Intervene and for Reconsideration[17] assailing the Decision of the CA. On May 2, 2006, the CA issued a Resolution denying petitioner's motion.

Hence, herein petition, with petitioner raising the following issues for this Court's resolution, to wit:

> I.
>
> THE OFFICE OF THE OMBUDSMAN HAS FULL AND COMPLETE ADMINISTRATIVE DISCIPLINARY AUTHORITY OVER PUBLIC SCHOOL TEACHERS, WHICH AUTHORITY IS CONCURRENT WITH OTHER DISCIPLINING AUTHORITIES SANCTIONED BY NO LESS THAN REPUBLIC ACT NO. 4670, OTHERWISE KNOWN AS "THE MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS," AND THE CIVIL SERVICE LAW (PD 807, BOOK V OF EO 292).
>
> II.
>
> SECTION 9 OF REPUBLIC ACT NO. 4670 (MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS) HAS NOT ADDED PUBLIC SCHOOL TEACHERS TO THE LIST OF SPECIAL PRIVILEGED CLASSES OF PUBLIC SERVANTS EXEMPTED FROM THE OMBUDSMAN'S ADMINISTRATIVE DISCIPLINARY AUTHORITY UNDER THE 1987 CONSTITUTION, AND ANY SUCH INTERPRETATION SUFFERS FROM THE VICE OF UNCONSTITUTIONALITY.
>
> III.
>
> THE ISSUE OF WHETHER OR NOT THE OMBUDSMAN HAS THE AUTHORITY TO DETERMINE THE ADMINISTRATIVE LIABILITY OF AN ERRING PUBLIC OFFICIAL OR EMPLOYEE, AND TO DIRECT AND COMPEL THE HEAD OF THE CONCERNED OFFICE OR AGENCY TO IMPLEMENT THE PENALTY IMPOSED, HAS ALREADY BEEN SETTLED BY THE HONORABLE COURT IN THE CASE OF LEDESMA VS COURT OF APPEALS, ET AL., 465 SCRA 437 (2005).[18]

The petition is meritorious.

This Court shall jointly discuss the first and second issues as the same are interrelated. Petitioner mainly argues that its administrative disciplinary authority over public school teachers is concurrent with the Department of Education, Culture and Sports (DECS) disciplining authority.

Petitioner is correct. The issue is not novel.

In Office of the Ombudsman v. Medrano,[19] (Medrano) this Court ruled that the administrative disciplinary authority of the Ombudsman over a public school teacher is not an exclusive power but is concurrent with the proper committee of the DECS, to wit:

> In resolving the second issue - whether petitioner has jurisdiction over the administrative complaint against respondent - it is necessary to examine the source, nature and extent of the power and authority of the Ombudsman vis-à-vis the provisions of the Magna Carta for Public School Teachers.
>
> Section 5, Article XI of the Constitution "created the independent Office of the Ombudsman." Hailed as the "protectors of the people," the Ombudsman and his Deputies are bestowed with overreaching authority, powers, functions, and duties to act on complaints against public officials and employees, as provided in Sections 12 and 13 thereof, thus:
>
> Sec. 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

Sec. 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient;

(2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;

(3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith;

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence;

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency; and

(8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law. (Underscoring supplied)

The above enumeration of the Ombudsman's far-reaching powers is not exclusive as the framers of the Constitution gave Congress the leeway to prescribe, by subsequent legislation, additional powers, functions or duties to the Ombudsman, as mandated in Section 13(8), quoted above.

Pursuant to the constitutional command, Congress enacted R.A. No. 6770 (The Ombudsman Act of 1989) providing for the functional, structural organization, and the extent of the administrative disciplinary authority of the petitioner. The provisions of this law "apply to all kinds of malfeasance, misfeasance, and nonfeasance" committed by any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, "during his tenure in office." The acts or omissions which the petitioner may investigate are quite extensive:

SEC. 19. Administrative Complaints. - The Ombudsman shall act on all complaints relating, but not limited, to acts or omissions which:

(1) Are contrary to law or regulation;

(2) Are unreasonable, unfair, oppressive or discriminatory;

(3) Are inconsistent with the general course of an agency's functions, though in accordance with law;

(4) Proceed from a mistake of law or an arbitrary ascertainment of facts;

(5) Are in the exercise of discretionary powers but for an improper purpose; or

(6) Are otherwise irregular, immoral or devoid of justification.

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Its mandate is not only to "act promptly on complaints" against such public officers or employees, but also to "enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people."

R.A. No. 6770, however, restrains the petitioner from exercising its disciplinary authority "over officials who may be removed only by impeachment or over Members of Congress and the Judiciary," thus:

SEC. 21. Officials Subject to Disciplinary Authority; Exceptions. - The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress and the Judiciary.

SEC. 22. Investigatory Power.- The Office of the Ombudsman shall have the power to investigate any serious misconduct in office allegedly committed by officials removable by impeachment, for the purpose of filing a verified complaint for impeachment, if warranted.

In all cases of conspiracy between an officer or employee of the government and a private person, the Ombudsman and his Deputies shall have jurisdiction to include such private person in the investigation and proceed against such private person as the evidence may warrant. The officer or employee and the private person shall be tried jointly and shall be subject to the same penalties and liabilities. (Underscoring supplied)

The above constitutional and statutory provisions taken together reveal the manifest intent of the lawmakers to bestow upon the petitioner full administrative disciplinary power over public officials and employees except those impeachable officials, Members of Congress and of the Judiciary.

When an administrative charge is initiated against a public school teacher, however, Section 9 of the Magna Carta for Public School Teachers specifically provides that the same shall be heard initially by an investigating committee composed of the school superintendent of the division, as chairman, a representative of the local or, in its absence, any existing provincial or national teachers' organization, and a supervisor of the division, as members, thus:

SEC. 9. Administrative Charges. - Administrative charges against a teacher shall be heard initially by a committee composed of the corresponding Schools Superintendent of the Division or a duly authorized representative who should at least have the rank of a division supervisor, where the teacher belongs, as chairman, a representative of the local or, in its absence, any existing provincial or national teachers' organization and a supervisor of the Division, the last two to be designated by the Director of Public Schools. The committee shall submit its findings and recommendations to the Director of Public Schools within thirty days from termination of the hearings; Provided, however, That where the school superintendent is the complainant or an interested party, all the members of the committee shall be appointed by the Secretary of Education. (Underscoring supplied)

In Fabella v. Court of Appeals, the Court held:

The legislature enacted a special law, RA 4670 known as the Magna Carta for Public School Teachers, which specifically covers administrative proceedings involving public school teachers. Section 9 of said law expressly provides that the committee to hear public school teachers' administrative cases should be composed of the school superintendent of the division as chairman, a representative of the local or any existing provincial or national teachers' organization, and a supervisor of the division. x x x.

x x x x

The aforementioned Section 9 of RA 4670, therefore, reflects the legislative intent to impose a standard and a separate set of procedural requirements in connection with administrative proceedings involving public

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> schoolteachers. x x x. (Emphasis and underscoring supplied)
>
> Significantly, The Ombudsman Act of 1989 recognizes the existence of some "proper disciplinary authorit[ies]," such as the investigating committee of the DepEd mentioned in Section 9 of the Magna Carta for Public School Teachers. Thus, Section 23 of The Ombudsman Act of 1989 directs that the petitioner "may refer certain complaints to the proper disciplinary authority for the institution of appropriate administrative proceedings against erring public officers or employees."
>
> In light of this, the Court holds that the administrative disciplinary authority of the Ombudsman over a public school teacher is not an exclusive power but is concurrent with the proper committee of the DepEd.
>
> In the instant case, respondent, although designated as then OIC of a public school and concurrently the school principal of another public school, is undoubtedly covered by the definition of the term "teacher" under the second paragraph of Section 2 of the Magna Carta for Public School Teachers which provides:
>
> SEC 2. Title - Definition. - This Act shall x x x apply to all public school teachers except those in the professorial staff of state colleges and universities.
>
> As used in this Act, the term `teacher' shall mean all persons engaged in the classroom, in any level of instruction; on full time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivisions; but shall not include school nurses, school physicians, school dentists, and other school employees. (Underscoring supplied)

Thus, the administrative complaint against respondent should have been referred by petitioner to the proper committee of the DepEd for the institution of appropriate administrative proceedings, in light of Section 23 of The Ombudsman Act of 1989.[20]

Based on the foregoing, while petitioner has concurrent administrative disciplinary authority with the DECS over public school teachers, Section 23 of the Ombudsman Act of 1989 provides that the Ombudsman may refer a complaint to the proper disciplinary authority. Under the circumstances obtaining herein, it would have been more prudent for petitioner to have referred the complaint to the DECS given that it would have been in a better position to serve the interest of justice considering the nature of the controversy. Respondent is a public school teacher and is covered by RA 4670, therefore, the proceedings before the DECS would have been the more appropriate venue to resolve the dispute.

In any case, the foregoing pronouncement does not automatically mean that this Court is nullifying the proceedings before the Ombudsman as estoppel has already set in.

In Medrano, this Court ruled that the active participation of an individual before the administrative proceedings and the belated challenge to the jurisdiction of the said body bars him from assailing such acts under the principle of estoppel, to wit:

> x x x While petitioner should have desisted from hearing the administrative complaint against respondent and referred it to the proper DepEd committee, given that it had already concluded the proceedings and had rendered a decision thereon, respondent is now barred from assailing petitioner's acts under the principle of estoppel. He had actively participated in the administrative proceedings before petitioner. In his Counter-Affidavit, he asked petitioner for affirmative relief by seeking the dismissal of the administrative complaint allegedly for being baseless. From then on, he was assisted by counsel in filing several motions. When he was preventively suspended for six months without pay, he filed a Motion for Reconsideration praying that "a new Order be issued reversing or setting aside the preventive suspension Order." When this was denied, he again filed a Supplemental Motion for Reconsideration for the lifting of his suspension since he was already replaced as OIC, which motion was granted. It was only after petitioner had rendered an adverse

> Decision that he, in a Motion for Reconsideration, impugned petitioner's assumption of jurisdiction over his case. Verily, respondent cannot be permitted to challenge petitioner's acts belatedly. (Underscoring supplied).[21]

Likewise, in Office of the Ombudsman v. Galicia,[22] this Court ruled that the right to due process was not violated, notwithstanding that the DECS had original jurisdiction to hear the complaint, thus:

> In the present case, records show that Galicia was given the right to due process in the investigation of the charges against him. He participated in the proceedings by making known his defenses in the pleadings that he submitted. It was only when a decision adverse to him was rendered did he question the jurisdiction of the Ombudsman.
>
> Under the principles of estoppel and laches, We rule that it is now too late for Galicia to assail the administrative investigation conducted and the decision rendered against him.
>
> x x x x
>
> The essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. During the proceedings before the Ombudsman, Galicia filed a Counter-Affidavit, Rejoinder-Affidavit, Comment on the Certification of the CCPC Registrar, and a Rejoinder to Reply. He also submitted documents in support of his contentions. Likewise, there is no indication that the proceedings were done in a manner that would prevent him from presenting his defenses. Verily, these suffice to satisfy the requirements of due process because the opportunity to be heard especially in administrative proceedings (where technical rules of procedure and evidence are not strictly applied) is not limited to oral arguments. More often, this opportunity is conferred through written pleadings that the parties submit to present their charges and defenses.
>
> In sum, We reiterate that it is the School Superintendent and not the Ombudsman that has jurisdiction over administrative cases against public school teachers. Yet, Galicia is estopped from belatedly assailing the jurisdiction of the Ombudsman. His right to due process was satisfied when he participated fully in the investigation proceedings. He was able to present evidence and arguments in his defense. The investigation conducted by the Ombudsman was therefore valid.[23]

In the case at bar, respondent actively participated in the proceedings before the Ombudsman. He submitted his counter-affidavit, an affidavit of his witness, and attached annexes. Respondent even filed a Motion for Reconsideration asking for affirmative relief from the Ombudsman.

The case at bar is, however, somewhat peculiar because when petitioner asked the parties to submit their position papers, respondent did not submit one and instead filed a Manifestation[24] informing petitioner of another proceeding before the DECS, to wit:

> x x x x
>
> 2. That the administrative aspect of the complaint is likewise the subject of a complaint filed by the complainant before the Office of the Regional Director, DepEd, Regional Office VIII, Government Center, Palo, Leyte, a copy of which complaint is hereto attached and also made as part of this manifestation.
>
> 3. The with the investigation being made by this office, and the filing of the complaint with the Court as regard the criminal aspect of the complainant, and the pendency of the administrative complaint before the DepEd, it appears that the respondent is being charged and made to answer twice for the same offense.
>
> 4. That with the submission of the foregoing manifestation, and the respondent having already filed his counter affidavit and the affidavit of his witnesses and the exhibits attached thereto, the respondent submits the same for the resolution of this Office.[25]

The CA ruled that in view of respondent's manifestation, petitioner should have immediately dismissed the case filed before it as the DECS has the proper jurisdiction to hear and determine the administrative complaint over respondent.

We disagree.

To this Court's mind, the foregoing manifestation cannot by any stretch be considered as a direct attack on the proceedings before the Ombudsman. A plain reading of such manifestation would even lead to a conclusion that respondent had in fact submitted himself to the body's jurisdiction as he had already submitted his counter-affidavit, an affidavit of his witness and exhibits. If respondent wanted to assail the jurisdiction of the Ombudsman, he should have clearly prayed for the same through a motion to dismiss, a manifestation ad cautelam, or any other document of similar import. The phrase, "the respondent submits the same for the resolution of this Office," is indicative of respondent's submission to the Ombudsman's jurisdiction. Such conclusion is even bolstered by the fact that when respondent filed his petition for review before the CA, he made the following declaration, to wit:

> 9. That with the filing of his counter-affidavit, and the affidavit of his witnesses, and the filing of a criminal case by the respondent against petitioner, which criminal case is now still pending before the Regional Trial Court, Branch 15, Burauen, Leyte, and another administrative complaint with the Regional Director, Region VIII, of DepEd, Government Center, Palo, Leyte, petitioner filed a manifestation with the Ombudsman-Visayas, submitting this case for resolution. x x x[26]

Lastly, anent the third issue raised by petitioner, the same is again meritorious.

The CA ruled that the power of the Ombudsman is only recommendatory and that it cannot impose sanctions against respondent. Petitioner, for its part, argues that the Office of Ombudsman has the authority to determine the administrative liability of an erring public official or employee, and to direct and compel the head of the concerned officer or agency to implement the penalty imposed.

Petitioner is correct.

In Office of the Ombudsman v. Masing,[27] this Court settled that the power of the Ombudsman to determine and impose administrative liability is not merely recommendatory but actually mandatory, to wit:

> We reiterated this ruling in Office of the Ombudsman v. Laja, where we emphasized that "the Ombudsman's order to remove, suspend, demote, fine, censure, or prosecute an officer or employee is not merely advisory or recommendatory but is actually mandatory." Implementation of the order imposing the penalty is, however, to be coursed through the proper officer. Recently, in Office of the Ombudsman v. Court of Appeals, we also held--
>
> While Section 15(3) of RA 6770 states that the Ombudsman has the power to "recommend x x x removal, suspension, demotion x x x" of government officials and employees, the same Section 15(3) also states that the Ombudsman in the alternative may "enforce its disciplinary authority as provided in Section 21" of RA 6770. (Emphasis supplied.)[28]

This Court notes that the CA granted respondent's petition on the sole ground of petitioner's alleged lack of jurisdiction which it tackled motu proprio. The CA did not discuss the other issues raised by respondent involving the appreciation of the findings of fact of the Ombudsman as well as respondent's appeal for the imposition of a lesser penalty. Just like in Medrano, given the evidentiary nature of respondent's appeal, this Court deems that justice would be best served to remand the case to the CA for it to decide the case on the merits.

WHEREFORE, the petition is GRANTED. The assailed Court of Appeals Decision dated June 7, 2005 and

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Resolution dated May 2, 2006, in CA-G.R. SP No. 00017, are REVERSED and SET ASIDE. The case is REMANDED to the Court of Appeals which is directed to decide the case on the merits.

SO ORDERED.

Carpio, (Chairperson), Nachura, Leonardo-De Castro,[*] and Mendoza, JJ., concur.

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[*] Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 905, dated October 5, 2010.

[1] Rollo, pp. 9-37.

[2] Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Vicente L. Yap and Enrico A. Lanzanas, concurring; id. at 39- 46.

[3] Id. at 49-51.

[4] CA rollo, p.21.

[5] Id.

[6] Id.

[7] Id. at 32.

[8] Id.

[9] Id. at 33.

[10] Id. at 35.

[11] Id. at 37.

[12] Id. at 21-23.

[13] Id. at 23.

[14] Id. at 24-26.

[15] Id. at 27-28.

[16] Rollo, p. 45.

[17] CA rollo, pp. 100-134.

[18] Rollo, pp. 17- 18.

[19] G.R. No. 177580, October 17, 2008, 569 SCRA 747.

[20] Id. at 758-763.

[21] Id. at 764.

[22] G.R. No. 167711, October 10, 2008, 568 SCRA 327.

[23] Id. at 343-344.

[24] CA rollo, pp. 37-38.

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[25] Id. (Emphasis and underscoring supplied.)

[26] CA rollo, p. 11. (Emphasis supplied.)

[27] G.R. Nos. 165416, 165584 and 165731, January 22, 2008, 542 SCRA 253.

[28] Id. at 272. (Emphasis supplied.)

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