

JUDGE ADORACION G. ANGELES, PETITIONER, VS. HON. MANUEL E. GAITE, DEPUTY EXECUTIVE SECRETARY FOR LEGAL AFFAIRS, OFFICE OF THE PRESIDENT; HON. RAUL GONZALES, SECRETARY, AND HON. ...

G.R. No. 176596. March 23, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

Before us is a petition for review on certiorari filed by petitioner Adoracion G. Angeles, former Presiding Judge of the Regional Trial Court (RTC), Branch 121, Caloocan City, assailing the Decision[1] dated August 30, 2006 and the Resolution[2] dated February 8, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 87003. The antecedent facts are as follows:

It appears that sometime in June 1999, petitioner was charged of child abuse by her grandniece Maria Mercedes Vistan. The preliminary investigation of the complaint was assigned to State Prosecutor Emmanuel Y. Velasco (respondent Velasco) of the Department of Justice (DOJ). In a Resolution dated June 20, 1999, respondent Velasco filed a case against petitioner for 21 counts of Child Abuse under Republic Act (RA) No. 7610, otherwise known as the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act. Petitioner filed a petition for review with the DOJ Secretary who, in a Resolution dated April 4, 2000, ordered the withdrawal of the Information against petitioner.

On July 7, 2000, petitioner filed with the DOJ an administrative complaint for Gross Misconduct, Gross Ignorance of the Law, Incompetence and Manifest Bad Faith against respondent Velasco, which the DOJ subsequently dismissed. Petitioner filed a motion for reconsideration, which the DOJ Secretary denied in a Resolution dated February 18, 2002. Petitioner then filed a Petition for Review[3] with the Office of the President (OP) assailing the DOJ's Resolutions dismissing the administrative complaint she filed against respondent Velasco. The OP asked respondent Velasco to file his comment thereto. In his Comment,[4] respondent Velasco stated among others:

x x x x

Herein respondent-appellee hereby manifests his challenge to petitioner-appellant to finally agree to the conduct of such investigation in order to determine the veracity of the following information which were provided very recently by unimpeachable sources from the judiciary, schoolmates and close friends of Judge ANGELES, to wit:

(a) That Judge ANGELES is still single because she belongs to the third sex (and there is nothing wrong for being so frankly.)

(b) In fact, Judge ANGELES is carrying an affair with a lady lawyer (still there is nothing wrong with this, everybody has the freedom whom to love.);

(c) But this lady lawyer is often seen with Judge ANGELES even in her courtroom. Said lawyer is the conduit or connection of those who has pending cases in her sala (now there's something terribly wrong with this.);

(d) That Judge Angeles was so insecure and jealous at the time her grandniece MARIA MERCEDES VISTAN was allegedly flirting with boys (there is something wrong here also because there is a manifestation of perversity and in fact said jealousy led to the abuse of the child.)(5]

On the basis of the above statements which petitioner claimed to be a direct attack on her character and reputation as a public servant, she filed a Complaint[6] for four counts of libel against respondent Velasco before the Office of the City Prosecutor of Manila.

In a Resolution[7] dated August 13, 2003, Assistant City Prosecutor (ACP) Adeliza Magno-Gingoyon recommended the dismissal of petitioner's complaint for Libel due to insufficiency of evidence and/or lack of merit. The pertinent portions of the Resolution read:

A charge for libel will only be sufficient if the words uttered or stated are calculated to induce the hearers or readers to suppose and understand that the persons against whom they are uttered were guilty of certain offenses, or are sufficient to impeach their honesty, virtue or reputation, or to hold the persons up to public ridicule.

Such calculation does not and will not arise in this case since complainant herself has not clearly manifested if being single and/or member of the third sex; or carrying an affair with a lady lawyer; or being seen in her courtroom with the said lawyer; or feeling insecure and jealous of her grandniece Ma. Mercedes Vistan, is on her own view, a crime, vice or defect or an act of omission which tends to cause her dishonor, discredit or contempt.

Beyond the omission of the complainant to elaborate on the defamatory character of the statements she quoted, a reading of the portion of the reply/comment of the respondent where the questioned statements were lifted, particularly in paragraph 55 of the said reply/comment, reveals that respondent did not categorically declare therein that Judge Angeles is really single and belongs to the third sex; is carrying an affair with a lady lawyer who is often seen in her courtroom; and was so insecure and jealous of her grandniece.

Quite vividly, respondent premised his disclosures with a challenge to the complainant to agree to the conduct of an investigation to determine the veracity of the information he cited therein, thereby conveying that his disclosures are more of questions begging for answers rather than a direct imputation of any wrongdoing.

Even assuming arguendo that complainant was defamed or maligned by the subject statements, we cannot, nonetheless, find any presumptive malice therein because the said statements can be considered as privileged communication for they were made in the course of official proceedings before the Office of the President.

Although the said proceedings may not be strictly considered as judicial in nature, they are akin thereto as they involve litigation or hearing of contentious issues, albeit in a purely administrative matter.

The subject statements are relevant to the issues in the said administrative proceedings for they revolve around the moral fitness of the complainant to be an accuser of the respondent for acts done while the latter is in the public service and they are intended to further prove the incredibility of her accusations by making the impression that complainant herself may not be "coming to court with clean hands."

While it may be argued that the subject statements are not really germane to the issues raised in the complainant's petition for review, suffice it to state that "it is the rule that what is relevant or pertinent should be liberally considered to favor the writer, and the words are not to be scrutinized with the microscopic intensity."

Malice does not exist in this case. It is only in every defamatory imputation where malice can be presumed (see

Article 354, 1[st] par., Revised Penal Code). Considering that, as afore-discussed, the subject statements have not been amply shown to be defamatory to the complainant, malice cannot, therefore, be presumed in the execution thereof, conformably to the above-stated provisions of the penal code. Neither can we attribute malice in fact on the part of the respondent when he wrote the subject statements considering that:

(1) He did not volunteer to provide that information to the reviewing officials in the Office of the President out of a single desire to malign the complainant since, apart from making the alleged derogatory statements in only a portion of his reply/comment, he has submitted his said reply/comment to the Office of the President primarily in compliance with the Order dated June 10, 2002 of Deputy Executive secretary Arthur P. Autea in O.P. Case No. 02-D-187.

The subject statements are just, therefore, incidental to the litany of defenses in his reply/comment.

It has been held that if the matter charged as libelous is only an incident in act which has another objective, there is no libel; and

(2) In the questioned statements, respondent himself opined that there is nothing wrong if Judge Angeles belongs to the third sex or has an affair with a lady lawyer, clearly signifying that he has not treated such information as impugning complainant's honor.

While he may have stated therein that there's something wrong with the alleged connection of a lady lawyer with those who have pending cases in complainant's sala or in the latter's insecurity at her grandniece, he has not, nevertheless, averred, or even implied, just for the sake of maligning Judge Angeles, that she has, indeed, granted favors to the lady lawyer often seen in her courtroom or that she has actually manifested perversity in her relation with her grandniece mentioned.[8]

Petitioner filed a motion for reconsideration, which was denied in a Resolution[9] dated December 12, 2003. In denying the motion, ACP Marlina N. Manuel found that there was no concrete showing that respondent made a categorical or direct malicious accusation or imputation of any crime or vice against petitioner; that apparently, respondent entertaining uncertainty of the informations gathered called for an investigation to determine the veracity or truth thereof.

Dissatisfied, petitioner filed with the DOJ Secretary a Petition for Review[10] assailing the dismissal of her complaint for Libel as well as her motion for reconsideration.

In a Resolution[11] dated March 17, 2004, the Petition for Review was dismissed by Chief State Prosecutor Jovencito R. Zuño (CSP Zuño), ruling as follows:

We have carefully examined the record, but found no cogent reason to justify a reversal of the assailed resolution. The statements alleged to be libelous are privileged, since they were made by respondent in legitimate defense of his own interest, not to mention that the said statements bear some reasonable relation or reference to the subject matter of the inquiry or may be possibly relevant to it. Neither may it be said that respondent acted with malice or ill-will against petitioner when he informed the President of matters of public concern like the conduct or character of the latter which need imperative remedial actions.[12]

x x x x

Petitioner filed a motion for reconsideration with a motion for inhibition of CSP Zuño, which the DOJ in a Resolution[13] dated June 25, 2004 denied the motion with finality. In so ruling, DOJ Acting Secretary Merceditas N. Gutierrez said:

The Reply/Comment in OP Case No. 02-D-187 motivated solely by a desire of respondent to defend himself against pending charges, is privileged for being an exercise of the natural right of a person accused of a crime

in order to bring to the attention of the President who is to pass upon his guilt all such considerations he thinks may influence her judgment in his behalf, even though he may in so doing incidentally disparage private character.

As to the degree of relevancy or pertinency necessary to make alleged defamatory matters privileged, the test should be the good faith of respondent. Since under the circumstances, respondent believed that the language used by him in the paragraph in question would have a tendency to move the discretion of the President to grant the relief asked, it must be deemed relevant to the issues raised in the pleadings that it may become the subject of inquiry in the course of the hearing.

Thus, as the Comment sent by him to the President in the performance of a legal duty, as an explanation of the matter contained in the order sent to him by the President, although employing a language somewhat harsh and uncalled for, is excusable in the interest of public policy, respondent, rather is not guilty of libel.[14]

On July 15, 2004, petitioner filed a Petition for Review[15] before the OP questioning the DOJ Resolutions dismissing her petition.

On July 29, 2004, the OP issued an Order[16] dismissing the Petition for Review filed by petitioner saying:

Under Memorandum Circular (MC) No. 58 dated 29 May 2003, no appeal from or petition for review of the decision or resolution of the Secretary of Justice on preliminary investigation of criminal cases shall be entertained by the Office of the President, except those involving offenses punishable by reclusion perpetua to death. An appeal or petition not clearly falling within the jurisdiction of the Office of the President, as set forth above, shall be dismissed outright.

The basic complaint of petitioner and the appealed resolutions of the Secretary of Justice involve the offense of Libel defined in Article 353 of the Revised Penal Code (RPC). By whatever means committed, libel carries only the penalty of prision correccional in its minimum and medium periods or fine or both. (Art. 355, RPC).

Upon the foregoing perspective, the case at hand does not fall under the exception contemplated in MC No. 58.[17]

Petitioner's motion for reconsideration was denied in an Order[18] dated September 30, 2004.

Petitioner filed with the CA a petition for review under Rule 43[19] assailing the OP orders, entitled Judge Adoracion G. Angeles, petitioner v. Hon. Manuel B. Gaite, Deputy Executive Secretary for Legal Affairs, Office of the President, Hon. Ma. Merceditas N. Gutierrez, Acting Secretary (now substituted by Hon. Raul Gonzales, the incumbent DOJ Secretary as nominal party), and Hon. Jovencito Zuño, Chief State Prosecutor, both of the Department of Justice, Hon. Ramon R. Garcia, City Prosecutor, ACP Marlina N. Manuel, and ACP Adeliza H. Magno-Guingoyon, all of the Manila Prosecution Service; and SP Emmanuel Y. Velasco, DOJ, Manila, respondents.

After the parties filed their respective pleadings, the case was then submitted for resolution.

On August 30, 2006, the CA issued its assailed Decision which denied the petition.

In denying the petition, the CA applied the doctrine laid down in *Carpio v. Executive Secretary*[20] regarding the power of control of the President over all executive branches of the government, in relation to the doctrine of qualified political agency. We said that under the doctrine, the official acts of a Department Secretary are deemed to be the acts directly of the President herself unless disapproved or reprobated by the latter; that it was the OP's prerogative to determine whether or not it shall consent to exercise its general appellate jurisdiction in any given case emanating from the Chief Executive's power of control over all executive officers from Cabinet secretaries to the lowliest ranks. The CA then ruled that the OP, relying on MC No. 58, dismissed petitioner's petition for

review and exercised its prerogative not to disapprove or overturn the DOJ Secretary's resolutions, thus, approving the acts or decision of the DOJ Secretary, being her alter ego. The CA held that petitioner cannot question the validity of MC No. 58, since it is said to be valid until annulled in proper proceedings and not in the petition filed with it.

The CA also held that the OP's outright dismissal of petitioner's Petition for Review was valid and binding, and was not tainted with grave abuse of discretion. It found that the DOJ resolutions dismissing petitioner's petition for review became final and executory after petitioner failed to elevate the said DOJ resolutions directly with the CA in a petition for certiorari within the 60-day reglementary period provided for under Section 4, Rule 65 of the Revised Rules of Court. This was so because under MC No. 58, the filing of a petition for review of the decision or resolution of the Secretary of Justice on preliminary investigations of criminal cases to the OP, except those offenses punishable by reclusion perpetua to death, is prohibited. As the dismissal by the DOJ of petitioner's petition for review became final and executory, the CA said that the hands of the Court were tied up and cannot alter, modify or reverse such dismissal.

Petitioner's motion for reconsideration was denied in a Resolution dated February 8, 2007.

Hence, this petition for review where petitioner raises the following assignment of errors, to wit:

- The Court of Appeals erred in its application of the doctrine of qualified political agency.
- The Court of Appeals erred in ruling that the validity of Memorandum Circular No. 58 cannot be collaterally attacked.
- The Court of Appeals erred in holding that the assailed Resolutions dated March 17, 2004 and June 25, 2004 of the DOJ became final and executory when petitioner failed to elevate said Resolutions directly to the Court of Appeals within sixty (60) days.
- The Honorable Office of the President erred in not taking cognizance of the position because of Memorandum Circular No. 58.
- The DOJ erred in not finding probable cause for libel against respondent SP Velasco.[21]

Anent the 1[st], 2[nd] and 4[th] assigned errors, petitioner argues that the refusal of the OP to act on her petition could not be justified as falling within the ambit of the doctrine of qualified political agency; that while the DOJ Secretary is the President's alter ego, the President's absolute abandonment of her power of control delegating exclusively to the DOJ Secretary the power to determine the existence of probable cause in complaints where the imposable penalty is less than reclusion perpetua is not justified. Petitioner claims that MC No. 58 ties the hands of the Chief Executive in the exercise of her constitutional power of control over all the executive departments as mandated by the Constitution and the Administrative Code of 1987; hence, an invalid issuance of the OP. She claims that since the validity of MC No. 58 is the principal reason why the OP dismissed her petition, the validity of the circular is a key issue in this petition which must be resolved.

We are not persuaded.

In *Angeles v. Gaite*, [22] wherein petitioner raised the same arguments, we find the same unmeritorious and ruled in this wise:

x x x Petitioner argues in the main that Memorandum Circular No. 58 is an invalid regulation, because it diminishes the power of control of the President and bestows upon the Secretary of Justice, a subordinate officer, almost unfettered power. This argument is absurd. The President's act of delegating authority to the Secretary of Justice by virtue of said Memorandum Circular is well within the purview of the doctrine of

qualified political agency, long been established in our jurisdiction.

Under this doctrine, which primarily recognizes the establishment of a single executive, "all executive and administrative organizations are adjuncts of the Executive Department; the heads of the various executive departments are assistants and agents of the Chief Executive; and, except in cases where the Chief Executive is required by the Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive." The CA cannot be deemed to have committed any error in upholding the Office of the President's reliance on the Memorandum Circular as it merely interpreted and applied the law as it should be.

As early as 1939, in *Villena v. Secretary of Interior*, this Court has recognized and adopted from American jurisprudence this doctrine of qualified political agency, to wit:

x x x With reference to the Executive Department of the government, there is one purpose which is crystal-clear and is readily visible without the projection of judicial searchlight, and that is, the establishment of a single, not plural, Executive. The first section of Article VII of the Constitution, dealing with the Executive Department, begins with the enunciation of the principle that "The executive power shall be vested in a President of the Philippines." This means that the President of the Philippines is the Executive of the Government of the Philippines, and no other. The heads of the executive departments occupy political positions and hold office in an advisory capacity, and, in the language of Thomas Jefferson, "should be of the President's bosom confidence" (7 Writings, Ford ed., 498), and, in the language of Attorney-General Cushing (7 Op., Attorney-General, 453), "are subject to the direction of the President." Without minimizing the importance of the heads of the various departments, their personality is in reality but the projection of that of the President. Stated otherwise, and as forcibly characterized by Chief Justice Taft of the Supreme Court of the United States, "each head of a department is, and must be, the President's alter ego in the matters of that department where the President is required by law to exercise authority" (*Myers v. United States*, 47 Sup. Ct. Rep., 21 at 30; 272 U.S., 52 at 133; 71 Law. ed., 160).

Memorandum Circular No. 58, promulgated by the Office of the President on June 30, 1993 reads:

In the interest of the speedy administration of justice, the guidelines enunciated in Memorandum Circular No. 1266 (4 November 1983) on the review by the Office of the President of resolutions/orders/decisions issued by the Secretary of Justice concerning preliminary investigations of criminal cases are reiterated and clarified.

No appeal from or petition for review of decisions/orders/resolutions of the Secretary of Justice on preliminary investigations of criminal cases shall be entertained by the Office of the President, except those involving offenses punishable by reclusion perpetua to death x x x.

Henceforth, if an appeal or petition for review does not clearly fall within the jurisdiction of the Office of the President, as set forth in the immediately preceding paragraph, it shall be dismissed outright x x x.

It is quite evident from the foregoing that the President himself set the limits of his power to review decisions/orders/resolutions of the Secretary of Justice in order to expedite the disposition of cases. Petitioner's argument that the Memorandum Circular unduly expands the power of the Secretary of Justice to the extent of rendering even the Chief Executive helpless to rectify whatever errors or abuses the former may commit in the exercise of his discretion is purely speculative to say the least. Petitioner cannot second-guess the President's power and the President's own judgment to delegate whatever it is he deems necessary to delegate in order to achieve proper and speedy administration of justice, especially that such delegation is upon a cabinet secretary - his own alter ego.

Nonetheless, the power of the President to delegate is not without limits. No less than the Constitution provides for restrictions. Justice Jose P. Laurel, in his ponencia in Villena, makes this clear:

x x x x

x x x There are certain presidential powers which arise out of exceptional circumstances, and if exercised, would involve the suspension of fundamental freedoms, or at least call for the supersedence of executive prerogatives over those exercised by co-equal branches of government. The declaration of martial law, the suspension of the writ of habeas corpus, and the exercise of the pardoning power, notwithstanding the judicial determination of guilt of the accused, all fall within this special class that demands the exclusive exercise by the President of the constitutionally vested power. The list is by no means exclusive, but there must be a showing that the executive power in question is of similar gravitas and exceptional import.

In the case at bar, the power of the President to review the Decision of the Secretary of Justice dealing with the preliminary investigation of cases cannot be considered as falling within the same exceptional class which cannot be delegated. Besides, the President has not fully abdicated his power of control as Memorandum Circular No. 58 allows an appeal if the imposable penalty is reclusion perpetua or higher. Certainly, it would be unreasonable to impose upon the President the task of reviewing all preliminary investigations decided by the Secretary of Justice. To do so will unduly hamper the other important duties of the President by having to scrutinize each and every decision of the Secretary of Justice notwithstanding the latter's expertise in said matter.

x x x x

Based on the foregoing considerations, this Court cannot subscribe to petitioner's position asking this Court to allow her to appeal to the Office of the President, notwithstanding that the crimes for which she charges respondent are not punishable by reclusion perpetua to death.

It must be remembered that under the Administrative Code of 1987 (EO No. 292), the Department of Justice, under the leadership of the Secretary of Justice, is the government's principal law agency. As such, the Department serves as the government's prosecution arm and administers the government's criminal justice system by investigating crimes, prosecuting offenders and overseeing the correctional system, which are deep within the realm of its expertise. These are known functions of the Department of Justice, which is under the executive branch and, thus, within the Chief Executive's power of control.

Petitioner's contention that Memorandum Circular No. 58 violates both the Constitution and Section 1, Chapter 1, Book III of EO No. 292, for depriving the President of his power of control over the executive departments deserves scant consideration. In the first place, Memorandum Circular No. 58 was promulgated by the Office of the President and it is settled that the acts of the secretaries of such departments, performed and promulgated in the regular course of business are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive. Memorandum Circular No. 58 has not been reprobated by the President; therefore, it goes without saying that the said Memorandum Circular has the approval of the President.[23]

Petitioner next contends that the CA erred in holding that the DOJ resolutions became final and executory when she failed to elevate said resolutions directly to the CA within the 60-day reglementary period.

We do not agree.

After petitioner's receipt of the DOJ Secretary's resolution denying her motion for reconsideration of the resolution dismissing her petition for review of the prosecutors' resolutions dismissing her complaint for libel, she filed a petition for review before the OP on the pretext that she should first exhaust administrative remedies. Unfortunately, such action was fatal to her case, since MC No. 58 prohibits the filing of such petition with the OP.

As provided under MC No. 58, no appeal from or petition for review of decisions/orders/resolutions of the Secretary of Justice on preliminary investigations of criminal cases shall be entertained by the Office of the President, except those involving offenses punishable by reclusion perpetua to death. Clearly, there was no need for petitioner to file her petition with the OP.

Notably, in the determination of probable cause during the preliminary investigation, the executive branch of government has full discretionary authority. Thus, the decision whether or not to dismiss the criminal complaint against the private respondent is necessarily dependent on the sound discretion of the Investigating Prosecutor and ultimately, that of the Secretary of Justice.[24] The resolution of the Investigating Prosecutor is subject to appeal to the Justice Secretary who, under the Revised Administrative Code, exercises the power of control and supervision over said Investigating Prosecutor; and who may affirm, nullify, reverse, or modify the ruling of such prosecutor.[25]

Indeed, petitioner filed her appeal with the DOJ Secretary, but her appeal was dismissed. Petitioner filed her motion for reconsideration which was also dismissed. As there was no more appeal or other remedy available in the ordinary course of law, her remedy was to file a petition for certiorari under Rule 65 of the Rules of Court on the ground of grave abuse of discretion.[26] However, petitioner failed to file a petition for certiorari within 60 days from receipt of the DOJ resolution denying her motion for reconsideration.

Petitioner's filing of the petition for review with the OP, which is prohibited as discussed above, did not toll the running of the reglementary period for filing a petition with the CA. Accordingly, the DOJ resolutions became final and executory after the lapse of the period for assailing the same in the CA. Thus, we find no reversible error committed by the CA in dismissing the petition for having been filed beyond the reglementary period.

The doctrine of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final on some definite date fixed by law.[27] The only exceptions to the general rule are the correction of clerical errors, the so-called nunc pro tunc entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire after the finality of the decision which render its execution unjust and inequitable.[28] None of the exceptions is present to warrant a review.

In *Peña v. Government Service Insurance System*,[29] we held that:

x x x it is axiomatic that final and executory judgments can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land. Just as the losing party has the right to file an appeal within the prescribed period, so also the winning party has the correlative right to enjoy the finality of the resolution of the case.[30]

x x x x

The rule on finality of decisions, orders or resolutions of a judicial, quasi-judicial or administrative body is "not a question of technicality but of substance and merit," the underlying consideration therefore, being the protection of the substantive rights of the winning party. Nothing is more settled in law than that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.[31]

In light of the above discussion, we find no need to discuss petitioner's other arguments.

WHEREFORE, the petition for review is hereby DENIED. The Decision dated August 30, 2006 and the Resolution dated February 8, 2007 of the Court of Appeals are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Carpio Morales,[*] Nachura, and Brion,**] JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per raffle dated March 16, 2011.

**] Designated as an additional member in lieu of Associate Justice Jose Catral Mendoza, per Special Order No. 975, dated March 21, 2011.

[1] Penned by Associate Justice Edgardo F. Sundiam, with Associate Justices Rodrigo V. Cosico and Celia C. Librea-Leagogo; concurring; rollo, pp. 24-42.

[2] Id. at 44-45.

[3] Rollo, pp. 46-54.

[4] Id. at 55-136.

[5] Id. at 80-81.

[6] Id. at 138-141.

[7] Id. at 142-145.

[8] Id. at 144-145.

[9] Id. at 146-147.

[10] Id. at 148-165.

[11] CA rollo, pp. 57-58.

[12] Id. at 57.

[13] Id. at 46-47.

[14] Id.

[15] Rollo, pp. 166-178.

[16] Id. at 179.

[17] Id.

[18] Id. at 180-181.

[19][]CA rollo, pp. 2-17.

[20][]G.R. No. 96409, February 14, 1992, 206 SCRA 290.

[21][]Rollo, pp. 7-8.

[22] G.R. No. 165276, November 25, 2009, 605 SCRA 408 (2009).

[23][]Id. at 415-421.

[24] Alcaraz v. Gonzales, G.R. No. 164715, September 20, 2006, 502 SCRA 518, 529.

[25] Id., citing *Public Utilities of Olongapo City v. Guingona, Jr.*, 417 Phil. 798, 805 (2001) .

[26] Id. at 530, citing *Filadams Pharma, Inc. v. Court of Appeals*, 426 SCRA 460, 466 (2004)

[27] *Republic v. Tango*, G.R. No. 161062, July 31, 2009, 594 SCRA 560, 568.

[28] Id.

[29] G.R. No. 159520, September 19, 2006, 502 SCRA 383.

[30] Id. at 396-397.

[31] Id. at 403-404, citing *Sacdalan v. Court o Appeals*, 428 SCRA 586, 599 (2004).

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