

ANTONIO P. SALENGA AND NATIONAL LABOR RELATIONS COMMISSION, PETITIONERS, VS. COURT OF APPEALS AND CLARK DEVELOPMENT CORPORATION, RESPONDENTS.

G.R. Nos. 174941. February 01, 2012

Ponente: SERENO, J.

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SERENO, J.:

The present Petition for Certiorari under Rule 65 assails the Decision[1] of the Court of Appeals (CA) promulgated on 13 September 2005, dismissing the Complaint for illegal dismissal filed by petitioner Antonio F. Salenga against respondent Clark Development Corporation (CDC). The dispositive portion of the assailed Decision states:

WHEREFORE, premises considered, the original and supplemental petitions are GRANTED. The assailed resolutions of the National Labor Relations Commission dated September 10, 2003 and January 21, 2004 are ANNULLED and SET ASIDE. The complaint filed by Antonio B. Salenga against Clark Development is DISMISSED. Consequently, Antonio B. Salenga is ordered to restitute to Clark Development Corporation the amount of P3,222,400.00, which was received by him as a consequence of the immediate execution of said resolutions, plus interest thereon at the rate of 6% per annum from date of such receipt until finality of this judgment, after which the interest shall be at the rate of 12% per annum until said amount is fully restituted.

SO ORDERED.[2]

The undisputed facts are as follows:

On 22 September 1998, President/Chief Executive Officer (CEO) Rufo Colayco issued an Order informing petitioner that, pursuant to the decision of the board of directors of respondent CDC, the position of head executive assistant - the position held by petitioner - was declared redundant. Petitioner received a copy of the Order on the same day and immediately went to see Colayco. The latter informed him that the Order had been issued as part of the reorganization scheme approved by the board of directors. Thus, petitioner's employment was to be terminated thirty (30) days from notice of the Order.

On 17 September 1999, petitioner filed a Complaint for illegal dismissal with a claim for reinstatement and payment of back wages, benefits, and moral and exemplary damages against respondent CDC and Colayco. The Complaint was filed with the National Labor Relations Commission-Regional Arbitration Branch (NLRC-RAB) III in San Fernando, Pampanga. In defense, respondents, represented by the Office of the Government Corporate Counsel (OGCC), alleged that the NLRC had no jurisdiction to entertain the case on the ground that petitioner was a corporate officer and, thus, his dismissal was an intra-corporate matter falling properly within the jurisdiction of the Securities and Exchange Commission (SEC).

On 29 February 2000, labor arbiter (LA) Florentino R. Darlucio issued a Decision[3] in favor of petitioner Salenga. First, the LA held that the NLRC had jurisdiction over the Complaint, considering that petitioner was not a corporate officer but a managerial employee. He held the position of head executive assistant, categorized as a

Job Level 12 position, not subject to election or appointment by the board of directors.

Second, the LA pointed out that respondent CDC and Colayco failed to establish a valid cause for the termination of petitioner's employment. The evidence presented by respondent CDC failed to show that the position of petitioner was superfluous as to be classified "redundant." The LA further pointed out that respondent corporation had not disputed the argument of petitioner Salenga that his position was that of a regular employee. Moreover, the LA found that petitioner had not been accorded the right to due process. Instead, the latter was dismissed without the benefit of an explanation of the grounds for his termination, or an opportunity to be heard and to defend himself.

Finally, considering petitioner's reputation and contribution as a government employee for 40 years, the LA awarded moral damages amounting to P2,000,000 and exemplary damages of P500,000. The dispositive portion of the LA's Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring respondent Clark Development Corporation and Rufo Colayco guilty of illegal dismissal and for which they are ordered, as follows:

- To reinstate complainant to his former or equivalent position without loss of seniority rights and privileges;
- To pay complainant his backwages reckoned from the date of his dismissal on September 22, 1998 until actual reinstatement or merely reinstatement in the payroll which as of this date is in the amount of P722,400.00;
- To pay complainant moral damages in the amount of P2,000,000.00; and,
- To pay complainant exemplary damages in the amount of P500,000.00.

SO ORDERED.[4]

At the time the above Decision was rendered, respondent CDC was already under the leadership of Sergio T. Naguiat. When he received the Decision on 10 March 2000, he subsequently instructed Atty. Monina C. Pineda, manager of the Corporate and Legal Services Department and concurrent corporate board secretary, not to appeal the Decision and to so inform the OGCC.[5]

Despite these instructions, two separate appeals were filed before LA Darlucio on 20 March 2000. One appeal[6] was from the OGCC on behalf of respondent CDC and Rufo Colayco. The OGCC reiterated its allegation that petitioner was a corporate officer, and that the termination of his employment was an intra-corporate matter. The Memorandum of Appeal was verified and certified by Hilana Timbol-Roman, the executive vice president of respondent CDC. The Memorandum was accompanied by a UCPB General Insurance Co., Inc. supersedeas bond covering the amount due to petitioner as adjudged by LA Darlucio. Timbol-Roman and OGCC lawyer Roy Christian Mallari also executed on 17 March 2000 a Joint Affidavit of Declaration wherein they swore that they were the "respective authorized representative and counsel" of respondent corporation. However, the Memorandum of Appeal and the Joint Affidavit of Declaration were not accompanied by a board resolution from respondent's board of directors authorizing either Timbol-Roman or Atty. Mallari, or both, to pursue the case or to file the appeal on behalf of respondent.

It is noteworthy that Naguiat, who was president/CEO of respondent CDC from 3 February 2000 to 5 July 2000, executed an Affidavit on 20 March 2002,[7] wherein he stated that without his knowledge, consent or approval, Timbol-Roman and Atty. Mallari filed the above-mentioned appeal. He further alleged that their statements were false.

The second appeal, meanwhile, was filed by former CDC President/CEO Rufo Colayco. Colayco alleged that

petitioner was dismissed not on 22 September 1998, but twice on 9 March 1999 and 23 March 1999. The dismissal was allegedly approved by respondent's CDC board of directors pursuant to a new organizational structure. Colayco likewise stated that he had posted a supersedeas bond - the same bond taken out by Timbol-Roman - issued by the UCPB General Insurance Co. dated 17 March 2000 in order to secure the monetary award, exclusive of moral and exemplary damages.

Petitioner thereafter opposed the two appeals on the grounds that both appellants, respondent CDC - as allegedly represented by Timbol-Roman and Atty. Mallari - and Rufo Colayco had failed to observe Rule VI, Sections 4 to 6 of the NLRC Rules of Procedure; and that appellants had not been authorized by respondent's board of directors to represent the corporation and, thus, they were not the "employer" whom the Rules referred to. Petitioner also alleged that appellants failed to refute the findings of LA Darlucio in the previous Decision.

In the meantime, while the appeal was pending, on 19 October 2000, respondent's board chairperson and concurrent President/CEO Rogelio L. Singson ordered the reinstatement of petitioner to the latter's former position as head executive assistant, effective 24 October 2000.[8]

On 28 May 2001, respondent CDC's new President/CEO Emmanuel Y. Angeles issued a Memorandum, which offered all managers of respondent corporation an early separation/redundancy program. Those who wished to avail themselves of the program were to be given the equivalent of their 1.25-month basic salary for every year of service and leave credits computed on the basis of the same 1.25-month equivalent of their basic salary.[9]

In August 2001, respondent CDC offered another retirement plan granting higher benefits to the managerial employees. Thus, on 12 September 2001, petitioner filed an application for the early retirement program, which Angeles approved on 3 December 2001.

Meanwhile, in the proceedings of the NLRC, petitioner received on 12 September 2001 its 30 July 2001 Decision[10] on the appeal filed by Timbol-Roman and Colayco. It is worthy to note that the said Decision referred to the reports of reviewer arbiters Cristeta D. Tamayo and Thelma M. Concepcion, who in turn found that petitioner Salenga was a corporate officer of CDC. Nevertheless, the First Division of the NLRC upheld LA Darlucio's ruling that petitioner Salenga was indeed a regular employee. It also found that redundancy, as an authorized cause for dismissal, has not been sufficiently proven, rendering the dismissal illegal. However, the NLRC held that the award of exemplary and moral damages were unsubstantiated. Moreover, it also dropped Colayco as a respondent to the case, since LA Darlucio had failed to provide any ground on which to anchor the former's solidary liability.

Petitioner Salenga thereafter moved for a partial reconsideration of the above-mentioned Decision. He sought the reinstatement of the award of exemplary and moral damages. He likewise insisted that the NLRC should not have entertained the appeal on the following grounds: (1) respondent CDC did not file an appeal and did not post the required cash or surety bond; (2) both Timbol-Roman and Colayco were admittedly not real parties-in-interest; (3) they were not the employer or the employer's authorized representative and, thus, had no right to appeal; and (4) both appeals had not been perfected for failure to post the required cash or surety bond. In other words, petitioner's theory revolved on the fact that neither Timbol-Roman nor Colayco was authorized to represent the corporation, so the corporation itself did not appeal LA Darlucio's Decision. As a result, that Decision should be considered as final and executory.

For its part, the OGCC also filed a Motion for Reconsideration[11] of the NLRC's 30 July 2001 Decision insofar as the finding of illegal dismissal was concerned. It no longer questioned the commission's finding that petitioner was a regular employee, but instead insisted that he had been dismissed as a consequence of his redundant position. The motion, however, was not verified by the duly authorized representative of respondent CDC.

On 5 December 2002, the NLRC denied petitioner Salenga's Motion for Partial Reconsideration and dismissed the Complaint. The dispositive portion of the Resolution[12] reads as follows:

WHEREFORE, complainant's partial motion for reconsideration is denied. As recommended by Reviewer Arbiters Cristeta D. Tamayo in her August 2, 2000 report and Thelma M. Concepcion in her November 25, 2002 report, the decision of Labor Arbiter Florentino R. Darlucio dated 29 February 2000 is set aside.

The complaint below is dismissed for being without merit.

SO ORDERED.[13]

Meanwhile, pending the Motions for Reconsideration of the NLRC's 30 July 2001 Decision, another issue arose with regard to the computation of the retirement benefits of petitioner. Respondent CDC did not immediately give his requested retirement benefits, pending clarification of the computation of these benefits. He claimed that the computation of his retirement benefits should also include the forty (40) years he had been in government service in accordance with Republic Act No. (R.A.) 8291, or the GSIS Act, and should not be limited to the length of his employment with respondent corporation only, as the latter insisted.

In a letter dated 14 March 2003, petitioner Salenga's counsel wrote to the board of directors of respondent to follow up the payment of the retirement benefits allegedly due to petitioner.[14]

Pursuant to the NLRC's dismissal of the Complaint of petitioner Salenga, Angeles subsequently denied the former's request for his retirement benefits, to wit:[15]

Please be informed that we cannot favorably grant your client's claim for retirement benefits considering that Clark Development Corporation's dismissal of Mr. Antonio B. Salenga had been upheld by the National Labor Relations Commission through a Resolution dated December 5, 2002...

xxx xxx xxx

As it is, the said Resolution dismissed the Complaint filed by Mr. Salenga for being without merit. Consequently, he is not entitled to receive any retirement pay from the corporation.

Meanwhile, petitioner Salenga filed a second Motion for Reconsideration of the 5 December 2002 Resolution of the NLRC, reiterating his claim that it should not have entertained the imperfect appeal, absent a proper verification and certification against forum-shopping from the duly authorized representative of respondent CDC. Without that authority, neither could the OGCC act on behalf of the corporation.

The OGCC, meanwhile, resurrected its old defense that the NLRC had no jurisdiction over the case, because petitioner Salenga was a corporate officer.

The parties underwent several hearings before the NLRC First Division. During these times, petitioner Salenga demanded from the OGCC to present a board resolution authorizing it or any other person to represent the corporation in the proceedings. This, the OGCC failed to do.

After giving due course to the Motion for Reconsideration filed by petitioner Salenga, the NLRC issued a Resolution[16] on 10 September 2003, partially granting the motion. This time, the First Division of the NLRC held that, absent a board resolution authorizing Timbol-Roman to file the appeal on behalf of respondent CDC, the appeal was not perfected and was thus a mere scrap of paper. In other words, the NLRC had no jurisdiction over the appeal filed before it.

The NLRC further held that respondent CDC had failed to show that petitioner Salenga's dismissal was pursuant to a valid corporate reorganization or board resolution. It also deemed respondent estopped from claiming that

there was indeed a redundancy, considering that petitioner Salenga had been reinstated to his position as head executive assistant. While it granted the award of moral damages, it nevertheless denied exemplary damages. Thus, the dispositive portion of its Decision reads:

WHEREFORE, premises considered, the complainant's Motion for Reconsideration is GRANTED and We set aside our Resolution of December 5, 2002. The Decision of the Labor Arbiter dated February 29, 2000 is REINSTATED with the MODIFICATION that:

- 1.) Being a nominal party, respondent Rufo Colayco is declared to be not jointly and severally liable with respondent Clark Development Corporation;
- 2.) Respondent Clark Development Corporation is ordered to pay the complainant his full backwages and other monetary claims to which he is entitled under the decision of the Labor Arbiter;
- 3.) Respondent CDC is likewise ordered to pay the complainant moral and exemplary damages as provided under the Labor Arbiter's Decision; and
- 4.) All other money claims are DENIED for lack of merit.

In the meantime, respondent CDC is ordered to pay the complainant his retirement benefits without further delay.

SO ORDERED.[17]

On 3 October 2003, the OGCC filed a Motion for Reconsideration[18] despite the absence of a verification and the certification against forum shopping.

On 21 January 2004, the motion was denied by the NLRC for lack of merit.[19]

On 5 February 2004, the executive clerk of the NLRC First Division entered the judgment on the foregoing case. Thereafter, on 9 February 2004, the NLRC forwarded the entire records of the case to the NLRC-RAB III Office in San Fernando, Pampanga for appropriate action.

On 4 March 2004, petitioner Salenga filed a Motion for Issuance of Writ of Execution before the NLRC-RAB III, Office of LA Henry D. Isorena. The OGCC opposed the motion on the ground that it had filed with the CA a Petition for Certiorari seeking the reversal of the NLRC Decision dated 30 July 2001 and the Resolutions dated 10 September 2003 and 21 January 2004, respectively. It is noteworthy that, again, there was no board resolution attached to the Petition authorizing its filing.

Despite the pending Petition with the CA, LA Isorena issued a Writ of Execution enforcing the 10 September 2003 Resolution of the NLRC. On 1 April 2004, the LA issued an Order[20] to the manager of the Philippine National Bank, Clark Branch, Angeles City, Pampanga, to immediately release in the name of NLRC-RAB III the amount of P3,222,400 representing partial satisfaction of the judgment award, including the execution fee of P31,720.

Respondent CDC filed with the CA in February 2004 a Petition for Certiorari with a prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction. However, the Petition still lacked a board resolution from the board of directors of respondent corporation authorizing its then President Angeles to verify and certify the Petition on behalf of the board. It was only on 16 March 2004 that counsel for respondent filed a Manifestation/Motion[21] with an attached Secretary's Certificate containing the board's Resolution No. 86, Series of 2001. The Resolution authorized Angeles to represent respondent corporation in prosecuting, maintaining, or compromising any lawsuit in connection with its business.

Meanwhile, in the proceedings before LA Isorena, both respondent CDC's legal department and the OGCC on 6 April 2004 filed their respective Motions to Quash Writ of Execution.[22] They both cited the failure to afford to respondent due process in the issuance of the writ. They claimed that the pre-conference hearing on the execution of the judgment had not pushed through. They also reiterated that the Petition for Certiorari dated 11 February 2004 was still pending with the CA.

Both motions were denied by LA Isorena for lack of factual and legal bases.

On 6 May 2004, respondent filed with LA Isorena another Motion to Quash Writ of Execution, again reiterating the pending Petition with the CA.

This active exchange of pleadings and motions and the delay in the payment of his money claims eventually led petitioner Salenga to file an Omnibus Motion[23] before LA Isorena. In his motion, he recomputed the amount due him representing back wages, other benefits or allowances, legal interests and attorney's fees. He also prayed for the computation of his retirement benefits plus interests in accordance with R.A. 8291[24] and R.A. 1616.[25] He insisted that since respondent CDC was a government-owned and -controlled corporation (GOCC), his previous government service totalling 40 years must also be credited in the computation of his retirement pay. Thus, he demanded the payment of the total amount of P23,920,772.30, broken down as follows:

A. From the illegal dismissal suit:

(In Philippine peso)

a.

Recomputed award

3,758,786

b.

Legal interest

5,089,342.58

c.

Attorney's fees

1,196,052.80

d.

Litigation expenses

250,000

B. Retirement gratuity

Retirement pay

6,987,944

Unused vacation and sick leave

1,440,328

Legal interest

4,050,544.96

Attorney's fees

1,147,781.90

On 11 May 2004, the CA issued a Resolution[26] ordering petitioner Salenga to comment on the Petition and holding in abeyance the issuance of a temporary restraining order.

The parties thereafter filed their respective pleadings.

On 19 July 2004, the CA temporarily restrained the NLRC from enforcing the Decision dated 29 February 2000 for a period of 60 days.[27] After the lapse of the 60 days, LA Isorena issued a Notice of Hearing/Conference scheduled for 1 October 2004 on petitioner's Omnibus Motion dated 7 May 2004.

Meanwhile, on 24 September 2004, the CA issued another Resolution,[28] this time denying the application for the issuance of a writ of preliminary injunction, after finding that the requisites for the issuance of the writ had not been met.

Respondent CDC subsequently filed a Supplemental Petition[29] with the CA, challenging the computation petitioner Salenga made in his Omnibus Motion filed with the NLRC. Respondent alleged that the examiner had erred in including the other years of government service in the computation of retirement benefits. It claimed that, since respondent corporation was created under the Corporation Code, petitioner Salenga was not covered by civil service laws. Hence, his retirement benefits should only be limited to the number of years he had been employed by respondent.

Subsequently, respondent CDC filed an Omnibus Motion[30] to admit the Supplemental Petition and to reconsider the CA's Resolution denying the issuance of a writ of preliminary injunction. In the motion, respondent alleged that petitioner Salenga had been more than sufficiently paid the amounts allegedly due him, including the award made by LA Darlucio. On 12 March 2002, respondent CDC had issued a check amounting to P852,916.29, representing petitioner's retirement pay and terminal pay. Meanwhile, on 2 April 2004, P3,254,120 representing the initial award was debited from the account of respondent CDC.

On 7 February 2005, respondent CDC filed a Motion[31] once again asking the CA to issue a writ of preliminary injunction in the light of a scheduled 14 February 2005 conference called by LA Mariano Bactin, who had taken over the case from LA Isorena.

At the 14 February 2005 hearing, the parties failed to reach an amicable settlement and were thus required to submit their relevant pleadings and documents in support of their respective cases.

On 16 February 2005, the CA issued a Resolution[32] admitting the Supplemental Petition filed by respondent, but denying the prayer for the issuance of an injunctive writ.

Thereafter, on 8 March 2005, LA Bactin issued an Order[33] resolving the Omnibus Motion filed by petitioner Salenga for the recomputation of the monetary claims due him. In the Order, LA Bactin denied petitioner's Motion for the recomputation of the award of back wages, benefits, allowances and privileges based on the 29 February 2000 Decision of LA Darlucio. LA Bactin held that since the Decision had become final and executory, he no longer had jurisdiction to amend or to alter the judgment.

Anent the second issue of the computation of retirement benefits, LA Bactin also denied the claim of petitioner Salenga, considering that the latter's retirement benefits had already been paid. The LA, however, did not rule on

whether petitioner was entitled to retirement benefits, either under the Government Service Insurance System (GSIS) or under the Social Security System (SSS), and held that this issue was beyond the expertise and jurisdiction of a LA.

Petitioner Salenga thereafter appealed to the NLRC, which granted the appeal in a Resolution[34] dated 22 July 2005. First, it was asked to resolve the issue of the propriety of having the Laguesma Law Office represent respondent CDC in the proceedings before the LA. The said law firm entered its appearance as counsel for respondent during the pre-execution conference/hearing on 1 October 2004. On this issue, the NLRC held that respondent corporation's legal department, which had previously been representing the corporation, was not validly substituted by the Laguesma Law Office. In addition, the NLRC held that respondent had failed to comply with Memorandum Circular No. 9, Series of 1998, which strictly prohibits the hiring of lawyers of private law firms by GOCCs without the prior written conformity and acquiescence of the Office of Solicitor General, as the case may be, and the prior written concurrence of the Commission on Audit (COA). Thus, the NLRC held that all actions and submissions undertaken by the Laguesma Law Office on behalf of respondent were null and void.

The second issue raised before the NLRC was whether LA Bactin acted without jurisdiction in annulling and setting aside the former's final and executory judgment contained in its 10 September 2003 Resolution, wherein it held that the appeal had not been perfected, absent the necessary board resolution allowing or authorizing Timbol-Roman and Atty. Mallari to file the appeal. On this issue, the NLRC stated:

The final and executory judgment in this case is clearly indicated in the dispositive portion of Our Resolution promulgated on September 10, 2003 GRANTING complainant's motion for reconsideration, SETTING ASIDE Our Resolution of December 5, 2002, and REINSTATING the Decision of the Labor Arbiter dated February 29, 2000 with the following modification[s]: (1) declaring respondent Rufo Colayco not jointly and severally liable with respondent Clark Development Corporation; (2) ordering respondent CDC to pay the complainant his full backwages and other monetary claims to which he is entitled under the decision of the Labor Arbiter; (3) ordering respondent CDC to pay complainant moral and exemplary damages as provided under the Labor Arbiter's Decision; and (4) ordering respondent CDC to pay the complainant his retirement benefits without further delay. This was entered in the Book of Entry of Judgment as final and executory effective as of February 2, 2004.

Implementing this final and executory judgment, Arbiter Isorena issued an Order dated May 24, 2004, DENYING respondent's Motion to Quash the Writ of Execution dated March 22, 2004, correctly stating thusly:

"Let it be stressed that once a decision has become final and executory, it becomes the ministerial duty of this Office to issue the corresponding writ of execution. The rationale behind it is based on the fact that the winning party has suffered enough and it is the time for him to enjoy the fruits of his labor with dispatch. The very purpose of the pre-execution conference is to explore the possibility for the parties to arrive at an amicable settlement to satisfy the judgment award speedily, not to delay or prolong its implementation."

Thus, when Arbiter Bactin, who took over from Arbiter Isorena upon the latter's filing for leave of absence due to poor health in January 2005, issued the appealed Order nullifying, instead of implementing, the final and executory judgment of this Commission, the labor arbiter a quo acted WITHOUT JURISDICTION.[35]

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WHEREFORE, premises considered, the appeal of herein complainant is hereby GRANTED, and We declare NULL AND VOID the appealed Order of March 8, 2005 and SET ASIDE said Order; We direct the immediate issuance of the corresponding Alias Writ of Execution to enforce the final and executory judgment of this Commission as contained in Our September 10, 2003 Resolution.

SO ORDERED.[36]

Unwilling to accept the above Resolution of the NLRC, the Laguesma Law Office filed a Motion for Reconsideration dated 29 August 2005 with the NLRC. Again, the motion lacked proper verification and certification against non-forum shopping.

In the meantime, the OGCC also filed with the CA a Motion for the Issuance of a Writ of Preliminary Injunction dated 30 August 2005[37] against the NLRC's 22 July 2005 Resolution. The OGCC alleged that the issues in the Resolution addressed monetary claims that were raised by petitioner Salenga only in his Omnibus Motion dated 7 May 2004 or after the issuance of the 10 September 2003 Decision of LA Darlucio. Thus, the OGCC insisted that the NLRC had no jurisdiction over the issue, for the matter was still pending with the CA.

The OGCC likewise filed another Motion for Reconsideration[38] dated 31 August 2005 with the NLRC. The OGCC maintained that it was only acting in a collaborative manner with the legal department of respondent CDC, for which the former remained the lead counsel. The OGCC reiterated that, as the statutory counsel of GOCCs, it did not need authorization from them to maintain a case, and thus, LA Bactin had jurisdiction over that case. Finally, it insisted that petitioner Salenga was not covered by civil service laws on retirement, the CDC having been created under the Corporation Code.

On 13 September 2005, the CA promulgated the assailed Decision. Relying heavily on the reports of Reviewer Arbiters Cristeta D. Tamayo and Thelma M. Concepcion, it held that petitioner Salenga was a corporate officer. Thus, the issue before the NLRC was an intra-corporate dispute, which should have been lodged with the Securities and Exchange Commission (SEC), which had jurisdiction over the case at the time the issue arose. The CA likewise held that the NLRC committed grave abuse of discretion when it allowed and granted petitioner Salenga's second Motion for Reconsideration, which was a prohibited pleading.

Petitioner subsequently filed a Motion for Reconsideration on 7 October 2005, alleging that the CA committed grave abuse of discretion in reconsidering the findings of fact, which had already been found to be conclusive against respondent; and in taking cognizance of the latter's Petition which had not been properly verified.

The CA, finding no merit in petitioner's allegations, denied the motion in its 17 August 2006 Resolution.

On 4 September 2006, petitioner Salenga filed a Motion for Extension of Time to File a Petition for Review on Certiorari under Rule 45, praying for an extension of fifteen (15) days within which to file the Petition. The motion was granted through this Court's Resolution dated 13 September 2006. The case was docketed as G.R. No. 174159.

On 25 September 2006, however, petitioner filed a Manifestation[39] withdrawing the motion. He manifested before us that he would instead file a Petition for Certiorari under Rule 65, which was eventually docketed as G.R. No. 174941. On 7 July 2008, this Court, through a Resolution, considered the Petition for Review in G.R. No. 174159 closed and terminated.

Petitioner raises the following issues for our resolution:

I.

The Court of Appeals acted without jurisdiction in reviving and re-litigating the factual issues and matters of petitioner's illegal dismissal and retirement benefits.

II.

The Court of Appeals had no jurisdiction to entertain the original Petition as a remedy for an appeal that had

actually not been filed, absent a board resolution allowing the appeal.

III.

The Court of Appeals acted with grave abuse of discretion when it did the following:

- It failed to dismiss the original and supplemental Petitions despite the lack of a board resolution authorizing the filing thereof.
- It failed to dismiss the Petitions despite the absence of a proper verification and certification against non-forum shopping.
- It failed to dismiss the Petitions despite respondent's failure to inform it of the pending proceedings before the NLRC involving the same issues.
- It failed to dismiss the Petitions on the ground of forum shopping.
- It did not dismiss the Petition when respondent failed to attach to it certified true copies of the assailed NLRC 30 July 2001 Decision; 10 September 2003 Resolution; 21 January 2004 Resolution; copies of material portions of the record as are referred to therein; and copies of pleadings and documents relevant and pertinent thereto.
- It did not act on respondent's failure to serve on the Office of the Solicitor General a copy of the pleadings, motions and manifestations the latter had filed before the Court of Appeals, as well as copies of pertinent court resolutions and decisions, despite the NLRC being a party to the present case.
- It disregarded the findings of fact and conclusions of law arrived at by LA Darlucio, subjecting them to a second analysis and evaluation and supplanting them with its own findings.
- It granted the Petition despite respondent's failure to show that the NLRC committed grave abuse of discretion in rendering the latter's 30 July 2001 Decision, 10 September 2003 Resolution and 21 January 2004 Resolution.
- It dismissed the complaint for illegal dismissal and ordered the restitution of the P3,222,400 already awarded to petitioner, plus interest thereon.

In its defense, private respondent insists that the present Petition for Certiorari under Rule 65 is an improper remedy to question the Decision of the CA, and thus, the case should be dismissed outright. Nevertheless, it reiterates that private petitioner was a corporate officer whose employment was dependent on board action. As such, private petitioner's employment was an intra-corporate controversy cognizable by the SEC, not the NLRC. Private respondent also asserts that it has persistently sought the reversal of LA Darlucio's Decision by referring to the letters sent to the OGCC, as well as Verification and Certificate against forum-shopping. However, these documents were signed only during Angeles' time as private respondent's president/CEO, and not of the former presidents. Moreover, private respondent contends that private petitioner is not covered by civil service laws, thus, his years in government service are not creditable for the purpose of determining the total amount of retirement benefits due him. In relation to this, private respondent enumerates the amounts already paid to private petitioner.

The Court's Ruling

The Petition has merit.

This Court deigns it proper to collapse the issues in this Petition to simplify the matters raised in what appears to be a convoluted case. First, we need to determine whether the NLRC and the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction, when they entertained respondent's so-called appeal of the 29 February 2000 Decision rendered by LA Darlucio.

Second, because of the turn of events, a second issue - the computation of retirement benefits - cropped up while the first case for illegal dismissal was still pending. Although the second issue may be considered as separate and distinct from the illegal dismissal case, the issue of the proper computation of the retirement benefits was nevertheless considered by the relevant administrative bodies, adding more confusion to what should have been a simple case to begin with.

The NLRC had no jurisdiction
to entertain the appeal filed by
Timbol-Roman and former
CDC CEO Colayco.

To recall, on 29 February 2000, LA Darlucio rendered a Decision in favor of petitioner, stating as follows:

xxxComplainant cannot be considered as a corporate officer because at the time of his termination, he was holding the position of Head Executive Assistant which is categorized as a Job Level 12 position that is not subject to the election or appointment by the Board of Directors. The approval of Board Resolution Nos. 200 and 214 by the Board of Directors in its meeting held on February 11, 1998 and March 25, 1998 clearly refers to the New CDC Salary Structure where the pay adjustment was based and not to complainant's relief as Vice-President, Joint Ventures and Special Projects. While it is true that his previous positions are classified as Job Level 13 which are subject to board confirmation, the status of his appointment was permanent in nature. In fact, he had undergone a six-month probationary period before having acquired the permanency of his appointment. However, due to the refusal of the board under then Chairman Victorino Basco to confirm his appointment, he was demoted to the position of Head Executive Assistant. Thus, complainant correctly postulated that he was not elected to his position and his tenure is not dependent upon the whim of the boardxxx

xxx xxx xxx

Anent the second issue, this Office finds and so holds that respondents have miserably failed to show or establish the valid cause in terminating the services of complainant.

Xxx xxx xxx

In the case at bar, respondents failed to adduce any evidence showing that the position of Head Executive Assistant is superfluous. In fact, they never disputed the argument advanced by complainant that the position of Head Executive Assistant was classified as a regular position in the Position Classification Study which is an essential component of the Organizational Study that had been approved by the CDC board of directors in 1995 and still remains intact as of the end of 1998. Likewise, studies made since 1994 by various management consultancy groups have determined the need for the said position in the Office of the President/CEO in relation to the vision, mission, plans, programs and overall corporate goals and objectives of respondent CDC. There is no evidence on record to show that the position of Head Executive Assistant was abolished by the Board of Directors in its meeting held in the morning of September 22, 1998. The minutes of the meeting of the board on said date, as well as its other three meetings held in the month of September 1998 (Annexes "B", "C", "D" and "E", Complainant's Reply), clearly reveal that no abolition or reorganization plan was discussed by the board. Hence, the ground of redundancy is merely a device made by respondent Colayco in order to ease out the complainant from the respondent corporation.

Moreover, the other ground for complainant's dismissal is unclear and unknown to him as respondent did not specify nor inform the complainant of the alleged recent developments xxx

This Office is also of the view that complainant was not accorded his right to due process prior to his termination. The law requires that the employer must furnish the worker sought to be dismissed with two (2) written notices before termination may be validly effected: first, a notice apprising the employee of the

particular acts or omissions for which his dismissal is sought and, second, a subsequent notice informing the employee of the decision to dismiss him. In the case at bar, complainant was not apprised of the grounds of his termination. He was not given the opportunity to be heard and defend himself xxx[40]

The OGCC, representing respondent CDC and former CEO Colayco separately appealed from the above Decision. Both alleged that they had filed the proper bond to cover the award granted by LA Darlucio.

It is clear from the NLRC Rules of Procedure that appeals must be verified and certified against forum-shopping by the parties-in-interest themselves. In the case at bar, the parties-in-interest are petitioner Salenga, as the employee, and respondent Clark Development Corporation as the employer.

A corporation can only exercise its powers and transact its business through its board of directors and through its officers and agents when authorized by a board resolution or its bylaws. The power of a corporation to sue and be sued is exercised by the board of directors. The physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate bylaws or by a specific act of the board. The purpose of verification is to secure an assurance that the allegations in the pleading are true and correct and have been filed in good faith.[41]

Thus, we agree with petitioner that, absent the requisite board resolution, neither Timbol-Roman nor Atty. Mallari, who signed the Memorandum of Appeal and Joint Affidavit of Declaration allegedly on behalf of respondent corporation, may be considered as the "appellant" and "employer" referred to by Rule VI, Sections 4 to 6 of the NLRC Rules of Procedure, which state:

SECTION 4. REQUISITES FOR PERFECTION OF APPEAL. - (a) The Appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be verified by appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 6 of this Rule; shall be accompanied by memorandum of appeal in three (3) legibly typewritten copies which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed decision, resolution or order and a certificate of non-forum shopping with proof of service on the other party of such appeal. A mere notice of appeal without complying with the other requisites aforestated shall not stop the running of the period for perfecting an appeal.

(b) The appellee may file with the Regional Arbitration Branch or Regional Office where the appeal was filed, his answer or reply to appellant's memorandum of appeal, not later than ten (10) calendar days from receipt thereof. Failure on the part of the appellee who was properly furnished with a copy of the appeal to file his answer or reply within the said period may be construed as a waiver on his part to file the same.

(c) Subject to the provisions of Article 218, once the appeal is perfected in accordance with these Rules, the Commission shall limit itself to reviewing and deciding specific issues that were elevated on appeal.

SECTION 5. APPEAL FEE. -The appellant shall pay an appeal fee of one hundred fifty pesos (P150.00) to the Regional Arbitration Branch or Regional Office, and the official receipt of such payment shall be attached to the records of the case.

SECTION 6. BOND. - In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond. The appeal bond shall either be in cash or surety in an amount equivalent to the monetary award, exclusive of damages and attorney's fees.

In case of surety bond, the same shall be issued by a reputable bonding company duly accredited by the Commission or the Supreme Court, and shall be accompanied by:

- (a) a joint declaration under oath by the employer, his counsel, and the bonding company, attesting that the bond posted is genuine, and shall be in effect until final disposition of the case.
- (b) a copy of the indemnity agreement between the employer-appellant and bonding company; and
- (c) a copy of security deposit or collateral securing the bond.

A certified true copy of the bond shall be furnished by the appellant to the appellee who shall verify the regularity and genuineness thereof and immediately report to the Commission any irregularity.

Upon verification by the Commission that the bond is irregular or not genuine, the Commission shall cause the immediate dismissal of the appeal.

No motion to reduce bond shall be entertained except on meritorious grounds and upon the posting of a bond in a reasonable amount in relation to the monetary award.

The filing of the motion to reduce bond without compliance with the requisites in the preceding paragraph shall not stop the running of the period to perfect an appeal. (Emphasis supplied)

The OGCC failed to produce any valid authorization from the board of directors despite petitioner Salenga's repeated demands. It had been given more than enough opportunity and time to produce the appropriate board resolution, and yet it failed to do so. In fact, many of its pleadings, representations, and submissions lacked board authorization.

We cannot agree with the OGCC's attempt to downplay this procedural flaw by claiming that, as the statutorily assigned counsel for GOCCs, it does not need such authorization. In *Constantino-David v. Pangandaman-Gania*,^[42] we exhaustively explained why it was necessary for government agencies or instrumentalities to execute the verification and the certification against forum-shopping through their duly authorized representatives. We ruled thereon as follows:

But the rule is different where the OSG is acting as counsel of record for a government agency. For in such a case it becomes necessary to determine whether the petitioning government body has authorized the filing of the petition and is espousing the same stand propounded by the OSG. Verily, it is not improbable for government agencies to adopt a stand different from the position of the OSG since they weigh not just legal considerations but policy repercussions as well. They have their respective mandates for which they are to be held accountable, and the prerogative to determine whether further resort to a higher court is desirable and indispensable under the circumstances.

The verification of a pleading, if signed by the proper officials of the client agency itself, would fittingly serve the purpose of attesting that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. Of course, the OSG may opt to file its own petition as a "People's Tribune" but the representation would not be for a client office but for its own perceived best interest of the State.

The case of *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc.*, is not also a precedent that may be invoked at all times to allow the OSG to sign the certificate of non-forum shopping in place of the real party-in-interest. The ruling therein mentions merely that the certification of non-forum shopping executed by the OSG constitutes substantial compliance with the rule since "the OSG is the only lawyer for the petitioner, which is a government agency mandated under Section 35, Chapter 12, Title III, Book IV, of the 1987 Administrative Code (Reiterated under Memorandum Circular No. 152 dated May 17, 1992) to be represented only by the Solicitor General."

By its very nature, "substantial compliance" is actually inadequate observance of the requirements of a rule or regulation which are waived under equitable circumstances to facilitate the administration of justice there being no damage or injury caused by such flawed compliance. This concept is expressed in the statement "the

rigidity of a previous doctrine was thus subjected to an inroad under the concept of substantial compliance." In every inquiry on whether to accept "substantial compliance," the focus is always on the presence of equitable conditions to administer justice effectively and efficiently without damage or injury to the spirit of the legal obligation.

xxx xxx xxx

The fact that the OSG under the 1987 Administrative Code is the only lawyer for a government agency wanting to file a petition, or complaint for that matter, does not operate per se to vest the OSG with the authority to execute in its name the certificate of non-forum shopping for a client office. For, in many instances, client agencies of the OSG have legal departments which at times inadvertently take legal matters requiring court representation into their own hands without the intervention of the OSG. Consequently, the OSG would have no personal knowledge of the history of a particular case so as to adequately execute the certificate of non-forum shopping; and even if the OSG does have the relevant information, the courts on the other hand would have no way of ascertaining the accuracy of the OSG's assertion without precise references in the record of the case. Thus, unless equitable circumstances which are manifest from the record of a case prevail, it becomes necessary for the concerned government agency or its authorized representatives to certify for non-forum shopping if only to be sure that no other similar case or incident is pending before any other court.

We recognize the occasions when the OSG has difficulty in securing the attention and signatures of officials in charge of government offices for the verification and certificate of non-forum shopping of an initiatory pleading. This predicament is especially true where the period for filing such pleading is non-extendible or can no longer be further extended for reasons of public interest such as in applications for the writ of habeas corpus, in election cases or where sensitive issues are involved. This quandary is more pronounced where public officials have stations outside Metro Manila.

But this difficult fact of life within the OSG, equitable as it may seem, does not excuse it from wantonly executing by itself the verification and certificate of non-forum shopping. If the OSG is compelled by circumstances to verify and certify the pleading in behalf of a client agency, the OSG should at least endeavor to inform the courts of its reasons for doing so, beyond instinctively citing *City Warden of the Manila City Jail v. Estrella* and *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc.*

Henceforth, to be able to verify and certify an initiatory pleading for non-forum shopping when acting as counsel of record for a client agency, the OSG must (a) allege under oath the circumstances that make signatures of the concerned officials impossible to obtain within the period for filing the initiatory pleading; (b) append to the petition or complaint such authentic document to prove that the party-petitioner or complainant authorized the filing of the petition or complaint and understood and adopted the allegations set forth therein, and an affirmation that no action or claim involving the same issues has been filed or commenced in any court, tribunal or quasi-judicial agency; and, (c) undertake to inform the court promptly and reasonably of any change in the stance of the client agency.

Anent the document that may be annexed to a petition or complaint under letter (b) hereof, the letter-endorsement of the client agency to the OSG, or other correspondence to prove that the subject-matter of the initiatory pleading had been previously discussed between the OSG and its client, is satisfactory evidence of the facts under letter (b) above. In this exceptional situation where the OSG signs the verification and certificate of non-forum shopping, the court reserves the authority to determine the sufficiency of the OSG's action as measured by the equitable considerations discussed herein. (Emphasis ours, italics provided)

The ruling cited above may have pertained only to the Office of the Solicitor General's representation of government agencies and instrumentalities, but we see no reason why this doctrine cannot be applied to the case at bar insofar as the OGCC is concerned.

While in previous decisions we have excused transgressions of these rules, it has always been in the context of upholding justice and fairness under exceptional circumstances. In this case, though, respondent failed to provide any iota of rhyme or reason to compel us to relax these requirements. Instead, what is clear to us is that the so-called appeal was done against the instructions of then President/CEO Naguiat not to file an appeal. Timbol-Roman, who signed the Verification and the Certification against forum-shopping, was not even an authorized representative of the corporation. The OGCC was equally remiss in its duty. It ought to have advised respondent corporation, the proper procedure for pursuing an appeal. Instead, it maintained the appeal and failed to present any valid authorization from respondent corporation even after petitioner had questioned OGCC's authority all throughout the proceedings. Thus, it is evident that the appeal was made in bad faith.

The unauthorized and overzealous acts of officials of respondent CDC and the OGCC have led to a waste of the government's time and resources. More alarmingly, they have contributed to the injustice done to petitioner Salenga. By taking matters into their own hands, these officials let the case drag on for years, depriving him of the enjoyment of property rightfully his. What should have been a simple case of illegal dismissal became an endless stream of motions and pleadings.

Time and again, we have said that the perfection of an appeal within the period prescribed by law is jurisdictional, and the lapse of the appeal period deprives the courts of jurisdiction to alter the final judgment.[43] Thus, there is no other recourse but to respect the findings and ruling of the labor arbiter. Clearly, therefore, the CA committed grave abuse of discretion in entertaining the Petition filed before it after the NLRC had dismissed the case based on lack of jurisdiction. The assailed CA Decision did not even resolve petitioner Salenga's consistent and persistent claim that the NLRC should not have taken cognizance of the appeal in the first place, absent a board resolution. Thus, LA Darlucio's Decision with respect to the liability of the corporation still stands.

However, we note from that Decision that Rufo Colayco was made solidarily liable with respondent corporation. Colayco thereafter filed his separate appeal. As to him, the NLRC correctly held in its 30 July 2001 Decision that he may not be held solidarily responsible to petitioner. As a result, it dropped him as respondent. Notably, in the case at bar, petitioner does not question that ruling.

Based on the foregoing, all other subsequent proceedings regarding the issue of petitioner's dismissal are null and void for having been conducted without jurisdiction. Thus, it is no longer incumbent upon us to rule on the other errors assigned in the matter of petitioner Salenga's dismissal.

CDC is not under the civil service laws on retirement.

While the case was still persistently being pursued by the OGCC, a new issue arose when petitioner Salenga reached retirement age: whether his retirement benefits should be computed according to civil service laws.

To recall, the issue of how to compute the retirement benefits of petitioner was raised in his Omnibus Motion dated 7 May 2004 filed before the NLRC after it had reinstated LA Darlucio's original Decision. The issue was not covered by petitioner's Complaint for illegal dismissal, but was a different issue altogether and should have been properly addressed in a separate Complaint. We cannot fault petitioner, though, for raising the issue while the case was still pending with the NLRC. If it were not for the "appeal" undertaken by Timbol-Roman and the OGCC through Atty. Mallari, the issue would have taken its proper course and would have been raised in a more appropriate time and manner. Thus, we deem it proper to resolve the matter at hand to put it to rest after a decade of litigation.

Petitioner Salenga contends that respondent CDC is covered by the GSIS Law. Thus, he says, the computation of his retirement benefits should include all the years of actual government service, starting from the original

appointment forty (40) years ago up to his retirement.

Respondent CDC owes its existence to Executive Order No. 80 issued by then President Fidel V. Ramos. It was meant to be the implementing and operating arm of the Bases Conversion and Development Authority (BCDA) tasked to manage the Clark Special Economic Zone (CSEZ). Expressly, respondent was formed in accordance with Philippine corporation laws and existing rules and regulations promulgated by the SEC pursuant to Section 16 of Republic Act (R.A.) 7227.[44] CDC, a government-owned or -controlled corporation without an original charter, was incorporated under the Corporation Code. Pursuant to Article IX-B, Sec. 2(1), the civil service embraces only those government-owned or -controlled corporations with original charter. As such, respondent CDC and its employees are covered by the Labor Code and not by the Civil Service Law, consistent with our ruling in *NASECO v. NLRC*,[45] in which we established this distinction. Thus, in *Gamogamo v. PNOC Shipping and Transport Corp.*,[46] we held:

Retirement results from a voluntary agreement between the employer and the employee whereby the latter after reaching a certain age agrees to sever his employment with the former.

Since the retirement pay solely comes from Respondent's funds, it is but natural that Respondent shall disregard petitioner's length of service in another company for the computation of his retirement benefits.

Petitioner was absorbed by Respondent from LUSTEVECO on 1 August 1979. Ordinarily, his creditable service shall be reckoned from such date. However, since Respondent took over the shipping business of LUSTEVECO and agreed to assume without interruption all the service credits of petitioner with LUSTEVECO, petitioner's creditable service must start from 9 November 1977 when he started working with LUSTEVECO until his day of retirement on 1 April 1995. Thus, petitioner's creditable service is 17.3333 years.

We cannot uphold petitioner's contention that his fourteen years of service with the DOH should be considered because his last two employers were government-owned and controlled corporations, and fall under the Civil Service Law. Article IX(B), Section 2 paragraph 1 of the 1987 Constitution states --

Sec. 2. (1)The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

It is not at all disputed that while Respondent and LUSTEVECO are government-owned and controlled corporations, they have no original charters; hence they are not under the Civil Service Law. In *Philippine National Oil Company-Energy Development Corporation v. National Labor Relations Commission*, we ruled:

xxx "Thus under the present state of the law, the test in determining whether a government-owned or controlled corporation is subject to the Civil Service Law are [sic] the manner of its creation, such that government corporations created by special charter(s) are subject to its provisions while those incorporated under the General Corporation Law are not within its coverage." (Emphasis supplied)

Hence, petitioner Salenga is entitled to receive only his retirement benefits based only on the number of years he was employed with the corporation under the conditions provided under its retirement plan, as well as other benefits given to him by existing laws.

WHEREFORE, in view of the foregoing, the Petition in G.R. No. 174941 is partially GRANTED. The Decision of LA Darlucio is REINSTATED insofar as respondent corporation's liability is concerned. Considering that petitioner did not maintain the action against Rufo Colayco, the latter is not solidarily liable with respondent Clark Development Corporation.

The case is REMANDED to the labor arbiter for the computation of petitioner's retirement benefits in accordance

with the Social Security Act of 1997 otherwise known as Republic Act No. 8282, deducting therefrom the sums already paid by respondent CDC. If any, the remaining amount shall be subject to the legal interest of 6% per annum from the filing date of petitioner's Omnibus Motion on 11 May 2004 up to the time this judgment becomes final and executory. Henceforth, the rate of legal interest shall be 12% until the satisfaction of judgment.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] Penned by Associate Justice Edgardo P. Cruz, with Associate Justices Romeo A. Brawner and Jose C. Mendoza concurring; rollo, pp. 240-254.

[2] Id. at 253.

[3] Id. at 577-604.

[4] Id. at 603-604.

[5] Id. at 688.

[6] Id. at 647-658.

[7] Id. at 606-607.

[8] Id. at 739.

[9] Id. at 743.

[10] Penned by Commissioner Vicente S.E. Veloso, with Commissioners Roy V. Señeres and Alberto R. Quimpo concurring; id. at 810-830.

[11] Id. at 1142-1146.

[12] Id. at 862-875.

[13] Id. at 874.

[14] Id. at 955-959.

[15] Id. at 961.

[16] Penned by Commissioner Roy V. Señeres, with Commissioners Romeo L. Go and Victoriano R. Calaycay concurring, id. at 1162-1174.

[17] Id. at 1173-1174.

[18] Id. at 1176-1209.

[19] Id. at 1212.

[20] Id. at 1467.

[21] Id. at 1458-1461.

[22] Id. at 1472.

[23] Id. at 1504-1530.

- [24] Philippine Government Service Insurance System Act of 1997.
- [25] Amending Commonwealth Act No. 186, or the Government Service Insurance Act.
- [26] Rollo, p. 1498.
- [27] Id. at 1931-1932.
- [28] Id. at 1975-1976.
- [29] Id. at 1983-1991.
- [30] Id. at 1978-1982.
- [31] Id. at 2154-2155.
- [32] Id. at 2206-2207.
- [33] Id. at 2240-2257.
- [34] Id. at 2260-2275.
- [35] Id. at 2264-2265.
- [36] Id. at 2274.
- [37] Id. at 2277-2281
- [38] Id. at 2299-2318.
- [39] Id. at 30-35.
- [40] Id. at 593-598.
- [41] *Firme v. Bukal Enterprises and Development Corp.*, 460 Phil. 321 (2003).
- [42] 456 Phil. 273, 294-298 (2003).
- [43] *Galima v. Court of Appeals*, 166 Phil. 1231(1977).
- [44] E.O. No. 80, Sec. 1.
- [45] 250 Phil. 129 (1988).
- [46] 431 Phil. 510, 521-522 (2002).

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