



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

**FIFTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**CRIM. CASE Nos. SB-18-  
CRM-0153 to 0159**

*For: Violation of Sec. 3(e),  
R.A. No. 3019, as amended*

*-versus-*

**CRIM. CASE Nos. SB-18-  
CRM-0160 to 0165**

**JEJOMAR C. BINAY, SR. et al.,**  
*Accused.*

*For: Falsification of Public  
Document*

Present:

**Lagos, J.,** Chairperson,  
**Mendoza-Arcega, J.,** and  
**Corpus-Mañalac, J.**

Promulgated:

June 18, 2018 *Jal*

X-----X

**RESOLUTION**

**MENDOZA-ARCEGA, J.:**

Before Us are the Motions to Quash<sup>1</sup> dated April 22, 2018 separately filed by accused Giovanni Ilio Condes, Manolito N. Uyaco, Raydes B. Pestaño, Lorenza P. Amores and Nelia A. Barlis (collectively referred to as the “accused-movants”).

In their respective motions, the accused-movants seek the quashal of the Informations charging them with violation of Section 3(e) of R.A. No.

<sup>1</sup> Records, Volume (Vol.) 1.

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 2 of 9

X-----X

3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Except for Raydes B. Pestaño and Nelia A. Barlis, herein accused-movants likewise pray for the quashal of the Informations indicting them with Falsification of Public Documents under Article 171 of the Revised Penal Code. Briefly, the grounds for the motions to quash may be capsulized as follows:

1. The Informations clearly show no conspiracy on the part of the accused;
2. The facts charged do not constitute an offense; and
3. The Informations do not conform substantially to the prescribed form.

Anent the first ground, the accused-movants insisted that the complaints filed against them delve on the alleged conspiracy of all the accused to violate the law on procurement, the Anti-Graft and Corrupt Practices Act and the Revised Penal Code involving the contract for architecture and engineering services of the Makati Science High School Building, and the construction of Phases I to VI of the latter. It was their stance that the disputed Informations lacked the necessary allegations on how the accused-movants acted in conspiracy when the specific acts were allegedly committed. The allegations, according to them, were not stated with certainty and accuracy.

Furthermore, the Informations do not constitute an offense since the allegations that the accused-movants acted with manifest partiality, evident bad faith, and/or gross inexcusable negligence are mere conclusions of law and definition of the crime as provided for in Section 3(e) of R.A. No. 3019. Consequently, the facts charged in the disputed Informations do not constitute an offense.

With regard to the last ground, the accused-movants maintained that the allegations in the Informations do not provide as to whom the specific acts complained of should be imputed. The Informations are so sweeping as these do not specify the participation of each of the accused-movants. They theorized that the Informations in question constitute a “shot gun” allegation wherein the overt acts are provided but the name of the accused involved was not specified.

For its part, the prosecution filed its Comment and/or Opposition<sup>2</sup> for each of the above-mentioned motions. The prosecution countered that the

---

<sup>2</sup> Records, Vol. 2, pp. 82-90; 167-175; 176-184; 213-227; and 228-239.

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 3 of 9

X-----X

Informations are complete and sufficient to hold the accused-movants liable for violation of Section 3(e) of R.A. No. 3019 and for Falsification of Public Documents. More so, the law only requires the ultimate facts to be alleged in the Information and matters *aliunde* are not considered. It was further stressed that the absence or presence of any conspiracy among the accused is evidentiary in nature and is a matter of defense. Hence, the Motions to Quash of the accused-movants must be denied.

**THE COURT'S RULING**

Upon judicious examination of the records, and based on the applicable laws and jurisprudence, the Court finds that the foregoing motions devoid of merit.

To begin with, the nature of a motion to quash was succinctly discussed by the High Tribunal in *People v. Odtuhan, viz:*<sup>3</sup>

“As defined in *Antone*, ‘a motion to quash Information is the mode by which an accused assails the validity of a criminal complaint or Information filed against him for insufficiency on its face in point of law, or for defects which are apparent in the face of the Information.’ It is a hypothetical admission of the facts alleged in the Information. The fundamental test in determining the sufficiency of the material averments in an Information is whether or not the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime defined by law. Evidence *aliunde* or matters extrinsic of the Information are not to be considered.”<sup>4</sup>

Section 3, Rule 117 of the Rules of Court enumerates the grounds on which the accused may move to quash the complaint or Information, thus:

“**Section 3. Grounds.** — The accused may move to quash the complaint or Information on any of the following grounds:

- (a) That the facts charged do not constitute an offense;
- (b) That the court trying the case has no jurisdiction over the offense charged;
- (c) That the court trying the case has no jurisdiction over the person of the accused;

<sup>3</sup> G.R. No. 191566, July 17, 2013.

<sup>4</sup> *Ibid.*, citing *People v. Balao*, G.R. No. 176819, January 26, 2011, 640 SCRA 565, 573; *Go v. The Fifth Division, Sandiganbayan*, 549 Phil. 783, 805 (2007).

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 4 of 9

X-----X

- (d) That the officer who filed the Information had no authority to do so;
- (e) That it does not conform substantially to the prescribed form;
- (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
- (g) That the criminal action or liability has been extinguished;
- (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.”

In this regard, the Revised Guidelines for Continuous Trial of Criminal Cases<sup>5</sup> mandates that a motion to quash Information must be denied outright if the ground is not one of those stated in Sec. 3, Rule 117 as the same is considered a prohibited motion.

Here, it is noteworthy that the first and third grounds invoked by the accused-movants, *i.e.*, that the Informations clearly show no conspiracy on the part of the accused and that the Informations do not conform substantially to the prescribed form, are grounds for the outright denial of their respective motions to quash. To be considered meritorious, Section 2 (c), sub-par. v of the Revised Guidelines provides that the motion to quash Information must be based on the grounds that the facts charged do not constitute an offense, lack of jurisdiction, extinction of criminal action or liability, or double jeopardy under Sec. 3, par. (a), (b), (g), and (i), Rule 117 of the Rules of Court.

Although the third ground raised by the accused-movants, *i.e.*, the Informations do not conform substantially to the prescribed form is one of the grounds enumerated under Sec. 3, par. (e), Rule 117, it cannot be considered as a meritorious motion under Section 2 (c), sub-par. v of the guidelines. In the same vein, the ground based on conspiracy is not well-taken as the same is not a basis to quash the Information based on the rules.

We shall now dwell on the second and remaining ground raised -- the facts charged do not constitute an offense.

Herein accused-movants are all indicted for violation Section 3(e) of R.A. No. 3019. The said law provides:

---

<sup>5</sup> A.M. No. 15-06-10-SC.

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 5 of 9

X-----X

“**Section 3. Corrupt practices of public officers.** In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

XXX XXX

(e) **Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.** This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.” (Emphasis supplied.)

It has been said that “the test for the correctness of this ground is the sufficiency of the averments in the Information, that is, whether the facts alleged, if hypothetically admitted, constitute the elements of the offense,<sup>6</sup> and matters *aliunde* will not be considered.”<sup>7</sup> Anent the sufficiency of the Information, Section 6, Rule 110 of the Rules of Court requires, *inter alia*, that the Information state the acts or omissions complained of as constituting the offense.<sup>8</sup>

Section 3(e) of R.A. No. 3019 has the following elements:<sup>9</sup>

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party

---

<sup>6</sup> Mustang Lumber, Inc. v. Hon. Court of Appeals, et al., G.R. No. 104988, June 18, 1996 citing FLORENZ D. REGALADO, Remedial Law Compendium, vol. 2, Seventh Revised ed. [1995], 392, citing People vs. Supnad, 7 SCRA 603 [1963]. See also VICENTE J. FRANCISCO, The Revised Rules of Court (Criminal Procedure), 2nd ed. [1969] 579; MANUEL V. MORAN, Comments of the Rules of Court, vol. 4 [1980], 222.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> People v. Sandiganbayan (Fourth Division), et al., G.R. No. 160619, September 9, 2015 citing Uriarte v. People, G.R. No. 169251, December 20, 2006, 511 SCRA 471, 486, citing Santos v. People, G.R. No. 161877, March 23, 2006, 485 SCRA 185, 194; Cabrera v. Sandiganbayan, G.R. Nos. 162314-17, October 25, 2004, 441 SCR 377, 386; and Jacinto v. Sandiganbayan, G.R. No. 84571, October 2, 1989, 178 SCRA 254, 259.

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 6 of 9

x-----x

unwarranted benefits, advantage or preference in the discharge of his functions.

*As to the first element*, the Informations specified that the accused-movants are public officers holding the following positions:

1. Giovanni I. Condes – BAC Secretary and Head of the BAC Secretariat;<sup>10</sup>
2. Manolito N. Uyaco – BAC Secretary and Head of the BAC Secretariat;<sup>11</sup>
3. Raydes B. Pestaño – Acting City Accountant;<sup>12</sup>
4. Lorenza P. Amores – City Budget Officer and BAC Member;<sup>13</sup>  
and
5. Nelia A. Barlis – City Treasurer<sup>14</sup>.

*As to the second element*, it was specified that the accused-movants, together with the other accused acted with manifest partiality, evident bad faith, and/or gross inexcusable negligence while in the performance of their administrative and/or official functions.

*As to the third element*, the Informations sufficiently charged that the alleged willful, unlawful and criminal acts of the accused-movants, together with the other accused, caused undue injury to the government by entering into the disputed transactions.

Perforce, the Informations charging the accused-movants with violation of Section 3(e) of R.A. No. 3019 are sufficient and compliant with the rudiments of the law.

As regards the charge for Falsification of Public Documents,<sup>15</sup> the Court also opines that the Informations indicting the accused-movants for the said felony, save for accused Raydes B. Pestaño and Nelia A. Barlis, are valid.

<sup>10</sup> Informations in Criminal Case Nos. SB-18-CRM-0154 to 0155.

<sup>11</sup> Informations in Criminal Case Nos. SB-18-CRM-0157 to 0159.

<sup>12</sup> Informations in Criminal Case Nos. SB-18-CRM-0158 to 0159.

<sup>13</sup> Informations in Criminal Case Nos. SB-18-CRM-0153 to 0159.

<sup>14</sup> Informations in Criminal Case Nos. SB-18-CRM-0153 to 0159.

<sup>15</sup> Informations in Criminal Case Nos. SB-18-CRM-0160 to 0165.

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 7 of 9

X-----X

Article 171 of the Revised Penal Code enumerates the acts being punished:

“**Article 171.** *Falsification by public officer, employee or notary or ecclesiastic minister.* - The penalty of prision mayor and a fine not to exceed ₱5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.”

What is punished in falsification of a public document is the violation of the public faith and the destruction of the truth as solemnly proclaimed in it.<sup>16</sup> Generally, the elements of Article 171 are: 1) the offender is a public officer, employee, or notary public; 2) he takes advantage of his official

---

<sup>16</sup> LtC. Guillergan v. People, G.R. No. 185493, February 2, 2011 citing Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 345, citing Lumancas v. Intas, 400 Phil. 785, 798 (2000), further citing People v. Po Giok To, 96 Phil. 913, 918 (1955).

RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 8 of 9

x-----x

position; and 3) that he falsifies a document by committing any of the ways it is done.<sup>17</sup>

Albeit the said Informations did not point out which paragraph of Article 171 that the accused-movants are being charged, a simple reading of the same illustrates that the elements of Falsification of Public Documents are properly alleged. It is settled that what controls is not the designation of the offense but the description thereof as alleged in the information.<sup>18</sup>

*As to the first element*, the Informations specified that the accused-movants are public officers at the time of the commission of the crime occupying various positions in the government, to wit:

1. Giovanni I. Condes – City Chief Administrative Order and BAC Secretariat Head;<sup>19</sup>
2. Manolito N. Uyaco – BAC Secretariat Head;<sup>20</sup> and
3. Lorenza P. Amores – City Budget Officer and BAC Member.<sup>21</sup>

*As to the second and third elements*, it is clear as day that the Informations alleged that the offenders are public officers, who, while in the performance and taking advantage of their official functions as such, did then and there willfully, unlawfully and feloniously falsify the disputed BAC Resolutions and its supporting documents, which are official documents.

In other words, it is the recitals of the facts of the commission of the offense, and not the nomenclature of the offense, that should determine the crime being charged in the Information.<sup>22</sup>

To Our mind, the Informations filed against the accused-movants are valid. The other matters raised need not be passed upon since the same are best dealt with in the course of the trial.

---

<sup>17</sup> Ibid., citing Regidor, Jr. v. People, G.R. Nos. 166086-92, February 13, 2009, 579 SCRA 244, 263.

<sup>18</sup> Santos v. People, G.R. No. 77429, January 29, 1990 citing U.S. v. Treyes, 14 Phil. 270; U.S. v. Lim San, 17 Phil. 273; U.S. v. Ondaro, 39 Phil. 70; People v. Otiveria, 67 Phil. 427; People v. Arnault, 92 Phil. 252.

<sup>19</sup> Informations in Criminal Case Nos. SB-18-CRM-0161 to 0162.

<sup>20</sup> Informations in Criminal Case Nos. SB-18-CRM-0163 to 0165.

<sup>21</sup> Informations in Criminal Case Nos. SB-18-CRM-0160 to 0165.

<sup>22</sup> People v. Elesterio, G.R. No. L-63971, May 9, 1989 citing US v. Reyes 14 Phil. 270; US v. Lim San, 17 Phil. 273; Oca v. Judge Jimenez and Inocentes, 115 Phil. 420.



RESOLUTION

People v. Jejomar C. Binay, Sr., et al.

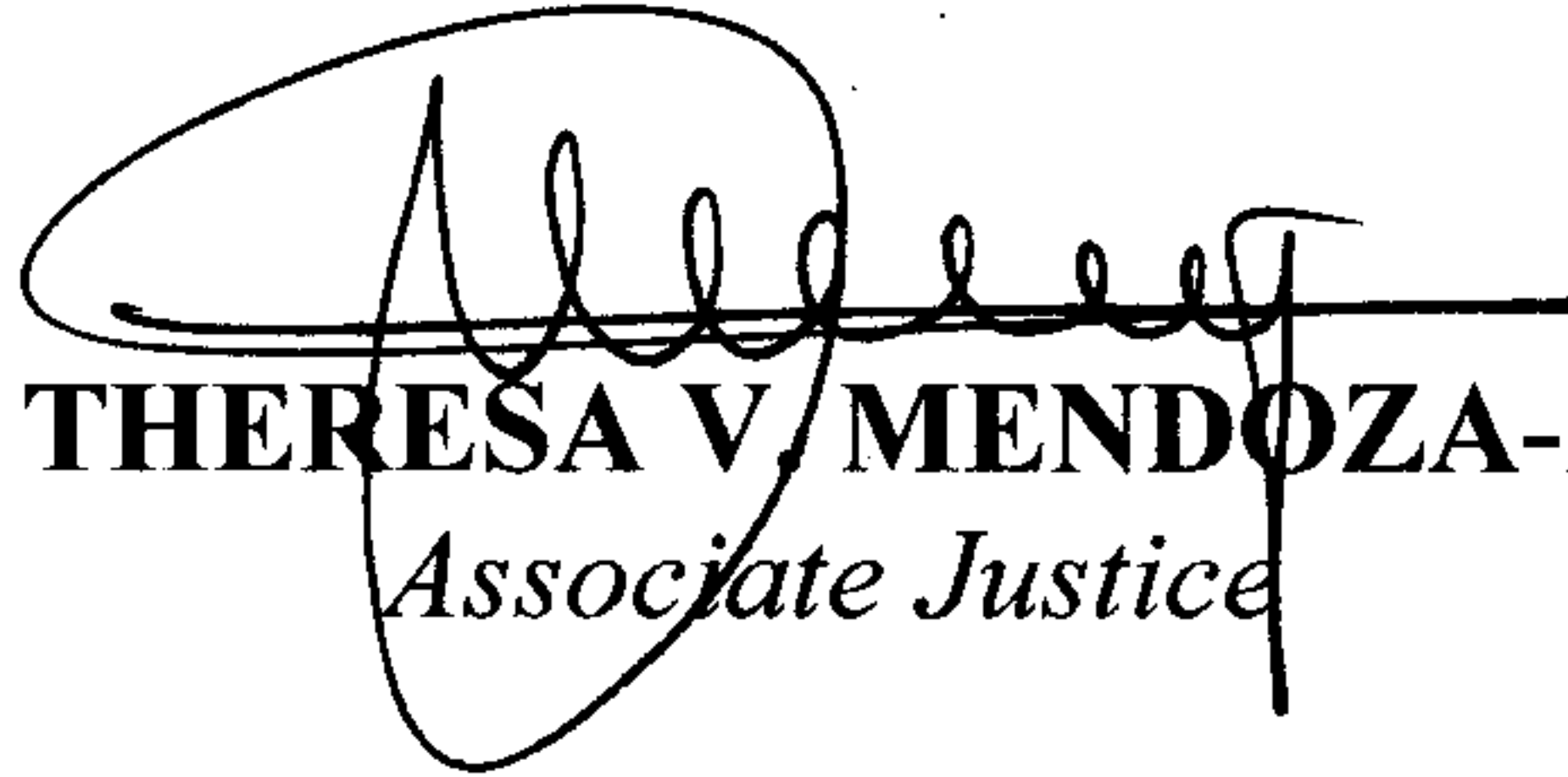
Criminal Case Nos. SB-18-CRM-0153 to 0165

Page 9 of 9

x-----x

**IN VIEW WHEREOF**, the Motions to Quash, all dated April 22, 2018, filed by accused Giovanni Ilio Condes, Manolito N. Uyaco, Raydes B. Pestaño, Lorenza P. Amores and Nelia A. Barlis are **DENIED** for utter lack of merit.

**SO ORDERED.**

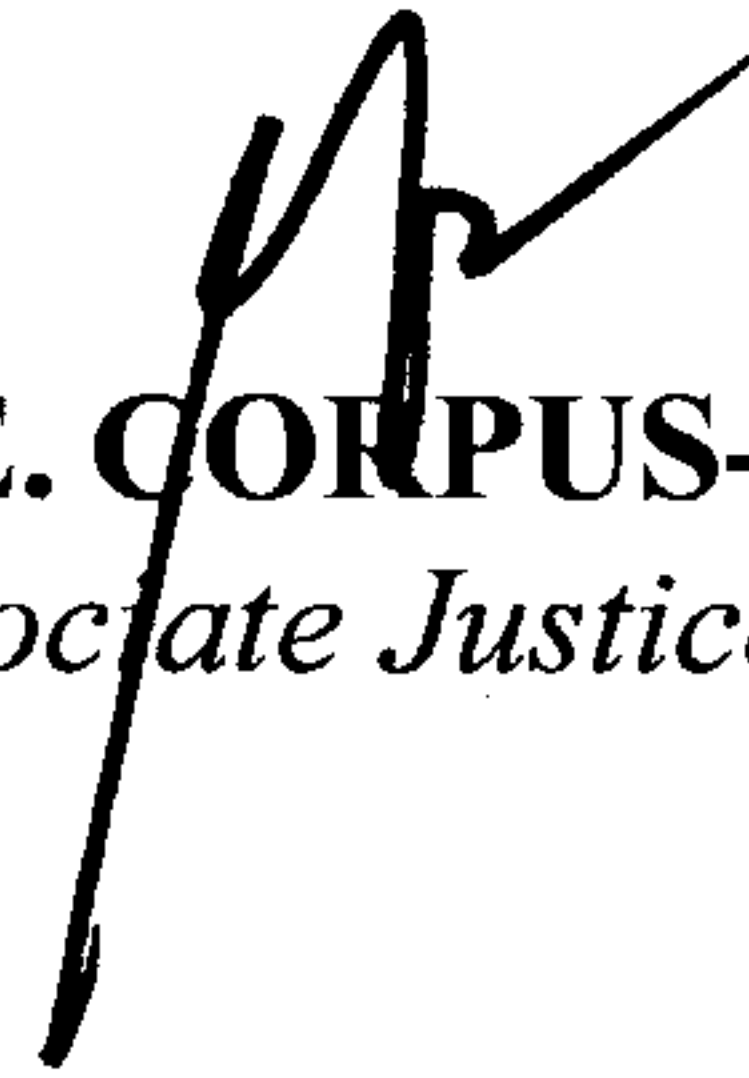


**MARIA THERESA V. MENDOZA-ARCEGA**  
*Associate Justice*

**WE CONCUR:**



**RAFAEL R. LAGOS**  
*Associate Justice*  
*Chairperson*



**MARYANN E. CORPUS-MAÑALAC**  
*Associate Justice*