



REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
QUEZON CITY

**THIRD DIVISION**

**PEOPLE OF THE  
PHILIPPINES,**

*Plaintiff,*

**Criminal Case No. SB-07-  
CRM-0043**

For: *Violation of Republic  
Act No. 7877 (The Anti-  
Sexual Harassment Act)*

**- versus -**

*Present:*

**JOSE ROMEO C.  
ESCANDOR,**

*Accused.*

**CABOTAJE-TANG, P.J.,**  
Chairperson,  
**FERNANDEZ, B.R., J. and  
MORENO, R.B., J.**  
*Promulgated:*

SEPTEMBER 13, 2023

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**RESOLUTION**

**CABOTAJE-TANG, P.J.**

This pertains to the (1) "*Respectful Motion to Render Community Service (Pursuant to Rep. Act. 11362)*" dated June 26, 2023,<sup>1</sup> filed by accused Jose Romeo C. Escandor and (2) "*Comment (with Leave of Court)*" dated July 14, 2023,<sup>2</sup> filed by the prosecution.

In his *Respectful Motion to Render Community Service (Pursuant to Rep. Act. 11362)*, accused-movant Escandor

<sup>1</sup> pp. 649-656, Vol. III, Records

<sup>2</sup> pp. 663-666, Vol. III, Records

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prays that the Court allow him to render community service in the Office of the Barangay Captain of Tisa, at the Barangay Hall of Tisa, Cebu City, in lieu of the penalty of six (6) months of imprisonment imposed by the Court in its *Decision* promulgated on October 17, 2013,<sup>3</sup> which found him guilty of the crime of sexual harassment under Republic Act No. 7877, or the Anti-Sexual Harassment Act. He hinges his motion on Republic Act No. 11362, or the “Community Service Act,” which gave courts the discretion to require community service in lieu of service in jail for offenses punishable by *arresto menor*<sup>4</sup> and *arresto mayor*.<sup>5</sup>

Accused-movant Escandor avers that he has been in public service since April 19, 1976, until his retirement from the National Economic and Development Authority (“NEDA”) Region IV-B on July 1, 2014. Throughout those years, he claims that he has been recognized as a dedicated, hardworking, and outstanding public servant and that he has contributed to making the Central Visayas Regional Development Council as the best Regional Development Council in the country. Accused-movant likewise states that he is already seventy (70) years old, and that he has diabetes mellitus type 2, asthma with chronic rhinitis, chronic renal insufficiency, and dyslipidemia, which renders him unable to perform manual labor and work outside an office.

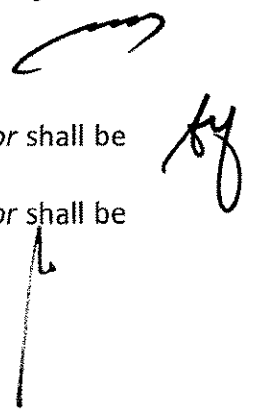
Given his old age and condition, accused-movant Escandor prays that he be allowed to render community service in **Barangay Tisa, Cebu City**, where he has been a long-time resident; that he could work as a consultant for the barangay, providing inputs or advice as well as other similar support for the barangay’s economic development; and that he would render office work for at least two (2) hours daily, for

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<sup>3</sup> pp. 342-377, Vol. III, Records

<sup>4</sup> Article 27, Revised Penal Code: The duration of the penalty of *arresto menor* shall be from one (1) day to thirty (30) days.

<sup>5</sup> Article 27, Revised Penal Code: The duration of the penalty of *arresto mayor* shall be from one (1) month and one (1) day to six (6) months.

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a period of not less than two (2) months but not more than six (6) months.

Accused-movant Escandor admits that the crime was committed at the NEDA Regional Office No. 7, which is based in **Sudlon, Barangay Lahug, Cebu City**. However, he posits that while the Community Service Act requires that the community service be rendered at the “place where the crime was committed,” this requirement may be “liberally interpreted [by this Court] as referring to the city or municipality where the crime was committed”<sup>6</sup> instead of a specific barangay. Such interpretation would allow him to render his community service at Barangay Tisa, which is still within the city of Cebu. He avers that he chose Barangay Tisa as the place of his community service since Barangay Tisa is actually less developed than Barangay Lahug. Accordingly, the former would benefit more from his expertise than Barangay Lahug. He adds that the barangay hall of Barangay Tisa is only a short walking distance from his residence as compared to that of Barangay Lahug’s, which is two (2) jeepney rides from his residence. Given his age, his medical circumstances, and the fact that he is a widower who lives alone, he claims that serving in Barangay Tisa would allow him to render community service and at the same time take his maintenance medicines three (3) times a day at home.

To support his prayer, he attached to his motion a (1) notarized Medical Certificate issued by Alexander U. Tan, Jr., M.D., attesting to his age and his medical condition,<sup>7</sup> and (2) a Certification from Renato I. Pacaña, Barangay Captain of Barangay Tisa, Cebu City, attesting that he interposes no objection to the proposal of the accused-movant Escandor.<sup>8</sup>

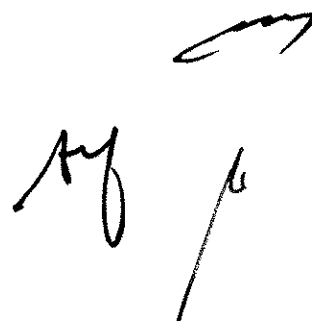
In its *Comment (with Leave of Court)*, the prosecution avers that it interposes no objection to the motion of the

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<sup>6</sup> *Id*

<sup>7</sup> Annex B

<sup>8</sup> Annex A

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accused to render community service in lieu of the penalty of six (6) months of imprisonment imposed upon him. However, it posits that accused-movant Escandor should still settle the additional penalty of fine amounting to twenty thousand pesos (Php20,000.00) imposed upon him by the Court in its *Decision* promulgated on October 17, 2013, with subsidiary imprisonment in case of insolvency, since the same is not covered by the Community Service Act.

**THE RULING OF THE COURT**

**A. Eligibility to render community service under the Community Service Act.**

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Primarily, the Court finds that despite not being sentenced under the Revised Penal Code, **accused-movant Escandor may apply to avail of the benefits under the Community Service Act.**

To recall, the accused-movant was charged with a Violation of R.A. No. 7877, otherwise known as "*The Anti-Sexual Harassment Act of 1995.*" After trial, this Court, in a *Decision* promulgated on October 17, 2013,<sup>9</sup> found him **guilty beyond reasonable doubt** of the **offense of sexual harassment** as defined and punished under the aforementioned law, and penalized him **with imprisonment of six (6) months and a fine of Twenty Thousand Pesos (Php20,000.00), with subsidiary imprisonment in case of insolvency.**<sup>10</sup>

After the promulgation of the *Decision*, he posted an

<sup>9</sup> pp. 342-377, Vol. III, Records

<sup>10</sup> p. 376, Vol. III, Records

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additional cash deposit for his provisional liberty<sup>11</sup> and subsequently filed a *Motion for Reconsideration* dated October 29, 2013, of the *Decision*.<sup>12</sup> His motion was denied by the Court in a *Resolution* dated February 28, 2014,<sup>13</sup> which prompted him to file a petition for review on certiorari with the Supreme Court to assail the said *Decision* and the *Resolution* against him.<sup>14</sup> In its *Decision* promulgated on **July 6, 2020**,<sup>15</sup> the Supreme Court **resolved to deny his petition for review on certiorari and affirmed the decision of this Court** finding him guilty of the offense of sexual harassment. **His penalty of imprisonment for six (6) months** and a fine of Twenty Thousand Pesos (Php20,000.00), with subsidiary imprisonment in case of insolvency, **was likewise affirmed**.<sup>16</sup> His motion for reconsideration of the July 6, 2020 *Decision* **was similarly denied** by the Supreme Court in its *Resolution* dated **September 13, 2021**.<sup>17</sup>

Under the Community Service Act, a court is given the discretion to require that, in lieu of service in jail, the penalties of *arresto menor* and *arresto mayor* be served by an accused by rendering community service in the place where the crime was committed, and under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case. Section 3 of the Community Service Act specifically provides:

**SECTION 3. Community Service. — Article 88a of Act No. 3815 is hereby inserted to read as follows:**

ARTICLE 88a. Community Service. — The court in its discretion may, in lieu of service in jail, require that the penalties of *arresto menor* and *arresto mayor* be served by

<sup>11</sup> p. 378, Vol. III, Records

<sup>12</sup> pp. 457-513, Vol. III, Records

<sup>13</sup> pp. 540-544, Vol. III, Records

<sup>14</sup> See pp. 578-582, Vol. III, Records

<sup>15</sup> See *Decision* promulgated on July 6, 2020, pp. 585-611, and *Notice of Resolution dated September 13, 2021*, p. 642, Vol. III, Records

<sup>16</sup> pp. 610-611, Vol. III, Records

<sup>17</sup> p. 642, Vol. III, Records

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the defendant by rendering community service in the place where the crime was committed, under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case, which shall be under the supervision of a probation officer: Provided, That the court will prepare an order imposing the community service, specifying the number of hours to be worked and the period within which to complete the service. The order is then referred to the assigned probation officer who shall have responsibility of the defendant.

The defendant shall likewise be required to undergo rehabilitative counseling under the social welfare and development office of the city or municipality concerned with the assistance of the Department of Social Welfare and Development (DSWD). In requiring community service, the court shall consider the welfare of the society and the reasonable probability that the person sentenced shall not violate the law while rendering a public service.

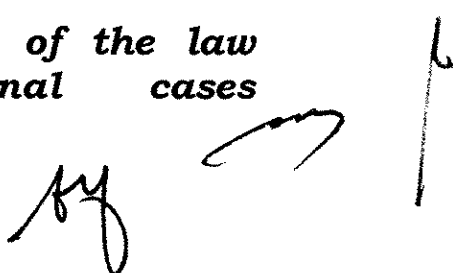
Community service shall consist of any actual physical activity which inculcates civic consciousness and is intended towards the improvement of a public work or promotion of a public service.

If the defendant violates the terms of the community service, the court shall order his/her re-arrest and the defendant shall serve the full term of the penalty, as the case may be, in jail, or in the house of the defendant as provided under Article 88. However, if the defendant has fully complied with the terms of the community service, the court shall order the release of the defendant unless detained for some other offense.

The privilege of rendering community service in lieu of service in jail shall be availed of only once.

Article 27 of the Revised Penal Code provides that the duration of the penalty of **arresto menor** shall be from **one (1) day to thirty (30) days** while **arresto mayor** shall be from **one (1) month and one (1) day to six (6) months**.

**i. Application of the law  
to criminal cases**

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***wherein appeals or petitions for review on certiorari were decided after the Community Service Act was signed into law.***

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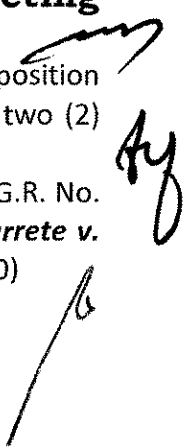
As stated above, the *Decision* and *Resolution* of this Court regarding the guilt of accused-movant Escandor were **promulgated in 2013 and 2014**, respectively – well before the enactment of the Community Service Act into law on **August 8, 2019**, as well as Administrative Matter (A.M.) No. 20-06-14-SC, or the “*Guidelines in the Imposition of Community Service as a Penalty in lieu of Imprisonment*,” which the Supreme Court issued on **October 6, 2020** to instruct magistrates on how to apply the provisions of the Community Service Act, together with the existing remedies of the accused.<sup>18</sup>

Accused-movant Escandor, however, filed a petition for review on certiorari with the Supreme Court to assail the *Decision* and *Resolution* against him in 2014. His petition was ultimately denied by the Supreme Court on **September 13, 2021**, *after* both the Community Service Act and the *Guidelines in the Imposition of Community Service* took effect.

In a number of cases following the enactment of the Community Service Act,<sup>19</sup> the Supreme Court has, **after affirming the guilt of the accused and penalty imposed upon them on appeal or petitions for review in criminal cases, allowed the accused to avail of the privilege provided under the Community Service Act by directing**

<sup>18</sup> Per OCA Circular No. 168-2020 dated October 16, 2020, the *Guidelines in Imposition of Community Service* took effect on **November 2, 2020**, after publication in two (2) newspapers of general circulation.

<sup>19</sup> See *Castro v. People*, G.R. No. 260107, January 25, 2023; *De Vera v. People*, G.R. No. 232732, June 20, 2022; *Ruego v. People*, G.R. No. 226745, May 3, 2021; *Navarrete v. People*, G.R. No. 253340, May 3, 2021; and *Realiza v. People*, 947 SCRA 62 (2020)



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**them to apply for such privilege, should they be eligible, with the court of origin of the case, even if their cases were initially decided by the court of origin prior to the enactment of the Community Service Act.**

Similarly, We hold that accused-movant Escandor may likewise avail of the privilege should he be found eligible, since his petition for review on certiorari became final only after the Community Service Act and the *Guidelines in the Imposition of Community Service* took effect.

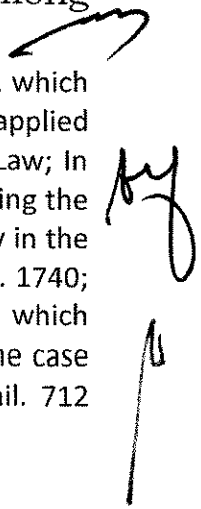
**ii. Suppletory application  
of the provisions of  
the Revised Penal  
Code.**

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While the aforementioned cases regarding the availment of the Community Service Act were decided under the auspices of the Revised Penal Code, the Court rules that the privilege of community service may similarly apply to accused-movant Escandor although he is penalized under the Anti-Sexual Harassment Act. This is pursuant to **Article 10 of the Revised Penal Code** which provides that “the [Revised Penal Code] shall be supplementary to [special laws], unless the latter should specially provide the contrary.” In a long line of Supreme Court decisions, the provisions of the Revised Penal Code have been applied suppletorily to resolve cases where special laws are silent on the matters in issue.<sup>20</sup> Among

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<sup>20</sup> In *People v. Parel* [44 Phil. 437 (1923)], Article 22 of the Revised Penal Code, which concerns the retroactive effect of penal laws if they favor the accused, was applied suppletorily by the Supreme Court to violations of Act No. 3030, the Election Law; In *U.S. v. Ponte* [20 Phil. 379 (1911)], Article 17 of the Revised Penal Code, regarding the participation of principals in the commission of a crime, was applied suppletorily in the case of misappropriation of public funds as defined and penalized under Act No. 1740; In *U.S. v. Bruhez* [28 Phil. 305 (1914)], Article 45 of the Revised Penal Code, which concerns the confiscation of the instruments used in a crime, was applied in the case for violation of Act No. 1461, the Opium Law; In *People v. Moreno* [60 Phil. 712





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others, the case of *People v. Li Wai Cheung*,<sup>21</sup> applied the rules on the service of sentences provided in Article 70 of the Revised Penal Code in favor of the accused who was found guilty of multiple violations of R.A. No. 6425 or the *Dangerous Drugs Act of 1972*, considering the lack of similar rules under the special law. In this connection, the Anti-Sexual Harassment Act does not proscribe the suppletory application of the Revised Penal Code. Moreover, it does not have any provision regarding the rendering of community service in lieu of imprisonment in cases where the imprisonment sentence imposed upon the accused does not exceed the period of six (6) months; hence, the suppletory application of Article 88a of the Revised Penal Code, or the Community Service Act.

Following the Community Service Act, which inserted Article 88a to the Revised Penal Code, an accused meted with the penalty of either **arresto menor** or **arresto mayor** may, instead of serving in jail, render community service in the place where the crime was committed. Article 27 of the

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(1934)], the Supreme Court applied suppletorily Article 39 of the Revised Penal Code on subsidiary penalty to cases of violations of Act No. 3992, or the "Revised Motor Vehicle Law;" In *People v. Li Wai Cheung* [214 SCRA 504 (1992)], the Court applied suppletorily the rules on the service of sentences provided in Article 70 of the Revised Penal Code in favor of the accused who was found guilty of multiple violations of R.A. No. 6425, or the "Dangerous Drugs Act of 1972;" In *People v. Chowdury* [382 Phil. 459 (2000)], the Supreme Court applied suppletorily Articles 17, 18 and 19 of the Revised Penal Code to define the words "principal," "accomplices" and "accessories" under R.A. No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995," because said words were not defined therein, although the special law referred to the same terms in enumerating the persons liable for the crime of illegal recruitment; In *Yu v. People* [438 SCRA 431 (2004)], the Supreme Court applied suppletorily the provisions on subsidiary imprisonment under Article 39 of the Revised Penal Code to *Batas Pambansa (B.P.) Blg. 22*, otherwise known as the "Bouncing Checks Law;" In *Ladonga v. People* [451 SCRA 673 (2005)], the Supreme Court applied suppletorily the principle of conspiracy under Article 8 of the Revised Penal Code to *B.P. Blg. 22* in the absence of a contrary provision therein; In *Go-Tan v. Tan* [588 Phil. 532 (2008)], the principle of conspiracy under Article 8 of the Revised Penal Code was applied suppletorily to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004.

<sup>21</sup> 214 SCRA 504 (1992)

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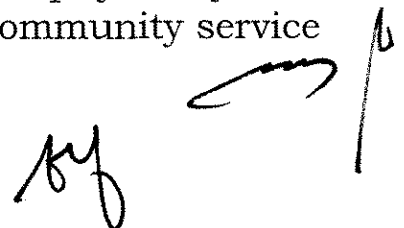
Revised Penal Code provides that the duration of the penalty of ***arresto mayor*** shall be from **one (1) month and one (1) day to six (6) months**. In this case, accused-movant Escandor's penalty is **imprisonment of six (6) months** and a fine of Twenty Thousand Pesos (Php20,000.00), with subsidiary imprisonment in case of insolvency. The length of imprisonment imposed upon him is within the range of the duration of the penalty of ***arresto mayor***, and **thus within the limit set by the Community Service Act.**

***B. Other requirements under the Community Service Act and the Guidelines in the Imposition of Community Service in lieu of Imprisonment.***

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However, the length of the imprisonment imposed is not the only basis of eligibility for the privilege of rendering community service instead of serving time in jail. The Community Service Act likewise prescribes that "[t]he privilege of rendering community service in lieu of service in jail shall be availed of only once." Moreover, while the accused may be eligible under the law, the Court still ultimately has the discretion of whether or not to extend the privilege to the accused.

The appended "Form 2" in the *Guidelines in Imposition of Community Service*, prescribes a form for the application for community service. In it, **the accused-applicant is required to attest that:** (1) he or she has pleaded guilty or was convicted of a crime or offense by the court and was sentenced to suffer the penalty of *arresto mayor/arresto menor*; (2) he or she has not previously availed of the benefits of the Community Service Act; (3) he or she is physically able and willing to comply with the terms of the community service



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program that the court may deem fit for him/her and undergo rehabilitative counselling; and (4) the grant of his/her application will not depreciate the gravity of the crime/offense charged nor cause any undue risk that during the period of community service, accused-applicant will commit another crime.

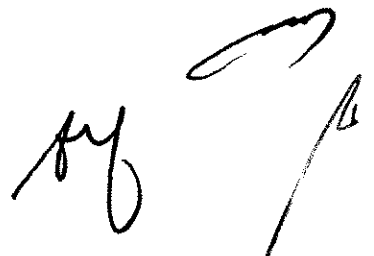
Regarding the requirements prescribed by the Community Service Act and the *Guidelines in the Imposition of Community Service*, the Court notes that in his subject motion, **the accused-movant has not indicated that he has not previously availed of the benefits of the Community Service Act.** Additionally, in his "program," accused-movant Escandor proposed rendering the community service in Barangay Tisa, Cebu City, or the place where he has been residing. However, based on the *Information* against him,<sup>22</sup> as well as his own admission,<sup>23</sup> the crime was committed at NEDA Regional Office No. 7, which is based in **Sudlon, Barangay Lahug, Cebu City.**

Under the Community Service Act, the community service is to be rendered by the accused "**in the place where the crime was committed.**" In the *Guidelines in the Imposition of Community Service*, the Supreme Court has interpreted this phrase to mean the **barangay where the crime was committed.** As such, under the *Guidelines*, for every application for the rendition of community service by an accused, the court where the application has been filed is required to immediately notify, among others, the **barangay chairperson, or his/her authorized representative, of the barangay where the crime was committed.** The purpose of the notification is to direct the barangay chairperson or his/her authorized representative **to submit or propose a community service program for accused.** This also means that the community service program should come, not from the accused, as accused-movant Escandor proposes in this

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<sup>22</sup> p. 2, Vol. I, Records

<sup>23</sup> p. 652, Vol. III, Records



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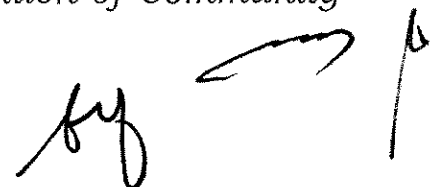
case, but from the barangay captain of the barangay where the crime was committed. Thus, it is clear that the community service is to be served at the barangay where the crime was committed and not anywhere else.

In addition to rendering community service, the Community Service Act also mandates the accused-applicant **to undergo rehabilitative counseling under the social welfare officer of the city or municipality concerned** with the assistance of the Department of Social Welfare and Development (DSWD). The social welfare officer, in turn, is required under the *Guidelines* to submit to the court a report within five (5) calendar days after completion of the rehabilitative counseling.

Accordingly, the present motion of accused-movant Escandor must be denied for non-compliance with the prescribed requirements for the proper availment of rendering community service. More specifically, the proposed community service program in the motion indicates that: (1) the proposed program is to be served not at the barangay where the crime was committed but at the barangay where the accused-movant resides; (2) the proposed program was not prepared by the barangay captain or his/her authorized representative of the barangay where the crime was committed; (3) the accused-movant has not attested that he has not previously availed of the benefits of the Community Service Act; and (4) the proposed program does not include rehabilitative counseling for the accused-movant.

**WHEREFORE**, the "*Respectful Motion to Render Community Service (Pursuant to Rep. Act. 11362)*" dated June 26, 2023, filed by accused Jose Romeo C. Escandor is **DENIED**, for lack of merit.

This denial is without prejudice to the filing of an appropriate application by accused Escandor to render community service which is compliant with the Community Service Act and the *Guidelines in the Imposition of Community*

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*Service as Penalty in lieu of Imprisonment.*

**SO ORDERED.**

Quezon City, Metro Manila

**AMPARO M. CABOTAJE-TANG**

Presiding Justice  
Chairperson

**WE CONCUR:**

  
**BERNELITO R. FERNANDEZ**

Associate Justice

  
**RONALD B. MORENO**

Associate Justice