



PHILJA Bulletin



April to June 2005

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From the Chancellor's Desk *Pen*

This quarter was a study in contrasts.

On the one hand, success stories took the form of highly-rated programs and convention-seminars. The Roundtable Discussion for the *Bangko Sentral* Hearing Officers and the Basic Seminar Workshops on Mediation [PHILJA 492 AND PHILJA 514] all showed a profitability rating of 100%.

The Settlement Period for the month of June disclosed, thus far, a success rate of 84.5% for cases which underwent mediation, and an overall total success rate of 71.6%. The performance of provincial PMCs, however, was only 50% of that of Metro Manila PMCs.

Two (2) new academic departments were added – the *Shari'a* and Islamic Jurisprudence Department, and the Alternative Dispute Resolution (ADR) Department. The *Shari'a* Department is expected to strengthen *Shari'a* courts. The ADR Department will focus on enhancing the course content of training programs for mediators and on training mediation trainers as well.

Former Supreme Court Justice Justo P. Torres, Jr., joined the Academy as Vice Chancellor. Former Court of Appeals Justice Francisco S. Tantuico, came in as Consultant. A Financial Management Manual is Justice Tantuico's special project, which is expected to improve financial transactions and compliance with accounting/auditing rules and procedures.

Two (2) of our Faculty members, Justice Oscar M. Herrera, Sr., Chair of the Remedial Law Department, and Justice Hilarion L. Aquino, Chair of the Department of Ethics and Judicial Conduct, have been selected by the Board of Trustees as recipients of the 2004 Metrobank Professorial Chair Awards in Remedial Law. They are submitting a *Handbook on Injunctive Reliefs and Conflict of Jurisdiction*.

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PHILJA ACADEMIC PROGRAMS

RJCEP (LEVEL 4)

PHILJA held the 3rd *Regional Judicial Career Enhancement Program (RJCEP, Level 4) for Judges, Clerks of Court and Branch Clerks of Court of the Regional Trial Courts and First Level Trial Courts of Region VII* on April 27 to 29, 2005, at the Crown Regency Hotel, Lapu-Lapu City, Cebu. This was attended by Regional Trial Court judges, First Level Trial Court judges, clerks of court lawyers, and clerks of court non-lawyers, or a total of two hundred fifty-three (253) participants.

The 4th *Regional Judicial Career Enhancement Program (RJCEP, Level 4) for Judges, Clerks of Court and Branch Clerks of Court of the Regional Trial Courts and First Level Trial Courts of Region XII* was conducted on May 11 to 13, 2005, at the Garden Orchid Hotel, Zamboanga City. One hundred six (106) judges and court personnel attended the seminar-workshop, comprising First Level Trial Court judges, Regional Trial Court judges, lawyer clerks, and non-lawyer clerks.

Justice Hilarion L. Aquino, Chairman of PHILJA's Department of Ethics and Judicial Conduct, encouraged the participants to view the seminar as an opportunity for their professional development in the law.



SPECIAL FOCUS PROGRAMS

SEMINAR ON LAWS AND RULES ON GOVERNMENT EXPENDITURES AND PROPERTY SUPPLY MANAGEMENT

PHILJA, in collaboration with the Commission on Audit (COA) and assisted by the Supreme Court – Office of Administrative Services (SC-OAS), conducted its 1st *Seminar on Laws and Rules on Government Expenditures and Property and Supply Management* on April 11 to 15, 2005, at the Training Center, Centennial Bldg., Supreme Court, Manila. This was attended by a total of fifty-seven (57) participants from the Academy, Finance

Management and Budget Office, Internal Audit, Financial Service Division, Program Management Office, SC - Administrative Services Office, OCA - Administrative Services Office, Property Division, and Mandatory Continuing Legal Education Office.

The training highlighted topics on Procurement; Forecasting, Ordering, Delivery and Payment; Custodianship; Issuance and Utilization; Disposal; Internal Control Over Property Supply Management; Laws and Rules on Expenditures and Disbursements of Funds; Personal Services; Travel Expenses; Maintenance and Other Operating Expenses; and Capital Outlay. The COA Professional Development Committee prepared the training program and the lecturers were all COA experts.

Justice Francisco S. Tantuico, Jr., United Nations Development Programme (UNDP) National Consultant and Consultant of the Commission on Audit - Canadian International Development Agency (COA-CIDA), and the Professional Regulation Commission (PRC) proposed three (3) working plans for PHILJA. *First*, to find ways and means to craft a Manual for Financial Management; *second*, after becoming aware of the rules, to thresh out issues with the resident auditor on the COA rules; and *third*, to pay particular attention on the proper function of COA. He said that the rudiments of performance audit, the interplay of efficiency, effectiveness, and economy of governance expenditure should be examined.

Dr. Hermogenes Pascual Pobre, former COA Commissioner said "that education is a life-long process, reaching no saturation point." He stressed the importance of seminars since these enhance the knowledge of participants and benefit the government and public as well. He reminded everyone that in the disbursement of funds, we must be guided by the acronym ALAE which stands for Appropriation, Legality of the purpose of expenditure, Approval of the authorized head of agency, and Evidence enumerated in the voucher. In the pursuit of PHILJA's mandate, he highlighted the need for a benchmark of effectiveness and efficiency, which can only be achieved by proper planning or target setting at the beginning of the year. Thus, he encouraged "Management by Objectives" that sets performance indicators for gauging the success of PHILJA's endeavors on three points – efficiency, effectiveness, and economy.



CONVENTIONS

COSTRAPHIL

The 4th Convention and Seminar of the Court Stenographic Reporters Association of the Philippines (COSTRAPHIL), with its theme "Court Stenographers as Vital Cogs in Maintaining Trust and Confidence in the Judiciary Through the Delivery of Speedy, Fair, and Equitable Justice for All," was held on April 13 to 15, 2005, at the Central Philippine University, Jaro, Iloilo City. Two thousand eighty-four (2,084) stenographers attended the convention-seminar.

The convention's Keynote Address was read by Court Administrator Presbitero J. Velasco, Jr., on behalf of Chief Justice Hilario G. Davide, Jr. Justice Velasco said that the Chief Justice recognizes the important role court stenographers play in the dispensation of justice. Citing the Chief Justice, the Court Administrator said that "without cogs, the wheel will not move; without these cogs, machines will not move; sublime values that ensure the efficient, effective and independent delivery of justice." Court Stenographers should therefore live to the true meaning of the acronym "Vital Cogs" in the judiciary which stands for Competence; Oneness; Golden Rule, Qualities, and Goodness; and Selfless Sacrifice.

RTC CLERKS OF COURT ASSOCIATION OF THE PHILIPPINES

PHILJA, in cooperation with the Program Management Office and the Regional Trial Court Clerks of Court Association of the Philippines, conducted the 4th Convention and Seminar of the Regional Trial Court Clerks of Court Association of the Philippines on May 18 to 20, 2005, at the Guimaras Tourism and Economic Center, Jordan, Guimaras, Iloilo, with its theme, "The RTC Clerks of Court: A Vital Cog in the Wheels of Justice." A total of two hundred seventy-five (275) RTC Clerks of Court attended the convention.

The seminar highlighted on Court-Annexed Mediation and Enhanced Court Involvement in Mediation Process, Code of Conduct for Court Personnel, Violence Against Women and Their Children (VAWC), Implementing Rules and Regulations, Rules of Procedure, Sexual Harassment, and Court Environment.

SCOPHIL

The 13th Convention and Seminar of the Sheriffs Confederation of the Philippines (SCOPHIL) was held on April 27 to 29, 2005, at the Quezon Convention Center, Lucena City, Quezon. SCOPHIL's theme was "A Re-evaluation of the Professionalism, Competence and Moral Fitness of Sheriffs in their Bounden Duty to the Community and the Public in General." Seven hundred eight (708) sheriffs attended the convention-seminar.

In her Keynote Address, Supreme Court Justice Consuelo Ynares-Santiago said that sheriffs should remain dedicated to public service. Justice Ynares-Santiago also took note of the relevance of the theme to the times, i.e., to re-assess the service of the sheriffs to the public.

On the other hand, Court Administrator Presbitero J. Velasco, Jr., addressed the sheriffs to re-examine the functions given to them. He said that as court personnel, they are expected to be fit and qualified.

FLECCAP

The 7th Convention and Seminar of the First Level Clerks of Court Association of the Philippines (FLECCAP) was held on June 22 to 24, 2005, at the Development Academy of the Philippines, Tagaytay City. A total of two hundred ninety-nine (299) FLECCAP delegates attended the seminar.

Court Administrator Justice Presbitero Velasco, Jr., reminded the participants of greater dedication so that efficient and effective judicial service can be attained.

Acting FLECCAP President, Auxencio Joseph Clemente, traced the history of the association and expressed his vision to build a mutual benefit association and to work for the Representation Allowance and Transportation Allowance (RATA) of the members.

Justice Justo P. Torres, Jr., PHILJA Vice Chancellor, on the other hand, said that the work of the clerks of court is a decisive factor in the administration of justice, quoting the late Pope John the XII, he said:

To the holy man, sanctity is a taste of infinity; to the warrior, victory is all there is to it; but to a man of the law, justice combines all these. Let us be engaged in the pursuit of justice because the people deserve no less.



DEVELOPMENT PROGRAM FOR COURT PERSONNEL

ORIENTATION WORKSHOP ON CODE OF CONDUCT

The 3rd *Orientation-Workshop on the Code of Conduct for Court Personnel* was conducted by the Philippine Judicial Academy, in collaboration with the Program Management Office (PMO), Office of Administrative Services (OAS), U.S. Agency for International Development (USAID), and the American Bar Association – Asia Law Initiative (ABA-Asia) on April 7 and 8, 2005, at the Oasis Hotel, Angeles City. A total of three hundred sixty-three (363) participants attended the seminar. Participants for the first day session comprised nineteen (19) legal researchers, thirty-seven (37) interpreters, seventy-nine (79) clerks/cash clerks, forty-four (44) process servers, and ten (10) sheriffs, also twenty-three (23) sheriffs, one hundred thirty-four (134) court stenographers, eight (8) court social workers, three (3) records officers, one (1) librarian, three (3) cashiers, and two (2) administrative officers participated on the second day.

ROUNDTABLE DISCUSSION ON NEW CODE OF JUDICIAL CONDUCT

PHILJA, in collaboration with the Program Management Office, conducted the *Roundtable Discussion on the New Code of Judicial Conduct for the Philippine Judiciary with the Court of Appeals Justices of Cebu City* on April 28, 2005, at the Crown Regency Hotel, Cebu City. Seven (7) Justices of the Court of Appeals in Cebu City attended the roundtable discussion.

A two-day *Orientation-Workshop on the Code of Conduct for Court Personnel of Court of Appeals for Cebu City and Other Lower Court Personnel of the Regional Trial Courts and First Level Courts of the Cities of Cebu, Lapu-Lapu, and Mandaue* was also conducted on April 28 to 29, 2005, at the Crown Regency Hotel, Cebu City. A total of three hundred twenty-three (323) court employees attended the seminar. Participants for the first day comprised seventy-four (74) Court of Appeals personnel and sixty-five (65) lower courts personnel. For the second day, participants were comprised of sixty-three (63) Court of Appeals personnel and one hundred twenty-one (121) lower court personnel.



QUASI-JUDICIAL SEMINARS

ROUNDTABLE DISCUSSION FOR BANGKO SENTRAL HEARING OFFICERS

A *Roundtable Discussion for Bangko Sentral Hearing Officers* was conducted by PHILJA, in collaboration with the *Bangko Sentral ng Pilipinas* (BSP), on June 7 to 9, 2005, at the Meralco Management and Leadership Development Center, Antipolo City. Twenty-eight (28) hearing officers/lawyers of *Bangko Sentral* completed the program.

The roundtable discussion was conducted to enhance, develop, and strengthen the expertise of the members of the hearing and prosecutorial panels of the BSP particularly on the recent trends and practices on substantive and procedural due process being observed and applied by quasi-judicial agencies. Its Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks, Quasi-Banks and Trust Entities was promulgated and approved to guide the prosecution and hearing panel of the BSP in the conduct of its administrative proceedings.

Among the topics discussed were the Conflict of Jurisdiction in Administrative Hearings Involving *Bangko Sentral ng Pilipinas* (BSP) / Civil Service (CS) Rules / Philippine Deposit Insurance (PDIC) / Securities and Exchange Commission (SEC) / National Labor Relations Commission (NLRC) Cases, Due Process in Quasi-Judicial Proceedings Before Regulatory Agencies, Investigation Techniques, Fact-finding on Administrative Proceedings and Evidentiary Consideration, Judicial Review of Decisions of Administrative Agencies under Rules 43, 45, and 65 of the Revised Rules of Court, the Conduct of Hearing Officers: Ethical and Legal Standards, Moot Court, and Decision Writing.





ON PHILJA

CREATION OF THE ADR AND SHARI'A AND ISLAMIC JURISPRUDENCE DEPARTMENTS

The Supreme Court *En Banc* approved on April 5, 2005 two (2) PHILJA resolutions: A.M. No. 05-3-24-SC-PHILJA or the creation of the Department of Alternative Dispute Resolution (ADR) and A.M. No. 05-3-30-SC-PHILJA or the conversion of the *Shari'a* Law and Jurisprudence Committee into the Department of *Shari'a* and Islamic Jurisprudence.

These two (2) Departments are new additions to the twelve (12) regular departments of PHILJA's Academic Council, namely the Departments of Constitutional Law, Civil Law, Remedial Law, Criminal Law, Court Management, Ethics and Judicial Conduct, Commercial Law, International and Human Rights Law, Jurisprudence and Legal Philosophy, Legal Method and Research, Special Areas of Concern, and Court Technology.

The Department of Alternative Dispute Resolution is composed of:

Chairman: Professor Alfredo F. Tadiar

Vice-Chairman: Dean Eduardo D. de los Angeles

The Department of *Shari'a* and Islamic Jurisprudence is composed of:

Chairman: Justice Jainal D. Rasul

Members: Justice Japar B. Dimaampao
Justice Hakim S. Abdulwahid
Justice Omar U. Amin

Resource Persons: Justice Jose C. Vitug
Justice Alicia V. Sempio-Diy
Dean Pacifico A. Agabin

2004 METROBANK PROFESSORIAL CHAIR AWARDEES

Justice Oscar M. Herrera, Sr., Chair of the PHILJA Remedial Law Department and Justice Hilarion L. Aquino, Chair of the PHILJA Ethics and Judicial Conduct Department, were recommended by the PHILJA Board of Trustees in its Resolution No. 05-02 as recipients of the 2004 Metrobank Professorial Chair Award in Remedial Law. This was approved

by Chief Justice Hilario G. Davide, Jr. in A.M. No. 05-3-23-SC-PHILJA on April 5, 2005.

The Metrobank Foundation, Inc., in its Memorandum of Agreement with PHILJA signed on December 9, 2002, offered the sponsorship of two Professorial Chairs in Law. The purpose of the Professorial Chair Award is to provide the Academy assistance to develop and enhance its programs in judicial education by encouraging its Corps of Professors to author and publish treatises on innovative concepts and approaches in designated areas of law, thereby promoting competence, excellence, and efficiency in the Philippine justice system.

NEW APPOINTEES

PHILJA welcomed Supreme Court Justice Justo P. Torres, Jr., (*ret.*) as its new Vice Chancellor and Court of Appeals Justice Francisco S. Tantuico (*ret.*) as Consultant.

Justice Torres was appointed by the Supreme Court *En Banc* (A.M. No. 05-3-31-SC-PHILJA) as Vice Chancellor effective May 9, 2005. He is also a Professor of Law at San Beda College; Special Lecturer on Corporate Law and Practice, UP Law Center, Diliman; Special Lecturer, Institute of Judicial Administration, U.P. Law Center, Diliman; Trustee, De La Salle University in Dasmariñas and Dempa (Asia) in Tokyo, Japan; Vice Chairman, Manila Floating Hotel and Restaurant; Supreme Commander Emeritus, Order of the Knights of Rizal; Chairman, Julugan Fraternal Foundation; and Chairman, Board of Regents, *Pamantasan ng Lungsod ng Maynila*.

Justice Tantuico was appointed by the Supreme Court *En Banc* (A.M. No. 05-5-05-SC-PHILJA) as PHILJA Consultant effective June 1, 2005. He is also a National Consultant of the United Nations Development Program (UNDP) under the project, Enhancing the Public Accountability Program of the Philippine Commission on Audit, Consultant of the Commission on Audit-Canadian International Development Agency (CIDA) Policy Training and Technical Assistance Facility (PTTAF), and Consultant of the Professional Regulation Commission (PRC). He also served as Chairman of the Commission of Audit from 1975 to 1986.



ON MEDIATION

2ND PHASE OF THE COURT OF APPEALS MEDIATION PROJECT

The 2nd Phase of the Court of Appeals Mediation Project: Internship Program for Newly-Trained Mediators in the Court of Appeals is now in progress. Pursued by the Philippine Judicial Academy (PHILJA) through the Philippine Mediation Center (PMC), and in cooperation with The Asia Foundation (TAF), the project will run from March 7 to November 30, 2005, which aims to institutionalize the Academy's initial undertakings in the Court of Appeals Mediation.

PHILJA, in the implementation of the 2nd Phase of the Court of Appeals Mediation Project, is expected to carry out the establishment of the PMC-CA Unit, to perform case inventory, select cases for mediation, prepare case briefs, brief newly-trained mediators, and hold Settlement Months or the Internship Proper.

PHILJA initiated this project through the Pilot Testing of Mediation in the Court of Appeals (CA) Project, which was approved by the Supreme Court *En Banc* in A.M. No. 02-2-17-SC, dated April 16, 2002. Among its objectives are to prove the viability of Mediation in appealed cases before the Court, to test the rules governing the Mediation process in appealed cases, and to discover the most efficient manner to implement the Mediation program.

In its pilot project, the PMC was tasked to handle all Court-Annexed Mediation cases and other alternative dispute mechanisms, while the Court of Appeals provided over-all control and supervision of the project.

A "Settlement Month" was conducted from October 15 to November 16, 2002 to pilot-test the efficacy of Mediation in settling disputes in the Court of Appeals.

The success of the pilot-test showed the acceptability and efficacy of mediation in resolving disputes even in the appellate stage. Results showed that, of the total 105 cases that underwent mediation, 70 cases or 67% reached a compromise agreement, while 35 cases or 33% failed to arrive at a settlement. The said settlement rate equals the

adjudicative rate of one (1) whole division of the Court of Appeals. It also contributed to the reduction of cases congesting the court system since cases settled under the Mediation program can no longer be appealed to the Supreme Court. With the success rate of the pilot test, the Supreme Court approved the Revised Guidelines for the Implementation of Mediation in the Court of Appeals on March 23, 2004. This was considered to be one of the Academy's major breakthroughs towards the institutionalization of mediation in the CA.

The initial steps towards the institutionalization of Mediation in the CA were enhanced further in the project, *Strengthening the Training Capability of PHILJA to Develop Court Appeals Mediators*, implemented last year. This project was considered the first phase of the Mediation project, which trained twenty (20) Mediation Trainers and recruited forty-nine (49) Mediators.

TRAINING THE TRAINERS

The *Training the Trainers for Mediation Program*, under the Justice Reform Initiatives Support (JURIS) Project, was conducted on April 19 to 22, 2005, at the Crown Regency Suites, Lapu-Lapu City, Mactan Island, Cebu. Two (2) representatives from PHILJA-JURIS, twelve (12) Bacolod mediators, twelve (12) San Fernando mediators, two (2) representatives from National Judicial Institute (NJI)-Philippines, two (2) NJI Consultants, one (1) representative from NJI Canada, three (3) non-JURIS mediators, four (4) judges from Bacolod and Pampanga, and one (1) representative from PHILJA-Judicial Reforms Office, participated in the training.

The program was comprehensive and skills-based specifically tailored to educate the participants to become trainers in mediation. It focused on the theory and application of adult learning principles, training methodologies and aids, platform skills, trainer's decorum, and on the administrative and ethical responsibilities of a trainer. It integrated several learning methodologies, such as action learning, caselets, role plays, surveys, multiple-intelligence energized lectures, projects and self-teaching action group exercises.

MANILA AND CEBU WORKSHOPS

The 2nd Batch of the Basic Seminar Workshop on Mediation under the Metro Manila Mediation Program was conducted by the Academy, in coordination with the Philippine Mediation Center, on April 4 to 5, 2005, at the Training Center, Centennial Bldg., Supreme Court, Manila. A total of forty (40) mediator-trainees attended the seminar workshop, composed of lawyers, academicians, businessmen, legal researchers, retired professionals, clerks of court, court interpreters, managers, medical practitioners, intelligence and investigating officers, *Lupon* members / Hearing Officers, Executive Assistants, Volunteer Counselors, Psychometricians/Psychologists, and other professionals.

Under the Cebu Mediation Program, the 1st Batch of the Basic Workshop on Mediation was held on May 23 to 27, 2005, at the Sarrosa International Hotel, Cebu City. Thirty-nine (39) participants attended the seminar workshop, composed of lawyers, academicians, medical doctors, government employees, retired employees, certified public accountants, and businessman.

The objective of the program was to train mediators on the various concepts of Alternative Dispute Resolution (ADR) and Court-Annexed Mediation (CAM), stressing the importance of CAM as an effective ADR mechanism in the trial courts.

CAGAYAN DE ORO PMC INAUGURATED

The Philippine Judicial Academy (PHILJA) and the Philippine Mediation Center (PMC), in cooperation with the United States Agency for International Development (USAID), and The Asia Foundation (TAF), successfully conducted a series of activities for the Court-Annexed Mediation Program last May 19 to 20, 2005, at V.I.P. Hotel, Cagayan de Oro City.

Among the activities held were the *Refresher Course for Mediators* where forty (40) participated, composed of four (4) Court of Appeals justices, one (1) judge, and thirty-five (35) mediators. The program highlighted topics on how to deliver an effective opening statement, best practices on how to break an impasse, and effective writing of compromise.

An *Evaluation Program for Mediators and Stakeholders* was also undertaken where the

stakeholders of the activity included one (1) Court of Appeals Justice, six (6) judges, thirty-five (35) mediators, three (3) lawyers, three (3) party litigants, and ten (10) court personnel. The mediators and stakeholders focused their evaluation on mediation fees schedule and rate of payment, process, scope, policy, PMC structure, mediator's fee, and social acceptability, among other things.

Meanwhile, the *Philippine Mediation Center Inauguration and Mediators Oath-Taking Ceremony* was conducted on May 20, 2005. The affair was attended by Hon. Oscar S. Moreno, Governor of the Province of Misamis Oriental; Hon. Vicente Y. Emano, Mayor of Cagayan de Oro City; Atty. Carolyn Mercado, TAF Senior Program Officer; PHILJA Officials; and other guests. The oath-taking of accredited mediators was administered by Hon. Teresita Dy-Liacco Flores, Executive Justice, Court of Appeals of Cagayan de Oro City. This was followed by a symbolic unveiling of the PMC marker by the PHILJA Chancellor, Executive Justice Flores, DCA Bernardo Ponferrada, and Cagayan de Oro City Vice Mayor Juan Sia.

From the Chancellor's Desk

(Continued from page 1)

More judges and graduates of the Pre-Judicature Programs are enrolling in the masteral course in the San Beda Graduate School of Law, with whom we have a consortium.

On the other hand, brickbats have been received from some of our Mediators who have equated the delay in the issuance of some Court Resolutions as indifference on PHILJA's part to their needs. The needed Court Resolution has, thankfully, been released and mediators' fees are now being paid posthaste. Other complaints have to do with inadequate equipment and supplies which cannot, as yet, be supplied until a full study is made of availability of funds for the overall Mediation program, and completion of the CPRM study on the PMC. In the meantime, requests for the establishment of Mediation Centers from different areas keep pouring in.

PHILJA will stay on course, pursuing its mandate, and surmounting problems that come its way.

CRIMINAL LAW

Penalties; A.C. No. 12-2000 as clarified by A.C. No. 13-2001 merely establishes a rule of preference in imposing penalties for violation of B.P. 22.

Administrative Circular 12-2000, as clarified by Administrative Circular 13-2001, merely establishes a rule of preference in imposing penalties for violations of *Batas Pambansa Blg. 22*, the Bouncing Checks Law. When the circumstances of both the offense and the offender indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone – instead of imprisonment – is the preferred penalty. As the Circular requires a review of the factual circumstances of a given case it applies only to pending or future litigations. It is not a penal law; hence, it does not have retroactive effect. Neither may it be used to modify final judgments of conviction.

The determination of the circumstance that warrant the imposition of a fine rests upon the trial judge only. Should the judge deem that imprisonment is appropriate, such penalty may be imposed. The Circular did not delete the alternative penalty of imprisonment.

(*Panganiban, J., Susan Go and the People v. Fernando Dimagiba*, G.R. No.151876, June 21, 2005)

ADMINISTRATIVE CIRCULAR NO. 20-2005

(Continued from page 20)

COURT OF APPEALS (Manila for Luzon cases, Cebu Station for Visayas cases, and Cagayan de Oro Station for Mindanao cases) the records of criminal cases whose decisions are subject to:

- (a) automatic review because the penalty imposed is death, or
- (b) ordinary appeals (by notices of appeal) because the penalty imposed is either *reclusion perpetua* or life imprisonment, notwithstanding a statement in the notice of appeal that the appeal is to the Supreme Court.

This Administrative Circular shall take effect immediately. The Office of the Court Administrator shall take such measures as may be necessary for its full and faithful compliance.

Issued this 19th day of April 2005.

(Sgd.) HILARIO G. DAVIDE, JR.
Chief Justice

TAXATION LAW

Tax credit; tax deduction; definitions of and difference between.

Although the term is not specifically defined in our Tax Code (R.A. No. 8424 as amended) by R.A. Nos. 8761 and 9010, tax credit generally refers to an amount that is subtracted directly from one's total tax liability. It is an allowance against the tax itself, or a deduction from what is owed by a tax-payer to the government. Examples are withheld taxes, payments of estimated tax, and investment of tax credits.

Tax deduction is a subtraction from income for tax purposes or an amount that is allowed by law to reduce income prior to the application of the tax rate to compute the amount of tax which is due. An example of a tax deduction is any of the allowable deductions enumerated in Sec. 34 of the Tax Code.

Tax credit differs from a tax deduction. The former reduces the tax due, while the latter reduces the income that is subject to tax. A tax credit is used only after the tax has been computed; a tax deduction, before. Since a tax credit is used to reduce directly the tax that is due, there ought to be tax liability before the tax credit can be applied.

(*Panganiban, Jr., J., Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, G.R. No. 159647, April 15, 2005)

OCA CIRCULAR NO. 37-2005

(Continued from page 22)

Under the Rule, pauper litigants are exempt from contributing to the Mediation Fund, provided that the unpaid contribution to the Mediation Fund shall be considered a lien on any monetary award in a judgment favorable to the pauper litigant. An accused-appellant is also exempt from contributing to the Mediation Fund.

The mediation fee is akin to the UP Legal Research Fee.

You are hereby reminded to collect mediation fees as per Sec. 9, Rule 141 of the Revised Rules of Court.

For strict compliance.

6 April 2005.

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator

CIVIL LAW

Contract of sale; Elements of a perfected contract of sale.

A contract of sale is a consensual contract, thus, it is perfected by mere consent of the parties. It is born from the moment there is a meeting of minds upon the thing which is the object of the sale and upon the price. Upon its perfection, the parties may reciprocally demand performance, that is, the vendee may compel the transfer of the ownership and to deliver the object of the sale while the vendor may demand the vendee to pay the thing sold. For there to be a perfected contract of sale, however, the following elements must be present: consent, object, and price in money or its equivalent. In the case of *Leonardo v. Court of Appeals, et al.*, we explained the element of consent, to wit:

The essence of consent is the agreement of the parties on the terms of the contract, the acceptance by one of the offer made by the other. It is the concurrence of the minds of the parties on the object and the cause which constitutes the contract. The area of agreement must extend to all points that the parties deem material or there is no consent at all.

To be valid, consent must meet the following requisites:

- (a) it should be intelligent, or with an exact notion of the matter to which it refers;
- (b) it should be free; and
- (c) it should be spontaneous. Intelligence in consent is vitiated by error; freedom by violence, intimidation or undue influence; spontaneity by fraud.

In this jurisdiction, the general rule is that he who alleges fraud or mistake in a transaction must substantiate his allegation as the presumption is that a person takes ordinary care for his concerns and that private dealings have been entered into

fairly and regularly. The exception to this rule is provided for under Article 1332 of the Civil Code which provides that “[w]hen one of the parties is unable to read, or if the contract is in a language not understood by him, and mistake or fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former.”

(*Chico-Nazario, J., Perpetua vda. De Ope v. CA and Generosa Cawit vda. De Lumayno, G.R. No. 133638, April 15, 2005.*)

CRIMINAL LAW

A court trying a criminal case cannot award damages in favor of the accused

A court trying a criminal case cannot award damages in favor of the accused. The task of the trial court is limited to determining the guilt of the accused and if proper, to determine his civil liability. A criminal case is not the proper proceedings to determine the private complainant's civil liability if any.

The appellate court erred in affirming the trial court's award of damages by justifying it as a counterclaim. Nothing in the records shows that respondent spouses filed or attempted to file a counterclaim. The 2000 Rules on Criminal Procedure prohibit counterclaims in criminal cases. Sec. 1 of Rule 111 provides that may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action.

(*Carpio, J., Oscar Moccay and Adelaida Potenciano v. Spouses Prudencio Nobela and Serlina Nobela, G.R. No. 145828, March 31, 2005*)



REMEDIAL LAW

Party in interest; capacity to sue; indispensable parties

The settled rule is that every action must be prosecuted or defended in the name of the real party in interest. Where the action is allowed to be prosecuted or defended by a representative acting in a fiduciary capacity, the beneficiary must be included in the title of the case and shall be deemed to be the real party in interest. The name of such beneficiaries shall, likewise, be included in the complaint.

Sec. 4 Rule 8 of the Rules of Court provides that facts showing the capacity of a party to sue or be sued, or the authority of a party to sue or be sued in a representative capacity must be averred in the complaint. In order to maintain an action in a court of justice, the plaintiff must have an actual legal existence, that is, he or she or it must be a person in law and possessed of a legal entity as either a natural or an artificial person, and no suit can lawfully be prosecuted in the name of that person. The party bringing suit has the burden of proving the sufficiency of the representative character that he claims. If a complaint is filed by one who claims to represent a party as plaintiff but who in fact is not authorized to do so, such complaint is not deemed filed and the court does not acquire jurisdiction over the complaint. An unauthorized complaint does not produce any legal effect. Corollary, the defendant can assail the facts alleged therein through a motion to dismiss on the ground that the plaintiff has no capacity to sue under Sec. 1(d) of Rule 16 of the Rules of Court, that is, that he does not have the representative he claims.

Under Sec. 7 of Rule 3 of the Rules of Court, the presence of all indispensable parties is a condition *sine qua non* for the exercise of judicial power. It is precisely when an indispensable party is not before the court that the action should be dismissed. The plaintiff is mandated to implead all indispensable parties; and the absence of one renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties, but even as to those present.

(*Callejo, Sr., J., Ramon P. Aron, v. Francisco Realon et al*, G.R. No. 159156, January 31, 2005)

Final and executory judgments are immutable and unalterable; exceptions.

Nothing is more settled in the law than that when a final judgment becomes executory, it thereby becomes immutable and unalterable. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether modification is attempted to be made by the court rendering it or by the highest Court of the land. The only recognized exceptions are (1) the correction of clerical errors, (2) making of the so-called *nunc pro tunc* entries which cause no prejudice to any party, and (3) where the judgment is void.

(*Azcuna, J., Luisa Briones-Vasquez v. CA and Heirs of Maria Mendoza vda. de Ocampo*, G.R. No. 144882, February 4, 2005)

Motions; Notice of hearing to the adverse party is a form of due process.

Sec. 4, Rule 13 requires that adverse parties be served copies of all pleadings and similar papers. Sec. 4, Rule 15 requires a movant to set his motion for hearing, unless it is one of those which a court can act upon without prejudicing the rights of the other party. The prevailing doctrine is that a motion without a notice of hearing addressed to the parties is a mere scrap of paper. The logic for such a requirement is simple: a motion invariably contains a prayer which the movant makes to the Court, which is usually in the interest of the adverse party to oppose. The notice of hearing to the adverse party is, therefore, a form of due process; it gives the other party the opportunity to properly vent his opposition to the prayer of the movant.

However, the same cannot be said for manifestations which, unless otherwise indicated, are usually made merely for the information of the court; the manifesting party is just making a statement for the knowledge of the court. There is nothing in the Rules as in jurisprudence that requires judges to disregard a manifestation that does not have proof of service.

(*Corona, J., Atty. Julius Neri v. Judge Jesus dela Peña*, A.M. No. RTJ-05, 1896, April 29, 2005.)

SUPREME COURT

RESOLUTION of the COURT *EN BANC*, dated 14 December 2004, on A.M. No. 03-03-13-SC

RE: RULE ON ADMINISTRATIVE PROCEDURE IN SEXUAL HARASSMENT CASES AND GUIDELINES ON PROPER WORK DECORUM IN THE JUDICIARY

Acting on the report of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the Proposed Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary, the Court Resolved to APPROVE the same.

The Rule shall take effect on January 3, 2005 following its publication in a newspaper of general circulation not later than December 20, 2004.

December 14, 2004.

(*Sgd.*) DAVIDE, JR., *CJ*, PUNO, PANGANIBAN, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO, AUSTRIA-MARTINEZ, CORONA (*on leave*), CARPIO-MORALES, CALLEJO, SR. (*on leave*), AZCUNA, TINGA, CHICO-NAZARIO, GARCIA, *JJ*.

RULE ON ADMINISTRATIVE PROCEDURE IN SEXUAL HARASSMENT CASES AND GUIDELINES IN PROPER WORK DECORUM IN THE JUDICIARY

SECTION 1. Coverage. - This Rule shall apply to all officials and employees of the Judiciary including those in the Presidential Electoral Tribunal, the Office of the Court Administrator and the Philippine Judicial Academy. It shall not, however, apply to the members of the Supreme Court, who can only be removed by impeachment under the Constitution, and the members of the Judicial and Bar Council.

SEC. 2. Objectives. - The objectives of this Rule are: to promote full respect for human rights; to uphold the dignity of every individual, especially employees and applicants for employment in the Judiciary; and to enhance the development of the human resources of the State by promoting their right to a humane, just and safe work environment and improving their morale and efficiency in the workplace.

SEC. 3. Work-related Sexual harassment; Definition. - Work-related sexual harassment is committed by an official or employee in the Judiciary who, having

authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the latter.

SEC. 4. Work-related Sexual harassment; how committed. Work-related sexual harassment is committed when:

(a) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee. It shall include, but shall not be limited to, the following modes:

1. Physical, such as malicious touching, overt sexual advances, and gestures with lewd insinuation.
2. Verbal, such as requests or demands for sexual favors, and lurid remarks.
3. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings.
4. Other acts analogous to the foregoing.

(b) The above acts would impair the employee's rights or privileges under existing laws; or

(c) The above acts would result in an intimidating, hostile or offensive environment for the employee.

SEC. 5. Persons liable. - Any person who (a) directly commits sexual harassment; (b) induces or directs another person to commit such harassment; or (c) cooperates through an act without which sexual harassment would not have been accomplished shall be administratively liable for sexual harassment.

SEC. 6. Creation of the Committee on Decorum and Investigation (CODI). - The Chief Justice shall appoint the members of the Supreme Court Committee on Decorum and Investigation (SC-CODI), while the Presiding Justices of the Court of Appeals, the Sandiganbayan and the Court of Tax Appeals shall

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appoint the members of their respective CODIs. In the Court of Appeals Divisions in Cebu City and Cagayan de Oro City, the Executive Justices shall appoint the members of their respective CODIs. In the lower courts, the Executive Judges shall appoint the members of their CODIs.

The SC-CODI shall have jurisdiction over work-related sexual harassment cases committed by the officials and employees of the Supreme Court proper, the Presidential Electoral Tribunal, the Office of the Court Administrator, the Philippine Judicial Academy and the employees of the Judicial and Bar Council.

SEC. 7. Committee on Decorum and Investigation-Composition, Voting and Term of Office. - The SC-CODI shall be composed of the Clerk of Court as Chairperson; a representative from the Office of the Court Administrator as Vice-Chairperson; and a representative each from the Office of the Chief Attorney, the Office of Administrative Services, the Medical and Dental Services, the Supreme Court Assembly of Lawyer-Employees, Inc. (SCALE), and the Supreme Court Employees Association (SCEA). The representatives of the SCALE and the SCEA shall be designated by their respective governing boards from among officials or members in good standing.

The CODIs of the Court of Appeals, the Sandiganbayan and the Court of Tax Appeals shall be composed of the Presiding Justice as Chairperson; the Clerk of Court as Vice-Chairperson; and one representative each from the employees' associations duly accredited by the Office of the Court Administrator.

The CODIs of the Court of Appeals Divisions in Cebu City and Cagayan de Oro City shall be composed of the Executive Justice as Chairperson; the Clerk of Court as Vice Chairperson; and one representative each from the employees' associations duly accredited by the Office of the Court Administrator.

In multi-sala lower courts, the CODIs shall be composed of the Executive Judge as Chairperson; the Clerk of Court as Vice-Chairperson; and one representative each from the employees' associations duly accredited by the Office of the Court Administrator. In the case of single sala lower courts, the Office of the Court Administrator shall cluster them for the purpose of forming their respective CODIs.

A majority of the members of the CODI shall constitute a quorum. A vote of a majority of the CODI members present, there being a quorum, shall be necessary for the issuance of a recommendation. No CODI member shall participate in any proceeding where he or she is either a complainant or a respondent, or is related by consanguinity or affinity within the third civil degree to the complainant or the respondent.

In case the Chairperson is disqualified or inhibits himself, the Assistant Clerk of Court in the Supreme Court, the most senior Associate Justice in the Court of Appeals, the Sandiganbayan and Court of Tax Appeals, or the Vice-Executive Judge in the lower courts shall serve as the Acting Chairperson of the CODIs in their respective courts.

The members of the CODI shall serve for a term of two years from their date of appointment.

SEC. 8. Jurisdiction, powers and responsibilities of the CODIs. - The CODIs shall have Jurisdiction over all complaints for sexual harassment committed by officials and employees of the Judiciary. They shall:

- (a) Receive the complaint, investigate its allegations, and submit a report and recommendation to the proper court or authority, as provided for in Section 18 of this Rule;
- (b) Conduct meetings at least once a year with the representatives of the different offices for the purpose of recommending to the appropriate body measures that shall increase and promote understanding and prevent incidents of sexual harassment; and
- (c) Perform such other functions as may be necessary and incidental to the achievement of the objectives of R.A. No. 7877.

SEC. 9. Complaint. - A complaint for sexual harassment shall be in writing, under oath, and accompanied by a certificate of non-forum-shopping. It shall be supported by the affidavits of witnesses, if any, and other evidence of the complainant. It shall be filed with the Office of the Clerk of Court in which the respondent is an official or employee. A docket number shall be assigned to each complaint filed.

SEC. 10. Action on the complaint. - If the Committee finds the complaint sufficient in form and substance, a copy thereof shall be served upon the respondent who shall be required to submit an answer under

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oath and supported by the affidavits of his witnesses and other evidence and furnish a copy thereof to the complainant, within five working days from date of service. The complainant may file a reply within five working days from receipt of the answer.

If the complaint is insufficient in form or substance, the CODI shall recommend its dismissal. The dismissal is without prejudice to the filing of administrative, civil or criminal charges against the complainant and the assisting counsel, if any, if the complaint is manifestly frivolous and filed only for purposes of harassment.

SEC. 11. *Withdrawal of complaint.* - The complainant will not be allowed to withdraw the complaint if such withdrawal would prejudice the interest of the service and its ethical standards.

SEC. 12. *Failure to file answer.* - In case no answer is filed without any justifiable cause, the respondent shall be deemed to have waived the right to present evidence. The respondent may, however, be allowed to attend the hearings and cross-examine adverse witnesses.

SEC. 13. *Pre-hearing Conference.* - Upon receipt of the answer, the CODI shall call the parties to a pre-hearing conference to consider the following:

- (a) stipulation of facts;
- (b) simplification of issues;
- (c) identification and marking of evidence;
- (d) waiver of objections to admissibility of evidence;
- (e) limitation of the number of witnesses;
- (f) dates of subsequent hearings; and
- (g) such other matters as may aid in the prompt and just disposition of the complaint.

The parties may file position papers and thereafter submit the case for disposition based on the result of the pre-hearing conference without any need for further hearing.

SEC. 14. *Formal Hearing.* - The formal hearing shall be conducted by not less than the majority of the members of the CODI present.

The CODI may order the exclusion from the hearing room of all persons who do not have a direct interest in the case. The order may be made if the CODI determines on the record that requiring

a party or any witness to testify in open court would not enhance the ascertainment of truth; would cause the party or witness psychological harm or inability to effectively communicate due to embarrassment, fear, or timidity; would violate the right of a party to privacy; or would be offensive to decency or public morals.

No copy shall be taken nor any examination or perusal of the records of the case or parts thereof be made by any person other than a party or counsel of a party, except by order of the court.

SEC. 15. *Preventive Suspension.* - Upon motion of the complainant, or *motu proprio*, the CODI may recommend to the proper court or authority the preventive suspension of the respondent for a period of thirty days. It may also recommend its extension.

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of the misfeasance or malfeasance and to preclude the possibility of respondent's exerting undue influence or pressure on the witnesses or tampering of documentary evidence on file.

SEC. 16. *Remedy of party from the order of preventive suspension or its denial.* - The aggrieved party may file a motion for reconsideration with the proper court or authority within fifteen days from receipt of the order of preventive suspension or its denial.

SEC. 17. *Penalty.* - In recommending the penalty to be imposed, the CODIs shall consider the totality of the circumstances, including the following factors:

- (a) nature or character of the act;
- (b) frequency of occurrence of the act;
- (c) abuse of authority;
- (d) degree of moral influence or ascendancy;
- (e) concealment of the act;
- (f) effect on the victim; and
- (g) other analogous factors.

SEC. 18. *Report and Recommendation.* - Within twenty working days from the termination of the hearing, the CODI shall submit to the proper court or authority its report and recommendation with the complete record of the case. In the Supreme Court, a Division of the Court shall decide the case; however, where the recommended penalty is

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dismissal from the service, suspension for more than one year, or fine of more than twenty thousand pesos (P20,000.00), the Court *en banc* shall decide the case.

In the Court of Appeals, Sandiganbayan and Court of Tax Appeals, a Division shall decide the case within sixty days from the date of filing of the last pleading, brief, or memorandum required by the court, regardless of the recommended penalty, subject to review by the Supreme Court, in accordance with the preceding paragraph.

In the lower courts, the Office of the Court Administrator shall decide the case within sixty days from the date of filing of the last pleading, brief, or memorandum required by it, regardless of the recommended penalty, subject to review by the Supreme Court, in accordance with the first paragraph herein.

SEC. 19. *Effect of proceeding on civil and criminal liabilities.* - The proceedings taken under this Rule on the imposition of the appropriate penalty shall not interrupt or bar any civil or criminal action which the complainant has filed or may file against the respondent.

SEC. 20. *Guidelines on Proper Work Decorum.* - Members, officials and employees of the Judiciary shall be guided on the matter of decorum by (a) the Code of Conduct and Ethical Standards for Public Officials and Employees; (b) the New Code of Judicial Conduct for the Philippine Judiciary; (c) the Code of Professional Responsibility; (d) the Code of Conduct for Court Personnel, and (e) other related issuances of the Court

SEC. 21. *Transitory Provision.* - All administrative cases of sexual harassment against officials and employees of the Judiciary filed after the effectivity of this Rule shall be investigated by the newly-constituted CODIs. Cases already filed before the effectivity of this Rule but not yet heard shall be forwarded to the proper CODIs. Those already filed and undergoing hearings before the effectivity of this Rule shall continue to be heard, and shall thereafter be decided by the court where the case has been filed and heard.

SEC. 22. *Effectivity.* - This Rule shall take effect on January 3, 2005 following its publication in a newspaper of general circulation not later than December 20, 2004.

RESOLUTION of the COURT EN BANC, dated 12 April 2005, on A.M. No. 05-3-06-SC

“A.M. No. 05-3-06-SC,- Re: Proposed Guidelines for the Forfeiture of Real Property Bonds and Disposal of the Forfeited Real Property.- The Court Resolved to APPROVE the following Guidelines for the Forfeiture of Real Property Bonds and Disposal of the Forfeited Real Property, as, proposed by the Committee on Disposal of Forfeited Real Property Bonds, to wit:

PROPOSED GUIDELINES FOR THE FORFEITURE OF REAL PROPERTY BONDS AND DISPOSAL OF THE FORFEITED REAL PROPERTY

WHEREAS, the proceeds of the sale of forfeited property bonds offered in criminal cases for the temporary liberty of accused persons are part of the Judiciary Development Fund;

WHEREAS, a partial inventory of the property bonds confiscated by the lower courts in criminal cases shows that a number of these bonds remain undisposed due either to lack of funds for the required publication, failure of bidding, or lack of interested buyers;

WHEREAS, there is a need to provide clear-cut guidelines on the forfeiture and effective disposal of such bonds including the procedure for the disposal thereof in the event of failure of the auction sale;

Whereas, to achieve the foregoing purpose, Court issued Administrative Circular No. 42-2004 on the 7th day of September 2004 Creating a Committee on the Disposal of Forfeited Real Property Bonds;

NOW, THEREFORE, in compliance with the Court’s directive, the Committee on the Disposal of Forfeited Real Property Bonds has drafted and hereby submits its proposed guidelines for the forfeiture of real property bonds.

I. GENERAL STATEMENTS

A. Definition of Terms:

1. “Property Bond” is an undertaking constituted as lien on the real property given as security for the amount of the bail required of an accused. It secures the conditional release of an accused.

2. “Bondsman” or “Surety” refers to a

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property owner who offers his/her property as property bond for the conditional release of an accused in a criminal case.

3. "Committee" refers to the Committee on Disposal of Forfeited Real Property Bonds.

II. COVERAGE

These guidelines shall cover all real property bonds posted to secure the conditional release of an accused and which have been duly forfeited by the courts.

III. PROCEDURE

A. General Requirements/Responsibilities

1. *Annotation of Lien.*- The lien over a property posted as bond should be annotated on the title, if the property is registered. If unregistered, annotation shall be made in the Registration Book of the Registry of Deeds for the province or city where the land lies, and on the corresponding tax declaration. (Sec. 11, Rule 114, Revised Rules of Criminal Procedure)
2. *Qualifications of sureties in property bond.*-The owner or the real property given as security for the amount of bail must be a resident owner of real estate within the Philippines. His real estate must be worth at least the amount of the undertaking. If there are two or more sureties, each may justify in all amount less than that expressed in the undertaking, provided that the combined amount must be equivalent to the whole amount of the bail demanded. Every surety must be worth the amount specified in his own undertaking over and above all just debts, obligations and properties exempt from execution. (Sec. 12, Rule 114, Revised Rules of Criminal Procedure)
3. *Duty of judge before approving property bonds.* - Every surety shall justify by affidavit taken before the judge that he possesses the qualifications prescribed in the preceding section. He shall describe the property given as security, stating the nature of his title, its encumbrances, the number and amount of other bails entered into by him and still undischarged, and his other liabilities. The court may examine the sureties upon oath concerning their sufficiency in such manner as it may deem

proper. No bail shall be approved unless the surety is qualified. (Sec. 13, Rule 114, Revised Rules of Criminal Procedure.)

The judge shall cause the verification or the title offered as property bond with the Register of Deeds of the place where the property is registered. If the title is found to be spurious, the application for bail should be automatically denied. He should then refer the matter to the Office of the City Prosecutor having jurisdiction thereon for investigation.

B. When Property Bond Forfeited

1. *Forfeiture of Property Bonds.* - When the presence of the accused is required by the Court or the Revised Rules on Criminal Procedure, his bondsmen shall be notified to produce him before the court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their accused and to show cause why no judgment should be rendered against them for the amount of their undertaking. The period of thirty (30) days shall start to run from the time the bondsman/men received the Order of the judge requiring him/them to produce the accused within the said period, the bondsmen must:
 - (a) Produce the body of the accused or give the reason for his non-production; and
 - (b) Explain why the accused did not appear before the court when first required to do so.

Failing, in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bail. The court shall not reduce or otherwise mitigate the liability of the bondsmen, unless the accused has been surrendered or is acquitted. (Sec. 21, *supra*, with amendments.) The bondsmen shall have sixty (60) days from their receipt of the judgment within which to pay the amount he/they justified.
2. *Report of forfeited property bonds.* - the Court shall furnish the Committee with a copy of

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all its Orders confiscating property bonds. A report of all confiscated property bonds shall be filed with the Office of the Committee Chairman at the end of each quarter.

C. Procedure to be followed in the Disposal of Forfeited Property Bond

1. *Disposal of real property bond if the value of the property is not more than Fifty Thousand Pesos (Php50,000.00).* - If the bondsmen fail to pay the amount of the bail within sixty (60) days as provided above, the real property bond the value of which is not more than Php50,000.00, shall be sold at public auction in accordance with the following procedure:

- (a) The Clerk of Court and *Ex Officio* Sheriff or any of his/her deputies shall set a date for the auction sale of the forfeited property. A written notice of such sale shall be given to the property owner/s at least twenty (20) days before the date of the auction sale. A copy of the notice of sale shall likewise be furnished the occupant of the property within the same period.
- (b) Copies of the notice shall also be posted for sixty (60) days in three (3) conspicuous public places in the city or municipality where the property is located, preferably in conspicuous areas of the municipal or city hall, post office, and public market. It shall likewise be posted on the property itself for the same period.
- (c) The notice of sale shall state the exact date, place and time of the auction sale. The sale shall be conducted in the Office of the Clerk of Court of the Regional Trial Court or First Level Court that issued the order forfeiting the property and shall be held not earlier than nine o'clock in the morning and not later than two o'clock in the afternoon.

2. *Publication required if the property owner/bondsman can no longer be found.* - In the event that the property owner/bondsman is no longer residing at the address given to the court and can no longer be found notwithstanding the exercise of due

diligence to locate him, the notice of auction sale shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the province or city where the forfeited property is located. Publication shall be made in accordance with applicable laws and Supreme Court issuances.

3. *Procedure to be followed in the disposal of forfeited real property bond if the value of the property is more than Php50,000.00.* - If the bondsman fail to pay the amount of the bail within sixty (60) days provided above, the real property bond the value of which is more than Php50,000.00, shall be sold in accordance with the following procedure, to wit:

- (a) Sale of the real property shall be conducted through public auction. For this purpose, a written notice of sale shall be given to the property owner/s as well as the occupants thereof at least twenty (20) days before the date of the auction.
- (b) The notice of sale shall also be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the province or city where the, property is located. Publication shall be made in accordance with applicable Supreme Court issuances.
- (c) Copies of the notice of sale shall also be posted for sixty (60) days in three (3) conspicuous public places in the city or municipality where the property is located preferably in conspicuous areas of the municipal or city hall, post office, and public market. A copy of the notice of sale shall also be posted on the property itself for the same period.
- (d) The notice of sale shall state the exact date, place and time of the auction sale. The sale shall be conducted in the Office of the Clerk of Court of the Regional Trial Court or First Level Court that issued the order forfeiting the property. The auction sale shall be held not earlier than nine o'clock in the morning and not later than two o'clock in the afternoon.
- (e) The notice shall also include another

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date during which a second auction sale may be conducted in the event of a failure of bidding during the first auction sale. The second date shall not be later than thirty (30) days from the date of the first auction sale.

D. Procedure in Case of Failure of Bidding

There is failure of bidding when there is no bidder for the real property sold at public auction, or the highest bid is for an amount lower than the required minimum bid.

1. *Failure of bidding if the value of the property is not more than Php50,000.00.* - In case of failure of bidding of the property the value of which is not more than Php50,000.00, the sale shall be rescheduled and held within thirty (30) days from the date of the first auction sale. A written notice of the sale shall be given to the owner/s of the property as well as to the occupants thereof at least three (3) days before the date of the second auction sale, copies of the notice shall also be posted for a period of ten (10) days before the second auction sale in three (3) conspicuous public places in the city or municipality where the property is located, preferably in the places cited in the previous sections. A notice shall likewise be posted on the property itself for the same period.
2. *Failure of bidding if the value of the property is more than Php50,000.00.* - If the property the value of which is more than Php50,000.00 is not disposed of during the auction sale, a second auction sale shall be held on the date indicated in the published notice of sale. A written notice of the second sale shall be given to the property owner/s as well as the occupants thereof at least three (3) days before the date of the second auction sale. Copies shall also be posted for ten (10) days before the auction sale in three (3) conspicuous public places in the city or municipality where the property is located and on the property itself.

E. Procedure in Case of Failure to Dispose of Forfeited Property After Holding the Second Auction Sale

1. *In case of failure to dispose of the property after the second auction sale.* - Where there is no bidder for the real property twice exposed

for public auction, or the highest bid is for an amount lower than the required minimum bid, the officer conducting the sale shall declare a failure of bidding or auction sale and shall make a return of his proceedings to the court within three (3) days from the date of the failed auction sale.

2. *Duty of Court upon receipt of the return reporting failed auction sale.* - Upon the receipt of the return above-mentioned, the Court shall immediately issue an order directing the Register of Deeds where the property is located to transfer without cost the title of the forfeited property to the Government in the name of the Supreme Court of the Philippines and issue the corresponding title. Within five (5) days from the issuance of the Order, the Court shall submit a report covering all real properties the titles to which have been transferred to the Supreme Court.

The Court that forfeited the property shall transmit the title to the Committee on Disposal of Real Property Bonds in the Supreme Court for safekeeping immediately upon its issuance.

F. Duties of the Committee on Disposal of Forfeited Real Property Bonds

1. *Monitor the forfeiture of real property bonds and disposal of the property involved.* - The Committee shall monitor the due forfeiture of real property bonds and disposal of the property involved. The Chairman may direct any member of the Committee to conduct an audit to ascertain that forfeited properties are disposed of in accordance with these rules.
2. *Take Custody of Title to Forfeited Real Properties.* - The Chairman of the Committee on Disposal of Real Property Bonds shall act as custodian of the titles to real properties that have been forfeited in favor of the Government in the name of the Supreme Court of the Philippines. He shall make a quarterly report of all such titled properties to the Chief Justice and the Court Administrator.
3. *Evaluate and recommend appropriate action over confiscated properties.* - Immediately upon its

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receipt of the lower court's report covering all real properties the title to which have been transferred to the Supreme Court of the Philippines, the Committee shall recommend to the Court the appropriate action for their disposal.

The committee shall determine the appropriate mode of disposal of the forfeited real properties and recommend to the Court, through the Chief Justice, its implementation. The Committee may also recommend that the forfeited real property be considered for use in the Judiciary as a site for a Hall of Justice, or for the construction of a warehouse for storing court records and other properties in *custodia legis* capable of manual delivery, unserviceable properties not yet disposed of, and any other similar governmental purpose, or be transferred to another government agency or entity.

G. Proceeds of the Sale

Proceeds of the sale of forfeited property. - The proceeds of the sale of the forfeited property, either through public auction or negotiation when applicable, shall accrue to the Judiciary Development Fund in accordance with Supreme Court *En Banc* Resolution in A.M. No. 99-8-01-SC.

H. Procedure for the Owner's Right to Repurchase of Forfeited Property

1. *If property is sold at public auction.* - If the property is sold at public auction, the owner of the property shall have the right to repurchase the property within a period of one (1) year from the date of the registration of the sale and after paying the amount paid by the highest bidder with legal interest. He shall also pay for all administrative expenses incurred by the court in the forfeiture and sale of the property. However, if the bondsman or property owner fails to redeem the subject property within the required period, the court shall issue an order declaring the forfeiture as absolute and confirming the consolidation of title to the highest bidder.
2. *If title to property is transferred in the name of the Supreme Court due to the failure of second auction sale.* - If title to the property is

transferred in the name of the Supreme Court due to failure of the second auction sale, the owner of the property shall have the right to repurchase the same within a period of one (1) year from the date of the registration thereof in the name of the Supreme Court and after paying the amount of the bail. He shall also pay for all administrative expenses incurred by the court in the forfeiture and sale of the property. However, if the bondsman or property owner fails to redeem the subject property within the required period, the court shall issue an order declaring the forfeiture as absolute and confirming the consolidation of title to the Government, represented by the Supreme Court of the Philippines.

I. Procedure in Case the Bid Price is More than the Amount of Bail Secured

If the bid price is more than the bail secured by the property. - In the event that the bid price is more than the amount of the bail secured by the property, the amount in excess of the bail shall be delivered to the bondsman/owner of the property after deducting the reasonable administrative expenses incurred by the court in conducting the sale thereof. In the event the bondsman can no longer be located, the amount shall be deposited in the Court's fiduciary account to be held in trust for such bondsman.

J. Mode of Payment

1. *Mode of payment by winning bidder.* - The winning bidder shall pay the bid amount to the cashier of the court conducting the auction sale in cash or through a manager's/cashier's check payable to such court.
2. *Certificate of sale.* - The sheriff who conducted the sale shall immediately issue a certificate of sale upon the winning bidder's payment of the bid amount. If payment is made through a manager's/cashier's check, the Sheriff shall immediately confirm its validity with the issuing bank. Thereafter, the court shall issue an order confirming the sale a certified copy of which, together with the certificate of sale shall be registered in the registry of deeds.

A.M. No. 05-3-06 SC (continued)

The register of deeds shall not cancel the bondsman/property owner's certificate of title but shall make a brief memorandum regarding the sale at the back of the certificate of title. The second and third paragraphs of Sec. 7, Rule 68 of the Rules of Court shall be strictly applied.

3. *Applicability of other provisions of the Rules of Court.* - The use of the premises during the one (1) year redemption period shall be in accordance with the provisions of Secs. 31 and 32, Rule 39.

K. Expenses for Publication

1. *Cash advance to cover expenses for publication of the sale of forfeited property the value of which is more than P50,000.00* - The Clerk of Court (OCC) shall submit to the Financial Management Office (FMO), Office of the Court Administrator (OCA) a request for cash advance to pay for the publication of the sale of property the value of which exceeds Php50,000.00. The request may include the reasonable transportation expenses, which the sheriff expects to incur in posting and delivering notices of the sale and in conducting the sale of the forfeited property. A canvass from three (3) newspapers of general circulation in the place where the property is located stating the cost of publication shall accompany such request. In the event that reasonable transportation expenses have been incurred, the sheriff may request the FMO to reimburse any amount he may have advanced for this purpose. The circular issued by the Court concerning travel allowances and transportation expenses shall govern any claim of transportation expenses for duties or services rendered under these guidelines.
2. *Cash advance to cover transportation expenses in the auction sale of registered property.* - The Clerk of Court may also request the FMO, OCA for cash advance to cover the reasonable transportation expenses that a sheriff is expected to incur in posting and delivering the notices for the sale of the property and in conducting the auction sale of a registered property. A list of the places where he intends to deliver and post the notice of auction sale, and the amount he

needs to perform such duties shall accompany the request.

3. *Liquidation of Cash Advance.* - The Clerk of Court shall liquidate the cash advance within thirty (30) days from the receipt of the same. He/she shall attach to his/her liquidation papers three (3) copies of the newspaper that published the notice of auction sale together with the affidavit of publication.

The liquidation of any cash advance obtained under these rules shall be in accordance to the guidelines issued by the Court concerning travel allowances and transportation expenses.

4. *Effect of failure to liquidate the cash advances secured under Letter K, numbers 1 and 2 hereof.* - Failure to liquidate the cash advances secured under letter K, numbers 1 and 2 hereof shall be a ground for administrative sanctions.

Very truly yours,

LUZVIMINDA D. PUNO
Clerk of Court

By: (Sgd.) MA. LUISA D. VILLARAMA
Assistant Clerk of Court

ADMINISTRATIVE ORDER NO. 52-2005

For a more effective administration of justice and pursuant to Sec. 5(3) Art. VIII of the Constitution, the Presiding Judges of the Metropolitan Trial Courts in Manila shall preside over the mobile court when the latter will operate in the City of Manila. They shall conduct hearings of cases assigned to their respective courts, especially those cases where the accused are detained at the City Jail of Manila. They shall be assisted by their respective Clerks of Court and one (1) Court Stenographer.

The judges shall be entitled to an expense allowance of Five Hundred Pesos (Php500) while the Clerks of Court and Court Stenographers shall be entitled to an expense allowance of Two Hundred Pesos (Php200), for each day served in the mobile court.

14 April 2005.

(Sgd.) HILARIO G. DAVIDE, JR.
Chief Justice

SUPREME COURT

ADMINISTRATIVE CIRCULAR NO. 20-2005

DIRECTING REGIONAL TRIAL COURTS TO DIRECTLY FORWARD TO THE COURT OF APPEALS RECORDS OF CRIMINAL CASES WHICH ARE SUBJECT OF AUTOMATIC REVIEW OR REGULAR APPEALS

WHEREAS, in the decision of 7 July 2004 in G.R. Nos. 147678 to 87 (*People v. Efren Mateo y Garcia*), the Supreme Court, in the exercise of its power to promulgate rules of procedure in all courts under Sec. 5, Article VIII of the Constitution:

- (a) Modified Secs. 3 and 10 of Rule 122, Sec. 13 of Rule 124, Sec. 3 of Rule 125 of the Revised Rules of Criminal Procedure and any other rule insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, *reclusion perpetua*, or life imprisonment, as well as the resolution of the Supreme Court, dated 19 September 1995, in Internal Rules of the Supreme Court in Cases Involving the Death Penalty; and
- (b) Allowed an intermediate review by the Court of Appeals before such cases are elevated to the Supreme Court;

WHEREAS, conformably with the said decision, the Supreme Court has been transferring to the Court of Appeals criminal cases where the penalty imposed by the trial courts is death, *reclusion perpetua*, or life imprisonment;

WHEREAS, in view of the said decision, the Supreme Court promulgated on 28 September 2004 in A.M. No. 00-5-03-SC a resolution formally amending Secs. 3 and 10 of Rule 122 and Secs. 12 and 13 of Rule 124 of the Rules of Criminal Procedure, as amended. The amendments took effect on 15 October 2004;

WHEREAS, despite the aforementioned amendments, criminal cases on automatic review or on appeal where the penalty imposed by the trial courts is either death, *reclusion perpetua*, or life imprisonment are still forwarded to the Supreme Court by lower courts.

NOW, THEREFORE, pursuant the resolution of the Court of 5 April 2005 in A.M. No. 05-2-16-SC, all Regional Trial Courts concerned, through the Presiding Judges and Clerks of Court, are hereby DIRECTED to henceforth DIRECTLY forward to the

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OFFICE OF THE COURT ADMINISTRATOR

OCA CIRCULAR NO. 28-2005

TO: ALL JUDGES OF THE REGIONAL TRIAL COURTS

SUBJECT: DISMISSAL OF DRUG CASES FOR LACK OF AUTHORITY OF OPERATING PERSONNEL

It has come to the attention of this Office that drug cases are being dismissed on the ground that the operating personnel involved therein are not members of the Philippine Drug Enforcement Agency (PDEA), which is the authorized agency to conduct drug operations under R.A. No. 9165.

For the information and guidance of all concerned, on 02 June 2003, the PDEA has entered into a Memorandum of Agreement with the Philippine National Police (PNP) for the latter's support in the anti-drug campaign. Under the Sec. 4 (B) of the MOA, the PNP has the following specific roles on operational matters:

- (a) Continue to conduct general law enforcement operations against illegal drugs through supply/demand reduction programs pursuant to its LOI BANAT in conformity with the pertinent provisions of R.A. No. 9165 and in close coordination with the *Barangay* Anti-Drug Abuse Councils (BADACs);
- (b) Create a PNP Task Force to be headed by a ranking/ qualified police officer which will assist the PDEA in its anti-illegal drugs operation down to *barangay* level to be operationalized during the transition period;
- (c) Ensure that all operations against illegal drugs shall be carried out in coordination with and/ or under the direction and control of the PDEA;
- (d) Assist the PDEA in collecting, processing and analyzing information on illegal drug activities by submitting periodic reports to the PDEA through the PDEA Regional Offices;
- (e) Support the National Drug Intelligence System maintained by the PDEA and allow its integration with PNP databases;
- (f) Assist in intelligence operations conducted

OCA Circular No. 28 (continued)

by the PDEA through the utilization of its personnel, informants and other resources on a case-to-case basis;

- (g) Assist in counter-intelligence and investigation efforts of the PDEA especially regarding PNP personnel involved in illegal drug activities;
- (h) Assist the PDEA in investigation and prosecution of drug cases;
- (i) Assist the PDEA in the examination and custody of all seized, confiscated, and surrendered dangerous drugs, precursors and essential chemicals through the PNP Crime Laboratory until such time that the PDEA has established its own forensic laboratory in every province and city as provided for in R.A. No. 9165;
- (j) Assist the PDEA in the formation of a nationwide organization, which shall coordinate and supervise all activities against drug abuse in every province, city, municipality and *barangay*;
- (k) Assist the PDEA in coordinating with foreign counterparts through the utilization of the Police *Attaches* until such time that the Agency can field its own foreign liaison officers;
- (l) Support the National Anti-Drug Program of Action (NADPA) as mandated by Presidential Letter of Instruction Number 1 issued by President Gloria Macapagal-Arroyo and updated by the Dangerous Drugs Board; and
- (m) Extend other operational assistance as may be necessary or upon request of PDEA.

The provincial, city and municipal chiefs of police are concurrently the PDEA provincial, city and municipal officers, respectively, during the transition period stated in R.A. No. 9165 considering that the PDEA still lacks the required personnel at this phase. Based on the said MOA, the anti-drug operations of the law enforcement agencies covered by said agreement are clearly in support of and in coordination with PDEA. This is buttressed by the provisions of the Implementing Rules and Regulations of R.A. No. 9165, specifically Sec. 86 thereof, which states that other law

enforcement agencies may conduct drug operations in coordination with the PDEA, to wit:

Sec. 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions

xxx

xxx

xxx

(a) Relationship/Coordination between PDEA and Other Agencies - The PDEA shall be the lead agency in the enforcement of the Act, **while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA;** *Provided*, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations; *Provided, further*, that, in any case, said agencies shall inform the PDEA of their anti-drug operations within twenty-four (24) hours from the time of the actual custody of the suspects or seizure of said drugs and substances, as well as paraphernalia and transport equipment used in illegal activities involving such drugs and/or substances, and shall regularly update the PDEA on the status of the cases involving the said anti-drug operations conducted by the PNP, the NBI, and other law enforcement agencies prior to the approval of this IRR shall be valid and authorized; *Provided, finally*, that nothing in this IRR shall deprive the PNP, NBI, and other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from effecting lawful arrests and seizures in consonance with the provisions of Sec. 5, Rule 113 of the Rules of Court.

From the foregoing, members of the PNP, NBI and other law enforcement agencies who are working in coordination with PDEA are considered as authorized PDEA personnel in anti-drug operations.

Please be guided accordingly.

28 March 2005.

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator



OFFICE OF THE COURT ADMINISTRATOR**OCA CIRCULAR NO. 37-2005**

TO: ALL CLERKS OF COURT OF REGIONAL TRIAL COURTS AND FIRST LEVEL COURTS

SUBJECT: COLLECTION OF MEDIATION FEES

Under Sec. 9.A. of the revised Rule 141 of the Revised Rules of Court, approved by the Supreme Court on 20 July 2004, Clerks of Court of the Regional Trial Courts and the First Level Courts shall collect the amount of FIVE HUNDRED PESOS (Php500.00):(1) upon the filing of a Complaint or an Answer with a mediatable permissive or compulsory counterclaim or cross-claim, complaint-in-intervention, third-party complaint, fourth-party complaint, etc. in civil cases, a Petition, an Opposition and a Creditors' Claim in Special Proceedings; (2) upon the filing of a Complaint/Information for offenses covered by the *Katarungang Pambarangay Law*, violation of B.P. Blg. 22, estafa and libel cases where damages are sought; and (3) upon the filing of a Complaint/Information for quasi-offenses under Title 14 of the Revised Penal Code.

Sec. 9 of the revised Rule 141 of the Revised Rules of Court provides for the contribution to the Mediation Fund, and explains the purpose and treatment of the same. The rule states:

The Fund shall be utilized for the promotion of court-annexed mediation and other relevant modes of alternative dispute resolution (ADR), training of mediators, payment of mediator's fees, and operating expenses of the Philippine Mediation Center (PMC) units including expenses for technical assistance and organizations/individuals, transportation/communication expenses, photocopying, supplies and equipment, expense allowance and miscellaneous expenses, whenever necessary, subject to auditing rules and regulations. In view thereof, the mediation fees shall not form part of the Judiciary Development Fund (JDF) under P.D. No. 1949 nor of the special allowances granted to justices and judges under R.A. No. 9227.

The Rule does not provide that the absence of a Philippine Mediation Center exempts a party from contributing to the Mediation Fund. The Fund is not only for the mediation services rendered but also for the establishment and maintenance of PMC units. Thus, mediation fees are to be collected even if there is no operating PMC unit in the area.

(Continued on page 8)

OCA CIRCULAR NO. 39-2005

TO: JUDGES OF ALL SPECIAL AGRARIAN COURTS AND ALL TRIAL COURT JUDGES

SUBJECT: EXPEDITIOUS DISPOSITION OF AGRARIAN CASES

The Comprehensive Agrarian Reform Program (CARP) is a reform measure that seeks to bring about a more equitable sharing of productive resources in the Philippine countryside. Its major components include land tenure improvement, program beneficiaries' development and delivery of agrarian justice.

Your attention is called to Secs. 50 and 57 of R.A. No. 6657 subject of Administrative Circular No. 29-2002 dated 01 July 2002, delineating jurisdiction over agrarian disputes in order to avoid conflict of jurisdiction with the Department of Agrarian Reform (DAR) or the Department of Environment and Natural Resources (DENR) which provisions are hereby reproduced:

Sec. 50. Quasi-Judicial Powers of the DAR.

- The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

Sec. 57. Special Jurisdiction - The Special Agrarian Courts (Regional Trial Courts) shall have original and exclusive jurisdiction over all petitions for the determination of just compensation to land owners, and the prosecution of all criminal offenses under this Act. The Rules of Court shall apply to all proceedings before the Special Agrarian Courts, unless modified by this Act.

The Special Agrarian Courts shall decide all appropriate cases under their special jurisdiction within thirty (30) days from submission of the case for decision.

With the foregoing, it is imperative therefore that all special agrarian courts be enjoined to

OCA Circular No. 39 (continued)

adjudicate cases dispatch to implement the vision of agrarian reform and further the sustainable agricultural development for the Philippines.

Likewise, Administrative Circular No. 38-2002 dated 28 August 2002 reminded all trial judges to strictly observe Sec. 68, of R.A. No. 6657, in furtherance of the Court's policy to expedite the resolution of cases involving agrarian dispute which provision is quoted hereunder:

Sec. 68. Immunity of Government Agencies from Undue Interference. - No injunction, restraining order, prohibition or mandamus shall be issued by the lower courts against the Department of Agrarian Reform (DAR), Department of Agriculture (DA), the Department of Environment and Natural Resources (DENR), and the Department of Justice (DOJ) in their implementation of the program.

Lastly, you are also reminded of OCA Circular No. 79-2003 dated 12 June 2003 re: Reminding judges to exercise utmost caution, prudence and judiciousness in issuance of temporary restraining orders and writs of preliminary injunctions, wherein TROs or preliminary injunctions may not be issued. Specifically, Sec. 55 of R.A.No. 6657 which provides:

Sec. 55. No Restraining Order or Preliminary Injunction. - No court in the Philippines shall have jurisdiction to issue any restraining order, or writ of preliminary injunction against the PARC or any of its duly authorized or designated agencies in any case, dispute or controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform.

For strict compliance.

4 May 2005

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator



OCA CIRCULAR NO. 50-2005

TO: ALL EXECUTIVE JUDGES AND PRESIDING JUDGES OF SPECIAL COURT FOR COMMERCIAL CASES AND CLERKS OF COURT OF THE REGIONAL TRIAL COURTS

SUBJECT: DESIGNATION OF SPECIAL COURTS TO TAKE COGNIZANCE OF CASES INVOLVING ADMIRALTY AND MARITIME LAWS

For the information and guidance of all concerned, quoted hereunder is pertinent portion of the Court *En Banc* resolution dated 12 April 2005 in Administrative Matter No. 05-4-05-SC Re: Request for the Designation of Special Courts to Take Cognizance of Cases Involving Admiralty and Maritime Laws, to wit:

A.M. No. 05-4-05-SC.- Re: Request for the Designation of Special Courts to Take Cognizance of Cases Involving Admiralty and Maritime Laws.- The Court Resolved, upon the recommendation of the Office of the Court Administrator, to

(a) DENY the request of the Maritime Law Association of the Philippines for the designation of special courts in the Regional Trial Courts in the Cities of Manila, Davao and Cebu to exclusively take cognizance of cases involving admiralty and maritime laws; and

(b) DESIGNATE instead the Special Courts for Commercial Cases to try and decide cases involving admiralty and maritime laws.

In this connection and effective immediately, all cases involving admiralty and maritime laws from the ordinary courts shall be transferred to the designated Special Commercial Courts except those which have already undergone the pre-trial stage in civil cases and arraignment stage in criminal cases, in which case the same shall be retained by the court previously assigned to try them. The unloaded cases transferred to the Special Commercial Courts shall be considered as raffled to them to maintain an equal distribution of cases.

For strict compliance.

03 May 2005

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator

3rd Floor, Supreme Court Centennial Building
Padre Faura St. cor. Taft Ave., Manila, Philippines
1000

2006 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
June 29-July 1	RJCEP (Level 4) for Region IX	Zamboanga City
July 1	Symposium on Restorative Justice	Supreme Court, Manila
July 11-22	36 th Orientation Seminar-Workshop for Newly Appointed Judges	PHILJA Development Center, Tagaytay City
July 25-29	Seminar on Strengthening <i>Shari'a</i> and Islamic Jurisprudence	Zamboanga City
July 27-29	RJCEP (Level 4) for Region IV	Manila Pavilion Hotel
August 8-19	10 th Pre-Judicature Program	Supreme Court, Manila
August 23-25	RJCEP (Level 4) for Region III (Batch 1)	Manila Pavilion Hotel
August 25	Roundtable Discussion on Anti-Trafficking in Persons	Supreme Court, Manila
August 31	Launch of the Court of Appeals Mediation Project	Court of Appeals, Manila
September 1-2	Workshop on Judicial Dispute Resolution (JDR)	Supreme Court, Manila
September 7-9	3 rd Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice	CSB Hotel, Manila
September 12-23	37 th Orientation Seminar-Workshop for Newly Appointed Judges	PHILJA Development Center, Tagaytay City
September 27-30	RJCEP (Level 4) for Region III (Batch 2)	Bayview Park Hotel
September 26-30	Seminar on Strengthening <i>Shari'a</i> and Islamic Jurisprudence	Davao City

Chancellor, Philippine Judicial Academy
JUSTICE AMEURFINA A. MELENCIO HERRERA

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