



PHILJA Bulletin



October-December 2004

Volume VI, Issue No. 24

From the Chancellor's Desk

We have an encouraging finale for the year's end. To quote:

"The Supreme Court fared well in the survey of 400 lawyers and 889 judges as to the performance of judicial institutions, ranking highest in the estimation of lawyers (+54) and second highest in the judges (+65). The judges gave the highest rating to the Philippine Judicial Academy (+73), the SC's education arm" (BENCHMARK, Sept-Oct 2004).

We sincerely thank the respondents and commend our PHILJA Team for this accomplishment.

The highlight for this quarter was the launch on 1 December 2004 of two (2) e-Learning Modules on the *Rules on Electronic Evidence* and *Psychological Incapacity in Marriage*, topics selected by the Academic Council. Our development partners were USAID-TAF and ADB. 105 judges, with internet-ready computers, are participating. Chief Justice Hilario G. Davide, Jr. spoke of this mode of delivery as a *"tool which allows judges to actively participate in judicial education thru the use of the internet and computers."*

Well-received was the innovativeness shown by the Academic Affairs Office in prescribing a five (5) weekends course for the 7th Pre-Judicature Program instead of the continuous one-month activity. To compensate for the reduced length of the program, the Orientation Program was expanded to two (2) weeks to include subjects on court and case management, and performance standards, among others.

The 8th Pre-Judicature Program moved to General Santos City and was hailed by its fifty-five (55) participants. This is the second time that the program is held outside Manila. (Continued on page 13)

PHILJA
Bulletin
in
the
Judiciary

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PHILJA ACADEMIC PROGRAMS

7TH AND 8TH PRE-JUDICATURE PROGRAMS

The Academy conducted its 7th *Pre-Judicature Program (PJP)* on September 24 to October 23, 2004, at Training Rooms 1 to 3, Centennial Bldg., Supreme Court, Manila. A total of eighty-six (86) lawyers attended the program, *i.e.*, eighty-three (83) came from Luzon, one (1) each from Visayas and Mindanao, and one (1) attended for second eligibility. Classes were held in five (5) successive weekends, on Fridays at 5:00 PM to 9:00 PM, and on Saturdays at 8:00 AM to 9:30 PM.

During the Opening Ceremonies, Justice Ameurfina A. Melencio Herrera, PHILJA Chancellor, in her Opening and Statement of Purpose, discussed the benefits that could be derived from the PJP, to wit: (a) Rule 3, Section 1, Rules of the Judicial and Bar Council (JBC-009) provides that "[i]n determining the competence of the applicant or recommendee for appointment, the Council shall consider his educational preparation, experience, performance, and other accomplishments, including the completion of the Pre-Judicature Program of the Philippine Judicial Academy;" (b) Complete compliance with MCLE requirements; and (c) Participants who satisfactorily complete the PJP would earn fifteen (15) units for the Masteral Degree in Law at the San Beda College, Graduate School of Law.

The 8th *Pre-Judicature Program* was conducted on November 22 to December 4, 2004, at the Casa Luisa Restaurant, Lagao, General Santos City. The program was attended by a total of fifty-eight (58) lawyers.



The 7th PJP Moot Court Presentation conducted on September 24 to October 23, 2004 at Training Rooms 1 to 3, Centennial Bldg., Supreme Court, Manila.

TWO BATCHES OF RJCEP IN NCJR

PHILJA held two (2) batches of the *Regional Judicial Career Enhancement Program (RJCEP, Level 3)* for Judges, Clerks of Court and Branch Clerks of Court of the Regional Trial Courts and City Courts of the National Capital Judicial Region.

The first batch of the RJCEP-NCJR Level 3 was conducted on November 24 to 26, 2004, at the Manila Pavilion Hotel, Manila. Three hundred seventeen (317) judges and clerks of court from the cities of Manila, Makati, Muntinlupa, Parañaque, Pasay, Las Piñas, Mandaluyong and the municipalities of Taguig, San Juan, Navotas, and Pateros attended the seminar. The participants were composed of ninety-one (91) Regional Trial Court judges, thirty-seven (37) City Court judges, one hundred three (103) clerks of court (lawyers), and eighty-six (86) clerks of court (non-lawyers).

While the second batch of the RJCEP-NCJR Level 3 was conducted on December 1 to 3, 2004, at the College of Saint Benilde (CSB) Hotel, Malate, Manila. Two hundred twenty (220) judges and clerks of court from the cities of Caloocan, Pasig, Marikina, Valenzuela, Quezon City, and the municipality of Malabon attended the seminar. The participants were composed of sixty-six (66) Regional Trial Court judges, twenty-five (25) City Court judges, seventy-one (71) clerks of court (lawyers), and fifty-eight (58) clerks of court (non-lawyers).

34TH ORIENTATION OF NEWLY APPOINTED JUDGES

The 34th *Seminar-Workshop for Newly Appointed Judges* was held on November 29 to December 10, 2004, at the PHILJA Development Center, Tagaytay City. In attendance were thirty-eight (38) newly appointed judges, twelve (12) promoted, and one (1) laterally transferred.

A. New Appointments

REGIONAL TRIAL COURTS

REGION I

1. Hon. Alpino P. Florendo
RTC Br. 30, San Fernando, La Union
2. Hon. Aurelio R. Ralar, Jr.
RTC Br. 48, Urdaneta, Pangasinan

REGION II

1. Hon. Rodolfo B. Cadeliña
RTC Br. 3, Tuguegarao, Cagayan

REGION III

1. Hon. Gerardo Antonio P. Santos
RTC Br. 62, Angeles City, Pampanga
2. Hon. Racquelen Abary Vasquez
RTC Br. 29, Cabanatuan City, Nueva Ecija

REGION IV

1. Hon. Medel Arnaldo B. Belen
RTC Br. 36, Calamba, Laguna
2. Hon. Josephine Zarate-Fernandez
RTC Br. 76, San Mateo, Rizal

REGION V

1. Hon. Ruben B. Carretas
RTC Br. 9, Legaspi City, Albay

REGION X

1. Hon. Josefina Gentiles-Bacal
RTC Br. 10, Malaybalay, Bukidnon

REGION XI

1. Hon. Danilo C. Belo
RTC Br. 31, Tagum, Davao del Norte
2. Hon. Hilarion P. Clapis, Jr.
RTC Br. 3, Nabunturan, Davao del Norte

MUNICIPAL TRIAL COURTS IN CITIES**REGION III**

1. Hon. Pelagia J. Dalmacio-Joaquin
MTCC San Jose del Monte City, Bulacan

REGION VI

1. Hon. Victor B. Cuñada
MTCC Victoria City, Negros Occidental

REGION VII

1. Hon. Rosalinda Torrefiel Ybañez
MTCC Bayawan City, Negros Oriental

REGION XI

1. Hon. Carfelita C. Flores
MTCC Island Garden of Samal, Davao del Norte

MUNICIPAL TRIAL COURTS**REGION II**

1. Hon. Rene B. Baculi
MTC Alcala, Cagayan
2. Hon. Neljoe A. Cortes
MTC Ballesteros, Cagayan

REGION III

1. Hon. Christine Marie C. Capule
MTC Arayat, Pampanga

2. Hon. Gemma Theresa B. Hilario-Logronio
MTC Sta. Rita, Pampanga
3. Hon. Renier P. Concepcion
MTC San Narciso, Zambales

REGION IV

1. Hon. Rodrigo L. Posadas
MTC Morong, Rizal
2. Hon. Elizabeth E. Ilagan
MTC Calatagan, Batangas

REGION V

1. Hon. Maria Carmela Ng Pee Mendiola
MTC Bombon, Camarines Sur

REGION VII

1. Hon. Kennedy I. Duka
MTC Guihulngan, Negros Oriental

REGION VIII

1. Hon. Evangeline Yap Grafil
MTC Dagami, Leyte
2. Hon. Evelyn R. Lesigues
MTC La Paz, Leyte
3. Hon. Buenaventura A. Renomeron
MTC Barugo, Leyte

REGION X

1. Hon. Edgar G. Manilag
MTC Buenavista, Agusan del Norte

REGION XI

1. Hon. Antonio Goeffrey H. Canja
MTC Polomolok, South Cotabato

MUNICIPAL CIRCUIT TRIAL COURTS**REGION I**

1. Hon. Amaparo M. Espada
4th MCTC Baguias-Bakun, Benguet

REGION III

1. Hon. Maria Theresa D. Guadaña-Tano
4th MCTC San Fabian-San Jacinto, Pangasinan
2. Hon. Isidra A. Maniego
4th MCTC Masantol-Macabebe, Pampanga

REGION IV

1. Hon. Buenaventura Albert J. Tenorio
3rd MCTC Alitagtag-Sta. Teresita, Batangas
2. Hon. Ma. Cecilia Saquin Esperanza
7th MCTC Taal-San Nicolas, Batangas

REGION V

1. Hon. Nimfa Chan Gomez
4th MCTC Camalig-Jovellar, Albay

REGION VIII

1. Hon. Leda Lagera Nicol
10th MCTC Merida-Isabel, Leyte

REGION XI

1. Hon. Ciriaco D. Jabido, Jr.
1st MCTC Glan-Malapatan, Sarangani

REGION XII

1. Hon. Rosite P. Macaraya
6th MCTC Tubod-Baroy-Magsaysay, Lanao del Norte

B. Promotions

REGIONAL TRIAL COURTS

NATIONAL CAPITAL JUDICIAL REGION

1. Hon. Myra Garcia Fernandez
RTC Br. 18, Manila
2. Hon. Silvino T. Pampilo, Jr.
RTC Br. 26, Manila
3. Hon. Nina G. Antonio-Valenzuela
RTC Br. 28, Manila

REGION I

1. Hon. Elpidio M. Abella
RTC Br. 55, Alaminos, Pangasinan

REGION III

1. Hon. Irin Zenaida S. Buan
RTC Br. 56, Angeles City, Pampanga
2. Hon. Jesusa Mylene C. Suba-Isip
RTC Br. 49, Guagua, Pampanga
3. Hon. Juanita C. Tienzo
RTC Br. 27, Cabanatuan City, Nueva Ecija

REGION V

1. Hon. Alben C. Rabe
RTC Br. 15, Tabaco, Albay

REGION VII

1. Hon. Geraldine Faith A. Econg
RTC Br. 9, Cebu City
2. Hon. Roderick A. Maxino
RTC Br. 32, Dumaguete City, Negros Oriental

REGION VIII

1. Hon. Esteban V. de la Peña
RTC Br. 40, Tarangnan, Samar

REGION X

1. Hon. Dan R. Calderon
RTC Br. 26, Medina, Misamis Oriental

C. Lateral Transfer

REGIONAL TRIAL COURT

REGION VII

1. Hon. Eric Filamor Menchavez
RTC Br. 21, Cebu City

SPECIAL FOCUS
PROGRAMSENVIRONMENTAL LAW TRAINING OF
TRAINERS SEMINAR-WORKSHOP

An *Environmental Law Training of Trainers Seminar-Workshop with Experiential Learning* was conducted by PHILJA, in partnership with The Asia Foundation (TAF) and the United States Asia Environmental Partnership (USAEP) Program, on October 13 to 15, 2004, at the PHILJA Development Center, Tagaytay City. This multi-sectoral seminar is part of the project on Building Court Capacity to Handle Environmental Law Cases Through Curriculum Development, in recognition of PHILJA's efforts in working with civil society groups to help advance common environmental objectives. A total of twenty-eight (28) participants attended the seminar, comprising eighteen (18) judges, four (4) prosecutors, four (4) lawyers from the Department of Environment and Natural Resources, and two (2) lawyers from NGOs.

The seminar provided a forum for judges to learn more about emerging issues in environmental law, particularly concerning R.A. No. 8749 (Clean Air Act), R.A. No. 9275 (Clean Water Act), and R.A. No. 9003 (Ecological Solid Waste Management Act). The judges are expected to conduct echo-seminars nationwide, and they already outlined a training manual for this purpose.

An experiential learning component of the program was a field trip to the Tagaytay Materials Recovery Facility, where the Tagaytay City Hall Personnel prepared a brief presentation on the Solid Waste Management Program of Tagaytay.



From left: Associate Justice Reynato S. Puno, Chancellor Ameurfina Melencio Herrera and Prof. Sedfrey M. Candelaria awarding the certificates during the *Environmental Law Training of Trainers Seminar Workshop with Experiential Learning*.



SPECIAL FOCUS PROGRAMS

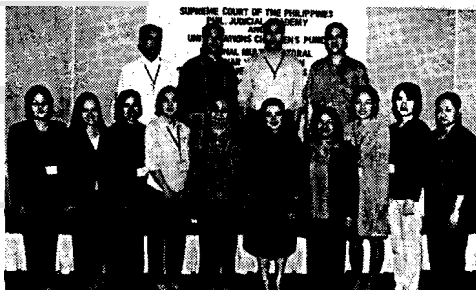
ANTI-MONEY LAUNDERING PROJECT

A project on anti-money laundering was successfully conducted by the Academy, in coordination with the Asian Development Bank (ADB), United States Agency for International Development (USAID), The Asia Foundation (TAF), American Bar Association (ABA), U.S. Department of Justice, and the Anti-Money Laundering Council (AMLC). The project consisted of two (2) aspects: *first*, the *Discussion Session on Anti-Money Laundering for the Court of Appeals and Sandiganbayan Justices* held on October 26, 2004, at the Court of Appeals Session Hall. This was attended by forty-seven (47) participants from the Court of Appeals and twelve (12) participants from Sandiganbayan. *Second*, the *Seminar-Workshop on Anti-Money Laundering* held on October 27 to 29, 2004, at the Lopez Center, Antipolo City. This was attended by forty-five (45) Commercial Court judges and one (1) judge from the Regular Court. The project aimed at providing participants a deeper understanding of money laundering and how it operates and, thus, help them develop their capability in handling money laundering cases.



Participants during the *Seminar Workshop on Anti-Money Laundering* held on October 27 to 29 2004, at the Lopez Center, Antipolo City.

Justice Minita V. Chico-Nazario (center) with Justice Alicia V. Sempio-Diy, Prof. Sedfrey M. Candelaria and Family Court Judges from Manila and Quezon City.



TWO REGIONAL MULTI-SECTORAL SEMINAR-WORKSHOPS ON JUVENILE AND DOMESTIC RELATIONS JUSTICE

PHILJA, in cooperation with the United Nations Children's Fund (UNICEF), conducted the *1st and 2nd Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level)*.

The *1st regional seminar-workshop* was conducted on October 27 to 29, 2004, at CSB Hotel, Malate, Manila. This was attended by seventy-one (71) participants from the Family Courts of Manila and Quezon City, comprising ten (10) judges, thirteen (13) branch clerks of court, twelve (12) Public Attorney's Office (PAO) lawyers, thirteen (13) prosecutors, twelve (12) court social workers, three (3) Philippine National Police (PNP) officers, four (4) Bureau of Jail Management and Penology (BJMP) officers, and four (4) Commission on Human Rights (CHR) representatives.

The *2nd regional seminar-workshop* was conducted on November 17 to 19, 2004, at the City Garden Suites, Manila. This was attended by fifty-five (55) participants from the Family Courts of Pasay, Pasig and Makati Cities, comprising eight (8) judges, eleven (11) branch clerks of court, sixteen (16) court social workers, two (2) prosecutors, twelve (12) PAO lawyers, three (3) PNP officers, and three (3) BJMP officers.

Hon. Minita V. Chico-Nazario, Associate Justice of the Supreme Court of the Philippines, in her Inspirational Message in the *1st multi-sectoral seminar-workshop*, stressed that women and children suffer the most as victims of the breakdown of family life in our society and our laws and rules of procedure are intended primarily to shelter them from this cruelty.

Hon. Angelina Sandoval-Gutierrez, Associate Justice of the Supreme Court of the Philippines, in her Inspirational Message in the *2nd multi-sectoral seminar-workshop*, highlighted that child abuse, wife-beating, incest, neglect, and sexual abuse are some of the facets of family violence, the maladies that justify State intervention to what was previously considered as impenetrable "family matters," the maladies that the judges, branch clerks of court, prosecutors, PAO lawyers, social workers, members of the PNP, and the BJMP officers will be curing.



SPECIAL FOCUS PROGRAMS

SYMPOSIUM ON THE NEW CODE OF JUDICIAL CONDUCT

A *Symposium on the New Code of Judicial Conduct* was held on November 11 to 12, 2004, at the Eugenio Lopez Center, Antipolo City. This symposium was conducted by the Academy as the lead implementing office, in cooperation with the American Bar Association (ABA)-Asia Law Initiative, U.S. Agency for International Development (USAID), and the Philippine Association of Law School Deans. A total of thirty-five (35) participants, comprising five (5) Regional Trial Court judges, five (5) Metropolitan Trial Court judges, and twenty-four (24) law professors from Regions I, IV, V, VI, VII, VIII, X, XII, and the National Capital Judicial Region.

Mr. Paul J. Simonett, Resident Advisor-Philippines of the American Bar Association (ABA)-Asia Law Initiative, delivered the Greetings. In his message, he congratulated the Supreme Court and the Chief Justice for adopting the "New Code of Judicial Conduct for the Philippine Judiciary" and the "Code of Conduct for Court Personnel." He further explained that the partnership of ABA with PHILJA is part of the support project for the advancement of the Rule of Law in Asia.

The symposium's Keynote Address was delivered by Chief Justice Hilario G. Davide, Jr. He said that with the effectivity of the new code, the law schools and law professors would provide a training ground for ethics and values since the learning on values and conduct should begin not only with judges, but with aspiring lawyers, with the law schools helping in instilling the ethical values and virtues to young lawyers. He emphasized that focusing on values will assure a "Golden Age" for the Philippine Judiciary and a "Renaissance" for law professors.



CA Mediation Project Curriculum Review Workshop conducted on October 12, 2004, at the Pan Pacific Hotel, Manila.



ON MEDIATION

TWO BATCHES OF MEDIATOR RECOGNITION AND WORKSHOP ON CORE COMPETENCIES

The Academy's Philippine Mediation Center, in collaboration with the National Judicial Institute of Canada, successfully conducted two (2) batches of *Mediator Recognition and Workshop on Core Competencies*. The first batch was held on October 11, 2004, at the Negros for Women Foundation, Bacolod City. The second batch was held on October 12, 2004, at the Patrias Restaurant, San Fernando City, Pampanga. In Bacolod, there were fifty-eight (58) participants, consisting of eight (8) judges, one (1) court personnel, thirty-eight (38) mediators, and eleven (11) other stakeholders. In Pampanga, there were fifty-six (56) participants, consisting of ten (10) judges, two (2) court personnel, thirty-four (34) mediators, and ten (10) other stakeholders.

There were lectures and workshops on core competencies for mediators, methodologies on performance management measures, and presentation on the new PMC process flow, forms, and structure. The program also highlighted the awarding of provisional authority/certificates to mediators.

UPDATES ON APPELATE COURT MEDIATION

PHILJA, in collaboration with the Philippine Mediation Center (PMC) and in cooperation with the United States Agency for International Development (USAID) and The Asia Foundation (TAF), successfully implemented several programs under the Court of Appeals (CA) Mediation Project for the last quarter of 2004:

CA Mediation Project Curriculum Review Workshop

The *Court of Appeals Mediation Project Curriculum Review Workshop* was conducted on October 12, 2004, at the Pan Pacific Hotel, Manila. This was attended by a total of twenty-five (25) participants, comprising six (6) Alternative Dispute Resolution Committee members, five (5) CA mediators who already underwent the Trainers' Training program, six (6) CA Mediation Trainers who are not CA mediators, five (5) CA mediators, two (2) mediation trainers for

Trial Court mediation, and a curriculum expert from the University of the Philippines.

A major objective of this workshop was the creation of a prototype mediation training program relevant to the Philippine culture. Justice Antonio M. Martinez, PHILJA Vice-Chancellor, delivered the Welcome Remarks. He encouraged the participants to make an honest assessment of the existing mediation curriculum and identify possible areas for improvement, and further stressed the need to expand horizons to produce "world-class" court-annexed mediators and a mediation curriculum effective for the Philippine situation.

Orientation for New CA Mediators

Sixty (60) newly recruited CA Mediators attended the *Orientation Meeting* on October 15, 2004, at the Pan Pacific Hotel, Manila. The new recruits were composed of five (5) retired Court of Appeals justices, ten (10) retired judges, twenty-four (24) senior law practitioners, and twenty-one (21) senior law professors.

CA Mediation Faculty Workshop

The *Court of Appeals Mediation Faculty Workshop* was conducted on October 21, 2004, at the Pan Pacific Hotel, Manila. This was attended by twenty-one (21) members of the CA Mediation Faculty.

Skills Building for New CA Mediators

Two (2) batches of *Mediation Skills Building Workshop for Court of Appeals Mediators (Orientation Workshop for New Court of Appeals Mediators)* were held in November. The first batch was conducted on November 8 to 10 and the second batch on November 16 to 18, 2004, at the Pan Pacific Hotel, Manila. A total of twenty-nine (29) and twenty-one (21) participants attended the first and second batches respectively.



The 1st batch of participants in the *Mediation Skills Building Workshop for Court of Appeals Mediators* held last November 8 to 10, 2004, at the Pan Pacific Hotel, Manila.



CONVENTIONS

4TH PTJLI ANNUAL CONVENTION

The 4th Annual Convention and Seminar of the Philippine Trial Judges League, Inc. (PTJLI), held on October 14 to 16, 2004, at the Casablanca Hotel, Legaspi City, carried the theme "A Commitment to Serve in the Interest of Justice and Community." There were a total of one hundred fifty (150) First Level Trial Court judges who attended the convention.

Part of the convention's seminar activities were lectures on the New Code of Judicial Conduct for the Philippine Judiciary and the Code of Conduct for Court Personnel; Mediation: Concept, Rules, and Procedure; Summary Procedure (Applicability in B.P. 22 Cases); Preliminary Investigation, Search Warrants and Warrants of Arrest; Computation of Penalties; and Crimes Punished by Special Laws, as requested by the PTJLI.

PJA CONVENTION

The Philippine Judges Association (PJA) conducted its convention and seminar on October 20 to 22, 2004, at the Amigo Terrace Hotel, Iloilo City. The convention's theme for the year was "A Responsive Judiciary: Essential to Democracy." This was attended and well represented by judges from the thirteen (13) judicial regions, with twenty-two (22) judges from Region I, thirteen (13) judges from Region II, thirty-seven (37) judges from Region III, thirty-six (36) judges from Region IV, twenty-two (22) judges from Region V, fifty (50) judges from Region VI, twenty-nine (29) judges from Region VII, twenty-one (21) judges from Region VIII, eleven (11) judges from Region IX, eleven (11) judges from Region X, twenty-one (21) judges from Region XI, six (6) judges from Region XII, and one hundred nine (109) judges from the National Capital Judicial Region, or a total of three hundred eighty-eight (388) judges.

Judge Romeo F. Barza, Jr., PJA President, delivered the Opening Remarks. His message was reflective of the convention's theme and he emphasized that the biggest problem confronting the judges is stress. Thus, the scheduled convention provided one whole day of relaxation through a sportsfest held on the first day of the convention.

Chief Justice Hilario G. Davide, Jr. gave the Keynote Address. In his speech, he reiterated the vision of the Davide Watch - a Judiciary that is responsible, independent, and credible. He likewise highlighted the projects under the Action Program for Judicial Reform, recalled the anniversary of the impeachment case against him, and noted that his term will end in thirteen (13) months and thirty three (30) days. The Chief Justice reminded the participants that there is no such thing as problems, only situations. He encouraged the judges to be responsive to the issues of the times.

Senate President Franklin Drilon, in his Address, assured the participants of his support for the proposals to increase the retirement benefits of judges. He likewise emphasized the need to make the position of judges attractive to lawyers, thus, the enactment of R.A. 9227 (An Act Granting Additional Compensation in the Form of Special Allowances for Justices, Judges, and All Other Positions in the Judiciary with the Equivalent Rank of Justices of Court of Appeals and Judges of the Regional Trial Court, and for Other Purposes).

MCJAP'S CONVENTION

Ninety-six (96) MeTC and MTCC judges attended the *Convention and Seminar of the Metropolitan and City Judges Association of the Philippines (MCJAP)*, on November 16 to 19, 2004, at Fort Ilocandia Hotel, Laoag City, Ilocos Norte. The participants were composed of fifty-three (53) Municipal Trial Court in Cities judges and forty-three (43) Metropolitan Trial Court judges.

PROSAPHIL'S 5TH CONVENTION

The 5th *Convention and Seminar of the Process Servers Association of the Philippines (PROSAPHIL)* was conducted on November 25 to 27, 2004, at the Baguio Convention Center, Baguio City. Four hundred forty (440) process servers attended the said convention, with overwhelming delegations from the thirteen (13) judicial regions. The participants were composed of sixty-six (66) representatives from Region I, twenty-one (21) from Region II, eighty-four (84) from Region III, fifty-four (54) from Region IV, thirty-five (35) from Region V, seventeen (17) from Region VI, two (2) from Region VII, twenty-one (21) from Region VIII, seventeen (17) from Region IX, one (1) from Region X, four (4) from Region XI, eight (8) from Region XII, six (6) from Region XIII, and ninety-four (94) from the National Capital Judicial Region.



ON PHILJA

STUDY TOUR OF DELEGATES OF THE ROYAL SCHOOL FOR JUDGES AND PROSECUTORS OF THE KINGDOM OF CAMBODIA

The Academy, in cooperation with the Asia-Pacific Judicial Educators Forum (APJEF), hosted a five-day *Study Tour of Delegates of the Royal School for Judges and Prosecutors of the Kingdom of Cambodia* on October 25 to 29, 2004, at PHILJA Conference Room. Several activities were prepared for the ten (10) Cambodian delegates. Included in the program were their visit to the Supreme Court, Court of Appeals, Regional Trial Court Branch 48 of Manila, and the PHILJA Offices.

LAUNCHING OF THE e-LEARNING PROJECT

PHILJA, in partnership with the United States Agency for International Development (USAID), The Asia Foundation (TAF), Asian Development Bank (ADB), and CrimsonLogic, conducted the *Launching and Demonstration of the e-Learning Pilot Project for the Judiciary* on December 1, 2004, at the Hyatt Regency Hotel, Pasay City. A ceremonial turn-over of the box containing a wireless mouse (which symbolized the grant) was made before the formal launching. The donor agencies represented by Mr. Daryl Veal of USAID and Dr. Steven Rood of TAF handed the box to Chief Justice Hilario G. Davide, Jr. and Justice Ameurfina A. Melencio Herrera. The Chief Justice used the mouse to log-in to the modules, marking the successful launching of the e-Learning Pilot Project for the Judiciary.

Currently, the Academy is pilot testing e-learning modules on the Rules on Electronic Evidence and Psychological Incapacity in Marriage online to one hundred five (105) judges with computer and internet facilities nationwide. Justice Alicia V. Sempio-Diy, Senior DCA Zenaida N. Elepaño, and Prof. Melencio S. Sta. Maria, Jr. provided the course contents of the Psychological Incapacity in Marriage module, while Atty. Ivan John E. Uy provided the course contents of the Rules on Electronic Evidence module.

Chief Justice Davide gave the Keynote Address, citing that in the future he envisions the Court to be an online Judiciary and PHILJA to be an e-Academy by the time he retires in December 2005.

CIVIL LAW

Solemn contracts are perfected only upon compliance with the legal formalities under Articles 748 and 749 of the New Civil Code.

Unlike ordinary contracts which are perfected by the concurrence of the requisites of consent, object and cause pursuant to Article 1318 of the Civil Code, solemn contracts like donations are perfected only upon compliance with the legal formalities under Articles 748 and 749. Otherwise stated, absent the solemnity requirements for validity, the mere intention of the parties does not give rise to a contract. The oral donation in the case at bar is, therefore, legally inexistent and an action for the declaration of the inexistence of a contract does not prescribe. (*Ynares-Santiago, J., Felomina Abellana v. Spouses Romeo Ponce and Register of Deeds of Butuan City*, G.R. No. 160488, September 3, 2004)

Unjust enrichment claim; its elements.

In order that *accion in rem verso* may prosper, the essential elements must be present: (1) that the defendant has been enriched; (2) that the plaintiff has suffered a loss; (3) that the enrichment of the defendant is without just or legal ground; and (4) that the plaintiff has no other action based on contract, quasi-contract, crime or quasi-delict.

An *accion in rem verso* is considered merely as an auxiliary action, available only when there is no other remedy on contract, quasi-contract, crime, and quasi-delict. If there is an obtainable action under any other institution of positive law, that action must be resorted to and the principle of *accion in rem verso* will not lie. (*Callejo, Sr., J., U.P. v. Philab Industries, Inc.*, G.R. No. 152411, September 29, 2004)

The concept of Implied-in-Fact Contract.

A contract implied-in-fact is one implied from facts and circumstances showing a mutual intention to contract. It arises where the intention of the parties is not expressed, but an agreement in fact creating an obligation. It is a contract, the existence and terms of which are manifested by conduct and not by direct or explicit words between parties, but is to be deduced from conduct of the parties, language used, or things done by them, or other pertinent circumstances attending the transaction. To create contracts implied in fact, circumstances must warrant inference that one expected compensation and the other to pay. An implied-in-

fact contract requires the parties' intent to enter into a contract; it is a true contract. The conduct of the parties is to be viewed as a reasonable man would view it, to determine the existence or not of an implied-in-fact contract. The totality of the acts/conduct of the parties must be considered to determine their intention. An implied-in-fact contract will not arise unless the meeting of minds is indicated by some intelligent conduct, act or sign. (*Callejo, J., U.P. v. Philab Industries, Inc.*, G.R. No. 152411, September 29, 2004)

REMEDIAL LAW

The two aspects of the doctrine of *res judicata*.

In *Lopez v. Reyes*, 76 SCRA 179, the Supreme Court held that the doctrine of *res judicata* has two (2) aspects. The *first*, known as "bar by prior judgment," is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The *second*, known as "conclusiveness of judgment," precludes the relitigation of a particular fact or issue in another action between the same parties on a different claim or cause of action. Elucidating on the second aspect of the doctrine; the Court said:

The general rule precluding the relitigation of material facts or questions which were in issue and adjudicated in former action are commonly applied to all matters essentially connected with the subject matter of the litigation. Thus, it extends to questions "necessarily involved in an issue, and necessarily adjudicated, or necessarily implied in the final judgment, although no specific finding may have been made in reference thereto, and although such matters were directly referred to in the pleadings and were not actually or formally presented. Under this rule, if the record of the former trial shows that the judgment could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties, and if a judgment necessarily presupposes certain premises, they are as conclusive as the judgment itself. Reasons for the rule are that a judgment is an adjudication on all matters which are essential to support it, and that every proposition assumed or decided by the

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CIVIL LAW

Distinction between an action for annulment of contract, and an action for declaration of nullity of contract.

An action for annulment of contract is one filed where consent is vitiated by lack of legal capacity of one of the contracting parties, or by mistake, violence, intimidation, undue influence or fraud. By its very nature, annulment contemplates a contract which is voidable, that is, valid until annulled and set aside by a court of law. It may be ratified. An action for annulment of contract has a four (4) year prescriptive period.

On the other hand, an action for declaration of nullity of contract presupposes a void contract or one where all the requisites prescribed by law for contracts are present, but the cause, object or purpose is contrary to law, morals, good customs, public order or public policy, prohibited by law, or declared by law to be void. Such contract, as a rule, produces no legal and binding effect even if it is not set aside by direct legal action. Neither may it be ratified. An action for the declaration of nullity of contract is imprescriptible. (*Corona, J., Restituto Leonardo v. Court of Appeals, et al., G.R. No. 125485, September 13, 2004*)

Children; types of illegitimate children; custody and parental authority over illegitimate children.

Previously, under the provisions of the Civil Code, illegitimate children were generally classified into two (2) groups: (1) Natural, whether actual or by legal fiction; and (2) Spurious, whether incestuous, adulterous or illicit. A natural child is one born outside a lawful wedlock of parents who, at the time of conception of the child, were not disqualified by any impediment to marry each other. On the other hand, a spurious child is one born of parents who, at the time of conception, were disqualified to marry each other on account of certain legal impediments.

Parental authority over recognized natural children who were under the age of majority was vested in the father or the mother recognizing them. If both acknowledge the child, authority was to be exercised by the one to whom it was awarded by the courts; if it was awarded to both, the rule as to

legitimate children applied. In other words, in the latter case, parental authority resided jointly in the father and the mother.

The fine distinctions among the various types of illegitimate children have been eliminated in the Family Code. Now, there are only two classes of children – legitimate (and those who, like the legally adopted, have the rights of legitimate children) and illegitimate. All children conceived and born outside a valid marriage are illegitimate, unless the law itself gives them legitimate status.

Article 54 of the Code provides these exceptions:

Children conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate. Children conceived or born of the subsequent marriage under Article 53 shall likewise be legitimate.

Under Article 176 of the Family Code, all illegitimate children are generally under one category, without any distinction between natural and spurious. The concept of “natural child” is important only for purposes of legitimation. Without the subsequent marriage, a natural child remains an illegitimate child.

Not to be ignored in Article 213 of the Family Code is the caveat that, generally, no child under seven (7) years of age shall be separated from the mother, except when the court finds cause to order otherwise.

Only the most compelling of reasons, such as the mother’s unfitness to exercise sole parental authority, shall justify her deprivation of parental authority and the award of custody to someone else. The following grounds have been considered ample justification to deprive a mother of custody and parental authority: neglect or abandonment, unemployment, immorality, habitual drunkenness, drug addiction, maltreatment of the child, insanity, and affliction with a communicable disease. (*Panganiban, J., Joey D. Briones v. Maricel Miguel, et al., G.R. No. 156343, October 18, 2004*)



POLITICAL LAW

Eminent domain; limitations on the exercise of the power of eminent domain by local government units in the implementation of R.A. 7279, the Urban Land Reform Law.

Condemnation of private lands in an irrational or piecemeal fashion, or the random expropriation of small lots to accommodate no more than a few tenants or squatters is certainly not the condemnation for public use contemplated by the Constitution. This is depriving a citizen of his property for the convenience of a few without perceptible benefit to the public.

R.A. 7279 is the law that governs the local expropriation of property for purposes of urban land reform and housing. Section 9 and 10 thereof provide:

Sec. 9. Priorities in the Acquisition of Land.

– Lands for socialized housing shall be acquired in the following order:

- a. Those owned by the Government or any of its subdivisions, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries;
- b. Alienable lands of the public domain;
- c. Unregistered or abandoned and idle lands;
- d. Those with the declared Areas of Priority Development, Zonal Improvement Program sites, and Slum Improvement and Resettlement Program sites which have not yet been acquired;
- e. Bagong Lipunan Improvement of Sites and Services or BLISS which have not yet been acquired; and
- f. Privately owned lands.

Where on-site development is found more practicable and advantageous to the beneficiaries, the priorities mentioned in this section shall not apply. The local government units shall give budgetary priority to on-site development of government lands. *(Emphasis supplied).*

SEC. 10. Modes of Land Acquisition. – The modes of acquiring lands for purposes of this Act shall include, among others, community mortgage, land swapping, land assembly or consolidation, land banking, donation to the Government, joint venture agreement, negotiated purchase, and expropriation; Provided, however, that expropriation shall be resorted to only when other modes of acquisition have been exhausted: Provided further, that where expropriation is resorted to, parcels of land owned by small property owners shall be exempted for purposes of this Act: xxx. *(Emphasis supplied)*

In the recent case of Estate of Heirs of the Late Ex-Justice Jose B.L. Reyes, et al. v. City of Manila, the Supreme Court ruled that the above-quoted provisions are strict limitations on the exercise of the power of eminent domain by local government units, especially with respect to: (1) the order of priority in acquiring land for socialized housing, and (2) the resort to expropriation proceedings as a means to acquiring it. Private lands rank last in the order of priority for purposes of socialized housing. In the same vein, expropriation proceedings may be resorted to only after the other modes of acquisition are exhausted. Compliance with these conditions is mandatory because these are the only safeguards of oftentimes helpless owners of private property against what may be a tyrannical violation of due process when their property is forcibly taken from them allegedly for private use. (*Corona, J., Diosdado Lagcao, et al. v. Judge Generosa Labra, RTC Cebu, G.R. No. 155746, October 13, 2004*)

CRIMINAL LAW

The concept of possession of prohibited drugs.

In *People v. Tira*, the Supreme Court explained the concept of possession of regulated drugs, to wit:

This crime is *mala prohibita*, and as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession

(Continued on next page)

CRIMINAL LAW *(continued)*

or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.

Thus, conviction need not be predicated upon exclusive possession, and a showing of non-exclusive possession would not exonerate the accused. Such fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. However, the prosecution must prove that the accused had knowledge of the existence of the presence of the drug in the place under his control and dominion, and the character of the drug. Since knowledge by the accused of the existence and character of the drug in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the dangerous drug is in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation. (*Austria-Martinez, J., People v. Eden del Castillo*, G.R. No. 153254, September 30, 2004)

**COMMERCIAL LAW****Notice of claim for loss or damage to goods.**

When a contract of carriage has a stipulation that requires a notice of claim for loss of or damage to goods shipped and the stipulation is not complied with, its enforcement can be prevented and the liability cannot be imposed on the carrier. To stress, notice is a condition precedent and the carrier is not liable if notice is not given in accordance with the stipulation. Failure to comply with such a stipulation bars recovery for the loss or damage suffered. Being a condition precedent, the notice must precede a suit for enforcement. (*Panganiban, J., Federal Express Corp. v. American Home Assurance, et al.*, G.R. No. 150094, August 18, 2004)

ADMINISTRATIVE LAW**DILG Secretary has no control over the Liga ng mga Barangay.**

As the entity exercising supervision over the Liga ng mga Barangay, the DILG's authority over the Liga is limited to seeing to it that the rules are followed, but it cannot lay down such rules itself, nor does it have the discretion to modify or replace them. The most that the DILG could do is to review the acts of the incumbent officers of the Liga to determine if they committed any violation of the Liga's Constitution and By-Laws and implementing rules.

Like the LGUs, the Liga ng mga Barangay is not subject to control by the Chief Executive or his alter ego. (*Tinga, J., The National Liga ng mga Barangay v. Hon. Victoria Isabel Paredes, RTC Judge Caloocan City, and DILG*, G.R. No. 130775, September 27, 2004)

**AGRARIAN LAW****Jurisdiction of RTC over agrarian reform matters.**

The Regional Trial Courts have not been completely divested of jurisdiction over agrarian reform matters. Section 56 of R.A. 6657 confers special jurisdiction on "Special Agrarian Courts," which are actually RTCs designated as such by the Supreme Court. Under Section 57 of the same law, the Special Agrarian Courts have original and exclusive jurisdiction over:

1. All petitions for the determination of just compensation to land-owners, and
2. The prosecution of all criminal offenses under the Act.

Administrative Circular No. 29-2002 of the Supreme Court stresses the distinction between the quasi-judicial powers of the Department of Agrarian Reform (DAR) under Sections 50 and 55 of R.A. 6657 and the jurisdiction of the Special Agrarian Courts referred to by Sections 56 and 57 of the same law. (*Panganiban, J., DAR v. Roberto Cuenca and Hon. Alfonso Combong, Judge, La Carlota City RTC*, G.R. No. 154112, September 23, 2004)

REMEDIAL LAW (continued from page 9)

court leading up to the final conclusion and upon which such conclusion is based is as effectually passed upon as the ultimate question which is finally solved. (*Callejo, Sr., J., National Housing Authority v. Pedro Baello and his heirs, et al.*, G.R. No. 143230, August 20, 2004)

Search warrant; what probable cause means.

Probable cause means such reasons, supported by facts and circumstances as will warrant a cautious man in the belief that his action and the means taken in prosecuting it are legally just and proper. Thus, probable cause for a search warrant requires such facts and circumstances that would lead a reasonably prudent man to believe that an offense has been committed and the objects sought in connection with that offense are in the place to be searched.

The judge determining probable cause must do so only after personally examining under oath the complainant and his witnesses. The oath required must refer to the truth of the facts within the personal knowledge of the petitioner or his witnesses, because the purpose thereof is to convince the committing magistrate, not the individual making the affidavit and seeking the issuance of the warrant, of the existence of probable cause. The applicant must have personal knowledge of the circumstances. "Reliable information" is insufficient. Mere affidavits are not enough, and the judge must depose in writing the complainant and his witnesses. (*Carpio, J., Microsoft Corporation v. Maxicorp., Inc.*, G.R. No. 140946, September 13, 2004)

From the Chancellor's Desk (Continued from page 1)

Two (2) batches of RJCEP programs were conducted in the NCJR with judges introduced to the newly launched e-Library and research facilities. The faculty made use of different teaching methodologies or a mix of lectures, workshops, audio-visuals, and the Q-A method.

The 34th Orientation Program welcomed fifty-one (51) newly appointed judges, thirteen (13) of whom had taken the PJP. One had failed, but was appointed as well.

Special Focus Programs included a Symposium on the New Code of Judicial Conduct under the sponsorship of ABA-Asia, which was attended by judges, law professors, and members of the Philippine Association of Law Schools (PALS). In his message, Chief Justice Davide emphasized that the learning of values and conduct should begin not only with judges, but also with aspiring lawyers, with law schools helping in instilling ethical values and virtues in young lawyers.

With UNICEF as development partner, a 2nd Multi-Sectoral Family Courts Seminar on Juvenile and Domestic Relations Justice (Advanced Level) was held by the Department of Special Areas of Concerns, which adopted both the informative approach and the use of case studies.

Profitability ratings by participants of the different training programs continue to be encouragingly high.

Convention-seminars were held by four (4) associations of judges and court personnel, with the seminar components fully attended to by the Academic Affairs Office.

With 7,000 cases settled by mediation since its inception in 2001, capacity-building measures for the Philippine Mediation Center are being attended to.

Court-Annexed Mediation (CAM) activities led by the Court of Appeals Mediation Project continued unabated.

Attendance at the Conference of the International Organization for Judicial Training (IOJT), hosted by the National Judicial Institute of Canada, which included a Symposium on Social Context Education, was enriching in course content and resource materials.

For the year, PHILJA has given its utmost and it has achieved.

Warmest greetings to our supporters, partners and friends as we move away from an eventful year to a brand new one which, hopefully, would be of equal promise.

CASE DIGESTS ON FAMILY LAW

By: Justice Alicia V. Sempio-Diy
PHILJA Professor

1. Application for habeas corpus by father Richard Brian Thornton in behalf of child Sequeira Thornton, August 16, 2004, G.R. No. 154598 (J. Corona)

Facts: Petitioner and respondent were married on August 28, 1998, out of which marriage the subject child was born. Later, respondent wanted to return to her old job as "guest relations officer" and would go out with friends every time petitioner was out of the country, leaving their daughter in the care of the house-help, which she continued to do in spite of petitioner's admonition for her to stop doing the same. Still later, she left the family home with their daughter without informing petitioner. Petitioner then filed a petition for *habeas corpus* with the Court of Appeals, not knowing where respondent was, but the Court of Appeals denied the petition on the ground that under R.A. 8369, impliedly amending R.A. 1902 and B.P. 129, Family Courts have exclusive jurisdiction over such petitions.

Issue: Did the Court of Appeals err in holding that it had no jurisdiction over the case?

Held:

The Court of Appeals' opinion that R.A. 8369 gives exclusive jurisdiction to Family Courts over *habeas corpus* cases will result in an iniquitous situation, leaving individuals like petitioners without legal recourse in obtaining custody of their children. Individuals who do not know the whereabouts of minors they are looking for would be helpless since they cannot seek redress from Family Courts whose writs are enforceable only in their respective territorial jurisdiction. The primordial interest being the welfare and best interests of the child, the rule should be that R.A. 8369 did not divest the Court of Appeals and the Supreme Court of concurrent jurisdiction over *habeas corpus* cases involving custody of minors.

Requiring the serving officer to search for the child all over the country is not an unreasonable availment of a remedy, since such

task is no different from the duty of a peace officer in effecting a warrant of arrest anywhere within the Philippines.

2. Tribiana v. Tribiana, September 13, 2004, G.R. No. 137359 (J. Carpio)

Facts: Edwin and Lourdes have lived together since 1996, but formalized their union only on October 28, 1997. On April 30, 1998, Lourdes filed a petition for *habeas corpus* before the RTC, claiming that Edwin left their conjugal home with their child who was only one (1) year and four (4) months, depriving her of the child's lawful custody. It turned out that the child was being held by Edwin's mother. Edwin moved to dismiss the petition on the ground that it failed to allege that earnest efforts at a compromise were made before it was filed, as required by Art. 151 of the Family Code. The RTC denied Edwin's motion to dismiss on the ground that Lourdes had attempted to reach a compromise with Edwin before the *barangay*, but failed. The Court of Appeals upheld the RTC.

Issue: Is Art. 151 of the Family Code applicable to this case?

Held:

- a. In a *habeas corpus* proceeding involving the welfare and custody of a child of tender age, the paramount concern is to resolve immediately the issue of who has legal custody of the child so that technicalities should not stand on the way of giving such child full protection.
- b. *Barangay* conciliation required under Sec. 412 of the Local Government Code does not apply to *habeas corpus* proceedings where a person is "deprived of personal liberty." There is deprivation of personal liberty warranting a petition for *habeas corpus* where the "rightful custody of any person is withheld from the person entitled thereto."
- c. Besides, failure of a party to comply with a condition precedent is not a jurisdictional defect, which defect may be waived by failure to file a motion to dismiss or it can be cured by amendment of the complaint. Failure to comply with Art. 151 of the Family Code is not a jurisdictional defect, but only a failure to comply with a condition precedent. In fact, Lourdes had complied with Art. 151 of

said Code when she attached a *Barangay* Certificate to File Action to her petition, which Edwin does not dispute.

3. **Dapar v. Biascan, September 27, 2004, G.R. No. 141880 (J. Callejo)**

Facts: Gloria Biascan and Mario Biascan are legally married and have four (4) children. Mario worked in Saudi Arabia where he met Zenaida Dapar, a domestic helper, and they became lovers. Zenaida and Mario both returned to the Philippines and lived together in Valenzuela, Metro Manila. They opened a joint bank account with the Philippine National Bank and later bought a parcel of land on installment in the name of "Spouses Mario Biascan and Zenaida Biascan." When the property was fully paid, title was issued in the names of "Spouses Mario Biascan and Zenaida Biascan."

In November 1993, Gloria Biascan filed a complaint against Zenaida for the annulment of the title over the land in question, reconveyance, and damages, with the RTC of Caloocan City. Zenaida moved to dismiss the case on the ground, among others, that she had earlier filed an action for partition over the same land with another branch of the RTC of Caloocan City; that she was declared a co-owner of half of said property in the case; and that the decision had already become *res judicata*. After trial, the RTC ruled in favor of Zenaida, applying Art. 148 of the Family Code. On appeal, the Court of Appeals reversed the decision of the RTC, declaring the title of Mario and Zenaida over the land in question null and void, and ordering Zenaida to reconvey in favor of Gloria half undivided portion of the property in question.

Issues:

- a. Is Gloria entitled to damages because of Zenaida's use of the surname "Biascan"?
- b. Is the Court of Appeals correct in reversing the RTC decision in favor of Gloria?

Held:

- a. Zenaida is not guilty of usurpation of name under Art. 311 of the Civil Code because it was Mario who allowed her to use his surname. The mere use of a surname cannot be enjoined. It is the use thereof coupled with the representation that one is the lawful wife, or the usurpation of the wife's status,

which gives rise to an action for damages. Gloria did not claim that Zenaida attempted to impersonate her.

- b. Gloria's action is already barred by the decision of the RTC of Caloocan City in CC No. C-259 founded on the principle of *res judicata*.

4. **Abalos v. Dr. Macatangay, Jr., September 30, 2004, G.R. No. 155043 (J. Tinga)**

Facts: The Abalos spouses were married before the effectivity of the Family Code. They acquired a parcel of land in Makati City, which the husband bound himself to sell to respondent Macatangay in 1989. Ostensibly, a marital squabble was brewing between the spouses. The wife on her part gave a Special Power of Attorney to her sister relative to the transfer of the subject property to respondent who, in behalf of the wife, sold her conjugal interest of half of the property to said respondent. Later, respondent filed an action for specific performance with damages against the Abalos spouses to compel them to sell the subject property in question to him. The RTC dismissed the complaint, which decision the Court of Appeals reversed on appeal, said appellate Court holding that both spouses had validly disposed of their respective one-half shares over the subject property to respondent.

Issue: Is the sale of the subject property by the spouses to respondent of their respective one-half shares thereof valid?

Held:

- a. The spouses, having been married before the effectivity of the Family Code, and there being no indication that they have adopted a different property regime, their property relations would automatically be covered by the regime of conjugal partnership of gains. Hence, the subject land forms part of their conjugal partnership.
- b. Prior to the liquidation of the conjugal partnership, the interest of each spouse in the conjugal assets is inchoate, a mere expectancy, and does not ripen into title until it appears that there are assets in the partnership as a result of the liquidation and settlement. Thus, the rights of the husband or wife to half of the conjugal assets does not vest until the dissolution and liquidation of the conjugal partnership.

- c. Even on the supposition that the parties only disposed of their respective shares in the property in question, the sale to respondent is still void, for the right of the husband or the wife to half of the conjugal assets does not vest until the liquidation of the conjugal assets.

Hence, respondent's action for specific performance must fail.

5. Briones v. Miguel, et al., October 18, 2004, G.R. No. 156343 (J. Panganiban)

Facts: The boy Michael Kevin Pineda, eight (8) years old, is the illegitimate child of petitioner Joey D. Briones and Loretta P. Miguel. The latter is now married to a Japanese national and living in Japan. However, the boy, Michael, was brought to Manila and remained in the care of his paternal grandparents until his mother came to the Philippines and obtained custody of the child. Because the father could not locate the child and the mother in the Philippines, he filed a petition for *habeas corpus* with the Court of Appeals, which, however, gave sole custody of the child to the mother, who then brought the child to Japan where he is presently studying. The father then went to the Supreme Court on a petition for review on *certiorari*.

Issue: Is the father entitled to joint custody over the subject child, so that everytime that the child is in the Philippines while his mother is in Japan, he should have custody of said child?

Held:

- a. The child in question, being illegitimate, is under the sole parental authority of his mother who, in the exercise of that authority, is entitled to keep the child in her company. Recognition of an illegitimate child by the father could be a ground for ordering the latter to give support to, but not custody of, the child. The father is, however, entitled to visitatorial rights over said child, in view of the constitutionally protected inherent and natural right of parents over their children.
- b. The Court of Appeals erred, however, in holding that the child, upon reaching ten (10) years of age, may choose the parent with whom he wants to live, as provided in Sec. 6, Rule 99, of the Revised Rules of Court, such rule being applicable only to parents of a minor who are legally separated or separated *de facto*.

6. Cabatania v. C.A. & Regodos, October 21, 2004, G.R. No. 124814 (J. Corona)

Facts: Action by child Regodos to compel Cabatania to recognize him as his illegitimate son and to give him a monthly support of P500.00.

Issue: Was the evidence presented sufficient to sustain the action?

Held:

- a. A birth certificate identifying the putative father is not competent evidence of paternity when the alleged father had no hand in its preparation.
- b. A baptismal certificate is *per se* inadmissible in evidence as proof of filiation. It serves only as evidence of the administration of the sacrament on the date specified, but not the veracity of the entries therein with respect to the child's paternity.
- c. Both the trial court and the Court of Appeals erred in brushing aside the misrepresentation of the child's mother that she was a widow. For the fact that the husband of the child's mother is living and that there is a valid subsisting marriage between them gives rise to the presumption that the child born within the marriage is legitimate even though the mother might have declared against its legitimacy or might have been sentenced as an adulteress. The presumption is grounded on the policy to protect innocent offspring from the odium of illegitimacy.
- d. In this age of genetic profiling and DNA analysis, the extremely subjective test of physical resemblance or similarity of features between the child and the alleged father will not suffice to prove paternity and filiation.
- 7. Carating-Siayngco v. Siayngco, October 27, 2004, G.R. No. 158896 (J. Chico-Nazario)**

Facts: Manuel and Juanita Siayngco, spouses, could not have children. After twenty-four (24) years of married life, Manuel filed a petition for the declaration of nullity of their marriage on the ground of Juanita's psychological incapacity. The RTC denied the petition, but on appeal by Manuel, the Court of Appeals reversed the trial court's judgment, finding that both Manuel and Juanita are psychologically incapacitated.

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SUPREME COURT

ADMINISTRATIVE CIRCULAR NO. 38-2004

PRESCRIBING UNIFORM RULES IN RECORDING THE OFFICE ATTENDANCE OF ALL OFFICIALS AND EMPLOYEES OF THE JUDICIARY

WHEREAS, Memorandum Circular No. 21, s. 1991, of the Civil Service Commission requires all employees to record their daily attendance on the proper form or, whenever possible, to have their attendance registered through the bundy clock, but allows any other means of recording attendance provided that the names and signatures of employees and their actual time of arrival at and departure from the office are indicated;

WHEREAS, several issuances had already been issued relative to office attendance such as Administrative Circular No. 10-2001 (*Strict Observance of Business Hours or Approved Official Time by Co-Terminous Personnel*); Administrative Circular No. 14-2001 (*Discontinuing the Practice of Merely Indicating in Daily Time Records the Phrase "Full-Time Service Rendered"*); Administrative Circular No. 36-2001 (*Requiring All Employees to Register Their Daily Attendance in the Chronolog Time Recorder Machine*); and Amended Memorandum Order No. 49-2003A (*Enjoining the Use of Bundy Clocks in All Courts*); and

WHEREAS, there is no uniform application among the different courts of the rules on the recording of office attendance: while employees in some courts use the daily time record (DTR, Form 48), bundy clock, or chronolog time recorder machine (CTRM) in registering their daily attendance in office, their counterparts in other courts are required to submit only a certification of service or are not required to record their daily attendance, but merely file their leave applications whenever they are absent.

NOW, THEREFORE, for consistency and uniformity in the implementation of policies on the recording of office attendance of all officials and employees in the Judiciary, the following rules shall be strictly observed:

I. Recording of Office Attendance

A. Modes of Recording Office Attendance

The daily office attendance in all courts and offices in the Judiciary shall be recorded through the bundy clock, the chronolog time recorder machine (CTRM), the daily time record

(DTR or Form 48), the certification of service (CS), or such other modes of recording as may be prescribed by this Court. Regardless of the method of recording office attendance used by each official and employee, all offices shall maintain a logbook of attendance where all officials and employees must log in chronologically by signing and indicating thereon their time of arrival at and departure from the office.

B. Supreme Court

1. All officials of the Court from the Clerk of Court and the Court Administrator to the officials with Salary Grade 29 shall have the option to use either the CTRM, the DTR, or the CS in registering their office attendance, provided that, regardless of the mode chosen, they shall sign and indicate their time of arrival and departure in the office logbook. These officials shall inform the Leave Division, Office of Administrative Services of their chosen mode of recording office attendance.
2. All co-terminous officials and employees belonging to the confidential staffs of the Chief Justice and Associate Justices shall, at the option of their respective Justices, use either the CTRM or the DTR in registering their office attendance, provided that, regardless of the mode chosen, they shall also register their attendance in the office logbook.
3. The chauffeurs of Court officials who are issued official vehicles, the shuttle bus drivers, and the security guards assigned as close-in security aides of the Justices, who, by the nature of their duties, are required to render service on irregular office hours, shall have the option to use the CTRM or the DTR in registering their office attendance, provided that they shall also register in the office logbook.
4. In the meantime that the Supreme Court offices located in the cities of Baguio and Tagaytay are not provided with bundy clocks, all employees assigned in the said offices shall continue to use the DTR and the logbook in registering their daily office attendance.

5. All other officials and employees not included in the preceding paragraphs and occupying positions with Salary Grade 28 and below, whether permanent, co-terminous or casual, shall register their daily office attendance through the CTRM and in the logbook of their respective offices.

C. Court of Appeals, Sandiganbayan, and Court of Tax Appeals

1. All officials with the rank of either a Regional Trial Court Judge or a Metropolitan Trial Court Judge shall have the option to register their attendance through the bundy clock, CTRM, DTR, or CS, provided that, regardless of the mode chosen, they shall sign and indicate their time of arrival and departure in the office logbook. These officials shall inform their respective Leave Sections of their chosen mode of recording office attendance.
2. All co-terminous employees belonging to the confidential staffs of the Members of the Court of Appeals, Sandiganbayan, and Court of Tax Appeals shall, at the option of their respective Justices, use either the bundy clock, CTRM or the DTR in registering their office attendance, provided that they shall also register their attendance in the office logbook.
3. All other officials and employees not mentioned in Pars. C(1) and C(2) shall register their daily office attendance through the bundy clock or the CTRM, as the case may be, and in the attendance logbook of their respective offices.

D. First and Second Level Courts

All officials and employees of the Regional Trial Courts, Shari'a District Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts, and Shari'a Circuit Courts who are occupying positions below that of a Judge, shall register their daily office attendance through the bundy clock and in the logbook of their respective offices or courts.

E. Philippine Judicial Academy and Judicial and Bar Council

1. All officials of the Philippine Judicial Academy and the Judicial and Bar Council

with Salary Grades 29 and up shall each submit a monthly certification of service. Likewise, part-time PHILJA Professors shall each execute a certification of service duly noted by the Chancellor or the Vice-Chancellor.

2. All other officials and employees not included in the preceding paragraph, whether permanent, co-terminous or casual, shall register their daily office attendance through the CTRM and in the logbook of their respective offices.

II. Submission of Daily Time Records and Certifications of Service

The monthly DTR or CS must be submitted to the proper Leave Division or Section within the first five (5) working days of the succeeding month.

III. Submission of Reports of Attendance

All offices in the Supreme Court, Court of Appeals, Sandiganbayan, and Court of Tax Appeals shall submit to their respective Leave Divisions or Sections, within the first five (5) working days of the succeeding month, their monthly Report of Attendance duly signed by the official designated to take charge of monitoring the office attendance of personnel in their respective offices.

For the First and Second Level Courts, a monthly Report of Attendance, together with the bundy cards of personnel, shall be submitted to the Leave Division, Office of the Court Administrator, within the first five (5) working days of the succeeding month, by all Clerks of Court or Branch Clerks of Court.

IV. Saving Clause

Cases affecting the recording of office attendance of the personnel of the Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals, Philippine Judicial Academy, and Judicial and Bar Council, which are not specifically addressed in this Administrative Circular, shall be referred to the Office of Administrative Services, Supreme Court for study and recommendation to the Chief Justice.

Likewise, cases affecting the recording of the office attendance of the personnel of the First and Second Level Courts, which are not specifically addressed in this Administrative Circular shall

be referred to the Office of Administrative Services, Office of the Court Administrator for study and recommendation to the Chief Justice.

V. Dissemination of the Circular

The Presiding Justices of the Court of Appeals, Sandiganbayan, and the Court of Tax Appeals shall cause the dissemination of this Administrative Circular to all officials and employees within their respective courts.

Likewise, the Court Administrator shall cause the dissemination of this Administrative Circular to all First and Second Level Courts.

VI. Repealing Clause

All issuances and authorizations or exemptions previously granted, which are inconsistent with any of the rules herein provided, shall be deemed superseded and repealed.

VII. Effectivity Clause

This Administrative Circular shall take effect on the first working day of October 2004.

Issued this 20th day of August 2004.

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



ADMINISTRATIVE CIRCULAR NO. 43-2004

ADOPTING NEW GUIDELINES ON THE FILING OF APPLICATIONS FOR OPTIONAL RETIREMENT

WHEREAS, it has been brought to the attention of the Court that although optional retirement applications are seasonably filed by officials and employees of the Judiciary, there are cases when the evaluation and processing thereof take a longer time to accomplish than expected, and their approval or denial is made sometime after the specified date of retirement;

WHEREAS, as a consequence of the delay, the positions held by the applicants are left vacant, thereby hampering and prejudicing the operations of the courts affected;

WHEREAS, to forestall such situation, which is detrimental to the delivery of judicial service, and

to afford sufficient time for the determination of the applicant's qualification for optional retirement, the inclusion of the application in the Court's agenda for its appropriate action, and notice and service of the Court's action on the applicant before the specified date of retirement, the guidelines on the matter should be revised;

WHEREFORE, the following new guidelines in the filing of applications for OPTIONAL retirement are hereby adopted for strict compliance by all concerned:

1. All applications for optional retirement shall specify the date of effectivity thereof and should not make it effective "upon approval by the Court."
2. All such applications, together with all the necessary documents in support thereof, shall be filed personally or by special delivery with:
 - a. The Employees Welfare and Benefits Division, Office of Administrative Services (OAS), Supreme Court, with respect to the personnel of the Supreme Court and the Office of the Court Administrator (OCA), Philippine Judicial Academy (PHILJA), and the Judicial and Bar Council (JBC); and
 - b. The Employees Welfare Benefits Division of the OAS, OCA, with respect to the personnel of the Court of Appeals, Sandiganbayan, Court of Tax Appeals, and lower courts.
3. The application should be filed at least SIX (6) MONTHS prior to the effectivity date of the retirement indicated in the application.
4. Within one (1) month following the filing of the application, the applicants in 2(a) and 2(b) must inquire and verify from the OAS, Supreme Court, or OAS, OCA, respectively.
5. If on the date specified in the application as the date of the effectivity of the retirement, the applicant has not yet received any notice of approval or denial of his application, he shall cease working and discharging his functions unless directed otherwise.
6. To avoid delay in the processing of Supreme Court clearance of accountable officers in the

(Continued on page 23)

OFFICE OF THE COURT ADMINISTRATOR

OCA CIRCULAR NO. 108-2004

TO: ALL JUDGES

SUBJECT: DESIGNATION OF A COURT PERSONNEL/POLICE OFFICER AS ESCORT FOR A LOWER COURT JUDGE AND REQUESTS OF JUDGES TO CARRY FIREARMS

Quoted hereunder for your information are the pertinent paragraphs of the resolution of the Court *En Banc*, dated 24 August 2004, in A.M. No. 04-6-18-SC, Re: Position Paper on Continuing Assassinations/Intentional Killings of Judges while in the Performance of their Duties. - x x x

"A. x x x

B. x x x

C. xxx

D. Designation of a Court Personnel/Police Officer as Escort for a Lower Court Judge

Judges who are facing imminent threats on their lives is hereby AUTHORIZED to designate, as escort, one member of their staff (*i.e.*, Sheriff or Process Server). No designation shall be made without the express consent of the concerned employee and prior approval of the Court Administrator. Further, the designation shall only be for the duration of the period requested by the Judge and subject to the guidelines that may hereafter be set by the OCA Security Committee for Lower Court Judges.

The court employee designated to serve as escort for his/her Judge shall be entitled to overtime pay at the rate of One Hundred Pesos (P100.00) per day when rendering a maximum of three (3) hours of service on weekdays which shall start from 5:00 P.M. to 8:00 P.M. and One Hundred Fifty Pesos (P150.00) per day during weekends when rendering service from 8:00 A.M. to 4:00 P.M.

In cases where a Judge faces a direct threat on his life, he may report the same to the PNP, which shall in turn immediately provide him with a police escort. In connection, the OCA is hereby AUTHORIZED to enter into a Memorandum of Agreement with Philippine National Police on the grant of such request.

E. Special Processing Privileges for the Firearms of the Judges

The OCA already has the commitment of PNP Director Hermogenes E. Ebdane, Jr. for the grant of requests from Judges for permission to carry their firearms outside the confines of their stations. It should be noted that under Section 881 of the Revised Administrative Code, Judges are among those persons not required to secure permits to carry firearms outside their residence."

For your guidance.

14 September 2004.

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



OCA CIRCULAR NO. 109-2004

TO: ALL EXECUTIVE JUDGES AND CLERKS OF COURT IN THE REGIONAL TRIAL COURTS AND INTEGRATED BAR OF THE PHILIPPINES

SUBJECT: 2004 RULES ON NOTARIAL PRACTICE

Quoted hereunder for your information is the resolution of the Court *En Banc*, dated 24 August 2004 in A.M. No. 02-8-13-SC, Re: 2004 Rules on Notarial Practice -

"The Court Resolved to DECLARE that:

- a. Notaries Public who have been commissioned prior to 1 August 2004 can continue with their work until the expiration of their commission:
- b. Incumbent Notaries Public should follow the new rules that can be complied with; and
- c. *A contrario*, incumbent Notaries Public need not comply with the rules that cannot yet be enforced such as the use of new dry seals and seal image, and new forms of notarial registers."

For your guidance.

14 September 2004.

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

OCA CIRCULAR NO. 111-2004

TO: ALL EXECUTIVE JUDGES AND PRESIDING JUDGES OF THE REGIONAL TRIAL COURTS

SUBJECT: ABOLITION OF HEINOUS CRIME COURTS

Quoted hereunder for your information is the pertinent paragraph of the resolution of the Court *En Banc* dated 24 August 2004, in A.M. No. 04-6-18-SC, Re: Position Paper on Continuing Assassinations/Intentional Killings of Judges While in the Performance of their Duties. - x x x

- " A. xxx
 B. x x x
 C. Abolition of the Heinous Crime Courts

Administrative Order No. 104-96, dated 21 October 1996, designating Regional Trial Courts as Heinous Crime Courts pursuant to Batas Pambansa 129 is hereby REVOKED owing to the relatively low caseloads in the said courts and considering that the current set-up makes a Heinous Crime Court Judge easily identifiable, making him/her an easy prey to vindictive litigants.

Heinous crimes shall henceforth be cognizable by all Second Level Courts."

In view of the foregoing, the following guidelines are hereby prescribed:

1. The designated Heinous Crimes Court shall continue trying and deciding the heinous crimes cases assigned to them;
2. All newly filed heinous crimes cases shall be raffled among the regular courts, including formerly designated Heinous Crimes Courts;
3. Henceforth, courts formerly designated as Heinous Crimes Courts shall now be included in the raffle of all ordinary criminal and civil cases and other cases, except those falling under the exclusive jurisdiction of other special courts; and
4. The Executive Judge shall ensure the equitable distribution of cases pursuant to the guidelines in the raffling of cases.

For guidance and implementation.

14 September 2004.

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

OCA CIRCULAR NO. 113-2004

TO: ALL CLERKS OF COURT OF THE REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL CIRCUIT TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND SHARI'A CIRCUIT COURTS

SUBJECT: SUBMISSION OF MONTHLY REPORTS OF COLLECTIONS AND DEPOSITS

The following guidelines and procedures are hereby established for purposes of uniformity in the submission of Monthly Reports of Collections and Deposits, to wit:

1. The Monthly Reports of Collections and Deposits for the Judiciary Development Fund (JDF), Special Allowance for the Judiciary (SAJ) and Fiduciary Fund (FF) shall be:
 - 1.1. Certified correct by the Clerk of Court;
 - 1.2 Duly subscribed and sworn to before the Executive/Presiding Judge;
 - 1.3 Sent not later than the 10th day of each succeeding month to -

The Chief Accountant
 Accounting Division
 Financial Management Office
 Office of the Court Administrator
 Supreme Court of the Philippines
 Taft Avenue, Ermita
 Manila

2. The following documents shall be attached to the reports:
 - A. For Judiciary Development Fund (JDF)
 - a. Duplicate copies of the official receipts issued;
 - b. Machine validated deposit slips if collections are remitted/deposited with the Land Bank of the Philippines (LBP), or Postal Money Order (PMO), if collections are remitted through PMO.
 - B. For Special Allowance for the Judiciary (SAJ)
 - a. Duplicate copies of the official receipts issued;

- b. Machine validated deposit slips if collections are remitted/deposited with the LBP, or PMO if collections are remitted through PMO.
- C. For Fiduciary Fund (FF)
 - a. Duplicate copies of the official receipts issued;
 - b. Machine validated deposit slips if collections are deposited with the LBP, or certified true copies of the official receipts issued by the Provincial/City/Municipal Treasurer if collections are deposited with the Treasurer's Office.
 - c. In case of withdrawal:
 - c.1. Copy of the Court Order;
 - c.2. Original Official Receipt (OR) or certified true copy of OR;
 - c.3. Duplicate or certified true copy of withdrawal slip and disbursement voucher if collections are deposited in a savings account with the LBP, or a copy of the check and disbursement voucher if collections are deposited in a current account with the LBP, or disbursement voucher if collections are deposited with the PTO/CTO/MTO;
 - c.3.3. Copy of the acknowledgment receipt.
- 3. In case no transaction is made within the month, written notice thereof shall be submitted to the aforesaid Office not later than the 10th day of the succeeding month.

Henceforth, all Clerks of Court shall only submit monthly reports for the three (3) funds, namely: JDF, SAJ, and FF.

The former Special Allowance for Justices and Judges (SAJJ) shall now be described as Special Allowance for the Judiciary (SAJ).

Circular No. 44-2000 is hereby revoked.

This Circular shall be effective beginning 1 October 2004.

16 September 2004.

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

OCA CIRCULAR NO. 119-2004

TO: ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A DISTRICT COURTS, AND SHARI'A CIRCUIT COURTS

SUBJECT: SERVICE OF WRITS AND OTHER COURT PROCESS THROUGH THE FOREIGN SERVICE PERSONNEL

The attention of this Court has been called by the Department of Foreign Affairs (DFA) that pursuant to DFA Department Order No. 19A-95, Philippine Foreign Service personnel, as a general rule, is forbidden from servicing subpoenas, citations, complaints, or other forms of legal process in the country of their assignment in connection with cases pending in the courts of the Philippines.

"However, unless prohibited by local law, Foreign Service personnel may, upon the request of a Clerk of Court or proper Philippine court authorities, serve the following:

- a. *Subpoena* issued by a court of the Philippines commanding witness, who is a citizen of the Philippines residing in a foreign jurisdiction and who has failed or neglected to appear and give testimony in answer to letters rogatory, or who has appeared and refused to give testimony, to appear before the issuing court at a time and place designated in the *subpoena*.
- b. *Subpoenas* issued by a court of the Philippines at the request of the Solicitor General or assistants acting under him, to compel the attendance of a witness, who is a citizen of the Philippines residing in a foreign jurisdiction, at the trial of a criminal case.
- c. Order to show cause issued in contempt proceedings on a witness who has failed or neglected to appear in answer to a *subpoena* served.
- d. Documents relating to fraudulent naturalization when such documents are forwarded by duly authorized officials of Philippine courts."

In all instances, the service of the above enumerated documents should be done through the Department of Foreign Affairs.

For your information and compliance.

30 September 2004.

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

OCA CIRCULAR NO. 121-2004

TO: ALL JUDGES, CLERKS OF COURT, AND BRANCH CLERKS OF COURT OF THE REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, AND SHARI'A CIRCUIT COURTS.

SUBJECT: WARRANTS OF ARREST ISSUED AND STILL ACTIVE

The National Police Commission, Directorate for Investigation and Detective Management, embarking on a project, National Warrants of Arrest Registry (NWAR), has sought the assistance of this Office regarding their difficulties to make a validation of Warrants of Arrest (active) issued by the trial courts in order to encode the warrants into their system.

In support to the enhancement of the system and so as to monitor the status of the warrants of arrest issued on different cases, you are hereby DIRECTED to furnish the PNP with a list of Warrants of Arrest (active), specifying the number of the case and the name(s) of the accused, and the copies of the warrants coursed thru the following:

Eduardo S. Matillano
Director
Directorate for Investigation and
Detective Management
Philippine National Police
Camp Crame, Quezon City

Strict compliance is enjoined.

8 October 2004.

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

CASE DIGESTS ON FAMILY LAW

(Continued from page 16)

Juanita thereafter went to the Supreme Court for a review of the Court of Appeals' decision.

Issue: Does the totality of evidence in the case sustain a finding of psychological incapacity of Juanita and/or Manuel?

Held:

- a. The presumption is always in favor of the validity of the marriage.
- b. The only essential marital obligation which Manuel failed to fulfill was that of fidelity, which does not constitute psychological incapacity.
- c. Juanita's lack of respect for Manuel, her jealousies and obsession with cleanliness, her outbursts and controlling nature, are not grave psychological maladies that paralyze her from complying with the essential obligations of marriage. Furthermore, the root cause of her behavior is not from the inception of the marriage, but from her experiences during the marriage.
- d. This is a simple case of a married couple drifting apart, becoming strangers to each other, with the husband falling out of love and wanting a way out.

ADMINISTRATIVE CIRCULAR NO. 43-2004

(Continued from page 19)

lower courts who are applying for optional retirement, they should notify the Court Management Office or Financial Management Office, OCA of their application for optional retirement, and request an audit of their accountabilities.

This Administrative Circular repeals Circular No. 16 issued on 2 December 1986 by then Chief Justice Claudio Teehankee, as well as all other circulars and issuances inconsistent with the former.

This Administrative Circular shall take effect upon its issuance.

Issued this 6th day of September 2004.

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

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

2004-2005 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
Nov. 29-Dec. 10, 2004 Dec. 1-3 Dec. 1	34th Orientation Seminar-Workshop for Newly Appointed Judges Regional Judicial Career Enhancement Program (Level 3) Launching and Demonstration of the e-Learning Pilot Project for the Judiciary (Modules on Rules on Electronic Evidence and Psychological Incapacity in Marriage)	PHILJA, Tagaytay City CSB Hotel, Manila Hyatt Regency Hotel, Pasay City
Jan. 13-14, 2005	Orientation Workshop on the Code of Judicial Conduct for Court Personnel	Golden Peak Hotel and Suites, Cebu City
Jan. 17-27	PHILJA Component Study Tour Supreme People's Courts of the Socialist Republic of Vietnam	SC, PMC Unit, Manila, HOJ, Harrison St., Makati City, Kawit, Cavite, Tagaytay City
Jan. 21	Symposium on Court-Annexed Mediation and Re-Accreditation of Mediators	Old Session Hall, SC Old Bldg., Taft Ave, Manila
Feb. 2-4	RJCEP (Level 4)	Ivory Lodge Hotel, Tuguegarao City
Feb. 17-19	Personal Security Training Orientation Field Seminar for Judges	PHILJA, Tagaytay City

Chancellor, Philippine Judicial Academy
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Printing
EMMANUEL C. IGNACIO

The **PHILJA Bulletin** is published quarterly by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3rd Floor of the Supreme Court Centennial Building, Padre Faura St., Manila. Tel No. 552-9524 E-mail Address: research_philja@yahoo.com <http://philja.supremecourt.gov.ph>