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[A.M. No. P-12-3047. October 1, 2013]

OFFICE OF THE COURT ADMINISTRATOR, *petitioner, vs.* **NANCY R. LEAL, Clerk of Court II, Municipal Circuit Trial Court (MCTC)-Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT EMPLOYEES; CLERK OF COURT; ACCOUNTABLE FOR OFFICIAL RECEIPTS, PASSBOOK FOR LBP SAVINGS ACCOUNT, AND THE FIDUCIARY FUND. – In *A.M. No. MTJ-06-1620*, we gave credence to the OCA's evaluation that a Clerk of Court "must be held liable for the missing official receipts, unaccounted official receipts, original copies of cancelled official receipts, the passbook of LBP Savings Account x x x and Supporting Documents of Fiduciary Fund Withdrawals and for the shortage incurred. **It is incumbent upon him to ensure that all the files and documents are properly filed**. x x x In fact it even underscored the fact that he was unable to meet the demands of his office. **His claims of good faith, his forgetfulness and lack of secured storage area for their files during their transfer of office could only indicate his attempt to evade punishment for his neglect of duty**."

2. ID.; ID.; ID.; ID.; FAILURE TO RESTITUTE CASH SHORTAGE AND EXPLICATE THE SAME IS GROSS DISHONESTY, GRAVE MISCONDUCT AND MALVERSATION OF PUBLIC FUNDS.— [Clerk of Court] Leal's failure to restitute the cash shortage amounting to ₱865,495.68 and "to adequately explain and present evidence thereon constitute **gross dishonesty, grave misconduct,** and **even malversation of public funds.**" In that same vein, Leal's acts of: a) issuance of temporary receipts; b) in making it appear that certain official receipts are cancelled but with court orders that proved otherwise; and c) withholding documents and retaining the same in her possession while the audit team was conducting its examination, constitute dishonesty and grave misconduct. "Dishonesty refers to a person's

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'disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray'"; while "in grave misconduct as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest." On the other hand, "failure to deposit on time her cash collections and her shortages in the remittances of collections amount to gross neglect of duty and dishonesty."

3. ID.; ID.; ID.; ID.; ID.; GRAVE OFFENSES AS SUCH WARRANT DISMISSAL FROM SERVICE. – Under Section 52 of the Revised Uniform Rules on Administrative Cases in the Civil Service, dishonesty, grave misconduct and gross neglect of duty are classified as grave offenses, and merit dismissal even on their first commission. In *A.M. No. MTJ-06-1620*, the Court held that: Safekeeping of public and trust funds is essential to an orderly administration of justice. **No protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability of government funds**. The Court has not hesitated to impose the ultimate penalty on those who have fallen short of their accountabilities. Any conduct that would violate the norms of public accountability and diminish, **or even merely tend** to diminish, the faith of the people in the justice system has never been tolerated or condoned by the Court. x x x For her failure to live up to the high ethical standards expected of her as a court employee, and an Accountable Officer at that, Leal's dismissal is indeed in order.

D E C I S I O N

***PER CURIAM*:**

This administrative case arose from a financial audit conducted in the Municipal Circuit Trial Court (MCTC), Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac pursuant to Travel Order Number 021-2011[1] dated January 24, 2011.

[1] *Rollo*, p. 21.

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The financial audit, conducted from February 28 to March 19, 2011, was prompted by the request of the Accounting Division, Financial Management Office, Office of the Court Administrator (OCA) due to the non-submission of the monthly financial reports by Ms. Nancy R. Leal (Leal), Clerk of Court II of said MCTC. Her salaries from September 15, 2004 to May 15, 2005 were withheld due to her failure to submit the Monthly Report of Collections and Deposits.[2]

Leal has been an Accountable Officer since January 1, 1992 to October 25, 2005, and from January 1, 2009 to the present. On October 26, 2005, Leal was relieved from her duties as Accountable Officer by Judge Domingo R. Joaquin, former Acting Judge of MCTC, Sta. Ignacia- Mayantoc-San Clemente-San Jose, Tarlac. In her stead, Mr. Rodelio A. Pedroche, Court Interpreter I of the same court was designated as the Officer-in-Charge until it was ordered revoked on February 27, 2009 by Judge Stela Marie Q. Gandia-Asuncion (Judge Gandia-Asuncion), the incumbent Presiding Judge. Leal was reinstated as Accountable Officer of the same court.[3]

Among other findings, and respecting matters solely attributable to Leal, the audit revealed the following, to wit: a) there were undocumented withdrawals of cash bond deposits amounting to ₱220,000.00;[4] b) there were unreported and undeposited collections amounting to ₱1,047,400.00 which resulted in a total shortage amounting to ₱567,757.71;[5] c) delayed remittances that deprived the government of bank interest that should have been earned amounting to ₱296,809.47;[6] d) there was a shortage in the Judiciary Development Fund (JDF) amounting to ₱928.50;[7] e) certain documents were withheld

[2] *Id.* at 4.
[3] *Id.* at 22-23.
[4] *Id.* at 1.
[5] *Id.* at 6, 9.
[6] *Id.* at 9.
[7] *Id.* at 12.

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and retained in Leal's possession while the audit team was conducting its examination;[8] and f) among the Official Receipts that were issued to said court, there were four (4) booklets and four (4) pieces missing which correspond to the following series of numbers: 18843701 to 18843750, 2574101 to 2574150, 2574151 to 2574200, 2574201 to 2574250, and 4063301 to 4063304.[9]

Based on the Financial Report[10] of the audit team, the OCA submitted a memorandum to the Office of the Chief Justice where it was recommended that:

1. [T]his report be **DOCKETED** as a regular administrative matter against **Ms. NANCY R. LEAL**, Clerk of Court II of the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac;

2. **Ms. NANCY R. LEAL**, Clerk of Court II of the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac be **DIRECTED** within ten (10) days from notice to:

2.a) **SUBMIT** to the Fiscal Monitoring Division, Court Management Office all necessary documents stated below to authorize the refund of the cash bonds amounting to **₱220,000.00**, to wit:

CASE NO.	BONDS MAN	RECEIPT NO.[.]	COURT ORDER	WITHDRAWAL DATE	AMOUNT	CO	AR
Crim Case no. 995-SC (96)	Shirita Gabriel	4063367	7/21/97	08/08/97	3,000.00		x
Crim no. 27878 –27881	Maria Bagay	4063374		11/26/97	3,000.00	x	
Crim no. 1103-M	Danilo F. dela Cruz	4063374	6/5/98	06/08/98	2,000.00		x
Crim no. 1204-SI	Alberto Rana	4063383		10/26/98	2,000.00	x	x

[8] *Id.* at 8-10; TSN, March 15, 2011, pp. 4-9; *id.* at 43-48.

[9] *Id.* at 5.

[10] *Id.* at 4-19.

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98-21109 MTC SAN FERNANDO PAM	Florentina B. Navarro	4063387		10/26/98	6,000.00	x	
1491-M	Ignacio Casco	9903959		12/04/01	6,000.00	x	
04-2001 Paniqui	George Cawigan	9903980		03/25/02	5,000.00	x	
Crim. 1423-M	Rodney Espejo	9903955		11/18/03	6,000.00	x	
Crim. 1423-M	Isagani Pablo	9903956		11/18/03	6,000.00	x	
2347-SI	Isagani Rorre	13612736		04/06/04	100,000.00	x	
2307-SJ	Cristina Bergonio/ Junedel Rafanan	13612733		01/11/05	6,000.00	x	
1847-SC	Gregorio Mangoba	9903985		02/24/05	2,000.00	x	
2529-SI	Noel Ubaldo	13612747		02/24/05	6,000.00	x	
2398-SI	Rey Ferrer	13612741		05/05/05	6,000.00	x	
2337-SI	Hector Agustin	13612740		05/05/05	20,000.00	x	
2519-SI	Simeon Tipay Opena	13612748		07/01/05	6,000.00	x	
2468 SI(04)	Rosalino Andres	2468		10/26/05	18,000.00	x	
2348-SI	Fiden I. Torre	13612739	8/11/06	08/11/06	12,000.00		x
2935-SJ	Region Esteban	3469203	8/10/10	08/13/10	5,000.00		x
Total					**220,000.00**		

Legend:AR-Acknowledgement Receipt; CO-Court Order.

2.b) **RESTITUTE** the total shortages incurred amounting to **₱865,495.68**, including the undocumented withdrawals referred to in **No. 2.a** above in case of failure to comply, broken down as follows:

Fund	Period Covered	Balance of Accountability
Fiduciary Fund **(FF)**	07/01/96 to 02/28/11	567,757.71
Judiciary Development Fund (**JDF**)	01/01/92 to 10/25/08	928.50

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UNEARNED Interest due to delayed remittances **(JDF)**	07/25/03 to 11/09/05	296,809.47
TOTAL ACCOUNTABILITY		**865,495.68**

2.c) **EXPLAIN** the following findings **(a)** unreported and undeposited collections amounting to **₱1,047,400.00**; **(b)** issuing temporary receipts; **(c)** cancelled official receipts but with court orders that proved otherwise; **(d)** delayed remittances that deprived the government of the interest that should have been earned amounting to **₱296,809.47**; **(e) gross neglect of duty,** for failure to perform her functions and duties as an accountable officer; and **(f)** documents withheld and retained in her possession while the audit team was conducting their examination; and

2.d) **ACCOUNT** for the missing official receipts issued by the Court to the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac, with series nos.

- 18843701 to 18843750;
- 2574101 to 2574150;
- 2574151 to 2574200;
- 2574201 to 2574250; and
- 4063301 to 4063304 (4 pieces)

3. **Ms. NANCY R. LEAL** be placed under preventive **SUSPENSION EFFECTIVE IMMEDIATELY WITHOUT** salary and other benefits;

4. **Ms. GENELYN C. GRAGASIN**, Court Stenographer I be designated as Accountable Officer of the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac;

5. **Ms. GENELYN C. GRAGASIN** be **DIRECTED** to:

5.a) **VERIFY and ACCOUNT** the remaining fiduciary fund accounts deposited with the Municipal Treasurer's Office

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(MTO), and render a report th[e]reon; and

5.b) **STRICTLY ADHERE** with the guidelines and Circulars issued by the Honorable Court with regards [sic] to the proper handling of judiciary funds;

6. **Hon. STELA MARIE Q. GANDIA-ASUNCION**, Presiding Judge, Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac be **DIRECTED** to strictly **MONITOR** the financial transactions of the court and be **REMINDED** that a repetition of the same infractions of the employees under her supervision shall be held her equally liable for the same.[11]

Forthwith, the Court issued a Resolution[12] on February 27, 2012 adopting the aforesaid memorandum and recommendations of the OCA.

Leal then filed a letter[13] on April 12, 2012 asking for an extension of sixty (60) days within which to comply with the Court's Resolution and/or submit her answer considering that the ten (10) days given to her was too short.

On May 21, 2012, Ms. Genelyn C. Gragasin submitted the Statement of Unwithdrawn Fiduciary Fund[14] in compliance with the Court Resolution.

On June 5, 2012, Leal filed another letter[15] requesting an additional extension of sixty (60) days within which to file her answer. However, on June 22, 2012, Judge Gandia-Asuncion reported that from the time Leal received a copy of the Court's Resolution dated February 27, 2012 on April 3, 2012, she ceased to report for work.[16]

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[11] *Id.* at 1-3.

[12] *Id.* at 89-92.

[13] *Id.* at 93-94.

[14] *Id.* at 97-98.

[15] *Id.* at 100-101.

[16] *Id.* at 105.

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Per Resolution[17] dated July 30, 2012, the Court noted, among others, Leal's letters and granted her a non-extendible period of one hundred twenty (120) days from April 2, 2012 within which to file her answer.

On August 1, 2012, Leal filed her Answer/Letter-Compliance[18] dated July 30, 2012 with the following assertions:

1) She denies that she incurred unauthorized refund of cash bonds. To support her claim, she submitted the affidavits of the respective bondsmen acknowledging receipt of withdrawn cash bond in Criminal Case Nos. 995-SC (96), 1103-M and 1204-SI. In addition, she also attached the affidavit[19] of the *Barangay* Chairman of Poblacion East, Sta. Ignacia, Tarlac, Mr. Ricky T. Silverio (Silverio) to buttress her declaration that although the withdrawn cash bond in Criminal Case No. 2348-SI for then accused Fiden Torre was duly received by said accused's surviving spouse, it has now become an impossibility to secure the affidavit of the latter since she already migrated to the United States of America;

2) She cannot produce the court orders which authorized the withdrawals of the concerned cash bonds because she cannot avail of the records in their office. Nevertheless, she was allegedly told that some records were destroyed during typhoon Quiel, while others were destroyed by termites. She further reasoned that if the said court orders did not exist, she could not have withdrawn the subject cash bonds since "she cannot just withdraw those cash bonds without said court orders to be submitted to the depository bank";

3) She has already reported said withdrawal in her monthly report, but unfortunately, she cannot produce any proof because her files are missing. According to her, the loss may also be

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[17] *Id.* at 107-108.

[18] *Id.* at 110-112.

[19] *Id.* at 119.

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due to the reason that their office was not well-secured. In addition, they had to transfer office to the Police Station while the records were brought to the old Municipal Health Center, to give way to the construction of a new municipal building. The old office and even the old municipal health center where the records were transferred were infested with termites. These missing receipts were not issued or used; hence, she should not be liable;

4) She allegedly failed to deposit the collections on time because the passbook and even the receipts were lost. She added that said receipts "were only given/brought out after the audit and all were submitted to the team when she went to the Supreme Court";

5) She failed to submit her answer on time due to health reasons. In fact, up to the present, she is still suffering poor vision in spite of the series of eye operations she underwent; and

6) She begs for the Court's indulgence and prays that her suspension be recalled.

After evaluation, the OCA found Leal's explanation unsatisfactory to absolve her from any accountability and/or recall her suspension and recommended that: a) Leal be dismissed from the service with forfeiture of all retirement benefits, except earned leave credits, and with prejudice to re-employment in the government, including government-owned and controlled corporations; and b) the monetary value of Leal's accrued leave credits be applied to her monetary accountability amounting to ₱865,495.68.

The evaluation and recommendations of the OCA are well-taken.

The Answer/Letter-Compliance dated July 30, 2012 of Leal did little to help her case. The fact still remains that a cash shortage amounting to ₱865,495.68 was incurred during her period of accountability and it still remains unpaid. Further, Leal did not even offer any explanation why there are unreported

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and undeposited collections; the fact that said unreported and undeposited collections reached the amount of ₱1,047,400.00 is simply appalling.

Similarly, Leal did not offer any explanation for the following as well, to wit: a) issuance of temporary receipts; b) cancelled official receipts but with court orders that proved otherwise; c) delayed remittances that deprived the government of the bank interest that should have been earned amounting to ₱296,809.47; d) gross neglect of duty, for failure to perform her functions and duties as an accountable officer; and e) withholding of documents and retaining the same in her possession while the audit team was conducting its examination.

In *A.M. No. MTJ-06-1620*,[20] we gave credence to the OCA's evaluation that a Clerk of Court "must be held liable for the missing official receipts, unaccounted official receipts, original copies of cancelled official receipts, the passbook of LBP Savings Account x x x and Supporting Documents of Fiduciary Fund Withdrawals and for the shortage incurred. **It is incumbent upon him to ensure that all the files and documents are properly filed**. x x x In fact it even underscored the fact that he was unable to meet the demands of his office. **His claims of good faith, his forgetfulness and lack of secured storage area for their files during their transfer of office could only indicate his attempt to evade punishment for his neglect of duty**."[21]

As correctly maintained by the OCA, Leal's failure to perform her duties and responsibilities as Clerk of Court has caused tremendous losses both in financial and judicial aspects. As an Accountable Officer, she is primarily tasked to remit the court funds without further delay and to manage court records

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[20] *Initial Report on the Financial Audit Conducted at the Office of the Clerk of Court (OCC), Municipal Trial Court in Cities (MTCC), Lucena City*, January 30, 2009, 577 SCRA 200.

[21] *Id.* at 219.

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efficiently. Since Leal failed to offer any explanation on the foregoing audit findings, we shall consider the audit team's report as conclusive and adjudge her liability on the sole basis thereof.

Leal's failure to restitute the cash shortage amounting to ₱865,495.68 and "to adequately explain and present evidence thereon constitute **gross dishonesty, grave misconduct,** and **even malversation of public funds.**"[22] In that same vein, Leal's acts of: a) issuance of temporary receipts; b) in making it appear that certain official receipts are cancelled but with court orders that proved otherwise; and c) withholding documents and retaining the same in her possession while the audit team was conducting its examination, constitute dishonesty and grave misconduct. "Dishonesty refers to a person's 'disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray'";[23] while "in grave misconduct as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest."[24] On the other hand, "failure to deposit on time

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[22] *Office of the Court Administrator v. Saddi*, A.M. No. P-10-2818, November 15, 2010, 634 SCRA 525, 533, citing Article 217 of the REVISED PENAL CODE and *Report on the Financial Audit Conducted on the Books of Accounts of the Municipal Circuit Trial Court, Mondragon-San Roque, Northern Samar*, A.M. No. P-09-2721 (Formerly A.M. No. 09-9-162-MCTC), February 16, 2010, 612 SCRA 509, 531.

[23] *Re: Failure of Various Employees to Register Their Time of Arrival and/or Departure from Office in the Chronolog Machine*, A.M. No. 2005-21-SC, September 28, 2010, 631 SCRA 396, 409.

[24] *Civil Service Commission v. Lucas*, 361 Phil. 486, 490-491 (1999), citing *Landrito v. Civil Service Commission*, G.R. Nos. 104304-05, June 22, 1993, 223 SCRA 564.

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her cash collections and her shortages in the remittances of collections amount to gross neglect of duty and dishonesty."[25]

Under Section 52 of the Revised Uniform Rules on Administrative Cases in the Civil Service, dishonesty, grave misconduct and gross neglect of duty are classified as grave offenses, and merit dismissal even on their first commission.

In *A.M. No. MTJ-06-1620*,[26] the Court held that:

> Safekeeping of public and trust funds is essential to an orderly administration of justice. **No protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability of government funds**. The Court has not hesitated to impose the ultimate penalty on those who have fallen short of their accountabilities. Any conduct that would violate the norms of public accountability and diminish, **or even merely tend** to diminish, the faith of the people in the justice system has never been tolerated or condoned by the Court. This ought to be so, as no less than the 1987 Constitution dictates:
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> > "Public office is a public trust. Public officers and employees must **at all times be accountable** to the people, serve them with **utmost responsibility**, integrity, loyalty, and **efficiency**, act with patriotism and justice, and lead modest lives." *(Emphasis supplied)*
>
> Clerks of court are the chief administrative officers of their respective courts. As such, they are duty-bound to use skill and diligence in the performance of their officially designated functions. In *Office of the Court Administrator v. Paredes*, this Court spelled out anew the nature of the function of clerks of court:
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> > "Clerks of court perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they are generally regarded as treasurer, accountant, guard and physical plant manager thereof. Thus,

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[25] *Office of the Court Administrator v. Bacani*, A.M. No. P-12-3099, January 15, 2013, 688 SCRA 516, 526.

[26] *Supra* note 20.

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they are liable for any loss, shortage, destruction or impairment of such funds and property."

By respondent's assumption of the position of clerk of court, it is understood that he was ready and competent to do his job with utmost devotion and efficiency.[27] (Citations omitted)

For her failure to live up to the high ethical standards expected of her as a court employee, and an Accountable Officer at that, Leal's dismissal is indeed in order.

WHEREFORE, the Court resolved to:

1. **DISMISS** respondent Nancy R. Leal from the service with forfeiture of all retirement benefits, excluding accrued leave credits, with prejudice to re-employment in any government office, including government-owned and controlled corporations;

2. **DIRECT** the Leave Division, Office of the Administrative Services, Office of the Court Administrator to compute the accrued leave credits of Nancy R. Leal and forward them to the Financial Management Office, Office of the Court Administrator;

3. **DIRECT** the Financial Management Office, Office of the Court Administrator to apply the monetary value of the accrued leave credits of Nancy R. Leal, including the salaries withheld from her, to the cash shortages incurred, to wit:

Fiduciary Fund (FF)	07/01/96 to 02/28/11	567,757.71
Judiciary Development Fund (JDF)	01/01/92 to 10/25/08	928.50
UNEARNED Interest due to delayed remittances (JDF)	07/25/03 to 11/09/05	296,809.47
TOTAL ACCOUNTABILITY		**865,495.68**

[27] *Id.* at 220-222.

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4. After application of the monetary value of her accrued leave credits and withheld salaries, Nancy R. Leal is **ORDERED** to restitute the balance of the said shortages;

5. **DIRECT** Judge Stela Marie Q. Gandia-Asuncion, Presiding Judge, Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac to submit an inventory of the court records which were allegedly destroyed by typhoon "Quiel" or eaten by termites;

6. **DIRECT** the Office of the Court Administrator to file the appropriate criminal charges against Nancy R. Leal; and

7. **DIRECT** the Office of the Court Administrator to conduct another financial and judicial audit in the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac from the finality of this Decision.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, del Castillo, Abad, Perez, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

Bersamin and *Mendoza, JJ.,* on official leave.

Villarama, Jr., J., on leave.