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SECOND DIVISION

[G.R. No. 57425-27. March 18, 1985]

PEOPLE OF THE PHILIPPINES and THE HONORABLE PEDRO D. OFIANA, as Judge of the Court of First Instance of Pangasinan (Branch IV), *petitioners, vs.* THE COURT OF APPEALS and MAYOR JAIME P. JUNIO, *respondents.*

SYLLABUS

1. **CONSTITUTIONAL LAW; BILL OF RIGHTS; DUE PROCESS; OBSERVED IN CASE AT BAR WHERE A PRE-SUSPENSION HEARING WAS CONDUCTED TO DETERMINE VALIDITY OF GRAFT CHARGE.—** Contrary to what was stated in the respondent appellate court's questioned decision, the proceedings in the trial court partake the nature of a pre-suspension hearing, the purpose of which was to determine the validity of the informations against the respondent Mayor. There was no denial of due process since the accuseds were given the opportunity to be heard as in fact they filed pleadings after pleadings assailing the validity of the informations against them and praying for the quashal of the same; submitted their memorandum refuting the position and arguments of the prosecution on the motion to quash; and instead of presenting their evidence in support of their motion, they opted to submit the motion for resolution based on the pleadings already filed without further oral argument. Not only that. Respondent Mayor, then accused, had even gone to the then Court of Appeals taking the trial court to task on the issue of validity of the informations in the said criminal cases and the said court upheld their validity and accordingly dismissed the petition. Respondent Mayor then can no longer complain that he was not duly heard nor was he deprived of his day in court.

2. **REMEDIAL LAW; CRIMINAL PROCEDURE; RE-ELECTION, NOT A BAR TO CRIMINAL PROSECUTION.—** Re-election is not a bar to prosecution. Condonation of an officer's misconduct committed during his expired term by virtue of his re-election to office for a

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new term applies only to his *administrative* and not to his *criminal* guilt. Thus, in Ingco *vs.* Sanchez, (21 SCRA 1292) the Court ruled "that the reelection of a public officer for a new term does not in any manner wipe out the *criminal* liability incurred by him in a previous term. This doctrine was reiterated in Luciano *vs.* Provincial Governor (28 SCRA 517, 527-528) wherein the Court stressed that "a reelected public officer is no longer amenable to administrative sanctions for acts committed during his former tenure but that as to criminal prosecutions, particularly, for violation of the Anti-Graft and Corrupt Practices Act, as in the case at bar, the same are not barred by reelection of the public officer, since, *inter-alia,* one of the penalties attached to the offense is perpetual disqualification from public office xxx."

3. **ID.; ID.; PREJUDICIAL QUESTION; ISSUES IN CIVIL CASE MUST BE DETERMINATIVE OF THE GUILT OR INNOCENCE OF THE ACCUSED; CASE AT BAR.—** The issues in the civil cases decided by Judge Villalon are entirely different from the issues in the anti-graft cases. It is the commission of the act as defined by law, not the character or effect thereof, that determines whether or not the provision of the law has been violated. (Luciano *vs.* Estrella, 34 SCRA 780) Respondent mayor was charged for such corrupt practices like -giving certain parties unwarranted benefits, advantages or preference because of close personal relationship or causing injury damage and prejudice to the municipality for awarding lease privileges without the benefit of public bidding. The issues in the civil cases do not present any prejudicial question. The guilt or innocence of accused does not depend on the outcome of the civil cases. The legality, validity or propriety of the Municipal council's Resolution did not have the effect of invalidating the criminal informations against Mayor Junio. The decision in the civil cases is merely an affirmation that the accused acted within the scope of his authority. But the law does not only punish acts committed outside the scope of an official's authority but also those done in the performance of his official functions which are tainted with graft or patent irregularities. Section 3, par.(e) of the Act is explicit when it punishes as a corrupt practice any act of public functionary "in causing any undue injury to any party, including the government, or giving any private party any

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unwarranted benefits, advantage or preference in the discharge of his administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence."

4. **ADMINISTRATIVE LAW; LAW ON PUBLIC OFFICERS; SUSPENSION OF PUBLIC OFFICIAL; MANDATORY WHERE ISSUE OF VALIDITY OF INFORMATION SETTLED.**— The validity of the criminal informations has already been sufficiently determined as shown by the Order dated October 23, 1980 of Judge Ofiana and the Decision dated April 19, 1977 of the defunct Court of Appeals (Ninth Division) in CA-G.R. Nos. SP-06256-59. The Court sustains the said rulings and conclusions, there being no compelling or justifiable reasons to overthrow the same nor any circumstance of note which had been overlooked that will warrant a reversal thereof. Now that the issue of validity of the informations has been settled, the suspension of the public official who is charged therein, is mandatory. There is no abuse of discretion on the part of Judge Ofiana when he issued a supplemental order of suspension against respondent Mayor after the latter's reelection. The first suspension order issued by retired Judge Garcia covered only the expired term of respondent as Mayor and does not automatically apply to the new term to which he had been reelected. There could be no such automatic application or extension of a previous suspension order to a new term because at the time the suspension order was issued, there was no absolute certainty that the accused would run for reelection and be reelected. This doctrine is clearly enunciated in the case of Oliveros *vs.* Villaluz, *supra.*

APPEARANCES OF COUNSEL

The Solicitor General for petitioners.
Oliver O. Lozano for private respondents.

D E C I S I O N

CUEVAS, *J.*:

Petitioners, People of the Philippines and Judge Pedro D. Ofiana of the then Court of First Instance of Pangasinan (Branch

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IV), herein represented by the Hon. Solicitor General, seek the annulment and/or setting aside of the decision dated June 30, 1981 of the defunct Court of Appeals[1] issued in CA-G.R. Nos. SP-11559, 11560 and 11561, entitled, "Mayor Jaime P. Junio, petitioner, *vs.* Hon. Pedro Ofiana, etc., respondent," to pave the way for further proceedings in Criminal Cases Nos. 0293, 0297 and 0298 of the Court of First Instance (now Regional Trial Court) of Pangasinan (Branch IV).

The records disclose that three separate criminal cases for violation of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" were filed against Bayambang Municipal Mayor Jaime Junio (now respondent), together with other municipal officials of the said municipality before the Criminal Circuit Court in Dagupan City.

The first is Criminal Case No. 0293, whereby respondent mayor is charged with illegal condonation, by virtue of a Resolution of the Municipal Council of Bayambang, of the obligation of one Fortunata de Vera in the amount of P63,000.00, to the prejudice of the said municipality. The second is Criminal Case No. 0297, wherein respondent mayor is charged with alleged grant, by virtue of a Resolution of the Municipal Council of Bayambang, of fishing/administration privileges in favor of one Modesto Ambat, which caused injury to the municipality. And lastly, Criminal Case No. 0298, wherein said mayor is charged with alleged illegal grant, by virtue of a Resolution of the Municipal Council of Bayambang, of fishing/administration privileges in favor of Marcelo Medrano and Pedro Menor, which caused injury to the aforesaid municipality.

Upon arraignment, respondent Mayor and his co-accuseds, entered a plea of not guilty in all the aforementioned criminal cases. On March 15, 1976, all the accuseds in the said criminal cases filed a "Motion to Invalidate and Quash Information"

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[1] CA Decision, pages 107-122, *Rollo.*

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based on the following grounds: (1) lack of proper preliminary investigations; (2) the Investigating Fiscals have no authority to file the informations; (3) the Court has no jurisdiction over the persons of the accuseds and the offenses charged; (4) the informations are insufficient in substance; (5) the facts charged do not constitute an offense; (6) the informations contain averments, which if true, would constitute a legal excuse or justification; and (7) duplicity of offenses alleged in the information.

On June 14, 1976, the Circuit Criminal Court issued an Order[2] denying said motion thereby upholding the validity of the informations in said criminal cases. It also ordered the suspension of the respondent Mayor Junio.

Respondent Mayor then filed a Motion for Reconsideration which was however denied on November 19, 1976. Thereafter, he filed a petition for certiorari with the then Court of Appeals (docketed as G.R. Nos. SP-06256-59) praying that the order for his suspension be annulled. A temporary restraining order was issued on January 17, 1977 to maintain *status quo* and enjoin the enforcement of the challenged suspension order.

On April 19, 1977, the Court of Appeals rendered a decision in said case[3] upholding the validity of the informations against the accuseds as well as the validity of the suspension of respondent mayor, and dismissing the petition for certiorari.

With the denial of respondent's first and second motions for reconsideration, and the decision of the then Court of Appeals now being final and executory, the prosecution filed with the trial court, a motion for execution of the order of suspension. Mayor Junio opposed the said motion and likewise moved to dismiss the aforementioned criminal cases which at that time were already re-assigned to Branch IV of the Court

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[2] Order, page 267, *Rollo*.

[3] CA Decision (CA-G.R. Nos. SP-06256-59), pages 269-289, *Rollo*.

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of First Instance of Pangasinan due to the retirement of Judge Garcia of the Circuit Criminal Court.

In the meantime, Mayor Junio ran for reelection in the January 1980 national local election and eventually won. This notwithstanding, the prosecution nevertheless filed a motion for the issuance of a supplemental order of suspension against respondent mayor covering his new term of office which started on March 1, 1980.

After the parties were heard in oral arguments and had submitted their respective memoranda, the Hon. petitioner Judge Ofiana issued an Order on October 23, 1980[4] suspending respondent mayor from office as Municipal Mayor of Bayambang, Pangasinan. Respondent Mayor moved for reconsideration but his motion was denied. On November 14, 1980, a writ of execution for the enforcement of the Order of Suspension was issued. The said writ could not however be served upon the respondent Mayor who was then absent from office and reportedly staying in Manila.

Subsequently, respondent Mayor again filed with the Court of Appeals another petition for certiorari, prohibition and mandamus, (CA-G.R. Nos. SP-11559, 11560 and 11561), praying that the Order dated October 23, 1980 of Judge Ofiana renewing the suspension order be nullified; that said judge be ordered to desist from enforcing the questioned writ of execution; and to dismiss all the anti-graft cases pending in his Honor's sala.

To maintain *status quo*, the then Court of Appeals issued a temporary restraining order on November 14, 1980.

On June 30, 1981, a decision was rendered by the said court, the dispositive portion of which reads:

"WHEREFORE, the petition is granted due course. The questioned Order dated October 28, 1980 of Hon. Judge Pedro Ofiana of the Court of First Instance at Dagupan City, renewing and enforcing the lapsed Order of then Judge Himerio B. Garcia of the Circuit Criminal

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[4] Order, pages 296-301, *Rollo*.

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Court at Dagupan City dated June 14, 1976 and the latter order of suspension are hereby both declared null and void and rendered of no effect; the informations in Criminal Case Nos. 0293, 0297 and 0298 against petitioners in the Court of First Instance of Pangasinan, to which petitioner has already pleaded, are all ordered dismissed and the bail bond posted by the accused in the 3 aforementioned criminal cases cancelled. The temporary restraining order of this Court dated November 14, 1980 is made permanent. No costs.

SO ORDERED."

Hence, the instant petition, the Solicitor General contending that the appellate court erred —

"I

IN NOT DISMISSING THE PETITION FOR CERTIORARI ON THE GROUND OF *RES JUDICATA* SINCE THE VALIDITY OF THE CRIMINAL INFORMATIONS AGAINST PRIVATE RESPONDENT MAYOR JAIME P. JUNIO — THE ONLY ISSUE TO BE DETERMINED IN A PRE-SUSPENSION HEARING UNDER THE PROVISIONS OF THE ANTI-GRAFT AND CORRUPT PRACTICES ACT, RA NO. 3019 — HAD ALREADY BEEN DEFINITELY DETERMINED BY THE SAME COURT OF APPEALS IN A FINAL AND EXECUTORY DECISIONS DATED APRIL 19, 1977 IN CA G.R. NOS. SP-06256-59, ENTITLED "MAYOR JAIME P. JUNIO *V.* HON. HIMERIO B. GARCIA, ET AL";

II

IN FINDING THAT THERE WAS NO PRE-SUSPENSION HEARING WHERE MAYOR JUNIO COULD HAVE PRESENTED HIS EVIDENCE ON THE VALIDITY OF THE INFORMATIONS FILED AGAINST HIM, THE TRUTH BEING THAT THERE WERE IN FACT AT LEAST TWO (2) PRE-SUSPENSION HEARINGS, ONE BEFORE JUDGE HIMERIO B. GARCIA OF THE CIRCUIT CRIMINAL COURT AND THE OTHER BEFORE JUDGE PEDRO OFIANA OF THE COURT OF FIRST INSTANCE OF PANGASINAN;

III

IN HOLDING THAT THE DECISION OF THE COURT OF APPEALS IN CA-G.R. NO. 53941-R (SEVERA MANGANAAN,

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ET AL. *VS.* JUANITA MIJARES, ET AL.) AND THE DECISIONS OF THE COURT OF FIRST INSTANCE OF SAN CARLOS CITY IN CIVIL CASE NO. SCC-666 (MUNICIPALITY OF BAYAMBANG *V.* JAIME P. JUNIO, ET AL.) AND CIVIL CASE NO. SCC-667 (MUNICIPALITY OF BAYAMBANG *V.* JAIME P. JUNIO, ET AL.) ARE SUPERVENING EVENTS WHICH PRESENTED A PREJUDICIAL QUESTION THAT NULLIFIED THE INFORMATIONS AND BARRED PRIVATE RESPONDENT'S PROSECUTION;

IV

IN HOLDING THAT THE REELECTION OF MAYOR JUNIO IN EFFECT VINDICATED OR EXONERATED HIM FROM THE ANTI-GRAFT CHARGES FILED AGAINST HIM, THE SETTLED RULE BEING THAT REELECTION IS NOT A BAR TO PROSECUTION; and

V

IN NOT HOLDING THAT THE PETITION FOR CERTIORARI WAS NOT SUFFICIENT IN FORM OR SUBSTANCE, AND IN DISMISSING OUTRIGHT THE CRIMINAL CASES FILED AGAINST PRIVATE RESPONDENT WITHOUT ANY FACTUAL OR LEGAL BASIS."

Respondent appellate court's decision nullifying the order of suspension and dismissing the aforementioned criminal cases against respondent mayor is totally bereft of any legal and/or factual support. It is anchored on the following considerations —

(a) There was no pre-suspension hearing;

(b) Respondent mayor's reelection has extinguished his criminal liability;

(c) Later developments in court proceedings which have substantially affected and altered the original suspension order, to wit:

Re: Criminal Case No. 0297 -

Judge Felicidad Villalon of the Court of First Instance of Pangasinan at San Carlos City, rendered a decision on July 18, 1980 in Civil Case No. SCC-667, (Municipality of Bayambang *vs.* Jaime P. Junio, et al.), declaring the Resolution granting administration

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to Modesto Ambat, as legal and valid, a prejudicial question raised by respondent mayor;

Re: Criminal Case No. 0298 -

Judge Villalon rendered a decision in Civil Case No. SCC-666 (Municipality of Bayambang *vs.* Jaime Junio, et al.), declaring as valid and legal the Resolution granting to Marcelo Medrano and Pedro Menor, administration of certain parcels of the Municipality's property, also a prejudicial question raised;

Re: Criminal Case No. 0293 -

The proceedings in this case was suspended in view of a prejudicial question raised before the Court of Appeals in CA-G.R. No. 53941-R as to the validity of the condonation of P63,000.00 due the municipality which is the same issue raised in this criminal case. The appellate court upheld on June 19, 1980 the condonation as a legitimate exercise of proprietary function and thus in effect cleared the respondent mayor of any violation of the law.

(d) Mayor Junio's suspension will cripple local administration and development.

1. Contrary to what was stated in the respondent appellate court's questioned decision, the proceedings in the trial court partake the nature of a pre-suspension hearing, the purpose of which was to determine the validity of the informations against the respondent Mayor. There was no denial of due process since the accuseds were given the opportunity to be heard as in fact they filed pleadings after pleadings assailing the validity of the informations against them and praying for the quashal of the same; submitted their memorandum refuting the position and arguments of the prosecution on the motion to quash; and instead of presenting their evidence in support of their motion, they opted to submit the motion for resolution based on the pleadings already filed without further oral argument.

Not only that. Respondent Mayor, then accused, had even gone to the then Court of Appeals taking the trial court to task on the issue of validity of the informations in the said criminal cases and the said court upheld their validity and accordingly dismissed the petition. Respondent Mayor then can no

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longer complain that he was not duly heard nor was he deprived of his day in court.

"(d) No specific rules need be laid down for such pre-suspension hearing. Suffice it to state that the accused should be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him, e.g. that he has not been afforded the right of due preliminary investigation; that the acts for which he stands charged do not constitute a violation of the provisions of Republic Act No. 3019 or of the bribery provisions of the Revised Penal Code which would warrant his mandatory suspension from office under Section 13 of the Act; or he may present a motion to quash the information on any of the grounds provided in Rule 117 of the Rules of Court. The mandatory suspension decreed by the Act upon determination of the pendency in court of a criminal prosecution for violation of the Anti-Graft Act or for bribery under a valid information requires at the same time that the hearing be expeditious, and not unduly protracted such as to thwart the prompt suspension envisioned by the Act. Hence, if the trial court, say, finds the ground alleged in the quashal motion not to be indubitable, then it shall be called upon to issue the suspension order upon its upholding the validity of the information and setting the same for trial on the merits."[5]

2. Reelection is not a bar to prosecution.

Condonation of an officer's misconduct committed during his expired term by virtue of his reelection to office for a new term applies only to his *administrative* and not to his *criminal* guilt. Thus, in Ingco *vs.* Sanchez,[6] We ruled "that the reelection of a public officer for a new term does not in any manner wipe out the *criminal* liability incurred by him in a previous term. This doctrine was reiterated in Luciano *vs.* Provincial Governor[7] wherein the Court stressed that "a reelected public officer is no longer amenable to administrative sanctions for acts committed during his former tenure but that as to criminal

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[5] Luciano *vs.* Mariano, 40 SCRA 187; Bayos *vs.* Villaluz, 89 SCRA 285.

[6] 21 SCRA 1292.

[7] 28 SCRA 517, 527-528.

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prosecutions, particularly, for violation of the Anti-Graft and Corrupt Practices Act, as in the case at bar, the same are not barred by reelection of the public officer, since, *inter-alia*, one of the penalties attached to the offense is perpetual disqualification from public office xxx."

In the case of Oliveros *vs.* Villaluz,[8] this Court likewise decreed —

"Punishment for a crime is a vindication for an offense against the State and the body politic. x x x Reelection to public office is not provided for in Art. 89 of the Revised Penal Code as a mode of extinguishing criminal liability incurred by a public officer prior to his reelection. On the contrary, Art. 9 of the Anti-Graft Act imposes as one of the penalties in case of conviction perpetual disqualification from public office and Art. 30 of the Revised Penal Code declares that such penalty of perpetual disqualification entails 'the deprivation of the public offices and employments which the offender may have held even if conferred by popular election.'"

3. The issues in the civil cases decided by Judge Villalon are entirely different from the issues in the anti-graft cases. It is the commission of the act as defined by law, not the character or effect thereof, that determines whether or not the provision of the law has been violated.[9] Respondent mayor was charged for such corrupt practices like - giving certain parties unwarranted benefits, advantages or preference because of close personal relationship or causing injury damage and prejudice to the municipality for awarding lease privileges without the benefit of public bidding.

4. The issues in the civil cases do not present any prejudicial question. The guilt or innocence of the accused does not depend on the outcome of the civil cases. The legality, validity or propriety of the Municipal council's Resolution did not have the effect of invalidating the criminal informations against Mayor Junio. The decision in the civil cases is merely an affirmation that the accused acted within the scope of his authority. But the

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[8] 57 SCRA 170-171.

[9] Luciano *vs.* Estrella, 34 SCRA 780.

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law does not only punish acts committed outside the scope of an official's authority but also those done in the performance of his official functions which are tainted with graft or patent irregularities. Section 3, par. (e) of the Act is explicit when it punishes as a corrupt practice any act of public functionary "in causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence."

"In other words, the act treated thereunder partakes of the nature of a *malum prohibitum;* it is the commission of the act as defined by the law, not the character or effect thereof that determines whether or not the provision has been violated. And this construction would be in consonance with the announced purpose for which RA 3019 was enacted, which is the repression of certain acts of public officers and private persons constituting graft or corrupt practices or which may lead thereto. Note that the law does not merely contemplate repression of acts that are unlawful or corrupt *per se,* but even of those that may lead or result in graft and corruption. Thus, to require for conviction under the Anti-Graft and Corruption Practices Act that the validity of the contract or transaction be first proved would be to enervate, if not defeat, the intention of the Act. For what would prevent the officials from entering into those kinds of transactions against which Republic Act No. 3019 is directed, and then deliberately omit the observance of certain formalities just to provide a convenient leeway to avoid the clutches of the law in the event of discovery and consequent prosecution?"[10]

5. The validity of the criminal informations has already been sufficiently determined as shown by the Order dated October 23, 1980 of Judge Ofiana and the Decision dated April 19, 1977 of the defunct Court of Appeals (Ninth Division) in CA-G.R. Nos. SP-06256-59. We sustain the said rulings and conclusions, there being no compelling or justifiable reasons to overthrow the same nor any circumstance of note which had been overlooked that will warrant a reversal thereof.

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[10] Luciano *vs.* Estrella, *supra.*

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Now that the issue of validity of the informations has been settled, the suspension of the public official who is charged therein, is mandatory. There is no abuse of discretion on the part of Judge Ofiana when he issued a supplemental order of suspension against respondent Mayor after the latter's reelection. The first suspension order issued by retired Judge Garcia covered only the expired term of respondent as Mayor and does not automatically apply to the new term to which he had been reelected. There could be no such automatic application or extension of a previous suspension order to a new term because at the time the suspension order was issued, there was no absolute certainty that the accused would run for reelection and be reelected. This doctrine is clearly enunciated in the case of Oliveros *vs.* Villaluz, *supra.*

WHEREFORE, the decision dated June 30, 1981 of the defunct Court of Appeals (now Intermediate Appellate Court) issued in CA-G.R. Nos. SP-11559-61 is hereby REVERSED and SET ASIDE and the Order dated October 23, 1980 of Judge Pedro Ofiana in Criminal Case Nos. 0293, 0297 and 0298 is REINSTATED. Let these cases be REMANDED to the Court of First Instance (now Regional Trial Court) of Pangasinan for further proceedings in said criminal cases. No pronouncement as to costs.

SO ORDERED.

Makasiar, Aquino, Concepcion Jr., Abad Santos, and *Escolin, JJ.,* concur.

SECOND DIVISION

[G.R. No. 57589. March 18, 1985]

AMADO G. SORIANO and RAFAEL B. GARCIA, *petitioners, vs.* **HON. RUBEN B. ANCHETA, in his personal capacity and as COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE,** *respondent.*