Supreme Court E-Library

WHEREFORE, the petition is *DENIED*. The assailed Decision dated October 13, 2000 of the Court of Appeals in CA-G.R. CV No. 41756 is *AFFIRMED*.

Costs against petitioner.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and *Brion, JJ.,* concur.

FIRST DIVISION

[G.R. No. 146175. June 30, 2008]

SIMEON M. VALDEZ, *petitioner, vs.* **GOVERNMENT SERVICE INSURANCE SYSTEM,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; REPUBLIC ACT NO. 8291 (THE GOVERNMENT SERVICE INSURANCE ACT OF 1997); PROVIDES FOR THE COMPUTATION OF SERVICE IN THE GOVERNMENT FOR THE PURPOSE OF DETERMINING THE AMOUNT OF BENEFITS PAYABLE UNDER THIS ACT. — Section 10 of RA No. 8291, otherwise known as the "Government Service Insurance System Act of 1997," explicitly authorizes the GSIS and the CSC to work hand in hand in the computation of service in the government for the purpose of availment of the retirement benefits under the said Act. Pertinently, the said Act provides: "Sec. 10. *Computation of Service*. – (a) The computation of service for the purpose of determining the amount of benefits payable under this Act shall be from the date of original appointment/election, including periods of service at different times under one or more employers, those performed overseas under the authority of the Republic of the Philippines, and those that may be prescribed by the GSIS in coordination with the Civil Service Commission."

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2. REMEDIAL LAW; ACTIONS; JURISDICTION; JURISDICTIONAL QUESTION MAY BE RAISED AT ANY TIME EXCEPT WHEN ESTOPPEL HAS SUPERVENED.— While it is a rule that jurisdictional question may be raised at any time, this, however, admits of an exception where, as in this case, estoppel has supervened. The Court has, time and again, frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment only if favorable, and attacking it for lack of jurisdiction when adverse.

3. POLITICAL LAW; ADMINISTRATIVE LAW; REPUBLIC ACT NO. 8291 (THE GOVERNMENT SERVICE INSURANCE ACT OF 1997); DICTATES THAT FOR PURPOSES OF COMPUTATION OF GOVERNMENT SERVICE, ONLY FULL-TIME SERVICES WITH COMPENSATION ARE INCLUDED.— [T]he last paragraph of Section 10 of RA No. 8291 dictates that for purposes of computation of government service, only full-time services with compensation are included: "For the purpose of this section, the term service shall include full time service with compensation: *Provided*, That part time and other services with compensation may be included under such rules and regulations as may be prescribed by the GSIS."

4. ID.; CONSTITUTIONAL LAW; CONSTITUTIONAL COMMISSIONS; CIVIL SERVICE COMMISSION; THE CONSTITUTION MANDATES THE STANDARDIZATION OF COMPENSATION OF GOVERNMENT OFFICIALS AND EMPLOYEES COVERED BY THE CIVIL SERVICE.— The Constitution itself mandated the standardization of compensation of government officials and employees covered by the civil service under Article IX B, Section 5, *viz:* "Sec. 5. The Congress shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for their positions."

5. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; WHEN AVAILABLE.— It is an elementary principle that a petition for *certiorari* under Rule 65 cannot be used if the proper remedy is appeal. Being an extraordinary remedy, a party can only avail himself of *certiorari*, if there is no appeal, or

Supreme Court E-Library

any plain, speedy, and adequate remedy in the ordinary course of law. Here, appeal is the correct mode but was not seasonably utilized by the petitioner. Resort to this petition for *certiorari* is, therefore, improper because *certiorari* cannot be used as a substitute for a lost remedy of appeal. Petitions for *certiorari* are limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence such as errors of judgment. For, it is basic that *certiorari* under Rule 65 is a remedy narrow in scope and inflexible in character. It is not a general utility tool in the legal workshop. It offers only a limited form of review. Its principal function is to keep an inferior tribunal within its jurisdiction. It can be invoked only for an error of jurisdiction, that is, one where the act complained of was issued by the court, officer or a quasi-judicial body without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction. It is not to be used for any other purpose, such as to cure errors in proceedings or to correct erroneous conclusions of law or fact, as what petitioner would like the Court to venture into.

APPEARANCES OF COUNSEL

Mario G. Aglipay for petitioner.
Cesar L. Aganon for respondent.

D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

Before the Court is a special civil action for *certiorari* under Rule 65 of the Rules of Court, filed by petitioner Simeon M. Valdez assailing the July 31, 2000 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 54870, as reiterated in its Resolution[2] of October 17, 2000, upholding the Civil Service Commission's (CSC's) January 14, 1999 Opinion and Resolution No. 991940.

[1] Penned by then Associate Justice Romeo A. Brawner, with Associate Justices Quirino D. Abad Santos, Jr. (ret.) and Andres B. Reyes, Jr., concurring; *rollo*, pp. 26-34.

[2] *Id.*, p. 36.

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Principally, the CSC held that petitioner's services rendered in the Manila Economic Cultural Office (MECO), Mariano Memorial State University (MMSU), Philippine Veterans Investment Development Company (PHIVIDEC) and as OIC Vice-Governor of Ilocos Norte cannot be credited in the computation of his retirement benefits.

The facts are as follows:

On October 09, 1998, petitioner filed his application for retirement benefits with the Government Service Insurance System (GSIS).

On November 03, 1998, petitioner filed the same application with the CSC and at the same time, he sought the CSC's opinion on whether his two (2) years and three (3) months stint as MECO Director can be accredited as government service among others.

In support of his claim for retirement benefits, petitioner submitted a summary of his government service record, to wit:

SUMMARY

1. As Congressman (5th, 6th, 7th & 10th Congress) - 15 years
2. As Director of PHIVIDEC

November 1974 to March 1987	-	12 years 5 months
Sub total		27 years 5 months

3. As Member, Board of Regents

a) INIT (1975-1977)	-	3 years
b) MMSU (1978-1987)	-	10 years
c) MMSU (1989-1992)	-	4 years
Sub total	-	17 years

4. As OIC Vice-Governor Ilocos Norte

Nov. 1986-Dec. 1986	-	2 months
Jan. 1, 1987 to Mar. 1987	-	3 months
Sub total	-	5 months

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5. As Director of MECO

1 Jan. 1993 to 31 Dec. 1994	-	2 year
1 Jan. 1995 to March 1995	-	3 months
Sub total	-	2 years 3months

REMARKS

1. Please note therefore that there is overlapping of my services at PHIVIDEC & MMSU. My services of 12 years 5 months with PHIVIDEC should be counted and only 4 years and 7 months with MMSU where there is no overlapping.
2. My services as OIC Governor should not be counted as I was still with PHIVIDEC during the 6 months I served as OIC Vice-Governor.
3. Therefore the length of service to be credited for my retirement will cover only the following:

a) As Congressman	-	15 years
b) As Director of PHIVIDEC	-	12 years 5 months
c) As Board of Regent MMSU	-	4 years 7 months
d) As Director of MECO	-	2 years 3 months
Total	-	33 years 15 months

On February 23, 1999, petitioner received two mails, one from the CSC and the other from GSIS. The letter from CSC contained the challenged January 14, 1999 Opinion[3] denying the accreditation of petitioner's services as former Director of MECO and of PHIVIDEC and as Member of the Board of Regents of MMSU, pertinently reading as follows:

Section 2 (1), Article IX of the 1987 Constitution provides that the "*civil service embraces all branches, subdivisions, instrumentalities and agencies of the Government,* **including government-owned or controlled corporations with original charters**." (Underscoring Ours). Equivocably, subsidiary corporations created

[3] *Id.,* pp. 44-47.

Supreme Court E-Library

under the Corporation Code are not considered part of the Civil Service. Since MECO is a subsidiary corporation of the government governed by its Articles of Incorporation and By-Laws, whatever services rendered therein shall not be considered part and parcel of government service.

x x x x x x x x x

We note that at the time you were still a member of the Board of Regents of the Mariano Marcos State University (MMSU) from 1978 to 1992, you were likewise holding the positions of Philvidic (sic) Director (November 1974-March 1987) and as OIC-Vice Governor (August 1986-March 1987). As such, it must be reiterated that a part-time employee is not entitled to leave benefits unless he works part-time in two different government offices and renders the required office hours. This rule has been emphasized in CSC Resolution No. 90-1087, pertinent portion of which reads as follows:

> "Under the Leave Law and Rules, Leave Privileges are accorded only to regular, temporary, provisional or casual officials and employees who are rendering full time service in an agency or government. However, the status of appointment of employees in the government further identify certain specifications in the entitlement of leave privileges; **hence, a part-time employee is not entitled to leave unless he works part-time in two different offices and renders the required office hours** (Manual of Leave Administration, p.3.2). Thus it is completely inconceivable that members of the various Regulatory Board of the PRC who hold concurrently other positions in the civil service are, at the same time on full-time basis in other positions. x x x To grant them leave benefits in consideration of their services would be tantamount to double compensation, the receipt of which is constitutionally prescribed. x x x This has to be so, otherwise they would be enjoying leave privileges over and above what is provided in the leave Law and Rules (*Valdez v. Commission on Audit:* G.R. No. 87277, 25 May 1989). Besides, CSC Memorandum Circular No. 43, series of 1989 (Retirement of Employees Holding More than One Positions), is explicit that 'an appointment to a second position must be regarded only as imposing additional duties to the regular functions of an employee and consequently an employee can retire only from his regular or main position and not from his additional position."

Supreme Court E-Library

Let is *(sic)* be stressed that for purposes of computation of government service, only "full-time services with compensation" are included (Section 10 (b), RA 8291). Moreover, under Section 2(l) of RA 8291, "compensation" refers to the basic pay or salary received by an employee, pursuant to his election/appointment, excluding per diems, bonuses, overtime pay, honoraria, allowances and other emoluments received in addition to the basic pay which are not integrated into the basic pay under existing laws. (Underscoring Ours)

Premised on our answer in your first query, your services at the MECO for 2 years and 3 months did not earn any leave credit for you.

The correspondence from the GSIS contained a Letter[4] and a Retirement Voucher informing petitioner of the approval of his retirement benefits computed on the basis of the CSC's opinion.

Displeased, petitioner sought reconsideration of the subject CSC opinion in a Letter[5] addressed to the CSC and the GSIS. Petitioner insisted on the inclusion of his services rendered in the MECO, PHIVIDEC and MMSU in the computation of his retirement benefits pursuant to Sections 10 (b) and 2 (l) of Republic Act (RA) No. 8291.[6]

The GSIS indorsed[7] the Letter to the CSC with a view that the same is within the jurisdiction of the latter.

The CSC, for its part, rendered Resolution No. 991940[8] dated August 31, 1999 denying petitioner's request for reconsideration of the subject CSC opinion, thus:

WHEREFORE, the Commission hereby resolves to deny the instant request of Simeon Valdez. Accordingly, the assailed Opinion is affirmed.

Petitioner then elevated the matter to the CA by way of petition for review on *certiorari* against the CSC and the GSIS.

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[4] *Id.,* p. 48.

[5] *Id.,* pp. 49-58.

[6] The Government Service Insurance System Act of 1997.

[7] *Rollo,* p. 59.

[8] *Id.,* pp. 60-63.

Supreme Court E-Library

There, petitioner argued that his services rendered as Director of MECO should have been credited for retirement purposes and that his salary thereat should have been the highest remuneration considered in the computation of his retirement benefits. Petitioner likewise insisted that his respective tenures as Member of the Board of Regents of Ilocos Norte Institute of Technology (INIT) and the MMSU, as Director of the PHIVIDEC and as OIC Vice-Governor of Ilocos Norte be included as government service in the computation of his retirement benefits.

On July 31, 2000, the CA rendered the herein challenged decision dismissing the petition and affirming both the January 14, 1999 Opinion and Resolution No. 991940 of the CSC. Dispositively, the Decision reads:

> With the foregoing, the assailed CSC Opinion dated 14 January 1999 and Resolution No. 991940 dated 31 August 1999 are hereby AFFIRMED.
>
> SO ORDERED.

Thereafter, petitioner filed a motion for reconsideration of the foregoing decision and for the first time raised as an issue the lack of jurisdiction of the CSC and the CA over the case.

In the resolution of October 17, 2000, the CA denied petitioner's motion for reconsideration.

Petitioner now comes to this Court *via* this petition for *certiorari*. Although the CSC was the author of the challenged issuances which were affirmed by the CA and in fact it was a respondent in the case below, it was not impleaded in the instant petition. Petitioner now lays all the blame on the GSIS as he raises the following assigned errors:

I.

THE INDORSEMENT OF THE GSIS OF PETITIONER'S CLAIM FOR RETIREMENT BENEFITS TO THE CSC SUFFERS JURAL INFIRMITY AND ALL THE RESULTING CSC PROCEEDINGS AND RESOLUTIONS THEREON ARE NULL AND VOID *AB INITIO*, INCLUDING THE NOW QUESTIONED COURT OF APPEALS

Supreme Court E-Library

DECISION AND RESOLUTION (ANNEXES A AND B), FOR LACK OF JURISDICTION.

II.

ASSUMING THAT CSC AND THE COURT OF APPEALS HAVE JURISDICTION, THE HOLDING THAT PETITIONER'S CLAIM FOR RETIREMENT BENEFITS HAD ALREADY PRESCRIBED IS DEFINITELY A LEGAL ERROR.

III.

ASSUMING THAT CSC AND THE COURT OF APPEALS HAVE JURISDICTION, THE DENIAL OF THE ACCREDITATION OF PETITONER'S SERVICES RENDERED WITH MECO IS PLAINLY A LEGAL ERROR.

IV.

THE LACK OF JURISDICTION EXTENDS TO THE COURT OF APPEALS' AFFIRMING THE EXCLUSION OF PETITIONER'S SERVICES RENDERED WITH INIT, MMMCST, MMSU, PHIVEDEC (sic) AND OIC VICE-GOVERNOR OF ILOCOS NORTE.

V.

THE LACK OF JURISDICTION OF THE CSC AND THE COURT OF APPEALS, LAWLESSLY DEPRIVED PETITIONER THE RIGHT TO A RETIREMENT BENEFITS COMPUTED AT HIS HIGHEST SALARY RATE WITH MECO.

The petition is utterly bereft of merit.

First off, petitioner's argument that the GSIS violated RA No. 8291 when it indorsed petitioner's claim to the CSC for resolution is untenable. Section 10 of RA No. 8291, otherwise known as the "Government Service Insurance System Act of 1997," explicitly authorizes the GSIS and the CSC to work hand in hand in the computation of service in the government for the purpose of availment of the retirement benefits under the said Act. Pertinently, the said Act provides:

Sec. 10. *Computation of Service*. — (a) The computation of service for the purpose of determining the amount of benefits payable under this Act shall be from the date of original appointment/election, including periods of service at different times under one or more

Supreme Court E-Library

employers, those performed overseas under the authority of the Republic of the Philippines, and those that may be prescribed by the GSIS in coordination with the Civil Service Commission.

Besides, the petitioner himself sought the CSC's opinion on matters related to his application for retirement. He too filed a motion for the CSC to reconsider its opinion. Surely, the GSIS could not be faulted for merely referring his letter seeking reconsideration of the CSC opinion which was addressed to the GSIS, stated, "*I respectfully seek to reconsider the denial of the Chairman of the Civil Service Commission of the other benefits* xxx." Moreover, the GSIS' action on petitioner's claim relied on the CSC's Opinion.[9] Unless the CSC would reconsider or revise its earlier opinion, which it did not, it was unlikely for the GSIS to reconsider its previous opinion, given the statutory mandate for the said two institutions of government to coordinate on the matter of computation of government services of retirees.

While it is a rule that jurisdictional question may be raised at any time, this, however, admits of an exception where, as in this case, estoppel has supervened. The Court has, time and again, frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment only if favorable, and attacking it for lack of jurisdiction when adverse.[10]

Secondly, petitioner argues that the CSC and the CA erroneously held that his claim had already prescribed. A perusal of the record shows that no such finding was ever made, neither by the CSC in its January 14, 1999 Opinion and Resolution No. 991940 nor by the CA in the herein challenged July 31, 2000 Decision in *CA-G.R. SP No. 54870*, as reiterated the resolution of October 17, 2000.

The remaining three assigned errors being interrelated, we shall address them together. Petitioner would have the Court

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[9] *Supra*, note 3.

[10] *CL Sales Corporation v. Court of Appeals*, G.R. No. 129777, January 5, 2001, 349 SCRA 35, 44 and *Macahilig v. Heirs of Grace M. Magalit*, G.R. No. 141423, November 15, 2000, 344 SCRA 838, 851.

Supreme Court E-Library

reverse the CA's rejecting his assertion that his services rendered in the MECO, MMSU, PHIVIDEC and as OIC Vice-Governor of Ilocos Norte should be credited in the computation of his retirement benefits. We are not convinced for two reasons. First, the assailed CA decision affirming the impugned CSC issuances is anchored on law and jurisprudence. Thus, we quote with approval the following excerpt from the decision of the CA:

> None other than the 1987 Constitution of the Philippines, the Highest Law of the Land, confines the scope of the civil service as embracing "all the branches, subdivisions, instrumentalities and agencies of the government, including government-owned and controlled corporations with original charters."
>
> x x x x x x x x x
>
> In *Philippine National Company-Energy Development Corporation v. Leogardo,* 175 SCRA 26, 30 (1989), the Supreme Court categorically ruled that "under the present law, the test in determining whether a government-owned or controlled corporation is subject to the Civil Service Law is the manner of its creation such that government corporations created by special charter are subject to its provision while those incorporated under the General Corporation Law are not within its coverage."
>
> With this in mind, the CSC was not in error in holding that:
>
> > "It is noted that MECO was created before the effectivity of the 1987 Constitution. In this regard, granting without admitting that at the time of its incorporation (during the effectivity of the 1973 Constitution) MECO was yet under the coverage of the Philippine Civil Service, the appellant's (*i.e.*, petitioner's services rendered thereat for that period, however, still cannot be accredited as government service because at the time of his retirement/filing of the case/complaint, the abovequoted provision (*i.e.*, Section 2(1), Article IX) of the 1987 Constitution has already come into effect. As held by the Honorable Supreme Court in *Lumanta, et al. vs. National Labor Relations Commission and Food Terminal, Inc*. (170 SCRA 79), 'jurisdiction is determined as of the time of the filing of the complaint.'"
>
> The established rule is that the statute (in this case, the

Supreme Court E-Library

Constitution) in force at the time of the commencement of the action determines the jurisdiction of the court (in this case, the administrative body).

It was likewise no error for the CSC to deny accreditation of petitioner's services rendered for MMSU, PHIVIDEC and INIT, concurrently, because of the lack of sufficient basis to compute services rendered therefor converted to their full-time equivalent, reckoned in hours or days actually rendered, using a Forty-(40) hour week and 52 weeks a year as basis, in accordance with Section 5.3, Rule V of the Rules and Regulations Implementing the Government Service Insurance System Act of 1997.

Relevantly, the last paragraph of Section 10 of RA No. 8291 dictates that for purposes of computation of government service, only full-time services with compensation are included:

For the purpose of this section, the term service shall include full time service with compensation: *Provided*, That part time and other services with compensation may be included under such rules and regulations as may be prescribed by the GSIS.

While petitioner invokes the proviso in the above-quoted provision of law, the GSIS, which has been given the authority to include part-time services in the computation, has pointed out that the services in the MMSU, PHIVIDEC and as OIC Vice-Governor of Ilocos Norte cannot be credited because, aside from having been rendered part-time in said agencies, the said positions were without compensation as defined in Section 2(i) of RA No. 8291.[11]

Petitioner's insistence that the emoluments he received as MECO director be the basis in the computation of his retirement benefits, the same being the *highest basic salary rate*, is unavailing. Indeed, the salaries that he received at the time he served as MECO director were unusually high for any position covered by the civil service. Petitioner received a monthly pay of ₱40,000.00 in addition to a ₱65,000.00 representation and

[11] (i) *Compensation* .– The basic pay or salary received by an employee, pursuant to his election or appointment, excluding *per diems*, bonuses, overtime pay, honoraria, allowances and any other emoluments received in addition to the basic pay under existing laws.

Supreme Court E-Library

travel allowance and US$2,500.00 per diem for overseas board meetings. The Constitution itself mandated the standardization of compensation of government officials and employees covered by the civil service under Article IX B, Section 5, *viz:*

> Sec. 5. The Congress shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for their positions.

The salary received by petitioner during his stint at MECO appears to be way beyond that authorized by RA No. 6758,[12] otherwise known as the Salary Standardization Law. For this reason, it is doubtful that petitioner's employment with the MECO is embraced by the civil service. Otherwise, the salary rate received by petitioner from MECO would not have been legally feasible, unless there was a law exempting the MECO from the Salary Standardization Law.

Finally, the instant petition purports to be a petition for *certiorari* under Rule 65 of the Rules of Court. However, a cursory reading of the issues raised discloses that petitioner's arguments are not anchored on lack of jurisdiction but on questions of law which fall within the realm of petitions for review on *certiorari* under Rule 45 of the Rules of Court.

It is an elementary principle that a petition for *certiorari* under Rule 65 cannot be used if the proper remedy is appeal. Being an extraordinary remedy, a party can only avail himself of *certiorari*, if there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.[13] Here, appeal is the correct mode but was not seasonably utilized by the petitioner. Resort to this petition for *certiorari* is, therefore, improper because *certiorari* cannot be used as a substitute

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[12] Effective July 1989.

[13] 1997 Rules of Civil Procedure, Rule 65, Section 1; see *B.F. Corporation v. Court of Appeals*, G.R. No. 120105, March 27, 1998, 288 SCRA 267.

[14] *Chico v. Court of Appeals,* G.R. No. 122704, January 5, 1998, 284 SCRA 33, 37.

Supreme Court E-Library

for a lost remedy of appeal.[14] Petitions for *certiorari* are limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence such as errors of judgment. For, it is basic that *certiorari* under Rule 65 is a remedy narrow in scope and inflexible in character. It is not a general utility tool in the legal workshop.[15] It offers only a limited form of review. Its principal function is to keep an inferior tribunal within its jurisdiction. It can be invoked only for an error of jurisdiction, that is, one where the act complained of was issued by the court, officer or a quasi-judicial body without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction. It is not to be used for any other purpose, such as to cure errors in proceedings or to correct erroneous conclusions of law or fact, as what petitioner would like the Court to venture into. A petition for *certiorari* not being the proper remedy to correct errors of judgment as alleged in the instant case, the herein petition should be dismissed pursuant to SC Circular No. 2-90.[16]

WHEREFORE, in view of the foregoing, the petition is *DISMISSED* and the assailed decision and resolution of the CA are *AFFIRMED*.

SO ORDERED.

Carpio, Corona, and *Azcuna, JJ.,* concur.
Puno, C.J. (Chairperson), no part, close relationship.

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[15] *Land Bank of the Philippines v. Court of Appeals*, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 479*; San Miguel Foods, Inc.-Cebu B-Meg Feed Plant v. Laguesma,* G.R. No. 116172, October 10, 1996, 263 SCRA 68, 84-85.

[16] GUIDELINES TO BE OBSERVED IN APPEALS TO THE COURT OF APPEALS AND TO THE SUPREME COURT.