**GENERAL CONSIDERATIONS**

**INHERENT POWERS OF THE STATE**

**Police Power**

The Court finds that there is no substantial difference between the activities that would fall under the purview of “sales promotion” in RA 7394 (“Consumer Act of the Philippines”), as well as those under “promotion” in RA 9211 (“Tobacco Regulation Act of 2003”), as would warrant a delineation in the authority to regulate its conduct. In line with this, if the IAC-Tobacco was created and expressly given the exclusive authority to implement the provisions of RA 9211, it signifies that it shall also take charge of the regulation of the use, sale, distribution, and advertisements of tobacco products, as well as all forms of “promotion” which essentially includes “sales promotion.” Hence, the Court finds that RA 9211 impliedly repealed the relevant provisions of RA 7394 with respect to the authority of the DOH to regulate tobacco sales promotions. Therefore, with this regulatory power conferred upon the IAC-Tobacco by RA 9211, the DOH and the BFAD have been effectively and impliedly divested of any authority to act upon applications for tobacco sales promotional permit, including PMPMI’s. **THE DEPARTMENT OF HEALTH, REPRESENTED BY SECRETARY ENRIQUE T. ONA, AND THE FOOD AND DRUG ADMINISTRATION (FORMERLY THE BUREAU OF FOOD AND DRUGS), REPRESENTED BY ASSISTANT SECRETARY OF HEALTH NICOLAS B. LUTERO III, OFFICER-IN-CHARGE** **vs. PHILIP MORRIS PHILIPPINES MANUFACTURING, INC., G.R. No. 202943, March 25, 2015, J. Perlas-Bernabe**

**STATE IMMUNITY FROM SUIT**

An unincorporated government agency without any separate juridical personality of its own enjoys immunity from suit because it is invested with an inherent power of sovereignty. Accordingly, a claim for damages against the agency cannot prosper; otherwise, the doctrine of sovereign immunity is violated. The immunity has been upheld in favor of the former because its function is governmental or incidental to such function; it has not been upheld in favor of the latter whose function was not in pursuit of a necessary function of government but was essentially a business.

The TRB, Dumlao and the DPWH correctly invoked the doctrine of sovereign immunity in their favor. The TRB and the DPWH performed purely or essentially government or public functions. As such, they were invested with the inherent power of sovereignty. Being unincorporated agencies or entities of the National Government, they could not be sued as such. On his part, Dumlao was acting as the agent of the TRB in respect of the matter concerned.

Nonetheless, the Hermano Oil properly argued that the PNCC, being a private business entity, was not immune from suit. The PNCC was incorporated in 1966 under its original name of Construction Development Corporation of the Philippines (CDCP) for a term of fifty years pursuant to the Corporation Code. Hence, the Government owned 90.3% of the equity of the PNCC, and only 9.70% of the PNCC’s voting equity remained under private ownership. Although the majority or controlling shares of the PNCC belonged to the Government, the PNCC was essentially a private corporation due to its having been created in accordance with the Corporation Code, the general corporation statute. More specifically, the PNCC was an acquired asset corporation under Administrative Order No. 59, and was subject to the regulation and jurisdiction of the Securities and Exchange Commission. Consequently, the doctrine of sovereign immunity had no application to the PNCC. **HERMANO OIL MANUFACTURING & SUGAR CORPORATION vs. TOLL REGULATORY BOARD, ENGR. JAIME S. DUMLAO, JR., PHILIPPINE NATIONAL CONSTRUCTION CORPORATION (PNCC) AND DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH), G.R. No. 167290, November 26, 2014, J. Bersamin**

**SEPARATION OF POWERS**

If the Legislature may declare what a law means, or what a specific portion of the Constitution means, especially after the courts have in actual case ascertain its meaning by interpretation and applied it in a decision, this would surely cause confusion and instability in judicial processes and court decisions. Herein, the Executive has violated the GAA when it stated that savings as a concept is an ordinary species of interpretation that calls for legislative, instead of judicial determination. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al. vs.** **BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al. G.R. No. 209287, February 3, 2015, J. Bersamin**

**CHECKS AND BALANCES**

“Under this carefully laid-out constitutional system, the DAP violates the principles of sepa-ration of powers and checks and balances on two (2) counts: first, by pooling funds that cannot at all be classified as savings; and second, by using these funds to finance projects outside the Executive or for projects with no appropriation cover.

“These violations – in direct violation of the “no transfer” proviso of [Sec. 25(5)] of Article VI of the Constitution – had the effect of allowing the Executive to encroach on the domain of Congress in the budgetary process. By facilitating the use of funds not classified as savings to finance items other than for which they have been appropriated, the DAP in effect allowed the President to circumvent the constitutional budgetary process and to veto items of the GAA without subjecting them to the 2/3 overriding veto that Congress is empowered to exercise.” **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al. vs. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al.,G.R. No. 209287 (Consolidated), July 01, 2014, Separate Opinion, J. Brion**

**LEGISLATIVE DEPARTMENT**

**LIMITATIONS ON LEGISLATIVE POWER**

**Limitations on Appropriations Measures**

Section 25(5), Article VI of the Constitution states: 5) No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

Section 39, Chapter 5, Book VI of the Administrative Code provide: Section 39. Authority to Use Savings in Appropriations to Cover Deficits.—Except as otherwise provided in the General Appropriations Act, any savings in the regular appropriations authorized in the General Appropriations Act for programs and projects of any department, office or agency, may, with the approval of the President, be used to cover a deficit in any other item of the regular appropriations: Provided, that the creation of new positions or increase of salaries shall not be allowed to be funded from budgetary savings except when specifically authorized by law: Provided, further, that whenever authorized positions are transferred from one program or project to another within the same department, office or agency, the corresponding amounts appropriated for personal services are also deemed transferred, without, however increasing the total outlay for personal services of the department, office or agency concerned.

On the other hand, Section 39 is evidently in conflict with the plain text of Section 25(5), Article VI of the Constitution because it allows the President to approve the use of any savings in the regular appropriations authorized in the GAA for programs and projects of any department, office or agency to cover a deficit in any other item of the regular appropriations. As such, Section 39 violates the mandate of Section 25(5) because the latter expressly limits the authority of the President to augment an item in the GAA to only those in his own Department out of the savings in other items of his own Department’s appropriations. Accordingly, Section 39 cannot serve as a valid authority to justify cross-border transfers under the DAP. Augmentations under the DAP which are made by the Executive within its department shall, however, remain valid so long as the requisites under Section 25(5) are complied with. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN et al., vs.** **BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES et al., G.R. No. 209287, February 3, 2015, J. Bersamin**

**EXECUTIVE DEPARTMENT**

**POWERS**

The Executive cannot circumvent the prohibition by Congress of an expenditure for a Program, Activity or Project (PAP) by resorting to either public or private funds. Nor could the Executive transfer appropriated funds resulting in an increase in the budget for one PAP, for by so doing the appropriation for another PAP is necessarily decreased. The terms of both appropriations will thereby be violated. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al. vs. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al., G.R. No. 209287 (Consolidated), July 01, 2014, J. Bersamin**

It is true that the General Appropriations Act provides for impoundment. Philconsa v. Enriquez declined to rule on its constitutional validity. Until a ripe and actual case, its constitutional contours have yet to be determined. Certainly, there has been no specific expenditure under the umbrella of the DAP alleged in the petition and properly traversed by respondents that would allow us the proper factual framework to delve into this issue. Any definitive pronouncement on impoundment as constitutional doctrine will be premature, advisory, and, therefore, beyond the province of review in these cases. **J. Leonen, Separate Concurring Opinion**

“When the President approves the wholesale withdrawal of unobligated allotments by invoking the blanket authority of [Sec. 38 vis-à-vis] the general policy impetus to ramp up government spending, without any discernible explanation behind a particular PAP expenditure’s suspension or stoppage, or any clarification as to whether the funds withdrawn then pooled would be used either for realignment or only to cover a fiscal deficit, or for augmentation (in this latter case, necessitating therefor the determination of whether said funds are savings or not), a constitutional conundrum arises.” [With this in mind, it is respectfully submitted] “that the with-drawal of unobligated allotments not considered as savings, the augmentation, or, despite the funds being considered as savings, the augmentation of items cross-border or the funding of PAPs without an existing appropriation cover are unconstitutional acts and/practices taken under the DAP.” **J. Perlas-Bernabe, Separate Concurring Opinion**

**Pardoning Power**

When the pardon extended to former President Estrada shows that both the principal penalty of reclusion perpetua and its accessory penalties are included in the pardon. The first sentence refers to the executive clemency extended to former President Estrada who was convicted by the Sandiganbayan of plunder and imposed a penalty of reclusion perpetua. The latter is the principal penalty pardoned which relieved him of imprisonment. The sentence that followed, which states that "(h)e is hereby restored to his civil and political rights," expressly remitted the accessory penalties that attached to the principal penalty of reclusion perpetua. Hence, from the text of the pardon that the accessory penalties of civil interdiction and perpetual absolute disqualification were expressly remitted together with the principal penalty of reclusion perpetua.

Furthermore, the third preambular clause of the pardon, i.e., “[w]hereas, Joseph Ejercito Estrada has publicly committed to no longer seek any elective position or office,” neither makes the pardon conditional, nor militate against the conclusion that former President Estrada’s rights to suffrage and to seek public elective office have been restored. A preamble is really not an integral part of a law. It is merely an introduction to show its intent or purposes. It cannot be the origin of rights and obligations. Where the meaning of a statute is clear and unambiguous, the preamble can neither expand nor restrict its operation much less prevail over its text. Hence if the pardon was intended be conditional, it should have explicitly stated the same in the text of the pardon itself. Since it did not make an integral part of the decree of pardon, the 3rd preambular clause cannot be interpreted as a condition to the pardon extended. **ATTY. ALICIA RISOS-VIDAL and ALFREDO S. LIM vs.** **COMMISSION ON ELECTIONS and JOSEPH EJERCITO ESTRADA, G.R. No. 206666, January 21, 2015, J. Leonardo-De Castro**

**Powers Relative to Appropriation Measures**

The DAP was a government policy or strategy designed to stimulate the economy through accelerated spending. In the context of the DAP’s adoption and implementation being a function pertaining to the Executive as the main actor during the Budget Execution Stage under its constitutional mandate to faithfully execute the laws, including the GAAs, Congress did not need to legislate to adopt or to implement the DAP. Congress could appropriate but would have nothing more to do during the Budge Execution Stage. Indeed, appropriation was the act by which Congress “designates a particular fund, or sets apart a specified portion of the public revenue or of the money in the public treasury, to be applied to some general object of governmental expenditure, or to some individual purchase or expense. As pointed out in Gonzales vs. Raquiza, “[i]n a strict sense, appropriation has been defined ‘as nothing more than the legislative authorization prescribed by the Constitution that money may be paid out of the Treasury,’ while appropriation made by law refers to ‘the act of the legislature setting apart or assigning to a particular use a certain sum to be used in the payment of debt or dues from the State to its creditors.”

On the other hand, the President, in keeping with his duty to faithfully execute the laws, had sufficient discretion during the execution of the budget to adapt the budget to changes in the country’s economic situation. He could adopt a plan like the DAP for the purpose. He could pool the savings and identify the [Programs, Activities and Projects or PAPs] to be funded under the DAP. The pooling of savings pursuant to the DAP, and the identification of the PAPs to be funded under the DAP did not involve appropriation in the strict sense because the money had been already set apart from the public treasury by Congress through the GAAs. In such actions, the Executive did not usurp the power vested in the Congress under Sec. 29(1), Article VI of the Constitution. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al., vs. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al., G.R. No. 209287 (Consolidated), July 01, 2014, J. Bersamin**

**JUDICIAL DEPARTMENT**

**JUDICIAL REVIEW**

The Court does not have the unbridled authority to rule on just any and every claim of constitutional violation. Jurisprudence is replete with the rule that the power of judicial review is limited by four exacting requisites, viz : (a) there must be an actual case or controversy; (b) the petitioners must possess locus standi; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the lis mota of the case. Hence, there is deemed an actual case of controversy when petitioners have shown that the case is so because medical practitioners or medical providers are in danger of being criminally prosecuted under the RH Law for vague violations thereof, particularly public health officers who are threatened to be dismissed from the service with forfeiture of retirement and other benefits. For this reason, Court can exercise its power of judicial review over the controversy. **JAMES M. IMBONG, et al., vs. HON. PAQUITO N. OCHOA, JR. et al., G.R. No. 204819 , April 8, 2014, J. Mendoza**

Except for PHILCONSA, a petitioner in G.R. No. 209164, the petitioners have invoked their capacities as taxpayers who, by averring that the issuance and implementation of the DAP and its relevant issuances involved the illegal disbursements of public funds, have an interest in preventing the further dissipation of public funds. The petitioners in G.R. No. 209287 (Araullo) and G.R. No. 29442 (Belgica) also assert their right as citizens to sue for the enforcement and observance of the constitutional limitations on the political branches of the Government.

On its part, PHILCONSA simply reminds that the Court has long recognized its legal standing to bring cases upon constitutional issues. Luna, the petitioner in G.R. No. 209136, cites his additional as a lawyer. The IBP, the petitioner in G.R. No. 209260, stands by “its avowed duty to work for the rule of law and of paramount importance of the question in this action, not to mention its civic duty as the official association of all lawyers in this country.”

Under their respective circumstances, each of the petitioners has established sufficient interest in the outcome of the controversy as to confer locus standi on each of them. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al. vs. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al., G.R. No. 209287 (Consolidated), July 01, 2014, J. Bersamin**

It is a rule firmly entrenched in our jurisprudence that the courts will not determine the constitutionality of a law unless the following requisites are present: (1) the existence of an actual case or controversy involving a conflict of legal rights susceptible of judicial determination; (2) the existence of personal and substantial interest on the part of the party raising the constitutional question; (3) recourse to judicial review is made at the earliest opportunity; and (4) the resolution of the constitutional question must be necessary to the decision of the case. The Supreme Court has carefully read the petitions and we conclude that they fail to compellingly show the necessity of examining the constitutionality of Section 28(a) and (b) of RA 7279 in the light of Sections 1 and 6, Article 3 of the 1987 Constitution. **KALIPUNAN NG DAMAYANG MAHIHIRAP, INC., et al., vs. JESSIE ROBREDO, in his capacity as Secretary, Department of Interior and Local Government, et al., G.R. No. 200903, July 22, 2014, J. Brion**

The existence of an actual controversy in the instant case cannot be overemphasized. At the time of filing of the instant petition, Robredo had already implemented the assailed MCs. In fact, Villafuerte received Audit Observation Memorandum (AOM) No. 2011-009 dated May 10, 2011 from the Office of the Provincial Auditor of Camarines Sur, requiring him to comment on the observation of the audit team,

The issuance of AOM No. 2011-009 to Villafuerte is a clear indication that the assailed issuances of Robredo are already in the full course of implementation. The AOM specifically mentioned of Villafuerte’s alleged non-compliance … and [t]he fact that Villafuerte is being required to comment on the contents of thereof signifies that the process of investigation for his alleged violation has already begun. Ultimately, the investigation is expected to end in a resolution on whether a violation has indeed been committed, together with the appropriate sanctions that come with it. Clearly, Villafuerte’s apprehension is real and well-founded as he stands to be sanctioned for non-compliance with the issuances. **GOV. LUIS RAYMUND F. VILLAFUERTE, JR. AND THE PROVINCE OF CAMARINES SUR vs. HON. JESSE M. ROBREDO IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, G.R. No. 195390, December 10, 2014, J. Reyes**

There can be no justiciable controversy involving the constitutionality of a proposed bill. The Court can exercise its power of judicial review only after a law is enacted, not before. Mijares wants the court to strike down the proposed bills abolishing the Judiciary Development Fund. The court, however, must act only within its powers granted under the Constitution. The court is not empowered to review proposed bills because a bill is not a law. **IN THE MATTER OF: SAVE THE SUPREME COURT JUDICIAL INDEPENDENCE AND FISCAL AUTONOMY MOVEMEN vs. ABOLITION OF JUDICIARY DEVELOPMENT FUND (JDF) AND REDUCTION OF FISCAL AUTONOMY., UDK-15143, January 21, 2015, J. Leonen**

**Operative Fact Doctrine**

The doctrine of operative fact recognizes the existence of the law or executive act prior to the determination of its unconstitutionality as an operative fact that produced consequences that cannot always be erased, ignored or disregarded. In short, it nullifies the void law or executive act but sustains its effects. It provides an exception to the general rule that a void or unconstitutional law produces no effect. But its use must be subjected to great scrutiny and circumspection, and it cannot be invoked to validate an unconstitutional law or executive act, but is resorted to only as a matter of equity and fair play. It applies only to cases where extra-ordinary circumstances exist, and only when the extraordinary circumstances have met the stringent conditions that will permit its application.

The Court finds the doctrine of operative fact applicable to the adoption and implementation of the DAP. Its application to the DAP proceeds from equity and fair play. The consequences resulting from the DAP and its related issuances could not be ignored or could no longer be undone. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al. vs. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al., G.R. No. 209287 (Consolidated), July 01, 2014, J. Bersamin**

**Moot & Academic**

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness, as a judgment in a case which presents a moot question can no longer be enforced. RTC's rendition of the Decision by virtue of which the assets subject of the said cases were all forfeited in favor of the government, are supervening events which have rendered the essential issue in this case moot and academic, that is, whether or not respondents should have been allowed by the RTC to intervene on the ground that they have a legal interest in the forfeited assets. **REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL, vs. RAFAEL A. MANALO, GRACE M. OLIVA, and FREIDA Z. RIVERA-YAP, G.R. No. 192302, June 4, 2014, J. Perlas-Bernabe**

**Political Question Doctrine**

When petitioners, a Diocese and its Bishop posted tarpaulins in front of the cathedral which aimed to dissuade voters from electing candidates who supported the RH Law, and the COMELEC twice ordered the latter to dismantle the tarpaulin for violation of its regulation which imposed a size limit on campaign materials, the case is about COMELEC’s breach of the petitioners’ fundamental right of expression of matters relating to election. The concept of a political question never precludes judicial review when the act of a constitutional organ infringes upon a fundamental individual or collective right. **THE DIOCESE OF BACOLOD, REPRESENTED BY THE MOST REV. BISHOP VICENTE M. NAVARRA and THE BISHOP HIMSELF IN HIS PERSONAL CAPACITY vs. COMMISSION OF ELECTIONS AND THE ELECTION OFFICER OF BACOLOD CITY, ATTY. MAVIL V. MAJARUCON, G.R. No. 205728, January 21, 2015, J. Leonen**

**JUDICIAL RESTRAINT**

Not every error in the proceedings, or every erroneous conclusion of law or fact, constitutes grave abuse of discretion. While the prosecutor, or in this case, the investigating officers of the Office of the Ombudsman, may err or even abuse the discretion lodged in them by law, such error or abuse alone does not render their act amenable to correction and annulment by the extraordinary remedy of certiorari. The requirement for judicial intrusion is still for the petitioner Agdeppa to demonstrate clearly that the Office of the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction. Unless such a clear demonstration is made, the intervention is disallowed in deference to the doctrine of non-interference. The Court adheres to a policy of non-interference with the investigatory and prosecutorial powers of the Office of the Ombudsman. However, other than his own allegations, suspicions, and surmises, Agdeppa did not submit independent or corroborating evidence in support of the purported conspiracy. Taking away Agdeppa’s conspiracy theory, the grounds for his Petition no longer have a leg to stand on. **RODOLFO M. AGDEPPA vs. HONORABLE OFFICE OF THE OMBUDSMAN, et al., G.R. No. 146376, April 23, 2014, J. Leonardo-De Castro**

**CONSTITUTIONAL COMMISSIONS**

**THE COMMISSION OF AUDIT**

**Powers**

Since the Extraordinary and Miscellaneous Expenses (EME) of Government-Owned and Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and their subsidiaries, are, pursuant to law, allocated by their own internal governing boards, as opposed to the EME of National Government Agencies (NGAs) which are appropriated in the annual General Appropriations Act (GAA) duly enacted by Congress, there is a perceivable rational impetus for the Commission on Audit (CoA) to impose nuanced control measures to check if the EME disbursements of GOCCs, GFIs and their subsidiaries constitute irregular, unnecessary, excessive, extravagant, or unconscionable government expenditures. **ARNALDO M. ESPINAS, LILLIAN N. ASPRER, and ELEANORA R. DE JESUS, vs. COMMISSION ON AUDIT, G.R. No. 198271, April 1, 2014, J. Perlas-Bernabe**

To fill the gap created by the amendment of COA Circular No. 86-255, respondents correctly held that the officials of CDC who violated the provisions of Circular No. 98-002 and Circular No. 9 should be personally liable to pay the legal fees of Laguesma, as previously provided for in Circular No. 86-255.

This finds support in Sec. 103 of the Government Auditing Code of the Philippines, which states that “expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefore”.

This court has also previously held in Gumaru vs. Quirino State College that “the fee of the lawyer who rendered legal service to the government in lieu of the OSG or the OGCC is the personal liability of the government official who hired his services without the prior written conformity of the OSG or the OGCC, as the case may be.” **THE LAW FIRM OF LAGUESMA MAGSALIN CONSULTA AND GASTARDO vs. THE COMMISSION ON AUDIT AND/OR REYNALDO A. VILLAR AND JUANITO G. ESPINO, JR. IN THEIR CAPACITIES AS CHAIRMAN AND COMMISSIONER, RESPECTIVELY, G.R. No. 185544, January 13, 2015, J. Leonen**

**Jurisdiction**

The case tackles the decision of COA for denying allegation of BCDA that COA gravely abused its discretion when it when it declared that disbursement made covering the remuneration pursuant to the extension of CMS is without legal basis. The court ruled in favor of COA.It is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce. Findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. It is only when the COA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings. **BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA)**, **vs.** **COMMISSION ON AUDIT CHAIRPERSON MA. GRACIA M. PULIDO-TAN, COMMISSIONER HEIDI L. MENDOZA AND COMMISSIONER ROWENA V. GUANZON, THE COMMISSIONERS, COMMISSION ON AUDIT, G.R. No. 209219, December 02, 2014, J. Reyes**

**THE CIVIL SERVICE COMMISSION**

*There is grave misconduct when the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule are present. Dishonesty is defined as a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straight forwardness. Both gross misconduct and dishonesty are grave offenses that are punishable by dismissal even for the first offense. Conduct prejudicial to the best interest of the service is also classified as a grave offense under Section 22(t) of the Omnibus Rules Implementing Book V of Executive Order No. 292 and other pertinent Civil Service laws, with the penalty for the first offense being suspension for six (6) months and one (1) day to one (1) year, and for the second offense being dismissal. The Civil Service laws and rules contain no description of what specific acts constitute the grave offense of conduct prejudicial to the best interest of the service. However, jurisprudence has been instructive, with the Court having considered the following acts or omissions as constitutive of conduct prejudicial to the best interest of the service, namely: (a) misappropriation of public funds; (b) abandonment of office; (c) failure to report back to work without prior notice; (d) failure to keep public records and property safe; (e) making false entries in public documents; and (f) falsification of court orders. For making false statements, committing perjury and stealing the copy paper, Austria and Glor are guilty of grave misconduct, gross dishonesty, and conduct prejudicial to the best interest of the service. Their dismissal from the service is the proper penalty, with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in the Government. In addition, the records of the case should be referred to the Department of Justice for investigation with a view to the filing, if warranted, of the appropriate criminal proceedings.* **ALLEGED LOSS OF VARIOUS BOXES OF COPY PAPER DURING THEIR TRANSFER FROM THE PROPERTY DIVISION, OFFICE OF ADMINISTRATIVE SERVICES (OAS), TO THE VARIOUS ROOMS OF THE PHILIPPINE JUDICIAL ACADEMY, A.M. No. 2008-23-SC, November 10, 2014, J. Bersamin**

**Jurisdiction**

Funa filed the instant petition questioning the designation of Duque as a member of the Board of Directors or Trustees of the GSIS, PHIC, ECC and HDMF for being violative of Sections 1 and 2 of Article IX-A of the 1987 Constitution which prohibits the Chairmen and Members of the Constitutional Commissions from holding any other office or employment during their tenure. Ruling in favor of Funa the SC ruled that Section 14, Chapter 3, Title I-A, Book V of EO 292 is clear that the CSC Chairman’s membership in a governing body is dependent on the condition that the functions of the government entity where he will sit as its Board member must affect the career development, employment status, rights, privileges, and welfare of government officials and employees.

The concerned GOCCs are vested by their respective charters with various powers and functions to carry out the purposes for which they were created. While powers and functions associated with appointments, compensation and benefits affect the career development, employment status, rights, privileges, and welfare of government officials and employees, the concerned GOCCs are also tasked to perform other corporate powers and functions that are not personnel-related. All of these powers and functions, whether personnel-related or not, are carried out and exercised by the respective Boards of the concerned GOCCs. Hence, when the CSC Chairman sits as a member of the governing Boards of the concerned GOCCs, he may exercise these powers and functions, which are not anymore derived from his position as CSC Chairman. Such being the case, the designation of Duque was unconstitutional. **DENNIS A. B. FUNA vs. THE CHAIRMAN, CIVIL SERVICE COMMISSION, FRANCISCO T. DUQUE III, EXECUTIVE SECRETARY LEANDRO R. MENDOZA, OFFICE OF THE PRESIDENT, G.R. No. 191672, November 25, 2014, J. Lucas P. Bersamin**

**ADDITIONAL, DOUBLE, OR INDIRECT COMPENSATION**

To prove the validity of the allowances granted, MIA presented a photocopy of the memorandum with an “approved” stamped on the memorandum. Below the stamp is the signature of then President Estrada.

The Court cannot rule on the validity of the alleged approval by the then President Estrada of the grant of additional allowances and benefits. MIA failed to prove its existence. The alleged approval of the President was contained in a mere photocopy of the memorandum... The original was not presented during the proceedings. A copy of the document is not in the Malacañang Records Office.

Further, “the grant of allowances and benefits amounts to double compensation proscribed by Art. IX(B), Sec. 8 of the 1987 Constitution.” **MARITIME INDUSTRY AUTHORITY vs. COMMISSION ON AUDIT, G.R. No. 185812, January 13, 2015, J. Leonen**

**BILL OF RIGHTS**

**DUE PROCESS**

Contending that Cadet Cudia was dismissed without being afforded due process, the petitioners filed the instant petition assailing the dismissal of Cadet Cudia from the PMA. In order to be proper and immune from constitutional infirmity, a cadet who is sought to be dismissed or separated from the academy must be afforded a hearing, be apprised of the specific charges against him, and be given an adequate opportunity to present his or her defense both from the point of view of time and the use of witnesses and other evidence. In the case at bar, the investigation of Cadet 1CL Cudia’s Honor Code violation followed the prescribed procedure and existing practices in the PMA. He was notified of the Honor Report from Maj. Hindang. He was then given the opportunity to explain the report against him. He was informed about his options and the entire process that the case would undergo. Thus, the petitioners could not argue that Cadet Cudia was not afforded due process. [**FIRST CLASS CADET ALDRIN JEFF P. CUDIA OF THE PHILIPPINE MILITARY ACADEMY, REPRESENTED BY HIS FATHER RENATO P. CUDIA, WHO ALSO ACTS ON HIS OWN BEHALF, AND BERTENI CATALUÑA CAUSING vs. THE SUPERINTENDENT OF THE PHILIPPINE MILITARY ACADEMY (PMA), THE HONOR COMMITTEE (HC) OF 2014 OF THE PMA AND HC MEMBERS, AND THE CADET REVIEW AND APPEALS BOARD (CRAB)**](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/211362.pdf)**, G.R. No. 211362, February 24, 2015, J. Peralta**

Jardeleza was excluded from the shortlist of candidates for the position of retired Justice Abad due to questions on his integrity. Such questions arose from his mishandling of an international case, alleged extra-marital affairs and insider trading. Jardeleza alleged that he was denied his rights to due process since he was not given ample time to defend himself and cross examine the witnesses against him. The Court ruled that the fact that a proceeding is sui generis and is impressed with discretion, however, does not automatically denigrate an applicant’s entitlement to due process. It is well-established in jurisprudence that disciplinary proceedings against lawyers are sui generis in that they are neither purely civil nor purely criminal; they involve investigations by the Court into the conduct of one of its officers, not the trial of an action or a suit. **FRANCIS H. JARDELEZA vs. CHIEF JUSTICE MARIA LOURDES P. A. SERENO, THE JUDICIAL AND BAR COUNCIL AND EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR, G.R. No. 213181, August 19, 2014, J. Mendoza**

A counsel’s ill advise cannot qualify as gross negligence or incompetence that would necessitate a reopening of the proceedings. Neither does it constitute a denial of due process or the right to a competent counsel. **EDELBERT C. UYBOCO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 211703, December 10, 2014, J. Velasco Jr.**

Sufficient compliance with the requirements of due process exists when a party is given a chance to be heard through his motion for reconsideration. Since the National Bureau of Investigation is an investigative agency whose findings are merely recommendatory, the denial of the right of due process could not have taken place.; the NBI’s findings were still subject to the prosecutor’s and the Secretary of Justice’s actions for purposes of finding the existence of probable cause. **RAY SHU vs.** **JAIME DEE, ENRIQUETO MAGPANTAY, RAMON MIRANDA, LARRY MACILLAN, AND EDWIN SO, G.R. No. 182573, April 23, 2014, J. Brion**

Barcelona claims that the Civil Service Rules were violated by Chairperson Señeres. Barcelona misses the point that strict compliance with the rules of procedure in administrative cases is not required by law. Administrative rules of procedure should be construed liberally in order to promote their object as well as to assist the parties in obtaining a just, speedy and inexpensive determination of their respective claims and defenses. The right to a speedy disposition of cases is guaranteed by the Constitution. The concept of speedy disposition is flexible. The fact that it took the CSC six years to resolve the appeal of Barcelona does not, by itself, automatically prove that he was denied his right to the speedy disposition of his case. After all, a mere mathematical reckoning of the time involved is not sufficient, as the facts and circumstances peculiar to the case must also be considered. **EDILBERTO L. BARCELONA vs. DAN JOEL LIM and RICHARD TAN, G.R. No. 189171, June 3, 2014, C.J. Sereno**

**EQUAL PROTECTION**

It is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words – those which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace. At bottom, the deepest concerns of the movants seem to be the fact that the government seeks to regulate activities in the internet at all. For them, the Internet is a place where a everyone should be free to do and say whatever he or she wants. But that is anarchical. Any good thing can be converted to evil use if there are no laws to prohibit such use. **JOSE JESUS M. DISINI, JR., et al. vs. THE SECRETARY OF JUSTICE, et al., G.R. No. 203335, April 22, 2014, J. Abad**

The challenge based on the contravention of the Equal Protection Clause, which focuses on the release of funds under the DAP to legislators, lacks factual and legal basis. The allegations about Senators and Congressmen being unaware of the existence and implementation of the DAP, and about some of them having refused to accept such funds were unsupported with relevant data. Also, the claim that the Executive discriminated against some legislators on the ground alone of their receiving less than the others could not of itself warrant a finding of contravention of the Equal Protection Clause. The denial of equal protection clause of any law should be an issue to be issue to be raised only be parties who supposedly suffer it, and, in these cases, such parties would be the few legislators claimed to have been discriminated against in the releases of funds under the DAP. The reason for the requirement is that only such affected legislators could properly and fully bring to the fore when and how the denial of equal protection occurred, and explain why there was a denial in their situation. The requirement was not met here. Consequently, the Court was not put in the position to determine if there was a denial of equal protection. To have the Court do so despite the inadequacy of the showing of factual and legal support would be to compel it to speculate, and the outcome would not do justice to those for whose supposed benefit the claim of denial of equal protection has been made. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN, et al., vs.. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, et al., G.R. No. 209287 (Consolidated), July 01, 2014, J. Bersamin**

**SEARCHES AND SEIZURES**

“Stop and frisk" searches should be balanced with the need to protect the privacy of citizens in accordance with Article III, Section 2 of the Constitution. The balance lies in the concept of "suspiciousness" present in the situation where the police officer finds himself or herself in. Experienced police officers have personal experience dealing with criminals and criminal behavior.. Thus, a basic criterion would be that the police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act. In the case at bar, Cogaed was simply a passenger carrying a bag and traveling aboard a jeepney. There was nothing suspicious, moreover, criminal, about riding a jeepney or carrying a bag. Hence the search and seizure against the accused is illegal because of the absence of the requisite of "suspiciousness". **THE PEOPLE OF THE PHILIPPINES vs.** **VICTOR COGAED y ROMANA, G.R. No. 200334, July 30, 2014, J. Leonen**

In the case at bench, neither the in flagrante delicto arrest nor the stop- and-frisk principle was applicable to justify the warrantless search and seizure made by the police operatives on Sanchez. A search as an incident to a lawful arrest is sanctioned by the Rules of Court. It bears emphasis that the law requires that the search be incidental to a lawful arrest. Therefore it is beyond cavil that a lawful arrest must precede the search of a person and his belongings; the process cannot be reversed. Here, the search preceded the arrest of Sanchez. The arrest of Sanchez was made only after the discovery by SPO1 Amposta of the shabu inside the match box. Evidently, what happened in this case was that a search was first undertaken and then later an arrest was effected based on the evidence produced by the search. When the police officers chased the tricycle, they had no personal knowledge to believe that Sanchez bought shabu from the notorious drug dealer and actually possessed the illegal drug when he boarded the tricycle. There was no overt manifestation on the part of Sanchez that he had just engaged in, was actually engaging in or was attempting to engage in the criminal activity of illegal possession of shabu. Verily, probable cause in this case was more imagined than real. In the same vein, there could be no valid “stop-and-frisk” search in the case at bench. **RIZALDY SANCHEZ Y CAJILI vs. PEOPLE OF THE PHILIPPINES, G.R. No. 204589, November 19, 2014, J. Mendoza**

A peace officer of a private person may, without a warrant, arrest a person, when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense. Two (2) elements must be present: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer. **PEOPLE OF THE PHILIPPINES vs. CHI CHAN LIU A. K. A. CHAN QUE AND HUI LAO CHUNG A.K.A. LEOFE SENGLAO, G.R. No. 189272, January 21, 2015, J. Peralta**

**FREEDOM OF EXPRESSION**

When petitioners, a Diocese and its Bishop posted tarpaulins in front of the cathedral which aimed to dissuade voters from electing candidates who supported the RH Law, and the COMELEC twice ordered the latter to dismantle the tarpaulin for violation of its regulation which imposed a size limit on campaign materials, the case is about COMELEC’s breach of the petitioners’ fundamental right of expression of matters relating to election. Thus, the COMELEC had no legal basis to issue said order as the tarpaulins were not paid for by any candidate or political party and the candidates therein were not consulted regarding its posting. It was part of the petitioner’s advocacy against the RH Law. Jurisprudence which sets the limit to free speech of candidates during elections but do not limit the rights of broadcasters to comment on the candidates do not apply to the petitioners, as the petitioners are private individuals who have lost their right to give commentary on the candidates when the COMELEC ordered the tarpaulin removed. Second, the tarpaulin is protected speech. The size of the tarpaulins is fundamentally part of protected speech, as it is important to convey the advocacy of the petitioners, who are also part of the electorate. More importantly, every citizen’s expression with political consequences enjoys a high degree of protection. While the tarpaulin may influence the success or failure of the named candidates and political parties, this does not necessarily mean it is election propaganda. The tarpaulin was not paid for or posted “in return for consideration” by any candidate, political party or party-list group. The COMELEC, therefore, has no jurisdiction to issue its order as it lacks the requisites of a valid content-based regulation of speech. Third, the tarpaulins and their messages are not religious speech, as they do not convey any religious doctrine of the Catholic Church. With all due respect to the Catholic faithful, the church doctrines relied upon by petitioners are not binding upon this court. The position of the Catholic religion in the Philippines as regards the RH Law does not suffice to qualify the posting by one of its members of a tarpaulin as religious speech solely on such basis. The enumeration of candidates on the face of the tarpaulin precludes any doubt as to its nature as speech with political consequences and not religious speech. **THE DIOCESE OF BACOLOD, REPRESENTED BY THE MOST REV. BISHOP VICENTE M. NAVARRA and THE BISHOP HIMSELF IN HIS PERSONAL CAPACITY vs. COMMISSION OF ELECTIONS AND THE ELECTION OFFICER OF BACOLOD CITY, ATTY. MAVIL V. MAJARUCON, G.R. No. 205728, January 21, 2015, J. Leonen**

Contending that Sec 9 (a) of COMELEC Resolution No. 9615, limiting the broadcast and radio advertisements of candidates and political parties for national election positions to an aggregate total of 120 minutes and 180 minutes respectively, to be violative of the freedom of the press, the petitioners filed the instant petitions praying that said COMELEC Resolution be declared unconstitutional. Finding for the petitioners, the SC ruled that Political speech is one of the most important expressions protected by the Fundamental Law. Accordingly, the same must remain unfettered unless otherwise justified by a compelling state interest. The assailed rule on "aggregate-based" airtime limits is unreasonable and arbitrary as it unduly restricts and constrains the ability of candidates and political parties to reach out and communicate with the people. Here, the adverted reason for imposing the "aggregate-based" airtime limits - leveling the playing field - does not constitute a compelling state interest which would justify such a substantial restriction on the freedom of candidates and political parties to communicate their ideas, philosophies, platforms and programs of government. **GMA NETWORK, INC.** **vs.** **COMMISSION ON ELECTIONS, G.R. No. 205357, September 2, 2014, J. Peralta**

**EMINENT DOMAIN**

**Just Compensation**

If the issue of just compensation is not settled prior to the passage of R.A. No. 6657, it should be computed in accordance with the said law, although the property was acquired under P.D. No. 27. **LAND BANK OF THE PHILIPPINES vs. VICTORINO T. PERALTA, G.R. No. 182704, April 23, 2014, J. Villarama, Jr.**

Petitioner filed the instant petition on the ground that the RTC-SAC gravely abused its discretion in determining the just compensation without even considering the valuation factors enumerated under R.A. No. 6657 and the formula provided for by the DAR. The SC ruled that though the RTCSAC may relax the formula’s application to fit the factual situations before it, it must, however, explain and justify in clear terms the reason for any deviation from the prescribed factors and formula. For failing to provide any basis for the valuation it made, the SC held that the RTC-SAC gravely abused its discretion, thus set aside the valuation it made for having been made in utter disregard of the law’s parameters. **LAND BANK OF THE PHILIPPINES vs.** **BENECIO EUSEBIO, JR., G.R. No. 160143, July 2, 2014, J. Brion**

Settled is the rule that when the agrarian reform process is still incomplete, as in this case where the just compensation for the subject land acquired under PD 27 has yet to be paid, just compensation should be determined and the process concluded under RA 6657, with PD 27 and EO 228 having mere suppletory effects. This means that PD 27 and EO 228 only apply when there are gaps in RA 6657; where RA 6657 is sufficient, PD 27 and EO 228 are superseded.

For purposes of determining just compensation, the fair market value of an expropriated property is determined by its character and its price at the time of taking. In addition, the factors enumerated under Section 17 of RA 6657, i.e., (a) the acquisition cost of the land, (b) the current value of like properties, (c) the nature and actual use of the property, and the income therefrom, (d) the owner's sworn valuation, (e) the tax declarations, (f) the assessment made by government assessors, (g) the social and economic benefits contributed by the farmers and the farmworkers, and by the government to the property, and (h) the non-payment of taxes or loans secured from any government financing institution on the said land, if any , must be equally considered. **DEPARTMENT OF AGRARIAN REFORM, represented by SECRETARY NASSER C. PANGANDAMAN vs.** **SPOUSES DIOSDADO STA. ROMANA and RESURRECCION O. RAMOS, represented by AURORA STA. ROMANA, PURIFICACION C. DAEZ, represented by EFREN D. VILLALUZ and ROSAURO D. VILLALUZ, and SPOUSES LEANDRO C. SEVILLA and MILAGROS C. DAEZ, G.R. No. 183290, July 9, 2014, J. Perlas-Bernabe**

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. For purposes of determining just compensation, the fair market value of an expropriated property is determined by its character and its price at the time of taking. In addition, the factors enumerated under Section 17 of RA 6657, as amended, i.e., (a) the acquisition cost of the land, (b) the current value of like properties, (c) the nature and actual use of the property and the income therefrom, (d) the owner’s sworn valuation, (e) the tax declarations, (f) the assessment made by government assessors, (g) the social and economic benefits contributed by the farmers and the farm workers, and by the government to the property, and (h) the non-payment of taxes or loans secured from any government financing institution on the said land, if any, must be equally considered. **DEPARTMENT OF AGRARIAN REFORM vs.** **SALUD GACIAS BERIÑA, CESAR GACIAS, NORMA GACIAS TANDOC, LYDIA LEANDER GACIAS, and GREGORIO MEDEN GACIAS, G.R. Nos. 183901 & 183931, July 9, 2014, J. Perlas-Bernabe**

It has been the consistent pronouncement of the SC that the determination of just compensation is basically a judicial function. Also, it is settled that in the computation of just compensation for land taken for agrarian reform, both Section 17 of Republic Act No. 6657 (RA 6657 or the Comprehensive Agrarian Reform Law of 1988/CARL) and the formula prescribed in the applicable Administrative Order of the Department of Agrarian Reform (DAR) should be considered. While the SC acknowledges that Galle’s estate was expropriated to the extent of 356.8257 hectares, the computation of the exact amount of just compensation remains an issue that must be resolved, taking into consideration both Section 17 of RA 6657 and AOs 6 and 11. There is thus a need to remand the case in order to properly compute the just compensation that Galle and her heirs are entitled to, including interest and attorney’s fees, if any. **DEPARTMENT OF AGRARIAN REFORM, represented by HON. NASSER C. PANGANDAMAN, in his capacity as DAR-OIC Secretary vs. SUSIE IRENE GALLE, G.R. No. 171836, August 11, 2014, J. Del Castillo**

**SELF-INCRIMINATION CLAUSE**

The constitutional right of an accused against self-incrimination proscribes the use of physical or moral compulsion to extort communications from the accused and not the inclusion of his body in evidence when it may be material. In the instant case, however, the Court fails to see how a urine sample could be material to the charge of extortion. The drug test, being illegally taken, is therefore inadmissible for violating the right against self-incrimination of the accused and cannot be used against him. **JAIME D. DELA CRUZ vs. PEOPLE OF THE PHILIPPINES, G.R. No. 200748, July 23, 2014, C.J. Sereno**

The right to remain silent and to counsel can be invoked only in the context in which the Miranda doctrine applies – when the official proceeding is conducted under the coercive atmosphere of a custodial interrogation. There are no cases extending them to a non-coercive setting.  The rights are invocable only when the accused is under custodial investigation. A person undergoing a normal audit examination is not under custodial investigation and, hence, the audit examiner may not be considered the law enforcement officer contemplated by the rule. By a fair analogy, Marieta may not be said to be under custodial investigation. She was not even being investigated by any police or law enforcement officer.  She was under administrative investigation by her superiors in a private firm and in purely voluntary manner. She was not restrained of her freedom in any manner. She was free to stay or go.  There was no evidence that she was forced or pressured to say anything. **MARIETA DE CASTRO** **vs**. **PEOPLE OF THE PHILIPPINES, G.R. No. 171672, February 02, 2015**, **J. Bersamin**

**DOUBLE JEOPARDY**

As a general rule, the prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case.  The reason is that a judgment of acquittal is immediately final and executory, and the prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated.  Despite acquittal, however, either the offended party or the accused may appeal, but only with respect to the civil aspect of the decision.  Or, said judgment of acquittal may be assailed through a petition for certiorari under Rule 65 of the Rules of Court showing that the lower court, in acquitting the accused, committed not merely reversible errors of judgment, but also exercised grave abuse of discretion amounting to lack or excess of jurisdiction, or a denial of due process, thereby rendering the assailed judgment null and void.  If there is grave abuse of discretion, granting petitioner’s prayer is not tantamount to putting private respondents in double jeopardy. **PEOPLE OF THE PHILIPPINES AND AAA** **vs.** **COURT OF APPEALS, 21ST DIVISION, MINDANAO STATION, RAYMUND CARAMPATANA, JOEFHEL OPORTO, AND MOISES ALQUIZOLA, G.R. No. 183652, February 25, 2015, J. Peralta**

**CITIZENSHIP**

**NATURALIZATION AND DENATURALIZATION**

The records of the case show that the joint affidavits executed by Go’s witnesses did not establish their own qualification to stand as such in a naturalization proceeding. In turn, Go’s did not present evidence proving that the persons he presented were credible. In the words of the CA, “he did not prove that his witnesses had good standing in the community, known to be honest and upright, reputed to be trustworthy and reliable, and that their word may be taken at face value, as a good warranty of the worthiness of Go.”

While there is no showing that Go’s witnesses were of doubtful moral inclinations, there was likewise no indication that they were persons whose qualifications were at par with the requirements of the law on naturalization. Simply put, no evidence was ever proffered to prove the witnesses’ good standing in the community, honesty, moral uprightness, and most importantly, reliability. As a consequence, their statements about Go do not possess the measure of credibility demanded of in naturalization cases. This lack of credibility on the part of the witnesses, unfortunately, weakens or renders futile Go’s claim of worthiness. An applicant for Philippine citizenship would carefully testify as to his qualifications, placing emphasis on his good traits and character. This is expected of a person who longs to gain benefits and advantages of Philippine citizenship bestows. Therefore, a serious assessment of an applicant’s witnesses, both as to the credibility of their person and their very testimony, is an essential facet of naturalization proceedings that may not be brushed aside. **DENNIS L. GO vs. REPUBLIC OF THE PHILIPPINES, G.R. No. 202809, July 2, 2014, J. Mendoza**

Section 2 of the Revised Naturalization Law or CA 473 requires, among others, that an applicant for naturalization must be of good moral character and must have some known lucrative trade, profession, or lawful occupation. The qualification of “some known lucrative trade, profession, or lawful occupation” means “not only that the person having the employment gets enough for his ordinary necessities in life.  It must be shown that the employment gives one an income such that there is an appreciable margin of his income over his expenses as to be able to provide for an adequate support in the event of unemployment, sickness, or disability to work and thus avoid one’s becoming the object of charity or a public charge.” His income should permit “him and the members of his family to live with reasonable comfort, in accordance with the prevailing standard of living, and consistently with the demands of human dignity, at this stage of our civilization.” **REPUBLIC OF THE PHILIPPINES vs.** **HUANG TE FU, A.K.A. ROBERT UY, G.R. No. 200983, March 18, 2015, J. Del Castillo**

**LOSS AND REACQUISITION OF PHILIPPINE CITIZENSHIP**

David argued that the Court has disregarded the undisputed fact that he is a natural-born Filipino citizen, and that by re-acquiring the same status under R.A. No. 9225 he was by legal fiction “deemed not to have lost” it at the time of his naturalization in Canada and through the time when he was said to have falsely claimed Philippine citizenship in his Miscellaneous Lease Application. However, while Section 2 declares the general policy that Filipinos who have become citizens of another country shall be deemed “not to have lost their Philippine citizenship,” such is qualified by the phrase “under the conditions of this Act.” It provides that those natural-born Filipinos who have lost their citizenship by naturalization in a foreign country shall re-acquire their Philippine citizenship upon taking the oath of allegiance to the Republic of the Philippines. **RENATO M. DAVID vs. EDITHA A. AGBAY AND PEOPLE OF THE PHILIPPINES, G.R. No. 199113, March 18, 2015, J. Villarama, Jr.**

**LAW ON PUBLIC OFFICERS**

**MODES AND KINDS OF APPOINTMENT**

The CSCFO-Ilocos Sur disapproved the appointment of Argel on the ground that she failed to meet the one (1) year experience required for the position. The Court emphasizes that Argel’s permanent appointment was approved by the CSCRO1 and affirmed by the Commission in a decision which eventually attained finality. It is for this reason that she acquired a vested legal right to the position and therefore, can no longer be removed therefrom except for valid causes. **NATANYA JOANA D. ARGEL vs. GOV. LUIS C. SINGSON, G.R. No. 202970, March 25, 2015, J. Perez**

**LIABILITIES OF PUBLIC OFFICERS**

Misconduct has a legal and uniform definition. It is defined as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior, especially by a government official. A misconduct is grave where the elements of corruption, clear intent to violate the law or flagrant disregard of established rule are present. Eijansantos apparently failed in one of his duties and responsibilities as an evaluator which was to conduct a physical verification/inspection of manufacturing and plant facilities. While he followed the instructions and training given to him by his superiors at the Center, he neither conducted a physical verification/inspection on the actual office premises and the manufacturing and plant facilities of Evergreen, nor did he conduct such verification or inspection on Evergreen’s suppliers and exporters. Definitely, as a Senior Tax Specialist, Eijansantos ought to know that there was a necessity to thoroughly verify the authenticity of tax credit applications before processing the same. There is no doubt that the petitioner, together with the other evaluators, committed a deliberate disregard of established rules which can only be considered as grave misconduct. **JESSE PHILIP B. EIJANSANTOS vs. SPECIAL PRESIDENTIAL TASK FORCE 156, REPRESENTED BY ATTY. ALLAN U. VENTURA, G.R. No. 203696,** **June 02, 2014, J. Mendoza**

Official foreign travel that will last for one (1) calendar month and below of other officials and employees of government-owned and/or controlled corporations and financial institutions shall be approved by the Department Secretaries or their equivalent to which such government-owned and/or controlled corporations and financial institutions are attached, and by the Secretary of the Interior and Local Government in the case of other officials and employees of local government units. Prior clearance from the Office of the president shall also be required for foreign trips of delegations or groups of two or more persons regardless of the rank of participants. Had petitioner exerted some effort and diligence in reading the applicable law in full, it would not have missed the requirement imposed on foreign travels. Wefind it rather difficult to believe that officials holding positions of such rank and stature, as Chairman Nañagas and Director Jimenez in this case, would fail to comply with a plain and uncomplicated order, which has long been in effect as early as 1995, almost a decade before their respective travels. Hence, when government officials are found to have clearly committed an outright violation and disregard of the law. **DEVELOPMENT BANK OF THE PHILIPPINES vs. COMMISSION ON AUDIT, JANEL D. NACION, Director IV, Legal Services Sector of COA, and the Supervising Auditor of the Development Bank of the Philippines, G.R. No. 202733, September 30, 2014, J. Peralta**

In administrative proceedings, the essence of due process is the opportunity to explain one’s side or seek a reconsideration of the action or ruling complained of, and to submit any evidence he may have in support of his defense. The demands of due process are sufficiently met when the parties are given the opportunity to be heard before judgment is rendered. **ATTY. JANET D. NACION vs. COMMISSION ON AUDIT, MA. GRACIA PULIDO-TAN, JUANITO ESPINO and HEIDI MENDOZA, G.R No. 204757, March 17, 2015, J. Reyes**

Although often holding that a heavy caseload is insufficient reason to excuse a Judge from disposing his cases within the reglementary period,the absence of malice or deliberate attempt to impede the dispensation of justice can exculpate him from liability. **RE: COMPLAINT DATED JANUARY 28, 2014 OF WENEFREDO PARRENO, et al., AGAINST HON. CELIA LIBREA-LEAGOGO, HON. ELIHU A. YBANEZ and HON. AMY C. LAZARO-JAVIER, ASSOCIATE JUSTICES OF THE COURT OF APPEALS, RELATIVE TO CA G.R SP NO. 108807 OCA IPI No. 14-220-CA-J, March 17, 2015, J. Bersamin**

Although many “moonlighting” activities were themselves legal acts that would be permitted or tolerated had the actors not been employed in the public sector, moonlighting, albeit not usually treated as a serious misconduct, can amount to a malfeasance in office by the very nature of the position held. In the case of Lopez, her being the Chief of the Checks Disbursement Division of the FMBO, a major office of the Court itself, surely put the integrity of the Checks Disbursement Division and the entire FMBO under so much undeserved suspicion. She ought to have refrained from engaging in money lending, particularly to the employees of the Court. We do not need to stress that she was expected to be circumspect about her acts and actuations, knowing that the impression of her having taken advantage of her position and her having abused the confidence reposed in her office and functions as such would thereby become unavoidable. There is no doubt about her onerous lending activities greatly diminishing the reputation of her office and of the Court itself in the esteem of the public. **RE: ANONYMOUS LETTER-COMPLAINT ON THE ALLEGED INVOLVEMENT AND FOR ENGAGING IN THE BUSINESS OF LENDING MONEY AT USURIOUS RATES OF INTEREST OF MS. DOLORES T. LOPEZ, SC CHIEF JUDICIAL STAFF OFFICER, AND MR. FERNANDO M. MONTALVO, SC SUPERVISING JUDICIAL STAFF OFFICER, CHECKS DISBURSEMENT DIVISION, FISCAL MANAGEMENT AND BUDGET OFFICE., A.M. No. 2010-21-SC, September 30, 2014**, **BERSAMIN**

Section 27 of the Ombudsman Act provides that findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive. Otherwise, they shall not be binding upon the courts. Thus, the Court must make its own factual review of the case when the Ombudsman’s findings are contradictory to that of the Court of the Appeals. A misconduct that warrants dismissal from service must be grave, serious, important, weighty, momentous, and not trifling. It must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer’s official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. Thus, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be clearly manifested. **OFFICE OF THE OMBUDSMAN** **vs.** **AVELINO DE ZOSA AND BARTOLOME DELA CRUZ, G.R. No. 205433, January 21, 2015**, **J. Perlas-Bernabe**

Respondent’s recommendation for approval documents for emergency repair and purchase in the absence of the signature and certification by the end-user, in complete disregard of existing DPWH rules, constitute gross neglect of duty and grave misconduct which undoubtedly resulted in loss of public funds thereby causing undue injury to the government. The Court held that as Assistant Bureau Director of the Bureau of Equipment of the DPWH, the Respondent cannot simply recommend approval of documents without determining compliance with existing law, rules and regulations of the Department. His duties entail review and evaluation of documents presented. **REPUBLIC OF THE PHILIPPINES, represented by the OFFICE OF THE PRESIDENT, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS AND PRESIDENTIAL ANTI-GRAFT COMMISSION vs. FLORENDO B. ARIAS, ASSISTANT DIRECTOR, BUREAU OF EQUIPMENT, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, G.R. No. 188909, September 17, 2014, J. Perez**

A memorandum regarding guidelines on the Candidacy of Coop Officials and Employees in Local, National and Barangay Elections was issued and consequently approved. Petitioner issued another addressed to regional electrification directors which resulted to the dismissal of Ranchez as director. Ranchez filed motion for reconsideration to the NEA Board of Administrators and made several follow ups but was referred to other offices. The Court ruled that petitioners violated R.A. 6713 for not responding to Ranchez within the prescribed 15 days. The Court held that the law emphasizes promptness in attending to requests made upon government offices or agencies. **EDITA S. BUENO and MILAGROS E. QUINAJON vs. OFFICE OF THE OMBUDSMAN, NAPOLEON S. RONQUILLO, JR., EDNA G. RANA and ROMEO G. REFRUTO, G.R. No. 191712, September 17, 2014, J. Villarama, Jr.**

Insubordination is defined as a refusal to obey some order, which a superior officer is entitled to give and have obeyed. The term imports a willful or intentional disregard of the lawful and reasonable instructions of the employer. In this case, the respondent committed insubordination when she failed to promptly act on the June 16, 2000 memorandum issued by her superior, Regional Director Nepomuceno, reminding her of her duties to immediately turn over documents to and exchange room assignments with the new Administrative Officer Designate, Engr. Lucena. The subject memorandum was a lawful order issued to enforce Special Order No. 23, s. of 2000 reassigning the respondent from Administrative to Planning Officer, and which warranted the respondent’s obedience and compliance. We see in the respondent’s initial inaction her deliberate choice not to act on the subject memoranda; she waited until the resolution of her motion for reconsideration of her reassignment (that she filed on June 27, 2000) before she actually complied. The service would function very inefficiently if these types of dilatory actions would be allowed. **CIVIL SERVICE COMMISSION AND DEPARTMENT OF SCIENCE AND TECHNOLOGY vs. MARILYN ARANDIA, G.R. No. 199549, April 7, 2014, J. Brion**

Grave misconduct is committed when there has been '"a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.' The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, all of which must be established by substantial evidence, and must necessarily be manifest in a charge of grave misconduct." In this case, Alcantara and Jacinto admitted to taking and encashing checks of their co-workers without permission. There is no doubt that their acts of repeatedly stealing the checks and forging the signatures of their co-workers constitute grave misconduct and dishonesty. **ANONYMOUS LETTER-COMPLAINT AGAINST REYNALDO C. ALCANTARA, UTILITY WORKER I, BR. 70, AND JOSEPH C. JACINTO, ELECTRICIAN, HALL OF JUSTICE, BOTH OF THE REGIONAL TRIAL COURT, BURGOS, PANGASINAN, A.M. No. P-15-3296,** **February 17, 2015, Per Curiam**

To temper the harshness of the rules, however, the Court has refrained from imposing the extreme penalty of dismissal in a number of cases in the presence of mitigating factors. The Court also ruled that where a penalty less punitive would suffice, whatever missteps may be committed by the employee ought not to be visited with a consequence so severe. It is not only for the law’s concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners. Applying the rationale in the aforesaid judicial precedents and rules, the Court considers as mitigating circumstances the fact that this is the first infraction of Obispo and more importantly, the lack of bad faith on his part in committing the act complained of. **LOLITA RAYALA VELASCO vs. GERALDO C OBISPO, A.M. No. P-13-3160, November 10, 2014, J. REYES**

Moral turpitude has been defined as everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and woman, or conduct contrary to justice, honesty, modesty, or good morals. Not every criminal act, however, involves moral turpitude. Considering that the principal act punished in the crime of falsification of public document is the violation of the public faith and the destruction of truth as therein solemnly proclaimed, the elements of the administrative offense of conviction of a crime involving moral turpitude clearly exist in this case. **CECILIA PAGADUAN vs. CIVIL SERVICE COMMISSION, et al., G.R. No. 206379, November 19, 2014, J. Mendoza**

The Ombudsman is authorized by the Ombudsman Act to directly impose administrative penalties against errant public servants. Thus, in a case where a Provincial Engineer was suspended by the Ombudsman, the Court of Appeals, cannot reverse the suspension by holding that the Ombudsman’s power is limited only to recommend penalties. In addition, it has been settled that the Ombudsman has the legal interest to intervene in the proceedings in the CA to defend its decision. **OFFICE OF THE OMBUDSMAN vs. PRUDENCIO C. QUIMBO, COURT OF APPEALS, 20TH DIVISION, CEBU CITY, G.R. No. 173277, February 25, 2015, J. Mendoza**

By engaging or colluding with another person to take the test in his behalf and thereafter by claiming the resultant passing rate as his, clinches the case against him. Hence, by perpetrating false eligibility and letting it remain on record, respondent concealed and distorted the truth in a matter of fact relevant to his office. Thus, similar to the fate of prior employees who falsified their eligibility requirement, we castigate the grave offense of respondent by imposing upon him the penalty of dismissal from service. **CIVIL SERVICE COMMISSION** **vs.** **HERMINIGILDO L. ANDAL, SECURITY GUARD II, SANDIGANBAYAN, QUEZON CITY, A.M. No. SB-12-19-P, November 18, 2014, Per Curiam**

The Court reverses the ruling of the CA that the discrepancies in Maria’s signatures and pictures on the personal data sheets and picture seat plan can be the result of a simple mix up.  This ruling is pure speculation and is belied by the evidence on record. Written on the picture seat plan is the name of respondent in bold letters. On top of it is her purported signature.  Notably, respondent said that she was the one who took the examination.  If the Court believes her, then she was the one who wrote her name in bold letters and put the signature on top of it.  Thus, there was no mix up in her signature on the picture seat plan. Upon comparison of respondent’s signatures, the CSC found that respondent’s signature on the picture seat plan is different from her signatures on her personal data sheets.  We also examined respondent’s signatures on the picture seat plan and personal data sheet and we agree with the CSC that the signatures are different.  We also agree with the CSC that the pictures of respondent on the picture seat plan and personal data sheets are different. Respondent committed serious dishonestywhen she declared in her personal data sheet that she took and passed the civil service examination on November 17, 2000.  The evidence at hand also disproved her testimony that she herself took the examination.  In Advincula v. Dicen,we referred to the personal data sheet as the repository of all relevant information about any government employee or official.  Thus, we declared that concealment of any information therein warrants the imposition of administrative penalty. Specifically, in De Guzman v. Delos Santos,we ruled that the making of an untruthful statement in the personal data sheet amounts to dishonesty and falsification of official document, which warrant dismissal from service upon commission of the first offense. **CIVIL SERVICE COMMISSION vs. MARIA RIZA G. VERGEL DE RIOS, G.R. No. 203536, February 04, 2015, J. Villarama, Jr.**

**DE FACTO OFFICERS**

In order for the de facto doctrine to apply, all of the following elements must concur: (a) there must be a de jure office; (b) there must be color of right or general acquiescence by the public; and (c) there must be actual physical possession of the office in good faith. The existence of the foregoing elements is rather clear in this case. Undoubtedly, there is a de jure office of a 2nd Vice-Executive Judge. Judge Peralta also had a colorable right to the said office as he was duly appointed to such position and was only divested of the same by virtue of a supervening legal technicality – that is, the operation of Section 5, Chapter III of A.M. No. 03-8-02-SC as above-explained; also, it may be said that there was general acquiescence by the public since the search warrant application was regularly endorsed to the sala of Judge Peralta by the Office of the Clerk of Court of the Manila-RTC under his apparent authority as 2nd Vice Executive Judge. Finally, Judge Peralta’s actual physical possession of the said office is presumed to be in good faith, as the contrary was not established. Accordingly, Judge Peralta can be considered to have acted as a de facto officer when he issued the Search Warrant, hence, treated as valid as if it was issued by a de jure officer suffering no administrative impediment. **RETIRED SP04 BIENVENIDO LAUD vs. PEOPLE OF THE PHILIPPINES, et al., G.R. No. 199032, November 19, 2014, Per Curiam**

While “First Offense” and “Length of Service” may indeed be considered as mitigating circumstances, the presence thereof does not automatically result in the downgrading of the penalty to be imposed upon respondent, especially in view of the existence of an aggravating circumstance. In this case, since there is one (1) aggravating circumstance (i.e. Simple Neglect of Duty) and two (2) mitigating circumstances (i.e. First Offense and Length of Service), only the minimum of the imposable penalty for Grave Abuse of Authority (or Oppression) should be meted against respondent. **FELISICIMO\* R. SABIJON and ZENAIDA A. SABIJON vs. BENEDICT\*\* M. DE JUAN, SHERIFF IV, REGIONAL TRIAL COURT OF KABACAN, NORTH COT ABATO, BRANCH 22, A.M. No. P-14-3281, January 28, 2015, J. Perlas-Bernabe**

Falsification of an official document such as the SALN is considered a grave offense. It amounts to dishonesty. Both falsification and dishonesty are grave offenses punishable by dismissal from the service, even for the first offense, with forfeiture of retirement benefits, except accrued leave benefits, and perpetual disqualification from reemployment in government service. The act of falsifying an official document is in itself grave because of its possible deleterious effects on government service. At the same time, it is also an act of dishonesty, which violates fundamental principles of public accountability and integrity. Under Civil Service regulations, falsification of an official document and dishonesty are distinct offenses, but both may be committed in one act, as in this case. The constitutionalization of public accountability shows the kind of standards of public officers that are woven into the fabric of our legal system. To reiterate, public office is a public trust, which embodies a set of standards such as responsibility, integrity and efficiency. Unfortunately, reality may sometimes depart from these standards, but our society has consciously embedded them in our laws so that they may be demanded and enforced as legal principles, and the Court is mandated to apply these principles to bridge actual reality to the norms envisioned for our public service.

Not only did he fail to declare in his SALN the separate properties of his wife, as required by law, he likewise failed to satisfactorily explain the other glaring irregularities involved with his SALNs. These facts certainly constitute sufficient and relevant evidence which a reasonable mind might accept as adequate to sustain a finding of guilt against Rigor for Serious Dishonesty and Falsification of Official Documents, for which the penalty of Dismissal from Service is imposed pursuant to Sec. 52, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, as amended. **HON. ORLANDO C. CASIMIRO, IN HIS CAPACITY AS ACTING OMBUDSMAN, OFFICE OF THE OMBUDSMAN; HON. ROGELIO L. SINGSON, IN HIS CAPACITY AS DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS SECRETARY vs. JOSEFINO N. RIGOR, G.R. No. 206661, December 10, 2014, J. Peralta**

**THE CIVIL SERVICE**

This Court cannot declare that the amendment of the Civil Service Rules by the CSC while the case of Barcelona was pending proves the lack of impartiality on the CSC’s part. However, it now declares that the CSC had no right to retroactively apply the amended provision to Barcelona’s case. When Barcelona was dismissed, the old Section 43 of the Civil Service Rules was still in effect, provision clearly states that the penalty of removal is not executory, pending appeal, unless the penalty is confirmed by Secretary of the Department where the dismissed employee works. The records, however, disclose that he made no attempt to return to work after the expiration of the suspension period. Since he never attempted to resume the performance of his duties after the expiration of the preventive suspension, he cannot now claim that the penalty of removal was executed, pending his appeal to the CSC, without the confirmation of the Secretary of Labor. **EDILBERTO L. BARCELONA vs. DAN JOEL LIM and RICHARD TAN, G.R. No. 189171, June 3, 2014, CJ. Sereno**

Section 39 of RA 9280 expressly repealed the TCCP provisions (Section 3401 to 3409) on the customs broker’s profession. Section 39 of RA 9280 further declared that all laws and parts thereof which are inconsistent with RA 9280 are deemed modified, suspended, or repealed accordingly. In lieu of the Board of Examiners, RA 9280 created the PRBCB whose members are appointed by the President from a list of recommendees submitted by the PRC which has supervisory and administrative control over the PRBCB. Significantly, RA 9280 excluded the BOC Commissioner as member of the PRBCB. The exclusion of the BOC Commissioner as a member of the PRBCB evinces the legislative intent to remove any power he previously exercised over custom brokers, and to transfer the supervision, control and regulation of this profession to the PRBCB. This intent is likewise apparent from a reading of the powers granted to the PRBCB. By conferring these powers on the PRBCB, the declared policy of RA 9280 to professionalize the practice of the customs broker profession is executed and fulfilled. Although we cannot deny that the BOC Commissioner has the mandate to enforce tariff laws and prevent smuggling, these powers do not necessarily include the power to regulate and supervise the customs broker profession through the issuance of CAO 32006. **AIRLIFT ASIA CUSTOMS BROKERAGE, INC. vs. COURT OF APPEALS, COMMISSIONER OF THE BUREAU OF CUSTOMS, G.R. No. 183664, July 28, 2014, J. Brion**

The position of Assistant Schools Division Superintendent belongs to the Career Executive Service. The appointee to the position must be career executive service eligible. Permanent appointment to positions in the Career Executive Service presupposes that the appointee has passed the Career Executive Service examinations. In this case, respondent does not possess the required career executive service eligibility. He, therefore, cannot be appointed to the position of Assistant Schools Division Superintendent in a permanent capacity. The Civil Service Commission cannot be compelled to attest to the permanent appointment of respondent. **ATTY. ANACLETO B. BUENA, JR vs. DR. SANGCAD D. BENITO, G.R. No. 181760, October 14, 2014, J. Leonen**

**ACCOUNTABILITY OF PUBLIC OFFICERS**

As previously held by the Court, “Collusion implies a secret understanding whereby one party plays into another’s hands for fraudulent purposes. It may take place between and every contractor resulting in no competition, in which case, the government may declare a failure of bidding. Collusion may also ensue between contractors and the chairman and members of the PBAC to simulate or rig the bidding process, thus insuring the award to a favored bidder, to the prejudice of the government agency and public service. For such acts of the chairman and the members of the PBAC, they may be held administratively liable for conduct grossly prejudicial to the best interest of the government service. Collusion by and among the members of the PBAC and/or contractors submitting their bids may be determined from their collective acts or omissions before, during and after the bidding process. The complainants are burdened to prove such collusion by clear and convincing evidence because if so proved, the responsible officials may be dismissed from the government service or meted severe administrative sanctions for dishonesty and conduct prejudicial to the government service.” **RUBY P. LAGOC vs.** **MARIA ELENA MALAGA, OFFICE OF THE OMBUDSMAN and the OFFICE OF THE DEPUTY OMBUDSMAN (VISAYAS), G.R. No. 184785, July 9, 2014, J. Villarama, Jr.**

Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict upon any person any bodily harm, imprisonment or other injury.  It is an act of cruelty, severity, or excessive use of authority. The delay in the release of Tuares’ salary hardly qualifies as an “act of cruelty or severity or excessive use of authority,” especially when she contributed to the cause of the delay, that is, she  submitted  her  Form  48  (Daily  Time  Record)  for  June  2002  only on July 11, 2002. **OFFICE OF THE OMBUDSMAN vs. CYNTHIA E. CABEROY, G.R. No. 188066, October 22, 2014, J. Reyes**

The Ombudsman is authorized by the Ombudsman Act to directly impose administrative penalties against errant public servants. Thus, in a case where a Provincial Engineer was suspended by the Ombudsman, the Court of Appeals, cannot reverse the suspension by holding that the Ombudsman’s power is limited only to recommend penalties. In addition, it has been settled that the Ombudsman has the legal interest to intervene in the proceedings in the CA to defend its decision. **OFFICE OF THE OMBUDSMAN vs. PRUDENCIO C. QUIMBO, COURT OF APPEALS, 20TH DIVISION, CEBU CITY, G.R. No. 173277, February 25, 2015, J. Mendoza**

Cortes' appointment as IO V in the CHR by the Commission En Banc, where his father is a member, is covered by the prohibition against nepotism. Commissioner Mallari's abstention from voting did not cure the nepotistic character of the appointment because the evil sought to be avoided by the prohibition still exists. **CIVIL SERVICE COMMISSION vs.** **MARICELLE M. CORTES, G.R. No. 200103, April 23, 2014, J. Abad**

**ADMINISTRATIVE LAW**

**GENERAL PRINCIPLES**

The next-in-rank rule is a rule of preference on who to consider for promotion. The rule does not give employees next in rank a vested right to the position next higher to theirs should that position become vacant.Appointment is a discretionary power of the appointing authority, so long as the appointee possesses the qualifications required by law, the appointment is valid. **ANGEL ABAD vs. HERMINIO DELA CRUZ, G.R. No. 207422, March 18, 2015, J. Leonen**

The only personnel movements prohibited by COMELEC Resolution No. 8737 were transfer and detail. Transfer is defined in the Resolution as "any personnel movement from one government agency to another or from one department, division, geographical unit or subdivision of a government agency to another with or without the issuance of an appointment;" while detail as defined in the Administrative Code of 1987 is the movement of an employee from one agency to another without the issuance of an appointment.

In the instant case, Mayor Biron’s act of transferring the office space of Causing was rooted in his power of supervision and control over the officials and employees serving in his local government unit, in order to ensure the faithful discharge of their duties and functions. His explanation that he transferred Causing’s work station from her original office to his office in order to closely supervise her after his office received complaints against her could not be justly ignored. Verily, she thereafter continued to perform her tasks, and uninterruptedly received her salaries as the Municipal Civil Registrar even after the transfer to the Office of the Mayor. The issuance of Office Order No. 13 by Mayor Biron detailing Belonio to the Office of the Local Civil Registrar was not proof of Mayor Biron’s "crystal clear intention" to replace and transfer her during the election period. **ELSIE S. CAUSING** **vs.** **COMMISSION ON ELECTIONS AND HERNAN D. BIRON, SR., G.R. No. 199139, September 9, 2014, J. Bersamin**

The entitlement to separation pay under the EPIRA law does not disqualify the separated employee who is likewise qualified to receive loyalty award pursuant to the CSC Memorandum Circular. While Section 63 of the EPIRA Law provides that those who avail themselves of the separation pay shall start their government service anew if absorbed by any government-owned successor company, the "reset" relates only to any and all separation benefits due to an employee once he is terminated or if he retires from service. The grant of loyalty award and the separation pay are not inconsistent with each other and they have distinct noble purposes. In fact, the entitlement of a qualified employee to both loyalty award and separation pay is not proscribed by the 1987 Constitution as regards double compensation under Section 8 of Article IX (B) thereof. **NATIONAL TRANSMISSION CORPORATION vs. COMMISSION ON AUDIT, ATTY. JOSEPHINE A. TILAN, Regional Cluster Director and MR. ROBERTO G. PADILLA, State Auditor IV, G.R. No. 204800, October 14, 2014, J. Peralta**

Apropos then is the Court’s ruling in Kapisanan ng mga Kawani ng Energy Regulatory Board v. Barin, to wit: however, abolition of an office and its related positions is different from removal of an incumbent from his office. Abolition and removal are mutually exclusive concepts. From a legal standpoint, there is no occupant in an abolished office. Where there is no occupant, there is no tenure to speak of. Thus, impairment of the constitutional guarantee of security of tenure does not arise in the abolition of an office. On the other hand, removal implies that the office and its related positions subsist and that the occupants are merely separated from their positions. Based on the premise that there was a valid abolition of ATO, in the absence of any bad faith, we rule that the ATO employees’ right to security of tenure was not violated.

In Lecaroz v. Sandiganbayan, the Court held: absent an express or implied constitutional or statutory provision to the contrary, an officer is entitled to stay in office until his successor is appointed or chosen and has qualified. The legislative intent of not allowing holdover must be clearly expressed or at least implied in the legislative enactment, otherwise it is reasonable to assume that the law-making body favors the same. The reason for the application of the hold-over principle is clearly stated also in Lecaroz, indeed, the law abhors a vacuum in public offices, and courts generally indulge in the strong presumption against a legislative intent to create, by statute, a condition which may result in an executive or administrative office becoming, for any period of time, wholly vacant or unoccupied by one lawfully authorized to exercise its functions. This is founded on obvious considerations of public policy, for the principle of holdover is specifically intended to prevent public convenience from suffering because of a vacancy and to avoid a hiatus in the performance of government functions. Indeed, the application of the hold-over principle preserves continuity in the transaction of official business and prevents a hiatus in government. Thus, cases of extreme necessity justify the application of the hold-over principle. Petitioner itself states and this Court, without doubt, agrees that the CAAP is an agency highly imbued with public interest. It is of rational inference that a hiatus therein would be disastrous not only to the economy, tourism and trade of the country but more so on the safety and security of aircraft passengers, may they be Filipino citizens or foreign nationals. **CIVIL AVIATION AUTHORITY OF THE PHILIPPINES EMMPLOYEES’ UNION (CAAP-EU) vs. CIVIL AVIATION AUTHORITY OF THE PHILIPPINE, et al., G.R. No. 190120, November 11, 2014, J. Villarama, Jr.**

**ADMINISTRATIVE AGENCIES**

The Provincial Mining Regulatory Board of Davao declared the 729-hectare gold rush area in Mt. Diwalwal as People's Small Scale Mining Area. Then DENR Secretary Antonio H. Cerilles affirmed with modification the PMRB decision. The CA annulled the DENR Secretary’s decision, arguing that it contravenes the mandate of the PMRB. However, Section 6 of DAO No. 34–92 also provides that “the Board created under RA 7076 shall have the authority to declare and set aside People’s Small-Scale Mining Areas in sites onshore suitable for small-scale mining operations subject to review by the DENR Secretary thru the Director.” Since the DENR Secretary has power of control as opposed to power of supervision, he had the power to affirm with modification the PMRB’s decision. **MONCAYO INTEGRATED SMALL-SCALE MINERS ASSOCIATION, INC. vs. SOUTHEAST MINDANAO GOLD MINING CORP. et al./ HON. ANTONIO H. CERILLES vs. SOUTHEAST MINDANAO GOLD MINING CORPORATION, et al., G.R. NO. 149916 /G.R. No. 149638, December 10, 2014, J. Leonen**

**POWERS OF ADMINISTRATIVE AGENCIES**

The NEA’s disciplinary jurisdiction over the petitioners stems from its power of supervision and control over regulated electric cooperatives and over the board of directors who manage their operation. In the exercise of this broad power, the NEA may take preventive and/or disciplinary measures including the suspension, removal and replacement of any or all of the members of the board of directors, officers or employees of the cooperative. The enactment in March 1990 of the Cooperative Code and R.A. No. 6939 establishing the CDA did not automatically divest the NEA of its control over the NEA’s regulated entities. **ZAMBALES II ELECTRIC COOPERATIVE, INC. (ZAMECO II) BOARD OF DIRECTORS, NAMELY, JOSE S. DOMINGUEZ (PRESIDENT), ISAIAS Q. VIDUA (VICE-PRESIDENT), VICENTE M . BARRETO(SECRETARY), JOSE M. SANTIAGO (TREASURER), JOSE NASERIV C. DOLOJAN, JUAN D. FERNANDEZ AND HONORIO L. DILAG, JR. (MEMBERS) vs. CASTILLEJOS CONSUMERS ASSOCIATION, INC. (CASCONA), REPRESENTED BY DOMINADOR GALLARDO et al., G.R. No. 176935-36, October 20, 2014, J. Brion**

**The petitioner contends that COA gravely abused its discretion when it ordered the disallowance of the release of health benefits to its employees. The Supreme Court ruled that the mere approval by Congress of the GAA does not instantly make the funds available for spending by the Executive Department. The funds authorized for disbursement under the GAA are usually still to be collected during the fiscal year. The revenue collections of the Government, mainly from taxes, may fall short of the approved budget, as has been the normal occurrence almost every year. Hence, it is important that the release of funds be duly authorized, identified, or sanctioned to avert putting the legitimate programs, projects, and activities of the Government in fiscal jeopardy. TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA)** **vs**. **THE COMMISSION ON AUDIT; CHAIRMAN REYNALDO A. VILLAR; COMMISSIONER JUANITO G. ESPINO, JR.; AND COMMISSIONER EVELYN R. SAN BUENAVENTURA, G.R. No. 196418, February 10, 2015, J. Bersamin**

An employee appointed by PAGCOR may only be dismissed by PAGCOR through its Board of Directors as only the proper disciplinary authority may dismiss an employee from service. When the dismissal is ordered by another person other than PAGCOR, it shall constitute deprivation of due process on the part of the employee. **PHILIPPINE AMUSEMENT AND GAMING CORPORATION vs. LORENIA P. DE GUZMAN, G.R. No. 208961, December 08, 2014, J. Perlas-Bernabe**

**JUDICIAL RECOURSE AND REVIEW**

The rule on exhaustion of administrative remedies provides that if a remedy within the administrative machinery can still be resorted to, then such remedy should be exhausted first before the court’s judicial power can be sought. Such exhaustion of administrative remedies is not violated when the Court denies the motion to dismiss filed by one of the parties considering that the latter’s further reconsideration or appeal of the investigation report is not a condition precedent to the filing of the other party’s reversion complaint. This holds true especially if such part whose motion to dismiss was denied, have already filed an answer and presented its evidence and formally offered the same. It is well-established that the touchstone of due process is the opportunity to be heard. **REPUBLIC OF THE PHILIPPINES vs. TRANSUNION CORPORATION, G.R. No. 191590, April 21, 2014, J. Perlas-Bernabe**

**ELECTION LAW**

**CANDIDACY**

Section 74, in relation with Section 78 of the Omnibus Election Code governs the cancellation of, and grant or denial of due course to, the COCs. The combined application of these sections requires that the facts stated in the COC by the would-be candidate be true, as any false representation of a material fact is a ground for the COC’s cancellation or the withholding of due course. **LINA DELA PENA JALOVER, GEORGIE A. HUISO, AND VELVET BARQUIN ZAMORA vs. JOHN HENRY OSMENA and COMMISION ON ELECTIONS, G.R. No. 209286, September 23, 2014, J. Brion**

The COMELEC has no discretion to give or not to give due couse to COCs. The Court emphasized that the duty of the COMELEC to give due course to COCs filed in due form is ministerial in character, and that while the COMELEC may look into patent defects in the COCs, it may not go into matters not appearing on their face. The question of eligibility or ineligibility of a candidate is thus beyond the usual and proper cognizance of the COMELEC. The determination of whether a candidate is eligible for the position he is seeking involves a determination of fact where parties must be allowed to adduce evidence in support of their contentions. Thus, in simply relying on the Memorandum of Director Amora Ladra in cancelling Kimberly’s COC and denying the latter’s substitution by Olivia, and absent any petition to deny due course to or cancel said COC, the Court finds that the COMELEC once more gravely abused its discretion. **OLIVIA DA SILVA CERAFICA vs.** **COMMISSION ON ELECTIONS, G.R. No. 205136, December 2, 2014, J. PEREZ**

Petitioner filed the instant petition contending that he was denied due process for being considered a nuisance candidate even before a clarificatory was even conducted. The SC ruled that nuisance candidates are persons who file their certificates of candidacy "to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate." To minimize the logistical confusion caused by nuisance candidates, their certificates of candidacy may be denied due course or cancelled by respondent. This denial or cancellation may be “motu proprio or upon a verified petition of an interested party,” “subject to an opportunity to be heard.” Respondent in this case declared petitioner a nuisance candidate without giving him a chance to explain his bona fide intention to run for office. Respondent had already declared petitioner a nuisance candidate even before the clarificatory hearing. This was an ineffective opportunity to be heard. **JOSEPH B. TIMBOL vs. COMMISSION ON ELECTIONS, G.R. No. 206004, February 24, 2015, J. Leonen**

Naval filed Certificate of Candidacy (COC) as provincial member but it was opposed because he is allegedly violating the three-term limit imposed upon elective local officials. The drafters of our Constitution are in agreement about the possible attendant evils if there would be no limit to re-election. Notwithstanding their conflicting preferences on whether the term limit would disqualify the elected official perpetually or temporarily, they decided that only three consecutive elections to the same position would be allowed. Thereafter, the public official can once again vie for the same post provided there be a gap of at least one term from his or her last election.  **ANGEL G. NAVAL vs. COMMISSION ON ELECTIONS and NELSON B. JULIA, G.R. No. 207851, July 8, 2014, J. Reyes**

**REMEDIES AND JURISDICTION IN ELECTION LAW**

The COMELEC en banc subsequently declared the certificate of candidacy of Hayudini as cancelled. Hayudini contends that COMELEC mistakenly declared his proclamation as null and void when there is no petition for annulment of proclamation filed against him. The Supreme Court ruled that COMELEC has the power to declare a candidate’s proclamation by virtue of a decision in a petition for cancellation without a petition for annulment of proclamation filed against the candidate. It is ruled that the declaration of nullity of the proclamation of a candidate is a necessary consequence when a certificate of candidacy has been cancelled. **MAYOR GAMAL S. HAYUDINI vs. COMMISSION ON ELECTIONS and MUSTAPHA J. OMAR, G.R. No. 207900, April 22, 2014, J. Peralta**

San Luis filed a disqualification case against co-gubernatorial candidate Ejercito. The COMELEC First Division and COMELEC En banc granted the disqualification petition. In the said petition, San Luis alleges that Ejercito was distributing an “Orange Card” with the intent to entice voters to vote for him and that Ejercito exceeded the allowable amount for campaign funds. Ejercito alleges that a preliminary investigation should have been conducted prior to the decision of the COMELEC. In this regard, the Supreme Court ruled that, First, as contemplated in paragraph 1 of COMELEC Resolution No. 2050, a complaint for disqualification filed before the election which must be inquired into by the COMELEC for the purpose of determining whether the acts complained of have in fact been committed. Where the inquiry results in a finding before the election, the COMELEC shall order the candidate's disqualification. In case the complaint was not resolved before the election, the COMELEC may motu propioor on motion of any of the parties, refer the said complaint to the Law Department of the COMELEC for preliminary investigation.

Second, as laid down in paragraph 2, a complaint for disqualification filed after the election against a candidate (a) who has not yet been proclaimed as winner, or (b) who has already been proclaimed as winner. In both cases, the complaint shall be dismissed as a disqualification case but shall be referred to the Law Department of the COMELEC for preliminary investigation. However, if before proclamation, the Law Department makes a prima facie finding of guilt and the corresponding information has been filed with the appropriate trial court, the complainant may file a petition for suspension of the proclamation of the respondent with the court before which the criminal case is pending and the said court may order the suspension of the proclamation if the evidence of guilt is strong. **EMILIO RAMON "E.R." P. EJERCITO vs. HON. COMMISSION ON ELECTIONS and EDGAR "EGAY" S. SAN LUIS, G.R. No. 212398, November 25, 2014, J. Peralta**

**LOCAL GOVERNMENTS**

**MUNICIPAL CORPORATIONS**

On the matter of counsels’ representation for the government, the Administrative Code is not the only law that delves on the issue. Specifically for local government units, the LGC limits the lawyers who are authorized to represent them in court actions.

The OSG could not represent at any stage a public official who was accused in a criminal case. This was necessary to prevent a clear conflict of interest in the event that the OSG would become the appellate counsel of the People of the Philippines once a judgment of the public official's conviction was brought on appeal.

In this case, CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolutions which obligated the OSG to represent the Municipality of Saguiran. Such ruling disregarded the provisions of the LGC that vested exclusive authority upon legal officers to be counsels of local government units. Even the employment of a special legal officer is expressly allowed by the law only upon a strict condition that the action or proceeding which involves the component city or municipality is adverse to the provincial government or to another component city or municipality. **THE OFFICE OF THE SOLICITOR GENERAL (OSG) vs. THE HONORABLE COURT OF APPEALS and THE MUNICIPAL GOVERNMENT OF SAGUIRAN, LANAO DEL SUR, G.R. No. 199027, June 9, 2014, J. Reyes**

Sangguniang Panglungsod of Cabanatuan City passed Resolution No. 183-2011, requesting the President to declare the conversion of Cabanatuan City from a component city of the province of Nueva Ecija into a highly urbanized city (HUC). Petitioner Aurelio M. Umali contends that qualified registered voters of the entire province of Nueva Ecija should participate in the plebiscite. The Supreme Court ruled that it was determined in the case that the changes that will result from the conversion are too substantial that there is a necessity for the plurality of those that will be affected to approve it. Similar to the enumerated acts in the constitutional provision, conversions were found to result in material changes in the economic and political rights of the people and LGUs affected. Given the far-reaching ramifications of converting the status of a city, we held that the plebiscite requirement under the constitutional provision should equally apply to conversions as well. **AURELIO M. UMALI vs. COMMISSION ON ELECTIONS, JULIUS CESAR V. VERGARA, and THE CITY GOVERNMENT OF CABANATUAN, G.R. No. 203974, April 22, 2014, J. Velasco, Jr.**

**PRINCIPLES OF LOCAL AUTONOMY**

The assailed issuances of [Robredo], MC Nos. 2010-83 and 2011-08, are but implementation of this avowed policy of the State to make public officials accountable to the people. They are amalgamations of existing laws, rules and regulation designed to give teeth to the constitutional mandate of transparency and accountability. A scrutiny of the contents of the mentioned issuances shows that they do not, in any manner, violate the fiscal autonomy of LGUs. To be clear, “[f]iscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities. It extends to the preparation of their budgets, and local officials in turn have to work within the constraints thereof.” **GOV. LUIS RAYMUND F. VILLAFUERTE, JR. AND THE PROVINCE OF CAMARINES SUR vs. HON. JESSE M. ROBREDO IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, G.R. No. 195390, December 10, 2014, J. Reyes**

**POWERS OF THE LOCAL GOVERNMENT**

One such piece of legislation is the LGC, which authorizes city and municipal governments, acting through their local chief executives, to issue demolition orders. Under existing laws, the office of the mayor is given powers not only relative to its function as the executive official of the town; it has also been endowed with authority to hear issues involving property rights of individuals and to come out with an effective order or resolution thereon. Pertinent herein is Sec. 444(b)(3)(vi) of the LGC, which empowered the mayor to order the closure and removal of illegally constructed establishments for failing to secure the necessary permits[.]

In the case at bar, [Aquino] admittedly failed to secure the necessary permits, clearances, and exemptions before the construction, expansion, and operation of Boracay Wet Cove’s hotel in Malay, Aklan. To recall, [Aquino] declared that the application for zoning comp-liance was still pending with the office of the mayor even though construction and operation were already ongoing at the same time. As such, it could no longer be denied that petitioner openly violated the [pertinent municipal ordinance concerning zoning permits and clearances]. **CRISOSTOMO B. AQUINO vs. MUNICIPALITY OF MALAY, AKLAN, REPRESENTED BY HON. MAYOR JOHN P. YAP, SANGGUNIANG BAYAN OF MALAY, AKLAN, REPRESENTED BY HON. EZEL FLORES, DANTE PASUGUIRON, ROWEN AGUIRRE, WILBEC GELITO, JUPITER GALLENERO, OFFICE OF THE MUNICIPAL ENGINEER, OFFICE OF THE MUNICIPAL TREASURER, BORACAY PNP CHIEF, BORACAY FOUNDATION INC., REPRESENTED BY NENETTE GRAF, MUNICIPAL AUXILIARY POLICE, AND JOHN AND JANE DOES, G.R. No. 211356, September 29, 2014, J. Velasco, Jr.**

Goh filed before the COMELEC a recall petition against Mayor Bayron of Puerto Princesa City. The COMELEC granted said petition however, the funding is suspended until the resolution of the funding issue. The Finance Services Department of the COMELEC and the COMELEC en banc ruled that the COMELEC has no sufficient funds as stated in the GAA and it cannot also augment the funds from its savings. However, upon careful examination of the 2014 GAA, the Court ruled that COMELEC has a budget appropriated for the conduct of recall elections. More importantly, the COMELEC admits in its Resolution No. 9882 that the COMELEC has "a line item for the 'Conduct and supervision of elections, referenda, recall votes and plebiscites.'" This admission of the COMELEC is a correct interpretation of this specific budgetary appropriation. To be valid, an appropriation must indicate a specific amount and a specific purpose. However, the purpose may be specific even if it is broken down into different related sub-categories of the same nature. For example, the purpose can be to '"conduct elections," which even if not expressly spelled out covers regular, special, or recall elections. The purpose of the appropriation is still specific - to fund elections, which naturally and logically include, even if not expressly stated, not only regular but also special or recall elections. **ALROBEN J. GOH vs. HON. LUCILO R. BAYRON and COMMISSION ON ELECTIONS, G.R. No. 212584, November 25, 2014, J. Carpio**

As previously held by the Court, “An unincorporated agency without any separate juridical personality of its own enjoys immunity from suit because it is invested with an inherent power of sovereignty. However, the need to distinguish between an unincorporated government agency performing governmental function and one performing proprietary functions has arisen. The immunity has been upheld in favor of the former because its function is governmental or incidental to such function; it has not been upheld in favor of the latter whose function was not in pursuit of a necessary function of government but was essentially a business.”

The contracts that the DPWH entered into with Mendoza for the construction of Packages VI and IX of the HADP were done in the exercise of its governmental functions. Hence, petitioners cannot claim that there was an implied waiver by the DPWH simply by entering into a contract. Thus, the Court of Appeals correctly ruled that the DPWH enjoys immunity from suit and may not be sued without its consent. **HEIRS OF DIOSDADO M. MENDOZA, namely: LICINIA V. MENDOZA, PETER VAL V. MENDOZA, CONSTANCIA V. MENDOZA YOUNG, CRISTINA V. MENDOZA FIGUEROA, DIOSDADO V. MENDOZA, JR., JOSEPHINE V. MENDOZA JASA, and RIZALINA V. MENDOZA PUSO vs. DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS and the DPWH SECRETARY, G.R. No. 203834, July 9, 2014, J. Carpio**

Fraud is not presumed, hence, it must be alleged and proved. The announcement of the purchase price on the day of the bidding does not constitute fraud when it was done following the protocol. **PRIVATIZATION AND MANAGEMENT OFFICE** **vs.** **STRATEGIC ALLIANCE DEVELOPMENT CORPORATION AND/OR PHILIPPINE ESTATE CORPORATION, G.R. Nos. 200402 & No. 208127, June 18, 2014, C.J. Sereno**

The mayor of General Santos City issued an order which provided separation benefits for sickly employees. The Office of the Solicitor General questions the said order. The Supreme Court ruled that in order to be able to deliver more effective and efficient services, the law allows local government units the power to reorganize. In doing so, they should be given leeway to entice their employees to avail of severance benefits that the local government can afford. However, local government units may not provide such when it amounts to a supplementary retirement benefit scheme. **CITY OF GENERAL SANTOS, represented by its Mayor, HON. DARLENE MAGNOLIA R. ANTONINO-CUSTODIO vs**. **COMMISSION ON AUDIT, G.R. No. 199439, April 22, 2014, J. Leonen**

**NATIONAL ECONOMY AND PATRIMONY**

**EXPLORATION, DEVELOPMENT, AND UTILZATION OF NATURAL RESOURCES**

Contending that the 50,000-MTs production limit does not apply to small-scale miners under RA 7076, the DENR then erred in declaring that they have exceeded the allowed annual extraction of mineral ore. The SC however ruled that the DENR, being the agency mandated to protect the environment and the country’s natural resources, it has the power to promulgate the necessary IRRs to give effect to mining laws. Such being the case its interpretation as to the 50,000-MT limit provided under RA 7076 is authoritative. **SR METALS, INC., SAN R MINING AND CONSTRUCTION CORP. AND GALEO EQUIPMENT AND MINING COMP ANY, INC. vs. THE HONORABLE ANGELO T. REYES, in his capacity as Secretary of DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), G.R. No. 179669, June 4, 2014, J. Del Castillo**

Rights pertaining to mining patents issued pursuant to the Philippine Bill of 1902 and existing prior to November 15, 1935 are vested rights that cannot be impaired. Mining rights acquired under the Philippine Bill of 1902 and prior to the effectivity of the 1935 Constitution were vested rights that could not be impaired even by the Government. Indeed, the mining patents of Yinlu were issued pursuant to the Philippine Bill of 1902 and were subsisting prior to the effectivity of the 1935 Constitution. Consequently, Yinlu and its predecessors-in-interest had acquired vested rights in the disputed mineral lands that could not and should not be impaired even in light of their past failure to comply with the requirement of registration and annual work obligations. **YINLU BICOL MINING CORPORATION vs. TRANS-ASIA OIL AND ENERGY DEVELOPMENT CORPORATION, G.R. No. 207942, January 12, 2015, J. Bersamin**

**FRANCHISES, AUTHORITY, AND CERTIFICATES FOR PUBLIC UTILITIES**

PNCC in a series of agreements transferred authority to perform the operations and maintenance of the South Metro Manila Skyway to SOMCO. Legislators and the Union of PNCC oppose the said transfer. They argue that the TOC issued by the TRB to SOMCO is highly irregular and that the transfer of authority is grossly disadvantageous to the government. To resolve this issue, the Court has ruled that first, it is thus clear that Congress does not have the sole authority to grant franchises for the operation of public utilities. Considering the foregoing, the Court finds that the petition raises no issue of constitutional import. More particularly, no legislative prerogative, power, or privilege has been impaired. Hence, legislators have no standing to file the instant petition, for they are only allowed to sue to question the validity of any official action when it infringes on their prerogatives as members of Congress. In this case, the Court finds that the allegations of petitioners are nothing more than speculations, apprehensions, and suppositions. It is quite understandable that SOMCO does not yet have a proven track record in toll operations, considering that it was only the ASTOA and the MOA that gave birth to it. **ANA THERESIA “RISA” HONTIVEROS-BARAQUEL et al. vs. TOLL REGULATORY BOARD, et al., G.R. No. 181293, February 23, 2015, C.J. Sereno**

**PUBLIC INTERNATIONAL LAW**

**TREATIES**

Tubbataha reef was damaged due to the fault of US Guardian. The respondents argued that they are immune from suit and did not participate to UNCLOS. The court ruled that non-membership in the UNCLOS does not mean that the US will disregard the rights of the Philippines as a Coastal State over its internal waters and territorial sea. The court thus expects the US to bear “international responsibility” under Art. 31 in connection with the USS Guardian grounding which adversely affected the Tubbataha reefs. **MOST REV. PEDRO D. ARIGO, et al. vs.** **SCOTT H. SWIFT in his capacity as Commander of the U.S. 7th Fleet, et al., G.R. No. 206510, September 16, 2014, J. Villarama, Jr.**

The question of whether the Philippine government should espouse claims of Malaya Lolas against the Japanese government is a foreign relations matter, the authority for which is committed by our Constitution not to the courts but to the political branches. In this case, the Executive Department has already decided that it is to the best interest of the country to waive all claims of its nationals for reparations against Japan in the Treaty of Peace of 1951. The wisdom of such decision is not for the courts to question. Indeed, except as an agreement might otherwise provide, international settlements generally wipe out the underlying private claims, thereby terminating any recourse under domestic law. **ISABELITA C. VINUYA, et al. vs. EXECUTIVE SECRETARY ALBERTO G. ROMULO, et al., G.R. No. 162230, April 28, 2010, J. Del Castillo**

As may be palpably observed, the terms and conditions of Loan Agreement No. 4833-PH, being a project-based and government-guaranteed loan facility, were incorporated and made part of the SLA that was subsequently entered into by LBP with the City Government of Iligan. Consequently, this means that the SLA cannot be treated as an independent and unrelated contract but as a conjunct of, or having a joint and simultaneous occurrence with, Loan Agreement No. 4833-PH. Its nature and consideration, being a mere accessory contract of Loan Agreement No. 4833-PH, are thus the same as that of its principal contract from which it receives life and without which it cannot exist as an independent contract. Indeed, the accessory follows the principal; and, concomitantly, accessory contracts should not be read independently of the main contract. Hence, as LBP correctly puts it, the SLA has attained indivisibility with the Loan Agreement and the Guarantee Agreement through the incorporation of each other’s terms and conditions such that the character of one has likewise become the character of the other. **LAND BANK OF THE PHILIPPINES vs. ATLANTA INDUSTRIES, INC., G.R. No. 193796, July 2, 2014, J. Perlas-Bernabe**