



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

FIFTH DIVISION

**PEOPLE OF THE PHILIPPINES,
Plaintiff,**

SB-11-CRM-0084

**For: Violation of Sec. 4, R.A.
6656**

-vs-

EDUARDO G. VARELA,

Accused.

Present:

**LAGOS, J., Chairperson,
MENDOZA-ARCEGA, J.,
and CORPUS-MAÑALAC,
J.**

Promulgated:

October 08, 2018 *jal*

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DECISION

MENDOZA-ARCEGA, J.:

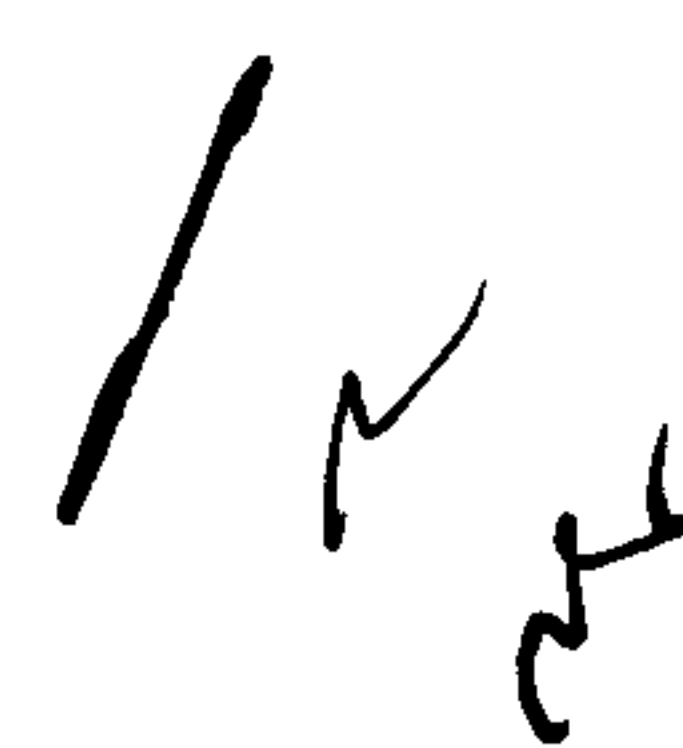
Accused Eduardo G. Varela is charged with violation of Sec. 4, R.A. 6656, otherwise known as an Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization, in relation to Sec. 10 of R.A. 6656, in an Information, the accusatory portion of which reads:

“That on or about the 1st day of January 1999, and for sometime subsequent thereto, in the City of Cadiz, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, EDUARDO G. VARELA, a public

jal

officer, being the Mayor of Cadiz City, in such capacity and committing the offense in relation to office, with deliberate intent, did then and there willfully, unlawfully and feloniously fail to give preference to: Emilene P. Ong for the appointment to the position of Clerk III; Ma. Theresa Beatingo and Marilou L. Supremo for the appointment to the position of Public Health Nurse II; Shirley M. Sinoy, Jocelyn L. Bermejo and Melinda P. Angeles for the appointment to the position of Midwife IV; Mary Grace S. Bedayos for the appointment to the position of Supply Officer I; and Enrique G. Ambos for the appointment to the position of Engineer III, new positions in the approved staffing pattern of the City Government of Cadiz, comparable to the former positions of: Emilene P. Ong as Clerk III; Ma. Theresa Beatingo and Marilou L. Supremo as Public Health Nurse II; Shirley M. Sinoy, Jocelyn L. Bermejo and Melinda P. Angeles as Midwife IV; Mary Grace S. Bedayos as Supply Officer I; and Enrique G. Ambos as Engineer IV of the City Government of Cadiz, or to their positions next lower in rank, as accused has given preference or chosen Anavel P. Gasper, Filipinas S. Barriesses, Mary Grace R. Casinillo and Ernesto P. Castroverde over said Emilene P. Ong; Hazel V. Anam-Anam, Ma. Fanny B. Robles and Gemma S. Barilea over said Ma. Theresa Beatingo and Marilou L. Supremo; Felomina J. Oplas, Jennifer M. Ledres and Adorna B. Gardose over said Shirley M. Sinoy, Jocelyn L. Bermejo and Melinda P. Angeles; Rommel A. Amante over said Mary Grace S. Bedayos; and Ferdinand D. Quirao over Enrique G. Amabos, and accused, furthermore, has failed to give preference to Bany John P. Sarabia for the appointment to the position of Manpower Development Officer I, a new position in the approved staffing pattern in the City Government of Cadiz, comparable to his former position as Sports Development Officer I of the City Government of Cadiz, or to the position of Manpower Development Assistant, a position next lower in rank, as accused has given preference or chosen Marlene H. Militar and Jake Braza over said Bany John P. Sarabia, and likewise, accused has failed to appoint Nida T. Bullag to a position comparable to her former position as Social Welfare Officer III, or a position next lower in rank in the said approved new staffing pattern, and finally, accused has appointed new employees: Anavel P. Gasper, Mary Grace R. Casinillo and Ernesto P. Castroverde, to the permanent positions of Clerk III; Hazel V. Anam- Anam and Ma. Fanny B. Robles, to the permanent positions of Public Health Nurse II; Felomina J. Oplas and Jennifer M. Ledres, to the permanent positions of Midwife IV; and Rommel A. Amante to the permanent position of Supply Officer I, all in the approved staffing pattern of the City Government of Cadiz, to the prejudice and detriment of public service.

CONTRARY TO LAW.”



Upon arraignment, with the assistance of his counsel Atty. Alexander Mirano and Atty. Rafael Ocampo Jr., accused Eduardo Gustilo Varela, pleaded not guilty to the offense charged.

During the pre-trial, the parties stipulated on the following matters:

- 1) That at the time material to this case, accused Eduardo G. Varela was the City Mayor of Cadiz City;
- 2) The authenticity of Resolution No. 98-112 and its attachments;
- 3) That on September 22, 1998, the Sangguniang Panlalawigan of Cadiz City, Negros Occidental passed a resolution;
- 4) That the resolution was approved by the accused as City Mayor of Cadiz City on October 15, 1998.

Also the parties identified and narrowed down their issues as follows:

- 1) Whether or not the accused violated Sec. 4 of Republic Act 6656; and
- 2) Whether or not the accused acted in bad faith in implementing Resolution No. 98-112¹, the New Staffing Pattern.

The pre-trial was terminated on February 13, 2013 and trial thereafter ensued.

The prosecution presented the following witnesses:

- 1) Emilene P. Ong; 2) Marilou L. Supremo; and 3) Melinda Pastutiyo-Angeles.; 4) Bany John P. Sarabia; and 5) Mary Grace Santua Bedayos; 6) Shirley Miravalles Sinoy; 7) Nida T. Bullag; 8) Jocelyn Ledesma Bermejo; and 9) Elsa C. Calderon.

EVIDENCE FOR THE PROSECUTION

EMILENE P. ONG

She was a Clerk III at the General Services Office of the local government of Cadiz City, Negros Occidental. She was appointed on February 1, 1995.² Prior to her termination, she was receiving Seventy-Nine Thousand Twenty Pesos (PhP79,020.00) per annum. Her eligibility includes a Professional Board Examination for Teachers (PBET) and Civil Service Professional Examination.

¹ Resolution Adopting the Proposed New Organizational Structure and Staffing Pattern of the Cadiz City Government, Covering the Amount of Sixty Nine Million Four Hundred Fifty Nine Thousand Eight Hundred Four Pesos (P69,459,804.00) with a Total Personnel Complement of 649 for 17 Offices, Declaring All Positions Vacant, Except Elective Positions and the Positions of the City Treasurer and Assistant City Treasurer, Being National Appointees Pursuant to Sections 470 and 471 of the Local Government Code of 1991, R.A. 7160, Respectively.

² Exhibit "VV" Original Appointment Record dated February 1, 1995.

On November 10, 1998, she received a Termination Notice³ from Mayor Eduardo Varela (Mayor Varela or former Mayor), stating that her position will be vacant effective December 31, 1998. Her termination was due to the reorganization of the city government pursuant to Sangguniang Panlungsod Resolution No. 98-112 dated September 22, 1998. However, she believes that the implementation by the Mayor was tainted with bad faith and he did not comply with the requirements of R.A. 6656, which provides that employees with permanent appointments shall be given preference for appointment to new positions in the approved staffing pattern or in case there are not enough comparable positions, to the position next lower in rank. In addition, it provides that no new employee shall be hired until all permanent employees have been appointed. She also said that when the organization took effect, her position was abolished but later on recreated but she was not given preference for appointment in the new staffing pattern. Specifically, the new staffing pattern created two (2) positions in the Office of the Mayor, one (1) in the Office of the City Administrator and one (1) in the Office of the City Agriculture. In the said re-created positions for Clerk III, she was not appointed and worse, new entrant employees namely: Anavel Gaspar, Filipinas Barrices, Mary Grace Casinillo and Ernesto Castroverde were appointed in her stead. Anavel Gaspar was only a college graduate, Ernesto Castroverde has a Sub-Professional Eligibility while Filipinas Gomez-Barrices and Mary Grace Casinillo have Civil Service Professional Eligibility. All those mentioned new entrant started working in January 1, 1999, as indicated in their appointment and service records.

After her termination from work, she and other permanent employees of Cadiz City filed a complaint⁴ with the Civil Service Commission (CSC) and on May 21, 1999, the CSC issued Resolution No. 991068 ordering the reinstatement of the illegally terminated employees including her. In violation of said resolution, she was not immediately reinstated until after a couple of years later or on July 1, 2001. She was reinstated as a Clerk III and was assigned in the Office of the City Agriculture after the election of City Mayor, Hon. Salvador Escalante, Jr. In total, she was denied of work for two (2) years and six (6) months and she is asking for full payment of backwages using as a basis Section 75, Rule V of the CSC Rules. Moreover, she asks for the disqualification of former Mayor Varela from holding public office in the future because of the injustice done during his tenure as mayor. She also said that the termination was the former mayor's way of vengeance after the latter accused her along with other permanent employees of Cadiz City of not supporting his candidacy in 1998.

On cross-examination, the witness said that the reorganization of the City of Cadiz was done through the Sangguniang Panlungsod by passing Resolution No. 96-112. She admitted that Mayor Varela only implemented the resolution passed by the Sanggunian and that the Termination Notice dated November 10, 1998 as well as the Notice of Lay-Off was not personally handed by former Mayor Varela to her. Finally, she admitted that as stated in her Judicial Affidavit, RA 6656 only gives preference over permanent employees.

³ Exhibit "AA".

⁴ Exhibit "XX".

On re-direct examination, the witness clarified that although the reorganization was made by the Sangguniang Panlungsod of the City of Cadiz, Mayor Varela in implementing the said resolution acted with bad faith as he terminated all the employees concerned. She explained that the termination was not attended with due process as it was not coursed through the personnel services and no interview was ever conducted. She also added that they tried to communicate with the Mayor regarding the matter however the same was denied and was only forwarded to the Office of the Personnel Service.

MARILOU L. SUPREMO

She was a Public Health Nurse II with a permanent appointment before her services was terminated by former Mayor Varela. On November 10, 1998, she received a Termination Notice from the former Mayor stating that her position will be vacant effective December 31, 1998. On said date (December 31, 1998), she received a Notice of Lay-off, informing her that her work is terminated on that same day.

She testified that the reorganization of the city government was based on Sangguniang Panlungsod Resolution No. 98-112 dated September 22, 1998. She said that the implementation by the former Mayor was tainted with bad faith because the latter did not re-appoint the permanent employees whom he suspected of not having supported his candidacy and because he did not comply with RA 6656.

RA 6656 states that permanent employees shall be given preference for appointment to new positions after reorganization. Also, the former Mayor should not hire new employees if there are still permanent employees not yet re-appointed.

Before the reorganization, she was appointed as Public Health Nurse II. After the reorganization, her position was abolished but was re-created. In fact, under the new staffing pattern, seven (7) positions for nurses was created from the three (3) nurse positions before the reorganization. However, she was not given preference for appointment in the new staffing pattern, instead new entrant Gemma Barilea, Fanny Robles and Hazel Anam-Anam, were appointed. Thereafter, she appealed her termination to the CSC and on May 21, 1999, the CSC issued Resolution No. 991068 ordering her reinstatement along with other similarly situated employees of Cadiz City. Despite said resolution of CSC, she was only reinstated on July 1, 2001 or after two (2) years and six (6) months, thus she is asking for full payment of her backwages. In addition, she is asking the Court for the disqualification of the former Mayor to hold public office in the future and for moral damages.

On cross-examination, she testified that prior to September 22, 1998, she was employed as Nurse II in the local government of Cadiz City for twenty-two (22) years already. She also said that her position was abolished by the Sangguniang Panlungsod by virtue of a resolution. In fact, both the termination notice and notice of lay-off state that the termination was pursuant to Resolution No. 98-112 or the re-organization of the positions in the local government unit. After termination, she

admitted that she did not apply for a re-appointment with the local government. Furthermore, she said that the termination was a form of political vendetta against her as the former Mayor accused her of not voting for him in the election. In addition, she said that she was given partial payment for back wages for the two (2) years that she was laid-off. Finally, she was reinstated as Nurse II in 2001 up to the present.

On re-direct, she explained that she filed an action with the CSC after her termination. The CSC thereafter directed the former Mayor to reinstate the affected employees, however the former Mayor did not follow the same. She also clarified that she did not apply for a position in the local government after termination because it is stated in the CSC rules that former employees should be given preference in case the city government will reorganize. Finally, she said that the backwages given was part of the resolution of the CSC and it was given under the direction of the new mayor.

MELINDA PASTUTIYO-ANGELES

The witness is one of the complainants who filed a case against former Mayor Varela for violation of RA 6656.

She is a former Midwife IV at the City of Cadiz. She started working on September 1, 1981 and rose from the ranks until she was permanently appointed Midwife IV. Before her termination, she was receiving the amount of One Hundred Twenty-Two Thousand Nine Hundred and Seventy-Six Pesos per annum. Her qualification as Midwife IV includes a midwife license with Certificate No. 00034779 dated November 13, 1978.

On November 10, 1998, together with her co-complainants, she received a Termination Notice from former Mayor Varela, stating therein that her position will be vacant effective December 31, 1998. True enough, she received another notice on December 31, 1998, informing her that she is being terminated from work effective the same day.

The termination was based on the reorganization of the city government by virtue of Sangguniang Panlungsod Resolution No. 98-112 dated September 22, 1998. However, she believes that the implementation of said resolution by the former Mayor was tainted with bad faith as the Mayor gave preference to new entrant who supported him in his candidacy and also because the former Mayor did not comply with the requirements of RA 6656. As stated in RA 6656, permanent employees should be given preference for appointment to new positions in the new staffing pattern appointment and that the Mayor should not hire new entrant until permanent employees have been appointed.

After her termination, she elevated the matter to the CSC, who issued Resolution No. 991068 ordering their reinstatement on May 21, 1999. However, they were only reinstated a couple of years after or on May 30, 2002. In total, she

was denied three (3) years and five (5) months or from December 31, 1998 until June 30, 2001.

Finally, she asks for the disqualification of the former Mayor to hold public office in the future and for damages.

On cross-examination, the witness testified that she has been employed in the local government of Cadiz City from 1980 to 1998 as Midwife IV. After her termination, she sent a letter of application with the Office of former Mayor Varela for the position of Midwife IV. However, the position applied for was already taken which impelled her to file a complaint with the CSC.

On re-direct, she testified that a total of 166 employees were terminated because of the reorganization. Particularly, in the City Health Department, more than fifty (50) employees were terminated. Among the twenty-two (22) midwives, only four (4) were left and then the local government hired new entrants. She also said that she was never given an invitation or information that she was considered in the re-created positions. Moreover, she said that after May 1999, the CSC directed Mayor Varela to reinstate the affected employees, however, the former Mayor did not follow the same. It was only on July 1, 2001 or two (2) years later that she was reinstated.

BANY JOHN P. SARABIA

The witness is suing former Mayor Varela for violation of RA 6656. Prior to the election of the former Mayor, the witness was a Sports Development Officer I under the Sports/Youth Development Division of the City Special Services with salary grade 10 of the city government of Cadiz. He was appointed on September 1, 1994 until his employment was terminated by former Mayor Varela on December 31, 1998.

The Sangguniang Panlungsod of Cadiz passed Resolution No. 98-112, series of 1998. Then Mayor Varela implemented the reorganization which led to the abolition of the positions and termination of the employees. By virtue of the mentioned resolution, the City of Cadiz adopted a new organizational structure and staffing pattern and declared all positions vacant except elective positions.

After the reorganization, his position with a salary grade of 10 was abolished and the new staffing pattern created a new division called Youth Development Unit under the Office of the Mayor. Also three (3) new positions were created namely, Executive Assistant III, Manpower Development Officer II, Manpower Development Officer I and Manpower Development Assistant with salary grades 20, 15, 11, and 8 respectively.

He then applied for the position of Manpower Development Officer I in the approved new staffing pattern or to any position that suits his qualifications as licensed teacher and experienced in sports and youth development. However, former

Mayor Varela appointed a new recruit, Marlene Militar, without giving him preferential right even if he has the qualifications in the recreated positions having been previously appointed as permanent employee in the same position.

The said act of the Mayor prompted him, together with other employees, to file a complaint before the CSC which found their claim meritorious and directed the Mayor to reappoint them to the positions in the new staffing pattern, which are comparable or similar to their former positions. The Mayor, thereafter, elevated the matter to the Court of Appeals, which sustained the findings of the CSC and the said decision became final and executory.

The witness during cross-examination said that he is aware that under the CSC rulings, the appointing authority may not give preference to old employees if it was made under a bona fide reorganization and if the intention of the executive is to infuse new blood to the government system. He also said that he applied for the position of Manpower Development Officer I after his position was abolished.

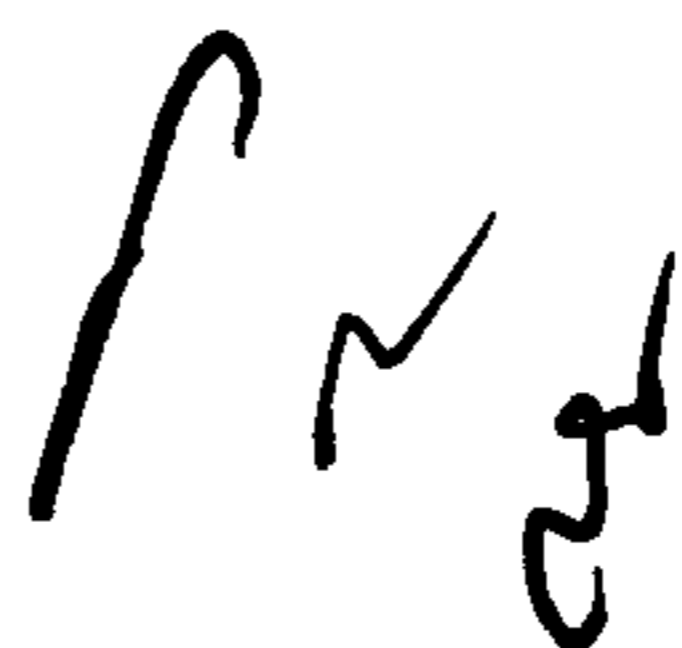
MARY GRACE SANTUA BEDAYOS

She was the Supply Officer I in the Property and Supply Division of the City government of Cadiz. She was appointed in January 1, 1993 until her employment was terminated by Mayor Varela on December 31, 1998. After the Sangguniang Panlungsod of Cadiz passed Resolution No. 98-112, series of 1998, Mayor Varela terminated her employment together with other employees of the City. Their positions were abolished, however, the City government recreated two positions of Supply Officer I under the Property and Supply Division under item numbers 28 and 29 in the new staffing pattern. Thereafter, Mayor Varela appointed a new recruit Rommel Amante, without giving her the preferential right even if she has the qualifications to be appointed in the newly re-created position.

Left without recourse, she filed a complaint with the CSC who resolved the matter in her favor. Mayor Varela was directed to reappoint the terminated employees of Cadiz government to the positions in the new staffing pattern which are comparable or similar to their former positions. In order to frustrate their re-employment, Mayor Varela pursued the case to the Court of Appeals, which however, denied the petition, thus the decision became final and executory.

She was rendered jobless by reason of the termination for two (2) years and six (6) months or from December 31, 1998 to June 30, 2001, representing almost the whole term of former Mayor Varela. In view of said event, she asks the Court for damages for the financial difficulties and mental anguish caused by her termination from employment.

On cross-examination, she said that she filed the present case against the accused to protect the security of tenure of government officials and employees in the implementation of government reorganization.



During re-cross, the witness testified that after her termination, she incurred legal expenses and had financial difficulties.

The Court asked clarificatory questions wherein the witness elucidated that the position was abolished by virtue of a resolution passed by the Sangguniang Panlungsod, however, it was the former Mayor who solely implemented the said resolution and was the one who appointed a new entrant. Also, it was clarified that the position abolished by virtue of the resolution was re-created, specifically the position of herein witness, Supply Officer I at the Property and Supply Division of the City General Services Office, yet another person was appointed despite her application to the mentioned position.

SHIRLEY MIRAVALLES SINOY

The witness testified that in November 10, 1998, together with her co-complainants received a Termination Notice from Mayor Varela, stating that their positions will be vacant effective December 31, 1998. Another notice was received by the witness on December 31, 1998, informing her that she is being terminated from work effective the same day.

She worked as a Midwife IV from 1989 until she was terminated by Mayor Varela. Prior to her termination, she was receiving an annual income of One Hundred Twenty-Two Thousand Nine Hundred Seventy-Six Pesos (PhP122, 967.00).

She also testified that when Mayor Varela implemented Sangguniang Panglungsod Resolution No. 98-112 dated September 22, 1998, her position was abolished but was later on re-created. Particularly, the items in the plantilla was reduced, from the twenty-two (22) positions for midwives, only eight (8) were recreated. Four (4) incumbent Midwife IV were reappointed, one Midwife II was promoted to Midwife IV and two (2) new entrants were appointed to Midwife IV, without giving her preference for reappointment. In the re-created positions, new entrants Filomena Oplas and Jennifer Ledres were appointed as Midwife IV. Adorna Gardose, on the other hand was promoted from Midwife II to Midwife IV and one appointee to the position of Midwife IV is the sister of a Sangguniang Panlungsod Member who was a partymate of Mayor Varela. The new entrants' salary according to the personnel schedule as Midwife IV is One Hundred Twenty-Two Thousand Nine Hundred Seventy-Six Pesos (PhP122, 967.00), which salary was same as the witness' before she was terminated from work.

After she was terminated from work, she filed a complaint with the CSC, along with other employees of Cadiz City and on May 21, 1999, the CSC issued Resolution No. 991068, ordering their reinstatement, however, she was only reinstated in September 16, 2001 by the new Mayor, Salvador Escalante, Jr. In total, she was denied work for two (2) years and nine (9) months or from December 31, 1998 until September 16, 2001. In view of said illegal termination by the former Mayor, she asks the Court for full backwages and damages.



On cross-examination, she admitted that accused former Mayor was not present during the adoption of the subject resolution and that the Sangguniang Panlungsod members were not indicted in the present case.

NIDA T. BULLAG

The witness filed a case against former Mayor Varela for violation of security of tenure.

In November 10, 1998, she received a Termination Notice from Mayor Varela, stating that her position will be vacant effective December 31, 1998. True enough, she received a Notice of Lay-Off, wherein the Mayor told her that her work is terminated on the same day.

Before her termination, she worked as a Social Welfare Officer III at the City Social Welfare Office of the local government of Cadiz City, Negros Occidental, under a permanent appointment. Prior to her termination, she was receiving a salary grade of 18 in the amount of One Hundred Sixty-Four Thousand Five Hundred Eighty Pesos (PhP164,580.00) per annum. Part of her qualifications for her position includes a Professional Board Examination for Teachers (PBET).

She also testified that she was terminated from work because of the reorganization of the city government pursuant to Sangguniang Panlungsod Resolution No. 98-112 dated September 22, 1998. Due to the said reorganization, her position was abolished but she was not given preference for appointment in the new staffing pattern, which was approved by former Mayor Varela.

Thereafter, she appealed her termination in the CSC together with her co-employees and on May 21, 1998, the CSC issued Resolution No. 991068, ordering their reinstatement, however, she was only reinstated in 2001 as a Social Welfare Office III and was assigned in the Office of the City Social Worker and Development. In total, she was denied work for two (2) years and six (6) months or from December 31, 1998 until June 30, 2001, and for that, the witness is asking the Court for payment of full backwages and for damages.

On cross examination, the witness admitted that the notice of termination was pursuant to Resolution Number 98-112 and that she did not file a case against the Sangguniang Panlungsod members, who voted for and passed the said resolution.

On re-direct examination, the witness explained that the new staffing pattern of Cadiz City was approved and signed by Mayor Varela. She also said that the resolution of CSC was issued during the time of former Mayor Varela.

JOCELYN LEDESMA BERMEJO

The witness is one of the private complainants in the present case against former Mayor Varela for her illegal termination in December 1998.

On November 10, 1998, she received a Notice of Termination from the Office of the Mayor, stating that her services will be terminated on December 31, 1998. After that, she received a Notice of Lay-Off on December 31, 1998, stating that her work is terminated the same day.

Prior to her termination, she worked as a Midwife IV with a salary of One Hundred Twenty-Two Thousand Nine Hundred Seventy-Six Pesos (PhP122,976.00) per annum.

She testified that Mayor Varela in implementing Sanggunian Panlungsod Resolution No. 98-112, abolished 22 positions of midwives and re-created 8 positions. In the eight (8) re-created positions, four (4) incumbent Midwife IV were re-appointed. For the remaining four (4) positions, one Midwife II was promoted to Midwife IV and two (2) new entrants were appointed to Midwife IV, without giving her preference for reappointment. According to the Personnel Schedule, the new entrants receive an annual salary of One Hundred Twenty-Two Thousand Nine Hundred Seventy-Six Pesos (PhP122,967.00), which salary was same as the witness' before she was terminated from work.

After her termination from work, the witness, together with other co-employees appealed to the CSC, which ordered their reinstatement, however, it was only in June 1, 2002 that she was reinstated by Mayor Salvador Escalante, Jr. In total, she was deprived of work for three (3) years and five (5) months. Finally, the witness asks the court for damages incurred.

On cross-examination, the witness testified that Mayor Varela was not present at the time of the approval of the subject resolution and that she did not file any civil, criminal or administrative cases against the Sangguniang Panlungsod of Cadiz, who were present and who approved the resolution. In addition, she admitted that Mayor Varela was merely implementing the resolution passed by the Sangguniang Panlungsod dated September 22, 1998. Furthermore, she said that she was already paid her backwages.

On re-direct, the witness explained that she only filed a case against Mayor Varela because he was the one who terminated her pursuant to a letter received from the former Mayor's office. She also clarified that her backwages was paid in installment and it was only fully paid in 2015.

ELSA C. CALDERON

She is the City Government Assistant Department Head I and designated Officer-in-Charge (OIC) of the Human Resource Management Division. Her duties include supervising the personnel matters concerning all employees of Cadiz City such as evaluation and selection of personnel, appointment preparations, personnel developments and has custody of personnel records. She was employed with the city government in October 1, 1993 and since 2012, she was designated as OIC of the Human Resource Management Division.



She identified the private complainants, Emilene Ong, Ma Theresa Beatingo, Marilou Supremo, Shirley Sinoy, Jocelyn Nermejo, Melinda Angeles, Nida Bullag, Mary Grace Bedayos, Enrique Ambos and Bany John Sarabia, as permanent employees of the City government of Cadiz based on their employment records.

She also testified that on January 1, 1999, all employees except the City Treasurer and the Assistant City Treasurer were terminated and all positions were declared vacant. Based on service records, the concerned employees were terminated due to reorganization, which was effected by Mayor Varela, and there was no subsequent record of reappointment from January 1, 1999 until 2001. However, the concerned employees were reappointed in 2001, based on CSC Resolution No. 991068 dated May 21, 1999. She also emphasized that the employees were only reappointed after the term of Mayor Varela in June 30, 2001.

During cross-examination, the witness testified that she has personal knowledge of the subject resolution passed by the Sangguninag Panlungsod and that accused Mayor Varela only effected the termination based on the said resolution.

After presenting all its witnesses, the prosecution made a formal offer of its documentary evidence as follows:

Exhibit

A	Certified True Copy of Service Record of Mary Grace S. Bedayos
F	Certified True Copy of Service Record of Enrique G. Ambos
H	Certified True copy of Service Record of Bany John P. Sarabia
EE	Certified True Copy of Service Record of Emilene P. Ong
AAA	Certified True Copy of Service Record of Marilou L. Supremo
PPP	Certified True Copy of Service Record of Melinda Angeles
DDDD	Certified True Copy of Service Record of Nida Bullag
LLLL	Certified True Copy of Service Record of Shirley Sinoy
RRRR	Certified True Copy of Service Record of Jocelyn Bermejo
XXXX	Certified True Copy of Service Record of Ma. Teresa Beatingo
B	Certified True Copy of Oath of Office of Mary Grace S. Bedayos
C	Appointment Paper from the Civil Service Commission of Mary Grace S. Bedayos as Supply Officer I (photocopy)
D	Certified True Copy of Civil Service Form No. 203 of Mary Grace S. Bedayos as Supply Officer I dated January 1, 1993
E	Certified True Copy of Civil Service Form No. 1, Position Description Form of Mary Grace S. Bedayos
G	Certified True Copy of KSS Porma Blg. 33 for the Permanent Appointment as Engineer IV of Enrique G. Ambos
I	Certified true Copy of Appointment Paper of Bany John P. Sarabia as permanent Sports Development Officer I
J	Copy of Application for Leave of Bany John P. Sarabia indicating his agency-Special Services Department, his position-Sports Development and his monthly salary (photocopy)

K	Notice of Salary Adjustment of Bany John P. Sarabia (photocopy)
K-1	Name of Bany John P. Sarabia
K-2	Signature of Bany John P. Sarabia
L	Notice of Salary Adjustment of Bany John P. Sarabia (photocopy)
L-1	Notice of Salary Adjustment of Bany John P. Sarabia (photocopy)
VV	Certified True Copy of the Permanent Appointment of Emilene P. Ong as Clerk III dated February 1, 1995
ZZ	Certified True Copy of the Permanent Appointment of Marilou L. Supremo as City Nurse dated August 1, 1977
QQQ	Certified True Copy of Civil Service Form No. 203 dated September 1, 1980 in connection with the proposed appointment of Melinda Pastutiyo
CCCC	Permanent Appointment of Nida Bullag as Social Welfare Aide dated November 6, 1990
KKKK	Permanent Appointment of Shirley Sinoy as Midwife II dated November 6, 1990 (photocopy)
QQQQ	Certified True Copy of the Permanent Appointment of Jocelyn Bermejo as Public Health Midwife dated August 19, 1987
YYYY	Certified True Copy of the Permanent Appointment of Ma. Teresa Beatingo as Public Health Nurse I dated October 31, 1990
ZZZZ	Certified True Copy of the Permanent Appointment of Ma. Teresa Beatingo as Public Health Nurse II dated January 1, 1993
M	Personnel Schedule/ Local Budget
M-1 to M-25	Preparation Form No. 153 under 1998 Annual Budget (photocopy)
M-13, also marked as BBB	Page 3 of 7, Personnel Schedule for the Office of the City Health Officer
M-14, also marked as RRR	Page 4 of 7, Personnel Schedule for the Office of the City Health Officer
N, N-1 to N-17	Resolution No. 98-112, Series of 1998 of the Sangguniang Panlungsod of Cadiz City dated September 22, 1998 with attached List of New Staffing Pattern of Cadiz consisting of 16 pages (photocopy)
N, also marked as II	Resolution No. 98-112
N, also marked as FFFF	Certified True Copy of Resolution No. 98-112
N-1 to N-17, also marked as GGGG	Certified True Copy of the List of New Staffing Pattern of Cadiz consisting of 16 pages
GGGG-1	Signature of Eduardo G. Varela
O, O-1 to O-18	Personnel Schedule/ Local Budget Preparation Appraising Form No. 153 under 1999 Annual Budget consisting of 16 pages (photocopy)

fmg

P	Letter of Termination signed by Eduardo G. Varela addressed to Mary Grace S. Bedayos dated November 10, 1998 (photocopy)
Q	Letter of Termination signed by Eduardo G. Varela addressed to Bany John P. Sarabia dated November 10, 1998 (photocopy)
R	Letter of Termination signed by Eduardo G. Varela addressed to Enrique G. Ambos (photocopy)
AA	Letter of Termination signed by Eduardo G. Varela addressed to Emilene P. Ong dated November 10, 1998 (photocopy)
BB, remarked as WW	Letter/Notice of Lay-Off signed by Eduardo G. Varela dated December 31, 1998 addressed to Emilene P. Ong (photocopy)
CC	Letter of Termination signed by Eduardo G. Varela addressed to Ma Teresa Beatingo (photocopy)
DD	Letter of Termination/ Lay-Off signed by Eduardo G. Varela dated December 31, 1998 addressed to Ma Teresa Beatingo (photocopy)
MMM	Letter of Termination signed by Eduardo G. Varela addressed to Marilou Supremo dated November 10, 1998 (photocopy)
NNN	Letter/Notice of Lay-Off signed by Eduardo G. Varela dated December 31, 1998 addressed to Marilou Supremo (photocopy)
AAAA	Letter of Termination signed by Eduardo G. Varela addressed to Nida Bullag dated November 10, 1998 (photocopy)
BBBB	Letter/Notice of Lay-Off signed by Eduardo G. Varela dated December 31, 1998 addressed to Nida Bullag (photocopy)
III	Letter of Termination signed by Eduardo G. Varela addressed to Shirley Sinoy dated November 10, 1998 (photocopy)
JJJ	Letter/Notice of Lay-Off signed by Eduardo G. Varela dated December 31, 1998 addressed to Shirley Sinoy (photocopy)
OOOO	Letter of Termination signed by Eduardo G. Varela addressed to Jocelyn Bermejo dated November 10, 1998 (photocopy)
OOOO-1	Signature of accused Eduardo G. Varela
PPPP	Letter/Notice of Lay-Off signed by Eduardo G. Varela dated December 31, 1998 addressed to Jocelyn Bermejo (photocopy)
PPPP-1	Signature of accused Eduardo G. Varela
S, S-1 to S-17	Personnel Schedule/Local Budget Preparation Form under the 2000 Annual Budget from the Office of the Mayor (photocopy)
S. also marked as JJ	Page 1 of 6 Personnel Schedule for the Office of the City Mayor
KK	Page 1 of 2 Personnel Schedule for the Office of the City Administrator
LL	Personnel Schedule for the Office of the City Agriculturist
DDD	Page 2 of 3 of the Personnel Schedule for the Office of the City Health Officer
EEE	Page 3 of 3 of the Personnel Schedule for the Office of the City Health Officer
T	Civil Service Form No. 203 signed by Eduardo G. Varela in connection with the proposed appointment of Rommel Amante (photocopy)
T-1	Appointment of Rommel Amante as Supply Officer I (photocopy)

T-2	Assumption of Office by Rommel Amante (photocopy)
T-3	Civil Service Form of the official designation and title of Rommel Amante (photocopy)
T-4	Notice of Salary Adjustment of Rommel Amante (photocopy)
U, U-1 to U-2	Certification of the appointment of Marlene H. Militar (photocopy)
V	Service Record of Ferdinand D. Quirao (photocopy)
V-1 & V-2	Civil Service Form of Ferdinand D. Quirao (photocopy)
V-3	Appointment of Ferdinand D. Quirao (photocopy)
V-4	Assumption of duty of Ferdinand D. Quirao (photocopy)
V-5	Oath of Office of Ferdinand D. Quirao dated January 1, 1999 and signed by Eduardo G. Varela (photocopy)
MM	Transcript of Records of Anavel Gaspar (photocopy)
QQ	Civil Service Form No. 203 dated January 1, 1999 signed by Eduardo G. Varela in connection with the proposed appointment of Anavel Gaspar
NN	Personal Data Sheet of Ernesto P. Castroverde (photocopy)
RR	Civil service Form No. 203 dated January 1, 1999 signed by Eduardo G. Varela in connection with the proposed appointment of Ernesto P. Castroverde (photocopy)
OO	Personal Data Sheet of Filipinas S. Gomez (photocopy)
SS	Appointment of Filipinas S. Gomez as Clerk III dated January 1, 1999 signed by Eduardo G. Varela (photocopy)
PP	Personal Data Sheet of Mary Grace R. Casinillo (photocopy)
TT	Service Record of Mary Grace R. Casinillo
FFF	Personal Data Sheet of Hazel V. Anam-Anam (photocopy)
KKK	Oath of Office of Hazel V. Anam-Anam dated January 1, 1999 and signed by Eduardo G. Varela (photocopy)
GGG	Certification of Professional Regulation Board Rating of Ma. Fanny B. Robles released on July 4, 1995 (photocopy)
JJJ	Oath of Office of Fanny B. Robles dated January 1, 1999 and signed by Eduardo G. Varela (photocopy)
HHH	Personal Data Sheet of Gemma B. Oplas (photocopy)
III	Oath of Office of Gemma Barilea dated January 1, 1999 and signed by Eduardo G. Varela (photocopy)
TTT	Personal Data Sheet of Felomina J. Oplas (photocopy)
WWW	Oath of Office of Felomina J. Oplas dated January 1, 1999 and signed by Eduardo G. Varela (photocopy)
UUU	Personal Data Sheet of Jennifer M. Ledres (photocopy)
XXX	Oath of Office of Jennifer M. Ledres dated January 1, 1999 and signed by Eduardo G. Varela (photocopy)
VVV	Civil Service Form of the official designation and title of Adorna B. Gardose (photocopy)
YYY	Appointment of Adorna B. Gardose as Midwife IV dated January 1, 1999 signed by Eduardo G. Varela (photocopy)
W	Civil Service Resolution No. 99-1068 with Notice of Resolution addressed to Atty. Solomon Lobrido, Jr. (photocopy)

also marked as UU	Certified True Copy of Civil Service Resolution No. 99-1068
X	Civil Service Resolution No. 992241 with Notice of Resolution addressed to Atty. Ivan M. Solidum, Jr. (photocopy)
Z	Entry of Judgment by the Court of Appeals on CA G.R. No. SP55763 affirming CSC Resolution No. 99-1068
also marked as UUUU	Certified True Copy of Entry of Judgment
TTTT	Certified True Copy of the Decision of the Court of Appeals on CA G.R. No. SP55763 relating to CSC Resolution No. 99-1068
GG	Certified True Copy of the Certificate of Eligibility of Emilene Ong
HH	Certified True Copy of the Professional Board Examination Rating of Emilene Ong
CCC	Certified True Copy of the Certificate of Eligibility of Marilou L. Supremo
SSS	Certified True Copy of the Certificate of Eligibility of Melinda S. Pastutiyo
EEEE	Certified True Copy of the Professional Board Examination Rating of Nida Bullag
MMMM	Certified True Copy of the Certificate of Eligibility of Shirley R. Miravilles (maiden name of Sinoy)
SSSS	Certified True Copy of the Certificate of Eligibility of Jocelyn Bermejo
XX	Complaint-Affidavit dated July 14, 1999 executed by Emilene Ong
YY	Complaint-Affidavit dated July 14, 1999 executed by Marilou Supremo
XXX for re-marking as OOO	Complaint-Affidavit dated July 14, 1999 executed by Shirley Sinoy, Jocelyn Bermejo and Melinda Angeles
LLL	Certified True Copy of the Reappointment of Marilou Supremo dated July 24, 2001 signed by Salvador G. Escalante, Jr.
ZZZ	Certified True Copy of the Reappointment of Melinda Angeles as Midwife IV dated May 30, 2002 signed by Salvador G. Escalante, Jr.
HHHH	Certified True Copy of the Reappointment of Nida Bullag as Social Welfare Officer III dated May 30, 2002 signed by Salvador G. Escalante, Jr.
NNNN	Certified True Copy of the Reappointment of Shirley Sinoy dated September 16, 2001 signed by Salvador G. Escalante, Jr.
VVVV	Certified True Copy of the Reappointment of Jocelyn Bermejo as Midwife IV dated May 30, 2002 signed by Salvador G. Escalante, Jr.
WWWW	Letter from the office of Atty. Rene Sarmiento

On January 3, 1017, the Court resolved to admit all exhibits offered by the prosecution for failure of the accused to file his comment or opposition, despite lapse of reasonable time.

With the admission of the documentary exhibits and the testimonies of the witnesses, the prosecution is deemed to have rested its case.

EVIDENCE FOR THE DEFENSE

The defense on the other hand presented the following witnesses: 1) Eduardo G. Varela; and 2) Philip G. Zamora.

EDUARDO G. VARELA

The witness testified that the private complainants lost their employment due to Resolution No. 98-112 series of 1998 or the reorganization of the Sangguniang Panlungsod of Cadiz City. Moreover, the new appointees were chosen by the Placement Committee of the City of Cadiz and was approved by the CSC.

He also enumerated the Sanggunian members who were present in the regular session and who enacted the said resolution as follows: 1) Hon. Antonio Lacson, Jr.; 2) Hon. Lilia O. Decolongon; 3) Hon. Nestor S. Oplas; 4) Hon. Ramon T. Nemenzo, Jr.; 5) Hon. Sixto V. Guanzon, Jr.; 6) Hon. Salvacion M. Tabanao; 7) Hon. Moises D. Dime; 8) Hon. Salvador Escalante, Jr.; 9) Hon. Leo Roberto L. Gustilo; 10) Hon. Adelino Ledesma; 11) Hon. Dionesio Adonales (ABC President); and 12) Hon. Dovie F Ibanez (SK Federation President)

Moreover, he testified that after the resolution took effect, all the positions in the local government of Cadiz City was declared vacant as of December 31, 1998. Thereafter, the Placement Committee was established by the City who took care of the filling out of the vacancies in the offices brought about by the reorganization. He also explained that the reorganization did not involve promotion of any employee, but only a complete reorganization. He explicitly stated that the conduct of the selection for appointment was handled by the Placement Committee of Cadiz City. In fact, it was the same body who selected and made recommendations on who are qualified and competent for specific positions.

The witness also elucidated the difference between promotions and vacancies in the context of Section 4 of R.A. 6656. He said that under the law, in case of promotions, preference is given to the next in rank, however, in case of vacancies resulting to reorganization, there is no such requirement that preference should be given to next in rank employee, especially if the former position was already abolished. In other words, the next in rank rule is not absolute as it specifies only to

promotions and not reorganization. The witness cited the case of *Medenilla v. CSC*⁵, as basis for his statement.

As to the issue of backwages, the witness said that the complainants' backwages were already paid when they were reinstated. Moreover, he said that award of damages has no basis since the non-appointment of complainants was a result of a valid reorganization in accordance with Section 4, RA 6656, which is not contrary to law as elucidated in the aforementioned case. Furthermore, he said that the complainants do not have any evidence to support their claims for damages.

On cross-examination, the witness admitted that he approved the subject resolution and that his office created the Placement Committee. The Placement Committee recommended the appointments however, he was the one who approved and made the appointments. He also said that he knew of the *Medenilla* case before he made the appointments as it was discussed to him by Atty. Del Pilar. Moreover, the witness admitted that he was aware that there were previous employees who were not given preference in the new staffing pattern. He also said that he knew that the CSC declared his appointments null and void, however, despite the directive of the CSC to reappoint the private complainants, he did not reappoint them and also there was no payment of the backwages until after his term.

On re-direct, the witness clarified that he did not reinstate the private complainants because he filed a motion for reconsideration with the CSC.

On re-cross, the witness said that he was aware of the denial or dismissal of his motion for reconsideration before the CSC but despite that, he still did not reappoint the private complainants

PHILIP G. ZAMORA

He was the City Administrator of Cadiz City during the term of Mayor Varela. As a City Administrator, he exercised the power given by the mayor, signed documents on behalf of the mayor and he recommended policies to the mayor and the Sangguniang Panlungsod. He is also familiar with Resolution No. 98-112, also known as the resolution reorganizing the staffing pattern of the City government of Cadiz. He testified that the mayor was not a member of the Sanggunian. He also said that after the resolution was passed, all positions were declared vacant and a Placement Committee was formed. The said Committee accepted the applications, evaluated the same and recommended to the Office of the Mayor the filling out of the vacant positions. After recommendation, the mayor forwarded the applications to the Human Resource Management Office (HRMO) for appointments and then the latter forwarded the appointments to the CSC.

The witness clarified that Resolution No. 98-112 is a reorganization. It is aimed to streamline the staffing pattern of the employees of Cadiz City which resulted in vacancies and no promotion was involved. He also explained that under

⁵ G.R. No. 93868, February 19, 1991.

the law, in case of promotions, preference is given to the next in rank, however, in case of vacancies resulting to reorganization, there is no such requirement that preference should be given to next in rank employee, especially if the former position was already abolished. In other words, the next in rank rule is not absolute as the next in rank rule applies only to promotions and not in reorganization. As a basis to his statement, he cited the case of Medenilla v. CSC. Finally, he testified that the backwages of the complainants have already been paid after the term of Mayor Varela.

On cross-examination, he testified that Mayor Varela was not among those who voted for the passage of the subject resolution, however, Mayor Varela approved the same. It was also admitted by the witness that when the former Mayor forwarded the applications to the HRMO and before the papers of the appointments were forwarded to the CSC, the former Mayor made and signed the appointments. Put differently, Mayor Varela already signed or appointed the personnel to the positions before the same was forwarded to the CSC for approval. Moreover, the witness testified that he has no proof on hand that will support his statement that the appointments made was initially approved by CSC. He also said that he was aware of the CSC ruling wherein Mayor Varela was directed to appoint appellants to positions in the new staffing pattern which are similar or comparable to their former positions and to which they are qualified. He said that the CSC ruling was forwarded to the Legal Office, however, the complainants were not reinstated at that time. Moreover, he testified that the complainants were paid their backwages after Mayor Varela's term.

On re-direct examination, the witness clarified that the actual appointment took effect during the approval of Mayor Varela and after receipt by the CSC of the appointments. In addition, the witness said that he was aware that the backwages of the complainants have already been paid and that all of them were eventually re-appointed.

On re-cross, the witness said that the eventual reappointment of the complainants happened after the term of Mayor Varela. It was also admitted that the witness has no personal knowledge on the payment of backwages to the complainants. On clarificatory questions, the witness testified that he was not the one who provided the answer in the course of the question and answer session with his lawyer regarding the Supreme Court decision cited.

After presenting its witnesses, the defense made a formal offer of its documentary evidence consisting of the following:

Exhibit

1 to 1-Q and 1-S	Resolution No. 98-1122 (common exhibit)
1-R	The members of the Sangguniang Panlungsod of Cadiz City, namely: 1) Hon. Antonio Lacson, Jr; 2) Hon. Lilia O. Decolongon;

	3) Hon. Nestor S. Oplas; 4) Hon. Ramon T. Nemenzo, Jr.; 5) Hon Sixto V. Guanzon, Jr.; 6) Hon. Salvacion M. Tabanao; 7) Hon. Moises D. Dime; 8) Hon. Salvador Escalante, Jr.; 9) Hon. Leo Roberto L. Gustilo; 10) Hon. Adelino Ledesma; 11) Hon. Dionesio Adonales (ABC President); 12) Dovie F. Ibanez (SK Federation President)
1-S	The Title of the Resolution
1-T	The Clause which states: "WHEREAS, based on the provisions of Section 523 of RA 7160, displaced employees as a result of the reorganization shall, if entitled under the laws in force, receive retirement and other benefits accruing hereunder provided, however, that such benefits shall be given funding priority by the Chief Executive in the preparation of the General Fund Annual Budget of Cadiz City Government, for fiscal year 1999. <u>Where the employee concerned is not eligible for retirement, he/she shall be entitled to a gratuity equivalent to an amount not lower than one (1) month salary for every year of service over and above the monetary value of the leave credits said employee is entitled to receive pursuant to existing laws.</u>
1-U	The statement on the resolution was unanimously carried during the regular session.
4	Decision of the Supreme Court in cases of Medenilla v. Civil Service Commission, G.R. No. 93868, February 19, 1991. (part of the records of the case, attached in the Judicial Affidavit of the witnesses)
4-A	<p>The portion of the decision which reads: "The respondents rely on Section 4 of R.A. 6656, which reads: "Sec. 4. Officers and employees holding permanent appointments shall be given preference for appointment to new positions in the approved staffing pattern comparable to their former positions or if there are not enough comparable positions, to the position next lower in rank."</p> <p>Undoubtedly, old employees should be considered first. But it does not necessarily follow that they should then automatically be appointed.</p> <p>The preference given to permanent employees assumes that employees working in a Department for longer periods have gained not only superior skills but also greater dedication to the public. <u>That is not always true and the law, moreover, does not preclude the infusion of new blood, younger dynamism, or necessary talents into the government service.</u> If, after considering all the current employees, the Department Secretary cannot find among them the person he needs to revive a moribund office or to upgrade second rate performance, there is nothing in the Civil Service Law to prevent him from reaching out to other Departments or to the private sector provided all his acts are bona fide for the best interest of the public service and the person chosen has the needed qualifications. In the present case, there is no indication that the</p>

petitioner was chosen for any other reason except to bring in a talented person with the necessary eligibilities and qualifications for important assignments in the Department.

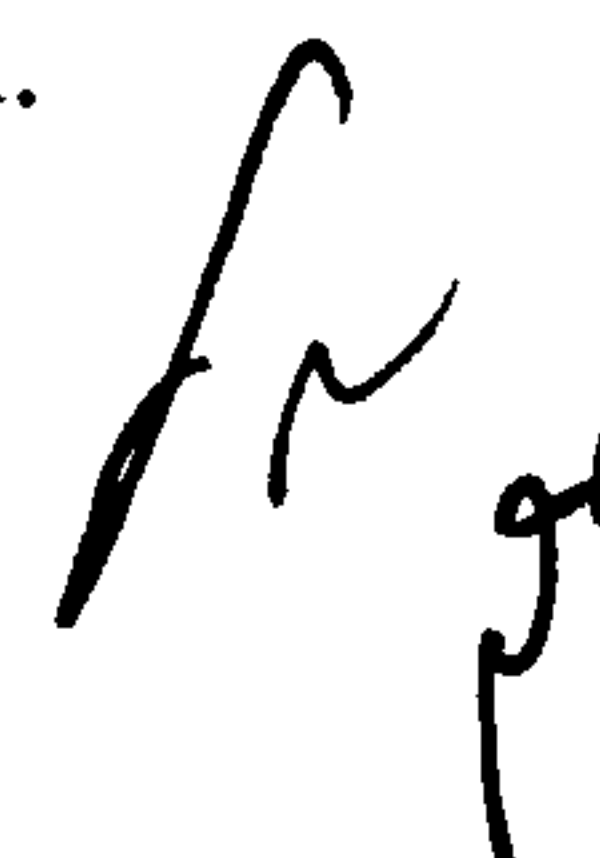
The reason behind P.D. No. 907 (which grant civil service eligibility to college graduates with at least cum laude honors) of attracting honor graduates into the public service would be negated if they always have to start as Clerk I and wait for hundreds of deadwood above them to first go into retirement before they can hope for significant and fulfilling assignments.

The Commission's reliance on the dictum in *Millares v. Subido*, 20 SCRA 954 is misplaced. The ruling in *Millares* has already been superseded by later decisions. We have already held in cases subsequent to *Millares* that the next-in-rank rule is not absolute; it only applies in cases of promotion (see *Pineda v. Caludio*, 28 SCRA 34 [1969]). And even in promotions, it can be disregarded for sound reasons made known to the next-in-rank. The appointing authority, under the Civil Service Law, is allowed to fill vacancies by promotion, transfer of present employees, reinstatement, reemployment, and appointment of outsiders who have appropriate civil service eligibility, not necessarily in that order. (see *Pineda v. Claudio, supra; Luego v. Civil Service Commission*, 143 SCRA 327 [1986]). There is no legal fiat that a vacancy must be filled only by promotion; the appointing authority is given wide discretion to fill a vacancy from among the several alternatives provided for by law. In this case, the contested position was created in the course of reorganization. The position appears to be a new one. The applicability, therefore, of the next-in-rank rule does not come in clearly. Besides, as earlier stated, said rule is not absolute. There are valid exceptions.”

On January 24, 2018, after the accused submitted his Formal Offer of Exhibits, the Court resolved to admit Exhibit 1 with submarkings and Exhibit 4.

STATEMENT OF THE CASE

On September 22, 1998, the Office of the Sangguniang Panlungsod of Negros Occidental passed Resolution No. 98-112, reorganizing the city government of Cadiz City, declaring all positions vacant except for elective positions and positions of the City Treasurer and Assistant City Treasurer. Pursuant to the said resolution, former Mayor Varela sent Notices of Termination and Notices of Lay-Off to all employees, informing them of the termination of their services, effective December 31, 1998. As a result, a total of one hundred sixty-six (166) permanent employees were terminated, while several new employees were hired.



Out of the total number of employees terminated, only nineteen (19) employees appealed their termination to the CSC. The CSC then issued a resolution directing the former Mayor to reinstate the concerned employees, however, the latter were only reinstated after the term of Mayor Varela.

ISSUE

The core issue to be resolved by the Court is whether or not the accused violated Section 4 of Republic Act No. 6656, An Act to Protect the Security of Tenure of Civil Service Officers and Employees in relation to Section 10 thereof.

RULING

A reorganization involves the reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions.⁶ It alters the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them⁷ to make the bureaucracy more responsive to the needs of the public clientele as authorized by law.⁸ It could result in the loss of one's position through removal or abolition of an office. For a reorganization for the purpose of economy or to make the bureaucracy more efficient to be valid, however, it must pass the test of good faith, otherwise it is *void ab initio*.⁹

... As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient. In the event, no dismissal (in case of a dismissal) or separation actually occurs because the position itself ceases to exist. And in the case, security of tenure would not be a Chinese wall. Be as it may, if the "abolition" which is nothing else but a separation or removal, is done for political reasons or purposely to defeat security of tenure, or otherwise not in good faith, no valid "abolition" takes place and whatever "abolition" is done, is void ab initio. There is an invalid "abolition" as where there is merely a change of nomenclature of positions, or where claims of economy are belied by the existence of ample funds. (Underscoring supplied)

⁶ Canonizado v. Aguirre, G.R. No. 133132, January 25, 2000, 323 SCRA 312.

⁷ *Vide: Buklod ng Kawanihang Elib v. Zamora*, G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 410, 420.

⁸ *Sinon v. Civil Service Commission*, G.R. No. 101251, November 5, 1992, 215 SCRA 410, 420

⁹ *Dario v. Mison*, 176 SCRA 84 (1989). *Vide: Dytiapco v. Civil Service Commission*, G.R. No. 92136, July 3, 1992, 211 SCRA 88 (1192); *Domingo v. Development Bank of the Philippines*, G.R. No. 93355, April 7, 1992, 207 SCRA 766 and *Pari-an v. Civil Service Commission*, G.R. No. 96535, October 15, 1991, 202 SCRA 772 (1991).

RA 6656 was enacted to implement the State's policy of protecting the security of tenure of officers and employees in the civil service during the reorganization of government agencies.¹⁰ The pertinent provisions of RA 6656 provide, thus:

Sec. 2. No officer or employee in the career service shall be removed except for a valid cause and after due notice and hearing. A valid cause for removal exist when, pursuant to a bona fide reorganization, a position has been abolished or rendered redundant or there is a need to merge, divide, or consolidate positions in order to meet the exigencies of the service, or other lawful causes allowed by the Civil Service Law. The existence of any or some of the following circumstances may be considered as evidence of bad faith in the removals made as a result of the reorganization, giving rise to a claim for reinstatement or reappointment by an aggrieved party:

- a) Where there is a significant increase in the number of positions in the new staffing pattern of the department or agency concerned;
- b) Where an office is abolished and another performing substantially the same functions is created;
- c) Where incumbents are replaced by those *less qualified* in terms of status of appointment, performance and merit;
- d) Where there is a reclassification of offices in the department or agency concerned and the reclassified offices perform substantially the same functions as the original offices;
- e) Where the removal violates the order of separation provided in Section 3 hereof.

SEC. 3. In the separation of personnel pursuant to reorganization, the following order of removal shall be followed:

- (a) Casual employees with less than five (5) years of government service;
- (b) Casual employees with five (5) years or more of government service;
- (c) Employees holding temporary appointments; and
- (d) Employees holding permanent appointments: *Provided*, that those in the same category as enumerated above, who are least qualified in terms of performance and merit shall be laid off first, length of service notwithstanding.

SEC. 4. Officers and employees holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern comparable to their former

¹⁰ RA 6656, Sec. 1.

positions or in case there are not enough comparable positions, to positions next lower in rank.

No new employees shall be taken in until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature.

From the foregoing, it can be deduced that an officer or employee may be validly removed from office provided it is pursuant to a *bona fide* reorganization

The following may be derived from the cited provisions - First, an officer or employee may be validly removed from service pursuant to a *bona fide* reorganization; in such case, there is no violation of security of tenure and the aggrieved employee has no cause of action against the appointing authority. Second, if, on the other hand, the reorganization is done in bad faith, as when the enumerated circumstances in Section 2 are present, the aggrieved employee, having been removed *without* valid cause, may demand for his reinstatement or reappointment. Third, officers and employees holding permanent appointments in the old staffing pattern shall be given preference for appointment to the new positions in the approved staffing pattern, which shall be comparable to their former position or in case there are not enough comparable positions, to positions next lower in rank. Lastly, no new employees shall be taken in until all permanent officers and employees have been appointed unless such positions are policy-determining, primarily confidential, or highly technical in nature.¹¹

From the foregoing discussion, the main issue to be resolved by the Court is whether or not the reorganization of the City of Cadiz, Province of Negros Occidental was done in good faith.

The Supreme Court has defined and elucidated good faith in the case of Dario v. Mison:¹²

As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient. In that event no dismissal or separation actually occurs because the position itself ceases to exist. And in that case the security of tenure would not be a Chinese wall. Be that as it may, if the abolition which is nothing else but a separation or removal, is done for political reason or purposely to defeat security of tenure, or otherwise not in good faith, no valid abolition takes place and whatever abolition is done is void *ab initio*. There is an invalid abolition as where there is merely

¹¹ Cerilles v. Civil Service Commission, G.R. No. 180845, November 22, 1017.
¹² 257 Phil. 84 (1989).



a change of nomenclature of positions or where claims of economy are belied by the existence of ample funds.

As applied in the present case, the Court rules that the reorganization of Cadiz City was tainted with bad faith.

The determination of the existence of bad faith is a factual inquiry which requires a careful analysis and holistic perspective of the circumstances of a case and only then can bad faith be deduced.

First. As alleged in the complaint and as cited in the May 21, 1999 resolution of the CSC, the reorganization approved and implemented by Mayor Varela resulted in the termination of services of one hundred sixty-six employees (166), however, one hundred one (101) new employees were hired after. Although there was no direct evidence presented by the prosecution of the attendance of bad faith, the same can be deduced from the fact that the number of new hires is a large chunk out of the total number of terminated employees. From the fact alone, it cannot be gainsaid that the reorganization was attended by motives other than interest of economy and efficiency. That fact in itself can support the position of the prosecution that the reorganization was used as a tool to circumvent the law and to violate the security of tenure of the private complainants for political reasons.

Second. The defense never denied that new employees were hired after the reorganization and that employees holding lower positions in the previous plantilla system were appointed to higher positions in the new staffing pattern.

Specifically, private complainant Mary Grace S. Bedayos (Bedayos), was a Supply Officer I in the Property Division. Her services was terminated after she was informed that her position was abolished and that her position was not included in the new staffing pattern, but Exhibit N,¹³ with attached staffing pattern shows otherwise. In fact, her position Supply Officer I under item no. 25 in the old staffing pattern was re-created under items no. 28 and 29 in the new staffing pattern with the same salary grade 10 and annual compensation of One Hundred Three Thousand Two Hundred Sixty Pesos (P103,260.00), nonetheless, Mayor Varela issued an original appointment to Rommel Amante as Supply Officer I under item no. 29. Moreover, the Supply Officer I position abolished and the position re-created have identical position description and duties and responsibilities as evidenced by Exhibit "E"¹⁴ and Exhibit "T-3"¹⁵.

Same goes with private complainants Marilou L. Supremo (Supremo) and Ma. Teresa Beatingo (Beatingo). They were both permanent employees with position of Public Health Nurse II, before Mayor Varela terminated their services. They were informed that the reason for their termination was the abolition of their positions in view of the subject resolution, however, after the reorganization, their position was re-created under the new staffing pattern. The position of Public Health Nurse II was increased from three (3) items (items 88-90 in the old plantilla) to seven (7) items

¹³ Resolution No. 98-112, Series of 1998.

¹⁴ Position Description Form of private complainant Mary Grace S. Bedayos.

¹⁵ Position Description Form of Rommel Amante.

(item nos. 40 to 46 in the new staffing pattern). The re-created positions are identical with the abolished positions in terms of salary grade and amount of annual compensation, but despite that, Mayor Varela appointed Hazel Anam-Anam and Fanny Robles as Public Health Nurse II under item numbers 46 and 45 respectively, who are new recruits and promoted Gemma Barilea from the Office of the City Mayor to the position of Public Health Nurse I to Public Health Nurse II under item no. 44.

While, in the case of Bany John P. Sarabia (Sarabia), his position before his termination was a Sports Development Officer I under item no. 16 in the old plantilla with a salary grade of 10 and an annual salary of One Hundred Three Thousand One Hundred Twenty-Six Pesos (PhP103,126.00). He was also informed by Mayor Varela that his position was abolished. After the reorganization, the positions of Executive Assistant with a salary grade of 20 and annual salary of One Hundred Eighty-Four Thousand Nine Hundred Twenty Pesos (PhP184,920.00), Manpower Development Officer I with a salary grade of 11 and annual salary of One Hundred Thirty-Eight Thousand One Hundred Eighty Pesos (PhP138,180.00) and Man Power Development Assistant with a salary grade of 8 and annual salary of Ninety Thousand Four Hundred Eighty Pesos (PhP90,480.00) was created under the Youth and Development Unit, however, he was not appointed to any of the newly created positions, despite the fact that the position of Manpower Development I may be considered as a position comparable to his prior position before the reorganization. Mayor Varela, in violation of the CSC rules appointed Marlene Militar, a new entrant, under item number 70 in the new staffing pattern.

Private complainants Shirley M. Sinoy (Sinoy), Melinda P. Angeles (Angeles) and Jocelyn L. Bermejo (Bermejo) held the position of Midwife IV in the old plantilla under items no. 52, 55 and 61 respectively with a salary grade of 13 and annual salary of One Hundred Twenty-Two Thousand Nine Hundred Seventy-Six Pesos (PhP 122,976.00). After the reorganization, the Midwife IV position was re-created with the same salary grade and annual salary, however, Mayor Varela appointed new entrants Felomena J. Oplas, Jennifer M Ledres and Adorna Gardose under item numbers 53, 54 and 47 respectively in the new staffing pattern.

On the other hand, private complainant Nida T. Bullag (Bullag), held the position of Social Welfare Officer III, under the Support Services Division, with a salary grade of 18 and annual salary of One Hundred Sixty-Four Thousand Five Hundred Eighty Pesos (PhP164,580.00). Her position was abolished and after the reorganization, her position was not re-created, however, there was no showing that she has been given preference as a former permanent employee in the new staffing pattern.

In the case of private complainant Enrique Ambos (Ambos), he held the position of Engineer IV under the Building and Industrial Safety Division with a salary grade of 22 and annual salary of Two Hundred Thousand Four Pesos (PhP200,004.00) under item number 43. His position was abolished and was not re-created in the new staffing pattern, however, there was no showing that he was given preference in the appointment in the new staffing pattern, which is a violation of his right as a former permanent employee of the City of Cadiz. Moreover, the new

staffing pattern shows that the position of Engineer III was created under the same division, but Mayor Varela appointed Engineer I, Ferdinand Quirao in the said division in lieu of Ambos. Under the circumstances, the Mayor should have appointed or considered Ambos in observance of the CSC rule that in case there is no position comparable to the former position held, the employee should be appointed in the position lower rank and in this case the Engineer III position.

Lastly, private complainant Emilene Ong (Ong) was a Clerk III at the Property and Supply Division with a salary grade of 6 and annual salary of Seventy-Nine Thousand Twenty Pesos (Php79,020.00). Mayor Varela informed her of the abolition of her position and termination of her services. After the reorganization, Clerk III positions were re-created, under the offices of the City Mayor, City Administrator, and City Agriculturist, however, private complainant Ong was not appointed to any of those positions notwithstanding that the re-created positions have the same salary grade and annual salary. Instead, Mayor Varela appointed new entrants namely: Mary Grace Casimillo, Anavel Gaspar, Jose Maria Penosa and Ernesto Castroverde.

The foregoing shows that the act of Mayor Varela of appointing new entrants in the re-created positions similar, equivalent or comparable to that of abolished positions of the private complaints is a clear violation of the latter's right to security of tenure and is in violation of R.A. 6656.

Third. Also, the increase in the number of items re-created in the Public Health Nurse II position is also a strong indication of bad faith on the part of Mayor Varela in the approval of the reorganization. Despite said increase in the number of items created, still the former Mayor did not consider private complainants Supremo and Beatingo, instead, he appointed new entrants to the said positions.

The totality of acts committed by the former Mayor is indicative of ill-will in the implementation of the reorganization and appointment of personnel in the new staffing pattern of the City. It is a violation of the right of the private complainants to security of tenure, which is guaranteed under our laws. They are permanent employees in the City of Cadiz before the reorganization took place, and as such they should have been given preference for appointment in the new positions in the approved staffing pattern comparable to their new positions or positions next lower in rank in case of insufficient comparable positions.

Moreover, most of the private complainants even applied for positions in the new staffing pattern but the former Mayor failed to act on the same and worse, he even appointed new entrants to the said positions, which violated yet another pronouncement of the law which states that no new employees shall be taken until all permanent officers and employees have been appointed who possess the necessary qualification requirements. The preferential right of reappointment of the private complainants in the new positions in the approved staffing pattern is analogous to the right of first refusal and the former Mayor's disregard of such right is a violation of the vested right to reappointment of the private complainants. There is no question as to the qualifications of the private complainants considering they are previous permanent employees of the City under the old plantilla, which means

that they are equipped with the necessary requirements of the position and more, as compared to the new hires.

Furthermore, the abolished positions, to which the new hires were appointed was shown to be identical to some of the positions previously held by the complainants as shown in the personnel schedule of the City of Cadiz, the re-created positions have the same salary grade, amount of annual salary and even the enumerated duties and responsibilities in the job description forms submitted. There is no denying that the reorganization was used by the former Mayor as a tool to deliberately deprive the private complainants of their right to security of tenure. No other plausible excuse was given by the accused to justify his acts. In fact, he did not even deny the fact that the re-created positions in the new staffing pattern were the same as the positions abolished in the old plantilla. Also, the former Mayor failed to classify the positions held by the private complainants as policy-determining, primarily confidential or highly technical in nature, that would exclude the same from the application of Section 4 of RA 6656.

A close scrutiny of the old plantilla as compared to the new staffing pattern will even reveal that there was no actual abolition of some of the private complainants' position, to name a few, the Clerk III, Public Health Nurse II, Midwife IV and Supply Officer I, since they were actually present in the personnel schedule in the new staffing pattern, to which new employees were appointed by the former Mayor, which is more than enough reason for the Court to conclude that there was no bona fide reorganization in the City of Cadiz. Because, if the positions were abolished due to redundancy, merger or consolidation with other positions, which is the very basis of a reorganization, the old positions should not have appeared or should have been reduced to the minimum in the approved new staffing pattern, which is not the scenario in the present case.

Fourth. The accused former Mayor failed to reinstate the private complainants despite the express directive of the CSC and despite the denial of his motion for reconsideration.

After the reorganization, and after the private complainants were deprived of their right to security of tenure, they appealed their termination to the CSC, which issued Resolution No. 991068, dated May 21, 1999¹⁶. The CSC in the said resolution ruled that the separation from service of the private complainants is illegal or not in order and the Mayor Varela was directed to reappoint said private complainants to positions in the new staffing pattern which are similar or comparable to their former positions and to which they should qualify. The appointments issued to new recruits or promotional appointments issued to positions formerly occupied by the private complainants were also declared null and void. Instead of following and implementing the resolution issued by the CSC, Mayor Varela filed a motion for reconsideration, which was dismissed on September 30, 1999¹⁷. Notwithstanding the dismissal of the motion for reconsideration, still the Mayor refused to reinstate the private complainants, which prompted the former to file a motion for execution

¹⁶ Exhibit "UU", June 28, 2016.

¹⁷ Civil Service Commission Resolution No. 992241.

before the CSC. On May 17, 2000, the CSC granted the said motion and reiterated its earlier ruling of reinstatement in favor of the private complainants. Also, the Regional Office ¹⁸No. VI- Iloilo City, was ordered to monitor the implementation of the resolution and to submit a report thereon. For the third time, former Mayor Varela did not reinstate the private complainants and instead went to the Court of Appeals (CA) for a review of the ruling of the CSC, however, the same was denied by the CA for lack of merit, finding that the removal of the CSC employees was in violation of their constitutional right to security of tenure and that the same will not be condoned under the guise of reorganization. The ruling of the CA has attained finality¹⁹ on August 19, 2002.

Mayor Varela, in order to circumscribe and render ineffectual the relief granted by the CSC, appealed the case up to the CA. These acts of the accused former Mayor taint the reorganization with bad faith and highlights his political plan to bring in new employees under his administration, notwithstanding violating the right of the private complainants. His blatant refusal to reinstate the private complainants lasted until the end of his term. The private complainants, were only reinstated and given payment of backwages after the term of the accused former Mayor. Not only did he deny the private complainants of their rights, he also deprived their families of the necessities of life, not to mention the misery and hardships they suffered to fight for a right which is after all, is dictated not only by necessity, but no less, the constitution.

Fifth. The former Mayor cannot use the defense that the reorganization was authored and was passed by the Sangguniang Panlungsod and that the recommendation for appointment to positions in the new staffing pattern was made by the Placement Committee because it was admitted that it was the former Mayor who made and approved the actual appointments of the new employees to the new staffing pattern. The violation of the Civil Service Rules was actually committed by no less than the former Mayor as he was the one who deprived the private complainants of the right of first refusal or the vested right to reappointment in the positions in the new staffing pattern of the city government of Cadiz. It was also the Mayor who approved and issued original appointments to new entrants in the re-created positions which are similar to the positions previously held by the private complainants. There is no denying that a reorganization is valid means to improve efficiency and to avoid redundancy of functions in the local government, however, the same should be based on that criteria and should at all times be made in good faith and in furtherance of the best interest of public service, otherwise, it is void for being violative of the right to security of tenure of permanent employees, which is the situation in the present case. There can be no other conclusion, the reorganization of the City government of Cadiz was tainted with bad faith, thus, made in violation of the law.

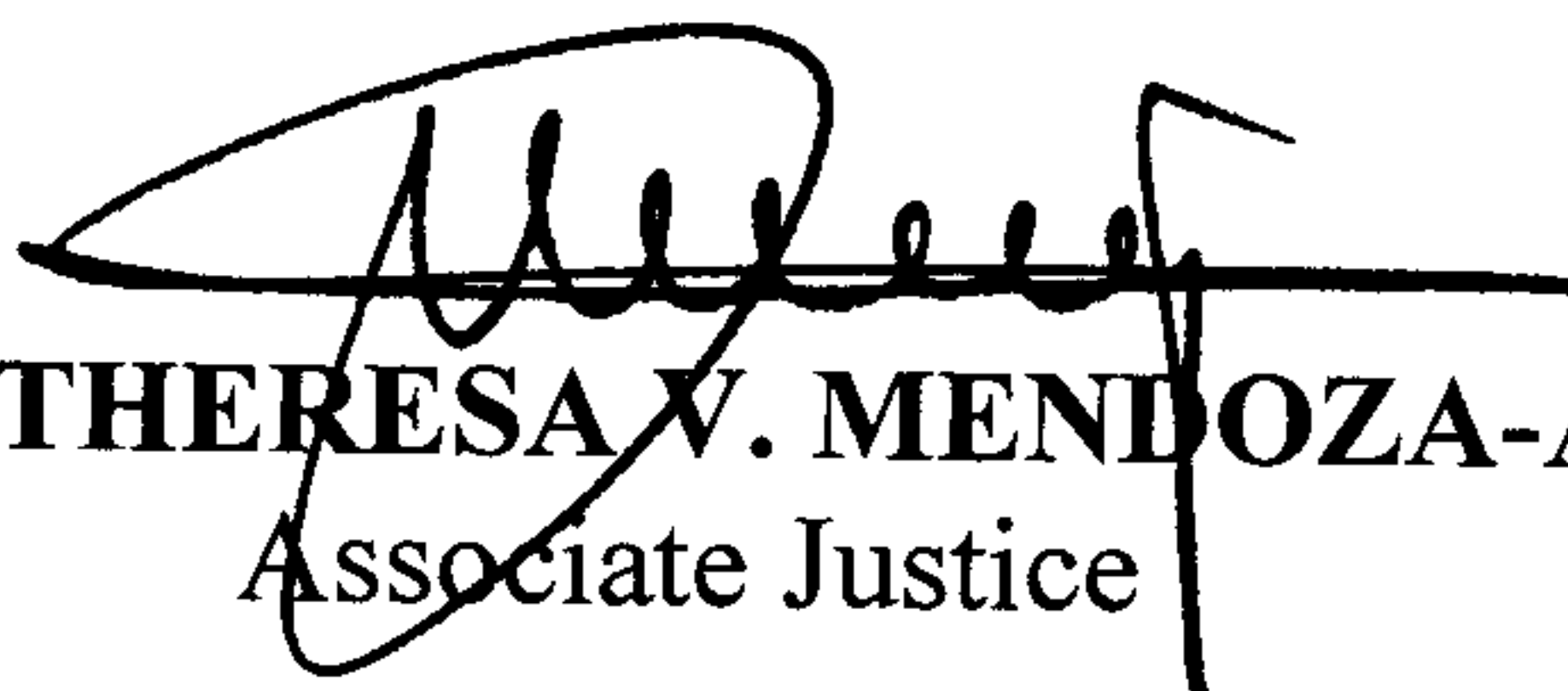
WHEREFORE, in the light of the foregoing, accused **EDUARDO G. VARELA** is found **GUILTY** beyond reasonable doubt of violation of Section 4 of RA 6656 in relation to Section 10 thereof and is accordingly sentenced to suffer the

¹⁸ Civil Service Commission Resolution No. 001165.

¹⁹ Entry of Judgment, Exhibit "Z", February 12, 2013.


indeterminate penalty of imprisonment of three (3) years and one (1) day, as minimum, to five (5) years, as maximum and a fine of Ten Thousand Pesos (PhP10,000.00), with perpetual disqualification to hold public office.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice


WE CONCUR:


RAFAEL R. LAGOS
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


RAFAEL R. LAGOS
Chairperson, Fifth Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice