



# PHILJA Bulletin



July to September 2003

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## From the Chancellor's Desk *Buen*

In lieu of the customary Chancellor's Desk, we publish herein "*Sampung Payo sa Mga Magiging Hukom*," authored by Justice Hilarion L. Aquino, a retired Justice of the Court of Appeals, and Chair of PHILJA's Department of Ethics and Judicial Conduct.

May these thoughts serve not only to guide, but more so to inspire.

### SAMPUNG PAYO SA MGA MAGIGING HUKOM

#### DAGDAG-BAWAS

#### A. DAGDAG

1. *Dagdagan ninyo ang pananalig sa Diyos upang mapalayo sa tukso ng salapi at laman.*
2. *Dagdagan ninyo ang pag-iingat at pag-iiwas sa mga gawaing o pangyayaring pinagmumulan ng mga masasamang hinala laban sa hukuman.*
3. *Dagdagan ninyo ang pag-aaral upang ang inyong mga hatol ay hindi lang makatuwiran ngunit nasasangayon sa batas.*
4. *Dagdagan ninyo ang sipag upang hindi maantala ang pagbibigay ng katarungan.*
5. *Dagdagan ninyo ang pasensiya sa mga manananggol at lalo pa sa mga saksi upang maiwasan ang hidwaan at maaligang takot o pangamba sa loob ng hukuman.*

#### B. BAWAS

6. *Bawasan ninyo ang maraming gawaing social upang lalong mapagtuunan ang inyong mga gawaing official.*
7. *Bawasan ninyo ang pakikipaghalubilo sa mga manunungkulang pulitiko at iwasan ang paghingi ng pabor sa kanila at sa mga mayamang negosyante upang mapangalagaan at maproteksiyonan ang inyong kasarinlang judicial.*
8. *Bawasan ang mga mamahaling diversion. Alisin ang mga bisyo at mamuhay ng simple ngunit marangal.*
9. *Bawasan ang labis na paniniwala sa inyong kakayanan at kapangyarihan upang hindi kayo ituturing na mayabang at abusado sapagkat ito'y nakakasira ng tiwala ng taong bayan sa hukuman.*
10. *Bawasan ang labis na pagtatanong sa mga saksi upang maiwasan ang paniniwalang kayo ay may pinapanigan sa usaping nililitis.*

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Excellence in the Judiciary



## PHILJA ACADEMIC PROGRAMS

### 29TH ORIENTATION FOR NEWLY APPOINTED JUDGES

PHILJA Chancellor Ameurfina A. Melencio Herrera welcomed and congratulated the twenty-two (22) judges - consisting of eighteen (18) newly appointed, three (3) promoted, and one (1) lateral transferee - who attended the *29th Orientation Seminar-Workshop for Newly Appointed Judges* held on June 30 to July 4, 2003, at the PHILJA Development Center, Tagaytay City. In her message, Justice Herrera reminded the participants of their adherence to both judicial independence and accountability. The newly appointed, promoted, and laterally transferred judges are:

#### A. New Appointments:

##### REGIONAL TRIAL COURT

1. Hon. Efren M. Cacatian  
*Region II, Br. 35, Santiago City, Isabela*
2. Hon. Yolanda U. Dagandan  
*Region V, Br. 16, Burauen, Leyte*
3. Hon. Bernadette Paredes-Encinareal  
*Region X, Br. 12, Oroquieta City*

##### METROPOLITAN TRIAL COURT

1. Hon. Julia Antiquera Reyes  
*NCJR, Br. 69, Pasig City*

##### MUNICIPAL TRIAL COURT IN CITIES

1. Hon. Edgardo M. Caldonia  
*Region I, Br. 2, Dagupan City, Pangasinan*
2. Hon. Marciana Q. Deguma  
*Region VI, Br. 1, Iloilo City*
3. Hon. Antonio O. Guinanao  
*Region I, Talisay City, Negros Occidental*

##### MUNICIPAL TRIAL COURT

1. Hon. Mariano U. Asencion  
*Region I, Br. 1, Laoag City*
2. Hon. Ma. Concepcion Yumang-Pangan  
*Region III, Br. 1, San Fernando City, Pampanga*
3. Hon. Mary Anne Padron-Rivera  
*Region III, Clark Field, Pampanga*

##### MUNICIPAL CIRCUIT TRIAL COURT

1. Hon. Ma. Magdalena A. Balderama  
*Region III, Mabalacat-Magalang, Pampanga*
2. Hon. Ildefonso F. Recitis  
*Region III, Masinloc-Palauig, Zambales*
3. Hon. Marietta Lea Biragay Rosana  
*Region V, Bacacay-Malilipot, Albay*
4. Hon. Jennifer Ledon Chavez  
*Region VII, Valencia-Dimiaio, Bohol*
5. Hon. Rebecca G. Almeda  
*Region VIII, Giporlos-Quinapundan, Eastern Samar*
6. Hon. Ma. Lourdes E. Ignacio  
*Region X, Baungon-Malibog-Takag, Bukidnon*

#### B. Promotions:

##### REGIONAL TRIAL COURT

1. Hon. Irma M. Boncodin  
*Region V, Br. 57, Libmanan, Camarines Norte*
2. Hon. Antonio B. Bantolo  
*Region VI, Br. 13, Culasi, Antique*
3. Hon. Jaime V. Quitain  
*Region XI, Br. 23, General Santos City*
4. Hon. Clemente A. Tajon  
*Region XI, Br. 34, Panabo, Davao del Norte*

##### MUNICIPAL TRIAL COURT IN CITIES

1. Hon. Marie Ellengrid S. Llido-Baliguat  
*Region XI, Br. 1, General Santos City*

#### C. Lateral Transfers:

##### MUNICIPAL TRIAL COURT IN CITIES

1. Hon. Eleanor V. de Jesus  
*Region III, Br. 2, Tarlac City*

These judges-participants found the practical exercises and group activity in the seminar as "beneficial strategies." They also appreciated the hands-on computer training on CALR or Computer-Assisted Legal Research which, they said, enhanced their technological know-how. They all passed the Written Comprehensive Examination (WCE) given on the last day of the orientation seminar.





## PHILJA ACADEMIC PROGRAMS

### 6TH PRE-JUDICATURE PROGRAM

Sixteen (16) aspirants, consisting of three Court Attorneys, nine Prosecutors, three Practicing Lawyers, and one government official, attended the two phases of the 6th Pre-Judicature Program of the Philippine Judicial Academy (PHILJA), from June 16 to July 11, 2003, at the Sarrosa International Hotel, Cebu City. This program is MCLE compliant and is a requirement by law for all aspirants to judicial posts. Section 10 of R.A. 8557, the legal mandate that established the Academy, states that only those who have satisfactorily complied with or successfully completed the Pre-Judicature requirements of the Academy may be nominated to judicial posts.

The objectives of the Pre-Judicature Program are: to acquaint aspirants for judicial positions with the Philippine Judiciary's history, its tradition, and its role in a constitutional democracy; to introduce aspirants to standards of conduct, norms of behavior and value-systems; to update participants with developments in the different areas of law; and to enable PHILJA to determine the aptitude and capabilities of those who aspire for judicial posts and to make consequent recommendations. Any interested applicant must be a Member of the Philippine Bar who meets the constitutional and statutory requirements for appointment to judicial office.

The program covers the entire array of Philippine law. Lectures are given by PHILJA's Academic Council and Corps of Professors, distinguished and senior justices, incumbent and retired, who provide a philosophical and reflective treatment of selected questions, including insights from comparative law. For instructions, they use more interactive approaches, including case studies and group discussions that focus on hypotheticals. The subjects revolve around the following concerns: Judicial Ethics and Values; Judicial Skills, including management and administration principles; and Judicial Information covering updates, comments and in-depth treatment of substantive and procedural law.

A Written Comprehensive Examination (WEE) is given on the last day of the program. It is only after passing the WEE that the Academy will certify the participant's satisfactory completion of the Pre-Judicature Program. Eighty-three percent (83%) of the participants in this 6th Pre-Judicature Program

found the sessions relevant to the program and appreciated the "refresher" course on law some of which, they said, they had already forgotten.

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### 13TH RJCEP (BATCH 3)

The 13th Regional Judicial Career Enhancement Program (Level 2) for Judges, Clerks of Court, Branch Clerks of Court, Interpreters and Docket Clerks of the Regional Trial Courts and First Level Courts of NCJR, Batch 3, was held on July 29 to August 1, 2003, at the Manila Pavilion Hotel, Manila. In attendance were 547 participants consisting of: 66 Judges, 83 Clerks of Court/Branch Clerks of Court, 76 Interpreters, 89 Docket Clerks, 59 Legal Researchers, 91 Court Stenographers, and 83 Sheriffs. Justice Antonio M. Martinez, PHILJA Vice Chancellor, formally opened the activity. Judge Enrico A. Lanzanas, Executive Judge of Manila, delivered the Welcome Remarks and enjoined everyone to take advantage of the activity so as to enhance their legal knowledge and hone their administrative skills. This annual regional activity, already in its 2nd level, serves as a venue to enhance the skills of court personnel in court management as well as update their knowledge on the new trends in the application and interpretation of the law in deciding cases.

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### 13TH RJCEP (BATCH 4)

The 13th Regional Judicial Career Enhancement Program (Level 2) for Judges, Clerks of Court, Branch Clerks of Court, Interpreters and Docket Clerks of the Regional Trial Courts and First Level Courts of NCJR, Batch 4, for the cities of Las Piñas, Muntinlupa, Parañaque, Pasig and Valenzuela, was held on August 18 to 21, 2003, at the Manila Pavilion Hotel, Manila. This is the last batch for NCJR, and this also completed the 2nd round of the RJCEP conducted by the Academy throughout the country.

In attendance were: (a) 287 participants consisting of: 63 Judges, 77 Clerks of Court/Branch Clerks of Court, 64 Interpreters, and 77 Docket Clerks; and (b) on the last day of the seminar, 176 additional court personnel joined the other participants for the Court Administration Management and Dynamics Session (TQM-TQP) Workshop, consisting of: 42 Legal Researchers, 72 Court Stenographers, and 62 Sheriffs. Justice Antonio M. Martinez, PHILJA Vice Chancellor, formally

(Continued on page 9)





## PROGRAMS OF SPECIAL FOCUS

### 3RD CAREER ENHANCEMENT PROGRAM FOR QUASI-JUDICIAL AGENCIES

Ninety-one (91) lawyers from fourteen (14) quasi-judicial agencies attended the *Career Enhancement Program for the Commissioners, Members, Hearing Officers and Attorneys of Quasi-Judicial Bodies (MCLE Compliant, Batch 3)*, on July 21 to 22, 2003, at The Pearl Manila Hotel, Manila. The quasi-judicial agencies who participated consisted of the:

- a) Bureau of Customs
- b) Bureau of Food & Drugs
- c) Civil Aeronautics Board
- d) Central Board of Assessment Appeals
- e) Department of Education
- f) Department of Health
- g) Employees Compensation Commission
- h) Energy Regulatory Board
- i) Housing & Land Use Regulatory Board
- j) National Commission on Indigenous Peoples
- k) National Electrification Administration
- l) National Telecommunication Commission
- m) Office of the Ombudsman
- n) Office of the President

Attendance in the seminar was MCLE compliant and covered the topics on Legal Ethics, Alternative Dispute Resolution, Substantive and Procedural Laws and Jurisprudence, Legal Writing, and International Law and International Conventions. The lectures updated the participants on recent laws and jurisprudence, principles in law, writing skills, and analytical proficiency. In their evaluation, the participants found the seminar very fruitful and suggested that such seminar be held more frequently.

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### TNA IN MANILA

The Philippine Judicial Academy (PHILJA), in collaboration with the Asian Development Bank (ADB), The Asia Foundation (TAF), and the Supreme Court's Program Management Office (PMO), conducted the first ever *Training Needs Assessment (TNA) Seminar-Workshop* on August 4 to 5, 2003, at the Manila Pavilion Hotel, Manila. The participants consisted of twenty-eight (28) Executive and Vice Executive Judges from the Regional Trial Courts (RTCs), Municipal Trial Courts (MTCs), and

Municipal Trial Courts in Cities (MTCCs) of the National Capital Judicial Region (NCJR) and Regions I to V, as well as six (6) PHILJA lawyers and six (6) training specialists. The TNA seminar-workshop forms part of the ADB-Technical Assistance No. 3693-PHI on "Strengthening the Independence of the Judiciary and Defining its Accountability."

Justice Ameurfina A. Melencio Herrera, Chancellor of the Academy, formally opened the seminar-workshop. According to her, this program is a public acknowledgment of the global cooperation of the Academy with ADB and TAF. She clarified that the purpose of the TNA is to do an actual training needs assessment of judges, and to orient PHILJA lawyers and training specialists on the process and conduct of TNA. Dr. Steven Rood, TAF Country Representative, delivered the Welcome Remarks. He stated that the TNA, like the mutiny a week ago involving disgruntled military men, is also about a process of knowing and assessing needs. However, the difference between the two is that the TNA is an orderly process of ascertaining these needs. Justice Antonio M. Martinez, Vice Chancellor of the Academy, delivered an Inspirational Message in the program's closing ceremonies. He emphasized the important role of Executive Judges in reaching out to other judges and court personnel in behalf of PHILJA. The resource person for the TNA seminar-workshop was Ms. Blanca Deza Pasaporte, Senior Project Officer at the Development Academy of the Philippines.

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### TNA IN CEBU

The Academy conducted the second Training Needs Assessment (TNA) Seminar-Workshop on August 11 to 12, 2003, at the Marriott Hotel, Cebu City. The participants consisted of thirty-three (33) Executive and Vice Executive Judges from the Regional Trial Courts (RTCs), Municipal Trial Courts (MTCs), and Municipal Trial Courts in Cities (MTCCs) of Judicial Regions VI to XII. Director Evelyn Toledo-Dumdum of the Program Management Office (PMO) of the Supreme Court and Atty. Elsie Louise P. Araneta, Senior Counsel of the Asian Development Bank (ADB), delivered their greetings, congratulating the participants for taking part in this initiative. Once again, the resource person is Ms. Blanca Deza Pasaporte, Senior Project Officer at the Development Academy of the Philippines.



## ENVIRONMENTAL FORUM

The Philippine Judicial Academy (PHILJA), in collaboration with the Asian Development Bank (ADB) and the Program Management Office (PMO), conducted the *Judges' Forum on Environmental Protection: Philippine Environmental Law, Practice and the Role of Courts*, on August 13 to 15, 2003, at the PHILJA Development Center, Tagaytay City. Twenty-five (25) judges from nationwide attended the Forum. The Forum aimed at strengthening the capacity of judges to deal with environmental disputes so that they could be instruments to protect human health and safeguard the natural environment for present and future generations.

Atty. Paul B. Violette, Senior Policy Advisor of Planning and Development Collaborative International (PADCO), and Ms. Lisa Lumbao, Environmental Management Consultant, attended the activity. Dr. Marie Dunn Ricciardone, molecular biologist and wife of US Ambassador Francis Ricciardone, Jr., attended the first day of the Forum. She won the US Department of State's Superior Honor Award for her contribution to the successful negotiations of the Stockholm Convention on Persistent Organic Pollutants (POPs).

To set the tone of the lectures and panel discussions, different themes for the day were adopted: *"Familiarization on Environmental Issues and Institutional Structure"* for the first day; *"Case Studies and Legal Issues Faced by the Courts"* for the second day; and *"Challenges, Reflections and Resolutions"* for the third day.

Prominent lecturers included:

### From the USA

- .. Atty. John Boyd, *Former Attorney-Advisor to the US State Department and Former ADB Senior Sector Specialist*
- .. Atty. Jane T. Nishida, *Former Secretary of the Maryland Department of Environment*

### From the Government

- .. DENR Undersecretary Renato A. De Rueda
- .. Former DENR Undersecretary Antonio Tria
- .. Atty. Arthur P. Castillo, *Chief of DENR's Investigation and Litigation Service*

- .. Atty. Fernandino Y. Concepcion, *Assistant Director of DENR's Environmental Bureau Management (EMB)*
- .. Atty. Oscar L. Embido, *Team Leader of NBI's Anti-Illegal Logging Task Force and Environmental Protection*
- .. Atty. Isagani M. Rabe, *DOJ Prosecutor*
- .. Dean Sedfrey M. Candelaria, *Chair, PHILJA Department of Special Areas of Concern*

### From the Academe

- .. Dr. Perry S. Ong, *Professor at UP Diliman's Institute of Biology*
- .. Prof. Herminio Harry L. Roque, Jr. *of the UP College of Law*
- .. Prof. Vivencio F. Abaño *of the Ateneo Law School*

### From NGOs

- .. Atty. Antonio A. Oposa, Jr., *President of the Law of Nature Foundation*
- .. Atty. Roberto Oliva, *EcoGovernance Project*
- .. Atty. Asis G. Perez, *Tanggol Kalikasan*
- .. Atty. Grizelda Mayo-Anda, *Coordinator for Palawan and Board Secretary of the Environmental Legal Assistance Center (ELAC)*

### From The Asia Foundation

- .. Atty. Brenda Jay Angeles-Mendoza, *Program Officer*

Highlights of the Forum were the Inspirational Message of Chief Justice Hilario G. Davide, Jr., an environmentalist at heart, who minced no words and stated outright that "...our planet is dying," and the message of Associate Justice Reynato S. Puno of the Supreme Court, who urged the judges-participants "to be creative and to shed their fears even when they find themselves in some unfenced spaces of environmental law." It culminated in a *"Tagaytay Declaration of Commitment,"* submitted to the Chief Justice during the Closing Ceremonies by the participating judges who committed themselves to the cause of environmental protection at personal, official and institutional levels. They recommended to the Chief Justice, through PHILJA, the study of the feasibility of designating special courts all over the country to handle cases involving violations of fundamental Environmental Laws.

This is the second seminar of the Academy on environmental protection that has proven to be highly valuable and relevant.



## PROGRAMS OF SPECIAL FOCUS

### BIOSCIENCE & BIOTECHNOLOGY CONFERENCE

The Philippine Judicial Academy, in collaboration with the Einstein Institute for Science, Health and the Courts (EINSHAC), and with the cooperation of the United States Agency for International Development (USAID), conducted the *Conference-Workshop on Bioscience and Biotechnology: Science and the Law*, on August 26 to 29, 2003, at the PHILJA Development Center, Tagaytay City. Thirty-five (35) judges attended the conference and were introduced to developments in the fields of bioscience and biotechnology, the ethical and justiciable issues that bioscience and biotechnology may engender, as well as judicial approaches to such issues. Foreign and local lecturers were invited to share their knowledge on the topics. Incumbent Supreme Court Justices were also asked to lecture or critique.

#### Foreign lecturers included:

- Dr. Franklin M. Zweig, Ph.D., JD, *President of EINSHAC, Maryland, USA*
- Justice Thomas E. Hollenhorst *of the Court of Appeal, Fourth Appellate District, California, USA*
- Dr. Lynn B. Jorde, *Professor, Department of Human Genetics, University of UTAH School of Medicine*
- Dr. Alan McHughen, *CE Associate Plant Biotechnologist, College of Natural and Agricultural Sciences, Botany and Plant Sciences, University of California, USA*

#### Local lecturers included:

- Justice Leonardo A. Quisumbing, *Supreme Court*
- Justice Jose L. Sabio, Jr., *Court of Appeals*
- Justice Alfredo L. Benipayo, *Solicitor General*
- Dr. Ma. Corazon A. De Ungria, Ph.D., *Head, DNA Analysis Laboratory, Natural Sciences Research Institute, UP Diliman*
- Dr. Raquel Del Rosario Fortun, MD, *Consultant, Forensic Pathology, PGH, Manila*

On the first day of the conference, the participants and foreign lecturers went on an exposure trip to the National Sciences Research Institute, University of the Philippines. The participants toured the DNA Analysis Laboratory, Microbiological Research and Services Laboratory, Biological Research and Services Laboratory, and the Research and Analytical Laboratory.

The conference-workshop itself in Tagaytay City was formally opened by Justice Ameurfina A. Melencio Herrera, PHILJA Chancellor, with her Opening and Statement of Purpose. Mr. Robert Wuertz, USAID Democracy Officer, Undersecretary Rogelio A. Panlasigue, DOST Research & Development, and Prof. Franklin M. Zweig of EINSHAC gave short greetings. Among the topics discussed are: Human Genetics; DNA Technology in Legal Proceedings; the Human Genome Project; Genetic Diseases; Cloning; Gene Therapy; Genetic Engineering; Agricultural Biotechnology; Genetically Modified Organisms (GMOs); Genetic Risk, Mutation, and Recent Developments; Courts in the Genomics Age; and Intellectual Property and Biotechnology. The key issues that surfaced are cloning/designing/testing of human beings, and food products that are transgenic in origin.

The sessions and presentations covered all views - international and local, and all aspects - legal, ethical, scientific, and medical. The judges-participants demonstrated their willingness to adapt to changes, showed an attitude of openness towards understanding the changes that are globally taking place.

According to Chief Justice Hilario G. Davide, Jr. in his Inspirational Message, the conference furnished our judges-participants with a unique experience and was intended to initiate them in the marvels of science that would soon invade our courtrooms. The EINSHAC panel of foreign lecturers articulated its high regard for the performance of the judges, their interest to learn, eagerness to understand the

bewildering topics, and their competent reports on the case studies.

*From left: Supreme Court Justice Dante O. Tinga; Dr. Franklin M. Zweig; Justice Thomas E. Hollenhorst; Judge Apolinario D. Bruselas; and Judge Rodolfo A. Ponferrada at the Conference-Workshop on Bioscience and Biotechnology: Science and the Law at the PHILJA Development Center, Tagaytay City*





## CONVENTIONS

### PACE CONVENTION IN CEBU

A total of 1,827 Court Employees from all judicial regions, attended the *Convention and Seminar of the Philippine Association of Court Employees (PACE)*, held on July 23 to 25, 2003, at the Mandaue Cultural & Sports Complex, Mandaue City, Cebu. The theme of the convention was "*Development of Attitudinal Change in the Judiciary.*"

Chief Justice Hilario G. Davide, Jr., in his Keynote Address, inspired the court personnel to be committed to their particular vocation and suggested that the PACE acronym be read to mean, "*Perseverance and Commitment to Excellence.*" Justice Presbitero J. Velasco, Jr., Court Administrator, delivered the Inspirational Message and had a dialogue with the participants during which issues on the JDF, filling-up of vacancies, and higher benefits were raised.

The National Officers of PACE are as follows:

Claudio Fuentes Hoybia - *National President*  
 Rosita D. Amizola - *Executive Vice President*  
 Natividad C. Babaran - *Vice President for Luzon*  
 Bienvenido A. Mabbayad - *Vice President for NCJR*  
 Ely A. Azarraga - *Vice President for Visayas*  
 Cairoding P. Maruhom - *Vice President for Mindanao*  
 Magdalena L. Lometillo - *Treasurer*  
 Lourdes G. Garcia - *Assistant Treasurer*  
 Samuel A. Mabutas - *Auditor*  
 Virginia Coloma-Rafael - *Secretary-General*  
 Rodolfo O. Hermosa - *Executive Secretary and  
 National Coordinator*  
 Serafin A. Esmiller - *National Public Information  
 Officer*  
 Victorio A. Dion - *Director for Region 1*  
 Romeo Q. Allan - *Director for Region 2*  
 Emcisa A. Benedictos - *Director for Region 3*  
 Dena Corazon P. Almazar - *Director for Region 4*  
 Alejandro L. Villarez - *Director for Region 4-A*  
 Abelardo B. Orque, Jr. - *Director for Region 5*  
 Evelyn S. Eguia - *Director for Region 6*  
 Arlinda T. Uy - *Director for Region 7*  
 Ismael C. Brazil - *Director for Region 8*  
 Ma. Luz C. Hagui - *Director for Region 9*  
 Michael A. Echeminada - *Director for Region 10*  
 Wilfredo M. Tupas - *Director for Region 11*  
 Apon Ponce Ibra - *Director for Region 12*  
 Umaim L. Silongan - *Director for ARMM*



## ON MEDIATION

### EXTENSION OF ACCREDITATION OF MEDIATORS

In A.M. No. 01-7-02-SC, Re: Resolution Nos. 01-16, 01-17 and 01-18 passed by the PHILJA Board of Trustees on 27 June 2001, the Supreme Court En Banc resolved to grant PHILJA Chancellor Ameurfina A. Melencio Herrera's request for authority for an extension of and for the status quo accreditation of all PHILJA Mediators until December 31, 2003.

### PMC BILL

PHILJA's ADR Sub-Committee has worked on the draft of a Bill entitled, "An Act Establishing the Philippine Mediation Center for Court-Annexed Mediation Cases, Defining Its Powers and Functions, Appropriating Funds Therefor, and for Other Purposes." This draft was submitted to Senator Francis N. Pangilinan, who has filed Senate Bill No. 2544. A copy was also given to Congressman Prospero C. Nograles on August 25, 2003 for possible sponsorship in the lower House.

The PMC Bill aims to institutionalize and constitute a permanent Philippine Mediation Center in order to make court-annexed mediation available in all judicial regions. It differs from the PCADR Bill (House Bill No. 5654) establishing a Philippine Center for Alternative Dispute Resolution (PCADR) and originally sponsored by Speaker Jose de Venecia, in that the PMC Bill focuses on court-annexed mediation, while the PCADR Bill covers all ADR mechanisms except court-annexed mediation. Also, the PCADR is under the Office of the President, while the PMC, through PHILJA, is under the supervision and control of the Supreme Court.

(PACE continued)

Cecilio L. Catingub - *Director for CARAGA Region*  
 George D. Maborang - *Director for Quezon City*  
 Jose C. Mari, Jr. - *Director for CAMANAVA*  
 Teresita A. Gonzales - *Director for Pasay City,  
 Parañaque City, Las Piñas City and Muntinlupa City*  
 Carmen S. Cariño - *Director for Pasig City, Pateros,  
 San Juan, Mandaluyong City, Marikina City and  
 Taguig, Metro Manila*



## JUDICIAL MOVES

### Supreme Court

Associate Justice Dante O. Tinga  
*appointed on July 3, 2003*

### Court of Appeals

Associate Justice Arturo D. Brion  
*appointed on July 2, 2003*

Associate Justice Arsenio J. Magpalo  
*appointed on July 4, 2003*

Associate Justice Jose C. Mendoza  
*appointed on July 4, 2003*

Associate Justice Jose C. Reyes, Jr.  
*appointed on July 8, 2003*

Associate Justice Rosalinda Asuncion Vicente  
*appointed on July 16, 2003*

## NEW SUPREME COURT JUSTICE

Hon. Dante O. Tinga was appointed as Associate Justice of the Supreme Court by President Gloria Macapagal-Arroyo on July 3, 2003. Before this appointment, he served as Dean of the Polytechnic University of the Philippines College of Law and as Managing Partner at the Tinga & Corvera Law Firm.

He served as House Representative of the lone district of Taguig-Pateros for three consecutive terms from 1987 to 1998. As a Congressman, he served as House Majority Whip for Luzon from 1992 until 1998 and Speaker's Deputy in the Committee on Rules from 1995 to 1998. He also chaired the House Committee's on Energy (1992 to 1996) and on Corporations and Franchises (1987 to 1992). During his three-year term, he also became Vice Chairman of the House Committee on Good Government and a ranking member of the House Committee on Natural Resources, Justice, Constitutional Amendments, Appropriations and Ways and Means. He was consistently chosen as an outstanding Congressman by various publications and periodicals.

Justice Tinga received his Bachelor of Laws degree from the University of the East College of Law where he graduated *Magna Cum Laude*. He obtained his Master of Laws degree from the University of California, Berkeley, USA, graduating with high honors and among the top five percent.



## ON PHILJA

### NEW APPOINTMENT AND RE-APPOINTMENT

Retired Judge Galicano C. Arriego was appointed as part-time PHILJA Professor I, effective July 1, 2003. Based in Cebu City, he will act as PHILJA Coordinator/Liaison Officer for Visayas and Mindanao, per SC En Banc Resolution in A.M. No. 03-7-14-SC (dated July 8, 2003).

Retired Executive Judge Priscila S. Agana, PHILJA Executive Secretary, has been re-appointed for another term of two (2) years starting July 8, 2003, without prejudice to subsequent re-appointments, pursuant to Section 6 of R.A. No. 8557, per SC En Banc Resolution in A.M. No. 03-7-14-SC (dated July 8, 2003).

Prof. Sedfrey M. Candelaria, Head of the Academy's Research & Linkages Office, is now the Chair of the Department of Special Areas of Concern. Commissioner Teresita Dy-Liacco Flores is now Vice Chair of the said department.

New lecturers include: Justice Francis E. Garchitorea, Professorial Lecturer II, Criminal Law Department, and Atty. Melencio S. Sta. Maria, Jr., Professorial Lecturer I, Special Areas of Concern Department.

The contracts of PHILJA Consultants, Atty. Orlando B. Cariño and Atty. Zenaida C. Pagaduan, have been renewed for the period July 1 to December 31, 2003.

### (NEW SUPREME COURT JUSTICE *continued*)



He is a recipient of several honors including the Most Distinguished Alumnus in Education (1991) and the Most Distinguished Alumnus in the Legal Profession (1988), both conferred by the University of the East. A resident of Taguig, he also served as President of the *Kilusang Diwang Taguig* (KDT).



## CIVIL LAW

### Prescription of action; interruption thereof.

The Civil Code provides that an action upon a written contract, an obligation created by law and a judgment must be brought within ten years from the time the right of action accrues.

The Bank's contention that the notices of foreclosure sale in the foreclosure proceedings are tantamount to formal demands upon petitioners for the payment of their past due loan obligations and therefore interrupted the running of the prescriptive period, does not impress. Prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor. Article 1155 of the Civil Code specifically requires a written extrajudicial demand by the creditors which is absent in the case at bar. The contention that the notices of foreclosure are "tantamount" to a written extrajudicial demand cannot be appreciated. (*Carpio-Morales, J., Quirino Gonzales, et al. v. Court of Appeals and Republic Planter's Bank, GR No. 126568, April 30, 2003*)

## REMEDIAL LAW

### Motion for reconsideration of order denying motion for inhibition.

Contrary to the justification given by the OCA and the CA, Section 4 of Rule 37 of the Rules of Court does not provide for the determination of the period of time within which the subject Motion for Reconsideration must be resolved.

Rule 37 pertains to the filing of a motion for new trial or of a motion for reconsideration of a judgment or final orders that has decided a case on its merits. On the other hand, an order denying a motion for inhibition, which is governed by Rule 4, is merely interlocutory and is not a judgment, as the case still stands for regular trial. Therefore, the period provided in Section 4 does not apply.

There is no specific rule providing for a definite period of time within which to resolve a motion for reconsideration of an order denying inhibition. However, the Supreme Court emphasized that all presiding judges must endeavor to act promptly on all motions and interlocutory matters pending before their court within the 90-day period provided in the Constitution unless the law requires a lesser period. (*Panganiban, J., Jose B. Custodio v. Judge Jesus V. Quitain, AM-RTJ-031761, April 30, 2003*).

## REMEDIAL LAW (continued)

### Dead Man's Statute; what it prescribes; its scope.

What the dead man's statute proscribes is the admission of testimonial evidence upon a claim which arose before the death of the deceased. The incompetency is confirmed to the giving of the testimony. (*Carpio-Morales, J., Felicito Sanson v. Court of Appeals, G.R. 127745, April 22, 2003*)

## AGRARIAN LAW

### Civil law lessee cannot employ tenants without the consent of the lessor.

Contrary to the impression of private respondents, Section 6 of R.A. 3844, as amended, does not automatically authorize a civil law lessee to employ a tenant without the consent of the landowner. The lessee must be so specifically authorized for the right to hire a tenant is basically a personal right of the landowner. Except as may be provided by law, nowhere in Section 6 does it say that a civil law lessee of a landholding is automatically authorized to reinstall a tenant thereon. A different interpretation would create a perverse and absurd situation where a person who wants to be a tenant, and taking advantage of this perceived ambiguity in the law, asks a third person to become a civil law lessee of the landowner. Incredibly, this tenant would technically have a better right over the property than the landowner himself. This tenant would then gain security of tenure and eventually become owner of the land by operation of law. This is most unfair to the hapless and unsuspecting landowner who entered into a civil law lease agreement in good faith only to realize later on that he can no longer regain possession of his property due to the installation of a tenant by the civil law lessee.

Plainly states, therefore, a contract of civil law lease can prohibit a civil law lessee from employing a tenant on the land subject matter of the lease agreement. (*Bellosillo, J., Victor Valencia v. CA, et al., GR 122363, April 29, 2003*)

(Continued from page 3)

opened the activity. Executive Judge Manuel B. Fernandez of Las Piñas delivered the Welcome Remarks.

For failure to take the Written Evaluative Exercise (WEE), the Certificates of Completion of six (6) judges were withheld. For incomplete or interrupted attendance, Certificates of Attendance of several court personnel were also withheld.

## REMEDIAL LAW

### Payment of appellate docket fee in appeals from the MTC to the RTC.

In *Fontanor v. Bonsubre*, the Supreme Court held that in appeals from the MTC to the RTC, failure to pay the appellate docket fee within the fifteen-day reglementary period bestows on the appellate court a directory, not a mandatory, power to dismiss an appeal. On the other hand, in appeals from the RTC to the CA and from the CA to the SC, the payment of appellate fees is mandatory according to Rule 42, Section 8 and Rule 45, Section 5, 1997 Rules of Civil Procedure. (*Panganiban, J., Spouses Oscar & Haydee Badillo v. Hon. Arturo Tayag & the National Housing Authority*, G.R. 143976, April 3, 2003)

### In forcible entry cases, the only issue is the physical or material possession of real property.

The only issue in forcible entry cases is the physical or material possession of real property – *possession de facto*, not *possession de jure*. Only prior physical possession, not title, is the issue. If ownership is raised in the pleadings, the court may pass upon such question, but only to determine the question of possession. The Supreme Court stressed that the issue of ownership in ejectment cases is to be resolved only when it is ultimately intertwined with the issue of possession to such an extent that the question of who had prior possession cannot be determined without ruling on the question of who the owner of the land is.

Notwithstanding the actual condition of the title to the property, a person in possession cannot be ejected by force, violence or terror – not even by the owners. If such illegal manner of ejectment is employed, the party who proves prior possession can recover possession even from the owners themselves. (*Panganiban, J., Heirs of Pedro Lourora v. Sterling Technopark 111*, G.R. 146815, April 9, 2003)

### TROs and Writs of preliminary injunction; issuance and grants thereof is seizure & forfeiture proceeding before the Bureau of Customs.

Administrative Circular No. 7-99 reminds judges that their issuance of TROs and grants of writs of preliminary injunction in seizure and forfeiture proceedings before the Bureau of Customs may arouse suspicion that said issuance or grant was for consideration other than the strict merits of the case. The said Administrative Circular seeks to reiterate that they should embody the image and justice in the eyes of the public.

It is a basic principle that the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceeding of dutiable goods, and whose decision is applicable to the Commission of Customs and thereafter to the Court of Tax Appeals. It is also settled jurisprudence that regular courts cannot interfere with his exercise of said exclusive jurisdiction. (*Per Curiam, Chief State Prosecutor Jovencito Zuño v. Judge Arnulfo Cabredo*, AM RTJ-03-1779, April 30, 2003).

### Expropriation suit; jurisdiction in expropriation suit.

An expropriation suit does not involve the recovery of a sum of money. Rather, it deals with the exercise by the government of its authority and right to take property for public use. As such it is incapable of pecuniary estimation and should be filed with the Regional Trial Courts. True, the value of the property to be expropriated is estimated in monetary terms, for the court is duty-bound to determine the just compensation for it. However, this is merely incidental to the expropriation suit. (*Panganiban, J., Devorah Bardillon v. Barangay Masili of Calamba, Laguna*, G.R. 146886, April 30, 2003)

### Summons; service of summons; extra territorial service of summons.

Summons is a writ by which the defendant is notified of the action brought against him. Service of such writ is the means by which the court acquires jurisdiction over his person.

As a rule, when the defendant does not reside and is not found in the Philippines, Philippine courts cannot try any case against him because of the impossibility of acquiring jurisdiction over his person unless he voluntarily appears in court. But when the case is one of actions *in rem* or *quasi in rem* enumerated in Section 15, Rule 14 of the Rules of Court, Philippine courts have jurisdiction to hear and decide the case. In such instances, Philippine courts have jurisdiction over the *res*, and jurisdiction over the person of the non-resident defendant is not essential. Actions *in personam* are directed against specific persons and seek personal judgments, while actions *in rem* or *quasi in rem* are directed against the thing or property or status of a person and seek judgments with respect thereto as against the whole world. The term "personal status" includes family relations, particularly the relations between husband and wife.

## REMEDIAL LAW (continued)

Under Section 15 of Rule 14, a non-resident defendant may be served with summons extraterritorial service when: (1) the action affects the personal status of the plaintiff; (2) when the action relates to, or the subject of which is property within the Philippines in which the defendant has or claims a lien or interest, actual or contingent; (3) when the relief demanded consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines; or (4) when the property of the defendant has been attached within the Philippines. In these instances extra territorial service of summons may be effected by: (1) personal service out of the country with leave of court; (2) publication and sending a copy of the summons and order by registered mail to the defendant's last known address, also with leave of court; and (3) by any other means the judge may consider sufficient. Service of summons through the Department of Foreign Affairs falls under No. 3 above and is sufficient compliance with the rule. (*Carpio, J., Margarita Romualdez-Licaros v. Abelardo Licaros*, G.R. 150656, April 29, 2003)

### Claim for damages in criminal cases.

Under the Revised Rules on Criminal Procedure, when a complaint or information is filed even without any allegation of damages and the intention to prove and claim them, it is understood that the offended party has the right to prove and claim for them, unless a waiver or reservation is made, or unless in the meantime, the offended party instituted a separate civil action. In such cases, the civil liability arising from a crime may be determined in the criminal proceedings if the offended party does not waive to have it adjudged or does not reserve the right to institute a separate civil action against the defendant. Accordingly, if there is no waiver or reservation of civil liability, evidence should be allowed to establish the extent of injuries suffered.

The rule expressly imposes upon the courts the duty of entering judgment with respect to the civil liability arising from the offense, if no reservation has been made to ventilate it in a separate action. Even in case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, judgment shall be made on a finding on the civil liability of the accused in favor of the offended party. It was error for respondent not to have entered judgment with respect to the civil liability. (*Yñares Santiago, J., Celestina Corpus v. Judge Siapno*, A.M. Mtg.-96-1106, June 17, 2003)

### Proof of Service.

When service of notice is an issue, the rule is that the person alleging that the notice was served must prove the fact of service. The burden of proving notice rests upon the party asserting its existence. In civil cases, service made through registered mail is proved by the registry receipt issued by the mailing office and an affidavit of the person mailing of facts, showing compliance with Section 7 of Rule 13. xxx while the affidavit and the registry receipts proved that petitioners were served with copies of the motion, it does not follow, however, that petitioners in fact received the motion. Respondent failed to present the registry return cards showing that petitioners actually received the motion. Receipts for registered letters and return receipts do not prove themselves. They must be properly authenticated in order to serve as proof of receipt of the letters. (*Austria-Martinez, J., In the matter of the petition for Habeas Corpus of Benjamin Vergara, etc. v. Hon. Francisco Gedorio, et al.*, G.R. 154037, April 30, 2003)

## CIVIL LAW

### Contract of sale; contract to sell, transfer of ownership; papers required in the sale of real estate.

In a contract to sell, the obligation of the seller to sell becomes demandable only upon the happening of the suspensive condition which is the full payment of the purchase price of the buyer. Such full payment gives rise to the buyer's right to demand the execution of the contract of sale.

It is only upon the existence of the contract of sale that the seller becomes obligated to transfer the ownership of the thing sold to the buyer. Prior to the existence of the contract of sale, the seller is not obligated to transfer ownership to the buyer, even if there is a contract to sell between them. It is also upon the existence of the contract of sale that the buyer is obligated to pay the purchase price to the seller. Since the transfer of ownership is in exchange for the purchase price, these obligations must be simultaneously fulfilled at the time of the execution of the contract of sale in the absence of a contrary stipulation. The obligation of the seller is to transfer to the buyer ownership of the thing sold. In the sale of real property, the seller is not obligated to transfer in the name of the buyer a new certificate of title, but rather to transfer ownership of the real property. There is a difference between transfer of the certificate of title in the name of the buyer, and transfer of ownership to the buyer. The buyer may become the

**CIVIL LAW** (continued)

owner of the real property even if the certificate of title is still registered in the name of the seller. As between the seller and the buyer, ownership is transferred not by the issuance of a new certificate of title in the name of the buyer, but by the execution of the instrument of sale in a public document.

In a contract of sale of real property, delivery is effected when the instrument of sale is executed in a public document. When the deed of absolute sale is signed by the parties and notarized, then delivery of the real property is deemed made by the seller to the buyer.

Customarily, in the absence of a contrary agreement, the submission by a seller to the buyer of the following papers would complete a sale of real estate: (1) owner's duplicate copy of the Torrens title; (2) signed deed of absolute sale; (3) tax declaration; (4) latest realty tax receipt. The buyer can retain the amount for the capital gains tax and pay it upon the authority of the seller, or the seller can pay the tax depending upon the agreement of the parties. Payment of the capital gains tax, however, is not a pre-requisite to the transfer of deed of absolute sale. The recording of the sale with the proper Registry of Deeds and the transfer of the certificate of title in the name of the buyer is necessary only to bind third parties to the transfer of ownership. Registration of the sale with the Registry of Deeds or the issuance of a new certificate of title does not confer ownership on the buyer. Such registration or issuance of a new certificate of title is not one of the modes of acquiring ownership. (*Carpio, J., Tomas Chua v. Court of Appeals, Encarnacion Valdes-Choy, G.R. 119255, April 9, 2003*)

**Presumption of Conjugal Ownership.**

The Supreme Court affirmed the ruling of the appellate court that the real property covered by the deed of mortgage is paraphernal property. The property is registered in the name of "Corazon G. Ruiz, of legal age, married to Rogelio Ruiz, Filipino." Thus, title is registered in the name of Corazon alone because the phrase "married to Rogelio Ruiz" is merely descriptive of the civil status of Corazon and should not be construed to mean that her husband is also a registered owner. Furthermore, registration of the property in the name "Corazon G. Ruiz, of legal age, married to Rogelio Ruiz" is not proof that such property was acquired during the marriage, and thus, is presumed to be conjugal. The property could have been acquired by Corazon while she was still single, and registered only after her marriage to Rogelio Ruiz. Acquisition of title and registration

thereof are two different acts. The presumption under Article 116 of the Family Code that properties acquired during the marriage are presumed to be conjugal cannot apply in the instant case. Before such presumption can apply, it must first be established that the property was in fact acquired during the marriage. In other words, proof of acquisition during the marriage is a condition *sine qua non* for the operation of the presumption in favor of conjugal ownership. (*Puno, J., Corazon Ruiz v. Court of Appeals & Consuelo Torres, G.R. 146942, April 22, 2003*)

**Donation; donation *inter vivos* distinguished from donation *mortis causa*; characteristics of a donation *mortis causa*.**

Donation *inter vivos* differs from donation *mortis causa* in that in the former, the act is immediately operative even if the actual execution may be deferred until the death of the donor, while in the latter, nothing is conveyed to or acquired by the donee until the death of the donor-testator.

The distinction is important as the validity or revocation of the donation depends upon its nature. If the donation is *inter vivos*, it must be executed and accepted with the formalities prescribed by Articles 748 and 749 of the Civil Code, except when it is onerous in which case the rules on contract will apply. If it is *mortis causa*, the donation must be in the form of a will, with all the formalities for the validity of wills. Otherwise, it is void and cannot transfer ownership.

The characteristics of a donation *mortis causa* are the following:

1. It conveys no title or ownership to the transferee before death of the transferor, or what amounts to the same thing, that the transferor should retain the ownership (full or naked) and control of the property while alive.
2. That before his death, the transfer should be revocable by the transferor at will *ad nutum*; but revocability may be provided for indirectly by means of a reserved power in the donor to dispose of the properties conveyed.
3. That the transfer should be void if the transferor survived the transferee.

(*Carpio Morales, J., Ursulina Ganuelas v. Hon. Robert Cawed, Leocadia Flores, et al., G.R. 123968, April 24, 2003*)

## CRIMINAL LAW

### Plea of guilt; duty of trial court.

Three things are enjoined upon the trial court when the accused pleads guilty: (1) the Court must conduct a searching inquiry into the voluntariness of the plea, and the accused's full comprehension of the consequences thereof; (2) the Court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (3) the Court must ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires.

As explained by the Court in *People v. Alicando*, the searching questions must focus on: (1) voluntariness of the plea; and (2) the full comprehension of the accused of the consequences of the plea. (*Callejo, J., People v. Manuel Danielo, et al., G.R. 139230, April 24, 2003*)

### Settled principles in rape cases.

The following are settled principles for guidance in the trial and resolution of rape cases:

- a) An accusation for rape can be made with facility; while the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove.
- b) In view of the intrinsic nature of the crime of rape where only two persons are involved, the testimony of the complainant must always be scrutinized with great caution.
- c) The evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.

Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue. (*Yñares-Santiago, J., People v. Lawrence Macapanpan and Airoll Aclan, G.R. 133603, April 9, 2003*)

### Conspiracy; how proved in the absence of direct evidence.

In the absence of direct proof, the existence of conspiracy may be deduced from the mode, method, and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action and community of interest. (*Yñares-Santiago, J., People v. Lastice Sube, et al., G.R. 146034, April 9, 2003*)

## CORPORATION LAW

### Instrumentality Rule or Alter Ego Doctrine.

Where the corporation is the mere alter ego or business conduit of a person, the separate personality of the corporation may be disregarded. This is commonly referred to as the "instrumentality rule" or the "alter ego doctrine" which the courts have applied in disregarding the separate juridical personality of the corporation. As held in one case, where one corporation is so organized and controlled and its affairs are conducted so that it is, in fact, a mere instrumentality or adjunct of the other, the fiction of the corporate entity of the instrumentality may be disregarded. The control necessary to invoke the rule is not majority or even complete stock control, but such domination of finances, policies and practices that the controlled corporation has, so as to speak no separate mind, will or existence of its own, and is but a conduit for its principal. (*Quisumbing, J., Estrelita Burgos Lipat v. Pacific Banking Corporation, et al., G.R. 142435, April 30, 2003*)

## ADMINISTRATIVE LAW

### Criminal cases against justices and judges.

Rule 139-B refers to the disbarment and discipline of attorneys which is administrative, and not criminal, in nature. The cases referred to in Circular No. 3-89 are administrative cases for disbarment, suspension or discipline of attorneys, including justices of appellate courts and judges of the lower courts. The Court has vested the IBP with the power to initiate and prosecute administrative cases against erring lawyers. However, under Circular 3-89, the court has directed the IBP to refer to the Supreme Court for appropriate action all administrative cases filed with IBP against justices of appellate courts and judges of the lower courts. As mandated by the Constitution, the Court exercises the exclusive power to discipline justices of appellate courts and judges of lower courts administratively.

Circular 3-89 does not refer to criminal cases against erring justices of appellate courts and judges of lower courts. Trial courts retain jurisdiction over the criminal aspect of offenses committed by justices of appellate courts and judges of lower courts. This is clear from the Circular directing the IBP, and not the trial courts, to refer all administrative cases filed against said justices and judges to the Supreme Court.

(Continued on next page)



**ADMINISTRATIVE LAW** (continued)

The acts or omissions of a judge may well constitute at the same time both a criminal act and an administrative offense, whether the criminal case relates to an act committed before or after the respondent became a judge is of no moment. Neither is it material that an MTC judge will be trying an RTC judge in the criminal case. A criminal case against an attorney or judge is distinct and separate from an administrative case against him. The dismissal of the criminal case does not warrant the dismissal of an administrative case arising from the same set of facts. The quantum of evidence required in the latter is only preponderance of evidence and not proof beyond reasonable doubt which is required in criminal cases. (*Carpio, J.*, Office of the Court Administrator v. Judge Agustin Sardido, AM-MTJ-01-1370, April 25, 2003).

**AGRARIAN LAW****Implementation of CAR program; notices required.**

In *Roxas & Co., Inc. v. Court of Appeals*, the Supreme Court held that: "For a valid implementation of the CAR program, two notices are required: (1) their Notice of Coverage and letter of invitation to preliminary conference sent to the landowner, the representatives of the BARC, LBP, farmer beneficiaries and other interested parties pursuant to DAR A.O. No. 12, Series of 1989; and (2) the Notice of Acquisition sent to the landowner under Section 16 of R.A. No. 6657.

"The importance of the first notice, i.e., the Notice of Coverage and the letter of invitation to the conference, and its actual conduct cannot be understated. They are steps designed to comply with the requirements of administrative due process. The implementation of the CARL is an exercise of the State's police power and the power of eminent domain. To the extent that the CARL prescribes retention limits to the landowners, there is an exercise of police power for the regulation of private property in accordance with the Constitution (*Association of Small Landowners in the Philippines v. Secretary of Agrarian Reform*, 175 SCRA 343, 373-374 [1989]). But where, to carry out such regulation, the owners are deprived of lands they own in excess of the maximum area allowed, there is also a taking under the power of eminent domain. The taking contemplated is not a mere limitation of the use of the land. What is required is the surrender of the title to and physical possession of the said excess and all beneficial rights accruing to the owner in favor of the farmer beneficiary (id.). The Bill of Rights provides that "[n]o person shall be deprived of life, liberty or property

**AGRARIAN LAW** (continued)

without due process of law" (Section 1, Article 111 of the 1987 Constitution). The CARL was not intended to take away property without due process of law (*Development Bank of the Philippines v. Court of Appeals*, 262 SCRA 245, 253 [1996]). The exercise of the power of eminent domain requires that the due process be observed in the taking of private property." (*Sandoval-Gutierrez, J.*, Department of Agrarian Reform v. Apex Investment, G.R. 149422, April 10, 2003)

## ADMINISTRATIVE CIRCULAR NO. 96-2003

(continued from page 19)

thereof from Sta. Cruz, Manila to the MWSS Building and GSIS Building;

**WHEREAS**, in view of the foregoing, the Executive Judges of the RTC and MeTC of Manila have favorably recommended that the present pairing system among the branches of these courts be discontinued. In lieu thereof, what is generally practiced in other stations pursuant to this Court's Circular No. 7 of 23 September 1974, as amended, be adopted;

**WHEREAS**, the recommendation is meritorious for it would be more practical and convenient, and conducive to effective and efficient delivery of justice;

**WHEREAS**, the present pairing system in the RTC and MeTC of Manila is hereby terminated and a new one in conformity with Circular No. 7, issued by the Court on 23 September 1974, as amended, is hereby adopted, under which the following shall be the pairing branches:

## REGIONAL TRIAL COURTS

## BRANCHES

01 and 02	15 and 16	29 and 30	43 and 44
03 and 04	17 and 18	31 and 32	45 and 46
05 and 06	19 and 20	33 and 34	47 and 48
07 and 08	21 and 22	35 and 36	49 and 50
09 and 10	23 and 24	37 and 38	51 and 52
11 and 12	25 and 26	39 and 40	53 and 54
13 and 14	27 and 28	41 and 42	55 and 173

## METROPOLITAN TRIAL COURTS

## BRANCHES

01 and 02	09 and 10	17 and 18	25 and 26
03 and 04	11 and 12	19 and 20	27 and 28
05 and 06	13 and 14	21 and 22	29 and 30
07 and 08	15 and 16	23 and 24	

This Administrative Order shall take effect on 15 July 2003.

Issued this 3rd day of July 2003.

(Sgd.) HILARIOG. DAVIDE, JR.  
Chief Justice

## SUPREME COURT

### RESOLUTION of the COURT *EN BANC* dated 15 July 2003 on A.M. No. 03-7-18-SC

"A.M. No. 03-7-18-SC - Re: Suspension of the Distribution of the Benchbook on the Application, Computation and Graduation of Penalties.- The Court Resolved, upon recommendation of Hon. Ameurfina A. Melencio Herrera, Chancellor, PHILJA, to **SUSPEND** the distribution and use of the Benchbook on the Application, Computation and Graduation of Penalties.

A **TASK FORCE** is hereby constituted to review the Benchbook, headed by Mr. Justice Romeo J. Callejo, Sr., who is authorized to appoint his members. The Task Force shall submit a report within three (3) months." Quisumbing and Sandoval-Gutierrez, *Jf.*, on official leave.

Very truly yours,

(*Sgd.*) LUZVIMINDA D. PUNO  
Clerk of Court

### RESOLUTION of the Court *EN BANC* dated 5 August 2003 on A.M. No. 03-7-14-SC

"A.M. No. 03-7-14-SC- Re: Various Resolutions of the PHILJA Board of Trustees at its 29th and 30th Meeting Held Jointly on June 18, 2003. - Acting on Resolution No. 03-10 of the PHILJA Board of Trustees, the Court Resolved to **APPROVE** the Revised Draft Guidelines on the Judiciary Copies of the Lex Libris Compact Discs, to be signed by the Court Administrator as recommended by the Chief Justice, to wit:

#### REVISED DRAFT GUIDELINES ON THE JUDICIARY COPIES OF THE *LEX LIBRIS* COMPACT DISCS

These guidelines are issued in relation to the 1,233 sets of CD-ROM units (the Judiciary Discs or JDs) donated by CD Technologies, Inc. (CD Asia) to the Supreme Court, through the Philippine Judicial Academy (PHILJA).

Each set of the Judiciary Discs consists of the *Lex Libris* titles on (a) Philippine Laws - executive and legislative enactments from 1901 to 2001, and (b) Philippine Jurisprudence - decisions of the Supreme Court from 1901 to 2001.

#### 1. Ownership of Judiciary Discs

- 1.1 The Supreme Court is the owner of the Judiciary Discs donated by CD Asia. PHILJA, acting on behalf and as a component unit of the SC, is authorized to accept the donation.
- 1.2 The JDs are not for sale or re-sale.

RESOLUTION dated 5 August 2003 (*continued*)

#### 2. Responsibility of PHILJA

- 2.1 PHILJA's responsibility is limited to receiving the donation and overseeing CD Asia's compliance with its undertaking under the Contract of Services, namely, to install the JDs, as well as train designated court personnel in the proper use thereof.
- 2.2 The Supreme Court, thru PHILJA, shall shoulder the costs of installation of the JDs, the training of designated court personnel, and content updates for Y2001. Payment to CD Asia shall be made upon completion of the activities for installation and training and upon presentation of the proper billing documents, in accordance with COA auditing rules and regulations.

#### 3. Responsibility of OCA

- 3.1 The Office of the Court Administrator (OCA), vested with the power to exercise administrative supervision over the lower courts, shall issue a circular enjoining all judges and pertinent court personnel to lend their full cooperation to CD Asia as it installs and trains their personnel on the use of the JDs.
- 3.2 OCA shall shoulder the expenses for the maintenance of the Judiciary Discs distributed to 1,233 trial courts.

#### 4. Responsibility of MISO

- 4.1 The Management Information System Office (MISO), the technology arm of the Court, shall furnish CD Asia with the list of courts to be provided and installed with the JDs.
- 4.2 MISO shall determine the validity of the request for reinstallation of the JDs.

#### 5. Responsibility of CD Asia

- 5.1 CD Asia will install the JDs nationwide, in accordance with an approved timetable.
- 5.2 CD Asia's representative/s will personally deliver and install the JDs, except in the following instances, where non-personal delivery may be effected.
  - 5.2.a For areas that are normally accessible by regular means of transportation, but are commonly or reasonably believed to be unsafe for travel, especially for non-residents (e.g., in rebel-infested or crime-ridden areas), the JDs may be delivered by mail and installation may be done by telephone.

RESOLUTION dated 5 August 2003 (*continued*)

- 5.2.b For areas that are not accessible by regular means of transportation, the JDs may be delivered either by mail or by having a court personnel meet CD Asia's representative/s at a designated place to pick up the JDs. In case of delivery by mail, the installation will be done by telephone. If a meeting is opted for, the court personnel shall bring the computer to the meeting place so that the CD Asia representative/s may install the JDs.
- 5.2.c For areas that are not accessible by regular means of transportation and with no means of outside communication (e.g., no telephone landlines and no access by mobile phones), the JDs may be installed only if the computer is brought by court personnel to a place where the CD Asia representative/s can perform the installation.
- 5.3 The CD Asia representative/s, upon delivery and installation of the JDs, will require the recipients of the JDs to sign a receipt acknowledging receipt of the JDs.
- 5.4 The CD Asia technical staff shall train designated court personnel on the proper use of the JDs.
- 5.4.a Training on the proper use of the JDs will be done either on-site or through seminar-type sessions to be conducted in various cities nationwide.
- 5.4.b On-site training will be conducted by the CD Asia representative/s upon delivery and installation of the JDs.
- 5.4.c Seminar-type training will be conducted in areas with a considerable number of courts, or where on-site training may not be viable due to safety and other considerations, under the following terms.
- 5.4.c.1 CD Asia will communicate the details or the training sessions by fax, phone and/or mail to the participants, who must confirm their attendance.
- 5.4.c.2 CD Asia shall provide the facilities for training (e.g., the venue, computers and other equipment, etc.), as well as meals and transportation subsidy (when appropriate) for the participants. Depending on the training schedule, overnight accommodation may likewise be provided.
- 5.4.c.3 Each Court is entitled to send one (1) participant to the training session. Only participants from trial courts in the official list provided by MISO will be allowed to take part in the training.
- 5.4.c.4 A recipient-court which sends more than one (1) participant, shall bear all the expenses incurred for the extra participant.
- 5.4.d All queries regarding the training schedules shall be coursed through CD Asia.
- 6. Distribution of Judiciary Discs**
- 6.1 Trial courts provided with new computers as of June 2002 shall be recipients of the JDs.
- 6.2 All queries on the distribution of the JDs shall be coursed through PHILJA.
- 7. Memorandum Receipts (MRs)**
- 7.1 As per requirement of FMBO, the JDs, while considered non-consumable items, shall be covered by MRs, signed by the authorized recipient.
- 7.2 For accounting purposes, the book value of the JDs is placed at P50,000.00 per set.
- 7.3 The OCA Property Officer shall send MRs to the Branch Clerk of Court of recipient trial courts which shall be returned duly accomplished to the OCA Property Division.
- 7.4 A copy of the MR duly accomplished by the Branch Clerk of Court, being the accountable officer, shall be attached to CD Asia's statement of account for purposes of payment.
- 8. Proper Use and Maintenance of the Judiciary Discs**
- 8.1 Detailed instructions on the research features and functions of the JDs are contained in a User's Guide, which may be found in the booklet that accompanies each set of the JDs, inside each plastic case.
- 8.2 The use of the JDs is governed by a License Agreement with CD Asia, a copy of which is also contained in the accompanying booklet. An electronic copy of the License Agreement may likewise be found in each of the JDs and appears on screen upon installation.
- 8.3 Strict adherence to and compliance with the provisions of the License Agreement is enjoined. In this connection, all personnel and staff of the recipient-courts are advised as follows:

RESOLUTION dated 5 August 2003 (*continued*)

- 8.3.a Any act of wholesale reproduction (i.e., copying or duplicating any of the CD-ROM units, or downloading, copying or printing complete files of the Jurisprudence or Laws databases, especially when done in batches) and/or replication of the JDs is strictly prohibited.
- 8.3.b Any act designed or intended to alter, modify or disassemble the JDs or any of the component software, or any act that may tend to cause or eventually cause the alteration, modification or disassembly thereof, whether in whole or in part, is likewise strictly prohibited.
- 8.3.c The JDs shall not be applied or dedicated to the operation and/or maintenance of a for-hire research service or any other like or similar venture for business or profit, nor shall the JDs be leased or rented out for such purposes.
- 8.3.d The JDs or any portion thereof shall not be utilized in any manner for the operation and/or maintenance of any on-line, cable or wireless service or system.
- 8.3.e The JDs shall not be installed in a network or used in more than one (1) computer terminal at any time.
- 8.4 Violation of Section 8.3 above and/or any of the provisions of the License Agreement may result in the confiscation of the JDs assigned to the court committing the violation. This, in turn, shall result in immediate revocation of said court's entitlement to use the JDs and avail of any service or warranty related thereto, in addition to the imposition of sanctions and penalties as may be imposed by OCA.
- 8.5 The branch clerk of court of the trial court, being the accountable officer at that level, shall have the sole responsibility of complying with the License Agreement. In this respect, the branch clerk of court shall designate in writing the court staff who is/are authorized to use the JDs. Damages resulting from unauthorized use shall be the sole responsibility of the unauthorized user.
- 8.6 For proper maintenance, the following measures are advised:
- 8.6.a The JDs must not be exposed to direct sunlight, rain or extreme temperature.

- 8.6.b Contact of the JDs' silver surface with hard or sharp objects (e.g., pencil points, paper clips, staple wires, etc.) must be avoided.
- 8.6.c After use, the JDs must be placed in their plastic cases and not left inside the CD-ROM drive or exposed to the elements.
- 8.6.d The JDs must be kept in a safe and secure place to avoid loss and unauthorized use.
- 8.6.e Only soft, non-abrasive cloth material must be used in cleaning the JDs. Cleaning must be done regularly, at least once every two (2) weeks.
- 8.6.f The JDs must be used only in conjunction with licensed software programs.

## 9. Technical Support

- 9.1 Technical support on the features and functions of the JDs, as well as on the proper use thereof, shall be provided by CD Asia.
- 9.2 For purposes of requesting and receiving technical support, CD Asia may be contacted as follows:

In Metro Manila	(632) 634-3792 to 93 (632) 638-5287 (632) 634-7140 (fax)
In Cebu	(032) 254-5619 (032) 255-2312
In Davao	(082) 222-6594 (082) 222-6593

## 10. Reinstallation

- 10.1 Each set of the JDs may be installed in only one (1) computer, which must be located within the court premises.
- 10.2 No re-installation of the JDs will be allowed, except under the following terms and conditions:
- 10.2.a All requests for re-installation shall be coursed through the OCA Property Division Office, in coordination with MISO, to determine validity of such requests.
- 10.2.b Re-installation will be done on-site (i.e., a representative of CD Asia will personally visit the court) and only on the designated computer. No re-installation will be done by telephone.

(Continued on next page)

RESOLUTION dated 5 August 2003 (*continued*)

- 10.2.c Should re-installation be requested as a result of damage or defect in the computer or any of its components, as well as damage caused by virus infection, as the case may be, the OCA shall bear the cost of reinstallation.
- 10.2.d Should re-installation be requested due to damage caused by the misuse of the end-users, including but not limited to the unauthorized tampering, copying or re-installation in another computer unit of the JD software, the trial court shall bear the cost of reinstallation.
- 10.2.e Should re-installation be requested due to inherent defect in the program or media of the Judiciary Discs, CD Asia shall bear the cost of reinstallation, subject to the warranty period stated in the License Agreement.
- 10.2.f With respect to courts situated in Metro Manila, Metro Cebu and Metro Davao, the first instance of reinstallation shall be free of charge. Subsequent requests for reinstallation shall be evaluated individually and will be assessed nominal fees to be paid by OCA, which is responsible for maintenance.
- 10.2.g All reinstallation requests in Metro Manila, Metro Cebu and Metro Davao shall be subject to the availability of CD Asia personnel assigned to the aforementioned areas.
- 10.2.h Re-installation will be effected only after delivery and installation of the JDs to and in all trial courts identified in the list of MISO shall have been accomplished.

For information and guidance.

PRESBITERO J. VELASCO, JR.  
Court Administrator

Callejo, Sr., J. on leave.

Very truly yours,

(Sgd.) LUZVIMINDA D. PUNO  
Clerk of Court

#### ADMINISTRATIVE CIRCULAR No. 20-2003

**TO:** EXECUTIVE JUDGES OF REGIONAL TRIAL COURTS, PRESIDING JUDGES OF SPECIAL COURTS FOR DRUGS CASES AND FAMILY COURTS

**SUBJECT:** JURISDICTION OVER DRUGS CASES INVOLVING MINORS

**WHEREAS**, the attention of the Court was called on the supposed conflicting provisions in Republic Act No. 8369 (the "Family Courts Act of 1997") and R.A. No. 9165 (the "Comprehensive Dangerous Drugs Act of 2002") on the jurisdiction over drugs cases involving minors;

**WHEREAS**, under Section 5(i) of R.A. No. 8369, the Family Courts shall have exclusive original jurisdiction to hear and decide cases against minors for violation of the Dangerous Drugs Act, as amended;

**WHEREAS**, under Section 90 of R.A. No. 9165, the Court is mandated to designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of said law;

**WHEREAS**, in its resolution, dated 1 August 2000, in A.M. No. 00-8-01-SC, the Court designated certain branches of the Regional Trial Courts as special courts for drugs cases to exclusively handle dangerous drugs cases irrespective of the quantity of the drugs involved;

**WHEREAS**, the repealing clause of R.A. No. 9165 under Section 100 provides "Republic Act No. 6425, as amended, is hereby repealed and all other laws, administrative orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly;"

**WHEREAS**, there is a need to harmonize the supposed conflicting provisions of R.A. No. 8369 and R.A. No. 9165 on the jurisdiction over drugs cases involving minors.

**NOW, THEREFORE**, pursuant to the Resolution dated 11 February 2003, reiterated in the Resolution of 18 March 2003 of the Court in A.M. No. 02-12-19-SC (Re: Clarification as to Which Court Has Exclusive Jurisdiction over Drugs Cases Involving Minors), the following guidelines shall be observed:

- (1) As a rule, Family Courts shall have jurisdiction over drugs cases involving minors.
- (2) In areas where there are no Family Courts but there are Special Drugs Courts, the latter shall take jurisdiction over the case.



## ADMINISTRATIVE CIRCULAR NO. 20-2003 (continued)

- (3) In areas where both Family Courts and Special Drugs Courts have been designated, the case shall be assigned or raffled to a Family Court.
- (4) In areas where both Family Courts and Special Drugs Courts have not been designated, the case shall be raffled among the branches of the Regional Trial Court within the same station.
- (5) In areas where there is only a single-sala Regional Trial Court, which has been designated either as a Family Court or as a Special Drugs Court or has not been designated as such at all, it shall take jurisdiction over the case.

The Office of the Court Administrator shall see to it that this Administrative Circular, which shall take effect upon its issuance, is strictly complied with.

Issued this 19th day of March 2003.

(Sgd.) HILARIO G. DAVIDE, JR.  
Chief Justice

## ADMINISTRATIVE CIRCULAR NO. 45-2003

**RETROACTIVE APPLICATION OF THE AMENDMENT TO THE RULE ON SUMMARY PROCEDURE OF CRIMINAL CASES TO INCLUDE WITHIN ITS COVERAGE VIOLATIONS OF B.P. BLG. 22, OTHERWISE KNOWN AS THE BOUNCING CHECKS LAW**

**WHEREAS**, in its resolution of 25 March 2003 in A.M. No. 00-11-01-SC, the Court *En Banc* resolved to expand the scope of the Rule on Summary Procedure of criminal cases by including within its coverage violations of B.P. Blg. 22, otherwise known as the *Bouncing Checks Law*;

**WHEREAS**, after its publication in newspapers of general circulation, the aforementioned amendment became effective on 15 April 2003;

**WHEREAS**, the Court, in its decision as early as 1946 in *People v. Sumilang* (77 Phil. 764) and reiterated in its subsequent decisions in *Alday v. Camilon* (120 SCRA 521 [1983]), *Liam Law v. Olympic Sawmill Co.* (129 SCRA 439 [1984]), and *Municipal Government of Coron, Palawan v. Cariño* (154 SCRA 216 [1987]), held that "[s]tatutes regulating the procedure of the courts will be construed as applicable to actions *pending and undetermined at the time of their passage*," and that "[p]rocedural laws are retrospective in that sense and to that extent;"

**WHEREAS**, the Court, in its decision in *Laguio, Jr. v. Gamet* (171 SCRA 392 [1989]) and reiterated in its subsequent decision in *Atlas Consolidated Mining and Development Corporation v. Court of Appeals* (201 SCRA 51 [1991]), prescribed a limitation on the retroactive application of procedural laws, holding that the statutes regulating the procedure of the courts do not apply "to the extent that in the opinion of the court their application would not be feasible or would work injustice in which event the former procedure shall apply;" and

**WHEREAS**, taking into consideration the above-mentioned decisions, the Court *En Banc* approved in its resolution of 29 July 2003 the issuance of a circular informing all judges of the retroactive application of the Amendment to the Rule on Summary Procedure of Criminal Cases as approved by the Court in its resolution of 25 March 2003.

**NOW, THEREFORE**, pursuant to the Resolution of the Court *En banc* of 25 March 2003, and in relation to its Resolutions of 29 July 2003 and 16 September 2003, in A.M. No. 00-11-01-SC, all judges are hereby directed to apply the Rule on Summary Procedure, as amended, to criminal cases involving violations of B.P. Blg. 22, otherwise known as the *Bouncing Checks Law*, which have been pending as of 15 April 2003, provided that such retroactive application would be feasible or would not work an injustice; otherwise, the ordinary procedure shall apply.

This Circular shall take effect immediately.

For strict compliance.

18 September 2003.

(Sgd.) HILARIO G. DAVIDE, JR.  
Chief Justice

## ADMINISTRATIVE ORDER No. 96-2003

**PAIRING SYSTEM AMONG THE BRANCHES OF THE REGIONAL TRIAL COURT AND METROPOLITAN TRIAL COURT OF MANILA**

**WHEREAS**, the branches of the Regional Trial Court (RTC) of Manila which were formerly holding office at the National Power Corporation Building at Port Area, Manila, have been relocated to the MWSS Building previously occupied by the Ombudsman, located at Arroceros St., near the Manila City Hall where all the other branches of the RTC of Manila are stationed:

**WHEREAS**, all the branches of the Metropolitan Trial Court of Manila (MeTC) are now in close proximity with each other following the relocation of some branches  
(Continued on page 14)

3rd Floor of the Supreme Court Building  
Taft Avenue, Manila

## PRESIDING JUDGE

## 2003 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
October 8 to 10	Seminar on Fisheries and Environmental Laws for Judges and Prosecutors (Cluster 1)	Forest Hills Village Resort, SBMA, Zambales City
October 13 to 17	Orientation Seminar-Workshop for Newly Appointed Judges	PHILJA Development Center, Tagaytay City
October 15 to 17	2nd RJCEP (Level 3) for Region X	VIP Hotel, Cagayan De Oro City
October 23 to 25	Convention and Seminar of the PJA	Century Park Hotel, Manila
October 23 to 25	Convention and Seminar of the PTJLI	Bohol Tropics Resort, Tagbilaran City
October 28 to 30	Seminar on Fisheries and Environmental Laws for Judges and Prosecutors (Cluster 2)	Marco Hotel, Cagayan De Oro City
November 5 to 6	Career Enhancement Program for Court Attorneys of the SC, CA and CTA	Manila Pavilion Hotel, Manila
November 12 to 13	Seminar-Workshop for Judges on Drugs Law	PHILJA Development Center, Tagaytay City
November 18 to 21	Convention and Seminar of the MCJAP	Boracay, Aklan

*Chancellor, Philippine Judicial Academy*  
**Justice Ameurfina A. Melencio Herrera**

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