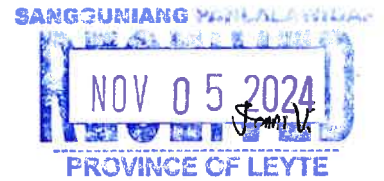


MARVIN T. MARTICIO vs. HON. ANGEL ARAS SIA, JR.  
Admin. Case No. \_\_\_\_\_  
For: Grave Misconduct and Neglect of Duty

Item No.: 13  
Date: 19 2024 NOV

Republic of the Philippines  
Department of Interior and Local Government  
SANGGUNIANG PANLALAWIGAN OF LEYTE  
Office of the Provincial Secretary  
Provincial Capitol, Palo, Leyte  
-oOo-



**MARVIN T. MARTICIO,**  
*Complainant,*

Admins Case No. \_\_\_\_\_

For: Grave Misconduct  
and Neglect of Duty.

-vs.-

**HON. ANGEL ARAS SIA, JR.,**  
*Respondent.*

X-----X

## COMPLAINANT'S PRELIMINARY CONFERENCE BRIEF

Complainant through counsel respectfully files and submits his Preliminary Conference Brief although not specifically required by Resolution No. 2020-817 otherwise known as The Revised Internal Rules of the Sangguniang Panlalawigan of Leyte and avers thus:

### BRIEF STATEMENT OF COMPLAINANT'S CAUSE OF ACTION

#### I.

Complainant's daughter namely Emy D. Marticio is the lawful owner of a parcel of land situated in Brgy. Pansud, La Paz, Leyte designated as Lot No. 3046 having acquired the same by way of sale and purchase from the heirs of Maximo Magayones and Aquilina Gara.

**II.**

On January 06, 2024, at around 10:55 o'clock in the morning of the same date, complainant together with his two other sons namely Raymart P. Marticio and Raffy P. Marticio went to said lot and was surprised to discover that it is being fenced by several individuals led by Punong Barangay Eleuterio L. Magayones, Brgy. Kagawad Arsenio S. Alcuetas, Jr., Brgy. Kagawad Emelinda S. Versoza, Brgy. Kagawad Jesus M. Solibar, Brgy. Kagawad Melmer A. Quillotes, Brgy. Kagawad Charlito A. Badion, Brgy. Secretary Gina A. Cayobit, Brgy. Treasurer Myra P. Alvero and SK Chairman Dexter A. Quillotes.

**III.**

On January 08, 2024, complainant instructed his daughter to secure the services of counsel purposely to write a formal letter addressed to Hon. Angel Aras Sia, Jr. being the Municipal Mayor of La Paz, Leyte in order to call out the attention of Punong Barangay Eleuterio L. Magayones and his cohorts for the incident which transpired on January 06, 2024.

**IV.**

The January 08, 2023 letter drafted by complainant's daughter through counsel was stamped received by respondent's office on said date. It appears that the said letter was received by a certain July C. Arsenio along with the lines that boldly reads: RECEIVED OFFICE OF THE MAYOR LA PAZ, LEYTE.

**V.**

Fifteen (15) days passed pursuant to Sec. 5, par. (a) of R.A. No. 6713, respondent failed to come up with a response letter. Thus, this instant case.

**STATEMENT OF WILLINGNESS TO  
ENTER INTO AMICABLE SETTLEMENT**

**VI.**

Complainant is not willing to have this case amicably settled in any way or form whatsoever since the nature of the offense charged against respondent pertains to the functions of his office which is vested with public interest.

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**MANIFESTATION TO AVAIL THE USE OF  
JUDICIAL AFFIDAVIT**

**VII.**

Complainant manifests its desire to avail of the use of judicial affidavit.

**PROPOSALS FOR ADMISSION:**

**VIII.**

Complainant would like to solicit admission from respondent on the following proposed stipulation of facts, to wit:

1. That this Honorable Office has jurisdiction over the offense and the corresponding issues involved in this case;
2. That summons was effectively served upon the person of the respondent;
3. That respondent's answer dated October 09, 2024 is not verified;
4. That while The Revised Internal Rules of the Sangguniang Panlalawigan of Leyte does not explicitly sanction complainant's Reply with Motion to Strike Out, there is no express prohibition for the same and hence not a prohibited pleading;
5. That complainant initially filed the instant case before the Office of the Ombudsman;
6. That the Office of the Ombudsman referred the matter to the Sangguniang Panlalawigan of Leyte;
7. That on July 31, 2024, the Sangguniang Panlalawigan of Leyte through Secretary Florinda Jill S. Uyvico directed complainant to file a complaint before said office pursuant to the indorsement made by the Office of the Ombudsman;
8. That complainant and respondent are not political rivals, the former being a private citizen and the latter a sitting municipal mayor of La Paz, Leyte;
9. That complainant has not at any given time ran for the position held by respondent;
10. That Emy D. Marticio is the lawful owner of Lot No. 3046 having acquired the same by way of sale and purchase from the heirs of Maximo Magayones and Aquilina Gara;
11. That on January 06, 2024 at around 10:55 o'clock in the morning of the same date, complainant together

with his two other sons namely Raymart P. Marticio and Raffy P. Marticio went to said lot and was surprised to discover that it is being fenced by several individuals led by Punong Barangay Eleuterio L. Magayones and other Barangay Officials of Brgy. Pansud, La Paz, Leyte;

12. That on January 08, 2024, complainant's daughter sent a letter addressed to respondent;
13. That said letter was received by the office of the respondent by a certain July C. Arsenio on the same date at around 11:16 in the morning; and
14. That respondent failed to respond complainant's daughter's letter pursuant to Sec. 5, par. (a) of R.A. No. 6713.

**NUMBER OF WITNESSES TO BE PRESENTED AND THE GIST OF THEIR RESPECTIVE TESTIMONIES:**

**IX.**

Complainant intends to present the following witnesses along with its substance and corresponding purpose and estimated length of their respective testimonies, to wit:

1. **MARVIN T. MARTICIO** – he will testify in his capacity as the complainant in this case. He will substantiate the allegations stated in the complaint and identify all the documentary exhibits attached thereto.

Length of testimony: approximately five (5) minutes.

2. **ATTY. JEROME A. TENEBRO** – he will testify in his capacity as the counsel of Emy D. Marticio who drafted the letter addressed to respondent. In the course of his testimony, he will identify the written letter which he drafted and prepared for his client Emy D. Marticio. He will likewise testify that the date of the letter contains a harmless and innocuous error and thus is typographically incorrect in the sense that the date should have been January 08, "2024" rather than January 08, "2023".

Length of testimony: approximately five (5) minutes.

3. **POLICE STAFF SERGEANT EM LABANTA** – he will testify in his capacity as the Desk Officer of the La Paz Municipal Police Station which issued police blotter bearing entry numbers 2024-01-257 dated January 12, 2024 pertaining to an incident which was reported and transpired last January 06, 2024 at Brgy. Pansud, La Paz, Leyte where Punong Barangay Eleuterio L. Magayones and with the help of other Barangay officials of Brgy. Pansud, La Paz, Leyte erected a fence made out of bamboo on the property claimed by complainant thereby impeding its ingress and egress. His testimony is likewise being offered to prove that the incident subject of this controversy transpired last January 06, 2024 and thus the letter prepared by Atty. Jerome A. Tenebro could not be January 08, 2023.

Length of testimony: approximately five (5) minutes.

**X.**

In view of the intention of complainant to avail the use of judicial affidavit, the testimony of complainant's witnesses will go by way of their respective judicial affidavits. On the other hand and as the need arises however, plaintiff would like to manifest his express reservation to present additional witnesses and documentary exhibits in the course of the presentation of its evidence-in-chief.

**DOCUMENTS TO BE PRESENTED:**

**XI.**

Plaintiffs would like to present the following documentary exhibits in support of their complaint, to wit:

**Exhibit "A"**– is the copy of the Extrajudicial Settlement of Estate with Sale dated December 30, 2023.

**Exhibit "B"** – is the copy of the Tax Declaration of Real Property over a parcel of land situated in Brgy. Pansud, La Paz, Leyte designated as Lot No. 3046 registered for taxation purposes in the name of Maximo Magayones and Aquilina Gara.

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**Exhibit “C”**– is the copy of the photograph showing the fence made out of bamboo which was erected by Punong Barangay Eleuterio L. Magayones and other Barangay officials of Brgy. Pansud, La Paz, Leyte.

**Exhibit “D”** – is the copy of the photograph showing Brgy. Kagawad Charlito A. Badion of Brgy. Pansud, La Paz, Leyte holding an unsheathed long bladed weapon locally known as “sundang”.

**Exhibit “E”** – is the copy of the USB containing cell phone video footage where Brgy. Kagawad Charlito A. Badion of Brgy. Pansud, La Paz, Leyte holding an unsheathed long bladed weapon locally known as “sundang”.

**Exhibit “F”** – is the copy of the letter sent by Atty. Jerome A. Tenebro addressed to respondent and was duly received by the Office of the Mayor of La Paz, Leyte on January 08, 2024 at 11:16 AM in the morning by a certain July C. Arsenio.

**Exhibit “G”** – is the copy of the police blotter issued by the Municipal Police Station of La Paz, Leyte indicating that the incident transpired on January 06, 2024.

### **ISSUES OF THE CASE:**

#### **XII.**

The crux of controversy of this instant case which calls for the immediate resolution of this Honorable Office hinges on the following issue which on account of its substantive and procedural importance may be engendered in the following query, to wit:

- a. Is respondent guilty of violation of Sec. 5, par. (a) of R.A. No. 6713 when it failed to respond to the letter sent to him by Emy D. Marticio through Atty. Jerome A. Tenebro?



- 
- b. Can respondent validly find excuse in not responding to the written letter sent to him by complainant's daughter as expressly required under Sec. 5, par. (a) of R.A. No. 6713 and its accompanying rules and regulations which states that "**The reply "must" contain the action taken on the request**" by merely stating that the actions he had taken on the concern raised by complainant such as referring the same to mediation is tantamount to the term "respond" as contemplated under the above cited law?
- c. Whether or not the term "reply" as used by Sec. 5, par (a) of R.A. No. 6713 denotes a written communication?
- d. Whether or not respondent should be meted out with a penalty of dismissal from service pursuant to the ruling of the Supreme Court in the case of **OLIVER B. FELIX vs. JULITO D. VITRIOLO** (G.R. No. 237129, December 09, 2020) applying the Latin maxim **STARE DECISIS ET NON QUIETA MOVERE**<sup>1</sup>?

**APPLICABLE LAWS, RULES and JURISPRUDENCE:**

**XIII.**

Complainant posits that the following laws and jurisprudence are highly applicable on the matter, thus:

**APPLICABLE LAWS:**

**Article XI, Section 1, 1987 Philippine Constitution:**

*"Section 1. **Public Office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.**" [Bold letters and underscoring supplied for emphasis.]*

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<sup>1</sup> Follow past precedents and do not disturb what has been settled.

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**Sec. 5, par. (a) of R.A. No. 6713:**

*“Sec. 5. Duties of Public Officials and Employees. – In the performance of their duties, all public officials and employees are under obligation to:*

- (a) *Act promptly on letters and requests. – **All public officials** and employees **“shall”, within fifteen (15) working days from receipt thereof, respond to letters,** telegrams or other means of communications sent by the public. **The reply “must” contain the action taken on the request.**”* [Bold letters and underscoring supplied for emphasis.]

**Rule VI, Sections 1 and 3 of the Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. No. 6713):**

Rule VI

Duties of Public Officials and Employees

*“Section 1. As a general rule, **when a request** or petition, whether **written** or verbal, can be disposed of promptly and expeditiously, the official or employee in charge to whom the same is presented shall do so immediately, without discrimination, and in no case beyond fifteen (15) days from receipt of the request or petition.”* [Bold letters and underscoring supplied for emphasis.]

*“Section 3. In case of **written requests**, petitions or motions, **sent by means of letters**, telegrams, or the like, **the official or employee in charge shall act on the same within fifteen (15) working days from receipt thereof,** provided that:*

- (a) ***If the communication is within the jurisdiction of the office** or agency, **the official or employee must:***



(1) **Write a note or letter of acknowledgement** where the matter is merely routinary or the action desired may be acted upon in the ordinary course of business of the department, office or agency, specifying the date when the matter will be disposed of and the name of the official or employee in charge thereof.

(2) **Where the matter is non-routinary or the issues involved are not simple or ordinary, write a note or letter of acknowledgement, informing the interested party, petitioner or correspondent of the action to be taken or when such requests, petitions or motions can be acted upon.** Where there is a need to submit additional information, requirements, or documents, the note or letter of acknowledgment shall so state, specifying reasonable period of time within which they should be submitted, and the name of the particular official or employee in charge thereof. When all the documents or requirements have been submitted to the satisfaction of the department, or office of agency concerned, the particular official or employee in charge shall inform the interested party, petitioner, or correspondent of the action to be taken and when such action or disposition can be expected, barring unforeseen circumstances.

(b) **If communication is outside its jurisdiction, the official or employee must:**

(1) **Refer the letter, petition, telegram, or verbal request to the proper department, office or agency.**

(2) **Acknowledge the communication by means of note or letter, informing the interested party, petitioner, or correspondent of the action taken and attaching a copy of the letter of referral to the proper department, office or agency.**

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*The department, office and agency to which the letter, petition, telegram or verbal request was referred for appropriate action must take action in accordance with subsection (a), pars. 1 & 2 hereof.*

**The period of fifteen (15) days herein provided shall be counted from date of receipt of the written or verbal communication by the department, office or agency concerned.** [Bold letters and underscoring supplied for emphasis.]

**RELEVANT JURISPRUDENCE:**

**VILLAVICENCIO vs. LUKBAN,  
G.R. No. L-14639, March 25, 1919.**

**“Ours is a government of laws and not of men.”** [Bold letters and underscoring supplied for emphasis.]

**ABULENCIA VS. HERMOSISIMA,  
699 SCRA 576.**

**“Grave misconduct** is “An intentional wrongdoing or a **deliberate violation of a rule of law or standard of behavior, especially by a government official.**” [Bold letters and underscoring supplied for emphasis.]

**SASING vs. GELBOLINGO,  
691 SCRA 241.**

**Gross neglect of duty** refers to negligence that is characterized by glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected.” [Bold letters and underscoring supplied for emphasis.]

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**PHILIPPINE RETIREMENT AUTHORITY vs. RUPA,  
363 SCRA 480.**

**“Neglect of duty is the failure of an employee to give one’s attention to a task expected of him and is censurable under the Civil Service Rules.”** [Bold letters and underscoring supplied for emphasis.]

**OLIVER B. FELIX vs. JULITO D. VITRIOLO,  
G.R. No. 237129.**

*“All told, **Vitriolo’s failure to reply** to the two letters sent by Felix **is not a simple violation of Section 5 (a) of R.A. No. 6713** but an omission that gave rise to a more serious problem of the possible continuation of the illegal programs and diploma-mill operations of PLM. Because of Vitriolo’s gross neglect of duty, the investigation was not undertaken and the possible administrative liabilities of those involved were not determined.*

*WHEREFORE, the Decision dated August 17, 2017 and the Resolution dated January 29, 2018 of the Court of Appeals in CA-G.R. SP No. 149063 are hereby REVERSED and SET ASIDE. The Court finds **respondent Julito D. Vitriolo GUILTY of gross neglect of duty and imposes upon him the penalty of DISMISSAL from service**, with the corresponding accessory penalties.”* [Bold letters and underscoring supplied for emphasis.]

**PRESIDENTIAL ANTI-GRAFT COMMISSION (PAGC) and THE  
OFFICE OF THE PRESIDENT vs.  
SALVADOR A. PLEYTO, G.R. No. 176058, March 23, 2011**

**“The purpose of R.A. 6713 is “to promote a high standard of ethics in public service. xxx The law expects public officials to be accountable to the people in the matter of their integrity and competence.”** [Bold letters and underscoring supplied for emphasis.]

**ARROYO vs. ALCANTARA,  
368 SCRA 567.**

**“The law enjoins public officials, such as respondent, to extend prompt, courteous, and adequate service to the public, and, at all times, to respect the rights of others and refrain from doing acts contrary to law, good morals, good, customs, public order, public policy, public safety, and public interest. In the performance of this duty, respondent had indeed been remiss.”** [Bold letters and underscoring supplied for emphasis.]

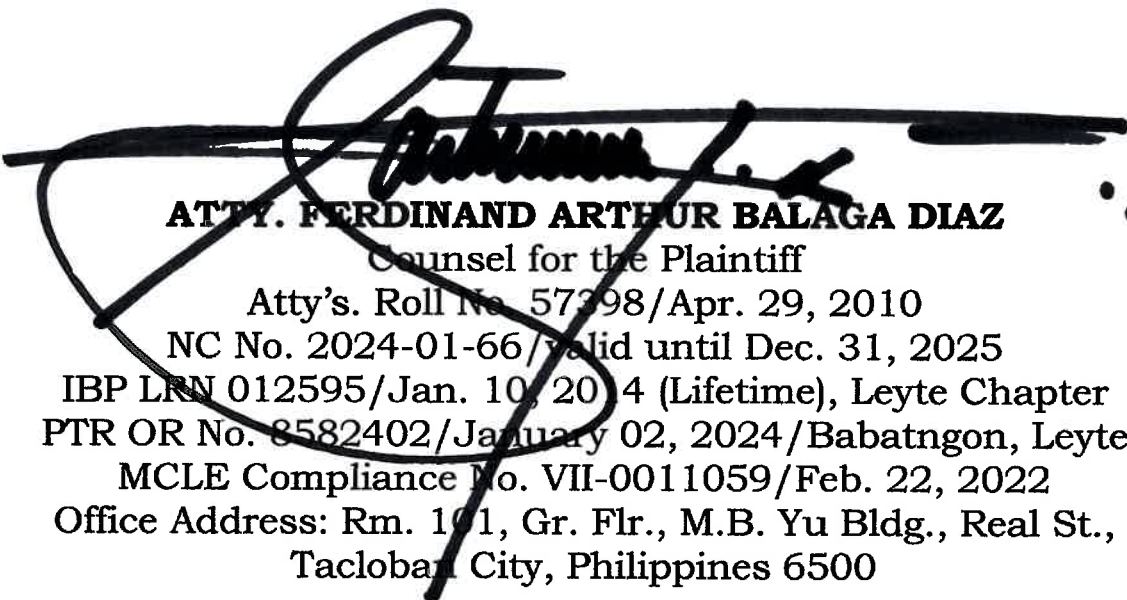
**TRIAL DATES**

**XIV.**

Complainant undertakes to be available on any date in which he is free and able subject to the availability of the calendar of this Honorable Office.

RESPECTFULLY SUBMITTED, Tacloban City, November 05, 2024.

By:



**ATTY. FERDINAND ARTHUR BALAGA DIAZ**  
Counsel for the Plaintiff  
Atty's. Roll No. 57398/Apr. 29, 2010  
NC No. 2024-01-66/valid until Dec. 31, 2025  
IBP LRN 012595/Jan. 10, 2014 (Lifetime), Leyte Chapter  
PTR OR No. 8582402/January 02, 2024/Babatngon, Leyte  
MCLE Compliance No. VII-0011059/Feb. 22, 2022  
Office Address: Rm. 101, Gr. Flr., M.B. Yu Bldg., Real St.,  
Tacloban City, Philippines 6500

Republic of the Philippines     )  
Tacloban City                     ) S.C.

**AFFIDAVIT OF SERVICE WITH EXPLANATION**

**MARVIN T. MARTICIO vs. HON. ANGEL ARAS SIA, JR.**

Admin. Case No. \_\_\_\_\_

For: Grave Misconduct and Neglect of Duty

I, **REGGINA MAY B. MALIBAGO**, single, Filipino Citizen, of legal age and a resident of #18 Fatima Village, Brgy. 76, Tacloban City, Philippines 6500, under oath according to law hereby depose and state that:

1. I am the clerk/messenger of Atty. Ferdinand Arthur B. Diaz of TDCT and Partners Law and Notarial Offices with office address at Rm. 101, Gr. Flr. M.B. Yu Bldg., Real St., Tacloban City, Philippines 6500 who is the counsel of record of complainant Marvin T. Marticio;
2. On herein date, November 05, 2024, I have caused the service of the herein Complainant's Preliminary Conference Brief by personal service and registered mail to the parties concerned in their respective addresses evidenced by a copy of the signature of the person who received the same along with registry receipt attached herein bearing the following details, to wit:

Copy furnished: (by personal service)

To: **Atty. Leo S. Giron**  
Counsel for the Respondent  
2/F Wenzhuan Bldg., Abucay  
Terminal Road, Tacloban City,  
Phils. 6500



Received by: \_\_\_\_\_  
Date: November 05, 2024

Copy furnished: (by registered mail)

To: **Hon. Angel Aras Sia, Jr.**  
Municipal Hall, La Paz,  
Leyte, Philippines

Registry Receipt Numbers: \_\_\_\_\_  
Date: November 05, 2024

RE 811 011 479 ZZ  
Post Office \_\_\_\_\_  
Letter/Package No. \_\_\_\_\_  
Posted on **NOV 05 2024**  
Preserve this receipt for reference in case of inquiry  
Postmaster/Teller \_\_\_\_\_



3. As per instruction of Atty. Ferdinand Arthur B. Diaz, I caused the service of the above pleading to Hon. Angel Aras Sia, Jr. by registered mail considering the distance between our office in Tacloban City and the location of his address which is in La Paz, Leyte; and
4. I have executed this affidavit to attest to the veracity and truthfulness of the foregoing statements and declarations.

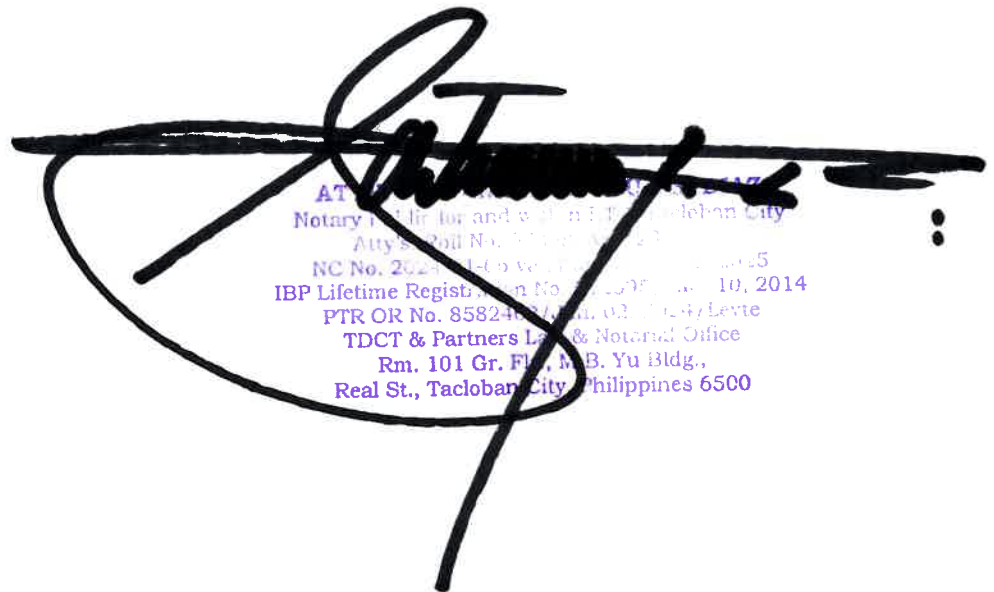
IN WITNESS WHEREOF, I have hereunto set my hand this 5<sup>th</sup> day of November 2024 at Tacloban City, Republic of the Philippines.

  
**REGGINA MAY B. MALIBAGO**  
Affiant

UMID ID No. CRN-0113-0233232-3

SUBSCRIBED AND SWORN to before me this 5<sup>th</sup> day of November 2024 at Tacloban City, Republic of the Philippines, the affiant has exhibited to me her identification card as her competent proof of identity as herein above indicated.

Doc. No. 89  
Page. No. 18  
Book No. XXIII  
Series of 2024

  
ATTEST:  
Notary Public for and within the Province of Tacloban City  
Atty. Roll No. 123456789  
NC No. 2023-123456789  
IBP Lifetime Registration No. 123456789, 10, 2014  
PTR OR No. 858246789, 02/10/24/Leyte  
TDCT & Partners Law & Notarial Office  
Rm. 101 Gr. Flr., M.B. Yu Bldg.,  
Real St., Tacloban City, Philippines 6500