

**[BOC MEMORANDUM CIRCULAR NO. 298-98,
September 03, 1998]**

DECISION OF THE OFFICE OF THE PRESIDENT

Attached for your guidance and information is the 1st Endorsement dated 29 July 1998 of the Honorable Secretary of Finance (Annex "A")* referring to the Order dated 22 July 1998 of the Executive Secretary (Annex "B") in O.P. Case No. 5585 entitled in Re: Petition of Nullify Board Resolution No. 5 of the Board of Water Plumbing (Professional Regulation Commission) dated 21 December 1993 Filipino Pipe and Foundry Corporation, Petition Appellant, the dispositive portion of which reads:

"Wherefore, premises considered, the Resolution of this Office dated July 10, 1998 is hereby Set Aside and the Order dated June 3, 1998 is also of this Office, declared final and executory."

inviting attention to the directive of the Honorable Secretary to the Bureau to take steps to ensure that the said Order is properly implemented subject to pertinent laws, rules and regulations.

Likewise attached is the Order dated June 3, 1998 (Annex "C")* also from the Office of the Executive Secretary.

Adopted: 03 Sept. 1998

(SGD.) JULITA S. MANAHAN
Deputy Commissioner
Internal Administration Group

"ATTACHEMENT"

Annex B

IN RE : PETITION TO NULLIFY BOARD RESOLUTION No. 5 OF THE BOARD OF MASTER PLUMBING (PROFESSIONAL REGULATION COMMISSION) DATED DEC. 21, 1993

O.P. Case No. 5585

FILIPINO PIPE AND FOUNDRY CORPORATION, Petitioner-Appellant.

ORDER

On July 10, 1998, this Office issued a Resolution declaring that the Order of this

Office dated June 3, 1998 has not yet become final and executory pursuant to Section 7 of Administration Order No. 18 dated February 12, 1987.

However, record shows that on July 07, 1998, an "Omnibus Opposition to the Manifestation and Notice of Appeal of Total 2000 Corporation dated June 26, 1998", was filed by petitioner-appellant Filipino Pipe and Foundry Corporation. It also filed on July 13, 1998 its "Comment on the Manifestation and Motion for Clarification Order both dated June 29, 1998" of Total 2000 Corporation.

Since both pleadings were not considered prior to the issuance of the Resolution dated July 10, 1998, a re-study of this case has to be made in view of issues raised therein.

In its Comment/Opposition, appellant claims that Total 2000 Corporation is not a party to the case and therefore has no legal personality to intervene in this case; that its entry to the instant case should be struck down by this Office and all its motions and manifestations be set aside and not given due course.

Appellant further alleges that assuming, a gratia argumenti that Total 2000 Corporation is a party to the case, still the Order of June 3, 1998 must remain as there was no appeal seasonably filed; that on October 10, 1994, this Office issued a Decision ruling in favor of appellant. A copy of said Decision was received by Total 2000 Corporation on October 27, 1994. On November 10, 1994 or fourteen (14) days after receipt of the Decision, Total 2000 Corporation, thru counsel Atty. Luis Ma. Jose G. Sison filed a Motion for Reconsideration. On June 3, 1998, this Office resolved the motion for reconsideration of Total 2000 Corporation dated November 10, 1994 as well as the Motion for reconsideration of the Board of Master Plumbing.

Moreover, appellant claims that per records of the case, the Order of June 3, 1998 was sent to Atty. Sison on June 10, 1998, but was returned; that appellant's copy was sent on June 11, 1998 and it was received on June 16, 1998; that by force of law or analogy, Total 2000 Corporation is deemed to have received it on June 15, 1998; that appellant cited the case of Republic vs. Court of Appeals, CA L-38540, April 30, 1987, in which the High Court declared that mail matter is deemed complete and effective upon the expiration of five (5) days after mailing and that addressee had received it. Counting from the presumed date of receipt on June 15, it was only on June 26 or eleven (11) days after receipt of the Order that Total 2000 Corporation filed its Manifestation and Notice of Appeal; that adding the fourteen (14) days incurred in filing the Motion for Reconsideration of November 10, 1994 and the eleven (11) days which elapsed after receipt of the June 3, 1998 Order would give a total of twenty-five (25) days, way beyond the required fifteen (15) days reglementary period for filing appeal.

Appellant also claims that the two (2) addresses "1819" and "1849" are true addresses of Atty. Sison as shown in the Order of this Office dated November 4, 1994 in which Atty. Sison's address is 1819 Mendoza Guanzon St., Paco, Manila. Also, the Order of this Office dated November 21, 1994, the address is 1849.

Another point raised by appellant is the fact that per certification of Mr. Endaya, Postmaster, the "First Notice" was issued on June 15, 1998. Under the Rules of Court, the addressee shall be given five (5) days within which to claim such mailed matter, after which, the addressee is deemed to have been received and in this case